

OBJECTION

MY LORD

LEGAL PRACTICE DEMYSTIFIED



**FIRST
EDITION**

ISAAC CHRISTOPHER LUBOGO

OBJECTION MY LORD: Legal Practice Demystified
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Tel: +256 414 660 286, +256 782 395 293, +256 702

055 211, +256 752 055 211

E-mail: jeschogroupltd@gmail.com

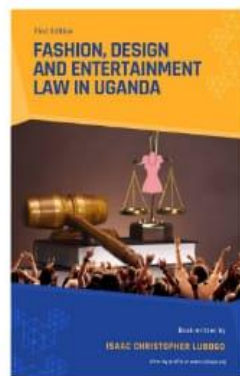
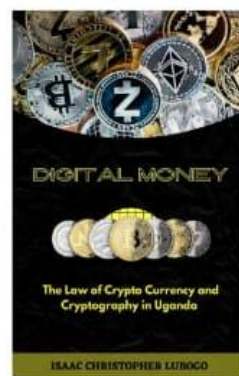
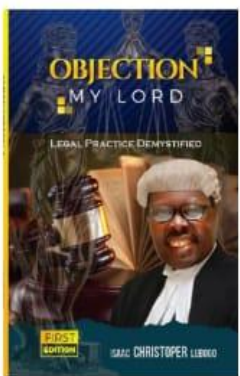
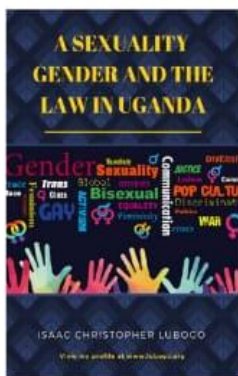
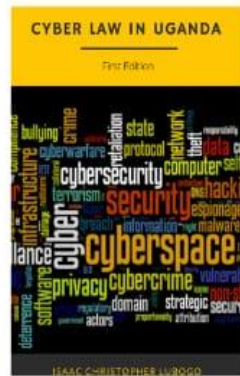
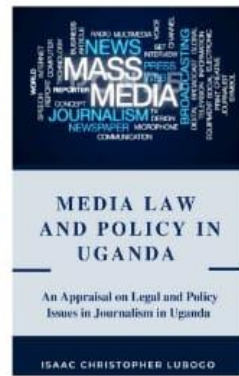
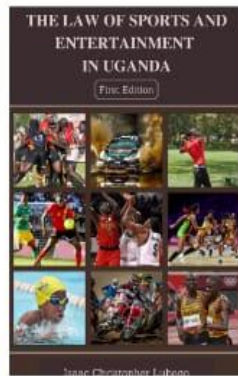
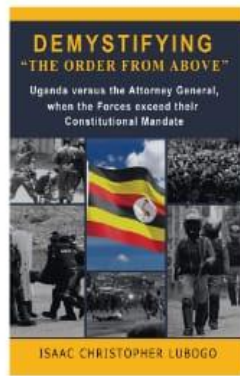
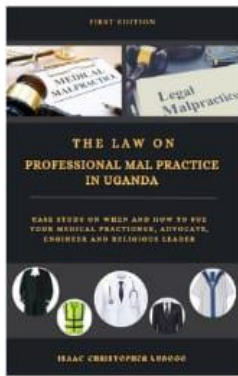
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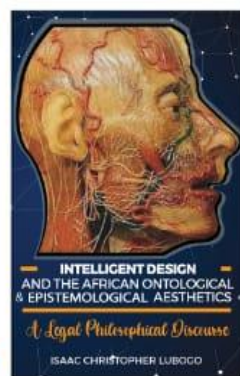
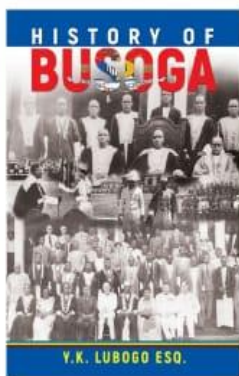
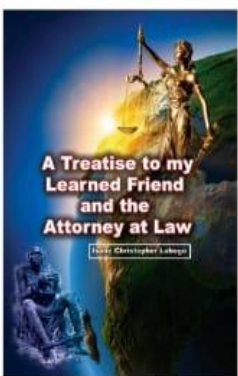
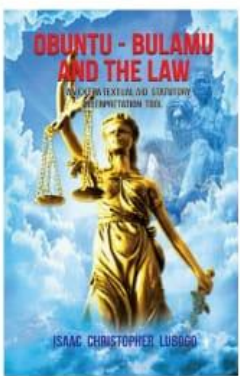
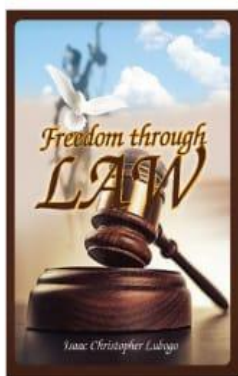
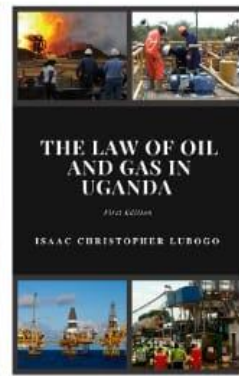
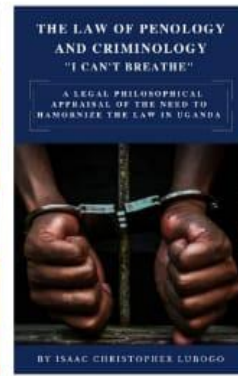
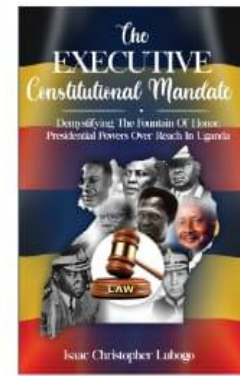
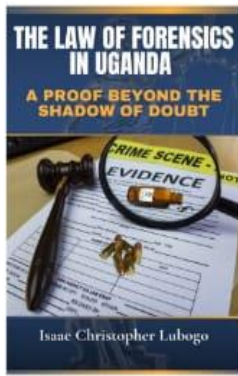
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Isaac Christopher Lubogo



DEDICATION



To The Lord Who Breathes Life And Spirit On Me ...

Be My Guide Oh Lord Of

The Entire Universe.

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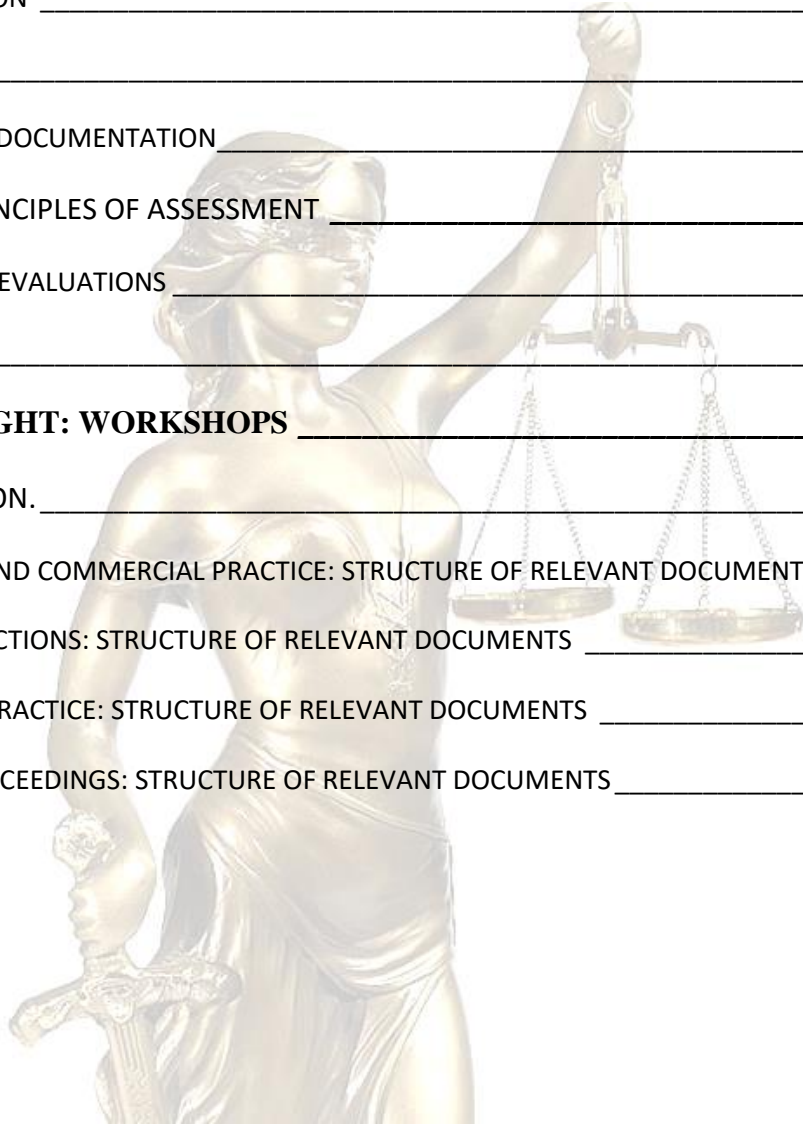
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The formalization of instructions is the reducing agreement stipulating that the named client has issued the advocate with instructions in a given matter and the forms of remuneration agreed upon by the client and the advocate in the agreement. Sometimes it is referred to as a letter of engagement. regulation 2(1) of the Advocates (professional conduct) Regulations bars an Advocate from acting for any person unless he/she has received instructions from the said person. In the case of *Okodoi George & Anor v. Okello Opaire, HMCA NO. 0143 of 2016*, court held that the arms is on the Advocate to take steps to make it known to all. The SC in *Kabale Housing estates Tenants Association v Kabale Mem L.C CA.15 of 2013*

Intervention as counsel in an existing suit.

Regulation 2(1) of the advocates (professional conduct) regulations provides that no advocate shall act for any person unless he or she has received instruction from that person or his or her duty authorized agent.

Justice Kawesa in the case of *Okodoi George and anor v okello opaire sam, hct-04-cv-ma-0143 of 2016* held that the practical meaning of the aforementioned provision is that the onus is on the advocate so instructed to take steps to make it known to all concerned that he/she has been duty instructed. The prudent advocate, in practice takes out a notice of instruction in forming the court and the opposite counsel of such instructions. The court further held that where, there is a change in instructions, again the prudent advocate files a “notice of change of advocates .” all this is aimed at avoiding a scenario where the advocates instructions end up being challenged.

Procedure.

- 1) inquire from advocate why client wants to change advocate and for any other relevant information
- 2) draft an engagement letter
- 3) draft and file a notice of change advocate in court and serve it on the former advocate.

PARTIES TO A SUIT.

Order 1 of the Civil Procedure Rules SI 71-1 (hereinafter referred to as the CPR) provides generally for parties to suits. Order 1 rule 1 of the CPR SI 71-1 provides that all persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if those persons brought separate suits, any common question of law or fact would arise.

In the same vein, Order 1 rule 3 of the CPR SI 71-1 provides that all persons may be joined in one suit as defendants against whom any right to relief in respect of or arising out of the same transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if separate suits were brought against those persons, any common question of law or fact would arise.

This part of the study, with due respect to the above, in strict sense tends to show how parties like minors, numerous persons, companies, clubs, inter alia deal with suits (thus sue or be sued), with particular regard to pleadings. The discussion below, therefore, is an attempt to look at the different parties as enunciated below.

SUITS BY OR AGAINST CORPORATIONS.

This is provided for in Order 29 of the CPR. Rule 1 provides that in a suit by or against a corporation, any pleading may be signed on behalf of the corporation by the secretary or by any secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case.

Forum

The forum is the High Court, since the CPR applies to the High Court by virtue of section 1 of the Civil Procedure Act.

Procedure

This depends on the facts of each case; it is thus not imperative to limit oneself to a given procedure; however without prejudice to the foregoing, it can be by ordinary plaint, under Order 4, Specially Endorsed Plaint in summary procedure under Order 36, Miscellaneous applications and Miscellaneous Cause under various orders, or even originating summons, where the company falls within the ambit of Order 37 of the Civil Procedure Rules.

SUITS BY OR AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

This is provided for in Order 31 of the CPR. Rule 1 provides that in all suits concerning property vested in trustees, executors or administrators, where the contention is between the persons beneficially interested in the property and a third person, the trustee executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit; but the court may if it thinks fit, order them or any of them to be made parties to the suit.

Where an individual wishes to apply to court to add any other persons, not being trustees, executors or administrators; he or she may apply by chamber summons on the strength of order 31r4; the chamber summons is supported by an affidavit; wherein the applicant adduces facts as to why the individuals he wishes to be made parties should be added as parties to the suit.

It should be noted further that trustees, executors or administrators, or any other person claiming relief sought as a creditor, devisee, legatee, heir or legal representative may take out originating summons to determine questions dealing with rights or interests of the person claiming to be a creditor, devisee, legatee, heir, ascertainment of any class of creditors, devisees, legatees, heirs, *inter alia*³. Thus this would mean institution of the suit by way of originating summons instead of the normal way by use of plaint. For forum, procedure and documents, refers to corporations above.

SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND.

This is provided for in Order 32 of the CPR. Rule 1(1) provides that every suit by a minor shall be instituted in his or her name by a person who in the suit shall be called the next friend of the minor. This is qualified by sub rule (2) of Rule 1 if the person suing as next friend of the infant is an advocate. Thus, before the name of any such person is used as next friend of any infant, where the suit is instituted by an advocate, that person shall sign a written authority to the advocate for that purpose, and the authority shall be represented together with the plaint and shall be filed on record. It must be noted that the plaint will be taken off the file if the suit is brought without the next friend, upon application by the defendant. Notice of this application is given to the person, and court shall make an order as it deems fit.

This application is by way of notice of motion under O 32r16; unless it is otherwise provided for.

³ Order 37 r1

Rule 2 provides that every application for permission to sue as a pauper shall contain the particulars required in regard to plaintiffs in suits, together with a statement that the pauper is unable to pay his or her fees, prescribed in the suit. Rule 8 provides that where the application is admitted, it shall be deemed the plaintiff in the suit and the suit shall proceed in all other aspects as a suit in the ordinary manner except that the plaintiff shall not be liable to pay any court fee. It must be noted further that where the pauper succeeds, court shall calculate the amount of court fees which would have been paid by the plaintiff if he was not permitted to sue as a pauper; and the amount shall be recoverable by the court from any party ordered by the decree to pay it, and shall be a first charge on the subject matter of the suit.

Procedure

Application for permission to institute a suit as a pauper by way of motion on notice under order 52 rule 1 of the CPR; and order 33 rule 16.

Major Documents

- Notice of Motion supported by an affidavit.
- Statement that the applicant is a pauper.

Forum

The forum is the High Court, since the CPR applies to the High Court by virtue of section 1 of the Civil Procedure Act. It is better to use the High Court because it has unlimited original jurisdiction in all matters and such appellate and other jurisdictions as may be conferred by the constitution 1995.

REPRESENTATIVE SUITS.

Order 1 rule 8(1) of the CPR provides that where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the court, sue or be sued, or may defend in such suit, on behalf of or for the benefit of all persons so interested. The cardinal points to note about this provision are that;

- 1) The persons must be numerous. Numerous is defined in the Oxford Advanced Learner's Dictionary to mean a large number of people or things.
- 2) Secondly, there must be a common interest in the same suit.
- 3) One or few selected representatives have to apply to court for leave to be granted for them to institute the representative suit

The applications for leave is by summons in chamber. (0.1, 22)

Taremwa kamishani Thomas v the A. G. HCMC 38 of 2012

d) **Partnerships**

Partnerships may sue or be sued in the firm's name or alternatively in the names of the individual partners

0.30 r 1

Its good practice where the partners names are used to add trading as.

Gov't schools: for primary schools it's the management committee & for secondary schools it's the board of governors

Universities: universities S.23 of UOTIA

Procedure

The numerous people attend meetings, where they resolve to have representatives for them in the intended suit and this should be deduced to writing showing the resolution and the appointment of the representatives. All the people must append their signatures.

An application by way of summons in chambers supported by an affidavit; under order 1 rule 22(1). The application is by the representatives.

If the application is granted, then the suit is instituted by way of plaint; by the representatives on behalf of the other numerous persons.

Documents

1. Minutes of meetings resolving to appoint representatives.
2. Chamber summons supported by an affidavit.
3. Plaint, upon grant of leave to institute a representative suit.

Forum

The forum is the High Court, since the CPR applies to the High Court by virtue of section 1 of the Civil Procedure Act. It is better to use the High Court because it has unlimited original jurisdiction in all matters and such appellate and other jurisdictions as may be conferred by the constitution 1995.

SUITS AGAINST GOVERNMENT

This is governed by the Government Proceedings Act Cap 77 section 10 of the Act provides that all suits where the Government is involved, suits are instituted by or against the Attorney General. This is further qualified by section 2 of the Civil Procedure (Miscellaneous Provisions) Act Cap 72 which provides that no suit shall lie against Government, a local authority or Scheduled corporation until the expiration of 45 days after a written notice has been delivered to or left at the office of the person specified in the first schedule to the Act.

In *Sango bay v Dresdenor Bank*; court held that the object of 3rd party proceedings is to present a multiplicity of suits.

They are only applicable where the defendant claims to be entitled to contribution or indemnity against a 3rd party.

For third party to be joined, the subject matter between the 3rd party and the defendant must be the same as the subject matter between the plaintiff and the defendant and the original cause of action must be the same. *m/s new ocean transporters co ltd and m/s Sofitra Ltd . hct-oo-cc-0523- 2006.*

Right to indemnity

It exists where the relationship between the parties is such that in law and in equality , there is an obligation upon one party to indemnify the other.

Right may also arise from contract where its either expressly or impliedly stated.⁴ 3rd party proceeding must be founded on the same cause of action as between the plaintiff and defendant.

In *Transami (U) Ltd v trans ocean(U) Ltd (1994),Kalr 175*

The plaintiff /defendant aim was founded on trespass while the claim court held that it is settled that in 3rd party proceedings 4 indemnity to claimed, the cause of action as between the defendant and plaintiff must be the same as between defendant and 3rd party.

Application is by chamber summons heard ex parte upon which upon grant, the 3rd party is served with a 3rd party notice and a copy of the pleadings.

NBS v UBC (HMC); 3rd party must not be already a party to the sent.

Cause of action should be the same.

JOINDER OF PARTIES

Two or more parties may be joined to a suit as defendant or plaintiff. The following grounds govern joinder of parties:-

1. Relief in respect of the same or series of transactions
O.1 r 1 & *Barclays Bank v Patel*
2. common question of fact or law would arise
O.1 r 1 --- joinder of plaintiffs 0.1 r 3 defendants
3. leave of court obtained

⁴ *D.S.SMotors Ltd v Afri-tours and travel Ltd. HCT.CO-CC-0012-2003.*

PRE-TRIAL JUDGEMENT REMEDIES

Temporary injunctions and inter occupancy (orders cord 4CPR)

An injunction is an order of the court directing a party to the proceeding to refrain from doing a specified act. It is usually granted in cases where a monetary compensation will afford no adequate remedy to the injured party.

An interlocutory injunction is an injunction that is limited so as to apply only until or final determination by the court with the rights of the parties and accordingly it invests in a form that requires what in the absence is a subsequent order to the centrally it should continue up to but not beyond a final hearing with the proceedings.

An interlocutory injunction is determined from a pending suit and likewise these must be a course action to sustain the suit from which the application will be delivered.

The above position was retreated in this case; *sugar corporation of Uganda ltd v Mohammed Tijani H.CCS No.39 / 1993*.

Accordingly, order 4, rule 7 CPR provides that

- a) That any property in dispute in a suit is in danger to being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution to decree or
- b) That the defendant threatens or intends to remove or dispose with his or her property with a view to defraud his or her creditors, the court may by order grant a temporary injunction to restrain such act, or make sure other order for the purpose of staying and preventing the working, damaging alienation sale removal or disposition of the property as a court that fit until the disposal is the suit or until further orders”

It is imperative to note that appending suit must be before the same court as it was noted in the case of *Mwaine Nyakana and Company Advocates vs Departed Asians*⁵.

The application for the interlocutory relief is not itself a cause of action as the right to the interlocutory relief is also not a cause of action itself.

⁵ (1987) HCB 91

4. If court remains in doubt after considering the above three requirements of the law, it would decide the application on the balance of convenience (*E.A industries v. Troffords* (1972) E.A. 420).

An injunction will normally be granted to restrain the plaintiff at rights. When deciding as to whether or not to grant an application for an interlocutory injunction, the leading decision is the *carco. American Cyromide C. Ltd V Ethicon Ltd (1975) Ac 396*, which stipulates that a court should as a general rule have regard only to a following criteria.

- a) *Is there a serious issue to be tried?*
- b) *Are damages an adequate remedy?*
- c) *Where does a balance the convenience lie?*
- d) *Are these any special factors?*

It should be noted however that this criteria shall be lead in the context with the principle that the discretion with the court should not be retired by laying down any rules which would have the effect is limiting the flexibility is a remedy.

Justice Odoki as he then was, noted in the case of *Kiyimba Kaggwa V. HajjirKatende*⁷ that the granting of a temporary injunction is an exercise of judicial discretion and the purpose of granting it is to preserve matters in status quo until a question to be investigated in a suit is finally dispersedly court further noted conditions for the grant of interlocutory injunction as being first and foremost that the applicant must show a prima facie case is a probability with success.

Secondly such injunction will not normally be granted unless applicant might otherwise suffer irreparable injury which would not adequately be untested or atoned for by an a ward of damages.

Thirdly if the court is in doubt, it will decide an application on the balance to convenience.⁸ The applicant must show that he or she has a prima – facie case in the pending suit which a probability of success in that pending case.

However, the west term prima facie is contentious and confusing since a grant of a temporary injunction involves the exercise the judicial discretion. It is possible at the interlocutory state for the court to know prospects of success of either party and it would only be embarrassing to the court to ultimately try to case with a pre-conserved mind.

⁷ (1985)HCB 43

⁸ (Robert Kavuma v Hotel International SCCA No. 8 / 1990).

“My lords, when an application for an interlocutory injunction to restrain a dependent from doing acts alleged to be in violation with plaintiff legal right is made upon contested facts, decision whether or not to grant an interlocutory injunction has to be taken at a time when ex hypothesi the existence of the right or the violation of or both, is uncertain and will remain uncertain until, not judgment is given. Action, it was mitigated risk is injustice to a plaintiff during a period before that uncertainty could be resolved that the practice or use of granting him relief by way of an interlocutory injunction but since the middle of the 19th century this has been made subject to his undertaking to pay damages to which dependent for any loss sustained by recession with the injunction it should be held at the trial that a plaintiff had not been entitled to restrain the dependent from doing what he was threatening to do the object of an interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages revocable in action if a uncertainty were resolved in his favour at a trial but the plaintiff need for such protection must be weighed against the corresponding need of the dependent to be protected against need to be protected against. Injury resulting from his having been prevented from exercising his own legal rights for which he couldn't be adequately compensated under the plaintiff undertaking in damages uncertainty were resolved in a defendant's favour at the trial. The court must weigh one need against another and determine where a balance of convenience lies.”

In these cases where a legal right of the parties depends upon facts that are in dispute between them i.e. evidence available to that the hearing of the application for an interlocutory injunction is incomplete. It is given an affidavit and has not been tested by oral cross-examination.

The purposes sought to be achieved by giving to the court discretion to grant such injunctions will be stultified if or discretion were clogged by a technical rule for bidding its arousal upon a that incomplete untested evidence is court evaluated a change of a plaintiff's ultimate success the action at so percent or loss, but permitting its exercise if court evaluated his chances at more than 50 percent.

Unless or court undertakes a view that the claim has no prospects succeeding if should go on the consider the balance of convenience and nature injury for damages.

As to that, the governing principle is that the court should first consider whether, if the plaintiff were to succeed at a trial in establishing his right to a permanent injunction, he would be adequately compensated by an award, damages for the loss he would have sustained as a result of a defendant's continuing to do what was sought to be enjoined between time and application and the time of the trial of damages in the measure available at common law would be adequate remedy and the defendant would be in a financial position to pay them. No interlocutory injunctions should normally be granted, however strong a plaintiff's claim appeared to be at that stage if on the other hand, damages would not provide an adequate remedy for the plaintiff in the event of his succeeding at a trial, the court should then consider whether, on the contrary hypothesis that the defendant were to succeed at the trial in establishing his right to do that which was sought to be enjoined he would be adequately compensated under the plaintiff's undertaking as to damages for a loss he would have sustained by being prevented from doing so between time of application and or time of trial if damages in the measure recoverable under such an undertaking would be an adequate remedy and a plaintiff would be in a financial position to pay them, there would be no reason up, this ground to refuse an interlocutory injunction.

The court of appeal in the cases *Grace Bamuranya Bororoza and others V. Dr. Kavindu Awoko & Others*¹¹ said that;

“In order for applicants to succeed in this application they must satisfy us that if the order of injunction they are seeking is not granted, then they will suffer irreparable damage that cannot be addressed by payment of making cooperation”.

¹¹ *Civil Applications* Act of 2008

Our business is justice not convenience which can and must disregard faithful claims by either party subject to that, which must enterprises a possibility that either party may succeed and must do our best in order that nothing account pending as that which with prejudice or right which the parties are wisely assessing insistent claims, this is difficult but we have to do our best, in so doing, we are seeking a balance of justice and not governance.”

Status Quo

If other factors are usually balanced it is prudent to take such measures that are calculated to preserve the status quo.

Status quo means, simply the existing states of things before a particular point in time the movement crucial point in determining a status quo to ascertain a period a point in time which is to be preserved.

The status quo may mean the existing state of things that the date when the dependent as respondent did the act with which first act which is alleged to have been wrongful or the date when the plaintiff applicant first learned of the act as the date when the sum man were issued.

Therefore, the 10 bent point of time for purpose so the status quo vary in different cases in the cases *Elisen Munko VA/Mada Kezealka*¹³, court noted the main purpose of granting a temporary injunctions is to maintained in the status quo, other circumstances had to be taken consideration where the status quo has changed then it doubtfully the interlocutory injunction will solve any purpose as it may mean preserving the legality as a breach of the wrongs and court can clearly reverse the wrong that has been done before hearing the matter which some cases may involve some hardship to innocent third parties.

The case of the *Garden Cartoge Fonds Limited v Milk marketing Board*¹⁴ 130 it was noted that for the purpose of deciding whether an interlocutory injunction shall be granted to preserve the status quo the court should consider the status quo as the state of affairs existing during the period immediately preceding the issues of summons and in respect of the motion before an interlocutory injunction the period immediately preceding the motion.

¹³ (1987) HCB 8

¹⁴ (1984) AC

However, it should be noted that under administrative law, an applicant for judicial review can seek an order of injunction against government or its officers in the case of *Mvitome Office (1994)* / AC 377. Court issued an injunction to a number of home offices stopping him from deporting an immigrant.

In addition, an injunction can issue to a government authority, or public body, if it is acting contrary to the law or without authority from the law authorizing it and every if it is in violation of a irritation Road¹⁶).

However following the case of *AG v Osotrain Ltd*¹⁷, there is doubt as to whether this general principles protecting the government is still valid. In that case the court issued an eviction under against the government contrary to clear statutory provision and referred to several cases out of the jurisdiction where injunctions had been issued against the government. The court of appeal concluded that.

“Since the 1995 constitution, the rights, powers and immunities of the state are not immutable anymore. Article 20(2) enjoins everybody including government agencies in protect and respect individual fundamental human rights. The constitution has primacy overall other laws and the historic common law doctrines restricting the liability of the state should not be allowed to stand in the way of constitutional protection of fundamental rights.

Discharge of temporary injunction

A person who seeks to discharge an interlocutory injunction must apply by notice of motion. To court which granted the injunction orders for rule for state that:

“ Any order for an injunction may be discharged, or varied, or set order by the court on application made to the court by any party dissatisfied with the order.

Discharge may be on any of the following grounds:-

- (a) Material non – disclosure on an expert application.
- (b) Applicant’s no abuse vance of a terms of a grant of the injunction.
- (c) Material changes in circumstance since the grant.
- (d) The plaintiff failure to prosecute the substance claim sufficiently and expeditiously.
- (e) That the effect of injunction is presume or interferes with the rights of third parties.

¹⁶ *Grace Batrurangye Bororoza and 53 others V Dr. Atwoki Kevin u and others (supra*

¹⁷ *CACA No. 32 of 2002*

TOPIC TWO: PLEADINGS GENERALLY



INSTITUTION AND FRAMING OF SUITS.

Order 2 rule 1 of the CPR provides that every suit shall include the whole claim which the Plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his or her claim in order to bring the suit within the jurisdiction of any court. It must be noted however, that where a plaintiff omits to sue in respect of or relinquishes any portion of his or her claim, he or she shall not afterwards sue in respect of the portion omitted or relinquished.

The general rule concerning institution of suits is provided for in order 4 rule 1(1), thus every suit shall be instituted by presenting a plaint to the court or such officer as it appoints for this purpose. A plaint has to comply with the rules in Order 6 and 7 of the CPR.

Order 6 has the following cardinal features to note about pleadings:

Order 6 rule 1(1) provides that every pleading shall contain a brief statement of the material facts on which the party pleading relies for a claim or defence, as the case may be. By virtue of order 6 rule 1(2), the pleadings shall where necessary be divided into paragraphs numbered consecutively; and dates, sums and numbers shall be expressed in figures. In relation to material facts, court held in *Bruce Vs Odhams Press Limited*²⁰, thus the word material means necessary for formulating the a complete cause of action and if one material fact is omitted, the statement of claim is bad.

²⁰ [1939] 1 KB 712

It must be noted that amendment of pleadings is provided in Order 4 rule 19. The court may, at any stage of the proceedings, allow either party to alter or amend his or her pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real controversy between the parties. Rule 20 ought not to go unnoticed which provides that a plaintiff may, without leave of court amend his or her plaint once at any time within 21 days from the date of issue of a summons to a defendant or where a written statement of defense is filed, then within 14 days from the filing of the written statement of defense or the last of such written statements. A defendant right to amend without leave is provided for in order 4 rule 21; he or she can exercise this option if he has set up a counterclaim or setoff, at any time within 28 days from the date of filing the counter claim or setoff or where the plaintiff files a written statement in reply, then within 14 days from the date of service of the written statement in reply.

It must be noted that where a party has amended his pleading under 20 or 21, the opposite party has a discretion to apply to court under rule 22 of order 4 to disallow the amendment; and court may, if it is satisfied that the justice of the case requires, disallow the amendment or allow the amendment in part to such terms as may be just.

Procedure for application to court to disallow an amendment.

Application is by Chamber summons supported by an affidavit, under order 4 rule 22 and 31.

Documents needed

Chamber summons supported by an affidavit;

Forum

The forum is the High Court, since the CPR applies to the High Court by virtue of section 1 of the Civil Procedure Act.

CAUSE OF ACTION

In the case of *Auto Garage & Another v Motokov, case No.3 (1971) EA314* a cause of action was defined in the following terms;

1. That the plaintiff enjoyed a right
2. That the right has been violated
3. That the defendant is liable

Brigadier Smith Opon Acak v. A.G court held that where the plaintiff admits that the acts complained of were committed by the servants of the defendant in the course of their employment, it does not mean that the plaintiff does not disclose a cause of action, where the servants have been described as servants of the defendant. This is because; whether a servant did or did not do the acts complained of in the course of employment was a fact peculiarly within the knowledge of the defendant to be pleaded in his defense.

Where the Cause Of action is in breach of contract

Contact.

The plaintiff must plead all the prerequisites of valid contract.

In **Yafeesi Katimbo v Grindclay Bank**, the plaintiff sued the defendant for specific performance and its WSD, the defendant raised a P.O that the plaintiff disclosed no cause of action since no consideration had been pleaded. Issue was whether after acceptance and consideration had to be pleaded.

It was held that since the action was based on a contract consideration was a material fact and had to be pleaded except in negotiable instruments when it is proved. There was nothing in the pleadings to show that there was a binding contract. None of them showed that the offer had been accepted, acceptance was the essence and had to be pleaded.

Where the cause of action is founded on deformations

The plaintiff must plead the alleged deformation words verbatim. In **Erumiya Ebyatu v Gusbarital**. The applicant sued the respondent for slander. The pleadings stated that the respondent was a wizard who used to bewitch people, the actual words used by the respondent.

Held that in action for slander, the precise words caused by must be set out in the plaintiff's statement of claim. The plaintiff must rely on the words set out in the plaintiff's statement and not any other expression. Similarly the names of persons to whom the words were uttered must be set out in the plaintiff's statement otherwise court will be relevant to consider any publication to person not named in the pleadings.

Where the plaintiff does not disclose a cause of action, the court is mandated to reject the plaintiff's objection or application rejecting the plaintiff's statement. The objection or application rejecting the plaintiff's statement may be raised orally before court or through an application

07 r 11.

4. Fraud starts to only run when the plaintiff gets to know about the fraud or when they reasonably have done so (s.25 of limitation Act)

Where a suit is time barred, the plaintiff might plead disability as an exception. The disability as an exception. The disability must be expressly pleaded in the plaint.²²

- Judgment 12 years
- Arrear interest of judgement 6 years
- Conversion & detention of good 6 years
- Mortgage 12 years
- Recovery of rent 6 years
- Foreclosure & recovery of loans & mortgages 12 years
- Fraudulent breach of trust no limitation
- Fatal accidents actions 12 years
- Claims for equitable relief no limitation period, bt subject to rule that discretionary remedies will not be granted if the result would be unfair and prejudicial

Action claiming personal estate of a deceased person. 12 years. Wilberforce John V sezi wako, s.21 of limitation Act does not limit an executer to apply for probate.

Limitations of causes of action against Gov't & corps

These are provided for by the civil procedure and limitations (miscellaneous provisions) Act.

s.3(1). Tort 2 years

s.3 (2). Contracts 3 years

s.5, limitations is postponed in case of disability for 12 months from date of cessation

s.6, limitation is postponed in case of fraud or mistake

ELECTION PETITIONS.

Law Applicable

- The constitution
- The presidential election act 2005
- The parliamentary election (Amended) Act 2006
- The presidential election s selected on petitions rules 2001
- The parliamentary elections (election petitions) (amendment) rules 2006.

²² Hermeidas mulindwa & Anor v Stanbic Bank

Parliamentary elections petitions.

Article 14 of the constitutional provides / or hearing of election cases it states that.

- (1) Where any question before the high court for determination under article 86(1) of this constitution, the higher court shall proceed in hear and determine a question expand truly and may for that purpose suspend any other matter pending be paid.
- (2) This article shall apply in similar manner the court of appeal and the Supreme Court when having and determining appeal on questions refereed in clause (1) of this article.

Article 686 (1) of the constitution states that

- (1) The high court shall have jurisdiction to near and determine any question whether:-
 - (a) A person has been variably elected a number of parliaments are seat of a number of parliament has become vacant or
 - (b) A person has been validly elected as speaker or deputy speaker or having been so elected, has vacated that office

1. When they should be brought.

Section 60(3) of the parliamentary elections act No.17 of 2005 (PEA) requires that the election petition is filed within 30 days after the day on which the electrical commission gazette the results. S.63 (9) of the PEA empowers the high court to determine the petition within 6 months after its lodgment in court.

2. Who may bring the petition

Under S.60 (2) of the PEA the petition may be brought by a losing candidate or a registered voter in the constituency concerned supported by the signatures of not less than 500 voters registered.

3. Grounds for setting aside a parliamentary election.

These are set out under s.61 of the PEA and must be proved to the satisfaction of court.

- a) Non-compliance with the provisions of the provisions of the parliamentary election act. The court must be satisfied that there has been failure to conduct the election in accordance with the principles laid down in those provisions and that the non-compliance and failure affected the result of the election in a substantial manner. The principles which govern the conduct of elections are laid down in article 61(1)(a) of the constitution and in provisions of PEA are:

1. Conduct the election in freedom and

2. The team was to receive a goat which was not available on feast day and rejected offer of UGX.100,0001 threatening not to vote for appellant to which he offered the cow and asked them not to let him down on voting day.

The evidence of bribery made by a candidate's agent requires corroboration before it is accepted as true. The court in *Moses Kabusu Wagaba V Tim Lwanga Ep No.15/2011* justified the requirement for corroboration on grounds that such supporters have a tendency to exaggerate facts of bribery.

Bribery is an offence committed by the giver and the receipt. Evidence of the receipt is accomplice evidence which requires to be corroborated.

In *Hon Kirunda Kivejinja V Katuntu Abdu*²³, the court stated that it is common knowledge that every village has registered voters because every village has a polling station. A donation to a village in a constituency by a candidate who is seeking voters would be targeting of registered voters in that village and those who can influence them to vote.

Use of government property.

Section 25 (1) of PEA bars the use of government resources during campaign. Section 25(2) postulates that a candidate has to use the resources assigned to their office having notified the electoral commission. In *Darlington Sakwa And Anor V Ec And 44 Ors.*²⁴ the court stated that the essence of article .80(4) was to ensure a level ground so that candidates don't use their office resources to campaign.

Intimidating voters.

No candidate has a right to intimidate another, let alone any member of the electorate no matter his political shade or opinion. Article 1 of the constitution vests power in the people to express their free will in determining their political leaders through periodical elections. Threats or acts of intimidation interferes with a peaceful atmosphere and subverts the will of the electorate to choose leaders of their choice. The vice negatively affects the voter turn up

Declaration of results and falsification of results.

²³ E.P.A No. 29 of 2006
²⁴

Article 59 and 61 of the constitution. *EC AND ANOR V NAMBOOZE BAKIREKE*, the removal of two gazette polling stations on voting day amounted to disenfranchisement which EC was liable for.

Qualifications and disqualifications.

1. Education qualifications.

Article. 80(1) (c) of the constitution and section 4 of PEA set the academic qualifications for a prospective candidate for effective nomination and participation in an electoral process.

Failure to meet the requisite academic qualifications is ground for nullification of an election as was in *PAUL MWIRU V IGEWWWE NABETA*,²⁶

The academic qualifications set out under article 80(1) (c) of the constitution and section 4 of the PEA is advanced level certificate or its equivalent.

Before coming into force of the regulations, there was no requirement for one to follow and have all education certificates before acquiring UACE. A person could have UACE without UCE. However after the coming into force of the regulations, any person obtaining UACE after must have PLE, UCE AND UACE. Failure to have any automatically nullifies the UACE.

However candidates who obtained their UACE before the regulations came into force, their UACE ai'nt affected by failure to have UCE or PLE and thus meet the academic qualification. In *BUTIME TOM V MUHUMUZA DAVID* the failure of the candidate to sit for PLE before attaining UCE AND Dip in SD did not taint his academic qualifications having obtained before then regulations came into force and the law does not act retrospectively.

2. Should not be serving public officer.

Article 175(a) of the constitution defines a public officer to mean any person holding or acting in an office in the public service.

²⁶ EPA No. 6 Of 2011.

2. A person qualified in petition under sub section (3) who is aggrieved by a declaration or the results of a councilor may petition the chief magistrate court having jurisdiction in the constitution
3. An election petition may be filed by any of the following persons.
 - (a) A candidate who has san elected
 - (b) A registered voter in a constituency concerned supplied by the signatures of not less than five hundred voters required the prudency
4. An election petition shall be filed within fourteen days after the day on which their results of the section has been notified by the electoral commission in the gazette.

Look at a contents and form of presentation of an election petition.

The petition.

Procedure.

1. Lodging 6 copies of the petition and notice of presentation of the petition to the high court within 30 days from date of gazetting. Rule 4(1) of the parliamentary elections(interim provisions) (elections petitions) rules S.I No.141-2
2. Paying the prescribed fees. Fee is UGX.150,000 as per rule 5(3) of the rules S.I. No.141-2
3. Depositing security on the petition.
4. Effecting service of the petition, affidavits in support of notice of presentation of the petition on the respondents within 7 days from the date of lodging the petition in court. Rule 6 of the rules S.I.141-2
 - Service must as much as possible be personal.
5. A respondent who has been served is required to file 6 copies of his answer to the petition accompanied by affidavits in support.
6. Pay filing fees on the answers.
7. Serve the petitioner within.

Documents.

- a) Petition
- b) Affidavits in support
- c) Notice of presentation of the petition.

**IN THE MATTER OF THE PARLIAMENTARY ELECTION HELD
ON THE 12TH OF FEBRUARY 2020 IN MADDUDU COUNTY
CONSTITUENCY, KABULASOKE DISTRICT
ELECTION PETITION NO.....2020.**

SUI GENERIS A PETITIONER

VERSUS

1.

2. SUI GENERIS B.....RESPONDENT

3. ELECTORAL COMMISSION.

NOTICE OF PRESENTATION OF PETITION.

TO: MUSISI ISMEAL AND EC.

WHERE THE PETITIONER has petitioned this Honorable court praying for a declaration that the election of the 1st respondent as a member of parliament for Maddudu county constituency should be nullified.

YOU ARE HEREBY summoned to appear in this Honorable court in person or through an advocate on theday of2022 ato'clock in the fore/afternoon or soon thereafter as the election petition shall be heard and disposed of.

You are also given 10 days from the date of service to file your reply to the petition.

TAKE NOTICE that default of your so doing, the petition shall be heard and determined in your absence.

GIVEN under my hand and seal of this Honorable court on this.....day of.....2022

.....
REGISTRAR.

Petition.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MPIGI
IN THE MATTER OF THE PARLIAMENTARYH ELECTIONS**

6. Your humble petitioner contends therefore that the election of the 1st respondent as the M.P of the constituency was marred with irregularities and did not comply with the electrical laws.
7. Your humble petitioner contends that in the constituency, the election officials and in conspiracy with the 1st respondent grossly failed in its statutory duty to conduct a free and fair election to the detriment of the petitioner contrary to provisions of Article 61 of the constitution (as amended) and s.12 of the ECA (As amended)
8. Petitioner further contends that the 2nd respondent conducted the entire election process with incompetence, particularly, bias, malafide and prejudice against the petitioner.
9. As a result such non-compliance with the principles and provisions of the constitution PEA and ECA, the result of the election was affected in a substantial manner.
10. The impugned acts of non-compliance with the electoral laws, principles and practices were to such extent that they qualitatively and quantitatively affected the outcome of the results of the election in the constituency.

WHEREFORE your petitioner prays that:

1. The election of the 1st respondent as MP for the constituency be nullified
2. The 2nd respondent conduct fresh elections in the constituency.
3. Costs of this petition.

Dated at MPIGI this.....day of.....2020.

PETITIONER

LODGED and filed at the court registry on this.....day of August 2020.

REGISTRAR

TO BE SERVED ON:

1. E.C
2. SUI GENERIS B

Drawn and filed by:

Sui Generis & Co- advocates

A cause of action has been defined by several cases. In **AUTOGARAGE –VS- MOTOKOV [1971] EA 514**; it was held that there are three essential elements to support a cause of action namely; first and foremost, that the Plaintiff enjoyed a right; secondly, the right has been violated; and thirdly that the Defendant is liable. This was followed with modification in *attorney general vs major general david tinyefuza supreme court*³², where “a cause of action was defined as meaning every fact, which, if traversed, it would be necessary for the Plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the Plaintiff a right to relief against the Defendant. It must include some act done by the Defendant since in the absence of such an act; no cause of action can possibly accrue...³³

e) The facts showing that court has jurisdiction.

This was followed in *CAT Bisuti vs Buziga District Administration*³⁴ where Dickson J. held that a mere assertion in the plaint that the court has jurisdiction is not enough. What matters is not an assertion in the plaint that the court has jurisdiction but a statement of fact showing that the court has jurisdiction.

f) The relief which the plaintiff claims; inter alia

A plaintiff is enjoined to plead his damages. General damages need not be specifically pleaded, but there should be an averment that the Plaintiff claims damages for pain, suffering, inter alia. It must be noted however that special damages should be specifically pleaded. This has developed as a matter of legal practice.

Order 6 rule 26 provides that every pleading shall be signed by an advocate or by the party if he or she sues or defends in person. The effect of failure to sign was discussed in *Transgem Trust vs Tanzania Zoisiten Corp. Ltd*³⁵ where court held that the signing of the plaint was a matter of procedure and failure to do so would not affect the merits of the case.

It must be noted that under order 7 rule 11, the plaint may be rejected in the following cases;

a) Where it does not disclose a cause of action.

³² CONSTITUTIONAL APPEAL NO. 1 OF 1997

³³ Relying on MULLER ON THE CODE OF CRIMINAL PROCEDURE, VOLUME 14TH EDITION AT PAGE 206

³⁴ HCCS 83/1969

³⁵ (1968) HOD 501

FAILURE TO PLEAD AND CONSEQUENCES

As noted earlier, a Written Statement of Defense is filed in accordance with **08 r 1 of the Civil Procedure Rules S.1 71-1**. Filing of a written statement enables a person to gain *locus standi* in court. This was discussed in **SENGENDO –VS- ATTORNEY GENERAL [1972] HCB at Pg. 356** where court formed an opinion to the effect that a Defendant who fails to file Written Statement of Defense puts himself out of the court and therefore can't be heard.

CONSEQUENCES OF DEFECTIVE PLEADINGS

The **CPR** [supra] lays down the consequences of defective pleadings in orders 6 and 7 of the **CPR** respectively, these are discussed herein below:

AMENDMENT OF PLEADINGS

Amendment of pleadings refers to correction of errors including curing of defects in pleadings. This is conversed by order 6 rule 19,20,21,31 and O 52 rule 1 and 2 of the CPR SI 71-1. Amendment of pleadings may be done with or without leave of court.

Amendment without leave of court.

This is covered in **O6 rule 20 and 21** of the of the CPR thus; a plaintiff may, without leave amend his or her plaint once at any time within twenty one days from the date of issue of the summons to the defendant or where a written statement of defense has been filed, then within 14 days form the filing of the written statement of defense or the last of such written statements.

O6 rule 21 provides that a defendant who has set up any counterclaim or setoff may without leave amend the counterclaim or setoff at any time within twenty-eight days of the filing of the counterclaim or setoff, or, where the plaintiff files a written statement in reply to the counterclaim or setoff, then within fourteen days from the filing of the written statement in reply.

It must be noted that the rationale for amendment is to have the necessity and the purpose of determining the real questions in controversy between the parties as laid out in **rule 19**.

Amendment with leave of court.

This is juxtaposed from the provisions of rule 2 and 21 of the rules. If the period if more than twenty-one days from the date of issue of the summons to the defendant or where a written statement of defense has been filed, then the plaintiff can only amend with leave.

DISMISSAL OF SUIT.

If, in the opinion of the court, the decision of the point of law substantially disposes of the whole suit, or of any distinct cause of action, ground of defence, setoff, counterclaim, or reply therein, the court may dismiss the suit or make such other order in the suit as may be just. This is conversed by **O 6 rule 2 of the CPR SI 71-1**

DISCONTINUANCE OF A SUIT.

This is provided for in order 8 rule 13 which is to the effect that discontinuance of suits occurs if in any case in which the defendant sets up a counterclaim, the suit of the plaintiff is stayed, discontinued or dismissed; the counterclaim may nevertheless be proceeded with.

SETTLEMENT OF PRELIMINARY OBJECTIONS

Order 15 rule 2 provides that where issues both of law and of fact arise in the same suit, and the court is of the opinion that the case may be disposed of on the issues of law only, it shall try those issues first and for that purpose may, if it thinks fit postpone the settlement of the issues of fact after the issues of law have been determined.

Case law is to the effect however, that if the issues of law to be disposed of raise triable issues, then court will not determine the case on those issues of law. This is due to the fact that it may necessitate adducing evidence.

WITHDRAWAL OF SUITS

This is provided for in **Order 25** of the **CPR**, and provides a mode of withdrawal of suits by either the defendant or the plaintiff.

Rule 1(1) provides that the Plaintiff may at any time before the delivery of the defendants' defence or after receipt of the defense, before taking any other proceedings in the suit (except any application in chambers) by notice in writing to wholly discontinue his or her suit against all or any of the defendants. We are fortified by *Mulondo Vs Semakula [1982]* where court held the principle laid out in **O25r1(1)**.

TOPIC THREE: ISSUE AND SERVICE OF SERMONS



What is a summons?

According to Ssekaana at page 127, a summons is an official order requiring a person to attend court either to answer a claim / charge or to give evidence

The summon must be signed and must contain a seal of court O.S. 1

In Kaur v City Auto mart (1967) EA 108, court held that the requirements of signing and sealing are mandatory and failure to comply with them renders the summons a nullity.

Effect of irregularities in the court process

There are situations where for one reason or another court summons are not signed and sealed by the responsible officers. In *Tommy Otto v Uganda Wildlife Authority*,³⁸ In this case the hearing notice was either signed nor dated

The court held that a hearing notice is issued by the court and the plaintiff cannot be held liable for the negligence of the staff in court registry to have issued an undated and unsigned hearing notice. The hearing notice indicated when the matter was due before the court and was sealed by a seal of court. That despite the said effects, the hearing notice served the purpose for which it was intended and both parties were before court. They said did not cause any injustices to any of the parties.

What must accompany the summons

O.S. r 2 mandates that the summons are accompanied by a copy of the plaint, a brief summary of evidence to be addressed, a list of witnesses, a list of documents and a list of authorities.

On whom are summons served

³⁸ HECS No. 208/2002

In *Satuinder Singh v Sarinder Kaur*⁴⁰, substituted service is granted with a purpose or goal to achieve. It is granted when the court is satisfied that there exists a practical impossibility of actual service that the method of substituted service assured by the p/f /petitioner is one which will in all reasonable probability, if not certainty, be effective to bring knowledge of the plaint / petition to the respondent / defendant.

Substituted service should only be effected if the person is within the jurisdiction of the court. If the person to be served is outside the jurisdiction of court, the provisions of **0.5 rule22 CPR** which govern service outside the jurisdiction apply⁴¹.

Proof of service

The person served or who receives service on behalf of the defendant should sign on the original court process acknowledging receipt of the process. **0.5r 14**. In *Kasirivu and 4 ORS v Bamurangye and 3 ORS*⁴², it was held that where a duplicate or copy of the summons

NECESSITY OF ISSUE AND SERVICE OF SUMMONS

This is conversed in Order 5 of the CPR. Order 5 rule 1(1) provides that when a suit has been duly instituted a summons may be issued to the defendant ordering him or her to file a defence within a time specified in the summons; or ordering him or her to appear and answer the claim on a day to be specified in the summons.

Rule 2 provides that the summons has to be accompanied by a copy of the plaint, a brief summary of the evidence to be adduced, a list of witnesses, a list of authorities, a list of documents to be relied on except that an additional list of authorities may be provided later with the leave of court.

MODES OF EFFECTING SERVICE

Rule 8 provides that for the mode of service; it shall be made delivering or tendering a duplicate of the summons signed by the judge, or such officers the judge appoints for this purpose and sealed with the seal of court.

⁴⁰ **HCCS NO.2 of 2002**

4141

⁴² **(2009)1 HCB 42**

Procedure for application for leave to serve out of jurisdiction

Application is by chamber summons supported by an affidavit under order 5 rules 24 and 32.

When leave has been granted, rule 28 provides that the notice to be served shall be sealed with the seal of the High Court for use out of the jurisdiction and shall be forwarded by the Registrar to the Minister together with a copy of it translated into the language of the country in which service is to be effected. A request for further transmission of the notice through proper channels of the country in which service is to be effected shall be in form 10 of Appendix A to the Rules.

Another rule which ought to be noted thus service cannot be effected on Sunday. Rule 9 of order 51 provides that service of pleadings, notices and summons other than summonses on plaintiffs, orders rules and other proceedings shall be effected before the hours of six in the afternoon, except on Saturdays before the hour of one in the afternoon. It must be noted that for purposes of computing time service after six on a weekday or after the hour of one on a Saturday shall be deemed to have been service on the following day, and for Saturday it will be deemed service on Monday.

Substituted service is provided for under rule 18 thus, where the court is satisfied that for any reason the summons cannot be served by affixing a copy of it in some conspicuous place in the courthouse and also on some conspicuous part of the house, if any, in which the defendant was known to have last resided or carried on business or personally worked for gain, or in such manner as court thinks fit; and substituted service shall be taken to be as effectual as if it had been made on the defendant personally. Application for leave to serve summons through use of substituted service is by chamber summons under order 5 rule 32, where the applicant should satisfy court he or she has used reasonable steps to effect service of summons on the defendant and failed.

SERVICE OF SUMMONS ON DIFFERENT KINDS OF PARTIES

Period Of Limitation Of Service

Summons have to be served within 21 days from the date of issue, as enunciated in order 5. It must be noted that where the summons issued under Order 5 have not been effected within 21 days from the date of issue, and there is no application for extension of time or the application for extension of time has been dismissed; the suit shall be dismissed without notice.

Procedure for application for extension of time to effect service

One makes an application by chamber summons under order 5 rules 1(2) and 32. The applicant has to show court sufficient reasons to court justifying the extension of time for service.

TOPIC FOUR: FILING DEFENCE FOR DEFENDING

A defense is a written plea made against a plaintiff's statement of claim.

There are several defenses:

Non conditional defense:

Is one which is available under an express right to do so e.g when someone commences an ordinary suit, they have a right to write a WSD under 0.9 r 1(1) of CP rules.

Conditional defence:

Under 0.36 of CPR, a defendant does not have an automatic right to defense. They have to apply for leave 2 appear and defend the right of application once granted may order the defendant to satisfy certain conditions b4 filing the defence.

Technical defence:

Is one premised on a point of law e.g if files the suit out of time , then limitation is a defence.

Other technical defence is res judicata.5.7 of the CPA.

General defences.

These are intended to address facts raised by adverse parties .Not specific but evasive denials are not permissible under 0.6 r10.

A good defence must traverse each and every fact 0.6 r8 and 0.8 r 3.

0.6 r 8 provides that it shall not be sufficient for the defendant in his/her WSD to deny generally the grounds alleged by the statement of claim or for the p/f in his/her written statement in reply to deny generally the grounds alleged in a defense by way of counter claim but each party must deal specifically with each allegation of facts of that he/she does not admit the truth except damages.

0.8 r3 provides for specific denial of every allegation of fact in the plaintiff not denied specifically or by necessary implication or stated to be not admitted in the pleading of the opposite party ,shall be taken as admitted except as against a person under disability but court may in its discretion require any facts so admitted to be proved otherwise than by that admission.

PLAUSIBLE DEFENCES AND SHAM DEFENCES.

Plausible defences are defences with merit or which on the face of it have merit.

0.6 r 8 requires that denial should be specific and shall not be sufficient for the defendant in his /her words to deny generally the grounds alleged by the statement of claim.

In *Nile Bank Ltd v Thomas kato Ors*⁴⁴, Justice Arach-Amoko held that the defence contained general demands to the p/fs allegations which offended 0.6r7(now 8) which requires each party to specifically deal with each allegation of fact denied. Here the p/f had by notice of motion applied to court to have the defendants defence struck off and it was granted.

A WSD is a pleading and must be accompanied by the summary of evidence , list of authorities ,list of witnesses and documents.(0.6r2).

Rule 5 of the judicature rules 2013 requires that the WSD is filed together with the dfts mediation case summary.

Extension of time to file a WSD.

Defendant may apply for extension of time with in which to file a defence or to file a defence out of time and apply for extension of time to validate it. 0.51 r6 and 7.

HOW DONE AND WHEN DONE

This is envisaged in **Order 8 of the CPR. Rule 1 [2]** provides that a defendant shall unless some other or further order is made by the court, file his or her defense within fifteen days after service of the summons.

It is advisable to have specific denials in a defence. This is laid out in **Rule 3** which provides that every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against a person under disability; but the court may in its discretion require any facts so admitted to be proved otherwise than by that admission.

CONSEQUENCES OF FAILURE TO FILE A DEFENCE

This is covered above under the sub heading “Proceeding ex parte”. In a nutshell, an ex parte judgment shall be entered against the defendant. Failure to file a defence ousts the Defendant’s locus before court. This was held in *sengendo –vs- attorney general [1972] hcb at pg. 356* where court formed an opinion to the effect that a Defendant who fails to file Written Statement of Defence puts himself out of the court and therefore can’t be heard.

⁴⁴ HMCA NO.1190 of 1999

CONSENT JUDGMENT

Easily put, this is a type of judgment whereby the parties consent to it. The parties draft a consent judgment and file it in court for the judge to sign it.

DEFAULT JUDGMENT

This is provided for in **Order 36 rule 3** which provides that Upon the filing of an endorsed plaint and an affidavit as is provided in rule 2 of the Order, the court shall cause to be served upon the defendant a summons and the defendant shall not appear and defend the suit except upon applying for and obtaining leave from the court. Sub rule (2) which is the gist of this type of judgment states that in default of the application by the defendant or by any of the defendants (if more than one) within the period fixed by the summons served upon him or her, the plaintiff shall be entitled to a decree for an amount not exceeding the sum claimed in the plaint, together with interest, if any, or for the recovery of the land (with or without mesne profits), as the case may be, and costs against the defendant or such of the defendants as have failed to apply for leave to appear and defend the suit.

It must be noted that where a defendant wishes to be given leave to appear and defend, he or she follows the principles laid down in rule 4 of the order to An application by a defendant served with a summons..... for leave to appear and defend the suit shall be supported by affidavit, which shall state whether the defense alleged goes to the whole or to part only, and if so, to what part of the plaintiff's claim...

A default judgment is also evident under **Order 9 rule 6 to wit where** the plaint is drawn claiming a liquidated demand and the defendant fails to file a defense, the court may , subject to rule 5 of this Order, pass judgment for any sum not exceeding the sum claimed in the plaint together with interest at the rate specified, if any, or if no rate is specified, at the rate of 8 percent per year to the date of judgment and costs.

INTERLOCUTORY JUDGMENT

This can be categorized into two and is discussed below:

It must be noted that judgments in defended suits shall contain a concise statement of the case, the points for determination, the decision on the case and the reasons for the decision.⁴⁶ In suits in which issues have been framed, the court shall state its finding or decision, with the reasons for the finding or decision, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

The decree shall agree with the judgment; it shall contain the number of the suit, the names and descriptions of the parties and particulars of the claim, and it shall specify clearly the relief granted or other determination of the suit.⁴⁷ The decree shall also state by whom or out of what property or in what proportion the costs incurred in the suit are to be paid.

EX PARTE JUDGEMENTS.

This kind of judgement arises when only the plaintiff is heard in the suit. Ex parte proceedings may be initiated under 0.9r11(2) where a defendant fails to file a defence within the prescribed time the p/f may set suit down 4 hearing ex parte.

They may also be initiated under 0.9 r 20(1)(a) where although a defendant filed a defence, he/she is absent on the day of the hearing have been served with summons / hearing notice.

During ex parte proceedings , the p/f has the burden to satisfy court that he/she is entitled to the remedies sought. *Abedrrego Ongom v Amos Kaheru*.⁴⁸

Setting Aside Interlocutory And Default Judgements Under 0.9r 6 and 0.9 r 8

0.5 r1(a) requires a defendant served with summon to file a WSD with in the time prescribed in the summons.

Under 0.8 r1(2) a defense must be filed within 15 days after service of summon

Where a defendant does not file a defense within the prescribed time the p/f pursuant to 0.9 r5 causes an affidavit of service to be filed on court record and then proceeds under 0.9 r6 to apply for a default judgment on if the claim is for a liquidated demand or apply for an interlocutory judgment under 0.9 r8 if the claim is for pecuniary damages

A party aggrieved by the insurance of the default or an interlocutory judgement under 0.9 r 6 or 0.9 r 8 can apply to have it set aside under 0.9 r 12 of CPR.

⁴⁶ Rule4

⁴⁷ Rule 6

⁴⁸ (1995) 111 KALR 7.

That the defendant threatens or intends to remove or dispose of his/her property with a view to defraud his or creditors.

In a suit for restraining the defendant from committing a breach of contract or other injury of any kind whether compensation is claimed or not 0.41 r 2.

Purpose of an order of temporary injunction.

In the case of *Makerere university v Omumbejja Namusisi*,⁵⁰ the court stated that the purpose of an order for a temporary injunction is primarily to preserve the status quo of the subject matter of the dispute pending final determination of the case and the order is granted in order to prevent the ends of justice from being defeated.

The court further defined the *status quo* as simply devoting the existing state of affairs existing b4 a given particular point in time. In case of land ,status quo is purely a question of fact and the relevant consideration is the point in time at which the acts complained of as affecting or likely to affect or threatening to affect the existing state of things accrued.

Status quo may thus be in retrospect as in case of trespass or *ex post facto* as in case of a threatened action.

In *Koko construction Ltd v Finasi/ Roko construction SPV and Anor*. Status quo was defined simply to mean ‘existing state of things or existing condition b4 a particular point of time. When or b4 what time will normally on facts of each case. In all circumstances, however the existing state of things must be as at the date when the defendant did the acts or the first at which is alleged to have been wrongful or the date then the plaintiff learned of the act or the date when he/she issued summons.

Guiding principles when granting temporary injunctions.

These were laid down by lord diplock in the case of *American Cyanamid CO. v Ethieon Ltd* and cited with approval in the case of *Kiyimba kagwa v katende*⁵¹.They are :

Appliant will suffer irreparable injury.

Where court is in doubt in regard 2 the two above the balance of convenience of growing the application.

Prima facie case:

⁵⁰ MISC APP NO.658 of 2013

⁵¹ (1985) HCB 43

Public interests is one of the paramount and relevant considerations for granting or refusing to grant or discharge of an interim injunction.

He further noted that injunctions against public bodies can issue against a public body from acting in a way that is unlawful or abusing its statutory powers or to compel the performance of a duty created under the statute.

The courts should be reluctant to restrain the public body from doing what the law allows to do. In such circumstances, grant of the injunction may perpetrate breach of the law which they are mandated to uphold.

The rationale for barring courts from granting injunctions which will have the effect of suspending the operation of legislation was articulated in the case of *shell petroleum Development company of Nigeria Limited and Anor v The Governor of lagos state & others*⁵⁷ where Rhodes –Vivour held that suspending the operation of law that has not been declared unconstitutional is a very serious matter. The grant of this application would amount to just that and this would be without leaving evidence. Laws are made for the good of the state and the power to tax quite rightly pointed out by the AG is a power upon which the entire fabric of society is based.

Courts should always consider and take into account the wider public interest. Public bodies should not be prevented from exercising the powers conferred under the statute unless the person seeking an injunction can establish a prima facie case that the authority is acting unlawfully. The public body is deemed to have taken the decision or adopted a measure in exercise of powers which it meant to use for the public good.

Temporary injunctions in defamation suits.

Damages to reputation can be atoned for in damages as was established in the case of *J.N Ntangoba v The editor in chief of the new vision* approved in *James Musinguzi and Anor v Chris Baryomusi and 3 Ors*⁵⁸,

An injunction can issue against a person defaming another where such is necessary. One cannot hide behind their constitutional rights ie the right to freedom of expression and right to engage in lawful occupation or win another person's reputation. The constitutional rights must be exercised in accordance within the maxim *sic utere tuo ut alienum no laedas* which translates into use your own as not to injure another's property or rights.

⁵⁷ 5 ALL NTC

⁵⁸ HCMA NO.817 OF 2016.

Under 0.50 r3A (1), an ex parte interim order can only be granted where it appears that the giving of such notice would cause undue delay and that the object of granting the interim relief would thereby be defeated

Under 0.50 r 3A(2) all applications for interim relief must be inter parties except for exceptional circumstances that may include:

- a. Where the matter is urgent in nature
- b. Where there is a real threat or danger.
- c. Where the application is made in good faith

Period of ex parte interim order.

An ex parte interim order is granted 4 a period not exceeding 3 days from the date issue and upon hearing of the substantive application, the order shall lapse. 0.50 r 3A(5).

The applicant must within the 3 days present proof of effective service on the opposite party. 0.50 r 3A(6) and where the proof of effective service is not presented within the 3 days the order lapses. 0.50r3A(7).

Variation of interim and temporary injunctions.

Under 0.41 r 4, interim injunctions and temporary injunctions may be varied or vacated on application by a party.

Procedure.

Its by notice of motion with a valid affidant. 0.41 r 4 and s.98 of CPA.

SECURITY FOR COSTS

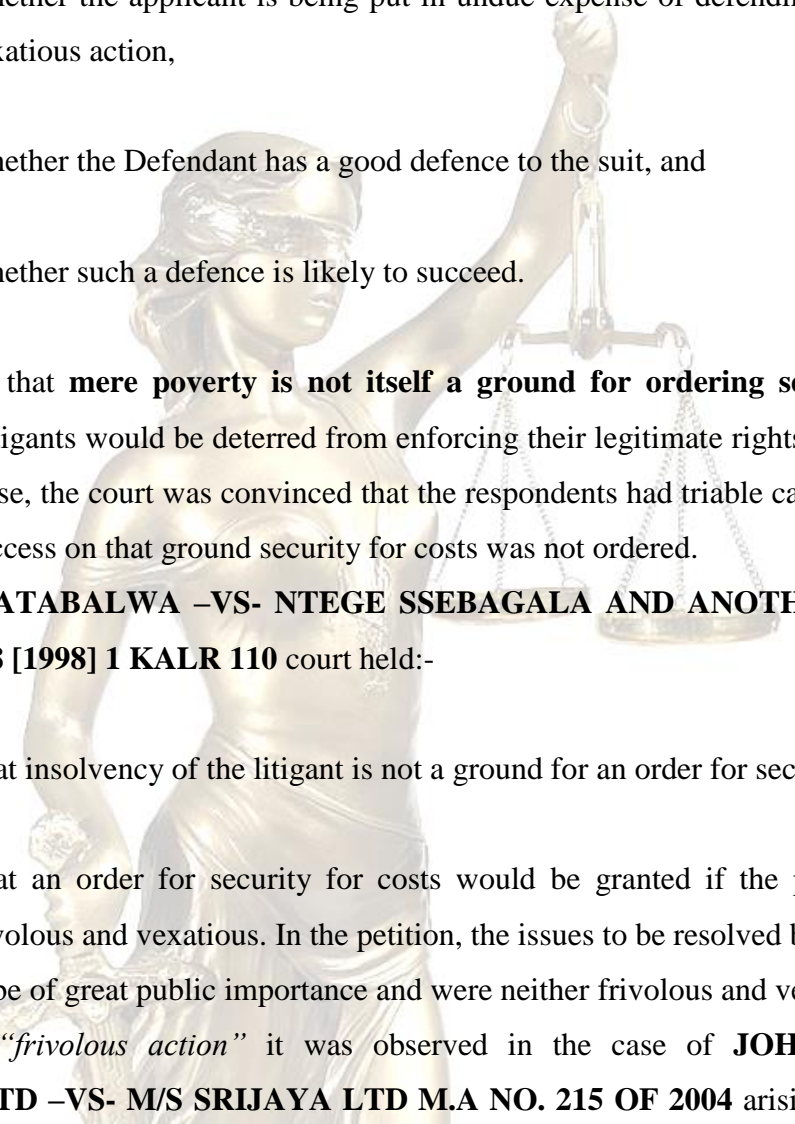
Security for costs is governed by the following laws

- 1. Civil Procedure Act Cap.71
- 2. Civil Procedure Rules S.I No.71-1
- 3. Case Law

Security for costs and further security for cost. This is money paid into court of which unsuccessful plaintiff will be able to satisfy any eventual award of costs made against him.

In relation to the **CPR**, this is governed by **Order 23 r 1,2 & 3** of **Civil Procedure Rules. Rule 1** provides that the court may if it deems fit order a Plaintiff in any suit to give security for the payment of all costs incurred by the Defendant.

It must be noted that the courts have overtime come up with conditions that have to be proved by a Defendant before an order for security for costs is made. To this end therefore, in **ANTHONY NAMBORO & WABUROKO –VS- HENRY KAALA [1975] HCB 315 SEKANDI J.** (as he then was) held that the main considerations to be taken into account in an application for costs are:-

- 
- a) Whether the applicant is being put in undue expense of defending a frivolous and vexatious action,
 - b) Whether the Defendant has a good defence to the suit, and
 - c) Whether such a defence is likely to succeed.

It must be noted that **mere poverty is not itself a ground for ordering security for costs.** Otherwise poor litigants would be deterred from enforcing their legitimate rights through the legal process. In this case, the court was convinced that the respondents had triable cause of action with a likelihood of success on that ground security for costs was not ordered.

In **PHILLIPS KATABALWA –VS- NTEGE SSEBAGALA AND ANOTHER ELECTION PETITION 11/98 [1998] 1 KALR 110** court held:-

1. That insolvency of the litigant is not a ground for an order for security for costs.
2. That an order for security for costs would be granted if the petition is merely frivolous and vexatious. In the petition, the issues to be resolved by court were seen to be of great public importance and were neither frivolous and vexatious.

With regard to “*frivolous action*” it was observed in the case of **JOHN MUKASA & LITHOPACK LTD –VS- M/S SRIJAYA LTD M.A NO. 215 OF 2004** arising from **M.A No. 111 of 2004** and **H.C.C.S No. 796 of 2000** that there is an inherent power in every court to stay and dismiss actions or applications, which are frivolous and vexatious and abusive of the process of the court.

In **DEEPAK SHAH & ORS –VS- PAPARAMA & ORS MA 361 / 2001** from **HCCS 354 / 2001** court observed that in light of East African Community the issue of security for costs should be reconsidered where the Plaintiff is resident in one of the member countries in East African Community. The court was convinced that a decree obtained in Uganda would be enforced in Kenya. Court quoted a number of authorities where it was held that **court cannot order security for costs against a person who is a resident member of one of the Union Countries.**

In relation to **0.23 R.2** of **CPR** which provides that where the Plaintiff does not furnish security for costs within the time set down by the court, then the suit shall be dismissed; the same rule gives court powers to enlarge such time if it is convinced that the Plaintiff was prevented by sufficient cause from depositing security within the time stipulated.

In **NJEREGE NGUMI –VS- MUTHUI 22 EACA 43** court had ordered for security for costs and Counsel tendered a bond which was rejected and the suit dismissed. The Plaintiff applied successfully to set aside the dismissal order and the Judge held that he was convinced that the Plaintiff was prevented by sufficient cause from furnishing security within the time allowed. The Defendant appealed and it was held on appeal that the correct cause of action was for the Plaintiff to apply as soon as possible after obtaining the funds for extension of the time to furnish security; that there was no reason why court could not have allowed such an application.

Who may apply?

The application can't only be made by defendants to claim, defendants to counter claims, respondents to appeal and by appellants in respect of cross appeals. 0.26 r 1.

They can also be made by 3rd parties against the defendants who commenced 3rd party proceedings.

Grounds for application for security for costs.

In *Bank of Uganda v Nsereko 2 ORS⁶⁰*, court stated that in an application 4 costs, court has wide and virtually unfettered discretion, the only fetter is to exercise the discretion judicially. The applicant must satisfy court that the circumstances warrant an order for security for costs being made ie:

Prospect of success in the substantive suit.

⁶⁰ SCCA NO.7 of 2002

Tests for granting an order for security.

In *G.M. combined (U) Ltd v A.K Detergents (U) Ltd*, SCCA NO.7 of 1998, court held that the power to order for security costs is purely a discretionary .It must always be exercised in very special circumstances of each case.

In *Parkinson (sir Lindsay) v Triplan Ltd* (1973) QB 315, Lord Denning laid down the test applied in granting an order for security for costs and these are:

Claimants prospects of success.

Whether defendant has made any admissions to the claimants claim.

Whether the defendant has made any payments into court.

Whether the claimants detriment has been brought about by the defendants conduct.

The stage at which the application is being made oppressively and therefore designed to stifle a claim which has reasonable prospects of success.

Commentary

In relation to the **mode and quantity of security for costs** once the application has been made and in juxtaposition with *G.M Combined (U) Ltd* case (supra), there is no hard and fast rule but that courts must do the best they can in the circumstances of each case. This means that there is no conventional approach in qualifying the magnitude of security for costs. Thus, the award is discretionary, which is always governed by the principle of reasonableness in acting.

Procedure;

The application is made under **0.23 Rule 3 of CPR** i.e. by chamber summons accompanied by an affidavit. However in relation to other jurisdictions; in *FARRAB –VS- BRAIN [1957] EA 441*, Defendants in Kenya made an application for security for costs on the grounds that the Plaintiff was resident abroad. The application was not supported by an affidavit and was challenged as being defective. It was held that where the ground of the application is non-residence it needs not be supported by an affidavit.

Defendant is about to leave the local limits of the jurisdiction of the court of his property or any part thereof.

Under 0.40 r2, the defendant is about to leave Uganda in circumstances affording a reasonable probability that the plaintiff will or may thereby be delayed in the execution of any decree that may be passed against the defendant in the suit, the court may issue a warrant to arrest the defendant and bring him or her before the court to show cause why he or she should not furnish security 4 their appearance.

Suits excluded by virtual of s.12(a)-(d) of the CPA.

For the recovery of immovable property with or without rent or profits.

For the position of immovable property.

For the foreclosure, sale or redemption in the case of a mortgage of on charge upon immovable property

For the determination of any other right to or interest in immovable property.

For compensation for wrong to immovable property

For the recovery of movable property actually under distress or attachment.

Requirement for a prima facie case.

In *Pyrali Datardini v Anglo Amusement Park*⁶⁴, the court emphasized the fact that the order for arrest and attachment before judgement only issues where the p/f is able to make out a prima facie case. Failure to comply with an order 4 attachment. Under 0.40 r 4 where the defendants fail to comply with the order, court may commit him or her to prison until the decision of the suit or where the decree is passed against a defendant, until the decree has been satisfied.

However the person cannot be detained in prison for a period longer than 6 months nor for a longer period than six weeks when the amount or value of the subject matter of the suit does not exceed 100 hundred shillings.

Procedure.

Application is by chamber summons pursuant to 0.40r 12.

The court can order under 0.40 that:

Security e.g articles

⁶⁴ (1930) 4 ULR28

Court will consider all the circumstances in describing whether it's just and convenient to make the order. Usually where there is an arguable case and applicant has proved a real risk of dissipation, it will normally follow that the order sought is just convenient.

CONSOLIDATION OF SUITS AND TEST SUITS.

Consolidation:

The power of the court to consolidate suits is granted under 0.11 r1 of the CPR. The power is involved where:

Suits are pending in same court when before different judicial officers. For the HC, the various divisions and currents are considered as one.

The questions of law or fact arising from the said suits are the same and therefore capable of being disposed off in one hearing of the consolidated suits.

That it's in the interest of the justice that court avoids a multiplicity of suits and a possibility of conflicting decisions arising from separate hearings.

When to consolidate

The court allowed to stay a proceeding under 0.11 r1 (b) for purpose of bringing other suit up to speed for purpose of consolidation. However the supreme court in *Yowana Ankodu Firipo Malinga*⁶⁶, court held that consolidation should usually be agreed upon at the beginning or earlier stage of the trial, with the issues evenly drawn up.

Who may apply?

Either party or on court's motion.

Procedure

Application is summons in Chamber. 0.11 r2. Or by oral application in court.

TEST SUITS

There are provided 4 under 0.39 of CPR. The under applies where 2 or more persons have instituted suits against the same defendant and those people would number the provision of 0.1 r1 have been joined as co-plaintiff or where a plaintiff has instituted two or more suits where the defendants could pursuant to 0.1 r3 have been properly joined as co-defendants in one suit.

Who applies?

⁶⁶ C.A No.6 of 1987

TOPIC FIVE: TRIAL PRACTICE

Scheduling conference

This is provided for under 017 of the CPR S.I 71-1. The rationale of a scheduling conference is to narrow down a case between parties. It must be noted that a scheduling conference is done in the presence of a Judge; where parties:-

- a) Agree on facts
- b) Agree on points of contention
- c) Agree on documents
- d) Agree on witnesses

It must be noted that under Order 17, parties can use a scheduling conference to have an out of court settlement through ;

- 1) Conciliation
- 2) Negotiation
- 3) Mediation and
- 4) Arbitration

It must be noted that before parties resort to this method, there has to be a provision for arbitration. This is evident in the Arbitration and Conciliation Act (cap. 4 sec 23)]. We are fortified by *Agip Vs Shell (SCCA 49 OF 1995)* where court held that where parties have a clause showing arbitration; they have to use arbitration before they go to Court.

The procedure for registering an arbitral award is laid out in the Arbitration and Conciliation Act cap 4, wherein;

Upon grant of the award; it has to be registered with the Registrar in the Civil courts. It must be noted that the award is as effectual as a Judgment.

Upon registration of the award, one extracts a decree from the award, and applies for execution following the procedural rules of execution of judgements.

According to sec 35 of in the Arbitration and Conciliation Act cap 4, the application has to be made in writing.

Discussion

Interrogatories are provided for in **order 10** of the **CPR SI 71-1**, wherein, in any suit the plaintiff or defendant may apply to the court within twenty-one days from the date of the last reply or rejoinder for leave to deliver interrogatories and discoveries in writing for the examination of the opposite parties. It must be noted that those interrogatories when delivered shall have a note at the foot of them stating which persons are required to answer which interrogatories each;⁶⁸

The exception to this principle [Order 10 r1[a]and [b] is evident thus; first and foremost no party shall deliver more than one set of interrogatories to the same party without an order for that purpose; and secondly, the interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding their admissibility on the oral cross-examination of a witness.

An interrogatory is grossly defined a form of questions by one party to another to find out the nature of the case; narrow done the issues and promote an expeditious trial.

In *Griebart v Morris (1920) 1 KB 659*, the court stated that the aim of interrogatories is to obtain an admission, support the interrogating party's case and thus destroy the opponent's case.

In *D'soviza v Ferrao*⁶⁹, The Court Held that interrogations must meet the following requirement:-

- a) Must relate to a matter in question between the parties
- b) Must be necessary for saving costs
- c) Where there are various respondents to the interrogatories, there should be a note at foot stating which parties are required to answer which interrogatories

Guidelines for determining the grant of leave to administer interrogatories

Relevance

Interrogatories should relate to matter in issue. Lord Esther in *marriot v chamberlain (1886) 17 QBD 154* noted that, the right to interrogate is not confined to facts directly in issues, but extends to any facts the existence or non-existence of facts directly in issue.

However, there are restrictions to the rule above:

- a) Interrogations relevant only to the credibility of witness will be disallowed
- b) Interrogatories may be sought only as to matters relevant to the present action questions that are relevant not to the present action but to other or future actions should be disallowed

⁶⁸ order 10 rule1
⁶⁹ (1959) EA 100

- If answers provided are insufficient, the interrogating party may seek an order that the opponent should file a further & better answer & the court may order the latter to answer further, either by way of affidavit or upon and examination
- Insufficiency of an answer is determined by court
- A party may object to answering on the ground of privilege, such objection is conclusive unless the contrary is shown

Failure to answer

- Court may dismiss the action or order the defense to be struck out
- Court can also commit the defaulting party to prison for contempt

Procedure

The Plaintiff/Defendant applies for leave to deliver the questions under order 10 as discussed herein above. Under rule 24 of the said order, the application is by chamber summons supported by an affidavit. Rule 2 [1] provides that on an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court.

Court is enjoined, in deciding upon the application to take into account any offer, which may be made by the party sought to be interrogated, to deliver particulars or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

Interrogatories take the format laid out in Form 2 of Appendix B to the CPR SI 71-1 Rules, with such variations as circumstances may require.⁷²

It must be noted, that where a party to the suit is a corporation or a body of persons, empowered by the law to sue or be sued, under rule 5 of the order, any opposite party may apply for an order allowing him or her to deliver interrogatories to any member or officer of the corporation or body, and an order may be made accordingly

⁷² rule 4 of order 10

This involves using discovered materials to start new causes of action . aparty is thus required to give an undertaking not to use the discovered material for any purpose other than in furtherance of the present action.

Privileged documents

A party may object to producing privileged documents. Where the privilege is claimed, court may itself inspect the documents to satisfy itself as to claim.

Privileged documents may include;

- a) Communication between an advocate and the client.
- b) Documents prepared with a view to litigation.
- c) Privilege against self-incrimination.

Procedure

This application is by chamber summons on the strength of rule 24 of order 10. The distinction between discovery and interrogatories is that discovery needs not an affidavit in support unlike interrogatories.

It must be noted that on the hearing of the application the court may either refuse or adjourn the hearing, if satisfied that the discovery is not necessary, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit;

It must be noted further that that discovery shall not be ordered when and so far as the court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.⁷⁵

Where a party against whom such order as is mentioned above has an objection, he or she shall swear or affirm an affidavit specifying which if any of the documents mentioned in the affidavit he or she objects to produce⁷⁶. The format of this affidavit takes Form 5 of Appendix B to these Rules, with such variation as the case may require.

Where other party does not disclose.

0.10 Or 12

The aggrieved party may, without filing any affiant by summons in chamber apply to the court for an order directing any other party to suit to make discovery on oath of the documents, which are or have been in his or her possession or power , relating to any matter in the suit

Objections to production of documents

⁷⁵ rule 12[2]

⁷⁶ rule 13

1. Give the notice of a time for inspection, or
2. Objects to give inspection, or
3. Offers inspection elsewhere than at the office of his or her advocate,

The court may, on the application of the party desiring it, make an order for inspection in such place and in such manner as it may think fit;

It must be noted further that an application to inspect documents, except such as are referred to in the pleadings, particulars, or affidavits of the party against whom the application is made, or disclosed in his or her affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party.

Procedure and document

Under rule 16 the notice to any party to produce for inspection any documents referred to in his or her pleading or affidavits shall take the Format of Form 7 of Appendix B to the Rules, with such variations as circumstances may require.

It must be noted further that of the order, the party to whom the notice is given shall, within ten days from the receipt of the notice, deliver to the party giving a notice, stating a time within three days from the delivery of the notice at which the documents ... may be inspected at the office of his or her advocate, or, in the case of bankers' books or other books of account, or books in constant use for the purposes of any trade or business, at their usual place of custody. The party to whom the notice is given shall also state which if any of the documents he or she objects to produce, and on what ground he or she does so. The notice under rule 17[2] shall be in Form 8 of Appendix B to the Rules with such variations as the case may require.

- A party who wishes to inspect a document must notify the other party in his /her pleadings or affidavits.0.10 r15
- ❖ The notice must be in writing in form 7 of the appendix B to the rules
- The party to whom the notice is served shall within 10 days from the receipt of notice deliver to the party giving it notice stating a time [within 3 days from the delivery of the notice at which the document may be inspected 0.10 r17]
- ❖ The notice is as per n form of appendix b to the rules

Inspection may be declined on grounds or;

- Legal professional privilege

DAMAGES

GENERAL AND SPECIAL DAMAGES,

General damages, in the case of *Stovell v Hutchison* (1950) AC 515 are such as the law will presume to be the direct natural or probable consequence of the act complained of.

Special damages are as such as the law will not infer from the nature of the act. They do not act. They do not follow in the ordinary course. They are exceptional in their character, and therefore, they must be claimed especially and proved strictly.

Special damages relate to past pecuniary loss calculate-able at the date of trial.

General damages relate to all other items of damages whether pecuniary or not pecuniary. Thus in personal injuries claim, special damages encompass past expenses and loss of earning's whilst general damages will include anticipated future loss as well as damage for pain and suffering and loss of majority.⁸⁴

Nominal damages. *Beaumont v Great Head* (1846) 2 CB494 Nominal damages means a sum of money that may be spoken of but has no existence in point of quantity e.g a seller brings an action for the non- acceptance of goods, the price of which has risen since the contract was made. In practice, a small sum of money is awarded, say one dollar or its equivalent.

Exemplary damages

Means damages for example save as case of *Butterworth v Butterworth* (1920) p126

These damages are punitive in nature or exemplary in nature. They represent a sum of money of a penal nature in addition to the compensatory damages given for the pecuniary v physical and mental suffering.

The award of exemplary damages was considered by the house of lord in the land mark case of *Roake v Bernard*⁸⁵ lord Devlin stated that in his view there are only three categories of cases in which exemplary damages are awarded namely;

- a. Where there has been oppressive, arbitrary, or unconstitutional action by the servants of the government.
- b. Where the defendant's conduct has been calculated by him to make a profit which may well exceed the compensation payable to the plaintiff or.

⁸⁴ *Uganda Commercial Bank v Kigoze* (2002) IEA 293.

⁸⁵ (1964) ALLER 367

TOPIC SIX: EXECUTION OF JUDGMENTS, DECREES AND COURT ORDERS



Introduction

Under order 21 rule 1, judgment when pronounced, where a hearing is necessary, in open court, either at once or on some future day after due notice to the parties or their advocates.

Under rule 3 of order 21, a judgment pronounced by the judge who wrote it shall be dated and signed by him or her in open court at the time of pronouncing it. If the judgment is pronounced by a judge who did not write it, it shall be dated and countersigned by the judge reading it in open court at the time of pronouncing it. rule 3 (3) of order 21 gives a rule of cardinal importance; thus a judgment once signed shall not afterwards be altered or added to except as provided by section 99 the Civil Procedure Act or on Review.

A Judgment in a defended suit shall contain a concise statement of the case, the issues, the decision on the case and the reasons for the decision. Court has a duty under rule 5 to state its decision on each issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

A decree on the other order is extracted from a judgment for the sole purpose of execution or effecting other court application or procedures where it is needed. Under rule 6 of order 21, the decree shall agree with the judgment; shall contain the number of the suit, the names and descriptions of the parties and particulars of the claim, and it shall specify clearly the relief granted or other determination of the suit.

Modes of execution

In *Madavia v Rattan singh* (1968) EA 149 court stated that it's the decree holder to select the appropriate means of execution of his decree subject to the discretion of the court. 0.22 r 27 emphasizes that there is nothing to prevent a plaintiff from applying for several modes of execution.

In *Rajimpex v National textiles board*⁸⁸, the court stated that it may in its discretion refuse execution at the same time against the person and property of the judgement debtor.

The modes of execution include:

- By delivery of any property specifically decreed.
- By attachment and sale or by sale without attachment of any property.
- By attachment of debts.
- By arrest and detention in prison of any person.
- By appointing a receiver. 0.22.

In such other manner as the nature of the relief granted may require.

Application for execution.

Under 0.22 r 7, a holder of a decree if he/she desires to execute it may apply to the court that passed the decree or to the court where it has been sent 4 execution.

0.22 r 8 requires that the application 4 execution be in writing. The only execution being for decree 4 payment of money and judgement debtor is in the precincts of the court when the decree is Passed, where court will order the decree by arrest of the of judgement debtor b4 preparation of the warrant on the oral application of the decree holder at the time of passing the decree.

The application must confirm to the requirements as provided in rule 8(2), failure to do so court may reject the application or allow the defect to be remedied then & there or within time fixed by court as per 0.22 r 14(1).

Where an application is remedied , it should be deemed to have been an application in accordance with law and presented on the date when it was fast presented as per 0.22 r 14(2).The amendment made by the decree holder must be signed by the judge.0.22 r14(3).

Upon admitting the application 4 the execution, court directs execution to issue according to the nature of the execution except that in the case of a decree 4 payment of money the value of the property shall as nearly as may be correspond with the amount due under the decree.

⁸⁸ HCCS NO.1033 of 1986

VERSUS**SUI GENERIS B- RESPONDENT****APPLICATION FOR EXECUTION OF DECREE.**

We SUI GENERIS & CO. Advocates for decree holder hereby apply for execution of the decree here in below set forth.

NO. of suit	High court civil suit NO.554
Date of decree	7/12/2017
Whether any appeal performed from the decree	NONE
Payment or adjustment made if any	NIL
Previous application if any with date and result	N/A
Amount with interest due upon the decree or other relief granted thereby together with particulars of any cross-decree	
Amount of costs, awarded is Shs./Amount as awarded in the decree	Shs.
Against whom to be executed	SUI GENERIS B.

Discussion

The law applicable to execution is basically the CPR and CPA

Under section **38 (d) of the CPA Cap. 71** court is enjoined with powers to enforce execution *interalia* by arrest and detention in civil prison of any person.

The method of arrest is laid out in section 40 of the CPA thus;

Under section 43 of the CPA, a person detained may be released on ground of illness. Under order **19 Rule 36, a judgment debtor is not supposed to be arrested until the** until the decree holder has paid into court sufficient subsistence allowance for the Judgment/Debtor's upkeep depending on the judgment debtor's class.

Under **Rule 37** of the same order if the judgment debtor in obedience appears in obedience to the warrant of arrest and show sufficient cause why he should not be arrested, he may be released and allowed to pay by installments.

Order absolute

Failure to comply

J/debtor can apply for the writ of Mandamus under S.36 and 37 of Judicature Act requiring the officer in question to do that for which he is under public duty to do.

In *Shah v A.G (1970) EA S43* court held that a mandamus could issue to the treasury officer of acts to compel them to carry out the duty upon him to pay.

Where they do comply with mandamus order you commence contempt of court proceeding.⁹⁰

Attachment.

Property liable to attachment.

Pursuant to s.44(1) of the CPA, the following is liable to attachment and sale in execution of a decree namely: lands, houses, other buildings, goods, money, banknotes, cheques, bills of exchange, promissory notes, government securities, bonds or other securities of money, debt, shares of corporation & all other saleable property movable or immovable belonging to the judgment debtor or over which the profits which he has a disposing power, which he may exercise for his own benefit, whether the same be held in the name of the judgment debtor by another person in trust or on his behalf.

Section further gives the exceptions of such goods not liable to attachment.

In *Imelda Nassanga v Stanbic bank & Anor*, the court held that only property belonging to the judgment debtor should be attached.

The court held that the property to be attached in execution of a court decree must be those saleable property which belongs to the judgment debtor or over which he/she has a disposing power for his benefit whether the property is held in his or her name or in the name of other person in trust for him or on his behalf. In this case, name of the property the appellant purported to buy belonged to the judgment debtor in the court decree under which the warrant of attachment and sale was issued. The judgment debtor cannot be allowed to offer for attachment or a.

Attachment of Debts.

Under r.23.1 of the CPR, attachment of debts is a process by means of which a judgment creditor is enabled to reach money due to the judgment debtor which is in the hands of a 3rd person.

The order to attach a debt is called a garnishee order and the 3rd party having the money, garnishee.

⁹⁰ *Kiryabwire and 4 Ors v A.G*⁹⁰

Whether the garnishee is a deposit taking institution having more than one place of business & give the name & address of the branch at which the judgement debtors account is believed to be held & account number.

Under 0.21 r 1 of the CPR, if the order is granted, it must be served on the garnishee and judgement debtor unless otherwise ordered within 7 days.

Effects of the order.

Until service of the order, there is no attachment of the debt. If the garnishee bona fide pays to the judgement debtor the amount of debt before service, the order is obsolete as there is no longer any debt to which it can attach.

Court stated that the service of order creates an equitable.

Setting aside a garnish order

In *Moure v Peachay*⁹³, a garnishee order can be set aside where there is a mistake of fact.

Objector proceedings

Application is brought under 0.22 r 55(1), S6 and 57 and 0.52 r 1 and 3 of CPR.

Order sought

That the property be released

In *Trans Africa Assurance CO Ltd v NSSF* (1999)1 EA 352, court held that where any objection is made to attachment of property, it is taken on the trial court to investigate the objection as provided by 0.19 (now 0.22). It was further held that the trial judge has power to examine whether the objector was in possession. It was further held that the trial judge has power to examine whether the objector was in possession of that property.

A decree

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)
CIVIL SUIT NO.541 OF 2013

⁹³ (1892) 8 TLR 406

JUDICIAL REVIEW.

What is h

The process by which the high court exercises its supervisory jurisdiction over the proceedings and decisions of subordinate courts, tribunals and other bodies or persons carrying out quasi-judicial powers or are charged with the performance of public acts or duties.

R.3 of the judicature (judicial review) (amendment) rules SI 32/2022.

Object of JR

In chief constable of NORTH WALES V EVAN (1982) 3 ALL ER 141, the purposes of JUDICIAL REVIEW include:

- a) To ensure that individuals receive fair treatment by authorities to whom they have been subjected.
- b) To ensure that public powers are exercised in accordance with basic standards of legality, fairness and rationality and that the opinion of an individual judge/public officer is not construed as that of the authority where the serve.
- c) To adhere to the constitutional right of fair and expeditious hearing.

IN KOLUE JOSEPH AND 2 ORS V AG MISC CAUSE No.106 OF 2010, court stated that JUDICIAL REVIEW is not concerned with the decision in issue per se but with the decision making process.

What is a public body.

R.3 of JUDICIAL REVIEW rules states that a public body to include the government, department, services or undertakings of government. The test for what is a public body is laid down in YASIN OMARI V EC AND 2 ORS HCMC No.374 of 2022. Court stated that a body is a public body if it is defined as such or exercises/performs public functions. Rule 2 (as amended by judicature (JR) (Amendment) Rules, 2022, gives a list of public bodies.

What must be satisfied in an application for JR

These are listed in Rule 7A:

- a) Application is amenable for JR
- b) Aggrieved person has exhausted all remedies available within the public body or under the laws

In *ASSOCIATED PROVINCIAL PICTURE HOUSES LTD V WEDNESBURY CORP* (1947) 2 ALL ER 680, an unreasonable decision according to Lord Greene is one that no reasonable body could have come to. It is not what the court considers reasonable. In *Pastori Kabale District Localgovernment Council And Ors*, the court held that irrationality is when there is such gross unreasonableness in the decision taken or act done, that no reasonable authority, addressing itself to the facts and the law before it, would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards. In *MAREN DOROTHY*, court laid down a four part test to determine irrationality and the burden is on the public body to prove them. The part test entails:

- a) Is the public body's objective legitimate
- b) Is the measure taken by that body suitable for achieving that objective
- c) Is it necessary in the sense of being the least instructive means of achieving the aim.
- d) Does the end justify the means.

In *Amuron Dorothy V. Law Development Centre*, court stated that there is procedural impropriety when there is a failure to act fairly on the part of the decision making authority in the process of taking a decision. The unfairness maybe in non-observance of rules of natural justice or to act with procedural fairness towards one to be affected by the decision. It may also involve failure to adhere to and observe procedural rules expressly laid down in a statute or legislative instrument by which such authority exercises jurisdiction to make a decision.

Time lines for filing an application for JR

Rule 5 (1) of JUDICIAL REVIEW rules provide that an application for JUDICIAL REVIEW review must be made promptly and in any event within 3 months from the date when the grounds of the application first arose unless the court considers that there is good reason for extending the period within which an application for JUDICIAL REVIEW maybe made.

PREROGATIVE REMEDIES

There can only be claimed by way of judicial review and include: certiorari, prohibition, mandamus, declarations, injunctions and habeas corpus.

These remedies are conversed by the following laws:

- The Constitution [under articles 28, 42 and 50].
- Judicature Act Cap 13 [under section 36
- Judicature Act (Amendment) Act No. 3 of 2000 [under section 3.]
- The Civil Procedure (Amendment) Judicial -Review Rules SI 75/2003.

This remedy was applied in *Pius Niwagaba Vs. LDC*⁹⁹, Justice Okumu Wengi quashed decision of LDC refusing to admit him for the Post Graduate Bar Course under the pretext that he had obtained a degree from a University that had not been recognized by the Law Council.

Forum Procedure and Documents

The Forum is the High Court by virtue of section 14[1] of the Judicature Act.

MANDAMUS

Section 37 of the Judicature Act Cap 13 provides that the High Court may make an order, as the case may be, of mandamus requiring an act to be done. Sub section [2] provides that no order of ... certiorari shall be made in any case in which the High Court is empowered, by the exercise of the powers of review or revision contained in this or any other enactment, to make an order having the like effect as the order applied for or where the order applied for would be rendered unnecessary.

The writ is issued to compel a public body that has failed to perform its function or duty to execute such function/duty. Rule 2 (as amended) defines mandamus as an order issued to compel performance by public officers of statutory duty imposed on them.

*JOHN JET TAMWEBAZE V ATTORNEY GENERAL AND TREASURY OFFICER OF ACCOUNTS*¹⁰⁰, court held that the remedy can only be given if the applicant can show a clear legal right to have the thing sought by it done. A demand for performance must precede an application for mandamus and the demand must have been unequivocally refused.

Mandamus can lie in respect of an ultra vires decision and can take the form of an order to a tribunal or authority to make a new decision in accordance with the law.

Read: *Goodman Agencies V Attorney General*¹⁰¹ on grant of the order in execution against government.

Before one makes an application to court for an order of mandamus under section 36, the leave shall not be granted unless the application for leave is made within a period of less than six months from the date of the proceedings or much shorter period provided for by law.

⁹⁹ H.C. Misc. Civil Applic. No. 589 of 2005

¹⁰⁰ HCMA NO .121 OF 2010

¹⁰¹ HCMA No.34 Of 2011

HABEAS CORPUS

This is defined in *Re Henry Sempira*¹⁰³ as a prerogative writ directed to a person who is detaining another in custody commanding him to produce that person before court to test the legality of such detention. The remedy of Habeas corpus is provided for in section 34 of the Judicature Act and it has three types namely;

Habeas Corpus ad subjiciendum, which is directed to the person in whose custody the person deprived of liberty is;

Habeas Corpus ad testificandum and **Habeas Corpus ad respodendum**; which are for bringing up any prisoner detained in any prison before any court, court martial, an official or special referee, an arbitrator or any commissioners acting under any powers of the commission from the president for trial or as the case may be.

If any person is aggrieved by an order made by court under section 34, he or she may appeal to the court of appeal within 30 days after making of the order appealed from.

The Law Applicable includes the following:

The Constitution of the Republic of Uganda 1995

The Judicature Act Cap. 13

The Police Act cap. 303. S.24 (4)

The Judicature [Habeas corpus] Rules SI

The Procedure for application of a writ of Habeas Corpus is as follows;

One makes an application *ex parte* in the prescribed form to the rules

Upon making of the application, a writ is issued to the person in whose custody the person deprived of liberty is.

¹⁰³ *High Court Misc. Applic. No.13 of 2003*

Rule 6 (4) of JUDICIAL REVIEW rules requires that the application be fixed for hearing within 14 days from date of service.

Forum

Private bodies are amenable to JUDICIAL REVIEW if exercising public power. In this case, respondent offers tertiary education as a private entity but in compliance with general education policy and national standards. It is important to note that private matters aren't amenable to JUDICIAL REVIEW¹⁰⁵

In *Arua Kubala Park Operations And Market Vendors Cooperative Society Ltd V Arua Municipal Council*¹⁰⁶, it was stated that public body wasn't amenable to JUDICIAL REVIEW because of circumstances at hand showed that the matter was of private law.



THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT
KAMPALA (CIVIL DIVISION)
IN THE MATTER OF AN APPLICATION FOR JR
AND
IN THE MATTER OF JUDICATURE (JR) RULES,

XYZAPPLICANT

VERSUS

ABCRESPONDENT.

NOTICE OF MOTION

TAKE NOTICE that the court will be moved on theday of.....2020 or as soon as counsel for the applicant can be heard on the applicants behalf for orders that:

- a) Certiorari/mandamus/prohibition/injunction/damages/costs.
- b) TAKE FURTHER NOTICE that the grounds for the application are
 - a)

¹⁰⁵ See *Yasin Ssentumbe And Anor V UCU* (MC NO.22 OF 2017)

¹⁰⁶ MC NO.3 OF 2016

In *Orient Bank Limited v Fredrick Zaabwe & Anor.*¹⁰⁷ The supreme court held that the courts have power to amend their judgements, decrees and orders for achieving the ends of justice for the purpose of giving effect to the intension of the courts at the time when judgement was given.

The court also held that the powers under the slip rule are not open ended. The application should not be brought to have the court reverse its decision on any issue or law.

In *Muhenda v Mirembe*¹⁰⁸ the court defined “the phrase at any time” appearing in S.99 & Rule 35(1) & (2) of the supreme court rules. The court held that the phrase should not be interpreted to mean that inordinately delayed applications without justification will be permitted the court. In this case the application had been brought 6 years later and no sufficient reason given for the delay. Court declined to apply the slip rule remedy.

In *Vallabhadas Karsandas Ramiga v Mansuklal Jivaj & Ors*¹⁰⁹, the court laid down the principles applicable under the slip rule and these are;

ii) Slip orders may be made to rectify omissions resulting from the failure of counsel to make some particular application.

ii) A slip rule order will only be made where the court is fully satisfied that is giving effect to the intentions of the court at the time when judgement was given, or in the case of matter which was over looked, where the it is satisfied beyond doubt, as to the order which it would have made had the matter been brought to its attention.

The above two considerations have been adopted by the court in *Orient Bank Limited v Fredrick Zaabwe* in which the court stated that “the above position still holds good. It is therefore, now fairly well settled that there are two circumstances in which the slip rule applies. Namely;

- i) Where the court is satisfied that it is giving effect to the intention of the court at the time when the judgement was given.
- ii) In the case of a matter which was overlooked, where it was satisfied beyond doubt, as to the order which it would have made had the matter been brought to its attention

¹⁰⁷ SCCApp No. 17 of 2007

¹⁰⁸ Supreme Court Civil App. No.5 of 2012

¹⁰⁹ (1965) EA 700

Busoga Growers Cooperative Union Ltd v Nsamba & Sons Ltd.¹¹³

For an Application from review to succeed, the party applying must show that test he/she has suffered a legal grievance and that the decision pronounced against him/her by court was wrong depriving him or her of something or has wrongful effect in title to something. The right to appeal is a creature of the statute.

Section 82 of the CPA provides that “any person considering himself or herself aggrieved by a decree or order from which an appeal is allowed but not preferred apply for a review of judgment to the court which passed the decree or made the order and the court may rule such order as it thinks fit.

Dr. Sheikh Ahmed Mohammed Kisuule v M/S Greenland Bank Ltd in liquidation under 0.44 R.1(2) &(3) applicant to get leave to appeal also that test under 0.46 R.3 (20 an application to strictly prove new evidence.

Mubuuke v. UEB¹¹⁴, the appellant was seeking review and contended that an award interest on special damages from the date of judgement was or not on the face of the record. It was held that the right to review can not be inferred.

Review is an exception to the general rule that once a court passes a judgment it can not afterward be altered or added to it by the same court that pronounced.

*Margret Senkute v Musa Nakirya*¹¹⁵

Power to review is a creature of the statute and courts have to inherent power to review therefore special jurisdiction to review must be done according to provisions of the enabling law and according to the law, an application for review is to be placed before the court which passed the decree or made the order.

Under section 82 CPA, it is exercised both where no right of appeal has been provided and if provided where it has been preferred.

¹¹³ HCMA NO. 123 of 2000

¹¹⁴ HCMA No. 98 of 2005

¹¹⁵ HCRC No.7/2009

In *Eng. Yorokamu Katwirene v Elijah Mustenza*¹¹⁷ it was held that 0.46 R.1 (1) (b) an application for review may be made where the order of the court sought to be reviewed is not appealable but falling within the circumstances prescribed in (b) which category does not include an election petition. S.67 of the CPA provides that no appeal shall lie from a convert decree. The proper remedy is review under S.82 (b).

John Genda & Ors v Coffee Marketing Board (1997) KACR 15;

It was held that 0.46 R.1 (1) of the CPR and 82 of the CPA for review provides that a person considering himself aggrieved by judgment or order while is not appealed from may apply to have such an order reviewed by the court that passed it upon proof of discovery of new and material evidence not available after due diligence of the party before the judgment/ order is made. However, the person must be aggrieved.

Conditions

- 1) Must be an aggrieved person
- 2) No appeal has been preferred .(s.82(a) (b) & 0.46 r 1(1)(a))

Grounds

The grounds are set out under 0.46 r 1 (1)(6) of the CPR and these are;

- 1) There was a mistake manifest error apparent on the face of the record. In *FX Mubuke v UEB*, HCMA No. 98 of 2005. It was held that for review to succeed on the basis of an error on the face of record, the error must be so manifest & clear that no court would permit such an error to remain on the record, A wrong application of the law or failure to apply the appropriate law is not an error on the face of record.

¹¹⁷ [1997-2000] UCGR 66

In **Edison Kanyabwera v Pastor Tumwebaze SCCA No. 61**. It was held that in order for an error to be apparent on the face of the record, it must be an error so manifest or clear that no court would permit such an error to remain on court's record.

It may be one of fact and of law e.g.

The absence of an affidavit of service was an error justifying review.

(iii) The application may also be so grounded on any other sufficient cause which means "cause" analog as to the other 2 grounds.

Yusuf v Nokranti, Any other sufficient reason means a sufficient reason of a kind analogous to those set out in the rule.¹²¹

Levei Outa v Uganda Transport Corporate [1975] HCB 340, there were 3 suit against the defendant and he applied to have the two suits of 2 firms of advocates be struck out a they were based on the same facts. The judge dismissed the advocates themselves instead of suits he applied for review.

The court held this was a sufficient application that justified an order striking out the suit to be substituted it was patently abused.

Review of a consent judgement

In *Muhammed Allibhai & W.E Bukenya Mukasa & Anor*¹²², the main compliant in the suit was that the appellant had failed to show that he was entitled to review of the consent judgement between the 1st and 2nd respondents in a suit of which he was not a party. It was held that a consent judgement may be set aside for fraud, collusion or for any other reason which would enable the court to set aside an agreement

Hearing of the application

The application should be heard by the same judge or judges who heard the matter from which it arose & no matter other judge 0.46 r 4 of r the CPR

Application

The Application as per 0.46r 8 of the CPR is by notice of motion with an affidavit

Documents	Procedure
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¹²¹ (1971) EA 107

¹²² SCCA No. 56 of 1996

These were summarized in *Mumoba Mohamed v Uganda Muslim Supreme Council*¹²⁵ in which court held that high court in exercising its revision power, its duty entails examination by the court of the record of any proceedings be4 the purpose of satisfying itself as to the correctness, legality or propriety of any finding, order or any other decision and the regulating of any proceeding be4 it The law on revision is set out in Section 83 of the CPA it provides that; the High Court may call for the record of any case which has been determined under the Act by any Magistrates Court, and if that court appears to have

- a) Exercised a jurisdiction so vested; in it in law
- b) Failed to exercise of its jurisdiction so vested;
- c) Acted in the exercise of its jurisdiction illegally or with material irregularity or injustice.

The high Court may revise the case and may make sure order in ot as it thinks fit, but no such power of revision shall be exercised.

- d) Unless the parties shall first be given the opportunity of being heard: or
- e) Where from lapse of time or other cause the exercise of that power would invoke serious hardships to any person.

This section confess jurisdiction on the High Court and no other court to call for any file of a lower Magistrate’s Court for purposes of revising the same.

In *Muhabwe Mohammed v Uganda Muslim Supreme Council Revision No. 1/2006:*

It was held that the powers of the High Court in revision are not limited. These powers are not precluded in cases where an appeal could not be preferred.

*Twine Amos v Timusuzon Jamas.*¹²⁶ Herein it was stated that according to Black’s law dictionary, revision means Re-Examination or a careful review for correction or improvement or an alternative of worth; that the court while exercising its revisional jurisdiction examines the records of any proceeding for the purpose of satisfying itself as to the correctness, legally or propriety of any finding or order or another decision the High Court can revise a decision under section 83 of CPA even when an appeal would lie in its power of revision, the High Court can use its wide powers in any proceedings. It appears that an error material to the merits of the case or involving a miscarriage of justice has occurred.

¹²⁵ Revision Cause No.1 of 2008

¹²⁶ **HCCR No. 0011/2009:**

Section 83(a) the power of revision shall not be exercised unless the parties shall first be given the opportunity of being heard. Revision will not be available where it is belatedly to the detriment of third parties who may have acquired interest to the subject matter of the suit. **Section 83(c)** the power of revision shall not be exercised where from lapse of time or other cause, the exercise of that power would involve serious hardships of any person.¹³⁰

Kisame Samson v Ali Kiyinkibi¹³¹. It was held that Section 83 provides the grounds for the exercise of the power of revision in the High Court where a magistrate court has exercised a jurisdiction not vested in it or acted in the exercise of its jurisdiction illegally or with material irregularities or injustices or failed to exercise a jurisdiction so vested in.

However as provided for under Section 83(d) the powers of court should be exercised where from lapse of time or other cause which would otherwise involve a serious hardship to any person.

The party likely to be affected by the High Court's Revision decision must be served with a notice for revision. A court can not entertain an application for revision save where the adversary party is duly noticed by way of service of a hearing notice.

The remedy may not be granted if the person seeking it is guilty of lacks and circumstances are that the orders are likely to cause hardships of third parties who have benefited from the decision or order being challenged.

Procedure

In ***Gulu Munipal Council v Nyeko Gabriel***¹³², the Court stated that there is no prescribed procedure of applying if revision proceedings and that there is no legal prohibition of the revision proceedings being initiated by an application of an aggrieved party moving court to exercise its powers.

There is no specific procedure that has been laid down for revision.

In ***Assumpta Sebanya v Kyomukama James***¹³³; the Application was by way of Notice of motion under Section 83 of the CPA and 0.52 R.1 &3 of the CPR. It was held that where an Affidavit in support of an application is argumentative and full of submission on the matter in dispute, it thereby contravenes the requirements of 0.19 R.3 (1) & (2) of the CPR and will be struck out.

¹³⁰ Kabwengure v Charles Kenjali [1977] HCB 89.

¹³¹ [2010] UGH021

¹³² (1996) HCB 66

¹³³ Misc. cause No. 55/2021

In *Mbabalijude V Edward Sekandi Conszt.Petitionno*. Justice Remmy Kasule held that a constitutional question that has to be interpreted by the constitutional court arises when there is an issue legal or otherwise requiring an interpretation of the constitution for the resolution of the cause out of which that issue arises from.

The issue that calls for interpretation of the constitution by the constitutional court must involve and show that there is an apparent conflict with the constitution by an act of parliament or some other law or an act or omission done or failed to be done by some person or authority. Further the dispute where the apparent conflict exists must be such that its resolution must be only when and after the constitutional court has interpreted the constitution.

Further in ISMAIL SERUGO V. KAMPALA CITY COUNCIL¹³⁶ Wambuzi c.j held that the petition must show on the face of it, that interpretation of a provision has been violated. The applicant must go further to show prima facie, the violation alleged and its effect before a question could be referred to the constitutional court

In **PAUL K. SSEMWOGERERE & ANOR. –VS- A.G S.C CONST. APPEAL NO. 1/2000** court held that jurisdiction of the Constitutional Court is derived from **Art. 137** of the Constitution. An application for redress can be made to the Constitutional Court in the context of a petition under Article 137 brought for interpretation of the Constitution. **Clauses (3) and (4) of Article 137** empower the Constitutional Court when adjudicating on a petition for interpretation of the Constitution to grant redress where appropriate.

It must be noted that any person who seeks to enforce a right or freedom guaranteed under the Const. by claiming redress for its infringement but whose claim does not call for an interpretation of the Const. has to apply to **any other competent court**.

The question of limitation period was discussed in **FOX ODOI – OYWELOWO & ANOR VS AG**¹³⁷ where court held that Article . 137 (3) (a) of the Constitution under which the petition is brought does not provide the time limit within which to file any petition under the Constitutional Court. To this end therefore, court overruled the objection that petition was not brought within 30 days. as per Rule 4 (1) of L.N 4 of 1996 [now **The Judicature (Rules of the Constitutional Court) (Petitions for Declarations under Article 137 of the Constitution) Directions**].

¹³⁶ CONST. APPEAL NO.2 OF 1998,

¹³⁷ **CONST. PET. NO. 8 OF 2003**

The court is thus unreservedly vested with jurisdiction to determine any question as to the interpretation of my envision of the constitution with regard to interpretation of the constitution the court's jurisdiction is unlimited and unfettered to reiterated in clause (5) which provides for referenda of any question as to other petition of this constitution". A rising in any proceedings in a court of law, to the constitutional court for decision in accordance with (lawel)" clause (3) provides that any person or authority, is inconsistent with or in intervention of my provision of the constitution, has a right to access the constitutional court directly by petition.

There upon the constitutional court may grant a declaration that such law, thing act or omission is inconsistent with or contravenes the provision in question in my mind, the clause does not there by preclude the court from interpreting or consisting two or more provisions of constitution brought before it, which may appear to be inflict in my opinion, the court has not only the jurisdiction, but also the responsibility to construes such provisions with a view to harmonies them, where possible through interpretation. It is a cardinal rules in constitutional interpretation, that provisions a constitution concerned with the same subject should as much as possible before construed as complimenting, and not contradicting one another. The constitution must be read as an integrated and cohesive whole. The supreme court of U.S.A in *Smith Dolcotavs North Lordine*¹³⁹ pol the same point thus.

"It is an elementary rule of constitution that no one provision of the constitution is to be segregated from other and in be considered alone but that all the provisions bearing upon a particular subject are to be brought into view and in be interpreted as to effectuate a great purpose of the instrument". There is no authority other than the constitutional court, charged with the responsibility to ensure that harmonist even where it is not possible to harmonies the provisions brought before it, the court have responsibility to construes them and pronounce, itself on them, albeit in hold in the ex that they are inconsistent with each other. Through the execution of that responsibility, rather than shamming it the court is able to guide the appropriate authorities need if any to cause harmonization through amendment in my opinion therefore, the decision that the constitution is mis-concerned and erroneous in law, the sixth ground of appeal ought to succeed.

Article 137(3) provides that'

" A person who alleges that:-

¹³⁹ 192 US 268 (1945)

“Upon a petition being made or a question being referred under this article the court of appeal shall proceed and determine petition as soon as possible and may as that purpose suspend another matter bending before it.

Procedure

1. Drafting of petition and affidavits .Rule 3 of rules
2. Preservation of petition by lodging at the court registry eight copies. Rule 4(2) of rules.
3. Pay requisite fees and deposit of 200,000 shillings as security for costs. Rule 4(3) of the rules
4. Effect service on all the respondents within 5 days and the A.G if they are not party. Rule 5(1) and (2).
5. Respondent upon service within 3 days must file an address of service and serve it on the petitioner. Rule 6(1) of the rules.
6. Within 7 days, after service of petition, the respondent must file their reply if they intend to oppose the petition. Reply is filed in 8 copies. Rule 6(3) of the rules. Reply should be accompanied with an affidavit. Rule 6(5).
7. Serve the reply immediately on the petitioner upon filing reply. Rule 6(6).

Documents

1. Petition
2. Affidavit.

Constitutional petition

**THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO.....OF 2020**

MUKASA JJINGOPETITIONER

VERSUS

ATTORNEY GENERAL.....RESPONDENT.

PETITION

TOPIC SEVEN: JURISDICTION IN CIVIL MATTERS OF PROCEDURE IN SPECIAL TRIBUNALS DEALING WITH CIVIL MATTERS IN WHICH ADVOCATES HAVE LOCUS



The black's laws dictionary, 9th edition at page 112, defines an appeal as proceedings taken to rectify an erroneous decision of the court by bringing it before a higher court.

TAX APPEALS TRIBUNAL

The Tax Appeals Tribunal is established by section 2 of the Tax Appeals Tribunal Act cap 345 of the Laws of Uganda. To this end therefore, it is governed in part by the ;

Tax Appeals Tribunal Act cap 345,

Tax Appeals [Tribunal Rules] SI 345-1

Income Tax Act cap 340,

Civil Procedure Rules SI 71-1

Section 14[1] of the Tax Appeals Tribunal Act cap 345 provides that any person aggrieved by a decision made under a taxing act by Uganda Revenue Authority can apply to the relevant tribunal for review. It must be noted that a right of appeal from the Tribunal is sanctioned by section 27 of the Tax Appeals Tribunal Act cap 345 and case law in **Capital Finance Corporation Ltd Vs URA Civil Appeal 43 of 2000**. It must be noted further that this right of appeal from the decisions of the Tax Appeals Tribunal Act to the High Court is on questions of law only [see section 27[2] of the Tax Appeals Tribunal Act cap 345]

There are some necessary preconditions, which an aggrieved person has to fulfil before lodging the application to the tribunal.

First and foremost, the taxpayer should have got an assessment by URA. This is a contextual interpretation of section 15 of the Act

Upon receipt of the evidence of either party, the tribunal has powers under section 19 of the Tax Appeals Tribunal Act cap 345 to affirm, vary or set aside the decision.

Forum and Documents

The application is filed in the format of **form T.A.T.1** in the Tax Appeals [Tribunal Rules] SI 345-1 [hereinafter referred to as the rules], and is filed in the Registry at the Tax Appeals Tribunal under rule 7[1] of the rules.

Upon receipt of the application, the registrar under rule 10[2] of the rules; duly dates, stamps and signs the application; retains one copy of the application. The second and third copy of the application are retained by the applicant whereby he or she is enjoined to serve a copy on the decision maker [URA] in accordance with rule 13 of the rules.

Upon service of the application on URA, it is enjoined within 3 days after service of the application to lodge a reply in the format of **form T.A.T. 2** with the registrar of the tribunal with two copies of the notice of the decision, a statement giving reasons for the decision and every other document in the decision maker's possession or under his or her control which is necessary to the tribunal's review of the decision as fortified by section 17[1][a-c] of the Tax Appeals Tribunal Act cap 345. The notice of the decision is in **form T.A.T. 3** to the rules.

The registrar then serves hearing notices on the parties in the format of **form T.A.T. 4** to the rules in accordance with rule 6 of the rules.

It must be noted that before hearing the application, the registrar issues summons in accordance with rule 17 of the rules, in **form T.A.T. 5** in the schedule to the rules requiring attendance at a date, time and place specified in the summons of witnesses. It must be noted that if a witness without sufficient reason absconds; yet there is proof of service, the tribunal may issue a warrant of arrest in the format of **form T.A.T. 6** of the schedule to the rules.

If the respondent does not turn up; the tribunal proceeds to hear the application and upon completion adjourns the hearing.

After conclusion of the hearing and submissions; the tribunal shall make a decision in the presence of the parties or their advocates and shall cause a copy to be served on each party under rule 24 of the rules.

The contents of the decision are provided for under rule 25 to the rules, thus; nature of the application, summary of the evidence, reasons for the decision, relief or remedy to which the applicant is entitled and orders as to costs.

Forum and Procedure

One applies to the commission under rule 4 to the rules wherein he fills out form 7 in the schedule to the rules, stating the particulars of the complaint, facts of the complaint and particulars of the person complained against. In practice, the complainant is interviewed and a statement is made. The commission may write to the police to get evidence.

After filing the complaint, it is served on the respondent in accordance with rule 13 and form 3 to the schedule to the rules. It must be noted that on the strength of rule 30; no fees are levied on an individual for filing of a complaint. If the respondent is the Attorney General, a formal letter is thereby written to him or her, asking him to respond. After the Attorney General's response, a hearing is fixed. It must be noted that statutory notice does not apply in cases of human rights as fortified by the **Osotraco Case [2000]**.

Witness summons are issued before the date of hearing under rule 14[1] and use of form 1 to the schedule to the rules. Failure to attend by a person duly served with the summons can lead to arrest as provided for in rule 16 and form 2 to the rules.

Rule 21 provides for hearing of the case, which is like in normal cases. Rule 32 provides that the Civil Procedure Rules apply in the hearings. After concluding the hearing, a decision is passed in accordance with rule 23 of the rules *to wit*, shall be in writing and shall contain the nature of the complaint, evidence, a summary of the evidence, the remedies and the order.

It must be noted that on the strength of rule 24 of the rules, execution of the orders of the commission follow the rule of procedure *to wit* CPR SI 71-1.

Major Documents.

These have been discussed above and they include the following;

The Complaint Form - Form 7 to the schedule to the Rules.

Summons - Form 3 to the schedule to the Rules.

Witness Summons - Form 1 to the schedule to the Rules.

Enforcement of orders made by the commission.

The usual rules of procedure apply; to wit, one extracts a decree, serves it on Government to satisfy.

If Government fails to satisfy the decree, one obtains leave of court and applies for mandamus.

INDUSTRIAL COURT

The law of major application in this area of study includes the following:

The law applicable to this scope of the study is:

RIGHT OF APPEAL

There is no inherent right of appeal. For an individual to appeal, he or she should show court that the right of appeal is expressly provided for in a given statute. this principle was discussed in *AG vs Shah (No.4) (1971) EA 50, Bhogal Vs Khashan [1953]20 EACA 17* and followed with approval in the case of *UNEB Vs Mparo Constructors*¹⁴¹. It must be noted that unlike appeals in criminal cases which should be from final orders of court; appeals in civil suits are from rulings and orders. To this end therefore, appellate courts have power and jurisdiction vested in them as a result of statutory provision.

In **BAKU RAPHEAL V ATTORNEY GENERAL SCCA NO 1 OLF 2005**, the Supreme Court held that there is no inherent right of appeal. The same court held in **LUKWAGO V ATTORNEY GENERAL SCCA NO. 6 OF 2014** that the right of appeal is a creature of statute and there is nothing known in law as an inherent right of appeal.

The right must thus be provided for by the law and any party seeking to invoke it must comply with all the stipulations therein.

DUTIES OF THE APPELLATE COURT

Duty of the first appellate court.

In **BANCO ARABE ESPANOL V BANK OF UGANDA SCCA NO. 8 of 1998**, the court stated that the duty of the first appellate is the evidence on record as a whole and come to its own conclusion bearing in mind that it has neither seen nor heard the witnesses and should make due allowance in that regard. The same is re-echoed in *Uganda Revenue Authority V Rwakasija Azarious And 2 Ors*¹⁴²

¹⁴¹ Civil Appeal 19 of 2004

¹⁴² CACA NO.8 OF 2007

This court recently restated the approaches of this rule in the case of *Kifamunte Henry v Uganda*¹⁴⁴ although the principal states there in co are in respect of a criminal appeal these can be an doubt that they equally apply to civil appeals on the first opted an appellate courts own consideration and review of the evidence as whole and its own decision there on in Kitormate Henry (supra) this court said;

“We agree that on the first appeal...The appellant is entitled in have the appellant own any direction and views of the evidence as a whole and in own decision there on the first appeal court has a duty in rehear the case and in recondite, the material before the trial of judge, the appellate court must then make up it own mind not dis regarding the judgment appealed grants if card weighing and considering it when the question arises which o matter stable beloved rather that another and that question from an manner and demean, the appellate court must be guided by the impeding made on the judge whose we witness but there may be other circumstances given apart from a manner and do means, which may show whether statements credited in differing from the judge excess the question of each turning on credibility of witness where the appellate court intention, see *Pandges v R (1957) EA 336, Olen v Republic (1972) EA 32 and Charla, Bitove v Uganda land appeal No. 23/85 (SCU) (unreported)*”

In my opinion the days of a first appellate court as restated in the case of a fomenter (Supra) applies to re-appraisal or re-evaded of evidence by oral testimony except of court, that by oral testimony except of course, that implement of demand over of witness or draw implementation of demeanor of witness draw crises in the case of affidavit over dues.

In the same case the court when said

“it does not seem to it that except in the courts and of cases, we are required in the evacuate the evidence be a trial appreciate the court. In second appeal it is sufficient to decide whether that first appellate court on approaching its check, applied or failed in apply such principles *VCC DK Pandya v R (1957) EA (Supra); Kens v. Digenda*¹⁴⁵”

After referring to provisions of the judicature act and the trial on indictments decree, where not relevant to the instant case, the court continued.

¹⁴⁴ Supreme Court criminal appeal No.1 of 1997 (unreported)

¹⁴⁵ (1978) HCB 123

“it does not seem to us that except in the clearest of cases, we are required to re-evaluate the evidence like a first appellate court. On second appeal, it is sufficient to decide whether the first appellate court on approaching its task applied or failed to apply such a principle as stated in Pandya vs R [supra] ... The principles stated in Kifamunte[supra] which was a criminal case apply to civil cases as well.”

Interference with discretion of a lower court

The appellate court has a power to interfere with the discretionary powers of a trial judge, if it deems fit. This principle was upheld in *Mbogo and anor vs shah*¹⁴⁸, where court held that a court of appeal should not interfere with the exercise of the discretion of a judge unless it is satisfied that the judge in exercising his discretion has misdirected himself in some matter and as a result has arrived at a wrong decision, or unless it is manifest from the case as a whole that the judge has been clearly wrong in the exercise of his discretion and that as a result there has been injustice.

It must be noted that discretionary powers once exercised judiciously, the appellate court will be reluctant to interfere unless the trial court has acted upon a wrong principle of law or that [in case of damages awarded] the amount is so high or so low as to make it an entirely erroneous estimate of the damages to which the plaintiff is entitled. This principle was laid out in *Robert Coussens vs Attorney General*¹⁴⁹. Other authorities to look at include *Francis Sembuya vs All Port Services {U} Ltd*¹⁵⁰ and *Uganda Breweries Vs Uganda Railways Corporation SCCA 6 of 2001*. In *Banco Espanyol vs Bank of Uganda SCCA 3 of 1997*, court held that

“it is now well settled that an appellate court should not interfere with the exercise of unfettered discretion of a trial court unless it is satisfied that trial court misdirected itself in some matter and as a result arrived at a wrong decision or unless its manifest from the case as a whole that the trial court was clearly wrong in exercise of its discretion and that as a result there was failure of justice”.

¹⁴⁸ {1968} EA 93 C.A.

¹⁴⁹ SCCA 8 of 1999

¹⁵⁰ SCCA 6 of 1999

Interim Applications pending Appeals.

1. Leave to Appeal.

Application is only granted where the intending appellant satisfies the chief magistrate or the high court that the decision against which an appeal is intended involves a substantial question of law or is a decision appearing to have caused a substantial miscarriage of justice.

There must be a substantial question of law and the proceedings were manifested by a miscarriage of justice that merits consideration by the appellate court as per the court in **ALLEY ROUTE LTD V UGANDA DEV'T BANK LTD HCMA N0.634.**

In **SANGO BAY ESTATES LIMITED V DRESDNER BANK (1971) E.A 17**, the court held that leave to appeal from order in civil proceedings will normally be granted where prima facie it appears that there are grounds of appeal which merit serious consideration.

In **FIDA BIRABWA V SULEIMAN TIGAWALANA HCCA N0.27 OF 1992**, court stated that a substantial miscarriage of justice is said to occur where there has been misdirection by the trial court on of facts relating to the evidence given where there has been unfairness in the conduct of the trial. Application.

In **G.M COMBINED (U) LTD V A.K DETERGENTS (U) LTD CIVIL APPLICATION¹⁵³**, court stated an application for leave to appeal may be made informally if counsel has instructions to appeal at the time of delivering the judgement. It however may also be made formally by notice of motion with an affidavit.

Documents.

Notice of motion

Affidavit.

Other applications include:

1. Stay of execution and interim stay of execution
2. Extension of time if any of the timelines have not been complied with.

¹⁵³ **N0.23 OF 1994**

- b) Subject to any limit prescribed by this act or any other matters law, increase as reduce on amount compilation awarded time improved by the lower court; or
- c) The orders set out in section 13 of this act for an order or orders made by the lower court”

APPEALS TO HIGH COURT

These appeals are governed by the Civil Procedure Act Cap 71, Magistrate Courts Act Cap 16 and the Civil Procedure Rules SI 71-1.

s.220 (1) (a) of MCA creates a right of a civil appeal from decrees and orders of magistrate grade one and CMs court while exercising original jurisdiction to the high court.

What is a decree/order

S.1 of the CPA and the case of *HWAN SUNGLTD V M & D MERCHANTS AND TRANSPORTERS LTD*¹⁵⁴, define a decree as a forum expression of an adjudication which conclusively determines the rights of the parties to any matter in controversy in the suit and it may be preliminary or final.

An order means a formal expression of any decision of a civil court which is not a decree.

In *INCAFEX (U) LTD V KABATEREINE (1999) KALR 645*, the court emphasized that appeals arise from final decrees or orders of court and not interlocutory orders.

Appeals from consent judgements.

Under s.67 (2) of the CPA, no appeal lies from a decree arising from the consent of the parties.

Order 43 of the CPR covers appeals to the High Court Rule 1 provides that the form of appeal shall be preferred in the form of a memorandum signed by the appellant or his or her advocate and presented to the court or to such officer as it shall appoint for that purpose. It must be noted that the memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed from without any argument or narrative; and the grounds shall be numbered consecutively.

Under rule 4 of the order, the High Court may for sufficient cause order stay of execution of the decree from which an appeal is preferred. It must be noted that no order for stay of execution shall be made under rule 4 (1) or (2) unless the court making it is satisfied—

¹⁵⁴ SCCAR N0.2 of 2008

The court noted that the jurisdiction for the requirement is to avoid a multiplicity of appeals regardless of merit.

Grounds of Appeal.

S.77 (1) of the CPA requires that an appeal sets forth as a ground of appeal any error, defect or irregularity in such order affecting the decision appealed.

O.43(2) of CPR requires that the MOA sets forth, concisely and under distinct heads the grounds of objection (Appeal) to the decree appealed from without any argument or narrative and the grounds shall be numbered consecutively.

When raising grounds look at the record in totality with all the attendant documents. From the above identity: a procedural error of fact, an error of law of mixed law and fact, a defect and or an irregularity.

Example of grounds from workshop.

1. The learned trial magistrate erred in law when he misdirected himself on the principle himself on the principle governing proof of a triable issue in an application for leave to file a defense in a summary suit.
2. The learned trial magistrate erred in law and fact when he failed to properly evaluate the evidence on record and grant the appellant leave to defend the suit when;
 - a) He had denied liability of the suit claim.
 - b) Had explained circumstances upon which the subject acknowledgement of receipt of suit sum was made.
 - c) Had explained circumstances under which cheques drawn from M/S sunset enterprises ltd had been issued and countermanded.

Procedure, forum and documents.

Procedure

1. Extraction of a decree/order.
2. Filing of a memorandum of appeal in the high court within 30 days from the date of then judgement (ORDER 43 R 1(1))
3. Payment of the prescribed fees

Held: S.220 (1) (a) MCA (Magistrate Court Act) requires that an Appeal must be from a decree, that at the time the appeal is lodged, a decree appealed from must be in existence 0.18 R.7 (now 0.21 R.7) puts the Duty of extracting a decree on the successful party. It was therefore erroneous for the respondent to argue that the intending appellant has the duty to extract the decree.

Haji Muhammed Nyanzi Ali Segne (1992-1993) HCJ 21:

Held, that it is the duty of the successful party to prepare without delay a draft decree and submit it to the magistrate for signature and sealing. If the applicant's Lawyer prepared the decree which gave wing data they have themselves to blare, especially so if they left it to the court to do.

Previously failure to extract a decree was total to the appeal.

Kintu Sarah v Jombwe Ssebaduka.¹⁵⁷

Held; further under S.220 (1) (a) of MCA laws of Uganda, it is provided that an Appeal from the Chief Magistrate Court or Magistrate GJ is from the decree or order from the decision of the trial court.

I have perused the court judgment it doesn't indicate that the appellant extracted the decree or order before preferring an appeal.

In the case of *Kiwege and Mgude Sisal Estates Land Vs Manilal Ambala Nathwans¹⁵⁸*; It was held that "an Appeal to the High Court must be against a decree which must be extracted and filed together with memorandum failure to extract a formal decree before filing the appeal was a defect going to the jurisdiction to the court and could not be wailed. The appellant's actors have contravened the above provisions of the law"

However, the current legal position is that it is not amendatory required to extract a decree before preferring an appeal to the High Court.

Tumuhae Luck v the electoral commission.¹⁵⁹ It was

Held;

¹⁵⁷ (Civil Appeal No. 025/2011)

¹⁵⁸ CA No. 69/1952 C.A for Eastern see also *Alexander Monison Vs. Mohammedras a Suleiman and Another court of Appeal for Eastern Africa, W.Y.N. Kisule vs Nampera v CA No. 110 of 1988 and Robert Bisso vs. Mary T: Bamwenda reported in [1991] HCB 92,*

¹⁵⁹ HC EPA NO . 02 OF 2011

The same position was held in *Henry Kasambwa v Vakoba Rutantamba*¹⁶³ and *Namemba Suleiman v Bwekwaso Magenda*¹⁶⁴. The extraction of decree is aged practice but not a mandatory requirement. That as long as you have a judgment you may not need to extract a decree to appeal.

1. An Appeal to the High Court is preferred by a memorandum of appeal containing the grounds of Appeal and duly signed by counsel for the appellant S.79 CPX.

0.43 r.1, every appeal to the High Court shall be preferred in the form of a memorandum signed by the Appellant or his or her advocate and presented to the court.

2. It is not a requirement to lodge a notice of appeal either in the Magistrates Court or to the High Court as a notice of appeal does not commence an appeal from the magistrates court to the High Court. However, a notice of appeal required when it is from the High Court to the court of Appeal.

Buso foundation Ltd v Mate Bob Phillips HCCA No. 40.2009

Held; an appeal is by killing a memorandum of appeal not by a notice of appeal in a magistrate court.

In *Sekyali v Kyakwambala*¹⁶⁵, it was held that an Appeal in the High Court is instituted by a Memorandum and not notice of appeal

3. The intending appellant normally files request of the proceedings indecisive of judgment by formal letter to the trial court to enable him or her prepare for the grounds for appeal.

In Nawemba Sulaiman v Byekwaso (1989) HCJ 140, It was held that it would be anomalous for a party to be required to file a memorandum of appeal before obtaining or having access to the lower record.

The question that arises is whether is amendatory requirement to serve the letter requesting for the proceedings on the opposite party or counsel. In the context of an appeal from magistrate court to the High court service of such a letter is not a mandatory requirement but a rule of courtesy and prudent practice and failure to do so does not render he appeal totally defective. (it is a mandatory requirement for appeal from High Court to court of Appeal and court of Appeal to supreme Court.

¹⁶³ HCCT No. 10 (1989)

¹⁶⁴ (1989) HCJ No

¹⁶⁵ HCCA No. 07/2010

In the instant appeal, the appellant commenced the appeal with a notice of appeal; and filed the memorandum of appeal on 5th August 2011 which is far beyond the prescribed time by law within which to file an appeal. Thus this appeal was filed out of time.

MCA provides that the appeal lies from a decree or order and S.79 suggest that the time starts running from the date of the decree or order.

Buso foundation v Mate Bob; Section 79 appeal must be lodged within 30days of the date of the decree or order of the order. In the instant case, judgment was delivered on 22nd July2022 and today is 12th July 2022 which means that BCJ Bank is still within time to appeal.

However, the 30 days within which the appeal must be lodged do not start running until such a record of proceedings has been availed S.79(2). In the case of **Godfrey Tuwangye Kazzora v Georgina Kitari Kwenda (1992 -9(3) HCB 1215**, it was held that “The time for lodging an appeal does not begin to run until the appellant receives a copy of proceedings against which te or ste intends to appeal.

Buso foundation

S.79(2) CPA excludes the time taken by the court to supply the lower courts proceedings and order/decree sought to be appealed from. Where the proceedings are availed the appeal is lodged in the High Court in form of a memorandum of appeal under 0.43 R.1.

In **Okia Joseph v Igira Lawrence**¹⁶⁶, it was held that appeals are originated by filing a memorandum of appeal under 0.43 R.1 OF CPR. That it would be anomalous for a party to be required to file a memorandum of appeal before obtaining or having access to lower court record. The memorandum of appeal must be signed by the appellant or counsel for the appellant and should be lodged in the registry of the relevant division of the High Court order 43 R.1 and it must be signed and sealed by the registrar of the High Court 0.43 R-8. Where a memorandum of appeal is lodge, the High Court shall send a notice of the appeal to the final court requiring i.e. to dispatch all material papers in the suit 0.43 R.10.

¹⁶⁶ HCOA No.114 of 2012

6. To pass any decree and make any order which ought to have been passed by the lower court. ORDER 43 R 27 CPR.
7. To dismiss the appeal and affirm the decision and orders of the lower court.

Stay of execution pending an appeal.

One may stay execution pending an appeal under order O.43 r 4(2) upon proof of sufficient cause.

Conditions for stay.

1. Existence of a pending appeal (MOA) with a high probability of success.
2. Application is made within a reasonable time.
3. Threats to execute the order/deGREE
4. Likelihood to suffer substantial loss if a stay is not granted.
5. Furnishing of security for due performance of the order/deGREE; making an order taking to pay such security. No security is required from government under O.43 R 6 of CPR.

Procedure, forum and documents.

Procedure

1. Lodging a formal application to court.
2. Payment of filing fees
3. Deposit in court of security for due performance of the order/deGREE
4. Serving opposite party with the application.

Forum

High court.

Documents O.43 R 4(5) of CPR.

1. Notice of motion
2. Affidavit in support.

The application must be writing and must be served and evidence of service upon the Respondent must be proved or obtained. It must be noted that the provision of the rules above are mandatory and the appellant can not rely on the record of proceedings unless a copy of the letter requesting for the record is served on the Respondent and proof of service obtained. This was upheld in *Kasirye Byaruhanga Vs UDB*.¹⁶⁷

Preparation Of Record Of Appeal

When the record of proceedings is ready, the registrar writes to the intended appellant forwarding the certified copy of the record of proceedings.

In case of the court of appeal, the appellant then prepares 6 copies of the record of appeal whereby, three copies are retained by the court for the justices, a copy for the Respondent, a copy for the court record, and a copy for the appellant.

In case of the supreme court, the appellant then prepares 8 copies of the record of appeal whereby, five copies are retained by the court for the justices, a copy for the Respondent, a copy for the court record, and a copy for the appellant.

Basic documents in appeals

Judgment

Order giving leave to appeal [if necessary]

Notice of Appeal

Memorandum of appeal

Record of Proceedings

Supplementary Record [under Rules 89 of the **Judicature (Court of Appeal) Rules Directions SI 13-8** and 85 of the **Judicature (Supreme Court) Rules Directions SI 13-10** respectively].

It must be noted that an appeal is incompetent where a basic document is not filed with the original record on the strength of the holding in *Executri of the Estate of the late Namatovu Tebajukira vs Mary Namatovu* SCCA 8 of 1988.

¹⁶⁷ SCCA 2 of 1997.

The provision of this right are evident in rules 81 and 77 of the **Judicature (Court of Appeal) Rules Directions SI 13-8** and the **Judicature (Supreme Court) Rules Directions SI 13-10** respectively. In *Mustaq Abdullah Bhegani Vs Obola Ochola*¹⁶⁹, court held that a respondent named in the notice of appeal is empowered to apply to strike out the Notice of appeal with costs. In *Hannington Wasswa and Anor Vs Maria Ochola and Others*¹⁷⁰ the appellant failed to institute the appeal within 60 days from the date service of the record of proceedings upon him; on application by the respondent, the appeal was struck out on ground that an essential step had not been taken.

APPEALS FROM GRADE II MAGISTRATE’S COURT

Where the appeal is from a Grade II Magistrate’s Court, it lies in the Chief Magistrate’s Court. This is conversed in section 204(1)(b) of the Magistrates Courts Act. Section 204(2) of the Magistrate Courts Act provides that the scope of this appeal is limited to matters of law, fact or mixed law and fact.

It must be noted that where a person has pleaded guilty, no appeal shall lie therein except against the legality of the plea or sentence as enunciated in section 204(3).

APPEALS FROM CHIEF MAGISTRATE’S COURT

An appeal from a Chief Magistrate’s Court lies in the High Court. This is provided for in section 204(1) (a) of the Magistrate Courts Act Cap 16. Subsection 2 provides that the scope of this appeal is on matters of fact, matters of law and matters of mixed law and fact. Section 204(4) provides that an individual can not appeal from a sentence of one month or fine of less than one hundred shillings.

Documents for appeals from CM to H.C

Order.

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF LIRA AT LIRA
CIVIL SUIT NO.784 OF 2018

OBWAL OSBERTPLAINTIFF

VERSUS

¹⁶⁹ Civil Appeal 4 of 1987[CA]

¹⁷⁰ Supreme Court Civil Application 12 of 1988

.....
MS SUI GENERIS ADVOCATES
COUNSEL FOR THE APPELLANT.

Lodged in this court registry of the H.C at Lira on the dayof September
.....2020

.....
REGISTRAR

To be served on

Drawn by

Hearing notice

Some title as in memorandum.

HEARING NOTICE.

TO: OGWAL OSBERT

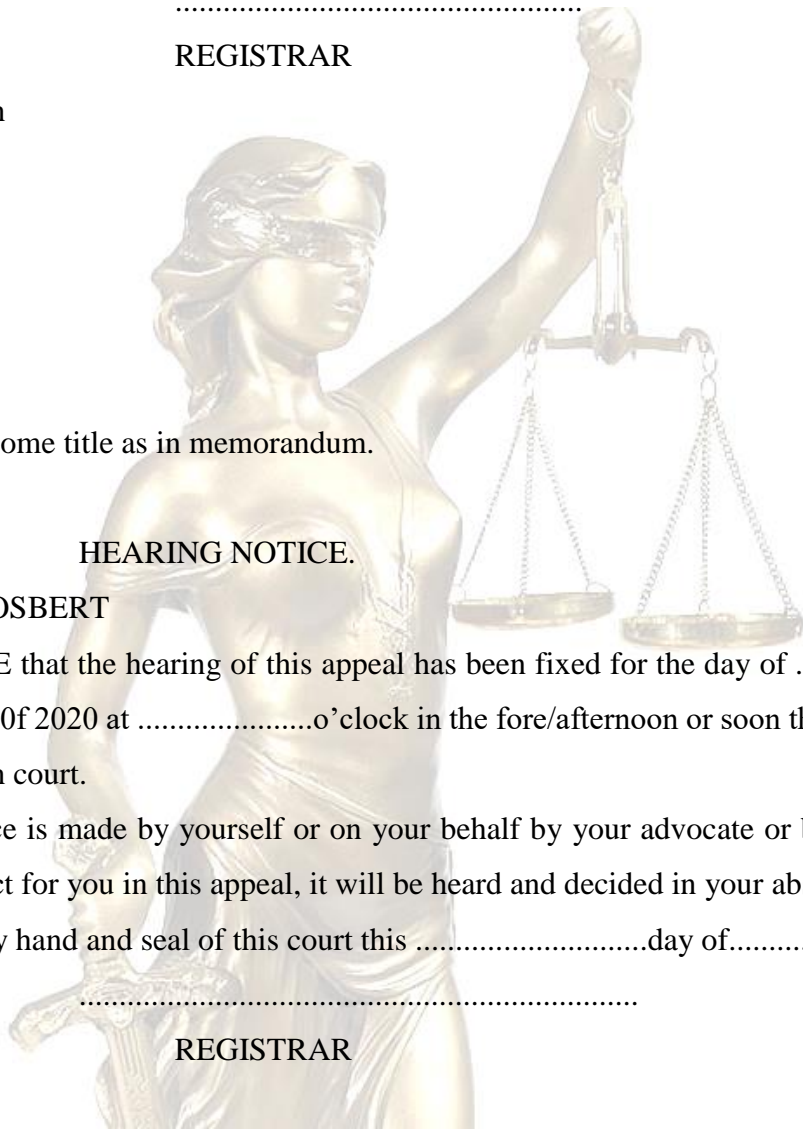
TAKE NOTICE that the hearing of this appeal has been fixed for the day ofof
.....of 2020 ato'clock in the fore/afternoon or soon thereafter as the case
may be heard in court.

If no appearance is made by yourself or on your behalf by your advocate or by someone by law
authorized to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and seal of this court thisday of.....2020

.....
REGISTRAR

Extracted by:



**ARISING FROM CHIEF MAGISTRATE’S COURT OF KAMPALA OF MENGO C/S
NO. 212/2014**

BCJ Bank (U) LtdAPPLICANT

Vs

KALANGALA FINANCIAL SERVICESDEFENDANT

CHAMBER SUMMONS EXPARTE

(under 0.43 R.4(5) CPR)

Let all parties concerned attend the heard judge in Chamber on theday of 2022 at O'clock in the forenoon or as son as Counsel for the Applicant camber heard for orders that;

1. An interim order doth issue staying the execution of the decree in C/S No. 212 of 2022 of Chief Magistrate’s Court of Kampala at Mengo pending determination of Misc Application No. Of 2022& CA No.of 2022
2. Costs of this application be provide for.

THE GROUNDS ON WHICH THE APPLICATION IS BASED ARE IN THE AFFIDAVIT.

TAKE NOTICE THAT this Application is supported by an Affidavit of Janeson Muhurizi managing Director of BCJ (U) Ltd which contains more elaborating grounds and shall be read and relied on at the hearing.

This summons was taken out by Counsel for the Applicant.

Given under my hand and the seal of this court this Day of 2022

.....
REGISTRAR

Drawn and filed

SUI GENERIS

2. Affidavit in support

Stay of execution.

Brought under R.2 (2) of COAR.

Grounds.

1. Pending appeal. A notice of appeal is a sufficient document upon which stay of execution can be obtained. **ALCON INTERNATIONAL LTD V KASIRYE BYARUHANGA AND CO ADVOCATES (1996) HCB 61**. Further R.3 OF COAR defines an appeal to include an intended appeal.
2. High chances of the appeal succeeding
3. Failure to obtain a stay will render her rights in the pending appeal nugatory.

Procedure for getting a certificate of general importance

This is covered in both the Judicature (Court of Appeal) Rules Directions and the Judicature (Supreme Court) Rules Directions, depending in what court an individual is applying to:

In case it is the Court of Appeal:

Rule 39 (1)(a) of the Judicature(Court of Appeal) Rules Directions (herein after referred to as the court of appeal rules) provides that an application is made to the High Court where the Applicant prays for a Certificate general importance.

Rule 2 of the Court of Appeal Rules provides that applications to the High Court should be by Notice of Motion supported by an affidavit.

Rule 4 places a mandate on the Applicant (usually the convict) to give Notice to the Police. This is fortified by **Namudu Vs Uganda SCCA 3 Of 1999**, which lays down the considerations for the certificate of general importance.

In case it is the Supreme Court :

Rule 38(1) (a) of the Judicature(Supreme Court) Rules Directions (herein after referred to as the supreme court rules) provides that where an appeal lies if the court of appeal certifies that a question or questions of public importance arise, applications to the court of appeal shall be made informally at the time the decision of the Court of Appeal is given against which the intended appeal is to be taken. Rule 38(1) (b) provides that where the court of appeal declines to grant a certificate referred to in para a, then an application may be lodged in the Court within fourteen days after the refusal to grant the certificate by the Court of Appeal.

Scope of appeals to Supreme Court:

If it is a conviction from the High Court, or court of appeal, the scope of the appeal in the Supreme Court is limited to matters of law, or mixed law and fact, per section 5(1) (a) of the Judicature Act.

If it is an acquittal from the High Court; and a subsequent conviction in the Court of Appeal, the scope of appeal in the Supreme Court is limited to matters of law, fact or mixed law and fact, section 5(1) (b) of the Judicature Act.

If there is a conviction in the High Court; followed by an acquittal in the court of appeal, the DPP's appeal in the supreme court is limited on matters of law or mixed law and fact for a declaratory judgment, section 5(1) (c) of the Judicature Act.

If there is an acquittal in the High Court, followed by a subsequent acquittal in the Court of Appeal, the DPP's appeal to the supreme court is limited to matters of law of General importance, section 5(1) (d) of the Judicature Act.

It must be noted that appeals in criminal matters arise from final orders for examples convictions, acquittals, special findings, ruling on no case to answer. This principle is fortified in **Charles Twagira vs Uganda**.¹⁷¹

GROUNDS OF APPEAL

In ascertaining the grounds of appeal, one should consider the following:

- The conduct of the trial,
- The sufficiency of evidence to sustain the charges; with regard to ingredients of the offence committed.
- The errors of fact and of law by the trial judge or magistrate
- The legality of the sentence
- Misdirections and non directions the trial magistrate or trial judge relied on.
- Admission of evidence (with particular regard to inadmissibility and irrelevance)
- Reliance on fanciful theories by the trial judge or trial magistrate.
- Material irregularities

¹⁷¹ SC Crim. Application 3 of 2003 before Tsekoko JSC.

Chapter Two

CORPORATE AND COMMERCIAL LAW



TOPIC ONE: LAW OF PARTNERSHIP, AGREEMENTS AND FORMATION OF A LAW FIRM.

The law applicable to this scope of study includes the following;

The Constitution of the Republic of Uganda

The Judicature Act Cap 13

The Partnership Act 2010

The Business Names Registration act Cap 109

The Contract Act Cap 73

The Cooperative Societies Act Cap

The Registration of Documents Act Cap 81

The Uganda Citizenship and Immigration Control Act Cap 66

The Stamps Act Cap 342 as amended by Act 12 Of 2002

The Trade (Licensing) Act Cap 101

The Companies Act 2012

The Registration of Documents Rule SI 81-2 as amended by SI 55 of 2005.

The Business Names Registration Rules SI 109-1 (as amended by Act 53 of 2005)

No partnership exists with a single person. A partnership is a relationship which if established governs the rights and duties between the parties and their relationship with those transacting with the parties.

A partnership is said to exist when two or more people have agreed either expressly or impliedly to share in the profits and control of a business. The agreement may be written oral or deduced from the conduct of the parties.

2. Carrying on a business

Sharing profits per person does not create a partnership relationship and neither does joint ownership of property. S.1 (a) of the partnership ACT defines a business to include; trade, occupation or profession. It must have a commercial element to it.

In order to say that persons are carrying on a business, they must have gone beyond the preparatory stages of setting up a venture they have agreed to engage in and reached that **khan and others v Miah** and others , individuals agreed to go into a partnership to run a restaurant. The under took various activities such as stage where they are actually doing the business.

A partnership is not created by a mere intention to do business together but by an intention which is manifested practically.

In **Hanshaw v Roberts**1967(1) ALR comm. 5; the plaintiff formed a business syndicate with three partners each paid on amount to a central fund as account of management expenses .There was also an agreement to form a business partnership within a limited time. Partnership was never formed as agreed.

Issue was whether there was a partnership?

It was held that the existence of a partnership depends on carrying on business in partnership and not on the agreement to form a partnership.

3) Receipt by a person of a share of the profits of a business is prima facie evidence of a partnership; but receipt of such share does not make one a partner in the business.

The above rules help in ascertaining existence of a partnership, when one is countered with a set of facts.

Capacity to be a partner in a firm

A) Minors.

The general rule regarding capacity of a person to be a partner is to the effect that a person of majority age can enter into partnership with another. There have been many inroads into this doctrine; thus a minor can be a partner in a firm. However, without prejudice to the foregoing, he/she can only be liable upon attaining majority age. This principle is conversed in **Lovelt vs. Bearchamp (1834) 5 D& Act 1925** where court held that a minor would be liable for debts accruing to a firm upon attaining 18 years but not incurring liability for debts before attaining 18 years. This principle has been codified in our statute books in section 12 of the Partnership Act.

B) Companies.

A company can be a partner in a firm. This is premised on the legal principle in section 15 of the Companies Act and in **Salmon Vs Salmon (1877) AC 22** which state that a company is a legal entity, separate and distinct from persons who comprise it. This principle was further noted with approval in **Stephen vs. Katonagen (1918) AC 229**.

C) Persons Of Unsound Mind.

Persons in this category don't have capacity to contract as partners. This is fortified in the **Wonge vs. Toymbee (1910)** where court held that a person who is mentally incapacitated can not contract. Legal literature has buttressed this principle in **Halsbury's Laws of England Vol. 28 Para. 499** that an agreement of partnership with an insane person ought to be avoided for all intents and purposes.

D) Foreigners

Foreigners have capacity to join partnerships subject to legal conditions. First and foremost, a foreigner should be in possession of a valid entry permit and a work permit as provided for under section 54 of the Uganda Citizenship and Immigration Control Act Cap 61 (hereinafter referred to as the Uganda Citizenship and Immigration Control Act) .

E) Employees

Further, the creation of a partnership is not in the execution of a partnership deed as the agreement is not in the execution of partnership deed as the agreement to carry on business in common might be oral or deduced from conduct. In *Dr. Okello N. David v Komakech Stephen*, the plaintiff and defendant equally contributed money towards the purchase of an omnibus taxi to operate on the Arua Adjuman route. On the issue of whether there existed a partnership between the parties, justice kania held that the absence of a partnership deed did not negate the existence of a partnership, based on the evidence; there existed a partnership to which both parties had equally contributed money towards the purchase of the taxi.

S.3 of the partnership Act.

RELATIONSHIP BETWEEN PARTNERS

The relationship between the parties is of a fiduciary nature.

In *British and west building society v Mathew* a fiduciary was defined as someone who has undertaken to act for and on behalf another in a particular matter in circumstances which give rise to a relationship of trust and confidence.

The fiduciary duty imposes the highest standard of care at both equity and law. The fiduciary duties which the partners are to each other one;

- a) Act in good faith and with honesty
- b) Provide full accounts of all information and assets in a partner's possession or control which are material to the partnership deed.
- c) Avoid any conflict of interest.
- d) Avoid making a personal profit from partnership opportunities for information.
- e) Account for benefits obtained from partnership business.

Duties of partners

1. Duty of disclosure (S.30 of PA)

S.47 (2) puts the cap of the partners in a LLP act 20 partners.

S.47 (4) bars a limited liability partner from withdrawing part or in while directly or indirectly any of his or her capital contributed to the firm during the continuance of the partnership.

S.48 provides for the mandatory registration of LLPS with the registrar and failure to do so, the partnership shall be considered to be a general partnership.

S.50 on the registration of LLP in is in form of regulations.

3. Professional partnerships

These are partnerships formed for purposes of carrying on a profession. S.2 (2) of P.A puts the CAP of partners for such firms at 50 who must be professional.

S.1 of the PA defines a professional as a person who is a member of a profession regulated by the laws of Uganda.

RIGHTS OF PARTNERS.

The rights just like duties of a partner may be varied by agreement and section 26 of PA takes cognizance of the same.

a) Right of a partner to the management of the firm.

According to S.2(1) partners are expected to carry on business in common, it is thus expected that same or all of the partners shall engage in the management of the business .

S.26 (e) provides expressly that every partner may take part in the management of the partnership

- Right to management also entails having a say in who is admitted to the partnership. (s.26 (9))
- No change to the nature of the partnership can be effected without the nature of the partnership can be affected without the consent of all parties though ordinary business can be by a majority.

REGISTRATION OF A PARTNERSHIP

There is no laid down procedure for registration of the partnership in the Act. This is fortified by **Kafeero vs. Turyagenda (1980) HCB 122** where court held that there is no need for registration of a partnership; but for evidential value, it imperative upon the members to register the partnership deed with the Registrar of Documents.

It must be noted further that the Business name of the firm should be registered with the Registrar of Business names within the meaning of the Business Names Registration act Cap 109 (hereinafter referred to as the Business Names Registration act)

Procedure

A draft of the partnership deed should be made.

- One fills out Form A in the schedule to the Business Names Registration Rules SI 109-1 (as amended by Act 53 of 2005) (hereinafter referred to as the Business Names Registration Rules). The application is made under rule 5 of the rules; SI 109-1 (as amended by Act 53 of 2005). The particulars include a business name, nature of business, principle place of business, present names and ages, nationality, date of commencement of business, *inter alia*.
- One makes a statutory declaration before a magistrate or commissioner for oaths.
- The deed is registered with the Registrar of Documents.
- The relevant stamp duty is paid according to the Stamps Act (supra) (as amended).
- In case the partners are desirous of changing the type of business or any particulars, the Registrar is informed by virtue of Rule 7 to the Business Names Registration Rules and by filling out a form in the schedule to the Rules for change in particulars.

Forum

The forum is the Registrar of Documents and Registrar of Business Names as noted in the foregoing discussion.

Relevant Documents (SEE COPIES AFTER THIS SUB TOPIC)

Partnership deed

Registration of Business Names (Form A)

Statutory Declaration

Change in Business (If required)

Section 35 provides that It can be dissolved by expiration of the fixed term, or termination of the undertaking of the firm, or if it is for an undefined period, by the partner(s) giving notice to other partners of his intention to dissolve the partnership.

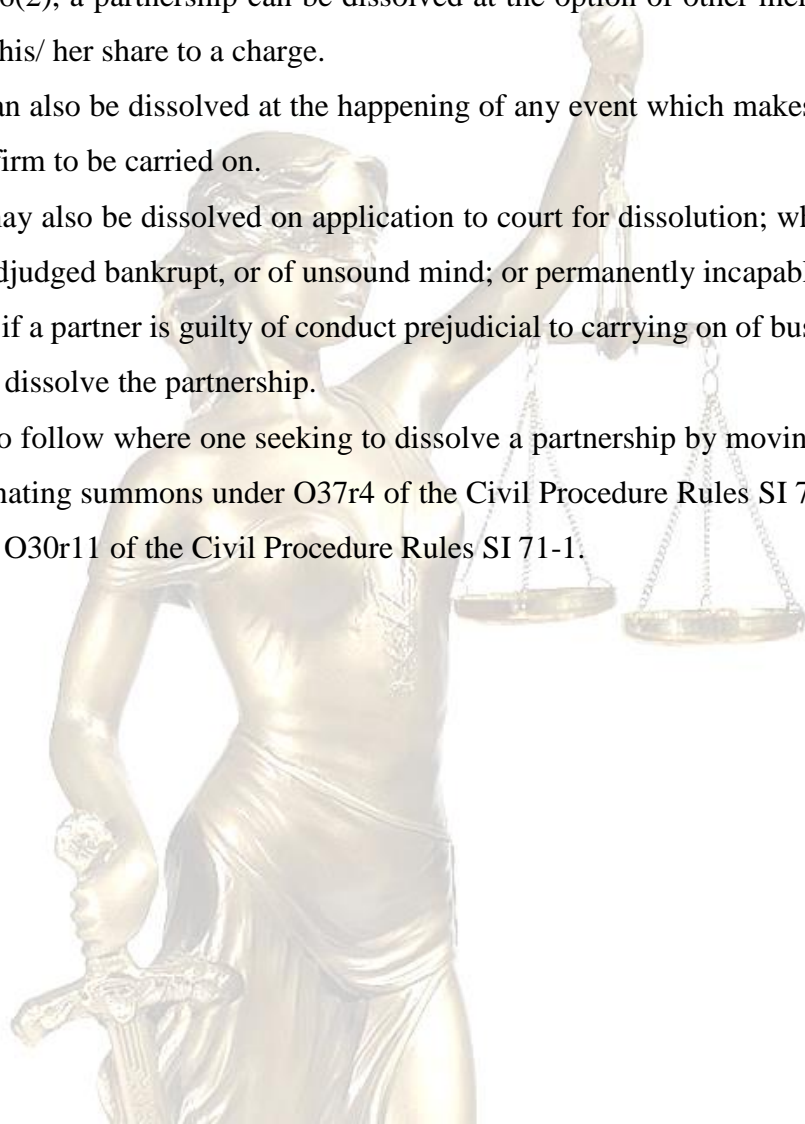
Section 36(1) provides that subject to an agreement, a partnership is dissolved by the death or bankruptcy of a member.

Under section 36(2), a partnership can be dissolved at the option of other members; if any of the partners suffers his/ her share to a charge.

A partnership can also be dissolved at the happening of any event which makes it unlawful for the business of the firm to be carried on.

A partnership may also be dissolved on application to court for dissolution; where one or more of the partners is adjudged bankrupt, or of unsound mind; or permanently incapable of performing his or her duties, or if a partner is guilty of conduct prejudicial to carrying on of business, or if it is just and equitable to dissolve the partnership.

The procedure to follow where one seeking to dissolve a partnership by moving court, application can be by Originating summons under O37r4 of the Civil Procedure Rules SI 71-1, or by chamber summons under O30r11 of the Civil Procedure Rules SI 71-1.



- They then draft and register a partnership deed.
- An application is then made to the Uganda Law Society to inspect the proposed venue of the premises.
- One applies to be a VAT payer and clears any taxes with URA and NSSF. The lawyer(s) should get the receipts from Uganda Law Society and East Africa Law Society.
- It must be noted that the laws of partnership govern the members, in this regard, the members should not be more than 20.

NOTE: On the other hand, there are instances where someone has studied their under graduate and post graduate diploma (bar course) from a foreign jurisdiction and such a person wishes to practice law in Uganda or even form a law firm within. Fortunately, a new law has been made to this effect. the **Advocates (Professional Requirements For Admission Of Persons Enrolled In Foreign Jurisdictions) Regulations, 2022** in regulation 3 provides for admission of persons with qualifications from foreign jurisdictions. It recognizes the awards obtained by layers from foreign jurisdictions. The same regulation requires that a person who obtains their post graduate/bar course from a foreign jurisdiction is eligible to practice law in Uganda but on condition that they undertake a post call professional training course and sit examinations at an institution accredited by the council for that purpose in the subjects listed in schedule 2 to these regulations.

Reg. 3(4)¹⁷⁴ provides that a person awarded a post call diploma in legal practice shall qualify to have his or her name entered on the roll subject to his or her satisfaction of the requirements for enrollment provided in the advocates (Enrolment and certification) Regulations S.I 267 – 1.

The subjects to be studied under the post call professional training are listed in schedule 2 to the regulations and include among others, land transactions, family law practice, legal writing, trial advocacy, accounting etc...

Reg. 4 allows Ugandan citizens who have been enrolled to practice law from a foreign country operating under common law system, to apply to the council for a certificate stating that the applicant is a fit and proper person to have their name entered on the roll.

this application shall be accompanied by;

- certified copies of certificates as evidence of the qualifications obtained,

¹⁷⁴ Advocates (Professional Requirements For Admission Of Persons Enrolled In Foreign Jurisdictions) Regulations, 2022

ii) the holder of a degree in law granted by a university in Uganda or a degree in law or other legal qualification granted by or obtained from such other university or institution outside Uganda as may be recognized by the Law council by regulations made for that purpose or the person has been in practice as a legal practitioner for an aggregate period of not less than 5 years in any country designated by the law council by regulations for the purposes of this section.

S.8(6) .The fee mentioned in S.8(3) can be altered by the Attorney General by statutory instrument. a person to whom this section applies (other than the holder of a degree in law granted by a Ugandan university in Uganda) may be required to undergo courses of study in such subjects relevant to the law prior in force in Uganda as may be specified and to satisfy examiners in those subjects and any of those requirements shall be in addition to those mentioned in that subsection.

S.11.The registrar shall issue a PC to every advocate whose name is on the roll and who applies for such a certificate on such form and on payment of such fee as the Law council may be regulations prescribed and different fees may be prescribed for different categories of advocates.

S.11(2) A practicing certificate is valid until the 31st December next after its issue and it shall be renewable on application being made on such form and on payment of such fee as the law council may by regulations prescribe and different fees may be prescribed for different categories of advocates.

S.(1)(3) Every advocate who has in force a PC may practice as such in the High court or in any court su..... to high court. The law Council may be regulations prescribe that for a specified period of time after enrollment an advocate shall have a right of audience only before such courts as may be designated(S.11(4) and also make regulations with regard to the granting of a special rank(however styled) to advocates of long standing skill and experience the regulations of their practice and restricting such practice to certain courts .(S.77(1) (f) .

S.11(5) creates an offence if any advocate contravened or fails to comply with any of the provisions of regulations made under S.11(4)

THE ADVOCATES ENROLLEMENT AND CERTIFICATION) REGULATIONS S.1.267

Reg. 2 requirements to the acquisition of professional skill and experience under section 891) of the Act shall be

c) the certificate or other document which the applicant submits as evidence of his or her qualifications professional skills and testimonials from two advocates whose names have been on the roll for at least three years ,certifying that the applicant is a fit and proper person to be enrolled as an advocate.

Reg 6. advertisement of application for a certificate of eligibility for enrollment in one of the issue of the Gazette in the prescribed form.

Form 1 in the second schedule of the Regulations.

Reg 8 an application for enrollment shall be by petition of the chief Justice paying that the name of the petitioner be entered on the roll of advocates.

The petition is accompanied by ; a) certificate of eligibility for enrollment issued by the law council (b) a certified copy of the statement referred to in regulations. 4(1) i.e the application for the certificate ;c) certificate or other document which the petitioner submits as evidence of his or her qualifications ,professional skill and experience; d) the fee shall be returned if the application is refused, e)testimonials from the advocates whose names have been on the roll for at least three years ,certifying that the applicant is a fit and proper person to be enrolled as an advocate.

Reg 9. advertisement of an application for enrollment shall be made by publication of the advertisement in one of the issue of the Gazette and shall be in form 3 of the second schedule to these Regulations.

Reg 10 if the chief Justice has given directions for that purpose the applicant shall appear before the chief Justice at such time and plan as may be notified by the registration. The registrar shall notify the applicant for enrollment of the decision of the chief Justice in respect of the application.

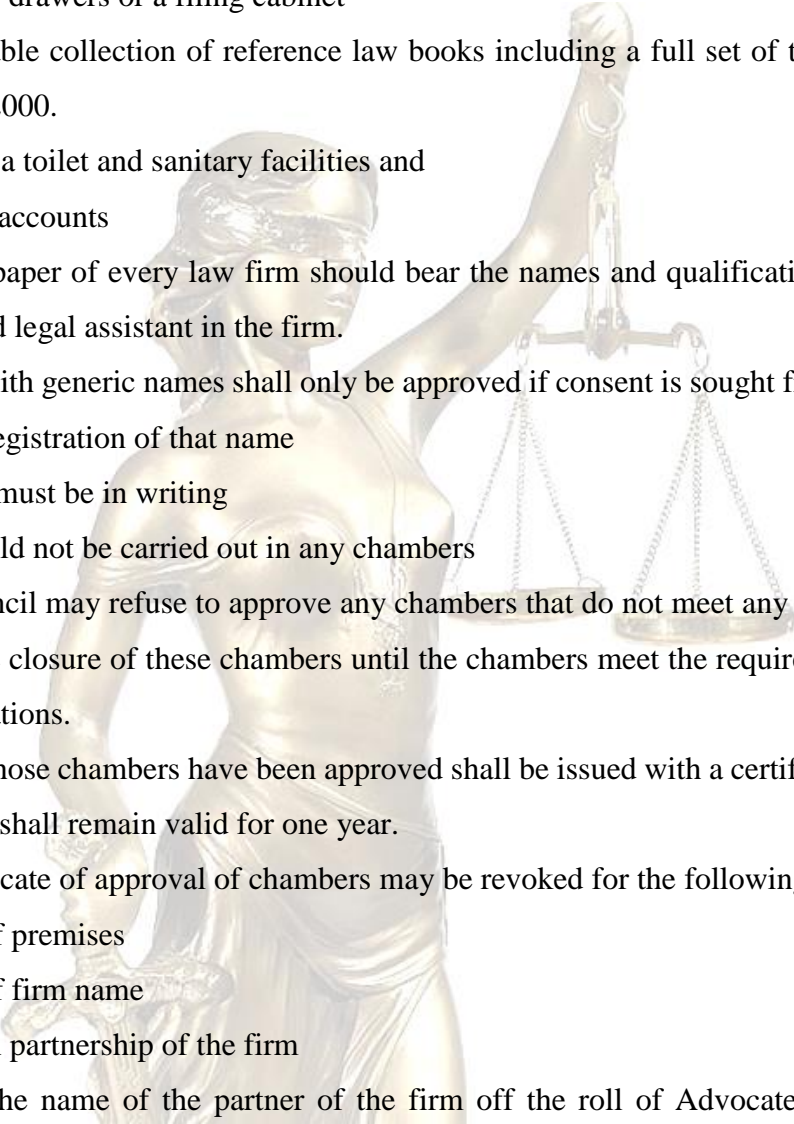
Reg.11 Whenever the name of the person is entered on the roll to practice as an advocate under the Act, the Chief Justice shall cause to be issued to the advocate by a certificate of enrollment.

Reg.12. Application for practicing certificate

- it is by application in the form provided for in the second schedule to the regulations (form 4)

It should be accompanied by a statutory declaration though that the applicant is not a person to whom S.12 (b) of the Act applies and the fee specified in the third schedule to the regulations.

Reg. 13.Right of audience. A person who normally resides in Uganda or is a Ugandan citizen and who just entered on the roll of advocates shall for a period of not less than 9 months after the entry have a right of audience only in the magistrates court and the Pc as issued to him or her shall be endorsed accordingly.

- 
- a) a suitable desk for an advocate
 - b) a separate room for each advocate and another for a clerk secretary and cashier.
 - c) a secretarial desk and computer or type writer
 - d) a reception with chairs or benches for clients.
 - e) a book shelf
 - f) a chest of drawers or a filing cabinet
 - g) a reasonable collection of reference law books including a full set of the Revised laws of Uganda 2000.
 - h) access to a toilet and sanitary facilities and
 - i) books of accounts
2. The headed paper of every law firm should bear the names and qualifications of each partner ,advocate and legal assistant in the firm.
 3. A law firm with generic names shall only be approved if consent is sought from the law council prior to the registration of that name
 4. The consent must be in writing
 5. Trading should not be carried out in any chambers
 6. The law council may refuse to approve any chambers that do not meet any of the requirements and order the closure of these chambers until the chambers meet the required standards set out in the Regulations.
- Reg 6.- a firm whose chambers have been approved shall be issued with a certificate of approval of chambers which shall remain valid for one year.
- Reg.7 -the certificate of approval of chambers may be revoked for the following reasons.
- a. change of premises
 - b. change of firm name
 - c. change in partnership of the firm
 - d. striking the name of the partner of the firm off the roll of Advocates in case of a sole practitioner.
 - e. carrying on practice under a name consisting solely or partly of the name of a partner who has ceased to practice as an advocate subject to the Act and other regulations made under it or
 - f. where the law council deems it necessary

ii. Attendances in person or by telephone ,per 15mins -10,000/=

4. Journeys from home.

a) for everyday of not less than 6hrs employed on business or in travelling-300,000/=

5. Time engaged where charge is so based in lieu of charges per from hour, or part of an HR-50,000/=

6. Correspondence

a) letter or per folio-20,000 and 4,000/= respectively.

b) receiving and praising a letter 5000/= per folio 1,000/=

7. Opinion formed written opinion ,charge such fee as may be reasonable in the circumstances having regard to the same considerations as set out above for the assessment of instruction but not less than 65000/=

THE UGANDAN LAW SOCIETY ACT CAP 276

Sec 2 Establishment of the Uganda law society.

Corporate body perpetual succession and a common seal with power to sue and be sued in its corporate name.

S.3 Objects

These include

- i) to maintain and improve the standards of conduct and learning of the legal profession in Uganda.
- ii) to facilitate the acquisition of legal knowledge by members of the legal profession and others.
- iii) to represent ,protect and assist members of the legal profession in Uganda as regards conditions of practice and otherwise.

to protect and assist the public in Uganda in all matters touching and anallary or incidental to the law among others.

S.4 Membership

The A.G and the solicitor General shall be ex officio members of the society.

Any person entitled to practice by virtue of S.6(2) of the Advocates Act, who applies for memberships in the prescribed manner shall be admitted as a member of the society except that any person who I appointed to an office in the public service specified by the Mininistry by statutory instrument shall become a member of the society at the date of his /her appointment to that office.

S.5 Honorary membership

-called chamber

c) physical location

d) Lay out of the chambers

Qualifications

-Advocates Act-qualifications

-Application for PC

-Firm

-Registration S.4 of the PA and BNRA

-Generic names

-Register the name

-Inspection of chambers

-Apply for inspection.

Advocates Act Cap 267 as amended by the Advocate (Amendment Act No.27 of 2002

Qualifications

1. Holder of a degree -S.8

2. Holder of a post Graduate Bar Course Diploma in Legal practice conducted by LDC

Procedure and document for enrollment

Reg.4 formal application

Supported with a certified copy of original degree certificate, original Dip Lp certificate, affidavit sworn by the applicant, recommendations from 2 advocates whose names are on the Roll.

discrepancy in name -sign attach a statutory declaration-

three recent passport photos

Note that the affidavit and S.D must be commissioned by commissioner for Oaths and registered with the Registrar of documents at the URSB at Georgian house, Plot 5 George street, Kampala.

Law council is at Georgian House, 7th Floor

Reg 5-application in triplicate

Inspection of chambers

Reg3.

Appendix A- Documents for Partnership law

THE REPUBLIC OF UGANDA THE PARTNERSHIP ACT 2010

THE PARTNERSHIP DEED:

THIS DEED is made the day of **BETWEEN OGWANG BOB** of P.O. Box 122 Kampala of the one part and **ODONG LOUIS** of P.O. Box 221 Kampala the Second part.

WHEREAS the said **OGWANG BOB** and **ODONG LOUIS** (hereinafter collectively referred to as “The Partners”) are desirous of forming a Partnership amongst themselves.

NOW THIS DEED WITNESSETH as follows:-

1. **Partnership:**

The partners hereby form a partnership which save as it is expressly set down below shall be governed by the **Partnership Act (Cap114)** or such other Laws for the time being governing partnerships.

2. **Name:**

The name of the Partnership shall be **KOOL RESTAURANT**(hereinafter referred to as “the firm”)

3. **Objectives of the Business:**

The business of the firm shall be the establishment and operation of the services of Bar and Restaurant and any other business or activity which is normally carried out in connection with the said nature of business/service.

4. **Place of Business:**

11. **Finance of the Firm:**

All finances of the firm not required for current expenses shall immediately upon receipt be paid into the Bank account of the firm and all the cheques on the said account shall be signed by both partners or as may be determined by the partners from time to time.

12. **Accounts:**

- 1) The Partners shall cause Books and Accounts of the firm to be kept and each partner shall have liberty to inspect the said books of accounts as and when he likes.
- 2) The Partners shall ensure that the books of accounts of the firm are audited at least every financial year.

13. **Assets:**

On every **31st day of December of each year** an account shall be taken of the assets and liabilities of the firm and balance sheet and the profits and losses account, making due allowance of depreciation and any lost capital and showing what is due to each Partner in respect of capital and share of profits shall be prepared and shall be signed by each partner who shall be bound thereby unless some manifest error be found therein within **three (3) months** in which case such error shall be rectified.

14. **New Partners:**

No new partner shall join the partnership without the consent of both parties

15. **Resignation:**

In the event of resignation of a partner, his shares shall be sold off to the continuing partner.

IN WITNESS WHEREOF THE PARTIES hereto have affixed their respective signatures this day of, 2004.

THE REPUBLIC OF UGANDA

Statement of Particulars required to be given pursuant to the Business Name Registration Act IN CASE OF A FIRM

This *form* must be signed either (a) by all the individuals who are partners (*or* if one or *more* of the partners is a corporation, by a director or secretary thereof) or (b) by one individlli11 who is a partner in the firm, or (c) by A director or secretary in case of or a corporation which is a partner In the firm; but in cases (b) and (c), a statutory declaration as to the truth of the particulars contained in the form must be made as per reverse. (Vide sec. 6 of the Act).

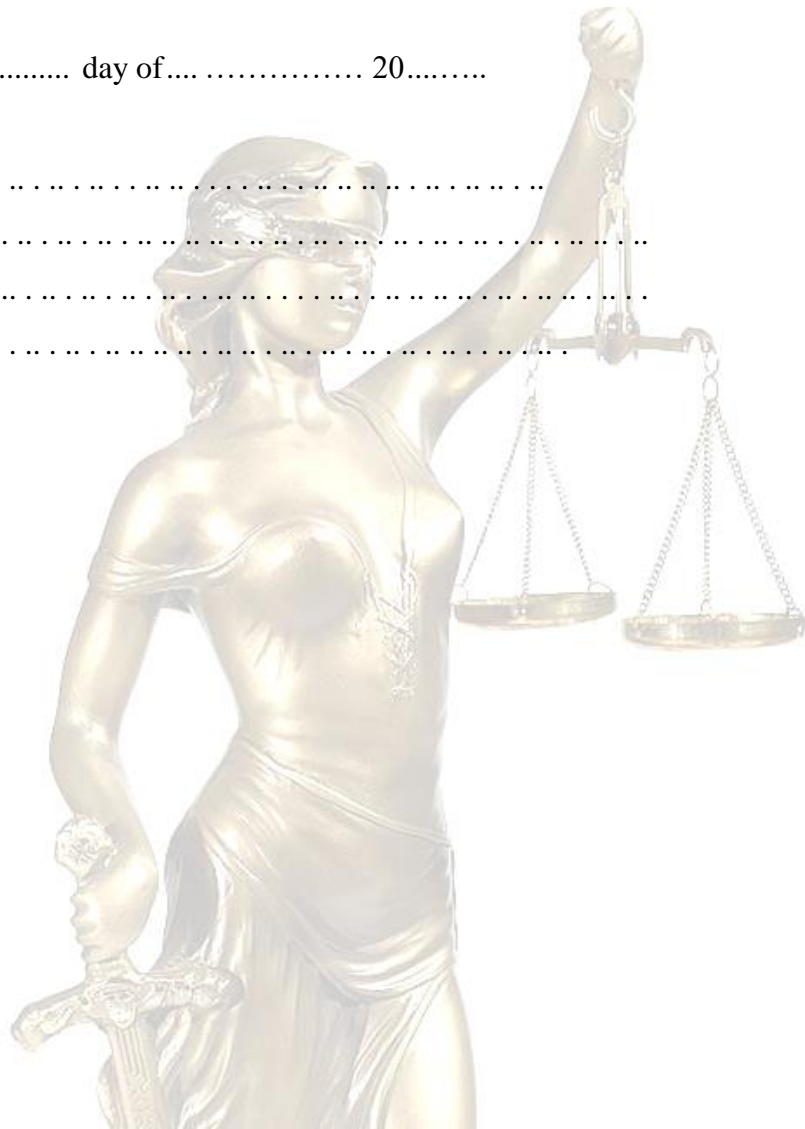
1 ,-Business name to be registered.	..... ..... .....
2. Where a business is carried on under two or more business names, each or these business names must be slated.	..... ..... ..... .....
3. Principal Place of Business Plot. Street and Postal Address	..... ..... ..... ..... .....
4. Present Christian names (<i>or</i> names) And of the individuals who are partners. if any <i>of</i> the individuals who are partners are of non European origin. such individual or individuals (as the case may be) must also slate 'the Christian name (<i>or</i> names) and surname or his, <i>her</i> or their fathers, respectively	..... ..... ..... ..... .....

11.-Registered or principal office of each corporation which is a partner.
--	---

Dated this day of..... 20.....

Signed

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



THE REPUBLIC OF UGANDA
THE TRADE (LICENSING) ACT. CAP 101
THE TRADE (LICENSING) REGULATIONS 2011

FORM 1

APPLICATION FOR A TRADING LICENSE

1. a) full name of applicant : KELEMSIA ,
a) Address of applicant: SHOP D2, NABUKERA PLAZA ,KAMPALA UGA.
2. a) Nature of the business for which the license is required: A retail shop dealing in second hand clothes.
3. a) Name of firm/company : KELEMENSIA, MEGANI AND OPIO TRADERS.
b) date of registration: 30th September 2022
4. names of partners and their nationalities:
 - i) KELEMENSIA MERINDA, UGANDAN
 - ii) GABRIELI MEGANI, UGANDAN.
 - iii) OPIO ZAPPA, UGANDAN.
- 5.(a) Amount of partnership property:
- 6.the proprietors of the partnership have never been committed of any criminal offence
7. No previous trading license issued to any of the partners has been cancelled.
8. a)The partners shall keep proper books of accounts to e inspected and balanced at the end of every calendar year (31st December) of every year.
b) The books shall be kept in English.

I declare that the particulars given above are to the best of any knowledge and believe them to be true.

Dated this 1st Day of October,2022.

MERINDA KELEMSIA. (On behalf of all partners)

PARTNER.

P.O BOX 7117,
KAMPALA, UGANDA
DATE :2/OCT/2022

TO THE REGISTRAR
GENERAL,
P.O BOX 6848,
KAMPALA, UGANDA.

Dear Sir,

RE: RESERVATION OF BUSINESS NAME

I address you in regard to the above reference as follows:

1. That my colleagues and I are desirous of setting up a legal practice in Uganda.
2. That we have applied to the law council for approval to use the name advocates and the same has been granted pursuant to the Advocates (use of Generic Names by law firms) Regulation, 2006. Attached a copy of the letter of approval for use of the name from the secretary law council.
3. That in light of the above we seek to reserve the nameadvocates having conducted a search and there is no other business operating under the same or similar name. Attached are the result of the search conducted.

Hoping for your kind consideration on this matter

Yours faithfully.

(For and on behalf of other partners)

Tel:

Email:

**THE REPUBLIC OF UGANDA
THE BUSINESS NAMES REGISTRATION ACT.
NOTICE OF CESSATION OF BUSINESS**

To: the registrar.

Whereas I the undersigned registered under the numberin the index of registration have ceased to carry on business as.....

P.O BOX 7117,

KAMPALA, UGANDA

DATE: 2ND OCTOBER 2022

TO: THE SECRETARY

LAW COUNCIL.

P.O BOX 7183,

KAMPALA.

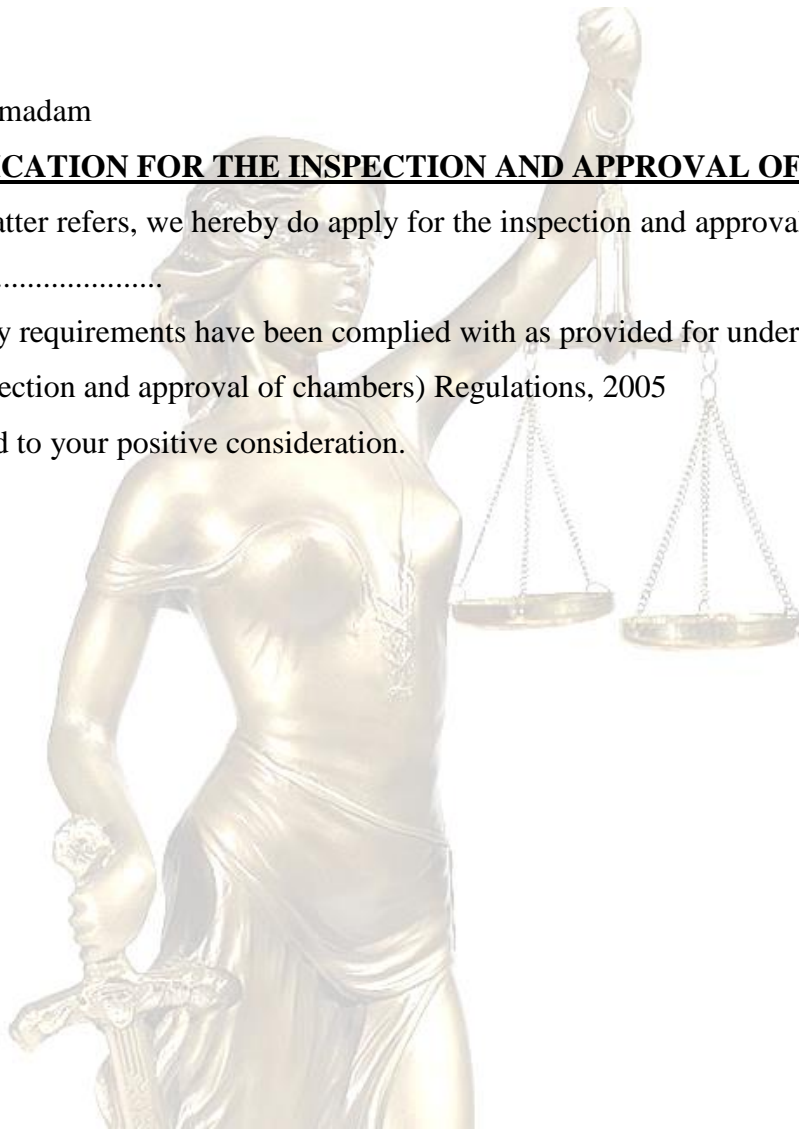
Dear sir/madam

RE: APPLICATION FOR THE INSPECTION AND APPROVAL OF CHAMBERS.

As the above matter refers, we hereby do apply for the inspection and approval of chambers in the name style of.....

All the necessary requirements have been complied with as provided for under Regulation 5 of the Advocates (inspection and approval of chambers) Regulations, 2005

We look forward to your positive consideration.



b) Use any confidential information he has received through his association with the firm for his benefit.

6. EFFECT OF TERMINATION.

Upon termination according to clause 1 of this agreement, the following shall occur:

- a) The partners shall be allowed 6 months in which to vacate the premises
- b) The associate will be entitled to his share of the profits during that period.

7. DISPUTE RESOLUTION.

All disputes arising under Agreement shall:

- a) First be resolved through a mediation facilitator by a mediator appointed and agreed upon by both parties.
- b) Where the mediation fails to yield results after 5 working days, the matter shall be referred to court of competency jurisdiction for adjudication in Uganda.

8. LAW APPLICABLE.

This agreement shall be governed by the relevant laws of Uganda.

WITNESSED BY:

PARTNERS:

MUKUUTA

1. NAME

SIGNATURE

2. NAME

SIGNATURE.

In the presence of:

1. NAME

SIGNATURE

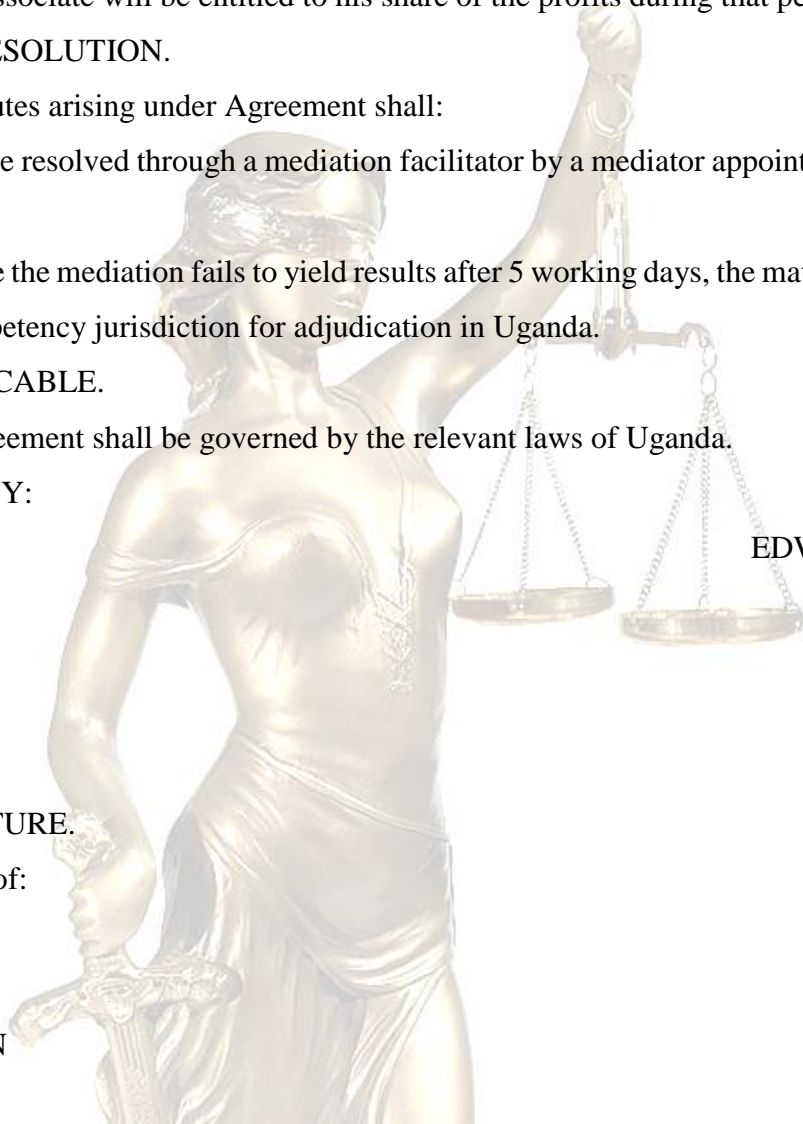
DESIGNATION

Drawn by:

SUI GENERIS

P.O BOX 7117.

KAMPALA.



EDWARD

FEE NOTE/DEBIT NOTE

D3 & CO.ADVOCATES

D3/CV/2014/200 VAT NO:19318-D Date:10.10.2014

P.O Box 7117

Phones

Kampala

Fax

TO.

ITEM	PARTICULARS	PROFESSIONAL FEES	DISBURSEMENTS	TOTAL AMOUNT
1	Interpretation of the wills of both the applicant and his son	1500,000/=		1,500,000
	VAT 18% of total			270,000
				1,770,000

Please note:

- 1.that the above amount is now due and payable and we expect your remittance by return mail with endorsed copy of fee metal/Debit note.
- 2.that under Rule 6 of the Advocates(Remuneration and Taxation of casts) Rules, interest of 67% P.a becomes payable on the above amount exactly 1 month from today.

Form 4

Reg 1

Application for Practicing Certificate

The Advocate Act

To: The Registrar

The High Court of Uganda

Kampala

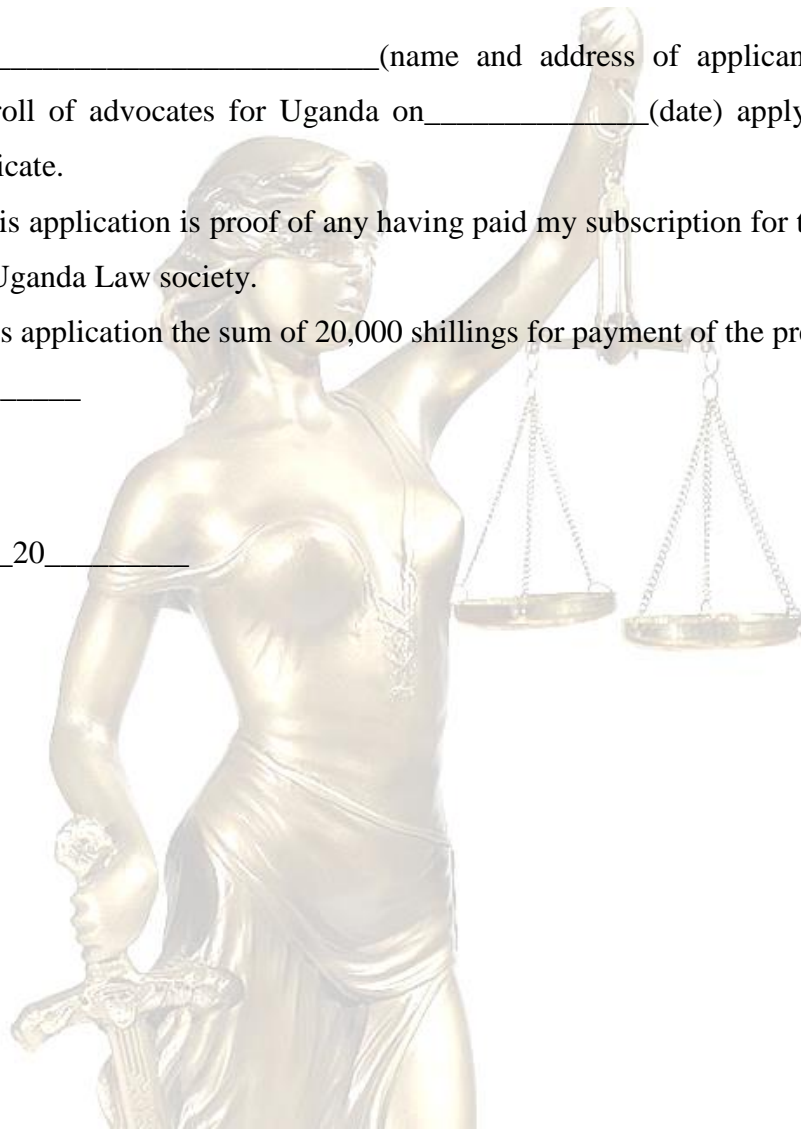
I _____(name and address of applicant)where name was entered in the roll of advocates for Uganda on _____(date) apply for the issue of a practicing certificate.

2.Attached to this application is proof of any having paid my subscription for the current year as a member of the Uganda Law society.

3.I send with this application the sum of 20,000 shillings for payment of the prescribed fee.

signed

Date _____ 20 _____



TOPIC TWO: FORMATION AND MANAGEMENT OF COMPANIES:



Law Applicable

The law applicable to this area of study includes the following:

The Companies Act 2012

The Companies (General) regulations SI 110-1

The Companies (Fees) Rules SI110-3 as amended by SI 57/2005

The Companies (High Court) (fees) Rules SI110-4

Investment Code Act Cap92

The Stamps Act Cap 342 as amended by Act12/2005

Advocates (Remuneration and Taxation of Costs) Regulations SI 267-4

Trade (Licencing Act) 2012

Uganda Registration Services Bureau Act Cap 210

Civil Procedure Act Cap 71 (if court action is envisaged)

Civil Procedure Rules SI 71-1 (if court action is envisaged)

The basic issues/checklist on formation and management of a company

- Whether the parties have capacity to form a company
- What type of company can the parties form?
- What additional information needed in incorporation of the company
- Whether the proposed company can enter into agreements before incorporation
- What is the forum, procedure and documents. (for incorporation of a company and for a company going public)
- Fess payable

The plaintiff was a wine merchant and the proprietor of the Assembly Rooms at Gravesend .In August 1865, it was proposed that a company should be formed for establishing a joint clock hotel company to be called The Gravesend Royal Alexandra Hotel Co. Ltd .The plaintiff was to be the manager of the proposed company. One part of the scheme was that the company should purchase the premises of the plaintiff and the defendant was the nominal purchaser on behalf of the company. In Dec a prospectus was settled on 9th Jan 1866,an MOU was executed by the plaintiff and the defendants and others on 27th Jan 1866 an agreement was entered into for the transfer of this additional stock to the company. The company having collapsed the present action was brought against the defendants upon the agreement of the 27th of January.

The defendant argued that the agreement was not entered into by the defendants personally but only as agents for the hotel company and they thereby incurred no personal obligation to the plaintiff who was himself a promoter.

Held: 1. If the company had been an existing company at this time, the persons who signed the agreement would have signed as agents of the company. But as there was no company in existence at the time the agreement would be wholly inoperative unless it were held to be binding on the defendants personally.

2. Where a contract is signed by one who professes to be signing as agent but who has no principal existing at the time and the contract would be altogether inoperative unless binding upon the person who signed it, he is bound thereby and a stranger cannot by a subsequent ratification relieve him from that responsibility .When the company came afterwards into existence it was a totally new advocate having rights and obligations from that time but no rights and or obligations by reason of anything which might have been done before.

PRICE v KELSALL (1957)E.A 752

The mere adoption and confirmation by directors of a contract made before the formation of a company by persons purporting to act on behalf of the company creates no contractual relation whatever between the company and the other party to the contract.

SALOMON v SALOMON (1897) A.C 22

Mr. Salomon now a pauper was a wealthy man who was a boot and shoe manufacturer trading on his own sole account under the firm of "A Salomon & Co. " He turned his business into a limited company. He wanted to make provision for his family .All the formalities were gone through and all the requirements were duly observed.

vi) Support of majority of independent shareholders.

FOSS v HARBOTTLE (1843) 2 HARE 461

The complainants were two shareholders in the Victoria park Company. They brought an action against an action against the company's five directors and promoters, alleging that the defendants had misappropriated assets belonging to the company and has improperly managed its property. The complainants sought an order to compel the defendants to make good the losses suffered by the company .They also applied for the appointment of a receiver.

Held: That the action must be fined .The harm in question was suffered by the whole company not just by two shareholders. It was open to the majority in general meeting to approve the defendants conduct. To allow the majority to bring an action in these circumstances would risk frustrating the wishes of the majority.

-The Rule is that where a wrong has been committed against the company, the proper complainant in respect of that wrong is the company itself.

-Rationale .It prevents a multiplicity of legal proceedings being brought in respect of the same issuer.

-It upholds the principle of majority rule, if the majority of shareholders do not wish to purse an action than the minority is bound by that decision.

LYANGOMBE R (1959) E.A 678

Court held that where a private company exceeds the statutory limit of 50 members (now 100) it ceases to enjoy the privileges and exemptions attached to it.

In The Matter Of Allied Food Products Ltd (1978) H.Eb.294

The Company was a private company owned by Uganda Asians. The petitioner was removed from being the director of the company. There was no evidence that there was a general meeting since 1975 or that there had been notification of the petitioner to attend it and his removal was done without calling a meeting.

A general assembly was convened and after the election of the chairman, it was adjourned to 2:30 pm on the following day .Owing to some confusion in the Assembly ,the first respondent purported to adjourn the assembly sin die by sending notice on radio Uganda and hand written chits to the individual delegates. The majority decided to continue business and the appellant were elected officials of UMSC. The respondents refused to hand over all the requirements for the management and administration f the UMSC hence the suit.

Held: The UMSC had been constituted as a legal entity in the form of an unlimited company without share capital. As it had Memorandum and Articles of Association which was the constitution ,it was subject to company law. The membership of UMSC was exclusively confined to those eligible by religion criteria and not by the purchase of shares offered to the public thus it was a private not a public company.

2. The power to adjourn or continue a meeting /an assembly lay in the membership .As there was quorum when the decision was taken the decision to continue was valid.

IN THE MATTER OF NAKIVUBO CHEMISTS (1977) HCB 344

Held: For a petitioner to succeed under S.211 of the companies Act he must show not only that there has been oppression of the minority shareholders of a company but also that it has been the affairs of the company which have been conducted in an oppressive manner. The oppression must be to a person in his capacity as a shareholder and not in any other capacity.

2. The petitioners salary and allowances were withheld in good faith in order to offer his debits with the company but it was not fair for the petitioner not to be finished with a statement of account at all. However this could not amount to oppression as it affected him in his capacity as directors only. The courts will make a winding up order on account of oppression only if a very strong case is made out where such order would be contrary to the wishes of the majority shareholders. The real test is whether the business of the company cannot go on due to the deadlock among the shareholders. Where a company is in effect a partnership between the directors the same principles should be applied in the case of a dissolution of partnership.

STEINBERG V SCALA (LEEDS) LTD (1923) 2.Ch 452

P(minor) applied for shares in a company paid amount due on allotment and first call made on shares,18 months after still a minor he repudiated the contract and sought to recover the paid money.

These are created and governed by the cooperative societies Act Cap 1.12 ,S.4(1) a) provides for a minimum of 30 members. The liability is established by statute. It can exercise perpetual succession and has corporate status. The main objective is community development.

This is not appropriate for GOIL Ltd because the information in Appendix I is not about community development.

5.PARASTALS

These are public corporations and are government owned. They are created by specific legislation and liability established by statute. These are not subject to the requirements of the companies Act No 1 of 2012.The main objective is to further some national interest. Have a corporate status and characterized by perpetual succession.

6.JOINT VENTURES

These are profit oriented companies and they do not exist in perpetuity. They are purely contractual and are governed by the contracts Act except if one chooses to register them as a company, then company law will be applicable.

The parties must have agreed on a common task to execute. It is a business agreement in which the parties agree to develop for a finite time a new entity and new assets by contributing equity(shares)

7. CORPORATIONS / COMPANIES

A company is defined as an association of persons sharing resource to pursue a common purpose.

Companies are registered to pursue the functions of;

- For purposes other than making profits for owners or members eg NGOs, Charitable organizations
- Companies registered to personify the business between a small body of persons.
- Companies registered to involve a large body of shares in investment though not necessarily involved in the management of the company.

S.4 of the Companies Act ,2012 provides for a company limited by shares ,a company limited by guarantee, unlimited company, a private or a public company.

The difference between a company limited by shares and that limited by guarantee is the assumption that a company limited by shares ,operations or working capital is supported by the share capital contribution of members and all creditors.

Companies limited by guarantee ,members undertake to pay in case of the business failure to indemnify creditors. Usually charitable organizations.

Rule 4 states that the application shall be made in duplicate on stout foolscap folio and one side of the paper written on.

S.3 of the Trustee Incorporation Act, Cap 165 provides in subsection (1) that every certificate shall be in writing signed by the persons(s) making it and it shall contain the several particulars specified in schedule to the Act or as may be prescribed or such of them as may be applicable prescribed to the case,

Rule 2 of the Rules provides that the application should be submitted to the commissioner land registration in Form 1 in the 1st schedule to these Rules documents

Application in form 1

fees

Rule 6 of the Trustees Incorporation Rules

The fees set out in the second schedule to these Rules shall be payable in respect of the matters specified in that schedule.

Upon submission of an application for a certificate of registration as a corporate body-20,000/=

Upon issue of a certificate of incorporation -10,000/=

Forum

Mister for lands.

NON GOVERNMENTAL ORGANISATIONS

S.2 of the NGO Registration Act, Cap 113 provides that no organization shall operate in Uganda unless it has been duly registered and has said permit.

S.2(1) (b) of the NGO Registration Act Cap 113 as amended by NGO registration (Amendment) Act 2006 provides that no organization shall be registered by the Board without prior application having been made to the Registrar of Companies to have its proposed name reserved and approved for registration.

S.3 provides that an organization shall apply for registration under this Act to the secretary to the board.

Reg 4 of the NGO Registration Regs 2009 provided under Sub reg (1) that an application under S.3 shall be in Form A as specified in the schedule to the Regulations.

Reg 5 provides for the requirements for registrationby at least two.....

How to Interview

- by email
- Skype
- Yahoo messenger
- Nominees subscriber
- Faxing
- It could also be in the presence of a translator from MUK institute of Language.

How to exchange documents

1. By email; S.4 (1) (a) of the Electronic Transaction Act, Act No 8 of 2011 provides that one of the objects of the Act is to enable and facilitate electronic communication and transactions. 6,14 (2) (a) of the Electronic signatures Act No.7 of 2011 provides that a document signed with a digital signature shall be as legally binding as a document signed with a hand written signature

2. Courier services e.g. DHL

Characteristics of a company.

1. A separate legal personality

In the case of SOLOMON V SOLOMON (1897) AC 22. Lord Macnaghten held that the company is at law a different person all together from the subscribers to the memorandum. By virtue of being in possession of legal personality, a company is capable of enjoying rights and being subject to duties separate from its members.

By virtue of being in possession of legal personality, a company is capable of enjoying rights and being subject to duties separate from its members. **IN JOHN LUBEGA MATOVU V MUKWANO INVESTMENTS LIMITED MISC.APP NO.156 OF 2012**, the applicant had sued the respondent company for recovery of UGX 139,343,041 upon which a consent judgement was entered. He later realized that directors had abandoned, altered or changed the name of the respondent company. He brought the suit for an order to lift the corporate veil. Hellen Obura J, held that the concept of corporate personality is what distinguishes a company from other forms of business associations. It means that a company has a separate legal personality from its members and is capable of enjoying rights and being subject to duties separate from its members.

Employment by the company.

Upon incorporation, a company can own property in its own name. A member of a company cannot own company property and has no interest in the company property. **IN MACURA V NORTHERN ASSURANCE CO.**¹⁷⁵. The appellant, a shareholder in the company, took out fire insurance for timber that belonged to the company. The timber was destroyed by a fire, he asked the insurance company to indemnify him for the loss. Baxter J held, he could not be indemnified because the assets did belong to him, but the company. No share holder has any right to any item or property owned by the company because he has no legal or equitable interest therein. **In INTERNATIONAL LIMITED V MOHAMMED HALID EL. FAITH. ODOKI jsc**, held that the respondent could not claim the company's property by an action in his own name.

4. Suits by or against the company

A company is a legal person and can sue or be sued in its own name. Suits against the company must be brought in the company's registered name. a suit by or against an in correct company name is a nullity. **In QYUICK CARGO HANDLING SERVICES LIMITED V IRON STEEL WAVES AND 2 ORZ, CIVIL SUIT NO. 328 OF 2002.** The plaintiff sued "property management services ltd" instead of properties management limited." Kibuuka Musoke J, held that in company law, upon incorporation, a company is known only by its name on the register of companies. The suit against a non-existing party was improper before court.

The person representing the company must be authorized by a resolution or powers of attorney otherwise his actions may not bind the company. However lack of the board resolution does not invalidate the proceedings. **In CONSTRUCTION ENGINEERS ABD BUILDING LIMITED V NEW VISION AND 3 ORS H.C.CS NO 67 OF 1991,** the defendants raised a P.O. that, the suit was improper as the plaintiff had no board resolution authorizing the institution of the suit. Held that, a board resolution is merely evidence that the company has authority to institute a suit but lack of a board resolution does not necessarily mean that the company directors have no authority to institute the suit.

5. Common seal

¹⁷⁵ (1925) AC 619

- b. In the case of companies without shares, a company in which decisions are arrived at by the majority who are not citizens.

FORMATION OF COMPANIES

TYPES OF COMPANIES

These include the following

Private company

Public company

Limited liability Company

Unlimited liability company

Company law in Uganda is primarily regulated by the companies' act, act no.1 of 2012 which commenced on 1st July 2013 under the companies act, 2012 (commencement instrument, 2013).

Incorporation.

The companies act lists the various types of companies in S.4 i.e.

1. Companies limited by shares.
2. Companies limited by guarantee.
3. Unlimited liability companies
4. Private and public companies.
5. S.50 provides for single member companies.

S.5 and 6 define a private and a public company respectively.

Private Company (Section 29 of the Companies Act)

This company has a number of members ranging between 2 to 50 persons. In addition there is a restriction on transfer of shares. This is further evident in Article 23 of Table A to the first schedule to the Companies Act. A private company prohibits any invitation to the public to subscribe for any shares or debentures in the company. It was held in *Lyangombe Vs R*¹⁷⁶ that where a private company exceeds the statutory limit of 50 members, it ceases to enjoy the privileges and exemptions attached to it.

¹⁷⁶ (1959) EA 678

In the case of **KELNER V BAXTER (1866) LR 2 CP 174**, the plaintiff and defendant were promoters of a company called “Gravesend Royal Alexander” co ltd.’ They entered a contract to purchase a stock of wines and signed “on behalf” of the company. The contract was later ratified by the company upon incorporation. The court held that ratification was invalid since the company was non –existent at the time. Pre incorporation transaction are void ab initio and cannot be ratified. They had signed on behalf of a non-existent principal and were therefore liable.

In the case of **PHONOGRAM LTD V LANE (1982)1 Q.B 938**.

Under S.54 (1) of C.A, the contract which purports to be made on behalf of accompany before its incorporation is void as against the company is valid as against the person purporting to act for the company.

S.54 (2), the company may adopt a pre-incorporation contract with its formation and registration made on its behalf without a need for novation.

Where the company adopts a pre-incorporation contract, the liability of the promoter of that company then ceases. S.54 (3).

Registration of a company.

1. Search for availability of business name.

This can be done by writing a formal letter to the registrar to ascertain the existence of a name and suitability.

2. Reservation of nature.

S.36 (1) of C.A grants the registrar of company’s power to reserve a name of a company. Under S.36 (2), registrar is prohibited from reserving and registration of names considered to be undesirable.

The reservation is for a period of 30 days and must not exceed 60 days.

Under S.41, a charitable organization which promotes art, science charity etc. may apply to dispense with limited.

Reg fees: 1. Less than 5M-50K

2. 1% of capital if in excess of 5M

Stamp duty:

On articles: UGX 10,000

Capital; 0.5%

3. Preparation of the necessary documents.

Another form which needs to be attached is a declaration of statutory compliance. This form is filled out by an advocate of the High Court and duly commissioned by a commissioner for oaths wherein the advocate makes a declaration that the all the legal requirements have been complied with. See Form A2 in the appendix. This is done pursuant to section 16(2) of the companies act.

Ascertainment of the fees payable; this is delivering the Documents above to the Companies Registry within the meaning of section 14 of the companies act. Assessment is done in accordance with the Companies (Fees) Rules. SI 110-3. The stamp duty is 0.5% of the nominal capital under the auspices of the stamps act.

Upon payment of the fees, the documents are lodged with the Registrar of Companies for registration; upon which a Certificate of Incorporation is issued to the promoters of the subsequent company.

It must be noted that before starting the business, the company should obtain a trading license within the meaning of Trade (Licensing) Act Cap 101

It must be noted that if the incorporation is for a public company, the procedure is the same as above save for a few peculiarities as follows;

Filing a statement with The Registrar with names of directors, secretary and undertakings,

Filing a Statement in lieu of a prospectus;

Deliver and register Articles of Association and Memorandum of Association MOA

Statement of Nominal Capital and Statutory Declaration.

PROCEDURE AND FORMALITIES OF REGISTERING A COMPANY INCORPORATION OF A LOCAL COMPANY.

The companies Act does not provide for a search of the register but its prudent practice that the promoters of any company conduct a search at the registry to find out whether the name is still open for reservation. S.246 of the Companies Act(inspection the documents.)

Reservation of name S.36(1) provides that the registrar may on application reserve a name pending registration of company or a change of name by any existing company. The registration shall remain in force for 30 days or such longer period not exceeding 60days and in that period no other company s entitled to be registered with that name.

Forum Uganda Registration Services Bureau which has the mandate to carry out all registration required under the relevant laws.(S.2(g) of the URSBA Cap 210) fee 20,000

by formal letter

S.13 -AOA may adopt all or any of the regulations contained in table A.(S.13(2) in case of a company limited by share and registered after the commencement of this Act,if the articles are not registered is not exclude or modify the regulations contained in table A ,those regulations shall so far as applicable ,be the Regulations of the company.

S.14-Adoption and application of Table F public company shall adopt Table F (provisions of the code of corporate governance)S.14(2) a private company can also do the same.

S.21.the Memorandum when registered bind the company and the members of the company to the same extent as if they had been signed and sealed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and Articles.

The memorandum and articles is filed with the company's nominal capital statement and a declaration of compliance stating that all the requirements of the companies Act and any other formalities relating to registration have been complied with.

This declaration is commissioned by the commissioner for oaths.

Payment of stamp duty calculate a rate of 0.5% of the nominal share capital stipulated in thename/memo once paid the registrar then registers the MOA and AOA

The statement of particulars of directors should also be filed.

Company Form 7 sets out the particulars of directors and it requires the following ,names of the directors and secretary ,their nationality ,usual residential and postal addresses ,business occupation ,dates of birth.

Notice of situation of registered office, company form 9 requires the physical and postal address of the company and the director must sign this form S.115 and S.116 of the companies Act.

Resolution to open up a bank account, details to the choice of bank and its branch signatories of the account and whether they can sign solely or jointly. The resolution must be signed by at least 2 persons i.e director (s) or a secretary.

Issuance of certificate of incorporation ,S.22 of the companies Act , a certificate of incorporation shall be conclusive evidence that all the requirements of registration have been complied with.

S.22 (2) provides that a statutory declaration by an advocate engaged in the formation of the company or by a person named in the articles as director or secretary of the company.

Alteration of the objects clause.

- The application may be made by a member or a holder of a debenture entitling them to object. S.10 (7) states that debentures secured by a floating charge or which form part of the same as any debentures issued.
- 4) Upon delivery and registration of the amended memorandum of association, it supersedes the original memorandum and takes effect from the date of registration.

4. Liability clause.

It contains the liability of the members. Where a company is limited by shares, it shall state so and where it's limited by guarantee it shall state as such. Member's liability in a company limited by shares is limited to unpaid shares, liability is nil if the shares are fully paid up. For a company limited by guarantee, the liability clause will state the specific amount every member undertakes to contribute to the company assets in the event of its being wound up.

Alteration of liability clause.

The company cannot alter the liability clause except in accordance with the act. The liability of members can't be increased by altering the memo unless the members agree to the alteration in writing.

Under S.230, a limited liability company may have directors with unlimited liability. The company may by special resolution make the liability of its directors unlimited under S.231 however the alteration must be permitted by the articles.

5. Capital clause

It provides for the amount of share capital for the proposed company. Government taxes and fees payable that is stamp duty and registration fees depend on the amount of the authorized or nominal capital of the company.

The effect of the clause and the amount stated therein is that the company can't issue more shares than are authorized by the memo unless the nominal capital is increased. A capital clause isn't included for a company with unlimited liability or a company limited by guarantee without a share capital.

4. Variation of shareholders rights under S.82.

5. Re-organization of capital under S.207.

6. Subscription clause.

Includes the name, address of occupation of each subscriber to the memo of association. S.7 (4) (b) states that a subscriber to memo may not take less than a share. S.7(4) (c) requires that he/she writes opposite his/her name the number of shares he/she is taking. S.8 requires that every subscriber signs on the memo in the presence of at least one attesting witness.

B) Articles of association.

S.2 defines articles to mean the articles of association of a company originally framed or as altered by special resolution. It includes regulations contained in table A in the 3rd schedule to the act. It contains rules which govern the company's internal affairs and sets out the rules to be followed in attaining the company's objects. The articles are solely for the benefit of the directors and shareholders. S.19 requires that the articles of association are registered together with the memorandum of association.

Form and content.

S.13 provides that the articles of association may adopt all or any of the regulations in table A. they must be printed, divided into paragraphs and numbered consecutively and signed by each subscriber to the memo. Attested by at least one witness according to S.15 of C.A

Where the company adopts with modifications it must state the modifications first then last article states that Table A is adopted with the above modifications.

Article 23 and 24 of Table A part 1 donot apply to private companies.

Effects of the articles.

S.21 provides that the articles bind the members of the company upon registration.

In WOODS V ODESSA WATER WORKS CO. (1899)42 CLD 636, woods sought an injunction to restrain the company from acting on a resolution passed which proposed to pay no dividend but instead give shareholders debenture bonds. Stirling j stated that the articles of association constitute a contract not merely between the shareholders and company but between each individual shareholder and every other.

The articles are binding on the company and its members, however they don't bind the company to outsiders.

According to S.10 no investor shall operate a business enterprise without an investment license. S.11(1) an application for a license shall be made in writing to the executive director and must contain the following information name and address of proposed business ,its legal firm, its bankers ,name and address of each director name, address ,nationality and shareholding of any shareholder who is not a citizen of Uganda.

-nature of proposed business activity and proposed location of the business.

-proposed capital structure amount of investments and projected growth over 5 years or more

-estimated employees

qualifications expenses, nationality and other relevant particulars of project management and staff .

-incentives which the applicant expects to qualify and details of such qualifications.

-any other information relating to the viability of the project.

Under S.14 of the investment code Act provides that the authority within 30 days after the receipt of the application, prepared a detailed report in respect of the application and accordingly within 14days after 30days consider the application and the report of an application is in accordance with the provisions of the code and the business to be undertaken is not unlawful on contrary to the interests in Uganda.

S.14(4) the authority within 7 days informs the applicant of its decisions.

S.15 provides that when the applicant for an investment licence and the authority have agreed on the terms and conditions of the investment licence and incentives if any authorize the holder of it to make all arrangements necessary for establishing the business enterprises ,contain the terms and conditions and the licence shall have 5years from the date of issue contain any other information or details as may be prescribed.

Reserve a business name. This is done by application to the registrar by ordinary letter. The registrar has to endorse on the letters that the name has been accepted.

Registration of the foreign company.S.252 of the companies Act, No 1 of 2012,A foreign company which establishes a place of business in Uganda shall with 30days after the establishment of the business deliver to the registrar for registration a certified copy of the charter ,statutes or memorandum and articles of association or other instrument ,constituting or defining company's constitution and where the instrument is not in English a certified translation of instrument (S.252)1) (a)

For registering any other documents required to be delivered to the registrar under part A of the Act Us & 55.00 Each co-form USD 10.

GOVERNANCE OF COMPANIES

Corporate power is divided between two organs: Members and directors

Public companies are required to incorporate in their articles of association the code of corporate some or all provisions of the code but it is not mandatory for private companies.

Directors. A director is a person who directs the affairs of the company. Case of *Stanbic bank Ug Ltd V Ducat Lubricants U) Ltd* **83 ors**¹⁷⁹ it was held that directors and managers are/represent the directing mind of the company.

Number of directors

S.185

States that every company other than a private company, shall at least have registered of one director

A public company has at least two directors.

Types of directors

Executive directors: Executive directors are full time officers of the company and they have administrative or managerial roles in the company's business and operations.

They include managing director or chief executive officer (C.E.O).

Under Article 107 of table A, the managing director is appointed by the directors from among themselves.

They may entrust and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they think fit.

Part III of the capital markets corporate governance guidelines 2003 prescribes best practices relating to the position of chairperson and chief executive.

Non-executive directors

Non-executive director is not involved in the administrative or managerial operations of the company.

¹⁷⁹ MISC APP No.845/2013

Form 20 for S.228(5) company shall send appointment of directors/seventy to the registrar in the prescribed form used to notify the register. Form 7 – a return containing the particulars of a notification of any change among its directors or its secretary. Fees 20,000 finance Act.

S.19 (applies to public companies)

At a general meeting of a company other than a private company, a motion for the appointment of a two or more persons as directors of the company by a single resolution, shall not be made unless the resolution has first been agreed to by the meeting without any vote being against it.

Appointment of temporary directors by the existing directors

Article 95 of table A, the directors have power to temporarily appoint any person to be a director either to fill a casual vacancy or as an addition to the existing directors, such a director holds office until the next annual meeting.

Qualification of directors

A director must have the required qualification as stipulated in the companies Act., articles of the company and any other relevant laws/rules/regulations.

S.191 of Companies Act, states that the acts of a director or manager remains valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. Some salient conditions, qualifications and disqualifications include the following:

- a) Minimum age is eighteen under S.196
- b) Minimum age if prescribed by the articles or other applicable law/rule/regulation.
- c) Whether the director has already served the minimum number of terms if so prescribed by the articles or other applicable law rule (term limit).
- d) Share qualification is prescribed by the articles i.e. being required to hold a specified number or class of share.
- e) Whether the person is subject to a disqualification order made by court under S.1998/201 of CA
- f) An undercharged bankrupt is prohibited by sec.200 from becoming a director.

Ordinary Shares

These have no special rights and have the highest risks.

Preferential shares

Holders of such shares have preference and priority over the rest of the shareholders. The shares are cumulative. The disadvantage or advantage with this type of share is that they payment does not go beyond the fixed dividend. They are usually held by promoters and directors.

Redeemable shares

These shares are bought by the company after issue of shares. However, a company cannot have the entire share capital made up of entirely redeemable shares. A company cannot convert shares into redeemable if the shares in question have not been issued as redeemable shares and secondly, a company cannot redeem redeemable shares which are not fully paid up.

They are many types of share capital thus;

- Nominal capital which is the startup capital.
- Issued capital which refers to shares issued to members.
- Paid up capital; which refers to issued capital which is paid up.
- Reserve capital; which refers to capital kept for unforeseeable times.

RAISING AND MAINTENANCE OF SHARE CAPITAL.

Share capital is the authorized capital of the company i.e the amount which it can raise by way of issuing shares and this is stated in the memo.

There are various ways of raising share capital and these include;

1. Selling shares at a premium.

Pursuant to S.66 of CA, which provides for sell of shares at a premium, a company may sell its shares at a premium in order to raise share capital.

Where the company sells shares at a premium, it must open a premium account because the premium is treated as part of its paid up capital.

Procedure: a board of directors meeting is convened and a board resolution to issue the shares at a premium is passed.

2. Issuing redeemable preference shares.

3. Allotment of shares subject to pre-emption rights.

The very essence of a private company is that there is restricted transfer of shares to the public. S.5 (1) (a) defines a private company as a company which restricts the right to transfer its shares and other securities.

The pre-emption rights are contained in the articles of association.

Procedure of allotment.

Convene the requisite meetings as per articles. However often it is:

- a) A board meeting which passes a board resolution calling for an EOGM
- b) Notices are issued to the members convening the EOGM
- c) EOGM having the requisite numbers passes a resolution allowing the board to allot the shares all members having exercised their preemption rights/members take up shares
- d) Board convenes a meeting and passes a resolution allotting the shares to a prospective shareholder in the public or issuing them to an existing shareholder who exercised their pre-emption rights.

Documents.

- Notices calling for meetings
- Ordinary resolution
- Board resolutions
- Return of allotment.

Allotment in excess of share capital.

Where the company needs to allot shares in excess of its share capital, it must pass a special resolution increasing its share capital clause in the memo pursuant to S.71(1)(a) of C.A and a notice of increase of share capital under S.73(1) of C.A within 30 days from day of passing the resolution.

On top of other documents, a notice of increase of share capital in the form in form 12 of CO. (Gen) Regs 2016.

Reg.20 (2) requires that the special resolution altering capital be attached.

Certain restrictions may be imposed on the allotment of certain shares by the registrar pursuant to S.183 (2) (b) and (c) of C.A.

4. Shareholders loan agreement.

This occurs where a ware housing company is given the mandate to ware house the goods of the company by another entity extending a credit facility to the company. The condition is that the warehoused goods proceeds are applied to the servicing of the credit facilitate. The company is thus allowed to access the products at the warehouse as long as it continues to service its credit facility.

7. Hire purchase.

The company acquires an asset and pays a down sum as agreed and takes possession of the asset. The company then continues to pay a specified sum for a given period before ownership can pass to the company. Default in payment means the purchaser can reposes the asset.

8. Disposal of assets.

A company can sell off its assets and raise money from the sell.

9. Tax credits.

Perfection of securities under the company act.

Most company debts are secured by debentures. A debenture is a charge on the assets of the company. It can either be fixed or floating. A debenture is perfected through execution of a debenture deed and registration of the same pursuant to S.105 (1) of the C.A.

An unregistered debenture is pursuant to S.105 (1) of CA void against the liquidator or a creditor of the company.

Pursuant to S.105 (1) of CA, the debenture must be registered within 42 days after its creation.

Under S.106, it's the duty of CO to register the debenture.

Procedure for registration.

Once the debenture deed is executed you must assess the stamp duty payable on the URA website which is usually 0.5% of the sums secured.

Once the stamp duty is paid, you lodge the debenture deed together with the evidence of payment of stamp duty together with the registration form as prescribed in form 13 of the schedule to the companies (general) regulations, 2016 pursuant to Reg 23.

A certificate of registration of a charge is then issued upon registration pursuant to S.108(1) of CA of the charge is entered on the company's charge list.

Passing of resolution to alter the Memorandum of association to reflect the new changes. (See copy of resolution in the Appendix)

Giving notice to the Registrar of the changes, within thirty days from the date of passing resolution to do so. This is reflected in section 65 (for notice on increase in share capital).

The notice for increase in share capital is given to the Registrar by filing out Form 3 in the schedule to the Companies (General) Regulations SI 110-1. The statutory forms are accompanied by the resolutions.

Payment of the prescribed fees upon assessment within the meaning of the Companies (Fees) Rules SI110-3 as amended by SI 57/2005 and paying the advocate's fees (if one has engaged one).

After payment, the Notices and the Resolutions are lodged with the Registrar for registration onto the Company Register.

Requisite Documents

Resolution for alteration of share capital.

Resolution for alteration of Memorandum of Association.

Notice to Registrar of alteration of share capital

Call on shares.

Under Reg.80 (1) of Table A, the business of the company is managed by the directors and they can exercise any powers under the regulations.

Under section 21(2) of CA, all money payable by any member to the company under the memorandum or articles shall be a debt due from him/her to the company.

Pursuant to Reg.15 (1) of Table A, the directors may from time to time make calls on the shares that are unpaid.

The call on any shares is made by board resolution.

- A company, pursuant to Reg 15(2), a company cannot make a call exceeding $\frac{1}{4}$ of the nominal value of the share. Further the company cannot make a call requiring the shareholder to pay for the unpaid shares less than one month from the date fixed for the payment of the last preceding call.

Procedure

In **LUTAAYA V GANDESHA (1985) HCB 46**, the court stated there was not one exclusive or exhaustive mode of proving membership of a company. The occurrence of ones name on the register of members was only prima facie evidence and other evidence could be adduced to rebut that. Court further noted that some of the ways of proving membership was possession of a share certificate and to some extent the appearance of ones name on the annual report.

Duty to maintain the register of members.

S.119 mandates the company to maintain the register of its members. The company thus according to the court in **MATTHEW RUKIKAIRE V INCAFEX**, has the obligation to enter each member on the register. In the context, the company’s duty lies with its company secretary whose duty is to ensure that the company complies with relevant legislation. Thus failure of a company to enter a members name cannot be vested on him/her and will be allowed to adduce other evidence to prove membership.

MEETINGS

EXTRA ORDINARY GENERAL MEETINGS

S.39 Provides that the directors of a company shall on the registration of the members holding not less than one tenth of the paid up capital convene an extra ordinary general meeting of the company. According to S.139(2) the requisition must state the objects of the meeting and must be signed by the requisitioner and deposited at the registered office of the company.

S.141 (2) provides that notice of the meeting shall be served on every member of the company.

A 50 (1) Table A provides that every general meeting shall be called by at 21 days notice in writing.

A.51 Table A provides that the accidental omission to give notice of a meeting to any member entitled to receive notice shall not invalidate the proceedings at the meeting.

A.52 all business that is transacted at an extra ordinary meeting shall be taken to be special.

Quorum,S.141(c) provides that 2 members of a private company personally present shall form a quorum.A.53 (1) provides that business shall not be transacted at a general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

Minutes .A 86(c) provides that the directors shall cause minutes to be made in books for all resolutions and proceedings at all meetings of the company.

S.152 provides that every company shall cause minutes of all proceedings of general meetings and all meetings of directors to be entered in books kept for that purpose.

1. Tressen v Henderson (1899) I Ch.861 court said that the notice issued for purposes of rolling members of the
2. Upon lapse of 21 days the meeting shall be held at the place indicated therein in the Notice.
3. The chairperson of the Board of Directors shall preside at every general meeting.
4. The director welcomes the members to the meeting and will read the agenda of the meeting. Opening prayer shall be given by one of the members
5. Quorum
6. If there is quorum then the chairperson shall inform the members of the sole reason of the meeting which is vote for the directors and secretary borrowing money from the Bank
7. Members are invited to vote.

Northwest transportation Co.Ltd v Beatty (1857) 12 589 court held that a shareholder has a right to vote as he/she wishes.

Special resolution notice has to be made for 28 days before the meeting.

TYPES OF RESOLUTION

Even majority shareholders cannot act without a company resolution.

Swimming pool and underwater Repair Ltd (Pty) and Ovs Rushway and anor S.32-12 (Zimbabwe) it was stated that for a majority shareholder to succeed in an action to evict a minority shareholder, it is necessary to allege and prove that this company resolved to evict the minority shareholders and that the majority shareholder has locus standi to initiate legal proceedings to enforce the company's resolution it is not enough for the majority shareholder to simply say that as the majority shareholder it wants to exclude and evict from the administration of the company the minority shareholder without a company resolution to that effect.

ORDINARY RESOLUTION

This is not defined by the Act and does not have any notice or majority requirements .It can be passed by a bare majority of votes at a meeting.

Registration of resolutions S.150 finance Act 2013 for any resolution filed under the companies Act
3 copies 20,000/=

APPOINTMENT OF DIRECTORS

S.185 provides that every private company shall have at least one director
S.194 directors are usually appointed by the shareholders in a general meeting.

A.95 of Table A provides that the number of directors and the names of the directors shall be determined in writing by the subscribers of the MOA

A.94 provides that the company may from time to time by ordinary resolution increase or reduce the number of directors.

A.88 disqualification of directors

Kintu v Kyotera coffee growers Ltd (1976) HCB 362 directors are appointed by shareholders and members of the company. They do not have to be confirmed by the Registrar of companies who has no such powers.

Procedure for Appointments.

Call for extra ordinary general meeting. A.49 Table 4 the director may convene an EGM whenever they think fit.

Ordinary resolution is passed appointing the director.

A.94 Table A the company may by ordinary resolution increase or reduce the number of directors.

S.228 (5) the company shall send to the registrar in the prescribed form a return containing the particulars of and a notification of any change among its directors or in its secretary.

Form 8 fee of 20000 finance Act

File Form 7 containing the particulars of directors and secretary.

RESTRICTION ON APPOINTMENT

S.192 (1) Restrictions on appointment or advertisement of director.

S.193 share qualifications of directors (S.193 (1) (2))

A.77 of Table A -share holding qualifications.

S.196 Age limit

S.193 (3) 5 director vacates for loss of qualifications

S.200 undisclosed bankruptcy

S.201 Fraudulent persons.

Lord Denning in the Panaroma case stated that "times have changed a company secretary is a much more important person these days. He is an officer of the company with extensive duties and responsibilities. This appears not only in the modern companies Act but also by the role he plays in the day to day running of the company .He regularly makes representations on behalf of the company and enters into contracts on its behalf.

The duties of a company secretary include;

a) Prepare minute S.152 of the proceedings of meetings of a com of directors

CAIRNEY v Back (1906) 2 KB 746 it is usually the duty of the secretary to prepare the minutes of the proceedings of the general as well as directors.

b) Writes letters for the company

Johnson v Lyttles Ison Agency (1877) 5 Ch D 687 (CA as a general principle when the secretary writes letters on behalf of the company ,it is to be assumed in the absence of evidence that he is authorized by the company to write them.

c) Certifying transfers S.90 (3) (b)

Re Fredrick slobart and Co (1902) Ch 507 the duty of the secretary includes certifying transfers and receiving and registering notices on behalf of the company.

d) Custodian of the company seal

A.113,Table A to which the seal is applied shall be signed by the director and counter signed by the secretary. A-113 (3) every instrument.

e) Receives court summons and represents the company in legal matters.

Q.26 R.2 the summons may be served on the secretary or on any director or other principal officer of the corporation where the suit is against a corporation.

f) Authentication of document.

S.59 a document requiring authentication may be signed by a company secretary.

g) File company resolution and returns.

S.134 time for completion of annual return is 42 days and the company shall within that period forward to the registrar a copy signed by both a director and secretary.

6. Refer to the previous note on debentures, charges collateral security and mortgages.

Statutory meeting

This meeting is held not less than 1 month and not more than 3 months from the date of commencement of business of a company. This is fortified in section 130 of the companies Act.

Annual General meeting

This is conversed in section 131 and is held every year or at least within 15 months by a Company.

In case it is the first meeting after incorporation, the meeting should be held within a period of 18 months from the date of incorporation

It must be noted that where default is made, upon application by a member of the company, the Registrar call or direct the calling of the meeting and give consequential orders as he deems expedient. It must be noted further that any general meeting may be dubbed and Annual General Meeting if the members resolve to do so; such resolution should be lodged for registration with the Registrar within 14 days from the date of resolution.

Extraordinary Meeting

This meeting is provided for under section 132 and is convened at the request of the members of the company who have; not less than one tenth of the paid up capital of the company, or if it's a company not having share capital ; by members of the company representing one tenth of the total voting rights of all the members.

It must be noted further that the requisition should contain the objects of the meetings and must be signed by the requisitionists and deposited at the registered office of the company (c. f. section 132 of the Companies Act in its entirety)

A company meeting is duly constituted when there is more than 1 person . it need not be a gathering. This is fortified by the Case of **Re (Express [1920] I Ch 466** where court held that even an informal agreement of all members may be taken to be a meeting. Another case to concretize this point is **Sharp vs. Dowes (1876) 2 QBD 26** where court held that to constitute a meeting prima facie, there must be more than one person.

Court has power to order a company meeting when none has been held or it is simply impracticable to do so as stated in section 135

In case one wishes to move court to order for a meeting, the procedure is by filing a summons in chambers under 0.38 r.6 (h) and 8.

In **MATTHEW RUKIKAIRE V INCAFEX**, the court stated that the obligation of a member of a company limited by shares, to pay for the shares arises either when the company calls upon the shareholder to make payment for the unpaid shares during its operations or when the company is being wound up.

Nonpayment for the share subscribed does not affect the subscriber's membership in the company.

Where the company has pursuant to S.13 adopted Table A then upon making the call for the shares, Under Article 65, the members right to vote at a general meeting shall be suspended pending payment on the call.

Shareholders.

In the case of **MATTHEW RUKIKAIRE V INCAFEX**, the court defined a shareholder as a person either individual or corporate who is issued with shares subsequent to the formation of the company through the process of allotment.

The shareholder has the right to ownership in the share and the right to information.

Members.

These essentially enjoy three broad rights:

1. Right to information and this entails the right to obtain copies of the company document, right to inspect the members register or the minute book, a right to notices of the meetings
2. right to participation

This includes the right to vote during company meetings, a right to demand a vote by poll during meetings and generally a right to attend company meetings.

3. right to ownership.

This includes the right to transfer shares, right to a share certificate, right to be entered on the register of members and the right to receive dividends.

RECTIFICATION OF A MEMBERS REGISTER.

Rectification of a members register only arises when there is a need to add a name of a member to the register or to exclude a member added irregularly.

CAPITAL MARKETS AND SECURITIES

Eric Kenneth Lokolong in *The Legal and Practical Aspects of Capital Markets* defines capital as accumulated wealth that is available to create further wealth. It is wealth engaged in a reproductive process.

Capital Markets are therefore meeting places where those who in need of surplus capital seek from others who wish to invest their excess.

Capital markets mainly consist of;

Debt Markets;-

This is where Government and corporations can raise funds from capital markets through the issuance of debt securities such as bonds.

Equity Markets

Corporations raise funds through issuance of equity securities or shares.

The key players in the capital markets include the Capital Markets Authority and the Stock Exchange.

The laws governing Capital Markets include:

The Capital Markets Authority Act, Cap 84

The Capital Markets (Establishment of stock exchanges) Regulations SI 84-3

The Capital Markets (Accounting and Financial Requirements) Regulations SI 84-4

The Capital Markets (Conduct of Business) Regulations SI 84-5

The Capital Markets (Registers of interests in Securities) Regulations SI 84--6

The Capital Markets (Advertisements) Regulations SI 84--7

The Capital Markets (Exempt Dealers) Regulations SI 84—8

The Capital Markets (Interim Stock Trading Facility) Regulations SI 84--9

Public Enterprise Reform and Divestiture Act Cap 98

Procedure for a company going public thus; Any company intending to sell shares to the public must ensure that:

- The resolutions *of* the shareholders converting the company to a public company are filed with the registrar *of* companies.
- The Board resolutions authorizing the sale *of* shares to the public are duly made and filed.

The major documents include the following;

- The memorandum and Articles of Association (in case of a company limited by guarantee) or a Constitution of the association (in case of registration under the Trustees Incorporation Act).
- Application to NGO Board.
- Written work plan approved by the Ministry for Planning and Economic Development.
- Recommendation by 2 sureties (for instance local leaders).
- Recommendation from the Line Ministry.
- Recommendation of Chairman LC 1, endorsed by LC2, LC3, RDC and DISO of the area where the organization intends to operate.
- Recommendation by a diplomatic mission in Uganda (in case of a foreign organisation).

The procedure for registration of a Non Governmental Organisation

One can either incorporate a company limited by guarantee or register trustees of a body established for religious, charitable works *inter alia* with the meaning of the Companies Act (Supra) or the Trustees Incorporation Act under section 1.

The second step involves application to NGO Board in the form provided for in the schedule. This application is accompanied by a written work plan approved by the Ministry for Planning and Economic Development, recommendations by 2 sureties (for instance local leaders), recommendation from the Line Ministry, recommendation of Chairman LC 1, endorsed by LC2, LC3, RDC and DISO of the area where the organization intends to operate. The application is further supported by a recommendation by a diplomatic mission in Uganda (in case of a foreign Non-Governmental Organisation).

The application is signed by at least 2 promoters in case the organization a local NGO. In case of a foreign company, the constitution supporting the application must be authenticated by a diplomatic mission in Uganda.

Upon payment of the requisite fee, a certificate of registration will then be granted which will be valid for a period of 12 months. In case of a first renewal, the certificate will be valid for a period of 36 months and for subsequent renewals, the certificate will be valid for a period of sixty months. Registration is in the Land Registry.

JOINT VENTURES

The law applicable to this area of study includes the following;

The Constitution of the Republic of Uganda 1995 (and its subsequent amendments)

The Judicature Act Cap 13

The Companies Act 2012

The Investment Code Act Cap 92

The Investment Code (Acquisition of land by foreign Investors) (Exemption) Instrument SI 92-1

The Uganda Citizenship and Immigration Act Cap 66

The Contract Act Cap 73

The Stamps Act Cap 342 as amended by Act 12/2002

The Uganda Registration Services Bureau Act Cap 210

Common law and doctrines of Equity

The checklist/ issues which need resolution in this area of the law include;

- Whether the parties have the capacity to enter into a joint venture Agreement?
- What are the relevant laws and procedures for establishing the intended business venture?
- What is the most appropriate type of company to be incorporated?
- What is the procedure, forum and documents to effect the above?
- What is the main objects clause, and clauses incidental thereto, in the joint venture agreement?
- What documents would prevail in case of conflict between the memo, articles and the joint venture agreement?
- What are the relevant fees?

The major documents a prudent lawyer would draft include the following;

- Joint venture agreement.
- Application for reservation of the company name
- The memorandum and articles of association of the intended company. (especially the objects clause)
- The statement of nominal capital (Form A1).
- The statutory declaration of compliance (Form A2).

The additional information one would need to obtain from the parties before embarking on this venture is evident in section 4(1) and Table A to the schedule of the Companies Act. This information is then put in the subsequent documents, the information includes:

- The name of the company.
- The objects of the company.
- Share capital and the share structure
- Intended bankers and signatories to the company accounts
- Location of head office
- Occupational and postal addresses of the shareholders and directors.
- Nature of liability of the members
- Criteria for appointment of directors and their removal
- Transfer and transmission of shares.
- Voting rights of members.
- Meetings and procedures
- Dispute resolution
- Appointment of auditors, inter alia.

The procedure is enunciated as follows (compare this with procedure for incorporation of a company).

- Reservation of company name.
- Draft of Joint venture agreement.
- Draft the Articles and memorandum of association
- Make a declaration of statutory compliance.
- Lodge documents with registrar, who assesses the stamp duty.
- Issuance of a certificate of incorporation upon payment of stamp duty.

According to S. 71 Contracts Act, 2010, the liability of a guarantor shall be the extent to the principal debtor is liable unless otherwise provided by a contract¹⁸¹ with liability of a guarantor takes effect upon default by the principal debtor S. 71 (a).

Halsbury's Laws of England 4th edition, Vol. 20 para 123, the liability of a guarantor arises only upon the default of the principal debtor in his/her obligations.

In Bank of Uganda vs – BancoArab Espanol CA 23/2000 – once a principal debtor defaults, the guarantor has a duty to repay to loan.

In MoshuvLepAor Services ltd (1973) Ac it was held that an default of the principal debtor, expert from some special stipulation to the contrary, the surety guarantor is immediately liable to the full extent of the obligation without being entitled to inquire about either a notice or a default or previous recourse against co-sureties. It is a guaranteed obligation on the guarantor to pay the debt in the event of default by the principal debtor.

UCB corporated services Ltd vs Clyde and Co. (2002) 2 ALLER 457; it was held that so long as there was a duty executed guarantee, the guarantee is bound by its undertaking.

Rights of a Guarantor

S. 81 Contracts Act 2010, provides that where a guaranteed debt becomes due to guarantor is upon payment of performance of all that the guarantor is liable for, invested the all of rights of the creditor had against the principal debtor.

S. 52(1) provides that a guarantor is entitled to the benefit of every security to a creditor has against a principal debtor of the time a contract of guarantor-ship is entered into whether the guarantor knows of the existence of the security or not.

S. 85 provides for the right of indemnification.

S. 85(1) stipulates that in every contract of guarantee, there is an implied promise by a principal debtor to indemnify a guarantor.

¹⁸¹ S.71(1)

Vitiating factors

1. Misrepresentation

S. 83 of the Contracts Act 2010, a guarantee which is obtained by misrepresentation made by a creditor or with which knowledge and assent of a creditor concerning a material part of the transaction is void.

Guidelines 6 paragraph 6(5) of the B.o.U Guidelines Prior to a person acting as a guarantor a financial services provider shall in writing advise the person of the question of the quantum and nature of the potential liabilities and to seek independent legal advice before activity as a guarantor, According to **Royal Bank of Canada** (1934) Ac 468 – a contract of guarantee like any other contract is liable to be avoided if induced by material representation of existing facts.

2. Mistake of fact

S. 14(1) of the Contracts Act 2010, where both parties to an agreement are under a mistake of fact which is essential to the agreement, consent is obtained by mistake of fact and the agreement is void.

S. 17 (2) – a contract is a void where one of the parties to it operates under a mistake as to a mistake of fact essential to market.

3. Undue influence

S. 14(1) of the contracts Act 2010, a Contract is initiated by undue influence as it helps one party to gain unfair advantage over the other. S. 16(1) contracts Act, where consent to an agreement is obtained by coercion undue influence fraud or misrepresentation, with party where consent was obtained by coercion undue influence, fraud or misrepresentation S. 15 (fraud). Is there an obligation to explain to the Guarantor the indebtedness of the principal debtor by the Bank.

Leve H Vs Barclays Bank PLC (1995) ICLR 1260, the sureties agreed to allow their short dated treasury stock to be used as security in order to assist the principal debtors to borrow money short term from the bank, provided that the security was not encased and was returned before its maturity date the bank did not disclose to the sureties that the terms of the facility letter governing to advance made it certain in the advance, it was to be repaid on the date that the stock matured would be repaid without recourse to the differently had they known the position and accusingly the executives of the sureties were entitled to recover the proceeds at the stock. The bank is therefore possessed on obligation to advise the guarantor to seek independent legal advice.

Remedies to the parties

1. The guarantors are discharged and therefore are not liable to pay.

Coutles and Co. vs, Braune – lackey and Ors (1947) KB 104, it laid down the principle of the liabilities of a guarantor is a matter of contract and that if the contracts on the basis that be is liable only it with principles debts is liable there is no ground of imposing a different liability.

*Perry laves Ltd vs- Innecer Ag*¹⁸⁷; Scott is stated that in the construction of the guarantee Contract the intention of the parties is guaranteed so as to ascertain the form of guarantee Contract they intended to contract to be for example, seetership or demand guarantee.

Difference between guarantorship and surety ship

Pagers Law of Banking 12th edition pg. 730 paragraph 34.2 it stated that:

¹⁸⁷ (1983) ICLR 463 at 489

In *Maria Odudovs Barclays Bank of Uganda Ltd HCMA 45/2008*, if default by a principal debtor is disputed by the guarantor, it must be proved by the creditor before the guarantee is made enforceable notwithstanding with understanding that it is an on demand guarantee. The same was reiterated in *William Sebuliba Kayondo and Berkeley Education Ent. Ltd. Vs Barclays Bank of Uganda ltd*¹⁸⁹

In *George Sembulevs Barclays Bank*¹⁹⁰ where a mortgage was created, the extent of the guarantor's obligation is constrained by the obligation under the mortgage.

Bills of Exchange

S.2(1) of the Bills of Exchange Act, Cap 68 defines a bill of exchange as an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring a person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer.

S.2(4) a bill is not invalid by reason:

- a) That it is not dated
- b) That it does not specify the value given or that any value has been given therefore.
- c) That it does not specify the place where it is drawn or the place where it is payable .

S.2 (2) any instrument which does not comply to the conditions in S.2(1) or the orders any act to be done in addition to the payment of money is not a bill of exchange.

S. 22 – no person is liable as drawer, endorser or acceptor of a bill who has not signed.

S.4(1) a bill may be drawn payable to or the order of the drawer or it may be drawn payable to or to the order of the drawee.

S.4(2) where a bill drawer and drawee are the same person or where a drawee is a fictitious person or a person not having capacity to it, the holder option either as a bill of exchange or as a promissory note.

S.5(1) the drawee must be named or otherwise indicated in a bill with reasonable certainty.

¹⁸⁹ HCMA No. 325/2008.

¹⁹⁰ HCMA No. 267/2008

1) where a bill or acceptance is materially altered court with assent of all parties liable on the bill, the bill is avoided, except as against a party who has himself / herself made.

2) Namely, any alteration of the date, the sum payable, the time of payment, the place of payment and, where a bill has been accepted generally, the addition of a place of payment without the accepters consent.

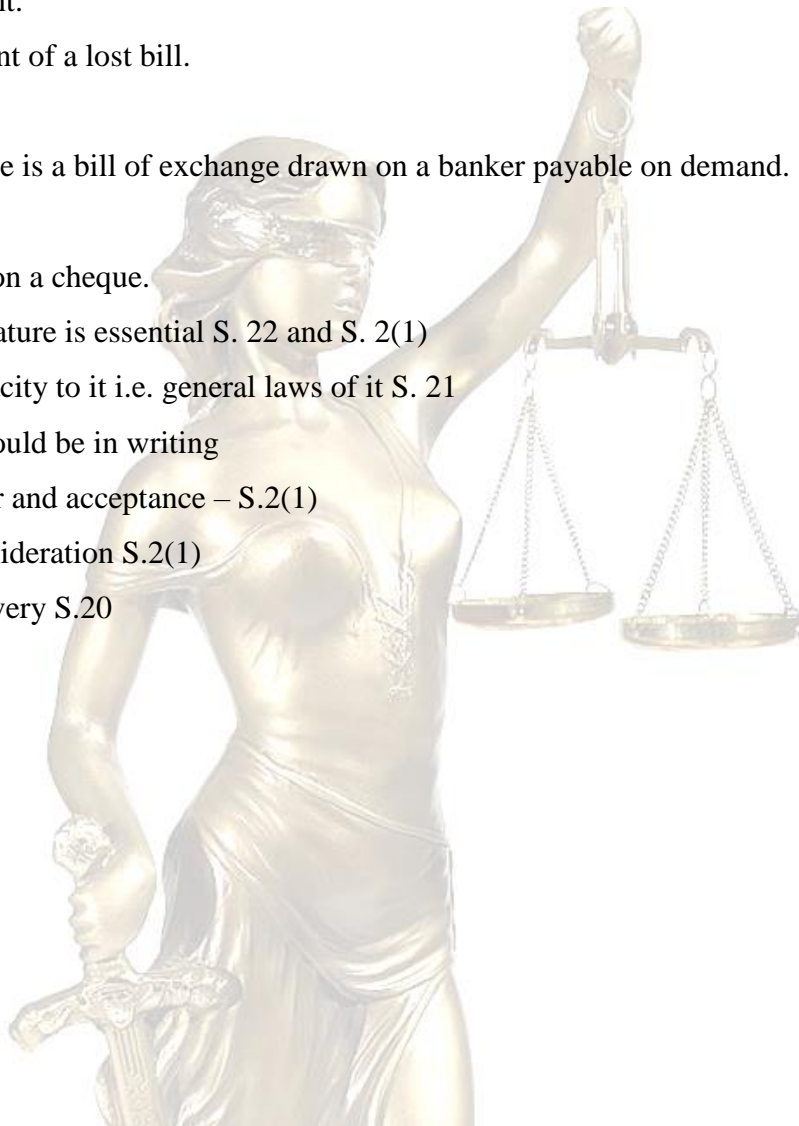
S. 68 replacement of a lost bill.

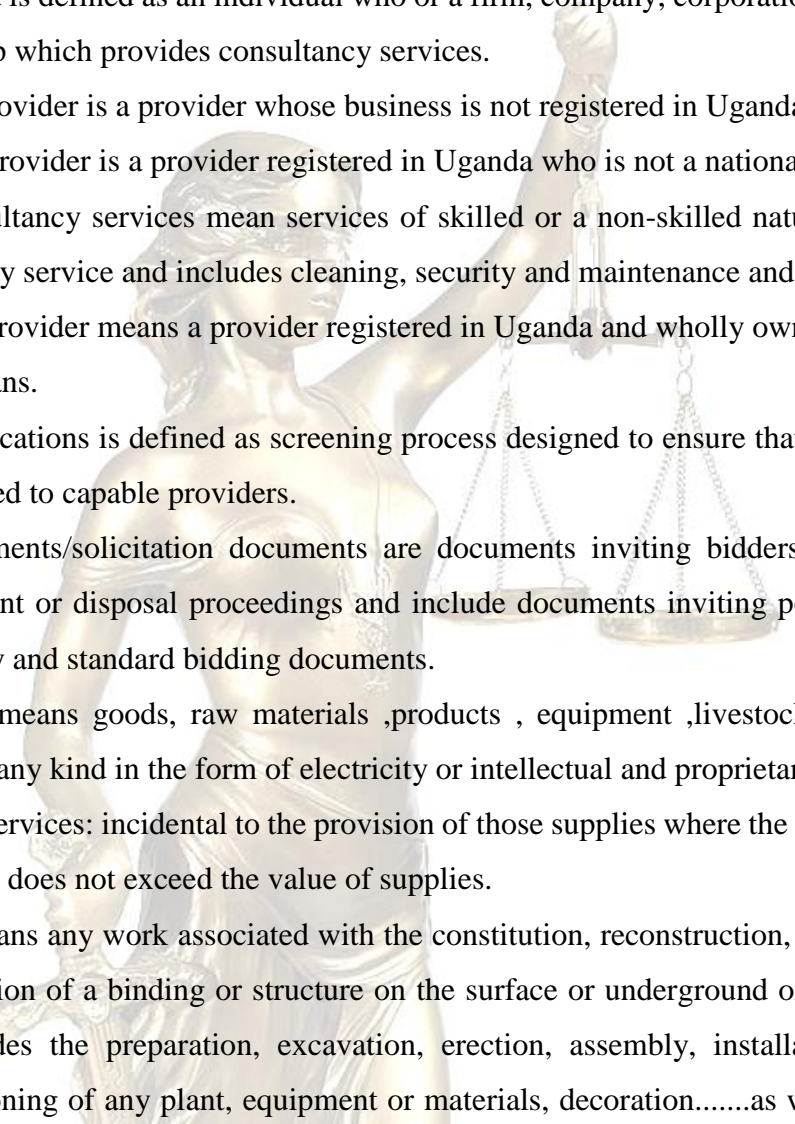
Cheques

S. 72(1) a cheque is a bill of exchange drawn on a banker payable on demand.

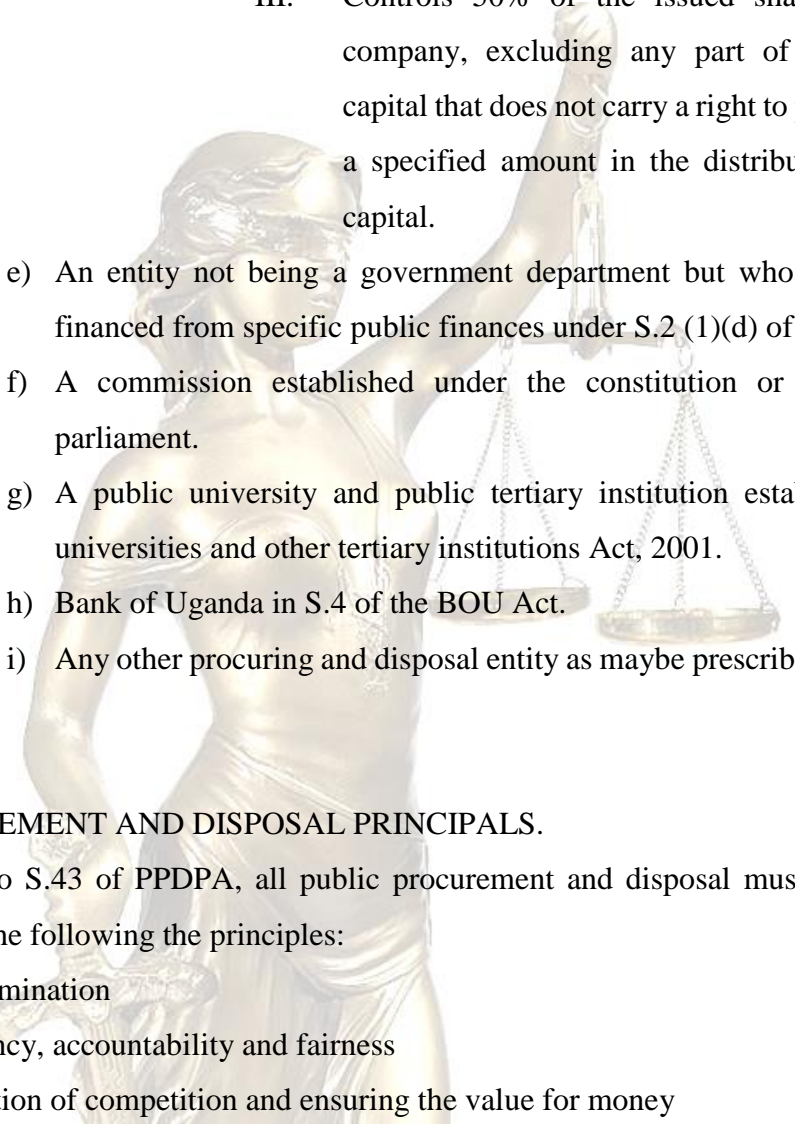
Contract based on a cheque.

1. Signature is essential S. 22 and S. 2(1)
2. Capacity to it i.e. general laws of it S. 21
3. It should be in writing
4. Offer and acceptance – S.2(1)
5. Consideration S.2(1)
6. Delivery S.20



- 
- d) Consultancy service means a service of an intellectual or advisory nature provided by a practitioner who is skilled and qualified in a particular field or profession and includes but is not limited to, engineering designer supervision, accountancy, auditing, financial services, procurement services, training and capacity building services, management advice, policy studies and advice and assistance with institutional reform.
 - e) Consultant is defined as an individual who or a firm, company, corporation, organization or partnership which provides consultancy services.
 - f) Foreign provider is a provider whose business is not registered in Uganda.
 - g) Resident provider is a provider registered in Uganda who is not a national provider
 - h) Non-consultancy services mean services of skilled or a non-skilled nature which is not a consultancy service and includes cleaning, security and maintenance and repair services.
 - i) National provider means a provider registered in Uganda and wholly owned and controlled by Ugandans.
 - j) Pre-qualifications is defined as screening process designed to ensure that invitations to bid are confined to capable providers.
 - k) Bid documents/solicitation documents are documents inviting bidders to participate in procurement or disposal proceedings and include documents inviting potential bidders to pre-qualify and standard bidding documents.
 - l) Suppliers means goods, raw materials ,products , equipment ,livestock, assets, land, or objects of any kind in the form of electricity or intellectual and proprietary rights as well as works or services: incidental to the provision of those supplies where the value of the works or services does not exceed the value of supplies.
 - m) Works means any work associated with the constitution, reconstruction, demolition, repair or renovation of a building or structure on the surface or underground on and under water and includes the preparation, excavation, erection, assembly, installation, testing and commissioning of any plant, equipment or materials, decoration.....as well as supplies or services incidental to their works where the value of the incidental supplies or services does not exceed the value of the works.

ACTIVITIES TO WHICH THE PPDPA APPLIES.

- 
- I. Controls the composition of the board of directors of the company
 - II. Is entitled to cast or controls the casting of more than 50% of the maximum number of votes that may be cast at a general meeting of the company.
 - III. Controls 50% of the issued share capital of the company, excluding any part of the issued share capital that does not carry a right to participate beyond a specified amount in the distribution of profits or capital.
- e) An entity not being a government department but whose procurement is financed from specific public finances under S.2 (1)(d) of PPDPA.
 - f) A commission established under the constitution or under an act of parliament.
 - g) A public university and public tertiary institution established under the universities and other tertiary institutions Act, 2001.
 - h) Bank of Uganda in S.4 of the BOU Act.
 - i) Any other procuring and disposal entity as maybe prescribed by the minister.

BASIC PROCUREMENT AND DISPOSAL PRINCIPALS.

Pursuant to S.43 of PPDPA, all public procurement and disposal must be conducted in accordance with the following the principles:

- a) Non discrimination
- b) Transparency, accountability and fairness
- c) Maximization of competition and ensuring the value for money
- d) Confidentiality
- e) Economy and efficiency
- f) Promotion of ethics.

- a) Non-discrimination (S.44)

Further the entity shall not disclose information which contains proprietary information including information relating to any manufacturing process, trade secret, trademarks, copyright, patent , or formula protected by lower by international treaty to which Uganda is a party: or scientific or technical information , the disclosure of which is likely to cause harm to the interest of the proper functioning of any procuring and disposal entity or information supplied in confidence by a bidder , the disclosure of which could reasonably be expected to put that bidder at a disadvantage in contractual commercial negotiations or to prejudice the bidder in commercial competition.

e) Economy and efficacy (s.48)

Procurement and disposal must be conducted in a manner which promotes economy, efficiency and value for money.

f) Ethics (S.49)

Procurement and disposal must at all times be carried out in accordance with the codes of ethics as specified by the authority from time to time.

Under S.93 (1) of PPDPA, public officers and experts engaged to deliver services must sign on to the code of ethical conduct provided in the 5th schedule to the act.

S.93 (2) mandates all providers of works, services or supplies to sign a declaration of compliance with codes of conduct determined by the authority from time to time.

The authority issued the public procurement and disposal of public assets guidelines No.4 of 2014 on codes of ethical conduct for bidders and providers.

The guidelines mandate that the code of ethical conduct must be part of the bid submission sheet and must be signed by the bidder.

THE VARIOUS PLAYERS IN A PROCURING AND DISPOSING ENTITY.

XI. Pursuant to S.26 (4), the accounting officer must prior to commencement of a procurement process undertake an assessment of the market price of the supplies, services or of the unit costs of the works in respect of which the procurement is to be made by the entity.

S.26(5) empowers the accounting officer to reject a contract, where the price quoted by the bidder who is evaluated by the contracts committee as the best evaluated bidder is higher than the market price established by the accounting officer. The officer is forbidden from signing such contract.

An accounting officer may pursuant to S.39 delegate certain procurement and disposal functions of accounting officer, contracts committee or procurement and disposal unit.

b) CONTRACTS COMMITTEE

S.27 (1) stipulates that the composition of the contracts committee is as specified in the 3rd schedule to the act. The 3rd schedule stipulates that the composition of the contracts committee shall be:

- a) A chairperson
- b) A secretary
- c) A maximum of three other members appointed by the accounting officer one of whom must be a lawyer.

The members are nominated by the accounting officer and approved by the secretary to the treasury. (S.27 (2)) The appointment is as prescribed in form 1 of the 2nd schedule of the PPDPA (procuring and disposing entity regulations.) also Reg. 9(1) of the PPDPA (procuring and entities) regulations.

Under S.27 (2a), the following officers of the entity are not eligible for appointment to the contracts committee:

- a) The head of procurement and disposal unit
- b) The head of the finance department ,but not the head of the account's department where the positions are held by different officers
- c) The staff of the department of internal audit

- e) Award contracts in accordance with applicable procurement or disposal procedures as the case maybe.

C) PROCUREMENT AND DISPOSAL UNIT.

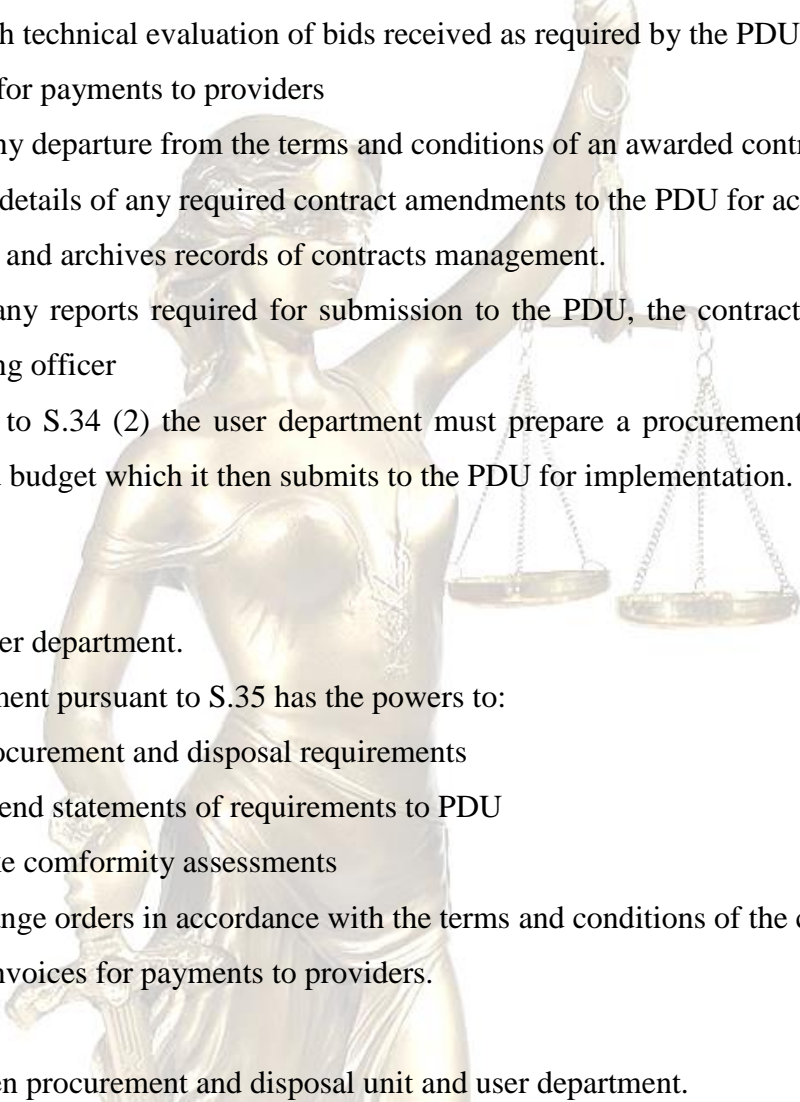
S.3 defines PDU as a division in each procuring and disposing entity responsible for the execution of the procurement and disposal function.

S.30 mandates every procuring and disposing entity to establish a procurement and disposal unit.

Functions of the PDU.

These are stated under S.31 of PPDPA and they include:

- a) Manage all procurement or disposal activities of the procuring and disposing entity except adjudication and the award of contracts
- b) Support the functioning of the contracts committee
- c) Implement the decisions of the contracts committee.
- d) Liaise directly with the authority on matters within its jurisdiction
- e) Act as a secretariat to the contracts committee
- f) Plan the procurement and disposal activities of the procuring and disposing entity
- g) Recommend procurement and disposal procedures
- h) Check and prepare statements of requirement
- i) Prepare bid documents
- j) Prepare advertisement of bid opportunities
- k) Issue bidding documents
- l) Maintain a providers list
- m) Prepare contracts documents
- n) Issue approved contract documents
- o) Maintain and archive records of the procurement and disposal process
- p) Prepare monthly reports for the contracts committee
- q) Coordinate the procurement and disposal activities of all the departments of the procuring and disposing entity
- r) Prepare any other such reports as may be required as may be required from time to time.

- 
- a) Liaise with and assist the PDU throughout the procurement and disposal process to the point of contract placement
 - b) Initiate procurement and disposal requirements and forward them to the PPDU.
 - c) Propose technical inputs to statements of requirements for procurement requirements to the PDU
 - d) Propose technical specifications to the PDU when necessary
 - e) Input with technical evaluation of bids received as required by the PDU
 - f) Arrange for payments to providers
 - g) Report any departure from the terms and conditions of an awarded contract to the PDU
 - h) Forward details of any required contract amendments to the PDU for action
 - i) Maintain and archives records of contracts management.
 - j) Prepare any reports required for submission to the PDU, the contracts committee or the accounting officer
 - k) Pursuant to S.34 (2) the user department must prepare a procurement plan based on the approved budget which it then submits to the PDU for implementation.

Powers of the user department.

The user department pursuant to S.35 has the powers to:

- a) Iniate procurement and disposal requirements
- b) Recommend statements of requirements to PDU
- c) Undertake conformity assessments
- d) Issue change orders in accordance with the terms and conditions of the contract.
- e) Certify invoices for payments to providers.

Conflicts between procurement and disposal unit and user department.

Under S.36(1), where a PDU disagrees with a user department concerning any decision pertaining to the application or interpretation of any procurement method, process or practice, the two parties may jointly consult with any two members of the contracts committee for a review and guidance in resolving the disagreement.

JOEL LUMALA,
Accounting officer

I, KUNYIGA SUI GENERIS accept the appointment

Date: 7th/01/2020

Ec. Secretary to treasury

cc. ED, PPD authority.

PROCUREMENT CYCLE.

The procurement planning process is as follows;

1. procurement plan and budgeting
2. assessment of market price
3. procurement requisitions
4. confirmation of availability of funds
5. review and preparation of bidding documents
6. Approval of procurement method, bidding documents and evaluation committee.
7. Advertising and limitation of bids
8. Receipts and opening of bids
9. Evaluation of bids
10. Review of evaluation report and award of contract
11. Signing of contract
12. Contract management and monitoring.

1. PROCUREMENT PLAN AND BUDGETING.

S.58(1) of PPDPA mandates every procuring and disposing entity to come up with a procurement plan following the budget guidelines issued by the minister of finance in every financial year and submit the same to the secretary of treasury at a specified time.

S.58 (7) bars the carrying out of any procurement outside the procurement plan except in emergency situations.

Process

.....

Code of procuring and disposing entity	Works	Financial year	Sequence number
MSNM 03		2019/20	16

Particulars of procurement.

Subject of procurement	Construction of an auditorium
Procurement plan reference	MSNM/03/2019/20/01
Location of delivery	Mulago, Kampala, Uganda
Date required	31 st December 2021.

Details relating to the procurement.

Item No.	Description	Quantity	Unit of measure	Est. unit cost	Market price of the procurement.
01	1500 seater auditorium with modern seats and audio system	01		2,000,000,000	2,000,000,000

Estimated total cost in UGX 2,000,000,000

Request for procurement
Name: OKOT RONALD

confirmation of request
LUMALA JOEL

Signature.....

.....

Title: MANAGER ESTATES

DIRECTOR ESTATES

Date: 31st/12/2019

2nd /01/2020

(Member of user department)

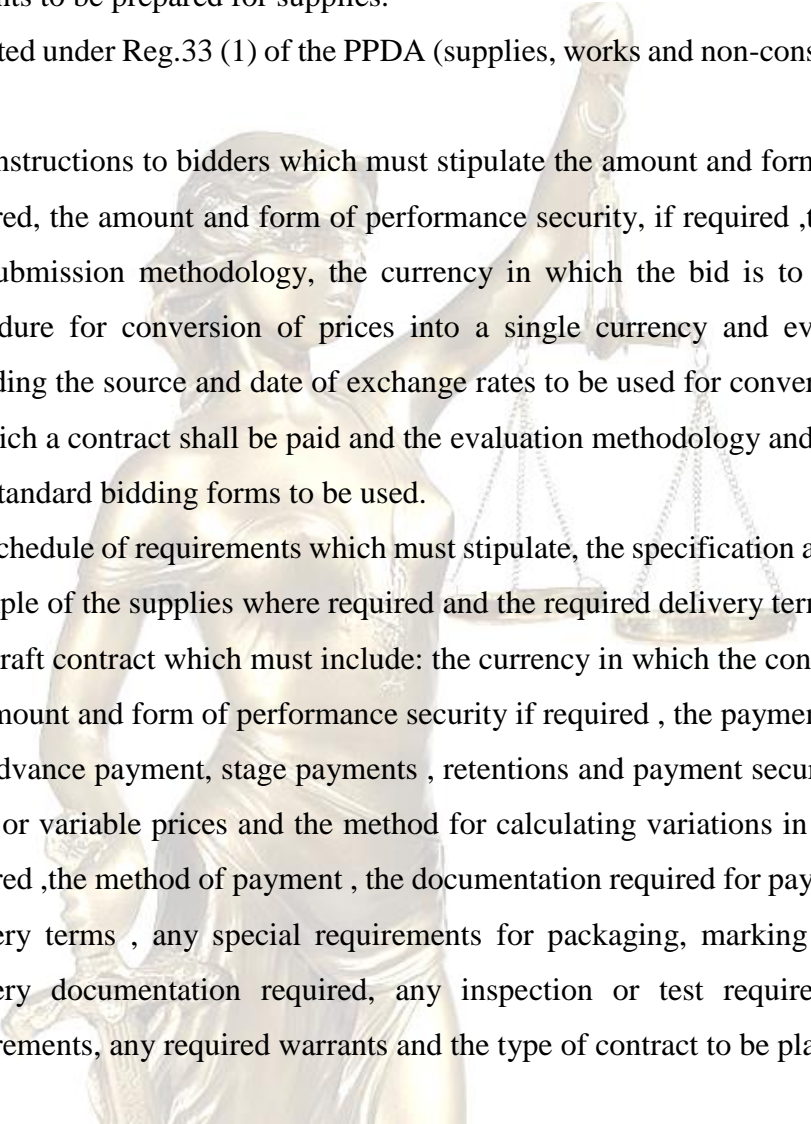
(Head of user department)

Confirmation funding and approval to procure.

The bidding documents are prepared pursuant to Reg 32 of PPDA (supplies, works and non-consultancy services) regulations by the PDU. The documents prepared include: a statement of requirements which must as per S.60 (2) of PPDA give a correct and complete description of the object of the procurement or disposal activity for the purpose of creating fair and open competition.

Bidding documents to be prepared for supplies.

These are stipulated under Reg.33 (1) of the PPDA (supplies, works and non-consultancy) Regs and they include:

- 
- a) The instructions to bidders which must stipulate the amount and form of bid security if required, the amount and form of performance security, if required ,the bid formal, the bid submission methodology, the currency in which the bid is to be submitted, the procedure for conversion of prices into a single currency and evaluation purposes including the source and date of exchange rates to be used for conversion, the currency in which a contract shall be paid and the evaluation methodology and criteria.
 - b) The standard bidding forms to be used.
 - c) The schedule of requirements which must stipulate, the specification and list of supplies, a sample of the supplies where required and the required delivery terms.
 - d) The draft contract which must include: the currency in which the contract shall be paid, the amount and form of performance security if required , the payment terms ,including any advance payment, stage payments , retentions and payment securities, the basis for fixed or variable prices and the method for calculating variations in variable prices. If required ,the method of payment , the documentation required for payment, the required delivery terms , any special requirements for packaging, marking and labeling, the delivery documentation required, any inspection or test required, any insurance requirements, any required warrants and the type of contract to be placed.

Bidding documents for works.

These are stipulated under Reg 34 of the PPDA (supplies, works and non-consultancy) Regs and they include:

6. APPROVAL OF PROCUREMENT METHOD, BIDDING DOCUMENTS AND THE EVALUATION COMMITTEE.

The contracts committee pursuant to S.28 of PPDA approves procurement method, bidding documents or any addenda and the valuation committee. S.28 and S.29 s. 79(2) of the act.

7. LIMITATION TO BID

Upon approval of the procurement method, bidding documents and evaluation committee by the contracts committee, the PDU prepares advertisements and issues the same writing bids through newspapers, website or notice boards pursuant to S.31 of PPDA.

Reg 41(1) of the PPDA (supplies, works and non-consultancy) Regs provides for various methods of inviting bidders and these include:

- a) By publication of a bid notice
- b) Through a pre-qualification
- c) By development of a shortlist
- d) By direct invitation of a sole or single provider.

Bid notices.

Reg 42 (1) of the PPDA (supplies, works and non-consultancy) Regs mandates that the bid notices be published in at least one newspaper of wide circulation.

Sub reg (2) requires that the bid notice be displayed on the website of the authority and the notice board of the entity from a date not later than the date of application of bid notice and until the deadline for submission of bids.

Bidding period.

Under Reg 45(1) of the PPDA (supplies, works and non-consultancy) Regs the bidding period shall start on the date the bid notice is first published or on the date of availability of the bidding document to bidders, whichever is later and shall end on the deadline for submission of bids by bidders.

Minimum bidding periods.

1. Pursuant to Reg 46(1) (a), the minimum bidding period in respect of open domestic bidding method is 20 working days.

Pre-qualification can only be used where:

- a) The non-consultancy services or supplies are highly complex, specialized or require detailed design or methodology.
- b) The cost of preparing a detailed bid would discourage competition
- c) The evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources from procuring and disposing entity.
- d) The bidding is for a group of similar contacts, for the purposes of facilitating the preparation of a shortlist. Reg 18(4) (a)-(d).

Pre-qualification notices and documents.

Under reg 19 (1), the entity must advertise to the public a pre-qualification notice inviting potential bidders to obtain the pre-qualification documents from the entity.

Reg 19(2) requires that the notice is published in at least one newspaper of wide circulation.

Bidding periods in pre-qualification.

Pursuant to Reg 20 (1) the bidding period for pre-qualification starts from the date of first publication of the pre-qualification notice or the date of availability of pre-qualification documents whichever is later and end on the deadline for submission of pre-qualification applications.

Minimum bidding periods.

Under Reg 20(3), the minimum bidding period for pre-qualification under domestic bidding is 15 working days and under open international bidding, it is 20 working days.

8. RECEIPT AND OBTAINING OF BIDS.

S.69 provides that every bidding process must include a formal bid receipt and a bid opening. Reg 58(1) of the PPDA (supplies, works and non-consultancy) Regs provides for various methods of receipt of bids a procuring and disposing entity may use. These are:

- a) Through the staff of the PDU, in person, who must acknowledge receipt of the same by issuing a receipt.
- b) By use of a bid box. (Most favored approach). Good practice requires that you put a book around the area with the bid box so that the bidders sign to the book upon dropping the same.

Opening of bids.

EMERGENCY PROCUREMENT.

S.3 of the PPDA, defines an emergency as circumstances which are urgent, unforeseeable and not caused by dilatory conduct. The section further defines urgent as not including circumstances that should have been foreseen by the procuring and disposing entity, are a result of inadequate planning or are a result of delays by or within the procuring and disposing entity.

In addition, the section defines an emergency situation as a circumstance which is urgent or unforeseeable or a situation which is not caused by dilatory conduct where:

- a) Uganda is seriously threatened by or actually confronted with a disaster, catastrophe, war or an act of God.
- b) Life or the quality of life or environment maybe seriously compromised.
- c) The conditions or quality of goods, equipment, buildings or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual value or usefulness
- d) An investment project is seriously delayed for want of minor items.
- e) A government programme would be delayed or seriously compromised unless a procurement is undertaken within the required time frame.

Effect of an emergency on the procurement cycle.

Under Reg 8(1) of the PPDA (supplies, works and non –consultancy), an emergency situation may be used to determine then procurement method regardless of the estimated value of the requirement.

Under Reg 8(3), where an emergency situation is used as the criteria for determining the choice of a procurement method, competition shall not automatically be excluded from the procurement process solely on the basis of the emergency situation.

The entity must ensure it obtains maximum competition to the extent practicable in the procurement under an emergency situation (Reg 8 (4))

Before an entity uses direct procurement it must give priority to other competitive procurement methods (reg 8(5))

Threshold for the various procurement methods.

These are stipulated in the PPDA Guidelines No.1 of 2014 on Thresholds for procurement methods.

Est. value of works (UGX)	Est.value (UGX) of consultancy services	Est. value of supplies and non-const.	Permanent method.
Above 500 million	Above 200m (for consultancy firms) Above 50 million (for individual consultants)	Above 200m	Open Domestic bidding or open international bidding
Value greater than 200m but not to exceed 500m		Value greater than 100m but not to exceed 200m	Restricted domestic bidding or restricted international bidding
Value greater than 100 million but not to exceed 200m	Value greater than 50m but not to exceed 200m (for consultancy firms). Value less than 50m (for individual consultancy)	Value greater than 5 million but not to exceed	Quotation method or request for proposed without expression of interests for consultancy services.
Not to exceed 10m		Not to exceed 5 m	Micro procurement.

Special thresholds for the procurement of medicines and other health supplies.

Method of procurement	Threshold (value in UGX)	Conditions for use
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It's defined in S.81(1) of PPDA as a procurement method which is open to participation on equal terms by all providers through advertisement of the procurement opportunity and which specifically seeks to attract foreign providers.

It's used to obtain the maximum possible competition and value for money where the national providers cannot make the same achievable .S.81 (2) of PPDA.

Reg 13(1) of PPDA (supplies, works and non-const) Regs require a bid to be published in at least one publication of international circulation.

Pre-qualification maybe applied upon publication of the pre-qualification notice in at least one publication of wide international circulation. Reg13 (2)

3. Restricted domestic bidding

It's defined under S.82 (1) of PPDA as a procurement method where bids are obtained by direct invitation without open advertisements.

It is applicable pursuant to S.82 (2) of PPDA to obtain competition and value for money where the same cannot be obtained or the circumstances donot justify or permit the open bidding procedure.

Reg 14(1) of PPDA, (supplies, works and non-const) regs, stipulates that the procurement under this method must be by selection of a bidder using a shortlist.

All potential providers must be included on the shortlist where the procurement requirement is available from a limited number of providers. (Reg 14(2)(a)) and before issuing the bidding documents ,publish a notice of restricted bidding on the website of the authority. Reg 14(2) (b).

The notice for restricted bidding is prepared according to format in 2nd schedule and must be published prior to the issue of the bidding documents.

4. Restricted international bidding

It's defined in S.83 (1) as a procurement method were bids are obtained by direct invitation without open advertisement and the limited bidders include foreign products.

Its used to obtain competition and value for money to the extent possible where the value or circumstances donot justify or permit an open bidding method and short listed bidders include foreign products .S.83(2)

5. Quotation method.

S.79 (1) (b) provides that for consultancy services reference shall be made to S.88A. Requires an entity to publish a notice as specified in the 4th schedule inviting expression of interest for a required assignment.

Under Reg 8(1) of PPDA (procurement of consultancy services) Regulations the period of expression of interest starts to run on the date the notice is first published and end on the deadline for submission of expression of interest.

Pursuant to Reg 8(3) the minimum period for expression of interest is:

- a) 10 working days where the notice is only published in Uganda
- b) 15 working days where the notice is published internationally.

The methods of procuring consultancy serves are: Reg 6 (a)-(c)

1. Publishing a notice inviting expression of interest.

Reg 7 of the PPDA (procurement of consultancy services) regulations.

- The notice must be published in at least one newspaper of wide circulation in Uganda.
- To ensure effective competition, the entity must publish in the relevant trade or professional publication. (Reg 7 (3))
- Where entity does not expect the required service to be available from at least 6 consultations in Uganda, the notice inviting expressions of interest shall be published in a publication of wide international circulation.
- Notice must also be displayed on the entities notice board and PPDA website.

2. By developing a shortlist without publication of a notice inviting expression of interest.

Pursuant to Reg 11(I), the entity can apply the method where, the consultancy service can only be provided by a limited number of consultants, in this case not more than 6 consultants, value of the procurement is lower than the value prescribed for publication of notice inviting expression of interest or there is an emergency situation.

3. Single and sole source consultants

There must be exceptional circumstances preventing the use of competitive bidding and where the conditions for using direct procurement method as specified Reg 16(1)

Regulation 4 of the PPDA (Disposal of public assets) Regs 2014 states that the method will be used where: the assets is located in a remote area, the asset has a geographically dispersed potentially market, the sale has end user or export restrictions, conditions need to be attached to the sale of the asset or post bid negotiations may be required.

Reg 5(3) requires the entity to solicit for bids to dispose of a public asset by public bidding by publishing an invitation notice to the public.

The invitation must be published in at least one newspaper of wide circulation and communicated through other means to potential bidders so as to increase competition. Reg 5(4)

The bidding documents must among others stipulate that the asset is sold on an 'as is where is' basis or the alternative basis for sale. Reg 5(7) (9).

The minimum bidding period is 15 working days. Reg 5(11) and the bid are evaluated using the 'price only' methodology. Reg 5(12).

Public auction.

It shall be where there is a large number of potential bidders for the asset: value of the asset is low, more than one asset is to be disposed of and the assets are at one location or an site auction is arranged to avoid transport costs. Reg 6(1)

The sale under this method must be at a reserve price. Reg 6(2)

The entity solicits for bids by publishing an invitation notice to the public Reg 7(3) in at least one newspaper of national circulation. Reg 7(4) and the notice displayed on the entity's notice board Reg 7(5).

The entity must appoint an auctioneer and handover the asset to them to conduct the auction on the entity's behalf. Reg 7(6).

The entity must allow at least 10 working days of the potential bidders to inspect the asset. The period is between the date of publication of notice and the date of the public auction. Reg 7(8).

Bidding is made orally at the auction Reg 7(9) and the auctioneer will announce the successful bidder who must immediately after the announcement pay at least 50% of the contract price. Reg 7(12) and the balance within 5 days. Reg 7 (13).

Direct negotiation

Pursuant to Reg 17(1) and (2). Its only used where the asset of the PDE will be upgraded in a converment, economic and efficient way, by trading in a surplus asset of the entity to offszet the purchase price of the new asset and shouldnot be used where competition and value for money willnot be achieved in the procurement process.

Donation

Applicable where the entity cannot obtain payment for the asset using any of the other methods and neither can the asset be transferred. Reg 21 (a) and (b)

DISPOSAL CYCLE.

1. Accounting officer institutes a board of suvey.

Reg 3(2)

- Identification of disposal items
- Determination of reverse price.

2. Preparation of disposal pan.

Reg 2(1)

- Approval of the same by ministry of finance and if disposing strategic assets.

3. User department initiates disposal process.

Reg 3(1)

- Preparation of statement of requirements.

4. PDU prepares bidding does

This applies to disposal by public bidding and sale to public officers. Reg 5,6,7

5. Contracts committee approves disposal method ,bidding document and evaluation committee .Reg 3(1)

6. PDU advertises and invites bids .Reg 5(4)

7. PDU receives and opens bids

8. Evaluation of bids. Reg 5(12)

9. Contract committee reviews evaluation report.

10. Signing of contract

11. Contract management. Reg 5(14)

- Provider pays entity
- Entity hands over asset.

S.122 (2) provides that the authority of an agent may be express where it is given by spoken or written word.

2. by implied appointment by the principal.

S.122 (2) provides that the authority of an agent may be implied where it is inferred from the circumstances of the case.

Depending on the circumstances of each case, sub section 3 states that any words, spoken or written in the ordinary course of a dealing maybe taken into account.

3. by necessity.

An agency is created where an agent goes beyond their authority by intervening on behalf of the principal in times of emergency.

S.124 of the contracts act empowers an agent to do any act for the purpose of protecting a principal from loss as would be done by a person of ordinary prudence, under similar circumstances.

An agency of necessity may be created if the following 3 conditions are met.

1. It is impossible for the agent to communicate to the principal. The Australia (1859) 13 MOO P.C.C 132. In light of modern communications, this may be very unlikely to arise. **In SPRINGOR V GREAT WESTERN RAILWAY CO. (1921) 1 KB 257**, a consignment of fruit was found by the carrier to be going bad. The carrier sold the consignment locally instead of delivering it. Court held that the carrier was not an agent of necessity because he could have obtained new instructions from the owner of the first.
2. Agent acted in good faith for the benefit of the principal. **TRONSON V DENT (1853), 8 MOO. P.C.C 419**

4. Agency by estoppel

S.169 of CA

In **POLE V LEASK (1863), 8 LT.645**, court stated that a person can in the absence of prior agreement as to authority or subsequent ratification of unauthorized acts become a principal by placing another in a situation in which according to the ordinary usage of mankind that other is understood to represent and act for the person who placed him so.

In **NEWBORNE V SENSOLOD (GREAT BRITAIN) LTD, (1953)1 ALL ER708**, a contract of sale was signed by L. Newsborne on behalf of a projected company, Lepold News Borne Ltd, which was not registered at the relevant time. The company was accordingly not in existence when the contract was made. Therefore the contract was a nullity and could not be ratified so as to entitle the company to sue upon it when the defendants refused to take delivery of the goods contracted to be sold.

3. The act done by the agent must be legal
4. Time when ratification takes place. Not only must the principal have capacity to ratify him or she must enjoy such capacity at the time of the purported ratification.

IN **KEIGHLEY MARSTOD AND CO V DURRANT (1901) AC 240**, court held that if an agent by words or conduct indicates an intention to act not as agent at all but as principal, there is no body who can ratify as principal, the latter cannot ratify any transaction made by the agent.

Different kinds of agents.

1. General and specific agents.

A general agent is one who has authority to do some act in the ordinary course of his trade, business or profession, as agent on behalf of his principal or to act for his principal in all matters or in all matters of a particular trade or business or of a particular nature.

A special agent is one whose authority is limited to doing some particular act or to representing his principal in some particular act or to representing his principal in some particular transaction, not being in the ordinary course of trade, profession or business as an agent.

2. Brokers.

They are mercantile agents. In **FOWLER V HOLLINS (1872) L.R.T Q.B 616**, a broker was defined as an agent employed to make bargains and contracts between persons in matters of trade, commerce and navigation. Properly speaking a broker is were negotiators between other parties.

3. Del credere agents.

These are also mercantile agents. These are agents who in return for an extra commission called a Del credere commission, promise that they will indemnify the principal if the 3rd with whom they contract in respect of goods fail to pay what is due under the contract.

4. Auctioneers.

In **ALLAN AND CO LTD V EUROPA POSTER SERVICES LTD**¹⁹². The relation of an agent to his principal is normally at least one which is of a confidential character and the application of the maxim *delegatus non potest delegare* to such relationship is founded on the confidential nature of the relationship.

S.125 (1) of contracts act duty to act personally where agent undertook to act personally.

S.125 (2) where the ordinary custom of a trade allows it a sub agent maybe employed to perform an act which the agent expressly or impliedly undertaken to perform personally.

S.125 (3) if the agency permits, then agent may employ a sub-agent.

S.126 (1) where a sub-agent is duly appointed, he/she binds the principal.

S.126 (2) an agent is responsible for the acts of the sub agent to the principal

S.127, where sub-agent is not duly appointed then principal isn't bound.

Where the principal reposes no personal confidence in the agent the maxim has no application, but where the principal does place confidence in the agent that in respect of which the principal does so must be done by the agent personally unless expressly or inferentially he is authorized to employ a sub agent or to delegate the function to another. If the agent personally performs all that part of his functions which involves any confidence conferred on him or reposed in him by the principal it is immaterial that he employs another person to carry out some purely ministerial act won his behalf in completing the transaction

Where there is an express permission to delegate the court in **MACKERSY V RAMSAYS BONARS AND CO. (1843) 9 CI & FIN 818**, stated that the agent will be liable to the principal for breaches of duty on the part of the sub-agent

5. Respect of principals title.

The agent cannot deny the title of the principal to goods, money or land possessed by the agent on behalf of the principal. The possession of the agent is the possession of the principal for all purposes.

6. Duty to account.

The agent must pay over to his principal all money received to the use of his principal. The duty requires that the agent should be in a position to know what he must pay the principal and that the principal should be able to see whether the agent has fulfilled his/her duty.

¹⁹² (1968) 1 ALL ER 826

In GREEN V BARTLETT¹⁹⁶, the agent was employed to sell a house at an auction, failed to get a purchaser at the auction. X who had been present at the auction asked the agent who was the owner of the house. The agent told him and X then proceeded to enter into a contract directly with the owner, the agents' principal. Court held that the agent was entitled to his commission. The court stated that if the relation of buyer and seller is really brought about by the act of the agent he is entitled to commission although sale has not been effected to him.

In BURCHELL V GOWRIE COLLIERIES (1910) AC 614, the principal sold to X behind the agents back but after the agent had discovered x in the course of fulfilling the task of finding a purchaser for the principal and had advised his principal not to sell to X. court held he was entitled to receive his commission.

It is immaterial that the principal has not benefited from the acts of the agent as long as the agent performs what he was contracted to do. Where principal does not benefit from act.

In FISHER V DREWETT (1879) 48 L.J.QB 32, the agent was employed to get a mortgage on the principal's property. A third party was found ready to advance the money. But the mortgage could not be made because the principal had no title. It was held that the agent was entitled to his remuneration, despite the fact that the principal had got no benefit from his act. For the agent had done what he was employed to do.

The agent is not entitled to his commission if he has not performed what the contract of agency required him to do before his commission was payable, even if the principal prevented the agent from achieving this, as long as the principals conduct was legitimate under the contract.

Under S.154 of CA, an agent guilty of misconduct in the business of the agency is not entitled to any remuneration in respect of that part of the business.

2. Indemnity.

The duty maybe expressly stated but usually is implied. The extent of this liability depends upon the nature of the agreement between the parties and the kind of business in which the agent is employed.

S.158 (1) of CA, a principal must indemnify an agent against the consequence of all lawful acts done by the agent in exercise of the authority conferred upon them.

¹⁹⁶ (1863) 14 C.B.N.S 681

In such contracts, it's necessary to ascertain the nature of the principal on whose behalf the agent contracted.

A named principal. This is one whose name has been revealed to the 3rd party by the agent. In such circumstances, the 3rd party knows that the agent is contracting a named agent and knows also the person for whom the agent is acting.

A disclosed principal is one whose existence has been revealed to the 3rd party by the agent, but whose exact identity remains unknown.

Where the agent contracts with a 3rd party on behalf of a disclosed principal who actually exists and has authorized the agent to make such contract, the principal can sue and be sued by the 3rd party on such a contract. The agent must have been acting with authority in making such a contract. The principal will not be liable where the agent contracted outside the scope of his/her actual, apparent or presumed authority whatever the derivation of the relevant type of authority.

In LINFORD V PROVINCIAL etc. INSURANCE CO. (1864), 34 BEAR 291, a stock broker who sold stock on credit, although in good faith and on behalf of his principal did not bind his principal by such contract since he was not expressly authorized to make such a sale, nor was it within his implied authority as being usual or customary.

Even if the agent appears to have authority, he will not bind his principal to any 3rd party with whom he contracts if such 3rd party has notice of the agent's actual lack of authority.

An undisclosed principal. Is one whose identity

Termination of an agency.

S.135 of contracts act lays down the ways in which an agency may be terminated and these include:

- a) A principal revoking his/her authority
- b) An agent renouncing the business of the agency
- c) The business of the agency is completed
- d) A principal or agent dies.
- e) A principal or an agent becomes of unsound mind
- f) A principal is adjudicated an insolvent under the law.
- g) The principal and agent agree to terminate
- h) The purpose of the agency is frustrated.

7. EXCLUSIVITY/APPOINTMENT OF ADDITIONAL AGENTS

- Is the agent exclusive/sole/non-exclusive

8. TERRITORIAL BOUNDARIES.

9. REPORTING GUIDELINES

10. FINES,PENALTIES ,CHARGES AND TAXES

11. FORCE MAJURE

12. CONFIDENTIALITY

13. TERMINATION

- Right to terminate by notice
- Length of notice period

14. DISPUTE RESOLUTION

15. LAW APPLICABLE

IN WITNESS WHEREOF THE PARTIES here to put their respective hands and seals on the day and the year herein above stated.

PRINCIPAL

Signature:.....

Name:

Position:.....

In the presence of:

Signature:

Name:

Profession:

AGENT

Signature

Name

Position

signature

name

position.

FRANCHISE.

Franchise agreements are regulated under the law of contracts and thus the primary legislation is the contracts act.

Other laws applicable include the trade secrets act, the trademarks act, and the investment code act of 2019.

The black’s law dictionary 8th edition defines a franchise as a privilege granted or sold such as to use a name or to sell products or services. The right is given by a manufacturer or supplier to a retailer to use his product and mane on terms and conditions mutually agreed upon.

- 1.
- 2.
- 3.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Date of commencement and duration
2. USE OF TRADE MARK
3. NATURE OF BUSINESS
4. ESTIMATED INVESTEMENT
5. ASSIGNABILITY OF RIGHTS
6. CONFIDENTIALITY AND TRADE SECRETS
7. TAX OBLIGATIONS
8. ROYALTY RATE AND PAYMENT PERIOD
9. INTELLECTUALPROPERTY RIGHTS
10. DISPUTE RESOLUTION
11. LAW APPLICABLE AND FORUM
12. TERMINATION

IN WITNESS WHEREOF THE PARTIES here to put their respective hands and seal on the day and year herein above stated.

FRANCHISOR

Signature:
Name:
Position:

In the presence of
Signature:
Name:
Profession:

FRANCHISEE

signature:
name:
position:

in the presence of
signature:
name
position.

4. DURATION AND COMMENCEMENT

5. TERMS OF SALE OF PRODUCTS FROM SUPPLIER TO DISTRIBUTOR

- Prices
- Payment terms
- Delivery terms
- Warranties
- Minimum purchase.

6. DUTIES OF DISTRIBUTOR.

- Purchase goods only from supplier
- Promote sales
- Pass back information on the market to the supplier
- Keep sufficient stock

7. DUTIES OF THE SUPPLIER

- Advertisement
- Provide know-how, technical support and training

8. AMENDMENT

9. TERMINATION

10. DISPUTE RESOLUTION

11. LAW APPLICABLE

IN WITNESS WHEREOF THE PARTIES hereto put their respective hands and seal on the day and year herein above stated.

SUPPLIER

DISTRIBUTOR

In the presence of

in the presence of

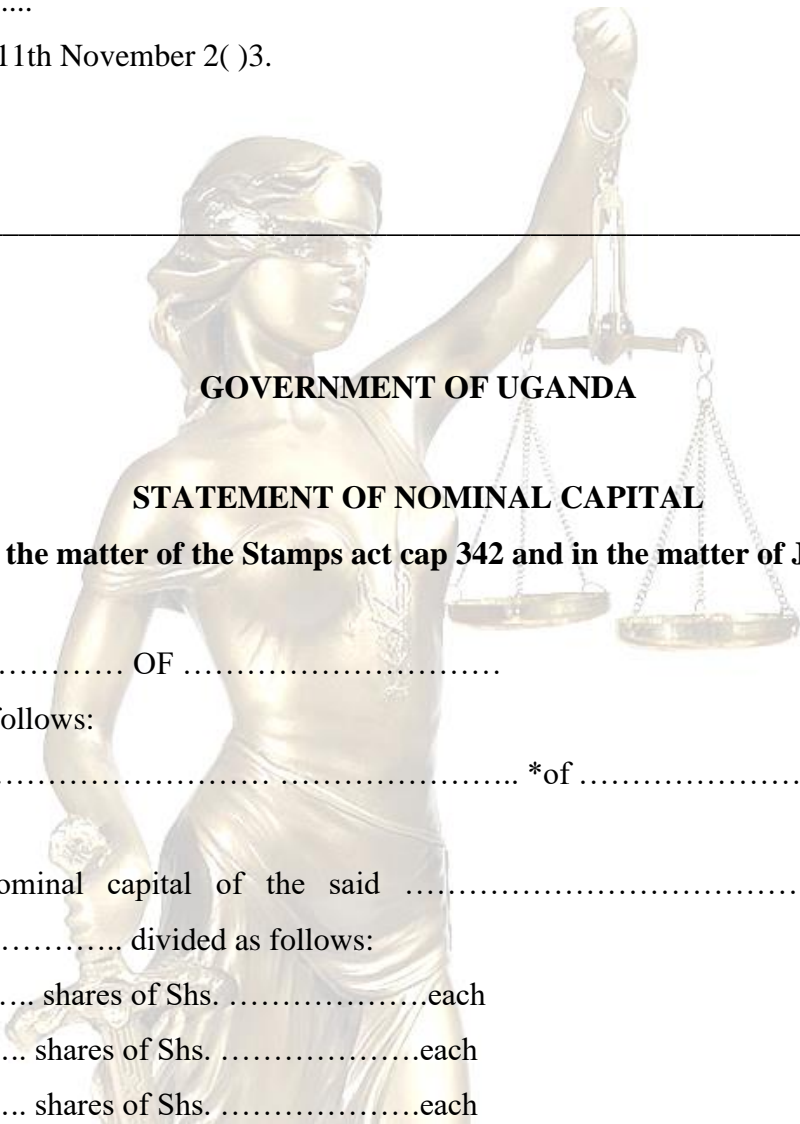


1st day of November 2003

Reserved name

.....

For: Promoters, 11th November 2()3.



GOVERNMENT OF UGANDA

STATEMENT OF NOMINAL CAPITAL

In the matter of the Stamps act cap 342 and in the matter of JJ ltd

I OF

Hereby state as follows:

1. That I am *of Ltd.

2. That the nominal capital of the said Ltd is Shs.

..... divided as follows:

- shares of Shs.each
- shares of Shs.each
- shares of Shs.each

Dated at Kampala this day of, 20

THE COMPANIES ACT 2012

DECLARATION OF COMPLIANCE WITH THE REQUIREMENTS OF COMPANIES ACT, ON APPLICATION FOR REGISTRATION OF A COMPANY, PURSUANT TO SECTION ---- OF THE COMPANIES ACT 2012

NAME OF THE COMPANY..... LTD.

PRESENTED BY

I OF Do solemnly and sincerely declare that I am *of Ltd. and that all the requirements of the Companies Act, in respect of the matters precedent to the registration of the said company and incidental have been complied with.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act Cap. 22.

Declared at Kampala this day of, 20

DEPONENT

.....

BEFORE ME

.....

COMMISSIONER FOR OATH

**THE REPUBLIC OF UGANDA
THE COMPANIES ACT 2012**

MEMORANDUM OF ASSOCIATION OF GAVAMUKURYA LTD.

1. The first name of the company is Gavamukurya Ltd.
2. The registered office of the company will be situate at Kireka, Kampala.
3. The objects for which the company is established arc to engage in business of Importation and selling of tractors, tractor spare parts and accessories and establish a tractor assembly plant, and doing of all such other things as re . incidental or conducive to be attainment 0 I' the above.
4. The liabilities of the members are limited by shares.
5. The share capital of the company is Ug. Shs. Six hundred million shillings (600m/=). 600 shares each one (1) million.
6. We the persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of the memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names, addresses and occupation of the number of shares taken and shared for.

NAME, POSTAL ADDRESSES AND OCCUPATIONS OF SUBSCRIBERS	NUMBER OF SHARES TAKEN BY EACH SUBSCRIBER	SIGNATURE OF SUBSCRIBER

DATED thisday of2006.

WITNESS TO THE ABOVE SIGNATURES:

FULL NAMES:

POSTAL ADDRESS:

**THE REPUBLIC OF UGANDA
THE COMPANIES ACT 2012**

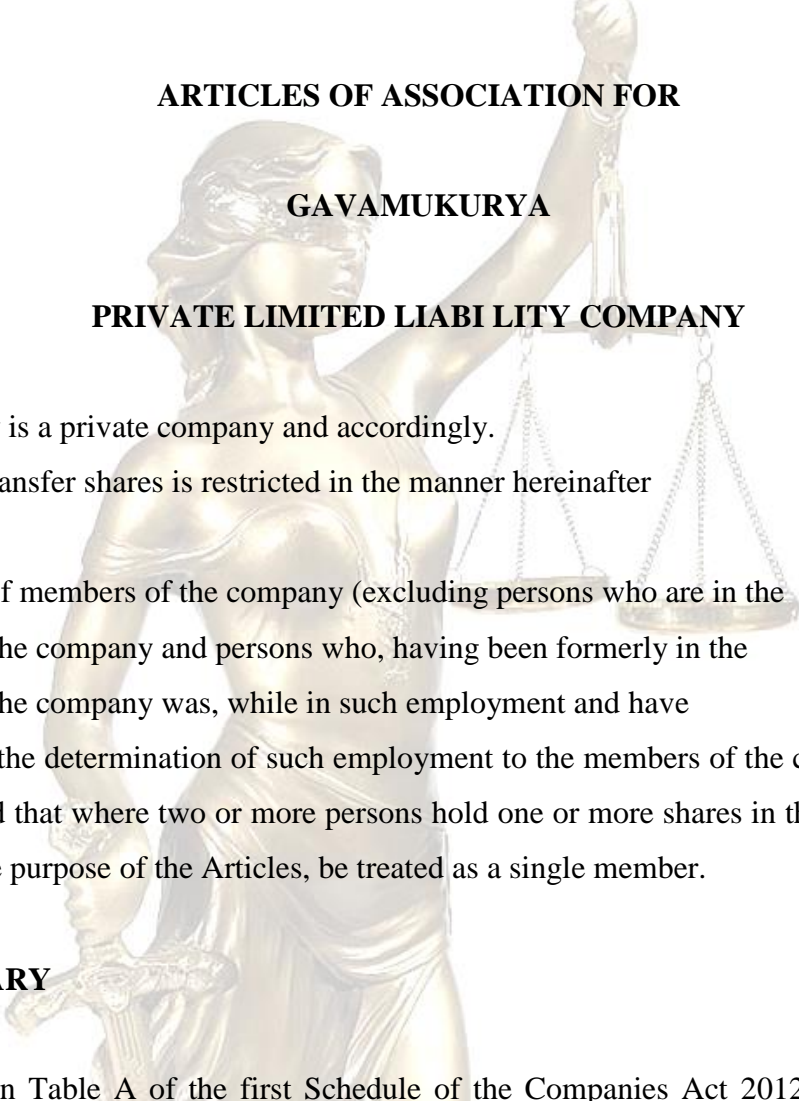
ARTICLES OF ASSOCIATION OF GAVAMUKURYA LTD.

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION FOR

GAVAMUKURYA

PRIVATE LIMITED LIABILITY COMPANY

- 
1. This company is a private company and accordingly.
 - a) The right to transfer shares is restricted in the manner hereinafter prescribed.
 - b) The number of members of the company (excluding persons who are in the employment of the company and persons who, having been formerly in the employment of the company was, while in such employment and have continued, after the determination of such employment to the members of the company) is limited to fifty, provided that where two or more persons hold one or more shares in the company jointly, they shall for the purpose of the Articles, be treated as a single member.

2. PRELIMINARY

The regulation in Table A of the first Schedule of the Companies Act 2012 shall apply to the company except in as far as they conflict with the A.O.A herein contained..

3. Interpretation:

In these Articles, if not inconsistent with the subject or subjects, the words standing in the first column of the following table shall bear the meaning set opposite,

b) Cancel any shares which, at the time of the passing of the resolution, have not been taken or agreed to be taken by any person and in the amount of the share capital by the amount of the shares so cancelled.

8. GENERAL MEETINGS

The company shall in each year, hold a general meeting as the Annual General Meeting in addition to any other meeting in that year, and shall specify the meeting as such in the notice calling it and not more than 15 months shall elapse between the date of one Annual General meeting within the 18 months of the company incorporation. It needn't hold in the year of the company's incorporation, but in the following year. These meetings shall be held at such time and place as the directors shall appoint.

All General meetings other than the Annual General Meetings shall be called extra ordinary General meetings.

The Directors may, whenever they think fit, convene an extra ordinary general meeting it shall also be convened on such requisition as provided by S.132 of the Act if at any time these are not, within Uganda, sufficient directors capable of acting to form a quorum, any director or any 2 members of the company may convene an extra ordinary general meeting Jig in the same manner.

A general meeting shall be called by 21 day:, notice in writing at least, except in situations where it is not practicable to do so.

The accidental omission to give notice of a meeting or the non-receipt of notice, shall not invalidate the proceedings at that meeting except where reasonable cause is shown.

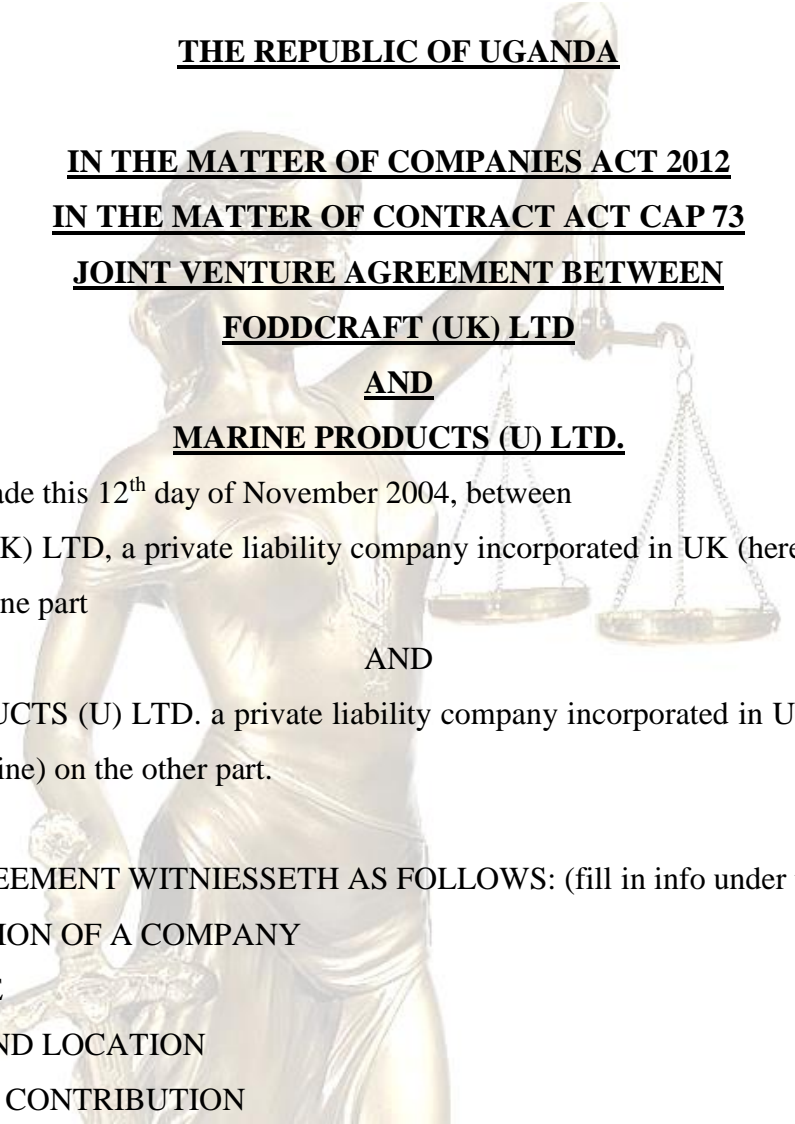
13. VOTES OF MEMBERS

Subject to any rights or restrictions for the time being attached to any class 01' shares, on a show of hands, every member present in person, or representative with powers of attorney, shall have one vote and one poll.

Signature

Postal Address.....

Occupation:



THE REPUBLIC OF UGANDA
IN THE MATTER OF COMPANIES ACT 2012
IN THE MATTER OF CONTRACT ACT CAP 73
JOINT VENTURE AGREEMENT BETWEEN
FODDCRAFT (UK) LTD
AND
MARINE PRODUCTS (U) LTD.

The agreement made this 12th day of November 2004, between FODDCRAFT (UK) LTD, a private liability company incorporated in UK (hereinafter referred to as Foddcraft) on one part

AND

MARINE PRODUCTS (U) LTD. a private liability company incorporated in Uganda (hereinafter referred to as Marine) on the other part.

AND THIS AGREEMENT WITNESSETH AS FOLLOWS: (fill in info under these heads)

1. FORMATION OF A COMPANY
2. PURPOSE
3. NAME AND LOCATION
4. CAPITAL CONTRIBUTION
5. CONDITIONS AND WARRANTIES
6. MANAGEEMNT
7. ARBITRATION AND DISPUTE RESOLUTION
8. TERMINATION AND DURATION
9. COMMENCEMENT

**THE REPUBLIC OF UGANDA
THE BUSINESS NAMES REGISTRATION**

NOTICE OF CESSATION OF BUSINESS.

TO: THE REGISTRAR GENERAL.

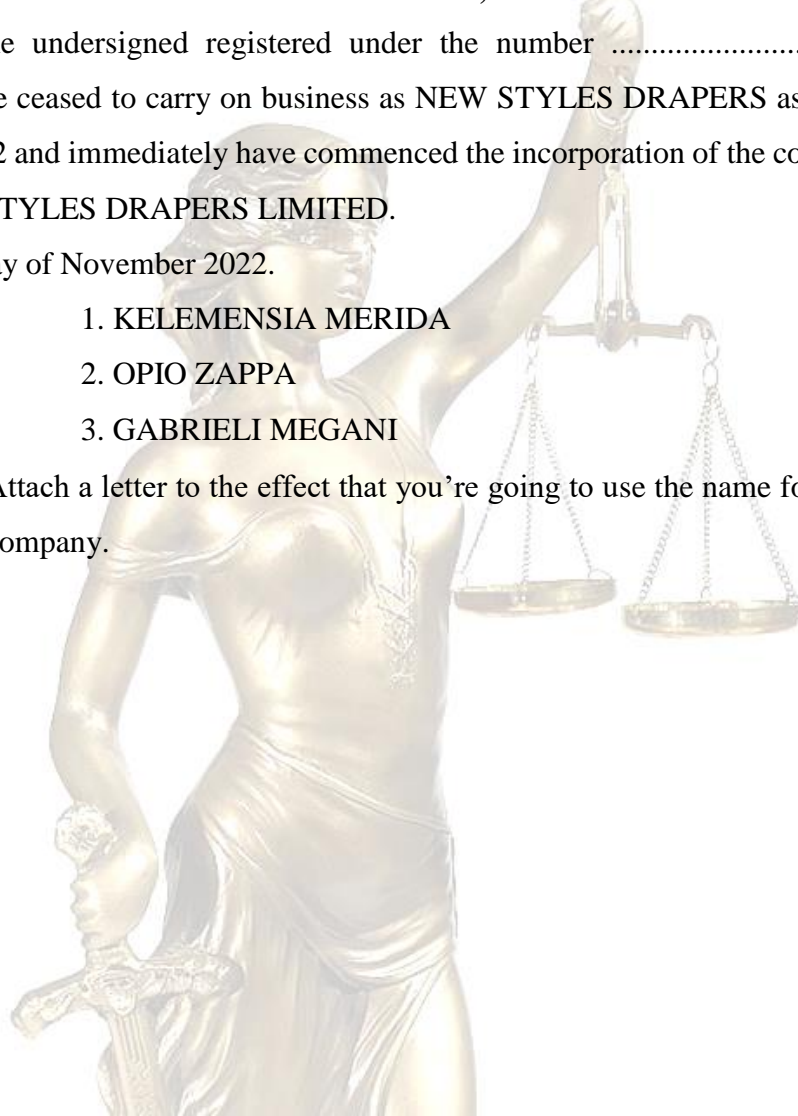
C.C. THE REGISTRAR OF COMPANIES, REGISTRAR OF DOCUMENTS.

Whereas we the undersigned registered under the numberin the index of registration have ceased to carry on business as NEW STYLES DRAPERS as from the 6th day of November, 2022 and immediately have commenced the incorporation of the company whose name shall be NEW STYLES DRAPERS LIMITED.

Dated this 6th day of November 2022.

1. KELEMENSIA MERIDA
2. OPIO ZAPPA
3. GABRIELI MEGANI

- Attach a letter to the effect that you're going to use the name for incorporation of a company.



Certificate of conversion.

REPUBLIC OF UGANDA
THE COMPANIES ACT, 2012.

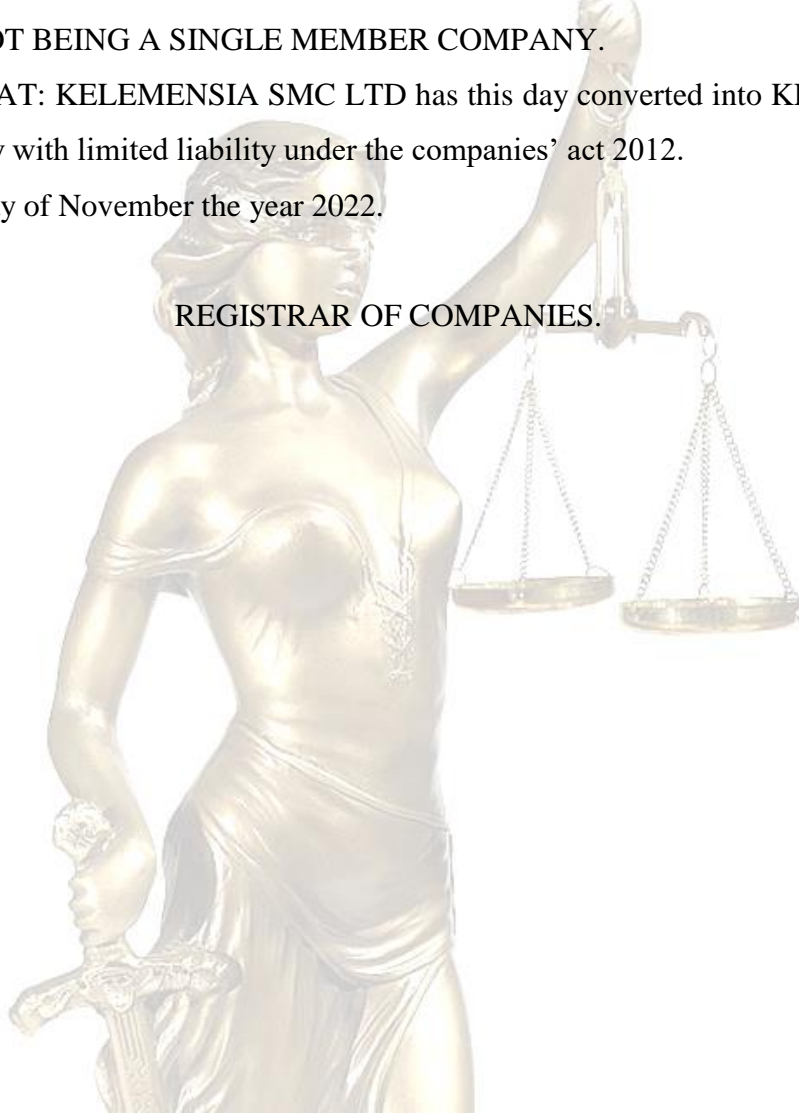
COMPANY NO: CN2009.

CERTIFICATE OF CONVERSION FROM A SINGLE MEMBER COMPANY TO PRIVATE COMPANY NOT BEING A SINGLE MEMBER COMPANY.

I CERTIFY THAT: KELEMENSIA SMC LTD has this day converted into KELEMENSIA LTD, private company with limited liability under the companies' act 2012.

Dated this 7th day of November the year 2022.

REGISTRAR OF COMPANIES.



Form 5

Notice of death of S.M

Reg

11(2)(b)

THE REPUBLIC OF UGANDA
THE COMPANIES ACT, 2012
NOTICE OF DEATH OF SINGLE MEMBER

1. Name of single member company: KELEMENSIA SMC LTD.
 2. COMPANY NUMBER : CN 2009
 3. Name and former address of the deceased single member: KELEMENSIA MERIDA
P.O BOX 7117, KAMPALA.
 4. Date of death of member: 5th Nov 2022.
 5. Particulars of personal representative:
 - a) Name: KAKIMA JOHN
 - b) Physical address: KIRA, WAKISO
 - c) Sex ; MALE
 - d) Occupation: TRADER
 - e) age: 25 YRS.
 6. Any circumstances leading to impediment.
NONE.
 7. Name and address of the nominee/alternate nominee director:
MPIIMA BLAISO
P.O BOX 7117, KAMPALA.
- Dated this 7th day of November 2022.
MPIIMA BLAISO
NOMINEE DIRECTOR.

SUI GENERIS

SECRETARY.

Dated this 7th day of December the year 2022.



Fees payable is UGX 20,000 under item 5 of Head A to the schedule of the company (fees) rules 2005.

Notice of particulars of directors.

**THE REPUBLIC OF UGANDA
THE COMPANIES ACT
NOTIFICATION OF APPOINTMENT OF DIRECTORS
AND SECRETARY OF COMPANY.**

Name of company: MOLBY (U) LTD.

Presented by: SUI GENERIS .
SECRETARY.

TO: THE REGISTRAR OF COMPANIES.

TAKE NOTE that the person/persons whose particulars are provided below has /have been appointed as director/directors /secretary of the above named company with effect from the 7th day of December the year 2019.

a) PARTICULARS OF DIRECTORS-INDIVIDUALS.

Names	Date of birth	address	nationality	occupation	Other directorships.

PARTICULARS OF CORPORATE DIRECTORS.

Corporate name	Registered or principal office	Postal address

b) PARTICULARS OF THE PERSON(S) WHO IS SECRETARY

PARTICULARS OF INDIVIDUAL SECRETARY.

Names (first name and surname)	Residential and postal address

PARTICULARS OF CORPORATE SECRETARY.

CORPORATE NAME	REGISTERED OFFICE.

THE REPUBLIC OF UGANDA
THE COMPANIES ACT, 2012
IN THE MATTER OF MOLBY (U) LTD.
ORDINARY RESOLUTION.

At a members meeting held at the company premises on the 16th day of December 2019, it was resolved that:

1. That KUNYIGA DERROCK KIZITO, be appointed as a director of the company

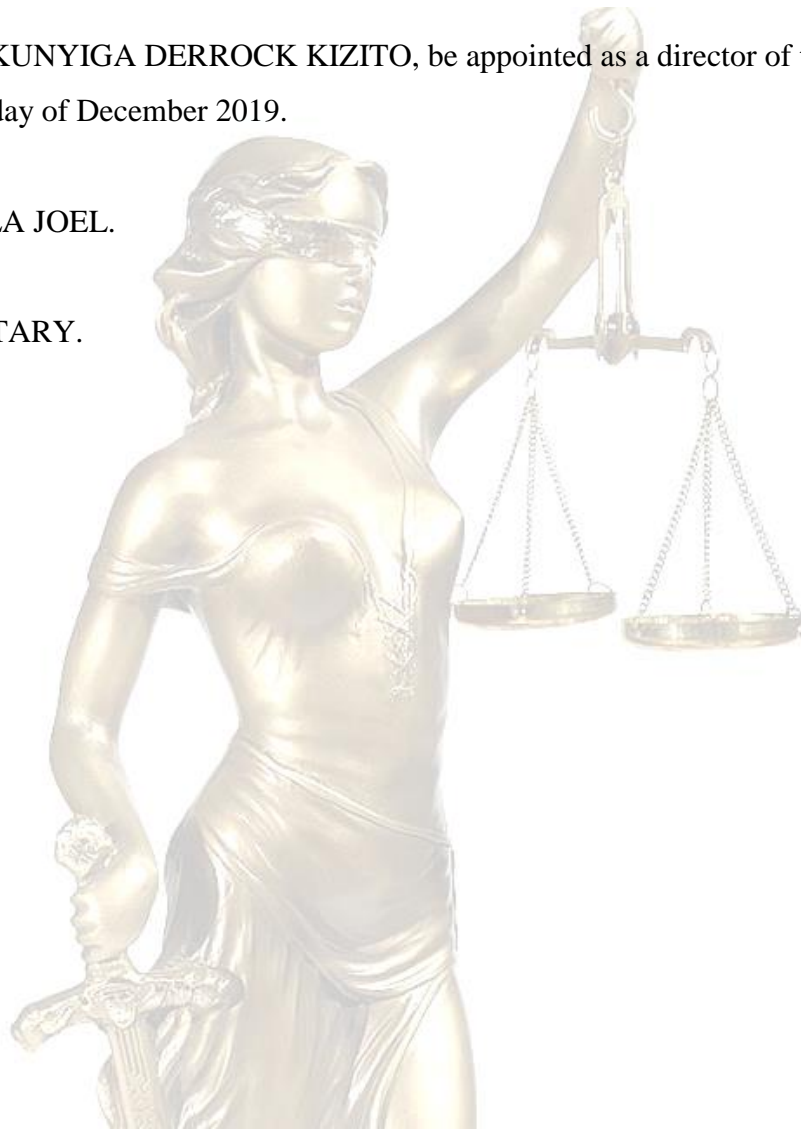
Dated this 20th day of December 2019.

SUI GENERIS

LUMALA JOEL.

DIRECTOR.

SECRETARY.



INTRODUCTION

This refers to the procedure through which a company's existence legally comes to an end. There is cardinal principle in **Re Hoima Ginnors (1964) EA 439** that a winding up petition is not a legitimate means of seeking to enforce payment of a debt and therefore; a petition presented ostensibly for winding up but to really exert pressure to pay a debt will be dismissed. This was noted with approval in **Re House of Garments Company Cause 2/1972**. There are many different modes of winding up, thus;

MODES OF WINDING UP

Voluntary winding up.

This is provided for under section 276 – 278 of the Companies Act. this mode of winding up can be either by the members or the creditors. The procedure for this mode of winding up is as follows;

- The members pass a resolution at a general meeting to wind up.
- This resolution is gazetted and advertised in a local newspaper in circulation for 14 days.
- The directors make a declaration of solvency, thus they will be able to pay the company's debts within 12 months from the date of commencement of the winding up process.
- The members appoint a liquidator. It must be noted that his appointment extinguishes all powers of Directors.
- The liquidator calls for a general meeting of the creditors and lays before them a statement of assets and liabilities.
- After the final meeting with the creditors, the liquidator sends a copy of the account to the Registrar of companies for Registration.
- Three months after the registration, the company is deemed dissolved.

Creditors' voluntary winding up

This occurs when there is no declaration of solvency. The procedure is as follows;

- A notice of meeting is advertised and gazetted.
- The creditors and directors nominate a liquidator. In case of conflict, a creditor can apply to court for a liquidator.

The documents in their order of precedence

- A demand letter for payment of the sum due and the consequences of failure to adhere to the demand.
- A petition to wind up a company (verified by an affidavit)
- An advert of the Petition in the Gazette/Newspaper in circulation.
- Affidavit of service of petition on relevant parties, hearing Notices etc.

Winding Up By The Court

This is provided for in Section 212(1) (a) of the Companies Act. The relevant circumstances which have to be present before winding up by court is done are evident in section 222 (a) to (g) of the Companies Act. These include if, *inter alia*;

- The company has by special resolution resolved that the company be wound up by Court.
- The company defaults in delivering the statutory report to the Registrar or in holding the statutory meeting.
- The company does not commence business in within a year from date of incorporation or suspends its business for a whole year.
- The company is unable to pay its debts.
- The court is of the opinion that it is just and equitable that the company should be wound up.
- In case of a company incorporated outside Uganda and carrying on business in Uganda, winding up proceedings have been commenced in respect of it in the country of its incorporation; etc.

Forum and Procedure

- The court of jurisdiction in respect to winding up is the High Court as envisaged in section 218 of the Companies Act. The procedure is by petition as provided for in section 224(1) of the Companies Act.
- In case the petition is successful, the court then appoints an official liquidator to wind up the company.

- Wages and salaries to servants of company.
- Amounts due in respect of compensation or liability for compensation under any law of Uganda in force relating to compensation of workers.
- Contributions to NSSF.

OFFICIAL RECEIVER, LIQUIDATOR

An official receiver is appointed by court to receive assets of a company which is being wound up. This is conversed under section 351 of the Companies Act.

A liquidator on the other hand can be appointed by members, creditors of a company or court to carry out the winding up of a company. An official liquidator can be appointed by court under section of the Companies Act.

Duties and Powers of a Liquidator

To call meetings

To do the work of directors since their duties are vested in him.

Make a statement of Assets and Liabilities of a Company.

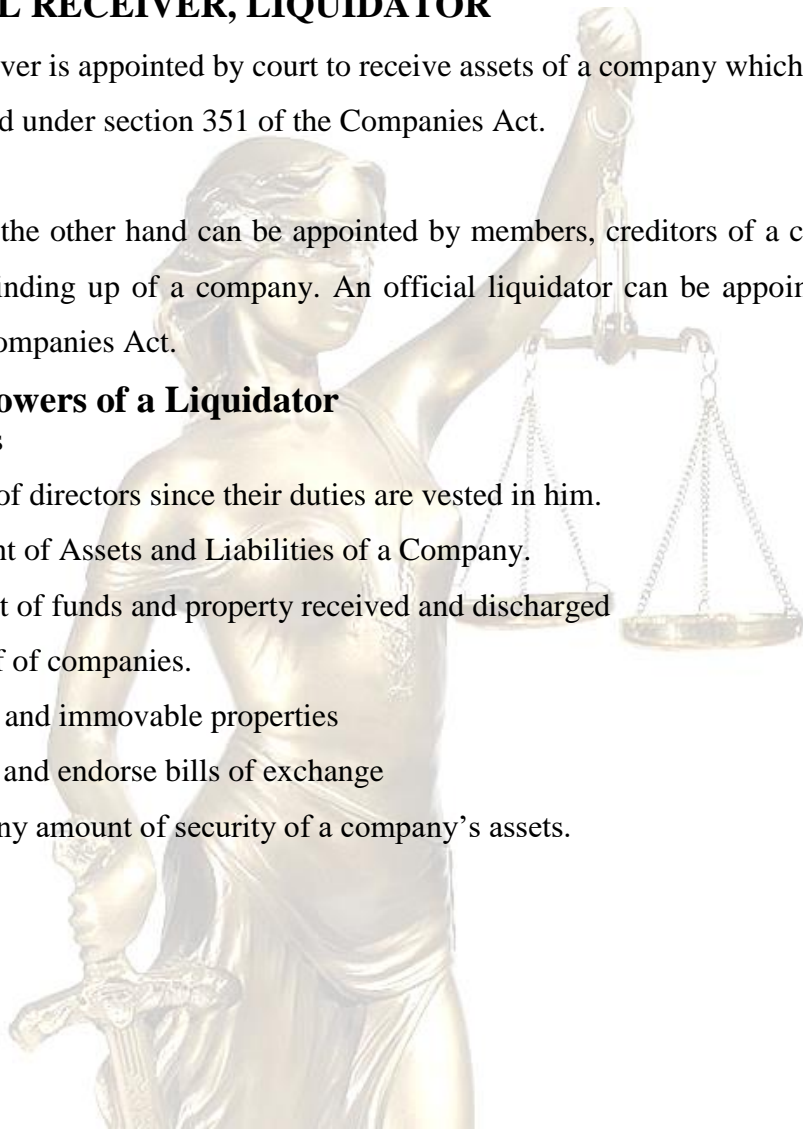
Make an account of funds and property received and discharged

To sue on behalf of companies.

To sell movable and immovable properties

To draw, accept and endorse bills of exchange

Power to raise any amount of security of a company's assets.



9. That in the circumstances, your petitioner submits that the affairs of the company are in a hopeless financial situation and it is just and equitable that the company be wound up.

WHEREFORE the petitioner humbly prays.

- (i) That the company be wound up by this honorable court under the provisions of the Companies Act.
- (ii) That costs of this petition be met by the respondent.
- (iii) That any other such order be made in the promise of this honourable court as shall be just.

Dated this day of 20

.....
PETITIONER/ COUNSEL FOR PETITIONER

Filed in the High Court of Uganda this Day of 20

Note: It is intended to serve this petition on MB AUTO TRADERS L TD

.....
THE REPUBLIC OF UGANDA
IN THE HIGH COURT AT KAMPALA
IN THE MATTER OF MB AUOTO TRADERS
AND IN THE MATTER OF THE COMPANIES ACT 2012
COMPANIES CAUSE NO. OF 2006
AFFIDAVIT VERIFYING PETITION

(Under rule 25 of the Companies (Winding Up)Rules SI 110-

I, Sam O'Neal make oath and swear as follows:

THE REPUBLIC OF UGANDA'
IN THE HIGH COURT OF UGANDA AT KAMPALA
IN THE MATTER OF MB AUTOGARAGE LTD AND
IN MATTER OF THE COMPANIES ACT 2012
COMPANY CAUSE NO.OF 2002
ADVERTISEMENT OF PETITION BEFORE HEARING
(Under rule 23. Companies (Winding UP) Rules S 110-)

NOTICE is hereby given that a petition for winding up of the above named company by the High Court, Holden at Kampala was on the day of 20 presented to the said court by J.J TRADERS LTD P.O, 80):(444,Kampala.

AND that the said petition is directed to be heard before the court sitting as the law courts, Kampala in Uganda on the day of 20 and any creditor or contributor of the said company, desirous to support or suppose the making of order on the said petition may appear at the time of the hearing in person or by his advocate for that purpose and a copy of the petition will be furnished by the_ undersigned to any creditor or contributory of the said company requiring such copy on payment of Shs the regulated charge for the same.

Signed

COUNSEL FOR THE PETITIONER
SUI GENERIS & CO. AVOCA TES
P.O. BOX 7117, KAMPALA

NOTE: Any person who intends to appear at the hearing of the said petition must serve or send by post to the above named

AMURO GORETTI OF SUI GENERIS & CO. ADVOCATES
P.O. BOX 7117, KAMPALA.

.....

B) BANKRUPTCY



INTRODUCTION

The law applicable under this part of the study is;

Insolvency Act 2011

Insolvency Regulations, 2013

Distress for Rent (Bailiffs) Act Cap 76

Income Tax Act Cap 240

The Civil Procedure Act Cap 71

The Civil Procedure Rules SI 71-1

Parliamentary Elections Act (if the debtor is a member of parliament)

Presidential Elections Act (if the debtor is a president!)

Advocates (Remuneration and Taxation of Costs) Regulations SI 267-4

Case law

Common law and Doctrines of Equity

The checklist/ major issues for resolution include;

- Whether one can be adjudged bankrupt/ whether there are any acts of bankruptcy?
- Who has capacity to petition for one's bankruptcy? (creditors, affected individual)
- What is the proof and priority of debts?
- What other relief can be sought by creditors? (e.g. distress for rent, civil suits, seizure, etc).
- What is the effect of a bankruptcy and receiving order?
- What is the forum, procedure and documents?

7. If an individual files in court a declaration of his inability to pay his debtor presents a petition against himself.
8. If a debtor gives notice to any of his creditors that he has suspended or is about to suspend payment of any of his debts.

Procedure

The starting point in bankruptcy proceedings is the inability to pay debts. This is discussed in **section 3** of the **Insolvency Act 2011**.

When an act of bankruptcy has been committed and the debtors or creditors want to petition for bankruptcy, such a person has to file a petition which should follow the law as prescribed. The law varies with regard to who presents the petition whether, the debtor or creditor. Creditor's petitions are governed by **section 10 and 11 of Insolvency Act 2011**.

On A Creditor's Petition;

Section 20(2) allows a creditor to bring up a claim that a debtor be ruled as bankrupt. The Act sets out conditions which should be fulfilled before. It is important to note that creditor's petition has to be verified by way of affidavit sworn by the creditor or some other person on behalf of creditor who has knowledge of the facts. Most importantly, on a petition for the liquidation of a company or bankruptcy order, evidence of failure to comply with statutory demand is paramount.

The creditor should fulfill the following conditions

1. The debt should amount to at least 1,000 Shs.
2. The debt should be a liquidated sum payable immediately or at some certain future date
3. The Act of bankruptcy on which the petition is grounded should have occurred within three months before presentment of the petition.
4. The debtor should be domiciled in Uganda, or within a year before the date of presentment of the petition, has ordinarily resided or had a dwelling house or place of business or has carried on business in Uganda or by means of an agent or within that period has been a member of a firm or partnership which has carried on business in Uganda by means of a partner, partners, agent or manager

B. On a Debtor's Petition;

Section 20(1) of the **Insolvency Act 2011** provides that a debtor may petition court for bankruptcy alleging that the debtor is unable to pay his or her debts and the court may, subject to sections 21 and 22 make a bankruptcy order in respect of the debtor. This comes after the debtor has failed to satisfy a statutory demand made under **section 4**. Thereafter, a petition for bankruptcy shall be presented by a creditor or a debtor and the court may subject to sections 21 and 22 make a bankruptcy order in respect of the debtor. The bankruptcy order declares the debtor bankrupt and appoints the official receiver as interim receiver of the estate, for the preservation of the estate of the bankrupt. **Section 20(5)** states that the bankruptcy shall commence on the date on which the bankruptcy order is made.

Appropriate Steps on a Debtor's Petition;

- Debtor files a petition in the High Court and alleges inability to pay debts. It must be noted that the petition is an act of Bankruptcy.
- He files a statement of affairs under **section 21** the **Insolvency Act**.
- If court is satisfied, it makes a receiving order; whereby a receiver is appointed to receive the debtor's estate.

The receiver has the following duties:

- To call a meeting of creditors held for the sole purpose of considering whether a proposal for a composition or scheme of arrangement shall be accepted. This is conversed under the **section 24** of **Insolvency Act 2011**.
- Realizing the assets and reporting to the creditors.
- Acting as an interim receiver pending appointment of a trustee.
- Verifying affidavits and administering oaths.
- Making reports to the registrar concerning the state of affairs.
- Acting as trustee during vacancy in the office of the trustee.
- Authorizing special managers to raise money and issue forms of proxy.

Documents on a debtor's petition

Petition supported by affidavit.

Summary of Evidence, List of Witnesses, documents and Authorities.

A receiving order under the Insolvency Act is an order given to by the Court hearing the petition to protect the estate of the debtor. Upon grant of the receiving order, the Insolvency Act provides that; the official receiver thereby appointed is constituted as a receiver of the property of the debtor; and thereafter, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have the remedy against the property of a person of the debtor in respect of the debt, or shall commence any action or other legal proceedings, unless with leave of the court and on such terms as court may impose. **Section 176** of the **Insolvency Act** states that (1) Where the appointment of a receiver is made by court, the receivership shall commence and the appointment shall take effect as specified in the court order. The appointment of the receiver should be made known to the public through public notice showing the receiver's full name, address and date of commencement of the receivership.

It must be noted that where it appears to court that the petition is proved to be a mere abuse of court process, a receiving order will not be given. This is fortified in the English case of **Re Bond (1888) 21 QBD** at page 17. In particular regard to a creditor's petition, the receiving order shall not be granted if it appears to court that he/she has failed to comply with the conditions discussed above, or fails to prove any facts he may have to prove, or generally, he does not satisfy court that he is entitled to any of his prayers in the petition.

In the same way court may, under the Insolvency Act, stay any action against the person of the debtor if it seems so required. The receiver has powers to appoint a manager until a trustee in bankruptcy is appointed.

The effect of a receiving order on debtor as a person is that the order is not an adjudication of bankruptcy as such; it however does not divest a debtor of his property. He remains the only person who can sue, protect or recover her property and he cannot be ordered to give security for costs under such suit merely because a receiving order was made against him. This is fortified by **Rhodes V Dowson (1886) 16 QBD 548 CA**.

A receiving order does not vest any estate or interest in the receiver nor does it give him power of bringing or defending suits and it does not charge any interests or liability which would otherwise be claimed against the debtor.

5. It must be noted that if a composition scheme is not approved within 14 days after the public examination of the debtor or if the creditors resolve that the debtor be adjudged bankrupt, then the debtor is adjudged bankrupt. this is fortified by the case of Re Moon (1887) 19 QBD 669 on appeal).
6. Consequently, the creditors by ordinary resolution appoint a fit and proper person, under **section 25 of the Insolvency Act** to fill the office of Trustee in Bankruptcy. The trustee in bankruptcy so appointed may be required by court to give security. He is then given a certificate of Appointment. If the trustee is not appointed within 4 weeks from the date adjudication of bankrupt, the official receiver then reports to court which shall appoint someone to act as trustee.
7. Subject to **section 47 of the Insolvency Act 2011**, Creditors go ahead to appoint a committee of Inspection for the purpose of superintending administration of the bankrupt's property by trustee.

TRUSTEE IN BANKRUPTCY

Trustee in Bankruptcy is consequently appointed by the creditors by ordinary resolution under section 25 of the Insolvency Act to fill the office of a Trustee in Bankruptcy. He / she may be required by court to give security. Upon appointment, he is given a certificate of Appointment.

It must be noted that If the trustee is not appointed within 4 weeks from the date adjudication of bankrupt, the official receiver then reports to court which shall appoint someone to act as trustee.

OFFICIAL RECEIVER

An official receiver is appointed upon grant of a receiving order. see section 198 of the Insolvency Act. He is endowed with the duty to receive the estate of the debtor. It must be noted further that an official receiver may act as a trustee in Bankruptcy, pending the appointment of the Trustee in Bankruptcy.

against him or her as remaining unsatisfied and which fact that the very petitioner had indicated so in his statement of affairs then the court's conclusion would be that the petitioner had committed an act of bankruptcy and therefore consequential orders should follow.

A debtor may petition court for bankruptcy alleging that he is unable to pay his debts and the court may subject to submission of a statement of affairs and a public examination of the debtor make a bankruptcy order in respect of the debtor per **section 20(1)**. The petition is accompanied by a *statement of affairs* under **section 21**²⁰³. A statement of affairs is a list of the person's assets and liabilities.

Existence of a due debt. The court in *SNP Panbus V Juronyshipyard Ltd* noted that it is necessary for the creditor to have a Due debt which the debtor has neglected to pay or to secure or compound to the reasonable satisfaction of the creditor after it has been served with a statutory notice to pay. This means that the debt therefore should not be disputed debt.

Proof of a Contingent or prospective debts It is important to note that the nature of the failed debt need not necessarily be of due date. It can be failure to pay a debt payable in the future. This has been accordingly held so in **Re Barr (A Bankrupt)**²⁰⁴ where the appellant court held that the petition had been wrongly dismissed; a petition for bankruptcy may be presented in respect of a debt payable immediately or at some future date. However the requirement of a *due debt* does not prevent proof of inability to pay debt by other means such as proving contingent or prospective debts as against the debtor. Contingent or prospective debts are not presently due for payment but may be in the future. A *prospective debt* is one which will certainly become due in the future, either on some date which has already been determined or on some date determinable by reference to future events.

Where no debt exists. However, where court makes a finding that no debt exists court declares that there is no creditor and that the claimant has no locus standi. It follows that for any debt which is in dispute on some substantial grounds and not on frivolous grounds, or without substance and which

²⁰³ Insolvency Act 2011.

²⁰⁴ (1990) Ch 773

where he or she conveys or assigns all property to a trustee for the benefit of his creditors generally as was in **Re Spackman**²⁰⁷ where it was stated that *the assignment must be for the benefit of all creditors generally and not just a class*. Similarly, a notice given without prejudice has been held to be admissible as proof of the acts of bankruptcy²⁰⁸.

A debtor may also petition for bankruptcy if he or she does not have any properties that can be administered by the trustee in bankruptcy²⁰⁹. This is usually among the key aspects considered as soon as court declares one to be bankrupt although it is also a consideration in determining bankruptcy.

However, the debtor is not declared bankrupt until the court accepts and endorses the petition. This was expressed in the case of *In Re Jackson ex parte Jackson*²¹⁰ where it was held that it is not only presentation of the debtor's petition which makes a debtor bankrupt. It is the court's acceptance of the petition and endorsement of that acceptance. It is important to note that bankruptcy shall commence on the date on which the bankruptcy order is made in regards to the **Insolvency Act 2011**.²¹¹

It is important to note that the debtor is not declared bankrupt until the court accepts and endorses the petition as was expressed case of in *Re Jackson ex parte Jackson*²¹² where it was held that it is not only presentation of the debtor's petition which makes a debtor bankrupt. It is the court's acceptance of the petition and endorsement of that acceptance. Furthermore, bankruptcy shall commence on the date on which the bankruptcy order is made.

b) Priority of debts

Section 12 of the Insolvency Act provides for priority claims in the following order:

- 1) remuneration and expenses properly incurred by the liquidator;
- 2) any receiver's or provisional administrator's fees;
- 3) any reasonable costs of any person appearing on the petition whose costs are allowed by the court;

²⁰⁷ (1890) 24 QBD 128

²⁰⁸ Re a debtor

²⁰⁹ Kakyo case.

²¹⁰ 1989 EA at 145

²¹¹ Section 20(5)

²¹² 1989 EA at 145

1. Inability to pay debts

In RE TEDDY SEEZI CHEEYE (1996) IV KALR 116, the court held that in a bankruptcy petition, the two essential elements are, proof of a debt and proof of inability to pay debts. Court emphasized that failure to pay a judgement debt is proof of inability to pay debts.

IN RE TANGANYIKA PRODUCE AGENCY LTD (1957) EA 627, a petition to wind up a company with a view of enforcing payment of a disputed debt is an abuse of process of the court and will be dismissed with costs.

S.2 of the insolvency act defines a debt as a debt or liability, present or future, certain or contingent and includes an ascertained debt or liability for damages.

Pursuant to S.3 (1) of the insolvency act, one is presumed to be unable to pay debts if:

- a) The debtor has failed to comply with a statutory demand
- b) The execution issued against the debtor in respect of a judgement has been returned unsatisfied in whole or in part.
- c) All or substantially all the property of the debtor is in the possession or control of a receiver or some other person enforcing a charge over that property.

The list above in S.3 (1) of insolvency act, is inclusive and not exhaustive as one can prove inability to pay debts by any other means by virtue of S.3 (3) of the act. Under S.5 (6) of the act, failure to comply with timelines to pay under S.5 (5) is deemed inability to pay.

2. Statutory demand.

It is issued onto the debtor under S.4 (1) of the insolvency act. It should be verified by a statutory declaration unless it's in respect of a judgement debt.

Under S.4(2) of the insolvency act, the statutory demand must be made in respect of a debt that is not less than the prescribed amount and in the case of a debt owed by an individual is a judgement debt or a company is an ascertained debt, but need not be a judgement debt.

The statutory demand takes the form prescribed in form 1 in schedule 1 of the insolvency regulations, 2013 as per Reg. 4(1) of the regulations.

S.5 (3) of the act empowers the court to extend any of the aforementioned timelines.

Application.

Pursuant to Reg. 6(1) of the regulations, the application is by notice of motion supported by an affidavit.

The application is brought pursuant to any of the grounds under S.5 (4) of the act and these are:

- a) There is a substantial dispute whether the debt is owing or is due.
- b) The debtor appears to have a counter claim, set-off or cross-demand and the amount specified in the demand less the amount of the counterclaim, set-off or cross demand.
- c) That the creditor holds some property in respect of the debt claimed by the debtor and that the value of the security is equivalent to or exceeds the full amount of the debt.
- d) The demand ought to be set aside on such grounds as it deems fit.

Note: under S.5 (7) of the act, a statutory demand cannot be set aside by reason only of a defect or irregularity, unless it's considered substantial.

Power of a court hearing an application to set aside.

Pursuant to S.5(5) of the act, if the court is satisfied that the debt is due and there is no counter claim, substantial dispute or cross demand, the court may order:

- a) That the debtor pay the debt within a specified period and in default, the creditor may immediately petition for a liquidation or bankruptcy.
- b) Dismiss the application and immediately make an order under S.20 OR 92 on the grounds of inability to pay debts.

3. Distribution of assets.

Pari passu.

In keeping with the purpose of insolvency i.e. ensuring that the estate of an insolvent is distributed among all his or her or its creditors and bearing in mind that the available assets are usually not sufficient to cover all creditors fully, the principle of pari passu is applied when paying off creditors of an equal ranking.

Paid under S.13 of the insolvency act. Under S.13 (2), these debts rank equally and unless paid in full, they abate in equal proportions in line with the pari passu principle. The distribution is done pro rata.

4. Anti-deprivation rule.

It is a common law rule aimed at attempts to withdraw an asset on bankruptcy with the effect that the bankrupt's estate is reduced in value to the detriment of creditors.

The rule flows from the rule that parties cannot intentionally contract out of insolvency legislation.

IN BELMONT PARK INVESTMENTS PTY LTD V BNY CORPORATE TRUSTEE SERVICES LTD (2012)1 ALL ER 505, the supreme court of the united kingdom laid down the general principle that parties cannot contract out of the insolvency legislation. The court stated that the principle has two key aspects, of which these are:

1. The anti-deprivation rule, which is aimed at attempts to withdraw an asset on bankruptcy or liquidation or administration, thereby reducing the value of the insolvent estate to the detriment of creditors.
2. The pari passu rule, which reflects the principle that statutory provisions for pro rata distribution may not be excluded by a contract which gives one creditor more than its proper share.

The court further held that however, if a transaction makes good commercial sense, is entered into in good faith and does not intend to evade insolvency laws, then court will most likely uphold the transaction.

Essential elements for the application of the anti-deprivation principle.

1. Good faith.

For the principle to operate, there must be a deliberate intention to evade insolvency laws. The intent is objectively assessed and can in certain instances be inferred from the parties' actions.

2. Reasons for deprivation.

The principle is intended to operate only in cases where the deprivation occurs on the insolvency of the relevant debtor.

If the trigger for the loss of asset is an event other than insolvency then the principle cannot be relied upon.

- b) The value of the consideration received by the company or individual is significantly less than the value of the consideration provided by the insolvent.
- c) When the transaction was entered the insolvent was unable to pay their debts ,or incurred the obligations when required to do so.
- d) The insolvent become unable to pay their debt as a result of the transaction.
- e) The transaction was entered into to aid the insolvent to put assets beyond the reach of the creditors: see: *arbuthnot leasing international ltd*.

In *Phillips V Brewin Dolphin Bell Lawrie (2001) Ukhl 2*, the court examined whether a series of arrangements could be understood as one “transaction” for the purposes of being an undervalue transaction under the insolvency act 1986. The brief facts are that the liquidator of AJ Bekhor and co sought to recover the 725,000 pounds and interest for a business and assets that been transferred to a subsidiary, which in turn was bought by Brewin Dolphin through a share purchase for one pound. The issue was whether that constituted a transaction at an under value. Brewin Dolphin contended that part of the agreement was that its parent company, private capital group ltd, would pay Aj Bekhor for yearly installments of 312,000 for renting computer equipment.

The HOL held that the transaction was effected at an undervalue, and was voidable under S.238. The computer rental agreement was taken as consideration for the deal, but when assessing its value, reality and not speculative values should be taken into account. The collateral agreement was precarious and worthless because the head lessors had immediately declared the transaction to be a repudiatory breach and it therefore had no value to Brewin Dolhin

Voidable charges.

These are under S.17 (1) of the act and relate to any charges created on antecedent debts within one year preceding the commencement of the liquidation or bankruptcy.

It is not a voidable charge however if the charge secured the actual price or value of property sold or supplied to the insolvent and at the value the insolvent was able to pay their debts. Under S.17 (2), a charge created within 6 months preceding the commencement of insolvency proceeding unless proven otherwise, was created when the insolvent could not pay their debts.

The charge is also not voidable if it was given in substitution for a charge given more than one year preceding the commencement of the liquidation or bankruptcy.

Under S.19 (7) the order to set aside may be denied wholly or in part if the person from whom recovery is sought received the property in good faith and has altered his or her position in the reasonable belief that the transfer or payment of the property to the person was validly made and would not be aside and in the opinion of court its inequitable to order recovery for example where person obtained a mortgage and pledged the property as security.

BANKRUPTCY/INDIVIDUAL INSOLVENCY.

Interim remedies.

An individual facing a looming commencement of insolvency proceedings may in view of one of the purposes of insolvency proceedings to wit allowing a debtor realign their finances so as to pay off his or her debts apply for an interim protective order.

What informs the decision to apply for an interim protective order.

Under S.119 (1), the application is informed by the intention of the debtor to make any arrangement with his or her creditors.

Effect of an interim protective order.

Pursuant to S.119 (2), during the subsistence of the order:

- a) An application for bankruptcy relating to the debtor cannot be made or proceed.
- b) A receiver of any property of the debtor cannot be appointed
- c) Except with leave of court and in accordance with the terms imposed; no step can be taken to enforce a charge over any of the individual's property, no proceedings, execution or other legal process can be commenced or continued against the debtor or his or her property, and neither can distress be levied against the debtor or their property.

Duration of the order.

Pursuant to S.121, the order is effective for only 14 working days. The duration may however be extended by court subject to the conditions under S.123 (2) and (3) or if it has expired order for its renewal.

Note: under S.120 (3), court may stay any action, execution or other legal process against the property or person of a debtor where an application for an interim order is pending.

Procedure after issuance of the order.

1. The debtor must submit to the proposed supervisor pursuant to S.122 the following:
 - a) A document setting out the terms of the arrangement which the debtor is proposing

If the creditors meeting approved the proposal, the court upon the filling of the report by the supervisor may issue an arrangement order under S.125 (3).

The supervisor must immediately upon issuance of the order send written notice to all known creditors notifying them that the arrangement has taken effect and to the public. S.126

Effect of an arrangement order.

S.127 (1) provides that an arrangement binds:

1. Making or proceeding with an application for bankruptcy
2. Appointing a receiver for any of the debtor’s property.
3. Except with leave of court, not take any other steps to enforce a charge or commence or continue other proceedings or execution or levy distress on the debtor’s property.

Variation of arrangement order.

Under S.132 (1), the order maybe varied by court on application by any party bound by the order.

S.132 (2), empowers a supervisor upon discovery of an asset after an arrangement order has been made to distribute the asset using the arrangement agreed upon and variation if any.

Termination of arrangement.

The application is brought under S.134 (1) by any person bound by the arrangement.

Contents of an arrangement

Preliminaries

- Title
- Law
- Name of debtor, address, telephone ,email address
- Name of proposed supervisor and address
- Date of proposal.

Clauses

1. Introduction, brief facts
2. Debtors assets with estimated values
3. Debtors liabilities

BANKRUPTCY PETITION.

A bankruptcy petition may be brought by either the debtor under S.20 (1) in which case it's called a debtors petition. Or

May be brought by a creditor under S.20 (2) in which case it's referred to as a creditor's petition.

Pre-conditions for bringing a creditors petition.

1. Judgement creditor. S.4(2)(a)(1) and execution has not realized the debt
2. Issue a statutory demand. S.20 (2), S.4 (2) (a) (1) and S.3 (1) (a).

Therefore, the creditor must be a judgement creditor who has attempted to execute and the execution has been returned wholly or in part unsatisfied.

See: **SPRINGS INTERNATIONAL HOTEL V HOTEL DIPLOMATIC LTD AND ANOR H.C.C.MA NO.4227 OF 2019**, justice sekana stated that it is trite law that the company's court is not, and should not to be used as a debt collecting court. The proper remedy for debt collecting is an execution upon a judgement, a distress, a garnishee order or some procedure.

In the present case, the respondent has not made any attempt to execute the order of taxation through the normal execution proceedings.

3. Where the debtor fails to comply with the statutory demand within 20 working days, then the creditor must bring the petition within 30 working days.

Form and content of the creditor's petition.

- The petition takes the form specified under form 3 in schedule 1 as per Regulation 9
- Regulation 10(1) requires that every petition is supported by an affidavit shown by the petitioner or one of the petitioners and where it's a company by a director, secretary or a person authorized.

Service of the petition.

1. Under S.27 (1), the order vest the bankrupts estate into the official receiver and then into the trustee.

What constitutes the bankrupts estate.

S.31(1) provides that bankrupts estate comprises of all property belonging to or vested in the bankrupt at the time of commencement of the bankruptcy and any property falling under S.15,16,17 and 18 and a portion of the debtors salary as court determines.

S.31 (2) excludes from the estate:

- a) Tools, books and other items of equipment used by the debtor for his trade, vocation or employment or for personal use being a value prescribed.
- b) Clothing, beddings and provisions necessary for satisfying the basic domestic needs of the bankrupt and their family.
- c) Property held in trust for any other person
- d) Matrimonial home of the bankrupt.

2. Bars, except with written consent of the trustee or leave of court, any proceedings, execution or other legal process being commenced or continued and neither can distress be levied against the bankrupt. S.27 (1) (b).

However, S.27 (2). Subject to S.11 allows a holder of a charge over property in the bankrupt's estate to enforce the charge during the bankruptcy.

Consequences.

S.45 (1) and (2) stipulate the consequences of a bankruptcy order to include:

- a) Disqualification from being appointed or acting as a judge of any court in Uganda.
- b) Disqualification from being elected to or holding or exercising the office of the president, MP, minister, a member of the local government, council, board, authority or nay other governmental body.

Under sub-section 2, a public office or office of the justice of the peace immediately becomes vacant upon the person being adjudged bankrupt.

- The disqualifications cease to apply whereas per S.45(3)
 - a) The adjudication of bankruptcy against the individual is annulled

Under S.44 (2) the property of the bankrupt upon annulment, revocation vests in a person appointed by the court or in default, it reverts to the bankrupt

As per Reg 57(2), the application is by notice of motion supported by an affidavit

Defenses to a bankruptcy petition.

1. Ability to pay

Re teddy seezi cheeye (1996) IV KALR 116

2. Disputed debt

MANN AND ANOTHER V GOLDSTEIN AND ANOR (1968) ALL ER 769. A holder of disputed debt is not a creditor and has no locus to present a petition. There is a substantial dispute if there is a plausible defense.

3. Using proceedings a debt recovery mechanism.

SPRING INTERNATIONAL V HOTEL DIPLOMATIC AND ANOTHER.

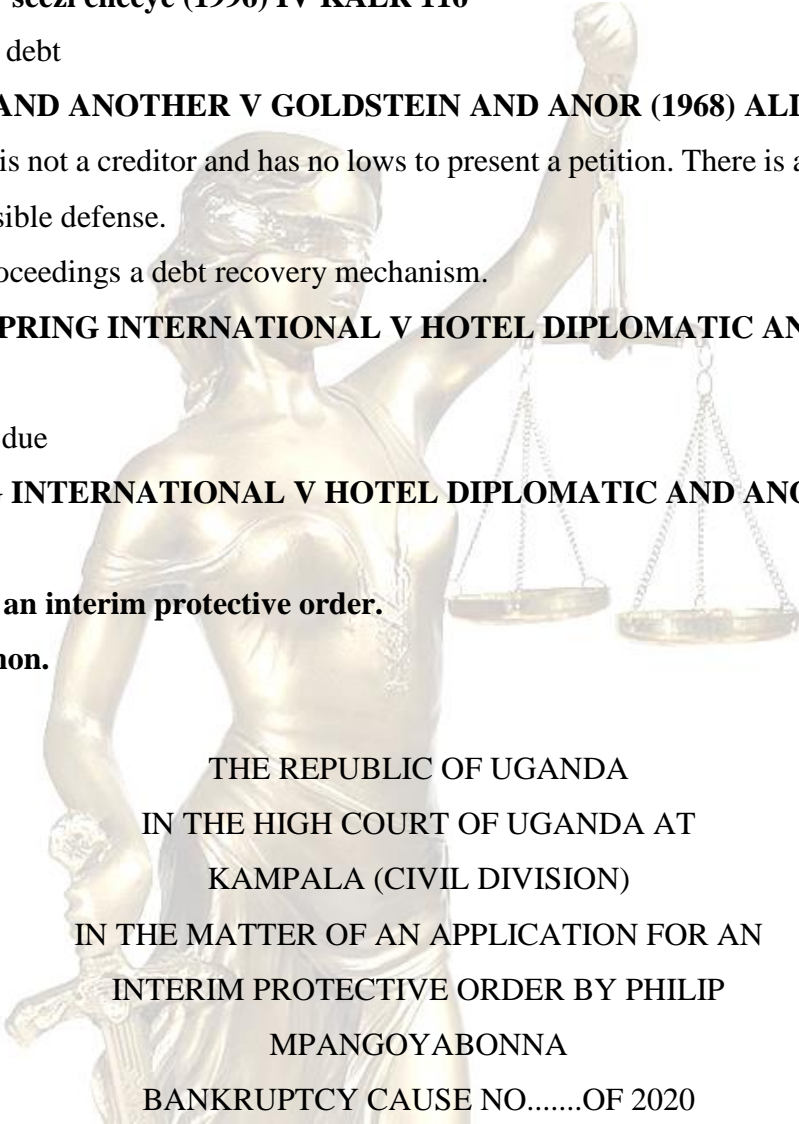
4. Off set.

5. Debt not due

SPRING INTERNATIONAL V HOTEL DIPLOMATIC AND ANOR.

Application for an interim protective order.

Chamber summon.



THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT
KAMPALA (CIVIL DIVISION)
IN THE MATTER OF AN APPLICATION FOR AN
INTERIM PROTECTIVE ORDER BY PHILIP
MPANGOYABONNA
BANKRUPTCY CAUSE NO.....OF 2020

CHAMBER SUMMONS.

(Under Regulation 63(1) of the insolvency regulations No.36 of 2013)

3. That I intend to enter into an arrangement with my creditors. (a copy of the proposed arrangement is hereto attached as annexure B).
4. That, Mr. SUI GENERIS , an insolvency practitioner has agreed to act as supervisor under any proposed arrangement. (A copy of the letter of consent to act as a superior is hereto attached as annexure C).
5. That I have not applied for an interim protective order within the past 12 months.
6. That I have USD 100,000 that was frozen on my bank account with standard chart bank which I hope to use in the arrangement once FIA in freezes the account. (A copy of my bank statement dated 20th September 2020, and a copy of the freezing order from FIA dated 3rd August 2020 are hereto attached as annexure D and E respectively.
7. That I am negotiating credit line supplies to revamp my business (copies of email correspondences with my prospective suppliers in China are hereto attached as annexure F).
8. That it is in my interest and that of my creditors that this application is granted to enable me re-arrange my finances to settle the creditors in full and sustain my business and myself.
9. That whatever I have stated herein is true and correct to the best of my knowledge and belief.

SWORN ON THIS.....day of2020 by the said PHILLIP MPANGOYABONA

DEPONENT

Before me

COMMISSIONER FOR OATH.

Drawn and filed by:

M/S DI & CO Advocates,

Law development Centre,

LAW FIRM

P.O Box 7117,

Kampala.

4. That to the best of my knowledge and belief, the demand has neither been complied with nor set aside and further it is to the best of my knowledge and belief that there is no application to set aside pending before this honorable court or any other court.
5. This matter is within the jurisdiction of this honorable court.

WHEREOF THE PETITIONER prays that this honorable court:

- a) a bankruptcy order be issued against the debtor PHILLIP MPANGOYABONA
- b) costs of this petition be born out of the estate of the debtor

Dated at Kampala this.....day of2020

.....

COUNSEL FOR THE PETITIONER.

Drawn and filed by:

DI & CO Advocates

Law development Centre,

Mbarara-Campus

P.O BOX 7117,

Kampala.

- Should be verified by an affidavit.

CORPORATE INSOLVENCY.

Under this we cover: provisional administration, administration receivership and liquidation and informal corporate rescue option.

Provisional administration.

This is a corporate rescue mechanism intended to allow the company progress as a going concern as it irons out its financial challenges.

Purpose

Per S.142 (1), provisional administration commences when the interim protective order is made.

Effect of provisional administration.

These are postulated under S.143 (1) and are:

- a) Liquidation by court cannot be commenced
- b) Functions and powers of any liquidator are suspended
- c) Resolution for liquidation cannot be made
- d) No receiver can be appointed
- e) Charges can only be enforced with the written consent of the provisional administrator or leave of court
- f) Proceeding, execution or other legal process cannot be commenced or continued except with the written consent or leave of court. Reemphasized. In **UGANDA TELECOM LIMITED V ONDOMA SAMUEL C/A ALAKA AND CO ADVOCATES (SUPRA)**

Also see: **BENARD MWEITEISE & CO V UGANDA TELECOM LTD HCMA NO.66 OF 2019.**

Duration of provisional administration.

S.145 (1) provides that provisional administration terminates where:

- a) The period specified in the interim order lapses and the period is not more than 30 days.
- b) An administration deed is executed under S.148.
- c) The provisional administrator gives the notices under S.151 and these include the following: the deed is not executed within the period of execution in S.150 (2), creditors resolve that the provisional administration should end, or the creditors don't pass a resolution under S.148.

Per Reg 147, the notice is as prescribed in form 18 in schedule 1.

Other provisions

- S.153 lists the power of provisional admin
- S.154 provides for provisional admins relation with 3rd parties.

Form 18 in schedule 1.

Effect of administration.

As per S.164(1) the administration deed binds the company, directors and secretary, shareholders, administrator and all company's creditors in relations to claims arising on or before the day specified in the deed.

See: **UGANDA TELECOM LTD V ONDAMA T/A ALAKA AND CO ADVOCATES**, on the creditors bound by the deed and effect of the deed on contingent and future debts.

The aforementioned persons bound by the deed are precluded under S.164 (2) from:

1. Making an application for liquidation or proceeding with one.
2. Except with leave of court, from taking steps to enforce any charge over the company property
3. Except with leave of court, commence or continue execution proceedings or other legal processes or levy distress against the company or its property.

Functions of the administrator.

Under S.165, the major function of the administrator is to supervise the implementation of the administration deed.

Variation of admin deed.

S.167 (1) provides that the administration deed may be varied by a resolution passed a creditors meeting.

An aggrieved administrator or creditor may petition court to cancel or confirm the variation in part or whole under S.167 (2)

Termination of administration.

Under S.168, termination occurs where the court makes an order or the circumstances stipulated in a deed occur

The application for termination by court, as per S.169 (1), may be brought by the administrator of the company, creditor of the company or any liquidator of the company.

Reg 157(1) requires that an application by the administrator is accompanied by a progress report covering the period from the last progress report

An application by the creditor must state the grounds on which the administration should be terminated as per Reg.157 (2)

2. Reg 87(1) requires that the petition is supported by an affidavit. The affidavit in the case of a company must be sworn by a director, secretary of the company or a person authorized by the company. In case of an individual, by the petitioner, or by one of the petitioners where there is more than one.

Process.

1. Draft petition and affidavit
2. Pay necessary fees
3. Lodge petition and affidavit ad evidence of payment.
4. Service of the petition. Reg 88(1) requires that the petition is served on the company, where it's not the petitioner, every it's not the petitioner, every known creditor, a contributory and the official receiver.
5. Publication of notice of the petition. The petitioner must within seven working days after filing the petition give public notice of the petition in form 4 in the schedule to the regulations. Reg 89
6. A creditor, c contributory or company may within 15 working days after service reply to the petition. Reg 90(1). The reply to the petition is by way of affidavit and should be served in the same manner as the petition. Reg.90 (2).
7. Any creditor who intends to be heard must within 5 working days after publication of the notice of the petition give court and the petitioner notice of intention to appear and he heard on the petition as per Reg 91(1). The notice is as prescribed in form 5 in schedule 1. If you don't give notice, you can only be heard with leave of court. Reg 91(3)
8. Petitioner then prepares a list of creditors and their advocates, who have given notice to be heard, specifying their names and address. Reg 92(1). The list is in the form prescribed in form 6 in schedule 1 to the Regs. Against each name, petitioner must indicate whether they are in support or not, Reg.92 (3).

Provisional administrator.

- Appointed by court. It may be the official receiver or any other I.P and they are appointed to preserve the value of the company. S.94 and Reg.97

9. Appointment of a liquidation through a meeting of members or board resolution. S.62 OF I.A
10. Liquidator must within 14 days after their appointment publish in the gazette and deliver to the registrar for registration a notice with a copy of a caveat. Reg 98 of insolvency Regs, the public notice is the form prescribed in form 12 in the schedule.
11. Should the liquidation continue for more than 12 months, the liquidator must call for a general meeting as per S.66 of I.A
12. Give a notice of final meeting in the gazette and in a newspaper of wide circulation specifying the time ,place and object of the meeting at least 30 days before the meeting .S.67(2) of I.A
13. The liquidator must then prepare an account of the liquidation showing how the liquidation was conducted. S.67(1)(a) of I.A
14. Hold the general and final meeting of the company and provide an account of the liquidation, his acts and dealings. S.67(1)(b) of I.A
15. Transmit a copy of the account to the registrar and make a return of the meeting and its date to the registrar within 14 days after the meeting S.67(3)(a) and (b)
16. On expiration of 3 months from the date of registration of the return, the company is taken to be dissolved. S.67(6) of I.A

2. Under the insolvency act.

S.58(1) of the I.A provides that a company may be liquidated voluntarily if it resolves by special resolution that it cannot by reason of its liability continue its business and that it is advisable to liquidate.

S.58 (2) stipulates that voluntary liquidation is taken to commerce at the time of passing the resolution for voluntary liquidation.

Under S.59(1), the company must within 14 days after passing the resolution give notice of the resolution in the gazette and in a newspaper of wide circulation

S.59 (2) requires that the resolution is registered with the registrar within seven days and a copy sent to the official receiver.

Effect (S.97)

1. The company ceases to carry on business

6. Liquidator gives public notice of appointment. S.82
7. Committee of inspection sets liquidators remuneration
8. Liquidator collects assets and distributes proceeds as per act
 - Read procedure under 11-16 under company winding up.

Receivership

A receiver receives or collects the income from a debtor's property for the benefit of a creditor.

Two types.

1. **Individual receivership**; where a receiver is appointed over the property or estate of an individual debtor.
2. **Corporate receivership**; where a receiver is appointed in respect of the property of the debtor company.

People who can't be appointed receivers (s.207)

1. A charge of the property under receivership
2. A person who is disqualified from acting as a receiver by the appointing document.
3. A person who has within the two years immediately preceding the commencement of the receivership, been a shareholder, director or auditor of any charge of the property in receivership.

Note: under S.203 (1) (a) and 204 of the insolvency act, only an insolvency practitioner can be appointed as a receiver.

Types of receivers.

- a) **Receiver-manager**: is a receiver who also has power to operate or manage the debtors business
- b) **Receiver in simplicity**: is a receiver who is appointed to only realize the asset and apply the proceeds to settle the debts under which they are appointed.
- c) **An administrative receiver** is appointed over the whole or substantially the whole of the property and undertaking of a grantor.

An administrative receiver is appointed by a creditor who has a security in the form of a floating charge.

In DOUGLAS MEDFORTH V JAMES PETER BLAKE AND ORS (2000) CH 86, the receivers had according to the grantor mismanaged the pig farming business by failing to take large discounts from pig feed suppliers at the time it was on and buying later on when the discount was low. The court appeal held that the proposition that, in managing and carrying on the mortgaged business, the receiver owes the mortgagor no duty other than that of good faith, offends commercial sense. The receiver is not obliged to carry on the business. He can decide not to do so. He can decide to close it down. In taking these decisions he is entitled and perhaps bound, to have regard to the interests of the mortgage in obtaining repayment of the secured debt provided he acts in good faith, he is entitled to sacrifice the interests of the mortgagor in pursuit of that end. But if he does decide to carry on the business he is expected to do so with reasonable competence. A receiver/manager who sells but fails to take reasonable care to obtain a proper price may incur liability notwithstanding the absence of fraud or malafides.

Powers of receiver on liquidator.

Pursuant to S.194(1) of the insolvency act, unless the court orders otherwise, a receiver may be appointed or continue to act as a receiver and exercise all the powers of a receiver in respect of any property of a company which have been put into liquidation or an individual in respect of whom a bankruptcy order has been made.

They however can only act as agents of the grantor only with approval of the court or with written consent of the liquidator or trustee. S .194(2) of the insolvency act.

The debts incurred by the receiver aren't a cost of liquidation. S.194 (3) OF I.A

Execution or attachment against a company in receivership.

IN JOHN VERJEE AND ANOR V SIMON KALENZI AND ORS (1997-2001) UCLR 83, it was stated that once a receiver has taken possession of the property before attachment, that property cannot be attached by subsequent decree holders against the judgement debtor. A receiver holds the property to pay debts of the company and therefore, the receiver is in possession not on behalf of judgement debtor but for the mortgage.

Procedure

Removal and termination

-S.196, 197,206,209 OF I.A

-Reg 167, 170.

REGULATORY FRAMEWORK FOR FINANCIAL INSTITUTIONS AND FINANCIAL SERVICES.

Micro finance institutions.

These are in two types:

- a) Those under the tier for microfinance institutions and money lenders act.
 1. SACCOS
 2. Non-deposit taking microfinance institutions
 3. Self-help groups S.99
 4. Commodity based micro finance institutions S.102

All the above are regulated by the Uganda microfinance regulatory authority as per S.8 (1)

- b) Deposit taking microfinance institutions under the micro finance deposit –taking act No.5 of 2003.

SACCOS

- Must be a registered society and licensed under the tier for act S.36(1)
- It only provides financial services to its members. S.36(2)
- Its powers under S.37 are interlia to mobilize and receive savings from members, borrow in an aggregated amount not exceeding a limit prescribed by the authority, provide loans to its members.
- Must apply to UMRA for a license under S.38(1) and application is a companied by the requirements in S.38(3)
- Must use its name in its operations S.40
- Look at S.39-61, on annual fee, issue of a license, equity, shareholding, savings, and restrictions on borrowing, SACCO stabilization fund, and SACCO savings protection fund.

- Money lender must be a company and not carrying on business of banking or insurance; a society registered under the cooperatives society act. S.78

Some cases and their influence on C.G in the world.

- Enron case
- Lelman brothers
- Crane bank

Board of directors

- Company secretary
- CEOs
- Role of board chairman
- Payment of directors

CEO, Company secretary and auditors.

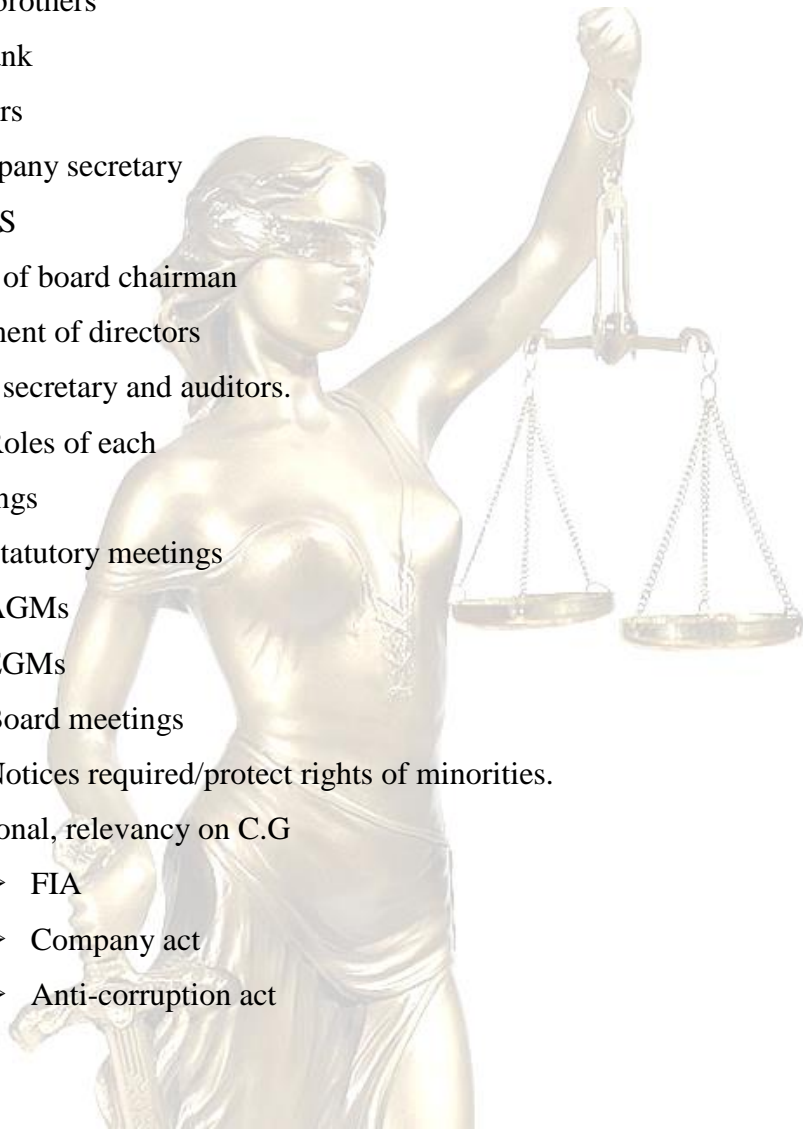
- Roles of each

Company meetings

- Statutory meetings
- AGMs
- EGMs
- Board meetings
- Notices required/protect rights of minorities.

Analyze the rational, relevancy on C.G

- FIA
- Company act
- Anti-corruption act



BANKRUPTCY PETITION
THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
BANKRUPTCY CAUSE NO. 1 OF 2006
IN THE MATTER OF THE BANKRUPTCY ACT CAP 67

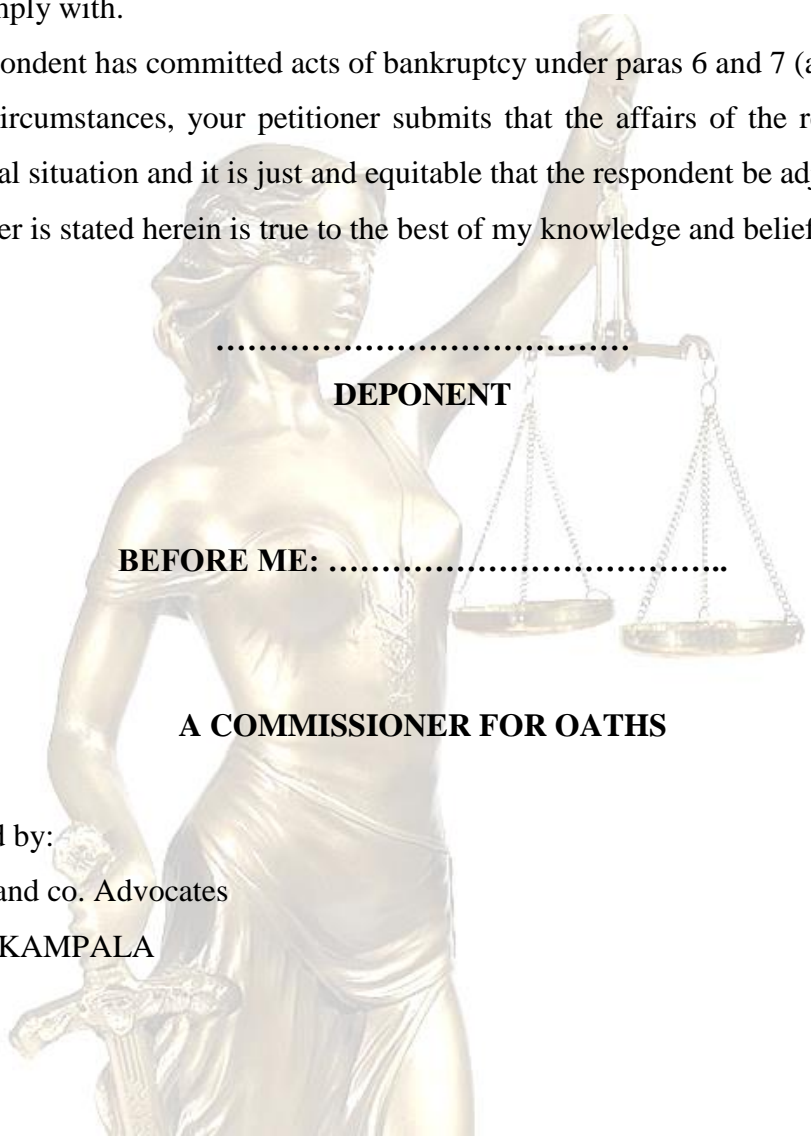
JEJE NONO **PETITIONER/CREDITOR**
MARSHALL OTTO **RESPONDENT/ DEBTOR**

PETITION

The humble petition of Jeje Nono Ltd of P.O.BOX 444, Kampala showeth as follows:-

- I. That your petitioner is a male adult and Ugandan of sound mind.
2. That the respondent an adult Ugandan of sound mind with a place of domicile at Buziga, Kampala.
3. That the respondent is indebted to the petitioner to the tune of 70 million which is above the statutory ceiling of 1,000 shillings.
5. That your petitioner executed the decree against the respondent by seizure of his property vide HCCS 244/2005, in an earlier agreement in which judgment and decree was in favour of your humble petitioner on the 8th of September 2006.
6. That your petitioner duly served the respondent with a bankruptcy notice which to this day, he has failed to comply with.
8. That the Respondent has committed acts of bankruptcy under paras 5 and 6 (above).
9. That this petition is supported by an affidavit by your humble petitioner.

5. That the Respondent’s conduct prompted your petitioner to institute summary proceeding against the said respondent in an earlier agreement vide HCCS 244/2005, in which judgment and decree was in favour of your humble petitioner.
6. That your petitioner executed the decree against the petitioner by seizure of his property.
7. That your petitioner duly served the respondent with a bankruptcy notice which to this day, he has failed to comply with.
8. That the Respondent has committed acts of bankruptcy under paras 6 and 7 (above).
9. That in the circumstances, your petitioner submits that the affairs of the respondent are in a hopeless financial situation and it is just and equitable that the respondent be adjudged bankrupt.
10. That whatever is stated herein is true to the best of my knowledge and belief.



.....]

DEPONENT

BEFORE ME:

A COMMISSIONER FOR OATHS

Drawn and Filed by:
SUI GENERIS and co. Advocates
P.O. Box 7117. KAMPALA

TOPIC FOUR: SALE OF GOODS AND NEGOTIABLE INSTRUMENTS:



(A) SALE OF GOODS:

The law applicable to the area of the study includes the following:

Sale of Goods Act Cap 82

The Contract Act Cap 73

The Civil Procedure Act 71

The Civil Procedure Rules SI 71-1

Case law

Common law and Doctrines of Equity

The checklist for sale of Goods include the following issue for resolution

Whether there is a contract and if so; a sale of goods contract?

What are the formalities for formation of a sale of goods contract?

What are the terms and conditions in the facts given?

Whether there is passing of property and risk?

What is the effect of transfer of title by a non- owner?

What are the rights and obligations of the parties?

Whether there is breach of the contract of sale of goods?

What are the remedies available the parties?

What is the forum, procedure and documents?

The documents which arise include

A plaint or a specially endorsed plaint for summary procedure;

A written statement of defense.

- (1) Buyer accepts part of goods so sold and receipt of them or
- (2) Gives something to bind the contract or to part payment or
- (3) Contract is in writing; made and signed by the party to be charged

Acceptance of good is deemed to mean in section 5(3) that the buyer does something/an act in relation to the goods which recognizes a pre-existing contract of sale whether there is acceptance of performance of the contract or not.

TERMS OF THE CONTRACT

Implied terms under a contract for sale of goods (conditions/warranty).

Terms include conditions and warranties; condition go to the root of the contract; breach of which leads to termination of the contract.

Warranties are minor terms of the contract which don't get to the root of the contract. Breach of these doesn't lead to termination of the contract.

Section 13 of the sale of Good Contract affects that there is

- (1) An implied condition that seller has to sell goods
 - In case an agreement to sell; he will have a right to sell the goods at the time the property passes.
- (2) An implied warranty that buyer shall enjoy quiet possession of the goods.
- (3) An implied warranty that goods free from any charge or encumbrance in favour of any third party; not declared or known to buyer before or at the time of when the contract is made.

The case of **Butterworths Vs Kingsway Motors(1954) 1 WLR 1286** establishes a few rules as hereunder;

- A buyer is entitled to repudiate a contract at a certain date and issue a written statement a cause of action.
- Defective title can be corrected if the buyer has not taken any step.

- (b) Goods bought by description from a seller who deals in such goods; such goods should be of merchantable quality.

Lord Pearce stated In the **Hardwick Grain Farm** Case that the question to ask is whether or not the goods were reasonably fit for the specific purpose. A particular purpose meaning a given purpose known to the parties.

- (c) Implied condition/warranty as to quality/fitness may be annexed by the usage of trade.

Section 16 talks of sale by sample. This is only endorsed where there is a term in the contract; express or implied so that effects.

Section 16(2) affirms that a contract is a sale by sample where there is:

- An implied condition that the bulk shall correspond with the sample in quality.
- An implied condition that the buyer shall have reasonable opportunity of comparing the bulk with the sample.
- An implied condition that goods shall be free from any defect rendering it unmarketable which would not be apparent on reasonable examination of sample.

In **Cudahy Parking Co. Vs Nazinen field 3 F2D657** 1924, Court held that before there is a sale by sample it must be understood by both parties the goods exhibited constitute the standard of goods not exhibited and that the delivery will correspond to the standard.

Secondly; the seller selects the sample because he knows the condition and quality of his own property.

SALE OF GOODS AND SUPPLY OF SERVICES.

Contract of sale and agreement to sell

Section 2(1) of sale of goods and supply of services act (SGSSA) defines a contract of sale of goods as a contract by which the seller transfers or agrees to transfer the property in the goods to the buyer for a money consideration called price.

The contract of sale of goods is thus either a sale or an agreement to sell.

Goods further includes computer software and individual share in goods held in common.

Goods may be classified as

- a) Existing goods
- b) Future goods
- c) Ascertained goods
- d) Unascertained goods.

Existing goods.

Under S.6 (1) of SGSSA, these are owned or possessed by the seller at the time of execution of the contract.

Future goods

S.1 defines these as goods to be manufactured or acquired by the seller after the making of the contract.

Ascertained goods

S.1 defines them as goods which have become identified subsequent to the formation of the contract.

Unascertained goods.

S.1 defines them as goods not identified and agreed upon at the time the contract is made.

Formalities of a contract of sale.

According to S.5(1) of SGSSA, a contract of sale may be made in writing or by word of mouth or partly in writing and partly by word of mouth or in form of data message or maybe implied from the conduct of the parties.

Capacity to contract

Under S.4 (1), a person has capacity to enter a contract of sale where that person is 18 years and above, of sound mind and not disqualified from contracting by any law e.g. if the person was adjudged bankrupt.

- 2) Stopping the goods in transit after he/she has parted with the possession of the goods and the buyer is insolvent.
- 3) A right of re-sale
- 4) Action for the price pursuant to S.60 of SGSSA.

1. LIEN

Under S.52(1) of SGSSA, an unpaid seller is entitled to retain possession of goods until payment or tender of the price where the goods were sold without any stipulation as to credit, goods were sold on credit but the term of credit has expired or the buyer has become insolvent.

Where the seller has made part delivery of the goods, the seller may exercise his or her right of lien on the remainder unless the part delivery was in such circumstances as to show an agreement by the seller of goods to waive the lien or right of retention. S.53 of the SGSSA.

The seller's right to a lien will terminate when they deliver the goods to a carrier or other Bailee for purposes of transmission to the buyer without reserving the right of disposal of the goods, when the buyer or his or her agent lawfully obtains possession of the goods or by waiver of the lien or right of retention. S.53 SGSSA.

The seller's right to a lien will terminate when they deliver the goods to a carrier or other Bailee for purposes of transmission to the buyer without reserving the right of disposal of the goods, when the buyer or his or her agent lawfully obtains possession of the goods or by waiver of the lien or right of retention. S.52 (2) of SGSSA.

2. STOPPAGE IN TRANSIT.

S.55 of SGSSA grants a right to an unpaid seller who has parted with the possession of the goods has a right of stopping them in transit and resuming possession of the goods where the buyer is adjudged insolvent as long as the goods are in the course of transit and may retain them until payment or tender of the price.

The goods are said to be in transit from the time when they are delivered to a carrier by land, air or water or other Bailee for purposes of transmission to the buyer until when the buyer or their agent for purposes of taking delivery of them from that carrier or other bailees. S.56 of SGSSA.

Transit ends when the buyer or their agent obtains delivery of the goods before their arrival at the appointed destination.

Under S.42(1) of the SGSSA, the buyer has a right of examining the goods which he or she has not previously examined and will not be taken to have received the goods until he/she has had a reasonable opportunity of examining the goods in order to ascertain whether they are in conformity with the contract.

Duties of the seller.

1. Transfer title in the goods free of incumbrancers.

Under S.13(1) of SGSSA, in a contract of sale, unless otherwise, there is an implied term that the seller has the right to sell the goods and in case of an agreement to sell that he or she will have such a right at the time when the property is to pass.

2. Deliver the goods.

Under S.34 of SGSSA, it's the duty of the seller to deliver the goods.

Delivery of the goods is defined in S.1 of SGSSA as the voluntary transfer of possession from one person to another and includes an appropriation of goods to the contract that results in property in the goods being transferred to the buyer.

Under S.35 (1) of the SGSSA, delivery of goods and payment of the price are concurrent conditions. The seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

The various methods of delivery of goods include:

- a) Physical transfer of the goods
- b) Transfer of the means of control e.g. the keys to the store where the goods are
- c) Delivery of documents of title
- d) Constructive delivery that is where the person who bought the goods already had them but he did not have them as the owner of the goods but after the contract of sale he becomes the owner of the goods.

Place of delivery.

Under S.36 (1) of SGSSA the question of the place of delivery is dependent on the contract of the parties. The term relating to place of delivery maybe implied or express.

A buyer is not bound to accept delivery of goods by installments unless otherwise agreed. S.39 (1). IN BEHREND AND CO LTD V PRODUCE BROKERS CO LTD (1920)3 KB 530, in this case the sellers by two contracts of sale and in the events which happened, bound themselves to buyers to deliver in London on the steamship port Inglis, to the buyers craft alongside, two separate parcels of cotton seed, one of 176 tons and the other 400 tons. The buyers on their part had to pay for these parcels against shipping documents and to send craft to receive the goods. The buyers fulfilled both these obligations and received from the port Inglis some 15 tons of one parcel and 22 tons of the other.

When these had been delivered it was discovered that the rest of the seed was lying under the cargo for Hull, and the port Inglis stopped delivery and left for that port, promising to return and deliver the rest of the seed. She returned in about a fortnight's time and the seed was tendered to the buyers, but they had meantime informed the sellers that they regarded the departure of the port Inglis with the remainder of their seed on board as a failure to deliver and a breach of contract. They kept so much of the seed as had been delivered to them and demanded repayment of so much of the contract price as represented the seed undelivered. It was held in favor of the buyers.

In instances of delivery by installments, the facts giving rise to a breach of the contract entitling the aggrieved party to repudiation or merely compensation in respect of the installments, it is as the parties agreed. S.39 (2).

Delivery to a carrier.

If the contract requires the seller or authorizes him or her to send the goods to the buyer, delivery of the goods to a carrier whether named by the buyer or not for purposes of transmission to the buyer, the act of delivery to the carrier is prima facie delivery to the buyer. S.40 (1) of SGSSA.

The seller must enter into a contract with the carrier on behalf of the buyer that is reasonable giving due regard to the nature of the goods and the other circumstances of the case. S.40 (2) of SGSSA.

If the seller omits to enter into a reasonable contract of carriage and the goods get lost or destroyed on the way, the buyer has a right to use for damages or even reject the goods. S.40 (3) of SGSSA.

SUPPLY OF SERVICES.

S.1 of the sale of goods and supply of services act defines a service to mean any service or facility provided for gain or reward or otherwise than free of charge.

Contract for supply of services.

S.3 (1) provides that a contract for the supply of services means a contract where a person agrees to carry out a service whether goods are transferred or are to be transferred or boiled or are to be boiled by way of hire, under the contract, regardless of the nature of the consideration for which the service is to be carried out but does not entail contracts of service or apprenticeship.

IN ROBINSON V GROVES(1935)1 KB 597, the court of appeal held that a contract by an artist to paint a client's portrait was not contract for the sale of goods, since the main element in the contract was the skill of the artist. The defendant had commissioned the claimant (artist) to paint the portrait of a lady.

The court stated that the substance of a contract of supply and services is the skill and Labor. Certain contracts of supply of a service may entail provision of goods .however that does not make it a contract of sale of goods because the goods are merely incidental to the service.

Pre-requisites for the existence of a contract and supply of services.

1. Provision of a service. S.3(1) and S.6(4) of the act
2. Time .S.11(3) of the act
3. Quality of materials used. S.16 of the Act.
4. Skill and reasonable care. S.18 of the act
5. Capacity to contract.

Duties of buyer.

1. To pay for the service .S.34(2) of the act

Duties of supplier

1. To provide a service in accordance with the terms. S.34 (2) of the act.

NEMO DAT RULE.

Under S.30 of the act, when the seller of goods has a voidable title to the goods, but their title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, if he or she buys them in good faith and without notice.

Second sale where seller retained possession of goods/title to the goods.

Under S.32 (1) of the act, if the seller who has sold goods continues or is in possession of the goods or of the documents of title to the goods, sells those goods again to another person acting in good faith and without notice of the previous sale, the person acquires good title and it is deemed that the seller had been expressly authorized by the owner of the goods to sell.

Sale by a buyer in possession of goods.

Under S.32(2) of the act, a buyer or a person who has agreed to buy obtains with the consent of the seller, possession of goods or the documents of title to the goods, they pass on good title if they transfer those goods to another person.

Effect of a warrant of attachment.

Pursuant to S.33(1) of the act, a warrant of attachment or other warrant of attachment of execution against the goods binds the property in the goods from the time then the warrant is delivered to the bailiff to be executed.

Under S.33(3) of the act ,a buyer obtains good title over goods subject to attachment in a warrant, if they acquired the goods in good faith and for valuable consideration and had no notice of the warrant of attachment at the time of purchase.

Effect of theft or fraud on title of owner of converted goods.

Under S.31 (1) of the act, upon conviction of the person who stole the goods, the title in them reverts to the person from whom the goods were stolen from notwithstanding any intermediate dealing.

However under S.31(3) of the act, where the goods were obtained by fraud or other wrongful means not amounting to theft, the property in the goods does not revert in the person who was the owner of the goods by reason only of the conviction of the offender.

2. Definitions
3. Supply of goods or services
4. Specifications
5. Payment and consideration
6. Title and risk in the goods and services
7. Warranties
8. Termination
9. Force majeure
10. Waiver
11. Third parties
12. Dispute resolution
13. Choice of law and jurisdiction
14. Entire agreement: supersedes any prior agreement.

IN WITNESS WHEREOF THE PARTIES hereto have out their respective hands and seals the day and the year here in above written.

Seller:

buyer:

In the presence of.....

in the presence of.....

DIFFERENT MODES OF SALE OF GOODS.

- a) By description (covered above)
- b) By sample (covered) or
- c) By trade name (Cf Sec 14, 15(a) & (b) of the Sale of Goods Act Cap 82.

PASSING OF PROPERTY AND RISK

Property is either in ascertained and unascertained goods property doesn't pass unless goods are ascertained. (Under Section 17 of the Sale of Goods Act).

Secondly property in ascertained goods passes when it's intended to pass (by the parties) as provided for in section 18(1). Intention is derived from terms of the contract; conduct of the parties and circumstances of the case.

This is in line with sec 35 of the Act which states the buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or upon delivery of goods to him; he has done an act which is inconsistent with the ownership of the seller inter alia.

This was followed in **Kirkham Vs Attenborough(1897) 1 QB 201** where court held that where a person obtains goods on sale/return or similar terms and then resells them or pledges them; this is an act of adopting the transaction. Thus where there is a sale/return and the buyer is entitled to return the goods in a way which under ordinary circumstances and apart from any special terms is inconsistent with his right to return them; he loses the right to return them and the property passes to him.

Rule 4(b) Sec 19 (d) ii)

When goods are delivered to the buyer on approval or on sale/return; property passes to the buyer if he does not signify his/her approval or acceptance to the seller but retains the goods without giving notice of rejection; then if a time has been fixed for return; on the expiration of the time and if no time has been fixed on the expiry of a reasonable time. This was followed in **Poole Vs Smith Car Sales (Balham) Ltd [1962] 2 All ER 482** where court held that a reasonable time is a question of fact and is inferred from the circumstances. It depends on the events of each case.

Below are the Rules for passing of property of unascertained goods. It must be noted that unascertained goods may fall under 3 categories.

- (1) Goods manufactured/grown by seller.
- (2) Goods forming part of a generic whole
- (3) Goods forming part of a specific bulk.

General Rule in **Re Waite (1927) 1 Ch.D 606** where court held that ascertained goods means goods identified in accordance with the agreement after the time a contract of sale is made, where goods are not appropriated; the legal property had not passed because these were future goods.

In a contract of sale of unascertained goods by description in a delivery state are unconditionally appropriated to the contract property passes thereupon to the buyer.

- 4) This right is exercisable whether he is in possession of goods as part or bailee for the buyer.

Termination of the Right (lien)

- 1) Delivers goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods.
- 2) When the buyer/agent lawfully obtains possession of goods.
- 3) waiver of the lien or right of retention

BREACH OF CONTRACT AND REMEDIES

Where one party doesn't perform his part of the contract. Depends on terms of the contract; if a term, doesn't lead to repudiation; if a condition, leads to repudiation of the contract.

If the breach is by buyer

- 1) Seller can institute an action for price especially if buyer wrongfully reflects or refuses to pay for the goods according to terms of the contract (Sec 48).
- 2) Seller can bring an action for non-acceptance if buyer refuses to accept the goods and pay for them. Sues for damages for non-acceptance.

If the breach is by Seller.

- 1) Buyer brings an action for damages for non delivery if seller refuses to deliver.
- 2) Buyer bears an action for specific performance
- 3) In case of breach of warranty; buyer maintains an action for breach of warranty.

Procedure

It must be noted that the procedure under sale of goods, where one seeks redress is usually by way of plaint or summary procedure under O37 of the CPR SI71-1

Documents

These include a plaint, summary of evidence, list of witnesses, documents, authorities.

If the plaint is brought under O37, then the document is a specially endorsed plaint accompanied by an affidavit.

Appendix E- Documents for Sale of Goods.
THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA
CENTRAL CIRCUIT AT NAKAWA
CIVIL SUIT NO.OF 2006

JADWONG BILL:.....} PLAINTIFF

VERSUS

MAGODE BANOT :.....} DEFENDANT

PLAINT:

1. The Plaintiff is male adult Ugandan of sound mind whose address of service for purposes of this suit is **C/O M/s. SUI GENERISand Co. Advocates, P.O.BOX 71117, KAMPALA**
2. The Defendant is a male adult believed to be of sound mind and the Plaintiff's Advocates undertake to effect service of court process upon the First Defendant.
3. The Plaintiff's claim against the Defendant is for a 50,000,000 (fifty million shillings) for goods given the defendant worth the amount.
4. The facts constituting the cause of action are as follows:
 - (a) The Plaintiff has a wholesale shop located at Mutungo, voyager suites dealing in agricultural goods and cereals.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
CENTRAL CIRCUIT AT NAKAWA
CIVIL SUIT NO.OF 2006**

**JADWONG BILL:.....} PLAINTIFF
VERSUS
MAGODE BANOT :.....} DEFENDANT**

SUMMARY OF EVIDENCE:

The Plaintiff will lead evidence to show that he contracted with the defendant to supply him with 15,000 bags of maize, which he did. The plaintiff shall further adduce evidence to show that the defendant defaulted on clearing the balance.

LIST OF WITNESSES:

1. Jadwong Bill
2. Any other witnesses with leave of court

LIST OF DOCUMENTS:

1. The Sale Agreement
2. Acknowledgement of delivery
3. Receipt of first payment
4. Any other documents with leave of court

1. Save as herein expressly admitted, the defendant denies each and every allegation contained in the plaint as if the same were herein expressly set out and traversed seriatim.
 2. Paragraph 1 and 2 are admitted insofar as it is admitted that the defendant's address of service shall be SUI GENERIS and company Advocates, P.O.BOX 7117, Kampala.
 3. Paragraph 3 and 4 are denied in *toto* and the plaintiff shall be put to strict proof of its contents thereof.
- a) Save for the jurisdiction of this honourable court, paragraph 5, 6, and 7 are denied

WHEREFORE the Defendant prays that judgment be entered against the Plaintiff for:

- e) Suit be dismissed
- f) Costs of this suit to the defendant
- g) Any other relief as this Honourable Court may deem fit.

DATED at **KAMPALA** thisday of2006.

*FOR: SUI GENERIS AND CO. ADVOCATES
COUNSEL FOR THE DEFENDANTS*

DRAWN & FILED BY:

*M/s SUI GENERIS and Co. Advocates,
P.O Box 7117,
KAMPALA.*

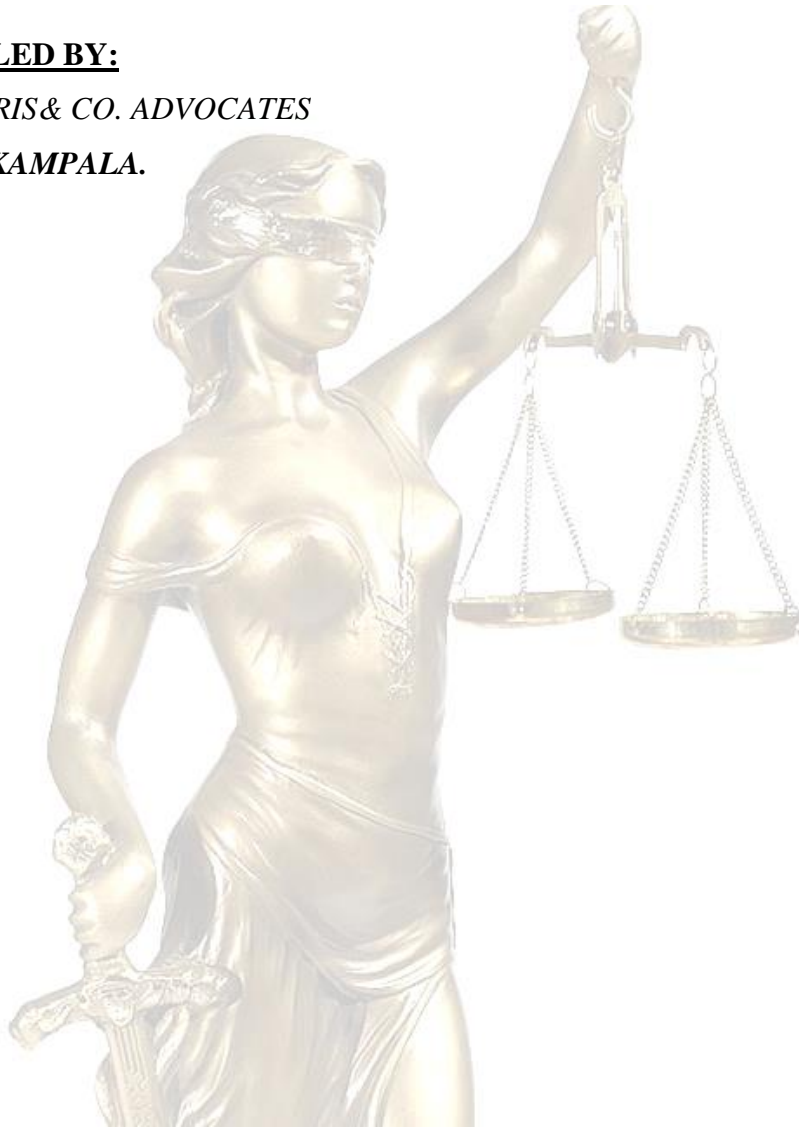
DATED at **KAMPALA** thisday of2006.

FOR: M/S SUI GENERIS & CO. ADVOCATES
COUNSEL FOR THE PLAINTIFF

DRAWN & FILED BY:

M/S SUI GENERIS & CO. ADVOCATES

P.O Box 7117, KAMPALA.



Drafting the sales agreement to reflect the intention of the seller to sell and the intention of the buyer to purchase,

Secondly, one drafts a hire purchase agreement to cater for the mode of credit financing or installments.

Thirdly, a debenture is executed between the parties whereby one party (usually the buyer) acknowledges the debt and provides securities in case of default in payment.

The sales agreement and the hire purchase agreement may be registered with the Registrar of documents under the provisions of the Registration of Documents Act Cap 81. The debenture is registered in the companies' registry under section 96 of the Companies Act, thus; it has to be registered within a period of 42 days from the date of creation. The format for registration is by filling out Form 4 in the schedule to the Companies (General) Regulations SI 110-1.

A case to illustrate a Hire Purchase Agreement is **Nsagga Vs Kayongo [1979] HCB 138** where court held that under a hire purchase agreement, an individual has a right to exercise an option not to purchase, whereby the goods remain the property of the seller until the final installment is made. Secondly, it is basically a contract for hiring the goods.

The basic terms in the sale agreement include the following:

The description of the parties.

The intention of the parties

The purchase price

The mode of payment

The description of the goods in question.

Mode of delivery

Passing of property and risk

Dispute resolution

Duration of agreement.

Rights of the parties

1. Owner is defined in S.3 of the hire purchase act as a person who hires goods to a hirer under a hire purchase agreement and includes a person to whom the owners' rights or liabilities under the agreement has passed by assignment or operation of law.
2. Heir is defined in S.3 of the hire purchase act as the person who takes goods from an owner under a hire purchase agreement and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or operation of law.
3. Guarantor is defined in S.3 of the H.P.A as a person who agrees to perform the hirer's obligations in case the hirer defaults under a hire purchase agreement.

A hire purchase agreement is defined in S.3 of H.P.A as an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the hirer.

Execution of hire purchase agreement.

1. Writing

S.4 (1) of H.P.A, the agreement must be in writing.

2. Contract of guarantee.

Under S.4 (2) of H.P.A, the contract of guarantee in relation to the hire purchase agreement must be executed by a guarantor. Failure to do so renders the hire purchase agreement voidable at the instance of the owner S.4 (3) of H.P.A

3. Full disclosure of all relevant information.

Pursuant to S.4 (4) and (5) of H.P.A the owner and hire must disclose all information relevant to the proposed agreement. Failure to give such information or falsification of the information given attract for the information to be disclosed.

4. Owner must state the cash price of the goods.

Pursuant to S.5(1) of H.P.A, before a hire purchase agreement is entered, the owner must state in writing using form 7 in the schedule to the hire purchase regulations, 2021.

S.3 defines cash price as the price at which a creditor would have sold the goods to the buyer for cash on the date of the hire purchase agreement.

7. Clause prohibiting the hirer from purchasing the hired item under S.10

Implied conditions and warranties.

Pursuant to S.8(1) of H.P.A, the following conditions are warranties are implied:

- a) a condition that the owner will have the right to sell the goods at the time when property is to pass
- b) a condition that the goods will be of satisfactory quality. S.3 of the H.P.A defines satisfactory quality as the state and conditions of goods and the following ,among others are the aspects of the quality of goods:
 - I. fitness for all the purposes for which the goods of the kind in question are commonly supplied
 - II. appearance and finish
 - III. safety
 - IV. durability
- c) a warranty that the hirer shall have and enjoy quiet possession of goods as long as there is no default.
- d) A warranty that the goods will be free from any charge or encumbrance in favor of 3rd party at the time when the property is to pass
- e) A condition that the hirer shall not take the goods out of Uganda without the consent of the owner.

Any condition above it not implied in instances regarding defects which the owner could not reasonably have been aware at the time of the execution of agreement or where the hirer examined the goods or a sample of them and the defects would with reasonable diligence have been revealed to them. S.8 (2) of H.P.A

The condition and warranties above apply irrespective of the only clause excluding them in the parties agreement .S.8 (3) of H.P.A

Duties of the owner.

1. Duty to ensure the goods are of satisfactory quality
2. Ensure he is licensed to carryout hire purchase business

Where he does so, the agreement shall be immediately terminated and the hirer will be released from all liability under the agreement and entitled to recover all sums paid by the hirer under the agreement or under any security in respect of the agreement and equally the guarantor if he/she has dispensed with money they are entitled to recover. S.15 (2) of the H.P.A.

Appendix F- Documents for Hire purchase
THE REPUBLIC OF UGANDA
THE CONTRACT ACT CAP 73
THE SALE OF GOODS ACT CAP 82
SALE AGREEMENT

This agreement is made this day of 2006

BETWEEN

UGMA of P.O. Box 624 Kampala (Hereinafter referred to as “the Purchaser”, which expression shall include its successors in title and assignees) on the one part

AND

DOLBY of P.O. Box 5318, Kampala (Hereinafter referred to as “the Vendor”, which expression shall include its successors in title and assignees) on the Second part.

WHEREAS the Purchaser is desirous of purchasing equipment comprised in one **Nanimax Generator Div x bundled**, hereinafter referred to as the equipment the detailed description of which is contained in the schedule attached hereto and called “The First Schedule”

AND WHEREAS the Vendor is desirous of supplying to the Purchaser equipment comprised in, the above said equipment.

NOW THEREFORE, the Parties hereto agree as follows:

1. AGREEMENT TO SELL

The Vendor hereby agrees to sell and the Purchaser hereby undertakes to buy the products as specified in the schedule to this agreement.

of the **UGMA** } _____

was affixed hereto in the presence of: } _____ **CEO**

THE COMPANY SEAL

of the **DOLBY** } _____

Was affixed hereto in the presence of: } _____ *CEO*

DRAWN BY:

M/S Obol Ogolla Advocates

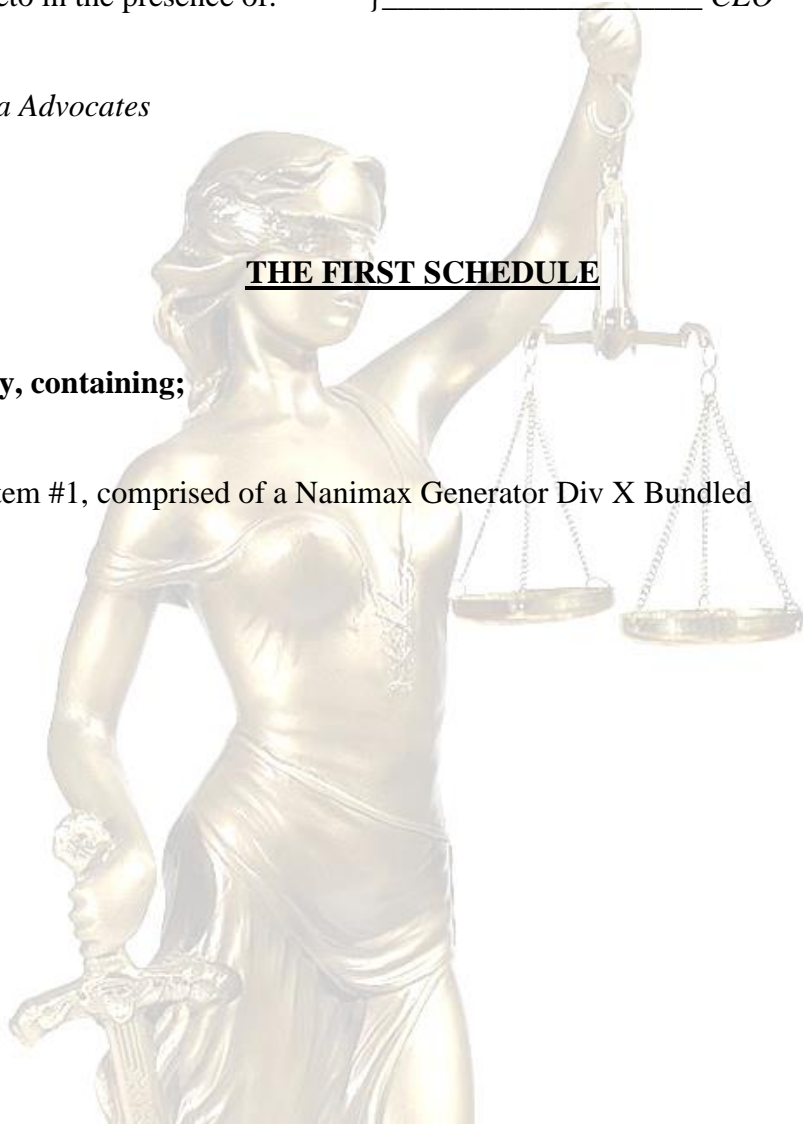
P.O. Box 7117,

KAMPALA.

THE FIRST SCHEDULE

Invoice of Dolby, containing;

Description of Item #1, comprised of a Nanimax Generator Div X Bundled



The first payment shall be made on the 1st day of November 2006 and a deposit of 10,000,000 by the hirer as a commitment fee for repayment of the hire price.

5. DURATION OF PAYMENT

The fund shall be paid over a period of 12 months commencing 1 November 2006 and shall attract an interest of 28% per annum calculated at an accrued balance on a monthly basis. The total interest shall be shillings 22,400,000.

6. RECALL

The owner shall exercise the right to recall the whole fund and realize its security; in default of payment of the hire price for a period exceeding 14 days.

7. SECURITY

The hirer shall execute a debenture to acknowledge the debt and provide security after execution of this agreement.

8. LIEN ON MACHINERY

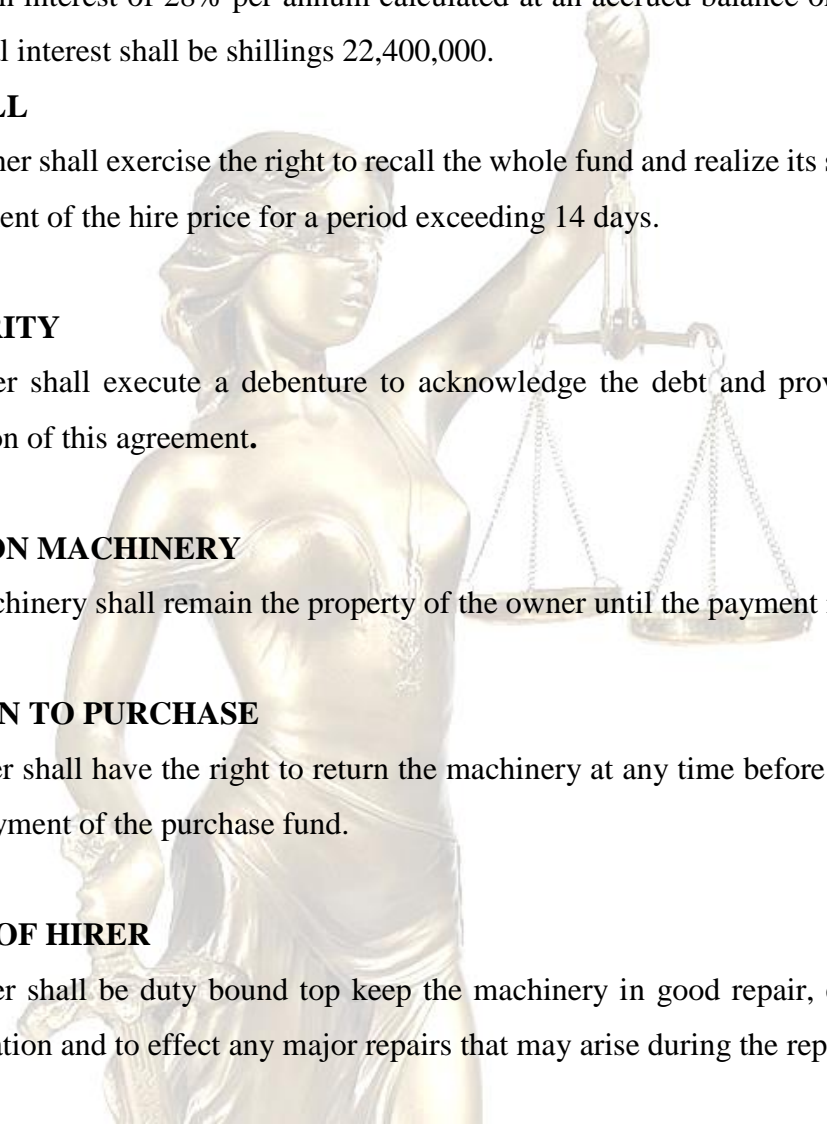
The machinery shall remain the property of the owner until the payment is made in full.

9. OPTION TO PURCHASE

The hirer shall have the right to return the machinery at any time before completion of the final payment of the purchase fund.

10. DUTY OF HIRER

The hirer shall be duty bound to keep the machinery in good repair, exempting normal depreciation and to effect any major repairs that may arise during the repayment of the fund



THE COMPANY SEAL

of the UGMA } _____

was affixed hereto in the presence of: } _____ **CEO**

B) NEGOTIABLE INSTRUMENTS:

The relevant law to look at includes the following;

Bills of Exchange Act Cap 68

The Penal Code Act Cap 120

The Contract Act Cap 73

The Civil Procedure Act Cap 71

The Civil Procedure Rules SI 71-1

Finance Act Cap 180

Financial Institutions Act 2/2004

Case law, Common law and doctrines of equity

The checklist worth noting includes the following

- Who are the parties to a bill?
- What is the capacity and authority of the parties?
- What is the effect of a forged signature in a bill?
- What are the rights and liabilities of the parties to a bill?
- What is the forum, procedure and documents in case a party wishes to institute an action on a bill?

The common document used to sustain an action is a specially endorsed plaint, supported by an affidavit under O 37 of the CPR SI 71-1.

A bill of exchange is defined in section 2 of the Bills of exchange Act Cap 68 as an unconditional order in writing addressed by one person to another; signed by the person giving it, requiring the person to whom it is addressed to pay on demand at a fixed or determinate future time, a sum certain in money to or order of a specified person or to the bearer.

A Cheque is defined on the other hand in section 72 of the Bills of exchange Act as a bill drawn on a banker (drawer) payable on demand to the payee or drawer.

It must be noted that a bill is not invalid if it is not dated, does not specify value given, does not specify place of payment, antedated or postdated or bears a date on a Sunday.

NEGOTIATION OF A BILL

Section 30 of the Act provides that a bill negotiated when transferred from a one person to another in such a manner as to constitute the transferee. It must be noted that If it is payable to the bearer, its negotiated by delivery; If it is payable to order; negotiated by endorsement of holder completed by delivery.

Section 30(4) provides that if the holder of a bill payable, transfers the bill for value without endorsing it, the transferor gives the transferee such title as the transferor acquires right to have endorsement of the transferor i.e.

- There must be a holder of a bill
- The bill should be payable with order
- The holder shall transfer without endorsing it
- Thereby rights of holder pass on the transferee

Section 31 (a) to (f) provides that for an endorsement to be valid, the following should be evident;

- It must be written on the bill and signed by the Endorser
- the endorsement should cover the entire bill
- if bill payable to order ; payee /endorsee wrongly designated or the name is mis- spelt , a bill is endorsed as he is described in it, adding if he thinks fit his / her proper signature
- in case of two or more endorsements on a bill, each endorsement is deemed to have been made in the order in which it appears
- an endorsement may be made in blank or special; it may also contain terms making it restrictive

HOLDER AND HIS DUTIES

A holder is defined as a person in possession of a bill; who the bank undertakes to pay. He has various rights on the bill as enunciated under section 37 of the **Bill of Exchange Act** as noted hereunder;

He has a right to sue in his or her name;

If he is a holder in due course, he holds the bill free from any defects in title of prior parties.

If his or her title is defective and he negotiates the bill to a holder in due course, such a holder obtains a good and complete title.

- (3) Thirdly, Section 55 provides that the drawer or endorser;
- a. Engages that on presentment, the bill is to be paid and if dishonored the holder can be compensated.
 - b. Is precluded from denying to the holder in due course, the existence of the payee.
 - c. Is precluded from denying to the holder in due course, the Guinness of the drawer's signature and previous endorsements.
 - d. Is precluded from denying to the subsequent endorsee that the bill at the time of his or her endorsement was valid and subsisting.
- (4) Section 56 provides that If a person signs the bill other than as drawer, acceptor, he or she thereby incurs the liabilities of an endorser to a holder in due course.

DISCHARGE OF A BILL

A bill is discharged in the following ways;

- (1) By payment in due course by the drawee or on his behalf, under section 58
- (2) If it is paid by the drawer to the order of a third party; the bill is not discharged but the drawer may enforce payment of it against the acceptor.
- (3) When the acceptor of a bill becomes a holder of it after the date of maturity, the bill is discharged.
- (4) When the holder, after maturity absolutely and unconditionally renounces the rights against the acceptor, the bill is discharged.
- (5) When a bill is intentionally cancelled by the holder or his agent and cancellation is apparent on the bill.

BANKING AND FINANCE.

What is a bank?

Banks are financial institutions according to the financial institutions act,2204 (as amended).

S.3 of the FIA defines a financial institution to mean a company licensed to carry on or conduct financial institutions business in Uganda and includes a commercial bank, merchant bank, mortgage bank, post office savings bank, credit institutions, a building society, an acceptance house, a discount house, a finance house, an Islamic financial institution or any institution which by regulation is classified as a financial institution by the central bank.

One becomes a customer if he or she opens an account with the condition where the relationship is not one which duration is of essence. Guideline 3 distinguish between a consumer and a customer that is a customer is an individual or a firm employing less than 10 individuals who are using or intend to use the services of a financial institution.

This is evident from a number of decisions e.g. **LADBROKE V TODD (1914)111 LJ43**, where the bank opened an account for a thief who as first transaction handed to the bank for collection a cheque which he had stolen. The court had to decide whether the thief was a customer of the bank or not. It was contended that the banker-customer relationship could only be established over a period of time, so the thief was not a customer. Court held that a person need not have a series of dealings with the bank before he gets the status of a customer. The person becomes a customer at the moment the bank receives money or a cheque and agrees to open an account for the person in the bank.

In **WOODS V MARTIN BANK LTD (1958)3 ALL ER 166**, court held that a mere likelihood that an account will be opened is enough to make a person a customer provided that the bank agreed to offer services to such a person.

In **BARCLAYS BANK V OKENHARE (1966) 2 LLOYDS REP 87**, court stated that the opening of an account even without a deposit was sufficient to constitute a person as a customer.

In **GREAT WESTERN RAILWAY CO V LONDON AND COUNTY BANKING CO.LTD. (1901) AC 414**, a man had for years been getting crossed cheques exchanged at the defendant bank but had no account there. Court held that casual services by a bank is a person does not make them a customer.

Nature of the relationship between a bank and the customer.

1. It is contractual in nature.

The supreme court of Uganda in **ESSO PETROLEUM V UGANDA COMMERCIAL BANK**, reaffirmed the principle that the relationship of a banker and a customer is contractual in nature. The obligations under the contract were laid down in **JOACHIMSON V SWISS BANK CORPORATION (1921)3 KB 110**.

2. Debtor-creditor relationship

In TAI HING COTTON MILL LTD V LIU CHONG HING BANK (1986) AC 80, court held that, the relationship between banker and customer is principally a contractual one between debtor and creditor. As between the banker and his customer, the risk of loss through forgery of the customer's signature falls on the banker unless negligence or other disentitling conduct of the customers precludes the customers claim. No wider duty should be imposed on the customer beyond a duty not to act in a way that facilitates forgery and to make the bank aware of any known forgeries occurred. "The business of banking is the business not of the customer but of the bank. They offer a service which is to honor their customer's cheques when drawn upon an account in credit or within an agreed overdraft limit. If they pay out upon cheques which are not his, they are acting outside their mandate and cannot plead his authority in justification of their debt to his account. This is a risk of the service which it is their business to affect."

IN NIGERIA ADVERTISING SERVICES LTD V UNITED BANK OF AFRICA (1968)1 A.I.R comm 6, court held that a bank customer who knows that his or her signature I being forged has a duty to inform the bank or be en-stopped from covering otherwise.

b) Disclosure of forgeries.

The customer has a duty to disclose any forgeries which come to their attention. **In GREENWOOD V MARTINS BANK LTD (1933) AC 51**, greenwood opened a cheque account with martin's bank. The wife forged his signatures and drew cheques on the account in her favor. Mr. Greenwood found out 11 months later but did not take any action allowing for 7 months to pass by since he got knowledge of the forgeries. The wife committed suicide and green wood claimed the bank could not debit his account for the cheques.

The HOL held that a banks customer has a duty to inform the bank of any forgery of a cheque purportedly drawn on the account as soon as he, the customer, becomes aware of it. The husband having failed to disclose that his signature had been forged by his wife was estopped from asserting the forgery against his bank.

c) Demand before repayment is made.

Refer to **Joachimson v swiss bank corporation (1921)3 kb 110**.

2. Duties of the bank.

a) Duty to ensure that the money on the account is not lost carelessly. **In STANBIC BANK V UGANDA CROCS LIMITED**.

Types of accounts.

There are two types of accounts.

- a) Demand deposits
- b) Time deposits.

a) Demand deposits

S.3 of FIA defines these to mean deposits repayable on demand and withdrawable by cheques order or any other means. These are generally referred to a current accounts/mercantile account/running account.

Current account.

Used regularly by clients for their financial transactions to discharge personal liability.

In **FOLEY V HILL(1848)2 HLC 28**, it was held that when an amount is paid to a customer's current account, be it by means of cash or a cheque payable ,the sum in question is forthwith regarded as paid rent by the customer to the bank.

The amount on the account is recoverable on demand and the demand is made by drawing of cheque or by ATM.

The bank however is not obligated to honor a demand where:

- I. The customers balance is inadequate except if the bank agreed to grant the customer an overdraft. **BANK OF NEW SOUTH WALES V LOIN (1954) AC 135**
- II. The demand is presented during ordinary business hours.

Features of a current account.

- Non interest bank account
- Minimum balance to be maintained
- Penalty may be charged for falling below the minimum balance
- Charges interest on the short term funds borrowed
- Continuing nature with no fixed period to hold the account
- No restriction on number of withdraws.

Overdrafts in current accounts.

Set off

It is a legal right according to which a debtor will take into account a debt owing to him by a creditor when he is required to settle the debt. **In HALESOWEN PRESSWORK AND ASSEMBLIES LTD V WEST MINISTER BANK**, lord cross stated where there have been mutual dealings between the debtor and someone who claims to prove as a creditor an account of mutual dealings shall be taken there be setoff of the sums mutually owing and it is only the balance that the creditor is to pay or prove for as the case may be.

In MUTTON V PEAT (1902)2 CH 79, stock brokers had a loan account and a current account with their bank. When they went bankrupt their current account was in credit and loan account in debit. It was held that the two accounts should be treated as one so they could use the securities to satisfy the differences between the two accounts. The court favored more of having the accounts combined/consolidated which is a right a bank has.

Saving accounts.

Type of account which allows you to deposit money, keep it safe and withdraw while earning interests.

Features

- Main objective of saving account is to promote savings
- No restriction on the number and amount of deposits
- Withdrawals are allowed subject to certain restrictions
- Money can be withdrawn by withdrawal slip of the respective bank
- Rate of interest payable is very nominal usually
- Minimum amount must be maintained
- No loan facility is provided against saving account

Withdrawal slip.

Account holders access their funds through a withdrawal slip. It is obtained out the bank, filled in and handed over to the teller, upon which the account specified is given to the customer.

Salient features.

- Date
- Account number
- Name of account holder (only drawn in that name)

Inchoate cheques.

S.19 of BEA deals with these. They arise where a drawer signs the cheque and leaves another person to complete it.

The instrument is lacking in some material particular and it's the holder to fill it up within a reasonable time and reasonable time is a question of fact. It must also be filled within the scope of authority given.

A holder

S.1 of BEA defines a holder to mean the payee or endorsee of a bill or note who is in possession of it, or the bearer of a bill/note. Under S.37 (a) of BEA, holder can sue on the bill in their name. Under S.33(4) of BEA, when a bill has been endorsed in blank, any holder may convert the blank endorsement into a special endorsement by writing above the endorser's signature a direction to pay the cheque to or to the order of himself or herself or some other person.

S.76 (2) where a cheque is uncrossed, the holder may cross it generally or specially.

S.76 (3) where a cheque is crossed generally, the holder may cross it specially.

S.76 (4) where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

A holder of a cheque can present it for payment at the drawee bank or present through his or her bank for collection if the cheque is crossed.

A holder in due course.

S.28 (1) of BEA defines a holder in due course as a holder who has taken a bill, complete and regular on the face of it, under the following conditions:

- a) They became the holder before it was overdue and without notice it had been previously dishonored
- b) That they took the bill in good faith
- c) That they took the bill for value
- d) At the time the bill was negotiated to him/her they had no notice of any defect in title of the person who negotiated it.

A) holder

Under S.28 (3) of BEA, a holder who derives his/her title to a bill through a holder in due course (whether for value or not) and he/herself aint a party to any fraud or illegality affecting it, has all rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

Presumption as to holding in due course.

Under S.29 (2) of BEA, every holder of a bill is prima facie deemed to be a holder in due course. **In HASSANALI ISSA AND CO V JEVAJ PRODUCE SHOP 1967(2) ALR COMM.64**, the court stated that under S.29 (2), a holder of a bill is prima facie deemed to be a holder in due course but that, of course, is a presumption of fact which may be rebutted. It may e.g. be shown that no consideration was given, in which event the p/f would not be able to succeed on the cheque.

Summary on protection enjoyed by a holder in due course.

1. S.37(b) ; holds the bill free from any defect
2. S.37(c) (I): good and complete title to the bill where holder has a defective title.
3. S.20(2) : unauthorized delivery will not affect a holder in due course
4. S.28(3): holder in due course can pass good tittle with all rights to a holder
5. S.11(b): is protected from a wrong date on a bill
6. S.19 (2): an inchoate instrument converted into a bill negotiated to a holder in due course is valid.
7. S.35 (5): a holder in due course is not affected with a dishonored overdue bill.
8. S.47 (a): a holder in due course’s rights are not prejudiced by omission of notice of dishonor.
9. S.53(b): the acceptor is precluded from denying a holder in due course
10. S.54(1)(b) : drawer is precluded from denying a holder in due course
11. S.54(2)(b): endorser is precluded from denying a holder in due course
12. S.55: a person who signs a bill incurs liabilities of an endorser to a holder in due course
13. S.63: a holder in due course is not affected by alteration of a bill.

Liability of parties’ to a cheque.

a) Drawer

The main defenses to claims on a cheque are largely to a defense on a suit in contract. S.20 (1) talks of every contract on a bill which means that the relationship of the parties is contractual.

1. Failure or absence of consideration.

S.26 codifies the common law rules relating to valuable consideration. Due to the presumption of valuable consideration under S.29 (1), the defense has the duty to rebut the presumption.

In **STERLING PRODUCTS (NIGERIA) LTD V DINKPA (1975) (2) ALR COMM.75**, the plaintiff brought an action against the defendant for the price. The court said that as regard the claim on a cheque this had to fail because the evidence showed that there was total failure of consideration. The goods for which the cheque was issued were returned to the plaintiff in the same condition as they were delivered to the defendant. There was therefore an entire failure of consideration and this is a valid defense to an action on a bill of exchange.

2. Failure to present the cheque in proper time.

S.44 (3) (b) of BEA stipulates that where the bill is payable on demand, presentment must be within a reasonable time. Should ideally be presented within six months.

However under S.73 (a) where a cheque is not presented for payment within a reasonable time of its issue, the drawer will only be discharged to the extent of any actual damage which he or she suffers as a result of such failure.

In **ESSO PETROLEUM (UGANDA) LTD V UCB, CIVIL APPEAL NO.14/1192**, the court stated that if a banker /as an agent for collection) fails to present a cheque within a reasonable time after it reaches it, it is liable to the customer for loss arising from the delay, the drawer or endorsee if any, is discharged to extent of damage he/she may have suffered by the failure to pay the cheque by the bank on which the cheque was drawn.

3. Failure to give notice of dishonor.

The act lays down rules relating to notice of dishonor. Under S.47, when a bill is dishonored by non-acceptance or by non-payment, notice of dishonor must be given to the drawer or endorser to whom the notice is not given is discharged.

S.48 (1) requires that notice is given as soon as the bill is dishonored and must be given within a reasonable time.

The rule in S.6 (3) was held in **BOMA MANUFACTARIES LTD V CANADIAN IMPERIAL BANK OF COMMERCE (1997) 23 CLB740**, to be an exception to the rule of *nemo dat quod non habet*. The policy behind the fictitious payee rule is that if the drawer drew a cheque payable to order, not intending that the payee receive payment, the drawer lost, by his/her conduct, the right of protection afforded to a bill payable to order and there was no reason why the defense of fictitious payee was not available to the collecting banker.

In **CLUTTON V ATTENBOROUGH AND SONS (1897) A.C 90**, an employer was fraudulently induced by the clerk to draw cheque in favor of nonexistent payees whose endorsement was forged by the clerk in favor of a bonafide transferee for value. The 3rd party, the transferee who acted in good faith obtained payment of the cheques. Clutton, after discovering the fraud sued the third party for money they had received. The HOL held that the equivalent of S.6 (3) applied and the money could not be recovered.

Impersonal payees.

Is a payee of a bill or note designated as cash, bills payable or order. They may be designated otherwise than in the name of a person, association, partnership or corporation.

The effect of drawing a bill in the name of an impersonal payee is that the instrument is payable to bearer and need not have other words of negotiability.

Under S.6 (3), a cheque is treated as being payable to the bearer only when the payee is a fictitious /nonexistent person. The word person is defined in S.3 as including a body of persons whether incorporated or not. Obviously this definition does not cover impersonal payees such as instrument drawn in a cheque form to order or bearer in favor of 'cash.' This issue arose in **KHAN STORES V DELAWER (1959) EA 714**, the document in issue was a cheque drawn on the national bank of India signed by the applicant, directing the bank to pay 'cash or bearer' the sum of shs.2000. The word 'cash' was in manuscript word "bearer" was printed. Law J, held that a person who uses cheque forms made out to blank or 'bearer' and who fills in the blank either the word 'cash' or with the name of specified person without deleting the word bearer must be presumed to intend that the words or bearer and complying with other requirements of the act, and the plaintiff respondent as the person in possession of the cheque was the holder thereof within the meaning of the terms bearer and holder.

S.33 (4) allows for the conversion of bill endorsed in blank to be endorsed specifically.

S.31 (a) provides that an endorsement in order to operate as a negotiation must be written on the bill itself and be signed by the endorser.

Agency

S.90(1) provides that where in the act any instrument or writing is required to be signed by the person, it is sufficient if his or her signature is written thereon by some other person by or under his or her authority.

S.24 provides that a signature by procuracy (agency) operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his or her authority.

Wrongful dishonor of cheques.

In UNDECHEMIST LTD V NATIONAL BANK OF NIGERIA LTD, 1976(1) ALR COMM. 143, that a banker is bound to pay cheques drawn on it by a customer in legal form provided there are in the bank at the time sufficient and available funds standing to the credit.

A bank that without justification dishonors its customers cheques is liable to the customer in damages for injury to his/her commercial credit. The customer must however prove damage suffered.

In ROLIN V STEWRAD 139 E.R. 245, three cheques were presented and dishonored. They were presented again the following day and they were honored. The plaintiff was a trader. In an action for damages no evidence was given to show that he suffered any injury or damage. He was awarded 200 pounds as substantial damages.

Damages are presumed when the person is a trader, it not so when a person isn't a trader. **EVANS V LONDON AND PROVINCIAL BANK (1917)3 L.D, A, B 152**, the plaintiff drew a cheque which owing to the mistake of the bank was dishonored. He was not in business and there was no suggestion of actual damage. Nominal damages were awarded.

In **DAVIDSON V BARCLAYS BANK (1940) 1 ALL ER 316**, the plaintiff's cheque was dishonored with the words 'not sufficient' and the court held that that amounted to libel.

Limitation of actions.

Owing to S.3 (2) of the Limitation Act 1980, an action relating to an account cannot be brought after the expiration of six years from the date on which it accrued.

The limitation applies to all actions on an account e.g.

In **NATIONAL BANK OF NIGERIA V PETERS 1971(1) ALR COMM 262**, the court held that a banker cannot recover a dormant overdraft more than six years after the last advance if the statute of limitation is pleaded nor can it recover interest which even within six years has in accordance with the ordinary practice of bankers been added to the principal from time to time and become part of the principal.

Combination of accounts.

Combination of accounts is a situation whereby a banker might treat two or more accounts opened between its customer and itself as though they were one whole account, entirely under its control by reason of which it might remove assets from one account to meet deficiencies in the other.

In **T AND H GREENWOOD TEATE O.WILLIAMS V WILLIAMS BROWN AND CO.(1894-1895) 11 T.L.R 56**, right to combine and set off at any time was restated by Lord Denning in **HALESOWEN PRESSWORK AND ASSEMBLIES LTD V WESTMINSTER BANK LTD (1971) 1 Q.B1**

Wright J held that a bank had the right to combine a customer's separate accounts subject to three exceptions:

- a) The right to combine could be abrogated by a special agreement
- b) It would be inapplicable where a special item of property was remitted to the bank and appropriated for a given purpose.
- c) A bank could not combine a customer's private account with the one known to be a trust account or to be utilized for operations conducted by the customer as trustee.

These are instruments taken out by a party to a contract, written by a third party guaranteeing the performance of a contract.

They include: performance bonds/guarantees and other guarantees such as advance payment guarantees.

The law on these instruments was summarized by lord denning

In **EDWARD OWEN ENGINEERING LTD V BARCLAYS BANK INTERNATIONAL LTD (1978)1 ALL ER 976**, he stated that the law applicable to them was similar to that applicable to letters of credits. He thus held that performance guarantees were virtually promissory notes payable on demand. The bank must pay if the documents are in order and the terms of the guarantees satisfied. Any dispute between the buyer and seller must be settled between themselves. The only exception is in case of what is called established or obvious fraud to the knowledge of the banker.

The learned author, Geraldine Mary Andrews in law of guarantees 2nd edition 1995 at page 443 and 444 states that “performance bonds are essentially unconditional undertakings to pay a specified amount of money to a named beneficiary usually on demand and sometimes on the presentation of certain documents. Therefore it is established that if the beneficiary seeks payment in accordance with the terms of the bond, the bank must pay regardless of how unfair that might be to the account party.

The above position was cited with approval by Madrama j in **NATIONAL HOUSING AND CONSTRUCTION CO LTD V LION ASSURANCE COMPANY LIMITED H.C.C.S NO. 25 OF 2013**, in which the defendants had declined to pay on a demand made on an advance payment guarantee issued of the benefit of the plaintiff. He went on to state that the demands made according to the terms of the performance bond must be paid.

Principle of money had and received.

It is a form of action that lays to recover money paid under a mistake or compulsion or for a failed consideration. It is available where a payment or transfer of value takes place voluntarily but is made under the compulsion of urgent and pressing necessity.

In **DR JAMES KASHUGYERA TUMWWINE AND ANOTHER V. SR.WILLIE MAGARA AND ANOTHER H.C.C.S NO .576 of 2004**, court held that a claim for money had and received is an equitable action that may be maintained to prevent unjust enrichment by the defendant when it obtained money which in equity and good conscience belongs to the plaintiff.

Whether the agreement for interest and penalties is enforceable?

What is the remedies available to an aggrieved party?

What's the forum, procedure and documents?

The Document s

Application for a money lender's certificate

Statement in of contents of section 8(1)

MONEY LENDERS

A money lender is defined in section 1(h) of the Money Lenders' Act to include every person who is in the business of money lending or one who announces himself out in any way as carrying on a business that business whether he or she possesses or earns property or money derived from sources other than the lending of money and whether or not that person carries on the business as a principle or agent.

It must be noted however that a money lender does not include the following:

- A person carrying on a business of banking or insurance, not having it primary objective of lending money.
- Any society under the Cooperative Societies Act
- Any body corporate, incorporated or empowered by Special Act to lend money in accordance with this act.
- Any person or body corporate exempted from this act by order of the minister.

A money lender is enjoined to take out a money lender's licence under the provision of section 2(1) of the money lenders' act. Section 3(3) provides that a money lender shall apply for the certificate to a magistrate having jurisdiction in the place where the money lender's business is located.

Procedure

A money lender applies for the certificate to a magistrate having jurisdiction in the place where the money lender's business is located as per Section 3(3) of the Act and rule 3(1) of the Money lenders (Licences and Certificates) Order SI 273-1

Appendix G- Documents for Negotiable Instruments

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

CENTRAL CIRCUIT AT NAKAWA

CIVIL SUIT NO.OF 2006

JADWONG BILL:.....} PLAINTIFF

VERSUS

MAGODE BANOT :.....} DEFENDANT

SPECIALLY ENDORSED PLAINT:

(O37 R1 CPR S1 71-1, Section 98 CPA)

1. The Plaintiff is male adult Ugandan of sound mind whose address of service for purposes of this suit is **C/O M/s. SUI GENERISand Co. Advocates, P.O.BOX 71117, KAMPALA**
2. The Defendant is a male adult believed to be of sound mind and the Plaintiff's Advocates undertake to effect service of court process upon the First Defendant.
3. The Plaintiff's claim against the Defendant is for a 50,000,000 (fifty million shillings) for goods given the defendant worth the amount.
4. The facts constituting the cause of action are as follows:
 - a) The Plaintiff has a wholesale shop located at Mutungo, voyager suites dealing in agricultural goods and cereals.

f) Any other relief as this Honourable Court may deem fit.

DATED at **KAMPALA** thisday of2006.

FOR: SUI GENERISAND CO. ADVOCATES
COUNSEL FOR THE PLAINTIFF

DRAWN & FILED BY:

M/s SUI GENERISand Co. Advocates,
P.O Box 7117,
KAMPALA.

IN THE HIGH COURT OF UGANDA
CENTRAL CIRCUIT AT NAKAWA
CIVIL SUIT NO.OF 2006

JADWONG BILL:.....} PLAINTIFF

VERSUS

MAGODE BANOT :.....} DEFENDANT

AFFIDAVIT IN SUPPORT OF SPECIALLY ENDORSED PLAINT:
(O37 R1 CPR S1 71-1, Section 98 CPA)

I, Jadwong Bill, a male adult Ugandan of sound mind do solemnly swear and state as follows;

1. The Plaintiff has a wholesale shop located at Mutungo, voyager suites dealing in agricultural goods and cereals.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
CENTRAL CIRCUIT AT NAKAWA
CIVIL SUIT NO.OF 2006

JADWONG BILL:.....} PLAINTIFF

VERSUS

MAGODE BANOT :.....} DEFENDANT

SUMMARY OF EVIDENCE:

The Plaintiff will lead evidence to show that he contracted with the defendant to supply him with 15,000 bags of maize, which he did. The plaintiff shall further adduce evidence to show that the defendant offered payment by cheque which was not honoured.

LIST OF WITNESSES:

1. Jadwong Bill
2. Any other witnesses with leave of court

LIST OF DOCUMENTS:

1. The Sale Agreement
2. The Cheque
3. Acknowledgement of delivery
4. Receipt of first payment
5. Any other documents with leave of court

LIST OF AUTHORITIES:

1. The Constitution, 1995
2. The Judicature Act Cap 13
3. The Sale of Goods Act Cap 82
4. The Contract Act Cap 73
5. The Civil Procedure Act Cap 71

TOPIC FIVE: EMPLOYMENT CONTRACTS AND AGENCY:



LAW APPLICABLE:

1. The 1995 Constitution of the Republic of Uganda
2. The Contract Act Cap. 73
3. The Companies Act 2012
4. The Employment Act, Act 6 of 2006
5. The Employment Regulations S.1 14/77
6. Civil Procedure Act Cap 71
7. Civil Procedure Rules S.1 71-1
8. Common law and Doctrines of Equity
9. The Evidence Act Cap 6
10. Case Law and Common Law
11. The Uganda Citizenship and Immigration Control Act Cap 66
12. Workers Compensation Act Cap 225
13. Workers Compensation Regulations SI 225-1
14. The Labor Disputes (Arbitration and Settlement) Act 8 of 2006
15. The Labor Unions Act, Act 7 of 2006
16. The NSSF Act Cap 222
17. The Income Tax Act Cap 340
18. The Children's Act Cap 59
19. The Occupational Safety and Health Act Act9 of 2006
20. the Arbitration and conciliation Act Cap 4

Checklist/ issues arising

1. Whether the intending employer has a recruitment permit?
2. Whether the prospective employees can be employed?
3. What are the formalities for the contract of employment?

It must be noted that before an employer engages an employee, he or she must have a valid recruitment permit under section 38(1) of the Employment Act. Sub section 2 qualifies the need for a recruitment permit. It is not to be got by a person recruiting domestic servants or non manual laborers for employment.

Formalities:

Introduction

First and foremost, the contract can be in writing or oral except as otherwise provided for by the Act section 26 makes a mandate for a contract of employment to be attested where the employee is unable to read or understand the language in which the contract is written. Attestation is before a magistrate or a labor officer.

The contents of an employment contract should have clauses to the following effect:

The Name of the Employer,

undertaking and place of employment,

The name of the Employee, place of engagement, origin and particulars necessary for his or her identification,

Nature of employment,

Duration of employment,

Rate of wages and methods of calculating wages,

Manner and periodicity of payment of wages.

Conditions of repatriation. *Inter alia.*,

Termination of the contract,

Summary dismissal

Duties of the Employer,

Right and Obligations of the Employee.

It must be noted that section 33 makes it a prerequisite for a prospective employee wishing to enter a contract of service to be first examined by a medical practitioner at the expense of the Employer.

Foreigners

Applicability of the employment act

Pursuant to S.3 (1) of the employment act, the act applies to all employees employed by an employer under a contract of service.

Under S.3 (2) of the act does not apply to

- a) Employers and their dependent relatives when dependent relatives are the only employees in a family undertaking as long as the total number of dependent relatives does not exceed five

S.2 defines a dependent relative means a member of an employee's family who substantially depends on that employee for his or her livelihood.

- b) The Uganda peoples defense forces other than their civilian employees.

Employer-employee relationship.

For there to subsist an employer-employee relationship, there must exist a contract of service as between the parties.

The most common test for whether there subsists a contract of service is the control test.

In *READY MIXED CONCRETE (SE) V MINISTER OF PENSIONS* (1968) 1 ALL ER 433, the court stated the existence of a master-servant relationship between the parties is dependent upon the provisions of the contract. If the contract provisions are such that the relationship is that of master-servant, it is irrelevant that the parties would have preferred a different conclusion.

A contract of service exists where there are three conditions:

- a) The servant agrees that in consideration of a wage /other remuneration, he will provide his own and skill in the performance of some service for his master.
 - b) He agrees expressly/impliedly, that in the performance of that service, he will be subject to the others control in a sufficient degree to make that other the master.
 - c) There other provisions of the contract are consistent with its being a contract of service.
- Control includes the power of deciding the thing to be done the way, means of employment, time and place it's done. It must be to a sufficient degree to make one party the master and the other the servant.

Though courts will be inclined to attain the true meaning to a transaction entered by parties whatever nature they call, courts are also hesitant to deviate from the express stipulations of the parties. In *NSSF V MTN (U) LTD AND ANOR H.C.CS no.94 of 2009*, where the question to be answered was who was the employer of the UNISIS temporary contract employees who worked for MTN under the control of MTN. Justice Hellen Oburu rejected the control test suggested by the Plaintiff's advocate and held that the intention of the parties insofar as who the employer was clearly stated in the contract which named UNISIS as the employer and not MTN.

3. The multiple test/economic reality test.

Courts under this test do not necessarily look at only the control test but at all the surrounding features thus applying what is in fact a multiple test. *READY MIXED CONCRETE V MINISTER OF PENSIONS (1968) 1 ALL ER 433*.

4. Mutuality of obligation test.

The question to be answered under this test is the employer obliged to offer work to workers and is the worker obliged to accept the work offered. There should be a contractual obligation on both sides to provide work and to do work in order for a contract of employment to exist. In the case of *CARMICHEAL V NATIONAL POWER PLC (1999) UK 47*, the House of Lords held that there must be a formal legal obligation on both sides before a contract of employment and employee status can be found. In this case the claimant was offered employment as a tour guide on a casual basis. She performed work as when it arose, but she was not obliged to provide work and the company were not obliged to provide work and did not guarantee that work would be available. She was paid for hours worked and tax and national insurance contributions were deducted. The House of Lords held that she was not an employee. There was no obligation for the company to provide the work and the claimant had no obligation to do it when offered.

Distinction between contracts for services and a contract of service.

A contract for services gives rise to an employer-independent contractor relationship while a contract of services once established creates an employer-employee relationship.

Why the distinction is important.

- d) Capacity to contract
- e) Intention to be legally bound.

1. Offer and acceptance.

Usually the offer is made during the interviews or through a letter of appointment after the interviews. Negotiation if any are made and concluded during this period usually relating to the salary, other employment benefits and the starting date.

2. Consideration

The consideration in employment contracts is the employers promise to pay the agreed wages in return for the employee performing a particular task. IN *DELANEY V STAPLES* (1992) IRIR 191, Lord Browne Wilkinson was of the view that the essential characteristic of wages is that they are contributions for work done or to be done under a contract of employment. If payment is not referable to an obligation on the employee under a subsisting contract of employment to render his services, it does not fall within the ordinary meaning of the word wages.

S.41 (1) of the employment act provides that wages have to be paid in legal tender. Although the section also allows the employer to pay by cheque, postal order, money order or by direct payment to employees bank account having sought the consent of the employee to do so.

3. Capacity.

Section 11(1) of the contracts Act provides that a person has capacity to contract where such a person is of 18 years and above, of sound mind and not disqualified from contracting by any law to which he or she is subject.

Section 11(2) goes further to stipulate that a person of 16 years plus has the capacity to enter into a contract of employment as provided under Article 34(4) and (5) of the 1995 constitution of the republic of Uganda.

4. The other requirements of a contract of service under the employment act are stipulated under the employment act under section 59 of the employment act and these include the following

- a) Full names and address of the parties.
- b) The date on which employment began
- c) Title of the job the employee is employed to do

In addition under S.60 (b) of the employment act, the written statement of particulars create a rebuttable presumption that the terms and conditions of employment are accurately stated in the written particulars and in any notified changes.

In **SYSTEMS FLOORS (UK) LTD V DANIEL (1982) ICR 54**, Browne- Wilkinson j stated that the written statement of particulars provide very strong prima facie evidence of what were the terms of the contract between the parties but does not constitute a written contract between the parties. Nor are the statements conclusive terms; at most they place a heavy burden on the employer to show that the actual terms of the contract are different from those which he/she has set out in the statutory statement.

Employment contract.



THE REPUBLIC OF UGANDA
IN THE MATTER OF THE EMPLOYMENT ACT
6 OF 2006 AND
IN THE MATTER OF AN EMPLOYMENT
CONTRACT
EMPLOYMENT CONTRACT

This contract is made at Kampala on this 10th day of February 2020.

Between

BHALO TRAVELS LIMITED of P.O BOX 869, Kampala, Uganda,
(Hereinafter referred to as ‘THE EMPLOYER’ of one part:

And

(Hereinafter referred to as ‘the employee’) of the other part:

WHEREAS.

4.1 The employer shall conduct performance appraisals through the employers designated supervisor as a means of monitoring and evaluating the employee's performance for the year.

4.2 The final annual performance report shall be the only basis for promotion from the sales person position to senior sales person position or renewal of the employee's contract.

5. RENUMERATION

5.1 The employee shall be entitled to Gross monthly salary of UGX.600,000 (six hundred thousand shillings only)

5.2 The employees remuneration shall be paid into their bank account

6. COMMISSION.

6.1 the employer shall pay to the employee a commission on all sales made

6.2 the commission payable on each sale of the employers product made shall be 8% of the total amount paid on the product.

7. HOURS AND DAYS OF WORK.

7.1 The employee shall be expected to work for 8 hours per day for 6 days of the week

7.2 The working hours shall start at 8;00 am and end at 5;00pm with the time between 1:00pm and 2:00pm excluded for a lunch break.

7.3 The days of work shall be Monday to Saturday.

7.4 In case the employee reports to work later than 9:00am or leaves the work place earlier than 4:00pm, they shall be paid a wage for half a day.

7.5 The employee may be required to work past the set working hours where there is a target that needs to be met and the employer shall pay the employee for the overtime in such instances.

7.6 The employer reserves the right to call an employee to work on a weekly off in which case the employee shall be paid in the equivalent of 1.5 days wage.

8. ANNUAL LEAVE.

The employee shall be entitled to 21 days of paid annual leave or payment in lieu of the leave

9. SICK LEAVE

The employee shall be entitled to sick leave as stipulated in the employment act

10. EMPLOYMENT BENEFITS.

15. SUMMARY DISMISSAL

The employer reserves the right to summarily dismiss the employee for any gross misconduct as stipulated in employer’s human resource manual.

16. RENEWAL OF THE CONTRACT.

16.1 This contract maybe renewed pursuant to the provisions of this contract at the discretion of the employer depending on work availability and the employees performance appraisal report.

16.2 The renewed contract shall be in the form of a new contract signed between the parties and it shall be the employee’s duty to ensure that they obtain a new contract as and when this one expires.

17. DISPUTE RESOLUTION.

17.1 All disputes arising under this contract shall be resolved in line with the established company policies and rules.

17.2 Should the parties fail to amicably resolve the dispute, then a mediator from the CADER agreeable to both parties shall be appointed to resolve the dispute.

18. LAW APPLICABLE.

This contract shall be governed by the laws of Uganda.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed in their respective names as of the day and year first above mentioned.

Signed for and on behalf of the employer

**SUI GENERIS
HEAD OF HUMAN RESOURCE
FOR BHALO TRAVELS LIMITED.**

Signed by the said

NAME.....

SIGNATURE.....

EMPLOYEE.

In the presence of

Regulation 4(1) requires that an employer provides each employee with a copy of the sexual harassment policy.

Regulation 6 necessitates that the sexual harassment policy is placed in a conspicuous area at the work place.

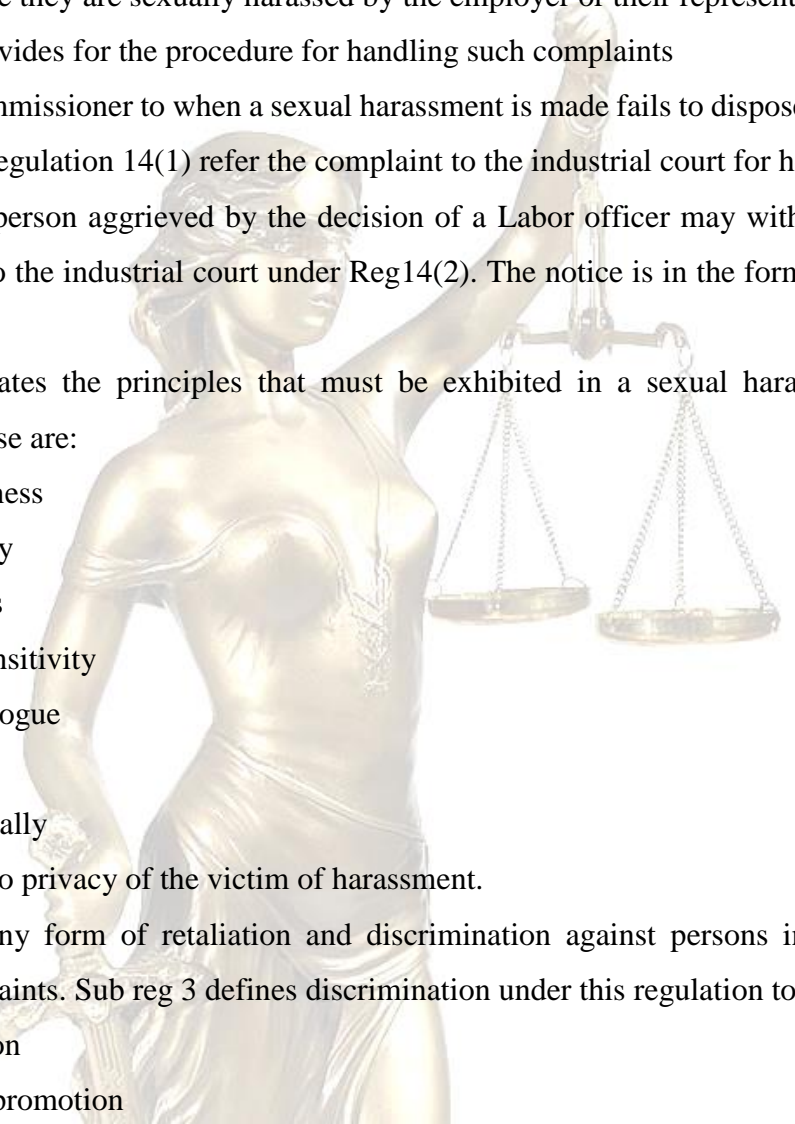
Pursuant to Regulation 12, a sexual harassment complaint maybe lodged by the employee with a labor officer where they are sexually harassed by the employer or their representative.

Regulation 13 provides for the procedure for handling such complaints

Where a labor commissioner to when a sexual harassment is made fails to dispose of the complaint, they may under Regulation 14(1) refer the complaint to the industrial court for hearing.

Further a person aggrieved by the decision of a Labor officer may within 21 days give a notice of appeal to the industrial court under Reg14(2). The notice is in the form prescribed in the 3rd schedule.

Reg 15 states the principles that must be exhibited in a sexual harassment complaint procedure and these are:

- 
- a) Thoroughness
 - b) Impartiality
 - c) Timeliness
 - d) Gender sensitivity
 - e) Social dialogue
 - f) Discretion
 - g) Confidentially
 - h) The right to privacy of the victim of harassment.

Reg 17(1) bars any form of retaliation and discrimination against persons involved in sexual harassment complaints. Sub reg 3 defines discrimination under this regulation to include:

- a) Termination
- b) Denial of promotion
- c) Demotion in title or duties
- d) Transfer to a less favorable
- e) Involuntary placement on leave
- f) Hostile or abusive treatment
- g) Decreasing remuneration or benefits

2. Expectant mothers.

Article 33 recognizes the special role women play in recreation and that the same must be taken into account.

These are pursuant to Reg 42(1) of the Employment regulations 2011 not obliged to perform work which is harmful to their health.

The employer is mandated under Sub-regulation 2 to provide an expectant mother with any of the following alternatives:

1. Flexible hours of work
2. Lighter work load
3. Alternative arrangements of work

S.75 (a) further emphasizes that a female employees pregnancy or any other reason connected with her pregnancy shall not constitute a fair reason for dismissal or for the imposition of a disciplinary penalty.

3. Casual employees.

S.2 of the employment act defines a casual employee to mean a person who works on a daily or hourly basis where payment of wages is due at the completion of each day's work.

In **KITAKA ERIMUS V AIM DISTRIBUTORS, LABOR DISPUTE REFERENCE NO 75 OF 2017**, the industrial court defined a casual laborer as one who gets paid per day after doing what he has been engaged to do. There is no guarantee that his employer will give him a job the next day and the obligations and responsibilities towards either the employee or the employer end with the work and payment of a particular day.

Under Regulation 39(1) of the employment regulations 2011, a person must not be employed as a casual employee for a period exceeding four months. Under sub-reg 2, a causal employee engaged continuously for 4 months is entitled to a written contract and such employee ceases to be a casual employee and all rights and benefits enjoyed by other employees will apply to them.

IN KITAKA ERIMUS V AIM DISTRIBUTORS (SUPRA), the industrial court defined the phrase 'continuous engagement'' as used in Reg 39(2) of the employment regulations to connote engagement every day to do particular works over a certain period being four months in this case. For a person to rely on Reg 39(2), they must lead evidence to show that they were 'continuous engagement for four months. Failure to do so means that the person was a casual laborer

2. Avoid using screening methods during interviews which have the effect of discriminating against a person on grounds of their disability.
3. Ensure that the physical officers of a workplace are accessible and to provide assistance and devices required by an employee with disability to enable them execute their duties.

TRANSFER OF EMPLOYMENT

Under S.28 (1) of the employment act, a contract of service cannot be transferred from one employer to another without the consent of the employee except as provided for in sub section 2.

Under Reg 29(1) of the employment regs, the consent must be sought at least 30 days before the employee is transferred.

Under Reg 29(2) where the employee does not consent, they shall be paid all their terminal benefits, outstanding balances, wages and other accrued benefits and the contract terminated.

Sub-section 2 is to the effect that where a trade or business is transferred in whole or in part, the contracts of service of employees employed at the date of transfer will automatically be transferred to the transferee, all rights and obligations between each employee and transferee will continue to apply as if they had been rights and obligations concluded between the employee and transferee.

The assumption of all obligations by the transferee was discussed in the case of **SHAKIL PATHAN ISMAIL V DFCU BANK LTD HCCS No.236 of 2017**, in which the court stated that the defendant having taken over crane bank took over all employments contracts of the employees of crane bank and any obligations there under. Thus whereas the deductions complained of by the plaintiff were by crane bank, the defendant having taken over was liable to pay back the deductions unlawfully deducted since it has assumed the employment contracts of crane banks former employees by virtual of operation of S.28 (2) of the employment act.

TERMINATION, DISMISSAL AND SUMMARY DISMISSAL.

Under S.83 (2) of the employment act, the employer has a duty to ensure conformity of employment, however where it's not possible then the employer may:

Termination.

S.2 of the employment act defines dismissal from employment as the discharge of an employee from employment at the initiative of his/her employer when the said employee has committed verifiable conduct.

In BENON H KANYANGOGA AND ORS V BANK OF UGANDA, LABOR DISPUTE CLAIM n0. 80 OF 2014, the industrial court stated that in dismissing an employee, the employer must establish that there is verifiable misconduct on the part of the employee. Verifiable misconduct includes but is not limited to abuse of office, negligence, insubordination and allow circumstances that impute fault on the part of the employee which include incompetence.

Whereas an employer has the right to dismiss an employee, he\she must do so in accordance with the established legal procedure.

The employer must also pursuant to S.68(1) give a reason for the dismissal or else that would be construed as unfair dismissal/unlawful dismissal. **IN FLORENCE MUFUMBA V UGANDA DEVELOPMENT BANK, LABOR CLAIM NO.138/2014**, the industrial court held that whether the employer chooses to terminate or dismiss an employee, such employee is entitled to reasons for the dismissal or termination. ‘in employing the employee, we stringy believe that the employer had reason to so employ him/her .in the same way, in terminating or dismissing the employee there ought to be reason for the decision.

Constructive dismissal.

In BYANJU JOSEPH V BOARD OF GOVERNORS OF ST AUGUSTINE COLLEGE WAKISO, LABOR DISPUTE NO.062 OF 2016, and the court relying on the black’s law dictionary 9th edition defined constructive dismissal to mean a termination brought about by the employer making the employees working conditions so intolerable that the employee feels compelled to leave.

The court further laid down the ingredients of constructive dismissal as follows:

- a) That the employer must be in breach of the contract of employment
- b) The breach must be fundamental as to be considered as a repudiatory breach
- c) The employee must not delay in resigning after the breach has taken place.

What amounts to constructive dismissal

IN BYANJU JOSEPH V BOARD OF GOVERNORS OF ST.AUGUSTINE COLLEGE WAKISO (SUPRA), court held that constructive dismissal does not require a formal termination but unilateral act by the employer to substantially change the contract of employment.

SUSPENSIONS AND DISCIPLINARY SANCTIONS.

The employment act no.6 of 2006 provides for two types of suspensions under the act. These are suspension as a disciplinary sanction or punishment and suspension pending an inquiry.

Suspension as a disciplinary sanction.

Pursuant to S.62 (1) of the employment act, an employer may impose a disciplinary penalty onto the employee other than dismiss them where such employee was negligent, failed or allegedly failed to carry out their duties under the employment contract. S.62(3) stipulates that an employer can only impose a disciplinary penalty where it is reasonable to do so and in deciding what is reasonable ,the employer is guided by the nature of the neglect, failure or alleged failure committed by the employee and the code of discipline set out in the 1st schedule to the act.

Under S.62 (2), the employment act defines a disciplinary penalty to mean a written warning, reprimand or suspension from work. Under Sub-section 4 of the provision, an employer cannot be suspended from work for more than 15 days in any 6 months period.

Under S.62(5), an employer who fails to impose a disciplinary penalty within 15 days from the time of occurrence or when he/she became aware of the occurrence giving rise to disciplinary action is deemed to have waived the right to do so.

Suspension pending inquiry.

Under S.63(1) of the employment act, whenever an employer is conducting an inquiry into the conduct of an employee which they believe might reveal a cause for dismissal of an employee, the employer may suspend the employee with half pay.

Whether to suspend an employee with half pay or full pay is determined by what the employment contract and the human resource manual of the employer stipulates. For example in **OKELLO NYMLORD V RIFTVALLEY RAILWAYS (U)LTD HCCS NO 195 OF 2009**, the human resource manual of the dependent stipulated that on suspension an employee is entitled to their full pay for the duration of the suspension. Pursuant to S.27(2) of the employment act, such a variation of the provisions of the act by the HR manual or employment contract which is in favor of the employee is permissible however any agreement between the employer and employee to allow for suspension without any pay at all is null and void by virtual of s.27(1).

Yours faithfully

LUTIMBA ALLAN
HEAD HUMAN RESOURCE.

REMEDIES AVAILABLE TO AN EMPLOYEE FOR UNFAIR TERMINATION, UNFAIR DISMISSAL AND UNLAWFUL DISMISSAL.

The remedies are provided for in the employment act and under common law.

1. Payment in lieu of notice.

Pursuant to S.58 (1) of the employment act, an employment contract cannot be terminated by an employer without giving notice to the employee. Where such notice is not issued, then under S.58 (5) ,the employee who is terminated is entitled to payment in lieu of notice that her or she ought to have been given. In ***BANK OF UGANDA V BETTY TINKAMANYIRE***²¹⁸ Tseseko jsc held that ‘in my opinion where any contract of employment like the present stipulates that a party may terminate it by giving notice of the specified period, such a contract can be terminated by giving the stipulated notice for the period . in default of such notice by the employer, the employee is entitled to receive payment in lieu of notice and where no period for notice is stipulated ,compensation will be awarded for reasonable notice which should have been given depending on the notice and duration of employment.

Payment in lieu of notice can be viewed as an ordinary way of giving notice.

2. Reinstatement.

In instances of unfair termination, an employee has the remedy of reinstatement when ordered by a court pursuant to S.71 (5) (a) of E.A. in ordering the remedy court must under subsection 6 give due regard to whether the employee does wish to be reinstated, whether the circumstances surrounding the termination are such that a continued employment relationship would be intolerable and whether its reasonably practicable for the employer to reinstate the employee.

²¹⁸ SCCA NO.12 OF 2007,

b) Aggravated damages

In **ISAAC NSEREKO V MTN UGANDA LTD**²¹⁹, Justice Kabiito stated that aggravated damages compensate the victim of a wrong for mental distress in circumstances in which that injury has been caused or increased by the manner in which the defendant committed the wrong or by the defendant's conduct subsequent to the wrong or by the defendant's conduct subsequent to the wrong. They are damages awarded as compensation for the P/F mental distress, where the manner in which the defendant has committed the tort, or his motives in so doing or his conduct subsequent to the tort has upset or outraged the P/F. Such conduct or motive 'aggravates' the injury done to the P/f and therefore warrant a greater or additional compensatory sum.

c) Special damages

These must be specifically pleaded and proved. Special damages in such cases may relate to outstanding bank loan obligations at the time when the employee was unfairly terminated, unfairly dismissed or unlawfully dismissed. In **NATIONAL FOREST AUTHORITY V SAM KIWANUKA CIVIL APPEALS NO.005 OF 2009**, the court of appeal held that special damages may be awarded where a party contracts a loan obligation but as a result of unlawful or wrongful act of another making the loan contractor fail to pay the loan, the latter is entitled to special damages of an amount equivalent to the outstanding bank loan at the time of the unlawful act. The victim is also entitled to general damages for the inconvenience and embarrassment caused to him as a result of the unlawful acts of the defendant.

JURISDICTION OF THE LABOR OFFICER AND THE INDUSTRIAL COURT.

S.12 (1) of the EA enshrines Labor officers with the jurisdiction to entertain and resolve Labor disputes arising from employment contracts or under the operation of the act. In addition, section 93(1) of the EA stipulates that the only remedy available to a person claiming an infringement of any of the rights fronted under the employment act, is to make a complaint to a Labor officer.

²¹⁹ HCCS no. 156 of 2012

S.10(1) of the L.D (A &S) act, states that the industrial court consists of a chief judge , a judge (both of whom must have similar qualifications as those of a high court judge and are appointed by the president on the recommendation of JSC under S.10(2), an independent member, a representative of employers and a representative of employees.

Procedure.

A matter may pursuant to Rule 3 of the Labor disputes (Arbitration and settlement)(industrial court procedure) rules, be referred to the industrial court either by a Labor officer at the request of a party to a dispute in which case the reference will be in form specified in the first schedule to the rules or a party to a dispute that has been reported to a Labor officer may refer the matter to the industrial court if the matter has not been referred by the Labor officer or otherwise disposed of the dispute within 8 weeks.

1. The reference in this case is in the form specified under the second schedule to the rules. The reference by the Labor officer must be accompanied by report of the Labor officer describing the nature of the disputes and steps taken to resolve the dispute and all documents and information furnished to him or her by the parties.
2. Upon receipt he reference by the registrar of industrial court, he/she must as required by rule 4 of L.D (A&S) (I.C procedure) rules file the reference and allocate it a reg number.
3. The registrar must under rule 5(1) give notice to the parties to the dispute that a reference has been made to the I.C within 7 days from the date of receipt of the notice.
4. The claimant must serve the memorandum onto the respondent
5. The claimant must then file 6 copies of the memorandum accompanied by an affidavit of service with the registrar of the I.C as stipulated in Rule 5(2)
6. Rule 5(4) mandates a respondent to file a reply to the memorandum within 7 days from the day of service of memorandum
7. Respondent must serve the reply onto the claimant and file 6 copies of the memorandum in reply accompanied by an affidavit of service.

Note: under Rule 6(1), a party to a dispute who fails to file documents within the prescribed time, may apply to the court for extension of time.

Appeals from I.C

UNIONIZED EMPLOYEES.

Labor union is defined in S.2 of the Labor unions act 2006 to mean any organization of employees created by employees for the purpose of representing the rights and interests of employees and includes a registered Labor union at the time of coming into force of the act

Right of employees to form Labor unions.

Article 29(1) (e) of the 1995 constitution of the republic of Uganda guarantees the right to freedom of association.

Further Art.40 of the constitution provides for the right to work which entails the formation of the Labor unions

Under S.3 of the Labor unions act, employees have the right to organize themselves in any Labor union.

Right of employees in a Labor union

Under S.3 of the Labor act, unionized workers have the right:

- a) To assist in the running of the Labor union
- b) To bargain collectively through a representative of their own choosing
- c) Withdraw their Labor and take industrial action. The industrial action may take the form of sit down strikes.

In **UGANDA DEVELOPMENT BANK V FLORENCE MUFUMBA CACA NO.241 OF 2014.**

Holding.

1. An employee who terminates the contract of employment is not under an obligation to give reasons why they terminated the contract in the termination letter.
2. Wrongful dismissal/ termination are one and the same and they mean that the employee was dismissed or their services terminated without following the contractual/provisions of the employment act. Wrongful termination/dismissal is a common law cause of action concerning itself more with the reasons for dismissal or termination. The remedies for wrongful dismissal are founded in the common law while those for unfair termination are stipulated under the E.A

1. S.3 (3), when a worker acts to protect any person on the employers premises where the worker believes to be injured or imperiled, or when a workers acts to protect the property on the employers premises.
2. S.3 (4), while the employee is travelling directly to or from his or her place of work for purpose of employment. As per S.3 (5), it's upon the employee to prove that such travel was to or from work.

S.3 (6), stipulates that compensation under the act is payable whether or not the incapacity or death of the worker was due to the recklessness or negligence of the worker.

S.3 (2) excludes liability where the injury does not result into permanent injury or incapacity for less than 3 days.

Who can claim.

1. The worker. Worker is defined in S.1(1)(u)
2. If the worker is deceased, then his/her family members who are dependent on his/her earnings. (S.4(1), S.1(1)(Q), defines member of the family to mean the wife, husband, father, mother, grandfather, grandmother, stepfather ,step mother, son, daughter, grandson, granddaughter, stepson, step daughter, brother, sister, uncle, aunt, niece, nephew, cousin or adopted child.

Compensation quantum

1. Under S.4 (1) where the deceased worker leaves any family members, the amount of compensation is 60 times their monthly earnings.

Where the deceased has no any dependent family member, the employer only pays expenses of the medical aid provided and burial expenses of the deceased under S.4(2). Note that there is a presumption that a worker has dependents unless the local authority of the home area of the deceased proves otherwise. (S.4 (4)).

Permanent total incapacity.

2. Except if the terms and conditions of service provide for a lighter compensation, the amount of compensation is 60 months earnings. (S.5 (1)).

Under S.8 (4), an employer may deduct any sums paid to a worker pending the settlement of the claim arising under the act from the final compensation payable.

S.11 (4) obliges an employee to pay for medical expenses during the period of temporary total incapacity.

Medical expenses expended as required.

Under S.24 and S.11 (40 are not deductible neither is the cost of conducting the medical examination by a medical practitioner as per S.11 (1).

S.24 (1) mandates the employer to defray the reasonable costs incurred by a worker in respect of medical expenses and incidental costs.

Notification of accident by worker.

S.9 (1) postulates that compensation may not be payable under the act unless notice of the accident has been given to the employer by or on behalf of the worker as soon as is reasonably practicable in any case within one month after the date when the accident occurred or within three months after the date the symptoms of the occupational disease became apparent.

No notice is required however where it is how that the employer was aware of the accident or disease at or about the time it occurred or at the time when the symptoms became evident or for any reasonable cause.

The form of the notice is specified under form1 in the 1st schedule to the workers compensation regulations S.1.225-1 as per Reg 2

Notification by employer to Labor officer.

S.10 requires an employer, upon the accident happening causing injury to the worker which entitles him/her to compensation to notify the Labor officer within a reasonable time.

The form of the notice is specified under form 2 to the first schedule of S.1.225-1

Contestation on assessment of disability.

If the assessment made by a medical doctor under S.11 is disputed by either party, the aggrieved party may apply to the Labor officer to request that the dispute be referred to the medical arbitration board. S.13 (1)

The decision of the medical arbitration board is final unless the aggrieved party goes to court. S.13 (3).

Determination of claims.

An employee is not entitled to receive wages, under section 41(6) in respect of a period when he or she is absent from work without authorization or good cause except that in case of an employee who has completed at least three months continuous service with his or her employer, there are some scenarios which do not constitute absence without good cause, thus

- Absence attributed to occurrence of exceptional events preventing the employer from reaching his place of work.
- Absence attributed to a summons to attend a court of law or any other public authority having power to compel attendance.
- Absence attributed to death of a member of the employee's family or defendant relative, subject to a maximum of three days' absence on any occasion and a maximum of six days in any calendar year.

The above discussion is fortified by the principle of **RAMANBHAI VS MADHIVANI INTERNATIONAL COMPANY LTD (1992-93) HCB 189** where court held that where payment is due at the end of the month and it is not made; such a contract gives rise to a cause of action each month accrues and which once vested is not subsequently lost or divested of the servant's abandonment of the contract.

It must be noted that, under section 43 of the Employment Act, the payment of wages shall take place at the Employee's place of work or if he or she works at more than one location, the premises of his or her employee from which he or she works or from which his work is administered.

The payment of wages to another person other than the employee entitled to it is prohibited in section 44.

The permitted deductions from remuneration of an employee are spelt out in section 46 and these include, an amount in respect of any tax, rate, subscription or contribution imposed by law, or where the employee has given his written consent to a deduction being made, deduction by way of reasonable rent or other accommodation provided by the employer for the employee's family, or union dues *inter alia*.

In relation to women, section 56(1) of the Employment Act provides that female employees shall as a consequence of pregnancy have the right to a period of 60 working days leave from work on full wages hereafter referred to as maternity leave, of which at least four weeks shall follow the child birth or miscarriage.

TERMINATION OF CONTRACT

Section 58 gives the cardinal rule that a contract of service shall not be terminated by an employer unless he or she gives notice to the employee; except where a contract is terminated summarily under section 69 or where for reason of termination, is attainment of retirement age. The notice shall be in writing and shall be in a form and language that the employee to whom it relates can reasonably be expected to understand.

Section 65 provides for the different modes in which termination is deemed to take place thus;

- a) Where the contract is ended by the employer on notice³
- b) Where the task given in the contract of service expires.
- c) Where the contract is ended by the employee as a consequence of unreasonable conduct
- d) Where the contract of service is ended by the employee, where the employee has received notice of termination of the contract of service from the employer but before expiry of the notice.

WRONGFUL AND SUMMARY DISMISSAL



REMEDIES

The basic remedy is by bringing a complaint with the Labor Officer for settlement under section 93 Of the Employment Act.

Procedure

Lodging a complaint to Labor Officer by way of ordinary letter; under section 93 of the Employment Act.

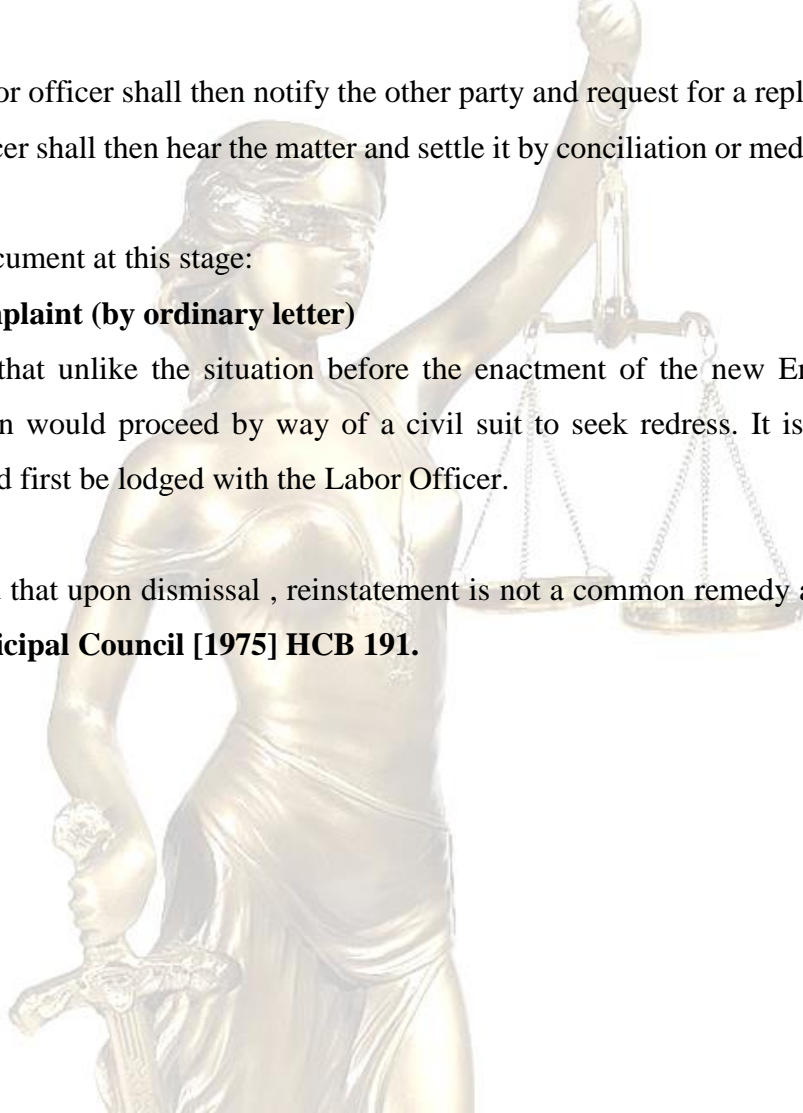
- The Labor officer shall then notify the other party and request for a reply.
- The officer shall then hear the matter and settle it by conciliation or mediation under section 92(2).

The relevant document at this stage:

A notice of complaint (by ordinary letter)

Must be noted that unlike the situation before the enactment of the new Employment Act, an aggrieved person would proceed by way of a civil suit to seek redress. It is now different; the complaint should first be lodged with the Labor Officer.

It must be noted that upon dismissal , reinstatement is not a common remedy as held in **AM Jabi Vs Mbale Municipal Council [1975] HCB 191.**



4.0: Hours of Employment:

The Employee shall carry out his duties between **8.00 a.m. – 10.00 p.m.** and such further hours as may from time to time become necessary in order to meet the needs of the employer’s business or during such hours as the employer’s board may from time to time reasonably require of him and the employee shall not be entitle to receive any additional remuneration for work done outside his normal hours of work. Or (there are no normal working hours for this employment and the employee is required to work at such time and for such period as are necessary for the efficient discharge of his duties) as may be appropriate.

5.0: Remuneration

The Remuneration of the employee shall be a gross salary at the rate of U Shs per month (which shall be deemed to accrue from day to day) payable every month on the day of every month and any increment shall accrue at rates determined by the Board of Governors of the Employer on annual basis as and when money shall be available for such.

6.0: Expenses

The Employer shall reimburse the employee all reasonable expenses wholly and exclusively incurred by him in or about the performance of his duties under this agreement (provided that the employee furnishes the employer with receipts or other evidence of such expenses).

7.0: Holidays:

The Employee shall be entitled to take the usual public holidays and in addition, to take working days as holidays and the employee will be paid his normal basic remuneration during such holidays. However, the employee shall be free to go on holiday when the students break off from their normal school calendar but the length of such holiday shall be approved by the Employers School Management Team

The employee will be paid in respect of holidays accrued due but untaken as at the date of termination of employment or the employee will be entitled to payment in *lieu* of holidays accrued due but untaken as at the date of termination of employment.

Employer: :.....

For: Butaleja High School

In the presence of:

Employee: :.....

In the Presence of:

DRAWN BY:

SUI GENERIS and Company Advocates

P.O.BOX 7117

KAMPALA



PRINCIPAL AND AGENT RELATIONSHIP

The cardinal rule is evident in **Kelner Vs Baxter (1866) CR CP 174** where court held that a non-existing principal cannot appoint an agent. Thus if the principal is a legal entity like a company; it should be in existence. It must be noted that the law of agency applies only when such representation or action of another person's behalf affects the latter's legal position, thus, his rights against and liabilities towards other people. The law of agency has no relevance to social or other non-legal obligations.

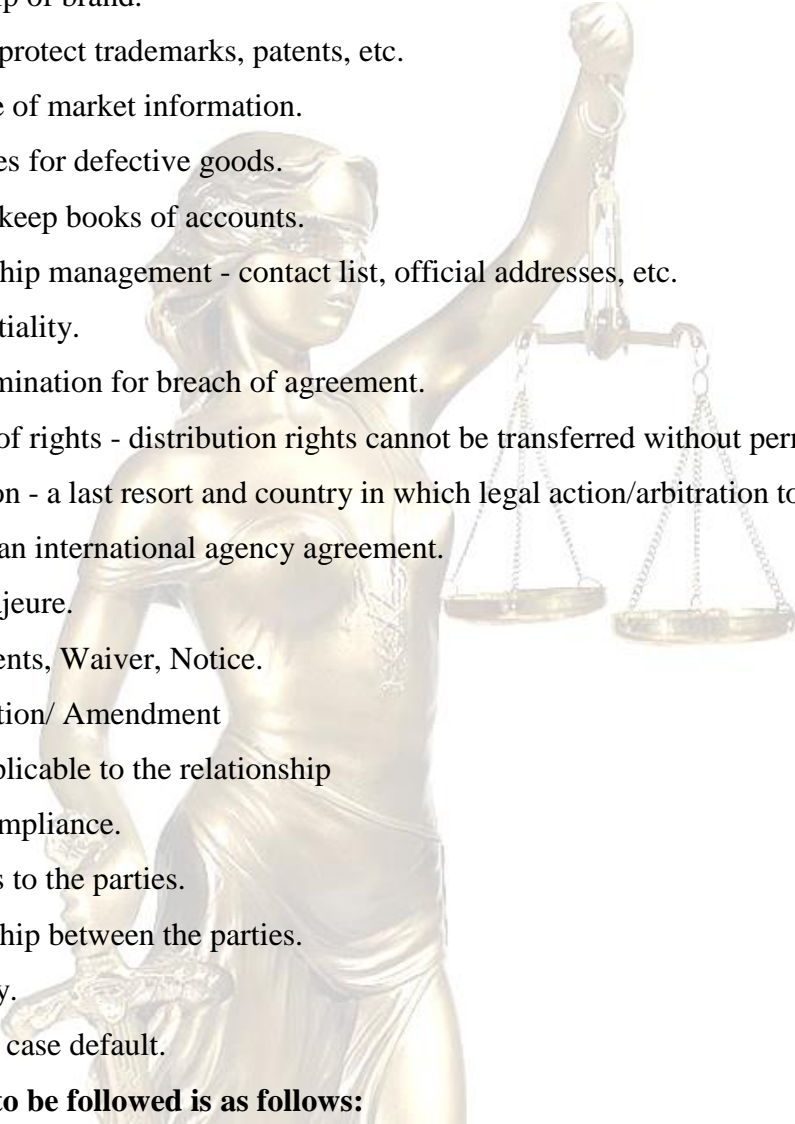
Secondly, the law of agency stresses the importance of the law in which the law regards the relationship that has been created. **Cf Sonels V Firch [1977 AC 728]**. It is the effect in law of the way the parties have conducted themselves, and not the conduct of parties considered apart from the law, or the language used by the parties that must be investigated, in order to determine whether the agency relationship has come into existence.

Thirdly, the relationship connotes service; An agent performs a service for the principal. In order to understand the legal nature and function of the 'agency relationship, the following must be put into consideration;

A) Consent of the parties:

The definition of agency entails that principal and agent have agreed, either in the form of a contract, or otherwise, that the agent should represent the principal. Agency is the fiduciary relationship which exists between 2 persons, one of whom expressly or impliedly consents that the other should represent him or act on his behalf and the other who similarly consents to represent the former or so to act. This is fortified by the *locus classicus* case of **Garnac Grain Co. Inc V HMF Faire & Falrclough Ltd. [1967] 2 All ER. 353 at 358.**

It must be noted however, that there are possibilities when an agency relationship exists even where no consent and no contract exists. This was discussed in the case of **Boardman -Vs- Phipps (1967) 2 AC 46** or [1966] 3 All ER. 721. This- case refers to self-appointed agents and further discusses that it is not nice to base an agency relationship strictly on consent is because much of the law relating to agency is derived from equity, quasi - contract, or tort. Also see **Branwhite V Worcester Works Finance Ltd.**

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- 17) Communication costs - each party to cover their own costs.
 - 18) Performance measures.
 - 19) Training and technical support.
 - 20) Samples.
 - 21) Advertising and promotion.
 - 22) Ownership of brand.
 - 23) Agent to protect trademarks, patents, etc.
 - 24) Exchange of market information.
 - 25) Procedures for defective goods.
 - 26) Agent to keep books of accounts.
 - 27) Relationship management - contact list, official addresses, etc.
 - 28) Confidentiality.
 - 29) Early termination for breach of agreement.
 - 30) Transfer of rights - distribution rights cannot be transferred without permission.
 - 31) Arbitration - a last resort and country in which legal action/arbitration to take precedence in case it is an international agency agreement.
 - 32) Force Majeure.
 - 33) Assignments, Waiver, Notice.
 - 34) Modification/ Amendment
 - 35) Law Applicable to the relationship
 - 36) Legal Compliance.
 - 37) Remedies to the parties.
 - 38) Relationship between the parties.
 - 39) Indemnity.
 - 40) Action in case default.

The procedure to be followed is as follows:

- 1) By drafting an agency agreement which should be signed by the parties, and witnessed to.
- 2) The agreement is then registered with the Registrar of Documents for evidential value. The steps to be followed include the following.
 - a. Taking document to registrar of documents to have it assessed for duty.
 - b. Paying the requisite fees and lodging the document for registration.

- Normal termination; thus if the transaction to which the agent was led to has been performed.
- Subsequent physical events that render the transaction not possible to be performed for example if the goods are destroyed, principal/agent dies
- Subsequent legal events like bankruptcy of either party or the operation of the doctrine of frustration.

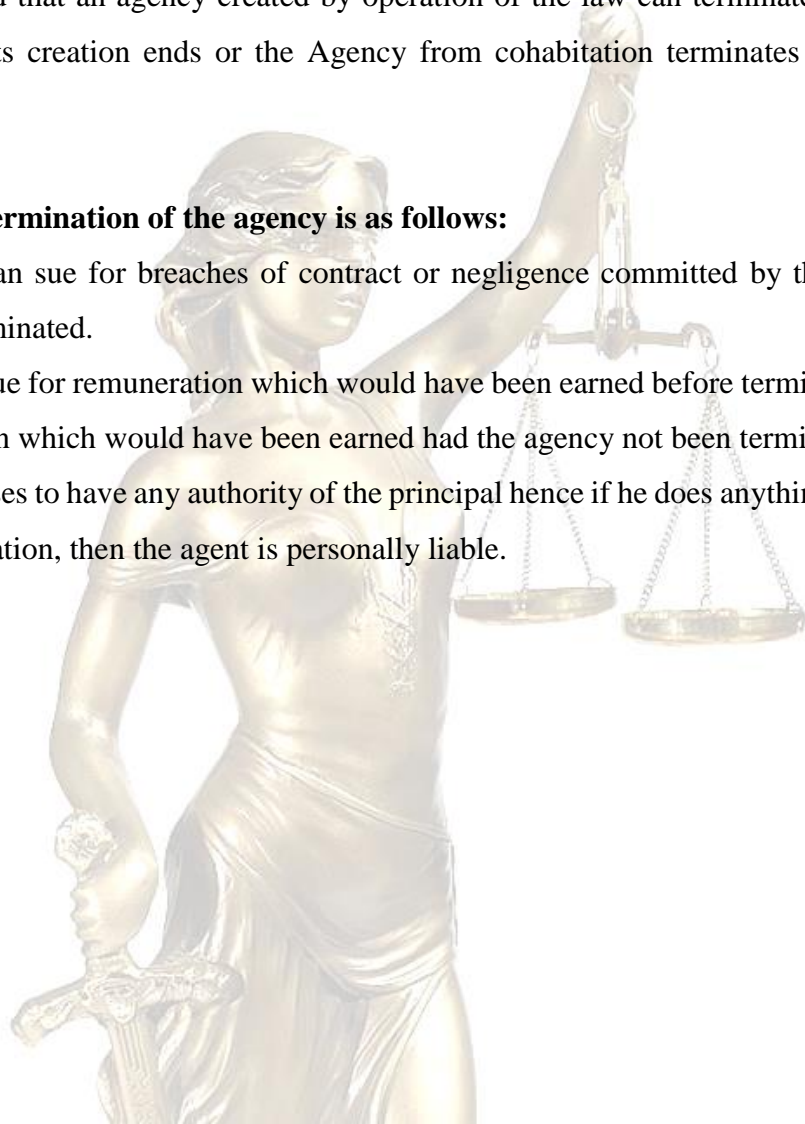
It must be noted that an agency created by operation of the law can terminate if the necessity to which caused its creation ends or the Agency from cohabitation terminates if the cohabitation ceases.

The Effect of termination of the agency is as follows:

The principal can sue for breaches of contract or negligence committed by the agent before the agency was terminated.

The agent can sue for remuneration which would have been earned before termination and possibly the remuneration which would have been earned had the agency not been terminated.

The agency ceases to have any authority of the principal hence if he does anything with a third party after the termination, then the agent is personally liable.



Shall mean Nans-Flash Disks Inc., a company established under the laws of the USA, having its legal domicile at 672N. Bluff, Wichita KS

"Second Party"

shall mean Clay Traders (D) Ltd., a company established under the laws of Uganda, having its legal domicile at Plot 66 Kampala Road, Kampala, Uganda.

"Force Majeure"

Shall mean circumstances beyond reasonable control of a party which occur without the fault or negligence of the party affected, and includes inevitable accident, storm, flood, earthquake, explosion, peril or navigation, strike, lockout, boycott or other industrial dispute, hostility, war, insurrection, executive or administrative order or act either general or particular application of a government, whether *de jure* or *de facto* or of any official purporting to act under the authority of such a government, prohibition or restriction by domestic or foreign laws, regulations, policies, quarantine or customs, restrictions and breakdown or damage to or confiscation of property.

"The parties"

Shall mean the first Party and the Second Party collectively.

"Products"

Shall mean tooth paste products manufactured in Indonesia only by the First Party under the "NANS-FLASH DISKS" trademark and "MICRO CHIPS" trade mark.

"Quota"

Shall mean a number at least 25 (twenty-five) of 20 feet containers annually and increase to 10% (ten percent) annually from the above stated number hereto.

"Territory"

Shall mean Uganda territory.

Article 2

PRODUCTS

The product means in this Agreement the tooth paste products under "NANS-FLASH DISKS" and "MICRO CHIPS" trade mark that is legally registered under the name of the First Party and manufactured by the First Party on Indonesian territory only.

Immediately after the acceptance of the Purchase Order Confirmation, the Second Party shall take all necessary actions to inspect the ordered Products regarding the quantity and condition of the said Products ordered.

Any defects of the Products, either caused by the manufacturing or packaging faults, or the lack or excess of the ordered Products shall be notified in writing to the First Party at the latest of 3 (three) days after the acceptance any of the delivery order.

Article 10

PRODUCT QUALITY

The First Party hereby shall be responsible for maintaining its standards in all manufacturing and quality control matters relating to the Products delivered by the First Party to the Second Party.

The Parties hereby agree and bound themselves that the compensation shall be limited to either:

- (a) Replacement of the Products which in the judgment of the First Party fails to meet the standard of the First Party's Products.
- (b) Refunding the Second Party for the landed cost of the relevant Products.

Article 11

INDEMNITY

The Second Party hereby undertakes to indemnify the First Party against any loss or claim including but not limited to, any and all claims, losses, damages, charges, costs and expenses of any kind of nature, from anyone whomsoever, arising out or otherwise connected with the Second Part's operation of business carried on by the Second Party other than action against the Parties with respect to alleged infringement of any trademark or trade name utilized by the Second Party in exercising the right granted by this Agreement of the registered trademark or patent or trade secret of third parties.

Article 13

CONFIDENTIAL INFORMATION

As soon as possible after being affected give to the each other party full particulars of the force majeure (including why it is a circumstance beyond its reasonable control), the manner in which its performance is thereby prevented or delayed and its calculation of the estimated period of prevention or delay as a consequence of force majeure; and promptly and diligently take appropriate action to enable it to perform the obligations, compliance with which is prevented or delayed by force majeure except that a party is not obliged to settle a strike, lockout, boycott or other industrial dispute.

Article 18

WAIVER

Save as otherwise provided for herein, no failure on the part of any party to exercise and no delay on the part in exercising any right hereunder shall operate as a release or waiver thereof, nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise of it. The rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided by law.

Article 19

NOTICE

All communications between the parties shall be sent to the following addresses:

a) The First Party:

NANS-FLASH DISKS INC., C/o Mr. Moses Lugemye, 672N. Bluff, Wichita Ks, USA

b) The Second Party:

JEZITECH SOLUTIONS, C/o Mr. Peter Wegulo, P.O.BOX 7117, Kampala, UG

All communications in writing (including notices) between the Parties with respect to this Agreement shall be delivered by hand, or sent by pre-paid registered post with recorded delivery to the address of the other party as set out above or to such other address as the addresses may from time to time have notified the other party in writing for the purpose of this clause.

Article 20

MODIFICATIONS

TOPIC SIX: INTELLECTUAL PROPERTY:



(A) TRADEMARKS:

The law applicable under this scope of study includes the following;

The Trademarks Act cap 217

The Trademarks Rules SI 217-1

The Trademarks (Amendment) Rules SI 58 of 2005

The Trademarks (Costs) Rules SI 217-3

The Lusaka Agreement 1976

The Banjul Protocol on Marks of 1993

WTO Agreement

TRIPS Agreement 1994

NICE Agreement of 1957, revised 1967, 1977, amended 1979

The checklist in resolution of issues includes the following:

- 1) Whether the mark is registrable;
- 2) If so what is the procedure, forum and documents?
- 3) Whether the mark can acquire international or regional protection?
- 4) Whether the registration of the mark can be opposed?

The basic documents include the following:

Application for registration of a mark

Representation of the mark

INTRODUCTION

- e) Within 60 days of the advert running, and upon payment of the prescribed fee, the registrar may enter the mark on the register (under Rule 60 therein)

Certification Trademarks

These are registered in Part A of the Register in respect of the goods in the name of the proprietor. Such a mark is adopted to distinguish good from others in relation to the course of trade and they are certified by that person with due regard to origin, mode of manufacture, quality, and accuracy *inter alia*.

OPPOSITION TO APPLICATION FOR TRADEMARKS

- In case of objection; the Registration can be opposed Under Sec 20 of the Trademarks Act (i.e. Notice of Opposition should be within 60 days from date of publication of advert as enunciated in Rules 46-58 of SI 217 -1).
- Registrar to set and listen to adverse parties.
- If opposition is dismissed; Registrar registers trademark under sec 21.
- The duration of the Registration (Under Sec 22) is for 7 years.
- Upon expiration; renewed for a further period of 14 years; on application.
- The procedure for renewal; Rules 64-70.

RIGHTS OF TRADEMARK OWNERS

Rights accruing from registration of trademark are enunciated below and they include the following:

- a) Right to use mark under section 6 of the Trademarks Act.
- b) Right to prevent other persons from using the mark (section 6)
- c) Right to assign the Mark (under section 24)
- d) Right to transmit the Mark (i.e. selling business- goes on the mark – Sec 24).

INFRINGEMENT.

In case of infringement of a mark, the aggrieved party can gain from any of these remedies. Court held in **Acontractiebolaget Vs The East African Match [1964] EA 62** that the burden of proof of infringement of the mark is on the plaintiff who is mandated to prove the semblance between the marks in dispute.

- If there is no objection within period of 12 months, ARIPO registers the mark in all the designated states. (Uganda is a party to the Banjul Protocol).

It must be noted that it is impossible to get international protection of trademarks because

- System of international registration is governed by Madrid agreement concerning international registration of Marks (1891) which Uganda is not a signatory.
- However, if Uganda was a member to Madrid Agreement, an applicant would file an application with international bureau provided the Mark is registered in your own country (Uganda for this matter)
- the applicant designates these states where he or she want protection.
- The international bureau records mark and publishes it in gazette and each contracting party where protection has been sought in enforced.
- If country wishes to refuse protection; it notifies bureau within 12 months.
- In case of no objection; International Registration effective for 10 years; renewal for a further period of 10 years at a payment of prescribed fees.
- Fees for registering trademarks are evident in the Trademarks Amendment Act SI 58 of 2005.
- Another International Instrument is the famous **TRIPS Agreement**. The Agreement in Trade Related Aspects of Intellectual Property Rights. It is an annexure to the **WTO Agreement**.

REMEDIES

The remedies available to a trademark owner on infringement include the following;

Suit for damages, general and special;

Application for an injunction.

Delivery up of the goods or destruction of the goods

Application to rectify the register.

To: THE REGISTRAR OF TRADE MARKS,
PARLIAMENTARY BUILDINGS,
P.O. BOX 6848,
KAMPALA

REGISTRAR OF TRADEMARKS RECORD FORM

TRADE MARK NO. PART "A"/ "B"

CLASS (Schedule III)

I. SEARCH FOR SIMILARITY

Class: (Schedule III) and Class(Schedule III)

Similarity marks on the Register:

TM. No.	Class	Description of Mark	Owner
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II. SEARCH BRITISH PHARMACOPIA:-

III. SEARCH WORLD ATLAS:-

Comments:-

(1) On Application:-

(2) Re association:-

Registrar's Decision on:-

(1) On Application:-

ADVERTISEMENT OF TRADE MARK IN UGANDA GAZETTE

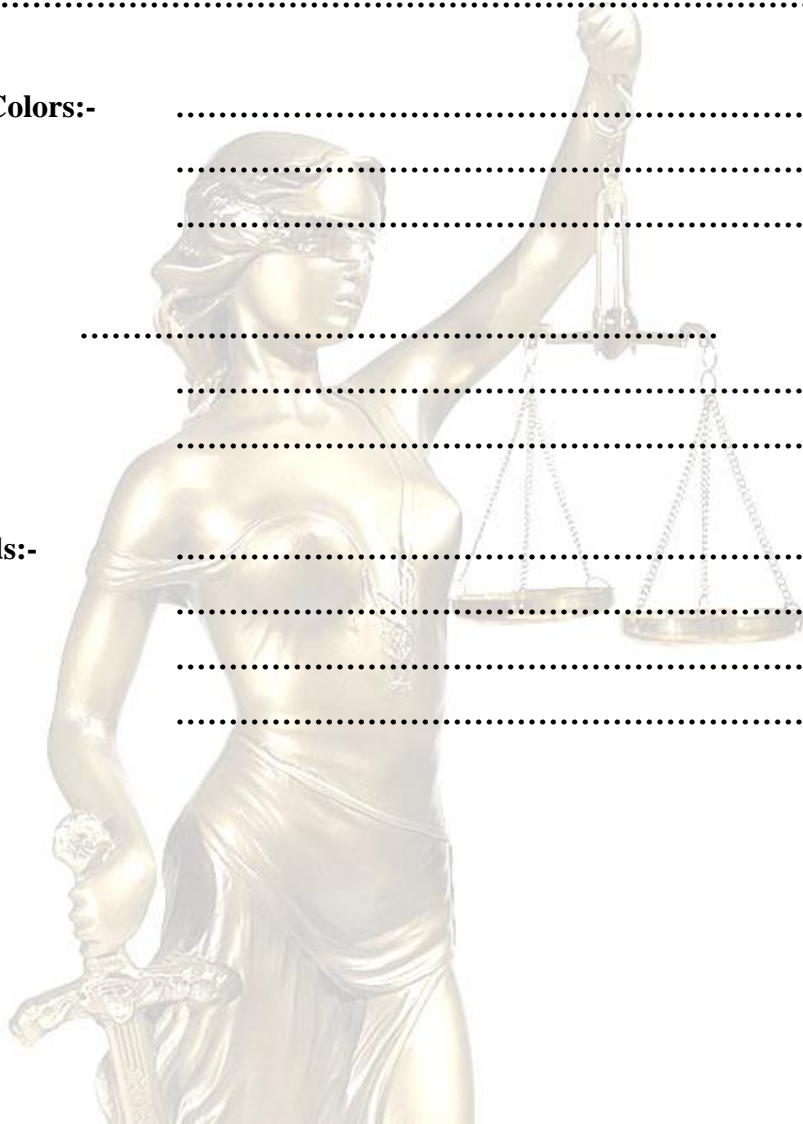
Application No:..... IN PART “A” / “B”
Class

Disclaimer:-

Restriction to Colors:-
.....
.....

Association:-
.....
.....

Nature of Goods:-
.....
.....
.....



Name of Applicant and Address:-
.....
.....

(B) COPYRIGHT:

The basic law applicable to Copyrights is the Copyrights Act Cap 215

WORKS ELIGIBLE FOR COPYRIGHT

Works eligible for copyright protection are provided for in section 3(1) to the Copyright Act Cap 215 and these include, literally works, musical works, artistic works, cinematography works, gramophone records, broadcasts. Is it a statutory cardinal principle in section 3(2) of the Act that the works will only be eligible if sufficient effort has been expended to make the work look original in character and form. Such work expended, can be recorded or written down *inter alia*.

It must be noted further that one has to be a resident in Uganda or domiciled in Uganda to have copyright protection.

The case of **Supra Studio Vs Tip Top Clothing, [1971] EA 489** provides to the effect that a copyright, given the fact that it is granted automatically; a copyright is granted on eligible works within the meaning of the Act and secondly a copyright does not require payment of a licence.

ACQUISITION OF COPYRIGHT AND RIGHTS OF COPYRIGHT OWNERS

It must be noted that protection of copyrights is automatic; by statute.

There is no need for registration. The copyright work is vested in the author by virtue of section 4 of Copyright Act.

Some of the principles to be followed are that; the person is either domiciled or resident in Uganda. In case of a corporation, it should be a body incorporated in Uganda

It must be noted that citizens and Companies of countries specified in the 2nd schedule to the copyrights Act (i.e. signatories to UCC, Berne Convention for the protection of literary and Artistic Works can be protected in Uganda. This means that works having copyright protection in particular countries have statutory protection in Uganda. This is illustrated by the case of **John Murray Publishers and Mackean (viz Introduction to Biology) Vs Senkindu HCCS 1018/1997** that given the fact that United Kingdom is one of the countries listed in the schedule to our laws, a copyright protected in UK can receive copyright protection in Uganda.

(C) PATENTS:

The law applicable to patents includes the following:

The Patents Act Cap 216

The Patents Regulations SI 216- 1

The Patent (Amendment) Act, Act 7 of 2002

The TRIPS Agreement 1994

Protocol on Patents and Industrial Designs (ARIPO) 1982

The Lusaka Agreement 1976

The Harare protocol on Patents and Industrial Designs 1982

The Paris Convention 1883

Patents Cooperation Treaty

The checklist to be conversant with includes the following:

Whether the product is patentable/ whether it is a patentable invention?

If so what procedural steps should be taken to patent the product?

What are the fees payable?

The requisite documents

Application for a patent

PATENTABLE INVENTIONS

A patent is a right given by a Government authority to an inventor exclusive rights to exploit his invention for a given period of time. This document issued by a government authority to the owner of an invention, giving the patent owner the right for a term of years to prohibit others from making or selling the discovery unless they have permission from the owner is what is called a patent for invention.

An invention is defined in section 7 of the Patents Act to mean a solution to a specific technological problem and may be of may relate to a product or process.

Section 8 of the Patents Act provides that for an invention to be patentable, it must have three characteristics, thus;

REGISTRATION OF PATENTS

An application for a patent is made to the Registrar of patents in the Ministry of Justice under section 13 of the Patents Act. The application is accompanied by the following (as provided for in section 13(2) of the Patents Act)

- A description of the invention.
- A clear and concise claim defining the matter for which protection is sought.
- Any drawing essential for understanding the invention.
- As abstract serving the purpose of technical information
- The prescribed fee

Procedure

1. An application is lodged by making a request in Form 1 (Reg.17) of the Patents Regulations SI 216- 1. This form can be obtained from the registry located at the Ministry of Justice Headquarters. For a foreign application, copies of any communication received concerning the result of any search or examination carried out will be essential.
2. Upon receiving the application the Registrar will accord it a filing date. Thereafter the application is forwarded to ARIPO (African Regional Industrial Property Organisation) for examination. The report of this examination will then be submitted to the Registrar and the applicant.
3. If the application is not rejected a patent is granted and issued to the applicant in Form 2A (Certificate of Grant of a Patent).
4. Thereafter the patent granted is recorded in the register and the prescribe particulars of the Patent are published by the Registrar in the Uganda Gazette.

- To work the patented invention within the country in the prescribed time and,
- To pay the prescribed fees.

INFRINGEMENT (EXPLOITATION BY PERSONS NOT OWNERS OR LICENCEES)

This is defined in the context of section 26 thus; where a person other than the owner or licensee of a patent or a licensee does acts spelt out in section 25 (1) (above); that act shall constitute an infringement.

If the owner of a patent feels that his patent has been infringed, he may institute infringement proceedings in the High Court for the following reliefs (under section 26 (2)(a)- (c), thus:-

- a) Damages
- b) An injunction to prevent infringement
- c) Any other civil remedy

The high court is granted jurisdiction under section 45(1) of the Patents Act to decide disputes relating to application of the Patents Act.

INTERNATIONAL PROTECTION AGAINST TRADEMARK INFRINGEMENT

Protection of a patent in other countries is possible with due regard to the following:

- a) if one desires protection in the region, one can use **ARIPO (Africa Registered Intellectual Property Organisation)** for registration of the mark in the region.) ARIPO was set up by the Lusaka agreement of 1976 which has protocols for implementing various parts of I.P.
- The ARIPO regulates patents in African Region. ARIPO registers patents (under Banjul Protocol) on behalf of contracting States.

Procedure

- File application with National office which transmits it to ARIPO
- Or file application directly with ARIPO

Appendix K- Documents on Patents

THE REPUBLIC OF UGANDA

THE PATENTS ACT CAP

APPLICATION FOR PATENTS

I /we the applicant(s) request(s) the grant of a Patent in respect of the following particulars.

I. TITLE OF INVENTION:

II. APPLICANT(S) (a)

Name:

Address:

Nationality :

Country:,

Country of residence or principal place of business:
.....

III. REPRESENTATIVE:

Name:

Address:

IV. INVENTOR:

The Inventor is the applicant Yes/ No

If not

Name of applicant:

Address:

V. DIVISIONAL APPLICATION (b)

Initial Application No.

Date of Filing Initial Application:

Chapter Three



FAMILY LAW

DOMESTIC RELATIONS

- A) The Laws Governing Domestic Relations in Uganda includes the following:
1. The Constitution of the Republic of Uganda 1995
 2. The Judicature Act cap 13
 3. The Civil Procedure Act Cap 71
 4. The Civil Procedure Rules SI 71-1
 5. The Advocates (Remuneration and Taxation of Costs) Regulations SI 267-4
 6. The Magistrates Courts Act Cap 16
 7. The Marriage Act Cap 251
 8. The Marriage (District Registrars) Order SI 251-1
 9. The Divorce Act Cap 249
 10. The Divorce Act Rules SI 249-1
 11. The Customary Marriages Registration Act Cap 248
 12. The Customary Marriages (Registration) (Prescription of Forms and Fees) Regulations SI 248-1
 13. The Marriage & Divorce of Mohammedans Act 252

TYPES OF MARRIAGES IN UGANDA

There are four types of marriages recognised by the law in Uganda and these include the following:

- **Customary Marriages** recognised majorly by The Customary Marriages Registration Act²²¹.
- **Civil Marriages** recognised majorly by The Marriage Act ²²²and the Divorce Act²²³.
- **Church marriages** recognised majorly by The Marriage Act Cap and the Divorce Act.
- **Hindu Marriages** recognised majorly by The Hindu Marriage and Divorce Act²²⁴.
- **Mohammedan Marriages** recognised majorly by The Marriage and Divorce of Mohammedans Act²²⁵ and Sharia Law.

FORMAL AND ESSENTIAL REQUIREMENTS OF MARRIAGES IN UGANDA

A) CUSTOMARY MARRIAGES

The law applicable to customary marriages includes the following;

1. The Constitution of the Republic of Uganda 1995
2. The Judicature Act cap 13
3. The Customary Marriages Registration Act Cap 248
4. The Customary Marriages (Registration) (Prescription of Forms and Fees) Regulations SI 248-1
5. Case law and customary law

A customary marriage is defined in section 1(b) of the Customary Marriages Registration Act as a marriage celebrated in accordance with the rites of an African community and one of the parties to which is a member of that community.

²²¹ Cap 248

²²² Cap 251

²²³ Cap 249

²²⁴ Cap 250

²²⁵ Cap 252

- In this case ankole customary law applied and not Buganda customary law since even the alleged dowry paid was paid in cows, an item which is not listed among the list of the items of dowry paid by Buganda.

In **KINTU V KINTU, DIVORCE APPEAL NO.135 OF 1997**, the court held that where the parties are from different tribes, the customs of the girl determine whether there was a marriage.

In **UGANDA V P.KATO ANDORS (19760 HCB 24**, Court held that in order to establish the existence of a customary marriage its sufficient to prove that according to the customs and laws of a given-tribe, a marriage exists.

- The marriage should have been conducted according to the customs of that tribe and satisfied the requirements of that custom .in **UGANDA V JOHN EDOKU (1975) HCB 359**, the court held that if bride price is required it must be paid in full.

ESSENTIAL REQUIREMENTS

First and foremost, the Marriage should be conducted according to rights of an African community as enunciated in the case of **Uganda Vs Kato and Others [1976] HCB 204** where court held that the test of determining what type of marriage is, whether the union is treated as a marriage by the laws or customs of the nation, race or sect to which the parties belong.

Secondly, where bride price has to be paid, it must be paid in full. This payment is made by the husband to be or the groom to the family of the girl he intends to marry. This principle is fortified by the case of **Uganda Vs Eduku [1975] HCB 359**. where court held that since bride price had not been paid in full, there was no subsisting marriage between the complainant and the adulterous woman for they were not considered as husband and wife. This was the same principle in **Aiya Vs Aiya D.C. 8 of 1973**. The girl's family may request for no dowry at all and the marriage will be valid. Therefore , dowry becomes relevant only when requested for and if not requested for, this does not mean that the marriage is void.

Thirdly, the age of marriage for the wife is considered to be at 16 years and for the husband is taken to be at 18 years. This is the spirit of the law in section 11 (a) and (b) of the Customary Marriages Registration Act.

CIVIL MARRIAGES



The law applicable to this type of marriage includes the following;

1. The Constitution of the Republic of Uganda 1995
2. The Judicature Act cap 13
3. The Civil Procedure Act Cap 71
4. The Civil Procedure Rules SI 71-1
5. The Marriage Act Cap 251
6. The Marriage (District Registrars) Order SI 251-1
7. The Divorce Act Cap 249
8. The Divorce Act Rules SI 249-1
9. The Customary Marriages Registration Act Cap 248 (in some aspects)

The basic issues for discussion here include the following

1. Whether the parties have capacity to contract a marriage?
2. If so, what formalities should be followed to effect the marriage?
3. What is the forum and documents?

DISCUSSION

Section 1(f) of the Customary Marriages Registration Act defines a civil in to mean a marriage between one man and one woman; subsistence of which; neither of them is at liberty to contract any form of marriage.

This is fortified by **Hyde vs Hyde (1863) LR P & D 130** which was noted with approval in **Alai vs Uganda (1967) EA 416** as the voluntary union of one man and one woman to the exclusion of all others. The case of **Ayoub vs Ayoub [1967] EA 416** provides that marriages under the Marriage Act is potentially monogamous. In ascertaining the validity of the marriage one ought to ensure that all the requisite steps provided for in the law have been followed.

None of the party to the intended marriage is should be married by customary law to any person other than that person with whom such marriage is proposed. This is fortified in section 49 of the Marriage Act.

Parties to the intended marriage should not be within the prohibited degrees of consanguinity or kindred. Theses degrees are referred to in the second schedule to the Customary Marriages Registration Act.

CHURCH MARRIAGE

The law applicable to civil marriages applies to church marriages; save that church marriages do not have an option for divorce. There are however, a few other rules which one ought to deal with. Section 20 (1) of the Marriage Act provides that for a church marriage to be valid, it must be celebrated in licensed place of worship, presided over by recognized Minister; according to rights/usages of marriages observed in that church.

Section 21 of the Marriage Act provides that in case if any impediment; the Minister should not celebrate the marriage, until he has been granted a registrar's Certificate or a Minister's licence.

It must be noted further that according to section 20 (2) of the Marriage Act, the marriage must be celebrated between the hours 8.00 am – 6.00 pm.

Section 22 provides further that the marriage has to be celebrated in a building duly licensed by Minister, or such place as Minister's license may direct.

VOID AND VOIDABLE MARRIAGES.

VOID.

A void marriage is void ab initio. A decree of nullity can be sought by any person with a legitimate interest and can be sought by any person with a legitimate interest and can be pronounced at any time, even after the parties have died.

IN DE RENEVILLE V DE RENEVILLE (1948) 1 ALL ER56,the court defined a void marriage as one that will be regarded by every court in any case in which the existence of marriage is in issue as never having taken place and can be treated so by both parties to it without the necessity of any decree annulling it.

In RE ROBERTS (1978)3 ALL ER 225, the court held that if a marriage is declared void it is declared void on social and public policy grounds unlike in voidable marriages where the persons concerned with the grounds which make the marriage voidable are only the parties to the marriage and no one else.

In **HORTON V HORTON (1947) 2 ALL ER 871**, lord jowilt, stated that “willful refusal” means a settled and definite decision arrived at without just excuse, taking into account the whole history of the marriage.

2. Failure to consent

In **RE ROBERT**, the court held that absence of any consent renders a marriage voidable and not void. Consent to a marriage maybe voidable and not void. Consent to a marriage maybe varied by either insanity, duress or mistake as to the identity of the other or the nature of the ceremony.

a) Insanity.

In **DURHAM V DURHAM (1885) 10 PD 80**, the petitioner sought a decree of nullity and claimed his wife had not had the mental capacity needed for marriage. The court held that the contract of marriage is a very simple and which does not require a high degree of intelligence to comprehend. But a person who understands the language of the ceremony may still be affected by delusions or other insanity so as to have no real appreciation of its significance. Court found that the respondent had had sufficient capacity at the time of the marriage, though her condition had deteriorated later.

b) Duress.

In **SINGH V SINGH (1971)2 ALL ER 828**, for duress to suffice, it must be shown, it must be shown that the petitioners will was overborne or that her consent was obtained through force or fear. There must be a threat to the petitioner’s life, limb or liberty.

In **BUCKLAND V BUCKLAND (1967)2 ALL ER 300**, petitioner while working in Malta, developed a 15 year old girl. He was arrested and charged with corrupting a minor. He affirmed his innocence, but his solicitor and his employer both advised him that he was unlikely to be believed and his only hope of escaping a substantial prison sentence was to marry the girl. He went on to contract the marriage. On return to England he sought to have the marriage annulled. The court annulling the marriage held that he had only consented because of his reasonable fear of imprisonment and that was not true consent.

c) Mistake

A mistake as to the identity of the other party is generally sufficient to make a marriage voidable, but a mistake as to his attributes or as to the effect of marriage is not.

At common law, when married, the personalities of husband and wife were fused into one hence there could be no civil action between the spouses for they were one and similarly spouses could not be jointly charged.

However, Art 31 of the constitution provides for equality in marriage between husband and wife thus the wife cannot lose her personality to the husband. Further in **MIDLAND BANK TRUST CO.LTD V GREEN**, lord denning held that now days both in law and in fact, husband and wife are two persons not one. The severance being complete in all aspects except in so far as its stated by law or a judicial decision.

3. Right of the wife to use the husbands name.

A marriage gives the wife the right to use the husbands name if she so wishes but this is not obligatory. **IN FONDAL V GOLDSMITH**, court held that while marriage confers a right to the wife to use her husband's name, she cannot be forced to do so but if she desires she can use it without swearing a deed pool.

- Even after termination of the marriage, a wife may keep her husband's name and the husband has no right to restrain her from using it except if she is using it for a fraudulent purpose.

COWLEY V COWLEY (1900) P 305, upon dissolution of a marriage wife kept using the former husband's name. He applied for an injunction restricting her from using the name. Court held that a man has no such property in his name as to title him to prevent a woman not his wife claiming to be such unless she does so maliciously.

4. Presumption of legitimacy of children.

Any child born during the subsistence of a marriage shall be presumed to have been fathered by the husband however this presumption can be rebutted if one shows overwhelming evidence to the contrary in:

- a. Where husband was temporarily or permanently impotent at the time of conception.
- b. Absence of the husband for a reasonably long time. In **PRESTON JONES V PRESTON JONES (1956)1 ALL ER 124**, the husband had not been around for over 360 days after a particular coitus, court held that the child was not his legitimate child.

In the case of **KINTU V KINTU, DIVORCE APP. NO135 OF 97**, court held that the wife has a right to occupy the matrimonial home and be provided with necessities of life and where this isn't done, the wife can exercise what under common law is called the **DESCETRED WIFES EQUITY**, which means that the wife may insist on remaining in the matrimonial house if she is deserted by the husband.

How a wife can enforce maintenance

a) Enforcing her right of agency of necessity

Arises in situation where the husband fails to provide for his wife necessities. The wife is allowed to pledge or take goods on credit for a trader and trader will be able to sue the husband for the credit for the wife is treated as an agent for the husband.

BIBERFELD V BERENS, in considering whether a wife, who has been compelled by her husband's conduct to leave him, is her husband's agent of necessity, regard must be had to her means. In the present case, the wife had assets which she could have been reasonably expected to use to pay for necessities and accordingly, she was not her husband's agent of necessity.

b) Through a bilateral maintenance agreement.

Spouses living in separation may include a clause in their separation agreement of maintenance and this agreement must be enforceable.

In **WILLIAMS V WILLIAMS**, a wife left her husband and the husband promised to make her weekly payment for her maintenance. He failed in this and the wife claimed arrears. The husband claimed that she had deserted and she could maintain herself. Lord denning held that a promise to perform an existing duty is sufficient consideration to support a promise, so long as there is nothing in transaction which is contrary to the public interest.

c) Maintenance order from court.

There is no provision in Uganda creating a right of a wife to seek a maintenance order where the marriage is still on going. Therefore the petition is brought under the following provisions. Article 139 of the constitution, S.14 of the judicature act, S.98 of the CPA, S.10 of the MCA (if in magistrate courts). These provisions grant the courts with the jurisdiction to hear family matters and in doing so may apply doctrines of common law and equity in ensuring there is maintenance between the husband and the wife.

Rebuttal of common law presumption that a husband is liable to maintain his wife.

Court further noted that the wife indirectly contributes to towards payments for household expenses, preparation of food, purchase of children's clothing, organizing children for school and generally enhance the welfare of the family and this amounts to a substantial indirect contribution to the family income and assets which entitle her to equal share in the couples joint property.

In RWABINUMI V BAHIMBISOMWE, the Supreme Court further held that property acquired prior to the marriage by either spouse, property inherited during marriage or property individually owned by either spouse where the other spouse has made no direct or indirect contribution remains individually owned property. Therefore property held prior to marriage and property individually acquired during marriage does not become joint property.

Where a spouse makes a direct/indirect contributions owned by another before the marriage, the spouse is entitled to share in the property to the extent of their contribution as was in **MAYAMBALA V MAYAMBALA DIVORCE CAUSE NO.3 OF 1998**

Bank accounts.

Wives and husbands may have their separate accounts. It's also possible that they may have pint accounts or a joint pool from which they deposit or withdraw money though not necessarily in equal propositions. As a result, they acquire a joint interest there in.

In JONES V MAYNARD (1951)1 ALL ER 802, where the husband authorized his wife to draw on his account which was after used as a joint account. Into the account dividends from both the husband and the wife's investment were deposited thereon. The two had not agreed on what their rights are in this joint venture but they regarded the account as their pint property.

The court held that the wife's action for an equal share in the balances on the account and the investments carried out using monies drawn from the account would succeed.

On the evidence the intention of the parties was to constitute a poll of their resources in the form of a joint account, it was not consistent with that intention to divide the monies in the account and the investments made with monies withdrawn therefore by reference to the amounts respectively contributed to the account by each of them and therefore the husband must be regarded as trustee for the wife of one half of the investment and of the balance of the account.

Savings from household expenses.

ISLAMIC MARRIAGES



The law applicable to this type of marriage includes the following:

1. The Marriage & Divorce of Mohammedans Act 252
2. The Marriage & Divorce of Mohammedans (Appointment of Registrars) Order SI 252-1
3. The Marriage & Divorce of Mohammedans (Fees) Order SI 252-2
4. The Marriage & Divorce of Mohammedans (Jurisdiction in Matrimonial Causes) Instrument SI 252-3
5. Sharia law

The issues for resolution usually include the following:

1. Whether the parties have capacity to contract a marriage?
2. If so, what formalities should be followed to effect the marriage?
3. What is the forum and documents?

DISCUSSION

These are governed by Marriage and Divorce of Mohammedans Act Cap 252 provides in section 2 that all marriages between persons professing the Mohammedan religion and all divorces from such marriages celebrated or given according to the rites and observances of the Mohammedan religion and customary, usual among the sect or tribe and registered as provided in the Act. shall be valid and registered as provided for under this act.

Capacity/ Preliquisities to contract a Muslim marriage

- 2) It doesn't render/validate an invalid marriage
- 3) Failure to apply for registration is an offence

HINDU MARRIAGES

The law applicable includes the following:

The Constitution 1995

The Judicature Act Cap 13

The Hindus Marriage and Divorce of Act Cap 250

The Hindus Marriage and Divorce (Marriage and Registration) Rules SI 250- 1

The Divorce Act Cap 249

Case law.

The issues for resolution usually include the following:

1. Whether the parties have capacity to contract a marriage?
2. If so, what formalities should be followed to effect the marriage?
3. What is the forum and documents?

Sec 1(c) defines this type of marriage as Marriage between Hindus etc.

The Preliminaries are laid out in section 2 of The Hindus Marriage and Divorce of Act Cap 250; and they include the following;

- 1) Neither Party should have a spouse living at the time of the marriage.
- 2) Parties are of sound mind
- 3) Groom attained is 18 years
- 4) Bride attained 16 years; if not; consent of guardian should be given.
- 5) Parties are not within prohibited degrees if consanguinity; or kindred. The prohibited degrees are provided in section 2(2) of the Act.

DIVORCE.



An action for divorce is founded on a breach of an obligation arising out of a valid marriage contract. Where the marriage is void, divorce is not applicable.

In civil, church or Hindu marriages, the law applicable is the divorce act cap 249

For Islamic marriages, the marriage and divorce of the Mohammedans act applies.

For customary marriage, the various customs under which the marriage was contracted apply to the divorce in so far as they conform to the constitution. **KINTU V KINTU**. Following the decision in **MIFUMI**, where the refund of bride price was declared unconstitutional it's not.

Article 31(1) of the constitution is applicable to all the divorce in all the various marriage.

DIVORCE UNDER THE VARIOUS MARRIAGES CUSTOMARY MARRIAGES

Depends on the communities and not the Divorce Act as enunciated in **Kintu Vs Kintu DA 135**.

The grounds for divorce include witchcraft, laziness, barrenness, incompatibility, impotence and adultery.

CIVIL MARRIAGES

TERMINATION OF MARRIAGES

A valid marriage may be terminated either by the death of the parties or by dissolution or divorce pronounced by a court of competent jurisdiction.

Divorce is defined as the termination of a valid and subsisting marriage by a court of competent jurisdiction. It must be noted that for court to pass a decree of divorce, the Petitioner should have been domiciled in Uganda at the time the petition is presented.

The law applicable to this scope of study includes the following:

The Constitution 1995

The Judicature Act Cap 13

In the case of **HABYARIMANA V HABYARIMANA (1980) HCB 139**, adultery was defined as consensual sexual intercourse during the subsistence of the marriage between one spouse and a person of the opposite sex not being the other spouse.

Burden of proof and standard of proof

In **MARY RUHARA V CHRISTPOHER RUHARA (1977) HCB 86**, court held that the basic rule as established by case law is that in cases of adultery the burden of proof lies on the petitioner and its heavier burden than that lies on a party to an ordinary civil action though it is not high as in criminal case.

Elements of adultery.

1. That the person was married
2. They had sex with another person not being their spouse. The sexual intercourse must be complete for those to be adultery. **IN DENNIS V DENNIS (1955)2 ALL ER 51**, the court held that there is no distinction to be drawn between the words sexual intercourse in the definition of adultery and carnal knowledge in criminal law. It must be shown that there was penetration of female organ by the male organ however slight.

Evidence in adultery cases.

It is not necessary to prove a direct fact of adultery. Adultery can be proved by circumstantial evidence as long as that evidence is cogent to the extent that it raises no other inference other than the fact that the respondent committed.

PRESTON JONES V PRESTON JONES (1951)1 ALL ER 124, where the respondent had given birth to a child 360 days after the last time she had had sexual intercourse with her husband the petitioner who for all those days had been away.

In FRANK NIGEL OTHEMBI V ADONG GRACE CHODA DC NO.2 OF 1998, the petitioner found love letters in the respondent's bag.

Condonation of adultery.

Under S.9 of the divorce act, adultery is deemed to have been condoned where the offended party resumes conjugal cohabitation or was continued after discovery of the adultery.

In the case of **PATEL V PATEL (1965) E.A 560**, court held that the constituents of desertion include:

- 1) That the husband or wife left the matrimonial home for the statutory period two years
- 2) Did so without the consent of the other partner
- 3) Did so with the intention of permanently ending cohabitation.

IN ERUME V KYOMUGISHA, DIVORCE CAUSE NO.9 OF 2014, the wife disappeared without trace and the husband was granted a divorce on grounds of desertion.

The black's law dictionary defines desertion as an actual abandonment or breaking off matrimonial cohabitation, by either of the parties, and a renouncing or refusal of duties and obligation of the relation with an intent to abandon or forsake entirely and not to return or resume marital relations.

Elements

1. Intention to desert.

This is the notice to desert. There is no desertion unless the guilty spouse has the intention of remaining permanently separated from the other.

If a spouse is away for business, is deployed in the army, ill, or in prison, the desertion is voluntary and will not be construed unless the intentions can be expressly proved.

In KAYE V KAYE, THE TIMES 1953, the separation was not voluntary and under computation for all practical purposes, it was never possible for the wife to leave Poland and come to England, nor was the husband ever able to join her there.

Where the deserting spouse is alleged to be insane, it is a question of fact to be determined by the courts whether he or she is capable of forming the necessary animus.

IN PERRY V PERRY (1963) ALL ER 766, the wife left her husband because she suffered from an (unfounded) insane delusion that he was trying to murder her. It was held that her conduct had to be judged as though her belief was true and in these circumstances it was clear that there could be no desertion because she believed that she had good cause for leaving her husband.

In KIRUNGI DOREEN V MUBAGE RONALD (SUPRA), court held that he had unreasonably deserted the petitioner by virtual of his having abandoned the matrimonial bed though his refusal to have sexual intercourse with the petitioner.

Constructive desertion.

The Decree is only pronounced if court is satisfied that the petitioner has proved his/her case and has not been accessory to or has connived with the Respondent in the act complained of.

Secondly, though the petition is brought before the court, court shall not be bound to pronounce the decree if it finds that the petitioner has during the marriage been guilty of adultery or has taken unreasonable delay in presenting the petition.

Effect of pronouncement of decree

First and foremost, the marriage is dissolved and as a result, either spouse is thereafter free to re-marry. It must be noted that the decree nisi does not have this effect and if either party remarries before it is made absolute. To this end, the subsequent marriage shall be void. This is fortified by section 39 of the Divorce Act.

Secondly, the court may award damages against a co-Respondent for committed adultery with the wife of the petitioner, it must be noted that if the petitioner claims damages for the same, section 21 warrants that court may order male co-respondent to pay the damages granted and failure to pay can lead committal to civil prison.

Thirdly, Court may make orders as to payment of permanent alimony by the husband to the wife that is, the husband is made to secure to the wife such sum of money as awarded by court. Permanent alimony is provided for in section 24 of the Divorce Act. Court may order upon passing of a decree absolute or on a decree of judicial separation obtained by the wife; whereby the husband is ordered to secure to the wife such sum of money as having regard to her fortune if any to the ability of the husband, and the conduct of the parties; as it thinks reasonable.

Alimony may be paid by yearly, month or weekly payment for any period not exceeding the life of the wife as provided for under section 24 of the Divorce Act. Another point worth noting about alimony is that the alimony should not exceed one fifth of the husband's average net income. This principle was enunciated in the case of **Gakwavu v. Gasengayire (1977) HCB 322**.

Fourthly, court may make orders as relates to property under section 26 and 27 of the Divorce Act. This is fortified by the case of **Saidi v. Mwanamkulu (1978) LRT 200**.

Lastly but not least, court may make orders as to the custody, maintenance & education of the minor children of the marriage or for placing them under the protection of court under section 29 of the Divorce Act. This is fortified by the case of **Nyakana v. Nyakana (1979) HCB 26.1** where court held on custody.

- a) The husband has changed the profession of the religion from Christianity to another religion and gone through another celebration of marriage, under Section 4(2) (a)
- b) Incestuous Adultery, under Section 4(2) (b) (i).
- c) Bigamy and adultery, under Section 4(2) (b) (ii).
- d) Marriage with another man couple with adultery, under Section 4(2) (b) (iii).
- e) Rape, Sodomy and bestiality, under Section 4(2) (b) (iv)
- f) Adultery and cruelty , under Section 4(2) (b) (v)
- g) Adultery and desertion without reasonable excuse for a period of two years or more , under Section 4(2) (b) (vi).

It must be noted further that where the husband is relying is the Petitioner and relying on adultery as a ground, the alleged adulterer has to be joined as co respondent unless he is excused by court. Under paragraphs (a) and (b) of section 4 of the Divorce act.

Jurisdiction in Islamic marriages.

The marriage and divorce of Mohammedans act, under S.18 provides for jurisdiction under the act, any competent court can grant relief albeit doing so under Mohammedi's law.

Article 129(1) (d) of the constitution provides for Qadhn courts although these have not yet been operationalized by an act of parliament, the court in the case of **SUMAYA NABAWANUKA V MED MAKUMBI (DIVORCE CAUSE NO.39 OF 2011)**, premising its decision on Art.274 of the constitution held that sharia courts operated by the UMSC were courts of competent jurisdiction to hear matters in matrimonial proceedings under the marriage and divorce of Mohammedi's act.

Court further held that the high court has jurisdiction to handle Mohammedan divorce and the law applicable must be Mohammedan law and not the law as provided in the D.A

Look at the marriage and divorce of Mohammedan (jurisdiction) regulations (S.1NO 252-3)

Jurisdiction in customary marriage.

The customary marriage (registration) act is silent about the applicability of the divorce act. The law recognizes customary marriages and customary divorce however, it merely outlines that the marriage and divorce would be in accordance to one's culture (S.1 (2))

The general ground of divorce in the Quran is the hopeless failure of one or both parties to discharge their marital duties and to consent with each other in kindness, peace and compassion.



Statutory provisions.

S.2 of the marriage and divorce of the Mohammedan act requires that the method of divorce to be carried out has to be in conformity with the rites and observances of the Mohammedan.

S.5 (1) (a) of the act provides for the registration of divorce by the husband within one month from the date of divorce.

Cases.

In THE KING V THE SUPERINTENDENT REGISTRAR OF MARRIAGES, HAMMERSMITH (EX PARTE MIR-AWRIWARUDA) (1917) KB 634, one of the issues raised was whether the declaration of divorce (talaq) made by the husband has the effect in England of dissolving a marriage contracted according to marry gain in England. The court held that a marriage solemnized in UK between a Mohamed domiciled in India and a Christian woman in UK cannot be dissolved by the husband handing to the wife a writing of divorcement although that would be an appropriate mode of effecting the dissolution of a Mohamedan marriage according to Mohammedan law.

In RE MOHAMED HUSSIN AND HAZIMAH (1990)7 JH 189, the husband pronounced three talaqs at the same time. The appeal committee held that the three talaq pronounced at the same time effected only a single divorce. The appellants thus could re marry.

FASK.

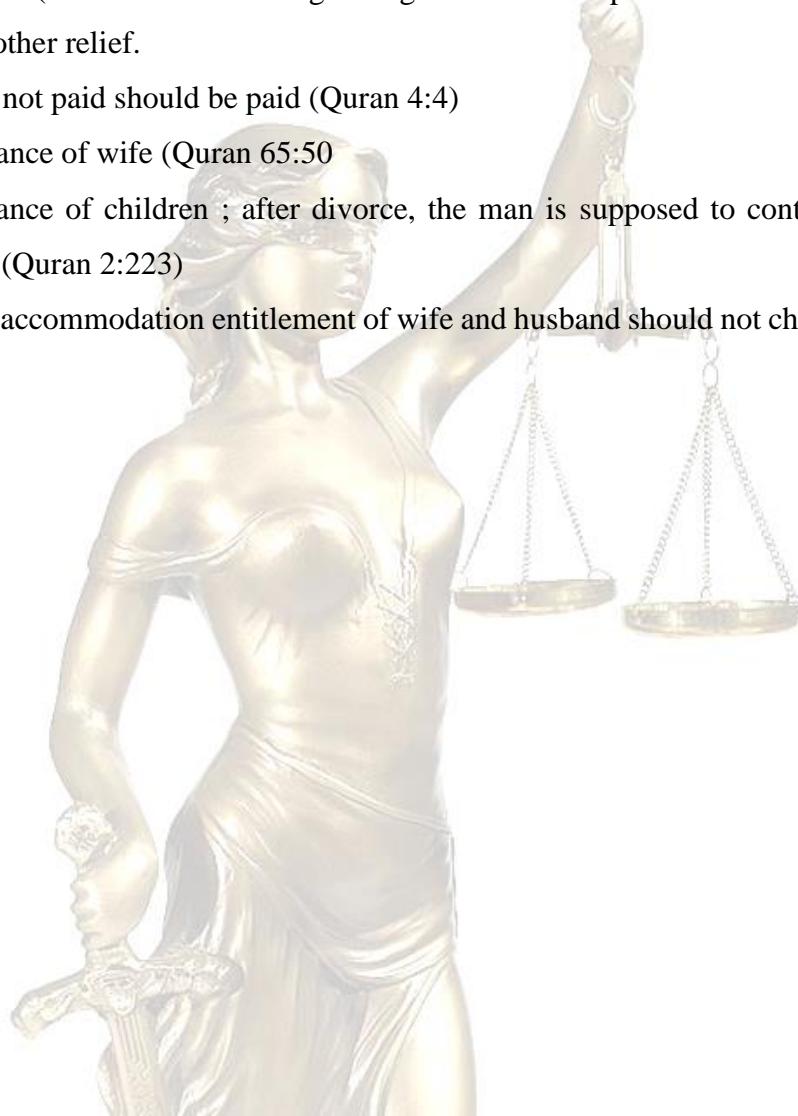
Fask is a decree by the Khadi (judge) after the careful consideration of an application by the wife. Its basis is in Quran 2:229

Grounds.

1. Defect in one of the spouses: according to Malik School, shafii and hanbali schools, each couple is entitled to get divorce due disease and physical defect e.g. leprosy, madness, leucocythaemia and impotency. According to Shafii School what forms the basis is the infectitiouness of the disease that are passed from husband to the wife.
2. Failure to provide maintaince.
3. Cruelty: if the fears that the husband will injure her person to such an extent that she is unable to live with him as husband and wife. Quran 4:128. In the Tanzanian case of **ZAINABU V MOHAMMED (1973) EA 280**, the wife brought the suit for divorce on grounds of interlia cruelty. Court held that evidence of cruelty would lead to the dissolution of marriage under fask.

In RE HAMZA MOHAMED AND NASHAT MOHAMED (Minors) H.C FAMILY MISC APPLIC NO.89 OF 2012. The court considered the relief mentioned under S.18 of M&DMs Act. The application was brought by the wife under S.18. Mukiibi J stated that Section 18 means that any party to an Islamic marriage may come to the court seeking relief by way of divorce and any other consequential orders but the court must apply Islamic law. The H.C up held the decision of the sharia court (at UMSCO decision granting divorce to the parties and custody of the children to the wife and other relief.

- a) Mahr: if not paid should be paid (Quran 4:4)
- b) Maintenance of wife (Quran 65:50)
- c) Maintenance of children ; after divorce, the man is supposed to contain maintaining the children (Quran 2:223)
- d) Right of accommodation entitlement of wife and husband should not chase her away. Quran 65:2



7. THAT your petitioners husband, LUBOGO HENRY, in or about the months of AUGUST 2017 TO OCTOBER 2019 at their matrimonial home in Entebbe municipality, Wakiso district insulted your petitioner by blaming her for all his problems, for being Karamojong and calling her good for nothing. This has caused your petitioner mental and emotional anguish.
8. THAT all avenues ,forums and steps taken by the petitioner to ensure the respondent stops being cruel to the petitioner have yielded no results.(attached as Annexure ‘A’ is a copy of the minutes from one of the mediation meetings called by our relatives)
9. THAT due to the continued cruelty of the respondent to the petitioner, the marriage between the two of them has irretrievably broken down.
10. THAT the matter arose in Entebbe municipality, Wakiso district which is within this court’s jurisdiction.
11. THAT this petition is not prosecuted in collusion or connivance with the respondent or with any other person connected in any way with the proceeding nor is your petitioner guilty of condemnation.

Your petitioner therefore humbly prays for a decree that

- a) The marriage of your petitioner with the respondent be dissolved and a decree nisi be granted
- b) That the petitioner may have the custody of the issue of the marriage
- c) That the respondent be ordered to pay alimony of UGX.1,000,000 per month to the petitioner and pay UGX.1,000,000 per month to the petitioner for maintaince of the issue of the marriage.
- d) That the respondent pay the costs of and incidental to the petition
- e) That your petitioner may have such further and other relief as the court may deem fit.

DATED at KAMPALA, this 26th day of October 2019.

PETITIONER

I, certify that the statements above are true to my knowledge, information and belief.

PETITIONER

Drawn and filed by;

before me

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
DIVORCE CAUSE NO. 002 OF 2006**

OGWANG BOB **PETITIONER**
VERSUS
NYADOI MARY **RESPONDENT**
ODONG SOLOMON **CO- REPENDENT**

SUMMONS TO ANSWER PETITION

WHEREAS the Petitioner has petitioned this court for a decree for dissolution of marriage;
YOU ARE hereby summoned to file an answer to the Petition in this court within 15 days from the date of service of summon to you.

AND TAKE FURTHER NOTICE that in default of doing so, the petition will be heard and determined in your absence

Dated at Kampala this Day of 2006

.....
REGISTRAR

TO BE SERVED UPON
NYADOI MARY

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
DIVORCE CAUSE NO. 002 OF 2006**

9. THAT Notice to institute legal action was communicated to the Respondent.

10. THAT this cause of action arose in Kampala within the jurisdiction of this Honourable Court.

WHEREFORE, the Petitioner prays for

- a) A Decree for dissolution of marriage.
- b) An order of Maintenance for the Respondent.
- c) An order for custody of the issues of the marriage
- d) Other Relief as Court Deems fit

DATED at Kampala the day of 2006

.....

Counsel for Petitioner

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....

PETITIONER

Drawn and filed by:

SUI GENERIS and Co. Advocates

P.O.BOX 7117,

Kampala

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
DIVORCE CAUSE NO. 002 OF 2006

OGWANG BOB **PETITIONER**
VERSUS
NYADOI MARY **RESPONDENT**
ODONG SOLOMON **CO- REPENDENT**

REPLY TO PETITION

THE HUMBLE PETITION OF THE RESPONDENT SHOWETH;

1. THAT the Respondent is a female adult Ugandan of sound mind and the Respondent undertakes to effect service of the court process on her.
2. THAT your Respondent Professes the Christian Religion.
3. THAT your Respondent and the Petitioner are domiciled in Uganda with a matrimonial home at Ggabba.
4. THAT your Respondent was married to the Petitioner vide a church marriage at All saints Cathedral on the 21st day of August 1998; solemnized in accordance with the provision of the marriage Act in force in Uganda, and begot two issues of the marriage aged 3 and 5 years respectively.
5. THAT the Respondent has never committed adultery has alleged by the Defendant and as a result there has been no irretrievable breakdown of the said marriage between you Respondent and the said respondent.
6. THAT the said incident on the 23rd day of January 2004 was simply a meeting of a business partner and the Pertitioner will be put to strict proof of the allegations.

WHEREFORE, the Respondent prays that the petition be dismissed with costs to the Respondent.

Others with leave of court

LIST OF AUTHORITIES

- The Constitution 1995
- The Judicature Act Cap 13
- The Marriage Act Cap 251
- The Divorce Act Cap 249
- The Divorce Rule SI 249-1
- The Civil Procedure Act Cap 71
- The Civil Procedure Rules SI 71-1
- Mugonya vs Mugonya (1975) HCB 95
- Sheldon vs Sheldon (1962) 2 All ER 257
- Common Law and Doctrines of Equity
- Others with leave of court

LIST OF DOCUMENTS

- The Marriage Certificate
- Others with leave of court

DATED at Kampala the day of 2006

.....
Counsel for Respondent

Drawn and filed by:

SUI GENERIS and Co. Advocates
P.O.BOX 7117,
Kampala

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBEE
AT ENTEBEE.
MATRIMONIAL CAUSE NO. 002 OF 2019.
GRACE AKOROMWIGURU.....PETITIONER
VERSUS
LUBOGO HENRYRESPONDENT
PETITION FOR RESTITUTION OF CONJUGAL RIGHTS AND PROVISION OF
MAINTENANCE.

(Under S.20 (1) and (2) of the D.A and O.22 rule 29 of civil procedure rules)

This is the humble petition of **GRACE AKOROMWIGURU** whose address for purposes of this petition shall be **SUI GENERIS AND CO.ADVOCATES, P.O BOX 7117, KAMPALA** and these are as follows:

1. THAT the petitioner is a female adult Ugandan of sound mind and a resident of Entebbe municipality Wakiso district and her advocates under take to effect service on the respondent.
2. THAT the respondent is a male adult Ugandan presumed to be of sound mind and is a resident of Entebbe municipality, Wakiso district
3. THAT your petitioner professes the Anglican religion
4. THAT your petitioner was on the 12th day of December 2015 ;lawfully married to the respondent at Christ the king church in the district of Kampala and that:
 - a) The marriage was solemnized under the provisions of the Marriage act cap 251 in force at the time;
 - b) After the marriage, your petitioner lived and cohabited with the respondent, LUBOGO HENRY at kiwanga village, Entebbe municipality and there are two issues of the marriage to wit LUBOGO JUNIOR AGED 20 YEARS AND AKIROMO JUNIOR AGED 3 YEARS.
5. THAT, the respondent, LUBOGO HENRY has not from the month of AUGUST 2017, to date not provided maintenance to the petitioner nor to the children.

Separation agreement.

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE DIVORCE ACT, CAP 249
AND
IN THE MATTER OF THE CONTRACTS ACT, 2010
SEPARATION AGREEMENT.

THIS AGREEMENT IS MADE THIS 27th day of October 2019.

BETWEEN

GRACE AKOROMWIGURU aged 24 years whose address for purposes of this agreement shall be SUI GENERIS COMPANY ADVOCATES, PILKINGTON ROAD, KAMPALA. (Hereinafter referred to as the wife)

AND

LUBOGO HENRY aged 35 years, resident of lubowa, Entebbe, Wakiso district (Hereinafter referred to as the husband)

WHEREAS the husband and wife lawfully contracted a marriage on the 15th day of October 2015 at All saints cathedral Nakasero in Kampala.

AND WHEREAS they have since lived and cohabited together at their matrimonial home in Entebbe municipality and have two issues from the marriage to wit, Lubogo Junior aged 3 years and Lubogo Grace aged one year (Hereinafter referred to as the children)

AND WHEREAS the relationship between the two has broken down and thus they are desirous of separating and agree to live separately as agreed in this agreement.

THIS AGREEMENT IS THEREFORE WITNESSETH AS FOLLOWS:

1. NON MOLESTATION.

1.1 The parties mutually agree that there shall be no molestation of one by the other during the continuance of this agreement.

1.2 In the event that any of the parties violates the provision of clause 1.1 above, the party in breach shall pay damages of UGX 5,000,000 to the other innocent party.

2. MAINTENANCE OF WIFE AND CHILDREN.

6.2 Notwithstanding clause 6.1, the parties may by mutual consent terminate this agreement at any time during its subsistence.

7. CUSTODY OF THE CHILDREN.

7.1 The parties agree that the wife shall have custody of the children while the husband shall have visitation rights at all times

7.2 In exercise of his visitation rights in clause 7.1 above, the husband shall ensure that he gives at least a days' notice to the wife and shall ensure the visits are in a reasonable time

7.3 For avoidance of doubt, reasonable time shall be construed to be between 9:00am and 7:00pm.

8. AMENDMENT.

No provision in this agreement shall be varied or deemed to be varied except where there is an express agreement to that effect in writing signed by the parties.

9. DISPUTE RESOLUTION.

9.1 All disputes arising under this agreement shall be referred to a mediator within 10 working days from the date when the dispute arose.

9.2 The mediator referred to in clause 9.1, shall be a mediator appointed by CADER upon application by either party,

9.3 The mediation referred to clause 9.1, shall not exceed 30 days from the first day when the mediation is commenced.

9.4 Where the parties fail to reach a settlement in respect of the dispute, they shall refer the matter to court of competent jurisdiction for resolution of the dispute.

10. LAW APPLICABLE.

This agreement shall be governed by the laws of the republic of Uganda.

IN WITNESS WHEREOF, the parties have appended their signatures hereto on the date and year first mentioned above.

Judicial separation.

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBBE
AT ENTEBBE**

**MATRIMONIAL CAUSE NO 003 OF 2019
AKIROMO GRACEPETITIONER
VERSUS
LUBOGO HENRYRESPONDENT
PETITION FOR SEPARATION.**

(Under section 14 of the divorce act cap 249 and rule 4 of the divorce rules)

This is the humble petition of GRACE AKOROMWIGURU whose address for purposes of this petition shall be SUI GENERIS AND CO. ADVOCATES, P.O BOX 7117, KAMPALA and it show:

1. THAT the petitioner is a female adult Ugandan of sound mind and a resident of Entebbe municipality Wakiso district and her advocates undertake to effect service of the petition on the respondent.
2. THAT the respondent is a male adult Ugandan presumed to be of sound mind and a resident of Entebbe municipality, Wakiso district.
3. THAT your petitioner professes the Anglican religion
4. THAT your petitioner was on the 12th day of December 2015 lawfully married to the respondent at all saints cathedral at Nakasero in the district of Kampala and that
 - a) The marriage was solemnized under the provisions of the Marriage act cap 251
 - b) After the marriage, your petitioner hired and cohabited with the respondent, LUBOGO HENRY at kiwanga village, Entebbe municipality and there is one issue of the marriage to will LUBOGO JUNIOR born on the 1st September 2016.
5. THAT your petitioners husband, LUBOGO HENRY, in or about the month of AUGUST 2017, SEPTEMBER 2019, at their matrimonial home in Entebbe municipality ,Wakiso district, violently assaulted your petitioner by striking her in the face ,abdomen areas, back and her head with calendared fits and his belt.

DIVORCE UNDER MOHAMMEDAN MARRIAGES

There are three types of divorce under Mohammedan law, and they are discussed below, thus;

Talak Divorce

In its primitive sense, the word *talaq* means dismissal [to dismiss], but in law it signifies a release from the marriage tie. The Muhammadan law of divorce is founded upon express injunctions contained in the Qur'an, as well as in the Traditions, and its rules occupy a very large section in all Muhammadan works on jurisprudence²²⁶.

In this mode of divorce, if it is Talak Aslam, the husband has to pronounce Talak every month for three months. Talak Bidad is taken before a court of competent jurisdiction; it can in writing or can be oral. If it is deduced to writing, it has to be delivered to the wife.

The conditions for talak include the following:

The man should be sane;

He should not be a minor;

Pronouncement of the talak should be at his own discretion.

The talak should be pronounced when the wife is in a state of purity.

The last talak should be pronounced in the presence of witnesses.

Fask Divorce

This is an annulment or an abrogation of marriage. It is a decree passed by the Qadi after careful consideration of an application by the wife.

The grounds a wife can rely on include the following;

1. Separation due to defects in one of the spouses
2. Separation due to difficulties of the husband.
3. Separation due to apostasy of one of the spouses.
4. separation due to lack of equality of status of the husband

²²⁶Excerpt from "Dictionary of Islam" by Thomas Patrick Hughes © 1886

Failure to consummate the marriage.

A marriage is said to be consummated as soon as the parties have sexual intercourse just after the marriage. Failure to consummate a marriage will be a ground for petitioning court for a decree of decree of nullity if the failure to consummate is a willful refusal of the part of the Respondent. Refusal too have sexual intercourse in any form will be a ground; particularly where the respondent refuses to take treatment to remove the physical or psychological impediment to consummation. This was fortified by **S v S (1954)**.²²⁷

It must be noted however, that the possibility of conception is irrelevant; what matters is the act, whether a sheath has been used or not. This was held in **Baxter vs Baxter (1942) 2 All ER 886**.

Lack of Consent

It must be noted that a marriage is a contract and therefore lack of consent will invalidate the contract. A marriage shall be voidable if either party did not validly consent to it.

Unsoundness of mind

If, at the time of celebration of the ceremony, either party was unable to understand the nature of the contract he was entering into, this will affect a marriage. The test to be applied was laid down in the **Estate of Park 1953(2) All ER 1411 C/ A** where court held that where the person was not capable of understanding the nature of the contract into which he was entering or was in a condition such that he was incapable of understanding it. This therefore means that a person must be capable of appreciating the responsibilities and duties normally attached to marriages.

Other grounds include:

Drunkard ness and drugs;

Effect of Drunkenness and drugs can be taken

Mistake as to the identity of the contracting party.

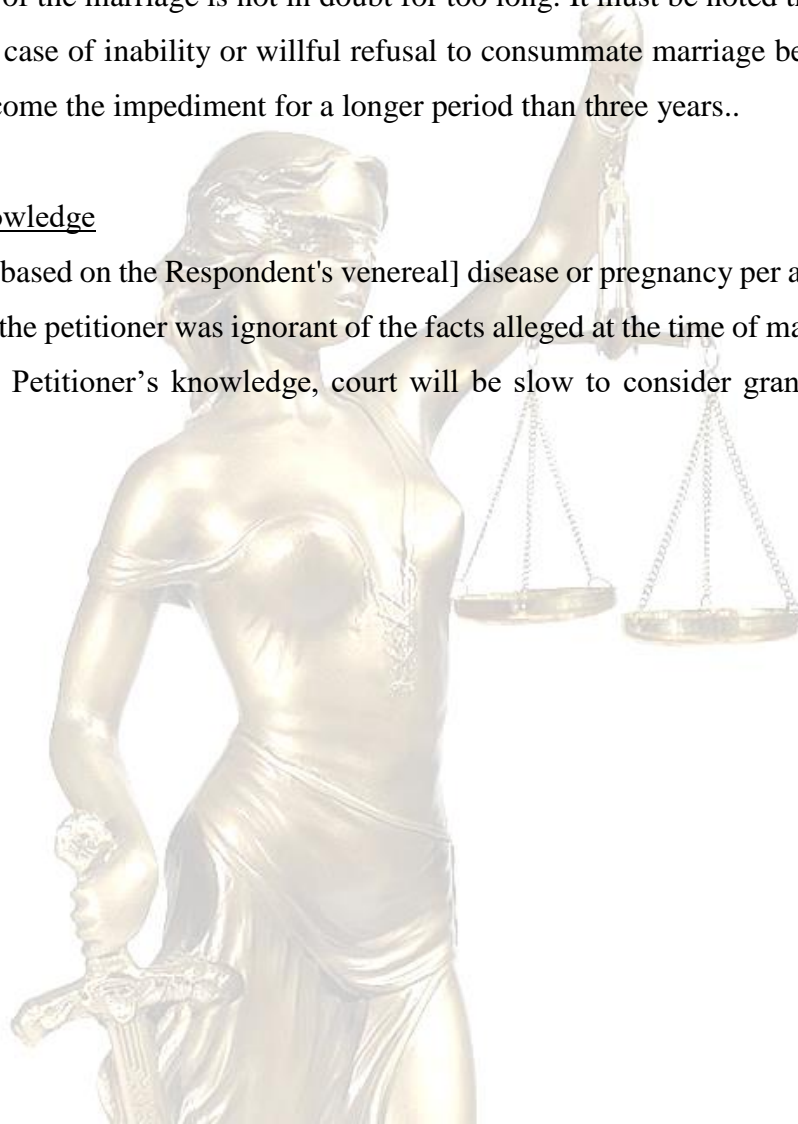
²²⁷ 3 All ER Reprint 736 at 743-744.

iii) Lapse of Time:

Under common law (s.13 of the Matrimonial Causes Act 1973) In all cases except those based on importance or willful refusal to consummate, a decree of nullity must be refused if the proceedings were not instituted within three years' of the date of the marriage. The purpose for this is to ensure that the validity of the marriage is not in doubt for too long. It must be noted that the lapse of time is not a bar in a case of inability or willful refusal to consummate marriage because the petitioner may try to overcome the impediment for a longer period than three years..

Petitioner's Knowledge

If the petition is based on the Respondent's venereal] disease or pregnancy per aluim, the court must be satisfied that the petitioner was ignorant of the facts alleged at the time of marriage. If these facts were within the Petitioner's knowledge, court will be slow to consider granting of relief to the Petitioner.



**IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006**

OGWANG BOB **PETITIONER**
VERSUS
NYADOI MARY **RESPONDENT**

PETITION FOR NULLITY OF MARRIAGE

THE HUMBLE PETITION OF OGWANG BOB SHOWETH;

1. THAT the Petitioner is an adult male Ugandan, for sound mind resident at Kikuba Mutwe, Ggabba, Kampala and your petitioner’s address for purposes of this suit is C/O SUI GENERIS and Co. Advocates, P.O.BOX 7117, Kampala.
2. THAT the Respondent is a female adult Ugandan of sound mind and the Petitioner undertakes to effect service of the court process on her.
3. THAT your Petitioner Professes the Christian Religion.
4. THAT your Petitioner and the Respondent are domiciled in Uganda with a matrimonial home at Ggabba.
5. THAT your Petitioner was married to the Respondent vide a church marriage at All saints Cathedral on the 21st day of July 2006; solemnized in accordance with the provision of the marriage Act in force in Uganda; and have two issues to the marriage aged 3 and 5 respectively.
6. THAT after the solemnization of the marriage, the Petitioner discovered on 9th October that the Respondent was three months pregnant with a child not being his.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006

OGWANG BOB **PETITIONER**

VERSUS

NYADOI MARY **RESPONDENT**

SUMMARY OF EVIDENCE

The Petitioner will adduce evidence to show that after solemnization of the said marriage, the Petitioner discovered that the Respondent was pregnant with a child not being his, meaning that at the solemnization of the marriage, the Respondent was pregnant and that the marriage has irretrievably broken down.

LIST OF WITNESSES

Ogwang Bob
Others with leave of court

LIST OF AUTHORITIES

The Constitution 1995
The Judicature Act Cap 13
The Marriage Act Cap 251
The Divorce Act Cap 249
The Divorce Rule SI 249-1
The Civil Procedure Act Cap 71
The Civil Procedure Rules SI 71-1

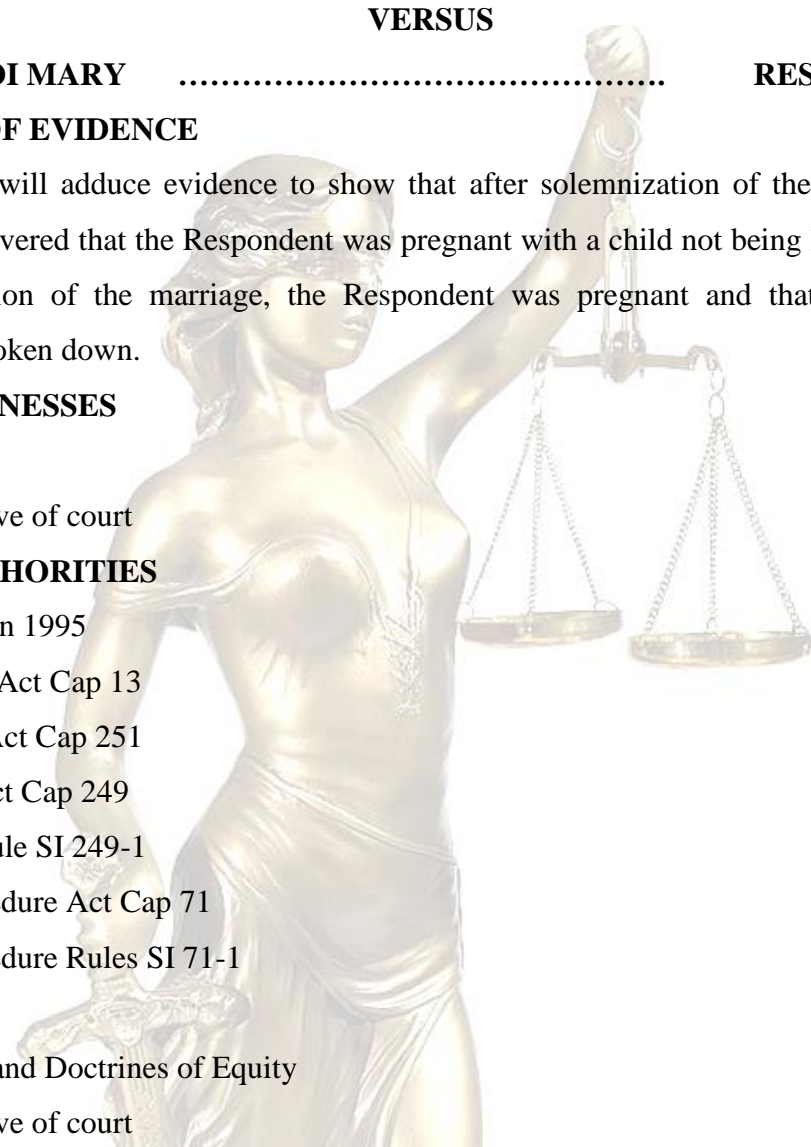
Case law

Common Law and Doctrines of Equity
Others with leave of court

LIST OF DOCUMENTS

The Marriage Certificate
Others with leave of court

DATED at Kampala the day of 2006



Counsel for Respondent

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....

RESPONDENT

Drawn and filed by:

SUI GENERIS and Co. Advocates

P.O.BOX 7117,

Kampala

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006**

OGWANG BOB PETITIONER

VERSUS

NYADOI MARY RESPONDENT

SUMMARY OF EVIDENCE

The Respondent will adduce evidence to show that the alleged pregnancy is as a result of her union with the Petitioner and as a result the petition should not be granted.

LIST OF WITNESSES

Nyadoi Mary

Others with leave of court

LIST OF AUTHORITIES

The Constitution 1995

The Judicature Act Cap 13

The Marriage Act Cap 251

CASES

SUMAYA NABAWANUKA V MED MAKUMBI DIVORCE CAUSE NO. 39 OF 2011.

Justice Kainamura.

The petitioner filed this petition seeking for a decree nisi dissolving the marriage between the petitioner and the respondent custody of the child, maintenance of the petitioner and the respondent custody of the child, maintenance of the child, alimony, share of the matrimonial property, costs and any further order. The respondent in his reply refuted the allegations and by way of a P.o. applied for the petition to be dismissed because it is rededicated since the matter before court had been finally determined by the sharia Court of the Muslim Supreme Council counsel for the respondent argued that same parties and laid already been determined by the court with competent jurisdiction, A.129 (1) (d) of the constitution. That it is the court envisaged under the marriages and Divorce of Mohammedans Act Cap 252.

Counsel for the petitioner urged that Parliament has not yet operationalized A. 129(1) (d) that requires parliament to establish Qadhi courts and that High court has inherent powers to give remedies to all aggrieved parties before it.

It was held: - sharia Courts of the Muslim supreme council are operating within the law and are competent courts to handle divorce cases and grant relief. Therefore the matter was heard and determined by a competent court would surely run afoul of S.7 of the CPA as it is res judicata.

JULIUS CHAMA v SPECIOZA RWALINDA MBABAZI DIVORCE CAUSE NO.25 OF 2011.

The petitioner sought orders of the court for dissolution of his marriage with Specioza Rwalinda Mababazi and he prayed for custody of the only child in the marriage and costs of the petition. The petition was based on the ground of cruelty as set out in the petition.

Uganda Association of women Lawyers and 5 others v A.G const. petition No.2 of 2003 where the constitutional court nullified sections 4(1), (2), 5,22,23,24 and 26 of the Divorce Act Cap 249. The said provisions are of no legal consequence and are no longer valid. This remain the position of the law (Han Herman Kock v Victonu kageha D.C NO.6 of 2011)

Cruelty may be defined as wilfull and unjustified conduct of such character as to course danger to life or health (bodily or mental) or as to give rise to reasonable apprehension of such danger. The conduct complained of must be serious .it must be higher than the ordinary tear and wear of a married life (*Habyarimana v Habyarimaria*).

The petitioner contributed 70% and in case the house is sold, she gets 70% of the market price.

BRUNO L.KIWUWA V IVAN SERUNKUMA AND JULIET NAMAZZI

The plaintiff instituted this suit to challenge the celebration of marriage of the first and second defendants on the grounds that both defendants, like the plaintiff, being Buganda by tribe, and belonging to the same clan of “Naliga ”that is to say“ sheep could not lawfully by reason of an obtaining custom, contract such a marriage.

Held:-

1. It is settled that where customary law is not documented, or so notorious for the court to take judicial.
2. A custom is defined as a practice that has been followed in a particular locality in such circumstances that is to be accepted as part of the law of that locality.
3. It must be in conformity with the constitution.
4. The Marriage Act recognizes the validity of customary marriages, the custom in issue applies to marriage under the Marriage Act.
5. A custom is repugnant to justice and morality if it causes a version and disgust to the principles of good behavior and as to what is reasonable and fair.

It is repugnant if it violates natural justice equity and good conscience. In this case, the custom is not barred and not in conflict or inconsistent with the Marriage Act.

MIFUMI (U) LTD &12 ORS v A.G ANOR CONST. PETITION NO. 12 OF 2007.

The petition is brought under A.2 (1) and (2), d37, (3), 93(a) and (d) of the constitution of Uganda and Rule 3 of the const. court (petitions and Reference Rules 5.191 of 2009) they challenge the constitutionality of the customary practice of demand for and payment of bride price.

Bride price is an amount of money of property or wealth paid by the groom or his family to the parents of a woman upon the marriage of their daughter to groom.

SEPARATION OF SPOUSES.



SEPARATION BY AGREEMENT

The law applicable to this scope of study includes the following:

The Constitution 1995

The Judicature Act Cap 13

The Contract Act Cap 73

Case Law

Common Law and Doctrines of Equity

It must be noted from the onset that parties can come to an agreement whereby, they spell out the terms of the separation. This is not provided for in any statute but is backed by common law. The guiding principle on separation agreements was upheld in *Fender Vs Mildmay (1938)* where court held that the husband and wife can enter into separation agreements, which should not lack conformity with principles of public morality.

Court further held in *Wilson Vs Wilson (1848) HLCAS 538* that there is nothing wrong or illegal per se in a agreement for immediate separation. It is not against public policy that separation agreements be allowed to stand. Thus where a marriage has irrevocably broken down, then an agreement can be made, where the parties agree to stay apart.

CLAUSES IN A SEPARATION AGREEMENT

The first and cardinal clause to include in a separation agreement is that the parties should agree to leave apart. This is fortified by the case of *Pearson Vs Aylespard [1884] 14 QBD 729*. Other terms in a separation agreement include the following:

Description of the parties

Non molestation Clause

Agreement to live apart

Maintenance clause

Appendix C– Separation Agreement

**THE REPUBLIC OF UGANDA
THE CONTRACT ACT CAP 73
SEPARATION AGREEMENT**

THIS AGREEMENT made this day of Two Thousand and Six

BETWEEN

OGWANG BOB of P.O.BOX 7117, KAMPALA (hereinafter referred to as the Husband) of the
one part.

AND

NYADOI MARY of P.O.BOX 7117, KAMPALA (hereinafter referred to as the Wife) of the
other part), where the context permits shall be called the Parties;

WHEREAS the parties were married on or about the 20th day of August 1982;

AND WHEREAS the wife after solemnization of the said marriage bore two issues aged 5 and 3
years respectively (hereinafter referred to as the children)

AND WHEREAS the relationship between the parties because of the numerous reasons, has
irrevocably broken down, for which reason is constrained;

NOW THEREFORE , THIS AGREEMENT WITNESSETH AS FOLLOWS.

1. In Consideration of the parties having each other's consortium and mutually accepting to stay apart, the parties enter into this agreement with conditions and terms as provided hereunder.
2. The parties agree that the custody of the children shall go to the wife in respect of the fact that they are of tender age and the husband shall have access to them.
3. The parties mutually agree that there shall be no molestation of one by the other during the continuance of this agreement.

JUDICIAL SEPARATION

This comes as a remedy to spouses who cannot have the remedy for divorce because of lack of the grounds. Judicial separation is provided for in section 14 of the Divorce Act, thus, a husband or wife may apply by petition to court for a judicial separation on the grounds of cruelty, adultery, or desertion without reasonable excuse for a period of two years or upwards, and the court on being satisfied that the allegations of the petition are true, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

Grounds for Judicial Separation under section 14 of the Divorce Act (for emphasis)

Cruelty,

Adultery,

Desertion without reasonable excuse for a period of two years

The law applicable to this scope of study includes the following:

The Constitution 1995

The Judicature Act Cap 13

The Marriage Act Cap 251

The Divorce Act Cap 249

The Divorce Rule SI 249-1

The Civil Procedure Act Cap 71

The Civil Procedure Rules SI 71-1

Case Law

Common Law and Doctrines of Equity

Before consideration of Judicial Separation, it is incumbent to have the checklist below for resolution:

1. Whether there is a valid and subsisting marriage between the parties?
2. If so, whether the facts disclose any matrimonial offences?
3. If so, whether X can petition court for a Judicial Separation Order?
4. What is the forum, procedure and documents?

- Making false declarations for marriage, under section 43 of the Marriage Act.
- False pretence of impediments to marriage, under section 44 of the Marriage Act.
- Unlawfully performance of a marriage ceremony, under section 45 of the Marriage Act.
- Willful neglect of duty to fill up certificate, under section 46 of the Marriage Act.
- Personation of marriage, under section 46 of the Marriage Act.
- Fictitious marriage, under section 48of the Marriage Act.
- Contracting a marriage when already married under customary law, under section 49 of the Marriage Act.
- Contracting a customary marriage when already married under marriage act, under section 50 of the Marriage Act.
- Rape, Sodomy, or bestiality under section 4(2)(b)(iv) of the Divorce Act.

Procedure For Petitioning For A Judicial Separation.

One applies to court by Petition. This is grounded on section 30 of the Divorce Act which states that all proceedings under the act shall be regulated by the CPR SI 71-1. in addition to this, section 31(1) of the Divorce Act provides that the procedure is by petition, where every petition shall state, as distinctly as possible, as the nature of the case permits, the facts on which the claim is based, and shall be verified as if it were a plaint, and may at the hearing be referred to as evidence.

It must be noted further that section 31(2) of the Divorce Act provides that petitions for dissolution of marriage, nullity of marriage or for judicial separation should always state that there is no collusion or connivance between the petitioner and the respondent. The petition is either supported by an affidavit or verified.

Secondly, after filing the petition, it is served on the Respondent who is supposed to file a reply to the petition. The reply is filed 15 days from the date of service of the petition. This is premised on the law of service of the court process under **Order 5 of the CPR SI 71-1**

Thirdly, upon filing of the Reply, the petition is set down for hearing under Order 9 rule 11(1) of the CPR SI 71-1.

Documents

Summon to reply to the Petition; (court document)

Appendix D– Documents For Judicial Separation
THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006

OGWANG BOB **PETITIONER**
VERSUS
NYADOI MARY **RESPONDENT**

SUMMONS TO ANSWER PETITION

WHEREAS the Petitioner has petitioned this court for a decree for a judicial separation

YOU ARE hereby summoned to file an answer to the Petition in this court within 15 days from the date of service of summon to you.

AND TAKE FURTHER NOTICE that in default of doing so, the petition will be heard and determined in your absence

Dated at Kampala this Day of 2006

.....
REGISTRAR

TO BE SERVED UPON
NYADOI MARY

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006

OGWANG BOB **PETITIONER**

10. THAT Notice to institute legal action was communicated to the Respondent.

11. THAT this cause of action arose in Kampala within the jurisdiction of this Honorable Court.

WHEREFORE, the Petitioner prays for

- (a) An order of Judicial Separation against the Respondent.
- (b) An order of Maintenance for the Respondent.
- (c) Other Relief as Court Deems fit

DATED at Kampala the day of 2006

.....
Counsel for Petitioner

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....
PETITIONER

Drawn and filed by:

SUI GENERIS and Co. Advocates
P.O.BOX 7117,
Kampala

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006**

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MATRIMONIAL CAUSE NO. 002 OF 2006

OGWANG BOB **PETITIONER**
VERSUS
NYADOI MARY **RESPONDENT**

REPLY TO PETITION

(under section 3, 14, 30 and 31(1) of the Divorce Act, and section 98 of the CPA Cap 71)

THE HUMBLE PETITION OF NYADOI MARY SHOWETH;

1. THAT the Respondent is a female adult Ugandan of sound mind and the Respondent undertakes to effect service of the court process on her.
2. THAT your Respondent Professes the Christian Religion.
3. THAT your Respondent and the Petitioner are domiciled in Uganda with a matrimonial home at Ggabba.
4. THAT your Respondent was married to the Petitioner vide a church marriage at All saints Cathedral on the 21st day of August 1998; solemnized in accordance with the provision of the marriage Act in force in Uganda.
5. THAT in early 2004, the Petitioner started being very cruel at your humble Respondent by continuously hurling insults at your Respondent without cause; and threatening actual violence on several occasions.
6. THAT the Petitioner has on several occasion denied the Respondent access to their matrimonial home in Ggabba.

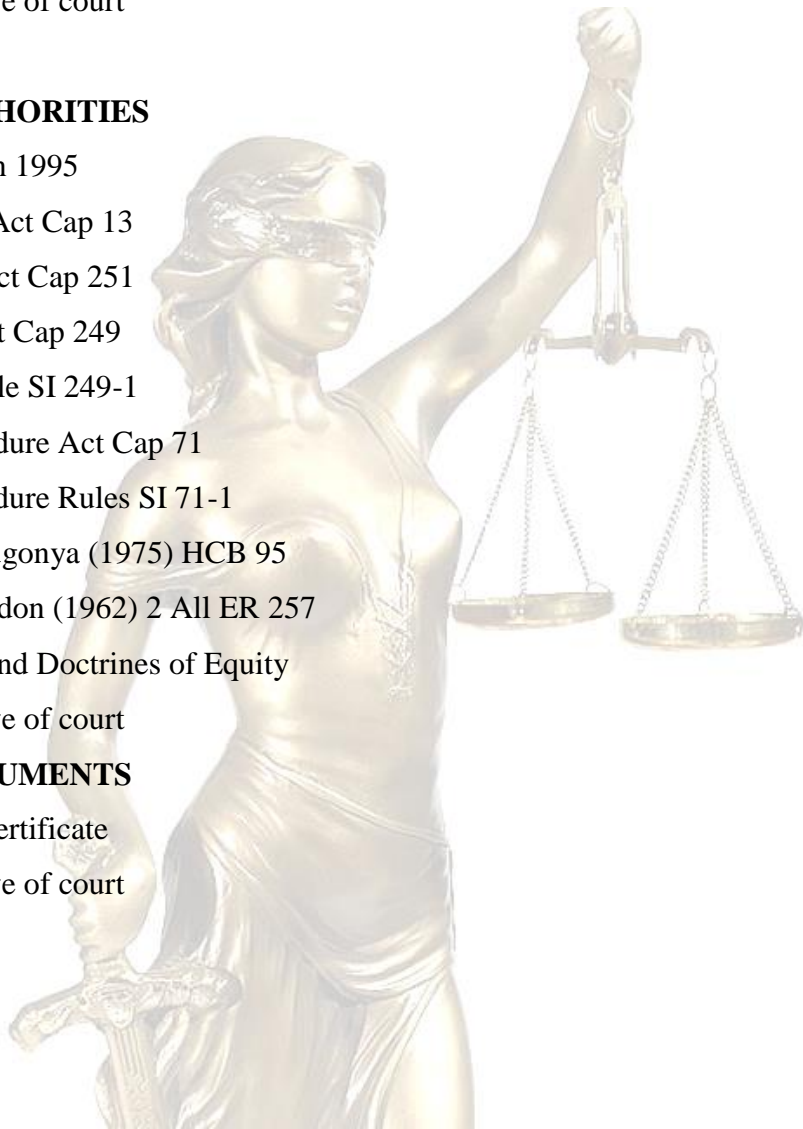
The Respondent will adduce evidence to show that the Respondent has never been cruel towards him and that the marriage has never irretrievably broken down.

LIST OF WITNESSES

Nyadoi Mary
Others with leave of court

LIST OF AUTHORITIES

The Constitution 1995
The Judicature Act Cap 13
The Marriage Act Cap 251
The Divorce Act Cap 249
The Divorce Rule SI 249-1
The Civil Procedure Act Cap 71
The Civil Procedure Rules SI 71-1
Mugonya vs Mugonya (1975) HCB 95
Sheldon vs Sheldon (1962) 2 All ER 257
Common Law and Doctrines of Equity
Others with leave of court



LIST OF DOCUMENTS

The Marriage Certificate
Others with leave of court

DATED at Kampala the day of 2006

.....
Counsel for Respondent

Drawn and filed by:

CHILDREN MATTERS.



Who is a child and what rights accrue to them.

S.2 of the children's act defines a child as person below the age of 18 years. Also Art.257 (1) (c).

Children have the rights conferred onto all persons by virtual being human beings however under Art.34 of the constitution specific rights accrue to them by virtual of being children and these include the following rights:

1. Right to know and be cared for by their parents or those entitled by law to bring them up.
2. Right to basic education which is the responsibility of the state and the parents of the child.
3. Right to non-deprivation by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs.
4. Right to be protected from social or economic exploitation and not to be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical mental ,spiritual , moral or social development.
5. Other rights are stipulated under S.4 of the children's act and the CRC.

WELFARE PRINCIPLE (best interest of the child)

The welfare principle as was laid down in the case of **J V C (1970) AC 668** is to the effect that in any matter relating to a child, the child's welfare is the paramount consideration.

This has been codified under Article 3(1) of the convention on the rights of the child and S.3 (1) of the children's act of Uganda as amended.

In **KAMUGISHA THEOPY V KAKITOKA PASCAL (1996)4 KALR 116**, court emphasized the fact that the interest of the child is paramount and so the paramount consideration in children cases.

- f) Where relevant, the capacity of the child's parents, guardian or any other person involved in the care of the child and in meeting the needs of the child. Financial stability does not entitle the applicant to any order to automatic grant. What court must consider is the best interest of the child. A financial stable parent might have to surrender the child to the other in custody application if it's the view of the court that the child lives with the other parent. **IN AYIYA V AYIYA**, the court emphasized that it is not necessary that one who is rich will be in better position to look after the children but the psychological attitude towards the children and the loving and warm atmosphere in a home means more in the upbringing of a child.

Application of the principle where there are two children.

Where there are two children, the welfare of the child in issue is what is paramount.

IN BIRMINGHAM CITY COUNCIL V H, which related to a 15 year old child and her baby who both had been made the subjects of interim care orders. The 15 year old mother was aggressive and made attempts to harm self which caused the baby to be moved to foster parents. She sought contact with the baby and evidence was led that it was not in the baby's best interest that the contact with the 15 year old mother continues but was in the mother's best interest that it continues. The issue before court was whose welfare was paramount. The baby or the mother? The court held that the baby's upbringing and thus it's its welfare which must be the courts paramount consideration. The fact that the parent is also a child does not mean that both parents and child's welfare is paramount and that each has to be balanced against the other.

PARENTAGE.

Who is a parent.

IN RE W, the court held that this takes into account recent developments in human assisted reproduction which made the earlier test of parentage which was blood ties or genetic link. The person who gave birth to the child was considered the mother and the person by whom she conceived the father. With procedures such as artificial insemination, insert fertilization, egg and embryo donation and surrogacy, the person who gives birth to child or by whom the person conceived may not necessarily be the parent.

Forum

According to practice direction no.1 of 2011, magistrate grade one courts exercise jurisdiction over family and children's court

Under S.67, of the children's act as amended, the application for a declaration of parentage is made to the family and children's court having jurisdiction in the place where the applicant resides.

Who may make the application.

According to S.67 of the children's act, the application may be made by:

- a) The mother of a child
- b) The father of a child
- c) The guardian of a child
- d) The child himself or herself through a next of friend
- e) The man alleged to be the father
- f) The woman alleged to be the mother of the child.

When can the application be made.

Under S.68 (1) of the children's act, the application may be made:

- a) During pregnancy
- b) Any time before the child attains 18 years of age.
- c) Within 3 years after the death of the alleged father or mother.

Under S.68 (2), the application may with leave of court be made at any time after the 3 years from the date of the death of the alleged father or mother.

Procedure for application for declaration of parentage.

1. Under S.67 of the children's act, the application is by complaint on oath to a family and children court. Rule 20 of the children (family and children court rules, S.I no.59-2, the application for a declaration of parentage shall be by a complaint on oath as specified in form 2 in the schedule to the rules.
2. Under S.69 (5) of the children's act, any person sought to be tested must be made a party to the proceedings.

Complaint on oath.

**THE REPUBLIC OF UGANDA
IN THE FAMILY AND CHILDREN COURT AT
MUKONO.
IN THE MATTER OF THE CHILDREN ACT AS AMENDED
IN THE MATTER OF KEVIN KAWINO ATEENYI (A CHILD)
AND
IN THE MATTER OF AN APPLICATION FOR A DECLARATION
OF PARENTAGE
FAMILY CAUSE NO 01 OF 2019
COMPLAINT ON OATH.**

I, JOHN BYARUHANGA of SUI GENERIS AND CO. ADVOCATES, P.O BOX 7117, KAMPALA, being the father apply for a declaration of parentage against MIRIA NAIKOBBA being the grandmother of KEVIN KAWINO ATEENYI on the following grounds:

1. That I am the father to Kevin kawino Ateenyi.
2. That the respondent, Miria Naikoba, the mother to my deceased wife has custody of Kevin kawino and won't allow me have his custody as the father.
3. That the respondent disputes that I am the father of the named minor and alleges my deceased wife told her so.
4. That it is in the best interest of the child that this declaration of parentage is made.

SWORN AT KAMPALA this 30th day of November, 2019 by the said JOHN BYARUHANGA.

COMPLAINANT

Before me

COMMISSIONER FOR OATHS.

CUSTODY.

S.1 (f) of the children's act as amended defines a custodian as a person in whose care a child is physically placed. Thus custody means physical caring of a child. It means who lives with and has the right to make decisions concerning that child pertaining to all areas of parental responsibility.

In the case of **ALI ISSA V FAITH YUSUF**, the court observed that the word custody if used in connection with children concerns control and preservation and care of a child's personal, physical, mental and moral integrity and are responsible for the child in regard to their basic needs and rights.

S.5(1) of the children's act as amended impose a duty on any parent ,guardian or any person having custody of a child and the duty confers onto the child the right to: education and guidance ,immunization, adequate diet, clothing, shelter and medical attention. Also article 34.

Further under S.5 (2) the person having custody of a child shall protect the child from discrimination, violence, abuse and neglect.

Married couples living together have equal rights whereas parents who have divorced or separated or under any circumstances are not living with the child may apply to court to decide on who must have the custody of the child.

Application for custody

Forum

The family and children's court in the local jurisdiction where the child resides. (Rule 5 of the fee rules. S.14 of children's act.

Who can apply for custody order.

- Mother of the child
- Father of the child
- Guardian
- Probation and social welfare officer.

Procedure

1. Under Rule 19(3) of the rules, the application is as specified in form 1 in the schedule to the rules.
2. Rule 19(1) requires that the application is supported by an affidavit and any reports or documents to be relied upon.

Application

THE REPUBLIC OF UGANDA
IN THE FAMILY AND CHILDRENS COURT ACT
MUKONO
IN THE MATTER OF KEVIN KAWINO ATEENYI
AND
IN THE MATTER FOR AN APPLICATION FOR A CUSTODY ORDER
FAMILY CAUSE NO.1 OF 2019
APPLICATION FOR A CUSTODY ORDER.

I, JOHN BYARUHANGA OF SUI GENERIS AND CO ADVOCATES, P.O BOX 7117, KAMPALA being the father apply for a custody order against MIRIA NAIKOBA being the grandmother of KEVIN KAWINO ATEENYI on the following grounds

1. That I am the father of the child and I have been taking care of all his needs for his life time.
2. That it is his best interest that he grows living together with his other two siblings who are in my custody
3. The respondent, Miria Naikoba in whose custody the child is now is a heavy drinker, and when drunk uses profane and lewd language which is likely to negatively affect the child.
4. That it is in the best interest of the child that this application is granted.

Dated this 30th day of November, 2019.

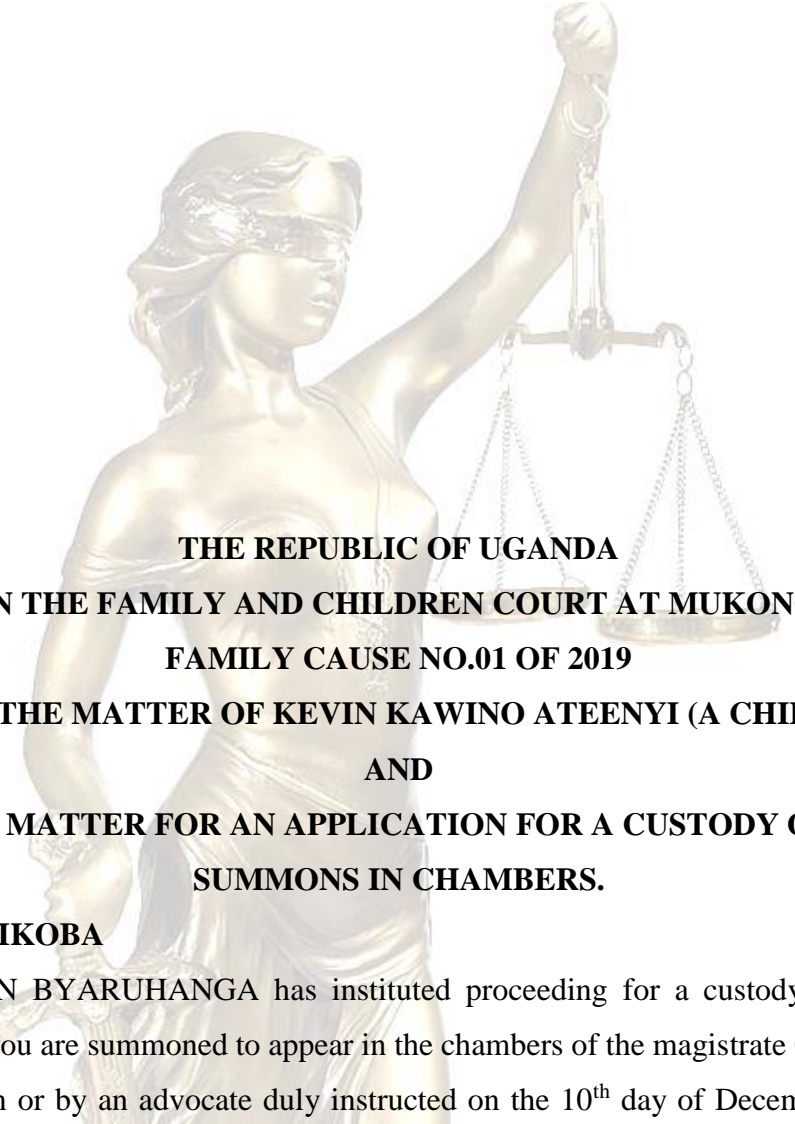
APPLICANT.

COMMISSIONER FOR OATHS

Drawn and filed by

SUI GENERIS AND CO ADVOCATES.

Summons.



**THE REPUBLIC OF UGANDA
IN THE FAMILY AND CHILDREN COURT AT MUKONO
FAMILY CAUSE NO.01 OF 2019
IN THE MATTER OF KEVIN KAWINO ATEENYI (A CHILD)
AND
IN THE MATTER FOR AN APPLICATION FOR A CUSTODY ORDER.
SUMMONS IN CHAMBERS.**

TO: MARIA NAIKOBA

WHEREAS JOHN BYARUHANGA has instituted proceeding for a custody order for Kevin Kawino Ateenyi you are summoned to appear in the chambers of the magistrate Grade one court at Mukono in person or by an advocate duly instructed on the 10th day of December, 2019 at 9:00 o'clock in the forenoon to answer to the claim.

TAKE NOTICE that in default of your appearance on the day above mentioned, in the application shall be heard and determined and such order as is deemed necessary will be rendered in your absence.

GIVEN under my hand and the seal of this court on the 1st day of December 2019.

Interim custody order.

An interim custody order as stated under S.73A (3) of the children's act be issued where the court is satisfied that:

- a) The child is suffering or likely to suffer harm if the order for the interim custody is not issued.
- b) The order is the best interests of the child.

The application for an interim order act stated under S.73A (1) may be brought by:

- A probation and social welfare officer
- Mother of a child
- Father of the child
- Guardian of the child

Procedure.

The application is by notice of motion under O.52 of CPR and as required under S.73A (2) of the children's act must be supported by an affidavit in support.

Necessary documents.

- Notice of motion
- Affidavit in support
- Summons

Forum

The family and children court with jurisdiction in the area where the child resides.(Rule 5 of Rules).

FCC COURT RULES.

Under R.4 (1) (b) of rules general principles on procedure that apply to CPR apply. Under O.52, where a procedure isn't stipulated, you proceed by notice of motion.

MAINTENANCE.

Section 76 (8) provides that maintenance includes feeding, clothing, education and the general welfare of the child. Under Art.34 and S.4 of the children's act, every child has a right to be maintained by his or her parents.

Under S.5 (1) of the children's act, it's the duty of every parent, guardian or any person having custody of a child to maintain that child and in particular to things like education and guidance, immunization, adequate diet clothing, shelter and medical attention.

S.76(7) on appearance of the person or on proof that the summons were served on the person or more days before the hearing, court will hear the evidence of the applicant and where the respondent is in court, also hear their evidence and if satisfied make the maintenance order for payment to the applicant:

- a) A monthly sum as determined by the court having regard to the circumstances of the case and the financial means of respondent.
- b) Funeral expenses of the child if it died before the making of the order
- c) Costs incurred to obtain the order.

Recovery of maintenance money.

If after a month the sums ordered have not been paid and the respondent neglects all efforts to have him/her pay, a magistrate may by warrant under S.77 of children’s act direct:

- a) That an attachment of earnings be made.
- b) That the sum due, together with any costs incurred, be recovered by distress and sale or redistribution of the property of the father or mother unless he or she gives security by way of recognizance or otherwise to the satisfaction of court for his or her appearance before the court on a day appointed for the return of the warrant of distress, but not more than 7 days from the taking of the security.

Variation of maintenance order.

Under S.78(1) a maintenance order may on the application of the applicant at the time of grant or by the person against whom the order was made , court may vary by increasing the sums or decreasing the amount previously order having due regard to the circumstances.

Necessary documents

- 1. Complaint on oath
- 2. Summons.

INTERIM ORDERS AND ORDERS THAT CAN BE ISSUED FOR CARE, PROTECTION AND WELFARE OF THE CHILD.

1. Supervision orders/interim supervision orders.

Under S.19 (a) of the children's act, a probation and social welfare officer or an authorized person may apply to an FCC for a supervision order placing a child under the supervision of a probation and social welfare officer while leaving the child in the custody of his or her parents or relatives.

Application

Under S.22 the applicant must satisfy themselves that

- a) The local government councils from village to sub county level where the child resides have dealt with the matter without success
- b) There is need for continuous supervision enforced by a court order before making the application.

The application is as provided in form 2 and in the schedule to the rules with a valid affidavit.

Duration of supervision order.

Under S.24 (1) of the children's act, a supervision order shall be for one year though may be extended for further year on the application of the probation and social welfare officer.

Duties of a supervisor while a supervision order is in force.

These are stated under S.23 of the children's act and they are:

- a) To be friendly to, advise and assist the supervised child
- b) To advise the parents
- c) To make plans for the child's future in consultation with the child and his or her parents or guardian.
- d) To apply to the court to discharge or vary the order if necessary.
- e) To take such reasonable steps as may be necessary.

Care order and interim care order.

Under S.19 (b) a probation and social welfare officer or an authorized person may apply to an FCC for a care order or interim care order placing a child in the care of the warden of an approved home or with an approved foster parent in accordance with the foster care placement rules in the 2nd schedule to the act. (S.27 (1))

ADOPTION OF CHILDREN



Introduction

Adoption is defined in Collin's Dictionary of law²²⁸ as the legal process by which a parent child relationship is created between an adult and a child; who is not biologically theirs.

Nigel Lowe and Gillian Douglas in Bromley's family law 11th edition, they define adoption at page 682 as the processes by which a child's legal parentage is entirely and irrevocably transferred from set of adults usually the birth parents and vested on other adults, namely the adoptive parents.

It involves the complete severance of the legal relationship between parents and child and the establishment of a new one between the child and the adoptive parents.

Adoption vests full parental responsibility exclusively in the adopters.

LAW APPLICABLE TO ADOPTION.

- The constitution of the republic of Uganda (1995) as amended
- Children's act cap 59 as amended.
- The children (Adoption of children) rules.

RE: EDISON MUGAGA, ADOPTION CAUSE 15/2019, justice Mutonyi defined adoption as the creation of a parent-child relationship by a judicial order between two parties who are unrationed creating a lifelong relationship of parentage between the child and the adoptive parent.

Distinction between guardianship and adoption.

1. S.51, Adoption severs the legal ties between the child and his/her birth parents unlike guardianship where the ties of the child with his/her biological parents are not severed. S.43 states that guardianship order only vests the guardian with parental responsibility over the child.
2. Further under S.51, of the children's act, the adoption order unless revoked under S.46A is permanent and the child even upon attaining 18 years remains a member of the adoptive family and can under S.52(1), inherit the property of the adoptive parents upon their demise. While under S.43 H (2), a guardianship order only remains in force until the child attains 18 years.

The Chief Magistrate's Court if all parties are Ugandan as provided for in Rule 3 (1) of the Children (Adoption of Children) Rules SI 59-1.

If the Respondent is non Uganda, the forum is the High Court per Rule 3 (2) of the Children (Adoption of Children) Rules SI 59-1

The procedure is as follows

The prospective adopter files a Petition in Form D to the Rules, supported by an affidavit.

A consent Form of the Parents/ guardians/ persons in custody of the child should be attached . it is in form C to the rules.

A Consent Form of the child if the child is above 14 years should be attached. It is form G to the rules.

A Medical Examination in Form E should be attached.

Upon filing the Petition, a notice of hearing is obtained.

It must be noted that in the petition, the following matters should be addressed:

The particulars of the subject/ adoptor,

The capacity of the adoptor,

The age and citizenship of the adoptor,

That this is done pursuant to the welfare principle.

One should aver that he or she is not receiving any award for the adoption.

Who may apply.

S.45 (1) of C.A states that an adoption order may be granted to sole applicant or jointly to spouses.

S.47 (1) OF CA requires that the consent of the parents of the child if known must be obtained. **In RE: CINDY KICONCO MATISKO AND KIRABO CRYSTAL KAMUKAMA**, both parents consented to the application and were present during the hearing. Equally in **RE: ARTHUR SHYAKA BUTARE ADOPTION CAUSE NO.61 OF 2018**, the parents of the child consented to the adoption and gave evidence in court stating that it was in best interest of the child who had intellectual disabilities to be adopted by the grandmother who was a US citizen and go live with her in the USA as that would help to have his condition better managed and enable him grow into an independent adult albeit the intellectual disability. Consent is in the form stipulated in form C in the schedule to the rules. The children (adoption of children) rules S.1 59-1)

Under S.47(6) of C.A , where the child is at least 14 years of age, his or her consent to the adoption must be obtained unless it's impossible for him or her to express his or her wishes.

In RE:CINDY KICONCO MATISKO AND KIRABO CRYSTAL KAMUKAMA, both the children were above 14 years of age and thus the court granted them an opportunity to express their wishes as to the application to which they consented to. Consent is given in the form stipulated in form D in the schedule to rules.

Under S.47 (7), the consent of any person who is not the parent of the child but has any rights or obligations in respect of the child by either an order of court, or agreement or under customary law must be obtained.

IN OCHAYA CHRISTOPHER AND SARAH OCHAYA in respect of LAMARO LILLIAN OCHAYA(a wild) H.C.M.A 0028/2017, the consent of the child's grandfather was required and only after it had been obtained was it granted.

Equally in **RE: BIRABWA MUTAKA ADOPTION CAUSE O.4/2018**, the maternal grandfather was called to court to give consent to the adoption.

Dispensing with consent.

The consent of the parents required under S.47 (1) of C.A may be dispensed with under S.47 (2) if the court is satisfied that the parent(s) are incapable of giving such consent or his whereabouts are unknown as was the case with the father of Lamaro Lillian in **OCHAYA CHRISTOPHER AND SARAH OCHAYA in respect of LAMARO LILLIAN OCHAYA (A CHILD) H.C.M.A 0028/2017**.

2. Has fostered the child for at least one year under the supervision of a probation and social welfare officer.

- The notes under adoption by citizens apply. However under S.46 (4) the court may in exceptional circumstances waive any of the requirements including that's one.

In RE: MUSINGUZI DAVIS ALIAS ELIJAH DAVID HARPER (A CHILD) ADOPTION CAUSE NO.0001 OF 2018, the applicants had only fostered the child for nine months. The court waived the requirement for 12 months because the applicants were to travel back to the USA in a short time and needed to start processing the child's travel documents so as to travel with it.

In the matter of adoption of Apolot Betty adoption cause no 33 of 2018, the applicant had not fostered the child for 12 months as she was away in the USA working but visited occasionally while the child was under the physical care of her appointed 3rd party. She provided for all the needs of the child. The court noted that it was in the best interest of the child that the requirement be waived given the bond exhibited between the applicant and the child while in court.

IN THE MATTER OF ADOPTION OF MIREMBE ANGEL BY RUDY RAY LEE AND JESSICA LEE JOE LEE, ADOPTION CAUSE NO.32 OF 2018, court noted that constructive fostering may be permissible in certain instances. Constructive fostering is where an adoptive parent appoints a capable 3rd party to do physical fostering while the needs of the child are met by the prospective adoptive parent. In this case, the adoptive parents had minor children and also were in permanent employment and it was not proper to expect them to put all these duties for 12 months thus there was a genuine cause for the constructive fostering and in that period the applicants had visited the child for four times staying four two weeks each time so as to bond with the child.

3. Does not have a criminal record (S.46(1)(C))\

In OCHAYA CHRISTOPHER AND SARAH OCHAYA in respect of LAMARO LILLIAN OCHAYA (A CHILD) H.C.M.A 0028 OF 2017, police reports from the applicants respective country reports (Uganda and Australia) were accepted as proof that they did not have a criminal record. Interpol reported have also been accepted as was in

4. Recommendation on the suitability of the applicants to adopt a child from their country of origin by a probation and welfare officer or other competent authorities. S.46 (1) (C) (d).

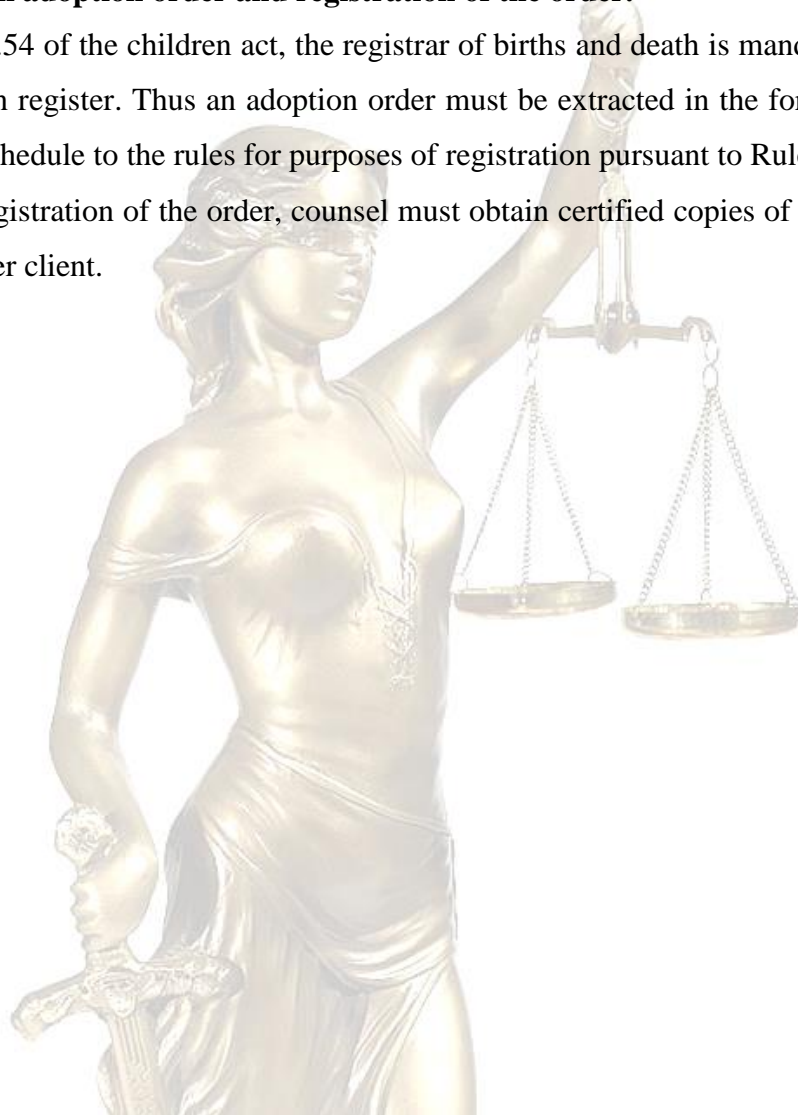
S.46A (2), states that the order can only be rescinded if it's in the best interest of the child or if the order was obtained through fraud.

S.46A(3), states that where the adoption order is rescinded, the order shall cease to apply and all responsibilities ,rights and other matters which had been terminated by the adoption order in respect of the child will be restored.

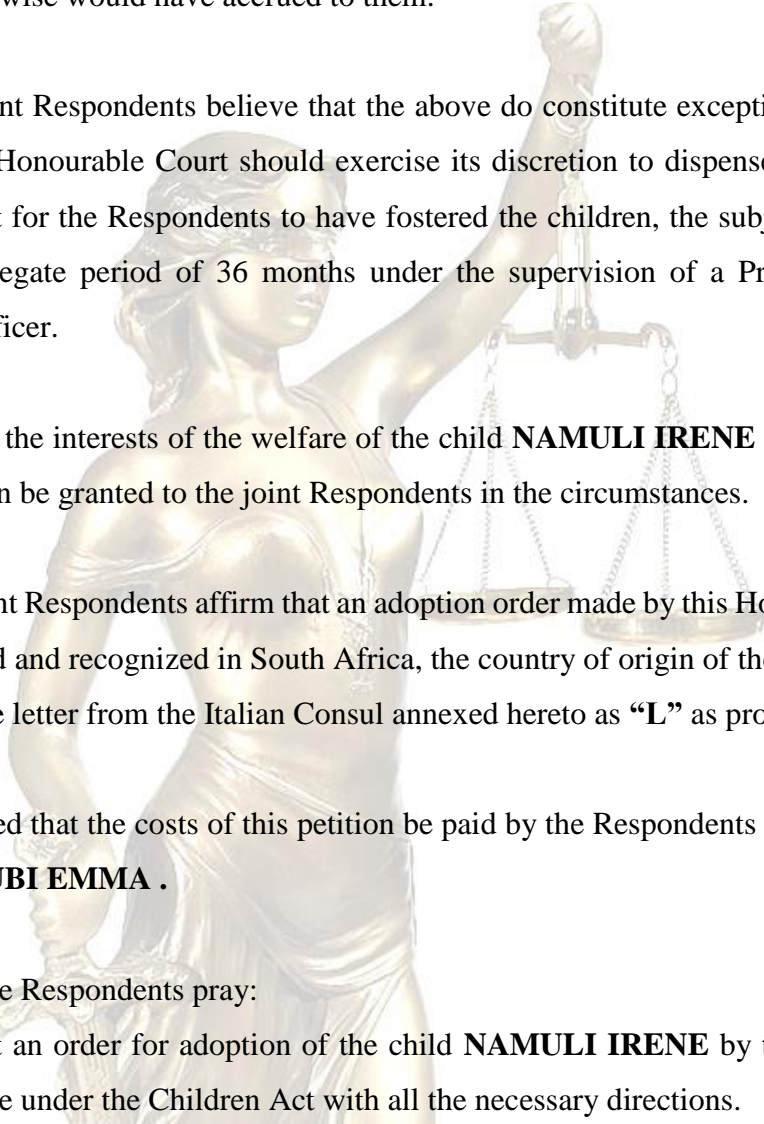
Extraction of an adoption order and registration of the order.

Under S.54 of the children act, the registrar of births and death is mandated to maintain an adopted children register. Thus an adoption order must be extracted in the form prescribed under form H in the schedule to the rules for purposes of registration pursuant to Rule 17.

Upon registration of the order, counsel must obtain certified copies of the same and give a copy to his or her client.



7. THAT the Joint Respondents, **WAGUBI EMMY** is 55 years of age and **WAGUBI EMMA** is 40 years of age (Copies of the Joint Respondent's Passports are attached hereto as Annexure "**D₁**" and "**D₂**" respectively).
8. THAT the Joint Respondents, **WAGUBI EMMY** have annexed a Certificate marked "**E₁**" and its translation as "**E₂**", **WAGUBI EMMA** a certificate marked "**E₃**" and its translation as "**E₄**", both to the effect that the Joint Respondents do not have a criminal record in Italy their country of origin.
9. THAT the Joint Respondents, have annexed certificates marked "**E₅**" and "**E₆**" respectively, both to affirm that the joint Respondents do not have any criminal record in Uganda or any other country.
10. THAT the Joint Respondents attach their recommendations of their suitability to adopt the said children from:
 - i) **Ogwang Bob**, Chairman LC1, BUTALEJA
 - ii) **Rt. Rev. Nanima Bob** , Bishop of Tororo Diocese.(Copies of recommendations are attached hereto and marked as Annexure "**F₁**", and "**F₂** respectively).
11. THAT the said Respondents are resident with the child **NAMULI IRENE** aged 7 years (a copy of the child's birth certificate is attached hereto as Annexure "**G₁**").
12. THAT the child **NAMULI** is of the female sex, unmarried, a child of an unknown person, having been found abandoned at BUTALEJA TRADING CENTRE. (see a copy of the sworn statements of **HYALO BEN** the probation and social welfare officer, BUTALEJA attached hereto as Annexures "**H₁**").
13. THAT the child is a citizen of Uganda, a resident of BUTALEJA, and now in the custody of the joint Respondents both of whom are residents at the stated address.

- 
22. That the joint Respondents would find it more difficult to obtain adoption of the children in issue in South Africa if the same is not granted to the joint Respondents by this Honourable Court while the joint Respondents are still in Uganda.
 23. That both children would miss rights and benefits which accrue to south African citizens which otherwise would have accrued to them.
 24. That the joint Respondents believe that the above do constitute exceptional circumstances where this Honourable Court should exercise its discretion to dispense with the statutory requirement for the Respondents to have fostered the children, the subject of the adoption for an aggregate period of 36 months under the supervision of a Probation and Social Welfare Officer.
 25. That it is in the interests of the welfare of the child **NAMULI IRENE** that adoption of the said children be granted to the joint Respondents in the circumstances.
 26. That the joint Respondents affirm that an adoption order made by this Honourable court will be respected and recognized in South Africa, the country of origin of the joint Respondents and produce letter from the Italian Consul annexed hereto as “L” as proof thereof.
 27. It is proposed that the costs of this petition be paid by the Respondents **WAGUBI EMMY** and **WAGUBI EMMA** .

WHEREFORE, The Respondents pray:

- a) That an order for adoption of the child **NAMULI IRENE** by the Respondents be made under the Children Act with all the necessary directions.
- b) That the costs of this petition be provided for as above mentioned or otherwise as the court may direct.
- c) That such further or other order be made as the nature of the case may require.

Signed **Respondent**

The Respondents will state that they do not have any criminal record in South Africa or Uganda or any other country. The Respondents will further state that they have neither received nor agreed to receive nor has any person made or given or agreed to give or make to the Respondents any payment or reward in consideration of the adoption of the child **NAMULI IRENE**. The Respondents will also state that they have fostered the said children since 4th day of November 2004 under the supervision of the probation and social welfare officer and that they been granted guardianship of the said children. They will seek that the Honourable Court dispenses with the statutory requirement that they need to have fostered the children in issue for a period of 36 months due to exceptional circumstances of the instant case. And that it is in the interests of the welfare of the said children that the Respondents should be appointed guardians of the said children.

LIST OF WITNESSES:

1. WAGUBI EMMY
2. WAGUBI EMMA
3. Chairman LC1, BUTALEJA
5. His Lordship, Bishop of Tororo Catholic Diocese
7. Any other with leave of court

LIST OF DOCUMENTS TO BE RELIED ON:

1. The Respondent's entry permits
2. The Marriage Certificates of the joint Respondents
3. Translation of the Marriage Certificates
4. Passports of the joint Respondents
5. Certificates of Good Conduct of the Respondents
6. Translation of the certificates of Good Conduct
7. Certificates of Good Criminal Record from Interpol

DRAWN & FILED BY:

SUI GENERIS AND CO. ADVOCATES,

P.O Box 7117,

KAMPALA.



10. The child, Luka Mukasa has not been the subject of an adoption order or of an application or petition for an adoption order.
11. The petitioners have not nor has either of them received or agreed to receive and no person has made or given or agreed to make or give to the petitioners or either of them any payment or reward in consideration of the adoption of the child, LUKA MUKASA.
12. The child, LUKA MUKASA has been fostered by the petitioners since the 21st June 2017, under the supervision of ZAINA NAMATA, approbation and social welfare officer, whose report is attached to this petition.
13. It is proposed that the costs of this petition shall be paid by the petitioners.

The petitioners pray:

- a) That an order for adoption of the child LUKA MUKASA by the petitioners be made under the children act with all necessary directions
- b) That the costs of this petition be provided for as above mentioned or otherwise as the court may direct
- c) That such further or other order be made as the nature of the case may require.

Signed by

KENNETH OKOT
PETITIONER

SUZAN OKOT
CO-PETITIONER

Witnessed by

1. SUI GENERIS
ADVOCATE

2. ZAINA NAMATA
DISTRICT PROBATION

AND SOCIAL WELFARE OFFICER BUIKWE DISTRICT.

- Application should be verified by an affidavit in support
- Attach all documents to be relied on
- Summary of evidence.

8. The petitioner Kenneth Okot and Suzan Okot attach a recommendation concerning their suitability to adopt a child from (name recommended) of the probation and welfare office of Texas in USA, the country of origin of the petitioner.

9. The petitioners have resident with them the following person, namely, Samuel Okot their son aged 4 years.

10. The child, Luuka Mukasa is of the male sex

- A child of Mukasa Musa, whose whereabouts are unknown
- And of Sarah Nankya aged 8 years having been a citizen of Uganda, aged 8 years having been born at Busemeyi village on the 14th February 2011, resident at Busemeyi village, Luweru sub county Buikwe district now in actual custody of Kenneth Okot and Suzan Okot of Busemeyi village, Luweru sub county Buikwe district under the guardianship of Kenneth Okot and Suzan Okot of Busemeyi village, Lweru sub county in Buikwe district.

11. The petitioners Kenneth Okot and Susan Okot annex the following consents marked “C” as required under the children act

a) Name of person relationship of date of consent
Consenting child

12. The child LUUKA MUKASA has not been the subject of an adoption order as of an application or petition for an adoption order

13. The petitioners have not has either of them received or agreed to receive and no person has made or given or agreed to make or give to the petitioners or either of them any payment or reward in consideration of the adoption of the child LUKA Mukasa.

14. The child, LUUKA MUKASA has been fostered by the petitioners since the 21st June 2017 under the supervision of Zaina Namata, a probation and social welfare officer ,whose report is attached and marked “E”

15. The petitioners affirm that an adoption order made by this honorable court will be respected and recognized by the United States of America the country of origin of the co-petitioner Suzan Okot and produces a sworn statement annexed marked “F” to that effect.

16. It is proposed that the costs of this petition shall be paid by the petitioners, Kenneth Okot and Suzan Okot.

Adoption order

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUKONO
ADOPTION CAUSE NO.01 OF 2019
IN THE MATTER OF THE CHILDREN ACT CAP 59
AS AMENDED AND
IN THE MATTER OF LUKA MUKASA (A CHILD) OF
BUSEMEYI VILLAGE, LWERU SUB COUNTY, BUIKWE DISTRICT.
ADOPTION ORDER.

On reading the petition of KENNETH OKOT AND SUZAN OKOT, and the affidavit of KENNETH OKOT AND SUZAN OKOT and the exhibits annexed to them which included, a marriage certificate for the petitioners, birth certificates of the petitioner, the child's birth certificate, certificate of good conduct from their respective country police departments, probation and social welfare reports and on hearing (name person heard) and the evidence of:

- a) Names and address.
- b) ""
- c) ‘

And the court being satisfied that the declarations contained in the petition are true and being also satisfied with the undertaking of Kenneth Okot and Suzan Okot as to the care and protection and other provisions to be made for the child ,LUKA MUKASA and being further satisfied that for the benefit of the child he could be adopted by Kenneth Okot and Suzan Okot and that all the requirements of the children act have been complied with:

It is ordered that Kenneth Okot and Suzan Okot be authorized to adopt the child.

And it is ordered that the parties to their proceedings other than Kenneth Okot and Suzan Okot recover their costs against Kenneth Okot and Suzan Okot, the costs to be taxed by the registrar and it is ordered that Kenneth Okot and Suzan Okot pay the amount of the costs when taxed to the registrar this court within 14 days after the date of the certificate of taxation

And it is ordered that the parties to these proceedings other than Kenneth Okot and Suzan Okot recover their costs against Kenneth Okot and Suzan Okot, the costs to be taxed by the registrar this court within 14 days after the date of the certificate of taxation.

GUARDIANSHIP

A guardian in section 1(k) of the Children's Act as a person vested with the parental responsibility of a child. The fallacy with guardian ship is that the child does not take on the rights from the guardian in relation to inheritance.

In the matter of ONEN CLIFF MILLS AND LAKER JOY ONEN, MISC APP NO.22 OF 2018, Stephen mubiru j defined guardianship as a legal relationship between a competent adult (guardian) and a person who because of incapacity such as minority, is incapable of taking care of his or her own affairs (the ward).

He further defined a guardian as a person who is given the legal power to make decisions for another person because he or she is considered not competent to decide for himself/herself.

S.1 (W) of the children act as amended defines a guardian as a person having parental responsibility for a child.

Functions of a guardian.

In the matter of ONEN CLIFF courted that the functions of a guardian are:

1. Make decisions on behalf of a ward relating to legal. Financial, shelter, education, food and health care decisions though he or she may be required to seek court approval for various decisions especially those regarding the investment and disposal of the property of the ward.
2. Guardian acts as legal parent of the ward for the entirety of the guardianship. Although the guardian has the same responsibilities to care for the child as a parent would a guardianship does not sever the legal relationship that exists between a child and his or her biological parents. Instead, it co-exists with that legal relationship.

Duties of guardian.

1. Utmost good faith (men case)
2. Avoid conflict of interest
3. Duty to act in the best interest of the child. (onen case)

Types of guardianship

1. Legal guardianship
 - S.43A AND 43B of the children act.
2. Customary guardianship.
 - S.43C of the children act

- i) A recommendation concerning his or her ability as a guardian from a probation and social welfare officer or other competent authority in Uganda or applicants county of residence (S.43F (2) (c)).

Procedure.

The petition is pursuant to S.43B(C) of CA By petition in Form 1 set out in the 3rd schedule and subject to S.43B(d) be accompanied by a report of the probation and social welfare officer

An affidavit verifying the petition must deponed

Where you want to sell the property of a minor.

- Petition for legal guardianship
- Extract an order
- Write a formal letter to the registrar of title at ministerial zonal office were land is located requesting it to be registered in guardians names
- You can transact in the property in guardians names
- You can transact in the property for the best interest of the child once registered.

It must be noted that the responsibility covers the follwing:

Parental responsibilities

Parental appointments

Cultural Obligations.

In relation to capacity to apply to be a guardian,

It must be noted that there is no clear cut legal provision on this. To this end therefore, on the strength of the case of; **In The Matter of Ayla Mayanja; Misc. Applic 20 of 2003** the following person can apply to be guardians:

Biological parents;

Any relative;

Any person not related to the child;

Any person above 18 years of age; of sound mind.

It must be noted that court follows the welfare principles before one is appointed as guardian to the child.

Appendix F- Documents For Guardianship

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA
MISCELLANEOUS APPLICATION NO.OF 2005
IN THE MATTER OF NAMULI IRENE
AND
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP
BY DR. BOB DOYA

NOTICE OF MOTION

(Under Articles 139 (I) and 34 (I) and (2) of the 1995, Sections 14, 33 and 39 of the Judicature Act, Cap 13, Section 98 of the CPA Cap 71, Sec 3,4, 5, and 6 of the Children Act Cap 59, and 0.51 r.r. 1,2 and 3 of the CPR S.1 71-1).

TAKE NOTICE that this Honourable Court will be moved on theday of2006 atO'clock in the forenoon or so soon thereafter as Counsel for the Applicants can be heard in an application for orders:

1. THAT the Applicant be appointed guardian of the infant, **Namuli Irene**
2. THAT the Applicant be granted custody of the said infants.
3. THAT costs of this application be provided for.

TAKE FURTHER NOTICE that this application is premised on the following grounds:-

1. THAT the infant' parents are unknown and the said infant is in dire need of care and protection.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA
MISCELLANEOUS APPLICATION NO.OF 2005
IN THE MATTER OF NAMULI IRENE – INFANT
AND
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP
BY DR. BOB DOYA

AFFIDAVIT IN SUPPORT OF NOTICE OF MOTION:

I, **DR. BOB DOYA** of St. Francis BUTALEJA Hospital P.O. Box 22004, BUTALEJA, do hereby swear and sincerely state as hereunder:-

1. THAT I am an adult female Italian citizen of sound mind and the **2nd** Applicant herein and swear this affidavit as such.
2. THAT the plight of the infant, **Namuli Irene** was drawn to our attention when I visited BUKOTO Babies Home in September 2003 whereat I were informed by a social worker volunteer at BUKOTO Babies Home which I verily believed to be true that the said infant was abandoned children with unknown parents. (See a copy of Sworn Statements of Ntege James, Probation & Social Welfare Officer, Mukono, attached hereto and marked as **Annexture“C₁”**).
3. THAT I was further informed by the authorities of BUKOTO Babies Home which we verily believed to be true that the said infant was in dire need of care and protection.
4. THAT after thorough discussions and mutual consultations, I applied and was granted Fostership of the said infant by the Family and Children Court of BUTALEJA and have fostered the said infant since **29th day of December 2003**. (See copies of the orders attached hereto and marked as **Annextures “D₁”,and “D₂”,**respectively).

- 13. THAT the welfare and interests of the infant will be better served when I am granted the order of guardianship and physical custody of the said infant. (See Welfare Guardianship Report and recommendations annexed hereto and marked as **Annextures**“I₁”, “I₂”, “I₃”, “I₄”, and “I₅” respectively).
- 14. THAT I depone this affidavit in support of my application to this Honourable Court for Order of Guardianship.
- 15. THAT whatever I have stated in **paragraphs 1, 2, 3, 4, 5, 8, 9, 10, 11,12, 13, 14, and 15** are correct and true to the best of my knowledge and belief and whatever I have stated in paragraphs **6 and 7** is true and correct according to my information from the sources disclosed therein.

SWORN at Kampala by me the said }
DR. BOB DOYA }
this.....day of.....2005. }

DEPONENT

BEFORE ME:-
.....
A COMMISSIONER FOR OATHS

DRAWN & FILED BY:
SUI GENERIS and co. Advocates
P.O.BOX 7117
Kampala

- f) Resident at kauga,mukono district
- g) Now in the actual custody of the petitioner, Naturinda Dorcus and under her guardianship

11. The children have not been the subject of a guardianship order or of an application or petition for a guardianship order.

12. The petitioner has not received or agreed to receive and no person has made or given any payment or reward in consideration of the child.

13. The petitioner undertakes that:

- a) She shall care for kakuru Lucas and Kato Deo as though they were my own children
- b) She will bring them up in accordance with the Anglican religion
- c) She will look after their health and allow them to be medically examined as required by the district probation and social welfare office
- d) She shall allow an officer of the district probation and social welfare office or representative of the ministry to visit my home and to see the child at any time.
- e) She shall inform the district probation and social welfare office immediately if the child is ill or is missing or is involved in an accident or in any kind of trouble.
- f) She shall inform the district and social welfare office immediately if she plans to change residence and address.
- g) She understands that an officer of the district probation and social welfare has the right to remove the child from our home in certain circumstances.

14. The petitioner affirms that this guardianship order made by this honorable court will be respected and recognized by Germany the petitioners other country of residence.

15. It is proposed that the costs of the petition shall be paid by the petitioner Naturinda Dorcus.

The petitioner prays

- a) That an order for guardianship the children Kakuru Lucas and Kato Deo, by the petitioner be made under the children act will all necessary directions.
- b) That the petitioneris authorized to SELL the land described asand registered in the name ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
- c) That the cost of this petition be provided for as above mentioned or otherwise as the court may direct and

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA
MISCELLANEOUS APPLICATION NO.OF 2005
IN THE MATTER OF NAMULI IRENE– INFANT
AND
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP
BY DR. BOB DOYA

SUMMARY OF EVIDENCE:

The Applicant a Kenyan doctor at Butaleja Hospital in Uganda. The applicant is seeking legal guardianship and custody of the foundling, namely **Namuli Irene**, currently in her fostership. The applicant is well suited to cater for the foundlings' welfare. The Applicant's home country will respect the orders of this Honourable Court.

LIST OF WITNESSES:

1. Dr. Bob Doya
2. Officers from Butaleja Hopital, Kampala
3. Any other with leave of court.

LIST OF DOCUMENTS TO BE RELIED ON:

1. Passports of the Applicant.
2. The Marriage Certificate of the joint Applicant.
3. Certificates of Good Conduct of the Applicants.
4. Translation of the Certificates of Good Conduct.
5. Letter from the Kenyan High Commission.
6. Recommendation letter from Child Welfare and Adoption Society.
7. Certificates of Good Health of the infants.
8. Birth Certificates of the infants.
9. Recommendation from LC1 Chairman, Butaleja Professionals.
10. Probation and Welfare Report.
11. Certificates of Good Conduct from Interpol.

Guardianship order extracted.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUKONO
FAMILY CAUSE NO.2 OF 2019
IN THE MATTER OF THE CHILDREN ACT CAP 59
AS AMENDED) AND
IN THE MATTER OF A PETITION FOR LEGAL
GUARDIANSHIP OF KAKURU LUCAS AND KATO DEO
(CHILDREN) BY DORCUS NATURINDA
ORDER.**

This petition coming up for final disposal before Justice SUI GENERIS , in the presence of Dorcus Naturinda, the petitioner, Kakuru Lucas and Kato Deo (children) and Joel Lumala, counsel for the petitioner.

IT IS HEREBY ORDERED THAT:

DORCUS NATURINDA is hereby appointed the LEGAL GUARDIAN OF KAKURU LUCAS AND KATO DEO (CHILDREN).

GIVEN under my hand and the seal of this Honorable court this 5th day of December 2019

REGISTRAR

Extracted by

SUI GENERIS AND CO ADVOCATES.

MATTERS TO CONSIDER BEFORE GRANTING CUSTODY OF CHILDREN GENERALLY

The law applicable to this area of study includes the following;

1. The Constitution of the Republic of Uganda 1995
2. The Judicature Act cap 13
3. The Civil Procedure Act Cap 71
4. The Civil Procedure Rules SI 71-1
5. The Children Act Cap 59
6. The Children (Family and Children's Court) Rules SI 59-2
7. The Evidence Act Cap 6

The checklist for resolution includes the following:

1. Whether X can be granted custody of the children?
2. What is the forum, procedure and documents?

DISCUSSION

Custody of children is vested in the parents of a child. Court follows section 4 of the Children's Act in granting of custody. Thus court follows the welfare principle. This is fortified by **Nakagwa vs Kigundu [1978] HCB 310**. In **Esther Najjuma Misc. Applic 21/2003**, court held that in looking at the welfare principle, court should put into consideration, the likely effects of any changes in the child's circumstances.

Court held further in **Kayonga vs Sekiziyivu [1978] HCB 240** that where the children are of tender years, custody goes to the mother. In addition, court held in **Hoffman vs Hoffman (1970) EA 100** that a father's superior position is irrelevant in matters of custody. In **Nyakairu vs Nyakairu [1979] HCB 261**; it was stated among other things that a mother is a fit and proper person to have custody of the children unless it is shown that she is not a fit and proper person.

MAINTENANCE OF CHILDREN

The law applicable to this area of study includes the following;

1. The Constitution of the Republic of Uganda 1995
2. The Judicature Act cap 13
3. The Civil Procedure Act Cap 71
4. The Civil Procedure Rules SI 71-1
5. The Children Act Cap 59
6. The Children (Family and Children's Court) Rules SI 59-2
7. The Evidence Act Cap 6

The checklist for resolution includes the following:

3. Whether X can be granted maintenance of the children?
4. What is the forum, procedure and documents?

DISCUSSION.

Maintenance of children is premised on article 31(4) which imposes a responsibility on the parents to care for their children. This is fortified by the case of **Mayambala vs Mayambala HCCA 3 of 1998**

The procedure for application for maintenance is by application by a person with custody of the children. This is premised on rule 19 of the Family and Children's Court Rules.

The Application takes the format of Form 2 to the Rules, and is supported by an affidavit.

Court noted further in **Mwambo vs Wandoa (1965) EA 243** that Loose morals are not a defence, and that evidence should be corroborative in effect that it shows the man to be the father of the child. Court held further in **Moore vs Hewitt (1947) KB 831** that if there is proof of association of person with the applicant, this can be good corroborative evidence.

In **Simpson vs Colon (1964) 1 All ER 262** court held that the question of resemblance is a guiding factor. In **CT vs MV (1969) EA 375**, court held that where a father admitted having sexual intercourse with the applicant within 4 months; the admission and the time span showed that the father was the parent of the child.

The procedure for declaration of parentage is as follows:

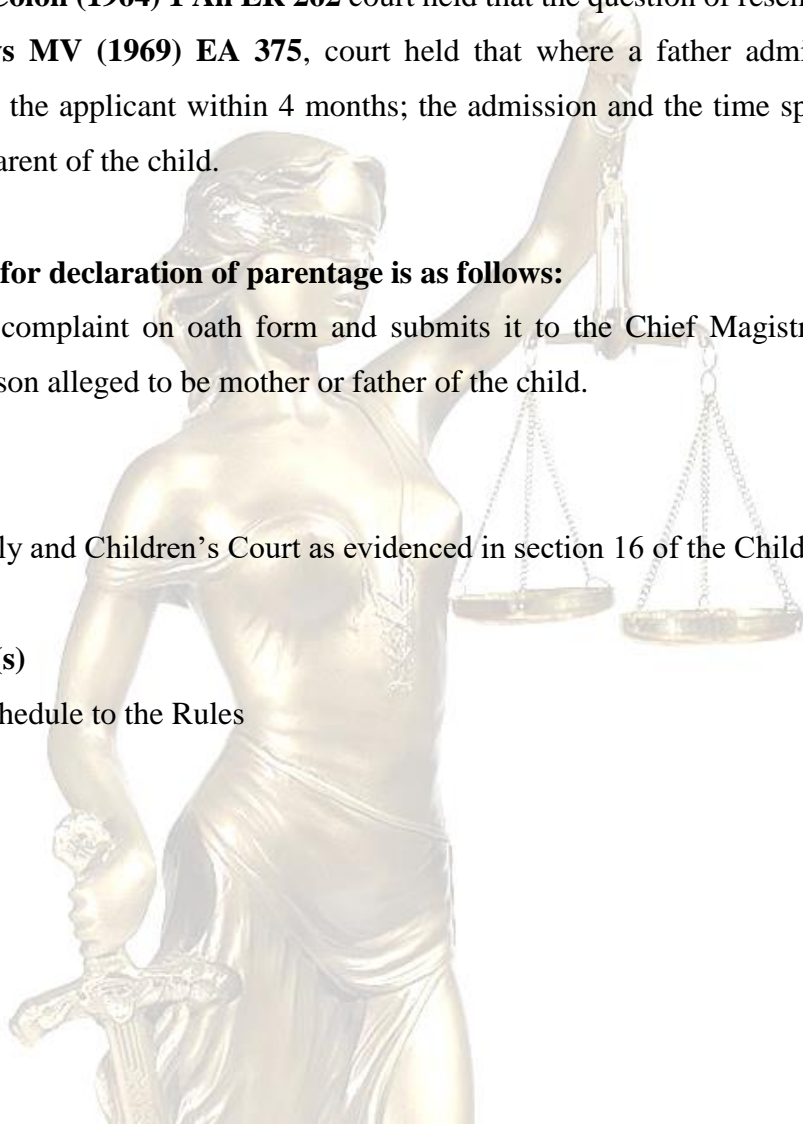
One fills out a complaint on oath form and submits it to the Chief Magistrate who will issue summons to person alleged to be mother or father of the child.

The forum:

This is the Family and Children’s Court as evidenced in section 16 of the Children’s Act

The Document(s)

Form 2 in the schedule to the Rules



SUCCESSION



This is governed by ;

Succession Act Cap 162

Administration of Estates (Small Estates) (Special Provisions) Act Cap 156

Administrator General's Act Cap 157

Administration of Estates (Small Estates) (Special Provisions) Act Cap 156

Admin. of Estates (Persons of unsound mind) (Procedure) Rules SI 155-1

The Admin. of Estates (Small Estates) (Special Provisions) Rules SI 156-1

The Administrator General's Act Cap 157

The Administrator General's (Fees) Rules SI 157-1

The Evidence Act Cap 6

Succession is divided into either testate or intestate succession.

TESTATE SUCCESSION

The issues to consider under testate succession include the following:

(a) If one is desirous of making a will.

Whether X has capacity to make a will?

Who are the beneficiaries to the will?

Whether the property in question can be disposed of by will?

What additional information is needed to complete the will.

What is the formalities should be taken to make the will.

(b) If the will has already been made

Whether the will is valid?

Whether the beneficiaries named can gain under the will?

Whether the property in question can be validly disposed of by will?

3. Court may then make reasonable inference from a particular passage; comparing the inference with what is apparent in the other parts of the will. This power of inference is however limited.
4. court also takes into consideration surrounding circumstances, especially where the circumstances deprive the words of reasonable application

The Property so disposed of by will

Another cardinal rule to not about wills is enunciated in **James Katende and 2 others vs Dan Byabakama**²³² where Kireju J held that the testator should dispose of property or any interest belonging to the testator at the time of his or her death. This therefore means that any disposition by the testator of property in which he has no interest at the time of his death must fail. This should be read in conjunction with section 139 of the Succession Act.

Beneficiaries under a will

Children

Children of a testator are entitled to benefit from under a will. Court held in **Kajubi vs Kabali (1944) EACA 341** that children include both legitimate and illegitimate children and so all children of a testator can benefit under the will.

Spouses

Spouses are entitled to benefit from under the will provided they were not separated from the testator at the time of making the will. This is fortified under section 30(1) of the Succession Act. A case to illustrate this is **Mboijana and Mboigana HCCS 879 of 1990** and **Rwabaganda vs Bahemurwabusha**²³³. It must be noted that having children with a woman does not entitle her to benefit from under the will. This was the principle in **Male vs Namanda**²³⁴

Defendants

²³² HCCJ Vol 2 Pg 127

²³³ (1978) HCB 244

²³⁴ [1982] HCB 140.

It must be noted however that where there is an ambiguity or deficiency on the face of the will; no extrinsic evidence as to the intentions of the testator shall be admitted;²³⁵ and the testator's intentions must be effected as far as possible.²³⁶ The society practice is to make wills in triplicate or quadruplicate; they are usually kept with banks, lawyers, firms or close friends. Court held in **Administrator General Vs Teddy Bukirwa**²³⁷ that once a will is kept poorly and is suspect of having been subject to alteration; the same may be excluded from the Estate in event of dispute.

REVOCATION OF WILLS

A will may be revoked by its maker at any time when he or she is competent to dispose of his or her property by will. The cardinal rule is evident in **Nsubuga and others vs Nsubuga and others HCCS 1081 of 1988** where Tsekoko J (as he then was) held that although the testator in the instant case used to be confused; he was never mad and was completely in his right mind and the signature therein was that of the testator and as a consequence; the will was valid. Section 56(1) of the Succession Act; which provides that every will is revoked by the marriage of the maker; except if it is a will made in exercise of an appointment; whereby the property over which the power of appointment is exercised would not; in default of the appointment pass to his or her executor or administrator or to the person entitled. This principle is followed **Farasia Rwabaganda Vs Donasio Bahemurwabusha (1978) HCB 244**.

Section 57 of the Succession Act provides that a will can be revoked by burning tearing or otherwise destroying of the will or codicil by the testator or by some person in his or her presence and by his or her direction, with the intention of revoking it. This is fortified by **Administrator General Vs Norah Nakiyaga and others AC 554 of 1990**.

It must be noted further that a will is invalid for non attestation as per the requirements of section 50(1)(c) of the Succession Act.

²³⁵ Section 68 of the Succession Act.

²³⁶ Section 74 of the Succession Act.

²³⁷ (1992-93) HCB at pg 192

INTESTATE SUCCESSION



A person dies intestate in respect of all property which has not been disposed by him through a valid testamentary disposition, as enunciated under section 25 of the Succession Act.

It must be noted that all property in an intestate's Estate is managed and held in trust by the personal representatives (persons appointed by law to administer the Estate of a deceased) of the deceased for those persons entitled to it (beneficiaries) as provided for under section 25 of the succession act.

Entitlement to intestate's property is governed by sections S.27 to 45 of the Succession. Spouses are entitled to benefit from under the will provided they were not separated from the testator at the time of making the will. This is fortified under section 30(1) of the Succession Act. A case to illustrate this is **Mboijana and Mboigana HCCS 879 of 1990** and **Rwabaganda vs Bahemurwabusha (1978) HCB 244**.

The issues which arise for resolution under this sud topic include the following:

Who can apply for letters of administration?

What additional information is needed to effect the above?

What formalities should be followed in obtaining letters of administration?

The major documents include

Report of Death to the Administrator General

Certificate of No objection (Granted by the Administrator General's Office) Petition for letters of Administration supported by an affidavit

Who may apply;

Court held in **Ndugwa vs Nansikobi**²³⁸ that in applying for letters of administration, factors such as consanguinity, nature of interest, safety of the estate and probability of proper administration are taken into consideration.

Court held in **Kemutongo vs Katuramu**²³⁹ that the widow, or a surviving spouse is the most appropriate person to apply for letters of administration. This is the same principle in **Re Kibiego (1972) EA**

²³⁸ (1980) HCB 79

²³⁹ (1992-1993) HCB 155

The petitions for both letters of Administration & Probate must be signed by the petitioner and his advocates under section 247 of the Succession Act and has to be verified by the Petitioner.

**Appendix H – Documents For Succession
probate**

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT TORORO
PROBATE AND ADMINISTRATION CAUSE NO..... OF 2006**

**IN THE MATTER OF THE ESTATE OF THE LATE GEORGE SEWANYANA
SEFULUYA BOLINGO FORMERLY OF
BUDUMBULU EAST, NALUWERERE, TORORO, UGANDA.**

AND

**IN THE MATTER OF A JOINT APPLICATION FOR PROBATE BY DR. D.G..
BOLINGO AND JANET PHOEBE BOLINGO NAMED AS EXECUTOR AND
EXECUTRIX RESPECTIVELY.**

PETITION FOR PROBATE

WE, **DR. D.G.. BOLINGO AND JANET PHOEBE BOLINGO** of C/O MESSRS. B & CO. ADVOCATES, P.O BOX 7117, KAMPALA, UGANDA do hereby apply to this Honourable Court for grant of probate of the Will of the late **OKELLO BOLINGO** who died at on the day of 2006 and state as follows: -

1. THAT, the writing annexed to this application is his last will and testament and was duly executed. See will attached hereto and marked Annexure “A”.
2. THAT, the late **OKELLO BOLINGO** is survived by **NYADOI BOLINGO** widow; **EPODOI BOLINGO** widow; **DR. D.G.. BOLINGO** Son; **JANET PHOEBE** Daughter; **FRED BOLINGO** Son; **SAMUEL BOLINGO** Son; **RUTH BOLINGO** Daughter; **GEOFFREY BOLINGO** Son; **DORA BOLINGO** Daughter; **HARRIET BOLINGO** Daughter and **JOSELINE BOLINGO** Daughter.

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....

PETITIONER

DRAWN & FILED BY:

Sui Generis & Co. Advocates,

P.O Box 7117,

KAMPALA.

Letters of administration

Sui Generis and Company Advocates

P.O.BOX 7117

Kampala

14th November, 2005

To: The Administrator General,
Kampala.

Dear Madam,

RE: APPLICATION FOR A CERTIFICATE OF NO OBJECTION TO THE ESTATE OF THE LATE ABBAGA MABUGA

We represent **KIRABO SUSAN**, DAUGHTER to the above named deceased who intends to apply for Letters of Administration.

The deceased died intestate on the **28th April, 2005** at BUKOTO Hospital Kampala, Uganda and was buried on **29th April, 2005** at Nadiket Seminary, Kampala. Enclosed herein are the necessary documents to enable the applicants to acquire a **Certificate of No Objection**.

4. The deceased left the following property:-

- (i) Registered land comprised in Mailo Register Mawokota Block 111 Plot 222 land at Ntinda, Kampala currently registered in the names of one **Okoth Obore**.
- (ii) Personal effects (see attached list marked **Annexure “B”**).
- (iii) Bank accounts namely:
 - (a) Standard Chartered A/c No. 3555669023611.
 - (b) Barclays Bank City Branch A/c No. 0259954566225

5. The deceased at the time of his death had a fixed place of abode at BUKOTO within the jurisdiction of this Hounorable Court.

6. The approximate value of the estate is in the region of **U Shs.400,000,000/=** (four hundred million only).

7. This application is brought by me as a DAUGHTER to the deceased and the Administrator General and other surviving relatives not object to my application as evidenced by Certificate of No

Objection issued under his hand and consents annexed hereto and marked **Annextures “C” “D” and “E”** respectively.

DATED at KAMPALA thisday of2005.

KIRABO SUSAN

APPLICANT

VERIFICATION

TAKE NOTICE that an application for letters of administration to estate of the late **ABBAGA MABUGA** has been lodged in this Court by **KIRABO SUSAN**, DAUGHTER of the deceased.

The Court will proceed to grant the same if no caveat is lodged with the Registrar **within fourteen (14) days** from the date of publication of this notice unless cause be shown to the contrary.

DATED at KAMPALA this day of 2005.

REGISTRAR

DRAWN & FILED BY:

Sui Generis & Co. Advocates,
P.O Box 7117,
KAMPALA.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
PROBATE AND ADMINISTRATION CAUSE NO. OF 2005
IN THE MATTER OF THE ESTATE OF THE LATE
FORMERLY OF BUKOTO KAMPALA – UGANDA
AND
IN THE MATTER OF AN APPLICATION FOR LETTERS OF ADMINISTRATION BY
KIRABO SUSAN, DAUGHTER OF THE DECEASED.

DECLARATION

I, **KIRABO SUSAN**, of C/O of Sui Generis & Co. Advocates, P.O Box 7117 Kampala, Uganda **DO HEREBY SOLEMNLY AND SINCERELY DECLARE** that the Late **ABBAGA MABUGA** formerly of BUKOTO Kampala, Uganda died on **28th April, 2005** at BUKOTO Hospital and that I am a DAUGHTER to the deceased and I shall **FAITHFULLY ADMINISTER** the estate and effects of the deceased by paying his just debts and distributing the residue of his estate and effects according to the law.

- a) I I am the son of my mother the Late and my father of, District, Uganda.
- b) I have written the following voluntarily with a sound mind while conscious, I have not been forced by anybody.

2. I am married to my only wife, of Village, District Uganda and both of us are currently residing at, District, Uganda.

3. I do have the following issues born of my said wife, viz:

-
-
-

4. I do possess the following properties:-

a) Immovable:

- (i) Unregistered Land at
- (ii) A permanent residential house, at bordered as follows:
 - ◆ on the Eastern part with
 - ◆ on the Western part
 - ◆ on the Northern part with
 - ◆ on the Southern part with

Measuring approximately 1 (one) acre.

9. **IT IS MY SINCERE WISH** that upon my death I should be buried at my country home at
....., in accordance with

10. **FOR AVOIDANCE OF DOUBT NONE OF THE DEFENDANTS I HAVE BEEN SUPPORTING OTHER THAN MY ABOVE** said lawful children should take any benefit of this **MY WILL**.

11. Copies of this **MY WILL** are kept as follows:

- (i) ORIGINAL deposited with
- (ii) A copy deposited with the
- (iii) A copy deposited with

IN WITNESS WHEREOF I, TESTATOR have hereunto set my Hand
this day of the year 2005

THE SIGNATURE of the said was affixed hereto as his **LAST WILL and TESTAMENT** in the joint presence of the Two who in his presence at his request and in the presence of each other hereunto Sub-scribed our names as witnesses.

1ST WITNESS (NAME & SIGNATURE)

2ND WITNESS (NAME & SIGNATURE)

DRAWN BY:

Sui Generis & Co. Advocates,

P.O Box 7117 KAMPALA

Plaint for revocation of a caveat.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(FAMILY DIVISION)
CIVIL SUIT NO. 2387 OF 2020**

(Arising from probate administration cause no.283 of 2020)

**RESTY TENDOPLAINTIFF
SANTA NAMULONDODEFENDANT**

PLAINT

1. The plaintiff is a female adult Ugandan of sound mind and the widow of the late Geoffrey Semakula whose address for purposes of this suit is SUI GENERIS AND CO ADVOCATES, P.O BOX 7117, and KAMPALA.
2. The defendant is a female adult Ugandan presumed to be of sound mind and the plaintiffs advocates undertake to effect service of court process upon him.
3. The plaintiffs claim against the defendant is for vacation of a caveat lodged against the defendant is for vacation of a caveat lodged against the petition for letters of administration and costs for the suit.
4. The plaintiff's cause of action against the defendant is for unlawful lodgment of a caveat against the petition for letters of administration.
5. The facts giving rise to the cause of action are as follows:
 - a) The plaintiff and the deceased were legally married on the 26th day of January 2020. (Annexure A)
 - b) They then lived together in their matrimonial home at Bweyogerere and were blessed with two issues: martin aged 20 and Harriet aged 18.
 - c) In 2019, the plaintiff left for the United Kingdom to pursue a master's degree of law at the University of Manchester. (Attached and marked annexure "B" is the admission letter and marked Annexure "C" is a photocopy of her master's transcript.)
 - d) In January 2020, the deceased past on leaving no will behind. (Attached hereto is a copy of the death certificate marked annexure "D").

Safe custody of wills.

This is governed by S.337 of the succession act and the succession (safe custody of wills) rules S I 162-1.

S.337 (1) stipulates that the will may be kept with the chief registrar or deputy registrar of the high court.

Its prudent practice that more than one copy of the will is made and the other copies are kept with the testators advocate, bank or trusted friend.

This practice is aimed at ruling out suspicions in the will presented after the testators death is a forgery.

Grant of probate

Under S.182 of the succession act, probate can only be granted to an executor appointed by the will.

S.2 (5) defines probate to mean the grant by a court of competent jurisdiction authorizing the executor named in the testator's last will to administer the testators estate.

S.235 states that the jurisdiction to grant probate and letters of administration is exercised by the high court and a magistrate courts in accordance with the administration of estates (small estates) (special provisions) act.

The petition for grant of probate.

The application for grant of probate is by petition as provided under S.244 of the succession act. It must be written in the English language with the will annexed and stating:

- a) The time of the testators death
- b) That the writing annexed is the testator's last will and testament and that it was duly executed.
- c) The amount of assets which are likely to come to the petitioners hands
- d) That the petitioner is the executor named in the will.

➤ S.238 provides that the civil procedure rules are applicable to their proceedings and so the petition must be accompanied by a summary of evidence.

Where will is not in English.

Under S.245, the translation of the will must be annexed to the petition. The translation must be annexed to the petition. The translation must be verified.

Revocation of letters of administration/probate

Pursuant to S.234 (1) of the succession act, the letters of administration any be revoked or annulled for just cause.

Just cause is defined to mean:

- a) That the proceedings to obtain the grant were defective in substance
- b) That the grant was obtained fraudulently by making a false suggestion or by concealing from the court something material to the case. In *Romano Salim Ogwanga And 5 Ors V Saida Atala*²⁴⁰, Justice Remmy Kasule stated in order to impeach the letters on grounds of fraud, the fraud must be specifically pleaded and the allegations of fraud must be specifically pleaded and the allegations of fraud must be strictly proved.. The standard of proof is more than a mere balance of probabilities.
- c) That the grant was obtained by means of untrue allegation of a fact essential in point of law to justify the grant, though the allegations was made in ignorance or inadvertently.
- d) That the grant has become useless and inoperative through circumstances.
- e) That the person to whom the grant was made has willfully and without reasonable cause omitted to exhibit an inventory or account in accordance with part xxxiv of this act or has exhibited under that part an inventory or account which is untrue in material respect.

Procedure

- I. File a suit by way of plaint seeking orders for revocation of the letters of administration.

Citation

An application by the plaintiff to temporary withdraw the letters pending disposal of the suit.

Necessary documents

- i. Notice of intention to sue
- ii. A plaint
- iii. Summary of evidence.

In **AMECHO V TWALIB AND 2 ORS H.C.C.S NO.9 OF 2008**, it was held that it is trite law that a grant remains valid until revoked even if obtained by fraud so long as the grant remains unrevoked, the grantee represents the estate of the deceased.

²⁴⁰ HCT -02-CV-CS-0020,2005

Lodgment and removal of caveats.

Caveats are lodged if there is any opposition to the grant of letters of administration.

A caveat is lodged pursuant to S.253 of the succession act. Form of caveat is provided in S.254 supported by an affidavit with grounds.

Under S.255 of the succession act, no proceedings in relation to the petition can take place until after reasonable notice requiring the caveator to vacate the same has been given.

The caveat before placing a caveat must have a caveatable interest.

In *Adong Suzan And 2 Ors V Otack Raymond*²⁴³, the defendant who was not related to the deceased lodged a caveat against the grant of letters to the plaintiffs children to the deceased. His ground was that the application included customary land. Karia J, held that the defendant not being in any way related to the deceased was not entitled to lodge a caveat forbidding the grant. Court awarded 2,000,000 general damages were awarded against the defendant for preventing the proper management of the estate causing losses to the plaintiff.

Removal of caveat. (Suit is instituted pursuant to S.265 and it by ordinary plaintiffs as its contentious)

Procedure

1. Issue a notice to the caveator requiring them to remove the caveat or commence a suit to have the caveat vacated pursuant to S.255 of the succession act. The notice mandatory as failure to issue the same makes the subsequent suit filed liable for dismissal on a preliminary point of law.

In *The Matter Of The Estate Of The Late Justice David Kirunda, HCMA NO.252 OF 2014*, justice Percy night Tuhaise citing the decision in ***Margret Kabahunguli V Eliazali Tibekinga And Anor*²⁴⁴** with approval held that the notice in section 255 of the succession act is a mandatory statutory notice which must be effected on the caveator notifying him of an intended suit should he or she fail or refuse to remove the caveat.

2. Where the caveator fails to heed to the notice then the petitioner can bring a suit under S.265 of the succession act in which they will be plaintiffs and the caveator defendants.

3. Drafting of plaint and the necessary accompanying documents. O.6 R 2 of the CPR.

4. Lodgment for assessment of court fees.

5. Payment of court fees. Judicature (court fees) rules rule 4.

²⁴³ HCT -02- CU -0089-2002HC

²⁴⁴ HCAC 08/95

S.2 (1) of the EMPMA, is to the effect that where a person in the act referred to as a “missing person” disappears without making provision for the admin of their estate on the maintenance of his/her dependent relatives if any and is not heard of within 6months, any relative of the missing person may with the concurrence of the family of the missing person, apply the court to be granted an order to manage his estate but the court may, if it considers it necessary or desirable, grant an order to more than one relative to manage the estate jointly.

S.2(c) defines a family member to include a parent, grand parent, uncle, first cousin, child, grand child, wife’s or husband of a missing person.

S.1(2) postulates that an order of management of an estate a missing person shall not be granted to any person under the age of 21 years.

Procedures, forum and documents necessary.

Filing of application.

S.4 of the act provides that an application for grant of an order under the act must be made subject to such modification as may be necessary in the same form as an application for grant of letters of administration.

S.246 of the succession act provides that an application for L.O.A shall be made by petition.

S.247 of the S.A postulates that a petition for L.O.A must in all cases be subscribed by the petitioner and his/her advocates, if any and must be verified by the petitioner.

The application for administration of estate of missing person is made by way of petition, verified by the petitioner.

Jurisdiction

This is stipulated under S.3 of the act:

- a) M.G 2 where the total value of the estate does not exceed 10,000 shillings
- b) M.G. 1 where the total value of the estate exceeds 10,000 shillings but does not exceed 20 million
- c) CM where value of the estate exceeds 20 million but not above 50 million.

What are the powers and duties of a manager of the estate of a missing person.

S.1 (d) defines a manager to mean any person to whom an order to manage an estate of a missing person is granted under the act.

S.47 (2) of the registration of persons act no.4 of 2015, a person is presumed dead in accordance with subsection (1), any person who would have been duty bound under S.43 to give notice of the death of the person of presumed dead may apply for an order of presumption of death in a court of competent jurisdiction and order shall issue and be served upon the authority and shall have the same effect as a certificate of death.²⁴⁵

PERSONS OF UNSOUND MIND

Who is a person of unsound mind.

S.1(c) of the administration of estates of persons of unsound mind act defines a person of unsound mind to mean any person adjudged to be of unsound mind under S.4 of the mental treatment act or any person detained under S.113 OR s.117 of the MCA as amended.

In the case of **ABIRIA V AFMA, HCMA NO.53/2015**, a person is deemed to be of unsound mind for purposes of these proceedings if he or she is afflicted by a total or partial defect of reason or perturbation thereof to such degree that he or she is incapable of managing himself or herself or his or her affairs.

The rationale of the inquiry was explained in **BOLAKISHRAN V BOLACHONDRAN (1956)1 MAD LJ 439**, as to ensure that no man is adjudged a lunatic without proper inquiry and that the court should hold a judicial inquiry and it may seek the assistance of medical experts . Same reasoning is cited in **ASERU JOYCE AJIU V ARIJAYO AGNES MISC CIVIL APP NO.1 OF 2016**.

In determining the sanity of a person, the court follows the test laid down by Phillimore J in **WHYSALL V WHYSALL (1960) P.S.2**, in which he held that “the Est of the degree of insanity is to be found in the phrase “incapable of managing himself and his affairs the test of ability to manage affairs is that to be required of the reasonable man. The elderly gentleman who is no longer capable of dealing with the problems of a “take over bird” is not in my judgement to be condemned on that account as of unsound mind.

Who can apply to manage the estate of a person of unsound mind.

²⁴⁵ re yekoyasi, hcma no.6 of 2017

- The applicant should state in the affidavit and attach an order of the magistrate adjudging the person to be of unsound mind or detaining them under S.113 or 117 of the MCA.

In THE MATTER OF THE ESTATE OF KIGGUNDU JAMES (A PERSON OF UNSOUND MIND) MISC. CAUSE NO18 OF 2015, the applicant did not attach evidence of the person of unsound mind being adjudged unsound nor did he attach any of the documents required by Rule 3(1), the court held that the application was incompetent and dismissed it.

Procedure

- Drafting of documents
- Payment of fees
- Lodging of documents
- Service of application (Rule 4(1)) and (5)
- Hearing of application and inquiry rule 8 and S.3(1)

Powers of manager appointed.

These are stipulated under S.4(1) of the act and are as such as the court may order as being necessary in the circumstances, bearing regard to the nature of property i.e. movable or immovable. Civil customary law provided it's not repugnant to natural justice, equity and good conscience.

5. Must be binding upon the parties who profess it to be basis for regulating their relations
- 6, must be established, must have been consistently and for such long time that it is no longer in contention.
7. Must be capable of peaceful application.

Equitable interests: an equitable interest may be formally created by written agreement of the parties or by operation of law where of parties enter into a specifically enforceable contract to convey or create a legal interest.

In *Hysaght v Edwards*²⁴⁶, the court held that, the moment you have a valid contract for sale, the vendor becomes in equity trustee for the purchaser of the estate sold and the beneficial ownership passes to the purchaser, the vendor having a right to the purchase-money, a charge or lien on the estate for the security of the purchase money and the right to return possession of the estate until the purchase money is paid, in the absence of express contract as to the time of delivering possession.



LAND TENURES

Under article 237(3) and section 3, of the land act, there are four types of land tenure in Uganda.

1. Freehold tenure
2. Leasehold tenure
3. Mailo tenure
4. Customary tenure

FREEHOLD

S.43(2) of the land Act defines "freehold tenure" as a tenure that derives its legality from the constitution and its incidents from written law.

Incidents are rights that accrue to a holder of freehold land.

The incidents of freehold under s.43(2)(a) of the land act are perpetual existence and full ownership.

LEASEHOLD TENURE.

Is a form of tenure where by one party grants to another a right to exclusive possession of land for a specified period usually, though not necessarily in return for a periodic payment of money called rent. (s.2 and 3)(5) of the land Act)

²⁴⁶ (1876)2 Chd 499

In City Council Of Kampala V Mukiibi (1967) EA368, the P/Fs leased certain premises to the defendant subjects to a covenant that the tenant should not part with possession of sublet without their consent. The defendant allowed hair chessors to use the premises paying him a daily fee. The P/Fs sought to terminate the lease on the ground that the defendant parted with possession in breach of the tenancy agreement. The court held that a tenant is not in breach of a covenant not to part with possession or sublet unless he or she gives exclusive possession to another person in this case the court found that although the defendant allowed hairdressers to use the premises subject to payment of a daily fee he did not give them exclusive possession.

CREATION OF A LEASE

Under s.3(5)(a) of the land act, a lease is created either by agreement of the parties or by operation of law. There is no legal requirement that an agreement for a lease must be in writing. In *Mayanja-Nkangi V National Housing Corporation*²⁴⁹, the court held that a contract to grant a lease may be oral or in writing or in both or may be inferred from the conduct of the parties e.g. A lease may result without express agreement where a person enters into possession of land and pays rent, which is accepted by the landowner.

In Pardhon Jivraj V Dudley –Whelpadale²⁵⁰, it was held that payments and acceptance of rent provided the requisite evidence that the defendant and plaintiff regarded each other as landlord and tenant.

Sublease And Assignment.

In Souza Figueiredo And Co Ltd V Moorings Hotel CO Ltd (1960)EA 926, a sublease was defined as a transaction whereby a lessee creates a lease that is less than the terms that the lessee has. eg the lessee having a lease of 49 years leasing out the same for 10year.

Assignment was defined in Milmo V carreras (1947) KB306, as transaction whereby the lessee transfers absolutely the remainder of a term of the lease to another person. In *keeves V Dean (1924)1 KB 685*, the court noted that the power to sublease or assign is incidental to all types of leases including periodic tenancies, unless such power is express by excluded in the lease agreement.

Assignment is by land sale agreement and execution of transfer forms.

²⁴⁹ (1972)1 ULR 37

²⁵⁰ (1920-29) 3 ULR 193

LEASE AGREEMENT.

REPUBLIC OF UGANDA.

IN THE MATTER OF THEREGISTRATION OF TITLE

ACT, CAP.230

AND

IN THE MATTER OF THE LAND ACT CAP.227.

AND

IN THE MATTER OF THE CONSTRUCTS ACT, 2010

AND

IN THE MATTER OF THE LEASE AF LAND COMPRISED

IN.....(here in after referred to as the “land”)

LEASE AGREEMENT.

This lease is made this.....day of.....2022

Between

.....

.....(hereinafter referred to as the “lessee” which expression shall unless context so admits include his/her duly authorized agents heirs, successors in title executors and legal representatives) on one part

And

.....

.....(herein after referred to as the “lessor” which expression shall unless context so admits include his/her duly authorized agents heirs, successors in title, executors and legal representatives) on the other part.

WHEREAS the lessor is the legal and rightful owner of the land comprised in..... he or she is devious of leasing out the land to the lessee for valuable consideration and on the tems herin agreed in this agreement.

The lease agreement is thus WITNESSETH as follows:

1 CONSIDERATION.

IN WITNESS WHERE of the parties here to have year first above written.

SIGNED BY the said.....

In the presence of :

1.

2.

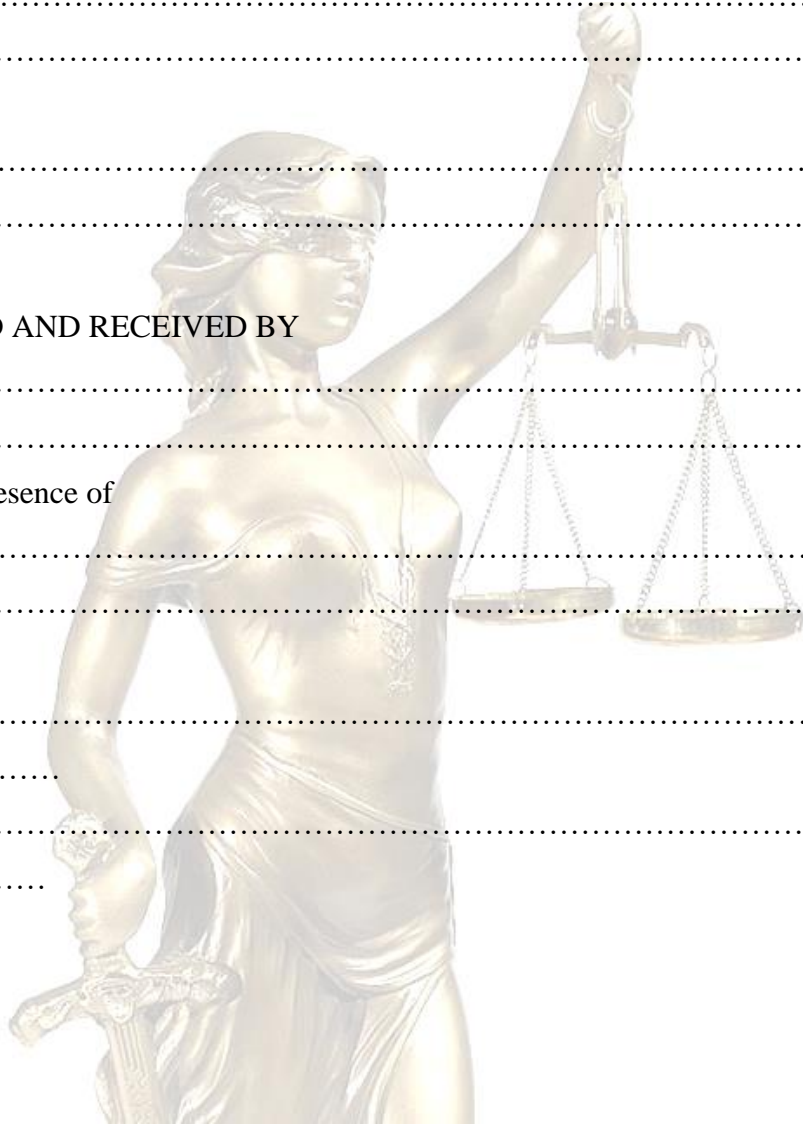
SIGNED AND RECEIVED BY

.....

in the presence of

1.

2.



REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT
CAP. 230
AND
IN THE MATTER OF THE LANDACT ,CAP 227.

By this agreement, the vendor undertakes as follows:-

- a) That he has sought the express consent of the lessor, Uganda land commission to sell the land and will adduce the written consent from the lessor on execution of this agreement.
- b) That he has sought the consent of his wife Marianne to sell the land and such consent shall be adduced at execution of this agreement in a form prescribe by law.
- c) That the land herein is sold as is free from any encumbrances and third party rights or claims whatsoever PROVIDED that if there shall arise any claim or anything that shall prevent the purchase from acquiring good title to the land herein sold, the vendor shall fully identify the purchase against any loss and damage suffered by refunding the full purchase price therein paid plus other movies spent under this agreement.
- d) To deliver vacant possession of the land upon evacuation of this agreement.
- e) To finish the duplicate certificate of title of the land and copy of the lease agreement between the vendor and Uganda land commission.
- f) To sign transfer forms in favour of the purchase upon execution of this agreement.

4. DUTIES OF THE PURCHASER

By this agreement the purchaser undertakes to pay the purchase price stipulated in clause of this agreement.

5. DISPUTE RESOLUTION.

- 5.1. All dispute arising under this agreement shall be resolved through mediation within seven remaining days from the date when the dispute arose
- 5.2. The mediator shall be any mediator recommended by the LADER at the request of one of the parties.
- 5.3. Where the parties fail to successfully resolve the dispute through mediation, the matter maybe brought before the high court of Uganda for resolution.

6. PAYMENT OF FEES RELATING TO THIS AGREEMENT.

- 6.1. The purchase shall pay all legal and other incidental fees incurred in the execution of this agreement in so far as those fees relate to her duties.

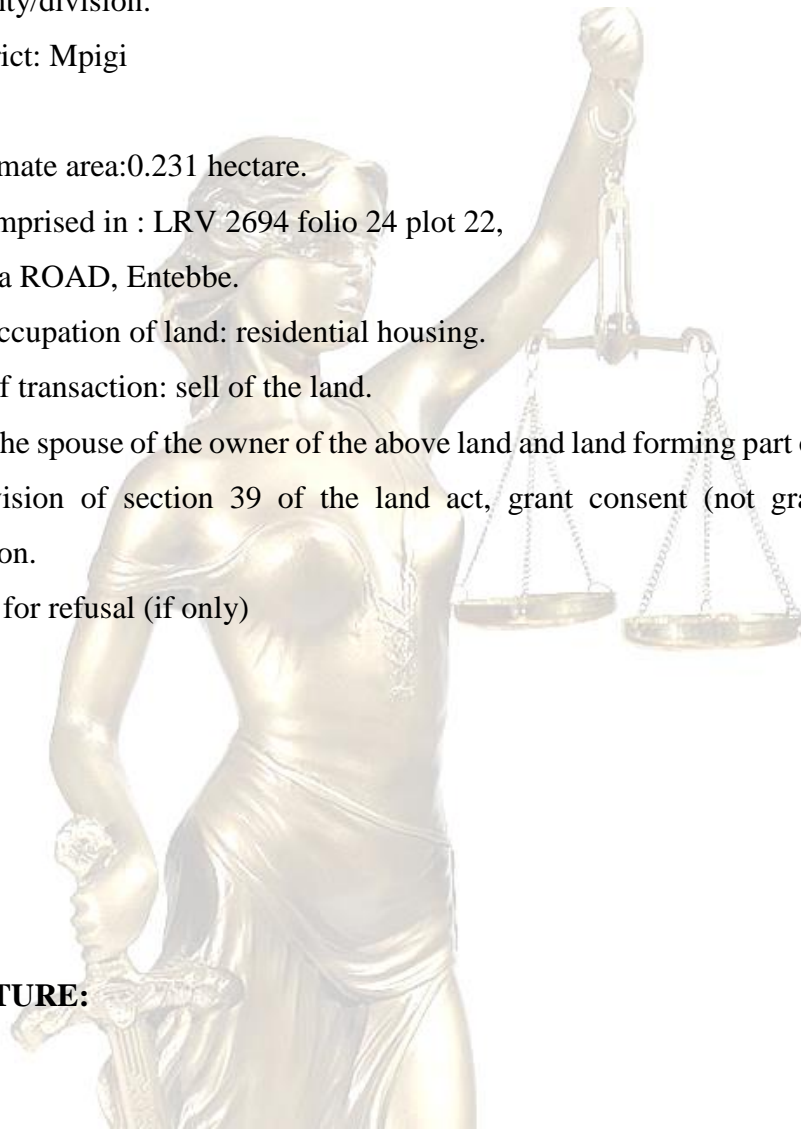
CONSENT BY SPOUSE TO TRANSACTION IN LAND

1. Location of the land subject of consent:
 - a) Village/zone:
 - b) Parish/ward:
 - c) Sub county /town: Entebbe
 - d) County/division:
 - e) District: Mpigi
2. Approximate area:0.231 hectare.
3. Land comprised in : LRV 2694 folio 24 plot 22,
Bugonga ROAD, Entebbe.
4. Use or occupation of land: residential housing.
5. Nature of transaction: sell of the land.
6. I, being the spouse of the owner of the above land and land forming part of family land under the provision of section 39 of the land act, grant consent (not grant consent) to the transaction.
7. Reasons for refusal (if only)

NAME:

DATE:

SIGNATURE:



4) Having opened boundaries, must consult with the various planning authorities to ascertain whether or not the intended activities of the client on the land is permissible **S.3 of the Physical Planning Act, Act No.8 Of 2010**, declares the entire country a planning area and thus permission from the various planning authorities in necessary.

5) Where the land is in wetland, the consent of NEMA must be sought for the intended activity and only upon its grant should the purchaser buy otherwise he/she may not be able to use land.²⁵²

6) Consent

1) Where the land is family property as defined by s.38(A)(4) of the land act (as amended), then the vendor must acquire the consent of his or her spouse as per s.39 of the land act and regulation 64(1) the land regulations 2004, the consent obtained must be in the form prescribed in form 41 of the land regulations 2004 as per reg.64.

In Enid Tumwebaze V Mpeire Stephen And Ansrhccs(Mbarara) No.39 of 2010, the court held that any transaction in family land without the consent of the spouse is a nullity and illegal in law and cannot be enforced.

In The Case Of **Wamono Shem V Equity Bank(U) Ltd And Contance Wakyemba**²⁵³, the court held that the spousal consent must be in the manner prescribed in form 41 in the first schedule of the regulations, 2004 and can only be in that form and in uniting.

2) Where a lessee seeks to assign or subject his/her lease acquired on former public land, he or she must seek the consent of the district land board or the Uganda land commission. Regulation 92 of the land regulations, 2004

The consent must be in form prescribed under form 53 of the first schedule to the regulations.

Other restrictions to dealings in land'

a) Citizenship

Article 237(1) of the constitution provides that all land in Uganda belongs to the citizens of Uganda.

²⁵² **Amooti Nyaakama V NEMA.**

²⁵³ **MISC, APP. No.600 Of 2012**

s.1(dd)of the land Act defines a tenant by occupancy to mean the lawful or bonafide occupant declared to be a tenant by occupancy by section 31

S.29(1)(a) defines a lawful occupant to mean a person occupying land by virtue of the repealed Busuulu and Envujjo Law of 1928,Toro Landlord and tenant Law of 1937,Amgole landlord and tenant Law of 1937.

b) A person who entered the land with the consent of the registered owner and include a purchaser.

c) A person who had occupied land as d customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the lease hold certificate of title.

S.29(2) defines bonafide occupant to mean a person who before the coming into force of the constitution had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner 4-12years or more

Tenants by occupancy on registered land enjoy security of occupancy courtesy of S.31(1) of the land Act.

Under S.32A(1)of the land act, lawful or bonafide occupants can only be evicted for non-payment of ground rent and this must be with an order of court.

Under S.35(2) at the land Act, a land owner who wishes to sell the reversionary interest in land must give the first option of buying that interest to the tenant by occupancy

Further S.35(8) of the land Act, mandates whoever buys land with existing interests to respect those interest.

Restriction On Assignment Of Tenancy By Occupancy

Under S.35(1) the land Act, a tenant by occupancy who wishes to assign their interest must give first option of taking the assignment to the owner of the land.

Failure to do so, the tenant commits on offence

The transaction to assign to another person without first option to the landlord is invalid and the tenant forfeits the right over the land and the land shall revert to the registered owner.

Agency in land transactions

S.1(1) of the RTA defines a proprietor to mean the owner whether in possession, remainder, reversion or otherwise of land or of a lease or mortgage whose name appears or is entered as the proprietor of that land or lease or mortgage in the register book.

**POWER OF ATTORNEY 16TH SCHEDULE
REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES
ACT, CAP.230**

POWER OF ATTORNEY

I, MUGARURA VICENT OF KIRA VILLAGE NAMUNGONGO PARISH KIRA SUB COUNTY WAKISODISTRICT being the registered proprietor of land comprised in BLOCK 217 plot 19, BUSOLOSULO appoint **MARIA BUSINGYE OF KIRA VILLAGE, NAMUGONGO PARISH, KIRA SUB COUNTY WAKISO DISTRICT** ,my attorney to sell to Pantaleo Ofwono of Kampala district land comprised in BLOCK 217 plot 19, BUSOLOSULO which belongs to me under the registration of title Act , Cap 230 upon payments of UGX 125,000,000 (one hundred twenty five million) being the balance on the balance on the purchase price of UGX 250,000,000, AND for me and in my name sign transfer forms in favour of Pantale Ofwono and to carry out any other thing incidental or arising out of the transfer

Dated this 22nd day of October, 2022.

Signed by:

STEVEN BINSOBEDDE

**REGISTERED PROPRIETOR OF LAND COMPRISED IN
BLOCK 217 PLOT 19 BUSOLOSULO**

In the presence of:

**SUI GENERIS
ADVOCATE.**

Protection of equitable and transient interests in land

The registration of an interest provides the best security against the principle of indefeasibility (S.54 and 59 of the RTA) S.54 provides that no interest unless registered in the prescribe Manner shall be said to pass or bind the law.

2) Lease.

Souza Figueirodo And CO Ltd V Mooning Hotel Co Ltd. (1960)EA 926.

3) Mortgage

4) Option to purchase.

Ramyi V Rattansi (1969)EA 309

5) Claim based on advance possession

S.86 of RTA.

CAVEATS BY SPOUSES.

A spouse may lodge a caveat on family land even if he or she is not the proprietor of the land.

S.39(7) of the land Act (as amended). Under S.39(8) of the same Act the caveat lodged is not affected by the same Act the caveat lodged is not affected by the provision of S.140(2) of the RTA. The caveat thus does not lapse upon issuance of the notice of withdraw by the proprietor and no reply given within 60days.

Caveats by beneficiaries

These are lodged under S.144 of the RTA by or on behalf of beneficiaries claiming under a will or settlement. Unlike other caveats, where transactions are barred on the land under S.141 of the RTA, for as long as the caveat is in force, transfers and change in proprietorship may be effected while a beneficiary's caveat is in force if:-

- 1) In the opinion of the registrar the change of proprietorship or transfer is authorized by the will or settlement.
- 2) Caveator consents to the registration or doesn't lodge a written protest against the registration within 14days after being served with notice as such caveator.
- 3) Under S.140(2) of the RTA, a caveat by or on behalf of a beneficiary doesn't lapse merely because he or she has not replied to a notice of withdraw within 60days.

Caveats forbidding the bringing of Land under the RTA.

Under S.20(1) of the RTA, any person claiming any estate or interest in land that another seeks to bring under that Act may, before registration of the certificate, lodge a caveat with the registrar in the form in the 4th schedule forbidding the bringing of that land under the Act.

**THE REPUBLIC OF UGANDA .
IN THE HIGH COURT OF UGANDA AT JINJA.
CIVIL SUIT NO. OF 2022**

- 1. NANSIKOMBI BARBRA**
- 2. BAGAYA MOSES (suing through his next friend)**

NANSIKOMBI BARBRA PLAINTIFFS _____

VERSUS

1. KAWERE AMOS DEFENDANTS _____

SUMMONS TO FILE A DEFENCE.

TO :

KAWERE AMOS.

WHEREAS the above named plaintiff has instituted a suit against you upon the claim of the particulars of which are set out in the copy of the plaint attached here to.

YOU ARE HEREBY required to file a defence in the said suit within 15(fifteen) days from the date of service of these summons on you in the prescribed manner under 0.9 r1 of the civil procedure rules s.1 71-1as amended by S.1 No.33/2022.

SHOULD you fail to file a defence on or before the date mentioned, the plaintiff may proceed with the case and judgment may be given in your absence.

GIVEN under my hand and the seal of this court on this 10th day of October 2022.

DEPUTY REGISTRAR

4. Law reform (miscellaneous) Act, Cap.79.

5. Case Law

6. Any other with leave of court.

Dated at MBARARA on this 10th day of october2022

COUNSEL FOR THE PLAINTIFF

Drawn and filed by:

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA
CIVIL SIUT NO OF 2022**

- 1. NANSIKOMBIBARBRA**
- 2. BAGAYA MOSES (suing through his next friend)**

NANSIKOMBI BARBRA PLAINTIFF

VERSUS

- 1. KAWERE AMOS DEFENDANTS**

SUMMARY OF EVIDENCE

The plaintiff will adduce evidence to show that as a result of the defendant's driver's negligence they lost dependence amounting to UGX 140,000,000 have incurred costs totalling to UGX 10,000,000 in burial expenses of the deceased and continue to incur other expenses in medical bills for the second defendant.

LIST OF DOCUMENTS

1. Traffic accidents report
2. Notice of intention to sue
3. Medical expenses receipts from quality health care
4. Receipt detailing burial expenses from Uganda funeral services
5. Any other with leave of court.

LIST OF WITNESSES

1. AIP Bagola a Traffic Police Officer at Namtumba Police Station.
2. Joseph Mugerewa an eye witness when the accident happened.
3. Other with leave of court

LIST OF AUTHORITIES

1. The Constitution Of The Republic Of Uganda
2. The Road Traffic And Safety Act.
3. The Evidence Act, Cap.6

REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES
ACT, CAP.230
CAVEAT FORBIDDING REGISTRATION OF CHANGE IN PROPRIETOR OR
DEALING WITH ESTATE COMPRISED IN
BLOCK 217 Plot 19BUSOLOSOLO.

**TO THE COMMISSIONER FOR
LAND REGISTRATION.**

TAKE NOTICE that I, PANTALEO OFWONO OF KAMPALA DISTRICT claim an EQUITABLE INTEREST ARISING FROM LANDSALE AGREEMENT in the land comprised in the above folio, and I forbid the registration of any person as transferee or proprietor of land of any instrument affecting the estate or interest until after notice of such registration given to me as the address hereafter mentioned or unless the instrument is expressed to be subject to my claim or unless I consent in writing thereto.

I appoint SUI GENERIS, LAW DEVELOPMENT CENTER ,P.O. BOX 7117, KAMPALA, UGANDA as the place at which notices and proceedings relating to this caveat may be served.

Dated this 20th day of October, 2022

PANTALEO OFWONO
CAVEATOR

Signed in the presence of
SUI GENERIS
ADVOCATE.

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES
ACT, CAP. 230.

AFFIDAVIT IN SUPPORT OF THE CAVEAT FORBIDDING REGISTRATION OF
CHANGE IN
PROPRIETOR OR DEALING WITH THE ESTATE COMPRISED IN BLOCK 217
PLOT 19 BUSOLOSOLO

CO-OWNERSHIP.

Co-ownership of land is where 2 or more persons concurrently own an interest in land. Each co-owner is entitled to the simultaneous enjoyment or use of the land claiming not a separate portion but a mutual right in the whole.

Co-ownership maybe in joint tenancy or tenancy common.

Joint Tenancy

Where 2 or more persons together as a group own the entire interest in the property. The co-owner here do not have distinct shares in the land. In law, they hold the whole jointly and nothing separately.

Two key things distinguish a joint tenancy from a tenancy is common:- (1) Presence of the four unities and (2) The Right of survivorship. Unless the two exist, there is no joint tenancy.

Four unities

1. **Unity of possession:-** Means that each co-owner is entitled to an undivided possession of the whole of the co-owned land and none holds any part separately to the interest of each joint.
2. **Unity of interest:-** Means that the interest of each joint tenancy must be identical in nature and duration. e.g there cannot be a joint tenancy where one co-owner has a leasehold interest in the land and the other a freehold or where one co-owner is entitled to a greater share of the rent from the land than the other.
3. **Unity of time:-** Means that the interest of each joint owner must vest at the same time. eg if A and B together purchase the land and the land title is conveyed to them, there is unity of time because the title vest in them at the same time.
4. **Unity of title:-** Means that the co-owner title must derive from the same act or document. If they acquired the land by inheritance it will have been under the same will.

Right of survivorship:- Upon the death of one joint tenant his/her interest in the land is extinguished and does not form part of his/her estate. **Wight V Gibbons (1949) 78 CLR 313.**

Requirement for Registration of a lease.

Under S.54 of the RTA, no instrument unit registered in the manner prescribed can pass on an interest in the said land. Under S.101 of RTA, a lease in excess of 3years must be registered and so is a lease providing for a shorter term with a perpetual option to review. **In Papatlal Hirji V L.H. LAKHAI And 60(EA) Ltd (1960) EA 437.** It was held that a sublease fir one year, which was renewable annually at the option of the tenant was lease in excess of 3years and therefore subject to the statutory form.

Under S.40(2) of the Land Act, a lease of 5 years Or more acquired by a non-citizen must be registered in accordance with the RTA.

Unregistered Lease

A lease which does not comply with the requirement for registration merely operates as a contract between the parties. **Souza Figuerido And Co . Ltd V Moorings Hotel Co. Ltd (1960) EA 926.** However inequity failure to register does not render the lease void because equity treats as done that which ought to be done. Such a lease is referred to as an equitable lease as was stated in the case of **Walsh V Lonsdale (1882) 21 CHD 9.**

Remedies for breach of covenants in a lease

Tenant/lessee

They may seek any appropriate remedy under the law of contracts /torts.

- a) Breach of covenant for quiet possession

Lessee could sue for damages and an injunction restraining the landlord. **Dharas & Sans Ltd V Elys Ltd (1963) EA 573.**

Land lord.

Damages

Landlord can bring an action for damages for breach of a covenant. **In National AndGrindley's Bank (K) Ltd V P.T Pumater (1965) EA 648,** tenant breached a convener to deliver up the premises in good order and condition on terming of the lease. it was held that the landlord was entitled to damages equal to the amount in many by which the premise had been depreciated by the breach.

1. mesne profits

Where upon the lease being determined and the tenant remains in possession, contrary to the landlord's wishes, the landlord may claim damages for boss of mense profits **Kamanyire V Standard Bank (U) Ltd (1977) H 82.**

- Forfeiture cannot be effected by written notice unaccompanied by actual physical re-entry/ constructive re-entry **Kassaja V Registrar Of Title, Misc. App No.517 1993**
- The Supreme Court in **Erukana Kuwe V Vader** noted that successful re-entry effectively determines the lease.

3) Registration of re-entry.

Under S.114 of the RTA, the landlord should apply for registration of re-entry on the register. The application is by formal letter to the commissioner for land registration.

Where the registrar refuses to register the re-entry that does not mean the lease continues to subsist. As noted in **Lugogo Coffee Co(U) Ltd V Sing Combined Coffee 1976 HCB 12**, the re-entry determines the lease and the refusal of registrar to register the re-entry does not affect the re-entry. The referral to H.C is for it to determine the lawfulness of the re-entry and where the re-entry is found to have been unlawful, the lessee is entitled to damages.

Relief from forfeiture.

A lessee who believes, the lessor is in the process of effecting the re-entry (this is before its effected), the lessee may apply under S.25(1) of the Judicature Act for relief from the forfeiture.

It must be for only non-payment of rent (as the reason for forfeiture **Justice Mulenga In Erukana Kuwe V Vader**).

In the case of **Billson & ors v Residential Apartment Ltd**, (1992) I ALLER 141, the HOL held that with reference to similar provision, that the provision does not preclude the lessee from applying for relief even where the lessor has re-entered the land.

Where 3rd party interests have been created as was in **Kiwanuka Masis v Segane** (1973) EA 561, where by the time of application the landlord had leased the land to another tenant, the court declined to grant the relief. Often the relief is granted where the landlord can be compensated for any loss occasioned by the breach.

Surrender of a lease.

This occurs where before the expiration of the lease, the lessee gives up the possession of the land to the lessor. Under S.108(1) of the RTA, the lease may be determined by operation of law or by agreement.

In *Opinya v Mukasa*, CA, No. 167 of 1964 the landlord sought to evict the tenant by removing the roof from premises. It was held that this was breach of quiet environment.

Licences

In the case of *radaich v smith* (1959) 101 CLR 209, a licence is permission given to a licensee to enter the licensor's land for some specified purpose or purposes which otherwise would be trespass.

There are various types of licences i.e bare licences, a licence coupled with an interest, a contractual licences and a licence protected by estoppel.

- 1) A bare licence. Such a licence may be expressly given or implied is granted without valuable consideration e.g. an invitation of a friend to stay on it may become in evocable where a proprietor estoppel has been created. The licence can be revoked anytime with reasonable damages.
- 2) A licence coupled with an interest.

This a licence to enter upon a licensor's land for the specific purpose of taking something that forms part of the land or is upon the land. The licence is in evocable whilst the grant remains in existence and may be assigned provided its disposed of with the interest of which it is annexed

The interest granted is a profit a prendre which makes the licence in evocable. The licence has no independent existence merely as a licence.

- 3) A contractual licence.

This is granted often the terms of a contract which restricts the licensor's right to revoke it. The contract according to the court in *tanner v tanner* (1975) 1 WLR 346, the contract may be express or implied.

In *errington v errington* (1952) 1 KB 290 the CA held that contractual licence for the occupation of a dwelling house will bind a person to whom the licensor leaves the house by will and that a contractual licence creates an equitable interest in land which would bind all comers except a purchaser without notice. This position though not overturned has been criticised.

- 4) Licence by estoppel.

Conditions and covenants in a lease. (continued)

- (1) Implied covenants for quiet enjoyment.

3. What remedies are available to Jane in the event of default on any terms of the lease.
4. What remedy's available to the company in the event that she is about re-enter onto the land.
5. What is the form, procedure and necessary documents for surrender.

Issue : whether the parties in (A) can enter into a legally binding relationship.

Under Art-2c(1) of consent, every person has a right to own property individually or in association with other subject to the existing laws.

In our facts Jane is the registered Mailo owner while Sunny Estate Ltd wants to develop the land. Sunny Estate Ltd is a non-citizen by virtual of S.40(7)

- a) Which defines a non-citizen to include the cooperate body in which the controlling interest lies with non citizen S. 40(8)(a) defines controlling interest meoms icase of a company with share such as Sunny Estate, where the majority shares are held by persons who are not citizens. since john Soren,a british citizen is the majority shareholder in Sunny Estate, then it's a non-citizen.

Under Art. 237(2) (c) of the consent. A non citizen can only acquire lease in land but not a mailo or freehold interest. S.40(4) re-emphasizes this position.

Therefore the parties can enter into a lease agreement in respect to the land subject to provision of the land Act, S.53(5) and S.40 and the provision of the RTA.

S.3(5) of the land defines what lease hold tenure is S.3(5) stipulates the essential requirement of a lease inter alia exclusive possession, duration and payment of rent. S.40(2) of the land Act memothat any lease in excess of 5 years to a non-citizen must be registered in line with the provision of the RTA.

Under S.54 of the RTA no unregistered instrustiment can pass on an interest in land the RTA S.101 of RTA further states that any lease in excess of 3 years must be registered.

Therefore the parties, Janeand Sunny can enter intoa lease agreement and hearing creates the lease, go ahead and register the same at the registry as per the provision of S.92 of the RTA.

Requirements of company

Lease agreement.

THE REPUBLIC OF UGANDA
IN THE MATTER OF REGISTRATION OF TITLES
ACT CAP.230
AND
IN THE MATTER OF THE LAND ACT CAP.227
AND
IN THE MATTER OF THE CONTRACTS ACT,2010.
AND
IN THE MATTER FOR THE LEASE OF LAND COMPRISED
IN KYADONDO BLOCK 237PLOT 294 AT MUTUNGO
(here in after referred to as “the land”)

Lease agreement

This lease agreement is made this 25th day of november 2022

Between

Joan Nansambu whose address for purposes of this lease agreement shall be SUI GENERIS, , P.O.BOX. 7117,KAMPALA (hereinafter referred to as the “lesser” which expression shall unless context so admits include her duly authorised agents, heirs, successors in the title, executor and legal representatives)on one part.

And

Sunny Estate limited of P.O.box 73,kampala (hereinafter referred to as the “lease” which expression shall unless context so admits include its duly authorized agents successors in title and legal representation on the other land.

WHERE AS, Joan Nansambu is the registered proprietor of the land and she is desirous of leasing the land to the lessee

AND WHERE AS Sunny estate limited is willing to acquire a lease over the land on the condition s and covenant stipulated in this agreement.

It is therefore agreed as follows:

The lease.

4. Lessor's obligations and undertaking.

4.1. The lesser undertakes to deliver vacant possession of the land on the commencement date of this lease.

4.2. The lesser undertakes to offer exclusive possession of the land to the lessee subject to this agreement.

4.3. The lesser shall also render any other assistance to the lessee as may be reasonably required to start up the business for which the lease is acquired
No derogation from the grant.

5. Powers of the lessor

5.1. The lesser may with or without some years, workers or other once every year during the term at a reasonable time of the day, enter upon the leased property and view the state of repair of the property.

5.2. In any case the rent or any part of it is arrears for a period of 30 days, although no legal or formal demand has been made for payment of that rent or in case of a breach or non-observance of any of the covenants expressed here under or by law declared implied in this agreement and the breach continues for 30 days, the lesser or transferees may re-enter upon and take possession of the land.

6. Covenants by the lessee

6.1. The lessee undertakes to pay rent reserved under this agreement.

6.2. The lessee undertakes to keep and yield up the land and any attachments erected there on in good and tenantable repair, damages from any natural calamity including but not limited to earth quakes and floods, and reasonable wear and tear expected.

6.3. The lesser will occupy and develop the land by setting up a 30 house estate with each house being of an estimated value of UGX 100,000,000.

6.4. The houses referred to in clause 6.3 shall be constructed to completion within 3 years from the commencement date.

UGANDA.



Drawn and filed by

SUI GENERIS & CO ADVOCATES

LAW FIRM

P.O.BOX 7117, KAMPALA

UGANDA



SUI GENERIS & CO ADVOCATES

LAW FIRM

P.O.BOX 7117, KAMPALA

UGANDA.



2.2.The lessee shall also deliver up the duplicate certificate of title pertaining to the lease not later than by the 10th day of December 2022.

IN WITNESS WHERE OF THE PARTIES have agreed and appended their signature on the date first motion above.

Signed by (LESSEE) Signed by (LESSOR)

Joan Nansambu

MANAGING DIRECTOR

In the presence of

SUI GENERIS

ADVOCATE



THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES OF
ACT CAP. 230 AND
IN THE MATTER OF THE LAND ACT CAP. 227
AND
IN THE MATTER OF THE CONTRCTS ACT 2010
AND
IN THE MATTER OF THE LEASE COMPRISED IN
LEASEHOLD REGISTER
(Hereinafter referred to as the “land”)

Variation deed

This variation deed made this 28th day of November, 2022

Between

Joan Nansambu of SUI GENERIS, P.O.BOX 7117, KAMPALA. (Hereinafter referred to as the “lessor” which expression shall unless context so admits include her duly authorized agents, heirs, successors entitle, executor and legal representatives) on one part.

And

Sunny Estates limited of P.O. Box 73, Kampala (herein referred to as the “lessee” which expression shall unless context so admits include its duly authorized agents successor in title and legal representatives) on the other hand.

WHERE AS the lessor and lessee entered into lease agreement on the 22nd day of November, 2022 over the above mentioned land running for a period of 99 years with effect from 20th January 2020 and the same was duly registered and a leasehold title to the same issued.

WHEREAS the lease agreement among other clause restricted the use of the land to construction of 30 residential house and other use whatsoever expect with the express consent of the lesser.

WHEREAS the lessee has constructed 20 of the said 30 residential house but is cash constructed to construct the other 10and is desirous of converting to 20 constructed houses into a factory for the manufacture of drugs of all types and intravenous fluids and has acquired a licence from national drug authority.

WHEREAS the lessor is open to the conversion and agrees to the conversion of the user of the land.

PART B

Brief facts

Mukama Mulunji is the registered proprietor of land comprised in LRV 13 Plot 59 Martin Road Kampala. The land has a number of people on it. There is Sam Okei who sells second hand clothes in its yard displayed on the ground. MTN which sought the permission of Mulunji to construct a Kiosk in the yard from which it operates a telephone booth and pays to Mulunji UGX 300,000.

Martin Groceries and New sounds let two shops on the premises and pay a monthly sum of UGX 500,000. Martin Groceries and New sounds have both defaulted in rent since July 2018 and December 2018 respectively and have not paid despite Mulunji issuing a notice of demand in Jan 2022. Alice Atin EVERY EVENING seeks to go to the land to cook and sell food to people in the neighbourhood. Rude boy Bonaparte has forcefully taken over Mulunji's apartment (6) on the land, lives in one and has let out the rest and carries UGX 400,00 per month from each.

Issues.

1. Whether Mulunji can lawfully evict the parties on his land.
2. Whether Mulunji can recover for the rent arrears on the other money he would have earned from the occupation in the circumstances.
3. What is the forum, procedure and necessary document for recovery of the money owing and to lawfully evict parties in the circumstances.
4. Whether Mulunji can convert the land from lease hold to freehold.
5. What is the procedure and necessary documents to successfully convert the land from leasehold to freehold.

ISSUE 1.

Refer to notes on licences and periodic tenants.

Issue 2.

Mulunji can distress for rent in arrears and also recover mesne profits from Bonaparte.

Refer to notes under Distress for rent and notes on mesne profits.

Issue 3

Necessary documents.

P.O.BOX 7117, KAMPALA

UGANDA

23rd November, 2022

Our Ref: KK/AJL/60/18A.

THE MANAGING MANAGER

MTN (U) LTD.

Dear madam,

NOTICE OF TERMINATION OF LICENCE.

Reference is made to the above.

We act for and on behalf of MUKAMA MULUNJI our client on whose instructions we address you as follows.

That you entered into an agreement with our client on the 23rd of September 2022 permitting you to construct a Kiosk on his land comprised in LVR 151 FALIO 13 PLOT59 Martin Road Kampala.

That whereas you have not breached the agreement our client is desirous of developing the land and thus involves clause 12 of the agreement which allows either party to terminate the agreement with a 3 months written notice to the other of the termination.

This is to inform you therefore that our client will terminate the agreement within 3 months from the date of receipt of this notice.

Yours

SUI GENERIS (PARTNER)

SUI GENERIS & CO ADVOCATES.

EASEMENTS

Mugambwa at pg 129 defines an easement as a right attached to a particular piece of land that either the owner of that land either to use the land of another person in a particular manner or to restrict that other persons' use of his/her land to a certain extent.

- The land to which the right is attached is the dominate.
- The land over which the right is exercised is the serviette land.
- An easement is an interest in land subject to the principle of indefeasibility and is enforceable against any proprietor of the serviette land.

ESSENTIAL FEATURES.

- 3) Right granted must be within the general nature of right capable of existing as easements e.g. right of which to light, to support, and to water.

CREATION OF EASEMENTS.

Easements may be created by:

- Statute
- Express grant or
- Reservation
- Implied reservation

By statute.

A statute may authorize a public authority to create easements for carrying out their activities. These need not have all essential requirements.

By express grant or reservation.

The owner of the servient land either orally or writing grants the easement say a right of way to the owner of a dominant land.

By implied grant or reservation.

Where a land owner grants part of his/her land to another person, the court will readily imply an intention to grant that other person all 'quasi-easements' pertaining to the land. In *Shah Champshi Tejshi & ors V A.G of Kenya* (1959) EA 630 a quasi-easement was defined as a continuous and apparent easement necessary to the reasonable enjoyment of the land and is at the time of the grant used by the land owner for the benefit of that part.

It will arise in a number of instances. In *Barclays Bank D.CO. V Patel* (1970) EA 88 the court held that the easement of way of necessity arises by operation of law and is not created by the parties. It will arise where a land owner grants part of his or her land to another and the latter has no legally enforceable means of access to the land then an easement of way of necessity arises by operation of law over the land retained.

An easement of necessity will not arise where;

- 1) As was stated in *Melemon V Connor* (1907) 9 WALR 141 where there is an alternative means of access that is practically available to the claimant as a matter of right. The fact that access is inconvenient, e.g. because it is unsuitable for cars or entails traveling long distances in order to get to a public road, does not entitle the grantee to a way of necessity over the grantor's land.

S.62(3) of the Road Act mandates that the order should only be made upon the owner of the serviette land being adequately compensated.

S.62(4) of the same Act, provides that the application shall be in the manner prescribed in the regulations however these are not yet in place so.

Registration of easements

There is no express provision requiring the registration of easements. S.60 of RTA stipulates that a statement in a certificate of title that a person name in the certificate is entitled to an easement shall be conclusive evidence the he or she is entitled.

Therefore easements are entered on the register by endorsing their existence on both the title of the dominant land and serviette land.

However under S.64(2) of RTA registration/ endorsement makes no difference because the section states that easements created by enjoyment or user or subsisting over or upon any land constitutes an exception to indefeasibility.

Extinguishment of easements.

An easement maybe extinguished by:-

- (1) Express agreement of the parties where the owner of the dominant land expressly releases the serviette land from the easement. *Waterloo V Bacon* (1866) LR2 EQ.
- (2) By merger where the dominant and serviette can come into a common ownership and occupation, the easements affecting the land are merged and extinguished. *Buckby V Coles* (1814) 5 taunt 311.
- (3) By abandonment by the dominant owner. *James V Stevenson* (1893) AC 167. The abandonment may be expressly but often its implied from the acts or omissions of the beneficiary.

Profits a prendre

A profit or prendre confers a right to enter another's land to take something off the land. *Duke of Sutherland V Heath Coke* (1892) 1 CH 475. The right must related to something comprising part of the land, such as gravel and sand or things growing on the land, such as timber and grass. A right to catch fish or hurt may also constitute a profit of prendre.

A profit of prendre unlike an easement may be granted in gross. While there always must be a serviette land, there need not be a dominant land. *Staffordshire & Woreestershire Canal Navigation V Bradley* (1912) 1 CH 91.

COMPULSORY LAND ACQUISITION.

Art . 237(1) provides that all land in Uganda belongs to the citizens of Uganda and shall vest in their in accordance with the land tenure systems.

Art. 26(1) guarantees every person's right to own property either individually or in association with others.

However Art. 26(1) is not an absolute right as was held in the case of *Uganda National Roads Authority v. Asuman Irumba & Anor*, const. App No.7 of 2014 which the supreme court emphasized that it can be derogated however the derogation must be inwith the constitution and other laws in place.

One instance where the right to own property may be derogated is where government or a local government compulsorily acquires the land under Article 237(2)(a). Art 237(2)(a). grants the government or local government subject to S.26 of the constitution to acquire land in the public interest and the conditions governing such acquisition as prescribed by an Act of parliament.

Under Art. 26(2), the property compulsorily acquired must be acquired for public use or in the interest of defence, public safety, public order, public morality or public health.

Further under Art. 26(2)(b), the compulsory acquisition must be made under a law which makes provision for prompt payment of fair adequate compensation prior to the taking of possession or acquisition of the property.

In the case of *Uganda National Roads, Authority Asuman Irumba & Anor*, the supreme court held that S.7 of the land Acquisition Act which allowed for the government to compulsorily acquire land and pay lease was unconstitutional as it violated Art 26(2) (b) of the constitution. The compensation must come prior to the acquisition and must be adequate. For it to be adequate it must place the person on the same foits as before or even better but not worse off than they were.

Procedure for compulsory land Acquisition.

The procedure is provided for under the land Acquisition Act however the same must be read in hibe with the constitution under Art. 274

- (1) The minister authorizes any person to enter upon the land identified for purposes of surveying and any other thing necessary to ascertain the suitability of the land for the intended public use. (S.2(1)). The phrase public use was defined in the case of *B.P.Bhatt abd Anor V Habib Versi (1958)EA 536*.

A willing purchaser is one who although he may be a speculator, is not a wild or unreasonable speculator.

(6) Taking possession.

The government may take possession of the land having paid the compensation to the affected persons and this is under S.7 of the land Acquisition Act which must be real subject to the constitution under Art. 274 as was held by the supreme court in the case of UNRA V Asuman Iumba and Anor.

Upon taking possession, the assessment officer must take possession of the land as soon as possible receive the duplicate certificates of title and the declaration relating to the land and send the same with an endorsement on the certificate that they have taken possession of the land to the land registry S.7(3).

The registrar must upon receipt of the endorsement effect the change of proprietorship in the register S.7(4).

Remedies Available to persons whose land has been compulsorily Acquired.

- (1) Prior, adequate and fair compensation which may be momentary or in form of resettlement.
- (2) Court action for damages where the land is compulsorily acquired without prior adequate and fair compensation.

ADVERSE POSSESSION

At common law, as was stated in the case of Asher V Whitlock (1865) LR1QBI. The court further stated that a person who is in possession has a title which is good against the whole even except a person with a better claim.

The acquisition is owing to the provisions of the limitation Act however the same

Under S.5 of the limitation Act, no person can make an entry or bring an action to recover land after the expiration of 12 years from the date the cause of action accrued to a land owner when a stranger entered into adverse possession of their land.

Upon lapse of 3 months and not more than 12 months, unless there a caveat forbidding the registrant the resistor must grant the application altogether or in part 5.83.

Under S.87 upon lapse of the time appointed in 83, the registrar if commenced the applicant has acquired title by possession will cancel the existing certificate of title and any other instrument entered therein and issue to the applicant a new certificate of title.



Dated this 28th day of November 2022.

Made and signed at Kampala by Mwebe Kassim.

MWEBE KASSIM

(APPLICANT)

In the presence of

SUI GENERIS

ADVOCATE.



Before me

COMMISSIONER FOR OATHS

Drawn by:

SUI GENERIS & CO ADVOCATES

P.O. BOX 7117 KAMPALA

UGANDA



Formal letter

**SUI GENERIS & CO ADVOCATE
P.O.BOX 7117,KAMPALA
UGANDA
28TH NOVEMBER, 2022**

Our Ref: KK/10/2022/AB

Yours Ref:

**THE REGISTRAR OF TITLES,
WAKISO MINISTERIAL ZONAL
OFFICE.**

Dear madam,

APPLICATION FOR A VESTING ORDER UNDER SECTION 167 OF THE RTA.

We make reference to the above.

We act for and on behalf of our client MUTWE KEZIRO on whose instructions we address you as follows:

That our client entered into an agreement of sale of land with Muganda Ronald the registered proprietor of the land comprised in Bulemezi Block 22 Plot No.19 Kalule.(attached is the agreement of sale.)

The sale agreement was in respect of the afore mention land and our client paid a purchase price of UGX 1000,000,000 in full consideration for the land.

That no transfer was signed in favour of our client because the duplicate certificate of title had been misplaced at the time of execution of the sale agreement.

That a month later, Muganda Ronald sent his to deliver to our client the duplicate certificate of the title and a message requiring our client to make arrangements to see him sign a transfer in respect of the land.

That unfortunately, before the transfer could be signed in his favour, Ronald died (attached is the copy of Ronald Muganda's death certificate.)

We therefore pray on behalf of our client that you issue a vesting order under section 167 of the RTA that the land comprised in Bulemezi Block 22 Plot No.19 at Kalule vests and be registered in our clients names.

Yours faithfully

SUI GENERIS (PARTNER)

SUI GENERIS &CO ADVOCATES

- Attach all the documates referred to in the letter and a duplicate certificate.
- Pay all the requisite fees

(7) The board approves and grants a minute number and forwards the same to the land office.

Fees payable.

Registration fees – UGX 10,000

Assurance – UGX 20,000

Issuance – UGX 20,000

FRAUD IN LAND TRANSACTIONS

Indefeasibility of title

This means that once a person is registered a proprietor of an estate or interest in land, the government guarantees that his or her title cannot be divested or attacked by rival claims to the land except as prescribed under the RTA.

The principle is enshrined under section 59,64 and 181 of the RTA.

The principle was intended to serve two purposes:-

1. To protect title of the registered proprietor from unregistered interests.
2. To save persons dealing with registered land from the trouble and expenses of going behind the register book in order to investigate the validity of the possible rival claims to the land, and thus simplify expedite the process of transfer.

In *Iwanga V The Registrar of Title, Misc-cause No.7A of 1977 (1980) HCB 24*, applicant's father brought the suit land but didn't effect transfer. A one Katumba through forgery which he was later convicted for transferred the land into his names and then to a one Salongo. The applicant sought to impeach Salongo's title. Odoki that Salongo was a bonafide purchaser for value, therefore under S.189 (now 181) his title couldn't be impeached or cancelled notwithstanding that he acquired his title from a fraudster. He further observed that of the paradoxes of registered conveyance is that the registration obtained by fraud is void. it is capable of becoming a good root of title to a bonafide purchase for value.

Exceptions to the principle of indefeasibility of title.

Pursuant to S.64 of RTA the act guarantees indefeasibility of title subject to the following except.

- a) Encumbrances notified on the folicum.

The exception through not founded in the Act is a judicial in road established in the case of *fraser V Walker* (1967) I AC 569 at 585. The pricy council stated that the principle of indefeasibility of title in no way denies the right of a plaintiff to bring against a registered proprietor a claim in personam founded in law or in equity, for such relief as a court acting in personam W/C grant.

In *Adonia V Mutekanga* (19700) EA 429 at 433 the East African court of Appeal stated that although the concept of the sanctity of the register runs through the Act, it is clear that the legislature intended to reserve to the high court the power to enforce fiduciary obligations.

According to Meggary and Wade, *Modern Law of Real Property*, P.113, a claim in personam is a personal obligation of legal or equitable nature assumed by a registered proprietor before or after registration of his or her title. Unlike a right in rem, which is enforceable against the world a right in personam is only enforceable against a person who was a party to the obligation.

In *Motty Turinawe and 4 Ors V Ephraim Turinawe S.C.C.A. No.10 of 2018*, the first respondent was an engineer with KCCA and was offered the option to purchase the KCC house he occupied. He did not have the money and entered into an agreement with the 2nd respondent in which the 2nd respondent bought the house through him. She paid to him 70million while the offer from KCC was for 52 million. The respondent paid for the house, had it transferred to him and he subsequently transferred to 2nd respondent. The appellant convinced a suit alleging the land was family land.

FRAUD

S.64 of RTA stipulates that the title of a registered proprietor is indefeasible except in case of fraud.

What is fraud?

Katureebe JSC in the case of *FJK Zaabwe V Orient Bank & 5 Ors S.C.C.A No.4 of 2006* defined fraud as an intentional perversion of truth for purposesanother in reliance upon it to part with.....things belonging to him or to surrender.....a false representation of a matter of fact,.....or by conduct, by false or misleading.....concealment of that which deceives and.....decieves another so that he shall actlegal injury.

Bad faith and fraud are synonymous and also synonymous unfairness e.t.c. fraud is distinguishable from negligency as it is always positive intentional. It comprises all acts, missions and concealments involving a breach of a legal or equitable duty and resulting in damage to another.

In *Kampala Bottlers Ltd V DamanicoLtd, S.CC.A No.22 of 1992*, Wambuzi, CJ stated that it is well established that fraud means actual fraud or some act of dishonesty.

Constructive fraud.

The registered proprietor is considered to have been constructive fraudulent per the decision in *Vivo energy (u) limited v shire petroleum company limited and 2 Ors H.C.C.S No.8 of 2016* if they had. Justice mubiru stated that constructive notice applies if a purchaser knows facts which made it imperative to seek an explanation because in the absence of an explanation it was obvious that the transaction was probably improper.

The court further stated that, a purchaser is put on constructive notice where he/she required knowledge of circumstances which would put an honest and reasonable man on inquiry and yet he/she did not undertake the necessary inquiries.

Where a person wilfully abstain from inquiry to void notice,. Such a person cannot claim to have acted in good faith. The fraud in such a case would be ascribed to them. In *David sejjaka nalim v Rebecca musoke. C.A No.12 of 1985*, court held inter alia that if it is shown that a purchaser's suspicions were aroused and that he abstained from making inquiries for fear of leaning the truth, the case is very different and fraud may be properly ascribed to him.

In *Nabanoba Desiranta and Anor Kayiwa Joseph Anor H.C.C.S No.496 of 2005* cited in *Mudiima Isa and 5 Ors v Elly Kayanja and 2 Ors, Opio Aweri J* stated that as the law stands a person who purchases an estate which he knows to be in occupation of another person other than the venter is not a bonafide purchaser without notice. He further held that the defendants failed to make reasonable inquiries of the persons in possession and as such their ignorance or negligence formed particulars of fraud.

Okello JA in *Sir John Bageire v Ausi Matovu CA No.07 of 1996* at page 2B, emphasized the value of land and the need for thorough investigations before purchase and he held that lands are not vegetables that are bought from unknown sellers. Lands are valuable properties and buyers are expected to make thorough investigations not only of the land but of the sellers before purchase.

Imputed fraud.

Justice mubiru in *Vivo energy (u) limited v shire petroleum company limited and 2 Ors (supra)* stated that at common law, imputation charges a principal with the legal consequences of knowledge of a fact known by an agent when knowledge of the fact is material to the agent's duties to the principal and the principal's legal relations with 3rd parties. The knowledge of the agent in handling the transaction, whether actual or constructive is imputed to the principal. Therefore the actual or constructive fraud of an agent is imputed on the principal.

The registered proprietor must be party or privy to the fraud.

Registered interest. (doctrine is only a defence)

Under S.181 of RTA the doctrine of bonafide purchaser is only a defence and not a remedy in an action of ejectment or an action for recovery of damages on grounds of fraud or error. In *ndimwibo sande and 3 ors v allen peace ampaire C.A.C.A No.65 of 2011*, the respondent sought to rely on the doctrine of bonafide purchaser as an equitable relief. The respondent instituted a suit for trespass and breach of contract. The appellant contended that the suit land was part of her late father's estate and Nantandu had only fraudulently held out as the owner when she sold the land to the respondent. The respondent contended that she was a bonafide purchaser in good faith without notice of the fraud of the Kibanja, the suit land having purchased the same from Nantunda. The court of appeal held that: "it appears clearly to us that the doctrine of bonafide purchaser for value without notice is a statutory defence available only to the person registered as proprietor under the RTA. it is not an equitable remedy although its history stems from the common law. it would not even qualify as a remedy for it is only a defence, by a person registered as proprietor under the RTA".

In *hannington njuki v william nyanzi h.c.c.s no. 434/ 1996*, the court held that for a purchaser to successfully rely on the defence of bonafide purchaser he or she must inter alia prove that he or she holds a certificate of title since the defence is a statutory defence under the RTA.

Interest was acquired for a valuable consideration

The purchaser must have paid valuable consideration for the land and not one who received the land as a result of the operation of the law e.g. through interest succession. The consideration may be monetary or in money's worth and there is no requirement for such consideration to be adequate. S.181 of RTA only applies to save the innocent buyer from loss on the theory that the purchaser has given quid pro quo in reliance upon an ostensibly perfect title and he should be protected insofar as he/she has paid.

In *sekabanja v sajjabi (1983) hcb 54*, court held that a registered proprietor who acquires title by way of a gift (volunteer) isn't a bonafide purchaser for value and therefore his title is not protected under S.184 (now 181) of the RTA.

In *Gabriel Rugambwa and anor v ezironi Bintu bwambale*,²⁶⁵ court defined a purchase to mean to buy and there must be an exchange of money. A person cannot acquire land as a gift or through inheritance and seek protection of a bonafide purchaser.

²⁶⁵ HCCS 359 (1992)

Plaint on fraudulent transfer of land.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL SUIT NO 28OF 2020**

MYA ACHENG.....PLAINTIFF

VERSUS

**1. THE EXECUTRIX OF THE
ESTATE OF THE LATE MOSES
KONGOLE**

2. COMMISSIONER

LAND REGISTRATION.....DEFENDANTS

PLAINT

1. The plaintiff is a female adult Ugandan of sound mind whose address of service for purpose of this suit shall be SUI GENERIS & CO ADVOCATE, P.O.BOX. 7117, KAMPALA.
2. The first defendant is the executrix of the will of the late Moses Kongole and the plaintiff and her advocates undertake to effect court process on her.
3. The second defendant is an officer of government charged with the powers and responsibility to maintain and effect changes on the land register and is being sued in that capacity.
4. The plaintiff's claim against the defendants jointly and or severally is for:
 - a) A declaration that the purported transfer of the land comprised in Kydondo Block 244 Plot no. 367 at Muyenga to the first defendant is ruel and void for fraud.
 - b) A declaration that the plaintiff is the rightful owner of the suit land.
 - c) An order of cancellation against the second defendant ordering the second defendant to cancel the first defendant's name on the certificate of title.

- b) In the transfer of consent, the deceased declared the value of the suit land as being UGX 200,000,000 yet the suit property is valued at UGX 950,000,000
 - c) In the transfer from the deceased stated that there were no developments on the land yet the plaintiff had at the time erected a two storeyed house on the land.
 - d) When the defendant was informed that the plaintiff had an interest in the suit property, she ignored the same, went on to obtain probate and cause a transfer to herself as executrix.
8. The plaintiff avers that as a result of the actions of the defendant stated above, she has suffered great inconvenience and mental anguish.
9. The plaintiff issued a notice of intention to sue but the defendant refused to give it heed.
10. The cause of action across in Kampala, within the jurisdiction of this honourable court..

WHEREFORE, the plaintiff shall pray for that judgement be entered in her favour against the Defendant for:-

- a) A declaration that the plaintiff's is the legal and the rightful owner of the land comprised in Kyandodo Block 244 plot no. 367 Muyenga.
- b) A declaration that the defendant fraudulently obtained the title.
- c) Cancellation of the certificate of title of land comprised in Kyandodo block. 244 plot no.367.
- d) An order directing the commissioner land registration to reinstate the plaintiff as the registered proprietor on the certificate of title of the suit land.
- e) General damages.
- f) Costs of the suit.

Dated at Kampala on this 28th day of January 2020.

M/S SUI GENERIS & CO ADVOCATES.

COUSEL FOR THE PLAINTIFF.

Drawn & filed by:

Summary of evidence.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL SUIT NO 28 OF 2020.**

MYA ACHENG.....PLAINTIFF

VERSUS

HARRIET BOBONE.....DEFENDANT

Summary of evidence

The plaintiff shall at the trial adduce both oral and other evidence to prove that the suit land belongs to her and does not form part of the estate of the late Moses Kongole's estate and that the same has been fraudulently and illegally transferred into the names of the defendant.

The plaintiff shall further prove that the defendant without any lawful justification denied the plaintiff the suit land.

List of witness

1. The plaintiff
2. Any other witness with leave of court.

List of documents

1. Transfer deed
2. Certificate of title.
3. Any other with leave of court.

List of Authorities.

1. The 1995 constitution of the republic of Uganda.
2. The registration of the title Act Cap. 230.
3. The land Act Cap 227.
4. The succession Act Cap.
5. Any other authority with leave of court.

Dated at KAMPALA on this 28th day of January 2020.

FUNCTION AND GENERAL POWERS OF THE COMMISSIONER FOR LAND REGISTRATION



Appointment

The CLR is appointed pursuant to S.3(1) of the Registration of titles Act.

Functions of the CLR

- 1) Under S.3(1) of RTA, the CLR has the charge and control of the office of title (registry)
- 2) Under S.37(1) of the RTA, the CLR is charged with the maintenance of the register book. This entails, making entries and cancellations on the Register book.

General power of the CLR

- 1) Power to call for duplicate certificate of title.

Under S.73 of the RTA, the CLR may for purposes of rectifying or cancelling any certificate or where the original is lost or obliterated call on the person in possession of the duplicate to produce it.

- 2) Power to issue vesting orders pursuant to S.78 where a party has acquired a resistible interest by adverse possession and under S.167 where there is a complete purchase but transfer has not been effected because the transferor is dead or cannot be found.
- 3) Power to lodge a caveat on behalf of government or a person who is under disability or absent from the country to prohibit registration of any transaction affecting land that belongs to that person or appears to belong or belongs to government under S.170(a) of the RTA.
- 4) Power to correct errors.

The CLR under S.91(4) of land Act (As amended) has the power to correct errors in the register book or in the entries made in it or errors in the duplicate certificates or instruments.

- 5) Power to cancel certificates of titles

Pursuant to S.69 of the RTA (old law) the CLR had power to cancel certificates of title on grounds of error, illegality, fraud and wrongful description

Under S.38 of RTA, the CLR issues certificates of title for land brought under the operation of Act, under S.70, the CLR is empowered to issue special certificates where the duplicate is lost or obliterated. Under S.72, CLR is empowered to issue substituted certificates of title where the original is missing.

REPLACEMENT OF CERTIFICATES OF TITLE

Duplicate certificate

Under S.70 of RTA, where a duplicate certificate of title is lost or destroyed or becomes so obliterated as to be useless, a person can apply to CLR to have a special certificate issued in the place of the duplicate certificate.

The special certificate must contain an exact copy of the certificate of title in the register book and of every memorandum and endorsement on it.

The certificate must also contain a reason why a special certificate was issued.

The CLR must also notify in the register book the issuing of the special certificate and the date of issuance and why it was issued.

Effect of special certificate

Under S.70 of RTA, the special certificate of title is available for all purpose and uses for which the duplicate certificate of title which is lost destroyed or obliterated would have been available.

In *konde Mathias Zimula V Byarugaba Moses & Anor HCCS . No66 of 2007*, court stated that in view of S.70 of RTA, once a special certificate of title is issued on application by the registered proprietor, it becomes a replacement for the lost or destroyed certificate of title is found, the registered proprietor must seek its reinstatement and the CLR must call for the surrender of the special certificate for purposes of cancellation.

Process of acquisition of a special certificate of title

- (1) Draft a formal letter to the CLR requesting for issuance of a special certificate of title with the reasons clearly indicated e.g. lost or obliterated.
- (2) Depone an SD affirming the facts stated in the letter.
- (3) Pay the necessary fees i.e registration fees of UGX 15,000 UGX 10,000 as stamp duty,UGX 5,000 for the application and 5,000 for the SD.
- (4) Present the documents to the MZO office where the land is situate. The documents must all have photo copies and these are presented with the originals together with to passport photographs.

**TO THE COMMISSION LAND REGISTRATION
MINISTRY OF LANDS,HOUSING AND URBAN
DEVELOPMENT-CENTURY BUILDING.**

P.O.BOX 7096 KAMPALA

Dear sir,

**RE: APPLICATION FOR A SPECIAL CERTIFICATE OF TITLE FOR LAND
COMPRISED IN KIBUGA BLOCK 3 PLOT NO. 142 SITUATE AT MENGO.**

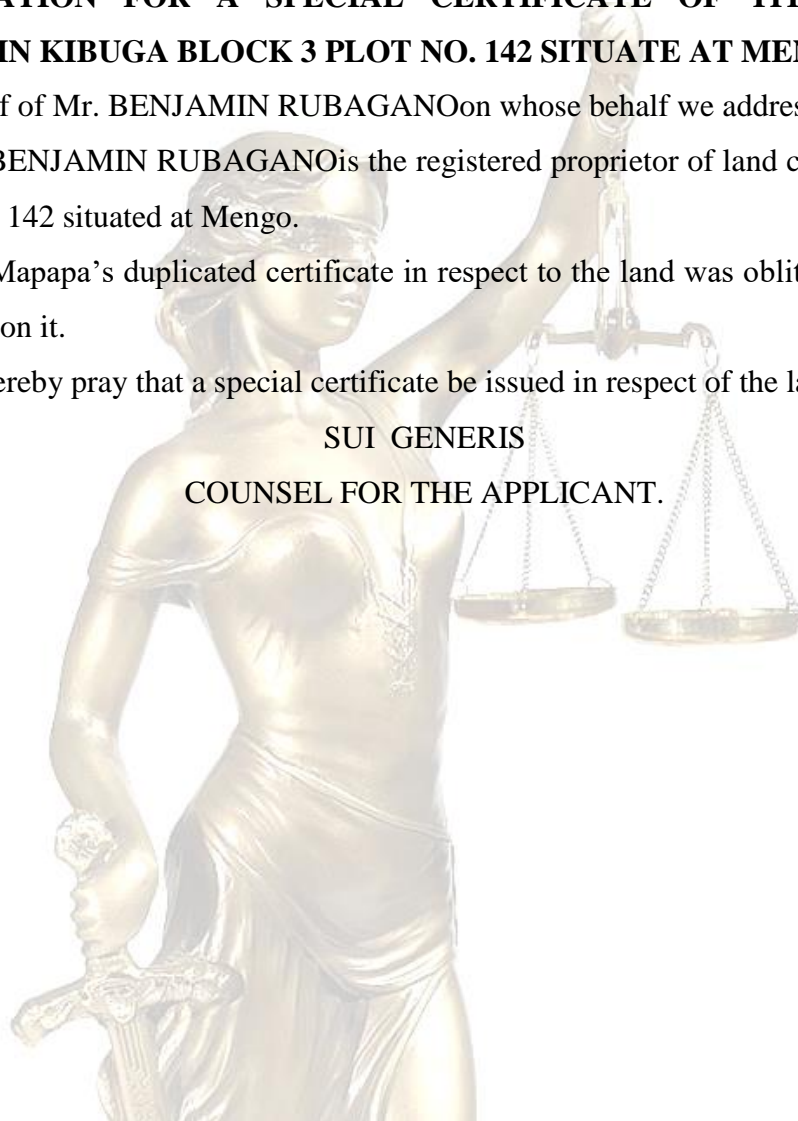
We act on behalf of Mr. BENJAMIN RUBAGANO on whose behalf we address you as follows.

Our client Mr. BENJAMIN RUBAGANO is the registered proprietor of land comprised in Kibuga Block 3 plot no. 142 situated at Mengo.

Mr. Dominiko Mapapa's duplicated certificate in respect to the land was obliterated as a result of Kwette pouring on it.

We therefore, hereby pray that a special certificate be issued in respect of the land.

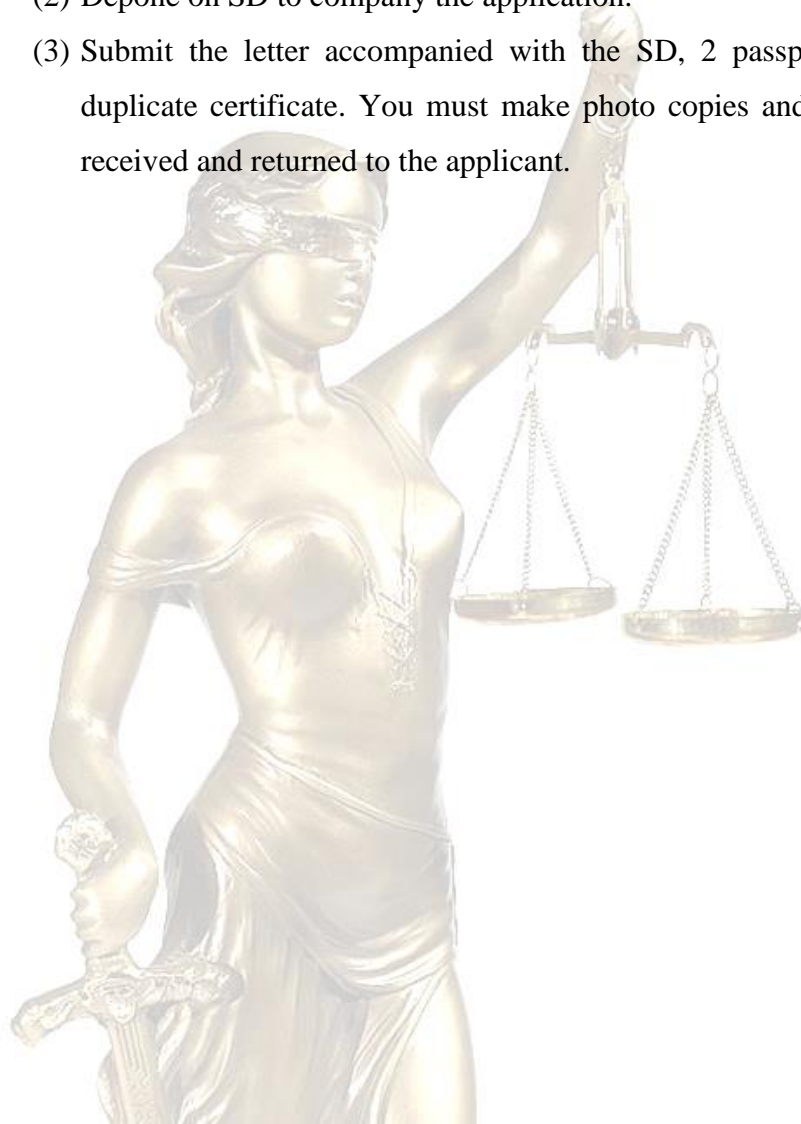
**SUI GENERIS
COUNSEL FOR THE APPLICANT.**



The copy must then be bound up in the Register book from the day when its signed and used in place of the original for purposes of dealings.

Procedure for notifying CLR of lost, obliterated or destroyed original.

- (1) A formal letter notifying the CLR that the original certificate of title was obliterated, destroyed or is lost and that a copy be made.
- (2) Depone on SD to company the application.
- (3) Submit the letter accompanied with the SD, 2 passport photos and the duplicate certificate. You must make photo copies and these are stamped received and returned to the applicant.



- h) The address at which documents are to be served on the relevant corporation.

Under regulation 6 of the condominium property Regulations 2002 (AS amended) S.1 NO. 29 of 2002, the plan must be drawn in waterproof ink, on tracing paper or polyester film or such other material that is of a size and nature as prescribed by the commissioner for survey.

What must accompany the plan.

Pursuant to S. 11(1) of CPA, the plan must be accompanied by:

- a) A certificate of a registered surveyor or to the effect that the structure shown on the plan is within the external surface boundaries of the parcel which is the subject of the plan and if there are projections beyond those external boundaries that an appropriate easement has been granted as an appurtenance of the parcel.
- b) A certificate of a local authority to the effect that the proposed division of the local authority is in accordance with any enactment regulating building construction.

Where the condominium plan relates to building or structure that is to be brought under the operation of the Act the plan must be accompanied by a certificate of an architect registered under the Architects registration Act to the effect that the units indicated in the plan correlate with the existing structure.

Rights of the unit owners

Common property.

All unit owners have a right to the common property which they hold as tenants in common in shares proportional to the unit factors for their respective units. S.79(2) of CPA.

S.2 of the CPA defines common property to mean that part of the condominium property which does not belong to any specific unit and includes but is not limited to the land on which the property is situated, support structures, infrastructure and services.

Easements.

Under S.16 of CPA, every unit owner, upon registration of a condominium plan has in their favour:

- a) An easement of the subjacent and lateral support of the unit by the common property and by every other unit capable of affording support.
- b) An easement for the shelter of the unit by the common property and by every other unit capable of affording shelter.
- c) An easement for the passage or provision of water sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services.

Under S.28(2) of CPA, the first annual general meeting of the owner is to be called within 3 months after the election of the board.

The board referred to in S.28 is constituted under S.27 and must be within:-

- a. 90 days after the day that 50% of the units are sold.
- b. 180 days after the day that the first unit is sold.

Whichever's sooner.

The meeting of the corporation appointing a board is commenced by the developer.

Termination of condominium status property.

The status may be terminated in two instances:-

1. Under S.48(1) of CPA, the status may be terminated by a unanimous resolution. S.2 of CPA defines a unanimous resolution as a resolution supported by all owners of units.
2. Status may also be terminated under S.48(2) where the corporation or an owner of a unit registered charge of a unit or a purchaser under an agreement for sale of a unit makes an application to court to have the condominium status of the property terminated.

Priority to sitting tenants.

In *Niwagaba & for Ors V Owners of condominium plan No.0026*.

In *Kampala District Land Board & clvermried distributors V National Housing and construction corporation S.C.CA No.2 of 2004* court held that sitting tenants should be given the first priority to buy land if it is being sold. Power of corporation to evict unit owner.

In *York condominium corporation No. 137 V Hayes*, the court declined to order a violent owner to sell her unit, stating that such an order should be reserved for most egregious cases. In this case, the unit owner engaged in physical assaults, verbal abuse, threats and intimidation against other unit owners.

In *Ismail Jaffer Allibhai & 2 Ors v Nandlal Harjivan Karia & Anor*, SCCA no. 53 of 1995, the Supreme Court stated that since in equity property at once belongs to the purchaser, the risk also passes to him/her at once. Thus if a house has been sold and is, without fault of the vendor destroyed by fire before completion the purchaser must nevertheless pay the full purchase money and take the land as is.

2. The vendor as trustee.

As between the parties to it, the contract creates a relationship of trustee and beneficiary though it is one which does not have all the incidents normally associated with a trust.

In *Hysaght v Edwards*, the court stated that the vendor is said to be a trustee for the purchaser and the purchaser is regarded as the beneficial owner at least for the purpose of disposition. *Ismail Jaffer Allibhai & 2 Ors v Nandlal Harjivan Karia & Anor* SCCA no 53 of 1995.

In *Sharif Osman v Haji Haruna Mulangwa*, SCCA no.38 of 1995, the appellant was the registered proprietor of the suit property, he entered into a sale agreement by which he sold to the respondent the suit property at an agreed price of US\$ 12,000. The respondent paid US\$ 3,000 on execution and the balance was payable before 15th April 1990. The respondent failed to pay the whole balance before the stipulated time. In relation to the vendor being a trustee, the court stated that "it is at the moment you have a valid contract for sale, the vendor becomes in equity a trustee for the purchaser of the Estate sold, and the beneficial ownership passes to the purchaser, the vendor having a right to the purchaser money a charge or lien on the Estate for the security of the purchaser – money paid, in the absence of express act as to the time of delivering possession.

Where time is of the essence.

In *Sharif Osman v Haji Haruna Mulangwa*, SCCA no. 38 of 1995, the court stated that the principles at common law and in equity is that, in the absence of a contrary intention, time is essential, even though it has not been expressly made for by the parties. Performance must be completed upon the precise date specified otherwise an action lies for breach.

Court further stated that in equity, time is essential where:-

- (1) The parties expressly stipulated in the contract that it shall be so.
- (2) If, in a case where one party has been guilty of undue delay, he is notified by the other that unless performance is completed within a reasonable time, the contract will be regarded as broken.

MORTGAGES

Documents to be on file.

Company

- Resolution to borrow
- Power of attorney
- Search result from company Reg.
- Certificate of incorporation.
- Particulars of Directors (form 20 of company Act)
- Individual
- Marriage certificate/SD.

GENERAL

- Search at land Reg (search certificate)
- Credit worthiness. (credit references bureau report)
- Feasibility report
- Boundary opening report.
- Valuation report.
- Duly executed mortgage deed.
- Loan after letter
- Guarantorship undertaking duly signed.
- ID's of borrowers and guarantors
- Photographs of borrowers
- Receipt of payment of stamp duty.

Right of a mortgagor / remedies.

- Discharge of mortgage upon repayment (S.14)
- Right of redemption
- Residue on the sale of mortgaged property.

proper execution and affectation

General parts v NPART should be in latin character

Econ construction & engineering Ltd v Gino Commercial Bank Ltd & Anor (2003) EA 426. An execution of a mortgage by a company entails, sealing the mortgage in the presence of a qualified witness when a company executes a document it cannot witness itself.

Payment of stamp duty

S.2 of stamp Act. In Juma v Habib (1978) EA 128 of mortgage deed is an instrument liable for stamp duty of failure to pay stamp duty renders the deed inadmissible

Registration of deed under RTA.

S.34 (4) of the MA & S.54 & 59 of RTA

Registration of the charge at the company Registry.

S.105 of the companies Act. This should be within 42 days

Procedure for Registration

1. Payment of stamp duty
2. Lodgment at the land registry
3. Payment of Registration fees & perusal fees
4. Mortgage entered on the encumbrance page of the title as an encumbrance

Mortgaging matrimonial property

s.39 of land Act, prohibits the mortgaging or pledging of any family land without the consent of the spouse.

s.5(1) of the mortgage Act, 2009 requires that before matrimonial property is mortgaged, the document used for the mortgage should be signed by the mortgager & the spouse residing in that matrimonial home which would amount to consent.

s.5 (2) (a) further imputes an obligation on the mortgage to take reasonable steps to ascertain whether an intending mortgagor is married & whether the property to be mortgaged

under s.5(3), the duty is discharged if the mortgage obtains a marriage certificate issued in accordance with the laws of Uganda & in the absence of it, a statutory declaration from the spouse or spouses of the mortgagor as proof of marriage

Pursuant to S.6 99(1) of the Mortgage Act, the Mortgage must satisfy themselves that the consent of a spouse referred to in section 5 is an informed & genuine consent

The memorandum as per S.12(5) must be endorsed or annexed to the mortgage instrument & operates to vary the mortgage in accordance with the terms of the memorandum.

The memo must be registered and thus in case of an increase stamp duty must be paid on the increment which is 0.051 of the increment

Registration fees must also be paid

c) variation of term /currency

This is pursuant to S.12(3) & is effected by execution of memo stating the new term or currency & must be signed by the current mortgagor and by the mortgagee.

d) variation of covenants, conditions and powers

the variation should not impose any significant greater burdens on the borrower than those set out in S.17 by a memo which is signed by the current mortgagor where mortgagee diverts from terms
remedy for mortgagor where mortgagee diverts from terms
review of the terms

under s.34 of the mortgage Act, court has the power to review certain mortgages on the application by the persons stated in S.35

S.35 (1) lists, the mortgagor or mortgagee, spouse or mortgagor, trustee in bankruptcy, receiver or liquidator of the mortgagee or by a surety

Relief from foreclosure

Guarantor

S.68 of the contracts defines a contract of guarantee to mean a contract to perform a promise or to discharge the liability of a 3rd party in the case of default of the 3rd party which may be oral or written
Under s.70 of CA, it is to the effect that anything done or any promise made for the benefit of a principal debtor may be sufficient consideration to a guarantor to give a guarantee

Extent of liability

As per S.71 (1) of the CA, the liability of a guarantor shall be to the extent to which a principal debtor is liable unless otherwise provided by a contract.

s.7 (12) further states that the liability of a guarantor takes effect upon default by the principal debtor in *Bank of Uganda v Banco Arab Espanol SCCA No.23 of 2000*, court held that once a principal debtor defaults, the guarantor has a duty

rights of a guarantor

under S.81, where a guarantor as a result of default by the principal debtor, performs the debtor's obligation, the guarantor assumes all rights which the creditor has against the principal

Remedies.

These are provided for under S.20 of MA.

Appointment of a receiver.

S.2 of MA defines a receiver to mean a receiver, or a manager, or a receiver and a manager in respect of any land, and includes any person appointed as a receiver.

Under S.22(1) of MA, it is implied in every mortgage that the mortgagee has power to appoint a receiver of the income of mortgaged land.

A notice of 15 working days must be given to the mortgagor before appointment of a receiver as per S.22(2) of MA.

The appointment of a receiver must be in writing signed by the mortgagee. (S.22(3)). In *Grindsley Bank V Edward Boaz*, the court emphasized that the instrument of appointment of a receiver must be signed by the mortgagee and no other person. In this case it was signed by the mortgagee's lawyer, the court found the appointment of a receiver null and void.

The receiver as per S.22(6) of MA is deemed to be an agent of the mortgagor.

The receiver pursuant to s.22(7) has the power to demand and recover all the income in respect to which he or she was appointed receiver.

The receiver disburses the monies received in the order of priority as laid down in S.22(9) of the MA.

Mortgagee's action for money secured by the mortgage.

This is provided for under s.21 of the MA.

Mortgagee's power of leasing

S.23(1) stipulates that unless otherwise provided in the mortgage deed, a mortgagee can grant a lease in respect of the mortgaged land or any part of it.

Before leasing however, the mortgagee must pursuant to S.23(2) of the MA serve a notice on the mortgagor of at least 15 working days.

Under S.23(3), the lease must reserve the best rent that can reasonably be obtained having regard to the circumstances of the case, be for a term not exceeding 15 years or the length of the term of the mortgage which ever is the shorter.

Entering into possession of the mortgaged land

Pursuant to S.24(1) of MA, after serving a notice of 5 working days, the mortgagee may enter into possession of the whole or a part of the mortgaged land.

Valuation of property.

Under Reg. 11(1) of Mortgage Regulations, the mortgagee must before selling the property to ascertain the current market value & the forced sale value.

Under sub Reg. 2, the valuation report should not be made more than 6 months before the date of sale

Deposit by purchaser

Under Reg. 14 (1) the person declared purchaser on the fall of the hammer must within one working day pay a deposit of at least 30% of the purchase amount should they default the property must be resold (Reg.19(2))

The balance upon payment of the deposit should be paid within 21 working days (14(3))

Failure to pay within the 21 working days the property may be resold to the second highest bidder or re advertised.

Transfer of property after sale

Upon payment of the full purchase price, the mortgagee must execute instruments of transfer of the property in the name of the purchaser or the person named purchaser (Reg.15)

Mere irregularities in conducting the sale by public auction do not vitiate the sale. (Reg.16)

Protection of the purchaser

Under s.29 of the MA, the purchaser is protected

Remedies of Equitable Mortgages

In *Bardays Bank (u) Ltd v North cote & Anor* HCCS No.1467 of 1974, the court held that the difference between an equitable mortgage and a legal mortgage may realize his security under a mortgage by exercising most of the statutory powers conferred upon him without recourse to the courts, an equitable mortgage must apply to the courts for exercise of any of these powers

NATURE OF MORTGAGES

s.8 (1) (2) & (3) of MA

In *erisa wamala v musa musoke* (1920) 3 ULR 120 court held that a mortgage is always security and not a transfer. A provision that property would revert to lender when certain event occurs is void

In *muhindo enterprises v Greenland Bank* HCCS No.125 of 1987, court held that a mortgage is a mere security for payment of a debt and does not operate as a transfer

Legal mortgages

Originating summons

THE REPUBLIC OF UGANDA
THE HIGH COURT OF UGANDA AT KAMPLA
(COMMERCIAL DIVISION)
CIVIL SUIT NO. (A.S) OF 2020
IN THE MATTER OF KIBUGA BLOCK 9 PLOT 698 AT KAGUGUBE
AND
IN THE MAATTER OF AN EQUITABLE MORTGAGE OVER THE ABOVE
PROPERTIES IN FAVOUR OF M/S BAACLAYS BANK
AND
IN THE MATTER OF AN APPLICATION FOR FORECLOSURE
AND SALE OF THE MORTGAGED PROPERTY
BETWEEN
BARCLAYS BANK (U)L.T.D
.....**PLAINTIFF(MORGAGEE)**
VERSUS
PETER JJEMBA KAGGWA
.....**DEFENDANT (MORTGAGED)**
ORIGINAL SUMMONS
(under section 3(5) of he mortgage Act, 20099, and 0.34 r 4 of the CPR)
TO THE DEFENDANT

Whereas the above property was by way of deposit of the duplicate of the title mortgaged to Barclays v peter jjemba kaggwa the registered proprietor of the said property

And where as the said Barclays did not lodge a caveat on the above property and on the above basis hereby does apply to this honourable court for determination of the following questions namely :

- i. Whether the defendant /mortgage having failed in spite of repeated demands to pay to the plaintiff the sums advanced by Barclays Bank which as of 6th March 2020 stood at Ug.500,000,000 should be foreclosed of its rights to redeem the mortgaged property.
- ii. Whether the plaintiff should be permitted to sell the mortgaged land upon foreclosure in accordance with the law.
- iii. What other remedies are available to the plaintiff, if any in the circumstances of the case.

EXPROPRIATED PROPERTIES

What is expropriated property?

S.2 of the expropriated properties act definition expropriated properties to include:-

Any property or business which was:

- a) Vested in the government and transferred to the departed Asians property custodian Board under the Assets of department Asians Act.
- b) Acquired by the government under the properties and businesses (acquisition) decree 1973.
- c) In any other way appropriated or taken of by the military regime except property which have been affected by the provision of the repealed National Trust DECREE, 1971.

In *Onapa v Punjani* (1995-98)2 EA 266, KCC granted to the respondent a 3 year lease over a plot for purposes of constructing a house thereon. The lease was to run up to 1st October 1972. The court was invited to decide whether the property was expropriated property and thus the expropriated properties Act applies. The supreme court held that the property affected must have been vested in the government when the lease agreement for a lease or any other specified tenancy was still in force. In the circumstance there was no lease or agreement for a lease to rest in government when the respondent left Uganda in February 1973 therefore the property did not fall under the operation of Act.

Who is a Deported Asian.

S.1(B) of the EPA defines departed Asia to mean any Asian who left Uganda on or after the 9TH day of August, 1972 in such manner as necessitated the taking over in public interest of any property or business or she left in Uganda.

Who is a former owner.

A former owner is defined under s.1(c) of EPA to mean and include any person who was either the registered owner or proprietor of any real or movable property in Uganda or was a share holder in a business or enterprise registered in Uganda and who was either expelled or forced to flee from Uganda during the period of the military regime or was in other way disposed of the property or business and any body who is the legal heir or successor of that person.

Legality of transactions in expropriated properties.

S.2(2)(a) of EPA nullified all purchase transfers and grants of any dealings of whatsoever kind in such properties.

S.12 of EPA deals with compensation. S.12(2) makes the owner of the property who reposses responsible for paying the value of any improvements on the property to the person who had effected such improvements

Objective of EPA

The objective was fundamentally to return the properties to th former owners. In mbale growers tea factory Ltd v Noorali Mohammed & Registrar of titles HCCS No.65 of 2005, court held that the EPA is a noble and laudable legislation enacted for rectification. It endeavors to put right a monstrous wrong committed against a section of property owners in Uganda by a notorious regime. In registerd trustees of Kampala institute v Departed Asians Property Board SecA No.21/93, platt JSC, held that the EPA aimed at returning property to owners

Restriction on transfer of repossed property

s.8 of the EPA provides that any reposed property couldnot be sold or otherwise disposed of without the written consent of the minister until after 5 years from the date of the transfer

in harking Manzoor v serwan singh Bahra HCCA No. 151/95, before acquiring a repossession certificate of defendant purported to sell his property to the p/f who Def couldnot have passed on good title to the p/f without the minister's consent. Court upheld the def's argument & held that the def hadnot reposed his legal interest & therefor could not pass on title he purported to sell.

Compensation for developments on land

s.12 of EPA deals with compensation. S.12(2) makes the owner of the property who repossesses responsible for paying the value of any improvements on the property to the person who effected such improvements

rule 8 of the EP (repossession and disposal)

regulations, 1983, stipulates that any person with an interest of whatever description in any property or busty affected by the Act other than a claim for repossession could within any 90 days for commencement of the Act lodged such claim with the verification committee by writing to the chairman

Under S.12 (1) &(3) of EPA, the government is liable to pay compensation to a person or body, which property or business had been transferred to any person or body for value & such property or business was returned to the former oner or otherwise dealt with in accordance with the EPA.

In *Moham Musisi Kiwanuka v Asha Chac...* C.A No.14 of 2002, court held that the appeal against the decision of the minister was not a judicial appeal. The challenges of the suit may be done in an ordinary civil suit

The appeal is therefore by way of ordinary plea to the High Court

Lapse of 30 days in which to appeal

In *Habre International Co. Ltd v Ebrahim Alarc Kassam*²⁶⁸, the court held that the power under the Act does not take away the H.C's original jurisdiction & the person can contest the minister's decision in the high court even after 30 days have elapsed

In *Mulwoza & brothers Ltd v N.shah* SCCA of 2010, Tumwesigye JSC held that:- "it would in my be a great injustice if the minister's decision had the effect taking away the right of ownership of land under the Act the affected party could not bring an action in court to contest it because 30 days had elapsed. This couldn't been the intention of parliament when it enacted for Act. The period of limitation for land matters under limitation Act is 12 years.

Where the days have lapsed, one may apply to extend the time.

ENVIRONMENTAL CONSERVATIONS

Public trust doctrine

The objective 13 of the national objectives and Directive principles of state policy in the constitution postulates that: the state shall protect important natural resources including land, water, wetlands, minerals, oil, fuel and flora on behalf of Uganda.

Further article **237(2) (b)** of the constitution state that: the government or a local government as determined by parliament by law, shall hold in trust for the people & protect, natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and tourist purposes for a common good of all citizens.

In light of the above, s.44(4) of the land Act is to the effect that the government or a localn government shall not lease out or otherwise alienate any natural resource refferd to in the section.

The section further retaliate what Article 237 (2) (b) postulates.

²⁶⁸ SCCA No.4/1999

In *Simba (k) limited & 60rs v UBC*, SCCA No. 03 of 2014 the court rejected the 5th appellants defence of banafial purchaser for value without notice and held she was of the fraud. Court stated it was indeed inconceivable that the 5th appellant could part with such a huge sum of money without carrying out a search in the lands registration to verify the ownership of the said land. It was a sale arising out of a court case. They had to verify the history of the court case & seratimize all the relevant documents befoe parting wit the huge sum.

How to challenge a sale after execution

The sale can be challenged under s.34(1) of the CPA. In *Sinba (k) limited & 5 Ors v UBC*, the supreme court emphasized that an application brought under S.34(1) of CPA is what sufficies to challenge a sale and no need to bring a fresh suit

Forum

Court which issued the order being executed

Documents

- Notice of a motion
- Affidavit

Procedure

- Draft the notice of motion & affidavit
- Pay requisite fees \lodge the notice of motion and the Affidavit in court
- Effect service
- File an affidavit of service

Process for getting a certificate

1. Application
2. Land committee issues a notice which issues for 14 days then it sit to hear any claims on land
3. Then forwards to physical planning committee on approval forwards the same to District
4. District land officer forwards to DLB
5. Upon approval they forward to M20
6. Its received
7. Land officer checks the minutes on the file
8. Forwards to intake clerk

2. The issue of non citizen holding freehold & write to NEMA & to find out if the land can be used for the intended purposes
Lakesidev Sam Engola
Formula feeds & 3 ORS v KCB
3. Physical planning authorities for permission and to see whether the lands are available. (look at part 5 of planning Act)
s.3 of physical planning Act, all the country is a planning area
s.33 (1) of physical planning Act, you require a permit before commencement of any activity
4. Find out seller's marital status
Seek that consent from the spouse
5. Seek consent from the lessor in respect to the lease land
6. The customary land, enquire from the neighbours, who owns the land.
S.27 of the land Act
7. The tenants by occupancy then the periodic tenants
Consent
8. Whether the property rates have been paid
 1. b) S.29, 31, 35, 36
Kigozi Mayambala
Kampala District Land Board
 2. Nature of sell of land is governed by the law of contract.
Description of land
Any rights enjoyed by the property as easements
Consideration
 3. Define an instrument (when dealing registration)
S.84 of RTA
S.59 of RTA
S.92 of RTA
 - Francis Ntabazi v Kashifa
 - S.147 & S.148 attestation of transfer
 4. Fees to be paid
 - Search fees

Chapter Five



CRIMINAL PROCEEDINGS

1. GENERAL OVERVIEW

The law applicable to trial practice

The major checklists

Mode of resolution of the checklist

2. PRE TRIAL PROCEEDINGS

Role of Advocate

Perusal of Police files

Drafting Documents

Bail in Magistrates Courts

Bail in High Court

Jurisdiction

Drawing up a summary of the case

Committal Proceedings

3. TRIAL PRACTICE

Trials before the Magistrates courts

Commencement of trial

TOPIC ONE: GENERAL OVERVIEW



THE LAW APPLICABLE TO TRIAL PRACTICE

The law applicable to trial procedure in both the Magistrate Courts and the High Court includes the following (excluding appeals):

The Constitution of Uganda 1995

The Judicature Act Cap 13

The Magistrate Courts Act Cap 16

The Trial on Indictments Act Cap 23

The Criminal Procedure Code Act Cap 116

The Evidence Act Cap 6

The Evidence (Statements to Police Officers) Rules SI

The Penal Code Act Cap 120

The Pharmacy and Drugs Act Cap 280 (*for statutory offences*)

The Food and Drugs Act Cap 278 (*for statutory offences*)

The National Drugs Policy and Authority Act Cap 206 (*for statutory offences*)

The Police Act Cap 303

The Firearms Act Cap

The Prevention of Corruption Act Cap

The UPDF Act

Case law

Common law and Doctrines of Equity

The major checklists/ issues arising at both the Magistrate Courts and High Court;

1. Whether the facts disclose any offences?

In relation to the third ingredient, it must be noted that no act of killing is lawful unless unless sanctioned by the law. This was held in **Uganda vs Musumba (1992) 1 KALR 83**, where court held further that in all cases of homicide; unless the statute makes it excusable; the killing is presumed unlawful.

In relation to the fourth ingredient, there arise a situation where the accused was not directly linked to the scene of the crime; one one use circumstantial evidence which tends to point to the accused as the person who killed the deceased.. this is fortified by **Uganda vs Yosefu [1972] ULR 19** where court held that inculpatory facts should not be incompatible with other facts before court can rely on circumstantial evidence

Admissibility of evidence

This is looked at in line with the Evidence Act Cap 6 because criminal procedure needs a strong backing on the law of evidence.

The principles of *Res Gestae* should not be forgotten; section 5 gives one of theses principles; thus where the facts which though not in issue are so connected with the facts in issue as to form part of the same transaction are relevant. This is fortified by the locus classicus of **R vs Kurji (1940) 7 EACA 58**. a transaction is defined as a group of facts so connected as to be referred to by one single legal name, as a crime.²⁶⁹

One ought to look at facts which tend to explain or introduce a fact in issue or facts which rebut an inference under section 8 of the Evidence act. facts showing identity of the deceased should not be overlooked especially where the identity of the deceased is in issue. The case of **Uganda Vs Kadidi s/o Kabagambe** provides that where the facts show that the room was poorly lit and the accused was under observation for a small time; then identity of the accused was not proper.

²⁶⁹ Ratanlal and Thakore(1963) pg 16

Where an offence is committed by a magistrate or within his/her local limits of jurisdiction he or she may himself or herself arrest or order any person to arrest the offender he or she may therefore commit the offender to custody or release him or her on bail

S.19 of CPCA CAP 116

- 2) private persons any private person may arrest any person who is in his or her committable offence, or whom he or she reasonably suspects of having committed a felony .S.15(1) of CPCA CAP 116, S.1(b) CPCA, defines cognisable offence as any offence which on conviction may be punished by a form of imprisonment for one year or more : or

1. Which a convict may be punished by a fine exceeding five hundred shillings.

Private persons may also effect an arrest where the person arrested is found committing any offence involving injury to property. The owner of the property or his or her servants or persons authorized by him or her may arrest the person. S.152 of CPCA CAP 116

RERIGIOUS KASULE V MAKERERE UNIVERSITY.

STEVEN OPOROCHA V UGANDA 1991 HCB 9, soldiers, prison officer's, LDU's and private guards may arrest just like any private person except where such powers are stipulated in a state.

3. Police

A police officer may without a court order or warrant arrest a person if he or she has reasonable cause to suspect that the person has committed or is about to commit an arrestable offence. S.23 (1) of police act cap 303.

A female person shall only be searched by an authorized woman. S.23 (2) of police act cap 303

S.18 of the CPCA, requires OCs of police stations to report to the nearest magistrate without a warrant within limits of their respective stations and whether the persons have been granted bond or not.

Presentative arrest

Every police officer receiving information of a design to commit any cognizable offence shall communicate the information to the police officer to whom he or she is subordinate and any other officer whose duty is to prevent or take cognizance of his commission of any such offence. S.25 of CPCA.

A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a magistrate and without a warrant the person so designing if it appears to the officer that the commission of the offence cannot otherwise be prevented. S.26 of CPCA

S.56 (2) every warrant must state shortly the offence with which the person against whom it issued is charged and shall name or otherwise describe that person and it shall name or otherwise describe that person and it shall order the person against whom it is issued and bring him or her before the court issuing the warrant or before some other court having jurisdiction in the case to answer to the charge mentioned in it and to be further dealt with according to law.

S.56 (3) every such warrant remains in force until it is executed or until it is cancelled by the court which issued it.

Procedure for granting a warrant of arrest

- a) The prosecution institutes charges with a charge sheet or indictment. under S.42(6) of MCA, where a charge has been drawn up and laid under S.42(1)(b) magistrate shall issue summons or warrant to compel the attendance of the accused person.
- b) Apply to have summons issued to compel attendance of the accused. Note that warrant may be issued notwithstanding the fact that time appointed in the summons has not lapsed.
- c) Upon failure to honour summons, the prosecution applies orally for the warrant of arrest showing that there is justification for a warrant of arrest with the witness or accused person having failed to honour court summons without justifiable reason (S.55 (1) of the MCA) a warrant shall only be issued when it is proved to court by evidence on oath that the summons directed to the person were duly served. S.55(4) of MCA

Warrant of arrest

The republic of Uganda

In the chief magistrate court of lugazi at lugazi

Warrant of arrest

To: Ill police officers

Whereas Kenneth sematiko of gooli village kiyindi parish najja sub county, Buikwe district, stands charged with the offence of doing grievous harm contrary to section 219 of the penal code act cap 120.

You are hereby directed to arrest the said Kenneth sematiko and produce him /her before me his worship Joel Kaaya, Chief magistrate, lugazi chief magistrate court.

Herin fail not

Dated this 13 day of October 2019

Use of reasonable force in arrest.

In effecting an arrest the police officer may touch or confirm the body of the person to be arrested, unless the person submits to the custody by word or action. S.2 (2) of CPCA. If the person however forcibly resist arrest, the person effecting the arrest may use all means necessary to effect the arrest, but no grater force than is reasonably necessary should be exercised. S.2 (2) of CPCA

Filling in the course of preventing crime or in arresting offenders is only justifiable where there is an apparent necessity to do so .there is no need to use excessive force, such as disarming fire frames where the suspects are unarmed or are not carrying dangerous weapons in

*Pc Ismail Kisegerwa V Uganda*²⁷³, the court held that where excessive force is use in effecting arrest and death ensues force the killing is either murder or manslaughter

Post arrest process

An arrested person must be brought court as soon as possible but in any case not later than 48 hours after the time of his or her arrest. Art .23(4) of the consitution.

Arrest without a warrant.

KANANURA ANDREW AND OCS V UGANDA HMCA NO. 010203 of 2014 (on the powers of police officers to arrest without a warrant)

WILLIAM ABORA V A.G H.C.C.S nc.

SEARCHES

Benjamin odoki , a guide to criminal procedure in Uganda (3rd end ldu) 2006 pg.52 a search is defined as an inspection made on a person or in a building for the purpose of ascertaining may be discovered on the body of the person or in the building searched.

Search without a warrant

²⁷³ *Crim App No.6 Of 1978 (unreported)*

Search warrant

To: all police officers.

Whereas it has been proved to me that in fact or according to reasonable suspicion the following thing

1. An axe

Upon by or in respect of which an offence has been committed or which is necessary to the conduct of an investigation into an offence is in building /vessel /carriage /box /re ceptacle / place herein named and described as follows.

Home of a one Keith sematiko of gooli village, kiyindi parish, Najja sub County Buikwe district.

This is to authorize and you to enter / open the said building described as forementioned and if found seize and carry it before this court or some court to be dealt with according to law ,returning this warrant with an endorsement certifying that you have done under it immediately upon its execution

Given under my hand and seal of this court this 13th day of October 2019

Magistrate

Certificate of search

The republic of Uganda

Certificate of search

Opolot Gerald rank aip attached to lugazi central police station have conducted a search in the home of Keith sematiko of cooli village, kiyindi parish, najja Sub County, buikwe district.

In connection with the matter under investigation and the following were found and as exhibits only and nothing destroyed.

An axe

Witnessed by

1. Joel lumala , l.c.1 goli village

Read: kazindas cases from court of appeal on searches.

Exhibits

- a) The prosecutor while leading the witness will ask questions pointing to the recovery of any matter relevant to the case
- b) If such matter is pointed out, the prosecutor will inquire from the witness with questions pointing to identification of the exhibit before court
- c) When the witness identifies the exhibit, the prosecutor prays to the court to have the matter admitted in court as an exhibit of prosecution
- d) If there is no objection, the exhibit is admitted and given a number

An exhibit presented to court must be in original form, if it's tampered with, it may lose its evidential value. In **UGANDA V KABUYE JULIUS hct -oo-cr-0011-2004**, a hand written note was found in the pocket of the accused at the scene of crime. It was not produced in court as an exhibit. The prosecution attempted to produce in court a typed exhibit which was rejected.

Exhibit tag

Cases. hct -01-cr-sc-0028-2009

UGANDA V MUWONGE

Exhibit:

Exhibit no:

Description of exhibit:

Serial no:

Tender in court as an exhibit on 20/10/2019

Magistrate

Institution of proceedings

Magistrate courts

Criminal proceedings according S.42 of MCA can be instituted in various ways. These are:

- a) By a police officer bringing a person arrested with or without a warrant before a magistrate upon a charge
- b) By the public prosecutor or a police officer laying charge against a person before a magistrate or requesting the issue of a warrant or a summons
- c) By any person, other than a public prosecutor or police officer, who has reasons to believe that an offence has been committed.

CHARLES NABIIRE AND 12 ORS V UGANDA. Hct-00cr-cr-cv-0015-of 2012.

Count 1: statement of the offence doing grievous harm to another contrary to section 219 of the Penal Code Act

Particulars of the offence e. Jakait Joseph, Okuidi Robert and Keith Sematilo who is still at large on the 8th October 2019 at 1700hrs or there about at Keith Sematiko home in Gooli village, Kiyindi Parish, Najja subcounty, Buikwe district did beat up Biga Muzamiru thereby causing him serious injuries to his lips, left knee, left arm, jaw, chest, back and abdomen.

Count 2: statement of the offence assault causing actual bodily harm contrary to section 236 of the Penal Code Act

Particulars of the offence

Ejakait Joseph, Okudi Robert and Keith Sematiko who is still at large on 8th October 2009 at 1700 hrs or thereabout at Keith Sematikos home in Gooli village Kiyindi Parish, Najja sub county , Buikwe district did beat up Biga Muzamiru thereby causing him bodily injuries to his lips, left knee, left arm , chest , back and abdomen

D/asp {kikaya didimas)

Officer Preferring charge magistrate

YAKOBO UMA AND ANOR V R (1963) EA 542. 2 men were charged in the same charge with committing separate offences, they committed offences in the same village against the same complainant in 1962, in 1963 on appeal their conviction was quashed because charge sheet was bad in law the committed different offences on different occasions.

Joinder of persons

S.87 of the MCA and S.24 of TIA provide that the following persons may be joined in one charge and may be tried together

- a) Persons accused of the same offence committed in the course of the same transaction
- b) Persons accused of an offence accused of abetment or of an attempt to commit that offence.
- c) Persons accused of more offences than one of the same kind committed by them jointly within a period of 12 months.
- d) Persons accused of different offences committed in the course of the same transaction.

YOWANA SEBUZUKIRA V UGANDA (1965) 684, more than one offence in the same charge or that for any other reason is desirable to direct that the person should be tried separately for any one or more offences charged in a charge the court may order a separate trial of any court or courts of the charge S.86(3) of MCA.

In R v DALIPH SINGH (1943) 10 EACA 123, court held that even if two offences are different in character , they may be joined on the same facts and there is proximity of time between the commission of the offences.

Alternative charges

According to Benjamin Odoki at pg.69, an alternative charge is an additional court land against the accused in the same charge where the prosecutor is not certain which offence the facts of the case will support.

It is the court to decide which of the two courts before the evidence sustains. An accused court cannot be convicted on one of the courts, no finding is made on the other.

Duplicity of charges

A charge is duplex if contains more than one offence in one court such a charge is defective for duplicity in *Rwabinoni and anor v ug*.

Effect of defective charges

The validity of any proceedings instituted shall not be affected by any defeat in the charge on complaint or by the fact that a warrant was issued without any complaint or charge or in the case of warrant without a complaint on oath unless there has been a miscarriage of justice S.42(2) of MCA. S.50 of TIA.

In the case of **UGANDA V MPAYA (1975) HCB 245**, a miscarriage of justice occurs where by reason of mistake, omission or irregularity in the trial, the appellant has lost a chance of acquittal which was fairly open to him.

Amendment of charges

If it appears to a magistrates court at any stage of a trial at

- a) The evidence discloses an offence other than the offence with which the accused is charged
- b) The charge is defective in a material particular or
- c) The accused desires to plead guilty to an offence other than the offence with his/her is charged

a) Be in writing, in duplicate, signed, and sealed by a magistrate or by such other officer as a chief justice may from time to time direct.

b) Be directed to the person summoned requiring him /her to appear at the same time and place named

c) State shortly the offence with which the person service of summons under S.50 of MCA, summons may be served at any place in Uganda.

Who to serve either a police officer or an officer of the court issuing it or by a public servant and shall if practicable, be served personally on the person. S.45 (1) of MCA

How to serve summons must be much as practicable be served personally on the person summoned by the delivering or tendering him or her the duplicate of the summons. S.45 (1) of MCA, a person served must sign a receipt for the summons on the back of the original summons.

Where a person cannot be found

Where after due to delinquency, the summoned person cannot be found, summons may be served by leaving the duplicate for the person with some adult member of his or her family or with his or her servant residing with him or her or with his or her employer and the person with whom the summons is so left shall, if so required by the serving officer sign a receipt for it on the back of the original summons S.46 magistrate courts act.

Where service cannot be effected

The summons shall be affixed duplicate of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides and there upon the summons shall be deemed to have been duly served. S.47 magistrate's courts act

Service on company

Service may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by the registered letter addressed to the company or body corporate in Uganda. In the latter case service shall be deemed to have been effected when the letter would arrive in the ordinary course of post: S.49 of MCA.

Proof of service when serving officer not present

UGANDA -----

(PROSECUTION)

VERSUS

EJAKAIT JOSEPH -----

(ACCUSED)

To: Keith Ssematiko

Whereas your attendance is necessary to answer a charge of doing grievous bodily harm contrary to section 219 of the penal code act.

You are hereby commanded by the Uganda government to appear in this court on the 17th day of October 019 at 8:0 am or soon thereafter as the case may can be heard.

Dated this 10th day of October 2015 at 10:00am

Magistrate

Pleas

Arraignment

Arraignment is the process by which an accused is informed of the charges that have been preferred against him/her. pg 139 of bench book

A suspect must by arraigned in court within 48hours from the time of his arrest. ART.23 (4) of constitution 1995.

Pleas

Is an accused person's formal response to the criminal charge.

In the case of **UGANDA V KIWALABYE MOHAMMED HC CRIMINAL CASE NO.20 OF 2013**, the court held that an accused person may charge his/her plea at any time before sentencing.

Plea of guilty

Under Article 28(3) (a) of the constitution of Uganda, a person is presumed innocent until he / she is proven guilty or pleads guilty. An accused person should voluntarily admit a charge without any force or inducement. (rv inn.0 criminal reports 231

The procedure for recording a plea of guilty as laid out **In ADAN V REPUBLIC (1973) EA 445** is that :

- a) The charge and all essential ingredients of the offence should be expelld to the accused in his language or in a language he understands.

The president under Art.121(4)(a) of the constitution with the advice of the committee on prerogative of mercy may grant pardon to any person convicted of an offence either free or subject to law conditions.

Court follows the procedure in S.124 (5) of MCA, where a plea of pardon is entered. IN SMITH PON ACHAK AND ANOR V UGANDA SC CRIM.APP NO.18 OF 1992, the court held that it was incumbent upon the appellants to prove on the balance of probabilities whether they had been pardoned

Plea of guilty

If the accused person does not admit the truth of the charge, the court shall record a plea of not guilty and shall proceed to hear the case. S.124 (3) of MCA

In KANALUSASI V UGANDA (1988-90), the court held that where a plea of not guilty is recorded whatever the accused has stated cannot be taken against him for the court is not allowed to derogate from the accused plea.

Where an accused chooses to remain silent then a plea of not guilty is entered UGANDA V KIZA

Identification of offences

1. The principle of legality : there should be no punishment without a legal sanction

Article 28(7) of the constitution provides that no person shall be convicted of an offence whose act did not constitute an offence when he committed it.

Article 28(12) provides that no person shall be charged with an offence unless that offence is written and punishment for it prescribed by law.

In UGANDA V ONGWALU S/O OSALU, HC.C.R. REV NO.85 OF 1967, the accused was convicted of refusing to sign a summons and fined 150/= under S.10 of P.C.A. Court held that there was no such offence known in the penal code act. The conviction was quashed and sentence set aside. S.2(s) of the penal code act cap .120 defines an offence as an act attempt or omission punishable by law.

2. Principle of minor and cognate offences.

Where a person is charged with an offence and facts are proved which reduce it to minor cognate offence, he or she may be convicted of the minor offence although he or she was not charged with it. S.145 of MCA and S.87 of TIA.

3. Identify offences the facts disclose bearing in mind the above two principles.

- d) To discontinue any stage before judgement is delivered , any criminal proceedings to which this article relates , instituted by himself or any other person or authority except that the DPP shall not discontinue every proceedings commenced by another person or authority except with the consent of the court.

Art. 120(4)(b) requires that the power of discontinuance is exercised exclusively by the DPP themselves . the same is emphasized under s.135 of the tia and s.121 of the mca.

Basajabalaba v kakande criminal revision no.2of 2013. The court noted that where the DPP had applied o take over the private prosecution and having done so prayed applied to discontinue the proceedings to which court allowed the application then th proper procedure fr discontinuance of private prosecution had been followed.

Roles of the igg

Art . 223(1) of the constitution establishes the inspectorate of government which must consist of the inspector general of government and his /her deputies.

The functions of the inspectorate as stipulated under art .255(1) of the constitution include:

To investigate any act , omission , advice , decision or recommendation by a public officer or any authority to which this article applies, taken , mad , given or done in exercise of administrative functions

To eliminate and foster the eliminatin of corruption ,abuse of authority and of public office.

s.33(1) of anti corruption

pre-trial remedies

- 1) Bond under art 23(4) of the court a person arrested maybe released after 48 hours pending investigations before a court . s.17(1) of CPCA confers powers onto the officer in charge of a police station to release a person on bond upon considering the nature of the offence , if it is not a serious offence , he can release the person arrested with or without sureties . s.24(2)(b) of the police act requires that a Person released on police bond must appear before a senior officer at the time specified in the bond . s.38 of police act provides that bond is free though a recognizance may take.

Procedure

- a) The applicants can be unconditionally released from police custody having exceeded the constitutional mandatory maximum 48 hours in detention without trial.
- b) Costs of this application can be provided for , take further notice that the grounds in support of the application are contained in the affidants of the 1st applicant attached hereto but briefly are as follows:
 - i) That the applicants were arrested and have been in detention for more than 48 hours before being taken to court.
 - ii) That the continued act of the respondent and its agents of keeping the applicant in custody for more than 48 hours is unconstitutional.
 - iii) That the applicants are innocent and presumed so under the law until proven guilty.
 - iv) That it is just and equitable to grant unconditional release to the applicants.

Dated at mbarara this 16th day of October 2019

Counsel for the applicant

Lodged on this 17th day of October 2019

Magistrate

To be served on:

1. The o/c bulele police station
2. The dpc buikwe district

Drawn and filed by

SUI GENERIS ,

p.o.box 7117,Kampala

Uganda

Affidavit in support

State:

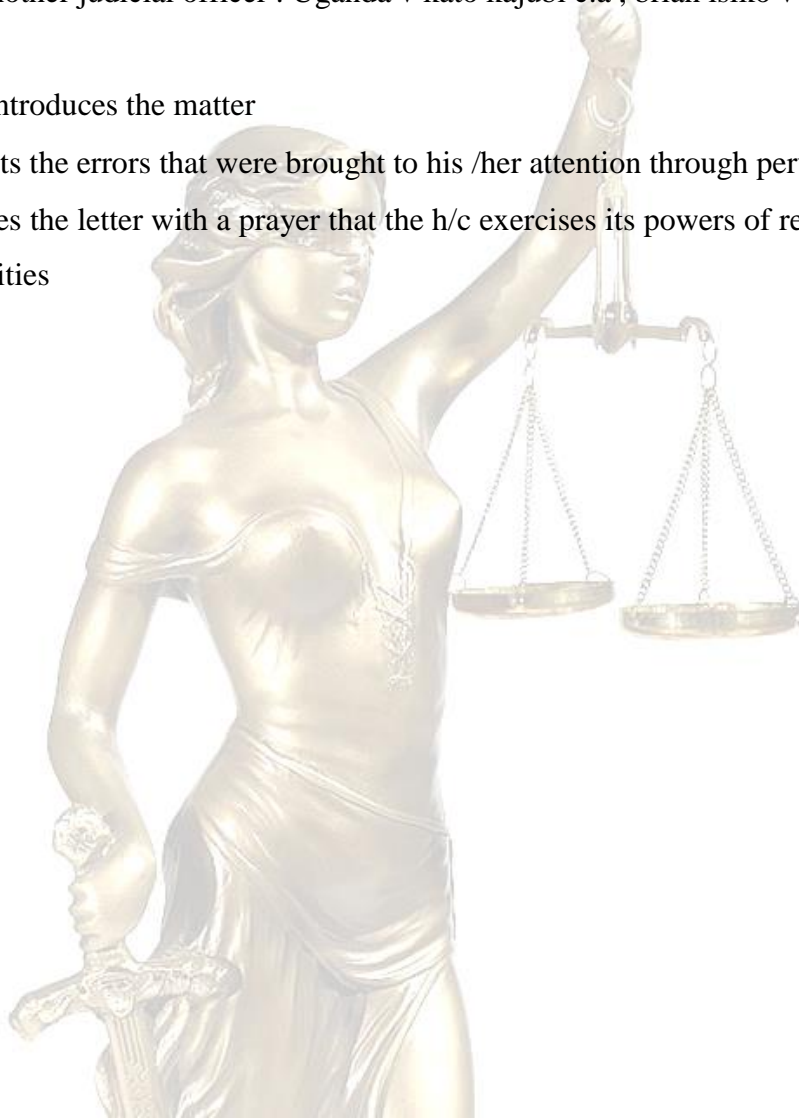
- 1) Charges charged
- 2) Date when applicant was incarcerated
- 3) Process of arrest and whether they informed of the charges.
- 4) Number of bond applications

- Regularity of any proceedings before that magistrate court

Under s.221(3) of mca , upon examination of the proceeds , if they are of the opinion that any ,finding ,sentence,decision , judgement or order is illegal or improper or that any proceedings are irregular , he or she must forward the record with such remarks therein as he or she thinks fit to the high court . under s.34 of c.p.c.a the high court may order for a trial . the rial is ordered on condition that its before another judicial officer . Uganda v kato kajubi c.a , brian isiko v Uganda.

procedure

- Briefly introduces the matter
- Highlights the errors that were brought to his /her attention through perusal of the file
- Concludes the letter with a prayer that the h/c exercises its powers of revision to rectify the irregularities



PERUSAL OF POLICE FILES

A police file is a record of case papers pertaining to a case duly reported to the police and registered. There are three types of police files; that is;

MINOR COTRAVENTION BOOK (MCB)

This police file is for recording offences of a minor nature; for example failure to pay Tax.

CRIMINAL REPORT BOOK (CRB)

This is a file for offences of a serious nature; it is usually instigated by the Criminal Investigation Department.

TRAFFIC ACCIDENT REPORT (TAR)

This file is for recording facts about an accident especially particulars of persons and vehicles involved. It takes the Ploice form 57.

LAYOUT OF A POLICE FILE:

A police file includes the following salient materials:

A file cover; this includes the following information

- The police criminal case number;
- The court criminal case number;
- The name of complainant or person providing the information;
- The names, addresses, particulars, of the accused;
- The name of the investigating police station;
- Details of the time, date and place at which a person was arrested.

Inside the file cover, the following information is kept

- Name of the investigating officer;

After the police has finished the investigations, the state attorney or prosecutor looks at the preferred charges. The state attorney then identifies the possible offences, if the evidence is lacking, the State Attorney sends back the file to the police for investigations. When the investigations are complete, at this stage, charges are preferred; then the charge sheet is sanctioned by the State Attorney; and duly signed by the Magistrate.

Criminal summons are then obtained from a Magistrate duly signed and served on the accused.

DRAFTING DOCUMENTS

Charges

A charge is defined as a written statement containing an accusation against a person alleged to have committed an offence. In the High Court, this is referred to as an indictment. A charge sheet contains a statement and particulars of an offence. This is provided for in sections 85 and 88 of the Magistrates Courts Act.

General Rules Regarding Charge Sheets

A charge sheet commences with the statement of offence. The statement of offence describes the offence in ordinary language avoiding use of technical terms. This was upheld in the case of **COSMA VS R (1955) 22 EACA 450.**

After the statement are the particulars of the offence. The particulars should be set out in ordinary language in which technical terms are avoided. It must be noted that where a charge contains more than one count, the counts should be numbered consecutively.

Court held in **R V. TAMBUKIZA** 1958 EA 212; that the final charge is the essence in criminal procedure and the failure of the Magistrate to draw up and sign a final charge was a defect which rendered the trial a nullity. Failure to draft formal C/S renders the trial a nullity. Thus the charge sheet must be signed. Court held further in **UGANDA VS OCILAJE S/O ERAGU [1977] HCB 9** where Allen J held that a charge sheet submitted by the Police Officer is neither proper nor complete if it is unsigned by a Police Officer.

Defects In Charge Sheets

A charge sheet is defective and may be bad in law if the defect can not be cured by correction or otherwise. Below are some of the defects which can be evident in a charge sheet.

DUPLICITY

- If one is charged with obtaining money by false pretences, he or she can be convicted of offences such as receiving stolen property or retaining stolen property, stealing.

It must be noted that charges can be amended if the amendment will not cause injustice to the accused person. This discretion is conferred on the Magistrate in section..... of the Magistrates Courts Act.

Court held in **UGANDA V. ELATU** Crim Rev 71/72 that “it is not every obvious irregularity and defect in a chargesheet that makes it bad in law and thus render the proceedings a nullity. The test is what the effect of the defect in the charge on the trial and conviction of the accused and whether there has been in fact failure of justice.

A wrong section or law was discussed in **UG. V. BORESPAYAO MPANYA (1975) HCB 245,** where the accused charged and convicted under the forest rules instead of the Forest Act, on revision, **Saied J** held that the charge disclosed no offence. However, the charge was not a nullity or bad merely because the rules were cited instead of the Act but would simply be defective or imperfect because a bad charge would be disclosing no offence known to law but as long as the particulars leave no doubt of the offences the accused is charged with, the charge would not be bad in law but defective.

JOINDER OF COUNTS

This is provided for in section 86(1) of the Magistrates Courts Act and section 22(1) of the Trial on Indictments Act and the general rule is that any offence may be charged in the same count if the offences are of the same facts or are part of series of offences of the same or similar character. This is fortified by **ZABASSAJJA VS UGANDA (1968) EA 384.**

Another cardinal rule regarding joinder of counts is that no count is to be joined with a count of murder or manslaughter; except where the additional count is based precisely on the same facts as the more serious charge. This principle is fortified in **YOWAN SEBUZUKIRA V R (1965) EA 684**



It must be noted that the practice of magistrates' Court in granted bail are shrouded with a lot of discretion²⁷⁶. **FN Othembi**²⁷⁷ states that court must always exercise its Jurisdiction judiciously and always give the accused a benefit of doubt. Where the bail is refused or granted on unfavourable terms by a Magistrate below the rank of Chief magistrate, an accused person can apply to a chief Magistrate for Review of the order.

Mandatory Bail

This is provided for in Article 23(6)(b) and (c). In respect to offences triable by the High Court and the subordinate courts, the accused person is entitled to statutory bail after a period on remand, before commencement of the trial of 120 days.

In respect to offences triable by only the High Court, the accused person is entitled to statutory bail after a period on remand, before committal to the High Court for a period of 360 days.

Procedure for application for bail in the Magistrate Courts

The Judicature (Criminal Procedure)(Applications) Rules SI 13-8 provides in Rule 3 that applications for bail in the Magistrates' Courts may be made orally or in writing, and if in writing shall be supported by affidavit. Where the application is being made orally, this can be made; instantly before the hearings, & submissions by magistrates or n be after examination in chief /cross/re examination. Counsel for the accused persons applies to court orally for bail. On the strength of sections 75 and 77 of the Magistrate Courts Act; counsel states the accused;

- Has a place of abode within the jurisdiction of court;
- Will not interfere with witnesses;
- Has substantial sureties;
- Will not jump bail, *inter alia*

²⁷⁶ F.N. Othembi – Trial Procedure in Magistrates Courts (A paper delivered at Law Development Centre; 23 November 2005).

²⁷⁷ Supra at Page 6

BAIL IN HIGH COURT

When a case is triable in High Court, The matter has to first be entertained by a Magistrate's Court for mention. The practice is that the Magistrate tells the accused person that he has no jurisdiction to try the matter. The Magistrate then commits the Accused to the high court (when told by the state that the case is ready) or places you on remand. In this instance therefore, an accused person who seeks bail applies to the High Court. You can apply for bail before committal.

Counsel for accused is enjoined to draw the Notice of Motion + Affidavit. This is premised on section of the Trial on Indictments Act Cap 23 and Rule 2 of The Judicature (Criminal Procedure)(Applications) Rules SI 13-8 which provides that all applications to the High Court in criminal cases shall be in writing, and where evidence is necessary, shall be supported by affidavit.

The notice of the Application is served on the Director of Public Prosecutions, by virtue of rule 4 (1) of the Judicature (Criminal Procedure) (Applications) Rules SI 13-8.

According to Section of the Trial on Indictments Act the accused must prove the following;

- That he has substantial sureties (members of society)
- That he is willing to pay an amount as bond should he defy the conditions of the bail if granted

The Accused must show further that :-

- He will not abscond from court
- He will interfere with witnesses

In grant of bail in the High Court, court looks at the nature of accusation, gravity of offence and antecedents of accused inter alia. There are some offences which are non-bailable by Magistrate Court and these include:-

- Terrorism, cattle rustling, offences under fire arms, act punishable by sentence of less than 10 years, abuse of office, rape, embezzlement, causing financial loss, corruption, bribery.

JURISDICTION

- The Magistrate reads out the indictment and summary of the case and explain to the accused the nature of the accusation against him in the language he or she understands.
- The magistrate then commits the accused for trial to the High Court and transmits copies of the indictment and summary of the case to the registrar of the High Court.
- The accused person is then remanded by the magistrate pending his or her trial.

It must be noted that the effect of the committal is that if the accused was on bail, it lapses with the committal.

COMMITTAL FOR SENTENCE

Another form of committal is evident in section 164 of the Magistrate Courts Act, which is committal for sentence.

In such a scenario, the court should be presided over by a Magistrate Grade One, Two or Three.

Secondly, the accused should have been convicted and the magistrate forms an opinion that the accused deserves a greater punishment;

Thirdly, that such punishment should be out of his sentencing jurisdiction under section 162 of the Magistrate Courts Act.

Fourthly, the Magistrate commits such person to the Chief Magistrate's Court. If the Chief Magistrate considers that the conviction is improper, he forwards the record to the High Court and postpones passing of the sentence pending the decision of the High Court. The Chief Magistrate is at his discretion empowered to release the offender on bail or remand him pending the decision.

It must be noted that under section 166 of the Magistrates Court's Act, the magistrate has no jurisdiction to try any offence; he can remand the accused person in custody to appear before a superior court.

- A right to presumption of innocence until proven guilty or that person pleads guilty; under article 28 (3) (a) of the constitution.
- A right to be informed immediately, in a language that the person understand of the nature of the offence under article 28 (3) (b) of the constitution.
- A right to be given adequate time and facilities for the preparation of his or her defence under article 28 (3) (c) of the constitution.

- A right to be permitted to appear before the court in person or at that person's expense, by a lawyer of his or her choice under article 28 (3) (d) of the constitution.
- A right to legal representation at the expense of the state, in case the accused person is charged with an offence which carries a sentence of death or imprisonment for life; under article 28 (3) (e) of the constitution.
- A right to be afforded, without payment by that person, the assistance of an interpreter if that person can not understand the language used at the trial, under article 28 (3) (f) of the constitution.
- A right to be afforded facilities to examine witnesses and to obtain the attendance of other witnesses before the court, under article 28 (3) (g) of the constitution.
- Grounds for withdraw / nolle prosequi

There were laid down in the case of *Sezi Musoke And Anor* Uganda criminal appeal no. 39 of 1974, and these are :

- 1) insufficient evidence
- 2) lack of compliance by witness either they have relocated or cannot be found to which the i.o must prepare an affidavit of service and the same be attached to the letter.

Since there are phone numbers try calling the witness

- 3) no prima facie case

Nolle prosequi is usually entered in any of the above situations

Steps

1. the rsa has to write to an opinion or legal memo powers to grant a nolle prosequi. This letter should be inform of defence and opinion to allow the DPP determine whether to involve their powers or not
2. the DPP will sign the nolle prosequi.
3. The nolle prosequi is presented before he presiding judge or magistrate.
4. The judge shall then enter the nolle prosequi and have the accused set free
5. Where accused is not in court , the registrar shall cause the notice in writing of the nolle prosequi to be served to the keeper of the prison .(s.134(2) of T.I.A)

Effects of nolle prosequi

TOPIC THREE: TRIAL PRACTICE



COMMENCEMENT OF CRIMINAL PROSECUTIONS

This is conversed by section in section 42 of the Magistrate Courts Act. Commencement is either through public prosecutions or private prosecutions. Broadly, institution of criminal prosecutions is done in three ways as decided below:

By a police officer bringing a person arrested with or without a warrant before a Magistrate upon a charge, under section 42(1)(a) of the Magistrate Courts Act.

By a public prosecutor or a police officer laying a charge against a person before a magistrate and requesting issue of a warrant or summons under section 42(1) (b).

Under section 42(1) (b), commencement of proceedings may be instituted by an individual other than a public prosecutor or a police officer by making a complaint under sub section (3) before a magistrate who has jurisdiction to try or to inquire into the commission of the offence or within the local limits of whose jurisdiction the accused person is alleged to reside or be. It must be noted that every complaint may be made orally or in writing but every complaint made orally shall be deduced into writing by the Magistrate and when so reduced into writing shall be signed by the complainant. Court held in **UGANDA. V. PHILLIP ULEGO: Criminal Review 306/66**, Court held in context that no Private person has a right to appear before court to prosecute; however, he or she should lodge a complaint on oath accompanied with a charge sheet not on PF 53 but on the headed paper of his or her advocate's firm.

it was further held in **UGANDA VS. ALFRED ATEYO (1970) HCB 4**, where Manyindo J. gave circumstances under which a no case to answer can be raised and held that where there is **insufficient evidence to establish a case and prosecution is no manifestly un reliable**, the accused can be acquitted. This is restricted in article 28 (2) of the constitution which presumes innocence until the contrary is proved.

Procedure After Proof Of A Prima-Facie Case

The Counsel for the accused conducts an examination in chief of the accused and thereafter, counsel for the state cross examines the accused and his or her witnesses.

After the examination of the witnesses, then submissions by the parties to case are made. Either party can begin; it must be noted that the party who begins has a right of reply; under section 130 of the Magistrate Courts Act Cap 13.

The Magistrate is then enjoined to pass judgment; the judgment can be simultaneous or on notice. The accused will either be acquitted or convicted. If the accused is acquitted, the court becomes *functus officio*. Where the accused is convicted, then the accused awaits sentence.

Before sentence is passed, an *alloeutus* is conducted, where the accused is given chance to mitigate the sentence. Some of the reasons taken in mitigation include the following;

- The accused is a first offender;
- The accused has a family, and he or she is the bread winner;
- The accused is repentant and
- The accused is of poor health; *inter alia*

TYPES OF PLEAS

Plea Of Not Guilty

This simply means that the accused does not admit the truth of the charge. If the accused keeps quiet, a plea of not guilty is entered.

It must be noted that an accused can be allowed to change his plea any time before conviction. This was fortified by **Wambuzi CJ** in **UGANDA vs MATOVU (1973) HCB 195.**

CHILDREN OF TENDER YEARS

Where in the course of the trial; it is brought to the attention of court that evidence about to be adduced is from a child of tender years, court has to conduct a *voire dire* to ascertain whether the child understands the nature of the oath, before court can rely on such evidence.

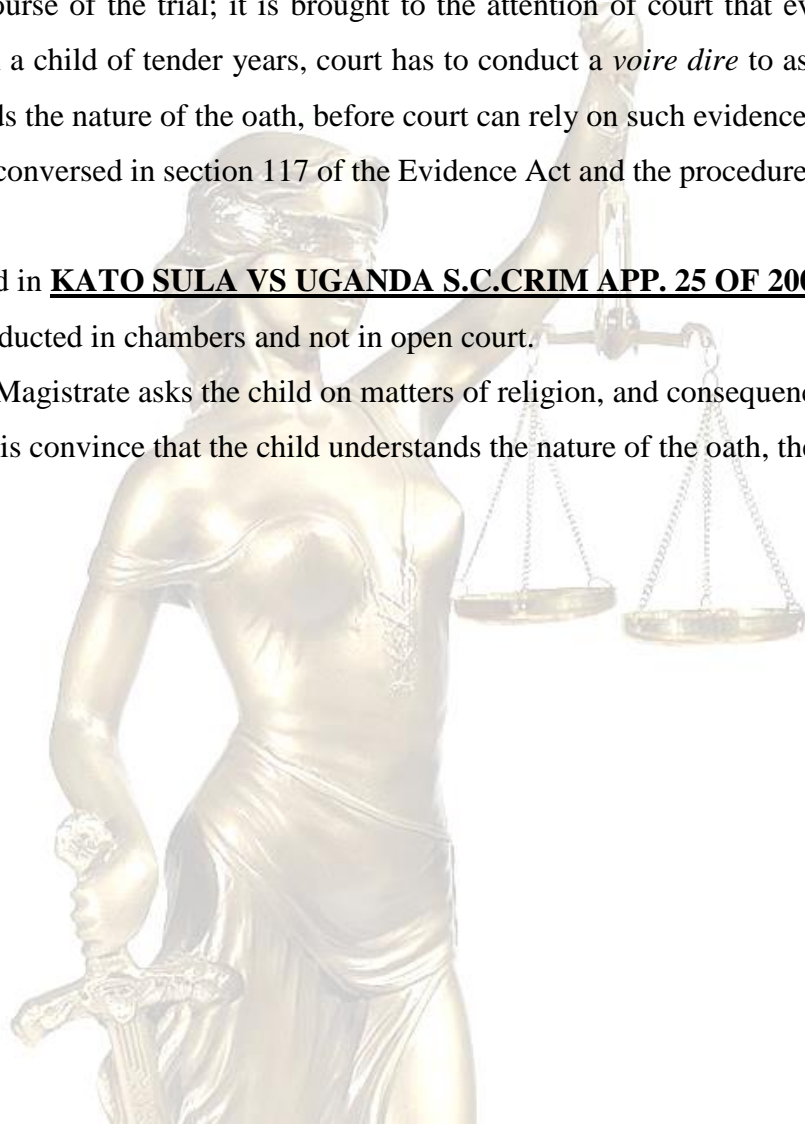
A *voire dire* is conversed in section 117 of the Evidence Act and the procedure for conducting it is as follows:

It was elucidated in **KATO SULA VS UGANDA S.C.CRIM APP. 25 OF 2000** as follows:

It should be conducted in chambers and not in open court.

The trial Judge/Magistrate asks the child on matters of religion, and consequences of lying.

When he or she is convince that the child understands the nature of the oath, the



One ought to address court about the cardinal principle laid down in the **Constitution of the Republic of Uganda 1995** (in Article 28(3) (a) that every person charged with a criminal offence is presumed innocent until proven guilty.

Give the brief facts leading to the purported charges/ indictments and discuss the ingredients viz evaluation of the evidence at hand.

The case of **RAMANIAL TRAMBAKLAH BHATT V. R (1951)** Ea 332, defines a prima facie case in these terms: “a prima facie case can’t be one, which merely might possible be thought sufficient to sustain a conviction. A new scintilla of evidence could not suffice, nor could any amount of discredited evidence. A prima facie case must mean one who a reasonable tribunal properly during its mind to the law and evidence could convict if no explanation is offered by the defence.

Court held further in **UGANDA VS. ALFRED ATEYO (1970) HCB 4** where **Manyindo J** gave circumstances under which a no case to answer can be raised and held that where there is **insufficient evidence to establish a case and prosecution is manifestly unreliable**, the accused can be acquitted.

This is premised on article 28 (2) of the constitution which presumes innocence until the contrary is proved.

Logically it would be counsel for the Accused’s submission that the state has failed to prove a prima facie case and that it is a practice of Honourable Court to make ruling of a no case to answer where justice beckons. This is fortified by **Mungona Vs R MB 3 of 59**, wherethe court made a ruling of no case to answer where the prosecution had failed to substantiate its case. It would then be Counsel’s humble prayer to the court, as a fountain of justice to make a ruling of a no case to answer.

ADJOURNMENTS

Adjournments are covered in section 122 of the Magistrate Courts Act and an adjournment is possible before or during the hearing of a particular case.

Procedure

- iii) That the time that constitutions of DPP has to take is *not prescribed and in practice courts* always act on the word of the prosecuting counsel or public prosecutions.

The DPP **has unfettered discretion to withdraw or discontinue** a case. A withdrawal by DPP does not act as a bar to re-institution of a criminal case.

DISMISSAL OF CASES

Dismissal of cases is covered under section 119 of the Magistrate Courts Act. Where a complainant does not appear for a hearing, in a case where a Magistrate Court has jurisdiction to determine; secondly the accused appears in obedience to the summons served, and thirdly the prosecutor has notice of the time and place appointed for hearing; the charges are dismissed; unless for some reason; court thinks it proper to adjourn the hearing of the case till some other day.

Dismissal is also covered under section 123(1) of the Magistrate Courts Act thus; if at a time and place at which hearing or further hearing shall be adjourned and the complainant does not appear; court may dismiss the charge with or without costs as it deems fit.

WITNESSES

Witnesses are summoned under section 94 (1) of the magistrate Courts Act; if it is made to appear in evidence that material evidence can be given or is in such a person's possession.

It must be noted that where a witness; without sufficient excuse does not attend unless compelled to do so; the Magistrate shall issue a warrant compelling such person to appear.

The following ingredients (per the section) should be evident:

- There should be no sufficient cause or excuse
- The witness should disobey a summons
- There should be proof of service of summons within a reasonable time before the case commences.

Then on satisfaction of the above, a warrant shall be issued by the Magistrate compelling the witness to appear.

- The indictment is read to him by the Chief Registrar or any other officer of court; this can be interpreted if the need arises.
- The accused is required to plead instantly to the indictment; the plea can be guilty, not guilty, *autre fois acquit*, and *autres fois convict*.

PLEA BARGAINING

This is canvassed by section 64 of the Trial on Indictments Act and this refers to a situation whereby the accused wishes to plead guilty to another offence other than the offence he or she is charged with.

Procedure

- The advocate for the prosecution signifies his consent to the plea bargaining.
- The Advocate for the Accused seeks leave of court to grant an amendment of the indictment.
- The accused then goes through the process of arraignment.

ASSESSORS' ROLE AND OPINION DURING TRIAL.

It is a cardinal rule under section 3(1) of the Trial of Indictments Act that all trials before the High Court shall be with aid of assessors and the number shall be two or more as court deems fit.

For one to serve as an assessor, some considerations evident in the Assessors Rules (in the schedule to the Trial on Indictments Act) have to be put into consideration;

- One should be between 21-60 years.
- One should be able to understand the language of court (English);
- One should be able to follow the proceedings of court.
- One should be a lay person of integrity and good reputation.

Some persons are exempt from serving as assessors and these include the following; under Rule 2 of the Assessor Rules.

Priests and ministers of respective religions;

Medical professionals like dentists and pharmacists in active service;

The confession must be made before an officer of a rank not below aip

Hile an extra judicial statement is Made before a magistrate.

Admissibility

Under s.24 of the evidence act , a confession obtained through violence , force or threat , inducement promise calculated in the opinion of the court to cuse an untrue confession

Retraction and repudiation

Retraction of an confession ariss where the accused person admits to having made the confession but he/herself states that it was as a result of duress , violence , inducement or threas as stated under s.24 of e.a

Repudication of a confssion arises where the accused person completely denies having made the confession

In r v kengo and another (1930) 10 eaca 123 ,the accused made a statement before a magistrate and confessed to the murder but during the trial he made an unsworn statement in which he denied the previous statement . the court stated that the general rule regarding repudiated and retracted confession is that the confessions are admissible in evidence provided the court is satisfied that the confession was made voluntarily.

PROCEDURE IN TRIALS

Procedure

Trials before the High Court are governed by the Trial on Indictments Act. The High Court is enjoined with overall criminal and civil jurisdiction in all matters under the judicature Act.

The procedure is similar to that in the Magistrates Courts, save for a few differences. The procedure before the High Courts is as follows;

The prosecution introduces its self and the accused appearing before a Judge will be in the dock wherefrom, the charges are read to him.

After the examination of the witnesses, the Judge sums up the evidence for the assessors to give their opinion regarding the case before court. Court held in **BYAMUGISHA Vs UGANDA [1987] HCB 4** that in summing up, the trial judge is required to sum up the law and the evidence given and give guidance to the assessors. Court held further in **JACKSON ZITA VS UGANDA S.C.CRIM. APPEAL 19/1995** that summing up is a must; however failure to do so does not necessarily lead to quashing of the conviction. What should be noted is whether failure to sum up properly has caused a miscarriage of justice.

Court was of the view in **TWINOMUHEZI VS UGANDA S.C.CRIM. APP. 40 OF 1995** that the trial judge is enjoined to sum up the evidence and law to assessors. He must do so correctly and impartially; the summing up must not leave room for a reasonable man to think that the judge favours one side at the expense of another. It must be noted when an assessor has been absent during the continuation of the trial, he can not return to resume his seat and continue with the trial. If he is allowed to participate the trial will be null and void.

After summing up, then submissions by the parties to case are made. Either party can begin; it must be noted that the party who begins has a right of reply.

After this point, the assessors give their opinion on the matter before the court.

After this, the Judge is then enjoined to pass judgment; the judgment can be simultaneous or on notice. The accused will either be acquitted or convicted. If the accused is acquitted, the court becomes *functus officio*. Where the accused is convicted, then the case is adjourned and the accused awaits sentence. The Magistrate becomes *functus officio* upon passing of the sentence. This was upheld in **UGANDA VS. NDONDO AND TWO OTHERS [1985] HCB 3**, where Allen J held that the court becomes *functus officio* after the sentencing.

Before sentence is passed, an *alloeutus* is conducted, where the accused is given chance to mitigate the sentence. Some of the reasons taken in mitigation include the following;

- The accused is a first offender;
- The accused has a family, and he or she is the bread winner;
- The accused is repentant ;

- The Magistrate Courts Act Cap 16
- The Criminal Procedure Code Act Cap 116
- The Evidence Act
- The Trial on Indictments Act Cap 23
- The Judicature (Court of Appeal) Rules Directions SI13-8
- The Judicature (Supreme Court) Rules Directions SI13-10
- Judicature (Criminal Procedure)(Applications) Rules SI 13-8
- Practice Directions 2 of 2005
- Practice Directions 4 of 2005
- The UPDF Act Act 7 of 2005
- The UPDF (Court Martial Appeal Court) Regulations SI 307-7
- Case law
- Common law and Doctrines of Equity

The basic issues which arise out of an appeal/ a checklist for a prudent lawyer include:

- Whether X has a right of appeal?
- Whether the facts disclose any grounds of appeal?
- Whether the grounds can be opposed successfully?
- What other remedies are available to the parties?
- What is the forum, procedure and documents?

The following points should be noted under appeals:

5. An appeal is a creature of statute
6. An appeal has a scope; that is can be on a point of law, point of fact or point of mixed law and fact.
7. An appeal has a time frame.
8. At times an appeal needs a certificate of importance.

These are discussed below under distinct heads:

AN APPEAL AS A CREATURE OF STATUTE; AND THE SCOPE OF THE APPEALS.

In case it is the Court of Appeal:

Rule 39 (1)(a) of the Judicature(Court of Appeal) Rules Directions (herein after referred to as the court of appeal rules) provides that an application is made to the High Court where the Applicant prays for a Certificate general importance.

Rule 2 of the Court of Appeal Rules provides that applications to the High Court should be by Notice of Motion supported by an affidavit.

Rule 4 places a mandate on the Applicant (usually the convict) to give Notice to the Police. This is fortified by **Namudu Vs Uganda SCCA 3 of 1999**, which lays down the considerations for the certificate of general importance.

In case it is the Supreme Court ; Rule 38(1) (a) of the Judicature(Supreme Court) Rules Directions (herein after referred to as the supreme court rules) provides that where an appeal lies if the court of appeal certifies that a question or questions of public importance arise, applications to the court of appeal shall be made informally at the time the decision of the Court of Appeal is given against which the intended appeal is to be taken. Rule 38(1) (b) provides that where the court of appeal declines to grant a certificate referred to in para a, then an application may be lodged in the Court within fourteen days after the refusal to grant the certificate by the Court of Appeal.

Appeals from the Court of Appeal.

Article 132(2) of the Constitution provides that a right of appeal from the court of appeal shall lie in the Supreme Court. This is further fortified by section 5(1) of the Judicature Act Cap 13.

Scope of appeals to Supreme Court:

If it is a conviction from the High Court, or court of appeal, the scope of the appeal in the Supreme Court is limited to matters of law, or mixed law and fact, per section 5(1) (a) of the Judicature Act. If it is an acquittal from the High Court; and a subsequent conviction in the Court of Appeal, the scope of appeal in the Supreme Court is limited to matters of law, fact or mixed law and fact, section 5(1) (b) of the Judicature Act.

The general rule is evident in section 28 of the Criminal Procedure Code Act, thus an appeal is commenced by a notice of appeal lodged with the Registrar of the Court in which the decision was passed. Section 31 of the Criminal Procedure Code Act provides that one can apply to the High Court for extension of time, if he or she wishes to file the appeal out of time.

If it's the court of appeal;

Rule 59 of the court of appeal rules provides that in capital cases, notice of appeal is presumed to have been given at the time of passing the judgment. In addition, rule 59(3) provides that there is no need for a application for leave of court to appeal or for a certificate of general importance. This is premised on the constitutional provision that states that a sentence passed whereby a person is sentenced to death shall not be executed until confirmed by the highest appellate court of the land. Rule 60 of the Court of appeal rules provides that in non capital cases, notice may be given informally at the time of passing the decision against which one intends to appeal. Rule 61 of the court of appeal rules provides that in case of acquittals, the DPP is enjoined to give notice of appeal.

If it's the Supreme Court;

Rule 56 of the Supreme Court rules provides that in capital cases, notice of appeal is presumed to have been given at the time of passing the judgment. In addition, Rule 57 of the Supreme Court rules provides that in non-capital cases, notice may be given informally at the time of passing the decision against which one intends to appeal.

Rule 58 of the Supreme Court rules provides that in case of acquittals, the DPP is enjoined to give notice of appeal.

Procedure of for application for extension of time:

Application is by notice of motion supported by an affidavit to the court where one seeks to appeal. This is governed by rule 5 of the court of appeal rules in case one is appealing to the court of appeal and rule 5 of the Supreme Court rules in case one is appealing to the Supreme Court.

It must be noted that under section 229(2) of the Act that the appeal is commenced by lodging a notice of appeal with the Registrar of the Unit Disciplinary Committee or the Court Martial within such period after delivery of the decision. Section 229(4) provides that the notice of appeal is followed by a memorandum of appeal.

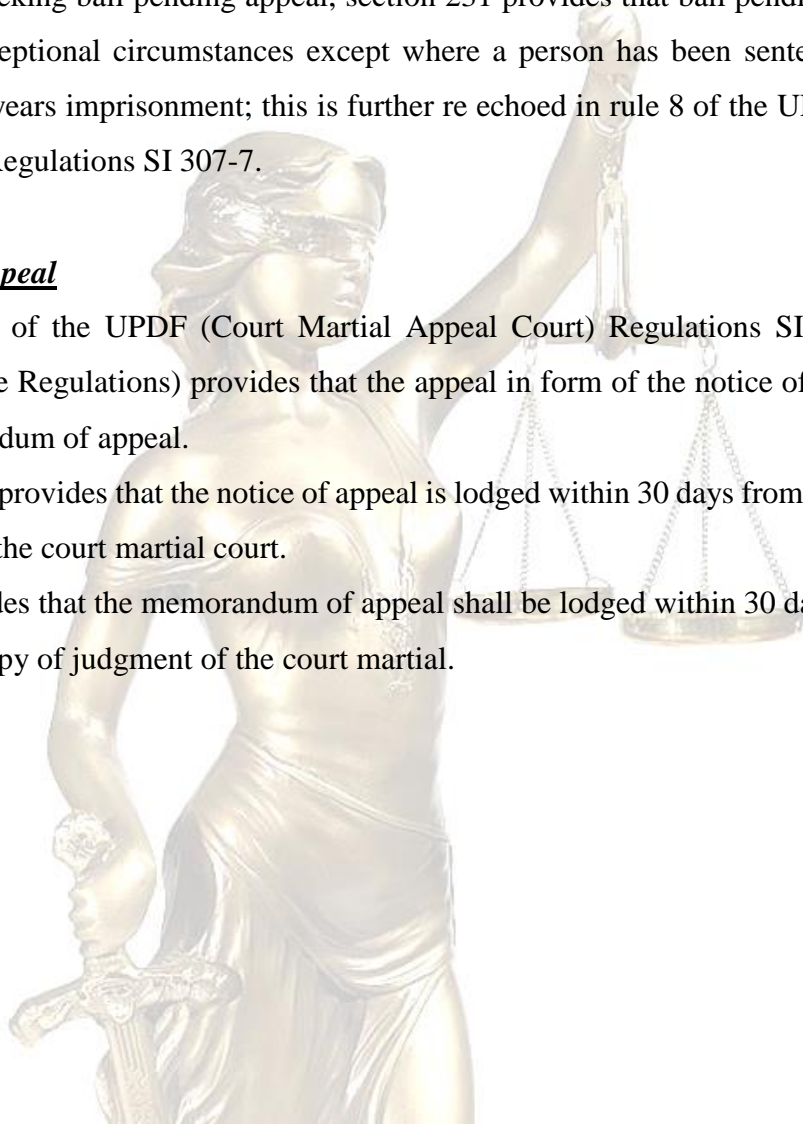
Where one is seeking bail pending appeal, section 231 provides that bail pending appeal will only be given in exceptional circumstances except where a person has been sentenced to death or a maximum of 5 years imprisonment; this is further re echoed in rule 8 of the UPDF (Court Martial Appeal Court) Regulations SI 307-7.

Procedure of appeal

Regulation 6(1) of the UPDF (Court Martial Appeal Court) Regulations SI 307-7 (hereinafter referred to as the Regulations) provides that the appeal in form of the notice of appeal is followed with a memorandum of appeal.

Regulation 6(2) provides that the notice of appeal is lodged within 30 days from the date of delivery of judgment by the court martial court.

Rule 6(3) provides that the memorandum of appeal shall be lodged within 30 days from the date of receipt of the copy of judgment of the court martial.



P.O.BOX 7117, KAMPALA

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT GULU
CRIMINAL MISCELLANEOUS APPLICATION NO.....
OF 2020**

(Arising from criminal appeal No.02 of 2020)

BENJAMIN RUBAGANO.....APPLICANT

VERSUS

UGANDA RESPONDENT

AFFIDAVIT IN SUPPORT OF THE APPLICATION FOR BAIL PENDING APPEAL

I, BENJAMIN RUBAGANO of C/O SUI GENERIS & CO ADVOCATES, P.O.BOX 7117, KAMPALA, a resident of Gulu municipality, Gulu District, do solemnly swear and state as follows;

1. That I am a male adult Ugandan of sound mind, the convict and appellant in Criminal Appeal No of 2020 and therefore depone this affidavit in that capacity
2. That I was convicted for the offense of manslaughter e/s 187 of the penal code Act by her worship Cynthia Muis on the 15/6/2020
3. That I was aggrieved by the conviction and sentence of her worship and thus lodged an appeal against the same in this honorable Court (a copy of the notice of Appeal and memorandum of Appeal are hereby attached and named Annexure "A" and "b" respectively)
4. That my appeal has a high likely hood of success (attached and marked annexure "c" is the record of the trial court)
5. That I suffer from acute asthma which requires constant medical attention and a clear and dusty free environment which cannot be achieved in the prison facilities. (attached here to and marked annexure "D" is a medical report from the medical director Murison bay hospital)

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CRIMINAL APPEAL NO.14 OF 2020**

**(Arising from chief magistrate court of Kampala at Buganda Road. Criminal case No.33 of
2020)**

MUHOZI INNOCENT.....APPELLANT

VERSUS

UGANDARESPONDENT

NOTICE OF APPEAL

Take notice that the above named appellant, being dissatisfied with the decision and judgement of HON LADY JUSTICE KYALIGONZA WINNIE, HIGH COURT CRIMINAL APPEAL NO.14 OF 2020 AT KAMPALA, on the 28th day of August, 2020 where he was convicted and sentenced to three (3) years and eight (8) months for committing the offences of cyber harassment contrary to s.24 (1)(2),

(a) and offensive communication contrary to s.25 of the computer misuse Act, 2011

The appeal is against conviction and sentence

The appellant desires to be present during the hearing of the appeal

Dated at Kampala this 9th day of September, 2020

.....
M/S SUI GENERIS & CO ADVOCATES

COUNSEL FOR THE APPELLANT

LODGED in the registry on thisday of2020

.....
DEPUTY REGISTRAR

To: the Registrar High Court of Uganda at Kampala

Copies to be served upon

1. director of republic prosecution
2. the registrar of the court of appeal

Drawn & filed by

M/s SUI GENERIS & CO Advocates

P.O.BOX 7117

Memorandum of Appeal:

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
(arising from High Court Criminal Appeal No. 14 of 2020)
(Arising out of Buganda Road Criminal Appeal No.33 of 2020)

MUHOOZI INNOCENT.....APPELLANT

VERSUS

UGANDA RESPONDENT

MEMORANDUM OF APPEAL

The appellant being dissatisfied with the decision of HON LADY JUSTICE KYALIGONZA WINNIE IN HIGH COURT CRIMINAL APPEAL NO.14 OF 2020 AT KAMPLA dated 28th August, 2020 in which the high court in its appellate jurisdiction upheld the decision of the trial court where the appellant was convicted and sentenced to three (3) years and eight (8) months for committing the offences of cyber harassment contrary to s.24 (1),(2), (a) and offensive communication contrary to s.25 of computer misuse Act 2011, appeals to the court of appeal on grounds that

1. The learned appellate judge erred in law when she allowed the decision of the trial court promised on a wrong plea of guilt made by the appellant
2. The learned trial judge erred in law when she discharges the Appellant and later convicted and sentenced him

WHEREFORE, it is proposed that this Honourable Court order that:

1. The Appeal be allowed
2. Conviction of the Apellant be quashed

DATED this 9th day of September, 2020

.....

M/S SUI GENERIS & CO ADVOCATES

COUNSEL FOR THE APPELLANT

LODGED in the Registry at Kampala Day of2020

.....

DEPUTY REGISTRAR

Drawn and filed by:

Indictment

THE REPUBLIC OF UGANDA

**IN THE HIGH COURT OF UGANDA AT MASINDI CRIMINAL CASE NO. GIVEN A
NUMBER AFTER IT IS TRANSMITTED OF 2015 TO CHC**

COURT CASE NO:

POLICE CASE NO. CRB/1130/2014

DPP CASE NO.

At the session high court holden at _____ on the _____ day of _____ 2015 .

The court is informed by the DPP that Mungooma Yuda alias Ateenyi is charged with the following offence

STATEMENT OF OFFENCE

Murder contrary to section 188 and 189 of the penal code Act cap 120

PARTICULARS OF OFFENCE

Mungooma Yuda alias Ateenyi on the 10th day of August, 2014 at Kyamhuga village ,kakumito sub county in Kibaale District with malice aforethought shot Muhindo Adyeeri causing injuries that resulted into his death with a forethought murdered Muhindo Adyeeri.

RSA KIBAALE

FOR DPP

TO: MUNGOOMA YUDA ALIAS ATEENYI

Take notice that you will be hired on the above incident on _____ day of _____ 2015 , at _____ at _____ o'clock in the forenoon or soon thereafter.

DEPUTY REGISTRAR

Affidavit in support

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT
MASINDI MISC APPLICATION NO. OF 2015
(ARISING FROM CRIMINAL CASE NO. OF 2015)**

AHIMBISIBWE RUBAGANO ----- APPLICANT

VERSUS

UGANDA ----- RESPONDENT

AFFIDAVIT IN SUPPORT

I, Ahimbisibwe Rubagano of C/o M/S Sui Generis and Co. Advocates, P.O.BOX 7117, Kampala do here by take oath and swear as follows;

1. That I am a male adult Ugandan of sound mind, the applicant herein and I swear this affidavit in that capacity.
2. That I was arrested and charged with the offences of murder and aggravated robbery
3. That I have been remanded at kabarole government prison since 19th /august /2014 when I was arrested
4. That I have been reliably informed by my advocate Mr. Rumanyika Fred of Sui Generis and co. Advocates which information I verily believe to be true by this Honourable Court.
5. That it is my constitutional right to apply for bail.
6. That I have sound and substantial sureties within the jurisdiction of this honorable court who will undertake that I comply with the conditions of bail imposed upon me by this honorable court
7. That I am a first time offender
8. That I have a fixed place of abode at kyaruhageof a letter of residence is attached hereto and marked annexure B
9. That I will not abscond if released on bail.
10. That I will not interfere with the investigations or evidence of the prosecution
11. That it is in the interest of justice that this application is granted.
12. That what is stated herein above is true and correct to the best of my knowledge and belief save for paragraph 4 whose source is disclosed therein.

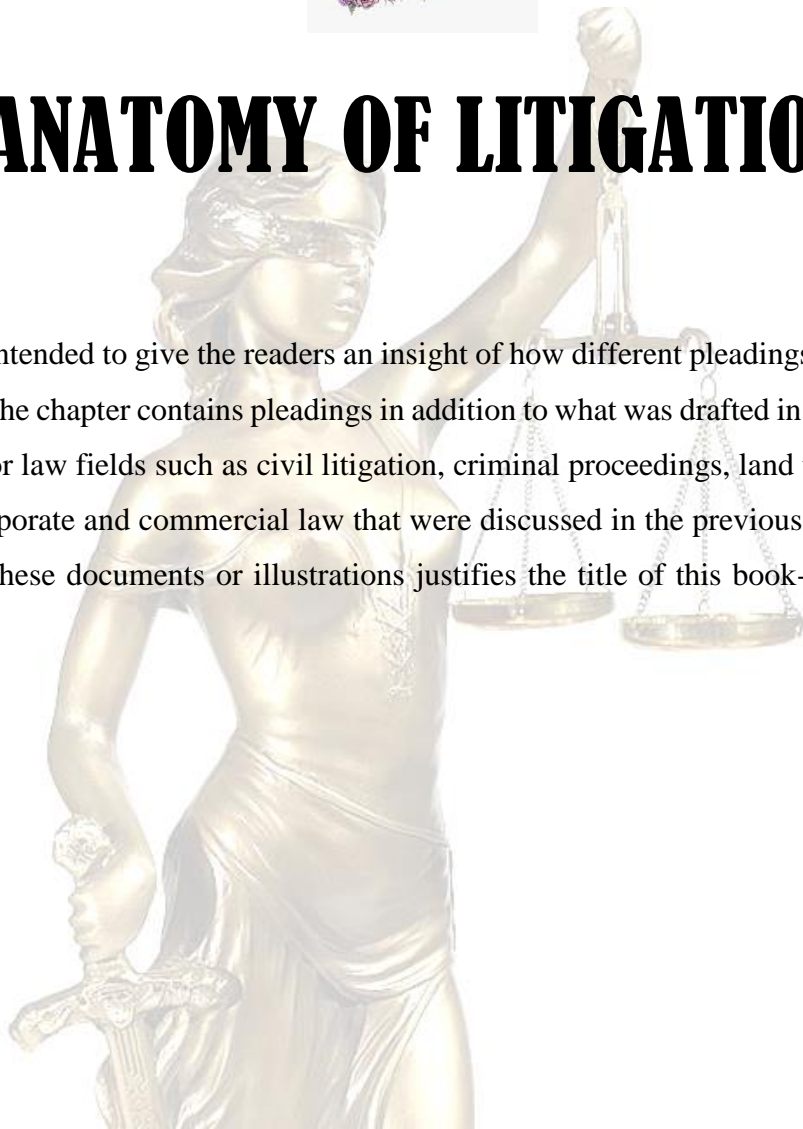
Chapter Six



ANATOMY OF LITIGATION

Introduction.

This chapter is intended to give the readers an insight of how different pleadings are supposed to be drafted in law. The chapter contains pleadings in addition to what was drafted in the aforementioned chapters in major law fields such as civil litigation, criminal proceedings, land transactions, family practice and corporate and commercial law that were discussed in the previous chapters. The form and content of these documents or illustrations justifies the title of this book- OBJECTION MY LORD.



TAKE NOTICE Sui Generis has given you a period of 14 days from today to act upon the claims and upon such failure; we shall proceed to file the matter in the Courts of Law, without further notice.

Sui Generis is a government project that is hosted, managed and supervised by the Judiciary to provide legal services to those that are deserving.

Yours sincerely,

Legal Officer

SUI GENERIS



b) The said land was until 2001 leased and occupied by Uganda Posts and Telecommunications Corporation and subsequently Uganda Telecom Ltd for operation of telecommunication services.

c) In 2001 Uganda Telecom Ltd opted to retain only 0.10 hectares and surrendered the balance of the land to the 1st Plaintiff.

d) The 1st Plaintiff acting through its Kampala Archdiocese Land Board thereafter decided to subdivide the land and lease it to private developers on a term of 49 years.

e) Kyadondo Block 15 Plot 2073 was applied for and allotted to Mr. Yusuf Kiwanuka in April, 2001 who paid the necessary premium and applicable fees. **Copies of the lease offer and payments thereof are attached hereto and marked Annex A¹, A², A³ and A⁴.**

f) The said Yusuf Kiwanuka subsequently with approval of the 1st Plaintiff sold his interest in plot 2073 to the 2nd Plaintiff. **A copy of the sale agreement is attached hereto and marked Annex “B”.**

g) In the last quarter of 2008, the 1st Plaintiff prepared a lease agreement for the 2nd Plaintiff but in the process of search at the Registry of Titles, it was discovered that the Defendant had fraudulently registered a forged lease and obtained a certificate of title over the same land.

i) In 2010, the Defendant unilaterally and forcefully entered upon the disputed land, fenced it off and brought upon the land some people who started using it as a garage, washing bay and car parking without the 1st and 2nd Plaintiffs’ permission who were the owners and in possession respectively at the time.

j) The Defendant had never applied for the Plot and the 1st Plaintiff who is the landlord denies ever allocating or leasing the said land to the Defendant.

k) The 1st Plaintiff requested the Defendant to vacate the land and hand it over to the lawful lessee but the Defendant ignored and/or refused to comply. A copy of the demand letter is attached hereto and marked Annex “C”.

a) PARTICULARS OF GENERAL DAMAGES

- i) Loss of business opportunity to develop the land by the 2nd Plaintiff
- ii) Loss of land income by the 1st Plaintiff
- iii) Inconvenience and stress caused to the 2nd Plaintiff.
- iv) Embarrassment and damage to image of 1st Plaintiff.

7. Notice of intention to sue was duly given to the Defendant but she ignored it.

8. The Cause of action arose in Kampala within the Jurisdiction of this Honourable Court.

Wherefore the Plaintiff prays that this Honourable Court may be pleased to enter Judgment against the Defendant for:

- a) Declaration that the purported lease by Defendant is illegal, null and void.
- b) Declaration that the 2nd Plaintiff is the rightful lessee of 1st Plaintiff.
- c) Vacant possession
- d) Cancellation of the lease and re-entry by 1st Plaintiff
- e) Registration of 2nd Plaintiff as the lessee over Plot 2073
- f) Special damages as prayed in paragraph 6(a) above
- g) General damages as prayed in paragraph 6(b) above
- h) Exemplary damages
- i) Interest on (f) at 25% from date of filing this suit till payment in full
- j) Interest on (g) at 25% from the date of Judgment till payment in full
- k) Costs of the suit
- l) Interest on (k) at court rate.

DATED this _____ day of _____ 2013.

COUNSEL FOR PLAINTIFF

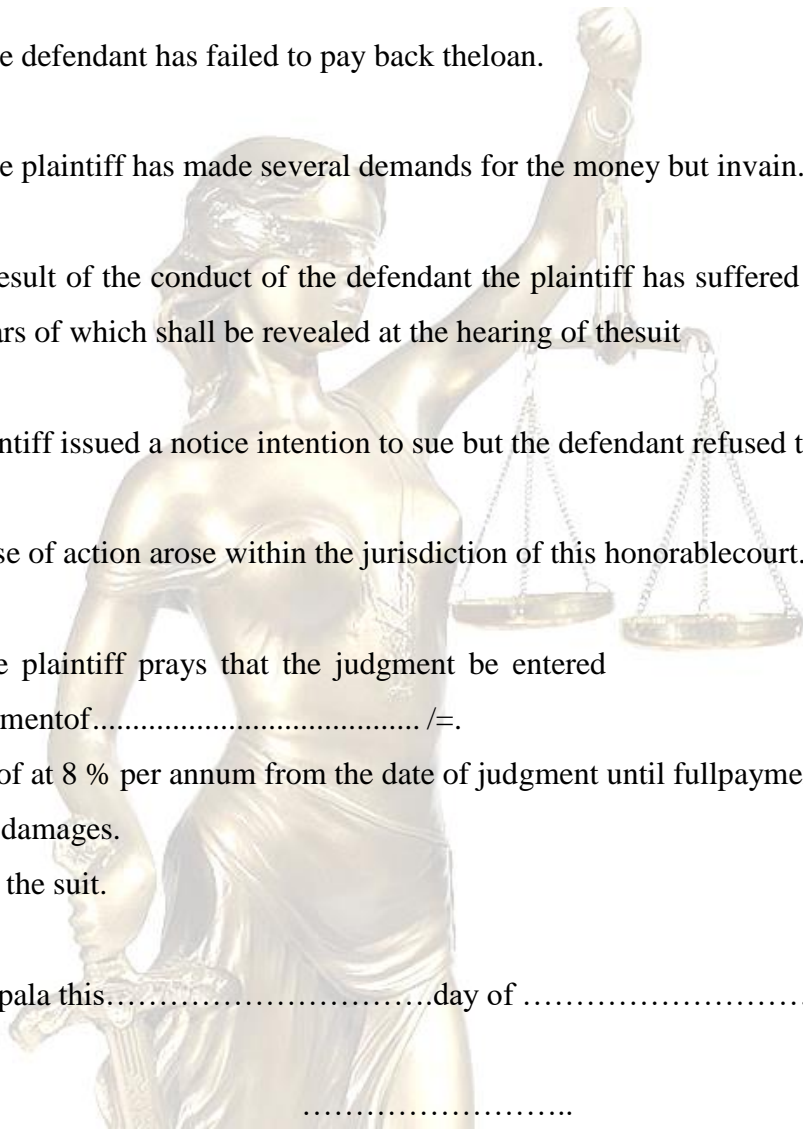
the defendant to the tune of...../=. A photo copy of the said agreement attached and marked annexure “A”.

- (b) That the defendant promised to repay the said loan within a period of one month time.
 - (c) The defendant has failed to pay back the loan.
 - (d) The plaintiff has made several demands for the money but in vain.
4. As the result of the conduct of the defendant the plaintiff has suffered loss and damage particulars of which shall be revealed at the hearing of the suit
 5. The plaintiff issued a notice intention to sue but the defendant refused to give it.
 6. The cause of action arose within the jurisdiction of this honorable court.

Wherefore the plaintiff prays that the judgment be entered

- for:- (a) Payment of...../=.
 (b) Interest of at 8 % per annum from the date of judgment until full payment.
 (c) General damages.
 (d) Costs of the suit.

Dated at Kampala this.....day of20.....



.....

SUI GENERIS
COUNSEL FOR THE PLAINTIFF

Drawn and Filed by:

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL SUIT NO..... OF

ABC.....PLAINTIFF

VERSUS

XYZ.....DEFENDANT

SUMMARY OF EVIDENCE

The plaintiff will adduce evidence to show that he lent the defendant a sum of Ug Shs..... which the defendant has refused to pay.

LIST OF DOCUMENTS

1. Agreement dated 20.2.2008
2. The Notice of intention to sue.
3. Any other with leave of court

LIST OF WITNESSES

1. The plaintiff
2. Any other with leave of court.

LIST OF AUTHORITIES

1. The Constitution of the Republic of Uganda, 1995.
2. The Contract Act 2010
3. The Evidence Act Cap 6
4. Case law
5. Any other with leave of Court.

Dated Kampala thisday of.....20....

Summons to file defense

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL SUIT NO. OF**

ABC..... PLAINTIFF

VERSUS

XYZ..... DEFENDANT

SUMMONS TO FILE DEFENCE

TO:XYZ

WHEREAS the above-named plaintiff has instituted a suit against you upon the claim the particulars of which are set out in the copy of the plaint attached hereto.

YOU ARE HEREBY required to file a defence in the said suit within 15 (fifteen) days from the date of service of this summons on you in the prescribed manner under O.9 r 1 Civil Procedure Rules S.I. 71-1.

SHOULD you fail to file a defence on or before the date mentioned, the plaintiff may proceed with the case and judgment maybe given in your absence.

GIVEN under my hand and the seal of this Court this.....day of.....20.....

.....
DEPUTY REGISTRAR

- c. That on the 1st day of January 2012, the plaintiff demanded for the said Ugx. 3,640,000/= from the defendant but the later did not pay the same and pleaded for more time to pay the same.
 - d. That however, the defendant has failed to pay the same despite several demands from the plaintiff up to date.
- 5. That due to the matters aforesaid, the plaintiff has suffered tremendous loss.
 - 6. The plaintiff shall aver and contend that the defendant has absolutely no defence to this suit.
 - 7. Notice of Intention to sue was duly communicated to the defendant and ignored.
 - 8. The cause of action arose at central division of Kampala within the jurisdiction of this Honourable court.

Wherefore the plaintiff prays for judgment against the defendant for;-

- a) Recovery of Ug Shs.3,640,000/=
- b) Interest on (a) at the rate of 24% of per annum from the date of receipt until payment in full.
- c) Costs of this suit

Dated at Kampala this.....day of20.....

.....
SUI GENERIS (COUNSEL FOR THE PLAINTIFF)

Drawn & Filed by:

SUI GENERIS & Co. Advocates

Summary of evidence

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF AT
CIVIL SUIT NO.....OF

XYZ:.....

PLAINTIFF

-VERSUS-

ABC :.....

DEFENDANT

SUMMARY OF EVIDENCE.

The plaintiff shall adduce evidence to this Honourable court to prove that the defendant is truly and justly indebted to him to a total sum of Ugx. 3,640,000/=

LIST OF WITNESSES

1. The plaintiff
2. Others with leave of court.

LIST OF DOCUMENTS

1. Agreement for a loan.
2. Others with leave of court.

LIST OF AUTHORITIES

1. The Civil Procedure Act Cap 71
2. The Civil Procedure Rules S.171-1
3. The Evidence Act Cap 6
4. Case law and common law.
5. Others with leave of court.

Dated at Kampala this.....day of20.....

Summons in summary suit

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF AT

CIVIL SUIT NO.....OF

XYZ:.....

PLAINTIFF

-VERSUS-

ABC

.....

..... DEFENDANT SUMMONS IN SUMMARY SUIT

ON PLAINT

TO: ABC

WHEREAS the above plaintiff has instituted a suit against you under O.XXXVI rule 2 of the Civil Procedure Rules upon the claim set out in the copy of the plaint with annexure attached hereto;

YOU ARE HEREBY REQUIRED within 10 days from the service hereof to apply for leave from the court to appear and defend this suit.

SHOULD YOU FAIL within the period of 10 days to apply for such leave, the plaintiff will be entitled to obtain a decree for the amount in the plaint together with the sum of the money to be taxed by court for costs.

Application for leave to appear and defend this suit shall be made by filing in court an application to the effect supported by the affidavit (a copy whereof shall be supplied to you for service showing that you should be allowed to appear in the suit).

The day for the hearing of the application will be at the time when the same is filed.

GIVEN under my hand and Seal of this Court this.....day of..... 20....

.....

CHIEF MAGISTRATE

- 7. That I swear this affidavit in proof of service of court process on the Respondent/Plaintiff and that the same was proper and effectual.

- 8. That what is stated herein above is true and correct to the best of my knowledge save for the information whose source is disclosed herein.

SWORN by the said

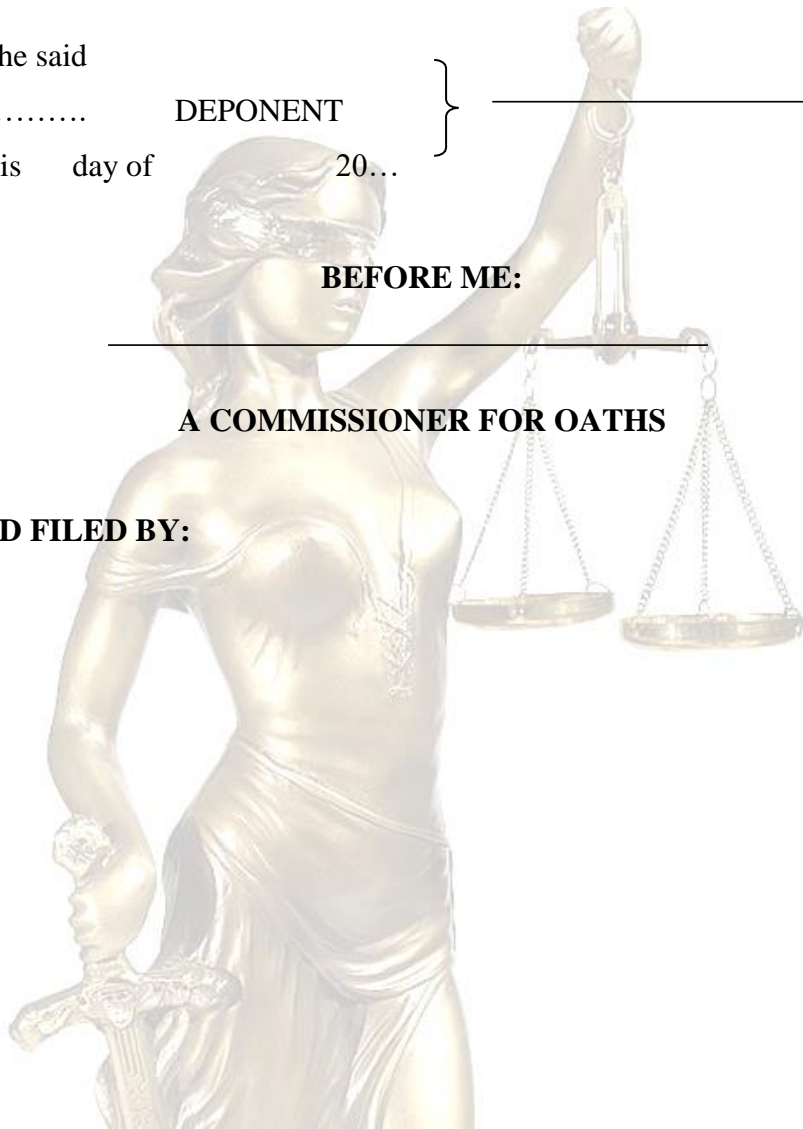
..... DEPONENT } _____
At Kampalathis day of 20...

BEFORE ME:

A COMMISSIONER FOR OATHS

DRAWN AND FILED BY:

Sui Generis

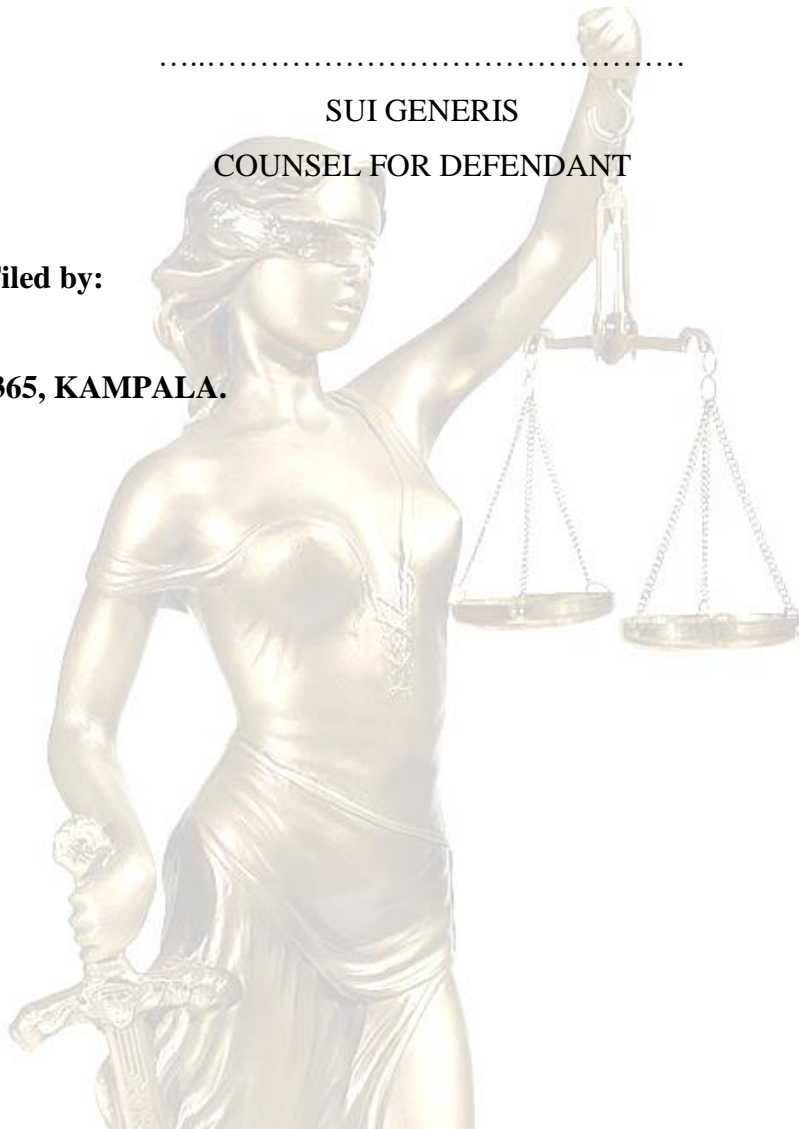


7. The contents of paragraph 9 of the plaint are admitted
Wherefore the defendant(s) prays that the suit be dismissed
withcosts

Dated at Kampala thisday of20....

.....
SUI GENERIS
COUNSEL FOR DEFENDANT

Drawn and Filed by:
Sui Generis
P. O. Box 26365, KAMPALA.



Hearing Notice

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE’S COURT OF AT
CIVIL SUIT NO. OF 20....

ABC..... PLAINTIFF

VERSUS

XYZ.....DEFENDANT

HEARING NOTICE

TO:.....

.....

.....

TAKENOTICEthatthehearingofthismatterhasbeenfixedforthe.....dayof
.....,20....at..... O’clock in the fore/afternoon or so soon thereafteras
the case can be heard in this court.

If no appearance is made on your behalf, by yourself, your pleader or by someone by law
authorized to act for you, the matter will be heard and decided in your absence.

Given under my Hand and Seal of this Honourable Court this day of
....., 20.....

CHIEF MAGISTRATE

4. It is just and equitable that substituted service be ordered.

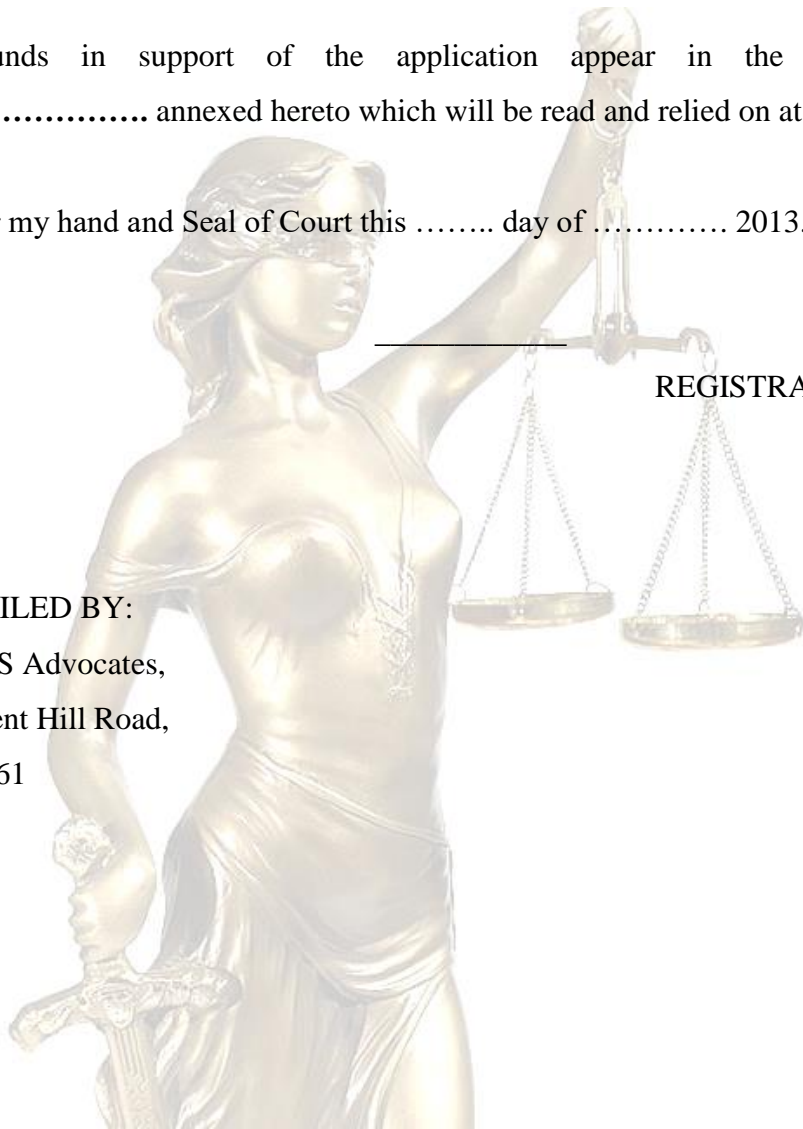
5. That this application has been brought without undue delay and it is just and equitable that time within which to effect service be enlarged.

Further grounds in support of the application appear in the affidavit of the annexed hereto which will be read and relied on at the hearing.

GIVEN under my hand and Seal of Court this day of 2013.

REGISTRAR

DRAWN & FILED BY:
SUI GENERIS Advocates,
Plot 10 Clement Hill Road,
P.O. Box 21161
Tel: 341295/6
Fax: 343168
KAMPALA.



DRAWN & FILED BY:
SUI GENERIS Advocates,
Plot 10 Clement Hill Road,
P.O. Box 21161
Tel: 341295/6
Fax: 343168
KAMPALA.



(b) Substituted service is the best method by which summons will come within the respondent’s knowledge.

(c) It is in the interest of justice that this application be granted. This summons was taken out by counsel for the applicant.

Given under my hand and the seal of this Honourable court, at Kampala this.....day of.....20.....

DEPUTY REGISTRAR

Drawn and Filed by:
Sui Generis

Affidavit of service of summons

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF
(ARISING FROM CIVIL SUITNO.....OF.....)**

ABC... .. APPLICANT/PLAINTIFF

VERSUS

XYZ... .. RESPONDENT/DEFENDANT

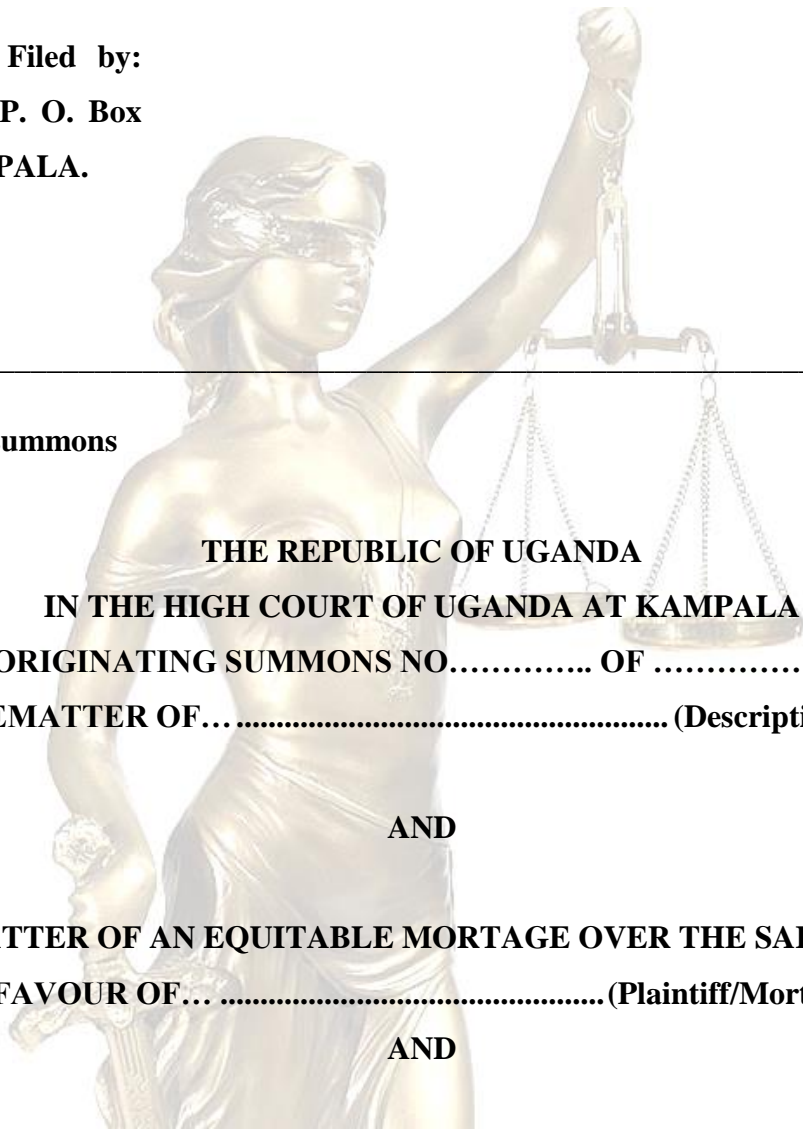
**AFFIDAVIT OF SERVICE
(Under Order 5 rule 16 of the Civil Procedure rules SI 71-1)**

BEFORE ME

.....

A COMMISSIONER FOR OATHS

**Drawn and Filed by:
Sui Generis P. O. Box
26365, KAMPALA.**



Originating summons

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
ORIGINATING SUMMONS NO..... OF
IN THEMATTER OF..... (Description of land)**

AND

**IN THE MATTER OF AN EQUITABLE MORTGAGE OVER THE SAID PROPERTY
IN FAVOUR OF... (Plaintiff/Mortgagee)**

AND

**IN THE MATTER OF AN APPLICATION FOR FORECLOSURE AND SALE OF
THE MORTGAGED PROPERTY**

BETWEEN

Dated at Kampala this.....day of.....20.....

.....
JUDGE

Note:

The Originating summons should be accompanied by an affidavit which should be sworn by a person conversant with the facts of the matter.

Drawn and Filed by: Sui Generis P. O. Box 26365, KAMPALA.

Application for leave to appear and defend the suit

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

MISCELLANEOUS APPLICATION NO.....OF.....

(ARISING FROM CIVIL SUITNO.....OF.....)

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ..... RESPONDENT/PLAINTIFF

NOTICE OF MOTION

Drawn and Filed by:
Sui Generis P. O. Box
26365,



Sworn at Kampala by the said

ABC

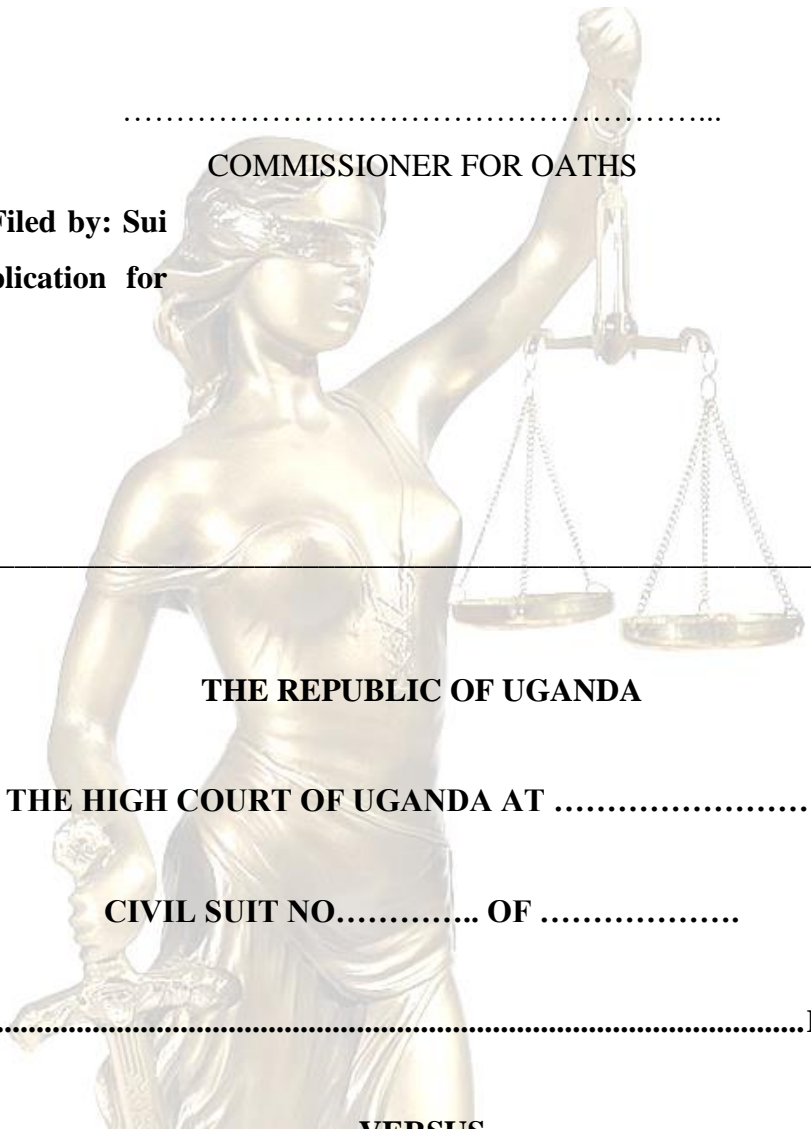
DEPONENT

this Day of..... 20....

BEFORE ME

COMMISSIONER FOR OATHS

Drawn and Filed by: Sui
Generis Application for
Judgment



THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT

CIVIL SUIT NO..... OF

ABC.....PLAINTIFF

VERSUS

XYZ.....DEFENDANT

APPLICATION FOR JUDGMENT AGAINST THE DEFENDANT

Application to set aside default Judgment and decree

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO.....OF.....
(ARISING FROM CIVIL SUITNO.....OF.....)**

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ... RESPONDENT/PLAINTIFF

**NOTICE OF MOTION
(Brought under Order 36 rule 11 and Order 52 rules 1 and 3 CPR)**

TAKE NOTICE that this honourable court shall be moved on the.....day of
.....20.... at O'clock in the forenoon/afternoon or soon
thereafter as Counsel for the applicants can be heard on the application for orders that:

4. The ex parte judgment and decree entered against the applicant in Civil suit No.....of.....be set aside.
5. The applicant be granted unconditional leave to appear and defend the suit.
6. The execution of the exparte decree be set aside.
7. Costs of the application be provided for.

This application should be accompanied by an affidavit which should be sworn by a person conversant with the facts of the matter.



Sworn at Kampala by the said

ABC

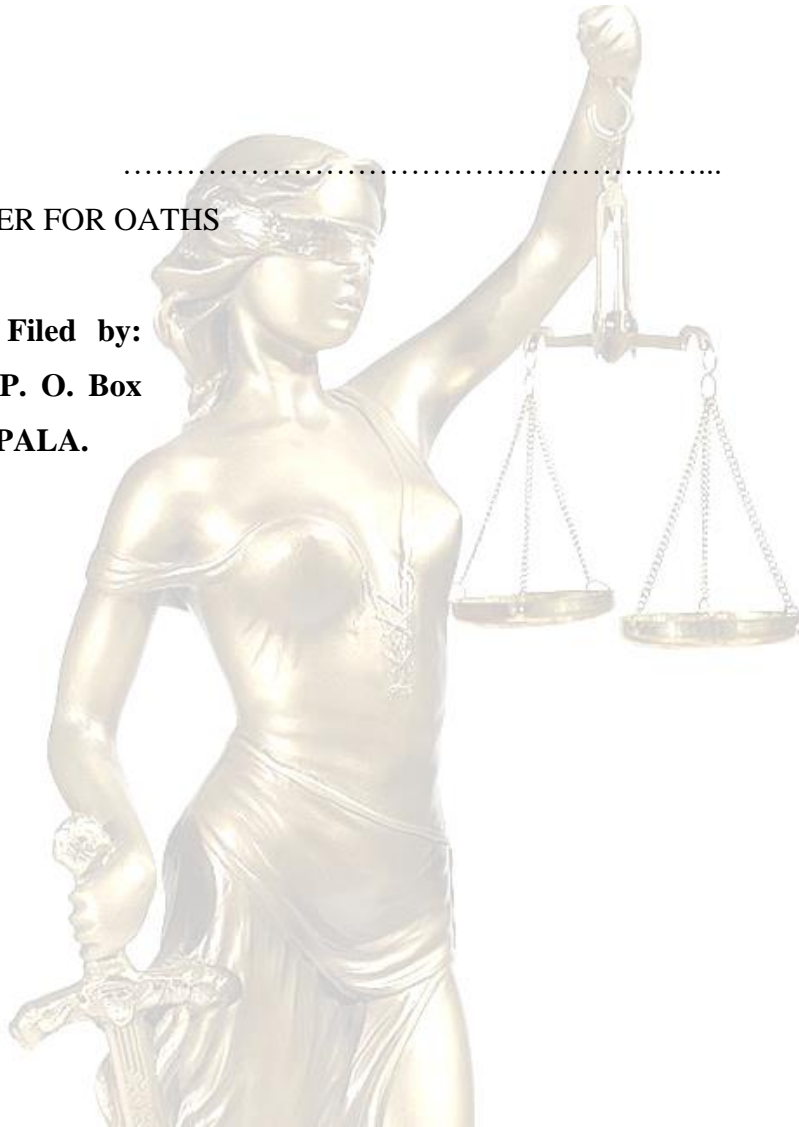
DEPONENT

this Day of..... 20....

BEFORE ME

COMMISSIONER FOR OATHS

**Drawn and Filed by:
Sui Generis P. O. Box
26365, KAMPALA.**



5. Therefore it is just, fair and equitable that this application be granted.

Dated at Kampala this.....day
of.....20.....

.....

**SUI GENERIS (COUNSEL FOR
THE APPLICANT)**

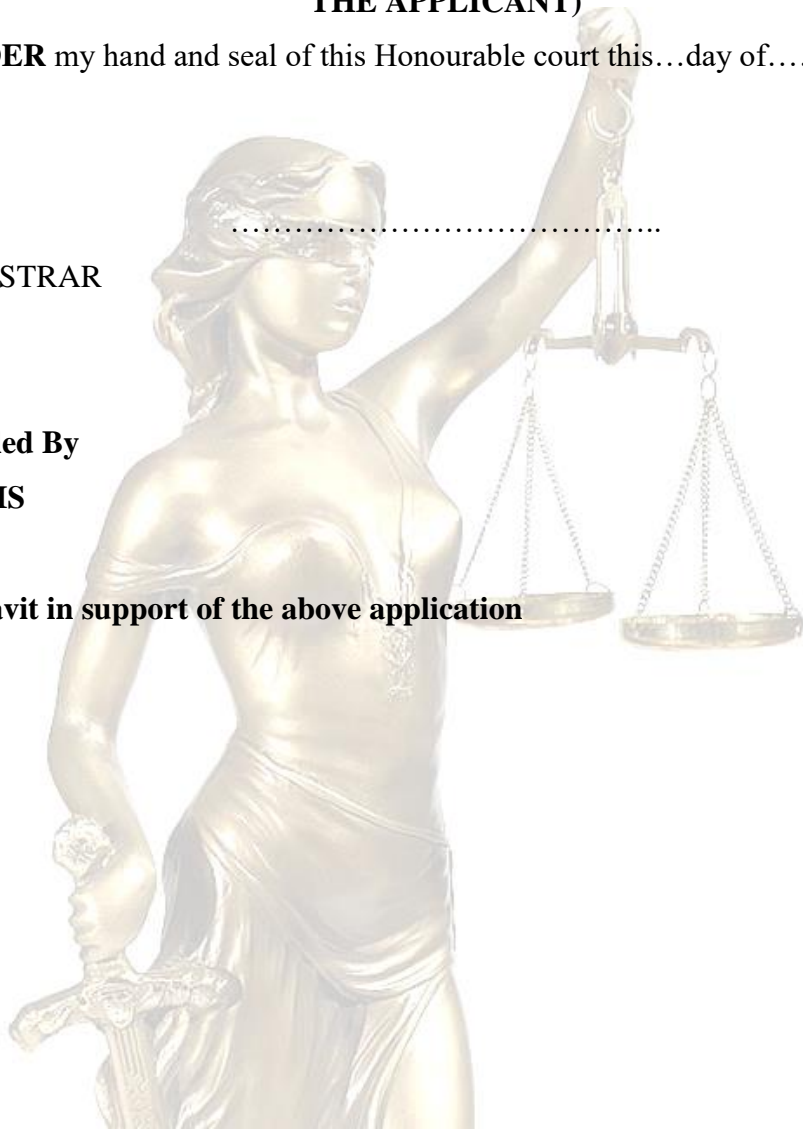
GIVEN UNDER my hand and seal of this Honourable court this...day of..... 20.....

.....

DEPUTY REGISTRAR

**Drawn & Filed By
SUI GENERIS**

Affidavit in support of the above application



- 16. That I did not attend the court on that day and I only got to know about the case when my clerk told me that it had been dismissed for non-appearance.
- 17. That the inadvertence of counsel should not be visited on the innocent applicant/plaintiff who is very much interested in expeditiously pursuing his case to its logical conclusion.
- 18. That right from the time of filing the main suit, we have always done all the necessary steps to prosecute the applicant’s suit and we have never reached court after the scheduled time for hearing, although the main suit has never commenced.
- 19. That it is in the interest of justice and equity that the order dismissing High Court civil suit no.....be set aside and the main suit fixed for hearing on its merits.
- 20. That this application is brought in good faith and without any inordinate delay.
- 21. That I swear this affidavit in support of an application seeking to set aside the order dismissing High court civil suit... .. and to reinstate the same to be heard on its merits.
- 22. That I certify that whatever I have stated herein above is true and correct to the best of my knowledge.

Sworn by the Said **XYZ**

At Kampala

This.....day of.....20.... ..

DEPONENT

BEFORE ME

.....
COMMISSIONER FOR OATHS

Drawn & Filed By

SUI GENERIS

d) It is just and equitable that the substitution of the Defendant be allowed.

DATED at Kampala this day of, 2013.

COUNSEL FOR APPLICANT/PLAINTIFF

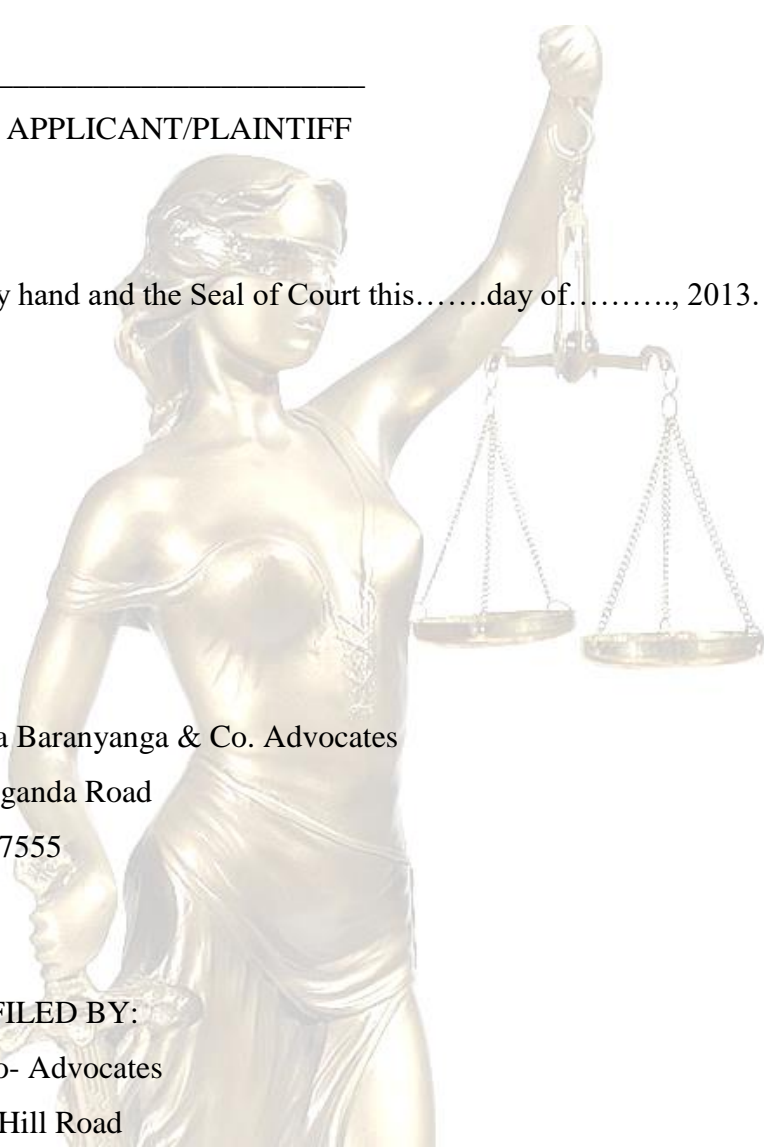
GIVEN under my hand and the Seal of Court this.....day of....., 2013.

REGISTRAR

To be served on:

1. M/S Okecha Baranyanga & Co. Advocates
Plot 224 Buganda Road
P. O. Box 27555
Kampala

DRAWN AND FILED BY:
Sui Generis & Co- Advocates
Plot 10 Clement Hill Road
P.O. Box 32112
KAMPALA



4. The Appeal is still pending hearing.
5. Meanwhile the Respondent and others have invaded the Applicant's land, cut down the chain link fence and entered the land and are threatening to cultivate and build on it.
6. The Applicant has filed an application for a temporary injunction but this application, which has good chances of success, has not been fixed for hearing.
7. The Applicant will suffer irreparable loss and damage if the Respondent is not restrained from trespassing on the suit land, carrying on construction works on the suit land or otherwise interfering in the Applicant's possession and use of the suit land or selling or otherwise alienating the suit property.
8. The balance of convenience is in favour of the Applicant and it is just and equitable that an interim order of injunction be issued against the Respondent.

DATED at KAMPALA this day of2013.

COUNSEL FOR APPLICANT

GIVEN under my hand and the Seal of Court this.....day of....., 2013.

REGISTRAR

DRAWN AND FILED BY:
Sui Generis & Co- Advocates
Plot 10 Clement Hill Road

Application to release property from attachment- UNDER NOTICE OF MOTION.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF
(ARISING FROM CIVIL SUITNO.....OF**)

ABC.....APPLICANT/OBJECTOR

VERSUS

XYZ... RESPONDENT/JUDGMENT/CREDITOR

NOTICE OF MOTION

(Brought under Order 22 r 55(1), 56, 57 and Order 52 rules 1 & 3 CPR)

TAKE NOTICE that this honourable court shall be moved on the.....day of20.... at O'clock in the forenoon/afternoon or soon thereafter as Counsel for the applicants can be heard on the application for orders that:

- 8. The sale of motor vehicle registration numberbe released from attachment.
- 9. Costs of the application be provided for.

TAKE FURTHER NOTICE that the grounds of this application are contained in the affidavit of ABC, the applicant which shall be read and relied upon at the hearing but briefly they are:

- 1. The motor vehicle Registration No.....is not liable to attachment.
- 2. The vehicle does not belong to the judgment debtor but belongs to the applicant and the judgment creditor has no interest legal or equitable in the same.
- 3. The applicant was in possession of the motor vehicle up to the time of attachment.
- 4. The vehicle is still under attachment.
- 5. It is in the interest of justice that the said motor vehicle is released from attachment.

DATED at Kampala thisday of.....20.....

.....

rover, Reg. No.....from KLM. The contract is attached hereto and marked annexure 'A'.

3. That in accordance with the terms of the contract I paid the full purchase price of Ug. Shs. 50,000,000 as per acknowledgment receipt attached hereto and marked annexure 'B'.
4. That after payment the seller, KLM issued me with a registration book of the said motor vehicle which still bears the name of KLM as the registered owner. A photocopy of the motor vehicle registration book is attached hereto and marked annexure 'C'.
5. That I am yet to complete the process of transferring the registration of the motor vehicle into my name.
6. That on theday of.....while I was driving along Kampala road, I was stopped by a one.....who presented me with a document issued by the High Court of Uganda requiring me to surrender the vehicle to him which I did upon advice of the policemen accompanying him.
7. That I have made several attempts to recover the vehicle but to no avail.
8. That on the ...day of.....I as noticed an advertisement in the Monitor Newspaper to the effect that my car was to be sold on..... A photocopy of the said advertisement is attached hereto and marked annexure 'D'.
9. That the motor vehicle Reg. No.should not have been attached for it does not belong to the judgment debtor in civil suit no.....of.....
10. That the said motor vehicle Reg. No.....was in my possession at the time of attachment and it is still under attachment but not yet sold.
11. That I swear this affidavit in support of my application for an order that the motor vehicle be released from attachment.

An application for security for costs

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUBENDE
MISC APPLICATION NO.24 OF 2020
(Arising from HCCS no.443 of 2022)

KAMARA ELUDGARD -----APPLICANT

VERSUS

BAMANYA FRANCIS -----RESPONDENT

CHAMBER SUMMONS

LET ALL PARTIES CONCERNED attend to the learned registrar in chambers on the 13th day of January 2020 at 9;00 O'clock in the forenoon or soon thereafter as counsel for the applicant can be heard on an application for orders that;

The respondent give security for the payment of all costs to be incurred by the applicant in HCCS No. 443 of 2022

The costs of their application.

These summons are extracted by SUI GENERIS & CO, on behalf of the applicant GIVEN under my hand and seal of this honourable court on this 11th day of January 2020

SIGNATURE

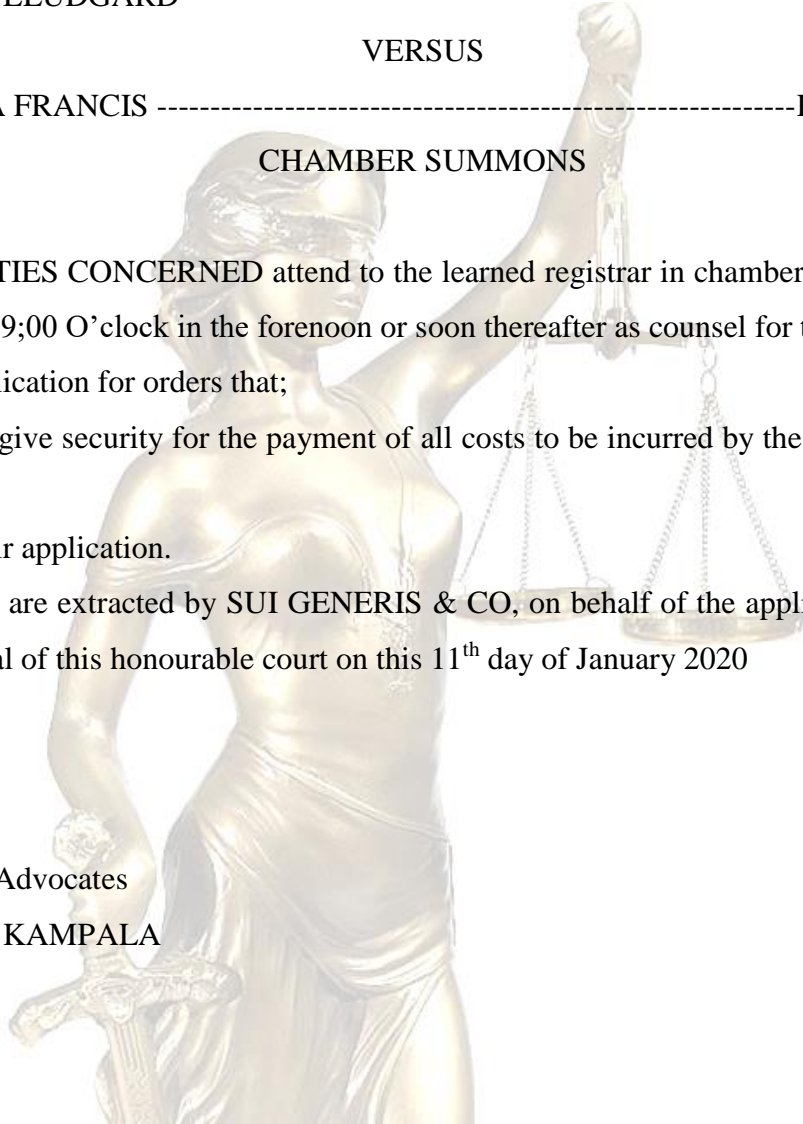
REGISTRAR

Extracted by;

SUI GENERIS Advocates

P.O.BOX 7117, KAMPALA

UGANDA.



THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF MAKINDYE
CIVIL SUIT NO.169 OF 2022
SUI GENERIS A -----PLAINTIFF

VERSUS

SUI GENERIS B
AND
KAROKORA TIMITEO ----- DEFENDANTS

AFFIDAVIT IN ANSWER TO INTERROGATORIES

(Under order 10 rule 9)

This is the answer by the above named defendants, SUI GENERIS B to the interrogations for his examination by the above named plaintiff, SUI GENERIS A

In answer to the interrogations, I SUI GENERIS B the above named defendant make oath and say as follows:

I object to answer the interrogations numbered 7 and 9 on the ground that

I certify that whatever I have stated above is true and correct to the best of my knowledge, information & belief.

SWORN by the said SUI GENERIS B on this 11th day of November 2022

SUI GENERIS B

DEPONENT

Before me

COMMISSIONER FOR OATHS

Documents relating to discovery of documents.

Start by sending a formal letter 4 discovery.

Chamber summons

(0.10 r 12(1)) No need 4 an affidavit in support

Order for affidavit as to documents.

Affidavit as to documents

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF MAKINDYE AT MAKINDYE
CIVIL SUIT NO.167 OF 2022

SUI GENERIS A----- PLAINTIFF

VERSUS

SUI GENERIS B &
KAROKORA TIMITEO ----- DEFENDANTS

AFFIDAVIT AS TO DOCUMENTS

I, SUI GENERIS B, the above named defendant make oath and say as follows:

1. That I have in my possession or power the documents relating to the matters in qtn in this suit set forth in the first and second parts of the first schedule to this affidavit.
2. That I object to produce the documents set forth in the second part of the first schedule to this affidavit on the following grounds
3. That I have had but have not now in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule to this affidavit.
4. That the last mentioned documents were last in my possession or power on the 12, august 2022 and were transferred to Omiyat Arnold.(state when & what has become of them and in whose possession they are now.)
5. That according to the best of my knowledge, information and belief, I have not now and never had in my possession ,custody or power of any other person on behalf , any document or any other document whatsoever relating to the matters in question this suit except the documents set forth in the first schedule and second schedule to this affidavit.

First schedule

Second schedule

SWORN BY Sui Generis B at Kampala on this 11th day of nov 2022

4&3 Fahad, plaza on Tuesday next week between the hours of 9:00am & 12:00noon.

OR.

Take notice that the defendant objects to give you inspection of documents mentioned in your notice of the 11thnov,2022, on the ground that:

5. That I introduced my self as a process server to the L.C.1 chairperson , MR. Lumala Joel and told him I was there to serve the defendants .

6. That the defendants were known to mr. Lumala who accompanied me to their residence on plot 5 kabaka Anjagala Road Bakuli, mengo.

7. That the defendants not being personally known to me, Mr. Lumala who accompanied me to their residence pointed out to me a person whom he stated to him that I was there to serve court process upon him.

8. that I introduced m self to the first defendant and also stated to him that I was there to serve court process upon him

9. That I served the summons upon him on the 9th November 2022 at about 3:30 o'clock in the afternoon by tendering a copy of it to him and requiring him to append his signature to the original summons.

10. That the first defendant, Mr. SUI GENERIS B accepted service and signed on the original summons in the chairperson.

11. That I left behind a copy of the duplicate summons with Mr. Sui Generis B and here with return the original summons endorsed by Mr. Sui Generis B in proof of service.

I certify that whatever I have stated above is true to the best of my knowledge and belief

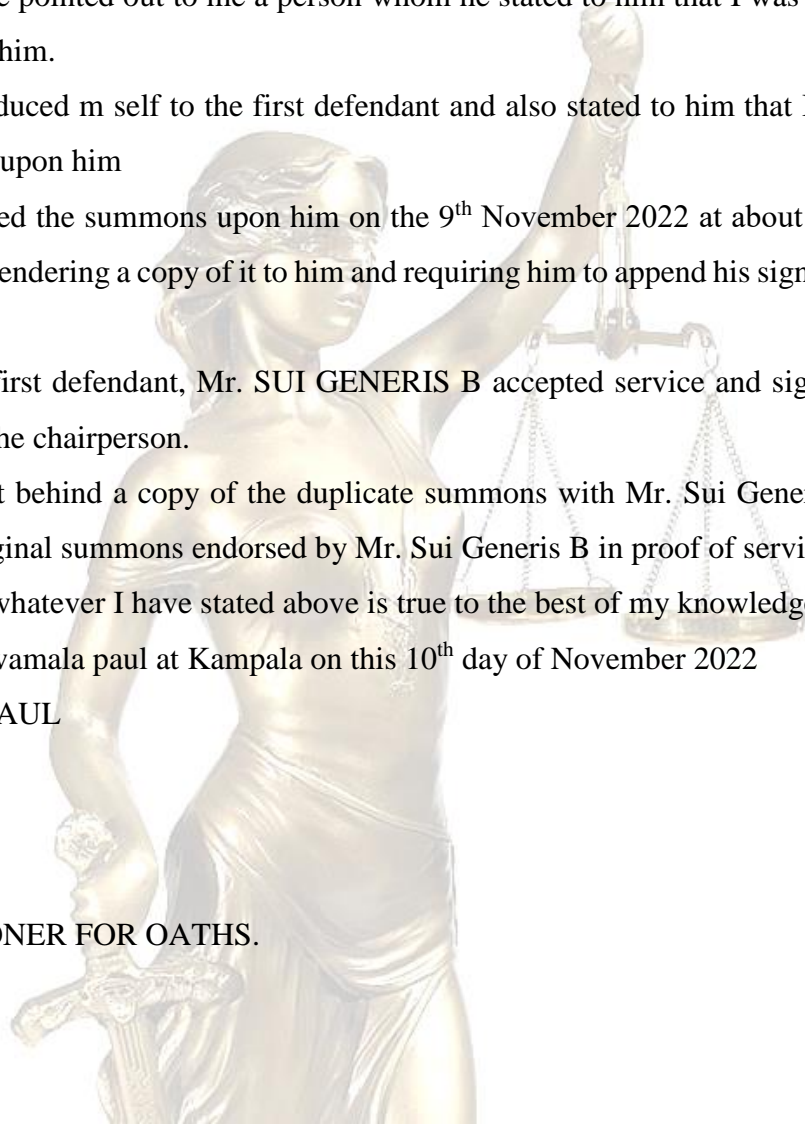
SWORN by wamala paul at Kampala on this 10th day of November 2022

WAMALA PAUL

DEPONENT

Before me

COMMISSIONER FOR OATHS.



DOCUMENTS RELATED TO INSPECTION OF DOCUMENTS.

Notice to produce documents.

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF MAKINDYE AT MAKINDYE.**

**CIVIL SUIT NO.167 of 2022
SUI GENERIS A – PLAINTIFF**

Versus

**SUI GENERIS B
KAROKORA TIMITEO - DEFENDANTS**

TO: MATSIKO JORAM
M/S MATSIKO & CO.ADV
PLOT 5, BOMBO RD
P.O BOX KAMPALA
(COUNSEL FOR THE DEFENDANTS)
NOTICE TO PRODUCE DOCUMENTS
(Under order 10 rule 16)

Take notice that the plaintiff requires you to produce for his inspection following documents referred to your written statement of defense .

Dated this 11th Nov, 2022

SUI GENERIS
(FOR SUI GENERIS & CO.ADV)
(COUNSEL FOR THE PLAINTIFF)

The court file.

The clients file

Notice to inspect documents.

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE’S COURT OF MAKINDYE AT MAKINDYE**

An application for temporary injunction

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUBENDE
MISC APPLICATION NO.23 OF 2020.
(Arising from HCCS NO.443 of 2022)

BISIRIKIRWA JESCA----- APPLICANT

VERSUS

RUKUNDO AFRICANO ----- RESPONDENT

CHAMBER SUMMONS.

(Under s.98&s.64 of the civil procedure Act cap.71 s.38 of the judicature act .13, 0.41 r 1(a) of the CPR s. I 71-1 as amended.

LET ALL PARTIES CONCERNED ATTEND to the learned registrar in chambers on the 11th day of January 2020 at 9:00 o'clock in the forenoon as counsel for the applicant can be heard on an application for orders that:

- a) That a temporary injunction be issued against the respondents and his servants or agents or persons acting under his authority from entering the applicants land comprised in plot 8 LRN NO. 13 in Mityana until the hearing of and determination of the pending suit
- b) An order restraining the respondent or his agents from evicting the tenants of the application on the said land pending the hearing and determination of the pending suit.
- c) The cost of the application: These summons have been extracted by m/s Tumusiime & co. advocates P.O BOX 7117, Kampala on behalf of the applicant. Given under my hand and seal on this 6th day of January 2020.

The summons were served on the defendants on the 11th of October 2022(The affidavit of service of Mr. Wamala is on court record)

The defendants have since then taken no step to file a defense and the 15days allowed to file a defense have since lapsed.

We therefore apply for a judgement to be entered against the defendant under 0.9r8 of the civil procedure rules

Documents relating to interrogations

Form 1, appendix B.

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF MAKINDYE
AT MAKINDYE
CIVIL SUIT NO. 167 OF 2022

SUI GENERIS A-----plaintiff

Versus

1. SUI GENERIS B &

2. Karokora Timiteo ----- defendants

Order for delivery of interrogatories

(order 1 rule 1)

Upon having the plaintiff and upon reading the affidavit filed on the 8th day of November 2022
It is ordered that the plaintiff be at liberty to deliver to the defendants interrogatories in writing ,
and that the defendants answer the interrogatories as prescribed by rule 8 of order X of the civil
procedure rules and that the cost of his application be born by the plaintiff / defendant /(on any
other order court deems)

Dated this 10th day of November 2022.

Magistrate

Lodged at the court registry on this 11th day of November 2022

DEPUTY REGISTRAR

Drawn and filed by

SUI GENERIS and CO. advocates

plot 10, Bombo Road , 1st floor sure house,

P.O. box 55 Kampala

6. in reply to the contents of paragraph 6 of the plaint , the defendant avers that he has a valid defence to the plaintiffs claim.

7. the defendant avers and contends that the plaintiff is not entitled to the relief sought as against the defendant whatsoever except as herein admitted.

Reasons wherefor the defendant prays that theplaintiff suit as against the defendant be dismissed with costs.

Dated at mbarara on this 11thday of November 2022.

SUI GENERIS

FOR SUI GENERIS AND CO ADVOCATES

(COUNSEL FOR THE DEFENDANT)

Before me

Commissioner for oaths.

Drawn and filed by

SUI GENERIS & co. advocates,

Kampala

(attach a draft written statement of defence)

Written Statement Of Defence.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA
CIVIL SUIT NO.233 OF 2022
PERFECT MUTORAWE ----- PLAINTIFF
VERSUS
ELIFAZ KAKYE ----- DEFENDANT

Written statement of defence

1. Save as hereinafter expressly admitted , the defendant denies each and every allegation of fact in the plaint as if the same were fully and clearly set out herein and specifically traversed seriatim.

IN THE HIGH COURT OF UGANDA AT MBARARA
MISCELLANEOUS APPLICATION NO.233 OF 2022
(ARISING FROM CIVIL SUIT NO.23 OF 2022)

ELIFAZ KAKYE ----- APPLICANT

VERSUS

PERFECT MUTORAINE ----- RESPONDENT.

Affidavit in support of notice of motion

I Elifaz Kakye , a male adult Ugandan of sound Mind whose addresss for purposes of this application shall be SUI GENERIS and co advocates , plot 10 bombo road, 1st floor sure house , p.o. box 55, Kampala solemnly state as follows:

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA.
MISCELLANEOUS APPLICATION NO.1 OF 2022
(ARISING FROM CIVIL SUIT NO.233 OF 2022)**

ELIFAZ KAKYE ----- APPLICATION

VERSUS

PERFECT MUTORAWA ----- RESPONDENT

NOTICE OF MOTION

(under s.98 of cpa, 0.36 r.3(1) and(4) and 0.52 r1 and 3 of crr)

Take notice that on the 11th day of November 2022 at 9oclock in the forenoon or soon thereafter as counsel for the applicant can be heard for the following orders:

- a) That the applicant be granted unconditional leave to appear and defend civil suit no.233 of 2022.
- b) That the costs of this application be provided by the respondent.

Take further notice that the grounds of this application are set out herein and and are supported by facts contained in the affidavit of the applicant filed herewith nd which will be read and relied upon at hearing . the grounds briefly are:

1. That I am of the above stated particulars and I had duly instructed mr. kabindi jaggwe of m/s jaggwe and co.advocates to represent me in civil suit no.167 of 2022.
2. That due to the slow and incompetent nature of mr. kabindi josephs services, I approached SUI GENERIS and co.advocates to take over conduct and prosecution of the suit.
3. That mr. kabindi jaggwe failed to effect service on the respondents despite clear instructions to do so.
4. That I have been informed by my lawyers of SUI GENERIS and co advocates which information I believe to be true that the summons have expired and cannot be served out of time.
5. That mr. kabindi jaggwe's negligent conduct of the suit should not be visited on as the applicant

Notice of motion for enlargement of time

The republic of Uganda

In the chief magistrates court of makindye at makindye

IsC application no.1 of 2022

(arising from civil suit no.167 of 2022)

SUI GENERIS A applicant

Versus

SUI GENERIS B

KAROKORA TIMITEO respondent

Notice of motion

(under ss.6,98 of civil procedure act , order 51.6 of the civil procedure rules.)

Take notice that this honourable court will be moved on the 11th day of november 2022 at 9:00 O'clock in the forenoon or soon after a counsel for the applicant can be heard on an application for orders that:

1. The summons issued vide civil suit no.167 of 2022 be renewed.
2. The time for service of summons on the defendants be enlarged to allow the applicant to serve them out of time

Take further notice that the grounds for this application are contained in the affidavit of SUI GENERIS A attached hereto . the grounds of this applications briefly are that:

Notice of change of advocates

Take notice that SUI GENERIS and co. advocates , 1st floor , sure house , plot 10 , bombo road has been fully instructed by the plaintiff in above civil suit to take over the conduct and prosecution of the same to its logical conclusion on behalf of the plaintiff all correspondences and or senice of court process on the plaintiff in regard to the above matter should be effected on us a the above mentioned address.

SUI GENERIS

Counsel for the plaintiff

(for SUI GENERIS and co. advocates)

To be served on

m/s Jaggwe and co. advocates

plot 6, luwum street 4th

floor , Namaganda plaza suit

no. 4 . p. o. box 333 , Kampala

In all correspondences originated by us . in order to save time and unless you strongly disagree, the firm will use email as the standard communication medium correspondences deemed to be more important will be sent by email or made by telephone ,will be confirmed by official letter.

Standard of services

In carrying out instructions we ensure that :

1. The work is completed within the stipulated times.
2. The client understands and consents to any action we propose to take.

Action time frame

Save for complex inquiries, in which case you shall informed accordingly , the firm shall as far as practicable ensure to turn around time or from time of written confirmation of receipt of your instructions. The firm hall at all times strive to resolve maters expeditiously and economically and no settlement or negotiations shall be entered into or any settlement after made without the express written approval from you.

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

MISC APPLICATION NO. OF 20....

(Arising from Civil Suit No.OF20....)

ABC.....APPLICANT

VERSUS

XYZ.....RESPONDENT

CHAMBER SUMMONS

(Brought under O. 41 r. 1 & 2 CPR, Section 98 CPA)

LET ALL PARTIES CONCERNED attend the learned Judge in chambers on the Day of 20.... ato'clock in the fore/ afternoon or soon thereafter as counsel for the applicant can be heard on the application for orders that;

1. A temporary injunction be issued restraining the respondent, her work men, agents and servants from evicting , intimidating , threatening or in any other way interrupting the applicant's use of the land at.....
2. Costs be in the cause.

TAKE FURTHER NOTICE THAT this application is supported by the affidavit of the applicant, ABC which shall be read and relied upon at the hearing but briefly the grounds of this application are :-

1. The applicant has a prima facie case.

THE REPUBLIC OF UGANDA
IN THE HIICH COURT OF UGANDA AT KAMPALA
MISC APPLICATION NO. OF 20....
(Arising from Civil Suit No.OF20.....)

ABC.....APPLICANT

VERSUS

XYZ.....RESPONDENT

AFFIDAVIT IN SUPPORT OF CHAMBER SUMMONS

I, ABC of C/o..... P.OBox.....do solemnly
make oath and state as follows:-

1. That I am a male adult Ugandan of sound mind, the applicant and swear this affidavit in that capacity.
2. That the respondent filed the appending suit No.....of..... before this honorable court but before the same is determined the respondent has kept on utilizing the land and of recent she is threatening to sell it.
3. That the respondent has been using the land as a tenancy and paying rent, and of recent has defaulted in paying the said rent.
4. That the applicant had planted in the suit land a banana plantation to make an income for the applicant.
5. That the respondent has threatened to destroy the banana plantation, an act that will vitiate the status quo.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISC APPLICATION NO. OF 20....
(Arising from Civil Suit No.OF20.....)

ABC**APPLICANT**

VERSUS

XYZ**RESPONDENT**

SUMMARY OF EVIDENCE

As contained in the affidavit of the applicant.

LIST OF WITNESSES

1. Applicant
2. Any other witness with leave of court

LIST OF DOCUMENTS

1. Pleadings in civil suit No.....of.....
2. Any other document with leave of court.

LIST OF AUTHORITIES

1. Civil Procedure Act Cap71
2. Civil procedure Rules SI71-1
3. Caselaw
4. Any other witness with leave of court.

Dated at Kampala this day of 20....

Application for security for costs

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF
(ARISING FROM CIVIL SUIT NO. OF)**

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ... RESPONDENT/PLAINTIFF

CHAMBER SUMMONS

(Under Order 26 Rules and 3 of the Civil Procedure Rules, SI 71-1)

LET ALL PARTIES CONCERNED attend the learned Judge in chambers on the... .. day of.....20....at... ..O'clock in the fore/afternoon or as soon as counsel for the applicant can be heard for Orders that:

1. The respondent herein, being the plaintiff in Civil Suit No.....of.....be ordered to pay security for the applicant's costs in the said suit.
2. Costs of this application be provided for.

TAKE NOTICE that the grounds of this application are contained in the affidavit of ABC, the applicant, which shall be read and relied on during the hearing but briefly they are as follows:

- (d) The applicant was sued by the respondent in civil suit No....of.....
- (e) The respondent is not resident in Uganda and has no known assets in Uganda.
- (f) The applicant has a good defence to the suit with a high probability of success.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF
(ARISING FROM CIVIL SUIT NO. OF)

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ... RESPONDENT/PLAINTIFF

AFFIDAVIT IN SUPPORT OF APPLICATION

I, ABC of P. O. Box 26365 Kampala do make oath and state as follows:

8. That I am an adult male of sound mind, the applicant herein and I swear this affidavit in that capacity.
9. That the applicant is the defendant in High Court Civil suit no. of instituted by the respondent/plaintiff in the High Court of Uganda at Kampala.
10. That the respondent herein is a Canadian citizen who visits Uganda occasionally but does not have any known assets in Uganda.
11. That the applicant has a good defence to the suit with a high probability of success.
12. That in the event of losing the said suit the applicant shall have nothing to attach to recover its costs of the suit.
13. That I swear this affidavit in support of the applicant's application for security for costs.
14. That whatever is stated herein above is true to the best of my knowledge and belief.
15. It is in the interest of justice that this Application be granted.

Application for leave to appear and defend the suit

THE REPUBLIC OF UGANDA

**IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO.....OF.....
(ARISING FROM CIVIL SUITNO.....OF.....)**

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ... RESPONDENT/PLAINTIFF

**NOTICE OF MOTION
(Brought under Order 36 rule 3 and Order 52 rules 1 and 3 CPR)**

TAKE NOTICE that this honourable court shall be moved on the.....day of
.....20.... at O'clock in the forenoon/afternoon or soon
thereafter as Counsel for the applicants can be heard on the application for orders that:

- 10. The Applicant be granted unconditional leave to appear and defend Civil Suit No.....of.....
- 11. Costs of the application be provided for.

TAKE FURTHER NOTICE that the grounds of this application are contained in the affidavit of....., the applicant which shall be read and relied upon at the hearing but briefly they are:

- 1. The applicant was never served with summons.
- 2. The applicant is not indebted as claimed by the respondent.
- 12. It is just and equitable that the applicant be granted leave to appear and defend the suit.

DATED thisday of.....20.....

.....

SUI GENERIS

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

MISCELLANEOUS APPLICATION NO.....OF.....

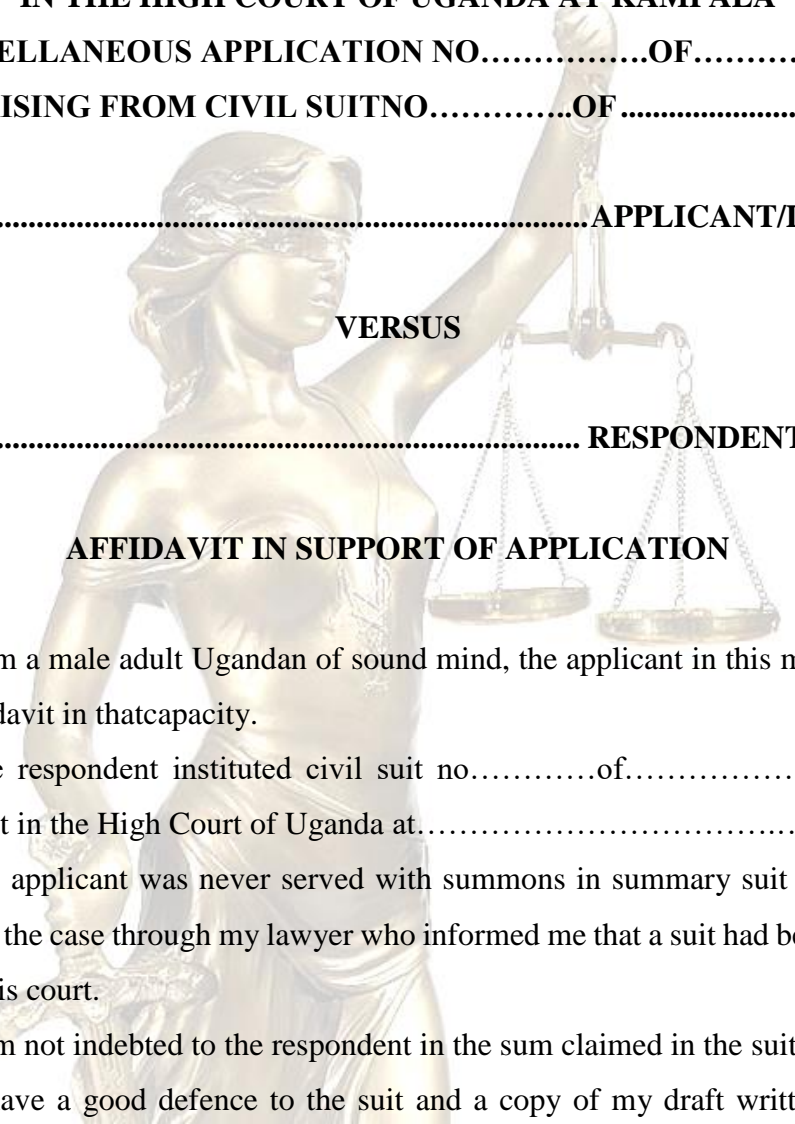
(ARISING FROM CIVIL SUIT NO.....OF.....)

ABC.....APPLICANT/DEFENDANT

VERSUS

XYZ..... RESPONDENT/PLAINTIFF

AFFIDAVIT IN SUPPORT OF APPLICATION

- 
23. That I am a male adult Ugandan of sound mind, the applicant in this matter and swear this affidavit in that capacity.
 24. That the respondent instituted civil suit no.....of.....against the applicant in the High Court of Uganda at.....
 25. That the applicant was never served with summons in summary suit and only got to know of the case through my lawyer who informed me that a suit had been filed against me in this court.
 26. That I am not indebted to the respondent in the sum claimed in the suit.
 27. That I have a good defence to the suit and a copy of my draft written statement of defence is attached hereto and marked annexure 'A'.
 28. That it is in the interest of justice and equity that the application for leave to appear and defend is allowed so that the suit is heard and determined on its merits.
 29. That I certify that whatever I have stated herein above is true and correct to the best of my knowledge.

THE REPUBLIC OF UGANDA
IN THE HIICH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF 20....
(Arising from Misc. Application No.OF20.....)

(Arising from Civil Suit No.OF20.....)

ABC.....**APPLICANT**

VERSUS

XYZ.....**RESPONDENT**

NOTICE OF MOTION

(Brought under O. 52 r. 1& 2 CPR and Section 98 CPA)

TAKE NOTICE that this Honorable court shall be moved on theday of 20.... atO'clock in the fore/ afternoon or soon thereafter as counsel for the applicant can be heard on the application for orders that;

1. That an interim order issues restraining the respondent, her work men, agents and servants from utilizing, selling, alienating or causing waste to land the subject of civil suit no.....of 20.... until the final determination of the main application for temporary injunction.
2. Costs be in the cause.

TAKE FURTHER NOTICE that this application is supported by the affidavit of the applicant (ABC) which shall be read and relied upon at the hearing but briefly the grounds of this application are:-

1. That there is a sufficient cause as to an interim order should issue as the suit land is in danger of beingwasted

Interim order

This is the order that is issued upon grant of an application for an Interim Order.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. OF 20....
(Arising from Misc. Application No.OF20.....)

(Arising from Civil Suit No.OF20.....)

ABC.....APPLICANT

VERSUS

XYZ.....RESPONDENT

INTERIM ORDER

THAT upon hearing from counsel for the applicant on the of20.... I am satisfied that this is a proper case where an interim order restraining the respondent from utilizing, selling, alienating or causing waste to land in dispute pending the hearing and determination of the main application for a temporary injunction, it is hereby ordered that:

1. An interim is hereby granted restraining the respondent, her agents, assignee, workmen from utilizing, selling, alienating or causing waste to land in dispute pending the hearing and determination of application of temporary injunction application.
2. Costs of the application shall be in the Cause.

GIVEN under my hand and the seal of this Court this.....day of.....20.....

.....

DEPUTY REGISTRAR

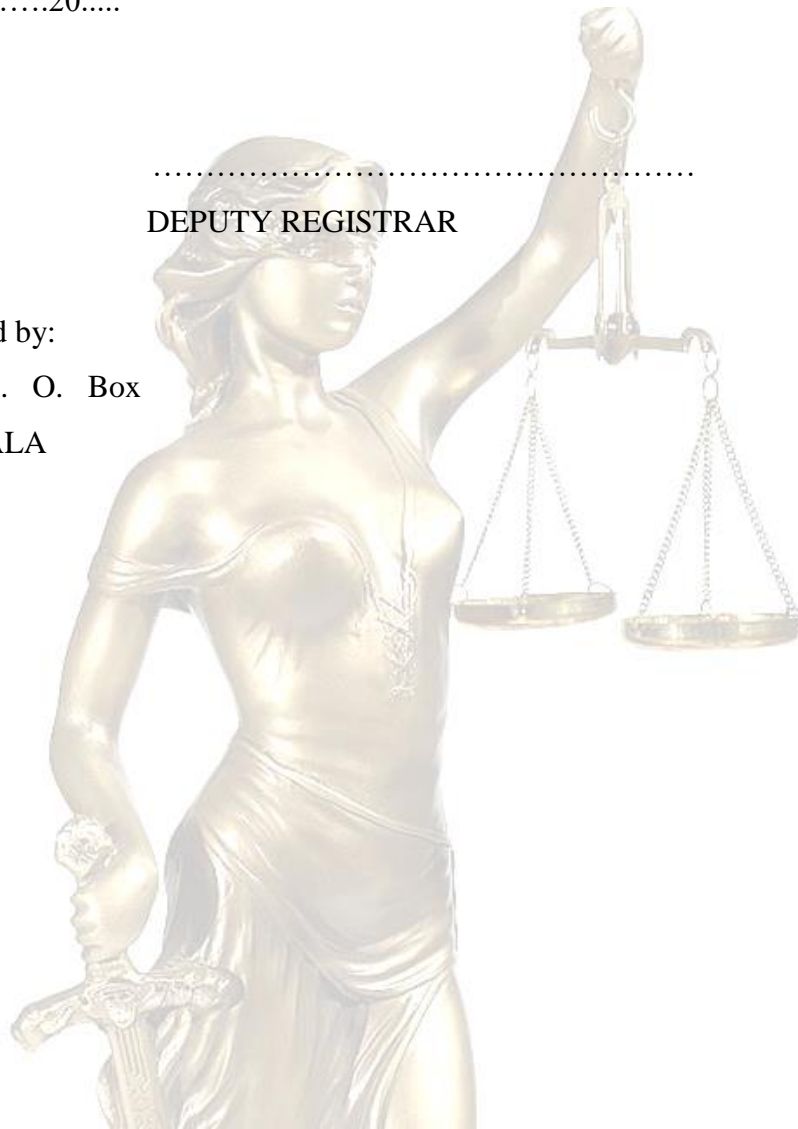
(k) It is in the interest of justice that this application be granted.

This summons was taken out by Sui Generis, counsel for the applicant.

Given under my hand and the seal of this Honourable court, at Kampalathis.....day
of.....20.....

.....
DEPUTY REGISTRAR

Drawn and Filed by:
Sui Generis P. O. Box
26365, KAMPALA



- 24. That this affidavit is sworn in support of my application for a Garnishee order.
- 25. That whatever is stated herein is true to the best of my knowledge.
- 26. Whatever is stated above is true to the best of my knowledge.

SWORN by the said ABC

At Kampala this.....

day of.....20.....

.....

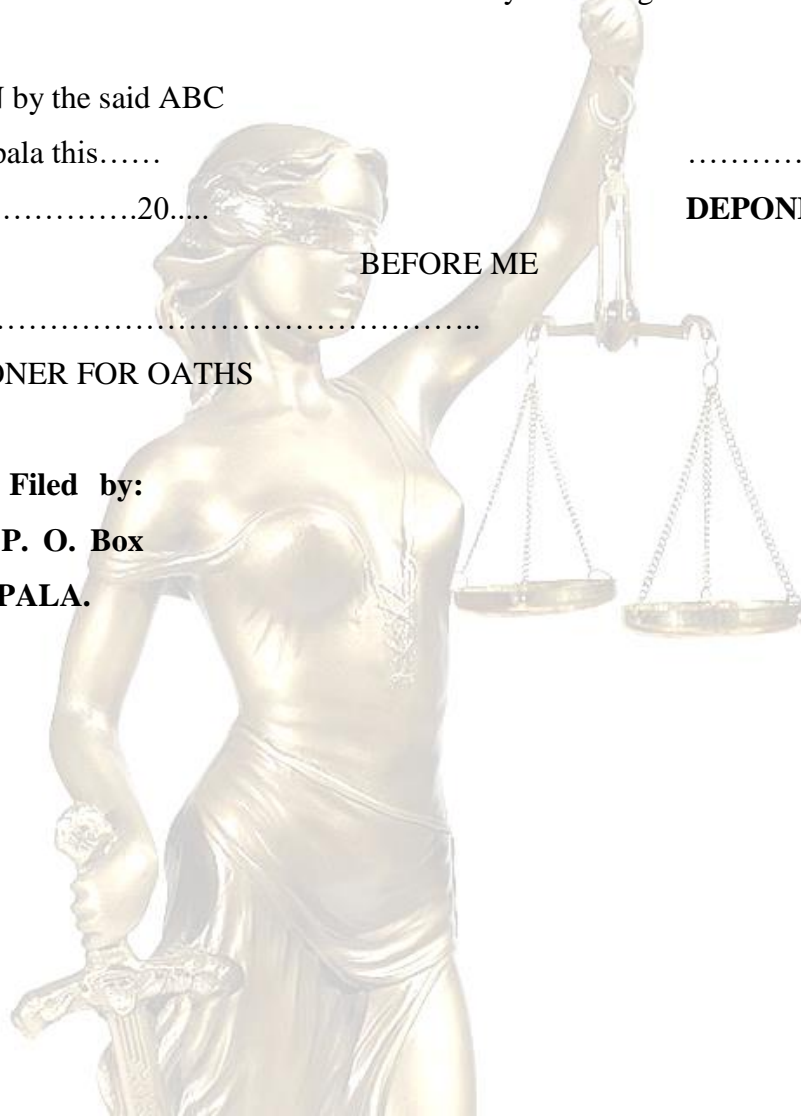
DEPONENT

BEFORE ME

.....

A COMMISSIONER FOR OATHS

**Drawn and Filed by:
Sui Generis P. O. Box
26365, KAMPALA.**



XYZ

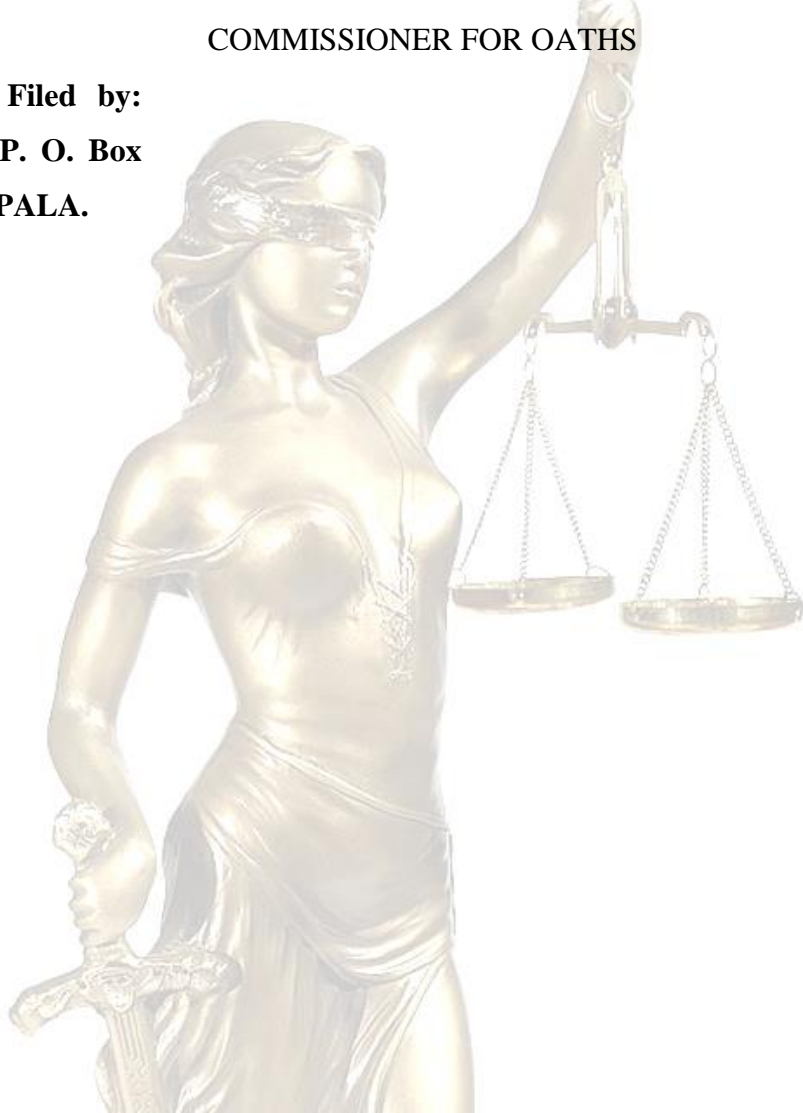
DEPONENT

this Day of..... 20....

BEFORE ME

.....
COMMISSIONER FOR OATHS

**Drawn and Filed by:
Sui Generis P. O. Box
26365, KAMPALA.**



COUNSEL FOR THERESPONDENT

*Drawn and Filed by: Sui
Generis P. O. Box 26365,
KAMPALA.*



Notice of Appeal

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVL APPELA NO. OF 20....**

ABC..... APPELLANT

VERSUS

XYZ..... RESPONDENT

NOTICE OF APPEAL

TAKE NOTICEthat(appellant) being dissatisfied with the decision of..... court given at..... (where decision was given) on the day of.....20. , contends to appeal to the..... (higher court) on the whole of the said decision.

The address of service of the appellant is c/o firm.....P.O. Box.....

It is intended to serve a copies of this notice on P.O. Box.....

Dated thisday of.....20....

.....
SUI GENERIS

COUNSEL FOR THE APPELLANT

**TO: THE REGISTRAR
HIGH COURT
KAMPALA**

LODGED In the High Court at Kampala thisday of20....

Memorandum of Appeal

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVL APPELA NO. OF 20....**

ABC.....

APPELLANT

VERSUS

XYZ.....

RESPONDENT

MEMORANDUM OF APPEAL

The appellant.....being aggrieved by and satisfied by
and dissatisfied with the decision of.....of...
.....court delivered
on
the.....of.....20.hereby appeals to the court of Appeal against the entire
decision on the following grounds:

1. The learned judge erred in law and fact.....
.....
.....
.....
2. The learned
judge.....
...
.....
.....
.....

It is proposed to ask the honorable court of appeal for orders that:

1.
.....

Application for Execution

THE REPUBLIC OF UGANDA
IN THEOF.....
CIVIL SUIT NO.....OF.....

ABC.....PLAINTIFF
VERSUS
XYZ... DEFENDANT

APPLICATION FOR EXECUTION

WE SUI GENERIS Counsel for the decree-holder hereby apply for execution of the decree herein below set forth:-

Name of suit	
Name of Parties	
Date of Decree	
Whether any appeal preferred from decree	
Amount of costs awarded	
Against whom to be executed	
Mode in which the assistance of court is required	

We declare that what is stated herein is true to the best of our knowledge and belief.

SignedCounsel for Decree-holder

Dated theday of

Warrant of attachment of property

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT

CIVIL SUIT NO. OF

ABC..... PLAINTIFF

VERSUS

XYZ..... DEFENDANT

**WARRANT OF ATTACHMENT AND SALE OF MOVABLE
PROPERTY (O. XIX RULES 40 AND 6)**

TO:

.....

... Bailiff of court

WHEREAS(hereinafter referred to as
the judgment debtor) was ordered by decree/order of this court passed on...

.....

in

the above suit to pay the judgment creditor the sum of Shs. and whereas

Shs.....has not been paid and remains owing on account of the said decree together with the sum of.....on account of interest at a rate per annum up to the date of payment, on the decretal amount up to the payment in full and costs of the suit of Shs..... These are to command you to attach the movable property of the said judgment debtor as set forth in the schedule on the reverse hereof, and which shall be pointed out to you by the judgment creditor or his agents and unless the said judgment debtor shall pay to you the said sum of Shs.....and further interest as aforesaid and your fees for the attachment, to sell by public auction at the time or the date and subject to the condition set out in the notification of sale, a copy whereof is sent herewith, the saidmovablepropertyinexecutionofthesaiddecreeorsomuchthereofaswillrealizethesum of Shs..... and further interest as aforesaid and your fees for attachment and sale.

This serves to direct every Police Officer to ensure that the execution is done in a proper manner.

NB: The sale hereby ordered shall not take place before Fourteen Clear days from the date on which notice for such sale has been advertised.

You are hereby commanded to return this warrant on.....or before the.....day of.....20.... certifying the manner in which it has been executed or reason why it has not been executed.

GIVEN under my hand and the seal of this Court this.....day of.....20.....

.....

REGISTRAR

NOTIFICATION OF SALE

The terms of sale are set out in High Court Circular No. 1/58 dated 17th day of July 1958 issued to all Court brokers. The public notice and advertisement shall be in the form and manner set in the above circular.

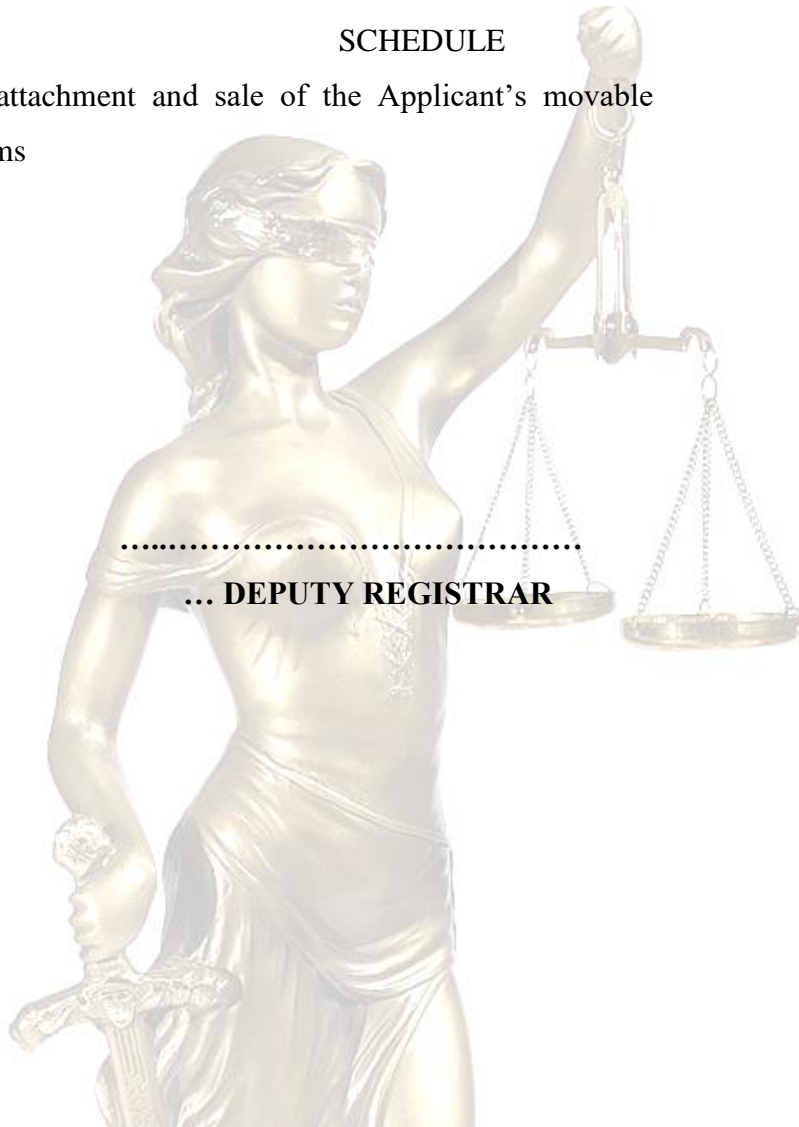
SCHEDULE

By way of attachment and sale of the Applicant's movable property. Items

- 1.
- 2.
- 3.

TOTAL

.....
... DEPUTY REGISTRAR



APPENDIX 1 (A)

Warrant of Committal

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL SUIT NO.....OF

ABC.....PLAINT

IFF

VERSUS

XYZ.....DEFEN

DANT

**WARRANT OF COMMITAL OF A JUDGMENT DEBTOR TO
JAIL (O. 22 R 37 OF CPR)**

TO:

**The Officer in Charge, Murchison
Bay Luzira Prison**

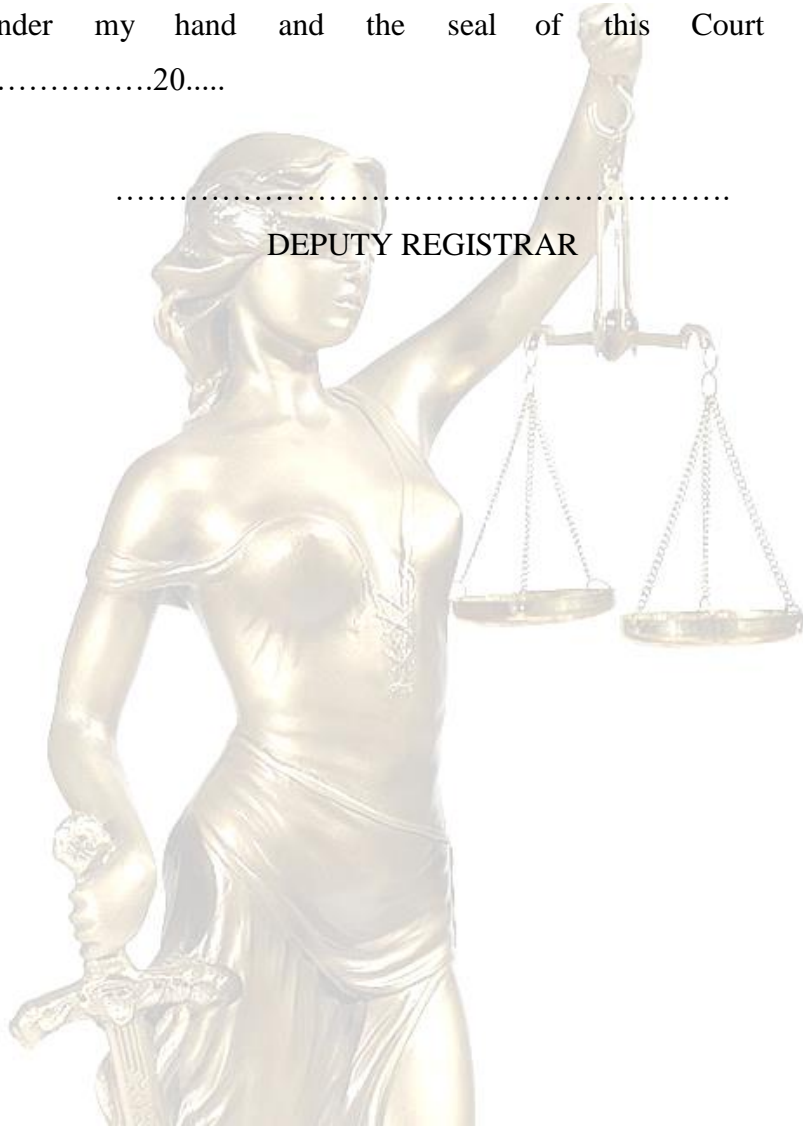
WHEREAS who has been brought to this Court
this.....day of20.... under arrest, is the Judgment debtor in the above
matter.

YOU ARE HEREBY COMMANDED to receive the said judgment Debtor into the Civil Prison and keep him imprisoned therein for a period not exceeding **Six months or until further orders of this Court**, and the judgment creditors shall pay his maintenance costs of Ushs. 2,000/= per day.

GIVEN under my hand and the seal of this Court this..... day of.....20.....

.....

DEPUTY REGISTRAR



Production warrant

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT**

CIVIL SUIT NO..... OF.....

ABC..... PLAINTIFF

VERSUS

XYZ..... DEFENDAN

T

PRODUCTION WARRANT

TO:

The Officer in Charge, Murchison

Bay Luzira Prison

WHEREAS XYZ, a Civil Prisoner has made an application in this Court for his release commencing on the day of 20.... atO'clock in the fore/afternoon this is to direct that the said **XYZ** be produced in this Court on the date and time abovementioned.

GIVEN under my hand and the seal of this Court this.....day of.....20.....

.....

DEPUTYREGISTRAR

Notice to show cause why warrant of arrest should not issue.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
HCT – OO – CC – CS –.....–**

.....**PLAINTIFF**

VERSUS

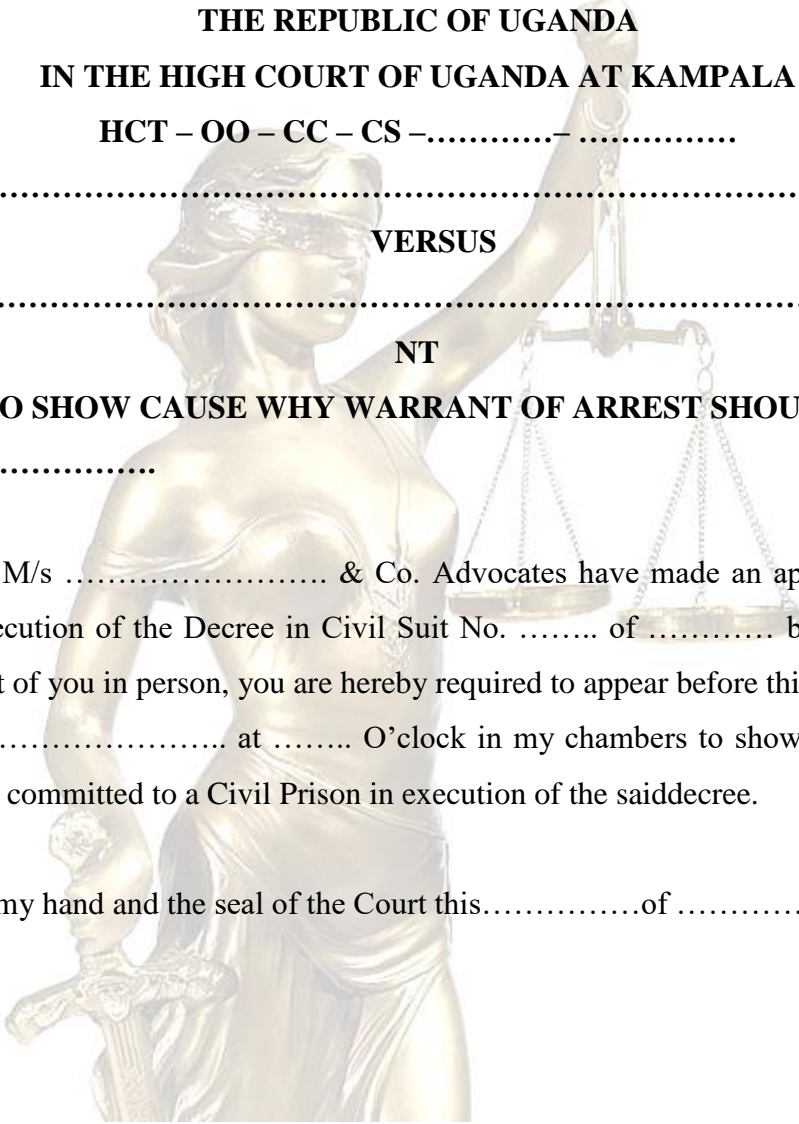
.....**DEFENDA**

NT

**NOTICE TO SHOW CAUSE WHY WARRANT OF ARREST SHOULD NOT ISSUE
TO:**

WHEREAS M/s & Co. Advocates have made an application to this Court for execution of the Decree in Civil Suit No. of by the arrest and imprisonment of you in person, you are hereby required to appear before this Courton at O'clock in my chambers to show cause why you should not be committed to a Civil Prison in execution of the saiddecree.

Given under my hand and the seal of the Court this.....of20.....



.....

**DEPUTY REGISTRAR
THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA**

AN APPLICATION FOR AN INTERIM INJUNCTION.

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPLICATION NO. 348 OF 2012

[Arising from Civil Application No. 347 of 2012]

..... } APPLICANT

VERSUS

..... } RESPONDENTS

INTERIM INJUNCTION

THIS APPLICATION coming this 8th day of January, 2013 before HIS and in the presence of, Counsel for the Applicant and in the presence of the First Respondent and upon hearing the First Respondent’s application for an adjournment and the reply by Counsel for the Applicant IT IS ORDERED that:

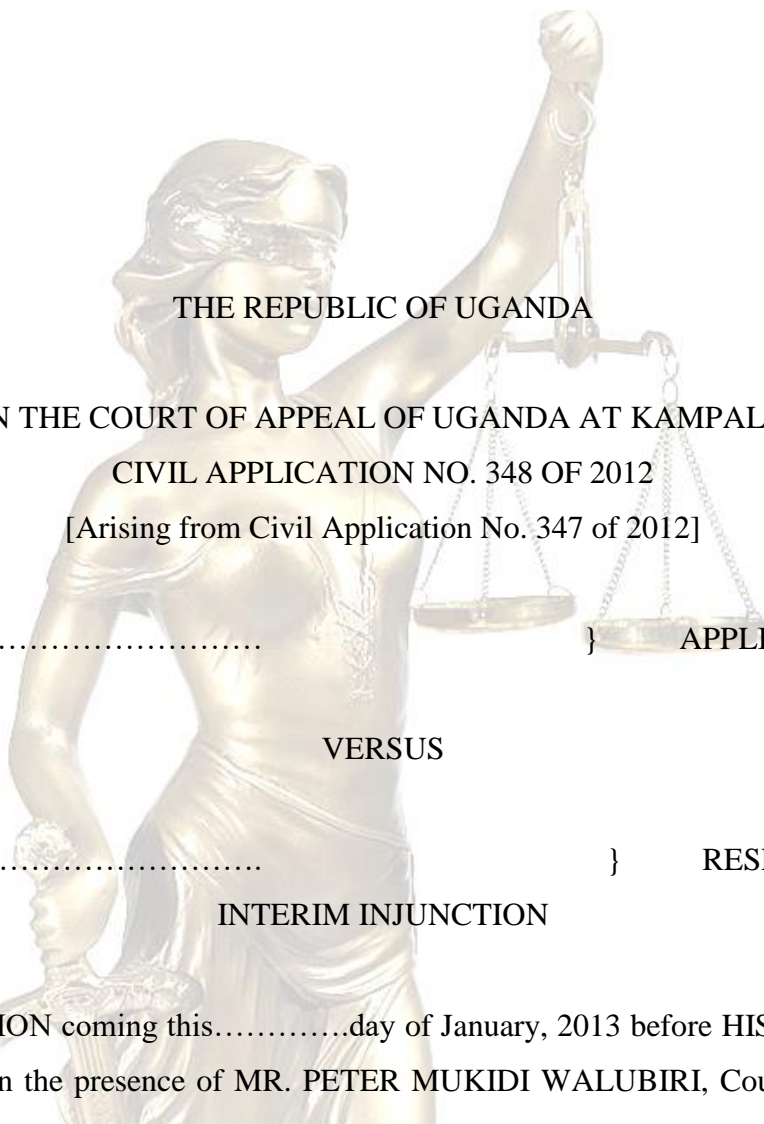
- a) The interim injunction issued on 21st December, 2012 to maintain the status quo until this application is heard interparties is hereby extended to 10th January, 2013 when the application will be heard.
- a) Costs to abide the outcome of the application.

GIVEN under my hand and seal of Court this 8th day of January, 2013.

REGISTRAR

EXTRACTED BY:

Sui Generis & Co- Advocates
Plot 10 Clement Hill Road
P. O. Box 21161
Tel: 341295/6
Fax: 343168
Kampala



THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
CIVIL APPLICATION NO. 348 OF 2012
[Arising from Civil Application No. 347 of 2012]

..... } APPLICANT
VERSUS
..... } RESPONDENTS
INTERIM INJUNCTION

THIS APPLICATION coming this.....day of January, 2013 before HIS WORSHIP E. O. KISAWUZI and in the presence of MR. PETER MUKIDI WALUBIRI, Counsel for the IT IS ORDERED that:

a) The interim injunction issued on 21st December, 2012 to maintain the status quo until this application is heard interparties, which was last extended to 16th January, 2013 when the ruling on the application was due for delivery, which ruling was not delivered, is hereby further extended to such date when the ruling will be read on notice.

b) Costs to abide the outcome of the application.

GIVEN under my hand and seal of Court this.....day of January, 2013.

REGISTRAR

EXTRACTED BY:

Sui Generis & Co- Advocates

Plot 10 Clement Hill Road

A CONSENT ORDER.

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION.

MISCELLANEOUS APPLICATION NO. 1141 OF 2012

[Arising from CIVIL SUIT (O.S.) NO. 13 OF 2012]

..... } APPLICANT/PLAINTIFF

VERSES

..... } RESPONDENT/DEFENDANT

CONSENT ORDER

This matter coming for final determination before Her Lordship Night Percy Tuhaise this 11th day of February 2013 in the presence of Mr. Peter Walubiri and Mr. Kizito Sekitooleko, Counsel for the Applicant/Plaintiff, and Mr. Kabiito Karamagi, Counsel for the defendant:

By Consent of both parties, it is hereby Ordered that the main suit be settled upon the following terms;

- a) The Applicant/Plaintiff is hereby given up to 18th June 2013 within which to settle all monies due and owing on his loan facility including the actual costs of advertising the property for sale itemised as follows:-

i.	Valuation fees	Shs. 1,755,000/=
ii.	Advertisement costs	Shs. 2,938,000/=
iii.	Bailiff's fees	Shs. 2,300,000/=
iv.	Legal fees	Shs. 20,000,000/=
Total		Shs. 26,993,000/=

- b) In the event of the Applicant/Plaintiff's default of Clause (a) above, the Respondent/Defendant shall be entitled to enforce and realize its security comprised in the mortgage created in respect of Kyadondo Block 248 Plots 922 and 933 Kakuu, Bbunga.

- c) Each party shall bear its own costs of this suit.

Dated this 11th day of February, 2013.

Kwesigabo, Bamwine & Walubiri
Advocates
Counsel for Applicant/Plaintiff

Ligomarc
Advocates
Counsel for Respondent/Defendant

Given under my hand and seal of this Honourable Court this day of
..... 2013.

REGISTRAR

Drawn and filed jointly by:

Ligomarc Advocates
5th Floor – Western Wing, Social Security House
Plot 4 Jinja Road
P.O. Box 8230, Kampala

and

Sui Generis & Co- Advocates
Plot 10 Clement Hill Road

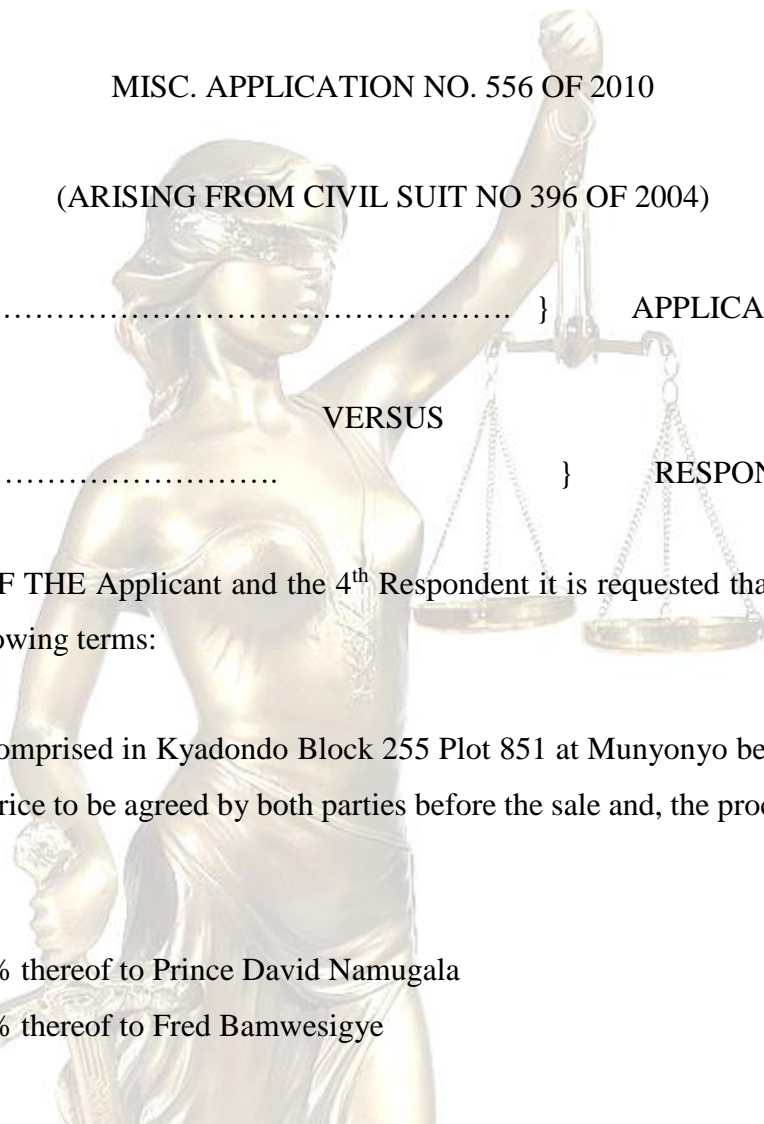
THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(LAND DIVISION)

MISC. APPLICATION NO. 556 OF 2010

(ARISING FROM CIVIL SUIT NO 396 OF 2004)



..... } APPLICANT

VERSUS

..... } RESPONDENTS

BY CONSENT OF THE Applicant and the 4th Respondent it is requested that a ruling/order be entered in the following terms:

1. The land comprised in Kyadondo Block 255 Plot 851 at Munyonyo be put on sale on the open market at a price to be agreed by both parties before the sale and, the proceeds therefrom be shared as follows:
 - a) 25% thereof to Prince David Namugala
 - b) 75% thereof to Fred Bamwesigye

2. The sale be conducted by Counsel for both parties and, a sign post indicating that the land is on sale, bearing telephone contacts of both Counsel shall be fixed on the plot; any other sign post thereon to the contrary shall be removed.

3. The party's respective shares as provided in paragraph 1 above shall be required to be paid to both parties through their respective lawyers' firms.
4. Upon receipt of the said 25% of the sale price on behalf of the Applicant, Mr. David Kaggwa of M/S Kaggwa & Kaggwa Advocates shall hand over to Mr. Bernard Muhangi Bamwine of M/S Sui Generis & Co- Advocates , a Withdrawal of Caveat instrument duly signed by the Applicant in respect to Plot 851 and, the Duplicate Certificate of Title to the said plot.
5. Upon receipt of the said 75% or part thereof as may be agreed between the 4th Respondent and the purchaser of Plot 851, the 4th Respondent shall clear the mortgage loan, interest thereon and any other incidental cost thereto and obtain a Release of Mortgage Instrument No. KLA 347771 ready to be handed over to the Purchaser upon the receipt of the balance, if any.
6. Alternatively and without prejudice to the foregoing, either party shall be at liberty, before the sale is effected, to pay the other its agreed portion/share of the agreed market price, in which case necessary documents shall be exchanged.
7. It is mutually agreed that no estate agents/brokers shall be engaged in the sale process; alternatively, the party that engages any, shall pay their respective agents' commission, if any.
8. All taxes incidental to the sale of Plot 851 under this order shall be solely borne and settled by the 4th Respondent.
9. Upon signing this order, the Applicant hereby withdraws H.C.C.S No. 828 of 2007 Ferekitansi Kezia Nabiseke & Prince David Namugala –vs- Fred Bamwesigye & 2 Others; M. A. 504 and 505 of 2007 Ferekitansi Kezia Nabiseke & Prince David Namugala –vs- Fred Bamwesigye & 2 Others (Arising from H.C.C.S No. 396 of 2004) and, any other suit/application as they relate to the 4th Respondent and, with each party bearing its own costs and, this order constitutes the final settlement of the dispute between the Applicant and the 4th Respondent as relates to the property comprised in Kyadondo Block 255 Plot 851.
10. Upon signing of this consent order, the Temporary Injunction granted by consent in M. A. 557 of 2010 shall be and is hereby vacated as relates to the 4th Respondent.

11. Each party shall bear its own costs of this application and any other proceedings in respect to Plot 851.

DATED at Kampala this day of May, 2013.

I consent

Prince David Namugala
APPLICANT

We approve

COUNSEL FOR APPLICANT

I consent

Mr. Fred Bamwesigye
4TH RESPONDENT

We approve

COUNSEL FOR
4th RESPONDENT

COURT UPON THE CONSENT of the parties IT IS ORDERED on terms as agreed above.

GIVEN under my hand and the Seal of this Honourable Court this day of2013

REGISTRAR

EXTRACTED BY:

Sui Generis & Co- Advocates
Plot 10 Clement Hill Road

A SAMPLE OF A CONSENT JUDGMENT

CONSENT JUDGMENT

BY CONSENT of both parties, it is hereby requested that the main suit be settled upon the following terms;

a) The Plaintiff is hereby given up to 5th July, 2013 within which to settle all monies due and owing on his loan facility as well as all associated costs of the recovery incurred by the Defendant itemised as follows:

v. Valuation fees	Shs. 1,755,000/=
vi. Advertisement costs	Shs. 2,938,000/=
vii. Bailiff's fees	Shs. 2,300,000/=
viii. Legal fees	Shs. 15,000,000/=
Total	Shs. 21,993,000/=

b) In the event of the Plaintiff's default on Clause (a) above, the Defendant shall be entitled to enforce and realize its security comprised in the mortgage created in respect of Kyadondo Block 248 Plots 922 and 933 Kaku, Bbunga.

c) Each party shall bear its own costs of this suit.

Dated this day of, 2013.

We consent

Kwesigabo, Bamwine & Walubiri

Advocates

Counsel for Plaintiff

Ligomarc Advocates

Counsel for Defendant

COURT

JUDGMENT is hereby entered in favour of the Plaintiff in the terms agreed to above.

Given under my hand and seal of this Honourable Court this day of 2013.

REGISTRAR

Drawn and filed jointly by:

Ligomarc Advocates

5th Floor – Western Wing, Social Security House
and

Sui Generis & Co- Advocates

Plot 10 Clement Hill Road

P.O. Box 21161

A DECREE.

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

CIVIL SUIT NO. 87 OF 2009

.....

} **PLAINTIFF**

VERSUS

.....} **DEFENDANT**

DECREE

THIS SUIT coming this 21st day of January, 2013 for final disposal before Hon. Mr. Justice in the presence of Mr., Counsel for the Plaintiff and Mr. Peter Mulira, Counsel for the Second and Third Defendant and in the absence of the First Defendant, IT IS ORDERED and DECREED that:

- a) The Plaintiff is the bonafide purchaser for value of the suit lands without notice of any fraud.
- b) The 1st Defendant is directed to cancel the registration of Leonard Ddumba Matovu as proprietor of Kibuga Block 10 Plot 584 and Kibuga Block 2 Plot 144, the suit properties.
- c) The 1st Defendant is directed to reinstate the Plaintiff as the registered proprietor of Kibuga Block 10 Plot 584 and Kibuga Block 2 Plot 144, the suit properties.
- d) The 1st Defendant is directed to reinstate the special certificates of title in respect of Kibuga Block 10 Plot 584 and Kibuga Block 2 Plot 144 in the names of the Plaintiff.
- e) The 1st Defendant is directed to hand over to the Plaintiff the Special Certificate of Title for Kibuga Block 10 Plot 584 which she took from the Plaintiff.
- f) The directives on (b), (c), (d) and (e) above shall be complied with by the 1st Defendant as soon as practicable but not later than (10) days from the date of this judgment.
- g) General damages of Shs.40,000,000/= (Forty Million Shillings only) are awarded to the Plaintiff.

- h) Costs of the suit are awarded to the Plaintiff.
- i) Interest on (g) and (h) at 25% p.a. is awarded from date of this judgment till payment in full.

DATED at Kampala thisday of, 2013.

We approve:

Kwesigabo, Bamwine and
Walubiri Advocates
COUNSEL FOR PLAINTIFF

Commissioner Land Registration
FIRST DEFENDANT

M/S Mulira & Co. Advocates
COUNSEL FOR SECOND AND THIRD DEFENDANT

GIVEN under my hand and seal of Court this day of, 2013.

REGISTRAR

EXTRACTED BY:
Sui Generis & Co- Advocates

CONSENT DECREE.

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

MISCELLANEOUS APPLICATION NO. 1117 OF 2012

[Arising from Civil Suit No. 600 of 2012]

..... } **APPLICANT/PLAINTIFF**

VERSUS

..... } **RESPONDENTS/DEFENDANTS**

CONSENT DECREE

THIS SUIT coming this 28th day of February, 2013 for final disposal before Hon. Mr. Justice Joseph Murangira in the presence of Mr. Peter Mukidi Walubiri, Counsel for the Plaintiff and Mr. Asa Mugenyi, Counsel for the First Defendant and upon hearing Counsel and by consent of the parties, IT IS ORDERED and DECREED that:

1. The Plaintiff pays to the Defendant a sum of Shs.805,226,741/=.
2. The said sum shall be paid by the Plaintiff to the Defendant in two equal installments of:
 - a) Shs.402,613,370/= on or before 30/5/2013.
 - b) Shs.402,613,370/= on or before 15/7/2013.
3. Any outstanding sum shall carry interest at the Court rate of 6% p.a.
3. The Plaintiff shall pay Shs.10,000,000/= to the Defendants' Advocates as costs of the suit on or before 31/3/2013.
- 4.

DATED at Kampala thisday of, 2013.

We approve:

Kwesigabo, Bamwine and
Walubiri Advocates
COUNSEL FOR PLAINTIFF

M/S Mugenyi & Co. Advocates
COUNSEL FOR FIRST DEFENDANT

GIVEN under my hand and seal of Court this day of, 2013.

REGISTRAR

JOINTLY EXTRACTED BY:

1. Sui Generis & Co- Advocates
Plot 10 Clement Hill Road

2. M/S Mugenyi & Co. Advocates
Plot 52 Kampala Road
King Fahd Plaza 5th Street, Suite 1



**THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
COMMERCIAL DIVISION
HCT-00-CC-MA-249-2012
(ARISING FROM CIVIL SUIT NO. 467 OF 2009]**

..... } **APPLICANT**

VERSUS

..... }

RESPONDENT

ORDER

THIS APPLICATION coming for final disposal this 23rd day of January, 2013 before
....., Counsel for the Applicant and Counsel for the
Respondent and upon perusal of the pleadings and hearing of all Counsel, **IT IS ORDERED that:**

- a) The Plaint in H.C.C.S No. 467 of 2009 be and is hereby rejected.
- b) The Applicant is at liberty to execute the decree of 26th August, 2009 whose execution was stayed pending disposal of H.C.C.S No. 467 of 2009.

b) Costs of the Application be awarded to the Applicant.

DATED at Kampala this 23rd day of January, 2013.

We approve:

**Kwesigabo, Bamwine and
Walubiri Advocates**

**M/S Godfrey S. Lule Advocates
COUNSEL FOR RESPONDENTS**

COUNSEL FOR APPLICANTS

GIVEN under my hand and the Seal of this Honourable Court this day of
.....2013

DEPUTY REGISTRAR

EXTRACTED BY: **Sui Generis & Co- Advocates**

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT LIRA
MISCELLANEOUS APPLICATION NO. 082 OF 2012
[Arising from Civil Suit No. 044 of 2012]**

..... } **DEFENDANT/APPLICANT**

VERSUS

..... } **PLAINTIFF/RESPONDENT**

ORDER

THIS APPLICATION coming thisday of, 2013 before in the presence of **Peter Mukidi Walubiri**, Counsel for the Applicant and **Mr. Ojambo**, Counsel for the Respondent, **IT IS BY CONSENT of the parties agreed and ORDERED that:**

- a) Mr. Ojunju Luke be added as a Co-Defendant in Civil Suit No. 044 of 2012.
- b) Each party shall bears its costs of this application.

DATED at Kampala thisday of, 2013.

We approve:

**Kwesigabo, Bamwine and
Walubiri Advocates
COUNSEL FOR APPLICANT**

**M/S Ojambo & Ojambo Advocates
COUNSEL FOR RESPONDENT**

GIVEN under my hand and the Seal of this Honourable Court this day of
.....2013

REGISTRAR/JUDGE

JOINTLY DRAWN BY:

1. Sui Generis & Co- Advocates

Plot 10 Clement Hill Road

P.O. Box 21161

Tel: 341295/6

Fax: 343168

KAMPALA

2. Acan & Co. Advocates

Plot 3 Adoko Road

Junior Quarters

P. O. Box 430

Lira

3. Ojambo & Ojambo Advocates

Shoal House, Plot 76 Kampala Road

P. O. Box 21920

Kampala

TOPIC TWO: FAMILY PRACTICE



**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBBE
AT ENTEBBE.**

DIVORCE CAUSE NO.001 OF 2022

GRACE AKOROMWIGURU.....PETITIONER

VERSUS

LUBOGO HENRYRESPONDENT

PETITION FOR DIVORCE.

This is the humble petition of GRACE AKOROMWIGURU whose address for purposes of this petition shall be SUI GENERIS AND CO. ADVOCATES, P.O BOX, KAMPALA and it shows

1. THAT the petitioner is a female adult Ugandan of sound mind and a resident of Entebbe municipality, Wakiso District and her advocates undertake to effect service of the petition on the respondent.
2. THAT the respondent is a male adult Ugandan presumed to be of sound mind and a resident of Entebbe Municipality, Wakiso district.
3. THAT your humble petitioner professes the Anglican religion.
4. THAT your petitioner was in the month of May 2015, was lawfully married to the respondent in a customary marriage under the Karamojong customs at the home of the parents of the petitioner in Moroto district,
5. THAT your petitioner was on the 12th day of December 2015 lawfully married to the respondent at All saints church at Nakasero in the district of Kampala, and that
 - a) The marriage was solemnized under the provisions of the Marriage Act cap251 in force at the time;

- b) After the marriage, your petitioner lived and cohabited with the respondent, LUBOGO HENRY at kiwanga village, Entebbe Municipality and there is one issue of the marriage to wit Lubogo Juniorborn on the 1st September 2016.
6. THAT your petitioners husband, LUBOGO HENRY, in or about the months of AUGUST 2017, SEPTEMBER 2017, FEBRUARY 2018, MARCH 2018 AND OCTOBER 2022 at their matrimonial home in Entebbe Municipality, Wakiso district violently assaulted your petitioner by striking her in the face, abdomen area, back and on the head with his enhanced fists, using a but on some occasions and his shoes at times.
7. THAT your petitioners husband, LUBOGO HENRY, in or about the months of AUGUST 2017 TO OCTOBER 2022 at their matrimonial home in Entebbe municipality, Wakiso district insulted your petitioner by blaming her for all his problems, for being Karamojong and calling her good for nothing. This has caused your petitioner mental and emotional anguish.
8. THAT all avenues ,forums and steps taken by the petitioner to ensure the respondent stops being cruel to the petitioner have yielded no results.(attached as Annexure ‘A’ is a copy of the minutes from one of the mediation meetings called by our relatives)
9. THAT due to the continued cruelty of the respondent to the petitioner, the marriage between the two of them has irretrievably broken down.
10. THAT the matter arose in Entebbe municipality, Wakiso district which is within this court’s jurisdiction.
11. THAT this petition is not prosecuted in collusion or connivance with the respondent or with any other person connected in any way with the proceeding nor is your petitioner guilty of condemnation.

Your petitioner therefore humbly prays for a decree that

- a) The marriage of your petitioner with the respondent be dissolved and a decree nisi be granted
- b) That the petitioner may have the custody of the issue of the marriage
- c) That the respondent be ordered to pay alimony of UGX.1,000,000 per month to the petitioner and pay UGX.1,000,000 per month to the petitioner for maintaince of the issue of the marriage.
- d) That the respondent pay the costs of and incidental to the petition
- e) That your petitioner may have such further and other relief as the court may deem fit.

DATED at KAMPALA, this 26th day of October 2022.

PETITIONER

I, certify that the statements above are true to my knowledge, information and belief.

PETITIONER

Drawn and filed by;

SUI GENERIS AND CO. ADVOCATES,
P.O BOX 7117, KAMPALA

before me

COMMISSIONER FOR OATHS

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBBE
AT ENTEBBE.**

DIVORCE CAUSE NO.001 OF 2022

GRACE AKOROMWIGURU.....PETITIONER

VERSUS

LUBOGO HENRYRESPONDENT

SUMMARY OF EVIDENCE

The petitioner shall adduce evidence to the effect that the respondent, LUBOGO HENRY, has been cruel to her thereby causing her emotional and psychological torture.

LIST OF DOCUMENTS

The petitioner will adduce the following documents in support of the petition.

1. The marriage certificate
2. Minutes from the previous mediation meetings
3. Any other with the leave of court.

LIST OF WITNESSES.

The petitioner shall testify and call the following witnesses.

1. Akoromwiguru Grace

- 2. Any other with leave of court

LIST OF AUTHORITIES

- 1. The divorce act
- 2. Any other authority with leave of court.

Dated at Kampala on this 27th day of October 2022.

PETITIONER.

Drawn and filed by

SUI GENERIS AND CO ADVOCATES

P.O BOX 7117, KAMPALA.

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBBE
AT ENTEBBE.**

DIVORCE CAUSE NO.001 OF 2022.

GRACE AKOROMWIGURU.....PETITIONER

VERSUS

LUBOBA HENRYRESPONDENT

SUMMONS TO FILE AN ANSWER TO THE PETITION.

TO: LUBOGO HENRY

WHEREAS, the above named petitioner has instituted a suit against you upon the claim, the particulars of which are set out in the copy of the petition attached here to.

YOU ARE HEREBY required to file a response in the said sent within 15 days from the date of service of summons on you in the manner prescribed under O.9 r 1 of the civil procedure rules

S.1 71-1 (as amended)

SHOULD YOU FAIL to file an answer on or before the date mentioned, the petitioner may proceed with the said suit and judgement given in your absence.

GIVEN UNDER my hand and seal of the court on this 25th day of October 2022 at Entebbe.

MAGISTRATE.

Caveat (S.13 of MA, S.27 OF CMRA)

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE MARRIAGE ACT
CAP. 251
AND
IN THE MATTER OF A CAVEAT FORBIDDING THE
SOLEMNISATION OF A MARRIAGE.
TO: THE REGISTRAR OF
MARRIAGES AT KAMPALA.
CAVEAT FORBIDDING SOLEMNISATION OF A MARRIAGE.

TAKE NOTICE that I, LUBOGO HENRY, being the lawful husband of GRACE AKOROMWIGURU who intends to contract another marriage at Christ the king church, hereby forbid the same for the following reasons.

1. That grace is already married to me having solemnized a marriage on 29th December 2015 at all saints church Nakasero.

My address for purposes of service under this caveat is SUI GENERIS and co advocates, P.O BOX 7117 KLA.

Dated at Kampala this 25th day of October 2022.

SIGNED by the sand

LUBOGO HENRY
CAVEATOR.

Before me
COMMISSIONER FOR OATHS.

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBEE
AT ENTEBEE.
MATRIMONIAL CAUSE NO. 002 OF 2022.
GRACE AKOROMWIGURU.....PETITIONER

VERSUS

LUBOGO HENRYRESPONDENT

**PETITION FOR RESTITUTION OF CONJUGAL RIGHTS AND PROVISION OF
MAINTENANCE.**

(Under S.20 (1) and (2) of the D.A and O.22 rule 29 of civil procedure rules)

This is the humble petition of GRACE AKOROMWIGURU whose address for purposes of this petition shall be SUI GENERIS AND CO.ADVOCATES, P.O BOX 7117, KAMPALA and these are as follows:

1. THAT the petitioner is a female adult Ugandan of sound mind and a resident of Entebbe municipality Wakiso district and her advocates under take to effect service on the respondent.
2. THAT the respondent is a male adult Ugandan presumed to be of sound mind and is a resident of Entebbe municipality, Wakiso district
3. THAT your petitioner professes the Anglican religion
4. THAT your petitioner was on the 12th day of December 2015 ;lawfully married to the respondent at Christ the king church in the district of Kampala and that:
 - a) The marriage was solemnized under the provisions of the Marriage act cap 251 in force at the time;
 - b) After the marriage, your petitioner lived and cohabited with the respondent, LUBOGO HENRY at kiwanga village, Entebbe municipality and there are two issues of the marriage to with LUBOGO JUNIOR AGED 20 YEARS AND AKIROMO JUNIOR AGED 3 YEARS.
5. THAT, the respondent, LUBOGO HENRY has not from the month of AUGUST 2017, to date not provided maintainece to the petitioner nor to the children.
6. THAT the respondent, LUBOBA HENRY has since the 14th day of AUGUST 2015 refused and still refuses to render her conjugal rights albeit living in the same house and sleeping in the same bed.
7. THAT the petitioner has taken all necessary steps to have the respondent, LUBOGO HENRY restore her conjugal rights but with no success in sight.
8. THAT the matter arose in Entebbe municipality, Wakiso district which is with in this court's jurisdiction.

Your petitioner therefore humbly prays for a decree that;

- a) The respondent be ordered to provide maintaince for the wife and the children at a rate of UGX. 1,000,000 per month.
- b) The respondent be ordered to render the petitioner her conjugal rights
- c) The respondent pay the costs of and incidental to this petition.

PETITIONER

I, certify that the statements above are true to my knowledge, information and belief.

Drawn and filed by;
SUI GENERIS AND CO. ADVOCATES
P.O BOX 7117, KAMPALA

PETITIONER

before me

.....
COMMISSIONER FOR OATHS.

Attach

- 1. Summary of evidence
- 2. Summons to file a reply
- 3. Mediation summary.

Separation agreement.

**THE REPUBLIC OF UGANDA
IN THE MATTER OF THE DIVORCE ACT, CAP 249
AND
IN THE MATTER OF THE CONTRACTS ACT, 2010
SEPARATION AGREEMENT.
THIS AGREEMENT IS MADE THIS 27th day of October 2022.
BETWEEN**

GRACE AKOROMWIGURU aged 24 years whose address for purposes of this agreement shall be SUI GENERIS COMPANY ADVOCATES, PILKINGTON ROAD, KAMPALA. (Hereinafter referred to as the wife)

AND

LUBOGO HENRY aged 35 years, resident of lubowa, Entebbe, Wakiso district (Hereinafter referred to as the husband)

WHEREAS the husband and wife lawfully contracted a marriage on the 15th day of October 2015 at All saints cathedral Nakasero in Kampala.

AND WHEREAS they have since lived and cohabited together at their matrimonial home in Entebbe municipality and have two issues from the marriage to wit, Lubogo Junior aged 3 years and Lubogo Grace aged one year (Hereinafter referred to as the children)

AND WHEREAS the relationship between the two has broken down and thus they are desirous of separating and agree to live separately as agreed in this agreement.

THIS AGREEMENT IS THEREFORE WITNESSETH AS FOLLOWS:

1. NON MOLESTATION.

1.1 The parties mutually agree that there shall be no molestation of one by the other during the continuance of this agreement.

1.2 In the event that any of the parties violates the provision of clause 1.1 above, the party in breach shall pay damages of UGX 5,000,000 to the other innocent party.

2. MAINTENANCE OF WIFE AND CHILDREN.

2.1 The husband shall provide for the maintenace of children and the wife at a rate UGX.2,000,000 per month

2.2 The maintenance in clause 2.1 above shall be paid on every 28th day of the month and shall be deposited on the above account provided by the wife from time to time.

2.3 Failure to comply with clause 2.2 above, the sum in clause 2.1 shall attract an interest of 10% for each day after the 28th day to the day when the full sum due that month shall be paid.

3. LIVE A PART.

The parties agree that they shall continue to live separately in consideration for having each other's consortium.

4. DUM CASTA CLAUSE

Name of the parties to this agreement shall be at liberty to have sex with another person during the subsistence of this agreement.

5. MATRIMONIAL PROPERTY

5.1 each party shall be entitled to take property constituting wearing apparel and personal effects

5.2 the wife shall be entitled to retain the matrimonial home during the subsistence of this agreement

5.3 all other properties constituting matrimonial property at the time of execution of this agreement shall continue to be held jointly and for the benefit of both parties

5.4 the party deriving any income from any of the properties mentioned in clause 5.3 shall have to account to the other party for all revenues earned from the properties and shall relinquish half of the income earned to the other party as their share in the income earned to the other party as their share in the income earned from the property.

5.5 All properties acquired by the parties during the subsistence of this agreement shall not be construed as constituting matrimonial property during the subsistence of this agreement or thereafter.

6. DURATION

6.1 This agreement shall unless otherwise expressly agreed upon by the parties in writing run for a period of two years from the date of execution.

6.2 Notwithstanding clause 6.1, the parties may by mutual consent terminate this agreement at any time during its subsistence.

7. CUSTODY OF THE CHILDREN.

7.1 The parties agree that the wife shall have custody of the children while the husband shall have visitation rights at all times

7.2 In exercise of his visitation rights in clause 7.1 above, the husband shall ensure that he gives at least a days’ notice to the wife and shall ensure the visits are in a reasonable time

7.3 For avoidance of doubt, reasonable time shall be construed to be between 9:00am and 7:00pm.

8. AMENDMENT.

No provision in this agreement shall be varied or deemed to be varied except where there is an express agreement to that effect in writing signed by the parties.

9. DISPUTE RESOLUTION.

9.1 All disputes arising under this agreement shall be referred to a mediator within 10 working days from the date when the dispute arose.

9.2 The mediator referred to in clause 9.1, shall be a mediator appointed by CADER upon application by either party,

9.3 The mediation referred to clause 9.1, shall not exceed 30 days from the first day when the mediation is commenced.

9.4 Where the parties fail to reach a settlement in respect of the dispute, they shall refer the matter to court of competent jurisdiction for resolution of the dispute.

10. LAW APPLICABLE.

This agreement shall be governed by the laws of the republic of Uganda.

IN WITNESS WHEREOF, the parties have appended their signatures hereto on the date and year first mentioned above.

SIGNED BY:

AKORIMO GRACE
(WIFE)

SIGNED BY:

LUBOGO HENRY
(HUSBAND)

In the presence of

in the presence of

KIZITO DERRICK

LUMALE JOEL

ADVOCATE

ADVOCATE

Drawn by

SUI GENERIS AND CO ADVOCATES

P.O BOX 7117, KAMPALA

UGANDA.

Judicial separation.

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT OF ENTEBBE
AT ENTEBBE
MATRIMONIAL CAUSE NO 003 OF 2022
AKIROMO GRACEPETITIONER
VERSUS
LUBOGO HENRYRESPONDENT
PETITION FOR SEPARATION.

(Under section 14 of the divorce act cap 249 and rule 4 of the divorce rules)

This is the humble petition of GRACE AKOROMWIGURU whose address for purposes of this petition shall be SUI GENERIS AND CO. ADVOCATES, P.O BOX 7117, KAMPALA and it show:

1. THAT the petitioner is a female adult Ugandan of sound mind and a resident of Entebbe municipality Wakiso district and her advocates undertake to effect service of the petition on the respondent.
2. THAT the respondent is a male adult Ugandan presumed to be of sound mind and a resident of Entebbe municipality, Wakiso district.

3. THAT your petitioner professes the Anglican religion
4. THAT your petitioner was on the 12th day of December 2015 lawfully married to the respondent at all saints cathedral at Nakasero in the district of Kampala and that
 - a) The marriage was solemnized under the provisions of the Marriage act cap 251
 - b) After the marriage, your petitioner hired and cohabited with the respondent, LUBOGO HENRY at kiwanga village, Entebbe municipality and there is one issue of the marriage to will LUBOGO JUNIOR born on the 1st September 2016.
5. THAT your petitioners husband, LUBOGO HENRY, in or about the month of AUGUST 2017,SEPTEMBER 2022, at their matrimonial home in Entebbe municipality ,Wakiso district, violently assaulted your petitioner by striking her in the face ,abdomen areas, back and her head with calendared fits and his belt.
6. THAT all avenues and steps taken by the petitioner to ensure the respondent stops being cruel to the petitioner have yielded no results (Attach evidence if any)
7. THAT due to the respondent's cruelty to the petitioner, the marriage between the two has broken down.
8. THAT this matter arose in Entebbe municipality, Wakiso district which is within this court's jurisdiction.
9. THAT this petition is not prosecuted in collusion or connivance with the respondent or with any other person connected in any way with the proceedings nor is your petitioner guilty of condemnation.

Your petitioner therefore humbly prays for a decree that

- a) Your petitioner be judicially separated from LUBOGO HENRY, the respondent
- b) The petitioner be granted custody of the issue of the marriage
- c) The respondent be ordered to pay a monthly maintaince for the child at a rate of UGX 1,000,000 per month.
- d) The respondent be ordered to pay alimony to the petitioner at a rate of UGX1,000,000 per month
- e) That the respondent pay the costs of and any other costs incidental to this petition.
- f) Any further remedies as the court may deem fit.

PETITIONER

I, AKIROMO GRACE, certify that the statements above are true to the best of my knowledge, information and belief.

PETITIONER

Drawn and filed by:

before me

SUI GENERIS & CO ADVOCATES,

P.O BOX 7117, KAMPALA,

COMMISSIONER FOR OATHS.UGANDA.

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF NAKAWA AT NAKAWA

ADOPTION PETITION NO. 299 OF 2011

AND

IN THE MATTER OF THE CHILDREN ACT, CAP. 59

AND

IN THE MATTER OF ADOPTION OF, KAMPALA DISTRICT

AND

IN THE MATTER OF A PETITION BY

ADOPTION ORDER

THIS ADOPTION PETITION coming up for hearing this 7th day of March, 2013 before **HER WORSHIP JOY KABAGYE BAHINGUZA, CHIEF MAGISTRATE** in the presence ofCounsel for the Petitioner/Applicant and upon perusal of the pleadings and hearing of Counsel, **IT IS ORDERED that:-**

Ruth Among in be and is hereby appointed the adoptive parent of

DATED at Kampala this 7th day of March, 2013.

GIVEN under my Hand and the Seal of this Honourable Court this day of2013.

CHIEF MAGISTRATE

EXTRACTED BY:

Sui Generis & Co- Advocates

Plot 10 Clement Hill Road

TOPIC THREE: CORPORATE LAW AND COMMERCIAL TRANSACTIONS.



FORMATION OF A COMPANY.

ARTICLES OF ASSOCIATION

These Articles of Association (the “Agreement”) is made and effective [DATE],

BETWEEN: [FIRST PARTNER NAME] (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTNER NAME] (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

The parties agree to be partners under and by the name of[name of partnership association] and to engage in the business of [DESCRIBE], according to the following terms and provisions:

1. DURATION

The partnership association will commence on the execution of this agreement and continue for a period of [NUMBER] years, after which it may be continued for another period of [NUMBER] years, or for such time as the partners may then see fit.

2. CONTRIBUTION

Each of the partners is contributing the partner's skill and labor to the partnership, and it is understood that each partner will be paid wages or a salary for such labor as the partner may perform.

3. WAGES OR SALARIES

The members of the partnership shall constitute the committee of the whole, which committee shall fix the wages or salaries to be paid.

4. MANAGING PARTNER

To conduct and manage the affairs of the partnership, [NAME] shall be managing partner. [NAME] shall have the full authority to conduct, manage, operate, and arrange all the business affairs of the partnership, to hire and fire other employees needed to carry on the business, determine the wages and make contracts with the employees, enter into other contracts in the name of and for the partnership, and in general do anything ordinarily done by the manager of a business.

5. BOOKS OF ACCOUNT

One member of the partnership shall keep the books of account, and these books shall be open to examination by any member at any reasonable time. Entries shall consist of all money received and expended in and about the business, as well as all equipment or other material purchased for the partnership with partnership funds, and all other matters involving money of the partnership.

6. DIVISION OF PROFITS

At the end of each year, or at such time as the committee of the whole may decide, the profits of the partnership shall be distributed in the following proportions: [DESCRIBE]. It is agreed, however, that the expenses of the business shall be borne equally and that all operating expenses shall be deducted before profit is determined.

7. AMENDMENTS

It is agreed that this partnership agreement may be amended at any time or from time to time in the judgment of the partners, but such amendments shall be formal and written and signed by all of the partners.

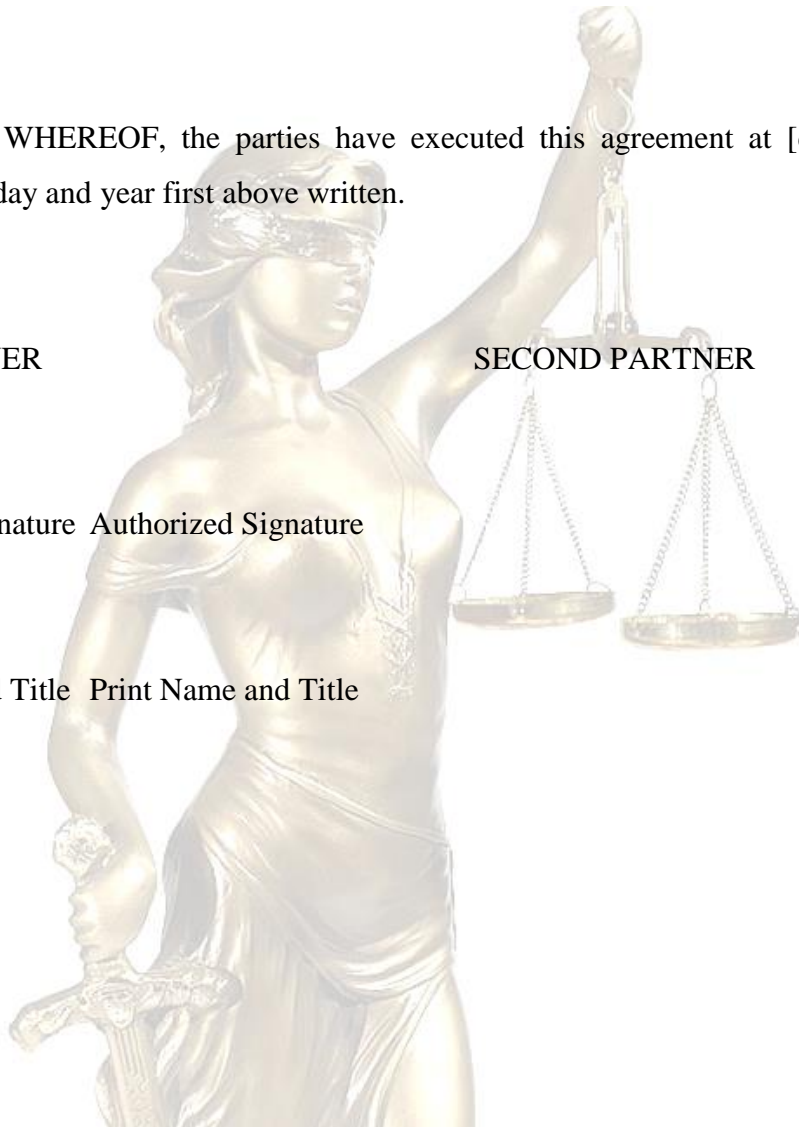
IN WITNESS WHEREOF, the parties have executed this agreement at [designate place of execution] the day and year first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title



ARTICLES OF INCORPORATION

These Articles of Incorporation (the “Agreement”) are made and effective [DATE],

BY: [INCORPORATOR NAME] (the "Incorporator"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [REGISTERED AGENTNAME] (the "Registered Agent"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. ARTICLES OF INCORPORATION OF [CORPORATION NAME]

The undersigned subscriber to these Articles of Incorporation, a natural person competent to contract, hereby forms a corporation under the laws of the State of [STATE/PROVINCE].

2. NAME

The name of the corporation shall be:

3. NATURE OF BUSINESS

This corporation may engage in or transact any and all lawful activities or business permitted under the laws of [COUNTRY], the State of [STATE/PROVINCE], or any other state, county, territory or nation.

4. CAPITAL STOCK

The maximum number of shares of stock that this corporation is authorized to have outstanding at any one time is [NUMBER] shares of common stock having a par value of [VALUE] per share.

5. ADDRESS

The street address of the initial registered office of the corporation shall be: [ADDRESS] and the name of the initial Registered Agent for the corporation at that address is: [NAME]

6. SPECIAL PROVISIONS

The stock of this corporation is intended to qualify under the requirements of Section [NUMBER] of the [LAW OR CODE] and the regulations issued thereunder. Such actions as may be necessary shall be deemed to have been taken by the appropriate officers to accomplish this compliance.

7. TERM OF EXISTENCE

This corporation shall exist perpetually.

8. LIMITATION OF LIABILITY

Each director, stockholder and officer, in consideration for his services, shall, in the absence of fraud, be indemnified, whether then in office or not, for the reasonable cost and expenses incurred by him in connection with the defense of, or for advice concerning any claim asserted or proceeding brought against him by reason of his being or having been a director, stockholder or officer of the corporation or of any subsidiary of the corporation, whether or not wholly owned, to the maximum extent permitted by law. The foregoing right of indemnification shall be inclusive of any other rights to which any director, stockholder or officer may be entitled as a matter of law.

9. SELF DEALING

No contract or other transaction between the corporation and other corporations, in the absence of fraud, shall be affected or invalidated by the fact that any one or more of the directors of the corporation is or are interested in a contract or transaction, or are directors or officers of any other corporation, and any director or directors, individually or jointly, may be a party or parties to, or may be interested in

such contract, act or transaction, or in any way connected with such person or person's firm or corporation, and each and every person who may become a director of the corporation is hereby relieved from any liability that might otherwise exist from this contracting with the corporation for the benefit of himself or any firm, association or corporation in which he may be in any way interested. Any director of the corporation may vote upon any transaction with the corporation without regard to the fact that he is also a director of such subsidiary or corporation.

This corporation shall have a minimum of [NUMBER] director(s). The initial Board of Directors shall consist of:

[NAME] and [FUNCTION]

[NAME] and [FUNCTION]

10. DESIGNATION OF AND ACCEPTANCE BY REGISTERED AGENT

The Registered Agent agrees and accepts service of process; to keep the office open during prescribed hours; to post my name (and any other officers of said corporation authorized to accept service of process at the above designated address) in some conspicuous place in the office as required by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

INCORPORATOR

REGISTERED AGENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title



ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Notary

(Seal)

**ARTICLES OF INCORPORATION
NOT FOR PROFIT CORPORATION**

These Articles of Incorporation (the “Agreement”) are made and effective [DATE],

BY: [FIRST INCORPORATOR NAME] (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND INCORPORATOR NAME] (the "Second Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

ARTICLES OF INCORPORATION OF [NFP CORPORATION NAME]

The undersigned, acting as incorporators of a corporation under the Not for Profit Corporation Act of the State of [NAME], adopt the following articles of incorporation for such corporation:

11. NAME OF THE CORPORATION

The name of the corporation, hereinafter referred to as the "Corporation" is [NAME].

12. PERIOD OF DURATION

The period of duration of the Corporation is perpetual.

13. PURPOSES OF THE CORPORATION

The Corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt

organizations under section [number] of [Revenue Code OR LAW], or corresponding section of any future federal tax code. The Corporation may receive and administer funds for scientific, religious, educational, and charitable purposes, within the meaning of Section [number] of [Revenue Code OR LAW] and to that end, the Corporation is empowered to hold any property, or any undivided interest therein, without limitation as to amount or value; to dispose of any such property and to invest, reinvest, or deal with the principal or the income in such manner as, in the judgment of the directors, will best promote the purposes of the Corporation, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is received, these Articles of Incorporation, the By-Laws of the Corporation, or any applicable laws, to do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its directors or officers except as permitted under the Not-for-Profit Corporation Law.

14. earnings

No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, officer of the Corporation, or any private individual, except that reasonable compensation may be paid for

services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

15. DISSOLUTION

Upon the dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed exclusively to one or more charitable, religious, scientific, testing for public safety, literary, or educational organizations which would then qualify under the provisions of Section [NUMBER] of the [Revenue Code OR LAW] and its Regulations as they now exist or as they may be hereafter amended, or to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

16. QUALIFICATIONS FOR MEMBERS

The qualifications for members and the manner of their admissions shall be regulated by the By-laws.

17. ADDRESS OF THE CORPORATION

The initial street address in the state of [NAME] of the initial registered office of the Corporation is [LOCATION], and the name of the initial registered agent at such address is [NAME].

18. TERRITORY

The territory in which the operations of the Corporation are principally to be conducted is [COUNTRY] and its territories and possessions, but the operations of the Corporation shall not be limited to such territory.

19. BOARD OF DIRECTORS

The initial board of directors shall consist of at least three (3) members, who need not be residents of the state of [NAME].

20. ELECTION OF DIRECTORS

The names and addresses of the persons who shall serve as directors until the first annual meeting of members, or until their successors shall have been elected and qualified, are as follows:

[DESCRIBE]

21. INCORPORATORS

The names and addresses of the initial incorporators are as follows:

[NAMES]

IN WITNESS WHEREOF, the undersigned have made and subscribed to these Articles of Incorporation at [LOCATION] on [DATE].

FIRST INCORPORATOR

SECOND INCORPORATOR

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ASSIGNMENT OF SHARES

This Assignment of Shares (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit to Assignee in the [CLASS] shares of [CORPORATION NAME] evidenced by Share Certificate No(s). [NUMBER(S)] (the "Shares").
2. The Assignor warrants the Assignee that the Shares are fully paid-up and that the Assignor owns the Shares free and clear of all encumbrances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

BY-LAWS OF [CORPORATION]

These By-Laws of [CORPORATION] (the “Agreement”) are made and effective [DATE].

1. CORPORATE OFFICES

1.1. Principal Office

The Board of Directors shall fix the location of the principal executive office of the corporation at any place within or outside the State of [STATE/PROVINCE]. If the principal executive office is located outside [STATE/PROVINCE] and the corporation has one or more business offices in [STATE/PROVINCE], then the Board of Directors shall fix and designate a principal business office in [STATE/PROVINCE].

1.2. Other Offices

The Board of Directors may at any time establish branch or subordinate offices at any place or places.

2. MEETINGS OF SHAREHOLDERS

2.1. Place Of Meetings

Meetings of shareholders shall be held at any place within or outside the State of [STATE/PROVINCE] designated by the Board of Directors. In the absence of any such designation, shareholders' meetings shall be held at the principal executive office of the corporation or at any place consented to in writing by all persons entitled to vote at such meeting, given before or after the meeting and filed with the Secretary of the corporation.

2.2. Annual Meeting

An annual meeting of shareholders shall be held each year on a date and at a time designated by the Board of Directors. At that meeting, directors shall be elected. Any other proper business may be transacted at the annual meeting of shareholders.

2.3. Special Meetings

Special meetings of the shareholders may be called at any time, subject to the provisions of Sections 2.4 and 2.5 of these By-Laws, by the Board of Directors, the Chairman of the Board, the President or the holders of shares entitled to cast not less than [%] of the votes at that meeting.

If a special meeting is called by anyone other than the Board of Directors or the President or the Chairman of the Board, then the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by other written communication to the Chairman of the Board, the President, any Vice President or the Secretary of the corporation. The officer receiving the request forthwith shall cause notice to be given to the shareholders entitled to vote, in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws, that a meeting will be held at the time requested by the person or persons calling the meeting, so long as that time is not less than [NUMBER] nor more than [NUMBER] days after the receipt of the request. If the notice is not given within [NUMBER] days after receipt of the request, then the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing or affecting the time when a meeting of shareholders called by action of the Board of Directors may be held.

2.4. Notice Of Shareholders' Meetings

All notices of meetings of shareholders shall be sent or otherwise given in accordance with Section 2.5 of these By-Laws not less than [NUMBER] (or, if sent by third-class mail pursuant to Section 2.5 of these By-Laws, not less than [NUMBER] nor more than [NUMBER] days before the date of the meeting to each shareholder entitled to vote thereat. Such notice shall state the place, date, and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, and no business other than that specified in the notice may be transacted, or (ii) in the case of the annual meeting, those matters which the Board of Directors, at the time of the mailing of the notice, intends to present for action by the shareholders, but, subject to the provisions of the next paragraph of this Section 2.4, any proper matter may be presented at the meeting for such action. The notice of any meeting at which Directors are to be elected shall include the names of nominees intended at the time of the notice to be presented by the Board for election.

If action is proposed to be taken at any meeting for approval of (i) a contract or transaction in which a director has a direct or indirect financial interest, (ii) an amendment of the Articles of Incorporation, pursuant to Section 902 of the Code, (iii) a reorganization of the corporation, (iv) a voluntary dissolution of the corporation, or (v) a distribution in dissolution other than in accordance with the rights of any outstanding preferred shares, then the notice shall also state the general nature of that proposal.

2.5. Manner Of Giving Notice; Affidavit Of Notice

Notice of a shareholders' meeting shall be given either personally or by first-class mail, or, if the corporation has outstanding shares held of record by [NUMBER] or more persons on the record date for the shareholders' meeting, notice may be sent by third-class mail, or other means of written communication, addressed to the shareholder at the address of the shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice; or if no such address appears or is given, at the place where the principal executive office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication.

If any notice (or any report referenced in Article VII of these By-Laws) addressed to a shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the [COUNTRY] Postal Service marked to indicate that the [COUNTRY] Postal Service is unable to deliver the notice to the shareholder at that address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available to the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of [NUMBER] year from the date of the giving of the notice.

An affidavit of mailing of any notice or report in accordance with the provisions of this Section 2.5, executed by the Secretary, Assistant Secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

2.6. Quorum

Unless otherwise provided in the Articles of Incorporation of the corporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the shareholders. The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in the last sentence of the preceding paragraph.

2.7. Adjourned Meeting; Notice

Any shareholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the shares represented at that meeting, either in person or by proxy.

When any meeting of shareholders, either annual or special, is adjourned to another time or place, notice need not be given of the adjourned meeting if its time and place are announced at the meeting at which the adjournment is taken. However, if the adjournment is for more than [NUMBER] days from the date set for the original meeting or if a new record date for the adjourned meeting is fixed, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

2.8. Voting

The shareholders entitled to vote at any meeting of shareholders shall be determined in accordance with the provisions of Section 2.11 of these By-Laws. Elections for directors and voting on any other matter at a shareholders' meeting need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins.

Except as provided in the last paragraph of this Section 2.8, or as may be otherwise provided in the Articles of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of the shareholders. Any holder of shares entitled to vote on any matter may vote part of the shares in favor of the proposal and refrain from voting the remaining shares or may vote them against the proposal other than elections to office, but, if the shareholder fails to specify the number of shares such shareholder is voting affirmatively, it will be conclusively presumed that the shareholder's approving vote is with respect to all shares which the shareholder is entitled to vote. The affirmative vote of the majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the Code or by the Articles of Incorporation.

At a shareholders' meeting at which directors are to be elected, a shareholder shall be entitled to cumulate votes either (i) by giving one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which that shareholder's shares are normally entitled or (ii) by distributing the shareholder's votes on the same principle among as many candidates as the shareholder thinks fit, if the candidate or candidates' names have been placed in nomination prior to the voting and the shareholder has given notice prior to the voting of the shareholder's intention to cumulate the shareholder's votes. If any one shareholder has given such a notice, then every shareholder entitled to vote may cumulate votes for candidates in nomination. The candidates receiving the highest number of affirmative votes, up to the number of directors to be elected, shall be elected; votes against any candidate and votes withheld shall have no legal effect.

2.9. Validation Of Meetings; Waiver Of Notice; Consent

The transactions of any meeting of shareholders, either annual or special, however called and noticed, and wherever held, are as valid as though they had been taken at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. Neither the business to be transacted at nor the purpose of any annual or special meeting of shareholders need be specified in any written waiver of notice or consent to the holding of the meeting or approval of the minutes thereof, except that if action is taken or proposed to be taken for approval of any of those matters specified in the second paragraph of Section 2.4 of these By-Laws, the waiver of notice or consent or approval shall state the general nature of the proposal. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Attendance of a person at a meeting shall constitute a waiver of notice of and presence at that meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by the Code to be included in the notice of such meeting but not so included, if such objection is expressly made at the meeting.

2.10. Shareholder Action By Written Consent Without A Meeting

Any action which may be taken at any annual or special meeting of shareholders may be taken without a meeting and without prior notice, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Directors may not be elected by written consent except by unanimous written consent of all shares entitled to vote for the election of directors. However, a director may be elected at any time to fill any vacancy on the Board of Directors, provided that it was not created by removal of a director and that it has not been filled by the directors, by the written consent of the holders of a majority of the outstanding shares entitled to vote for the election of directors.

All such consents shall be maintained in the corporate records. Any shareholder giving a written consent, or the shareholder's proxy holders, or a transferee of the shares, or a personal representative of the shareholder, or their respective proxy holders, may revoke the consent by a writing received by the Secretary of the corporation before written consents of the number of shares required to authorize the proposed action have been filed with the Secretary.

If the consents of all shareholders entitled to vote have not been solicited in writing, the Secretary shall give prompt notice of any corporate action approved by the shareholders without a meeting by less than unanimous written consent to those shareholders entitled to vote who have not consented in writing. Such notice shall be given in the manner specified in Section 2.5 of these By-Laws. In the case of approval of (i) a contract or transaction in which a director has a direct or indirect financial interest, (ii) indemnification of a corporate agent, (iii) a reorganization of the corporation, and (iv) a distribution in dissolution other than in accordance with the rights of outstanding preferred shares, the notice shall be given at least [NUMBER] days before the consummation of any action authorized by that approval, unless the consents of all shareholders entitled to vote have been solicited in writing.

2.11. Record Date For Shareholder Notice; Voting; Giving Consents

In order that the corporation may determine the shareholders entitled to notice of any meeting or to vote, the Board of Directors may fix, in advance, a record date, which shall not be more than [NUMBER] days nor less than [NUMBER] days prior to the date of such meeting nor more than [NUMBER] days before any other action. Shareholders at the close of business on the record date are entitled to notice and to vote, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the Code.

A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting unless the Board of Directors fixes a new record date for the adjourned meeting, but the Board of Directors shall fix a new record date if the meeting is adjourned for more than [NUMBER] days from the date set for the original meeting.

If the Board of Directors does not so fix a record date:

- i. The record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.
- ii. The record date for determining shareholders entitled to give consent to corporate action in writing without a meeting, (i) when no prior action by the Board has been taken, shall be the day on which the first written consent is given, or (ii) when prior action by the Board has been taken, shall be at the close of business on the day on which the Board adopts the resolution relating thereto, or the [NUMBER] day prior to the date of such other action, whichever is later.

The record date for any other purpose shall be as provided in Section 8.1 of these By-Laws.

2.12. Proxies

Every person is entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the Secretary of the corporation. A proxy shall be deemed signed if the shareholder's name or other authorization is placed on the proxy (whether by manual signature, typewriting, telegraphic or electronic transmission or otherwise) by the shareholder or the shareholder's attorney-in-fact.

A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) the person who executed the proxy revokes it prior to the time of voting by delivering a writing to the corporation stating that the proxy is revoked or by executing a subsequent proxy and presenting it to the meeting or by attendance at such meeting and voting in person, or (ii) written notice of the death or incapacity of the maker of that proxy is received by the corporation before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of [NUMBER] months from the date thereof, unless otherwise provided in the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

2.13. Inspectors Of Election

In advance of any meeting of shareholders, the Board of Directors may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed or designated or if any persons so appointed fail to appear or refuse to act, then the Chairman of the meeting may, and on the request of any shareholder or a shareholder's proxy shall, appoint inspectors of election (or persons to replace those who so fail to appear) at the meeting. The number of inspectors shall be either [NUMBER] or [NUMBER]. If appointed at a meeting on the request of [NUMBER] or more shareholders or proxies, the majority of shares represented in person or by proxy shall determine whether [NUMBER] or [NUMBER] inspectors are to be appointed.

The inspectors of election shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do any other acts that may be proper to conduct the election or vote with fairness to all shareholders.

3. DIRECTORS

3.1. Powers

Subject to the provisions of the Code and any limitations in the Articles of Incorporation and these By-Laws relating to action required to be approved by the shareholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors. The Board may delegate the management of the day-to-day operation of the business of the corporation to a management company or other person provided that the business and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

3.2. Number Of Directors

The authorized number of directors of the corporation shall be [NUMBER].

3.3. Election And Term Of Office Of Directors

At each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting. Each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, except in the case of the death, resignation, or removal of such a director.

3.4. Removal

The entire Board of Directors or any individual director may be removed from office without cause by the affirmative vote of a majority of the outstanding shares entitled to vote on such removal; provided, however, that unless the entire Board is removed, no individual director may be removed when the votes cast against such director's removal, or not consenting in writing to such removal, would be sufficient to elect that director if voted cumulatively at an election at which the same total number of votes cast were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of such director's most recent election were then being elected.

3.5. Resignation And Vacancies

Any director may resign effective upon giving oral or written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.

Vacancies on the Board of Directors may be filled by a majority of the remaining directors, or if the number of directors then in office is less than a quorum by (i) unanimous written consent of the directors then in office, (ii) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice, or (iii) a sole remaining director; however, a vacancy created by the removal of a director by the vote or written consent of the shareholders or by court order may be filled only by the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum), or by the unanimous written consent of all shares entitled to vote thereon. Each director so elected shall hold office until the next annual meeting of the shareholders and until a successor has been elected and qualified, or until his or her death, resignation or removal.

A vacancy or vacancies in the Board of Directors shall be deemed to exist (i) in the event of the death, resignation or removal of any director, (ii) if the Board of Directors by resolution declares vacant the office of a director who has been declared of unsound mind by an order of court or convicted of a felony, (iii) if the authorized number of directors is increased, or (iv) if the shareholders fail, at any meeting of shareholders at which any director or directors are elected, to elect the full authorized number of directors to be elected at that meeting.

The shareholders may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors, but any such election by written consent, other than to fill a vacancy created by removal, shall require the consent of the holders of a majority of the outstanding shares entitled to vote thereon. A director may not be elected by written consent to fill a vacancy created by removal except by unanimous consent of all shares entitled to vote for the election of directors.

3.6. Place Of Meetings; Meetings By Telephone

Regular meetings of the Board of Directors may be held at any place within or outside the State of [STATE/PROVINCE] that has been designated from time to time by resolution of the Board. In the absence of such a designation, regular meetings shall be held at the principal executive office of the corporation. Special meetings of the Board may be held at any place within or outside the State of [STATE/PROVINCE] that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal executive office of the corporation.

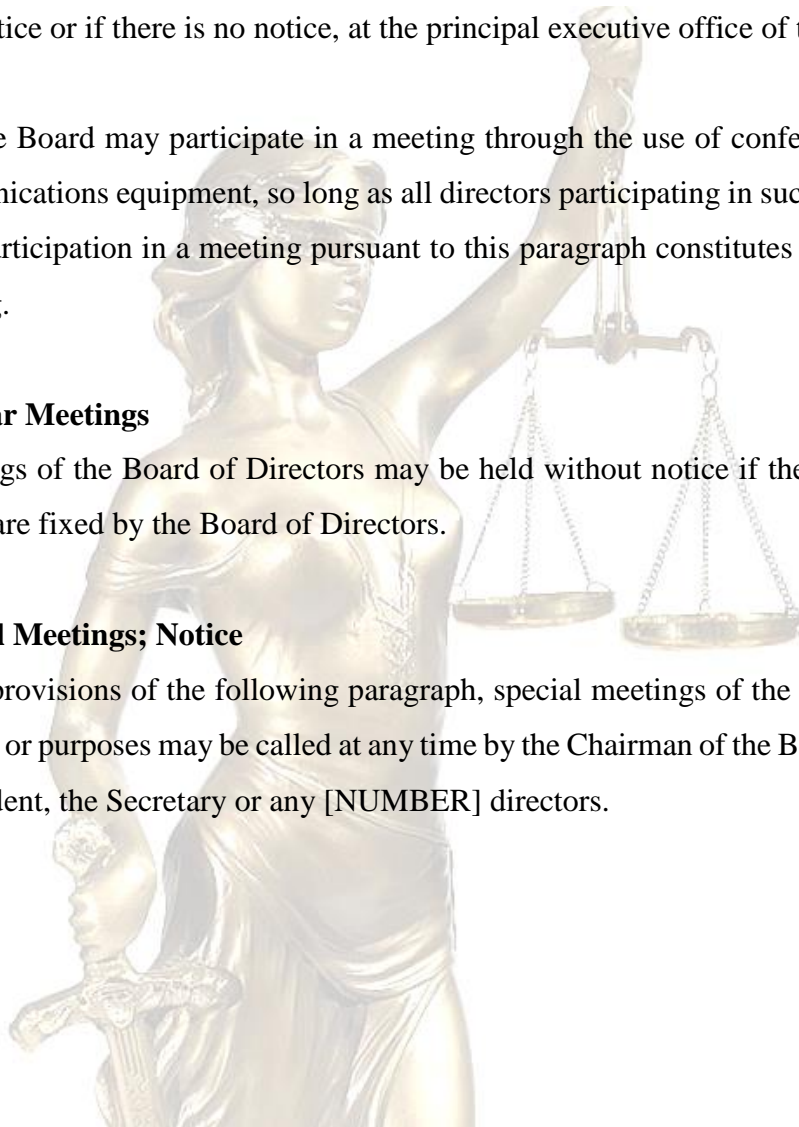
Members of the Board may participate in a meeting through the use of conference telephone or similar communications equipment, so long as all directors participating in such meeting can hear one another. Participation in a meeting pursuant to this paragraph constitutes presence in person at such meeting.

3.7. Regular Meetings

Regular meetings of the Board of Directors may be held without notice if the time and place of such meetings are fixed by the Board of Directors.

3.8. Special Meetings; Notice

Subject to the provisions of the following paragraph, special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary or any [NUMBER] directors.



Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail, telegram, charges prepaid, or by telecopier, addressed to each director at that director's address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the [COUNTRY] mail at least [NUMBER] days before the time of the holding of the meeting. If the notice is delivered personally or by telephone or by telecopier or telegram, it shall be delivered personally or by telephone or by telecopier or to the telegraph company at least [NUMBER] hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting.

3.9. Quorum

A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 3.11 of these By-Laws. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, subject to the provisions of [SPECIFY] (as to approval of contracts or transactions in which a director has a direct or indirect material financial interest), [SECTION OF CODE OR LAW] (as to appointment of committees), [SECTION OF CODE OR LAW] (as to indemnification of directors), the Articles of Incorporation, and other applicable law.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

3.10. Waiver Of Notice

Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the Board of Directors.

3.11. Adjournment

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

3.12. Notice Of Adjournment

If the meeting is adjourned for more than [NUMBER] hours, notice of any adjournment to another time and place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

3.13. Board Action By Written Consent Without A Meeting

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

3.14. Fees And Compensation Of Directors

Directors and members of committees may receive such compensation, if any, for their services and such reimbursement of expenses as may be fixed or determined by resolution of the Board of Directors. This Section 3.14 shall not be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee or otherwise and receiving compensation for those services.

3.15. Approval Of Loans To Officers

If these By-Laws have been approved by the corporation's shareholders in accordance with the Code, the corporation may, upon the approval of the Board of Directors alone, make loans of money or property to, or guarantee the obligations of, any officer of the corporation or of its parent, if any, whether or not a director, or adopt an employee benefit plan or plans authorizing such loans or guaranties provided that (i) the Board of Directors determines that such a loan or guaranty or plan may reasonably be expected to benefit the corporation, (ii) the corporation has outstanding shares held of record by [NUMBER] or more persons (determined as provided in [SECTION OF CODE]) on the date of approval by the Board of Directors, and (iii) the approval of the Board of Directors is by a vote sufficient without counting the vote of any interested director or directors. Notwithstanding the foregoing, the corporation shall have the power to make loans permitted by the Code.

4. COMMITTEES

4.1. Committees Of Directors

The Board of Directors may, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each consisting of [NUMBER] or more directors, to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the authorized number of directors. Any such committee shall have authority to act in the manner and to the extent provided in the resolution of the Board and may have all the authority of the Board, except with respect to:

- i. The approval of any action which, under the Code, also requires shareholders' approval or approval of the outstanding shares.
- ii. The filling of vacancies on the Board of Directors or in any committee.
- iii. The fixing of compensation of the directors for serving on the Board or on any committee.

- iv. The amendment or repeal of these By-Laws or the adoption of new By-Laws.
- v. The amendment or repeal of any resolution of the Board of Directors which by its express terms is not so amendable or repealable.
- vi. A distribution to the shareholders of the corporation, except at a rate, in a periodic amount or within a price range set forth in the Articles of Incorporation or determined by the Board of Directors.
- vii. The appointment of any other committees of the Board of Directors or the members thereof.

4.2. Meetings And Action Of Committees

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these By-Laws, Section 3.6 (place of meetings), Section 3.7 (regular meetings), Section 3.8 (special meetings and notice), Section 3.9 (quorum), Section 3.10 (waiver of notice), Section 3.11 (adjournment), Section 3.12 (notice of adjournment), and Section 3.13 (action without meeting), with such changes in the context of those By-Laws as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors, and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these By-Laws.

5. OFFICERS

5.1. Officers

The officers of the corporation shall be a President, a Secretary, and a Chief Financial Officer. The corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these By-Laws. Any number of offices may be held by the same person.

5.2. Appointment Of Officers

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 or Section 5.5 of these By-Laws, shall be chosen by the Board and serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

5.3. Subordinate Officers

The Board of Directors may appoint, or may empower the Chairman of the Board or the President to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these By-Laws or as the Board of Directors may from time to time determine.

5.4. Removal And Resignation Of Officers

Subject to the rights, if any, of an officer under any contract of employment, all officers serve at the pleasure of the Board of Directors and any officer may be removed, either with or without cause, by the Board of Directors at any regular or special meeting of the Board or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5. Vacancies In Offices

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these By-Laws for regular appointments to that office.

5.6. Chairman Of The Board

The Chairman of the Board, if such an officer be elected, shall, if present, preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may from time to time be assigned by the Board of Directors or as may be prescribed by these By-Laws. If there is no President, then the Chairman of the Board shall also be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 5.7 of these By-Laws.

5.7. President

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. The President shall preside at all meetings of the shareholders and, in the absence or nonexistence of a Chairman of the Board, at all meetings of the Board of Directors. The President shall have the general powers and duties of management usually vested in the office of President of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these By-Laws.

5.8. Vice Presidents

In the absence or disability of the President, the Vice Presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a Vice President designated by the Board of Directors, shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors, these By-Laws, the President or the Chairman of the Board.

5.9. Secretary

The Secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees of directors and shareholders. The minutes shall show the time and place of each meeting, whether regular or special, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at shareholders' meetings, and the proceedings thereof.

The Secretary shall keep at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all shareholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation. The Secretary shall give notice of all meetings of the shareholders and of the Board of Directors required to be given by law or by these By-Laws. The Secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these By-Laws.

5.10. Chief Financial Officer

The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares.

The Chief Financial Officer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. The Chief Financial Officer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of his or her transactions as Chief Financial Officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws.

6. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1. Indemnification Of Directors

The corporation shall, to the maximum extent and in the manner permitted by the Code, indemnify each of its directors against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined in [SECTION OF CODE OR LAW]), arising by reason of the fact that such person is or was a director of the corporation. For purposes of this Article VI, a director of the corporation includes any person (i) who is or was a director of the corporation, (ii) who is or was serving at the request of the corporation as a director of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or (iii) who was a director of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

6.2. Indemnification Of Others

The corporation shall have the power, to the extent and in the manner permitted by the Code, to indemnify each of its employees, officers, and agents (other than directors) against expenses (as defined in [SECTION OF CODE OR LAW]), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined [SECTION OF CODE OR LAW]), arising by reason of the fact that such person is or was an employee, officer, or agent of the corporation. For purposes of this Article VI, an employee or officer or agent of the corporation (other than a director) includes any person (i) who is or was an employee, officer, or agent of the corporation, (ii) who is or was serving at the request of the corporation as an employee, officer, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or (iii) who was an employee, officer, or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

6.3. Payment Of Expenses In Advance

Expenses and attorneys' fees incurred in defending any civil or criminal action or proceeding for which indemnification is required pursuant to Section 6.1, or if otherwise authorized by the Board of Directors, shall be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

6.4. Indemnity Not Exclusive

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of shareholders or directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

6.5. Insurance Indemnification

The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation against any liability asserted against or incurred by such person in such capacity or arising out of that person's status as such, whether or not the corporation would have the power to indemnify that person against such liability under the provisions of this Article VI.

6.6. Conflicts

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

- i. That it would be inconsistent with a provision of the Articles of Incorporation, these By-Laws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

- ii. That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

6.7. Right To Bring Suit

If a claim under this Article is not paid in full by the corporation within [NUMBER] days after a written claim has been received by the corporation (either because the claim is denied or because no determination is made), the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall also be entitled to be paid the expenses of prosecuting such claim. The corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the Code for the corporation to indemnify the claimant for the claim. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is permissible in the circumstances because he or she has met the applicable standard of conduct, if any, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its shareholders) that the claimant has not met the applicable standard of conduct, shall be a defense to such action or create a presumption for the purposes of such action that the claimant has not met the applicable standard of conduct.

6.8. Indemnity Agreements

The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the corporation, or any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, or any person who was a director, officer, employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation, providing for indemnification rights equivalent to or, if the Board of Directors so determines and to the extent permitted by applicable law, greater than, those provided for in this Article VI.

6.9. Amendment, Repeal Or Modification

Any amendment, repeal or modification of any provision of this Article VI shall not adversely affect any right or protection of a director or agent of the corporation existing at the time of such amendment, repeal or modification.

7. RECORDS AND REPORTS

7.1. Maintenance And Inspection Of Share Register

The corporation shall keep either at its principal executive office or at the office of its transfer agent or registrar (if either be appointed), as determined by resolution of the Board of Directors, a record of its shareholders listing the names and addresses of all shareholders and the number and class of shares held by each shareholder.

The record of shareholders shall also be open to inspection and copying by any shareholder or holder of a voting trust certificate at any time during usual business hours upon written demand on the corporation, for a purpose reasonably related to the holder's interests as a shareholder or holder of a voting trust certificate.

A shareholder or shareholders of the corporation holding at least [%] in the aggregate of the outstanding voting shares of the corporation or who hold at least [%] of such voting shares and have filed a Schedule [IDENTIFY] with the [GOVERNMENT AGENCY] relating to the election of directors, shall have an absolute right to do either or both of the following (i) inspect and copy the record of shareholders' names, addresses, and shareholdings during usual business hours upon [NUMBER] days' prior written demand upon the corporation, or (ii) obtain from the transfer agent for the corporation, upon written demand and upon the tender of such transfer agent's usual charges for such list (the amount of which charges shall be stated to the shareholder by the transfer agent upon request), a list of the shareholders' names and addresses who are entitled to vote for the election of directors, and their shareholdings, as of the most recent record date for which it has been compiled or as of a date specified by the shareholder subsequent to the date of demand. The list shall be made available on or before the later of [NUMBER] business days after the demand is received or the date specified therein as the date as of which the list is to be compiled.

Any inspection and copying under this Section 7.1 may be made in person or by an agent or attorney of the shareholder or holder of a voting trust certificate making the demand.

7.2. Maintenance And Inspection Of By-Laws

The corporation shall keep at its principal executive office or, if its principal executive office is not in the State of [STATE/PROVINCE], at its principal business office in [STATE/PROVINCE], the original or a copy of these By-Laws as amended to date, which shall be open to inspection by the shareholders at all reasonable times during office hours. If the principal executive office of the corporation is outside the State of [STATE/PROVINCE] and the corporation has no principal business office in such state, then it shall, upon the written request of any shareholder, furnish to such shareholder a copy of these By-Laws as amended to date.

7.3. Maintenance And Inspection Of Other Corporate Records

The accounting books and records and the minutes of proceedings of the shareholders and the Board of Directors, and committees of the Board of Directors shall be kept at such place or places as are designated by the Board of Directors or, in absence of such designation, at the principal executive office of the corporation. The minutes shall be kept in written form, and the accounting books and records shall be kept either in written form or in any other form capable of being converted into written form.

The minutes and accounting books and records shall be open to inspection upon the written demand on the corporation of any shareholder or holder of a voting trust certificate at any reasonable time during usual business hours, for a purpose reasonably related to such holder's interests as a shareholder or as the holder of a voting trust certificate. Such inspection by a shareholder or holder of a voting trust certificate may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts. Such rights of inspection shall extend to the records of each subsidiary corporation of the corporation.

7.4. Inspection By Directors

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation and each of its subsidiary corporations, domestic or foreign. Such inspection by a director may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts.

7.5. Annual Report To Shareholders; Waiver

The Board of Directors shall cause an annual report to be sent to the shareholders not later than [NUMBER] days after the close of the fiscal year adopted by the corporation. Such report shall be sent to the shareholders at least [NUMBER] (or, if sent by third-class mail, [NUMBER]) days prior to the annual meeting of shareholders to be held during the next fiscal year and in the manner specified in Section 2.5 of these By-Laws for giving notice to shareholders of the corporation.

The annual report shall contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

The foregoing requirement of an annual report shall be waived so long as the shares of the corporation are held by fewer than [NUMBER] holders of record.

7.6. Financial Statements

If no annual report for the fiscal year has been sent to shareholders, then the corporation shall, upon the written request of any shareholder made more than [NUMBER] days after the close of such fiscal year, deliver or mail to the person making the request, within [NUMBER] days thereafter, a copy of a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year.

A shareholder or shareholders holding at least [%] of the outstanding shares of any class of the corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month or nine-month period of the current fiscal year ended more than [NUMBER] days prior to the date of the request and a balance sheet of the corporation as of the end of that period. The statements shall be delivered or mailed to the person making the request within [NUMBER] days thereafter. A copy of the statements shall be kept on file in the principal office of the corporation for [NUMBER] months and it shall be exhibited at all reasonable times to any shareholder demanding an examination of the statements or a copy shall be mailed to the shareholder. If the corporation has not sent to the shareholders its annual report for the last fiscal year, the statements referred to in the first paragraph of this Section 7.6 shall likewise be delivered or mailed to the shareholder or shareholders within [NUMBER] days after the request.

The quarterly income statements and balance sheets referred to in this section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that the financial statements were prepared without audit from the books and records of the corporation.

7.7. Representation Of Shares Of Other Corporations

The Chairman of the Board, the President, any Vice President, the Chief Financial Officer, the Secretary or Assistant Secretary of this corporation, or any other person authorized by the Board of Directors or the President or a Vice President, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

8. GENERAL MATTERS

8.1. Record Date For Purposes Other Than Notice And Voting

For purposes of determining the shareholders entitled to receive payment of any dividend or other distribution or allotment of any rights or entitled to exercise any rights in respect of any other lawful action (other than with respect to notice or voting at a shareholders meeting or action by shareholders by written consent without a meeting), the Board of Directors may fix, in advance, a record date, which shall not be more than [NUMBER] days prior to any such action. Only shareholders of record at the close of business on the record date are entitled to receive the dividend, distribution or allotment of rights, or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the Code.

If the Board of Directors does not so fix a record date, then the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto or the [NUMBER] day prior to the date of that action, whichever is later.

8.2. Checks; Drafts; Evidences Of Indebtedness

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

8.3. Corporate Contracts And Instruments: How Executed

The Board of Directors, except as otherwise provided in these By-Laws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.4. Certificates For Shares

A certificate or certificates for shares of the corporation shall be issued to each shareholder when any of such shares are fully paid. The Board of Directors may authorize the issuance of certificates for shares partly paid provided that these certificates shall state the total amount of the consideration to be paid for them and the amount actually paid. All certificates shall be signed in the name of the corporation by the Chairman of the Board or the Vice Chairman of the Board or the President or a Vice President and by the Chief Financial Officer or an Assistant Treasurer or the Secretary or an Assistant Secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be by facsimile.

In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if that person were an officer, transfer agent or registrar at the date of issue.

8.5. Lost Certificates

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation or its transfer agent or registrar and cancelled at the same time. The Board of Directors may, in case any share certificate or certificate for any other security is lost, stolen or destroyed (as evidenced by a written affidavit or affirmation of such fact), authorize the issuance of replacement certificates on such terms and conditions as the Board may require; the Board may require indemnification of the corporation secured by a bond or other adequate security sufficient to protect the corporation against any claim that may be made against it, including any expense or liability, on account of the alleged loss, theft or destruction of the certificate or the issuance of the replacement certificate.

8.6. Construction; Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Code shall govern the construction of these By-Laws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term person includes both a corporation and a natural person.

9. AMENDMENTS

9.1. Amendment By Shareholders

New By-Laws may be adopted or these By-Laws may be amended or repealed by the vote or written consent of holders of a majority of the outstanding shares entitled to vote; provided, however, that if the Articles of Incorporation of the corporation set forth the number of authorized Directors of the corporation, then the authorized number of Directors may be changed only by an amendment of the Articles of Incorporation.

9.2. Amendment By Directors

Subject to the rights of the shareholders as provided in Section 9.1 of these By-Laws, By-Laws, other than a By-Law or an amendment of a By-Law changing the authorized number of directors (except to fix the authorized number of directors pursuant to a By-Law providing for a variable number of directors), may be adopted, amended or repealed by the Board of Directors.

9.3. Record Of Amendments

Whenever an amendment or new By-Law is adopted, it shall be copied in the book of minutes with the original By-Laws. If any By-Law is repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted or written consent was filed, shall be stated in said book.

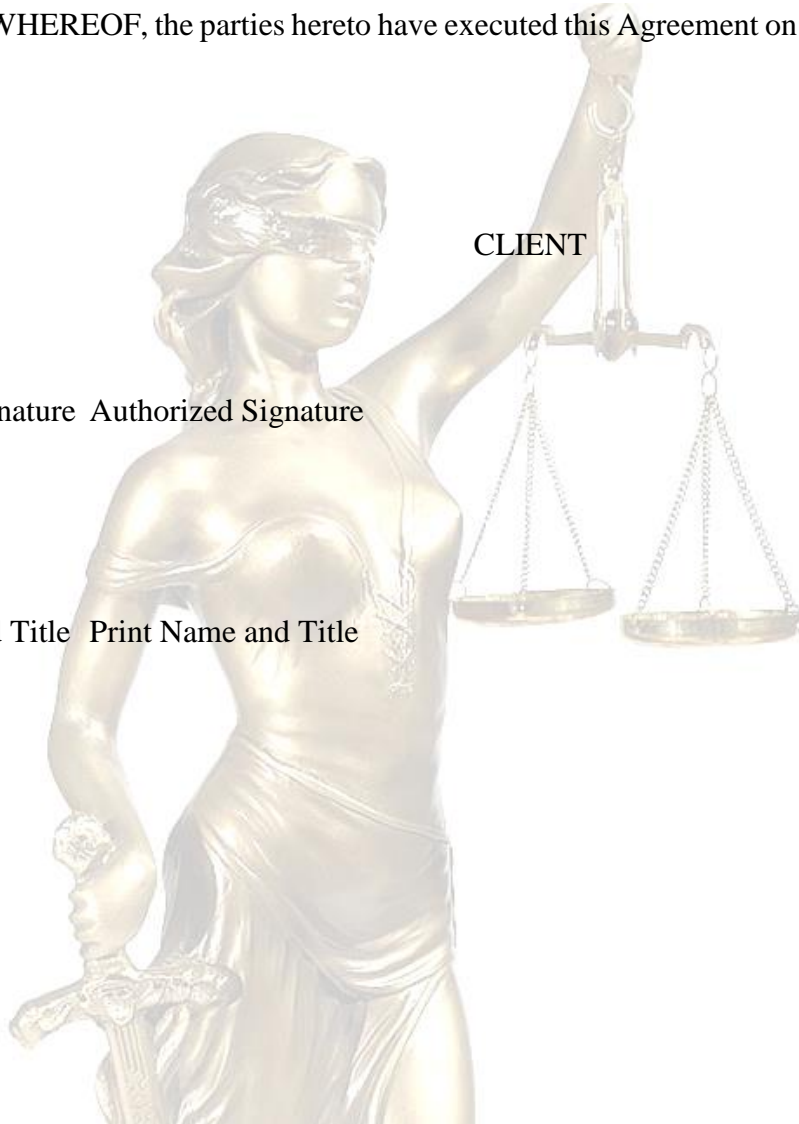
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title



CERTIFICATION OF BY-LAWS



Reference in these By-Laws to any provision of the [STATE/PROVINCE] Corporations Code shall be deemed to include all amendments thereof.

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of [Name of Corporation], a [STATE/PROVINCE] corporation.
2. That the foregoing By-Laws constitute the By-Laws of said corporation as adopted by the Directors of said corporation by unanimous written consent at a duly called and held meeting of the Board of Directors on [DATE].
3. The foregoing By-Laws were also adopted by the shareholders of said corporation by unanimous written consent at a duly called and held meeting of the shareholders on [DATE].

IN WITNESS WHEREOF, I have hereunto subscribed my name this [DAY] of [DATE].

SECRETARY

Authorized Signature

Print Name and Title

BY-LAWS OF [NOT FOR PROFIT CORPORATION]



These By-Laws of [NFP CORPORATION] (the “Agreement”) are made and effective [DATE].

1. ORGANIZATION

- A. The name of the organization shall be [NAME].
- B. The organization may at its pleasure by a vote of the membership body change its name.

2. PURPOSES

The following are the purposes for which this organization has been organized: [DESCRIBE]

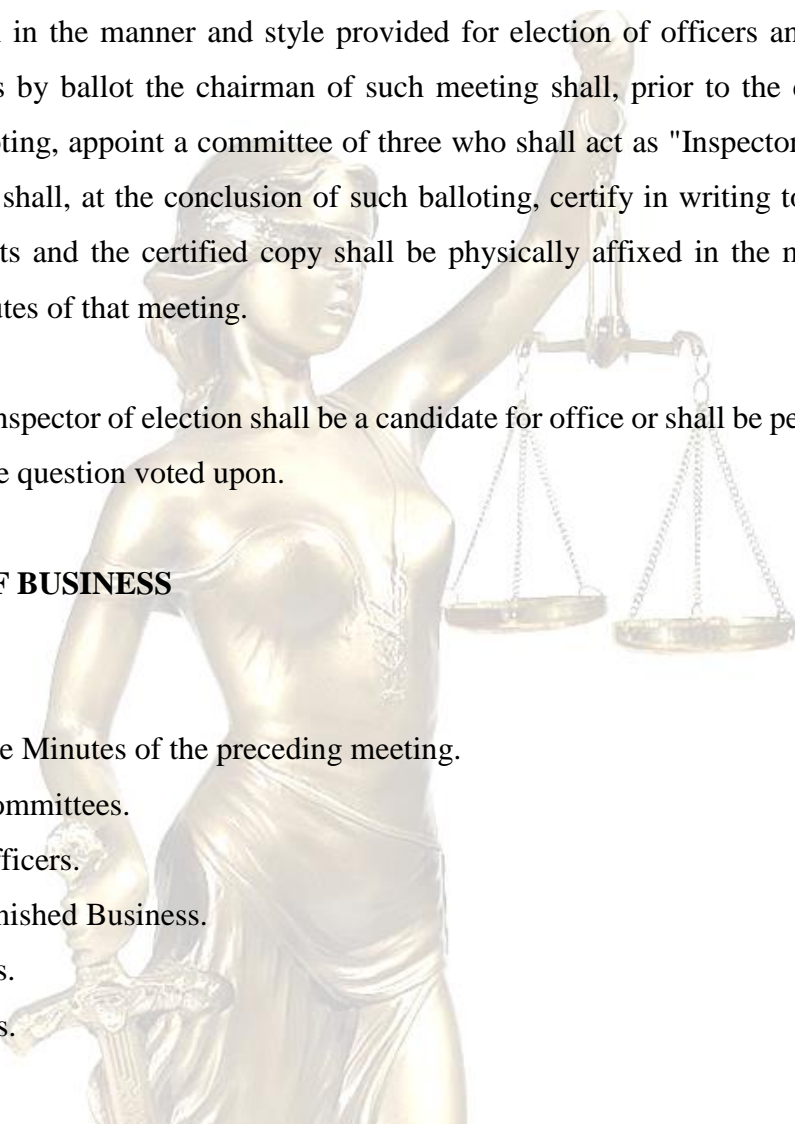
3. MEMBERSHIP

Membership in this organization shall be open to all who [DESCRIBE].

4. MEETINGS

- A. The annual membership meeting of this organization shall be held on the [DAY] of [MONTH] each and every year except if such day be a legal holiday, then and in that event, the Board of Directors shall fix the day but it shall not be more than two weeks from the date fixed by these By-Laws.
- B. The Secretary shall cause to be mailed to every member in good standing at his address as it appears in the membership roll book in this organization a notice telling the time and place of such annual meeting.
- C. Regular meetings of this organization shall be held [LOCATION].
- D. The presence of not less than [%] of the members shall constitute a quorum and shall be necessary to conduct the business of this organization; but a lesser percentage may adjourn the meeting for a period of not more than [NUMBER] weeks from the date scheduled by these By-Laws and the secretary shall cause a notice of this scheduled meeting to be sent to all those members who were not present at the meeting originally called. A quorum as herein before set forth shall be required at any adjourned meeting.
- E. Special meetings of this organization may be called by the president when he deems it for the best interest of the organization. Notices of such meeting shall be mailed to all members at their addresses as they appear in the membership roll book at least [NUMBER] days before the scheduled date set for such special meeting. Such notice shall state the reasons that such meeting has been called, the business to be transacted at such meeting and by whom it was called. At the request of [%] of the members of the Board of Directors or [%] of the members of the organization, the president shall cause a special meeting to be called but such request must be made in writing at least [NUMBER] days before the requested scheduled date.
- F. No other business but that specified in the notice may be transacted at such special meeting without the unanimous consent of all present at such meeting.

5. VOTING

- 
- A. At all meetings, except for the election of officers and directors, all votes shall be by voice. For election of officers, ballots shall be provided and there shall not appear any place on such ballot that might tend to indicate the person who cast such ballot.
 - B. At any regular or special meeting, if a majority so requires, any question may be voted upon in the manner and style provided for election of officers and directors. At all votes by ballot the chairman of such meeting shall, prior to the commencement of balloting, appoint a committee of three who shall act as "Inspectors of Election" and who shall, at the conclusion of such balloting, certify in writing to the chairman the results and the certified copy shall be physically affixed in the minute book to the minutes of that meeting.
 - C. No inspector of election shall be a candidate for office or shall be personally interested in the question voted upon.

6. ORDER OF BUSINESS

- 1. Roll Call.
- 2. Reading of the Minutes of the preceding meeting.
- 3. Reports of Committees.
- 4. Reports of Officers.
- 5. Old and Unfinished Business.
- 6. New Business.
- 7. Adjournments.

7. BOARD OF DIRECTORS

- A. The business of this organization shall be managed by a Board of Directors consisting of [#] members, together with the officers of this organization. At least one of the directors elected shall be a resident of the State of [STATE/PROVINCE] and a citizen of [COUNTRY].
- B. The directors to be chosen for the ensuing year shall be chosen at the annual meeting of this organization in the same manner and style as the officers of this organization and they shall serve for a term of [NUMBER] years.
- C. The Board of Directors shall have the control and management of the affairs and business of this organization. Such Board of Directors shall only act in the name of the organization when it shall be regularly convened by its chairman after due notice to all the directors of such meeting.
- D. [%] of the members of the Board of Directors shall constitute a quorum and the meetings of the Board of Directors shall be held regularly on the [DATE].
- E. Each director shall have one vote and such voting may not be done by proxy.
- F. The Board of Directors may make such rules and regulations covering its meetings as it may in its discretion determine necessary.
- G. Vacancies in the Board of Directors shall be filled by a vote of the majority of the remaining members of the Board of Directors for the balance of the year.
- H. The President of the organization by virtue of his office shall be Chairman of the Board of Directors.
- I. The Board of Directors shall select from one of their members a secretary.
- J. A director may be removed when sufficient cause exists for such removal. The Board of Directors may entertain charges against any director. A director may be represented by counsel upon any removal hearing. The Board shall adopt such rules for this hearing as it may in its discretion consider necessary for the best interests of the organization.

8. OFFICERS

A. The initial officers of the organization shall be as follows:

[President]

[VICE President]

[SECRETARY]

[TREASURER]

B. The President shall preside at all membership meetings. He shall by virtue of his office be Chairman of the Board of Directors. He shall present at each annual meeting of the organization an annual report of the work of the organization. He shall appoint all committees, temporary or permanent. He shall see all books, reports and certificates required by law are properly kept or filed. He shall be one of the officers who may sign the checks or drafts of the organization. He shall have such powers as may be reasonably construed as belonging to the chief executive of any organization.

C. The Vice President shall in the event of the absence or inability of the President to exercise his office become acting president of the organization with all the rights, privileges and powers as if he had been the duly elected president.

D. The Secretary shall keep the minutes and records of the organization in appropriate books. It shall be his duty to file any certificate required by any statute, federal or state. He shall give and serve all notices to members of this organization. He shall be the official custodian of the records and seal. He may be one of the officers required to sign the checks and drafts of the organization. He shall present to the membership at any meetings any communication addressed to him as Secretary of the organization. He shall submit to the Board any communications which shall be addressed to him as Secretary of the organization. He shall attend to all correspondence of the organization and shall exercise all duties incident to the office of Secretary.

E. The Treasurer shall have the care and custody of all monies belonging to the organization and shall be solely responsible for such monies or securities of the organization. He shall cause to be deposited in a regular business bank or trust company a sum not exceeding [AMOUNT] and the balance of the funds of the organization shall be deposited in a savings bank except that the Board of Directors may cause such funds to be invested in such investments as shall be legal for a non-profit corporation in this state. He must be one of the officers who shall sign checks or drafts of the organization. No special fund may be set aside that shall make it unnecessary for the Treasurer to sign the checks issued upon it. He shall render at stated periods as the Board of Directors shall determine a written account of the finances of the organization and such report shall be physically affixed to the minutes of the Board of Directors of such meeting. He shall exercise all duties incident to the office of Treasurer.

F. Officers shall by virtue of their office be members of the Board of Directors.

G. No officer shall for reason of his office be entitled to receive any salary or compensation, but nothing herein shall be construed to prevent an officer or director for receiving any compensation from the organization for duties other than as a director or officer.

9. SALARIES

The Board of Directors shall hire and fix the compensation of any and all employees which they in their discretion may determine to be necessary for the conduct of the business of the organization.

10. COMMITTEES

All committees of this organization shall be appointed by the Board of Directors and their term of office shall be for a period of one year or less if sooner terminated by the action of the Board of Directors.

The permanent committees shall be: [DESCRIBE]

11. DUES

The dues of this organization shall be [AMOUNT] per annum and shall be payable on [DATE].

12. AMENDMENTS

These By-Laws may be altered, amended, repealed or added to by an affirmative vote of not less than [%] of the members.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

PRESIDENT

VICE PRESIDENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECRETARY

TREASURER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CERTIFICATE OF INCORPORATION OF [Name]

This Certificate of Incorporation of [NAME] (the "Agreement") is made and effective [DATE],

BY: [INCORPORATOR NAME] (the "Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. NAME OF CORPORATION

The name of the corporation is [Name of Corporation].

2. ADDRESS OF CORPORATION

The address of the registered office of the corporation in the State of [STATE/PROVINCE]. The name of its registered agent at that address is [NAME].

3. PURPOSE OF CORPORATION

The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the [General Corporation Law] of the State of [STATE/PROVINCE].

4. TOTAL NUMBER AND VALUE OF SHARES

The total number of shares of stock which the corporation has authority to issue is [NUMBER] shares, all of which shall be Common Stock, [AMOUNT] par value per share.

5. BOARD OF DIRECTORS

The Board of Directors of the corporation shall have the power to adopt, amend or repeal By-Laws of the corporation, but the stockholders may make additional By-Laws and may alter or repeal any By-Law whether adopted by them or otherwise.

6. ELECTION OF DIRECTORS

Election of directors need not be by written ballot except and to the extent the By-Laws of the corporation shall so provide.

7. LIABILITIES

To the fullest extent permitted by law, no director of the corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the [General Corporation Law] is hereafter amended to authorized the further elimination or limitation of the liability of a director, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the [General Corporation Law], as so amended.

ISAAC LUBOGO CHRISTOPHER -----

Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

INCORPORATOR

COMPANY

Authorized Signature

Authorized Signature

and Title

Print Name and Title.

Print Name

AFFIDAVIT OF LOST STOCK CERTIFICATE

This Affidavit of Lost Stock Certificate (the "Agreement") is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [STOCKHOLDER NAME] (the "Stockholder"), an individual/ a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

The undersigned Stockholder hereby declares, under penalty of perjury, as follows:

1. The undersigned is the owner of a total of [number of shares] shares of the Common Stock of [name of company], Inc., a [state where company incorporated] corporation (the "Company").
2. The undersigned has examined his, her or its records and, after diligent search, is unable to find the certificate or certificates representing such shares (the "Certificates") and believes that the Certificates were lost.
3. The undersigned has not transferred, sold, encumbered, or pledged any of the shares represented by the Certificates.

- 4. The undersigned releases the Company and any successor from any and all liability relating to the loss of the Certificates, or the issuance of new Certificates. The undersigned agrees to defend and indemnify and hold harmless the Company and any successor from any damage or loss caused by the loss of the Certificates.

- 5. In the event of discovery of the original Certificates, the undersigned agrees to return them promptly to the Company or any successor, marked "CANCELLED."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

STOCKHOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

PRE-INCORPORATION AGREEMENT

This Pre-Incorporation Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [FIRST PARTNER NAME] (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTNER NAME] (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD PARTNER NAME] (the "Third Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

First Partner now owns and operates a [DESCRIBE] business in [STATE/PROVINCE] known as [DESCRIBE] Company, and he [she] would like to incorporate that business and Second Partner and Third Partner agree to take a certain amount of the stock in the corporation.

TERMS

1. Company has been inventoried by the above-named parties and it is agreed between them that Company, including all personal property, namely: [DESCRIBE], and everything used and kept in business, including all book accounts, is to show a value of [VALUE] net and is to be taken in by corporation at those figures.

- 2. Second Partner agrees to pay in cash the amount of [AMOUNT], the receipt of which is acknowledged, and from the date of signing this contract is an owner of an undivided one-half interest in [DESCRIBE] as set forth above.
- 3. It is agreed to incorporate the company under the laws of the State of [STATE/PROVINCE] for [AMOUNT], and that stock shall be issued [AMOUNT] to First Partner and [AMOUNT] to Second Partner as their interest may appear.
- 4. It is agreed that when corporation is formed, and stock issued, First Partner will sell to Third Partner, [AMOUNT] of stock, and Second Partner agrees to sell an equal amount of stock to Third Partner, the intention being that as soon as the corporation is incorporated all of the above-named parties are to have an equal amount of stock in the corporation.
- 5. It is agreed by Third Partner that he [she] will purchase the above described stock as set forth, paying for it by giving an individual note to the respective parties for the amount of stock received from them, and that the stock will be deposited with them as collateral security for payment of the note. The note will be dated [DATE], and due three years from that date with interest at [%] percent and until the corporation is completed. Third Partner is a partner to a [%] interest in the business.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

THIRD PARTNER

Authorized Signature

Print Name and Title

PRE-INCORPORATION DESIGNATION OF DIRECTORS



This Pre-Incorporation Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [FIRST INCORPORATOR NAME] (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND INCORPORATOR NAME] (the "Second Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- 1. All the parties to this Pre-Incorporation Agreement shall be the first directors of the corporation upon its organization, and shall serve as such until their several successors are elected and qualify pursuant to the bylaws of the corporation. The first directors shall [serve without remuneration or each receive the sum of [AMOUNT] for each meeting of the board, regular or special, actually attended or as the case may be].
- 2. [Name], one of the first directors of the corporation, shall serve as its general manager until [his or her] successor is duly selected and qualified, shall perform all services required of [him or her] in the general management and operation of the business of the corporation, and shall receive for such services as general manager a salary of [AMOUNT] of [month or year].
- 3. The By-laws shall provide that the officers of the corporation shall consist of a president, a vice-president, and a secretary-treasurer [add other officers, as required]. The first officers of the corporation, who shall take office and serve immediately upon its formation and until duly relieved by the board of directors, shall be [name], president; [name], vice-president; [name], secretary-treasurer; [add other appointees, if any]. Until and unless the board of directors otherwise provides, the [monthly or yearly] salaries of the officers shall be as follows:

President: [AMOUNT]
 Vice-president: [AMOUNT]
 Secretary-treasurer: [AMOUNT]

Pending specification of the duties of the corporate officers in the By-laws, they shall perform the duties customarily performed by such officers in similar business corporations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST INCORPORATOR

SECOND INCORPORATOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



PRE-INCORPORATION DESIGNATION OF DIRECTORS

This Pre-Incorporation Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [FIRST INCORPORATOR NAME] (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND INCORPORATOR NAME] (the "Second Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- 4. All the parties to this Pre-Incorporation Agreement shall be the first directors of the corporation upon its organization, and shall serve as such until their several successors are elected and qualify pursuant to the bylaws of the corporation. The first directors shall [serve without remuneration or each receive the sum of [AMOUNT] for each meeting of the board, regular or special, actually attended or as the case may be].

- 5. [Name], one of the first directors of the corporation, shall serve as its general manager until [his or her] successor is duly selected and qualified, shall perform all services required of [him or her] in the general management and operation of the business of the corporation, and shall receive for such services as general manager a salary of [AMOUNT] of [month or year].

- 6. The By-laws shall provide that the officers of the corporation shall consist of a president, a vice-president, and a secretary-treasurer [add other officers, as required]. The first officers of the corporation, who shall take office and serve immediately upon its formation and until duly relieved by the board of directors, shall be [name], president; [name], vice-president; [name], secretary-treasurer; [add other appointees, if any]. Until and unless the board of directors otherwise provides, the [monthly or yearly] salaries of the officers shall be as follows:

President: [AMOUNT]
 Vice-president: [AMOUNT]
 Secretary-treasurer: [AMOUNT]

Pending specification of the duties of the corporate officers in the By-laws, they shall perform the duties customarily performed by such officers in similar business corporations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST INCORPORATOR

SECOND INCORPORATOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



SHAREHOLDERS AGREEMENT

This Shareholders Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST SHAREHOLDER NAME] (the "First Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND SHAREHOLDER NAME] (the "Second Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD SHAREHOLDER NAME] (the "Third Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH:

WHEREAS, the present distribution of shares of the Corporation is as follows:

Name	Number of Shares
------	------------------

WHEREAS, in order to insure the harmonious and successful management and control of the Company, and to provide for an orderly and fair disposition of shares of common stock of the Company now or hereafter owned by any Shareholder;

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto, and intending to be legally bound, the parties hereby agree as follows:

1. Definitions

"Offering Shareholder" means any Shareholder, or his personal representatives, heirs, administrators, and executors, as the case may be, who pursuant to this Agreement must or does offer all or any of his Shares to the Company or the Continuing Shareholders.

"Continuing Shareholders" means all Shareholders other than an Offering Shareholder.

"Shares" means shares of Common Stock of the Company now or hereafter owned by any Shareholder.

"Buyer" means the Company or those Continuing Shareholders who purchase an Offering Shareholder's Shares pursuant to this Agreement.

"Management Shareholder" means First Shareholder, Second Shareholder and Third Shareholder.

2. Purchase for Investment

Each Shareholder represents and warrants that he is acquiring and has acquired his Shares for his own account for investment and not with a view to, or for resale in connection with, any distribution thereof or with any present intent of selling any portion thereof.

3. Transfers of Shares

A Shareholder may not transfer, give, convey, sell, pledge, bequeath, donate, assign, encumber or otherwise dispose of any Shares except pursuant to this Agreement.

3.1. Transfers to the Company

Notwithstanding anything to the contrary contained in this Agreement, a Shareholder may give, sell, transfer or otherwise dispose of all or any of his Shares to the Company at such price and on such terms and conditions as such Shareholder and the Board of Directors of the Company may agree.

3.2. Transfer to Others

Except as provided for in Paragraph 3.1 above, a Shareholder desiring to dispose of some or all of his Shares may do so only pursuant to a bona fide offer to purchase (the "Offer") and after compliance with the following provisions. Such Shareholder shall first give written notice to the Company and the other Shareholders of his intention to dispose of his Shares, identifying the number of Shares he desires to dispose of, the proposed purchase price per Share and the name of the proposed purchaser and attaching an exact copy of the Offer received by such Shareholder.

3.3. The Company's Right to Purchase

The Company shall have the exclusive right to purchase all of the Shares which the Offering Shareholder proposes to sell at the proposed purchase price per Share. The Company shall exercise this right to purchase by giving written notice to the Offering Shareholder (with a copy thereof to each of the Continuing Shareholders) within [NUMBER] days after receipt of the notice from the Offering Shareholder (the "[NUMBER] Day Period") that the Company elects to purchase the Shares subject to the Offer and setting forth a date and time for closing which shall be not later than [NUMBER] days after the date of such notice from the Company. At the time of closing, the Offering Shareholder shall deliver to the Company certificates representing the Shares to be sold, together with stock powers duly endorsed in blank. The Shares shall be delivered by the Offering Shareholder free of any and all liens and encumbrances. All transfer taxes and documentary stamps shall be paid by the Offering Shareholder.

3.4. The Continuing Shareholders Right to Purchase

If the Company fails to exercise its right to purchase pursuant to subparagraph (i) above, the Continuing Shareholders shall have the right for an additional period of [NUMBER] days (the "Additional [NUMBER] Day Period") commencing at the expiration of the [NUMBER] Day Period to purchase the Shares which the Offering Shareholder proposes to sell at the proposed purchase price per Share. The Continuing Shareholders shall exercise this right to purchase by giving written notice to the Offering Shareholder prior to the expiration of the Additional [NUMBER] Day Period that they elect to purchase his Shares and setting forth a date and time for closing which shall be not later than [NUMBER] days after the expiration of the Additional [NUMBER] Day Period. Any purchase of Shares by all or some of the Continuing Shareholders shall be made in such proportion as they might agree among themselves or, in the absence of any such agreement, pro rata in proportion to their ownership of Shares of the Company (excluding the Offering Shareholder's Shares) at the time of such offer, but in any event one or more of the Continuing Shareholders must agree to purchase all the Shares which the Offering Shareholder proposes to sell. At the time of closing, the Offering Shareholder shall deliver to Buyer certificates representing the Shares to be sold, together with stock powers duly endorsed in blank. Said Shares shall be delivered by the offering Shareholder free and clear of any and all liens and encumbrances. All transfer taxes and documentary stamps shall be paid by the Offering Shareholder.

3.5. Performance of Acceptance

When exercising the rights granted in Paragraphs 3.2 hereof, Buyer must elect to purchase all Shares which the Offering Shareholder proposes to sell for the price and upon the same terms for payment of the price as are set forth in the Offer; provided, however, that if said offer received by the Offering Shareholder shall provide for any act or action to be done or performed by the party making such Offer at any time before or within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof, then the Buyer shall be deemed to have complied with the terms and conditions of such Offer if Buyer does or performs such act or action within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof.

3.6. Sale to Third Party

If either the Company or some or all of the Continuing Shareholders do not elect to purchase all of the Shares which the Offering Shareholder proposes to sell, the Offering Shareholder may accept the Offer which the Offering Shareholder mailed with his notice to the Company pursuant to Paragraph 3.2 hereof and transfer all (but not less than all) of the Shares which he proposes to sell pursuant thereto on the same terms and conditions set forth in such Offer, provided that any transferee of such Shares shall be bound by this Agreement, and further provided that if such sale is not completed within [NUMBER] days after the date notice is received by the Company under Paragraph 3.2 hereof, all such Shares shall again become subject to the restrictions and provisions of this Agreement.

3.7. Right of Co-Sale

Notwithstanding any other provision hereof, in the event the Offering Shareholder receives an Offer from an unaffiliated third party (the "Offeror") to purchase from such Shareholder not less than [%] of the Shares owned by such Shareholder and such Shareholder intends to accept such Offer, the Offering Shareholder shall, after complying with the provisions of Paragraph 3.2 above and before accepting such Offer, forward a copy of such Offer to the Company and each of the Continuing Shareholders. The Offering Shareholder shall not sell any such Shares to the Offeror unless the terms of the Offer are extended by the Offeror to the Continuing Shareholders pro rata in proportion to their ownership of Shares of the Company (excluding the Offering Shareholder's Shares) at the time of such Offer. The Continuing Shareholders shall have [NUMBER] days from the date of the foregoing Offer to accept such Offer.

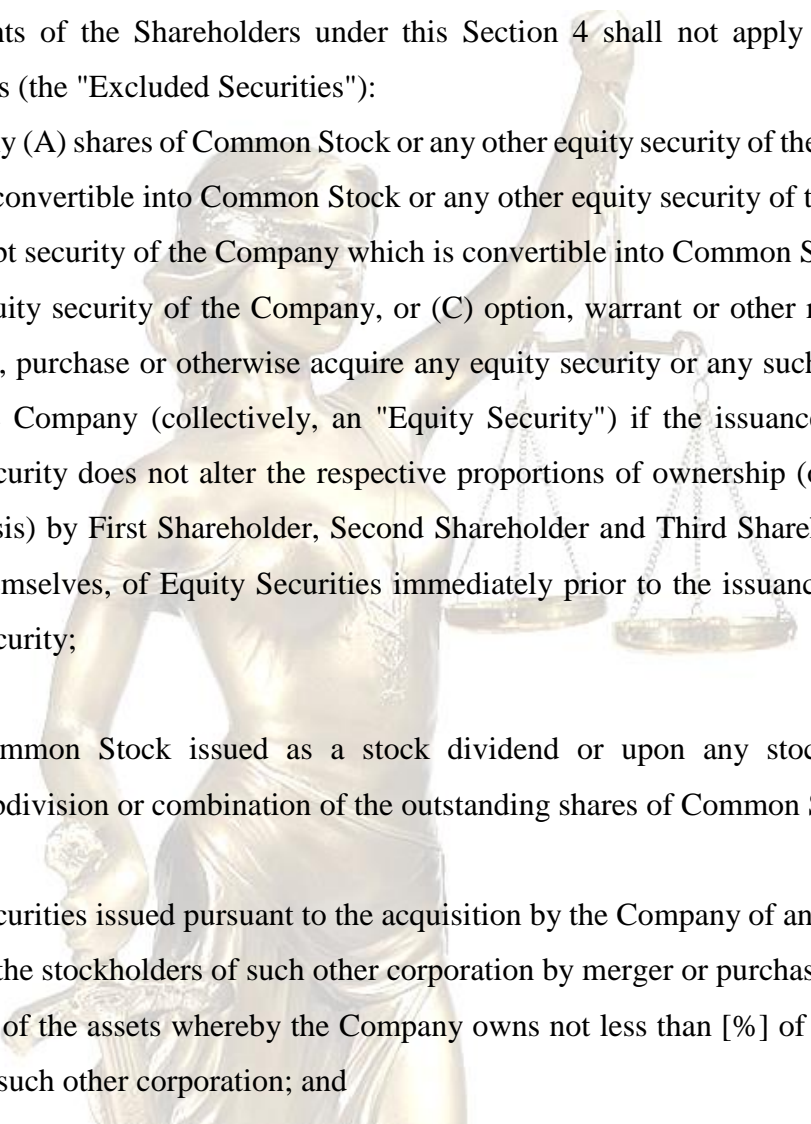
First Shareholder, Second Shareholder and Third Shareholder may each during their lifetimes transfer all, hut not less than all, of their Shares to said Shareholder's spouse or a lineal descendant of such Shareholder, so long as prior to such transfer (i) such person, the Company, and all the Shareholders amend this Agreement to the reasonable satisfaction of such person, the Company and all the Shareholders to provide the parties to this Agreement with the rights, remedies and effect provided in this Agreement as if no such transfer had occurred, and (ii) the proposed transferee agrees in a writing satisfactory to the Company and all Shareholders that such person shall vote for First Shareholder, Second Shareholder and Third Shareholder (or their nominees) as directors of the Company and shall be bound by all the terms and conditions of this Agreement.

4. Right of First Refusal

- a. Except in the case of Excluded Securities (as defined below), the Company shall not issue, sell or exchange, agree to issue, sell or exchange, or reserve or set aside for issuance, sale or exchange, any (i) shares of Common Stock or any other equity security of the Company which is convertible into Common Stock or any other equity security of the Company, (ii) any debt security of the Company which is convertible into Common Stock or any other equity security of the Company, or (iii) any option, warrant or other right to subscribe for, purchase or otherwise acquire any equity security or any such debt security of the Company, unless in each case the Company shall have first offered to sell to each Shareholder, pro rata in proportion to such Shareholder's then ownership of Shares of the Company, such securities (the "Offered Securities") (and to sell thereto such Offered Securities not subscribed for by the other Shareholders as hereinafter provided), at a price and on such other terms as shall have been specified by the Company in writing delivered to such Shareholder (the "Stock Offer"), which Stock Offer by its terms shall remain open and irrevocable for a period of [NUMBER] days (subject to extension pursuant to the last sentence of subsection (b) below) from the date it is delivered by the Company to the Shareholder.

- b. Notice of each Shareholder's intention to accept, in whole or in part, a Stock Offer shall be evidenced by a writing signed by such Shareholder and delivered to the Company prior to the end of the [NUMBER]-day period of such Stock Offer, setting forth such portion of the Offered Securities as such Shareholder elects to purchase (the "Notice of Acceptance"). If any Shareholder shall subscribe for less than his pro rata share of the Offered Securities to be sold, the other subscribing Shareholders shall be entitled to purchase the balance of that Shareholder's pro rata share in the same proportion in which they were entitled to purchase the Offered Securities in the first instance (excluding for such purposes such Shareholder), provided any such other Shareholder elected by a Notice of Acceptance to purchase all of his pro rata share of the Offered Securities. The Company shall notify each Shareholder within [NUMBER] days following the expiration of the [NUMBER]-day period described above of the amount of Offered Securities which each Shareholder may purchase pursuant to the foregoing sentence, and each Shareholder shall then have [NUMBER] days from the delivery of such notice to indicate such additional amount, if any, that such Shareholder wishes to purchase.

- c. In the event that Notices of Acceptance are not given by the Shareholders in respect of all the Offered Securities, the Company shall have [NUMBER] days from the expiration of the foregoing [NUMBER]-day or [NUMBER]-day period, whichever is applicable, to sell all or any part of such Offered Securities as to which a Notice of Acceptance has not been given by the Shareholders (the "Refused Securities") to any other person or persons, but only upon terms and conditions in all respects, including, without limitation, unit price and interest rates, which are no more favorable, in the aggregate, to such other person or persons or less favorable to the Company than those set forth in the Stock Offer. Upon the closing, which shall include full payment to the Company, of the sale to such other person or persons of all the Refused Securities, the Shareholders shall purchase from the Company, and the Company shall sell to the Shareholders the Offered Securities in respect of which Notices of Acceptance were delivered to the Company by the Shareholders, at the terms specified in the Stock Offer.

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- d. In each case, any Offered Securities not purchased by the Shareholders or other person or persons in accordance with Section 4(c) may not be sold or otherwise disposed of until they are again offered to the Shareholders under the procedures specified in Sections 4(a), (b) and (c).
 - e. The rights of the Shareholders under this Section 4 shall not apply to the following securities (the "Excluded Securities"):
 - i. Any (A) shares of Common Stock or any other equity security of the Company which is convertible into Common Stock or any other equity security of the Company, (B) debt security of the Company which is convertible into Common Stock or any other equity security of the Company, or (C) option, warrant or other right to subscribe for, purchase or otherwise acquire any equity security or any such debt security of the Company (collectively, an "Equity Security") if the issuance of such Equity Security does not alter the respective proportions of ownership (on a fully diluted basis) by First Shareholder, Second Shareholder and Third Shareholder, as among themselves, of Equity Securities immediately prior to the issuance of such Equity Security;
 - ii. Common Stock issued as a stock dividend or upon any stock split or other subdivision or combination of the outstanding shares of Common Stock;
 - iii. Securities issued pursuant to the acquisition by the Company of another corporation to the stockholders of such other corporation by merger or purchase of substantially all of the assets whereby the Company owns not less than [%] of the voting power of such other corporation; and

5. Sale Or Redemption Upon Termination of Employment, Disability Or Death

Upon the termination of a Management Shareholder's employment or other relationship with the Company (including without limitation, any position as an officer, director, consultant, joint venturer, independent contractor, or promoter to or of the Company) for whatever reason, the Disability (as defined below) of a Management Shareholder, or the death of a Management or Nonmanagement Shareholder (any such event hereinafter a "Triggering Event"), such Shareholder (or his heirs, executors, guardian or personal representative) within [NUMBER] days after the Triggering Event shall offer to sell all, but not less than all, of the Shares owned by the Shareholder. Each offer shall be made to the Company in writing and shall exist for a period of [NUMBER] days after such offer has been received by the Company. If the Company fails to purchase all of the Shares offered, the offer to sell shall be made in writing to all of the Continuing Shareholders in such proportion as the Continuing Shareholders may agree among themselves, or in the absence of agreement, pro rata in proportion to their then ownership of Shares of the Company (excluding the Offering Shareholder's (Shares), and shall exist for a period of [NUMBER] days after the offer has been received by all of the Continuing Shareholders. For purposes of this Agreement, "Disability" of a particular person means the inability, due to a physical or mental condition, of such person to maintain his employment or other relationship with the Company (including without limitation, fulfilling his duties in any position as an officer, director, consultant, joint venturer, independent contractor, or promoter to or of the Company) or to conduct his normal daily activities on behalf of the Corporation for any [NUMBER] consecutive month period.

6. Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be determined as follows:

- a. The Company or the Continuing Shareholders, as the case may be, within [NUMBER] days after receipt of any offer referred to in Paragraph 5 above, shall notify the Offering Shareholder of the price at which the Company or the Continuing Shareholders, are willing to purchase the Shares.

- b. In the event the Offering Shareholder objects to the purchase price established in accordance with Paragraph 6(a) above, the Offering Shareholder shall have the right to solicit offers to buy the Shares in accordance with the provisions of Paragraph 3.2. The right to solicit offers shall be subject to the terms and conditions of Section 3.2 and 3.3 hereof, including without limitation, the rights of first refusal and co-sale and the period during which any right of first refusal must be exercised but shall not be subject to the [NUMBER] day period referred to in Paragraph 3.2 of this Agreement.

7. Payment of Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be paid at the closing of the sale.

8. Put and Call Options

8.1. Put and Call Options

Each Shareholder shall have the right and option upon the written declaration (a "Declaration") by such Shareholder to the other Shareholders and the Company of the occurrence of an "impasse" (as defined below) to sell to the Continuing Shareholders all of his Shares, and the Continuing Shareholders shall have the obligation to either (i) purchase all of such Shares owned by the offering Shareholder in such proportion as the Continuing Shareholders may agree upon, and if they cannot so agree, pro rata in proportion to their then ownership of Shares of the Company (excluding the Offering Shareholder's Shares) or (ii) if the Continuing Shareholders are unable or unwilling to purchase all of the Shares owned by the Offering Shareholder, sell all of their Shares to the Offering Shareholder, and the Offering Shareholder shall have the obligation to buy such Shares.

8.2. Impasse

An "impasse" shall be conclusively evidenced by (i) either First Shareholder, Second Shareholder or Third Shareholder or their respective representative, voting opposite the others at a vote at a shareholders meeting or at a vote at a meeting of the Board of Directors of the Company (or failing to attend such meetings upon due notice if such failure results in the lack of a quorum making such vote impossible), which vote is on a material issue, not in the ordinary course of business, and affecting the business, assets or operations of the Company, including, but not limited to, a proposal to merge, liquidate, consolidate or dissolve the Company, or to sell, lease or dispose of all or substantially all of the assets of the Company or to amend the substantive provisions of the Company's bylaws or articles of incorporation, or to issue or redeem stock, or to declare dividends of any kind, and (ii) either First Shareholder, Second Shareholder or Third Shareholder notifying the others and the Company and any other Shareholders within [NUMBER] days after such meeting, proposed meeting or vote that an "impasse" has occurred. The put and call rights granted to each Shareholder under this Paragraph 8 are independent of the other rights granted to the Shareholders and the Company under the other terms of this Agreement and such rights are not mutually exclusive or inconsistent.

8.3. Exercise of Option

The Continuing Shareholders shall exercise any option provided for in this Paragraph 8 within [NUMBER] days after receipt of a declaration. Any closing of the sale of Shares pursuant to such exercise shall occur within [NUMBER] days after receipt of a Declaration.

8.4. Purchase Price

Any purchase or sale of Shares sold pursuant to this Paragraph 8 shall be at the price as set forth in the Declaration delivered by the Shareholder exercising his right to sell his shares and shall be paid at the closing of the sale of the Shares.

9. Rights Upon Registration

In the event that the Company shall register or qualify any or all of the common stock of the Company under the [CODE OR LAW], as amended (or any similar statute then in force), on an appropriate registration statement, the Company shall give the Shareholders written notice thereof, and upon written request of a Shareholder, received by the Company not later than [NUMBER] days after receipt by the Shareholder of such notice, the Company will include in the registration statement filed by the Company with the Securities and Exchange Commission all Shares held by such Shareholder with respect to which the Shareholder shall have so requested registration.

10. Agreement Binding on All Persons Interested in Shares

Each person who now or hereafter acquires any legal or equitable interest in any Shares shall be bound by the terms of this Agreement. No issuance or transfer of Shares shall be effective and the Company shall not enter any issue or transfer upon the stock books of the Company or issue a certificate in the name of any person unless the Company is satisfied that such person is, and in a manner satisfactory to the Company has acknowledged being, bound by this Agreement.

11. Closing

Except as otherwise agreed to or expressly provided for herein, closing pursuant to the exercise of a right to purchase or sell Shares pursuant to this Agreement shall be held at the principal executive offices of the Company.

12. Entry of Legend Upon Stock Certificates

The following legend shall be immediately entered on each stock certificate representing Shares owned by the Shareholders:

"The gift, sale, mortgage, pledge, hypothecation or other encumbering or transfer of the shares of the capital stock represented by this certificate is restricted in accordance with the terms and conditions of a Shareholders Agreement dated [DATE], a copy of which is on file at the principal executive offices of the Company. Said Shareholders Agreement restricts the ability of the Shareholder to sell, give, pledge, bequeath or otherwise transfer or dispose of this stock certificate and the shares of capital stock represented by it."

13. After Acquired Shares - Subsequent Shareholders

The terms and conditions of this Agreement shall specifically apply not only to Shares owned by Shareholders at the time of execution of this Agreement, but also to any Shares acquired by any Shareholder subsequent to such execution.

14. Board of Directors

At each election of the Board of Directors of the Company, the Shareholders shall vote their Shares to elect three directors of the Company, one director being First Shareholder, or his nominee, one director being Second Shareholder, or his nominee, and one director being Third Shareholder, or his nominee.

15. Community and Marital Property Laws

Notwithstanding anything to the contrary contained herein, the following terms shall control to the extent community property laws or other marital property laws apply to the Shares of any Shareholder:

15.1. Lifetime Transfers

The provisions of this Agreement regarding restrictions against the transfer of Shares shall apply to any interest of the spouse of any Shareholder in such Shares (said spouse is hereinafter referred to as a "Spouse").

15.2. Transfers Upon Death of Spouse

If the Spouse of a Shareholder predeceases such Shareholder and has failed to bequeath to such Shareholder the deceased Spouse's entire marital property interest, if any, in the Shares held by the Shareholder, or if the Spouse of a Shareholder is adjudicated to be bankrupt or insolvent, or makes an assignment for the benefit of his or her creditors (collectively referred to herein as an "Event"), then to the extent necessary to divest the Spouse of any interest in the Shares of such Stockholder, within three months after the date of the occurrence of the Event, the Shareholder shall have the option to and must purchase such marital property interest of his or her Spouse or the estate of the deceased Spouse, as the case may be, in the Shares held by the Shareholder at a price equal to the lesser of either the value of the spouse's marital property interest in such Shares or the book value of such Shares.

15.3. Marital Dissolution Any decree of dissolution, separate maintenance agreement or other property settlement between a Shareholder and his or her Spouse shall provide that the entire marital property interest of the Spouse in the Shares of the Shareholder shall be granted to the Shareholder as part of the division of the property of the marriage and the Spouse shall release and the Shareholder shall accept any marital property interest of such Spouse in the Shares. If payment for such Shares is ordered by the Court or demanded by the Spouse, no consideration shall be required, but if the Shareholder volunteers consideration for said release of interest it shall be no greater than the lesser of either the value of the Spouse's marital property interest in such Shares or the book value of the Spouse's marital property interest in such Shares.

15.4. Inclusion of Marital Property

Any purchase of the Shares of a Shareholder pursuant to any provision of this Agreement shall include without limitation or condition the entire marital property interest of the Spouse of such Shareholder in the Shares being purchased.

15.5. Determination of Value

Book value and the value of a Spouse's interest in the Shares of a Shareholder for purposes of this Paragraph 15 shall be determined by the Shareholder. The Company and the other Shareholders shall not be responsible for the determination of the value of the marital property interest of any Spouse of a Shareholder, the determination of book value, or the purchase of or payment for such Spouse's marital property interest in the Shares of a Shareholder.

16. Insurance

The Company may, if it so desires, purchase insurance policies on the life of any Management Shareholder for the purpose of payment for stock purchases or as key man insurance. If any Shareholder on whose life the Company owns an insurance policy shall at any time during his lifetime sell all of his Shares, then that Shareholder shall have the right to purchase from the Company the insurance policy or policies on his life at the cash surrender value, if any. The Company shall deliver the policy or policies on the life of such Shareholder upon payment of the cash surrender value, if any, and shall execute any necessary instruments of transfer and change of beneficiary forms.

17. Pro Rata Allocations

All items of income and loss of the Company shall be assigned pro rata to each day throughout the year. However, the Shareholders hereby consent to make an election pursuant to Section [NUMBER] of the [Code OR LAW] or Section [NUMBER] of the [Code OR LAW] in the event that the Board of Directors determines such elections to be in the best interest of a majority of the Shareholders.

18. Subchapter Election

The Company may elect to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code, as amended from time to time (the "code"), or such other provisions of law as may hereafter be applicable to such an election, and for state income tax purposes, if available (hereinafter, an "Election"). Each Shareholder and the Company agree to execute and file the necessary forms for making and maintaining an Election, and each Shareholder agrees to deliver to the Company the consent of the spouse of such Shareholder if such consent is required for the Election under any community or marital property laws or otherwise. The Shareholders and the Company agree that they will take such other actions as may be deemed necessary or advisable by counsel to the Company to exercise or maintain the Election.

The Shareholders shall maintain the Election unless the Management Shareholders unanimously agree otherwise or in the event that the Board of Directors requests that the Shareholders revoke the Election, in which case the Shareholders shall promptly execute and deliver to the Company such documents as may be necessary to revoke the Election. None of the Shareholders, without the consent of all of the Management Shareholders, shall take any action or position, or make any transfer or other disposition of his shares of the Company which may result in the termination or revocation of the Election. In the event of an inadvertent termination of the Election as described in Section [NUMBER] of the [Code OR LAW] or other applicable law, the Shareholders shall agree to make such adjustments as may be required to continue the Election, as provided in Section [NUMBER] of the [Code OR LAW]

19. Authorization

The Company is authorized to enter into this Agreement by virtue of a resolution of Board of Directors.

20. Notices

Notices and declarations under this Agreement shall be in writing and sent by registered or certified mail, return receipt requested, postage paid, to the Company at its principal executive offices and to Shareholders at their last address as shown on the records of the Company or at such other address with respect to any party hereto as such party shall notify the other Shareholders and the Company in writing in the manner specified herein.

21. Termination

The rights and obligations of the Company and the Shareholders under this Agreement shall terminate upon written agreement of all then existing Shareholders or upon the registration or qualification of any or all of the Common stock of the Company pursuant to Paragraph 9 hereof.

22. Severability

The various provisions of this Agreement are severable from each other and from the other provisions of the Agreement, and in the event that any provision in this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be fully effective, operative and enforceable.

23. Free end Clear of Encumbrances

All Shares sold pursuant to the terms of this Agreement shall be free of any and all liens and encumbrances and accompanied by stock powers duly endorsed in blank.

Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, administrators, successors and assigns.

24. Governing Law

This Agreement shall be construed and interpreted in accordance with the laws of the State of [STATE/PROVINCE] without reference to conflict of laws principles except to the extent that the community or marital property laws of any state would otherwise be applicable to a particular situation, in which event, such community or marital property laws shall apply to the particular situation.

25. Entire Agreement

This instrument contains the entire agreement of the parties and may be changed only by an agreement in writing signed by the Company and all persons then owning Shares.

26. Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year set forth below.

COMPANY

FIRST SHAREHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECOND SHAREHOLDER

THIRD SHAREHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



CONSENT OF SPOUSE

The undersigned being the spouses of Shareholders named in the foregoing Shareholders Agreement (the "Agreement"), hereby acknowledges that:

1. I have read the foregoing Agreement in its entirety and understand that:
 - A. Upon the occurrence of certain events as specified in the Agreement, the Company, my spouse, and the other Shareholders will have the right to and may be obligated to purchase Shares owned by another Shareholder at a price and on terms and conditions set forth in the Agreement;
 - B. Any purchase of the Shares of any Shareholder will include his or her entire interest in such Shares and any community property interest and other marital property interest of the spouse of such Shareholder; and
 - C. The Agreement imposes certain restrictions on any attempts by me to transfer any interest I may have in the Company or any Shares of the Company by virtue of my marriage and confers on my spouse the right and obligation to purchase any interest I may have in the Company or any Shares of the Company upon the occurrence of certain events.
2. I hereby approve and agree to be bound to all of the terms of the Agreement and agree that any interest (community property or otherwise) that I may have in the Company or any Shares of the Company shall be subject to the terms of this spousal consent and the Agreement.
3. I agree that my spouse may join in any future amendments or modifications to the Agreement without any notice to me and without any signature, acknowledgment, agreement or consent on my part.
4. I agree that I will transfer or bequeath any interest I may have in the Company or any Shares of the Company by my will, outright and free of trust to my spouse.

5. I acknowledge that I have been advised and have been encouraged to seek independent counsel of my own choosing to represent me in matters regarding the Shareholders Agreement and my execution of this spousal consent.
6. I hereby consent to the Company and my spouse making and maintaining the Subchapter S Election (if applicable) under the Internal Revenue Code, as amended from time to time.

Signature Signature

Name – Spouse of First Shareholder Name – Spouse of Second Shareholder

Signature

Name – Spouse of Third Shareholder

A SAMPLE OF COMPANY RESOLUTIONS.

THE REPUBLIC OF UGANDA

M/S

COMPANY RESOLUTION

AT THE GENERAL MEETING of the Company duly convened and held at the Company Office at Plot 91/97 Seventh Street, Industrial Area on the 8th day of January, 2013 the following persons were appointed to the Board of Directors of the Company, namely:

- 1.
- 2.

THAT be and is hereby appointed the Company Secretary of the Company.

That the Secretary files this resolution with the Registrar of companies.

DATED at Kampala this 8th day of January, 2013.

..... CHAIRMAN _____

..... DIRECTOR _____

DRAWN BY:
Sui Generis & Co- Advocates
 Plot 10 Clement Hill Road
 P.O. Box 21161
 Tel: 341295/6
 Fax: 343168
 KAMPALA



THE REPUBLIC OF UGANDA
THE COMPANIES ACT CAP. 110
..... LIMITED
RESOLUTION OF BOARD ALLOTING SHARES

AT THE BOARD MEETING of the Company held on the 5th day of March, 2013, notice of which was given to all members entitled to attend was duly given, it was resolved:-

1. That the following ordinary shares be hereby allotted to the following persons respectively, viz:-

i) Nos. 001 to 5000 allotted to of P. O. Box 23124, Kampala.

ii) Nos. 5001 to 1000 allotted to of P. O. Box 23124, Kampala.

2. That the Secretary be directed forthwith to file with the Registrar of Companies a return of the shares allotted by this resolution.

3. That the Secretary be directed to register such persons as the holders of such shares respectively and issue to them share certificates.

DATED at Kampala this 5th day of March, 2013.

CHAIRMAN

(.....)

I HEREBY CERTIFY that the above are true extracts of the Minutes of the Board Meeting of the Company.

SECRETARY

(.....)

DRAWN BY:

Sui Generis & Co- Advocates

Plot 10 Clement Hill Road

P.O. Box 21161

Tel: 341295/6

Fax: 343168

KAMPALA



THE REPUBLIC OF UGANDA
M/S LTD
BOARD RESOLUTION

AT THE BOARD MEETING of the Company held on the 8th day of January, 2013 at the Company Office at Plot 91/97 7th Street, Industrial Area notice of which was duly given to all members entitled to attend, it was resolved as follows:-

1. That a foreign and local currency accounts be opened in Bank of Baroda (U) Ltd, Mulwana Road branch in the names of the Company and the same be operated on behalf of the company by the following SIGNATORIES, namely:

- a)
- b)

2. That ANY ONE of the above named persons shall be sufficient signatory to the accounts and the Bank may act on any instructions so given relating to the account, whether the same be overdrawn or not, or relating to the transactions of the company.

3. That this resolution be filed and registered with the Registrar of Companies.

DATED at Kampala this 6th day of March, 2013.

.....
CHAIRMAN

.....
DIRECTOR

DRAWN BY:
Sui Generis & Co- Advocates
Plot 10 Clement Hill Road
P.O. Box 21161
Tel: 341295/6
Fax: 343168
KAMPALA

A sample of bill of sale.

BILL OF SALE

This Bill of Sale (the "Agreement") is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good and valuable consideration, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods

[DETAILED LIST OF GOODS].

Seller warrants and represents that he/she has good title to said property, full authority to sell and transfer same and that said goods and chattels are being sold free and clear of all liens, encumbrances, liabilities and adverse claims, of every nature and description.

Seller further warrants that it shall sully defend, protect, indemnify and save harmless the Buyer and its lawful successors and assigns from any and all adverse claim, that may be made by any party against said goods.

The Buyer acknowledges examining the goods and buying them "as and where is" completely at the Buyer's risk and promises not to make any claims against the Seller based upon alleged express or implied representations, warranties or collateral agreements as to the merchantability of the goods or as to their fitness for any particular purpose or as to their safe use.

It is provided, however, that Seller disclaims any implied warranty of condition, merchantability or fitness for a particular purpose. Said goods being in their present condition "as is" and "whereis."

IN WITNESS WHEREOF, this Bill of Sale is executed in duplicate under seal on [DATE].

Signed, sealed and delivered to the Buyer in the presence of:

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

A sample of a bill of sale with encumbrances.

BILL OF SALE – WITH ENCUMBRANCES

This Bill of Sale (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the “Seller”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good and valuable consideration, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods:

[DETAILED LIST OF GOODS].

The Seller warrants that it owns the goods but stipulates that they are being sold subject to the following encumbrance(s) in the following amount(s):

[ENCUMBRANCE DESCRIPTION - ENCUMBRANCE AMOUNT].

ISAAC LUBOGO CHRISTOPHER

The Buyer acknowledges buying the goods subject to the above encumbrance(s) and promises to pay the encumbrance(s) and to indemnify and save the Seller harmless from any claim(s) based on failure to pay off the encumbrance(s).

Executed under seal in duplicate on [DATE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

A contract for manufacture and sell of goods.

CONTRACT FOR THE MANUFACTURE AND SALES OF GOODS



This Sales Agreement (the “Sales Contract”) is made on [DATE],

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

1. DESCRIPTION OF MANUFACTURE AND SALE

Seller agrees to manufacture and sell to buyer the following goods:

[describe goods and set forth specifications] (the “goods”).

2. PAYMENT

Buyer agrees to pay for the goods as follows: [%] down within [NUMBER] days after execution of this agreement; [%] within [NUMBER] days after seller notifies buyer of opportunity to inspect and seller's intent to make delivery at expiration of [NUMBER] days from notice; and [%] upon delivery. If seller should regard its prospect of receiving the last payment insecure, it may demand payment prior to delivery.

3. DELIVERY SCHEDULE

Seller shall commence to manufacture within [NUMBER] weeks following receipt of buyer's initial deposit. Subject to the provisions of Section Five, seller will complete such manufacturing and make the goods available for inspection at seller's plant not later than [DATE]. If buyer's inspection discloses defects or adjustments, seller shall have a reasonable time to correct such defects and make such adjustments as are necessary. Buyer shall then have an opportunity to make a final pre-shipment inspection. Seller shall within [NUMBER] days of inspection cause the goods to be appropriately packaged and shipped to [address], [city], [state/province], or to such other destination specified by buyer. Seller shall pay all expenses of packaging and preparations for shipment and buyer shall pay all costs of shipment, including insurance on both seller's and buyer's respective interests.

4. EXCUSE FOR NONPERFORMANCE

Seller's obligations under this agreement are accepted subject to strikes, labor troubles (including strikes or labor troubles affecting any suppliers of seller), floods, fires, acts of God, accidents, delays, shortage of cars, contingencies of transportation and other causes of like or different character beyond the control of seller. Impossibility of performance by reason of any legislative, executive or judicial act of any governmental authority shall excuse performance of or delay in performance of this agreement.

5. WARRANTIES AND LIMITATIONS

Seller warrants that the goods shall be delivered free of the rightful claim of any third person by way of patent infringement, and if buyer receives notice of any claim of such infringement, it shall, within [NUMBER] days, notify seller of such claim. If buyer fails to forward such notice to seller, it shall be deemed to have released seller from this warranty as to such claim.

THERE ARE NO WARRANTIES OF MERCHANTABILITY AND NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.

6. ENTIRE AGREEMENT

The parties agree that this constitutes the entire agreement and there are no further items or provisions, either oral or otherwise. Buyer agrees that it has not relied upon any representations of seller as to prospective performance of the goods, but has relied upon its own inspection and investigation of the subject matter.

The parties have executed this agreement at [designate place of execution] the day and year first above written.

SELLER

BUYER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

A sample of a partnership agreement.

PARTNERSHIP AGREEMENT

This Partnership Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [FIRST PARTNER NAME] (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTNER NAME] (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

Partners desire to join together for the pursuit of common business goals.

- A. Partners have considered various forms of joint business enterprises for their business activities.
- B. Partners desire to enter into a partnership agreement as the most advantageous business form for their mutual purposes.
- C. The parties hereto agree to form a limited partnership (the "Partnership") under [LAW, CODE OR ACT].

In consideration of the mutual promises contained in this agreement, partners agree as follows:

1. NAME AND DOMICILE

The name of the partnership shall be [name]. The principal place of business shall be at [address], [city], [state/province], unless relocated by consent of the partners.

2. Purposes

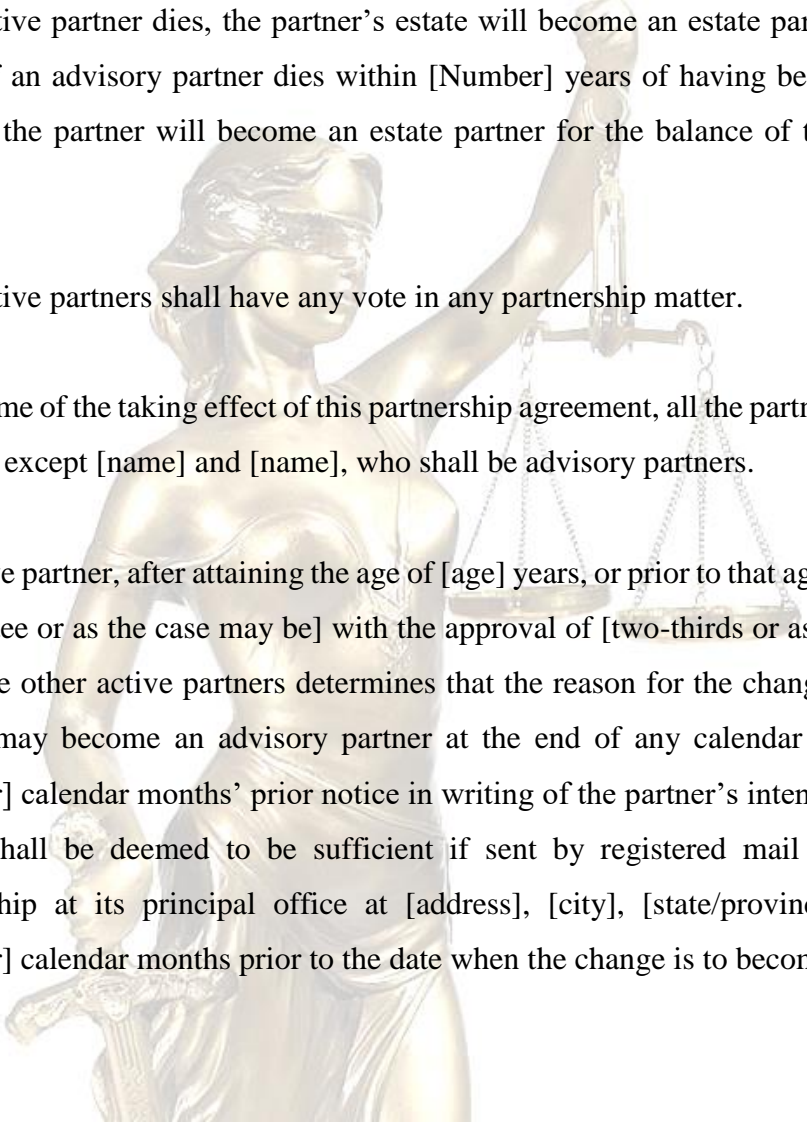
Subject to the limitations set forth in this Agreement, the purposes of the Partnership are to engage in the business of [DESCRIBE ACTIVITIES]; and to conduct other activities as may be necessary or incidental to or desirable in connection with the foregoing.

3. DURATION OF AGREEMENT

The term of this agreement shall be for [number] years, commencing on [date], and terminating on [date], unless sooner terminated by mutual consent of the parties or by operation of the provisions of this agreement.

4. CLASSIFICATION AND PERFORMANCE BY PARTNERS

- a. Partners shall be classified as active partners, advisory partners, or estate partners.

- 
- b. An active partner may voluntarily become an advisory partner, may be required to become one irrespective of age, and shall automatically become one after attaining the age of [age] years, and in each case shall continue as such for [number] years unless the partner sooner withdraws or dies.
 - c. If an active partner dies, the partner's estate will become an estate partner for [number] years. If an advisory partner dies within [Number] years of having become an advisory partner, the partner will become an estate partner for the balance of the [number]-year period.
 - d. Only active partners shall have any vote in any partnership matter.
 - e. At the time of the taking effect of this partnership agreement, all the partners shall be active partners except [name] and [name], who shall be advisory partners.
 - f. An active partner, after attaining the age of [age] years, or prior to that age if the [executive committee or as the case may be] with the approval of [two-thirds or as the case may be] of all the other active partners determines that the reason for the change in status is bad health, may become an advisory partner at the end of any calendar month on giving [number] calendar months' prior notice in writing of the partner's intention to do so. The notice shall be deemed to be sufficient if sent by registered mail addressed to the partnership at its principal office at [address], [city], [state/province] not less than [number] calendar months prior to the date when the change is to become effective.

- g. Any active partner may at any age be required to become an advisory partner at any time if the [executive committee or as the case may be] with the approval of [two-thirds or as the case may be] of the other active partners shall decide that the change is for any reason in the best interests of the partnership, provided notice of the decision shall be given in writing to the partner. The notice shall be signed by the [chairman or as the case may be] of the [executive committee or as the case may be] or, in the event of his or her being unable to sign at the time, by another member of the [executive committee or as the case may be]. The notice shall be served personally on the partner required to change his or her status, or mailed by registered mail to the partner’s last known address. Change of the partner’s status shall become effective as of the date specified in the notice.
- h. Every active partner shall automatically and without further act become an advisory partner at the end of the fiscal year in which the partner’s birthday occurs.
- i. In the event that an active partner becomes an advisory partner or dies, the partner or the partner’s estate shall be entitled to the following payments at the following times:

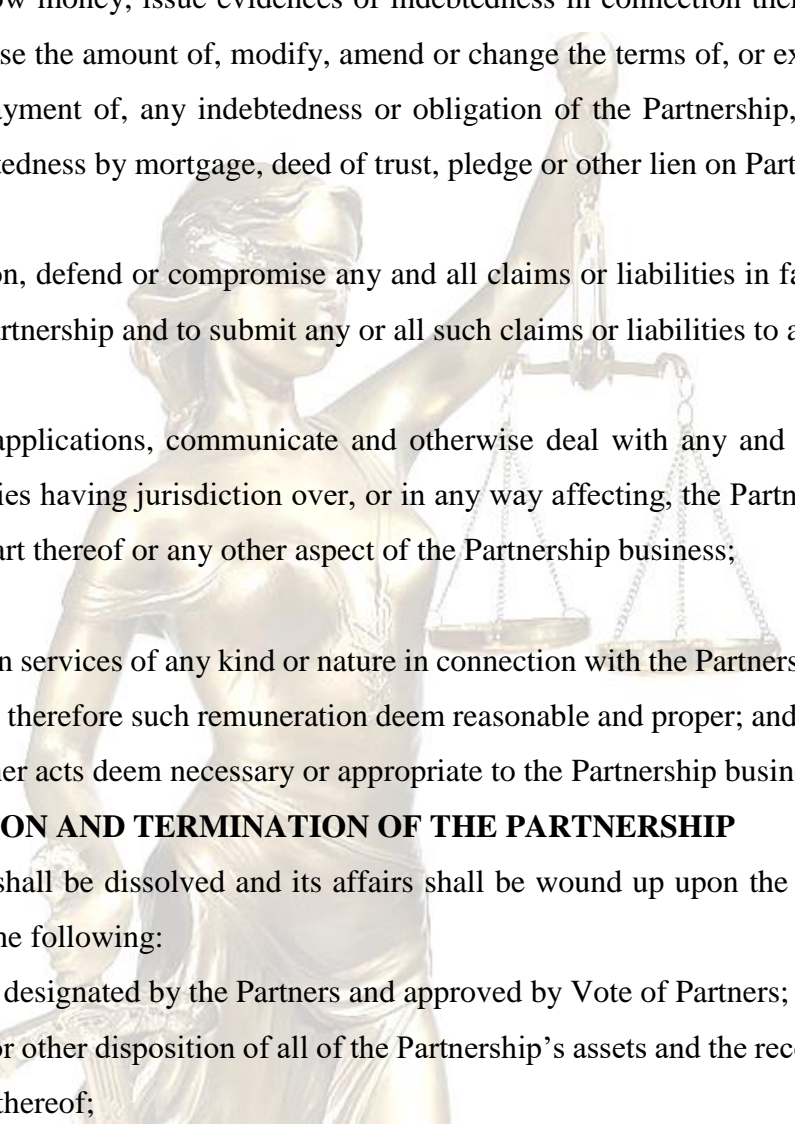
Each active partner shall apply all of the partner’s experience, training, and ability in discharging the partner’s assigned functions in the partnership and in the performance of all work that may be necessary or advantageous to further the business interests of the partnership.

5. CONTRIBUTION.

Each partner shall contribute [amount] on or before [date] to be used by the partnership to establish its capital position. Any additional contribution required of partners shall only be determined and established in accordance with Article Nineteen.

6. MANAGEMENT OF THE PARTNERSHIP

The Partnership shall be managed by [SPECIFY]. Subject to the limitations specifically contained in this Agreement, [PARTY MANAGING THE PARTNERSHIP] shall have the full, exclusive and absolute right, power and authority to manage and control the Partnership and the property, assets and business thereof. [PARTY MANAGING THE PARTNERSHIP] shall have all of the rights, powers and authority conferred by law or under other provisions of this Agreement. Without limiting the generality of the foregoing, such powers include the right on behalf of the Partnership, in [PARTY MANAGING THE PARTNERSHIP]’ sole discretion, to:

- 
- a. Acquire, purchase, renovate, improve, and own any property or assets necessary or appropriate or in the best interests of the business of the Partnership, and to acquire options for the purchase of any such property;
 - b. Borrow money, issue evidences of indebtedness in connection therewith, refinance, increase the amount of, modify, amend or change the terms of, or extend the time for the payment of, any indebtedness or obligation of the Partnership, and secure such indebtedness by mortgage, deed of trust, pledge or other lien on Partnership assets;
 - c. Sue on, defend or compromise any and all claims or liabilities in favor of or against the Partnership and to submit any or all such claims or liabilities to arbitration;
 - d. File applications, communicate and otherwise deal with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any part thereof or any other aspect of the Partnership business;
 - e. Retain services of any kind or nature in connection with the Partnership business, and to pay therefore such remuneration deem reasonable and proper; and Perform any and all other acts deem necessary or appropriate to the Partnership business.

7. DISSOLUTION AND TERMINATION OF THE PARTNERSHIP

The Partnership shall be dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

- a. On a date designated by the Partners and approved by Vote of Partners;
- b. The sale or other disposition of all of the Partnership's assets and the receipt in cash of the proceeds thereof;
- c. One of the Partners committed an illegal or unapproved action;
- d. [OTHER]

8. BUSINESS EXPENSES

The rent of the buildings where the partnership business shall be carried on, and the cost of repairs and alterations, all rates, taxes, payments for insurance, and other expenses in respect to the buildings used by the partnership, and the wages for all persons employed by the partnership are all to become payable on the account of the partnership. All losses incurred shall be paid out of the capital of the partnership or the profits arising from the partnership business, or, if both shall be deficient, by the partners on a pro rata basis, in proportion to their original contributions, as provided in Article Nineteen.

9. MEETINGS

6.1 Place of Meetings

Meetings of the Partners may be held at any place within or without [STATE/PROVINCE] as determined by the Partners but will generally be held at [LOCATION] .

6.2 Notices

Whenever Partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than [NUMBER] days, nor more than [NUMBER] days before the date of the meeting to each Partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

10. AUTHORITY.

No partner shall buy any goods or articles or enter into any contract exceeding the value of [amount] without the prior consent in writing of the other partners. If any partner exceeds this authority, the other partners shall have the option to take the goods or accept the contract on account of the partnership or to let the goods remain the sole property of the partner who shall have obligated himself or herself.

11. SEPARATE DEBTS

No partner shall enter into any bond, or become surety or cosigner, or provide security for any person, partnership, or corporation, or knowingly condone anything by which the partnership property may be attached or taken in execution, without the prior written consent of the other partners.

Each partner shall punctually pay the partner's separate debts and indemnify the other partners and the capital and property of the partnership against the partner's separate debts and all expenses relating to such separate debts.

12. BOOKS AND RECORDS

Books of account shall be maintained by the partners, and proper entries made in the books of all sales, purchases, receipts, payments, transactions, and property of the partnership. The books of account and all records of the partnership shall be retained at the principal place of business as specified in Article One. Each partner shall have free access at all times to all books and records maintained relative to the partnership business.

13. ACCOUNTING.

The fiscal year of the partnership shall be from [month and day] to [month and day] of each year. On the [day] of [month], commencing in [year], and on the [day] of [month] in each succeeding year, a general accounting shall be made and taken by the partners of all sales, purchases, receipts, payments, and transactions of the partnership during the preceding fiscal year, and of all the capital property and current liabilities of the partnership. The general accounting shall be written in the partnership account books and signed in each book by each partner immediately after it is completed. After the signature of each partner is entered, each partner shall keep one of the books and shall be bound by every account, except that if any manifest error is found in an account book by any partner and shown to the other partners within [number] months after the error shall have been noted by all of them, the error shall be rectified.

14. DIVISION OF PROFITS AND LOSSES.

Each partner shall be entitled to [%] of the net profits of the business, and all losses occurring in the course of the business shall be borne in the same proportion, unless the losses are occasioned by the willful neglect or default, and not the mere mistake or error, of any of the partners, in which case the loss so incurred shall be made good by the partner through whose neglect or default the losses shall arise. Distribution of profits shall be made on the [day] of [month] each year.

15. ADVANCE DRAWS

Each partner shall be at liberty to draw out of the business in anticipation of the expected profits any sums that may be mutually agreed on, and the sums are to be drawn only after there has been entered in the books of the partnership the terms of agreement, giving the date, the amount to be drawn by the respective partners, the time at which the sums shall be drawn, and any other conditions or matters mutually agreed on. The signatures of each partner shall be affixed on the books of the partnership. The total sum of the advanced draw for each partner shall be deducted from the sum that partner is entitled to under the distribution of profits as provided for in Article Ten.

16. SALARY

No partner shall receive any salary from the partnership, and the only compensation to be paid shall be as provided in Articles Ten and Eleven.

17. RETIREMENT

In the event any partner shall desire to retire from the partnership, the partner shall give [number] months' notice in writing to the other partners. The continuing partners shall pay to the retiring partner at the termination of the [number] months' notice the value of the interest of the retiring partner in the partnership. The value shall be determined by a closing of the books and a rendition of the appropriate profit and loss, trial balance, and balance sheet statements. All disputes arising from such determination shall be resolved as provided in Article Twenty.

18. RIGHTS OF CONTINUING PARTNERS

On the retirement of any partner, the continuing partners shall be at liberty, if they so desire, to retain all trade names designating the firm name used. Each of the partners shall sign and execute any assignments, instruments, or papers that shall be reasonably required for effectuating an amicable retirement.

19. DEATH OF PARTNER

In the event of the death of one partner, the legal representative of the deceased partner shall remain as a partner in the firm, except that the exercise of this right on the part of the representative of the deceased partner shall not continue for a period in excess of [number] months, even though under the terms of this agreement a greater period of time is provided before the termination of this agreement. The original rights of the partners shall accrue to their heirs, executors, or assigns.

20. EMPLOYEE MANAGEMENT

No partner shall hire or dismiss any person in the employment of the partnership without the consent of the other partners, except in cases of gross misconduct by the employee.

21. RELEASE OF DEBTS

No partner shall compound, release, or discharge any debt that shall be due or owing to the partnership, without receiving the full amount of the debt, unless that partner obtains the prior written consent of the other partners to the discharge of the indebtedness.

22. COVENANT AGAINST REVEALING TRADE SECRETS

No partner shall, during the continuance of the partnership or for [number] years after its termination by any means, divulge to any person not a member of the firm any trade secret or special information employed in or conducive to the partnership business and which may come to the partner's knowledge in the course of this partnership, without the consent in writing of the other partners, or of the other partners' heirs, administrators, or assigns.

23. ADDITIONAL CONTRIBUTIONS

The partners shall not have to contribute any additional capital to the partnership to that required under Article Four, except as follows: (1) each partner shall be required to contribute a proportionate share in additional contributions if the fiscal year closes with an insufficiency in the capital account or profits of the partnership to meet current expenses; or (2) the capital account falls below [amount] for a period of [number] months.

24. ARBITRATION

If any differences shall arise between or among the partners as to their rights or liabilities under this agreement, or under any instrument made in furtherance of the partnership business, the difference shall be determined and the instrument shall be settled by [name of arbitrator], acting as arbitrator, and the decision shall be final as to the contents and interpretations of the instrument and as to the proper mode of carrying the provision into effect.

25. ADDITIONS, ALTERATIONS, OR MODIFICATIONS

Where it shall appear to the partners that this agreement, or any terms and conditions contained in this agreement, are in any way ineffective or deficient, or not expressed as originally intended, and any alteration or addition shall be deemed necessary, the partners will enter into, execute, and perform all further deeds and instruments as their counsel shall advise. Any addition, alteration, or modification shall be in writing, and no oral agreement shall be effective.

26. Notices

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services at addresses already specified in this Agreement.

27. Headings

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

28. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the state of [State/province].

29. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

IN WITNESS WHEREOF, the parties have executed this Partnership Agreement at [designate place of execution] the day and year first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

A Partnership dissolution agreement.

PARTNERSHIP DISSOLUTION AGREEMENT



This Partnership Dissolution Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [SELLING PARTNER NAME] (the "Selling Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASING PARTNER NAME] (the "Purchasing Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. The parties are partners in the firm of [name], of [address], [city], [state], established for the purpose of [specify], under an agreement dated [date].
- B. Pursuant to the terms of the partnership agreement, a buy or sell notice was given by Selling Partner to Purchasing Partner.

A sample of a sale agency agreement.

SALES AGENCY AGREEMENT

This Sales Agency Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [PRINCIPAL NAME] (the "Principal"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENT NAME] (the "Agent"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

1. RECITALS

- a. Principal is a manufacturer of [product] and desires to appoint Agent as general sales Agent for the sale of Principal's product [if appropriate, add: and other regular-line products and accessories of Principal] in the following territory: [describe territory].
- b. Agent desires to accept such appointment and to perform all the provisions of this agreement.

2. DURATION

The term of the agency created shall be [period of time], beginning [date], unless sooner terminated.

3. AGENT’S BEST EFFORTS

Agent agrees to devote Agent’s whole time and best efforts to the business of Principal in the described territory under the direction of Principal’s officers or representatives, and to conform to the best of Agent’s ability with the rules, regulations and instructions of Principal now in force or that may be adopted and mailed to Agent’s address. Agent shall employ salespersons to assist Agent, on such terms and conditions as Principal may require, as set forth in this agreement.

4. NONDISCLOSURE OF PRINCIPAL’S AFFAIRS

Agent agrees to keep confidential such information as Principal may from time to time impart to Agent regarding Principal’s business affairs and customers. Agent will not, in whole or in part, now or at any time, disclose such information.

5. ASSIGNMENT OF AGENT’S INVENTIONS

Agent agrees, in view of the confidential information regarding Principal’s business affairs, plans and necessities, that Agent will be in a position to obtain from time to time, and in partial consideration of the commissions agreed to be paid to Agent under this agreement, that Agent, on demand, will assign to Principal, or Principal’s successors or assigns, any inventions or improvements Agent may make during the agency with Principal that relate to Principal’s product. Agent also will sign any papers and do any acts that may be needed to secure to Principal, or Principal’s successors or assigns, any rights relating to such inventions and improvements, including patents in [COUNTRY] and foreign countries.

6. COMMISSIONS

- a. Agent, during the term of the agreement, shall receive a commission from the sale of Principal’s product [if appropriate, add: and other regular-line products and accessories] sold for use in Agent’s territory, whether sold by Agent or by Principal, or others, except as provided in this agreement.

- b. Agent's commission on sales made pursuant to this agreement shall be as follows:
[DESCRIBE].

7. SALES SUBJECT TO COMMISSIONS

This agreement shall apply to business procured at the time of visits to Agent's territory by Principal's superintendent, and also to all business subsequently procured either by Agent, Principal's superintendent or other representative of Principal, from customers previously worked within [NUMBER] months from the date of the latest visit of Principal's superintendent or other representative.

8. WHEN COMMISSIONS ARE PAID

- a. Any commission to be received under this agreement shall not be credited to Agent's account on Principal's books until the purchaser has made settlement in full with Principal, either by cash or acceptable notes [SPECIFY] [if appropriate, add: and has delivered to Principal or an authorized Agent of Principal any returnable products]. If settlement is made wholly or in part by purchaser's notes, Principal may withhold payment of the commission in whole or in part until the notes are paid.
- b. Agent's account may be charged with the amount of any commission previously paid to Agent or credited to Agent's account for the unpaid part of the purchase price of [product], or the unpaid part of any note given in payment.
- c. When Principal repossesses a product, Agent shall receive commission only on the amount of money paid by purchaser prior to repossession.

9. COMMISSIONS ON TRADE-INS

Principal shall have the right to fix the amount to be allowed for products taken in exchange, and a commission will not be paid on the amount so allowed.

10. SALES THROUGH OTHER SALES CHANNELS

Agent waives any claim to a commission on any sales made in Agent's territory other than through Principal's offices or regular sales agencies when, in the opinion of Principal, the general conditions of the business in any part of the [COUNTRY] necessitate the sale of Principal's product through other sales channels.

11. SALES IN OR FROM OTHER TERRITORIES

- a. Agent agrees not to enter the territory of any other Sales Agent of Principal for the purpose of selling Principal's product, or to endeavor, directly or indirectly, to make sales of Principal's product for use outside of Agent's territory. Should a purchaser call on Agent voluntarily and purchase Principal's product for use outside of Agent's territory, Agent shall receive commissions as follows: [DESCRIBE].
- b. Agent further agrees that, when any other authorized sales Agent of Principal sells Principal's product for use in Agent's territory, Agent's account shall be credited with the regular commission, less the commission paid Agent making the sale.

12. DISPUTES ON COMMISSIONS

Principal shall have the right to determine, in any dispute arising between Agent and any other sales Agent of Principal, the right to commission on any sale, and Agent shall abide by and be bound by Principal's decision.

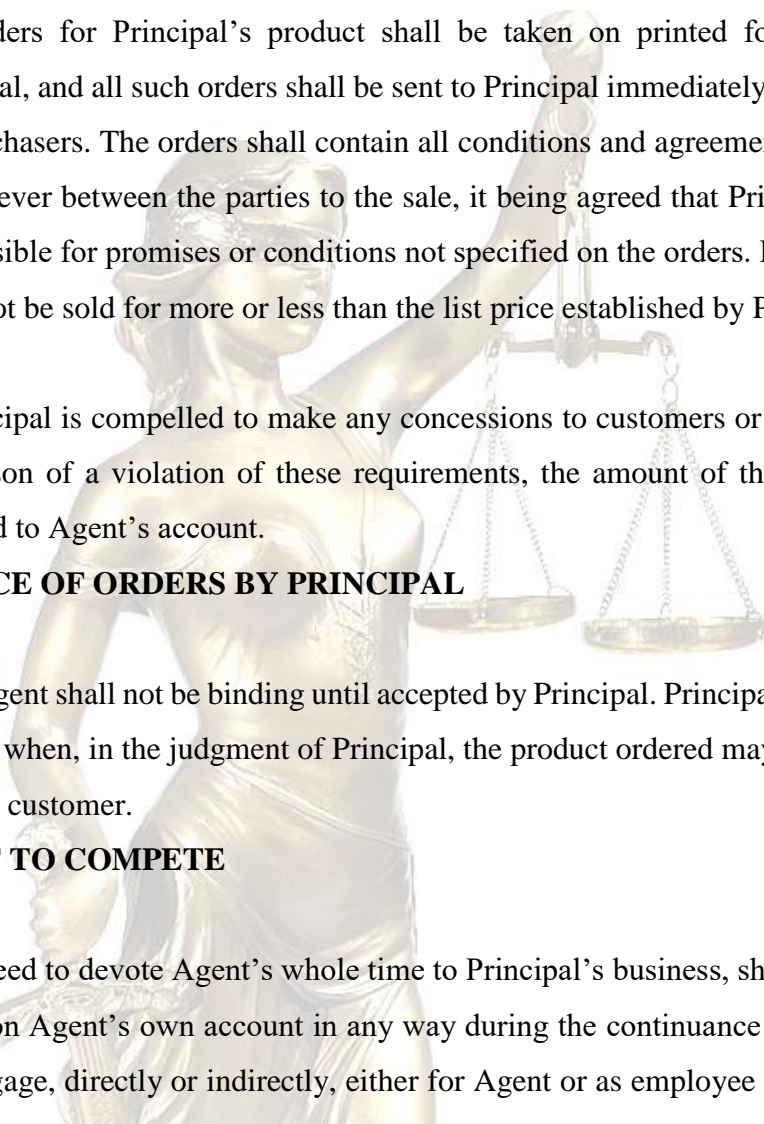
13. LIMITATION ON COMMISSION CLAIMS

Agent waives all claim for commission on sales of Principal's product, whether made by Agent or others, and all other claims of any nature whatever, if the claim is not made within [MONTHS] from the date of termination of this agreement.

14. AGENT NOT TO SHARE COMMISSION

Under no circumstances, without permission of Principal, may Agent give any part of Agent's commission to any assistant, local Agent or other person to assist Agent in making a sale.

15. CONTENTS OF ORDERS

- 
- a. All orders for Principal's product shall be taken on printed forms furnished by Principal, and all such orders shall be sent to Principal immediately after being signed by purchasers. The orders shall contain all conditions and agreements of every nature whatsoever between the parties to the sale, it being agreed that Principal shall not be responsible for promises or conditions not specified on the orders. Principal's product shall not be sold for more or less than the list price established by Principal.
 - b. If Principal is compelled to make any concessions to customers or incur any expense by reason of a violation of these requirements, the amount of the expense may be charged to Agent's account.

16. ACCEPTANCE OF ORDERS BY PRINCIPAL

Orders taken by Agent shall not be binding until accepted by Principal. Principal reserves the right to reject any order when, in the judgment of Principal, the product ordered may not be suitable to the business of the customer.

17. AGENT NOT TO COMPETE

Agent, having agreed to devote Agent's whole time to Principal's business, shall not purchase or deal in [product] on Agent's own account in any way during the continuance of this agreement. Agent will not engage, directly or indirectly, either for Agent or as employee of any other party, in manufacturing, buying, selling or dealing in [product], in the territory described, for a period of [period of time], after the termination of the agency created by this agreement, without the written consent of Principal.

18. REPAIRS AND MAINTENANCE OF PRODUCT

Agent shall promptly and properly make necessary repairs on Principal's product in Agent's territory if such repairs can be made by Agent, and to cooperate with and aid Principal in making all other such repairs in Agent's territory, in such manner as Principal may direct.

19. COMPROMISE AND COLLECTION OF ACCOUNTS

A. Principal shall have full control of and discretion as to the collection, adjustment or compromise of any or all accounts for Principal's products sold by Agent. If Principal requests Agent to make any collection, or to obtain possession of Principal's product or other property, whether the request relates to a sale made by Agent or any Agent that preceded Agent in the territory, Agent shall do so promptly.

B. Principal shall determine whether to take a lien on Principal's product sold by Agent. Principal shall not be liable to Agent for any loss of commission or other claim, by reason of failure to take such lien, or by reason of any compromise or adjustment of any account or accounts or notes for products sold by Agent, or any failure for any reason to collect any part of the account or notes.

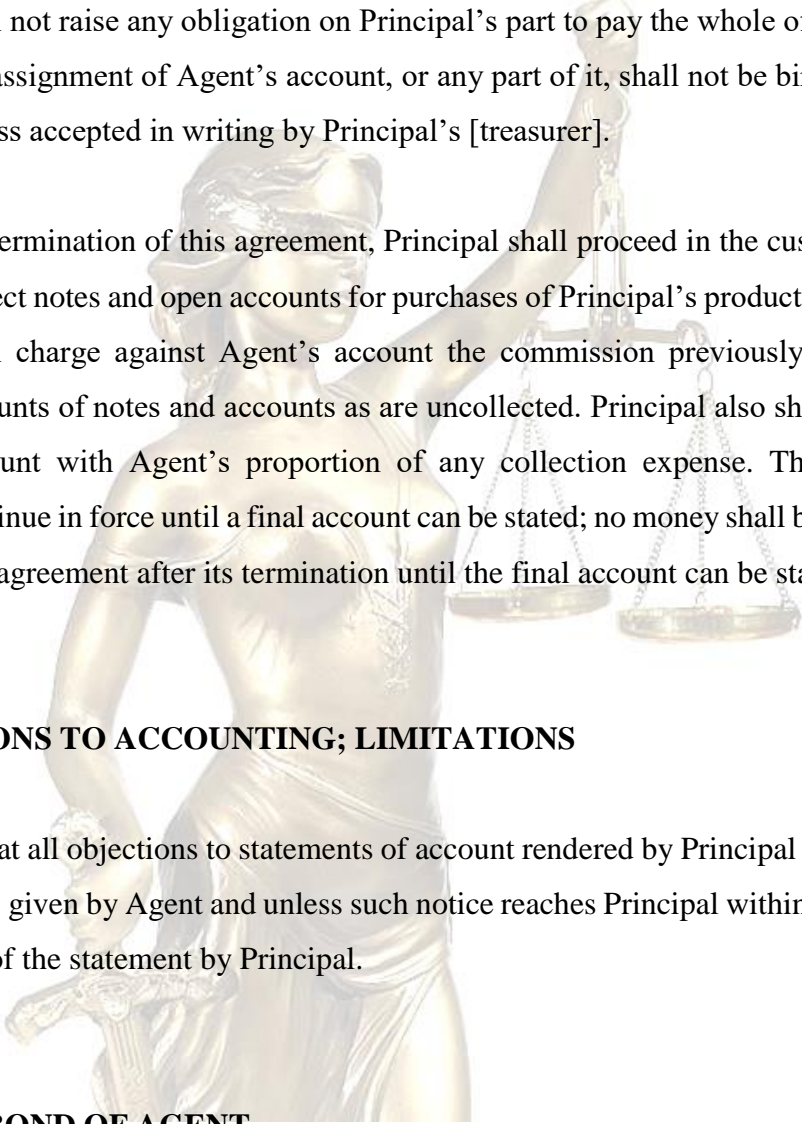
20. REMITTALS BY AGENT

Agent agrees to remit [daily/weekly] to Principal, in the manner prescribed by [the treasurer], of Principal or to deposit [daily/weekly] in a bank or other financial institution designated by Principal's [treasurer], all money, checks and drafts received by Agent for Principal, including any received for repair parts and supplies sold. In no event will Agent use any money collected for Principal to defray the expenses of the agency, or for any other purpose, or deposit the funds in any bank or other financial institution to Agent's own credit.

21. AGENT'S EXPENSES

All expenses for traveling, entertainment, office, clerical, office and equipment maintenance, and general selling expenses that may be incurred by Agent in connection with this agreement will be borne wholly by Agent. In no case shall Principal be responsible or liable for such expenses.

22. ACCOUNTING ON TERMINATION

- 
- a. Agent authorizes Principal, on termination of the agency created by this agreement, to pay any outstanding indebtedness, including amounts due Agent and Agent's employees incurred in the management of the agency, and to charge the amount to Agent's account. Principal shall not be bound to pay any such indebtedness, unless Principal shall elect to do so. Payment of part of Agent's indebtedness by Principal shall not raise any obligation on Principal's part to pay the whole of the indebtedness. An assignment of Agent's account, or any part of it, shall not be binding on Principal unless accepted in writing by Principal's [treasurer].
 - b. On termination of this agreement, Principal shall proceed in the customary manner to collect notes and open accounts for purchases of Principal's product sold by Agent and shall charge against Agent's account the commission previously credited on such amounts of notes and accounts as are uncollected. Principal also shall charge Agent's account with Agent's proportion of any collection expense. This provision shall continue in force until a final account can be stated; no money shall be due Agent under this agreement after its termination until the final account can be stated.

23. OBJECTIONS TO ACCOUNTING; LIMITATIONS

Agent agrees that all objections to statements of account rendered by Principal are waived, unless written notice is given by Agent and unless such notice reaches Principal within [NUMBER] days after rendition of the statement by Principal.

24. SURETY BOND OF AGENT

Agent agrees to furnish Principal with a fidelity bond of [AMOUNT], to be issued by a responsible surety company and conditioned on the faithful performance of Agent's duties in the agency created by this agreement. All premiums on such bond shall be paid by Agent.

25. EXAMINATION OF AGENT’S ACCOUNTS

Agent agrees that officers or authorized representatives of Principal shall have, on demand, access to and the right to examine and make copies of all books of accounts, vouchers and papers of Agent, in order to ascertain whether the business of Agent is being conducted in a manner satisfactory to Principal.

26. DISPOSITION OF PRODUCTS; CONSIGNMENT

- a. Agent agrees, on demand, to account for and deliver to Principal, in good condition, all products charged to Agent’s consignment account. If Agent fails to deliver any product, the product may be charged to Agent’s account at list price, if Principal so elects, but nothing contained in this agreement shall prevent Principal from exercising other legal remedies to recover possession of such products.

- b. In the event any of Principal’s products shall have been kept on consignment by Agent for such period of time that they have become unsaleable as new, Principal may order their return to the factory, in which event the freight charges from Agent’s office to the factory shall be paid by Agent.

27. INSURANCE PREMIUMS; TAXES

Principal shall insure against loss by fire all products delivered on consignment to Agent, charging the premium paid for the insurance to Agent’s account. Agent shall pay all personal property taxes levied on consigned products, or shall pay such tax as may be levied in lieu of a personal property tax.

28. COMPLIANCE WITH LAWS

Agent agrees, for the benefit of Agent’s employees and subagents, to comply in all respects with the workers’ compensation laws of any state or states of which Agent’s territory may be a part, and to pay the premiums and other costs and expenses incident to such coverage.

29. CUSTOMER LIST; SALES CALLS

- a. Agent agrees to keep a list of probable purchasers, and also a list of users, of Principal's products in Agent's territory. Both lists shall show the name, nature and address of each business concern listed. The user's list shall also show the style and factory number of Principal's product in use.
- b. Agent agrees to send to Principal, on the form furnished by Principal, a list of all persons called on by Agent or Agent's employees in connection with Principal's business. The list shall show the name, nature and address of each business concern called on, and the object and results of the call.

30. DEPRECIATION OF AGENCY PROPERTY

The office furniture, personal property and fixtures used by Agent in Principal's business shall be invoiced and appraised at least once each year by Agent and a representative of Principal, and a deduction of not less than [%] per year shall be made to cover wear and tear in ordinary depreciation.

31. PURCHASE OF AGENCY PROPERTY

Principal shall have an option of purchase of all or any part of the supplies, repair parts, vehicles and sundries in stock or on hand at the time of termination of the agency, at the current price, less proper deductions for obsolescence and depreciation, if any. Such price shall be paid to Agent or credited on Agent's account with Principal, as Principal may elect.

32. EMPLOYMENT OF SUBAGENTS

33. Agent agrees not to employ any salespersons to assist in the agency, except under written agreement by the terms of which Principal shall be released from all liability for any indebtedness from Agent to such salespersons. Agent agrees not to employ any person until Agent has supplied Principal with full particulars regarding such person, on the form furnished by Principal, giving the person's name, record, previous occupation, etc., and until Principal's assent to such employment has been received.

34. MODIFICATION AND TERMINATION

Principal at any time may alter and change the boundaries and territory covered by this agency agreement. The agency created by this agreement may be terminated by either party by written notice mailed or delivered to the last known address of the other party. This agreement covers all agreements between Agent and Principal relating to the employment of Agent for the handling of Principal’s product.

35. GOVERNING LAW

The enforcement and interpretation of this agreement shall be governed by the laws of [state/province].

The parties have executed this agreement at [designate place of execution] the day and year first above written.

PRINCIPAL

AGENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

- C. The Purchasing Partner has exercised its option to purchase the interest of Selling Partner in and to the partnership business.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

1. SALE OF INTEREST; PURCHASE PRICE

Selling Partner shall sell its [%] interest in the partnership business, including its [%] interest in all of the furniture, equipment, and furnishings of the business, stock of merchandise, accounts receivable, moneys, and all of [Selling Partner name's] right, title, and interest in and to any and all of the assets of the partnership, to Purchasing Partner for [amount], to be paid in [number] equal monthly installments, due on the [specify] day of each month, commencing on [date].

2. ASSUMPTION OF OBLIGATIONS

The Purchasing Partner shall and do assume and agrees to pay all of the outstanding debts and obligations of the partnership business and to perform all of the covenants of the leases on the premises, and to perform all of the outstanding contracts and agreements required to be performed by the partnership and agrees to save and hold harmless Selling Partner against any claim or claims that may arise by reason of such debts, obligations, or covenants, or any other claims except those specifically mentioned in this agreement.

3. INDEMNIFICATION

The Selling Partner warrants and represents that it has incurred no debts, nor contracted any obligations, nor incurred any liability in the name of the partnership or for which the partnership would be liable, other than those debts, obligations, or liabilities as are disclosed in the partnership books of which Selling Partner has advised the Purchasing Partner. The Selling Partner agrees to indemnify and save and hold harmless the Purchasing Partner on account of any claims that may be made against the partnership because of any debt, obligation, or liability which the Selling Partner incurred in the partnership name or for which the partnership became liable on account of any of [Selling Partner name's] actions and of which Selling Partner failed to inform the Purchasing Partner.

4. TAX RETURNS AND PAYMENTS

The Purchasing Partner agrees to prepare federal and state partnership income tax returns for the partnership business from [date] to [date], and to supply Selling Partner with copies. Each of the parties shall pay their individual income taxes, both federal and state, on the income received from such partnership business.

5. ASSUMPTION OF TAX OBLIGATIONS

The general taxes and all other tax obligations shall be considered an obligation of the partnership and are now assumed by the Purchasing Partner.

6. DISSOLUTION

The partnership existing between the parties under the name of [Partnership name] is dissolved and this agreement constitutes a full and complete accounting and liquidation of the partnership business. Except as otherwise reserved in this agreement, Selling Partner acknowledges that it has no claim or demand of any kind or nature against Purchasing Partner. Also except as otherwise reserved in this agreement, Purchasing Partner acknowledges that it has no claim or demand of any kind against Selling Partner.

7. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the State of [State/province of Governing Law].

IN WITNESS WHEREOF, the parties hereto have executed this Partnership Dissolution Agreement as of the date first above written.

SELLING PARTNER

PURCHASING PARTNER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

A Sample of termination of distribution agreement

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: termination of distribution agreement

Dear [Contact name],

With this letter, we hereby terminate the agreement between [name of company] and [DISTRIBUTOR] to sell [type of product] in [type of distribution channel].

Upon acceptance of this letter, [DISTRIBUTOR] will immediately cease selling all of [company] product, and return to [company] any leftover product remaining at [DISTRIBUTOR]'s facilities.

Any unauthorized sale of [company] product after acceptance of the terms of this agreement will constitute fraud and trademark violations for which [DISTRIBUTOR] shall be fully liable.

Thank you for your immediate attention to this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

ASSIGNMENT OF A CLAIM FOR DAMAGES

This Assignment of a Claim for Damages (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the Assignor hereby sells and transfers to the Assignee and its successors, assigns and personal representatives, any and all claims, demands, and cause or causes of action of any kind whatsoever which the undersigned has or may have against [name], arising from the following type claim:

[description]

And the undersigned may in its own name and for its own benefit prosecute, collect, settle, compromise and grant releases on said claim as it in its sole discretion deems advisable.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

AGREEMENT TO ASSIGN

This Agreement to Assign (the "Agreement") is made and effective the [DATE],

BETWEEN: [PROSPECTIVE ASSIGNOR NAME] (the "Prospective Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PROSPECTIVE ASSIGNEE NAME] (the "Prospective Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The parties declare:

- A. Prospective Assignor has entered into a lease agreement, as lessor, with [lessee], of [address], [city], [state], referred to as “lessee.” A copy of the lease agreement, containing a description of the premises, is attached to this agreement as Exhibit A.
- B. Prospective Assignor desires to assign the lease agreement to Prospective Assignee, who will assume all liabilities and duties as well as all rights of Prospective Assignor pertaining to the collection of all rents to become due under the lease agreement after the effective date of the assignment.

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

- 1. Prospective Assignor will transfer and assign to Prospective Assignee all right to the collection of all rents required under the lease agreement provisions in the lease dated [date] on the premises described as follows: [set forth description contained in lease].
- 2. The assignment shall become effective on [date], and shall apply to all rents due thereafter until expiration of the lease agreement term on [date].

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF ASSETS

This Assignment of Assets (the "Assignment") is made and effective [DATE],

BETWEEN: [STOCKHOLDER NAME] (the "Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, on the day of [date], the Corporation was formed by Articles of Incorporation filed with the Registrar of Companies in and for the [State/Province], and;

WHEREAS, it is necessary to transfer certain assets into the Corporation in order to capitalize the Corporation, and;

WHEREAS, Stockholder is desirous of transferring to the Corporation certain assets shown on the attached Exhibit "A," and the Corporation is desirous of acquiring said assets.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter entered into, it is agreed as follows:

- a. Stockholder does hereby transfer and assign those assets listed on the attached Exhibit "A" to the Corporation.
- b. In consideration for said transfer the Corporation issues to Stockholder [number] shares of stock in the Corporation, with a par value [price] per share.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

STOCKHOLDER

CORPORATION

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF CONTRACT

This Assignment of Contract (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME AND ADDRESS], (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME AND ADDRESS], (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the undersigned Assignor hereby assigns, transfers and sets over to Assignee all rights, title and interest held by the Assignor in and to the following described contract:

[description]

1. TERMS

- a. The Assignor warrants and represents that said contract is in full force and effect and is fully assignable.
- b. The Assignee hereby assumes and agrees to perform all the remaining and executory obligations of the Assignor under the contract and agrees to indemnify and hold the Assignor harmless from any claim or demand resulting from non-performance by the Assignee.
- c. The Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.

- d. The Assignor warrants that the contract is without modification, and remains on the terms contained.
- e. The Assignor further warrants that it has full right and authority to transfer said contract and that the contract rights herein transferred are free of lien, encumbrance or adverse claim.
- f. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT

This Assignment is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH, that for valuable consideration in hand paid by the Assignee to the Assignor, receipt of which is hereby acknowledged, the Assignor hereby assigns and transfers to the Assignee all of his right, title and interest in and to all [description] set forth in [description] that certain Agreement.

The undersigned fully warrants that it has full rights and authority to enter into this assignment and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF ASSIGNMENT

Dear [Contact name],

You are hereby notified that on [DATE] we have assigned and transferred to [SPECIFY] the following [SPECIFY] existing between us:

[DESCRIBE]

Please direct any further correspondence (or payments, if applicable) to them at the following address:

[INSERT

ADDRESS]

Please contact us should you have any questions, and we thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

BUYING AND SELLING OF SHARES.

**AGREEMENT OF PURCHASE
AND SALE OF BUSINESS ASSETS**

This Agreement of Purchase and Sale (the “Agreement”) is made in two original copies, effective [DATE]

BETWEEN: [VENDOR'S NAME] (the "Vendor"), an individual having is principal place of living located at:

AND: [PURCHASER'S NAME] (the "Purchaser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. SUBJECT-MATTER

1.1 The Purchaser agrees to buy and the Vendor agrees to sell to the Purchaser as a going concern all the undertaking and assets owned by the Vendor in connection with the [TYPE OF BUSINESS] business carried on as [NAME OF BUSINESS] at [ADDRESS] (the "business") including, without limiting the generality of the foregoing:

- a) the furniture, fixtures and equipment more particularly described in Schedule A (the "equipment");
- b) all saleable stock in trade (the "stock in trade");
- c) all useable parts and supplies (the "parts and supplies");
- d) all leasehold interest in the lease held by the Vendor from [NAME OF LANDLORD] (the "lease");
- e) the goodwill of the business together with the exclusive right to the Purchaser to represent itself as carrying on business in succession to the Vendor and to use the business style of the business and variations in the business to be carried on by the Purchaser (the "goodwill").

1.2 The following assets are expressly excluded from the purchase and sale:

[LIST EXCLUSIONS, eg cash on hand or on deposit, accounts receivable, book and other debts due or accruing due].

2. PURCHASE PRICE

2.1 The purchase price payable for the undertaking and assets agreed to be bought and sold is the total of the amounts computed and allocated as follows:

- a) for the equipment - [AMOUNT];
- b) for the stock in trade, its direct cost to the Vendor;
- c) for the parts and supplies, their direct cost to the Vendor;
- d) for the goodwill - [AMOUNT];
- e) for all other assets agreed to be bought and sold.

2.2 The purchase price for the stock in trade shall be established by an inventory taken and valued after close of business on the day before the day of closing. The Vendor shall produce evidence satisfactory to the Purchaser of the direct cost to the Vendor of items included in stock in trade. The Purchaser may exclude from the purchase and sale any items which the Purchaser reasonably considers unsaleable by reason of defect in quality or in respect of which the Purchaser is not reasonably satisfied as to proof of direct cost.

2.3 The purchase price for the parts and supplies shall be established by an inventory taken and valued after close of business on the day before the day of closing. The Vendor shall produce evidence satisfactory to the Purchaser of the direct cost to the Vendor of items included in the parts and supplies. The Purchaser may exclude from the purchase and sale any items which the Purchaser reasonably considers unusable or in respect of which the Purchaser is not reasonably satisfied as to proof of direct cost.

3. TERMS OF PAYMENT

3.1 The Vendor acknowledges receiving a check for [AMOUNT] from the Purchaser on execution of this agreement to be held as a deposit by the Vendor on account of the purchase price of the undertaking and assets agreed to be bought and sold and as security for the Purchaser's due performance of this agreement.

3.2 The balance of the purchase price for the undertaking and assets agreed to be bought and sold shall be paid, subject to adjustments, by certified check on closing.

3.3 The balance of the purchase price due on closing shall be specially adjusted for all prepaid and assumed operating expenses of the business including but not limited to rent and utilities.

4. CONDITIONS, REPRESENTATIONS AND WARRANTIES

4.1 In addition to anything else in this agreement, the following are conditions of completing this agreement in favor of the Purchaser:

- a) that the Purchaser obtain financing on terms satisfactory to it to complete the purchase;
- b) that the carrying on of the business at its present location is not prohibited by land use restrictions;

- c) that the lessor of the lease consents to its assignment to the Purchaser;
- d) that the Purchaser obtain all the permits and licenses required for it to carry on the business;
- e) that the Vendor supply or deliver on closing all of the closing documents;
- f) that the premises shall be in the same condition, reasonable wear and tear expected, on the date of passing as they are currently in;
- g) that the execution of this agreement has been duly authorized by Seller's board of directors.

4.2 The following representations and warranties are made and given by the Vendor to the Purchaser and expressly survive the closing of this agreement. The representations are true as of the date of this agreement and will be true as of the date of closing when they shall continue as warranties according to their terms. At the option of the Purchaser, the representations and warranties may be treated as conditions of the closing of this agreement in favor of the Purchaser. However, the closing of this agreement shall not operate as a waiver or otherwise result in a merger to deprive the Purchaser of the right to sue the Vendor for breach of warranty in respect of any matter warranted, whether or not ascertained by the Purchaser prior to closing:

- a) the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY];
- b) the Vendor owns and has the right to sell the items listed in Schedule A;
- c) the assets agreed to be bought and sold are sold free and clear of all liens, encumbrances and charges;

- d) the equipment is in good operating condition;
- e) until the closing date of this agreement, Vendor shall not, without the written consent of Purchaser, dispose of or encumber any of the assets or property to be sold hereunder, with the exception of any transactions occurring in the ordinary course of Vendor's business. The undertaking and assets agreed to be bought and sold will not be adversely affected in any material respect in any way, and Vendor will not do anything before or after closing to prejudice the goodwill;
- f) the financial statements for the business produced by the Vendor and appended as Schedule B are fair and accurate, and prepared in accordance with generally accepted accounting principles.
- g) the lease is in good standing and the Vendor has fulfilled all of its obligations under the lease;
- h) the Vendor has made full and fair disclosure in all material respects of any matter that could reasonably be expected to affect the Purchaser's decision to purchase the undertaking and assets agreed to be bought and sold on the terms set out in this agreement;
- i) the Vendor will execute such assignments, consents, clearances or assurances after closing, prepared at the Purchaser's expense, as the Purchaser considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.
- j) Vendor agrees to disclose to Purchaser not later than [NUMBER] days after the closing date, all trade secrets, customer lists, and technical information held or controlled by Vendor and relating to the business sold hereunder.

5. RISK

5.1 The risk of loss or damage to the undertaking and assets agreed to be bought and sold remains with the Vendor until closing.

5.2 In the event of loss or damage to the tangible assets agreed to be bought and sold prior to closing, at the option of the Purchaser, the replacement cost of the assets lost or damaged or any of them may be deducted from the total purchase price otherwise payable by the Purchaser under this agreement and the corresponding lost or damaged assets shall be excluded from the purchase and sale.

6. SALES TAXES

6.1 The Purchaser shall pay any and all sales taxes payable in respect of the purchase and sale of assets pursuant to this agreement.

6.2 The Vendor shall pay all sales taxes payable or collectible in connection with carrying on the business up to closing and obtain and supply the Purchaser with satisfactory proof of payment within a reasonable time of closing.

7. NON-COMPETITION

7.1 The Vendor covenants with the Purchaser that, in consideration of the closing of this agreement, the Vendor will not operate a [TYPE OF BUSINESS] business or in any way aid and assist any other person to operate such a business in [GEOGRAPHICAL AREA] for a period of [PERIOD] from the date of closing.

8. BULK SALES

8.1 This agreement shall be completed and the Vendor agrees to comply with any applicable laws governing the sale in bulk of the stock in trade or of any of the other assets pursuant to this agreement.

9. CLOSING DOCUMENTS

9.1 The Vendor shall deliver to the Purchaser, in registrable form where applicable, the following closing documents (the "closing documents"), prepared or obtained at the Vendor's expense, on or before closing:

- a) duplicate, properly executed Bills of Sale of the equipment, stock in trade and parts and supplies together with evidence satisfactory to the Purchaser that the sale complies with any laws governing the sale in bulk of the stock in trade or of the sale of any of the other assets pursuant to this agreement;
- b) a statutory declaration that the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY] as of the date of closing;
- c) all records and financial data, including but not limited to any lists of customers and suppliers, relevant to the continuation of the business by the Purchaser;
- d) a duly executed notice in proper form revoking any registration of the style of the business under any business name registration law;
- e) an executed assignment of the lease to the Purchaser endorsed with the lessor's consent to the assignment;
- f) such other assignments, consents, clearances or assurances as the Purchaser reasonably considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.

CLOSING DATE

10.1 The purchase and sale in this agreement shall close on [DATE].

10. MISCELLANEOUS

11.1 In this agreement, the singular includes the plural and the masculine includes the feminine and neuter and vice versa unless the context otherwise requires.

11.2 The capitalized headings in this agreement are only for convenience of reference and do not form part of or affect the interpretation of this agreement.

11.3 If any provision or part of any provision in this agreement is void for any reason, it shall be severed without affecting the validity of the balance of the agreement.

11.4 Time is of the essence of this agreement.

11.5 There are no representations, warranties, conditions, terms or collateral contracts affecting the transaction contemplated in this agreement except as set out in this agreement.

11.6 This agreement binds and benefits the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.

11.7 This agreement is governed by the laws of the State/Province of [STATE/PROVINCE].

11. ACCEPTANCE

12.1 This agreement executed on behalf of the Purchaser constitutes an offer to purchase which can only be accepted by the Vendor by return of at least one originally accepted copy of agreement to the Purchaser on or before [DATE] failing which the offer becomes null and void. If this offer becomes null and void or is validly revoked before acceptance or this agreement is not completed by the Purchaser for any valid reason, any deposit tendered with it on behalf of the Purchaser shall be returned without penalty or interest.

Executed under seal on [DATE].

Signed, Sealed and Delivered in the Presence of:

VENDOR

PURCHASER

Authorized Signature Authorized Signature

AGREEMENT OF PURCHASE AND SALE OF SHARES BY ANOTHER STOCKHOLDER OR BY THE CORPORATION

This Agreement of Purchase and Sale of Shares (the “Agreement”), is made and effective [DATE],

BETWEEN: [STOCKHOLDER 1 NAME] an individual having is principal place of living located at:

[ADDRESS]

[STOCKHOLDER 2 NAME] an individual having is principal place of living located at:

[ADDRESS]

Hereinafter separately referred to as "Stockholder", and jointly as "Stockholders"

AND: [COMPANY NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

[ADDRESS]

WITNESSETH:

WHEREAS, the Stockholders together own [%] of the outstanding shares of capital stock of the Corporation, and

WHEREAS, as used herein, the term "shares" shall mean all shares of common stock, at [VALUE] par share, of the Corporation now owned or hereafter acquired by the parties, and

WHEREAS, the Stockholders are actively engaged in the conduct of the business of the Corporation, and it is contemplated that success or failure of the corporate enterprise will at all times depend in large measure on the personal abilities of the Stockholders, and

WHEREAS, there is not now, nor is there likely in the future to be a substantial market for the shares of the Corporation, and

WHEREAS, for the foregoing reasons, the parties desire to provide for the purchase by another Stockholder or by the Corporation of the stock of any party desiring to sell the same; and for the purchase by the Corporation of the stock of a deceased party.

IT IS THEREFORE AGREED, in consideration of the mutual promises and covenants hereinafter set forth, as follows:

1. Restriction During Life

No stockholder shall transfer or encumber any of his shares of capital stock of the Corporation during his lifetime to any person, firm or corporation, without the consent of the Corporation and the other Stockholder, unless the Stockholder desiring to make the transfer or encumber (hereinafter referred to also as the "Transferor") shall have first made the offer hereinafter described and such offer shall not have been accepted.

a) Offer by the Transferor

The offer shall be given pro rata initially to the other Stockholder(s) and shall consist of an offer to sell or encumber all of the shares of the capital stock of the Corporation owned by the Transferor, to which shall be attached a statement of intention to transfer, the name and address of such prospective transferee, the number of shares of capital stock involved, and the terms of such transfer or encumbrance.

b) Acceptance of Offer

Within [NUMBER] days after the receipt of such offer the other Stockholder(s) may, at their option, elect to accept the offer. If such offer is not accepted by the other Stockholder(s), the Corporation may within [NUMBER] days after the rejection of such offer, at its option, elect to accept the offer. The Corporation shall exercise its election to purchase by giving notice thereof to the Transferor and to the other Stockholder(s). The other Stockholder(s) shall exercise the election to purchase by giving notice thereof to the Transferor and to the Corporation. In either event, the notice shall specify a date for the closing of the transaction, which shall not be more than [NUMBER] days after the date of the giving of such notice.

c) Purchase Price

The purchase price for, or the consideration for the encumbrance of the shares of the capital stock of the Corporation owned by the Transferor shall be set forth in paragraph 3 hereof.

d) Closing of Transaction

The closing of the transaction shall take place at the principal office of the Corporation. The consideration shall be paid as provided for in paragraph 3 hereof. Certificates for all shares sold or encumbered hereunder, property endorsed to Corporation or to the purchasing Stockholder, as the case may be, shall be delivered by transferor not later than the date of closing.

e) Release from Restriction

If the offer is neither accepted by the Corporation nor by the other Stockholder(s), the Transferor may make a bona fide transfer to the prospective transferee named in the statement attached to the offer, such transfer to be made only in strict accordance with the terms therein stated. However, if the Transferor shall fail to make such transfer within [NUMBER] days following the expiration of the election period by the other Stockholder(s), such shares of capital stock shall again become subject to all of the restrictions of this Agreement, provided, however, that nothing contained herein shall be construed as releasing any shares of this Corporation from any restriction or requirement of law concerning transfer of such shares.

f) Termination of Employment

Any Stockholder whose employment in any capacity with the company or its subsidiaries terminates for any reason whatsoever, voluntarily or involuntarily, shall be considered as of the date of such termination of employment to have made an offer of all of his shares of stock subject to the terms of this Agreement, at the purchase price stated in paragraph 3 hereof.

g) Subchapter "S" Election

If at the time of a transfer of stock permitted hereunder, the Corporation then is an "S" corporation, the transferee and new stockholder shall be required to consent in writing not to revoke such "S" election without the unanimous approval of all other stockholders.

2. Purchase Upon Death

Upon the death of a Stockholder (hereinafter referred to as Decedent), all of the shares of the capital stock of the Corporation owned by him, and to which he or his estate shall be entitled, shall be sold and purchased as hereinafter provided:

a) Obligation of the Corporation to Purchase

It shall be for the Corporation to purchase from the Decedent's Personal Representative, and the Decedent's Personal Representative shall be obligated to sell to the Corporation, all of the shares of the capital stock of the Corporation owned by the Decedent and to which the Decedent or his Personal Representative shall be entitled, at the price set forth in paragraph 3 hereof.

b) Closing

The closing of such purchase and sale shall take place at the offices of the Corporation, at a date selected by the Corporation upon [NUMBER] days notice to the Transferor which date shall be not more than [NUMBER] days following the date of the qualification of the Personal Representative and not less than [NUMBER] days following such date.

c) Insurance

To insure or partially insure its obligation under this Agreement to purchase from the estate of a deceased Stockholder the shares owned by him prior to his death, the Corporation shall have the option to purchase policies of insurance covering the lives of each Stockholder in any amount deemed desirable. In the event any Stockholder ceases to be a Stockholder of the Corporation, the Corporation shall terminate any such insurance on such Stockholder's life and in the event any Stockholder increases his holdings of the shares of the Corporation, the Corporation shall procure and maintain, if so desired by it, additional insurance on the life of such Stockholder proportionate to the increase in the holdings of such Stockholder.

If the corporation shall receive any proceeds of any policy on the life of the Decedent, such proceeds shall be used by the Corporation to pay the Decedent's Personal Representative to the extent of the purchase price of the Decedent's stock, such payment to be deemed made on account of such purchase price.

d) Balance of Purchase Price

If the amount of any insurance proceeds is insufficient to pay the purchase price of any Decedent's shares, then the balance of the purchase price remaining after credit for any insurance proceeds shall be payable as follows: [%] of the balance due to be paid shall be paid in cash, and the balance shall be represented by a promissory note executed by the purchaser payable in [NUMBER] installments, which note shall be secured by the stock of the deceased Stockholder.

e) "S" Election

If the corporation is an "S" corporation at the time of the transfer and sale of its stock, the transferee and new stockholder shall be required to consent in writing not to revoke such "S" election without the unanimous approval of all other stockholders. Such written consent shall be submitted prior to the delivery of the shares to the transferee.

3. Consideration

Unless the parties agree to another price in writing, the price for each share of capital stock to be sold under this Agreement shall be equal to its fair market value as an on-going business concern as determined in the sole discretion of the company's Certified Public Accountant, (CPA) and such determination by the CPA shall be binding and conclusive upon the parties hereto.

Unless the parties agree otherwise, the purchase price shall be paid as follows:

- i. [%] of the amount determined to be due as the price to be paid at the closing in addition to any insurance proceeds and the balance to be payable by the execution of a promissory note in such amount to be repaid in [number] installments, such note to be secured by the stock being sold.
- ii. The promissory note shall bear interest until paid in full at the prime rate as determined from time to time by [BANK NAME] or any other bank as determined by and agreed upon by the Stockholders.

- iii. In the event that suit shall be required to collect on the promissory notes above referred to, then in such event, the defaulting Stockholder or the Corporation shall pay for attorney fees, and courts costs, incurred in such action.

4. Limitation on Stockholder's Right to Pledge Stock

The restrictions of paragraph 1 above shall not apply to encumbrances as collateral for a note or notes in favor of the company or any one or more of the other Stockholders or in favor of a recognized lending institution, but only if the proceeds of such loan are used in their entirety to purchase shares of the Corporation and the borrowing Stockholder delivers to the Corporation and the other Stockholder(s) the written commitment of the lender, in form acceptable to the Corporation that such lender will not dispose of such shares without first affording the Corporation and the other Stockholder(s) the right for a period of [NUMBER] days to purchase shares at a price satisfactory to the Corporation and the other Stockholder(s).

5. Corporate Restrictions After Purchase

So long as any part of the purchase price of shares of capital stock sold in accordance with this Agreement remains unpaid, the Corporation shall not:

- i. declare or pay dividends on its capital stock;
- ii. reorganize its capital structure;
- iii. merge or consolidate with any other corporation, or sell any of its assets except in the regular course of business;
- iv. increase the salary of any officer or executive employee of the Corporation;
- v. allow any of its obligations to become in default; or
- vi. allow any judgments against the Corporation or any liens against the Corporation's property to remain unsatisfied.

So long as any part of such purchase price remains unpaid, the Transferor, or the Personal Representative of the Decedent shall have the right to examine the books and records of the Corporation from time to time and to receive copies of all accounting reports and tax returns prepared for the Corporation. If the Corporation breaches any of its obligations under this paragraph, the Transferor or the Personal Representative, in addition to any other remedies available, may elect to declare the entire unpaid purchase price due and payable forthwith.

6. Purchase By Stockholder

Whenever a Stockholder purchases shares of capital stock under this Agreement, such purchaser (unless he shall have paid the entire purchase price in cash) shall, following the delivery of the purchased stock, endorse the new certificates of stock issued to such purchaser, and deliver the same to the Seller as collateral security for the payment of the unpaid purchase price; and such capital stock shall be so held until the entire purchase price shall be paid. While such capital shall be so held as collateral security and so long as the Purchaser is not in default, the Purchaser shall be entitled to all voting rights with respect thereto. Dividends paid shall be applied to the indebtedness.

7. Purchase By Corporation

Whenever the Corporation shall, pursuant to this Agreement, be required to purchase shares of the capital stock of the Corporation, the Stockholders and the Personal Representative of any Decedent shall do all things and execute and deliver all papers as may be necessary to consummate such purchase. Any note required to be given hereunder by the Corporation as part of the purchase price shall be endorsed and guaranteed by the remaining or surviving Stockholders, who shall not be discharged from such liability by reason of the subsequent extension, modification or renewal of any such note. Until all amounts due are paid, the stock certificates shall be delivered to Seller.

8. Endorsement On Stock Certificates

Each certificate representing shares of capital stock of the Corporation now or hereafter held by the Stockholders shall contain with a legend insubstantially the following form: "The transfer or encumbrance of the shares of stock represented by the within certificate is restricted under the terms of an Agreement dated [DATE] a copy of which is on file at the Corporation office."

9. Value of Purchase Price for Tax Purposes

It is understood that the purchase price, determined as set forth hereinabove, shall be the value of the purchased shares for all tax purposes. In the event such value is later increased by any federal or state taxing authority, any tax liability resulting from such increase shall be borne by the selling Stockholder or his Personal Representative, as the case may be.

10. Amendments

This Agreement may be amended or altered by execution of a written agreement authorized by corporate resolution and signed by all the parties hereto.

11. Notices

Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein, shall be given in writing by registered or certified mail addressed, in the case of the Stockholders, to his address appearing on the stock books of the Corporation, or to his residence, or to such other address as may be designated by him, and in the case of the Corporation, to the principal office of the Corporation, postage prepaid, by United States Mail, and shall be considered to have been delivered on the [DAY] day following the date stamped by the post office.

12. Invalid Provision

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provision had been omitted.

13. Modification

It is understood between the parties that this Agreement contains the entire understanding of the parties and no change or modification of this Agreement shall be valid unless the same be in writing and signed by all the parties hereto.

14. Binding Effect

This Agreement shall bind and, unless inconsistent with its provisions, shall inure to the benefit of the Executor, Administrator or Personal Representative, and the heirs and assigns of each of the Stockholders.

15. Prior Agreement

This Agreement supersedes any prior Agreement of the parties.

16. Deadlock

If at any time the Stockholders cannot agree on the Certified Public Accountant of the company and therefore are unable to establish an acceptable price for purchase, the matter shall be submitted to arbitration in the following manner:

- i. Each Stockholder shall, within [NUMBER] days after notice of such deadlock, appoint a Certified Public Accountant, and the two accountants shall then appoint a third Certified Public Accountant within [NUMBER] days after the two accountants are selected, and the average of purchase price determined by them shall be final, conclusive and binding upon the Stockholders, their executors, administrators and personal representatives, and a judgment on such determination may be obtained in any court of proper jurisdiction. The cost of such accounting shall be borne equally by the parties unable to reach agreement hereunder.

- ii. In the event any one of the Stockholders shall fail within the given time to select a Certified Public Accountant to represent him to resolve the dispute, then and in such event, the remaining Stockholder shall have the right to institute suit for specific performance under this Agreement, and the defaulting Stockholder shall pay for all attorney fees and court costs of such action.

17. Indebtedness of a Stockholder

In the event that there is a purchase and sale of shares of stock or interest therein, pursuant to the provisions hereinabove, and there is any indebtedness owed by the selling Stockholder or his estate to any party to this Agreement, then, notwithstanding the said provisions relating to the payment of the purchase price, and any amount to be paid for the stock being purchased shall be applied first to reduce and satisfy any indebtedness owed by the Selling Stockholder or his estate to any party under this Agreement.

18. Default

In the event of a default in the payment of any installment of the purchase price, the covenants and conditions of this Agreement, or any Security Agreement given to Sellers, Sellers may declare the entire unpaid portion of the purchase price to be immediately due and payable, and may proceed to enforce payment of same and to exercise any and all rights and remedies provided by the Uniform Commercial Code as well as any other rights and remedies either at law or in equity available to them, and Seller may assign, sell or transfer all or any part of the collateral in such manner, at such price, and on such terms and conditions as Sellers, in their sole and absolute discretion, may determine. Sellers or the Corporation shall have the right to purchase any or all of the collateral, apply any unpaid indebtedness on account thereof, and have a claim against Purchaser for the balance of such indebtedness in addition to any and all remedies available to them at law or in equity.

19. Voting

It is understood and agreed that until the purchase price shall have been paid in full, the Purchaser shall have no voting rights whatsoever.

20. Termination of Agreement

This Agreement shall terminate upon the occurrence of one of the following events:

- i. The written agreement of the parties hereto or their successors in interest to that effect;
- ii. The bankruptcy, receivership, or dissolution of the Corporation;
- iii. The disposal of all the shares of stock of any Stockholder during his lifetime or by his Personal Representative or estate upon his death, shall terminate this Agreement as to such retiring or deceased Stockholder; or

- iv. All of the issued and outstanding stock of the Corporation becoming owned by one of the Stockholders of the Corporation.

21. Laws Governed By

This Agreement is executed in and shall be construed by and governed under the laws of the State of [STATE/PROVINCE].

22. Withdrawal from Corporation

Any Stockholder may withdraw from participation in the Corporation at any time in accordance with the following provisions:

a) Notice to Corporation

Such Stockholder ("Withdrawing Stockholder") shall give notice to the Corporation at least [NUMBER] days prior to the date (he) (she) wants to withdraw ("Withdrawal Date") which notice shall set forth the Withdrawal Date.

b) Offer to Corporation

Within [NUMBER] days after receipt of such notice, the Corporation may, at its option, elect to purchase all, but not less than all, of the Withdrawing Stockholder's shares. The Corporation shall exercise its option to purchase by giving written notice thereof to the Withdrawing Stockholder within said [NUMBER] day period. Such written notice shall specify a date for the closing of the purchase, which shall not be more than [NUMBER] days after the date of the giving of such notice. The purchase price for the shares to be paid by the Corporation and terms of payment therefore shall be as set forth in Paragraph 3 hereof.

c) Acceptance by Stockholders

If the Corporation fails to exercise said option within said [NUMBER] day period, then for a [NUMBER] day period thereafter the other Stockholder(s) of the Corporation shall have the option to purchase such shares, such option to be exercised in the same manner as that of the Corporation, and the purchase price and terms of payment to be the same for the Stockholder(s) as for the Corporation as set forth in Paragraph 3 hereof. The option may be exercised by the Stockholders pro rata (based on that proportion which the number of shares owned by each other Stockholder bears to the total number of shares then outstanding, not counting the shares proposed to be sold), and if one (or more) of the Stockholders does not desire to exercise his option, then his option shall be exercisable on a pro rata basis by the other Stockholders (not counting for any purpose, the shares proposed to be sold or the shares owned by any Stockholder who does not desire to exercise his option); or the option may be exercised by the other Stockholders on such basis as they may agree upon.

d) Dissolution and Liquidation

In the event that neither the Corporation nor the other Stockholder(s) purchase the shares of the Withdrawing Stockholder, the other Stockholder(s) agree to execute a consent voluntarily dissolving the Corporation. In addition, the Stockholder(s) agree to liquidate the assets of the Corporation as soon as practicable thereafter.

ISAAC LUBOGO CHRISTOPHER

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written. Signed, Sealed and Delivered in the Presence of: "STOCKHOLDERS"

STOCKHOLDER

STOCK HOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

CORPORATION

Authorized Signature

Print Name and Title

[CORPORATE SEAL]

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Company Credit Account Approval

Dear [Contact name],

This letter confirms your and our mutual intentions with respect to the potential transaction described herein between [NAME OF BUYER] (“Buyer”) and [NAME OF SELLER] (“Seller”).

1. **Prices and Terms**

We envisage that the principal terms of the proposed transaction would be substantially as follows:

(a) Business to be Acquired; Liabilities to be Assumed

We would acquire substantially all of the assets, tangible and intangible, owned by Seller that are used in, or necessary for the conduct of, its [BUSINESS TYPE] business, including, without limitation: (i) the [MAIN PRODUCT], subject to any obligations contained in disclosed license agreements and all related intellectual property; (ii) the fixed assets of Seller, (iii) any and all customer lists; and (iv) the goodwill associated therewith, all free and clear of any security interests, mortgages or other encumbrances.

(b) Consideration

The aggregate consideration for the assets and business to be purchased would be [AMOUNT]; provided, however, that the working capital (current assets less current liabilities) of the business to be purchased equals or exceeds [AMOUNT], as shown on a closing date balance sheet prepared in accordance with generally accepted accounting principles.

(c) Due Diligence Review

Promptly following the execution of this letter of intent, you will allow us to complete our examination of your financial, accounting and business records and the contracts and other legal documents and generally to complete due diligence. Any information obtained by us as a result thereof will be maintained by us in confidence subject to the terms of the Confidentiality Agreement executed by the parties and dated [DATE] (the “Confidentiality Agreement”). The parties will cooperate to complete due diligence expeditiously.

(d) Conduct in Ordinary Course

In addition to the conditions discussed herein and any others to be contained in a definitive written purchase agreement (the “Purchase Agreement”), consummation of the acquisition would be subject to having conducted your business in the ordinary course during the period between the date hereof and the date of closing and there having been no material adverse change in your business, financial condition or prospects.

Definitive Purchase Agreement

All of the terms and conditions of the proposed transaction would be stated in the Purchase Agreement, to be negotiated, agreed and executed by you and us. Neither party intends to be bound by any oral or written statements or correspondence concerning the Purchase Agreement arising during the course of negotiations, notwithstanding that the same may be expressed in terms signifying a partial, preliminary or interim agreement between the parties.

(e) Employment Agreement

Simultaneously with the execution of the Purchase Agreement, we would enter into employment agreements with [OWNER A NAME] and [OWNER B NAME] on such terms and conditions as would be negotiated and agreed by them and us, including mutually agreeable provisions regarding term, base and incentive compensation, confidentiality, assignment to us of intellectual property rights in past and future work product and restrictions on competition. We would also offer employment to substantially all of Seller's employees and would expect the management team to use its reasonable best efforts to assist us to employ these individuals.

(f) Timing

We and you would use all reasonable efforts to complete and sign the Purchase Agreement on or before [DATE] and to close the transaction as promptly as practicable thereafter.

2. Expenses

You and we will pay our respective expenses incident to this letter of intent, the Purchase Agreement and the transactions contemplated hereby and thereby.

3. Public Announcements

Neither you nor we will make any announcement of the proposed transaction contemplated by this letter of intent prior to the execution of the Purchase Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed. The foregoing shall not restrict in any respect your or our ability to communicate information concerning this letter of intent and the transactions contemplated hereby to your and our, and your and our respective affiliates', officers, directors, employees and professional advisers, and, to the extent relevant, to third parties whose consent is required in connection with the transaction contemplated by this letter of intent.

4. Broker's Fees

You and we have represented to each other that no brokers or finders have been employed who would be entitled to a fee by reason of the transaction contemplated by this letter of intent.

5. Exclusive Negotiating Rights

In order to induce us to commit the resources, forego other potential opportunities, and incur the legal, accounting and incidental expenses necessary properly to evaluate the possibility of acquiring the assets and business described above, and to negotiate the terms of, and consummate, the transaction contemplated hereby, you agree that for a period of [number of days] days after the date hereof, you, your affiliates and your and their respective officers, directors, employees and agents shall not initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal, regarding the possible acquisition by any person other than us, including, without limitation, by way of a purchase of shares, purchase of assets or merger, of all or any substantial part of your equity securities or assets, and shall not (other than in the ordinary course of business as heretofore conducted) provide any confidential information regarding your assets or business to any person other than us and our representatives.

Miscellaneous

This letter shall be governed by the substantive laws of the State of [STATE/PROVINCE] without regard to conflict of law principles. This letter constitutes the entire understanding and agreement between the parties hereto and their affiliates with respect to its subject matter and supersedes all prior or contemporaneous agreements, representations, warranties and understandings of such parties (whether oral or written). No promise, inducement, representation or agreement, other than as expressly set forth herein, has been made to or by the parties hereto. This letter may be amended only by written agreement, signed by the parties to be bound by the amendment. Evidence shall be inadmissible to show agreement by and between such parties to any term or condition contrary to or in addition to the terms and conditions contained in this letter. This letter shall be construed according to its fair meaning and not strictly for or against either party.

6. No Binding Obligation

Except for Sections 1(c) and 2 through 6, THIS LETTER OF INTENT DOES NOT CONSTITUTE OR CREATE, AND SHALL NOT BE DEEMED TO CONSTITUTE OR CREATE, ANY LEGALLY BINDING OR ENFORCEABLE OBLIGATION ON THE PART OF EITHER PARTY TO THIS LETTER OF INTENT. NO SUCH OBLIGATION SHALL BE CREATED, EXCEPT BY THE EXECUTION AND DELIVERY OF THE PURCHASE AGREEMENT CONTAINING SUCH TERMS AND CONDITIONS OF THE PROPOSED TRANSACTION AS SHALL BE AGREED UPON BY THE PARTIES, AND THEN ONLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH PURCHASE AGREEMENT.

The Confidentiality Agreement is hereby ratified and confirmed as a separate agreement between the parties thereto.

If the foregoing terms and conditions are acceptable to you, please so indicate by signing the enclosed copy of this letter and returning it to the attention of the undersigned.

Very truly yours,

[BUYER NAME]

Your title

Telephone contact

youremail@yourcompany.com

ACCEPTED AND AGREED

[SELLER COMPANY NAME]

By:

Title:

Option to Acquire Shares From a Shareholder

BETWEEN: [SELLER'S NAME] (the "Seller"), who owns [NUMBER] of shares of the common stock of [NAME OF COMPANY], a corporation organized and existing under the laws of the [STATE/PROVINCE] (the "Company")

AND: [BUYER'S NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is entered into upon the basis of the following facts and intentions of the parties:

- A.** Seller owns [NUMBER] of shares of the common stock (the "Shares") of the Company.
- B.** Buyer desires to obtain an option to purchase the Shares from Seller and Seller is willing to grant such an option to Buyer.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

Option

As of the date hereof, the Seller grants to Buyer an option (the “Option”) to purchase all of the Shares from Seller upon all of the terms, covenants and conditions hereinafter set forth. The share certificates representing the Shares shall hereafter bear a legend referring to this Option Agreement.

Consideration for the Option

As consideration for the Option, Buyer shall pay to Seller the sum of \$[AMOUNT] on the date hereof. In the event this option is exercised, all consideration paid for the Option [SHALL OR SHALL NOT] be applied against and be deemed to be a payment upon the purchase price. In the event that Buyer does not exercise the Option, the consideration paid to Buyer for the Option [WILL OR WILL NOT] be retained by Seller without deduction or offset.

Term and Exercise

Buyer may exercise the Option at any time up to and until [DATE], by giving Seller written notice of his intention to exercise the Option.

Purchase Price

The purchase price (“Purchase Price”) which Buyer agrees to pay upon exercise of the Option is [AMOUNT] Dollars (\$[AMOUNT]) per share, payable in cash.

Number of Shares

The number and class of Shares specified in this Agreement and/or the Purchase Price are subject to appropriate adjustment in the event of any merger, reorganization, consolidation, recapitalization, liquidation, stock dividend, split-up, share combination or other change in the corporate structure of the Company affecting the Shares.

Representations and Warranties of Seller

The Seller represents and warrants to the Buyer that:

The Seller has full power and authority to execute and deliver this Agreement, and this Agreement is a valid and binding agreement enforceable against the Seller in accordance with its terms;

Neither the execution of this Agreement nor the sale of the Shares will constitute a violation of, or conflict with, or default under, any contract, commitment, agreement, understanding or arrangement to which the Seller is a party or by which Seller is bound or of any law, decree, or judgment;

Now and up to the time of exercise of the Option, the Seller will have valid title to the Shares, free and clear of all claims, liens, charges, encumbrances and security interests, and will transfer such Shares upon exercise of the Option to the Buyer free and clear of all claims, liens, charges, encumbrances and security interests;

The Purchase Price may or may not reflect the actual value of the Shares, that the Seller has investigated the value independently, that he has been represented by independent counsel, and that he understands that the value of the Shares when and if the Option is exercised may be significantly higher than the Purchase Price; and

Prior to [DATE], Seller shall not sell, assign, transfer, pledge, hypothecate, or otherwise encumber any of the Shares.

Cooperation

Each party shall, upon request of the other party, promptly execute and deliver all additional documents reasonably deemed by the requesting party to be necessary, appropriate or desirable to complete and evidence the sale, assignment and transfer of the Shares pursuant to this Agreement.

Representations and Warranties of the Buyer

Buyer represents and warrants to the Seller that (a) this Agreement is a valid and binding agreement enforceable against Buyer in accordance with its terms and (b) Buyer, if he exercises the option, will be purchasing the Shares for his own account and not with a view to or for sale in connection with any distribution of such Shares in violation of applicable securities laws.

Purchase and Sale

If Buyer exercises the Option, at a closing (the “Closing”), the Seller shall sell, transfer and deliver the Shares, represented by certificates duly endorsed in blank or accompanied by stock powers duly executed, to the Buyer, and the Buyer shall purchase the Shares in exchange for the Purchase Price.

Dividends and Voting Rights

Until the Option is exercised, if at all, all dividends and voting rights attendant to the Shares shall remain with Seller.

Buyer May Exercise Option For Less Than All Shares

Notwithstanding any other provision herein to the contrary, the Buyer may exercise the Option with respect to less than all of the Shares.

Survival

All representations, warranties and agreements made by the Seller and by the Buyer in this Agreement shall survive the execution of this Agreement and any Closing and any investigation at any time made by or on behalf of any party hereto.

Modification; Assignment

This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto. Buyer may assign his rights under this Agreement with the consent of Seller.

Successors

This Agreement will be binding upon, inure to the benefit of and be enforceable by and against the parties hereto and their respective heirs, beneficiaries, executors, representatives and permitted assigns.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

Entire Agreement

This Agreement constitutes the entire agreement among the parties with respect to its subject matter and supersedes all agreements, understanding, representations, or warranties, whether oral or written, by or among the parties, previously or contemporaneously made or given.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the Buyer and Seller as of the day and year first written below:

BUYER: SELLER:

[BUYER NAME]

[SELLER NAME]

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PROPOSAL TO Purchase [NAME OF BUSINESS]

Dear [CONTACT NAME],

We are interested in negotiating an agreement for the purchase and sale as a going concern of all the business assets, including furniture, fixtures and equipment, stock in trade, parts and supplies, leasehold interest and goodwill, owned by you in connection with the [TYPE OF BUSINESS] business carried on as [NAME OF BUSINESS] at [ADDRESS].

Subject to formal contract, we are prepared to pay [AMOUNT] for the business on the following terms:

[INSERT TERMS]

If you are interested in selling at this price on these terms, please let us know and we will make you a formal offer to purchase.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DIRECTORS AND SHARE HOLDERS.

Resolution and resignation.

BOARD RESOLUTION ADOPTED ON [DATE]

The undersigned, being all the directors of [Company name], hereby sign the following amended resolutions:

RESOLVED THAT:

1. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Accountant's name], Chartered Accountants, under their comments dated [Date], are approved which approval shall be evidenced by signature of the balance sheet.

OR

2. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Auditors' names], under their audit report dated [Date], are approved, which approval shall be evidenced by signature of the balance sheet.
3. The approved financial statements be placed before the annual meeting of shareholders of the corporation.
4. [Accountants] are appointed the accountants of the corporation for the current fiscal year.
5. By-Law No. [Number] is passed as a by-law of the corporation to be placed before a meeting of shareholders of the corporation for confirmation.
6. The application to amend the Articles of Incorporation [OR Letters Patent] of the corporation in the draft form appended as Schedule A to these resolutions is approved to be placed before a meeting of shareholders of the corporation for confirmation.

7. The corporation sells substantially all its assets to [Purchaser name] in accordance with the draft agreement of purchase and sale appended as Schedule A to these resolutions.
8. [Chairman name] is elected as Chairman of the Board of Directors.
9. A dividend of [Amount] per share is declared on the issued [Class name] shares of the corporation held by the [Class name] shareholders of record as of this date.
10. The salary of the [Officer] of the corporation is fixed at [Amount] per annum effective [Date].
11. The corporation executes the [Contract/instrument] in the draft form appended as Schedule A to these resolutions.
12. The transfer of [Number and class of shares] from [Transferor name] to [Transferee name] is approved.
13. The address of the head [OR registered] office of the corporation is changed to [New address].

[DIRECTOR NAME]

[DIRECTOR NAME]

ASSIGNMENT AND TRANSFER OF STOCK CERTIFICATE

This Assignment and Transfer of Stock Certificate (the “Assignment”) is made and effective [DATE],

BETWEEN: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TRANSFEROR NAME] (the "Transferor"), an individual having his main residence located at:

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers to [TRANSFEREE], [AMOUNT] shares of the stock of [COMPANY NAME] (the Corporation) standing in the name of the undersigned on the books of the Corporation and represented by Certificate [NUMBER].

The undersigned hereby and irrevocably constitutes and appoints [NAME OF ATTORNEY-IN-FACT], attorney-in-fact, to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

Dated: [DATE]

CORPORATION

TRANSFEROR

ISAAC LUBOGO CHRISTOPHER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

In the presence of:

Authorized Signature

Print Name and Title

ASSIGNMENT OF SHARES

This Assignment of Shares (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

3. For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit to Assignee in the [CLASS] shares of [CORPORATION NAME] evidenced by Share Certificate No(s). [NUMBER(S)] (the "Shares").
4. The Assignor warrants the Assignee that the Shares are fully paid-up and that the Assignor owns the Shares free and clear of all encumbrances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

February 28, 2022

Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: Resignation of Directorship

Dear [Contact name],

I hereby resign as a director of [Company name] effective immediately.

Yours very truly,

Your name
Your title
Telephone contact
youremail@yourcompany.com

February 28, 2022

Contact Name
Address
Address2

City, State/Province

Zip/Postal Code

OBJECT: Resignation of Office

Dear [Contact name],

I hereby resign as [Office] of [Company name] effective immediately.

Yours very truly,

Your name

Your title

Telephone contact

youremail@yourcompany.com

SHAREHOLDERS RESOLUTION

The undersigned, being all the shareholders of [Company name], hereby sign the following annual resolutions:

RESOLVED THAT:

1. These resolutions are in place of an annual meeting of shareholders of the corporation.
2. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Accountants' name], Chartered Accountants, under their comments dated [Date], are received.

OR

3. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Auditors' names], under their audit report dated [Date], are approved.
4. [Directors names] are continued as directors of the corporation.
5. No auditor be appointed for the current fiscal year of the corporation.

OR

6. [Auditor names] are appointed the auditors of the corporation for the current fiscal year.
7. The acts of the Board of Directors since the last annual meeting of shareholders are approved and ratified.
8. [Director name] is elected as a director of the corporation.
9. By-Law No. [Number] passed by the Board of Directors of the corporation is confirmed.
10. The application to amend the Articles of Incorporation [OR Letters Patent] of the corporation in the draft form appended as Schedule A to these resolutions is approved.

11. The proposed sale by the corporation of substantially all its assets to [Purchaser name] in accordance with the draft agreement of purchase and sale appended as Schedule A to these resolutions is approved.

12. [Director name] is removed as a director of the corporation.

Dated: [Date]

[Shareholder name]

[Shareholder name]

CERTIFICATES AND NOTICES.

February 28, 2022

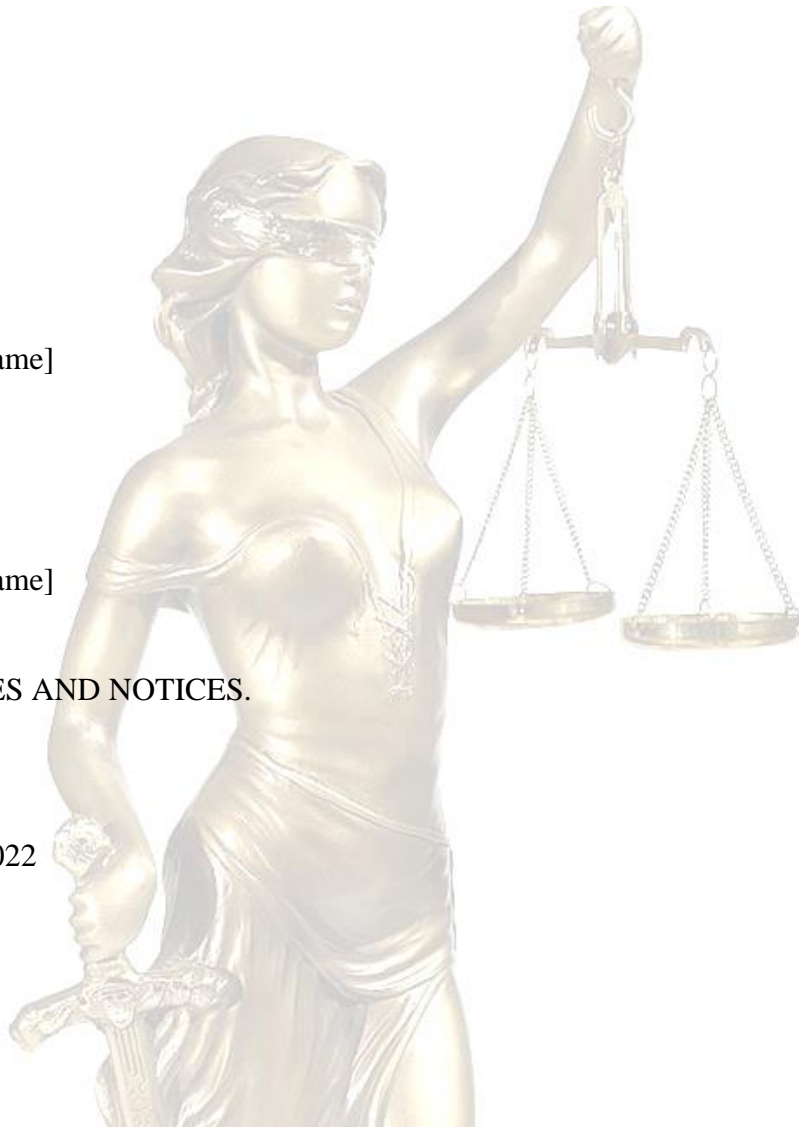
Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: CERTIFICATE OF CORPORATE RESOLUTION

Dear [Contact name],

I, [Your name], secretary of [Company], do hereby certify that at a duly constituted meeting of the [Directors and/or Stockholders] of the Corporation held at [Place] on [Date], it was upon motion duly made and seconded, that it be VOTED:

That [Describe approved corporate action]

It was upon motion made and seconded that it be further VOTED:

That [Individual] as [officership] of the Corporation be empowered and directed to execute, deliver and accept any and all documents reasonably required to accomplish the foregoing vote, all on such terms and conditions as he in his discretion deems to be in the best interests of the Corporation.

I further certify that the foregoing votes are in full force without rescission, as modification or amendment.

Sincerely,

Your name

Secretary

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CERTIFICATE OF CORPORATE VOTE

Dear [Contact name],

This is to certify that at a special meeting of the [Board of Directors / Executive Committee] of the Corporation, held at the offices of the Corporation located at [Address] on [Date] at [Time], all the [Directors / Members] being present and voting, it was unanimously VOTED:

[Describe action being voted]

Sincerely,

Your name

Secretary

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF MEETING OF DIRECTORS

Dear [Contact name],

Notice is hereby given that a meeting of the Board of Directors of [Company name] will be held on [Date] at [Address], commencing at [Time].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF MEETING OF DIRECTORS

Dear [Contact name],

Notice is hereby given that a meeting of the Board of Directors of [Company name] will be held on [Date] at [Address], commencing at [Time].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

COMPANY MEETINGS.

MEETING MINUTES

[NAME OF ORGANISATION / COMMITTEE]

Opening:

The regular meeting of the [Name of organization / committee] as called to order at [Time] on [Date] in [Place] by [Meeting Chair].

Present:

[List of attendee]

1. Approval of Agenda

The agenda was unanimously approved as distributed.

2. Approval of Minutes

The minutes of the previous meeting were unanimously approved as distributed.

3. Announcements

List all announcements made at the meeting. For example, new members, change of event, etc.

4. Open Issues

Summarize the discussion for each existing issue, state the outcome and assign any action item.

5. New Business

Summarize the discussion for new issues, state the next steps and assign any action item.

6. Agenda for Next Meeting

List the items to be discussed at the next meeting.

Adjournment:

Meeting was adjourned at [Time] by [Person]. The next general meeting will be at [Time] on [Date] in [Place].

Minutes submitted by: [Name]

Approved by: [Name]

MINUTES OF MEETING OF DIRECTORS

[COMPANY NAME]

Minutes of a meeting of the Board of Directors of [Company name] duly called and held on [Date] at [Address], commencing at [Time].

Present were:

[List of names]

With the approval of the directors present, [Chairman name] acted as Chairman of the meeting and [Secretary name] recorded the minutes.

On motions duly made and seconded, it was voted that:

1. The minutes of the last meeting of directors be taken as read.
2. [Insert resolution per numbered paragraph].

Dissenting to the motion were [Dissenting names].

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated [Date]

[Secretary name], Secretary

[Chairman name], Chairman

WAIVER OF NOTICE

FIRST MEETING OF THE BOARD OF DIRECTORS

[COMPANY NAME]

\WE, THE UNDERSIGNED, being the directors elected by the incorporators of the above named corporation, DO HEREBY WAIVE NOTICE of the time, place and purpose of the first meeting of the Board of Directors of said corporation.

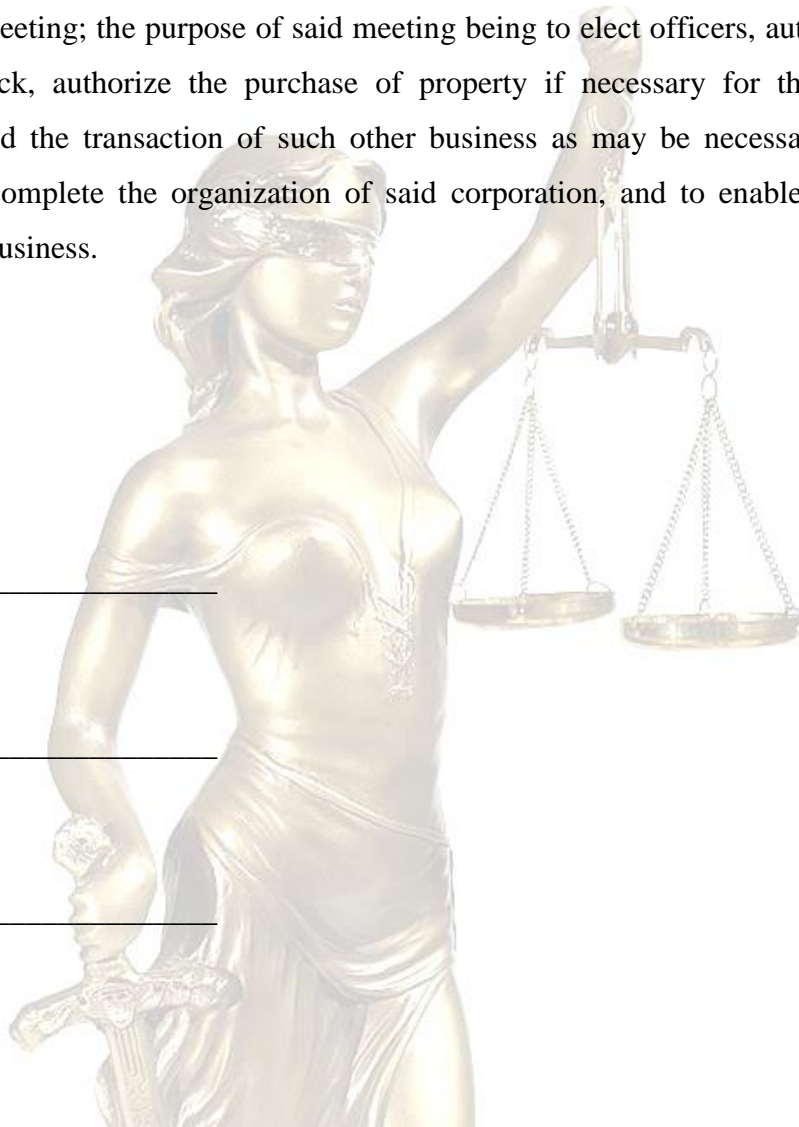
We designate the [Day]th day of [Month], [Year] at [Time] as the time and [Full address] as the place of said meeting; the purpose of said meeting being to elect officers, authorize the issue of the capital stock, authorize the purchase of property if necessary for the business of the corporation, and the transaction of such other business as may be necessary or advisable to facilitate and complete the organization of said corporation, and to enable it to carry on its contemplated business.

Dated: [Date]

[Name 1]

[Name 2]

[Name 3]



MINUTES OF FIRST MEETING OF THE BOARD OF DIRECTORS

[COMPANY NAME]

1. The first meeting of the Board of Directors was held at [Place] on the [Day]th day of [Month], [Year] at [Time].

Present were:

[List of names]

constituting a quorum of the Board.

2. [Name] acted as Chairman and [Name] was appointed temporary Secretary of the meeting.
3. The Secretary presented and read a waiver of notice of the meeting, signed by all the directors.
4. The minutes of the organization meeting of incorporators were read and approved.
5. The following persons were nominated to the offices set opposite their respective names, to serve for one year and until their successors are chosen and qualify:

[Name] - Chairman

[Name] - Vice Chairman

[Name] - Secretary

[Name] - President

[Name] - Chief Financial Officer

6. All the directors present having voted, the Chairman announced that the aforesaid had been unanimously chosen as said officers, respectively.

7. The Chairman thereupon took the chair and the Secretary thereupon entered upon the discharge of his duties.

8. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the stock certificates of this corporation shall be in the form submitted at this meeting.

9. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the seal, an impression of which is herewith affixed, be adopted as the corporate seal of this corporation.

10. The Secretary was authorized and directed to procure the proper corporate books.

11. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the officers of this corporation be authorized and directed to open a bank account in the name of the corporation, in accordance with a form of bank resolution attached to the minutes of this meeting.

12. [Name] reported the following balances in the bank accounts of the corporation at [Bank]:

Savings [Account #]: [Amount]

Checking [Account #]: [Amount]

13. Upon motion, duly made, seconded and carried, the following preambles and resolutions were unanimously adopted:

WHEREAS, the following offer has been made to the corporation in consideration of the issuance of full paid and non-assessable shares of the corporation:

Price = [Amount] per share

[Number] shares issued to [Name]

[Number] shares issued to [Name]

[Number] shares issued to [Name]

([Name], [Name] and [Name] hereafter known as "Offerors")

WHEREAS, In the judgment of this Board of Directors of this corporation, said offer is good and sufficient consideration for the shares demanded therefore and necessary for the business of this corporation,

Now, therefore, be it RESOLVED:

That the aforesaid offer be and is hereby accepted and that the President and Secretary of this corporation be and they hereby are authorized and directed to execute in the name and on behalf of this corporation, and under its corporate seal, such agreement or agreements as may be necessary in accordance with said offer.

FURTHER RESOLVED:

That the President and Secretary be and they hereby are authorized and directed to issue and deliver in accordance with said offer certificates of full paid and non-assessable shares of this corporation to the said Offerors.

14. Upon motion, duly made, seconded and carried, the following preambles and resolutions were unanimously adopted:

WHEREAS, the following loans have been offered to the corporation in consideration of the issuance of promissory notes from the corporation:

[List]

WHEREAS, in the judgment of this Board of Directors of this corporation, said offer is good and sufficient consideration for the loan offered therefore and necessary for the business of this corporation,

Now, therefore, be it **RESOLVED**:

That the aforesaid offer be and is hereby accepted and that the proper officers of this corporation be and they hereby are authorized and directed to execute in the name and on behalf of this corporation, and under its corporate seal, such agreements, copies of which are attached hereto, as may be necessary in accordance with said offer.

15. Upon motion, duly made, seconded and carried, it was RESOLVED:

That in compliance with the laws of the State of [State/province], this corporation have and continuously maintain a registered office within the State of [State/province] and have an agent at all times in charge thereof, upon which agent process against this corporation may be served, and that the books and records of the corporation shall be available for examination by any stockholder for any proper purpose as provided by law.

16. Upon motion, duly made, seconded and carried, it was RESOLVED:

That the proper officers of the corporation be and they hereby are authorized and directed on behalf of the corporation, and under its corporate seal, to make and file such certificate, report or other instrument as may be required by law to be filed in any state, territory, or dependency of the United States, or in any foreign country, in which said officers shall find it necessary or expedient to file the same to authorize the corporation to transact business in such state, territory, dependency or foreign country.

17. Upon motion, duly made, seconded and carried, it was RESOLVED:

That the Chief Financial Officer be and hereby is authorized to pay all fees and expenses incident to and necessary for the organization of the corporation.

There being no further business, the meeting upon motion adjourned.

Dated: [Date]

MINUTES OF SPECIAL MEETING OF DIRECTORS

[COMPANY NAME]

A special meeting of the board of directors of [Company] was held at [Place & Address] on [Date], at [Time] in accordance with the bylaws [or pursuant to call by the president or pursuant to written waiver of notice signed by all of the directors, or the like].

1. The following directors were present:

[List of names]

2. The meeting was presided over by [Chairman name] and the secretary, [Secretary name], was present and kept the minutes.
3. An agreement and written waiver of notice signed by all of the directors was read, the original copy of which is inserted and reads as follows:

We, the undersigned, being all of the directors of [Company name], a corporation organized under the laws of the State of [State/Province], consent and agree that a meeting of the board of directors be held at [Address] on [Date], at [Time], to [Purpose], and for the transaction of any other business which may be legally done at the meeting of the board of directors.

The meeting was called to order by the president.

4. On motions duly made and seconded, it was voted that:

3. The minutes of the last meeting of directors be taken as read.

4. [Insert resolution per numbered paragraph].

Dissenting to the motion were [Dissenting names].

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated [Date]

[Secretary name], Secretary

[Chairman name], Chairman

MINUTES OF [SPECIAL / REGULAR] MEETING OF DIRECTORS

[COMPANY NAME]

Minutes of a [Special / Regular] meeting of the Board of Directors of [Company name] duly called and held on [Date] at [Address], commencing at [Time].

1. The following directors were present and constituted a quorum of the Board:

[List of names].

2. The following directors were absent from the meeting:

[None or list of names].

3. The following individuals also were present at the meeting:

[List of names and titles].

4. [Name] acted as chairman and called the meeting to order and announced that this meeting was held pursuant to a written notice of meeting which was given to all directors of this corporation. A Copy of this notice was ordered inserted in the corporation's Minute Book immediately preceding the minutes of this meeting.

[Or, if this meeting was held without notice, the following paragraph should be inserted in place of the prior paragraph]

5. The chairman called the meeting to order and announced that this meeting was held pursuant to written waiver of notice and consent to the holding of this meeting. The waiver and consent was presented to this meeting and, on a motion duly made, seconded, and [Unanimously] carried, was made a part of the records and ordered inserted in the corporation's Minute Book immediately preceding the records of this meeting.

- 6. The minutes of the last meeting of directors were then read and approved.
- 7. The Board then discussed [Insert business transacted; for example, establishment of committee, adoption of share purchase agreement, approval of employment agreement, etc.].

On motion duly made and seconded, the following resolutions were adopted:

[Insert resolutions]

Because there was no further business to come before the Board of Directors at this meeting, on motion duly made and seconded, the meeting was adjourned.

Date:

[Secretary’s Name], Secretary

**WAIVER OF NOTICE
ORGANIZATION MEETING OF INCORPORATORS**

[COMPANY NAME]

WE, THE UNDERSIGNED, being all the incorporators of the corporation above named, organized under the laws of the State of [State], DO HEREBY WAIVE NOTICE of the time, place and purpose of the organization meeting of said incorporators, and do fix the [Day]th day of [Month], [Year] at [Time] as the time, and [Place] as the place of said meeting.

And we do hereby waive all the requirements of the statutes of [State] as to the notice of this meeting, and do consent to the transaction of such business as may come before the meeting.

Dated: [Date]

[DIRECTOR 1]

[DIRECTOR 2]

[DIRECTOR 3]



MINUTES OF ORGANIZATION MEETING OF INCORPORATORS

[COMPANY NAME]

The organization meeting of the incorporators was held on the [Day]th day of [Month], [Year] at [Time], at [Place] pursuant to a written waiver of notice, signed by all the incorporators fixing said time and place.

1. The following incorporators were present in person:

[List of names]

being all of the incorporators of the corporation.

[Name] acted as Chairman and [Name] was appointed Secretary of the meeting.

2. The Chairman announced that a Certificate of Incorporation had been issued to this corporation by [the Department of State] and that a certified copy of the Certificate had been forwarded for recording in the Office of the Recorder of Deeds and instructed the Secretary to cause a copy of the Certificate of Incorporation to be prefixed to the minutes.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the certificate of Incorporation of the corporation be and it hereby is accepted and that this corporation proceed to do business thereunder.

3. The Secretary presented a form of By-Laws for the regulation of the affairs of the corporation, which were read article by article.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the By-Laws presented at this meeting, as amended and attached to the Minutes, were unanimously adopted and the Secretary was instructed to cause the same to be inserted in the minute book immediately following the copy of the Certificate of Incorporation.

4. The Chairman stated that the next business before the meeting was the election of a Board of Directors.

After discussion, [Name] and [Name] were nominated for directors of the corporation, to hold office for the ensuing year and until others are chosen and qualified in their stead. No other nominations having been made, the vote was taken and the aforesaid nominees declared duly elected.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the Board of Directors be and they are hereby authorized to issue the capital stock of this corporation to the full amount or number of shares authorized by the Certificate of Incorporation, in such amounts and proportions as from time to time shall be determined by the Board, and to accept in full or in part payment thereof such property as the Board may determine shall be good and sufficient consideration and necessary for the business of the corporation.

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated: [Date]

[Secretary name], Secretary

[Chairman name], Chairman

MINUTES OF [ANNUAL / SPECIAL] MEETING OF SHAREHOLDERS

[COMPANY NAME]

The shareholders of [Company Name] held [the/a Annual/Special] Meeting of Shareholders on [Date] at [Time], at [Place].

1. Shareholders present at the meeting, in person or by proxy, represented [Number] shares of common stock of the corporation.

The following stockholders were present in person:

Names	No. of Shares
--------------	----------------------

The following stockholders were represented by proxy:

Names	No. of Shares
--------------	----------------------

2. The President of this corporation served as Chairman and called the meeting to order, and announced that a quorum was present and that this meeting was held pursuant to a written notice of meeting given to all shareholders of this corporation. A copy of this notice was ordered inserted in the minute book immediately preceding the minutes of this meeting.

[Or, if the meeting was held without notice, the following paragraph should be inserted, substituting the above]:

The President of this corporation called the meeting to order, and announced that the meeting was held pursuant to written waiver of notice and consent to the holding of the meeting. The waiver and consent was presented to this meeting and, on a motion duly made, seconded and unanimously carried, was made a part of the records and ordered inserted in the minute book immediately preceding the records of this meeting.

[The minutes of the previous meeting of shareholders were then read and approved.] OR [It was then moved, seconded, and unanimously resolved to dispense with the reading of the minutes of the previous meeting.]

3. The President then announced that the election of directors was in order. Directors were then nominated to serve until the next annual meeting of shareholders and until their successors were duly elected and qualified. The following nominations were made and seconded:

[List of names]

4. No further nominations were made, and the above were [duly/unanimously] elected as directors of this corporation.
5. The [Year] annual report of the president and directors of the [Company name] was presented and read, and upon motion of [Name], seconded, it was resolved:

That the report be received filed with the secretary in the form as presented to the meeting.

6. The secretary was directed to insert in the minute book a copy of each of the following papers:

1. Notice of the meeting and proof of mailing.
2. Form of proxy.
3. Report of the president and directors.
4. Inspectors' oath and report.

7. On motion duly made and seconded, the following business came before the shareholders:

[Insert business transacted; for example, vote for amendment to Articles or Bylaws. Note: All actions taken at the Meeting of Shareholders should be recorded in the minutes of the meeting.]

8. Because there was no further business to come before this meeting, on motion duly made, seconded, and carried, this meeting was adjourned.

Date:

[Secretary's name], Secretary

VOTING BY PROXY.

IRREVOCABLE PROXY

[COMPANY NAME]

The undersigned, as record holder of the securities of [Name of corporation] described below, hereby revokes any previous proxies and irrevocably appoints [Name] as the undersigned's proxy to attend all shareholders' meetings and to vote, execute consents, and otherwise represent those shares in the same manner and with the same effect as if the undersigned were personally present at any such meeting or voting such securities or personally acting on any matters submitted to shareholders for approval or consent.

The proxy holder will have the full power of substitution and revocation.

This proxy is made pursuant to an agreement of [DESCRIBE], dated [Date].

This proxy will be irrevocable until [Date]. This proxy will be revocable, notwithstanding the period of irrevocability specified above, as required under applicable law.

BE IT KNOWN, that for good consideration, the undersigned, being the owner of [Number] shares of voting stock of [Corporation name], does hereby grant to [Name], a non-revocable proxy to vote on behalf of the undersigned shares of said stock at any future meeting of the stockholders of the Corporation, and said proxy holder is entitled to attend said meetings on my behalf or vote said shares through mail proxy.

During the pendency of this proxy, the rights to vote said shares shall be exclusively held by the proxy holder and shall not be voted by the undersigned. This proxy shall not be revocable and shall remain in effect until [Date], [Year], when all rights hereunder shall terminate.

The undersigned agrees to annex a legend to said shares stating the existence of this outstanding proxy, as all rights hereunder shall survive any sale or transfer of said shares.

THIS PROXY SHALL BE SIGNED EXACTLY AS THE SHAREHOLDER'S NAME APPEARS ON HIS STOCK CERTIFICATE. JOINT SHAREHOLDERS MUST EACH SIGN THIS PROXY. IF SIGNED BY AN ATTORNEY IN FACT, THE POWER OF ATTORNEY MUST BE ATTACHED.

[Signature]

[Printed name as appears on stock certificate]

Securities Information:

Certificate No.:

Number of Shares:

Class of Shares:

REVOCABLE PROXY

[COMPANY NAME]

The undersigned, as record holder of the securities of [Name of corporation] described below, hereby revokes any previous proxies and appoints [Name] as the undersigned's proxy to attend all shareholders' meetings and to vote, execute consents, and otherwise represent those shares in the same manner and with the same effect as if the undersigned were personally present at any such meeting or voting such securities or personally acting on any matters submitted to shareholders for approval or consent.

1. The proxy holder will have the full power of substitution and revocation.
2. This proxy is made pursuant to an agreement of [DESCRIBE], dated [Date].
3. This proxy is revocable at any time, and unless revoked, shall terminate on [Date].

BE IT KNOWN, that the undersigned, being the owner of [Number] shares of voting stock of [Corporation name], do hereby grant to [Name], a proxy to vote on behalf of the undersigned [Number] shares of said stock at any future meeting of the stockholders of the Corporation; and said proxy holder is entitled to attend said meetings on my behalf or vote said shares through mail proxy.

During the pendency of this proxy, all rights to vote said shares shall be held by the proxy holder and shall not be voted by the undersigned, provided the undersigned may revoke this proxy at any time.

THIS PROXY SHALL BE SIGNED EXACTLY AS THE SHAREHOLDER'S NAME APPEARS ON HIS STOCK CERTIFICATE. JOINT SHAREHOLDERS MUST EACH SIGN THIS PROXY. IF SIGNED BY AN ATTORNEY IN FACT, THE POWER OF ATTORNEY MUST BE ATTACHED.

ISAAC LUBOGO CHRISTOPHER

[Signature]

[Printed name as appears on stock certificate]

Securities Information:

Certificate No.:

Number of Shares:

Class of Shares:

REVOCATION OF PROXY

[COMPANY NAME]

The undersigned, as owner of the securities of [Name of corporation] described below, hereby revokes any and all proxies and substitutions of proxies, including the proxy executed on [Date], naming [Name] as proxy, and further revokes any and all authority heretofore given to any person or persons to attend meetings, vote, consent, or otherwise act on behalf of the undersigned in any manner whatsoever with respect to such securities.

Dated: [Date]

[Signature]

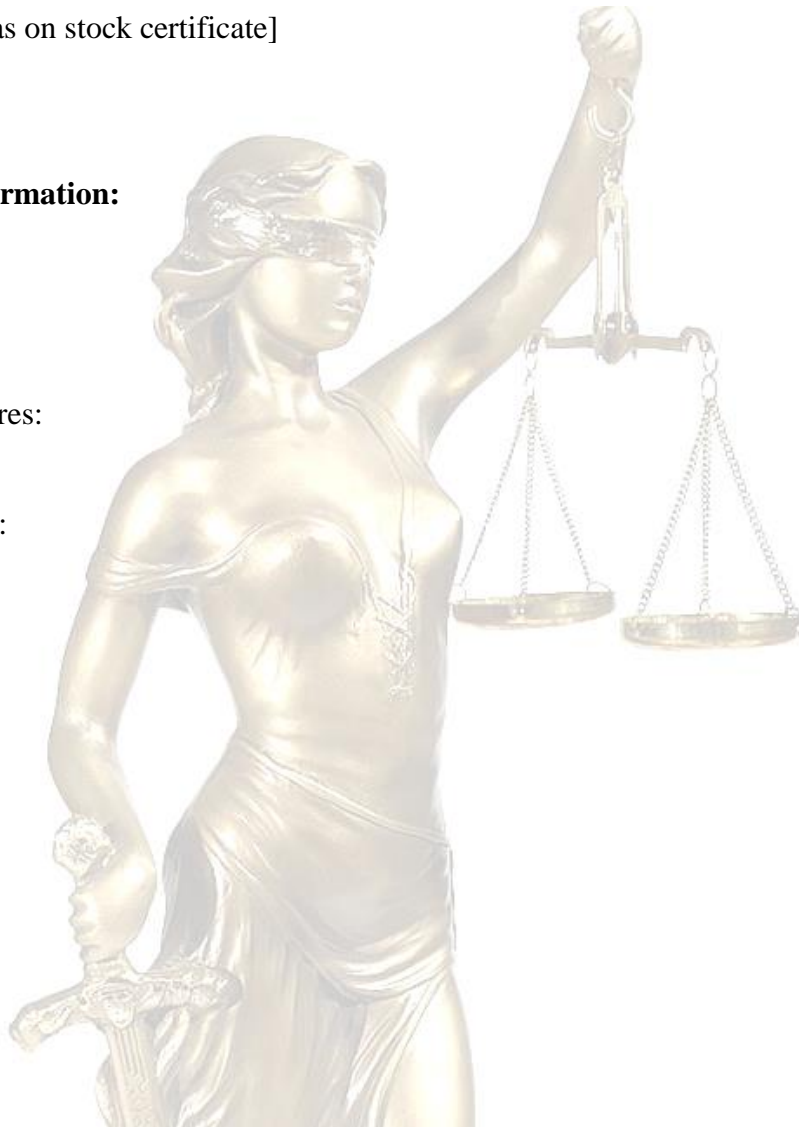
[Printed name as on stock certificate]

Securities Information:

Certificate No.:

Number of Shares:

Class of Shares:



TOPIC FOUR: LAND TRANSACTIONS.



AN ILLUSTRATION OF A CAVEAT.

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT, CAP. 230
AND
IN THE MATTER OF KYADONDO BLOCK 216 PLOT 1810
AFFIDAVIT IN SUPPORT OF CAVEAT

I, Of P. O. Box 778, Kampala solemnly make oath and state as follows:

1. That I am an adult male Ugandan of sound mind and the registered proprietor of the above land.
2. That sometime in January, 2013, three men came to my home in Kisaasi and informed me that there was a serious plot by people whom I had a land dispute with to kill me.
3. That the said three men threatened me that if I did not give them Shs.62,000,000/= to avert the threat, it would be carried out in a few days time.
4. That since I did not have money, the said three introduced me to a man who claimed to be a money lender and they coerced me to sign several agreements and land transfer documents and to hand over the duplicate Certificate of Title to my land described above.

5. That when I regained my liberty, I reported the said three men to Kiira Road Police Station under Ref: No. SD. Ref: 11/27/01/2013. **A copy of the Reference chit is attached hereto and marked annexure “A”.**

6. That the Kiira Road Police and the Special Investigations Unit Police at Kireka are investigating this crime but they have not yet arrested the suspects.

7. That I have genuine fears that these four fraudsters may register some dealings on my land.

8. That I swear this affidavit in support of a caveat to stop registration of dealings on this land.

5. That I depone to matters within my knowledge.

SWORN by the said }
..... } _____
this ... day of, 2013 } DEPONENT

BEFORE ME:

COMMISSIONER FOR OATH

DRAWN & FILED BY:

SUI GENERIS & CO - Advocates

Plot 10 Clement Hill Road

P. O. Box 21161

Tel: 341295/6

Fax: 343168

KAMPALA

A Sample Of A Caveat.

THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT, CAP. 230
MAILO REGISTER
KYADONDO BLOCK PLOT NO.
LAND AT

The Commissioner Land Registration
KAMPALA
CAVEAT

TAKE NOTICE that claims interest in the above property as registered proprietor deprived of land through fraud and forbids the registration of any person as transferee or proprietor of any estate or instrument affecting her interest until after notice of such intended registration is first given to him and he consents thereto in writing.

HE APPOINTS the chambers of **SUI GENERIS & CO-Advocates, Plot 10 Clement Hill Road, P.O. Box 21161, Kampala** as the place at which notices and proceedings relating to this caveat may be served.

DATED at Kampala this day of 2013.

SIGNED by the said } _____
..... } CAVEATOR
this.....day of....., 2013 }

In the presence of:

DRAWN & PRESENTED FOR REGISTRATION BY:

SUI GENERIS & CO - Advocates

Plot 10 Clement Road P.O. Box 21161, Tel: 341295/6, KAMPALA

AN ILLUSTRATION OF AN AFFIDAVIT IN SUPPORT OF CAVEAT

**THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT, CAP. 230
AND
IN THE MATTER OF KYADONDO BLOCK 216 PLOT 1810
AFFIDAVIT IN SUPPORT OF CAVEAT**

I, of P. O. Box 778, Kampala solemnly make oath and state as follows:

1. That I am an adult male Ugandan of sound mind and the registered proprietor of the above land.
2. That sometime in January, 2013, three men came to my home in Kigowa Ntinda and informed me that there was a serious plot by people whom I had a land dispute with to kill me.
3. That the said three men threatened me that if I did not give them Shs.62,000,000/= to avert the threat, it would be carried out in a few days time.
4. That since I did not have money, the said three introduced me to a man who claimed to be a money lender and they coerced me to sign several agreements and land transfer documents and to hand over the duplicate Certificate of Title to my land described above.
5. That when I regained my liberty, I reported the said three men to Kiira Road Police Station under Ref: No. SD. Ref: 11/27/01/2013. **A copy of the Reference chit is attached hereto and marked annexure "A"**.
6. That the Kiira Road Police and the Special Investigations Unit Police at Kireka are investigating this crime but they have not yet arrested the suspects.
7. That I have genuine fears that these four fraudsters may register some dealings on my land.
8. That I swear this affidavit in support of a caveat to stop registration of dealings on this land.
5. That I depone to matters within my knowledge.

SWORN by the said	}	
.....	}	_____
this ... day of, 2013	}	DEPONENT

BEFORE ME:

COMMISSIONER FOR OATH

DRAWN & FILED BY:

Sui Generis & Co- Advocates

Plot 15 Kakungulu Road

P. O. Box 3671

KAMPALA

AN APPLICATION FOR TRANSFER OF LAND

The Commissioner of Lands & Surveys,

P.O. Box 7061,

KAMPALA.

APPLICATION FOR CONSENT TO TRANSFER OF SUB-LEASE PUBLIC LAND

(To be submitted in duplicate)

Leasehold Register Volume

Folio

Block

Plot No.

Land Situate at

Area

User

Tenure

Details of land development carried out

IF LEASEHOLD,

(a) Initial period/Full term (tick as appropriate)

(b) Attach ground rent receipts for last five years

I/WE HEREBY APPLY for consent under Section 22(5) (c) (i) of the Public Lands Act, to Transfer/Sub-Lease the above premises and also under Section 10 of Decree 3 of 1975.

FROM

Name

.....

...

Address

.....

Nationality

.....

TO

Name

.....

....

Address

.....

Nationality

.....

TRANSFER

Consideration

.....

SUB-LEASE

Premium (if any)

Rent per annum

Term

Rent per

annum.

I, the undersigned hereby declare that all the covenants in the lease have been complied with, and that the information given in this application is current to the best of my knowledge and belief.

Signature of Applicant/ or his/ their Advocate

FOR OFFICIAL USE:

For the purposes of the Stamp Act Cap. 172 and the Finance Act I hereby assess the value of this property as:

.....

Ug. Shs.

(in words) Ug. Shillings

Date

CHIEF GOVERNMENT VALUER

For purposes of Section 22 (5) (c) (ii) of the Public Lands Act, 1969 and Section 10 of the Decree No. 3 of 1975; I hereby CONSENT/DO NOT CONSENT to the zoning scheme to the above application for TRANSFER/LEASE.

COMMISSIONER FOR LANDS AND SURVEYS
THE REGISTRATION OF TITLES ORDINANCE

DISTRICT

BLOCK PLOT

Mailo/Freehold Register Volume Folio

TRANSFER

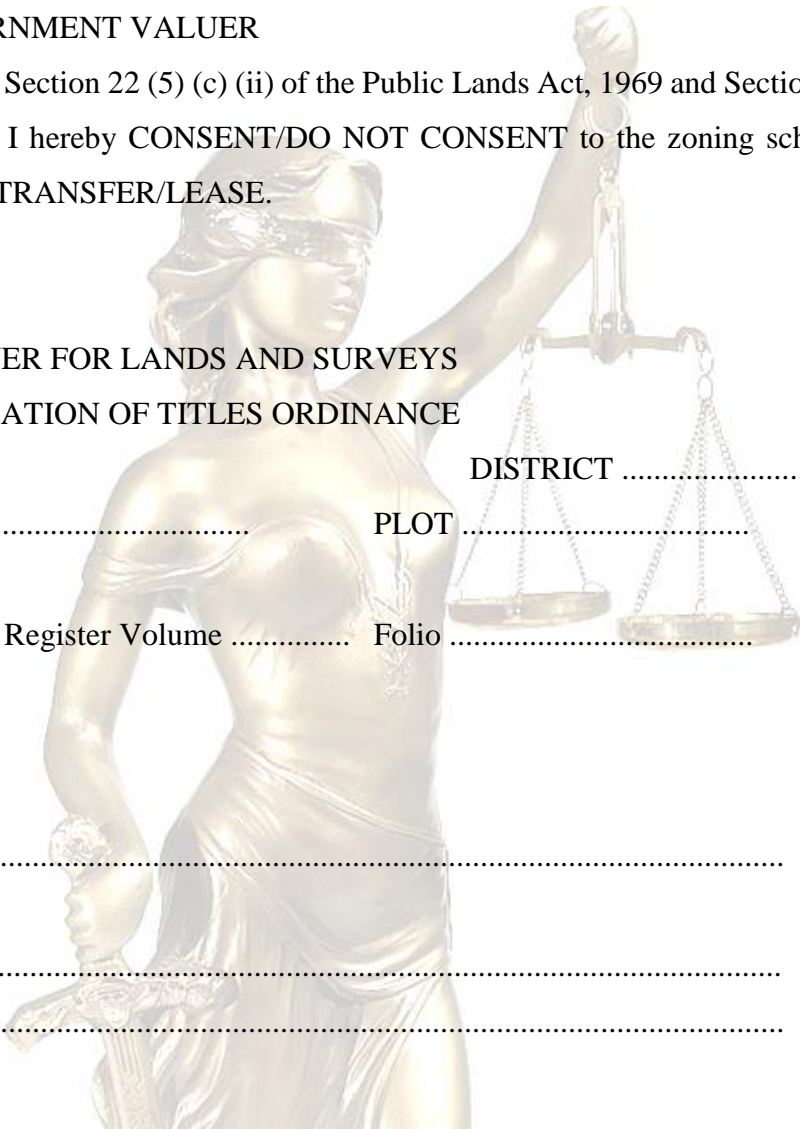
I

of

(Address)

son of/daughter of

in consideration of the sum of shillings paid to me by the



Purchaser on or before the execution of these presents the receipt where of I hereby acknowledge DO HEREBY TRANSFER all that piece of land(part of the land comprised in the above Title) which is delineated on the plan annexed hereto and thereon edged in red and now numbers Plot to(herein called “the Purchaser”) of (Address)

to HOLD to the purchaser for all my estate and interest herein.

DATED this..... Day of 20

SIGNED by the said Signature of Vendor

In the presence of:

Witness: Address: Qualification:

SIGNED by the said Signature of Purchaser

In the presence of:

Witness: Address: Qualification:

AN ILLUSTRATION OF A LEASE AGREEMENT. THE REPUBLIC OF UGANDA

**THE REGISTRATION OF TITLES ACT CAP. 230
LAWS OF UGANDA**

KYADONDO BLOCK

PLOTS & 212

**LANDS AT BWEYOGERERE
MENGO, WAKISO DISTRICT**

AREA:..... ACRES

LEASE

THIS LEASE made the 1st day of February, Two Thousand Twelve BETWEEN of P.O. Box 35905, Kampala herein called the “LESSOR” of the one part, andof P.O. Box 35905, Kampala herein called “THE LESSEE” of the other part.

WITNESSETH as follows:

1. IN CONSIDERATION of the sum of Shs.10,000,000/= being the premium and Shs.200,000/= being the annual ground rent to be paid by the Lessee to the Lessor and also in consideration of the covenants and conditions hereinafter contained the Lessor hereby demises unto the Lessee all those pieces of land situate at Bweyogerere, Wakiso District comprised in Plots 2906 and 212 Kyadondo Block 236 measuring about 2.33 Acres TO HOLD the same on to the Lessee for a term of 99 (Ninety Nine) years with effect from the 1st day of February, 2012 subject to renewal;

2. THE LESSEE COVENANTS WITH THE LESSOR as follows:-

- (a) To develop and use the land for industrial/commercial purposes and/or other lawful purposes.
- (b) To pay for all electricity, water, telephone and any other utility or service that will be consumed on the land.
- (c) To pay all existing and future rates, taxes, assessments and outgoings now or hereafter imposed or charged upon the demised premises

or part thereof or imposed or charged upon the lessor and to keep the lessor fully indemnified in respect thereof.

(d) To obey, perform and comply with all local council regulations and those by any other lawful authority.

3. THE LESSOR COVENANTS WITH THE LESSEE as follows:-

(a) To let the lessee to peacefully hold the land without any interruption by the Lessor or any other person rightfully claiming under or in trust for him as long as the Lessee is performing and observing the several covenants on its part hereinbefore contained.

(b) In the event that the lessee wishes to renew the lease it shall, before expiry of this lease, pay US\$.1,000 (One Thousand United States Dollars only) to the Lessor or if the Lessor cannot be found, then to any registered charitable organization operating in the same locality or District and on production of such receipt of payment to the Land Registrar the lease shall be renewed for another period of 99 years (Ninety Nine) years.

(c) All the notices (if any) under this lease shall be in writing, and all notices shall be sufficiently delivered if addressed to the parties and sent to their respective addresses as indicated herein (or as subsequently communicated in writing in case of change of address) by registered post or in case of the Lessor at the demised premises or by physical delivery to such party or its servant and/or agent, provided always that all physically served notices shall be acknowledged receipt of in writing by the addressee or its responsible servants and/or agents.

(d) The Lessor hereby irrevocably gives his consent to the Lessee to sell, transfer, sublet and/or deal with the demised land in any way it may deem fit.

4. Without prejudice to the foregoing and in further consideration of the rent for 99 years to be paid by the Lessee to the Lessor the Lessor hereby irrevocably undertakes to sell to the Lessee the Mailo interest in the land comprised in this lease for a sum of US\$ 1,000= (One Thousand only) in the event that the Law permits non-Ugandan Citizens to acquire mailo and/or freehold interest or in the event that the Lessee or its nominee acquires Ugandan Citizenship.

5. IT IS FURTHER MUTUALLY AGREED as follows:-

- (a) The Lessee shall bear all costs of preparing and registering this lease.
- (b) The terms “Lessor” and “Lessee” under this lease shall include their respective transferees, successors and assigns as the case may be.

IN WITNESS WHEREOF the Lessor and the Lessee have placed their respective signatures hereunto affixed the day and year first above written.

SIGNED, SEALED & DELIVERED BY } _____
..... } **LESSOR**

In the presence of:

SIGNED, SEALED & DELIVERED BY } _____
..... } **LESSEE**
whose Common Seal was affixed hereto }

In the presence of:

DIRECTOR

DRAWN & FILED BY:
SUI GENERIS Advocates
Plot 10 Clement Road,
P.O. Box 21161
Tel: 341295/6
Fax: 343168
KAMPALA

An Illustration Of An Agreement To Sale Land

**THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT, CAP. 230**

**BUHUNGIRO BLOCK 261,
PLOT 34 AT KYENGEZA**

AGREEMENT TO SALE LAND

THIS AGREEMENT made this day of, Two Thousand Thirteen BETWEEN of Sebuguzi Village, Kapeeka Sub-county, Nakaseke District, Tel: 0774 205 790 (hereinafter called “the Vendor”) of the first part AND of P.O. Box 21161, Kampala (hereinafter called “the Purchaser”) of the second part.

WHEREAS:

- (a) The Vendor is the registered proprietor of land measuring approx. 61.013 Hectares and known as Plot 34 Bulemezi Block 261 at Kyengeza, Kapeeka.
- (b) The Vendor is desirous of selling and the Purchaser of buying Ten (10) acres out of the said Mailo land free from any encumbrances whatsoever.

NOW THIS DEED WITNESSETH:

- 1. In consideration of the sum of Shs.20,000,000/= (Twenty Million only) to be paid to the Vendor by the Purchaser as hereinafter provided, the Vendor hereby sells and transfers to the Purchaser the said land and interest therein free from all encumbrances.
- 2. The said purchase price shall be paid as follows:

a) Shs.20,000,000/= (Twenty Million only) to be paid after execution hereof by the Vendor receipt of which the Vendor hereby acknowledges.

3. The Vendor shall hand over the Certificate of Title to the Purchaser on execution hereof to enable the latter to survey and subdivide the land.

4. The Vendor shall, upon receipt of the full purchase price, hand over the following documents to the Purchaser, namely:

- i) Transfer Deed duly signed.
- ii) Passport size photos of the Vendor
- iii) Copy of the Vendor's Passport or Voters Card
- iv) Letter of L.C. 1 Chairman of the area.

5. The Vendor hereby gives the Purchaser a warranty of good title and quiet possession of the said land and hereby undertakes to indemnify the Purchaser of any loss and damage that may be suffered in the event the Vendor's ownership or title thereon is found defective.

6. The Vendor shall pass the possession of the land thereon, if any, free from encumbrances to the Purchaser upon receipt of the full purchase price and the Vendor covenants with and gives warrant to the Purchaser to enjoy quiet possession and peaceful use of the land.

7. The Vendor hereby undertakes to execute and/or deliver any other documents, instruments or deeds or otherwise that may be necessary to carry out and give effect to the terms and conditions of this Agreement.

8. The Purchaser shall not take over nor be liable for any liabilities of the Vendor howsoever arising prior to the handover of the property. The Vendor shall compensate and remove any cultivators/squatters from the land hereby sold.

9. The Purchaser shall bear all fees, taxes and other Government charges, if any, and Advocates fees in relation to this agreement and other subsequent registrable dealings on this land.

10. This agreement shall be governed, construed and enforced in accordance with the Laws of Uganda.

IN WITNESS WHEREOF the parties hereto have hereunto put their respective hands the day and year first above written.

SIGNED by the said }
..... }
and I certify that the above instrument }
was first read over and explained to } _____
him in Luganda Language by } VENDOR
..... when he }
appeared to fully understand the same }
in the presence of:

.....
ATTESTING WITNESS

SIGNED by the said }
..... }
whose Common Seal was }
affixed hereunto }
In the presence of } PURCHASER _____

DRAWN & FILED BY:

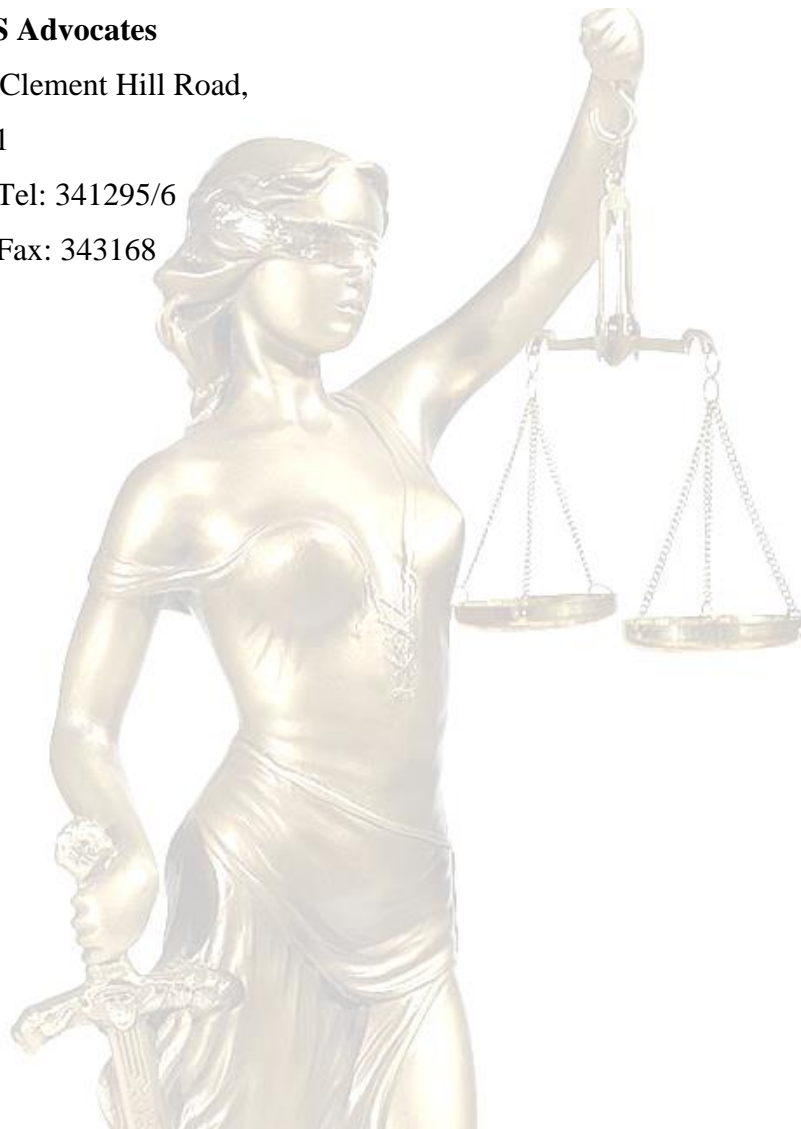
SUI GENERIS Advocates

Plot 10 Clement Hill Road,
P.O. Box 21161

Tel: 341295/6

Fax: 343168

KAMPALA.



THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT, CAP. 230
Bulemezi BLOCK PLOT AT

AGREEMENT OF SALE OF LAND

THIS AGREEMENT made this Day of Two Thousand Thirteen

BETWEEN

.....

AND

.....

DRAWN & FILED BY:

SUI GENERIS Advocates

Plot 10 Clement Hill Road,

P.O. Box 21161

Tel: 341295/6

Fax: 343168

Email: kbwadvocates@gmail.com

KAMPALA.

SAMPLE OF A TENANCY AGREEMENT

THE REPUBLIC OF UGANDA

TENANCY AGREEMENT

THIS AGREEMENT is made this ... day of December, Two Thousand and Twelve Between of P.O. Box 21161, Kampala (hereinafter called the “Landlord”) which expression shall where the context so admits include his successors in title and assigns) of the one part AND of P.O. Box 3936, Kampala, (hereinafter called the “Tenant”) which expression shall where the context so admits include his successors in title and assigns) of the other part.

WITNESSETH as follows:

1. The Landlord being the owner of residential premises situated at, Kampala and comprised in Block 208 plot 551 **HEREBY DOES LET** to the tenant **RESIDENTIAL PREMISES** described for purposes of this agreement as **UNIT TWO** thereon unto the Tenant on the conditions following:

(a) The term of the tenancy shall commence on the 1/1/2013 and shall continue for one year or until determined by 3(Three) months notice in writing given in advance by either party.

(b) The rent shall be Shs.400,000/= (Shillings Four Hundred Thousand Only) per month payable 3 months in advance.

(c) The Tenant shall on execution hereof pay a refundable Shs.400,000/= as security for the tenants’ obligations to pay water and electricity bills and to maintain the house in tenantable repair and this deposit shall be refundable to the client if at the determination of the tenancy there shall be no existing default of the terms of the lease on the Tenant’s part.

THE TENANT COVENANTS WITH THE LANDLORD as follows:-

(a) to pay the rent hereby reserved at the rate and in the manner aforesaid.

(b) to pay electricity, water and telephone consumed on the premises regularly on a monthly basis which will be confirmed by the Landlord or his agents on receipt of copies of receipts at the end of each month without fail.

(c) to keep the interior of the premises including all fixtures and fittings therein and all windows glasses (both external and internal) and all sanitary and water apparatus and electrical fittings in good repair and condition. IT IS HEREBY FURTHER AGREED that the Tenants shall paint the interior of demised premises at least once every year AND THAT such painting shall be in the manner agreeable to the Landlord.

(d) to permit the landlord his agents or any person authorised by him upon giving a reasonable period of notice in writing and at a reasonable hour in the daytime and with or without workmen to enter upon the premises or any part thereof and view the state and condition of the said premises and to do such work and things as may be required for any repairs and alterations in or under any part of the premises and should any defects or want of repair be found which the tenants are liable to make good under the stipulations on their part herein contained a notice in writing thereof shall be given to the tenant or left on the premises to make good the same in a proper manner and if the tenant shall not within thirty (30) days after the service of such notice proceed with the execution and completion of the repairs then the landlord will be empowered to enter upon the premises and execute such repairs and the costs thereof shall be a debt due from the tenants to the landlord and be forthwith recoverable.

(e) Not to assign, sublet or part with the possession of the demised premises or any part thereof without the consent in writing of the landlord, PROVIDED that occupation of the premises by any employee of the tenants shall not be construed as such assigning, subletting or parting with possession.

(f) to keep the premises in a clean condition and free of rubbish, refuse, scab, bees, ants and other destructive insects or rodents and not to bring or store unto the premises any explosive or inflammable substance.

(g) not to do or permit or suffer on the premises anything which shall be a nuisance to tenants or occupants of adjoining properties or which is illegal.

(h) to use the premises for residential purposes only for one family.

(i) to make good any damage caused to the demised premises by the bringing in, removal or shifting by the tenants of any furniture, goods or other articles into or out of the premises or any damage whatsoever caused by the Tenant or their agents.

(j) to deliver to the Landlord on determination of the tenancy the demised premises in such a state of repair and condition as the tenants found them reasonable natural wear and tear expected and in particular to paint the premises at the determination of the Tenancy.

3. **THE LANDLORD HEREBY AGREES WITH THE TENANT as follows:**

(a) to keep the main walls and roof of the premises and buildings and drains, pipes and the main sanitary apparatus, in good tenantable order, repair and condition.

(b) that the tenants paying the rent hereby reserved and performing and observing the agreements, terms and conditions of his part herein contained or implied shall and may peaceably and quietly hold and enjoy the premises during the tenancy without any interruptions from or by the landlord or any person rightfully claiming from or under him.

4. **PROVIDED ALWAYS and it is hereby agreed and declared as follows:**

(a) That if the rent hereby reserved or any part thereof shall be in arrears for a space of Fifteen (15) days next after becoming payable as aforesaid whether the same shall have been formally demanded or not or if there shall be any breach non-performance or non observance by the tenant or any of the agreements, terms or conditions hereinbefore contained or implied on the part of the tenant to be performed and observed then in such a case it shall be lawful for the landlord at anytime without first obtaining an order of Court thereafter by himself or through Court Bailiffs or Auctioneers to enter into and upon the premise (including locking up the premises) or any part thereof in the name of the whole and upon such re-entry this tenancy shall absolutely determine and the landlord shall freely enjoy the demised premises in their former state anything herein contained to the contrary in any wise notwithstanding without prejudice to any right of action or remedy of the landlord in respect of any antecedent breach of any of the agreements terms or conditions of the tenant hereinbefore contained and all costs and expense of the re-entry including any loss to or of the tenants' properties shall be borne by the tenants.

(b) Any notice to the tenants shall be sufficiently served if sent to the tenant by registered post or left addressed to them on the premises or left at their last known address in Uganda and shall be sufficiently served on the landlord if delivered to him by registered post or left at his last known address in Uganda or served on his managing agents and any notice sent by post shall be deemed to be given at the time when it was so posted.

(c) Either party may terminate this tenancy agreement by giving the other Three(3) month's advance notice in writing.

(d) If the tenants wish to renew this tenancy after 30/12/2013, they shall serve onto the Landlord a written notice of such intention at least 3 months before expiry of this tenancy and the Landlord may at his discretion renew the tenancy on such terms as the parties may agree to PROVIDED that in any event rent shall be increased by at least 20%.

IN WITNESS WHEREOF the Landlord and tenant have hereunto set their respective hands the day and year first above written.

SIGNED by the said _____ }

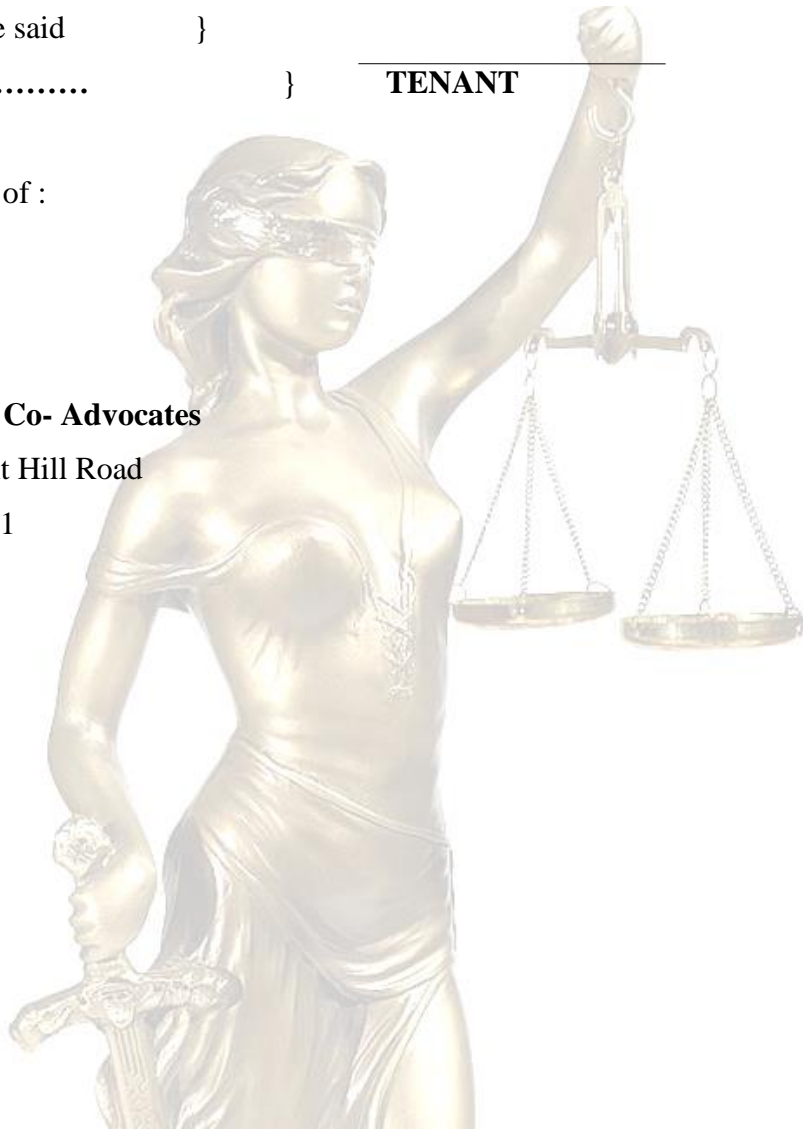
..... } **LANDLORD**

In the presence of:

SIGNED by the said }
..... } **TENANT**

In the presence of :

Drawn by:
Sui Generis & Co- Advocates
Plot 10 Clement Hill Road
P. O. Box 21161
Tel: 341295/6
Fax: 343168
Kampala.



POWERS OF ATTORNEY.

ATTORNEY APPROVAL

This Attorney Approval (the "Agreement") is made and effective [DATE],

BETWEEN: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW THEREFORE, it is further agreed by and between the parties hereto as follows:

TERMS

That their respective attorneys may approve and make modifications, other than price and dates, mutually acceptable to the parties. Approval will not be unreasonably withheld but, if within [NUMBER] business days after the date of this contract it becomes evident agreement cannot be reached by parties hereto, and written notice thereof is given to either party within the time specified, then this contract shall become null and void, and all the monies paid by the Buyer shall be refunded.

IN THE ABSENCE OF WRITTEN NOTICE WITHIN THE TIME SPECIFIED HEREIN; THIS PROVISION SHALL BE DEEMED WAIVED BY ALL PARTIES HERETO AND THIS CONTRACT SHALL BE IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BUYER

SELLER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

LIMITED POWER OF ATTORNEY

This Limited Power of Attorney (the “Agreement”) is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the “Client”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

KNOW ALL MEN BY THESE PRESENTS, that this Power of Attorney is given by Client to Attorney and that the Client hereby appoints Attorney to be its attorney and to do in its name and on its behalf anything that the Client can lawfully do by an attorney, including but not limited to;

1. General Grant of Power

To exercise or perform any act, power, duty, right or obligation whatsoever that Client now has or may hereafter acquire, relating to any person, matter, transaction or property, real or personal, tangible or intangible, now owned or hereafter acquired by Client, including, without limitation, the following specifically enumerated powers. Client grants to Attorney full power and authority to do everything necessary in exercising any of the powers granted here as fully as Client might or could do if personally present, with full power of substitution or revocation, ratifying and confirming all that Attorney shall lawfully do or cause to be done by virtue of this power of attorney and the powers granted here.

2. Collection Powers

To forgive, request, demand, sue for, recover, collect, receive, hold all such sums of money debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension, profit sharing, retirement, social security, insurance and other contractual benefits and proceeds, all documents of title, all property, real or personal, intangible or tangible property and property rights, and demands whatsoever, liquidated or unliquidated, now or hereafter owned by, or due, owing, payable or belonging to, Client or in which Client has or may hereafter acquire an interest; to have, use, and take all lawful means and equitable and legal remedies and proceedings in Client's name for the collection and recovery of them, and to adjust, sell, compromise, and agree for the same, and to execute and deliver for Client, on its behalf, and in its name, all endorsements, releases, receipts, or other sufficient discharges for the same.

3. Real Property Powers

To bargain, contract, agree for, option, purchase, acquire, receive, improve, maintain, repair, insure, plat, partition, safeguard, lease, demise, grant, bargain, sell, assign, transfer, remise, release, exchange, convey, mortgage and hypothecate real estate and any interest in it (and including any interest which Client holds with any other person as joint tenants with full rights of survivorship, or as tenants by the entireties), lands, tenements and hereditaments, for such price, upon such terms and conditions, as Attorney shall determine.

4. Personal Property Powers

To bargain, contract, agree for, purchase, option, acquire, receive, improve, maintain, repair, insure, safeguard, lease, assign, sell, exchange, redeem, transfer, hypothecate and in any and every way and manner deal in and with goods, wares, merchandise, furniture and furnishings, automobiles, bills, notes, debentures, bonds, stocks, limited partnership interests, certificates of deposit, commercial paper, money market instruments, and other securities, choses in action and other tangible or intangible personal property in possession, for such price, upon such terms and conditions, as Attorney shall determine.

5. Gift Power

To make gifts of any kind, provided, however, that the aggregate of all gifts to one donee other than a charitable donee, in any one year shall not exceed Client's federal gift tax annual exclusion for the year in which the gifts are made, and this authority shall be non-cumulative.

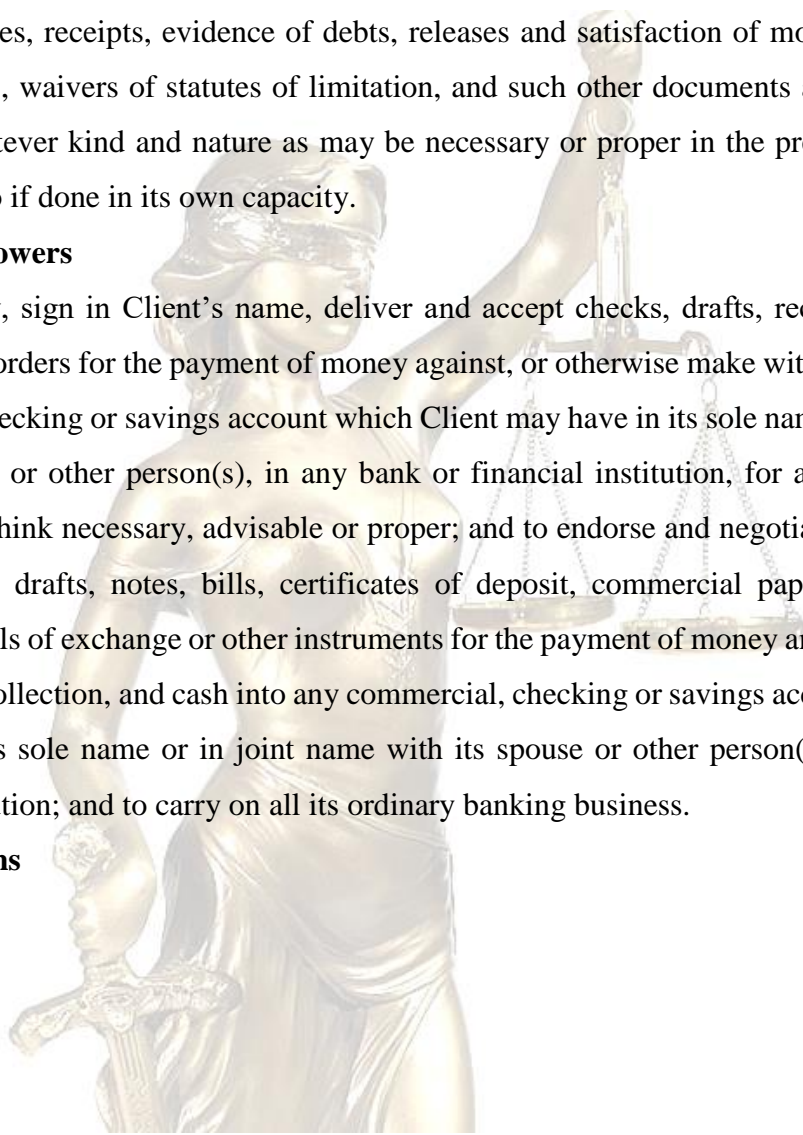
6. Contract Powers

To make, do, and transact every kind of business of whatever nature, and also for Client and in its name, and as its act and deed, to sign, seal, execute, deliver and acknowledge such stock certificates, stock powers, assignments separate from certificate, deeds, conveyances, leases and assignments of leases, covenants, indentures, options, letters of intent, contracts, agreements, closing agreements, certificates, mortgages, hypothecations, bills of lading, bills, bonds, debentures, notes, receipts, evidence of debts, releases and satisfaction of mortgage, judgments and other debts, waivers of statutes of limitation, and such other documents and instruments in writing of whatever kind and nature as may be necessary or proper in the premises, as fully as Client might do if done in its own capacity.

7. Banking Powers

To make, draw, sign in Client's name, deliver and accept checks, drafts, receipts for moneys, notes, or other orders for the payment of money against, or otherwise make withdrawals from any commercial, checking or savings account which Client may have in its sole name or in joint name with its spouse or other person(s), in any bank or financial institution, for any purpose which Attorney may think necessary, advisable or proper; and to endorse and negotiate in its name and deliver checks, drafts, notes, bills, certificates of deposit, commercial paper, money market instruments, bills of exchange or other instruments for the payment of money and to deposit same, as cash or for collection, and cash into any commercial, checking or savings account which Client may have in its sole name or in joint name with its spouse or other person(s), in any bank or financial institution; and to carry on all its ordinary banking business.

8. Tax Returns



To prepare, execute and file reports, returns, declaration, forms and statements for any and all tax purposes including income, gift, real estate, personal property, intangibles tax, single business tax, or any other kind of tax whatsoever, to pay such taxes and any interest or penalty or additions to make and file objections, protests, claims for abatement, refund or credit in relation to any such tax proposed, levied or paid; to represent Client and to institute and prosecute proceedings in court or before any administrative authority to contest any such tax in whole or in part or for recovery of any amount paid in respect of any such tax, to defend or settle any amount paid in respect of any such tax, to give full and final receipt for any refund or credit and to endorse and collect any check or other voucher; to pay any and all such taxes and any interest, penalty or other additional amounts, to employ attorneys, accountants or other representatives and grant powers of attorney or letters of appointment for any of the purposes stated above.

9. Safe Deposit Box

To have access to any safe deposit box of which Client is a tenant or cotenant with full power to withdraw or change from time to time the contents of it; and to exchange or surrender the box and keys to it, renew any rental contract for it, and to do all things which any depository, association or bank or Attorneys may require, releasing the lessor from all liability in connection with it.

10. Employ Agents

To employ and compensate agents, accountants, attorneys, real estate brokers and other professional assistance and to retain and compensate such persons for services rendered; to waive any attorney-client privilege.

11. Motor Vehicles

To apply for a Certificate of Title upon, and endorse and transfer title, for any automobile, or other motor vehicle, and to represent in such transfer assignment that the title to the motor vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer assignment.

12. Settlement Powers

To adjust, settle, compromise or submit to arbitration any accounts, debts, claims, demands, disputes or matters which are now subsisting or may hereafter arise between Client or its Attorney and any other person or persons, or in which any property, right, title, interest or estate belonging to or claimed by Client may be concerned.

13. Legal Actions

To commence, prosecute, enforce or abandon, or to defend, answer, oppose, confess, compromise or settle all claims, suits, actions, or other judicial or administrative proceedings in which Client is or may hereafter be interested, or in which any property, right, title, interest or estate belonging to, coming to or claimed by Client may be concerned.

14. Dividends

To receive all dividends which are or shall be payable on any and all shares of stock in any corporation which may stand in Client's name on the books of such corporation or to which Client may be, in equity or otherwise, beneficially entitled; or to elect to reinvest such dividend, all as Attorney may deem appropriate.

15. Vote Stock

To vote at all stockholder meetings of corporations and otherwise to act as Client proxy or representative in respect of any shares now held or which may hereafter be acquired by Client and for that purpose to sign and execute any proxies or other instruments in its name and on its behalf.

16. Transfer Stock

To sell, assign, transfer, and deliver all and any shares of stock standing in Client's name on the books of any corporation, or to which Client may be, in equity or otherwise, beneficially entitled, and for the purpose to make and execute all necessary acts of assignment and transfer.

17. Insurance and Employee Benefit Plans

To redeem, surrender, borrow, extend, cancel, amend, pledge, alter or change, including change of beneficiary of any insurance policies in which Client may have an interest, as Attorney may deem proper and expedient, and for such purpose to sign and execute any documents, affidavits or forms required in Client's name and on its behalf, except however, Attorney shall have no power and authority over life insurance policies Client may own on Attorney's life; and to exercise all powers and options involving retirement programs, compensation plans, pension, profit sharing and other employee benefit plans.

18. Social Security and Government Benefits

To make application to any governmental agency for any benefit or government obligation to which Client may be entitled; to endorse any checks or drafts made payable to Client from any government agency for its benefit, including any Social Security checks.

19. Business Interests

To continue to conduct or participate in any business in which Client may be engaged or to carry out, modify or amend any agreement to which Client may be a party, and to sell, exchange, modify or terminate such interest to or with such person or persons as Attorney may deem proper and on such terms and with such security as Attorney may deem appropriate; execute partnership agreements, and amendments; incorporate, reorganize, merge, consolidate, recapitalize, sell, liquidate or dissolve any business; elect or employ officers, directors and Attorneys; carry out the provisions of any agreement for the sale of any business interest or the stock in it.

20. Borrow

To borrow from time to time such sums of money and upon such terms as Attorney may think expedient for or in relation to any purpose or object which Attorney may deem proper or expedient, unsecured or upon the security of any of Client’s property, whether real or personal or otherwise, and for such purpose to give, execute in its name, deliver, and acknowledge promissory notes and/or renewals of, mortgages, pledges and guaranties with such powers and provisions as Attorney may think proper or requisite.

21. Debts and Expenses

To pay, compromise, and settle any and all bills, loans, notes or other forms of indebtedness owed by Client at the present time, or which may be owed by Client or incurred by Attorney for Client benefit at any time in the future, and to incur and pay from any of Client’s assets or property all reasonable expenses in connection with the control, management, and supervision of Client’s property and the maintenance, support, care, and comfort of Client, including reasonable compensation for the services of professionals, and including the fees and charges of such attorneys, accountants or others as Attorney may, in the exercise of discretion, employ in the management of any of Client’s affairs.

22. Investments

To invest and reinvest in loans, stocks, bonds, including bonds purchased at a discount but redeemable at face value, securities, real estate, life insurance, annuities or endowment policies or combinations of them, or in any other investment which Attorney may deem proper; to reduce the interest rate at any time and from time to time on any mortgage or land contract; to deal with and give instructions to any brokerage firm with respect to the purchase, sale or other disposition of securities and other assets, add assets to or withdraw assets from any account in Client’s name, and sign any representation, certification or agreement, including agreements regarding margin, option trading, or commodities accounts, that Attorney deems advisable.

23. Restrictions on Attorney's Powers

- a. Attorney cannot execute a will or codicil on Client's behalf.
- b. Attorney cannot execute any trust on Client's behalf, however, Attorney can enter into a custodial agreement with a bank with trust powers.
- c. Attorney cannot divert Client's assets to itself, its creditors or its estate.
- d. Attorney shall not exercise, and shall not be vested with any incidents of ownership as to insurance policies insuring Attorney's life, owned by Client.
- e. Attorney is a fiduciary, possessing no general or limited power of appointment.
- f. Attorney shall not exercise any powers which Client received from Attorney in a fiduciary capacity, and Attorney shall have no authority to exercise any powers, the exercise of which would cause assets of mine to be considered as taxable in Attorney's estate for the purposes of the federal estate tax or the [%] inheritance tax.

24. Interpretation and Governing Law

This instrument is to be construed and interpreted as a general durable Power of Attorney. The enumeration of specific powers here is not intended to, nor does it, limit or restrict the general powers granted here to Attorney. Paragraph headings are for convenience only and are not to be deemed to be part of this instrument. This instrument is executed and delivered in the state of [STATE/PROVINCE], and the laws of the state of [STATE/PROVINCE] shall govern all questions as to the validity of this power and the construction of its provisions.

25. Third-Party Reliance

Third parties may rely upon the representation of Attorney as to all matters relating to any power granted to Attorney, and no person who may act in reliance upon the representations of Attorney or the authority granted to Attorney shall incur any liability to Client or its estate as a result of permitting Attorney to exercise any power, and for the purpose of inducing third parties to rely on this power of attorney, Client warrants that, if this power of attorney is revoked by Client or otherwise terminated, Client will indemnify and save such third party harmless from any loss suffered or liability incurred by such third party in good faith reliance on the authority of Attorney prior to such third party's actual knowledge of revocation or termination of this power of attorney whether such termination is by operation of law or otherwise. This warranty shall bind Client's heirs, devisees and personal representatives.

26. Disability of Principal

This power of attorney shall not be affected by Client's disability. The authority of Attorney shall be exercisable notwithstanding Client's later disability or incapacity or later uncertainty as to whether Client is alive. Any act done by Attorney during any period of Client's disability or incompetency or during any period of uncertainty as to whether Client is alive shall have the same effect as though Client was alive, competent and not disabled, and shall inure to the benefit of and bind Client, its heirs, devisees and personal representatives.

27. Photographic Copies

Photographic or other facsimile reproductions of this executed power may be made and delivered by Attorney, and may be relied upon by any person to the same extent as though the copy were an original. Anyone who acts in reliance upon any representation or certificate of Attorney, or upon a reproduction of this power, shall not be liable for permitting Attorney to perform any act pursuant to this power.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness itshand and official seal.

Signature

Notary

(Seal)

AGREEMENT TO ASSIGN

This Agreement to Assign (the "Agreement") is made ans effective the [DATE],

BETWEEN: [PROSPECTIVE ASSIGNOR NAME] (the "Prospective Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PROSPECTIVE ASSIGNEE NAME] (the "Prospective Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The parties declare:

C. Prospective Assignor has entered into a lease agreement, as lessor, with [lessee], of [address], [city], [state], referred to as "lessee." A copy of the lease agreement, containing a description of the premises, is attached to this agreement as Exhibit A.

D. Prospective Assignor desires to assign the lease agreement to Prospective Assignee, who will assume all liabilities and duties as well as all rights of Prospective Assignor pertaining to the collection of all rents to become due under the lease agreement after the effective date of the assignment.

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

3. Prospective Assignor will transfer and assign to Prospective Assignee all right to the collection of all rents required under the lease agreement provisions in the lease dated [date] on the premises described as follows: [set forth description contained in lease].

4. The assignment shall become effective on [date], and shall apply to all rents due thereafter until expiration of the lease agreement term on [date].

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR
Authorized Signature

ASSIGNEE
Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF ASSETS

This Assignment of Assets (the "Assignment") is made and effective [DATE],

BETWEEN: [STOCKHOLDER NAME] (the "Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, on the day of [date], the Corporation was formed by Articles of Incorporation filed with the Registrar of Companies in and for the [State/Province], and;

WHEREAS, it is necessary to transfer certain assets into the Corporation in order to capitalize the Corporation, and;

WHEREAS, Stockholder is desirous of transferring to the Corporation certain assets shown on the attached Exhibit "A," and the Corporation is desirous of acquiring said assets.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter entered into, it is agreed as follows:

- c. Stockholder does hereby transfer and assign those assets listed on the attached Exhibit "A" to the Corporation.

d. In consideration for said transfer the Corporation issues to Stockholder [number] shares of stock in the Corporation, with a par value [price] per share.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

STOCKHOLDER

CORPORATION

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF CONTRACT

This Assignment of Contract (the "Assignment") is made and effective [DATE],

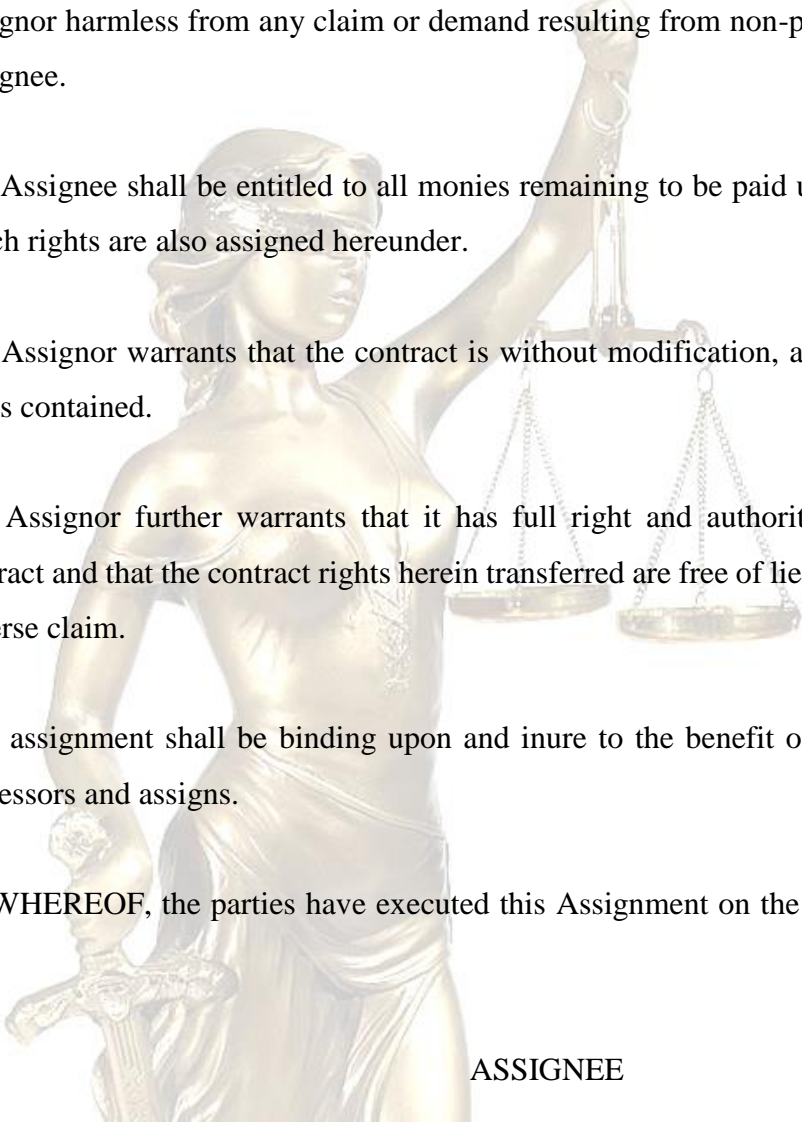
BETWEEN: [ASSIGNOR NAME AND ADDRESS], (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME AND ADDRESS], (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the undersigned Assignor hereby assigns, transfers and sets over to Assignee all rights, title and interest held by the Assignor in and to the following described contract:

[description]

2. TERMS

- 
- a. The Assignor warrants and represents that said contract is in full force and effect and is fully assignable.
 - b. The Assignee hereby assumes and agrees to perform all the remaining and executory obligations of the Assignor under the contract and agrees to indemnify and hold the Assignor harmless from any claim or demand resulting from non-performance by the Assignee.
 - c. The Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.
 - d. The Assignor warrants that the contract is without modification, and remains on the terms contained.
 - e. The Assignor further warrants that it has full right and authority to transfer said contract and that the contract rights herein transferred are free of lien, encumbrance or adverse claim.
 - f. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT

This assignment is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH, that for valuable consideration in hand paid by the Assignee to the Assignor, receipt of which is hereby acknowledged, the Assignor hereby assigns and transfers to the Assignee all of his right, title and interest in and to all [description] set forth in [description] that certain Agreement.

The undersigned fully warrants that it has full rights and authority to enter into this assignment and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

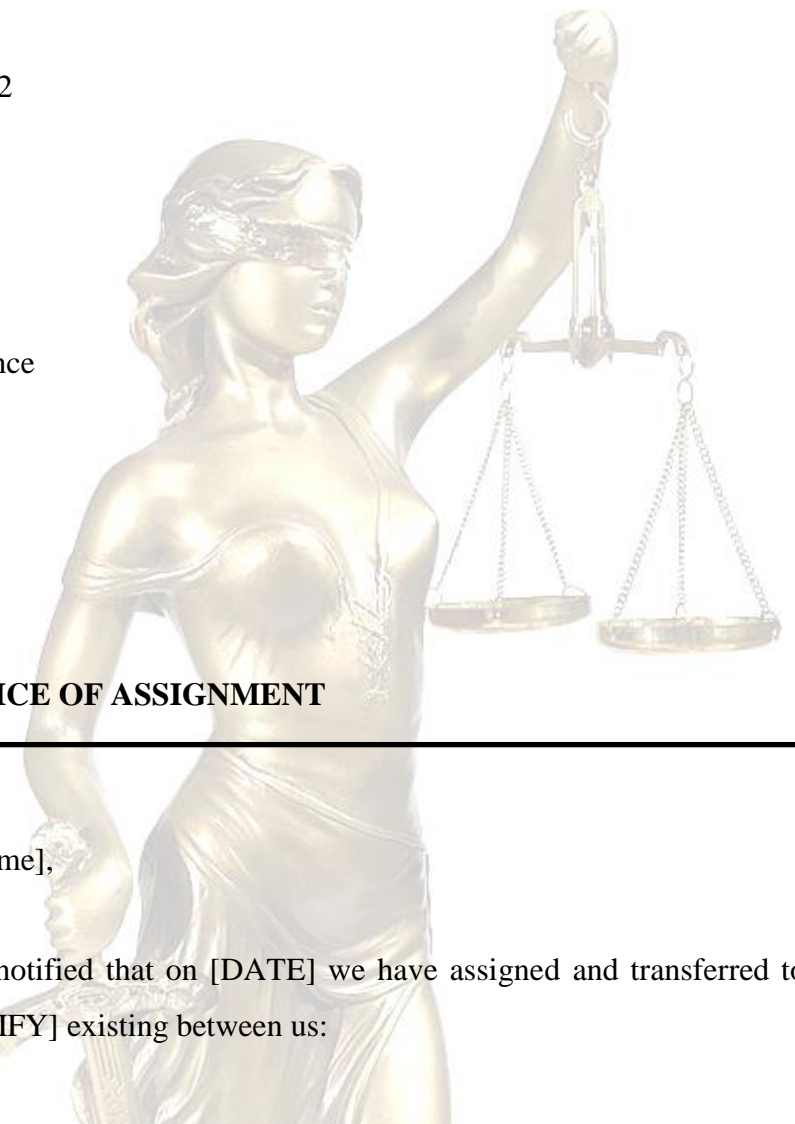
Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE OF ASSIGNMENT

Dear [Contact name],

You are hereby notified that on [DATE] we have assigned and transferred to [SPECIFY] the following [SPECIFY] existing between us:

[DESCRIBE]

Please direct any further correspondence (or payments, if applicable) to them at the following address:

[INSERT

ADDRESS]

Please contact us should you have any questions, and we thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

GENERAL POWER OF ATTORNEY

This General Power of Attorney (the "Agreement") is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

KNOW ALL MEN BY THESE PRESENTS, that this Power of Attorney is given by Client to Attorney and that the Client hereby appoints Attorney to be its attorney and to do in its name and on its behalf anything that the Client can lawfully do by an attorney, including but not limited to;

1. To ask, demand, sue for, recover, collect, and receive all sums of money, debts, dues, accounts, legacies, bequests, interest, dividends, annuities, and demands of every type that are now or may later become due, owing, payable or belonging to Client and have, use, and take all lawful ways and means in Client's name or otherwise for the recovery thereof, by attachments, arrest, distress, or otherwise, and to compromise and agree for them and acquaintances or other sufficient discharges for them;
2. For Client and in its name, to make, seal, and deliver, to bargain, contract, agree for, purchase, receive, and take lands, and tenements, and accept the possession of all lands, and all deeds and other assurances, in the law therefore, and to lease, let, demise, bargain, sell, release, convey, mortgage, and hypothecate lands, and tenements on the terms and conditions and under the covenants as Attorney thinks fit;
3. Also to bargain and agree for, buy, sell, mortgage, hypothecate, and in any and every way and manner deal in and with goods, wares, and merchandise, choses in action, and other property in possession or in action, and to make, do, and transact all and every kind of business of every nature and kind;
4. And also for Client and in its name, and as Client's act and deed, to sign, seal, execute, deliver, and acknowledge the deeds, leases, mortgages, hypothecations, contracts, charter, bills of lading, bills, bonds, notes, receipts, evidence or debt, releases and satisfaction of mortgage, judgments and other debts, and other instruments in writing of every kind and nature that may be necessary or proper in the premises;
5. GIVING AND GRANTING to the Attorney in fact full power and authority to do and person every act necessary, requisite, or proper to be done as fully as Client might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the Attorney in fact may lawfully do or cause to be done by virtue of this Power of Attorney.

All power and authority granted in this power of attorney will automatically terminate on [date] unless sooner revoked by me.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Notary

(Seal)

REVOCATION OF POWER OF ATTORNEY

This Revocation of Power of Attorney (the “Agreement”) is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

KNOW ALL MEN BY THESE PRESENTS, that the [General or Special] Power of Attorney executed by [name of principal], constituted and appointed [name of attorney], for the purpose set forth in said Power of Attorney, is hereby wholly revoked, cancelled and annulled.

This document acknowledges that the Client – grantor of the Power of Attorney – hereby revokes, rescinds and terminates said Power of Attorney and all authority, rights and power thereto effective this date.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ISAAC LUBOGO CHRISTOPHER -----

ATTORNEY

CLIENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Notary

UNLIMITED POWER OF ATTORNEY

This Unlimited Power of Attorney (the "Agreement") is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

BE IT KNOWN, that Client, do hereby grants an Unlimited Power of Attorney to Attorney, as its attorney-in-fact.

TERMS

1. The attorney-in-fact shall have full powers and authority to do and undertake all acts on Client's behalf that Client could do personally including but not limited to the right to sell, buy, lease, mortgage, assign, rent or dispose of any real or personal property; the right to execute, accept, undertake and perform all contracts in Client's name; the right to deposit, endorse, or withdraw funds to or from any of Client's bank accounts or safe deposit box; the right to initiate, defend, commence or settle legal actions on Client's behalf; and the right to retain any accountant, attorney or other advisor deemed necessary to protect Client's interests relative to any foregoing unlimited power.
2. The attorney-in-fact hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with its best interests as Attorney in his best discretion deems advisable.
3. This power of attorney may be revoked by Client at any time, provided any person relying on this power of attorney shall have full rights to accept the authority of the attorney-in-fact until in receipt of actual notice of revocation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Notary

(Seal)

LEASING AND REAL ESTATE.

**ASSIGNMENT OF LEASE BY LESSEE
WITH CONSENT OF LESSOR**



This Assignment of Lease (the “Agreement”) is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. ASSIGNMENT OF LEASE

For value received, Assignor assigns and transfers to Assignee that lease, dated [DATE], executed by assignor as lessee and by [NAME] as lessor, of the following described premises:

[DESCRIBE]

together with all his right, title, and interest in and to the lease and premises, subject to all the conditions and terms contained in the lease, to have and to hold from [DATE], until the present term of the lease expires on [DATE].

A copy of the lease is attached hereto and made a part hereof by reference.

2. ASSIGNOR WARRANTIES AND REPRESENTATION

Assignor covenants that he is the lawful and sole owner of the interest assigned hereunder; that this interest is free from all encumbrances; and that he has performed all duties and obligations and made all payments required under the terms and conditions of the lease.

Assignee agrees to pay all rent due after the effective date of this assignment, and to assume and perform all duties and obligations required by the terms of the lease.

3. CONSENT OF LESSOR

The Lessor, named in the above assignment of that lease executed on [DATE], wishes to consent to this Assignment. The Lessor also consents to the agreement by Assignee to assume after [DATE], the payment of rent and performance of all duties and obligations as set forth in the lease, and releases Assignor from all duties and obligations under the lease, including the payment of rent, after [DATE], and accept Assignee as lessee in the place of Assignor.

4. BINDING AGREEMENT

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

LESSOR

Authorized Signature

Print Name and Title

ASSIGNMENT OF MORTGAGE



This Assignment of Mortgage (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

For and in consideration of [AMOUNT], the receipt of which is hereby acknowledged by, [NOTARY NAME], of [CITY, STATE/PROVINCE], the Assignor hereby grants, assigns and transfers to Assignee that certain mortgage executed by [NAME], and dated, [DATE], and recorded in [OFFICES], in [CITY, STATE/PROVINCE], in [Book of Mortgage], at page [NUMBER], together with the note described therein and the money to become due thereon with the interest provided therein.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

Notary

(Seal)

**ASSIGNMENT OF REAL ESTATE
CONTRACT AND SALE AGREEMENT**



This Assignment of Real Estate Contract and Sale Agreement (the "Agreement") is effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, Assignor has entered into a certain Real Estate Purchase and Sale Agreement with [NAME] as "Seller" and Assignor as "Buyer" which Agreement was executed on [DATE], by said Assignor and on [DATE], by said Seller for the purchase and sale of certain real property being, lying and situate in [CITY, STATE/PROVINCE], and more particularly described in said Agreement, copy of said Agreement being attached hereto as Exhibit "A"; and,

WHEREAS, Assignor desires to assign, transfer, sell and convey to Assignee all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement; and,

WHEREAS, Assignee is desirous of receiving all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement;

TERMS

NOW, THEREFORE, for and in consideration of the sum of [AMOUNT] and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Assignor has assigned, transferred, sold and conveyed and by these presents does hereby assign, transfer, sell and convey unto Assignee all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement. Assignee hereby assumes all of Assignor's duties and obligations under said Real Estate Purchase and Sale Agreement. This Assignment shall be binding upon Assignor and shall inure to the benefit of Assignee and its successors, heirs and assigns.

IN WITNESS WHEREOF this Assignment has been signed, sealed and delivered by Assignor and Assignee as of the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF REAL ESTATE CONTRACT

This Assignment of Real Estate Contract (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit in an Agreement of Purchase and Sale of [DESCRIBE PROPERTY] between [VENDOR] (the "Vendor") and the Assignor, accepted by the Vendor on [DATE], to the Assignee.

The Assignor stipulates, however, that this Assignment is made completely at the risk of the Assignee without any representations, warranties or collateral assurances of any kind whatsoever with regard to the subject matter of this assignment, its ownership or the right to make this assignment.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF RENTS BY LESSOR



This Assignment of Rents (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

For value received, Assignor assigns and transfers to Assignee, all rents and other sums due and to become due, assign or under that lease Dated [DATE], between Assignor as Lessor, and [NAME], as Lessee;

For the lease of the following described property:

[DESCRIBE]

1. Assignor warranties and representations

- a. Assignor is the lawful owner of the above-described lease and of the rental property that is the subject thereof and of all rights and interests therein.
- b. The lease is genuine, valid, and enforceable.
- c. Assignor has a right to make this assignment.
- d. The rental property and rental payments and other sums are free from liens, encumbrances, claims and set offs of every kind whatsoever except as follows:

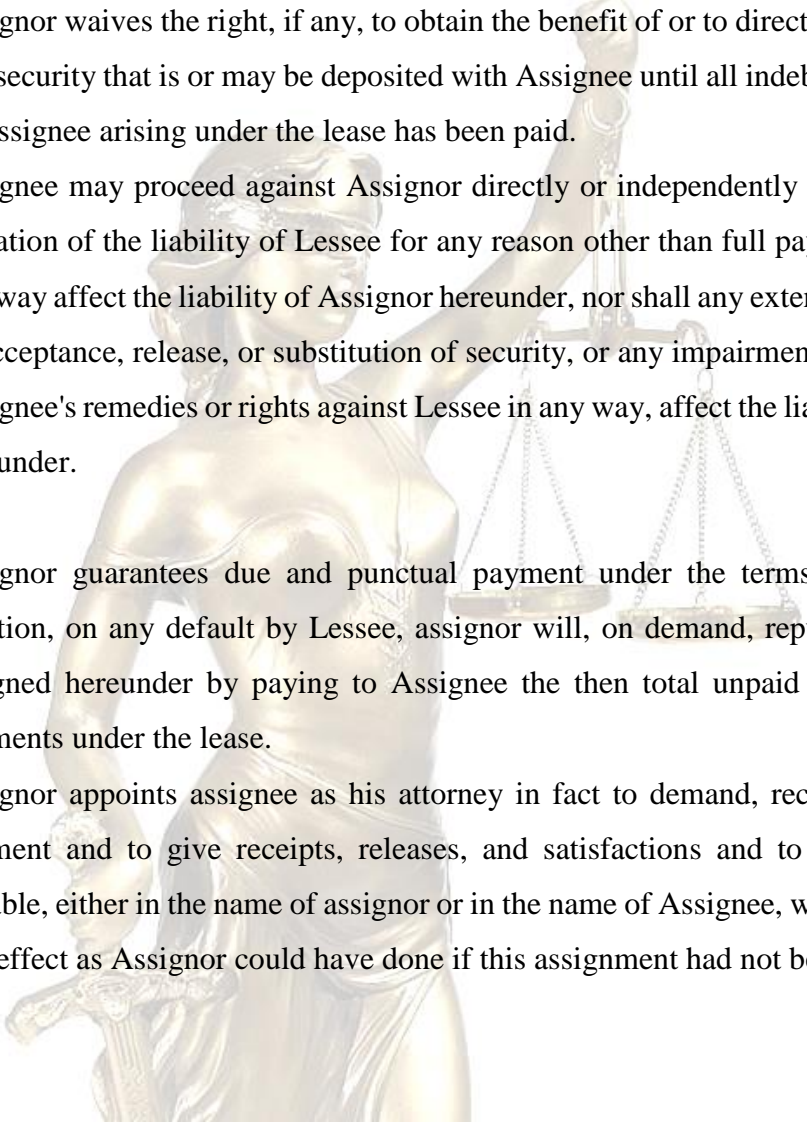
[DESCRIBE]

- e. The balance of rental payments unpaid as of the date of this assignment is [amount] commencing with the next payment due on [date].

2. TERMS AND CONDITIONS OF THE ASSIGNMENT

Assignor understands and agrees that:

- a. Assignee does not assume any of the obligations arising under the Lease.
- b. Assignor will keep and perform all of his obligations as Lessor under the Lease. In addition, Assignor shall indemnify assignee against the consequences of any failure to do so.
- c. Assignor will not assign any other interest in the lease, nor sell, transfer, mortgage, or encumber the property described in the lease, or any part thereof, without first obtaining the written consent of Assignee.

- 
- d. Assignee may, at his discretion, give grace or indulgence in the collection of all rent and other sums due or to become due under the lease, and grant extensions of time for the payment of any such sums.
 - e. Assignor waives the right to require assignee to proceed against Lessee, or to pursue any other remedy.
 - f. Assignor waives the right, if any, to obtain the benefit of or to direct the application of any security that is or may be deposited with Assignee until all indebtedness of Lessee to Assignee arising under the lease has been paid.
 - g. Assignee may proceed against Assignor directly or independently of Lessee and the cessation of the liability of Lessee for any reason other than full payment shall not in any way affect the liability of Assignor hereunder, nor shall any extension, forbearance of acceptance, release, or substitution of security, or any impairment or suspension of Assignee's remedies or rights against Lessee in any way, affect the liability of Assignor hereunder.
 - h. Assignor guarantees due and punctual payment under the terms of the lease, In addition, on any default by Lessee, assignor will, on demand, repurchase the rights assigned hereunder by paying to Assignee the then total unpaid balance of rental payments under the lease.
 - i. Assignor appoints assignee as his attorney in fact to demand, receive, and enforce payment and to give receipts, releases, and satisfactions and to sue for all sums payable, either in the name of assignor or in the name of Assignee, with the same force and effect as Assignor could have done if this assignment had not been made.

3. NOTICES

Notice of this assignment may be given at any time at Assignee's option. In the event any payment under the lease hereby assigned is made to Assignor, Assignor will promptly transmit such payment to Assignee.

4. BINDING AGREEMENT

This assignment is irrevocable and shall remain in full force and effect until and unless there is payment in full of any obligation, the payment of which is secured by it, or until and unless such obligation is released in writing by Assignee.

IN WITNESS WHEREOF this Assignment has been signed, sealed and delivered by Assignor and Assignee as of the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF SUBLEASE

This Assignment of Sublease (the "Assignment") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SUB-TENANT NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good consideration, it is agreed by and between the parties that:

1. ASSIGNMENT OF LEASE

Tenant hereby assigns, transfers and delivers to Sub-Tenant all of Tenant's rights in and to a certain lease between Tenant and Landlord for certain premises known as [Describe], under lease dated [DATE].

2. SUB-TENANT'S OBLIGATIONS

Sub-Tenant agrees to accept said Lease, pay all rents and punctually perform all of Tenant's obligations under said Lease accruing on and after the date of delivery of possession to the Sub-Tenant as contained herein. Sub-Tenant further agrees to indemnify and save harmless the Tenant from any breach of Sub-Tenant's obligations hereunder.

3. DELIVERY OF PREMISES

The parties acknowledge that Tenant shall deliver possession of the leased premises to Sub-Tenant on [DATE]; time being of the essence. All rents and other charges accrued under the Lease prior to said date shall be fully paid by Tenant, and thereafter by the Sub-Tenant.

4. LANDLORD'S OBLIGATIONS

Landlord hereby assents to the assignment of lease, provided that:

- a. Assent to the assignment shall not discharge Tenant of its obligations under the Lease in the event of breach by Sub-Tenant.

- b. In the event of breach by Sub-Tenant, Landlord shall provide Tenant with written notice of same and Tenant shall have full rights to commence all actions to recover possession of the leased premises [in the name of Landlord, if necessary] and retain all rights for the duration of said Lease provided it shall pay all accrued rents and cure any other default.
- c. There shall be no further assignment of lease without prior written consent of Landlord.

5. BINDING AGREEMENT

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

TENANT

SUB-TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

LANDLORD

Authorized Signature

Print Name and Title



TERMINATION OF LEASE OBLIGATION

This Release Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

On [date], a lease agreement was executed between Lessor and Lessee for the premises located at [address], a copy of which is attached hereto and made a part hereof.

[facts giving rise to this release]

The parties desire to settle all claims of Lessor with respect to said lease and to terminate all obligations of either party thereunder.

Therefore, in consideration of [amount], from Lessee, receipt of which is hereby acknowledged, Lessor does hereby release Lessee from all obligations and duties of Lessee set forth in the above referenced lease. Lessor, for himself, his heirs, his legal representatives and his assigns also releases Lessee, his heirs, his legal representatives and his assigns from all claims, demands and causes of action that lessor had, has or may have against lessee or against his heirs, legal representatives or assigns in regard to said lease.

In consideration of the release set forth above, Lessee hereby surrenders all rights in and to the subject leased premises. That possession of said premises shall be delivered up to Lessor immediately upon the execution of this instrument, and that Lessor is relieved of any responsibilities or obligations under the aforementioned lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

MORTGAGE



This Mortgage (the “Agreement”) is made and effective [DATE],

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [MORTGAGEE NAME] (the "Mortgagee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, Mortgagor is justly indebted to Mortgagee in the sum of [AMOUNT] in lawful money of [COUNTRY], and has agreed to pay the same, with interest thereon, according to the terms of a certain note (the "Note") given by Mortgagor to Mortgagee, bearing even date herewith.

1. DESCRIPTION OF PROPERTY SUBJECT TO LIEN: "PREMISES"

NOW, THEREFORE, in consideration of the premises and the sum hereinabove set forth, and to secure the payment of the Secured Indebtedness as defined herein, Mortgagor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Mortgagee property situated in [CITY, STATE/PROVINCE] more particularly described in Exhibit" A" attached hereto and by this reference made a part hereof;

TOGETHER with all buildings, structures and other improvements now or hereafter located on, above or below the surface of the property herein before described, or any part and parcel thereof; and,

TOGETHER with all and singular the tenements, easements, riparian and littoral rights, and appurtenances thereunto belonging or in anywise appertaining, whether now owned or hereafter acquired by Mortgagor, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise) together with the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, claim and demand whatsoever of Mortgagor of, in and to the same and of, in and to every part and parcel thereof; and,

TOGETHER with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter collectively called "Equipment"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection

with any present or future operation of said property and now owned or hereafter acquired by Mortgagor; and,

TOGETHER with all the common elements appurtenant to any parcel, unit or lot which is all or part of the Premises; and,

ALL the foregoing encumbered by this Mortgage being collectively referred to herein as the "Premises";

TO HAVE AND TO HOLD the Premises hereby granted to the use, benefit and behalf of the Mortgagee, forever.

2. EQUITY OF REDEMPTION

Conditioned, however, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee, at its address listed in the Note, or at such other place which may hereafter be designated by Mortgagee, its or their successors or assigns, with interest, the principal sum of [AMOUNT] with final maturity, if not sooner paid, as stated in said Note unless amended or extended according to the terms of the Note executed by Mortgagor and payable to the order of Mortgagee, then these presents shall cease and be void, otherwise these presents shall remain in full force and effect.

3. COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Mortgagee as follows:

- a. **Secured Indebtedness:** This Mortgage is given as security for the Note and also as security for any and all other sums, indebtedness, obligations and liabilities of any and every kind arising, under the Note or this Mortgage, as amended or modified or supplemented from time to time, and any and all renewals, modifications or extensions of any or all of the foregoing (all of which are collectively referred to herein as the "Secured Indebtedness"), the entire Secured Indebtedness being equally secured with and having the same priority as any amounts owed at the date hereof.
- b. **Performance of Note, Mortgage:** Mortgagor shall perform, observe and comply with all provisions hereof and of the Note and shall promptly pay, in lawful money of [COUNTRY], to Mortgagee the Secured Indebtedness with interest thereon as provided in the Note, this Mortgage and all other documents constituting the Secured Indebtedness.
- c. **Extent Of Payment Other Than Principal And Interest:** Mortgagor shall pay, when due and payable, (1) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this instrument or the Secured Indebtedness or any interest of the Mortgagee in the Premises or the obligations secured hereby; (2) premiums on policies of fire and other hazard insurance covering the Premises, as required herein; (3) ground rents or other lease rentals; and (4) other sums related to the Premises or the indebtedness secured hereby, if any, payable by Mortgagor.
- d. **Insurance:** Mortgagor shall, at its sole cost and expense, keep the Premises insured against all hazards as is customary and reasonable for properties of similar type and nature located in [CITY, STATE/PROVINCE].
- e. **Care of Property:** Mortgagor shall maintain the Premises in good condition and repair and shall not commit or suffer any material waste to the Premises.

- f. **Prior Mortgage:** With regard to the Prior Mortgage, Mortgagor hereby agrees to: (i) Pay promptly, when due, all installments of principal and interest and all other sums and charges made payable by the Prior Mortgage; (ii) Promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Mortgagor under the Prior Mortgage, within the period provided in said Prior Mortgage; (iii) Promptly notify Mortgagee of any default, or notice claiming any event of default by Mortgagor in the performance or observance of any term, covenant or condition to be performed or observed by Mortgagor under any such Prior Mortgage. (iv) Mortgagor will not request nor will it accept any voluntary future advances under the Prior Mortgage without Mortgagee's prior written consent, which consent shall not be unreasonably withheld.

4. DEFAULTS

- a. **Event of Default:** The occurrence of any one of the following events which shall not be cured within [NUMBER] days after written notice of the occurrence of the event, if the default is monetary, or which shall not be cured within [NUMBER] days after written notice from Mortgagee, if the default is non-monetary, shall constitute an "Event of Default": (a) Mortgagor fails to pay the Secured Indebtedness, or any part thereof, or the taxes, insurance and other charges, as herein before provided, when and as the same shall become due and payable; (b) Any material warranty of Mortgagor herein contained, or contained in the Note, proves untrue or misleading in any material respect; (c) Mortgagor materially fails to keep, observe, perform, carry out and execute the covenants, agreements, obligations and conditions set out in this Mortgage, or in the Note; (d) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any lien of any kind secured by any portion of the Premises and affecting the priority of this Mortgage.

b. **Options Of Mortgagee Upon Event Of Default:** Upon the occurrence of any Event of Default, the Mortgagee may immediately do any one or more of the following: (a) Declare the total Secured Indebtedness, including without limitation all payments for taxes, assessments, insurance premiums, liens, costs, expenses and attorney's fees herein specified, without notice to Mortgagor (such notice being hereby expressly waived), to be due and collectible at once, by foreclosure or otherwise; (b) Pursue any and all remedies available under the Uniform Commercial Code; it being hereby agreed that [NUMBER] days' notice as to the time, date and place of any proposed sale shall be reasonable; (c) In the event that Mortgagee elects to accelerate the maturity of the Secured Indebtedness and declares the Secured Indebtedness to be due and payable in full at once, or as may be provided for in the Note, or any other provision or term of this Mortgage, then Mortgagee shall have the right to pursue all of Mortgagee's rights and remedies for the collection of such Secured Indebtedness, whether such rights and remedies are granted by this Mortgage, any other agreement, law, equity or otherwise, to include, without limitation, the institution of foreclosure proceedings against the Premises under the terms of this Mortgage and any applicable state or federal law.

5. Prior Liens

Mortgagor shall keep the Premises free from all prior liens (except for those consented to by Mortgagee).

6. Notice, Demand and Request

Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request delivered in accordance with the provisions of the Note relating to notice.

7. Meaning of Words

The words "Mortgagor" and "Mortgagee" whenever used herein shall include all individuals, corporations (and if a corporation, its officers, employees or agents), trusts and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them. The pronouns used herein shall include, when appropriate, either gender and both singular and plural. The word "Note" shall also include one or more notes and the grammatical construction of sentences shall conform thereto.

8. Severability

If any provision of this Mortgage or any other Loan Document or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of the instrument in which such provision is contained, nor the application of the provision to other persons, entities or circumstances, nor any other instrument referred to hereinabove shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

9. Governing Law

The terms and provisions of this Mortgage are to be governed by the laws of the State of [STATE/PROVINVE]. No payment of interest or in the nature of interest for any debt secured in part by this Mortgage shall exceed the maximum amount permitted by law. Any payment in excess of the maximum amount shall be applied or disbursed as provided in the Note in regard to such amounts which are paid by the Mortgagor or received by the Mortgagee.

10. Descriptive Headings

The descriptive headings used herein are for convenience of reference only, and they are not intended to have any effect whatsoever in determining the rights or obligations of the Mortgagor or Mortgagee and they shall not be used in the interpretation or construction hereof.

11. Attorney's Fees

As used in this Mortgage, attorneys' fees shall include, but not be limited to, fees incurred in all matters of collection and enforcement, construction and interpretation, before, during and after suit, trial, appeals and Proceedings. Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney.

12. Exculpation

Notwithstanding anything contained herein to the contrary, the Note which this Mortgage secures is a non-recourse Note and such Note shall be enforced against Mortgagor only to the extent of Mortgagor's interest in the Premises as described herein and to the extent of Mortgagor's interest in any personality as may be described herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MORTGAGOR

MORTGAGEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

MUTUAL CANCELLATION OF LEASE



This Mutual Cancellation of Lease (the "Agreement") is made and effective the [DATE],
BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

FOR GOOD CONSIDERATION, Lessee and Lessor, under a certain Lease agreement between the parties under date of [DATE] (the "Lease"), do hereby mutually agree to terminate and cancel said Lease effective [DATE] and all rights and obligations under said Lease shall thereupon be cancelled excepting only for any obligations under the Lease accruing prior to the effective termination date.

This agreement shall be binding upon the parties, their successors, assigns and personal representatives.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

OBJECT: NOTICE OF BREACH OF LEASE



Dear [Contact name],

You are hereby given notice that you are in breach of your tenancy of the premises located at [Address] under the terms of the lease dated [Date], between [LANDLORD] and [TENANT].

You are in breach of the lease because you have failed to comply with the terms and conditions of your tenancy, as follows:

[LIST HOW TENANT HAS VIOLATED THE LEASE IN CLEAR AND CONCISE LANGUAGE]

If this breach of lease is not corrected within [Number] days from the date of this letter, we will have no choice but to exercise all other legal means available to protect our rights under applicable law.

OBJECTION MY LORD: LEGAL PRACTICE DEMYSTIFIED

Please consider this letter a final demand for you to remedy this situation. If you fail to comply, the undersigned may commence eviction proceedings against you.

Thank you for your anticipated cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE OF LATE FEE OWED



Dear [Contact name],

We received your rent payment in the amount of [Amount] on [Date]. Thank you. If you recall from the rent agreement, a [Amount] fee will be assessed for payment received after the first of the month. Therefore, we still need [Amount] from you, calculated as follows:

Rent Due

Late Fee

Payment

TOTAL

Please make the check payable to [Company name] and mail it to the address shown below. If you have any questions, please call [Name] at [Number].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE THAT EVICTION WILL BE FILED IN COURT



Dear [Contact name],

It is never a pleasure to write this type of letter but it has come to my attention that your company has failed to comply with the terms of your agreement with us dated [Date]. I understand that you have been given a [NUMBER] day notice in accordance with state and local laws and have failed to move.

Therefore, I have instructed the [Office/Premisse] manager not to accept any payment from you. All amounts you still owe will be offset against your security deposit or collected in a legal action.

If you have not moved out of your [Office/Premisse] by [Date], I will file suit the next day. I will also obtain an injunction forcing your removal, with the aid of the police. The lawsuit will be for the amounts owed under the agreement, the costs of filing suit, attorney's fees and enforcement. I plan to zealously collect these amounts from you. When you are evicted, I also plan to inform credit reporting and other agencies of this action.

This position is not negotiable so please govern yourself accordingly. Feel free to contact me if you have any questions.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: OFFER TO LEASE SPACE IN YOUR BUILDING



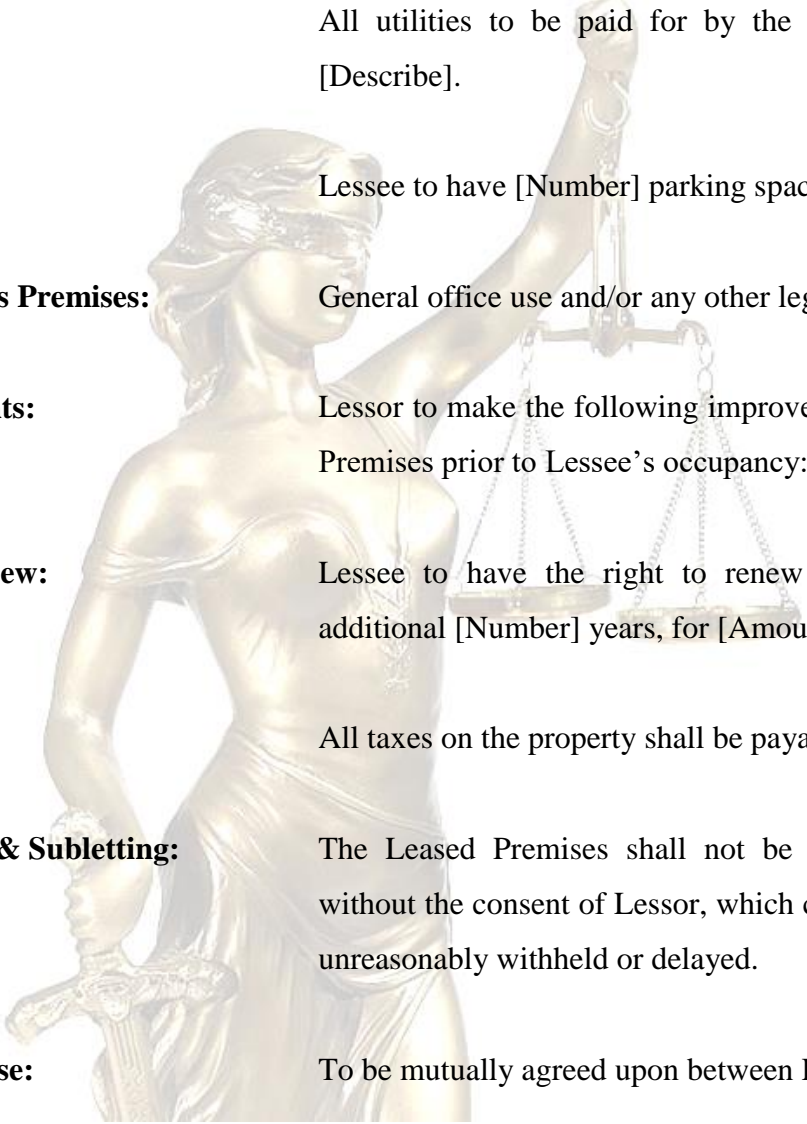
Dear [Contact name],

We have now reviewed your property at [Address] (the “Property”) and are quite interested in leasing space in the Property. We believe we would be excellent tenants and are prepared to consummate a lease as soon as possible.

As a way to commence our discussions, let us lay out some of the key terms which we believe would be acceptable to us:

Leased Premises: The [Storey] floor at the Property, consisting of approximately [Number] square feet.

Commencement Date of Lease: [Date]

- 
- Length of Lease:** [Number] years
- Monthly Rent:** [Amount] for the first [Number] years of the Lease.
[Amount] for the remaining [Number] years of the Lease.
- Utilities:** All utilities to be paid for by the Lessee, except for [Describe].
- Parking:** Lessee to have [Number] parking spaces in the building.
- Use of Leases Premises:** General office use and/or any other legal use.
- Improvements:** Lessor to make the following improvements to the Lease Premises prior to Lessee's occupancy: [Describe].
- Right to Renew:** Lessee to have the right to renew the Lease for an additional [Number] years, for [Amount] per month rent.
- Taxes:** All taxes on the property shall be payable by Lessor.
- Assignment & Subletting:** The Leased Premises shall not be assigned or sublet without the consent of Lessor, which consent shall not be unreasonably withheld or delayed.
- Form of Lease:** To be mutually agreed upon between Lessor and Lessee.

We are happy to discuss any of these terms and look forward to a long and mutually beneficial relationship. So that you may appreciate how responsible of a tenant we would be, I enclose some background information on our company.

Let us set up a meeting to discuss this as soon as possible.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

OPTION TO EXPAND SPACED LEASE

This Option to Lease Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- A. Landlord hereby agrees that Tenant shall be offered the right of refusal to lease all or any portion of [describe other space in the building or designated space] (the “Expansion Space”), as it may become available for lease from time to time. Whenever any portion of the Expansion Space becomes available for lease, Landlord shall provide Tenant with written notice of such availability, which notice shall include the date when Tenant would begin occupancy of such Expansion Space and the rental rate which Tenant shall pay for such Expansion Space.
- B. All other terms and conditions shall be those contained in the Lease between Landlord and Tenant and any Expansion Space leased shall be incorporated in the Lease through execution of an addendum to the Lease. Tenant shall then have [NUMBER] days to respond to such offer and to either accept or reject such Expansion Space. Tenant’s failure to respond timely to such offer shall be construed as a rejection of Landlord’s written offer.
- C. Should Tenant reject the offer to lease any particular Expansion Space when offered, Landlord shall have the right to lease all remaining Expansion Space to other prospective tenants, so long as the terms and conditions of such lease are not more favorable than those offered to Tenant.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title Print Name and Title

OPTION TO LEASE AGREEMENT

This Option to Lease Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

IN CONSIDERATION OF the sum of [AMOUNT] paid by the tenant to the landlord, the receipt whereof is hereby acknowledged, the landlord hereby grants to the tenant, its successors, and assigns, the exclusive option to lease the above-mentioned property as per the attached Lease, upon the following terms and conditions:

1. TERM OF OPTION

This option and all rights and privileges hereunder shall expire the day of [DATE].

2. NOTICE OF EXERCISE OF OPTION

This option is to be exercised by the tenant by written notice delivered personally or forwarded by registered or certified mail, return receipt requested, within the time limited in paragraph 1 to the landlord at the address first above recited.

3. APPLICATION OF OPTION PAYMENT

In the event that the tenant does not exercise his option as herein provided, all sums paid on account thereon shall be retained by the landlord as consideration for this option free of all claims of the tenant, and neither party shall have any further rights or claims against the other.

4. EFFECT OF EXERCISE OF OPTION

In the event that the tenant does exercise its option as herein provided, the sum paid on account of the option shall be applied to the first month's rent, and the terms, covenants, and conditions in the attached Lease Agreement shall become the contract of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

OPTION TO PURCHASE PROPERTY



This Option to Purchase Property (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is entered into upon the basis of the following facts and intentions of the parties:

- A. Seller owns that certain real property described in Exhibit A hereto (the Property”).
- B. Buyer desires to obtain an option to purchase the Property from Seller and Seller is willing to grant such an option to Buyer.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Option

As of the date hereof, the Seller grants to Buyer an option (the “Option”) to purchase the Property from Seller upon all of the terms, covenants and conditions hereinafter set forth. This option may be recorded at the election of Buyer.

2. Consideration for the Option

As consideration for the Option, Buyer shall pay to Seller the sum of [AMOUNT] on the date hereof. In the event this option is exercised, all consideration paid for the Option shall be applied against and be deemed to be a payment upon the purchase price. In the event that Buyer does not exercise the Option, the consideration paid to Buyer for the Option may be retained by Seller without deduction or offset.

3. Term and Exercise

Buyer may exercise the Option at any time up to and until [DATE], by giving Seller written notice of his intention to exercise the Option.

4. Purchase Price

The purchase price (“Purchase Price”) which Buyer agrees to pay upon exercise of the Option is [AMOUNT] per share, payable in cash.

5. Terms

The other terms applicable to the purchase are as follows:

[describe condition of property; title insurance to be obtained; treatment of deeds of trust and encumbrances; who pays closing costs, etc.]

6. Representations and Warranties of Seller

The Seller represents and warrants to the Buyer that:

- A. The Seller has full power and authority to execute and deliver this Agreement, and this Agreement is a valid and binding agreement enforceable against the Seller in accordance with its terms;
- B. Neither the execution of this Agreement nor the sale of the Property will constitute a violation of, or conflict with, or default under, any contract, commitment, agreement, understanding or arrangement to which the Seller is a party or by which Seller is bound or of any law, decree, or judgment;
- C. Now and up to the time of exercise of the Option, the Seller will have valid title to the Property, free and clear of all claims, liens, charges, encumbrances deeds of trust and security interests other than;
- D. [Other representations and warranties as appropriate].

7. Cooperation

Each party shall, upon request of the other party, promptly execute and deliver all additional documents reasonably deemed by the requesting party to be necessary, appropriate or desirable to complete and evidence the sale, assignment and transfer of the Shares pursuant to this Agreement.

8. Purchase and Sale

If Buyer exercises the Option, at a closing (the “Closing”), the Seller shall sell, transfer and deliver the Property, represented by appropriate [identify either warranty deed or quitclaim deed].

9. Survival

All representations, warranties and agreements made by the Seller and by the Buyer in this Agreement shall survive the execution of this Agreement and any Closing and any investigation at any time made by or on behalf of any party hereto.

10. Modification; Assignment

This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto. Buyer may assign his rights under this Agreement with the consent of Seller.

11. Successors

This Agreement will be binding upon, inure to the benefit of and be enforceable by and against the parties hereto and their respective heirs, beneficiaries, executors, representatives and permitted assigns.

12. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

13. Entire Agreement

This Agreement constitutes the entire agreement among the parties with respect to its subject matter and supersedes all agreements, understanding, representations, or warranties, whether oral or written, by or among the parties, previously or contemporaneously made or given.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

EXHIBIT A

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

**OBJECT: REQUEST TO INCLUDE LANDLORD IN TENANT'S LIABILITY
INSURANCE**



Dear [Contact name],

In case you have not had an opportunity to read through the Master Lease, please note that there is an insurance clause that requires the tenant to carry public liability insurance of [Amount] and property damage insurance of [Amount]. The landlord, [Contact name], must be named as additional insured.

Inasmuch as we are sub-leasing these offices to you, please have [Contact name] named also, and ask your agent to send us a notice to that effect.

Thank you very much.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

SUBLEASE AGREEMENT



This Sublease Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [SUB LESSOR NAME] (the "Sub lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SUB LESSEE NAME] (the "Sub lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, Sub lessor, hereby subleases to Sub lessee and Sub lessee does hereby take, lease, and hire from Sub lessor the Leased Premises hereinafter described for the period, and at the rental, subject to, and upon the terms and conditions hereinafter set forth, as follows:

1. DESCRIPTION OF PREMISES

- a. Lessee has leased a building consisting of [number] floors and approximately [number] square feet of office space from [name], lessor, of [address], [city], [state].

- b. Lessee shall demise to sub lessee the [number] square feet of the building, all located on the [#] floor, as more fully described in Exhibit A, which is attached to and made a part of this sublease agreement.

2. TERM OF SUBLEASE

- a. The term of this sublease agreement shall be for an initial period of [number] years, commencing on [date], and terminating on [date], unless earlier terminated by breach of the terms and conditions of this Sublease Agreement.
- b. Lessor concurs that sub lessee may remain in possession of the demised premises for the full term of this sublease agreement, despite any change that may occur in the status of lessee or the lease agreement between lessee and lessor.

3. Acceptance of Leased Premises

Sub lessee’s occupancy of the Leased Premises shall be conclusive evidence of Sub lessee's acceptance of all improvements constituting the Leased Premises, in good and satisfactory condition and repair. Sub lessee shall accept possession and use of the Leased Premises “as is” in their condition existing as of the date hereof with all faults. Sub lessee, at Sub lessee’s sole cost and expense, shall promptly comply with all applicable laws, ordinances, codes, rules, orders, directions and regulations of governmental authority governing and regulating the use or occupancy of the Leased Premises as may now or hereafter be in effect during the Term hereof and shall if so required make any alterations, additions or changes to the Leased Premises as may be required by said laws, ordinances, codes, rules, directions and regulations.

4. Holding Over

Any holding over of the Leased Premises by Sub lessee after the expiration of the Term hereof shall only be with the written consent of Sub lessor first had and obtained and shall be construed to be a tenancy from month to month at a rental per month, or portion thereof, in an amount equal to [%] of the rent due Sub lessor for the month immediately preceding such holding over, and shall otherwise be on the same terms, conditions and covenants herein specified.

5. Sublease Termination and Condition of Premises

Upon the termination of this Sublease for any reason whatsoever, Sub lessee shall return possession of the Leased Premises to Sub lessor or Sub lessor's authorized agent in a good, clean and safe condition, reasonable wear and tear excepted. On or before, and in any event no later than [number] days following the date Sub lessee vacates the Leased Premises and returns possession of same to Sub lessor, Sub lessee and Sub lessor, or authorized agents thereof, shall conduct a joint inspection of the Leased Premises. Sub lessee at its cost shall thereafter promptly repair or correct any defects or deficiencies in the condition of the Leased Premises, reasonable wear and tear excepted.

6. RENT

Sub lessee shall pay to lessee as basic rent [amount] per month, on the [day] of each month, commencing on [date], and continuing each month thereafter during the term of this sublease agreement. Sub lessee shall pay all other sums due as additional rental under the provisions of this sublease agreement on the basic rental payment due date first occurring after the additional rental payment arises.

7. payment of RENT

Sub lessee hereby covenants and agrees to pay rent to Sub lessor, without offset or deduction of any kind whatsoever, in the form and at the times as herein specified. All rent shall be paid to Sub lessor at the address specified in this Sublease unless and until Sub lessee is otherwise notified in writing. Base Minimum Rent payments in the monthly amount set forth below shall be payable monthly, in advance, due on the first (1st) day of each calendar month commencing on the Commencement Date hereof and delinquent if not paid on or before the third (3rd) day of the month throughout the Term of this Sublease. Rent for any period which is for less than one month shall be a pro rata portion of the monthly installment. The required payments under Article 6 and all other charges payable by Sub lessee shall be deemed to be additional rent.

8. Delinquent Payments

In the event Sub lessee shall fail to pay the rent or any installment thereof, or any other fees, costs, taxes or expenses payable under this Sublease within [number] days after the said payment has become due, Sub lessee agrees that Sub lessor will incur additional costs and expenses in the form of extra collection efforts, administrative time, handling costs, and potential impairment of credit on loans for which this Sublease may be a security. Both parties agree that in such event, Sub lessor, in addition to its other remedies shall be entitled to recover a late payment charge against Sub lessee equal to [%] of the amount not paid within said [number] day period. Additionally, any past due amounts under this Sublease shall bear interest at the rate of the lesser of [%] per month or the maximum rate permitted by applicable law. Sub lessee further agrees to pay Sub lessor any cost incurred by Sub lessor in effecting the collection of such past due amount, including but not limited to attorneys' fees and/or collection agency fees. Sub lessor shall have the right to require Sub lessee to pay monies due in the form of a cashier's check or money order. Nothing herein contained shall limit any other remedy of Sub lessor with respect to such payment delinquency.

9. Security Deposit

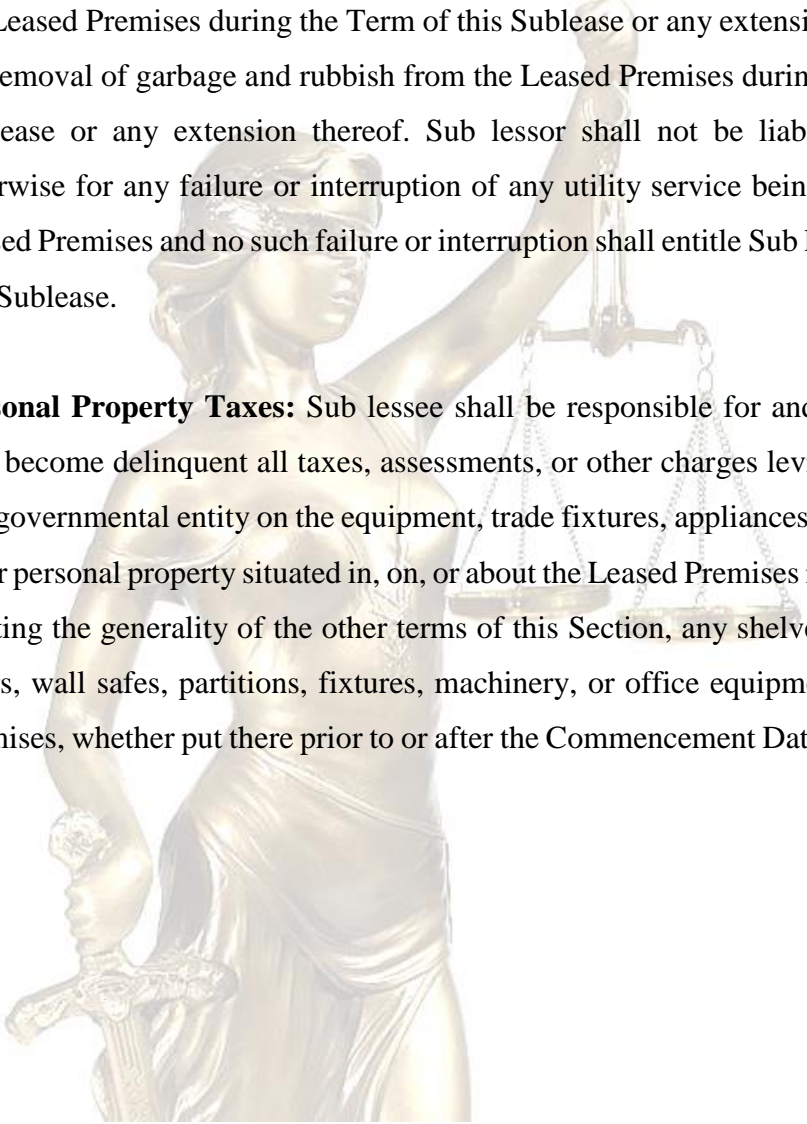
On execution of this Sublease, Sub lessee shall deposit with Sub lessor a sum equal to [amount] (the “Security Deposit”) in order to provide security for the performance by Sub lessee of the provisions of this Sublease. If Sub lessee is in default, Sub lessor may, but shall not be obligated to use the Security Deposit, or any portion of it, to cure the default or to compensate Sub lessor for damage sustained by Sub lessor resulting from Sub lessee's default. Sub lessee shall immediately on demand pay to Sub lessor a sum equal to the portion of the Security Deposit expended or applied by Sub lessor as provided in this paragraph so as to maintain the Security Deposit in the sum initially deposited with Sub lessor. At the expiration or termination of this Sublease, Sub lessor shall return the Security Deposit to Sub lessee or its successor, less such amounts as are reasonably necessary to remedy Sub lessee's defaults, to repair damages the Leased Premises caused by Sub lessee or to clean the Leased Premises upon such termination, as soon as practicable thereafter. In the event of the sale or other conveyance of the Leased Premises, the Security Deposit will be transferred to the purchaser or transferee and the Sub lessor will be relieved of any liability with reference to such Security Deposit. Sub lessor shall not be required to keep the Security Deposit separate from its other funds, and (unless otherwise required by law) Sub lessee shall not be entitled to interest on the Security Deposit.

10. USE OF PREMISES

- a. **Permitted Use:** The Leased Premises are to be used by Sub lessee for the sole purpose of [describe] and for no other purpose whatsoever. Sub lessee shall not use or occupy the Leased Premises or permit the same to be used or occupied for any use, purpose or business other than as provided in this Section a) during the Term of this Sublease or any extension thereof.
- b. **Prohibited Activities:** During the Term of Sublease or any extension thereof, Sub lessee shall not:

- i. Use or permit the Leased Premises to be used for any purpose in violation of any statute, ordinance, rule, order, or regulation of any governmental authority regulating the use or occupancy of the Leased Premises.
 - ii. Cause or permit any waste in or on the Leased Premises.
 - iii. Use or permit the use of the Leased Premises in any manner that will tend to create a nuisance or tend to adversely affect or injure the reputation of Sub lessor or its affiliates.
 - iv. Allow any activity to be conducted on the premises or store any material on the Leased Premises which will increase premiums for or violate the terms of any insurance policy(s) maintained by or for the benefit of Sub lessor.
 - v. Store any explosive, radioactive, dangerous, hazardous or toxic materials in or about the Leased Premises.
 - vi. Use or allow the Leased Premises to be used for sleeping quarters, dwelling rooms or for any unlawful purpose.
 - vii. Build any fences, walls, barricades or other obstructions; or, install any radio, television, phonograph, antennae, loud speakers, sound amplifiers, or similar devices on the roof, exterior walls or in the windows of the Leased Premises, or make any changes to the interior or exterior of the Leased Premises without Sub lessor's prior written consent.
- c. **Operational Permits:** Sub lessee, prior to the Commencement Date, shall obtain and thereafter continuously maintain in full force and effect for the Term of this Sublease or any extension thereof, at no cost or expense to Sub lessor, any and all approvals, licenses, or permits required by any lawful authority as of the Commencement Date or imposed thereafter, for the use of Leased Premises, including but not limited to business licenses.
- d. **Compliance With Laws:** Sub lessee shall comply with all federal, state, county, municipal, or other statutes, laws, ordinances, regulations, rules, or orders of any governmental or quasi-governmental entity, body, agency, commission, board, or official applicable to the Leased Premises and Sub lessee's business.

11. UTILITIES AND TAXES

- 
- a. **Utility Charges:** Sub lessee shall be responsible for and shall pay, and indemnify and hold Sub lessor and the property of Sub lessor free and harmless from, all charges for the furnishing of gas, water, electricity, telephone service, and other public utilities to the Leased Premises during the Term of this Sublease or any extension thereof and for the removal of garbage and rubbish from the Leased Premises during the Term of this Sublease or any extension thereof. Sub lessor shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Leased Premises and no such failure or interruption shall entitle Sub lessee to terminate this Sublease.
- b. **Personal Property Taxes:** Sub lessee shall be responsible for and shall pay before they become delinquent all taxes, assessments, or other charges levied or imposed by any governmental entity on the equipment, trade fixtures, appliances, merchandise and other personal property situated in, on, or about the Leased Premises including, without limiting the generality of the other terms of this Section, any shelves, counters, vault doors, wall safes, partitions, fixtures, machinery, or office equipment on the Leased Premises, whether put there prior to or after the Commencement Date of this Sublease.

c. **Real Property Taxes and Assessments:** Sub lessee shall pay directly to the charging authority all taxes (as hereinafter defined) respecting the Leased Premises. Sub lessee shall pay all taxes on or before [number] days prior to delinquency thereof. Sub lessee shall promptly after payment of any taxes deliver to Sub lessor written receipts or other satisfactory evidence of the payment thereof. As used herein, “taxes” shall mean all taxes, assessments, fees, charges, levies, and penalties (if such penalties result from Sub lessee’s delinquency in paying all or any taxes), of any kind and nature, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including, without limitation, all installments of principal and interest required to pay any general or special assessments for public improvements) now or hereafter imposed by any authority having the direct or indirect power to tax, including, without limitation the federal government, and any state, county, city, or other governmental or quasi-governmental authority, and any improvement or assessment district or other agency or division thereof, whether such tax is:

- i. levied or assessed against or with respect to the value, occupancy, or use of all or any portion of the Leased Premises (as now constructed or as may at any time hereafter be constructed, altered, or otherwise changed), or any legal or equitable interest of Sub lessor in the Leased Premises or any part thereof; or
- ii. levied or assessed against or with respect to Sub lessor's business of leasing the Leased Premises, or with respect to the operation of the Leased Premises; or
- iii. determined by the area of the Leased Premises or any part thereof, or by the gross receipts, income, or rent and other sums payable hereunder by Sub lessee (including, without limitation, any gross income or excise tax levied with respect to receipt of such rent and/or other sums due under this Sublease); or
- iv. imposed upon this transaction or any document to which Sub lessee is a party creating or transferring any interest in the Leased Premises; or

- v. imposed during the term of this Sublease or any extension thereof because of a change in ownership of the Leased Premises which results in an increase of real property taxes; or
- vi. any tax or excise, however described, imposed (whether by reason of a change in the method of taxation or assessment, creation of a new tax or charge, or any other cause) in addition to, in substitution partially or totally of, or as an alternate to, any tax previously included within the definition of taxes, or any tax the nature of which was previously included in the definition of taxes, whether or not now customary or within the contemplation of the parties.

Taxes shall also include all charges, levies or fees imposed by reason of environmental regulation or other governmental control of the Leased Premises, and all costs and expenses and reasonable attorneys' fees paid or incurred by Sub lessor in connection with:

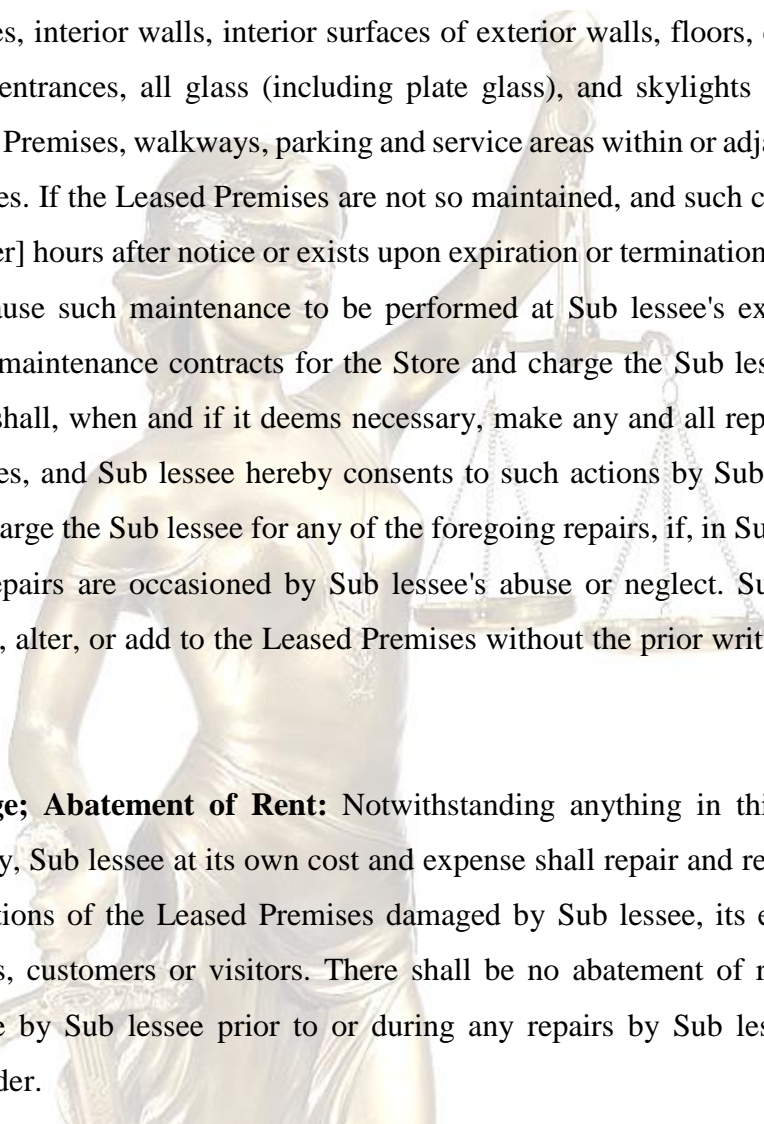
- (1) any proceeding to contest in whole or in part the imposition or collection of any taxes;
- (2) negotiation with public authorities as to any taxes.

- d. **Proration of Taxes:** Sub lessee's liability to pay taxes shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the lease Term and its commencement and expiration.
- e. **Tax Delinquency:** Failure of Sub lessee to pay promptly when due any of the charges required to be paid under this Article shall constitute a default under the terms hereof in like manner as a failure to pay rental when due, and if Sub lessor shall elect to pursue an unlawful detainer action upon said default, then Sub lessor shall be entitled to claim as an amount of additional rent owed for purposes of said unlawful detainer the amount of such taxes due and payable by Sub lessee.

- f. **All Other Charges:** Sub lessee shall pay to Sub lessor any and all charges, fees, taxes, and other amounts due from Sub lessor to the master lessor of the Leased Premises prior to its due date, for sums due or owing on or after the date of this Sublease.
- g. **Common Area Maintenance Charges:** Sub lessee shall be responsible for, and shall pay to Sub lessor on demand, any and all costs, fees, charges, assessments, expenses or payments for which Sub lessor is obligated or liable under the Master Lease with respect to the operation, maintenance and repair of common area of the Leased Premises. “Common area” shall include, without limitation, those areas in or about the property of which the Leased Premises are a part, which have been set aside for the general use, convenience and benefit of the occupants of the property and their customers and employees, including, without limitation, the automobile parking areas, sidewalks, landscaped areas and other areas for pedestrian and vehicular use.

To the extent Sub lessor pays estimated amounts for such common area expenses, Sub lessee shall pay such amounts to Sub lessor on demand from Sub lessor and shall be entitled to reimbursements and/or offsets against future common area expenses as such reimbursements or offsets are received by Sub lessor.

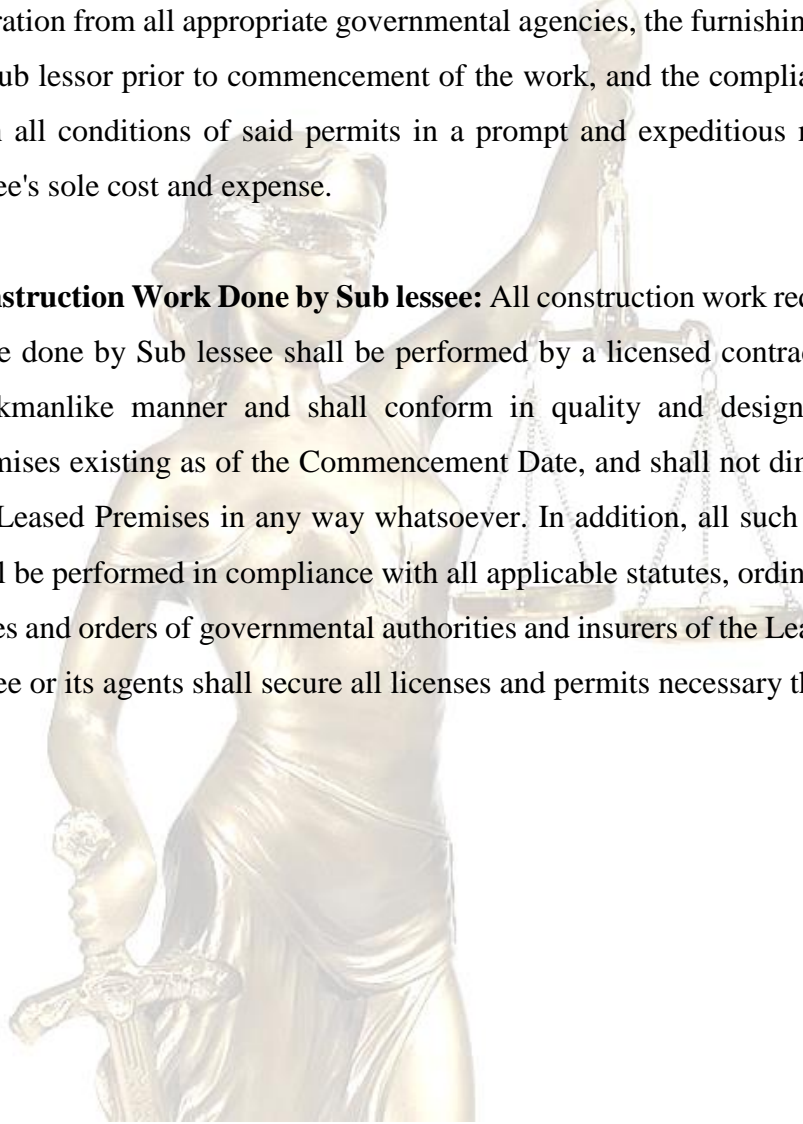
12. MAINTENANCE AND ALTERATIONS

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- a. **Maintenance by Sub lessee:** Sub lessee shall, at its sole cost and expense, keep in good and safe condition, order and repair all portions of the Leased Premises and all facilities appurtenant thereto and every part thereof which Sub lessor is responsible to maintain or repair as lessee under the Master Lease, including without limitation, all plumbing, heating, air conditioning, ventilating, sprinkler, electrical and lighting facilities, interior walls, interior surfaces of exterior walls, floors, ceilings, windows, doors, entrances, all glass (including plate glass), and skylights located within the Leased Premises, walkways, parking and service areas within or adjacent to the Leased Premises. If the Leased Premises are not so maintained, and such condition continues [number] hours after notice or exists upon expiration or termination hereof, Sub lessor may cause such maintenance to be performed at Sub lessee's expense and/or may obtain maintenance contracts for the Store and charge the Sub lessee for same. Sub lessor shall, when and if it deems necessary, make any and all repairs on the Leased Premises, and Sub lessee hereby consents to such actions by Sub lessor. Sub lessor may charge the Sub lessee for any of the foregoing repairs, if, in Sub lessor's opinion, such repairs are occasioned by Sub lessee's abuse or neglect. Sub lessee shall not modify, alter, or add to the Leased Premises without the prior written consent of Sub lessor.
- b. **Damage; Abatement of Rent:** Notwithstanding anything in this Sublease to the contrary, Sub lessee at its own cost and expense shall repair and replace as necessary all portions of the Leased Premises damaged by Sub lessee, its employees, agents, invitees, customers or visitors. There shall be no abatement of rent or other sums payable by Sub lessee prior to or during any repairs by Sub lessee or Sub lessor hereunder.

- c. **Alterations and Liens:** Sub lessee shall not make or permit any other person to make any structural changes, alterations, or additions to the Leased Premises or to any improvement thereon or facility appurtenant thereto without the prior written consent of Sub lessor first had and obtained. Sub lessee shall keep the Leased Premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Leased Premises at the instance or request of Sub lessee. As a condition to giving its consent to any proposed alterations, Sub lessor may require that Sub lessee remove any or all of said alterations at the expiration or sooner termination of the Sublease term and restore the Leased Premises to its condition as of the date of Sub lessee's occupation of the Leased Premises. Prior to construction or installation of any alterations, Sub lessor may require Sub lessee to provide Sub lessor, at Sub lessee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such alterations, to insure Sub lessor against any Liability for mechanic's and materialmen's liens and to insure completion of the work. Should Sub lessee make any alterations without the prior written consent of Sub lessor, Sub lessee shall remove the same at Sub lessee's expense upon demand by Sub lessor.

- d. **Inspection by Sub lessor:** Sub lessee shall permit Sub lessor or Sub lessor's agents, representatives, designees, or employees to enter the Leased Premises at all reasonable times for the purpose of inspecting the Leased Premises to determine whether Sub lessee is complying with the terms of this Sublease and for the purpose of doing other lawful acts that may be necessary to protect Sub lessor's interest in the Leased Premises under this Sublease, or to perform Sub lessor's duties under this Sublease, or to show the Leased Premises to insurance agents, lenders, and other third parties, or as otherwise allowed by law.

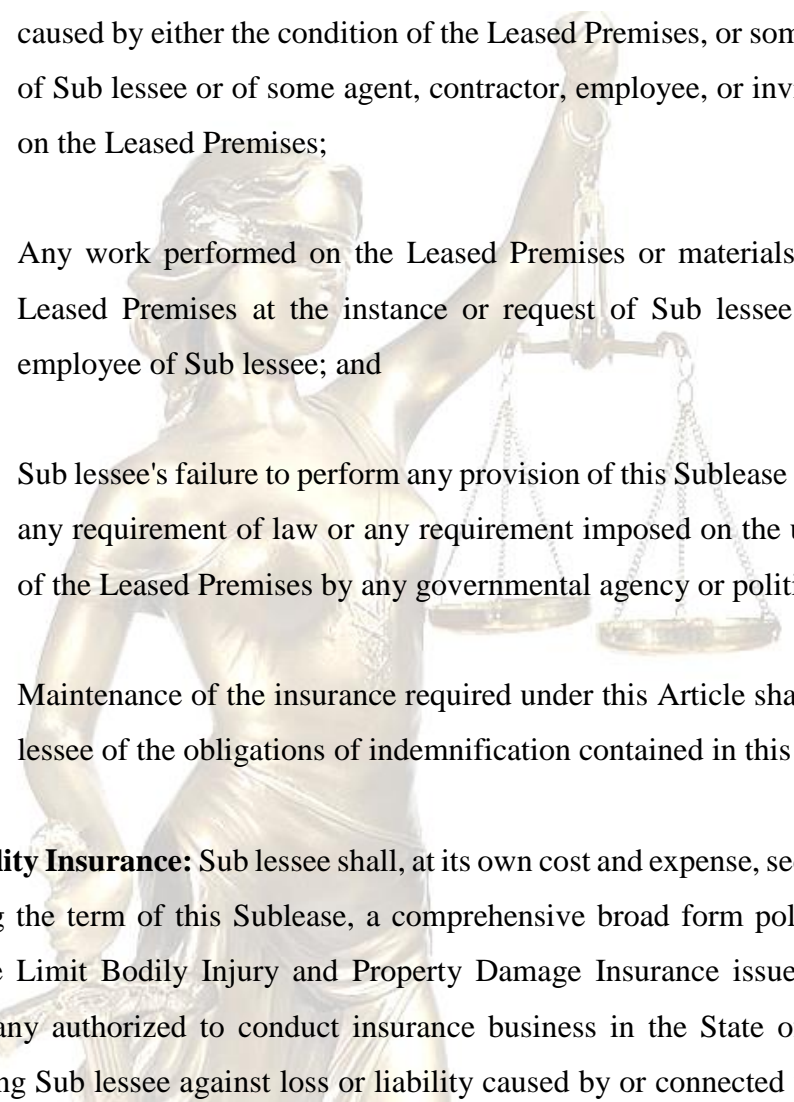
- e. **Plans and Permits:** Any alteration that Sub lessee shall desire to make in or about the Leased Premises and which requires the consent of Sub lessor shall be presented to Sub lessor in written form, with proposed detailed plans and specifications therefor prepared at Sub lessee's sole expense. Any consent by Sub lessor thereto shall be deemed conditioned upon Sub lessee's acquisition of all permits required to make such alteration from all appropriate governmental agencies, the furnishing of copies thereof to Sub lessor prior to commencement of the work, and the compliance by Sub lessee with all conditions of said permits in a prompt and expeditious manner, all at Sub lessee's sole cost and expense.
- f. **Construction Work Done by Sub lessee:** All construction work required or permitted to be done by Sub lessee shall be performed by a licensed contractor in a good and workmanlike manner and shall conform in quality and design with the Leased Premises existing as of the Commencement Date, and shall not diminish the value of the Leased Premises in any way whatsoever. In addition, all such construction work shall be performed in compliance with all applicable statutes, ordinances, regulations, codes and orders of governmental authorities and insurers of the Leased Premises. Sub lessee or its agents shall secure all licenses and permits necessary therefor.



- g. **Title to Alterations:** Unless Sub lessor requires the removal thereof, any alterations which may be made on the Leased Premises, shall upon installation or construction thereof on the Leased Premises become the property of Sub lessor and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of the term of this Sublease. Without limiting the generality of the foregoing, all heating, lighting, electrical (including all wiring, conduits, main and subpanels), air conditioning, partitioning, drapery, and carpet installations made by Sub lessee, regardless of how affixed to the Leased Premises, together with all other alterations that have become a part of the Leased Premises, shall be and become the property of Sub lessor upon installation, and shall not be deemed trade fixtures, and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of this Sublease.
- h. **Removal of Alterations:** In addition to Sub lessor's right to require Sub lessee at the time of installation or construction of any alteration to remove the same upon expiration or sooner termination of this Sublease, Sub lessor may elect, by notice to Sub lessee at least [number] days before expiration of the Term hereof, or within [number] days after sooner termination hereof, to acquire Sub lessee to remove any alterations that Sub lessee has made to the Leased Premises. If Sub lessor so elects, Sub lessee shall, at its sole expense, upon expiration of the Term hereof, or within [number] days after any sooner termination hereof, remove such alterations, repair any damage occasioned thereby, and restore the Leased Premises to the condition existing as of the Commencement Date or such other condition as may reasonably be designated by Sub lessor in its election.

13. INDEMNITY AND INSURANCE

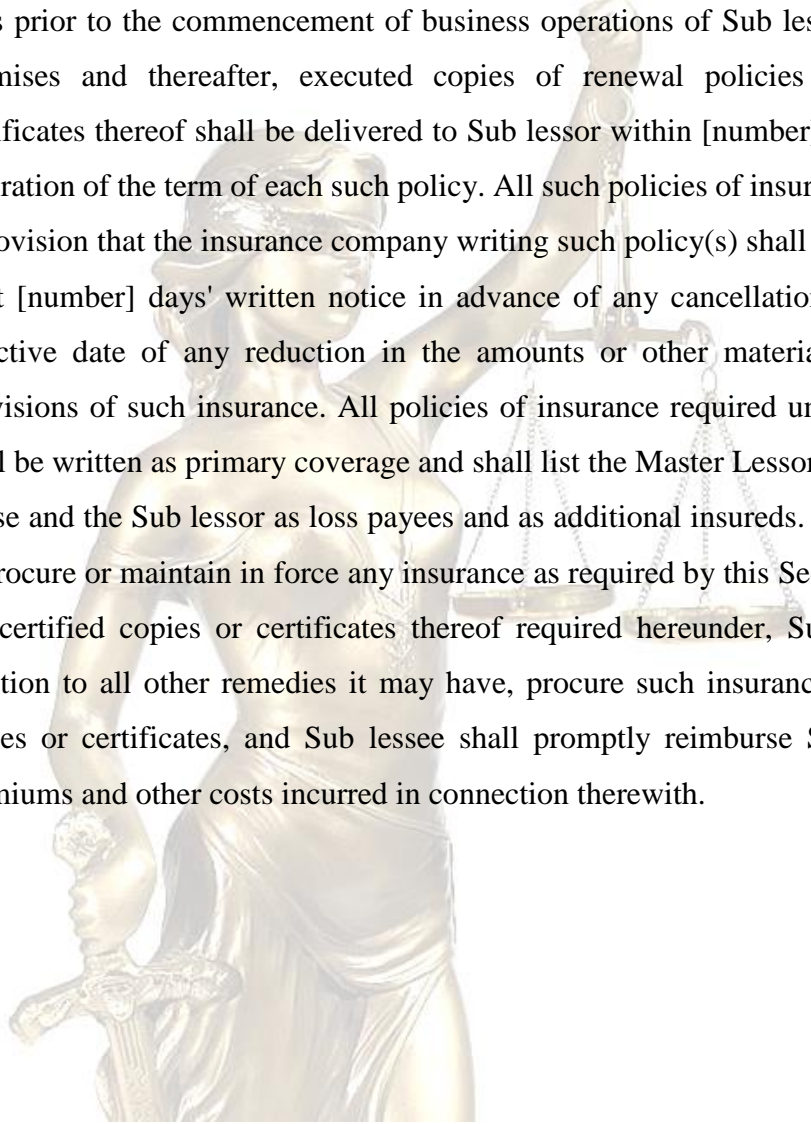
- a. **Hold-Harmless Clause:** Sub lessee agrees to indemnify, defend and hold Sub lessor, the property of Sub lessor, and the Leased Premises, free and harmless from any and all claims, liability, loss, damage, or expenses incurred by reason of this Sublease or resulting from Sub lessee's occupancy and use of the Leased Premises (other than as a result of the direct gross negligence of Sub lessor), specifically including, without limitation, any claim, liability, loss, or damage arising by reason of:

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- i. The death or injury of any person or persons, including Sub lessee, any person who is an employee or agent of Sub lessee, or by reason of the damage to or destruction of any property, including property owned by Sub lessee or any person who is an employee or agent of Sub lessee, and caused or allegedly caused by either the condition of the Leased Premises, or some act or omission of Sub lessee or of some agent, contractor, employee, or invitee of Sub lessee on the Leased Premises;
 - ii. Any work performed on the Leased Premises or materials furnished to the Leased Premises at the instance or request of Sub lessee or any agent or employee of Sub lessee; and
 - iii. Sub lessee's failure to perform any provision of this Sublease or to comply with any requirement of law or any requirement imposed on the use by Sub lessee of the Leased Premises by any governmental agency or political subdivision.
 - iv. Maintenance of the insurance required under this Article shall not relieve Sub lessee of the obligations of indemnification contained in this Section.
- b. **Liability Insurance:** Sub lessee shall, at its own cost and expense, secure and maintain during the term of this Sublease, a comprehensive broad form policy of Combined Single Limit Bodily Injury and Property Damage Insurance issued by a reputable company authorized to conduct insurance business in the State of [state/province] insuring Sub lessee against loss or liability caused by or connected with Sub lessee's use and occupancy of the Leased Premises in an amount not less than [amount] per occurrence.

- c. **Casualty and Fire Insurance:** At all times during the Term hereof, Sub lessee shall keep the Leased Premises and personal property thereon insured against loss or damage by fire, windstorm, hail, explosion, damage from vehicles, smoke damage, vandalism, casualty and malicious mischief and such other risks as are customarily included in “all risk” extended insurance coverage, including coverage for business interruption, in an amount equal to not less than [number] of the actual replacement value of the Leased Premises and the personal property, fixtures, and other property on the Leased Premises.

- d. **Workers' Compensation Insurance:** During the term of this Sublease, Sub lessee shall comply with all Workers' Compensation laws applicable on the date hereof or enacted thereafter and shall maintain in full force and effect a Workers' Compensation Insurance policy covering all employees in any way connected with the business conducted by Sub lessee pursuant to this Sublease and shall pay all premiums, contributions, taxes and such other costs and expenses as are required to be paid incident to such insurance coverage, all at no cost to Sub lessor.

- e. **Policy Form:** The policies of insurance required to be secured and maintained under this Sublease shall be issued by good, responsible companies, qualified to do business in the State of [state/province], with a general policy holders' rating of at least "A". Executed copies of such policies of insurance or certificates thereof shall be delivered to Sub lessor and to the Master Lessor under the Master Lease not later than [number] days prior to the commencement of business operations of Sub lessee at the Leased Premises and thereafter, executed copies of renewal policies of insurance or certificates thereof shall be delivered to Sub lessor within [number] days prior to the expiration of the term of each such policy. All such policies of insurance shall contain a provision that the insurance company writing such policy(s) shall give Sub lessor at least [number] days' written notice in advance of any cancellation or lapse, or the effective date of any reduction in the amounts or other material changes in the provisions of such insurance. All policies of insurance required under this Sublease shall be written as primary coverage and shall list the Master Lessor under the Master Lease and the Sub lessor as loss payees and as additional insureds. If Sub lessee fails to procure or maintain in force any insurance as required by this Section or to furnish the certified copies or certificates thereof required hereunder, Sub lessor may, in addition to all other remedies it may have, procure such insurance and/or certified copies or certificates, and Sub lessee shall promptly reimburse Sub lessor for all premiums and other costs incurred in connection therewith.



- f. **Waiver of Subrogation:** Sub lessee agrees that in the event of loss or damage due to any of the perils for which it has agreed to provide insurance, Sub lessee hereby waives any and all claims that it might otherwise have against Sub lessor with respect to any risk insured against to the extent of any proceeds realized from the insurance coverage to compensate for a loss. To the extent permitted by applicable insurance policies without voiding coverage, Sub lessee hereby releases and relieves Sub lessor, and waives its entire right of recovery against Sub lessor for loss or damage arising out of or incident to the perils insured against to the extent of insurance proceeds realized for such loss or damage, which perils occur in, on or about the Leased Premises and regardless of the cause or origin, specifically including the negligence of Sub lessor or its agents, employees, contractors and/or invitees. Sub lessee shall to the extent such insurance endorsement is available, obtain for the benefit of Sub lessor a waiver of any right of subrogation which the insurer of such party might otherwise acquire against Sub lessor by virtue of the payment of any loss covered by such insurance and shall give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Sublease.

14. SIGNS AND TRADE FIXTURES

- a. **Installation of Trade Fixtures:** For so long as Sub lessee is not in default of any of the terms, conditions and covenants of this Sublease, Sub lessee shall have the right at any time and from time to time during the Term of this Sublease and any renewal or extension of such term, at Sub lessee's sole cost and expense, to install and affix in, to, or on the Leased Premises such items (hereinafter called "trade fixtures"), for use in Sub lessee's trade or business as Sub lessee may, in its reasonable discretion, deem advisable.
- b. **Signs:** Subject to any and all requirements now or hereinafter enacted by any municipal, county, or state regulatory agency having jurisdiction thereover and subject to Sub lessor's written consent, Sub lessee may erect at Sub lessee's cost, a sign on the Leased Premises identifying the Leased Premises. Sub lessee shall maintain, at Sub lessee's sole cost and expense, said sign.

- c. **Removal of Signs and Trade Fixtures:** In addition to Sub lessor's right to require Sub lessee at the time of installation of any sign or trade fixtures to remove the same upon expiration or sooner termination of this Sublease, Sub lessor may elect, by notice to Sub lessee at least [number] days before expiration of the Term hereof, or within [number] days after sooner termination hereof, to require Sub lessee to remove any sign or trade fixture owned by Sub lessee. If Sub lessor so elects, Sub lessee shall at its sole cost and expense, upon expiration of the Term hereof, or within [number] days after any sooner termination hereof, remove such sign or trade fixture owned by Sub lessee. If Sub lessor so elects, Sub lessee shall, at its sole cost and expense, upon expiration of the Term hereof, or within [number] days after any sooner termination hereof, remove such sign or trade fixture, repair any damage occasioned thereby, and restore the Leased Premises to the condition existing as of the Commencement Date or such other condition as may reasonably be designated by Sub lessor in its election.

15. CONDEMNATION AND DESTRUCTION

- a. **Total Condemnation:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of all of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, this Sublease shall terminate as of the date actual physical possession of the Leased Premises is taken by the agency or entity exercising the power of eminent domain and both Sub lessor and Sub lessee shall thereafter be released from all obligations under this Sublease.

- b. **Termination Option for Partial Condemnation:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of more than [%] of the floor area of the Leased Premises, and/or more than [%] of the parking area of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, Sub lessor may terminate this Sublease. The option herein reserved shall be exercised by giving written notice on or before [number] days after actual physical possession of the portion subject to the eminent domain power is taken by the agency or entity exercising that power and this Sublease shall terminate as of the date the notice is deemed given.

- c. **Partial Condemnation Without Termination:** Should Sub lessee or Sub lessor fail to exercise the termination option described in this Article, or should the portion of the Leased Premises taken under the power of eminent domain be insufficient to give rise to the option therein described, then, in that event:
 - i. This Sublease shall terminate as to the portion of the Leased Premises taken by eminent domain as of the day (hereinafter called the “date of taking”), actual physical possession of that portion of the Leased Premises is taken by the agency or entity exercising the power of eminent domain;

 - ii. Base Minimum Rent to be paid by Sub lessee to Sub lessor pursuant to the terms of this Sublease shall, after the date of taking, be reduced by an amount that bears the same ratio to the Base Minimum Rent specified in this Sublease as the square footage of the actual floor area of the Leased Premises taken under the power of eminent domain bears to the total square footage of floor area of the Leased Premises as of the date of this Sublease; and

 - iii. Except to the extent the Master Lessor under the Master Lease is so obligated, Sub lessee, at Sub lessee's own cost and expense shall remodel and reconstruct the building remaining on the portion of the Leased Premises not taken by eminent domain into a single efficient architectural unit in accordance with plans mutually approved by the parties hereto as soon after the date of taking, or before, as can be reasonably done.

- d. **Condemnation Award:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of all or any portion of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, the compensation or damages for the taking awarded shall belong to and be the sole property of the Sub lessor.
- e. **Destruction:** (a) In the event the Leased Premises are damaged or destroyed and the total costs and expenses for repairing or reconstructing the Leased Premises exceeds the sum of [amount], Sub lessor, at Sub lessor's option, may:
- i. Continue this Sublease in full force and effect by restoring, repairing or rebuilding the Leased Premises at Sub lessor's own cost and expense or through insurance coverage; or
 - ii. Terminate this Sublease by serving written notice of such termination on Sub lessee no later than [number] days following such casualty, in which event this Sublease shall be deemed to have been terminated on the date of such casualty.
 - iii. In the event the Leased Premises are damaged or destroyed and Sub lessee will not be able to operate any business thereon for [number] consecutive days, Sub lessee, at Sub lessee's option, may terminate this Sublease by serving written notice of such termination on Sub lessor no later than [number] days following such casualty, in which event this Sublease shall be deemed terminated on the date of such casualty; provided, however, that such termination right shall not be applicable unless Sub lessor has a similar termination right under the Master Lease.

iv. Should Sub lessor or the Master Lessor under the Master Lease elect to repair and restore the Leased Premises to their former condition following partial or full destruction of the Leased Premises:

1. Sub lessee shall not be entitled to any damages for any loss or inconvenience sustained by Sub lessee by reason of the making of such repairs and restoration.
2. Sub lessor and such Master Lessor shall have full right to enter upon and have access to the Leased Premises, or any portion thereof, as may be reasonably necessary to enable such parties promptly and efficiently to carry out the work of repair and restoration.

f. **Damage by Sub lessee:** Sub lessee shall be responsible for and shall pay to Sub lessor any and all losses, damages, costs, and expenses, including but not limited to attorney's fees, resulting from any casualty loss caused by the negligence or wilfull misconduct of Sub lessee or its employees, agents, contractors, or invitees.

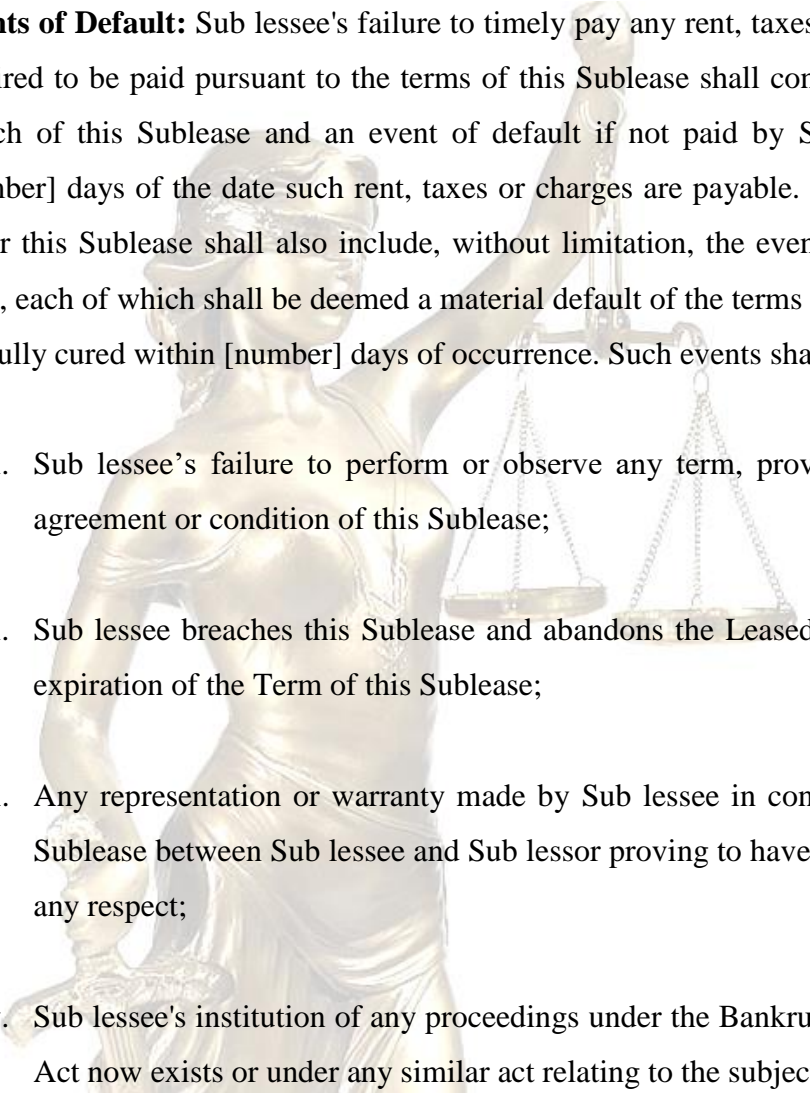
16. SUBLEASING, ASSIGNMENT, DEFAULT AND TERMINATION

- a. **Subleasing and Assignment:** Sub lessee shall not sell, assign, hypothecate, pledge or otherwise transfer this Sublease, or any interest therein, either voluntarily, involuntarily, or by operation of law, and shall not sublet the Leased Premises, or any part thereof, or any right or privilege appurtenant thereto, for any reason whatsoever, or permit the occupancy thereof by any person, persons, or entity through or under it, or grant a security interest in Sub lessee's interest in the Leased Premises or this Sublease or any fixtures located on the Leased Premises, without the prior written consent of Sub lessor first had and obtained, which may be given or withheld in the Sub lessor's sole and absolute discretion. For the purpose of this Section, any dissolution, merger, consolidation or other reorganization of Sub lessee, or any change or changes in the stock ownership of Sub lessee, which aggregates [%] or more of the capital stock of Sub lessee shall be deemed to be an assignment of this Sublease. Sub lessee shall not mortgage, hypothecate or encumber this Sublease. Sub lessor's consent to one assignment, subletting, occupancy, or use by any other person, entity or entities shall not relieve Sub lessee from any obligation under this Sublease and shall not be deemed to be a consent to any subsequent assignment, subletting, occupancy or use. Any assignment, pledge, subletting, occupancy or use without Sub lessor's written consent shall be void and shall, at the option of the Sub lessor, terminate this Sublease.

Should this Sublease be assigned, or should the Leased Premises or any part thereof be sublet or occupied by any person or persons other than the original Sub lessee hereunder, Sub lessor may collect rent from the assignee, sub lessee or occupant and apply the net amount collected to the rent herein reserved, but no such assignment, subletting, occupancy or collection of rent shall be deemed a consent to such assignment, subletting or occupancy or a waiver of any term of this Sublease, nor shall it be deemed acceptance of the assignee, sub lessee or occupant as a tenant, or a release of Sub lessee from the full performance by Sub lessee of all the terms, provisions, conditions and covenants of this Sublease.

In the event Sub lessee wishes to assign this Sublease or sublet or allow the use of the Leased Premises or any part thereof, Sub lessee shall give Sub lessor not less than [number] days written notice thereof and shall, in such notice, provide the name of the proposed assignee or sub lessee, its proposed use of the Leased Premises, its background, such financial and credit information as Sub lessor may require to determine the business experience, financial stability and creditworthiness of the proposed assignee or sub lessee, and such additional information as Sub lessor may request. Sub lessee shall also pay Sub lessor a one-time administrative fee of [amount] to reimburse Sub lessor for its costs of reviewing, analyzing and processing the request for consent to assignment or subletting. In addition to its right to consent or refuse to consent to a proposed assignment Sub lessor shall have the option, exercisable by written notice to Sub lessee within the [number] days after Sub lessee gives Sub lessor written notice of its desire to assign the Sublease, to terminate this Sublease with respect to the entire Leased Premises upon a date specified in said notice to Sub lessee not less than [number] days nor more than [number] days after the date of said notice and retake the Leased Premises for its own use. If Sub lessor exercises such option, Sub lessee shall nonetheless have the right, exercisable by notice given to Sub lessor within [number] days after Sub lessor's notice of exercise is given, to withdraw the proposed assignment from consideration, in which event the exercise of Sub lessor's option shall be of no force or effect and, except for the payment of the fee provided for in Subsection (c) above, the assignment shall be deemed not to have been proposed. If Sub lessor does not elect to exercise its option to terminate this Lease and consents to the assignment or sublease, said assignee or sub lessee shall pay directly to Sub lessor all rent or other consideration payable by the assignee or sub lessee in excess of the amount of rent or other consideration payable by Sub lessee to Sub lessor hereunder (whether denominated as rent or otherwise) and shall expressly assume Sub lessee's obligations hereunder. As a condition to Sub lessor's consent to an assignment or subletting, Sub lessor shall be entitled to receive (i) in the case of a subletting, [%] of all rent (however denominated and paid) payable by the subtenant to Sub lessee in excess of that payable by Sub lessee to Sub lessor pursuant to the other provisions of this Sublease, and (ii) in the case of an assignment, [%] of all consideration given, directly or indirectly, by the assignee to Sub lessee in connection with such assignment. For purposes of this paragraph, the term "rent" shall mean and include all consideration paid or given, directly or indirectly, for the use of the Leased Premises or any portion thereof, and the term "consideration" shall mean and include money, services, property or any other thing of value such as payment of costs, cancellation of indebtedness, discounts, rebates and the like. Any rent or other consideration which is to be passed through to Sub lessor pursuant to

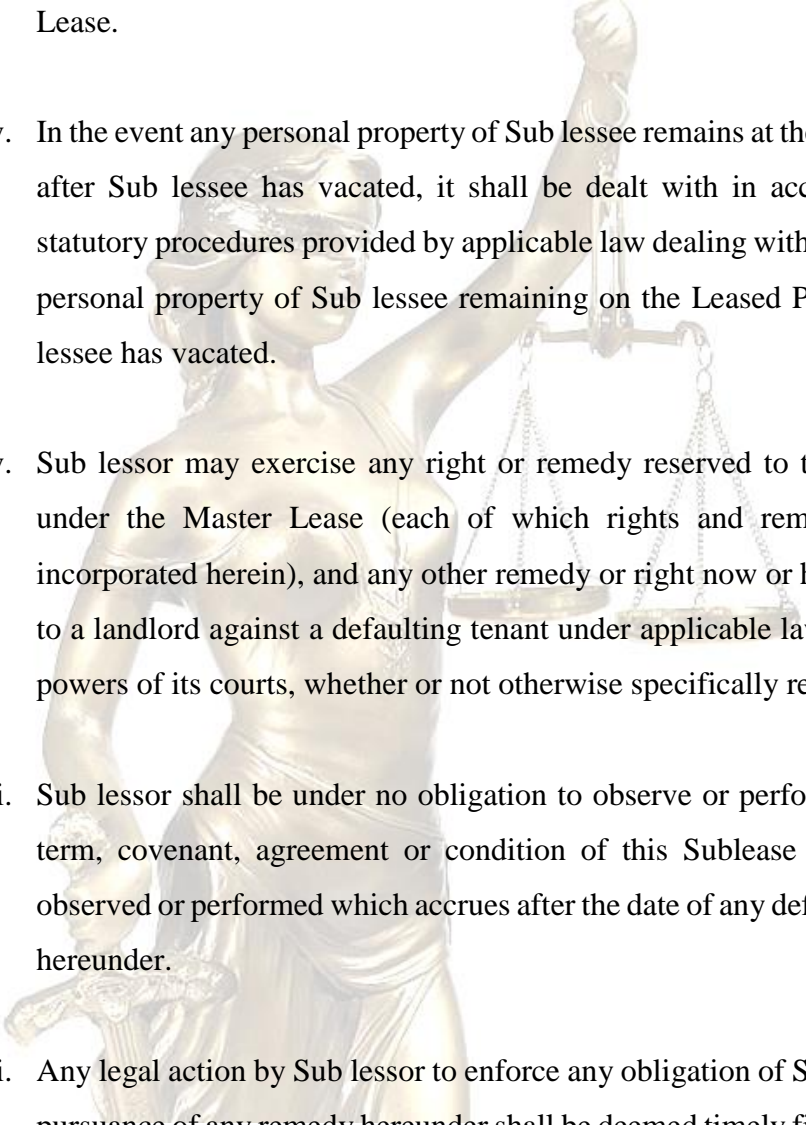
this paragraph shall be paid to Sub lessor promptly upon receipt by Sub lessee and shall be paid in cash, regardless of the form in which received by Sub lessee. In the event any rent or other consideration received by Sub lessee is in a form other than cash, Sub lessee shall pay to Sub lessor in cash the fair value of Sub lessor's portion of such consideration.

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- b. **Events of Default:** Sub lessee's failure to timely pay any rent, taxes or other charges required to be paid pursuant to the terms of this Sublease shall constitute a material breach of this Sublease and an event of default if not paid by Sub lessee within [number] days of the date such rent, taxes or charges are payable. Events of default under this Sublease shall also include, without limitation, the events hereinafter set forth, each of which shall be deemed a material default of the terms of the Sublease if not fully cured within [number] days of occurrence. Such events shall include:
- i. Sub lessee's failure to perform or observe any term, provisions, covenant, agreement or condition of this Sublease;
 - ii. Sub lessee breaches this Sublease and abandons the Leased Premises before expiration of the Term of this Sublease;
 - iii. Any representation or warranty made by Sub lessee in connection with this Sublease between Sub lessee and Sub lessor proving to have been incorrect in any respect;
 - iv. Sub lessee's institution of any proceedings under the Bankruptcy Act, as such Act now exists or under any similar act relating to the subject of insolvency or bankruptcy, whether in such proceeding Sub lessee seeks to be adjudicated a bankrupt, or to be discharged of its debts or effect a plan of liquidation, composition or reorganization;

- v. The filing against Sub lessee of any involuntary proceeding under any such bankruptcy laws;
 - vi. Sub lessee's becoming insolvent or being adjudicated a bankrupt in any court of competent jurisdiction, or the appointment of a receiver or trustee of Sub lessee's property, or Sub lessee's making an assignment for the benefit of creditors;
 - vii. The issuance of a writ of attachment by any court of competent jurisdiction to be levied on this Lease; or
 - viii. Any event which is an event of default under the Master Lease or which would become so with the passage of time or the giving of notice or both.
- c. **Sub lessor's Remedies for Sub lessee's Default:** Upon the occurrence of any event of default described in Section 10.02 hereof, Sub lessor may, at its option and without any further demand or notice, in addition to any other remedy or right given hereunder or by law, do any of the following:
- i. Sub lessor may terminate Sub lessee's right to possession of the Leased Premises by giving written notice to Sub lessee. If Sub lessor gives such written notice, then on the date specified in such notice, this Sublease and Sub lessee's right of possession shall terminate. No act by Sub lessor other than giving such written notice to Sub lessee shall terminate this Sublease. Acts of maintenance, efforts to relet the Leased Premises, or the appointment of a receiver on Sub lessor's initiative to protect Sub lessor's interest under this Sublease shall not constitute a termination of Sub lessee's right to possession. On termination, Sub lessor has the right to recover from Sub lessee:
 - 1. The worth at the time of the award of the unpaid rent and other charges that had been earned or owed to Sub lessor at the time of termination of this Sublease;

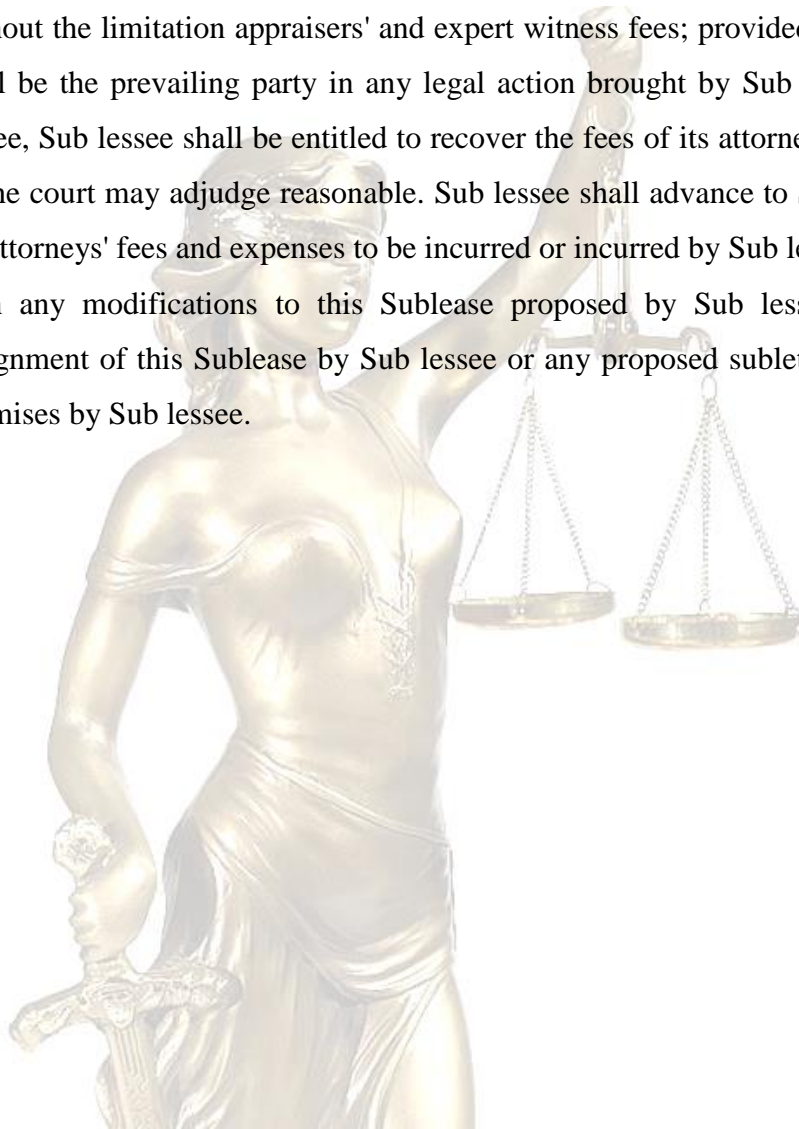
2. The worth at the time of the award of the amount by which (a) the unpaid rent and other charges that would have been earned or owed to Sub lessor after the date of termination of this Sublease until the time of award exceeds (b) the amount of such rental loss that Sub lessee proves could have been reasonably avoided;
3. The worth at the time of the award of the amount by which (a) the unpaid rent and other charges for the balance of the term after the time of award exceeds (b) the amount of such rental loss that Sub lessee proves could have been reasonably avoided; and
4. Any other amount necessary to compensate Sub lessor for all the detriment caused by Sub lessee's failure to perform its obligations under this Sublease or which in the ordinary course of things would be likely to result therefrom, including without limitation any costs or expenses incurred by Sub lessor in recovering possession of the Leased Premises, maintaining or preserving the Leased Premises after such default, preparing the Leased Premises for reletting to a new tenant, or any repairs or alterations to the Leased Premises for such reletting, and all leasing commissions, reasonable attorney's fees, architect's fees and any other costs incurred by Sub lessor to relet the Leased Premises or to adapt them to another beneficial use. Sub lessee shall also indemnify, defend and hold Sub lessor harmless from all claims, demands, actions, liabilities and expenses (including but not limited to reasonable attorney's fees and costs) arising prior to the termination of this Sublease or arising out of Sub lessee's use or occupancy of the Leased Premises.

ii. Sub lessor may, in any lawful manner, re-enter and take possession of the Leased Premises without terminating this Sublease or otherwise relieving Sub lessee of any obligation hereunder. Sub lessor is hereby authorized, but not obligated (except to the extent required by law), to relet the Leased Premises or any part thereof on behalf of the Sub lessee, to use the premises for its or its affiliates' account, to incur such expenses as may be reasonably necessary to relet the Leased Premises, and relet the Leased Premises for such term, upon such conditions and at such rental as Sub lessor in its sole discretion may determine. Until the Leased Premises are relet by Sub lessor, if at all, Sub lessee shall pay to Sub lessor all amounts required to be paid by Sub lessee hereunder. If Sub lessor relets the Leased Premises or any portion thereof, such reletting shall not relieve Sub lessee of any obligation hereunder, except that Sub lessor shall apply the rent or other proceeds actually collected by it as a result of such reletting against any amounts due from Sub lessee hereunder to the extent that such rent or other proceeds compensate Sub lessor for the non-performance of any obligation of Sub lessee hereunder. Such payments by Sub lessee shall be due at such times as are provided elsewhere in this Sublease, and Sub lessor need not wait until the termination of this Sublease, by expiration of the term hereof or otherwise, to recover them by legal action or in any other manner. Sub lessor may execute any lease made pursuant hereto in its own name, and the tenant thereunder shall be under no obligation to see to the application by Sub lessor of any rent or other proceeds by Sub lessor, nor shall Sub lessee have any right to collect any such rent or other proceeds. Sub lessor shall not by any re-entry or other act be deemed to have accepted any surrender by Sub lessee of the Leased Premises or Sub lessee's interest therein, or be deemed to have otherwise terminated this Sublease, or to have relieved Sub lessee of any obligation hereunder, unless Sub lessor shall have given Sub lessee express written notice of Sub lessor's election to do so as set forth herein.

- 
- iii. Even though Sub lessee has breached this Sublease and may have abandoned or vacated the Leased Premises, this Sublease shall continue in effect for so long as Sub lessor does not terminate Sub lessee's right to possession, and Sub lessor may enforce all its rights and remedies under this Sublease, including the right to recover the rent and other charges as they become due under this Lease.
 - iv. In the event any personal property of Sub lessee remains at the Leased Premises after Sub lessee has vacated, it shall be dealt with in accordance with the statutory procedures provided by applicable law dealing with the disposition of personal property of Sub lessee remaining on the Leased Premises after Sub lessee has vacated.
 - v. Sub lessor may exercise any right or remedy reserved to the Master Lessor under the Master Lease (each of which rights and remedies are hereby incorporated herein), and any other remedy or right now or hereafter available to a landlord against a defaulting tenant under applicable law or the equitable powers of its courts, whether or not otherwise specifically reserved herein.
 - vi. Sub lessor shall be under no obligation to observe or perform any provision, term, covenant, agreement or condition of this Sublease on its part to be observed or performed which accrues after the date of any default by Sub lessee hereunder.
 - vii. Any legal action by Sub lessor to enforce any obligation of Sub lessee or in the pursuance of any remedy hereunder shall be deemed timely filed if commenced at any time prior to [number] year after the expiration of the term hereof or prior to [number] years after the cause of action accrues, whichever period expires later.

- viii. In any action of unlawful detainer commenced by Sub lessor against Sub lessee by reason of any default hereunder, the reasonable rental value of the Leased Premises for the period of the unlawful detainer shall be deemed to be the amount of rent and additional charges reserved in this Sublease for such period.
 - ix. Sub lessee hereby waives any right of redemption or relief from forfeiture under any present or future law, if Sub lessee is evicted or Sub lessor takes possession of the Leased Premises by reason of any default by Sub lessee hereunder.
 - x. No delay or omission of Sub lessor to exercise any right or remedy shall be construed as a waiver of any such right or remedy or of any default by Sub lessee hereunder.
- d. **Receiver:** Upon the occurrence of any event of default as defined in Article 16 b) hereof or in any action instituted by Sub lessor against Sub lessee to take possession of the Leased Premises and/or to collect Base Minimum Rent, or any other charge due hereunder, a receiver may be appointed at the request of Sub lessor to collect such rents and profits, to conduct the business of Sub lessee then being carried on in the Leased Premises and to take possession of any property belonging to Sub lessee and used in the conduct of such business and use the same in conducting such business on the Leased Premises without compensation to Sub lessee for such use. Neither the application nor the appointment of such receiver shall be construed as an election on the Sub lessor's part to terminate this Sublease unless written notice of such intention is given by Sub lessor to Sub lessee.

- e. **Attorneys' Fees:** If as a result of any breach or default in the performance of any of the provisions of this Sublease, Sub lessor uses the services of an attorney in order to secure compliance with such provisions or recover damages therefor, or to terminate this Sublease or evict Sub lessee, Sub lessee shall reimburse Sub lessor upon demand for any and all attorneys' fees and expenses so incurred by Sub lessor, including without the limitation appraisers' and expert witness fees; provided that if Sub lessee shall be the prevailing party in any legal action brought by Sub lessor against Sub lessee, Sub lessee shall be entitled to recover the fees of its attorneys in such amount as the court may adjudge reasonable. Sub lessee shall advance to Sub lessor any and all attorneys' fees and expenses to be incurred or incurred by Sub lessor in connection with any modifications to this Sublease proposed by Sub lessee, any proposed assignment of this Sublease by Sub lessee or any proposed subletting of the Leased Premises by Sub lessee.



- f. **Cumulative Remedies; No Waiver:** The specified remedies to which Sub lessor may resort under the terms hereof are cumulative and are not intended to be exclusive of any other remedy or means of redress to which Sub lessor may be lawfully entitled in case of any breach or threatened breach by Sub lessee of any provision hereof. If for any reason Sub lessor fails or neglects to take advantage of any of the terms of this Sublease providing for termination or other remedy, any such failure of Sub lessor shall not be deemed to be a waiver of any default of any of the provisions, terms, covenants, agreements or conditions of this Sublease. The waiver by Sub lessor of any breach of any term, condition or covenant herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, condition or covenant herein contained. None of the provisions, terms, covenants, agreements or conditions hereof can be waived except by the express written consent of Sub lessor. Subsequent acceptance of rent hereunder by Sub lessor shall not be deemed to be a waiver of any preceding breach by Sub lessee of any provision, term, covenant, agreement or condition of this Sublease other than the failure of Sub lessee to pay the particular rental accepted, regardless of Sub lessor's knowledge of such preceding breach at the time of acceptance of such rent.

17. ESTOPPEL

At any time and from time to time, upon request in writing from Sub lessor, Sub lessee agrees to execute, acknowledge, and deliver to Sub lessor a statement in writing within [number] days of request, certifying that this Sublease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications), the commencement and termination dates, the Base Minimum Rent, the other charges payable hereunder the dates to which the same have been paid, and such other items as Sub lessor may reasonably request. It is understood and agreed that any such statement may be relied upon by any mortgagee, beneficiary, or grantee of any security or other interest, or any assignee of any thereof, under any mortgage or deed of trust now or hereafter made covering any leasehold interest in the Leased Premises, and any prospective purchaser of the Leased Premises.

18. Force Majeure – Unavoidable Delays

Should the performance of any act required by this Sublease to be performed by either Sub lessor or Sub lessee be prevented or delayed by reason of an act of God, war, civil commotion, fire, flood, or other like casualty, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, unusually severe weather, or any other cause, except financial inability, not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused; provided, however, that nothing contained in this section shall excuse the prompt payment of rent or other monies due by Sub lessee as required by this Sublease or the performance of any act rendered difficult solely because of the financial condition of the party, Sub lessor or Sub lessee, required to perform the act.

19. Notices

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Sublease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party, Sub lessor or Sub lessee, to whom it is directed or any managing employee of such party, or, in lieu of such personal service, [number] hours after deposit in the United States mail, certified or registered mail, with postage prepaid, or when transmitted by telecopy or facsimile addressed to the parties as set forth on the signature page hereof. Either party, Sub lessor or Sub lessee, may change the addresses herein contained for purposes of this Section by giving written notice of the change to the other party in the manner provided in this Section.

20. Amendments

No amendment, change or modification of this Sublease shall be valid and binding unless such is contained in a written instrument executed by the parties hereto and which instrument expresses the specific intention of the parties to amend, change or modify this Sublease.

21. Accord and Satisfaction

No payment by Sub lessee or receipt by Sub lessor of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the stipulated rent earliest in time, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction and Sub lessor may accept such check or payment without prejudice to Sub lessor's right to recover the balance of such rent or pursue any other remedy provided in this Sublease or by law.

22. No Agency Created

Nothing contained in this Sublease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association whatsoever between Sub lessor and Sub lessee other than sub lessor and sub lessee.

23. Brokerage Commission

Sub lessee represents that neither it nor any of its affiliates has engaged the services of any real estate broker, finder, or any other person or entity in connection with this lease transaction and therefore should Sub lessee be found to be in violation of such representation, Sub lessee shall indemnify Sub lessor against any and all claims for brokerage commissions or finders fees in connection with this transaction, and to indemnify, defend and hold Sub lessor free and harmless from all liabilities arising from any such claim, including without limitation, attorneys' fees in connection therewith.

24. Sole and Only Agreement

This instrument constitutes the sole and only agreement between Sub lessor and Sub lessee respecting the Leased Premises or the leasing of the Leased Premises to Sub lessee. Sub lessor shall have no obligations to Sub lessee, whether express or implied, other than those specifically set forth in this Sublease.

25. Severability and Governing Law

This Sublease shall be governed by the laws of the State of [state/province]. Whenever possible each provision of this Sublease shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Sublease shall be prohibited, void, invalid, or unenforceable under applicable law, such provision shall be ineffective to the extent of such prohibition, invalidity, voidability, or enforceability without invalidating the remainder of such, or the remaining provisions of this Sublease.

26. Construction and Headings

All references herein in the singular shall be construed to include the plural, and the masculine, and the masculine to include the feminine or neuter gender, where applicable, and where the context shall require. Section headings are for convenience of reference only and shall not be construed as part of this Sublease nor shall they limit or define the meaning of any provision herein. The provisions of this Sublease shall be construed as to their fair meaning, and not strictly for or against Sub lessor or Sub lessee.

27. Effect of Execution

The submission of this Sublease for examination shall not effect any obligation on the part of the submitting or examining party and this Sublease shall become effective only upon the complete execution thereof by both Sub lessor and Sub lessee.

28. Inurement

Sub lessor shall have the full and unencumbered right to assign this Sublease. The covenants, agreements, restrictions, and limitations contained herein shall also be binding on Sub lessee's permitted successors and assigns.

29. Time of Essence

Time is expressly declared to be of the essence.

30. No Light, Air or View Easement

Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Leased Premises shall in no way affect this Sublease or impose any liability on Sub lessor.

31. Triple Net Lease

It is the purpose and intent of Sub lessor and Sub lessee that this Sublease be deemed and construed to be a “triple net lease” so that Sub lessor shall receive all rentals and other sums specified hereunder during the term of this Sublease, free from any and all charges, costs, assessments, expenses, deductions and/or set-offs of any kind or nature whatsoever, and Sub lessor shall not be expected or required to pay any such charge, assessment or expense, or be under any obligation or liability hereunder, except as herein expressly set forth. All charges, costs, expenses and obligations of any nature relating to the repair, restoration, alteration, maintenance and operation of the Leased Premises shall be paid by Sub lessee, except as otherwise herein expressly set forth, and Sub lessor shall be indemnified and held harmless by Sub lessee from and against such charges, costs, expenses and obligations.

32. Authority

Each individual executing this Sublease on behalf of Sub lessee and the Sub lessee (if Sub lessee is a corporation or other entity) does hereby covenant and warrant that (i) Sub lessee is a duly authorized and validly existing entity, (ii) Sub lessee has and is qualified to do business in California, (iii) the entity has full right and authority to enter into this Sublease, and (iv) each person executing this Sublease on behalf of the entity was authorized to do so.

33. Survival

All obligations of Sub lessee under this Sublease, including without limitation the obligations to pay Base Minimum Rent, shall survive the expiration or termination of this Sublease.

34. Waiver

Sub lessee hereby waives any rights it may have under the provisions of [law or code], if applicable, and any similar statutes regarding repair of the Leased Premises or termination of this Sublease after destruction of all or any part of the Leased Premises.

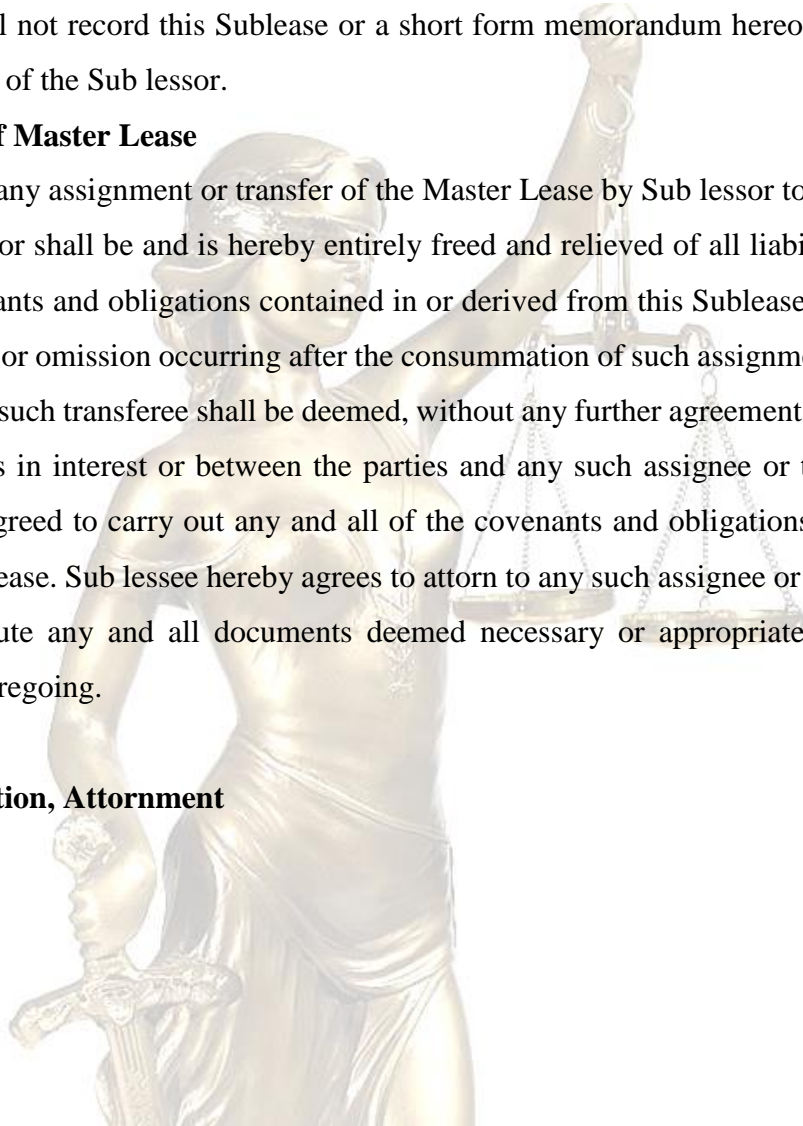
35. Recordation

Sub lessee shall not record this Sublease or a short form memorandum hereof without the prior written consent of the Sub lessor.

36. Transfer of Master Lease

In the event of any assignment or transfer of the Master Lease by Sub lessor to any other party or entity, Sub lessor shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Sublease arising out of any act, occurrence or omission occurring after the consummation of such assignment or transfer; and the assignee or such transferee shall be deemed, without any further agreement between parties or their successors in interest or between the parties and any such assignee or transferee, to have assumed and agreed to carry out any and all of the covenants and obligations of the Sub lessor under this Sublease. Sub lessee hereby agrees to attorn to any such assignee or trustee. Sub lessee agrees to execute any and all documents deemed necessary or appropriate by Sub lessor to evidence the foregoing.

37. Subordination, Attornment



Without the necessity of any additional document being executed by Sub lessee for the purpose of effecting a subordination, this Sublease shall in all respects be subject and subordinate at all times to the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Leased Premises or Sub lessor's interest or estate is specified as security. Notwithstanding the foregoing, Sub lessor shall have the right to subordinate or cause to be subordinated any lien or encumbrance to this Sublease. In the event that any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Sub lessee shall, notwithstanding any subordination, atone to and become the sub lessee of the successor in interest to Sub lessor, at the option of such successor in interest. Sub lessee covenants and agrees to execute and deliver, upon demand by Sub lessor and in the form requested by Sub lessor, any additional documents evidencing the priority or subordination of this Sublease.

38. No Merger

The voluntary or other surrender of this Sublease by Sub lessee, or a mutual cancellation hereof, shall not work a merger, and shall, at the option of Sub lessor, terminate all or any existing subleases or sub tenancies or may, at the option of Sub lessor, operate as an assignment to Sub lessor of any or all such subleases or sub tenancies.

39. Right of Sub lessor to Perform

All terms, covenants and conditions of this Sublease to be performed or observed by Sub lessee shall be performed or observed by Sub lessee at its sole cost and expense and without any reduction of rent of any nature payable hereunder. If Sub lessee shall fail to pay any sum of money, other than rent required to be paid by it hereunder or shall fail to perform any other term or covenant hereunder on its part to be performed, Sub lessor, without waiving or releasing Sub lessee from any obligation of Sub lessee hereunder, may, but shall not be obligated to, make any such payment or perform any such other term or covenant on Sub lessee's part to be performed. All sums so paid by Sub lessor and all necessary costs of such performance by Sub lessor, together with interest thereon from the date of payment at the rate eighteen percent (18%) or the highest rate permissible by law, whichever is less, shall be paid, and Sub lessee covenants to make such payment, to Sub lessor on demand, and Sub lessor shall have, in addition to any over right or remedy of Sub lessor, the same rights and remedies in the event of nonpayment thereof by Sub lessee as in the case of failure in the payment of rent hereunder.

40. Modification for Lender

If, in connection with obtaining any type of financing, Sub lessor's lender shall request reasonable modifications to this Sublease as a condition to such financing, Sub lessee shall not unreasonably withhold, delay or defer its consent thereto, provided such modifications do not materially adversely affect Sub lessee's rights hereunder.

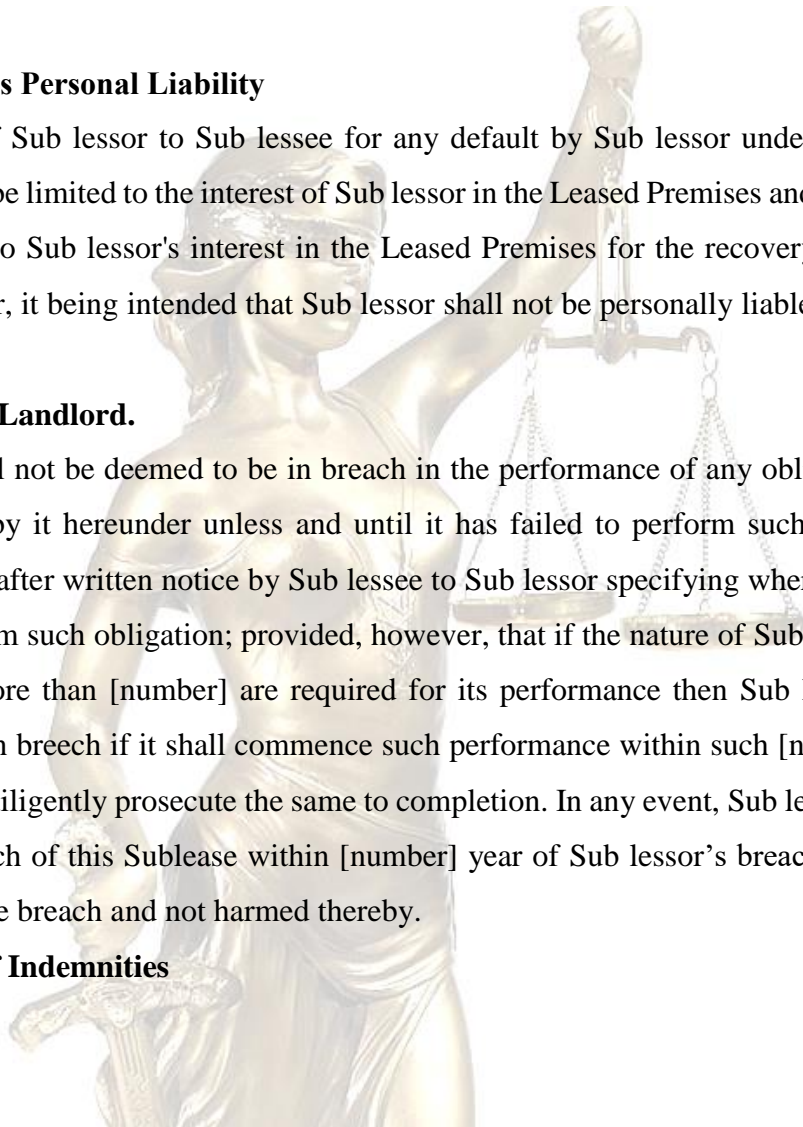
41. Sub lessor's Personal Liability

The liability of Sub lessor to Sub lessee for any default by Sub lessor under the terms of this Sublease shall be limited to the interest of Sub lessor in the Leased Premises and Sub lessee agrees to look solely to Sub lessor's interest in the Leased Premises for the recovery of any judgment from Sub lessor, it being intended that Sub lessor shall not be personally liable for any judgment or deficiency.

42. Breach by Landlord.

Sub lessor shall not be deemed to be in breach in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation within [number] days after written notice by Sub lessee to Sub lessor specifying wherein Sub lessor has failed to perform such obligation; provided, however, that if the nature of Sub lessor's obligation is such that more than [number] are required for its performance then Sub lessor shall not be deemed to be in breach if it shall commence such performance within such [number] day period and thereafter diligently prosecute the same to completion. In any event, Sub lessee must bring an action for breach of this Sublease within [number] year of Sub lessor's breach or be deemed to have waived the breach and not harmed thereby.

43. Survival of Indemnities



The obligations of the indemnifying party under each and every indemnification and hold harmless provision contained in this Sublease shall survive the expiration or earlier termination of this Sublease to and until the last to occur of (a) the last date permitted by law for bringing of any claim or action with respect to which indemnification may be claimed by the indemnified party against the indemnifying party under such provision or (b) the date on which any claim or action for which indemnification may be claimed under such provision is fully and finally resolved and, if applicable, any compromise thereof or judgment or award thereon is paid in full by the indemnifying party and the indemnified party is reimbursed by the indemnifying party for any amounts paid by the indemnified party in compromise thereof or upon a judgment or award thereon and in defense of such action or claim, including attorneys' fees incurred.

44. OPTION TO RENEW

Subject to the receipt by lessee of an extension of the original lease agreement for a sufficient duration to include this renewal, at any time before the commencement of the last calendar month of the first term of this sublease agreement, sub lessee is granted the option and privilege of extending and renewing the term of this sublease agreement for an additional [number]-year period at an annual rental to be agreed on or arbitrated as provided in this sublease agreement.

45. Meaning of Consent

Whenever an act or provision contained in this Sublease is conditioned upon the consent or approval of Sub lessor, this shall be interpreted to mean, unless otherwise specified to the contrary, that the Sub lessor has the full unconditional right and sole discretion as to whether or not to give its consent, which may only be given in writing.

46. QUIET ENJOYMENT

If sub lessee performs the terms of this sublease agreement, lessee will warrant and defend sub lessee in the enjoyment and peaceful possession of the demised premises during the term of this sublease agreement without any interruption by lessee or lessor or either of them or any person rightfully claiming under either of them.

47. Master Lease

Notwithstanding anything in this Sublease to the contrary, the rights of Sub lessee shall be subject to the terms and conditions contained in the lease (“Master Lease”) between Sub lessor and the owner of the Leased Premises (the “Master Lessor”), as it may be amended from time to time. Sub lessee shall assume and perform and comply with the obligations of the lessee under the Master Lease to the same extent as if references to the Sub lessor therein were references to Sub lessee (all of which obligations are hereby incorporated herein), including, without limitation, the payment of any and all costs, expenses, charges, fees, taxes, payments or other monetary obligations (except for minimum rent and percentage rent) for which Sub lessor is liable or responsible under the Master Lease, as such costs, expenses, charges, fees, taxes, payment or other monetary obligations come due. Sub lessee shall not commit or permit to be committed on the Leased Premises any act or omission which shall violate any term or condition of the Master Lease. Notwithstanding anything in this Sublease to the contrary, the effectiveness of this Sublease shall be conditioned upon Sub lessor obtaining the written consent of the Master Lessor (if such consent is required under the Master Lease), in form and substance satisfactory to Sub lessor, within ten (10) days of the date hereof. If the Master Lease terminates for any reason, this Sublease shall terminate coincidentally therewith without any liability of Sub lessor to Sub lessee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SUB LESSOR

SUB LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

EXHIBIT A
TO SUBLEASE
DESCRIPTION OF LEASED PREMISES

TERMINATION OF LEASE OBLIGATION



This Release Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

On [date], a lease agreement was executed between Lessor and Lessee for the premises located at [address], a copy of which is attached hereto and made a part hereof.

[facts giving rise to this release]

The parties desire to settle all claims of Lessor with respect to said lease and to terminate all obligations of either party thereunder.

Therefore, in consideration of [amount], from Lessee, receipt of which is hereby acknowledged, Lessor does hereby release Lessee from all obligations and duties of Lessee set forth in the above referenced lease. Lessor, for himself, his heirs, his legal representatives and his assigns also releases Lessee, his heirs, his legal representatives and his assigns from all claims, demands and causes of action that lessor had, has or may have against lessee or against his heirs, legal representatives or assigns in regard to said lease.

In consideration of the release set forth above, Lessee hereby surrenders all rights in and to the subject leased premises. That possession of said premises shall be delivered up to Lessor immediately upon the execution of this instrument, and that Lessor is relieved of any responsibilities or obligations under the aforementioned lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

EVICCTIONS.

February 28, 2022

Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: 5-DAY NOTICE TO QUIT



Dear [Contact name],

TAKE NOTICE, that you are hereby required to quit, and deliver up to the undersigned the possession of the premises now held and occupied by you, being the premises known as:

[Describe]

at the expiration of 5 days commencing on [Date] and ending on [Date].

This Notice to Quit specifically terminates any oral/written agreement you may have with respect to the said premises at the date specified above.

THIS IS INTENDED as a 5-day notice to quit, for the purpose of terminating your tenancy aforesaid.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO PAY RENT OR QUIT

Dear [Contact name],

WITHIN THREE DAYS after service on you of this notice you are hereby required to pay the rent of the premises hereinafter described, of which you now hold possession amounting to the sum of [Amount] enumerated as follows:

\$ _____ DUE FROM [Date] TO [Date]
\$ _____ DUE FROM [Date] TO [Date]
\$ _____ DUE FROM [Date] TO [Date]

OR QUIT AND DELIVER UP THE POSSESSION OF THE PREMISES. The premises herein referred to are situated in [City, State/Province].

YOU ARE FURTHER NOTIFIED THAT if you do not comply with either of the above the undersigned does hereby elect to declare the forfeiture of your lease or rental agreement under which you hold possession of the above-described premises and lessor will institute legal proceedings to recover rent and possession of said premises.

Sincerely,

Your name
Your title
Telephone contact
youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO QUIT FOR NON-PAYMENT OF RENT

Dear [Contact name],

You are hereby notified to quit and deliver up the premises you hold as our tenant, namely:

[Describe premises]

You are to deliver up said premises on or within [Number] days of receipt of this notice. This notice is provided due to non-payment of rent. The present rent arrearage is in the amount of [Amount]. You may redeem your tenancy by full payment of said arrears within [Number] days.

Sincerely,

ISAAC LUBOGO CHRISTOPHER -----

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO QUIT FOR NON-PAYMENT OF RENT

Dear [Contact name],

You are hereby notified to quit and deliver up the premises you hold as our tenant, namely:

[Describe premises]

You are to deliver up said premises on or within [Number] days of receipt of this notice. This notice is provided due to non-payment of rent. The present rent arrearage is in the amount of [Amount]. You may redeem your tenancy by full payment of said arrears within [Number] days.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE TO TENANT OF RENT DEFAULT

Dear [Contact name],

This notice is in reference to the following described lease:

[Describe lease]

Please be advised that as of [Date], you are in **DEFAULT IN YOUR PAYMENT OF RENT** in the amount of [Amount].

If this breach of lease is not corrected within [Number] days of this notice, we will take further action to protect our rights, which may include termination of this lease and collection proceedings. This notice is made under all applicable laws. All of our rights are reserved under this notice.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

THE DOCTRINE OF NOTICE.

February 28, 2022

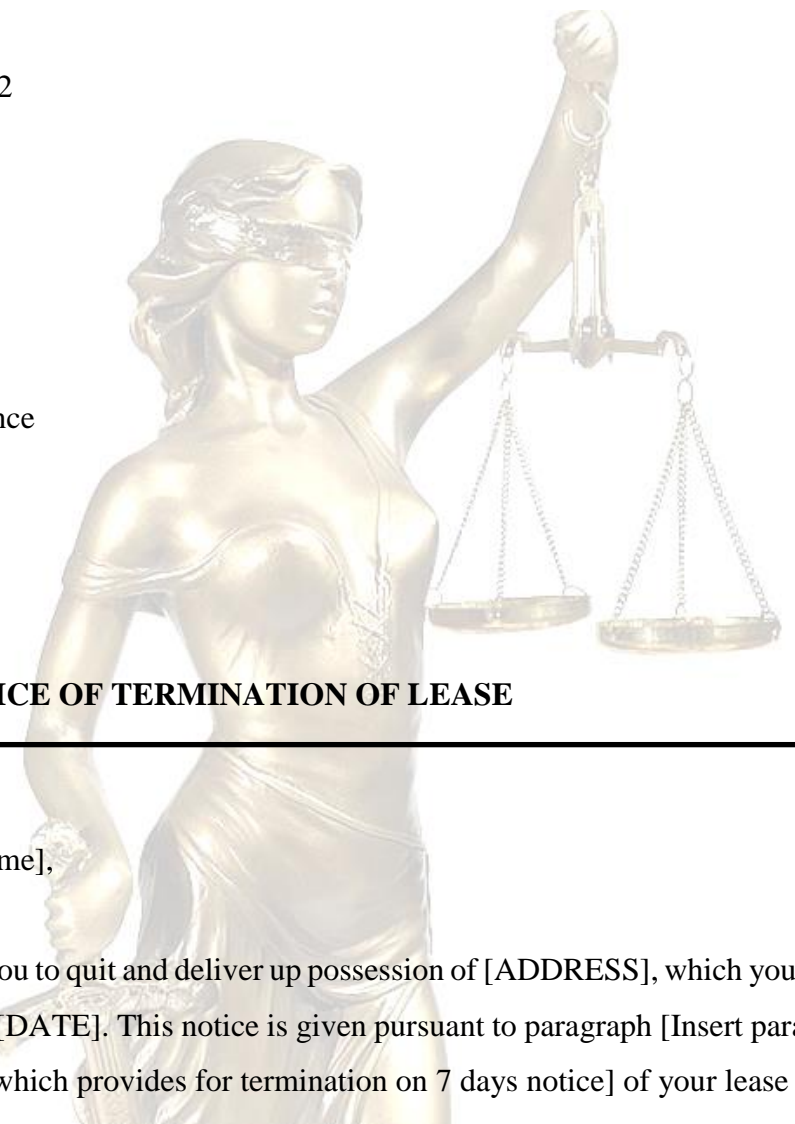
Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE OF TERMINATION OF LEASE

Dear [Contact name],

This is to notify you to quit and deliver up possession of [ADDRESS], which you presently occupy as our tenant, by [DATE]. This notice is given pursuant to paragraph [Insert paragraph number of lease agreement which provides for termination on 7 days notice] of your lease agreement.

NOTICE IS FURTHER GIVEN that if you fail to vacate the above-described premises on or before the date specified in the paragraph above, the lessor will institute Unlawful Detainer proceedings against you to recover possession of the premises, treble damages, attorney fees and costs.

We remind you of your obligation to leave the premises in a reasonable condition at the end of your tenancy.

Thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Notice of Change in Rent

Dear [Contact name],

Please be advised that pursuant to the terms of that certain [Lease/rental agreement] dated [Date], your rent for the space at [Address] will increase to [Amount] per month, effective [Date].

Let me know if you have any questions.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE OF EXERCISE OF LEASE OPTION

Dear [Contact name],

I elect to exercise the option to [Renew or extend] the lease agreement as provided in Section [Specify] of our lease agreement, dated [Date], for an additional period of [Number] years, commencing on [Date], and terminating on [Date].

I will continue to abide by all other terms and conditions of the lease agreement including the provision for payment of rent on a monthly basis.

I request that you send me a written reply acknowledging receipt of this renewal notice.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF EXERCISE OF PURCHASE OPTION

Dear [Contact name],

Please acknowledge that the undersigned, nominee [Name], in an option given by you, on [Date], for the purchase of property at [Full address], has chosen to exercise and accept the option and agrees to all its terms and provisions.

We would like to thank you for your collaboration. We will be contacting you soon to finalize an agreement.

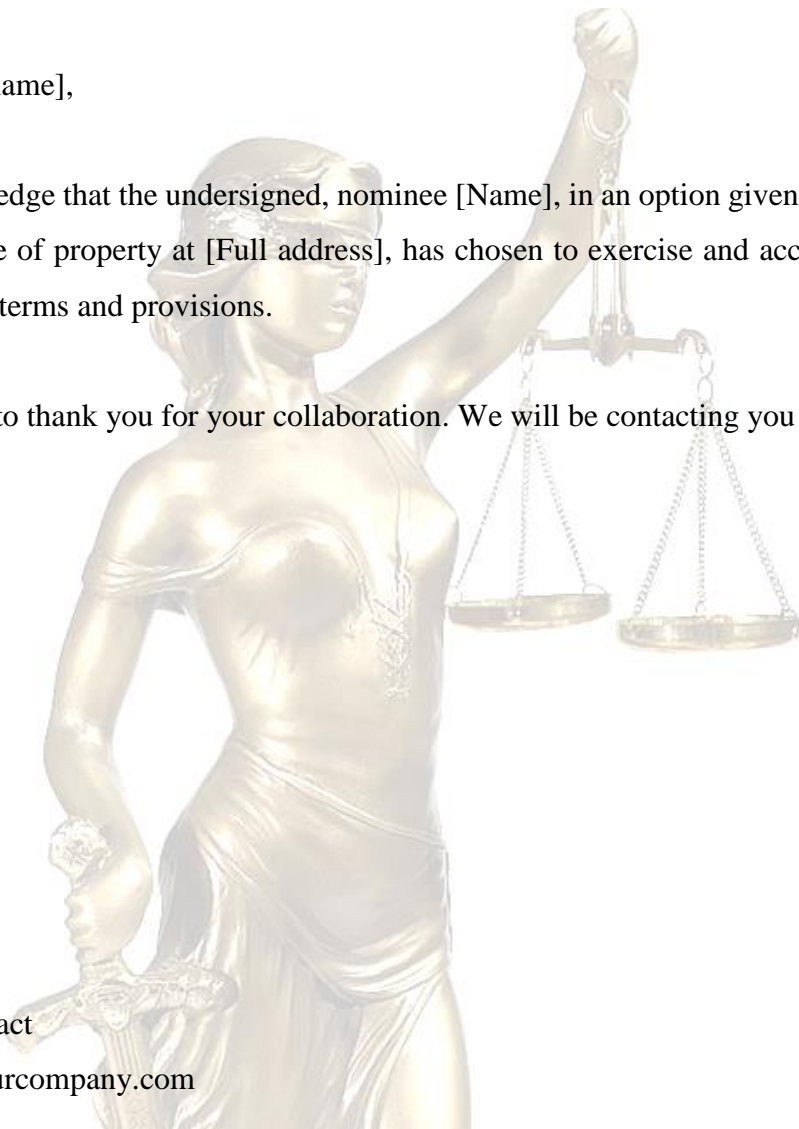
Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com



February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF EXERCISE OF LEASE OPTION

Dear [Contact name],

I elect to exercise the option to [Renew or extend] the lease agreement as provided in Section [Specify] of our lease agreement, dated [Date], for an additional period of [Number] years, commencing on [Date], and terminating on [Date].

I will continue to abide by all other terms and conditions of the lease agreement including the provision for payment of rent on a monthly basis.

I request that you send me a written reply acknowledging receipt of this renewal notice.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF EXERCISE OF PURCHASE OPTION

Dear [Contact name],

Please acknowledge that the undersigned, nominee [Name], in an option given by you, on [Date], for the purchase of property at [Full address], has chosen to exercise and accept the option and agrees to all its terms and provisions.

We would like to thank you for your collaboration. We will be contacting you soon to finalize an agreement.

Sincerely,

ISAAC LUBOGO CHRISTOPHER -----

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF LEASE DEFAULT

Dear [Contact name],

You are presently in breach of [SECTION REFERENCE] of your lease of [ADDRESS] by reason of [SPECIFY BREACH].

Please remedy this situation within a reasonable time or we will terminate the lease.

Thank you for your collaboration in this matter,

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

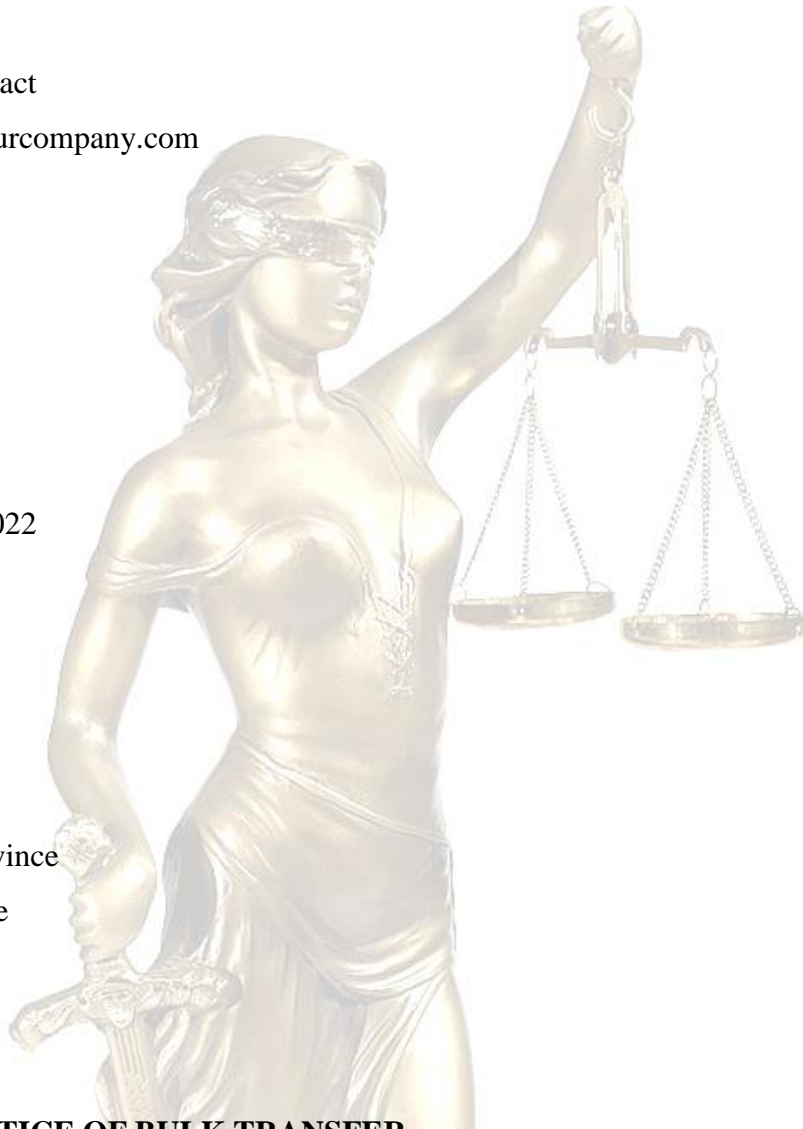
Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE OF BULK TRANSFER

Dear [Contact name],

ISAAC LUBOGO CHRISTOPHER

You are presently in arrears of rent in the amount of [AMOUNT] in connection with your lease of [ADDRESS].

Please remedy this situation within [Number] days of the date of this letter or we will terminate the lease and institute collection proceedings without further notice to you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF RIGHT OF RESCISSION

Dear [Contact name],

You have entered into a transaction on [Date] which may result in a lien, mortgage or other security interest on your real estate property. You have a legal right under [Law] to cancel this transaction, if you desire to do so, without any penalty or obligation, within [Number] business days from the above date or any later date on which all material disclosures required under the [Law or Act] have been given to you.

If you so cancel the transaction, any lien, mortgage or other security interest arising from this transaction is automatically void. You are also entitled to receive a refund of any down payment or other consideration if you cancel.

If you decide to cancel this transaction, you may do so by notifying [Name] at [Address] by mail or fax sent not later than midnight of [Date]. You may also use any other form of written notice identifying the transaction if it is delivered to the above address not later than that time.

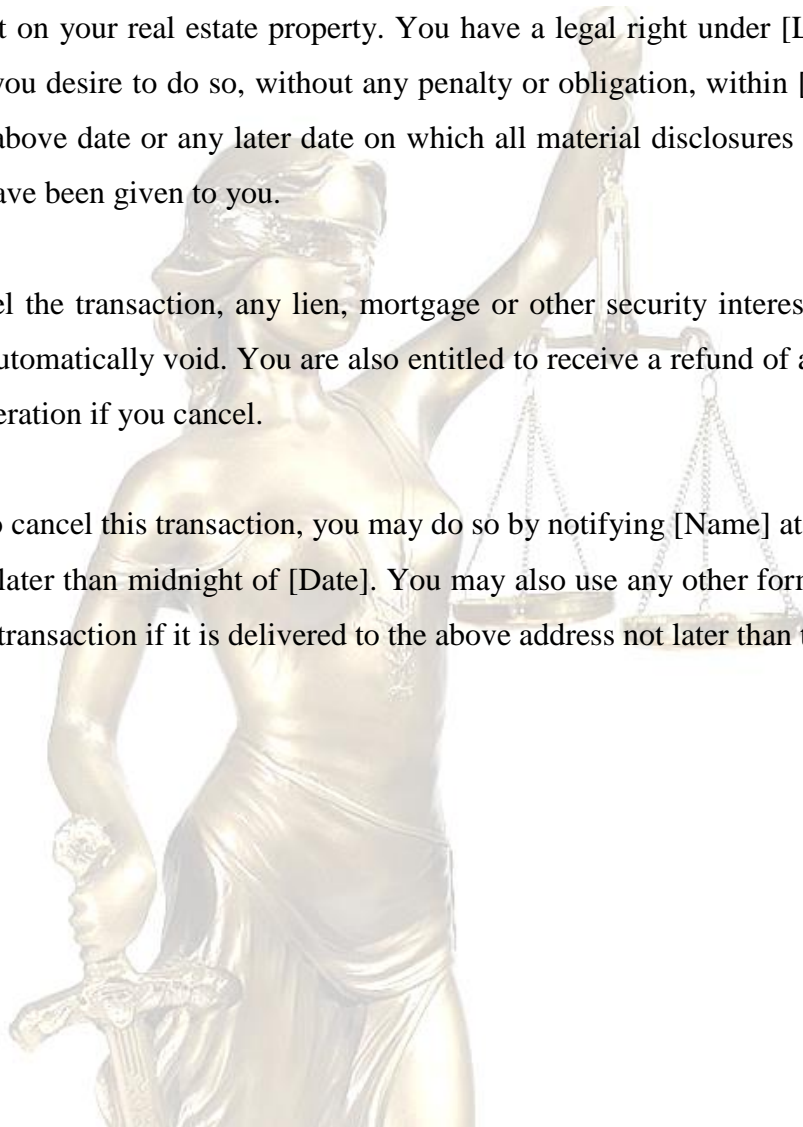
Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com



February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO TERMINATE TENANCY-AT-WILL

Dear [Contact name],

Take notice, that pursuant to the provisions of paragraph [Number] of that certain Lease under which you hold possession of the hereinafter described premises, I have elected to terminate said lease as of [Date]; said lease is being terminated [Set forth reason for termination] and you are hereby required to quit and deliver up possession of the premises on or before the above mentioned date.

The lease above mentioned is between [Name], as Lessor, and [Contact name] as Lessee, is dated [Date] and covers the property commonly known as:

OBJECTION MY LORD: LEGAL PRACTICE DEMYSTIFIED

[Describe]

Your collaboration would be much appreciated .

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code



OBJECT: NOTICE TO TERMINATE TENANCY-AT-WILL

Dear [Contact name],

You are hereby notified that the undersigned shall terminate its tenancy on the premises known as [Describe], effective at the end of the next month of the tenancy, beginning after this notice.

We shall deliver possession at that time. We thank you in advance for your collaboration.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: WE WANT TO WELCOME YOU!

Dear [Contact name],

You probably know already that the building where your offices are has changed hands. Tenants sometimes feel some apprehension when a changeover occurs, so we would like to take this opportunity to clear the air by letting you know exactly what you can expect in the future.

PAYMENT BY CHECK OR MONEY ORDER: Since it is unwise for anyone to keep or carry cash around in large quantities, we request that you pay your rent by check or money order (made payable to us). This will protect both you and the management.

PROMPT PAYMENT: You are expected to pay your rent within three days after the due date. For example, rent due on the first must be paid by the fourth at the very latest.

MAINTENANCE: We expect you to pay your rent promptly, and you can expect us to respond promptly to any maintenance problems that arise. Sometime within the next week, we will visit you to inspect for any building maintenance work that should be taken care of. You can help us by making a list of work that needs doing around the house.

RENTAL AGREEMENT: We will stop by soon to explain the standard rental agreement to you, and we will leave you a copy of your own.

We hope that this is the beginning of a long-lasting business relationship and we will do everything possible to answer your needs as promptly as we can.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CHAPTER FIVE.
CRIMINAL PRPCEEDINGS.

THE REPUBLIC OF UGANDA CRIMINAL SUMMONS

COURT CASE NO:

DPP CASENO:

POLICE CASE NO:

TO:

.....

WHEREAS your attendance is necessary to answer to a charge of

.....

.....

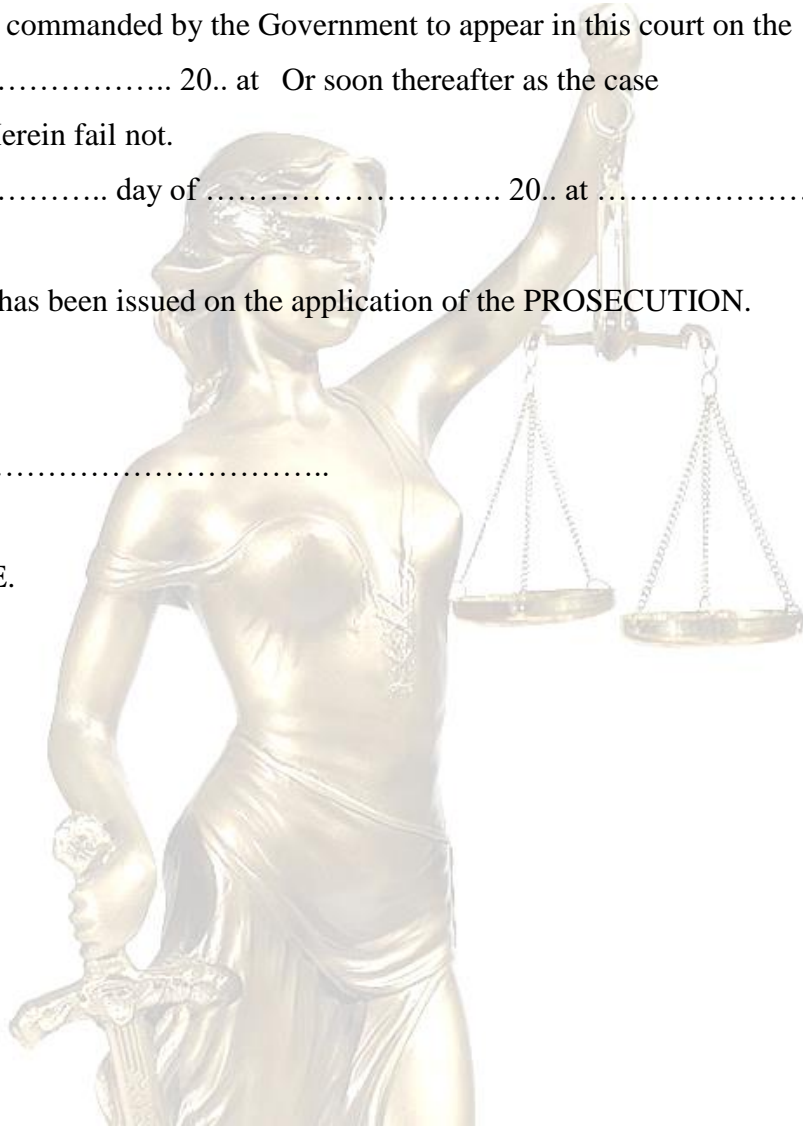
You are hereby commanded by the Government to appear in this court on the Day
of 20.. at Or soon thereafter as the case
can be heard. Herein fail not.

Dated this..... day of 20.. at

This summons has been issued on the application of the PROSECUTION.

.....

MAGISTRATE.



THE REPUBLIC OF UGANDA FORM 109

PRODUCTION WARRANT

IN THE COURT OF.....

AT.....

RE: CRIMINAL CASE NO..... OF 20.....

UGANDA VERSUS

.....
.....

TO:

THE SUPRITENDENT OF PRISONS

.....
.....

You are hereby directed to produce the above mentioned Before the
.....Court of On the
.....of.....20 at

Dated the..... Day of..... 20.....

..... MAGISTARTE/ REGISTRAR

THE REPUBLIC OF UGANDA FORM 75 WARRANT OF ARREST
IN THECOURT OF

AT

TO:

.....
.....

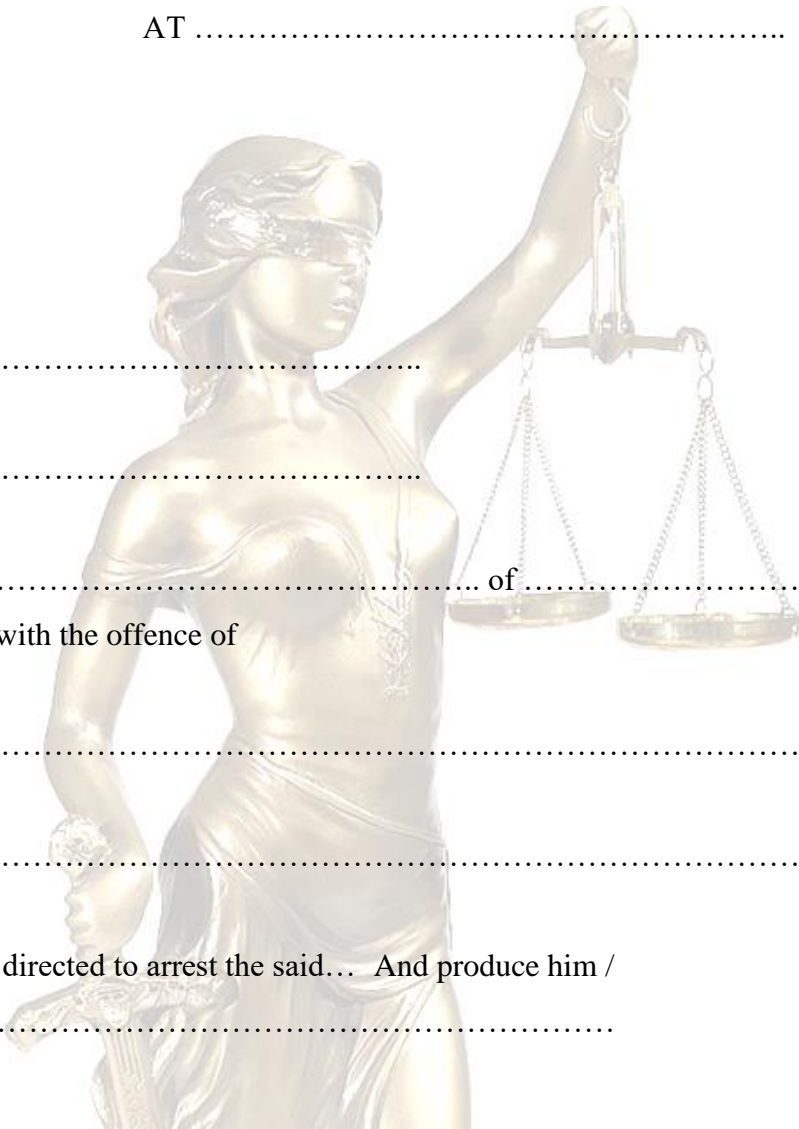
WHEREAS..... of.....
stands charged with the offence of

.....
.....

You are hereby directed to arrest the said... And produce him /
her before me.....

Herein fail not.

Dated this..... day of..... 20....



ISAAC LUBOGO CHRISTOPHER

..... MARGISTRATE/REGISTRAR

UGANDA POLICE FORM 18 RELEASE ON BOND

(Sec 17 of Crim Procedure Code Act)

i..... being charged with the offence of
Vide SD Ref and after required to appear before the OC.....

do hereby bind myself to appear at

At.....on the day of

..... 20 and I shall continue to attend further to answer the said charge until
otherwise directed by the Court.

Dated this day of20.....

Signed.....

i.....

Hereby DECLARE myself surety for the above named person(s) about the offence of
.....

That he / she shall attend as above stated and in any case of any default, I bind myself to be
responsible accessory after fact.

Dated this day20.....

Signature.....

ISAAC LUBOGO CHRISTOPHER

.....

EXECUTED BEFORE ME

THE REPUBLIC OF UGANDA UC FORM 109

SEARCH WARRANT

IN THE COURT OF

AT

TO:

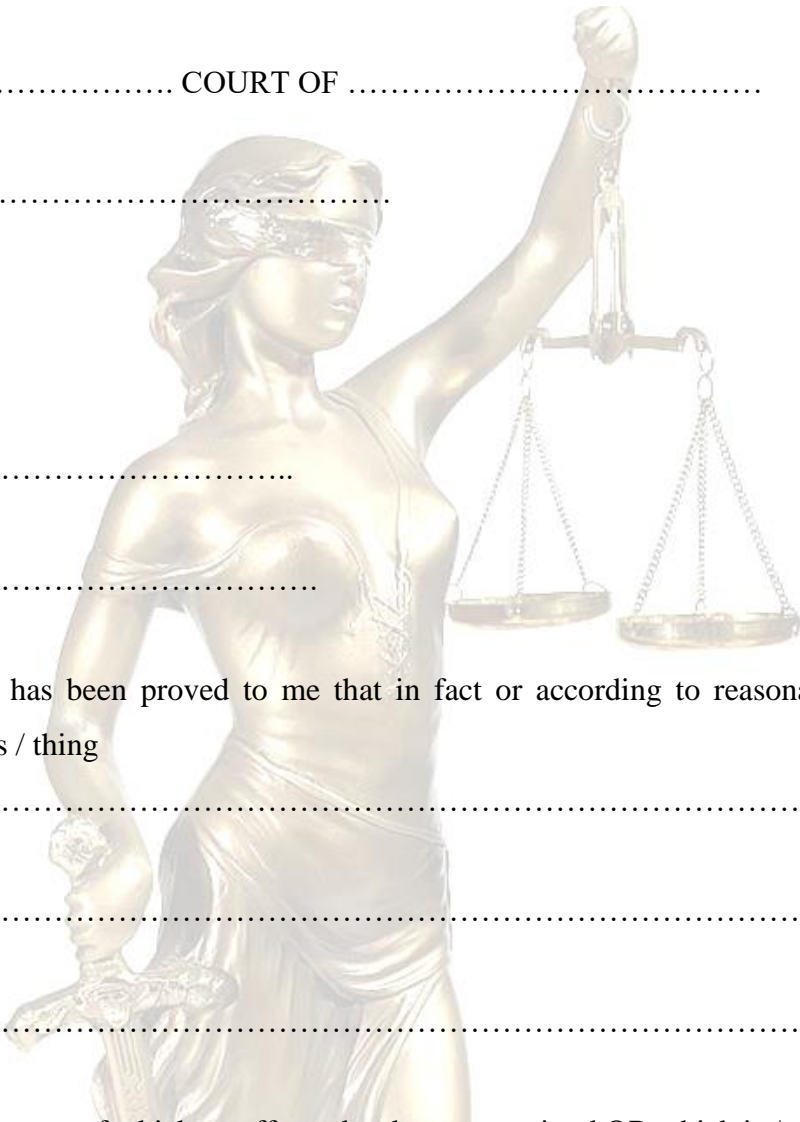
.....
.....

WHERE AS it has been proved to me that in fact or according to reasonable suspicion the following things / thing

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

Upon by or in respect of which an offence has been committed OR which is / are necessary to the conduct of an investigation into an offence is /are in the Building/ vessel , Carriage, Box, Receptacle, place herein named and described as follows:

.....
...



ISAAC LUBOGO CHRISTOPHER -----

.....

...

.....

...

This is to authorise and require you to enter /open the said Building, Carriage, Vessel, Box, Receptacle, Place, described as aforesaid and if found to seize and carry it/them before this court or some court to be dealt with according to Law, returning this warrant with an endorsement certifying that you have done under it immediately upon it's execution.

Given under my hand and seal of this court this.....day of.....20.....

.....

MAGISTRATE

THE REPUBLIC OF UGANDA

IN THE COURT OF

AT.....

CRIMINAL MISC APPLICATION NO.....OF.....

(ARISING FROM CRIMINAL CASE NO.....OF)

..... APPLICANT/ACCUSED

VS

UGANDA RESPONDENT/ PROSECUTOR

NOTICE OF MOTION

(Under Article 23(6) of the Constitution of the Republic of Uganda, Section 14, 15, of the Trial on indictment Act Cap)

TAKE NOTICE that this Court shall be moved on the day of At 9.01 o'clock in the fore noon or soon thereafter as the Applicant will be heard on an Application that or orders that.

1. That the Applicant be released on bail pending the hearing of criminal case No... of

.....

Take further notice that this Application is supported by the Affidavit of the Applicant herein which shall be read and relied upon at the hearing but briefly they are that.

1. The Applicant was arrested and charged with the offence of Contrary to section of the on the day of 20.....

2. That it is the Applicant constitutional right to apply for bail
3. That Applicant has sound and suitable sureties within the Jurisdiction of this Honorable Court who undertake that the Applicant will comply with the conditions of my Bail.
4. That the Applicant has a fixed place of abode within the Jurisdiction of this Honorable Court.
5. That exceptional circumstances exist to justify the release of the Applicant on bail
6. That it is in the interest of justice that this Application is granted.

Dated at this day of 20...

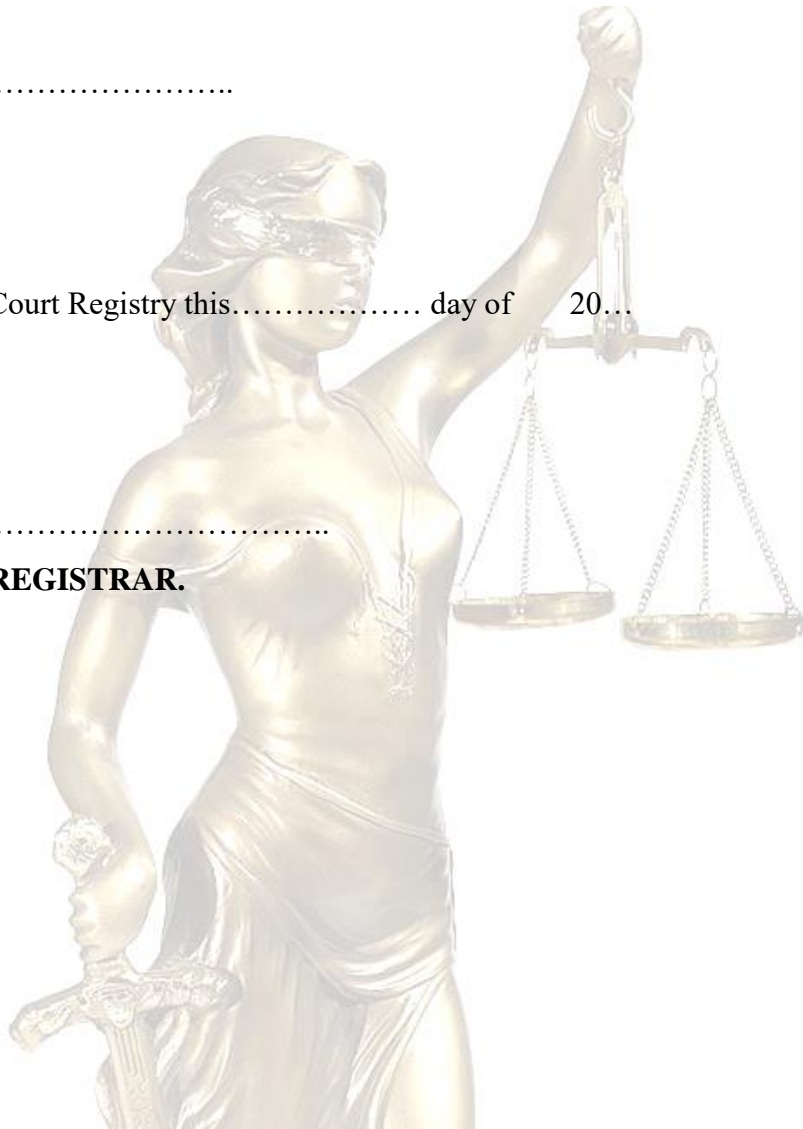
.....

APPLICANT

Lodged in the Court Registry this..... day of 20...

.....

ASSISTANT REGISTRAR.



THE REPUBLIC OF UGANDA

IN THE.....COURT OF

AT.....

Criminal MISC APPN NO OF 20.... (Arising from Criminal case No..... of 20...)

..... **APPLICANT/ ACCUSED**

VS

UGANDA RESPONDENT/ PROSECUTOR

AFFIDAVIT IN SURPPORT OF NOTICE OF MOTION.

I of

do solemnly swear / affirm and state as follows.

1. That I am a male/ female adult Ugandan of sound mind and of the above particulars an accused in Criminal case No..... of 20.. and therefore having the capacity to swear this Affidavit.

2. That I was arrested on the Day of 20... and charged with the of offence of Murder, Aggravated Robbery, Rape, Aggravated Defilement, Defilement contrary to section 188 and 189, 285, of the penal Code Act.

3. That I am 70 years old and a soul bread winner of my family.

4. That I am resident of and therefore have a fixed place of abode within the jurisdiction of this Honorable Court.(see attached letters of introduction from the LC 1 Chairman.).

5. That I have produced substantial sureties with good repute who undertake that I will fulfill the terms of my bail if granted and also ensure that I attend court regularly when required by this Honorable Court.



6. That following the long period spent in detention without trial, I believe that my rights to a fair and expeditious trial have been violated.

7. That I am innocent until proven guilty.

8. That I suffer from [redacted] and have not been able to obtain proper medication and treatment from while in detention.(Attached are medical forms and reports from a certified prisons medical staff)

9. That I undertake to abide by the terms and condition imposed by this honorable court and I ensure that I will attend court whenever required by this Honorable Court.

10. That whatever I have stated herein is true and correct to the best of my knowledge and belief and whatever is from without the source disclosed herein.

Sworn At This..... date of..... 20.. By the said.

.....
Deponent

BEFORE ME

.....
JUSTICE OF PEACE.

DRAWN AND FILED BY THE APPLICANT.

THE REPUBLIC OF UGANDA

IN THE COURT OF AT

.....

MISC. APPN. NO. ___ OF 20 [ARISING FROM CRIMINAL CASE NO. OF 20...]

..... APPLICANT VERSUS

ATTORNEY GENERAL RESPONDENT

NOTICE OF MOTION

(Under Article 23 of the Constitution of the Republic of Uganda)

TAKE NOTICE that this Honorable Court will, on the ___ day of _20.. at _____ O'clock in the fore/afternoon or so soon thereafter as Counsel for the Applicant can be heard, be moved on the grounds set out herein; to Order that.

1. An order doth issue against the Respondent and his agents to unconditionally release the applicant from police custody.

TAKE FURTHER NOTICE that the grounds upon which this application is based are contained in the Affidavit of... but briefly they are that:-

1. The Applicant was arrested on the day of 20... for allegedly

.....

2. The Applicant has been detained at Police Station to date and has never been arraigned before the Court to be charged with any offence.

3. The Applicant's constitutional right to personal liberty is being violated.

4. In the interests of justice, the application ought to be allowed.

DATED at Kampala this ____ day of _20...

THE APPLICANT

Lodged in the Court Registry this ___ day of _20_.

DEPUTY REGISTRAR/ MARGITRATE

DRAWN & FILED BY:



THE REPUBLIC OF UGANDA

IN THE COURT OF.....

HOLDEN AT.....

CRIMINAL APPLICATION NO. __ OF 20..
[Arising from Criminal Case No. ____ of 20..]

.....: APPLICANT

VERSUS

ATTORNEY GENERAL: RESPONDENT

AFFIDAVIT IN SUPPORT

I,, of, Uganda do hereby solemnly make oath and swear/ affirm as follows:

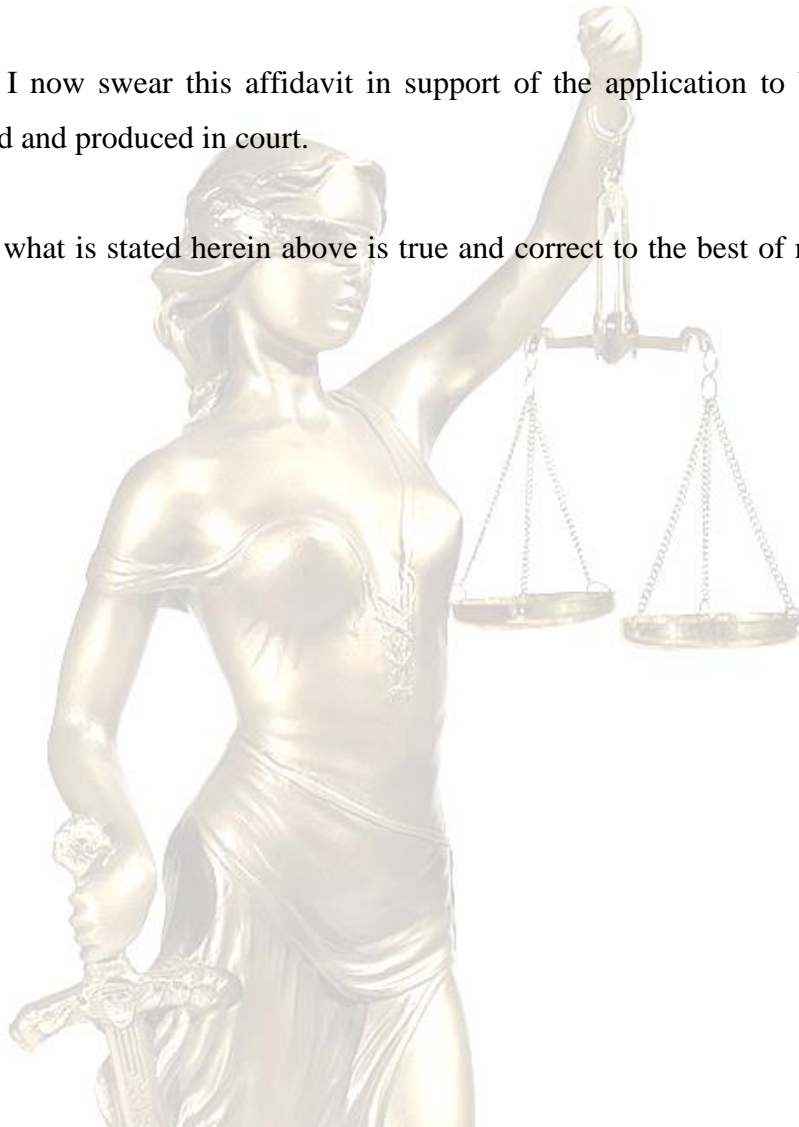
1. THAT I am an adult male/ female Ugandan of sound mind and the Applicant in this application and I now depone this affidavit in such capacity.

2. THAT on, the day of 20.., I was arrested for allegedly

3. THAT I have been detained at Police Station to date way beyond the mandatory 48 hours as required by the law.

4. THAT I have not been brought before a competent court to be charged.

5. THAT as a result of the continued detention, my constitutional right to personal liberty is being violated.
6. THAT it would be in the interest of justice if this application is allowed.
7. THAT I now swear this affidavit in support of the application to be unconditionally released and produced in court.
8. THAT what is stated herein above is true and correct to the best of my knowledge and belief.



ISAAC LUBOGO CHRISTOPHER

SWORN by the

Said DEPONENT At this ____ day of
_____20..

BEFORE ME:

A COMMISSIONER FOR OATHS

DRAWN & FILED BY:

The APPLICANT

THE REPUBLIC OF UGANDA

IN THE..... COURT OF.....

HOLDEN AT

CRIMINAL APPN NOOF

(Arising From Criminal Appeal NO..... of 20)

..... APPLICANT/
APPELANT

VS

UGANDA RESPONDENT/ PROSECUTOR NOTICE
OF MOTION

(Under Article 23 (6), Section 40, 47 of the Criminal Procedure Code Act Cap116, Section 132(4) of the penal Code Act Cap 120)

Take Notice that this Honourable Court shall be moved on the... day of 20.. or soon thereafter as the Applicant will be heard on an Application for orders that.

1. That the Applicant be granted bails pending the hearing of his Bail filed in the High Court / court of Appeal vide Criminal Appeal No..... of 20..

Take further notice that this Application is supported by the Affidavit of..... the Applicant herein which shall be read and relied on at the hearing but briefly they are as follows.

1. That there is a possibility of substantial delay with the Appeal

2. That the Appeal has a reasonable ground of success.
3. That the Applicant is a first time offender.
4. That the offence the Appellant was convicted of did not involve personal violence.
5. That it is in the interest of justice that this application is granted.

Dated at this day of20..

.....

APPLICANT

Lodged in the Court Registry this Day of 20..

.....

ASSISTANT REGISTRAR

AN AFFIDAVIT IN SUPPORT OF NOTICE OF MOTION:

THE REPUBLIC OF UGANDA

IN THE COURT OF

HOLDEN AT.....

CRIMINAL APPN NO..... OF20.. (ARISING FROM CRIMINAL APPEAL NO..... OF 20.)

..... : APPLICANT/ APPELLANT

VS

UGANDA : RESPONDENT.

AFFIDAVIT IN SUPPORT OF NOTICE OF MOTION:

I..... ofdo solemnly make oath and swear/ affirm that that:

1. I am male / female Adult Ugandan of sound min the Applicant/ Convict herein and therefore having capacity to depone to this Affidavit.
2. That I was charged and convicted to Years in prison for the offence of contrary to section... of the penal code Act.

- 3. That prior to my conviction I was granted bail by the High/Magistrate court and I dully abided by the terms of the bail and also dully attended court on dates I was scheduled to attend.(**see attached copies of Bail forms for ease of reference**)
- 4. That I have never been convicted of any other offence and I am a first time offender.
- 5. That I have appealed against the decision of the lower court and there I a possibility of success in the Appeal (**attached is a copy of Memorandum of Appeal and records of the lower court proceedings**).
- 6. That there is a likely hood that the appeal will take a long time to be disposed of by this Honorable Court.
- 7. That I have substantial sureties within the Jurisdiction of this Honorable court who will undertake that I attend court whenever required.
- 8. That whatever I have stated herein is true and correct to the best of my knowledge and belief and whatever is from without the source is disclosed.

Sworn at on the

.....day of..... 20.. By the said

.....

Deponent

Drawn and filed by: THE APPLICANT

BEFORE ME

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

JUSTICE OF
PEACE



A SENTENCE OF IMPRISONMENT.

THE REPUBLIC OF UGANDA

A WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT

IN THE..... COURT OF.....

HOLDEN AT.....

TO:

THE SUPERINTENDENT OF THE PRISON.....

WHEREAS on the Of20.. The 1st 2nd prisoner in the case
No of the calendar of 20... was convicted before me

.....

Of the offence of under section and was
sentenced to

THIS IS TO AUTHORISE AND REQUIRE YOU, the said Superintendent, to receive the said
into your custody in the said prison together with this
warrant, and there carry the aforesaid sentence into execution according to the law.

Given under my hand and seal of this court, this.....day of 20..

..... JUDGE/ MAGISTRATE.

A NOTICE OF APPEAL.

THE REPUBLIC OF UGANDA

IN THE..... COURT OF.....

HOLDEN AT.....

CRIMINAL APPEAL NO OF 20..

UGANDA PROSECUTOR

VERSUS

_____ACCUSED

NOTICE OF APPEAL

TAKE NOTICE that the Convict/ intended Appellant , being dissatisfied with the judgment of the Hon. given aton the day of 20., intends to appeal to the High Court / Court of Appeal of Uganda against the whole of the said judgment / conviction/ Sentence.

The addressof service for the intended Appellant is It is intended to serve copies of this Notice on:

- (a) The Registrar, High Court / Court of Appeal of Uganda at Kampala.
- (b) The Resident State Attorney

Dated at this_day of_20...

APPELLANT.

LODGED in the High Court Registry at Kampala this____day of_20.

REGISTRAR

AFFIDAVITS

AFFIDAVIT

State of [STATE/PROVINCE]

City of [CITY]

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

BEFORE ME, the undersigned authority, [NAME AND CAPACITY OF OFFICER BEFORE WHOM AFFIDAVIT IS SWORN], on this [DAY OF MONTH] day of [MONTH], [YEAR], personally appeared Affiant, known to me to be a credible person and of lawful age, who being by me first duly sworn, on [HIS OR HER] oath, deposes and says:

[SET FORTH STATEMENT OF FACTS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

ESTOPPEL AFFIDAVIT OF MORTGAGOR

This Estoppel Affidavit of Mortgagor (the "Agreement") is made and effective [DATE],

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AFFIANT NAME] (the "Affiant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

TERMS

1. This is to certify that Affiant executed, assumed, or taken title subject to, the mortgage on the real property located at [ADDRESS], originally granted to [NAME], dated [DATE], recorded in [BOOK, PAGES] of the public records of the [STATE/PROVINCE] and now assigned to and held by [NAME]. The legal description of the mortgaged property is attached hereto as Exhibit A.
2. The original principal amount of the Promissory Note secured by said Mortgage was [AMOUNT], with interest accruing thereon at the fixed rate of [%] per annum amortized over [NUMBER] year(s), with [NUMBER] monthly installment payments of principal and interest due and payable in the amount of [AMOUNT] per month, with the first payment due on [DATE]. A total of [NUMBER] payments have been made through and including the payment due on [DATE]. This loan is current in all respects and the Affiant is not in default.
3. The remaining unpaid principal balance owing on said Note and Mortgage is [AMOUNT], as of [DATE], and there remain scheduled monthly payments due in the amount of [AMOUNT] each, and a balloon payment of [AMOUNT] due on [DATE], with [AMOUNT] then remaining unpaid after said balloon. The next payment in the amount of [AMOUNT] is due on [DATE]. Interest continues to accrue on said Note and Mortgage at the fixed annual rate of [%].
4. No lump sum payments have been made against said balance, nor are there any claims, defenses or offsets against said Mortgage or Note.
5. The Affiant had the full legal capacity to execute said Note and Mortgage or to assume or take title to the real property subject to said Mortgage, and is not in bankruptcy or receivership for benefit of creditors.

6. Affiant has no knowledge of any action or proceeding whatever, which is now pending in any state or federal court in [COUNTRY] in which the Affiant is a party which affects the real property or the Note or Mortgage, nor does the Affiant know of any federal or state court judgment, tax lien or any other lien of any kind or nature whatever which now constitutes a lien or charge upon the property, Note, or Mortgage, except taxes for the current year and the lien of those certain mortgages of record in the County and State where the property is located.
7. Affiant has received no notice from any governmental authority requiring any improvement, alteration or change to be made in and about the property.
8. Affiant has not had any sums escrowed for the payment of taxes or insurance on the property.
9. Affiant further states under penalty of perjury that there has never been any previous transfer or assignment of the above described Promissory Note and/or Mortgage to the knowledge of Affiant, nor has Affiant ever received any notice of assignment or notice of any other interest had by any other third party in said Note and/or Mortgage; Affiant will hold harmless and protect against any claims due to misrepresentation hereof.
10. Affiant understands that this affidavit may be relied upon by any third-party for the purpose of assuming, holding, purchasing, assigning, or satisfying the Promissory Note and Mortgage presently owed by the Affiant.
11. That said Agreement is intended to be and is an absolute conveyance of the title to said property to Mortgagor named therein, and was not and is not now intended as a mortgage, trust conveyance or security of any kind.
12. That it was the intention of Affiant as grantors in said Affidavit to convey, and by said Affidavit Affiant did convey, to Mortgagor therein, all their right, title and interest absolutely in and to said property and that possession of said property has been surrendered to Mortgagor.

13. That in the execution and delivery of said Affidavit Affiant was not acting under misapprehension as to the effect thereof, and acted freely and voluntarily and were not acting under coercion or duress.
14. That at the time of making said Affidavit Affiant believed and now believe that the aforesaid consideration therefore represented the fair value of said property.
15. That this affidavit is made for the protection and benefit of Mortgagor in said Affidavit, their successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in said property.
16. That Affiant will testify, declare, depose or certify before any competent tribunal, officer or person, in any case now pending or which may hereafter be instituted to the truth of the particular facts set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

DR. LUBOGO ISAAC CHRISTOPHER

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

EXHIBIT A
LEGAL DESCRIPTION OF THE MORTGAGED PROPERTY

AFFIDAVIT OF NO CREDITORS

State of [STATE/PROVINCE]

City of [CITY]

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

- A. Affiant is the owner of the stock of merchandise located at [ADDRESS], [CITY], [STATE], more particularly described as follows: [DESCRIPTION], which Affiant proposes to sell and transfer to Company, of [ADDRESS], [CITY], [STATE].
- B. This merchandise is not encumbered.
- C. Affiant has no creditors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

AFFIDAVIT OF NO LIEN

This Affidavit of No Lien (the "Agreement") is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AFFIANT NAME] (the "Affiant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

1. That Affiant is the [TITLE] of [COMPANY].

2. That said Company is the owner of the improved property known and legally described as follows:

[SET FORTH LEGAL DESCRIPTION]

3. That [COMPANY] is not the subject to any bankruptcy, creditor's reorganization or insolvency proceeding and none are pending, contemplated or threatened.
4. That [COMPANY] has possession of the property and that there is no other person in possession who has any right in the property.
5. That there are no unrecorded labor, mechanic's or material men's liens against the property and no material has been furnished or labor performed on the property which has not been paid in full.
6. That there are no unrecorded easements, liens of assessments for sanitary sewers, paving or other public utilities against said property.
7. That there are no claims whatsoever of any kind or description against any fixtures or equipment located on the said premises.
8. That there are no existing contracts for sale, options to purchase or unrecorded deeds or mortgages existing against said property.
9. That this affidavit is made for the purpose of [DESCRIBE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

AGREEMENTS AND CONTRACTS

ADVERTISING AGENCY AGREEMENT

This Advertising Agency Agreement (the "Agreement") is made and effective this [DATE],

BETWEEN: [ADVERTISER NAME] (the "Advertiser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENCY NAME] (the "Agency"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

Agency is in the business of providing advertising agency services for a fee. Advertiser desires to engage Agency to render, and Agency desires to render to Advertiser, certain advertising agency services, all as set forth.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

1. ENGAGEMENT

Advertiser engages Agency to render, and Agency agrees to render to Advertiser, certain services in connection with Advertiser's planning, preparing and placing of advertising for certain of Advertiser's products as follows:

- a. Analyze Advertiser's current and proposed products and services and present and potential markets.
- b. Create, prepare and submit to Advertiser for its prior approval advertising ideas and programs.
- c. Prepare and submit to Advertiser for its prior approval estimates of costs and expenses associated with proposed advertising ideas and programs.
- d. Design and prepare, or arrange for the design and preparation of, advertisements.
- e. Perform such other services as Advertiser may request from time to time such as, but not limited to, direct mail advertising preparation, speech writing, publicity and public relations work, market research and analysis.
- f. Order advertising space, time or other means to be used for publication of Advertiser's advertisements, at all times endeavoring to secure the most efficient and advantageous rates available.
- g. Proof for accuracy and completeness of insertions, displays, broadcasts, or other forms of advertisements.
- h. Audit invoices for space, time, material preparation and charges.

2. PRODUCTS

Agency's engagement shall relate to the following products and services of Advertiser:
[PRODUCTS]

3. EXCLUSIVITY

Agency shall be the [EXCLUSIVE OR NON-EXCLUSIVE] advertising agency in the [COUNTRY] for Advertiser with respect to the products described in Section 2 above.

4. COMPENSATION

- a. Agency shall receive an amount equal to [MEDIA COMMISSION RATE] of the gross charges levied by media for advertising placed therewith by Agency pursuant to this Agreement; and [NON-MEDIA COMMISSION RATE] after volume discount, of the charges of suppliers of services or properties, such as finished art, comprehensive layouts, type composition, photostats, engravings, printing, radio and television programs, talent, literary, dramatic and musical works, records and exhibits, purchased by Agency on Advertiser's authorization during the term of this Agreement; provided that:

- (i) No percentage will be added to Agency charges for packing, shipping, express, postage, telephone, telex, fax, travel expenses and other out of pocket expenses of Agency personnel; and

- (ii) Agency's commission for outdoor advertising will be the standard rate allowed advertising agencies when such rate is less than [OUTDOOR ADVERTISING COMMISSION RATE].

- b. For those items where Agency is not compensated on a commission basis, Advertiser shall pay Agency on an hourly basis for services provided hereunder. The rate will be determined by the type of services provided and the person or persons providing such services, but in no event shall the rate exceed [MAXIMUM HOURLY RATE] per hour. Advertiser may elect in advance to be charged on this hourly rate basis. If Advertiser fails to notify Agency of its choice, it shall be presumed that Advertiser elected to be charged on an hourly rate basis.
- c. In the event that Agency undertakes, at Advertiser's request subject to Advertiser's prior approval, special projects such as those described in Section 1.F above, Agency shall prepare an estimate of total charges for any such special project, including therein any charges for materials or services purchased from outside sources. In the event that Advertiser elects to proceed with the special project based upon Agency's estimated cost, Agency shall perform the services with respect to such special project at its estimated cost, subject to modification as mutually agreed by the parties.
- d. For any special project or other services provided by Agency pursuant to this Agreement upon which the parties have not agreed as to charges, Advertiser shall pay Agency at its regular hourly rates, not to exceed [AMOUNT] per hour.
- e. Advertiser shall not be obligated to reimburse Agency for any travel or other out-of-pocket expenses incurred in the performance of services pursuant to this Agreement unless expressly agreed by Advertiser in advance.

5. BILLING

- a. Agency shall invoice Advertiser for all media costs where possible in advance of Agency's payment date to allow for prepayment by the Advertiser so that Advertiser may receive the benefit of any available prepayment or similar discount. For any media purchase or service for which Agency is not entitled to a commission, Agency shall ensure that the charges to Advertiser are net of all agency commissions and discounts.
- b. Charges for production materials and services shall be billed by Agency upon completion of the production job or, if cash discounts are available, upon receipt of the supplier's invoice.
- c. On all outside purchases other than for media, Agency shall attach to the invoice proof of the supplier's charges.
- d. All cash discounts on Agency's purchases including, but not limited to, media, art, printing and mechanical work, shall be available to Advertiser, provided that Advertiser meets Agency's requisite billing terms and there is no outstanding indebtedness of Advertiser to Agency at the time of the payment to the supplier.
- e. Rate or billing adjustments shall be credited or charged to Advertiser on the next following regular invoice date or as soon as otherwise practical.
- f. Invoices shall be submitted in an itemized format and shall be paid by Advertiser within [NUMBER] days of the invoice date.

6. COMPETITORS

During the term of this Agreement, Agency [MAY NOT] accept employment from, render services to, represent or otherwise be affiliated with any person, firm, corporation or entity in connection with any product or service directly or indirectly competitive with or similar to any product or service of Advertiser with respect to which the Agency is providing any service pursuant to this Agreement.

7. COST ESTIMATES

Agency shall not commence work on any project pursuant to this Agreement without first estimating costs for preparation, including copy, service, layout, art, engraving, typography, processing, paste up and production. After determining the estimated cost, completion of the work shall be subject to Advertiser's prior approval.

8. AUDIT RIGHTS

Agency agrees that following reasonable prior notice any and all contracts, agreements, correspondence, books, accounts and other information relating to Advertiser's business or this Agreement shall be available for inspection by Advertiser and Advertiser's outside accountants, at Advertiser's expense.

9. OWNERSHIP AND USE

- a. Agency shall insure, to the fullest extent possible under law, that Advertiser shall own any and all right, title and interest in and to, including copyrights, trade secret, patent and other intellectual property rights, with respect to any copy, photograph, advertisement, music, lyrics, or other work or thing created by Agency or at Agency's direction for Advertiser pursuant to this Agreement and utilized by Advertiser.
- b. Upon termination, Advertiser agrees that any advertising, merchandising, package, plan or idea prepared by Agency and submitted to Advertiser (whether submitted separately or in conjunction with or as a part of other material) which Advertiser has elected not to utilize, shall remain the property of Agency, unless Advertiser has paid Agency for its services in preparing such item. Advertiser agrees to return to Agency any copy, artwork, plates or other physical embodiment of such creative work relating to any such idea or plan which may be in Advertiser's possession at termination or expiration of this Agreement.
- c. Materials and advertisements created by Agency pursuant to this Agreement may be used by Advertiser outside [COUNTRY] without additional compensation, provided that Advertiser shall be responsible for any additional expense associated with such use, such as charges for translation and amounts due talent. Agency's obligations in Section 10.A. above shall not apply with respect to any such foreign use.

10. INDEMNIFICATION AND INSURANCE

- a. Agency shall indemnify and hold Advertiser harmless with respect to any claims, loss, suit, liability or judgment suffered by Advertiser, including reasonable attorney's fees and costs, based upon or related to any item prepared by Agency or at Agency's direction, including, but not limited to, any claim of libel, slander, piracy, plagiarism, invasion of privacy, or infringement of copyright or other intellectual property interest, except where any such claim arises out of material supplied by Advertiser and incorporated into any materials or advertisement prepared by Agency. Agency agrees to procure and maintain in force during the term of this Agreement, at Agency's expense, an advertising agency liability policy or policies having a minimum limit of at least [INSURANCE POLICY AMOUNT], naming Advertiser as an additional insured and loss payee under such policy or policies.
- b. Advertiser agrees to indemnify and hold Agency harmless with respect to any claims, loss, liability, damage or judgment suffered by Agency, including reasonable attorney's fees and court costs, which results from the use by Agency of any material furnished by Advertiser or where material created by Agency or at the direction of Agency subject to the indemnification in subsection A. above is materially changed by Advertiser. Information or data obtained by Agency from Advertiser to substantiate claims made in advertising shall be deemed to be "material furnished by Advertiser to Agency".
- c. In the event of any proceeding, litigation or suit against Advertiser by any regulatory agency or in the event of any court action or other proceeding challenging any advertising prepared by Agency, Agency shall assist in the preparation of the defense of such action or proceeding and cooperate with Advertiser and Advertiser's attorneys.

11. TERM

The term of this Agreement shall commence on [START DATE] and shall continue in full force and effect until terminated by either party upon at least [NUMBER] days prior written notice, provided that in no event (except breach) may this Agreement be terminated prior to [EARLIEST END DATE]. The rights, duties and obligations of the parties shall continue in full force during or following the period of the termination notice until termination, including the ordering and billing of advertising in media whose closing dates follow then such period.

12. RIGHTS UPON TERMINATION

- a. Upon termination of the Agreement, Agency shall transfer, assign and make available to Advertiser all property and materials in Agency's possession or subject to Agency's control that are the property of Advertiser, subject to payment in full of amounts due pursuant to this Agreement
- b. Upon termination, Agency agrees to provide reasonable cooperation in arranging for the transfer or approval of third party's interest in all contracts, agreements and other arrangements with advertising media, suppliers, talent and others not then utilized, and all rights and claims thereto and therein, following appropriate release from the obligations therein.

13. DEFAULT

In the event of any default of any material obligation by or owed by a party pursuant to this Agreement, then the other party may provide written notice of such default and if such default is not cured within [NUMBER] days of the written notice, then the non-defaulting party may terminate this Agreement.

14. NOTICES

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Advertiser:

[ADVERTISER]

[ADVERTISER'S ADDRESS]

If to Agency:

[AGENCY]

[AGENCY'S ADDRESS]

15. HEADINGS

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

16. FINAL AGREEMENT

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

17. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the state of [STATE/PROVINCE].

IN WITNESS WHEREOF, the parties hereto have executed this Advertising Agency Agreement as of the date first above written.

ADVERTISER

AGENCY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

AMENDMENT TO SALES CONTRACT

This Amendment to that certain Sales Contract dated [DATE], (the “Sales Contract”), is made [DATE]

BETWEEN: [SELLER NAME] (the “Seller”) , a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

WHEREAS, the parties wish to amend certain terms of the Sales Contract; and WHEREAS, certain capitalized terms not otherwise defined herein are defined in the Sales Contract;

THEREFORE, the parties agree as follows:

1. PRICE CHANGE

Section [Specify] of the Sales Contract is hereby amend to provide that the price for the Products shall, after the date hereof, be the price announced publicly from time to time by Seller, less a 10% discount.

2. PAYMENT

The first sentence of Section [SPECIFY] of the Sales Contract is deleted and replaced by the following sentence: “Payment in full for all Products shall be made by Buyer within 45 days of receipt of the applicable invoice from Seller.”

3. DELETION

Section [SPECIFY] of the contract is hereby deleted and is no longer applicable after the date hereof.

4. PAYMENT

In consideration for the various accommodations made herein, Buyer shall pay to Seller the sum of [AMOUNT] simultaneously upon execution of this Amendment.

5. ENTIRE AGREEMENT

This Amendment, together with the Sales Contract, constitutes the final, complete and exclusive statement of the agreement between the parties pertaining to their subject matter and supersedes any and all prior and contemporaneous understandings or agreements of the parties.

6. MODIFICATION

This Amendment may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, modification or amendment of this Amendment shall be binding unless it is in writing and signed by both parties.

7. INCONSISTENCY

In the event of any conflict between this Amendment and the Sales Contract, the terms of this Amendment shall govern.

8. SALES CONTRACT CONTINUANCE

Except with respect to the changes effected by this Amendment, the Sales Contract continues to remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on [DATE].

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BILL OF SALE

This Bill of Sale (the "Agreement") is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller") , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR GOOD AND VALUABLE CONSIDERATION, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods

[DETAILED LIST OF GOODS].

Seller warrants and represents that he/she has good title to said property, full authority to sell and transfer same and that said goods and chattels are being sold free and clear of all liens, encumbrances, liabilities and adverse claims, of every nature and description.

Seller further warrants that it shall sully defend, protect, indemnify and save harmless the Buyer and its lawful successors and assigns from any and all adverse claim, that may be made by any party against said goods.

The Buyer acknowledges examining the goods and buying them "as and where is" completely at the Buyer's risk and promises not to make any claims against the Seller based upon alleged express or implied representations, warranties or collateral agreements as to the merchantability of the goods or as to their fitness for any particular purpose or as to their safe use.

It is provided, however, that Seller disclaims any implied warranty of condition, merchantability or fitness for a particular purpose. Said goods being in their present condition "as is" and "where is."

IN WITNESS WHEREOF, this Bill of Sale is executed in duplicate under seal on [DATE].

Signed, sealed and delivered to the Buyer in the presence of:

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

A sample of a bill of sale with encumbrances.

BILL OF SALE – WITH ENCUMBRANCES

This Bill of Sale (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the “Seller”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR GOOD AND VALUABLE CONSIDERATION, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods:

[DETAILED LIST OF GOODS].

The Seller warrants that it owns the goods but stipulates that they are being sold subject to the following encumbrance(s) in the following amount(s):

[ENCUMBRANCE DESCRIPTION - ENCUMBRANCE AMOUNT].

The Buyer acknowledges buying the goods subject to the above encumbrance(s) and promises to pay the encumbrance(s) and to indemnify and save the Seller harmless from any claim(s) based on failure to pay off the encumbrance(s).

Executed under seal in duplicate on [DATE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BULK SALE AGREEMENT

This Bulk Sale Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLERS NAME] (the “Sellers”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

THEREFORE, the parties agree as follows:

1. AGREEMENT TO SELL

The Sellers shall sell to the Buyer, and the Buyer shall buy from the Sellers, all of that certain stock of goods, wares and merchandise belonging to the Sellers, and now located at [LOCATION], together with all furniture and fixtures therein, belonging to the Sellers.

2. COMPANY CLOSED FOR INVENTORY

Upon the execution and delivery of this contract, properly signed and executed, and the payment of the earnest money hereinafter mentioned, the location shall be closed temporarily, and an inventory taken immediately, and delivered to the Buyer, at the invoice cost [AMOUNT], without including transportation charges or expenses, deducting, however, any depreciation on account of damages, wear and tear.

3. INVOICE VALUATION OR ARBITRATION

The goods, wares and merchandise and furniture and fixtures shall be inventoried at [LOCATION].

4. TIME TO COMPLETE INVENTORY

Ten days shall be allowed to complete the inventories, upon which date all of the property shall be thereupon delivered by the Sellers to the Buyer.

5. LIQUIDATED DAMAGES

All the stipulations, agreements and conditions contained in this contract are to apply to and to bind the heirs, executors and administrators of the respective parties hereto, and, in case of failure, the parties bind themselves each to the other in the sum of [AMOUNT], as fixed and settled damages to be paid by the failing party.

6. DEPOSIT IN ESCROW TO SECURE COMPLIANCE WITH BULK SALES LAW

The Buyer, in consideration of the premises, shall, upon the execution of this contract, deposit in escrow in the [NAME] Bank, the sum of [AMOUNT] as earnest money to bind the trade, the sum to be returned to the Buyer in case the Sellers fail to make good title to the property, and upon the consummation of the deal and the tender of the Sellers to the Buyer of their certain bill of sale to the property, showing that the Sellers have complied with all the requirements and conditions of the Bulk Sales Law of [JURISDICTION] and that they will furnish to Buyer a full and complete list of all creditors of the company, together with the amounts due the creditors, that the creditors shall be immediately paid in full such amounts as may be due them, and that the total amount shown to be due by the Sellers shall be deposited in escrow in [NAME] Bank, until all creditors of the company shall give a release of their claim against the company, or the individual members thereof, the Buyer shall pay to the Sellers the total amount of the invoice in cash and the payment shall be accepted in full payment for the property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: BULK SALES NOTICE

Dear [CONTACT NAME],

Please take notice that on [DATE],[SELLER] shall make a bulk sale or transfer of its goods to [BUYER].

To the knowledge of Buyer, the Seller has not done business under any other name during the past three years. All debts of the Seller shall be paid in full as they fall due as part of this bulk sale.

Creditors are directed to send all bills to:

Name

Address

The sale shall occur ten or more days from the date of receipt of this notice.

Sincerely,

Buyer

USE REGISTERED MAIL.

CHECKLIST

PARTNERSHIP AGREEMENT

1. Name of Partnership

2. Names of Partners, Contribution to Capital and Distribution of Profit

3. Description of Business

4. Commencement Date

5. Term of Partnership (if any)

6. Place of Business (if any)

7. Fiscal Year End

8. Accounting/Valuation Principles (seek professional advice)

9. Banking Arrangements

10. Management Duties/Decisions

11. Restrictions on Partners

12. Signing Authority

13. Drawing Arrangements

14. Retirement/Death Arrangements

15. Non-Competition Clause?

16. Admission/Expulsion of Partners

17. Voluntary Dissolution of Partnership

18. Dispute Arbitration Clause?

COMMITMENT FORM

This Commitment Form (the “Agreement”) is made and effective on [DATE],

BETWEEN: [CLIENT NAME] (the “Client”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRM NAME] (the "Firm"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, the parties agree to certain terms on services to be performed by the Firm for the Client;

THEREFORE, the parties agree as follows:

1. TERMS

This commitment form is to serve as Client's written authorization for Firm to perform services and/or contract with suppliers for the above described items or services. Client's signature also indicates understanding of estimates, prices, terms and liability to Firm for said items or services. Alterations or revisions of above specifications involving extra costs will be executed only upon additional written orders.

2. DESCRIPTION OF THE SERVICES

The following services are to be performed by the Firm for the Client for the sum of [AMOUNT]:

[DESCRIBE SERVICES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

FIRM

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONDITIONAL SALE AGREEMENT

This Conditional Sale Agreement (the “Sales Contract”), is made and effective [DATE],

BETWEEN: [SELLER NAME], [FULL ADDRESS] (the “Seller”) , a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME], [FULL ADDRESS] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

The undersigned Buyer agrees to purchase from Seller the following goods:

[DESCRIBE]

Cash price \$ _____

Sales tax (if any) \$ _____

Finance charge \$ _____

Insurance (if any) \$ _____

Other charges (if any) \$ _____

Total purchase price \$ _____

Less:

Down payment \$ _____

Other credits \$ _____

Total credits \$ _____

Amount financed \$ _____

Annual interest rate _____%

The amount financed is payable in [NUMBER] (weekly/monthly) installments of [AMOUNT] each, commencing one (week/month) from date hereof.

Title to goods is retained by Seller until payment of full purchase price, subject to allocation of payments

and release of security as required by law. The undersigned agrees to keep the goods safely, free from other liens and at the below address.

The full balance shall become due on default; with the undersigned paying all reasonable attorney fees and costs of collection. Upon default, Seller shall have the right to retake the goods, hold and dispose of them and collect expenses, together with any deficiency due from Buyer; but subject to the Buyer's right to redeem pursuant to law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

**CONTRACT FOR THE MANUFACTURE
AND SALES OF GOODS**

This Sales Agreement (the “Sales Contract”) is made on [DATE],

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

7. DESCRIPTION OF MANUFACTURE AND SALE

Seller agrees to manufacture and sell to buyer the following goods:

[DESCRIBE GOODS AND SET FORTH SPECIFICATIONS] (the “goods”).

8. PAYMENT

Buyer agrees to pay for the goods as follows: [%] down within [NUMBER] days after execution of this agreement; [%] within [NUMBER] days after seller notifies buyer of opportunity to inspect and seller’s intent to make delivery at expiration of [NUMBER] days from notice; and [%] upon delivery. If seller should regard its prospect of receiving the last payment insecure, it may demand payment prior to delivery.

9. DELIVERY SCHEDULE

Seller shall commence to manufacture within [NUMBER] weeks following receipt of buyer’s initial deposit. Subject to the provisions of Section Five, seller will complete such manufacturing and make the goods available for inspection at seller’s plant not later than [DATE]. If buyer’s inspection discloses defects or adjustments, seller shall have a reasonable time to correct such defects and make such adjustments as are necessary. Buyer shall then have an opportunity to make a final pre-shipment inspection. Seller shall within [NUMBER] days of inspection cause the goods to be appropriately packaged and shipped to [ADDRESS], [CITY], [STATE/PROVINCE], or to such other destination specified by buyer. Seller shall pay all expenses of packaging and preparations for shipment and buyer shall pay all costs of shipment, including insurance on both seller’s and buyer’s respective interests.

10. EXCUSE FOR NONPERFORMANCE

Seller's obligations under this agreement are accepted subject to strikes, labor troubles (including strikes or labor troubles affecting any suppliers of seller), floods, fires, acts of God, accidents, delays, shortage of cars, contingencies of transportation and other causes of like or different character beyond the control of seller. Impossibility of performance by reason of any legislative, executive or judicial act of any governmental authority shall excuse performance of or delay in performance of this agreement.

11. WARRANTIES AND LIMITATIONS

Seller warrants that the goods shall be delivered free of the rightful claim of any third person by way of patent infringement, and if buyer receives notice of any claim of such infringement, it shall, within [NUMBER]days, notify seller of such claim. If buyer fails to forward such notice to seller, it shall be deemed to have released seller from this warranty as to such claim.

THERE ARE NO WARRANTIES OF MERCHANTABILITY AND NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.

12. ENTIRE AGREEMENT

The parties agree that this constitutes the entire agreement and there are no further items or provisions, either oral or otherwise. Buyer agrees that it has not relied upon any representations of seller as to prospective performance of the goods, but has relied upon its own inspection and investigation of the subject matter.

The parties have executed this agreement at [DESIGNATE PLACE OF EXECUTION] the day and year first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONTRACT FOR THE SALE OF GOODS

This Sales Agreement (the “Agreement”) is made on [DATE], (the “Sales Contract”),

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

1. SALE OF GOODS

Seller shall sell, transfer and deliver to buyer on or before [DATE], the following personal property:

[DESCRIPTION OF GOODS]

2. CONSIDERATION

Buyer shall accept the goods and pay the sum of [AMOUNT] for the goods.

3. IDENTIFICATION OF GOODS

Identification of the goods to this agreement shall not be deemed to have been made until both buyer and seller have specified that the goods in question are to be appropriated to the performance of this agreement.

4. PAYMENT ON RECEIPT

Buyer shall make payment for the goods at the time when, and at the place where, the goods are received by buyer.

OR

INSTALLMENT PAYMENT CLAUSE

Buyer agrees to pay for the [EQUIPMENT, MACHINERY OR THE LIKE] in the following manner: the initial payment payable with this order, and the remaining balance in monthly payments together with monthly charge for service, all as stated on the face of this agreement; the billing for monthly payments will commence for each [E.G., MACHINE] when installed ready for buyer's use, with succeeding payments on the same day of every month until total price shall have been paid in full.

5. RECEIPT CONSTRUED AS DELIVERY

Goods shall be deemed received by buyer when delivered to buyer at [ADDRESS], [CITY], [STATE/PROVINCE].

6. RISK OF LOSS

The risk of loss from any casualty to the goods, regardless of the cause, shall be on seller until the goods have been accepted by buyer.

7. WARRANTY OF NO ENCUMBRANCES

Seller warrants that the goods are now free, and that at the time of delivery shall be free from any security interest or other lien or encumbrance.

8. WARRANTY OF TITLE

Furthermore, seller warrants that at the time of signing this agreement seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of seller in the goods.

9. RIGHT OF INSPECTION

Buyer shall have the right to inspect the goods on arrival and, within [NUMBER] business days after delivery, buyer must give notice to seller of any claim for damages on account of condition, quality or grade of the goods, and buyer must specify the basis of the claim of buyer in detail. The failure of buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by buyer.

The parties have executed this agreement at [DESIGNATE PLACE OF EXECUTION] the day and year first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DISTRIBUTION AGREEMENT

This Distribution Agreement (the "Agreement"), is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the “Company”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [DISTRIBUTOR NAME] (the "Distributor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS the Company wishes to market the Products described in Schedule A (the "Products") through the Distributor, it is agreed as follows:

1. DEFINITIONS

When used in this Agreement, the following terms shall have the respective meanings indicated, such meanings to be applicable to both the singular and plural forms of the terms defined:

“Agreement” means this agreement, the Schedules attached hereto and any documents included by reference, as each may be amended from time to time in accordance with the terms of this Agreement;

“**Accessories**” means the accessories described in Exhibit A attached hereto, and includes any special devices manufactured by Company and used in connection with the operation of the Goods.

Accessories may be deleted from or added to Exhibit A and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

“Affiliate means” any company controlled by, controlling, or under common control with Company. Affiliate means any person, corporation or other entity: (i) which owns, now or hereafter, directly or indirectly, twenty-five percent (25%) or more of any class of the voting stock of Company or is, now or hereafter, directly or indirectly, in effective control of Company; or (ii) twenty-five percent (25%) or more of any class of the voting stock of which Company, or a party described in paragraph (i), owns, now or hereafter, directly or indirectly, or of which Company, or a party described in paragraph (i), is, now or hereafter, directly or indirectly, in control.

“Customer” means any person who purchases or leases Products from Distributor.

“Delivery Point” means Company's facilities at [FULL ADDRESS]. Delivery point means Distributor's facilities at [FULL ADDRESS].

“Exhibit” means an exhibit attached to this agreement.

“Goods” means those items described in Exhibit B. Goods may be deleted from or added to Exhibit B and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

“Products” means Goods, Accessories, and Spare Parts.

“Spare Parts means”: (i) all parts and components of the Goods; (ii) any special devices used in connection with the maintenance or servicing of the Goods. Company warrants that a complete list of Spare Parts is set forth in Exhibit C. Spare parts may be deleted from or added to Exhibit C and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

“Specifications” means those specifications set forth in Exhibit D.

“Territory” means the following geographic area or areas: [SPECIFY].

“Trademark” means any trademark, logo, service mark or other commercial designation, whether or not registered, used to represent or describe the Products of Company, as set forth in Exhibit E.

2. APPOINTMENT OF DISTRIBUTOR

1.1 Appointment

Company hereby appoints Distributor as Company's nonexclusive distributor of Products in the Territory, and Distributor accepts that position. It is understood that Company cannot lawfully prevent its distributors located elsewhere from supplying Products for sale or use within the Territory and that it has no obligation to do so.

OR

Company hereby appoints Distributor as Company's exclusive distributor of Products in the Territory, and Distributor accepts that position.

- a. Company, to the extent that it is legally Permitted to do so, (i) shall not appoint any distributor or servicer in the Territory for the Products other than Distributor, (ii) shall not, and shall cause any Affiliate not to, knowingly sell Products to any person other than Distributor or a party designated by Distributor for use or resale within the Territory (except pursuant to any agreement effective at the time this Agreement became applicable to the service so provided), and (iii) shall use its best efforts to prevent any party other than Distributor from seeking customers for the Products in the Territory, from establishing any branch related to the distribution of Products in the Territory, or from maintaining any distribution depot with respect to the Products in the Territory.

- b. Company, or any Affiliate, sells any Product which is eventually resold in the Territory (other than a sale to Distributor or a party designated by Distributor) and Company, or that Affiliate, had reason to know at the time of its sale of that Product that such resale was likely to occur, Company shall, immediately after the trigger sale (which shall be the resale of the Product in the territory or the sale immediately preceding the use of the Product in the Territory) is contracted, pay to the Distributor [PERCENT] % of the price of that Product under this Agreement at the time that the trigger sale was contracted, which payment shall represent a recapture of certain advertising and capital expenditures made by Distributor. Nothing contained in this Section shall affect any other right or remedy which Distributor may have pursuant to this Agreement.

2. REFERRALS

If Company or any Affiliate is contacted by any party inquiring about the purchase of Products in the Territory (other than Distributor or a party designated by Distributor), Company shall, or shall cause that Affiliate to, refer such party to Distributor for handling.

3. RELATIONSHIP OF PARTIES

- a. Distributor is an independent contractor and is not the legal representative or agent of Company for any purpose and shall have no right or authority (except as expressly provided in this Agreement) to incur, assume or create in writing or otherwise, any warranty over any of Company's employees, all of whom are entirely under the control of Company, who shall be responsible for their acts and omissions.
- b. Distributor shall, at its own expense, during the term of this Agreement and any extension thereof, maintain full insurance under any Workmen's Compensation Laws effective in the state or other applicable jurisdiction covering all persons employed by and working for it in connection with the performance of this Agreement, and upon request shall furnish Company with satisfactory evidence of the maintenance of such insurance.
- c. Distributor accepts exclusive liability for all contributions and payroll taxes required under Federal Social Security Laws and State Unemployment Compensation Laws or other payments under any laws of similar character in any applicable jurisdiction as to all persons employed by and working for it.
- d. Nothing contained in this Agreement shall be deemed to create any partnership or joint venture relationship between the parties.

4. SALE OF PRODUCTS BY DISTRIBUTOR

Distributor agrees to exercise its best efforts to develop the largest possible market for the Products in the Territory and shall continuously offer, advertise, demonstrate and otherwise promote the sale of Products in the Territory.

- a. The parties have consulted together and now agree that if Distributor's best efforts are used as provided in this Section, a minimum of [SPECIFY] Products ("Annual Market Potential") will be purchased and distributed in the Territory during the first year of this Agreement.
- b. At the beginning of each subsequent year hereunder the parties will consult together in good faith and agree on the Annual Market Potential applicable to that year; provided, however, that if they cannot agree, the Annual Market Potential for the immediately Preceding year will apply to the current year.

5. COMPETING PRODUCTS

Distributor agrees that it will not distribute or represent any Products in the Territory which compete with the Products during the term of this Agreement or any extensions thereof.

6. ADVERTISING

Distributor shall be entitled, during the term of the distributorship created by this Agreement and any extension thereof, to advertise and hold itself out as an authorized Distributor of the Products. At all times during the term of the distributorship created by this Agreement and any extension thereof, Distributor shall use the Trademarks in all advertisements and other activities conducted by Distributor to promote the sale of the Products.

- a. Distributor shall submit examples of all proposed advertisements and other promotional materials for the Products to Company for inspection and Distributor shall not use any such advertisements or promotional materials without having received the prior written consent of Company to do so.
- b. Distributor shall not, pursuant to this Agreement or otherwise, have or acquire any right, title or interest in or to Company's Trademarks.

7. NEW PRODUCTS

If Company or any Affiliate now or hereafter manufactures or distributes, or proposes to manufacture or distribute, any product other than the Products, Company shall immediately notify, or cause such Affiliate to notify, Distributor of that fact and of all details concerning that product. Distributor may request from Company distribution rights for that product in the Territory, or any portion thereof, and if so requested, Company shall grant, or shall cause the subject Affiliate to grant, such distribution rights to Distributor on terms and conditions no less favorable than those provided in this Agreement with respect to Products.

If Distributor does not obtain those distribution rights or obtains them only for a portion of the Territory, and Company or an Affiliate later desires to offer those distribution rights for the Territory or any portion thereof to another party, Company shall first, or shall cause such Affiliate to first, make that offer in writing to Distributor on terms and conditions which shall be specified fully in that offer. That offer shall contain a full description of the subject product and its operation.

Distributor may request, and Company shall promptly provide, or shall cause such Affiliate promptly to provide, further information concerning the product or the offer. If Distributor fails to accept such offer, Company or the Affiliate may then offer the product to another party for distribution in the Territory, but may not offer it on terms and conditions more favorable than those offered to Distributor. If Company or the Affiliate desires to make a better offer to another party, Company shall first, or shall cause the affiliate first to, make such better offer to Distributor in accordance with the procedure set forth above.

8. DISTRIBUTOR SALES, SERVICE AND STORAGE FACILITIES

- a. Distributor shall, at its expense, engage and maintain a sales, service and parts handling organization in the Territory, staffed with such experienced personnel as are necessary to enable distributor to perform its obligations under this Agreement.
- b. Distributor shall, at its expense, maintain facilities and personnel in the Territory that will enable it promptly and satisfactorily to perform, at a reasonable price, all inspection, maintenance and other necessary servicing of Products sold by Distributor. To assist Distributor in the discharge of this service and maintenance function, Company shall provide service and maintenance training, without charge, to any reasonable number of Distributor's personnel as Distributor shall designate.

- c. Distributor shall, at its expense, at all times store and maintain its inventory of Products in accordance with current, applicable instructions issued by Company from time to time.
- d. Distributor shall, at its expense, deliver one copy of Company's current, applicable operation and maintenance manual to each Customer at the time of sale and, at that time, Distributor shall, at its expense, fully explain and demonstrate to the customer the proper method of operating and maintaining the Products.
- e. Distributor shall mail to Company, during the term of the distributorship created by this Agreement and any extension thereof, prompt written notice of the address of each location at which products are stored, and the address of each facility established by Distributor to sell and service the Products. Company may, through its designated agent, inspect all such locations and facilities and the operations conducted therein at any time during normal business hours.

9. TRAINING OF DISTRIBUTOR

As promptly as practicable after execution of the Agreement, Company shall transmit to Distributor information, materials, manuals and other technical documents necessary to enable Distributor to perform its obligations under this Agreement and, in particular, to carry out the warranty repairs pursuant to ARTICLE 4 of this Agreement. Throughout the term of this Agreement and any extension thereof, Company shall continue to give Distributor such technical assistance as Distributor may reasonably request. Distributor shall reimburse Company for all reasonable out-of-pocket expenses incurred by Company in providing technical assistance.

10. SPARE PARTS AND ACCESSORIES

Distributor shall keep in stock an adequate supply of Spare Parts and Accessories for the servicing of Goods. No Spare Parts or Accessories not manufactured by Company shall be used in connection with the Goods unless they have been approved in writing by Company.

11. CONFIDENTIAL INFORMATION

Written Technical data, drawings, plans and engineering in technical instructions pertaining to the Products are recognized by Distributor to be secret and confidential and to be the property of Company.

Those items shall at all times and for all purposes be held by Distributor in a confidential capacity and

shall not, without the prior written consent of Company, (i) be disclosed by Distributor to any person, firm or corporation, excepting those salaried employees of Distributor who are required to utilize such items in connection with the sale, inspection, repair or servicing of Products during the term of the distributorship created by this Agreement or any extension thereof, or (ii) be disclosed to any person, firm or corporation,

or copied or used by Distributor, its employees or agents at any time following the expiration or termination of the distributorship created by this Agreement or any extension thereof, except where such use is necessary in order to maintain or service Products still covered by the warranty provisions of ARTICLE 4 at the time of such expiration or termination. Company may require as a condition to any disclosure by Distributor pursuant to this Section that any salaried employee to whom disclosure is to be made sign a secrecy agreement, enforceable by Company, containing terms satisfactory to Company.

13. TERMS OF PURCHASE AND SALE OF PRODUCTS

- a. Distributor shall purchase its requirements for the Products from Company. Such requirements shall include (i) purchasing and maintaining an inventory of Products that is sufficient to enable Distributor to perform its obligations hereunder, and (ii) at least one (1) demonstration model of the Goods and Accessories.
- b. Each order for Products submitted by Distributor to Company shall be subject to the written acceptance of Company, and Company may, in its own discretion, accept or reject any order for Products without obligation or liability to Distributor by reason of its rejection of any such request.
- c. Company shall supply to Distributor sufficient Products to enable Distributor to meet the full demand for Products in the Territory.
- d. All orders for Products transmitted by Distributor to Company shall be deemed to be accepted by Company at the time such orders are received by Company to the extent that they are in compliance with the terms of this Agreement and Company shall perform in accordance with all accepted orders. Company shall confirm its receipt and acceptance of each order written [NUMBER] days of receipt of the order.
- e. Purchases for Resale only. All Products purchased by Distributor shall be purchased solely for commercial resale or lease, excepting those Products reasonably required by Distributor for advertising and demonstration purposes.

14. ORDER PROCEDURE

- a. Each order for Products issued by Distributor to Company under this Agreement shall identify that it is an order and shall further set forth the delivery date or dates and the description and quantity of Products which are to be delivered on each of such dates. An order for Products shall not provide a delivery date less than [NUMBER] days after the date that order is delivered to Company.
- b. The individual contracts for the sale of Products formed by Distributor's submission of orders to Company pursuant to the terms and conditions hereof shall automatically incorporate, to the extent applicable, the terms and conditions hereof, shall be subject only to those terms and conditions (together with all terms in orders which are contemplated by this Agreement) and shall not be subject to any conflicting or additional terms included in any documents exchanged in connection therewith.

15. CANCELLATION OF ORDERS

All cancellation of orders by Distributor shall be in writing, or if not initially in writing, shall be confirmed in writing. If Distributor cancels an order, which has been accepted by Company, Distributor shall reimburse Company for any cost incident to such order incurred by Company prior to the time it was informed of the cancellation.

16. PURCHASE PRICE

The prices for Goods, and any discounts applicable thereto, are set forth in Exhibit B. The prices for Accessories, together with any discounts applicable thereto, are set forth in Exhibit A. The prices for Spare Parts, together with any discounts applicable thereto, are set forth in Exhibit C. All prices are F.O.B. the Delivery Point. If the price for any Product is not set forth on Exhibit A, B or C and Distributor nevertheless orders such a Product from Company, the parties hereby evidence their intention thereby to conclude a contract for the sale of that Product at a reasonable price to be determined by the Parties mutually negotiating in good faith.

17. PRICE CHANGES

Company reserves the right, in its sole discretion, to change prices or discounts applicable to the Products. Company shall give written notice to Distributor of any price change at least [NUMBER] days prior to the effective date thereof. The price in effect as of the date of Distributor's receipt of notice of such price change shall remain applicable to all orders received by Company prior to that effective date.

18. PACKING

Company shall, at its expense, pack all Products in accordance with Company's standard packing procedure, which shall be suitable to permit shipment of the Products to the Territory; provided, however, that if Distributor requests a modification of those procedures, Company shall make the requested modification and Distributor shall bear any reasonable expenses incurred by Company in complying with such modified procedures which are in excess of the expenses which Company would have incurred in following its standard procedures.

19. DELIVERY: TITLE AND RISK OF LOSS

All deliveries of Products sold by Company to Distributor pursuant to this Agreement shall be made F.O.B. the Delivery Point, and title to and risk of loss of Products shall pass from Company to Distributor at the Delivery Point. Distributor shall be responsible for arranging all transportation of Products, but if requested by Distributor, Company shall, at Distributor's expense, assist Distributor in making such arrangements. Distributor shall also procure insurance for the transportation of the Products, and such insurance shall be of a kind and on terms current at the port of shipment. In the event that Company is requested to assist Distributor in arranging for transportation, Distributor shall reimburse Company for all costs applicable to the Products following their delivery to Distributor, including, without limitation, insurance, transportation, loading and unloading, handling and storage. Distributor shall pay all charges, including customs duty and sales tax, incurred with respect to the Products following their Delivery to the carrier or forwarder.

20. INSPECTION AND ACCEPTANCE

Promptly upon the receipt of a shipment of Products, Distributor shall examine the shipment to determine whether any item or items included in the shipment are in short supply, defective or damaged. Within [NUMBER] days of receipt of the shipment, Distributor shall notify Company in writing of any shortages, defects or damage which Distributor claims existed at the time of delivery. Within [NUMBER] days after the receipt of such notice, Company will investigate the claim of shortages, defects or damage, inform Distributor of its findings, and deliver to Distributor Products to replace any which Company determines, in its sole discretion, were in short supply, defective or damaged at the time of delivery.

21. PAYMENT

Upon delivery and acceptance of Products, Company may submit to Distributor Company's invoice for those Products. Distributor shall pay each such proper invoice within [NUMBER] days after Distributor's receipt of that invoice. Payment shall be made in [CURRENCY] to a bank account to be notified in writing by Company to Distributor.

22. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

23. ARBITRATION

Any controversy or claim arising out of or relating to this contract or the breach thereof shall be settled by arbitration to be held in the [CITY, STATE], in accordance with the law in this jurisdiction, and judgment upon the award rendered by the arbitrators may be entered in any Court having jurisdiction thereof.

24. SECRECY

Distributor agrees not to disclose or use, except as required in Distributor's duties, at any time, any information disclosed to or acquired by Distributor during the term of this contract. Distributor agrees that all confidential information shall be deemed to be and shall be treated as a sole and exclusive property of the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement on [DATE].

PRINCIPAL

AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: LETTER OF UNDERSTANDING REGARDING TERMS OF PROPOSED CONTRACT

Dear [CONTACT NAME],

This will confirm that which we discussed during our telephone conversation earlier today.

It is agreed that your firm, [NAME OF FIRM], will provide [SPECIFY] for the [NAME OF PROJECT] while we will provide [SPECIFY], to your specifications, and all funds necessary, up to [AMOUNT] to complete the [INTENT].

If this meets with your understanding of our conversation, please sign a copy of this letter and return it to my office. Upon our receipt of this verified letter, we will forward same to our attorneys for final contract drafting and revisions.

It was a pleasure speaking with you, and I hope to join you soon for a toast to our mutual success in the [PROJECT].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

PARTNERSHIP AGREEMENT

This Partnership Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: **[FIRST PARTNER NAME]** (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: **[SECOND PARTNER NAME]** (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- D. Partners desire to join together for the pursuit of common business goals.
- E. Partners have considered various forms of joint business enterprises for their business activities.
- F. Partners desire to enter into a partnership agreement as the most advantageous business form for their mutual purposes.

G. The parties hereto agree to form a limited partnership (the “Partnership”) under [LAW, CODE OR ACT].

In consideration of the mutual promises contained in this agreement, partners agree as follows:

30. NAME AND DOMICILE

The name of the partnership shall be [NAME]. The principal place of business shall be at [ADDRESS], [CITY], [STATE/PROVINCE], unless relocated by consent of the partners.

31. PURPOSES

Subject to the limitations set forth in this Agreement, the purposes of the Partnership are to engage in the business of [DESCRIBE ACTIVITIES]; and to conduct other activities as may be necessary or incidental to or desirable in connection with the foregoing.

32. DURATION OF AGREEMENT

The term of this agreement shall be for [NUMBER] years, commencing on [DATE], and terminating on [DATE], unless sooner terminated by mutual consent of the parties or by operation of the provisions of this agreement.

33. CLASSIFICATION AND PERFORMANCE BY PARTNERS

- j. Partners shall be classified as active partners, advisory partners, or estate partners.
- k. An active partner may voluntarily become an advisory partner, may be required to become one irrespective of age, and shall automatically become one after attaining the age of [AGE] years, and in each case shall continue as such for [NUMBER] years unless the partner sooner withdraws or dies.
- l. If an active partner dies, the partner's estate will become an estate partner for [NUMBER] years. If an advisory partner dies within [NUMBER] years of having become an advisory partner, the partner will become an estate partner for the balance of the [NUMBER]-year period.
- m. Only active partners shall have any vote in any partnership matter.
- n. At the time of the taking effect of this partnership agreement, all the partners shall be active partners except [NAME] and [NAME], who shall be advisory partners.
- o. An active partner, after attaining the age of [AGE] years, or prior to that age if the [EXECUTIVE COMMITTEE OR AS THE CASE MAY BE] with the approval of [TWO-THIRDS OR AS THE CASE MAY BE] of all the other active partners determines that the reason for the change in status is bad health, may become an advisory partner at the end of any calendar month on giving [NUMBER] calendar months' prior notice in writing of the partner's intention to do so. The notice shall be deemed to be sufficient if sent by registered mail addressed to the partnership at its principal office at [ADDRESS], [CITY], [STATE/PROVINCE] not less than [NUMBER] calendar months prior to the date when the change is to become effective.

- p. Any active partner may at any age be required to become an advisory partner at any time if the [EXECUTIVE COMMITTEE OR AS THE CASE MAY BE] with the approval of [TWO-THIRDS OR AS THE CASE MAY BE] of the other active partners shall decide that the change is for any reason in the best interests of the partnership, provided notice of the decision shall be given in writing to the partner. The notice shall be signed by the [CHAIRMAN OR AS THE CASE MAY BE] of the [EXECUTIVE COMMITTEE OR AS THE CASE MAY BE] or, in the event of his or her being unable to sign at the time, by another member of the [EXECUTIVE COMMITTEE OR AS THE CASE MAY BE]. The notice shall be served personally on the partner required to change his or her status, or mailed by registered mail to the partner's last known address. Change of the partner's status shall become effective as of the date specified in the notice.
- q. Every active partner shall automatically and without further act become an advisory partner at the end of the fiscal year in which the partner's birthday occurs.
- r. In the event that an active partner becomes an advisory partner or dies, the partner or the partner's estate shall be entitled to the following payments at the following times:

[DESCRIBE]

Each active partner shall apply all of the partner's experience, training, and ability in discharging the partner's assigned functions in the partnership and in the performance of all work that may be necessary or advantageous to further the business interests of the partnership.

34. CONTRIBUTION

Each partner shall contribute [AMOUNT] on or before [DATE] to be used by the partnership to establish its capital position. Any additional contribution required of partners shall only be determined and established in accordance with Article Nineteen.

35. MANAGEMENT OF THE PARTNERSHIP

The Partnership shall be managed by [SPECIFY]. Subject to the limitations specifically contained in this Agreement, [PARTY MANAGING THE PARTNERSHIP] shall have the full, exclusive and absolute right, power and authority to manage and control the Partnership and the property, assets and business thereof. [PARTY MANAGING THE PARTNERSHIP] shall have all of the rights, powers and authority conferred by law or under other provisions of this Agreement. Without limiting the generality of the foregoing, such powers include the right on behalf of the Partnership, in [PARTY MANAGING THE PARTNERSHIP]' sole discretion, to:

- a. Acquire, purchase, renovate, improve, and own any property or assets necessary or appropriate or in the best interests of the business of the Partnership, and to acquire options for the purchase of any such property;
- b. Borrow money, issue evidences of indebtedness in connection therewith, refinance, increase the amount of, modify, amend or change the terms of, or extend the time for the payment of, any indebtedness or obligation of the Partnership, and secure such indebtedness by mortgage, deed of trust, pledge or other lien on Partnership assets;
- c. Sue on, defend or compromise any and all claims or liabilities in favor of or against the Partnership and to submit any or all such claims or liabilities to arbitration;

- d. File applications, communicate and otherwise deal with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any part thereof or any other aspect of the Partnership business;
- e. Retain services of any kind or nature in connection with the Partnership business, and to pay therefore such remuneration deem reasonable and proper; and Perform any and all other acts deem necessary or appropriate to the Partnership business.

36. DISSOLUTION AND TERMINATION OF THE PARTNERSHIP

The Partnership shall be dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

- e. On a date designated by the Partners and approved by Vote of Partners;
- f. The sale or other disposition of all of the Partnership's assets and the receipt in cash of the proceeds thereof;
- g. One of the Partners committed an illegal or unapproved action;
- h. [OTHER]

37. BUSINESS EXPENSES

The rent of the buildings where the partnership business shall be carried on, and the cost of repairs and alterations, all rates, taxes, payments for insurance, and other expenses in respect to the buildings used by the partnership, and the wages for all persons employed by the partnership are all to become payable on the account of the partnership. All losses incurred shall be paid out of the capital of the partnership or the profits arising from the partnership business, or, if both shall be deficient, by the partners on a pro rata basis, in proportion to their original contributions, as provided in Article Nineteen.

38. MEETINGS

6.3 Place of Meetings

Meetings of the Partners may be held at any place within or without [STATE/PROVINCE] as determined by the Partners but will generally be held at [LOCATION] .

6.4 Notices

Whenever Partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than [NUMBER] days, nor more than [NUMBER] days before the date of the meeting to each Partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

39. AUTHORITY

No partner shall buy any goods or articles or enter into any contract exceeding the value of [AMOUNT] without the prior consent in writing of the other partners. If any partner exceeds this authority, the other partners shall have the option to take the goods or accept the contract on account of the partnership or to let the goods remain the sole property of the partner who shall have obligated himself or herself.

40. SEPARATE DEBTS

No partner shall enter into any bond, or become surety or cosigner, or provide security for any person, partnership, or corporation, or knowingly condone anything by which the partnership property may be attached or taken in execution, without the prior written consent of the other partners.

Each partner shall punctually pay the partner's separate debts and indemnify the other partners and the capital and property of the partnership against the partner's separate debts and all expenses relating to such separate debts.

41. BOOKS AND RECORDS

Books of account shall be maintained by the partners, and proper entries made in the books of all sales, purchases, receipts, payments, transactions, and property of the partnership. The books of account and all records of the partnership shall be retained at the principal place of business as specified in Article One. Each partner shall have free access at all times to all books and records maintained relative to the partnership business.

42. ACCOUNTING

The fiscal year of the partnership shall be from [MONTH AND DAY] to [MONTH AND DAY] of each year. On the [DAY] of [MONTH], commencing in [YEAR], and on the [DAY] of [MONTH] in each succeeding year, a general accounting shall be made and taken by the partners of all sales, purchases, receipts, payments, and transactions of the partnership during the preceding fiscal year, and of all the capital property and current liabilities of the partnership. The general accounting shall be written in the partnership account books and signed in each book by each partner immediately after it is completed. After the signature of each partner is entered, each partner shall keep one of the books and shall be bound by every account, except that if any manifest error is found in an account book by any partner and shown to the other partners within [NUMBER] months after the error shall have been noted by all of them, the error shall be rectified.

43. DIVISION OF PROFITS AND LOSSES

Each partner shall be entitled to [%] of the net profits of the business, and all losses occurring in the course of the business shall be borne in the same proportion, unless the losses are occasioned by the willful neglect or default, and not the mere mistake or error, of any of the partners, in which case the loss so incurred shall be made good by the partner through whose neglect or default the losses shall arise. Distribution of profits shall be made on the [DAY] of [MONTH] each year.

44. ADVANCE DRAWS

Each partner shall be at liberty to draw out of the business in anticipation of the expected profits any sums that may be mutually agreed on, and the sums are to be drawn only after there has been entered in the books of the partnership the terms of agreement, giving the date, the amount to be drawn by the respective partners, the time at which the sums shall be drawn, and any other conditions or matters mutually agreed on. The signatures of each partner shall be affixed on the books of the partnership. The total sum of the advanced draw for each partner shall be deducted from the sum that partner is entitled to under the distribution of profits as provided for in Article 10.

45. SALARY

No partner shall receive any salary from the partnership, and the only compensation to be paid shall be as provided in Articles Ten and Eleven.

46. RETIREMENT

In the event any partner shall desire to retire from the partnership, the partner shall give [NUMBER] months' notice in writing to the other partners. The continuing partners shall pay to the retiring partner at the termination of the [NUMBER] months' notice the value of the interest of the retiring partner in the partnership. The value shall be determined by a closing of the books and a rendition of the appropriate profit and loss, trial balance, and balance sheet statements. All disputes arising from such determination shall be resolved as provided in Article Twenty.

47. RIGHTS OF CONTINUING PARTNERS

On the retirement of any partner, the continuing partners shall be at liberty, if they so desire, to retain all trade names designating the firm name used. Each of the partners shall sign and execute any assignments, instruments, or papers that shall be reasonably required for effectuating an amicable retirement.

48. DEATH OF PARTNER

In the event of the death of one partner, the legal representative of the deceased partner shall remain as a partner in the firm, except that the exercise of this right on the part of the representative of the deceased partner shall not continue for a period in excess of [NUMBER] months, even though under the terms of this agreement a greater period of time is provided before the termination of this agreement. The original rights of the partners shall accrue to their heirs, executors, or assigns.

49. EMPLOYEE MANAGEMENT

No partner shall hire or dismiss any person in the employment of the partnership without the consent of the other partners, except in cases of gross misconduct by the employee.

50. RELEASE OF DEBTS

No partner shall compound, release, or discharge any debt that shall be due or owing to the partnership, without receiving the full amount of the debt, unless that partner obtains the prior written consent of the other partners to the discharge of the indebtedness.

51. COVENANT AGAINST REVEALING TRADE SECRETS

No partner shall, during the continuance of the partnership or for [NUMBER] years after its termination by any means, divulge to any person not a member of the firm any trade secret or special information employed in or conducive to the partnership business and which may come to the partner's knowledge in the course of this partnership, without the consent in writing of the other partners, or of the other partners' heirs, administrators, or assigns.

52. ADDITIONAL CONTRIBUTIONS

The partners shall not have to contribute any additional capital to the partnership to that required under Article Four, except as follows: (1) each partner shall be required to contribute a proportionate share in additional contributions if the fiscal year closes with an insufficiency in the capital account or profits of the partnership to meet current expenses; or (2) the capital account falls below [AMOUNT] for a period of [NUMBER] months.

53. ARBITRATION

If any differences shall arise between or among the partners as to their rights or liabilities under this agreement, or under any instrument made in furtherance of the partnership business, the difference shall be determined and the instrument shall be settled by [NAME OF ARBITRATOR], acting as arbitrator, and the decision shall be final as to the contents and interpretations of the instrument and as to the proper mode of carrying the provision into effect.

54. ADDITIONS, ALTERATIONS, OR MODIFICATIONS

Where it shall appear to the partners that this agreement, or any terms and conditions contained in this agreement, are in any way ineffective or deficient, or not expressed as originally intended, and any alteration or addition shall be deemed necessary, the partners will enter into, execute, and perform all further deeds and instruments as their counsel shall advise. Any addition, alteration, or modification shall be in writing, and no oral agreement shall be effective.

55. NOTICES

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services at addresses already specified in this Agreement.

56. HEADINGS

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

57. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the state of [STATE/PROVINCE].

58. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

IN WITNESS WHEREOF, the parties have executed this Partnership Agreement at [DESIGNATE PLACE OF EXECUTION] the day and year first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

PARTNERSHIP DISSOLUTION AGREEMENT

This Partnership Dissolution Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [SELLING PARTNER NAME] (the "Selling Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASING PARTNER NAME] (the "Purchasing Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

D. The parties are partners in the firm of [NAME], of [ADDRESS], [CITY], [STATE], established for the purpose of [SPECIFY], under an agreement dated [DATE].

E. Pursuant to the terms of the partnership agreement, a buy or sell notice was given by Selling Partner to Purchasing Partner.

F. The Purchasing Partner has exercised its option to purchase the interest of Selling Partner in and to the partnership business.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

8. SALE OF INTEREST; PURCHASE PRICE

Selling Partner shall sell its [%] interest in the partnership business, including its [%] interest in all of the furniture, equipment, and furnishings of the business, stock of merchandise, accounts receivable, moneys, and all of [SELLING PARTNER NAME'S] right, title, and interest in and to any and all of the assets of the partnership, to Purchasing Partner for [AMOUNT], to be paid in [NUMBER] equal monthly installments, due on the [SPECIFY] day of each month, commencing on [DATE].

9. ASSUMPTION OF OBLIGATIONS

The Purchasing Partner shall and do assume and agrees to pay all of the outstanding debts and obligations of the partnership business and to perform all of the covenants of the leases on the premises, and to perform all of the outstanding contracts and agreements required to be performed by the partnership and agrees to save and hold harmless Selling Partner against any claim or claims that may arise by reason of such debts, obligations, or covenants, or any other claims except those specifically mentioned in this agreement.

10. INDEMNIFICATION

The Selling Partner warrants and represents that it has incurred no debts, nor contracted any obligations, nor incurred any liability in the name of the partnership or for which the partnership would be liable, other than those debts, obligations, or liabilities as are disclosed in the partnership books of which Selling Partner has advised the Purchasing Partner. The Selling Partner agrees to indemnify and save and hold harmless the Purchasing Partner on account of any claims that may be made against the partnership because of any debt, obligation, or liability which the Selling Partner incurred in the partnership name or for which the partnership became liable on account of any of [SELLING PARTNER NAME'S] actions and of which Selling Partner failed to inform the Purchasing Partner.

11. TAX RETURNS AND PAYMENTS

The Purchasing Partner agrees to prepare federal and state partnership income tax returns for the partnership business from [DATE] to [DATE], and to supply Selling Partner with copies. Each of the parties shall pay their individual income taxes, both federal and state, on the income received from such partnership business.

12. ASSUMPTION OF TAX OBLIGATIONS

The general taxes and all other tax obligations shall be considered an obligation of the partnership and are now assumed by the Purchasing Partner.

13. DISSOLUTION

The partnership existing between the parties under the name of [PARTNERSHIP NAME] is dissolved and this agreement constitutes a full and complete accounting and liquidation of the partnership business. Except as otherwise reserved in this agreement, Selling Partner acknowledges that it has no claim or demand of any kind or nature against Purchasing Partner. Also except as otherwise reserved in this agreement, Purchasing Partner acknowledges that it has no claim or demand of any kind against Selling Partner.

14. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of [STATE/PROVINCE OF GOVERNING LAW].

IN WITNESS WHEREOF, the parties hereto have executed this Partnership Dissolution Agreement as of the date first above written.

SELLING PARTNER

PURCHASING PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SALES AGENCY AGREEMENT

This Sales Agency Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [PRINCIPAL NAME] (the "Principal"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENT NAME] (the "Agent"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

36. RECITALS

- a. Principal is a manufacturer of [PRODUCT] and desires to appoint Agent as general sales Agent for the sale of Principal's product [IF APPROPRIATE, ADD: AND OTHER REGULAR-LINE PRODUCTS AND ACCESSORIES OF PRINCIPAL] in the following territory: [DESCRIBE TERRITORY].
- b. Agent desires to accept such appointment and to perform all the provisions of this agreement.

37. DURATION

The term of the agency created shall be [PERIOD OF TIME], beginning [DATE], unless sooner terminated.

38. AGENT'S BEST EFFORTS

Agent agrees to devote Agent's whole time and best efforts to the business of Principal in the described territory under the direction of Principal's officers or representatives, and to conform to the best of Agent's ability with the rules, regulations and instructions of Principal now in force or that may be adopted and mailed to Agent's address. Agent shall employ salespersons to assist Agent, on such terms and conditions as Principal may require, as set forth in this agreement.

39. NONDISCLOSURE OF PRINCIPAL'S AFFAIRS

Agent agrees to keep confidential such information as Principal may from time to time impart to Agent regarding Principal's business affairs and customers. Agent will not, in whole or in part, now or at any time, disclose such information.

40. ASSIGNMENT OF AGENT'S INVENTIONS

Agent agrees, in view of the confidential information regarding Principal's business affairs, plans and necessities, that Agent will be in a position to obtain from time to time, and in partial consideration of the commissions agreed to be paid to Agent under this agreement, that Agent, on demand, will assign to Principal, or Principal's successors or assigns, any inventions or improvements Agent may make during the agency with Principal that relate to Principal's product. Agent also will sign any papers and do any acts that may be needed to secure to Principal, or Principal's successors or assigns, any rights relating to such inventions and improvements, including patents in [COUNTRY] and foreign countries.

41. COMMISSIONS

- a. Agent, during the term of the agreement, shall receive a commission from the sale of Principal's product [IF APPROPRIATE, ADD: AND OTHER REGULAR-LINE PRODUCTS AND ACCESSORIES] sold for use in Agent's territory, whether sold by Agent or by Principal, or others, except as provided in this agreement.
- b. Agent's commission on sales made pursuant to this agreement shall be as follows: [DESCRIBE].

42. SALES SUBJECT TO COMMISSIONS

This agreement shall apply to business procured at the time of visits to Agent's territory by Principal's superintendent, and also to all business subsequently procured either by Agent, Principal's superintendent or other representative of Principal, from customers previously worked within [NUMBER] months from the date of the latest visit of Principal's superintendent or other representative.

43. WHEN COMMISSIONS ARE PAID

- a. Any commission to be received under this agreement shall not be credited to Agent's account on Principal's books until the purchaser has made settlement in full with Principal, either by cash or acceptable notes [SPECIFY] [IF APPROPRIATE, ADD: AND HAS DELIVERED TO PRINCIPAL OR AN AUTHORIZED AGENT OF PRINCIPAL ANY RETURNABLE PRODUCTS]. If settlement is made wholly or in part by purchaser's notes, Principal may withhold payment of the commission in whole or in part until the notes are paid.
- b. Agent's account may be charged with the amount of any commission previously paid to Agent or credited to Agent's account for the unpaid part of the purchase price of [PRODUCT], or the unpaid part of any note given in payment.
- c. When Principal repossesses a product, Agent shall receive commission only on the amount of money paid by purchaser prior to repossession.

44. COMMISSIONS ON TRADE-INS

Principal shall have the right to fix the amount to be allowed for products taken in exchange, and a commission will not be paid on the amount so allowed.

45. SALES THROUGH OTHER SALES CHANNELS

Agent waives any claim to a commission on any sales made in Agent's territory other than through Principal's offices or regular sales agencies when, in the opinion of Principal, the general conditions of the business in any part of the [COUNTRY] necessitate the sale of Principal's product through other sales channels.

46. SALES IN OR FROM OTHER TERRITORIES

- a. Agent agrees not to enter the territory of any other Sales Agent of Principal for the purpose of selling Principal's product, or to endeavor, directly or indirectly, to make sales of Principal's product for use outside of Agent's territory. Should a purchaser call on Agent voluntarily and purchase Principal's product for use outside of Agent's territory, Agent shall receive commissions as follows: [DESCRIBE].
- b. Agent further agrees that, when any other authorized sales Agent of Principal sells Principal's product for use in Agent's territory, Agent's account shall be credited with the regular commission, less the commission paid Agent making the sale.

47. DISPUTES ON COMMISSIONS

Principal shall have the right to determine, in any dispute arising between Agent and any other sales Agent of Principal, the right to commission on any sale, and Agent shall abide by and be bound by Principal's decision.

48. LIMITATION ON COMMISSION CLAIMS

Agent waives all claim for commission on sales of Principal's product, whether made by Agent or others, and all other claims of any nature whatever, if the claim is not made within [MONTHS] from the date of termination of this agreement.

49. AGENT NOT TO SHARE COMMISSION

Under no circumstances, without permission of Principal, may Agent give any part of Agent's commission to any assistant, local Agent or other person to assist Agent in making a sale.

50. CONTENTS OF ORDERS

- a. All orders for Principal's product shall be taken on printed forms furnished by Principal, and all such orders shall be sent to Principal immediately after being signed by purchasers. The orders shall contain all conditions and agreements of every nature whatsoever between the parties to the sale, it being agreed that Principal shall not be responsible for promises or conditions not specified on the orders. Principal's product shall not be sold for more or less than the list price established by Principal.

- b. If Principal is compelled to make any concessions to customers or incur any expense by reason of a violation of these requirements, the amount of the expense may be charged to Agent's account.

51. ACCEPTANCE OF ORDERS BY PRINCIPAL

Orders taken by Agent shall not be binding until accepted by Principal. Principal reserves the right to reject any order when, in the judgment of Principal, the product ordered may not be suitable to the business of the customer.

52. AGENT NOT TO COMPETE

Agent, having agreed to devote Agent's whole time to Principal's business, shall not purchase or deal in [PRODUCT] on Agent's own account in any way during the continuance of this agreement. Agent will not engage, directly or indirectly, either for Agent or as employee of any other party, in manufacturing, buying, selling or dealing in [PRODUCT], in the territory described, for a period of [PERIOD OF TIME], after the termination of the agency created by this agreement, without the written consent of Principal.

53. REPAIRS AND MAINTENANCE OF PRODUCT

Agent shall promptly and properly make necessary repairs on Principal's product in Agent's territory if such repairs can be made by Agent, and to cooperate with and aid Principal in making all other such repairs in Agent's territory, in such manner as Principal may direct.

54. COMPROMISE AND COLLECTION OF ACCOUNTS

A. Principal shall have full control of and discretion as to the collection, adjustment or compromise of any or all accounts for Principal's products sold by Agent. If Principal requests Agent to make any collection, or to obtain possession of Principal's product or other property, whether the request relates to a sale made by Agent or any Agent that preceded Agent in the territory, Agent shall do so promptly.

B. Principal shall determine whether to take a lien on Principal's product sold by Agent. Principal shall not be liable to Agent for any loss of commission or other claim, by reason of failure to take such lien, or by reason of any compromise or adjustment of any account or accounts or notes for products sold by Agent, or any failure for any reason to collect any part of the account or notes.

55. REMITTALS BY AGENT

Agent agrees to remit [DAILY/WEEKLY] to Principal, in the manner prescribed by [THE TREASURER], of Principal or to deposit [DAILY/WEEKLY] in a bank or other financial institution designated by Principal's [TREASURER], all money, checks and drafts received by Agent for Principal, including any received for repair parts and supplies sold. In no event will Agent use any money collected for Principal to defray the expenses of the agency, or for any other purpose, or deposit the funds in any bank or other financial institution to Agent's own credit.

56. AGENT'S EXPENSES

All expenses for traveling, entertainment, office, clerical, office and equipment maintenance, and general selling expenses that may be incurred by Agent in connection with this agreement will be borne wholly by Agent. In no case shall Principal be responsible or liable for such expenses.

57. ACCOUNTING ON TERMINATION

- a. Agent authorizes Principal, on termination of the agency created by this agreement, to pay any outstanding indebtedness, including amounts due Agent and Agent's employees incurred in the management of the agency, and to charge the amount to Agent's account. Principal shall not be bound to pay any such indebtedness, unless Principal shall elect to do so. Payment of part of Agent's indebtedness by Principal shall not raise any obligation on Principal's part to pay the whole of the indebtedness. An assignment of Agent's account, or any part of it, shall not be binding on Principal unless accepted in writing by Principal's [TREASURER].
- b. On termination of this agreement, Principal shall proceed in the customary manner to collect notes and open accounts for purchases of Principal's product sold by Agent and shall charge against Agent's account the commission previously credited on such amounts of notes and accounts as are uncollected. Principal also shall charge Agent's account with Agent's proportion of any collection expense. This provision shall continue in force until a final account can be stated; no money shall be due Agent under this agreement after its termination until the final account can be stated.

58. OBJECTIONS TO ACCOUNTING; LIMITATIONS

Agent agrees that all objections to statements of account rendered by Principal are waived, unless written notice is given by Agent and unless such notice reaches Principal within [NUMBER] days after rendition of the statement by Principal.

59. SURETY BOND OF AGENT

Agent agrees to furnish Principal with a fidelity bond of [AMOUNT], to be issued by a responsible surety company and conditioned on the faithful performance of Agent's duties in the agency created by this agreement. All premiums on such bond shall be paid by Agent.

60. EXAMINATION OF AGENT'S ACCOUNTS

Agent agrees that officers or authorized representatives of Principal shall have, on demand, access to and the right to examine and make copies of all books of accounts, vouchers and papers of Agent, in order to ascertain whether the business of Agent is being conducted in a manner satisfactory to Principal.

61. DISPOSITION OF PRODUCTS; CONSIGNMENT

- a. Agent agrees, on demand, to account for and deliver to Principal, in good condition, all products charged to Agent's consignment account. If Agent fails to deliver any product, the product may be charged to Agent's account at list price, if Principal so elects, but nothing contained in this agreement shall prevent Principal from exercising other legal remedies to recover possession of such products.
- b. In the event any of Principal's products shall have been kept on consignment by Agent for such period of time that they have become unsaleable as new, Principal may order their return to the factory, in which event the freight charges from Agent's office to the factory shall be paid by Agent.

62. INSURANCE PREMIUMS; TAXES

Principal shall insure against loss by fire all products delivered on consignment to Agent, charging the premium paid for the insurance to Agent's account. Agent shall pay all personal property taxes levied on consigned products, or shall pay such tax as may be levied in lieu of a personal property tax.

63. COMPLIANCE WITH LAWS

Agent agrees, for the benefit of Agent's employees and subagents, to comply in all respects with the workers' compensation laws of any state or states of which Agent's territory may be a part, and to pay the premiums and other costs and expenses incident to such coverage.

64. CUSTOMER LIST; SALES CALLS

- a. Agent agrees to keep a list of probable purchasers, and also a list of users, of Principal's products in Agent's territory. Both lists shall show the name, nature and address of each business concern listed. The user's list shall also show the style and factory number of Principal's product in use.
- b. Agent agrees to send to Principal, on the form furnished by Principal, a list of all persons called on by Agent or Agent's employees in connection with Principal's business. The list shall show the name, nature and address of each business concern called on, and the object and results of the call.

65. DEPRECIATION OF AGENCY PROPERTY

The office furniture, personal property and fixtures used by Agent in Principal's business shall be invoiced and appraised at least once each year by Agent and a representative of Principal, and a deduction of not less than [%] per year shall be made to cover wear and tear in ordinary depreciation.

66. PURCHASE OF AGENCY PROPERTY

Principal shall have an option of purchase of all or any part of the supplies, repair parts, vehicles and sundries in stock or on hand at the time of termination of the agency, at the current price, less proper deductions for obsolescence and depreciation, if any. Such price shall be paid to Agent or credited on Agent's account with Principal, as Principal may elect.

67. EMPLOYMENT OF SUBAGENTS

Agent agrees not to employ any salespersons to assist in the agency, except under written agreement by the terms of which Principal shall be released from all liability for any indebtedness from Agent to such salespersons. Agent agrees not to employ any person until Agent has supplied Principal with full particulars regarding such person, on the form furnished by Principal, giving the person's name, record, previous occupation, etc., and until Principal's assent to such employment has been received.

68. MODIFICATION AND TERMINATION

Principal at any time may alter and change the boundaries and territory covered by this agency agreement. The agency created by this agreement may be terminated by either party by written notice mailed or delivered to the last known address of the other party. This agreement covers all agreements between Agent and Principal relating to the employment of Agent for the handling of Principal's product.

69. GOVERNING LAW

The enforcement and interpretation of this agreement shall be governed by the laws of [STATE/PROVINCE].

The parties have executed this agreement at [DESIGNATE PLACE OF EXECUTION] the day and year first above written.

PRINCIPAL

AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION OF DISTRIBUTION AGREEMENT

Dear [CONTACT NAME],

With this letter, we hereby terminate the agreement between [NAME OF COMPANY] and [DISTRIBUTOR] to sell [TYPE OF PRODUCT] in [TYPE OF DISTRIBUTION CHANNEL].

Upon acceptance of this letter, [DISTRIBUTOR] will immediately cease selling all of [COMPANY] product, and return to [COMPANY] any leftover product remaining at [DISTRIBUTOR]'s facilities.

Any unauthorized sale of [COMPANY] product after acceptance of the terms of this agreement will constitute fraud and trademark violations for which [DISTRIBUTOR] shall be fully liable.

Thank you for your immediate attention to this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

AGREEMENT TO ASSIGN

This Agreement to Assign (the “Agreement”) is made and effective the [DATE],

BETWEEN: [PROSPECTIVE ASSIGNOR NAME] (the "Prospective Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PROSPECTIVE ASSIGNEE NAME] (the "Prospective Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The parties declare:

- E. Prospective Assignor has entered into a lease agreement, as lessor, with [LESSEE], of [ADDRESS], [CITY], [STATE], referred to as “lessee.” A copy of the lease agreement, containing a description of the premises, is attached to this agreement as Exhibit A.

- F. Prospective Assignor desires to assign the lease agreement to Prospective Assignee, who will assume all liabilities and duties as well as all rights of Prospective Assignor pertaining to the collection of all rents to become due under the lease agreement after the effective date of the assignment.

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

- 5. Prospective Assignor will transfer and assign to Prospective Assignee all right to the collection of all rents required under the lease agreement provisions in the lease dated [DATE] on the premises described as follows: [SET FORTH DESCRIPTION CONTAINED IN LEASE].
- 6. The assignment shall become effective on [DATE], and shall apply to all rents due thereafter until expiration of the lease agreement term on [DATE].

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF A CLAIM FOR DAMAGES

This Assignment of a Claim for Damages (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the Assignor hereby sells and transfers to the Assignee and its successors, assigns and personal representatives, any and all claims, demands, and cause or causes of action of any kind whatsoever which the undersigned has or may have against [NAME], arising from the following type claim:

[DESCRIPTION]

And the undersigned may in its own name and for its own benefit prosecute, collect, settle, compromise and grant releases on said claim as it in its sole discretion deems advisable.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF ASSETS

This Assignment of Assets (the “Assignment”) is made and effective [DATE],

BETWEEN: [STOCKHOLDER NAME] (the "Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, on the day of [DATE], the Corporation was formed by Articles of Incorporation filed with the Registrar of Companies in and for the [STATE/PROVINCE], and;

WHEREAS, it is necessary to transfer certain assets into the Corporation in order to capitalize the Corporation, and;

WHEREAS, Stockholder is desirous of transferring to the Corporation certain assets shown on the attached Exhibit "A," and the Corporation is desirous of acquiring said assets.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter entered into, it is agreed as follows:

- e. Stockholder does hereby transfer and assign those assets listed on the attached Exhibit "A" to the Corporation.

- f. In consideration for said transfer the Corporation issues to Stockholder [NUMBER] shares of stock in the Corporation, with a par value [PRICE] per share.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

STOCKHOLDER

CORPORATION

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF CONTRACT

This Assignment of Contract (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME AND ADDRESS], (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME AND ADDRESS], (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the undersigned Assignor hereby assigns, transfers and sets over to Assignee all rights, title and interest held by the Assignor in and to the following described contract:

[DESCRIPTION]

3. TERMS

- a. The Assignor warrants and represents that said contract is in full force and effect and is fully assignable.
- b. The Assignee hereby assumes and agrees to perform all the remaining and executory obligations of the Assignor under the contract and agrees to indemnify and hold the Assignor harmless from any claim or demand resulting from non-performance by the Assignee.
- c. The Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.
- d. The Assignor warrants that the contract is without modification, and remains on the terms contained.
- e. The Assignor further warrants that it has full right and authority to transfer said contract and that the contract rights herein transferred are free of lien, encumbrance or adverse claim.
- f. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF LIEN

This Assignment of Lien (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of [AMOUNT], receipt of which is hereby acknowledged, the Assignor does hereby assign to Assignee the mechanic's lien on the property of [NAME OF PROPERTY OWNER], located at [ADDRESS], [CITY], [STATE/PROVINCE], which has been duly recorded in the office of [OFFICE], in [VOLUME], [NUMBER], [PAGE], a copy of which is attached hereto.

WHEREAS, the intent of this assignment is to transfer to assignee full power to collect that certain sum secured by said lien, Assignor does hereby appoint assignee his attorney in fact, with full authority to enforce the lien herein assigned, and to collect and receive the debt secured by said lien, as Assignor would do if this assignment were not being made. Any costs incurred by the Assignee in enforcing the assigned lien, shall be borne by the Assignee.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT

This Assignment is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH, that for valuable consideration in hand paid by the Assignee to the Assignor, receipt of which is hereby acknowledged, the Assignor hereby assigns and transfers to the Assignee all of his right, title and interest in and to all [DESCRIPTION] set forth in [DESCRIPTION] that certain Agreement.

The undersigned fully warrants that it has full rights and authority to enter into this assignment and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF ASSIGNMENT

Dear [CONTACT NAME]

You are hereby notified that on [DATE] we have assigned and transferred to [SPECIFY] the following [SPECIFY] existing between us:

[DESCRIBE]

Please direct any further correspondence (or payments, if applicable) to them at the following address:

[INSERT ADDRESS]

Please contact us should you have any questions, and we thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CHAPTER SEVEN: LITIGATION LINGO



INTRODUCTION.

Litigation is not complete without court documents. In many cases, all procedures before court or even out of court will require an advocate to draft documents. This chapter therefore provides more standard court documents that you might find helpful in your quest to become an outstanding advocate.

AFFIDAVITS

AFFIDAVIT OF NO CREDITORS

State of [STATE/PROVINCE]

City of [CITY]

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

- D. Affiant is the owner of the stock of merchandise located at [address], [city], [state], more particularly described as follows: [description], which Affiant proposes to sell and transfer to Company, of [address], [city], [state].
- E. This merchandise is not encumbered.
- F. Affiant has no creditors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

AFFIDAVIT OF NO LIEN

This Affidavit of No Lien (the “Agreement”) is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AFFIANT NAME] (the "Affiant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

10. That Affiant is the [title] of [COMPANY].

11. That said Company is the owner of the improved property known and legally described as follow

[set forth legal description]

12. That [COMPANY] is not the subject to any bankruptcy, creditor's reorganization or insolvency proceeding and none are pending, contemplated or threatened.

13. That [COMPANY] has possession of the property and that there is no other person in possession who has any right in the property.

14. That there are no unrecorded labor, mechanic's or material men’s liens against the property and no material has been furnished or labor performed on the property which has not been paid in full.

15. That there are no unrecorded easements, liens of assessments for sanitary sewers, paving or other public utilities against said property.

16. That there are no claims whatsoever of any kind or description against any fixtures or equipment located on the said premises.

17. That there are no existing contracts for sale, options to purchase or unrecorded deeds or mortgages existing against said property.

18. That this affidavit is made for the purpose of [DESCRIBE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

AFFIDAVIT

State of [STATE/PROVINCE]

City of [CITY]

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

RECITALS

BEFORE ME, the undersigned authority, [name and capacity of officer before whom affidavit is sworn], on this [day of month] day of [month], [YEAR], personally appeared Affiant, known to me to be a credible person and of lawful age, who being by me first duly sworn, on [his or her] oath, deposes and says:

[set forth statement of facts]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

ESTOPPEL AFFIDAVIT OF MORTGAGOR

This Estoppel Affidavit of Mortgagor (the "Agreement") is made and effective [DATE],

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AFFIANT NAME] (the "Affiant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

TERMS

17. This is to certify that Affiant executed, assumed, or taken title subject to, the mortgage on the real property located at [ADDRESS], originally granted to [NAME], dated [DATE], recorded in [BOOK, PAGES] of the public records of the [STATE/PROVINCE] and now assigned to and held by [NAME]. The legal description of the mortgaged property is attached hereto as Exhibit A.
18. The original principal amount of the Promissory Note secured by said Mortgage was [AMOUNT], with interest accruing thereon at the fixed rate of [%] per annum amortized over [NUMBER] year(s), with [NUMBER] monthly installment payments of principal and interest due and payable in the amount of [AMOUNT] per month, with the first payment due on [DATE]. A total of [NUMBER] payments have been made through and including the payment due on [DATE]. This loan is current in all respects and the Affiant is not in default.
19. The remaining unpaid principal balance owing on said Note and Mortgage is [AMOUNT], as of [DATE], and there remain scheduled monthly payments due in the amount of [AMOUNT] each, and a balloon payment of [AMOUNT] due on [DATE], with [AMOUNT] then remaining unpaid after said balloon. The next payment in the amount of [AMOUNT] is due on [DATE]. Interest continues to accrue on said Note and Mortgage at the fixed annual rate of [%].
20. No lump sum payments have been made against said balance, nor are there any claims, defenses or offsets against said Mortgage or Note.

21. The Affiant had the full legal capacity to execute said Note and Mortgage or to assume or take title to the real property subject to said Mortgage, and is not in bankruptcy or receivership for benefit of creditors.
22. Affiant has no knowledge of any action or proceeding whatever, which is now pending in any state or federal court in [COUNTRY] in which the Affiant is a party which affects the real property or the Note or Mortgage, nor does the Affiant know of any federal or state court judgment, tax lien or any other lien of any kind or nature whatever which now constitutes a lien or charge upon the property, Note, or Mortgage, except taxes for the current year and the lien of those certain mortgages of record in the County and State where the property is located.
23. Affiant has received no notice from any governmental authority requiring any improvement, alteration or change to be made in and about the property.
24. Affiant has not had any sums escrowed for the payment of taxes or insurance on the property.
25. Affiant further states under penalty of perjury that there has never been any previous transfer or assignment of the above described Promissory Note and/or Mortgage to the knowledge of Affiant, nor has Affiant ever received any notice of assignment or notice of any other interest had by any other third party in said Note and/or Mortgage; Affiant will hold harmless and protect against any claims due to misrepresentation hereof.
26. Affiant understands that this affidavit may be relied upon by any third-party for the purpose of assuming, holding, purchasing, assigning, or satisfying the Promissory Note and Mortgage presently owed by the Affiant.
27. That said Agreement is intended to be and is an absolute conveyance of the title to said property to Mortgagor named therein, and was not and is not now intended as a mortgage, trust conveyance or security of any kind.
28. That it was the intention of Affiant as grantors in said Affidavit to convey, and by said Affidavit Affiant did convey, to Mortgagor therein, all their right, title and interest absolutely in and to said property and that possession of said property has been surrendered to Mortgagor.
29. That in the execution and delivery of said Affidavit Affiant was not acting under misapprehension as to the effect thereof, and acted freely and voluntarily and were not acting under coercion or duress.

30. That at the time of making said Affidavit Affiant believed and now believe that the aforesaid consideration therefore represented the fair value of said property.

31. That this affidavit is made for the protection and benefit of Mortgagor in said Affidavit, their successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in said property.

32. That Affiant will testify, declare, depose or certify before any competent tribunal, officer or person, in any case now pending or which may hereafter be instituted to the truth of the particular facts set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

AFFIANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

February 28, 2022

Contact Name

Address

City, State/Province

OBJECT: APOLOGY FOR ACCOUNTING ERRORS AND PAST DUE NOTICE

Dear [CONTACT NAME],

We are very much concerned that due to our mistake, you had to deal with unnecessary problems. Unfortunately, it has taken some time to find out exactly what occurred, and, therefore, please accept our apologies for the delay in this response. You definitely deserve an explanation for what went wrong in our accounting department. I hope that this letter will help to resolve some recent difficulties.

For what I've been told on this issue, your payment was received in time but it had been credited to an account which bears a similar name to yours. As a result, we began sending you our standard notices requesting payment, according to our collection policy. Even after the posting error was rectified, our accounting department failed to notify our credit department, which is why you continued to receive our correspondence asking for payment.

I understand how exasperating this has been for you and I am deeply sorry that it has taken so long to straighten out this problem. While there is a procedure within our firm to prevent this type of error from happening, we are reinforcing this procedure.

You have been a valued customer for a long time and we appreciate the opportunity to continue to serve you. You may rest assured that this problem will not occur again.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APOLOGY FOR NOT CREDITING PAYMENT

Dear [CONTACT NAME],

I want to thank you for your support and assistance in helping us to locate your payment of [DATE], which had not been credited to your account. I understand how exasperating this has been for you and I am deeply sorry that it has taken so long to straighten out this problem. Your help enabled us to go through our records and pinpoint how this error occurred.

Please accept our sincere apology for the correspondence we wrote under the assumption that this bill had not been paid. I know this insistence on our part must have been extremely frustrating for you, especially in light of the fact that you have always been a valued customer of ours and have paid your bills promptly.

Thank you for your patience and please be assured that we will do everything in our power to ensure that this type of error does not surface in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APOLOGY TO CUSTOMER FOR ACCOUNTING ERRORS

Dear [CONTACT NAME],

On behalf of [COMPANY], I want to thank you for your recent letter regarding an error that occurred with your account [NUMBER]. After examination, we were able to track down the error and have credited your account accordingly. A report to this effect has also been sent to our credit department – I can certify that your credit rating won't be penalized in any way.

Please note that as of [DATE], your account balance is [AMOUNT].

You are a valued customer, [CONTACT NAME], and we apologize for any inconvenience this mistake may have caused you. If we may be of further assistance please do not hesitate to contact me at your convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APPROBATION OF FINANCING APPLICATION

Dear [CONTACT NAME],

Your application for financing on the acquisition of your new [DESCRIBE] has been approved. Your order for [NUMBER] [PRODUCT] will be shipped within [NUMBER] days.

As the enclosed lease documents indicate, your monthly lease payment is [AMOUNT]. Since your lease covers the entire purchase, including “soft” costs, installation and training are completely covered, with no additional fee or payment required.

We look forward to serving you and hope you will call upon us for service, support, and supplies. Please keep in touch and let us know how the [PRODUCT] is working to improve sales and customer service in your shop

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APPROVAL OF NEW CREDIT ACCOUNT

Dear [CONTACT NAME],

Your account with [NAME OF FIRM] has been approved for credit. We would like to inform you that your account number is [NUMBER]. Please inform your personnel to be sure to include this account number on any documents and correspondence directed to us.

We welcome you to our family of customers and hope that our new relationship will be mutually beneficial and profitable.

As our way of saying thank you for opening your new account with us, we are offering you a [SPECIFY] discount on all merchandise ordered in the month of [MONTH].

If you have any questions regarding our credit policy, please call [NAME], our Credit Manager, who will be more than happy to discuss your account with you.

We will be looking forward to your orders and to the opportunity of serving you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Name of information holder

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: AUTHORITY TO RELEASE CREDIT-RELATED INFORMATION

Dear [CONTACT NAME],

The undersigned hereby authorizes the disclosure and release of any and all personal credit-related information in your possession, including but not limited to credit, financial, salary, banking, debt and tax information and materials, to [FIRM NAME], as required, until further notice. This authorization is valid for [NUMBER] days from the date of my signature below. Please keep a copy of my release request for your files.

Thank you for your co-operation.

Dated: [DATE]

[WITNESS]

[NAME OF CREDIT APPLICANT]

Business Credit Application

Name/Address

Last:	First:	Middle Initial:	Title
Name of Business:			Tax I.D. Number
Address:			
City:	State:	ZIP:	Phone:

Company Information

Type of Business:	In Business Since:
Legal Form Under Which Business Operates:	
State/Province:	Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/>
If Division/Subsidiary, Name of Parent Company:	In Business Since:
Name of Company Principal Responsible for Business Transactions:	Title:
Address:	City: State: ZIP: Phone:
Name of Company Principal Responsible for Business Transactions:	Title:
Address:	City: State: ZIP: Phone:

Bank References

Institution Name:	Institution Name:	Institution Name:
Checking Account #:	Savings Account #:	Home Equity Loan: Loan Balance:
Address:	Address:	Address:

Phone:	Phone:	Phone:
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Trade References

Company Name:	Company Name:	Company Name:
Contact Name:	Contact Name:	Contact Name:
Address:	Address:	Address:
Phone:	Phone:	Phone:
Account Opened Since:	Account Opened Since:	Account Opened Since:
Credit Limit:	Credit Limit:	Credit Limit:
Current Balance:	Current Balance:	Current Balance:

Financial Information

Company Total Assets	Company Total Liabilities	Amount of Credit Requested:
Annual Net Income		
Have you or your officers or affiliates ever filed a petition in bankruptcy? Yes <input type="checkbox"/> No <input type="checkbox"/>		
Is your company subject to any litigation? Yes <input type="checkbox"/> No <input type="checkbox"/> If so, describe:		

We declare that the above information is true, correct and complete and is given to induce the Company to extend credit. We authorize the Company to make such credit investigation as the Company sees fit, including contacting the above trade references and banks and obtaining credit reports. We authorize all trade references, banks and credit reporting agencies to disclose to the Company any and all information concerning the financial and credit history of my company and myself:

I have read the terms and conditions stated below and agree to all of those terms and conditions.

Name of Company: _____

Authorized Signature: _____

Title: _____

Printed Name: _____

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHARGE ACCOUNT LIMIT RAISE

Dear [CONTACT NAME],

I am pleased to inform you that after careful review of your charge account, we have decided to increase your credit limit as follows:

OLD CREDIT LIMIT: [AMOUNT]

NEW CREDIT LIMIT: [AMOUNT]

Moreover, your new status qualifies you for use of our installment account. Should you require additional information about this new account, please call me as I will be happy to help.

You are a valued customer, and as such, we always keep you informed about our special sales. We currently have a promotion on [PRODUCTS/SERVICES]. If you order by [DATE], we will give you a [%] rebate on all your purchases.

We appreciate your continued patronage, and look forward to being able to assist you in the near future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CHARGE ACCOUNT TERMS AND CONDITIONS

This Agreement is made and effective [EFFECTIVE DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CUSTOMER NAME] (the "Customer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

IT IS AGREED AS FOLLOWS:

Buyer agrees with seller [SELLER'S NAME] to pay for all purchases upon receipt of monthly statement. Charges billed, but not paid by the [DAY] of the month following purchase will be considered delinquent and subject to finance charges.

The FINANCE CHARGE for individuals is computed by a periodic rate of [%]per month which is an ANNUAL PERCENTAGE RATE OF [RATE]% applied to the "Previous Unpaid Balance less Current Credits." Current credits are payments or credits received by [TIME] A.M. on the [DAY] day of the following month. The minimum payment due will be payment of Buyer's indebtedness in full. If not paid, [SELLER'S NAME] may declare the unpaid balance due and payable immediately. Buyer agrees to pay collection expenses, including reasonable attorney's fees and court costs, if it is necessary to collect through legal action.

Buyer assumes full responsibility for all materials purchased from [SELLER'S NAME]. Buyer agrees to be personally liable for all charges and individually guarantees payment of all charges promptly. Buyer agrees to notify [SELLER'S NAME] within [NUMBER] days in writing of receipt of monthly statement of any in billing. Failure to so notify [SELLER'S NAME] signifies total acceptance and responsibility for prompt payment in full of account.

If materials are ordered to be delivered to a construction job site, the buyer assumes liability for the materials at the time of delivery whether or not buyer's representative is on hand to acknowledge receipt of delivery. Buyer agrees to pay standard delivery charges as billed.

Buyer agrees that no refund will be granted unless merchandise is returned within 30 days with invoice to store where purchases were made and in original sales condition. Buyer agrees to supply [SELLER'S NAME] with "Notice of Commencements", purchase orders, job numbers, job addresses, and a current list of employees permitted to order, pickup, and sign for merchandise. [SELLER'S NAME] reserves the right to send out "Notice to Owners" and file Liens on past due accounts and use any legal means available to force collection if necessary.

SELLER

CUSTOMER

Authorized Signature

Authorized Signature

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHRISTAMS CREDIT EXTENSION

Dear [CONTACT NAME],

It seems like every year it's the same old scenario – you are trying to find a way to be able to buy all of our gifts this holiday season without having to worry about paying for them until March?

We thought it would, and decided this would be a perfect way to say thank you to our customers for having shopped with us throughout the year.

Starting today, any purchases that you charge to your account will not appear on your statement until [DATE]! This offer is available to you until Christmas Eve, [YEAR].

We hope that you will take advantage of our holiday offering and come see our Christmas season selections. While you are here, please come [PLACE] for a complimentary [GIFT].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: COMPANY CREDIT ACCOUNT APPROVAL

Dear [CONTACT NAME],

After evaluation of your application for credit, it is our pleasure to inform you that an account has been opened for your company.

Please feel free to use your account as often as you wish. A descriptive brochure is attached which outlines the terms and conditions upon which this account has been opened. Should your credit requirements change, or should you have any questions regarding your new account, call this office and ask to speak to one of our account representatives. When you call, please have your account number available, in order that we might have quick access to your file.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT ACCOUNT DENIAL FOR UNFAVORABLE REPORT

Dear [CONTACT NAME],

Thank you for your recent application for credit with our firm. We regret to inform you that we cannot extend credit terms to you at the present time, based on the report we received back from our credit bureau. If you feel that there may be some errors in the records of the credit reporting agency, we suggest that you contact them and review their current information. In the event that there have been errors made, please direct them to submit a revised report to us for our reconsideration.

We would be most happy to welcome you as a customer and to accommodate you in any way possible under the circumstances. We do have a layaway plan and various other options that are available to our cash customers.

Please feel free to call me if you have any questions or if I can be of assistance to you in any way.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT ACCOUNT DENIAL

Dear [CONTACT NAME],

We have reviewed your application for open account terms, and at this time are unable to open an account for your company. Should circumstances change in the future, please feel free to resubmit an application.

We value your business, and hope to keep you as a customer. As a cash customer you will be advised of all special sales, and we know that you will find our prices and services competitive enough to allow us to continue serving you. If you have any questions about this decision, or if I may be of any help in any way with regard to your dealings with our company, please contact me at the above office.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

consumer Credit Application

Name/Address

Name		Social Security Number		
Address:				
City:	State:	ZIP:	Phone:	Work:
Own	Rent	(Please circle)	Monthly payment or rent	How long?
Previous Address:				
City:	State:	ZIP:		
Owned	Rented	(Please circle)	Monthly payment or rent	How long?

Employment History

Employer:		Job Title:		
Address:		Supervisor:		
City:	State:	ZIP:	Salary:	
Phone:	Date From:	Date To:		
Employer:		Job Title:		
Address:		Supervisor:		
City:	State:	ZIP:	Salary:	
Phone:	Date From:	Date To:		

Source of Income Total Expenses Total

Salary		Loans	
Bonuses & Commissions		Charge Account bills	
Income From Rental Property		Monthly Bills	
Investment Income		Real Estate Mortgages	
Other Income		Other Debts -- Itemize	

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT EXTENSION TO PAST DUE PREFERRED CUSTOMER

Dear [CONTACT NAME],

Our credit department has notified me that your account is past due. You are one of our preferred customers and therefore we want to offer any assistance we can. We know that most overdue balances result from clerical errors. However, should you require additional time to settle your balance, please feel free to give us a call. I will see to it that you are granted an additional [NUMBER] days in which to pay your account balance.

We value your business, and sincerely hope that this gesture will be of some help. Thank you for your kind consideration, and we look forward to seeing you soon.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT INFORMATION

Dear [CONTACT NAME],

Enclosed is the credit information that you requested. I trust that this data will satisfy any concerns you may have about our creditworthiness, and that it will lead to the establishment of a credit account for our organization.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT INFORMATION REQUEST

Dear [CONTACT NAME],

Thank you for your recent order dated [DATE]. We shall be pleased to consider you for a line of credit; however, we first require additional information. Accordingly, would you please provide us with the information checked?

Bank Affiliations

Credit Application (enclosed)

Current Financial Statements

[number] Trade References and Bank References

Dun and Bradstreet or Other Credit Reporting Rating

Other: [DESCRIBE]

Pending receipt of this information we suggest C.O.D. or advance payment of [AMOUNT] on this order to expedite prompt shipment. Upon receipt we shall immediately ship your order.

A self-addressed envelope is enclosed for your convenience. Of course, all credit information submitted shall be held in strict confidence.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

Credit MEMO

Total Amount of Credit	\$
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February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT REFERENCE REQUEST

Dear [CONTACT NAME],

We are responding to your letter requesting credit information on [COMPANY].

Over the past [NUMBER] years [COMPANY] has ordered [AMOUNT] worth of merchandise from us. During that time, there have been [NUMBER] incidents where the bills have been [NUMBER] days past due. To be fair, those incidents occurred [NUMBER] years ago. Over the past year [COMPANY]'s bills have been current.

Based on our experience with this Company, we believe [COMPANY] to be a good credit risk.

Sincerely,

Your name

Your title

DR. LUBOGO ISAAC CHRISTOPHER

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHARGE CARD APPROVAL

Dear [CONTACT NAME],

It is our pleasure to notify you that a charge account has been approved in your name. We welcome you as a new customer and hope that you enjoy the convenience of your charge account.

We have established a credit limit on your account in the amount of [AMOUNT]. At such time as you may wish to raise the credit line, a phone call or visit to our credit office should expedite our handling of your request.

We have enclosed your card and our pamphlet that explains our billing procedure, how to use your credit card plus additional information we believe you will find useful.

Thank you again for choosing to shop with us.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DENIAL OF CREDIT

Dear [CONTACT NAME],

After careful consideration of your request for a [NAME OF ACCOUNT APPLIED FOR], we must regretfully advise you that we are unable to accommodate you at this time.

The decision to deny this credit is based on information contained in a credit report obtained from [COMPANY CREDIT REPORT OBTAINED FROM]. You are entitled to receive a free copy of this report by [ADDRESS].

We are sorry for the inconvenience it may cause you. Please feel free to reapply after having corrected what is mentioned on your credit report

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHARGE ACCOUNT DENIAL

Dear [CONTACT NAME],

We regret to inform you that we are unable to open a charge account for you at present due to information obtained from the following consumer reporting agency: [AGENCY].

We wish to advise you that you have the right under federal law to obtain full disclosure of the nature and substance of all information on you that is contained in the files of the consumer credit reporting agency, with the exception of medical data, upon the presentment of proper identification.

Although we are unable to offer you credit terms, we would be pleased to welcome you as a customer and hope that we will be able to open a charge account for you some time in the future.

Thank you for submitting your application to us.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST ON CREDIT INFORMATION

Dear [CONTACT NAME],

We are responding to your letter requesting credit information on [COMPANY].

A purchase order from [COMPANY] for [AMOUNT] worth of merchandise listed you as a credit reference.

We would appreciate any information you can provide on the credit history of [COMPANY] with your company. Key facts would include how long the owner, [NAME], has had an account with you and whether or not she has any outstanding debts. We will keep any information you send us confidential.

I've enclosed a postage paid envelope for your convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF C.O.D. TERMS

Dear [CONTACT NAME],

We are in receipt of your order dated [DATE] and your request for credit terms.

While we do want to accept your order, we regret we cannot ship on credit terms at the present time, due to inadequate credit. Accordingly, we propose shipment on C.O.D. terms. We will assume C.O.D. terms are satisfactory to you unless we are notified of the contrary within [NUMBER] days.

Thank you for your understanding and we appreciate your patronage, with the hope we may more favorably consider credit requests in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT LIMIT INCREASE

Dear [CONTACT NAME],

Congratulations! Your credit line has been increased to [AMOUNT]. Thank you for your business. We have increased your line of credit so you can make more convenient purchases through [COMPANY].

We appreciate your business and hope you enjoy this extra purchasing power.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: NOTICE OF CREDIT LIMIT

Dear [CONTACT NAME],

A review of your account indicates a present balance of [AMOUNT] owed to our firm.

Every account is carefully evaluated to establish a credit limit that we believe is consistent not only with our interests, but the interests of the customer as well. We have established [AMOUNT], as your credit allowance and believe it is appropriate.

Since you are at or near that credit limit, we can ship future orders only on a C.O.D. basis, until your balance is reduced.

We would be pleased to review your account with you if you believe an increased credit line is justified.

We are confident you understand the need for this action.

Sincerely,

Your name

DR. LUBOGO ISAAC CHRISTOPHER

Your title
Telephone contact
youremail@yourcompany.com
February 28, 2022

Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: NOTICE TO CORRECT CREDIT

Dear [CONTACT NAME],

A review of our credit report discloses the following adverse credit information:

[SPECIFY]

This information is erroneous or incomplete in the following respects:

[SPECIFY]

In accordance with the provisions of the Fair Credit Reporting Act, we request that this letter be made a part of our credit file and thereupon disseminated with any request on us. We further request that this be investigated further with the named creditor and that unless substantiated, then said entry be deleted.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO STOP CREDIT CHARGE

Dear [CONTACT NAME],

Please be advised that on [DATE] the undersigned charged a sum of [AMOUNT] on a transaction with [COMPANY].

We hereby instruct you not to honor said charges or issue payment to the company for the following reasons:

Thank your for your cooperation.

Sincerely,

OBJECTION MY LORD: LEGAL PRACTICE DEMYSTIFIED

Your name

Credit Card Number

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: OPENING NEW CREDIT ACCOUNT

Dear [CONTACT NAME],

Welcome! Your account at [COMPANY] has been approved. We are proud to have you as a customer.

[COMPANY] is a [NUMBER]-year-old company, with [NUMBER] locations in [NUMBER] states. We supply a complete line of [PRODUCTS] products to our customers, including [SHORT LIST]. As a leader in this industry, we strive to provide the best service possible to our customers. Our goal is to be your most valuable supplier. Customer satisfaction is our number-one priority.

Your approved credit line is [AMOUNT], with billing terms of [TERMS]. Monthly statements are mailed on the first working day each month. A service charge is added to past-due balances that are not paid by [DATE] of the billing month.

We at [COMPANY] welcome the opportunity to serve you and look forward to a long and prosperous relationship.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFUND FOR RETURNED MERCHANDISE

Dear [CONTACT NAME],

Having received the merchandise you returned to us on [DATE] we are enclosing our check to you in the amount of [AMOUNT].

Thank you for taking such care in the packing of the returned merchandise.

We are sorry that circumstances prompted the return of this merchandise, but hope that you will continue to allow us to serve you in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFUND OF DUPLICATE PAYMENT

Dear [CONTACT NAME],

Enclosed is our check in the amount of [AMOUNT] which represents a refund for your inadvertent duplicate remittance for payment of [PURPOSE].

We are pleased that our bookkeeping department discovered this overpayment so quickly.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REPLY TO REQUEST ABOUT CREDIT REJECTION

Dear [CONTACT NAME],

In response to your request for a statement of our reasons for turning down your recent application for credit, our records reveal that your application was not approved because:

[DESCRIBE]

We appreciate your patronage and invite you to shop with us on a cash basis.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST FOR CREDIT INFORMATION

Dear [CONTACT NAME],

It was with great pleasure that we received your recent order which was entered for immediate shipment at our regular [NUMBER] day terms.

To enable us to extend the line of credit you may need for future orders; will you send us the usual credit information? We have enclosed a simplified financial statement form for your convenience.

Thank you again for your order. We are looking forward to a long and mutually rewarding business relationship.

Sincerely,

Your name

Your title

Telephone contact

DR. LUBOGO ISAAC CHRISTOPHER

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DEMAND OF REFUND OF DUPLICATE PAYMENT

Dear [CONTACT NAME],

On [DATE], this office mailed to you a check in the amount of [AMOUNT] per your [DATE] invoice.

After reviewing your file, I realized that this account had been paid in full on [DATE]. I am enclosing a photostat of our cancelled check [NUMBER] in the amount of [AMOUNT].

I would appreciate it if you would reimburse this office for the duplicate payment. I apologize for any inconvenience this error has caused.

Thank you for your prompt attention to this matter.

Sincerely,

Your name & Details

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NEW RESTRICTIONS ON CREDIT

Dear [CONTACT NAME],

After [NUMBER] months of prompt payments, we've noticed that your last [NUMBER] bills were [NUMBER] days late. We are concerned about the change in your payment pattern. Rather than cancel your credit line, we have reduced it [%].

If, after [NUMBER] months, you are current with your bills, we will reevaluate an increase in your credit line.

Your business is important to us. We hope we can increase your credit line in the future.

Sincerely,

DR. LUBOGO ISAAC CHRISTOPHER

Your name & Address

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: WITHDRAWAL OF CREDIT ON PAST DUE ACCOUNT

Dear [CONTACT NAME],

Your file was just placed on my desk for disposition. It seems that your account is seriously past due. We have valued your business for many years, and can only hope that this lack of payment is only an error or an oversight. If you have mailed your check, thank you. If not, please advise this office if any discrepancy exists. I have reviewed the account, and feel I must advise the management to cancel existing credit lines unless payment is received within [NUMBER] days.

I understand that you have had problems lately, and feel that we have been most accommodating. Accordingly, I will expect your check no later than [DATE].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

AGREEMENTS AND CONTRACTS

ADVERTISING AGENCY AGREEMENT

This Advertising Agency Agreement (the "Agreement") is made and effective this [Date],

BETWEEN: [ADVERTISER NAME] (the "Advertiser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENCY NAME] (the "Agency"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

Agency is in the business of providing advertising agency services for a fee. Advertiser desires to engage Agency to render, and Agency desires to render to Advertiser, certain advertising agency services, all as

set forth.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

18. Engagement

Advertiser engages Agency to render, and Agency agrees to render to Advertiser, certain services in connection with Advertiser's planning, preparing and placing of advertising for certain of Advertiser's products as follows:

- i. Analyze Advertiser's current and proposed products and services and present and potential markets.
- j. Create, prepare and submit to Advertiser for its prior approval advertising ideas and programs.
- k. Prepare and submit to Advertiser for its prior approval estimates of costs and expenses associated with proposed advertising ideas and programs.
- l. Design and prepare, or arrange for the design and preparation of, advertisements.
- m. Perform such other services as Advertiser may request from time to time such as, but not limited to, direct mail advertising preparation, speech writing, publicity and public relations work, market research and analysis.
- n. Order advertising space, time or other means to be used for publication of Advertiser's advertisements, at all times endeavoring to secure the most efficient and advantageous rates available.

- o. Proof for accuracy and completeness of insertions, displays, broadcasts, or other forms of advertisements.
- p. Audit invoices for space, time, material preparation and charges.

19. Products

Agency's engagement shall relate to the following products and services of Advertiser: [Products]

20. Exclusivity

Agency shall be the [Exclusive or Non-Exclusive] advertising agency in the [Country] for Advertiser with respect to the products described in Section 2 above.

21. Compensation

- f. Agency shall receive an amount equal to [Media Commission Rate] of the gross charges levied by media for advertising placed therewith by Agency pursuant to this Agreement; and [Non-Media Commission Rate] after volume discount, of the charges of suppliers of services or properties, such as finished art, comprehensive layouts, type composition, photostats, engravings, printing, radio and television programs, talent, literary, dramatic and musical works, records and exhibits, purchased by Agency on Advertiser's authorization during the term of this Agreement; provided that:
 - (i) No percentage will be added to Agency charges for packing, shipping, express, postage, telephone, telex, fax, travel expenses and other out of pocket expenses of Agency personnel; and
 - (ii) Agency's commission for outdoor advertising will be the standard rate allowed advertising agencies when such rate is less than [Outdoor Advertising Commission Rate].
- g. For those items where Agency is not compensated on a commission basis, Advertiser shall pay Agency on an hourly basis for services provided hereunder. The rate will be determined by the type of services provided and the person or persons providing such services, but in no event shall the rate exceed [Maximum Hourly Rate] per hour. Advertiser may elect in advance to be charged on this hourly rate basis. If Advertiser fails to notify Agency of its choice, it shall be presumed that Advertiser elected to be charged on an hourly rate basis.

- h. In the event that Agency undertakes, at Advertiser's request subject to Advertiser's prior approval, special projects such as those described in Section 1.F above, Agency shall prepare an estimate of total charges for any such special project, including therein any charges for materials or services purchased from outside sources. In the event that Advertiser elects to proceed with the special project based upon Agency's estimated cost, Agency shall perform the services with respect to such special project at its estimated cost, subject to modification as mutually agreed by the parties.
- i. For any special project or other services provided by Agency pursuant to this Agreement upon which the parties have not agreed as to charges, Advertiser shall pay Agency at its regular hourly rates, not to exceed [Amount] per hour.
- j. Advertiser shall not be obligated to reimburse Agency for any travel or other out-of-pocket expenses incurred in the performance of services pursuant to this Agreement unless expressly agreed by Advertiser in advance.

22. Billing

- g. Agency shall invoice Advertiser for all media costs where possible in advance of Agency's payment date to allow for prepayment by the Advertiser so that Advertiser may receive the benefit of any available prepayment or similar discount. For any media purchase or service for which Agency is not entitled to a commission, Agency shall ensure that the charges to Advertiser are net of all agency commissions and discounts.
- h. Charges for production materials and services shall be billed by Agency upon completion of the production job or, if cash discounts are available, upon receipt of the supplier's invoice.

- i. On all outside purchases other than for media, Agency shall attach to the invoice proof of the supplier's charges.
- j. All cash discounts on Agency's purchases including, but not limited to, media, art, printing and mechanical work, shall be available to Advertiser, provided that Advertiser meets Agency's requisite billing terms and there is no outstanding indebtedness of Advertiser to Agency at the time of the payment to the supplier.
- k. Rate or billing adjustments shall be credited or charged to Advertiser on the next following regular invoice date or as soon as otherwise practical.
- l. Invoices shall be submitted in an itemized format and shall be paid by Advertiser within [NUMBER] days of the invoice date.

23. Competitors

During the term of this Agreement, Agency [May Not] accept employment from, render services to, represent or otherwise be affiliated with any person, firm, corporation or entity in connection with any product or service directly or indirectly competitive with or similar to any product or service of Advertiser with respect to which the Agency is providing any service pursuant to this Agreement.

24. Cost Estimates

Agency shall not commence work on any project pursuant to this Agreement without first estimating costs for preparation, including copy, service, layout, art, engraving, typography, processing, paste up and production. After determining the estimated cost, completion of the work shall be subject to Advertiser's prior approval.

25. Audit Rights

Agency agrees that following reasonable prior notice any and all contracts, agreements, correspondence, books, accounts and other information relating to Advertiser's business or this Agreement shall be available for inspection by Advertiser and Advertiser's outside accountants, at Advertiser's expense.

26. Ownership and Use

- d. Agency shall insure, to the fullest extent possible under law, that Advertiser shall own any and all right, title and interest in and to, including copyrights, trade secret, patent and other intellectual property rights, with respect to any copy, photograph, advertisement, music, lyrics, or other work or thing created by Agency or at Agency's direction for Advertiser pursuant to this Agreement and utilized by Advertiser.
- e. Upon termination, Advertiser agrees that any advertising, merchandising, package, plan or idea prepared by Agency and submitted to Advertiser (whether submitted separately or in conjunction with or as a part of other material) which Advertiser has elected not to utilize, shall remain the property of Agency, unless Advertiser has paid Agency for its services in preparing such item. Advertiser agrees to return to Agency any copy, artwork, plates or other physical embodiment of such creative work relating to any such idea or plan which may be in Advertiser's possession at termination or expiration of this Agreement.

- f. Materials and advertisements created by Agency pursuant to this Agreement may be used by Advertiser outside [COUNTRY] without additional compensation, provided that Advertiser shall be responsible for any additional expense associated with such use, such as charges for translation and amounts due talent. Agency's obligations in Section 10.A. above shall not apply with respect to any such foreign use.

27. Indemnification and Insurance

- d. Agency shall indemnify and hold Advertiser harmless with respect to any claims, loss, suit, liability or judgment suffered by Advertiser, including reasonable attorney's fees and costs, based upon or related to any item prepared by Agency or at Agency's direction, including, but not limited to, any claim of libel, slander, piracy, plagiarism, invasion of privacy, or infringement of copyright or other intellectual property interest, except where any such claim arises out of material supplied by Advertiser and incorporated into any materials or advertisement prepared by Agency. Agency agrees to procure and maintain in force during the term of this Agreement, at Agency's expense, an advertising agency liability policy or policies having a minimum limit of at least [Insurance Policy Amount], naming Advertiser as an additional insured and loss payee under such policy or policies.
- e. Advertiser agrees to indemnify and hold Agency harmless with respect to any claims, loss, liability, damage or judgment suffered by Agency, including reasonable attorney's fees and court costs, which results from the use by Agency of any material furnished by Advertiser or where material created by Agency or at the direction of Agency subject to the indemnification in subsection A. above is materially changed by Advertiser. Information or data obtained by Agency from Advertiser to substantiate claims made in advertising shall be deemed to be "material furnished by Advertiser to Agency".

- f. In the event of any proceeding, litigation or suit against Advertiser by any regulatory agency or in the event of any court action or other proceeding challenging any advertising prepared by Agency, Agency shall assist in the preparation of the defense of such action or proceeding and cooperate with Advertiser and Advertiser's attorneys.

28. Term

The term of this Agreement shall commence on [Start Date] and shall continue in full force and effect until terminated by either party upon at least [NUMBER] days prior written notice, provided that in no event (except breach) may this Agreement be terminated prior to [Earliest End Date]. The rights, duties and obligations of the parties shall continue in full force during or following the period of the termination notice until termination, including the ordering and billing of advertising in media whose closing dates follow then such period.

29. Rights Upon Termination

- c. Upon termination of the Agreement, Agency shall transfer, assign and make available to Advertiser all property and materials in Agency's possession or subject to Agency's control that are the property of Advertiser, subject to payment in full of amounts due pursuant to this Agreement
- d. Upon termination, Agency agrees to provide reasonable cooperation in arranging for the transfer or approval of third party's interest in all contracts, agreements and other arrangements with advertising media, suppliers, talent and others not then utilized, and all rights and claims thereto and therein, following appropriate release from the obligations therein.

30. Default

In the event of any default of any material obligation by or owed by a party pursuant to this Agreement, then the other party may provide written notice of such default and if such default is not cured within [NUMBER] days of the written notice, then the non-defaulting party may terminate this Agreement.

31. Notices

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Advertiser:

[Advertiser]

[Advertiser's Address]

If to Agency:

[Agency]

[Agency's Address]

32. Headings

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

33. Final Agreement

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

34. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the state of [State/PROVINCE].

IN WITNESS WHEREOF, the parties hereto have executed this Advertising Agency Agreement as of the date first above written.

ADVERTISER

AGENCY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

AMENDMENT TO SALES CONTRACT

This Amendment to that certain Sales Contract dated [DATE], (the “Sales Contract”), is made [DATE]

BETWEEN: [SELLER NAME] (the “Seller”) , a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

WHEREAS, the parties wish to amend certain terms of the Sales Contract; and WHEREAS, certain capitalized terms not otherwise defined herein are defined in the Sales Contract;

THEREFORE, the parties agree as follows:

9. Price Change

Section [Specify] of the Sales Contract is hereby amend to provide that the price for the Products shall, after the date hereof, be the price announced publicly from time to time by Seller, less a 10% discount.

10. Payment

The first sentence of Section [SPECIFY] of the Sales Contract is deleted and replaced by the following sentence: “Payment in full for all Products shall be made by Buyer within 45 days of receipt of the applicable invoice from Seller.”

11. Deletion

Section [SPECIFY] of the contract is hereby deleted and is no longer applicable after the date hereof.

12. Payment

In consideration for the various accommodations made herein, Buyer shall pay to Seller the sum of [AMOUNT] simultaneously upon execution of this Amendment.

13. Entire Agreement

This Amendment, together with the Sales Contract, constitutes the final, complete and exclusive statement of the agreement between the parties pertaining to their subject matter and supersedes any and all prior and contemporaneous understandings or agreements of the parties.

14. Modification

This Amendment may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, modification or amendment of this Amendment shall be binding unless it is in writing and signed by both parties.

15. Inconsistency

In the event of any conflict between this Amendment and the Sales Contract, the terms of this Amendment shall govern.

16. Sales Contract Continuance

Except with respect to the changes effected by this Amendment, the Sales Contract continues to remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on [DATE].

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BILL OF SALE

This Bill of Sale (the "Agreement") is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller") , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good and valuable consideration, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods

[DETAILED LIST OF GOODS].

Seller warrants and represents that he/she has good title to said property, full authority to sell and transfer same and that said goods and chattels are being sold free and clear of all liens, encumbrances, liabilities and adverse claims, of every nature and description. Seller further warrants that it shall sully defend, protect, indemnify and save harmless the Buyer and its lawful successors and assigns from any and all adverse claim, that may be made by any party against said goods.

The Buyer acknowledges examining the goods and buying them "as and where is" completely at the Buyer's risk and promises not to make any claims against the Seller based upon alleged express or implied representations, warranties or collateral agreements as to the merchantability of the goods or as to their fitness for any particular purpose or as to their safe use.

It is provided, however, that Seller disclaims any implied warranty of condition, merchantability or fitness for a particular purpose. Said goods being in their present condition "as is" and "where is."

IN WITNESS WHEREOF, this Bill of Sale is executed in duplicate under seal on [DATE].

Signed, sealed and delivered to the Buyer in the presence of:

BUYER

SELLER

Authorized Signature

Print Name and Title

Authorized Signature

Print Name and Title

BILL OF SALE – WITH ENCUMBRANCES

This Bill of Sale (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the “Seller”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good and valuable consideration, the Seller hereby sells and transfers possession of the following goods in their present condition and location to the Buyer, and its successors and assigns forever, the following described goods:

[DETAILED LIST OF GOODS].

The Seller warrants that it owns the goods but stipulates that they are being sold subject to the following encumbrance(s) in the following amount(s):

[ENCUMBRANCE DESCRIPTION - ENCUMBRANCE AMOUNT].

The Buyer acknowledges buying the goods subject to the above encumbrance(s) and promises to pay the encumbrance(s) and to indemnify and save the Seller harmless from any claim(s) based on failure to pay off the encumbrance(s).

Executed under seal in duplicate on [DATE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BULK SALE AGREEMENT

This Bulk Sale Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [SELLERS NAME] (the "Sellers") , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

THEREFORE, the parties agree as follows:

7. AGREEMENT TO SELL

The Sellers shall sell to the Buyer, and the Buyer shall buy from the Sellers, all of that certain stock of goods, wares and merchandise belonging to the Sellers, and now located at [location], together with all furniture and fixtures therein, belonging to the Sellers.

8. COMPANY CLOSED FOR INVENTORY

Upon the execution and delivery of this contract, properly signed and executed, and the payment of the earnest money hereinafter mentioned, the location shall be closed temporarily, and an inventory taken immediately, and delivered to the Buyer, at the invoice cost [AMOUNT], without including transportation charges or expenses, deducting, however, any depreciation on account of damages, wear and tear.

9. INVOICE VALUATION OR ARBITRATION

The goods, wares and merchandise and furniture and fixtures shall be inventoried at [location].

10. TIME TO COMPLETE INVENTORY

Ten days shall be allowed to complete the inventories, upon which date all of the property shall be thereupon delivered by the Sellers to the Buyer.

11. LIQUIDATED DAMAGES

All the stipulations, agreements and conditions contained in this contract are to apply to and to bind the heirs, executors and administrators of the respective parties hereto, and, in case of failure, the parties bind themselves each to the other in the sum of [AMOUNT], as fixed and settled damages to be paid by the failing party.

12. DEPOSIT IN ESCROW TO SECURE COMPLIANCE WITH BULK SALES LAW

The Buyer, in consideration of the premises, shall, upon the execution of this contract, deposit in escrow in the [NAME] Bank, the sum of [AMOUNT] as earnest money to bind the trade, the sum to be returned to the Buyer in case the Sellers fail to make good title to the property, and upon the consummation of the deal and the tender of the Sellers to the Buyer of their certain bill of sale to the property, showing that the Sellers have complied with all the requirements and conditions of the Bulk Sales Law of [jurisdiction] and that they will furnish to Buyer a full and complete list of all creditors of the company, together with the amounts due the creditors, that the creditors shall be immediately paid in full such amounts as may be due them, and that the total amount shown to be due by the Sellers shall be deposited in escrow in [name] Bank, until all creditors of the company shall give a release of their claim against the company, or the individual members thereof, the Buyer shall pay to the Sellers the total amount of the invoice in cash and the payment shall be accepted in full payment for the property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: BULK SALES NOTICE

Dear [Contact name],

Please take notice that on [Date], [Seller] shall make a bulk sale or transfer of its goods to [Buyer].

To the knowledge of Buyer, the Seller has not done business under any other name during the past three years. All debts of the Seller shall be paid in full as they fall due as part of this bulk sale.

Creditors are directed to send all bills to:

Name

Address

The sale shall occur ten or more days from the date of receipt of this notice.

Sincerely,

Buyer

Use Registered Mail.

CHECKLIST

partnership agreement

1. Name of Partnership

2. Names of Partners, Contribution to Capital and Distribution of Profit

3. Description of Business

4. Commencement Date

5. Term of Partnership (if any)

6. Place of Business (if any)

7. Fiscal Year End

8. Accounting/Valuation Principles (seek professional advice)

9. Banking Arrangements

10. Management Duties/Decisions

11. Restrictions on Partners

12. Signing Authority

13. Drawing Arrangements

14. Retirement/Death Arrangements

15. Non-Competition Clause?

16. Admission/Expulsion of Partners

17. Voluntary Dissolution of Partnership

18. Dispute Arbitration Clause?

COMMITMENT FORM

This Commitment Form (the “Agreement”) is made and effective on [DATE],

BETWEEN: [CLIENT NAME] (the “Client”) , a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRM NAME] (the "Firm"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, the parties agree to certain terms on services to be performed by the Firm for the Client;

THEREFORE, the parties agree as follows:

3. TERMS

This commitment form is to serve as Client's written authorization for Firm to perform services and/or contract with suppliers for the above described items or services. Client's signature also indicates understanding of estimates, prices, terms and liability to Firm for said items or services. Alterations or revisions of above specifications involving extra costs will be executed only upon additional written orders.

4. DESCRIPTION OF THE SERVICES

The following services are to be performed by the Firm for the Client for the sum of [AMOUNT]:
[DESCRIBE SERVICES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

FIRM

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONDITIONAL SALE AGREEMENT

This Conditional Sale Agreement (the "Sales Contract"), is made and effective [DATE],

BETWEEN: [SELLER NAME], [FULL ADDRESS] (the "Seller") , a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME], [FULL ADDRESS] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

The undersigned Buyer agrees to purchase from Seller the following goods:

[DESCRIBE]

Cash price \$ _____

Sales tax (if any) \$ _____

Finance charge \$ _____

Insurance (if any) \$ _____

Other charges (if any) \$ _____

Total purchase price \$ _____

Less:

Down payment \$ _____

Other credits \$ _____

Total credits \$ _____

Amount financed \$ _____

Annual interest rate _____%

The amount financed is payable in [NUMBER] (weekly/monthly) installments of [AMOUNT] each, commencing one (week/month) from date hereof.

Title to goods is retained by Seller until payment of full purchase price, subject to allocation of payments

and release of security as required by law. The undersigned agrees to keep the goods safely, free from other liens and at the below address.

The full balance shall become due on default; with the undersigned paying all reasonable attorney fees and costs of collection. Upon default, Seller shall have the right to retake the goods, hold and dispose of them and collect expenses, together with any deficiency due from Buyer; but subject to the Buyer's right to redeem pursuant to law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [DATE].

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONTRACT FOR THE MANUFACTURE AND SALES OF GOODS

This Sales Agreement (the “Sales Contract”) is made on [DATE],

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

13. DESCRIPTION OF MANUFACTURE AND SALE

Seller agrees to manufacture and sell to buyer the following goods:

[describe goods and set forth specifications] (the “goods”).

14. PAYMENT

Buyer agrees to pay for the goods as follows: [%] down within [NUMBER] days after execution of this agreement; [%] within [NUMBER] days after seller notifies buyer of opportunity to inspect and seller’s intent to make delivery at expiration of [NUMBER] days from notice; and [%] upon delivery. If seller should regard its prospect of receiving the last payment insecure, it may demand payment prior to delivery.

15. DELIVERY SCHEDULE

Seller shall commence to manufacture within [NUMBER] weeks following receipt of buyer’s initial deposit. Subject to the provisions of Section Five, seller will complete such manufacturing and make the goods available for inspection at seller’s plant not later than [DATE]. If buyer’s inspection discloses defects or adjustments, seller shall have a reasonable time to correct such defects and make such adjustments as are necessary. Buyer shall then have an opportunity to make a final pre-shipment inspection. Seller shall within [NUMBER] days of inspection cause the goods to be appropriately packaged and shipped to [address], [city], [state/province], or to such other destination specified by buyer. Seller shall pay all expenses of packaging and preparations for shipment and buyer shall pay all costs of shipment, including insurance on both seller’s and buyer’s respective interests.

16. EXCUSE FOR NONPERFORMANCE

Seller’s obligations under this agreement are accepted subject to strikes, labor troubles (including strikes or labor troubles affecting any suppliers of seller), floods, fires, acts of God, accidents, delays, shortage of cars, contingencies of transportation and other causes of like or different character beyond the control of seller. Impossibility of performance by reason of any legislative, executive or judicial act of any governmental authority shall excuse performance of or delay in performance of this agreement.

17. WARRANTIES AND LIMITATIONS

Seller warrants that the goods shall be delivered free of the rightful claim of any third person by way of patent infringement, and if buyer receives notice of any claim of such infringement, it shall, within [NUMBER]days, notify seller of such claim. If buyer fails to forward such notice to seller, it shall be deem to have released seller from this warranty as to such claim.

THERE ARE NO WARRANTIES OF MERCHANTABILITY AND NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.

18. ENTIRE AGREEMENT

The parties agree that this constitutes the entire agreement and there are no further items or provisions, either oral or otherwise. Buyer agrees that it has not relied upon any representations of seller as to prospective performance of the goods, but has relied upon its own inspection and investigation of the subject matter.

The parties have executed this agreement at [designate place of execution] the day and year first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONTRACT FOR THE SALE OF GOODS

This Sales Agreement (the “Agreement”) is made on [DATE], (the “Sales Contract”),

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of [STATE/PRIOVINCE], with its head office located at:

10. SALE OF GOODS

Seller shall sell, transfer and deliver to buyer on or before [date], the following personal property:
[description of goods]

11. CONSIDERATION

Buyer shall accept the goods and pay the sum of [Amount] for the goods.

12. IDENTIFICATION OF GOODS

Identification of the goods to this agreement shall not be deemed to have been made until both buyer and seller have specified that the goods in question are to be appropriated to the performance of this agreement.

13. PAYMENT ON RECEIPT

Buyer shall make payment for the goods at the time when, and at the place where, the goods are received by buyer.

OR

INSTALLMENT PAYMENT CLAUSE

Buyer agrees to pay for the [equipment, machinery or the like] in the following manner: the initial payment payable with this order, and the remaining balance in monthly payments together with monthly charge for service, all as stated on the face of this agreement; the billing for monthly payments will commence for each [e.g., machine] when installed ready for buyer’s use, with succeeding payments on the same day of every month until total price shall have been paid in full.

14. RECEIPT CONSTRUED AS DELIVERY

Goods shall be deemed received by buyer when delivered to buyer at [address], [city], [state/province].

15. RISK OF LOSS

The risk of loss from any casualty to the goods, regardless of the cause, shall be on seller until the goods have been accepted by buyer.

16. WARRANTY OF NO ENCUMBRANCES

Seller warrants that the goods are now free, and that at the time of delivery shall be free from any security interest or other lien or encumbrance.

17. WARRANTY OF TITLE

Furthermore, seller warrants that at the time of signing this agreement seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of seller in the goods.

18. RIGHT OF INSPECTION

Buyer shall have the right to inspect the goods on arrival and, within [NUMBER] business days after delivery, buyer must give notice to seller of any claim for damages on account of condition, quality or grade of the goods, and buyer must specify the basis of the claim of buyer in detail. The failure of buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by buyer.

The parties have executed this agreement at [designate place of execution] the day and year first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DISTRIBUTION AGREEMENT

This Distribution Agreement (the "Agreement"), is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [DISTRIBUTOR NAME] (the "Distributor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS the Company wishes to market the Products described in Schedule A (the "Products") through the Distributor, it is agreed as follows:

3. DEFINITIONS

When used in this Agreement, the following terms shall have the respective meanings indicated, such meanings to be applicable to both the singular and plural forms of the terms defined:

"Agreement" means this agreement, the Schedules attached hereto and any documents included by reference, as each may be amended from time to time in accordance with the terms of this Agreement;

"Accessories" means the accessories described in Exhibit A attached hereto, and includes any special devices manufactured by Company and used in connection with the operation of the Goods. Accessories may be deleted from or added to Exhibit A and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

"Affiliate means" any company controlled by, controlling, or under common control with Company. Affiliate means any person, corporation or other entity: (i) which owns, now or hereafter, directly or indirectly, twenty-five percent (25%) or more of any class of the voting stock of Company or is, now or hereafter, directly or indirectly, in effective control of Company; or (ii) twenty-five percent (25%) or more of any class of the voting stock of which Company, or a party described in paragraph (i), owns, now or hereafter, directly or indirectly, or of which Company, or a party described in paragraph (i), is, now or hereafter, directly or indirectly, in control.

"Customer" means any person who purchases or leases Products from Distributor.

“Delivery Point” means Company's facilities at [FULL ADDRESS]. Delivery point means Distributor's facilities at [FULL ADDRESS].

“Exhibit” means an exhibit attached to this agreement.

“Goods” means those items described in Exhibit B. Goods may be deleted from or added to Exhibit B and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

“Products” means Goods, Accessories, and Spare Parts.

“Spare Parts means”: (i) all parts and components of the Goods; (ii) any special devices used in connection with the maintenance or servicing of the Goods. Company warrants that a complete list of Spare Parts is set forth in Exhibit C. Spare parts may be deleted from or added to Exhibit C and their specifications and design may be changed by Company at its sole discretion at any time by mailing written notice of such changes to Distributor. Each change shall become effective [NUMBER] days following the date notice thereof is sent to Distributor.

“Specifications” means those specifications set forth in Exhibit D.

“Territory” means the following geographic area or areas: [SPECIFY].

“Trademark” means any trademark, logo, service mark or other commercial designation, whether or not registered, used to represent or describe the Products of Company, as set forth in Exhibit E.

4. APPOINTMENT OF DISTRIBUTOR

11.1 Appointment

Company hereby appoints Distributor as Company's nonexclusive distributor of Products in the Territory, and Distributor accepts that position. It is understood that Company cannot lawfully prevent its distributors located elsewhere from supplying Products for sale or use within the Territory and that it has no obligation to do so.

OR

Company hereby appoints Distributor as Company's exclusive distributor of Products in the Territory, and Distributor accepts that position.

- a. Company, to the extent that it is legally Permitted to do so, (i) shall not appoint any distributor or servicer in the Territory for the Products other than Distributor, (ii) shall not, and shall cause any Affiliate not to, knowingly sell Products to any person other than Distributor or a party designated by Distributor for use or resale within the Territory (except pursuant to any agreement effective at the time this Agreement became applicable to the service so provided), and (iii) shall use its best efforts to prevent any party other than Distributor from seeking customers for the Products in the Territory, from establishing any branch related to the distribution of Products in the Territory, or from maintaining any distribution depot with respect to the Products in the Territory.
- b. Company, or any Affiliate, sells any Product which is eventually resold in the Territory (other than a sale to Distributor or a party designated by Distributor) and Company, or that Affiliate, had reason to know at the time of its sale of that Product that such resale was likely to occur, Company shall, immediately after the trigger sale (which shall be the resale of the Product in the territory or the sale immediately preceding the use of the Product in the Territory) is contracted, pay to the Distributor [PERCENT] % of the price of that Product under this Agreement at the time that the trigger sale was contracted, which payment shall represent a recapture of certain advertising and capital expenditures made by Distributor. Nothing contained in this Section shall affect any other right or remedy which Distributor may have pursuant to this Agreement.

12. Referrals

If Company or any Affiliate is contacted by any party inquiring about the purchase of Products in the Territory (other than Distributor or a party designated by Distributor), Company shall, or shall cause that Affiliate to, refer such party to Distributor for handling.

13. Relationship of Parties

- a. Distributor is an independent contractor and is not the legal representative or agent of Company for any purpose and shall have no right or authority (except as expressly provided in this Agreement) to incur, assume or create in writing or otherwise, any warranty over any of Company's employees, all of whom are entirely under the control of Company, who shall be responsible for their acts and omissions.
- b. Distributor shall, at its own expense, during the term of this Agreement and any extension thereof, maintain full insurance under any Workmen's Compensation Laws effective in the state or other applicable jurisdiction covering all persons employed by and working for it in connection with the performance of this Agreement, and upon request shall furnish Company with satisfactory evidence of the maintenance of such insurance.
- c. Distributor accepts exclusive liability for all contributions and payroll taxes required under Federal Social Security Laws and State Unemployment Compensation Laws or other payments under any laws of similar character in any applicable jurisdiction as to all persons employed by and working for it.
- d. Nothing contained in this Agreement shall be deemed to create any partnership or joint venture relationship between the parties.

14. Sale of Products by Distributor

Distributor agrees to exercise its best efforts to develop the largest possible market for the Products in the Territory and shall continuously offer, advertise, demonstrate and otherwise promote the sale of Products in the Territory.

- c. The parties have consulted together and now agree that if Distributor's best efforts are used as provided in this Section, a minimum of [SPECIFY] Products ("Annual Market Potential") will be purchased and distributed in the Territory during the first year of this Agreement.
- d. At the beginning of each subsequent year hereunder the parties will consult together in good faith and agree on the Annual Market Potential applicable to that year; provided, however, that if they cannot agree, the Annual Market Potential for the immediately Preceding year will apply to the current year.

15. Competing Products

Distributor agrees that it will not distribute or represent any Products in the Territory which compete with the Products during the term of this Agreement or any extensions thereof.

16. Advertising

Distributor shall be entitled, during the term of the distributorship created by this Agreement and any extension thereof, to advertise and hold itself out as an authorized Distributor of the Products. At all times during the term of the distributorship created by this Agreement and any extension thereof, Distributor shall use the Trademarks in all advertisements and other activities conducted by Distributor to promote the sale of the Products.

- c. Distributor shall submit examples of all proposed advertisements and other promotional materials for the Products to Company for inspection and Distributor shall not use any such advertisements or promotional materials without having received the prior written consent of Company to do so.
- d. Distributor shall not, pursuant to this Agreement or otherwise, have or acquire any right, title or interest in or to Company's Trademarks.

17. New Products

If Company or any Affiliate now or hereafter manufactures or distributes, or proposes to manufacture or distribute, any product other than the Products, Company shall immediately notify, or cause such Affiliate to notify, Distributor of that fact and of all details concerning that product. Distributor may request from Company distribution rights for that product in the Territory, or any portion thereof, and if so requested, Company shall grant, or shall cause the subject Affiliate to grant, such distribution rights to Distributor on terms and conditions no less favorable than those provided in this Agreement with respect to Products.

If Distributor does not obtain those distribution rights or obtains them only for a portion of the Territory, and Company or an Affiliate later desires to offer those distribution rights for the Territory or any portion thereof to another party, Company shall first, or shall cause such Affiliate to first, make that offer in writing to Distributor on terms and conditions which shall be specified fully in that offer. That offer shall contain a full description of the subject product and its operation. Distributor may request, and Company shall promptly provide, or shall cause such Affiliate promptly to provide, further information concerning the product or the offer. If Distributor fails to accept such offer, Company or the Affiliate may then offer the product to another party for distribution in the Territory, but may not offer it on terms and conditions more favorable than those offered to Distributor. If Company or the Affiliate desires to make a better offer to another party, Company shall first, or shall cause the affiliate first to, make such better offer to Distributor in accordance with the procedure set forth above.

18. Distributor Sales, Service and Storage Facilities

- f. Distributor shall, at its expense, engage and maintain a sales, service and parts handling organization in the Territory, staffed with such experienced personnel as are necessary to enable distributor to perform its obligations under this Agreement.
- g. Distributor shall, at its expense, maintain facilities and personnel in the Territory that will enable it promptly and satisfactorily to perform, at a reasonable price, all inspection, maintenance and other necessary servicing of Products sold by Distributor. To assist Distributor in the discharge of this service and maintenance function, Company shall provide service and maintenance training, without charge, to any reasonable number of Distributor's personnel as Distributor shall designate.
- h. Distributor shall, at its expense, at all times store and maintain its inventory of Products in accordance with current, applicable instructions issued by Company from time to time.
- i. Distributor shall, at its expense, deliver one copy of Company's current, applicable operation and maintenance manual to each Customer at the time of sale and, at that time, Distributor shall, at its expense, fully explain and demonstrate to the customer the proper method of operating and maintaining the Products.

- j. Distributor shall mail to Company, during the term of the distributorship created by this Agreement and any extension thereof, prompt written notice of the address of each location at which products are stored, and the address of each facility established by Distributor to sell and service the Products. Company may, through its designated agent, inspect all such locations and facilities and the operations conducted therein at any time during normal business hours.

19. Training of Distributor

As promptly as practicable after execution of the Agreement, Company shall transmit to Distributor information, materials, manuals and other technical documents necessary to enable Distributor to perform its obligations under this Agreement and, in particular, to carry out the warranty repairs pursuant to ARTICLE 4 of this Agreement. Throughout the term of this Agreement and any extension thereof, Company shall continue to give Distributor such technical assistance as Distributor may reasonably request. Distributor shall reimburse Company for all reasonable out-of-pocket expenses incurred by Company in providing technical assistance.

20. Spare Parts and Accessories

Distributor shall keep in stock an adequate supply of Spare Parts and Accessories for the servicing of Goods. No Spare Parts or Accessories not manufactured by Company shall be used in connection with the Goods unless they have been approved in writing by Company.

21. Confidential Information

Written Technical data, drawings, plans and engineering in technical instructions pertaining to the Products are recognized by Distributor to be secret and confidential and to be the property of Company.

Those items shall at all times and for all purposes be held by Distributor in a confidential capacity and

shall not, without the prior written consent of Company, (i) be disclosed by Distributor to any person, firm or corporation, excepting those salaried employees of Distributor who are required to utilize such items in connection with the sale, inspection, repair or servicing of Products during the term of the distributorship created by this Agreement or any extension thereof, or (ii) be disclosed to any person, firm or corporation,

or copied or used by Distributor, its employees or agents at any time following the expiration or termination of the distributorship created by this Agreement or any extension thereof, except where such use is necessary in order to maintain or service Products still covered by the warranty provisions of ARTICLE 4 at the time of such expiration or termination. Company may require as a condition to any disclosure by Distributor pursuant to this Section that any salaried employee to whom disclosure is to be made sign a secrecy agreement, enforceable by Company, containing terms satisfactory to Company.

25. TERMS OF PURCHASE AND SALE OF PRODUCTS

- a. Distributor shall purchase its requirements for the Products from Company. Such requirements shall include (i) purchasing and maintaining an inventory of Products that is sufficient to enable Distributor to perform its obligations hereunder, and (ii) at least one (1) demonstration model of the Goods and Accessories.
- b. Each order for Products submitted by Distributor to Company shall be subject to the written acceptance of Company, and Company may, in its own discretion, accept or reject any order for Products without obligation or liability to Distributor by reason of its rejection of any such request.
- c. Company shall supply to Distributor sufficient Products to enable Distributor to meet the full demand for Products in the Territory.
- d. All orders for Products transmitted by Distributor to Company shall be deemed to be accepted by Company at the time such orders are received by Company to the extent that they are in compliance with the terms of this Agreement and Company shall perform in accordance with all accepted orders. Company shall confirm its receipt and acceptance of each order written [NUMBER] days of receipt of the order.

- e. Purchases for Resale only. All Products purchased by Distributor shall be purchased solely for commercial resale or lease, excepting those Products reasonably required by Distributor for advertising and demonstration purposes.

26. Order Procedure

- c. Each order for Products issued by Distributor to Company under this Agreement shall identify that it is an order and shall further set forth the delivery date or dates and the description and quantity of Products which are to be delivered on each of such dates. An order for Products shall not provide a delivery date less than [NUMBER] days after the date that order is delivered to Company.
- d. The individual contracts for the sale of Products formed by Distributor's submission of orders to Company pursuant to the terms and conditions hereof shall automatically incorporate, to the extent applicable, the terms and conditions hereof, shall be subject only to those terms and conditions (together with all terms in orders which are contemplated by this Agreement) and shall not be subject to any conflicting or additional terms included in any documents exchanged in connection therewith.

27. Cancellation of Orders

All cancellation of orders by Distributor shall be in writing, or if not initially in writing, shall be confirmed in writing. If Distributor cancels an order, which has been accepted by Company, Distributor shall reimburse Company for any cost incident to such order incurred by Company prior to the time it was informed of the cancellation.

28. Purchase Price

The prices for Goods, and any discounts applicable thereto, are set forth in Exhibit B. The prices for Accessories, together with any discounts applicable thereto, are set forth in Exhibit A. The prices for Spare Parts, together with any discounts applicable thereto, are set forth in Exhibit C. All prices are F.O.B. the Delivery Point. If the price for any Product is not set forth on Exhibit A, B or C and Distributor nevertheless orders such a Product from Company, the parties hereby evidence their intention thereby to conclude a contract for the sale of that Product at a reasonable price to be determined by the Parties mutually negotiating in good faith.

29. Price Changes

Company reserves the right, in its sole discretion, to change prices or discounts applicable to the Products. Company shall give written notice to Distributor of any price change at least [NUMBER] days prior to the effective date thereof. The price in effect as of the date of Distributor's receipt of notice of such price change shall remain applicable to all orders received by Company prior to that effective date.

30. Packing

Company shall, at its expense, pack all Products in accordance with Company's standard packing procedure, which shall be suitable to permit shipment of the Products to the Territory; provided, however, that if Distributor requests a modification of those procedures, Company shall make the requested modification and Distributor shall bear any reasonable expenses incurred by Company in complying with such modified procedures which are in excess of the expenses which Company would have incurred in following its standard procedures.

31. Delivery: Title and Risk of Loss

All deliveries of Products sold by Company to Distributor pursuant to this Agreement shall be made F.O.B. the Delivery Point, and title to and risk of loss of Products shall pass from Company to Distributor at the Delivery Point. Distributor shall be responsible for arranging all transportation of Products, but if requested by Distributor, Company shall, at Distributor's expense, assist Distributor in making such arrangements. Distributor shall also procure insurance for the transportation of the Products, and such insurance shall be of a kind and on terms current at the port of shipment. In the event that Company is requested to assist Distributor in arranging for transportation, Distributor shall reimburse Company for all costs applicable to the Products following their delivery to Distributor, including, without limitation, insurance, transportation, loading and unloading, handling and storage. Distributor shall pay all charges, including customs duty and sales tax, incurred with respect to the Products following their Delivery to the carrier or forwarder.

32. Inspection and Acceptance

Promptly upon the receipt of a shipment of Products, Distributor shall examine the shipment to determine whether any item or items included in the shipment are in short supply, defective or damaged. Within [NUMBER] days of receipt of the shipment, Distributor shall notify Company in writing of any shortages, defects or damage which Distributor claims existed at the time of delivery. Within [NUMBER] days after the receipt of such notice, Company will investigate the claim of shortages, defects or damage, inform Distributor of its findings, and deliver to Distributor Products to replace any which Company determines, in its sole discretion, were in short supply, defective or damaged at the time of delivery.

33. Payment

Upon delivery and acceptance of Products, Company may submit to Distributor Company's invoice for those Products. Distributor shall pay each such proper invoice within [NUMBER] days after Distributor's receipt of that invoice. Payment shall be made in [CURRENCY] to a bank account to be notified in writing by Company to Distributor.

34. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

35. ARBITRATION

Any controversy or claim arising out of or relating to this contract or the breach thereof shall be settled by arbitration to be held in the [CITY, STATE], in accordance with the law in this jurisdiction, and judgment upon the award rendered by the arbitrators may be entered in any Court having jurisdiction thereof.

36. SECRECY

Distributor agrees not to disclose or use, except as required in Distributor's duties, at any time, any information disclosed to or acquired by Distributor during the term of this contract. Distributor agrees that all confidential information shall be deemed to be and shall be treated as a sole and exclusive property of the Company.

IN WITNESS WHEREOF, the parties have executed this Agreement on [DATE].

PRINCIPAL

AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

LETTER OF UNDERSTANDING REGARDING TERMS OF PROPOSED CONTRACT.

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: letter of understanding regarding terms of proposed contract

Dear [Contact name],

This will confirm that which we discussed during our telephone conversation earlier today.

It is agreed that your firm, [Name of firm], will provide [Specify] for the [Name of project] while we will provide [Specify], to your specifications, and all funds necessary, up to [amount] to complete the [Intent].

If this meets with your understanding of our conversation, please sign a copy of this letter and return it to my office. Upon our receipt of this verified letter, we will forward same to our attorneys for final contract drafting and revisions.

It was a pleasure speaking with you, and I hope to join you soon for a toast to our mutual success in the [Project].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

PARTNERSHIP AGREEMENT

This Partnership Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [FIRST PARTNER NAME] (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTNER NAME] (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- H. Partners desire to join together for the pursuit of common business goals.
- I. Partners have considered various forms of joint business enterprises for their business activities.
- J. Partners desire to enter into a partnership agreement as the most advantageous business form for their mutual purposes.
- K. The parties hereto agree to form a limited partnership (the "Partnership") under [LAW, CODE OR ACT].

In consideration of the mutual promises contained in this agreement, partners agree as follows:

59. NAME AND DOMICILE

The name of the partnership shall be [name]. The principal place of business shall be at [address], [city], [state/province], unless relocated by consent of the partners.

60. Purposes

Subject to the limitations set forth in this Agreement, the purposes of the Partnership are to engage in the business of [DESCRIBE ACTIVITIES]; and to conduct other activities as may be necessary or incidental to or desirable in connection with the foregoing.

61. DURATION OF AGREEMENT

The term of this agreement shall be for [number] years, commencing on [date], and terminating on [date], unless sooner terminated by mutual consent of the parties or by operation of the provisions of this agreement.

62. CLASSIFICATION AND PERFORMANCE BY PARTNERS

- s. Partners shall be classified as active partners, advisory partners, or estate partners.

- t. An active partner may voluntarily become an advisory partner, may be required to become one irrespective of age, and shall automatically become one after attaining the age of [age] years, and in each case shall continue as such for [number] years unless the partner sooner withdraws or dies.
- u. If an active partner dies, the partner's estate will become an estate partner for [number] years. If an advisory partner dies within [Number] years of having become an advisory partner, the partner will become an estate partner for the balance of the [number]-year period.
- v. Only active partners shall have any vote in any partnership matter.
- w. At the time of the taking effect of this partnership agreement, all the partners shall be active partners except [name] and [name], who shall be advisory partners.
- x. An active partner, after attaining the age of [age] years, or prior to that age if the [executive committee or as the case may be] with the approval of [two-thirds or as the case may be] of all the other active partners determines that the reason for the change in status is bad health, may become an advisory partner at the end of any calendar month on giving [number] calendar months' prior notice in writing of the partner's intention to do so. The notice shall be deemed to be sufficient if sent by registered mail addressed to the partnership at its principal office at [address], [city], [state/province] not less than [number] calendar months prior to the date when the change is to become effective.

- y. Any active partner may at any age be required to become an advisory partner at any time if the [executive committee or as the case may be] with the approval of [two-thirds or as the case may be] of the other active partners shall decide that the change is for any reason in the best interests of the partnership, provided notice of the decision shall be given in writing to the partner. The notice shall be signed by the [chairman or as the case may be] of the [executive committee or as the case may be] or, in the event of his or her being unable to sign at the time, by another member of the [executive committee or as the case may be]. The notice shall be served personally on the partner required to change his or her status, or mailed by registered mail to the partner's last known address. Change of the partner's status shall become effective as of the date specified in the notice.
- z. Every active partner shall automatically and without further act become an advisory partner at the end of the fiscal year in which the partner's birthday occurs.
- aa. In the event that an active partner becomes an advisory partner or dies, the partner or the partner's estate shall be entitled to the following payments at the following times:

[describe]

Each active partner shall apply all of the partner's experience, training, and ability in discharging the partner's assigned functions in the partnership and in the performance of all work that may be necessary or advantageous to further the business interests of the partnership.

63. CONTRIBUTION

Each partner shall contribute [amount] on or before [date] to be used by the partnership to establish its capital position. Any additional contribution required of partners shall only be determined and established in accordance with Article Nineteen.

64. MANAGEMENT OF THE PARTNERSHIP

The Partnership shall be managed by [SPECIFY]. Subject to the limitations specifically contained in this Agreement, [PARTY MANAGING THE PARTNERSHIP] shall have the full, exclusive and absolute right, power and authority to manage and control the Partnership and the property, assets and business thereof. [PARTY MANAGING THE PARTNERSHIP] shall have all of the rights, powers and authority conferred by law or under other provisions of this Agreement. Without limiting the generality of the foregoing, such powers include the right on behalf of the Partnership, in [PARTY MANAGING THE PARTNERSHIP]' sole discretion, to:

- a. Acquire, purchase, renovate, improve, and own any property or assets necessary or appropriate or in the best interests of the business of the Partnership, and to acquire options for the purchase of any such property;
- b. Borrow money, issue evidences of indebtedness in connection therewith, refinance, increase the amount of, modify, amend or change the terms of, or extend the time for the payment of, any indebtedness or obligation of the Partnership, and secure such indebtedness by mortgage, deed of trust, pledge or other lien on Partnership assets;
- c. Sue on, defend or compromise any and all claims or liabilities in favor of or against the Partnership and to submit any or all such claims or liabilities to arbitration;
- d. File applications, communicate and otherwise deal with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any part thereof or any other aspect of the Partnership business;
- e. Retain services of any kind or nature in connection with the Partnership business, and to pay therefore such remuneration deem reasonable and proper; and Perform any and all other acts deem necessary or appropriate to the Partnership business.

65. DISSOLUTION AND TERMINATION OF THE PARTNERSHIP

The Partnership shall be dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

- i. On a date designated by the Partners and approved by Vote of Partners;
- j. The sale or other disposition of all of the Partnership's assets and the receipt in cash of the proceeds thereof;
- k. One of the Partners committed an illegal or unapproved action;
- l. [OTHER]

66. BUSINESS EXPENSES

The rent of the buildings where the partnership business shall be carried on, and the cost of repairs and alterations, all rates, taxes, payments for insurance, and other expenses in respect to the buildings used by the partnership, and the wages for all persons employed by the partnership are all to become payable on the account of the partnership. All losses incurred shall be paid out of the capital of the partnership or the profits arising from the partnership business, or, if both shall be deficient, by the partners on a pro rata basis, in proportion to their original contributions, as provided in Article Nineteen.

67. MEETINGS

6.5 Place of Meetings

Meetings of the Partners may be held at any place within or without [STATE/PROVINCE] as determined by the Partners but will generally be held at [LOCATION] .

6.6 Notices

Whenever Partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than [NUMBER] days, nor more than [NUMBER] days before the date of the meeting to each Partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

68. AUTHORITY

No partner shall buy any goods or articles or enter into any contract exceeding the value of [amount] without the prior consent in writing of the other partners. If any partner exceeds this authority, the other partners shall have the option to take the goods or accept the contract on account of the partnership or to let the goods remain the sole property of the partner who shall have obligated himself or herself.

69. SEPARATE DEBTS

No partner shall enter into any bond, or become surety or cosigner, or provide security for any person, partnership, or corporation, or knowingly condone anything by which the partnership property may be attached or taken in execution, without the prior written consent of the other partners.

Each partner shall punctually pay the partner's separate debts and indemnify the other partners and the capital and property of the partnership against the partner's separate debts and all expenses relating to such separate debts.

70. BOOKS AND RECORDS

Books of account shall be maintained by the partners, and proper entries made in the books of all sales, purchases, receipts, payments, transactions, and property of the partnership. The books of account and all records of the partnership shall be retained at the principal place of business as specified in Article One. Each partner shall have free access at all times to all books and records maintained relative to the partnership business.

71. ACCOUNTING

The fiscal year of the partnership shall be from [month and day] to [month and day] of each year. On the [day] of [month], commencing in [year], and on the [day] of [month] in each succeeding year, a general accounting shall be made and taken by the partners of all sales, purchases, receipts, payments, and transactions of the partnership during the preceding fiscal year, and of all the capital property and current liabilities of the partnership. The general accounting shall be written in the partnership account books and signed in each book by each partner immediately after it is completed. After the signature of each partner is entered, each partner shall keep one of the books and shall be bound by every account, except that if any manifest error is found in an account book by any partner and shown to the other partners within [number] months after the error shall have been noted by all of them, the error shall be rectified.

72. DIVISION OF PROFITS AND LOSSES

Each partner shall be entitled to [%] of the net profits of the business, and all losses occurring in the course of the business shall be borne in the same proportion, unless the losses are occasioned by the willful neglect or default, and not the mere mistake or error, of any of the partners, in which case the loss so incurred shall be made good by the partner through whose neglect or default the losses shall arise. Distribution of profits shall be made on the [day] of [month] each year.

73. ADVANCE DRAWS

Each partner shall be at liberty to draw out of the business in anticipation of the expected profits any sums that may be mutually agreed on, and the sums are to be drawn only after there has been entered in the books of the partnership the terms of agreement, giving the date, the amount to be drawn by the respective partners, the time at which the sums shall be drawn, and any other conditions or matters mutually agreed on. The signatures of each partner shall be affixed on the books of the partnership. The total sum of the advanced draw for each partner shall be deducted from the sum that partner is entitled to under the distribution of profits as provided for in Article Ten.

74. SALARY

No partner shall receive any salary from the partnership, and the only compensation to be paid shall be as provided in Articles Ten and Eleven.

75. RETIREMENT

In the event any partner shall desire to retire from the partnership, the partner shall give [number] months' notice in writing to the other partners. The continuing partners shall pay to the retiring partner at the termination of the [number] months' notice the value of the interest of the retiring partner in the partnership. The value shall be determined by a closing of the books and a rendition of the appropriate profit and loss, trial balance, and balance sheet statements. All disputes arising from such determination shall be resolved as provided in Article Twenty.

76. RIGHTS OF CONTINUING PARTNERS

On the retirement of any partner, the continuing partners shall be at liberty, if they so desire, to retain all trade names designating the firm name used. Each of the partners shall sign and execute any assignments, instruments, or papers that shall be reasonably required for effectuating an amicable retirement.

77. DEATH OF PARTNER

In the event of the death of one partner, the legal representative of the deceased partner shall remain as a partner in the firm, except that the exercise of this right on the part of the representative of the deceased partner shall not continue for a period in excess of [number] months, even though under the terms of this agreement a greater period of time is provided before the termination of this agreement. The original rights of the partners shall accrue to their heirs, executors, or assigns.

78. EMPLOYEE MANAGEMENT

No partner shall hire or dismiss any person in the employment of the partnership without the consent of the other partners, except in cases of gross misconduct by the employee.

79. RELEASE OF DEBTS

No partner shall compound, release, or discharge any debt that shall be due or owing to the partnership, without receiving the full amount of the debt, unless that partner obtains the prior written consent of the other partners to the discharge of the indebtedness.

80. COVENANT AGAINST REVEALING TRADE SECRETS

No partner shall, during the continuance of the partnership or for [number] years after its termination by any means, divulge to any person not a member of the firm any trade secret or special information employed in or conducive to the partnership business and which may come to the partner's knowledge in the course of this partnership, without the consent in writing of the other partners, or of the other partners' heirs, administrators, or assigns.

81. ADDITIONAL CONTRIBUTIONS

The partners shall not have to contribute any additional capital to the partnership to that required under Article Four, except as follows: (1) each partner shall be required to contribute a proportionate share in additional contributions if the fiscal year closes with an insufficiency in the capital account or profits of the partnership to meet current expenses; or (2) the capital account falls below [amount] for a period of [number] months.

82. ARBITRATION

If any differences shall arise between or among the partners as to their rights or liabilities under this agreement, or under any instrument made in furtherance of the partnership business, the difference shall be determined and the instrument shall be settled by [name of arbitrator], acting as arbitrator, and the decision shall be final as to the contents and interpretations of the instrument and as to the proper mode of carrying the provision into effect.

83. ADDITIONS, ALTERATIONS, OR MODIFICATIONS

Where it shall appear to the partners that this agreement, or any terms and conditions contained in this agreement, are in any way ineffective or deficient, or not expressed as originally intended, and any alteration or addition shall be deemed necessary, the partners will enter into, execute, and perform all further deeds and instruments as their counsel shall advise. Any addition, alteration, or modification shall be in writing, and no oral agreement shall be effective.

84. Notices

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services at addresses already specified in this Agreement.

85. Headings

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

86. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of UGANDA

87. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

IN WITNESS WHEREOF, the parties have executed this Partnership Agreement at [designate place of execution] the day and year first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

PARTNERSHIP DISSOLUTION AGREEMENT

This Partnership Dissolution Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [SELLING PARTNER NAME] (the "Selling Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASING PARTNER NAME] (the "Purchasing Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- G. The parties are partners in the firm of [name], of [address], [city], [state], established for the purpose of [specify], under an agreement dated [date].
- H. Pursuant to the terms of the partnership agreement, a buy or sell notice was given by Selling Partner to Purchasing Partner.
- I. The Purchasing Partner has exercised its option to purchase the interest of Selling Partner in and to the partnership business.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

15. SALE OF INTEREST; PURCHASE PRICE

Selling Partner shall sell its [%] interest in the partnership business, including its [%] interest in all of the furniture, equipment, and furnishings of the business, stock of merchandise, accounts receivable, moneys, and all of [Selling Partner name's] right, title, and interest in and to any and all of the assets of the partnership, to Purchasing Partner for [amount], to be paid in [number] equal monthly installments, due on the [specify] day of each month, commencing on [date].

16. ASSUMPTION OF OBLIGATIONS

The Purchasing Partner shall and do assume and agrees to pay all of the outstanding debts and obligations of the partnership business and to perform all of the covenants of the leases on the premises, and to perform all of the outstanding contracts and agreements required to be performed by the partnership and agrees to save and hold harmless Selling Partner against any claim or claims that may arise by reason of such debts, obligations, or covenants, or any other claims except those specifically mentioned in this agreement.

17. INDEMNIFICATION

The Selling Partner warrants and represents that it has incurred no debts, nor contracted any obligations, nor incurred any liability in the name of the partnership or for which the partnership would be liable, other than those debts, obligations, or liabilities as are disclosed in the partnership books of which Selling Partner has advised the Purchasing Partner. The Selling Partner agrees to indemnify and save and hold harmless the Purchasing Partner on account of any claims that may be made against the partnership because of any debt, obligation, or liability which the Selling Partner incurred in the partnership name or for which the partnership became liable on account of any of [Selling Partner name's] actions and of which Selling Partner failed to inform the Purchasing Partner.

18. TAX RETURNS AND PAYMENTS

The Purchasing Partner agrees to prepare federal and state partnership income tax returns for the partnership business from [date] to [date], and to supply Selling Partner with copies. Each of the parties shall pay their individual income taxes, both federal and state, on the income received from such partnership business.

19. ASSUMPTION OF TAX OBLIGATIONS

The general taxes and all other tax obligations shall be considered an obligation of the partnership and are now assumed by the Purchasing Partner.

20. DISSOLUTION

The partnership existing between the parties under the name of [Partnership name] is dissolved and this agreement constitutes a full and complete accounting and liquidation of the partnership business. Except as otherwise reserved in this agreement, Selling Partner acknowledges that it has no claim or demand of any kind or nature against Purchasing Partner. Also except as otherwise reserved in this agreement, Purchasing Partner acknowledges that it has no claim or demand of any kind against Selling Partner.

21. Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the State of [State/province of Governing Law].

IN WITNESS WHEREOF, the parties hereto have executed this Partnership Dissolution Agreement as of the date first above written.

SELLING PARTNER

PURCHASING PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SALES AGENCY AGREEMENT

This Sales Agency Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [PRINCIPAL NAME] (the "Principal"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENT NAME] (the "Agent"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained the parties hereto agree as follows:

70. RECITALS

- a. Principal is a manufacturer of [product] and desires to appoint Agent as general sales Agent for the sale of Principal's product [if appropriate, add: and other regular-line products and accessories of Principal] in the following territory: [describe territory].
- b. Agent desires to accept such appointment and to perform all the provisions of this agreement.

71. DURATION

The term of the agency created shall be [period of time], beginning [date], unless sooner terminated.

72. AGENT'S BEST EFFORTS

Agent agrees to devote Agent's whole time and best efforts to the business of Principal in the described territory under the direction of Principal's officers or representatives, and to conform to the best of Agent's ability with the rules, regulations and instructions of Principal now in force or that may be adopted and mailed to Agent's address. Agent shall employ salespersons to assist Agent, on such terms and conditions as Principal may require, as set forth in this agreement.

73. NONDISCLOSURE OF PRINCIPAL'S AFFAIRS

Agent agrees to keep confidential such information as Principal may from time to time impart to Agent regarding Principal's business affairs and customers. Agent will not, in whole or in part, now or at any time, disclose such information.

74. ASSIGNMENT OF AGENT'S INVENTIONS

Agent agrees, in view of the confidential information regarding Principal's business affairs, plans and necessities, that Agent will be in a position to obtain from time to time, and in partial consideration of the commissions agreed to be paid to Agent under this agreement, that Agent, on demand, will assign to Principal, or Principal's successors or assigns, any inventions or improvements Agent may make during the agency with Principal that relate to Principal's product. Agent also will sign any papers and do any acts that may be needed to secure to Principal, or Principal's successors or assigns, any rights relating to such inventions and improvements, including patents in [COUNTRY] and foreign countries.

75. COMMISSIONS

- a. Agent, during the term of the agreement, shall receive a commission from the sale of Principal's product [if appropriate, add: and other regular-line products and accessories] sold for use in Agent's territory, whether sold by Agent or by Principal, or others, except as provided in this agreement.
- b. Agent's commission on sales made pursuant to this agreement shall be as follows: [DESCRIBE].

76. SALES SUBJECT TO COMMISSIONS

This agreement shall apply to business procured at the time of visits to Agent's territory by Principal's superintendent, and also to all business subsequently procured either by Agent, Principal's superintendent or other representative of Principal, from customers previously worked within [NUMBER] months from the date of the latest visit of Principal's superintendent or other representative.

77. WHEN COMMISSIONS ARE PAID

- a. Any commission to be received under this agreement shall not be credited to Agent's account on Principal's books until the purchaser has made settlement in full with Principal, either by cash or acceptable notes [SPECIFY] [if appropriate, add: and has delivered to Principal or an authorized Agent of Principal any returnable products]. If settlement is made wholly or in part by purchaser's notes, Principal may withhold payment of the commission in whole or in part until the notes are paid.

- b. Agent's account may be charged with the amount of any commission previously paid to Agent or credited to Agent's account for the unpaid part of the purchase price of [product], or the unpaid part of any note given in payment.
- c. When Principal repossesses a product, Agent shall receive commission only on the amount of money paid by purchaser prior to repossession.

78. COMMISSIONS ON TRADE-INS

Principal shall have the right to fix the amount to be allowed for products taken in exchange, and a commission will not be paid on the amount so allowed.

79. SALES THROUGH OTHER SALES CHANNELS

Agent waives any claim to a commission on any sales made in Agent's territory other than through Principal's offices or regular sales agencies when, in the opinion of Principal, the general conditions of the business in any part of the [COUNTRY] necessitate the sale of Principal's product through other sales channels.

80. SALES IN OR FROM OTHER TERRITORIES

- a. Agent agrees not to enter the territory of any other Sales Agent of Principal for the purpose of selling Principal's product, or to endeavor, directly or indirectly, to make sales of Principal's product for use outside of Agent's territory. Should a purchaser call on Agent voluntarily and purchase Principal's product for use outside of Agent's territory, Agent shall receive commissions as follows: [DESCRIBE].
- b. Agent further agrees that, when any other authorized sales Agent of Principal sells Principal's product for use in Agent's territory, Agent's account shall be credited with the regular commission, less the commission paid Agent making the sale.

81. DISPUTES ON COMMISSIONS

Principal shall have the right to determine, in any dispute arising between Agent and any other sales Agent of Principal, the right to commission on any sale, and Agent shall abide by and be bound by Principal's decision.

82. LIMITATION ON COMMISSION CLAIMS

Agent waives all claim for commission on sales of Principal's product, whether made by Agent or others, and all other claims of any nature whatever, if the claim is not made within [MONTHS] from the date of termination of this agreement.

83. AGENT NOT TO SHARE COMMISSION

Under no circumstances, without permission of Principal, may Agent give any part of Agent's commission to any assistant, local Agent or other person to assist Agent in making a sale.

84. CONTENTS OF ORDERS

- a. All orders for Principal's product shall be taken on printed forms furnished by Principal, and all such orders shall be sent to Principal immediately after being signed by purchasers. The orders shall contain all conditions and agreements of every nature whatsoever between the parties to the sale, it being agreed that Principal shall not be responsible for promises or conditions not specified on the orders. Principal's product shall not be sold for more or less than the list price established by Principal.
- b. If Principal is compelled to make any concessions to customers or incur any expense by reason of a violation of these requirements, the amount of the expense may be charged to Agent's account.

85. ACCEPTANCE OF ORDERS BY PRINCIPAL

Orders taken by Agent shall not be binding until accepted by Principal. Principal reserves the right to reject any order when, in the judgment of Principal, the product ordered may not be suitable to the business of the customer.

86. AGENT NOT TO COMPETE

Agent, having agreed to devote Agent's whole time to Principal's business, shall not purchase or deal in [product] on Agent's own account in any way during the continuance of this agreement. Agent will not engage, directly or indirectly, either for Agent or as employee of any other party, in manufacturing, buying, selling or dealing in [product], in the territory described, for a period of [period of time], after the termination of the agency created by this agreement, without the written consent of Principal.

87. REPAIRS AND MAINTENANCE OF PRODUCT

Agent shall promptly and properly make necessary repairs on Principal's product in Agent's territory if such repairs can be made by Agent, and to cooperate with and aid Principal in making all other such repairs in Agent's territory, in such manner as Principal may direct.

88. COMPROMISE AND COLLECTION OF ACCOUNTS

A. Principal shall have full control of and discretion as to the collection, adjustment or compromise of any or all accounts for Principal's products sold by Agent. If Principal requests Agent to make any collection, or to obtain possession of Principal's product or other property, whether the request relates to a sale made by Agent or any Agent that preceded Agent in the territory, Agent shall do so promptly.

B. Principal shall determine whether to take a lien on Principal's product sold by Agent. Principal shall not be liable to Agent for any loss of commission or other claim, by reason of failure to take such lien, or by reason of any compromise or adjustment of any account or accounts or notes for products sold by Agent, or any failure for any reason to collect any part of the account or notes.

89. REMITTALS BY AGENT

Agent agrees to remit [daily/weekly] to Principal, in the manner prescribed by [the treasurer], of Principal or to deposit [daily/weekly] in a bank or other financial institution designated by Principal's [treasurer], all money, checks and drafts received by Agent for Principal, including any received for repair parts and supplies sold. In no event will Agent use any money collected for Principal to defray the expenses of the agency, or for any other purpose, or deposit the funds in any bank or other financial institution to Agent's own credit.

90. AGENT'S EXPENSES

All expenses for traveling, entertainment, office, clerical, office and equipment maintenance, and general selling expenses that may be incurred by Agent in connection with this agreement will be borne wholly by Agent. In no case shall Principal be responsible or liable for such expenses.

91. ACCOUNTING ON TERMINATION

- a. Agent authorizes Principal, on termination of the agency created by this agreement, to pay any outstanding indebtedness, including amounts due Agent and Agent's employees incurred in the management of the agency, and to charge the amount to Agent's account. Principal shall not be bound to pay any such indebtedness, unless Principal shall elect to do so. Payment of part of Agent's indebtedness by Principal shall not raise any obligation on Principal's part to pay the whole of the indebtedness. An assignment of Agent's account, or any part of it, shall not be binding on Principal unless accepted in writing by Principal's [treasurer].

- b. On termination of this agreement, Principal shall proceed in the customary manner to collect notes and open accounts for purchases of Principal's product sold by Agent and shall charge against Agent's account the commission previously credited on such amounts of notes and accounts as are uncollected. Principal also shall charge Agent's account with Agent's proportion of any collection expense. This provision shall continue in force until a final account can be stated; no money shall be due Agent under this agreement after its termination until the final account can be stated.

92. OBJECTIONS TO ACCOUNTING; LIMITATIONS

Agent agrees that all objections to statements of account rendered by Principal are waived, unless written notice is given by Agent and unless such notice reaches Principal within [NUMBER] days after rendition of the statement by Principal.

93. SURETY BOND OF AGENT

Agent agrees to furnish Principal with a fidelity bond of [AMOUNT], to be issued by a responsible surety company and conditioned on the faithful performance of Agent's duties in the agency created by this agreement. All premiums on such bond shall be paid by Agent.

94. EXAMINATION OF AGENT'S ACCOUNTS

Agent agrees that officers or authorized representatives of Principal shall have, on demand, access to and the right to examine and make copies of all books of accounts, vouchers and papers of Agent, in order to ascertain whether the business of Agent is being conducted in a manner satisfactory to Principal.

95. DISPOSITION OF PRODUCTS; CONSIGNMENT

- a. Agent agrees, on demand, to account for and deliver to Principal, in good condition, all products charged to Agent's consignment account. If Agent fails to deliver any product, the product may be charged to Agent's account at list price, if Principal so elects, but nothing contained in this agreement shall prevent Principal from exercising other legal remedies to recover possession of such products.

- b. In the event any of Principal's products shall have been kept on consignment by Agent for such period of time that they have become unsaleable as new, Principal may order their return to the factory, in which event the freight charges from Agent's office to the factory shall be paid by Agent.

96. INSURANCE PREMIUMS; TAXES

Principal shall insure against loss by fire all products delivered on consignment to Agent, charging the premium paid for the insurance to Agent's account. Agent shall pay all personal property taxes levied on consigned products, or shall pay such tax as may be levied in lieu of a personal property tax.

97. COMPLIANCE WITH LAWS

Agent agrees, for the benefit of Agent's employees and subagents, to comply in all respects with the workers' compensation laws of any state or states of which Agent's territory may be a part, and to pay the premiums and other costs and expenses incident to such coverage.

98. CUSTOMER LIST; SALES CALLS

- a. Agent agrees to keep a list of probable purchasers, and also a list of users, of Principal's products in Agent's territory. Both lists shall show the name, nature and address of each business concern listed. The user's list shall also show the style and factory number of Principal's product in use.
- b. Agent agrees to send to Principal, on the form furnished by Principal, a list of all persons called on by Agent or Agent's employees in connection with Principal's business. The list shall show the name, nature and address of each business concern called on, and the object and results of the call.

99. DEPRECIATION OF AGENCY PROPERTY

The office furniture, personal property and fixtures used by Agent in Principal's business shall be invoiced and appraised at least once each year by Agent and a representative of Principal, and a deduction of not less than [%] per year shall be made to cover wear and tear in ordinary depreciation.

100. PURCHASE OF AGENCY PROPERTY

Principal shall have an option of purchase of all or any part of the supplies, repair parts, vehicles and sundries in stock or on hand at the time of termination of the agency, at the current price, less proper deductions for obsolescence and depreciation, if any. Such price shall be paid to Agent or credited on Agent's account with Principal, as Principal may elect.

101. EMPLOYMENT OF SUBAGENTS

Agent agrees not to employ any salespersons to assist in the agency, except under written agreement by the terms of which Principal shall be released from all liability for any indebtedness from Agent to such salespersons. Agent agrees not to employ any person until Agent has supplied Principal with full particulars regarding such person, on the form furnished by Principal, giving the person's name, record, previous occupation, etc., and until Principal's assent to such employment has been received.

102. MODIFICATION AND TERMINATION

Principal at any time may alter and change the boundaries and territory covered by this agency agreement. The agency created by this agreement may be terminated by either party by written notice mailed or delivered to the last known address of the other party. This agreement covers all agreements between Agent and Principal relating to the employment of Agent for the handling of Principal's product.

103. GOVERNING LAW

The enforcement and interpretation of this agreement shall be governed by the laws of [state/province].

The parties have executed this agreement at [designate place of execution] the day and year first above written.

PRINCIPAL

AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION OF DISTRIBUTION AGREEMENT

Dear [Contact name],

With this letter, we hereby terminate the agreement between [name of company] and [DISTRIBUTOR] to sell [type of product] in [type of distribution channel].

Upon acceptance of this letter, [DISTRIBUTOR] will immediately cease selling all of [company] product, and return to [company] any leftover product remaining at [DISTRIBUTOR]'s facilities.

Any unauthorized sale of [company] product after acceptance of the terms of this agreement will constitute fraud and trademark violations for which [DISTRIBUTOR] shall be fully liable.

Thank you for your immediate attention to this matter.

Sincerely,

Your name

Your title

Telephone number

youremail@yourcompany.com

ASSIGNMENTS

AGREEMENT TO ASSIGN

This Agreement to Assign (the “Agreement”) is made and effective the [DATE],

BETWEEN: [PROSPECTIVE ASSIGNOR NAME] (the "Prospective Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PROSPECTIVE ASSIGNEE NAME] (the "Prospective Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The parties declare:

- G. Prospective Assignor has entered into a lease agreement, as lessor, with [lessee], of [address], [city], [state], referred to as “lessee.” A copy of the lease agreement, containing a description of the premises, is attached to this agreement as Exhibit A.
- H. Prospective Assignor desires to assign the lease agreement to Prospective Assignee, who will assume all liabilities and duties as well as all rights of Prospective Assignor pertaining to the collection of all rents to become due under the lease agreement after the effective date of the assignment.

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

- 7. Prospective Assignor will transfer and assign to Prospective Assignee all right to the collection of all rents required under the lease agreement provisions in the lease dated [date] on the premises described as follows: [set forth description contained in lease].
- 8. The assignment shall become effective on [date], and shall apply to all rents due thereafter until expiration of the lease agreement term on [date].

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF A CLAIM FOR DAMAGES

This Assignment of a Claim for Damages (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the Assignor hereby sells and transfers to the Assignee and its successors, assigns and personal representatives, any and all claims, demands, and cause or causes of action of any kind whatsoever which the undersigned has or may have against [name], arising from the following type claim:

[description]

And the undersigned may in its own name and for its own benefit prosecute, collect, settle, compromise and grant releases on said claim as it in its sole discretion deems advisable.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF ASSETS

This Assignment of Assets (the "Assignment") is made and effective [DATE],

BETWEEN: [STOCKHOLDER NAME] (the "Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, on the day of [date], the Corporation was formed by Articles of Incorporation filed with the Registrar of Companies in and for the [State/Province], and;

WHEREAS, it is necessary to transfer certain assets into the Corporation in order to capitalize the Corporation, and;

WHEREAS, Stockholder is desirous of transferring to the Corporation certain assets shown on the attached Exhibit "A," and the Corporation is desirous of acquiring said assets.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter entered into, it is agreed as follows:

- g. Stockholder does hereby transfer and assign those assets listed on the attached Exhibit "A" to the Corporation.
- h. In consideration for said transfer the Corporation issues to Stockholder [number] shares of stock in the Corporation, with a par value [price] per share.

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

STOCKHOLDER

CORPORATION

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF CONTRACT

This Assignment of Contract (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME AND ADDRESS], (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME AND ADDRESS], (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the undersigned Assignor hereby assigns, transfers and sets over to Assignee all rights, title and interest held by the Assignor in and to the following described contract:

[description]

4. TERMS

- a. The Assignor warrants and represents that said contract is in full force and effect and is fully assignable.
- b. The Assignee hereby assumes and agrees to perform all the remaining and executory obligations of the Assignor under the contract and agrees to indemnify and hold the Assignor harmless from any claim or demand resulting from non-performance by the Assignee.
- c. The Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.
- d. The Assignor warrants that the contract is without modification, and remains on the terms contained.
- e. The Assignor further warrants that it has full right and authority to transfer said contract and that the contract rights herein transferred are free of lien, encumbrance or adverse claim.
- f. This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.

DR. LUBOGO ISAAC CHRISTOPHER

IN WITNESS WHEREOF, the parties have executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF LIEN

This Assignment of Lien (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of [amount], receipt of which is hereby acknowledged, the Assignor does hereby assign to Assignee the mechanic's lien on the property of [name of property owner], located at [address], [city], [state/province], which has been duly recorded in the office of [office], in [Volume], [number], [page], a copy of which is attached hereto.

Whereas, the intent of this assignment is to transfer to assignee full power to collect that certain sum secured by said lien, Assignor does hereby appoint assignee his attorney in fact, with full authority to enforce the lien herein assigned, and to collect and receive the debt secured by said lien, as Assignor would do if this assignment were not being made. Any costs incurred by the Assignee in enforcing the assigned lien, shall be borne by the Assignee.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT

This Assignment is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH, that for valuable consideration in hand paid by the Assignee to the Assignor, receipt of which is hereby acknowledged, the Assignor hereby assigns and transfers to the Assignee all of his right, title and interest in and to all [description] set forth in [description] that certain Agreement.

The undersigned fully warrants that it has full rights and authority to enter into this assignment and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

NOTICE OF ASSIGNMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF ASSIGNMENT

Dear [Contact name],

You are hereby notified that on [DATE] we have assigned and transferred to [SPECIFY] the following [SPECIFY] existing between us:

[DESCRIBE]

Please direct any further correspondence (or payments, if applicable) to them at the following address:

[INSERT ADDRESS]

Please contact us should you have any questions, and we thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

BANKING

AUTHORISATION TO DEBIT ACCOUNT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: AUTHORIZATION TO DEBIT ACCOUNT

Dear [Contact name],

This letter is to acknowledge that [COMPANY/INDIVIDUAL] is hereby authorized to debit our account no. [ACCOUNT NUMBER] in the amount of [AMOUNT] for payment of [NATURE OF DEBIT]. Please withdraw the funds from the following bank account:

Bank: [BANK NAME AND ADDRESS]

Bank Transit No: [BANK TRANSIT NO]

Account No: [ACCOUNT NUMBER]

Bank Tel. No. [BANK TELEPHONE NO]

Bank Contact [NAME OF BANK CONTACT & TITLE]

This shall be your good and sufficient authority for doing so. We enclose a blank check from the account marked "VOID".

[NOTE: IF MORE THAN ONE SIGNATURE IS REQUIRED ON ACCOUNT, MAKE SURE BOTH BANK SIGNING OFFICERS SIGN LETTER]

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

AUTHORISATION TO RELEASE ACCOUNT INFORMATION TO FINANCIAL ADVISER

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: AUTHORIZATION TO RELEASE ACCOUNT INFORMATION TO FINANCIAL ADVISER

Dear [Contact name],

This letter is to acknowledge that you are hereby authorized to release to [NAME OF INDIVIDUAL OR COMPANY] all banking information requested by [him / her / it] relating to our Account No. [ACCOUNT NUMBER]. To ensure efficiency, we will also give your name as a reference to the abovementioned [INDIVIDUAL OR COMPANY].

We thank you in advance for your cooperation. Should you have any question, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST CONFIRMATION THAT BANK HAS NO INTEREST IN SPECIFIC EQUIPMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST CONFIRMATION THAT BANK HAS NO INTEREST IN SPECIFIC EQUIPMENT

Dear [Contact name],

We are actually negotiating with one of your client, [NAME OF BANK CLIENT], to purchase [DESCRIBE PURCHASED ITEM]. While evaluating the financial assets of your client, we noted that [BANK] has registered security against certain assets of [NAME OF BANK CLIENT].

We are hereby asking you to kindly confirm to us in writing that [BANK] has released any an all interests in this equipment, so that we can complete the transaction within the next [DAYS/WEEKS/MONTHS].

Thank you in advance for your anticipated cooperation. Please feel free to call me if you have any questions.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

NOTIFYING BANK OF ADDITIONAL SIGNING OFFICER

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: ADDITIONAL SIGNING OFFICER - REQUESTING SIGNING PAPERS

Dear [Contact name],

This letter is to acknowledge that [WE/OUR BOARD OF DIRECTORS] have/has recently approved the addition of a new signing officer to our Account No. [ACCOUNT NO.]. [NAME] was hired on [DATE] and will be our new [TITLE OF NEW SIGNING OFFICER].

We would appreciate if you could forward to us the necessary documents to give effect to this change. We will ask our new officer to sign the documents and will return them to you as soon as possible. We will also include a copy of the Board Resolution reflecting this change.

Please note that all other signing officers, as per your records, remain the same.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

NOTIFYING BANK OF REMOVAL OF SIGNING OFFICER

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REMOVAL OF SIGNING OFFICER FOR ACCOUNT [NUMBER]

Dear [Contact name],

This letter is to confirm that we have recently removed [NAME AND TITLE OF SIGNING OFFICER BEING REMOVED] as a signing officer on our Account No. [ACCOUNT NO.] effective immediately. We enclose a copy of the Board Resolution reflecting this change.

Any checks or other account authorizations signed by [him / her] bearing a date on or after [DATE] should not be honoured. Please contact us if this situation occurs.

Please amend your records immediately and accordingly – note that all other signing officers, as per your records, remain the same.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

PRE-AUTHORISED PAYMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PRE-AUTHORIZED PAYMENT, VARYING AMOUNT

Dear [Contact name],

This letter is to acknowledge that [COMPANY/INDIVIDUAL] is hereby authorized to withdraw the amount due on our [NATURE OF CHARGES] on a [PERIOD OF PAYMENT] basis on the [NUMBER OF DAYS AFTER BILLING DATE] day after the billing date:

Bank: [BANK NAME AND ADDRESS]

Bank Transit No: [BANK TRANSIT NO.]

Account No: [ACCOUNT NUMBER]

Bank Tel. No. [BANK TELEPHONE NUMBER]

Bank Contact [NAME OF BANK CONTACT & TITLE]

This shall be your good and sufficient authority for so doing. We enclose an unsigned check from the account marked "VOID".

[NOTE: IF MORE THAN ONE SIGNATURE IS REQUIRED ON ACCOUNT, MAKE SURE BOTH BANK SIGNING OFFICERS SIGN LETTER]

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

PRE-AUTHORISED PAYMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PRE-AUTHORIZED PAYMENT, SPECIFIC AMOUNT

Dear [Contact name],

This letter is to acknowledge that [COMPANY/INDIVIDUAL] is hereby authorized to withdraw the amount of [AMOUNT OF PERIODIC DEBIT] on a [PERIOD OF PAYMENT] basis on the [BILLING DATE] of each month, until we decide to cancel your services in respect to the terms and conditions we both agreed on. Please withdraw the funds from the following bank account:

Bank: [BANK NAME AND ADDRESS]

Bank Transit No: [BANK TRANSIT NO]

Account No: [ACCOUNT NUMBER]

Bank Tel. No. [BANK TELEPHONE NO]

Bank Contact [NAME OF BANK CONTACT & TITLE]

This shall be your good and sufficient authority for doing so. We enclose a blank check from the account marked "VOID".

[NOTE: IF MORE THAN ONE SIGNATURE IS REQUIRED FOR THIS ACCOUNT, MAKE SURE BOTH BANK SIGNING OFFICERS SIGN LETTER]

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

APOLOGY FOR FAILURE TO HONOUR CHEQUE

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST APOLOGY FOR FAILING TO HONOUR CHEQUE

Dear [Contact name],

This is not the kind of letter I like to write. As a result of a clerical error on your part, our cheque issued to [NAME OF CHEQUE PAYEE] bearing no. [CHEQUE NO.] and dated [DATE OF CHEQUE] in the amount of [AMOUNT OF CHEQUE] was not honored.

I'm sure you understand that it has caused us embarrassment. [COMPANY] is an important provider for us; we've always had excellent credit conditions with them. No need to say that this NSF cheque did not help to tighten our relationship. Therefore, I kindly request that you write a letter confirming the bank's error, so that we can provide a copy to our supplier and ensure that they do not lose confidence in our financial viability.

Thank you in advance for your anticipated cooperation. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST TO CLOSE BANK ACCOUNT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST BANK TO CLOSE ACCOUNT

Dear [Contact name],

In the name of [COMPANY], I hereby request that you close the following accounts we have at your branch:

TYPE	ACCOUNT #
[SAVINGS]	[NUMBER]
[CHECKING]	[NUMBER]

Please prepare a money order in the amount of the balance outstanding and send it to:

[Contact Name]

[Address]

[Address2]

[City, State/Province]

[Zip/Postal Code]

Thank you in advance for your anticipated collaboration.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST TO STOP PAYMENT ON CHEQUE

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST BANK TO PLACE STOP-PAYMENT ON CHEQUE

Dear [Contact name],

We have experienced some problems with [COMPANY] lately and therefore I kindly request that a “stop-payment” be placed on the following cheque(s) issued to them:

CHEQUE #	AMOUNT	RECIPIENT	DATE	ACCOUNT #
----------	--------	-----------	------	-----------

I hereby authorize the service charge to be deducted from our account no. [CHEQUEING ACCOUNT NUMBER].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST BANK TO TRANSFER FUNDS

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST BANK TO WIRE FUNDS

Dear [Contact name],

I hereby request [BANK] to electronically transfer (wire) an amount of [AMOUNT] from our account [ACCOUNT NUMBER] to the following account:

ACCOUNT NUMBER: [ACCOUNT NUMBER]

ACCOUNT-HOLDER NAME: [NAME]

BANK NAME AND ADDRESS: [BANK NAME AND ADDRESS]

BANK TRANSIT NUMBER: [TRANSIT NUMBER]

I understand that the fees for such a transaction are [REGULAR FEES]. Please contact me to confirm the transaction once it has been processed. I would greatly appreciate this request to be executed at your earliest convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST DEFERRAL OF INTEREST PAYMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST DEFERRAL OF INTEREST PAYMENT

Dear [Contact name],

Being a [BANK]'s client since [YEAR], I hope that you will be able to help us with this important issue for our company. I refer to our term loan in the amount of [AMOUNT OF LOAN] bearing account no. [ACCOUNT NO. OF LOAN].

We all know that business can be unpredictable. Due to [EXPLAIN REASONS FOR CASH FLOW PROBLEMS], we are currently experiencing cash flow problems, which we think will temporarily set us back for [PERIOD OF REQUESTED DEFERRAL].

We would greatly appreciate if you could defer interest charges for this period, so that we can maintain sufficient working capital to meet our operational requirements. The situation should be better in [MONTHS].

Thank you in advance for your anticipated collaboration. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST DELAY IN PROVIDING FINANCIAL STATEMENT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST DELAY IN PROVIDING FINANCIAL STATEMENT

Dear [Contact name],

According to the terms and conditions of our credit facility, we are required to provide [BANK] with our [ANNUAL/QUATERLY] financial statements within [NUMBER] days following our fiscal year end ([DATE OF YEAR END]).

We are facing an unusual situation, which will prevent us to provide you with our financial statements in time. [EXPLAIN THE REASONS OF THE DELAY]; however we do anticipate having this resolved within [NUMBER OF DAYS/WEEKS].

We would therefore respectfully request an additional [ADDITIONAL DELAY PERIOD REQUESTED] delay. We will, of course, do everything possible to speed-up the process.

Thank you in advance for your anticipated collaboration. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

INCREASE OF CREDIT LIMIT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST PERMANENT INCREASE IN CREDIT LIMIT

Dear [Contact name],

As you know, our company has a credit facility with [BANK/COMPANY] since [DATE] and our payment record has always been satisfactory. We hereby request that you permanently increase the limit on our credit facility to [REQUESTED AMOUNT OF CREDIT LIMIT].

Over the past [MONTHS/YEARS] years our business has experienced tremendous growth, and although this is a positive and desirable trend, we now require additional credit in order to allow us to adequately meet customer demand.

[BANK] already has our financial information in its records. Should you have any questions or require any additional information, please do not hesitate to contact me.

I would greatly appreciate this request to be executed at your earliest convenience. Thank you in advance for your collaboration.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

PROPOSAL FOR CREDIT FACILITY

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST PROPOSAL FOR CREDIT FACILITY

Dear [Contact name],

It was a pleasure speaking with you on [DAY]. As discussed in our recent telephone conversation, I contacted you regarding our company's credit and banking requirements.

[COMPANY] is growing company in the [INDUSTRY] sector. In the past [MONTHS/YEARS], our revenues increased by [%]; in the meanwhile we welcomed [NUMBER] new employees. Obviously, we have correspondingly increasing capital requirements to sustain such a growth.

I have enclosed our recent financial statements along with our business plan and budget for the [YEAR] fiscal year. Based upon our last forecasts, we anticipate requiring a credit facility of approximately [AMOUNT OF CREDIT FACILITY].

Please provide me with a financing proposal which you believe would satisfy our requirements. Should you have any questions or require any additional information, please do not hesitate to contact me.

I would greatly appreciate this request to be executed at your earliest convenience. Thank you in advance for your collaboration.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

RELEASE OF PERSONAL GUARANTEE

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST RELEASE OF PERSONAL GUARANTEE

Dear [Contact name],

As you will find in your records, [BANK] is currently holding a Guarantee given by [NAME OF GUARANTOR], [TITLE] securing the debts and obligations of our company to you.

The agreement we signed with [BANK] states that you are in the obligation to review our credit [NUMBER] [MONTHS/YEARS] after we obtained the credit facility and consider releasing this Guarantee. This [NUMBER OF MONTHS/YEARS] period has now elapsed.

Since our repayment record has been satisfactory to [BANK] and our financial situation is good, we would therefore courteously demand that you release the aforementioned Guarantee.

Thank you in advance for your anticipated collaboration. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

REQUEST FOR A COPY OF A CREDIT RATING REPORT

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST FOR COPY OF CREDIT RATING REPORT

Dear [Contact name],

You might be aware that we have recently applied for credit with [COMPANY], one of our most important providers. Since we have listed [BANK] as a reference, I would appreciate if you could send us a copy of all documents you are planning to provide to [COMPANY]. Please forward the documents used in their investigation of our credit rating to:

[Contact Name]

[Address]

[Address2]

[City, State/Province]

[Zip/Postal Code]

Thank you in advance for your collaboration. Please contact me if there are any concerns.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

TERMINATION OF FUTURE GUARANTEE

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION OF FUTURE OBLIGATIONS UNDER CONTINUING GUARANTEE

Dear [Contact name],

We are referring to the continuing Guarantee dated [DATE OF GUARANTEE] given by us to [BANK] pursuant to which we guaranteed the ongoing obligations of [NAME OF OBLIGOR WHOSE INDEBTEDNESS WAS GUARANTEED].

This letter is to acknowledge that we are hereby terminating all future obligations under the aforementioned Guarantee effective [DATE OF TERMINATION OF OBLIGATIONS UNDER GUARANTEE].

This termination notice is given to you in accordance with the terms and conditions of the Guarantee. Should you have any question, please do not hesitate to contact me for further explanation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

WIRE TRANSFER INSTRUCTIONS

Please include the following information on all wire transfers to our bank account:

REMIT TO

ABA NUMBER

ACCOUNT NUMBER

FOR CREDIT TO

FOR FURTHER CREDIT TO

ACCOUNT NUMBER

REFERENCE

[EX: INVOICE NUMBER]

AMOUNT

Please contact our account manager immediately, [NAME OF BANK ACCOUNT MANAGER],
at [PHONE NUMBER] should your encounter any difficulties.

THANK YOU!

COMPANY DOCUMENTS

A. CERTIFICATES AND NOTICES

CERTIFICATE OF CORPORATE RESOLUTION

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CERTIFICATE OF CORPORATE RESOLUTION

Dear [CONTACT NAME],

I, [YOUR NAME], secretary of [COMPANY], do hereby certify that at a duly constituted meeting of the [DIRECTORS AND/OR STOCKHOLDERS] of the Corporation held at [PLACE] on [DATE], it was upon motion duly made and seconded, that it be VOTED:

That [DESCRIBE APPROVED CORPORATE ACTION]

It was upon motion made and seconded that it be further VOTED:

That [INDIVIDUAL] as [OFFICERSHIP] of the Corporation be empowered and directed to execute, deliver and accept any and all documents reasonably required to accomplish the foregoing vote, all on such terms and conditions as he in his discretion deems to be in the best interests of the Corporation.

I further certify that the foregoing votes are in full force without rescission, as modification or amendment.

Sincerely,

Your name

Secretary

Telephone contact

youremail@yourcompany.com

CERTIFICATE OF CORPORATE VOTE

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CERTIFICATE OF CORPORATE VOTE

Dear [Contact name],

This is to certify that at a special meeting of the [Board of Directors / Executive Committee] of the Corporation, held at the offices of the Corporation located at [Address] on [Date] at [Time], all the [Directors / Members] being present and voting, it was unanimously VOTED:

[Describe action being voted]

Sincerely,

Your name

Secretary

Telephone contact

youremail@yourcompany.com

LETTER TO STOCKHOLDERS

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Holiday Letter to Stockholders

Dear [Contact name],

We hope you appreciate this time of the year as much as we do. We hope you will enjoy this holiday season and we take this opportunity to extend to you and every member of your family our warmest wishes for the coming.

We are enclosing the financial results for the fourth quarter and year to date period ending [Date] and hope that this "good news" will add to your holiday spirits.

May your Christmas and Holiday season be filled with happiness and joy, followed by a most wonderful New Year.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

NOTICE OF MEETING OF DIRECTORS

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF MEETING OF DIRECTORS

Dear [Contact name],

Notice is hereby given that a meeting of the Board of Directors of [Company name] will be held on [Date] at [Address], commencing at [Time].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

B. MINUTES

MEETING MINUTES

[NAME OF ORGANISATION / COMMITTEE]

Opening:

The regular meeting of the [NAME OF ORGANIZATION / COMMITTEE] as called to order at [TIME] on [DATE] in [PLACE] by [MEETING CHAIR].

Present:

[LIST OF ATTENDEES]

1. Approval of Agenda

The agenda was unanimously approved as distributed.

2. Approval of Minutes

The minutes of the previous meeting were unanimously approved as distributed.

3. Announcements

List all announcements made at the meeting. For example, new members, change of event, etc.

4. Open Issues

Summarize the discussion for each existing issue, state the outcome and assign any action item.

5. New Business

Summarize the discussion for new issues, state the next steps and assign any action item.

6. Agenda for Next Meeting

List the items to be discussed at the next meeting.

Adjournment:

Meeting was adjourned at [TIME] by [PERSON]. The next general meeting will be at [TIME] on [DATE] in [PLACE].

Minutes submitted by: [NAME]

Approved by: [NAME]

MINUTES OF MEETING OF DIRECTORS

[COMPANY NAME]

Minutes of a meeting of the Board of Directors of [Company name] duly called and held on [Date] at [Address], commencing at [Time].

Present were:

[List of names]

With the approval of the directors present, [Chairman name] acted as Chairman of the meeting and [Secretary name] recorded the minutes.

On motions duly made and seconded, it was voted that:

5. The minutes of the last meeting of directors be taken as read.
6. [Insert resolution per numbered paragraph].

Dissenting to the motion were [Dissenting names].

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated [Date]

[Secretary name], Secretary

[Chairman name], Chairman

**WAIVER OF NOTICE
FIRST MEETING OF THE BOARD OF DIRECTORS**

[COMPANY NAME]

\WE, THE UNDERSIGNED, being the directors elected by the incorporators of the above-named corporation, DO HEREBY WAIVE NOTICE of the time, place and purpose of the first meeting of the Board of Directors of said corporation.

We designate the [Day]th day of [Month], [Year] at [Time] as the time and [Full address] as the place of said meeting; the purpose of said meeting being to elect officers, authorize the issue of the capital stock, authorize the purchase of property if necessary for the business of the corporation, and the transaction of such other business as may be necessary or advisable to facilitate and complete the organization of said corporation, and to enable it to carry on its contemplated business.

Dated: [Date]

[Name 1]

[Name 2]

[Name 3]

MINUTES OF FIRST MEETING OF THE BOARD OF DIRECTORS

[COMPANY NAME]

18. The first meeting of the Board of Directors was held at [Place] on the [Day]th day of [Month], [Year] at [Time].

Present were:

[List of names]

constituting a quorum of the Board.

19. [Name] acted as Chairman and [Name] was appointed temporary Secretary of the meeting.

20. The Secretary presented and read a waiver of notice of the meeting, signed by all the directors.

21. The minutes of the organization meeting of incorporators were read and approved.

22. The following persons were nominated to the offices set opposite their respective names, to serve for one year and until their successors are chosen and qualify:

[Name] - Chairman

[Name] - Vice Chairman

[Name] - Secretary

[Name] - President

[Name] - Chief Financial Officer

23. All the directors present having voted, the Chairman announced that the aforesaid had been unanimously chosen as said officers, respectively.

24. The Chairman thereupon took the chair and the Secretary thereupon entered upon the discharge of his duties.

25. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the stock certificates of this corporation shall be in the form submitted at this meeting.

26. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the seal, an impression of which is herewith affixed, be adopted as the corporate seal of this corporation.

27. The Secretary was authorized and directed to procure the proper corporate books.

28. **Upon motion, duly made, seconded and carried, it was RESOLVED:**

That the officers of this corporation be authorized and directed to open a bank account in the name of the corporation, in accordance with a form of bank resolution attached to the minutes of this meeting.

29. [Name] reported the following balances in the bank accounts of the corporation at [Bank]:

Savings [Account #]: [Amount]

Checking [Account #]: [Amount]

30. **Upon motion, duly made, seconded and carried, the following preambles and resolutions were unanimously adopted:**

WHEREAS, the following offer has been made to the corporation in consideration of the issuance of full paid and non-assessable shares of the corporation:

Price = [Amount] per share

[Number] shares issued to [Name]

[Number] shares issued to [Name]

[Number] shares issued to [Name]

([Name], [Name] and [Name] hereafter known as "Offerors")

WHEREAS, In the judgment of this Board of Directors of this corporation, said offer is good and sufficient consideration for the shares demanded therefore and necessary for the business of this corporation,

Now, therefore, be it RESOLVED:

That the aforesaid offer be and is hereby accepted and that the President and Secretary of this corporation be and they hereby are authorized and directed to execute in the name and on behalf of this corporation, and under its corporate seal, such agreement or agreements as may be necessary in accordance with said offer.

FURTHER RESOLVED:

That the President and Secretary be and they hereby are authorized and directed to issue and deliver in accordance with said offer certificates of full paid and non-assessable shares of this corporation to the said Offerors.

31. Upon motion, duly made, seconded and carried, the following preambles and resolutions were unanimously adopted:

WHEREAS, the following loans have been offered to the corporation in consideration of the issuance of promissory notes from the corporation:

[List]

WHEREAS, in the judgment of this Board of Directors of this corporation, said offer is good and sufficient consideration for the loan offered therefore and necessary for the business of this corporation,

Now, therefore, be it RESOLVED:

That the aforesaid offer be and is hereby accepted and that the proper officers of this corporation be and they hereby are authorized and directed to execute in the name and on behalf of this corporation, and under its corporate seal, such agreements, copies of which are attached hereto, as may be necessary in accordance with said offer.

32. Upon motion, duly made, seconded and carried, it was RESOLVED:

That in compliance with the laws of the State of [State/province], this corporation have and continuously maintain a registered office within the State of [State/province] and have an agent at all times in charge thereof, upon which agent process against this corporation may be served, and that the books and records of the corporation shall be available for examination by any stockholder for any proper purpose as provided by law.

33. Upon motion, duly made, seconded and carried, it was RESOLVED:

That the proper officers of the corporation be and they hereby are authorized and directed on behalf of the corporation, and under its corporate seal, to make and file such certificate, report or other instrument as may be required by law to be filed in any state, territory, or dependency of the United States, or in any foreign country, in which said officers shall find it necessary or expedient to file the same to authorize the corporation to transact business in such state, territory, dependency or foreign country.

34. Upon motion, duly made, seconded and carried, it was RESOLVED:

That the Chief Financial Officer be and hereby is authorized to pay all fees and expenses incident to and necessary for the organization of the corporation.

There being no further business, the meeting upon motion adjourned.

Dated: [Date]

[Secretary name], Secretary

[Chairman name], Chairman

MINUTES OF SPECIAL MEETING OF DIRECTORS

[COMPANY NAME]

A special meeting of the board of directors of [Company] was held at [Place & Address] on [Date], at [Time] in accordance with the bylaws [or pursuant to call by the president or pursuant to written waiver of notice signed by all of the directors, or the like].

5. The following directors were present:

[List of names]

6. The meeting was presided over by [Chairman name] and the secretary, [Secretary name], was present and kept the minutes.

7. An agreement and written waiver of notice signed by all of the directors was read, the original copy of which is inserted and reads as follows:

We, the undersigned, being all of the directors of [Company name], a corporation organized under the laws of the State of [State/Province], consent and agree that a meeting of the board of directors be held at [Address] on [Date], at [Time], to [Purpose], and for the transaction of any other business which may be legally done at the meeting of the board of directors.

The meeting was called to order by the president.

8. **On motions duly made and seconded, it was voted that:**

7. The minutes of the last meeting of directors be taken as read.

8. [Insert resolution per numbered paragraph].

Dissenting to the motion were [Dissenting names].

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated [Date]

[Secretary name], Secretary

[Chairman name], Chairman

MINUTES OF [SPECIAL / REGULAR] MEETING OF DIRECTORS

[COMPANY NAME]

Minutes of a [Special / Regular] meeting of the Board of Directors of [Company name] duly called and held on [Date] at [Address], commencing at [Time].

8. The following directors were present and constituted a quorum of the Board:

[List of names].

9. The following directors were absent from the meeting:

[None or list of names].

10. The following individuals also were present at the meeting:

[List of names and titles].

11. [Name] acted as chairman and called the meeting to order and announced that this meeting was held pursuant to a written notice of meeting which was given to all directors of this corporation. A Copy of this notice was ordered inserted in the corporation's Minute Book immediately preceding the minutes of this meeting.

[Or, if this meeting was held without notice, the following paragraph should be inserted in place of the prior paragraph]

12. The chairman called the meeting to order and announced that this meeting was held pursuant to written waiver of notice and consent to the holding of this meeting. The waiver and consent was presented to this meeting and, on a motion duly made, seconded, and [Unanimously] carried, was made a part of the records and ordered inserted in the corporation's Minute Book immediately preceding the records of this meeting.

13. The minutes of the last meeting of directors were then read and approved.

14. The Board then discussed [Insert business transacted; for example, establishment of committee, adoption of share purchase agreement, approval of employment agreement, etc.].

On motion duly made and seconded, the following resolutions were adopted:

[Insert resolutions]

Because there was no further business to come before the Board of Directors at this meeting, on motion duly made and seconded, the meeting was adjourned.

Date: _____

[Secretary's Name], Secretary

**WAIVER OF NOTICE
ORGANIZATION MEETING OF INCORPORATORS**

[COMPANY NAME]

WE, THE UNDERSIGNED, being all the incorporators of the corporation above named, organized under the laws of the State of [State], DO HEREBY WAIVE NOTICE of the time, place and purpose of the organization meeting of said incorporators, and do fix the [Day]th day of [Month], [Year] at [Time] as the time, and [Place] as the place of said meeting.

And we do hereby waive all the requirements of the statutes of [State] as to the notice of this meeting, and do consent to the transaction of such business as may come before the meeting.

Dated: [Date]

[DIRECTOR 1]

[DIRECTOR 2]

[DIRECTOR 3]

MINUTES OF ORGANIZATION MEETING OF INCORPORATORS

[COMPANY NAME]

The organization meeting of the incorporators was held on the [Day]th day of [Month], [Year] at [Time], at [Place] pursuant to a written waiver of notice, signed by all the incorporators fixing said time and place.

5. The following incorporators were present in person:

[List of names]

being all of the incorporators of the corporation.

[Name] acted as Chairman and [Name] was appointed Secretary of the meeting.

6. The Chairman announced that a Certificate of Incorporation had been issued to this corporation by [the Department of State] and that a certified copy of the Certificate had been forwarded for recording in the Office of the Recorder of Deeds and instructed the Secretary to cause a copy of the Certificate of Incorporation to be prefixed to the minutes.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the certificate of Incorporation of the corporation be and it hereby is accepted and that this corporation proceed to do business thereunder.

7. The Secretary presented a form of By-Laws for the regulation of the affairs of the corporation, which were read article by article.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the By-Laws presented at this meeting, as amended and attached to the Minutes, were unanimously adopted and the Secretary was instructed to cause the same to be inserted in the minute book immediately following the copy of the Certificate of Incorporation.

8. The Chairman stated that the next business before the meeting was the election of a Board of Directors.

After discussion, [Name] and [Name] were nominated for directors of the corporation, to hold office for the ensuing year and until others are chosen and qualified in their stead. No other nominations having been made, the vote was taken and the aforesaid nominees declared duly elected.

Upon motion, duly made, seconded and carried, it was RESOLVED:

That the Board of Directors be and they are hereby authorized to issue the capital stock of this corporation to the full amount or number of shares authorized by the Certificate of Incorporation, in such amounts and proportions as from time to time shall be determined by the Board, and to accept in full or in part payment thereof such property as the Board may determine shall be good and sufficient consideration and necessary for the business of the corporation.

There being no further business to transact at this time, it was voted to adjourn the meeting.

Dated: [Date]

[Secretary name], Secretary

[Chairman name], Chairman

MINUTES OF [ANNUAL / SPECIAL] MEETING OF SHAREHOLDERS

[COMPANY NAME]

The shareholders of [Company Name] held [the/a Annual/Special] Meeting of Shareholders on [Date] at [Time], at [Place].

9. Shareholders present at the meeting, in person or by proxy, represented [Number] shares of common stock of the corporation.

The following stockholders were present in person:

Names	No. of Shares
--------------	----------------------

The following stockholders were represented by proxy:

Names	No. of Shares
--------------	----------------------

10. The President of this corporation served as Chairman and called the meeting to order, and announced that a quorum was present and that this meeting was held pursuant to a written notice of meeting given to all shareholders of this corporation. A copy of this notice was ordered inserted in the minute book immediately preceding the minutes of this meeting.

[Or, if the meeting was held without notice, the following paragraph should be inserted, substituting the above]:

The President of this corporation called the meeting to order, and announced that the meeting was held pursuant to written waiver of notice and consent to the holding of the meeting. The waiver and consent was presented to this meeting and, on a motion duly made, seconded and unanimously carried, was made a part of the records and ordered inserted in the minute book immediately preceding the records of this meeting.

[The minutes of the previous meeting of shareholders were then read and approved.] OR [It was then moved, seconded, and unanimously resolved to dispense with the reading of the minutes of the previous meeting.]

11. The President then announced that the election of directors was in order. Directors were then nominated to serve until the next annual meeting of shareholders and until their successors were duly elected and qualified. The following nominations were made and seconded:

[List of names]

12. No further nominations were made, and the above were [duly/unanimously] elected as directors of this corporation.

13. The [Year] annual report of the president and directors of the [Company name] was presented and read, and upon motion of [Name], seconded, it was resolved:

That the report be received filed with the secretary in the form as presented to the meeting.

14. The secretary was directed to insert in the minute book a copy of each of the following papers:

5. Notice of the meeting and proof of mailing.
6. Form of proxy.
7. Report of the president and directors.
8. Inspectors' oath and report.

15. **On motion duly made and seconded, the following business came before the shareholders:**

[Insert business transacted; for example, vote for amendment to Articles or Bylaws. Note: All actions taken at the Meeting of Shareholders should be recorded in the minutes of the meeting.]

16. Because there was no further business to come before this meeting, on motion duly made, seconded, and carried, this meeting was adjourned.

Date: _____

[Secretary's name], Secretary

C. PROXY

IRREVOCABLE PROXY

[COMPANY NAME]

The undersigned, as record holder of the securities of [NAME OF CORPORATION] described below, hereby revokes any previous proxies and irrevocably appoints [NAME] as the undersigned's proxy to attend all shareholders' meetings and to vote, execute consents, and otherwise represent those shares in the same manner and with the same effect as if the undersigned were personally present at any such meeting or voting such securities or personally acting on any matters submitted to shareholders for approval or consent.

The proxy holder will have the full power of substitution and revocation.

This proxy is made pursuant to an agreement of [DESCRIBE], dated [DATE].

This proxy will be irrevocable until [DATE]. This proxy will be revocable, notwithstanding the period of irrevocability specified above, as required under applicable law.

BE IT KNOWN, that for good consideration, the undersigned, being the owner of [NUMBER] shares of voting stock of [CORPORATION NAME], does hereby grant to [NAME], a non-revocable proxy to vote on behalf of the undersigned shares of said stock at any future meeting of the stockholders of the Corporation, and said proxy holder is entitled to attend said meetings on my behalf or vote said shares through mail proxy.

During the pendency of this proxy, the rights to vote said shares shall be exclusively held by the proxy holder and shall not be voted by the undersigned. This proxy shall not be revocable and shall remain in effect until [DATE], [YEAR], when all rights hereunder shall terminate.

The undersigned agrees to annex a legend to said shares stating the existence of this outstanding proxy, as all rights hereunder shall survive any sale or transfer of said shares.

THIS PROXY SHALL BE SIGNED EXACTLY AS THE SHAREHOLDER'S NAME APPEARS ON HIS STOCK CERTIFICATE. JOINT SHAREHOLDERS MUST EACH SIGN THIS PROXY. IF SIGNED BY AN ATTORNEY IN FACT, THE POWER OF ATTORNEY MUST BE ATTACHED.

[SIGNATURE]

[PRINTED NAME AS APPEARS ON STOCK CERTIFICATE]

Securities Information: _____

Certificate No.: _____

Number of Shares: _____

Class of Shares: _____

REVOCABLE PROXY

[COMPANY NAME]

The undersigned, as record holder of the securities of [Name of corporation] described below, hereby revokes any previous proxies and appoints [Name] as the undersigned’s proxy to attend all shareholders’ meetings and to vote, execute consents, and otherwise represent those shares in the same manner and with the same effect as if the undersigned were personally present at any such meeting or voting such securities or personally acting on any matters submitted to shareholders for approval or consent.

- 4. The proxy holder will have the full power of substitution and revocation.
- 5. This proxy is made pursuant to an agreement of [DESCRIBE], dated [Date].
- 6. This proxy is revocable at any time, and unless revoked, shall terminate on [Date].

BE IT KNOWN, that the undersigned, being the owner of [Number] shares of voting stock of [Corporation name], do hereby grant to [Name], a proxy to vote on behalf of the undersigned [Number] shares of said stock at any future meeting of the stockholders of the Corporation; and said proxy holder is entitled to attend said meetings on my behalf or vote said shares through mail proxy.

During the pendency of this proxy, all rights to vote said shares shall be held by the proxy holder and shall not be voted by the undersigned, provided the undersigned may revoke this proxy at any time.

THIS PROXY SHALL BE SIGNED EXACTLY AS THE SHAREHOLDER’S NAME APPEARS ON HIS STOCK CERTIFICATE. JOINT SHAREHOLDERS MUST EACH SIGN THIS PROXY. IF SIGNED BY AN ATTORNEY IN FACT, THE POWER OF ATTORNEY MUST BE ATTACHED.

[Signature]

[Printed name as appears on stock certificate]

Securities Information:

Certificate No.: _____

Number of Shares: _____

Class of Shares: _____

REVOCATION OF PROXY

[COMPANY NAME]

The undersigned, as owner of the securities of [Name of corporation] described below, hereby revokes any and all proxies and substitutions of proxies, including the proxy executed on [Date], naming [Name] as proxy, and further revokes any and all authority heretofore given to any person or persons to attend meetings, vote, consent, or otherwise act on behalf of the undersigned in any manner whatsoever with respect to such securities.

Dated: [Date]

[Signature]

[Printed name as on stock certificate]

Securities Information:

Certificate No.: _____

Number of Shares: _____

Class of Shares: _____

D. RESOLUTIONS AND RESIGNATIONS

BOARD RESOLUTION ADOPTED ON [DATE]

The undersigned, being all the directors of [COMPANY NAME], hereby sign the following amended resolutions:

RESOLVED THAT:

1. The financial statements of the corporation for the fiscal year ended [MONTH AND DAY], prepared by [ACCOUNTANT'S NAME], Chartered Accountants, under their comments dated [DATE], are approved which approval shall be evidenced by signature of the balance sheet.

OR

2. The financial statements of the corporation for the fiscal year ended [MONTH AND DAY], prepared by [AUDITORS' NAMES], under their audit report dated [DATE], are approved, which approval shall be evidenced by signature of the balance sheet.

3. The approved financial statements be placed before the annual meeting of shareholders of the corporation.

4. [ACCOUNTANTS] are appointed the accountants of the corporation for the current fiscal year.

5. By-Law No. [NUMBER] is passed as a by-law of the corporation to be placed before a meeting of shareholders of the corporation for confirmation.

6. The application to amend the Articles of Incorporation [OR LETTERS PATENT] of the corporation in the draft form appended as Schedule A to these resolutions is approved to be placed before a meeting of shareholders of the corporation for confirmation.

7. The corporation sells substantially all its assets to [PURCHASER NAME] in accordance with the draft agreement of purchase and sale appended as Schedule A to these resolutions.

8. [CHAIRMAN NAME] is elected as Chairman of the Board of Directors.

9. A dividend of [AMOUNT] per share is declared on the issued [CLASS NAME] shares of the corporation held by the [CLASS NAME] shareholders of record as of this date.

10. The salary of the [OFFICER] of the corporation is fixed at [AMOUNT] per annum effective [DATE].

11. The corporation executes the [CONTRACT/INSTRUMENT] in the draft form appended as Schedule A to these resolutions.

12. The transfer of [NUMBER AND CLASS OF SHARES] from [TRANSFEROR NAME] to [TRANSFeree NAME] is approved.

13. The address of the head [OR REGISTERED] office of the corporation is changed to [NEW ADDRESS].

[DIRECTOR NAME]

[DIRECTOR NAME]

RESIGNATION OF DIRECTORSHIP

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Resignation of Directorship

Dear [Contact name],

I hereby resign as a director of [Company name] effective immediately.

Yours very truly,

Your name

Your title

Telephone contact

youremail@yourcompany.com

RESIGNATION OF OFFICER

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Resignation of Office

Dear [Contact name],

I hereby resign as [Office] of [Company name] effective immediately.

Yours very truly,

Your name

Your title

Telephone contact

youremail@yourcompany.com

SHAREHOLDERS RESOLUTION

The undersigned, being all the shareholders of [Company name], hereby sign the following annual resolutions:

RESOLVED THAT:

- 13. These resolutions are in place of an annual meeting of shareholders of the corporation.
- 14. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Accountants' name], Chartered Accountants, under their comments dated [Date], are received.

OR

- 15. The financial statements of the corporation for the fiscal year ended [Month and day], prepared by [Auditors' names], under their audit report dated [Date], are approved.
- 16. [Directors names] are continued as directors of the corporation.
- 17. No auditor be appointed for the current fiscal year of the corporation.

OR

- 18. [Auditor names] are appointed the auditors of the corporation for the current fiscal year.
- 19. The acts of the Board of Directors since the last annual meeting of shareholders are approved and ratified.
- 20. [Director name] is elected as a director of the corporation.
- 21. By-Law No. [Number] passed by the Board of Directors of the corporation is confirmed.
- 22. The application to amend the Articles of Incorporation [OR Letters Patent] of the corporation in the draft form appended as Schedule A to these resolutions is approved.
- 23. The proposed sale by the corporation of substantially all its assets to [Purchaser name] in accordance with the draft agreement of purchase and sale appended as Schedule A to these resolutions is approved.
- 24. [Director name] is removed as a director of the corporation.

Dated: [Date]

[Shareholder name]

[Shareholder name]

E. SHAREHOLDERS

ARTICLES OF INCORPORATION

These Articles of Incorporation (the "Agreement") are made and effective [DATE],

BY: [INCORPORATOR NAME] (the "Incorporator"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [REGISTERED AGENT NAME] (the "Registered Agent"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. ARTICLES OF INCORPORATION OF [CORPORATION NAME]

The undersigned subscriber to these Articles of Incorporation, a natural person competent to contract, hereby forms a corporation under the laws of the State of [STATE/PROVINCE].

2. NAME

The name of the corporation shall be:

3. NATURE OF BUSINESS

This corporation may engage in or transact any and all lawful activities or business permitted under the laws of [COUNTRY], the State of [STATE/PROVINCE], or any other state, county, territory or nation.

4. CAPITAL STOCK

The maximum number of shares of stock that this corporation is authorized to have outstanding at any one time is [NUMBER] shares of common stock having a par value of [VALUE] per share.

5. ADDRESS

The street address of the initial registered office of the corporation shall be: [ADDRESS] and the name of the initial Registered Agent for the corporation at that address is: [NAME]

6. SPECIAL PROVISIONS

The stock of this corporation is intended to qualify under the requirements of Section [NUMBER] of the [LAW OR CODE] and the regulations issued thereunder. Such actions as may be necessary shall be deemed to have been taken by the appropriate officers to accomplish this compliance.

7. TERM OF EXISTENCE

This corporation shall exist perpetually.

8. LIMITATION OF LIABILITY

Each director, stockholder and officer, in consideration for his services, shall, in the absence of fraud, be indemnified, whether then in office or not, for the reasonable cost and expenses incurred by him in connection with the defense of, or for advice concerning any claim asserted or proceeding brought

against him by reason of his being or having been a director, stockholder or officer of the corporation or of any subsidiary of the corporation, whether or not wholly owned, to the maximum extent permitted by law. The foregoing right of indemnification shall be inclusive of any other rights to which any director, stockholder or officer may be entitled as a matter of law.

9. SELF DEALING

No contract or other transaction between the corporation and other corporations, in the absence of fraud, shall be affected or invalidated by the fact that any one or more of the directors of the corporation is or are interested in a contract or transaction, or are directors or officers of any other corporation, and any director or directors, individually or jointly, may be a party or parties to, or may be interested in

such contract, act or transaction, or in any way connected with such person or person's firm or corporation, and each and every person who may become a director of the corporation is hereby relieved from any liability that might otherwise exist from this contracting with the corporation for the benefit of himself or any firm, association or corporation in which he may be in any way interested. Any director of the corporation may vote upon any transaction with the corporation without regard to the fact

that he is also a director of such subsidiary or corporation.

This corporation shall have a minimum of [NUMBER] director(s). The initial Board of Directors shall consist of:

[NAME] and [FUNCTION]

[NAME] and [FUNCTION]

10. DESIGNATION OF AND ACCEPTANCE BY REGISTERED AGENT

The Registered Agent agrees and accepts service of process; to keep the office open during prescribed hours; to post my name (and any other officers of said corporation authorized to accept service of process at the above designated address) in some conspicuous place in the office as required by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

INCORPORATOR

REGISTERED AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature: _____

Notary

(Seal)

BY-LAWS OF [CORPORATION]

These By-Laws of [CORPORATION] (the “Agreement”) are made and effective [DATE].

10. CORPORATE OFFICES

10.1. Principal Office

The Board of Directors shall fix the location of the principal executive office of the corporation at any place within or outside the State of [STATE/PROVINCE]. If the principal executive office is located outside [STATE/PROVINCE] and the corporation has one or more business offices in [STATE/PROVINCE], then the Board of Directors shall fix and designate a principal business office in [STATE/PROVINCE].

10.2. Other Offices

The Board of Directors may at any time establish branch or subordinate offices at any place or places.

11. MEETINGS OF SHAREHOLDERS

11.1. Place Of Meetings

All meetings of shareholders shall be held at any place within or outside the State of [STATE/PROVINCE] designated by the Board of Directors. In the absence of any such designation, shareholders' meetings shall be held at the principal executive office of the corporation or at any place consented to in writing by all persons entitled to vote at such meeting, given before or after the meeting and filed with the Secretary of the corporation.

11.2. Annual Meeting

An annual meeting of shareholders shall be held each year on a date and at a time designated by the Board of Directors. At that meeting, directors shall be elected. Any other proper business may be transacted at the annual meeting of shareholders.

11.3. Special Meetings

Special meetings of the shareholders may be called at any time, subject to the provisions of Sections 2.4 and 2.5 of these By-Laws, by the Board of Directors, the Chairman of the Board, the President or the holders of shares entitled to cast not less than [%] of the votes at that meeting.

If a special meeting is called by anyone other than the Board of Directors or the President or the Chairman of the Board, then the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by other written communication to the Chairman of the Board, the President, any Vice President or the Secretary of the corporation. The officer receiving the request forthwith shall cause notice to be given to the shareholders entitled to vote, in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws, that a meeting will be held at the time requested by the person or persons calling the meeting, so long as that time is not less than [NUMBER] nor more than [NUMBER] days after the receipt of the request. If the notice is not given within [NUMBER] days after receipt of the request, then the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing or affecting the time when a meeting of shareholders called by action of the Board of Directors may be held.

11.4. Notice Of Shareholders' Meetings

All notices of meetings of shareholders shall be sent or otherwise given in accordance with Section 2.5 of these By-Laws not less than [NUMBER] (or, if sent by third-class mail pursuant to Section 2.5 of these By-Laws, not less than [NUMBER] nor more than [NUMBER] days before the date of the meeting to each shareholder entitled to vote thereat. Such notice shall state the place, date, and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, and no business other than that specified in the notice may be transacted, or (ii) in the case of the annual meeting, those matters which the Board of Directors, at the time of the mailing of the notice, intends to present for action by the shareholders, but, subject to the provisions of the next paragraph of this Section 2.4, any proper matter may be presented at the meeting for such action. The notice of any meeting at which Directors are to be elected shall include the names of nominees intended at the time of the notice to be presented by the Board for election.

If action is proposed to be taken at any meeting for approval of (i) a contract or transaction in which a director has a direct or indirect financial interest, (ii) an amendment of the Articles of Incorporation, , (iii) a reorganization of the corporation, (iv) a voluntary dissolution of the corporation, or (v) a distribution in dissolution other than in accordance with the rights of any outstanding preferred shares, then the notice shall also state the general nature of that proposal.

11.5. Manner Of Giving Notice; Affidavit Of Notice

Notice of a shareholders' meeting shall be given either personally or by first-class mail, or, if the corporation has outstanding shares held of record by [NUMBER] or more persons on the record date for the shareholders' meeting, notice may be sent by third-class mail, or other means of written communication, addressed to the shareholder at the address of the shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice; or if no such address appears or is given, at the place where the principal executive office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication.

If any notice (or any report referenced in Article VII of these By-Laws) addressed to a shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the [COUNTRY] Postal Service marked to indicate that the [COUNTRY] Postal Service is unable to deliver the notice to the shareholder at that address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available to the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of [NUMBER] year from the date of the giving of the notice.

An affidavit of mailing of any notice or report in accordance with the provisions of this Section 2.5, executed by the Secretary, Assistant Secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

11.6. Quorum

Unless otherwise provided in the Articles of Incorporation of the corporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the shareholders. The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in the last sentence of the preceding paragraph.

11.7. Adjourned Meeting; Notice

Any shareholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the shares represented at that meeting, either in person or by proxy.

When any meeting of shareholders, either annual or special, is adjourned to another time or place, notice need not be given of the adjourned meeting if its time and place are announced at the meeting at which the adjournment is taken. However, if the adjournment is for more than [NUMBER] days from the date set for the original meeting or if a new record date for the adjourned meeting is fixed, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

11.8. Voting

The shareholders entitled to vote at any meeting of shareholders shall be determined in accordance with the provisions of Section 2.11 of these By-Laws. Elections for directors and voting on any other matter at a shareholders' meeting need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins.

Except as provided in the last paragraph of this Section 2.8, or as may be otherwise provided in the Articles of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of the shareholders. Any holder of shares entitled to vote on any matter may vote part of the shares in favor of the proposal and refrain from voting the remaining shares or may vote them against the proposal other than elections to office, but, if the shareholder fails to specify the number of shares such shareholder is voting affirmatively, it will be conclusively presumed that the shareholder's approving vote is with respect to all shares which the shareholder is entitled to vote. The affirmative vote of the majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the [CODE] or by the Articles of Incorporation.

At a shareholders' meeting at which directors are to be elected, a shareholder shall be entitled to cumulate votes either (i) by giving one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which that shareholder's shares are normally entitled or (ii) by distributing the shareholder's votes on the same principle among as many candidates as the shareholder thinks fit, if the candidate or candidates' names have been placed in nomination prior to the voting and the shareholder has given notice prior to the voting of the shareholder's intention to cumulate the shareholder's votes. If any one shareholder has given such a notice, then every shareholder entitled to vote may cumulate votes for candidates in nomination. The candidates receiving the highest number of affirmative votes, up to the number of directors to be elected, shall be elected; votes against any candidate and votes withheld shall have no legal effect.

11.9. Validation Of Meetings; Waiver Of Notice; Consent

The transactions of any meeting of shareholders, either annual or special, however called and noticed, and wherever held, are as valid as though they had been taken at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. Neither the business to be transacted at nor the purpose of any annual or special meeting of shareholders need be specified in any written waiver of notice or consent to the holding of the meeting or approval of the minutes thereof, except that if action is taken or proposed to be taken for approval of any of those matters specified in the second paragraph of Section 2.4 of these By-Laws, the waiver of notice or consent or approval shall state the general nature of the proposal. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Attendance of a person at a meeting shall constitute a waiver of notice of and presence at that meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by the [CODE] to be included in the notice of such meeting but not so included, if such objection is expressly made at the meeting.

11.10. Shareholder Action By Written Consent Without A Meeting

Any action which may be taken at any annual or special meeting of shareholders may be taken without a meeting and without prior notice, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Directors may not be elected by written consent except by unanimous written consent of all shares entitled to vote for the election of directors. However, a director may be elected at any time to fill any vacancy on the Board of Directors, provided that it was not created by removal of a director and that it has not been filled by the directors, by the written consent of the holders of a majority of the outstanding shares entitled to vote for the election of directors.

All such consents shall be maintained in the corporate records. Any shareholder giving a written consent, or the shareholder's proxy holders, or a transferee of the shares, or a personal representative of the shareholder, or their respective proxy holders, may revoke the consent by a writing received by the Secretary of the corporation before written consents of the number of shares required to authorize the proposed action have been filed with the Secretary.

If the consents of all shareholders entitled to vote have not been solicited in writing, the Secretary shall give prompt notice of any corporate action approved by the shareholders without a meeting by less than unanimous written consent to those shareholders entitled to vote who have not consented in writing. Such notice shall be given in the manner specified in Section 2.5 of these By-Laws. In the case of approval of (i) a contract or transaction in which a director has a direct or indirect financial interest, (ii) indemnification of a corporate agent, (iii) a reorganization of the corporation, and (iv) a distribution in dissolution other than in accordance with the rights of outstanding preferred shares, the notice shall be given at least [NUMBER] days before the consummation of any action authorized by that approval, unless the consents of all shareholders entitled to vote have been solicited in writing.

11.11. Record Date For Shareholder Notice; Voting; Giving Consents

In order that the corporation may determine the shareholders entitled to notice of any meeting or to vote, the Board of Directors may fix, in advance, a record date, which shall not be more than [NUMBER] days nor less than [NUMBER] days prior to the date of such meeting nor more than [NUMBER] days before any other action. Shareholders at the close of business on the record date are entitled to notice and to vote, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the [CODE] .

A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting unless the Board of Directors fixes a new record date for the adjourned meeting, but the Board of Directors shall fix a new record date if the meeting is adjourned for more than [NUMBER] days from the date set for the original meeting.

If the Board of Directors does not so fix a record date:

- i. The record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.
- ii. The record date for determining shareholders entitled to give consent to corporate action in writing without a meeting, (i) when no prior action by the Board has been taken, shall be the day on which the first written consent is given, or (ii) when prior action by the Board has been taken, shall be at the close of business on the day on which the Board adopts the resolution relating thereto, or the [NUMBER] day prior to the date of such other action, whichever is later.

The record date for any other purpose shall be as provided in Section 8.1 of these By-Laws.

11.12. Proxies

Every person entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the Secretary of the corporation. A proxy shall be deemed signed if the shareholder's name or other authorization is placed on the proxy (whether by manual signature, typewriting, telegraphic or electronic transmission or otherwise) by the shareholder or the shareholder's attorney-in-fact. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) the person who executed the proxy revokes it prior to the time of voting by delivering a writing to the corporation stating that the proxy is revoked or by executing a subsequent proxy and presenting it to the meeting or by attendance at such meeting and voting in person, or (ii) written notice of the death or incapacity of the maker of that proxy is received by the corporation before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of [NUMBER] months from the date thereof, unless otherwise provided in the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

11.13. Inspectors Of Election

In advance of any meeting of shareholders, the Board of Directors may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed or designated or if any persons so appointed fail to appear or refuse to act, then the Chairman of the meeting may, and on the request of any shareholder or a shareholder's proxy shall, appoint inspectors of election (or persons to replace those who so fail to appear) at the meeting. The number of inspectors shall be either [NUMBER] or [NUMBER]. If appointed at a meeting on the request of [NUMBER] or more shareholders or proxies, the majority of shares represented in person or by proxy shall determine whether [NUMBER] or [NUMBER] inspectors are to be appointed.

The inspectors of election shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do any other acts that may be proper to conduct the election or vote with fairness to all shareholders.

12. DIRECTORS

12.1. Powers

Subject to the provisions of the [CODE] and any limitations in the Articles of Incorporation and these By-Laws relating to action required to be approved by the shareholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors. The Board may delegate the management of the day-to-day operation of the business of the corporation to a management company or other person provided that the business and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

12.2. Number Of Directors

The authorized number of directors of the corporation shall be [NUMBER].

12.3. Election And Term Of Office Of Directors

At each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting. Each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, except in the case of the death, resignation, or removal of such a director.

12.4. Removal

The entire Board of Directors or any individual director may be removed from office without cause by the affirmative vote of a majority of the outstanding shares entitled to vote on such removal; provided, however, that unless the entire Board is removed, no individual director may be removed when the votes cast against such director's removal, or not consenting in writing to such removal, would be sufficient to elect that director if voted cumulatively at an election at which the same total number of votes cast were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of such director's most recent election were then being elected.

12.5. Resignation And Vacancies

Any director may resign effective upon giving oral or written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective. Vacancies on the Board of Directors may be filled by a majority of the remaining directors, or if the number of directors then in office is less than a quorum by (i) unanimous written consent of the directors then in office, (ii) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice, or (iii) a sole remaining director; however, a vacancy created by the removal of a director by the vote or written consent of the shareholders or by court order may be filled only by the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum), or by the unanimous written consent of all shares entitled to vote thereon. Each director so elected shall hold office until the next annual meeting of the shareholders and until a successor has been elected and qualified, or until his or her death, resignation or removal.

A vacancy or vacancies in the Board of Directors shall be deemed to exist (i) in the event of the death, resignation or removal of any director, (ii) if the Board of Directors by resolution declares vacant the office of a director who has been declared of unsound mind by an order of court or convicted of a felony, (iii) if the authorized number of directors is increased, or (iv) if the shareholders fail, at any meeting of shareholders at which any director or directors are elected, to elect the full authorized number of directors to be elected at that meeting.

The shareholders may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors, but any such election by written consent, other than to fill a vacancy created by removal, shall require the consent of the holders of a majority of the outstanding shares entitled to vote thereon. A director may not be elected by written consent to fill a vacancy created by removal except by unanimous consent of all shares entitled to vote for the election of directors.

12.6. Place Of Meetings; Meetings By Telephone

Regular meetings of the Board of Directors may be held at any place within or outside the State of [STATE/PROVINCE] that has been designated from time to time by resolution of the Board. In the absence of such a designation, regular meetings shall be held at the principal executive office of the corporation. Special meetings of the Board may be held at any place within or outside the State of [STATE/PROVINCE] that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal executive office of the corporation.

Members of the Board may participate in a meeting through the use of conference telephone or similar communications equipment, so long as all directors participating in such meeting can hear one another. Participation in a meeting pursuant to this paragraph constitutes presence in person at such meeting.

12.7. Regular Meetings

Regular meetings of the Board of Directors may be held without notice if the time and place of such meetings are fixed by the Board of Directors.

12.8. Special Meetings; Notice

Subject to the provisions of the following paragraph, special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary or any [NUMBER] directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail, telegram, charges prepaid, or by fax, addressed to each director at that director's address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the [COUNTRY] mail at least [NUMBER] days before the time of the holding of the meeting. If the notice is delivered personally or by telephone or by fax or telegram, it shall be delivered personally or by telephone or by fax or to the telegraph company at least [NUMBER] hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting.

12.9. Quorum

A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 3.11 of these By-Laws. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, subject to the provisions of [SPECIFY] (as to approval of contracts or transactions in which a director has a direct or indirect material financial interest), [SECTION OF [CODE] OR LAW] (as to appointment of committees), [SECTION OF [CODE] OR LAW] (as to indemnification of directors), the Articles of Incorporation, and other applicable law.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

12.10. Waiver Of Notice

Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the Board of Directors.

12.11. Adjournment

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

12.12. Notice Of Adjournment

If the meeting is adjourned for more than [NUMBER] hours, notice of any adjournment to another time and place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

12.13. Board Action By Written Consent Without A Meeting

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

12.14. Fees And Compensation Of Directors

Directors and members of committees may receive such compensation, if any, for their services and such reimbursement of expenses as may be fixed or determined by resolution of the Board of Directors. This Section 3.14 shall not be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee or otherwise and receiving compensation for those services.

12.15. Approval Of Loans To Officers

If these By-Laws have been approved by the corporation's shareholders in accordance with the [CODE] , the corporation may, upon the approval of the Board of Directors alone, make loans of money or property to, or guarantee the obligations of, any officer of the corporation or of its parent, if any, whether or not a director, or adopt an employee benefit plan or plans authorizing such loans or guaranties provided that (i) the Board of Directors determines that such a loan or guaranty or plan may reasonably be expected to benefit the corporation, (ii) the corporation has outstanding shares held of record by [NUMBER] or more persons (determined as provided in [SECTION OF [CODE]]) on the date of approval by the Board of Directors, and (iii) the approval of the Board of Directors is by a vote sufficient without counting the vote of any interested director or directors. Notwithstanding the foregoing, the corporation shall have the power to make loans permitted by the [CODE] .

13. COMMITTEES

13.1. Committees Of Directors

The Board of Directors may, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each consisting of [NUMBER] or more directors, to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the authorized number of directors. Any such committee shall have authority to act in the manner and to the extent provided in the resolution of the Board and may have all the authority of the Board, except with respect to:

- viii. The approval of any action which, under the [CODE] , also requires shareholders' approval or approval of the outstanding shares.
- ix. The filling of vacancies on the Board of Directors or in any committee.
- x. The fixing of compensation of the directors for serving on the Board or on any committee.
- xi. The amendment or repeal of these By-Laws or the adoption of new By-Laws.
- xii. The amendment or repeal of any resolution of the Board of Directors which by its express terms is not so amendable or repealable.

- xiii. A distribution to the shareholders of the corporation, except at a rate, in a periodic amount or within a price range set forth in the Articles of Incorporation or determined by the Board of Directors.
- xiv. The appointment of any other committees of the Board of Directors or the members thereof.

13.2. Meetings And Action Of Committees

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these By-Laws, Section 3.6 (place of meetings), Section 3.7 (regular meetings), Section 3.8 (special meetings and notice), Section 3.9 (quorum), Section 3.10 (waiver of notice), Section 3.11 (adjournment), Section 3.12 (notice of adjournment), and Section 3.13 (action without meeting), with such changes in the context of those By-Laws as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors, and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these By-Laws.

14. OFFICERS

14.1. Officers

The officers of the corporation shall be a President, a Secretary, and a Chief Financial Officer. The corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these By-Laws. Any number of offices may be held by the same person.

14.2. Appointment Of Officers

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 or Section 5.5 of these By-Laws, shall be chosen by the Board and serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

14.3. Subordinate Officers

The Board of Directors may appoint, or may empower the Chairman of the Board or the President to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these By-Laws or as the Board of Directors may from time to time determine.

14.4. Removal And Resignation Of Officers

Subject to the rights, if any, of an officer under any contract of employment, all officers serve at the pleasure of the Board of Directors and any officer may be removed, either with or without cause, by the Board of Directors at any regular or special meeting of the Board or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

14.5. Vacancies In Offices

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these By-Laws for regular appointments to that office.

14.6. Chairman Of The Board

The Chairman of the Board, if such an officer be elected, shall, if present, preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may from time to time be assigned by the Board of Directors or as may be prescribed by these By-Laws. If there is no President, then the Chairman of the Board shall also be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 5.7 of these By-Laws.

14.7. President

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. The President shall preside at all meetings of the shareholders and, in the absence or nonexistence of a Chairman of the Board, at all meetings of the Board of Directors. The President shall have the general powers and duties of management usually vested in the office of President of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these By-Laws.

14.8. Vice Presidents

In the absence or disability of the President, the Vice Presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a Vice President designated by the Board of Directors, shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors, these By-Laws, the President or the Chairman of the Board.

14.9. Secretary

The Secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees of directors and shareholders. The minutes shall show the time and place of each meeting, whether regular or special, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at shareholders' meetings, and the proceedings thereof.

The Secretary shall keep at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all shareholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation. The Secretary shall give notice of all meetings of the shareholders and of the Board of Directors required to be given by law or by these By-Laws. The Secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these By-Laws.

14.10. Chief Financial Officer

The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares.

The Chief Financial Officer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board of Directors. The Chief Financial Officer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of his or her transactions as Chief Financial Officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws.

15. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

15.1. Indemnification Of Directors

The corporation shall, to the maximum extent and in the manner permitted by the [CODE] , indemnify each of its directors against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined in [SECTION OF [CODE] OR LAW]), arising by reason of the fact that such person is or was a director of the corporation. For purposes of this Article VI, a director of the corporation includes any person (i) who is or was a director of the corporation, (ii) who is or was serving at the request of the corporation as a director of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or (iii) who was a director of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

15.2. Indemnification Of Others

The corporation shall have the power, to the extent and in the manner permitted by the [CODE] , to indemnify each of its employees, officers, and agents (other than directors) against expenses (as defined in [SECTION OF [CODE] OR LAW]), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined [SECTION OF [CODE] OR LAW]), arising by reason of the fact that such person is or was an employee, officer, or agent of the corporation. For purposes of this Article VI, an employee or officer or agent of the corporation (other than a director) includes any person (i) who is or was an employee, officer, or agent of the corporation, (ii) who is or was serving at the request of the corporation as an employee, officer, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or (iii) who was an employee, officer, or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

15.3. Payment Of Expenses In Advance

Expenses and attorneys' fees incurred in defending any civil or criminal action or proceeding for which indemnification is required pursuant to Section 6.1, or if otherwise authorized by the Board of Directors, shall be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

15.4. Indemnity Not Exclusive

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of shareholders or directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

15.5. Insurance Indemnification

The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation against any liability asserted against or incurred by such person in such capacity or arising out of that person's status as such, whether or not the corporation would have the power to indemnify that person against such liability under the provisions of this Article VI.

15.6. Conflicts

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

- iii. That it would be inconsistent with a provision of the Articles of Incorporation, these By-Laws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification;
or
- iv. That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

15.7. Right To Bring Suit

If a claim under this Article is not paid in full by the corporation within [NUMBER] days after a written claim has been received by the corporation (either because the claim is denied or because no determination is made), the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall also be entitled to be paid the expenses of prosecuting such claim. The corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the [CODE] for the corporation to indemnify the claimant for the claim. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is permissible in the circumstances because he or she has met the applicable standard of conduct, if any, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its shareholders) that the claimant has not met the applicable standard of conduct, shall be a defense to such action or create a presumption for the purposes of such action that the claimant has not met the applicable standard of conduct.

15.8. Indemnity Agreements

The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the corporation, or any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, or any person who was a director, officer, employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation, providing for indemnification rights equivalent to or, if the Board of Directors so determines and to the extent permitted by applicable law, greater than, those provided for in this Article VI.

15.9. Amendment, Repeal Or Modification

Any amendment, repeal or modification of any provision of this Article VI shall not adversely affect any right or protection of a director or agent of the corporation existing at the time of such amendment, repeal or modification.

16. RECORDS AND REPORTS

16.1. Maintenance And Inspection Of Share Register

The corporation shall keep either at its principal executive office or at the office of its transfer agent or registrar (if either be appointed), as determined by resolution of the Board of Directors, a record of its shareholders listing the names and addresses of all shareholders and the number and class of shares held by each shareholder.

The record of shareholders shall also be open to inspection and copying by any shareholder or holder of a voting trust certificate at any time during usual business hours upon written demand on the corporation, for a purpose reasonably related to the holder's interests as a shareholder or holder of a voting trust certificate.

A shareholder or shareholders of the corporation holding at least [%] in the aggregate of the outstanding voting shares of the corporation or who hold at least [%] of such voting shares and have filed a Schedule [IDENTIFY] with the [GOVERNMENT AGENCY] relating to the election of directors, shall have an absolute right to do either or both of the following (i) inspect and copy the record of shareholders' names, addresses, and shareholdings during usual business hours upon [NUMBER] days' prior written demand upon the corporation, or (ii) obtain from the transfer agent for the corporation, upon written demand and upon the tender of such transfer agent's usual charges for such list (the amount of which charges shall be stated to the shareholder by the transfer agent upon request), a list of the shareholders' names and addresses who are entitled to vote for the election of directors, and their shareholdings, as of the most recent record date for which it has been compiled or as of a date specified by the shareholder subsequent to the date of demand. The list shall be made available on or before the later of [NUMBER] business days after the demand is received or the date specified therein as the date as of which the list is to be compiled.

Any inspection and copying under this Section 7.1 may be made in person or by an agent or attorney of the shareholder or holder of a voting trust certificate making the demand.

16.2. Maintenance And Inspection Of By-Laws

The corporation shall keep at its principal executive office or, if its principal executive office is not in the State of [STATE/PROVINCE], at its principal business office in [STATE/PROVINCE], the original or a copy of these By-Laws as amended to date, which shall be open to inspection by the shareholders at all reasonable times during office hours. If the principal executive office of the corporation is outside the State of [STATE/PROVINCE] and the corporation has no principal business office in such state, then it shall, upon the written request of any shareholder, furnish to such shareholder a copy of these By-Laws as amended to date.

16.3. Maintenance And Inspection Of Other Corporate Records

The accounting books and records and the minutes of proceedings of the shareholders and the Board of Directors, and committees of the Board of Directors shall be kept at such place or places as are designated by the Board of Directors or, in absence of such designation, at the principal executive office of the corporation. The minutes shall be kept in written form, and the accounting books and records shall be kept either in written form or in any other form capable of being converted into written form.

The minutes and accounting books and records shall be open to inspection upon the written demand on the corporation of any shareholder or holder of a voting trust certificate at any reasonable time during usual business hours, for a purpose reasonably related to such holder's interests as a shareholder or as the holder of a voting trust certificate. Such inspection by a shareholder or holder of a voting trust certificate may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts. Such rights of inspection shall extend to the records of each subsidiary corporation of the corporation.

16.4. Inspection By Directors

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation and each of its subsidiary corporations, domestic or foreign. Such inspection by a director may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts.

16.5. Annual Report To Shareholders; Waiver

The Board of Directors shall cause an annual report to be sent to the shareholders not later than [NUMBER] days after the close of the fiscal year adopted by the corporation. Such report shall be sent to the shareholders at least [NUMBER] (or, if sent by third-class mail, [NUMBER]) days prior to the annual meeting of shareholders to be held during the next fiscal year and in the manner specified in Section 2.5 of these By-Laws for giving notice to shareholders of the corporation.

The annual report shall contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

The foregoing requirement of an annual report shall be waived so long as the shares of the corporation are held by fewer than [NUMBER] holders of record.

16.6. Financial Statements

If no annual report for the fiscal year has been sent to shareholders, then the corporation shall, upon the written request of any shareholder made more than [NUMBER] days after the close of such fiscal year, deliver or mail to the person making the request, within [NUMBER] days thereafter, a copy of a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year.

A shareholder or shareholders holding at least [%] of the outstanding shares of any class of the corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month or nine-month period of the current fiscal year ended more than [NUMBER] days prior to the date of the request and a balance sheet of the corporation as of the end of that period. The statements shall be delivered or mailed to the person making the request within [NUMBER] days thereafter. A copy of the statements shall be kept on file in the principal office of the corporation for [NUMBER] months and it shall be exhibited at all reasonable times to any shareholder demanding an examination of the statements or a copy shall be mailed to the shareholder. If the corporation has not sent to the shareholders its annual report for the last fiscal year, the statements referred to in the first paragraph of this Section 7.6 shall likewise be delivered or mailed to the shareholder or shareholders within [NUMBER] days after the request.

The quarterly income statements and balance sheets referred to in this section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that the financial statements were prepared without audit from the books and records of the corporation.

16.7. Representation Of Shares Of Other Corporations

The Chairman of the Board, the President, any Vice President, the Chief Financial Officer, the Secretary or Assistant Secretary of this corporation, or any other person authorized by the Board of Directors or the President or a Vice President, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

17. GENERAL MATTERS

17.1. Record Date For Purposes Other Than Notice And Voting

For purposes of determining the shareholders entitled to receive payment of any dividend or other distribution or allotment of any rights or entitled to exercise any rights in respect of any other lawful action (other than with respect to notice or voting at a shareholders meeting or action by shareholders by written consent without a meeting), the Board of Directors may fix, in advance, a record date, which shall not be more than [NUMBER] days prior to any such action. Only shareholders of record at the close of business on the record date are entitled to receive the dividend, distribution or allotment of rights, or to exercise the rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the [CODE] .

If the Board of Directors does not so fix a record date, then the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto or the [NUMBER] day prior to the date of that action, whichever is later.

17.2. Checks; Drafts; Evidences Of Indebtedness

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

17.3. Corporate Contracts And Instruments: How Executed

The Board of Directors, except as otherwise provided in these By-Laws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

17.4. Certificates For Shares

A certificate or certificates for shares of the corporation shall be issued to each shareholder when any of such shares are fully paid. The Board of Directors may authorize the issuance of certificates for shares partly paid provided that these certificates shall state the total amount of the consideration to be paid for them and the amount actually paid. All certificates shall be signed in the name of the corporation by the Chairman of the Board or the Vice Chairman of the Board or the President or a Vice President and by the Chief Financial Officer or an Assistant Treasurer or the Secretary or an Assistant Secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be by facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if that person were an officer, transfer agent or registrar at the date of issue.

17.5. Lost Certificates

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation or its transfer agent or registrar and cancelled at the same time. The Board of Directors may, in case any share certificate or certificate for any other security is lost, stolen or destroyed (as evidenced by a written affidavit or affirmation of such fact), authorize the issuance of replacement certificates on such terms and conditions as the Board may require; the Board may require indemnification of the corporation secured by a bond or other adequate security sufficient to protect the corporation against any claim that may be made against it, including any expense or liability, on account of the alleged loss, theft or destruction of the certificate or the issuance of the replacement certificate.

17.6. Construction; Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the [CODE] shall govern the construction of these By-Laws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term person includes both a corporation and a natural person.

18. AMENDMENTS

18.1. Amendment By Shareholders

New By-Laws may be adopted or these By-Laws may be amended or repealed by the vote or written consent of holders of a majority of the outstanding shares entitled to vote; provided, however, that if the Articles of Incorporation of the corporation set forth the number of authorized Directors of the corporation, then the authorized number of Directors may be changed only by an amendment of the Articles of Incorporation.

18.2. Amendment By Directors

Subject to the rights of the shareholders as provided in Section 9.1 of these By-Laws, By-Laws, other than a By-Law or an amendment of a By-Law changing the authorized number of directors (except to fix the authorized number of directors pursuant to a By-Law providing for a variable number of directors), may be adopted, amended or repealed by the Board of Directors.

18.3. Record Of Amendments

Whenever an amendment or new By-Law is adopted, it shall be copied in the book of minutes with the original By-Laws. If any By-Law is repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted or written consent was filed, shall be stated in said book.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CERTIFICATION OF BY-LAWS

Reference in these By-Laws to any provision of the [STATE/PROVINCE] Corporations [CODE] shall be deemed to include all amendments thereof.

I, the undersigned, do hereby certify:

4. That I am the duly elected and acting Secretary of [Name of Corporation], a [STATE/PROVINCE] corporation.
5. That the foregoing By-Laws constitute the By-Laws of said corporation as adopted by the Directors of said corporation by unanimous written consent at a duly called and held meeting of the Board of Directors on [DATE].
6. The foregoing By-Laws were also adopted by the shareholders of said corporation by unanimous written consent at a duly called and held meeting of the shareholders on [DATE].

IN WITNESS WHEREOF, I have hereunto subscribed my name this [DAY] of [DATE].

SECRETARY

Authorized Signature

Print Name and Title

CERTIFICATE OF INCORPORATION OF [Name]

This Certificate of Incorporation of [NAME] (the "Agreement") is made and effective [DATE],

BY: [INCORPORATOR NAME] (the "Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

8. NAME OF CORPORATION

The name of the corporation is [Name of Corporation].

9. ADDRESS OF CORPORATION

The address of the registered office of the corporation in the State of [STATE/PROVINCE]. The name of its registered agent at that address is [NAME].

10. PURPOSE OF CORPORATION

The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

11. TOTAL NUMBER AND VALUE OF SHARES

The total number of shares of stock which the corporation has authority to issue is [NUMBER] shares, all of which shall be Common Stock, [AMOUNT] par value per share.

12. BOARD OF DIRECTORS

The Board of Directors of the corporation shall have the power to adopt, amend or repeal By-Laws of the corporation, but the stockholders may make additional By-Laws and may alter or repeal any By-Law whether adopted by them or otherwise.

13. ELECTION OF DIRECTORS

Election of directors need not be by written ballot except and to the extent the By-Laws of the corporation shall so provide.

14. LIABILITIES

To the fullest extent permitted by law, no director of the corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the Delaware General Corporation Law is hereafter amended to authorized the further elimination or limitation of the liability of a director, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

INCORPORATOR

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

PRE-INCORPORATION AGREEMENT

This Pre-Incorporation Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [FIRST PARTNER NAME] (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTNER NAME] (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD PARTNER NAME] (the "Third Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

First Partner now owns and operates a [DESCRIBE] business in [STATE/PROVINCE] known as [DESCRIBE] Company, and he [she] would like to incorporate that business and Second Partner and Third Partner agree to take a certain amount of the stock in the corporation.

TERMS

6. Company has been inventoried by the above-named parties and it is agreed between them that Company, including all personal property, namely: [DESCRIBE], and everything used and kept in business, including all book accounts, is to show a value of [VALUE] net and is to be taken in by corporation at those figures.
7. Second Partner agrees to pay in cash the amount of [AMOUNT], the receipt of which is acknowledged, and from the date of signing this contract is an owner of an undivided one-half interest in [DESCRIBE] as set forth above.
8. It is agreed to incorporate the company under the laws of the State of [STATE/PROVINCE] for [AMOUNT], and that stock shall be issued [AMOUNT] to First Partner and [AMOUNT] to Second Partner as their interest may appear.
9. It is agreed that when corporation is formed, and stock issued, First Partner will sell to Third Partner, [AMOUNT] of stock, and Second Partner agrees to sell an equal amount of stock to Third Partner, the intention being that as soon as the corporation is incorporated all of the above-named parties are to have an equal amount of stock in the corporation.

10. It is agreed by Third Partner that he [she] will purchase the above-described stock as set forth, paying for it by giving an individual note to the respective parties for the amount of stock received from them, and that the stock will be deposited with them as collateral security for payment of the note. The note will be dated [DATE], and due three years from that date with interest at [%] percent and until the corporation is completed. Third Partner is a partner to a [%] interest in the business.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

THIRD PARTNER

Authorized Signature

Print Name and Title

PRE-INCORPORATION DESIGNATION OF DIRECTORS

This Pre-Incorporation Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [FIRST INCORPORATOR NAME] (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND INCORPORATOR NAME] (the "Second Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

7. All the parties to this Pre-Incorporation Agreement shall be the first directors of the corporation upon its organization, and shall serve as such until their several successors are elected and qualify pursuant to the bylaws of the corporation. The first directors shall [serve without remuneration or each receive the sum of [AMOUNT] for each meeting of the board, regular or special, actually attended or as the case may be].
8. [Name], one of the first directors of the corporation, shall serve as its general manager until [his or her] successor is duly selected and qualified, shall perform all services required of [him or her] in the general management and operation of the business of the corporation, and shall receive for such services as general manager a salary of [AMOUNT] of [month or year].
9. The By-laws shall provide that the officers of the corporation shall consist of a president, a vice-president, and a secretary-treasurer [add other officers, as required]. The first officers of the corporation, who shall take office and serve immediately upon its formation and until duly relieved by the board of directors, shall be [name], president; [name], vice-president; [name], secretary-treasurer; [add other appointees, if any]. Until and unless the board of directors otherwise provides, the [monthly or yearly] salaries of the officers shall be as follows:

President: [AMOUNT]

Vice-president: [AMOUNT]

Secretary-treasurer: [AMOUNT]

Pending specification of the duties of the corporate officers in the By-laws, they shall perform the duties customarily performed by such officers in similar business corporations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST INCORPORATOR

SECOND INCORPORATOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SHAREHOLDERS AGREEMENT

This Shareholders Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST SHAREHOLDER NAME] (the "First Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND SHAREHOLDER NAME] (the "Second Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD SHAREHOLDER NAME] (the "Third Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH:

WHEREAS, the present distribution of shares of the Corporation is as follows:

Name	Number of Shares
------	------------------

WHEREAS, in order to insure the harmonious and successful management and control of the Company, and to provide for an orderly and fair disposition of shares of common stock of the Company now or hereafter owned by any Shareholder;

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto, and intending to be legally bound, the parties hereby agree as follows:

19. Definitions

"Offering Shareholder" means any Shareholder, or his personal representatives, heirs, administrators, and executors, as the case may be, who pursuant to this Agreement must or does offer all or any of his

Shares to the Company or the Continuing Shareholders.

"Continuing Shareholders" means all Shareholders other than an Offering Shareholder.

"Shares" means shares of Common Stock of the Company now or hereafter owned by any Shareholder.

"Buyer" means the Company or those Continuing Shareholders who purchase an Offering Shareholder's Shares pursuant to this Agreement.

"Management Shareholder" means First Shareholder, Second Shareholder and Third Shareholder.

20. Purchase for Investment

Each Shareholder represents and warrants that he is acquiring and has acquired his Shares for his own account for investment and not with a view to, or for resale in connection with, any distribution thereof or with any present intent of selling any portion thereof.

21. Transfers of Shares

A Shareholder may not transfer, give, convey, sell, pledge, bequeath, donate, assign, encumber or otherwise dispose of any Shares except pursuant to this Agreement.

21.1. Transfers to the Company

Notwithstanding anything to the contrary contained in this Agreement, a Shareholder may give, sell, transfer or otherwise dispose of all or any of his Shares to the Company at such price and on such terms and conditions as such Shareholder and the Board of Directors of the Company may agree.

21.2. Transfer to Others

Except as provided for in Paragraph 3.1 above, a Shareholder desiring to dispose of some or all of his Shares may do so only pursuant to a bona fide offer to purchase (the "Offer") and after compliance with the following provisions. Such Shareholder shall first give written notice to the Company and the other Shareholders of his intention to dispose of his Shares, identifying the number of Shares he desires to dispose of, the proposed purchase price per Share and the name of the proposed purchaser and attaching an exact copy of the Offer received by such Shareholder.

21.3. The Company's Right to Purchase

The Company shall have the exclusive right to purchase all of the Shares which the Offering Shareholder proposes to sell at the proposed purchase price per Share. The Company shall exercise this right to purchase by giving written notice to the Offering Shareholder (with a copy thereof to each of the Continuing Shareholders) within [NUMBER] days after receipt of the notice from the Offering Shareholder (the "[NUMBER] Day Period") that the Company elects to purchase the Shares subject to the Offer and setting forth a date and time for closing which shall be not later than [NUMBER] days after the date of such notice from the Company. At the time of closing, the Offering Shareholder shall deliver to the Company certificates representing the Shares to be sold, together with stock powers duly endorsed in blank. The Shares shall be delivered by the Offering Shareholder free of any and all liens and encumbrances. All transfer taxes and documentary stamps shall be paid by the Offering Shareholder.

21.4. The Continuing Shareholders Right to Purchase

If the Company fails to exercise its right to purchase pursuant to subparagraph (i) above, the Continuing Shareholders shall have the right for an additional period of [NUMBER] days (the "Additional [NUMBER] Day Period") commencing at the expiration of the [NUMBER] Day Period to purchase the Shares which the Offering Shareholder proposes to sell at the proposed purchase price per Share. The Continuing Shareholders shall exercise this right to purchase by giving written notice to the Offering Shareholder prior to the expiration of the Additional [NUMBER] Day Period that they elect to purchase his Shares and setting forth a date and time for closing which shall be not later than [NUMBER] days after the expiration of the Additional [NUMBER] Day Period. Any purchase of Shares by all or some of the Continuing Shareholders shall be made in such proportion as they might agree among themselves or, in the absence of any such agreement, pro rata in proportion to their ownership of Shares of the Company (excluding the Offering Shareholder's Shares) at the time of such offer, but in any event one or more of the Continuing Shareholders must agree to purchase all the Shares which the Offering Shareholder proposes to sell. At the time of closing, the Offering Shareholder shall deliver to Buyer certificates representing the Shares to be sold, together with stock powers duly endorsed in blank. Said Shares shall be delivered by the offering Shareholder free and clear of any and all liens and encumbrances. All transfer taxes and documentary stamps shall be paid by the Offering Shareholder.

21.5. Performance of Acceptance

When exercising the rights granted in Paragraphs 3.2 hereof, Buyer must elect to purchase all Shares which the Offering Shareholder proposes to sell for the price and upon the same terms for payment of the price as are set forth in the Offer; provided, however, that if said offer received by the Offering Shareholder shall provide for any act or action to be done or performed by the party making such Offer at any time before or within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof, then the Buyer shall be deemed to have complied with the terms and conditions of such Offer if Buyer does or performs such act or action within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof.

21.6. Sale to Third Party

If either the Company or some or all of the Continuing Shareholders do not elect to purchase all of the Shares which the Offering Shareholder proposes to sell, the Offering Shareholder may accept the Offer which the Offering Shareholder mailed with his notice to the Company pursuant to Paragraph 3.2 hereof and transfer all (but not less than all) of the Shares which he proposes to sell pursuant thereto on the same terms and conditions set forth in such Offer, provided that any transferee of such Shares shall be bound by this Agreement, and further provided that if such sale is not completed within [NUMBER] days after the date notice is received by the Company under Paragraph 3.2 hereof, all such Shares shall again become subject to the restrictions and provisions of this Agreement.

21.7. Right of Co-Sale

Notwithstanding any other provision hereof, in the event the Offering Shareholder receives an Offer from an unaffiliated third party (the "Offeror") to purchase from such Shareholder not less than [%] of the Shares owned by such Shareholder and such Shareholder intends to accept such Offer, the Offering Shareholder shall, after complying with the provisions of Paragraph 3.2 above and before accepting such Offer, forward a copy of such Offer to the Company and each of the Continuing Shareholders. The Offering Shareholder shall not sell any such Shares to the Offeror unless the terms of the Offer are extended by the Offeror to the Continuing Shareholders pro rata in proportion to their ownership of Shares of the Company (excluding the Offering Shareholder's Shares) at the time of such Offer. The Continuing Shareholders shall have [NUMBER] days from the date of the foregoing Offer to accept such Offer.

First Shareholder, Second Shareholder and Third Shareholder may each during their lifetimes transfer all, hut not less than all, of their Shares to said Shareholder's spouse or a lineal descendant of such Shareholder, so long as prior to such transfer (i) such person, the Company, and all the Shareholders amend this Agreement to the reasonable satisfaction of such person, the Company and all the Shareholders to provide the parties to this Agreement with the rights, remedies and effect provided in this Agreement as if no such transfer had occurred, and (ii) the proposed transferee agrees in a writing satisfactory to the Company and all Shareholders that such person shall vote for First Shareholder, Second Shareholder and Third Shareholder (or their nominees) as directors of the Company and shall be bound by all the terms and conditions of this Agreement.

22. Right of First Refusal

- f. Except in the case of Excluded Securities (as defined below), the Company shall not issue, sell or exchange, agree to issue, sell or exchange, or reserve or set aside for issuance, sale or exchange, any (i) shares of Common Stock or any other equity security of the Company which is convertible into Common Stock or any other equity security of the Company, (ii) any debt security of the Company which is convertible into Common Stock or any other equity security of the Company, or (iii) any option, warrant or other right to subscribe for, purchase or otherwise acquire any equity security or any such debt security of the Company, unless in each case the Company shall have first offered to sell to each Shareholder, pro rata in proportion to such Shareholder's then ownership of Shares of the Company, such securities (the "Offered Securities") (and to sell thereto such Offered Securities not subscribed for by the other Shareholders as hereinafter provided), at a price and on such other terms as shall have been specified by the Company in writing delivered to such Shareholder (the "Stock Offer"), which Stock Offer by its terms shall remain open and irrevocable for a period of [NUMBER] days (subject to extension pursuant to the last sentence of subsection (b) below) from the date it is delivered by the Company to the Shareholder.

- g. Notice of each Shareholder's intention to accept, in whole or in part, a Stock Offer shall be evidenced by a writing signed by such Shareholder and delivered to the Company prior to the end of the [NUMBER]-day period of such Stock Offer, setting forth such portion of the Offered Securities as such Shareholder elects to purchase (the "Notice of Acceptance"). If any Shareholder shall subscribe for less than his pro rata share of the Offered Securities to be sold, the other subscribing Shareholders shall be entitled to purchase the balance of that Shareholder's pro rata share in the same proportion in which they were entitled to purchase the Offered Securities in the first instance (excluding for such purposes such Shareholder), provided any such other Shareholder elected by a Notice of Acceptance to purchase all of his pro rata share of the Offered Securities. The Company shall notify each Shareholder within [NUMBER] days following the expiration of the [NUMBER]-day period described above of the amount of Offered Securities which each Shareholder may purchase pursuant to the foregoing sentence, and each Shareholder shall then have [NUMBER] days from the delivery of such notice to indicate such additional amount, if any, that such Shareholder wishes to purchase.
- h. In the event that Notices of Acceptance are not given by the Shareholders in respect of all the Offered Securities, the Company shall have [NUMBER] days from the expiration of the foregoing [NUMBER]-day or [NUMBER]-day period, whichever is applicable, to sell all or any part of such Offered Securities as to which a Notice of Acceptance has not been given by the Shareholders (the "Refused Securities") to any other person or persons, but only upon terms and conditions in all respects, including, without limitation, unit price and interest rates, which are no more favorable, in the aggregate, to such other person or persons or less favorable to the Company than those set forth in the Stock Offer. Upon the closing, which shall include full payment to the Company, of the sale to such other person or persons of all the Refused Securities, the Shareholders shall purchase from the Company, and the Company shall sell to the Shareholders the Offered Securities in respect of which Notices of Acceptance were delivered to the Company by the Shareholders, at the terms specified in the Stock Offer.

- i. In each case, any Offered Securities not purchased by the Shareholders or other person or persons in accordance with Section 4(c) may not be sold or otherwise disposed of until they are again offered to the Shareholders under the procedures specified in Sections 4(a), (b) and (c).

- j. The rights of the Shareholders under this Section 4 shall not apply to the following securities (the "Excluded Securities"):
 - i. Any (A) shares of Common Stock or any other equity security of the Company which is convertible into Common Stock or any other equity security of the Company, (B) debt security of the Company which is convertible into Common Stock or any other equity security of the Company, or (C) option, warrant or other right to subscribe for, purchase or otherwise acquire any equity security or any such debt security of the Company (collectively, an "Equity Security") if the issuance of such Equity Security does not alter the respective proportions of ownership (on a fully diluted basis) by First Shareholder, Second Shareholder and Third Shareholder, as among themselves, of Equity Securities immediately prior to the issuance of such Equity Security;
 - ii. Common Stock issued as a stock dividend or upon any stock split or other subdivision or combination of the outstanding shares of Common Stock;
 - iii. Securities issued pursuant to the acquisition by the Company of another corporation to the stockholders of such other corporation by merger or purchase of substantially all of the assets whereby the Company owns not less than [%] of the voting power of such other corporation; and

23. Sale Or Redemption Upon Termination of Employment, Disability Or Death

Upon the termination of a Management Shareholder's employment or other relationship with the Company (including without limitation, any position as an officer, director, consultant, joint venturer, independent contractor, or promoter to or of the Company) for whatever reason, the Disability (as defined below) of a Management Shareholder, or the death of a Management or Non-management Shareholder (any such event hereinafter a "Triggering Event"), such Shareholder (or his heirs, executors, guardian or personal representative) within [NUMBER] days after the Triggering Event shall offer to sell all, but not less than all, of the Shares owned by the Shareholder. Each offer shall be made to the Company in writing and shall exist for a period of [NUMBER] days after such offer has been received by the Company. If the Company fails to purchase all of the Shares offered, the offer to sell shall be made in writing to all of the Continuing Shareholders in such proportion as the Continuing Shareholders may agree among themselves, or in the absence of agreement, pro rata in proportion to their then ownership of Shares of the Company (excluding the Offering Shareholder's (Shares), and shall exist for a period of [NUMBER] days after the offer has been received by all of the Continuing Shareholders. For purposes of this Agreement, "Disability" of a particular person means the inability, due to a physical or mental condition, of such person to maintain his employment or other relationship with the Company (including without limitation, fulfilling his duties in any position as an officer, director, consultant, joint venturer, independent contractor, or promoter to or of the Company) or to conduct his normal daily activities on behalf of the Corporation for any [NUMBER] consecutive month period.

24. Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be determined as follows:

- c. The Company or the Continuing Shareholders, as the case may be, within [NUMBER] days after receipt of any offer referred to in Paragraph 5 above, shall notify the Offering Shareholder of the price at which the Company or the Continuing Shareholders, are willing to purchase the Shares.

- d. In the event the Offering Shareholder objects to the purchase price established in accordance with Paragraph 6(a) above, the Offering Shareholder shall have the right to solicit offers to buy the Shares in accordance with the provisions of Paragraph 3.2. The right to solicit offers shall be subject to the terms and conditions of Section 3.2 and 3.3 hereof, including without limitation, the rights of first refusal and co-sale and the period during which any right of first refusal must be exercised but shall not be subject to the [NUMBER] day period referred to in Paragraph 3.2 of this Agreement.

25. Payment of Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be paid at the closing of the sale.

26. Put and Call Options.

26.1. Put and Call Options

Each Shareholder shall have the right and option upon the written declaration (a "Declaration") by such Shareholder to the other Shareholders and the Company of the occurrence of an "impasse" (as defined below) to sell to the Continuing Shareholders all of his Shares, and the Continuing Shareholders shall have the obligation to either (i) purchase all of such Shares owned by the offering Shareholder in such proportion as the Continuing Shareholders may agree upon, and if they cannot so agree, pro rata in proportion to their then ownership of Shares of the Company (excluding the Offering Shareholder's Shares) or (ii) if the Continuing Shareholders are unable or unwilling to purchase all of the Shares owned by the Offering Shareholder, sell all of their Shares to the Offering Shareholder, and the Offering Shareholder shall have the obligation to buy such Shares.

26.2. Impasse

An "impasse" shall be conclusively evidenced by (i) either First Shareholder, Second Shareholder or Third Shareholder or their respective representative, voting opposite the others at a vote at a shareholders meeting or at a vote at a meeting of the Board of Directors of the Company (or failing to attend such meetings upon due notice if such failure results in the lack of a quorum making such vote impossible), which vote is on a material issue, not in the ordinary course of business, and affecting the business, assets or operations of the Company, including, but not limited to, a proposal to merge, liquidate, consolidate or dissolve the Company, or to sell, lease or dispose of all or substantially all of the assets of the Company or to amend the substantive provisions of the Company's bylaws or articles of incorporation, or to issue or redeem stock, or to declare dividends of any kind, and (ii) either First Shareholder, Second Shareholder or Third Shareholder notifying the others and the Company and any other Shareholders within [NUMBER] days after such meeting, proposed meeting or vote than an "impasse" has occurred. The put and call rights granted to each Shareholder under this Paragraph 8 are independent of the other rights granted to the Shareholders and the Company under the other terms of this Agreement and such rights are not mutually exclusive or inconsistent.

26.3. Exercise of Option

The Continuing Shareholders shall exercise any option provided for in this Paragraph 8 within [NUMBER] days after receipt of a declaration. Any closing of the sale of Shares pursuant to such exercise shall occur within [NUMBER] days after receipt of a Declaration.

26.4. Purchase Price

Any purchase or sale of Shares sold pursuant to this Paragraph 8 shall be at the price as set forth in the Declaration delivered by the Shareholder exercising his right to sell his shares and shall be paid at the closing of the sale of the Shares.

27. Rights Upon Registration

In the event that the Company shall register or qualify any or all of the common stock of the Company under the [CODE OR LAW], as amended (or any similar statute then in force), on an appropriate registration statement, the Company shall give the Shareholders written notice thereof, and upon written request of a Shareholder, received by the Company not later than [NUMBER] days after receipt by the Shareholder of such notice, the Company will include in the registration statement filed by the Company with the Securities and Exchange Commission all Shares held by such Shareholder with respect to which the Shareholder shall have so requested registration.

28. Agreement Binding on All Persons Interested in Shares

Each person who now or hereafter acquires any legal or equitable interest in any Shares shall be bound by the terms of this Agreement. No issuance or transfer of Shares shall be effective and the Company shall not enter any issue or transfer upon the stock books of the Company or issue a certificate in the name of any person unless the Company is satisfied that such person is, and in a manner satisfactory to the Company has acknowledged being, bound by this Agreement.

29. Closing

Except as otherwise agreed to or expressly provided for herein, closing pursuant to the exercise of a right to purchase or sell Shares pursuant to this Agreement shall be held at the principal executive offices of the Company.

30. Entry of Legend Upon Stock Certificates

The following legend shall be immediately entered on each stock certificate representing Shares owned by the Shareholders:

"The gift, sale, mortgage, pledge, hypothecation or other encumbering or transfer of the shares of the capital stock represented by this certificate is restricted in accordance with the terms and conditions of a Shareholders Agreement dated [DATE], a copy of which is on file at the principal executive offices of the Company. Said Shareholders Agreement restricts the ability of the Shareholder to sell, give, pledge, bequeath or otherwise transfer or dispose of this stock certificate and the shares of capital stock represented by it."

31. After Acquired Shares - Subsequent Shareholders

The terms and conditions of this Agreement shall specifically apply not only to Shares owned by Shareholders at the time of execution of this Agreement, but also to any Shares acquired by any Shareholder subsequent to such execution.

32. Board of Directors

At each election of the Board of Directors of the Company, the Shareholders shall vote their Shares to elect three directors of the Company, one director being First Shareholder, or his nominee, one director being Second Shareholder, or his nominee, and one director being Third Shareholder, or his nominee.

33. Community and Marital Property Laws

Notwithstanding anything to the contrary contained herein, the following terms shall control to the extent community property laws or other marital property laws apply to the Shares of any Shareholder:

33.1. Lifetime Transfers

The provisions of this Agreement regarding restrictions against the transfer of Shares shall apply to any interest of the spouse of any Shareholder in such Shares (said spouse is hereinafter referred to as a "Spouse").

33.2. Transfers Upon Death of Spouse

If the Spouse of a Shareholder predeceases such Shareholder and has failed to bequeath to such Shareholder the deceased Spouse's entire marital property interest, if any, in the Shares held by the Shareholder, or if the Spouse of a Shareholder is adjudicated to be bankrupt or insolvent, or makes an assignment for the benefit of his or her creditors (collectively referred to herein as an "Event"), then to the extent necessary to divest the Spouse of any interest in the Shares of such Stockholder, within three months after the date of the occurrence of the Event, the Shareholder shall have the option to and must purchase such marital property interest of his or her Spouse or the estate of the deceased Spouse, as the case may be, in the Shares held by the Shareholder at a price equal to the lesser of either the value of the spouse's marital property interest in such Shares or the book value of such Shares.

33.3. Marital Dissolution

Any decree of dissolution, separate maintenance agreement or other property settlement between a Shareholder and his or her Spouse shall provide that the entire marital property interest of the Spouse in the Shares of the Shareholder shall be granted to the Shareholder as part of the division of the property of the marriage and the Spouse shall release and the Shareholder shall accept any marital property interest of such Spouse in the Shares. If payment for such Shares is ordered by the Court or demanded by the Spouse, no consideration shall be required, but if the Shareholder volunteers consideration for said release of interest it shall be no greater than the lesser of either the value of the Spouse's marital property interest in such Shares or the book value of the Spouse's marital property interest in such Shares.

33.4. Inclusion of Marital Property

Any purchase of the Shares of a Shareholder pursuant to any provision of this Agreement shall include without limitation or condition the entire marital property interest of the Spouse of such Shareholder in the Shares being purchased.

33.5. Determination of Value

Book value and the value of a Spouse's interest in the Shares of a Shareholder for purposes of this Paragraph 15 shall be determined by the Shareholder. The Company and the other Shareholders shall not be responsible for the determination of the value of the marital property interest of any Spouse of a Shareholder, the determination of book value, or the purchase of or payment for such Spouse's marital property interest in the Shares of a Shareholder.

34. Insurance

The Company may, if it so desires, purchase insurance policies on the life of any Management Shareholder for the purpose of payment for stock purchases or as key man insurance. If any Shareholder on whose life the Company owns an insurance policy shall at any time during his lifetime sell all of his Shares, then that Shareholder shall have the right to purchase from the Company the insurance policy or policies on his life at the cash surrender value, if any. The Company shall deliver the policy or policies on the life of such Shareholder upon payment of the cash surrender value, if any, and shall execute any necessary instruments of transfer and change of beneficiary forms.

35. Pro Rata Allocations

All items of income and loss of the Company shall be assigned pro rata to each day throughout the year. However, the Shareholders hereby consent to make an election pursuant to Section [NUMBER] of the [Code OR LAW] or Section [NUMBER] of the [Code OR LAW] in the event that the Board of Directors determines such elections to be in the best interest of a majority of the Shareholders.

36. Subchapter S Election

The Company may elect to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code, as amended from time to time (the "code"), or such other provisions of law as may hereafter be applicable to such an election, and for state income tax purposes, if available (hereinafter, an "Election"). Each Shareholder and the Company agree to execute and file the necessary forms for making and maintaining an Election, and each Shareholder agrees to deliver to the Company the consent of the spouse of such Shareholder if such consent is required for the Election under any community or marital property laws or otherwise. The Shareholders and the Company agree that they will take such other actions as may be deemed necessary or advisable by counsel to the Company to exercise or maintain the Election. The Shareholders shall maintain the Election unless the Management Shareholders unanimously agree otherwise or in the event that the Board of Directors requests that the Shareholders revoke the Election, in which case the Shareholders shall promptly execute and deliver to the Company such documents as may be necessary to revoke the Election. None of the Shareholders, without the consent of all of the Management Shareholders, shall take any action or position, or make any transfer or other disposition of his shares of the Company which may result in the termination or revocation of the Election. In the event of an inadvertent termination of the Election as described in Section [NUMBER] of the [Code OR LAW] or other applicable law, the Shareholders shall agree to make such adjustments as may be required to continue the Election, as provided in Section [NUMBER] of the [Code OR LAW]

27. Authorization

The Company is authorized to enter into this Agreement by virtue of a resolution of Board of Directors.

28. Notices

Notices and declarations under this Agreement shall be in writing and sent by registered or certified mail, return receipt requested, postage paid, to the Company at its principal executive offices and to Shareholders at their last address as shown on the records of the Company or at such other address with respect to any party hereto as such party shall notify the other Shareholders and the Company in writing in the manner specified herein.

29. Termination

The rights and obligations of the Company and the Shareholders under this Agreement shall terminate upon written agreement of all then existing Shareholders or upon the registration or qualification of any or all of the Common stock of the Company pursuant to Paragraph 9 hereof.

30. Severability

The various provisions of this Agreement are severable from each other and from the other provisions of the Agreement, and in the event that any provision in this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be fully effective, operative and enforceable.

31. Free and Clear of Encumbrances

All Shares sold pursuant to the terms of this Agreement shall be free of any and all liens and encumbrances and accompanied by stock powers duly endorsed in blank.

32. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, administrators, successors and assigns.

33. Governing Law

This Agreement shall be construed and interpreted in accordance with the laws of the State of [STATE/PROVINCE] without reference to conflict of laws principles except to the extent that the community or marital property laws of any state would otherwise be applicable to a particular situation, in which event, such community or marital property laws shall apply to the particular situation.

34. Entire Agreement

This instrument contains the entire agreement of the parties and may be changed only by an agreement in writing signed by the Company and all persons then owning Shares.

35. Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year set forth below.

COMPANY

FIRST SHAREHOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

SECOND SHAREHOLDER

THIRD SHAREHOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

Consent of Spouse

The undersigned being the spouses of Shareholders named in the foregoing Shareholders Agreement (the "Agreement"), hereby acknowledges that:

7. I have read the foregoing Agreement in its entirety and understand that:
 - D. Upon the occurrence of certain events as specified in the Agreement, the Company, my spouse, and the other Shareholders will have the right to and may be obligated to purchase Shares owned by another Shareholder at a price and on terms and conditions set forth in the Agreement;
 - E. Any purchase of the Shares of any Shareholder will include his or her entire interest in such Shares and any community property interest and other marital property interest of the spouse of such shareholder; and
 - F. The Agreement imposes certain restrictions on any attempts by me to transfer any interest I may have in the Company or any Shares of the Company by virtue of my marriage and confers on my spouse the right and obligation to purchase any interest I may have in the Company or any Shares of the Company upon the occurrence of certain events.
8. I hereby approve and agree to be bound to all of the terms of the Agreement and agree that any interest (community property or otherwise) that I may have in the Company or any Shares of the Company shall be subject to the terms of this spousal consent and the Agreement.
9. I agree that my spouse may join in any future amendments or modifications to the Agreement without any notice to me and without any signature, acknowledgment, agreement or consent on my part.
10. I agree that I will transfer or bequeath any interest I may have in the Company or any Shares of the Company by my will, outright and free of trust to my spouse.
11. I acknowledge that I have been advised and have been encouraged to seek independent counsel of my own choosing to represent me in matters regarding the Shareholders Agreement and my execution of this spousal consent.
12. I hereby consent to the Company and my spouse making and maintaining the Subchapter S Election (if applicable) under the Internal Revenue Code, as amended from time to time.

DR. LUBOGO ISAAC CHRISTOPHER

Signature

Signature

Name – Spouse of First Shareholder

Name – Spouse of Second Shareholder

Signature

Name – Spouse of Third Shareholder

Number _____

[Name of Corporation]

A [State] Corporation

[# Issued] Shares

[Common/PREFERRED] Stock

This certifies that [SHAREHOLDER] is the record holder of [Number Issued] shares of [Common/PREFERRED] stock of [NAME OF CORPORATION] transferable only on the share register of the corporation, in person or by duly authorized attorney, upon surrender of this certificate properly endorsed or assigned.

This certificate and the shares represented hereby are issued and shall be held subject to all the provisions of the Articles of Incorporation and the By-Laws of the corporation and any amendments thereto.

A statement of all of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights may be obtained by any stockholder, upon request and without charge, at the principal office of the corporation.

WITNESS the signatures of its duly authorized officers this [day] of [MONTH], [YEAR].

[Name of Secretary], Secretary

[Name of President], President

SEE RESTRICTIVE LEGENDS ON REVERSE

For Value Received [NAME] hereby sells, assigns, and transfers unto, [NAME], [NUMBER] shares represented by the within certificate and hereby irrevocably constitutes and appoints [attorney] to transfer the said shares on the share register of the within named corporation with full power of substitution in the premises.

Dated [DATE]

In presence of _____

Witness

Stockholder

NOTICE: THE SIGNATURE ON THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER [CODE OR LAW]. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT, IF ANY, COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

F. BUYING AND SELLING OF SHARES

**AGREEMENT OF PURCHASE
AND SALE OF BUSINESS ASSETS**

This Agreement of Purchase and Sale (the "Agreement") is made in two original copies, effective [DATE]

BETWEEN: [VENDOR'S NAME] (the "Vendor"), an individual having is principal place of living located at:

AND: [PURCHASER'S NAME] (the "Purchaser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

12. SUBJECT-MATTER

1.3 The Purchaser agrees to buy and the Vendor agrees to sell to the Purchaser as a going concern all the undertaking and assets owned by the Vendor in connection with the [TYPE OF BUSINESS] business carried on as [NAME OF BUSINESS] at [ADDRESS] (the "business") including, without limiting the generality of the foregoing:

- f) the furniture, fixtures and equipment more particularly described in Schedule A (the "equipment");
- g) all saleable stock in trade (the "stock in trade");
- h) all useable parts and supplies (the "parts and supplies");
- i) all leasehold interest in the lease held by the Vendor from [NAME OF LANDLORD] (the "lease");
- j) the goodwill of the business together with the exclusive right to the Purchaser to represent itself as carrying on business in succession to the Vendor and to use the business style of the business and variations in the business to be carried on by the Purchaser (the "goodwill").

1.4 The following assets are expressly excluded from the purchase and sale:

[LIST EXCLUSIONS, eg cash on hand or on deposit, accounts receivable, book and other debts due or accruing due].

13. PURCHASE PRICE

2.4 The purchase price payable for the undertaking and assets agreed to be bought and sold is the total of the amounts computed and allocated as follows:

- f) for the equipment - [AMOUNT];
- g) for the stock in trade, its direct cost to the Vendor;
- h) for the parts and supplies, their direct cost to the Vendor;
- i) for the goodwill - [AMOUNT];
- j) for all other assets agreed to be bought and sold.

2.5 The purchase price for the stock in trade shall be established by an inventory taken and valued after close of business on the day before the day of closing. The Vendor shall produce evidence satisfactory to the Purchaser of the direct cost to the Vendor of items included in stock in trade. The Purchaser may exclude from the purchase and sale any items which the Purchaser reasonably considers unsaleable by reason of defect in quality or in respect of which the Purchaser is not reasonably satisfied as to proof of direct cost.

2.6 The purchase price for the parts and supplies shall be established by an inventory taken and valued after close of business on the day before the day of closing. The Vendor shall produce evidence satisfactory to the Purchaser of the direct cost to the Vendor of items included in the parts and supplies. The Purchaser may exclude from the purchase and sale any items which the Purchaser reasonably considers unusable or in respect of which the Purchaser is not reasonably satisfied as to proof of direct cost.

14. TERMS OF PAYMENT

3.4 The Vendor acknowledges receiving a check for [AMOUNT] from the Purchaser on execution of this agreement to be held as a deposit by the Vendor on account of the purchase price of the undertaking and assets agreed to be bought and sold and as security for the Purchaser's due performance of this agreement.

3.5 The balance of the purchase price for the undertaking and assets agreed to be bought and sold shall be paid, subject to adjustments, by certified check on closing.

3.6 The balance of the purchase price due on closing shall be specially adjusted for all prepaid and assumed operating expenses of the business including but not limited to rent and utilities.

15. CONDITIONS, REPRESENTATIONS AND WARRANTIES

4.3 In addition to anything else in this agreement, the following are conditions of completing this agreement in favor of the Purchaser:

- h) that the Purchaser obtain financing on terms satisfactory to it to complete the purchase;
- i) that the carrying on of the business at its present location is not prohibited by land use restrictions;
- j) that the lessor of the lease consents to its assignment to the Purchaser;
- k) that the Purchaser obtain all the permits and licenses required for it to carry on the business;
- l) that the Vendor supply or deliver on closing all of the closing documents;
- m) that the premises shall be in the same condition, reasonable wear and tear expected, on the date of passing as they are currently in;
- n) that the execution of this agreement has been duly authorized by Seller's board of directors.

4.4 The following representations and warranties are made and given by the Vendor to the Purchaser and expressly survive the closing of this agreement. The representations are true as of the date of this agreement and will be true as of the date of closing when they shall continue as warranties according to their terms. At the option of the Purchaser, the representations and warranties may be treated as conditions of the closing of this agreement in favor of the Purchaser. However, the closing of this agreement shall not operate as a waiver or otherwise result in a merger to deprive the Purchaser of the right to sue the Vendor for breach of warranty in respect of any matter warranted, whether or not ascertained by the Purchaser prior to closing:

- k) the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY];
- l) the Vendor owns and has the right to sell the items listed in Schedule A;
- m) the assets agreed to be bought and sold are sold free and clear of all liens, encumbrances and charges;
- n) the equipment is in good operating condition;

- o) until the closing date of this agreement, Vendor shall not, without the written consent of Purchaser, dispose of or encumber any of the assets or property to be sold hereunder, with the exception of any transactions occurring in the ordinary course of Vendor's business. The undertaking and assets agreed to be bought and sold will not be adversely affected in any material respect in any way, and Vendor will not do anything before or after closing to prejudice the goodwill;
- p) the financial statements for the business produced by the Vendor and appended as Schedule B are fair and accurate, and prepared in accordance with generally accepted accounting principles.
- q) the lease is in good standing and the Vendor has fulfilled all of its obligations under the lease;
- r) the Vendor has made full and fair disclosure in all material respects of any matter that could reasonably be expected to affect the Purchaser's decision to purchase the undertaking and assets agreed to be bought and sold on the terms set out in this agreement;
- s) the Vendor will execute such assignments, consents, clearances or assurances after closing, prepared at the Purchaser's expense, as the Purchaser considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.
- t) Vendor agrees to disclose to Purchaser not later than [NUMBER] days after the closing date, all trade secrets, customer lists, and technical information held or controlled by Vendor and relating to the business sold hereunder.

16. RISK

5.3 The risk of loss or damage to the undertaking and assets agreed to be bought and sold remains with the Vendor until closing.

5.4 In the event of loss or damage to the tangible assets agreed to be bought and sold prior to closing, at the option of the Purchaser, the replacement cost of the assets lost or damaged or any of them may be deducted from the total purchase price otherwise payable by the Purchaser under this agreement and the corresponding lost or damaged assets shall be excluded from the purchase and sale.

17. SALES TAXES

6.3 The Purchaser shall pay any and all sales taxes payable in respect of the purchase and sale of assets pursuant to this agreement.

6.4 The Vendor shall pay all sales taxes payable or collectible in connection with carrying on the business up to closing and obtain and supply the Purchaser with satisfactory proof of payment within a reasonable time of closing.

18. NON-COMPETITION

7.2 The Vendor covenants with the Purchaser that, in consideration of the closing of this agreement, the Vendor will not operate a [TYPE OF BUSINESS] business or in any way aid and assist any other person to operate such a business in [GEOGRAPHICAL AREA] for a period of [PERIOD] from the date of closing.

19. BULK SALES

8.2 This agreement shall be completed and the Vendor agrees to comply with any applicable laws governing the sale in bulk of the stock in trade or of any of the other assets pursuant to this agreement.

20. CLOSING DOCUMENTS

9.2 The Vendor shall deliver to the Purchaser, in registrable form where applicable, the following closing documents (the "closing documents"), prepared or obtained at the Vendor's expense, on or before closing:

- g) duplicate, properly executed Bills of Sale of the equipment, stock in trade and parts and supplies together with evidence satisfactory to the Purchaser that the sale complies with any laws governing the sale in bulk of the stock in trade or of the sale of any of the other assets pursuant to this agreement;
- h) a statutory declaration that the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY] as of the date of closing;
- i) all records and financial data, including but not limited to any lists of customers and suppliers, relevant to the continuation of the business by the Purchaser;
- j) a duly executed notice in proper form revoking any registration of the style of the business under any business name registration law;

- k) an executed assignment of the lease to the Purchaser endorsed with the lessor's consent to the assignment;
- l) such other assignments, consents, clearances or assurances as the Purchaser reasonably considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.

21. CLOSING DATE

10.2 The purchase and sale in this agreement shall close on [DATE].

22. MISCELLANEOUS

11.8 In this agreement, the singular includes the plural and the masculine includes the feminine and neuter and vice versa unless the context otherwise requires.

11.9 The capitalized headings in this agreement are only for convenience of reference and do not form part of or affect the interpretation of this agreement.

11.10 If any provision or part of any provision in this agreement is void for any reason, it shall be severed without affecting the validity of the balance of the agreement.

11.11 Time is of the essence of this agreement.

11.12 There are no representations, warranties, conditions, terms or collateral contracts affecting the transaction contemplated in this agreement except as set out in this agreement.

11.13 This agreement binds and benefits the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.

11.14 This agreement is governed by the laws of the State/Province of [STATE/PROVINCE].

23. ACCEPTANCE

12.2 This agreement executed on behalf of the Purchaser constitutes an offer to purchase which can only be accepted by the Vendor by return of at least one originally accepted copy of agreement to the Purchaser on or before [DATE] failing which the offer becomes null and void. If this offer becomes null and void or is validly revoked before acceptance or this agreement is not completed by the Purchaser for any valid reason, any deposit tendered with it on behalf of the Purchaser shall be returned without penalty or interest.

Executed under seal on [DATE].

Signed, Sealed and Delivered in the Presence of:

VENDOR

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

AGREEMENT TO SELL BUSINESS

This Agreement to Sell Business (the "Agreement") is made and effective the [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

Whereas the Seller desires to sell to Buyer and the Buyer desires to buy the business of a the Seller, now being operated at [ADDRESS] and known as [COMPANY NAME] and all assets thereof as contained in Schedule "A" attached hereto, the parties hereto agree and covenant as follows:

1. The total purchase price for all fixtures, furnishings and equipment is [AMOUNT] payable as follows:
 - a) [AMOUNT] paid in cash; certified or bank checks, as a deposit upon execution of this Agreement, to be held by [BANK NAME].
 - b) [AMOUNT] additional to be paid in cash, certified or checks, at the time of passing papers.
 - c) [AMOUNT] to be paid by a note of the Buyer to the Seller, bearing interest at the rate of [RATE] percent per annum with an option of the Buyer to prepay the entire outstanding obligation without penalty.

Said note shall be secured by a chattel mortgage and financing statement covering the property to be sold hereunder, together with any and all other property acquired during the term of said note and placed in or within the premises.

2. The property to be sold hereunder shall be conveyed by a standard form **Bill of Sale**, duly executed by the Seller.
3. The Seller promises and agrees to convey good, clear, and marketable title to all the property to be sold hereunder, the same to be free and clear of all liens and encumbrances. Full possession of said property will be delivered in the same condition that it is now, reasonable wear and tear expected.
4. Consummation of the sale, with payment by the Buyer of the balance of the down payment and the delivery by the Seller of a Bill of Sale, will take place on or before [DATE].

5. The Seller may use the purchase money, or any portion thereof, to clear any encumbrances on the property transferred and in the event that documents reflecting discharge of said encumbrances are not available at the time of sale, the money needed to effectuate such discharges shall be held by the attorneys of the Buyer and Seller in escrow pending the discharges.
6. Until the delivery of the Bill of Sale, the Seller shall maintain insurance on said property in the amount that is presently insured.
7. Operating expenses of the Company including but not limited to rent, taxes, payroll and water shall be apportioned as of the date of the passing of papers and the net amount thereof shall be added to or deducted from, as the case may be, the proceeds due from the Buyer at the time of delivery of the Bill of Sale.
8. If the Buyer fails to fulfill his obligations herein, all deposits made hereunder by the Buyer shall be retained by the Seller as liquidated damages.
9. The Seller promises and agrees not to engage in the same type of business as the one being sold for [NUMBER] years from the time of passing.
10. A Broker's fee for professional services in the amount of [AMOUNT] is due from the Seller to [BROKER], provided and on the conditions that papers pass.
11. The Seller agrees that this Agreement is contingent upon the following conditions:
 - a) Buyer obtaining a Lease on the said premises or that the existing Lease be assigned in writing to the Buyer.
 - b) Buyer obtaining the approval from the proper authorities of the transfer of all necessary licenses to the Buyer.
 - c) The premises shall be in the same condition, reasonable wear and tear expected, on the date of passing as they are currently in.
12. All of the terms, representations and warranties shall survive the closing. This Agreement shall bind and inure to the benefit of the Seller and Buyer and their respective heirs, executors, administrators, successors and assigns.

13. If this Agreement shall contain any term or provision which shall be invalid or against public policy or if the application of same is invalid or against public policy, then, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in triplicate on the day and year first above written.

SELLER

BUYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BROKER

Authorized Signature

Print Name and Title

AGREEMENT OF PURCHASE AND SALE OF SHARES BY ANOTHER STOCKHOLDER OR BY THE CORPORATION

This Agreement of Purchase and Sale of Shares (the "Agreement"), is made and effective [DATE],

BETWEEN: [STOCKHOLDER 1 NAME] an individual having is principal place of living located at:

[ADDRESS]

[STOCKHOLDER 2 NAME] an individual having is principal place of living located at:

[ADDRESS]

Hereinafter separately referred to as "Stockholder", and jointly as "Stockholders"

AND: [COMPANY NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

[ADDRESS]

WITNESSETH:

WHEREAS, the Stockholders together own [%] of the outstanding shares of capital stock of the Corporation, and

WHEREAS, as used herein, the term "shares" shall mean all shares of common stock, at [VALUE] par share, of the Corporation now owned or hereafter acquired by the parties, and

WHEREAS, the Stockholders are actively engaged in the conduct of the business of the Corporation, and it is contemplated that success or failure of the corporate enterprise will at all times depend in large measure on the personal abilities of the Stockholders, and

WHEREAS, there is not now, nor is there likely in the future to be a substantial market for the shares of the Corporation, and

WHEREAS, for the foregoing reasons, the parties desire to provide for the purchase by another Stockholder or by the Corporation of the stock of any party desiring to sell the same; and for the purchase by the Corporation of the stock of a deceased party.

IT IS THEREFORE AGREED, in consideration of the mutual promises and covenants hereinafter set forth, as follows:

17. Restriction During Life

No stockholder shall transfer or encumber any of his shares of capital stock of the Corporation during his lifetime to any person, firm or corporation, without the consent of the Corporation and the other Stockholder, unless the Stockholder desiring to make the transfer or encumber (hereinafter referred to also as the "Transferor") shall have first made the offer hereinafter described and such offer shall not have been accepted.

a) Offer by the Transferor

The offer shall be given pro rata initially to the other Stockholder(s) and shall consist of an offer to sell or encumber all of the shares of the capital stock of the Corporation owned by the Transferor, to which shall be attached a statement of intention to transfer, the name and address of such prospective transferee, the number of shares of capital stock involved, and the terms of such transfer or encumbrance.

b) Acceptance of Offer

Within [NUMBER] days after the receipt of such offer the other Stockholder(s) may, at their option, elect to accept the offer. If such offer is not accepted by the other Stockholder(s), the Corporation may within [NUMBER] days after the rejection of such offer, at its option, elect to accept the offer. The Corporation shall exercise its election to purchase by giving notice thereof to the Transferor and to the other Stockholder(s). The other Stockholder(s) shall exercise the election to purchase by giving notice thereof to the Transferor and to the Corporation. In either event, the notice shall specify a date for the closing of the transaction, which shall not be more than [NUMBER] days after the date of the giving of such notice.

c) Purchase Price

The purchase price for, or the consideration for the encumbrance of the shares of the capital stock of the Corporation owned by the Transferor shall be set forth in paragraph 3 hereof.

d) Closing of Transaction

The closing of the transaction shall take place at the principal office of the Corporation. The consideration shall be paid as provided for in paragraph 3 hereof. Certificates for all shares sold or encumbered hereunder, property endorsed to Corporation or to the purchasing Stockholder, as the case may be, shall be delivered by transferor not later than the date of closing.

e) Release from Restriction

If the offer is neither accepted by the Corporation nor by the other Stockholder(s), the Transferor may make a bona fide transfer to the prospective transferee named in the statement attached to the offer, such transfer to be made only in strict accordance with the terms therein stated. However, if the Transferor shall fail to make such transfer within [NUMBER] days following the expiration of the election period by the other Stockholder(s), such shares of capital stock shall again become subject to all of the restrictions of this Agreement, provided, however, that nothing contained herein shall be construed as releasing any shares of this Corporation from any restriction or requirement of law concerning transfer of such shares.

f) Termination of Employment

Any Stockholder whose employment in any capacity with the company or its subsidiaries terminates for any reason whatsoever, voluntarily or involuntarily, shall be considered as of the date of such termination of employment to have made an offer of all of his shares of stock subject to the terms of this Agreement, at the purchase price stated in paragraph 3 hereof.

g) Subchapter "S" Election

If at the time of a transfer of stock permitted hereunder, the Corporation then is an "S" corporation, the transferee and new stockholder shall be required to consent in writing not to revoke such "S" election without the unanimous approval of all other stockholders.

18. Purchase Upon Death

Upon the death of a Stockholder (hereinafter referred to as Decedent), all of the shares of the capital stock of the Corporation owned by him, and to which he or his estate shall be entitled, shall be sold and purchased as hereinafter provided:

a) Obligation of the Corporation to Purchase

It shall be for the Corporation to purchase from the Decedent's Personal Representative, and the Decedent's Personal Representative shall be obligated to sell to the Corporation, all of the shares of the capital stock of the Corporation owned by the Decedent and to which the Decedent or his Personal Representative shall be entitled, at the price set forth in paragraph 3 hereof.

b) Closing

The closing of such purchase and sale shall take place at the offices of the Corporation, at a date selected by the Corporation upon [NUMBER] days notice to the Transferor which date shall be not more than [NUMBER] days following the date of the qualification of the Personal Representative and not less than [NUMBER] days following such date.

c) Insurance

To insure or partially insure its obligation under this Agreement to purchase from the estate of a deceased Stockholder the shares owned by him prior to his death, the Corporation shall have the option to purchase policies of insurance covering the lives of each Stockholder in any amount deemed desirable. In the event any Stockholder ceases to be a Stockholder of the Corporation, the Corporation shall terminate any such insurance on such Stockholder's life and in the event any Stockholder increases his holdings of the shares of the Corporation, the Corporation shall procure and maintain, if so desired by it, additional insurance on the life of such Stockholder proportionate to the increase in the holdings of such Stockholder.

If the corporation shall receive any proceeds of any policy on the life of the Decedent, such proceeds shall be used by the Corporation to pay the Decedent's Personal Representative to the extent of the purchase price of the Decedent's stock, such payment to be deemed made on account of such purchase price.

d) Balance of Purchase Price

If the amount of any insurance proceeds is insufficient to pay the purchase price of any Decedent's shares, then the balance of the purchase price remaining after credit for any insurance proceeds shall be payable as follows: [%] of the balance due to be paid shall be paid in cash, and the balance shall be represented by a promissory note executed by the purchaser payable in [NUMBER] installments, which note shall be secured by the stock of the deceased Stockholder.

e) "S" Election

If the corporation is an "S" corporation at the time of the transfer and sale of its stock, the transferee and new stockholder shall be required to consent in writing not to revoke such "S" election without the unanimous approval of all other stockholders. Such written consent shall be submitted prior to the delivery of the shares to the transferee.

19. Consideration

Unless the parties agree to another price in writing, the price for each share of capital stock to be sold under this Agreement shall be equal to its fair market value as an on-going business concern as determined in the sole discretion of the company's Certified Public Accountant, (CPA) and such determination by the CPA shall be binding and conclusive upon the parties hereto.

Unless the parties agree otherwise, the purchase price shall be paid as follows:

- iv. [%] of the amount determined to be due as the price to be paid at the closing in addition to any insurance proceeds and the balance to be payable by the execution of a promissory note in such amount to be repaid in [number] installments, such note to be secured by the stock being sold.
- v. The promissory note shall bear interest until paid in full at the prime rate as determined from time to time by [BANK NAME] or any other bank as determined by and agreed upon by the Stockholders.
- vi. In the event that suit shall be required to collect on the promissory notes above referred to, then in such event, the defaulting Stockholder or the Corporation shall pay for attorney fees, and courts costs, incurred in such action.

20. Limitation on Stockholder's Right to Pledge Stock

The restrictions of paragraph 1 above shall not apply to encumbrances as collateral for a note or notes in favor of the company or any one or more of the other Stockholders or in favor of a recognized lending institution, but only if the proceeds of such loan are used in their entirety to purchase shares of the Corporation and the borrowing Stockholder delivers to the Corporation and the other Stockholder(s) the written commitment of the lender, in form acceptable to the Corporation that such lender will not dispose of such shares without first affording the Corporation and the other Stockholder(s) the right for a period of [NUMBER] days to purchase shares at a price satisfactory to the Corporation and the other Stockholder(s).

21. Corporate Restrictions After Purchase

So long as any part of the purchase price of shares of capital stock sold in accordance with this Agreement remains unpaid, the Corporation shall not:

- vii. declare or pay dividends on its capital stock;
- viii. reorganize its capital structure;
- ix. merge or consolidate with any other corporation, or sell any of its assets except in the regular course of business;
- x. increase the salary of any officer or executive employee of the Corporation;
- xi. allow any of its obligations to become in default; or
- xii. allow any judgments against the Corporation or any liens against the Corporation's property to remain unsatisfied.

So long as any part of such purchase price remains unpaid, the Transferor, or the Personal Representative of the Decedent shall have the right to examine the books and records of the Corporation from time to time and to receive copies of all accounting reports and tax returns prepared for the Corporation. If the Corporation breaches any of its obligations under this paragraph, the Transferor or the Personal Representative, in addition to any other remedies available, may elect to declare the entire unpaid purchase price due and payable forthwith.

22. Purchase By Stockholder

Whenever a Stockholder purchases shares of capital stock under this Agreement, such purchaser (unless he shall have paid the entire purchase price in cash) shall, following the delivery of the purchased stock, endorse the new certificates of stock issued to such purchaser, and deliver the same to the Seller as collateral security for the payment of the unpaid purchase price; and such capital stock shall be so held until the entire purchase price shall be paid. While such capital shall be so held as collateral security and so long as the Purchaser is not in default, the Purchaser shall be entitled to all voting rights with respect thereto. Dividends paid shall be applied to the indebtedness.

23. Purchase By Corporation

Whenever the Corporation shall, pursuant to this Agreement, be required to purchase shares of the capital stock of the Corporation, the Stockholders and the Personal Representative of any Decedent shall do all things and execute and deliver all papers as may be necessary to consummate such purchase. Any note required to be given hereunder by the Corporation as part of the purchase price shall be endorsed and guaranteed by the remaining or surviving Stockholders, who shall not be discharged from such liability by reason of the subsequent extension, modification or renewal of any such note. Until all amounts due are paid, the stock certificates shall be delivered to Seller.

24. Endorsement On Stock Certificates

Each certificate representing shares of capital stock of the Corporation now or hereafter held by the Stockholders shall contain with a legend insubstantially the following form: "The transfer or encumbrance of the shares of stock represented by the within certificate is restricted under the terms of an Agreement dated [DATE] a copy of which is on file at the Corporation office."

25. Value of Purchase Price for Tax Purposes

It is understood that the purchase price, determined as set forth hereinabove, shall be the value of the purchased shares for all tax purposes. In the event such value is later increased by any federal or state taxing authority, any tax liability resulting from such increase shall be borne by the selling Stockholder or his Personal Representative, as the case may be.

26. Amendments

This Agreement may be amended or altered by execution of a written agreement authorized by corporate resolution and signed by all the parties hereto.

27. Notices

Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein, shall be given in writing by registered or certified mail addressed, in the case of the Stockholders, to his address appearing on the stock books of the Corporation, or to his residence, or to such other address as may be designated by him, and in the case of the Corporation, to the principal office of the Corporation, postage prepaid, by United States Mail, and shall be considered to have been delivered on the [DAY] day following the date stamped by the post office.

28. Invalid Provision

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provision had been omitted.

29. Modification

It is understood between the parties that this Agreement contains the entire understanding of the parties and no change or modification of this Agreement shall be valid unless the same be in writing and signed by all the parties hereto.

30. Binding Effect

This Agreement shall bind and, unless inconsistent with its provisions, shall inure to the benefit of the Executor, Administrator or Personal Representative, and the heirs and assigns of each of the Stockholders.

31. Prior Agreement

This Agreement supersedes any prior Agreement of the parties.

32. Deadlock

If at any time the Stockholders cannot agree on the Certified Public Accountant of the company and therefore are unable to establish an acceptable price for purchase, the matter shall be submitted to arbitration in the following manner:

- i. Each Stockholder shall, within [NUMBER] days after notice of such deadlock, appoint a Certified Public Accountant, and the two accountants shall then appoint a third Certified Public Accountant within [NUMBER] days after the two accountants are selected, and the average of purchase price determined by them shall be final, conclusive and binding upon the Stockholders, their executors, administrators and personal representatives, and a judgment on such determination may be obtained in any court of proper jurisdiction. The cost of such accounting shall be borne equally by the parties unable to reach agreement hereunder.
- ii. In the event any one of the Stockholders shall fail within the given time to select a Certified Public Accountant to represent him to resolve the dispute, then and in such event, the remaining Stockholder shall have the right to institute suit for specific performance under this Agreement, and the defaulting Stockholder shall pay for all attorney fees and court costs of such action.

22. Indebtedness of a Stockholder

In the event that there is a purchase and sale of shares of stock or interest therein, pursuant to the provisions hereinabove, and there is any indebtedness owed by the selling Stockholder or his estate to any party to this Agreement, then, notwithstanding the said provisions relating to the payment of the purchase price, and any amount to be paid for the stock being purchased shall be applied first to reduce and satisfy any indebtedness owed by the Selling Stockholder or his estate to any party under this Agreement.

23. Default

In the event of a default in the payment of any installment of the purchase price, the covenants and conditions of this Agreement, or any Security Agreement given to Sellers, Sellers may declare the entire unpaid portion of the purchase price to be immediately due and payable, and may proceed to enforce payment of same and to exercise any and all rights and remedies provided by the Uniform Commercial Code as well as any other rights and remedies either at law or in equity available to them, and Seller may assign, sell or transfer all or any part of the collateral in such manner, at such price, and on such terms and conditions as Sellers, in their sole and absolute discretion, may determine. Sellers or the Corporation shall have the right to purchase any or all of the collateral, apply any unpaid indebtedness on account thereof, and have a claim against Purchaser for the balance of such indebtedness in addition to any and all remedies available to them at law or in equity.

24. Voting

It is understood and agreed that until the purchase price shall have been paid in full, the Purchaser shall have no voting rights whatsoever.

25. Termination of Agreement

This Agreement shall terminate upon the occurrence of one of the following events:

- v. The written agreement of the parties hereto or their successors in interest to that effect;
- vi. The bankruptcy, receivership, or dissolution of the Corporation;
- vii. The disposal of all the shares of stock of any Stockholder during his lifetime or by his Personal Representative or estate upon his death, shall terminate this Agreement as to such retiring or deceased Stockholder; or
- viii. All of the issued and outstanding stock of the Corporation becoming owned by one of the Stockholders of the Corporation.

26. Laws Governed By

This Agreement is executed in and shall be construed by and governed under the laws of the State of [STATE/PROVINCE].

22. Withdrawal from Corporation

Any Stockholder may withdraw from participation in the Corporation at any time in accordance with the following provisions:

a) Notice to Corporation

Such Stockholder ("Withdrawing Stockholder") shall give notice to the Corporation at least [NUMBER] days prior to the date (he) (she) wants to withdraw ("Withdrawal Date") which notice shall set forth the Withdrawal Date.

b) Offer to Corporation

Within [NUMBER] days after receipt of such notice, the Corporation may, at its option, elect to purchase all, but not less than all, of the Withdrawing Stockholder's shares. The Corporation shall exercise its option to purchase by giving written notice thereof to the Withdrawing Stockholder within said [NUMBER] day period. Such written notice shall specify a date for the closing of the purchase, which shall not be more than [NUMBER] days after the date of the giving of such notice. The purchase price for the shares to be paid by the Corporation and terms of payment therefore shall be as set forth in Paragraph 3 hereof.

c) Acceptance by Stockholders

If the Corporation fails to exercise said option within said [NUMBER] day period, then for a [NUMBER] day period thereafter the other Stockholder(s) of the Corporation shall have the option to purchase such shares, such option to be exercised in the same manner as that of the Corporation, and the purchase price and terms of payment to be the same for the Stockholder(s) as for the Corporation as set forth in Paragraph 3 hereof. The option may be exercised by the Stockholders pro rata (based on that proportion which the number of shares owned by each other Stockholder bears to the total number of shares then outstanding, not counting the shares proposed to be sold), and if one (or more) of the Stockholders does not desire to exercise his option, then his option shall be exercisable on a pro rata basis by the other Stockholders (not counting for any purpose, the shares proposed to be sold or the shares owned by any Stockholder who does not desire to exercise his option); or the option may be exercised by the other Stockholders on such basis as they may agree upon.

d) Dissolution and Liquidation

In the event that neither the Corporation nor the other Stockholder(s) purchase the shares of the Withdrawing Stockholder, the other Stockholder(s) agree to execute a consent voluntarily dissolving the Corporation. In addition, the Stockholder(s) agree to liquidate the assets of the Corporation as soon as practicable thereafter.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written. Signed, Sealed and Delivered in the Presence of: "STOCKHOLDERS"

STOCKHOLDER

Authorized Signature

Print Name and Title

STOCKHOLDER

Authorized Signature

Print Name and Title

CORPORATION

Authorized Signature

Print Name and Title

[CORPORATE SEAL]

AGREEMENT OF PURCHASE AND SALE OF SHARES

This Agreement of Purchase and Sale (the "Agreement") is made in two original copies, effective [DATE]

BETWEEN: [VENDOR NAME] (the "Vendor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASER NAME] (the "Purchaser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

Whereas the Vendor owns all the issued shares of [NAME OF CORPORATION] (the "Corporation");

It is agreed as follows:

1. SUBJECT-MATTER

1.1 The Purchaser agrees to buy and the Vendor agrees to sell to the Purchaser all of the shares owned by the Vendor in the Corporation (the "Shares").

2. PURCHASE PRICE

2.1 The purchase price payable for the Shares is the total of the amounts allocated among the Shares as follows:

- a) for all the [INSERT CLASS] shares - [AMOUNT]
- b) for all the [INSERT CLASS] shares - [AMOUNT] ETC.

3. TERMS OF PAYMENT

3.1 The Vendor acknowledges receiving a cheque for [AMOUNT] from the Purchaser on execution of this agreement to be held by the Vendor as a deposit on account of the purchase price of the Shares and as security for the Purchaser's due performance of this agreement.

3.2 The Purchaser shall pay the balance of the purchase price of the Shares by certified cheque on closing.

3.3 It is understood and agreed that the purchase price of the Shares is based on the financial position of the Corporation shown in the balance sheet produced by the Vendor for the Corporation and appended as Schedule A. If the net book value of the Corporation as of the date of closing is less than [%] of the net book value of the Corporation shown in Schedule A, the Vendor shall refund the Purchaser the dollar value difference within a reasonable time of receipt of written notice of the difference. For the purposes of this paragraph, the net book value of the Corporation means the dollar book value of the assets of the Corporation minus the dollar book value of the liabilities, other than for shareholder equity, of the Corporation determined in accordance with generally accepted accounting principles.

4. CONDITIONS, REPRESENTATIONS AND WARRANTIES

4.1 In addition to anything else in this agreement, the following are conditions of completing this agreement in favor of the Purchaser:

- a) that the Vendor owns all the issued shares of the Corporation;
- b) that the Shares are fully paid-up and non-assessable;
- c) that no agreement or option exists pursuant to which the Corporation is or may be obliged to issue further shares of its authorized capital;
- d) that the Shares are sold free and clear of all liens, encumbrances and charges;
- e) that any consent required for the transfer of the Shares in accordance with the Purchaser's direction is given;
- f) that the Corporation is duly incorporated, validly subsisting and in good standing under the laws of its jurisdiction of incorporation;
- g) that the Corporation is not party to any collective agreement with a labor union;
- h) that the Vendor give the Purchaser and all duly authorized representatives of the Purchaser full and complete access during normal business hours to the business premises and corporate, business, accounting, tax and employment records of the Corporation for the purpose of investigating the business and affairs of the Corporation;
- i) that the Purchaser obtain financing on terms satisfactory to the Purchaser to complete the purchase;
- j) that the Vendor supply or deliver on closing all of the closing documents.

4.2 The Purchaser agrees that, unless and until the purchase of the Shares contemplated in this agreement is completed, the Purchaser shall keep confidential all confidential information obtained by the Purchaser from the Vendor or the Corporation about the Vendor and the business and affairs of the Corporation.

4.3 The following representations and warranties are made and given by the Vendor to the Purchaser and expressly survive the closing of this agreement. The representations are true as of the date of this agreement and will be true as of the date of closing when they shall continue as warranties according to their terms. At the option of the Purchaser, the representations and warranties may be treated as conditions of the closing of this agreement in favor of the Purchaser. However, the closing of this agreement shall not operate as a waiver or otherwise result in a merger to deprive the Purchaser of the right to sue the Vendor for breach of warranty in respect of any matter warranted, whether or not ascertained by the Purchaser prior to closing:

- a) the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY];
- b) the Articles of Incorporation and all amendments to the Articles of Incorporation of the Corporation are as stated in Schedule B;
- c) the issued share capital of the Corporation is as stated in Schedule C;
- d) the balance sheet appended in Schedule A and the financial statements for the last [NUMBER] complete fiscal years of the Corporation produced by the Vendor appended in Schedule D have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and are fair and accurate;
- e) the Corporation owns the assets recorded in the balance sheet appended in Schedule A free and clear of liens, charges and encumbrances except as noted in Schedule E;
- f) the Corporation has properly reported and is not in arrears of payment of any direct or indirect taxes or of any employee-related statutory deductions or remittances;
- g) the corporate, business, accounting, tax and employment records of the Corporation are complete in all material respects;

- h) the business of the Corporation will not be adversely affected in any material respect in any way, whether by the Vendor or by any other person or cause whatsoever, up to closing and the Vendor will not do anything before or after closing to prejudice the goodwill of the Corporation;
- i) the Corporation will carry on business as usual until closing except that it will not declare any dividends or make any any other distributions of capital or retained earnings or undertake or compromise any major contractual liabilities without the express written consent of the Purchaser;
- j) there are no outstanding legal actions or judgments against the Corporation and the Corporation is not in default of any agreement to which the Corporation is a party and that all such agreements are in good standing and the Corporation is entitled to all stated benefits in such agreements;
- k) the Vendor has made full and fair disclosure in all material respects of any matter that could reasonably be expected to affect the Purchaser's decision to purchase the Shares on the terms set out in this agreement;
- l) the Vendor will execute such assignments, consents, clearances or assurances after closing, prepared at the Purchaser's expense, as the Purchaser considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.

4.4 The following warranty is made and given by the Purchaser to the Vendor in consideration of the closing of this agreement: the Purchaser will personally indemnify and save the Vendor harmless from claims on any outstanding personal guarantees given by the Vendor for the contractual obligations of the Corporation.

5. NON-COMPETITION

5.1 The Vendor covenants with the Purchaser that, in consideration of the closing of this agreement, the Vendor will not operate a [TYPE OF BUSINESS] business or in any way aid and assist any other person to operate such a business in [GEOGRAPHICAL AREA] for a period of [PERIOD] from the date of closing.

6. CLOSING DOCUMENTS

- 6.1** The Vendor shall deliver to the Purchaser, in registrable form where applicable, the following closing documents (the "closing documents"), prepared or obtained at the Vendor's expense, on or before closing:
- a) certificates of the Shares duly assigned in accordance with the direction of the Purchaser together with satisfactory proof of the giving of any consent required for the assignment;
 - b) all the corporate, business, accounting, tax and employment records of the Corporation;
 - c) the written resignation of each director and officer of the Corporation effective as of the date of closing together with each director's and officer's personal release of all contracts with and claims against the Corporation;
 - d) a duly certified record of a resolution passed by the shareholders of the Corporation electing [NAME(S)] to the Board of Directors of the Corporation effective as of the date of closing;
 - e) a statutory declaration that the Vendor is a resident of [COUNTRY] within the meaning of the Income Tax Act of [COUNTRY] as of the date of closing;
 - f) such other assignments, consents, clearances or assurances as the Purchaser reasonably considers necessary or desirable to assure the Purchaser of the proper and effective completion of this agreement.

7. CLOSING DATE

- 7.1** The purchase and sale in this agreement shall close on [DATE].

8. MISCELLANEOUS

- 8.1** In this agreement, the singular includes the plural and the masculine includes the feminine and neuter and vice versa unless the context otherwise requires.
- 8.2** The capitalized headings in this agreement are only for convenience of reference and do not form part of or affect the interpretation of this agreement.
- 8.3** If any provision or part of any provision in this agreement is void for any reason, it shall be severed without affecting the validity of the balance of the agreement.
- 8.4** Time is of the essence of this agreement.
- 8.5** There are no representations, warranties, conditions, terms or collateral contracts affecting the transaction contemplated in this agreement except as set out in this agreement.

8.6 This agreement binds and benefits the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.

8.7 This agreement is governed by the laws of the Province of [PROVINCE].

9. ACCEPTANCE

9.1 This agreement executed on behalf of the Purchaser constitutes an offer to purchase which can only be accepted by the Vendor by return of at least one originally accepted copy of agreement to the Purchaser on or before [DATE] failing which the offer becomes null and void. If this offer becomes null and void or is validly revoked before acceptance or this agreement is not completed by the Purchaser for any valid reason, any deposit tendered with it on behalf of the Purchaser shall be returned without penalty or interest.

Signed, Sealed and Delivered in the Presence of:

VENDOR

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT AND TRANSFER OF STOCK CERTIFICATE

This Assignment and Transfer of Stock Certificate (the "Assignment") is made and effective [DATE],

BETWEEN: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TRANSFEROR NAME] (the "Transferor"), an individual having his main residence located at:

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers to [TRANSFeree],

[AMOUNT] shares of the stock of [COMPANY NAME] (the Corporation) standing in the name of the undersigned on the books of the Corporation and represented by Certificate [NUMBER].

The undersigned hereby and irrevocably constitutes and appoints [NAME OF ATTORNEY-IN-FACT], attorney-in-fact, to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

Dated: [DATE]

CORPORATION

TRANSFEROR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

In the presence of:

Authorized Signature

Print Name and Title

ASSIGNMENT OF SHARES

This Assignment of Shares (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at

TERMS

- 5. For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit to Assignee in the [CLASS] shares of [CORPORATION NAME] evidenced by Share Certificate No(s). [NUMBER(S)] (the "Shares").
- 6. The Assignor warrants the Assignee that the Shares are fully paid-up and that the Assignor owns the Shares free and clear of all encumbrances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BILL OF SALE

BETWEEN: [COMPANY A NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY B NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

The parties agree as follows:

The Seller for and in consideration of the sum of [AMOUNT], receipt of which is acknowledged, does sell, grant, convey, transfer and assign to the Buyer its successors and assigns, all of Seller's outstanding stock, of which [NUMBER] shares of common stock and [NUMBER] shares of preferred stock constitute all of the outstanding stock of Seller, all property and assets, real and personal, tangible and intangible, of every kind and description owned by Seller, which are listed in Schedule "A" annexed hereto, which is incorporated herein and made a part hereof.

TO HAVE AND TO HOLD to Buyer, its successors and assigns, forever.

AND Buyer, in further consideration of the transfer and assignment, agrees to assume and pay the liabilities of Seller, if any.

AND the Seller for itself, its successors and assigns, covenants and agrees to warrants that said goods and chattels are free and clear of all encumbrances, that it has full right and title to sell the same, and that it will warrant and defend the same against the claims and demands of all persons.

The Seller hereby warrants and covenants that I shall not within [NUMBER] years of the date of this instrument engage in the business of [BUSINESS TYPE] within [TERRITORY].

The Seller has caused this bill of sale to be signed by its President, its corporate seal to be affixed to it and attested to by its Secretary on [DATE].

[CORPORATION A NAME]

[PRESIDENT NAME]

President

ATTEST

[SECRETARY NAME]

Secretary

[CORPORATION B NAME]

[PRESIDENT NAME]

President

[CORPORATE A SEAL]

Checklist

Evaluation TO BUY A Business

When you find a business that you would like to buy, you will need to consider a number of points before deciding whether to purchase it. Take a good, close look at the business and answer the following questions. They will help you determine whether the business is a sound investment.

- Why does the current owner want to sell the business?
- What type of growth potential does this business have?
- If the business is in decline, will you be able to save it and make it successful?
- Is the business in sound financial condition? Have you seen audited year-end financial statements for the business? Have you reviewed the most recent statements? Have you reviewed the business's last five tax returns?
- Have you seen copies of all of the business's current contracts?
- Is the business now, or has it ever been, under investigation by any government agency? If so, what is the status of any current investigation? What were the results of any past investigation?
- Is the business currently involved in a lawsuit, or has it ever been involved in one? If so, what is the status or result?
- Does the business have any debts or liens against it? If so, what are they for, and in what amounts?
- What percentage of the business's accounts are past due? How much does the business write off each year for bad debts?
- How many customers does the business serve on a regular basis?
- Who makes up the market for this business? Where are your customers located? Do they all come from your community or from across the state, or are they spread across the globe?
- Does the amount business vary from season to season?

- ❑ Does any single customer account for a large portion of the sales volume? If so, would the business be able to survive without this customer? Remember, the larger the customer base is, the more easily you will be able to survive the loss of any customers. If, on the other hand, the business exists mainly to serve a single client, the loss of that client could be catastrophic.

CHECKLIST

SALE OF A BUSINESS

The Sale Agreement should include the following items and terms:

- Identification of parties**
 - Names
 - Addresses
- Character of each party**
 - Corporation
 - Sole proprietorship
 - Professional practitioner
- Recitals**
 - Business or profession conducted by seller
 - Desire of seller to sell and buyer to buy
 - Desire of seller to retire
- Assets subject to agreement**
 - Business building and other real property
 - Good will; use of firm name or customer lists
 - Stock in trade
 - Equipment, furniture, and fixtures
 - Patents, copyrights, trademarks, and trade names
 - Cash on hand and on deposit
 - Insurance policies
 - Notes and accounts receivable, securities for debts, and outstanding contracts
 - Other assets
 - Valuation of assets sold
- Nature of consideration**
 - Payment of money

- Assumption of debts and liabilities
- Other consideration
- Allocation of purchase price to various assets sold**
- Time and manner of payment**
 - All cash on closing
 - Part payment on signing and balance on closing
 - Deposit held in escrow until closing
 - Installment payments
 - Mortgage or other collateral security
 - Forfeiture of deposit for default in paying purchase price
 - Other methods of payment
 - Personal guaranty of payment by buyer
- Closing**
 - Delivery of instruments of transfer
 - Payment of purchase price
 - Acquisition of necessary rulings and approvals
 - Conduct of business until closing
 - Date of closing
 - Inspection of assets sold
- Inspection of books, records, and premises**
- Furnishing of customer list
- Furnishing of supplier list
- Representations by seller**
 - Title to property and assets
 - Authority to enter into agreement
 - Accuracy and completeness of books and records

- All outstanding liens, contracts, judgments, and other obligations disclosed
- Absence of labor disputes
- Validity of patents, copyrights, trademarks, and trade names
- Compliance with all laws affecting business
- Survival of representations
- Indemnification of buyer**
- Assumption by buyer of lease**

Obtaining of lessor's consent to assignment of lease

- Assumption by buyer of outstanding contracts**

Disavowal of contracts not listed by seller

- Assumption by buyer of seller's collective bargaining agreement**
- Payment of broker's commission**
- Instruction of buyer by seller in operation of business**

Employment of seller as executive of buyer

- Covenant not to compete**
 - Territory
 - Duration
- Responsibility for obtaining necessary approvals and making necessary filings**
 - Tax rulings
 - Antitrust rulings
 - Similar approvals
- Payment of sales or use taxes imposed on transfer of assets**
- Payment of other taxes**
- Transfer of tax identification numbers**
- Insurance**
- Contingencies**
 - On buyer's obtaining license or permit
 - On buyer's continuation as franchisee

- Execution of bill of sale to transfer personal properties
- Transfer of titles of motor vehicles
- Execution of warranty deed to transfer real properties
- Risk of loss
- Remedies on default
- Assignability of rights under agreement
- Modification of agreement
- Arbitration of disputes
- Manner of giving notice
- Binding effect of agreement on successors and assigns
- Governing law
- Date of execution
- Signatures

Checklist

Buy/Sell Agreements - Critical What If's?

The time to prevent disputes is before they occur. Experience proves that owners anxieties created in dealing with one another are inversely proportional to the effort they spend addressing business problems in the event that they should happen. Dealing with these contingencies before they manifest themselves is the secret to a harmonious business relationship with other owners. Legal fees as well as sleepless nights will be minimized if you agree to the "What If's" now.

Use the checklist below to determine areas where you may need assistance. Answer Yes or No to each question.

Applicability

- Should the agreement apply only to the current owners or should it be binding on all owners throughout the life of the business entity?
- Should the agreement provide that it supersedes all other agreements to redeem a business interest?
- Is the agreement being reviewed annually? (Changes of price or terms should require a unanimous vote of the owners.)

Type of Agreement

- Should the agreement be structured as a redemption agreement or as a cross-purchase agreement?
- Should the agreement be structured:
 - To require the seller to sell and the buyer to buy?
 - To give the buyer an option to require the seller to sell?
 - To give the seller an option to require the buyer to buy?
 - To give a right of first refusal to the buyer?
- Should the death of an owner cause an automatic buyout of the owners interest or should his/her family be allowed to remain as an owner?

Buyout Price and Time for Payout

- Should the buyout price from the estate or heirs of a deceased owner be addressed? If yes, when should it be paid? What interest rate should the obligation bear?

- Should the buyout price to a disabled owner be addressed? If yes, when would it be paid?
- Should the buyout price to an owner who resigns or is dismissed be addressed? If yes, when should it be paid?
- Should there be a difference in price if there is an amiable parting of ways? If yes, when should it be paid?
- Should the buyout price to an owner who goes bankrupt be addressed? If yes, when should it be paid?
- Should the price reflect the fact that you are selling to a long time business associate rather than an outsider?

Funding

- Should the agreement provide that the buyout be funded by life insurance or some other investment vehicle?
- If funded with life insurance: Should the type of life insurance used be addressed (i.e. term life, ordinary life, last to die, paid-up life, universal life or an endowment policy?)
- Should a life insurance trust be used?
- Should all of the policy proceeds be required to be used to redeem the interest?
- Can part of the proceeds be used to help the entity recover from the loss of the owner?
- Should whole life insurance policies with cash values be transferred to the owner at termination or retirement?

Security

- Should the agreement be guaranteed or secured?
- If so, should the security be in the form of:
 - A pledge of business assets?
 - A personal guarantee by the other owners?

- An agreement obligating the entity to refrain from increasing salaries, paying dividends or making loans until all outstanding liabilities to the beneficiaries are paid?

Loans

- Should the disposition of owners' loans, whether receivables or payables, in the event of termination because of death or disability be addressed?
- Should the disposition of owners' loans in the event of termination other than because of death or disability be addressed?

Covenant Not to Compete

- Should there be a covenant not to compete? If so, should there be geographic and time limitations?

Other

- Should there be a period of disability before the other owners of the business have the right to buy out a disabled owner?
- Should an owner have the right to transfer or assign to a trust, for estate-tax planning purposes, their rights and interests in the business?
- Should the spouses of the owners sign the buy/sell agreement?
- Do other family members presently own any stock?

LEGENDS FOR STOCK CERTIFICATES

1. Securities Act Legend

In typical start-up companies where the shares are issued under the private placement exemption from the registration requirements of the Securities Act of 1933, the following legend (or a variation thereof) should be placed on the front of the stock certificate or on the back with a notice on the front referring to the legend:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO THE COMPANY STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT, IF ANY, COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

2. Intrastate Offering Legend

If the securities have been issued in a transaction exempted from the federal registration requirements pursuant to the intrastate offering exemptions from the Securities Act of 1933, then the following legend should be placed on the stock certificate:

FOR A PERIOD OF NINE MONTHS FROM THE DATE OF THE LAST SALE OF SECURITIES BY THE ISSUER IN CONNECTION WITH THE OFFERING WHEREBY THESE SHARES WERE PURCHASED, ALL REALES OF THESE SECURITIES, BY ANY PERSON, SHALL BE MADE ONLY TO BONA FIDE PERMANENT RESIDENTS OF THE STATE OF [name of state].

3. STATE Securities Legend

State securities laws may require the imposition of additional legends. For example, in California, if securities are qualified with the Department of Corporations, the following legend is sometimes required by the Department of Corporations on the certificate:

IT IS UNLAWFUL TO CONSUMMATE A SALE OR TRANSFER OF THE SECURITIES, OR ANY INTEREST THEREIN OR TO RECEIVE ANY CONSIDERATION THEREFOR, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, EXCEPT AS PERMITTED IN THE COMMISSIONER'S RULES.

4. Restrictions on Transfer

If the company and the shareholders have entered into an agreement imposing restrictions on transfer of the shares or placing rights of first refusal on sale of the shares, a form of the following legend is appropriate. Restrictions on transfer may not be valid as against a purchaser without actual knowledge of the restriction unless the restriction is conspicuously noted on the certificate.

THE SHARE, TRANSFER, OR HYPOTHECATION OF THE SHARES REPRESENTED BY THIS CERTIFICATE IS RESTRICTED BY THE PROVISIONS OF AN AGREEMENT AMONG THE ISSUER OF THESE SHARES AND ITS SHAREHOLDERS, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE ISSUER.

5. Employee Restricted Stock

If the shares are issued pursuant to an Employee Restricted Stock Purchase Agreement that provides for vesting of the shares dependent upon continued employment with the company, or if the company or other shareholders have certain repurchase rights in connection with the shares, a variation of the following provision will be appropriate:

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO REPURCHASE PROVISIONS IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE ISSUER AND THE SHAREHOLDER, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE ISSUER.

6. Preferred Stock

If the stock to be issued is preferred stock, consider the following legend:

THE RIGHTS, PREFERENCES, PRIVILEGES AND RESTRICTIONS GRANTED TO OR IMPOSED UPON EACH CLASS OR SERIES OF SHARES OF THE CORPORATION ARE CONTAINED IN THE CORPORATION'S ARTICLES OF INCORPORATION, A COPY OF WHICH IS OBTAINABLE FROM THE SECRETARY OF THE CORPORATION UPON REQUEST AND WITHOUT CHARGE.

7. Other Legends

It may also be required by law or be otherwise appropriate that the share certificate reflect rights or liabilities attendant to the shares such as assessment rights, preemptive rights, special qualifications of persons who may be shareholders, restrictions on or assignment of voting rights, or rights of co-sale and the like.

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Company Credit Account Approval

Dear [Contact name],

This letter confirms your and our mutual intentions with respect to the potential transaction described herein between [NAME OF BUYER] (“Buyer”) and [NAME OF SELLER] (“Seller”)

1. Prices and Terms

We envisage that the principal terms of the proposed transaction would be substantially as follows:

(g) Business to be Acquired; Liabilities to be Assumed

We would acquire substantially all of the assets, tangible and intangible, owned by Seller that are used in, or necessary for the conduct of, its [BUSINESS TYPE] business, including, without limitation: (i) the [MAIN PRODUCT], subject to any obligations contained in disclosed license agreements and all related intellectual property; (ii) the fixed assets of Seller, (iii) any and all customer lists; and (iv) the goodwill associated therewith, all free and clear of any security interests, mortgages or other encumbrances.

(h) Consideration

The aggregate consideration for the assets and business to be purchased would be [AMOUNT]; provided, however, that the working capital (current assets less current liabilities) of the business to be purchased equals or exceeds [AMOUNT], as shown on a closing date balance sheet prepared in accordance with generally accepted accounting principles.

(i) Due Diligence Review

Promptly following the execution of this letter of intent, you will allow us to complete our examination of your financial, accounting and business records and the contracts and other legal documents and generally to complete due diligence. Any information obtained by us as a result thereof will be maintained by us in confidence subject to the terms of the Confidentiality Agreement executed by the parties and dated [DATE] (the “Confidentiality Agreement”). The parties will cooperate to complete due diligence expeditiously.

(j) Conduct in Ordinary Course

In addition to the conditions discussed herein and any others to be contained in a definitive written purchase agreement (the “Purchase Agreement”), consummation of the acquisition would be subject to having conducted your business in the ordinary course during the period between the date hereof and the date of closing and there having been no material adverse change in your business, financial condition or prospects.

(k) Definitive Purchase Agreement

All of the terms and conditions of the proposed transaction would be stated in the Purchase Agreement, to be negotiated, agreed and executed by you and us. Neither party intends to be bound by any oral or written statements or correspondence concerning the Purchase Agreement arising during the course of negotiations, notwithstanding that the same may be expressed in terms signifying a partial, preliminary or interim agreement between the parties.

(l) Employment Agreement

Simultaneously with the execution of the Purchase Agreement, we would enter into employment agreements with [OWNER A NAME] and [OWNER B NAME] on such terms and conditions as would be negotiated and agreed by them and us, including mutually agreeable provisions regarding term, base and incentive compensation, confidentiality, assignment to us of intellectual property rights in past and future work product and restrictions on competition. We would also offer employment to substantially all of Seller’s employees and would expect the management team to use its reasonable best efforts to assist us to employ these individuals.

(m) Timing

We and you would use all reasonable efforts to complete and sign the Purchase Agreement on or before [DATE] and to close the transaction as promptly as practicable thereafter.

7. Expenses

You and we will pay our respective expenses incident to this letter of intent, the Purchase Agreement and the transactions contemplated hereby and thereby.

8. Public Announcements

Neither you nor we will make any announcement of the proposed transaction contemplated by this letter of intent prior to the execution of the Purchase Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed. The foregoing shall not restrict in any respect your or our ability to communicate information concerning this letter of intent and the transactions contemplated hereby to your and our, and your and our respective affiliates', officers, directors, employees and professional advisers, and, to the extent relevant, to third parties whose consent is required in connection with the transaction contemplated by this letter of intent.

9. Broker's Fees

You and we have represented to each other than no brokers or finders have been employed who would be entitled to a fee by reason of the transaction contemplated by this letter of intent.

10. Exclusive Negotiating Rights

In order to induce us to commit the resources, forego other potential opportunities, and incur the legal, accounting and incidental expenses necessary properly to evaluate the possibility of acquiring the assets and business described above, and to negotiate the terms of, and consummate, the transaction contemplated hereby, you agree that for a period of [number of days] days after the date hereof, you, your affiliates and your and their respective officers, directors, employees and agents shall not initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal, regarding the possible acquisition by any person other than us, including, without limitation, by way of a purchase of shares, purchase of assets or merger, of all or any substantial part of your equity securities or assets, and shall not (other than in the ordinary course of business as heretofore conducted) provide any confidential information regarding your assets or business to any person other than us and our representatives.

11. Miscellaneous

This letter shall be governed by the substantive laws of the State of [STATE/PROVINCE] without regard to conflict of law principles. This letter constitutes the entire understanding and agreement between the parties hereto and their affiliates with respect to its subject matter and supersedes all prior or contemporaneous agreements, representations, warranties and understandings of such parties (whether oral or written). No promise, inducement, representation or agreement, other than as expressly set forth herein, has been made to or by the parties hereto. This letter may be amended only by written agreement, signed by the parties to be bound by the amendment. Evidence shall be inadmissible to show agreement by and between such parties to any term or condition contrary to or in addition to the terms and conditions contained in this letter. This letter shall be construed according to its fair meaning and not strictly for or against either party.

12. No Binding Obligation

Except for Sections 1(c) and 2 through 6, THIS LETTER OF INTENT DOES NOT CONSTITUTE OR CREATE, AND SHALL NOT BE DEEMED TO CONSTITUTE OR CREATE, ANY LEGALLY BINDING OR ENFORCEABLE OBLIGATION ON THE PART OF EITHER PARTY TO THIS LETTER OF INTENT. NO SUCH OBLIGATION SHALL BE CREATED, EXCEPT BY THE EXECUTION AND DELIVERY OF THE PURCHASE AGREEMENT CONTAINING SUCH TERMS AND CONDITIONS OF THE PROPOSED TRANSACTION AS SHALL BE AGREED UPON BY THE PARTIES, AND THEN ONLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH PURCHASE AGREEMENT.

The Confidentiality Agreement is hereby ratified and confirmed as a separate agreement between the parties thereto.

If the foregoing terms and conditions are acceptable to you, please so indicate by signing the enclosed copy of this letter and returning it to the attention of the undersigned.

Very truly yours,

[BUYER NAME]

Your title

Telephone contact

DR. LUBOGO ISAAC CHRISTOPHER

youremail@yourcompany.com

ACCEPTED AND AGREED

[SELLER COMPANY NAME]

By: _____

Title: _____

Option to Acquire Shares From a Shareholder

BETWEEN: [SELLER'S NAME] (the "Seller"), who owns [NUMBER] of shares of the common stock of [NAME OF COMPANY], a corporation organized and existing under the laws of the [STATE/PROVINCE] (the "Company")

AND: [BUYER'S NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is entered into upon the basis of the following facts and intentions of the parties:

- C. Seller owns [NUMBER] of shares of the common stock (the "Shares") of the Company.
- D. Buyer desires to obtain an option to purchase the Shares from Seller and Seller is willing to grant such an option to Buyer.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

Option

As of the date hereof, the Seller grants to Buyer an option (the "Option") to purchase all of the Shares from Seller upon all of the terms, covenants and conditions hereinafter set forth. The share certificates representing the Shares shall hereafter bear a legend referring to this Option Agreement.

Consideration for the Option

As consideration for the Option, Buyer shall pay to Seller the sum of \$[AMOUNT] on the date hereof. In the event this option is exercised, all consideration paid for the Option [SHALL OR SHALL NOT] be applied against and be deemed to be a payment upon the purchase price. In the event that Buyer does not exercise the Option, the consideration paid to Buyer for the Option [WILL OR WILL NOT] be retained by Seller without deduction or offset.

Term and Exercise

Buyer may exercise the Option at any time up to and until [DATE], by giving Seller written notice of his intention to exercise the Option.

Purchase Price

The purchase price (“Purchase Price”) which Buyer agrees to pay upon exercise of the Option is [AMOUNT] Dollars (\$[AMOUNT]) per share, payable in cash.

Number of Shares

The number and class of Shares specified in this Agreement and/or the Purchase Price are subject to appropriate adjustment in the event of any merger, reorganization, consolidation, recapitalization, liquidation, stock dividend, split-up, share combination or other change in the corporate structure of the Company affecting the Shares.

Representations and Warranties of Seller

The Seller represents and warrants to the Buyer that:

The Seller has full power and authority to execute and deliver this Agreement, and this Agreement is a valid and binding agreement enforceable against the Seller in accordance with its terms;

Neither the execution of this Agreement nor the sale of the Shares will constitute a violation of, or conflict with, or default under, any contract, commitment, agreement, understanding or arrangement to which the Seller is a party or by which Seller is bound or of any law, decree, or judgment;

Now and up to the time of exercise of the Option, the Seller will have valid title to the Shares, free and clear of all claims, liens, charges, encumbrances and security interests, and will transfer such Shares upon exercise of the Option to the Buyer free and clear of all claims, liens, charges, encumbrances and security interests;

The Purchase Price may or may not reflect the actual value of the Shares, that the Seller has investigated the value independently, that he has been represented by independent counsel, and that he understands that the value of the Shares when and if the Option is exercised may be significantly higher than the Purchase Price; and

Prior to [DATE], Seller shall not sell, assign, transfer, pledge, hypothecate, or otherwise encumber any of the Shares.

Cooperation

Each party shall, upon request of the other party, promptly execute and deliver all additional documents reasonably deemed by the requesting party to be necessary, appropriate or desirable to complete and evidence the sale, assignment and transfer of the Shares pursuant to this Agreement.

Representations and Warranties of the Buyer

Buyer represents and warrants to the Seller that (a) this Agreement is a valid and binding agreement enforceable against Buyer in accordance with its terms and (b) Buyer, if he exercises the option, will be purchasing the Shares for his own account and not with a view to or for sale in connection with any distribution of such Shares in violation of applicable securities laws.

Purchase and Sale

If Buyer exercises the Option, at a closing (the “Closing”), the Seller shall sell, transfer and deliver the Shares, represented by certificates duly endorsed in blank or accompanied by stock powers duly executed, to the Buyer, and the Buyer shall purchase the Shares in exchange for the Purchase Price.

Dividends and Voting Rights

Until the Option is exercised, if at all, all dividends and voting rights attendant to the Shares shall remain with Seller.

Buyer May Exercise Option For Less Than All Shares

Notwithstanding any other provision herein to the contrary, the Buyer may exercise the Option with respect to less than all of the Shares.

Survival

All representations, warranties and agreements made by the Seller and by the Buyer in this Agreement shall survive the execution of this Agreement and any Closing and any investigation at any time made by or on behalf of any party hereto.

Modification; Assignment

This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto. Buyer may assign his rights under this Agreement with the consent of Seller.

Successors

This Agreement will be binding upon, inure to the benefit of and be enforceable by and against the parties hereto and their respective heirs, beneficiaries, executors, representatives and permitted assigns.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

Entire Agreement

This Agreement constitutes the entire agreement among the parties with respect to its subject matter and supersedes all agreements, understanding, representations, or warranties, whether oral or written, by or among the parties, previously or contemporaneously made or given.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the Buyer and Seller as of the day and year first written below:

BUYER:

SELLER:

[BUYER NAME]

[SELLER NAME]

OPTION TO BUY AGREEMENT

BETWEEN: [COMPANY NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [NAME] (the "Buyer"), an individual, with its principal place of living located at:

1. Buyer hereby pays to Owner the sum of \$[AMOUNT] in consideration for this option, which option [SHALL OR SHALL NOT] be credited to the purchase price if option exercised.
2. Buyer has the option and the right to buy [DESCRIBE PROPERTY] during the option period for the full price of \$[AMOUNT].
3. This option will remain in effect until [DATE], and thereupon expire unless sooner exercised.
4. To exercise the option, Buyer must notify Owner of same by certified mail within the option period.
5. If Buyer exercises the option, then Buyer and Owner agree to sign the attached and completed contract of sale, and consummate the sale on its terms.
6. This option agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

Signed under seal this [DAY] day of [MONTH] [YEAR].

In the presence of [WITNESS NAME]
[OCCUPATION]

[OWNER NAME]

[BUYER NAME]

[DATE]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PROPOSAL TO Purchase [NAME OF BUSINESS]

Dear [CONTACT NAME],

We are interested in negotiating an agreement for the purchase and sale as a going concern of all the business assets, including furniture, fixtures and equipment, stock in trade, parts and supplies, leasehold interest and goodwill, owned by you in connection with the [TYPE OF BUSINESS] business carried on as [NAME OF BUSINESS] at [ADDRESS].

Subject to formal contract, we are prepared to pay [AMOUNT] for the business on the following terms:

[INSERT TERMS]

If you are interested in selling at this price on these terms, please let us know and we will make you a formal offer to purchase.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST HOLDER NAME] (the "First Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND HOLDER NAME] (the "Second Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD HOLDER NAME] (the "Third Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual promises, covenants and conditions herein contained and for other good and valuable consideration, the parties hereto agree as follows:

1. Definitions

Certain terms used herein are defined as follows:

"Board of Directors" means the Board of Directors of the Company and any committee thereof.

"Immediate Family" means any spouse, child, grandchild, parent, brother, or sister of a Holder.

"Shares" means any shares of capital stock of the Company or any securities convertible into or exchangeable for any class of capital stock of the Company and all securities into which such Shares may be converted or reclassified as a result of any merger, consolidation, stock split, stock dividend, or other recapitalization of the Company, whether now owned or hereafter acquired.

2. Restrictions on Transfer

No Holder may sell or engage in any transaction which has resulted in or will result in a change in the beneficial or record ownership of any Shares held by the Holder, including without limitation a voluntary or involuntary sale, assignment, transfer, pledge, hypothecation, encumbrance, disposal, loan, gift, attachment or levy (a "Transfer"), except as provided in this Agreement, and any such Transfer of Shares or attempted Transfer of Shares in contravention of this Agreement shall be void and ineffective for any purpose or confer on any transferee or purported transferee any rights whatsoever.

3. Right of First Refusal

- a. Each time a Holder proposes to Transfer (or is required by operation of law or other involuntary transfer) any or all of the Shares standing in such Holder's name or owned by him or her during the term of this Agreement, such Holder shall first offer such Shares to the Company in accordance with the following provisions:

- b. Such Holder shall deliver a written notice (a “Notice”) to the Company stating (a) such Holder's bona fide intention to Transfer such Shares, (b) the name and the address of the proposed transferee, (c) the number of Shares to be transferred, and (d) the purchase price per Share and terms of payment for which the Holder proposes to Transfer such Shares.
- c. Within [NUMBER] days after receipt of the Notice, the Company or its designee shall have the first right to purchase or obtain such Shares, upon the price and terms of payment designated in the Notice. If the Notice provides for the payment of non-cash consideration, the Company at its option may pay the consideration in cash equal to the Company's good faith estimate of the present fair market value of the non-cash consideration offered.
- d. If the Company or its designee elects not to purchase or obtain all of the Shares designated in the selling Holder's Notice, then the Holder may Transfer the Shares referred to in the Notice to the proposed transferee, providing such Transfer (a) is completed within 30 days after the expiration of the Company's right to purchase or obtain such Shares, (b) is made at the price and terms designated in the Notice, and (c) the proposed Transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon receipt of such Shares. If such Shares are not so transferred, the selling Holder must give notice in accordance with this paragraph prior to any other or subsequent Transfer of such Shares.
- e. Notwithstanding Section 3(a), a Holder may Transfer Shares: (i) to a member of the Holder's Immediate Family or to a trust established for the benefit of a member or members of the Holder's Immediate Family, (ii) to an affiliate or equity holder of the Holder, (iii) to a person who is a constituent partner of the Holder on the date hereof, or (iv) to the estate of any of the foregoing by gift, will or intestate succession; provided that the Holder or his representative notifies the Company of such Transfer not less than [NUMBER] nor more than [NUMBER] days prior to the Transfer and that the proposed transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon the receipt of such Shares.

4. No Transfer to Competitors

A Holder may not Transfer any Shares to a competitor of the Company, or to any shareholder, partner or other beneficial holder of an equity ownership interest in a competitor, other than pursuant to a merger, combination, or other transaction approved by the Board of Directors.

5. Governing Law

Notwithstanding any provisions to the contrary contained in this Agreement, the Company's obligations to pay or complete payment for any Shares to be purchased by it under this Agreement is subject to its being legally permitted to do so under the tests contained in Sections [NUMBER] of the [STATE/PROVINCE/COUNTRY] General Corporation Law or any successor statute applicable thereto.

6. Legend on Stock Certificates

Each certificate representing shares owned of record or beneficially by a party to this Agreement shall be endorsed with the following legend:

THE SHARES EVIDENCED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL AGREEMENT BETWEEN [NAME OF COMPANY] (THE COMPANY) AND THE HOLDERS THAT ARE SIGNATORIES THERETO, PROVIDING FOR, AMONG OTHER MATTERS, THE COMPANY'S RIGHT OF FIRST REFUSAL TO PURCHASE THE SECURITIES REPRESENTED BY THIS CERTIFICATE. A COPY OF SUCH AGREEMENT IS ON FILE AT THE PRINCIPAL BUSINESS OFFICE OF THE COMPANY.

Under no circumstances shall any Transfer of any Shares subject hereto be valid until the proposed transferee thereof shall have executed and become a party to this Agreement and thereby shall have become subject to all of the provisions hereof; and notwithstanding any other provisions of this Agreement, no such Transfer of any kind shall in any event result in the non-applicability of the provisions hereof at any time to any of the Shares subject hereto.

7. Term of Agreement

The restrictions on Transfer of Shares set forth in this Agreement shall terminate upon any of the following:

- a. The determination of the Board of Directors that this Agreement shall be terminated.

- b. The dissolution or bankruptcy of the Company.
- c. The consummation of a public offering for any of the common stock of the Company registered under the [LAW/CODE/ACT].

8. Acknowledgments

Each Holder acknowledges that other shareholders of the Company may have restrictions on their shareholdings different than the terms contained herein.

9. Further Assurances

Each party hereto agrees to perform any and all further acts and to execute and deliver any documents which may reasonably be necessary to carry out the provisions of this Agreement.

10. Modification

This Agreement as applied to any Holder may be amended at any time by the written agreement of the Company and a Holder affected thereby.

11. Will Provisions

Each Holder agrees to insert in his or her will, or to execute a codicil thereto, directing and authorizing his or her executor to fulfill and comply with the provisions hereof.

12. Notice

Any notice required or permitted hereunder shall be delivered in person or sent by telecopier, air courier or certified mail, return receipt requested, postage and fees prepaid in all cases; in the case of the Company, to the then current address of its then principal business office, to the attention of the Chairman of its Board of Directors, and, in the case of a Holder, to the address of such Holder shown on the signature page hereto, or to such other address as will have been specified by prior written notice to the sending party. Notice shall be effective upon delivery if it is hand-delivered; upon receipt if it is transmitted by telecopier, air courier or registered, certified or express mail; upon expiration of the third business day after deposit in the [COUNTRY] mail if mailed from and to an address in the [COUNTRY]; and upon expiration of the tenth business day after deposit in the [COUNTRY] mail if mailed from or to an address outside the [COUNTRY].

13. Succession

This Agreement shall be binding upon and inure to the benefit of the parties hereto and upon their permitted successors in interest of any kind whatsoever, their heirs, executors, administrators, and personal representatives.

14. Governing Law

This Agreement will be governed in all respects by the laws of the State of [STATE/PROVINCE] as such laws are applied to agreements between [STATE/PROVINCE] residents entered into and to be performed entirely within [STATE/PROVINCE], without regard to conflicts of law [principles]. The parties hereby consent to the exclusive jurisdiction of the state or federal courts located in the State of [STATE/PROVINCE], for the resolution of any disputes arising out of this Agreement.

15. Counterparts

This Agreement may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

16. Sole Agreement

This Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements and understandings pertaining thereto whether oral or written.

17. Construction

The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. The language of this Agreement shall be construed as to its fair meaning and not strictly for or against any party.

18. Severability

If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be enforceable in accordance with its terms and interpreted as if such provisions were as excluded.

19. Attorney Fees

In the event that any dispute among the parties hereto should result in litigation or arbitration, the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

FIRST HOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

SECOND HOLDER

THIRD HOLDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

Consent of Spouse

The undersigned spouse(s) of the party (parties) to the foregoing Agreement acknowledge(s) on his or her own behalf that: I have read the foregoing Agreement and I know its contents. I am aware that by its provisions my spouse grants the Company an option to purchase all of his or her shares of the Company, including my community interest in them. I hereby consent to the sale, approve of the provisions of the Agreement, and agree that those shares and my interest in them are subject to the provisions of the Agreement and that I will take no action at any time to hinder operation of the Agreement on those shares or my interest in them.

SPOUSE

SPOUSE

Signature

Signature

Name

Name

SPOUSE

SPOUSE

Signature

Signature

Name

Name

STOCK AGREEMENT

This Stock Agreement (the "Agreement") is made and effective [DATE]

BETWEEN: [CORPORATION NAME] (the "Corporation"), an individual having is principal place of living located at:

AND: [STOCKHOLDER NAME] (the "First Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [STOCKHOLDER NAME] (the "Second Stockholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. The above-named stockholders desire to assure continuity of ownership of the corporation.
- B. The stockholders, after mutual consultations, have agreed, in order to insure such continuity, to restrict the sale or transfer of shares of the corporation, both during the lifetime and at the death of any of the stockholders.

For the reasons above set forth, and in consideration of the mutual covenants and promises of the parties hereto, the corporation and the stockholders agree as follows:

1. FIRST RIGHT OF PURCHASE IN CORPORATION

If any stockholder shall, during the stockholder's lifetime, desire to sell or transfer all or any part of the stockholder's shares of stock in the corporation, the stockholder shall first offer to sell the above-mentioned shares to the corporation at a price per share equal to the then book value of each of the shares as of the last day of the calendar month next preceding the date the shares are offered for sale. Book value shall be determined by the independent certified accountants for the corporation and such valuation shall be in accordance with generally accepted accounting principles consistent with the method of accounting then employed by the corporation and shall be binding on the parties.

2. OFFER TO OTHER STOCKHOLDERS IF CORPORATION DOES NOT PURCHASE

The offer to sell shall be communicated in writing by the selling stockholder to the board of directors of the corporation and to all other stockholders, and the corporation shall have a period of [NUMBER] days after receipt of such notice in which to exercise its rights to purchase the shares at a price determined as specified in Section One. If the corporation shall refuse or neglect to notify the selling stockholder in writing of its intention to purchase the shares within the [NUMBER]-day period, or if the corporation is prohibited by law from making such a purchase or redemption, the selling stockholder shall then notify in writing the other stockholders of the stockholder's intention to sell and the number of shares offered for sale and the other stockholders shall have an additional period of [NUMBER] days within which to accept the offer to sell on the same terms and conditions as offered to the corporation, each of the other stockholders having the right to purchase the number of shares owned by the selling stockholder equal to such purchasing stockholders' proportionate ownership of the corporation immediately prior to the receipt of such offer to sell.

3. STOCKHOLDER'S RIGHTS IF NEITHER CORPORATION NOR OTHER STOCKHOLDERS EXERCISE OPTION

If neither the corporation nor the other stockholders elect to purchase the shares within the time limited on the terms set forth above, the stockholder desiring to sell or transfer his or her shares shall be free to do so to any other person or corporation free of any restrictions provided herein; provided, however, that such sale or transfer shall not be on terms less favorable to the selling stockholder unless the less favorable terms are re-offered to the corporation and/or the other stockholders as herein provided. If the sale or transfer to any other such person or corporation is not completed within [NUMBER] days after the expiration of the periods of time set forth in this agreement, the selling stockholder must, before making any subsequent sale or transfer, re-offer the shares to the corporation and/or the other stockholders as provided in this agreement.

4. CLOSING OF SALE

The closing of the sale and transfer of such shares to the corporation or to the other stockholders of the corporation shall take place within [NUMBER] days after the acceptance of the selling stockholders' offer to sell and the purchase price so determined shall be paid by the purchasers to the seller by means of a promissory note due [NUMBER] years from date, bearing interest at the rate of [%] per annum on the unpaid principal balance, principal payable in full at the end of the [NUMBER]-year term, plus interest. Such promissory note shall permit prepayment at any time without penalty.

Simultaneously with such payments, the stock of the selling stockholder shall be delivered to the purchaser in such form as to effectively transfer such shares, at which time such selling stockholder's rights as a shareholder of the corporation shall cease to exist as to the shares so transferred.

5. DEATH OF STOCKHOLDER

On the death of a stockholder named above, the corporation shall purchase and the estate or personal representative of the deceased stockholder shall sell the decedent's stock in the corporation for a consideration equal to the book value of such stock as established by the accountants for the corporation as herein provided above. In the event the corporation is then prohibited by law from making such purchase or redemption of the decedent's shares of stock in the corporation, the then surviving stockholders of the corporation shall purchase and the decedent's estate shall sell all of the shares of stock owned by the decedent on the date of his or her death at the same price and on the same terms and conditions as set forth above. In the event of the survival of two or more stockholders of the corporation; each shall be jointly and severally liable to the decedent's estate for the purchase price, but as between them they shall share such liability in the ratio that the number of the shares of stock respectively owned by them at the time of the decedent's death bears to the aggregate number of such shares and the shares of stock owned by the decedent's estate shall, in like manner, be apportioned between them based on their proportionate ownership of the shares of stock of the corporation at the date of the decedent's death. The closing of the sale and purchase of the shares by the corporation or, in the event of its inability to complete the purchase by the surviving stockholders shall be made within [NUMBER] months after the date of the deceased stockholder's death. In making the valuation of the shares, the accountants for the corporation shall determine the book value as herein provided as of the end of the calendar month next preceding the date of the decedent's death.

6. LEGEND ON STOCK CERTIFICATE

No stockholder of the corporation shall sell or offer to sell to a person not a party to this agreement, nor transfer or assign any of his or her right, title, or interest in or to any stock owned by the stockholder during the stockholder's lifetime nor shall a stockholder's heirs, personal representatives, successors, or assigns make any such sale or transfer of such shares after the death of any of the stockholders except in accordance with the terms and conditions of this agreement. Certificates of stock subject to this agreement shall be endorsed as follows: "This certificate of stock is subject to a stock purchase agreement between its owners, the issuing corporation, and the other stockholders thereof, dated [DATE] and is transferable only in accordance with the agreement."

7. TERMINATION OF AGREEMENT.

This agreement shall terminate and become null and void on the occurrence of any of the following events:

- A. Cessation of the corporate business or enterprise during the lifetime of the stockholders;
- B. Bankruptcy or receivership or dissolution of the corporation;
- C. Death of the stockholders simultaneously or within a period of [NUMBER] days, one from the other; or
- D. Mutual agreement of termination executed by all of the stockholders of the corporation and shown in the minute book.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CORPORATION

FIRST STOCKHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECOND STOCKHOLDER

Authorized Signature

Print Name and Title

Number _____

[Name of Corporation]

A [State] Corporation

[# Issued] Shares

[Common/PREFERRED] Stock

This certifies that [SHAREHOLDER] is the record holder of [Number Issued] shares of [Common/PREFERRED] stock of [NAME OF CORPORATION] transferable only on the share register of the corporation, in person or by duly authorized attorney, upon surrender of this certificate properly endorsed or assigned.

This certificate and the shares represented hereby are issued and shall be held subject to all the provisions of the Articles of Incorporation and the By-Laws of the corporation and any amendments thereto.

A statement of all of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights may be obtained by any stockholder, upon request and without charge, at the principal office of the corporation.

WITNESS the signatures of its duly authorized officers this [day] of [MONTH], [YEAR].

[Name of Secretary], Secretary

[Name of President], President

SEE RESTRICTIVE LEGENDS ON REVERSE

For Value Received [NAME] hereby sells, assigns, and transfers unto, [NAME], [NUMBER] shares represented by the within certificate and hereby irrevocably constitutes and appoints [attorney] to transfer the said shares on the share register of the within named corporation with full power of substitution in the premises.

Dated [DATE]

In presence of _____

Witness

Stockholder

NOTICE: THE SIGNATURE ON THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER [CODE OR LAW]. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT, IF ANY, COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

STOCK OPTION AGREEMENT

THE SECURITY REPRESENTED BY THIS CERTIFICATE HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE [ACT], AS AMENDED.

This Stock Option Agreement (“Agreement”) is made and entered into as of the date of grant set forth below (the “Date of Grant”)

BETWEEN: [COMPANY NAME] (the "Company), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [OPTIONEE NAME] (the "Optionee"), an individual with his main address at:

Capitalized terms not defined herein shall have the meaning ascribed to them in the Company’s [Year of Plan] Stock Option & Incentive Plan (the “Plan”).

Total Option Shares:

Exercise Price Per Share:

Date of Grant:

First Vesting Date:

Expiration Date for Exercise of Options:

Type of Stock Option:

(Check one): Incentive Stock Option
 Statutory Stock Option

1. Grant of Option

The Company hereby grants to Optionee an option (the “Option”) to purchase the total number of shares of Common Stock of the Company set forth above (the “Shares”) at the Exercise Price Per Share set forth above (the “Exercise Price”), subject to all of the terms and conditions of this Agreement and the Plan. If designated as an Incentive Stock Option above, the Option is intended to qualify as an “incentive stock option” (“ISO”) within the meaning of Section [number] of the [CODE], as amended (the “Code”). Only Employees of the Company shall receive ISOs.

2. Exercise Price

The Exercise Price, is not less than the fair market value per share of Common Stock on the date of grant, as determined by the Board; provided, however, in the event Optionee is an Employee and owns stock representing more than [%] of the total combined voting power of all classes of stock of the Company or of its Parent or Subsidiary corporations immediately before this Option is granted, said exercise price is not less than one hundred ten percent [%] of the fair market value per share of Common Stock on the date of grant as determined by the Board.

3. Exercise of Option

This Option shall be exercisable during its term in accordance with the provisions of [PLAN] as follows:

a. Vesting

- i. This Option shall not become exercisable as to any of the number of the Shares as follows (check one):

Four Year Vesting:

Until the date that is [NUMBER] year from the date of grant of the Option (the "Anniversary Date"). On the Anniversary Date, this Option may be exercised to the extent of [%] of the Shares. Upon the expiration of each calendar month from the Anniversary Date, this Option may be exercised to the extent of the product of (a) the total number of Shares set forth at the beginning of this Agreement and (b) the fraction the numerator of which is [NUMBER] and the denominator of which is [NUMBER] (the "Monthly Vesting Amount"), plus the shares as to which the right to exercise the Option has previously accrued but has not been exercised; provided, however, that notwithstanding any of the above, the [%] exercisable on the Anniversary Date and the Monthly Vesting Amount with respect to any calendar month shall become exercisable only if the Employee was an employee of the Company or any Subsidiary of the Company as of the Anniversary Date and the last day of such month, respectively. Any time that the Optionee is on leave or is absent from performing services for the Company shall not be counted towards the vesting provided herein.

[] Alternate Vesting Schedule: As follows:

- ii. This Option may not be exercised for a fraction of a Share.
- iii. In the event of Optionee's death, disability or other termination of employment, the exercisability of the Option is governed by Sections 7, 8 and 9 below, subject to the limitations contained in subsection 3(i)(d).
- iv. In no event may this Option be exercised after the date of expiration of the term of this Option as set forth in Section 11 below.

b. Method of Exercise

This Option shall be exercisable by written notice which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such shares of Common Stock as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered in person or by certified mail to the President, Secretary or Chief Financial Officer of the Company. The written notice shall be accompanied by payment of the exercise price.

No Shares will be issued pursuant to the exercise of an Option unless such issuance and such exercise shall comply with all relevant provisions of law and the requirements of any stock exchange upon which the Shares may then be listed. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.

- c. Adjustments, Merger, etc. The number and class of the Shares and/or the exercise price specified above are subject to appropriate adjustment in the event of changes in the capital stock of the Company by reason of stock dividends, split-ups or combinations of shares, reclassifications, mergers, consolidations, reorganizations or liquidations. Subject to any required action of the shareholders of the Company, if the Company shall be the surviving corporation in any merger or consolidation, this Option (to the extent that it is still outstanding) shall pertain to and apply to the securities to which a holder of the same number of shares of Common Stock that are then subject to this Option would have been entitled. A dissolution or liquidation of the Company, or a merger or consolidation in which the Company is not the surviving corporation, will cause this Option to terminate, unless the agreement or merger or consolidation shall otherwise provide, provided that the Optionee shall, if the Board expressly authorizes, in such event have the right immediately prior to such dissolution or liquidation, or merger or consolidation, to exercise this Option in whole or part. To the extent that the foregoing adjustments relate to stock or securities of the Company, such adjustments shall be made by the Board, whose determination in that respect shall be final, binding and conclusive.

4. Optionee's Representations

- a. By receipt of this Option, by its execution, and by its exercise in whole or in part, Optionee represents to the Company that Optionee understands that:
- b. Both this Option and any Shares purchased upon its exercise are securities, the issuance by the Company of which requires compliance with federal and state securities laws;
- c. These securities are made available to Optionee only on the condition that Optionee makes the representations contained in this Section 4 to the Company;

- d. Optionee has made a reasonable investigation of the affairs of the Company sufficient to be well informed as to the rights and the value of these securities;
- e. Optionee understands that the securities have not been registered under the [ACT], as amended (the "Act") in reliance upon one or more specific exemptions contained in the Act, which may include reliance on [RULE] promulgated under the Act, if available, or which may depend upon (a) Optionee's bona fide investment intention in acquiring these securities; (b) Optionee's intention to hold these securities in compliance with federal and state securities laws; (c) Optionee having no present intention of selling or transferring any part thereof (recognizing that the Option is not transferable) in violation of applicable federal and state securities laws; and (d) there being certain restrictions on transfer of the Shares subject to the Option;
- f. Optionee understands that the Shares subject to this Option, in addition to other restrictions on transfer, must be held indefinitely unless subsequently registered under the Act, or unless an exemption from registration is available; that [RULE], the usual exemption from registration, is only available after the satisfaction of certain holding periods and in the presence of a public market for the Shares; that there is no certainty that a public market for the Shares will exist, and that otherwise it will be necessary that the Shares be sold pursuant to another exemption from registration which may be difficult to satisfy; and
- g. Optionee understands that the certificate representing the Shares will bear a legend prohibiting their transfer in the absence of their registration or the opinion of counsel for the Company that registration is not required, and a legend prohibiting their transfer in compliance with applicable state securities laws unless otherwise exempted.

5. Method of Payment

Payment of the purchase price shall be made by cash, check or, in the sole discretion of the Board at the time of exercise, promissory notes or other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate purchase price of the Shares being purchased.

6. Restrictions on Exercise

This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any applicable law or regulation. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by any applicable law or regulation.

7. Termination of Status as an Employee

In the event of termination of Optionee's Continuous Status as an Employee for any reason other than death or disability, Optionee may, but only within [NUMBER] days after the date of such termination (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent that Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of such termination, or if Optionee does not exercise this Option within the time specified herein, this Option shall terminate.

8. Disability of Optionee

In the event of termination of Optionee's Continuous Status as an Employee as a result of Optionee's disability, Optionee may, but only within [NUMBER] months from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination; provided, however that if the disability is not total and permanent and the Optionee exercises the option within the period provided above but more than three months after the date of termination, this Option shall automatically be deemed to be a Non-statutory Stock Option and not an Incentive Stock Option; and provided, further, that if the disability is total and permanent then the Optionee may, but only within [NUMBER] year from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of termination, or if Optionee does not exercise such Option within the time periods specified herein, this Option shall terminate.

9. Death of Optionee

In the event of the death of Optionee:

- a. During the term of this Option while an Employee of the Company and having been in Continuous Status as an Employee since the date of grant of this Option, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in case of an Incentive Stock Option, in no event later than the date of expiration of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the time of death of the Optionee. To the extent that such Employee was not entitled to exercise the Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] years time period specified herein, the Option shall terminate; or
- b. During the [NUMBER] day period specified in Section 7 or the [NUMBER] year period specified in Section 8, after the termination of Optionee's Continuous Status as an Employee, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in the case of an Incentive Stock Option, in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of termination. To the extent that such Employee was not entitled to exercise this Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] year time period specified herein, this Option shall terminate.

10. Non-Transferability of Option

This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee, only by Optionee. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

11. Term of Option

This Option may not be exercised more than [Number of years] years from the date of grant of this Option, and may be exercised during such term only in accordance with the Plan and terms of this Option; provided, however, that the term of this option, if it is a Non-statutory Stock Option, may be extended for the period set forth in Section 9(a) or Section 9(b) in the circumstances set forth in such Sections.

12. Early Disposition of Stock; Taxation Upon Exercise of Option

If Optionee is an Employee and the Option qualifies as an ISO, Optionee understands that, if Optionee disposes of any Shares received under this Option within [NUMBER] years after the date of this Agreement or within [NUMBER] year after such Shares were transferred to Optionee, Optionee will be treated for federal income tax purposes as having received ordinary income at the time of such disposition in any amount generally measured as the difference between the price paid for the Shares and the lower of the fair market value of the Shares at the date of exercise or the fair market value of the Shares at the of disposition. Any gain recognized on such premature sale of the Shares in excess of the amount treated as ordinary income will be characterized as capital gain. Optionee hereby agrees to notify the Company in writing within [NUMBER] days after the date of any such disposition. Optionee understands that if Optionee disposes of such Shares at any time after the expiration of such two-year and one-year holding periods, any gain on such sale will be treated as long-term capital gain laws subject to meeting various qualifications. If Optionee is a Consultant or this is a Non-statutory Stock Option, Optionee understands that, upon exercise of this Option, Optionee will recognize income for tax purposes in an amount equal to the excess of the then fair market value of the Shares over the exercise price. Upon a resale of such shares by the Optionee, any difference between the sale price and the fair market value of the Shares on the date of exercise of the Option will be treated as capital gain or loss. Optionee understands that the Company will be required to withhold tax from Optionee's current compensation in some of the circumstances described above; to the extent that Optionee's current compensation is insufficient to satisfy the withholding tax liability, the Company may require the Optionee to make a cash payment to cover such liability as a condition to exercise of this Option.

13. Tax Consequences

The Optionee understands that any of the foregoing references to taxation are based on federal income tax laws and regulations now in effect, and may not be applicable to the Optionee under certain circumstances. The Optionee may also have adverse tax consequences under state or local law. The Optionee has reviewed with the Optionee's own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. The Optionee is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. The Optionee understands that the Optionee (and not the Company) shall be responsible for the Optionee's own tax liability that may arise as a result of the transactions contemplated by this Agreement.

14. Severability; Construction

In the event that any provision in this Option shall be invalid or unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Option. This Option shall be construed as to its fair meaning and not for or against either party.

15. Damages

The parties agree that any violation of this Option (other than a default in the payment of money) cannot be compensated for by damages, and any aggrieved party shall have the right, and is hereby granted the privilege, of obtaining specific performance of this Option in any court of competent jurisdiction in the event of any breach hereunder.

16. Governing Law

This Option shall be deemed to be made under and governed by and construed in accordance with the laws of the State of [State]. Jurisdiction for any disputes hereunder shall be solely in [City], [State].

17. Delay

No delay or failure on the part of the Company or the Optionee in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by any of them of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

18. Restrictions

Notwithstanding anything herein to the contrary, Optionee understands and agrees that Optionee shall not dispose of any of the Shares, whether by sale, exchange, assignment, transfer, gift, devise, bequest, mortgage, pledge, encumbrance or otherwise, except in accordance with the terms and conditions of this Section 18, and Optionee shall not take or omit any action which will impair the absolute and unrestricted right, power, authority and capacity of Optionee to sell Shares in accordance with the terms and conditions hereof.

Any purported transfer of Shares by Optionee that violates any provision of this Section 18 shall be wholly void and ineffectual and shall give to the Company or its designee the right to purchase from Optionee all but not less than all of the Shares then owned by Optionee for a period of [NUMBER] days from the date the Company first learns of the purported transfer at the Agreement Price and on the Agreement Terms. If the Shares are not purchased by the Company or its designee, the purported transfer thereof shall remain void and ineffectual and they shall continue to be subject to this Agreement.

The Company shall not cause or permit the transfer of any Shares to be made on its books except in accordance with the terms hereof.

a. 1) Permitted Transfers

- i. Optionee may sell, assign or transfer any Shares held by the Optionee but only by complying with the provisions of subsection (b)(1) of this Section 18.
- ii. Optionee may sell, assign or transfer any Shares held by the Optionee without complying with the provisions of subsection (b)(1) by obtaining the prior written consent of the Company's shareholders owning [%] of the then issued and outstanding shares of the Company's Common Stock (determined on a fully diluted basis) or a majority of the members of the Board of Directors of the Company, provided that the transferee agrees in writing to be bound by the provisions of this Option and the transfer is made in accordance with any other restrictions or conditions contained in the written consent and in accordance with applicable federal and state securities laws.

- iii. Upon the death of Optionee, Shares held by the Optionee may be transferred to the personal representative of the Optionee's estate without complying with the provisions of subsection (b)(1). Shares so transferred shall be subject to the other provisions of this Option, including in particular subsection (b)(2).

a. 2) No Pledge

Unless a majority of the members of the Board of Directors consent, Shares may not be pledged, mortgaged or otherwise encumbered to secure indebtedness for money borrowed or any other obligation for which the Optionee is primarily or secondarily liable.

a. 3) Stock Certificate Legend

Each stock certificate for Shares issued to the Optionee shall have conspicuously written, printed, typed or stamped upon the face thereof, or upon the reverse thereof with a conspicuous reference on the face thereof, one or both of the following legend:

- i. THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT. SUCH SHARES MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, OR OTHERWISE DISPOSED OF IN ANY MANNER EXCEPT IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE STOCK OPTION AGREEMENT, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. UNLESS A MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS CONSENT, SUCH STOCK OPTION AGREEMENT PROHIBITS ANY PLEDGE, MORTGAGE OR OTHER ENCUMBRANCE OF SUCH SHARES TO SECURE ANY OBLIGATION OF THE HOLDER HEREOF. EVERY CREDITOR OF THE HOLDER HEREOF AND ANY PERSON ACQUIRING OR PURPORTING TO ACQUIRE THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN IS HEREBY NOTIFIED OF THE EXISTENCE OF SUCH STOCK OPTION AGREEMENT, AND ANY ACQUISITION OR PURPORTED ACQUISITION OF THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN SHALL BE SUBJECT TO ALL RIGHTS AND OBLIGATIONS OF THE PARTIES TO SUCH STOCK OPTION AGREEMENT AS THEREIN SET FORTH.

- ii. IT IS UNLAWFUL TO CONSUMMATE A SALE OR TRANSFER OF THIS SECURITY, OR ANY INTEREST THEREIN, OR TO RECEIVE ANY CONSIDERATION THEREFOR, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF CORPORATIONS OF THE STATE OF [STATE/PROVINCE], EXCEPT AS PERMITTED IN THE COMMISSIONER'S RULES.

b. 1) Sales of Shares

- i. Company's Right of First Refusal. In the event that the Optionee shall desire to sell, assign or transfer any Shares held by the Optionee to any other person (the "Offered Shares") and shall be in receipt of a bona fide offer to purchase the Offered Shares ("Offer"), the following procedure shall apply. The Optionee shall give to the Company written notice containing the terms and conditions of the Offer, including, but not limited to (a) the number of Offered Shares; (b) the price per Share; (c) the method of payment; and (d) the name(s) of the proposed purchaser(s).

An offer shall not be deemed bona fide unless the Optionee has informed the prospective purchaser of the Optionee's obligation under this Option and the prospective purchaser has agreed to become a party hereunder and to be bound hereby. The Company is entitled to take such steps as it reasonably may deem necessary to determine the validity and bona fide nature of the Offer.

Until [NUMBER] days after such notice is given, the Company or its designee shall have the right to purchase all of the Offered Shares at the price offered by the prospective purchaser and specified in such notice. Such purchase shall be on the Agreement Terms, as defined in subsection (b)(4).

- ii. Failure of Company or its Designee to Purchase Offered Shares. If all of the Offered Shares are not purchased by the Company and/or its designee within the [NUMBER]-day period granted for such purchases, then any remaining Offered Shares may be sold, assigned or transferred pursuant to the Offer; provided, that the Offered Shares are so transferred within [NUMBER] days of the expiration of the [NUMBER]-day period to the person or persons named in, and under the terms and conditions of, the bona fide Offer described in the notice to the Company; and provided further, that such persons agree to execute and deliver to the Company a written agreement, in form and content satisfactory to the Company, agreeing to be bound by the terms and conditions of this Option.

b. 2) Manner of Exercise

Any right to purchase hereunder shall be exercised by giving written notice of election to the Optionee, the Optionee's personal representative or any other selling person, as the case may be, prior to the expiration of such right to purchase.

b. 3) Agreement Price

The "Agreement Price" shall be the higher of (A) the fair market value of the Shares to be purchased determined in good faith by the Board of Directors of the Company and (B) the original exercise price of the Shares to be purchased.

b. 4) Agreement Terms

"Agreement Terms" shall mean and include the following:

- i. Delivery of Shares and Closing Date. At the closing, the Optionee, the Optionee's personal representative or such other selling person, as the case may be, shall deliver certificates representing the Shares, properly endorsed for transfer, and with the necessary documentary and transfer tax stamps, if any, affixed, to the purchaser of such Shares. Payment of the purchase price therefore shall concurrently be made to the Optionee, the Optionee's personal representative or such other selling person, as provided in subsection (ii) of this subsection (b)(4). Such delivery and payment shall be made at the principal office of the Company or at such other place as the parties mutually agree.
- ii. Payment of Purchase Price. The Company shall pay the purchase price to the Optionee at the closing.

b. 5) Right to Purchase Upon Certain Other Events

The Company or its designee shall have the right to purchase all, but not less than all, of the Shares held by the Optionee at the Agreement Price and on the Agreement Terms for a period of [NUMBER] days after any of the following events:

- i. an attempt by a creditor to levy upon or sell any of the Optionee's Shares;
- ii. the filing of a petition by the Optionee under the [COUNTRY] Bankruptcy Code or any insolvency laws;
- iii. the filing of a petition against Optionee under any insolvency or bankruptcy laws by any creditor of the Optionee if such petition is not dismissed within [NUMBER] days of filing;
- iv. the entry of a decree of divorce between the Optionee and the Optionee's spouse; or
- v. If Optionee is an employee of the Company, upon the termination of Optionee's services as an employee.

The Optionee shall provide the Company written notice of the occurrence of any such event within [NUMBER] days of such event.

c. 1) Termination

The provisions of this Section 18 shall terminate and all rights of each such party hereunder shall cease except for those which shall have theretofore accrued upon the occurrence of any of the following events:

- i. cessation of the Company's business;
- ii. bankruptcy, receivership or dissolution of the Company;
- iii. ownership of all of the issued and outstanding shares of the Company by a single shareholder of the Company;
- iv. written consent or agreement of the shareholders of the Company holding 50% of the then issued and outstanding shares of the Company;
- v. consent or agreement of a majority of the members of the Board of Directors of the Company; or
- vi. registration of any class of equity securities of the Company pursuant to Section [NUMBER] of the [ACT], as amended.

c. 2) Amendment

This Section 18 may be modified or amended in whole or in part by a written instrument signed by shareholders of the Company holding [%] of the outstanding shares of Common Stock or a majority of the members of the Board of Directors of the Company.

19. Market Standoff

Unless the Board of Directors otherwise consents, Optionee agrees hereby not to sell or otherwise transfer any Shares or other securities of the Company during the [NUMBER]-day period following the effective date of a registration statement of the Company filed under the Act; provided, however, that such restriction shall apply only to the first two registration statements of the Company to become effective under the Act which includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the Act. The Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such [NUMBER]-day period.

20. Complete Agreement

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all other prior or contemporaneous agreements and understandings both oral or written; subject, however, that in the event of any conflict between this Agreement and the Plan, the Plan shall govern. This Agreement may only be amended in a writing signed by the Company and the Optionee.

21. Privileges of Stock Ownership

Participant shall not have any of the rights of a shareholder with respect to any Shares until Optionee exercises the Option and pay the Exercise Price.

22. Notices

Any notice required to be given or delivered to the Company under the terms of this Agreement shall be in writing and addressed to the Corporate Secretary of the Company at its principal corporate offices. Any notice required to be given or delivered to Optionee shall be in writing and addressed to Optionee at the address indicated above or to such other address as such party may designate in writing from time to time to the Company. All notices shall be deemed to have been given or delivered upon: personal delivery; [NUMBER] days after deposit in the [COUNTRY] mail by certified or registered mail (return receipt requested); [NUMBER] business day after deposit with any return receipt express courier (prepaid); or [NUMBER] business day after transmission by fax.

DATE OF GRANT: [DATE]

[NAME OF CORPORATION]

NAME AND TITLE

OPTIONEE ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO SECTION 3 HEREOF IS EARNED ONLY BY CONTINUING SERVICE AS AN EMPLOYEE OR CONSULTANT AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION, THE COMPANY'S PLAN WHICH IS INCORPORATED HEREIN BY REFERENCE, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS AN EMPLOYEE OR CONSULTANT FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S EMPLOYMENT OR CONSULTING RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan, represents that Optionee is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of this Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board or of the Committee upon any questions arising under the Plan.

Dated: [DATE]

OPTIONEE

Consent of Spouse

The undersigned spouse of the Optionee to the foregoing Stock Option Agreement acknowledges on his or her own behalf that: I have read the foregoing Stock Option Agreement and I know its contents. I hereby consent to and approve of the provisions of the Stock Option Agreement, and agree that the Shares issued upon exercise of the options covered thereby and my interest in them are subject to the provisions of the Stock Option Agreement and that I will take no action at any time to hinder operation of the Stock Option Agreement on those Shares or my interest in them.

NAME OF SPOUSE

[Address], [City], [State], [Zip]

(SEAL)

STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (the "Agreement") is made and effective [DATE]

BETWEEN: [SELLER NAME] (the "Seller"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASER NAME] (the "Purchaser"), an individual / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, the Seller is the record owner and holder of the issued and outstanding shares of the capital stock of the Corporation, a [STATE/PROVINCE] corporation, which Corporation has issued capital stock of [NUMBER] shares of [AMOUNT] par value common stock; and

WHEREAS, the Purchaser desires to purchase said stock and the Seller desires to sell said stock, upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and in order to consummate the purchase and the sale of the Corporation's Stock aforementioned, it is hereby agreed as follows:

1. PURCHASE AND SALE

Subject to the terms and conditions hereinafter set forth, at the closing of the transaction contemplated hereby, the Seller shall sell, convey, transfer, and deliver to the Purchaser certificates representing such stock, and the Purchaser shall purchase from the Seller the Corporation's Stock in consideration of the purchase price set forth in this Agreement. The certificates representing the Corporation's Stock shall be duly endorsed for transfer or accompanied by appropriate stock transfer powers duly executed in blank, in either case with signatures guaranteed in the customary fashion, and shall have all the necessary documentary transfer tax stamps affixed thereto at the expense of the Seller. The closing of the transactions contemplated by this Agreement ("Closing"), shall be held at [ADDRESS], on [DATE], at

[TIME], or such other place, date and time as the parties hereto may otherwise agree.

2. AMOUNT AND PAYMENT OF PURCHASE PRICE

The total consideration and method of payment thereof are fully set out in Exhibit "A" attached hereto and made a part hereof.

3. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby warrants and represents:

- A. Organization and Standing. Corporation is a corporation duly organized, validly existing and in good standing under the laws of the State of [STATE/PROVINCE] and has the corporate power and authority to carry on its business as it is now being conducted.
- B. Restrictions on Stock:
 - i. The Seller is not a party to any agreement, written or oral, creating rights in respect to the Corporation's Stock in any third person or relating to the voting of the Corporation's Stock.
 - ii. Seller is the lawful owner of the Stock, free and clear of all security interests, liens, encumbrances, equities and other charges.
 - iii. There are no existing warrants, options, stock purchase agreements, redemption agreements, restrictions of any nature, calls or rights to subscribe of any character relating to the stock, nor are there any securities convertible into such stock.

4. REPRESENTATIONS AND WARRANTIES OF SELLER AND PURCHASER

Seller and Purchaser hereby represent and warrant that there has been no act or omission by Seller, Purchaser or the Corporation which would give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee, or other like payment in connection with the transactions contemplated hereby.

5. Entire Agreement

This Agreement (including the exhibits hereto and any written amendments hereof executed by the parties) constitutes the entire Agreement and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof.

6. Sections and Other Headings

The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

7. Governing Law

This agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of [STATE/PROVINCE]. The parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court located in [STATE/PROVINCE].

8. ATTORNEY’S FEES

In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.

IN WITNESS WHEREOF, this Agreement has been executed by each of the individual parties hereto on the date first above written.

ATTORNEY

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

EXHIBIT "A" AMOUNT AND PAYMENT OF PURCHASE PRICE

1. Consideratio

As total consideration for the purchase and sale of the Corporation's Stock, pursuant to this Agreement, the Purchaser shall pay to the Seller the sum of [AMOUNT], such total consideration to be referred to in this Agreement as the "Purchase Price".

2. Payment

The Purchase Price shall be paid as follows:

- i. The sum of [AMOUNT] to be delivered to Seller upon the execution of this Agreement.
- ii. The sum of [AMOUNT] to be delivered to Seller at Closing.

STOCK SUBSCRIPTION AGREEMENT

This Stock Subscription Agreement (the “Agreement”) is made and effective [DATE]

BETWEEN: [PURCHASER NAME] (the "Purchaser"), an individual having his principal place of living located at / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the “Company”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The undersigned hereby offers to subscribe for [number] of shares of Common Stock (the “Shares”) of the Company at a price of [PRICE] per Share.

By execution of this Subscription Agreement, the undersigned hereby acknowledges that the undersigned understands that the Company is relying upon the accuracy and completeness hereof in complying with its obligations under applicable federal and state securities laws. The undersigned further acknowledges and certifies that the undersigned received and read the Private Placement Memorandum of the Company dated [DATE] and any supplements thereto (the “Private Placement Memorandum”), and the undersigned is familiar with the terms and provisions thereof.

The undersigned agrees and represents as follows:

1. Representations, Warranties and Agreements

The undersigned hereby represents and warrants to, and agrees with, the Company, as follows:

That the undersigned is aware of the following:

- A. The Shares are speculative investments which involve a substantial degree of risk of loss by the undersigned of the undersigned's entire investment in the Company and that the undersigned understands and takes full cognizance of the risk factors related to the purchase of the Shares, including, but not limited to those set forth in the Private Placement Memorandum;
- B. The Company is newly formed and has been operating at a loss and may do so for the foreseeable future.

- C. There are significant restrictions on the transferability of the Shares; the Shares will not be, and the investors will have no rights to require that the Shares be registered under the [CODE, ACT OR LAW] (the “Law”) or any state securities laws; there is no public market for the Shares and none is expected to develop; and, accordingly, it may not be possible for the undersigned to liquidate the undersigned's investment in the Company;
- D. No federal or state agency has made any findings as to the fairness of the terms of the offering; and
- E. Any projections or predictions that may have been made available to investors are based on estimates, assumptions and forecasts which may prove to be incorrect; and no assurance is given that actual results will correspond with the results contemplated by the various projections;
- F. That at no time has it been explicitly or implicitly represented, guaranteed or warranted to the undersigned by the Company, the agents and employees of the Company, or any other person: (1) That the undersigned will or will not have to remain as owner of the Shares an exact or approximate length of time; (2) That a percentage of profit and/or amount or type of consideration will be realized as a result of this investment; (3) That any cash dividends from Company operations or otherwise will be made to shareholders by any specific date or will be made at all; or (4) That any specific tax benefits will accrue as a result of an investment in the Company;
- G. That the undersigned is financially responsible, able to meet all obligations hereunder, and acknowledges that this investment will be long-term and is by nature speculative;
- H. That the undersigned has received and carefully read and is familiar with the Private Placement Memorandum, this Subscription Agreement, and all other documents in connection therewith, and the undersigned confirms that all documents, records and books pertaining to the investment in the Company have been made available to the undersigned and/or to the undersigned's personal investment, tax and legal advisers, if such advisers were utilized by the undersigned;

- I. That the undersigned has relied only on the information contained in the Private Placement Memorandum and that no written or oral representation or information that is in any way inconsistent with the Private Placement Memorandum and has been made or furnished to the undersigned or to the undersigned's purchaser representative in connection with the offering of the Shares, and if so made, has not been relied upon;
- J. That the undersigned is capable of bearing the high degree of economic risks and burdens of this venture including, but not limited to, the possibility of complete loss of investment and the lack of a public market which may make it impossible to readily liquidate the investment whenever desired;
- K. That the undersigned is an “accredited investor” as that term is defined in Regulation D under the Act or is otherwise a sophisticated, knowledgeable investor (either alone or with the aid of a purchaser representative) with adequate net worth and income for this investment;
- L. That the undersigned has knowledge and experience in financial and business matters (either alone or with the aid of a purchaser representative), is capable of evaluating the merits and risks of an investment in the Company and its proposed activities and has carefully considered the suitability of an investment in the Company for the undersigned's particular financial situation, and has determined that the Shares are a suitable investment;
- M. That the offer to sell Shares was communicated to the undersigned by the Company in such a manner that the undersigned was able to ask questions of and receive answers from the Company concerning the terms and conditions of this transaction and that at no time was the undersigned presented with or solicited by any leaflet, public promotional meeting, newspaper or magazine article, radio or television advertisement or any other form of advertising or general solicitation;

- N. That the Shares for which the undersigned hereby subscribes are being acquired solely for the undersigned's own account, for investment, and are not being purchased with a view to or for the resale, distribution, subdivision or fractionalization thereof; and the undersigned agrees that such Shares will not be sold without registration under the Act or an exemption therefrom. In furtherance thereof, the undersigned will not sell, hypothecate or otherwise transfer the undersigned's Shares unless the Shares are registered under the Act and qualified under applicable state securities laws or unless, in the opinion of the Company, an exemption from the registration requirements of the Act and such laws is available;
- O. That the undersigned has had prior personal or business relationships with the Company or its affiliates, or by reason of the undersigned's business or financial experience (either alone or with the aid of a purchaser representative), the undersigned has the capacity to protect the undersigned's own interest in connection with this transaction;
- P. That the undersigned has been advised to consult with the undersigned's own attorney regarding legal matters concerning an investment in the Company and has done so to the extent the undersigned considers necessary;
- Q. That the undersigned certifies, under penalty of perjury, (i) that the social security or Tax Identification Number set forth herein is true, correct and complete, and (ii) that the undersigned is not subject to backup withholding either because the undersigned has not been notified that the undersigned is subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified the undersigned that the undersigned is no longer subject to backup withholding; and
- R. That the undersigned acknowledges that the Private Placement Memorandum reflects the Company's current intentions and estimates at the time, as with any developing company, the precise elements of the Company's plans can be expected to change from time to time.

2. Indemnification

The undersigned shall indemnify, defend and hold harmless the Company, and any officers, employees, shareholders, partners, agents, directors or controlling persons of the Company (collectively the “Indemnified Parties” and individually an “Indemnified Party”) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, against losses, liabilities and expenses of each Indemnified Party (including attorneys' fees, judgments, fines and amounts paid in settlement, payable as incurred) incurred by such person or entity in connection with such action, arbitration, suit or proceeding, by reason of or arising from (i) any misrepresentation or misstatement of facts or omission to represent or state facts made by the undersigned, including, without limitation, the information in this Subscription Agreement, or (ii) litigation or other proceeding brought by the undersigned against one or more Indemnified Party wherein the Indemnified Party is the prevailing party.

3. Entity Investors

If the undersigned is an entity, trust, pension fund or IRA account (an “Entity”), the Entity and the person signing on its behalf represent and warrant that: (i) such Entity is an existing entity, and has not been organized or reorganized for the purpose of making this investment, (ii) the undersigned has the authority to execute this Subscription Agreement, and any other documents in connection with an investment in the Shares, on the Entity's behalf, (iii) the Entity has the power, right and authority to invest in the Shares and enter into the transactions contemplated thereby, and that the investment is suitable and appropriate for the Entity and its beneficiaries (given the risks and illiquid nature of the investment) and (iv) all documents executed by the entity in connection with the Company are valid and binding documents or agreements of the Entity enforceable in accordance with their terms.

4. Revocation

The undersigned agrees that the undersigned may not cancel, terminate or revoke the offer to subscribe for shares for a period of [NUMBER] days or any agreement hereunder at any time and that this Agreement shall survive the death or disability of the undersigned and shall be binding upon the undersigned's heirs, executors, administrators, beneficiaries, successors and assigns.

5. Certain Securities Law Matters

- A. The Shares shall not be sold, assigned, transferred or pledged except upon satisfaction of the conditions specified in this Section 5, which conditions are intended to ensure compliance with the provisions of the Act. The undersigned will cause any proposed purchaser, assignee, transferee or pledgee of the Shares held by the undersigned to agree to take and hold such securities subject to the provisions and conditions of this Section 5.
- B. Each certificate representing (i) the Shares and (ii) any other securities issued in respect of the Shares upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of Section 5(c) below) be stamped or otherwise imprinted with a legend substantially in the following form (in addition to any legend required under applicable state securities laws):

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE [ACT, LAW OR CODE]. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL OR OTHER EVIDENCE REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

- C. The undersigned consents to the Company making a notation on its records and giving instructions to any transfer agent of the Shares in order to implement the restrictions on transfer established in this Section 5.

D. The undersigned agrees to comply in all respects with the provisions of this Section 5. Prior to any proposed sale, assignment, transfer or pledge of any Shares, unless there is in effect a registration statement under the Act covering the proposed transfer, the undersigned thereof shall give written notice to the Company of the undersigned's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and shall be accompanied, at the undersigned's expense evidence satisfactory to the Company the effect that the proposed transfer of the Shares may be effected without registration under the Act or applicable state securities law.

6. Investor Information

The Company may only accept subscriptions from persons who meet certain suitability standards. Therefore, certain information is requested below.

Name: _____

Age: _____

Social Security Number: _____

Home Address: _____

Home Telephone Number: _____

Firm Name: _____

Nature of Business: _____

Position/Title: _____

Length of Time in Position: _____

Business Address: _____

Zip Code: _____ Telephone Number: _____

Send Correspondence to: Home _____ Business _____

List any business or professional education, indicating degrees received, if any: _____

My net worth (together with my spouse's net worth), is in excess of \$ _____

For [YEAR] and [YEAR] my actual and for [YEAR] my estimated annual gross income was or is:

[YEAR]: \$ _____ [YEAR]: \$ _____ [YEAR]: \$ _____

Previous Investment Experience in Other Private Offerings of Securities or Other Relevant Experience:

Name of Program 1. _____

Or Company 2. _____

3. _____

Amount Invested 1. _____

2. _____

3. _____

In which state do you currently maintain your primary residence? _____

Maintain your secondary residence? _____

Vote? _____

File income tax returns? _____

Maintain a driver's license? _____

In furnishing the above information, I acknowledge that the Company will be relying thereon in determining, among other things, whether there are reasonable grounds to believe that I qualify as a purchaser under applicable securities laws for the purposes of the proposed investment.

7. WRITTEN NOTICES

All notices or other communications given or made hereunder shall be in writing and shall be delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to the Company at the address set forth on the instructions page hereof and to the undersigned at the address set forth on the signature page hereof.

8. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE], without reference to conflict of law principles.

9. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings, representations, warranties or agreements (whether oral or written) and may be amended only by a writing executed by all parties.

10. ACCEPTATION

The undersigned acknowledges that the Company may, in its sole and absolute discretion, accept or reject this subscription offer in whole or in part.

11. Certification

The undersigned represents to you that (i) the information contained herein is complete and accurate on the date hereof and may be relied upon by you and (ii) the undersigned will notify you immediately of any change in any of such information occurring prior to the acceptance of the subscription and will promptly send you written confirmation of such change. The undersigned hereby certifies that he has read and understands the Private Placement Memorandum and this Subscription Agreement.

THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE [ACT, CODE OR LAW], AS AMENDED (THE “ACT”) AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED UNLESS THE SECURITIES ARE REGISTERED UNDER THE ACT OR AN EXEMPTION THEREFROM IS AVAILABLE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

THE MATERIALS CONTAINED HEREIN ARE NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY ANY SECURITIES. OFFERS FOR SALE OF SECURITIES OF THE COMPANY MAY BE MADE ONLY THROUGH THE PRIVATE PLACEMENT MEMORANDUM TO QUALIFIED PERSONS OR ENTITIES.

Subscription Package

[Name of Company]

Common Stock

Instructions for Subscriptions.

This Subscription Package for shares of Common Stock (the "Shares") of [name of company] (the "Company") contains the following documents:

1. SUBSCRIPTION AGREEMENT
2. CONFIDENTIAL STATEMENT OF INVESTOR SUITABILITY
3. SIGNATURE PAGE
4. RIGHT OF FIRST REFUSAL AGREEMENT

1. All investors must review the Subscription Agreement.
2. All investors must complete the Confidential Statement of Investor Suitability.
3. The Signature Page, representing the signature page for the Subscription Agreement and the Confidential Statement of Investor Suitability, must be completed and executed by each person purchasing Shares.
4. All investors and their spouses must execute the Right of First Refusal Agreement.
5. Any persons employing a purchaser representative must have him or her complete a Purchaser Representative Questionnaire (separately available from the Company), and the investor must execute the Acknowledgement at the end of that form.
6. All subscriptions must be accompanied by a check in the amount of [AMOUNT] per Share. The check must be payable to the Company.

WHERE TO SEND DOCUMENTS:

All of the appropriate documents should be delivered to the Company at the address shown below. Please keep one copy for your files. Any questions concerning the completion or delivery of the documents contained in this Subscription Package may be directed to [name and title of person] at [telephone number].

Failure to comply with the above will constitute an invalid subscription and, if not correct, may result in the rejection of your subscription request. Time is of the essence.

ALL INFORMATION REQUESTED MUST BE COMPLETED



STOCK SUBSCRIPTION AGREEMENT

This Stock Subscription Agreement (the “Agreement”) is made and effective [DATE]

BETWEEN: [PURCHASER NAME] (the "Purchaser"), an individual having his principal place of living located at / a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the “Company”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The undersigned hereby offers to subscribe for [number] of shares of Common Stock (the “Shares”) of the Company at a price of [PRICE] per Share.

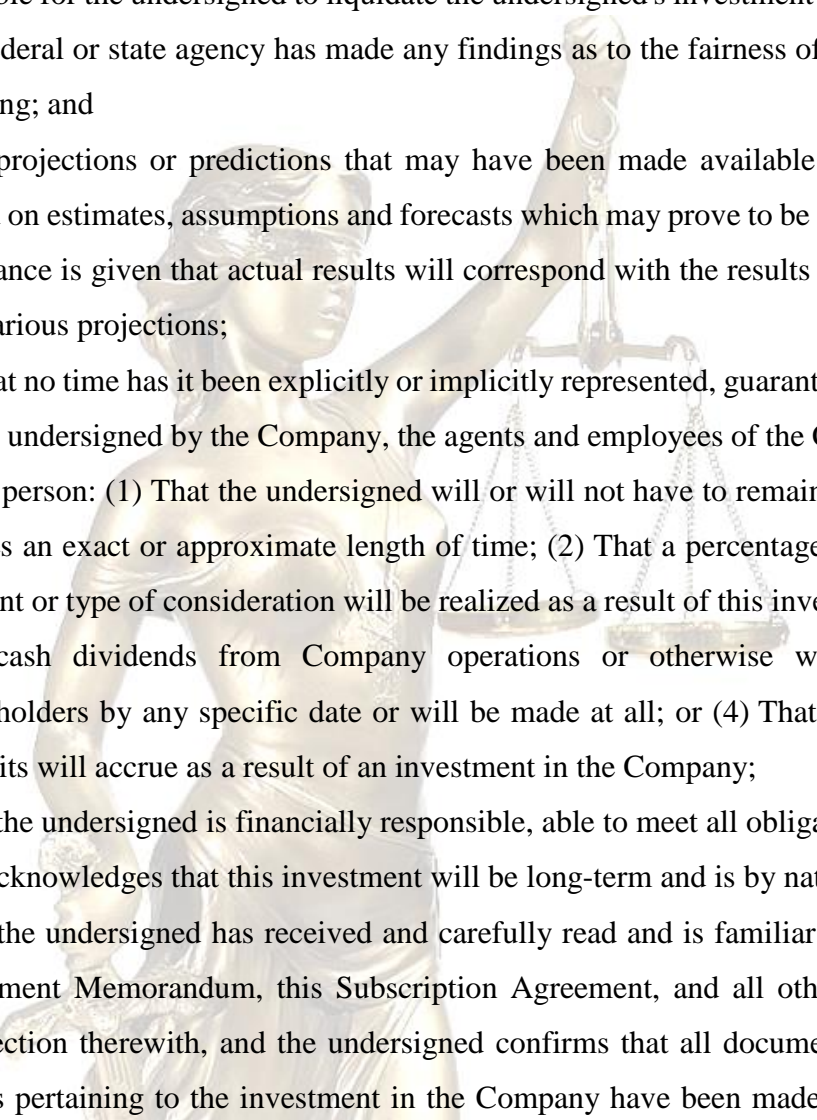
By execution of this Subscription Agreement, the undersigned hereby acknowledges that the undersigned understands that the Company is relying upon the accuracy and completeness hereof in complying with its obligations under applicable federal and state securities laws. The undersigned further acknowledges and certifies that the undersigned received and read the Private Placement Memorandum of the Company dated [DATE] and any supplements thereto (the “Private Placement Memorandum”), and the undersigned is familiar with the terms and provisions thereof. The undersigned agrees and represents as follows:

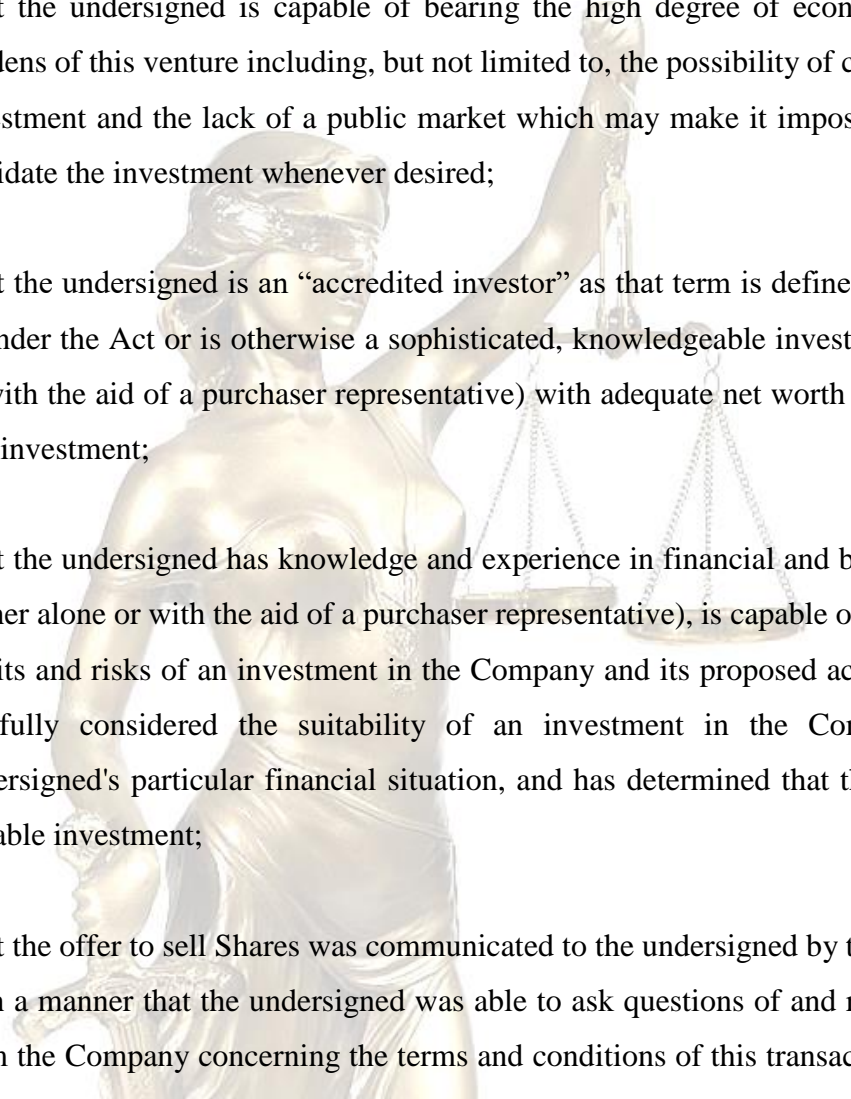
12. Representations, Warranties and Agreements

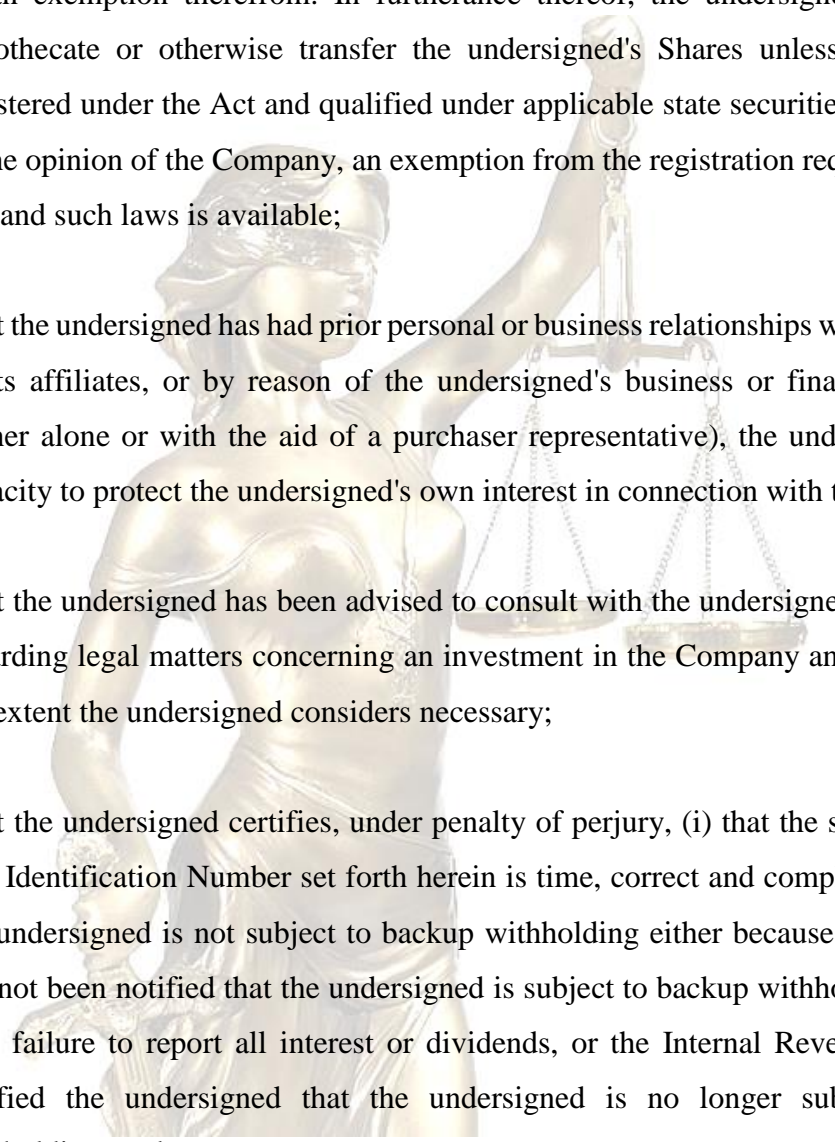
The undersigned hereby represents and warrants to, and agrees with, the Company, as follows:

That the undersigned is aware of the following:

- A. The Shares are speculative investments which involve a substantial degree of risk of loss by the undersigned of the undersigned's entire investment in the Company and that the undersigned understands and takes full cognizance of the risk factors related to the purchase of the Shares, including, but not limited to those set forth in the Private Placement Memorandum;
- B. The Company is newly formed and has been operating at a loss and may do so for the foreseeable future.

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- C. There are significant restrictions on the transferability of the Shares; the Shares will not be, and the investors will have no rights to require that the Shares be registered under the [CODE, ACT OR LAW] (the “Law”) or any state securities laws; there is no public market for the Shares and none is expected to develop; and, accordingly, it may not be possible for the undersigned to liquidate the undersigned's investment in the Company;
- D. No federal or state agency has made any findings as to the fairness of the terms of the offering; and
- E. Any projections or predictions that may have been made available to investors are based on estimates, assumptions and forecasts which may prove to be incorrect; and no assurance is given that actual results will correspond with the results contemplated by the various projections;
- F. That at no time has it been explicitly or implicitly represented, guaranteed or warranted to the undersigned by the Company, the agents and employees of the Company, or any other person: (1) That the undersigned will or will not have to remain as owner of the Shares an exact or approximate length of time; (2) That a percentage of profit and/or amount or type of consideration will be realized as a result of this investment; (3) That any cash dividends from Company operations or otherwise will be made to shareholders by any specific date or will be made at all; or (4) That any specific tax benefits will accrue as a result of an investment in the Company;
- G. That the undersigned is financially responsible, able to meet all obligations hereunder, and acknowledges that this investment will be long-term and is by nature speculative;
- H. That the undersigned has received and carefully read and is familiar with the Private Placement Memorandum, this Subscription Agreement, and all other documents in connection therewith, and the undersigned confirms that all documents, records and books pertaining to the investment in the Company have been made available to the undersigned and/or to the undersigned's personal investment, tax and legal advisers, if such advisers were utilized by the undersigned;

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- I. That the undersigned has relied only on the information contained in the Private Placement Memorandum and that no written or oral representation or information that is in any way inconsistent with the Private Placement Memorandum and has been made or furnished to the undersigned or to the undersigned's purchaser representative in connection with the offering of the Shares, and if so made, has not been relied upon;
- J. That the undersigned is capable of bearing the high degree of economic risks and burdens of this venture including, but not limited to, the possibility of complete loss of investment and the lack of a public market which may make it impossible to readily liquidate the investment whenever desired;
- K. That the undersigned is an “accredited investor” as that term is defined in Regulation D under the Act or is otherwise a sophisticated, knowledgeable investor (either alone or with the aid of a purchaser representative) with adequate net worth and income for this investment;
- L. That the undersigned has knowledge and experience in financial and business matters (either alone or with the aid of a purchaser representative), is capable of evaluating the merits and risks of an investment in the Company and its proposed activities and has carefully considered the suitability of an investment in the Company for the undersigned's particular financial situation, and has determined that the Shares are a suitable investment;
- M. That the offer to sell Shares was communicated to the undersigned by the Company in such a manner that the undersigned was able to ask questions of and receive answers from the Company concerning the terms and conditions of this transaction and that at no time was the undersigned presented with or solicited by any leaflet, public promotional meeting, newspaper or magazine article, radio or television advertisement or any other form of advertising or general solicitation;

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- N. That the Shares for which the undersigned hereby subscribes are being acquired solely for the undersigned's own account, for investment, and are not being purchased with a view to or for the resale, distribution, subdivision or fractionalization thereof; and the undersigned agrees that such Shares will not be sold without registration under the Act or an exemption therefrom. In furtherance thereof, the undersigned will not sell, hypothecate or otherwise transfer the undersigned's Shares unless the Shares are registered under the Act and qualified under applicable state securities laws or unless, in the opinion of the Company, an exemption from the registration requirements of the Act and such laws is available;
- O. That the undersigned has had prior personal or business relationships with the Company or its affiliates, or by reason of the undersigned's business or financial experience (either alone or with the aid of a purchaser representative), the undersigned has the capacity to protect the undersigned's own interest in connection with this transaction;
- P. That the undersigned has been advised to consult with the undersigned's own attorney regarding legal matters concerning an investment in the Company and has done so to the extent the undersigned considers necessary;
- Q. That the undersigned certifies, under penalty of perjury, (i) that the social security or Tax Identification Number set forth herein is true, correct and complete, and (ii) that the undersigned is not subject to backup withholding either because the undersigned has not been notified that the undersigned is subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified the undersigned that the undersigned is no longer subject to backup withholding; and

R. That the undersigned acknowledges that the Private Placement Memorandum reflects the Company's current intentions and estimates at the time, as with any developing company, the precise elements of the Company's plans can be expected to change from time to time.

13. Indemnification

The undersigned shall indemnify, defend and hold harmless the Company, and any officers, employees, shareholders, partners, agents, directors or controlling persons of the Company (collectively the “Indemnified Parties” and individually an “Indemnified Party”) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, against losses, liabilities and expenses of each Indemnified Party (including attorneys' fees, judgments, fines and amounts paid in settlement, payable as incurred) incurred by such person or entity in connection with such action, arbitration, suit or proceeding, by reason of or arising from (i) any misrepresentation or misstatement of facts or omission to represent or state facts made by the undersigned, including, without limitation, the information in this Subscription Agreement, or (ii) litigation or other proceeding brought by the undersigned against one or more Indemnified Party wherein the Indemnified Party is the prevailing party.

14. Entity Investors

If the undersigned is an entity, trust, pension fund or IRA account (an “Entity”), the Entity and the person signing on its behalf represent and warrant that: (i) such Entity is an existing entity, and has not been organized or reorganized for the purpose of making this investment, (ii) the undersigned has the authority to execute this Subscription Agreement, and any other documents in connection with an investment in the Shares, on the Entity's behalf, (iii) the Entity has the power, right and authority to invest in the Shares and enter into the transactions contemplated thereby, and that the investment is suitable and appropriate for the Entity and its beneficiaries (given the risks and illiquid nature of the investment) and (iv) all documents executed by the entity in connection with the Company are valid and binding documents or agreements of the Entity enforceable in accordance with their terms.

15. Revocation

The undersigned agrees that the undersigned may not cancel, terminate or revoke the offer to subscribe for shares for a period of [NUMBER] days or any agreement hereunder at any time and that this Agreement shall survive the death or disability of the undersigned and shall be binding upon the undersigned's heirs, executors, administrators, beneficiaries, successors and assigns.

16. Certain Securities Law Matters

- A. The Shares shall not be sold, assigned, transferred or pledged except upon satisfaction of the conditions specified in this Section 5, which conditions are intended to ensure compliance with the provisions of the Act. The undersigned will cause any proposed purchaser, assignee, transferee or pledgee of the Shares held by the undersigned to agree to take and hold such securities subject to the provisions and conditions of this Section 5.
- B. Each certificate representing (i) the Shares and (ii) any other securities issued in respect of the Shares upon any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall (unless otherwise permitted by the provisions of Section 5(c) below) be stamped or otherwise imprinted with a legend substantially in the following form (in addition to any legend required under applicable state securities laws):

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE [ACT, LAW OR CODE]. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL OR OTHER EVIDENCE REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

- C. The undersigned consents to the Company making a notation on its records and giving instructions to any transfer agent of the Shares in order to implement the restrictions on transfer established in this Section 5.
- D. The undersigned agrees to comply in all respects with the provisions of this Section 5. Prior to any proposed sale, assignment, transfer or pledge of any Shares, unless there is in effect a registration statement under the Act covering the proposed transfer, the undersigned thereof shall give written notice to the Company of the undersigned's intention to effect such transfer, sale, assignment or pledge. Each such notice shall describe the manner and circumstances of the proposed transfer, sale, assignment or pledge in sufficient detail, and shall be accompanied, at the undersigned's expense evidence satisfactory to the Company the effect that the proposed transfer of the Shares may be effected without registration under the Act or applicable state securities law.

17. WRITTEN NOTICES

All notices or other communications given or made hereunder shall be in writing and shall be delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to the Company at the address set forth on the instructions page hereof and to the undersigned at the address set forth on the signature page hereof.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE], without reference to conflict of law principles.

19. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings, representations, warranties or agreements (whether oral or written) and may be amended only by a writing executed by all parties.

20. ACCEPTATION

The undersigned acknowledges that the Company may, in its sole and absolute discretion, accept or reject this subscription offer in whole or in part.

21. Certification

The undersigned represents to you that (i) the information contained herein is complete and accurate on the date hereof and may be relied upon by you and (ii) the undersigned will notify you immediately of any change in any of such information occurring prior to the acceptance of the subscription and will promptly send you written confirmation of such change. The undersigned hereby certifies that he has read and understands the Private Placement Memorandum and this Subscription Agreement.

THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE [ACT, CODE OR LAW], AS AMENDED (THE "ACT") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED UNLESS THE SECURITIES ARE REGISTERED UNDER THE ACT OR AN EXEMPTION THEREFROM IS AVAILABLE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONFIDENTIAL STATEMENT OF INVESTOR SUITABILITY

In order to comply with the requirements of federal and state securities laws, shares of the Company may be sold only to persons or entities meeting the suitability standards established by the Company.

The purpose of this Statement is to obtain information from each prospective investor relating to the investor's knowledge and experience in financial and business matters and to the investor's ability to bear the economic risks of the proposed investment. Such information is required in order to determine whether or not the suitability standards have been met by the prospective investor. Please answer questions concerning prior business and financial experience and investment decision-making in detail.

By signing this Statement you agree that it may be shown to such authorized persons as the Company may deem appropriate to establish that the offer and/or sale of this investment in the Company will not result in any violation of any laws or regulations of any jurisdiction.

A separate Statement must be completed for each co-owner of Shares, except that spouses may complete a joint Statement.

You make the following representations with the intent that they may be relied upon by the Company and other persons designated by the Company.

I. BIOGRAPHICAL INFORMATION (If Joint Subscriber, provide information for both.)

A. Name(s): _____ Birth date _____
(Print) _____ Birth date _____ (Print)

B. State of Residency: _____

C. Employer or business association and position: _____

D. Business address and telephone no.: _____

E. Business and/or professional education and degrees:

School	Location	Degree	Year Recorded
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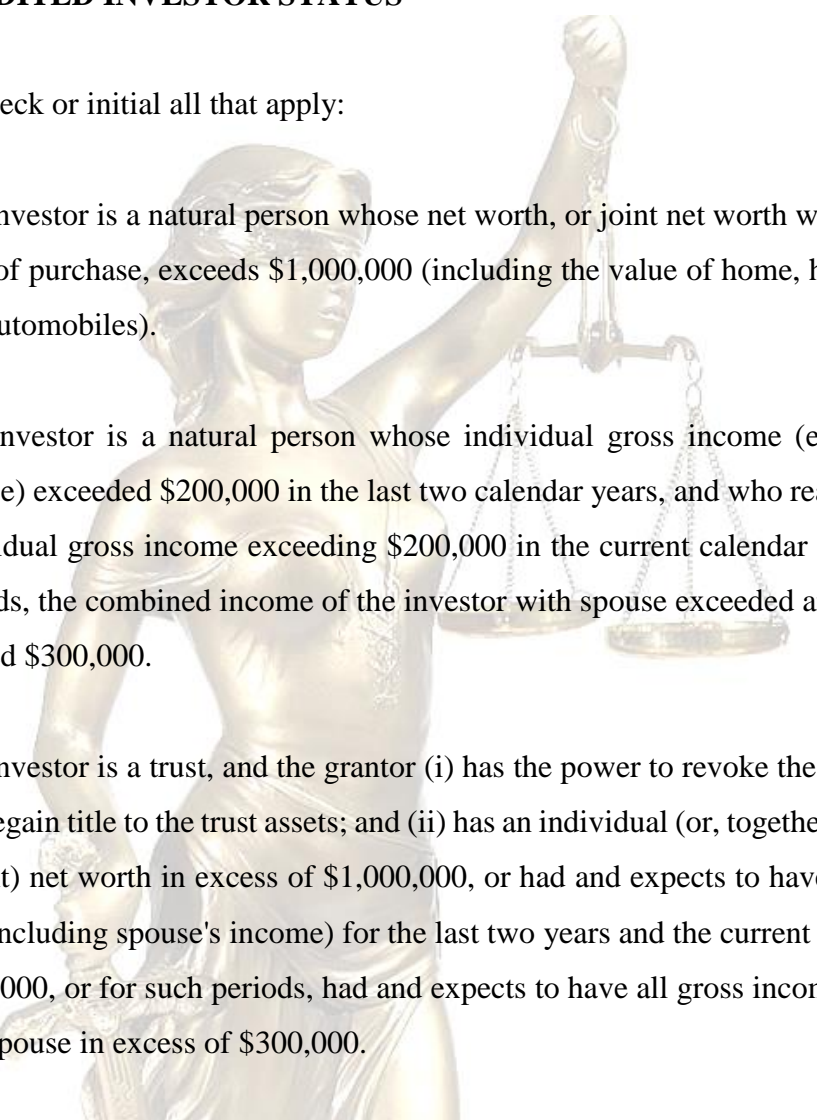
E. Employment during the past five years:

Employer	Position and or other	nature of Association
responsibility	From	To

(Attach additional sheets if necessary to fully answer any question.)

II. ACCREDITED INVESTOR STATUS

Please check or initial all that apply:

- 
- The investor is a natural person whose net worth, or joint net worth with spouse, at the time of purchase, exceeds \$1,000,000 (including the value of home, home furnishings and automobiles).
 - The investor is a natural person whose individual gross income (excluding that of spouse) exceeded \$200,000 in the last two calendar years, and who reasonably expects individual gross income exceeding \$200,000 in the current calendar year; or for such periods, the combined income of the investor with spouse exceeded and is expected to exceed \$300,000.
 - The investor is a trust, and the grantor (i) has the power to revoke the trust at any time and regain title to the trust assets; and (ii) has an individual (or, together with his spouse a joint) net worth in excess of \$1,000,000, or had and expects to have a gross income (not including spouse's income) for the last two years and the current year in excess of \$200,000, or for such periods, had and expects to have all gross income including that of a spouse in excess of \$300,000.
 - The investor (or beneficiary if IRA or pension money is invested) is an executive officer of the Company.
 - The investor is a corporation or partnership with more than \$5 million in assets.

The investor is otherwise an accredited investor as follows (please complete):

III. PRIOR INVESTMENT EXPERIENCE OF INVESTOR (OR TRUSTEE OR AUTHORIZED REPRESENTATIVE)

A. Indicate by check mark which of the following categories best describes the extent of your prior experience in the areas of investment listed below:

	More than 5 years Experience	2 to 5 years Experience	1 year Experience	No Experience
Corporate Stocks	_____	_____	_____	_____
Corporate Bonds	_____	_____	_____	_____
Real Estate	_____	_____	_____	_____
Limited Partnerships	_____	_____	_____	_____
Privately Held Companies	_____	_____	_____	_____

B. Do you make your own investment decisions with respect to the investments listed above?
Yes ___ No ___

C. What are the principal sources of investment knowledge or advice? (check all that apply)

- | | |
|---------------------------|---------------------------|
| ___ First hand experience | ___ Financial publication |
| ___ Broker(s) | ___ Investment Adviser(s) |
| ___ Attorney(s) | ___ Accountant(s) |

D. Please briefly describe any additional investment experience in business ventures, experience with the Company or any other investment experience which would indicate your ability to evaluate an investment in this business venture.

IV. FINANCIAL AND INVESTMENT STATUS INFORMATION

A. Please indicate:

Your estimated net worth exclusive of principal residence, furnishings of principal residence and personal automobiles (computation of net worth may be accomplished with reference to fair market value of assets).

- More than \$5 million
- \$1,000,001 - \$4,999,999
- \$500,000 - \$999,000
- \$250,000 - \$499,000
- Under \$250,000

Your estimated net worth, including principal residence, furnishings of principal residence and personal automobiles (computation of the value of the subscriber's principal residence may be accomplished with reference to fair market value of residence).

- More than \$5 million
- \$1,000,001 - \$4,999,999
- \$500,000 - \$1,000,000
- \$250,000 - \$499,999

Under \$250,000

B. Gross Income

Please provide your actual or projected individual annual adjusted gross income for the past two years, the current year and the next year.

More than \$200,000	More than \$150,000	More than \$100,000	More than \$50,000
------------------------	------------------------	------------------------	-----------------------

[YEAR 1]

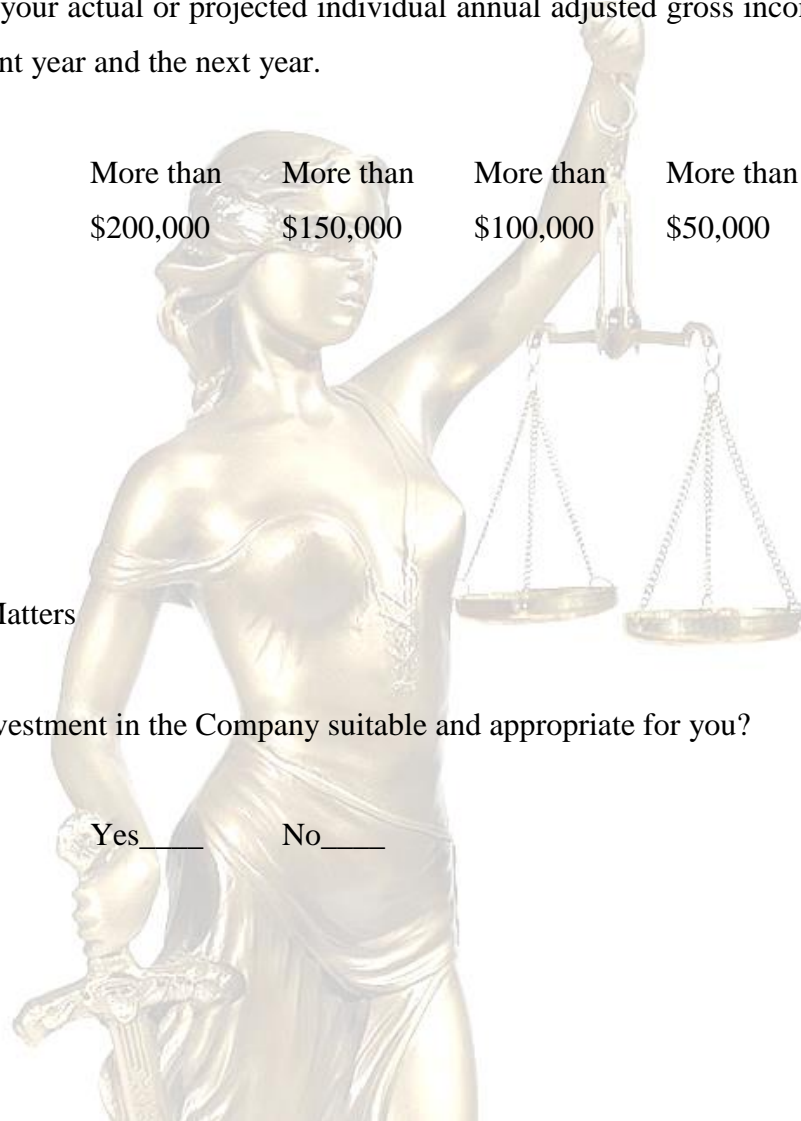
[YEAR 2]

[YEAR 3]

C. Other Matters

Is an investment in the Company suitable and appropriate for you?

Yes _____ No _____



SIGNATURE PAGE (For Individuals)

This page constitutes the signature page for INDIVIDUALS for the following documents: (a) the Subscription Agreement and (b) the Confidential Statement of Investor Suitability. Execution of this Signature Page constitutes execution of such documents.

IN WITNESS WHEREOF, the undersigned has executed the Subscription Agreement and the Confidential Statement of Investor Suitability this [DAY] of [MONTH], [YEAR].

Signature of Investor

Signature of Spouse
(or Joint Investor, if any)

Print Name of Investor

Print Name of Spouse
(or Joint Investor, if any)

Social Security Number

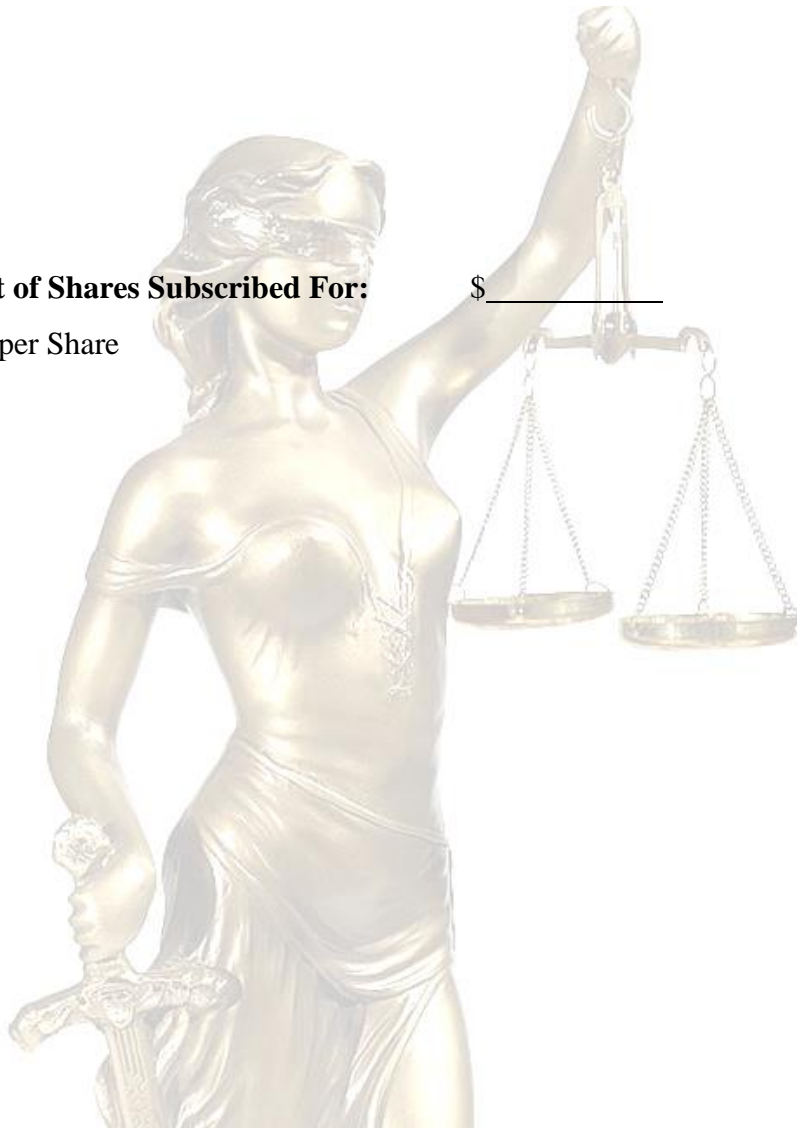
Social Security Number of Spouse
(or Joint Investor, if any)

Address: _____

Address: _____

Dollar Amount of Shares Subscribed For: \$ _____

\$ _____ per Share



SIGNATURE PAGE (For Non-Individuals)

This page constitutes the signature page for the following documents: (a) the Subscription Agreement and (b) the Confidential Statement of Investor Suitability. Execution of this Signature Page constitutes execution of such documents.

IN WITNESS WHEREOF, the undersigned has executed the Subscription Agreement and the Confidential Statement of Investor Suitability this [DAY] of [MONTH], [YEAR].

_____ Address _____
Print Name of Entity

By: _____ Address: _____

Name: _____

Title: _____

Tax Identification Number

Dollar Amount of Shares Subscribed For: \$ _____

\$ _____ per Share

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST HOLDER NAME] (the "First Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND HOLDER NAME] (the "Second Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD HOLDER NAME] (the "Third Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual promises, covenants and conditions herein contained and for other good and valuable consideration, the parties hereto agree as follows:

20. Definitions

Certain terms used herein are defined as follows:

“Board of Directors” means the Board of Directors of the Company and any committee thereof.

“Immediate Family” means any spouse, child, grandchild, parent, brother, or sister of a Holder.

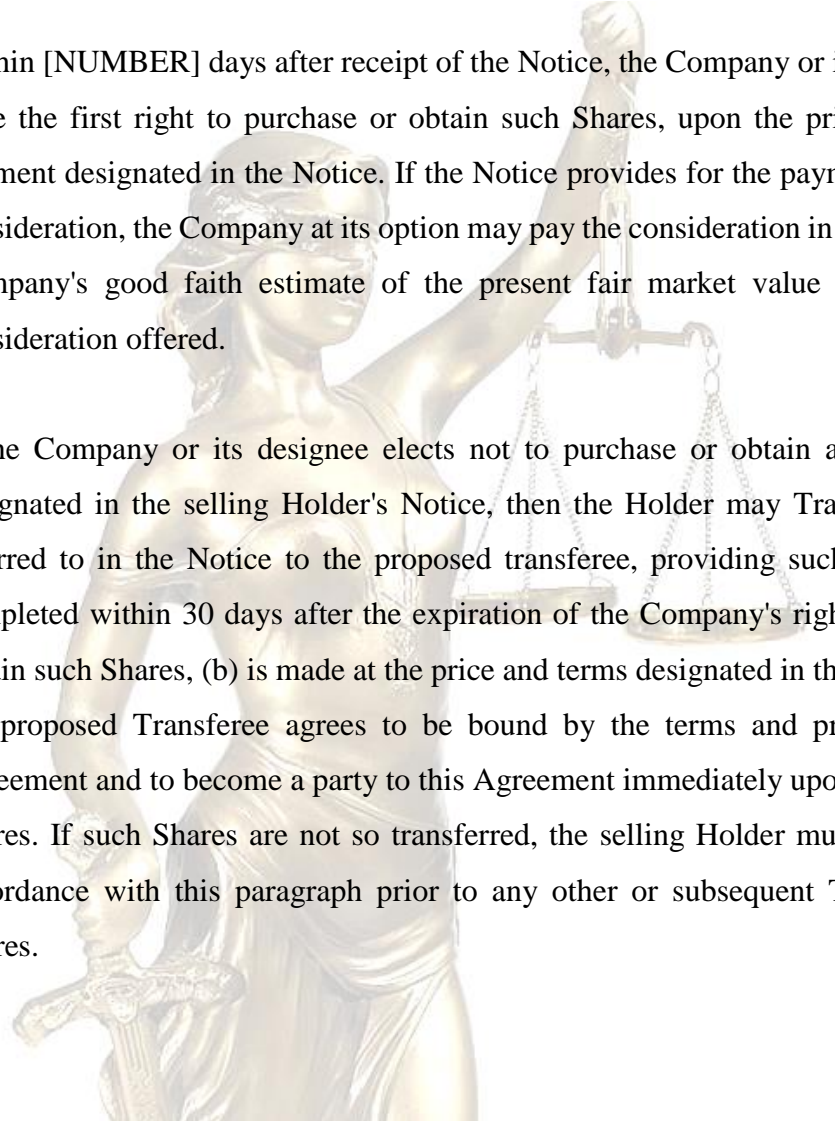
“Shares” means any shares of capital stock of the Company or any securities convertible into or exchangeable for any class of capital stock of the Company and all securities into which such Shares may be converted or reclassified as a result of any merger, consolidation, stock split, stock dividend, or other recapitalization of the Company, whether now owned or hereafter acquired.

21. Restrictions on Transfer

No Holder may sell or engage in any transaction which has resulted in or will result in a change in the beneficial or record ownership of any Shares held by the Holder, including without limitation a voluntary or involuntary sale, assignment, transfer, pledge, hypothecation, encumbrance, disposal, loan, gift, attachment or levy (a “Transfer”), except as provided in this Agreement, and any such Transfer of Shares or attempted Transfer of Shares in contravention of this Agreement shall be void and ineffective for any purpose or confer on any transferee or purported transferee any rights whatsoever.

22. Right of First Refusal

- a. Each time a Holder proposes to Transfer (or is required by operation of law or other involuntary transfer) any or all of the Shares standing in such Holder's name or owned by him or her during the term of this Agreement, such Holder shall first offer such Shares to the Company in accordance with the following provisions:

- 
- b. Such Holder shall deliver a written notice (a “Notice”) to the Company stating (a) such Holder's bona fide intention to Transfer such Shares, (b) the name and the address of the proposed transferee, (c) the number of Shares to be transferred, and (d) the purchase price per Share and terms of payment for which the Holder proposes to Transfer such Shares.
- c. Within [NUMBER] days after receipt of the Notice, the Company or its designee shall have the first right to purchase or obtain such Shares, upon the price and terms of payment designated in the Notice. If the Notice provides for the payment of non-cash consideration, the Company at its option may pay the consideration in cash equal to the Company's good faith estimate of the present fair market value of the non-cash consideration offered.
- d. If the Company or its designee elects not to purchase or obtain all of the Shares designated in the selling Holder's Notice, then the Holder may Transfer the Shares referred to in the Notice to the proposed transferee, providing such Transfer (a) is completed within 30 days after the expiration of the Company's right to purchase or obtain such Shares, (b) is made at the price and terms designated in the Notice, and (c) the proposed Transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon receipt of such Shares. If such Shares are not so transferred, the selling Holder must give notice in accordance with this paragraph prior to any other or subsequent Transfer of such Shares.

- e. Notwithstanding Section 3(a), a Holder may Transfer Shares: (i) to a member of the Holder's Immediate Family or to a trust established for the benefit of a member or members of the Holder's Immediate Family, (ii) to an affiliate or equity holder of the Holder, (iii) to a person who is a constituent partner of the Holder on the date hereof, or (iv) to the estate of any of the foregoing by gift, will or intestate succession; provided that the Holder or his representative notifies the Company of such Transfer not less than [NUMBER] nor more than [NUMBER] days prior to the Transfer and that the proposed transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon the receipt of such Shares.

23. No Transfer to Competitors

A Holder may not Transfer any Shares to a competitor of the Company, or to any shareholder, partner or other beneficial holder of an equity ownership interest in a competitor, other than pursuant to a merger, combination, or other transaction approved by the Board of Directors.

24. Governing Law

Notwithstanding any provisions to the contrary contained in this Agreement, the Company's obligations to pay or complete payment for any Shares to be purchased by it under this Agreement is subject to its being legally permitted to do so under the tests contained in Sections [NUMBER] of the [STATE/PROVINCE/COUNTRY] General Corporation Law or any successor statute applicable thereto.

25. Legend on Stock Certificates

Each certificate representing shares owned of record or beneficially by a party to this Agreement shall be endorsed with the following legend:

THE SHARES EVIDENCED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL AGREEMENT BETWEEN [NAME OF COMPANY] (THE COMPANY) AND THE HOLDERS THAT ARE SIGNATORIES THERETO, PROVIDING FOR, AMONG OTHER MATTERS, THE COMPANY'S RIGHT OF FIRST REFUSAL TO PURCHASE THE SECURITIES REPRESENTED BY THIS CERTIFICATE. A COPY OF SUCH AGREEMENT IS ON FILE AT THE PRINCIPAL BUSINESS OFFICE OF THE COMPANY.

Under no circumstances shall any Transfer of any Shares subject hereto be valid until the proposed transferee thereof shall have executed and become a party to this Agreement and thereby shall have become subject to all of the provisions hereof; and notwithstanding any other provisions of this Agreement, no such Transfer of any kind shall in any event result in the non-applicability of the provisions hereof at any time to any of the Shares subject hereto.

26. Term of Agreement

The restrictions on Transfer of Shares set forth in this Agreement shall terminate upon any of the following:

- a. The determination of the Board of Directors that this Agreement shall be terminated.
- b. The dissolution or bankruptcy of the Company.
- c. The consummation of a public offering for any of the common stock of the Company registered under the [LAW/CODE/ACT].

27. Acknowledgments

Each Holder acknowledges that other shareholders of the Company may have restrictions on their shareholdings different than the terms contained herein.

28. Further Assurances

Each party hereto agrees to perform any and all further acts and to execute and deliver any documents which may reasonably be necessary to carry out the provisions of this Agreement.

29. Modification

This Agreement as applied to any Holder may be amended at any time by the written agreement of the Company and a Holder affected thereby.

30. Will Provisions

Each Holder agrees to insert in his or her will, or to execute a codicil thereto, directing and authorizing his or her executor to fulfill and comply with the provisions hereof.

31. Notice

Any notice required or permitted hereunder shall be delivered in person or sent by telecopier, air courier or certified mail, return receipt requested, postage and fees prepaid in all cases; in the case of the Company, to the then current address of its then principal business office, to the attention of the Chairman of its Board of Directors, and, in the case of a Holder, to the address of such Holder shown on the signature page hereto, or to such other address as will have been specified by prior written notice to the sending party. Notice shall be effective upon delivery if it is hand-delivered; upon receipt if it is transmitted by telecopier, air courier or registered, certified or express mail; upon expiration of the third business day after deposit in the [COUNTRY] mail if mailed from and to an address in the [COUNTRY]; and upon expiration of the tenth business day after deposit in the [COUNTRY] mail if mailed from or to an address outside the [COUNTRY].

32. Succession

This Agreement shall be binding upon and inure to the benefit of the parties hereto and upon their permitted successors in interest of any kind whatsoever, their heirs, executors, administrators, and personal representatives.

33. Governing Law

This Agreement will be governed in all respects by the laws of the State of [STATE/PROVINCE] as such laws are applied to agreements between [STATE/PROVINCE] residents entered into and to be performed entirely within [STATE/PROVINCE], without regard to conflicts of law [principles]. The parties hereby consent to the exclusive jurisdiction of the state or federal courts located in the State of [STATE/PROVINCE], for the resolution of any disputes arising out of this Agreement.

34. Counterparts

This Agreement may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

35. Sole Agreement

This Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements and understandings pertaining thereto whether oral or written.

36. Construction

The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. The language of this Agreement shall be construed as to its fair meaning and not strictly for or against any party.

37. Severability

If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be enforceable in accordance with its terms and interpreted as if such provisions were as excluded.

38. Attorney Fees

In the event that any dispute among the parties hereto should result in litigation or arbitration, the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

FIRST HOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECOND HOLDER

THIRD HOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Consent of Spouse

The undersigned spouse(s) of the party (parties) to the foregoing Agreement acknowledge(s) on his or her own behalf that: I have read the foregoing Agreement and I know its contents. I am aware that by its provisions my spouse grants the Company an option to purchase all of his or her shares of the Company, including my community interest in them. I hereby consent to the sale, approve of the provisions of the Agreement, and agree that those shares and my interest in them are subject to the provisions of the Agreement and that I will take no action at any time to hinder operation of the Agreement on those shares or my interest in them.

SPOUSE

Signature

Name

SPOUSE

Signature

Name

SPOUSE

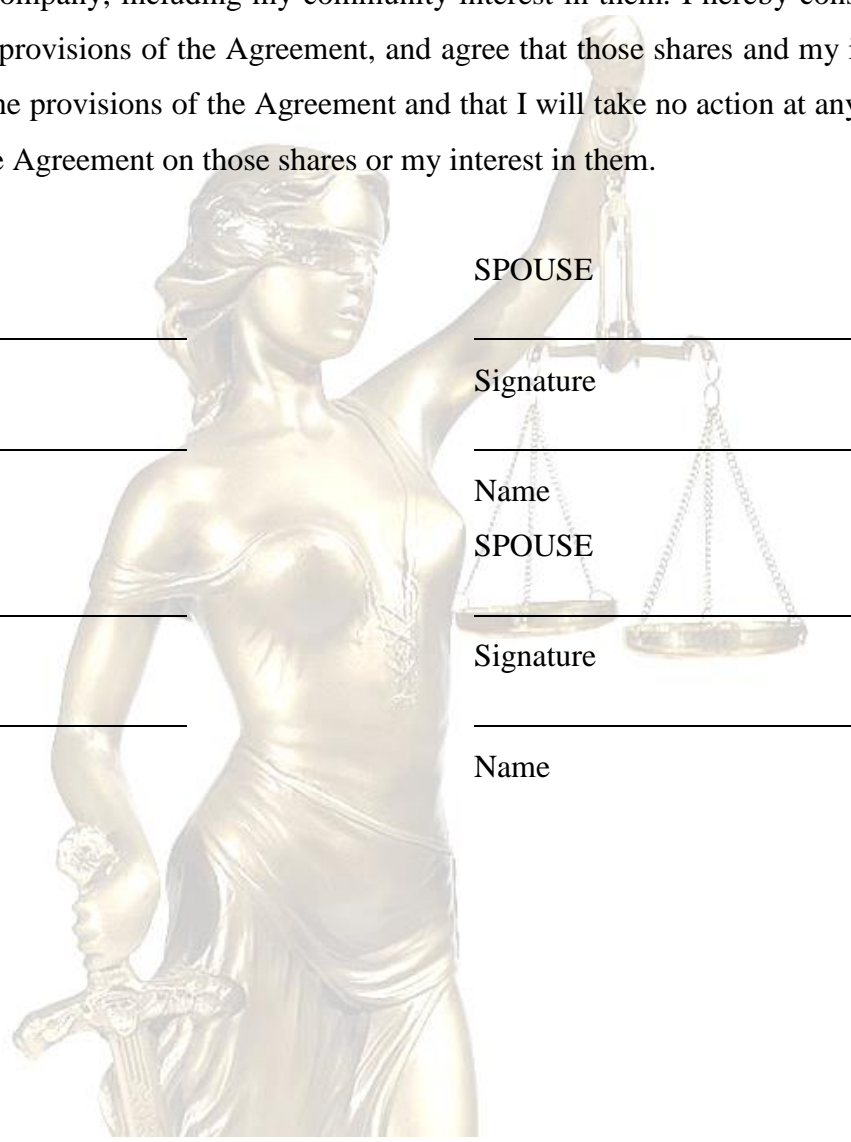
Signature

Name

SPOUSE

Signature

Name



TRANSFER OF STOCK AGREEMENT

This Transfer of Stock Agreement (the "Agreement") is made and effective [DATE],
BETWEEN: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SHAREHOLDER NAME] (the "Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. TERMS

The undersigned Shareholder hereby assigns, sells, and transfers to Buyer [number of shares] shares of [common or preferred] stock of [name of company] ("Company") owned by Shareholder ("Stock"). The purchase price shall be as indicated below, and shall be paid by Buyer within [NUMBER] days of Buyer having received an executed copy of this Agreement with the stock certificate representing the Stock duly endorsed to Buyer. The Shareholder represents that he or she owns the Stock free and clear of all liens, security interests, claims, or other encumbrances and that Buyer will obtain good, valid and marketable title to the Stock.

Number of Shares of
Company Stock Being Sold: _____
Aggregate Purchase Price: _____

2. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties pertaining to its Subject matter and supersedes all prior and contemporaneous agreements, representations, warranties, understandings, negotiations, and discussions, whether oral or written with respect to its subject matter. This Agreement may only be amended in writing, signed by both parties. This Agreement shall be construed as to its fair language and not strictly for or against any party.

IN WITNESS WHEREOF, this Agreement has been executed by each of the individual parties hereto on the date first above written

BUYER

SHAREHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

COMPENSATION AND BENEFITS

CHECKLIST

Handling Workers' Compensation Claims

The initial period is critical in handling workers' compensation claims. So you must be sure to:

Immediately

- Administer first aid
- Accompany injured worker to a selected medical provider
- Report incident within company
- Notify family
- Assign responsible person to follow claim

First day

- Report to claim handler outside company (insurance company or third-party administrator)
- Determine, on a preliminary basis, whether the injury is covered by workers' compensation
- Counsel employee and/or family on claims procedures, available benefits, company's continuing interest in employee's welfare, etc.
- Follow up with the employee or family

First week

- Coordinate payment of initial benefits
- Talk to treating physician to learn diagnosis and treatment plan
- Evaluate whether medical rehabilitation is necessary or appropriate
- Develop return-to-work plan
- Contact the injured employee and/or the family and forward mail

First month

- Use a "wellness" approach (cards, phone calls, visits) to continue to reinforce company's concern
- Consider medical examination by independent physician, if warranted
- Reevaluate treatment plan based on new medical information
- Update return-to-work plan and contact the injured employee and/or the family

Ongoing

- Continually reevaluate treatment plan
- Refer for pain management evaluation of chronic pain, if appropriate
- Maintain contact with the injured employee and/or the family



Checklist

for collecting information FOR a claim

Whether it's the businesses owner, or someone assigned by the business owner to keep track of the claim, here's some advice for the types of information the person overseeing the claim should be gathering:

About the employee

- Name, nicknames, maiden name, previous names
- Address—current and previous (length of time living at both addresses)
- Phone number, pager number, cellular number
- Social security and driver's license numbers
- Sex
- Date of birth
- Marital status
- Dependents and immediate family contact
- Non-relative contact
- Date of hire (state hired, if applicable)
- Job classification, if applicable (insurance class or company classification)
- Vehicle (type, year, license number)
- Interests—hobbies
- Length of time as a state resident

About the injury

- Time and date of injury
- Date of death (if applicable)
- State of injury
- Nature of injury (sprain, fracture, etc.)
- Body part(s) affected; any previous injury to the affected body part(s)
- Source of injury (machines, hand tools, buildings, etc.)
- Type of injury (fall, struck by object or vehicle, overexertion, repetitive motion trauma)

- Witnesses
- Work process involved (lifting, carrying, etc.)
- To whom was the injury reported
- Who filled out the first report of injury report
- Plant or location
- Job
- Time and date the injury was reported
- Shift, if applicable

About the claim

- Date employer first notified
- Who was notified, by whom?
- Date employer was notified of workers' compensation claim
- Date insurance company or service company notified
- Date state agency notified
- State case number
- Average weekly wage
- Benefit rate
- Health care providers and costs
- Other benefits lost (Did the employer stop paying vacation, health benefits, etc.?)
- Other benefits received
- Date disability started
- Date of first payment
- Projected return-to-work date
- Date case closed
- Date of maximum medical improvement
- Impairment rating
- Lost days
- Total benefits paid
- Vocational rehabilitation activity

- Subrogation (Is some third party responsible?)
- Second injury fund potential

Oral statement from injured worker

- Conduct the interview in a non-adversarial setting
- Demonstrate concern and empathy
- Allow the worker to talk
- Do not rush the worker
- Reenact the accident
- Check for photos and/or video of the accident

Written statement from injured worker

- Note the location where the statement is taken
- Let the employee write the statement, if possible
- Statement is taken ASAP after the injury
- Describe the worker's preinjury and postinjury actions
- Request that the worker and any witnesses sign the statement
- Make sure the employee initials any changes
- Give copy of statement to employee
- list the date and time of the statement

Oral statement from witness(es)

- Note witness' location at the time of injury
- Record witness' relationship to the injured worker
- Interview witnesses individually
- Do not rush the witness
- Make sure the statement is unrehearsed

Written statement from witness(es)

- Make sure the witness writes the statement in ink
- Record the stated ASAP after the injury
- Make sure the witness records his/her actions before, during and after the time of injury

- Request that the witness sign the statement and initial any changes
- Record the date and time of the statement
- Give a copy of the statement to the witness

If litigation occurs

- Defense attorney, law firm
- Claimant attorney, law firm
- Identify judge
- Costs of litigation (spending more than paying?)
- History of dispute
- Settlement



Warning Signals of Workers' Compensation Fraud

You may not discriminate against a worker who has filed previous workers' compensation claims. However, when you have several of the following suspect behaviors present or you observe an emerging pattern, don't be afraid to investigate further for possible fraud or to forward your suspicions to the appropriate authority.

About the worker

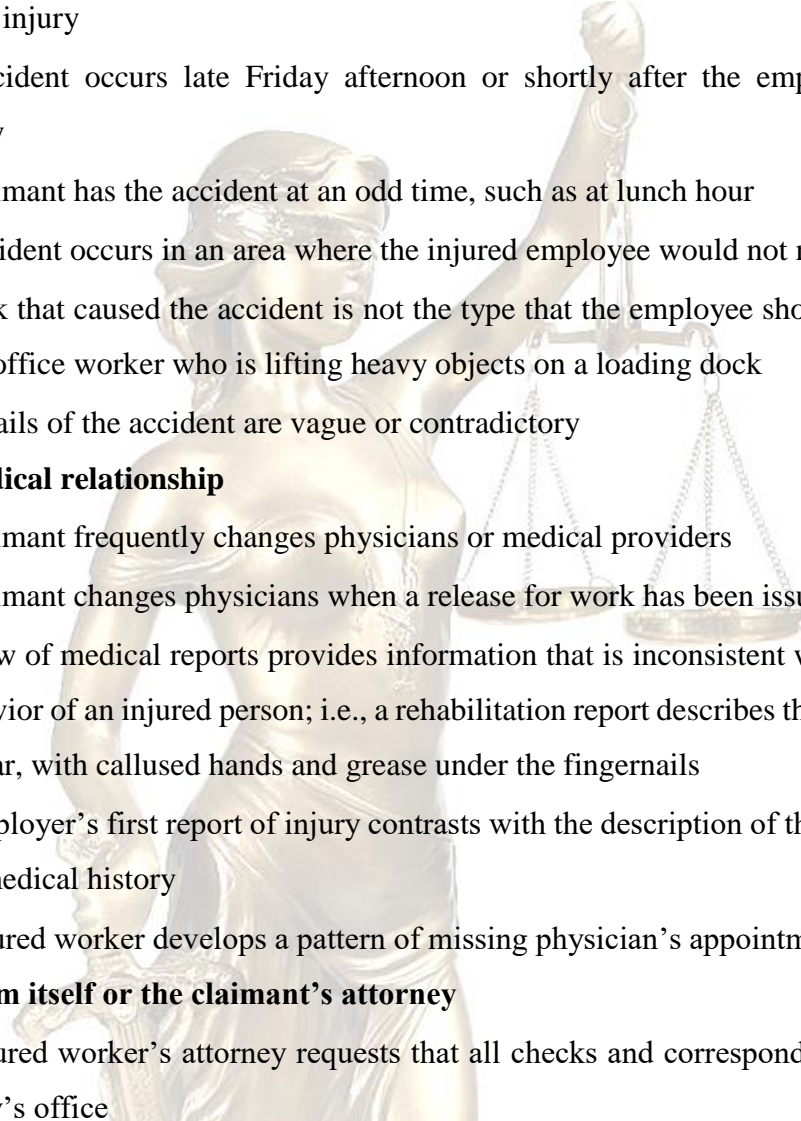
- The injured worker has an unstable work history; i.e., an employee who often changes jobs
- The claimant has a history of reporting subjective injuries which may include workers' compensation or liability claims
- The claimant is consistently uncooperative
- The injured worker has been recently terminated, demoted, or passed over for a promotion
- The injured worker is in line for early retirement
- The injured worker is making excessive demands
- The injured worker calls soon after the injury and presses for a quick settlement of the case
- The injured worker moves out of state soon after the injury
- The injured worker changes his address to a post office box or receives mail via friend or relative

About the workplace

- The injured worker's workplace is experiencing labor difficulties
- The accident occurs just prior to job termination, layoff, after formal discipline of the employee, or near the end of the employee's probationary period

About the injury

- The injured worker was not injured in the presence of witnesses
- The injury is a subjective one, like stress, emotional trauma, or is hard to prove, like back pain, headache, insomnia, etc.
- The accident is not promptly reported by the employee to the employer
- The employers' first notice of the injury is from an attorney or a medical clinic, and not from the injured worker

- 
- Physicians who have examined the injured worker have vastly differing opinions regarding the injured worker's disability
 - There is no sound medical basis for the disability; all physicians' reports indicate a full recovery
 - The injured worker is claiming disability exceeding that which is normally consistent with such an injury
 - The accident occurs late Friday afternoon or shortly after the employee reported on Monday
 - The claimant has the accident at an odd time, such as at lunch hour
 - The accident occurs in an area where the injured employee would not normally be
 - The task that caused the accident is not the type that the employee should be involved in; i.e., an office worker who is lifting heavy objects on a loading dock
 - The details of the accident are vague or contradictory

About the medical relationship

- The claimant frequently changes physicians or medical providers
- The claimant changes physicians when a release for work has been issued
- A review of medical reports provides information that is inconsistent with the appearance or behavior of an injured person; i.e., a rehabilitation report describes the claimant as being muscular, with callused hands and grease under the fingernails
- The employer's first report of injury contrasts with the description of the accident set forth in the medical history
- The injured worker develops a pattern of missing physician's appointments

About the claim itself or the claimant's attorney

- The injured worker's attorney requests that all checks and correspondence be sent to the attorney's office
- The claimant's attorney is known for handling suspicious claims
- The attorney lien or representation letter is dated the day of the reported accident
- The same doctor/lawyer combination previously known to handle the same kind of injury is handling this claim

- The claimant is unusually familiar with workers' compensation claims procedures and laws
- The claimant initially wants to settle with the insurer but later retains an attorney and files increasingly subjective complaints
- The claimant's attorney threatens further legal action unless a quick settlement is made
- There is a high number of applications from a specific firm
- The claimant's attorney inquires about a settlement or buyout early in the life of the claim
- The claimant writes unsolicited statements about how much better he/she is, but treatment continues and the claimant doesn't return to work

About outside activities

- There are tips from fellow employees, friends, or relatives suggesting that the injured worker is either working or is active in sports
- The injured worker's rehabilitation report shows evidence of other activity
- The injured worker is in a trade that would make it possible to otherwise work while collecting compensation
- The injured worker is exaggerating an injury in order to get time off to work on personal interests; i.e., the injured worker is remodeling or building a home concurrently with the injury
- The injured worker is in a seasonal business that would make it attractive to be "injured" during the off-season; i.e., occupations in fields such as roofing, landscaping, plumbing, farming, masonry, etc.
- The injured worker leaves different daytime and evening telephone numbers
- The injured worker is never home when called or is always "sleeping and can't be disturbed" (especially during work hours)
- Return calls to the claimant's residence have strange or unexpected background noises that indicate it may not be a residence
- The claimant has several other family members also receiving workers' compensation benefits or other "social insurance" benefits, such as unemployment

PROFIT-SHARING PLAN FOR SELF-EMPLOYED INDIVIDUALS

The following document is a model profit-sharing plan that is intended to give you an idea of what a typical profit-sharing plan contains. You can modify this form to meet your specific circumstances. Of course, if you intend to use this plan, you should make sure that your attorney reviews it and approves any changes you make.

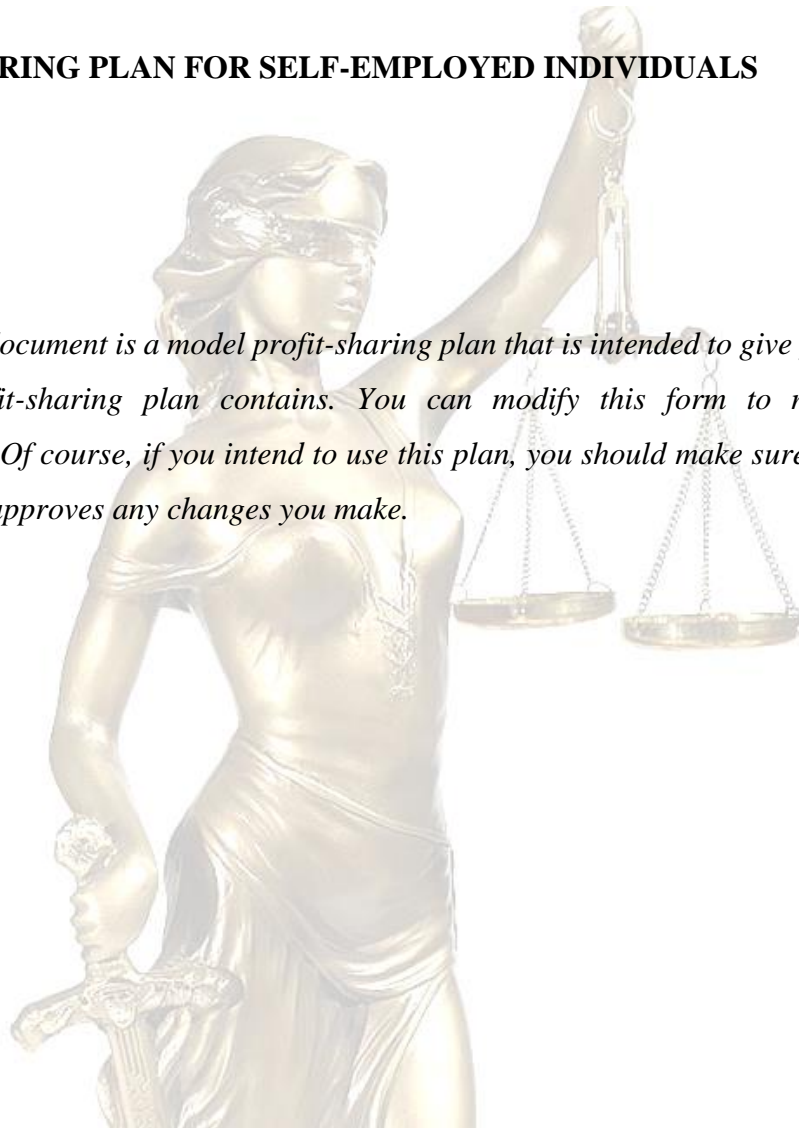


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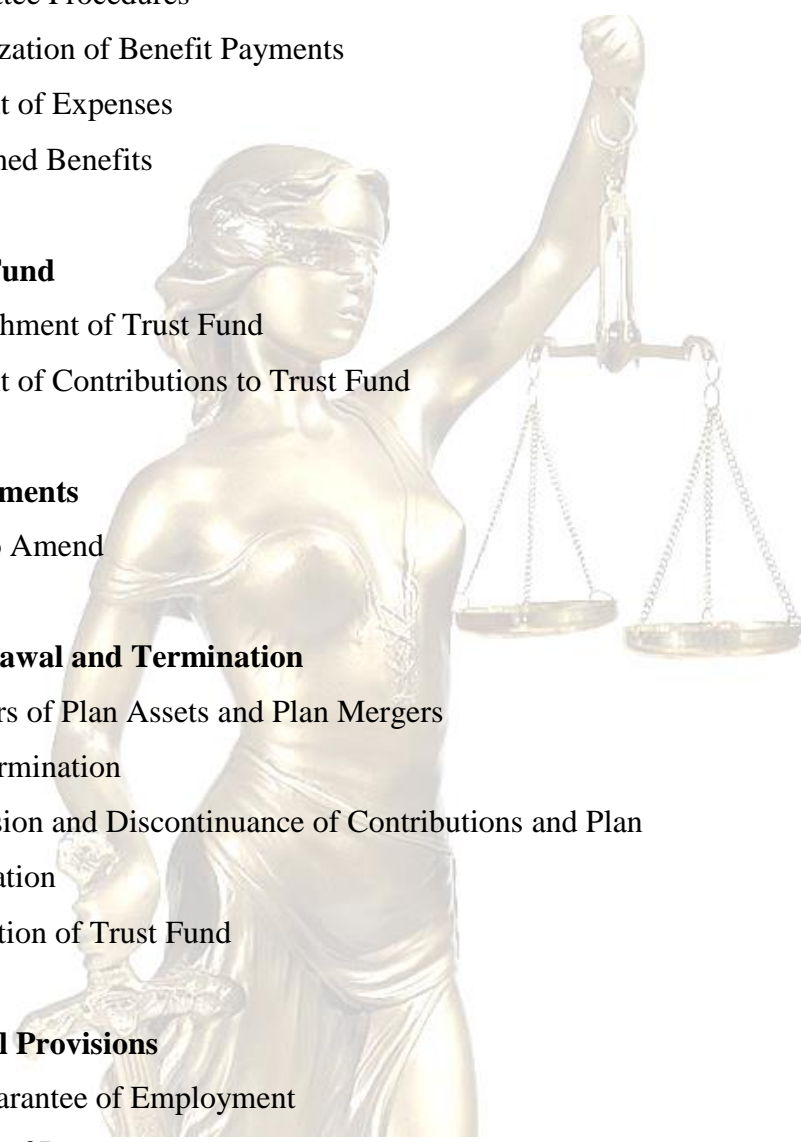
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PROFIT-SHARING PLAN FOR SELF-EMPLOYED INDIVIDUALS OF [COMPANE NAME]

Preamble

[COMPANE NAME] , organized and existing under the laws of the State of [state/PROVINCE], hereby establishes a profit-sharing plan for its employees as hereinafter defined, effective [the effective date].

Said organization, as part of the aforesaid Plan, adopts concurrently herewith a Trust agreement creating a Trust Fund (hereinafter at times referred to as the "Fund"), to which contributions shall be made and from which benefits shall be paid in accordance with the terms and conditions thereof.

The Plan hereby established is conditioned upon its qualification under [SECTION] of [CODE] , as amended from time to time, with employer contributions being deductible under [SECTION] of [CODE] or any other applicable sections thereof, as amended from time to time. The Plan is intended to qualify as a profit-sharing plan.

1. Purpose and Definitions

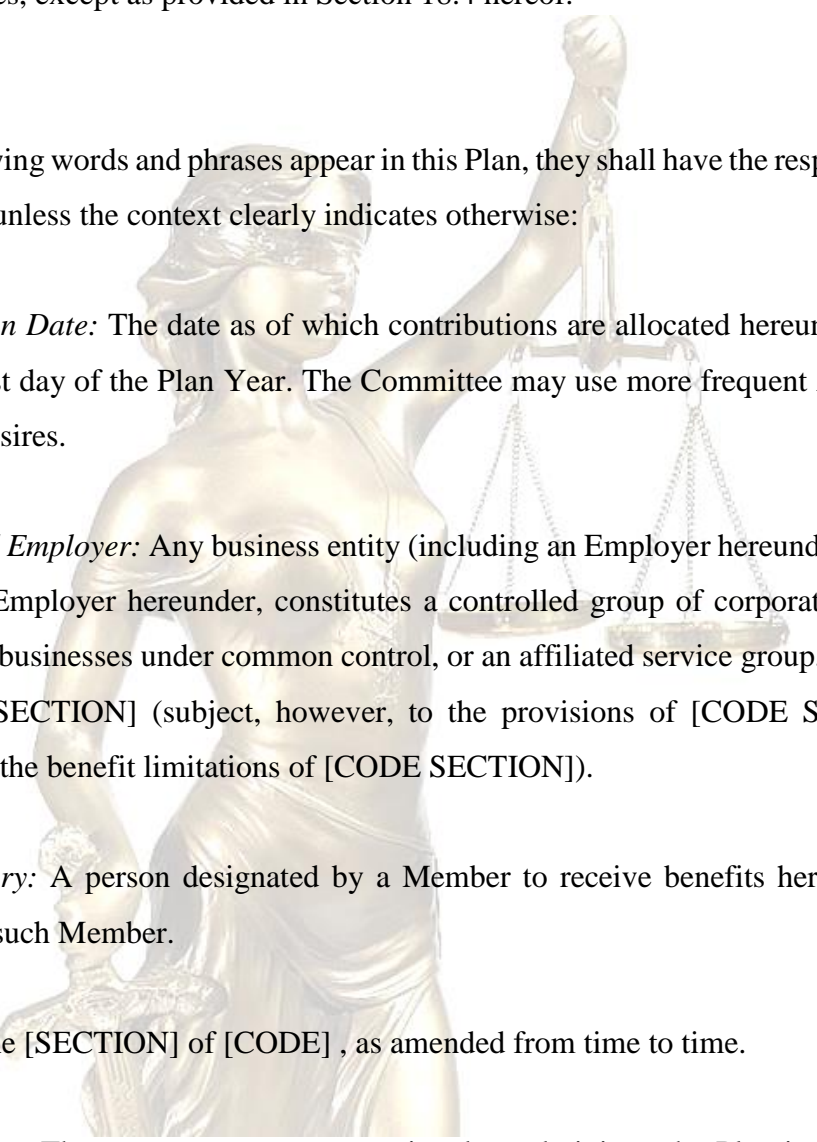
1.1 Purpose:

The purpose of this Plan is to encourage Employees to save and invest, systematically, a portion of their current Compensation in order that they may have a source of additional income upon their Retirement or Disability, or for their family in the event of death. The benefits provided by this Plan will be paid from the Trust Fund and will be in addition to the benefits Employees are entitled to receive under any other programs of the Employer.

This Plan and the separate related Trust forming a part hereof are established and shall be maintained for the exclusive benefit of the eligible Employees of the Employer and their Beneficiaries. No part of the Trust Fund can ever revert to the Employer or be used for or diverted to any other purpose other than for the exclusive benefit of the Employees of the Employer and their Beneficiaries, except as provided in Section 18.4 hereof.

1.2 Definitions:

Where the following words and phrases appear in this Plan, they shall have the respective meanings set forth below, unless the context clearly indicates otherwise:

- 
- a) *Allocation Date:* The date as of which contributions are allocated hereunder, which shall be the last day of the Plan Year. The Committee may use more frequent Allocation Dates if it so desires.
 - b) *Affiliated Employer:* Any business entity (including an Employer hereunder) that, together with an Employer hereunder, constitutes a controlled group of corporations, a group of trades or businesses under common control, or an affiliated service group, all as defined in [CODE SECTION] (subject, however, to the provisions of [CODE SECTION] when applying the benefit limitations of [CODE SECTION]).
 - c) *Beneficiary:* A person designated by a Member to receive benefits hereunder upon the death of such Member.
 - d) *Code:* The [SECTION] of [CODE] , as amended from time to time.
 - e) *Committee:* The person or persons appointed to administer the Plan in accordance with Article XII hereof.

- f) *Compensation*: As to Owner-Employees and any partner who owns less [%] capital or profits interest in the trade or business, Compensation means the Earned Income of such individual, which is net income from self-employment derived from the business with respect to which the Plan is established, provided his personal services are a material income producing factor in such business, determined without regard to items which are not included in gross income for purposes of federal income tax and the deductions properly allocable to or chargeable against such items, and determined after deduction for contributions on behalf of said Owner-Employee and all other Employees. Earned Income also includes gains which are not treated under the Code as gains from the sale or exchange of capital assets and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property (other than goodwill) by an individual whose efforts created such property. It is the intent of the foregoing to incorporate the definition of earned income as set forth in [CODE SECTION].

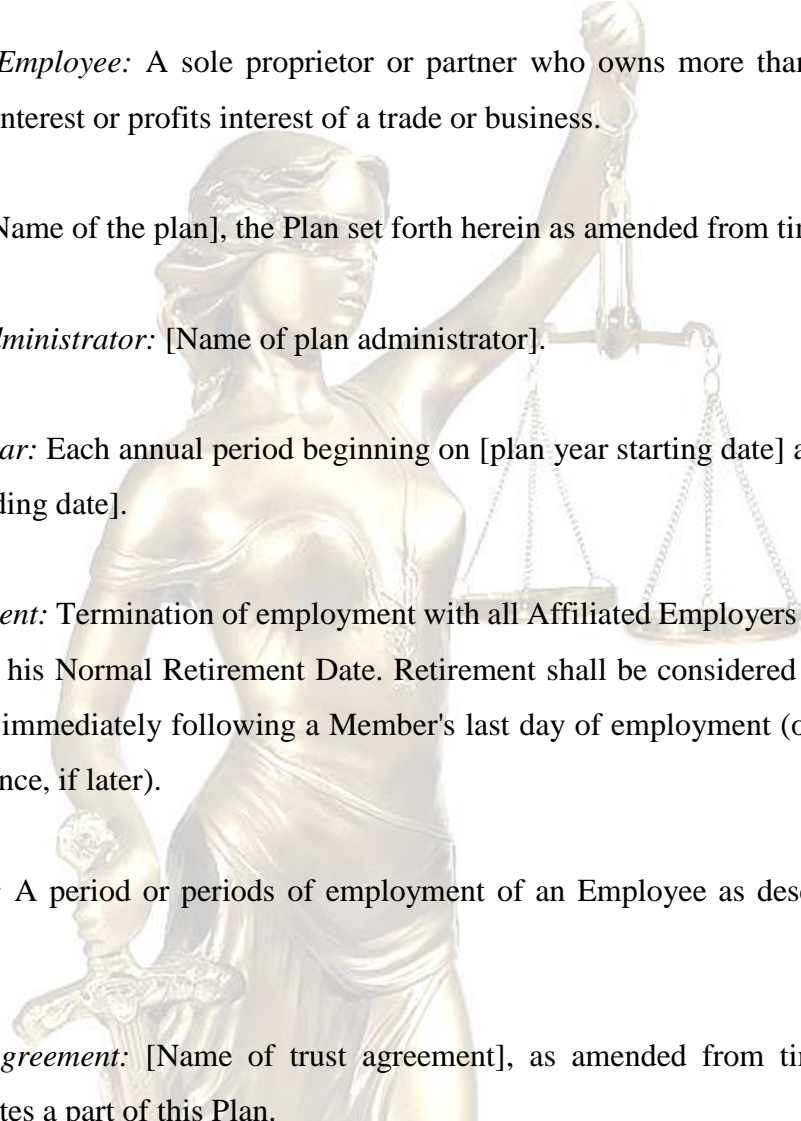
As to any other Employee, the total cash remuneration paid to the Employee for a calendar year by an Employer (or predecessor company) for personal services as reported on the Employee's federal income tax withholding statement or statements. Effective for the Plan Year beginning in [year], this Plan shall not take into consideration compensation in excess of [AMOUNT], as indexed under [CODE SECTION], in computing any Plan benefits.

- g) *Covered Employment*: The employment category for which the Plan is maintained, which includes any employment with the Employer.
- h) *Disability*: A physical or mental condition which, in the judgment of the Committee, totally and presumably permanently prevents an Employee from engaging in substantial gainful employment with his Employer.
- i) *Effective Date*: [Effective date].

- j) *Employee*: Any person who, on or after the Effective Date, is receiving remuneration for personal services rendered as a common law employee of the Employer or Affiliated Employer (or who would be receiving such remuneration except for an authorized Leave of Absence), or any Owner Employee, or a partner who has less than a [%] capital or profits interest in the trade or business.

This Plan shall not cover leased employees. For this purpose, a "leased employee" means any person who on or after [DATE], and pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with [CODE SECTION] on a substantially full-time basis for a period of at least one year and such services are of a type historically performed by employees in the business field of the Employer.

- k) *Employer*: [COMPANE NAME]
- l) *ERISA*: [CODE SECTION], as amended from time to time.
- m) *Individual Account*: Each of the accounts maintained by the Committee showing the individual interests in the Trust Fund of each Member, former Member, and Beneficiary, as described in Section 5.1 hereof.
- n) *Leave of Absence*: Any absence from service authorized by an Employer under such Employer's standard personnel practices, provided that all persons under similar circumstances must be treated alike in the granting of such Leaves of Absence, and provided further that the Employee returns or retires within the period specified in the authorized Leave of Absence.
- o) *Limitation Year*: The year used in applying [CODE SECTION], which year is [YEAR].

- 
- p) *Member*: An Employee who has met the eligibility requirements for participation set forth in Article II hereof, or a former Member for whom an Individual Account continues to be maintained hereunder.
- q) *Normal Retirement Date*: The [NUMBER] birthday of a Member.
- r) *Owner-Employee*: A sole proprietor or partner who owns more than [%] of either the capital interest or profits interest of a trade or business.
- s) *Plan*: [Name of the plan], the Plan set forth herein as amended from time to time.
- t) *Plan Administrator*: [Name of plan administrator].
- u) *Plan Year*: Each annual period beginning on [plan year starting date] and ending on [plan year ending date].
- v) *Retirement*: Termination of employment with all Affiliated Employers after a Member has reached his Normal Retirement Date. Retirement shall be considered as commencing on the day immediately following a Member's last day of employment (or authorized Leave of Absence, if later).
- w) *Service*: A period or periods of employment of an Employee as described in Article II hereof.
- x) *Trust Agreement*: [Name of trust agreement], as amended from time to time, which constitutes a part of this Plan.
- y) *Trust or Trust Fund*: The fund maintained in accordance with the terms of the Trust Agreement.

z) *Trustee*: The corporation or individuals appointed by the Employer to administer the Trust in accordance with the Trust Agreement.

aa) *Valuation Date*: The date as of which the Trust Fund is valued and gains or losses allocated, which shall be the last day of each Plan Year. The Committee may use more frequent Valuation Dates if it so desires.

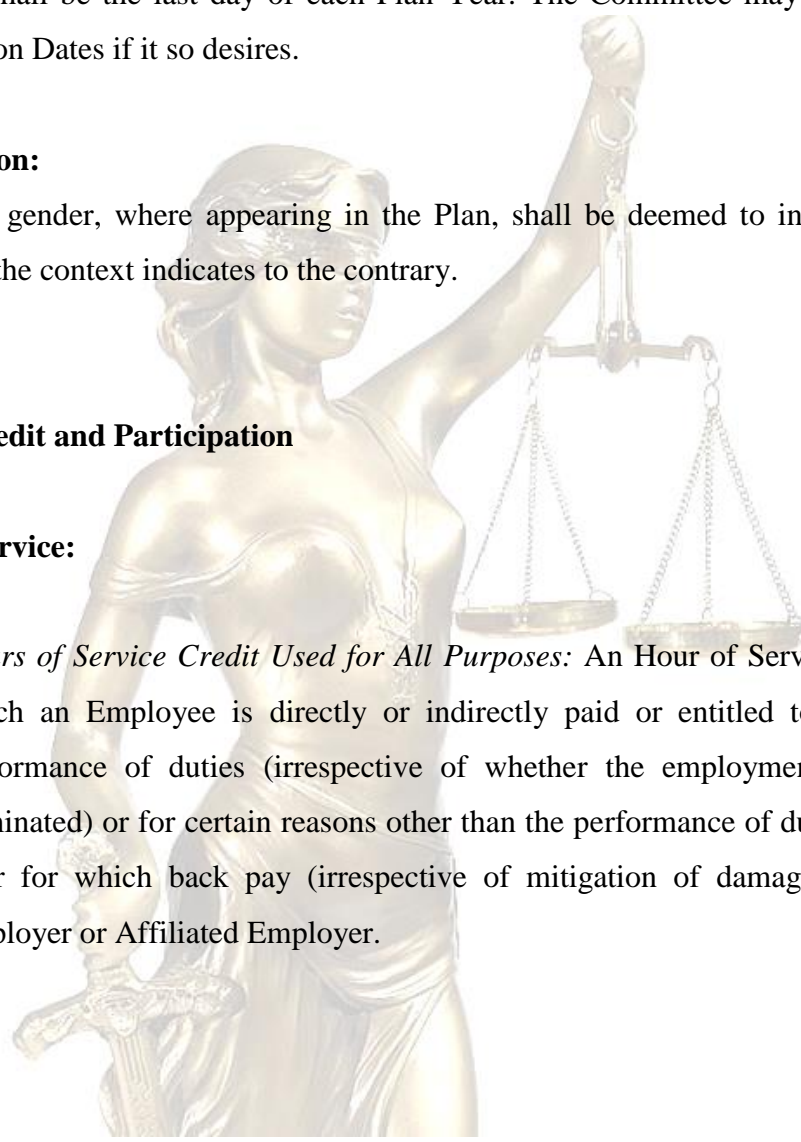
1.3 Construction:

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context indicates to the contrary.

2. Service Credit and Participation

2.1 Hour of Service:

a) *Hours of Service Credit Used for All Purposes*: An Hour of Service is any hour for which an Employee is directly or indirectly paid or entitled to payment for the performance of duties (irrespective of whether the employment relationship has terminated) or for certain reasons other than the performance of duties, including any hour for which back pay (irrespective of mitigation of damages) is due, by the Employer or Affiliated Employer.



Such payment for reasons other than the performance of duties must be due to vacation, holiday, illness, incapacity (including disability), lay-off, jury duty, military duty, or Leave of Absence; provided, however, that no Hour of Service need be credited for payments received solely for the purpose of complying with applicable workers' compensation or unemployment or disability insurance laws or for payments received solely for reimbursing the Employee for medical or medically related expenses. It is further provided that no more than [NUMBER] Hours of Service credit need be given for each single continuous period for which an Employee is paid for reasons other than the performance of duties. The determination of such Hours of Service for the nonperformance of duties shall be in accordance with [CODE].

Hours of Service credit at the rate of [NUMBER] hours per week shall also be granted for any non-paid period of absence authorized by the Employer in accordance with its uniform Leave of Absence policy for granting such credit or for military duty to the extent required under federal law.

Each Hour of Service earned by any Employee shall be credited to him as of the time when he actually earned such Hour except as otherwise permissible or required under [CODE SECTION]. In no event an Employee receive credit for the same Hours more than once.

- b) *Hours of Service Credit Used Only for Purposes of Determination of Breaks in Service:* Solely for purposes of determining whether an Employee has incurred a [NUMBER] year Break in Service, Hours of Service Credit shall be given (if not already given under (a) above in this Section) for any absence, beginning after [DATE], by reason of pregnancy of the Employee, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child by said Employee, and absence for purposes of caring for such child for a period beginning immediately following such birth or placement.

No more than [NUMBER] Hours of Service Credit need be given for such periods of absence, and the credit given shall be the Hours of Service which otherwise would normally have been credited to such Employee but for such absence. In any case in which hourly records are not maintained, Hours of Service credit shall be given at the rate of [NUMBER] hours for each day of such absence.

Said Hours of Service shall be credited in the [NUMBER] month computation period specified under Section 2.2 hereof during which said absence began only if the Employee would be prevented from incurring a Break in Service in said period by treating said periods of absence as Hours of Service; however, if said Employee would not incur a Break in Service during said period, such Hours of Service shall be credited in the immediately following period.

2.2 Service:

Service is the period of employment used in determining eligibility for participation in this Plan, as well as in determining eligibility for benefits. Subject to the loss of service rules below in this Article, a year of Service is the [NUMBER] month period beginning with the date of the Employee's first Hour of Service if he completes at least [NUMBER] Hours of Service during such [NUMBER] month period, and is any Plan Year following such date during which he completes at least [NUMBER] Hours of Service.

2.3 Break in Service:

For purposes of determining Service, an Employee shall have a year of Break in Service for the [NUMBER] month period beginning with the date of his first Hour of Service and for any Plan Year following such date if during such [NUMBER] month period of such Plan Year he completes [NUMBER] or fewer Hours of Service.

2.4 Loss of Service:

If an Employee who does not have any vested benefit hereunder has a termination of employment that results in at least [NUMBER] consecutive years of Breaks in Service that are equal to or greater than the total years of Service, then he shall lose all such prior Service previously accrued hereunder.

2.5 Multiple Trades and Businesses:

If this Plan provides contributions or benefits for one or more Owner-Employees who control both the business with respect to which this Plan is established and one or more other trades or businesses, this Plan and the plan established with respect to such other trades or businesses must, when looked at as a single plan, satisfy [CODE SECTION] with respect to the Employees of this and all such other trades or businesses.

If this Plan provides contributions or benefits for one or more Owner-Employees who control one or more other trades or businesses, the Employees of each such other trade or business must be included in a plan which satisfies [CODE SECTION] and which provides contributions and benefits not less favorable than provided for such Owner-Employees under this Plan.

If an individual is covered as an Owner-Employee under the plans of two or more trades or businesses which he does not control, and such individual controls a trade or business, then the contributions or benefits of the Employees under the plan of the trade or business which he does control must be as favorable as those provided for him under the most favorable plan of the trade or business which he does not control.

For purposes of the preceding paragraphs, an Owner-Employee, or [NUMBER] or more Owner-Employees, shall be considered to control a trade or business if such Owner-Employee, or such [NUMBER] or more Owner-Employees together:

- a) own the entire interest in an unincorporated trade or business; or
- b) in the case of a partnership, own more than [%] of either the capital interest or the profits interest in such partnership.

2.6 Participation Originating Under This Plan:

Each Employee shall become a member in this Plan on the first day of the month (i.e., "entry date") on which he:

- a) is in Covered Employment;
- b) has attained his [NUMBER] birthday; and
- c) has completed a year of Service.

2.7 Cessation of Participation Service and Reentry:

If an Employee has a year or more of Breaks in Service, or if he leaves Covered Employment, before he has become a Member hereunder, he will, following such Break in Service or interruption of Covered Employment, become a Member on the first entry date specified in Section 2.6 hereof after he meets the requirements for participation specified in Section 2.6 hereof. For purposes of determining whether an Employee's prior Participation Service is to be counted toward such requirements, the provisions of Section 2.4 hereof shall be applicable.

If an Employee has a year or more of Breaks in Service, or if he leaves Covered Employment, after he has become a Member hereunder but before he has any vested benefit hereunder, he will cease his participation in this Plan, but will, immediately following such Break in Service or interruption of Covered Employment, again become a Member provided he then meets the requirements for participation specified above in this Article. If the Employee does not then meet such requirements, he shall become a Member on the first entry date specified in Section 2.6 hereof after he does meet such requirements. For purposes of determining whether an Employee's prior Participation Service is to be counted toward such requirements, the provisions of Section 2.4 hereof shall be applicable.

If an Employee has a year or more of Breaks in Service, or if he leaves Covered Employment, after he has a vested benefit hereunder, he will cease his participation in this Plan, but will, immediately following such Break in Service or interruption of Covered Employment, again become a Member hereunder, provided he is in Covered Employment.

3. Contributions

3.1 Contributions by Employer:

The Employer shall, during a Plan Year, contribute to the Trust an amount determined at the Employer's discretion. Such contribution is for allocation, in accordance with Section 4.2 hereof, among Employer Contribution Accounts of Members who: (i) are employed by the Employer on the Allocation Date and (ii) have completed at least [NUMBER] Hours of Service during such Plan Year, or (iii) ceased employment due to Retirement, Death or Disability since the last Allocation Date.

Notwithstanding the above, such contributions shall be made only from the Employer's current or retained earnings or profits and shall be limited to the amount deductible by the Employer under [CODE SECTION]. Such contributions shall be transmitted to the Trustee as soon as practicable after such contributions are made.

3.2 Member Voluntary Contributions:

When he becomes a Member hereunder and as of the beginning of each Plan Year thereafter, a Member may, through payroll deduction, elect to make voluntary contributions hereunder (on an after-tax basis) in a whole amount or a whole percentage of his Compensation.

An election to make such contributions shall be made on such forms and at such times as the Committee may prescribe and shall be effective on a Plan Year basis, provided that changes, suspensions or discontinuance of contributions may be made by the Member during a Plan Year only if permitted by the Committee.

A Member's contributions shall be transmitted to the Trustee of the Trust Fund by the Employer as soon as reasonably practicable, but no later than [NUMBER] days after the date on which the contribution was made.

A Member may withdraw all or any part of his Employee Contribution Account by filing a written application on a form to be prescribed by the Committee, with at least [NUMBER] days' advance notice, no more than once in any Plan Year.

The employee contributions permissible under this Section shall be subject to the nondiscrimination tests set forth in [CODE SECTION]. The provisions of [CODE SECTION] and the regulations, there under, are hereby incorporated by reference.

3.3 No Contributions by Members:

Members are not required or permitted to make any contributions under this Plan.

4. Individual Accounts and Allocations

4.1 Establishment of Individual Accounts:

The Committee shall create and maintain adequate records to reflect at all times the interest in the Trust Fund of each Member. Such records shall be in the form of separate Individual Accounts for each Member who has an interest in the Trust Fund, such accounts to be referred to as follows:

- a) *Employer Contribution Account:* The account representing contributions made by the Employer under Section 3.1 hereof and gains or losses allocable thereto.
- b) *Employee Contribution Account:* The account representing contributions made by Members under Section 3.2 hereof and gains or losses allocable thereto.

Credits and charges shall be made to such accounts in the manner herein described. The Individual Accounts are primarily for accounting purposes, and a segregation of the assets of the Trust Fund to each account by the Trustee shall not be required. Distributions and withdrawals made from an account shall be charged to the account as of the date when paid.

4.2 Allocation of Employer Contributions:

Each contribution for Members eligible under Section 3.1 hereof shall be allocated among eligible Members' Employer Contribution Accounts as of the Allocation Date which falls on the last day of the Plan Year for which such contribution is made hereunder. Allocations to any Member shall be made on the basis of Compensation received during the Plan Year while he was a Member hereunder. Such allocations shall be made to each such Member in the ratio that such Compensation for the Plan Year bears to the total of all such Compensation of all Members for the Plan Year.

4.3 Allocation of Gains and Losses:

Gains or losses of the Trust Fund shall be allocated as of each Valuation Date as follows:

- a) The Committee shall, before taking into account the contributions and the forfeitures for the period since the last preceding Valuation Date, determine the then market value of the Fund and the net gain or loss of the Fund from the preceding valuation, including expenses of administration and charges against such Fund.
- b) The Committee shall determine the total aggregate value of all Individual Accounts as shown in its records for the preceding Valuation Date. The balance of any such Individual Account shall be reduced by any amounts paid there from since the last Valuation Date. The balance shall be the value used in (c) below.
- c) The Committee shall then adjust the value of each Individual Account by crediting each such Individual Account with its proportion of the net gain if there is a gain or charging it with its proportion of the net loss if there is a loss; the proportion to be so credited or charged to each Individual Account shall be calculated by multiplying such gain or loss by a fraction, the numerator of which is the then value of said Individual Account and the denominator of which is the then aggregate value of all Individual Accounts within the Trust Fund.

4.4 Allocation of Forfeitures:

Forfeitures shall be allocated as of the Allocation Date falling on the last day of the Plan Year. Any forfeiture shall be allocated as of the first such Allocation Date which occurs after such forfeiture is available, in accordance with Section 8.3 hereof, for allocation. In order to be entitled to receive an allocation of a forfeiture to be allocated at the end of any Plan Year a Member must (i) be employed by the Employer on such Allocation Date, and (ii) have completed [NUMBER] Hours of Service during such Plan Year, or (iii) have ceased employment due to Retirement, Death or Disability since the last Allocation Date.

The allocation to each such Member shall be in the ratio that such Member's Compensation received during such Plan Year while he was a Member hereunder bears to the total of all such Compensation of all Members for such Plan Year; provided, however, if forfeitures available for allocation would cause the limitation ([CODE SECTION]) described in Section 10.1 hereof to be exceeded, then the amount by which such forfeitures exceed the limitation shall be credited to and held unallocated in a suspense account until the next succeeding Allocation Date when such amounts can be allocated without exceeding such limitation.

4.5 Notification to Members:

At least once annually the Committee shall advise each Member for whom an Individual Account is held hereunder of the then value of such account.

5. Retirement

5.1 Benefit:

Upon his Normal Retirement Date, a Member shall have a fully vested and non-forfeitable interest in his Individual Accounts hereunder. Distribution will be made upon his Retirement. The amount of his Individual Accounts shall be the balance as of the Valuation Date concurrent with or next preceding the date of his Retirement, plus any contributions allocated to his Individual Accounts since such Valuation Date, except that, if a retired Member who retired other than on a Valuation Date so elects, his balance shall be determined as of the Valuation Date next following the date of his Retirement, including allocation of any contribution then being allocated hereunder, as if he met any applicable employment and service requirements for such contribution. Payment shall be made at the time and in the manner provided in Article IX hereof, subject, however, to the distribution provisions of the following paragraph.

Notwithstanding the above, if, at any time during the Plan Year ending in the calendar year a Member attains age [AGE], then in no event shall distribution of his Individual Accounts be delayed beyond April 1st of the calendar year following the calendar year in which such Member attains age [AGE] regardless of whether he had actually retired, provided, however, that such restriction shall only apply to [%] owners.

6. Death

6.1 Designation of Beneficiary:

Each Member and former Member may, from time to time, designate [NUMBER] or more primary Beneficiaries and contingent Beneficiaries to receive benefits payable hereunder in the event of the death of such Member or former Member. If a married Employee wishes to designate someone other than his spouse to be a primary Beneficiary, such designation will not become effective unless his spouse (if his spouse can be located) consents in writing to such designation, acknowledges the effect of such designation and has such consent and acknowledgment witnessed by the Plan representative or a notary public. A spouse's consent shall be valid under this Plan only with respect to the specified Beneficiary or Beneficiaries designated by the Participant. If the Beneficiary or Beneficiaries are subsequently changed by the Member, a new consent by the spouse will be required. Such designation shall be made in writing upon a form provided by the Committee and shall be filed with the Committee. The last such designation filed with the Committee shall control.

6.2 Benefit:

Upon the death of an Employee who is a Member, his designated Beneficiary, or Beneficiaries, shall be fully vested with respect to the balance of his Individual Accounts as of the Valuation Date concurrent with or next preceding the date of his death, plus any contributions allocated to the Member's Individual Accounts since such Valuation Date, except that, if the Beneficiary of a Member who died other than on a Valuation Date so elects, such balance shall be determined as of the Valuation Date next following the date of death, including allocation of any contribution then being allocated hereunder as if the Member had met any applicable employment and service requirements for such contribution. Payment shall be made at the time and in the manner provided in Article IX hereof.

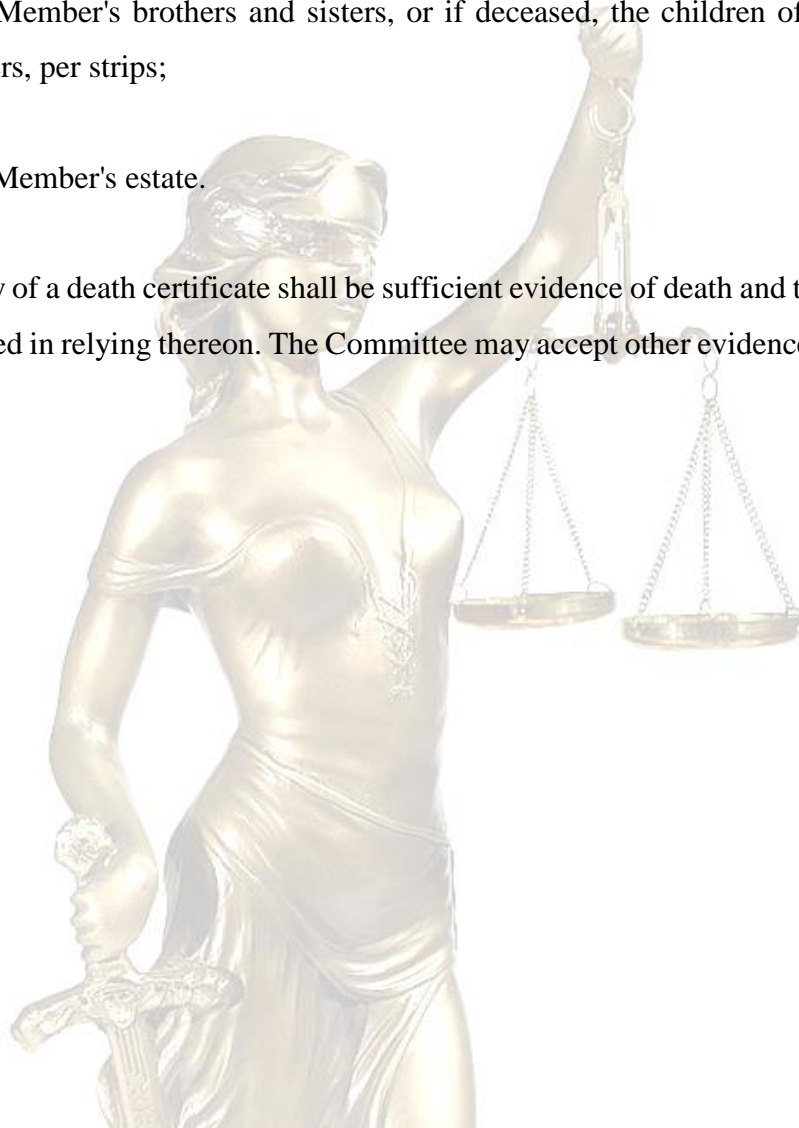
6.3 No Beneficiary:

If a Member or former Member dies without a Beneficiary surviving him, or if all his Beneficiaries die before receiving the payment to which they are entitled, then the amount, if any, remaining in each Member's Individual Account shall be paid to the following, with priority as follows:

- a) the Member's surviving spouse;

- b) the Member's children and children of deceased children, per strips;
- c) the Member's parents;
- d) the Member's brothers and sisters, or if deceased, the children of such brothers and sisters, per strips;
- e) the Member's estate.

A certified copy of a death certificate shall be sufficient evidence of death and the Committee shall be fully protected in relying thereon. The Committee may accept other evidence of death at its own discretion.



7. Disability

7.1 Benefit:

In the event of the Disability of a Member, he shall be fully vested with respect to the balance of his Individual Accounts as of the Valuation Date concurrent with or next preceding the date of his Disability, plus any contributions allocated to his Individual Accounts since such Valuation Date, except that, if a Member whose date of Disability is other than on a Valuation Date so elects, such balance shall be determined as of the Valuation Date next following the date of Disability, including allocation of any contribution then being allocated hereunder, as if he met any applicable employment and service requirements for such contribution. Payments shall be made at the time and in the manner provided in Article IX hereof.

8. Termination of Employment, and Forfeitures

8.1 Eligibility:

If a Member's employment with all Affiliated Employers shall terminate for any reason other than his Retirement under Article V, death under Article VI, or Disability under Article VII, such Member shall be entitled to such benefits as are hereinafter provided by Section 8.2.

8.2 Benefit:

A Member to whom the provisions of Section 8.1 are applicable shall be entitled to:

- a) The balance in the Member's Employee Contribution Account, as of the Valuation Date concurrent with or next preceding the date of termination, plus any contributions allocated to any such accounts since such Valuation Date.

b) The "vested percentage" of his Employer Contribution Account. Such amount shall be equal to a percentage of the balance in such Individual Account as of the Valuation Date concurrent with or next preceding the date of such termination. The percentage to which he shall be so vested and entitled shall be determined in accordance with the following schedule:

<i>Completed Years of Service</i>	<i>Vested Percentage</i>
Less than 3 years	[%]
3 years	[%]
4 years	[%]
5 years	[%]
6 years	[%]
7 years	[%]

If, before he was fully vested, a Member has previously received any amount from his Employer Contribution Account due to a prior termination of employment, but received restoration of an otherwise forfeitable amount due to his resumption of employment within the time period specified in Section 8.2 hereof, then his vested Employer Contribution Account shall, upon any subsequent termination of employment under this Article, be equal to the sum of (1) and (2), multiplied by (3), minus (1), where said (1), (2) and (3) are determined as follows:

- 1) The sum of all such amounts previously received from such Individual Account.
- 2) The balance of such Individual Account as of the date of his latest termination of employment.
- 3) The vested percentage applicable to the Member in accordance with the above schedule as of the date of his latest termination of employment.

8.3 Forfeitures:

A Member to whom this Article is applicable shall forfeit that portion of the amount in his Employer Contribution Account to which he is not entitled under Section 8.2 hereof and the amount thus forfeited shall remain in the Trust Fund and shall, as of the Allocation Date following the Member's termination of employment, be released for reallocation hereunder. If such former Member resumes Covered Employment before having a [NUMBER] year Break in Service and makes the repayment described in the following paragraph, a special contribution, equal to the forfeited amount, will be made to restore such forfeited amount to his Employer Contribution Account. Such special contribution shall, to the extent possible, be made from any other Members' forfeitures then available for allocation hereunder and, to the extent such other forfeitures are not sufficient, such special contribution shall be made by the Employer.

In order to receive the restoration described in the above paragraph, the Member must, within [NUMBER] years of his reentry into Covered Employment, repay to this Plan the amount of any distribution he received here from on account of such Break in Service, except for the amount of such distribution attributable to voluntary Employee contributions.

8.4 Early Retirement:

A Member may commence "early retirement" on or after age [AGE] provided he has completed [insert maximum years necessary to vest [%] in benefits] years of service with the Employer.

9. Distribution Notices and Methods of Payment

9.1 Notice to Trustee:

As soon as practicable after a Member becomes entitled to a distribution hereunder the Committee shall give written notice to the Trustee, which notice shall include such of the following information and directions as are necessary or advisable under the circumstances:

- a) Name and address of the Member.

- b) Reason for the distribution.
- c) Name and address of the Beneficiary or Beneficiaries in case of a Member's death.
- d) Time, manner and amount of payments to be made pursuant to Section 9.3 hereof.

9.2 Subsequent Notices:

At any time after giving the notice as provided for in Section 9.1 hereof, the Committee may modify such original notice or any subsequent notice, by means of a further written notice to the Trustee, but any action taken or payments made by the Trustee pursuant to a prior notice shall not be affected by a subsequent notice.

9.3 Time and Methods of Payment:

Payments of a benefit shall commence as soon as practicable after such benefit becomes distributable hereunder, subject to the following:

- a) In no event (unless requested by the payee) shall payments commence later than as of a date [NUMBER] days after the close of the Plan Year in which a Member's employment with all Affiliated Employers terminates (for whatever reason) or, if later, in which the Member attains his Normal Retirement Date.
- b) A former Employee may elect to delay his distribution; however, in no event shall his distribution be delayed beyond [DATE] of the calendar year following the calendar year in which such former Employee attains age [AGE].

When benefits become payable, the Member shall direct that such benefits shall be paid in one (1) of the following ways, or a combination thereof:

- i) Lump sum, payable in cash, or in kind.

- ii) Substantially level periodic installments, with any balance, upon the Member's death, payable to his Beneficiary.

In the event distribution is delayed or in the event distribution is in installments, the allocation of gains or losses described in Section 4.3 hereof shall continue to be applicable to the Individual Accounts until fully distributed (unless the payee elects to have the Trustee deposit the payee's Individual Account balances in a federally insured savings account in a bank or savings and loan association, in the Trustee's name, in which case, such balances shall, until completely paid, receive such earnings as shall be earned by said savings account).

9.4 Limitations on Payment:

All benefits payable under Section 9.3 hereof shall be made over a period no longer than the life expectancy of the Member or the joint life and last survivor expectancy of the Member and his Beneficiary.

9.5 Minority or Disability Payments:

During the minority or incompetency of any person entitled to received benefits hereunder, the Committee may direct the Trustee to make payments or distributions to the guardian of such person, or other persons as may be directed by the Committee. Neither the Committee nor the Trustee shall be required to see to the application of any payments so made, and the receipt of the payee (including the endorsement of a check or checks) shall be conclusive as to all interested parties.

10. Special Governmental Requirements

10.1 Limit on Annual Additions:

Contributions hereunder shall be subject to the limitations of [CODE SECTION], as provided in this Section.

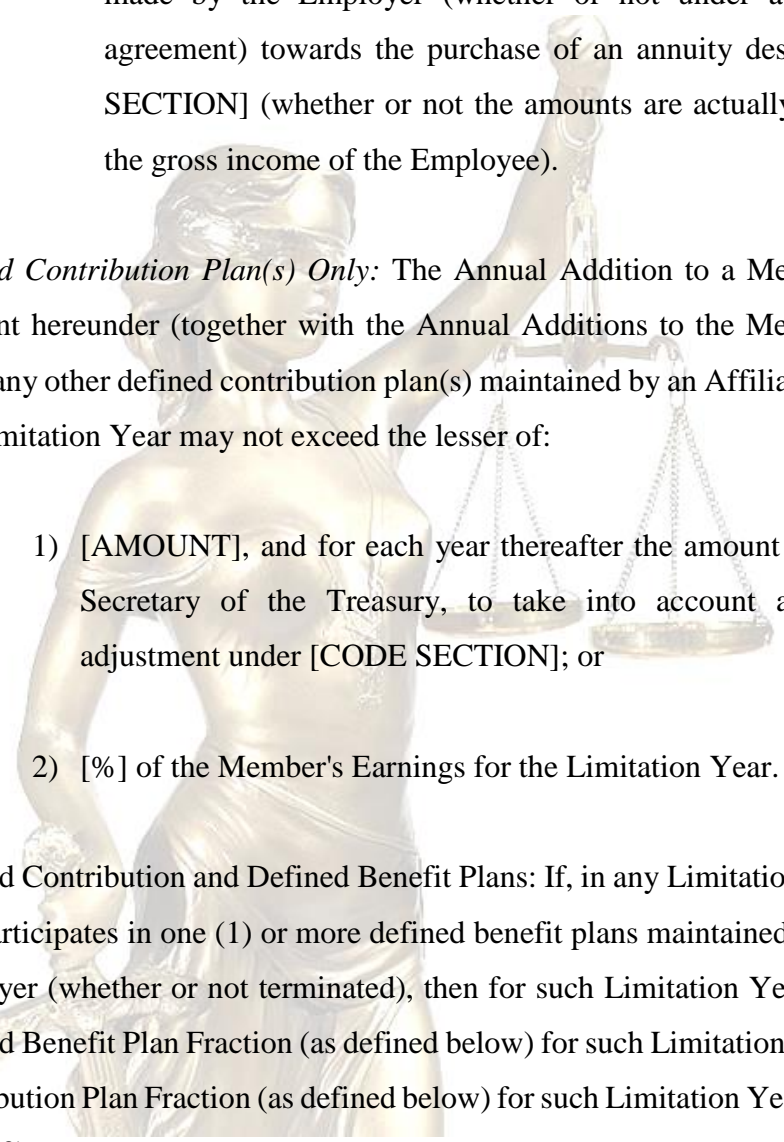
a) *Definitions*: For purposes of this Section the following definitions shall apply:

1) "*Annual Addition*" shall mean the sum of the following additions to a Member's Individual Account for the Limitation Year:

- i) Employer contributions;
- ii) Employee after-tax contributions; and
- iii) Forfeitures, if any.

2) "*Earnings*" for an Limitation Year shall be the Employee's earned income, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with the Employer (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), provided such amounts are actually paid or includible in gross income during such year. Earnings shall exclude the following:

- i) Employer contributions to a plan of deferred compensation which are not included in the Employee's gross income for the taxable year in which contributed or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee or any distributions from a plan of deferred compensation;
- ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

- 
- iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
 - iv) Other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in [CODE SECTION] (whether or not the amounts are actually excludable from the gross income of the Employee).
- b) *Defined Contribution Plan(s) Only:* The Annual Addition to a Member's Individual Account hereunder (together with the Annual Additions to the Member's account(s) under any other defined contribution plan(s) maintained by an Affiliated Employer) for any Limitation Year may not exceed the lesser of:
- 1) [AMOUNT], and for each year thereafter the amount prescribed by the Secretary of the Treasury, to take into account any cost-of-living adjustment under [CODE SECTION]; or
 - 2) [%] of the Member's Earnings for the Limitation Year.
- c) *Defined Contribution and Defined Benefit Plans:* If, in any Limitation Year, a Member also participates in one (1) or more defined benefit plans maintained by any Affiliated Employer (whether or not terminated), then for such Limitation Year, the sum of the Defined Benefit Plan Fraction (as defined below) for such Limitation Year and Defined Contribution Plan Fraction (as defined below) for such Limitation Year shall not exceed one (1.0).

The Defined Benefit Fraction for any Limitation Year shall mean a fraction (a) the numerator of which is the projected annual benefit of the member under the defined benefit plan(s) (determined as of the close of the Limitation Year), and (b) the denominator of which is the lesser of [%] of the limitation under [CODE SECTION] or [%] of the percentage limitation under [CODE SECTION] for the year of determination (taking into account the effect of [CODE SECTION]).

The Defined Contribution Fraction for any Limitation Year shall mean a fraction (a) the numerator of which is the sum of the Annual Additions to the member's accounts under all defined contribution plans maintained by an Affiliated Employer as of the close of the Limitation Year (subject to reduction to the extent permitted under the transition rule in [CODE SECTION], and (b) the denominator of which is the sum of the lesser of [%] of the limitation under [CODE SECTION] or [%] of the percentage limitation under [CODE SECTION], for such Limitation Year and for all prior Limitation Years during which the Employee was employed by an Affiliated Employer (provided, however, at the election of the Committee, the denominator shall be increased by using for Limitation Years ending prior to [DATE], an amount equal to the denominator in effect for the Limitation Year ending in [YEAR], multiplied by the transition fraction provided in [CODE SECTION]).

If, in any Limitation Year, the sum of the Defined Benefit Plan Fraction and Defined Contribution Plan Fraction for a Member would exceed one (1.0) without adjustment of the amount of Annual Additions that can be allocated to such Member under paragraph (b) of this Section, then the amount of maximum annual benefit that can be paid to such Member under any defined benefit plan(s) maintained by an Affiliated Employer, shall be reduced to the extent necessary to reduce the sum of the Defined Benefit Plan Fraction and Defined Contribution Plan Fraction for such Member to one (1.0), or the Committee may take such other action as will cause the sum to equal one (1.0) or less.

10.2 Top-Heavy Restrictions:

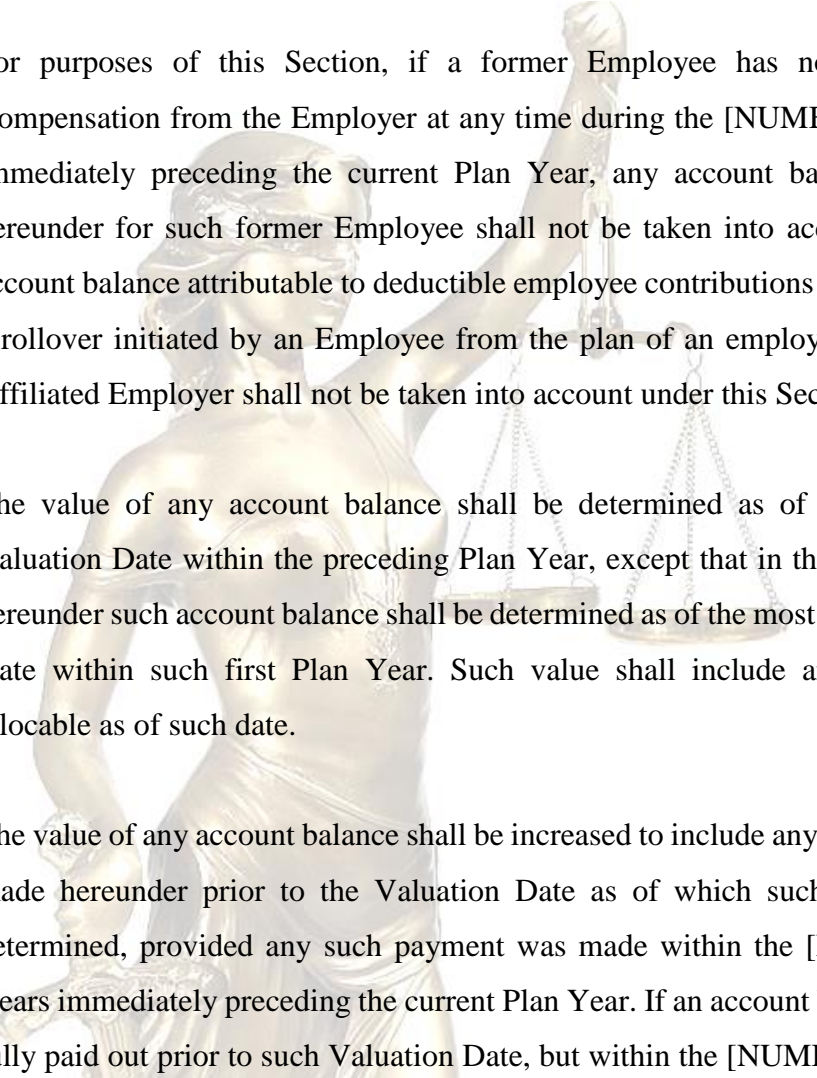
a) *Determination of Top-Heaviness*: Subject to (b) of this Section, this Plan will be considered to be top-heavy in any Plan Year if the aggregate value of the account balances of key Employees hereunder is greater than [%] of the aggregate value of all account balances hereunder. For purposes of determining whether such top-heaviness exists in any such Plan Year the following provisions shall be applicable:

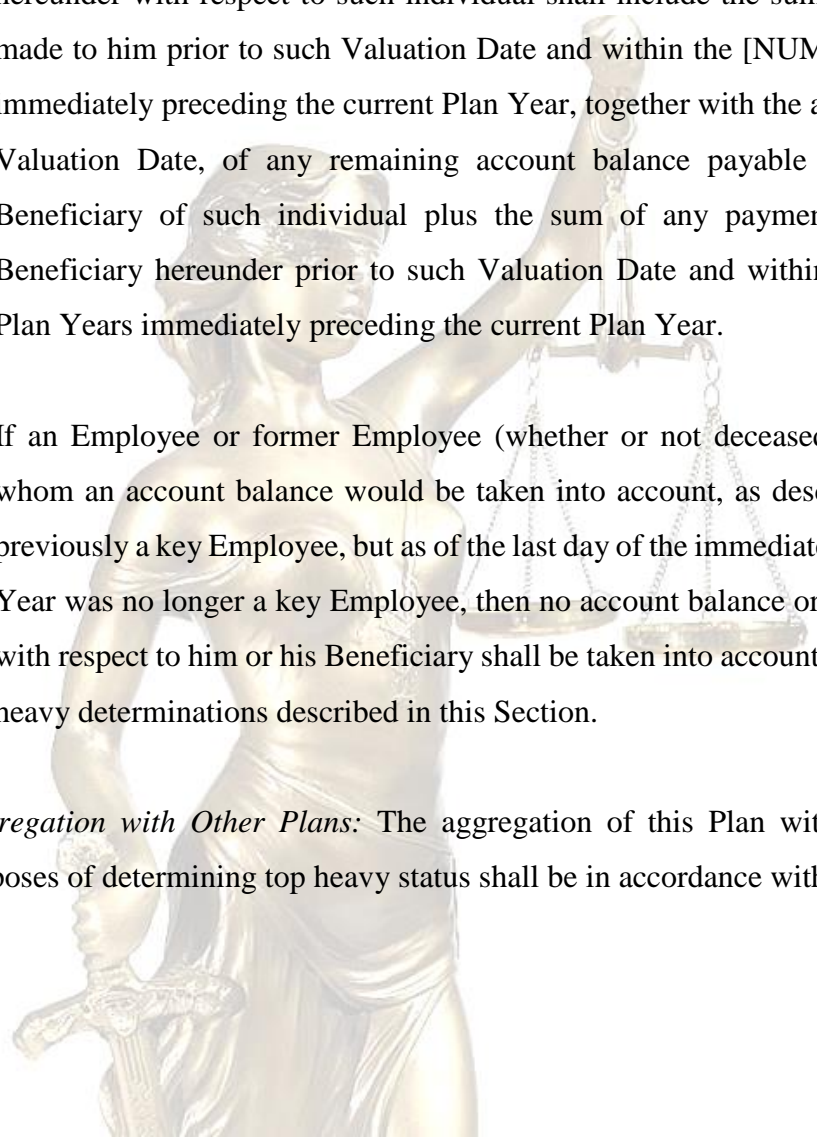
1) A key Employee is an individual (whether or not deceased) who, at any time during the [NUMBER] Plan Years immediately preceding the current Plan Year, was:

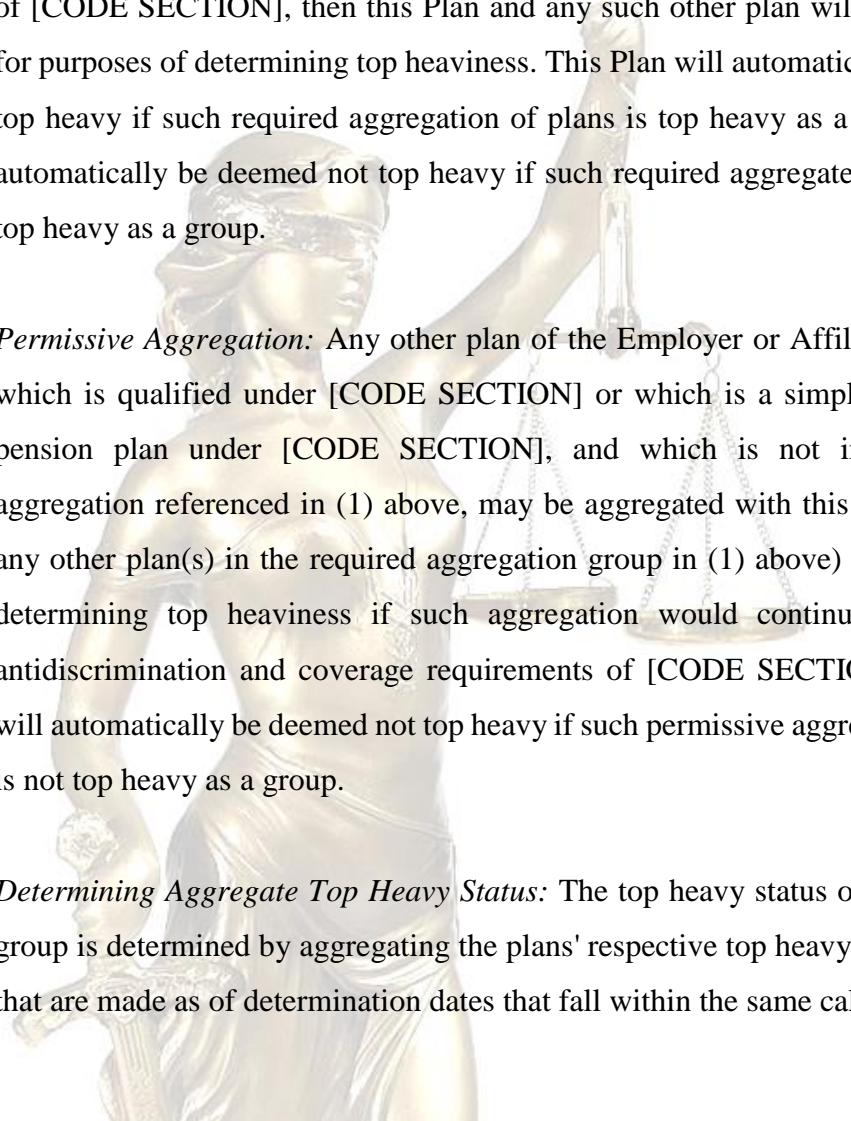
i) an officer of the Employer of Affiliated Employer having an annual Compensation from the Employer and/or Affiliated Employer greater than [%] of the defined contribution plan limitation in effect under [CODE SECTION] for any such Plan Year (except that no more than [NUMBER] Employees or, if less, the greater of [NUMBER] and [%] of the Employees, shall be treated as officers), or

ii) one of the [NUMBER] Employees having an annual Compensation from the Employer and/or Affiliated Employer greater than the defined contribution plan limitation in effect under [CODE SECTION] and owning (or considering as owning under [CODE SECTION] the largest interests in the Employer, or

iii) a [%] owner of the Employer (taking into account ownership he would be considered to have under [CODE SECTION]), or

- 
- iv) a [%] owner of the Employer (taking into account ownership he would be considered to have under [CODE SECTION] having annual Compensation from the Employer and/or an Affiliated Employer during any calendar year of more than [NUMBER].
- 2) For purposes of this Section, if a former Employee has not received any Compensation from the Employer at any time during the [NUMBER] Plan Years immediately preceding the current Plan Year, any account balance remaining hereunder for such former Employee shall not be taken into account. Also, any account balance attributable to deductible employee contributions or attributable to a rollover initiated by an Employee from the plan of an employer that is not an Affiliated Employer shall not be taken into account under this Section.
- 3) The value of any account balance shall be determined as of the most recent Valuation Date within the preceding Plan Year, except that in the first Plan Year hereunder such account balance shall be determined as of the most recent Valuation Date within such first Plan Year. Such value shall include any contributions allocable as of such date.
- 4) The value of any account balance shall be increased to include any payment thereof made hereunder prior to the Valuation Date as of which such value is being determined, provided any such payment was made within the [NUMBER] Plan Years immediately preceding the current Plan Year. If an account balance has been fully paid out prior to such Valuation Date, but within the [NUMBER] Plan Years immediately preceding the current Plan Year, the amount thereof shall be taken into account, except that such amount shall not be taken into account hereunder if the paid out amount was either (i) rolled over or transferred to another plan of the Employer or Affiliated Employer or (ii) rolled over or transferred to any other plan but not at the direction of the Employee who had accrued such account.

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- 5) If an Employee or former Employee for whom an account balance was maintained hereunder died prior to such Valuation Date, the value, if any, taken into account hereunder with respect to such individual shall include the sum of any payments made to him prior to such Valuation Date and within the [NUMBER] Plan Years immediately preceding the current Plan Year, together with the amount, as of such Valuation Date, of any remaining account balance payable hereunder to the Beneficiary of such individual plus the sum of any payments made to such Beneficiary hereunder prior to such Valuation Date and within the [NUMBER] Plan Years immediately preceding the current Plan Year.
- 6) If an Employee or former Employee (whether or not deceased) with respect to whom an account balance would be taken into account, as described above, was previously a key Employee, but as of the last day of the immediately preceding Plan Year was no longer a key Employee, then no account balance or payments thereof with respect to him or his Beneficiary shall be taken into account in making the top heavy determinations described in this Section.
- b) *Aggregation with Other Plans:* The aggregation of this Plan with other plans for purposes of determining top heavy status shall be in accordance with the following:

- 
- 1) *Required Aggregation:* If a key employee under this Plan also participates in another plan of the Employer or Affiliated Employer which is qualified under [CODE SECTION] or which is a simplified employee pension plan under [CODE SECTION], or if this Plan and another plan must be aggregated so that either this Plan or the other plan will meet the antidiscrimination and coverage requirements of [CODE SECTION], then this Plan and any such other plan will be aggregated for purposes of determining top heaviness. This Plan will automatically be deemed top heavy if such required aggregation of plans is top heavy as a group and will automatically be deemed not top heavy if such required aggregate of plans is not top heavy as a group.
 - 2) *Permissive Aggregation:* Any other plan of the Employer or Affiliated Employer which is qualified under [CODE SECTION] or which is a simplified employee pension plan under [CODE SECTION], and which is not in the required aggregation referenced in (1) above, may be aggregated with this Plan (and with any other plan(s) in the required aggregation group in (1) above) for purposes of determining top heaviness if such aggregation would continue to meet the antidiscrimination and coverage requirements of [CODE SECTION]. This Plan will automatically be deemed not top heavy if such permissive aggregation of plans is not top heavy as a group.
 - 3) *Determining Aggregate Top Heavy Status:* The top heavy status of the plans as a group is determined by aggregating the plans' respective top heavy determinations that are made as of determination dates that fall within the same calendar year.

c) *Effects of Top Heaviness:* If this Plan becomes top heavy, the following special provisions shall apply except (i) in the case of an Employee hereunder who is also covered by another top heavy qualified defined contribution plan of an Affiliated Employer, the top heavy minimum allocation in (2) below shall not apply if the top heavy minimum allocation under such other plan is applied to such Employee there under, and (ii) in the case of an Employee hereunder who is also covered by a top heavy qualified defined benefit plan of an Affiliated Employer, the top heavy minimum allocation in (2) below shall not apply if the top heavy minimum benefit under such other plan is applied to such Employee there under, but if such top heavy minimum benefit is not applied to such Employee, then the top heavy minimum allocation in (2) below shall be applied except that the percentage shall be [%].

1) *Minimum Vesting:* If any Employee is covered under this Plan during any Plan Year when the Plan is top heavy, he shall, upon his termination of employment, have his vested percentage determined to be the greater of (i) and (ii) below, but subject to (iii) below:

- i) The vested percentage applicable to the Employee under the regular vesting provision of this Plan, as hereinbefore set forth, as of the date of his termination of employment, and
- ii) The vested percentage applicable to the Employee under the following schedule as of the date of his termination of employment:

<i>Employee's Years of Vesting Service</i>	<i>Employee's Vested Percentage</i>
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Less than 2	[%]
2	[%]
3	[%]

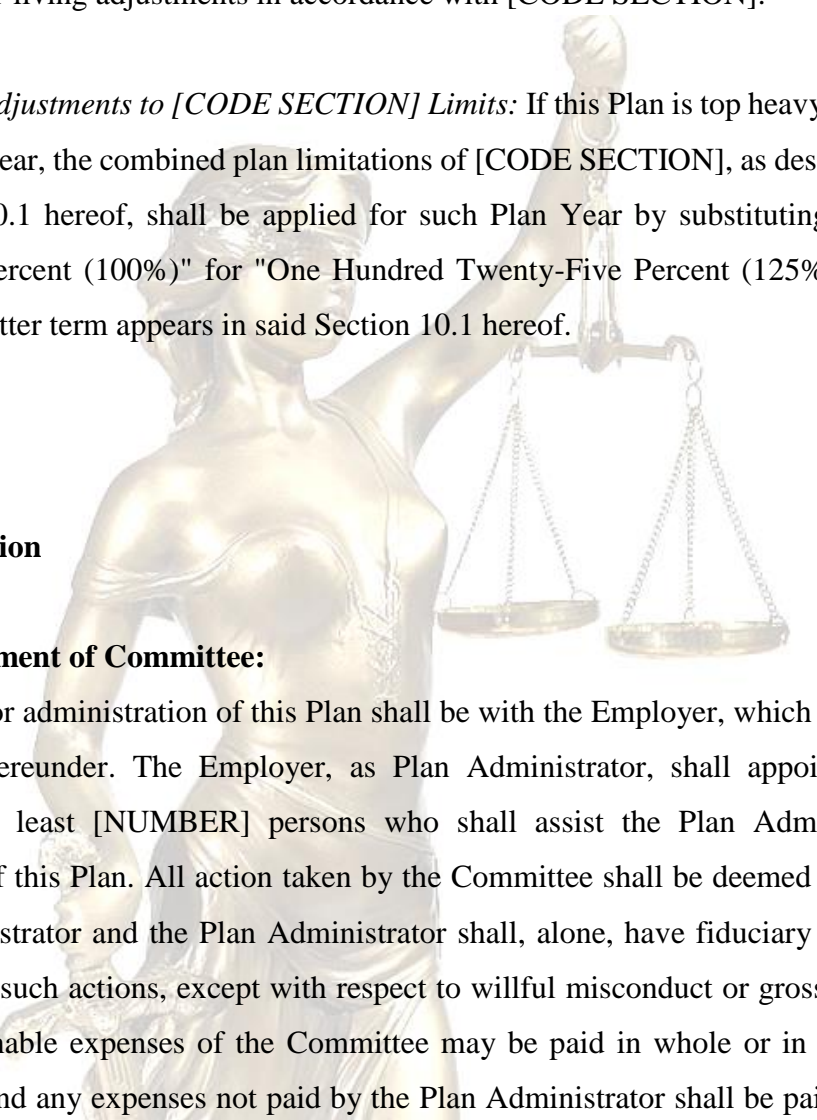
- 4 [%]
- 5 [%]
- 6 or more [%]

iii) In the event the Employee's employment is terminated when the Plan is no longer top heavy, his vested percentage shall be determined in accordance with the regular vesting provisions of this Plan, as hereinbefore set forth, except that in no event will his vested benefit be less than his vested benefit determined as if his employment had terminated as of the date when the Plan was last top heavy, and the application of the greater of (i) and (ii) as described above shall be made if the Employee had at least [NUMBER] years of Vesting Service when the Plan was last top heavy.

2) *Minimum Allocation:* If any Employee is covered under this Plan during any Plan Year when the Plan is top heavy, he shall, during such Plan Year, receive an allocated Employer contribution (subject to the vesting requirements of this Plan) at least equal to a percentage of his considered Compensation (defined below) for such Plan Year, which percentage shall be the lesser of:

- i) [%], and
- ii) the actual percentage that the allocation, received for such Plan Year by the key Employee receiving the largest such allocation represented as a percentage of such key Employee's considered compensation (defined below).

An Employee's considered Compensation is the amount of Compensation he received from the Employer of such Plan Year not in excess of [AMOUNT].

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- 3) *Limit on Compensation:* If this Plan is top heavy at any time during a year when an Employee received Compensation that is to be taken into account for purposes of computing his allocation hereunder, such amount of Compensation actually taken into account hereunder for such year shall not exceed [AMOUNT], subject to cost-of-living adjustments in accordance with [CODE SECTION].
- 4) *Adjustments to [CODE SECTION] Limits:* If this Plan is top heavy during any Plan Year, the combined plan limitations of [CODE SECTION], as described in Section 10.1 hereof, shall be applied for such Plan Year by substituting "One Hundred Percent (100%)" for "One Hundred Twenty-Five Percent (125%)" wherever the latter term appears in said Section 10.1 hereof.

11. Administration

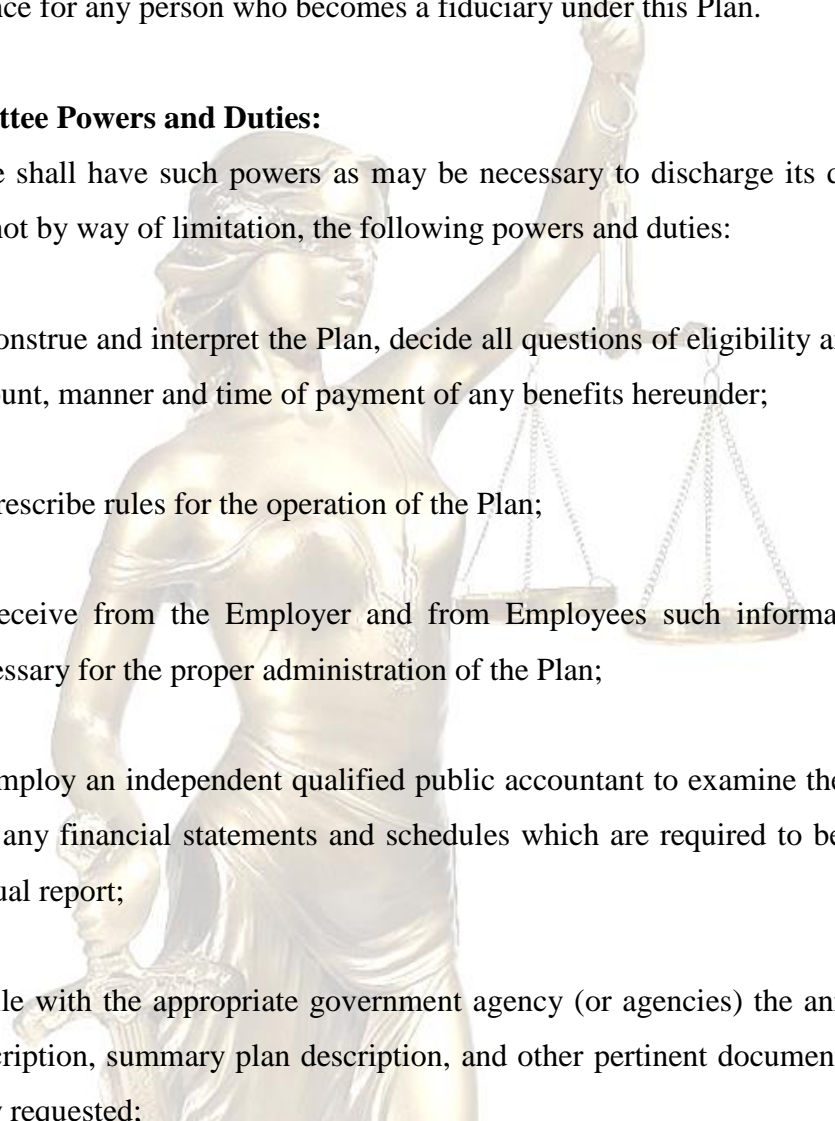
11.1 Appointment of Committee:

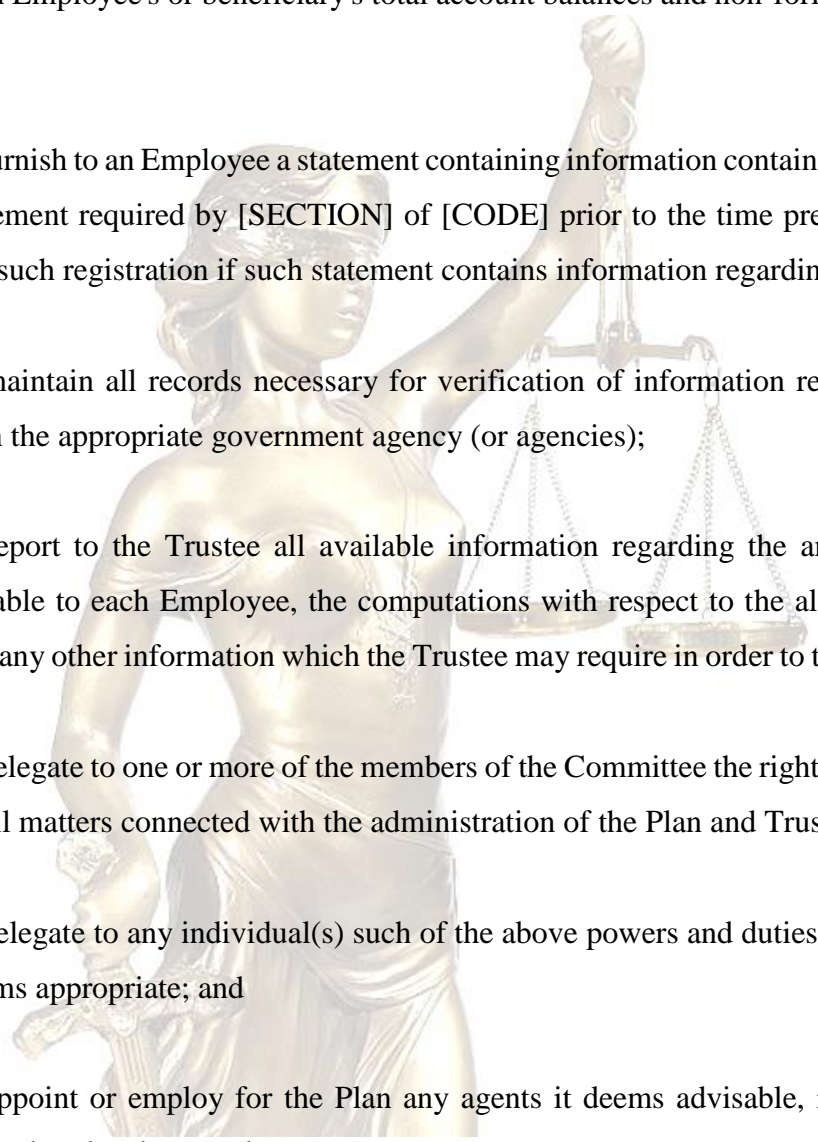
Responsibility for administration of this Plan shall be with the Employer, which shall be the Plan Administrator hereunder. The Employer, as Plan Administrator, shall appoint a Committee consisting of at least [NUMBER] persons who shall assist the Plan Administrator in the administration of this Plan. All action taken by the Committee shall be deemed actions taken by the Plan Administrator and the Plan Administrator shall, alone, have fiduciary responsibility in connection with such actions, except with respect to willful misconduct or gross negligence. All usual and reasonable expenses of the Committee may be paid in whole or in part by the Plan Administrator, and any expenses not paid by the Plan Administrator shall be paid by the Trustee out of the principal or income of the Trust.

The members of the Committee shall not receive compensation with respect to their services for the Committee. The members of the Committee shall serve without bond or security for the performance of their duties hereunder unless the applicable law makes the furnishing of such bond or security mandatory or unless required by the Plan Administrator. The Plan Administrator may pay the premiums on any bond secured under this Section including the purchase of fiduciary liability insurance for any person who becomes a fiduciary under this Plan.

11.2 Committee Powers and Duties:

The Committee shall have such powers as may be necessary to discharge its duties hereunder, including, but not by way of limitation, the following powers and duties:

- 
- a) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;
 - b) to prescribe rules for the operation of the Plan;
 - c) to receive from the Employer and from Employees such information as shall be necessary for the proper administration of the Plan;
 - d) to employ an independent qualified public accountant to examine the books, records, and any financial statements and schedules which are required to be included in the annual report;
 - e) to file with the appropriate government agency (or agencies) the annual report, plan description, summary plan description, and other pertinent documents which may be duly requested;
 - f) to file such terminal and supplementary reports as may be necessary in the event of the termination of the Plan;

- 
- g) to furnish each Employee and each beneficiary receiving benefits hereunder a summary plan description explaining the Plan;
 - h) to furnish any Employee or beneficiary, who requests in writing, statements indicating such Employee's or beneficiary's total account balances and non-forfeitable benefits, if any;
 - i) to furnish to an Employee a statement containing information contained in a registration statement required by [SECTION] of [CODE] prior to the time prescribed by law to file such registration if such statement contains information regarding the Employee;
 - j) to maintain all records necessary for verification of information required to be filed with the appropriate government agency (or agencies);
 - k) to report to the Trustee all available information regarding the amount of benefits payable to each Employee, the computations with respect to the allocation of assets, and any other information which the Trustee may require in order to terminate the Plan;
 - l) to delegate to one or more of the members of the Committee the right to act in its behalf in all matters connected with the administration of the Plan and Trust;
 - m) to delegate to any individual(s) such of the above powers and duties as the Committee deems appropriate; and
 - n) to appoint or employ for the Plan any agents it deems advisable, including, but not limited to, legal counsel.

The Committee shall have no power to add to, subtract from or modify any of the terms of the Plan, nor to change or add to any benefits provided by the Plan, nor to waive or fail to apply any requirements of eligibility for benefits under the Plan. All rules and decisions of the Committee shall be uniformly and consistently applied to all Employees in similar circumstances.

A majority of the members of the Committee shall constitute a quorum for the transaction of business. No action shall be taken except upon a majority vote of the Committee members. An individual shall not vote or decide upon any matter relating solely to himself or vote in any case in which his individual right or claim to any benefit under the Plan is particularly involved. If, in any case in which a Committee member is so disqualified to act, and the remaining members cannot agree, the Employer will appoint a temporary substitute member to exercise all the powers of the disqualified member concerning the matter in which he is disqualified.

11.3 Claims Procedure:

The Committee may prescribe procedures for obtaining benefits and is required to provide a notice in writing to any person whose claim for benefits under this Plan has been denied, setting forth (1) the specific reasons for such denial, (2) the specific reference to pertinent Plan provisions on which the denial is based, (3) a description of any additional material or information necessary to the claimant to perfect the claim and an explanation of why such material or information is necessary, and (4) an explanation of the Plan's claim review procedure as described below, including the name and address of the party to whom an appeal should be sent.

A claimant has the right to appeal a denial of claim by written application to the Committee within [NUMBER] days of notice of denial or, if no such notice has been given, at the end of the expiration of a reasonable period of time after the claim was filed. The claimant, or a duly authorized representative, may review pertinent documents and may submit issues and comments in writing to the Committee.

After the Committee reviews the claims appeal, a final decision shall be made and communicated to the claimant within [NUMBER] days of receipt of the appeal by the Committee, unless special circumstances require an extension. Such extension cannot extend beyond [NUMBER] days after receipt of the appeal by the Committee. The communication shall be set forth in writing in a manner calculated to be understood by the claimant and shall identify the reasons for the denial and shall reference any pertinent Plan provisions upon which the denial is based.

11.4 Committee Procedures:

The Committee shall adopt such bylaws as it deems desirable. The Committee shall elect one of its members as chairman and shall elect a secretary who may, but need not, be a member of the Committee. The Committee shall advise the Trustee of such elections in writing. The Secretary of the Committee shall keep a record of all meetings and forward all necessary communications to the Trustee.

11.5 Authorization of Benefit Payments:

The Committee shall issue directions to the Trustee concerning all benefits which are to be paid from the Trust Fund pursuant to the provisions of the Plan. The Committee shall keep on file, in such manner, as it may deem convenient or proper, all reports from the Trustee.

11.6 Payment of Expenses:

All expenses incident to the administration, termination or protection of the Plan and Trust, including but not limited to, actuarial, legal, accounting, and Trustee's fees, shall be paid by the Employer, or if not paid by the Employer, shall be paid by the Trustee from the Trust Fund and, until paid, shall constitute a first and prior claim and lien against the Trust Fund.

11.7 Unclaimed Benefits:

12. During the time when a benefit hereunder is payable to any distributee, the Committee, upon request by the Trustee, or at its own instance, shall mail by registered or certified mail to such distributee, at his last known address, a written demand for his then address, or for satisfactory evidence of his continued life, or both. If such information is not furnished to the Committee within three (3) months from the mailing of such demand, then the Committee may, in its sole discretion, determine that such distributee is deceased and may declare such benefit, or any unpaid portion thereof, suspended as if the death of the distributee (with no surviving beneficiary) had occurred on the date of the last payment made thereon or the date such distributee first became entitled to receive benefit payments, whichever is later. Failure to furnish such information shall not result in the forfeiture of any non-forfeitable benefits and any such declaration by the Committee shall later be revoked upon a receipt of the requested information by the Committee. All such unclaimed benefits shall be and remain assets of the Trust and in no event shall they escheat to any governmental unit under any escheat law.

13. Trust Fund

13.1 Establishment of Trust Fund:

A Trust Fund shall be established for the purpose of receiving contributions, and paying benefits, under this Plan. A Trustee (or Trustees) shall be appointed under the terms of a trust agreement to administer the Trust Fund in accordance with the terms of such trust agreement.

13.2 Payment of Contributions to Trust Fund:

All contributions under this Plan shall be paid to the Trustee and shall be held, invested and reinvested by the Trustee in accordance with the terms of the Trust agreement. All property and funds of the Trust Fund, including income from investments and from all other sources, shall be retained for the exclusive benefit of Employees, as provided in the Plan, and shall be used to pay benefits to Employees or their beneficiaries, or to pay expenses of administration of the Plan and Trust Fund, except as provided in Section 15.4 hereof.

14. Amendments

14.1 Right to Amend:

The Employer reserves the right to make from time to time any amendment or amendments to this Plan which do not permit reversion of any part of the Trust Fund to the Employer except as provided in Section 15.4 hereof and which do not cause any part of the Trust Fund to be used for, or diverted to, any purpose other than the exclusive benefit of Employees included in this Plan.

15. Withdrawal and Termination

15.1 Transfers of Plan Assets and Plan Mergers:

The Plan and Trust shall not be merged or consolidated with, nor shall any Plan assets or liabilities be transferred to, any other plan, unless either (i) each Participant in the Plan (if the Plan had then terminated) receives a benefit immediately after such merger, consolidation, or transfer, which is equal to or greater than the benefit he would have been entitled to receive immediately before such merger, consolidation, or transfer (if the Plan had then terminated) or (ii) the conditions in (i) are deemed to be met due to compliance with the procedures set forth in [SECTION] of [CODE] regarding plan mergers and transfers.

15.2 Plan Termination:

The Employer may at any time, by adoption of a resolution, terminate this Plan. This Plan shall automatically terminate if the Employer ceases to exist and no successor continues the Plan.

A partial termination of this Plan will occur if required under the qualification requirements of [SECTION OF CODE].

15.3 Suspension and Discontinuance of Contributions and Plan Termination:

If the Employer decides it is impossible or inadvisable to continue to make its contributions hereunder, it shall have the power to:

- d) suspend contributions to the Plan; or

- c) discontinue contributions to the Plan; or
- d) terminate the Plan as to its Employees.

Suspension shall be temporary cessation of contributions and such a suspension which has not ripened into a complete and permanent discontinuance shall not require any vesting of Individual Accounts.

A discontinuance of contributions, unless considered complete and permanent, shall also not require any vesting of Individual Accounts. In such event, Employees who become eligible to enter the Plan subsequent to the discontinuance shall receive no benefit, and no additional benefits attributable to Employer contributions shall accrue to any of the Members unless contributions are resumed. After the date of discontinuance of contributions, the Trust shall remain in existence as provided in this Section, and the provisions of the Plan and Trust shall remain in force as may be necessary in the sole opinion of the Committee. A certified copy of such decision or resolution shall be delivered to the Trustee, and as soon as possible thereafter, the Trustee shall send or deliver to each Member or Beneficiary concerned a copy thereof.

Upon termination, partial termination, or complete discontinuance of contributions to the Plan, the Individual Accounts of each affected Member not theretofore fully vested shall be and become fully vested and non-forfeitable in each such Member.

15.4 Liquidation of Trust Fund:

Upon termination, or partial termination, of the Plan, the proportionate interests of the affected Members and their Beneficiaries shall be liquidated after provision is made for the expenses of administration, termination and liquidation. Thereafter, the Trustee shall distribute as soon as administratively feasible the amount to the credit of each such Member and Beneficiary as the Committee shall direct.

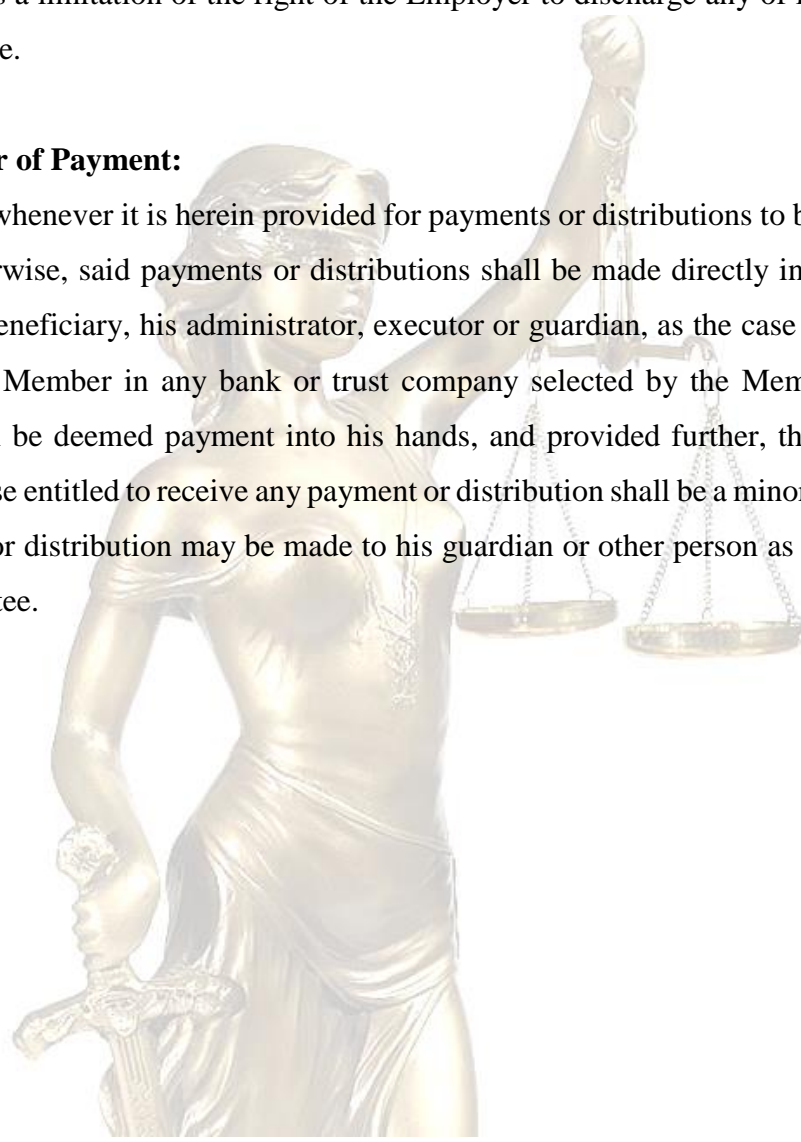
15. General Provisions

15.1 Non-guarantee of Employment:

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and Employee, or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

15.2 Manner of Payment:

Wherever and whenever it is herein provided for payments or distributions to be made, whether in money or otherwise, said payments or distributions shall be made directly into the hands of the Member, his Beneficiary, his administrator, executor or guardian, as the case may be. Deposit to the credit of a Member in any bank or trust company selected by the Member or Beneficiary hereunder shall be deemed payment into his hands, and provided further, that in the event any person otherwise entitled to receive any payment or distribution shall be a minor or an incompetent, such payment or distribution may be made to his guardian or other person as may be determined by the Committee.



15.3 Non-alienation of Benefits:

Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to being received by the person entitled to the benefit under the terms of the Plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder shall be void. The Trust Fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any person entitled to benefits hereunder. None of the unpaid Plan benefits or Trust assets shall be considered an asset of the Member in the event of his insolvency or bankruptcy.

Notwithstanding the foregoing, the Committee may approve payment to an alternate payee based upon any "qualified domestic relations order" as defined in [SECTION OF CODE], and such payment shall not be deemed a prohibited alienation of benefits.

15.4 Amounts Returnable to the Employer:

In no event shall the Employer receive any amounts from the Trust, except such amounts, if any, as set forth below:

- a) In the event of a contribution made by the Employer by a mistake of fact, such contribution may be returned to such Employer within one year after payment thereof.
- b) If the Employer's determination letter issued by the District Director of Internal Revenue is an initial determination letter as to such Employer and is to the effect that the Plan and Trust herein set forth or as amended prior to the receipt of such letter do not meet the requirements of the [SECTION] of [CODE] of 1954, such Employer shall be entitled at its option to withdraw, within one year of the receipt of such letter, all contributions made on and after its effective date, in which event the Plan and Trust shall then terminate as if the Plan had never been adopted.

- c) Each contribution hereunder is conditioned upon the deductibility of such contribution under [SECTION] of [CODE] and may be returned to the Employer within one year if such deduction is disallowed (to the extent of the disallowance).

15.5 Governing Law:

This Plan and each of its provisions shall be construed and their validity determined by the application of the laws of the State of [name of state] except to the extent such law is preempted by Federal statute.

IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing instrument comprising [name of document], the Employer has caused its seal to be affixed hereto and these presents to be duly executed in its name and behalf this [DAY] day of [MONTH], [year].

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

(SEAL)

SIMPLIFIED EMPLOYEE PENSION PLAN

The following document is a model simplified employee pension plan. At the end of a document is a sample salary reduction simplified employee plan, which is a SEP with a salary reduction feature tacked on. You can modify this form to meet your specific circumstances. Of course, if you intend to use this plan, you should make sure that your attorney reviews it and approves any changes you make.



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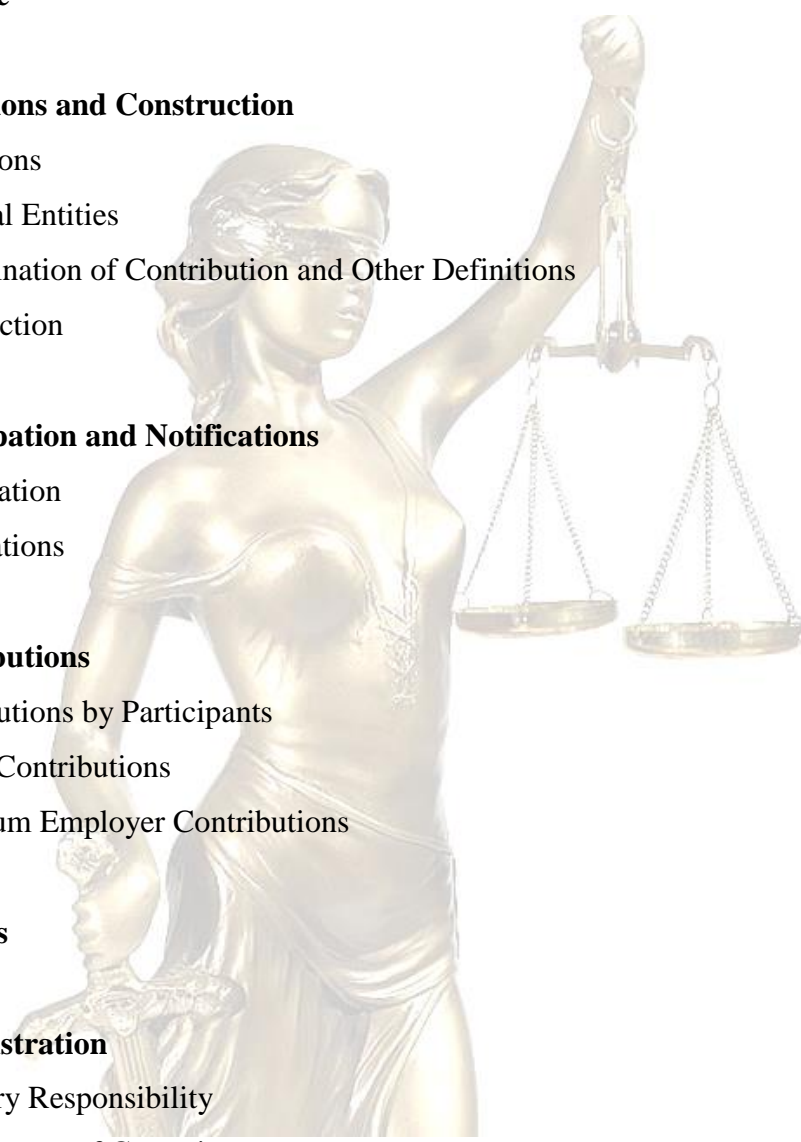
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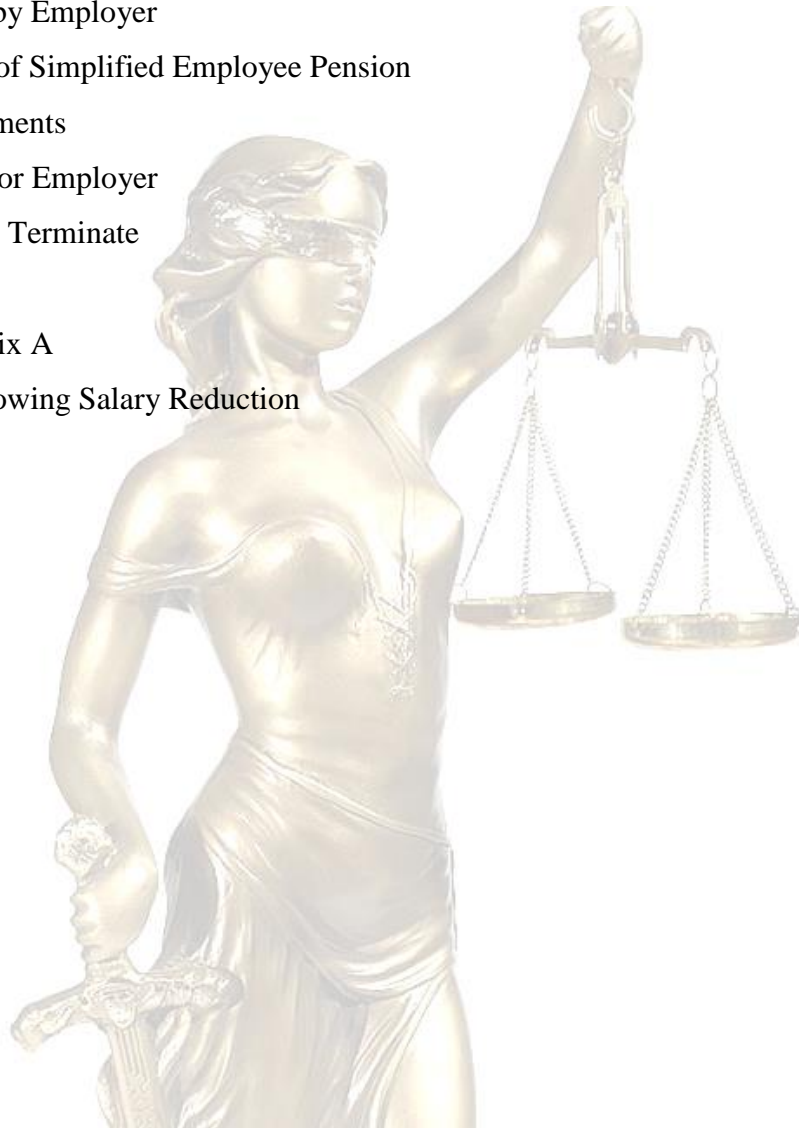
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Appendix A

SEP allowing Salary Reduction



SIMPLIFIED EMPLOYEE PENSION PLAN

1. Purpose

Effective as of [date plan goes into effect], to enable eligible employees to establish individual retirement accounts or individual retirement annuities [company name] (the "Employer") decided to adopt the Simplified Employee Pension Plan for Employees of [company name] (the "Plan"). The Plan is intended to meet the requirements of Section [NUMBER] of [CODE] (the "Code") as from time to time amended.

The provisions of the Plan, as set forth herein, shall only apply to an eligible employee who is in the active employ of the Employer on or after [date of eligibility].

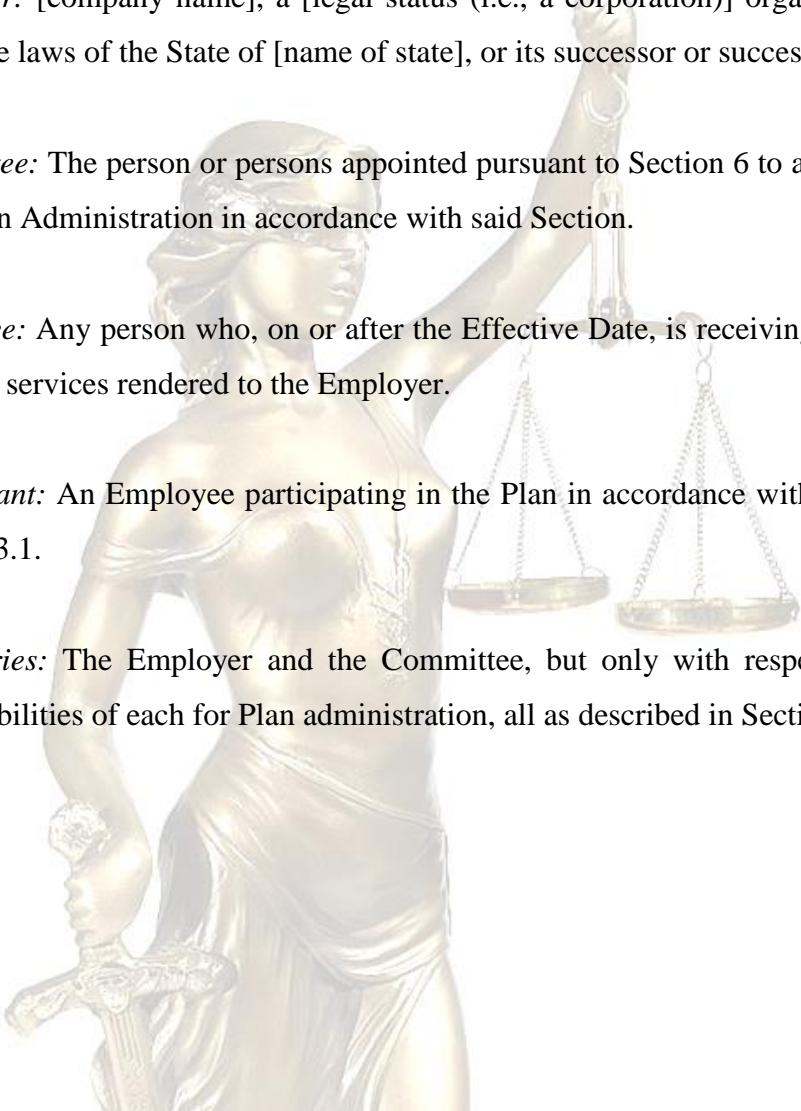
2. Definitions and Construction

2.1 Definitions:

Where the following words and phrases appear in this Plan, they shall have the respective meanings set forth in this Article, unless the context clearly indicates to the contrary.

2.2 Principal Entities:

- a) *Plan*: The Simplified Employee Pension Plan for Employees for [company name], the Plan set forth herein, as amended from time to time.

- 
- b) *Simplified Employee Pension*: The retirement savings vehicle chosen by a Participant for deposit of contributions made hereunder by the Employer. Such retirement savings vehicle may only be either an approved Individual Retirement Account under Section [NUMBER] of the [CODE].
- c) *Employer*: [company name], a [legal status (i.e., a corporation)] organized and existing under the laws of the State of [name of state], or its successor or successors.
- d) *Committee*: The person or persons appointed pursuant to Section 6 to assist the Employer with Plan Administration in accordance with said Section.
- e) *Employee*: Any person who, on or after the Effective Date, is receiving remuneration for personal services rendered to the Employer.
- f) *Participant*: An Employee participating in the Plan in accordance with the provisions of Section 3.1.
- g) *Fiduciaries*: The Employer and the Committee, but only with respect to the specific responsibilities of each for Plan administration, all as described in Section 6.1.

2.3 Determination of Contribution and Other Definitions:

- a) *Participation*: The period or periods during which an Employee participates in this Plan as determined in accordance with Section 3.1.
- b) *Compensation*: The total of all amounts paid to a Participant for a given Year by the Employer for personal services and reported as wages for purposes of income tax, or substitute, less (1) amounts paid while covered by a collective bargaining agreement which does not provide for inclusion hereunder, (2) the cost of providing group term life insurance in excess of the statutory amount, (3) reimbursed moving expenses, (4) any other amount required to be reported which is not direct compensation for services performed and (5) amounts in excess of [AMOUNT].
- c) *Effective Date*: [The effective date], the date on which the provisions of this Plan became effective.
- d) *Year*: The 12-month period commencing on January 1 and ending on December 31.
- e) *Code*: The [CODE], as amended from time to time.

2.3 Construction:

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Plan and not to any particular provision, Section or Article. Article and Section headings are for convenience of reference and not intended to add to or subtract from the terms of this Plan.

3. Participation and Notifications

3.1 Participation:

Except for an Employee who, for the entire Year was covered by a collective bargaining agreement which does not provide for his inclusion hereunder, an Employee shall participate in the Plan for any Year in which he meets the following requirements:

- a) he attains age [AGE] or older
- b) he has performed services for the Employer at some time during the Year
- c) his Compensation for the Year is [AMOUNT] or greater, and
- d) the given Year is preceded by a [NUMBER]-year period that includes at least three Years in each of which he has performed services for the Employer at some time during the Year

3.2 Notifications:

The Committee shall notify an Employee in writing when he first becomes a Participant. Such notification shall include information required to be furnished by [AGENCY]. Such notification shall also advise the Participant that he should establish a Simplified Employee Pension and the date by which the establishment should be accomplished. If the Participant fails to notify the Committee of the establishment of a Simplified Employee Pension as of the prescribed date, the Committee shall choose a Simplified Employee Pension for such Participant and execute such forms and documents as may be necessary to establish a Simplified Employee Pension for and on behalf of such Participant.

If the Participant's Simplified Employee Pension does not accept contributions for the Year in which the Participant attains age [AGE], the Committee shall choose a Simplified Employee Pension for such Participant, for such Year and succeeding Years unless the Participant notifies the Committee that he has chosen an alternate Simplified Employee Pension.

4. Contributions

NOTE: The following Section 4.1 incorporates the requirements of [CODE] regarding the permitted disparity in plan contributions. The contribution percentage for compensation above a certain level cannot exceed the contribution percentage on compensation below a certain level by more than the lesser of:

- a) the contribution percentage on compensation below a certain level, or
- b) the greater of:
 - i) [%], or
 - ii) the percentage equal to the portion of the rate under [CODE] (in effect as of the beginning of the year) which is attributable to old-age insurance.

4.1 Employer Contributions On and After [DATE]:

Each Year the Employer shall determine whether or not a contribution will be made under the Plan for that Year. If the Employer determines that a contribution will be made for a Year, then, subject to the provisions of Section 4.4, the contribution made on behalf of each Employee who is a Participant for that Year shall be equal to:

- a) a percentage of Compensation, as determined by the Employer, payable to all Participants;
- b) to the extent any contribution has not been allocated under (a) above, an additional allocation shall be made to all Participants considering only their compensation in excess of the social security wage base for the Year. The percentage for any additional allocation under this Section 4.1(b) shall not exceed the lesser of:
 - i) the percentage used under Section 4.1(a) above, or

ii) the greater of:

a) [%], or

b) the percentage equal to the portion of the rate under [CODE] (in effect as of the beginning of the Year) which is solely attributable to old-age insurance.

c) to the extent any contribution remains after the allocations under Sections 4.1(a) and (b) above, the remainder shall be allocated to all Participants based on their Compensation for the Year.

However, the contribution made on behalf of any Participant for any Year may not exceed [AMOUNT] (*minus any Employer contribution made on the Employee's behalf pursuant to Section 4.2). Except to the extent provided in this Section 4.1, contributions to any one Participant shall bear a uniform relationship to the Compensation of each Participant receiving a contribution under this Plan.

The [AMOUNT] limitation referred to above shall be increased in accordance with the increases made to the limit defined under [CODE].

The contributions of the Employer made on behalf of each Participant shall be paid directly to, and deposited in, the Simplified Employee Pension of each such Participant and shall be paid no later than [NUMBER] months after the close of the Year.

4.2 Contributions by Participants:

Participants are not permitted to make contributions under this Plan. However, the Simplified Employee Pension chosen by the Participant may allow for additional contributions by the Participant, but such contributions shall not be deemed to be made under this Plan.

If the Committee chooses a Simplified Employee Pension for the Participant pursuant to the provisions of Section 3.2, such Simplified Employee Pension shall not provide for Participant contributions there under.

4.3 Excess Contributions:

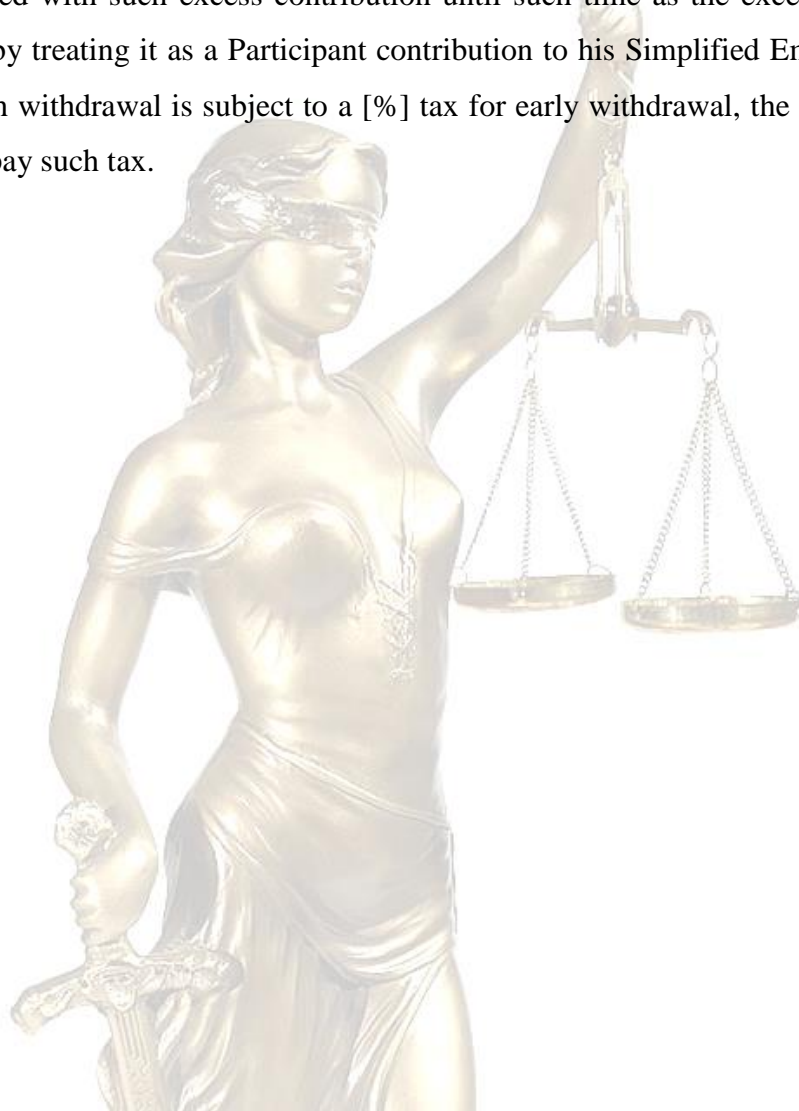
An excess Employer contribution on behalf of a Participant shall exist for a Year if it exceeds one of the following:

- a) the lesser of [AMOUNT] or [%] of the Participant's Compensation for such Year, or
- b) the amount determined by the Employer to be contributed for the Participant for such Year pursuant to the provisions of Section 4.1.

Except as provided by the remaining provisions of this Section, if an excess contribution is made by the Employer on behalf of a Participant, such excess shall be used as payment or partial payment of the Employer's contribution to such Participant's Simplified Employee Pension for the next succeeding Year.

If, by [DATE] immediately following the Year for which an excess contribution is made, it cannot be determined by the Employer whether the excess contribution will cause yet another excess contribution for the current Year, then the Committee shall notify the Participant that an excess contribution has been made on his behalf.

Upon receipt of notification of an excess contribution, the Participant may either withdraw the excess contribution prior to the due date (not including extensions) for filing his tax return for the Year for which the excess contribution was made or he may treat it as a Participant contribution if his Simplified Employee Pension allows for such treatment. If the Participant does not withdraw the excess contribution within such time period, he shall be responsible to pay the [%] penalty tax, if any, associated with such excess contribution until such time as the excess is eliminated by withdrawal or by treating it as a Participant contribution to his Simplified Employee Pension, if allowed. If such withdrawal is subject to a [%] tax for early withdrawal, the Participant shall be responsible to pay such tax.



4.4 Maximum Employer Contributions:

Notwithstanding anything contained herein, the Employer contribution to be made on behalf of any Participant for any Year shall be reduced to the extent necessary to prevent disqualification of the Plan under Section [NUMBER] of the [CODE].

If the Participant was a participant at any time in [Name of Plan] Defined Benefit Plan which was maintained by the Employer prior to its termination on [Date], the sum of his Defined Benefit Plan Fraction and his Defined Contribution Plan Fraction for any Year may not exceed [AMOUNT]. The "Defined Benefit Plan Fraction" for any Year is a fraction, the numerator of which is the Participant's projected annual benefit under the [Name of Plan] Defined Benefit Plan (determined at the close of the Year) and the denominator of which is the Participant's projected annual benefit (determined as of the close of the Year) if such plan provided the maximum benefit allowable under Section [NUMBER] of the [CODE]. The "Defined Contribution Plan Fraction" for any Year is a fraction, the numerator of which is the sum of the Employer's contribution to be made under Section 4.1 for such Participant for such Year, plus the Employer's contributions made under this Plan for the Participant for all prior Years and the denominator of which is the maximum amount of annual contributions which could have been made under Section [NUMBER] of the [CODE] for such Year and for all prior Years of such Participant's employment (assuming for this purpose that said Section [NUMBER] had been in effect during such prior Years). If the Participant's Defined Benefit Plan Fraction for any Year plus the Defined Contribution Plan Fraction for such Year exceeds [AMOUNT], then the Employer's contribution for the Participant for such Year shall be reduced to the extent necessary to eliminate the excess. The Committee shall advise affected Participants of any limitation on their Employer contributions hereunder required by this Section.

5. Benefits

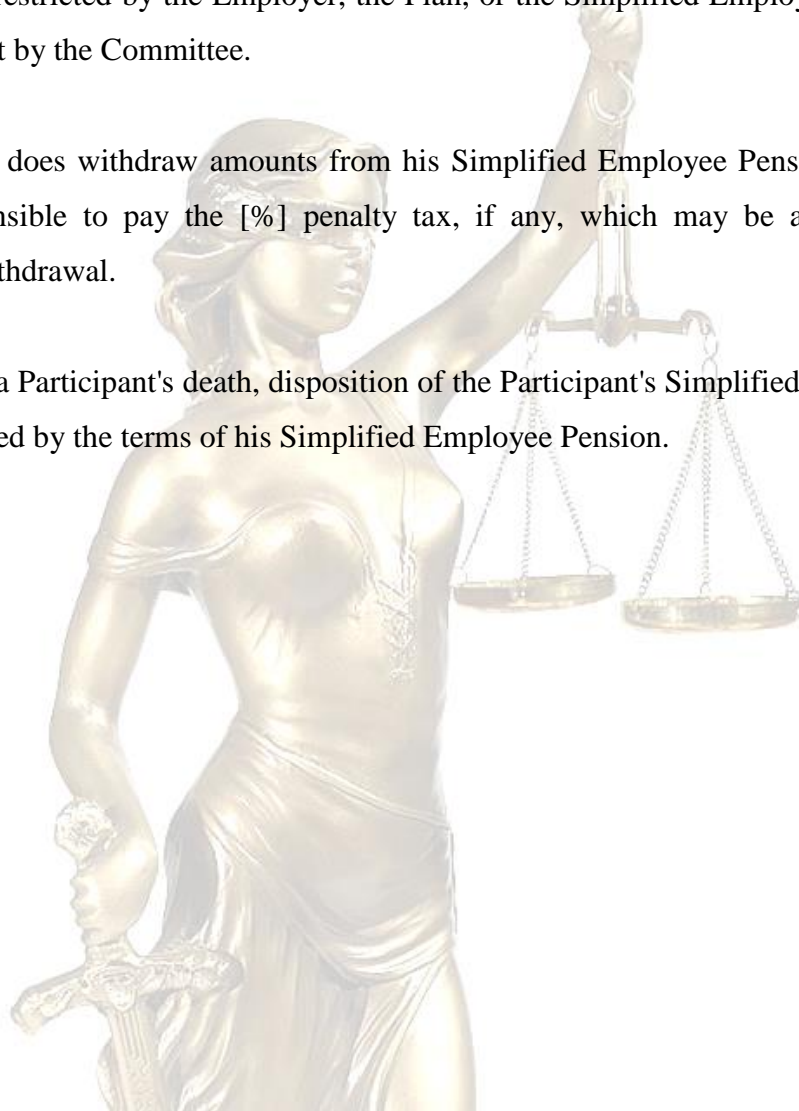
NOTE: Unlike a qualified retirement plan, a participant can withdrawal SEP contributions without having to show a financial hardship. The Participant would owe federal and possibly state income taxes, plus, unless certain conditions are satisfied, a [%] additional income tax.

All contributions made to this Plan by the Employer on behalf of a Participant shall be fully vested and non-forfeitable at all times.

The right of a Participant to withdraw amounts contributed by the Employer on his behalf shall not in any way be restricted by the Employer, the Plan, or the Simplified Employee Pension chosen for a Participant by the Committee.

If a Participant does withdraw amounts from his Simplified Employee Pension, the Participant shall be responsible to pay the [%] penalty tax, if any, which may be associated with the Participant's withdrawal.

In the event of a Participant's death, disposition of the Participant's Simplified Employee Pension shall be governed by the terms of his Simplified Employee Pension.



6. Administration

6.1 Fiduciary Responsibility:

The Fiduciaries shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under this Plan. The Employer shall have the sole responsibility for making the contributions provided for under Section 4.1 and Section 4.2, and shall have the sole authority to appoint and remove members of the Committee, to choose the Simplified Employee Pension that will be utilized for Participants who either fail to choose their own or choose a Simplified Employee Pension that will not accept certain contributions made hereunder, and to amend or terminate this Plan. The Committee shall have the sole responsibility for the administration of this Plan, which responsibility is specifically described in this Plan.

6.2 Appointment of Committee:

The Plan shall be administered by a Committee consisting of at least one person who shall be appointed by and serve at the pleasure of the Board of Directors of the Employer. All usual and reasonable expenses of the Committee shall be paid by the Employer. Any members of the Committee who are Employees shall not receive compensation with respect to their services for the Committee.

6.3 Claims Procedure:

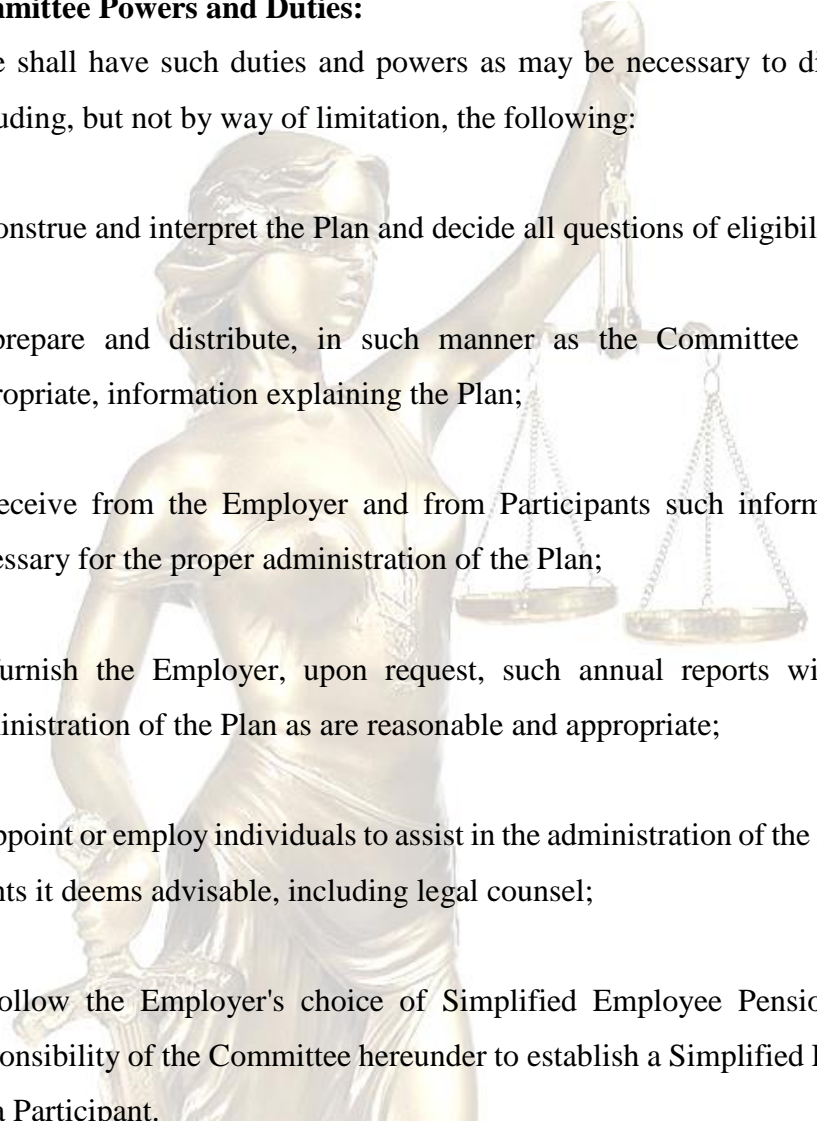
The Committee shall make all determinations as to the eligibility of any Employee for Plan Participation or an Employer contribution. Any denial by the Committee of the claim for benefits under the Plan by an Employee shall be stated in writing by the Committee and delivered or mailed to the Employee; and such notice shall set forth the specific reasons for the denial, written to the best of the Committee's ability in a manner that may be understood without legal or actuarial counsel. In addition, the Committee shall afford a reasonable opportunity to any Employee whose claim for benefits has been denied for a review of the decision denying the claim.

6.4 Records and Reports:

The Committee shall exercise such authority and responsibility as it deems appropriate in order to comply with governmental regulations relating to records of Employer contributions made hereunder, notifications to Participants, and reports, if any, to the [GOVERNMENT AGENCY] or to the [LABOR DEPARTMENT].

6.5 Other Committee Powers and Duties:

The Committee shall have such duties and powers as may be necessary to discharge its duties hereunder, including, but not by way of limitation, the following:

- 
- a) to construe and interpret the Plan and decide all questions of eligibility;
 - b) to prepare and distribute, in such manner as the Committee determines to be appropriate, information explaining the Plan;
 - c) to receive from the Employer and from Participants such information as shall be necessary for the proper administration of the Plan;
 - d) to furnish the Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate;
 - e) to appoint or employ individuals to assist in the administration of the Plan and any other agents it deems advisable, including legal counsel;
 - f) to follow the Employer's choice of Simplified Employee Pension when it is the responsibility of the Committee hereunder to establish a Simplified Employee Pension for a Participant.

The Committee shall have no power to add to, subtract from or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility under the Plan.

6.6 Rules and Decisions:

The Committee may adopt such rules as it deems necessary, desirable or appropriate. All rules and decisions of the Committee shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Committee shall be entitled to rely upon information furnished by a Participant, the Employer or the legal counsel of the Employer.

6.7 Notifications and Forms:

The Committee may require a Participant to complete and file with the Committee any and all forms approved by the Committee, and to furnish all pertinent information requested by the Committee. The Committee may rely upon all such information so furnished it, including the Participant's current mailing address.

6.8 Indemnification of the Committee:

The Committee and the individual members thereof shall be indemnified by the Employer against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Plan, including expenses reasonably incurred in the defense of any claim relating thereto.

7. Employer Rights

7.1 Non-guarantee of Employment:

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

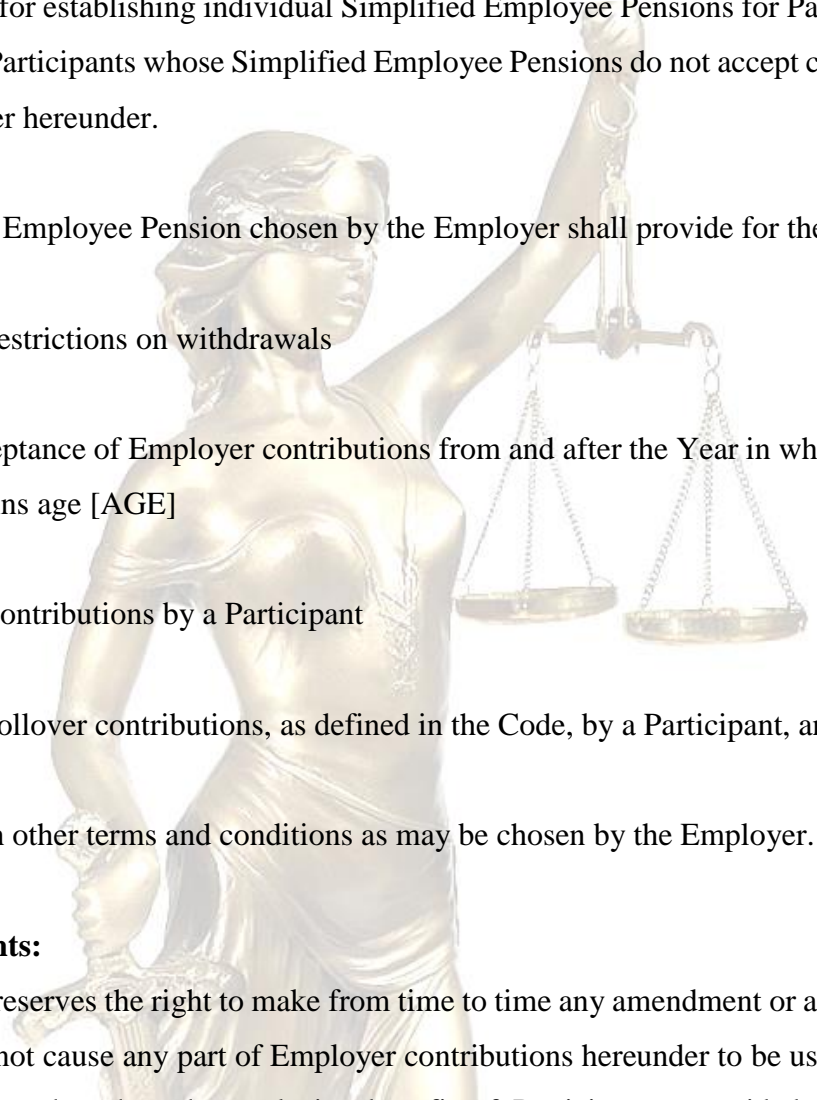
7.2 Action by Employer:

Any action by the Employer under this Plan may be by any person or persons duly authorized to take such action.

7.3 Choice of Simplified Employee Pension:

The Employer shall choose the particular Simplified Employee Pension which will be utilized by the Committee for establishing individual Simplified Employee Pensions for Participants who fail to do so or for Participants whose Simplified Employee Pensions do not accept contributions made by the Employer hereunder.

The Simplified Employee Pension chosen by the Employer shall provide for the following:

- 
- a) no restrictions on withdrawals
 - b) acceptance of Employer contributions from and after the Year in which the Participant attains age [AGE]
 - c) no contributions by a Participant
 - d) no rollover contributions, as defined in the Code, by a Participant, and
 - e) such other terms and conditions as may be chosen by the Employer.

7.4 Amendments:

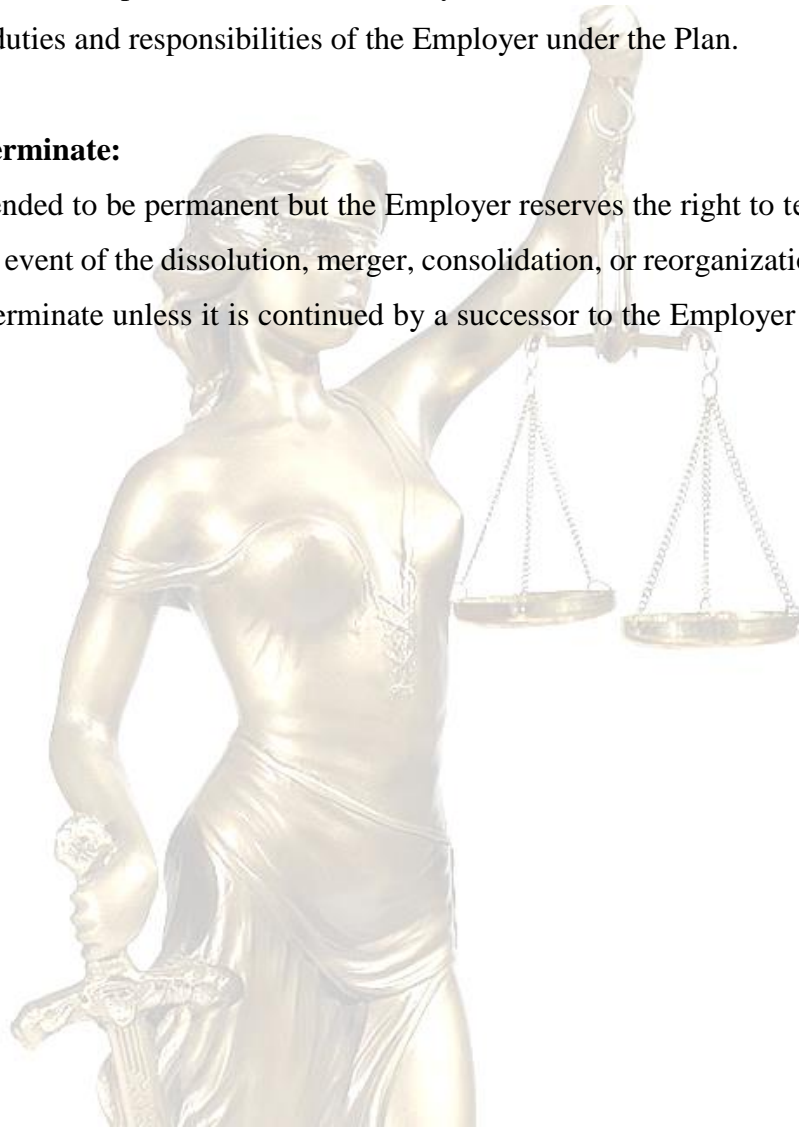
The Employer reserves the right to make from time to time any amendment or amendments to this Plan which do not cause any part of Employer contributions hereunder to be used for, or diverted to, any purpose other than the exclusive benefit of Participants, provided however, that the Employer may make any amendment it determines necessary or desirable, with or without retroactive effect, to comply with the Code or any other federal law and regulations issued pursuant thereto.

7.5 Successor Employer:

In the event of the dissolution, merger, consolidation or reorganization of the Employer, provision may be made by which the Plan will be continued by the successor; and, in that event, such successor shall be substituted for the Employer under the Plan. The substitution of the successor shall constitute an assumption of Plan liabilities by the successor and the successor shall have all of the powers, duties and responsibilities of the Employer under the Plan.

7.6 Right to Terminate:

The Plan is intended to be permanent but the Employer reserves the right to terminate the Plan at any time. In the event of the dissolution, merger, consolidation, or reorganization of the Employer, the Plan shall terminate unless it is continued by a successor to the Employer in accordance with Section 7.5.



STOCK OPTION AGREEMENT

THE SECURITY REPRESENTED BY THIS CERTIFICATE HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE [ACT], AS AMENDED.

This Stock Option Agreement (“Agreement”) is made and entered into as of the date of grant set forth below (the “Date of Grant”)

BETWEEN: [COMPANY NAME] (the "Company), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [OPTIONEE NAME] (the "Optionee"), an individual with his main address at:

Capitalized terms not defined herein shall have the meaning ascribed to them in the Company’s [Year of Plan] Stock Option & Incentive Plan (the “Plan”).

Total Option Shares:

Exercise Price Per Share:

Date of Grant:

First Vesting Date:

Expiration Date for Exercise of Options:

Type of Stock Option:

(Check one):

Incentive Stock Option

Statutory Stock Option

23. Grant of Option

The Company hereby grants to Optionee an option (the “Option”) to purchase the total number of shares of Common Stock of the Company set forth above (the “Shares”) at the Exercise Price Per Share set forth above (the “Exercise Price”), subject to all of the terms and conditions of this Agreement and the Plan. If designated as an Incentive Stock Option above, the Option is intended to qualify as an “incentive stock option” (“ISO”) within the meaning of Section [number] of the [CODE], as amended (the “Code”). Only Employees of the Company shall receive ISOs.

24. Exercise Price

The Exercise Price, is not less than the fair market value per share of Common Stock on the date of grant, as determined by the Board; provided, however, in the event Optionee is an Employee and owns stock representing more than [%] of the total combined voting power of all classes of stock of the Company or of its Parent or Subsidiary corporations immediately before this Option is granted, said exercise price is not less than one hundred ten percent [%] of the fair market value per share of Common Stock on the date of grant as determined by the Board.

25. Exercise of Option

This Option shall be exercisable during its term in accordance with the provisions of [PLAN] as follows:

a. Vesting

- i. This Option shall not become exercisable as to any of the number of the Shares as follows (check one):

Four Year Vesting:

Until the date that is [NUMBER] year from the date of grant of the Option (the "Anniversary Date"). On the Anniversary Date, this Option may be exercised to the extent of [%] of the Shares. Upon the expiration of each calendar month from the Anniversary Date, this Option may be exercised to the extent of the product of (a) the total number of Shares set forth at the beginning of this Agreement and (b) the fraction the numerator of which is [NUMBER] and the denominator of which is [NUMBER] (the "Monthly Vesting Amount"), plus the shares as to which the right to exercise the Option has previously accrued but has not been exercised; provided, however, that notwithstanding any of the above, the [%] exercisable on the Anniversary Date and the Monthly Vesting Amount with respect to any calendar month shall become exercisable only if the Employee was an employee of the Company or any Subsidiary of the Company as of the Anniversary Date and the last day of such month, respectively. Any time that the Optionee is on leave or is absent from performing services for the Company shall not be counted towards the vesting provided herein.

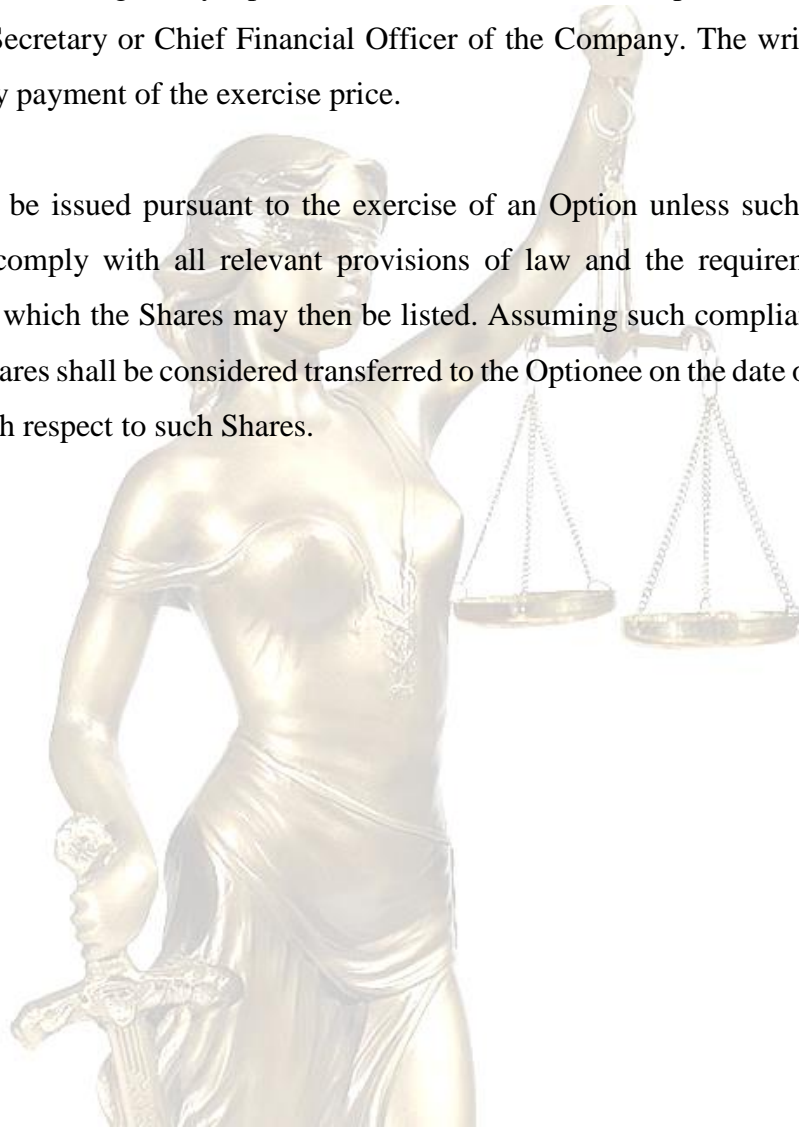
Alternate Vesting Schedule: As follows:

- ii. This Option may not be exercised for a fraction of a Share.
- iii. In the event of Optionee's death, disability or other termination of employment, the exercisability of the Option is governed by Sections 7, 8 and 9 below, subject to the limitations contained in subsection 3(i)(d).
- iv. In no event may this Option be exercised after the date of expiration of the term of this Option as set forth in Section 11 below.

b. Method of Exercise

This Option shall be exercisable by written notice which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such shares of Common Stock as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered in person or by certified mail to the President, Secretary or Chief Financial Officer of the Company. The written notice shall be accompanied by payment of the exercise price.

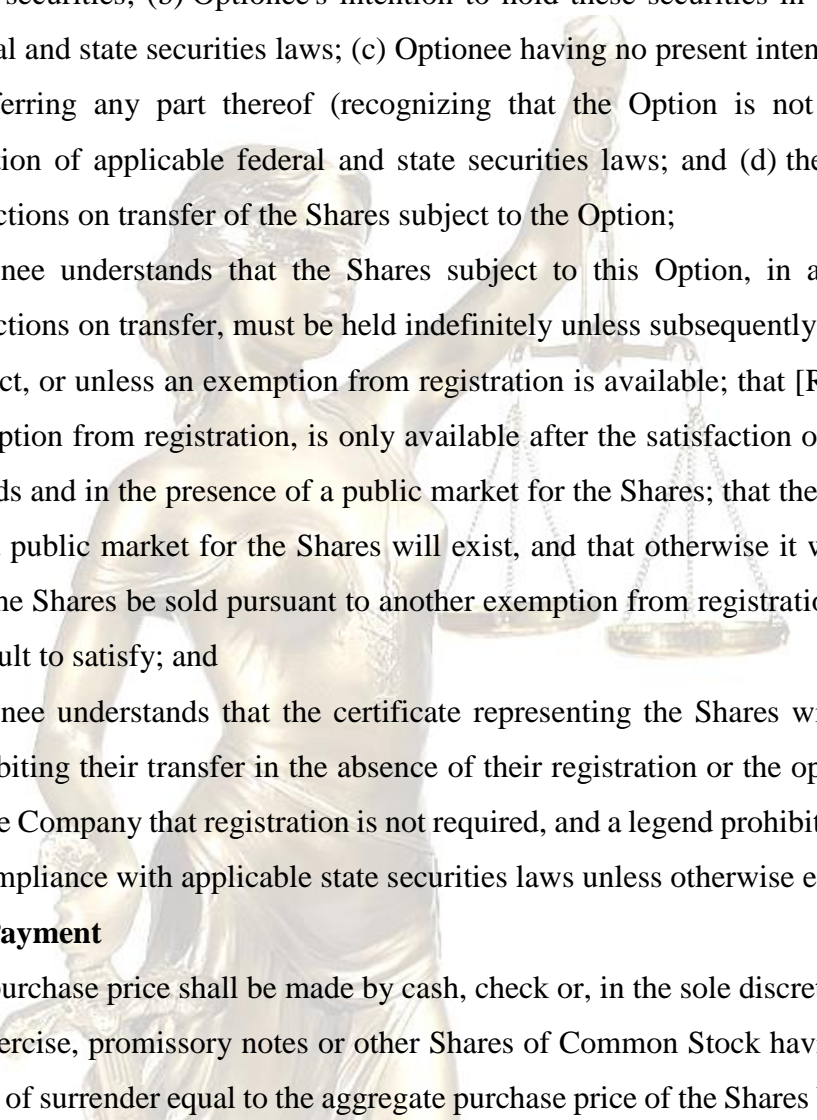
No Shares will be issued pursuant to the exercise of an Option unless such issuance and such exercise shall comply with all relevant provisions of law and the requirements of any stock exchange upon which the Shares may then be listed. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.



- c. Adjustments, Merger, etc. The number and class of the Shares and/or the exercise price specified above are subject to appropriate adjustment in the event of changes in the capital stock of the Company by reason of stock dividends, split-ups or combinations of shares, reclassifications, mergers, consolidations, reorganizations or liquidations. Subject to any required action of the shareholders of the Company, if the Company shall be the surviving corporation in any merger or consolidation, this Option (to the extent that it is still outstanding) shall pertain to and apply to the securities to which a holder of the same number of shares of Common Stock that are then subject to this Option would have been entitled. A dissolution or liquidation of the Company, or a merger or consolidation in which the Company is not the surviving corporation, will cause this Option to terminate, unless the agreement or merger or consolidation shall otherwise provide, provided that the Optionee shall, if the Board expressly authorizes, in such event have the right immediately prior to such dissolution or liquidation, or merger or consolidation, to exercise this Option in whole or part. To the extent that the foregoing adjustments relate to stock or securities of the Company, such adjustments shall be made by the Board, whose determination in that respect shall be final, binding and conclusive.

26. Optionee's Representations

- a. By receipt of this Option, by its execution, and by its exercise in whole or in part, Optionee represents to the Company that Optionee understands that:
- b. Both this Option and any Shares purchased upon its exercise are securities, the issuance by the Company of which requires compliance with federal and state securities laws;
- c. These securities are made available to Optionee only on the condition that Optionee makes the representations contained in this Section 4 to the Company;
- d. Optionee has made a reasonable investigation of the affairs of the Company sufficient to be well informed as to the rights and the value of these securities;

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- e. Optionee understands that the securities have not been registered under the [ACT], as amended (the "Act") in reliance upon one or more specific exemptions contained in the Act, which may include reliance on [RULE] promulgated under the Act, if available, or which may depend upon (a) Optionee's bona fide investment intention in acquiring these securities; (b) Optionee's intention to hold these securities in compliance with federal and state securities laws; (c) Optionee having no present intention of selling or transferring any part thereof (recognizing that the Option is not transferable) in violation of applicable federal and state securities laws; and (d) there being certain restrictions on transfer of the Shares subject to the Option;
 - f. Optionee understands that the Shares subject to this Option, in addition to other restrictions on transfer, must be held indefinitely unless subsequently registered under the Act, or unless an exemption from registration is available; that [RULE], the usual exemption from registration, is only available after the satisfaction of certain holding periods and in the presence of a public market for the Shares; that there is no certainty that a public market for the Shares will exist, and that otherwise it will be necessary that the Shares be sold pursuant to another exemption from registration which may be difficult to satisfy; and
 - g. Optionee understands that the certificate representing the Shares will bear a legend prohibiting their transfer in the absence of their registration or the opinion of counsel for the Company that registration is not required, and a legend prohibiting their transfer in compliance with applicable state securities laws unless otherwise exempted.

27. Method of Payment

Payment of the purchase price shall be made by cash, check or, in the sole discretion of the Board at the time of exercise, promissory notes or other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate purchase price of the Shares being purchased.

28. Restrictions on Exercise

This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any applicable law or regulation. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by any applicable law or regulation.

29. Termination of Status as an Employee

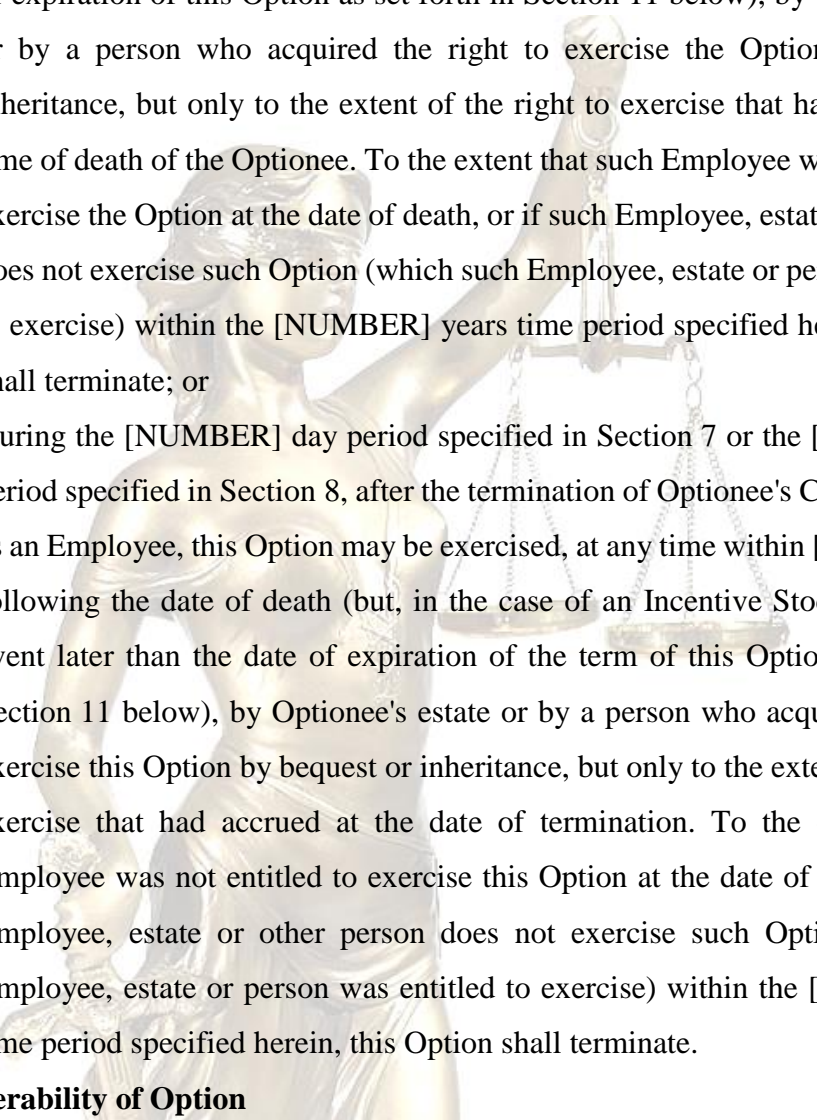
In the event of termination of Optionee's Continuous Status as an Employee for any reason other than death or disability, Optionee may, but only within [NUMBER] days after the date of such termination (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent that Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of such termination, or if Optionee does not exercise this Option within the time specified herein, this Option shall terminate.

30. Disability of Optionee

In the event of termination of Optionee's Continuous Status as an Employee as a result of Optionee's disability, Optionee may, but only within [NUMBER] months from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination; provided, however that if the disability is not total and permanent and the Optionee exercises the option within the period provided above but more than three months after the date of termination, this Option shall automatically be deemed to be a Non-statutory Stock Option and not an Incentive Stock Option; and provided, further, that if the disability is total and permanent then the Optionee may, but only within [NUMBER] year from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of termination, or if Optionee does not exercise such Option within the time periods specified herein, this Option shall terminate.

31. Death of Optionee

In the event of the death of Optionee:

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- c. During the term of this Option while an Employee of the Company and having been in Continuous Status as an Employee since the date of grant of this Option, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in case of an Incentive Stock Option, in no event later than the date of expiration of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the time of death of the Optionee. To the extent that such Employee was not entitled to exercise the Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] years time period specified herein, the Option shall terminate; or
- d. During the [NUMBER] day period specified in Section 7 or the [NUMBER] year period specified in Section 8, after the termination of Optionee's Continuous Status as an Employee, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in the case of an Incentive Stock Option, in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of termination. To the extent that such Employee was not entitled to exercise this Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] year time period specified herein, this Option shall terminate.

32. Non-Transferability of Option

This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee, only by Optionee. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

33. Term of Option

This Option may not be exercised more than [Number of years] years from the date of grant of this Option, and may be exercised during such term only in accordance with the Plan and terms of this Option; provided, however, that the term of this option, if it is a Non-statutory Stock Option, may be extended for the period set forth in Section 9(a) or Section 9(b) in the circumstances set forth in such Sections.

34. Early Disposition of Stock; Taxation Upon Exercise of Option

If Optionee is an Employee and the Option qualifies as an ISO, Optionee understands that, if Optionee disposes of any Shares received under this Option within [NUMBER] years after the date of this Agreement or within [NUMBER] year after such Shares were transferred to Optionee, Optionee will be treated for federal income tax purposes as having received ordinary income at the time of such disposition in any amount generally measured as the difference between the price paid for the Shares and the lower of the fair market value of the Shares at the date of exercise or the fair market value of the Shares at the of disposition. Any gain recognized on such premature sale of the Shares in excess of the amount treated as ordinary income will be characterized as capital gain. Optionee hereby agrees to notify the Company in writing within [NUMBER] days after the date of any such disposition. Optionee understands that if Optionee disposes of such Shares at any time after the expiration of such two-year and one-year holding periods, any gain on such sale will be treated as long-term capital gain laws subject to meeting various qualifications. If Optionee is a Consultant or this is a Non-statutory Stock Option, Optionee understands that, upon exercise of this Option, Optionee will recognize income for tax purposes in an amount equal to the excess of the then fair market value of the Shares over the exercise price. Upon a resale of such shares by the Optionee, any difference between the sale price and the fair market value of the Shares on the date of exercise of the Option will be treated as capital gain or loss. Optionee understands that the Company will be required to withhold tax from Optionee's current compensation in some of the circumstances described above; to the extent that Optionee's current compensation is insufficient to satisfy the withholding tax liability, the Company may require the Optionee to make a cash payment to cover such liability as a condition to exercise of this Option.

35. Tax Consequences

The Optionee understands that any of the foregoing references to taxation are based on federal income tax laws and regulations now in effect, and may not be applicable to the Optionee under certain circumstances. The Optionee may also have adverse tax consequences under state or local law. The Optionee has reviewed with the Optionee's own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. The Optionee is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. The Optionee understands that the Optionee (and not the Company) shall be responsible for the Optionee's own tax liability that may arise as a result of the transactions contemplated by this Agreement.

36. Severability; Construction

In the event that any provision in this Option shall be invalid or unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Option. This Option shall be construed as to its fair meaning and not for or against either party.

37. Damages

The parties agree that any violation of this Option (other than a default in the payment of money) cannot be compensated for by damages, and any aggrieved party shall have the right, and is hereby granted the privilege, of obtaining specific performance of this Option in any court of competent jurisdiction in the event of any breach hereunder.

38. Governing Law

This Option shall be deemed to be made under and governed by and construed in accordance with the laws of the State of [State]. Jurisdiction for any disputes hereunder shall be solely in [City], [State].

39. Delay

No delay or failure on the part of the Company or the Optionee in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by any of them of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

40. Restrictions

Notwithstanding anything herein to the contrary, Optionee understands and agrees that Optionee shall not dispose of any of the Shares, whether by sale, exchange, assignment, transfer, gift, devise, bequest, mortgage, pledge, encumbrance or otherwise, except in accordance with the terms and conditions of this Section 18, and Optionee shall not take or omit any action which will impair the absolute and unrestricted right, power, authority and capacity of Optionee to sell Shares in accordance with the terms and conditions hereof.

Any purported transfer of Shares by Optionee that violates any provision of this Section 18 shall be wholly void and ineffectual and shall give to the Company or its designee the right to purchase from Optionee all but not less than all of the Shares then owned by Optionee for a period of [NUMBER] days from the date the Company first learns of the purported transfer at the Agreement Price and on the Agreement Terms. If the Shares are not purchased by the Company or its designee, the purported transfer thereof shall remain void and ineffectual and they shall continue to be subject to this Agreement.

The Company shall not cause or permit the transfer of any Shares to be made on its books except in accordance with the terms hereof.

a. 1) Permitted Transfers

- iv. Optionee may sell, assign or transfer any Shares held by the Optionee but only by complying with the provisions of subsection (b)(1) of this Section 18.
- v. Optionee may sell, assign or transfer any Shares held by the Optionee without complying with the provisions of subsection (b)(1) by obtaining the prior written consent of the Company's shareholders owning [%] of the then issued and outstanding shares of the Company's Common Stock (determined on a fully diluted basis) or a majority of the members of the Board of Directors of the Company, provided that the transferee agrees in writing to be bound by the provisions of this Option and the transfer is made in accordance with any other restrictions or conditions contained in the written consent and in accordance with applicable federal and state securities laws.
- vi. Upon the death of Optionee, Shares held by the Optionee may be transferred to the personal representative of the Optionee's estate without complying with the provisions of subsection (b)(1). Shares so transferred shall be subject to the other provisions of this Option, including in particular subsection (b)(2).

a. 2) No Pledge

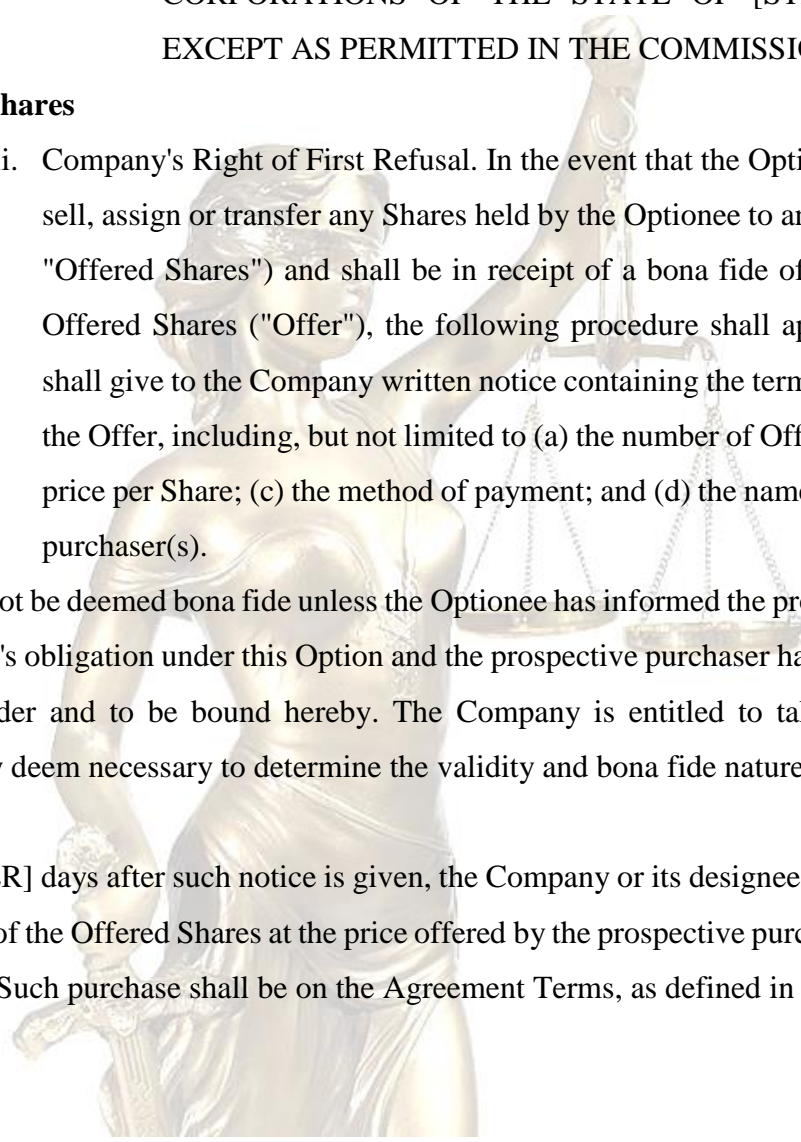
Unless a majority of the members of the Board of Directors consent, Shares may not be pledged, mortgaged or otherwise encumbered to secure indebtedness for money borrowed or any other obligation for which the Optionee is primarily or secondarily liable.

a. 3) Stock Certificate Legend

Each stock certificate for Shares issued to the Optionee shall have conspicuously written, printed, typed or stamped upon the face thereof, or upon the reverse thereof with a conspicuous reference on the face thereof, one or both of the following legend:



iii. THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT. SUCH SHARES MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, OR OTHERWISE DISPOSED OF IN ANY MANNER EXCEPT IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE STOCK OPTION AGREEMENT, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. UNLESS A MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS CONSENT, SUCH STOCK OPTION AGREEMENT PROHIBITS ANY PLEDGE, MORTGAGE OR OTHER ENCUMBRANCE OF SUCH SHARES TO SECURE ANY OBLIGATION OF THE HOLDER HEREOF. EVERY CREDITOR OF THE HOLDER HEREOF AND ANY PERSON ACQUIRING OR PURPORTING TO ACQUIRE THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN IS HEREBY NOTIFIED OF THE EXISTENCE OF SUCH STOCK OPTION AGREEMENT, AND ANY ACQUISITION OR PURPORTED ACQUISITION OF THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN SHALL BE SUBJECT TO ALL RIGHTS AND OBLIGATIONS OF THE PARTIES TO SUCH STOCK OPTION AGREEMENT AS THEREIN SET FORTH.

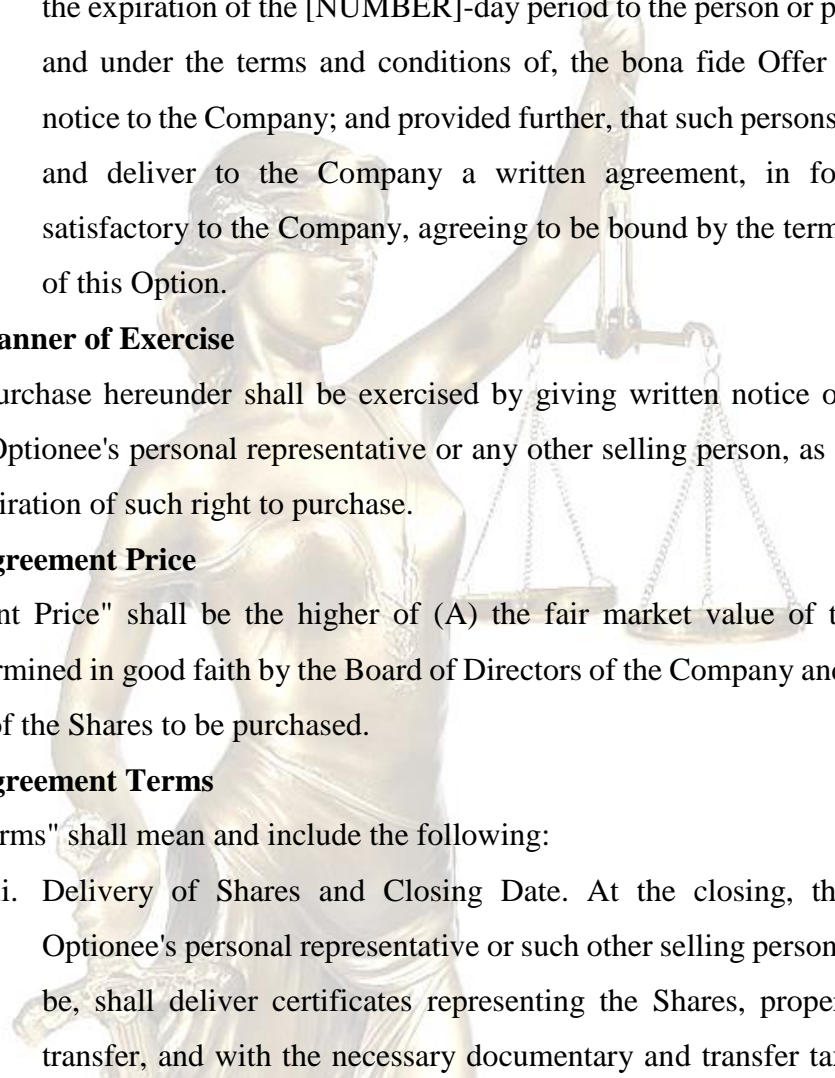
- 
- iv. IT IS UNLAWFUL TO CONSUMMATE A SALE OR TRANSFER OF THIS SECURITY, OR ANY INTEREST THEREIN, OR TO RECEIVE ANY CONSIDERATION THEREFOR, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF CORPORATIONS OF THE STATE OF [STATE/PROVINCE], EXCEPT AS PERMITTED IN THE COMMISSIONER'S RULES.

b. 1) Sales of Shares

- iii. Company's Right of First Refusal. In the event that the Optionee shall desire to sell, assign or transfer any Shares held by the Optionee to any other person (the "Offered Shares") and shall be in receipt of a bona fide offer to purchase the Offered Shares ("Offer"), the following procedure shall apply. The Optionee shall give to the Company written notice containing the terms and conditions of the Offer, including, but not limited to (a) the number of Offered Shares; (b) the price per Share; (c) the method of payment; and (d) the name(s) of the proposed purchaser(s).

An offer shall not be deemed bona fide unless the Optionee has informed the prospective purchaser of the Optionee's obligation under this Option and the prospective purchaser has agreed to become a party hereunder and to be bound hereby. The Company is entitled to take such steps as it reasonably may deem necessary to determine the validity and bona fide nature of the Offer.

Until [NUMBER] days after such notice is given, the Company or its designee shall have the right to purchase all of the Offered Shares at the price offered by the prospective purchaser and specified in such notice. Such purchase shall be on the Agreement Terms, as defined in subsection (b)(4).

- 
- iv. Failure of Company or its Designee to Purchase Offered Shares. If all of the Offered Shares are not purchased by the Company and/or its designee within the [NUMBER]-day period granted for such purchases, then any remaining Offered Shares may be sold, assigned or transferred pursuant to the Offer; provided, that the Offered Shares are so transferred within [NUMBER] days of the expiration of the [NUMBER]-day period to the person or persons named in, and under the terms and conditions of, the bona fide Offer described in the notice to the Company; and provided further, that such persons agree to execute and deliver to the Company a written agreement, in form and content satisfactory to the Company, agreeing to be bound by the terms and conditions of this Option.

b. 2) Manner of Exercise

Any right to purchase hereunder shall be exercised by giving written notice of election to the Optionee, the Optionee's personal representative or any other selling person, as the case may be, prior to the expiration of such right to purchase.

b. 3) Agreement Price

The "Agreement Price" shall be the higher of (A) the fair market value of the Shares to be purchased determined in good faith by the Board of Directors of the Company and (B) the original exercise price of the Shares to be purchased.

b. 4) Agreement Terms

"Agreement Terms" shall mean and include the following:

- iii. Delivery of Shares and Closing Date. At the closing, the Optionee, the Optionee's personal representative or such other selling person, as the case may be, shall deliver certificates representing the Shares, properly endorsed for transfer, and with the necessary documentary and transfer tax stamps, if any, affixed, to the purchaser of such Shares. Payment of the purchase price therefore shall concurrently be made to the Optionee, the Optionee's personal representative or such other selling person, as provided in subsection (ii) of this subsection (b)(4). Such delivery and payment shall be made at the principal office of the Company or at such other place as the parties mutually agree.

- iv. Payment of Purchase Price. The Company shall pay the purchase price to the Optionee at the closing.

b. 5) Right to Purchase Upon Certain Other Events

The Company or its designee shall have the right to purchase all, but not less than all, of the Shares held by the Optionee at the Agreement Price and on the Agreement Terms for a period of [NUMBER] days after any of the following events:

- vi. an attempt by a creditor to levy upon or sell any of the Optionee's Shares;
- vii. the filing of a petition by the Optionee under the [COUNTRY] Bankruptcy Code or any insolvency laws;
- viii. the filing of a petition against Optionee under any insolvency or bankruptcy laws by any creditor of the Optionee if such petition is not dismissed within [NUMBER] days of filing;
- ix. the entry of a decree of divorce between the Optionee and the Optionee's spouse; or
- x. If Optionee is an employee of the Company, upon the termination of Optionee's services as an employee.

The Optionee shall provide the Company written notice of the occurrence of any such event within [NUMBER] days of such event.

c. 1) Termination

The provisions of this Section 18 shall terminate and all rights of each such party hereunder shall cease except for those which shall have theretofore accrued upon the occurrence of any of the following events:

- vii. cessation of the Company's business;
- viii. bankruptcy, receivership or dissolution of the Company;
- ix. ownership of all of the issued and outstanding shares of the Company by a single shareholder of the Company;
- x. written consent or agreement of the shareholders of the Company holding 50% of the then issued and outstanding shares of the Company;
- xi. consent or agreement of a majority of the members of the Board of Directors of the Company; or

- xii. registration of any class of equity securities of the Company pursuant to Section [NUMBER] of the [ACT], as amended.

c. 2) Amendment

This Section 18 may be modified or amended in whole or in part by a written instrument signed by shareholders of the Company holding [%] of the outstanding shares of Common Stock or a majority of the members of the Board of Directors of the Company.

41. Market Standoff

Unless the Board of Directors otherwise consents, Optionee agrees hereby not to sell or otherwise transfer any Shares or other securities of the Company during the [NUMBER]-day period following the effective date of a registration statement of the Company filed under the Act; provided, however, that such restriction shall apply only to the first two registration statements of the Company to become effective under the Act which includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the Act. The Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such [NUMBER]-day period.

42. Complete Agreement

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all other prior or contemporaneous agreements and understandings both oral or written; subject, however, that in the event of any conflict between this Agreement and the Plan, the Plan shall govern. This Agreement may only be amended in a writing signed by the Company and the Optionee.

43. Privileges of Stock Ownership

Participant shall not have any of the rights of a shareholder with respect to any Shares until Optionee exercises the Option and pay the Exercise Price.

44. Notices

Any notice required to be given or delivered to the Company under the terms of this Agreement shall be in writing and addressed to the Corporate Secretary of the Company at its principal corporate offices. Any notice required to be given or delivered to Optionee shall be in writing and addressed to Optionee at the address indicated above or to such other address as such party may designate in writing from time to time to the Company. All notices shall be deemed to have been given or delivered upon: personal delivery; [NUMBER] days after deposit in the [COUNTRY] mail by certified or registered mail (return receipt requested); [NUMBER] business day after deposit with any return receipt express courier (prepaid); or [NUMBER] business day after transmission by fax.

DATE OF GRANT: [DATE]

[NAME OF CORPORATION]

NAME AND TITLE

OPTIONEE ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO SECTION 3 HEREOF IS EARNED ONLY BY CONTINUING SERVICE AS AN EMPLOYEE OR CONSULTANT AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION, THE COMPANY'S PLAN WHICH IS INCORPORATED HEREIN BY REFERENCE, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS AN EMPLOYEE OR CONSULTANT FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S EMPLOYMENT OR CONSULTING RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan, represents that Optionee is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of this Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board or of the Committee upon any questions arising under the Plan.

Dated: [DATE]

OPTIONEE

Consent of Spouse

The undersigned spouse of the Optionee to the foregoing Stock Option Agreement acknowledges on his or her own behalf that: I have read the foregoing Stock Option Agreement and I know its contents. I hereby consent to and approve of the provisions of the Stock Option Agreement, and agree that the Shares issued upon exercise of the options covered thereby and my interest in them are subject to the provisions of the Stock Option Agreement and that I will take no action at any time to hinder operation of the Stock Option Agreement on those Shares or my interest in them.

NAME OF SPOUSE

[Address], [City], [State], [Zip]

(SEAL)

[NAME OF CORPORATION]

[YEAR] STOCK OPTION AND INCENTIVE PLAN



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Exhibit 1 – Form of Stock Option Agreement



[NAME OF CORPORATION]

[YEAR] STOCK OPTION AND INCENTIVE PLAN

2. Purposes of this Plan

The general purpose of this [YEAR] Stock Option and Incentive Plan is to promote the interests of the Company and its shareholders by (i) providing certain Employees of and Consultants to the Company with additional incentives to continue and increase their efforts with respect to achieving success in the business of the Company, its Affiliates and its Subsidiaries, and (ii) attracting and retaining the best available personnel to participate in the ongoing business operations of the Company and its Subsidiaries.

Options granted under this Plan may be either Incentive Stock Options or Non-statutory Stock Options, as determined at the discretion of the Board and as reflected in the terms of the written option agreements. The Board may also grant Stock Purchase Rights hereunder.

3. Definitions

As used in this Plan, the following definitions shall apply:

“Affiliates” means any other entity directly or indirectly controlling, controlled by, or under common control, with the Company.

“Affiliated SAR” means a SAR that is granted in connection with a related Option, and which will be deemed to automatically be exercised simultaneous with the exercise of the related Option.

“Award” means, individually or collectively, a grant under this Plan, including any Nonqualified Stock Options, Incentive Stock Options, SARs, Restricted Stock, Performance Units, or Performance Shares.

“Award Agreement” means an agreement entered into by each Participant and the Company, setting forth the terms and provisions applicable to Awards granted to Participants under the Plan.

“Board” shall mean the Committee, if one has been appointed, or the Board of Directors of the Company, if no Committee is appointed.

“Board of Directors” means the full Board of Directors of the Company.

“Code” shall mean the [CODE], as amended from time to time, or any successor statute or statutes thereto. Reference to any particular Code section shall include any successor section.

“Committee” shall mean the Committee appointed by the Board of Directors in accordance with Section 4(a) of this Plan, if one is appointed, or if no Committee is appointed, the Board of Directors.

“Common Stock” shall mean the Common Stock of the Company.

“Company” shall mean [COMPANY], a [STATE/PROVINCE] corporation.

“Consultant” shall mean any person who is engaged by the Company or by any Parent or Subsidiary to render consulting services and is compensated for such consulting services, and any director of the Company whether compensated for such services or not.

“Continuous Status as an Employee” shall mean the absence of any interruption or termination of service as an Employee. Continuous Status as an Employee shall not be considered interrupted in the case of sick leave, military leave, or any other leave of absence approved by the Board; provided that such leave is for a period of not more than [NUMBER] days or reemployment upon the expiration of such leave is guaranteed by contract or statute.

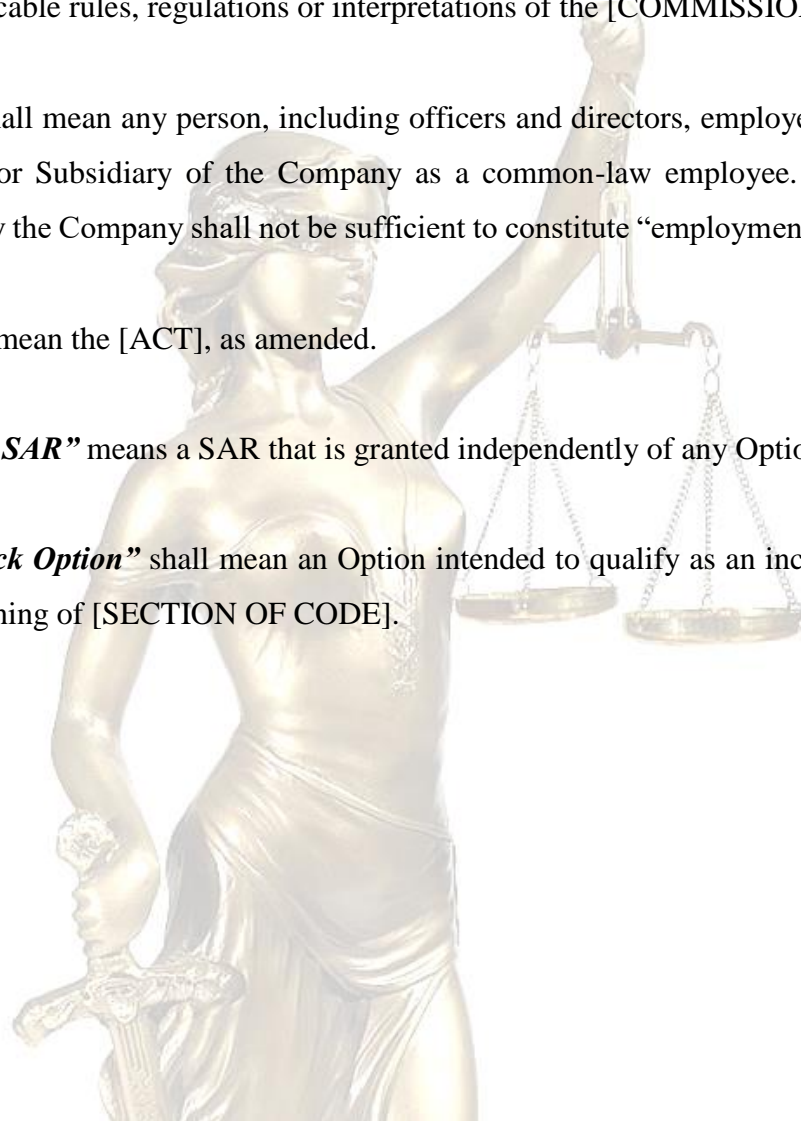
“Disinterested Person” shall mean a member of the Board of Directors of the Company: (i) who was not during the one year prior to service as an administrator of this Plan granted or awarded equity securities pursuant to this Plan, or any other plan of the Company or any of its affiliates entitling the participants therein to acquire equity securities of the Company or any of its affiliates; or (ii) who is otherwise considered to be a “disinterested person” in accordance with [RULE], or any other applicable rules, regulations or interpretations of the [COMMISSION].

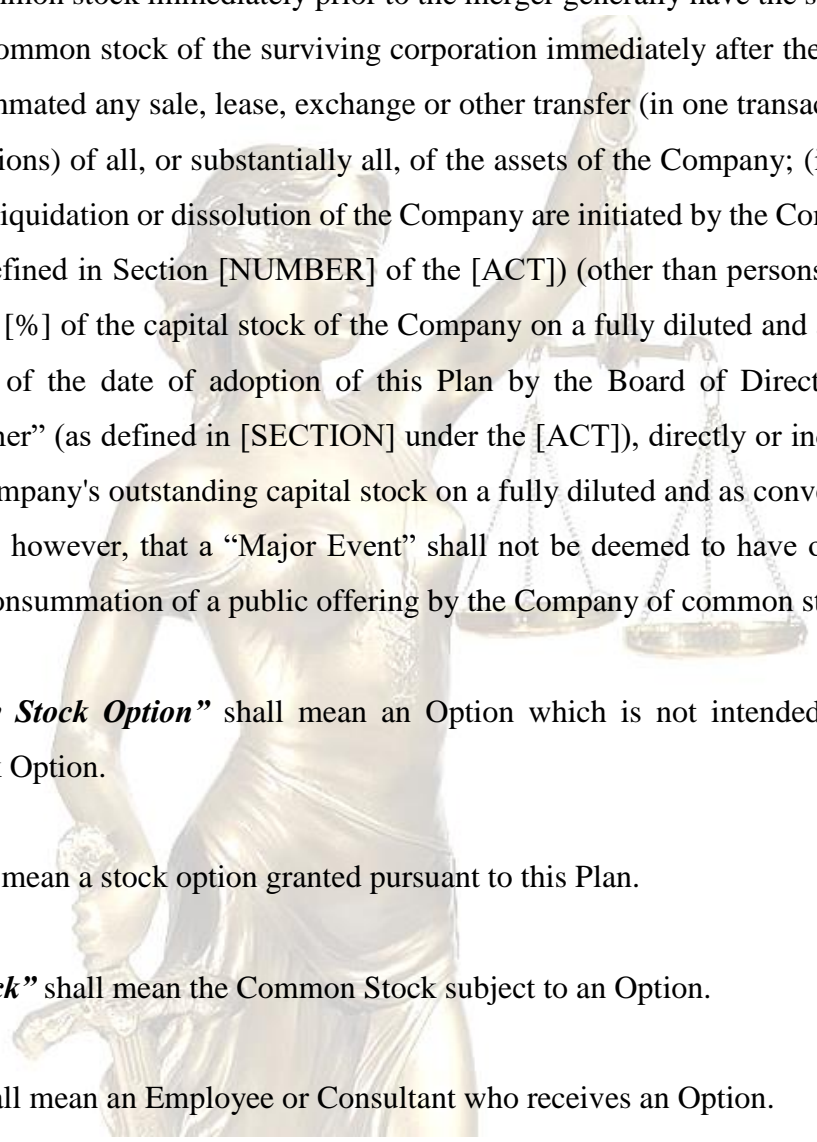
“Employee” shall mean any person, including officers and directors, employed by the Company or any Parent or Subsidiary of the Company as a common-law employee. The payment of a director's fee by the Company shall not be sufficient to constitute “employment” by the Company.

“[ACT]” shall mean the [ACT], as amended.

“Freestanding SAR” means a SAR that is granted independently of any Options.

“Incentive Stock Option” shall mean an Option intended to qualify as an incentive stock option within the meaning of [SECTION OF CODE].





“Major Event” shall be deemed to have occurred if (i) there shall be consummated any consolidation or merger of the Company in which the Company is not the continuing or surviving corporation or pursuant to which shares of the Company's common stock would be converted into cash, securities or other property, other than a merger of the Company in which the holders of the Company's common stock immediately prior to the merger generally have the same proportionate ownership of common stock of the surviving corporation immediately after the merger; (ii) there shall be consummated any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company; (iii) proceedings or actions for the liquidation or dissolution of the Company are initiated by the Company; or (iv) any “person” (as defined in Section [NUMBER] of the [ACT]) (other than persons who beneficially own more than [%] of the capital stock of the Company on a fully diluted and as converted basis outstanding as of the date of adoption of this Plan by the Board of Directors) becomes the “beneficial owner” (as defined in [SECTION] under the [ACT]), directly or indirectly, of [%] or more of the Company's outstanding capital stock on a fully diluted and as converted basis at such time; provided, however, that a “Major Event” shall not be deemed to have occurred solely by reason of the consummation of a public offering by the Company of common stock registered.

“Non-statutory Stock Option” shall mean an Option which is not intended to qualify as an Incentive Stock Option.

“Option” shall mean a stock option granted pursuant to this Plan.

“Optioned Stock” shall mean the Common Stock subject to an Option.

“Optionee” shall mean an Employee or Consultant who receives an Option.

“Parent” shall mean a “parent corporation”, whether now or hereafter existing, as defined in [SECTION OF CODE].

“Participant” means an Employee of the Company who has outstanding an Award granted under the Plan.

“Performance Unit” means an Award granted to an Employee pursuant to Section [NUMBER].

“Performance Share” means an Award granted to an Employee, pursuant to Section [NUMBER] herein.

“Period of Restriction” means the period during which the transfer of Shares of Restricted Stock is limited in some way (based on the passage of time, the achievement of performance goals, or upon the occurrence of other events as determined by the Committee, in its discretion), and the Shares are subject to a substantial risk of forfeiture, as provided in Section 11.

“Plan” shall mean this [YEAR] Stock Option and Incentive Plan.

“Purchaser” shall mean an Employee or Consultant who exercises a Stock Purchase Right.

“Restricted Stock” means an Award granted to a Participant pursuant to Section 11.

“Share” shall mean a share of Common Stock, as adjusted in accordance with Section 14 of this Plan.

“Stock Appreciation Right” or **“SAR”** means an Award, granted alone or in connection with a related Option, designated as a SAR, pursuant to the terms of Section 10.

“Stock Purchase Right” shall mean a right to purchase Common Stock pursuant to this Plan or the right to receive a bonus of Common Stock for past services.

“Subsidiary” shall mean a “subsidiary corporation”, whether now or hereafter existing.

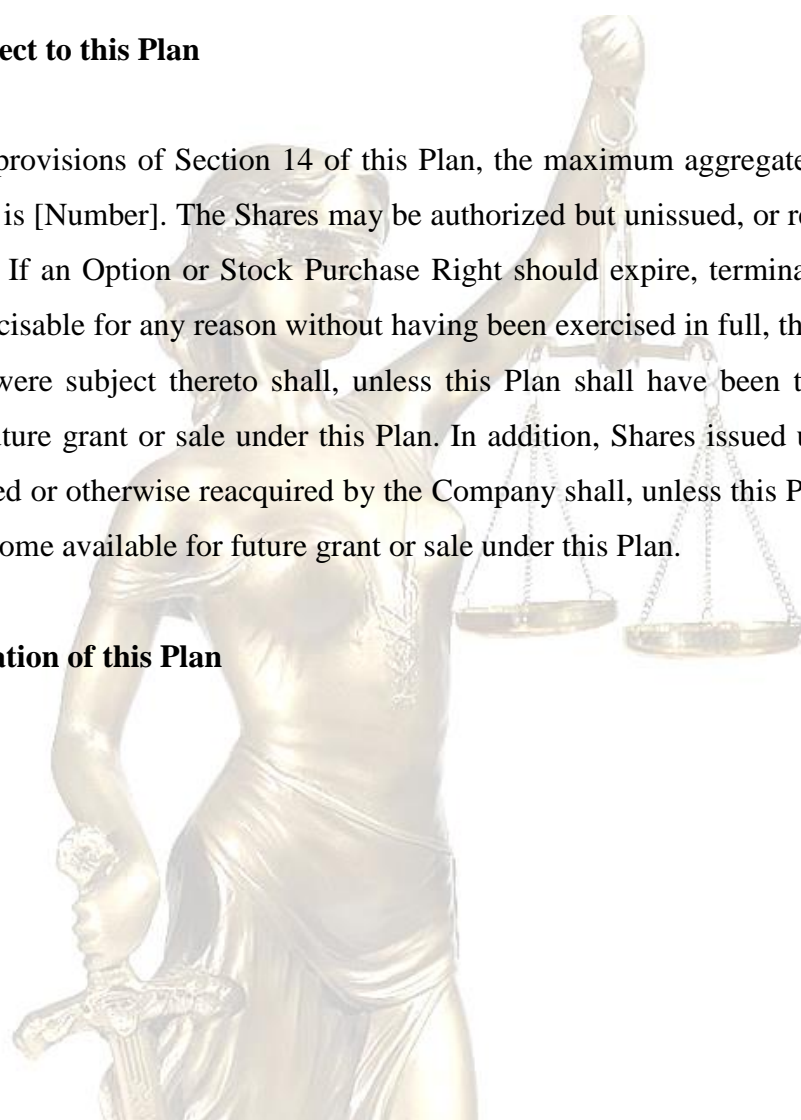
“Tandem SAR” means a SAR that is granted in connection with a related Option, the exercise of which shall require forfeiture of the right to purchase a Share under the related Option (and when a Share is purchased under the Option, a SAR shall similarly be cancelled).

4. Stock Subject to this Plan

Subject to the provisions of Section 14 of this Plan, the maximum aggregate number of Shares under this Plan is [Number]. The Shares may be authorized but unissued, or reacquired Common Stock, or both. If an Option or Stock Purchase Right should expire, terminate, be cancelled or become unexercisable for any reason without having been exercised in full, then the unpurchased Shares which were subject thereto shall, unless this Plan shall have been terminated, become available for future grant or sale under this Plan. In addition, Shares issued under this Plan and later repurchased or otherwise reacquired by the Company shall, unless this Plan shall have been terminated, become available for future grant or sale under this Plan.

5. Administration of this Plan

4.1 Procedure



This Plan shall be administered by the Board of Directors of the Company unless and until the Board of Directors delegates administration to a Committee, as provided in this Section 4(a). Subject to Section 4(a)(ii), the Board of Directors may appoint a Committee consisting of not less than two persons to administer this Plan on behalf of the Board of Directors, subject to such terms and conditions not inconsistent with this Plan as the Board of Directors may prescribe. Once appointed, the Committee shall continue to serve until otherwise directed by the Board of Directors. Members of the Board who are either eligible for Options and/or Stock Purchase Rights or have been granted Options and/or Stock Purchase Rights may vote on any matters affecting the administration of this Plan or the grant of any Options and/or Stock Purchase Rights pursuant to this Plan, except that no such member shall act upon the granting of an option to such member, but any such member may be counted in determining the existence of a quorum at any meeting of the Board during which action is taken with respect to the granting of Options and/or Stock Purchase Rights to such member.

Notwithstanding the foregoing Section 4(a)(i), if the Company registers any class of any equity security pursuant to Section [NUMBER] of the [ACT], from the effective date of such registration until [NUMBER] months after the termination of such registration, any grants of Options and/or Stock Purchase Rights to directors or officers who are subject to Section 16 of the [ACT] shall be made only by a Committee consisting of two or more persons, each of whom shall be a Disinterested Person (if necessary to meet the requirements of [RULE] promulgated under the [ACT]). The Board shall otherwise comply with the requirements of [RULE] promulgated under the [ACT], as from time to time in effect, unless the Board expressly declares that any such requirement shall not apply.

Subject to the foregoing Sections 4(a)(i) and 4(a)(ii), from time to time the Board of Directors may increase the size of the Committee and appoint additional members thereof, remove members (with or without cause) and appoint new members in substitution therefore, fill vacancies however caused, or remove all members of the Committee and thereafter directly administer this Plan. Once appointed, the Committee shall continue to serve until otherwise directed by the Board of Directors.

4.2 Powers of the Board.

- 5 Subject to the provisions of this Plan, the Board shall have plenary authority, in its discretion and without limitation, to do the following: (i) to grant Incentive Stock Options, Non-statutory Stock Options or Stock Purchase Rights; (ii) to determine, upon review of relevant information and in accordance with Section 7 of this Plan, the fair market value of the Common Stock; (iii) to determine the exercise price per share of Options or Stock Purchase Rights to be granted, which exercise price shall be determined in accordance with Section 7 hereof; (iv) to determine the Employees or Consultants to whom, and the time or times at which, Options or Stock Purchase Rights shall be granted and the number of Shares to be represented by each Option or Stock Purchase Right; (v) to interpret this Plan; (vi) to prescribe, amend and rescind rules and regulations relating to this Plan, and in the exercise of this power, to correct any defect, omission or inconsistency in this Plan or in any agreement relating to an Option or Stock Purchase Right, in a manner and to the extent the Board shall deem necessary or expedient to make this Plan fully effective; (vii) to determine the terms and provisions of each Option or Stock Purchase Right granted (which need not be identical) and, with the consent of the holder thereof, modify or amend each Option or Stock Purchase Right; (viii) to authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Option or Stock Purchase Right previously granted by the Board; and (ix) to make all other determinations deemed necessary or advisable for the administration of this Plan.

5.1 Board Determinations

In making determinations under this Plan, the Board may take into account the nature of the services rendered by the respective Employees and Consultants, their present and potential contributions to the success of the Company, or its Subsidiaries, as the case may be, and such other factors as the Board in its discretion shall deem relevant. All decisions, determinations and interpretations of the Board shall be final and binding on all Optionees, Purchasers and any other holders of any Options and/or Stock Purchase Rights granted under this Plan.

6. Eligibility

Options and Stock Purchase Rights may be granted to Employees and Consultants, provided that Incentive Stock Options may only be granted to Employees. An Employee or Consultant who has been granted an Option or Stock Purchase Right may, if such Employee or Consultant is otherwise eligible, be granted additional Option(s) or Stock Purchase Right(s).

No Incentive Stock Option may be granted to an Employee which, when aggregated with all other Incentive Stock Options granted to such Employee by the Company or by any Parent or Subsidiary, would result in Shares having an aggregate fair market value (determined for each Share as of the date of grant of the Option covering such Share) in excess of [AMOUNT] (or such different amount as provided for under the Code requirements for Incentive Stock Options) becoming first available for purchase upon exercise of one or more incentive stock options during any calendar year.

Section 5(b) of this Plan shall apply only to an Incentive Stock Option evidenced by a stock option agreement which sets forth the intention of the Company and the Optionee that such Option shall qualify as an Incentive Stock Option. Section 5(b) of this Plan shall not apply to any Option evidenced by a stock option agreement which sets forth the intention of the Company and the Optionee that such Option shall be a Non-statutory Stock Option.

On and after the effective date of the registration of any class of equity security of the Company pursuant to Section [NUMBER] of the [ACT], a member of the Board of Directors who is not an Employee shall not be eligible for the benefits of this Plan unless at the time an Option or Stock Purchase Right is granted to such member, the Board expressly declares that such exclusion will not apply.

7. Term of Plan

This Plan shall become effective upon the earlier to occur of its adoption by the Board of Directors or its approval by vote of the holders of a majority of the outstanding shares of the Company entitled to vote on the adoption of this Plan. It shall continue in effect for a term of [NUMBER] years unless sooner terminated under Section 16 of this Plan.

8. Exercise Price and Consideration

The per share exercise price for the Shares to be issued pursuant to exercise of an Option or Stock Purchase Right shall be such price as is determined by the Board, but shall be subject to the following provisions:

In the case of an Incentive Stock Option:

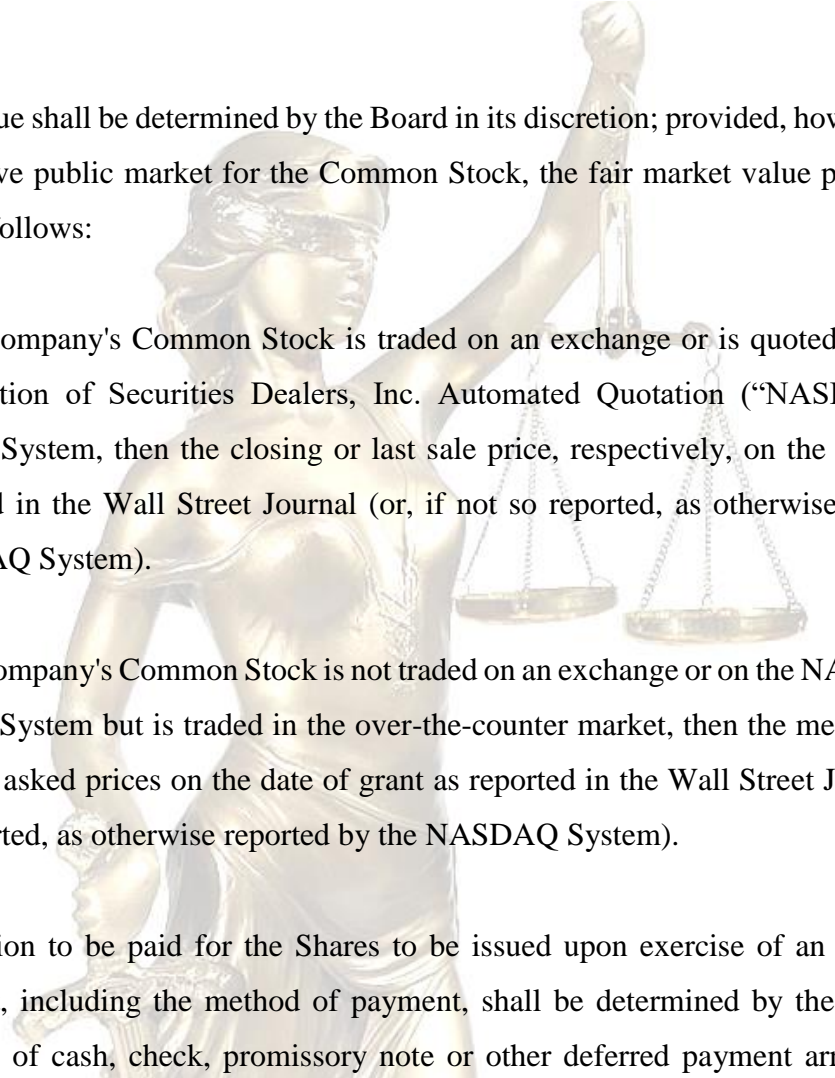
- a) granted to an Employee who, at the time of the grant of such Incentive Stock Option, owns stock representing more than [%] of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per share exercise price shall be no less than [%] of the fair market value per share on the date of grant.
- b) granted to any Employee other than an Employee described in Section 7(a)(i)(A), the per share exercise price shall be no less than [%] of the fair market value per Share on the date of grant.

In the case of a Non-statutory Stock Option:

- a) granted to an Employee or Consultant who, at the time of the grant of such Option, owns stock representing more than [%] of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per share exercise price shall be no less than [%] of the fair market value per share on the date of the grant.
- b) granted to any Employee or Consultant, other than an Employee or Consultant described in Section 7(a)(ii)(A), the per share exercise price shall be no less than [%] of the fair market value per share on the date of grant.

In the case of a Stock Purchase Right granted to any person, the per share exercise price shall be no less than [%] of the fair market value per share on the date of grant; provided, however, that if such person at the time of the grant of such Stock Purchase Right, owns stock representing more than [%] of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per share exercise price shall be no less than [%] of the fair market value per share on the date of the grant.

Fair market value shall be determined by the Board in its discretion; provided, however, that where there is an active public market for the Common Stock, the fair market value per share shall be determined as follows:

- 
- a) If the Company's Common Stock is traded on an exchange or is quoted on the National Association of Securities Dealers, Inc. Automated Quotation ("NASDAQ") National Market System, then the closing or last sale price, respectively, on the date of grant, as reported in the Wall Street Journal (or, if not so reported, as otherwise reported by the NASDAQ System).
 - b) If the Company's Common Stock is not traded on an exchange or on the NASDAQ National Market System but is traded in the over-the-counter market, then the mean of the closing bid and asked prices on the date of grant as reported in the Wall Street Journal (or, if not so reported, as otherwise reported by the NASDAQ System).

The consideration to be paid for the Shares to be issued upon exercise of an Option or Stock Purchase Right, including the method of payment, shall be determined by the Board and may consist entirely of cash, check, promissory note or other deferred payment arrangement, other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Option or Stock Purchase Right shall be exercised, or any combination of such methods of payment, or such other consideration and method of payment for the issuance of Shares to the extent permitted under applicable law. In making its determination as to the type of consideration to accept, the Board shall consider if acceptance of such consideration may be reasonably expected to benefit the Company.

9. Options

8.1 Term of Option

The term of each Option shall be [NUMBER] years from the date of grant thereof or such longer term (up to 10 years) as may be provided in the stock option agreement relating to such Option; provided that the term of a Non-statutory Stock Option may, as provided in Section 8(b)(iv), be extended for a period of up to [NUMBER] months. However, in the case of an Option granted to an Employee who, at the time the Option is granted, owns stock representing more than [%] of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Option shall be [NUMBER] years from the date of grant thereof or such shorter time as may be provided in the stock option agreement relating to such Option.

8.2 Exercise of Option

a) Procedure for Exercise; Rights as a Shareholder

Any Option granted under this Plan shall be exercisable at such times and under such conditions as determined by the Board, such as vesting conditions and/or performance criteria with respect to the Company and/or the Optionee, and as shall be permissible under the terms of this Plan. Notwithstanding anything herein to the contrary, no Option granted hereunder shall have a vesting period in excess of [NUMBER] years.

An Option may, but need not, include a provision whereby at any time prior to termination of the Optionee's Continuous Status as an Employee, the Optionee may elect to exercise the Option as to all or any part of the Shares subject to the Option prior to the stated vesting date of the Option or of any vesting installment or installments specified in the Option. Any shares so purchased from any unvested installment or Option may be subject to a repurchase right in favor of the Company or to any restriction the Board determines to be appropriate.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter may be available, both for purposes of this Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and full payment for the Shares with respect to which the Option is exercised has been received by the Company. An Option may not be exercised for a fraction of a Share. Full payment may, as authorized by the Board, consist of any consideration and method of payment allowable under Section 7 of this Plan. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Company shall issue (or cause to be issued) such stock certificate promptly upon exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 11 of this Plan.

b) Termination of Status as an Employee

In the event of termination of an Optionee's Continuous Status as an Employee, such Optionee may, but only within [NUMBER] days after the date of such termination (but in no event later than the date of expiration of the term of such Option as set forth in the Option Agreement), exercise the Option to the extent that such Employee was entitled to exercise it at the date of such termination. To the extent that such Employee was not entitled to exercise the Option at the date of such termination, or if such Employee does not exercise such Option (which such Employee was entitled to exercise) within such [NUMBER] day time period, the Option shall terminate.

c) Disability of Optionee

To the extent that such Employee was not entitled to exercise the Option at the date of termination, or if such Employee does not exercise such Option (which such Employee was entitled to exercise) within the time periods specified above, as the case may be, the Option shall terminate.

d) Death of Optionee

In the event of the death of an Optionee: (A) while the Optionee is an Employee or Consultant, (B) during the [NUMBER] day period described in Section 8(b)(ii), or (C) during the [NUMBER] year period described in Section 8(b)(iii), the Option may be exercised, at any time within [NUMBER] year following the date of death (but, in the case of an Incentive Stock Option, in no event later than the date of expiration of the term of such Incentive Stock Option as set forth in the Option Agreement), by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the time of death of the Optionee. To the extent that such Employee or Consultant was not entitled to exercise the Option at the date of death, or if such Employee, Consultant, estate or other person does not exercise such Option (which such Employee, Consultant, estate or person was entitled to exercise) within the [NUMBER] year time period specified in this Plan, the Option shall terminate.

10. Stock Purchase Rights

9.1 Rights to Purchase

After the Board determines that it will offer an Employee or Consultant a Stock Purchase Right, it shall deliver to the offeree a stock purchase agreement or stock bonus agreement, as the case may be, setting forth the terms, conditions and restrictions relating to the offer, including the number of Shares which such person shall be entitled to purchase, and the time within which such person must accept such offer, which shall in no event exceed [NUMBER] months from the date upon which the Board made the determination to grant the Stock Purchase Right. The offer shall be accepted by execution of a stock purchase agreement or stock bonus agreement in the form approved by the Board.

9.2 Issuance of Shares

Forthwith after payment therefore, the Shares purchased shall be duly issued; provided, however, that the Board may require that the Purchaser make adequate provision for any federal and state withholding obligations of the Company as a condition to the Purchaser purchasing such Shares.

9.3 Other Provisions

The stock purchase agreement or stock bonus agreement shall contain such other terms, provisions and conditions not inconsistent with this Plan as may be determined by the Board, including rights of first refusal as set forth in Section 23 hereof.

11. Stock Appreciation Rights

10.1 Grants of SARs

Tandem SARs may be awarded by the Committee in connection with any Option granted under the Plan, either on the Date of Grant of the Option or thereafter at any time prior to the exercise, termination or expiration of the Option Non-tandem SARs may also be granted by the Committee at any time. On the Date of Grant of a Non-tandem SAR, the Committee shall specify the number of shares of Common Stock covered by such right and the base price of shares of Common Stock to be used in connection with the calculation described in Section 10.3 below. SARs shall be subject to such terms and conditions not inconsistent with the other provisions of this Plan as the Committee shall determine.

10.2 Exercise of Tandem SARs

A Tandem SAR shall be exercisable only to the extent that the related Option is exercisable and shall be exercisable only for such period as the Committee may determine (which period may expire prior to the expiration date of the related Option). Upon the exercise of all or a portion of a Tandem SAR, the related Option shall be canceled with respect to an equal number of shares of Common Stock. A Tandem SAR shall entitle the Grantee to surrender to the Company unexercised the related Option, or any portion thereof, and to receive from the Company in exchange therefore that number of shares of Common Stock having an aggregate fair market value equal to (A) the excess of (i) the fair market value of [NUMBER] share of Common Stock as of the date the Tandem SAR is exercised over (ii) the Option price per share specified in such Option, multiplied by (B) the number of shares of Common Stock subject to the Option, or portion thereof, which is surrendered. Cash shall be delivered in lieu of any fractional shares.

10.3 Exercise of Non-tandem SARs

A Non-tandem SAR shall be exercisable during such period as the Committee shall determine prior to the Date of Grant. The exercise of a Non-tandem SAR shall entitle the Grantee to receive from the Company that number of shares of Common Stock having an aggregate fair market value equal to (A) the excess of (i) the fair market value of [NUMBER] share of Common Stock as of the date on which the Non-tandem SAR is exercised over (ii) the base price of the shares covered by the Non-tandem SAR, multiplied by (B) the number of shares of Common Stock covered by the Non-tandem SAR, or the portion thereof being exercised. Cash shall be delivered in lieu of any fractional shares.

10.4 Settlement of SARs

As soon as is reasonably practicable after the exercise of a SAR, the Company shall (i) issue, in the name of the Grantee, stock certificates representing the total number of full shares of Common Stock to which the Grantee is entitled pursuant to Section 10.2 or 10.3 hereof and cash in an amount equal to the fair market value, as of the date of exercise, of any resulting fractional shares, and (ii) if the Committee causes the Company to elect to settle all or part of its obligations arising out of the exercise of the SAR in cash pursuant to Section 10.5, deliver to the Grantee an amount in cash equal to the fair market value, as of the date of exercise, of the shares of Common Stock it would otherwise be obligated to deliver.

10.5 Cash Settlement

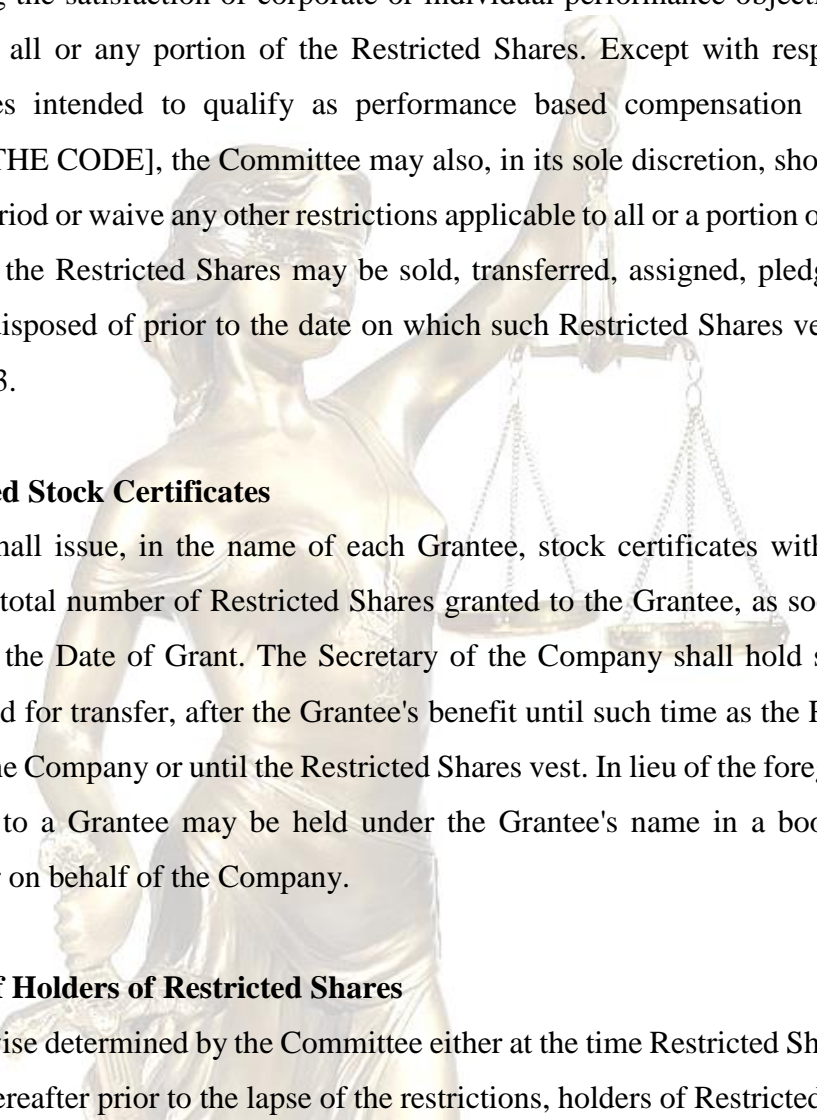
The Committee, in its discretion, may cause the Company to settle all or any part of its obligation arising out of the exercise of a SAR by the payment of cash in lieu of all or part of the shares of Common Stock it would otherwise be obligated to deliver in an amount equal to the fair market value of such shares on the date of exercise.

12. Restricted Shares

11.1 Grant of Restricted Shares

The Committee may from time to time cause the Company to issue Restricted Shares under the Plan, subject to such restrictions, conditions and other terms as the Committee may determine in addition to those set forth herein.

11.2 Restrictions



At the time a grant of Restricted Shares is made, the Committee shall establish a period of time (the “Restricted Period”) applicable to such Restricted Shares. Each grant of Restricted Shares may be subject to a different Restricted Period. The Committee may, in its sole discretion, at the time a grant is made, prescribe restrictions in addition to or other than the expiration of the Restricted Period, including the satisfaction of corporate or individual performance objectives, which shall be applicable to all or any portion of the Restricted Shares. Except with respect to grants of Restricted Shares intended to qualify as performance based compensation for purposes of [SECTION OF THE CODE], the Committee may also, in its sole discretion, shorten or terminate the Restricted Period or waive any other restrictions applicable to all or a portion of such Restricted Shares. None of the Restricted Shares may be sold, transferred, assigned, pledged or otherwise encumbered or disposed of prior to the date on which such Restricted Shares vest in accordance with Section 11.3.

11.3 Restricted Stock Certificates

The Company shall issue, in the name of each Grantee, stock certificates with proper legends representing the total number of Restricted Shares granted to the Grantee, as soon as reasonably practicable after the Date of Grant. The Secretary of the Company shall hold such certificates, properly endorsed for transfer, after the Grantee's benefit until such time as the Restricted Shares are forfeited to the Company or until the Restricted Shares vest. In lieu of the foregoing, Restricted Shares awarded to a Grantee may be held under the Grantee's name in a book entry account maintained by or on behalf of the Company.

11.4 Rights of Holders of Restricted Shares

Except as otherwise determined by the Committee either at the time Restricted Shares are awarded or at any time thereafter prior to the lapse of the restrictions, holders of Restricted Shares shall not have the right to vote such shares or the right to receive any dividends with respect to such shares. All distributions, if any, received by an employee or consultant with respect to Restricted Shares as a result of any stock split-up, stock distribution, combination of shares, or other similar transaction shall be subject to the restrictions of this Section 11.

11.5 Termination of Employment Relationship

Any Restricted Shares granted pursuant to the Plan shall be forfeited if the Grantee terminates employment with the Company or its subsidiaries for reasons other than death or disability prior to the expiration or termination of the Restricted Period and the satisfaction of any other conditions applicable to such Restricted Shares. Upon such forfeiture, the Secretary of the Company shall either cancel or retain in its treasury the Restricted Shares that are forfeited to the Company. Upon the death of a Grantee prior to his termination of employment, or upon a Grantee's termination of employment as a result of disability, all Restricted Shares previously awarded to such Grantee which have not previously vested shall be forfeited unless the Committee in its sole discretion shall determine otherwise.

11.6 Delivery of Restricted Shares

Subject to the provisions of this Section, at such time as the Grantee shall become vested in his Restricted Shares, the restrictions applicable to the Restricted Shares shall lapse and a stock certificate for the number of Restricted Shares with respect to which the restrictions have lapsed shall be delivered, free of all such restrictions, to the Grantee or the Grantee's beneficiary or estate, as the case may be.

13. Performance Units and Performance Shares

12.1 Grant of Performance Units/Shares

Subject to the terms of the Plan, Performance Units and Performance Shares may be granted to eligible Employees and Consultants at any time and from time to time, as shall be determined by the Committee, in its sole discretion. The Committee shall have complete discretion in determining the number of Performance Units and Performance Shares granted to each Participant.

12.2 Value of Performance Units/Shares

Each Performance Unit shall have an initial value that is established by the Committee at the time of the grant. Each Performance Share shall have an initial value equal to the Fair Market Value of a Share on the date of grant. The Committee shall set performance goals in its discretion which, depending on the extent to which they are met, will determine the number and/or value of Performance Units/Shares that will be paid out to the Participants. The time period during which the performance goals must be met shall be called a “Performance Period.” Performance Periods of Awards granted to Insiders shall, in all cases, exceed [NUMBER] months in length.

12.3 Earning of Performance Units/Shares

After the applicable Performance Period has ended, the holder of Performance Units/Shares shall be entitled to receive a payout of the number of Performance Unit/Shares earned by the Participant over the Performance Period, to be determined as a function of the extent to which the corresponding performance goals have been achieved. Notwithstanding the preceding sentence, after the grant of a Performance Unit/Share, the Committee, in its sole discretion, may waive the achievement of any performance goals for such Performance Unit/Share.

12.4 Form and Timing of Payment of Performance Units/Shares

Payment of earned Performance Units/Shares shall be made in a single lump sum, within [NUMBER] calendar days following the close of the applicable Performance Period. The Committee, in its sole discretion, may pay earned Performance Units/Shares in the form of cash, in Shares (which have an aggregate Fair Market Value equal to the value of the earned Performance Units/Shares at the close of the applicable Performance Period) or in combination thereof.

Prior to the beginning of each Performance Period, Participants may, in the discretion of the Committee, elect to defer the receipt of any Performance Unit/Share payout upon such terms as the Committee shall determine.

12.5 Cancellation of Performance Units/Shares

Subject to the applicable Award Agreement, upon the earlier of (a) the Participant's termination of employment, or (b) the date set forth in the Award Agreement, all remaining Performance Units/Shares shall be forfeited by the Participant to the Company, the Shares subject thereto shall again be available for grant under the Plan.

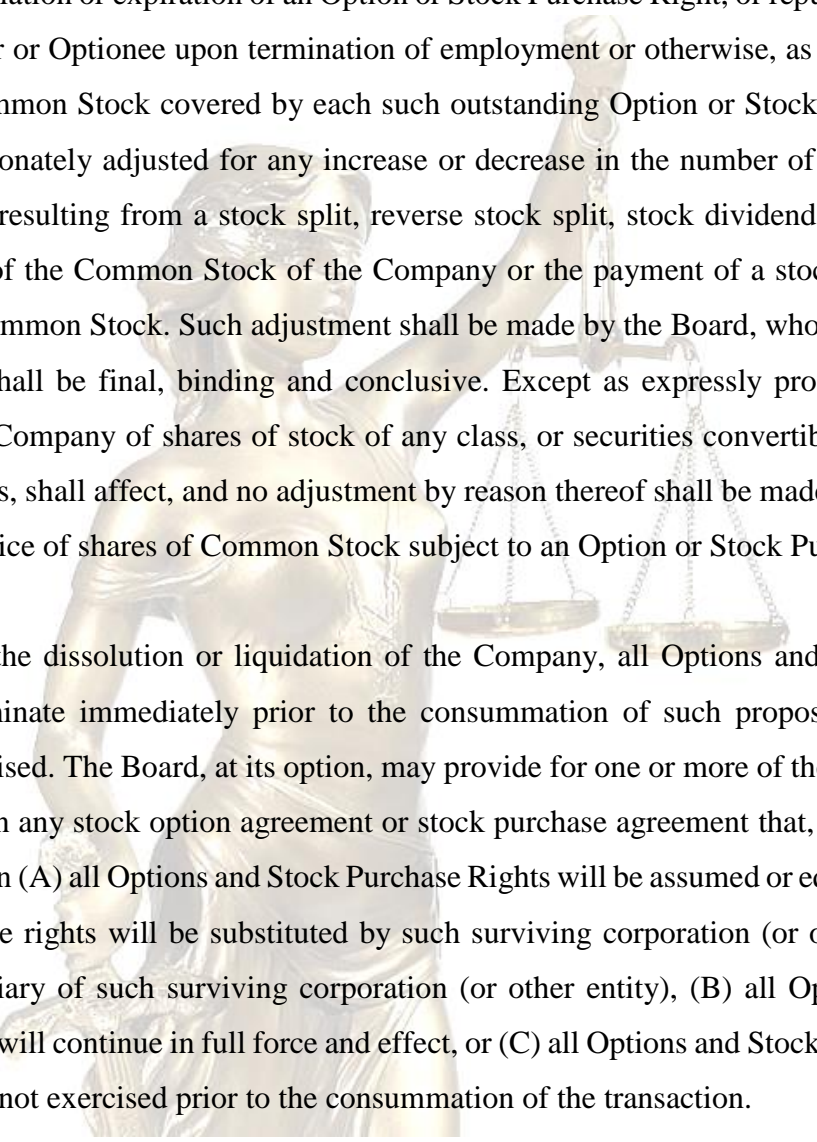
12.6 Non-transferability

Performance Units/Shares may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent and distribution. Further a Participant's rights under the Plan shall be exercisable during the Participant's lifetime only by the Participant or the Participant's legal representative.

14. Non-Transferability of Options and Stock Purchase Rights

Options and Stock Purchase Rights may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Optionee or Purchaser, only by the Optionee or Purchaser.

15. Adjustments Upon Changes in Capitalization, Merger or Other Events



Subject to any required action by the shareholders of the Company, the number of shares of Common Stock covered by each outstanding Option and Stock Purchase Right, and the number of shares of Common Stock which have been authorized for issuance under this Plan but as to which no Options or Stock Purchase Rights have yet been granted or which have been returned to this Plan upon cancellation or expiration of an Option or Stock Purchase Right, or repurchase of Shares from a Purchaser or Optionee upon termination of employment or otherwise, as well as the price per share of Common Stock covered by each such outstanding Option or Stock Purchase Right, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock of the Company or the payment of a stock dividend with respect to the Common Stock. Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option or Stock Purchase Rights.

In the event of the dissolution or liquidation of the Company, all Options and Stock Purchase Rights will terminate immediately prior to the consummation of such proposed action if not previously exercised. The Board, at its option, may provide for one or more of the following from time to time or in any stock option agreement or stock purchase agreement that, in the event of a Major Event, then (A) all Options and Stock Purchase Rights will be assumed or equivalent options or stock purchase rights will be substituted by such surviving corporation (or other entity) or a parent or subsidiary of such surviving corporation (or other entity), (B) all Options and Stock Purchase Rights will continue in full force and effect, or (C) all Options and Stock Purchase Rights will terminate if not exercised prior to the consummation of the transaction.

The foregoing adjustments shall be made by the Board, whose determination in that respect shall be final, binding and conclusive.

The grant of an Option or Stock Purchase Right pursuant to this Plan shall not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure or to merge or to consolidate or to dissolve, liquidate or sell, or transfer all or any part of its business or assets.

16. Time of Grant

The date of grant of an Option or Stock Purchase Right shall, for all purposes, be the date on which the Board makes the determination granting such Option or Stock Purchase Right. Notice of the determination shall be given to each Employee or Consultant to whom an Option or Stock Purchase Right is so granted within a reasonable time after the date of such grant.

17. Amendment and Termination

16.1 Amendment

The Board may amend this Plan from time to time in such respects as the Board may deem advisable; provided that the shareholders of the Company must approve the following amendments or revisions within [NUMBER] months before or after the adoption of such revision or amendment:

- a) any increase in the number of Shares subject to this Plan, other than in connection with an adjustment under Section 14 of this Plan;
- b) any change in the designation of the class of persons eligible to be granted Options (to the extent such modification requires shareholder approval in order for the Plan to satisfy the requirements of [SECTION OF CODE] or to comply with the requirements of [RULE] promulgated under the [ACT]); or

- c) any other revision or amendment if such revision or amendment requires shareholder approval in order for this Plan to satisfy the requirements of [SECTION OF CODE] or to comply with the requirements of [RULE] promulgated under the [ACT] if applicable.

16.2 Shareholder Approval

If any amendment requiring shareholder approval under Section 16(a) of this Plan is made subsequent to the first registration of any class of equity securities by the Company under Section [NUMBER] of the [ACT], such shareholder approval shall be solicited as described in Section 20 of this Plan.

16.3 Suspension and Termination

The Board may suspend or terminate this Plan at any time. No Options or Stock Purchase Rights may be granted while this Plan is suspended or after it is terminated.

16.4 Effect of Amendment; Termination or Suspension

Any such amendment, termination or suspension of this Plan shall not affect Options or Stock Purchase Rights already granted and such Options or Stock Purchase Rights shall remain in full force and effect as if this Plan had not been amended, terminated or suspended, unless mutually agreed otherwise between the Optionee or Purchaser (as the case may be) and the Company, which agreement must be in writing and signed by the Optionee or Purchaser (as the case may be) and the Company.

18. Conditions Upon Issuance of Shares

Shares shall not be issued pursuant to the exercise of an Option or Stock Purchase Right unless the exercise of such Option or Stock Purchase Right and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, and the requirements of any stock exchange or other stock trading system upon which the Shares may then be listed.

As a condition to the exercise of an Option or Stock Purchase Right, the Company may require the person exercising such Option or Stock Purchase Right to make such representations and warranties at the time of any such exercise as the Company may at that time determine, including without limitation, representations and warranties that (i) the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares in violation of applicable federal or state securities laws, and (ii) such person is knowledgeable and experienced in financial and business matters and is capable of evaluating the merits and the risks associated with purchasing the Shares.

19. Reservation of Shares

The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of this Plan. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares under this Plan, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

20. Option, Stock Purchase and Stock Bonus Agreements

Options shall be evidenced by written stock option agreements in such form as the Board shall approve. Upon the exercise of Stock Purchase Rights, the Purchaser shall sign a stock purchase agreement or stock bonus agreement in such form as the Board shall approve.

21. Shareholder Approval

The shareholders of the Company shall have approved this Plan within [NUMBER] months before or after this Plan is adopted. Any shares purchased before shareholder approval is obtained shall be rescinded if shareholder approval is not obtained within [NUMBER] months before or after this Plan is adopted. Such shares shall not be counted in determining whether such approval is obtained.

If the Company registers any class of equity securities pursuant to Section [NUMBER] of the [ACT], any required approval of the shareholders of the Company obtained after such registration shall be solicited substantially in accordance with Section [NUMBER] of the [ACT] and the rules and regulations promulgated there under.

If the Company registers any class of equity securities pursuant to Section [NUMBER] of the [ACT] and if prior to such time either the shareholders of the Company did not approve this Plan or the Company did not solicit shareholder approval substantially in accordance with [NUMBER] of the [ACT] and the rules and regulations promulgated thereunder, then the Company shall take all necessary actions to qualify the Plan under [RULE] promulgated under the [ACT] at or prior to the later of (A) the first annual meeting of shareholders held subsequent to the first registration of any class of equity securities of the Company under Section [NUMBER] of the [ACT] or (B) the granting of an Option hereunder to an officer or director after such registration.

22. Information to Optionees and Purchasers

The Company shall provide annually to each Optionee and Purchaser, during the period that such Optionee or Purchaser has one or more Options or Stock Purchase Rights outstanding, copies of the annual financial statements of the Company.

23. Right of Company to Terminate Employment or Consulting Services

This Plan shall not confer upon any Optionee or holder of a Stock Purchase Right any right with respect to continuation of employment by or the rendition of consulting services to the Company, any of its Subsidiaries or its Parent, nor shall it interfere in any way with his or her right or the Company's, any of its Subsidiaries' or its Parent's right to terminate his or her employment or services at any time, with or without cause.

24. Rights of First Refusal and Repurchase

The written agreements evidencing Options or Stock Purchase Rights may contain such provisions as the Board shall determine (or pursuant to a separate agreement) to the effect that if an Optionee or Purchaser elects to sell all or any Shares that the Optionee or Purchaser acquired upon the exercise of an Option or Stock Purchase Right, then any proposed sale of such Shares by such Optionee or Purchaser shall be subject to a right of first refusal in favor of the Company.

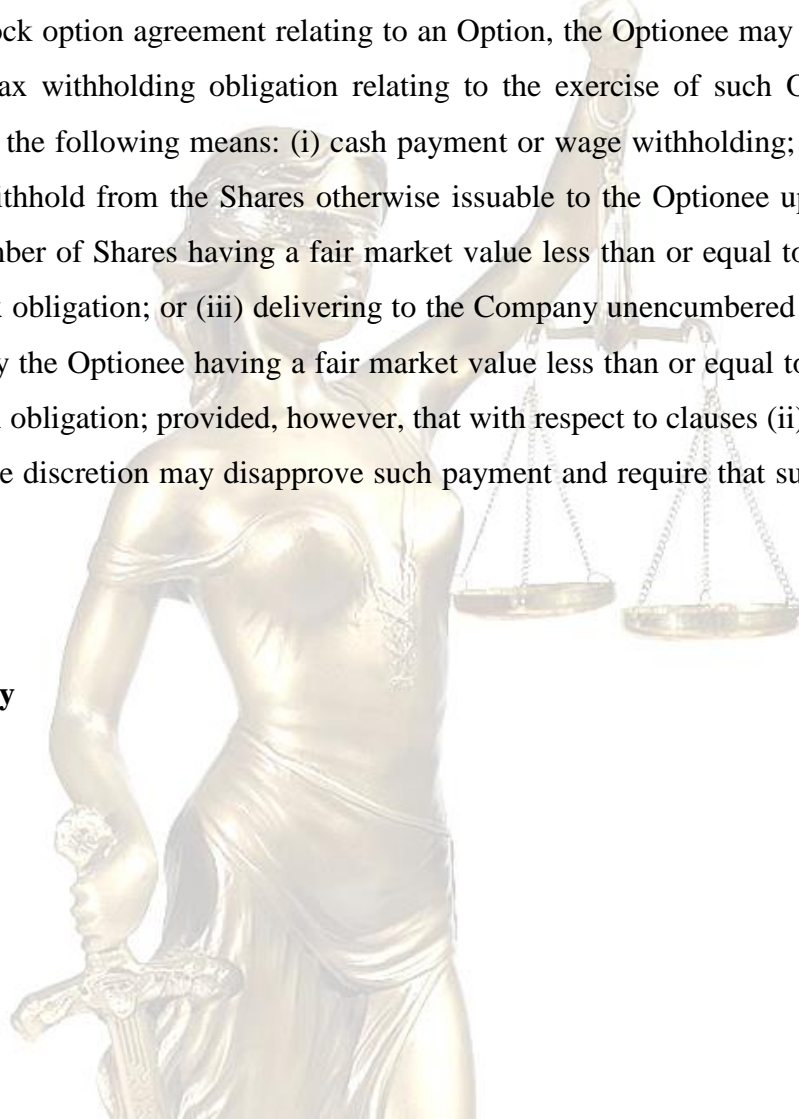
The Board may require, at its option, that a stock purchase agreement, stock option agreement, stock bonus agreement, or other agreement pursuant to this Plan grant the Company a repurchase option exercisable upon the voluntary or involuntary termination of the Purchaser's employment with the Company for any reason (including death or disability). The repurchase price shall be at the higher of the original purchase price or fair value of the Shares on the date of termination of employment. If the Board so determines, the purchase price for shares repurchased may be paid by cancellation of any indebtedness of the Purchaser to the Company. The repurchase option must be exercised by the Company within [NUMBER] days of termination of employment for cash or cancellation of money indebtedness for the Shares and the right shall terminate when the Company's Common Stock becomes publicly traded. The Board may require such a repurchase right in other events.

Certificates representing shares issued upon exercise of Options or Stock Purchase Rights shall bear a restrictive legend to the effect that the transferability of such shares is subject to the restrictions contained in this Plan and the applicable written agreement between the Optionee or Purchaser and the Company.

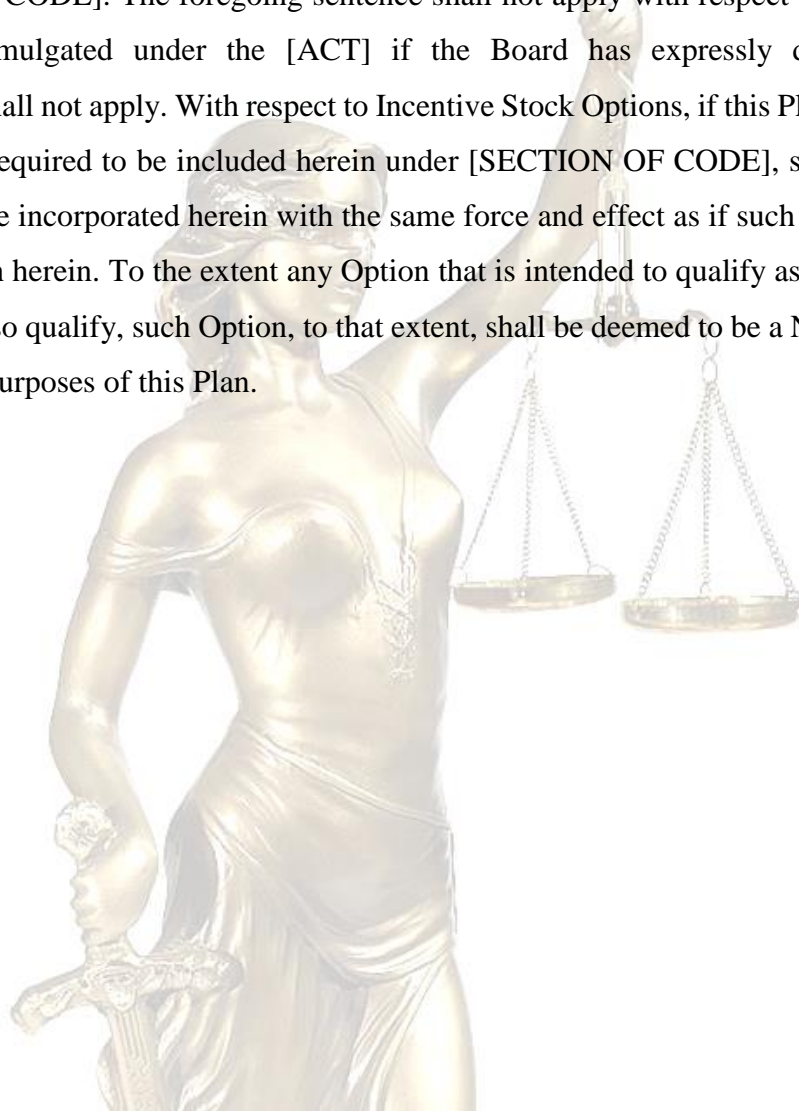
25. Withholding

The Company's obligation to deliver shares of Common Stock under this Plan shall be subject to applicable federal, state and local tax withholding requirements. To the extent provided by the terms of the stock option agreement relating to an Option, the Optionee may satisfy any federal, state or local tax withholding obligation relating to the exercise of such Option by any or a combination of the following means: (i) cash payment or wage withholding; (ii) authorizing the Company to withhold from the Shares otherwise issuable to the Optionee upon exercise of the Option the number of Shares having a fair market value less than or equal to the amount of the withholding tax obligation; or (iii) delivering to the Company unencumbered shares of Common Stock owned by the Optionee having a fair market value less than or equal to the amount of the withholding tax obligation; provided, however, that with respect to clauses (ii) and (iii) above the Board in its sole discretion may disapprove such payment and require that such taxes be paid in cash.

26. Separability



At a time when the Company has a class of equity securities registered pursuant to Section [NUMBER] of the [ACT], if any of the terms or provisions of this Plan conflict with the requirements of [RULE]promulgated under the [ACT] and/or [SECTION OF CODE], then such terms or provisions shall be deemed inoperative to the extent they so conflict with the requirements of [RULE]promulgated under the [ACT], and/or with respect to Incentive Stock Options, [SECTION OF CODE]. The foregoing sentence shall not apply with respect to the requirements of [RULE]promulgated under the [ACT] if the Board has expressly declared that such requirements shall not apply. With respect to Incentive Stock Options, if this Plan does not contain any provision required to be included herein under [SECTION OF CODE], such provision shall be deemed to be incorporated herein with the same force and effect as if such provision had been set out at length herein. To the extent any Option that is intended to qualify as an Incentive Stock Option cannot so qualify, such Option, to that extent, shall be deemed to be a Non-statutory Stock Option for all purposes of this Plan.



27. Non-Exclusivity of this Plan

The adoption of this Plan by the Board shall not be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of stock options and the awarding of stock and cash otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

28. Governing Law

This Plan shall be governed by, and construed in accordance with the laws of the State of [STATE/PROVINCE].

29. Cancellation of and Substitution for Nonstatutory Options

The Company shall have the right to cancel any Non-statutory Stock Option at any time before it otherwise would have expired by its terms and to grant to the same Optionee in substitution therefore a new Non-statutory Stock Option stating an option price which is lower (but not higher) than the option price stated in the cancelled Option. Any such substituted option shall contain all the terms and conditions of the cancelled Option; provided, however, that such substituted Option shall not be exercisable after the expiration of [NUMBER] years and one day from the date of grant of the cancelled Option.

30. Market Standoff.

Unless the Board determines otherwise, each Optionee or Purchaser shall not sell or otherwise transfer any Shares or other securities of the Company during the [NUMBER]-day period following the effective date of a registration statement of the Company filed under the [ACT]; provided, however, that such restriction shall apply only to the first two registration statements of the Company to become effective under the [ACT] which includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the [ACT]. The Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such [NUMBER]-day period

STOCK OPTION AGREEMENT



THE SECURITY REPRESENTED BY THIS CERTIFICATE HAS BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE [ACT], AS AMENDED.

This Stock Option Agreement (“Agreement”) is made and entered into as of the date of grant set forth below (the “Date of Grant”)

BETWEEN: [COMPANY NAME] (the "Company), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [OPTIONEE NAME] (the "Optionee"), an individual with his main address at:

Capitalized terms not defined herein shall have the meaning ascribed to them in the Company’s [Year of Plan] Stock Option & Incentive Plan (the “Plan”).

Total Option Shares:

Exercise Price Per Share:

Date of Grant:

First Vesting Date:

Expiration Date for Exercise of Options:

Type of Stock Option:

(Check one):

Incentive Stock Option

Statutory Stock Option

45. Grant of Option

The Company hereby grants to Optionee an option (the “Option”) to purchase the total number of shares of Common Stock of the Company set forth above (the “Shares”) at the Exercise Price Per Share set forth above (the “Exercise Price”), subject to all of the terms and conditions of this Agreement and the Plan. If designated as an Incentive Stock Option above, the Option is intended to qualify as an “incentive stock option” (“ISO”) within the meaning of Section [number] of the [CODE], as amended (the “Code”). Only Employees of the Company shall receive ISOs.

46. Exercise Price

The Exercise Price, is not less than the fair market value per share of Common Stock on the date of grant, as determined by the Board; provided, however, in the event Optionee is an Employee and owns stock representing more than [%] of the total combined voting power of all classes of stock of the Company or of its Parent or Subsidiary corporations immediately before this Option is granted, said exercise price is not less than one hundred ten percent [%] of the fair market value per share of Common Stock on the date of grant as determined by the Board.

47. Exercise of Option

This Option shall be exercisable during its term in accordance with the provisions of [PLAN] as follows:

a. Vesting

- i. This Option shall not become exercisable as to any of the number of the Shares as follows (check one):

Four Year Vesting:

Until the date that is [NUMBER] year from the date of grant of the Option (the "Anniversary Date"). On the Anniversary Date, this Option may be exercised to the extent of [%] of the Shares. Upon the expiration of each calendar month from the Anniversary Date, this Option may be exercised to the extent of the product of (a) the total number of Shares set forth at the beginning of this Agreement and (b) the fraction the numerator of which is [NUMBER] and the denominator of which is [NUMBER] (the "Monthly Vesting Amount"), plus the shares as to which the right to exercise the Option has previously accrued but has not been exercised; provided, however, that notwithstanding any of the above, the [%] exercisable on the Anniversary Date and the Monthly Vesting Amount with respect to any calendar month shall become exercisable only if the Employee was an employee of the Company or any Subsidiary of the Company as of the Anniversary Date and the last day of such month, respectively. Any time that the Optionee is on leave or is absent from performing services for the Company shall not be counted towards the vesting provided herein.

Alternate Vesting Schedule: As follows:

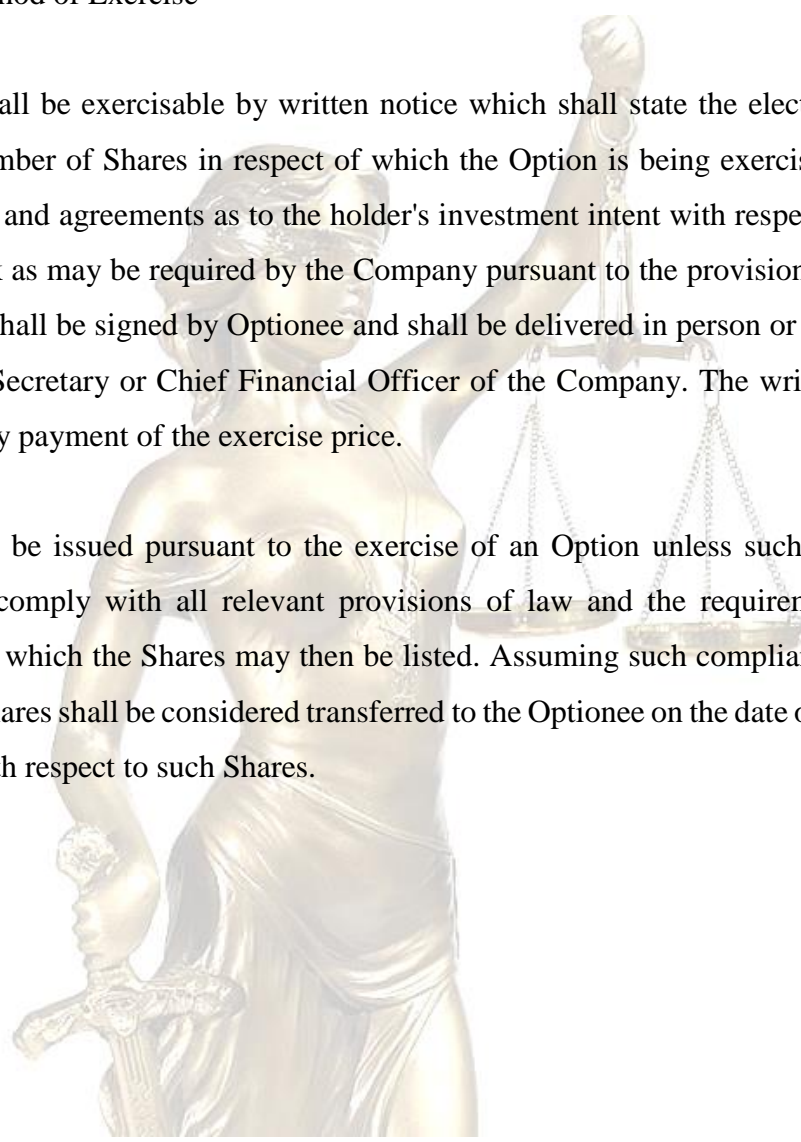
- ii. This Option may not be exercised for a fraction of a Share.
- iii. In the event of Optionee's death, disability or other termination of employment, the exercisability of the Option is governed by Sections 7, 8 and 9 below, subject to the limitations contained in subsection 3(i)(d).

- iv. In no event may this Option be exercised after the date of expiration of the term of this Option as set forth in Section 11 below.

b. Method of Exercise

This Option shall be exercisable by written notice which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised, and such other representations and agreements as to the holder's investment intent with respect to such shares of Common Stock as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered in person or by certified mail to the President, Secretary or Chief Financial Officer of the Company. The written notice shall be accompanied by payment of the exercise price.

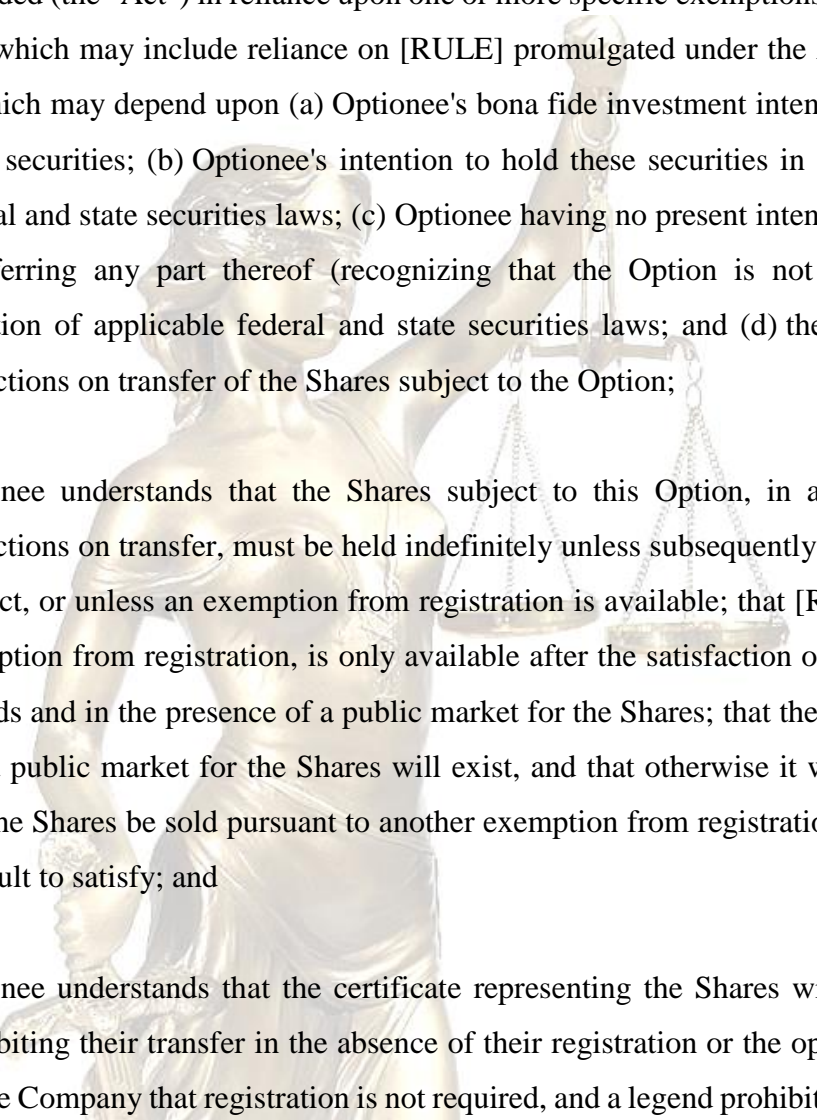
No Shares will be issued pursuant to the exercise of an Option unless such issuance and such exercise shall comply with all relevant provisions of law and the requirements of any stock exchange upon which the Shares may then be listed. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.



- c. Adjustments, Merger, etc. The number and class of the Shares and/or the exercise price specified above are subject to appropriate adjustment in the event of changes in the capital stock of the Company by reason of stock dividends, split-ups or combinations of shares, reclassifications, mergers, consolidations, reorganizations or liquidations. Subject to any required action of the shareholders of the Company, if the Company shall be the surviving corporation in any merger or consolidation, this Option (to the extent that it is still outstanding) shall pertain to and apply to the securities to which a holder of the same number of shares of Common Stock that are then subject to this Option would have been entitled. A dissolution or liquidation of the Company, or a merger or consolidation in which the Company is not the surviving corporation, will cause this Option to terminate, unless the agreement or merger or consolidation shall otherwise provide, provided that the Optionee shall, if the Board expressly authorizes, in such event have the right immediately prior to such dissolution or liquidation, or merger or consolidation, to exercise this Option in whole or part. To the extent that the foregoing adjustments relate to stock or securities of the Company, such adjustments shall be made by the Board, whose determination in that respect shall be final, binding and conclusive.

48. Optionee's Representations

- a. By receipt of this Option, by its execution, and by its exercise in whole or in part, Optionee represents to the Company that Optionee understands that:
- b. Both this Option and any Shares purchased upon its exercise are securities, the issuance by the Company of which requires compliance with federal and state securities laws;
- c. These securities are made available to Optionee only on the condition that Optionee makes the representations contained in this Section 4 to the Company;

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- d. Optionee has made a reasonable investigation of the affairs of the Company sufficient to be well informed as to the rights and the value of these securities;
- e. Optionee understands that the securities have not been registered under the [ACT], as amended (the "Act") in reliance upon one or more specific exemptions contained in the Act, which may include reliance on [RULE] promulgated under the Act, if available, or which may depend upon (a) Optionee's bona fide investment intention in acquiring these securities; (b) Optionee's intention to hold these securities in compliance with federal and state securities laws; (c) Optionee having no present intention of selling or transferring any part thereof (recognizing that the Option is not transferable) in violation of applicable federal and state securities laws; and (d) there being certain restrictions on transfer of the Shares subject to the Option;
- f. Optionee understands that the Shares subject to this Option, in addition to other restrictions on transfer, must be held indefinitely unless subsequently registered under the Act, or unless an exemption from registration is available; that [RULE], the usual exemption from registration, is only available after the satisfaction of certain holding periods and in the presence of a public market for the Shares; that there is no certainty that a public market for the Shares will exist, and that otherwise it will be necessary that the Shares be sold pursuant to another exemption from registration which may be difficult to satisfy; and
- g. Optionee understands that the certificate representing the Shares will bear a legend prohibiting their transfer in the absence of their registration or the opinion of counsel for the Company that registration is not required, and a legend prohibiting their transfer in compliance with applicable state securities laws unless otherwise exempted.

49. Method of Payment

Payment of the purchase price shall be made by cash, check or, in the sole discretion of the Board at the time of exercise, promissory notes or other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate purchase price of the Shares being purchased.

50. Restrictions on Exercise

This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any applicable law or regulation. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by any applicable law or regulation.

51. Termination of Status as an Employee

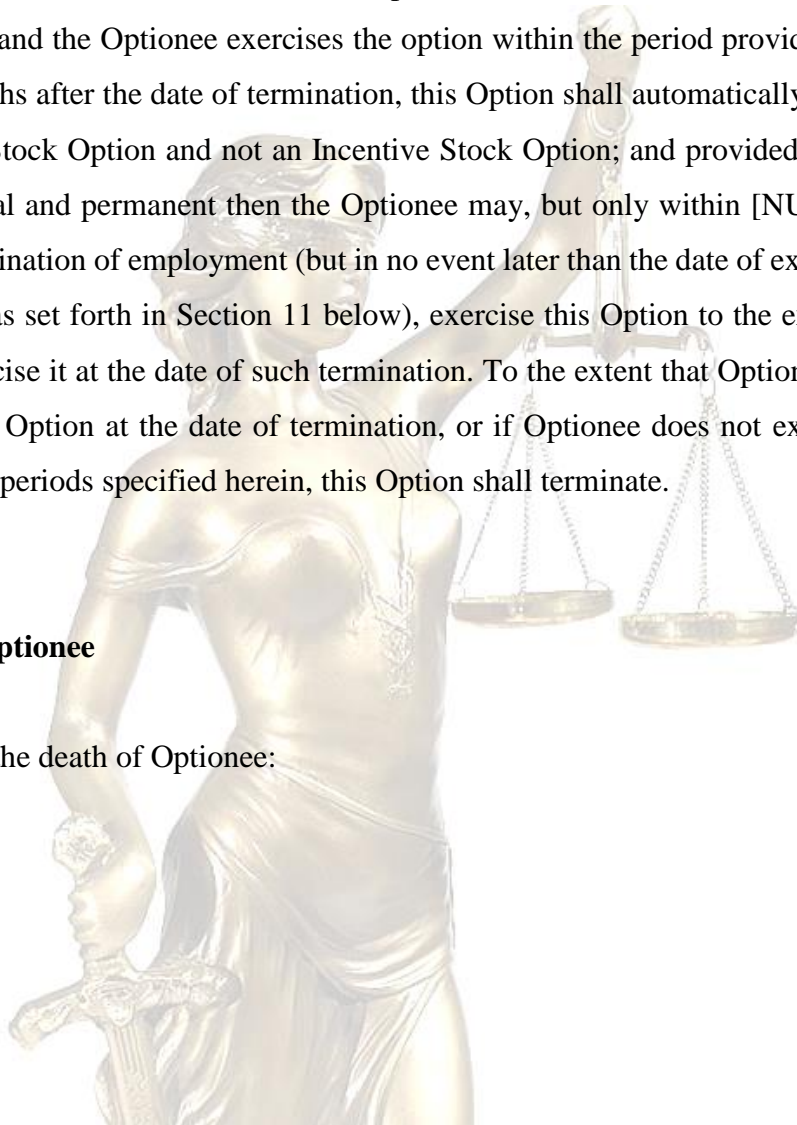
In the event of termination of Optionee's Continuous Status as an Employee for any reason other than death or disability, Optionee may, but only within [NUMBER] days after the date of such termination (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent that Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of such termination, or if Optionee does not exercise this Option within the time specified herein, this Option shall terminate.

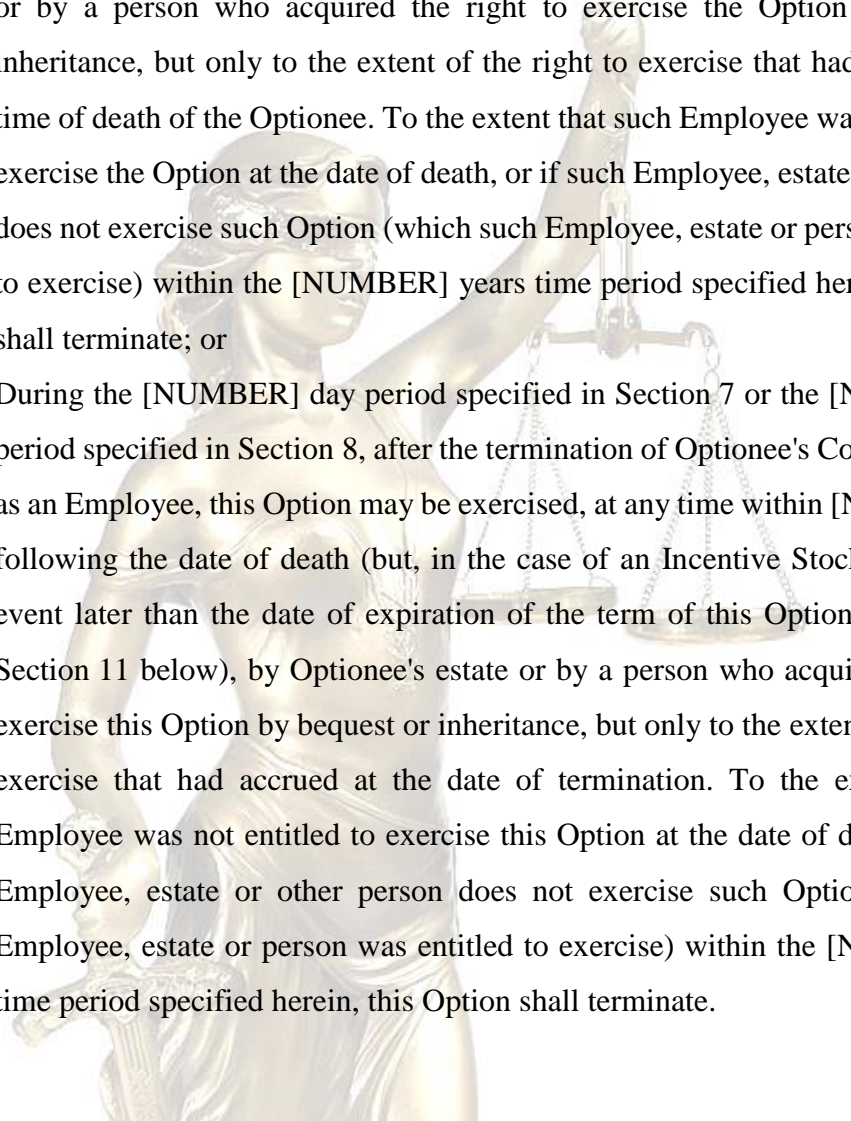
52. Disability of Optionee

In the event of termination of Optionee's Continuous Status as an Employee as a result of Optionee's disability, Optionee may, but only within [NUMBER] months from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination; provided, however that if the disability is not total and permanent and the Optionee exercises the option within the period provided above but more than three months after the date of termination, this Option shall automatically be deemed to be a Non-statutory Stock Option and not an Incentive Stock Option; and provided, further, that if the disability is total and permanent then the Optionee may, but only within [NUMBER] year from the date of termination of employment (but in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), exercise this Option to the extent Optionee was entitled to exercise it at the date of such termination. To the extent that Optionee was not entitled to exercise this Option at the date of termination, or if Optionee does not exercise such Option within the time periods specified herein, this Option shall terminate.

53. Death of Optionee

In the event of the death of Optionee:



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- e. During the term of this Option while an Employee of the Company and having been in Continuous Status as an Employee since the date of grant of this Option, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in case of an Incentive Stock Option, in no event later than the date of expiration of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the time of death of the Optionee. To the extent that such Employee was not entitled to exercise the Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] years time period specified herein, the Option shall terminate; or
- f. During the [NUMBER] day period specified in Section 7 or the [NUMBER] year period specified in Section 8, after the termination of Optionee's Continuous Status as an Employee, this Option may be exercised, at any time within [NUMBER] year following the date of death (but, in the case of an Incentive Stock Option, in no event later than the date of expiration of the term of this Option as set forth in Section 11 below), by Optionee's estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of termination. To the extent that such Employee was not entitled to exercise this Option at the date of death, or if such Employee, estate or other person does not exercise such Option (which such Employee, estate or person was entitled to exercise) within the [NUMBER] year time period specified herein, this Option shall terminate.

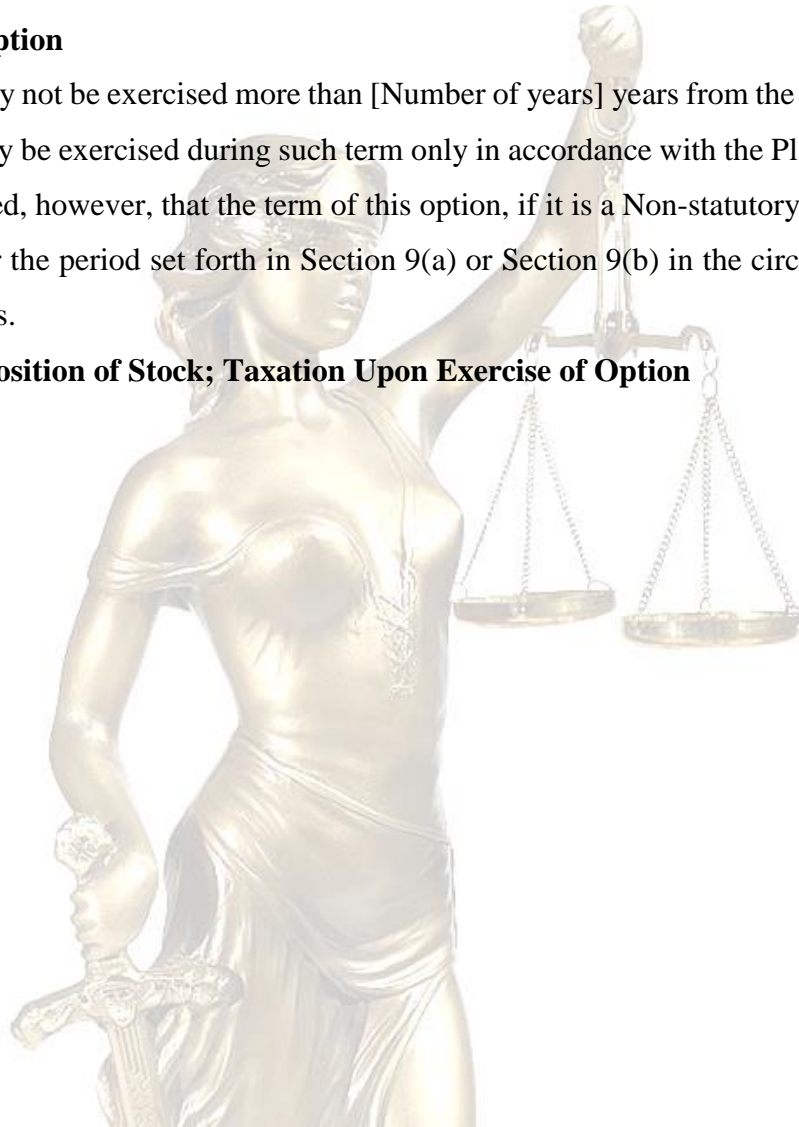
54. Non-Transferability of Option

This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee, only by Optionee. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

55. Term of Option

This Option may not be exercised more than [Number of years] years from the date of grant of this Option, and may be exercised during such term only in accordance with the Plan and terms of this Option; provided, however, that the term of this option, if it is a Non-statutory Stock Option, may be extended for the period set forth in Section 9(a) or Section 9(b) in the circumstances set forth in such Sections.

56. Early Disposition of Stock; Taxation Upon Exercise of Option



If Optionee is an Employee and the Option qualifies as an ISO, Optionee understands that, if Optionee disposes of any Shares received under this Option within [NUMBER] years after the date of this Agreement or within [NUMBER] year after such Shares were transferred to Optionee, Optionee will be treated for federal income tax purposes as having received ordinary income at the time of such disposition in any amount generally measured as the difference between the price paid for the Shares and the lower of the fair market value of the Shares at the date of exercise or the fair market value of the Shares at the of disposition. Any gain recognized on such premature sale of the Shares in excess of the amount treated as ordinary income will be characterized as capital gain. Optionee hereby agrees to notify the Company in writing within [NUMBER] days after the date of any such disposition. Optionee understands that if Optionee disposes of such Shares at any time after the expiration of such two-year and one-year holding periods, any gain on such sale will be treated as long-term capital gain laws subject to meeting various qualifications. If Optionee is a Consultant or this is a Non-statutory Stock Option, Optionee understands that, upon exercise of this Option, Optionee will recognize income for tax purposes in an amount equal to the excess of the then fair market value of the Shares over the exercise price. Upon a resale of such shares by the Optionee, any difference between the sale price and the fair market value of the Shares on the date of exercise of the Option will be treated as capital gain or loss. Optionee understands that the Company will be required to withhold tax from Optionee's current compensation in some of the circumstances described above; to the extent that Optionee's current compensation is insufficient to satisfy the withholding tax liability, the Company may require the Optionee to make a cash payment to cover such liability as a condition to exercise of this Option.

57. Tax Consequences

The Optionee understands that any of the foregoing references to taxation are based on federal income tax laws and regulations now in effect, and may not be applicable to the Optionee under certain circumstances. The Optionee may also have adverse tax consequences under state or local law. The Optionee has reviewed with the Optionee's own tax advisors the federal, state, local and foreign tax consequences of the transactions contemplated by this Agreement. The Optionee is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. The Optionee understands that the Optionee (and not the Company) shall be responsible for the Optionee's own tax liability that may arise as a result of the transactions contemplated by this Agreement.

58. Severability; Construction

In the event that any provision in this Option shall be invalid or unenforceable, such provision shall be severable from, and such invalidity or unenforceability shall not be construed to have any effect on, the remaining provisions of this Option. This Option shall be construed as to its fair meaning and not for or against either party.

59. Damages

The parties agree that any violation of this Option (other than a default in the payment of money) cannot be compensated for by damages, and any aggrieved party shall have the right, and is hereby granted the privilege, of obtaining specific performance of this Option in any court of competent jurisdiction in the event of any breach hereunder.

60. Governing Law

This Option shall be deemed to be made under and governed by and construed in accordance with the laws of the State of [State]. Jurisdiction for any disputes hereunder shall be solely in [City], [State].

61. Delay

No delay or failure on the part of the Company or the Optionee in the exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by any of them of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

62. Restrictions

Notwithstanding anything herein to the contrary, Optionee understands and agrees that Optionee shall not dispose of any of the Shares, whether by sale, exchange, assignment, transfer, gift, devise, bequest, mortgage, pledge, encumbrance or otherwise, except in accordance with the terms and conditions of this Section 18, and Optionee shall not take or omit any action which will impair the absolute and unrestricted right, power, authority and capacity of Optionee to sell Shares in accordance with the terms and conditions hereof.

Any purported transfer of Shares by Optionee that violates any provision of this Section 18 shall be wholly void and ineffectual and shall give to the Company or its designee the right to purchase from Optionee all but not less than all of the Shares then owned by Optionee for a period of [NUMBER] days from the date the Company first learns of the purported transfer at the Agreement Price and on the Agreement Terms. If the Shares are not purchased by the Company or its designee, the purported transfer thereof shall remain void and ineffectual and they shall continue to be subject to this Agreement.

The Company shall not cause or permit the transfer of any Shares to be made on its books except in accordance with the terms hereof.

a. 1) Permitted Transfers

- i. Optionee may sell, assign or transfer any Shares held by the Optionee but only by complying with the provisions of subsection (b)(1) of this Section 18.
- ii. Optionee may sell, assign or transfer any Shares held by the Optionee without complying with the provisions of subsection (b)(1) by obtaining the prior written consent of the Company's shareholders owning [%] of the then issued and outstanding shares of the Company's Common Stock (determined on a fully diluted basis) or a majority of the members of the Board of Directors of the Company, provided that the transferee agrees in writing to be bound by the provisions of this Option and the transfer is made in accordance with any other restrictions or conditions contained in the written consent and in accordance with applicable federal and state securities laws.
- iii. Upon the death of Optionee, Shares held by the Optionee may be transferred to the personal representative of the Optionee's estate without complying with the provisions of subsection (b)(1). Shares so transferred shall be subject to the other provisions of this Option, including in particular subsection (b)(2).

a. 2) No Pledge

Unless a majority of the members of the Board of Directors consent, Shares may not be pledged, mortgaged or otherwise encumbered to secure indebtedness for money borrowed or any other obligation for which the Optionee is primarily or secondarily liable.

a. 3) Stock Certificate Legend

Each stock certificate for Shares issued to the Optionee shall have conspicuously written, printed, typed or stamped upon the face thereof, or upon the reverse thereof with a conspicuous reference on the face thereof, one or both of the following legend:

- v. THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT. SUCH SHARES MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, OR OTHERWISE DISPOSED OF IN ANY MANNER EXCEPT IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE STOCK OPTION AGREEMENT, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. UNLESS A MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS CONSENT, SUCH STOCK OPTION AGREEMENT PROHIBITS ANY PLEDGE, MORTGAGE OR OTHER ENCUMBRANCE OF SUCH SHARES TO SECURE ANY OBLIGATION OF THE HOLDER HEREOF. EVERY CREDITOR OF THE HOLDER HEREOF AND ANY PERSON ACQUIRING OR PURPORTING TO ACQUIRE THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN IS HEREBY NOTIFIED OF THE EXISTENCE OF SUCH STOCK OPTION AGREEMENT, AND ANY ACQUISITION OR PURPORTED ACQUISITION OF THIS CERTIFICATE OR THE SHARES HEREBY EVIDENCED OR ANY INTEREST THEREIN SHALL BE SUBJECT TO ALL RIGHTS AND OBLIGATIONS OF THE PARTIES TO SUCH STOCK OPTION AGREEMENT AS THEREIN SET FORTH.

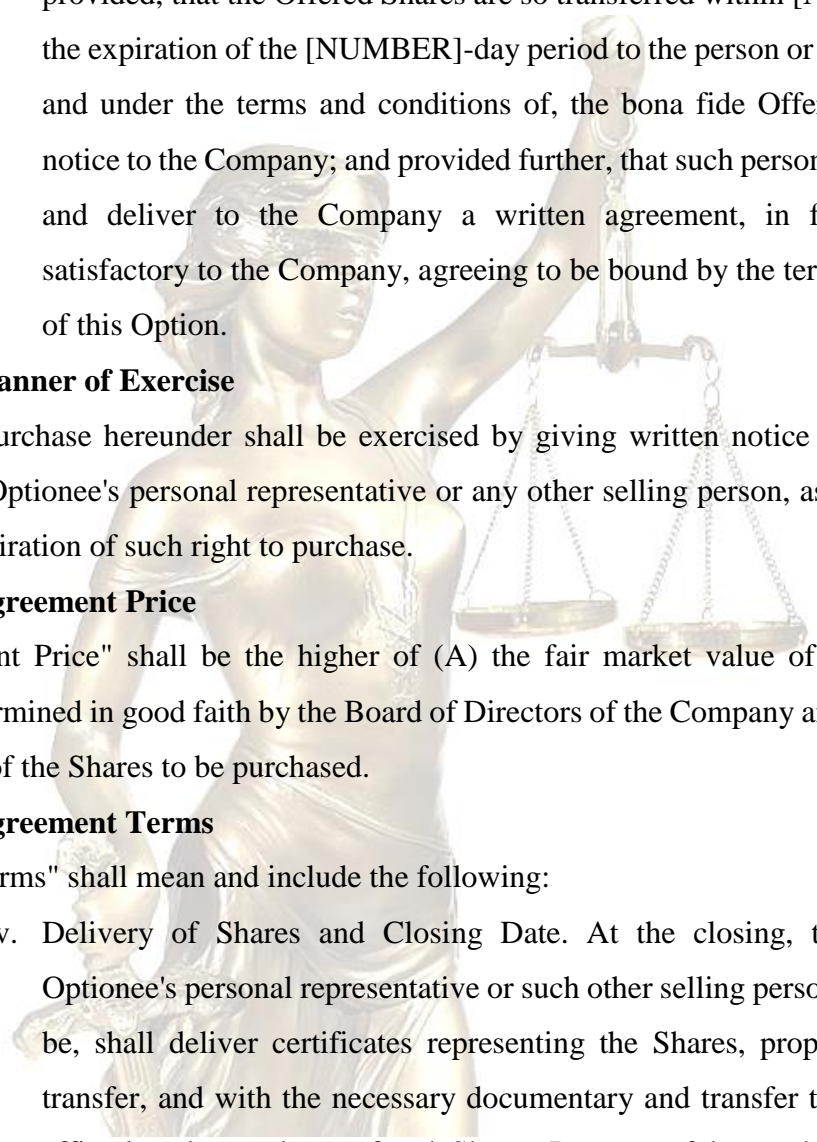
- vi. IT IS UNLAWFUL TO CONSUMMATE A SALE OR TRANSFER OF THIS SECURITY, OR ANY INTEREST THEREIN, OR TO RECEIVE ANY CONSIDERATION THEREFOR, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, EXCEPT AS PERMITTED IN THE COMMISSIONER'S RULES.

b. 1) Sales of Shares

- v. Company's Right of First Refusal. In the event that the Optionee shall desire to sell, assign or transfer any Shares held by the Optionee to any other person (the "Offered Shares") and shall be in receipt of a bona fide offer to purchase the Offered Shares ("Offer"), the following procedure shall apply. The Optionee shall give to the Company written notice containing the terms and conditions of the Offer, including, but not limited to (a) the number of Offered Shares; (b) the price per Share; (c) the method of payment; and (d) the name(s) of the proposed purchaser(s).

An offer shall not be deemed bona fide unless the Optionee has informed the prospective purchaser of the Optionee's obligation under this Option and the prospective purchaser has agreed to become a party hereunder and to be bound hereby. The Company is entitled to take such steps as it reasonably may deem necessary to determine the validity and bona fide nature of the Offer.

Until [NUMBER] days after such notice is given, the Company or its designee shall have the right to purchase all of the Offered Shares at the price offered by the prospective purchaser and specified in such notice. Such purchase shall be on the Agreement Terms, as defined in subsection (b)(4).

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- vi. Failure of Company or its Designee to Purchase Offered Shares. If all of the Offered Shares are not purchased by the Company and/or its designee within the [NUMBER]-day period granted for such purchases, then any remaining Offered Shares may be sold, assigned or transferred pursuant to the Offer; provided, that the Offered Shares are so transferred within [NUMBER] days of the expiration of the [NUMBER]-day period to the person or persons named in, and under the terms and conditions of, the bona fide Offer described in the notice to the Company; and provided further, that such persons agree to execute and deliver to the Company a written agreement, in form and content satisfactory to the Company, agreeing to be bound by the terms and conditions of this Option.

b. 2) Manner of Exercise

Any right to purchase hereunder shall be exercised by giving written notice of election to the Optionee, the Optionee's personal representative or any other selling person, as the case may be, prior to the expiration of such right to purchase.

b. 3) Agreement Price

The "Agreement Price" shall be the higher of (A) the fair market value of the Shares to be purchased determined in good faith by the Board of Directors of the Company and (B) the original exercise price of the Shares to be purchased.

b. 4) Agreement Terms

"Agreement Terms" shall mean and include the following:

- v. Delivery of Shares and Closing Date. At the closing, the Optionee, the Optionee's personal representative or such other selling person, as the case may be, shall deliver certificates representing the Shares, properly endorsed for transfer, and with the necessary documentary and transfer tax stamps, if any, affixed, to the purchaser of such Shares. Payment of the purchase price therefore shall concurrently be made to the Optionee, the Optionee's personal representative or such other selling person, as provided in subsection (ii) of this subsection (b)(4). Such delivery and payment shall be made at the principal office of the Company or at such other place as the parties mutually agree.

- vi. Payment of Purchase Price. The Company shall pay the purchase price to the Optionee at the closing.

b. 5) Right to Purchase Upon Certain Other Events

The Company or its designee shall have the right to purchase all, but not less than all, of the Shares held by the Optionee at the Agreement Price and on the Agreement Terms for a period of [NUMBER] days after any of the following events:

- xi. an attempt by a creditor to levy upon or sell any of the Optionee's Shares;
- xii. the filing of a petition by the Optionee under the [COUNTRY] Bankruptcy Code or any insolvency laws;
- xiii. the filing of a petition against Optionee under any insolvency or bankruptcy laws by any creditor of the Optionee if such petition is not dismissed within [NUMBER] days of filing;
- xiv. the entry of a decree of divorce between the Optionee and the Optionee's spouse; or
- xv. If Optionee is an employee of the Company, upon the termination of Optionee's services as an employee.

The Optionee shall provide the Company written notice of the occurrence of any such event within [NUMBER] days of such event.

c. 1) Termination

The provisions of this Section 18 shall terminate and all rights of each such party hereunder shall cease except for those which shall have theretofore accrued upon the occurrence of any of the following events:

- xiii. cessation of the Company's business;
- xiv. bankruptcy, receivership or dissolution of the Company;
- xv. ownership of all of the issued and outstanding shares of the Company by a single shareholder of the Company;
- xvi. written consent or agreement of the shareholders of the Company holding 50% of the then issued and outstanding shares of the Company;
- xvii. consent or agreement of a majority of the members of the Board of Directors of the Company; or

xviii. registration of any class of equity securities of the Company pursuant to Section [NUMBER] of the [ACT], as amended.

c. 2) Amendment

This Section 18 may be modified or amended in whole or in part by a written instrument signed by shareholders of the Company holding [%] of the outstanding shares of Common Stock or a majority of the members of the Board of Directors of the Company.

63. Market Standoff

Unless the Board of Directors otherwise consents, Optionee agrees hereby not to sell or otherwise transfer any Shares or other securities of the Company during the [NUMBER]-day period following the effective date of a registration statement of the Company filed under the Act; provided, however, that such restriction shall apply only to the first two registration statements of the Company to become effective under the Act which includes securities to be sold on behalf of the Company to the public in an underwritten public offering under the Act. The Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such [NUMBER]-day period.

64. Complete Agreement

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all other prior or contemporaneous agreements and understandings both oral or written; subject, however, that in the event of any conflict between this Agreement and the Plan, the Plan shall govern. This Agreement may only be amended in a writing signed by the Company and the Optionee.

65. Privileges of Stock Ownership

Participant shall not have any of the rights of a shareholder with respect to any Shares until Optionee exercises the Option and pay the Exercise Price.

66. Notices

Any notice required to be given or delivered to the Company under the terms of this Agreement shall be in writing and addressed to the Corporate Secretary of the Company at its principal corporate offices. Any notice required to be given or delivered to Optionee shall be in writing and addressed to Optionee at the address indicated above or to such other address as such party may designate in writing from time to time to the Company. All notices shall be deemed to have been given or delivered upon: personal delivery; [NUMBER] days after deposit in the [COUNTRY] mail by certified or registered mail (return receipt requested); [NUMBER] business day after deposit with any return receipt express courier (prepaid); or [NUMBER] business day after transmission by fax.

DATE OF GRANT: [DATE]

[NAME OF CORPORATION]

NAME AND TITLE

OPTIONEE ACKNOWLEDGES AND AGREES THAT THE VESTING OF SHARES PURSUANT TO SECTION 3 HEREOF IS EARNED ONLY BY CONTINUING SERVICE AS AN EMPLOYEE OR CONSULTANT AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION, THE COMPANY'S PLAN WHICH IS INCORPORATED HEREIN BY REFERENCE, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS AN EMPLOYEE OR CONSULTANT FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S EMPLOYMENT OR CONSULTING RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan, represents that Optionee is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of this Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board or of the Committee upon any questions arising under the Plan.

Dated: [DATE]

OPTIONEE

Consent of Spouse

The undersigned spouse of the Optionee to the foregoing Stock Option Agreement acknowledges on his or her own behalf that: I have read the foregoing Stock Option Agreement and I know its contents. I hereby consent to and approve of the provisions of the Stock Option Agreement, and agree that the Shares issued upon exercise of the options covered thereby and my interest in them are subject to the provisions of the Stock Option Agreement and that I will take no action at any time to hinder operation of the Stock Option Agreement on those Shares or my interest in them.

NAME OF SPOUSE

[Address], [City], [State], [Zip]

(SEAL)

CONFIDENTIALITY AGREEMENTS

AUTHOR/PUBLISHER NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is made and effective the [Date]

BETWEEN: [AUTHOR NAME] (the "Author"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PUBLISHER NAME] (the "Publisher"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS the Author has developed a proprietary system which the Publisher desires to have demonstrated by the Author;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Demonstration

In order to explore the possibility of a future collaboration between the Author and the Publisher regarding the system, the Author shall demonstrate the system to the Publisher on the Publisher's computer equipment located at the Publisher's main office. A demonstration of the system will take place for one day only and will require the loading of the system into the Publisher's computer. The Publisher acknowledges that the system is being demonstrated to the Publisher and being loaded into the Publisher's computer equipment solely for demonstration purposes. The Publisher acknowledges that the system is a proprietary product of the Author.

2. Proprietary Rights

All applicable rights to patents, copyrights, trademarks and trade secrets of the system are retained exclusively by the Author, and the Publisher shall acquire no rights or interests in the system by virtue of the demonstration of the system. The Publisher acknowledges that the confidentiality of the system, including the algorithms, is essential to the business of the Author. The Publisher hereby agrees not to disclose to any person whatsoever at any time during or after the demonstration of the system any aspect of the system, including the algorithms contained therein, or to permit any person whatsoever to examine or make copies of any listings, files, object code, source code or other information regarding or generated by the system which come into the Publisher's possession or under the Publisher's control by reason of the demonstration of the system. The Publisher acknowledges that disclosure of any information regarding the system will give rise to irreparable injury to the Author, inadequately compensable in damages. Accordingly, the Publisher hereby consents to obtaining by the Author of injunctive relief against the breach or threatened breach of the undertakings of the Publisher contained herein.

3. Confidentiality

At the conclusion of the demonstration of the system, the publisher shall, and hereby agrees to, erase or destroy copies of the system, any portions thereof, or any information generated thereby, whether such be in electronic, magnetic, printed or other form. The Publisher further agrees that it will not copy or permit to be copied any system backup routine or similar routines of the system. The Publisher further agrees to take such steps as may be necessary or appropriate to maintain the confidentiality of the system during such time as the system may be evident on the Publisher's computer equipment or otherwise in the control of the Publisher or its employees, in a manner at least as secure as the Publisher maintains its own most confidential information and data.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

AUTHOR

PUBLISHER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made and effective the [Date]

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SIGNATOR NAME] (the "Signator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

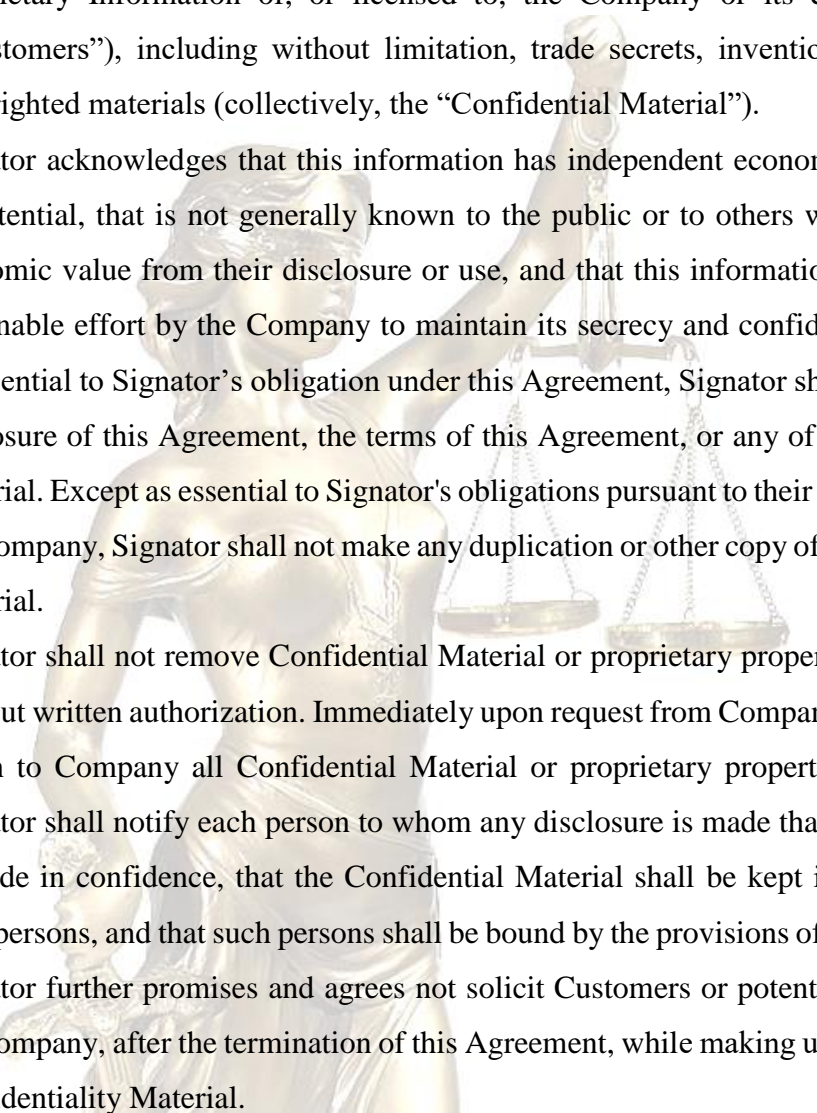
1. Length of Agreement

This Agreement begins retroactively to the beginning of Signator's relationship with Company and remains in effect at all times during any consulting, partnering, or other business relationship between the parties and for the periods of time specified thereafter as set forth below. This Agreement does not create any form of continued business relationship other than as set forth in a separate written agreement signed and dated by all parties.

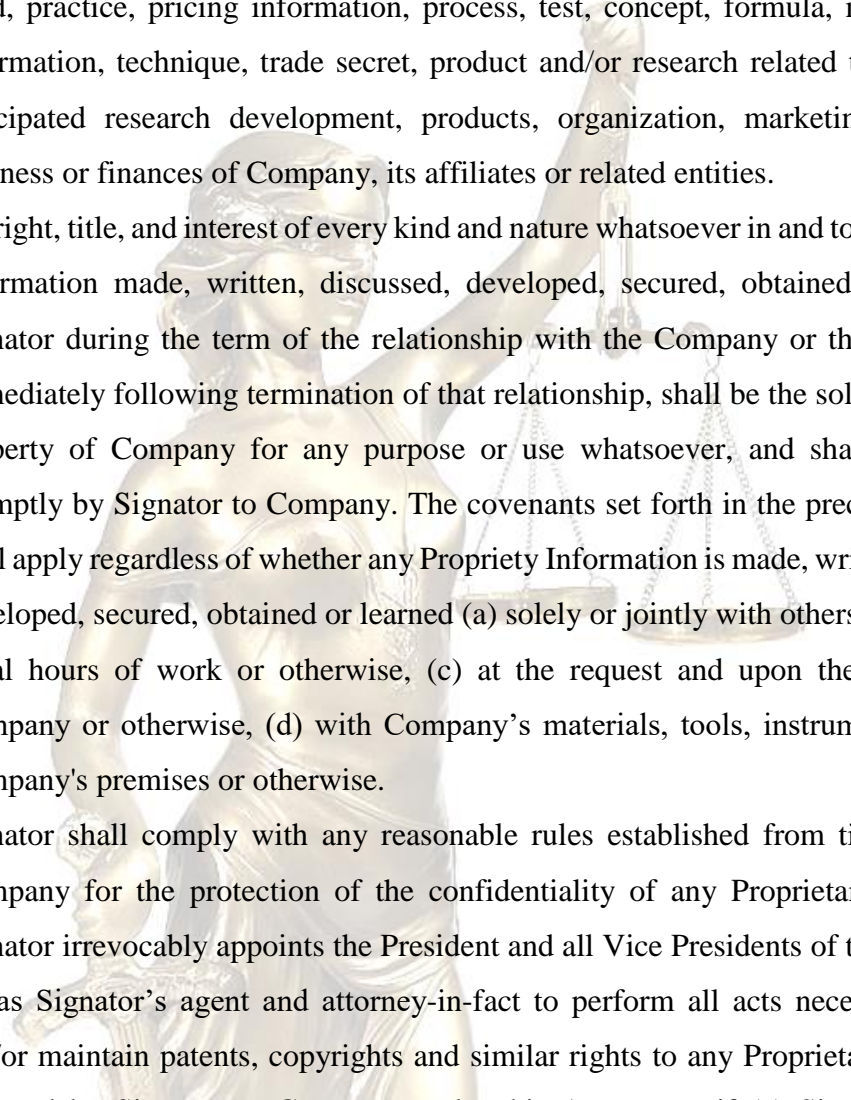
2. Representation and Warranties

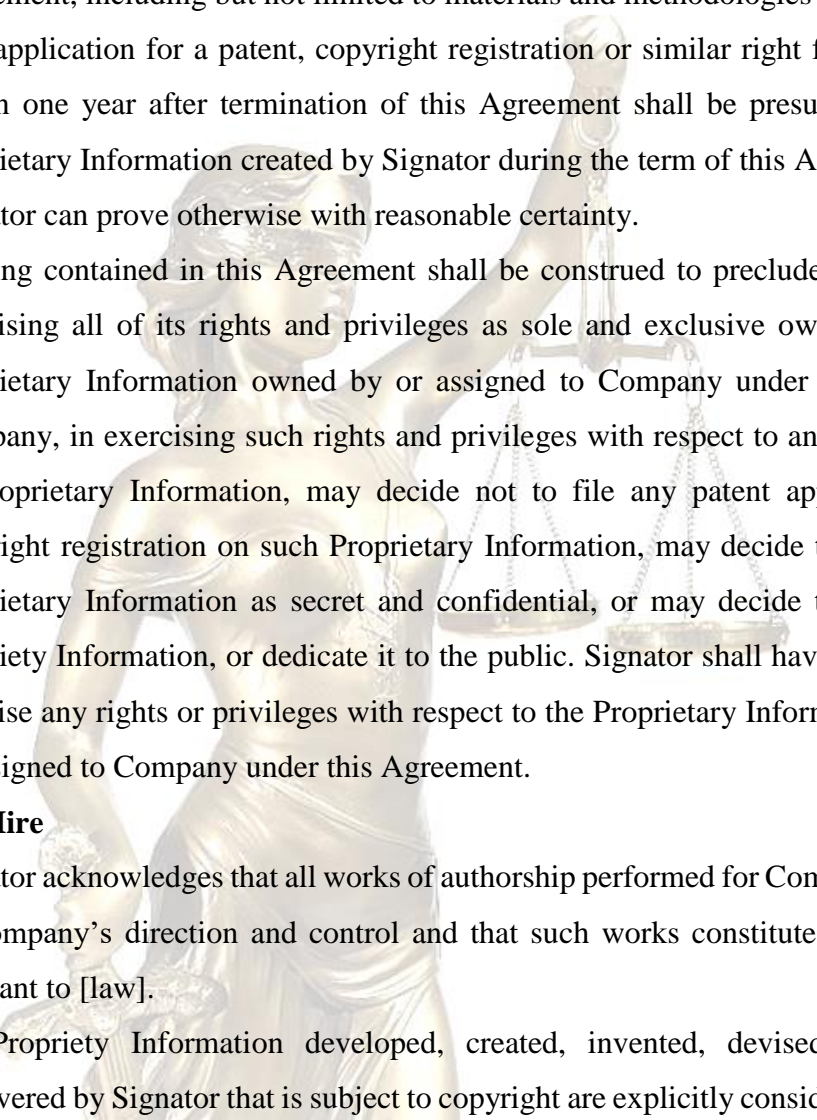
Signator represents and warrants that their relationship with Company will not cause or require it to breach any obligation to, agreement, or confidence related to confidential, trade secret and proprietary information with any other person, company or entity. Further, Signator acknowledges that a condition of this relationship is that it has not brought and will not bring or use in the performance of its duties at Company any proprietary or confidential information, whether or not in writing, of a former employer without that employer's written authorization. Breach of this condition results in automatic termination of the relationship as of the time of breach. Except as may be noted on the back of the signature page hereof, there are no inventions of Signator heretofore made or conceived by Signator that Signator deems to be excluded from the scope of this Agreement, and Signator hereby releases Company from any and all claims by the Signator by reason of any use by Company of any invention heretofore made or conceived by Signator.

3. Confidentiality

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- a. Signator hereby acknowledges that Company has made, or may make, available to Signator certain customer lists, pricing data, supply sources, techniques, computerized data, maps, methods, product design information, market information, technical information, benchmarks, performance standards and other confidential and/or Proprietary Information of, or licensed to, the Company or its clients/customers (“Customers”), including without limitation, trade secrets, inventions, patents, and copyrighted materials (collectively, the “Confidential Material”).
 - b. Signator acknowledges that this information has independent economic value, actual or potential, that is not generally known to the public or to others who could obtain economic value from their disclosure or use, and that this information is subject to a reasonable effort by the Company to maintain its secrecy and confidentiality. Except as essential to Signator’s obligation under this Agreement, Signator shall not make any disclosure of this Agreement, the terms of this Agreement, or any of the Confidential Material. Except as essential to Signator’s obligations pursuant to their relationship with the Company, Signator shall not make any duplication or other copy of the Confidential Material.
 - c. Signator shall not remove Confidential Material or proprietary property or documents without written authorization. Immediately upon request from Company, Signator shall return to Company all Confidential Material or proprietary property or documents. Signator shall notify each person to whom any disclosure is made that such disclosure is made in confidence, that the Confidential Material shall be kept in confidence by such persons, and that such persons shall be bound by the provisions of this Agreement. Signator further promises and agrees not solicit Customers or potential Customers of the Company, after the termination of this Agreement, while making use of Company’s Confidentiality Material.

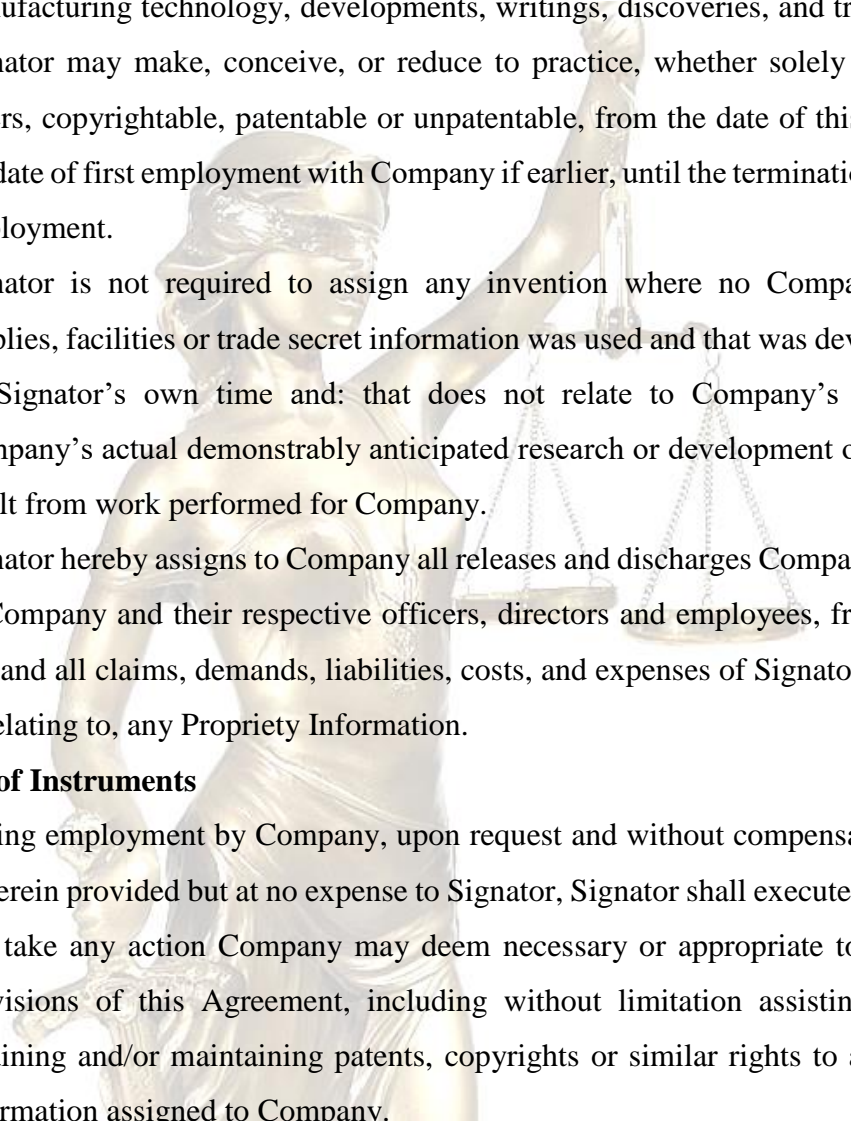
4. Proprietary Information

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- a. For the purpose of this Agreement, “Proprietary Information” shall include, but not limited to any information, observation, data, written material, record, document, drawing, photograph, layout, computer program, software, multimedia, firmware, invention, discovery, improvement, development, tool, machine, apparatus, appliance, design, work of authorship, logo, system, promotional idea, customer list, customer need, practice, pricing information, process, test, concept, formula, method, market information, technique, trade secret, product and/or research related to the actual or anticipated research development, products, organization, marketing, advertising, business or finances of Company, its affiliates or related entities.
- b. All right, title, and interest of every kind and nature whatsoever in and to the Proprietary Information made, written, discussed, developed, secured, obtained or learned by Signator during the term of the relationship with the Company or the [time] period immediately following termination of that relationship, shall be the sole and exclusive property of Company for any purpose or use whatsoever, and shall be disclosed promptly by Signator to Company. The covenants set forth in the preceding sentence shall apply regardless of whether any Proprietary Information is made, written, discussed, developed, secured, obtained or learned (a) solely or jointly with others, (b) during the usual hours of work or otherwise, (c) at the request and upon the suggestion of Company or otherwise, (d) with Company’s materials, tools, instruments, or (e) on Company's premises or otherwise.
- c. Signator shall comply with any reasonable rules established from time to time by Company for the protection of the confidentiality of any Proprietary Information. Signator irrevocably appoints the President and all Vice Presidents of the Company to act as Signator’s agent and attorney-in-fact to perform all acts necessary to obtain and/or maintain patents, copyrights and similar rights to any Proprietary Information assigned by Signator to Company under this Agreement if (a) Signator refuses to perform those acts, or (b) is unavailable, within the meaning of any applicable laws. Signator acknowledges that the grant of the foregoing power of attorney is coupled with an interest and shall survive the death or disability of Signator.

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- d. Signator shall promptly and fully disclose to Company, in confidence (a) all Proprietary Information that Signator creates, conceives or reduces to practice in writing either alone or with others during the term of this Agreement, and (b) all patent applications and copyright registrations filed by Signator within one year after termination of this Agreement, including but not limited to materials and methodologies involved.
 - e. Any application for a patent, copyright registration or similar right filed by Signator within one year after termination of this Agreement shall be presumed to relate to Proprietary Information created by Signator during the term of this Agreement, unless Signator can prove otherwise with reasonable certainty.
 - f. Nothing contained in this Agreement shall be construed to preclude Company from exercising all of its rights and privileges as sole and exclusive owner of all of the Proprietary Information owned by or assigned to Company under this Agreement. Company, in exercising such rights and privileges with respect to any particular item of Proprietary Information, may decide not to file any patent application or any copyright registration on such Proprietary Information, may decide to maintain such Proprietary Information as secret and confidential, or may decide to abandon such Proprietary Information, or dedicate it to the public. Signator shall have no authority to exercise any rights or privileges with respect to the Proprietary Information owned by or assigned to Company under this Agreement.

5. Works for Hire

- a. Signator acknowledges that all works of authorship performed for Company are subject to Company's direction and control and that such works constitute a work for hire pursuant to [law].
- b. All Proprietary Information developed, created, invented, devised, conceived or discovered by Signator that is subject to copyright are explicitly considered by Signator and Company to be "works made for hire" and the property of Company.

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- c. **Assignment.** Company shall own as its sole and exclusive property, and Signator agrees to assign, transfer, and convey and or its authorized nominees all of his or her right, title and interest in and to any and all said “ideas” that related generally to Company’s business, including but not limited to any inventions, processes, improvements, ideas, copyrightable works of art, trademarks, copyrights, formulas, manufacturing technology, developments, writings, discoveries, and trade secrets that Signator may make, conceive, or reduce to practice, whether solely or jointly with others, copyrightable, patentable or unpatentable, from the date of this Agreement or the date of first employment with Company if earlier, until the termination of Signator’s employment.
 - d. Signator is not required to assign any invention where no Company equipment, supplies, facilities or trade secret information was used and that was developed entirely on Signator’s own time and: that does not relate to Company’s business or to Company’s actual demonstrably anticipated research or development or; that does not result from work performed for Company.
 - e. Signator hereby assigns to Company all releases and discharges Company, any affiliate of Company and their respective officers, directors and employees, from and against any and all claims, demands, liabilities, costs, and expenses of Signator arising out of, or relating to, any Propriety Information.

6. Execution of Instruments

- a. During employment by Company, upon request and without compensation other than as herein provided but at no expense to Signator, Signator shall execute any documents and take any action Company may deem necessary or appropriate to effectuate the provisions of this Agreement, including without limitation assisting Company in obtaining and/or maintaining patents, copyrights or similar rights to any Proprietary Information assigned to Company.
- b. Signator further agrees that the obligations and undertakings stated in this paragraph will continue beyond termination of employment for any reason by the Company, but if Signator is called upon for such assistance after termination of employment, Signator is entitled to fair and reasonable fee in addition to reimbursement of any expenses incurred at the request of the Company.

7. Patent Application

- a. Company agrees to pay all expenses in connection with the preparation and prosecution of patent applications in the [Country] and all foreign countries wherein Company may desire to obtain patents.
- b. Company agrees to pay Signator a cash award of [specify] upon execution by Signator of application for [country] Letters Patent for such invention or improvement and issuance of a patent on said application, together with an assignment thereof to Company.
- c. Excepted from this Agreement are inventions or improvements relating to Company business made by Signator before commencement of this employment by Company which are:
 - i. embodied in the [country] Letters Patent or an application for [country] Letters Patent filed prior to commencement of this employment; or
 - ii. in the possession of a former Company who owns the invention; or
 - iii. set forth in an attachment hereto.

8. Non-Compete

Signator agrees not to engage in any activity that is competitive with any activity of Company during the course of their relationship and for a period of [Specify] after termination of the Agreement. For purposes of this paragraph, competitive activity encompasses forming or making plans to form a business entity that may be deemed to be competitive with any business of Company. This does not prevent Signator from seeking or obtaining employment or other forms of business relationships with a competitor after termination of employment with Company so long as such competitor was in existence prior to the termination of relationship with Company and Signator was in no way involved with the organization or formation of such competitor.

9. Business Opportunities

During the terms of this Agreement, if Signator becomes aware of any project, investment, venture, business or other opportunity (any of the preceding, collectively referred to as an “Opportunity”) that is similar to, competitive with, related to, or in the same field as Company, or any project, investment, venture, or business of Company, then Signator shall so notify Company immediately in writing of such Opportunity and shall use Signator’s good-faith efforts to cause Company to have the opportunity to explore, invest in, participate in, or otherwise become affiliated with such Opportunity.

10. No Ownership

Neither Signator nor any of their agents or principals shall become or be deemed an owner, partner, joint venture or agent of or with Company or any of its affiliates or related companies or businesses by reason of this Agreement or his/her relationship with Company unless set forth in a separate written agreement signed and dated by the parties. Neither Company nor Signator nor any agent, Signator, officer or independent contractor of or retained by Signator shall have any authority to bind the other in any respect unless set forth in a separate written agreement signed and dated by the parties.

11. Solicitation of Employees

Signator agrees that he/she will not, either during the period of this Agreement, or for a period of [number] year after this Agreement has terminated, solicit any of Company’s employees for a competing business or otherwise induce or attempt to induce such employees to terminate their employment with Company.

12. Soliciting Customers After Termination of Agreement

For a period of [time], following the termination of the relationship with the Company, Signator shall not, directly or indirectly, make known to any person, firm or corporation the names or addresses of any of the customers of Company or any other information pertaining to them, or call on, solicit, take away, or attempt to call on, solicit, or take away any customer of Company on whom Signator called or with whom Signator became acquainted during the time of this Agreement, for either itself or for any other person, firm, or corporation.

13. Injunctive Relief

Signator hereby acknowledges (1) the unique nature of the protections and provisions set forth in this Agreement, (2) that Company will suffer irreparable harm if Signator breaches any of said protections or provisions, and (3) that monetary damages will be inadequate to compensate Company for such breach. Therefore, if Signator breaches any of such provisions, then Company shall be entitled to injunctive relief, in addition to any other remedies at law or equity, to enforce such provisions.

14. Continuing Effects

Signator's obligations regarding trade secrets and confidential information shall continue in effect beyond the period of the relationship as stated above, and said obligation shall be binding upon Signator's spouse, affiliates, assigns, heirs, executors, administrators, or other legal representatives.

15. Subsidiaries And Parents

For the purposes of this Agreement, the term "Company" shall also be deemed to include any affiliated organization that owns fifty percent (50%) or more of the voting stock, whether or not Signator is directly employed by such other organization.

16. Non-Filing

Signator specifically agrees that Company's rights granted hereunder shall include the right not to file for copyrights or domestic or foreign patents when such is considered by Company in its sole discretion appropriate for the business objectives of Company.

17. Notice to Signator

This Agreement does not apply to any invention for which no equipment, supplies, facility, or trade secret information of Company was used and that was developed entirely on Signator's own time and:

- a. That does not relate (1) to Company's business or (2) to the actual or anticipated research or development work of Company; or
- b. That does not result from any work performed by Signator or Company. The burden of proof is on the Signator with respect to the exceptions of this Paragraph.

18. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute a single integrated document.

19. Severable Provisions

The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions and any partially unenforceable provisions to the extent enforceable shall nevertheless be binding and enforceable.

20. Attorneys' Fees

In the event any litigation, arbitration, mediation or other proceeding ("Proceeding") is initiated by any party against any other party to enforce, interpret or otherwise obtain judicial or quasi-judicial relief in connection with this Agreement, the prevailing party in such Proceeding shall be entitled to recover from the unsuccessful party all costs, expenses and actual attorney's fees relating to or arising out of (a) such proceeding, whether or not such proceeding proceeds to judgment, and (b) any post-judgment or post-award proceeding, including without limitation one to enforce any judgment or award resulting from any such Proceeding. Any such judgment or award shall contain a specific provision for the recovery of all such attorneys' fees, costs, and expenses. Any such judgment or award shall contain a specific provision for the recovery of all such subsequently incurred costs, expenses and actual attorney's fees.

21. Modifications

This Agreement may be modified only by a contract in writing executed by the party to this Agreement against whom enforcement of such modification is sought.

22. Prior Understandings

This Agreement contains the entire agreement between the parties to this Agreement with respect to the subject matter of the Agreement, is intended as a final expression of such parties' agreement with respect to such terms as are included in this Agreement is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understanding, agreements, representations and warranties. If any, with respect to such subject matter, which precede or accompany the execution of this Agreement.

23. Waiver

Any waiver of a default under this Agreement must be made in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be constructed as a waiver. A consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or subsequent act.

24. Drafting Ambiguities

Each party to this Agreement has reviewed and had the opportunity to revise this Agreement. Each party to this Agreement has had the opportunity to have legal counsel review and revise this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments or exhibits to this Agreement.

25. Jurisdiction and Venue

This Agreement is to be construed pursuant to Laws of the State of [state/province]. Jurisdiction and venue for any claim arising out of this Agreement shall be made in the State of [state/province].

26. Receipt of Copy

Signator hereby acknowledges that it has received a signed copy of this Agreement.

COMPANY

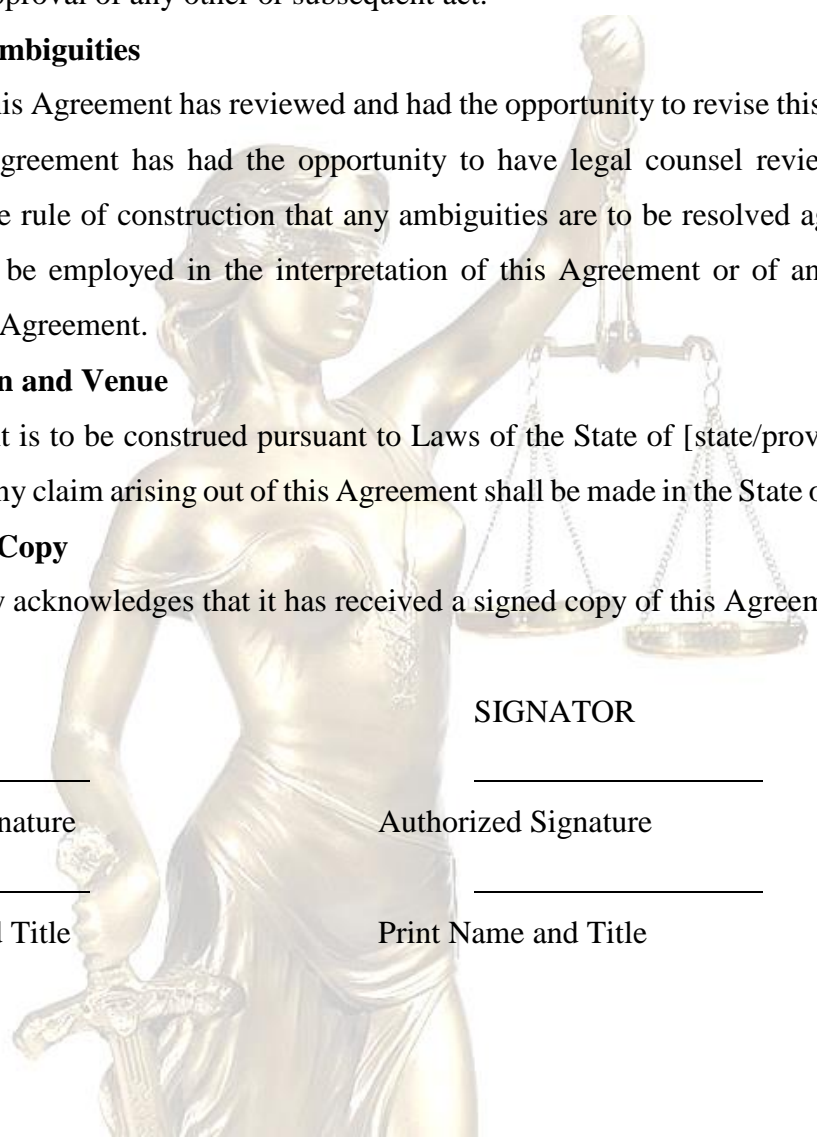
SIGNATOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made and effective the [DATE],

BETWEEN: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [RECIPIENT NAME] (the "Recipient"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

WHEREAS, Recipient has requested information from Owner in connection with consideration of a possible transaction or relationship between Recipient and Owner.

WHEREAS, in the course of consideration of the possible transaction or relationship, Owner may disclose to Recipient confidential, important, and/or proprietary trade secret information concerning Owner and its activities.

THEREFORE, the parties agree to enter into a confidential relationship with respect to the disclosure by Owner to Recipient of certain information.

1. Confidential Information

Owner proposes to disclose certain of its confidential and proprietary information (the Confidential Information") to Recipient. Confidential Information shall include all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to Recipient by Owner. Confidential Information disclosed orally shall be identified as such within five (5) days of disclosure. Nothing herein shall require Owner to disclose any of its information.

For purposes of this Agreement, the term "Recipient" shall include Recipient, the company he or she represents, and all affiliates, subsidiaries, and related companies of Recipient. For purposes of this Agreement, the term "Representative" shall include Recipient's directors, officers, employees, agents, and financial, legal, and other advisors.

2. Exclusions

Confidential Information does not include information that Recipient can demonstrate: (a) was in Recipient's possession prior to its being furnished to Recipient under the terms of this Agreement, provided the source of that information was not known by Recipient to be bound by a confidentiality agreement with or other continual, legal or fiduciary obligation of confidentiality to Owner; (b) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known to the public; (c) is rightfully obtained by Recipient from a third party, without breach of any obligation to Owner; or (d) is independently developed by Recipient without use of or reference to the Confidential Information.

3. Recipient's Obligations

- a. Recipient agrees that the Confidential Information is to be considered confidential and proprietary to Owner and Recipient shall hold the same in confidence, shall not use the Confidential Information other than for the purposes of its business with Owner, and shall disclose it only to its officers, directors, or employees with a specific need to know. Recipient will not disclose, publish or otherwise reveal any of the Confidential Information received from Owner to any other party whatsoever except with the specific prior written authorization of Owner.

- b. Confidential Information furnished in tangible form shall not be duplicated by Recipient except for purposes of this Agreement. Upon the request of Owner, Recipient shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, within [NUMBER] days of such request. At Recipient's option, any documents or other media developed by the Recipient containing Confidential Information may be destroyed by Recipient. Recipient shall provide a written certificate to Owner regarding destruction within [NUMBER] days thereafter.

4. Term

The obligations of Recipient herein shall be effective [Non-Disclosure Period] from the date Owner last discloses any Confidential Information to Recipient pursuant to this Agreement. Further, the obligation not to disclose shall not be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against Recipient, nor by the rejection of any agreement between Owner and Recipient, by a trustee of Recipient in bankruptcy, or by the Recipient as a debtor-in-possession or the equivalent of any of the foregoing under local law.

5. Confidentiality

Recipient and its Representatives shall not disclose any of the Confidential Information in any manner whatsoever, except as provided in Articles 6 and 7 of this Agreement, and shall hold and maintain the Confidential Information in strictest confidence. Recipient hereby agrees to indemnify Owner against any and all losses, damages, claims, expenses, and attorneys' fees incurred or suffered by Owner as a result of a breach of this Agreement by Recipient or its Representatives.

6. Permitted Disclosures

Recipient may disclose Owner's Confidential Information to Recipient's responsible Representatives with a bona fide need to know such Confidential Information, but only to the extent necessary to evaluate or carry out a proposed transaction or relationship with Owner and only if such employees are advised of the confidential nature of such Confidential Information and the terms of this Agreement and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect the confidentiality of such Confidential Information.

7. Required Disclosures

Recipient may disclose Owner's Confidential Information if and to the extent that such disclosure is required by court order, provided that Recipient provides Owner a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure.

8. Use

Recipient and its Representatives shall use the Confidential Information solely for the purpose of evaluating a possible transaction or relationship with Owner and shall not in any way use the Confidential Information to the detriment of Owner.

9. No License

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information. It is understood and agreed that neither party solicits any change in the organization, business practice, service or products of the other party, and that the disclosure of Confidential Information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party nor as an encouragement to expend funds in development or research efforts. Confidential Information may pertain to prospective or unannounced products. Recipient agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing or similar product.

10. Other Information

Recipient shall have no obligation under this Agreement with respect to Confidential Information which is or becomes publicly available without breach of this Agreement by Recipient; is rightfully received by Recipient without obligations of confidentiality; or is developed by Recipient without breach of this Agreement; provided, however, such Confidential Information shall not be disclosed until [NUMBER] days after written notice of intent to disclose is given to Owner along with the asserted grounds for disclosure.

11. Return of Documents

If Recipient does not proceed with the possible transaction with Owner, Recipient shall notify Owner of that decision and shall, at that time or at any time upon the request of Owner for any reason, return to Owner any and all records, notes, and other written, printed or other tangible materials in its possession pertaining to the Confidential Information immediately on the written request of Owner. The returning of materials shall not relieve Recipient from compliance with other terms and conditions of this Agreement.

12. No Additional Agreements

Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of Owner to enter into any other agreement with Recipient or prohibit Owner from providing the same or similar information to other parties and entering into agreements with other parties. Owner reserves the right, in its sole discretion, to reject any and all proposals made by Recipient or its Representatives with regard to a transaction between Recipient and Owner and to terminate discussions and negotiations with Recipient at any time. Additional agreements of the parties, if any, shall be in writing signed by Owner and Recipient.

13. Irreparable Harm

Recipient understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause Owner irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Owner shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Owner shall deem appropriate. Such right of Owner is to be in addition to the remedies otherwise available to Owner at law or in equity.

14. No Publicity

Recipient agrees not to disclose its participation in this undertaking, the existence or terms and conditions of the Agreement, or the fact that discussions are being held with Owner.

15. Governing Law and Equitable Relief

This Agreement shall be governed and construed in accordance with the laws of the [country of Governing Law] and the State of [State/province of Governing Law] and Recipient consents to the exclusive jurisdiction of the state courts and federal courts located there for any dispute arising out of this Agreement. Recipient agrees that in the event of any breach or threatened breach by Recipient, Owner may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect Owner against any such breach or threatened breach.

16. Final Agreement

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

17. Survival

This Agreement shall continue in full force and effect at all times.

18. Successors and Assigns

This Agreement and each party's obligations hereunder shall be binding on the representatives, assigns, and successors of such party and shall inure to the benefit of the assigns and successors of such party; provided, however, that the rights and obligations of Recipient hereunder are not assignable.

19. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

20. Notices

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

If to Owner:

[Owner]

[Owner's Address]

If to Recipient:

[Recipient]

[Recipient's Address]

21. No Implied Waiver

Either party's failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

22. Headings

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

23. Attorney's Fees

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be awarded its attorneys' fees and costs incurred.

24. Counterparts and Right

This Agreement may be signed in counterparts, which together shall constitute one agreement. The person signing on behalf of Recipient represents that he or she has the right and power to execute this Agreement.

25. Entire Agreement

This Agreement expresses the full and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral, with respect to the subject matter. This Agreement is not, however, to limit any rights that Owner may have under trade secret, copyright, patent or other laws that may be available to Owner. This Agreement may not be amended or modified except in writing signed by each of the parties to the Agreement. This Agreement shall be construed as to its fair meaning and not strictly for or against either party. The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof. IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OWNER

RECIPIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



CUSTOMER CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the "Agreement") is made and effective the [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CUSTOMER NAME] (the "Customer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual covenants contained in this agreement, the parties agree as follows:

1. Functional Documentation

In order to provide Customer an opportunity to review the Company's System as a potential system for automation of its functions, the Company will deliver substantial functional documentation including a functional overview, screen layouts, report layouts and other associated documentation.

2. Confidential Information

The Company considers these materials to be confidential and proprietary. Therefore, as a prerequisite to delivery, the Customer acknowledges that (1) the materials will be retained on its premises at the above address, and will not be moved without the express written consent of Company, (2) it will use reasonable means, not less than that used to protect its own proprietary information, to safeguard the materials; (3) it will not show or otherwise disclose any portion of the materials or their contents to anyone other than its employees in connection with its review of the System as a potential system for automation of its functions; in particular, it will not show or otherwise disclose the contents to independent contractors or consultants; (4) it will make no copies of the materials, and (5) it will return all materials upon the completion of its review, or promptly upon the Company's written request.

IN WITNESS WHEREOF, Company and Customer have executed this agreement at [designate place of execution] on [date].

COMPANY

CUSTOMER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

NON-DISCLOSURE AGREEMENT BETWEEN [DISCLOSING PARTY] AND [RECEIVING PARTY]

This Non-Disclosure Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [DISCLOSING PARTY NAME] (the "Disclosing Party"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [RECEIVING PARTY NAME] (the "Receiving Party"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, Receiving Party has been or will be engaged in the performance of work on [DESCRIBE]; and in connection therewith will be given access to certain confidential and proprietary information; and

WHEREAS, Receiving Party and Disclosing Party wish to evidence by this Agreement the manner in which said confidential and proprietary material will be treated.

NOW, THEREFORE, it is agreed as follows:

1. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

Both Parties understand and agree that each Party may have access to the confidential information of the other party. For the purposes of this Agreement, “Confidential Information” means proprietary and confidential information about the Disclosing Party’s (or it’s suppliers’) business or activities. Such information includes all business, financial, technical, and other information marked or designated by such Party as “confidential” or “proprietary.” Confidential Information also includes information which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential. For the purposes of this Agreement, Confidential Information does not include:

- A. Information that is currently in the public domain or that enters the public domain after the signing of this Agreement.
- B. Information a Party lawfully receives from a third Party without restriction on disclosure and without breach of a non-disclosure obligation.
- C. Information that the Receiving Party knew prior to receiving any Confidential Information from the Disclosing Party.

D. Information that the Receiving Party independently develops without reliance on any Confidential Information from the Disclosing Party.

Each Party agrees that it will not disclose to any third Party or use any Confidential Information disclosed to it by the other Party except when expressly permitted in writing by the other Party. Each Party also agrees that it will take all reasonable measures to maintain the confidentiality of all Confidential Information of the other Party in its possession or control.

2. TERM

The term of this Agreement is [number] of [years/months] from the date of execution by both Parties.

3. TITLE

The Receiving Party agrees that all Confidential Information furnished by the Disclosing Party shall remain the sole property of the Disclosing Party.

4. DISCLAIMER

Nothing contained in this Agreement or in any Confidential Information constitutes any express or implied warranty of any kind. All representations or warranties, whether express or implied, including fitness for a particular purpose, merchantability, title, and non-infringement, are hereby disclaimed. Neither this Agreement nor any Confidential Information shall create, nor shall be deemed to create, a legally binding or enforceable Agreement or offer to enter into any business relationship.

5. NO LICENSE GRANTED

Neither Party grants to the other any license, by implication or otherwise, to use any Confidential Information except as expressly provided in this Agreement.

6. Copies

Any copies or reproductions of the Proprietary Information shall bear the copyright or proprietary notices contained in the original.

7. Unauthorized Use

Receiving Party shall promptly advise Disclosing Party in writing if it learns of any unauthorized use or disclosure of Proprietary Information by any Receiving Party Personnel or former Receiving Party Personnel.

8. Injunctive Relief

Receiving Party acknowledges that the use or disclosure of the Proprietary Information in a manner inconsistent with this Agreement will cause Disclosing Party irreparable damage, and that Disclosing Party shall have the right to equitable and injunctive relief to prevent the unauthorized use or disclosure, and to such damages as are occasioned by such unauthorized use or disclosure.

9. Modifications

This Agreement may be modified only by a contract in writing executed by the party to this Agreement against whom enforcement of such modification is sought.

10. Prior Understandings

This Agreement contains the entire agreement between the parties to this Agreement with respect to the subject matter of the Agreement, is intended as a final expression of such parties' agreement with respect to such terms as are included in this Agreement is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understanding, agreements, representations and warranties. If any, with respect to such subject matter, which precede or accompany the execution of this Agreement.

11. Waiver

Any waiver of a default under this Agreement must be made in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be constructed as a waiver. A consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or subsequent act.

12. COMPLIANCE WITH Law

The Receiving Party agrees to abide by all federal, state, and local laws, ordinances and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DISCLOSING PARTY

RECEIVING PARTY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

In consideration of being admitted to the Company's facilities, The Visitor agrees to hold in the strictest confidence any trade secrets or confidential information which is disclosed to him/her. The Visitor agrees not to remove any document, equipment or other materials from the premises without the Company's written permission. The Visitor will not photograph or otherwise record any information to which he/she may have access during the visit.

4. BINDING AGREEMENT

This Agreement is binding on the Visitor, his/her heirs, executors, administrators and assigns; and inures to the benefit of the Company, its successors and assigns.

5. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the Company and the Visitor with respect to its subject matter. It supersedes all earlier representations and understandings, whether oral or written.

IN WITNESS WHEREOF, Company and Customer have executed this agreement at [designate place of execution] on [date].

COMPANY

VISITOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Print Name and Title

Print Name and Title

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement Between Owner and Contractor (the "Agreement") effective [DATE],

BETWEEN: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CONTRACTOR NAME] (the "Contractor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, Owner finds that the Contractor is qualified to perform the work, all relevant factors considered, and that such performance will be in furtherance of Owner's business.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

1. MATERIAL AND LABOR PROVIDED

The Contractor agrees to provide all of the material and labor required to perform the following work for:

[Describe work to be Performed]

as shown by the drawing(s) and described in the specifications prepared by [NAME] and provided by the Owner, which are identified by the signatures of the parties to this agreement and which form a part of this agreement.

The Contractor agrees to provide and pay for all materials, tools and equipment required for the prosecution and timely completion of the work. Unless otherwise specified, all materials shall be new and of good quality.

In the prosecution of the work, the Contractor shall employ a sufficient number of workers skilled in their trades to suitably perform the work.

2. PAYMENT

The Owner hereby agrees to pay the Contractor, for the aforesaid materials and labor, the sum of [AMOUNT], in the following manner:

9. INDEMNIFICATION

In the event the work is delayed due to neglect of the Contractor, the Contractor agrees to pay the Owner the sum of [AMOUNT] per [DAY/WEEK/MONTH] as liquidated damages until such time as the work is completed.

10. NO ASSIGNMENT

Neither the Owner nor Contractor shall have the right to assign any rights or interest occurring under this agreement without the written consent of the other, nor shall the Contractor assign any sums due, or to become due, to him under the provisions of this agreement.

11. GOVERNING LAW

This agreement shall be interpreted under laws of the State of [STATE/PROVINCE].

12. ATTORNEY’S FEES

Attorney's fees and court costs shall be paid by the defendant in the event that judgment must be, and is, obtained to enforce this agreement or any breach thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER

CONTRACTOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Client shall reimburse the Company all costs incurred in connection with the Services rendered. Reimbursable costs include, but are not limited to, travel costs, subcontractors, materials, computer costs, telephone, copies, delivery, etc. that are attributable to a project or Service (the "Reimbursable Costs"). Travel costs are defined as air travel, lodging, meals and incidentals, ground transportation, tools, and all costs associated with travel. All extraordinary travel expenses must receive Client's approval. The Company shall provide to Client substantiation of Reimbursable Costs incurred.

2.3 Invoicing

Invoices will submitted monthly by the Company for payment by Client. Payment is due upon receipt and is past due [NUMBER] business days from receipt of invoice. If Client has any valid reason for disputing any portion of an invoice, Client will so notify the Company within [NUMBER] calendar days of receipt of invoice by Client, and if no such notification is given, the invoice will be deemed valid. The portion of the Company's invoice which is not in dispute shall be paid in accordance with the procedures set forth herein.

A finance charge of [%] per month on the unpaid amount of an invoice, or the maximum amount allowed by law, will be charged on past due accounts. Payments by Client will thereafter be applied first to accrued interest and then to the principal unpaid balance. Any attorney fees, court costs, or other costs incurred in collection of delinquent accounts shall be paid by Client. If payment of invoices is not current, the Company may suspend performing further work.

2.4 Taxes

5.1 Limitation

The Company's liability, including but not limited to Client's claims of contributions and indemnification related to third party claims arising out of services rendered by the Company, and for any losses, injury or damages to persons or properties or work performed arising out of or in connection with this Agreement and for any other claim, shall be limited to the lesser of (i) [Amount] or (ii) payment received by the Company from Client for the particular service provided giving rise to the claim. Notwithstanding anything to the contrary in this Agreement, the Company shall not be liable for any special, indirect, consequential, lost profits, or punitive damages. Client agrees to limit the Company's liability to Client and any other third party for any damage on account of any error, omission or negligence to a sum not to exceed the lesser of (i) [Amount] or (ii) the payment received by the Company for the particular service provided giving rise to the claim. The limitation of liability set forth herein is for any and all matters for which the Company may otherwise have liability arising out of or in connection with this Agreement, whether the claim arises in contract, tort, statute, or otherwise.

5.2 Remedy

Client's exclusive remedy for any claim arising out of or relating to this Agreement will be for the Company, upon receipt of written notice, either (i) to use commercially reasonable efforts to cure, at its expense, the matter that gave rise to the claim for which the Company is at fault, or (ii) return to Client the fees paid by Client to the Company for the particular service provided that gives rise to the claim, subject to the limitation contained in Section 5.1. Client agrees that it will not allege that this remedy fails its essential purpose.

5.3 Survival

Articles 2, 4, 5, and 6 survive the expiration or termination of this Agreement for any reason.

6. MISCELLANEOUS

6.1 Insecurity and Adequate Assurances

6.5 Notices. Client shall give the Company written notice within [NUMBER] days of obtaining knowledge of the occurrence of any claim or cause of action which Client believes that it has, or may seek to assert or allege, against the Company, whether such claim is based in law or equity, arising under or related to this Agreement or to the transactions contemplated hereby, or any act or omission to act by the Company with respect hereto. If Client fails to give such notice to the Company with regard to any such claim or cause of action and shall not have brought legal action for such claim or cause of action within said time period, Client shall be deemed to have waived, and shall be forever barred from bringing or asserting such claim or cause of action in any suit, action or proceeding in any court or before any governmental agency or authority or any arbitrator. All notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within [HOURS] and shall be deemed given when delivered to the address specified below or such other address as may be specified in a written notice in accordance with this Section.

If to the Company:

[Describe]

If to Client:

[Describe]

Any party may, by notice given in accordance with this Section to the other parties, designate another address or person or entity for receipt of notices hereunder.

6.6 Assignment

Nothing in this Agreement or elsewhere will prohibit or limit the Company's ownership and use of ideas, concepts, know-how, methods, models, data, techniques, skill knowledge and experience that were used, developed or gained in connection with this Agreement. The Company and Client shall each have the right to use all data collected or generated under this Agreement.

6.11 Non-solicitation of Employees

During and for [NUMBER] year after the term of this Agreement, Client will not solicit the employment of, or employ the Company's personnel, without the Company's prior written consent.

6.12 Cooperation

Client will cooperate with the Company in taking actions and executing documents, as appropriate, to achieve the objectives of this Agreement. Client agrees that the Company's performance is dependent on Client's timely and effective cooperation with the Company. Accordingly, Client acknowledges that any delay by Client may result in the Company being released from an obligation or scheduled deadline or in Client having to pay extra fees for the Company's agreement to meet a specific obligation or deadline despite the delay.

6.13 Governing Law and Construction

This Agreement will be governed by and construed in accordance with the laws of California, without regard to the principles of conflicts of law. The language of this Agreement shall be deemed to be the result of negotiation among the parties and their respective counsel and shall not be construed strictly for or against any party. Each party (i) agrees that any action arising out of or in connection with this Agreement shall be brought solely in courts of the State of [state/province] (ii) hereby consents to the jurisdiction of the courts of the State of [state/province] and (iii) agrees that, whenever a party is requested to execute one or more documents evidencing such consent, it shall do so immediately.

6.14 Entire Agreement; Survival

Print Name and Title

Print Name and Title

AGREEMENT FOR WORK CHANGE

This Agreement for Work Change (the "Agreement") is made and effective this [Date],

BETWEEN: [HIRER NAME] (the "Hirer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CONTRACTOR NAME] (the "Contractor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree to modify contract signed on [Date] as follows:

1. TERMS

The Hirer authorizes and the Contractor agrees to make the following work changes to the above dated contract:

[DETAIL WORK CHANGES]

There is no additional charge for the above changes.

OR

The agreed additional charge for the above changes is [AMOUNT].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

HIRER

CONTRACTOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

This agreement may be terminated by either party on [NUMBER] days notice to the other party. All such notices shall be by certified mail or delivered personally.

7. Entire Agreement

This contract expresses the entire agreement between the Client and the Accountant regarding this matter. This agreement can only be modified with another written agreement signed by both the Client and the Accountant. This agreement shall be binding upon both the Client and the Accountant and their respective heirs, legal representatives and successors in interest.

8. Legal Fees

If either party brings a law suit in order to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled.

9. Governing Law

This agreement shall be interpreted according to the laws of the State of [STATE/PROVINCE].

10. Independent Contractors

Both the Accountant and the Client agree that the relationship created by this agreement is that of independent contractor and not that of employee and employer. The Accountant is responsible for the payment of any taxes, including without limitation, all Federal, State and local personal and business income taxes, sales and use taxes, other business taxes and license fees arising out of the activities of the Accountant.

11. Signatures

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CLIENT

ACCOUNTANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

I further give permission to the Company to receive a copy of any information obtained in the file of any federal, state, or local court, or governmental agency concerning or relating to me. I further consent to the release of such information and waive any right under law concerning notification of the request for a release of such information. In the event a law does not provide for Company to have access to information, I hereby delegate the Company as my agent for the receipt of information. I understand that the scope of this investigation will be limited as required by applicable law.

4. Cooperation with Investigation

I agree to fully cooperate in Company's background investigation, and to sign any waivers or releases that may be necessary or desirable to obtain access to relevant information. In the event that any former employer or other company or federal, state, or local governmental agency will not release reference information or criminal history information directly to the Company, I agree to personally request such information to the extent permitted by law.

5. Miscellaneous

This Agreement represents the entire understanding and agreement relating to its subject matter. Company shall be entitled fully to rely on this Agreement. I understand that I have no guarantee of being hired to provide services to the Company and that the Company may determine not to engage me for any lawful reason.

COMPANY

APPLICANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Personnel

- Staffing requirements
 - On customer site/off customer site
 - Vendor right to change personnel
 - Customer right to approve personnel
- Specific obligations of vendor regarding vendor personnel
 - Confidentiality
 - Non-compete
 - Guaranteed service period for certain personnel
 - Succession planning
 - Mix of staff levels
- Vendor to offer employment to customer's work force
 - Define employees to be transitioned
 - Parameters for offers of employment
- Employee transition plan

Use of customer facilities

- Vendor to provide services from customer premises until specified date for conversion to other facilities
- List of equipment and services at facilities available for vendor use
- List of facilities square footage and rate to be paid, if any for use by vendor
- Vendor access to customer facilities
- 24 hour/normal vendor working hours
- Security issues
- Relocation of vendor

Vendor intellectual property

- License to use/included as part of services
- License with respect to termination
 - Bankruptcy issues
 - Substantive license issues (scope of use, updates, warranties, etc.)

Third party services

- Customer to assign agreements for third party services to vendor
- Vendor responsible for cost of third party services
- Vendor to have the right to replace third party services with its own services or services of a third party of its choice

Management of projects and other services

- Appointment of project managers by vendor and customer to be principal liaisons between parties
- Respective roles of parties (e.g., establishing priorities)
- Management planning
- Acceptance testing of vendor deliverables

Customer responsibilities

- Establish priorities

- Development of a plan to convert from customer's procedures to vendor's procedures to provide services
- Rights and obligations related to performance standards
- Software or processing modifications
 - Scope
 - Approval by customer
 - Vendor obligations for updates, legal and regulatory changes

Training

- Training for customer personnel
 - Full training/"train the trainer"
 - Daily/hourly

Fee structure

- Fixed time/time based fee/volume based fee
- Basis of calculation
- Credits/reimbursements to customer
- Expenses
- Cost of living adjustment
- Fee schedule based on milestones
- Late fees/payment and billing/disputed amounts

Liability issues

DR. LUBOGO ISAAC CHRISTOPHER

Most Favored Customer

After you’ve called a few agencies and have narrowed your selection to a few possibilities, make an appointment to visit those agencies to discuss more specifically what you need. When you visit, be sure to cover the following points:

- How are temporary workers tested and screened?
- What benefits are offered to workers (better benefits attract better workers)?
- Pricing information:
 - What are the billing rates?
 - How are workers categorized into skill levels and corresponding pay rates?
- Payment information
 - What methods of payment are acceptable?
 - When is payment due for the services provided?
 - If you want to permanently hire the temp worker, how much you will have to pay the temporary agency?
 - Does the agency carry workers’ comp, liability insurance, and errors and omission insurance?
 - Are employees and workers bonded?

After you have collected this information, you should be able to make a more informed decision about which agency will be able to help you. In making your decision, be sure to:

- Check the agency’s references
- Contact the Better Business Bureau and Chamber of Commerce for information on the agencies
- Check with other business owners and colleagues

29. Confidentiality

- a. Signator hereby acknowledges that Company has made, or may make, available to Signator certain customer lists, pricing data, supply sources, techniques, computerized data, maps, methods, product design information, market information, technical information, benchmarks, performance standards and other confidential and/or Proprietary Information of, or licensed to, the Company or its clients/customers (“Customers”), including without limitation, trade secrets, inventions, patents, and copyrighted materials (collectively, the “Confidential Material”).
- b. Signator acknowledges that this information has independent economic value, actual or potential, that is not generally known to the public or to others who could obtain economic value from their disclosure or use, and that this information is subject to a reasonable effort by the Company to maintain its secrecy and confidentiality. Except as essential to Signator’s obligation under this Agreement, Signator shall not make any disclosure of this Agreement, the terms of this Agreement, or any of the Confidential Material. Except as essential to Signator's obligations pursuant to their relationship with the Company, Signator shall not make any duplication or other copy of the Confidential Material.
- c. Signator shall not remove Confidential Material or proprietary property or documents without written authorization. Immediately upon request from Company, Signator shall return to Company all Confidential Material or proprietary property or documents. Signator shall notify each person to whom any disclosure is made that such disclosure is made in confidence, that the Confidential Material shall be kept in confidence by such persons, and that such persons shall be bound by the provisions of this Agreement. Signator further promises and agrees not solicit Customers or potential Customers of the Company, after the termination of this Agreement, while making use of Company’s Confidentiality Material.

- c. Signator shall comply with any reasonable rules established from time to time by Company for the protection of the confidentiality of any Proprietary Information. Signator irrevocably appoints the President and all Vice Presidents of the Company to act as Signator’s agent and attorney-in-fact to perform all acts necessary to obtain and/or maintain patents, copyrights and similar rights to any Proprietary Information assigned by Signator to Company under this Agreement if (a) Signator refuses to perform those acts, or (b) is unavailable, within the meaning of any applicable laws. Signator acknowledges that the grant of the foregoing power of attorney is coupled with an interest and shall survive the death or disability of Signator.

- d. Signator shall promptly and fully disclose to Company, in confidence (a) all Proprietary Information that Signator creates, conceives or reduces to practice in writing either alone or with others during the term of this Agreement, and (b) all patent applications and copyright registrations filed by Signator within one year after termination of this Agreement, including but not limited to materials and methodologies involved.

- e. Any application for a patent, copyright registration or similar right filed by Signator within one year after termination of this Agreement shall be presumed to relate to Proprietary Information created by Signator during the term of this Agreement, unless Signator can prove otherwise with reasonable certainty.

- a. Company shall own as its sole and exclusive property, and Signator agrees to assign, transfer, and convey and or its authorized nominees all of his or her right, title and interest in and to any and all said “ideas” that related generally to Company’s business, including but not limited to any inventions, processes, improvements, ideas, copyrightable works of art, trademarks, copyrights, formulas, manufacturing technology, developments, writings, discoveries, and trade secrets that Signator may make, conceive, or reduce to practice, whether solely or jointly with others, copyrightable, patentable or unpatentable, from the date of this Agreement or the date of first employment with Company if earlier, until the termination of Signator’s employment.
- b. Signator is not required to assign any invention where no Company equipment, supplies, facilities or trade secret information was used and that was developed entirely on Signator’s own time and: that does not relate to Company’s business or to Company’s actual demonstrably anticipated research or development or; that does not result from work performed for Company.
- c. Signator hereby assigns to Company all releases and discharges Company, any affiliate of Company and their respective officers, directors and employees, from and against any and all claims, demands, liabilities, costs, and expenses of Signator arising out of, or relating to, any Propriety Information.

33. Execution of Instruments

- a. During employment by Company, upon request and without compensation other than as herein provided but at no expense to Signator, Signator shall execute any documents and take any action Company may deem necessary or appropriate to effectuate the provisions of this Agreement, including without limitation assisting Company in obtaining and/or maintaining patents, copyrights or similar rights to any Proprietary Information assigned to Company.

35. Non-Compete

Signator agrees not to engage in any activity that is competitive with any activity of Company during the course of their relationship and for a period of [Specify] after termination of the Agreement. For purposes of this paragraph, competitive activity encompasses forming or making plans to form a business entity that may be deemed to be competitive with any business of Company. This does not prevent Signator from seeking or obtaining employment or other forms of business relationships with a competitor after termination of employment with Company so long as such competitor was in existence prior to the termination of relationship with Company and Signator was in no way involved with the organization or formation of such competitor.

36. Business Opportunities

During the terms of this Agreement, if Signator becomes aware of any project, investment, venture, business or other opportunity (any of the preceding, collectively referred to as an “Opportunity”) that is similar to, competitive with, related to, or in the same field as Company, or any project, investment, venture, or business of Company, then Signator shall so notify Company immediately in writing of such Opportunity and shall use Signator’s good-faith efforts to cause Company to have the opportunity to explore, invest in, participate in, or otherwise become affiliated with such Opportunity.

37. No Ownership

Neither Signator nor any of their agents or principals shall become or be deemed an owner, partner, joint venture or agent of or with Company or any of its affiliates or related companies or businesses by reason of this Agreement or his/her relationship with Company unless set forth in a separate written agreement signed and dated by the parties. Neither Company nor Signator nor any agent, Signator, officer or independent contractor of or retained by Signator shall have any authority to bind the other in any respect unless set forth in a separate written agreement signed and dated by the parties.

Signator’s obligations regarding trade secrets and confidential information shall continue in effect beyond the period of the relationship as stated above, and said obligation shall be binding upon Signator’s spouse, affiliates, assigns, heirs, executors, administrators, or other legal representatives.

42. Subsidiaries And Parents

For the purposes of this Agreement, the term “Company” shall also be deemed to include any affiliated organization that owns fifty percent (50%) or more of the voting stock, whether or not Signator is directly employed by such other organization.

43. Non-Filing

Signator specifically agrees that Company’s rights granted hereunder shall include the right not to file for copyrights or domestic or foreign patents when such is considered by Company in its sole discretion appropriate for the business objectives of Company.

44. Notice to Signator

This Agreement does not apply to any invention for which no equipment, supplies, facility, or trade secret information of Company was used and that was developed entirely on Signator’s own time and:

- c. That does not relate (1) to Company’s business or (2) to the actual or anticipated research or development work of Company; or
- d. That does not result from any work performed by Signator or Company. The burden of proof is on the Signator with respect to the exceptions of this Paragraph.

45. Counterparts

This Agreement contains the entire agreement between the parties to this Agreement with respect to the subject matter of the Agreement, is intended as a final expression of such parties' agreement with respect to such terms as are included in this Agreement is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understanding, agreements, representations and warranties. If any, with respect to such subject matter, which precede or accompany the execution of this Agreement.

50. Waiver

Any waiver of a default under this Agreement must be made in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be constructed as a waiver. A consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or subsequent act.

51. Drafting Ambiguities

Each party to this Agreement has reviewed and had the opportunity to revise this Agreement. Each party to this Agreement has had the opportunity to have legal counsel review and revise this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments or exhibits to this Agreement.

52. Jurisdiction and Venue

This Agreement is to be construed pursuant to Laws of the State of [state/province]. Jurisdiction and venue for any claim arising out of this Agreement shall be made in the State of [state/province].

53. Receipt of Copy

Signator hereby acknowledges that it has received a signed copy of this Agreement.

CONFIDENTIALITY AND INVENTION AGREEMENT

This Confidentiality and Invention Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [CONSULTANT NAME] (the "Consultant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at

In consideration of the Consultant relationship with the Company (which for purposes of this Agreement shall be deemed to include any subsidiaries or Affiliates of the Company), the receipt of confidential information while associated with the Company, and other good and valuable consideration, the undersigned Consultant, agrees that:

1. Terms of Agreement

This Agreement shall continue in full force and effect for the duration of the relationship between the Consultant and the Company and shall continue thereafter until terminated through a written instrument signed by both parties.

For purposes of this Agreement, "Affiliate" shall mean any person or entity that shall directly or indirectly controls, is controlled by, or is under common control with the Company.

2. Confidentiality

2.1. Definitions

"Proprietary Information" is all information and any idea whatever form, tangible or intangible, pertaining in any manner to the business of the Company, or any of its Affiliates, or its employees, clients, consultants, or business associates, which was produced by any employee or consultant of the Company in the course of his or her employment or consulting relationship or otherwise produced or acquired by or on behalf of the Company. All Proprietary Information not generally known outside of the Company's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." By example and without limiting the foregoing definition, Proprietary and Confidential Information shall include, but not be limited to:

The Consultant will not, directly or indirectly, use, make available, sell, disclose or otherwise communicate to any third party, other than in the assigned duties and for the benefit of the Company, any of the Company's Confidential Information, either during or after the relationship with the Company. In the event the Consultant desires to publish the results of the work for the Company through literature or speeches, the Consultant will submit such literature or speeches to the President of the Company at least 10 days before dissemination of such information for a determination of whether such disclosure may alter trade secret status, may be prejudicial to the interests of the Company, or may constitute an invasion of its privacy. The Consultant agrees not to publish, disclose or otherwise disseminate such information without prior written approval of the President of the Company. The Consultant acknowledges that the unauthorized disclosure of Confidential Information of the Company may be highly prejudicial to its interests, an invasion of privacy, and an improper disclosure of trade secrets.

2.4. Delivery of Confidential Information

Upon request or when the relationship with the Company terminates, the Consultant will immediately deliver to the Company all copies of any and all materials and writings received from, created for, or belonging to the Company including, but not limited to, those which relate to or contain Confidential Information.

2.5. Location and Reproduction

The Consultant shall maintain at its workplace only such Confidential Information as the Consultant has a current "need to know." The Consultant shall return to the appropriate person or location or otherwise properly dispose of Confidential Information once that need to know no longer exists. The Consultant shall not make copies of or otherwise reproduce Confidential Information unless there is a legitimate business need of the Company for reproduction.

2.6. Prior Actions and Knowledge

The term "Subject Ideas or Inventions" includes any and all ideas, processes, trademarks, service marks, inventions, designs, technologies, computer hardware or software, original works of authorship, formulas, discoveries, patents, copyrights, copyrightable works products, marketing and business ideas, and all improvements, know-how, data, rights, and claims related to the foregoing that, whether or not patentable, which are conceived, developed or created which: (1) relate to the Company's current or contemplated business; (2) relate to the Company's actual or demonstrably anticipated research or development; (3) result from any work performed by the Consultant for the Company; (4) involve the use of the Company's equipment, supplies, facilities or trade secrets; (5) result from or are suggested by any work done by the Company or at the Company's request, or any projects specifically assigned to the Consultant; or (6) result from the access to any of the Company's memoranda, notes, records, drawings, sketches, models, maps, customer lists, research results, data, formulae, specifications, inventions, processes, equipment or other materials (collectively, "Company Materials").

3.2. Company Ownership

All right, title and interest in and to all Subject Ideas and Inventions, including but not limited to all registrable and patent rights which may subsist therein, shall be held and owned solely by the Company, and where applicable, all Subject Ideas and Inventions shall be considered works made for hire. The Consultant shall mark all Subject Ideas and Inventions with the Company's copyright or other proprietary notice as directed by the Company and shall take all actions deemed necessary by the Company to protect the Company's rights therein. In the event that the Subject Ideas and Inventions shall be deemed not to constitute works made for hire, or in the event that the Consultant should otherwise, by operation of law, be deemed to retain any rights (whether moral rights or otherwise) to any Subject Ideas and Inventions, the Consultant agrees to assign to the Company, without further consideration, its entire right, title and interest in and to each and every such Subject Idea and Invention.

3.3. Disclosure

3.7. Assistance

The Consultant further agrees to assist the Company in every proper way (but at the Company's expense) to obtain and from time to time enforce patents, copyrights or other rights or registrations on said Subject Ideas and Inventions in any and all countries, and to that end will execute all documents necessary:

- a. To apply for, obtain and vest in the name of the Company alone (unless the Company otherwise directs) letters patent, copyrights or other analogous protection in any country throughout the world and when so obtained or vested to renew and restore the same; and;
- b. To defend any opposition proceedings in respect of such applications and any opposition proceedings or petitions or applications for revocation of such letters patent, copyright or other analogous protection; and;
- c. To cooperate with the Company (but at the Company's expense) in any enforcement or infringement proceeding on such letters patent, copyright or other analogous protection.

3.8. Authorization to Company

The Consultant acknowledges that the pursuit of the activities forbidden by Section 4.2 below would necessarily involve the use, disclosure or misappropriation of Confidential Information.

4.2. Prohibited Activity

To prevent the above-described disclosure, misappropriation and breach, the Consultant agrees that during the relationship and for a period of one (1) year thereafter, without the Company's express written consent, the Consultant shall not, directly or indirectly, (i) employ, solicit for employment, or recommend for employment any person employed by the Company (or any Affiliate); and (ii) engage in any present or contemplated business activity that is or may be competitive with the Company (or any Affiliate) in any state where the Company conducts its business, unless the Consultant can prove that any action taken in contravention of this subsection (ii) was done without the use in any way of Confidential Information.

5. Representations and Warranties

The Consultant represents and warrants (i) that it has no obligations, legal or otherwise, inconsistent with the terms of this Agreement or with its undertaking a relationship with the Company; (ii) that the performance of the services called for by this Agreement do not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party; (iii) that the Consultant will not use in the performance of its responsibilities for the Company any confidential information or trade secrets of any other person or entity; and (iv) that the Consultant has not entered into or will enter into any agreement (whether oral or written) in conflict with this Agreement.

6. Termination Obligations

The Consultant acknowledges that its failure to carry out any obligation under this Agreement, or a breach by the Consultant of any provision herein, will constitute immediate and irreparable damage to the Company, which cannot be fully and adequately compensated in money damages and which will warrant preliminary and other injunctive relief, an order for specific performance, and other equitable relief. The Consultant further agrees that no bond or other security shall be required in obtaining such equitable relief and hereby consents to the issuance of such injunction and to the ordering of specific performance. The Consultant also understand that other action may be taken and remedies enforced against the Consultant.

8. Modification

No modification of this Agreement shall be valid unless made in writing and signed by both parties.

9. Binding Effect

This Agreement shall be binding upon the Consultant, its heirs, executors, assigns and administrators and is for the benefit of the Company and its successors and assigns.

10. Governing Law

This Agreement shall be construed in accordance with, and all actions arising under or in connection therewith shall be governed by, the internal laws of the State of [state/province],

11. Integration

15. Severability

If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

16. Rights Cumulative

The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either the Company or the Consultant (or by that party's successor), whether pursuant hereto, to any other agreement, or to law, shall not preclude or waive that party's right to exercise any or all other rights and remedies. This Agreement will inure to the benefit of the Company and its successors and assigns.

17. Nonwaiver

The failure of either the Company or the Consultant, whether purposeful or otherwise, to exercise in any instance any right, power or privilege under this Agreement or under law shall not constitute a waiver of any other right, power or privilege, nor of the same right, power or privilege in any other instance. Any waiver by the Company or by the Consultant must be in writing and signed by either the Consultant, if the Consultant is seeking to waive any of its rights under this Agreement, or by an officer of the Company or some other person duly authorized by the Company.

18. Notices

CAUTION: THIS AGREEMENT CREATES IMPORTANT OBLIGATIONS OF TRUST AND AFFECTS THE CONSULTANT'S RIGHTS TO INVENTIONS AND OTHER INTELLECTUAL PROPERTY THE CONSULTANT MAY DEVELOP.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY

CONSULTANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Consultant shall disclose or give access to Proprietary Information only to such Consultant's employees, agents or contractors ("Consultant Personnel") having a need-to-know in connection with Consultant's engagement and for use in connection therewith. Consultant will advise Consultant Personnel having access to Proprietary Information of the confidential and proprietary nature thereof.

3. Copies

Any copies or reproductions of the Proprietary Information shall bear the copyright or proprietary notices contained in the original.

4. Termination

Consultant shall, upon completion of the tasks assigned to Consultant, upon termination of Consultant's engagement with respect to the System, or upon demand, whichever is earliest, return any and all Proprietary Information (including any copies or reproductions thereof in its possession or control.

5. Unauthorized Use

Consultant shall promptly advise Company in writing if it learns of any unauthorized use or disclosure of Proprietary Information by any Consultant Personnel or former Consultant Personnel.

6. Work Product

Consultant shall have no proprietary interest in the work product developed by consultant during the course of its engagement and expressly assigns all rights to copyrights, patents, trade secrets or other proprietary rights to the Company.

7. Indemnification

CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is made and effective this [Date],

BETWEEN: [CONSULTANT NAME] (the "Consultant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In the event of a conflict in the provisions of any attachments hereto and the provisions set forth in this Agreement, the provisions of such attachments shall govern.

In consideration of the foregoing and of the mutual promises set forth herein, and intending to be legally bound, the parties hereto agree as follows:

1. RECITALS

- a. Consultant has expertise in the area of the Company's business and is willing to provide consulting services to the Company.
- b. The Company is willing to engage Consultant as an independent contractor, and not as an employee, on the terms and conditions set forth herein.
- c. The Company desires to obtain the services of Consultant by means of services provided by Consultant’s employees dispatched by Consultant to provide services to Company hereunder (“Agents”), on its own behalf and on behalf of all existing and future Affiliated Companies (defined as any corporation or other business entity or entities that directly or indirectly controls, is controlled by, or is under common control with the Company), and Consultant desires to provide consulting services to the Company upon the following terms and conditions.

Subject to Section 7, the Consulting Period will be automatically renewed for an additional [agreed upon number of months] month period (without any action by either party) on the Term Date and on each anniversary thereof, unless one party gives to the other written notice [NUMBER] days in advance of the beginning of any [agreed upon number of months] month renewal period that the Consulting Period is to be terminated, provided, that in no event shall the Consulting Period extend beyond [deadline date]. Either party's right to terminate the Consulting Period, instead of renewing the Agreement, shall be with or without cause.

4. Duties and Responsibilities

- a. Consultant hereby agrees to provide and perform for the Company those services set forth on Exhibit A attached hereto. Consultant shall devote its best efforts to the performance of the services and to such other services as may be reasonably requested by the Company and hereby agrees to devote, unless otherwise requested in writing by the Company, (a minimum of at least [agreed upon number of hours] hours of service per week/or assign [agreed upon number of individuals] individuals to provide services to the Company).

- b. Consultant shall use its best efforts to furnish competent Agents possessing a sufficient working knowledge of the Company's research, development and products to fulfill Consultant's obligations hereunder. Any Agent of Consultant who, in the sole opinion of the Company, is unable to adequately perform any services hereunder shall be replaced by Consultant within [agreed upon number of days] days after receipt of notice from the Company of its desire to have such Agent replaced.

Other than the compensation specified in this Section 3, neither Consultant nor its Agents shall not be entitled to any direct or indirect compensation for services performed hereunder.

5.3. Expenses

The Company shall reimburse Consultant for reasonable travel and other business expenses incurred by its Agents in the performance of the duties hereunder in accordance with the Company’s general policies, as they may be amended from time to time during the course of this Agreement.

6. Invoicing

Company shall pay the amounts agreed to herein upon receipt of invoices which shall be sent by Consultant, and Company shall pay the amount of such invoices to Consultant.

7. Termination of Consulting Relationship

7.1. By the Company or the Consultant

At any time, either the Company or the Consultant may terminate, without liability, the Consulting Period for any reason, with or without cause, by giving [agreed upon number of days] days advance written notice to the other party. If the Consultant terminates its consulting relationship with the Company pursuant to this Section 4(d), the Company shall have the option, in its complete discretion, to terminate Consultant immediately without the running of any notice period. The Company shall pay Consultant the compensation to which the Consultant is entitled pursuant to Section 3(a) through the end of the Consulting Period, and thereafter all obligations of the Company shall terminate.

7.2. Termination Due to Bankruptcy, Receivership

Consultant agrees that it will not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, or by operation of law, any rights or obligations under this Agreement, nor shall Consultant’s rights be subject to encumbrance or the claims of creditors. Any purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of the Company with, or its merger into, any other corporation, or the sale by the Company of all or substantially all of its properties or assets, or the assignment by the Company of this Agreement and the performance of its obligations hereunder to any successor in interest or any Affiliated Company. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, legal representatives, successors, and permitted assigns, and shall not benefit any person or entity other than those enumerated above.

10. PLACE OF WORK

Consultant's services will be rendered largely at [ADDRESS], but Consultant will, on request, come to Company's address of [ADDRESS], or such other places designated by Company to meet with representatives of Company.

11. TIME DEVOTED TO WORK

In the performance of the services, the aforesaid services and the hours Consultant is to work on any given day will be entirely within Consultant's control and Company will rely upon Consultant to put in such number of hours as is reasonably necessary to fulfill the spirit and purpose of this contract. This arrangement will probably take about days of work per week although there undoubtedly will be some weeks during which Consultant may not perform any services at all or, on the other hand, may work practically the full week.

12. Confidential Information

- c) Consultant agrees that all confidential information shall be deemed to be and shall be treated as the sole and exclusive property of Company.
- d) Upon termination of this contract, Consultant shall deliver to Company all drawings, manuals, letters, notes, notebooks, reports, and all other materials (including all copies of such materials), relating to such confidential information which are in the possession or under the control of Consultant. Consultant shall sign secrecy agreements provided by Company.

13. SERVICES FOR OTHERS

Inasmuch as Consultant will acquire or have access to information which is of a highly confidential and secret nature, it is expected that Consultant will not perform any services for any other person or firm without Company’s prior written approval.

14. SERVICES AFTER TERMINATION

Consultant agrees that, for a period of [NUMBER] years following the termination of this agreement, Consultant will not perform any similar services for any person or firm engaged in the business of [TYPE], the Counties of and State of [STATE/PROVINCE].

15. Status of consultant

Consultant is an independent contractor and neither Consultant nor Consultant's staff is or shall be deemed to be employed by Client. Company is hereby contracting with Consultant for the services described on Exhibit A and Consultant reserves the right to determine the method, manner and mean by which the services will be performed. Consultant is not required to perform the services during a fixed hourly or daily time and if the services are performed at the Company's premises, then Consultants time spent at the premises is to be at the discretion of the Consultant; subject to the Company's normal business hours and security requirements. Consultant hereby confirms to Company that Company will not be required to furnish or provide any training to Consultant to enable Consultant to perform services required hereunder. The services shall be performed by Consultant or Consultant's staff, and Company shall not be required to hire, supervise or pay any assistants to help Consultant who performs the services under this agreement. Consultant shall not be required to devote Consultant's full time nor the full time of Consultant's staff to the performance of the services required hereunder, and it is acknowledged that Consultant has other Clients and Consultant offers services to the general public. The order or sequence in which the work is to be performed shall be under the control of Consultant. Except to the extent that the Consultant's work must be performed on or with Company's computers or Company's existing software, all materials used in providing the services shall be provided by Consultant. Consultant's services hereunder cannot be terminated or cancelled short of completion of the services agreed upon except for Consultant's failure to perform the contract's specification as required hereunder and conversely, subject to Company's obligation to make full and timely payment(s) for Consultant's services as set forth in Exhibit B, Consultant shall be obligated to complete the services agreed upon and shall be liable for non-performance of the services to the extent and as provided in Paragraph 10 hereof. Company shall not provide any insurance coverage of any kind for Consultant or Consultant's staff, and Company will not withhold any amount that would normally be withheld from an employee's pay. Consultant shall take appropriate measures to insure that Consultant's staff is competent and that they do not breach Section 4 hereof.

Each of the parties hereto agrees that, while performing Services under this Agreement, and for a period of [NUMBER] months following the termination of this Agreement, neither party will, except with the other party’s written approval, solicit or offer employment to the other party’s employees or staff engaged in any efforts under this Agreement.

16. Use of Work Product

Except as specifically set forth in writing and signed by both Company and Consultant, Consultant shall have all copyright and patent rights with respect to all materials developed under this contract, and Company is hereby granted a non-exclusive license to use and employ such materials within the Company’s business.

17. Company Representative

The following individual [NAME] shall represent the Company during the performance of this contract with respect to the services and deliverables as defined herein and has authority to execute written modifications or additions to this contract as defined in Section 14.

18. Disputes

Any disputes that arise between the parties with respect to the performance of this contract shall be submitted to binding arbitration by the [ASSOCIATION], to be determined and resolved by said Association under its rules and procedures in effect at the time of submission and the parties hereby agree to share equally in the costs of said arbitration.

The final arbitration decision shall be enforceable through the courts of the state of Consultant’s address or any other state in which the Company resides or may be located. In the event that this arbitration provision is held unenforceable by any court of competent jurisdiction, then this contract shall be as binding and enforceable as if this section 8 were not a part hereof.

19. Taxes

not, for a period of two years from the date of termination, have any business dealings whatsoever, either directly or indirectly through associates with any customer or client of the Company or its subsidiaries or any person or firm with whom the Consultant has made contact in connection with his consulting activities for the Company; and the Consultant will keep in strictest confidence, both during the term of this Agreement and subsequent to termination of this Agreement, and will not during the term of this Agreement or thereafter disclose or divulge to any person, firm or corporation, or use directly or indirectly, for his own benefit or the benefit of others, any information which in good faith and good conscience ought to be treated as confidential information including, without limitation, information relating to the software developed by the Company, information as to sources of, and arrangements for, hardware supplied to customers or clients of the Company, submission and proposal procedures of the Company, customer or contact lists or any other confidential information or trade secrets respecting the business or affairs of the Company which the Consultant may acquire or develop in connection with or as a result of the performance of his services hereunder. In the event of an actual or threatened breach by the Consultant of the provisions of this paragraph, the Company shall be entitled to injunctive relief restraining the Consultant from the breach or threatened breach. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedies available to the Company for such breach or threatened breach, including the recovery of damages from the Consultant.

22. Enforceable

The provisions of this Agreement shall be enforceable notwithstanding the existence of any claim or cause of action of the Consultant against the Company whether predicated on this Agreement or otherwise.

23. Representations and Warranties

This agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Consultant by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Company acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein.

26. Indemnification

Consultant hereby indemnifies and agrees to defend and hold harmless the Company from and against any and all claims, demands and actions, and any liabilities, damages or expenses resulting there from, including court costs and reasonable attorneys' fees, arising out of or relating to the services performed by Consultant under this Agreement or the representations and warranties made by Consultant pursuant to paragraph 7 hereof. Consultant's obligations under this paragraph 8 hereof shall survive the termination, for any reason, of this Agreement.

27. Attorney's Fees

Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce this Agreement, the party or parties prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party or parties against whom enforcement was sought.

28. Nonwaiver

No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged and, in the case of the Company, by an executive officer of the Company or other person duly authorized by the Company

If the scope of any of the provisions of the Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provisions shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of this Agreement shall not thereby fail, but that the scope of such provisions shall be curtailed only to the extent necessary to conform to law.

33. Additional Work

After receipt of an order which adds to the Services, Consultant may, at its discretion, take reasonable action and expend reasonable amounts of time and money based on such order. Company agrees to pay Consultant for such action and expenditure as set forth in Exhibit B of this Agreement for payments related to Services.

34. Notices

All notices or other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand or mailed, postage prepaid, by certified or registered mail, return receipt requested, and addressed to the Company at:

[Company’s name and address]

or to the Consultant at:

[Consultant’s name and address]

Notice of change of address shall be effective only when done in accordance with this Section.

BUSINESS CONSULTANT AGREEMENT

This Business Consultant Agreement ("Agreement") is made and effective this [Date],

BETWEEN: [CONSULTANT NAME] (the "Consultant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

1. Consultation Services

The company hereby employs the consultant to perform the following services in accordance with the terms and conditions set forth in this agreement: The consultant will consult with the officers and employees of the company concerning matters relating to the management and organization of the company, their financial policies, the terms and conditions of employment, and generally any matter arising out of the business affairs of the company.

2. Terms of Agreement

This agreement will begin [Date] and will end [Date]. Either party may cancel this agreement on [NUMBER] days notice to the other party in writing, by certified mail or personal delivery.

3. Time Devoted by Consultant

It is anticipated the consultant will spend approximately [hours] in fulfilling its obligations under this contract. The particular amount of time may vary from day to day or week to week. However, the consultant shall devote a minimum of [hours] per month to its duties in accordance with this agreement.

DR. LUBOGO ISAAC CHRISTOPHER

The company may from time to time request that the consultant arrange for the services of others. All costs to the consultant for those services will be paid by the company but in no event shall the consultant employ others without the prior authorization of the company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY

CONSULTANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

- d. Labor classifications applicable to services to be provided under and pursuant to this agreement shall be limited to those classifications set forth by Exhibit A, which Exhibit may be revised from time to time by mutual agreement between the parties and which Exhibit is attached to this agreement and, by this reference, made a part of this agreement.
- e. Company shall have sole discretion to establish the minimum qualifications necessary for the performance of any service to be rendered under and pursuant to this agreement. Further, if at any time and at its sole discretion, Company determines that the services performed under and pursuant to this agreement by any of the persons provided by Agency are not satisfactory, Company will so notify Agency in writing and Agency shall immediately withdraw such individual and, at Company’s option, furnish an individual who meets the qualifications required.

3. COMPENSATION

For services provided under and pursuant to this agreement and the written requests of Company, Agency shall be compensated as provided below:

- a. For labor expended by Agency in providing services under and pursuant to this agreement, Agency shall be paid an amount equal to the applicable hourly or daily rate multiplied by the total number of hours or days actually worked by persons provided by Agency. The hourly or daily rate shall not exceed those rates set forth by Exhibit A applicable to the labor classification(s) set forth by Company’s written requests.
- b. Actual expenses of persons provided by Agency incurred in the providing of services and directly related to such services, shall be reimbursed by Company to Agency at actual cost when supported by appropriate receipts.

4. PAYMENT

Payment for services provided Company under and pursuant to this agreement shall be net [number] days from the date of receipt by Company of Agency’s invoice. Agency’s invoice shall set forth, as a minimum, details of labor expended and expenses actually incurred as provided below:

- b. All information provided by Agency to Company in reports of work done, together with any other information acquired or gained by Agency or by Agency-supplied workers, shall for all time and for all purposes be regarded by Agency as strictly confidential and held by Agency in confidence, and solely for Company’s benefit and use, and shall not be used by Agency or directly or indirectly disclosed by Agency to any person whatsoever excepting to Company or with Company’s written permission.
- c. Upon the request of Company, Agency shall require that Agency-supplied workers assigned to provide services under and pursuant to this agreement execute a supplementary agreement of confidentiality and assignment of inventions as set forth by Exhibit A attached to this agreement, which Exhibit, by this reference, is incorporated into and made a part of this agreement.

7. INVENTIONS AND COPYRIGHTABLE WORKS

Agency represents and warrants that Agency and its Agency-supplied workers have the right to perform the services required under and pursuant to this agreement without violation of obligations to others, and that Agency and its Agency-supplied workers have the right to disclose to Company all information transmitted to Company in the performance of services under and pursuant to this agreement, and Agency agrees that any information submitted to Company, whether patentable or not, may be used fully and freely by Company.

9. DURATION AND TERMINATION

- a. This agreement shall become effective as of the date stated above and shall continue for a period of [Specify] thereafter. In addition, this agreement may be terminated pursuant to the following:
 - i. Immediately upon death or incapacity of any person employed or supplied by Agency who, in the sole opinion of Company, was essential for the successful performance of Agency’s obligation under and pursuant to this agreement; or
 - ii. By either party, with or without cause at any time, upon [number] days’ prior written notice; or
 - iii. By Company, at any time, upon [number] days’ prior written notice, if Agency assigns this agreement, or any right or obligation under this agreement, without Company’s prior written consent; or if there is a change in the control or management of Agency that is unacceptable to Company; or if Agency ceases to function as a going concern, or to conduct its operations in the normal course of business.
- b. The obligations of Agency under Sections Five and Six above shall survive any expiration or termination of this agreement.

The rights and obligations of Agency under this agreement are personal to Agency and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of Company.

14. ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

15. NOTICES

Any notice provided for or concerning this agreement shall be in writing and be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of this agreement.

16. GOVERNING LAW

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of [state/province].

17. PARAGRAPH HEADINGS

The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

18. MODIFICATION OF AGREEMENT

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

19. NO WAIVER

EXTENDED DATE FOR PERFORMANCE

This Extended Date for Performance Agreement (the "Agreement") is made and effective this [Date],

BETWEEN: [FIRST PARTY] (the "First party"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND PARTY] (the "Second party"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual covenants contained in this agreement, the parties agree as follows: Wherein said Agreement expires on [DATE], and the parties desire to extend and continue said Agreement; it is provided that said Agreement shall be extended for an additional term of [TIME PERIOD], commencing upon the expiration of the original term and expiring on [DATE].

Said agreement provides that completion or performance shall be made on or before [DATE], (the "Performance date").

The parties hereby agree that the date for performance be continued and extended to [DATE], with no other change in terms or further extension intended.

IN WITNESS WHEREOF, the parties have executed this agreement at [designate place of execution] on [date].

FIRST PARTY

SECOND PARTY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

2. STATUS OF INDEPENDENT CONTRACTOR

This Agreement does not constitute a hiring by either party. It is the parties intentions that Independent Contractor shall have an independent contractor status and not be an employee for any purposes, including, but not limited to, [laws]. Independent Contractor shall retain sole and absolute discretion in the manner and means of carrying out their activities and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership or joint venture, and the Company shall not be liable for any obligations incurred by Independent Contractor unless specifically authorized in writing. Independent Contractor shall not act as an agent of the Company, ostensibly or otherwise, nor bind the Company in any manner, unless specifically authorized to do so in writing.

3. TASKS, DUTIES, AND SCOPE OF WORK

- a. Independent Contractor agrees to devote as much time, attention, and energy as necessary to complete or achieve the following: [Describe]. The above to be referred to in this Agreement as the “Scope of Work”. It is expected that the Scope of Work will completed by [Date].

- b. Independent Contractor shall additionally perform any and all tasks and duties associated with the Scope of Work set forth above, including but not limited to, work being performed already or related change orders. Independent Contractor shall not be entitled to engage in any activities which are not expressly set forth by this Agreement.

Independent Contractor recognizes and understands that it will receive an [specify tax] statement and related tax statements, and will be required to file corporate and/or individual tax returns and to pay taxes in accordance with all provisions of applicable Federal and State law. Independent Contractor hereby promises and agrees to indemnify the Company for any damages or expenses, including attorney's fees, and legal expenses, incurred by the Company as a result of independent contractor's failure to make such required payments.

6. AGREEMENT TO WAIVE RIGHTS TO BENEFITS

- a. Independent Contractor hereby waives and foregoes the right to receive any benefits given by Company to its regular employees, including, but not limited to, health benefits, vacation and sick leave benefits, profit sharing plans, etc. This waiver is applicable to all non-salary benefits which might otherwise be found to accrue to the Independent Contractor by virtue of their services to Company, and is effective for the entire duration of Independent Contractor's agreement with Company. This waiver is effective independently of Independent Contractor's employment status as adjudged for taxation purposes or for any other purpose.

- b. Neither this Agreement, nor any duties or obligations under this Agreement may be assigned by either party without the consent of the other.

7. TERMINATION

This Agreement may be terminated prior to the completion or achievement of the Scope of Work by either party giving [number] days written notice. Such termination shall not prejudice any other remedy to which the terminating party may be entitled, either by law, in equity, or under this Agreement.

Independent Contractor shall not, during this Agreement and for a period of one year immediately following termination of this agreement, either directly or indirectly, recruit any of Company’s employees for the purpose of any outside business.

11. RETURN OF PROPERTY

On termination of this Agreement, or whenever requested by the parties, each party shall immediately deliver to the other party all property in its possession, or under its care and control, belonging to the other party to them, including but not limited to, proprietary information, customer lists, trade secrets, intellectual property, computers, equipment, tools, documents, plans, recordings, software, and all related records or accounting ledgers.

12. EXPENSE ACCOUNTS

Independent Contractor and the Company agree to maintain separate accounts in regards to all expenses related to performing the Scope of Work. Independent Contractor is solely responsible for payment of expenses incurred pursuant to this Agreement unless provided otherwise in writing by [an officer] of the company. Independent Contractor agrees to execute and deliver any agreements and documents prepared by Company and to do all other lawful acts required to establish document and protect such rights.

13. WORKS FOR HIRE

Independent Contractor agrees that the Scope of Work, all tasks, duties, results, inventions and intellectual property developed or performed pursuant to this Agreement are considered “works for hire” and that the results of said work is by virtue of this Agreement assigned to the Company and shall be the sole property of Company for all purposes, including, but not limited to, copyright, trademark, service mark, patent, and trade secret laws.

14. LEGAL COMPLIANCE

Independent Contractor is encouraged to treat all company employees, customers, clients, business partners and other affiliates with respect and responsibility. Independent Contractor is required to comply with all laws, ethical codes and company policies, procedures, rules or regulations, including those forbidding sex harassment, discrimination, and unfair business practices.

The parties shall each appoint one person to hear and determine the dispute and, if they are unable to agree, then the two persons so chosen shall select a third impartial arbitrator whose decision shall be final and conclusive upon both parties. The attorneys fees and costs of arbitration shall be borne by the losing party, as set forth in paragraph 18, unless the Parties stipulate otherwise, or in such proportions as the arbitrator shall decide.

19. INDEMNIFICATION

Any controversy between the parties to this Agreement involving the construction or application of any of the terms, provisions, or conditions of this Agreement, shall on written request of either party served on the other, be submitted first to mediation and then if still unresolved to binding arbitration. Said mediation or binding arbitration shall comply with and be governed by the provisions of the [laws] unless the Parties stipulate otherwise.

Independent Contractor shall defend, indemnify, hold harmless, and insure Company from any and all damages expenses or liability resulting from or arising out of, any negligence or misconduct on Independent Contractor's part, or from any breach or default of this Agreement which is caused or occasioned by the acts of Independent Contractor. Independent Contractors shall insure that its employees and affiliates take all actions necessary to comply with the terms and conditions set forth in this Agreement. Independent Contractor shall name Company as an additional insured on all related insurance policies including workers compensation, and general liability.

20. CONTAINMENT OF ENTIRE AGREEMENT

This Agreement is an independent document and supersedes any and all other Agreements, either oral or in writing, between the parties hereto, except any Confidentiality, Trade Secret, Non-Compete, Non-Disclosure, Indemnification or Arbitration Agreement. This Agreement contains all of the covenants and Agreements between the parties, except for those set forth in any Confidentiality, Trade Secret, Non-Compete, Non-Disclosure, or Arbitration Agreement.

21. REPRESENTATION

In order to help us assess your firm's ability to meet our requirements, we are asking that you provide us with a list of firms where you have completed installation.

In addition to the name of the user company, would you please identify the plant and location where the product is in service and the quantity of products furnished. If there is someone in particular we should contact, that information would be helpful.

Thank you for your cooperation in this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

Said subcontract price is dependent upon the conditions set forth in Exhibit A being met. Should said conditions not be met, the subcontract amount shall be modified accordingly.

3. SPECIAL CONDITIONS

The Special Conditions to Subcontract are incorporated in this Subcontract as though fully set forth herein. Subcontractor hereby acknowledges receipt of the Special Conditions.

4. COMMUNICATION AND NOTICE

- a. All communications between Subcontractor and General Contractor, Owner or Architect shall be via Contractor.
- b. Subcontractor shall furnish Contractor with periodic progress reports as required by Contractor, including status of material, equipment, manpower and submittal.
- c. Subcontractor shall be deemed to have received notice of a fact, request, order, or demand when its Superintendent is notified, either orally or in writing, or [NUMBER] days after written notice is sent by registered or certified mail addressed to Subcontractor's last known place of business, whichever is sooner.
- d. Contractor shall be deemed to have received notice of a fact, request, or demand [NUMBER] days after written notice is sent by registered or certified mail addressed to the following address:

[Contractor's address]

5. GOVERNING LAW AND RULES OF CONSTRUCTION

- a. The validity, interpretation, and performance of this Subcontract shall be governed by the laws of the jurisdiction where the Project is located.
- b. Titles, captions, or headings to any provision, article, etc., shall not limit the full contents of the same. These articles have the full force and effect as if no titles existed.
- c. If any term or provision of this Subcontract is determined to be invalid, it shall not affect the validity and enforcement of the remaining terms and provisions of this Subcontract.

CREDIT AND COLLECTION



COLLECTION

AGREEMENT ON DISPUTED ACCOUNT

This Agreement on Disputed Account (the "Agreement"), is made and effective [EFFECTIVE DATE],

BETWEEN: [CLAIMANT NAME] (the "Claimant") a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [DISPUTANT NAME] (the "Disputant") a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS Claimant has a claim against Disputant on a disputed invoice dated [DATE] in the amount of [AMOUNT];

IT IS AGREED AS FOLLOWS:

1. The Claimant will accept a lesser payment of [AMOUNT] in full settlement of its claim on the invoice.
2. If the Disputant does not pay the lesser payment in full to the Claimant within [NUMBER] days of receipt back of an original copy of this agreement executed by both parties, the Claimant may sue the Disputant for the full amount of its disputed invoice.
3. If the Claimant's claim on its disputed invoice is compromised pursuant to this agreement, the parties mutually release each other from any and all claims and rights of action against each other, present and future, arising in connection with their dispute over payment of the disputed invoice.
4. This agreement binds and benefits the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.

Executed under seal in duplicate on [DATE].

AGREEMENT TO EXTEND DEBT PAYMENT

This Agreement to Extend Debt Payment (the "Agreement"), is made and effective [EFFECTIVE DATE],

BETWEEN: [CREDITOR NAME] (the "Creditor") a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [DEBTOR NAME] (the "Debtor") a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE RECEIVED, the undersigned, Creditor and Debtor, hereby acknowledge and agree that

- 1. The Company presently owes the Creditor the sum of [AMOUNT], said sum being presently due and payable.
- 2. In further consideration of the Creditor's forbearance, the Debtor agrees to pay said debt on extended terms in the manner following:
- 3. [DESCRIBE]
- 4. In the event the Debtor fails to make any payments punctually on the agreed extended terms, the Creditor shall have full rights to proceed for the collection of the entire balance then remaining.
- 5. This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

Signed under seal this [DATE].

DEBTOR

CREDITOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF ACCOUNTS RECEIVABLE

This is an agreement made and effective [EFFECTIVE DATE],

BETWEEN: [NAME] a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [NAME] a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

FOR VALUE, RECEIVED, the undersigned, [NAME] hereby sells and transfers all right, title and interest in and to the account(s) receivable as annexed; to [NAME]. [NAME], the undersigned warrants that said account(s) are just and due and the undersigned has not received payment for same or any part thereof.

It is further provided that if any said account does not make full payment within [NUMBER] days, said account(s) may be retransferred to the undersigned and the undersigned shall repurchase the same for the balance then owing on said account(s).

Signed under seal this [DATE].

NAME

NAME

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CANCELLATION OF CREDIT LINE

Dear [Contact name],

CHECKLIST

Actions To Improve Collection Of Accounts

Unfortunately, if your company extends credit to your customers it is inevitable that some of those customers are not going to pay you on time. In fact, you can rest assured that some of those customers are not going to pay you at all! The following actions can help improve your chances of collecting your accounts.

- Require payment by cash or credit card whenever possible.
- Encourage customers to pay sooner by offering discounts for payment within a specific period of time. For example, you could offer a 2 percent discount if an account is paid within ten days rather than thirty. Discourage customers from paying late by charging interest or late fees on delinquent accounts. Be sure to consult with your attorney first to be sure you are complying with your state’s usury statutes and applicable federal laws!
- Make a personal visit to your customer to discuss a past-due bill, or talk to your customer when he or she visits your business, whenever possible.
- Make a phone call to your customer about the past-due bill in cases where a personal visit is not possible.
- Send a series of “reminder” letters to your customer if talking to him or her personally is impractical, or if the amount owed is relatively small. The first letter can simply be a friendly reminder. The second letter can be a little more forceful. The third letter can be a “final” demand before you turn the account over to a collection agency or to your attorney.
- Use a collection agency to collect a past-due account if trying to collect the account is too time consuming or if you have not been successful in collecting it. A collection agency usually charges a significant percentage of the amount of the debt as its fee.
- File suit in small claims (conciliation) court if the dollar amount of the past due account is under the maximum amount allowed for such claims.
- If the amount owed by your customer is more than the amount allowed by your local small claims or conciliation court, ask your attorney to file a lawsuit to collect the account.

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Collection Instructions to lawyers

Dear [Contact name],

Please accept this letter as your instructions to immediately commence collection proceedings on our behalf against [Full name of debtor] of [Full address of debtor] for [Describe debt] in the amount of [Amount].

We enclose copies of the relevant documents for your file:

- Purchase order
- Invoice
- Bad cheque & notice of return
- Correspondence

We shall keep the original documents safe for production in court as necessary

If you need further documents or information, please contact the writer.

Please include claims for pre-judgment interest and legal costs with the claim for the amount of the invoice.

We would ask you to keep us informed of the progress of this matter and to consult us when our legal bill reaches [Amount].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

OBJECT: WE OFFER ADDITIONAL DISCOUNT

Dear [Contact name],

I want to tell you how personally sorry I am to hear of the difficulties you've been experiencing in your business. I'm sure that your years of experience and you natural acumen will soon have you back in full swing.

Naturally, I want to help you out in any way we can, since you've been a good customer for many years.

We think we can extend some help on your credit account with us. As you know, it is now [DATE] and your account is [NUMBER] months late. I assume that the delay is related to your current difficulties.

Here's how we can help you. Normally, you pay within [NUMBER] days and take a [%] discount. Naturally, the discount is forfeited after [NUMBER] days. But, as a gesture of goodwill, I'm creating a special discount of [%] on your account. I'm enclosing a new invoice showing the new discount. I know you're anxious to maintain a good credit relationship with us – and so I'll look forward to receiving your payment by [DATE].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com .

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: ENCLOSED STATEMENT

Dear [Contact name],

Perhaps you have overlooked the fact that your account is currently overdue.

I have enclosed a statement of your account which shows a balance due of [amount due]. If there is some reason why you have failed to remit payment, please call us to discuss the problem.

If it would be more convenient, please feel free to write us a note at the bottom of this letter and send it in the enclosed envelope.

Thank you for your prompt attention to this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Name of debtor

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: UNPAID BALANCE DUE TO CLERICAL ERRORS

Dear [Contact name],

Our credit department has notified me that your account is past due.

Since you are one of our preferred customers we want to offer any assistance we can. We know that most overdue balances result from clerical errors, and hope that is, indeed, the cause of this current situation.

Should you require additional time to settle your balance, please feel free to give us a call. I will see to it that you are granted a reasonable length of time in which to pay your account balance.

We value your business, and sincerely hope that this gesture will be of some help. Thank you for your prompt response. We look forward to hearing from you soon.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Final DEMAND FOR PAYMENT – CERTIFIED MAIL

Dear [Contact name],

Despite our efforts to resolve your past due account, payment on this account has still not been made.

DR. LUBOGO ISAAC CHRISTOPHER

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: courtesy reminder of late payment

Dear [Contact name],

Your payment of [Amount owed] pursuant to our invoice dated [Invoice date], has not arrived by the date required. We are sure that this is an oversight and ask that you please send it today in the enclosed self-addressed envelope. If we are forced to spend time collecting overdue accounts receivable, we will not be able to offer our valued clients, such as yourselves, our current prices. If you have already sent your payment to us, please accept our thanks. If you have any questions, please feel free to call the undersigned at [Your company’s phone number].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFERRAL TO AGENCY

Dear [Contact name],

relationship.

We value your business and look forward to resolving this difficulty in the immediate future. If I may be of further assistance please call me at your convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Deliveries Held Until Past Due Balance Paid

Dear [Contact name],

I must unfortunately inform you that due to the problems we have been experiencing in obtaining your payment for the [PRODUCTS] we have delivered in accordance with the provisions of our contract of [Date], we will not be able to deliver any more goods to you unless you provide us with adequate assurance for payment on said goods.

We truly regret having to withhold any future delivery, but, at this point, we have no other viable alternative.

Please let us know promptly what your decision is in regard to your willingness to provide us with the adequate assurance we are requesting.

Sincerely,

Your name

Your title

Telephone contact

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Demand that Future Payments Be by Certified Check

Dear [Contact name],

After review of your account, we realized that you have had [NUMBER] checks returned unpaid from your bank in the last [MONTHS].

We truly regret having to take this action but we must insist that all future payments be made by certified check, bank wire or bank draft. Please note that any payment which is not certified will not be accepted and will be returned. This will cause you to incur a late charge. For all future payments, please send them to the attention of [NAME] for proper credit. Your cooperation is appreciated. Should you have any question, please contact me at your convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

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Thus, as of the date of this letter, you are in arrears in the total amount of [Amount in arrears].
[Option]

In accordance with the terms of the Note, this constitutes a major default under the Note, and demand is hereby made for the total amount in arrears together with the entire principal balance of [Amount] outstanding under the Note.

Demand is hereby made for payment in full of said amount, which payment must be received by us by a cashier’s check by [Deadline date], at the following address:

[Company]
[Address]
[City, State Zip]

In the event we do not receive full payment from you by the required date, we will proceed to commence legal proceedings against you under the Note and will additionally assess you legal fees and costs for such legal proceedings, as provided to us by the Note.

Sincerely,
Your name
Your title
Telephone contact
youremail@yourcompany.com

February 28, 2022
Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: Denial of Request for Additional Discount

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Denial of Request for Quarterly Billing

Dear [Contact name],

This letter is to confirm that we received your request to bill you quarterly rather than monthly. I must admit that it presents us with somewhat of a problem.

Inasmuch as we would like to welcome you as a new customer of [COMPANY], we wish to accommodate you in any way we can. However, there are some limits we can't cross. Your request would result in preferential treatment and would be unfair to all of our customers who must settle their accounts within [NUMBER] days. To be quite honest, if we were to offer the terms you have requested to all our clients, we would soon be out of business completely. I am sure you can appreciate our position in this matter. We would welcome your account on our regular terms basis and hope that we will have the opportunity to serve you in a near future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: [%] discount option on prepayment

Dear [Contact name],

This year we are again offering to our customers our prepayment option of a [%] cash discount on our [Period] contract [Start Month through end month]. Many of our customers prefer the [Period] contract because of the convenience of writing one check and using one stamp.

If you decide to take advantage of this offer, please send us your check for [Amount] for the [Period and service] by [Date]. If you decide to pay monthly, the [Period] charge will total [Amount].

If you have any questions concerning prepayment or your cost, please call me at [Number].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DISPUTED BALANCE NOTICE

Dear [Contact name],

We do hereby confirm that we are in receipt of a statement dated [Date], indicating a balance of [Amount] for our account [NUMBER].

After examination of our records, we dispute said balance for the following reason(s):

- Goods billed for have not been received.
- Prices are in excess of agreed amount.
- Prior payment made in the amount of [Amount] on [Date].
- Goods were unordered.
- Goods were defective as per prior notice.
- Goods are available for return as per our rights of return and credit.
- Other: [Describe]

Please adjust our account accordingly. Do not hesitate to contact me so that we find a mutually acceptable compromise on this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

OBJECT: INSTALLMENT PAYMENT ACKNOWLEDGMENT

Dear [Contact name],

I am pleased we could resolve your outstanding balance by accepting your agreement to pay the [Amount], balance in [weekly/monthly] payments of [Amount] each. We look forward to receiving your first payment on [Day] day of [Month], [Year].

Your future business is also appreciated and upon payment of the account we will consider the extension of further credit.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: Installment Payment Arrangement

Dear [Contact name],

This is to confirm the arrangement under which we will accept payment of our outstanding account of [Amount] in installments. You will sign and return the enclosed copy of this letter indicating admission of the full amount of the account and acceptance of the terms of our agreement.

As we agreed today, you have agreed that you owe us [amount] and will be paying this amount as follows:

[state terms]

We appreciate your cooperation in this matter. Please note that if you cannot meet this schedule, you should contact us before the payment due date.

Thank you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: 10 day notice before collection on delinquent account

Dear [Contact name],

I realize you haven't reacted to my previous notices concerning your account. I have written to you quite a few times over the past [NUMBER] months requesting an explanation on why you have failed to bring your account with us current. Including the interests, the amount due is now [AMOUNT].

Unfortunately, by ignoring these warnings you are damaging the excellent credit record you had previously maintained with [company]. In addition, you are incurring additional expense to yourself and to us.

CREDIT



OBJECT: APOLOGY FOR ACCOUNTING ERRORS AND PAST DUE NOTICE

Dear [CONTACT NAME],

We are very much concerned that due to our mistake, you had to deal with unnecessary problems. Unfortunately, it has taken some time to find out exactly what occurred, and, therefore, please accept our apologies for the delay in this response. You definitely deserve an explanation for what went wrong in our accounting department. I hope that this letter will help to resolve some recent difficulties.

For what I've been told on this issue, your payment was received in time but it had been credited to an account which bears a similar name to yours. As a result, we began sending you our standard notices requesting payment, according to our collection policy. Even after the posting error was rectified, our accounting department failed to notify our credit department, which is why you continued to receive our correspondence asking for payment.

I understand how exasperating this has been for you and I am deeply sorry that it has taken so long to straighten out this problem. While there is a procedure within our firm to prevent this type of error from happening, we are reinforcing this procedure.

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APOLOGY FOR NOT CREDITING PAYMENT

Dear [CONTACT NAME],

I want to thank you for your support and assistance in helping us to locate your payment of [DATE], which had not been credited to your account. I understand how exasperating this has been for you and I am deeply sorry that it has taken so long to straighten out this problem. Your help enabled us to go through our records and pinpoint how this error occurred.

Please accept our sincere apology for the correspondence we wrote under the assumption that this bill had not been paid. I know this insistence on our part must have been extremely frustrating for you, especially in light of the fact that you have always been a valued customer of ours and have paid your bills promptly.

Thank you for your patience and please be assured that we will do everything in our power to ensure that this type of error does not surface in the future.

Sincerely,

Your name

OBJECT: APOLOGY TO CUSTOMER FOR ACCOUNTING ERRORS

Dear [CONTACT NAME],

On behalf of [COMPANY], I want to thank you for your recent letter regarding an error that occurred with your account [NUMBER]. After examination, we were able to track down the error and have credited your account accordingly. A report to this effect has also been sent to our credit department – I can certify that your credit rating won't be penalized in any way. Please note that as of [DATE], your account balance is [AMOUNT].

You are a valued customer, [CONTACT NAME], and we apologize for any inconvenience this mistake may have caused you. If we may be of further assistance please do not hesitate to contact me at your convenience.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

January 26th 202

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APPROVAL OF NEW CREDIT ACCOUNT

Dear [CONTACT NAME],

Your account with [NAME OF FIRM] has been approved for credit. We would like to inform you that your account number is [NUMBER]. Please inform your personnel to be sure to include this account number on any documents and correspondence directed to us.

We welcome you to our family of customers and hope that our new relationship will be mutually beneficial and profitable.

As our way of saying thank you for opening your new account with us, we are offering you a [SPECIFY] discount on all merchandise ordered in the month of [MONTH].

If you have any questions regarding our credit policy, please call [NAME], our Credit Manager, who will be more than happy to discuss your account with you.

We will be looking forward to your orders and to the opportunity of serving you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

January 25, 2022

Name of information holder

OBJECT: AUTHORITY TO RELEASE CREDIT-RELATED INFORMATION



Dear [CONTACT NAME],

The undersigned hereby authorizes the disclosure and release of any and all personal credit-related information in your possession, including but not limited to credit, financial, salary, banking, debt and tax information and materials, to [FIRM NAME], as required, until further notice. This authorization is valid for [NUMBER] days from the date of my signature below. Please keep a copy of my release request for your files.

Thank you for your co-operation.

Dated: [DATE]

[WITNESS]

[NAME OF CREDIT APPLICANT]

Business Credit Application

Name/Address

Last:	First:	Middle Initial:	Title
Name of Business:			Tax I.D. Number
Address:			
City:	State:	ZIP:	Phone:

Address:	Address:	Address:
Phone:	Phone:	Phone:
Account Opened Since:	Account Opened Since:	Account Opened Since:
Credit Limit:	Credit Limit:	Credit Limit:
Current Balance:	Current Balance:	Current Balance:

Financial Information

Company Total Assets	Company Total Liabilities	Annual Net Income	Amount of Credit Requested:
Have you or your officers or affiliates ever filed a petition in bankruptcy? Yes <input type="checkbox"/> No <input type="checkbox"/>			
Is your company subject to any litigation? Yes <input type="checkbox"/> No <input type="checkbox"/> If so, describe:			

We declare that the above information is true, correct and complete and is given to induce the Company to extend credit. We authorize the Company to make such credit investigation as the Company sees fit, including contacting the above trade references and banks and obtaining credit reports. We authorize all trade references, banks and credit reporting agencies to disclose to the Company any and all information concerning the financial and credit history of my company and myself:

I have read the terms and conditions stated below and agree to all of those terms and conditions.

Name of Company: _____

Authorized Signature: _____

Title: _____

[date]

Contact Name

Address/ Address2

City, State/Province / Zip/Postal Code

OBJECT: CHARGE ACCOUNT LIMIT RAISE

Dear [CONTACT NAME],

I am pleased to inform you that after careful review of your charge account, we have decided to increase your credit limit as follows:

OLD CREDIT LIMIT: [AMOUNT]

NEW CREDIT LIMIT: [AMOUNT]

Moreover, your new status qualifies you for use of our installment account. Should you require additional information about this new account, please call me as I will be happy to help.

You are a valued customer, and as such, we always keep you informed about our special sales. We currently have a promotion on [PRODUCTS/SERVICES]. If you order by [DATE], we will give you a [%] rebate on all your purchases.

We appreciate your continued patronage, and look forward to being able to assist you in the near future.

Sincerely,

Your name

Your title /Telephone contact/ youremail@yourcompany.com

CHARGE ACCOUNT TERMS AND CONDITIONS

This Agreement is made and effective [EFFECTIVE DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CUSTOMER NAME] (the "Customer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

IT IS AGREED AS FOLLOWS:

Buyer agrees with seller [SELLER’S NAME] to pay for all purchases upon receipt of monthly statement. Charges billed, but not paid by the [DAY] of the month following purchase will be considered delinquent and subject to finance charges.

The FINANCE CHARGE for individuals is computed by a periodic rate of [%]per month which is an ANNUAL PERCENTAGE RATE OF [RATE]% applied to the "Previous Unpaid Balance less Current Credits." Current credits are payments or credits received by [TIME] A.M. on the [DAY] day of the following month. The minimum payment due will be payment of Buyer's indebtedness in full. If not paid, [SELLER’S NAME] may declare the unpaid balance due and payable immediately. Buyer agrees to pay collection expenses, including reasonable attorney's fees and court costs, if it is necessary to collect through legal action.

Buyer assumes full responsibility for all materials purchased from [SELLER’S NAME]. Buyer agrees to be personally liable for all charges and individually guarantees payment of all charges promptly. Buyer agrees to notify [SELLER’S NAME] within [NUMBER] days in writing of receipt of monthly statement of any in billing. Failure to so notify [SELLER’S NAME] signifies total acceptance and responsibility for prompt payment in full of account.

DR. LUBOGO ISAAC CHRISTOPHER

We thought it would, and decided this would be a perfect way to say thank you to our customers for having shopped with us throughout the year.

Starting today, any purchases that you charge to your account will not appear on your statement until [DATE]! This offer is available to you until Christmas Eve, [YEAR].

We hope that you will take advantage of our holiday offering and come see our Christmas season selections. While you are here, please come [PLACE] for a complimentary [GIFT].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: COMPANY CREDIT ACCOUNT APPROVAL

Dear [CONTACT NAME],

Dear [CONTACT NAME],

Thank you for your recent application for credit with our firm. We regret to inform you that we cannot extend credit terms to you at the present time, based on the report we received back from our credit bureau.

If you feel that there may be some errors in the records of the credit reporting agency, we suggest that you contact them and review their current information. In the event that there have been errors made, please direct them to submit a revised report to us for our reconsideration.

We would be most happy to welcome you as a customer and to accommodate you in any way possible under the circumstances. We do have a layaway plan and various other options that are available to our cash customers.

Please feel free to call me if you have any questions or if I can be of assistance to you in any way.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

January 25, 2022

Contact Name

Address

Address2

Own	Rent	(Please circle)	Monthly payment or rent	How long?
Previous Address:				
City:		State:	ZIP:	
Owned	Rented	(Please circle)	Monthly payment or rent	How long?

Employment History

Employer:		Job Title:		
Address:		Supervisor:		
City:	State:	ZIP:	Salary:	
Phone:	Date From:		Date To:	
Employer:		Job Title:		
Address:		Supervisor:		
City:	State:	ZIP:	Salary:	
Phone:	Date From:		Date To:	

Source of Income Total Expenses Total

Salary		Loans	
Bonuses & Commissions		Charge Account bills	
Income From Rental Property		Monthly Bills	
Investment Income		Real Estate Mortgages	
Other Income		Other Debts -- Itemize	
Total Income		Total Expenses	

Signature

Date

January 25, 2022

Contact Name

Address/ Address2 /City, State/Province /Zip/Postal Code

OBJECT: CREDIT EXTENSION TO PAST DUE PREFERRED CUSTOMER

Dear [CONTACT NAME],

Our credit department has notified me that your account is past due. You are one of our preferred customers and therefore we want to offer any assistance we can. We know that most overdue balances result from clerical errors. However, should you require additional time to settle your balance, please feel free to give us a call. I will see to it that you are granted an additional [NUMBER] days in which to pay your account balance.

We value your business, and sincerely hope that this gesture will be of some help. Thank you for your kind consideration, and we look forward to seeing you soon.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

January 25, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT INFORMATION REQUEST

Dear [CONTACT NAME],

Thank you for your recent order dated [DATE]. We shall be pleased to consider you for a line of credit; however, we first require additional information. Accordingly, would you please provide us with the information checked?

Bank Affiliations

Credit Application (enclosed)

Current Financial Statements

[number] Trade References and Bank References

CREDIT MEMO



Date

Bill to:

Ship to:

ADDRESS:	ADDRESS:
CITY: STATE: ZIP:	CITY: STATE: ZIP:
PHONE:	PHONE:
CUSTOMER ID:	TERMS:
REASON FOR CREDIT:	
APPROVED BY:	DATE:

January 27, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CREDIT REFERENCE REQUEST

Dear [CONTACT NAME],

We are responding to your letter requesting credit information on [COMPANY].

Over the past [NUMBER] years [COMPANY] has ordered [AMOUNT] worth of merchandise from us. During that time, there have been [NUMBER] incidents where the bills have been [NUMBER] days past due. To be fair, those incidents occurred [NUMBER] years ago. Over the past year [COMPANY]'s bills have been current.

DR. LUBOGO ISAAC CHRISTOPHER

We have enclosed your card and our pamphlet that explains our billing procedure, how to use your credit card plus additional information we believe you will find useful.

Thank you again for choosing to shop with us.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

January 27, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DENIAL OF CREDIT

Dear [CONTACT NAME],

After careful consideration of your request for a [NAME OF ACCOUNT APPLIED FOR], we must regretfully advise you that we are unable to accommodate you at this time.

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHARGE ACCOUNT DENIAL

Dear [CONTACT NAME],

We regret to inform you that we are unable to open a charge account for you at present due to information obtained from the following consumer reporting agency: [AGENCY].

We wish to advise you that you have the right under federal law to obtain full disclosure of the nature and substance of all information on you that is contained in the files of the consumer credit reporting agency, with the exception of medical data, upon the presentment of proper identification.

Although we are unable to offer you credit terms, we would be pleased to welcome you as a customer and hope that we will be able to open a charge account for you some time in the future.

Thank you for submitting your application to us.

Sincerely,

Your name

Your title

DR. LUBOGO ISAAC CHRISTOPHER

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF C.O.D. TERMS

Dear [CONTACT NAME],

We are in receipt of your order dated [DATE] and your request for credit terms.

While we do want to accept your order, we regret we cannot ship on credit terms at the present time, due to inadequate credit. Accordingly, we propose shipment on C.O.D. terms. We will assume C.O.D. terms are satisfactory to you unless we are notified of the contrary within [NUMBER] days.

Thank you for your understanding and we appreciate your patronage, with the hope we may more favorably consider credit requests in the future

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF CREDIT LIMIT

Dear [CONTACT NAME],

A review of your account indicates a present balance of [AMOUNT] owed to our firm.

Every account is carefully evaluated to establish a credit limit that we believe is consistent not only with our interests, but the interests of the customer as well. We have established [AMOUNT], as your credit allowance and believe it is appropriate. Since you are at or near that credit limit, we can ship future orders only on a C.O.D. basis, until your balance is reduced. We would be pleased to review your account with you if you believe an increased credit line is justified.

We are confident you understand the need for this action.

Sincerely,

Your name

Your title

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO STOP CREDIT CHARGE

Dear [CONTACT NAME],

Please be advised that on [DATE] the undersigned charged a sum of [AMOUNT] on a transaction with [COMPANY].

We hereby instruct you not to honor said charges or issue payment to the company for the following reasons

Thank you for your cooperation.

Sincerely,

Your name

Credit Card Number

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: OPENING NEW CREDIT ACCOUNT

Dear [CONTACT NAME],

Welcome! Your account at [COMPANY] has been approved. We are proud to have you as a customer.

[COMPANY] is a [NUMBER]-year-old company, with [NUMBER] locations in [NUMBER] states. We supply a complete line of [PRODUCTS] products to our customers, including [SHORT LIST]. As a leader in this industry, we strive to provide the best service possible to our customers. Our goal is to be your

most valuable supplier. Customer satisfaction is our number-one priority.

Your approved credit line is [AMOUNT], with billing terms of [TERMS]. Monthly statements are mailed on the first working day each month. A service charge is added to past-due balances that are not paid by [DATE] of the billing month.

We at [COMPANY] welcome the opportunity to serve you and look forward to a long and prosperous relationship

Sincerely,

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFUND FOR RETURNED MERCHANDISE

Dear [CONTACT NAME],

Having received the merchandise you returned to us on [DATE] we are enclosing our check to you in the amount of [AMOUNT].

Thank you for taking such care in the packing of the returned merchandise

We are sorry that circumstances prompted the return of this merchandise, but hope that you will continue to allow us to serve you in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST FOR CREDIT INFORMATION

Dear [CONTACT NAME],

It was with great pleasure that we received your recent order which was entered for immediate shipment at our regular [NUMBER] day terms.

To enable us to extend the line of credit you may need for future orders; will you send us the usual credit information? We have enclosed a simplified financial statement form for your convenience.

Thank you again for your order. We are looking forward to a long and mutually rewarding business relationship.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NEW RESTRICTIONS ON CREDIT

Dear [CONTACT NAME],

After [NUMBER] months of prompt payments, we've noticed that your last [NUMBER] bills were [NUMBER] days late. We are concerned about the change in your payment pattern. Rather than cancel your credit line, we have reduced it [%].

If, after [NUMBER] months, you are current with your bills, we will reevaluate an increase in your credit line.

Your business is important to us. We hope we can increase your credit line in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

NAME :		AUTHORIZATION:	
REASON (Circle)		DATE OUT	DATE IN
<input type="checkbox"/> SEMINAR			
<input type="checkbox"/> CONFERENCE			
<input type="checkbox"/> VACATION OR PTO			
<input type="checkbox"/> OTHER			
CC :	Receptionist		
	Personnel		

Address:			
Telephone:	()		
Personal Account Number:			
Percent of pay to be deposited into this account:			%
Company Use Only: Bank/ABA Number:			
Account #2	Checking	Savings	(Check only one)
Financial Institution:			
Address:			
Telephone:	()		
Personal Account Number:			
Percent of pay to be deposited into this account:			%
Company Use Only: Bank/ABA Number:			

EMPLOYEE EMERGENCY NOTIFICATION FORM

I understand and agree that the Company will have no obligation or liability to notify such persons.

Date: _____

Employee Signature

Printed Employee Name

EMPLOYMENT REFERENCE RELEASE

This Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

PAYROLL DEDUCTION AUTHORIZATION

The undersigned hereby authorizes [COMPANY NAME] to deduct \$ _____ from my gross earnings each payroll period beginning, the following:

In payment for:	Amount:
_____ Credit Union	\$ _____
_____ Employee Savings Plan	\$ _____
_____ Pension Plan	\$ _____
_____ Union Dues	\$ _____
_____	\$ _____

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

1. TERMS

The Employee hereby authorizes Company to release information to prospective employers regarding his employment with this company, including but not limited to, dates of employment, salary history, employment history, disciplinary actions, attendance record, performance, and employment related documents.

The Employee hereby releases his former and prospective employers, their employees, agents, officers, directors and affiliates from any and all liability for damages of whatever kind, which may at any time result to Employee, his family or associates, because of compliance with this authorization and request to release information or any attempt to comply with it.

This release is executed with full knowledge and understanding that the information to be provided is for the sole purpose of gaining employment, and shall remain in effect until such time as the Employee withdraws said release in writing to the company named above.

COMPANY

FORMER EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

I understand that if this request is approved and I am reimbursed for the tuition/course fee I have paid, that I will be expected to attend all classes and receive a grade of C or better. If I do not comply with these requirements, I must return the fees I have been paid.				
Employee Signature			Supervisor's approval	

FOR OFFICE USE ONLY:

Reimbursed			
Date:			
Check #:			
Initials:			
Account #:			

ONE SHEET PER COURSE

EMPLOYMENT REFERENCE LETTERS

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: ABOUT YOUR REQUEST FOR A LETTER OF RECOMMENDATION

Dear [CONTACT NAME],

I was flattered to receive your call last week requesting a letter of recommendation.

Your skills as a [FUNCTION] are, I'm sure, very strong. Our association, of course, has been as [FUNCTION] for [ORGANIZATION/ASSOCIATION]. In this capacity I could certainly vouch for your skills in the art of persuasion.

Yet we haven't always agreed on all issues; most recently, our views on [SPECIFY] could not be more different. In light of especially this recent issue, I worry that I could provide a letter that displays no evidence of our conflict.

The bottom line, [CONTACT NAME], is that I believe you'd be better served to request such a letter from someone with whom you are not currently experiencing such a difference of opinion.

Good luck to you in your job search.

February 28, 2022

Applicant name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: EMPLOYER’S VERIFICATION ON LOAN APPLICANT

Dear [CONTACT NAME],

Following is the information you requested on [LOAN APPLICANT].

Entered our employ:	
Present Position:	
Gross Monthly Salary:	
Overtime:	
Bonus or Commission:	
Total Monthly Salary:	
Probability of Continued Employment:	
Does Employee have re-employment rights for:	Sick Leave? Maternity Leave?
Other Remarks:	

I am sure that whoever hires him/her will find him/her a good worker as well as a pleasant person.
He/she is truly a gem.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: I HIGHLY RECOMMEND...

Dear [CONTACT NAME],

I am happy to recommend [NAME] for employment at your company.

I had the pleasure of working with [NAME] at [COMPANY] in [CITY] where she was the [TITLE] of the [DIVISION]. He was organized, efficient, and willing to do whatever was needed

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: LETTER OF REFERENCE

Dear [CONTACT NAME],

Please be advised that we have worked with [NAME OF COMPANY OR PERSON] for over [NUMBER] years and hold [THEM/HIM/HER] in the absolute highest regard.

Let me outline some of the reasons why we have such an opinion:

- _____
- _____
- _____

In short, we are able to make this recommendation without any qualifications whatsoever. Please feel free to call me at the number indicated below if I can add anything further.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PERSONAL RECOMMENDATION AND REFERENCE

Dear [CONTACT NAME],

I have been privileged to know [CANDIDATE] for [NUMBER] years in my role as [TITLE] at [COMPANY]. I am currently [TITLE].

While [CANDIDATE] reported to me at [COMPANY], I found her management abilities to be invaluable in helping me to establish [COMPANY] as a leader in the [INDUSTRY] market. Her conscientious effort and cooperation in doing professional, high-quality work were appreciated.

As a [TITLE], [CANDIDATE] was efficient, innovative, and responsive. She motivates her people with challenge and the opportunity for personal growth.

If you find that [CANDIDATE]'s career objectives match your position description, I know of no reason you would be disappointed by her employment Performance. Please let me know if you require further information.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFUSAL OF REQUEST FOR LETTER OF RECOMMENDATION

Dear [CONTACT NAME],

Your request for a letter of recommendation from our firm cannot be granted. While the work that you performed for us was always satisfactory, we do not feel that it would be fair to either you or our firm to evaluate your capabilities based on a [NUMBER] month tenure of employment.

If any inquiries are made of us, we will reply most favorably. We wish you the best of luck in the future.

Sincerely,

Your name

Your title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST FOR REFERENCE

Dear [CONTACT NAME],

The above-named individual has applied for a position with our company and indicates previous employment with your firm. The information requested below will help us to evaluate the applicant. We will hold your comments in strict confidence. We thank you for your cooperation.

Sincerely,

Your name

Your title

Telephone contact & Email

Please indicate Department: _____

Position with your firm: _____

Employed From _____ Through _____

Final Salary \$ _____ Social Insurance Number _____

Please rate the applicant, (good/fair/poor), on the basis of his employment with you:

Ability _____ Conduct _____ Attitude _____

Efficiency _____ Attendance _____ Punctuality _____

What was the reason for termination? _____

Would you re-hire? _____. If not, give reason: _____

Signature and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RESPONSE TO INQUIRY CONCERNING FORMER EMPLOYEE

Dear [CONTACT NAME],

This is to acknowledge receipt of your inquiry of [DATE] in which you requested information regarding a previous employee of our firm.

It is against the policy of our company to release any detailed information regarding the performance of any of our previous employees. Our records show that [NAME] was employed by us from [DATE], [YEAR] to [DATE], [YEAR]. We are sorry that we cannot be of further assistance.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Your title

Telephone contact

youremail@yourcompany.com

ACKNOWLEDGMENT OF OBLIGATIONS

1. I understand and acknowledge that during my employment with [Company name] ("the Company") I have received or been exposed to trade secrets of the Company including, but not limited to, the following: [List trade secrets or "those listed on Exhibit A to this Agreement" (and attach list of trade secrets to document labeled as exhibit A)].
2. I acknowledge that I have read, signed and been furnished with a copy of my Employment Agreement with the Company. I certify that I have complied with and will continue to comply with all of the provisions of the Employment Agreement, including my obligation to preserve as confidential all of the Company's trade secrets.
3. I certify that I do not have in my possession, I have not retained copies of, nor have I failed to return: any system documentation, user manuals, modification reports, training instructions, formulas, compilers, data structures, algorithms, computer source code, notebooks, notes, drawings, proposals or other documents or materials (or extracts thereof), or equipment or other property belonging to the Company.
4. [OPTIONAL CLAUSE; FOR USE WITH CREATIVE EMPLOYEES, SUCH AS PROGRAMMERS:] During my employment I contributed to the development of the Company's trade secrets. I acknowledge that, as provided in my Employment Agreement, all right, title and interest in and to any [Specify type of work] conceived or developed by me, whether in whole or in part, during the course of my employment by the Company belongs to the Company.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

We are having a retirement party at lunch this coming Friday to honor [NAME] as he/she retires from our staff. A buffet lunch will be served and we'll all toast to a wonderful and productive retirement for a top [TITLE] whom we will all miss.

Sincerely,

Your name

Your title, Telephone contact, youremail@yourcompany.com

CHECKLIST

PRE-LAYOFF GUIDELINES

Before considering a layoff or downsizing you should plan to address the following checklist:

- Prepare a layoff policy if you don't already have one. Emphasis on the importance of objective factors like company needs, financials, seniority, past work performance, anticipated needs for skills and experience, and compliance with laws. Create a "ranking" process using these factors, and follow it consistently through a form-based approach.

- Ask your lawyer and review team to analyze your Reduction in Force (RIF) procedure before and after it is implemented.

- Consider hiring an industrial relations statistician to review a RIF decision before they are implemented to prevent disparate impact discrimination claims.

- Analyze possible alternatives to downsizing such as wage reduction, benefit reduction, and elimination of overtime. Approach your employees and find out if they can think of new ways to generate business. Look for old projects that can be expanded or old clients that can be reactivated.

- Increase company communications including company and individual expectations, benchmarks, guidelines, and feedback mechanisms.

- There are no implied, written or oral contracts with this employee governing the termination decision.
- The termination has been independently reviewed and approved by the Human Resources Department or another third party.
- Written notice of termination has been prepared.
- A plan has been adopted for informing the employee of their termination in a brief and dignified manner.
- You have considered consulting an employment attorney prior to the termination decision.

CHECKLIST

WHEN SHOULD YOU FIRE AN EMPLOYEE?

These items are not meant to be determining factors in releasing an employee. Rather, they are listed as items to consider in determining the value or contribution of the employee to your organization. If you answer "yes" to many of these questions about your employee, you should think about how much or how little this employee is doing for your business.

- Constantly sidesteps problems that consistently happen.
- Blames others (including yourself) when things go wrong.
- Allows criticism of the company to go unchallenged
- Doesn't worry about when he/she is consistently late for work or meetings.
- Postpone completion of projects as long as possible.
- Avoids seeking clarification of misunderstands so he/she can criticize later.
- Never volunteers for an assignment when not absolutely certain of success.
- Does not worry about deadlines.

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION OF YOUR EMPLOYMENT

Dear [CONTACT NAME],

We regret to inform you that your employment with this firm is terminated effective on receipt of this letter for the following reason(s):

[DETAIL REASONS]

Please vacate the premises immediately with your personal possessions. We will forward your salary earned to date in due course together with any vacation pay to which you are entitled. Within [NUMBER] days of termination we shall issue you a statement of accrued benefits. Any insurance benefits shall continue in accordance with applicable law and/or provisions of our personnel policy.

Please contact [NAME], at your earliest convenience, who will explain each of these items and arrange with you for the return of any company property.

Yours truly,

Your name

Your title

Telephone contact

**PROPRIETARY RIGHTS ACKNOWLEDGEMENT
UPON TERMINATION**

This Acknowledgment (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

As a former employee, you hereby acknowledge and agree:

1. Through the course of your employment with the Company, you have been involved in and contributed to the development of certain items that are proprietary to the Company and have been exposed to certain information that is proprietary and of strategic and operational advantage of the Company. These items may have included items that are copyrightable, subject to trademark protection, trade secrets, confidential, subject to patent protection, or otherwise considered by the Company to be proprietary in nature. They include things such as business and marketing plans, strategic development plans, financial information, market studies, promotional plans, advertising, computer programs and source codes, databases and database engines, logos, web sites, system documentation, computer algorithms, data, enhancements and improvements, training programs, customer inquiries and complaints, modification reports, customer lists, and other information and materials that are of a strategic importance to the Company. These items are all assets of the Company and are of considerable business and strategic advantage to the Company and is protected under copyright law, trade secret law, patent law, trademark law, and a variety of state laws and under provisions that are included in any confidentiality agreement, employment agreement or other agreement that you may have signed and under the general employment policies of the Company.
2. You acknowledge and agree that your contributions to the development of all proprietary information of the Company was done in the course and within the scope of your employment and that all work product arising and resulting from your efforts is the property of the Company.

PROPRIETARY INFORMATION AND THAT YOU WILL TAKE NO ACTIONS CONTRARY
THERE TO.

YOU ATTEST THAT YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT
AND THE CONSEQUENCES THEREOF AND THAT YOU ARE IN AGREEMENT WITH
ALL OF THE ITEMS CONTAINED HEREIN.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

1. Did you feel sufficiently trained and oriented for your job?

Please comment: _____

2. Did you feel that you were treated with respect & responsibility by co-employees and management?

Please comment: _____

3. Do you feel that you could have done your job better if you were provided different or better resources? What resources would you have needed?

Please comment: _____

4. Did you feel free to discuss suggestions or problems with your supervisor or manager?

Please comment: _____

5. Did your supervisor or manager provide you with clear instructions and expectations?

Please comment: _____

6. Were any employees given preferential treatment or discriminated against?

Please comment: _____

7. Did you witness or have knowledge of any unethical or illegal acts or practices engaged in by any employees of this company?

Please comment: _____

8. Do you have any suggestions for improving company management?

Please comment: _____

9. Do you have any suggestions for improving the quality of our goods or services?

Please comment: _____

10. Were working conditions satisfactory? Was your pay adequate?

Please comment: _____

11. Do you have any suggestions for improving communication in this company?

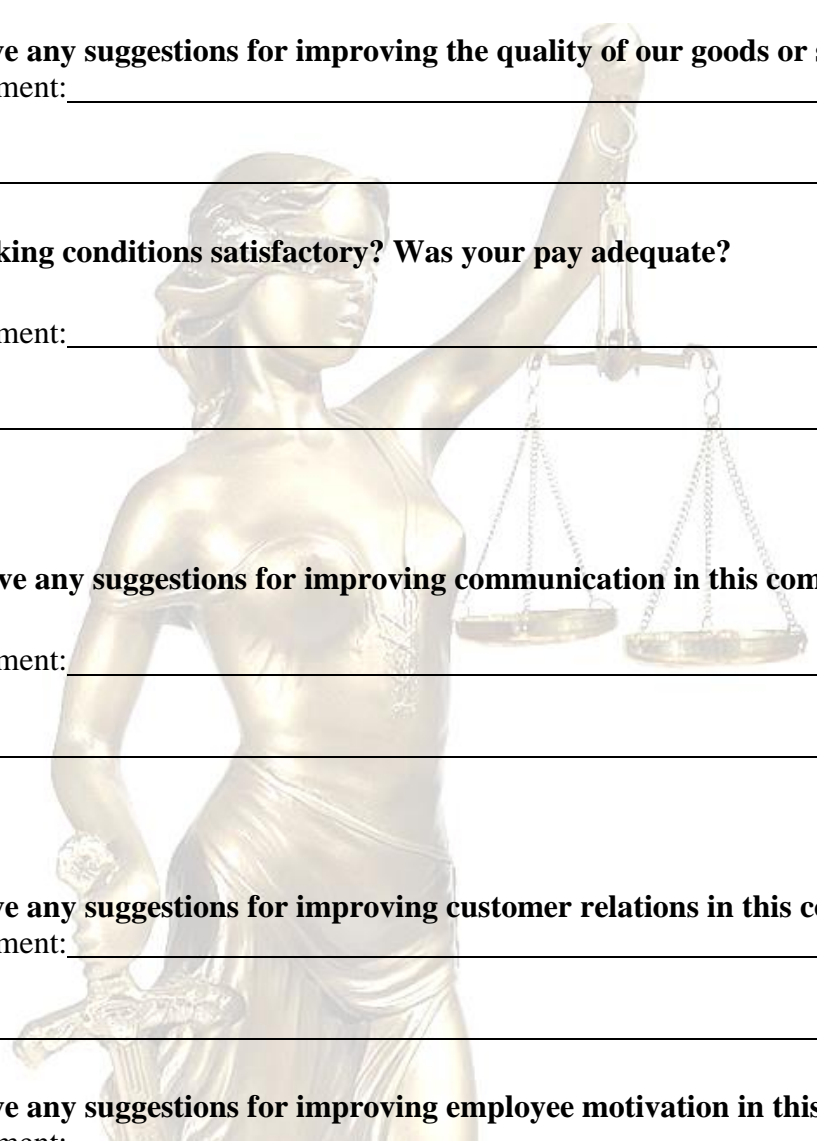
Please comment: _____

12. Do you have any suggestions for improving customer relations in this company?

Please comment: _____

13. Do you have any suggestions for improving employee motivation in this company?

Please comment: _____



14. Do you have a new job that you expect to begin within the next few weeks? With whom? What does that company offer you that this company didn't?

Please comment: _____

15. Do you feel your training was adequate? _____

16. Would you consider coming back to the company? _____

Are security arrangements appropriate in the company? Could they be improved? _____

I have returned, or arranged for the return of, all company property, including, but not limited to, computers, software, documents, financial records, personnel files, equipment and tools, vehicles, credit cards, keys, security cards, parking passes, works in progress, client or customer lists, books, resource materials, and confidential or trade secret items.

Signature

Date

Interview performed by:

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: FINAL WARNING BEFORE DISMISSAL

Dear [CONTACT NAME],

You have been previously notified of certain problems in your performance as an employee, which problems appear to continue. Because we believe that you can improve your performance and modify your behavior, we want to give you that last chance. Following is what was to blame as reported by your superior:

[DETAIL]

Any further violations of company policy or failure to perform in accordance with our standards shall result in immediate dismissal without further warning.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: MUTUAL TERMINATION OF CONTRACT

Dear [CONTACT NAME],

This letter shall acknowledge our mutual agreement to cancel and terminate the contract between us dated [DATE]; without further recourse by either party.

I would like to thank you for the experience of having worked for [NAME OF FIRM], a truly outstanding organization and offer my best wishes for your continued success.

Best wishes,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: ANNOUNCEMENT OF A LAYOFF

Dear [CONTACT NAME],

Unfortunately and unexpectedly, [COMPANY] was not awarded the contract for the [PRODUCT/SERVICE] for which, until recently, we thought we were a shoe-in. The customer preferred [PRODUCT/SERVICE] from [COMPETITOR] because of [SPECIFY]. We could not certify [SPECIFY] and lost the contract on that basis.

Because that contract was projected to be a significant part of our total revenue over the next two to three years, we are enforcing a hiring freeze effective immediately and may be looking at layoffs for up to [%] of the staff within the coming months. At this time, we do not know for certain how many and which employees will be affected by the layoff. However, we want employees to be aware of this potential problem and to plan accordingly.

Supervisors will be kept informed and will communicate the status of the situation to employees on a regular basis. Employees having concerns about employment status should see me or their supervisors.

Sincerely,

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF REVOCATION OF AUTHORITY

Dear [CONTACT NAME],

[NAME OF FORMER EMPLOYEE] is no longer an employee of this corporation and is therefore no longer authorized to act, in any form whatsoever, on our behalf.

I am requesting that this information be relayed to all of your department heads.

Thanks in advance for your collaboration.

Sincerely,

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION NOTICE

Dear [EMPLOYEE NAME],

It is with regret we inform you that your employment with this company has been terminated effective [DATE]. Enclosed is your final paycheck with accrued vacation and other benefits. Let us know if you believe it to be inaccurate. We will contact you regarding continuation of your insurance coverage and any other benefits.

You are being terminated due to your conduct over [TIME PERIOD], which most recently includes [LIST EMPLOYEE CONDUCT]. It is your option to express your belief about the merits of your termination during your exit interview, scheduled for [DATE & TIME].

As an offer of assistance, you have the option of obtaining a [TWO (2) WEEK] severance package in exchange for the signing of a General Release. This offer is conditioned upon your return of all company property. The company reserves the right to oppose any claim for benefits.

City, State/Province

Zip/Postal Code

OBJECT: TERMINATION OF EMPLOYMENT

Dear [CONTACT NAME],

This letter will confirm our discussion. Your employment with this company is terminated, effective today, because of falsified information on your employee application.

Unfortunately, your action in this matter leaves us no choice. Our application form clearly states that falsifying information will lead to disciplinary action, up to and including dismissal.

Please vacate the premises immediately with your personal possessions. We will forward your salary earned to date in due course together with any vacation pay to which you are entitled. Within [NUMBER] days of termination we shall issue you a statement of accrued benefits. Any insurance benefits shall continue in accordance with applicable law and/or provisions of our personnel policy.

Please contact [NAME], at your earliest convenience, who will explain each of these items and arrange with you for the return of any company property.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF TERMINATION DUE TO WORK RULES VIOLATION

Dear [CONTACT NAME],

You are hereby given notice that your employment with the company shall be terminated on [DATE].

This action is necessary due to the following violations of company work rules:

[DESCRIBE]

Your final paycheck shall be for the period ending [DATE]. There shall be no severance pay since your termination was for just cause. Please contact [CONTACT NAME] concerning insurance coverage or other accrued benefits to which you may be entitled.

We regret this action is necessary and wish you success in your future endeavors.

Sincerely,

Your name

Your title

Telephone contact

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RESIGNATION – GOING BACK TO SCHOOL

Dear [CONTACT NAME],

As required by my contract of employment, I hereby give you [NOTICE PERIOD] week’s notice of my intention to leave my position as [POSITION].

I have decided to realize my professional and personal goals by accepting a formal offer to study for a [TYPE OF COURSE] in [NAME OF COURSE]. This was not an easy decision and took a lot of consideration but I believe it is an exciting step forward and one that I hope you will understand and support. Please be assured that I will do all I can to assist in the smooth transfer of my responsibilities before leaving.

DR. LUBOGO ISAAC CHRISTOPHER

Please be assured that I will do all I can to assist in the smooth transfer of my responsibilities before leaving. I also ensured the respect of my commitment to [COMPANY] regarding confidentiality and non-competition, as specified in my employment agreement.

I wish both you and [COMPANY] every good fortune and I would like to thank you for the opportunity you gave me.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RESIGNATION

Dear [CONTACT NAME],

The Parties represent that they have been advised about the Agreement by their respective counsel, are competent to enter into it, fully understand its terms and consequences, and enter into it knowingly and voluntarily.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and conditions contained in this Agreement, the Parties agree as follows:

1. NO ADMISSION

This Agreement is entered in connection with the compromise of disputed claims. Neither this Agreement nor any action or acts taken in connection with this Agreement or pursuant to it will constitute an admission by Company or any other person or entity of any violation of law, nor will it constitute or be construed as an admission of any wrongdoing whatsoever. In fact, Company, its officers, employees, agents and representatives specifically deny committing any unlawful act against Employee at any time.

2. PAYMENT

Within three (3) days after execution of this Agreement, and in consideration for the promises and covenants contained herein, Company will cause to be delivered to counsel for Employee a check in the amount of [AMOUNT]. Except for this payment, Employee acknowledges and agrees that he is entitled to receive no other payments, benefits, or compensation from Company. Employee represents that there are no outstanding advances or other sums due to Company from Employee.

3. TAX

Appropriate tax deductions shall be made by the Company from the payment made under Section 2.

4. RELEASE

Employee, on behalf of himself and his representatives, spouse, agents, heirs and assigns, releases and discharges Company and Company's former, current or future officers, employees, representatives, agents, fiduciaries, attorneys, directors, shareholders, insurers, predecessors, parents, affiliates, benefit plans, successors, heirs, and assigns from any and all claims, liabilities, causes of action, damages, losses, demands or obligations of every kind and nature, whether now known or unknown, suspected or unsuspected, which Employee ever had, now has, or hereafter

the Parties, Employee, his counsel and Employee's spouse may state only that "the matter has been resolved" or words to that effect, but will not otherwise disclose any information about this Agreement or its terms. Because a breach of this confidentiality paragraph would cause Company damages that are impracticable or too difficult to fix, in the event of such a breach, Employee shall be liable to Company for liquidated damages in the amount of [AMOUNT] for each breach, plus any attorneys' fees and costs owed pursuant to Section 18 herein and any equitable relief.

7. EMPLOYER PROPERTY AND TRADE SECRETS

Employee will return to Company any and all of its property and documents which he or she may have in his or her possession . including, but not limited to, documents, equipment, tools, computers, customer lists, correspondence, handbooks, manual reports, plans, projects, drawings, marketing materials, software, tapes, phones, cars, keys, security devices, inventions, formulas, and proprietary information within [DAYS] from the execution of this Agreement.

8. NO FUTURE EMPLOYMENT

Employee promises not to seek employment or any other business relationship at any time in the future with Company or any of its parents or affiliates and he forsakes any right to be employed or to have any other business relationship in the future with Company or any of its parents or affiliates.

9. NON SOLICITATION OF CLIENTS AND CUSTOMERS

The Employee, on behalf of himself or herself, their agents and assigns, agrees that, for a period of [NUMBER] year following the execution of this Agreement, or so long as Company is in

Should a dispute arise concerning this Agreement or its performance, such dispute shall be resolved, at the election of the party seeking to enforce the Agreement, either by court action, or by binding arbitration administered by the [ASSOCIATION/ORGANIZATION] under its commercial dispute resolution rules. If arbitration is initiated, the arbitration shall be held in [CITY], [STATE/PROVINCE].

16. MODIFICATION AND WAIVER

Any modifications to this Agreement must be in writing and signed by duly authorized representatives of each of the Parties and must be expressly state that it is the intention of each of the Parties hereto to amend the Agreement. No breach of any provision of this Agreement shall be deemed waived unless the waiver is in writing signed by a duly authorized representative of the waiving party. Waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement.

17. CONSTRUCTION

This Agreement shall be construed and enforced in accordance with the laws of the [STATE/PROVINCE]. The language of this Agreement shall be construed as to its fair meaning and not for or against either party.

18. ATTORNEYS’ FEES

Should any action be brought by any party to this Agreement to enforce any provision thereof, the prevailing party shall be entitled to recover, in addition to any other relief, reasonable attorneys’ fees and costs and expenses of litigation or arbitration.

19. INTEGRATION

Headings in this Agreement are for convenience of reference only and are not a part of the substance hereof.

23. TIME FOR ACCEPTANCE AND REVOCATION

If required by applicable law, Employee shall have up to [NUMBER] days from the date this Agreement is presented to Employee to accept the terms of this Agreement, although Employee may accept it at any time within those [NUMBER] days. If required by applicable law, after acceptance, Employee will still have an additional [NUMBER] days in which to revoke his acceptance. To so revoke, Employee must send the Company a written statement or revocation to be received by the Company by the end of the seventh day.

24. STATEMENTS TO UNEMPLOYMENT BOARD AND TO OTHERS

Company agrees that it will not contest Employee’s application for unemployment insurance benefits. Notwithstanding this agreement, however, Company reserves the right to truthfully furnish information requested by the unemployment board or any other agency and to rebut false or misleading information submitted by the Employee, whether requested to do so or not.

25. SEVERABILITY

If any provision of this Agreement is held to be invalid, void or unenforceable, the remaining provisions shall remain in full force and effect, except that, should paragraphs 4, 5 or 6 be held invalid, void or unenforceable, either jointly or separately, as a result of any action by Employee, Company shall be entitled to rescind the Agreement and/or recover from Employee any benefits provided to her under Section 2 above.

Parties each hereby execute this Agreement as of [DATE].

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

CERTIFICATION BY EMPLOYEE'S COUNSEL

We, [NAMES], are counsel to [EMPLOYEE]. We have reviewed the Agreement with our client. [HE/SHE] has indicated that [HE/SHE] is competent to enter into it, that [HE/SHE] fully understands its terms and consequences, and that [HE/SHE] enters into it knowingly and voluntarily. We also agree to abide by the confidentiality provision in Section 6 of the Agreement.

NAME

NAME

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

- 5. Employee agrees to pay any and all of Company attorney fees should [HIS OR HER] actions lead Company to enforce any provisions of this agreement.
- 6. None of the terms or conditions of this agreement will be altered, amended, waived, or abandoned, except by the parties' written agreement, and no delay by Company in enforcing any of its rights will be deemed a waiver of such rights.
- 7. This Agreement sets forth the parties' entire understanding, and supersedes any and all prior agreements, arrangements and understandings relating to this subject matter.
- 8. Nothing contained in this Agreement will be construed as an admission of liability by Company, all such liability being hereby specifically denied.
- 9. This Agreement will be executed in one or more counterparts, and all such counterparts will constitute one and the same instrument.
- 10. This Agreement is entered into under the laws of the State of [STATE] and the rights and obligations of these parties will be governed and determined according to its laws.
- 11. Employee specifically acknowledges that [HE OR SHE] has had adequate time to reflect on the advisability of this action, has read this document, and has entered into this Agreement voluntarily.

These parties have executed this agreement and/or authorized same to be executed by their duly authorized representatives as of the date shown below the respective signatures. This Agreement becomes effective as of the later date.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

TERMINATION CERTIFICATION

By signing this document I declare that I do not have in my possession, nor have I failed to return, any trade secrets, or confidential or proprietary information of the company including, but not limited to, specifications, drawings, blue prints, reproductions, notes, reports, proposals, plans, customer lists, marketing materials, or other documents or materials, tools, equipment or other property belonging to the company.

I further declare that I have complied, and will continue to comply, with all terms of any employment, invention, assignment, trade secret, proprietary information, secrecy, non-competition, non-solicitation and non-recruitment agreements signed by me with the company, including the reporting of any activities on my part required by any of these agreements.

I further agree that in compliance with the above-referenced agreements, I will preserve as confidential all proprietary, technical and business information pertaining to the company.

I further acknowledge that I have received a copy of this statement and have signed it voluntarily.

I declare the above to be true and correct pursuant to the penalty of perjury of the laws of this State.

Date: _____

Employee Signature

<p>Give the employee a termination letter that documents their last day, outlines the reasons they are no longer working for the company, and provides information about severance benefits and other termination details.</p>	
<p>Insurance and Benefits</p>	
<p>Disclose the date that the employee's medical, dental, vision, life and long-term disability insurance coverage will end.</p>	
<p>Explain COBRA, the federal act that provides employees who experience a "qualifying event" (such as a termination) with the right to continue their current group insurance coverage.</p>	
<p>Give the employee a written statement that explains when their benefits will terminate, outlines COBRA law, lists monthly premiums and provides enrollment information.</p>	
<p>Provide a closing statement with information about the company's stock option, profit sharing and/or employee stock-ownership program. The statement should show how many shares the employee has vested, the price per share and the deadline for exercising the shares.</p>	
<p>Give the employee documentation about their 401(k) or retirement savings plan. Make sure it spells out when company contributions to the plan will end, explains rollover options and contains contact information for the plan administrator.</p>	
<p>Settlement and Arbitration Agreements</p>	

Company credit card returned	
Company phone card returned	
Employee identification card returned	
Building/office keys and access cards	
Parking permit or garage key	
Bank depository keys	
Uniforms	
Company vehicles returned	
Have the employee sign a document that states that they have returned all company property	
Expense and Transition Reports	
Instruct the employee to complete a final expense report and submit it on or before their last day	
If the employee will remain at the company for a set period of time, ask them to provide a transition report that details the projects they're working on.	
Exit Interview and Employee Assistance	
Conduct an exit interview (if appropriate) to learn from the employee's experience at the company	

Final check prepared (includes all vacation pay, sick pay, accrued wages, bonuses, etc.)	
Notice of unemployment rights provided	
Termination Certification signed	
Profit sharing election forms provided.	
Company documents and files inventoried.	
Desk and working premises inventoried.	
Company has no further liability with the terminated employee.	

Supervisor's Signature: _____ Date: _____

Department: _____ Date: _____

or loss caused by the loss of the Certificates.

10. In the event of discovery of the original Certificates, the undersigned agrees to return them promptly to the Company or any successor, marked "CANCELLED." CHA
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

STOCKHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ARTICLES OF ASSOCIATION

These Articles of Association (the "Agreement") is made and effective [DATE],

BETWEEN: **[FIRST PARTNER NAME]** (the "First Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: **[SECOND PARTNER NAME]** (the "Second Partner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

The parties agree to be partners under and by the name of [NAME OF PARTNERSHIP ASSOCIATION] and to engage in the business of [DESCRIBE], according to the following terms and provisions:

8. DURATION

DR. LUBOGO ISAAC CHRISTOPHER

It is agreed that this partnership agreement may be amended at any time or from time to time in the judgment of the partners, but such amendments shall be formal and written and signed by all of the partners.

IN WITNESS WHEREOF, the parties have executed this agreement at [DESIGNATE PLACE OF EXECUTION] the day and year first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

The street address of the initial registered office of the corporation shall be: [ADDRESS] and the name of the initial Registered Agent for the corporation at that address is: [NAME]

27. SPECIAL PROVISIONS

The stock of this corporation is intended to qualify under the requirements of Section [NUMBER] of the [LAW OR CODE] and the regulations issued thereunder. Such actions as may be necessary shall be deemed to have been taken by the appropriate officers to accomplish this compliance.

28. TERM OF EXISTENCE

This corporation shall exist perpetually.

29. LIMITATION OF LIABILITY

Each director, stockholder and officer, in consideration for his services, shall, in the absence of fraud, be indemnified, whether then in office or not, for the reasonable cost and expenses incurred by him in connection with the defense of, or for advice concerning any claim asserted or proceeding brought against him by reason of his being or having been a director, stockholder or officer of the corporation or of any subsidiary of the corporation, whether or not wholly owned, to the maximum extent permitted by law. The foregoing right of indemnification shall be inclusive of any other rights to which any director, stockholder or officer may be entitled as a matter of law.

30. SELF DEALING

No contract or other transaction between the corporation and other corporations, in the absence of fraud, shall be affected or invalidated by the fact that any one or more of the directors of the corporation is or are interested in a contract or transaction, or are directors or officers of any other corporation, and any director or directors, individually or jointly, may be a party or parties to, or may be interested in such contract, act or transaction, or in any way connected with such person or person's firm or corporation, and each and every person who may become a director of the corporation is hereby relieved from any liability that might otherwise exist from this contracting with the corporation for the benefit of himself or any firm, association or corporation in which he may be in any way interested. Any director of the corporation may vote upon any transaction with the corporation without regard to the fact that he is also a director of such subsidiary or corporation.

acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature_____

Notary

(Seal)

**ARTICLES OF INCORPORATION
NOT FOR PROFIT CORPORATION**

These Articles of Incorporation (the “Agreement”) are made and effective [DATE],

BY: **[FIRST INCORPORATOR NAME]** (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, officer of the Corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes, and no member, trustee, officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in or intervene in, including the publication or distribution of statements, any political campaign on behalf of any candidate for public office.

37. DISSOLUTION

Upon the dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed exclusively to one or more charitable, religious, scientific, testing for public safety, literary, or educational organizations which would then qualify under the provisions of Section [NUMBER] of the [REVENUE CODE OR LAW] and its Regulations as they now exist or as they may be hereafter amended, or to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

38. QUALIFICATIONS FOR MEMBERS

The qualifications for members and the manner of their admissions shall be regulated by the By-laws.

39. ADDRESS OF THE CORPORATION

The initial street address in the state of [NAME] of the initial registered office of the Corporation is [LOCATION], and the name of the initial registered agent at such address is [NAME].

40. TERRITORY

The territory in which the operations of the Corporation are principally to be conducted is [COUNTRY] and its territories and possessions, but the operations of the Corporation shall not be limited to such territory.

ASSIGNMENT OF SHARES

This Assignment of Shares (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- 7. For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit to Assignee in the [CLASS] shares of [CORPORATION NAME] evidenced by Share Certificate No(s). [NUMBER(S)] (the "Shares").
- 8. The Assignor warrants the Assignee that the Shares are fully paid-up and that the Assignor owns the Shares free and clear of all encumbrances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

20. MEETINGS OF SHAREHOLDERS

20.1. Place Of Meetings

Meetings of shareholders shall be held at any place within or outside the State of [STATE/PROVINCE] designated by the Board of Directors. In the absence of any such designation, shareholders' meetings shall be held at the principal executive office of the corporation or at any place consented to in writing by all persons entitled to vote at such meeting, given before or after the meeting and filed with the Secretary of the corporation.

20.2. Annual Meeting

An annual meeting of shareholders shall be held each year on a date and at a time designated by the Board of Directors. At that meeting, directors shall be elected. Any other proper business may be transacted at the annual meeting of shareholders.

20.3. Special Meetings

Special meetings of the shareholders may be called at any time, subject to the provisions of Sections 2.4 and 2.5 of these By-Laws, by the Board of Directors, the Chairman of the Board, the President or the holders of shares entitled to cast not less than [%] of the votes at that meeting.

If a special meeting is called by anyone other than the Board of Directors or the President or the Chairman of the Board, then the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by other written communication to the Chairman of the Board, the President, any Vice President or the Secretary of the corporation. The officer receiving the request forthwith shall cause notice to be given to the shareholders entitled to vote, in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws, that a meeting will be held at the time requested by the person or persons calling the meeting, so long as that time is not less than [NUMBER] nor more than [NUMBER] days after the receipt of the request. If the notice is not given within [NUMBER] days after receipt of the request, then the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing or affecting the time when a meeting of shareholders called by action of the Board of Directors may be held.

20.4. Notice Of Shareholders' Meetings

All notices of meetings of shareholders shall be sent or otherwise given in accordance with Section 2.5 of these By-Laws not less than [NUMBER] (or, if sent by third-class mail pursuant to Section 2.5 of these By-Laws, not less than [NUMBER] nor more than [NUMBER] days before the date of the meeting to each shareholder entitled to vote thereat. Such notice shall state the place, date, and hour of the meeting and (i) in the case of a special meeting, the general

withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in the last sentence of the preceding paragraph.

20.7. Adjourned Meeting; Notice

Any shareholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the shares represented at that meeting, either in person or by proxy.

When any meeting of shareholders, either annual or special, is adjourned to another time or place, notice need not be given of the adjourned meeting if its time and place are announced at the meeting at which the adjournment is taken. However, if the adjournment is for more than [NUMBER] days from the date set for the original meeting or if a new record date for the adjourned meeting is fixed, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 2.4 and 2.5 of these By-Laws. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

20.8. Voting

The shareholders entitled to vote at any meeting of shareholders shall be determined in accordance with the provisions of Section 2.11 of these By-Laws. Elections for directors and voting on any other matter at a shareholders' meeting need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins.

Except as provided in the last paragraph of this Section 2.8, or as may be otherwise provided in the Articles of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of the shareholders. Any holder of shares entitled to vote on any matter may vote part of the shares in favor of the proposal and refrain from voting the remaining shares or may vote them against the proposal other than elections to office, but, if the shareholder fails to specify the number of shares such shareholder is voting affirmatively, it will be conclusively presumed that the shareholder's approving vote is with respect to all shares which the shareholder is entitled to vote. The affirmative vote of the majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the Code or by the Articles of Incorporation.

At a shareholders' meeting at which directors are to be elected, a shareholder shall be entitled to cumulate votes either (i) by giving one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which that shareholder's shares are

a writing received by the Secretary of the corporation before written consents of the number of shares required to authorize the proposed action have been filed with the Secretary.

If the consents of all shareholders entitled to vote have not been solicited in writing, the Secretary shall give prompt notice of any corporate action approved by the shareholders without a meeting by less than unanimous written consent to those shareholders entitled to vote who have not consented in writing. Such notice shall be given in the manner specified in Section 2.5 of these By-Laws. In the case of approval of (i) a contract or transaction in which a director has a direct or indirect financial interest, (ii) indemnification of a corporate agent, (iii) a reorganization of the corporation, and (iv) a distribution in dissolution other than in accordance with the rights of outstanding preferred shares, the notice shall be given at least [NUMBER] days before the consummation of any action authorized by that approval, unless the consents of all shareholders entitled to vote have been solicited in writing.

20.11. Record Date For Shareholder Notice; Voting; Giving Consents

In order that the corporation may determine the shareholders entitled to notice of any meeting or to vote, the Board of Directors may fix, in advance, a record date, which shall not be more than [NUMBER] days nor less than [NUMBER] days prior to the date of such meeting nor more than [NUMBER] days before any other action. Shareholders at the close of business on the record date are entitled to notice and to vote, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the Code.

A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting unless the Board of Directors fixes a new record date for the adjourned meeting, but the Board of Directors shall fix a new record date if the meeting is adjourned for more than [NUMBER] days from the date set for the original meeting.

If the Board of Directors does not so fix a record date:

- i. The record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.
- ii. The record date for determining shareholders entitled to give consent to corporate action in writing without a meeting, (i) when no prior action by the Board has been taken, shall be the day on which the first written consent is given, or (ii) when prior action by the Board has been taken, shall be at the close of business on the day on which the Board adopts the resolution relating thereto, or the [NUMBER] day prior to the date of such other action, whichever is later.

The record date for any other purpose shall be as provided in Section 8.1 of these By-Laws.

Board may delegate the management of the day-to-day operation of the business of the corporation to a management company or other person provided that the business and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

21.2. Number Of Directors

The authorized number of directors of the corporation shall be [NUMBER].

21.3. Election And Term Of Office Of Directors

At each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting. Each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, except in the case of the death, resignation, or removal of such a director.

21.4. Removal

The entire Board of Directors or any individual director may be removed from office without cause by the affirmative vote of a majority of the outstanding shares entitled to vote on such removal; provided, however, that unless the entire Board is removed, no individual director may be removed when the votes cast against such director's removal, or not consenting in writing to such removal, would be sufficient to elect that director if voted cumulatively at an election at which the same total number of votes cast were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of such director's most recent election were then being elected.

21.5. Resignation And Vacancies

Any director may resign effective upon giving oral or written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.

Vacancies on the Board of Directors may be filled by a majority of the remaining directors, or if the number of directors then in office is less than a quorum by (i) unanimous written consent of the directors then in office, (ii) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice, or (iii) a sole remaining director; however, a vacancy created by the removal of a director by the vote or written consent of the shareholders or by court order may be filled only by the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum), or by the unanimous written consent of all shares entitled to vote thereon. Each director so elected shall hold office until the next annual meeting of the shareholders and until a successor has been elected and qualified, or until his or her death, resignation or removal.

communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting.

21.9. Quorum

A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 3.11 of these By-Laws. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, subject to the provisions of [SPECIFY] (as to approval of contracts or transactions in which a director has a direct or indirect material financial interest), [SECTION OF CODE OR LAW] (as to appointment of committees), [SECTION OF CODE OR LAW] (as to indemnification of directors), the Articles of Incorporation, and other applicable law.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

21.10. Waiver Of Notice

Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the Board of Directors.

21.11. Adjournment

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

21.12. Notice Of Adjournment

If the meeting is adjourned for more than [NUMBER] hours, notice of any adjournment to another time and place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

21.13. Board Action By Written Consent Without A Meeting

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

21.14. Fees And Compensation Of Directors

- xx. A distribution to the shareholders of the corporation, except at a rate, in a periodic amount or within a price range set forth in the Articles of Incorporation or determined by the Board of Directors.
- xxi. The appointment of any other committees of the Board of Directors or the members thereof.

22.2. Meetings And Action Of Committees

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these By-Laws, Section 3.6 (place of meetings), Section 3.7 (regular meetings), Section 3.8 (special meetings and notice), Section 3.9 (quorum), Section 3.10 (waiver of notice), Section 3.11 (adjournment), Section 3.12 (notice of adjournment), and Section 3.13 (action without meeting), with such changes in the context of those By-Laws as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors, and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these By-Laws.

23. OFFICERS

23.1. Officers

The officers of the corporation shall be a President, a Secretary, and a Chief Financial Officer. The corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these By-Laws. Any number of offices may be held by the same person.

23.2. Appointment Of Officers

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 or Section 5.5 of these By-Laws, shall be chosen by the Board and serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

23.3. Subordinate Officers

The Board of Directors may appoint, or may empower the Chairman of the Board or the President to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these By-Laws or as the Board of Directors may from time to time determine.

for them respectively by the Board of Directors, these By-Laws, the President or the Chairman of the Board.

23.9. Secretary

The Secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors, committees of directors and shareholders. The minutes shall show the time and place of each meeting, whether regular or special, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at shareholders' meetings, and the proceedings thereof.

The Secretary shall keep at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all shareholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation. The Secretary shall give notice of all meetings of the shareholders and of the Board of Directors required to be given by law or by these By-Laws. The Secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these By-Laws.

23.10. Chief Financial Officer

The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares.

The Chief Financial Officer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board of Directors. The Chief Financial Officer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of his or her transactions as Chief Financial Officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws.

24. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

24.1. Indemnification Of Directors

The corporation shall, to the maximum extent and in the manner permitted by the Code, indemnify each of its directors against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding (as defined in [SECTION OF CODE OR LAW]), arising by reason of the fact that such person is or was a

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

- v. That it would be inconsistent with a provision of the Articles of Incorporation, these By-Laws, a resolution of the shareholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- vi. That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

24.7. Right To Bring Suit

If a claim under this Article is not paid in full by the corporation within [NUMBER] days after a written claim has been received by the corporation (either because the claim is denied or because no determination is made), the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall also be entitled to be paid the expenses of prosecuting such claim. The corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the Code for the corporation to indemnify the claimant for the claim. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is permissible in the circumstances because he or she has met the applicable standard of conduct, if any, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its shareholders) that the claimant has not met the applicable standard of conduct, shall be a defense to such action or create a presumption for the purposes of such action that the claimant has not met the applicable standard of conduct.

24.8. Indemnity Agreements

The Board of Directors is authorized to enter into a contract with any director, officer, employee or agent of the corporation, or any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, or any person who was a director, officer, employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation, providing for indemnification rights equivalent to or, if the Board of Directors so determines and to the extent permitted by applicable law, greater than, those provided for in this Article VI.

24.9. Amendment, Repeal Or Modification

request of any shareholder, furnish to such shareholder a copy of these By-Laws as amended to date.

25.3. Maintenance And Inspection Of Other Corporate Records

The accounting books and records and the minutes of proceedings of the shareholders and the Board of Directors, and committees of the Board of Directors shall be kept at such place or places as are designated by the Board of Directors or, in absence of such designation, at the principal executive office of the corporation. The minutes shall be kept in written form, and the accounting books and records shall be kept either in written form or in any other form capable of being converted into written form.

The minutes and accounting books and records shall be open to inspection upon the written demand on the corporation of any shareholder or holder of a voting trust certificate at any reasonable time during usual business hours, for a purpose reasonably related to such holder's interests as a shareholder or as the holder of a voting trust certificate. Such inspection by a shareholder or holder of a voting trust certificate may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts. Such rights of inspection shall extend to the records of each subsidiary corporation of the corporation.

25.4. Inspection By Directors

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation and each of its subsidiary corporations, domestic or foreign. Such inspection by a director may be made in person or by an agent or attorney and the right of inspection includes the right to copy and make extracts.

25.5. Annual Report To Shareholders; Waiver

The Board of Directors shall cause an annual report to be sent to the shareholders not later than [NUMBER] days after the close of the fiscal year adopted by the corporation. Such report shall be sent to the shareholders at least [NUMBER] (or, if sent by third-class mail, [NUMBER]) days prior to the annual meeting of shareholders to be held during the next fiscal year and in the manner specified in Section 2.5 of these By-Laws for giving notice to shareholders of the corporation.

The annual report shall contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

The foregoing requirement of an annual report shall be waived so long as the shares of the corporation are held by fewer than [NUMBER] holders of record.

may be, notwithstanding any transfer of any shares on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or the Code.

If the Board of Directors does not so fix a record date, then the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto or the [NUMBER] day prior to the date of that action, whichever is later.

26.2. Checks; Drafts; Evidences Of Indebtedness

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

26.3. Corporate Contracts And Instruments: How Executed

The Board of Directors, except as otherwise provided in these By-Laws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

26.4. Certificates For Shares

A certificate or certificates for shares of the corporation shall be issued to each shareholder when any of such shares are fully paid. The Board of Directors may authorize the issuance of certificates for shares partly paid provided that these certificates shall state the total amount of the consideration to be paid for them and the amount actually paid. All certificates shall be signed in the name of the corporation by the Chairman of the Board or the Vice Chairman of the Board or the President or a Vice President and by the Chief Financial Officer or an Assistant Treasurer or the Secretary or an Assistant Secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be by facsimile.

In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if that person were an officer, transfer agent or registrar at the date of issue.

26.5. Lost Certificates

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation or its transfer agent or registrar and cancelled at the same time. The Board of Directors may, in case any

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BY-LAWS OF [NOT FOR PROFIT CORPORATION]

These By-Laws of [NFP CORPORATION] (the “Agreement”) are made and effective [DATE].

24. ORGANIZATION

- a. The name of the organization shall be [NAME].
- b. The organization may at its pleasure by a vote of the membership body change its name.

25. PURPOSES

The following are the purposes for which this organization has been organized: [DESCRIBE]

26. MEMBERSHIP

Membership in this organization shall be open to all who [DESCRIBE].

27. MEETINGS

- a. The annual membership meeting of this organization shall be held on the [DAY] of [MONTH] each and every year except if such day be a legal holiday, then and in that event, the Board of Directors shall fix the day but it shall not be more than two weeks from the date fixed by these By-Laws.
- b. The Secretary shall cause to be mailed to every member in good standing at his address as it appears in the membership roll book in this organization a notice telling the time and place of such annual meeting.
- c. Regular meetings of this organization shall be held [LOCATION].
- d. The presence of not less than [%] of the members shall constitute a quorum and shall be necessary to conduct the business of this organization; but a lesser percentage may adjourn the meeting for a period of not more than [NUMBER] weeks from the date scheduled by these By-Laws and the secretary shall cause a notice of this scheduled meeting to be sent to all those members who were not present at the meeting originally called. A quorum as herein before set forth shall be required at any adjourned meeting.

- b. The directors to be chosen for the ensuing year shall be chosen at the annual meeting of this organization in the same manner and style as the officers of this organization and they shall serve for a term of [NUMBER] years.
- c. The Board of Directors shall have the control and management of the affairs and business of this organization. Such Board of Directors shall only act in the name of the organization when it shall be regularly convened by its chairman after due notice to all the directors of such meeting.
- d. [%] of the members of the Board of Directors shall constitute a quorum and the meetings of the Board of Directors shall be held regularly on the [DATE].
- e. Each director shall have one vote and such voting may not be done by proxy.
- f. The Board of Directors may make such rules and regulations covering its meetings as it may in its discretion determine necessary.
- g. Vacancies in the Board of Directors shall be filled by a vote of the majority of the remaining members of the Board of Directors for the balance of the year.
- h. The President of the organization by virtue of his office shall be Chairman of the Board of Directors.
- i. The Board of Directors shall select from one of their members a secretary.
- j. A director may be removed when sufficient cause exists for such removal. The Board of Directors may entertain charges against any director. A director may be represented by counsel upon any removal hearing. The Board shall adopt such rules for this hearing as it may in its discretion consider necessary for the best interests of the organization.

31. OFFICERS

- a. The initial officers of the organization shall be as follows:

[PRESIDENT]
[SECRETARY]

[VICE PRESIDENT]
[TREASURER]

- b. The President shall preside at all membership meetings. He shall by virtue of his office be Chairman of the Board of Directors. He shall present at each annual meeting of the organization an annual report of the work of the organization. He shall appoint all committees, temporary or permanent. He shall see all books, reports and certificates required by law are properly kept or filed. He shall be one of the officers who may sign the checks or

All committees of this organization shall be appointed by the Board of Directors and their term of office shall be for a period of one year or less if sooner terminated by the action of the Board of Directors.

The permanent committees shall be: [DESCRIBE]

34. DUES

The dues of this organization shall be [AMOUNT] per annum and shall be payable on [DATE].

35. AMENDMENTS

These By-Laws may be altered, amended, repealed or added to by an affirmative vote of not less than [%] of the members.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

PRESIDENT

VICE PRESIDENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECRETARY

TREASURER

Authorized Signature

Authorized Signature

CERTIFICATE OF INCORPORATION OF [NAME]

This Certificate of Incorporation of [NAME] (the “Agreement”) is made and effective [DATE],

BY: [INCORPORATOR NAME] (the "Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

15. NAME OF CORPORATION

The name of the corporation is [NAME OF CORPORATION].

16. ADDRESS OF CORPORATION

The address of the registered office of the corporation in the State of [STATE/PROVINCE]. The name of its registered agent at that address is [NAME].

17. PURPOSE OF CORPORATION

The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the [GENERAL CORPORATION LAW] of the State of [STATE/PROVINCE].

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

The company should review how this stock offering might affect future financings. Ideally, the stock issuance should not unduly restrict the ability of the company to issue additional stock in the future.

Price and Number of Shares

The appropriate price for the shares and the number of shares to be issued need to be established. The dilution to the existing shareholders resulting from the new issuance must be reviewed and determined acceptable.

Make Securities Law Filings

Make sure to make the required filings with the SEC generally within 15 days of the stock sale.

Stock Certificate

After the sale, the company should issue a stock certificate, signed by the appropriately authorized officers of the company. It will be useful to keep a copy of the stock certificate in the company records. The certificate should include any appropriate legends and be dated and numbered.

Stock Ledger

The issuance of stock should be recorded on the company's Stock Ledger, showing the date issued, consideration paid, name and address of each shareholder, certificate number and other relevant information.

DR. LUBOGO ISAAC CHRISTOPHER

Documents Available for Inspection

Financial Statements & Selected Financial Data

Projections

Exhibits

Is a partner entitled to interest on his or her capital contributions?

Does any partner have any priority on distributions over any other partners?

allocations

How are distributions to be divided among the partners?

How are tax allocations made?

Will the general partner be obligated to make up capital accounts?

When are distributions to be made?

Will there be special distributions required to be made to at least pay for tax on each partner's pro rate income from the partnership?

management of the partnership

How broad are the management powers of the general partner? What are the limitations?

If more than one general partner, what actions require the consent of all of the general partners?

Is the general partner obligated to devote any particular amount of time to partnership matters?

Is the general partner and its affiliates free to engage in other activities?

Is there any limit on the general partner's right to form other partnerships?

Will the general partner be broadly protected from liability?

Will the general partner be indemnified for acts taken on behalf of the partnership?

Under what circumstances might the general partner be liable to the partners for acts or omissions?

What specific duties does the general partner have?

assignment of interests

Does the general partner have the right to assign its interest in distributions?

What rights does an assignee of a limited partner's interest get?

In what situations will assignment be prohibited?

What are the procedures for substitution of limited partners?

What happens on the death, incompetency or bankruptcy of a limited partner?

termination of a general partner

Under what circumstances can the general partner voluntarily withdraw as the general partner of the partnership?

What are the events that will result in the general partner ceasing to be the general partner of the partnership?

Under what circumstances can the limited partners remove the general partner?

What happens to the general partner's interest when it has ceased to be the general partner?

DISSOLUTION AND TERMINATION OF THE PARTNERSHIP

Under what circumstances will the partnership be dissolved?

Under what circumstances can the partnership continue notwithstanding a technical dissolution?

How are distributions to be made on liquidation of the partnership?

miscellaneous

Which amendments to the partnership agreement can be effected solely by the general partner, without the consent of the limited partners?

How are other amendments to the partnership agreement to be effected?

CHECKLIST

for FORMATION OF A CORPORATION

This document is not intended to substitute for legal advice nor legal wording provided by a competent advisor in the relevant legal jurisdiction.

Corporate Name

Yes No Has the name of the corporation been checked to see if it is available?

Yes No Has a trademark/trade name search been done to check if there are any confusingly
 similar names being used?

Incorporation Documents

Yes No Have the Articles of Incorporation (or Certificate of Incorporation) been filed?

Yes No Is an Employment Agreement desired for any of the employees?

Yes No Should employees and consultants be required to sign a Confidentiality and Invention Assignment Agreement?

Yes No Are any other agreements appropriate at the incorporation stage?

Yes No Have those agreements been authorized by the Board of Directors, if appropriate?

Yes No Have any required notice filings been made?

Yes No Should any trademark or service mark filings be made?

Stock

Yes No Has the issuance of stock been authorized by Board action? And shareholders
action if necessary?

Yes No Has the company received the consideration for the stock issued?

Yes No Have the securities laws been complied with ?

Yes No Have all SEC Form notices been timely filed?

CHECKLIST

for complete contracts terms

Not all items are relevant in all contractual situations In some situations, other provisions may be appropriate that are not listed below The following checklist is, however, a basic and general guide as to what provisions it may be important to include, or at least consider, in the business contracts that you enter into This document is not intended to substitute for legal advice nor legal wording provided by a competent advisor in the relevant legal jurisdiction

Parties

Names

Addresses

Number of shares subscribed by each

Cash

Property

Description

Valuation

Size of loan to be made by each

Terms

Interest

Maturity

For ordinary actions of corporation

For extraordinary actions of corporation

Debt capital

Amount

Terms

Lender(s)

Directors and officers

Number of directors

Names of first directors

Number and titles of officers

Names of first officers to be elected

Implementation of agreement

Employment of attorney

Name and address

Attorney's powers and duties

Responsibility of parties for incorporation expenses

Proportionate to capital invested by party

Subscription payments

Time of payment

Event causing payment

Restrictions on transferability of stock

Right of first refusal

Cross purchase agreements

Valuation of stock

Funding of agreements with insurance

Employment contracts for key employees

Terms

Salary

Class voting to elect stated number of directors by each class of stock

Class voting to amend articles of incorporation or bylaws

Percentage vote to approve

Electing named persons as officers

Pro rata participation in additional stock issues

Adoption of fringe employment benefits

Pension and profit-sharing plans

Life, medical, and other insurance

Incorporation of agreement into articles of incorporation and bylaws

Ratification by shareholders and directors

General provisions

Entire agreement between parties

LEGENDS FOR STOCK CERTIFICATES

Securities Act Legend

In typical start-up companies where the shares are issued under the private placement exemption from the registration requirements of the Securities Act of 1933, the following legend (or a variation thereof) should be placed on the front of the stock certificate or on the back with a notice on the front referring to the legend:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO THE COMPANY STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT, IF ANY, COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

Intrastate Offering Legend

If the securities have been issued in a transaction exempted from the federal registration requirements pursuant to the intrastate offering exemptions from the Securities Act of 1933, then the following legend should be placed on the stock certificate:

FOR A PERIOD OF NINE MONTHS FROM THE DATE OF THE LAST SALE OF SECURITIES BY THE ISSUER IN CONNECTION WITH THE OFFERING WHEREBY THESE SHARES WERE PURCHASED, ALL REALES OF THESE SECURITIES, BY ANY PERSON,

the company or other shareholders have certain repurchase rights in connection with the shares, a variation of the following provision will be appropriate:

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO REPURCHASE PROVISIONS IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE ISSUER AND THE SHAREHOLDER, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE ISSUER.

Preferred Stock

If the stock to be issued is preferred stock, consider the following legend:

THE RIGHTS, PREFERENCES, PRIVELEGES AND RESTRICTIONS GRANTED TO OR IMPOSED UPON EACH CLASS OR SERIES OF SHARES OF THE CORPORATION ARE CONTAINED IN THE CORPORATION’S ARTICLES OF INCORPORATION, A COPY OF WHICH IS OBTAINABLE FROM THE SECRETARY OF THE CORPORATION UPON REQUEST AND WITHOUT CHARGE.

Other Legends

It may also be required by law or be otherwise appropriate that the share certificate reflect rights or liabilities attendant to the shares such as assessment rights, preemptive rights, special qualifications of persons who may be shareholders, restrictions on or assignment of voting rights, or rights of co-sale and the like.

It is agreed that when corporation is formed, and stock issued, First Partner will sell to Third Partner, [AMOUNT] of stock, and Second Partner agrees to sell an equal amount of stock to Third Partner, the intention being that as soon as the corporation is incorporated all of the above-named parties are to have an equal amount of stock in the corporation.

It is agreed by Third Partner that he [she] will purchase the above described stock as set forth, paying for it by giving an individual note to the respective parties for the amount of stock received from them, and that the stock will be deposited with them as collateral security for payment of the note. The note will be dated [DATE], and due three years from that date with interest at [%] percent and until the corporation is completed. Third Partner is a partner to a [%] interest in the business.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

FIRST PARTNER

SECOND PARTNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

THIRD PARTNER

Authorized Signature

PRE-INCORPORATION DESIGNATION OF DIRECTORS

This Pre-Incorporation Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [FIRST INCORPORATOR NAME] (the "First Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND INCORPORATOR NAME] (the "Second Incorporator"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

All the parties to this Pre-Incorporation Agreement shall be the first directors of the corporation upon its organization, and shall serve as such until their several successors are elected and qualify pursuant to the bylaws of the corporation. The first directors shall [serve without remuneration or each receive the sum of [AMOUNT] for each meeting of the board, regular or special, actually attended or as the case may be].

[Name], one of the first directors of the corporation, shall serve as its general manager until [his or her] successor is duly selected and qualified, shall perform all services required of [him or her] in the general management and operation of the business of the corporation, and shall receive for such services as general manager a salary of [AMOUNT] of [month or year].

The By-laws shall provide that the officers of the corporation shall consist of a president, a vice-president, and a secretary-treasurer [add other officers, as required]. The first officers of the corporation, who shall take office and serve immediately upon its formation and until duly relieved by the board of directors, shall be [name], president; [name], vice-president; [name], secretary-treasurer; [add other appointees, if any]. Until and unless the board of directors otherwise provides, the [monthly or yearly] salaries of the officers shall be as follows:

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST HOLDER NAME] (the "First Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND HOLDER NAME] (the "Second Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD HOLDER NAME] (the "Third Holder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual promises, covenants and conditions herein contained and for other good and valuable consideration, the parties hereto agree as follows:

Definitions

Certain terms used herein are defined as follows:

the Notice. If the Notice provides for the payment of non-cash consideration, the Company at its option may pay the consideration in cash equal to the Company's good faith estimate of the present fair market value of the non-cash consideration offered.

If the Company or its designee elects not to purchase or obtain all of the Shares designated in the selling Holder's Notice, then the Holder may Transfer the Shares referred to in the Notice to the proposed transferee, providing such Transfer (a) is completed within 30 days after the expiration of the Company's right to purchase or obtain such Shares, (b) is made at the price and terms designated in the Notice, and (c) the proposed Transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon receipt of such Shares. If such Shares are not so transferred, the selling Holder must give notice in accordance with this paragraph prior to any other or subsequent Transfer of such Shares.

Notwithstanding Section 3(a), a Holder may Transfer Shares: (i) to a member of the Holder's Immediate Family or to a trust established for the benefit of a member or members of the Holder's Immediate Family, (ii) to an affiliate or equity holder of the Holder, (iii) to a person who is a constituent partner of the Holder on the date hereof, or (iv) to the estate of any of the foregoing by gift, will or intestate succession; provided that the Holder or his representative notifies the Company of such Transfer not less than [NUMBER] nor more than [NUMBER] days prior to the Transfer and that the proposed transferee agrees to be bound by the terms and provisions of this Agreement and to become a party to this Agreement immediately upon the receipt of such Shares.

No Transfer to Competitors

A Holder may not Transfer any Shares to a competitor of the Company, or to any shareholder, partner or other beneficial holder of an equity ownership interest in a competitor, other than pursuant to a merger, combination, or other transaction approved by the Board of Directors.

Governing Law

Notwithstanding any provisions to the contrary contained in this Agreement, the Company's obligations to pay or complete payment for any Shares to be purchased by it under this Agreement

The consummation of a public offering for any of the common stock of the Company registered under the [LAW/CODE/ACT].

Acknowledgments

Each Holder acknowledges that other shareholders of the Company may have restrictions on their shareholdings different than the terms contained herein.

Further Assurances

Each party hereto agrees to perform any and all further acts and to execute and deliver any documents which may reasonably be necessary to carry out the provisions of this Agreement.

Modification

This Agreement as applied to any Holder may be amended at any time by the written agreement of the Company and a Holder affected thereby.

Will Provisions

Each Holder agrees to insert in his or her will, or to execute a codicil thereto, directing and authorizing his or her executor to fulfill and comply with the provisions hereof.

Notice

Any notice required or permitted hereunder shall be delivered in person or sent by telecopier, air courier or certified mail, return receipt requested, postage and fees prepaid in all cases; in the case of the Company, to the then current address of its then principal business office, to the attention of the Chairman of its Board of Directors, and, in the case of a Holder, to the address of such Holder shown on the signature page hereto, or to such other address as will have been specified by prior written notice to the sending party. Notice shall be effective upon delivery if it is hand-delivered; upon receipt if it is transmitted by tele-copier, air courier or registered, certified or express mail; upon expiration of the third business day after deposit in the [COUNTRY] mail if mailed from and

The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. The language of this Agreement shall be construed as to its fair meaning and not strictly for or against any party.

Severability

If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be enforceable in accordance with its terms and interpreted as if such provisions were as excluded.

Attorney Fees

In the event that any dispute among the parties hereto should result in litigation or arbitration, the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

COMPANY

FIRST HOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Consent of Spouse

The undersigned spouse(s) of the party (parties) to the foregoing Agreement acknowledge(s) on his or her own behalf that: I have read the foregoing Agreement and I know its contents. I am aware that by its provisions my spouse grants the Company an option to purchase all of his or her shares of the Company, including my community interest in them. I hereby consent to the sale, approve of the provisions of the Agreement, and agree that those shares and my interest in them are subject to the provisions of the Agreement and that I will take no action at any time to hinder operation of the Agreement on those shares or my interest in them.

SPOUSE

SPOUSE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SPOUSE

SPOUSE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Name

SHAREHOLDERS AGREEMENT

This Shareholders Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [CORPORATION NAME] (the "Corporation"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [FIRST SHAREHOLDER NAME] (the "First Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SECOND SHAREHOLDER NAME] (the "Second Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [THIRD SHAREHOLDER NAME] (the "Third Shareholder"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WITNESSETH:

WHEREAS, the present distribution of shares of the Corporation is as follows:

Name	Number of Shares
_____	_____
_____	_____
_____	_____

Each Shareholder represents and warrants that he is acquiring and has acquired his Shares for his own account for investment and not with a view to, or for resale in connection with, any distribution thereof or with any present intent of selling any portion thereof.

Transfers of Shares

A Shareholder may not transfer, give, convey, sell, pledge, bequeath, donate, assign, encumber or otherwise dispose of any Shares except pursuant to this Agreement.

Transfers to the Company

Notwithstanding anything to the contrary contained in this Agreement, a Shareholder may give, sell, transfer or otherwise dispose of all or any of his Shares to the Company at such price and on such terms and conditions as such Shareholder and the Board of Directors of the Company may agree.

Transfer to Others

Except as provided for in Paragraph 3.1 above, a Shareholder desiring to dispose of some or all of his Shares may do so only pursuant to a bona fide offer to purchase (the "Offer") and after compliance with the following provisions. Such Shareholder shall first give written notice to the Company and the other Shareholders of his intention to dispose of his Shares, identifying the number of Shares he desires to dispose of, the proposed purchase price per Share and the name of the proposed purchaser and attaching an exact copy of the Offer received by such Shareholder.

The Company's Right to Purchase

The Company shall have the exclusive right to purchase all of the Shares which the Offering Shareholder proposes to sell at the proposed purchase price per Share. The Company shall exercise this right to purchase by giving written notice to the Offering Shareholder (with a copy thereof to each of the Continuing Shareholders) within [NUMBER] days after receipt of the notice from the Offering Shareholder (the "[NUMBER] Day Period") that the Company elects to purchase the

payment of the price as are set forth in the Offer; provided, however, that if said offer received by the Offering Shareholder shall provide for any act or action to be done or performed by the party making such Offer at any time before or within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof, then the Buyer shall be deemed to have complied with the terms and conditions of such Offer if Buyer does or performs such act or action within [NUMBER] days after the last day for exercise of Buyer's right to purchase pursuant to Paragraphs 3.2 hereof.

Sale to Third Party

If either the Company or some or all of the Continuing Shareholders do not elect to purchase all of the Shares which the Offering Shareholder proposes to sell, the Offering Shareholder may accept the Offer which the Offering Shareholder mailed with his notice to the Company pursuant to Paragraph 3.2 hereof and transfer all (but not less than all) of the Shares which he proposes to sell pursuant thereto on the same terms and conditions set forth in such Offer, provided that any transferee of such Shares shall be bound by this Agreement, and further provided that if such sale is not completed within [NUMBER] days after the date notice is received by the Company under Paragraph 3.2 hereof, all such Shares shall again become subject to the restrictions and provisions of this Agreement.

Right of Co-Sale

Notwithstanding any other provision hereof, in the event the Offering Shareholder receives an Offer from an unaffiliated third party (the "Offeror") to purchase from such Shareholder not less than [%] of the Shares owned by such Shareholder and such Shareholder intends to accept such Offer, the Offering Shareholder shall, after complying with the provisions of Paragraph 3.2 above and before accepting such Offer, forward a copy of such Offer to the Company and each of the Continuing Shareholders. The Offering Shareholder shall not sell any such Shares to the Offeror unless the terms of the Offer are extended by the Offeror to the Continuing Shareholders pro rata in proportion to their ownership of Shares of the Company (excluding the Offering Shareholder's

of the [NUMBER]-day period of such Stock Offer, setting forth such portion of the Offered Securities as such Shareholder elects to purchase (the "Notice of Acceptance"). If any Shareholder shall subscribe for less than his pro rata share of the Offered Securities to be sold, the other subscribing Shareholders shall be entitled to purchase the balance of that Shareholder's pro rata share in the same proportion in which they were entitled to purchase the Offered Securities in the first instance (excluding for such purposes such Shareholder), provided any such other Shareholder elected by a Notice of Acceptance to purchase all of his pro rata share of the Offered Securities. The Company shall notify each Shareholder within [NUMBER] days following the expiration of the [NUMBER]-day period described above of the amount of Offered Securities which each Shareholder may purchase pursuant to the foregoing sentence, and each Shareholder shall then have [NUMBER] days from the delivery of such notice to indicate such additional amount, if any, that such Shareholder wishes to purchase.

In the event that Notices of Acceptance are not given by the Shareholders in respect of all the Offered Securities, the Company shall have [NUMBER] days from the expiration of the foregoing [NUMBER]-day or [NUMBER]-day period, whichever is applicable, to sell all or any part of such Offered Securities as to which a Notice of Acceptance has not been given by the Shareholders (the "Refused Securities") to any other person or persons, but only upon terms and conditions in all respects, including, without limitation, unit price and interest rates, which are no more favorable, in the aggregate, to such other person or persons or less favorable to the Company than those set forth in the Stock Offer. Upon the closing, which shall include full payment to the Company, of the sale to such other person or persons of all the Refused Securities, the Shareholders shall purchase from the Company, and the Company shall sell to the Shareholders the Offered Securities in respect of which Notices of Acceptance were delivered to the Company by the Shareholders, at the terms specified in the Stock Offer.

In each case, any Offered Securities not purchased by the Shareholders or other person or persons in accordance with Section 4(c) may not be sold or otherwise disposed of until they are again offered to the Shareholders under the procedures specified in Sections 4(a), (b) and (c).

in such proportion as the Continuing Shareholders may agree among themselves, or in the absence of agreement, pro rata in proportion to their then ownership of Shares of the Company (excluding the Offering Shareholder's (Shares), and shall exist for a period of [NUMBER] days after the offer has been received by all of the Continuing Shareholders. For purposes of this Agreement, "Disability" of a particular person means the inability, due to a physical or mental condition, of such person to maintain his employment or other relationship with the Company (including without limitation, fulfilling his duties in any position as an officer, director, consultant, joint venturer, independent contractor, or promoter to or of the Company) or to conduct his normal daily activities on behalf of the Corporation for any [NUMBER] consecutive month period.

Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be determined as follows: The Company or the Continuing Shareholders, as the case may be, within [NUMBER] days after receipt of any offer referred to in Paragraph 5 above, shall notify the Offering Shareholder of the price at which the Company or the Continuing Shareholders, are willing to purchase the Shares.

In the event the Offering Shareholder objects to the purchase price established in accordance with Paragraph 6(a) above, the Offering Shareholder shall have the right to solicit offers to buy the Shares in accordance with the provisions of Paragraph 3.2. The right to solicit offers shall be subject to the terms and conditions of Section 3.2 and 3.3 hereof, including without limitation, the rights of first refusal and co-sale and the period during which any right of first refusal must be exercised but shall not be subject to the [NUMBER] day period referred to in Paragraph 3.2 of this Agreement.

Payment of Purchase Price

The purchase price for all Shares purchased pursuant to Paragraph 5 hereof shall be paid at the closing of the sale.

Put and Call Options

The Continuing Shareholders shall exercise any option provided for in this Paragraph 8 within [NUMBER] days after receipt of a declaration. Any closing of the sale of Shares pursuant to such exercise shall occur within [NUMBER] days after receipt of a Declaration.

Purchase Price

Any purchase or sale of Shares sold pursuant to this Paragraph 8 shall be at the price as set forth in the Declaration delivered by the Shareholder exercising his right to sell his shares and shall be paid at the closing of the sale of the Shares.

Rights Upon Registration

In the event that the Company shall register or qualify any or all of the common stock of the Company under the [CODE OR LAW], as amended (or any similar statute then in force), on an appropriate registration statement, the Company shall give the Shareholders written notice thereof, and upon written request of a Shareholder, received by the Company not later than [NUMBER] days after receipt by the Shareholder of such notice, the Company will include in the registration statement filed by the Company with the Securities and Exchange Commission all Shares held by such Shareholder with respect to which the Shareholder shall have so requested registration.

Agreement Binding on All Persons Interested in Shares

Each person who now or hereafter acquires any legal or equitable interest in any Shares shall be bound by the terms of this Agreement. No issuance or transfer of Shares shall be effective and the Company shall not enter any issue or transfer upon the stock books of the Company or issue a certificate in the name of any person unless the Company is satisfied that such person is, and in a manner satisfactory to the Company has acknowledged being, bound by this Agreement.

Closing

Except as otherwise agreed to or expressly provided for herein, closing pursuant to the exercise of a right to purchase or sell Shares pursuant to this Agreement shall be held at the principal

The provisions of this Agreement regarding restrictions against the transfer of Shares shall apply to any interest of the spouse of any Shareholder in such Shares (said spouse is hereinafter referred to as a "Spouse").

Transfers Upon Death of Spouse

If the Spouse of a Shareholder predeceases such Shareholder and has failed to bequeath to such Shareholder the deceased Spouse's entire marital property interest, if any, in the Shares held by the Shareholder, or if the Spouse of a Shareholder is adjudicated to be bankrupt or insolvent, or makes an assignment for the benefit of his or her creditors (collectively referred to herein as an "Event"), then to the extent necessary to divest the Spouse of any interest in the Shares of such Stockholder, within three months after the date of the occurrence of the Event, the Shareholder shall have the option to and must purchase such marital property interest of his or her Spouse or the estate of the deceased Spouse, as the case may be, in the Shares held by the Shareholder at a price equal to the lesser of either the value of the spouse's marital property interest in such Shares or the book value of such Shares.

Marital Dissolution

Any decree of dissolution, separate maintenance agreement or other property settlement between a Shareholder and his or her Spouse shall provide that the entire marital property interest of the Spouse in the Shares of the Shareholder shall be granted to the Shareholder as part of the division of the property of the marriage and the Spouse shall release and the Shareholder shall accept any marital property interest of such Spouse in the Shares. If payment for such Shares is ordered by the Court or demanded by the Spouse, no consideration shall be required, but if the Shareholder volunteers consideration for said release of interest it shall be no greater than the lesser of either the value of the Spouse's marital property interest in such Shares or the book value of the Spouse's marital property interest in such Shares.

Inclusion of Marital Property

The Company may elect to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code, as amended from time to time (the "code"), or such other provisions of law as may hereafter be applicable to such an election, and for state income tax purposes, if available (hereinafter, an "Election"). Each Shareholder and the Company agree to execute and file the necessary forms for making and maintaining an Election, and each Shareholder agrees to deliver to the Company the consent of the spouse of such Shareholder if such consent is required for the Election under any community or marital property laws or otherwise. The Shareholders and the Company agree that they will take such other actions as may be deemed necessary or advisable by counsel to the Company to exercise or maintain the Election. The Shareholders shall maintain the Election unless the Management Shareholders unanimously agree otherwise or in the event that the Board of Directors requests that the Shareholders revoke the Election, in which case the Shareholders shall promptly execute and deliver to the Company such documents as may be necessary to revoke the Election. None of the Shareholders, without the consent of all of the Management Shareholders, shall take any action or position, or make any transfer or other disposition of his shares of the Company which may result in the termination or revocation of the Election. In the event of an inadvertent termination of the Election as described in Section [NUMBER] of the [Code OR LAW] or other applicable law, the Shareholders shall agree to make such adjustments as may be required to continue the Election, as provided in Section [NUMBER] of the [Code OR LAW]

Authorization

The Company is authorized to enter into this Agreement by virtue of a resolution of Board of Directors.

Notices

Notices and declarations under this Agreement shall be in writing and sent by registered or certified mail, return receipt requested, postage paid, to the Company at its principal executive offices and to Shareholders at their last address as shown on the records of the Company or at such other

Entire Agreement

This instrument contains the entire agreement of the parties and may be changed only by an agreement in writing signed by the Company and all persons then owning Shares.

Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year set forth below.

COMPANY

FIRST SHAREHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SECOND SHAREHOLDER

THIRD SHAREHOLDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

I acknowledge that I have been advised and have been encouraged to seek independent counsel of my own choosing to represent me in matters regarding the Shareholders Agreement and my execution of this spousal consent.

I hereby consent to the Company and my spouse making and maintaining the Subchapter S Election (if applicable) under the Internal Revenue Code, as amended from time to time.

Signature Signature

Name – Spouse of First Shareholder Name – Spouse of Second Shareholder

Signature

Name – Spouse of Third Shareholder

Number _____

[Name of Corporation]

A [State] Corporation

[# Issued] Shares

[Common/PREFERRED] Stock

Witness

Stockholder

NOTICE: THE SIGNATURE ON THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATSOEVER.

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER [CODE OR LAW]. SUCH SHARES MAY NOT BE SOLD OR TRANSFERRED OR PLEDGED IN THE ABSENCE OF SUCH REGISTRATION UNLESS THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO IT STATING THAT SUCH SALE OR TRANSFER IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT. COPIES OF THE AGREEMENT, IF ANY, COVERING THE PURCHASE OF THESE SHARES AND RESTRICTING THEIR TRANSFER MAY BE OBTAINED AT NO COST BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE CORPORATION AT THE PRINCIPAL EXECUTIVE OFFICES OF THE CORPORATION.

DR. LUBOGO ISAAC CHRISTOPHER

of you said you did not want. The new plan permits you to keep seeing your regular doctors and have the visits paid for.

The modified coverage will be in force effective [DATE]. If you have any questions, call me at [NUMBER] or e-mail me via company mail at [ADDRESS].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CHECKLIST

ISSUES TO REVIEW FOR HEALTH AND DISABILITY INSURANCE

This checklist will help you to determine if your company has a good disability insurance in place for all its directors, officers and employees.

- Is the insurer financially strong, with a good reputation?
- Does the insurer have a good history of timely paying claims?
- What are the exclusions from coverage?
- Are the premiums competitive? Are the premiums for dependents reasonable?
- Is disability defined broadly enough?
- How long are the benefits payable? One year? Two years? To a certain age? Life?
- How long the person must be disabled before disability payments kick in?
- How is partial disability covered?
- Is the policy guaranteed renewable?
- Is the policy non-cancelable?
- What is the level of payment to a disabled employee? Will there be a cost of living upward adjustment?
- How much flexibility does an insured have to choose doctors?
- What employees can be covered? Can part-time employees be covered?
- What does the insured have to pay for each doctor visit?
- What deductibles are present?
- What dependents are eligible for coverage?
- Will benefits be available to gay partners of the employee?
- What hospitalization and major medical expenses are covered?

CHECKLIST

ISSUES TO REVIEW FOR KEY MAN LIFE INSURANCE

This checklist will help you to determine if your company has a good disability insurance in place for all its directors, officers and key employees.

- Is the amount of the coverage sufficient?
- Is the insurer financially strong?
- Are the premium payments competitive?
- Are the premiums fixed for the life of the policy?
- Is there a cash build up feature?
- If there is a cash build up feature, how does it work?
- Can you borrow against the policy? At what terms?
- Are the proceeds payables to the company or to a surviving spouse?
- What are the circumstances under which the insurer can refuse to pay?
- Under what circumstances can the policy be cancelled?
- What physical exams have to be taken?
- Does the insurer have a good history of timely paying claims?
- What information of the applicant is necessary?
 - Smoker / non-smoker
 - Age
 - Name
 - Health history

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: EXPLANATION OF INSURANCE RATE INCREASE

Dear [CONTACT NAME],

We are in receipt of a directive from [NAME OF INSURANCE COMPANY] concerning the above captioned Regulation. This new regulation went into effect on [DATE] and requires that complications of pregnancy be covered in the same manner as any other injury or disease.

"Complications" is defined as anything other than a normal delivery. This is applicable to any employee, dependent spouse or dependent child.

Due to the potential increase in claims, it has become necessary to increase our quoted rates to comply with this regulation. The new employee rate will be [AMOUNT] and the new spouse rates will be [AMOUNT]; the new spouse and children rate will be [AMOUNT] and the new children only rate will be [AMOUNT].

If you have any questions regarding these rate increases due to the change in regulations, please feel free to call.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

POLICIES AND DOCUMENTATION



ABSENCE POLICIES EXAMPLES

The first sample policy is appropriate for businesses in which employee timeliness and attendance are critical. The policy is designed to impress upon employees that the needs of the business require them to get to work on time and that they need to let you know when they will be unable to make it in to work.

ABSENCE POLICY #1

Your timely attendance at work is crucial to making the business run smoothly. We must meet production requirements to satisfy our customer's demands. You need to do your part in achieving this goal, and one way is to maintain a good attendance record. Any absence or tardiness becomes a part of your employment record.

Punctuality requirements

Employees are expected to be at their work stations on time. Tardiness is defined as being at your work station at least [NUMBER] minutes past your scheduled starting time. You should also notify the appropriate person when you know you may be late for work. Being on time makes it easier for all of us because tardiness hinders teamwork among employees. Being tardy for work or leaving the job station before quitting time will be considered cause for corrective action.

Counting absences

Here are the rules for how absences will be counted:

An unscheduled absence for at least one-half the workday will be counted as one occurrence.

An absence for one or more consecutive workdays will be considered one occurrence. For example, if you're out two consecutive days, that will count as one occurrence.

ABSENCE POLICY #2

As an employee, you will be treated as a professional, which means that you will be expected to complete your work on time and at the expected level of quality. If extra hours are needed to complete your work, you will be expected to put in those extra hours. If, on the other hand, you are able to complete your work in less than a standard workweek, you are free to use those extra hours as you see fit. In return for being treated as a professional, we expect you to behave as one and not to abuse these privileges.

Even though you will be treated as a professional and will presumably behave as one, general absence guidelines are nevertheless necessary to ensure that we are able to conduct business in a predictable manner. Although we are not interested in monitoring your comings and goings, we need to know, in advance where possible, when you will be absent from work. Here are those guidelines:

Absences

Employees are expected to be at work and to work a full workweek, except for authorized absences. Authorized absences include the following:

- vacation time scheduled in advance
- sick leave
- time off for a workers’ compensation injury

workplace. If you know hazardous conditions have been reported in the area, protect yourself and call work first.

I declare under penalty and perjury, under the laws of the State of [STATE/PROVINCE], that the forgoing is true and correct. Executed this [DAY] day of [MONTH], [YEAR], at [PLACE].

EMPLOYEE

COMPAN

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

- Make sure the furniture and equipment you use at the work is ergonomically designed. This includes chairs, computer keyboards, computer screens, as well as other equipment involving repetitive physical use.
- Address indoor pollution problems through proper ventilation and inspection.
- Regularly inspect your equipment for functionality and safety purposes.
- Have a safety officer, a safety plan, and conduct safety meetings.
- Make sure to send ill employees home before allowing them to work around dangerous machinery.
- Make sure you communicate emergency response plans for fire, earthquakes, hurricanes, flooding, etc.
- Drug test new employees and after accidents.
- Clearly set forth smoking prohibitions and participate in anti-smoking campaigns.
- Do a criminal reference check for employees in positions of responsibility for elders, infants and others who are defendant on their care.
- Do pre-hire and annual Department of Motor Vehicle (DMV) checks for all employees who drive as part of their job.

CHECKLIST

ERGONOMICS ISSUES

“Ergonomics” is the study of physical work and it has never been more important to business owners and managers. As new technologies become available to help us do our jobs better, we hear reports that the same technologies can cause repetitive injuries or cumulative trauma. Employees who develop cumulative trauma or repetitive stress disorders may seek compensation from their employers who failed to heed early warning signs. Proactive attention to ergonomics when your employees are first placed at new workstations could prevent serious workplace injuries down the line – which will prevent your company facing citations, fines, or litigation.

The following checklist can help you make sure every employee who uses a descontractop computer is comfortable and healthy. This checklist can be downloaded to your firm’s Intranet site for your employees to use.

Can every employee answer “yes” to each of the following questions?

- It is easy for me to get in and out of my workstation.
- My chair adjusts so that my upper legs and lower legs form a right angle.
- My chair has armrests.
- The keyboard sits at my waist; my upper arms and lower arms form a right angle.
- My wrists are not bent while typing.
- A wrist rest is available if I want one.
- I can tilt the keyboard.
- I can easily reach the mouse pad.
- The chair back supports my lower back.
- The chair back supports my upper back.
- My feet rest comfortably on the floor.
- A footrest is available if I want one.
- An adjustable document holder is available if I want one.
- I have a color monitor that is adjustable for contrast and brightness.

CHECKLIST

HOW TO BE AN EXCELLENT EMPLOYEE

- Understand that all relationships require trust, direction, communication and commitment to be successful.
- Keep yourself healthy, focused and alert at all times.
- Don't be afraid to admit mistakes. It is better to admit that you made a mistake, realize why you made the mistake, and then make sure you don't do it again.
- Don't be afraid to say, "I don't know." It is better to confess ignorance and learn the right way of doing things than to pass on, or rely on, false information that may be damaging to you and the company.
- Don't talk behind someone's back. If you decide to come to work for us we expect your loyalty and best efforts. You should expect ours in return. If you dislike your supervisor or the company then let us know what is bothering you and we will try to work it out.
- Don't just punch the clock. If you run out of things to do during the workday, find out if there is anything else you can do to help bring value to the company, its clients, customers and other stakeholders.
- Find the value in the diversity of our employees and customers.
- Dress correctly. Wear clothes that will make other people feel comfortable and that reflects your value to the company.
- Don't harass, discriminate, use profanity or tell off-color jokes.
- Be honest and trustworthy. Follow the Code of Ethics provided in the Employee Handbook.
- Think! Be creative and innovative. The company is willing to listen to any suggestions or ideas you have which would increase the quality and value of our products or services.
- Follow the Golden Rule! Act with respect and responsibility towards those around you.

business plans, operating results, marketing strategies, customer lists, personnel records, upcoming acquisitions and divestitures, new investments, and manufacturing costs, processes and methods. Proprietary, confidential and sensitive business information about this company, other companies, individuals and entities should be treated with sensitivity and discretion and only be disseminated on a need-to-know basis.

Misuse of material inside information in connection with trading in the company’s securities can expose an individual to civil liability and penalties under the [ACT]. Under this Act, directors, officers, and employees in possession of material information not available to the public are “insiders.” Spouses, friends, suppliers, brokers, and others outside the company who may have acquired the information directly or indirectly from a director, officer or employee are also “insiders.” The Act prohibits insiders from trading in, or recommending the sale or purchase of, the company’s securities, while such inside information is regarded as “material”, or if it is important enough to influence you or any other person in the purchase or sale of securities of any company with which we do business, which could be affected by the inside information. The following guidelines should be followed in dealing with inside information:

- Until the material information has been publicly released by the company, an employee must not disclose it to anyone except those within the company whose positions require use of the information.
- Employees must not buy or sell the company’s securities when they have knowledge of material information concerning the company until it has been disclosed to the public and the public has had sufficient time to absorb the information.
- Employees shall not buy or sell securities of another corporation, the value of which is likely to be affected by an action by the company of which the employee is aware and which has not been publicly disclosed.

Officers, directors and employees will seek to report all information accurately and honestly, and as otherwise required by applicable reporting requirements.

Officers, directors and employees will refrain from gathering competitor intelligence by illegitimate means and refrain from acting on knowledge which has been gathered in such a

TECHNOLOGY RESSOURCES USE POLICY

Policy restricting personal use of employer’s computers and systems

1. PURPOSE

- a) To remain competitive, better serve our customers and provide our employees with the best tools to do their jobs, [COMPANY NAME] (“the Company”) makes available to our workforce access to one or more forms of electronic media and services, including but not limited to: computers, software, printers, copiers, files, databases, cellular phone, pager, e-mail, telephones, voicemail, fax machines, external electronic bulletin boards, wire services, online services, intranet, Internet and the World Wide Web.
- b) [COMPANY NAME] encourages the use of these media and associated services because they can make communication more efficient and effective and because they are valuable sources of information about vendors, customers, technology, and new products and services. However, all employees and everyone connected with the organization should remember that electronic media and services provided by the company are company property and their purpose is to facilitate and support company business. All computer users have the responsibility to use these resources in a professional, ethical, and lawful manner.
- c) To ensure that all employees are responsible, the following guidelines have been established for using e-mail and the Internet. No policy can lay down rules to cover every possible situation. Instead, it is designed to express [COMPANY NAME] philosophy and set forth general principles when using electronic media and services.

2. AUTHORIZATION

Access to the [COMPANY NAME] technology resources is within the sole discretion of the Company. Generally, employees are given access to the Company's various technologies based on their job functions. Only employees whose job performance will benefit from the use of the Company's technology resources will be given access to the necessary technology. Additionally,

The computers, electronic media and services provided by [COMPANY NAME] are primarily for business use to assist employees in the performance of their jobs. As long as personal use does not interfere with the employee's duties, is not done for pecuniary gain, does not conflict with the Company's business, and does not violate any Company policy, occasional, or incidental use of electronic media (sending or receiving) for personal, non-business purposes is understandable and acceptable, and all such use should be done in a manner that does not negatively affect the systems' use for their business purposes. However, employees are expected to demonstrate a sense of responsibility and not abuse this privilege.

The Company assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on the Company's technology resources. The Company accepts no responsibility or liability for the loss or non-delivery of any personal electronic mail or voicemail communications or any personal data stored on any Company property. The Company strongly discourages employees from storing any personal data on any of the Company's technology resources.

6. ACCESS TO EMPLOYEE COMMUNICATIONS

- a) Generally, electronic information created and/or communicated by an employee using e-mail, word processing, utility programs, spreadsheets, voicemail, telephones, Internet and bulletin board system access, and similar electronic media is not reviewed by the company. However, the following conditions should be noted:

[COMPANY NAME] does routinely gather logs for most electronic activities or monitor employee communications directly, be it:

- i) **Telephone Use and Voicemail:** Records are kept of all calls made from and to a given telephone extension. Although voicemail is password protected, an authorized administrator can reset the password and listen to voicemail messages.

Deleting or erasing information, documents, or messages maintained on the Company's technology resources is, in most cases, ineffective. All employees should understand that any information kept on the Company's technology resources may be electronically recalled or recreated regardless of whether it may have been "deleted" or "erased" by an employee. Because the Company periodically backs-up all files and messages, and because of the way in which computers re-use file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential.

7. THE INTERNET AND ON-LINE SERVICES

The Company provides authorized employees access to on-line services such as the Internet. The Company expects that employees will use these services in a responsible way and for business-related purposes only. Under no circumstances are employees permitted to use the Company's Technology Resources to access, download, or contribute to the following:

- gross, indecent, or sexually-oriented materials;
- sports sites;
- job-search sites;
- entertainment sites;
- gambling sites;
- games, humor;
- illegal drug-oriented sites;
- personal pages of individuals; and
- politically-oriented sites or sites devoted to influencing the course of legislation or public policy.

Additionally, employees must not sign "guest books" at Web sites or post messages to Internet news groups or discussion groups at Web sites. These actions will generate junk electronic mail and may expose the Company to liability or unwanted attention because of comments that employees may

- Using other people's log-ins or passwords; and
 - Breaching, testing, or monitoring computer or network security measures.
- b) No e-mail or other electronic communications can be sent that attempt to hide the identity of the sender or represent the sender as someone else.
- c) Electronic media and services should not be used in a manner that is likely to cause network congestion or significantly hamper the ability of other people to access and use the system.
- d) Anyone obtaining electronic access to other companies' or individuals' materials must respect all copyrights and cannot copy, retrieve, modify or forward copyrighted materials except as permitted by the copyright owner.
- e) The Company has installed a variety of programs and devices to ensure the safety and security of the Company's technology resources. Any employee found tampering or disabling any of the Company's security devices will be subject to discipline up to and including termination.

11. ENCRYPTION

Employees can use encryption software supplied to them by the systems administrator for purposes of safeguarding sensitive or confidential business information. Employees who use encryption on files stored on a company computer must provide their supervisor with a sealed hard copy record (to be retained in a secure location) of all of the passwords and/or encryption keys necessary to access the files.

12. CONFIDENTIAL INFORMATION

The Company is very sensitive to the issue of protection of trade secrets and other confidential and proprietary information of both the Company and third parties ("Confidential Information"). Therefore, employees are expected to use good judgment and to adhere to the highest ethical standards when using or transmitting Confidential Information on the Company's technology resources.

15. EMPLOYEE AGREEMENT ON USE OF E-MAIL AND THE INTERNET

I have read, understand, and agree to comply with the foregoing policies, rules, and conditions governing the use of the Company's computer and telecommunications equipment and services. I understand that I have no expectation of privacy when I use any of the telecommunication equipment or services. I am aware that violations of this guideline on appropriate use of the e-mail and Internet systems may subject me to disciplinary action, including termination from employment, legal action and criminal liability. I further understand that my use of the e-mail and Internet may reflect on the image of [COMPANY NAME] to our customers, competitors and suppliers and that I have responsibility to maintain a positive representation of the company. Furthermore, I understand that this policy can be amended at any time.

DATED: _____

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

- You may make a single photocopy of a copyrighted work for purposes of your own scholarship, research, criticism, comment or teaching.

The company prohibits use of its photocopy machines for any purpose that violates federal copyright law.

If you have any questions about whether photocopying a particular work would violate federal copyright law, please consult [NAME OF APPROPRIATE PERSON AT COMPANY] or the company’s General Counsel.

EMPLOYEE AGREEMENT ON USE OF PHOTOCOPY MACHINE

I have read, understand, and agree to comply with the foregoing policies, rules, and conditions governing the use of the Company's equipment and services. I am aware that violations of this guideline on appropriate use of photocopy machine may subject me to disciplinary action, including termination from employment, legal action and criminal liability. I further understand that I have responsibility to maintain a positive representation of the company and govern myself accordingly. Furthermore, I understand that this policy can be amended at any time.

DATED: _____

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Any employee becoming covered under the terms and provisions of the Plan. Each active employee of [COMPANY NAME] who has completed one year of service and who is a participant in [COMPANY NAME]'s pension plan. For [COMPANY NAME], the term includes all active, regular employees who have completed one year of service and are participants in [COMPANY NAME]'s pension plan, and all full-time hourly and part-time hourly employees who have [NUMBER] years' service in [COMPANY NAME]'s pension plan.

- d) Employee
Each active employee of an employer, including, in the case of [COMPANY NAME], all active full-time hourly and part-time hourly employees.
- e) Employer
[COMPANY NAME].
- f) First day of long-Term disability
The first day after a [NUMBER]-consecutive-day period in which the Participant is unable to perform the material duties of his or her occupation solely because of sickness or accidental injury.
- g) First day of total disability
The first day on which the Participant is unable to perform the material duties of his or her occupation solely because of sickness or accidental injury.
- h) Physician
Any person (other than the Participant or his spouse, child, brother, sister, or parent, or the child, brother, sister, or parent of the Participant's spouse) who is licensed by the law of the state in which treatment is received as qualified to treat the sickness or injury for which claim is made under the Plan.
- i) Plan
[COMPANY NAME]'s Long-Term Disability Plan.
- j) Plan administrator
[NAME OF PLAN ADMINISTRATOR]
- k) Qualifying period
The [NUMBER]-consecutive-day period during which a participant is totally disabled, commencing on the first day on which he or she is totally disabled. To be eligible to receive Plan benefits, a participant must satisfy the entire qualifying period and be determined to be totally disabled under the terms of the Plan.
- l) Rehabilitation program

- i) You are no longer an active, regular employee of a participating employer.
 - ii) The Plan is terminated (regardless of whether or not you are disabled).
 - iii) You retire under the [COMPANY NAME]Consolidated Pension Plan.
- d) Disclaimer of employment obligation
Participation in the Plan does not limit [COMPANY NAME]’s right to discharge any participant from employment, nor does it give any employee the right to continued employment.

3. Entitlement to benefits

To qualify for LTD benefits, you must be totally disabled for a [NUMBER]-consecutive-day period, you must be under the regular care and treatment of a licensed physician and you must be certified disabled by [ADMINISTRATOR’S NAME], based on conclusive medical evidence. You must also have applied for Social Security disability benefits and for any benefits available to you through other disability programs, including those available through the state in which you reside.

- a) Total disability and the qualifying period
You are considered totally disabled when you are unable to perform the material duties of your occupation solely due to sickness or accidental injury.

To qualify for Plan benefits, you must be totally disabled for a [NUMBER]-consecutive-day period. During that time, you may qualify for benefits under [COMPANY NAME]’s salary continuation/short-term disability program. Even in cases where short-term benefits are, you could be entitled to LTD benefits if your disability is continuous for [NUMBER] consecutive days.

- b) Recurrent and successive disability during the qualifying period
All days from the onset of disability on which you cannot work will be considered to be “continuous” and “consecutive” days of disability if they are from the same cause, unless

Claims Administration under the Plan is handled by [NAME OF CLAIMS ADMINISTRATOR].

As Claims Administrator, [NAME OF CLAIMS ADMINISTRATOR] has been delegated the authority to approve or deny claims for long-term disability benefits, based on medical documentation. Forms for this purpose are provided to disabled employees.

[NAME OF CLAIMS ADMINISTRATOR] will also advise on LTD appeals.

h) Claims for benefits

Claims for long-term disability benefits are made on forms provided by [NAME OF CLAIMS ADMINISTRATOR].

These forms are forwarded to you automatically when your disability lasts longer than three and a half months if the Claims Administrator feels, based on a review of existing medical documentation, that your disability is likely to last longer than [NUMBER] days.

i) Conclusive medical evidence

To qualify for benefits under the Plan, total disability must be supported by current medical documentation. A claimant must be in the continuous care of a qualified physician under a course of treatment appropriate for the disability.

A claimant may be asked to undergo a medical examination by a physician designated by the Claims Administrator. For example, if a claimant’s doctor cannot substantiate a finding of total disability with objective evidence, an independent evaluation may be required.

When a claimant cannot or will not provide conclusive medical evidence of total disability, LTD benefits will be denied or discontinued.

j) Ongoing certification of disability

commissions attributed to the [NUMBER] months immediately preceding the first day of total disability. (For reps with less than [NUMBER] full years of commissions, benefit is based on the average of the total number of months on commission.)

iii) for employees paid on the basis of salary plus commission: the sum of the above (Any salary or earnings rate not determined on a monthly basis is determined using your normal monthly scheduled hours (exclusive of overtime) in effect on the day preceding the first day of total disability.)

b) Minimum/maximum benefit

The minimum Plan benefit is [AMOUNT] per month.

There is no maximum dollar amount of benefit that you may receive under the LTD Plan's formula for calculation of benefits.

c) Offsets for other income

Long-term disability payments are reduced by any disability and/or income you are receiving including:

i) any benefits you are eligible to receive as regular salary, commission, bonus, special payments, sick leave, vacation pay, or under any salary continuation plan

ii) primary Social Security benefits

iii) benefits you are eligible to receive under the Public Employees Retirement Law, the Railroad Retirement Act, or any other federal, state, county, or municipal retirement act or law

iv) any employer retirement benefits

v) any benefits you are entitled to receive under other government - or [COMPANY NAME]- sponsored disability or income or retirement plans

vi) any benefits you are eligible to receive under worker's compensation or similar legislation

vii) any wages attributable to the period for which benefits are being paid under the

will be subtracted from the number of days for which you are eligible for LTD benefits. If you take a full month of vacation, the minimum LTD benefit will not be payable.

5. Payment of benefits

a) Monthly payments

Payments of long-term disability benefits commence on the first day of the month following the first day of Long-Term Disability.

Thereafter, payments are made on the first of each month to cover all or part of the preceding month during which you are certified disabled.

b) Funding

LTD benefits are paid from the assets of the [COMPANY NAME]Employee Benefits Trust. The Trustee is [Name of trustee]. It is the intent of [COMPANY NAME] to prefund the Trust at the end of each year, projecting the Plan’s financial needs based on recommendations of independent consultants.

6. Termination of benefits

With the exception of mental or nervous disorders, alcoholism or drug abuse, when all Plan conditions are met, LTD benefits continue for up to [NUMBER] months if you are unable to perform the material duties of your regular job. They could continue longer if you are unable to engage in any occupation for which you are qualified or could reasonably become qualified based on your education, training and experience. And they could continue in modified fashion if you engage in an approved program of rehabilitative employment.

a) Conditions for benefit termination

If you have completed [NUMBER] qualifying years of service in the [COMPANY NAME] Consolidated Pension Plan, you continue to accrue years of service for pension calculation purposes for the period of time during which you are receiving LTD benefits.

Additionally, if you are vested, you may decide to retire any time after [AGE]. If you retire, your disability benefits will stop and you will begin receiving your pension in any of the optional forms of payment provided under the pension plan.

8. Rehabilitative employment

The Plan also provides for a program designed to help you return to active, permanent work. However, such a program must be approved by [NAME OF PERSON WHO WILL APPROVE REHAB PROGRAM] and your doctor. Rehabilitation programs may include training, physical therapy, or, where possible, part-time work in your old job or a new job.

You will be considered to be engaged in a rehabilitative program if the following conditions are met:

- i) You are totally disabled.
- ii) The rehabilitative plan or program you are participating in is approved by a physician and [NAME OF PERSON WHO APPROVES REHAB].

Your rehabilitative employment status will be reviewed at least every three months, unless your work duties change or you request a review.

While you are in a period of rehabilitative employment, your monthly LTD benefit is offset by [NUMBER]-thirds of your rehabilitation earnings. Your total income for that period, then, is:

- your rehabilitation income, plus
- the excess of your monthly LTD benefit from the Plan if your LTD amount was larger than [NUMBER]-thirds of your rehabilitation income (otherwise, a

The [COMPANY NAME] Long-Term Disability Plan is administered by [ADMINISTRATOR'S NAME].

[ADMINISTRATOR'S NAME] has authority to make rules and regulations necessary for the administration of the Plan, to construe and interpret the Plan and to make sure that all Participants are treated uniformly and equitably.

[ADMINISTRATOR'S NAME] is empowered to delegate responsibility for Plan administration, including the appointment of a Claim Administrator to advise on eligibility for participation, eligibility for benefits, amount of benefits, etc.

Day-to-day responsibility for the administration of the Plan has been delegated to [ADMINISTRATOR'S NAME], who works closely with [Name of person who oversees benefits].

11. Plan amendment and termination

a) Plan amendment

The LTD Plan may be amended at any time with the consent of [COMPANY NAME].

b) Plan termination

While it is the intent of [COMPANY NAME] to continue this Plan indefinitely, [COMPANY NAME] does reserve the right to terminate the Plan at any time.

If the Plan is terminated, and if you are totally disabled on the effective date of the Plan termination and are otherwise entitled to benefits under the Plan, you will continue to receive those benefits in accordance with Plan provisions. However, benefits will stop if any of the following:

Short-Term Disability Plan

1. POLICY

- a) [COMPANY NAME] provides a Short-Term Disability Program available to eligible full-time regular employees as approved by [COMPANY NAME] designed to assist those regular employees unable to work due to extended illness or disability lasting up to [NUMBER] months.
- b) All regular employees with more than one year of continuous service based on date of employment as a regular employee are eligible for consideration of Short-Term Disability benefits.
- c) This plan is to be integrated with [COMPANY NAME] Employees' Long-Term Disability Plan, which provides benefit payments to regular employees with at least one year of service, after [NUMBER] months of total disability.
- d) Any illness or impairment of health verified by a certified doctor's written statement, that requires an employee to be absent from work for [NUMEBER] or more continuous working days, qualifies the employee for consideration of benefits under the Short-Term Disability Program.
- e) Benefits are available only to an employee who is under a certified physician's care. A doctor must certify the starting, continuing, and ending dates of the employee's disability on Disability Certification Form. Payment of the employee's Short-Term Disability benefits will be delayed or denied if we are unable to certify the initiation or continuing status of the disability period.
- f) Short-Term Disability benefits must be approved before benefits are paid. The fact that an employee presents a doctor's certificate indicating an illness/disability does not in and of itself establish eligibility for Short-Term Disability benefits.
- g) [COMPANY NAME] retains and reserves the right to request additional information from the employee or the employee's physician and/or to request the employee to obtain certification of the illness/disability from a physician of [COMPANY NAME]'s choice at [COMPANY NAME]'s expense, prior to granting approval of Short-Term Disability benefits under this program.

4 years	40 days at full pay followed by 40 days at half pay
5 years	50 days at full pay followed by 50 days at half pay
6 years	60 days at full pay followed by 60 days at half pay
7 years	70 days at full pay followed by 60 days at half pay
8 years	80 days at full pay followed by 50 days at half pay
9 years	90 days at full pay followed by 40 days at half pay
10 years	100 days at full pay followed by 30 days at half pay
11 years	110 days at full pay followed by 20 days at half pay
12 years	120 days at full pay followed by 10 days at half pay
13 years or more (<i>Maximum benefit</i>)	[NUMBER] days at full pay

request. If the employee is not actively at work at this time, his/her failure to return immediately will be considered a resignation.

- t) If false claims for Short-Term Disability benefits are discovered at any time, or if an employee fails to report to work on the first regularly scheduled workday following absence under the Short-Term Disability Program, he/she will be subject to disciplinary action up to and including termination of employment.
- u) Employees receiving benefits under the [COMPANY NAME]'s Short-Term Disability Program will be eligible to continue participation in the [COMPANY NAME] Comprehensive Health and Life Insurance plans and continue to accrue service for purposes of the [NAME OF THE COMPANY RETIREMENT PLAN, IF APPLICABLE] in accordance with plan provisions.
- v) [ONLY IF APPLICABLE] In states where employees are required to maintain disability insurance, [COMPANY NAME] will coordinate benefits available under this program with those available under state-mandated programs.
- w) Under no circumstances will the combined benefits from a State/Province Disability Plan or the Short-Term Disability program exceed the salary of the employee.
- x) The company may require periodic verification of an employee's inability or ability to work (including, for example, examination by a doctor designated by the company).
- y) Company policy provides that an employee's position may be filled while on a leave if this is necessary in order to meet business requirements. If this occurs, upon conclusion of the medical leave, every reasonable effort will be made to return the employee to the position formerly held or to one of similar responsibility and salary level.
- z) Exceptions to this policy will be determined by [NAME OF PERSON DETERMINING BENEFITS POLICIES].

2. RESPONSIBILITIES

- a) The employee is responsible for completing his/her section of the Disability Certification Form and for obtaining the necessary information from the attending physician or a physician of [COMPANY NAME]'s choice, who must certify the nature, extent of illness or injury and projected duration of the employee's disability on the Disability Certification Form.

- a) Employee obtains physician’s statement (Disability Certification Form), certifying nature, extent and duration of illness/disability and forwards it to [PERSON TO WHOM THE STATEMENT SHOULD BE DELIVERED].

- b) [PERSON WHO REVIEWS THE DOCUMENTS] reviews documentation and [PERSON WHO OVERSEES LEAVE POLICIES, IF DIFFERENT FROM REVIEWER] regarding leave period. [PERSON WHO OVERSEES PAY AND BENEFITS] may request additional information or request [COMPANY NAME]’s physician to confirm illness/disability before final approval.

- c) [PERSON WHO OVERSEES PAY AND BENEFITS] initiates Status Change Form authorizing Short-Term Disability benefits, obtains [NAME OF PERSON WHO MUST SIGN IT]’s signature on it.

- d) [PERSON WHO HANDLES PAYROLL] adjusts casual illness absence or vacation balance, if necessary, and disburses a check consisting of full or partial pay for the portion of the certified period of disability, during which the employee is entitled to benefits.

- e) [ONLY IF APPLICABLE] In states where [COMPANY NAME] employees are required to maintain disability insurance, [COMPANY NAME] will coordinate the benefits available under this plan with those available under state-mandated programs, as well as with Workers’ Compensation.

- f) [PERSON WHO HANDLES EMPLOYEE ISSUES] estimates the benefit amount employee is expected to receive from State Disability (where applicable) during the period of an approved medical leave.

- g) [PERSON WHO HANDLES PAYROLL] will deduct the amount of the benefit from Short-Term Disability benefits paid during the period of the leave.

- h) [PERSON WHO HANDLES EMPLOYEE ISSUES] ends Short-Term Disability benefits when employee’s illness/disability terminates.

DRUG AND ALCOHOL POLICY

TERMS

EMPLOYEE AGREEMENT ON DRUG AND ALCOHOL POLICY

I have read, understand, and agree to comply with the foregoing policies, rules, and conditions. I am aware that violations of this guideline may subject me to disciplinary action, including termination from employment, legal action and criminal liability. I further understand that I have responsibility to maintain a positive representation of the company and govern myself accordingly. Furthermore, I understand that this policy can be amended at any time.

Dated: _____

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

• _____
Print Name and Title

_____ _____
Print Name and Title

5. Written Notice

Before being asked to submit to a drug and/or alcohol test, the employee will receive written notice of the request or requirements.

6. Licensed Laboratories

Any drug and/or alcohol testing required or requested by [YOUR COMPANY NAME] will be conducted by a laboratory licensed by the state. The employee may obtain the name and location of the laboratory that will analyze the employee's test sample by calling [Name of collection lab] [Number of hours] hours before the employee is scheduled to be tested.

7. Notice of Results

If the employee is asked to submit to a drug or alcohol test, [YOUR COMPANY NAME] will notify the employee of the results within [SPECIFY TIME LIMIT, E.G., "24 HOURS" OR "ONE WEEK"] after it receives them from the laboratory. To preserve the confidentiality [YOUR COMPANY NAME] strives to maintain, the employee will be notified by [METHOD OF NOTIFICATION] whether the test was negative or confirmed positive and, if confirmed positive, what the next step is.

8. Positive Test Results

If the employee receives notice that the employee's test results were confirmed positive, the employee will be given the opportunity to explain the positive result following the employee's receipt of the test result. In addition, the employee may have the same sample retested at a laboratory of the employee's choice.

9. Adverse Employment Action

DR. LUBOGO ISAAC CHRISTOPHER

Besides being outlined here, [YOUR COMPANY NAME]'s drug policy is posted in [NAME LOCATION OF POSTING] where the employee may review it.

3. E-mail Review

All e-mail is subject to the right of the Company to monitor, access, read, disclose and use such e-mail without prior notice to the originators and recipients of such e-mail. E-mail may be monitored and read by authorized personnel for the Company for any violations of law, breaches of Company policies, communications harmful to the Company, or for any other reason.

4. Prohibited Content

E-mails may not contain statements or content that are libelous, offensive, harassing, illegal, derogatory, or discriminatory. Foul, inappropriate or offensive messages such as racial, sexual, or religious slurs or jokes are prohibited. Sexually explicit messages or images, cartoons or jokes are prohibited.

5. Security

The e-mail system is only to be used by authorized persons, and an employee must have been issued and e-mail password in order to use the system. Employees shall not disclose their codes or passwords to others and may not use someone else's code or password without express written authorization from the Company.

6. No Presumption of Privacy

E-mail communications should not be assumed to be private and security cannot be guaranteed. Highly confidential or sensitive information should not be sent through e-mail.

7. Certain Prohibited Activities

Employees may not, without the Company's express written authorization transmit trade secrets or other confidential, private or proprietary information or materials through e-mail.

8. Message Retention and Creation

Employees should be careful in creating e-mail. Even when a message has been deleted, it may still exist in printed version, be recreated from a back-up system, or may have been forwarded to someone else. Please note that appropriate electronic messages may need to be saved. And, the Company may be required to produce e-mail in litigation.

9. Viruses

EMPLOYEE E-MAIL POLICIES

1. ADOPTION OF POLICY

This policy statement was adopted by the Board of Directors of [COMPANY NAME] and must be complied with by all employees and contractors that are provided with access to certain Internet and Intranet services of the company, including but not limited to Internet access, Email, FTP, local area network, stand alone computer terminals, and laptop computers.

The Company offers certain Computer and Internet Services as a tool for employees to utilize in connection with their job related functions. It is the philosophy of the Company that these services can be used to enhance the productivity of our employees and further the efficient accomplishment of tasks that benefit the business and prospects of the Company.

2. Employee Email

Company Email Addresses

All employees with a bona fide need will be issued an Email address for use only in connection with bona fide business on behalf of the Company.

No Privacy In Company Email

The Company respects the privacy rights of its employees. At the same time, Company Email usage is given only for Company use and in furtherance of Company activities and not for the private or personal use of the employee. Employee’s privacy is not extended to employee’s ob related functions, which are the only functions for which Email may be used. As such, employees should have no expectation of privacy with respect to use of the Company provided Email address.

Employee Email Passwords

information. As such, employees are encouraged to be sensitive to the necessity of encryption in some instances and are encouraged to utilize encryption subject to the necessity of receiving prior approval and providing necessary information to the CIS Director. Employees are prohibits from using the passwords and encryption devices of other employees or of the Company. In the event that a password or encryption device of another employee or of the Company comes into the knowledge of the employee, the employee shall immediately notify the CIS Director. Employees are prohibited from using the Email addresses of other employees.

Personal Email

The Email account that you are assigned is to be used only for Company business and to assist you in the performance of your employment related activities. You are prohibited from using the Email accounts for personal reasons. You should only give out your Email address for business purposes. You should not give out your Email address to individuals who have no business purpose. The Company has the unrestricted right to access and disclose as all messages transmitted to and from its Email system regardless of whether the content is business-related or personal in nature. This means that your personal messages will be accessible by Company management at all times and without any notice to you. You should not transmit any messages over the Company Email that you would not want to have disclosed to a third party. Company Email should not contain personal information about yourself or other parties, whether they are employees of this Company or not.

Occasional Unsolicited Personal Email

Occasional unsolicited personal Emails may be unavoidable and will not be a violation of this policy. However, these occasional unsolicited Emails will be treated in the same way as business related Emails by the Company and you will not have any expectation of privacy in them. We recommend that you respond to unsolicited personal Emails received at your Company Email address stating that you are not permitted to receive personal Emails on your Company Email address, that there is no expectation of privacy when this Email address is used, and referring the sender to your own private personal Email address, if you have one, for future transmissions.

As stated above, Internet access will only be permitted to employees who first receive written approval. Access is permitted only within the scope of the approval that is given. The employee must demonstrate a bona fide job related need for Internet access.

The following are the procedures for obtain approval of Internet access using the Company's facilities:

- a. The employee must first be certified by the CIS Director as meeting the minimum requirements established by the CIS Director relative to knowledge and skills of the Internet and Internet browser software.
- b. The CIS shall inspect the employee's computer system and environment and certify that minimum hardware, software and network access requirements are met and security is present.
- c. The employee shall submit a request for Internet Access on the forms that can be obtained from the CIS Director. The request form shall include a description of the bona fide reason why Internet access is necessary to fulfill the employee's job functions as well as the scope of access that is being requested.
- d. The completed and executed request form must be submitted to the Director of CIS.
- e. The Director of CIS shall review the request and consult with any necessary supervisors of the employee and Company management where necessary. Following a review, the CIS Director shall notify the employee whether the request is granted or denied. The CIS Director may modify the scope of access granted.

5. RESTRICTIONS ON USE

- a. Any access to the Internet which is approved as aforesaid, will be subject to the following policies and conditions whether or not they are referenced in any approval for access. Internet access through the Company systems is a privilege and not a right of any employee. Approval granted shall be deemed to impose certain responsibilities on the employee.
- b. No access shall be for personal reasons or personal browsing. Access shall only be permitted within the parameters for which approval was granted. Access is only permitted for bona fide business purposes and for furthering the interests of the Company.
- c. Only properly licensed software and browsers that are placed on the Company computer terminal by the CIS Department may be used to gain access to the Internet.

EMPLOYEE HANDBOOK RECEIPT
AND "AT WILL" EMPLOYEE STATUS ACKNOWLEDGEMENT

The undersigned employee hereby acknowledges that he has received and read a copy of [COMPANY NAME] Employee Handbook.

The undersigned further understands and agrees that:

1. [COMPANY NAME] has the right, without prior notice, to modify, amend or terminate or implement additional information, policies, procedures and benefit plans.
2. The Employee Handbook is not an employment agreement or guarantee of employment.
3. The employee is an "at will" employee, which means either the employee or [COMPANY NAME] may terminate the employment relationship, for any reason or for no reason.
4. The employee's status as an "at will" employee can only be changed through a written agreement duly authorized and executed by the President of [COMPANY NAME] and the employee.
5. There have been no statements, agreements, promises, representations or understandings made by any officer, employee or agent of [COMPANY NAME] inconsistent with this Acknowledgement form.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

1. INTRODUCTION

1.1 ORGANIZATION DESCRIPTION

1.1.1 PRODUCTS AND SERVICES PROVIDED

You will find more information about our products and services by reading the [COMPANY NAME] Corporate Brochures.

1.1.2 FACILITIES AND LOCATION(S)

Head Office:

[ADDRESS]

[CITY], [STATE] [ZIP/POSTAL CODE]

[COUNTRY]

1.1.3 THE HISTORY OF [COMPANY NAME]

[DESCRIBE THE HISTORY OF YOUR COMPANY HERE]

1.1.4 MANAGEMENT PHILOSOPHY

[COMPANY NAME] management philosophy is based on responsibility and mutual respect. People who come to [COMPANY NAME] want to work here because we have created an environment that encourages creativity and achievement. [COMPANY NAME] aims to become a leader in [DESCRIBE YOUR COMPANY’S FIELD OF EXPERTISE]. The mainstay of our strategy will be to offer a level of client focus that is superior to that offered by our competitors.

To help achieve this objective, [COMPANY NAME] seeks to attract highly motivated individuals that want to work as a team and share in the commitment, responsibility, risk

1.3 CUSTOMER RELATIONS

Customers are among our organization's most valuable assets. Every employee represents [COMPANY NAME] to our customers and the public. The way we do our jobs presents an image of our entire organization. Customers judge all of us by how they are treated with each employee contact. Therefore, one of our first business priorities is to assist any customer or potential customer. Nothing is more important than being courteous, friendly, helpful, and prompt in the attention you give to customers.

[COMPANY NAME] will provide customer relations and services training to all employees with extensive customer contact. Customers who wish to lodge specific comments or complaints should be directed to the [TITLE AND NAME OF THE PERSON RESPONSIBLE] for appropriate action. Our personal contact with the public, our manners on the telephone, and the communications we send to customers are a reflection not only of ourselves, but also of the professionalism of [COMPANY NAME]. Positive customer relations not only enhance the public's perception or image of [COMPANY NAME], but also pay off in greater customer loyalty and increased sales and profit.

2. THE EMPLOYMENT

2.1 NATURE OF EMPLOYMENT

Employment with [COMPANY NAME] is voluntarily entered into, and the employee is free to resign at any time, with or without cause. Similarly, [COMPANY NAME] may terminate the employment relationship at will at any time, with or without notice or cause, so long as there is no violation of applicable federal or provincial law.

Policies set forth in this handbook are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between [COMPANY NAME] and any of its employees. The provisions of the handbook have been

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the [HUMAN RESOURCES DEPARTMENT OR OTHER]. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

2.4 BUSINESS ETHICS AND CONDUCT

The successful business operation and reputation of [COMPANY NAME] is built upon the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity.

The continued success of [COMPANY NAME] is dependent upon our customers' trust and we are dedicated to preserving that trust. Employees owe a duty to [COMPANY NAME], its customers, and shareholders to act in a way that will merit the continued trust and confidence of the public.

[COMPANY NAME] will comply with all applicable laws and regulations and expects its directors, officers, and employees to conduct business in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct.

In general, the use of good judgment, based on high ethical principles, will guide you with respect to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with your immediate supervisor and, if necessary, with the President, [NAME], for advice and consultation.

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which [COMPANY NAME] wishes the business to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation. Contact the President for more information or questions about conflicts of interest.

Transactions with outside firms must be conducted within a framework established and controlled by the executive level of [COMPANY NAME]. Business dealings with outside firms should not result in unusual gains for those firms. Unusual gain refers to bribes, product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the employer, the employee, or both. Promotional plans that could be interpreted to involve unusual gain require specific executive-level approval.

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative because of [COMPANY NAME] business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to an officer of [COMPANY NAME] as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which [COMPANY NAME] does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving [COMPANY NAME].

All employees are required to sign a non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

2.9 DISABILITY ACCOMMODATION

[COMPANY NAME] is ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Upon request, job applications are available in alternative, accessible formats, as is assistance in completing the application. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

Reasonable accommodation is available to all disabled employees, where their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists. Leave of all types will be available to all employees on an equal basis.

[COMPANY NAME] is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability. [COMPANY NAME] will follow any provincial or local law that provides individuals with disabilities greater protection.

[COMPANY NAME] recognizes the benefit of developmental experiences and encourages employees to talk with their supervisors about their career plans. Supervisors are encouraged to support employees' efforts to gain experience and advance within the organization.

An applicant's supervisor may be contacted to verify performance, skills, and attendance. Any staffing limitations or other circumstances that might affect a prospective transfer may also be discussed.

Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. Other recruiting sources may also be used to fill open positions in the best interest of the organization.

[COMPANY NAME] also encourages employees to identify friends or acquaintances that are interested in employment opportunities and refer qualified outside applicants for posted jobs. Employees should obtain permission from the individual before making a referral, share their knowledge of the organization, and not make commitments or oral promises of employment.

An employee should submit the referral's resume and/or completed application form to the [HUMAN RESOURCES DEPARTMENT OR OTHER] for a posted job. If the referral is interviewed, the referring employee will be notified of the initial interview and the final selection decision.

3. EMPLOYMENT STATUS AND RECORDS

3.1 EMPLOYMENT CATEGORIES

It is the intent of [COMPANY NAME] to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility.

mandated benefits (such as CSST and unemployment insurance), they are ineligible for all of [COMPANY NAME] other benefit programs.

CASUAL employees are those who have established an employment relationship with [COMPANY NAME] but who are assigned to work on an intermittent and/or unpredictable basis. While they receive all legally mandated benefits (such as CSST and unemployment insurance), they are ineligible for all of [COMPANY NAME] other benefit programs.

3.2 ACCESS TO PERSONNEL FILES

[COMPANY NAME] maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

Personnel files are the property of [COMPANY NAME], and access to the information they contain is restricted. Generally, only supervisors and management personnel of [COMPANY NAME] who have a legitimate reason to review information in a file are allowed to do so.

Employees who wish to review their own file should contact the [HUMAN RESOURCES DEPARTMENT OR OTHER]. With reasonable advance notice, employees may review their own personnel files in [COMPANY NAME] offices and in the presence of an individual appointed by [COMPANY NAME] to maintain the files.

3.3 PERSONNEL DATA CHANGES

It is the responsibility of each employee to promptly notify [COMPANY NAME] of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of emergency, educational accomplishments,

3.6 PERFORMANCE EVALUATION

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Additional formal performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

After the employee has completed his probation period of 3 months, the immediate supervisor evaluates the performance of the employee and makes necessary adjustments if necessary.

The annual salary review of all employees is based on performance and is evaluated beginning the month of [MONTH] and effective [MONTH] [DAY] of the current year.

3.7 JOB DESCRIPTIONS

[COMPANY NAME] makes every effort to create and maintain accurate job descriptions for all positions within the organization. Each description includes a job information section, a job summary section (giving a general overview of the job's purpose), an essential duties and responsibilities section, a supervisory responsibilities section, a qualifications section (including education and/or experience, language skills, mathematical skills, reasoning ability, and any certification required), a physical demands section, and a work environment section.

[COMPANY NAME] maintains job descriptions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.

The [HUMAN RESOURCES DEPARTMENT OR OTHER] and the hiring manager prepare job descriptions when new positions are created. Existing job descriptions are also reviewed and

4. EMPLOYEE BENEFIT PROGRAMS

4.1 EMPLOYEE BENEFITS

Eligible employees at [COMPANY NAME] are provided a wide range of benefits. A number of the programs (such as unemployment insurance) cover all employees in the manner prescribed by law.

Benefits eligibility is dependent upon a variety of factors, including employee classification. Your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in the employee handbook.

The following benefit programs are available to eligible employees:

Eligible employees are provided with the following benefits (see the [NAME OF YOUR GROUP INSURANCE COMPANY] benefits program handbook):

- * Medical Insurance
- * Life Insurance
- * Long-Term Disability

The [NAME OF YOUR GROUP INSURANCE COMPANY] benefit programs require contributions from the employee of [PERCENT] % of the applicable premiums.

4.2 VACATION BENEFITS

As stated above, employees are encouraged to use available paid vacation time for rest, relaxation, and personal pursuits. In the event that available vacation is not used by the end of the reference period, the balance of unused vacation [WILL OR WILL NOT] be paid out to the employee.

Upon termination of employment, employees will be paid for unused vacation time that has been earned through the last day of work.

4.3 HOLIDAYS

[COMPANY NAME] will grant holiday time off to all employees on the holidays listed below:

- [LIST YOUR COUNTRY HOLIDAYS]

[COMPANY NAME] will grant paid holiday time off to all eligible employees immediately upon assignment to an eligible employment classification. Holiday pay will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day. Eligible employee classification(s):

- All employees who have worked a minimum of 60 days.

To be eligible for holiday pay, employees must work the last scheduled day immediately preceding and the first scheduled day immediately following the holiday.

A statutory holiday that falls on a Saturday will be observed on the preceding Friday or in the case it falls on a Sunday will be observed on the following Monday.

If a statutory holiday falls during an eligible employee's paid absence (such as vacation or sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Eligible employees will accrue on a pro-rated basis sick leave benefits at the rate of 5 days per year. Sick leave benefits are calculated based on a "calendar year," the 12-month period that begins when the employee starts to earn sick leave benefits.

Paid sick leave can be used in minimum increments of one half-day. An eligible employee may use sick leave benefits for an absence due to his or her own illness or injury, or that of a child, parent, or spouse of the employee.

Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence. If an employee is absent for three or more consecutive days due to illness or injury, a physician's statement may need to be provided verifying the disability and its beginning and expected ending dates. Such verification may be requested for other sick leave absences as well and may be required as a condition to receiving sick leave benefits.

Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials. As an additional condition of eligibility for sick leave benefits, an employee on an extended absence must apply for any other available compensation and benefits, such as [BASIC EMPLOYMENT INSURANCE]. Sick leave benefits will be used to supplement any payments that an employee is eligible to receive from provincial disability insurance, workers' compensation or [COMPANY NAME]-provided disability insurance programs. The combination of any such disability payments and sick leave benefits cannot exceed the employee's normal weekly earnings.

Sick leave benefits are intended solely to provide income protection in the event of illness or injury, and may not be used for any other absence. Unused sick leave benefits will be paid to the active employees at the end of the calendar year. Employees who quit or that are terminated are not entitled to be paid any unused sick days upon termination of employment.

employee who must relocate in order to reside within 45 miles of the new place of work. For specific information regarding the terms and extent of relocation benefits, discuss with your immediate supervisor.

Employees must request relocation assistance for specific items in advance of the date the expenses are incurred. [COMPANY NAME] will reimburse expenses only if the employee has received advance approval, incurs reasonable expenses, and submits satisfactory proof of the expense within 30 calendar days of the date the expense was incurred.

[COMPANY NAME] extends these relocation benefits in an effort to contribute to the success of every employee's relocation. However, if an employee separates from [COMPANY NAME] service within one year of the relocation, the amount of the relocation reimbursement will be considered only a loan. Accordingly, the employee will be asked to reimburse all relocation expense.

4.8 EDUCATIONAL ASSISTANCE

[COMPANY NAME] recognizes that the skills and knowledge of its employees are critical to the success of the organization. The educational assistance program encourages personal development through formal education so that employees can maintain and improve job-related skills or enhance their ability to compete for reasonably attainable jobs within [COMPANY NAME].

[COMPANY NAME] will provide educational assistance to all eligible employees immediately upon assignment to an eligible employment classification. To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course. Only Regular full-time employees are eligible for educational assistance.

Employees should contact their immediate supervisor or the [HUMAN RESOURCES DEPARTMENT OR OTHER] for more information or questions about educational assistance.

4.9 HEALTH INSURANCE

[COMPANY NAME] health insurance plan provides employees and their dependents access to medical insurance benefits. Employees in the following employment classifications are eligible to participate in the health insurance plan:

- Regular full-time employees

Eligible employees may participate in the health insurance plan subject to all terms and conditions of the agreement between [COMPANY NAME] and the insurance carrier.

Details of the health insurance plan are described in the [NAME OF YOUR GROUP INSURANCE COMPANY] provided at the end of this document. Information on cost of coverage will be provided in advance of enrollment to eligible employees. Contact the [HUMAN RESOURCES DEPARTMENT OR OTHER] for more information about health insurance benefits.

4.10 LIFE INSURANCE

Life insurance offers you and your family important financial protection. [COMPANY NAME] provides a basic life insurance plan for eligible employees.

Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. AD&D insurance coverage is provided as part of the basic life insurance plan.

Employees in the following employment classifications are eligible to participate in the life insurance plan:

- Regular full-time employees

One (1) paid working day off is allowed for the marriage of the employee or one of his children. An employee may take one (1) day leave of absence for the marriage of a parent, brother, sister or child of joint sound.

B.

C. MATERNITY LEAVE ADMISSIBILITY

- **The employee is entitled to a maternity leave according to:**

Current Government legislation entitles employees to a combined Maternity/Parental leave, without pay, of up to 52 weeks. However, during this leave of absence, employees may be eligible to receive [EMPLOYEMENT INSURANCE] benefits in accordance with [EMPLOYEMENT INSURANCE] eligibility rules. Employees that wish to benefit from Parental Leave only are entitled to a leave of absence, without pay, of up to 37 weeks.

- **Notice:**

- a) The employee must provide in writing to the company, at least three weeks in advance the date of the beginning of her maternity leave and the date envisaged of her return to work. A medical certificate attesting of the date envisaged of the birth must accompany the notice.
- b) The notice can be less than 3 weeks if the medical certificate attests need for the employee to cease working within a less time. If physical dangers are possible, the employee will be assigned to other tasks while preserving the rights and preferences connected to her regular position.

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- **Complications:**

- If the employee or the child suffers from complications preventing the return to work at the end of the maternity leave, the employee will have to forward a medical certificate to the company. The employee will be entitled to a prolongation of her maternity leave, which can reach a 52 weeks maximum including the parental leave.

Return to work:

- a) The employee must provide in writing to management the expected date of her return to work and this, three (3) weeks before returning from his maternity leave or parental.

- Two (2) paid working days off during the birth of the employee’s child or of the adoption of a child (leave of paternity) other than those of joint sound. Moreover, the employee can prevail himself of a leave without balance of three (3) days. This leave can be split but must be taken in the 15 following days of the arrival of the child at the house.

5. TIMEKEEPING / PAYROLL

5.1 TIMEKEEPING

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state/provincial laws require [COMPANY NAME] to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

5.2 PAYDAYS

All employees are paid [PAY FREQUENCY] on every other [DAY OF THE WEEK]. Each paycheck will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a weekend or holiday, employees will receive pay on the last day of work before the regularly scheduled payday.

Employees may have pay directly deposited into their bank accounts if they provide advance written authorization to [COMPANY NAME]. Employees will receive an itemized statement of wages when [COMPANY NAME] makes direct deposits.

approval of flextime. Employees should consult their supervisor to request participation in the flextime program.

6.2 USE OF PHONE AND MAIL SYSTEMS

Personal use of the telephone for long-distance and toll calls is not permitted. Employees should practice discretion when making local personal calls and may be required to reimburse [COMPANY NAME] for any charges resulting from their personal use of the telephone.

The use of [COMPANY NAME]-paid postage for personal correspondence is not permitted.

To ensure effective telephone communications, employees should always use an approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.

6.3 SMOKING

In keeping with [COMPANY NAME] intent to provide a safe and healthful work environment, smoking is prohibited throughout the workplace. This policy applies equally to all employees, customers, and visitors.

6.4 MEAL PERIODS

All employees are provided with one meal period of 60 minutes in length each workday. Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time.

6.5 OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees will be given the opportunity to volunteer for overtime work assignments. All overtime work must receive the supervisor's prior authorization. Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.

when operations are officially closed. In these circumstances, employees who work will receive regular pay.

6.8 BUSINESS TRAVEL EXPENSES

[COMPANY NAME] will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the immediate supervisor.

Employees whose travel plans have been approved should make all travel arrangements through [COMPANY NAME] travel department. When approved, the actual costs of travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by [COMPANY NAME]. Employees are expected to limit expenses to reasonable amounts.

Expenses that generally will be reimbursed include the following:

- Airfare or train fare for travel in coach or economy class or the lowest available fare.
- Car rental fees, only for compact or mid-sized cars.
- Fares for shuttle or airport bus service, where available; costs of public transportation for other ground travel.
- Taxi fares, only when there is no less expensive alternative.
- Mileage costs for use of personal cars, only when less expensive transportation is not available.
- Cost of standard accommodations in low to mid-priced hotels, motels, or similar lodgings.
- Cost of meals, no more lavish than would be eaten at the employee's own expense.
- Tips, not exceeding 15% of the total cost of a meal or 10% of a taxi fare.
- Charges for telephone calls, fax, and similar services required for business purposes.
- Charges for one personal telephone call each day.
- Charges for laundry and valet services, only on trips of five or more days. (Personal entertainment and personal care items are not reimbursed.)

Employees are encouraged to use their cellular telephone or calling cards when traveling, as hotel charges are excessive.

If an unauthorized individual is observed on [COMPANY NAME] premises, employees should immediately notify their supervisor or, if necessary, direct the individual to the reception area.

6.10 COMPUTER AND E-MAIL USAGE

Computers, computer files, the e-mail system, and software furnished to employees are [COMPANY NAME] property intended for business use. Employees should not use a password, access a file, or retrieve any stored communication without authorization. To ensure compliance with this policy, computer and e-mail usage may be monitored.

[COMPANY NAME] strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, [COMPANY NAME] prohibits the use of computers and the e-mail system in ways that are disruptive, offensive to others, or harmful to morale.

For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.

E-mail may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters.

6.11 INTERNET USAGE

Internet access to global electronic information resources on the World Wide Web is provided by [COMPANY NAME] to assist employees in obtaining work-related data and technology. The following guidelines have been established to help ensure responsible and productive Internet usage. While Internet usage is intended for job-related activities, incidental and occasional brief personal use is permitted within reasonable limits.

All Internet data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of [COMPANY NAME] and, as such, is

behaviors are examples of previously stated or additional actions and activities that are prohibited and can result in disciplinary action:

- Sending or posting discriminatory, harassing, or threatening messages or images
- Using the organization's time and resources for personal gain
- Stealing, using, or disclosing someone else's code or password without authorization
- Copying, pirating, or downloading software and electronic files without permission
- Sending or posting confidential material, trade secrets, or proprietary information outside of the organization
- Violating copyright law
- Failing to observe licensing agreements
- Engaging in unauthorized transactions that may incur a cost to the organization or initiate unwanted Internet services and transmissions
- Sending or posting messages or material that could damage the organization's image or reputation
- Participating in the viewing or exchange of pornography or obscene materials
- Sending or posting messages that defame or slander other individuals
- Attempting to break into the computer system of another organization or person
- Refusing to cooperate with a security investigation
- Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities
- Using the Internet for political causes or activities, religious activities, or any sort of gambling
- Jeopardizing the security of the organization's electronic communications systems
- Sending or posting messages that disparage another organization's products or services
- Passing off personal views as representing those of the organization
- Sending anonymous e-mail messages
- Engaging in any other illegal activities

6.12 WORKPLACE MONITORING

Workplace monitoring may be conducted by [COMPANY NAME] to ensure quality control, employee safety, security, and customer satisfaction.

Employees who regularly communicate with customers may have their telephone conversations monitored or recorded. Telephone monitoring is used to identify and correct performance problems

employees, as well as threats by customers, vendors, solicitors, or other members of the public. When reporting a threat of violence, you should be as specific and detailed as possible.

All suspicious individuals or activities should also be reported as soon as possible to a supervisor. Do not place yourself in peril. If you see or hear a commotion or disturbance near your workstation, do not try to intercede or see what is happening.

[COMPANY NAME] will promptly and thoroughly investigate all reports of threats of (or actual) violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, [COMPANY NAME] may suspend employees, either with or without pay, pending investigation.

Anyone determined to be responsible for threats of (or actual) violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

[COMPANY NAME] encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or the [HUMAN RESOURCES DEPARTMENT OR OTHER] before the situation escalates into potential violence. [COMPANY NAME] is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns.

7. EMPLOYEE CONDUCT & DISCIPLINARY ACTION

7.1 EMPLOYEE CONDUCT AND WORK RULES

To ensure orderly operations and provide the best possible work environment, [COMPANY NAME] expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters.
- Verbal conduct that includes making or using derogatory comments, epithets, slurs, or jokes.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words, or suggestive or obscene letters or invitations.
- Physical conduct that includes touching, assaulting, or impeding or blocking movements.

Unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- (2) submission or rejection of the conduct is used as a basis for making employment decisions; or,
- (3) the conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment.

If you experience or witness sexual or other unlawful harassment in the workplace, report it immediately to your supervisor. If the supervisor is unavailable or you believe it would be inappropriate to contact that person, you should immediately contact the [HUMAN RESOURCES DEPARTMENT OR OTHER] or any other member of management. You can raise concerns and make reports without fear of reprisal or retaliation.

All allegations of sexual harassment will be quickly and discreetly investigated. To the extent possible, your confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, you will be informed of the outcome of the investigation.

Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment must immediately advise the [HUMAN RESOURCES DEPARTMENT OR OTHER] or any member of management so it can be investigated in a timely and confidential manner. Anyone

engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment.

7.3 ATTENDANCE AND PUNCTUALITY

To maintain a safe and productive work environment, [COMPANY NAME] expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on [COMPANY NAME]. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence. *Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.*

7.4 PERSONAL APPEARANCE

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image [COMPANY NAME] presents to customers and visitors.

During business hours or when representing [COMPANY NAME], you are expected to present a clean, neat, and tasteful appearance. You should dress and groom yourself according to the requirements of your position and accepted social standards. This is particularly true if your job involves dealing with customers or visitors in person.

Your supervisor or department head is responsible for establishing a reasonable dress code appropriate to the job you perform. Consult your supervisor if you have questions as to what constitutes appropriate appearance. Where necessary, reasonable accommodation may be made to a person with a disability.

Without unduly restricting individual tastes, the following personal appearance guidelines should be followed:

- Jeans, bermudas, t-shirt, and shorts do not present appropriate professional attire.
- Unnaturally colored hair and extreme hairstyles, such as spiked hair and shaved heads, do not present an appropriate professional appearance.
- Offensive body odor and poor personal hygiene is not professionally acceptable.
- Facial jewelry, such as eyebrow rings, nose rings, lip rings, and tongue studs, is not professionally appropriate and must not be worn during business hours.
- Multiple ear piercings (more than one ring in each ear) are not professionally appropriate and must not be worn during business hours.
- Visible excessive tattoos and similar body art must be covered during business hours.

7.5 RETURN OF PROPERTY

Employees are responsible for all [COMPANY NAME] property, materials, or written information issued to them or in their possession or control. Employees must return all [COMPANY NAME] property immediately upon request or upon termination of employment. Where permitted by applicable laws, [COMPANY NAME] may withhold from the employee's check or final paycheck the cost of any items that are not returned when required. [COMPANY NAME] may also take all action deemed appropriate to recover or protect its property.

7.6 RESIGNATION

Resignation is a voluntary act initiated by the employee to terminate employment with [COMPANY NAME]. Although advance notice is not required, [COMPANY NAME] requests at least 2 weeks' written notice of resignation from employees.

Prior to an employee's departure, an exit interview may be scheduled to discuss the reasons for resignation and the effect of the resignation on benefits.

7.7 SECURITY INSPECTIONS

[COMPANY NAME] wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. To this end, [COMPANY NAME] prohibits the possession, transfer, sale, or use of such materials on its premises. [COMPANY NAME] requires the cooperation of all employees in administering this policy.

7.8 PROGRESSIVE DISCIPLINE

The purpose of this policy is to state [COMPANY NAME] position on administering equitable and consistent discipline for unsatisfactory conduct in the workplace. The best disciplinary measure is the one that does not have to be enforced comes from good leadership and fair supervision at all employment levels.

[COMPANY NAME] own best interest lies in ensuring fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform, and impartial. The major purpose of any disciplinary action is to correct the problem, prevent recurrence, and prepare the employee for satisfactory service in the future.

Although employment with [COMPANY NAME] is based on mutual consent and both the employee and [COMPANY NAME] have the right to terminate employment at will, with or without cause or advance notice, [COMPANY NAME] may use progressive discipline at its discretion.

Disciplinary action may call for any of four steps – verbal warning, written warning, suspension with or without pay, or termination of employment – depending on the severity of the problem and the number of occurrences. There may be circumstances when one or more steps are bypassed.

Progressive discipline means that, with respect to most disciplinary problems, these steps will normally be followed: a first offense may call for a verbal warning; a next offense may be followed by a written warning; another offense may lead to a suspension; and, still another offense may then lead to termination of employment.

[COMPANY NAME] recognizes that there are certain types of employee problems that are serious enough to justify either a suspension, or, in extreme situations, termination of employment, without going through the usual progressive discipline steps.

1. 1. Employee presents problem to immediate supervisor after incident occurs. If supervisor is unavailable or employee believes it would be inappropriate to contact that person, employee may present problem to [HUMAN RESOURCES DEPARTMENT OR OTHER] or any other member of management.
 2. Supervisor responds to problem during discussion or after consulting with appropriate management, when necessary. Supervisor documents discussion.
 3. Employee presents problem to [HUMAN RESOURCES DEPARTMENT OR OTHER] if problem is unresolved.
 4. [HUMAN RESOURCES DEPARTMENT OR OTHER] counsels and advises employee, assists in putting problem in writing and visits with employee's manager(s), if necessary.
 5. Employee presents problem to the President in writing.
 6. The President reviews and considers problem. The President informs employee of decision and forwards copy of written response to [HUMAN RESOURCES DEPARTMENT OR OTHER] for employee's file. The President has full authority to make any adjustment deemed appropriate to resolve the problem.

Not every problem can be resolved to everyone's total satisfaction, but only through understanding and discussion of mutual problems can employees and management develop confidence in each other. This confidence is important to the operation of an efficient and harmonious work environment, and helps to ensure everyone's job security.

7.10 WORKPLACE ETIQUETTE

[COMPANY NAME] strives to maintain a positive work environment where employees treat each other with respect and courtesy. Sometimes issues arise when employees are unaware that their

7.11 SUGGESTION PROGRAM

As employees of [COMPANY NAME], you have the opportunity to contribute to our future success and growth by submitting suggestions for practical work-improvement or cost-savings ideas.

All employees are eligible to participate in the suggestion program.

A suggestion is an idea that will benefit [COMPANY NAME] by solving a problem, reducing costs, improving operations or procedures, enhancing customer service, eliminating waste or spoilage, or making [COMPANY NAME] a better or safer place to work. Statements of problems without accompanying solutions, or recommendations concerning co-workers and management are not appropriate suggestions.

All suggestions should contain a description of the problem or condition to be improved, a detailed explanation of the solution or improvement, and the reasons why it should be implemented. If you have questions or need advice about your idea, contact your supervisor for help.

Submit suggestions to the President and, after review, they will be forwarded to the Direction. As soon as possible, you will be notified of the adoption or rejection of your suggestion.

Special recognition may be given to employees who submit a suggestion that is implemented.

IF YOU HAVE ANY COMMENTS OR SUGGESTIONS REGARDING THE CONTENT OF THE EMPLOYEE HANDBOOK, PLEASE DIRECT THEM TO [HUMAN RESOURCES DEPARTMENT OR OTHER].

EMPLOYMENT AT WILL POLICY

We have today a rapidly changing work environment. Both companies and workers are changing directions faster than ever. In order to remain competitive there is a greater than ever need for flexibility and managerial discretion. "At will" employment, which has been "the law of the land" for over a century, provides the flexibility and discretion we deem necessary for the benefit of everyone at this company.

Your employment with the company is "at will." This means that your employment may be terminated at any time, with or without notice, for any reason, with or without cause. Likewise, you may terminate your employment at any time, with or without notice, for any reason, with or without cause. As you can see, "at-will" employment is a two-way street. Nothing in the employee handbook or any other company document should be understood as creating guaranteed or continued employment, termination "for cause", or of any other guaranteed or continued benefits. Only the President has the authority to make promises with regard to guaranteed or continued employment and any such promises are only effective if placed in writing and signed by the President.

I acknowledge and understand the "at will" nature of my relationship with the Company.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

• _____

Print Name and Title

Print Name and Title

Funeral pay:

Your funeral leave pay will be figured at your regular rate of pay.

Leave without pay:

If you are not eligible for funeral leave with pay, you may be given time off without pay in case of a death in the family. Time off without pay may be arranged to attend the funeral of a close friend. Each day off will be counted as an absence without pay.

Forfeiture:

You forfeit your rights to funeral leave benefits if you terminate employment before returning to your assigned position to work at least one workday after you have used funeral leave benefits.

When you are granted funeral leave benefits, it is mandatory that you attend the funeral of the relative for whom such funeral leave was requested. We reserve the right to ask you to supply the name and relationship of the deceased and the name of the funeral home that handled the arrangements.

2. HOURLY EMPLOYEES

All hourly employees, subject to the conditions below, will receive funeral leave in the event of a death in their immediate family. The employee will be compensated for his scheduled work hours from which he is absent due to the funeral leave, not exceeding eight hours each day, at his regular basic straight time hourly rate.

The following points will be considered in determining whether an employee will receive pay for funeral leave:

- Employee has to have been continuously employed for [NUMBER] days prior to the death of someone in his immediate family.
- Immediate family is defined as spouse, child, parent, brother, or sister of the employee.
- Funeral leave will be granted from work for three consecutive days, including the day of

the funeral, but limited to one day following day of funeral.

- The funeral allowance will be paid only for scheduled work time lost and will not be counted in computing overtime.
- No funeral allowance will be paid unless the employee gives reasonable prior notice of his intended absence from scheduled work and the time and date he intends to return to work.
- No funeral allowance will be paid if the employee does not attend the funeral.
- Promptly upon return to work, the employee must apply for the funeral allowance. Proof of relationship to the deceased may be required.



GENERAL SAFETY POLICY

1. SAFETY – GENERAL POLICY

Providing safe working conditions and maintaining continuity of employment is of continual concern. In this regard, it is important that adequate policies and procedures be developed and adhered to in order to ensure safe, efficient operating conditions, thereby safeguarding employees and facilities.

The Company will not knowingly permit unsafe conditions to exist, nor will it permit employees to indulge in unsafe acts. Violations of Company rules and regulations will result in disciplinary action.

The Company believes that the safety of employees and physical property can best be ensured by a meaningful program.

a. Employee

Since the employee on the job is frequently more aware of unsafe conditions than anyone else, employees are encouraged to make recommendations, suggestions, and criticisms of unsafe conditions to their immediate supervisor so that they may be corrected.

b. Supervisors

Supervisors are responsible for the working conditions within their department and the plant generally. A supervisor should remain alert at all times to dangerous and unsafe conditions, so that he/she may recommend corrective action, discipline employees who habitually create or indulge in unsafe practices, assess new or changed situations for inherent dangers, and follow up on employee suggestions for corrective action so that unsafe conditions are not instituted or permitted to exist.

2. SAFETY COMMITTEE MEETINGS

Company operates in accordance with [CODE] guidelines and as such encourages the employee's involvement in company-wide safety committee meetings to be held quarterly. The committee will specify procedures and actions to be taken in the event of fires, security and other emergencies. Decisions and recommendations will be communicated via the departmental team meetings.

3. INJURIES

All employees are required to immediately report all occupational illnesses or injuries to your supervisor, no matter how minor, and complete an occupational illness or injury form.

GENERAL SAFETY RULES

Your safety is the constant concern of this company. Every precaution has been taken to provide a safe workplace. [NAME OR TITLE OF THE PERSON IN CHARGE OF SAFETY] makes regular inspections and holds regular safety meetings. [HE OR SHE] also meets with management to plan and implement further improvements in our safety program. Common sense and personal interest in safety are still the greatest guarantees of your safety at work, on the road, and at home. We take your safety seriously and any willful or habitual violation of safety rules will be considered cause for dismissal. [YOUR COMPANY] is sincerely concerned for the health and well being of each member of the team.

The cooperation of every employee is necessary to make this company a safe place in which to work. Help yourself and others by reporting unsafe conditions or hazards immediately to your supervisor or to a member of the safety committee. Give earnest consideration to the rules of safety presented to

you by poster signs, discussions with your supervisor, posted department rules, and regulations published in the safety booklet. Begin right by always thinking of safety as you perform your job, or as you learn a new one.

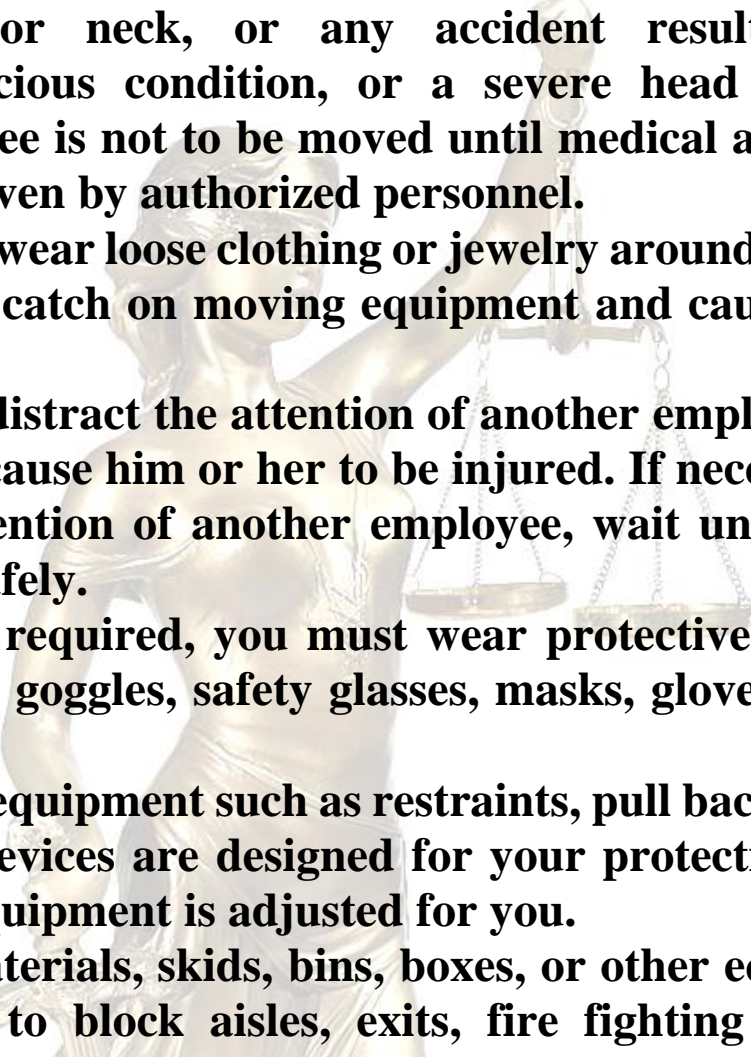
1. ACCIDENT REPORTING

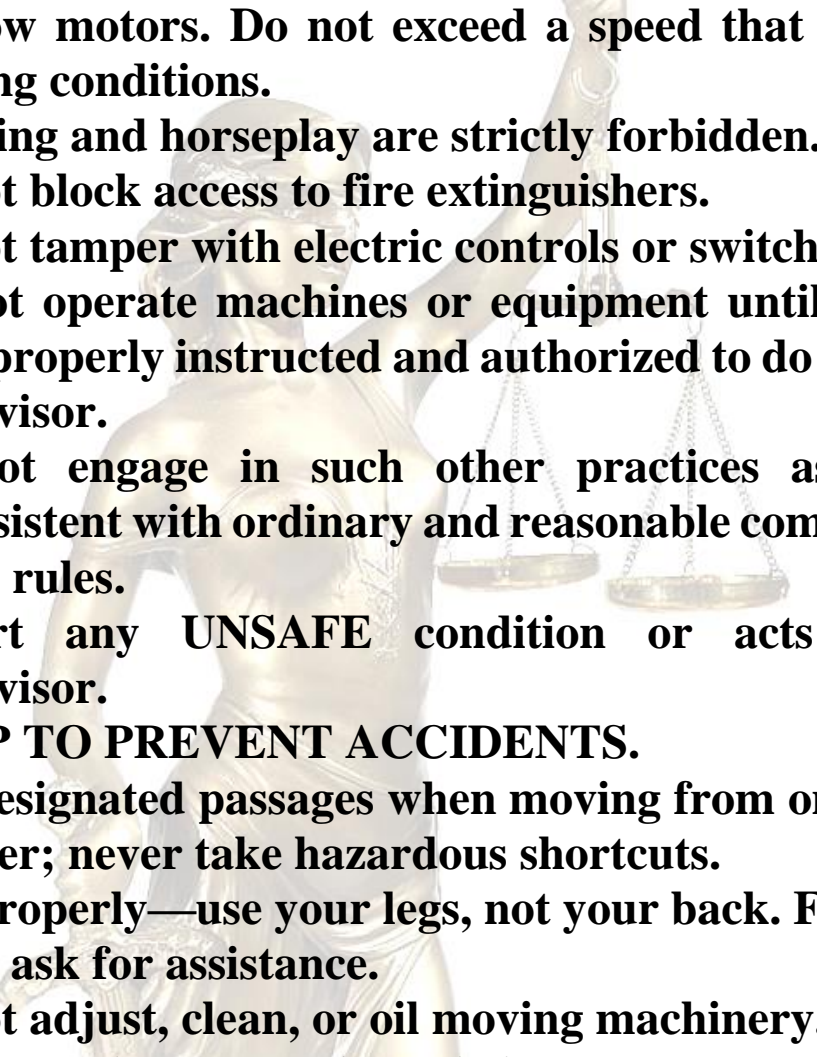
Any injury at work – no matter how small – must be reported immediately to your supervisor and receive first aid attention. Serious conditions often arise from small injuries if they are not cared for at once.

2. SPECIFIC SAFETY RULES AND GUIDELINES

To ensure your safety, and that of your coworkers, please observe and obey the following rules and guidelines:

- Observe and practice the safety procedures established for the job.**

- 
- ❑ **In case of sickness or injury, no matter how slight, report at once to your supervisor. In no case should an employee treat his own or someone else's injuries or attempt to remove foreign particles from the eye.**
 - ❑ **In case of injury resulting in possible fracture to legs, back, or neck, or any accident resulting in an unconscious condition, or a severe head injury, the employee is not to be moved until medical attention has been given by authorized personnel.**
 - ❑ **Do not wear loose clothing or jewelry around machinery. It may catch on moving equipment and cause a serious injury.**
 - ❑ **Never distract the attention of another employee, as you might cause him or her to be injured. If necessary to get the attention of another employee, wait until it can be done safely.**
 - ❑ **Where required, you must wear protective equipment, such as goggles, safety glasses, masks, gloves, hair nets, etc.**
 - ❑ **Safety equipment such as restraints, pull backs, and two-hand devices are designed for your protection. Be sure such equipment is adjusted for you.**
 - ❑ **Pile materials, skids, bins, boxes, or other equipment so as not to block aisles, exits, fire fighting equipment, electric lighting or power panel, valves, etc. FIRE DOORS AND AISLES MUST BE KEPT CLEAR.**
 - ❑ **Keep your work area clean.**
 - ❑ **Use compressed air only for the job for which it is intended. Do not clean your clothes with it and do not fool with it.**

- 
- Observe smoking regulations.**
 - Shut down your machine before cleaning, repairing, or leaving.**
 - Tow motors and lift trucks will be operated only by authorized personnel. Walk-type lift trucks will not be ridden and no one but the operator is permitted to ride the tow motors. Do not exceed a speed that is safe for existing conditions.**
 - Running and horseplay are strictly forbidden.**
 - Do not block access to fire extinguishers.**
 - Do not tamper with electric controls or switches.**
 - Do not operate machines or equipment until you have been properly instructed and authorized to do so by your supervisor.**
 - Do not engage in such other practices as may be inconsistent with ordinary and reasonable common sense safety rules.**
 - Report any UNSAFE condition or acts to your supervisor.**
 - HELP TO PREVENT ACCIDENTS.**
 - Use designated passages when moving from one place to another; never take hazardous shortcuts.**
 - Lift properly—use your legs, not your back. For heavier loads, ask for assistance.**
 - Do not adjust, clean, or oil moving machinery.**
 - Keep machine guards in their intended place.**
 - Do not throw objects.**
 - Clean up spilled liquid, oil, or grease immediately.**
 - Wear hard sole shoes and appropriate clothing. Shorts or mini dresses are not permitted.**

- Place trash and paper in proper containers and not in cans provided for cigarette butts.**

3. SAFETY CHECKLIST

It's every employee's responsibility to be on the lookout for possible hazards. If you spot one of the conditions on the following list – or any other possible hazardous situation – report it to your supervisor immediately.

- Slippery floors and walkways**
- Tripping hazards, such as hose links, piping, etc.**
- Missing (or inoperative) entrance and exit signs and lighting**
- Poorly lighted stairs**
- Loose handrails or guard rails**
- Loose or broken windows**
- Dangerously piled supplies or equipment**
- Open or broken windows**
- Unlocked doors and gates**
- Electrical equipment left operating**
- Open doors on electrical panels**
- Leaks of steam, water, oil, etc.**
- Blocked aisles**
- Blocked fire extinguishers, hose sprinkler heads**

- Blocked fire doors**
- Evidence of any equipment running hot or overheating**
- Oily rags**
- Evidence of smoking in non-smoking areas**
- Roof leaks**
- Directional or warning signs not in place**
- Safety devices not operating properly**
- Machine, power transmission, or drive guards missing, damaged, loose, or improperly placed**

4. SAFETY EQUIPMENT

Your supervisor will see that you receive the protective clothing and equipment required for your job. Use them as instructed and take care of them. You will be charged for loss or destruction of these articles only when it occurs through negligence.

5. SAFETY SHOES

The company will designate which jobs and work areas require safety shoes. Under no circumstances will an employee be permitted to work in sandals or open-toe shoes.

A reliable safety shoe vendor will visit the company periodically. Notices will be posted prior to the visits.

6. SAFETY GLASSES

The wearing of safety glasses by all shop employees is mandatory. Strict adherence to this policy can significantly reduce the risk of eye injuries.

7. SEAT BELTS

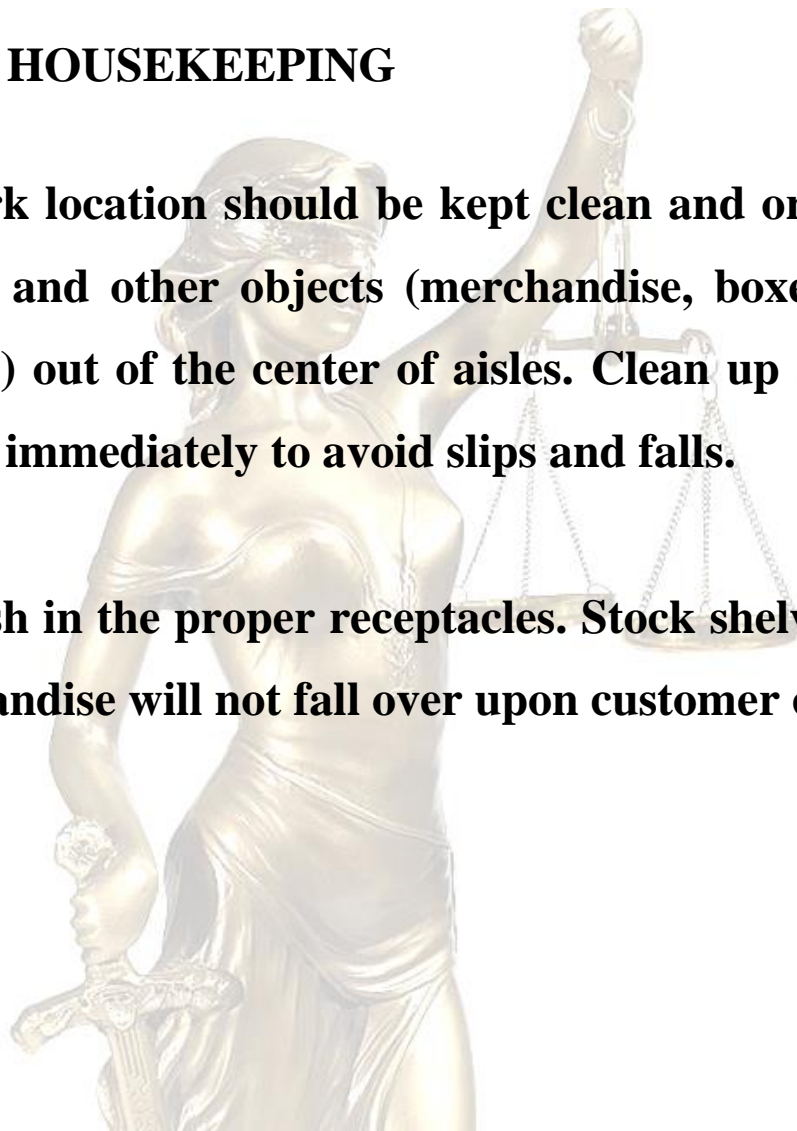
All employees must use seat belts and shoulder restraints (if available) whenever they operate a vehicle on company

business. The driver is responsible for seeing that all passengers in front and rear seats are buckled up.

8. GOOD HOUSEKEEPING

Your work location should be kept clean and orderly. Keep machines and other objects (merchandise, boxes, shopping carts, etc.) out of the center of aisles. Clean up spills, drips, and leaks immediately to avoid slips and falls.

Place trash in the proper receptacles. Stock shelves carefully so merchandise will not fall over upon customer contact.



GRIEVANCE POLICY

[COMPANY NAME] wishes to provide a comfortable, productive, legal and ethical work environment. To this end, the company wants you to bring any grievances you have about the work place to the attention of your supervisor and, if necessary, to upper level management. In light of these concerns we have instituted the following grievance procedure:

If you feel that there is inappropriate conduct or activity on the part of the company, management, its employees, vendors, customers, or any other persons or entities related to the company, we request that you bring this concern to the immediate attention of your supervisor. Please try to approach your supervisor at a time and place that will allow the supervisor to properly listen to your concerns. If you have discussed this matter with your supervisor previously and you do not believe that you have received a sufficient response, we request that you present your concerns to your supervisor in writing. Please indicate what the problem is, those persons involved in the problem, and any suggested solution you may have to the problem.

If you do not receive a sufficient response to your written complaint within [NUMBER] working days from providing it to your supervisor, or if your supervisor is the problem, you should contact the next level of supervision, and so on. If you consider the matter an emergency, legal, ethical or safety issue, use your best judgment to expedite the complaint process. The company may have a conference with you and your supervisor or with both of you individually. If the matter is not resolved after that conference, and you believe it still merits attention, it is requested that you immediately place your concerns in writing and bring the matter forward to upper level management.

It is the purpose of this grievance procedure to help maintain a positive work environment with respect and responsibility towards each other. The grievance procedure is also intended to avoid unnecessary employee claims and company legal exposure. The company cannot promise that your specific grievance or complaint will result in the action you request or that you will be satisfied with the outcome of the grievance procedure.

Jury Duty Policy

1. Paid Absence

Time off taken for jury duty is treated as a paid absence for up to [TIME LIMIT] during any one year. Employees are paid for the time they are absent for jury duty, less the amount they receive for performing jury duty service.

[THE ABOVE CLAUSE FOR PAY DURING JURY DUTY SHOULD BE EDITED TO REFLECT THE JURY DUTY LAWS IN YOUR STATE.]

2. Advance Notice

Employees must give advance notice of the need for time off for jury duty. A copy of the summons should accompany the request.

[THE ABOVE CLAUSE FOR NOTIFICATION OF NEED FOR JURY LEAVE SHOULD BE EDITED TO REFLECT THE JURY DUTY LAWS IN YOUR STATE.]

3. Return to Work

If employees are dismissed from jury duty before the end of the workday, they must report to work for instructions on whether to return for work for the rest of the workday.

Military Leave Policy

It is the policy of [COMPANY] to permit employees to take military leaves of absence.

1. Military Activities

[COMPANY] will grant the employee's request for military leave of absence for [NUMBER] days per year to be used for military training, reserve duty, drills, maneuvers, etc. In addition, if the employee should be called to active duty, the employee may take active duty leave for up to [TIME LIMIT – E.G., NUMBER OF DAYS OR WEEKS]. Military leave is only granted to [COMPANY]'s permanent employees.

2. Employment Rights

The employee's employment rights will be preserved while the employee is on military leave. Pay increases, vacations, and other benefits that would have accrued had the employee not been on military leave of absence will be given to the employee upon returning to [COMPANY] after the military leave is over.

3. Reinstatement

Unless circumstances at [COMPANY] change so drastically while the employee is on annual or active duty military leave that reinstatement is impossible or impractical, when the employee returns to [COMPANY] after military leave, the employee will either be reinstated to the position the employee held before taking military leave or be given a similar position with the same seniority, status, and pay, if in either case the following conditions are met:

1. Proof of honorable discharge from duty.
2. Proof of ability to resume the position.
3. Notice of intention to return is given.

If the employee is unable to return to the same position after annual or active duty military leave, [COMPANY] will arrange for another position at the same seniority, status and pay.

Notice of intention to return to work must reach [COMPANY] within [NUMBER] days of the employee's discharge from military duty.

4. Annual Vacation Leave

Annual military leave of absence is in addition to any annual vacation leave the employee is entitled to. [COMPANY] will not make deductions from annual vacation leave for time spent on annual military leave.

5. Nondiscrimination

[COMPANY] makes it a policy not to discriminate in any way against employees who are members of the military. The employee's job will not be in jeopardy if a military leave of absence is requested or taken. In addition, the employee will not be discharged by [COMPANY] for one year after returning from military leave without just cause.

on-Discrimination Policy Statement

1. OVERALL POLICY

It is the policy of [COMPANY NAME] (the "Company") to maintain a working environment free of all forms of unlawful discrimination. In recognition of the importance of good employee relations, all applicants are extended an equal opportunity to gain employment and all employees are extended an equal opportunity to progress in their field of endeavor.

2. EQUAL OPPORTUNITY

The Company affords equal opportunity to all employees and prospective employees without regard to race, color, sex, religion, age, marital status, disability, veteran status or national origin in the following employment practices: recruitment, hiring, placement, transfer, promotion, demotion, selection for training, layoff, termination, determination of service, rate of pay, benefit plans, compensation, and other personnel actions.

3. DISABILITY

The Company will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

4. COMPLAINT PROCEDURE

Any individual, whether an employee or applicant for employment who believes that he or she has been discriminated against unlawfully should bring any complaint to [NAME OF APPROPRIATE PERSON] person in the [NAME OF APPROPRIATE DEPARTMENT] Department. Complaints may be lodged in writing or in person. Persons who file complaints will be advised, as is appropriate, regarding any investigation, action or resolution of the problem.

5. CONSEQUENCES

The Company will not tolerate any form of discrimination and will take appropriate disciplinary action, including possibly termination, of any person determined to have engaged in unlawful conduct under this policy.

6. NO RETALIATION

The Company will not retaliate nor discriminate against any employee or applicant because he or she has opposed any unlawful employment practice or filed a charge of employment discrimination, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to employment practices.



Overtime POLICY GUIDANCE

All payments given to an employee as remuneration for employment must be included in calculating the employee's regular rate, except those which [ACT] specifically says may be excluded.

Of course, if a payment is not compensation for employment, then it is not a part of the employee's wages. On the other hand, if a payment is excludable by the [ACT], then it may be ignored when figuring the employee's regular rate and overtime pay, even though it is remuneration for employment.

This chart is not all-inclusive. Although it is an extensive listing of payments that will be confronted in payroll computations, any other payment that is remuneration for employment and not a statutory exclusion must be considered as wages, just as any other payment which qualifies for a statutory exclusion may be eliminated from the wage category.

1. EMPLOYEE PAYMENTS THAT MUST BE INCLUDED IN CALCULATING REGULAR RATES

Absence pay if absence is:

- for personal reasons
- for Christmas shopping (unless customary in industry or area)
- for visit with friend passing through town
- to obtain mortgage on home

Board and lodging furnished by employer if not excluded under union contract

Bonuses for:

- accuracy of work
- attendance
- continuation of employment relationship
- production
- quality of work

Commissions

Guarantees paid to pieceworkers

Housing and lodging furnished by employer if not excluded under union contract

Incentive bonuses

Lump-sum overtime pay

Contest prizes for:

- attendance
- cooperation
- courtesy
- efficiency
- number of overtime hours worked
- production
- quality of work
- sales stimulation

Lunch expenses of employee paid by employer

Meals furnished by employer if not excluded under union contract

Merchandise furnished free at company stores (food, clothing, household articles)

On-call pay

Patent payments, if employer solicited invention

Piecework earnings

Production bonuses

Rent of employee's living quarters paid by employer if not excluded under union contract

Rest-period premiums (but only if they are paid more often than occasionally)

Salary increases:

- current
- retroactive

Shift differentials for

- night shift
- second shift
- swing shift
- third shift

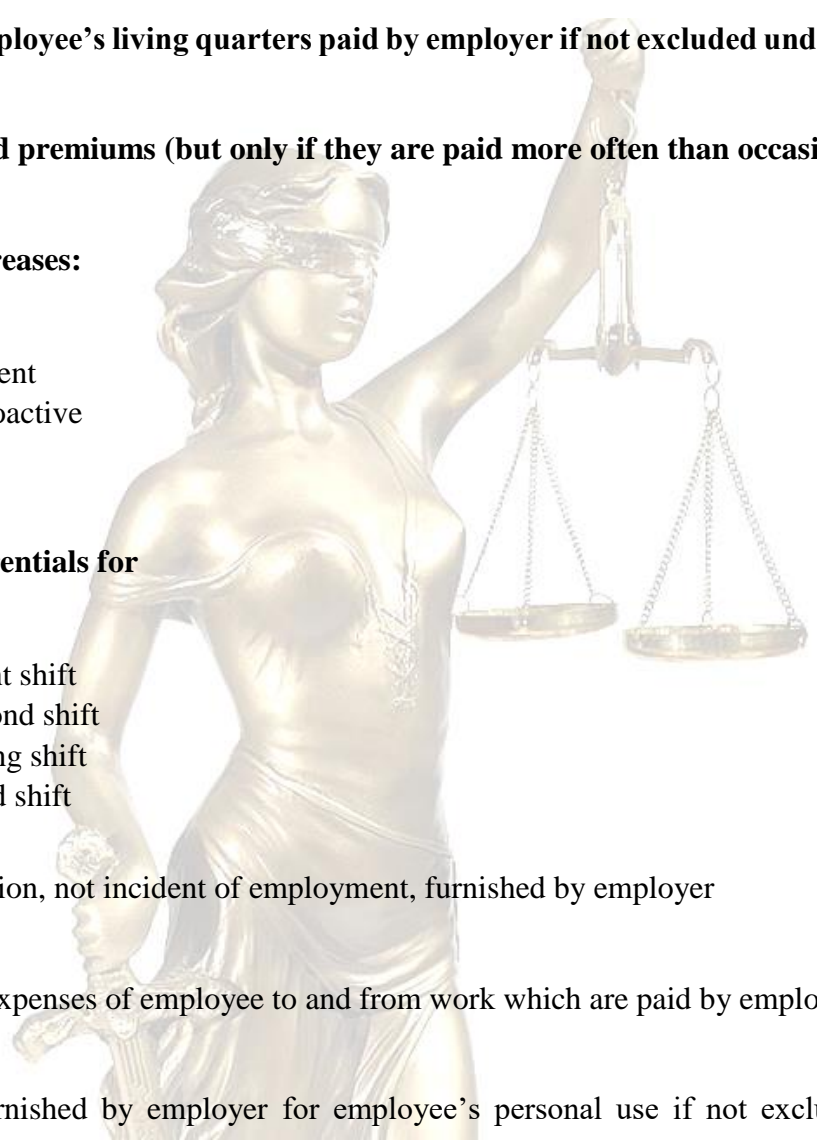
Transportation, not incident of employment, furnished by employer

Traveling expenses of employee to and from work which are paid by employer

Utilities furnished by employer for employee's personal use if not excluded under union contract

Wage increases:

- current



- retroactive

Wages for hours worked (whether productive or not), including:

- commissions
- day wages
- hourly guarantees to pieceworkers
- hourly wages
- job wages
- non-cash wages
- piecework earnings
- salaries
- shift differentials

2. EMPLOYEE PAYMENTS THAT MAY BE EXCLUDED IN CALCULATING REGULAR RATES

Absence pay for infrequent or unpredictable absences (see also idle-time pay) caused by:

- funeral of family member
- holiday
- jury service
- sickness
- vacation

Board, lodging, or other facilities excluded under union contract

Bonuses:

- Christmas
- discretionary with employer
- percentage of total wages

Call-back pay covering idle time

Daily overtime pay of any amount for:

- hours in excess of [NUMBER]
- hours in excess of reasonable daily standard

Day-of-rest pay at time and one-half

Death benefits paid from welfare fund

Director's fees

Disability benefits paid from welfare fund

Disaster relief payments

Discretionary bonuses (discretionary with employer)

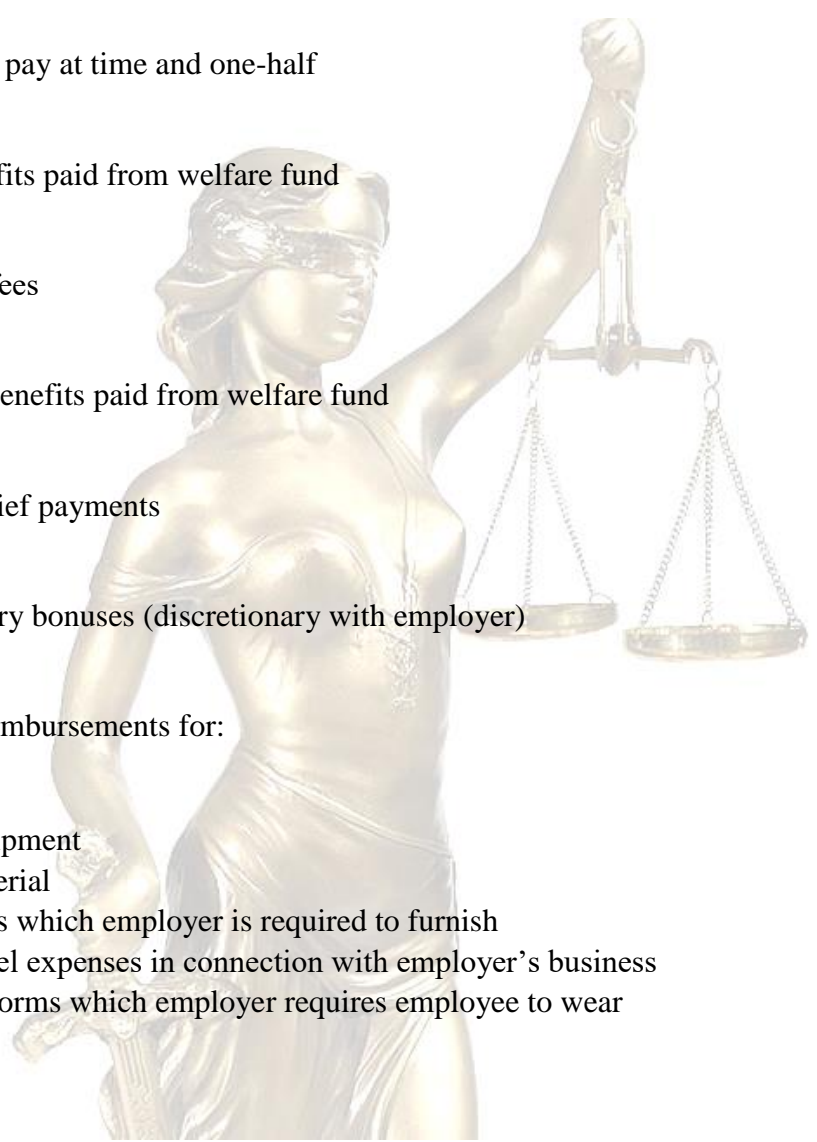
Expense reimbursements for:

- equipment
- material
- tools which employer is required to furnish
- travel expenses in connection with employer's business
- uniforms which employer requires employee to wear

Gifts

Health and welfare plan contributions by employer

Holiday pay for:



- idle time if equivalent to regular earnings
- time worked if at time and one-half

Hospital expenses paid from welfare fund

Idle-time pay (see also Absence pay) due to:

- call-back pay & show-up pay
- machinery breakdown
- supplies failing to arrive
- weather conditions making it impossible to work

Insurance paid from welfare fund

Loan to employee which is not deducted from wages

Locker facilities

Medical care on the job

Medical services and hospitalization required by workmen's compensation laws

Parking space furnished by employer

Pension plan contributions by employer

Percentage-of-total-wage bonuses

Post-shift pay:

- at time and one-half if full shift not exceeding 8 hours is not worked
- of any amount if full shift is worked

Pre-shift pay at time and one-half for shifts not exceeding 8 hours

Prize given to employee for recommending a sales prospect

Profit-sharing payments qualifying under administrative regulations

Recreational facilities furnished by employer

Rest-period premiums (but only if they are paid occasionally)

Restroom facilities

Retirement benefits paid from welfare fund

Royalties

Savings plan payments qualifying under administrative regulations

Seventh-day pay at time and one-half

Severance pay

Show-up pay covering idle time

Sick pay

Stock denoting contingent interest

Suggestion awards for suggestions that casually occur to employee and require no work

Sunday pay:

- at time and one-half for Sunday work as such
- of any amount if for excess daily or weekly hours

Supper money given to employee who works late

Talent fees paid to radio and television performers and announcers

Tips, if no agreement on wage status

Transportation incidental to employment

Traveling expenses of business trip by employee

Truck or car rental paid to employee for use of their conveyance

Tuition for independent schooling outside working hours

Vacation pay

Veteran's subsistence allowances

Voting time pay

Weekly overtime pay of any amount for:

- hours in excess of statutory straight-time workweek
- hours in excess of reasonable weekly standards

Welfare fund benefits received by employee:

- death benefits
- disability benefits
- hospitalization
- medical care
- retirement benefits

Welfare plan contributions by employer made irrevocably to trustee or third person to provide:

- death benefits

- disability benefits
- hospitalization
- medical care
- retirement benefits

Workers' compensation

3. OVERTIME POLICY GUIDANCE

- Consider staggering work periods**
- Communicate your staggered workweek**

If you are going to adjust overtime pay to take advantage of the offsets the law provides, make that very clear in your policy and routinely communicate that information. Unless the perception is addressed, employees may challenge the practice unnecessarily as well as feel a lack of candor on the part of their employer.

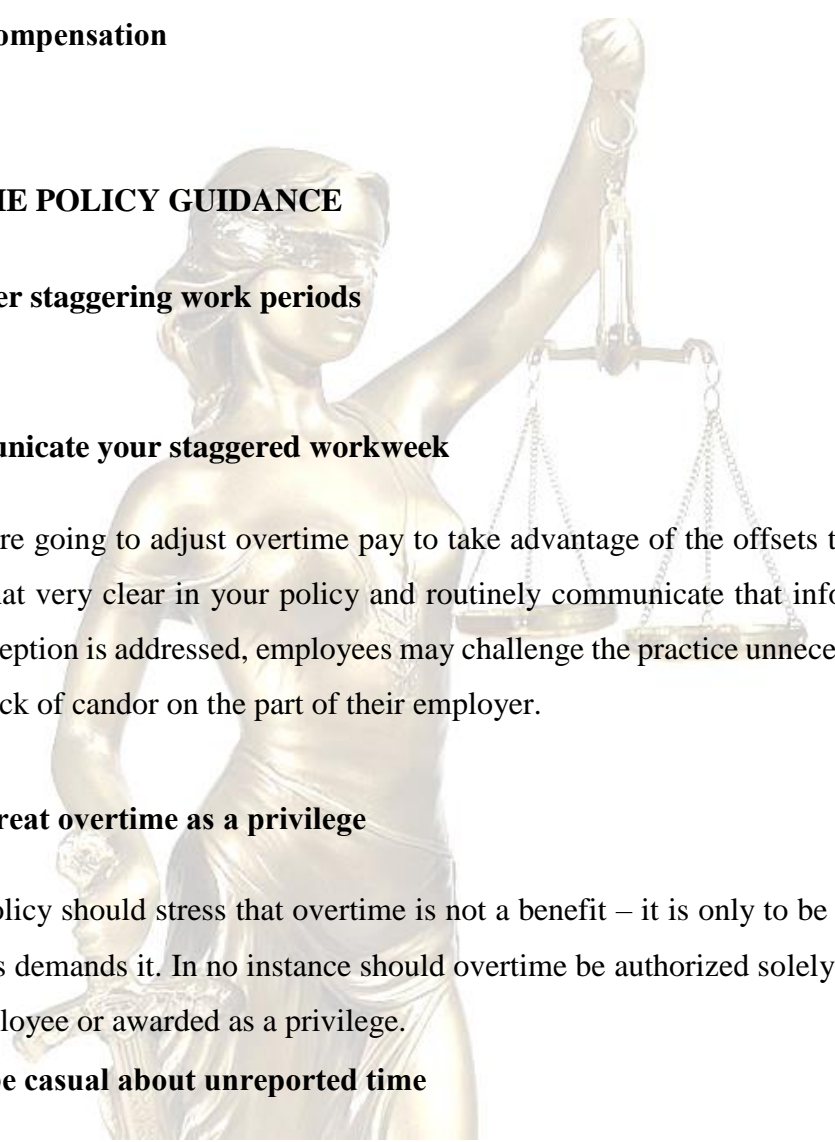
- Don't treat overtime as a privilege**

Your policy should stress that overtime is not a benefit – it is only to be authorized when business demands it. In no instance should overtime be authorized solely at the request of the employee or awarded as a privilege.

- Don't be casual about unreported time**

Prohibit in writing and enforce actively a prohibition against “casual work time“ and unreported time. Pay for all time and discipline abusers immediately after the fact.

- Don't unintentionally support unreported time**



Through management development and supervisory training, aim to dispel the belief that the “good” employee is the one who comes in a little early or stays a little late just to help out and does not report the time.

Have a clear policy on mandatory overtime

If overtime is to be mandatory when requested, state that fact throughout the hiring process and include a statement to be signed by the employee acknowledging an understanding of the company policy regarding mandatory overtime. Even with such a policy, there may be occasions where certain mitigating circumstances, such as illness or death in the employee’s immediate family, can and should be exceptions. Document all exceptions to policy.

Don’t fail to include on-call pay in overtime calculations

Pay for time during which an employee holds himself ready for call to work must be included in the regular-rate computation.

Don’t average hours worked in two or more weeks

Each workweek must be treated as a separate unit in computing pay.

Do not negotiate side agreements with employees to avoid paying overtime

Employees cannot waive their rights to overtime compensation granted them by the federal law, except where the government supervises the voluntary payment of wages due or sues on behalf of the employees. Employees cannot agree that their overtime hours may be paid at a lower rate. Agreements to “kick back” overtime pay and agreements to conceal overtime hours are invalid. Even though employees have agreed to such arrangements, they can still recover the overtime pay specified in the [ACT], possibly by suing you at some point in the future.

PAID TIME OFF POLICY

This company does not believe it is good business practice to pay employees for being sick. Very often sick days are abused or are the result of poor health habits. Instead, we provide regular full-time employees, who have completed their introductory period, with [NUMBER] days of personal leave for every [NUMBER] months of continuous employment without absence. This “wellness day” may be used by you at any time, for any reason, with reasonable notice to your supervisor. Accumulation of personal wellness days will be capped at [NUMBER] days per year and are not an accrued benefit. Personal wellness leave benefits do not accrue during extended leaves of absence or during vacation.

PTO banking provides you with more flexibility to use your time off to meet personal needs, while recognizing your individual responsibility to manage your paid time off.

With PTO banking, you will accumulate a specified amount of time each pay period, and you will determine how you will use it – for vacation, illness, attendance of children, school activities, medical/dental appointments, personal business or emergencies. The amount of time earned will depend on the length of your service with the company.

PTO banking does not replace the company holiday schedule; we will continue to have compensated holidays each year.

1. ELIGIBILITY

You are eligible to participate in the PTO banking program if you are a regular status employee scheduled to work at least [Number] hours per week. Part-time employees working more than [Number] hours per week accrue PTO on a prorated basis, depending on the number of hours worked.

2. DEPOSITS INTO YOUR LEAVE ACCOUNT

The amount of PTO you accrue each year is based on your length of service and accrues according to the Accrual Schedule for Full Time Employees chart below. PTO is accrued as you work. You will not accrue PTO time while you are on an unpaid leave of absence or long term disability.

3. ACCRUAL SCHEDULE FOR FULL TIME EMPLOYEES

Years of Service	Days Accrued	Hours Accrued	Maximum Annual Accrual (Hours)

4. MAXIMUM TIME ACCUMUALTED

Although you may carry over unused PTO time from year to year, there is a maximum, or cap amount of PTO time you can accumulate. This encourages you to use your PTO and allows the company to manage its financial obligations responsibly. Once you reach your cap, you will not accumulate any more PTO until you use some of the time in your account. After your balance goes below your maximum, you begin accruing PTO again. Maximum accrual is equal to one and one half times the annual PTO allotment.

5. TERMINATION

You will be paid for all accrued and unused PTO when you leave the company.

6. MANAGEMENT OF PTO

You are responsible for managing your paid time off. It is important that you plan ahead for how you will use your PTO account. This means developing a plan for taking your vacations, as well as doctor's appointments and personal business. It also means holding some time in "reserve" for

the unexpected, such as emergencies and illnesses. The amount you reserve for illness should depend on your personal health and sick leave history.

7. MINIMUM INCREMENTS OF PTO

The minimum amount of PTO you can take at one time depends on whether you are an exempt or non-exempt status employee. If you are non-exempt, you may not take less than [NUMBER] hours off at a time. If you are an exempt status employee you must take PTO in increments of not less than one full day.

8. TYPES OF LEAVE TIME OFF NOT DEDUCTED

Time off taken for certain leaves of absence such as jury duty, bereavement and workers compensation, according to the company policy, will not be charged against your PTO account. Please check with your immediate supervisor regarding these circumstances.

9. NOTICE AND SCHEDULING

Unless you are ill, you are required to notify your supervisor in advance of your intent to take PTO and get approval for the time off. This allows for you and your manager/supervisor to prepare for your time off and assure our staffing needs are met.

There may be occasions, such as sudden illness, when you can not notify your supervisor in advance. In those situations, you should inform your supervisor of your circumstances as soon as possible.

10. RECORDING PAID TIME OFF

The company has instituted the use of a PTO tracking system to keep a record of your account balance and the amount of time taken off each pay period. This system requires the completion of

an Absence Report for all time taken off from your regular work schedule. We are required to track absence for time off for illness, work related illness/injury, or the attendance of school related activities for legal compliance reasons. The amount of leave time accrued, used and available will appear on your paycheck stub.

11. TRANSITION PROVISIONS

Most employees will start the new PTO banking system with an account balance consisting of all accrued old sick, personal, and vacation time. You will not lose any days if you come into the plan with a balance greater than your PTO cap. Employees who have hours over the maximum will continue to accrue PTO time and have one year to use time in excess of the maximum accrual.

Personal Leave Policy

The following company policy statement is for personal leave. Generally, personal leave is granted without pay, but without loss of credit for the employee's length of service with the company. Not all companies allow employees to retain their service credit, however.

A personal leave of absence without pay may be granted an employee at the discretion of the company. A personal leave of absence is defined as an absence of [NUMBER] weeks or longer. It is not our general policy to grant personal leaves of absence and such leaves will be granted only under unusual circumstances. A personal leave of absence is not available instead of medical leave.

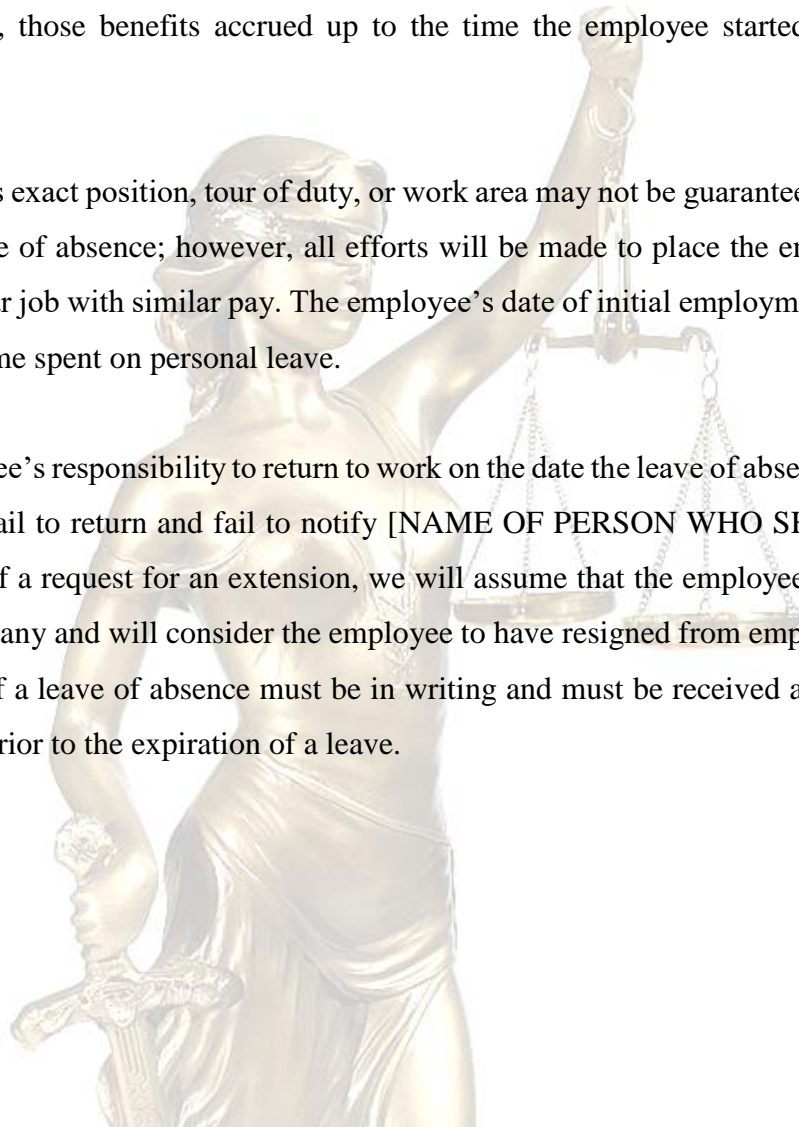
Granting of such a leave depends on the review of the merits of each case, including the effect the employee's absence will have on the workload of the other employees. Probationary employees are not generally eligible for leaves of absence. An employee must have one year of continuous employment before such a leave will be considered.

Applications for leaves of absence may be granted or rejected as dictated by the judgment of [NAME OF PERSON WHO APPROVES REQUESTS].

Salary and benefits are not payable to an employee while the employee is on a personal leave of absence, with the exception of company-paid term life insurance that is continued for eligible employees for [NUMBER] year of a leave of absence. Health insurance may be continued if the employee pays the full premium at the group rate. Although employees do not accrue benefits while on leave, those benefits accrued up to the time the employee started the leave will be retained.

The employee's exact position, tour of duty, or work area may not be guaranteed upon return from a personal leave of absence; however, all efforts will be made to place the employee in the first available similar job with similar pay. The employee's date of initial employment will be adjusted to reflect the time spent on personal leave.

It is the employee's responsibility to return to work on the date the leave of absence expires. Should the employee fail to return and fail to notify [NAME OF PERSON WHO SHOULD RECEIVE REQUESTS] of a request for an extension, we will assume that the employee does not intend to rejoin the company and will consider the employee to have resigned from employment. A request for extension of a leave of absence must be in writing and must be received at least [NUMBER] working days prior to the expiration of a leave.



February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: POLICY LETTER ON VEHICLE EXPENSE REIMBURSEMENT

Dear [CONTACT NAME],

It is essential that any of our personnel who drive company and personal vehicles in connection with company business maintain a thorough record of any expenses incurred. It is our desire to be certain that you are reimbursed for any expenditure that you make in this regard, and your good record keeping will make this possible. Receipts must be submitted for gasoline purchases, parking expenses and repairs. In addition, we will require your daily record of the number of miles driven, the odometer reading, before and after, and the amount of time spent driving. This information should be contained in your weekly report to [NAME].

Thank you very much for your cooperation in this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

[YOUR COMPANY'S] PRIVACY IN THE WORKPLACE POLICY

1. POLYGRAPH TESTING

Some jobs at [COMPANY NAME] fall within the exception to the prohibition against using polygraph tests for employment screening.

If the employee is applying for, transferring to or being considered for promotion to a job for which polygraph testing is required, the employee will be notified in advance that polygraph testing is a requirement of the job. Before any test is administered the employee will receive notice of the date, time and place, as well as a list of questions to be asked.

In addition, if the employee is under suspicion in connection with an ongoing investigation of economic loss (theft or embezzlement, for example) at [COMPANY NAME], the employee will be notified that a polygraph test is required and what the employee's rights are with respect to the test.

Refusal to submit to a legitimately requested polygraph test may be used as grounds for discharge.

2. MONITORING

The employee's work output, whether it be paperwork, computer files, products, customer calls or customer interaction, belongs to [COMPANY NAME]. As such, that work output is always subject to review by [COMPANY NAME], whether it is stored electronically, on paper or in any other form. In addition, business equipment, including computers, desks and lockers belong to [COMPANY NAME] and are subject to search or investigation.

3. E-MAIL AND COMPUTERS

E-mail and other computer files provided by [COMPANY NAME] are to be used for business purposes only. Use of [COMPANY NAME] computer equipment for personal reasons is strictly

prohibited and all computer pass codes must be available to [COMPANY NAME] at all times. [COMPANY NAME] reserves the right to enter, search and monitor the computer files or e-mail of any employee, without advance notice, for business purposes, such as investigating theft, disclosure of confidential business or proprietary information, personal abuse of the system or monitoring workflow or productivity.



• **POLYGRAPH CONSENT**

•

•

•

•

• **Name:** _____

•

• **Date of Polygraph Examination:** _____

•

•

• I voluntarily agree to a polygraph examination on the above date.

•

•

• A company representative has advised me of the following:

•

1) I am guaranteed by law the right not to take this examination as a condition of employment or continued employment.

•

2) I have not been coerced in any way into either taking this test or signing this consent agreement. This act is entirely voluntary on my part.

•

3) I have retained a copy of this agreement for my records.

•

•
EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

•

Print Name and Title

Print Name and Title

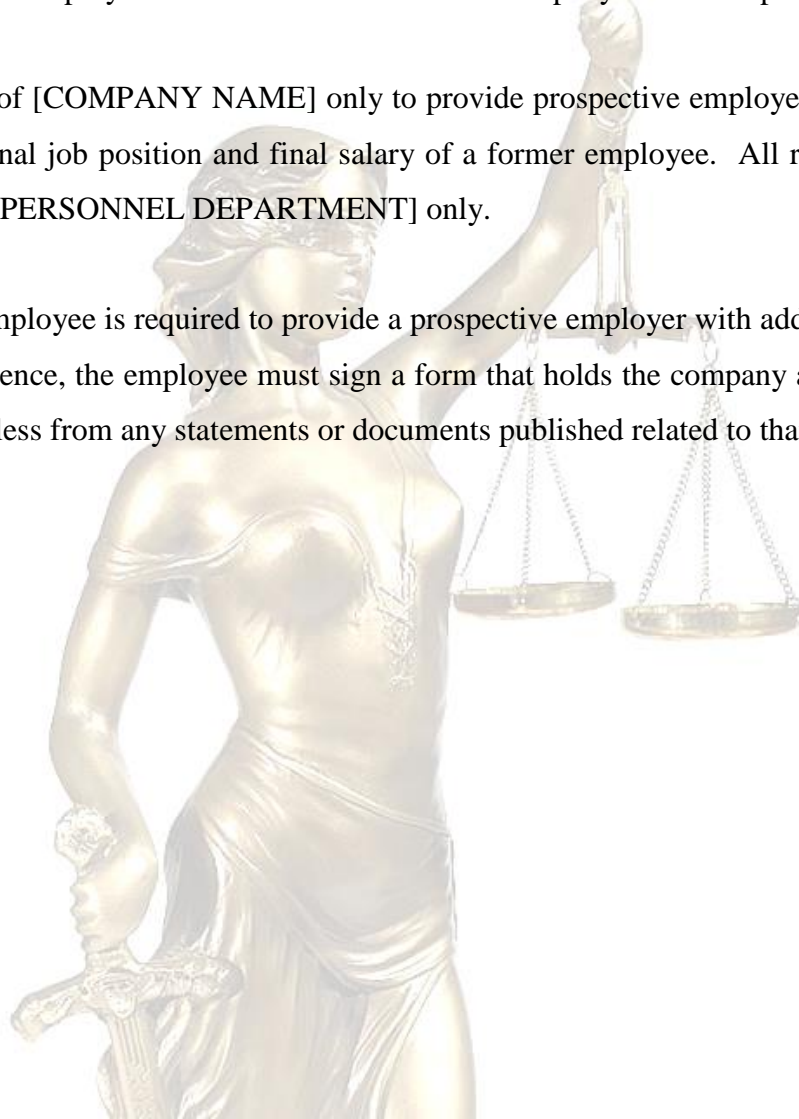
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POST-EMPLOYMENT REFERENCE POLICY

It is the policy of [COMPANY NAME] only to provide prospective employers with references regarding former employees who have worked for the company within the past three years.

It is the policy of [COMPANY NAME] only to provide prospective employers with the dates of employment, final job position and final salary of a former employee. All references are to be given by [THE PERSONNEL DEPARTMENT] only.

If the former employee is required to provide a prospective employer with additional information by way of reference, the employee must sign a form that holds the company and the prospective employer harmless from any statements or documents published related to that reference.



PREGNANCY/MATERNITY LEAVE POLICY

To be eligible for a pregnancy leave of absence, the employee must be a non-temporary, full-time female employee.

1. Maximum Length of Leave

The maximum length of pregnancy leave allowed is [NUMBER] weeks. If the employee needs a longer leave due to medical complications, the employee should notify [COMPANY] as soon as possible. The additional leave will be treated the same as any other medical or disability leave.

2. Written Requests

A written request for pregnancy leave must be submitted within a reasonable time. The employee must submit a written doctor's statement, indicating the anticipated delivery date. The employee should inform [COMPANY] of the expected duration of her pregnancy leave so that [COMPANY] may plan around the absence efficiently until her return.

3. Transfers

An employee requesting pregnancy leave may also ask for a transfer to another less strenuous or less hazardous position if so desired. The request must be in writing and must state the reason for the transfer.

4. Paid Leave

[COMPANY] provides for paid pregnancy leave for the period of [TIME LIMIT – E.G., NUMBER OF DAYS OR WEEKS]. The employee may use any accumulated paid sick days

and/or paid vacation days to extend her pregnancy leave beyond the paid leave period. The employee will be paid for those designated days.

5. Medical Incapacity

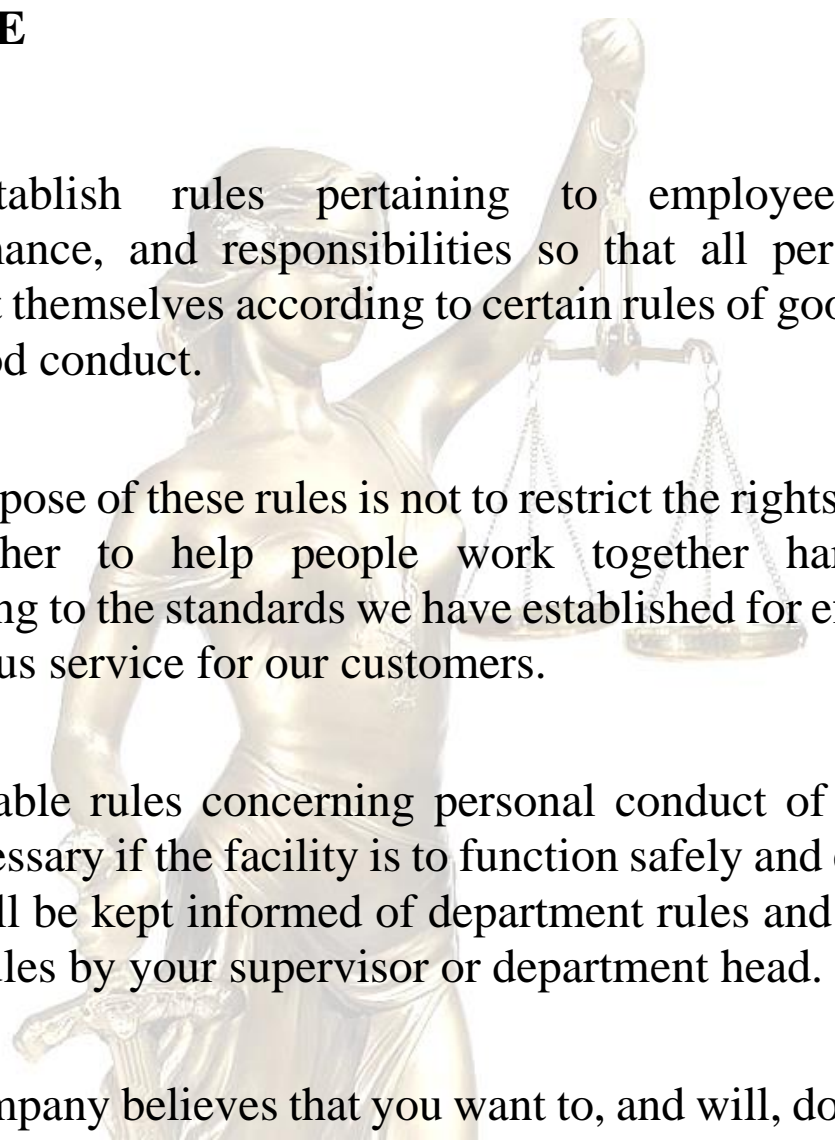
At her option, the employee may continue to work up to the delivery date, depending upon the employee's medical circumstances and the nature of the employee's job. In the event the employee is physically incapable of performing her regular job duties at any time during her pregnancy, the employee may request that the employee be placed on pregnancy leave. An advance notice of a minimum of [NUMBER] week should be given, accompanied by a statement from the employee's physician attesting to the employee's incapacitation.

6. Benefits

While an employee is away from work on an approved pregnancy leave of absence, she continues to participate in [COMPANY]'s company employee benefit programs. [COMPANY] will endeavor to return the employee to the same or equal job she had before taking pregnancy leave. Although [COMPANY] does not guarantee a return to the identical job, the employee will suffer no loss in seniority.

Progressive Discipline Policy

PURPOSE

- 
1. To establish rules pertaining to employee conduct, performance, and responsibilities so that all personnel can conduct themselves according to certain rules of good behavior and good conduct.
 2. The purpose of these rules is not to restrict the rights of anyone, but rather to help people work together harmoniously according to the standards we have established for efficient and courteous service for our customers.
 3. Reasonable rules concerning personal conduct of employees are necessary if the facility is to function safely and effectively. You will be kept informed of department rules and changes to those rules by your supervisor or department head.
 4. The company believes that you want to, and will, do a good job if you know what is required to perform your job properly. Your supervisor is responsible for ensuring that you know what is expected of you in your job. Further, it is company policy that employees be given ample opportunity to improve in their job performance.

POLICY

Degrees of discipline are generally progressive and are used to ensure that the employee has the opportunity to correct his or her performance. There is no set standard of how many oral warnings must be given prior to a written warning or how many written warnings must precede termination. Factors to be considered are:

- ❑ How many different offenses are involved
- ❑ The seriousness of the offense
- ❑ The time interval and employee response to prior disciplinary action(s)
- ❑ Previous work history of the employee

EXCEPTIONS

For serious offenses, such as fighting, theft, insubordination, threats of violence, the sale or possession of drugs or abuse of alcohol on company property, etc., termination may be the first

and only disciplinary step taken. Any step or steps of the disciplinary process may be skipped at the discretion of [COMPANY NAME] after investigation and analysis of the total situation, past practice, and circumstances. In general, several oral warnings should, at the next infraction, be followed by a written warning, followed at the next infraction by discharge. This is especially true in those cases where the time interval between offenses is short and the employee demonstrates a poor desire to improve his/her performance.

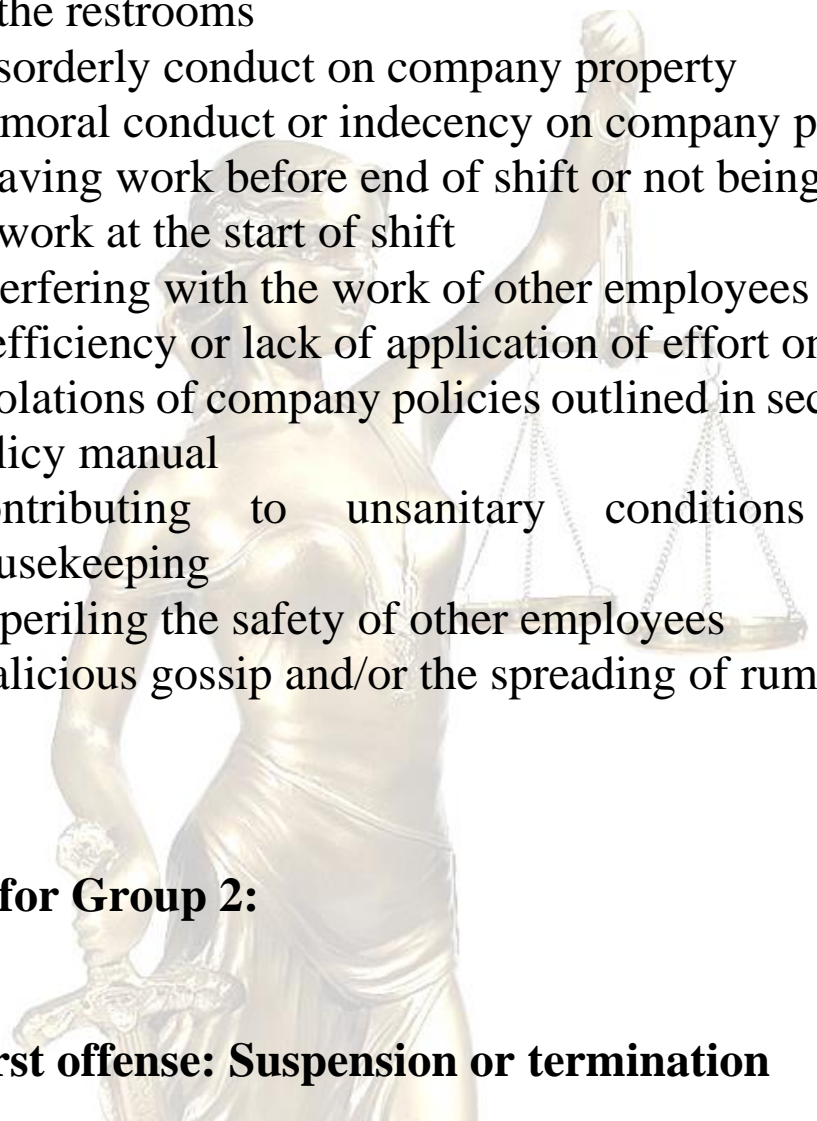
Penalties for Specific Offenses

Penalties for Group 1:

- First offense: Oral or written reprimand
- Second offense: Suspension or termination

Group 1 Offenses include:

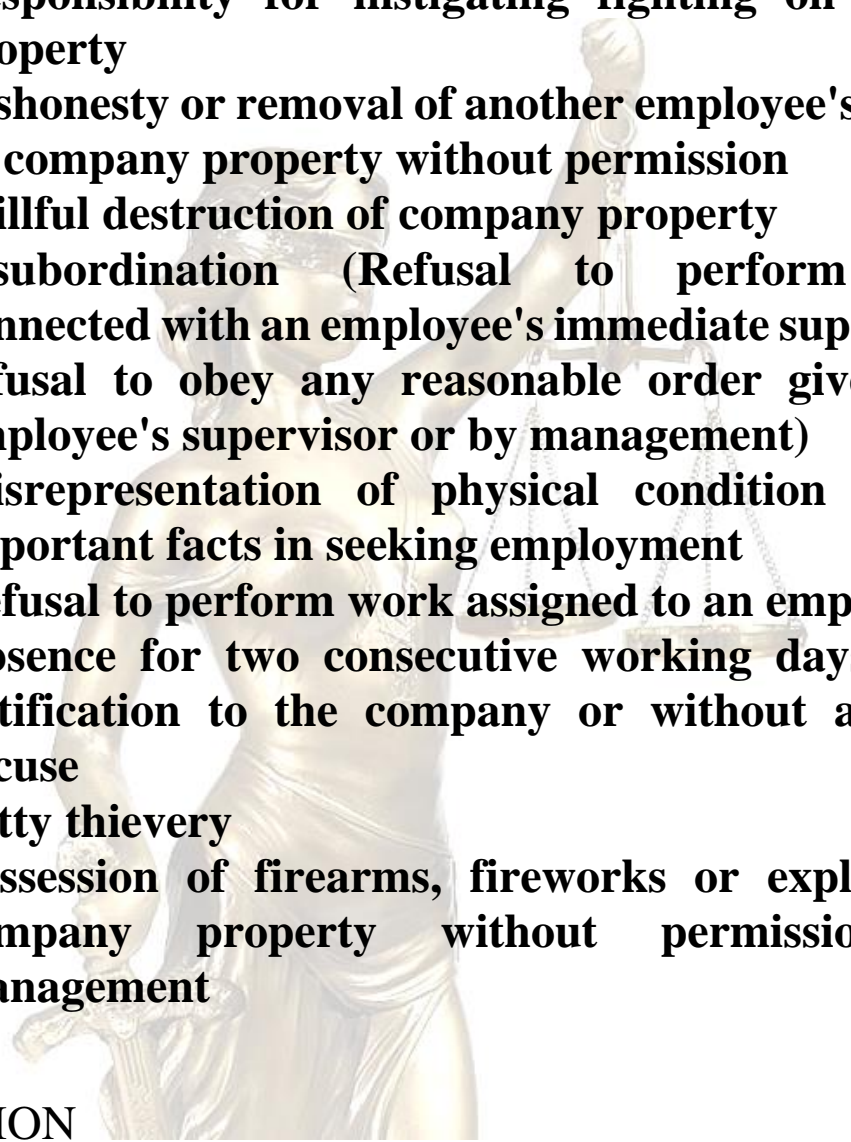
- Knowingly filling out time sheet of another employee
- Having one's sheet filled out by another employee, or unauthorized altering of a time sheet

- 
- Being tardy habitually without reasonable cause
 - Being absent without notification or excuse
 - Leaving your job or your regular working place during working hours for any reason without authorization from your supervisor, except for lunch, rest periods and going to the restrooms
 - Disorderly conduct on company property
 - Immoral conduct or indecency on company property
 - Leaving work before end of shift or not being ready to go to work at the start of shift
 - Interfering with the work of other employees
 - Inefficiency or lack of application of effort on the job
 - Violations of company policies outlined in sections of this policy manual
 - Contributing to unsanitary conditions or poor housekeeping
 - Imperiling the safety of other employees
 - Malicious gossip and/or the spreading of rumors

Penalties for Group 2:

- First offense: Suspension or termination**

Group 2 Offenses include:

- 
- Gambling on company property**
 - Possession of narcotics, or consuming narcotics on company property**
 - Reporting for work in an intoxicated condition**
 - Responsibility for instigating fighting on company property**
 - Dishonesty or removal of another employee's property or company property without permission**
 - Willful destruction of company property**
 - Insubordination (Refusal to perform service connected with an employee's immediate supervisor or refusal to obey any reasonable order given by an employee's supervisor or by management)**
 - Misrepresentation of physical condition or other important facts in seeking employment**
 - Refusal to perform work assigned to an employee**
 - Absence for two consecutive working days without notification to the company or without acceptable excuse**
 - Petty thievery**
 - Possession of firearms, fireworks or explosives on company property without permission from management**

PROBATION

You may be placed on probation in connection with the written warning for a period of time determined by [COMPANY NAME]. Wage increases, vacations and

transfers will not be given during this period, but all other benefits will continue.

INVESTIGATIVE SUSPENSION

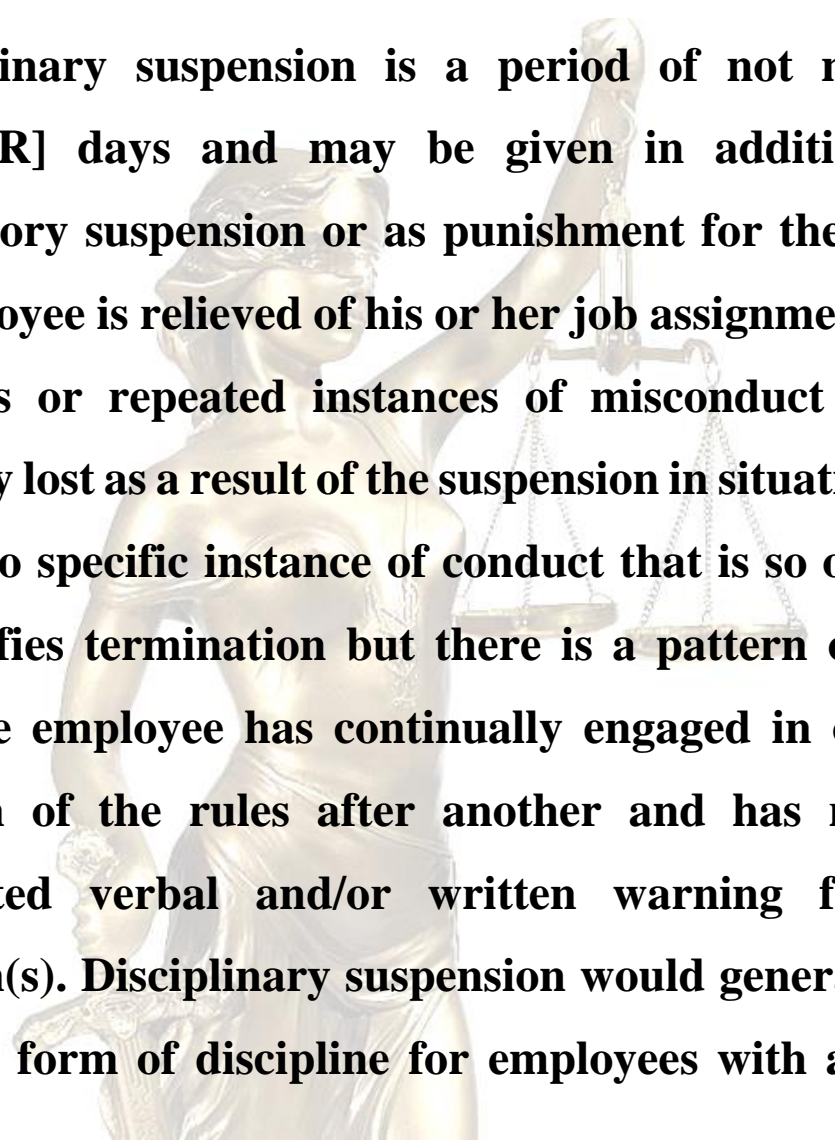
An investigative suspension is a period, not to exceed [NUMBER] working days, during which time an employee is relieved of his or her job because of alleged serious misconduct. An employee may be placed on investigative suspension when it is necessary to make a full investigation to determine the facts of the case, as in a fighting, insubordination or theft incident. If after the investigation:

- discharge is warranted, the employee shall not be paid for the period of investigative suspension – the discharge shall be effective on the date of the termination interview.
- misconduct is determined, but not of a sufficiently serious nature to warrant discharge, the employee shall receive a warning notice and forfeit pay lost as a result of the investigative suspension and may be placed on disciplinary suspension
- if no misconduct is determined, the employee shall return to work within the prescribed period and be

paid for the time lost as a result of the investigative suspension

Disciplinary Suspension

A disciplinary suspension is a period of not more than [NUMBER] days and may be given in addition to the investigatory suspension or as punishment for the violation. The employee is relieved of his or her job assignment because of serious or repeated instances of misconduct and shall forfeit pay lost as a result of the suspension in situations where there is no specific instance of conduct that is so outrageous that justifies termination but there is a pattern of conduct where the employee has continually engaged in one minor infraction of the rules after another and has received a documented verbal and/or written warning for rule(s) infraction(s). Disciplinary suspension would generally not be used as a form of discipline for employees with attendance problems.



Crisis suspension

A crisis suspension is given at the discretion of the supervisor when action must be taken immediately.

Discharge

When the employee is discharged as a result of a serious offense, or as the final step in an accumulation of infractions for which a warning notice or notices have been written, the employee will be discharged for cause instead of being given the option to resign, be laid off, or retire.

Misconduct

[YOUR COMPANY] has a progressive discipline policy. The goal of [YOUR COMPANY]'s progressive discipline system is to give the employee an opportunity to correct employment problems that may arise, rather than to punish employees.

The employee will be kept informed of [YOUR COMPANY]'s rules and the employee is expected to follow them.

IMMEDIATE DISCIPLINARY ACTION

[YOUR COMPANY] believes that engaging in certain types of misconduct should subject an employee to immediate suspension or discharge, rather than allowing opportunity for correction of behavior through progressive discipline steps. The following is a list of conduct for which immediate disciplinary action will be taken: [LIST OF OFFENSES THAT WILL BE EXEMPT FROM PROGRESSIVE STEPS (E.G., VIOLENT BEHAVIOR)].

DISCIPLINARY STEPS

Should there be a problem regarding the employee's adherence to [YOUR COMPANY]'s rules, the employee will be given three opportunities to change the unwanted behavior:

1. The employee will be given a verbal explanation of the errant behavior, including a reiteration of what [YOUR COMPANY]'s rule regarding that behavior is. In addition, the employee will be advised of the consequences of further infractions of the rule in question. If no further problems occur with regard to the issue raised at the verbal warning stage, no further disciplinary action will be taken.
2. If the problem persists, the employee will be given a written explanation of the errant behavior, including a reiteration of what [YOUR COMPANY]'s rule regarding that behavior is. In addition, the employee will be advised that continuation of the problem will lead to suspension without pay for a stated period of time. As before, the employee will be given an opportunity to change the unwanted behavior and, if the behavior does not recur, no further disciplinary action will be taken.
3. If verbal and written warnings fail to bring about a change in the undesired conduct, the employee will be suspended and will be informed that further occurrences of the conduct will lead to the employee's immediate discharge, without additional warnings.

[YOUR COMPANY] reserves the right to bypass the disciplinary steps and base its disciplinary action on the severity, frequency or combination of infractions when circumstances warrant immediate action.

DOCUMENTATION

[YOUR COMPANY] will document a disciplinary process beginning with the first verbal warning. A report of the disciplinary action will be retained in the employee's personnel file,

however, if no further disciplinary action is required after [NUMBER] years, the report will remain as part of the employee's personnel file but will no longer be considered a part of the employee's record.

Should a challenge arise regarding the disciplinary action in the report, the report may be used in the ensuing grievance proceeding or arbitration.



PROHIBITED ACTIVITIES (STANDARDS OF CONDUCT)

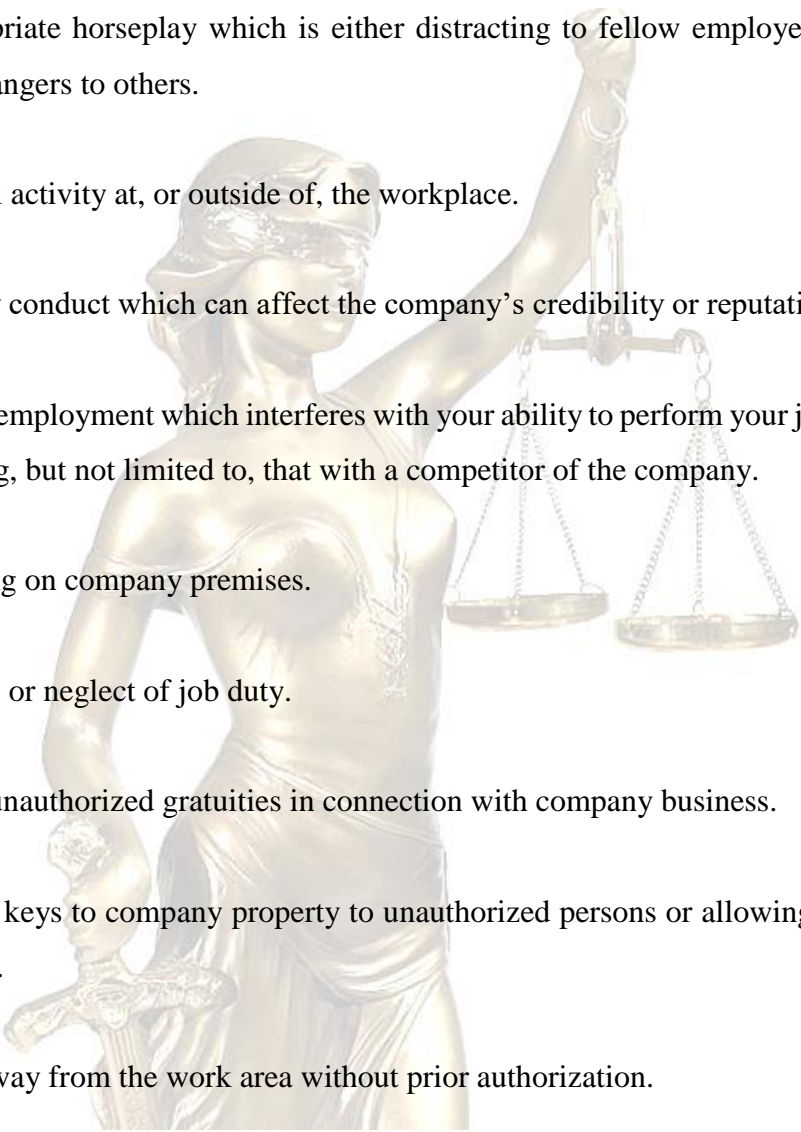
[COMPANY NAME] wishes to create a work environment that promotes job satisfaction, respect, responsibility, and value for all of our employees, clients, customers and other stakeholders. Every employee at [COMPANY NAME] has a shared responsibility toward improving the quality of the work environment. By agreeing to work at [COMPANY NAME] you have agreed to follow the company's rules and to refrain from conduct which is detrimental to our goals. The prohibited conduct that is listed below is not an inclusive list, as the company cannot, with foresight, determine what inappropriate conduct under every circumstance is. Moreover, the company does not limit its right to discipline or discharge employees to the prohibited conduct listed below. Remember that, while we value our employees, the company maintains the right to terminate its employees at any time and for any reason, with or without notice.

Violation of the prohibited conduct set forth below, or any other conduct deemed inappropriate by management, may subject you to disciplinary action, including oral or written warnings, suspension without pay, transfer or possible termination. If you have any questions about your personal conduct or that of any fellow employee, immediately consult your supervisor for clarification.

The following list contains examples of conduct considered improper which may result in discipline, including termination. Again, note this is not a complete list and understand that other behaviors may also result in discipline.

1. Possessing, using, selling, negotiating the sale of, or being under the influence of alcohol, drugs or other controlled substances during working hours, on company property (including company vehicles), in company uniform or on company business.
2. Falsification of the hours worked by you or any other employee.

3. Falsification of any other employment related document including, but not limited to, personnel files, employment review documents, intra-company communication, communications with those outside the company, expense records, etc.
4. Theft or destruction of company property or that of visitors, clients or fellow employees.
5. Possession of potentially hazardous or dangerous property, such as firearms, weapons, chemicals, etc., without prior authorization.
6. Fighting with, or harassment of, any fellow employee or customer.
7. Unauthorized or excessive use of company property or property of any visitors, customers, fellow employees, including but not limited to, vehicles, supplies, telephones, mail and computers.
8. Disclosure of company trade secrets or any other confidential or proprietary information of the company, its customers or fellow employees.
9. Insubordination, including but not limited to, refusal to perform a requested or required job task.
10. Failure to follow, or general neglect of, safety rules and procedures.
11. Excessive tardiness or absences.
12. Smoking in non-designated areas.
13. The taking of unauthorized overtime.
14. Solicitation of fellow employees on the company premises.
15. Failure to dress appropriately.
16. Failure to keep your workplace in a neat and sanitary condition.

17. Use of obscene or otherwise inappropriate language or conduct in the work place.
 18. Failure to provide medical authorizations for medical absences in excess of two days.
 19. Inappropriate horseplay which is either distracting to fellow employees or which could create dangers to others.
 20. Criminal activity at, or outside of, the workplace.
 21. Off-duty conduct which can affect the company's credibility or reputation.
 22. Outside employment which interferes with your ability to perform your job at this company including, but not limited to, that with a competitor of the company.
 23. Gambling on company premises.
 24. Sleeping or neglect of job duty.
 25. Taking unauthorized gratuities in connection with company business.
 26. Lending keys to company property to unauthorized persons or allowing duplicate keys to be made.
 27. Being away from the work area without prior authorization.
 28. Harassment of, or discrimination against, an employee, customer or visitor because of that person's race, religion, color, sex, age, disability or national origin.
 29. Bad-mouthing or spreading rumors.
- 

Disciplinary Action

As indicated earlier, violation of company policies or procedures may result in disciplinary action, including but not limited to, demotion, transfer, suspension with or without pay, or termination. The company encourages a system of progressive discipline depending on the type of prohibited conduct. The company is not required to engage in progressive discipline and may discipline or terminate an employee where he or she violates the rules of conduct, or where the quality or value of their work fails to meet expectations. Again, our attempt at progressive discipline does not imply a contract with you or that your employment is anything other than on an “at will” basis. This means that both the company and the employee may terminate the employment relationship at any time, for any reason, or no reason at all.

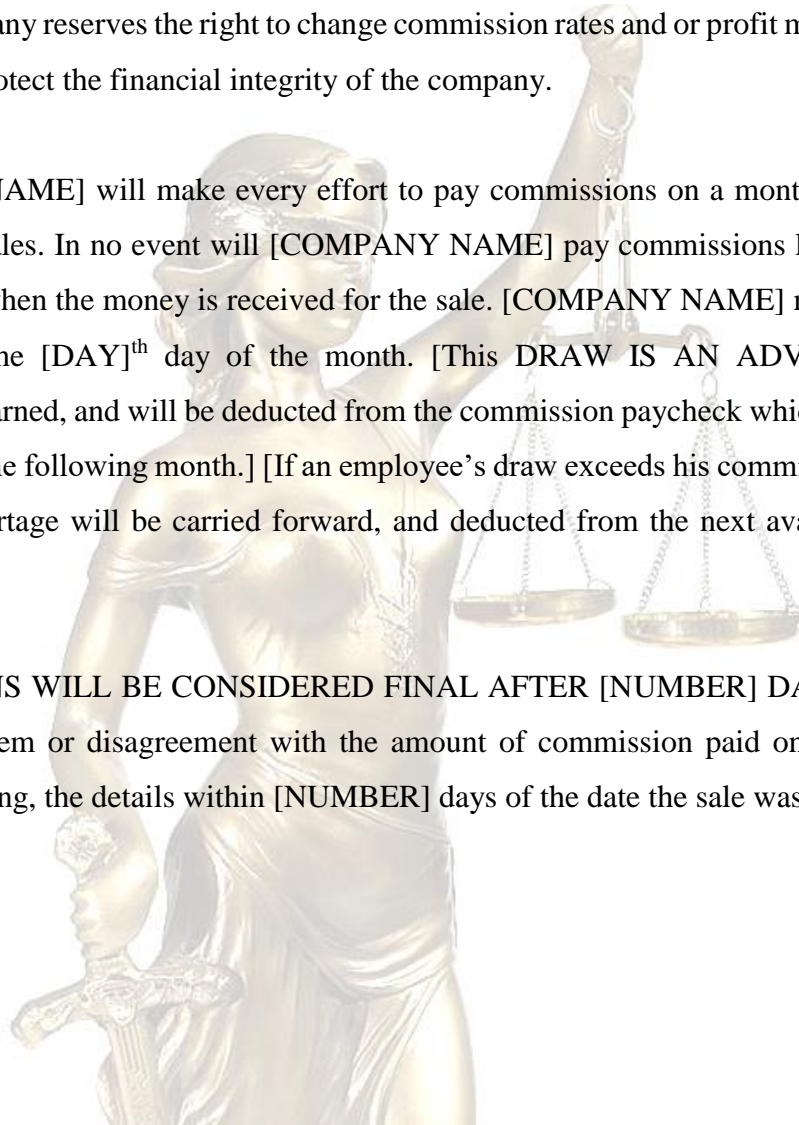
As part of our progressive discipline system, and based on the nature of the employee violation, management will attempt to provide the employee first with a verbal warning, then one or more written warnings, and if the conduct is not sufficiently altered, eventual demotion, transfer, forced leave or termination. Your supervisor will make every effort possible to allow you to respond to any disciplinary action taken. Understand that the company is not obligated to follow any disciplinary or grievance procedure and that you may be disciplined or terminated without going through any procedure.

SALES COMMISSION POLICY

[COMPANY NAME] pays commissions based on sales procured. The rates of commission, as well as the required [PROFIT MARGINS], will be give to each new sales employee at time of hire. The company reserves the right to change commission rates and or profit margin requirements as needed to protect the financial integrity of the company.

[COMPANY NAME] will make every effort to pay commissions on a monthly basis only, and only on final sales. In no event will [COMPANY NAME] pay commissions later than one week from the date when the money is received for the sale. [COMPANY NAME] may provide a draw paycheck on the [DAY]th day of the month. [This DRAW IS AN ADVANCE against all commissions earned, and will be deducted from the commission paycheck which will be issued on the [DAY] of the following month.] [If an employee's draw exceeds his commissions in any given month, the shortage will be carried forward, and deducted from the next available commission check.]

COMMISSIONS WILL BE CONSIDERED FINAL AFTER [NUMBER] DAYS! If you have a question, problem or disagreement with the amount of commission paid on a sale, be sure to submit, in writing, the details within [NUMBER] days of the date the sale was finalized.



SEXUAL HARASSMENT POLICY

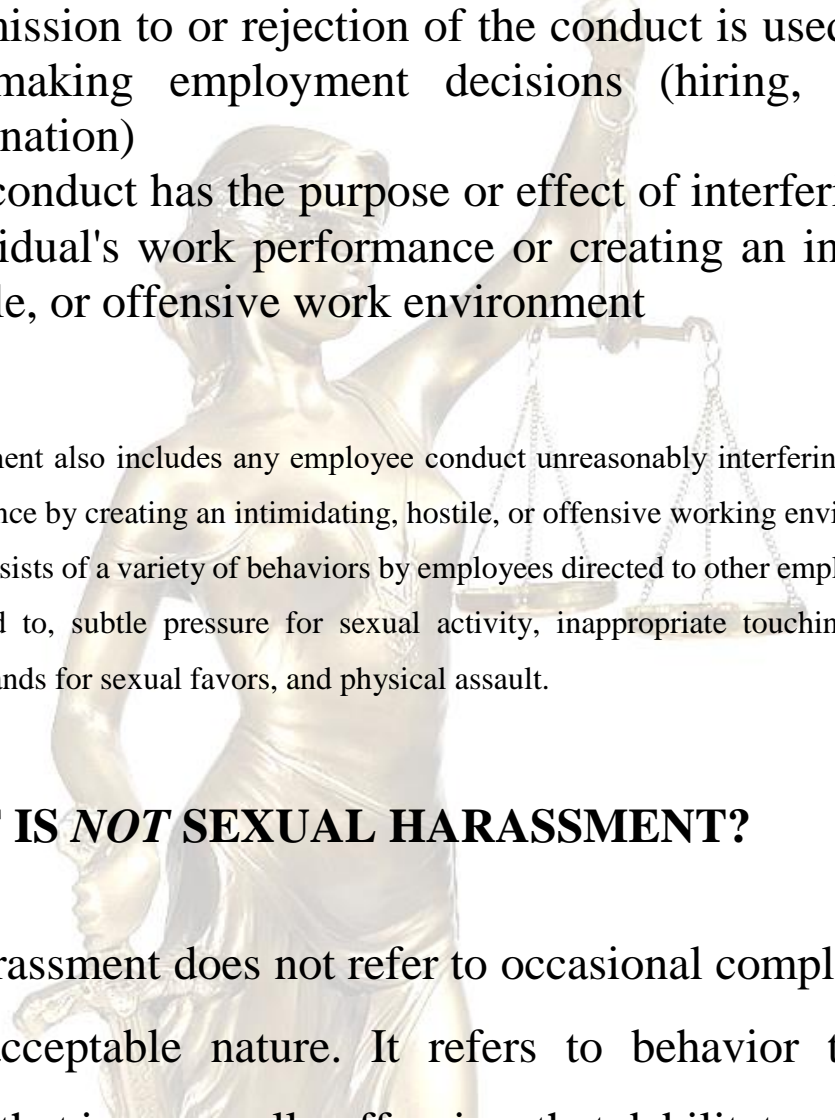
[COMPANY NAME]'s position is that sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. All employees have the right to work in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive, including sexual harassment. Anyone engaging in harassing conduct will be subject to discipline, ranging from a warning to termination.

It is our policy, in accordance with providing a positive, discrimination-free work environment, that sexual harassment in the workplace is unacceptable conduct that will not be condoned.

1. WHAT IS SEXUAL HARASSMENT?

Sexual harassment is defined as any unwanted physical, verbal or visual sexual advances, requests for sexual favors, and other sexually oriented conduct which is offensive or objectionable to the recipient, including, but not limited to: epithets, derogatory or suggestive comments, slurs or gestures and offensive posters, cartoons, pictures, or drawings.

[COMPANY NAME] has adopted, and its policy is based on, the definition of sexual harassment set forth by the [NAME OF YOUR STATE OR FEDERAL REGULATORY COMMISSION]. The [NAME OF YOUR STATE OR FEDERAL REGULATORY COMMISSION] defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 
- ❑ Submission to such conduct is either an explicit or implicit term or condition of employment (e.g., promotion, training, timekeeping or overtime assignments)
 - ❑ Submission to or rejection of the conduct is used as a basis for making employment decisions (hiring, promotion, termination)
 - ❑ The conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment

Sexual harassment also includes any employee conduct unreasonably interfering with another's work performance by creating an intimidating, hostile, or offensive working environment. Sexual harassment consists of a variety of behaviors by employees directed to other employees including, but not limited to, subtle pressure for sexual activity, inappropriate touching, inappropriate language, demands for sexual favors, and physical assault.

2. WHAT IS *NOT* SEXUAL HARASSMENT?

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that debilitates morale, and that, therefore, interferes with work effectiveness.

3. HARASSMENT BY NON-EMPLOYEES

We will endeavor to protect employees, to the extent possible, from reported harassment by non-employees such as from customers, vendors and other parties who have workplace contact with our employees.

4. COMPLAINT PROCEDURE

If you feel that you have been the recipient of sexually harassing behavior, report it immediately to the [HUMAN RESOURCE DEPARTMENT OR OTHER RESPONSIBLE NAME AND TITLE] or to any other supervisor. It is preferable to make a complaint in writing, but you can accompany or follow up your written complaint with a verbal complaint. All allegations of sexual harassment will be quickly investigated. To the extent possible, your confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, you will be informed of the outcome of that investigation.

Depending on the complexity of the investigation, you should be contacted within [NUMBER PLUS MEASURE OF TIME (E.G., FOUR DAYS, TWO WEEKS, ONE MONTH)] about the status of your complaint and whether action is being taken.

If your supervisor is the source of the harassing conduct, report the behavior to that person's supervisor or to the owner of [COMPANY NAME].

5. DISCIPLINE

Any employee found to have harassed another employee or applicant for employment will be subject to appropriate disciplinary procedure action, including reprimands, suspension or termination of employment.

A person committing sexual harassment may also be held legally liable for his or her actions under applicable law.

6. RESPONSIBILITY

Each manager is responsible for implementing this policy within his or her area of supervision.

[COMPANY NAME] wants you to have a work environment free of sexual harassment by management personnel, by your coworkers and by others with whom you must interact in the course of your work as a [COMPANY NAME] employee. Sexual harassment is specifically prohibited as unlawful and as a violation of [COMPANY NAME]'s policy. [COMPANY NAME] is responsible for preventing sexual harassment in the workplace, for taking immediate corrective action to stop sexual harassment in the workplace and for promptly investigating any allegation of work-related sexual harassment

7. REPRISAL PROHIBITED

[COMPANY NAME] will permit no employment-based retaliation against anyone who brings a complaint of sexual harassment or who speaks as a witness in the investigation of a complaint of sexual harassment.

8. WRITTEN POLICY

If [COMPANY NAME] should amend or modify its sexual harassment policy, you will receive an individual copy of the amended or modified policy.



SICK LEAVE POLICY

1. Pay for Illness

Employees will become eligible to participate in the paid time for illness program as follows:

- If employed prior to [DATE], employees will be allowed up to [NUMBER] days in the following year
- If employed between [DATE] and [DATE], employees will be allowed up to [NUMBER] days in the following year, and up to [NUMBER] days in the succeeding years.

In addition to illness, sick leave may also be granted for medical, dental, or optical examinations or when a member of your household requires your personal care and attention due to illness.

2. PAY AND BENEFITS DURING SICK LEAVE

Illness pay will be based on a regular eight-hour day at straight time and at the employee's base rate. Illness absence of less than [NUMBER] hours in a day will not be considered for payment. Saturdays, Sundays, daily overtime hours, paid holidays, and paid vacation time are excluded as time for which payment will be made under this program.

Weekly insurance benefits will continue to be paid commencing with the first day of certified disability due to accidents and the fourth day due to illness. Thus, in accident and illness cases, the insurance benefit will be paid rather than the paid illness allowance, and any unused illness allowance will be available for use later in the year as needed.

3. CERTIFICATION OF ILLNESS

Certification of illness by a physician will not normally be required to qualify for payment under this program.

4. EFFECT ON PERFORMANCE

While the company pays you for authorized sick days, we expect you to be honest with us in taking days off only when you are actually ill. Any abuse of this benefit will be taken into account in evaluations of your performance. The company reserves the right to require a statement from your doctor.

5. AT TERMINATION

When termination of employment occurs, no payment for sick leave will be made.

6. Accrual of Sick Leave

Starting with the first day of employment, sick leave will accumulate at the rate of [NUMBER] day per month. Sick leave may accumulate to a maximum of [NUMBER] days.

An employee may receive compensation for his/her sick leave that has accumulated in excess of [NUMBER] days at the rate of [NUMBER] day's pay for each two [NUMBER] of sick leave accumulated in excess of [NUMBER] days. Payment for unused sick leave will be made during the month of [MONTH] each year, or at other times as designated by [PERSON WHO APPROVES SICK LEAVE].

One day of sick leave for those employees who normally work a [NUMBER]-hour week shall be [NUMBER] hours. A day of sick leave for employees working [NUMBER] or more hours per week shall be [NUMBER] hours.

Permanent part-time employees are entitled to sick leave as earned on a pro rata basis. No sick leave shall accumulate to seasonal or temporary employees. All sick leave payments are to be

approved by [PERSON WHO APPROVES SICK LEAVE]. Thus, any employee who is ill is responsible for reporting his or her absence to the appropriate person within one hour after his or her designated time for reporting to work.



[YOUR COMPANY NAME]'s Smoking Policy

1. Written Policy

The employee will receive a copy of this policy in the employee's orientation packet. In addition, copies of the policy are posted in various locations throughout this facility including [NAME LOCATIONS; E.G., THE BREAK ROOM]. Additional copies are available upon request.

2. Smoking in the Workplace

Because [COMPANY NAME] is a private building not open to the general public, smoking at [COMPANY NAME] is not governed by state law or local ordinance. [COMPANY NAME] allows employees who have private offices to smoke in their offices. Employees who share offices must refrain from smoking in the office if any employee in that office objects. Smoking is not allowed in [LIST NO SMOKING AREAS]; however, smoking is allowed in [LIST DESIGNATED SMOKING AREAS]. Please observe the posted no smoking signs.

3. Smoking/No-Smoking Signs

To support its policy of not allowing smoking in other than designated smoking areas, [COMPANY NAME] has posted "No Smoking" and "Smoking" signs in the appropriate areas. Each sign posted in an area where smoking is prohibited carries the internationally recognized symbol for no smoking; a red circle containing a lit cigarette with a line drawn diagonally through the circle. Please observe these signs at all times.

4. Non-discrimination

What the employee does outside of working hours and off [COMPANY NAME]'s premises will not be the basis of any disciplinary action by [COMPANY NAME]. Nor will [COMPANY NAME] pursue a policy of discharging employees or refusing to hire applicants because they are smokers.

STATEMENT AND POLICY PROHIBITING ILLEGAL DISCRIMINATION AND HARASSMENT

Our company is committed to the principals of Equal Employment Opportunity and is committed to making employment decisions based on merit and value. We are committed to complying with all Federal, State, and local laws providing Equal Employment Opportunities, as well as all laws related to terms and conditions of employment. We desire to keep a work environment which is free of harassment or discrimination because of sex, race, religion, color, national origin, sexual orientation, physical or mental disability, marital status, age or any other status protected by Federal, State or local laws. We value diversity and are willing to employ men and women of all ethnic and racial groups, ranging in age from the teens to the sixties and older, and representing a broad spectrum of religions and national origins. The company will make every reasonable effort to accommodate those physical or mental limitations of an otherwise qualified employee, unless undue hardship would result for the company.

Just as the company bears a responsibility towards this policy, each of us must clearly communicate our disinterest in, or offense taken to, any perceived verbal or physical discrimination or harassment. We are all responsible for upholding this Equal Employment Opportunity policy and commitment. Equal Employment Opportunity laws afford each one of us the chance to succeed or fail based on individual merit.

Prohibited sexual harassment is defined as follows: “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

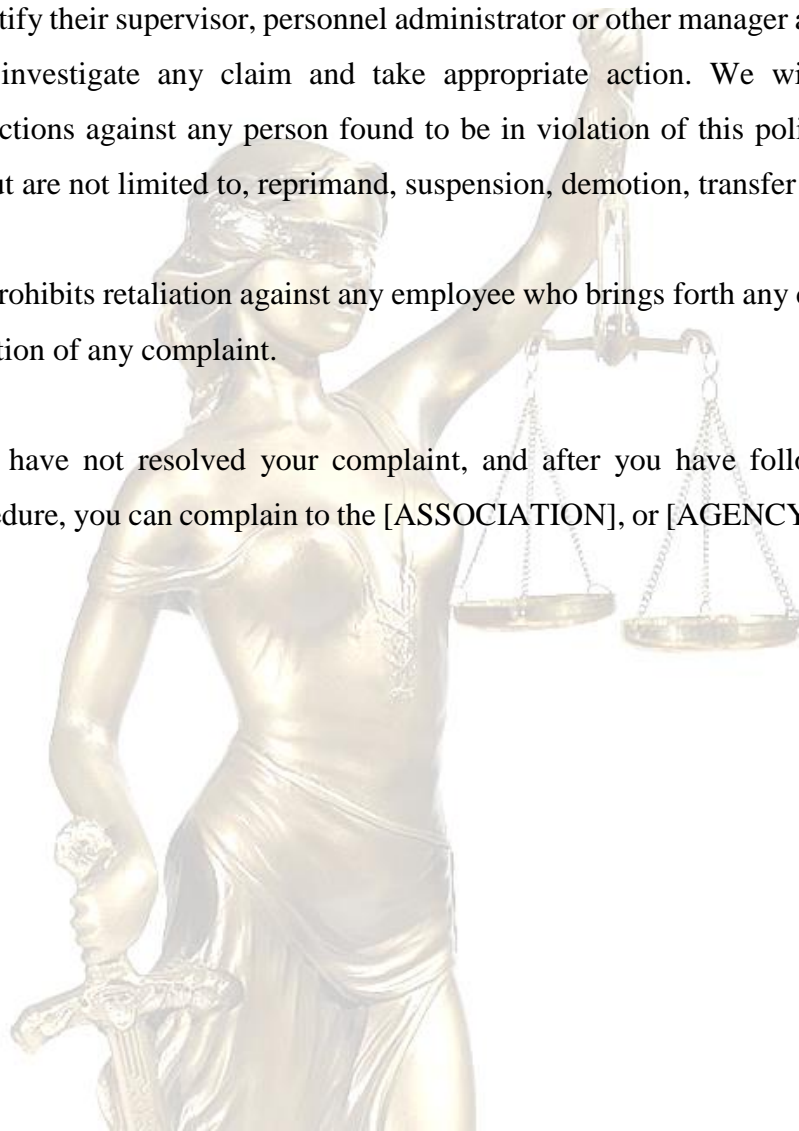
- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or

- c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Our company will not tolerate any form of discrimination or harassment! Any employee who feels that he or she has witnessed, or been subject to, any form of discrimination or harassment should immediately notify their supervisor, personnel administrator or other manager at the company. We will promptly investigate any claim and take appropriate action. We will seek to impose appropriate sanctions against any person found to be in violation of this policy. Such sanctions may include, but are not limited to, reprimand, suspension, demotion, transfer and discharge.

Our company prohibits retaliation against any employee who brings forth any complaint or assists in the investigation of any complaint.

If you feel we have not resolved your complaint, and after you have followed the company grievance procedure, you can complain to the [ASSOCIATION], or [AGENCY] found in the local phone book.



TELECOMMUTING POLICY

Employees allowed to telecommute from home or off-site, for some or all of their employment, remain subject to the terms and conditions of employment set forth in the employee handbook and elsewhere. In addition to their existing obligations and responsibilities telecommuters must agree to do the following:

1. Maintain a regular work schedule and an accurate accounting of what they work on and when.
2. Comply with all of the safety regulations that apply to an office. That means having a safe work environment free of clutter, exposed wiring, slippery surfaces, etc. Any employee who telecommutes grants a license to the company to inspect their work premise during normal work hours.
3. Not allow business visitors to their home or off-site work location without the express written permission from their supervisor.
4. Understand that the policies and procedures relating to legal compliance and ethics obligations remain in full force and effect while off-site.
5. Be responsible for any company equipment used off-site. The employee may be responsible for the cost of repair or replacement of any equipment if handled in a careless or reckless manner. The company is not responsible for personal equipment used without express written authorization from the company.
6. Maintain their work product in a safe and secure environment. Any confidential materials, trade secrets or proprietary information should be maintained under lock and key and appropriately discarded.
7. Understand that any injuries occurred at home, or off-site, are covered by the company's worker's compensation insurance coverage. The reporting requirements for a telecommuter related to a workplace injury are the same as if they worked on company premises.
8. Arrange for proper day care or elder care services so as not to interfere with getting your job done.

9. Remember that you are a representative of this company no matter where you are. Please use your best judgment at all times.

I understand and agree to the above.

EMPLOYEE

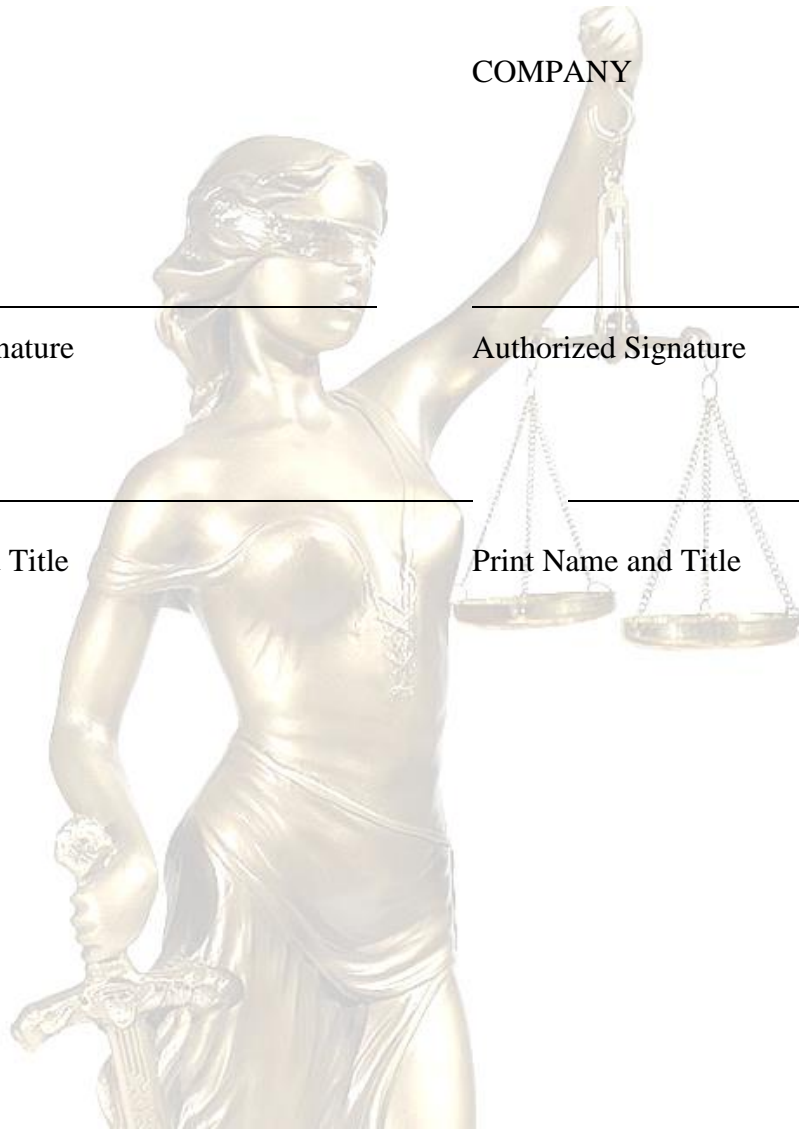
COMPANY

Authorized Signature

Authorized Signature

• _____
Print Name and Title

• _____
Print Name and Title



**THIRD PARTY CONFIDENTIAL
AND PROPRIETARY INFORMATION**

[COMPANY] is very sensitive to the issue of protection of trade secrets and proprietary information. [COMPANY] employees are expected to use good judgment, to adhere to high ethical standards, and to abide by any confidentiality obligations to former employers. [COMPANY] employees shall not use, bring on the premises or otherwise disclose any proprietary or trade secret information of former employers or other third parties. All employees share responsibility to ensure that proper security is maintained.

Holiday / Vacation Policy

The following sample company policy statements are for holiday leave. Generally, holidays are paid leave with no loss of credit for the employee's length of service with the company. The policy below mentions Floating Holidays, which are a couple of days you designate each year just to give your employees a little more time off. If you don't want to offer Floating Holidays, you should remove the reference. If you want your policy to differ in other ways from the policy set out below, you should change this policy to reflect those differences. If you make substantive changes to this policy, however, you should have your attorney look over the changes. A list of holidays typically provided by employers is also included.

1. Annual Holidays

[COMPANY NAME] observes the following holidays:

- New Year's Day
- Memorial Day
- Independence Day

- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving
- Christmas Eve
- Christmas Day
- Floating Holiday
- Personal Holiday

2. Paid Holidays

All full-time employees will receive holiday pay of eight straight time hours at their regular rate, provided the following conditions are satisfied:

1. Work a full shift on the employee's last scheduled work shift prior to the paid holiday.
2. Work a full shift on the employee's first scheduled work shift following the holiday.
3. Should the employee be unable to work either of these two days because of illness, proof of illness will be required in order to qualify for the paid holiday.

The shift differential for second and third shift employees will not be included in holiday pay.

Holiday pay will not be paid if:

1. The employee has been on the payroll for less than [NUMBER] days.
2. The employee is on lay-off status.
3. The employee is a temporary or seasonal employee.
4. The employee is on leave of absence when the holiday occurs.
5. The employee is requested to work during a paid holiday and the employee refuse to do so.

Employees who are requested to work during a paid holiday will receive holiday pay plus regular pay.

3. Paid Holidays During Vacations and Weekends

If a holiday occurs during the employee's vacation, the employee's vacation will be extended by the number of holidays falling during the vacation period or an equal number of vacation days will be carried forward for future use.

If any scheduled paid holiday falls on a Saturday, the holiday will usually be observed on the preceding Friday. If the holiday falls on a Sunday, the following Monday will usually be observed as the holiday.

4. Overtime

Holidays are not considered a day worked for purposes of calculating overtime unless work is actually performed.

[THE FLOATING HOLIDAY CLAUSE BELOW MAY BE REMOVED IF IT DOES NOT APPLY TO YOUR CIRCUMSTANCES.]

5. Floating Holidays

In addition to the named holidays for which eligible employees will receive paid time off, [COMPANY] will schedule two floating holidays each year. Floating holidays will be scheduled so as to provide eligible employees with extended weekends by combining them with named holidays.

At the beginning of each calendar year, the employee will receive a complete schedule of paid holidays, including paid floating holidays.

[THE PERSONAL HOLIDAYS CLAUSE BELOW MAY BE REMOVED IF IT DOES NOT APPLY TO YOUR CIRCUMSTANCES.]

6. Personal Holidays

In addition to scheduled paid holidays, eligible employees are given two floating holidays annually to be used as personal time off. Before scheduling a personal holiday, the employee must obtain approval. Requests for personal holidays must be made in writing not less than [NUMBER] days in advance of the requested date.

7. Religious Holidays

[COMPANY] recognizes that there may be religious holidays (other than those already designated at holidays) that employees would like to observe. It may be possible to arrange these holidays as scheduled days off, authorized absences without pay or personal time off. Requests for time off to observe religious holidays must be approved.

8. Vacation Time

At the end of the employee's first year as a full-time employee of [COMPANY], an employee is entitled to [number] days of paid vacation. The employee's vacation days increase to [number] days after five years of continuous employment with [COMPANY], [NUMBER] days after [NUMBER] years of continuous employment with [COMPANY], and [NUMBER] days after [NUMBER] years of continuous employment with [COMPANY].

Vacation time may be taken in increments of one full day but in all cases must be prescheduled and pre-approved. One day of vacation for every five days that an employee is entitled to may be carried over to the following year, but must be used before [DATE].

[COMPANY] does not provide paid vacation time for part-time employees.

9. Vacation Pay

Vacation pay is the employee's regular rate of pay, excluding overtime or holiday premiums. If the employee's regular rate of pay varies from week to week, the employee's vacation pay will equal the employee's average weekly hours or scheduled hours in the previous calendar quarter not to

exceed [NUMBER] hours.

Pay will not be granted in lieu of vacation time not taken.

10. Scheduling Vacations

[COMPANY] will attempt to grant all employees vacation at the time they desire to take it. However, [COMPANY] must maintain adequate staffing at all times. Therefore, vacations must be scheduled in advance and with prior written approval.

Where conflicts develop, they will be resolved as fairly as possible. Preference will be given to the more senior employee, the employee who can demonstrate the greater need for vacation at the conflicting time or the employee who makes the earliest request.

[THE PLANTWIDE SHUTDOWN CLAUSE BELOW MAY BE REMOVED IF IT DOES NOT APPLY TO YOUR CIRCUMSTANCES.]

11. Plantwide Shutdown

It is [COMPANY] practice to have an annual shutdown of [PERIOD OF TIME] during the month of [MONTH]. All employees, with the exception of essential personnel, will take their normal vacations at this time. For those employees who are entitled to more than 10 days of vacation, the balance of that vacation must be scheduled. Employees who have been employed for less than one year receive paid vacation in the amount accrued as of the annual plant shutdown, providing they have completed six months of service at [COMPANY].

12. Holiday or Illness During Vacation

When a holiday occurs during the employee's vacation time, the employee will still receive pay for the holiday in addition to the employee's vacation pay or the employee may select another day off.

If the employee is hospitalized while on vacation, the time from the date of the employee's hospitalization until the employee's doctor releases the employee may, at the employee's option, be charged against the employee's short term disability benefits, rather than the employee's vacation time. If this happens, the employee must notify [COMPANY]. If the employee becomes ill while on vacation, but the employee is not hospitalized, the employee's absence is charged against vacation time.

13. Termination and Vacation Pay

When employment ends for any reason, vacation time earned but not taken by the employee will be included in the employee's final paycheck. At the same time, vacation time taken in advance will be deducted from the final paycheck.

14. Vacation Accrual Methods

The following is a sample vacation accrual chart. You can modify your vacation accruals to reflect additional credit for any factor you feel deserve additional vacation as long as you are nondiscriminatory. If you make substantive changes to this policy, you should have your attorney look over the changes.

Employees who have completed one year of service and who work a [NUMBER]-day, [NUMBER]-hour week, are entitled to vacation as follows:

Service	Vacation
6 months	[NUMBER] week
1 year	[NUMBER] weeks
2 years	[NUMBER] weeks, [NUMBER] days
3 years	[NUMBER] weeks, [NUMBER] days
4 years	[NUMBER] weeks, [NUMBER] days
5 years	[NUMBER] weeks, [NUMBER] days

6-10 years	[NUMBER] weeks
11 years	[NUMBER] weeks, [NUMBER] days
12 years	[NUMBER] weeks, [NUMBER] days
13 years	[NUMBER] weeks, [NUMBER] days
14 years	[NUMBER] weeks, [NUMBER] days
15-24 years	[NUMBER] weeks
25 or more years	[NUMBER] weeks

Vacation must be taken during the calendar year at times convenient to you and your supervisor.

[OR USE THE WAY TO CALCULATE ACCRUAL]

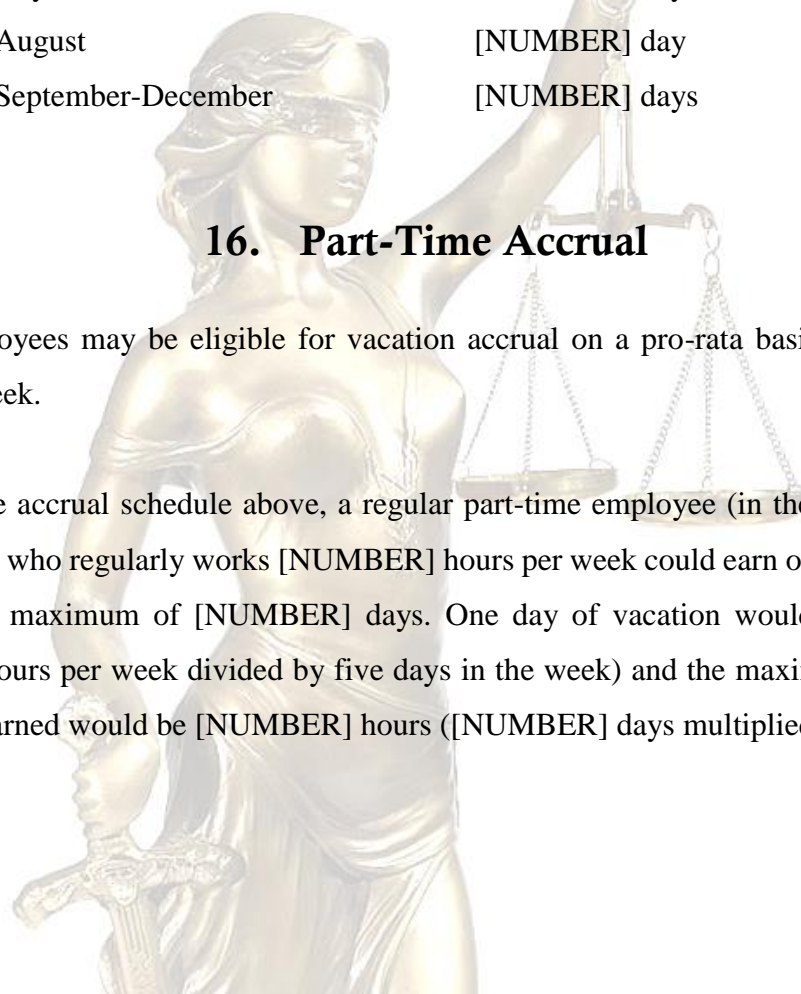
1-5 years of service:	an employee earns [NUMBER] day per month up to a maximum of [NUMBER] day per year.
6-15 years of service:	an employee earns [NUMBER] days per month up to a maximum of [NUMBER] days per year.
16-25 years of service:	an employee earns [NUMBER] days per month up to a maximum of [NUMBER] days per year.
26 or more years of service:	an employee earns [NUMBER] days per month up to a maximum of [NUMBER] days per year.

15. Vacation Accrual for New Employees

Vacation accrual based on years of service do not address new employees who are hired after the beginning of the year. Vacation to new employees during the year of hire is as schedule of vacation days based on month of hire.

The schedule could be set up as follows:

Month of Employment	Vacation Days
----------------------------	----------------------



January	[NUMBER] days
February	[NUMBER] days
March	[NUMBER] days
April	[NUMBER] days
May	[NUMBER] days
June	[NUMBER] days
July	[NUMBER] days
August	[NUMBER] day
September-December	[NUMBER] days

16. Part-Time Accrual

Part-time employees may be eligible for vacation accrual on a pro-rata basis based upon their regular workweek.

Thus, under the accrual schedule above, a regular part-time employee (in the first through fifth year of service) who regularly works [NUMBER] hours per week could earn one vacation day per month up to a maximum of [NUMBER] days. One day of vacation would equal four hours ([NUMBER] hours per week divided by five days in the week) and the maximum vacation time that could be earned would be [NUMBER] hours ([NUMBER] days multiplied by four hours).

Time Off to Vote

It is the policy of [COMPANY] to give employees time off to vote.

1. Advance Request

Before taking time off to vote, the employee must make a written request for time off [NUMBER OF DAYS OF ADVANCE NOTICE] days before voting day.

2. Paid Absence

Time off to vote will be treated as a paid absence.

3. Voting Hours

The employee is allowed [number of hours] hours of time off to vote. Time off to vote is granted if the polls open fewer than [NUMBER OF HOURS] hours prior to work starting time or close fewer than [NUMBER OF HOURS] hours after quitting time. Time off to vote may be taken before coming in to work or at the end of the workday.

4. Covered Elections

This time off to vote policy applies to [TYPES OF ELECTIONS – E.G., FEDERAL, STATE, LOCAL] elections.

VACATION POLICY

Vacation is paid by [COMPANY NAME] to regular full-time employees as follows:

- First year of employment: [NUMBER] week
- Second through third year of employment: [NUMBER] weeks
- Third through tenth year of employment: [NUMBER] weeks
- Tenth through twentieth year of employment: [NUMBER] weeks
- Over twenty years of employment: [NUMBER] weeks

All employees are required to give at least [NUMBER MONTH'S] notice to their supervisor of their vacation plans. You are required to take your vacation within [NUMBER] calendar year after you earn it. You will not be eligible to receive pay instead of vacation time except with company permission or upon termination. Vacation time, which is taken prior to being earned, is considered an advancement of wages and, upon termination, will be deducted from your paycheck. Any conflict in vacation requests will be decided based on employee seniority and company needs. You will not be entitled to accrued vacation during periods when you are on personal leave of absence or if you are suspended from the company.

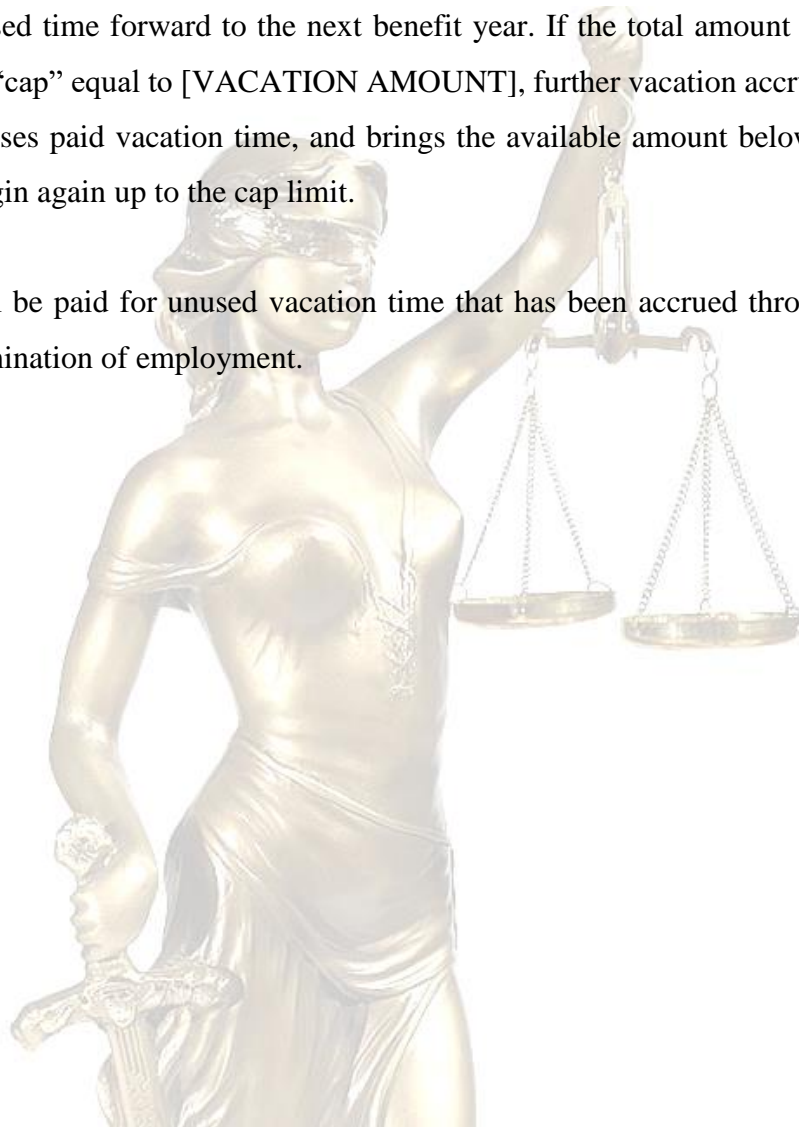
If a holiday occurs during your vacation period you will be granted one additional day of vacation. [IF YOU ARE SICK DURING YOUR VACATION PERIOD YOU MAY NOT COUNT THAT DAY TOWARDS SICK PAY.] You must take vacation in a minimum of [NUMBER] week allotments unless specifically approved of by your supervisor.

You are not eligible for any paid vacation until you have completed one year of employment with the company. For example, if you leave the company after nine months of employment, you will not be eligible for any vacation pay benefits. After [NUMBER] year of employment, [NUMBER]

weeks of vacation will accrue. After the second year of employment and onward, you will begin accruing vacation at subsequent anniversary dates.

Employees are encouraged to use available paid vacation time for rest, relaxation, and personal pursuits. In the event that available vacation is not used by the end of the benefit year, employees may carry unused time forward to the next benefit year. If the total amount of unused vacation time reaches a “cap” equal to [VACATION AMOUNT], further vacation accrual will stop. When the employee uses paid vacation time, and brings the available amount below the cap, vacation accrual will begin again up to the cap limit.

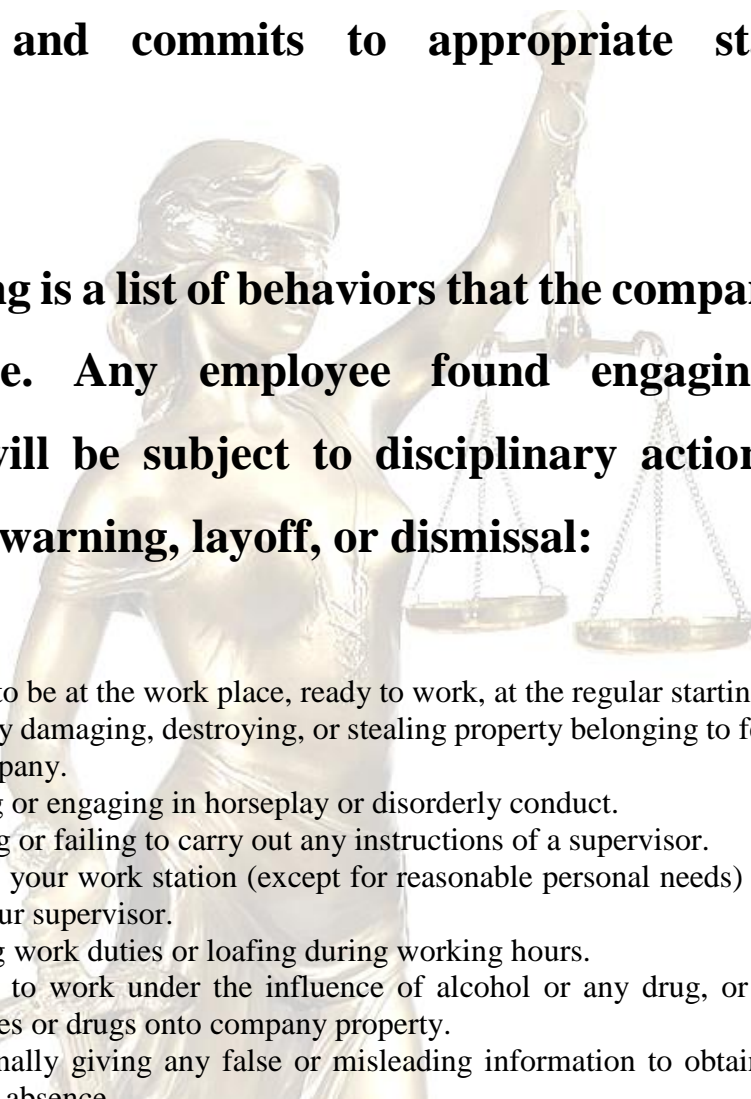
Employees will be paid for unused vacation time that has been accrued through the last day of work upon termination of employment.



General Work Rules

[COMPANY NAME] wants to encourage a safe and pleasant work atmosphere. This can only happen when everyone cooperates and commits to appropriate standards of behavior.

The following is a list of behaviors that the company considers unacceptable. Any employee found engaging in these behaviors will be subject to disciplinary actions including reprimand, warning, layoff, or dismissal:

- 
1. Failure to be at the work place, ready to work, at the regular starting time.
 2. Willfully damaging, destroying, or stealing property belonging to fellow employees or the company.
 3. Fighting or engaging in horseplay or disorderly conduct.
 4. Refusing or failing to carry out any instructions of a supervisor.
 5. Leaving your work station (except for reasonable personal needs) without permission from your supervisor.
 6. Ignoring work duties or loafing during working hours.
 7. Coming to work under the influence of alcohol or any drug, or bringing alcoholic beverages or drugs onto company property.
 8. Intentionally giving any false or misleading information to obtain employment or a leave of absence.
 9. Using threatening or abusive language toward a fellow employee.
 10. Punching another employee's time card or falsifying any record.
 11. Smoking contrary to established policy or violating any other fire protection regulation.
 12. Willfully or habitually violating safety or health regulations.
 13. Failing to wear clothing conforming to standards set by the company.
 14. Being tardy or taking unexcused absences from work.
 15. Not taking proper care of, neglecting, or abusing company equipment and tools.
 16. Using company equipment in an unauthorized manner.

17. Possessing firearms or weapons of any kind on company property.



Policy on AIDS

1. Introduction

The following outlines [COMPANY NAME]’s policy and procedures for interacting with employees who have been medically diagnosed with or who are suspected of having the AIDS (Acquired Immune Deficiency Syndrome) virus.

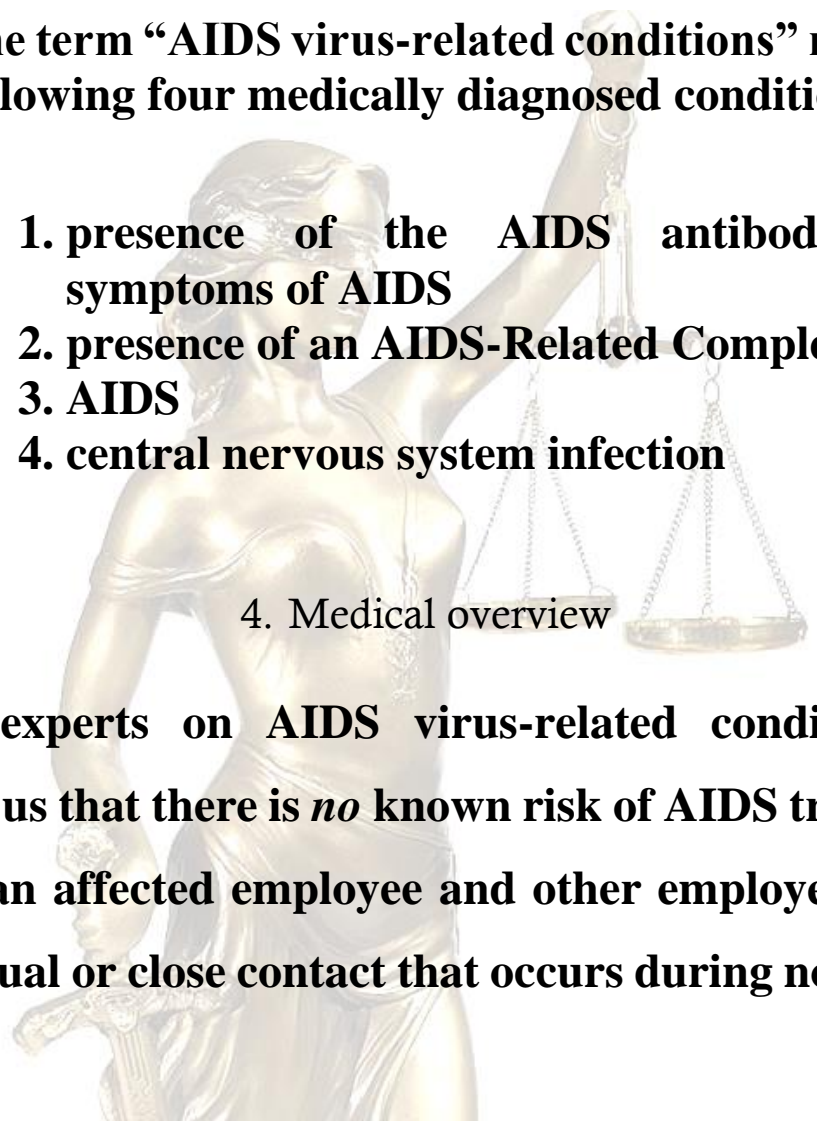
2. Purpose

The purpose of the AIDS policy is to reassure employees that AIDS is not spread through casual contact during normal work practices and to reduce unrealistic fears about contracting an AIDS virus-related condition. This policy also protects the legal right to work of employees who are diagnosed with an AIDS virus-related condition and provides guidelines for situations where infection with the AIDS virus is suspected. Our policy is to encourage sensitivity to and understanding for employees affected with a condition of the AIDS virus.

3. General policy

We are committed to maintaining a healthy work environment by protecting the physical and emotional health and well-being of all employees in the workplace. We also have a continuing commitment to provide employment for people with physical disabilities who are able to work. This AIDS policy is a direct outgrowth of those commitments. It provides guidelines for situations when a question as to an AIDS virus-related condition arises. There are three major points:

- Employees who are diagnosed with an AIDS virus-related condition may continue to work if they are deemed medically able to work and can meet acceptable performance standards. We will provide reasonable performance standards and reasonable accommodation if necessary to enable these employees to continue working.**

- 
- ❑ We provide AIDS education for all employees to help them understand how the AIDS virus is spread and to reduce unrealistic fears of contracting an AIDS virus-related condition.

 - ❑ The term “AIDS virus-related conditions” refers to the following four medically diagnosed conditions:
 1. presence of the AIDS antibody without symptoms of AIDS
 2. presence of an AIDS-Related Complex (ARC)
 3. AIDS
 4. central nervous system infection

4. Medical overview

Medical experts on AIDS virus-related conditions have informed us that there is *no* known risk of AIDS transmission between an affected employee and other employees through either casual or close contact that occurs during normal work activities.

An AIDS virus-related condition is not transmitted by breathing the same air, using the same lavatories, touching a common piece of paper, or using the same telephone.

Transmission of the virus through oral secretions or tears is not a recognized risk according to medical authorities. Additionally, the virus is very fragile and has been found to be transmitted only through intimate exchange of bodily fluids (for example, blood or blood-contaminated tissue fluids such as semen or vaginal fluid).

The AIDS virus attacks the immune system, causing a breakdown in a person's normal protection against infection. This leaves the body vulnerable to life-threatening illnesses. In addition, the virus by itself can affect the nervous system.

Individuals of all sexual preferences are at risk of contracting an AIDS virus-related condition. According to medical experts, the AIDS virus is transmitted in the following ways: sexual contact through transmission of semen or vaginal fluids; intravenous drug administration with contaminated needles; administration of contaminated blood or blood products; and passage of the virus from infected mothers to their fetus or newborn. However, there is *no* evidence to suggest that pregnant women are particularly susceptible to

any AIDS virus-related illness or condition. Recent medical evidence suggests that an AIDS virus-related condition can have an incubation period of several weeks, months or years before symptoms appear. Medical findings indicate that a person who has a positive antibody test will not necessarily develop an AIDS virus-related condition. The presence of the AIDS antibody is a sign of infection, not immunity, unfortunately.

As is true for any person with a life-threatening illness, a person diagnosed with an AIDS virus-related condition deserves and requires compassion and understanding. While that person is attempting to cope with his or her own vulnerability and fears, the support and understanding of friends and colleagues can be particularly valuable.

Some people have fears about contracting AIDS based on misinformation or lack of knowledge about how AIDS is spread. Education providing accurate medical information can best alleviate fears of contracting an AIDS condition.

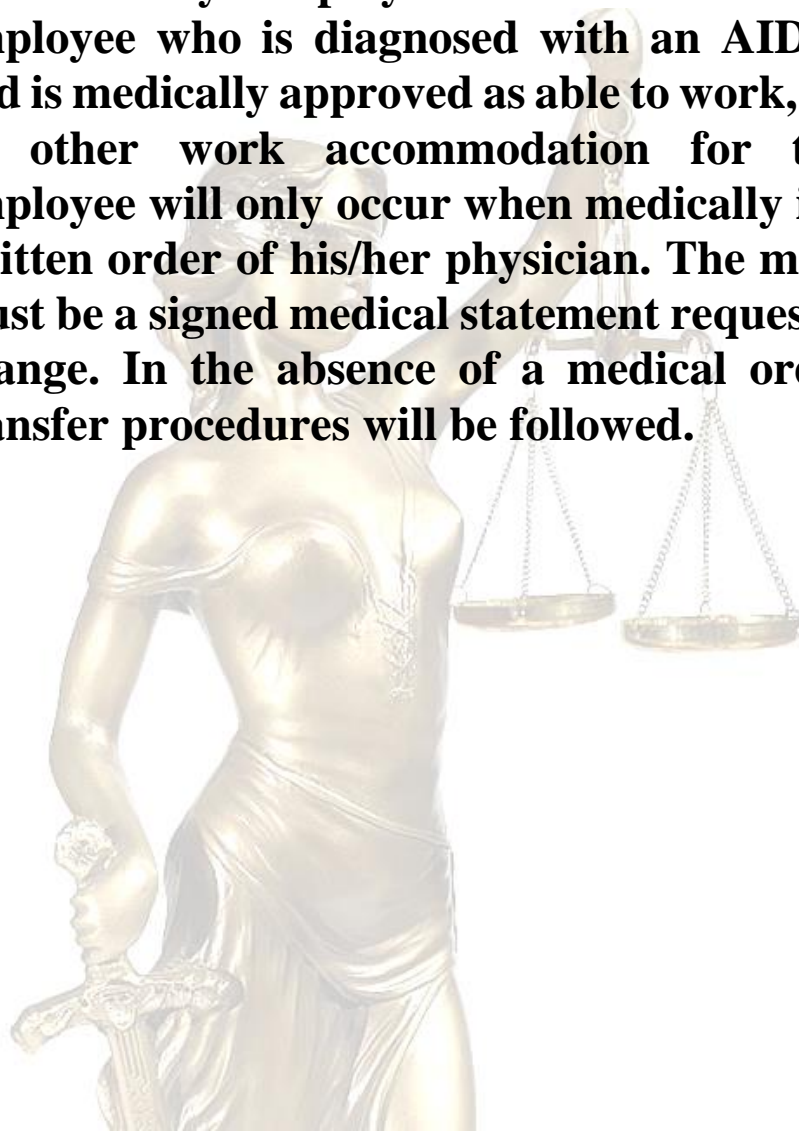
5. Supervisor's responsibilities

The physical and emotional health and well-being of all employees must be protected, and reasonable accommodation for the medically impaired employee with an AIDS virus-related condition must be provided, as long as the employee is able to meet acceptable performance standards. To ensure these goals are met, the following guidelines are to be followed:

- ❑ Any employee diagnosed with an AIDS condition is entitled, as is any other employee, to confidentiality of their medical condition and medical records.**
- ❑ If an employee with an AIDS condition requests job accommodation for his/her medical condition, the employee must obtain a written medical opinion that he/she (a) is medically able to work and (b) needs reasonable job accommodation in order to maintain employment.**
- ❑ If it is deemed medically necessary, based upon current physical impairment, [Company name] and**

the employee's supervisor will work to bring about any reasonable job modification or job transfer of the employee with a diagnosed condition of AIDS.

- If a healthy employee refuses to work with an employee who is diagnosed with an AIDS condition and is medically approved as able to work, job transfer or other work accommodation for the healthy employee will only occur when medically indicated by written order of his/her physician. The medical order must be a signed medical statement requesting this job change. In the absence of a medical order, normal transfer procedures will be followed.**



Violence in the Workplace Prevention Policy

1. Zero tolerance

This company has a policy of zero tolerance for violence. If you engage in any violence in the workplace, or threaten violence in the workplace, your employment will be terminated immediately for cause. No talk of violence or joking about violence will be tolerated.

“Violence” includes physically harming another, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities. It is the intent of this policy to ensure that everyone associated with this business, including employees and customers, never feels threatened by any employee’s actions or conduct.

2. Workplace security measures

In an effort to fulfill this commitment to a safe work environment for employees, customers, and visitors, a few simple rules have been created. These are:

- ❑ Access to the company's property is limited to those with a legitimate business interest.**
- ❑ All employees and employee vehicles entering the property must display company identification.**
- ❑ All visitors and visitor vehicles must register and display identification while on the property.**

3. All weapons banned

The company specifically prohibits the possession of weapons by any employee while on company property. This ban includes keeping or transporting a weapon in a vehicle in a parking area, whether public or private. Employees are also prohibited from carrying a weapon while performing services off the company's business premises.

Weapons include guns, knives, explosives, and other items with the potential to inflict harm. Appropriate disciplinary

action, up to and including termination, will be taken against any employee who violates this policy.

4. Inspections

Desks, telephones, and computers are the property of the business. We reserve the right to enter or inspect your work area including, but not limited to, desks and computer storage disks, with or without notice.

The fax, copier, and mail systems, including e-mail, are intended for business use. Personal business should not be conducted through these systems. Under conditions approved by management, telephone conversations may be monitored and voice mail messages may be retrieved in the process of monitoring customer service.

Any private conversations overheard during such monitoring, or private messages retrieved, that constitute threats against other individuals can and will be used as the basis for termination for cause.

5. Reporting violence

It is everyone's business to prevent violence in the workplace. You can help by reporting what you see in the workplace that could indicate that a co-worker is in trouble. You are in a better position than management to know what is happening with those you work with.

You are encouraged to report any incident that may involve a violation of any of the company's policies that are designed to provide a comfortable workplace environment. Concerns may be presented to your supervisor.

All reports will be investigated and information will be kept confidential.

[The following additional provisions deal with programs that, in general, are limited to larger businesses with a substantial workforce. They may be included, as applicable.]

6. Training programs

As part of its commitment to preventing workplace violence, the company has established training programs for all employees. Training will be included as part of your orientation. Thereafter, you will be scheduled for annual refresher training during the month that you initially joined the business.

Please be advised that training is mandatory and attendance will be taken. If you fail to attend training or make-up sessions, you will be subject to suspension without pay until training is completed.

7. EDUCATION OFFERINGS

In order to promote a peaceful working environment, we encourage supervisors and employees to enroll in courses to learn more about working with each other. Courses covering communication, problem solving, building effective working relationships, stress management, and related or similar

course topics are supported by tuition reimbursement, offered by our training department and, where appropriate, supported for attendance at outside seminars.

8. Employee assistance program

The company provides an employee assistance program (EAP) for all full-time and part-time employees. This EAP offers services to these employees and their eligible dependents. While we receive periodic reports on the number and types of visits or calls made to the EAP, we do not receive information about individual contacts with the EAP.

You are encouraged to use the EAP whenever you feel the need for guidance in coping with life's difficulties. If you have difficulty handling drugs or alcohol, the EAP can provide information on treatment. The EAP is a confidential service to be used when you need help.

9. Violence prevention team

We have created a violence prevention team to create and implement our workplace violence prevention program. The

team will also handle the consequences of any incidents of violence that we experience, providing assistance to employees and information to the media. The team will take the steps necessary to continue or resume business. We believe that a multidisciplinary approach is best suited to handle workplace violence problems.

If you have suggestions for ways to improve the safety and security at work, please pass them along to a team member or leave a suggestion in any one of their mail boxes.

10. Incident management

In the event of a major workplace incident that affects, or has the potential to affect, the mental health of our workforce, we will provide initial counseling and support services to you and your immediate family members.

As the crisis passes and support systems are put into place for individuals affected by the incident, the company will make every effort to return to normal business operations. A reasonable effort will be made to notify employees, customers,

stockholders, and others who need to know of the status of business operations directly whenever possible. In cases where direct contact is not possible or practical, an effort will be made to communicate through the news media and other available resources.



HIRING EMPLOYEES



CONTRACTS AND AGREEMENTS

ACKNOWLEDGMENT OF OBLIGATIONS

This Acknowledgment of Obligations (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. I understand and acknowledge that during my employment with the Company I have received or been exposed to trade secrets of the Company including, but not limited to, the following:

[LIST TRADE SECRETS]

2. I acknowledge that I have read, signed and been furnished with a copy of my Employment Agreement with the Company. I certify that I have complied with and will continue to

comply with all of the provisions of the Employment Agreement, including my obligation to preserve as confidential all of the Company's trade secrets.

3. I certify that I do not have in my possession, I have not retained copies of, nor have I failed to return: any system documentation, user manuals, modification reports, training instructions, formulas, compilers, data structures, algorithms, computer source code, notebooks, notes, drawings, proposals or other documents or materials (or extracts thereof), or equipment or other property belonging to the Company.

[OPTIONAL CLAUSE FOR USE WITH CREATIVE EMPLOYEES, SUCH AS PROGRAMMERS]

4. During my employment I contributed to the development of the Company's trade secrets. I acknowledge that, as provided in my Employment Agreement, all right, title and interest in and to any [SPECIFY TYPE OF WORK] conceived or developed by me, whether in whole or in part, during the course of my employment by the Company belongs to the Company.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF PRE-EMPLOYMENT WORKS

This Assignment of Pre-Employment Works (the "Agreement") is made and effective this [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. Assignor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby grants, transfers, conveys and assigns to Company, its successors and assigns, all right, title, and interest in and to all work and materials relating to [IDENTIFY] identified as "[NAME/DESCRIPTION OF WORK]", including the copyright, patent, trade secret rights, and all other right, title, and interest therein, and consisting of all existing source code, object code, documentation, flow charts, design documents, and record and file layouts relating thereto, and all trademarks, service marks, logos and trade dress associated therewith, if any, (collectively the "Works"). This exclusive conveyance shall include, but is not limited to, the rights to publish, reproduce, transmit, adapt, prepare derivative works, sell, or otherwise make use of the Works (including all subsequent additions, revisions, supplements to, and versions of the Works and derivatives, regardless of length or nature) throughout the world, in any form or medium and in any language, and to license or otherwise transfer to others the rights commensurate herewith in connection with the Works.
2. The Assignor has not granted any license to use any of the Works, to anyone else except the following. All such licenses, if any, are hereby assigned to Company.

[LIST OF LICENSES].

3. Assignor hereby grants to Company, its successors and assigns, the right to file copyright and patent applications in [COUNTRY] and throughout the world for the Works in the name of Company, its successors and assigns. Assignor hereby agrees that Company, its successors and assigns may act as attorney-in-fact to execute any document deemed necessary to record this grant with the [COUNTRY] Copyright office or elsewhere. If requested, the Assignor agrees to execute any and all copyright, patent, or trade secret assignments, certificates, applications

or documents requested by Company, its successors and assigns. The cost of recording and registering ownership rights in the Works shall be borne solely by Company, its successors and assigns.

COMPANY

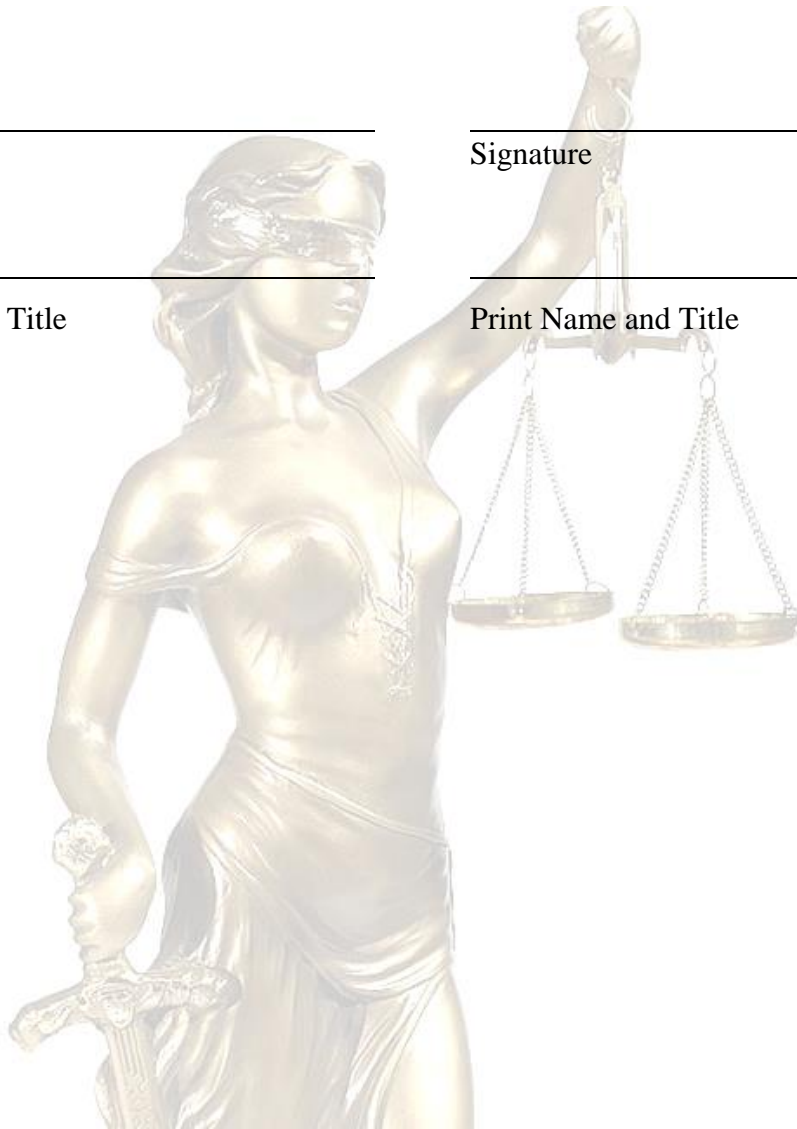
ASSIGNOR

Signature

Signature

Print Name and Title

Print Name and Title



**AUTHORIZATION, WAIVER AND RELEASE OF LIABILITY
FOR CONSUMER CREDIT REPORT**

In applying for employment with [COMPANY NAME] (“Company”), I hereby authorize the Company, or any designated agent(s) working in the Company’s behalf to obtain and review my consumer credit report and or any other credit related information pertaining to me.

It is my understanding the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, before any adverse action is taken, based on upon review of such consumer credit report, I will be provided with a copy of said report as well as a summary of consumer’s rights.

I hereby fully release the Company, and any and all of its employees, directors, agents, successors and assigns, and all contributing parties or sources from whom any information is lawfully obtained, from any and all claims or liability which is in any way related to this or any subsequent investigation(s) of my credit history.

I hereby state that all information I have provided to the Company, in any form, is true to the best of my knowledge. I understand that any known misrepresentation made to the Company by me will exclude me from further consideration as a candidate for employment or advancement, and may result in termination of my employment with the Company if I am hired or advanced by the Company before such misrepresentation is identified. I fully understand this authorization, waiver and release of liability is not an offer or a contract for employment by the Company. It is also understood that the Company operates under an AT-WILL EMPLOYMENT POLICY and this authorization and release does not alter or affect this policy in any manner.

I would like to receive a free copy of any consumer credit report relating to me that is reviewed by the Company.

Yes

No

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



BACKGROUND CHECK PERMISSION

This Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In connection with my application for employment with the Company, I hereby agree as follows:

1. General Consent to Background Investigation

As a condition of Company's consideration of my employment application, I give permission to Company to investigate my personal and employment history. I understand that this background investigation will include, but not be limited to, verification of all information on my employment application.

2. Consent to Contact Past Employers

I specifically give permission to Company to contact all of my prior employers for references. I further give permission to all current or previous employers and/or managers or supervisors to discuss my relevant personal and employment history with Company, consent to the release of such information orally or in writing, and hereby release them from all liability and agree not to sue them for defamation or other claims based upon any statements they make to any representative of Company. I further waive all rights I may have under law to receive a copy of any written statement provided by any of my former employers to Company. I further agree to indemnify all past employers for any liability they may incur because of their reliance upon this Agreement.

3. CONSENT TO CONTACT GOVERNMENT AGENCIES

I further give permission to the Company to receive a copy of any information obtained in the file of any federal, state, or local court, or governmental agency concerning or relating to me. I further consent to the release of such information and waive any right under law concerning notification of the request for a release of such information. In the event a law does not provide for prospective employers to have access to information, I hereby delegate Company as my agent for the receipt of information. I understand that the scope of this investigation will be limited as required by applicable law.

4. COOPERATION WITH INVESTIGATION

I agree to fully cooperate in Company's background investigation, and to sign any waivers or releases that may be necessary or desirable to obtain access to relevant information. In the event that any former employer or federal, state, or local governmental agency will not release reference information or criminal history information directly to the employer, I agree to personally request such information to the extent permitted by law.

5. ENTIRE AGREEMENT

This Agreement represents the entire understanding and agreement relating to its subject matter. Company shall be entitled fully to rely on this Agreement. I understand that I have no guarantee of employment and that the Company may determine not to hire me for any lawful reason.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CHECKLIST OF EMPLOYMENT AGREEMENT

ISSUES FROM THE PERSPECTIVE OF THE EMPLOYEE

This checklist is intended to outline the major issues associated with negotiating senior executive employment agreements. Portions of this list may not be applicable in particular circumstances and other matters not on this list may need to be addressed.

JOB DESCRIPTION

- What is the title of the Employee's job?
- What are the Employee's responsibilities?
- Can the Employee be demoted? Can Employee's responsibilities be substantially modified, decreased, or increased?
- Is Employee guaranteed a seat on the Board of Directors while an employee?
- Where is the place of employment? What are the regular working hours?
- Can Employee be relocated unilaterally to another city, or only with the Employee's consent?
- Is the Employee allowed to be involved in other activities (e.g., a directorship on other Boards, involvement in community activities)?

SALARY

- What is the base salary? What about overtime? What about commissions?
- When is it payable?
- Does the salary go up each year by a designated amount or by cost of living increases?
- Are there designated times for performance reviews?

BONUSES

- Does Employee get a signing bonus?
- Is Employee entitled to a guaranteed bonus?
- Are there bonuses to be tied to objective performance standards?
- Are target bonus levels or minimum bonuses to be established?

REIMBURSEMENT OF EXPENSES

- Will the Employee's business expenses be reimbursed promptly?
- Is there a car or car allowance, cellular phone provided, or other such amenities?
- Are moving expenses to be reimbursed?
- Is there a relocation package available for Employee (e.g., the Company purchasing Employee's house on a move?)

BENEFITS

- Will the Employee participate in all benefit plans of the Company?
- Which of these plans should be in place for the Employee? Are all of the payments for the benefits the responsibility of the Company?
 - Health and medical (including spouse and dependent coverage)
 - Disability
 - 401(k)
 - Pension
 - Cafeteria Plan
 - Life insurance
 - Stock Option/Stock Grant
 - Dental, Vision
 - Educational Reimbursement
 - Executive Financial Counseling
 - Professional Liability Insurance
- How much vacation per year is Employee entitled? Does unused vacation continue to accrue for the benefit of Employee and payable on termination of employment?
- Is there a designated sick pay policy?
- Any special loans or forgiveness arrangements?
- Are some of the benefits taxable to the Employee? Should Employee be reimbursed for the tax?

TERM AND TERMINATION

- How long is the employment term?
- Is Employee given the right to terminate at the Employee's discretion prior to the end of the term?
- Does the Agreement get renewed automatically on a year-to-year basis unless the Company gives the Employee notice of non-renewal at least 90 days in advance of the end of the term?
- Is the employment "at will"?
- What are the grounds, if any, on which employers can terminate?
- What are the terms, if any, for compensation in the event of early termination?
- What are the circumstances that the Employee can be fired "for cause", such as:
 - Conviction of a felony or any act involving moral turpitude;
 - Commission of any act of theft, fraud, dishonesty or falsification of an employment record;
 - Material uncured breach of the Employment Agreement;
 - Failure to perform reasonable assigned duties; and/or
 - Improper disclosure of the Company's confidential information.
 - Lost of licenses
 - Disability
- Avoid "for cause" definitions that give the Company too much latitude for termination.
- Is Employee entitled to severance pay on termination? How much?
- If the Employee is terminated without cause, is it clear that Employee will get all salary and benefits that Employee would otherwise have been entitled to for the remaining term of the Agreement?
- If terminated without cause, is the Company required to continue paying for benefits or COBRA benefits for some period of time?

LIABILITY PROTECTION FOR THE EMPLOYEE

- Does the Company have Directors' & Officers' ("D&O") insurance coverage? Is the Company required to maintain a minimum amount of such coverage?
- Do the Company Bylaws provide for indemnification protection for officers and employees?
- Does the Company's Articles of Incorporation limit the liability of officers and directors to the maximum extent permitted by law?
- Is there an Indemnification Agreement that protects the employee, covering:
 - Indemnification protection for claims
 - Automatic advancement of legal expenses

- Protection even if the Employee is no longer employed by the Company?
- (Note statutory limitations on indemnification.)

STOCK OPTION GRANTS

- Will Employee get stock options?
- What percent of the Company do the options represent? (Note: In venture capital backed privately held companies, the usual price for Common Stock options is 1/10 of the price for the latest round of Preferred Stock issuance.)
- What is the exercise price for the options?
- Are any options deemed automatically vested upon grant?
- How long will unvested options vest? monthly? yearly cliff vesting?
- How long is the option exercisable?
- Does the option exercise period terminate 90 days after termination of employment or can it be longer?
- Are the shares obtained upon exercise of an option subject to repurchase on termination of employment? If so, at what price? (From the Employee's perspective, repurchase rights should not be included or should be limited.)
- Are the shares obtained upon exercise of an option subject to a right of first refusal? If so, on what terms?
- Is the option a tax advantaged Incentive Stock Option?
- Does vesting of options accelerate on a change of control of the Company? Or, on other events such as termination of employment by the Company without cause?

STOCK GRANTS

- Will the Employee be granted stock?
- Is this stock subject to vesting? What is the vesting period?
- Is this stock subject to repurchase rights or rights of first refusal?
- Should Employee file a § 83(b) IRC election?
- Does vesting accelerate on a change of control of the Company? Or, other event such as termination of employment by the Company without cause?
- Does Employee have to pay anything for the grant?
- What tax will the Employee have to pay for the Grant? Will the Company also pay Employee an amount to cover the tax?
- Does Employee have a right of first refusal for future Company stock issuances to avoid dilution?

CONFIDENTIALITY RESTRICTIONS

- What restrictions have been imposed on the Employee by the prior employer?
- The Employee must be careful not to use or divulge confidential information of a prior employer – the new employer will often want a covenant from the Employee prohibiting such use or disclosure.
- If there are confidentiality restrictions on the Employee, are the following excluded from the definition of "confidential information"?:
 - Information that is or was publicly known, or which becomes publicly known through no fault of Employee
 - Information that is or was obtained from a third party who had the right to disclose the information without restriction
 - Information independently derived by the Employee without reference to the confidential information
 - Information that was already lawfully in Employee's possession or knowledge prior to the disclosure of the confidential information
- How long do the confidentiality restrictions last? Indefinitely? A set number of years after disclosure to the Employee?

INVENTION ASSIGNMENT ISSUES

- What is the scope of the Company's rights to the Employee's development of new inventions, trade secrets, and ideas? Are these the Company's only if they specifically relate to Company business and developed during Company time?
- Do the invention assignment provisions comply with the California Labor Code or other applicable law?

BREACH OF AGREEMENT

- Is the Company required to give notice to the Employee of any alleged breaches of the Agreement and an opportunity to cure?

DISABILITY AND DEATH

- What is a disability event?

- What happens on disability? Does the Employee continue to receive salary and benefits?
- What happens on death? Can medical and other benefits continue for some period for the spouse and children?

POST-EMPLOYMENT LIMITATIONS

- Are there limitations on the Employee soliciting Company employees? For what period?
- Is there a covenant not to compete after termination of employment?
 - For what geographic regions?
 - For what period?
 - How can the covenant be limited?
 - Are the restrictions enforceable under applicable law?

DISPUTE RESOLUTION

- How are disputes to be resolved?
- Should arbitration be considered?
- In what city must disputes be brought if litigated or arbitrated?

GOLDEN PARACHUTE

- In the event of a change of control of the Company, is Employee entitled to terminate employment and receive a "golden parachute" payment (e.g., two or three times the yearly salary)?
- What are the tax implications of the golden parachute payment? Will the Company also gross up the parachute payment to cover the tax?
- Will the Company reimburse the Employee's expenses in connection with an IRS audit claiming additional tax?

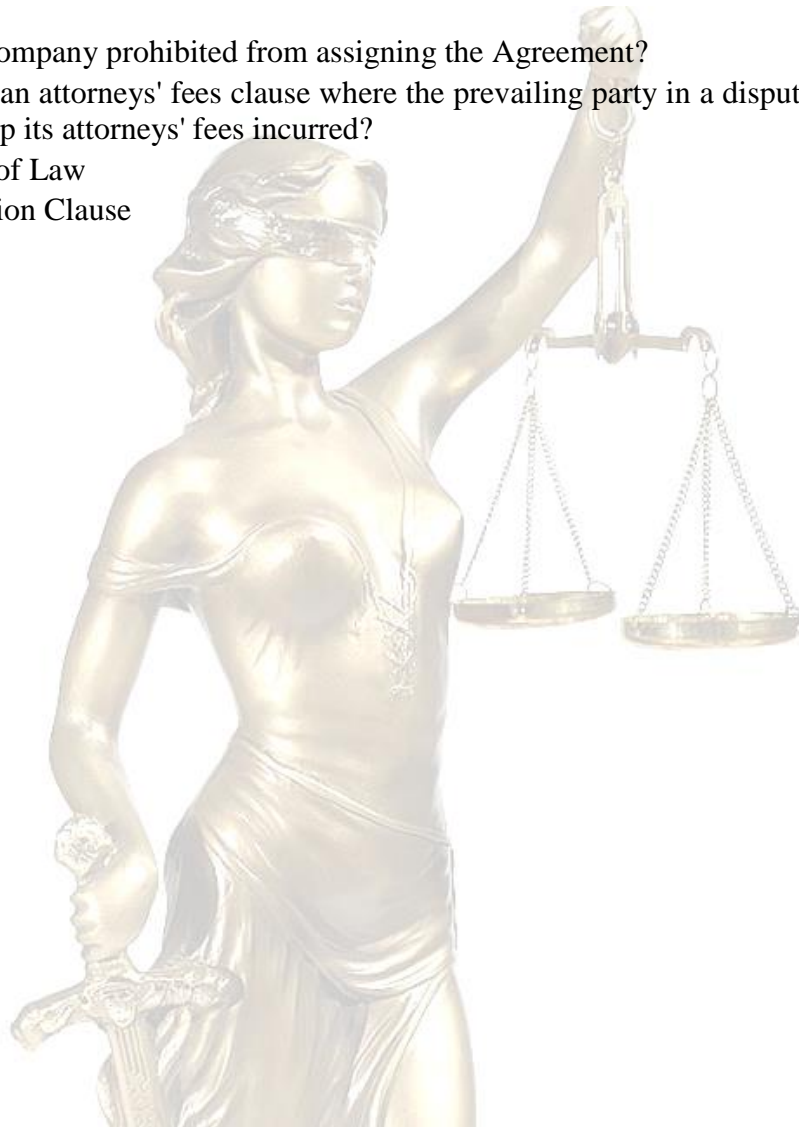
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

- Are there specific representations and warranties of the Company that should be set forth (e.g., financial resources, venture capital backing)?

- Has Employee been promised something orally that should be reflected in the Employment Agreement?

MISCELLANEOUS PROVISIONS

- Is the Company prohibited from assigning the Agreement?
- Is there an attorneys' fees clause where the prevailing party in a dispute would be entitled to recoup its attorneys' fees incurred?
- Choice of Law
- Integration Clause



CHECKLIST

FOR EMPLOYMENT AGREEMENTS

Special Definitions

Description of Job Duties:

- Name of position
- Essential job functions or duties
- Duty of loyalty and best efforts
- Place and hours of employment

Length of Agreement:


- Original term
- Extension of agreement

Benchmarks and Performance Terms:

- Production benchmarks
- Marketing benchmarks
- Overhead benchmarks
- Skills enhancement
- Other benchmarks

Compensation Terms:

- Base compensation (salary, hourly or commission)
- Overtime exempt status
- Commission arrangements including when "earned", draws, and effect of termination on pending deals

- 
- Incentive programs
 - Expenses, allowances, etc.
 - Salary adjustments
 - Benefits:**
 - Health, dental, vision, life, disability and professional liability insurance
 - Professional licenses & memberships
 - Vacation
 - Holidays
 - Stock options, bonuses, profit sharing, raises and retirement
 - Educational reimbursement
 - Termination**
 - Definition of “at will” or “cause” if “for cause” agreement
 - Disability
 - Loss of licensure
 - Covenants:**
 - Non-disclosure of trade secrets, customer lists and other proprietary information
 - Non-solicitation agreement
 - Non-recruit agreement
 - Adherence to company policies, rules and regulations
 - Covenant to notify management of unlawful acts or practices
 - Property Rights:**
 - Existing clientele of employee
 - New clientele generated while at work
 - Records and accounts
 - Return upon termination
 - Copyrights, inventions and patents
 - "Work for hire" issues

- Indemnification for Third Party Claims**

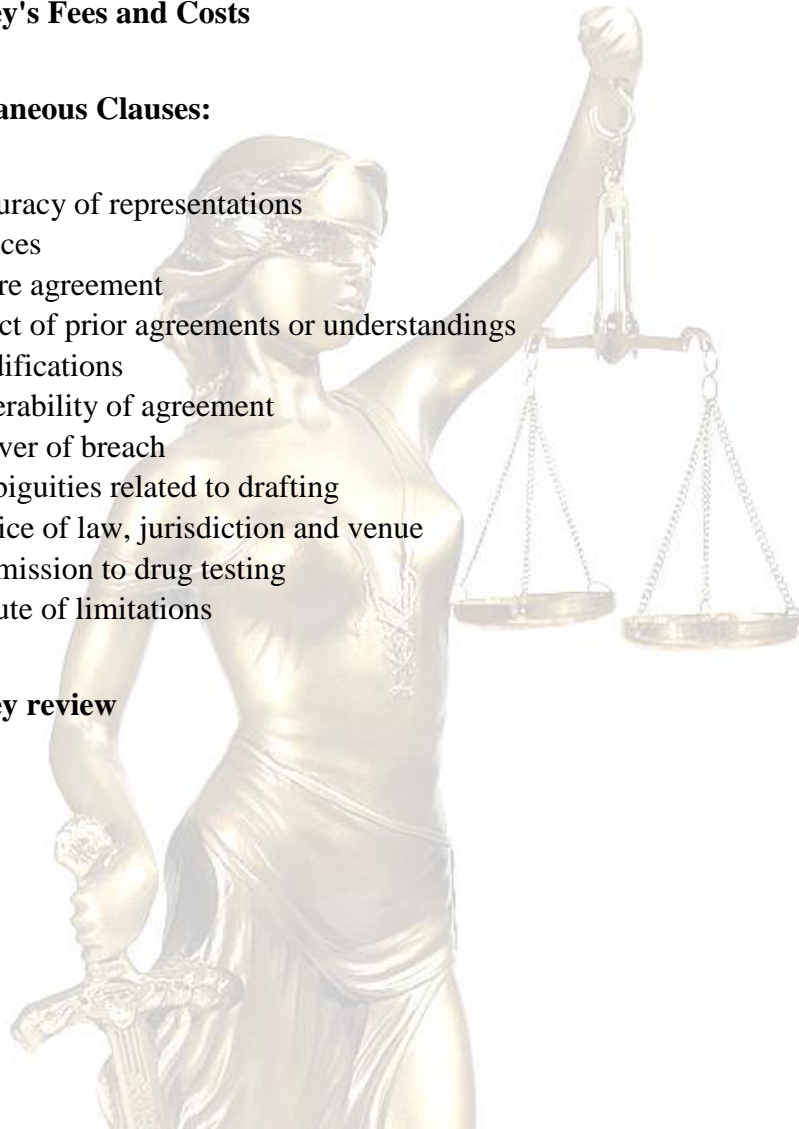
- Mediation and Arbitration Provisions**

- Liquidated Damages and Limits on Damages**

- Attorney's Fees and Costs**

- Miscellaneous Clauses:**
 - Accuracy of representations
 - Notices
 - Entire agreement
 - Effect of prior agreements or understandings
 - Modifications
 - Severability of agreement
 - Waiver of breach
 - Ambiguities related to drafting
 - Choice of law, jurisdiction and venue
 - Submission to drug testing
 - Statute of limitations

- Attorney review**



COMMISSION SALES AGREEMENT

This Commission Sales Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [COMMISSION AGENT NAME] (the "Agent"), an individual with his main address at:

AND: [PRINCIPAL NAME] (the "Principal"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS the Principal wishes to market the product(s) described in Schedule A (the "Product(s)");

WHEREAS Agent is prepared to sell the Product(s) on behalf of the Principal in return for a commission;

It is agreed as follows:

1. SELLING RIGHTS

- a. The Principal grants the Agent an exclusive right to sell the Product(s) on behalf of the Principal within the territory described in Schedule B for a period of [PERIOD] commencing [DATE] (the "Selling Rights").
- b. The Agent may not sell or attempt to sell the Product(s) outside of the territory described in Schedule B.
- c. The Agent shall use his best efforts to sell the Product(s) for the duration of the Selling Rights. At the request from time to time of the Principal, the Agent shall furnish the Principal with a reasonably detailed, written report on his efforts to sell the Product(s) in the period specified by the Principal.
- d. The Agent shall clearly identify himself as a duly authorized sales agent of the Principal in the course of his efforts to sell the Product(s) on behalf of the Principal and may not sell the Product(s) in his own name.

2. PRODUCT PRICES

The Principal shall fix the selling price(s) of the Product(s) and the Agent may only sell the Product(s) at the selling price(s) fixed by the Principal.

3. ORDERS

- a. The Agent shall obtain written orders for the Product(s) from buyers, signed by or on behalf of the buyers, and remit the orders to the Principal.
- b. The Principal shall use its best efforts to fill orders duly remitted by the Agent in accordance with this agreement as expeditiously as possible.

4. COMMISSION

- a. The Principal shall pay the Agent a commission of [NUMBER]% of the selling price, exclusive of any sales taxes, of each order or part of each order of Product(s) duly remitted by the Agent in accordance with this agreement which is paid for in full, inclusive of any sales taxes, and which is not subsequently returned for a refund.
- b. The Principal may accept the return of Product(s) for a refund or partial refund in its sole discretion.
- c. The Agent is not entitled to any compensation for services performed or expenses incurred in connection with this agreement other than as set out in this agreement.

5. TRAINING

At the request of the Agent, the Principal shall train the Agent in the proper use of the Product(s).

6. ADVERTISING AND INFORMATION MATERIALS

For the duration of the Selling Rights, the Principal shall furnish the Agent, at the Principal's cost, with reasonable quantities of advertising and user information materials, including demonstration Product(s), to aid the Agent in selling the Product(s).

7. PRODUCT IMAGE

The Agent shall not do or permit anything to be done to prejudice the market image of the Product(s) or the Principal.

8. RESTRAINT OF COMPETITION

The Agent shall not sell, or in any way assist anyone else to sell, any products that compete with the Product(s) of the Principal within the territory described in Schedule B for the duration of the Selling Rights and for the calendar year immediately following termination of the Selling Rights.

9. CONFIDENTIALITY

The Agent shall keep the Principal's business secrets, including but not limited to customer, supplier, logistical, financial, research and development information, confidential and shall not disclose them to any third party during and after termination of the Selling Rights.

10. SUMMARY TERMINATION OF SELLING RIGHTS

If the Agent breaks any term of this agreement, the Principal may summarily terminate the Selling Rights on notice in writing to the Agent.

11. TERMINATION CONSEQUENCES

On termination of the Selling Rights for any reason, the Agent shall immediately cease to describe himself as an authorized sales agent of the Principal and cease selling the Product(s).

12. ASSIGNMENT

The Agent shall not assign the benefit of this agreement or subcontract his obligations under this agreement without the consent in writing of the Principal, which consent may be withheld without good reason.

13. FIDUCIARY RELATIONSHIP

The Agent accepts and acknowledges that the terms of this agreement are in addition to and do not detract from the ordinary fiduciary duties owed by the Agent to the Principal.

14. MISCELLANEOUS

- a. In this agreement, the singular includes the plural and the masculine includes the feminine and neuter and vice versa unless the context otherwise requires.
- b. The capitalized headings in this agreement are only for convenience of reference and do not form part of or affect the interpretation of this agreement.

- c. If any provision or part of any provision in this agreement is void for any reason, it shall be severed without affecting the validity of the balance of the agreement.
- d. Time is of the essence of this agreement.
- e. There are no representations, warranties, conditions, terms or collateral contracts affecting the transaction contemplated in this agreement except as set out in this agreement.
- f. Nothing in this agreement is intended to constitute a partnership or a master and servant relationship between the parties.
- g. This agreement binds and benefits the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.
- h. This agreement is governed by the laws of the State/Province of [STATE/PROVINCE].

The Parties each hereby execute this Agreement as of [DATE].

PRINCIPAL

AGENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

CONFIDENTIALITY AND INVENTION AGREEMENT

This Confidentiality and Invention Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the Employee relationship with the Company (which for purposes of this Agreement shall be deemed to include any subsidiaries or Affiliates of the Company), the receipt of confidential information while associated with the Company, and other good and valuable consideration, the undersigned Employee, agrees that:

23. TERMS OF AGREEMENT

This Agreement shall continue in full force and effect for the duration of the relationship between the Employee and the Company and shall continue thereafter until terminated through a written instrument signed by both parties.

For purposes of this Agreement, "Affiliate" shall mean any person or entity that shall directly or indirectly controls, is controlled by, or is under common control with the Company.

24. CONFIDENTIALITY

24.1. Definitions

"Proprietary Information" is all information and any idea whatever form, tangible or intangible, pertaining in any manner to the business of the Company, or any of its Affiliates, or its

employees, clients, Employees, or business associates, which was produced by any employee or Employee of the Company in the course of his or her employment or consulting relationship or otherwise produced or acquired by or on behalf of the Company. All Proprietary Information not generally known outside of the Company's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." By example and without limiting the foregoing definition, Proprietary and Confidential Information shall include, but not be limited to:

- d. Formulas, research and development techniques, processes, trade secrets, computer programs, software, electronic codes, mask works, inventions, innovations, patents, patent applications, discoveries, improvements, data, know-how, formats, test results, and research projects;
- e. Information about costs, profits, markets, sales, contracts and lists of customers, and distributors;
- f. Business, marketing, and strategic plans; forecasts, unpublished financial information, budgets, projections, and customer identities, characteristics and agreements; and employee personnel files and compensation information.

Confidential Information is to be broadly defined, and includes all information that has or could have commercial value or other utility in the business in which the Company is engaged or contemplates engaging, and all information of which the unauthorized disclosure could be detrimental to the interests of the Company, whether or not such information is identified as Confidential Information by the Company.

24.2. Existence of Confidential Information

The Company owns and has developed and compiled, and will develop and compile, certain trade secrets, proprietary techniques and other Confidential Information which have great value to its business. This Confidential Information includes not only information disclosed by the Company to the Employee, but also information developed or learned by the Employee during the course of the relationship with the Company.

24.3. Protection of Confidential Information

The Employee will not, directly or indirectly, use, make available, sell, disclose or otherwise communicate to any third party, other than in the assigned duties and for the benefit of the

Company, any of the Company's Confidential Information, either during or after the relationship with the Company. In the event the Employee desires to publish the results of the work for the Company through literature or speeches, the Employee will submit such literature or speeches to the President of the Company at least [NUMBER] days before dissemination of such information for a determination of whether such disclosure may alter trade secret status, may be prejudicial to the interests of the Company, or may constitute an invasion of its privacy. The Employee agrees not to publish, disclose or otherwise disseminate such information without prior written approval of the President of the Company. The Employee acknowledges that the unauthorized disclosure of Confidential Information of the Company may be highly prejudicial to its interests, an invasion of privacy, and an improper disclosure of trade secrets.

24.4. Delivery of Confidential Information

Upon request or when the relationship with the Company terminates, the Employee will immediately deliver to the Company all copies of any and all materials and writings received from, created for, or belonging to the Company including, but not limited to, those which relate to or contain Confidential Information.

24.5. Location and Reproduction

The Employee shall maintain at its workplace only such Confidential Information as the Employee has a current "need to know." The Employee shall return to the appropriate person or location or otherwise properly dispose of Confidential Information once that need to know no longer exists. The Employee shall not make copies of or otherwise reproduce Confidential Information unless there is a legitimate business need of the Company for reproduction.

24.6. Prior Actions and Knowledge

The Employee represents and warrants that from the time of the first contact with the Company the Employee held in strict confidence all Confidential Information and has not disclosed any Confidential Information, directly or indirectly, to anyone outside the Company, or used, copied, published, or summarized any Confidential information, except to the extent otherwise permitted in this Agreement.

24.7. Third-Party Information

The Employee acknowledges that the Company has received and in the future will receive from third parties their confidential information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. The Employee agrees that it will at all times hold all such confidential information in the strictest confidence and not to disclose or use it, except as necessary to perform the obligations hereunder and as is consistent with the Company's agreement with such third parties.

24.8. Third Parties

The Employee represents that the relationship with the Company does not and will not breach any agreements with or duties to a former employer or any other third party. The Employee will not disclose to the Company or use on its behalf any confidential information belonging to others and will not bring onto the premises of the Company any confidential information belonging to any such party unless consented to in writing by such party.

25. PROPRIETARY RIGHTS, INVENTIONS AND NEW IDEAS

25.1. Definition

The term "Subject Ideas or Inventions" includes any and all ideas, processes, trademarks, service marks, inventions, designs, technologies, computer hardware or software, original works of authorship, formulas, discoveries, patents, copyrights, copyrightable works products, marketing and business ideas, and all improvements, know-how, data, rights, and claims related to the foregoing that, whether or not patentable, which are conceived, developed or created which: (1) relate to the Company's current or contemplated business; (2) relate to the Company's actual or demonstrably anticipated research or development; (3) result from any work performed by the Employee for the Company; (4) involve the use of the Company's equipment, supplies, facilities or trade secrets; (5) result from or are suggested by any work done by the Company or at the Company's request, or any projects specifically assigned to the Employee; or (6) result from the access to any of the Company's memoranda, notes, records, drawings, sketches, models, maps, customer lists, research results, data, formulae, specifications, inventions, processes, equipment or other materials (collectively, "Company Materials").

25.2. Company Ownership

All right, title and interest in and to all Subject Ideas and Inventions, including but not limited to all registrable and patent rights which may subsist therein, shall be held and owned solely by the Company, and where applicable, all Subject Ideas and Inventions shall be considered works made for hire. The Employee shall mark all Subject Ideas and Inventions with the Company's copyright or other proprietary notice as directed by the Company and shall take all actions deemed necessary by the Company to protect the Company's rights therein. In the event that the Subject Ideas and Inventions shall be deemed not to constitute works made for hire, or in the event that the Employee should otherwise, by operation of law, be deemed to retain any rights (whether moral rights or otherwise) to any Subject Ideas and Inventions, the Employee agrees to assign to the Company, without further consideration, its entire right, title and interest in and to each and every such Subject Idea and Invention.

25.3. Disclosure

The Employee agrees to disclose promptly to the Company full details of any and all Subject Ideas and Inventions.

25.4. Maintenance of Records

The Employee agrees to keep and maintain adequate and current written records of all Subject Ideas and Inventions and their development made by the Employee (solely or jointly with others) during the term of the relationship with the Company. These records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. These records will be available to and remain the sole property of the Company at all times.

Determination of Subject Ideas and Inventions

The Employee further agrees that all information and records pertaining to any idea, process, trademark, service mark, invention, technology, computer hardware or software, original work of authorship, design, formula, discovery, patent, copyright, product, and all improvements, know-how, rights, and claims related to the foregoing ("Intellectual Property"), that the Employee does not believe to be a Subject Idea or Invention, but that is conceived, developed, or reduced to practice by the Company (alone by the Employee or with others) during the

relationship with the Company and for one (1) year thereafter, shall be disclosed promptly by the Employee to the Company. The Company shall examine such information to determine if in fact the Intellectual Property is a Subject Idea or Invention subject to this Agreement.

25.5. Access

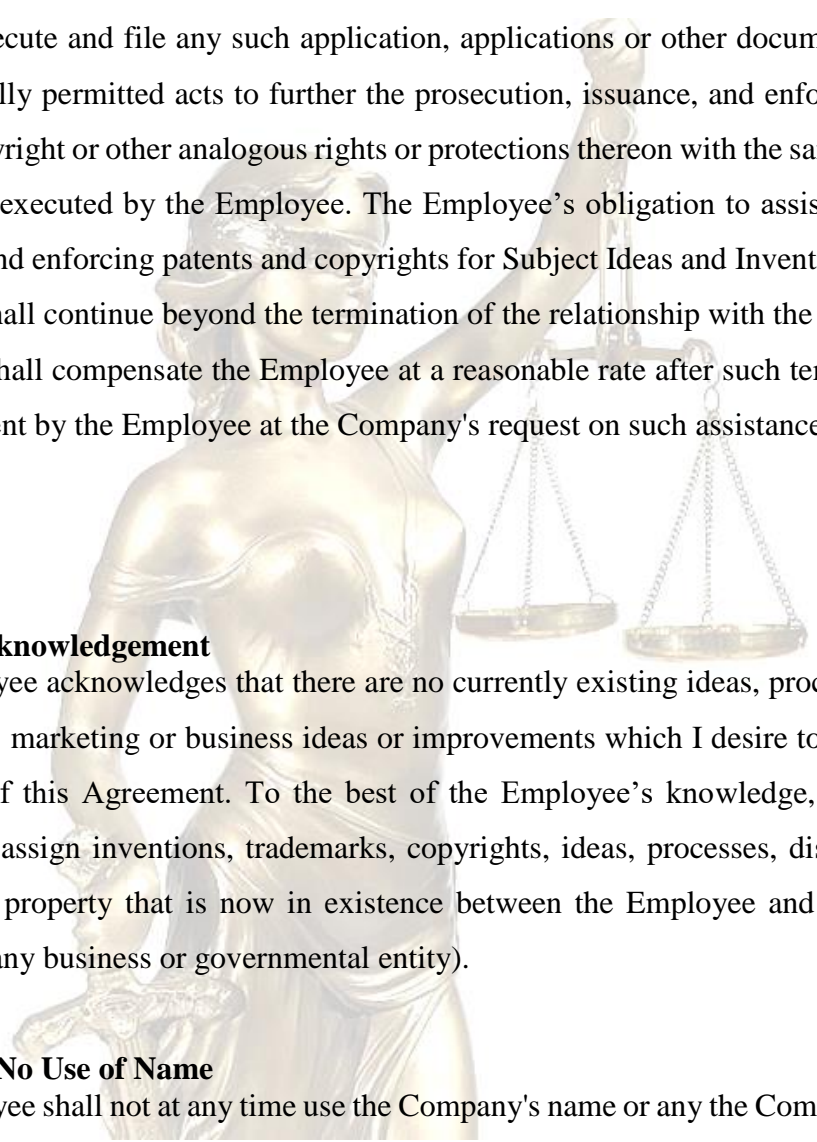
Because of the difficulty of establishing when any Subject Ideas or Inventions are first conceived by the Employee, or whether it results from the access to Confidential Information or Company Materials, the Employee agrees that any Subject Idea and Invention shall, among other circumstances, be deemed to have resulted from its access to Company Materials if: (1) it grew out of or resulted from the work with the Company or is related to the business of the Company, and (2) it is made, used, sold, exploited or reduced to practice, or an application for patent, trademark, copyright or other proprietary protection is filed thereon, by the Employee or with its significant aid, within one year after termination of the relationship with the Company.

25.6. Assistance

The Employee further agrees to assist the Company in every proper way (but at the Company's expense) to obtain and from time to time enforce patents, copyrights or other rights or registrations on said Subject Ideas and Inventions in any and all countries, and to that end will execute all documents necessary:

- a. To apply for, obtain and vest in the name of the Company alone (unless the Company otherwise directs) letters patent, copyrights or other analogous protection in any country throughout the world and when so obtained or vested to renew and restore the same; and;
- b. To defend any opposition proceedings in respect of such applications and any opposition proceedings or petitions or applications for revocation of such letters patent, copyright or other analogous protection; and;
- c. To cooperate with the Company (but at the Company's expense) in any enforcement or infringement proceeding on such letters patent, copyright or other analogous protection.

25.7. Authorization to Company



In the event the Company is unable, after reasonable effort, to secure the Employee's signature on any patent, copyright or other analogous protection relating to a Subject Idea and Invention, whether because of the Employee's physical or mental incapacity or for any other reason whatsoever, the Employee hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as its agent and attorney-in-fact, to act for and on its behalf and stead to execute and file any such application, applications or other documents and to do all other lawfully permitted acts to further the prosecution, issuance, and enforcement of letters patent, copyright or other analogous rights or protections thereon with the same legal force and effect as if executed by the Employee. The Employee's obligation to assist the Company in obtaining and enforcing patents and copyrights for Subject Ideas and Inventions in any and all countries shall continue beyond the termination of the relationship with the Company, but the Company shall compensate the Employee at a reasonable rate after such termination for time actually spent by the Employee at the Company's request on such assistance.

25.8. Acknowledgement

The Employee acknowledges that there are no currently existing ideas, processes, inventions, discoveries, marketing or business ideas or improvements which I desire to exclude from the operation of this Agreement. To the best of the Employee's knowledge, there is no other contract to assign inventions, trademarks, copyrights, ideas, processes, discoveries or other intellectual property that is now in existence between the Employee and any other person (including any business or governmental entity).

25.9. No Use of Name

The Employee shall not at any time use the Company's name or any the Company trademark(s) or trade name(s) in any advertising or publicity without the prior written consent of the Company.

26. COMPETITIVE ACTIVITY

26.1. Acknowledgment

The Employee acknowledges that the pursuit of the activities forbidden by Section 4.2 below would necessarily involve the use, disclosure or misappropriation of Confidential Information.

26.2. Prohibited Activity

To prevent the above-described disclosure, misappropriation and breach, the Employee agrees that during the relationship and for a period of [NUMBER] year thereafter, without the Company's express written consent, the Employee shall not, directly or indirectly, (i) employ, solicit for employment, or recommend for employment any person employed by the Company (or any Affiliate); and (ii) engage in any present or contemplated business activity that is or may be competitive with the Company (or any Affiliate) in any state where the Company conducts its business, unless the Employee can prove that any action taken in contravention of this subsection (ii) was done without the use in any way of Confidential Information.

27. REPRESENTATIONS AND WARRANTIES

The Employee represents and warrants (i) that it has no obligations, legal or otherwise, inconsistent with the terms of this Agreement or with its undertaking a relationship with the Company; (ii) that the performance of the services called for by this Agreement do not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party; (iii) that the Employee will not use in the performance of its responsibilities for the Company any confidential information or trade secrets of any other person or entity; and (iv) that the Employee has not entered into or will enter into any agreement (whether oral or written) in conflict with this Agreement.

28. TERMINATION OBLIGATIONS

- a. Upon the termination of the relationship with the Company or promptly upon the Company's request, the Employee shall surrender to the Company all equipment, tangible Proprietary Information, documents, books, notebooks, records, reports, notes, memoranda, drawings, sketches, models, maps, contracts, lists, computer disks (and other computer-generated files and data), any other data and records of any kind, and copies thereof (collectively, "Company Records"), created on any medium and

furnished to, obtained by, or prepared by the Employee in the course of or incident to the relationship with the Company, that are in its possession or under its control.

- b. The Employee's representations, warranties, and obligations contained in this Agreement shall survive the termination of the relationship with the Company.
- c. Following any termination of the relationship with the Company, the Employee will fully cooperate with the Company in all matters relating to its continuing obligations under this Agreement.
- d. The Employee hereby grants consent to notification by the Company to any of its future companies the Employee consults with about its rights and obligations under this Agreement.
- e. Upon termination of its relationship with the Company, the Employee will execute a Certificate acknowledging compliance with this Agreement in the form reasonably requested by the Company.

29. INJUNCTIVE RELIEF

The Employee acknowledges that its failure to carry out any obligation under this Agreement, or a breach by the Employee of any provision herein, will constitute immediate and irreparable damage to the Company, which cannot be fully and adequately compensated in money damages and which will warrant preliminary and other injunctive relief, an order for specific performance, and other equitable relief. The Employee further agrees that no bond or other security shall be required in obtaining such equitable relief and hereby consents to the issuance of such injunction and to the ordering of specific performance. The Employee also understand that other action may be taken and remedies enforced against the Employee.

30. MODIFICATION

No modification of this Agreement shall be valid unless made in writing and signed by both parties.

31. BINDING EFFECT

This Agreement shall be binding upon the Employee, its heirs, executors, assigns and administrators and is for the benefit of the Company and its successors and assigns.

32. GOVERNING LAW

This Agreement shall be construed in accordance with, and all actions arising under or in connection therewith shall be governed by, the internal laws of the State of [STATE/PROVINCE],

33. INTEGRATION

This Agreement sets forth the parties' mutual rights and obligations with respect to proprietary information, prohibited competition, and intellectual property. It is intended to be the final, complete, and exclusive statement of the terms of the parties' agreements regarding these subjects. This Agreement supersedes all other prior and contemporaneous agreements and statements on these subjects, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of the Company, now or in the future, apply to the Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control unless changed in writing by the Company.

34. CONSTRUCTION

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not limitation, this Agreement shall not be construed against the party responsible for any language in this Agreement. The headings of the paragraphs hereof are inserted for convenience only, and do not constitute part of and shall not be used to interpret this Agreement.

35. ATTORNEYS' FEES

Should either the Employee or the Company, or any heir, personal representative, successor or permitted assign of either party, resort to legal proceedings to enforce this Agreement, the prevailing party in such legal proceeding shall be awarded, in addition to such other relief as may be granted, attorneys' fees and costs incurred in connection with such proceeding.

36. SEVERABILITY

If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

37. RIGHTS CUMULATIVE

The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either the Company or the Employee (or by that party's successor), whether pursuant hereto, to any other agreement, or to law, shall not preclude or waive that party's right to exercise any or all other rights and remedies. This Agreement will inure to the benefit of the Company and its successors and assigns.

38. NONWAIVER

The failure of either the Company or the Employee, whether purposeful or otherwise, to exercise in any instance any right, power or privilege under this Agreement or under law shall not constitute a waiver of any other right, power or privilege, nor of the same right, power or privilege in any other instance. Any waiver by the Company or by the Employee must be in writing and signed by either the Employee, if the Employee is seeking to waive any of its rights under this Agreement, or by an officer of the Company or some other person duly authorized by the Company.

39. NOTICES

Any notice, request, consent or approval required or permitted to be given under this Agreement or pursuant to law shall be sufficient if it is in writing, and if and when it is hand delivered or sent by regular mail, with postage prepaid, to the Employee's principal office, or to the Company's principal office, as the case may be.

40. AGREEMENT TO PERFORM NECESSARY ACTS

The Employee agree to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

41. ASSIGNMENT

This Agreement may not be assigned without the Company's prior written consent.

42. COMPLIANCE WITH LAW

The Employee agrees to abide by all federal, state, and local laws, ordinances and regulations.

43. ACKNOWLEDGMENT

The Employee acknowledges having had the opportunity to consult legal counsel in regard to this Agreement, having read and understand this Agreement, that the Employee is fully aware of its legal effect, and that it has entered into it freely and voluntarily and based on its own judgment and not on any representations or promises other than those contained in this Agreement.

CAUTION: THIS AGREEMENT CREATES IMPORTANT OBLIGATIONS OF TRUST AND AFFECTS THE EMPLOYEE'S RIGHTS TO INVENTIONS AND OTHER INTELLECTUAL PROPERTY THE EMPLOYEE MAY DEVELOP.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: EMPLOYMENT AGREEMENT ATTACHED

Dear [EMPLOYEE NAME],

Attached you will find the draft of your proposed Employment Agreement. Please understand that the terms set forth in this draft will only come into effect once the agreement is actually signed by all parties. We hope you will find the terms of the proposed agreement to be acceptable.

Please review it carefully. If you feel it is necessary, please consult with an attorney before signing it. Should you have any questions regarding the Agreement or any other matter, please do not hesitate to give me a call.

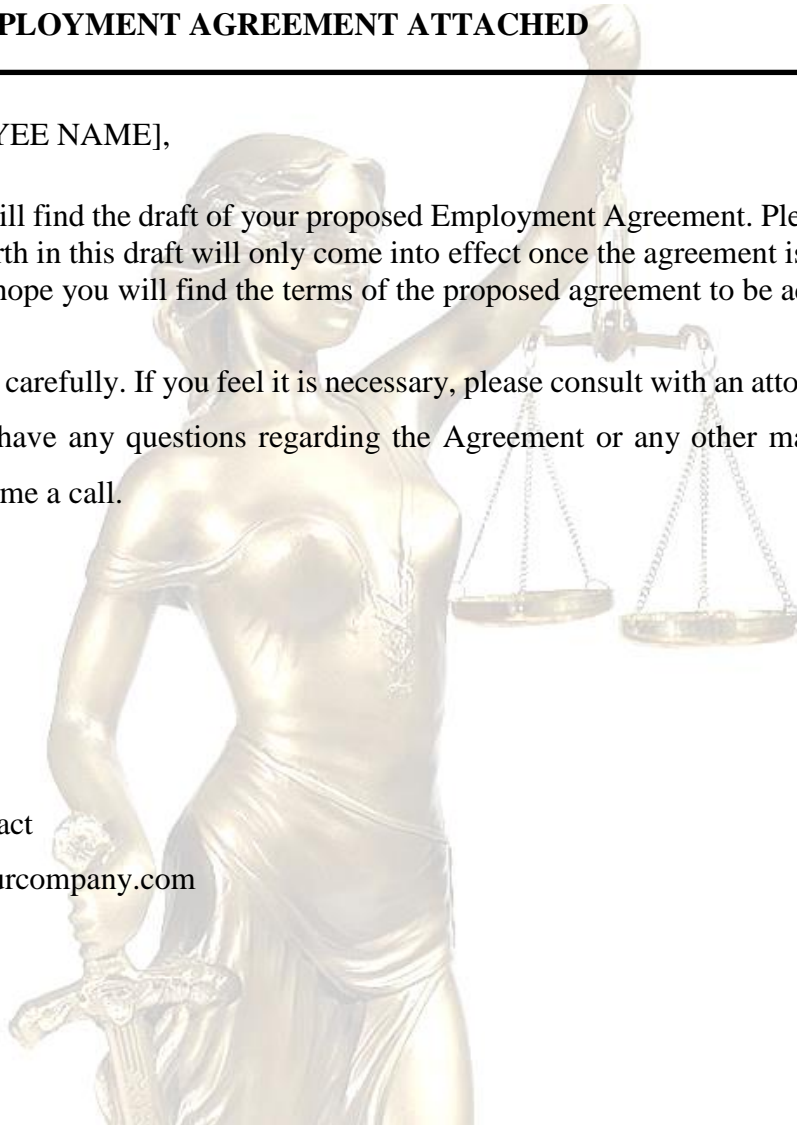
Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com



February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: FAIR CREDIT ACT DISCLOSURE NOTICE

Dear [CONTACT NAME],

This is to inform you that, as part of our procedure for processing your employment application,

[OR]

In making this application for employment,

it is understood that an investigation of your credit history may be made, whereby information is obtained through personal contact with individuals with whom you are acquainted. Inquiries will include checking records that can include information as to your character, general reputation, personal characteristics and mode of living. You have the right to make a written request within a reasonable period of time to receive additional, detailed information about the nature and scope of this investigation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DRUG TESTING CONSENT AGREEMENT

This Drug Testing Consent Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In connection with my application for employment with the Company, I hereby agree as follows:

1. TERMS

I have applied for employment with [COMPANY] in a position that requires me to operate an automobile or truck. As a condition for my application being considered, I understand and agree to undergo substance screening. I understand that if my test results are positive, I shall not be considered further by [COMPANY] for a car or truck driver position.

I hereby authorize any physician, laboratory, hospital or medical professional retained by the Company for screening purposes to conduct such screening and to provide the results to the Company and I release the Company and any person affiliated with [COMPANY] and any such institution or person conducting the screening, from liability therefore.

This Agreement represents the entire understanding and agreement relating to its subject matter. Company shall be entitled fully to rely on this Agreement. I understand that I have no guarantee of employment and that the Company may determine not to hire me for any lawful reason.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



EMPLOYEE AUTHORSHIP CERTIFICATE

This Employee Authorship Certificate (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

The undersigned employee Employee of the Company hereby gives these representations and warranties for the purpose of assuring to the Company, and any other parties who may rely hereupon, that the Company has all right, title and interest in certain Proprietary Creations over which ownership is claimed by the Company. The employee specifically intends that the representations and warranties contained herein may be relied upon by any party that is contemplating an acquisition, license, right to distribute, or any other interest in and to any Proprietary Creations covered hereby.

NOW THEREFORE, the undersigned Employee hereby represents, warrants, acknowledges, certifies and agrees as follows:

1. That the Employee has carefully considered and investigated each of the representations, warranties and acknowledgements and the factual circumstances involved with each such representations, warranty and acknowledgements set forth herein.
2. That the Employee gives these representations, warranties and acknowledgements with full knowledge and intent that they may and will be relied upon by third parties who are entering or contemplating a potential legal relationship with the Company involving the Proprietary Creations.
3. That the Employee is the author of the Proprietary Creations described in Exhibit "A" attached hereto ("Employee Creations"); no other party had any input or hand in the conception, development, creations, planning or reduction to practice of the Employee Creations; and the Employee Creations were developed solely by the Employee, on Employee's own time and using the Employee's own materials, during the time spans identified adjacent to the applicable Employee Creation as designated on Exhibit "A."

4. That the Employee was a contributing author of the Proprietary Creations described in Exhibit “B” attached hereto (“Collective Creations”); only the parties listed in Exhibit “B” adjacent to the relevant work had any input or hand in the conception, development, creations, planning or reduction to practice of the Employee Creations; and the Employee’s contributions to the Collective Creations were developed solely by Employee, on Employee’s own time and using the Employee’s own materials, during the time spans identified adjacent to the applicable Employee Creation as designated on Exhibit “B.”
5. For purposes hereof, the Employee Creations and the Employee’s contributions to the Collective Creations shall be referred to herein as the “Proprietary Creations.”
6. The Employee has assigned all of Employee’s right, title, and interest in and to the Proprietary Creations to the Company and pursuant to such assignments, the Company has obtained full right, title and interest in and to the Proprietary Creations, including but not limited to (i) all rights of a copyright owner, including but not limited to all of the exclusive rights provided by the United States Copyright Act, (ii) all patent, trade secret and other proprietary rights of every nature and type, (iii) the right to sell, lease, license, exchange, convey and assign the proprietary Creations, (iv) the right to publish, distribute, copy, publicly perform and display any and all of the Proprietary Creations, alone or in conjunctions with other works, (v) the right to modify, amend, enhance, upgrade, improve, and create derivative works based in whole or in part on the Proprietary Creations, and (vi) the right to take any and all steps necessary to secure and assert the Companies rights as aforesaid.
7. Except for the integration or use of the pre-existing works of other parties as listed in Exhibit “C” attached hereto, the Proprietary Creations do not infringe upon or otherwise violate the proprietary rights of any third party, including but not limited to patents, trademarks, copyrights, trade secrets, privacy rights, moral rights, or any other proprietary rights provided under any state or federal law.
8. The Employee has received and has made a valid assignment of a license to use the pre-existing works defined in Exhibit “C” on a non-royalty basis, in perpetuity, anywhere within the world from the owner of said pre-existing works.
9. The Employee has not exploited the Proprietary Creations for Employee’s own purposes or for the purposes or benefit of any other party other than the Company.
10. No claim is pending, has been threatened, nor but for the passage of time will be pending, threatened or will accrue that could have a direct or indirect effect on the Proprietary Creations.
11. The Proprietary Creations were not created during the Employee’s employment for any other employer or as a work for hire of any other party. The Proprietary Creations or

the use and distribution thereof, will not violate any non-compete, non-solicitation or any other restrictive covenant contained in any employment agreement or other agreement that the Employee may have had with any other employer or party.

12. All proprietary software programs and other tools used by the Employee in the creation of the Proprietary Creations were duly and validly licensed for use by the Employee and were used within the scope of the applicable license agreement when creating the Proprietary Creations.

IN WITNESS WHEREOF, the Employee has executed this Authorship Certificate with full knowledge of its content and significance and with full knowledge that other parties will rely on the content hereof when making important business decisions and entering potential transaction.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

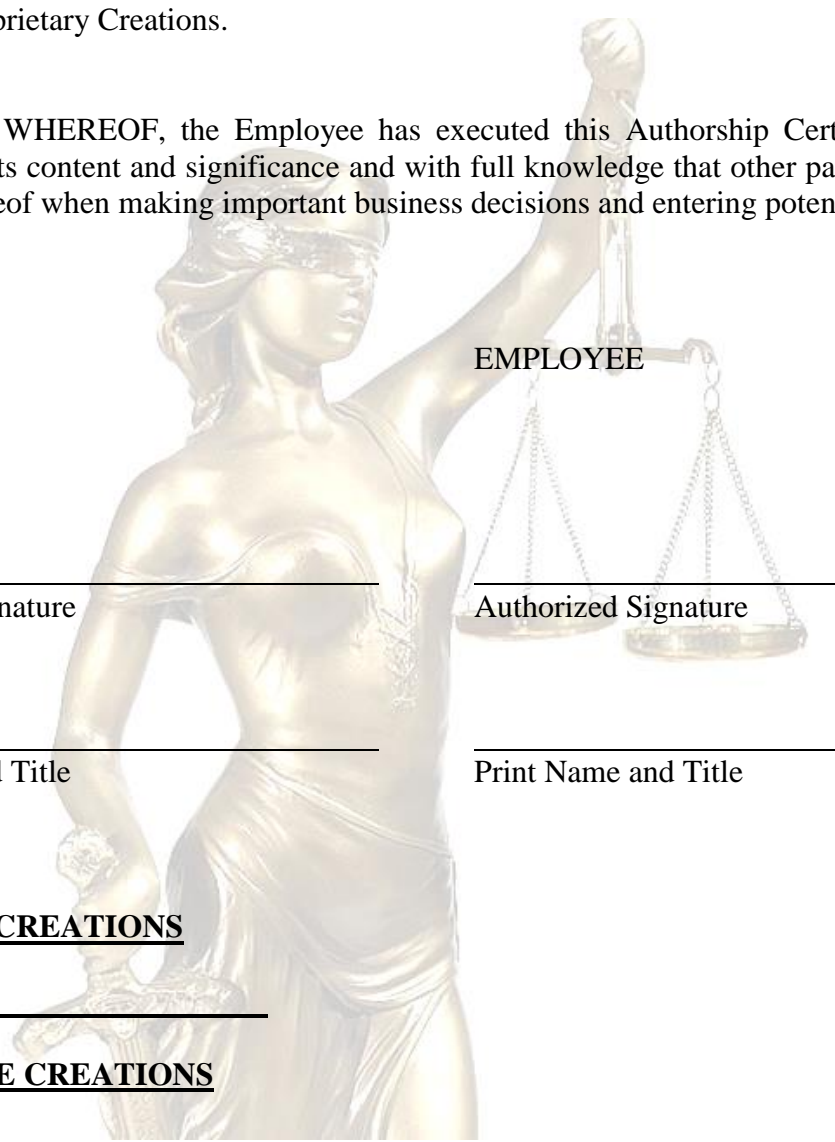
Print Name and Title

Print Name and Title

EXHIBIT A
EMPLOYEE CREATIONS

EXHIBIT B
COLLECTIVE CREATIONS

EXHIBIT C
PRE-EXISTING WORKS



EMPLOYEE NON-COMPETE AGREEMENT

This Employee Non-Compete Agreement (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. COVENANT NOT TO COMPETE

For good consideration and as an inducement for Company to employ Employee, if such employment is terminated for any cause, employee shall not, for a period of [TIME PERIOD] years after leaving the employment, engage directly or indirectly, either personally or as an employee, associate partner, partner, manager, agent, or otherwise, or by means of any corporate or other device, in the [TYPE OF ENTERPRISE] business within [GEOGRAPHICAL AREA] [if appropriate, add: nor shall employee for such period and in such localities solicit orders, directly or indirectly, from any customers of Company, or from any customers of its successor, for such products as are sold by Company or its successor, either for (himself or herself) or as an employee of any person, firm, or corporation].

2. DEFINITION OF THE TERMS

The term "not compete" as used herein shall mean that the Employee shall not own, manage, operate, consult or to be employed in a business substantially similar to, or competitive with, the present business of the Company or such other business activity in which the Company may substantially engage during the term of employment.

Competition means owning or working for a business of the following type: [SPECIFY TYPE OF BUSINESS EMPLOYEE MAY NOT ENGAGE IN].

3. TRADE SECRETS

The Employee acknowledges that the Company shall or may in reliance of this agreement provide Employee access to trade secrets, customers and other confidential data and good will. Employee agrees to retain said information as confidential and not to use said information on his or her own behalf or disclose same to any third party.

The Employee will take necessary actions to keep the Company's business secrets, including but not limited to customer, supplier, logistical, financial, research and development information, confidential and not to disclose the Company's business secrets to any third party during and after the term of the Employee's employment.

4. SPECIFIC ACCOUNT NON-COMPETITION CLAUSE

On the termination of the Employee's employment with the Company for any reason, the Employee will not solicit any customer of the Company that was a customer of the Company during the course of the Employee's employment with the Company, whether or not still a customer of the Company and whether or not knowledge of the customer is considered confidential information, or in any way aid and assist any other person to solicit any such customer for a period of [TIME PERIOD] from the date of termination of the Employee's employment.

5. INDEMNIFICATION

Employee agrees to pay liquidated damages in the amount of [DOLLAR AMOUNT] for any violation of the covenant not to compete contained in this Agreement.

6. BINDING AGREEMENT

If any part of these promises is void for any reason, the undersigned accepts that it may be severed without affecting the validity or enforceability of the balance of the promises.

This non-compete agreement shall extend only for [GEOGRAPHICAL AREA] and shall be in full force and effect for [NUMBER] years, commencing with the date of employment termination.

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, and personal representatives.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated below.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



EMPLOYEE NON-DISCLOSURE AGREEMENT

This Employee Non-Disclosure Agreement (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of employment by Company and disclosure by Company of confidential and trade secret information, the undersigned Employee hereby covenants and agrees as follows:

1. CONFIDENTIALITY

Employee acknowledges that in the course of Employee's employment by Company, Employee will be exposed to valuable confidential and trade secret information of Company. Employee agrees to treat all such information as confidential and to take all necessary precautions against disclosure of such information to third parties during and after the term of this Agreement.

Employee acknowledges that trade secrets of the Company will consist of but will not be necessarily limited to:

- a) Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs and research projects.
- b) Business information: Customer lists, pricing data, sources of supply, financial data and marketing, production, or merchandising systems or plans.

Employee understands that this Agreement does not and will not prevent him/her from working for any other Company subsequent to the termination of his/her employment with the Company as long as the Employee does not use or disclose any such confidential and proprietary information.

2. USE

Employee shall not use Company's confidential and trade secret information, except to the extent necessary to provide services or goods requested by Company.

3. ENFORCEMENT

The Employee agrees that if he/she commits a breach of any of the provisions of this Agreement, the Company shall have the right to enforce this Agreement in any court having equity jurisdiction. Employee acknowledges and agrees that any such breach of this Agreement will cause irreparable injury to the Company and that money damages will not provide an adequate remedy to the Company. In addition, the Company shall have any other rights and remedies available at law or in equity.

4. TERMINATION

All materials furnished to Employee by Company, and all materials prepared by Employee in connection with Employee's employment by Company, including without limitation documents, models, source code, designs, flowcharts and listings, along with all copies made thereof, shall be returned promptly to Company upon termination of Employee's employment by Company.

5. OWNERSHIP

Employee agrees that all developments made and works created by Employee or under Employee's direction in connection with Company assignments shall be the sole and complete property of Company, that any and all copyrights and other proprietary interests therein shall belong to Company, and that the other provisions of this Agreement shall fully apply to all such developments and works.

6. GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the state of [STATE/PROVINCE].

7. INDEMNIFICATION

Employee agrees to pay liquidated damages in the amount of [DOLLAR AMOUNT] for any violation of the covenant not to disclose confidential information contained in this Agreement.

8. BINDING AGREEMENT

If any part of these promises is void for any reason, the undersigned accepts that it may be severed without affecting the validity or enforceability of the balance of the promises.

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, and personal representatives.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated below.

COMPANY

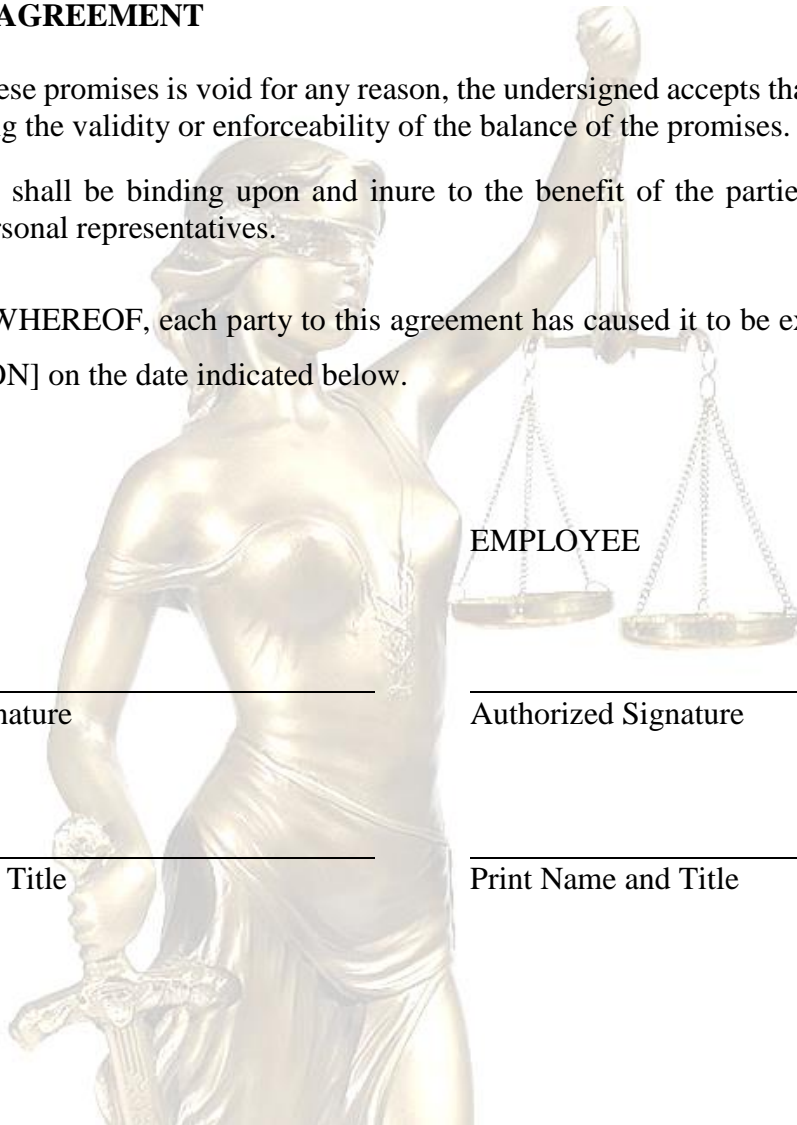
EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



EMPLOYEE PROPRIETARY RIGHTS ACKNOWLEDGEMENT

This Employee Proprietary Rights Acknowledgment (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. During the course of my employment, I have, and in the future may, develop certain work product within the scope of my job responsibilities or otherwise within the scope of the Employer's current or potential lines of business. This work product may be created by me at the Employer's premises, during my normal work hours, or after hours at another location. This work product may be created by me alone or in conjunction with other employees or other third parties. All such work product shall be herein referred to as "Employer Proprietary Products."
2. I agree that my Employer shall own all proprietary rights, including but not limited to copyrights, trade secret rights, patent rights, Trademark rights, and all other intellectual property rights in and to the Employer Proprietary Products.
3. I agree that all Employer Proprietary Products shall be considered "works made for hire" under the provisions of the United States Copyright Act and all other equivalent laws.
4. Upon request from the Employer, I agree to execute any and all documents and take any other actions reasonably necessary to secure ownership of the Employer Proprietary Products in the employer including but not limited to executing assignments, applications, certificates and other instruments requested by my employer.
5. I hereby assign to Employer, waive, relinquish and release any and all moral rights and other common law or statutory rights to the employer Proprietary Products for the benefit of my Employer.

6. I agree not to take any action to challenge or in contravention of the rights of the Employer in and to the Employer Proprietary Products.
7. I acknowledge and agree that the Employer shall have the unrestricted right to secure state and federal proprietary right protection over all Employer Proprietary Products, including but not limited to copyright, patent, trade secret, trademark and all other available protections.
8. I agree at all times to be mindful of the proprietary rights of third parties in the planning and development of work product and to take all steps necessary to avoid infringement upon the rights of third parties or the appearance of potential infringement upon the rights of any third party.
9. I agree that during the period of my employment and thereafter, that I will refrain from disclosing any confidential or trade secret information of my employer to any other party and that I will refrain from using any such information for my own purposes and personal benefit. I acknowledge that misappropriations of trade secrets is prohibited by law and in some cases can result in criminal liability. I agree that all trade secrets are of value to my Employer and that misappropriation thereof could cause my Employer substantial damage and injury. Trade secrets may include written or unwritten information, inventions, processes or ideas that are protected by my Employer and have potential value or the release of which could do damage to my Employer or place my Employer at a competitive disadvantage. Trade secrets may include customer lists, referral lists, customer information, demographic information, software, programming methods, source codes, proprietary technology, business plans, financial information, product design, formula, data, processes, systems, marketing and advertising plans, internet marketing techniques, design techniques, and a host of other information that the Employee deems to be confidential and proprietary.
10. I represent and warrant that there are no obligations that are remnant of any prior employment, contractual or working relationship which could interfere with my duties to my employer or which could lead, directly or indirectly, to any claim of infringement or other legal claim related to the fruits of my efforts for this Employer.
11. Upon termination of my employment, whether with or without cause, by my actions or my Employer's action, or upon request from my Employer, I agree that I shall not retain any copies or other forms of my work product or any other information, assets, property, whether tangible or intangible of the Employer or including any trade secrets or confidential information of the Employer and that I shall turn all such items over to the Employer prior to my departure.

BY SIGNING BELOW, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE PREVIOUSLY ENTERED INTO AN AGREEMENT WITH THE COMPANY RESTRICTING YOU FROM DISCLOSURE OF PROPRIETARY INFORMATION AND THAT YOU UNDERSTAND THAT THE TERMS OF THOSE RESTRICTIONS CONTINUE INDEFINITELY FOLLOWING THE TERMINATION OF YOUR EMPLOYMENT WITH THE COMPANY. YOU FURTHER ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND COMPANY POLICIES WITH RESPECT TO PROTECTION OF PROPRIETARY INFORMATION AND THAT YOU WILL TAKE NO ACTIONS CONTRARY THERETO.

YOU ATTEST THAT YOU HAVE READ AND FULLY UNDERSTAND THIS DOCUMENT AND THE CONSEQUENCES THEREOF AND THAT YOU ARE IN AGREEMENT WITH ALL OF THE ITEMS CONTAINED HEREIN.

COMPANY

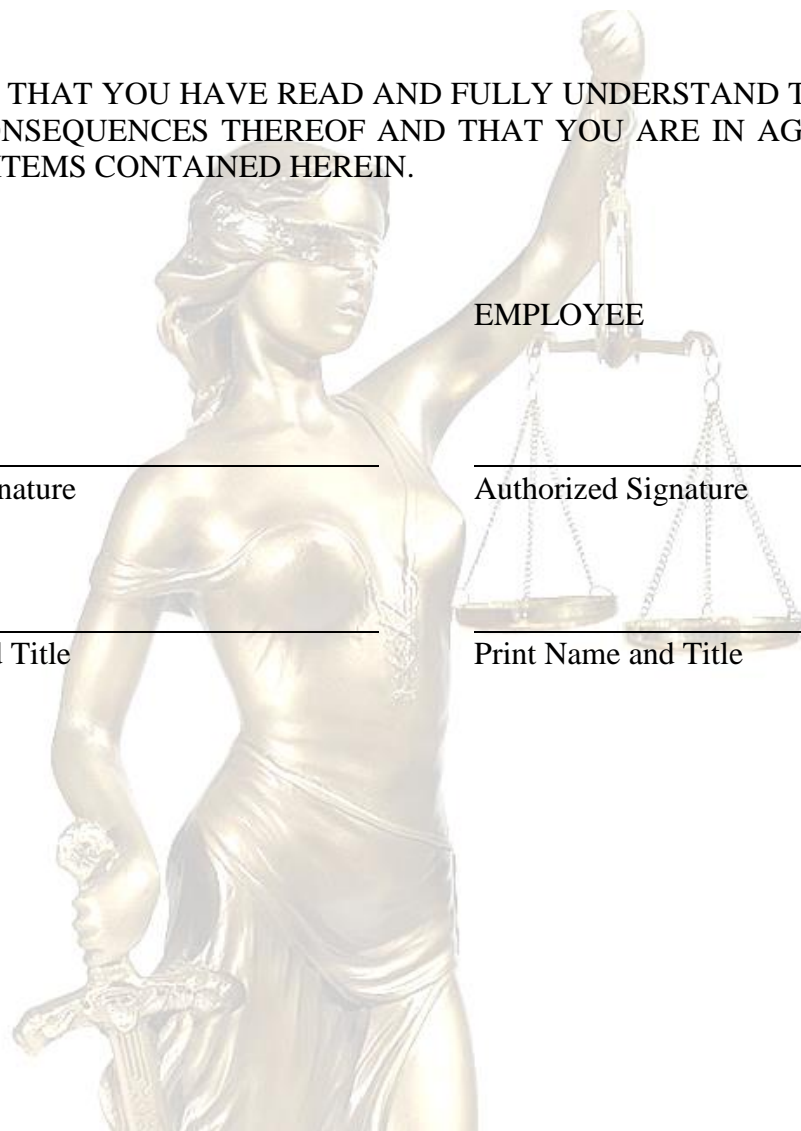
EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



EMPLOYMENT AGREEMENT – TECHNICAL EMPLOYEE

This Employment Agreement for “At Will” Employee (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), an entity organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

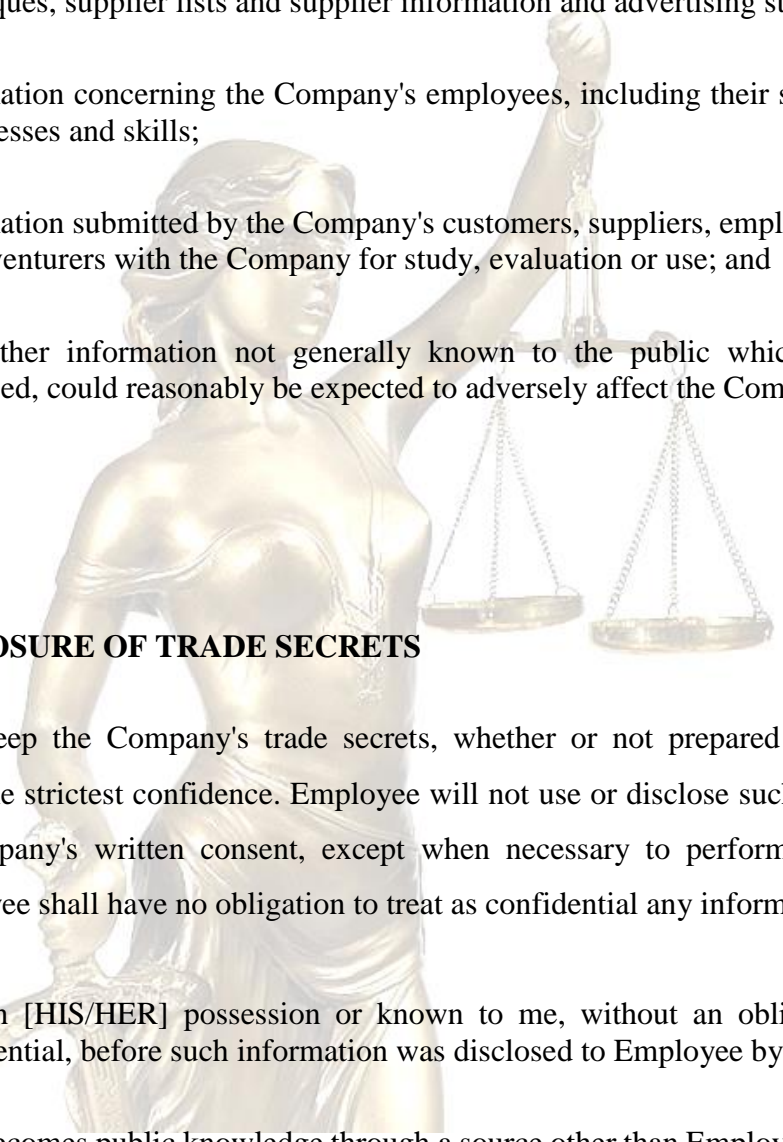
RECITALS

In consideration of the covenants and agreements herein contained and the moneys to be paid hereunder, the Company hereby employs the Employee and the Employee hereby agrees to perform services as an employee of the Company, on an “at will” basis, upon the following terms and conditions:

1. COMPANY'S TRADE SECRETS

Employee understands that in performance of [HIS/HER] job duties with the Company, Employee will be exposed to the Company's trade secrets. "Trade secrets" means information or material that is commercially valuable to the Company and not generally known in the industry. This includes:

- A. Any and all versions of the Company's proprietary system (including source code and object code), hardware, firmware and documentation;

- 
- B. Technical information concerning the Company's products and services, including product data and specifications, diagrams, flow charts, drawings, test results, know-how, processes, inventions, research projects and product development;
 - C. Information concerning the Company's business, including cost information, profits, sales information, accounting and unpublished financial information, business plans, markets and marketing methods, customer lists and customer information, purchasing techniques, supplier lists and supplier information and advertising strategies;
 - D. Information concerning the Company's employees, including their salaries, strengths, weaknesses and skills;
 - E. Information submitted by the Company's customers, suppliers, employees, consultants or co-venturers with the Company for study, evaluation or use; and
 - F. Any other information not generally known to the public which, if misused or disclosed, could reasonably be expected to adversely affect the Company's business.

2. NONDISCLOSURE OF TRADE SECRETS

Employee will keep the Company's trade secrets, whether or not prepared or developed by [HIM/HER], in the strictest confidence. Employee will not use or disclose such secrets to others without the Company's written consent, except when necessary to perform [HIS/HER] job. However, Employee shall have no obligation to treat as confidential any information which:

- A. Was in [HIS/HER] possession or known to me, without an obligation to keep it confidential, before such information was disclosed to Employee by the Company;
- B. Is or becomes public knowledge through a source other than Employee and through no fault of Employee; or
- C. Is or becomes lawfully available to Employee from a source other than the Company.

3. CONFIDENTIAL INFORMATION OF OTHERS

Employee will not disclose to the Company, use in the Company's business, or cause the Company to use, any information or material that is a trade secret of others. [HIS/HER] performance of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by Employee prior to [HIS/HER] employment by the Company.

4. NO CONFLICTING OBLIGATIONS

Employee has no other current or prior agreements, relationships or commitments that conflict with this Agreement or with [HIS/HER] relationship other than the following: [SPECIFY; IF NONE, SO STATE].

5. RETURN OF MATERIALS

When [HIS/HER] employment with the Company ends, for whatever reason, Employee will promptly deliver to the Company all originals and copies of all documents, records, software programs, media and other materials containing any of the Company's trade secrets. Employee will also return to the Company all equipment, files, software programs and other personal property belonging to the Company.

6. CONFIDENTIALITY OBLIGATION SURVIVES EMPLOYMENT

Employee understand that [HIS/HER] obligation to maintain the confidentiality and security of the Company's trade secrets remains with Employee even after [HIS/HER] employment with the Company ends and continues for so long as such material remains a trade secret.

7. COMPUTER PROGRAMS ARE WORKS MADE FOR HIRE

Employee understand that as part of [HIS/HER] job duties Employee may be asked to create, or contribute to the creation of, computer programs, documentation and other copyrightable works.

Employee agree that any and all computer programs, documentation and other copyrightable materials that Employee is asked to prepare or work on as part of [HIS/HER] employment with the Company shall be "works made for hire" and that the Company shall own all the copyright rights in such works. IF AND TO THE EXTENT ANY SUCH MATERIAL DOES NOT SATISFY THE LEGAL REQUIREMENTS TO CONSTITUTE A WORK MADE FOR HIRE, EMPLOYEE HEREBY ASSIGN ALL [HIS/HER] COPYRIGHT RIGHTS IN THE WORK TO THE COMPANY.

8. DISCLOSURE OF DEVELOPMENTS

While Employee is employed by the Company, Employee will promptly inform the Company of the full details of all [HIS/HER] inventions, discoveries, improvements, innovations and ideas (collectively called "Developments") – whether or not patentable, copyrightable or otherwise protectible – that Employee conceives, completes or reduces to practice (whether jointly or with others) and which:

- A. Relate to the Company's present or prospective business, or actual or demonstrably anticipated research and development; or
- B. Result from any work Employee do using any equipment, facilities, materials, trade secrets or personnel of the Company; or
- C. Result from or are suggested by any work that Employee may do for the Company.

9. ASSIGNMENT OF DEVELOPMENTS

Employee hereby assigns to the Company or the Company's designee, [HIS/HER] entire right, title and interest in all of the following, that Employee conceives or makes (whether alone or with others) while employed by the Company:

- A. All Developments;
- B. All copyrights, trade secrets, trademarks and mask work rights in Developments; and

- C. All patent applications filed and patents granted on any Developments, including those in foreign countries.

10. POST-EMPLOYMENT ASSIGNMENT

Employee will disclose to the Company any and all computer programs, inventions, improvements or discoveries actually made, or copyright registration or patent applications filed, within [NUMBER] months after [HIS/HER] employment with the Company ends. Employee hereby assigns to the Company [HIS/HER] entire right, title and interest in such programs, inventions, improvements and discoveries, whether made individually or jointly, which relate to the subject matter of [HIS/HER] employment with the Company during the [NUMBER] month period immediately preceding the termination of [HIS/HER] employment.

11. EXECUTION OF DOCUMENTS

Both while employed by the Company and afterwards, Employee agrees to execute and aid in the preparation of any papers that the Company may consider necessary or helpful to obtain or maintain any patents, copyrights, trademarks or other proprietary rights at no charge to the Company, but at its expense.

If the Company is unable to secure [HIS/HER] signature on any document necessary to obtain or maintain any patent, copyright, trademark or other proprietary rights, whether due to [HIS/HER] mental or physical capacity or any other cause, Employee hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as [HIS/HER] agents and attorneys-in-fact to execute and file such documents and do all other lawfully permitted acts to further the prosecution, issuance and enforcement of patents, copyrights and other proprietary rights with the same force and effect as if executed by Employee.

12. PRIOR DEVELOPMENTS

As a matter of record, Employee has identified all prior developments relevant to the subject matter of [HIS/HER] employment by the Company ("Prior Developments") that have been conceived or reduced to practice or learned by Employee, alone or jointly with others, before [HIS/HER] employment with the Company, which Employee desires to remove from the operation of this Agreement. The Prior Developments consist of:

[LIST ALL PRIOR DEVELOPMENTS OR "None."]

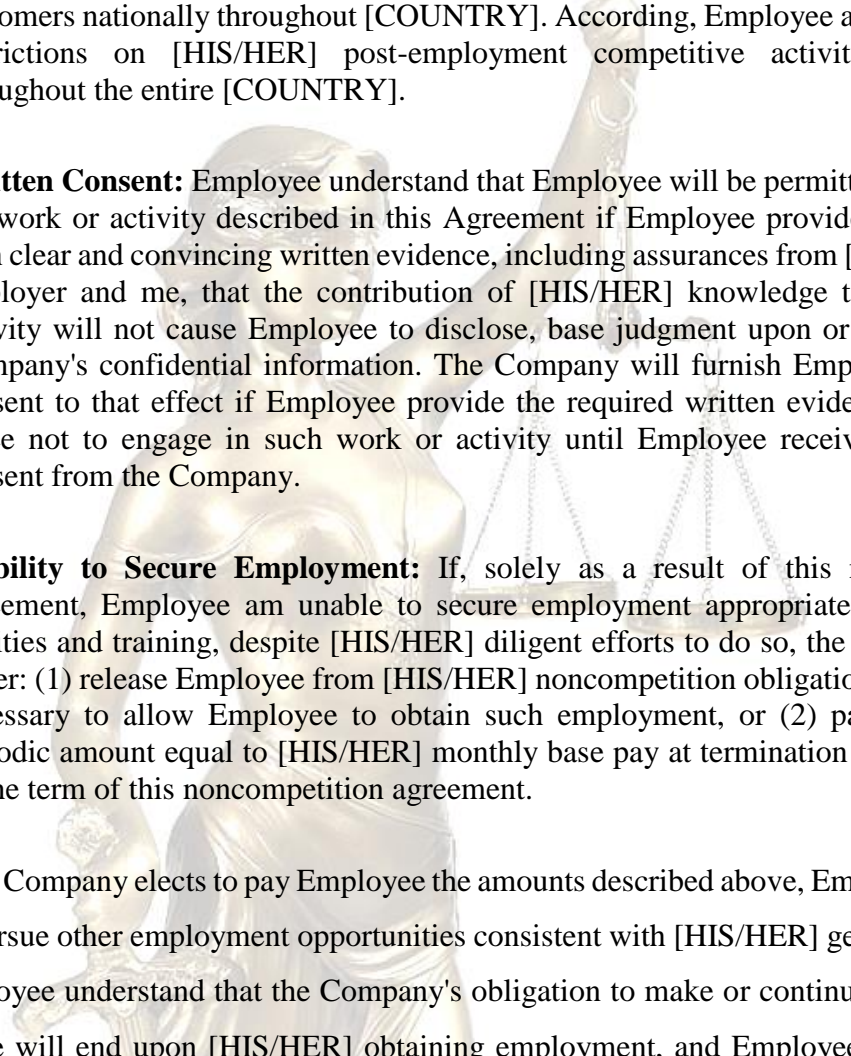
Employee represents and warrants that this list is complete. If there is no such list, Employee represents that [HE/SHE] has made no such Prior Developments at the time of signing this Agreement.

13. CONFLICT OF INTEREST

During [HIS/HER] employment by the Company, Employee will not engage in any business activity competitive with the Company's business activities. Nor will Employee engage in any other activities that conflict with the Company's best interests.

14. POST-EMPLOYMENT NONCOMPETITION AGREEMENT

Employee understand that during [HIS/HER] employment by the Company Employee may become familiar with confidential information of the Company. Therefore, it is possible that Employee could gravely harm the Company if Employee worked for a competitor. Accordingly, Employee agrees for [TIME PERIOD] following the end of [HIS/HER] employment with the Company not to compete, directly or indirectly, with the Company in any of its business if the duties of such competitive employment inherently require that Employee use or disclose any of the Company's confidential information. Competition includes the design, development, production, promotion or sale of products or services competitive with those of the Company. Employee agrees not to engage in, or contribute [HIS/HER] knowledge to, any work that is competitive with or functionally similar to a product, process, apparatus or service on which Employee worked while at the Company. The following post-employment noncompetition terms shall apply also:

- 
- A. **Diversion of Company Business:** For a period of [TIME PERIOD] months from the date [HIS/HER] employment ends, Employee will not divert or attempt to divert from the Company any business the Company enjoyed or solicited from its customers during the [NUMBER] months prior to the termination of [HIS/HER] employment.
- B. **Geographic Restrictions:** Employee acknowledges and agrees that the products/services developed by the Company are, or are intended to be, distributed to customers nationally throughout [COUNTRY]. According, Employee agrees that these restrictions on [HIS/HER] post-employment competitive activity shall apply throughout the entire [COUNTRY].
- A. **Written Consent:** Employee understand that Employee will be permitted to engage in the work or activity described in this Agreement if Employee provide the Company with clear and convincing written evidence, including assurances from [HIS/HER] new employer and me, that the contribution of [HIS/HER] knowledge to that work or activity will not cause Employee to disclose, base judgment upon or use any of the Company's confidential information. The Company will furnish Employee a written consent to that effect if Employee provide the required written evidence. Employee agree not to engage in such work or activity until Employee receive such written consent from the Company.
- B. **Inability to Secure Employment:** If, solely as a result of this noncompetition agreement, Employee am unable to secure employment appropriate to [HIS/HER] abilities and training, despite [HIS/HER] diligent efforts to do so, the Company shall either: (1) release Employee from [HIS/HER] noncompetition obligations to the extent necessary to allow Employee to obtain such employment, or (2) pay Employee a periodic amount equal to [HIS/HER] monthly base pay at termination for the balance of the term of this noncompetition agreement.

If and while the Company elects to pay Employee the amounts described above, Employee promise to diligently pursue other employment opportunities consistent with [HIS/HER] general skills and interests. Employee understand that the Company's obligation to make or continue the payments specified above will end upon [HIS/HER] obtaining employment, and Employee will promptly give the Company written notice of such employment.

15. NONINTERFERENCE WITH COMPANY EMPLOYEES

While employed by the Company and for [TIME PERIOD] afterwards, Employee will not:

- A. Induce, or attempt to induce, any Company employee to quit the Company's employ,
- B. Recruit or hire away any Company employee, or
- C. Hire or engage any Company employee or former employee whose employment with the Company ended less than one year before the date of such hiring or engagement.

16. ENFORCEMENT

Employee agree that in the event of a breach or threatened breach of this Agreement, money damages would be an inadequate remedy and extremely difficult to measure. Employee agree, therefore, that the Company shall be entitled to an injunction to restrain Employee from such breach or threatened breach. Nothing in this Agreement shall be construed as preventing the Company from pursuing any remedy at law or in equity for any breach or threatened breach.

17. SUCCESSORS

The rights and obligations under this Agreement shall survive the termination of [HIS/HER] service to the Company in any capacity and shall inure to the benefit and shall be binding upon: (1) [HIS/HER] heirs and personal representatives, and (2) the successors and assigns of the Company.

18. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of [STATE/PROVINCE].

19. SEVERABILITY

If any provision of this Agreement is determined to be invalid or unenforceable, the remainder shall be unaffected and shall be enforceable against both the Company and Employee.

20. ENTIRE AGREEMENT

This Agreement supersedes and replaces all former agreements or understandings, oral or written, between the Company and Employee, except for prior confidentiality agreements Employee has signed relating to information not covered by this Agreement.

21. MODIFICATION

This Agreement may not be modified except by a writing signed both by the Company and Employee.

22. ASSIGNMENT

This Agreement may be assigned by the Company. Employee may not assign or delegate [HIS/HER] duties under this Agreement without the Company's prior written approval.

23. ACKNOWLEDGMENT

Employee has carefully read and considered all provisions of this Agreement and agrees that all of the restrictions set forth are fair and reasonably required to protect the Company's interests. Employee acknowledges that [HE/SHE] has received a copy of this Agreement as signed by [HIM/HER].

IN WITNESS HEREOF, each party to this Agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated below.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

EMPLOYMENT AGREEMENT – AT WILL EMPLOYEE

This Employment Agreement for “At Will” Employee (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [CORPORATION NAME] (the "Corporation"), an entity organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of the covenants and agreements herein contained and the moneys to be paid hereunder, the Corporation hereby employs the Employee and the Employee hereby agrees to perform services as an employee of the Corporation, on an “at will” basis, upon the following terms and conditions:

1. APPOINTMENT

The Employee is hereby employed by the Corporation to render such services and to perform such tasks as may be assigned by the Corporation. The Corporation may, in its sole discretion, increase or reduce the duties, or modify the title and job description, of the Employee from time to time, and any such increase, reduction or modification shall not be deemed a termination of this Agreement.

2. ACCEPTANCE OF EMPLOYMENT

Employee accepts employment with the Corporation upon the terms set forth above and agrees to devote all Employee's time, energy and ability to the interests of the Corporation, and to perform Employee's duties in an efficient, trustworthy and business-like manner.

3. DEVOTION OF TIME TO EMPLOYMENT

The Employee shall devote the Employee's best efforts and substantially all of the Employee's working time to performing the duties on behalf of the Corporation. The Employee shall provide services during the hours that are scheduled by the Corporation management. The Employee shall be prompt in reporting to work at the assigned time.

4. NO CONFLICT OF INTEREST

Employee shall not engage in any other business while employed by the Corporation. Employee shall not engage in any activity that conflicts with the Employees duties to the Corporation. Employee shall not provide any service or lend any aid or assistance to any party that competes with the services offered by the Corporation. Employee shall not provide any services to clients or prospective clients of the Corporation outside of the provision of services for the Corporation, whether such services are provided with or without compensation or remuneration.

5. CORPORATION PROPERTY

Employee acknowledges and agrees that while employed by the Corporation the Employee may be provided with use of computer equipment and other property of the Corporation. The use and possession of the such items shall be subject to any policies, requirements or restrictions established by the Corporation. Such items may only be used in performance of the Employee's duties for the corporation. On request of the Corporation, the Employee shall immediately deliver any such items to the Corporation. Upon termination of employment, Employee shall have the affirmative duty to return any such item to the Corporation whether a request is made or not. The obligation to return Corporation property shall extend and include any and all work product, client property, proprietary rights, intangible property, and all other property of the corporation regardless of the form or medium.

6. COMPENSATION

The Corporation shall pay the Employee such hourly compensation as determined by the Corporation. Payment shall be at the same time as the Corporations usual payroll to other employees.

7. BONUS & BENEFITS

Payment of any bonuses shall be at the complete discretion of the Corporation. No guarantee or representation that any bonuses will be paid has been made to the Employee.

Standard benefits that are provided to other non-management employees shall be offered to the Employee, subject to the Corporation's policies and the terms and conditions of such benefits.

8. WITHHOLDING

All sums payable to Employee under this Agreement will be reduced by all federal, state, local, and other withholdings and similar taxes and payments required by applicable law.

9. QUALIFICATIONS OF EMPLOYEE

The employee shall satisfy all of the qualification that are established by the Corporation.

10. TERM OF AGREEMENT

There shall be no guaranteed term of employment. Employee acknowledges and agrees that Employee shall be an "At Will" Employee and that Employee's employment may be terminated at any time by the Corporation, with or without cause.

11. FEES FROM EMPLOYEE'S WORK

The Corporation shall have exclusive authority to determine the fees, or a procedure for establishing the fees, to be charged to clients by the Corporation for services that are provided by the Employee. All sums paid to the Employee or the Corporation in the way of fees, in cash or in

kind, or otherwise for services of the Employee, shall, except as otherwise specifically agreed by the Corporation, be and remain the property of the Corporation and shall be included in the Corporation's name in such checking account or accounts as the Corporation may from time to time designate.

CLIENTS AND CLIENT RECORDS

The Corporation shall have the authority to determine who will be accepted as clients of the Corporation, and the Employee recognizes that such clients accepted are clients of the Corporation and not the Employee. All client records and files of any type concerning clients of the Corporation shall belong to and remain the property of the Corporation, notwithstanding the subsequent termination of the employment.

12. POLICIES AND PROCEDURES

The Corporation shall have the authority to establish from time to time the policies and procedures to be followed by the Employee in performing services for the Corporation. This may include, but is not necessarily limited to, employment policies, computer use policies, Internet access policies, email policies, and all other policies, procedures, directives, and mandates established by the Corporation, whether or not in written form or formally adopted. Employee shall abide by the provisions of any contract entered into by the Corporation under which the Employee provides services. Employee shall comply with the terms and conditions of any and all contracts entered by the Corporation.

13. TERMINATION

Employee acknowledges and agrees that Employee is an “at will” employee of the Corporation. As such, no term of employment is created hereby and employee may be terminated at any time in the sole discretion of the Corporation, whether there exists any cause for termination or not.

14. CREATIONS AND INVENTIONS

Employee acknowledges and agrees that any and all work product of the Employee that is conceived or created during the Employee's employment with the Corporation is the exclusive property of the Corporation. This shall include any and all copyrights, trade secrets, confidential information, patents, trademarks, trade dress, ideas, concepts, plans, business plans, business concepts, techniques, inventions, drawings, artwork, logos, graphics, web pages, databases, software, programs, CGI's, plug ins, applications, brochures, inventions, marketing plans and concepts, and all other ideas and work product of the Employee. The Employee acknowledges and agrees that all creations shall be "works made for hire" as defined in the [ACT OR CODE]. Notwithstanding the fact that this material may be considered to be a work made for hire, Employee agrees, during Employee's employment and thereafter, which covenant shall survive any termination of the employment relationship, to execute any and all documents requested by the Corporation to confirm the Corporation's ownership and control of all such material, including but not limited to assignments of copyright, confirmations of work for hire status, waivers of proprietary rights, copyright application, and any other documents requested by Corporation.

15. RESTRICTIVE COVENANTS

The Employee acknowledges that the Corporation, through its employment of the Employee, has provided the Employee with confidential information, business and professional contacts, training and experience, and the ability to service and otherwise have access to the Corporation's clients. The Employee further acknowledges that such confidential information, business and professional contacts, training and experience, and the ability to service and otherwise have access to the Corporation's clients are the result of his employment by the Corporation. In consideration of the foregoing and of the benefits generally provided to the Employee by the Corporation pursuant to the terms of this Agreement and otherwise, the Employee agrees to abide and be bound by the restrictions and prohibitions of this Article, which restrictions are intended by the parties to extend to any and all activities of the Employee, whether as an independent contractor, partner or joint venturer, or as an officer, director, stockholder, agent, employee or salesman for any person, firm, partnership, corporation or other entity, or otherwise.

16. HIRING

The Employee agrees that during the Employee's employment with the Corporation and for a period of [NUMBER] years following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not attempt to hire any other employee or independent contractor of the Corporation or otherwise encourage or

attempt to encourage any other employee or independent contractor of the Corporation to leave the Corporation's employ.

17. CONFIDENTIALITY; DISCLOSURE; PROPRIETARY INFORMATION

Employee recognizes and acknowledges that all records with respect to clients, business associates, customer or referral lists, contracting parties and referral sources of the Corporation, and all personal, financial and business and proprietary information of the Corporation, its employees, officers, directors and shareholders obtained by the Employee during the term of this Agreement and not generally known in the public (the "Confidential Information") are valuable, special and unique and proprietary assets of the Corporation's business. The Employee hereby agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not at any time, directly or indirectly, disclose any Confidential Information, in full or in part, in written or other form, to any person, firm, corporation, association or other entity, or utilize the same for any reason or purpose whatsoever other than for the benefit of and pursuant to authorization granted by the Corporation.

18. SOLICITATION

The Employee further agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not, in any manner or at any time, solicit or encourage any person, firm, corporation or other business entity who are clients, business associates or referral sources of the Corporation to cease doing business with the Corporation or to do business with the Employee.

19. NON-COMPETITION WITH CORPORATION CLIENTS

Employee agrees that during the term of the Employee's employment with the Corporation and for a period of [NUMBER] years following the cessation of the relationship with the Corporation, the Employee shall not provide any service to or lend any aid or device to any of the clients of the Corporation.

20. COVENANTS INDEPENDENT

Each restrictive covenant on the part of the Employee set forth in this Agreement shall be construed as a covenant independent of any other covenant or provisions of this Agreement or any other agreement which the Corporation and the Employee may have, fully performed and not executory, and the existence of any claim or cause of action by the Employee against the Corporation whether predicated upon another covenant or provision of this Agreement or otherwise, shall not constitute a defense to the enforcement by the Corporation of any other covenant.

21. PROPRIETARY CREATIONS

All processes, inventions, patents, copyrights, trademarks, and other intangible rights (collectively the "Inventions") that may be conceived or developed by Employee, either alone or with others, during the term of Employee's employment, whether or not conceived or developed during Employee's working hours, and with respect to which the equipment, supplies, facilities, or trade secret information of Company was used, or that relate at the time of conception or reduction to practice of the Invention to the business of the Corporation or to Corporation's actual or demonstrably anticipated research and development, or that result from any work performed by Employee for Corporation, will be the sole property of Corporation, and shall be considered "works for hire", and Employee hereby assigns to the Corporation all of Employee's right, title and interest in and to such Inventions. Employee must disclose to Corporation all inventions conceived during the term of employment, whether or not the invention constitutes property of Corporation under the terms of the preceding sentence, but such disclosure will be received by Corporation in confidence. Employee must execute all documents, including patent applications and assignments, required by Corporation to establish Corporation's rights under this Section.

22. DIVISIBILITY OF COVENANT AREAS AND PERIODS

If any portion of the restrictive covenants contained herein is held to be unreasonable, arbitrary or against public policy, each covenant shall be considered divisible both as to time and geographical

area; and each [NUMBER] month of the specified period shall be deemed to be a separate period of time and each [NUMBER] mile radius segment of the geographical area shall be deemed to be a separate geographical area, so that the maximum lesser time and geographical area shall remain effective so long as the same is not unreasonable, arbitrary or against public policy.

23. INJUNCTIVE AND EQUITABLE RELIEF

Employee and Corporation recognize and expressly agree that the extent of damages to Corporation in the event of a breach by Employee of any restrictive covenant set forth herein would be impossible to ascertain, that the irreparable harm arising out of any breach shall be irrefutably presumed, and that the remedy at law for any breach will be inadequate to compensate the Corporation. Consequently, the Employee agrees that in the event of a breach of any such covenant, in addition to any other relief to which Corporation may be entitled, Corporation shall be entitled to enforce the covenant by injunctive or other equitable relief ordered by a court of competent jurisdiction.

24. VENUE; COURT PROCEEDINGS

The Employee and the Corporation hereby agree that the venue of any action, proceeding, counterclaim, cross claim, or other litigation relating to, involving, or resulting from the enforcement of this covenant shall be in [STATE/PROVINCE]. In any action or proceeding by Employee relating to or involving the enforcement of the covenant, and any counterclaim, cross claim or other litigation which may be asserted or brought against Corporation, the Employee hereby expressly waives any and all right to a trial by jury with respect to the action, proceeding or other litigation resulting from or involving the enforcement of this covenant. Further, in any action or proceeding by Corporation to obtain a temporary restraining order and/or preliminary injunction, Employee hereby agrees that the Corporation shall not be required to post an injunction bond in excess of the principal sum of [AMOUNT] in order to obtain a temporary restraining order and/or preliminary injunction. Should the Corporation's action for a temporary restraining order

and/or motion for preliminary injunction be granted in whole or in part and should Corporation be ultimately unsuccessful in obtaining a permanent injunction to enforce the covenant, Employee hereby waives any and all rights Employee may have against Corporation for any injuries or damages, including consequential damages, sustained by the Employee and arising directly or indirectly from the issuance of the temporary restraining order and/or preliminary injunction.

25. INDEMNIFICATION

The Employee hereby agrees to indemnify and hold the Corporation and its officers, directors, shareholders and employees harmless from and against any loss, claim, damage or expense, and/or all costs of prosecution or defense of their rights hereunder, whether in judicial proceedings, including appellate proceedings, or whether out of court, including without limiting the generality of the foregoing, attorneys' fees, and all costs and expenses of litigation, arising from or growing out of the Employee's breach or threatened breach of any covenant contained herein.

26. ACKNOWLEDGMENT

The Employee acknowledges that when this Agreement is concluded, the Employee will be able to earn a living without violating the foregoing restrictions and that the Employee's recognition and representation of this fact is a material inducement to the execution of this Agreement and to Employee's continued relationship with the Corporation.

27. SURVIVAL OF COVENANTS

All restrictive covenants contained in this Agreement shall survive the termination of this Agreement.

28. LIMITATIONS ON AUTHORITY

Without the express written consent from the Corporation, the Employee shall have no apparent or implied authority to: (i) Pledge the credit of the Corporation or any of its other employees; (ii) Bind the Corporation under any contract, agreement, note, mortgage or otherwise; (iii) Release or

discharge any debt due the Corporation unless the Corporation has received the full amount thereof; or (iv) sell, mortgage, transfer or otherwise dispose of any assets of the Corporation.

29. REPRESENTATION AND WARRANTY OF EMPLOYEE

The Employee acknowledges and understands that the Corporation has extended employment opportunities to Employee based upon Employee's representation and warranty that Employee is in good health and able to perform the work contemplated by this Agreement for the term hereof.

30. LEAVE OF ABSENCE

Leave of absence for required full-time military service or any other purpose authorized by the Corporation shall not result in termination of employment, and the Employee shall retain the privilege of recommencing employment upon the Employee's return from military service or other authorized leave of absence as long as the Employee is otherwise qualified to perform the services required hereunder.

31. INVALID PROVISION; SEVERABILITY

The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

32. MODIFICATION

No change or modification of this Agreement shall be valid unless the same be in writing and signed by the parties hereto.

33. APPLICABLE LAW AND BINDING EFFECT; NO WAIVER

This Agreement shall be construed and regulated under and by the laws of the State of [STATE/PROVINCE] and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns; but may not be assigned except as otherwise provided elsewhere herein.

34. ENTIRE AGREEMENT

This Agreement contains the entire agreement and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Agreement may be

changed only by an agreement in writing signed by the party against whom any waiver, change, amendment, modification, or discharge is sought.

35. NOTICES

Any and all notices or other communication provided for herein, shall be given by registered or certified mail, return receipt requested, in case of the Corporation to its principal office, and in the case of the Employee to the Employee's residence address set forth on the first page of this Agreement or to such other address as may be designated by the Employee.

36. ATTORNEYS' FEES

In the event that either party is required to engage the services of legal counsel to enforce the terms and conditions of this Agreement against the other party, regardless of whether such action results in litigation, the prevailing party shall be entitled to reasonable attorneys' fees, costs of legal assistants, and other costs from the other party, which shall include any fees or costs incurred at trial or in any appellate proceeding, and expenses and other costs, including any accounting expenses incurred.

IN WITNESS HEREOF, each party to this Agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated below.

EMPLOYEE

CORPORATION

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

**EMPLOYMENT AGREEMENT
FOR AN EXECUTIVE**

This Employment Agreement for an Executive (the "Agreement") is made and effective this [DATE],

BETWEEN: [EXECUTIVE NAME] (the "Executive"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), an entity organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of the covenants and agreements herein contained and the moneys to be paid hereunder, the Company hereby employs the Executive and the Executive hereby agrees to perform services as an Executive of the Company, upon the following terms and conditions:

1. TERM

The Company hereby employs Executive to serve as [position] and to serve in such additional or different position or positions as the Company may determine in its sole discretion. The term of employment shall be for a period of [NUMBER] years ("Employment Period") to commence on [DATE], unless earlier terminated as set forth herein.

The effective date of this Agreement shall be the date first set forth above, and it shall continue in effect until the earlier of:

- A. The effective date of any subsequent employment agreement between the Company and the Executive;
- B. The effective date of any termination of employment as provided elsewhere herein; or

C. [NUMBER] year(s) from the effective date hereof, provided, that this Employment Agreement shall automatically renew for successive periods of [NUMBER] years each unless either party gives written notice to other that it does not wish to automatically renew this Agreement, which written notice must be received by the other party no less than [NUMBER] days and no more than [NUMBER] days prior to the expiration of the applicable term.

2. DUTIES AND RESPONSIBILITIES

Executive will be reporting to [IDENTIFY]. Within the limitations established by the By-laws of the Company, the Executive shall have each and all of the duties and responsibilities of that position and such other or different duties on behalf of the Company, as may be assigned from time to time by [IDENTIFY WHAT PERSON OR BODY MAY ASSIGN ADDITIONAL RESPONSIBILITIES].

LOCATION

The initial principal location at which Executive shall perform services for the Company shall be [LOCATION].

3. ACCEPTANCE OF EMPLOYMENT

Executive accepts employment with the Company upon the terms set forth above and agrees to devote all Executive's time, energy and ability to the interests of the Company, and to perform Executive's duties in an efficient, trustworthy and business-like manner.

4. DEVOTION OF TIME TO EMPLOYMENT

The Executive shall devote the Executive's best efforts and substantially all of the Executive's working time to performing the duties on behalf of the Company. The Executive shall provide services during the normal business hours of the Company as determined by the Company. Reasonable amounts of time may be allotted to personal or outside business, charitable and professional activities and shall not constitute a violation of this Agreement provided such activities do not materially interfere with the services required to be rendered hereunder.

5. QUALIFICATIONS

The Executive shall, as a condition of this Agreement, satisfy all of the qualification that are reasonably and in good faith established by the Board of Directors.

6. COMPENSATION

7.1 Base Salary

Executive shall be paid a base salary (“Base Salary”) at the annual rate of [SALARY], payable in bi-weekly installments consistent with Company’s payroll practices. The annual Base Salary shall be reviewed on or before [DATE] of each year, unless Executive’s employment hereunder shall have been terminated earlier pursuant to this Agreement, starting on [agreed upon date] by the Board of Directors of the Company to determine if such Base Salary should be increased for the following year in recognition of services to the Company. In consideration of the services under this Agreement, Executive shall be paid the aggregate of basic compensation, bonus and benefits as hereinafter set forth.

7.2 Payment

Payment of all compensation to Executive hereunder shall be made in accordance with the relevant Company policies in effect from time to time, including normal payroll practices.

7.3 Bonus

From time to time, the Company may pay to Executive a bonus out of net revenues of the Company.

Payment of any bonus compensation shall be at the sole discretion of the Board of Directors or the Executive committee of the Board of Directors and the Executive shall have no entitlement to such amount absent a decision by the Company as aforesaid to make such bonus compensation. Executive shall also be entitled to a bonus determined as follows:

[DESCRIBE]

7.4 Benefits

The Company shall provide Executive with such benefits as are provided to other senior management Of the Company. Benefits shall include at a minimum (i) paid vacation of [NUMBER]

days per year, at such times as approved by the Board of Directors, (ii) health insurance coverage

under the same terms as offered to other Executives of the Company, (iii) retirement and profit sharing programs as offered to other Executives of the Company, (iv) paid holidays as per the Company's policies, and (v) such other benefits and prerequisites as are approved by the Board of

Directors. The Company has the right to modify conditions of participation, terminate any benefit, or

change insurance plans and other providers of such benefits in its sole discretion. The Executive

shall be reimbursed for out of pocket expenses that are pre-approved by the Company, subject to the

Company's policies and procedures therefore, and only for such items that are a necessary and integral part of the Executive's job functions.

7.5 Non-Deductible Compensation

In the event a deduction shall be disallowed by the Internal Revenue Service or a court of competent

jurisdiction for federal income tax purposes for all or any part of the payment made to Executive by the Company or any other shareholder or Executive of the Company, shall be required by the Internal Revenue Service to pay a deficiency on account of such disallowance, then Executive shall repay to the Company or such other individual required to make such payment, an amount equal to the tax imposed on the disallowed portion of such payment, plus any and all interest and penalties paid with respect thereto. The Company or other party required to make payment shall not be required to defend any proposed disallowance or other action by the Internal Revenue Service or any other state, federal, or local taxing authorities.

7.6 Withholding

All sums payable to Executive under this Agreement will be reduced by all federal, state, local, and other withholdings and similar taxes and payments required by applicable law.

7. OTHER EMPLOYMENT BENEFITS

8.1 Business Expenses

Upon submission of itemized expense statements in the manner specified by the Company, Executive shall be entitled to reimbursement for reasonable travel and other reasonable business expenses duly incurred by Executive in the performance of his duties under this Agreement.

8.2 Benefit Plans

Executive shall be entitled to participate in the Company's medical and dental plans, life and disability insurance plans and retirement plans pursuant to their terms and conditions. Executive shall be entitled to participate in any other benefit plan offered by the Company to its Executives during the term of this Agreement (other than stock option or stock incentive plans, which are governed by Section 3(d) below). Nothing in this Agreement shall preclude the Company or any affiliate of the Company from terminating or amending any Executive benefit plan or program from time to time.

8.3 Vacation

Executive shall be entitled to [agreed upon number of time] weeks of vacation each year of full employment, exclusive of legal holidays, as long as the scheduling of Executive's vacation does not interfere with the Company's normal business operations.

8.4 Stock Options

Executive shall be entitled to options to acquire shares of the Common Stock of the Company pursuant to the terms of the Company's existing Stock Option Plan dated [DATE], subject to the following terms:

The options will vest only as follows:

Event

Vesting Amount

If Executive is still an Executive of the Company on [DATE]

Options to acquire [NUMBER] shares of Common Stock

If Executive is still an Executive of the Company on [DATE]

Options to acquire [NUMBER] shares of Common Stock

If Executive is still an Executive of the Company on [DATE]

Options to acquire [NUMBER] shares of Common Stock

If Executive is still an Executive of the Company on [DATE]

Options to acquire [NUMBER] shares of Common Stock

If Executive is still an Executive of the Company on [DATE]

Options to acquire [NUMBER] shares of Common Stock

The exercise price for the options shall be at [PRICE] per share, as appropriately adjusted for stock splits, stock dividends, and the like.

The vested options shall be exercisable until the earlier of [NUMBER] years after vesting or [NUMBER] days after termination of Executive’s employment with the Company. No additional vesting of options shall occur after Executive’s death, disability, or cessation of employment with the Company for any reason or no reason.

Issuance of the options shall be in accordance with all applicable securities laws and the other terms and conditions of the Company's Stock Option Plan and form of the Stock Option Agreement.

8. PROFESSIONAL FEES

The Company shall have exclusive authority to determine the fees, or a procedure for establishing the fees, to be charged by the Company. All sums paid to the Executive or the Company in the way of fees or otherwise for services of the Executive, shall, except as otherwise specifically agreed by the Company, be and remain the property of the Company and shall be included in the Company's name in such checking account or accounts as the Company may from time to time designate.

9. CLIENTS AND CLIENT RECORDS

The Company shall have the authority to determine who will be accepted as clients of the Company, and the Executive recognizes that such clients accepted are clients of the Company and not the Executive. The Company shall have the authority to designate, or to establish a procedure for designating which professional Executive of the Company will handle each such client. All client records and files of any type concerning clients of the Company shall belong to and remain the property of the Company, notwithstanding the subsequent termination of this Agreement.

10. POLICIES AND PROCEDURES

The Company shall have the authority to establish from time to time the policies and procedures to be followed by the Executive in performing services for the Company. Executive shall abide by the provisions of any contract entered into by the Company under which the Executive provides

services. Executive shall comply with the terms and conditions of any and all contracts entered by the Company.

11. TERMINATION OF EMPLOYMENT

12.1 For Cause

Notwithstanding anything herein to the contrary, the Company may terminate Executive's employment hereunder for cause for any one of the following reasons: 1) conviction of a felony, any act involving moral turpitude, or a misdemeanor where imprisonment is imposed, 2) commission of any act of theft, fraud, dishonesty, or falsification of any employment or Company records, 3) improper disclosure of the Company's confidential or proprietary information, 4) any action by the Executive which has a detrimental effect on the Company's reputation or business, 5) Executive's failure or inability to perform any reasonable assigned duties after written notice from the Company of, and a reasonable opportunity to cure, such failure or inability, 6) any breach of this Agreement, which breach is not cured within [NUMBER] days following written notice of such breach, 7) a course of conduct amounting to gross incompetence, 8) chronic and unexcused absenteeism, 9) unlawful appropriation of a corporate opportunity, or 10) misconduct in connection with the performance of any of Executive's duties, including, without limitation, misappropriation of funds or property of the Company, securing or attempting to secure personally any profit in connection with any transaction entered into on behalf of the Company, misrepresentation to the Company, or any violation of law or regulations on Company premises or to which the Company is subject. Upon termination of Executive's employment with the Company for cause, the Company shall be under no further obligation to Executive, except to pay all accrued but unpaid base salary and accrued vacation to the date of termination thereof.

12.2 Without Cause

The Company may terminate Executive's employment hereunder at any time without cause, provided, however, that Executive shall be entitled to severance pay in the amount of [NUMBER] weeks of Base Salary in addition to accrued but unpaid Base Salary and accrued

vacation, less deductions required by law, but if, and only if, Executive executes a valid and comprehensive release of any and all claims that the Executive may have against the Company in a form provided by the Company and Executive executes such form within [NUMBER] days of tender.

12.3 Resignation

Upon termination of employment, Executive shall be deemed to have resigned from the Board of Directors of the Company if [HE][SHE] is a director.

12.4 Cooperation

After notice of termination, Executive shall cooperate with the Company, as reasonably requested by the Company, to effect a transition of Executive's responsibilities and to ensure that the Company is aware of all matters being handled by Executive.

12.5 Compensation After Notice of Termination

After notice of termination has been given by either Company or Executive, as provided in this Article, Executive shall be entitled to receive the compensation provided for in this Agreement until the notice period has expired. It is understood that after the written notice is given by either Company or Executive, Executive shall continue to devote substantially all of the Executive's time to the Executive's normal services for the Company during the notice period, with sufficient time allowed, in the sole discretion of the Company, for Executive to seek new employment.

12. DISABILITY OF EXECUTIVE

The Company may terminate this Agreement without liability if Executive shall be permanently prevented from properly performing his essential duties hereunder with reasonable accommodation by reason of illness or other physical or mental incapacity for a period of more than [NUMBER] consecutive days. Upon such termination, Executive shall be entitled to all accrued but unpaid Base Salary and vacation.

13.1 Definitions

For purposes of this Agreement, whenever used in this Article 14:

"Total disability" shall mean that the Executive is unable, mentally or physically, whether it be due to sickness, accident, age or other infirmity, to engage in any aspect of the Executive's normal duties as set forth in this Agreement.

"Partial disability" shall mean that the Executive is able to perform, to some extent, on behalf of the Company, the particular services in which the Company specializes, and which the Executive previously performed for the Company, but that the Executive is unable, mentally or physically, to devote the same amount of time to such services as was devoted prior to the occurrence of such sickness or accident.

"Normal monthly salary" shall mean the salary which the Executive is being paid by the Company per month as of the commencement date of the period of disability, as specified hereinabove or as determined by the Board of Directors pursuant to the terms hereof.

13.2 Total Disability

During a single period of total disability of the Executive, the Executive shall be entitled to receive from the Company, the Executive's normal monthly salary for the shorter of first three (3) months of disability or until any disability insurance policy available through the Executive's employment begins to pay benefits. If the single period of disability should continue beyond three (3) months, the Executive shall receive only such amount as the Executive shall be entitled to receive under disability insurance coverage on the Executive, if any.

13.3 Partial Disability

During a period of partial disability of the Executive, the Executive shall receive an amount of compensation computed as follows:

That portion of the Executive's normal monthly basic compensation which bears the same ratio to the Executive's normal monthly basic compensation as the amount of time which the Executive is able to devote to the usual performance of services on behalf of the Company during such period bears to the total time the Executive devoted to performing such services prior to the commencement date of the single period of disability, and

Such amount shall be calculated by multiplying the Executive's basic compensation by a fraction, the numerator of which shall be the percentage of normal services that the Executive is able to perform and the denominator which shall be the total services that the Executive is able to perform absent the partial disability.

13.4 Combination of Total and Partial Disability

If a single period of disability of the Executive consists of a combination of total disability and partial disability, the maximum total disability compensation to which the Executive shall be entitled from the Company under this disability provision shall not exceed an amount equal to one (1) times the Executive's normal monthly basic compensation.

13.5 Broken Periods of Disability

A period of disability may be continuous or broken. If broken into partial periods of disability which are separated by intervening periods of work, there shall be aggregated together all of such successive partial periods of disability except any period prior to the time when any single period of work extends for [NUMBER] months or longer; and such aggregated periods of disability shall be treated as a single period in determining the amount of disability compensation to which an Executive shall be entitled under any provision of this Section.

13.6 Termination Due to Disability

If and when the period of total or partial disability of the Executive totals [NUMBER] months, the Executive's employment with the Company shall automatically terminate. Notwithstanding the foregoing, if the disabled Executive and the Company agree, the disabled

Executive may thereafter be employed by the Company upon such terms as may be mutually agreeable.

13.7 Commencement Date of Disability

The commencement date of a period of disability, whether it be a continuous period or the aggregate of successive partial periods, shall be the first day on which the Executive is disabled.

13.8 Dispute Regarding Existence of Disability

Any dispute regarding the existence, extent or continuance of the disability shall be resolved by the determination of a majority of three (3) competent physicians, one (1) of whom shall be selected by the Company, one (1) of whom shall be selected by the Executive and the third (3rd) of whom shall be selected by the other two (2) physicians so selected.

13.9 Death of Executive

In the event the Executive shall die during the term hereof, the Company shall pay to the Executive's surviving spouse, or if the Executive shall leave no surviving spouse, then to the Executive's estate, only such amounts as may have been earned by the Executive prior to the Executive's date of death, but which were unpaid at date of death.

13. CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENTS

Executive recognizes and acknowledges that all records with respect to clients, business associates, customer or referral lists, contracting parties and referral sources of the Company, and all personal, financial and business and proprietary information of the Company, its Executives, officers, directors and shareholders obtained by the Executive during the term of this Agreement and not generally known in the public (the "Confidential Information") are valuable, special and unique and proprietary assets of the Company's business. The Executive hereby agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, or whether the termination is solely

due to the expiration of the term of this Agreement, the Executive will not at any time, directly or indirectly, disclose any Confidential Information, in full or in part, in written or other form, to any person, firm, Company, association or other entity, or utilize the same for any reason or purpose whatsoever other than for the benefit of and pursuant to authorization granted by the Company. "Confidential Information" shall also include any information (including, but not limited to, technical or non-technical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers) that: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. In the case of Company's business, Company's Trade Secrets include (without limitation) information regarding names and addresses of any customers, sales personnel, account invoices, training and educational manuals, administrative manuals, prospective customer leads, in whatever form, whether or not computer or electronically accessible "on-line."

14. EXCLUSIVE EMPLOYMENT

During employment with the Company, Executive will not do anything to compete with the Company's present or contemplated business, nor will he or she plan or organize any competitive business activity. Executive will not enter into any agreement which conflicts with his duties or obligations to the Company. Executive will not during his employment or within [NUMBER] year after it ends, without the Company's express written consent, directly or indirectly, solicit or encourage any Executive, agent, independent contractor, supplier, customer, consultant or any other person or company to terminate or alter a relationship with the Company.

15. HIRING

The Executive agrees that during the Executive's employment with the Company and for a period of [NUMBER] years following the termination of this Agreement, whether the termination shall

be voluntary or involuntary, or with or without cause, or whether the termination is solely due to the expiration of the term of this Agreement, the Executive will not attempt to hire any other Executive or independent contractor of the Company or otherwise encourage or attempt to encourage any other Executive or independent contractor of the Company to leave the Company's employ.

16. ASSIGNMENT AND TRANSFER

Executive's rights and obligations under this Agreement shall not be transferable by assignment or otherwise, and any purported assignment, transfer or delegation thereof shall be void. This Agreement shall inure to the benefit of, and be binding upon and enforceable by, any purchaser of substantially all of Company's assets, any corporate successor to Company or any assignee thereof.

17. NO INCONSISTENT OBLIGATIONS

Executive is aware of no obligations, legal or otherwise, inconsistent with the terms of this Agreement or with his undertaking employment with the Company. Executive will not disclose to the Company, or use, or induce the Company to use, any proprietary information or trade secrets of others. Executive represents and warrants that he or she has returned all property and confidential information belonging to all prior employers.

18. ATTORNEYS' FEES

The parties hereto agree that, in the event of breach or threatened breach of any covenants of Executive, the damage or imminent damage to the value and the goodwill of the Company's business shall be inestimable, and that therefore any remedy at law or in damages shall be inadequate. Accordingly, the parties hereto agree that the Company shall be entitled to injunctive relief against Executive in the event of any breach or threatened breach of any of such provisions by Executive, in addition to any other relief (including damages) available to the Company under this Agreement or under law. The prevailing party in any action instituted pursuant to this

Agreement shall be entitled to recover from the other party its reasonable attorneys' fees and other expenses incurred in such action.

In the event that either party is required to engage the services of legal counsel to enforce the terms and conditions of this Agreement against the other party, regardless of whether such action results in litigation, the prevailing party shall be entitled to reasonable attorneys' fees, costs of legal assistants, and other costs from the other party, which shall include any fees or costs incurred at trial or in any appellate proceeding, and expenses and other costs, including any accounting expenses incurred.

19. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE] without regard to conflict of law principles.

20. AMENDMENT

This Agreement may be amended only by a writing signed by Executive and by a duly authorized representative of the Company.

21. SEVERABILITY

If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

22. CONSTRUCTION

The headings and captions of this Agreement are provided for convenience only and are intended to have no effect in construing or interpreting this Agreement. The language in all parts of this Agreement shall be in all cases construed according to its fair meaning and not strictly for or against the Company or Executive.

23. RIGHTS CUMULATIVE

The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either party hereto (or by its successor), whether pursuant to this Agreement, to any other agreement, or to law, shall not preclude or waive its right to exercise any or all other rights and remedies.

24. NONWAIVER

No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged and, in the case of the Company, by an officer of the Company (other than Executive) or other person duly authorized by the Company.

25. NOTICES

Any and all notices or other communication provided for herein, shall be given by registered or certified mail, return receipt requested, in case of the Company to its principal office, and in the case of the Executive to the Executive's residence address set forth on the first page of this Agreement or to such other address as may be designated by the Executive.

26. ASSISTANCE IN LITIGATION

Executive shall, during and after termination of employment, upon reasonable notice, furnish such information and proper assistance to the Company as may reasonably be required by the Company in connection with any litigation in which it or any of its subsidiaries or affiliates is, or may become a party; provided, however, that such assistance following termination shall be furnished at mutually agreeable times and for mutually agreeable compensation.

Arbitration

Any controversy, claim or dispute arising out of or relating to this Agreement or the employment relationship, either during the existence of the employment relationship or afterwards, between the parties hereto, their assignees, their affiliates, their attorneys, or agents, shall be settled by arbitration in [CITY], [STATE]. Such arbitration shall be conducted in accordance with the then prevailing commercial arbitration rules of the [ASSOCIATION] (but the arbitration shall be in front of an arbitrator, with the following exceptions if in conflict: (a) one arbitrator shall be chosen by [NAME]; (b) each party to the arbitration will pay its pro rata share of the expenses and fees of the arbitrator(s), together with other expenses of the arbitration incurred or approved by the arbitrator(s); and (c) arbitration may proceed in the absence of any party if written notice of the proceedings has been given to such party. The parties agree to abide by all decisions and awards rendered in such proceedings. Such decisions and awards rendered by the arbitrator shall be final and conclusive and may be entered in any court having jurisdiction thereof as a basis of judgment and of the issuance of execution for its collection. All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity; provided however, that nothing in this subsection shall be construed as precluding the Company from bringing an action for injunctive relief or other equitable relief or relief under the Confidential Information and Invention

Assignment Agreement. The arbitrator shall not have the right to award punitive damages, consequential damages, lost profits or speculative damages to either party. The parties shall keep confidential the existence of the claim, controversy or disputes from third parties (other than the arbitrator), and the determination thereof, unless otherwise required by law or necessary for the business of the Company. The arbitrator(s) shall be required to follow applicable law.

IF FOR ANY REASON THIS ARBITRATION CLAUSE BECOMES NOT APPLICABLE, THEN EACH PARTY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER MATTER INVOLVING THE PARTIES HERETO.

27. SOLICITATION

The Executive further agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, or whether the termination is solely due to the expiration of the term of this Agreement, the Executive will not, in any manner or at any time, solicit or encourage any person, firm, Company or other business entity who are clients, business associates or referral sources of the Company to cease doing business with the Company or to do business with the Executive.

28. COVENANTS INDEPENDENT

Each restrictive covenant on the part of the Executive set forth in this Agreement shall be construed as a covenant independent of any other covenant or provisions of this Agreement or any other agreement which the Company and the Executive may have, fully performed and not executory, and the existence of any claim or cause of action by the Executive against the Company whether predicated upon another covenant or provision of this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of any other covenant.

29. INJUNCTIVE AND EQUITABLE RELIEF

Executive and Company recognize and expressly agree that the extent of

damages to Company in the event of a breach by Executive of any restrictive covenant set forth herein would be impossible to ascertain, that the irreparable harm arising out of any breach shall be irrefutably presumed, and that the remedy at law for any breach will be inadequate to compensate the Company. Consequently, the Executive agrees that in the event of a breach of any such covenant, in addition to any other relief to which Company may be entitled, Company shall be entitled to enforce the covenant by injunctive or other equitable relief ordered by a court of competent jurisdiction.

30. INDEMNIFICATION

The Executive hereby agrees to indemnify and hold the Company and its officers, directors, shareholders and Executives harmless from and against any loss, claim, damage or expense, and/or all costs of prosecution or defense of their rights hereunder, whether in judicial proceedings, including appellate proceedings, or whether out of court, including without limiting the generality of the foregoing, attorneys' fees, and all costs and expenses of litigation, arising from or growing out of the Executive's breach or threatened breach of any covenant contained herein.

31. ACKNOWLEDGMENT

The Executive acknowledges that when this Agreement is concluded, the Executive will be able to earn a living without violating the foregoing restrictions and that the Executive's recognition and representation of this fact is a material inducement to the execution of this Agreement and to Executive's continued relationship with the Company.

32. SURVIVAL OF COVENANTS

All restrictive covenants contained in this Agreement shall survive the termination of this Agreement.

33. LIMITATIONS ON AUTHORITY

Without the express written consent from the Company, the Executive shall have no apparent or implied authority to: (i) Pledge the credit of the Company or any of its other Executives; (ii) Bind the Company under any contract, agreement, note, mortgage or otherwise; (iii) Release or discharge any debt due the Company unless the Company has received the full amount thereof; or (iv) sell, mortgage, transfer or otherwise dispose of any assets of the Company.

34. REPRESENTATION AND WARRANTY OF EXECUTIVE

The Executive acknowledges and understands that the Company has extended employment opportunities to Executive based upon Executive's representation and warranty that Executive is in good health and able to perform the work contemplated by this Agreement for the term hereof.

35. INVALID PROVISION; SEVERABILITY

The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

36. MODIFICATION

No change or modification of this Agreement shall be valid unless the same be in writing and signed by the parties hereto.

37. ENTIRE AGREEMENT

This Agreement contains the entire agreement and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Agreement may be changed only by an agreement in writing signed by the party against whom any waiver, change, amendment, modification, or discharge is sought.

38. DISPUTES

Any controversy, claim or dispute arising out of or relating to this Agreement or the employment relationship, either during the existence of the employment relationship or afterwards, between the parties hereto, their assignees, their affiliates, their attorneys, or agents, shall be litigated solely in state or federal court in [CITY], [STATE]. Each party (1) submits to the jurisdiction of such court, (2) waives the defense of an inconvenient forum, (3) agrees that valid consent to service may be made by mailing or delivery of such service to the Secretary of State (the “Agent”) or to the party at the party’s last known address, if personal service delivery can not be easily effected, and (4) authorizes and directs the Agent to accept such service in the event that personal service delivery can not easily be effected.

EACH PARTY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER MATTER INVOLVING THE PARTIES HERETO.]

IN WITNESS HEREOF, each party to this Agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated below.

EXECUTIVE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

GENERAL EMPLOYMENT AGREEMENT

This General Employment Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [EMPLOYER NAME] (the "Employer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. Employer is engaged in the business of [DESCRIBE], and maintains a branch office at [ADDRESS], [CITY], [STATE/PROVINCE].
- B. Employee has been engaged and has had a great deal of experience in the above-designated business.
- C. Employee is willing to be employed by employer, and employer is willing to employ employee, on the terms, covenants, and conditions set forth in this Agreement.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

1. EMPLOYMENT

- A. Employer employs, engages, and hires employee as a [DESIGNATE POSITION] to [DESIGNATE DUTIES], and employee accepts and agrees to such hiring, engagement, and employment, subject to the general supervision and pursuant to the orders, advice, and direction of employer.
- B. Employee shall perform such other duties as are customarily performed by one holding such position in other, same, or similar businesses or enterprises as that engaged in by employer, and shall also additionally render such other and unrelated services and duties as may be assigned to [HIM OR HER] from time to time by employer.

2. BEST EFFORTS OF EMPLOYEE

Employee agrees that [HE OR SHE] will at all times faithfully, industriously, and to the best of [HIS OR HER] ability, experience, and talents, perform all of the duties that may be required of and from [HIM OR HER] pursuant to the express and implicit terms of this Agreement, to the reasonable satisfaction of employer. Such duties shall be rendered at [ADDRESS], [CITY], [STATE/PROVINCE], and at such other place or places as employer shall in good faith require or as the interest, needs, business, or opportunity of employer shall require.

3. TERM OF EMPLOYMENT

The term of this Agreement shall be a period of [NUMBER] years, commencing [DATE], and terminating [DATE], subject, however, to prior termination as provided in this Agreement. At the expiration date of [DATE], this Agreement shall be considered renewed for regular periods of one year, provided neither party submits a notice of termination.

4. COMPENSATION OF EMPLOYEE

Employer shall pay employee, and employee shall accept from employer, in full payment for employee's services under this Agreement, compensation at the rate of [SALARY] per

[MONTH/YEAR], payable twice a month on the [NUMBER] and [NUMBER] days of each month while this Agreement shall be in force.

Employer shall reimburse employee for all necessary expenses incurred by employee while traveling pursuant to employer's directions.

5. TERMINATION DUE TO DISCONTINUANCE OF BUSINESS

In spite of anything contained in this Agreement to the contrary, in the event that employer shall discontinue operating its business at [ADDRESS], [CITY], [STATE/PROVINCE], then this Agreement shall terminate as of the last day of the month in which employer ceases operations at such location with the same force and effect as if such last day of the month were originally set as the termination date of this Agreement.

6. OTHER EMPLOYMENT

Employee shall devote all of [HIS OR HER] time, attention, knowledge, and skills solely to the business and interest of employer, and employer shall be entitled to all of the benefits, profits, or other issues arising from or incident to all work, services, and advice of employee, and employee shall not, during the term of this Agreement, be interested directly or indirectly, in any manner, as partner, officer, director, shareholder, advisor, employee, or in any other capacity in any other business similar to employer's business or any allied trade; provided, however, that nothing contained in this section shall be deemed to prevent or to limit the right of employee to invest any of [HIS OR HER] money in the capital stock or other securities of any corporation whose stock or securities are publicly owned or are regularly traded on any public exchange, nor shall anything contained in this section be deemed to prevent employee from investing or limit employee's right to invest [HIS OR HER] money in real estate.

7. TRADE SECRETS

Employee shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm, corporation, or other entity in any manner whatsoever any information concerning any matters affecting or relating to the business of employer, including but not limited to any of its customers, the prices it obtains or has obtained from the sale of, or at which it sells or has sold, its products, or any other information concerning the business of employer, its manner of operation, its plans, processes, or other data without regard to whether all of the above-stated matters will be deemed confidential, material, or important, employer and employee specifically and expressly stipulating that as between them, such matters are important, material, and confidential and gravely affect the effective and successful conduct of the business of employer, and employer's good will, and that any breach of the terms of this section shall be a material breach of this Agreement.

8. TRADE SECRETS AFTER TERMINATION OF EMPLOYMENT

All of the terms of Section Eight of this Agreement shall remain in full force and effect for the period of [NUMBER] years after the termination of employee's employment for any reason, and during such [NUMBER]-year period, employee shall not make or permit the making of any public announcement or statement of any kind that [HE OR SHE] was formerly employed by or connected with employer.

9. REIMBURSEMENT OF EXPENSES

The Employee may incur reasonable expenses for furthering the Company's business, including expenses for entertainment, travel, and similar items. The Company shall reimburse Employee for all business expenses after the Employee presents an itemized account of expenditures, pursuant to Company policy.

10. RECOMMENDATIONS FOR IMPROVING OPERATIONS

Employee shall make available to employer all information of which employee shall have any knowledge and shall make all suggestions and recommendations that will be of mutual benefit to employer and employee.

11. ADDITIONAL COMPENSATION

Employee shall not be entitled to any additional compensation by reason of any service that [HE OR SHE] may perform as the member of any managing committee of employer, or in the event that [HE OR SHE] shall at any time be elected an officer or director of employer.

12. EMPLOYEE'S INABILITY TO CONTRACT FOR EMPLOYER

In spite of anything contained in this Agreement to the contrary, employee shall not have the right to make any contracts or commitments for or on behalf of employer without first obtaining the express written consent of employer.

13. AGREEMENTS OUTSIDE OF CONTRACT

This Agreement contains the complete Agreement concerning the employment arrangement between the parties and shall, as of the effective date of this Agreement, supersede all other Agreements between the parties. The parties stipulate that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery of this Agreement except such representations as are specifically set forth in this Agreement, and each of the parties acknowledges that [HE OR SHE OR IT] has relied on its own judgment in entering into this Agreement. The parties further acknowledge that any payments or representations that may have been made by either of them to the other prior to the date of executing this Agreement are of no effect and that neither of them has relied on such payments or representations in connection with [HIS OR HER OR ITS] dealings with the other.

14. VACATION

Employee shall be entitled to [NUMBER] days of paid vacation each year during the term of this Agreement, the time for such vacation to be determined by mutual Agreement between employer and employee.

15. MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

16. FIDELITY BOND

Employee will immediately make application for a fidelity or a surety bond, to any company designated by employer, in such amount as may be specified by employer. Employer shall pay the premium on such bond, and such bond shall continue in force in such amounts as employer may from time to time require and in the event such bond is refused, or is ever canceled, except with the approval of employer, employee's employment may be terminated immediately and employee shall be entitled to compensation to the date of such termination only.

17. TERMINATION

- A. This Agreement may be terminated by either party on [NUMBER] days' written notice to the other. If employer shall so terminate this Agreement, employee shall be entitled to compensation for [NUMBER] days.
- B. In the event of any violation by employee of any of the terms of this Agreement, employer may terminate employment without notice and with compensation to employee only to the date of such termination.
- C. It is further agreed that any breach or evasion of any of the terms of this Agreement by either party will result in immediate and irreparable injury to the other party and will authorize recourse to injunction and or specific performance as well as to all other legal or equitable remedies to which such injured party may be entitled under this Agreement.

18. TERMINATION FOR DISABILITY

- A. In spite of anything in this Agreement to the contrary, employer has the option to terminate this Agreement in the event that employee shall, during the term of this Agreement, become permanently disabled as the term permanently disabled is fixed and defined in this Section. Such option shall be exercised by employer giving notice to employee by registered mail, addressed to [HIM OR HER] in care of employer at [MAILING ADDRESS] or at such

other address as employee shall designate in writing of employer's intention to terminate this Agreement on the last day of the month during which such notice is mailed. On the giving of such notice, this Agreement shall cease on the last day of the month in which the notice is so mailed, with the same force and effect as if such last day of the month were the date originally set forth in this Agreement as the termination date of this Agreement.

- B. For the purposes of this Agreement, employee shall be deemed to have become permanently disabled, if, during any year of the term of this Agreement, because of ill health, physical or mental disability or for other causes beyond employee's control [HE OR SHE] shall have been continuously unable or unwilling or shall have failed to perform [HIS OR HER] duties under this Agreement for [NUMBER] consecutive days, or if, during any year of the term of this Agreement, employee shall have been unable or unwilling or shall have failed to perform [HIS OR HER] duties for a total period of [NUMBER] days, irrespective of whether or not such days are consecutive. For the purposes of this Agreement, the term "any year of the term of this Agreement" is defined to mean any 12-calendar-months period commencing on [DATE], and terminating on [DATE], during the term of this Agreement.

19. DEATH BENEFIT

Should Employee die during the term of employment, the Company shall pay to Employee's estate any compensation due through the end of the month in which death occurred.

20. EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

21. CHOICE OF LAW

It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and under and pursuant to the laws of the State of [STATE/PROVINCE] and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of [STATE/PROVINCE]

shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

22. NO WAIVER

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

23. ATTORNEY FEES

In the event that any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees.

24. PARAGRAPH HEADINGS

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

IN WITNESS HEREOF, the parties have caused it to be executed on the date indicated above.

EMPLOYEE

EMPLOYER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

**EMPLOYMENT AGREEMENT
FOR KEY EMPLOYEE**

This Employment Agreement for Key Employee (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- D. Company is engaged in the business of [DESCRIBE], and maintains a branch office at [ADDRESS], [CITY], [STATE/PROVINCE].
- E. Employee has been engaged and has had a great deal of experience in the above-designated business.
- F. Employee is willing to be employed by Company, and Company is willing to employ employee, on the terms, covenants, and conditions set forth in this Agreement.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

1. EMPLOYMENT

Company will employ Employee and Employee accepts employment upon the terms set forth below, and at a compensation which may be agreed upon from time to time by Company and Employee. This Agreement starts as of the date set forth above and remains in effect for an indefinite time until terminated by Company or by Employee by giving the other party notice of termination at least [NUMBER] days in advance. Instead of such notice, Company may at its sole option, pay Employee the salary equivalent for [NUMBER] days. While employed by Company, Employee agrees to devote Employee's full working time to the affairs of Company. Employee shall not work as an employee, independent consultant or agent for another entity, whether or not during the business hours of Company, without the permission of Company.

2. CONFIDENTIALITY

Employee recognizes and acknowledges that the software systems, including specifications, programs and documentation, the methods and data which Company owns, plans or develops, whether for its own use or for use by its clients, developments, designs, inventions and improvements, trade secrets and works of authorship are confidential and are the property of Company. Employee also recognizes that Company's customer lists, supplier lists, proposals and procedures are confidential and are the property of Company. Employee further recognizes and acknowledges that in order to enable Company to perform services for its clients, those clients may furnish to Company confidential information concerning their business affairs, property, methods of operation or other data; that the goodwill afforded to Company depends upon, among other things, Company and its employees keeping such services and information confidential. All of these materials and information including that relating to Company's systems and Company's clients, will be referred to below as "Proprietary Information."

3. NON-DISCLOSURE

Employee agrees that, except as directed by Company, and in the ordinary course of Company's business, Employee will not at any time, whether during or after Employee's employment with Company, disclose to any person or use, directly or indirectly, for Employee's own benefit or the benefit of others, any Proprietary Information, or permit any person to examine or make copies of any documents which may contain or is derived from Proprietary Information, whether prepared by Employee or otherwise coming into Employee's possession or control. Employee agrees that the provisions of this paragraph shall survive the termination of this Agreement and Employee's employment by Company.

4. POSSESSION

Employee agrees that upon request by Company, and in any event upon termination of Employee's employment, Employee shall then over to Company all documents, papers or other material in Employee's possession or under Employee's control which may contain or be derived from Proprietary Information, together with all documents, notes or Employee's work products which are connected with or derived from Employee's services to Company and all copies of software obtained from Company shall be either returned to Company or, as appropriate, permanently deleted. Upon termination of Employee's employment with Company, Employee agrees to pay in full any amount owed Company, including but not limited to monies used to purchase computer hardware. The return of any computer hardware purchased by Employee will not be accepted in lieu of such payment.

5. OWNERSHIP

Employee hereby assigns and agrees to assign to Company or its subsidiaries or affiliates, as appropriate, its successors, assigns or nominees, Employee's entire right, title and interest in any developments, designs, patents, inventions and improvements, trade secrets, trademarks, copyrightable subject matter or proprietary information which Employee has made or conceived,

or may make or conceive, either solely or jointly with others, while providing services to Company, or with the use of the time, material or facilities of Company or relating to any actual or anticipated business, research, development, product, service or activity of Company known to Employee while employed at Company, or suggested by or resulting from any task assigned to Employee or work performed by Employee for or on behalf of Company, whether or not such work was performed prior to the date of this Agreement.

It is further agreed, that without charge to Company, but at its expense, Employee will execute and deliver all such further documents as may be necessary, including original applications and applications for renewal, extension or reissue of such patents, trademark registrations or copyright registrations, in any and all countries, to vest title thereto in Company, its successors, assigns or nominees.

6. NON-COMPETITION

Employee agrees that because of the confidential and sensitive nature of the Proprietary Information and because the use of, or even the appearance of the use of, the Proprietary Information in certain circumstances may cause irreparable damage to Company and its reputation, or to clients of Company, Employee shall not, until the expiration of [NUMBER] year after the date on which Employee's employment with Company terminates for any reason, engage, directly or indirectly, or through any corporation or associates in any business, enterprise or employment which directly solicits business, performs services or delivers goods that are competitive to those of Company to any customer or prospect of Company. Company and Employee agree that this covenant is fair and reasonable; however, in the event that a court should decline to enforce these provisions, Employee and Company agree that the provisions should be modified to restrict Employee's competition with Company to the maximum extent enforceable, but in no event will the covenants be interpreted as more restrictive to Employee.

7. INJUNCTIVE RELIEF

Employee acknowledges that disclosure of any Proprietary Information by Employee or breach by Employee of any of the covenants not to compete will give rise to irreparable injury to Company, or clients of Company. Employee also agrees that this injury to Company, or clients of Company,

would be inadequately compensated in money damages alone. Accordingly, Company or, where appropriate the client of Company, may seek and obtain injunctive relief against the breach, or threatened breach, of the disclosure of any Proprietary Information by Employee, or breach by Employee of any of the covenants not to compete, in addition to any other legal remedies which may be available. Company further acknowledges that the enforcement of a remedy hereunder by way of injunction would not prevent Employee from earning a reasonable livelihood since Employee's experience and capabilities would be such that in the event that Employee's employment with Company terminates for any reason, Employee will be able to obtain employment in business activities which are not restricted by this Agreement.

GENERAL

This Agreement contains the entire understanding between Company and Employee relating to the subject matter of confidentiality, work product and non-competition. This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE], and may be modified only by a writing signed by Employee and Company. Employee hereby consents to the exclusive jurisdiction of the courts of the State of [STATE/PROVINCE] sitting in [STATE/PROVINCE] or the Federal courts sitting in [STATE/PROVINCE]. The provisions of this Agreement relating to confidentiality and non-competition shall survive any termination of employment.

IN WITNESS HEREOF, each party to this Agreement has caused it to be executed on the date indicated above.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

APPLICANT INFORMATION RELEASE

This Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In connection with my application for employment with the Company, I hereby agree as follows:

I hereby authorize any person, educational institution, or company I have listed as a reference on my employment application to disclose in good faith any information they may have regarding my qualifications and fitness for employment. I will hold the Company, any former employers, educational institutions, and any other persons giving references free of liability for the exchange of this information and any other reasonable and necessary information incident to the employment process.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

**OBJECT: LETTER TO NEW EMPLOYER OF [NAME OF FORMER EMPLOYEE] –
NON DISCLOSURE**

TO WHOM IT MAY CONCERN:

We understand that [NAME OF FORMER EMPLOYEE] has decided to join your company. We would like to inform you of the following facts:

1. During his/her employment by us, [NAME OF FORMER EMPLOYEE] had access to our trade secrets including, but not limited to, advanced information about [SPECIFY].
2. In connection with his/her employment, [NAME OF FORMER EMPLOYEE] signed an Employment Agreement in which he/she promised not to disclose or utilize any of our trade secrets without our permission. The Agreement remains in full force and effect.
3. At the time [NAME OF FORMER EMPLOYEE] left our company, he/she was informed of his/her continuing obligations under the Employment Agreement and he/she signed an acknowledgment of such obligations, a copy of which is enclosed.

We are confident that [NAME OF FORMER EMPLOYEE] intends to comply with his/her obligations and respect our trade secrets. We also trust that your company will not assign him/her to a position which might risk disclosure of our trade secrets.

If you have any questions regarding these matters, we will be happy to clarify them for you. In addition, if at any time you wish to know whether information provided you by [NAME OF FORMER EMPLOYEE] is a trade secret owned by us, we will be happy to work out a procedure for providing you with this information.

Sincerely,

Your name

Your title

NON-DISCLOSURE AND NON-COMPETE AGREEMENT

This Acknowledgment of Obligations (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS, Company desires to employ Employee and Employee desires to be employed by Company in connection with certain aspects of the development or marketing of certain computer systems or other products for Company; and

WHEREAS, in connection with such employment, Employee may be given access to, generate, or otherwise come into contact with certain proprietary and/or confidential information of Company or clients of Company; and

WHEREAS, Employee and Company desire to prevent the dissemination or misuse of such information;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. EMPLOYMENT

Company hereby employs or continues to employ Employee and Employee hereby accepts employment, upon the terms and conditions contained herein and at a compensation as shall be agreed upon from time to time by Company and Employee. This Agreement shall commence on

the date hereof and shall remain in effect for an indefinite time until terminated by either party by giving the other party notice of termination at least [NUMBER] days in advance. While employed by Company, Employee shall devote his or her full working time to Company's affairs and shall faithfully and diligently serve Company's interests.

2. CONFIDENTIALITY

Employee recognizes and acknowledges that the systems which Company owns, plans or develops, whether for its own use or for use by its clients, are confidential and are the property of Company. Employee further recognizes and acknowledges that in order to enable Company to perform services for its clients, such clients may furnish to Company confidential information concerning their business affairs, property, methods of operation or other data; that the goodwill afforded to Company depends upon, among other things, Company and its employees keeping such services and information confidential (collectively, including Company systems and Company client information, the "Confidential Information").

3. NON-DISCLOSURE

Employee agrees that, except as directed by Company, the Employee will not at any time, whether during or after his employment with Company, disclose to any person or use any Confidential Information, or permit any person to examine and/or make copies of any documents which contain or are derived from Confidential Information, whether prepared by the Employee or otherwise coming into the Employee's possession or control without the prior written permission of Company.

4. POSSESSION

Employee agrees that upon request by Company, and in any event upon termination of employment, Employee shall turn over to Company all documents, papers or other material in his possession or under his control which may contain or be derived from Confidential Information,

together with all documents, notes or other work product which is connected with or derived from Employee's services to Company whether or not such material is at the date hereof in Employee's possession. Employee agrees that the Employee shall have no proprietary interest in any work product developed or used by Employee and arising out of his employment by Company. Company shall, from time to time as may be requested by Company, do all things which may be necessary to establish or document Company's ownership of any such work product, including, but not limited to execution of appropriate copyright applications or assignments.

5. NON-COMPETITION

Employee agrees and covenants that because of the confidential and sensitive nature of the Confidential Information and because the use of, or even the appearance of the use of, the Confidential Information in certain circumstances may cause irreparable damage to Company and its reputation, or to clients of Company, Employee shall not, until the expiration of two years after the termination of the employment relationship between Company and Employee, engage, directly or indirectly, or through any corporations or associates in any business, enterprise or employment which is directly competitive with Company.

6. SAVING PROVISION

Company and Employee agree and stipulate that the agreements and covenants not to compete contained in the preceding paragraph are fair and reasonable in light of all of the facts and circumstances of the relationship between Employee and Company; however, Employee and Company are aware that in certain circumstances courts have refused to enforce certain agreements not to compete. Therefore, in furtherance of and not in derogation of the provisions of the preceding paragraph Company and Employee agree that in the event a court should decline to enforce the provisions of the preceding paragraph, that paragraph shall be deemed to be modified to restrict Employee's competition with Company to the maximum extent, in both time and geography, which the court shall find enforceable; however, in no event shall the provisions of the preceding paragraph be deemed to be more restrictive to Employee than those contained therein.

7. ENFORCEABLE

The provisions of this Agreement shall be enforceable notwithstanding the existence of any claim or cause of action of Employee against Company whether predicated on this Agreement or otherwise.

8. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties relating to the subject matter hereof. This Agreement may be modified only by an instrument in writing signed by both parties hereto.

9. INJUNCTIVE RELIEF

The Employee acknowledges that disclosure of any Confidential Information or breach of any of the non-competitive covenants or agreements contained herein will give rise to irreparable injury to Company or clients of Company, inadequately compensable in damages. Accordingly, Company or, where appropriate a client of Company, may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available. The Employee further acknowledges and agrees that in the event of the termination of employment with the Company the Employee's experience and capabilities are such that the Employee can obtain employment in business activities which are of a different or non-competing nature with his or her activities as an employee of Company; and that the enforcement of a remedy hereunder by way of injunction shall not prevent the Employee from earning a reasonable livelihood. The Employee further acknowledges and agrees that the covenants contained herein are necessary for the protection of the Company's legitimate business interests and are reasonable in scope and content.

10. COMPANY'S CLIENTS

If Employee's employment with Company terminates for any reason, the Employee shall not, for a period of one year from the date of termination, have any business dealings whatsoever, either directly or indirectly or through corporate entities or associates with any customer or client of Company or its subsidiaries or any person or firm which has contacted or been contacted by Company as a potential customer or client of Company; and Employee shall keep in strictest confidence, both during the Employee's employment and subsequent to termination of employment, and shall not during the period of employment or thereafter disclose or divulge to

any person, firm or corporation, or use directly or indirectly, for the Employee's own benefit or the benefit of others, any information which in good faith and good conscience ought to be treated as confidential information including, without limitation, information relating to the software developed by Company, information as to sources of, and arrangements for, hardware supplied to customers or clients of Company, submission and proposal procedures of Company, customer or contact lists or any other Confidential Information.

11. GOVERNING LAW

The Agreement shall be construed in accordance with the laws of the State of [STATE/PROVINCE].

12. NOTICE

Any notice to be given under this Agreement shall be sufficient if it is in writing and is sent by certified or registered mail to Employee at his residence address as the same appears on the books and records of Company or to Company at its principal office, attention of the President, or otherwise as directed by Company, from time to time.

13. SURVIVAL

The provisions of this Agreement relating to confidentiality or non-competition shall survive the termination of employment, however caused.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the date first above written.

COMPANY

EMPLOYEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

PHYSICAL EXAMINATION CONSENT AGREEMENT

This Physical Examination Consent Agreement ("Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In connection with my application for employment with the Company, I hereby agree as follows:

2. TERMS

I, a current employee of [COMPANY] ("the Company"), understand that my current job requires a significant amount of physical activity and/or physical activity of a difficult nature. I understand that a physical examination is necessary to assess my continuing fitness for the essential functions of my job. In consideration for my desire for a safe work environment and for my own safety as well as the safety of my fellow employees, I give my consent for the Company to conduct the physical examinations it considers necessary as outlined in its "Physical Examination" policy.

I have the right to ask questions of the examining medical personnel, and I have the right to receive a copy of the written evaluation concerning my fitness to perform the essential duties of my current job. I have the right to stop the examination at any point, but such an act may jeopardize the status of my employment.

I authorize the laboratory or medical personnel retained by the Company for the physical examination to release the results to the Company for whatever use the Company deems appropriate. Further, I release the laboratory or medical personnel conducting the examination, the Company, and the Company's employees, directors, officers, and successors from any liabilities, claims, and causes of action, known or unknown, contingent or fixed, that may result from this physical examination. I agree not to file any lawsuit or other action to assert a claim.

I have read and understood this agreement, and I sign this without any coercion or duress by any individual or institution.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



EMPLOYEE PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

In consideration of my employment by [NAME OF COMPANY], (the “Company”), I hereby agree to the following restrictions placed on my use and development of information, technology, ideas and inventions:

1. PROPRIETARY INFORMATION

a. Restrictions on Proprietary Information

I agree that, during my employment and after, I will hold the Proprietary Information of the Company in strict confidence and will neither use the information nor disclose it to anyone, except to the extent necessary to carry out my responsibilities as an employee of the Company or as specifically authorized in writing by a duly authorized officer of the Company. I understand that "Proprietary Information" means all information pertaining in any manner to the business of the Company or its affiliates, consultants, or business associates, unless:

- i. the information is or becomes publicly known through lawful means;
- ii. the information was part of my general knowledge prior to my employment by the Company; or
- iii. the information is disclosed to me without restriction by a third party who rightfully possesses the information and did not learn of it from the Company.

This definition includes, but is not limited to, (A) schematics, techniques, development tools, processes, computer printouts, computer programs, design drawings and manuals, electronic codes, formulas and improvements; (B) information about costs, profits, markets, sales, customers, and bids; (C) plans for business, marketing, future development and new product concepts; and (D) employee personnel files and information about employee compensation and benefits.

b. Prior Actions and Knowledge

Except as disclosed on Schedule A to this Agreement, I do not know anything about the Company's business or Proprietary Information, other than information I have learned from the Company in the course of being hired and employed.

c. Third Party Information

I recognize that the Company has received and will receive confidential or proprietary information from third parties. I will hold all such information in the strictest confidence and will not use the information or disclose it to anyone (except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party).

d. Interference with Business

I agree that during my employment with the Company and for a period of [NUMBER] year after termination of my employment with the Company, I shall not directly or indirectly (i) divert or attempt to divert from the Company (or any affiliate) any business of any kind in which it is engaged, including, without limitation, the solicitation of or interference with any of its suppliers or customers or (ii) solicit, induce, recruit or encourage any person employed by the Company to leave their employment.

2. INVENTIONS

a. Assignment of Inventions

I agree to assign to the Company, without further consideration, my entire right, title, and interest (throughout the [COUNTRY] and in all foreign countries), free and clear of all liens and encumbrances, in and to all Inventions. Notwithstanding the foregoing, the Company may, in its discretion, agree to provide consideration for certain Inventions through a written agreement between the Company and the undersigned which specifically provides for such consideration; in all other cases, no consideration shall be paid. The Inventions shall be the sole property of the Company, whether or not copyrightable or patentable. In addition, I agree to maintain adequate and current written records on the development of all Inventions, which shall also remain the sole property of the Company. I understand that "Inventions" means all ideas, processes, inventions, technology, designs, formulas, discoveries, patents, copyrights, and trademarks, and all improvements, rights, and claims related to the foregoing, that are conceived, developed, or reduced to practice by me alone or with others except Inventions excluded in Schedule A:

Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

- i. Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.
- ii. Result from any work performed by the employee for the employer.

b. License for Other Inventions

If, in the course of my employment, with the Company, I incorporate into Company property an invention owned by me or in which I have an interest, the Company is granted a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, modify, use and sell my invention as part of and in connection with the Company property.

c. Assist With Registration

In the event any Invention shall be deemed by the Company to be copyrightable or patentable or otherwise registrable, I will assist the Company (at its expense) in obtaining and maintaining letters patent or other applicable registrations and in vesting

the Company with full title. Should the Company be unable to secure my signature on any document necessary to apply for, prosecute, obtain, or enforce any patent, copyright, or other right or protection relating to any Invention, due to my incapacity or any other cause, I hereby irrevocably designate and appoint the Company and each of its duly authorized officers and agents as my agent and attorney-in-fact to do all lawfully permitted acts to further the prosecution, issuance, and enforcement of patents, copyrights, or other rights or protection with the same force and effect as if executed and delivered by me.

d. Disclosure

I agree to disclose promptly to the Company all Inventions and relevant records. I further agree to promptly disclose to the Company any idea that I do not believe to be an Invention, but is conceived, developed, or reduced to practice by me (alone or with others) while I am employed by the Company or during the one-year period following termination of my employment. I will disclose the idea, along with all information and records pertaining to the idea, and the Company will examine the disclosure in confidence to determine if in fact it is an Invention subject to this Agreement.

e. Post-Termination Period

I agree that any idea, invention, writing, discovery, patent, copyright, or trademark or similar item, or improvement shall be presumed to be an Invention if it is conceived, developed, used, sold, exploited, or reduced to practice by me or with my aid within [NUMBER] year after my termination of employment with the Company. I can rebut the above presumption if I prove that the idea, invention, writing, discovery, patent, copyright, or trademark or similar item, or improvement is not an Invention covered by this Agreement.

3. FORMER OR CONFLICTING AGREEMENTS

a. Former Agreements

I represent and warrant that my performance of the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me prior to my employment by the Company. I have listed in Schedule A all other agreements concerning proprietary information or inventions to which I am a party and attached copies of any agreements in my possession. To the best of my knowledge, there is no other contract between me and any other person or entity that is in conflict with this Agreement or concerns proprietary information, inventions or assignment of ideas.

b. Obligations During Employment

During my employment with the Company, I will not disclose to the Company, or use, or induce the Company to use, any proprietary information or trade secrets of others.

4. TERMINATION

a. Return of the Company's Property

I agree to promptly return to the Company upon termination of my employment all Proprietary Information and all personal property furnished to or prepared by me in the course of or incident to my employment. Following my termination, I will not retain any written or other tangible material containing any Proprietary Information or information pertaining to any Invention.

b. Termination Certificate

In the event of the termination of my employment, I agree, if requested by the Company, to sign and deliver the Termination Certificate attached as Schedule B.

c. Subsequent Employers

I agree that after the termination of my employment with the Company, I will not enter into any agreement that conflicts with my obligations under this Agreement and will inform any subsequent employers of my obligations under this Agreement.

5. NO IMPLIED EMPLOYMENT RIGHTS

I recognize that nothing in this Agreement shall be construed to imply that my employment is guaranteed for any period of time. Unless stated in a written agreement signed by a duly authorized officer of the Company, my employment is for an indefinite duration, and either the Company or I can terminate our employment relationship at any time, without notice and for any reason, with or without cause.

6. REMEDIES

I recognize that nothing in this Agreement is intended to limit any remedy of the Company under any federal or state law concerning trade secrets, I recognize that my violation of this Agreement could cause the Company irreparable harm and agree that the Company shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Agreement.

7. MISCELLANEOUS PROVISIONS

a. Assignment

I agree that the Company may assign to another person or entity any of its rights under this Agreement.

b. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State [STATE].

c. Severability

If any provision of this Agreement, or application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be unenforceable, such provision shall be enforced to the greatest extent permitted by law and the remainder of this Agreement shall remain in full force and effect.

d. Entire Agreement

The terms of this Agreement are the final expression of my agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement shall constitute the complete and exclusive statement of its terms. I acknowledge that the Company has not made any other representations concerning the subject matter of this Agreement.

e. Amendment; Waivers

This Agreement can be amended or terminated only by a written agreement signed by both parties. No failure to exercise or delay in exercising any right under this Agreement shall operate as a waiver thereof.

f. Successors and Assigns

This Agreement shall be binding upon me and my heirs, executors, administrators, and successors, and shall inure to the benefit of the Company's successors and assigns.

I HAVE READ THIS AGREEMENT CAREFULLY AND UNDERSTAND ITS TERMS. I HAVE COMPLETELY NOTED ON SCHEDULE A TO THIS AGREEMENT ANY PROPRIETARY INFORMATION, IDEAS, PROCESSES, INVENTIONS, TECHNOLOGY, WRITINGS, PROGRAMS, DESIGNS, FORMULAS, DISCOVERIES, PATENTS, COPYRIGHTS, OR TRADEMARKS, OR IMPROVEMENTS, RIGHTS, OR CLAIMS RELATING TO THE FOREGOING, THAT I DESIRE TO EXCLUDE FROM THIS AGREEMENT.

EMPLOYEE

COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SCHEDULE A

EMPLOYEE'S DISCLOSURE

1. PROPRIETARY INFORMATION

Except as set forth below, I acknowledge that at this time I know nothing about the business or Proprietary Information of Company (the "Company"), other than information I have learned from the Company in the course of being hired:

2. PRIOR INVENTIONS

Except as set forth below, there are no ideas, processes, inventions, technology, writings, programs, designs, formulas, discoveries, patents, copyrights, or trademarks, or any claims, rights, or improvements to the foregoing, that I wish to exclude from the operation of this Agreement:

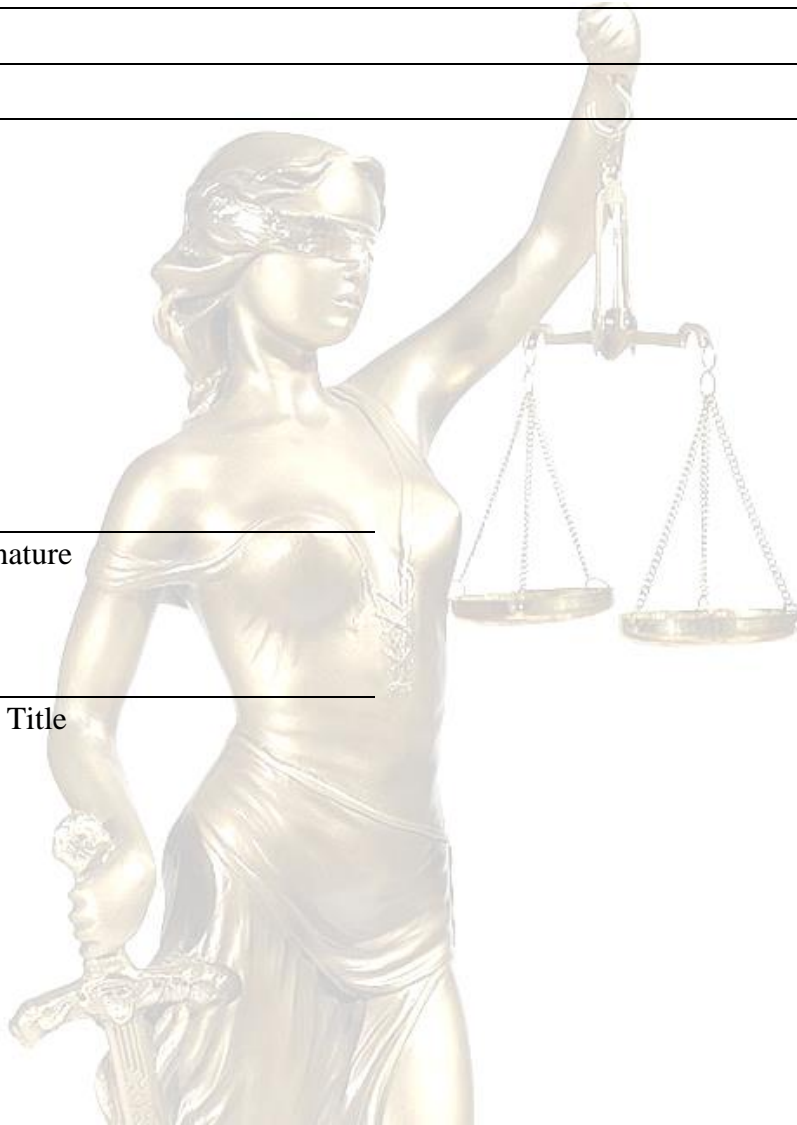
3. PRIOR AGREEMENTS

Except as set forth below, I am aware of no prior agreements between me and any other person or entity concerning proprietary information or inventions (attach copies of all agreements in your possession):

EMPLOYEE

Authorized Signature

Print Name and Title



SCHEDULE B

**TERMINATION CERTIFICATE CONCERNING
THE COMPANY PROPRIETARY INFORMATION**

This is to certify that I have returned all personal property of Company, (the “Company”), including, without limitation, all source code listings, books, manuals, records, models, drawings, reports, notes, contracts, lists, blueprints, and other documents and materials, Proprietary Information, and equipment furnished to or prepared by me in the course of or incident to my employment with the Company, and that I did not make or distribute any copies of the foregoing.

I further certify that I have reviewed the Employee Proprietary Information and Inventions Agreement signed by me and that I have complied with and will continue to comply with all of its terms, including, without limitation, (i) the reporting of any idea, process, invention, technology, writing, program, design, formula, discovery, patent, copyright, or trademark, or any improvement, rights, or claims related to the foregoing, conceived or developed by me and covered by the Agreement and (ii) the preservation as confidential of all Proprietary Information pertaining to the Company. This certificate in no way limits my responsibilities or the Company's rights under the Agreement.

On termination of my employment with the Company, I will be employed by [NAME OF NEW EMPLOYER] [DIVISION] and I will be working in connection with the following projects:

[GENERALLY DESCRIBE THE PROJECTS]

EMPLOYEE RESTRICTIVE COVENANTS



Following are covenants that you can copy and paste into any employment agreement. Thus, the contracts you will sign with future or actual employees will legally protect the company and employees. Remember to ask your lawyer to review any legal document you are about to sign.

RESTRICTIVE COVENANTS

The Employee acknowledges that the Corporation, through its employment of the Employee, has provided the Employee with confidential information, business and professional contacts, training and experience, and the ability to service and otherwise have access to the Corporation's clients. The Employee further acknowledges that such confidential information, business and professional contacts, training and experience, and the ability to service and otherwise have access to the Corporation's clients are the result of his employment by the Corporation. In consideration of the foregoing and of the benefits generally provided to the Employee by the Corporation pursuant to the terms of this Agreement and otherwise, the Employee agrees to abide and be bound by the restrictions and prohibitions of this Article, which restrictions are intended by the parties to extend to any and all activities of the Employee, whether as an independent contractor, partner or joint venturer, or as an officer, director, stockholder, agent, employee or salesman for any person, firm, partnership, corporation or other entity, or otherwise.

HIRING

The Employee agrees that during the Employee's employment with the Corporation and for a period of [NUMBER] years following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not attempt to hire any other employee or independent contractor of the Corporation or otherwise encourage or

attempt to encourage any other employee or independent contractor of the Corporation to leave the Corporation's employ.

CONFIDENTIALITY; DISCLOSURE; PROPRIETARY INFORMATION

Employee recognizes and acknowledges that all records with respect to clients, business associates, customer or referral lists, contracting parties and referral sources of the Corporation, and all personal, financial and business and proprietary information of the Corporation, its employees, officers, directors and shareholders obtained by the Employee during the term of this Agreement and not generally known in the public (the "Confidential Information") are valuable, special and unique and proprietary assets of the Corporation's business. The Employee hereby agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not at any time, directly or indirectly, disclose any Confidential Information, in full or in part, in written or other form, to any person, firm, corporation, association or other entity, or utilize the same for any reason or purpose whatsoever other than for the benefit of and pursuant to authorization granted by the Corporation.

SOLICITATION

The Employee further agrees that during the term of this Agreement and following the termination of this Agreement, whether the termination shall be voluntary or involuntary, or with or without cause, the Employee will not, in any manner or at any time, solicit or encourage any person, firm, corporation or other business entity who are clients, business associates or referral sources of the Corporation to cease doing business with the Corporation or to do business with the Employee.

NON-COMPETITION WITH CORPORATION CLIENTS

Employee agrees that during the term of the Employee's employment with the Corporation and for a period of [NUMBER] years following the cessation of the relationship with the Corporation, the Employee shall not provide any service to or lend any aid or device to any of the clients of the Employer.

COVENANTS INDEPENDENT

Each restrictive covenant on the part of the Employee set forth in this Agreement shall be construed as a covenant independent of any other covenant or provisions of this Agreement or any other agreement which the Corporation and the Employee may have, fully performed and not executory, and the existence of any claim or cause of action by the Employee against the Corporation whether predicated upon another covenant or provision of this Agreement or otherwise, shall not constitute a defense to the enforcement by the Corporation of any other covenant.

PROPRIETARY CREATIONS

All processes, inventions, patents, copyrights, trademarks, and other intangible rights (collectively the "Inventions") that may be conceived or developed by Employee, either alone or with others, during the term of Employee's employment, whether or not conceived or developed during Employee's working hours, and with respect to which the equipment, supplies, facilities, or trade secret information of Company was used, or that relate at the time of conception or reduction to practice of the Invention to the business of the Corporation or to Corporation's actual or demonstrably anticipated research and development, or that result from any work performed by Employee for Corporation, will be the sole property of Corporation, and shall be considered "works for hire", and Employee hereby assigns to the Corporation all of Employee's right, title and interest in and to such Inventions. Employee must disclose to Corporation all inventions conceived during the term of employment, whether or not the invention constitutes property of Corporation under the terms of the preceding sentence, but such disclosure will be received by Corporation in

confidence. Employee must execute all documents, including patent applications and assignments, required by Corporation to establish Corporation's rights under this Section.

DIVISIBILITY OF COVENANT AREAS AND PERIODS

If any portion of the restrictive covenants contained herein is held to be unreasonable, arbitrary or against public policy, each covenant shall be considered divisible both as to time and geographical area; and each [NUMBER] month of the specified period shall be deemed to be a separate period of time and each [NUMBER] mile radius segment of the geographical area shall be deemed to be a separate geographical area, so that the maximum lesser time and geographical area shall remain effective so long as the same is not unreasonable, arbitrary or against public policy.

INJUNCTIVE AND EQUITABLE RELIEF

Employee and Corporation recognize and expressly agree that the extent of damages to Corporation in the event of a breach by Employee of any restrictive covenant set forth herein would be impossible to ascertain, that the irreparable harm arising out of any breach shall be irrebuttably presumed, and that the remedy at law for any breach will be inadequate to compensate the Corporation. Consequently, the Employee agrees that in the event of a breach of any such covenant, in addition to any other relief to which Corporation may be entitled, Corporation shall be entitled to enforce the covenant by injunctive or other equitable relief ordered by a court of competent jurisdiction.

VENUE; COURT PROCEEDINGS

The Employee and the Corporation hereby agree that the venue of any action, proceeding, counterclaim, crossclaim, or other litigation relating to, involving, or resulting from the

enforcement of this covenant shall be in [STATE/PROVINCE]. In any action or proceeding by Employee relating to or involving the enforcement of the covenant, and any counterclaim, crossclaim or other litigation which may be asserted or brought against Corporation, the Employee hereby expressly waives any and all right to a trial by jury with respect to the action, proceeding or other litigation resulting from or involving the enforcement of this covenant. Further, in any action or proceeding by Corporation to obtain a temporary restraining order and/or preliminary injunction, Employee hereby agrees that the Corporation shall not be required to post an injunction bond in excess of the principal sum of [AMOUNT] in order to obtain a temporary restraining order and/or preliminary injunction. Should the Corporation's action for a temporary restraining order and/or motion for preliminary injunction be granted in whole or in part and should Corporation be ultimately unsuccessful in obtaining a permanent injunction to enforce the covenant, Employee hereby waives any and all rights Employee may have against Corporation for any injuries or damages, including consequential damages, sustained by the Employee and arising directly or indirectly from the issuance of the temporary restraining order and/or preliminary injunction.

INDEMNIFICATION

The Employee hereby agrees to indemnify and hold the Corporation and its officers, directors, shareholders and employees harmless from and against any loss, claim, damage or expense, and/or all costs of prosecution or defense of their rights hereunder, whether in judicial proceedings, including appellate proceedings, or whether out of court, including without limiting the generality of the foregoing, attorneys' fees, and all costs and expenses of litigation, arising from or growing out of the Employee's breach or threatened breach of any covenant contained herein.

ACKNOWLEDGMENT

The Employee acknowledges that when this Agreement is concluded, the Employee will be able to earn a living without violating the foregoing restrictions and that the Employee's recognition

and representation of this fact is a material inducement to the execution of this Agreement and to Employee's continued relationship with the Corporation.

SURVIVAL OF COVENANTS

All restrictive covenants contained in this Agreement shall survive the termination of this Agreement.



SALES REPRESENTATIVE AGREEMENT

This Sales Representative Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SALES REPRESENTATIVE NAME] (the "Sales Representative"), living at:

SALES REPRESENTATIVE AGREES TO:

1. Represent and sell the Company's products/services in the geographic area known as [AREA NAME].
2. Accurately represent and state Company policies to all potential and present customers.
3. Promptly mail in all leads and orders to the Company.
4. Inform the sales manager of all problems concerning Company customers within the sales territory.
5. Inform the sales manager if the Sales Representative is representing, or plans to represent any other business firm. In no event shall sales representative represent a competitive company or product line either within or outside the designated sales area.

6. Telephone the Company with reasonable frequency to discuss sales activity within the territory.
7. Provide company [NUMBER]-days' notice should the Representative intend to terminate this Agreement.
8. Return promptly all materials and samples provided by the Company to the Representative, if either party terminates this agreement.

THE COMPANY AGREES TO:

1. Pay the following commissions to the Sales Representative:
 - a) [%] of all prepaid sales, except as stated in (4) below.
 - b) [%] of all credit sales, except as stated in (4) below.
2. To negotiate in advance of sale the commission percentage to be paid on all orders that the Company allows a quantity discount or other trade concession.
3. Commissions on refunds to customers or merchandise returned by the customer in which a commission has already been paid to the Representative shall be deducted from future commissions to be paid to the Representative by the Company.
4. Except by special arrangement, the following shall not be commissioned: [LIST]
5. To provide the Sales Representative with reasonable quantities of business cards, brochures, catalogs, and any product samples required for sales purposes.
6. To set minimum monthly quotas after consultation with the Sales Representative.
7. To grant Representative [NUMBER]-days' notice should the Company wish to terminate this Agreement.
8. To pay commissions to the Representative on sales from existing customers for a period of [NUMBER] months after this agreement is terminated by either party.
9. This constitutes the entire Agreement.
10. This agreement shall be binding upon the parties and their successors and assigns.

Signed this [DAY] day of [MONTH], [YEAR].

SALES REPRESENTATIVE

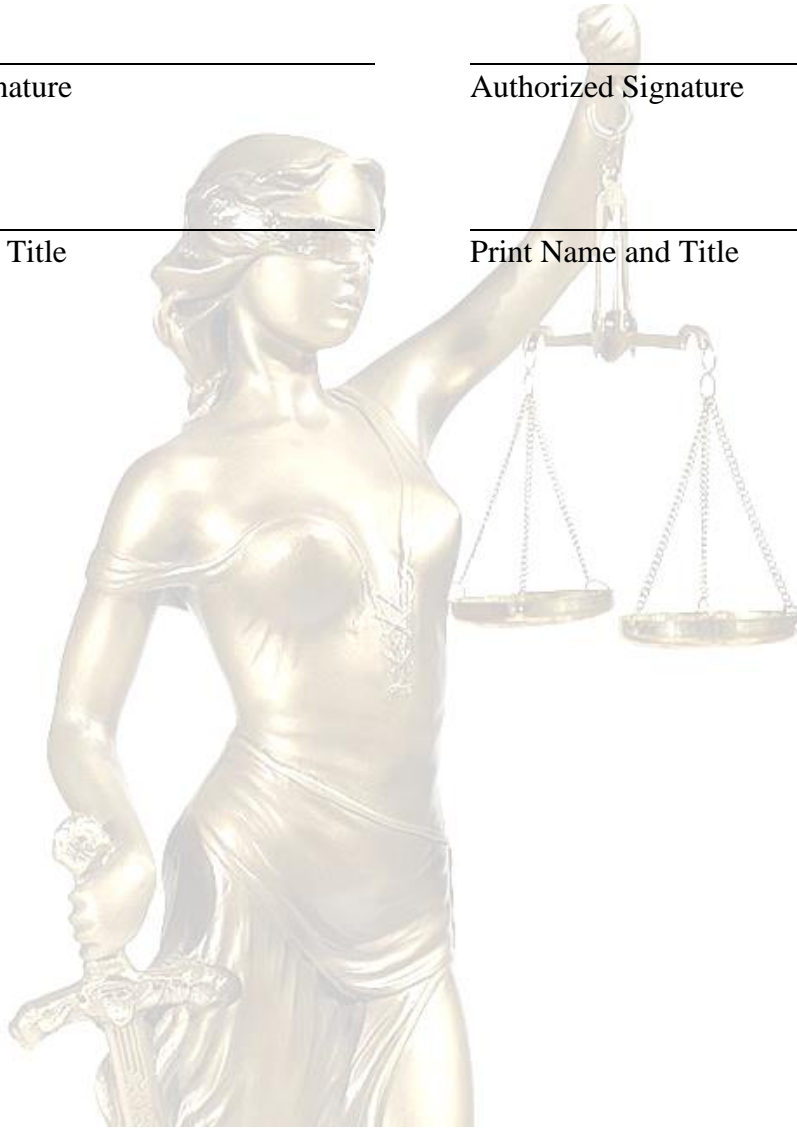
COMPANY

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title



FORMS AND CHECKLISTS

APPLICANT APPRAISAL FORM

Use this form to rate the applicant in each category listed. Study the job description and this form before interviewing & appraising the job applicant. First you are asked to weigh the value of each category to the job being applied for, then circle the applicant's ability rating in each category. Multiply the two scores to get the total for each category. Add the category totals to reach the applicant's total score. Be sure to use the same value ratings for each applicant applying for the job.

VALUE FACTOR RATINGS

1=No value 2=Minimal value 3=Average value 4=Very important 5=Most important

APPLICANT'S ABILITY RATINGS

1=Unsatisfactor
y 2=Barely
satisfactory 3=Satisfactory 4=Above average 5=Outstanding

SKILLS & KNOWLEDGE

The extent to which the applicant possesses the practical/technical knowledge required by the position.

Makes effort to constantly improve themselves.

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
----------------------	-----------------	---	---	---	---	---	------------------	--------------	--

Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

RESPONSIBILITY

The extent to which the applicant has demonstrated integrity and responsibility in the workplace & community.

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

COMMUNICATION

The extent to which the applicant has demonstrates oral or written communication skills. Ability to listen well and work as a team member. Pleasant personality.

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

INITIATIVE

The extent to which the applicant has the potential to work independently or with minimal supervision.

Self-starter who seeks out opportunities.

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

STABILITY

How stable is the applicant? (i.e. number of jobs in the past 10 years, length of time at last jobs, emotional control)

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

MOTIVATION

How motivated is the applicant? Are they goal oriented? Will they work hard for our company?

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant's Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

FLEXIBILITY

Ability of the applicant to “roll with the punches”, accept diverse assignments, and manage change.

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant’s Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

CREATIVITY

How creative is the applicant? (problem solving, suggestions, innovation, etc.)

Value Factor:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	Total	
Applicant’s Ability:	<i>(Lowest)</i>	1	2	3	4	5	<i>(Highest)</i>	X Total	
CATEGORY TOTAL (Value X Ability):									

TOTAL VALUE POTENTIAL (Sum of All Category Totals):

Interview

Applicant’s Name: _____ Date: _____

Reviewer’s Name: _____ Date: _____

Reviewer's
Comments:



APPLICANT APPRAISAL FORM

The purpose of this form is to help you communicate your impression of a recent job applicant. Please review the job description and applicant resume before your interview with them. You should consider drafting some questions in advance of the interview. Limit your questions to job related issues so you can be prepared to answer the questions on this form. The interview should last no more than 30 minutes.

Be sure to fill out the form immediately after your interview, but please save your final ratings until after all applicants have been interviewed.

1. What is your impression of the applicant's **job skills and knowledge**?



2. Do you think the applicant can be a **valuable asset** to this company? Please explain.

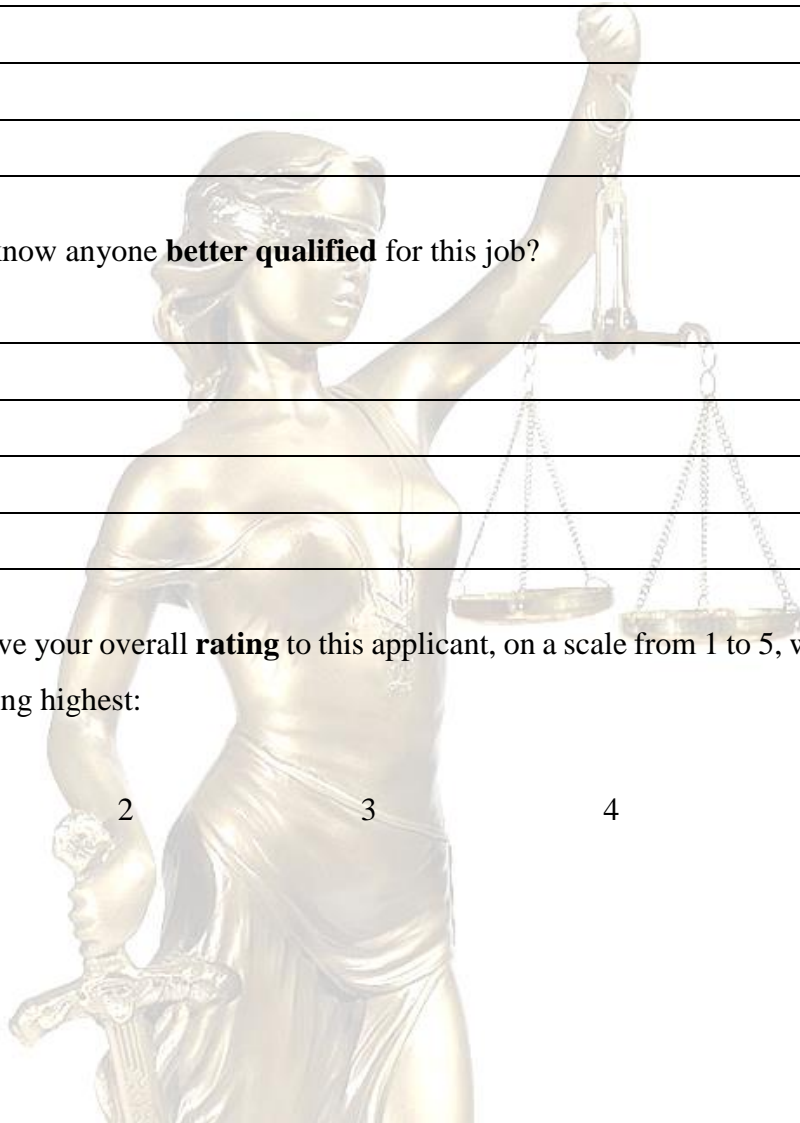
3. What do you think about this applicant's **communication** skills?

4. How well do you feel this applicant will be able to **work with your current department or team?**

5. Do you know anyone **better qualified** for this job?

6. Please give your overall **rating** to this applicant, on a scale from 1 to 5, with 1 being lowest, and 5 being highest:

1 2 3 4 5



Complete the following after interviewing all applicants:

What is your **overall ranking** of this applicant, as compared to the other applicants for this position that you have interviewed?

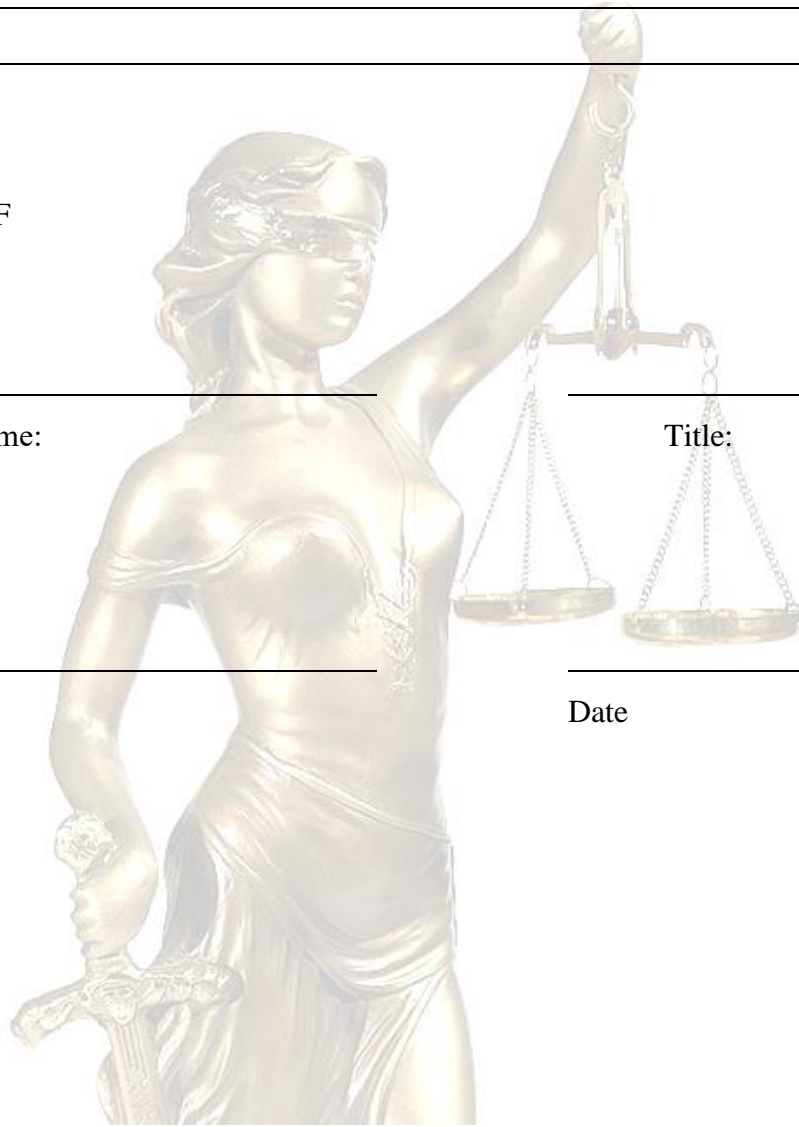
OUT OF

Appraiser's Name:

Title:

Signature

Date



APPLICANT SELECTION CRITERIA RECORD

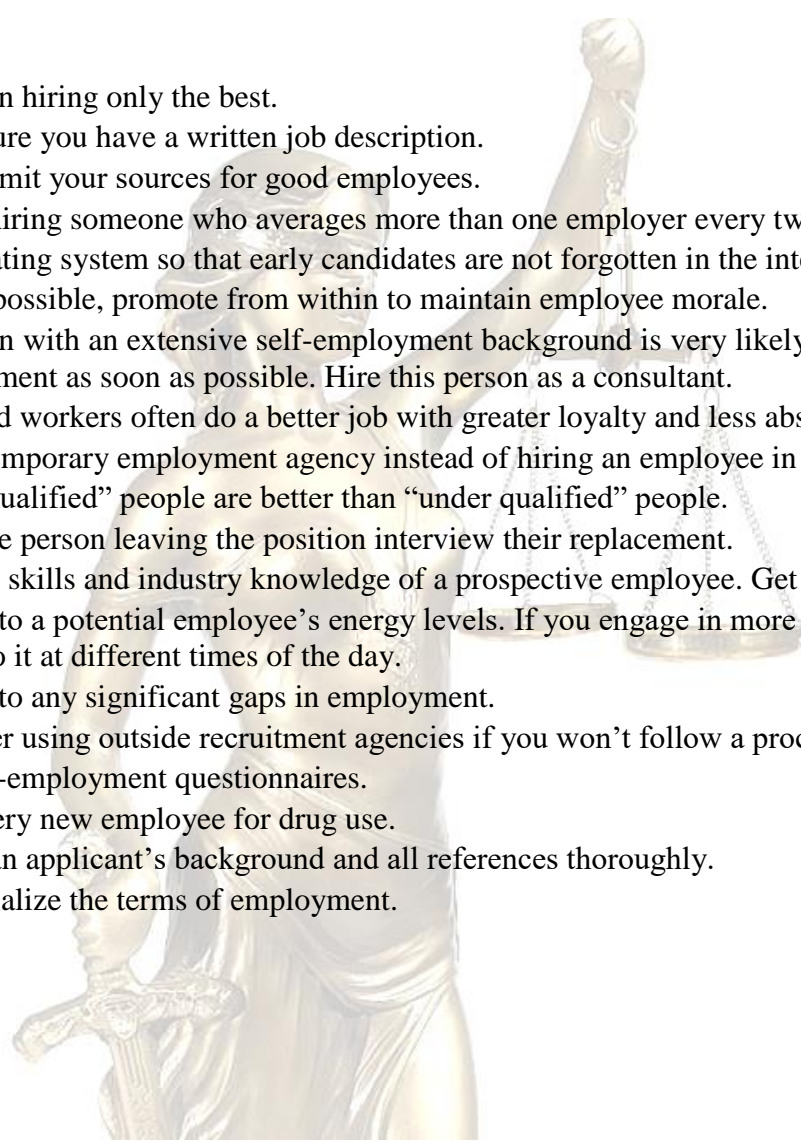
JOB TITLE			
CANDIDATES CONSIDERED (INCLUDING MINORITIES AND FEMALES)			
NAME	MALE/ FEMALE	ETHNIC CODE*	ON LAB SECTION / OFF LAB
*ETHNIC CODES: 1-BLACK, 2-ORIENTAL, 3-HISPANIC, 4-AMERICAN INDIAN, 0-			
CANDIDATE SELECTED			
NAME	MALE/ FEMALE	ETHNIC CODE	SOURCE
SELECTION CRITERIA			
REASONS CANDIDATE SELECTED WAS PREFERABLE TO OTHERS			

ORIGINATOR'S SIGNATURE	DATE



CHECKLIST

19 STRATEGIES FOR HIRING THE BEST

- 
- Focus on hiring only the best.
 - Make sure you have a written job description.
 - Don't limit your sources for good employees.
 - Avoid hiring someone who averages more than one employer every two years.
 - Use a rating system so that early candidates are not forgotten in the interview process.
 - Where possible, promote from within to maintain employee morale.
 - A person with an extensive self-employment background is very likely to go back to self-employment as soon as possible. Hire this person as a consultant.
 - Disabled workers often do a better job with greater loyalty and less absences.
 - Use a temporary employment agency instead of hiring an employee in haste.
 - "Over qualified" people are better than "under qualified" people.
 - Have the person leaving the position interview their replacement.
 - Test the skills and industry knowledge of a prospective employee. Get specific.
 - Look into a potential employee's energy levels. If you engage in more than one interview, try to do it at different times of the day.
 - Look into any significant gaps in employment.
 - Consider using outside recruitment agencies if you won't follow a process.
 - Use pre-employment questionnaires.
 - Test every new employee for drug use.
 - Check an applicant's background and all references thoroughly.
 - Memorialize the terms of employment.

CHECKLIST

FOR EMPLOYMENT AGREEMENTS

Special Definitions

Description of Job Duties:

- Name of position
- Essential job functions or duties
- Duty of loyalty and best efforts
- Place and hours of employment

Length of Agreement:

- Original term
- Extension of agreement

Benchmarks and Performance Terms:

- Production benchmarks
- Marketing benchmarks
- Overhead benchmarks
- Skills enhancement
- Other benchmarks

Compensation Terms:

- Base compensation (salary, hourly or commission)
- Overtime exempt status
- Commission arrangements including when "earned", draws, and effect of termination on pending deals
- Incentive programs
- Expenses, allowances, etc.

Salary adjustments

Benefits:

- Health, dental, vision, life, disability and professional liability insurance
- Professional licenses & memberships
- Vacation
- Holidays
- Stock options, bonuses, profit sharing, raises and retirement
- Educational reimbursement

Termination

- Definition of “at will” or “cause” if “for cause” agreement
- Disability
- Loss of licensure

Covenants:

- Non-disclosure of trade secrets, customer lists and other proprietary information
- Non-solicitation agreement
- Non-recruit agreement
- Adherence to company policies, rules and regulations
- Covenant to notify management of unlawful acts or practices

Property Rights:

- Existing clientele of employee
- New clientele generated while at work
- Records and accounts
- Return upon termination
- Copyrights, inventions and patents
- "Work for hire" issues

Indemnification for Third Party Claims

Mediation and Arbitration Provisions

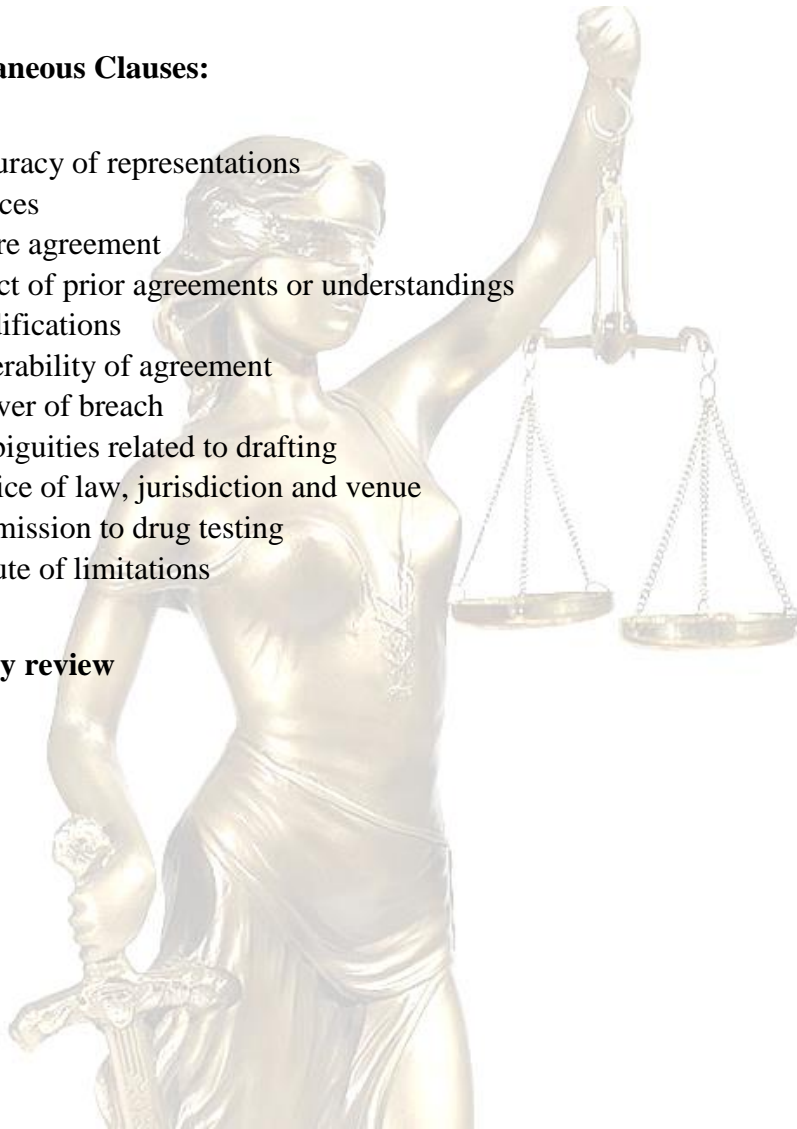
Liquidated Damages and Limits on Damages

Attorney's Fees and Costs

Miscellaneous Clauses:

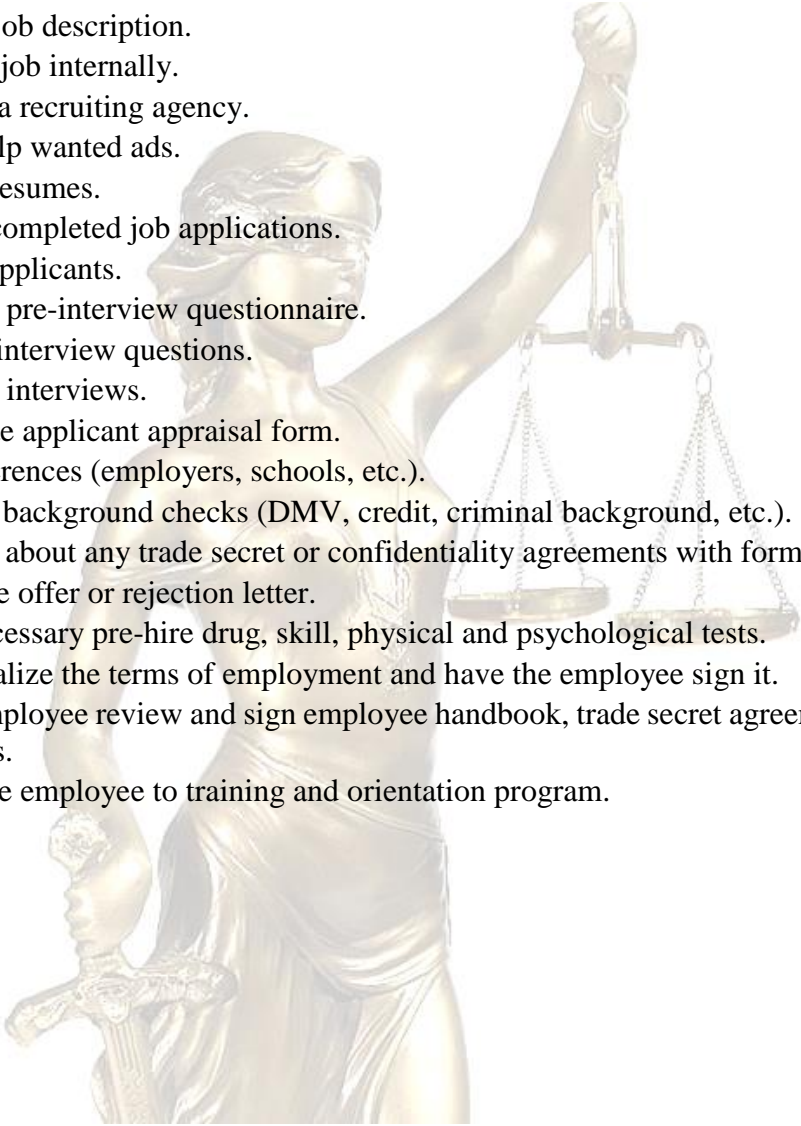
- Accuracy of representations
- Notices
- Entire agreement
- Effect of prior agreements or understandings
- Modifications
- Severability of agreement
- Waiver of breach
- Ambiguities related to drafting
- Choice of law, jurisdiction and venue
- Submission to drug testing
- Statute of limitations

Attorney review



CHECKLIST

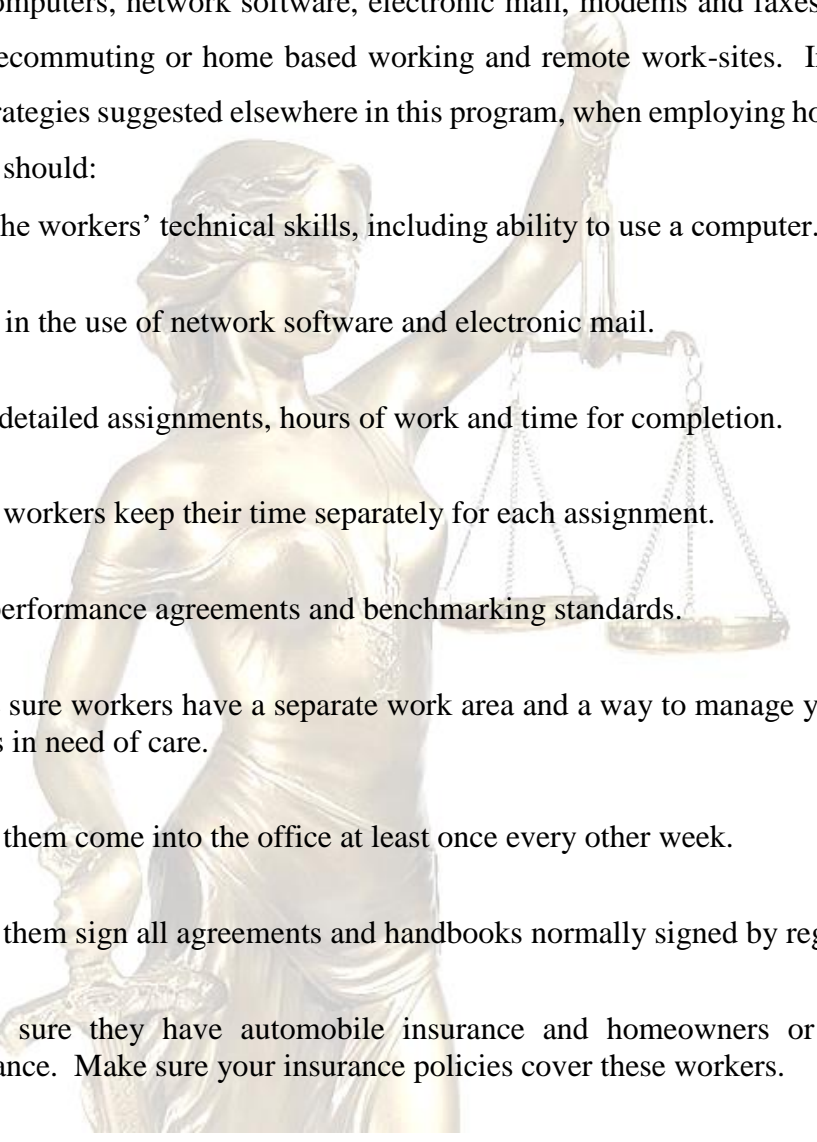
HIRING EMPLOYEES

- 
- Write a job description.
 - Post the job internally.
 - Contact a recruiting agency.
 - Place help wanted ads.
 - Accept resumes.
 - Accept completed job applications.
 - Screen applicants.
 - Conduct pre-interview questionnaire.
 - Prepare interview questions.
 - Conduct interviews.
 - Complete applicant appraisal form.
 - Call references (employers, schools, etc.).
 - Perform background checks (DMV, credit, criminal background, etc.).
 - Find out about any trade secret or confidentiality agreements with former employers.
 - Write the offer or rejection letter.
 - Give necessary pre-hire drug, skill, physical and psychological tests.
 - Memorialize the terms of employment and have the employee sign it.
 - Have employee review and sign employee handbook, trade secret agreement and any other contracts.
 - Introduce employee to training and orientation program.

CHECKLIST

HOME BASED WORKER

The advent of computers, network software, electronic mail, modems and faxes has boosted the popularity of telecommuting or home based working and remote work-sites. In addition to the principles and strategies suggested elsewhere in this program, when employing home based or off-site workers you should:

- 
- Test the workers' technical skills, including ability to use a computer.
 - Train in the use of network software and electronic mail.
 - Give detailed assignments, hours of work and time for completion.
 - Have workers keep their time separately for each assignment.
 - Use performance agreements and benchmarking standards.
 - Make sure workers have a separate work area and a way to manage young children or elders in need of care.
 - Have them come into the office at least once every other week.
 - Have them sign all agreements and handbooks normally signed by regular employees.
 - Make sure they have automobile insurance and homeowners or rental property insurance. Make sure your insurance policies cover these workers.
 - Spot-check employee availability.
 - Make sure all home equipment and furniture is ergonomically designed and in compliance with OSHA standards.
 - Investigate all accidents immediately and completely.

- Involve your union in any home based worker programs.

- If independent contractors, make sure they have a business license and sign an independent contractors agreement.



NEW EMPLOYEE ORIENTATION CHECKLIST

Employee's Name:	SSA#:
Job Title:	Date of Hire:

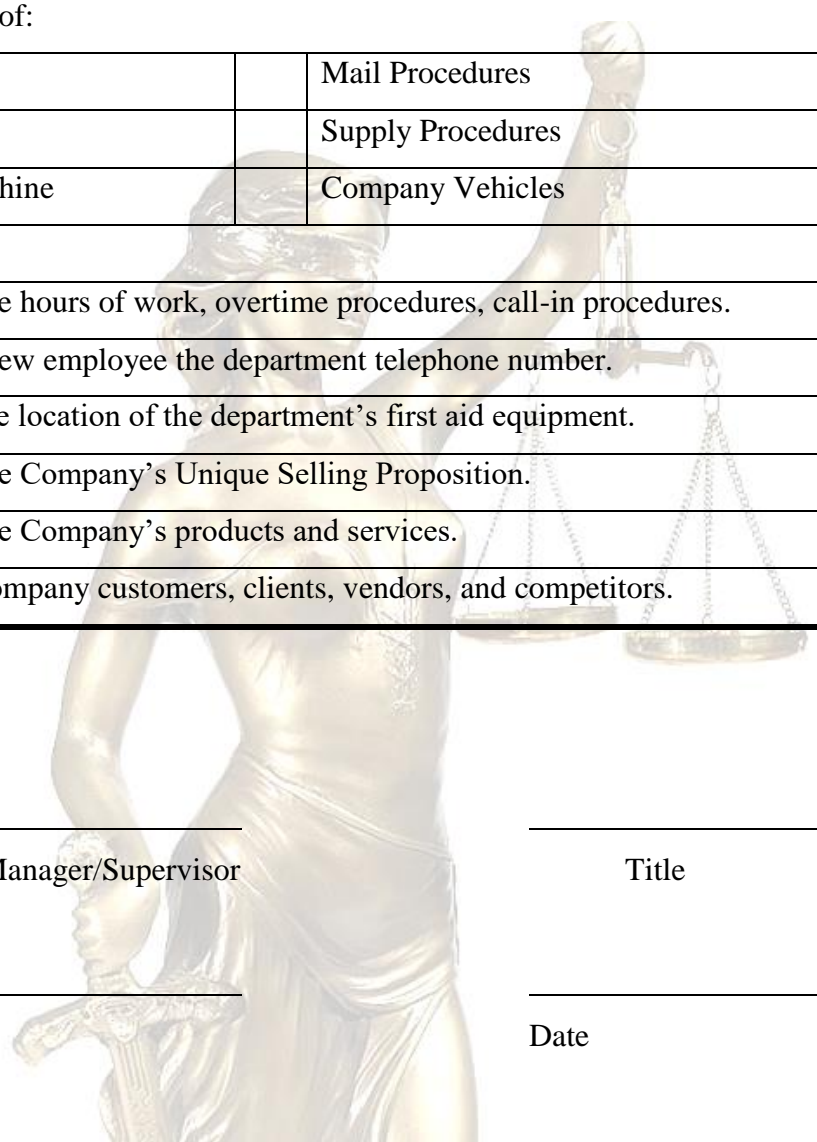
The information checked below has been given or explained to the employee by the Personnel Department or a manager/supervisor.

Compensation and Benefits	
Time sheet/card	Performance Evaluations
Payroll Procedures	Promotions
Insurance Program Booklet	Transfers
Pension Plan Booklet	Vacations
Educational Assistance	Holidays
Credit Union	Absences/Tardiness
Stock Purchase Plan	Jury Duty
Savings Bond Plan	Leaves of Absence
Sick Benefits—Limitations, etc.	Maternity Leave/FMLA Leave
General	
Mission Statement	Ethics Statement
Employee Handbook/Labor Agreement/Rules Booklet	Introduction to Security Guards
Disciplinary Procedures	Transportation
Dress Code/Safety Requirements	Parking Facilities
Complaints, Discrimination	Safety Booklet
Grievance Procedures	First Aid/Reporting Injuries
Proprietary Information	Bulletin Board/Company Newsletter
Agreement	Voluntary Resignation Notice
	I.D. Card

The following is a checklist of information necessary to orient the new employee to the job as well as the department and company. Please check off each point as you discuss it with the employee.

RECEIVE THE NEW EMPLOYEE	
	Review a copy of the employee's application. Be familiar with the employee's experience, training and education.
	Review the job description with the employee, including the duties, responsibilities, and working relationships.
	Discuss with the employee the unit organization and the department division organization. Explain the total organization and how the employee fits in.
	Find out the employee's career goals and objectives. Relate them to the goals and objectives of their position and the department.
	Confirm that the employee has a copy of the Employee Handbook. Set aside at least two hours in the first week for the employee to read the Employee Handbook and to understand it.
WELCOME THE NEW EMPLOYEE	
	Introduce the new employee to his/her co-workers.
	Indicate to each co-worker what the new employee's position will be.
	Explain the functions of each person to the new employee as you introduce them.
	Show the new employee around:
	Tour the department, plant and company.
	Explain where the lavatories, coffee and/or break areas and the parking facilities are located.
	Explain the various departments within the organization and their interrelationship.
	Set a time and date, within one week, to cover any questions or concerns of the new employee and check on progress.
INTRODUCE THE NEW EMPLOYEE	

	Insure the new employee's work area, equipment, tools and supplies are prepared and available.		
	Have the employee sign for any tools, equipment, vehicles, etc. provided by the company.		
	Explain the levels of supervision within the department.		
	Provide the new employee with the necessary or required training.		
Explain the use of:			
	Telephone		Mail Procedures
	E-mail		Supply Procedures
	Copy Machine		Company Vehicles
	Explain the hours of work, overtime procedures, call-in procedures.		
	Give the new employee the department telephone number.		
	Review the location of the department's first aid equipment.		
	Explain the Company's Unique Selling Proposition.		
	Explain the Company's products and services.		
	Explain company customers, clients, vendors, and competitors.		



Signature of HR/Manager/Supervisor

Title

Department

Date

PRE-EMPLOYMENT CHECKLIST

Date: _____

Applicant: _____

Position: _____

References Requested: _____

Date Received: _____

Interviewed By: _____

Approved By: _____

Education verified: Yes No

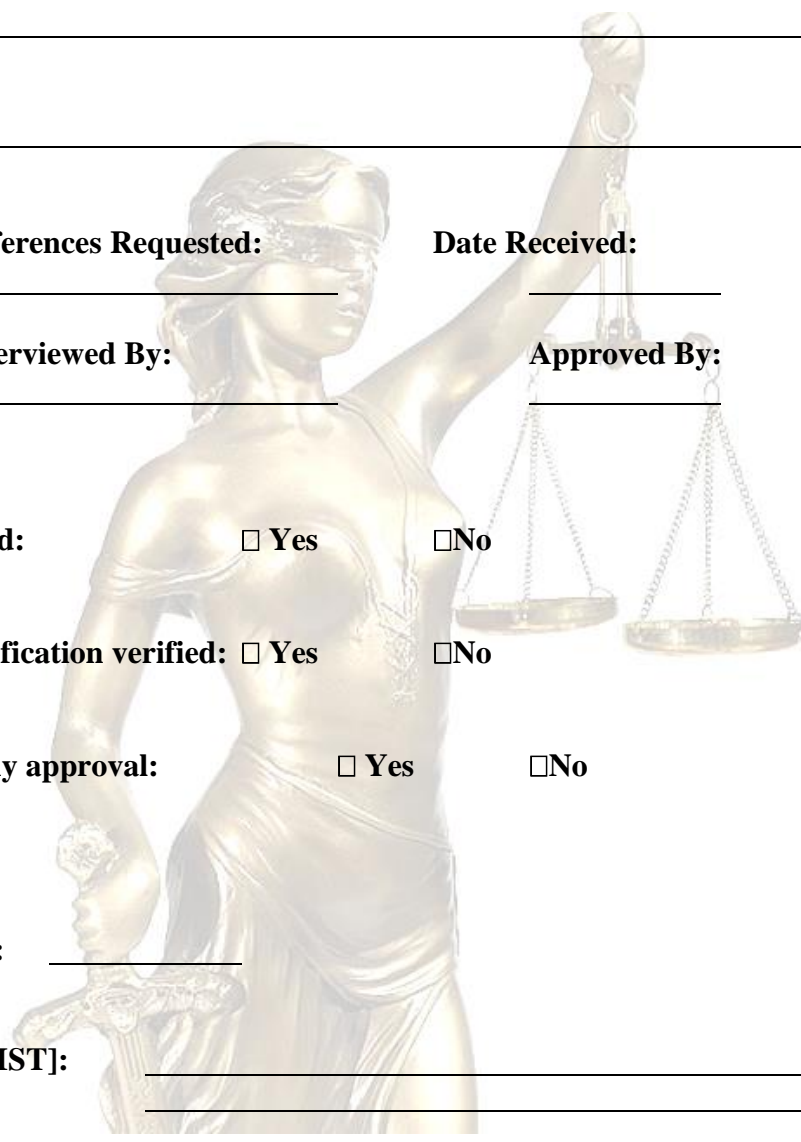
Licensure of certification verified: Yes No

Bonding Company approval: Yes No

Starting Salary \$: _____

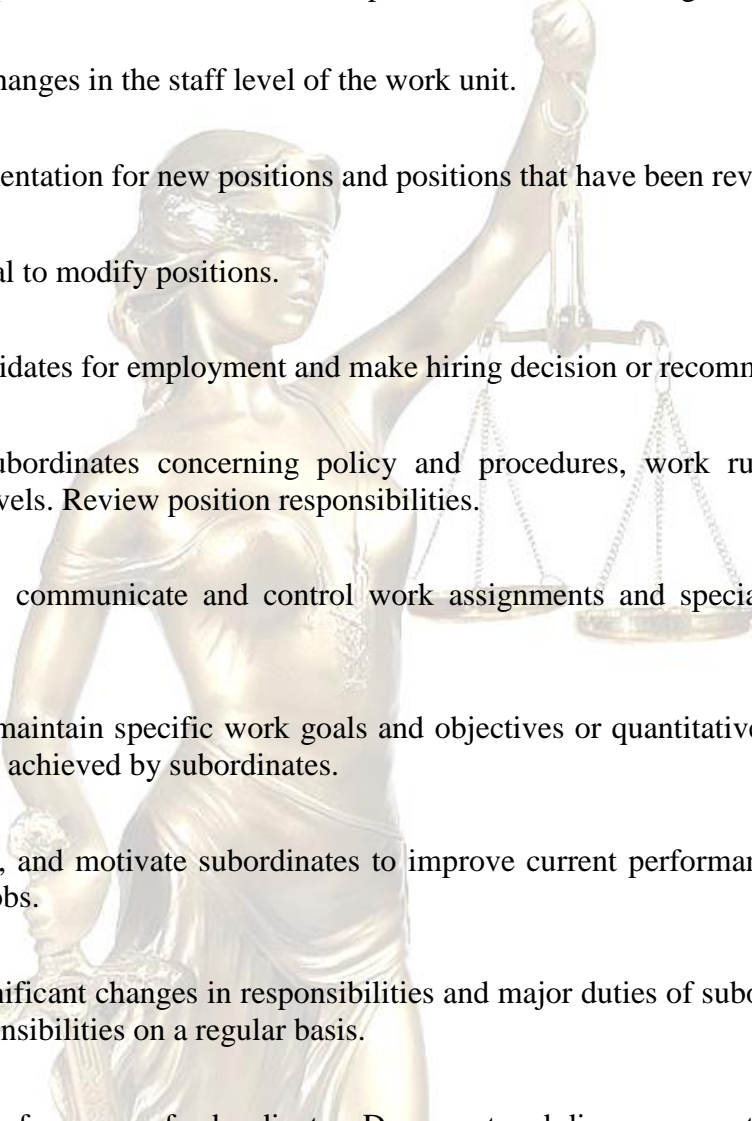
Fring Benefits [LIST]: _____

Effective starting date: _____



CHECKLIST

ROUTINE MANAGERIAL/SUPERVISORY DUTIES

- 
- Analyze, on a periodic basis, workload and personnel needs of an organizational unit.
 - Recommend changes in the staff level of the work unit.
 - Review documentation for new positions and positions that have been revised.
 - Obtain approval to modify positions.
 - Interview candidates for employment and make hiring decision or recommendations.
 - Orient new subordinates concerning policy and procedures, work rules, and performance expectation levels. Review position responsibilities.
 - Plan, delegate, communicate and control work assignments and special projects concerning subordinates.
 - Establish and maintain specific work goals and objectives or quantitative and qualitative work standards to be achieved by subordinates.
 - Train, develop, and motivate subordinates to improve current performance and to prepare for higher- level jobs.
 - Determine significant changes in responsibilities and major duties of subordinates by reviewing their job responsibilities on a regular basis.
 - Evaluate the performance of subordinates. Document and discuss present and past performance with each direct report. Keep supervisor informed of results.
 - Review salaries of subordinates and recommend changes according to policy and procedures.
 - Recommend personnel actions such as promotions, performance awards, demotions, etc., according to budget guidance and policy.

- Advise superiors and subordinates of developments that impact job duties. Ensure proper communications.
- Maintain discipline, recommend and administer corrective action according to policy and procedures.
- Communicate and administer personnel programs in accordance with design and objectives.
- Maintain proper documentation on all subordinates.



February 28, 2022

[STATE/PROVINCE] Department of Motor Vehicles

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DRIVING RECORD CHECK

TO WHOM IT MAY CONCERN:

I wish to check the driving records of the following individual for purposes of employment. Please find enclosed a release form, signed by the applicant, allowing you to provide this information. Also enclosed is a stamped, addressed envelope in which to send the report.

Please contact me at the phone number indicated below if you require information in addition to that provided hereto:

[APPLICANT]

[STREET ADDRESS]

[CITY, STATE AND ZIP]

[DATE OF BIRTH]

[DRIVER'S LICENSE NUMBER]

Thank you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFERENCE FOR [APPLICANT] – [SOCIAL SECURITY NUMBER] [OR OTHER ID INFO]

Dear [REFERENCE],

The above-named individual has applied for employment with our business and has indicated that he/she attended [OBTAINED A DEGREE FROM] [REFERENCE]. In order to make an informed hiring decision, we need to explore the applicant's educational history and personal qualifications or fitness for employment. A release permitting you to provide the following information has been signed by the applicant, and a copy is attached. Any information that you give will be held in the strictest confidence. Please verify the information supplied by [APPLICANT] and answer a few questions regarding [EDUCATIONAL INSTITUTION]:

Degree received by [APPLICANT]: [NAME DEGREE]

Dates [APPLICANT] attended [REFERENCE]: [PROVIDE DATES OF ATTENDANCE]

Is the preceding information correct? _____

Type and level of institution: _____

Is your institution accredited? _____

What types of degrees do you award? _____

How can we obtain a transcript? _____

Information furnished by: _____

Thank you for your cooperation and prompt response.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com



EMPLOYMENT APPLICATION FORM

PLEASE PRINT ALL INFORMATION REQUESTED EXCEPT SIGNATURE				
APPLICANTS MAY BE TESTED FOR ILLEGAL DRUGS				
PLEASE COMPLETE PAGES 1-5.				Date:
Name:				
Last	First	Middle	Maiden	
Present Address:				
Number	Street	City	State	Zip
How Long:			Social Security No.:	
Telephone:				
If under 18, please list age:				
Position Applied For:			Days/Hours Available to Work:	
Salary Desired:			No Pref ____ Thur ____	
			Mon ____ Fri ____	
			Tue ____ Sat ____	
			Wed ____ Sun ____	
How many hours can you work weekly?			Can you work nights?	
Employment Desired:				
<input type="checkbox"/> FULL-TIME ONLY <input type="checkbox"/> PART-TIME ONLY <input type="checkbox"/> FULL-OR PART-TIME				

When available for work?

EDUCATION & OTHER INFORMATION

TYPE OF SCHOOL	NAME OF SCHOOL	LOCATION (Complete mailing address)	NO. OF YEARS COMPLETE	MAJOR & DEGREE
High School				
College				
Bus. or Trade School				
Professional School				

Have you ever been convicted of a crime? No Yes

If yes, explain number of conviction(s), nature of offense(s) leading to conviction(s), how recently such offense(s) was/were committed, sentence(s) imposed, and type(s) of rehabilitation.

Do you have a driver's license? Yes No

What is your means of transportation to work?

Driver's License Number: State of issue:		<input type="checkbox"/> Operator <input type="checkbox"/> Commercial (CDL) <input type="checkbox"/>	
Chauffeur			
Expiration Date:			
Have you had any accidents during the past three years?		How many?	
Have you had any moving violations during the past three years?		How Many?	
OFFICE ONLY			
Typing <input type="checkbox"/> Yes 10-key <input type="checkbox"/> Yes		Word <input type="checkbox"/> Yes	
<input type="checkbox"/> No _____ WPM		Processing <input type="checkbox"/> No _____ WPM	
Personal <input type="checkbox"/> Yes PC <input type="checkbox"/>	Other Skills:		
Computer <input type="checkbox"/> No Mac <input type="checkbox"/>			
Please list two references other than relatives or previous employers.			
Name:		Name:	
Position:		Position:	
Company:		Company:	
Address:		Address:	
Telephone:		Telephone:	

An application form sometimes makes it difficult for an individual to adequately summarize a complete background. Use the space below to add any additional information necessary to describe your full qualifications for the specific position for which you are applying.

MILITARY

Have you ever been in the armed forces?

Yes No

Are you now a member of the national guard?

Yes No

Specialty

Date Entered

Discharge Date

Work Experience

Please list your work experience for the past five years beginning with your most recent job held. If you were self-employed, give firm name. Attach additional sheets if necessary.

Job One

Name of Employer:

Name of Last Supervisor

Employment Dates

Salary

Complete Address:

From:

Start:

To:

Final:

Phone Number:

Your Last Job Title:

Reason for Leaving (be specific):

List the jobs you held, duties performed, skills used or learned, advancements or promotions while you worked at this company.

Job Two

Name of Employer:	Name of Last Supervisor:	Employment Dates	Salary
Complete Address:		From:	Start:
		To:	Final:
Phone Number:	Your Last Job Title:		

Reason for Leaving (be specific):

List the jobs you held, duties performed, skills used or learned, advancements or promotions while you worked at this company.

Job Three			
Name of Employer:	Name of Last Supervisor:	Employment Dates	Salary
Complete Address:		From:	Start:
		To:	Final:
Phone Number:	Your Last Job Title:		
Reason for Leaving (be specific):			
List the jobs you held, duties performed, skills used or learned, advancements or promotions while you worked at this company.			
May we contact your present employer?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Did you complete this application yourself?			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
If not, who did?			

PLEASE READ CAREFULLY

APPLICATION FORM WAIVER

In exchange for the consideration of my job application by [COMPANY NAME] (hereinafter called "the Company"), I agree that:

Neither the acceptance of this application nor the subsequent entry into any type of employment relationship, either in the position applied for or any other position, and regardless of the contents of employee handbooks, personnel manuals, benefit plans, policy statements, and the like as they may exist from time to time, or other Company practices, shall serve to create an actual or implied contract of employment, or to confer any right to remain an employee of [COMPANY NAME], or otherwise to change in any respect the employment-at-will relationship between it and the undersigned, and that relationship cannot be altered except by a written instrument signed by the President /General Manager of the Company. Both the undersigned and [COMPANY NAME] may end the employment relationship at any time, without specified notice or reason. If employed, I understand that the Company may unilaterally change or revise their benefits, policies and procedures and such changes may include reduction in benefits.

I authorize investigation of all statements contained in this application. I understand that the misrepresentation or omission of facts called for is cause for dismissal at any time without any previous notice. I hereby give the Company permission to contact schools, previous employers (unless otherwise indicated), references, and others, and hereby release the Company from any liability as a result of such contract.

I also understand that (1) the Company has a drug and alcohol policy that provides for pre-employment testing as well as testing after employment; (2) consent to and compliance with such policy is a condition of my employment; and (3) continued employment is based on the successful passing of testing under such policy. I further understand that continued employment may be based on the successful passing of job-related physical examinations.

I understand that, in connection with the routine processing of your employment application, the Company may request from a consumer reporting agency an investigative consumer report including information as to my credit records, character, general reputation, personal characteristics, and mode of living. Upon written request from me, the Company, will provide me with additional information concerning the nature and scope of any such report requested by it, as required by the Fair Credit Reporting Act.

I further understand that my employment with the Company shall be probationary for a period of sixty (60) days, and further that at any time during the probationary period or thereafter, my employment relation with the Company is terminable at will for any reason by either party.

Signature of Applicant	Date:
This Company is an equal employment opportunity employer. We adhere to a policy of making employment decisions without regard to race, color, religion, sex, sexual orientation, national origin, citizenship, age or disability. We assure you that your opportunity for employment with this Company depends solely on your qualifications.	
Thank you for completing this application form and for your interest in our business.	



PLEASE PRINT ALL INFORMATION REQUESTED EXCEPT SIGNATURE

POST EMPLOYMENT INFORMATION FORM

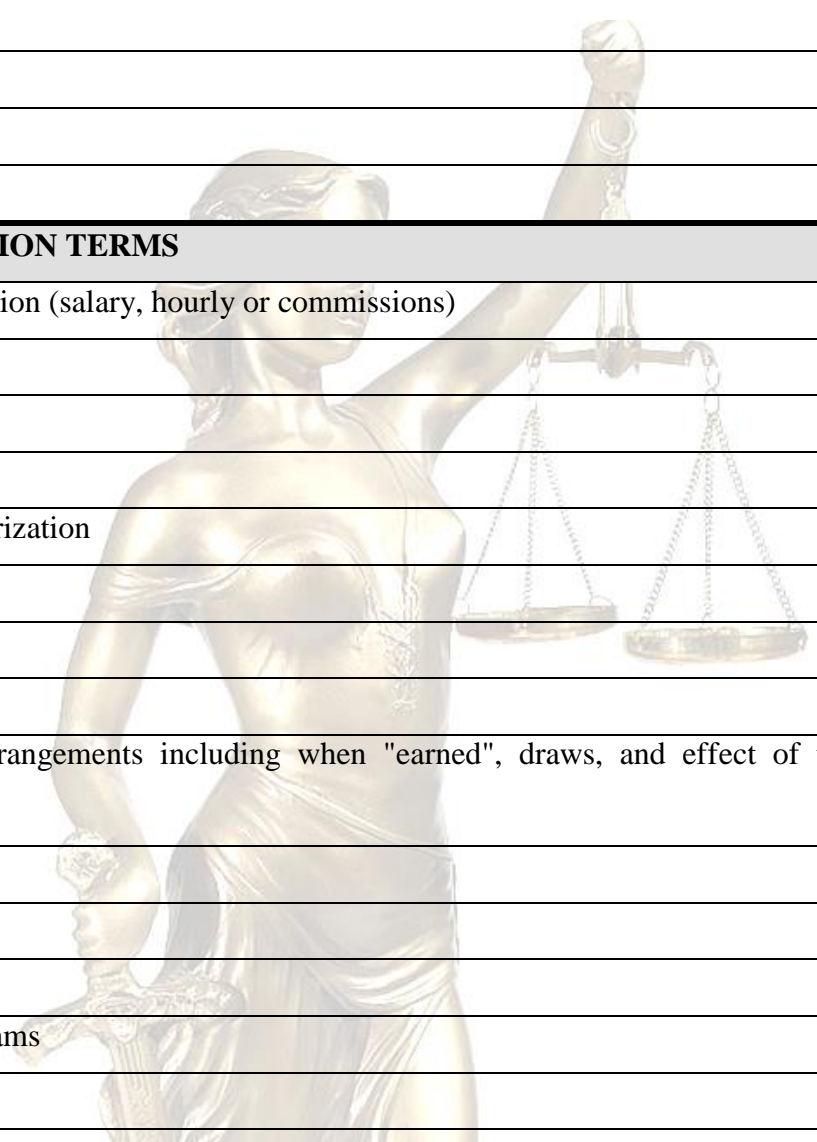
TO BE COMPLETED AFTER EMPLOYEE HAS BEEN HIRED

Height: ft. in.	Weight:	Birth Date:	
Married <input type="checkbox"/> Yes <input type="checkbox"/> No	If Married, How Long? <input type="checkbox"/> Single <input type="checkbox"/> Separated <input type="checkbox"/> Divorced		
<input type="checkbox"/> Widowed			
Full Name of Spouse		Spouse Occupation	
Name of Company		Telephone:	
PERSON TO BE NOTIFIED IN CASE OF EMERGENCY			
Name:		Telephone:	
Address:		Relationship:	
FOR INSURANCE PURPOSES ONLY: LIST ALL DEPENDENTS			
Name:	Relationship:	Birth Date:	SSN:
TO BE COMPLETED BY EMPLOYER			
Date of Employment:	Job Title:	Dept.:	

Location:	Rate of Pay:	<input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input checked="" type="checkbox"/> Salaried
Applicant's signature acknowledging above information		
Drug Test Confirmation Number:		
Name of Person Verifying Information:		
Name of Person Authorizing Employment:		



Number of new clients
COMPENSATION TERMS
Base compensation (salary, hourly or commissions)
Overtime authorization
Commission arrangements including when "earned", draws, and effect of termination on pending deals
Incentive programs
Expenses, allowances, etc.



Salary adjustments
BENEFITS
Health, dental, vision, life, disability and professional liability insurance
Professional licenses, memberships & dues
Vacation
Holidays
Stock options, bonuses, profit-sharing, and retirement
Educational reimbursement

BENEFITS

Health, dental, vision, life, disability and professional liability insurance

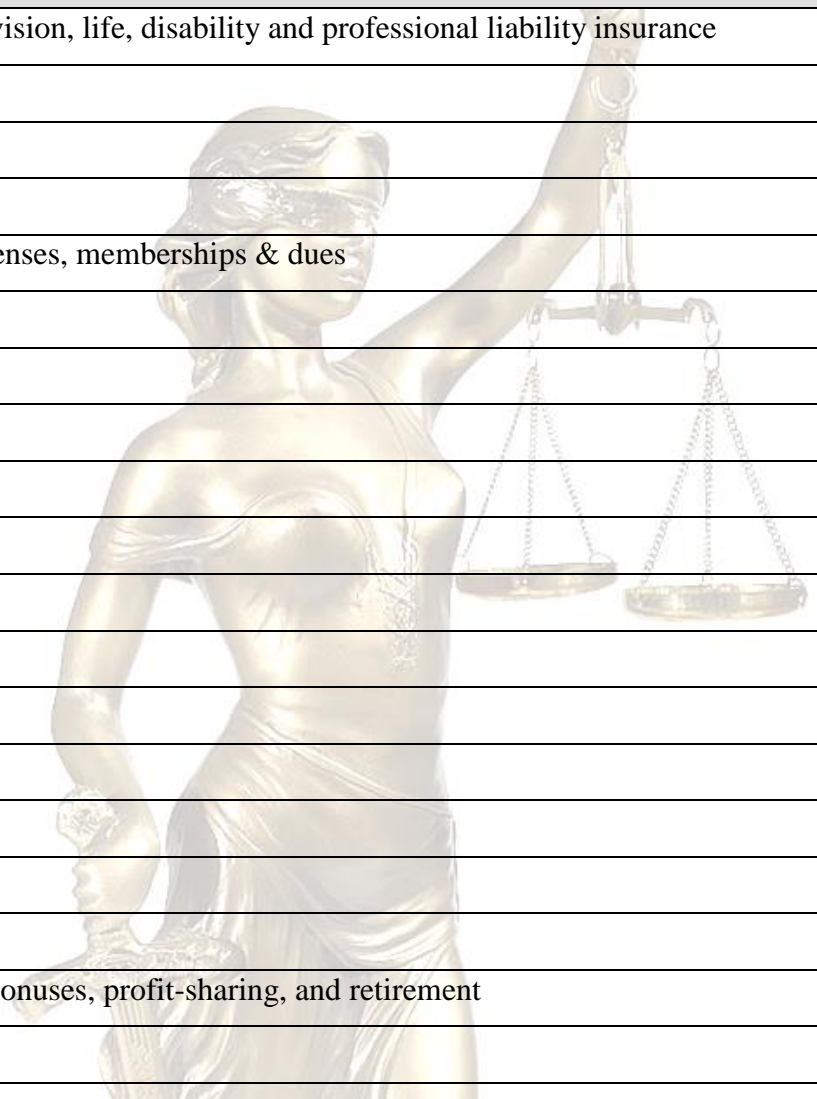
Professional licenses, memberships & dues

Vacation

Holidays

Stock options, bonuses, profit-sharing, and retirement

Educational reimbursement



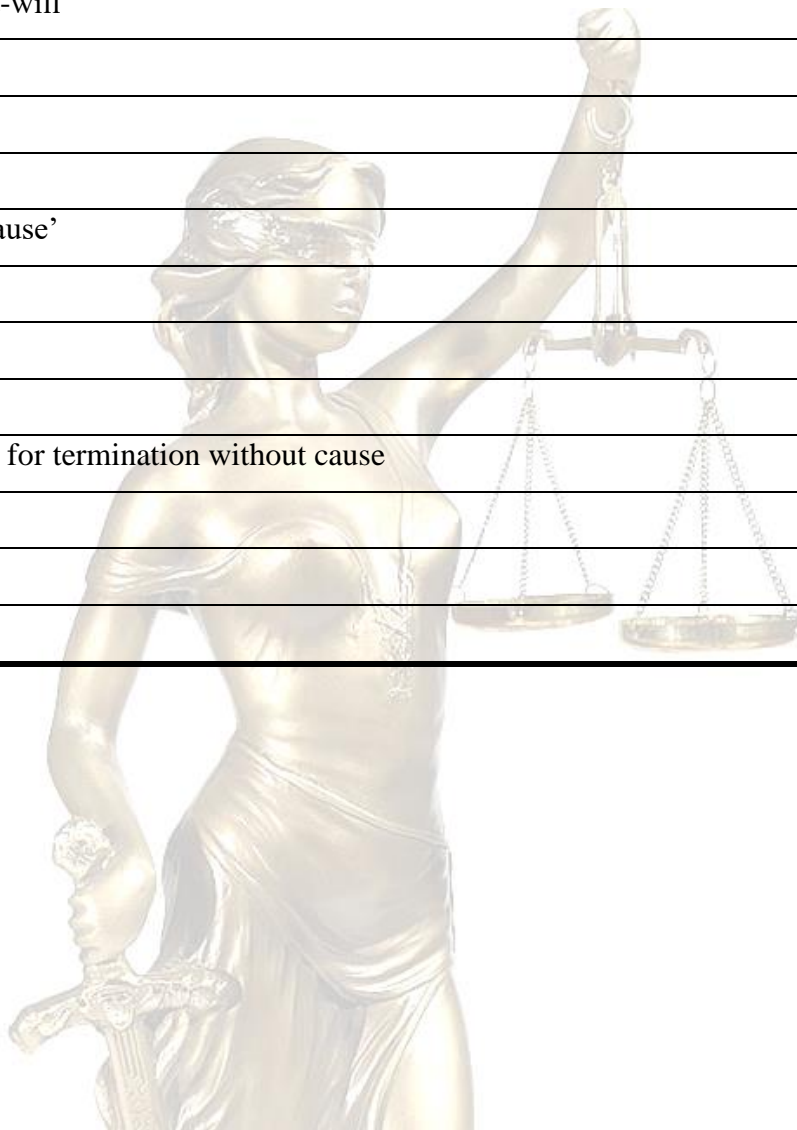
TERMINATION

“At-will” or “for cause”

Definition of “at-will”

Definition of “cause”

Severance terms for termination without cause



COVENANTS

Specific information subject to non-disclosure of trade secrets, customer lists or other proprietary information covenants

Non-solicitation agreement period [NUMBER] months/yrs

Non-recruit agreement period [NUMBER] months/yrs

Non-competition agreement period [NUMBER] monthss/yrs (Note: not enforceable in some states)

PROPERTY RIGHTS

Existing clientele of employee (specify)

Existing equipment

Existing licenses, patents, copyrights, etc.



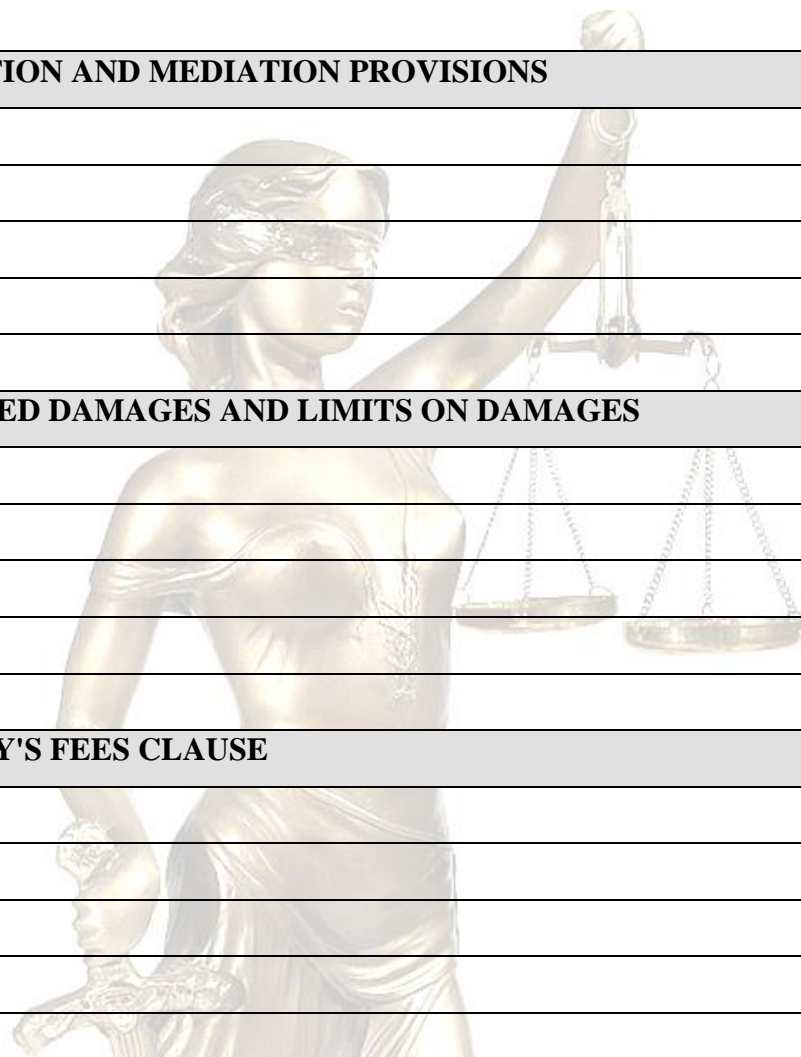
INDEMNIFICATION FOR 3RD PARTY CLAIMS

ARBITRATION AND MEDIATION PROVISIONS

LIQUIDATED DAMAGES AND LIMITS ON DAMAGES

ATTORNEY'S FEES CLAUSE

MISCELLANEOUS CLAUSES





JOB ANALYSIS

Date	Department
Prepared By	Title
Job Title	Reports To
Education/Experience Required	
Goals/Objectives Of Position	
Knowledge/Skills Required	
Physical Requirements	
Special Problems/Hazards	

JOB DESCRIPTION FORM

Position Description	
Job Title:	Date:
Incumbent:	Employment Status:
	Regular <input type="checkbox"/>
Department:	Temporary <input type="checkbox"/>
	Full-time <input type="checkbox"/>
Supervisor's Name/Title:	Part-time <input type="checkbox"/>
	Intern <input type="checkbox"/>
	Reg. hours worked: wk
	Exempt <input type="checkbox"/> Non-exempt <input type="checkbox"/>
<p>A position description is written to describe work currently organized and performed by a fully qualified employee (who possesses knowledge, skills, and experience required by the position). One should be on file for each regular full- and part-time position. Attach a copy of the last position description prepared for this position.</p>	
When was the last time this position description was updated? Date:	
What is the overall purpose and objective of this position (why does the position exist)?	

List in order of importance the major responsibilities of the job and estimate the percentage of time spent on each responsibility (the main function of the job may or may not be the one where the most time is spent).

1.			%
2.			%
3.			%
4.			%
5.			%
6.			%
	Total:	100	%

Is this position closely, moderately, or minimally supervised?

Please explain:

Does this position have supervisory responsibility (i.e., responsible for hiring, firing, performance appraisals, etc.)?

Yes _____ No _____ If yes, list the number and title for positions that directly or indirectly report to this position (i.e., three secretaries, four programmers, etc.):

Does this position have access to confidential information?

Yes _____ No _____ If yes, please explain:

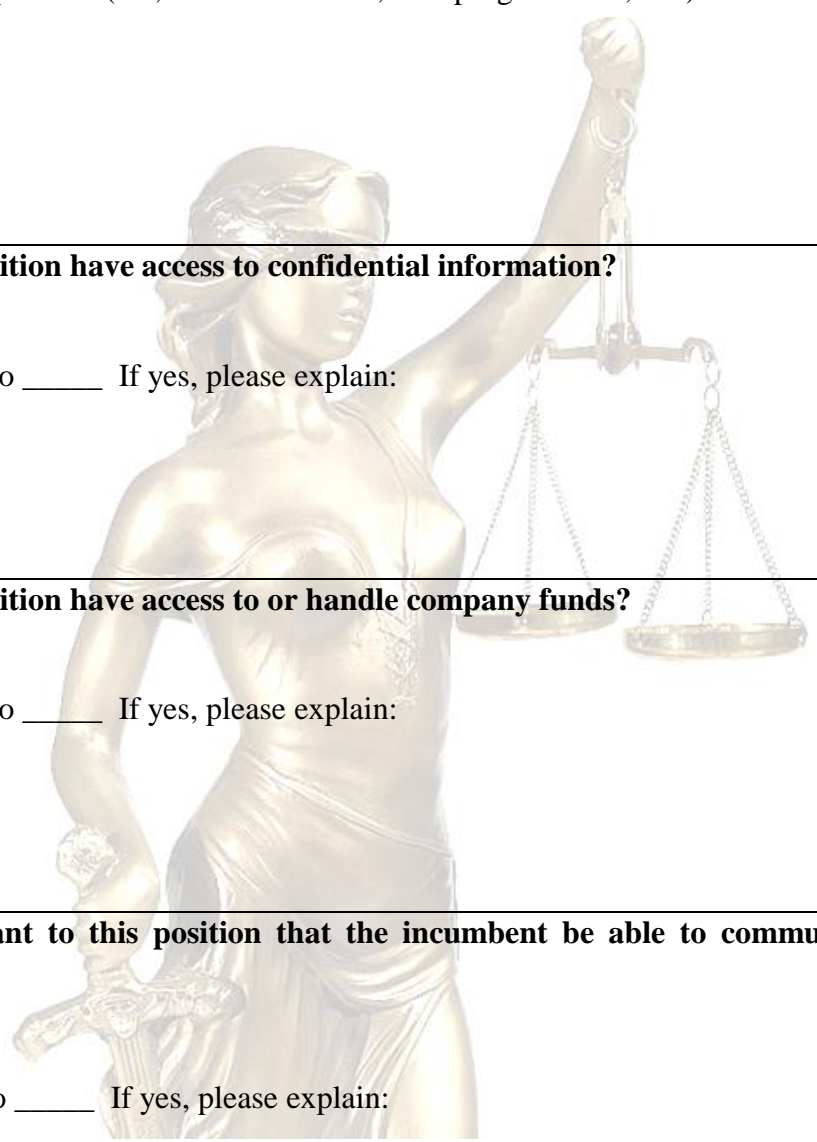
Does this position have access to or handle company funds?

Yes _____ No _____ If yes, please explain:

Is it important to this position that the incumbent be able to communicate fluently in English?

Yes _____ No _____ If yes, please explain:

What kind of work experience (including length of time), training, and/or level of education is necessary for this position?



List any required technical skills (typing, computer skills, etc.):

What other special training and/or abilities are necessary to qualify for this position?

Check any of the following factors that are important to successful performance in this position:

- | | |
|---|---|
| <input type="checkbox"/> Problem Solving | <input type="checkbox"/> Bilingual |
| <input type="checkbox"/> Analytical Ability | <input type="checkbox"/> Interpersonal Skills |
| <input type="checkbox"/> Communication Skills | <input type="checkbox"/> Dexterity |

Describe the requirements of this position that make these factors important:

Working Conditions

Are there particular working conditions associated with this position that should be noted (i.e., working environment, hours of work, travel, work space, etc.)?

Yes _____ No _____ If yes, please explain:

Analysis of Physical Demands of Position

Check physical demands that apply.			Describe job responsibilities that require physical demands checked.
1.	Strength		
	a. Standing	<input checked="" type="checkbox"/> [X] % of time	
	Walking	<input checked="" type="checkbox"/> [X] % of time	
	Sitting	<input checked="" type="checkbox"/> [X] % of time	
	b. Lifting	<input checked="" type="checkbox"/> [X] lbs.	
	Carrying	<input checked="" type="checkbox"/> [X] lbs.	
	Pushing	<input checked="" type="checkbox"/> [X] lbs.	
Pulling	<input checked="" type="checkbox"/> [X] lbs.		
2.	Climbing	<input type="checkbox"/>	
	Balancing	<input type="checkbox"/>	
3.	Stooping	<input type="checkbox"/>	
	Kneeling	<input type="checkbox"/>	
	Crouching	<input type="checkbox"/>	
	Crawling	<input type="checkbox"/>	
4.	Reaching	<input type="checkbox"/>	
	Handling	<input type="checkbox"/>	
5.	Speaking	<input type="checkbox"/>	
	Hearing	<input type="checkbox"/>	
6.	Seeing	<input type="checkbox"/>	
	Depth	<input type="checkbox"/>	
	perception	<input type="checkbox"/>	
	Color vision	<input type="checkbox"/>	

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Job Description

Job Title: Chief Financial Officer

Department: Administration

Reports To: President & CEO

Approved By:

Approved Date:

SUMMARY

Directs the organization's financial planning and accounting practices as well as its relationship with lending institutions, shareholders, and the financial community by performing the following duties personally or through subordinate managers.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Include the following. Other duties may be assigned.

- Oversees and directs treasury, budgeting, audit, tax, accounting, purchasing, real estate, long range forecasting, and insurance activities for the organization.
- Directs the controller in providing and directing procedures and computer application systems necessary to maintain proper records and to afford adequate accounting.
- Directs the treasurer in activities such as custodian of funds, securities, and assets of the organization.
- Appraises the organization's financial position and issues periodic reports on organization's financial stability, liquidity, and growth.
- Coordinates tax reporting programs and investor relations activities.
- Analyzes, consolidates, and directs all cost accounting procedures together with other statistical and routine reports.
- Oversees and directs the preparation and issuance of the corporation's annual report.
- Directs and analyzes studies of general economic, business, and financial conditions and their impact on the organization's policies and operations.

- Analyzes operational issues impacting functional groups and the whole institution, and determines their financial impact.
- Evaluates and recommends business partnering opportunities.

SUPERVISORY RESPONSIBILITIES

QUALIFICATIONS

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or EXPERIENCE

LANGUAGE SKILLS

MATHEMATICAL SKILLS

REASONING ABILITY

CERTIFICATES, LICENSES, REGISTRATIONS

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

POSITION REQUEST FORM

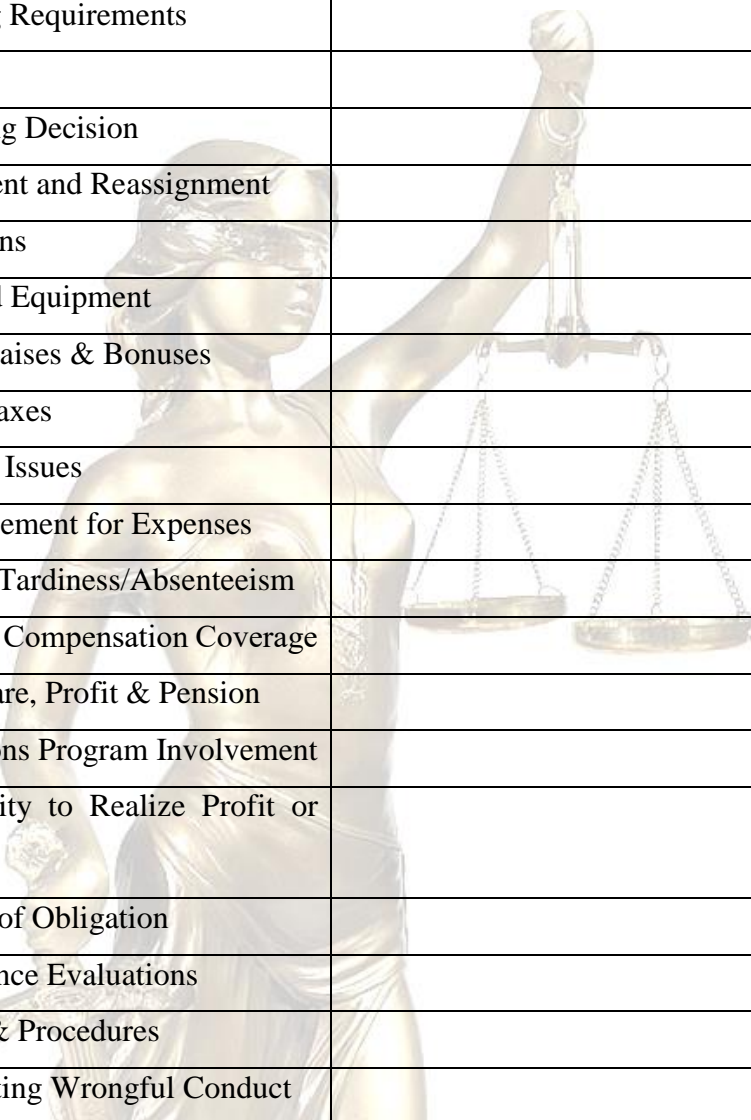
Position Title:		Department:		
Reports To:	Exempt	Non-Exempt	Temporary	Part-time
Pay Scale:		Location:		Date Needed:
Position Summary:				
Essential Job Functions				
1.				%
2.				%
3.				%
Minimum Requirements				
Education:				
Experience:				
Skills & Knowledge:				
Requested By:			Date:	

Human Resources Department Use Only	
<input type="checkbox"/> Existing Position	<input type="checkbox"/> New Position
Is a specific candidate in mind: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If a specific candidate is in mind: <input type="checkbox"/> An existing employee <input type="checkbox"/> A new hire	
Name of candidate:	
Request for new position:	
<input type="checkbox"/> Approved <input type="checkbox"/> Denied	By:
	Date:
Reason for approval/denial:	
Candidate above approved by:	
	Date:
<input type="checkbox"/> POST INTERNAL NOTICE OF JOB OPENING <input type="checkbox"/> POST CLASSIFIED AD <input type="checkbox"/> NO POSTING	
POSITION OPENING DATE:	POSITION CLOSING DATE:

CONTINGENT WORKER WORKSHEET

Some or all of these issues should be discussed between the company and agency. Agree on who is to do what and then enter into a written agreement which memorializes your understanding.

	FUNCTION	NOTES
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1.	Creation of Job Description	
2.	Advertising for the Worker	
3.	Worker Selection	
4.	Worker Testing	
5.	Reference Checking	
6.	Licensing Requirements	
7.	Bonding	
8.	The Hiring Decision	
9.	Assignment and Reassignment	
10.	Instructions	
11.	Tools and Equipment	
12.	Wages, Raises & Bonuses	
13.	Payroll Taxes	
14.	Overtime Issues	
15.	Reimbursement for Expenses	
16.	Sickness/Tardiness/Absenteeism	
17.	Workers' Compensation Coverage	
18.	Health Care, Profit & Pension	
19.	Suggestions Program Involvement	
20.	Opportunity to Realize Profit or Loss	
21.	Duration of Obligation	
22.	Performance Evaluations	
23.	Policies & Procedures	
24.	Investigating Wrongful Conduct	
25.	Discipline	
26.	Right to Terminate	
27.	Worker Ability to Quit	
28.	Trade Secret/Proprietary Information Protection	

29.	Working Conditions	
30.	Ability to Join Teams, Events, Etc.	
31.	Identification	
32.	Training	
33.	Third Party Liability Obligations	
34.	Indemnity Obligations	
35.	Management & Personnel Files	
36.	Access to Agency Records	
37.	Buy Out Provisions	
38.	Collective Bargaining Issues	
39.	Loyalty & Commitment Issues	
40.	Ethics Issues	
41.	Continuity of the Relationship	

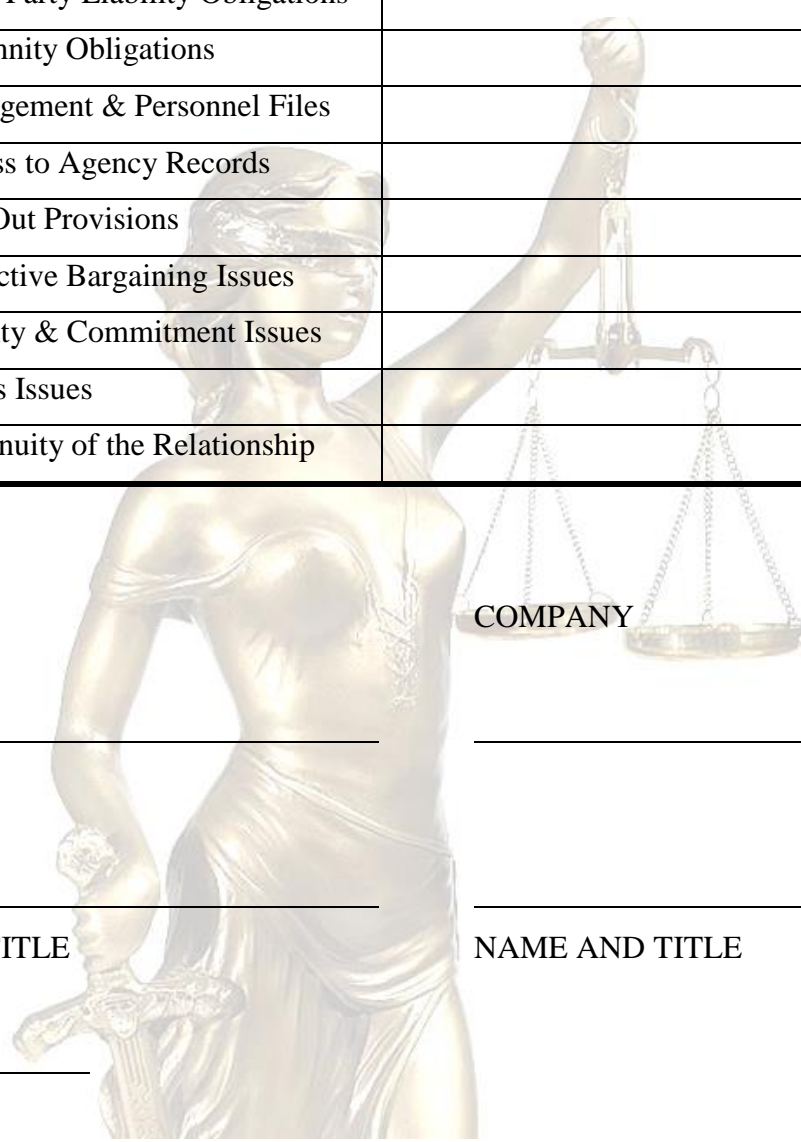
AGENCY

COMPANY

NAME AND TITLE

NAME AND TITLE

DATED: _____



DELEGATION WORKSHEET

Use this form to determine if you delegate enough work to the employees under your supervision. Write any additional responses you have to the statements in the “comments” column. If you answer “yes” to these delegation questions, you are probably delegating effectively. If you answer “no” to some of them, you have areas that need improvement.

	Yes	No	Comments
I delegate appropriate amounts of work to my employees.			
I sometimes ask my employees to outline their ideas on a subject before they report to me.			
I outline what is expected when I delegate activities to others, and I clearly state the standard of performance I expect.			
I recognize that my employees sometimes may see my delegating as a waste of their time, and I seek to clear this up with them.			
I have established a framework that my employees understand and agree to.			
I sometimes ask employees what I am doing that wastes their time.			
I encourage my employees to take initiative as long as they keep me properly informed.			
From time to time, I review my delegating style to avoid falling into the trap of over-delegating or under-delegating			

JOB REQUIREMENTS WORKSHEET

Use the following checklists to analyze the demands of particular jobs in relation to the qualifications of job applicants. In order to measure the extent to which an activity is required in a job, place an A,B,C or N/A in each designated blank as follows:

- A - Minor - Activity or condition exists less than 20% of work time.
- B - Moderate - Activity or condition exists between 20-60% of work time.
- C - Major - Activity or condition exists 60% or more of work time.
- N/A - Not applicable

PHYSICAL DEMAND	% of Work	Code
Strength		
Standing		
Walking		
Sitting		
Lifting		
Carrying		
Pushing		
Reaching		
Handling		
Fingering		
Feeling		
Throwing		
Eye-Hand Coordination		
Foot-Hand-Eye Coordination		
Climbing		

Stairs		
Ladders		
Other		
Balancing		
Communicating		
Ordinary		
Other		
Hearing		
Ordinary		
Other		
Stooping		
Kneeling		
Crouching		
Crawling		
Turning/Twisting		
Bending at Waist		
Other		
Seeing		
Acuity - Near		
Acuity - Far		
Depth Perception		
Accommodation		
Color Vision		
Field of Vision		
PHYSICAL CONDITION	% of	Code
Working Area		
Inside		
Outside		
Temperature		

Constant cold		
Constant heat		
Changing temperatures		
Atmospheric Conditions		
Fumes		
Odors		
Mists		
Dusts		
Humidity or Damp		
Dirt		
Oil/Grease		
Gases		
Ventilation		
Lighting		
Other		
Noise		
Noise level (dB)		
Exposure (hours/day)		
Unavoidable Hazards		
Mechanical		
Electrical		
Burns		
Protective Clothing or Personal Devices		
Cramped quarters		
Moving objects		
Heights		
Other		

MENTAL REQUIREMENTS	% of Work	Code
Understand and carry out oral instructions.		
Read and carry out simple written instructions.		
Read work orders, scrap tickets, job lot tickets, graphs, logs, schedules.		
Read and verify car numbers, alloy identities, etc.		
Read and carry out complicated instructions.		
Observe and read instruments, gauges, dials, etc. to determine operating conditions.		
Read and interpret detailed prints, sketches, layouts, specifications, etc.		
Identify and list production data such as quantities, pressures, alloys, operating conditions.		
Prepare detailed records or reports such as inventory records, receiving reports, operating logs, lab analyses, quantities, etc.		
Estimate size, form, quality or quantity of objects.		
Estimate speed of moving objects.		
Inspect, examine and observe for obvious product or equipment defects.		
Count, make simple arithmetic additions and subtractions.		
Compute and calculate amounts of additives, results of tests, etc.		
Use measuring devices such as tapes, gauges, rules, weight scales, where reading is direct and obvious.		
Use measuring devices such as micrometers, calibrated steel tapes, calipers where precision & interpretation are required.		
Make routine lab tests, such as titrations, specific gravity, etc.		
Plan and schedule movement or flow of materials or products.		
Operate overhead cranes and hoists.		
Use hand power tools.		

Use non-power head tools such as hammers, wrenches, etc.		
Set up and operate machine tools such as lathes, milling machines, saws.		
Assemble or disassemble objects.		
Determine malfunctioning of units by observing.		
Determine nature and location of malfunction.		
Perform repair and maintenance of equipment.		
Perform a journeyman craft activity.		
Make adjustments to obtain specified operating conditions such as turning valves; switches; moving and setting controls; adjusting furnaces, pumps		
Control activities of a single processing unit.		
Control activities of several processing units.		
Operate equipment requiring specialized knowledge of process.		
Plan own work activities.		
Plan work activities of others.		
Direct work activities of others.		
Coordinate work activities of others.		
Train other workers.		
Work alone.		
Work as a member of a team.		
Work without supervision.		
Work with minimum amount of supervision.		
Work under pressure.		
Work rapidly for long periods.		
Work on several tasks at the same time.		

ROUTINE CLERICAL RESPONSIBILITIES WORKSHEET

ACTIVITY	FREQUENCY			
	Day	Week	Month	Other
Types labels, letters, envelopes, and invoices.				
Determine layout and format, and type in finished format.				
Proofread and correct errors.				
Set up an type financial and statistical reports.				
Take dictation and transcribe.				
Transcribe dictation from voice recordings.				
Record, type, and distribute meeting minutes.				
Compose standard letters in response to routine correspondence.				
Schedule appointments without prior clearance, schedule meetings and conferences, and make travel arrangements including reservations.				
Prepare meeting and conference rooms.				
Maintain, process, distribute, and update records, files, and documents.				
Maintain confidential records and files, and handle confidential correspondence and records.				
Open, sort and distribute mail.				
Answer phone, screen and place calls, monitor and follow up on voice mail recordings, refer callers to appropriate parties.				
Prepare, process, and verify invoices, bills, checks and receipts.				
Maintain and report expense account activity.				

Receive and welcome visitors, and refer to appropriate parties.				
Maintain and update mailing lists.				
Enter data electronically and verify.				
Process payroll records.				
Perform calculations, post and verify figures, trace and adjust errors.				
Maintain inventory of office supplies, requisition new supplies, and distribute supplies to authorized parties.				
Schedule and monitor equipment repairs and service contracts.				
Maintain locks and keys for storage cabinets and other facilities, and distribute to authorized parties.				
Orient and train new employees.				
Schedule work for coworkers as requested.				
Maintain cash box.				
Sign legal documents.				
Act as resource for others as to staff and locations.				
Handle cash and negotiable instruments.				
ACTIVITY	FREQUENCY			
	Day	Week	Month	Other
Maintain records of cash receipts and disbursements.				
Review job applicants/applications and conducts screening interviews.				
Collate and bind.				
Make copies.				
Date and stamp documents.				

Recommend improvements in operations and procedures.				
Modify operations and/or procedures.				
Maintain procedures and information manuals.				
Develop operating budget for approval.				
Research, tabulate, and summarize information of routine, periodic or special reports.				
Present findings in oral or written form.				
Record and verify entries or accounts, journals, logs, and general ledgers.				
Balance accounts and reconcile statements.				

INDICATE THE EQUIPMENT OPERATED AS A REGULAR PART OF THE RESPONSIBILITIES

	Calculator		Camera		Cash register/petty cash
	Computer		Dictation equipment		Facsimile machine
	Microfilm equipment		Photocopier		Postage machine
	Security equipment		Sorter		Switchboard
	Word processor		Other:		

INTERVIEWS

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APPOINTMENT FOR EMPLOYMENT INTERVIEW AND TESTING

Dear [CONTACT NAME],

On behalf of [COMPANY], I want to thank you for your recent application for employment with our-firm.

It is my great pleasure to inform you that an interview has been scheduled for you on [DATE], at [TIME], with [CONTACT NAME], [POSITION]. [CONTACT NAME]'s office is located at [LOCATION].

Please note that a test will be administered to you immediately following your interview, which will take approximately one hour. If you are unable to maintain this appointment or if you have any questions, please call me at the number indicated below.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CONFIDENTIAL DISCLOSURE AGREEMENT

This Interview Confidential Disclosure Agreement (the "Agreement") is made and effective this [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. Company is interviewing Applicant for the position of [POSITION] and to work on the following projects: [DESCRIBE].
2. Applicant understands that Company's trade secrets may be disclosed during the interview process or as a result of Applicant's access to Company's premises.
3. Applicant understands and acknowledges that Company's trade secrets consist of information and materials that are valuable and not generally known by the Company's competitors. The Company's trade secrets include:
 - a. Any and all information concerning the Company's current, future or proposed products, including, but not limited to, unpublished computer code (both source code and object code), drawings, specifications, notebook entries, technical notes and graphs, computer printouts, technical memoranda and correspondence, product development agreements and related agreements.
 - b. Information and materials relating to the Company's purchasing, accounting and marketing; including, but not limited to, marketing plans, sales data, unpublished promotional material, cost and pricing information and customer lists.

- c. Information of the type described above which the Company obtained from another party and which the Company treats as confidential, whether or not owned or developed by the Company.
4. At all times during and after the interview, Applicant will keep confidential and will not make use of or disclose to any third party any of Company's trade secrets.
5. Applicant will not use, disclose to company, or cause Company to use any trade secret or confidential information of any other person or entity.

COMPANY

EMPLOYEE

Print Name and Title

Print Name and Title

Signature

Signature

JOB APPLICANT INTERVIEW SCRIPT

1. INTRODUCTION

When the applicant arrives, put him or her at ease using a friendly, businesslike attitude. Let the applicant know that you're glad that they've come and that you have set aside sufficient uninterrupted time to conduct the interview. You can start the interview with chatter about hobbies, interests, etc., if you are comfortable doing so and are confident that you can stay away from personal questions that might be considered discriminatory. Or you can simply ask one of the following questions:

- "How did you happen to become interested in our organization?"
- "How did you hear of the opening?"
- Depending on the response, you can work in an overview of what you have planned.

"Before we start, let me give you some idea of what I'd like to cover today. I want to review your background and experience so that I can decide whether the job is suited to your talents and interests. So, I'd like to hear about your job, education, interests, outside activities, and anything else you'd like to tell me. And after we have covered your background, I want to give you information about our organization and the job, and answer any questions that you might have."

2. WORK EXPERIENCE

A discussion of work experience should vary widely based, in part, on how long the applicant has been employed. Questions appropriate to a recent high school or college graduate will make little sense when interviewing a professional with 15 years of experience. For an applicant with substantial experience, a reasonable starting point would be a discussion of the most recent position. In addition to focusing on the jobs themselves, it might also be helpful to discuss why the applicant has changed jobs in the past, the duration of each prior employment, chronological gaps in employment, etc. The following script would be appropriate when interviewing someone who has not been working long.

- "A good place to start would be your work experience."
- "I'm interested in the jobs you've held, what your duties and responsibilities were, your likes and dislikes, and what you felt you may have gained from them."
- "Let's start with a brief review of your first work experiences, those you might have had part-time during school or during the summer, and then we'll concentrate on your more recent jobs in more detail."
- "What do you remember about your very first job?"

Select specific follow-up questions for each job and move forward chronologically. It's been suggested that you move forward chronologically because there's a more natural conversational flow and you can see patterns of behavior emerge. Your follow-up questions should ask for specific examples of behavior, not general or hypothetical responses.

Ask specific, clear questions one at a time and let the applicant answer uninterrupted. Resist filling in every lull in the conversation; wait to see if the applicant will do so. Avoid either verbally or physically giving the applicant a clue as to how you regard their answers; remain neutral.

To draw the applicant out without revealing what you're thinking, try using his or her own words. If the candidate says, "I like to work independently," you could respond with "Independently?" Of course, you could also use the opportunity to ask the applicant to give an example of what he or she did working independently.

After you have covered the applicant's work experience, you could move on to education.

3. EDUCATION

As in the case of the work experience portion of the interview, the education discussion must be tailored to suit the applicant's educational level. The sample interview that follows would be appropriate for a younger applicant who has not been out of high school for any length of time. When interviewing for a professional position, the focus would shift to the professional education.

- "You've given me a good review of your work experience – now let's talk about your education. Why don't we start with high school briefly and then cover more recent schooling and any specialized on the job training you may have had. I'm interested in the subjects you preferred, your grades, extracurricular activities, and anything else of importance."

- "What was high school like for you?"

Select specific follow-up questions for each educational experience and move forward chronologically. Don't necessarily accept answers at face value. Chronology reveals patterns. Take the information and patterns of behavior that you're being told and analyze them in terms of the performance skills you determined that you needed before the interview began.

4. ACTIVITIES AND INTERESTS

"Turning to the present, I'd like to give you the opportunity to mention some of your interests and activities outside of work—hobbies, what you do for fun and relaxation, any community activities, professional associations, or anything else you'd like to mention that you think might be relevant to our job. What would you like to mention?"

Select specific follow-up questions.

Show interest and attention, as well as respect for the applicant. Don't talk down. Do use an appropriate language level.

5. SELF-ASSESSMENT

Select specific follow-up questions as needed.

- "Now let's try to summarize our conversation. Thinking about all we've covered today, what would you say are some of your strengths—qualities both personal and professional that make you a good prospect for any employer?"
- "You've given me some real assets, and now I'd like to hear about areas you'd like to develop further—all of us have qualities we'd like to change or improve. What are some of yours?"

6. TRANSITION TO INFORMATION-GIVING PHASE

If you are still interested in the applicant, proceed to this phase of the interview. On the other hand, if you have already decided that the applicant isn't suitable, there isn't much point in describing a position that the applicant won't be filling.

- "You've given me a good review of your background and experience, and I have enjoyed talking with you. Before we turn to my review of our organization, and the job, is there anything else about your background you would like to cover?"
- "Do you have any specific questions or concerns before I give you information about the job and the opportunities here?"

All right, now I have some information I'd like to give you." Review the organization, the job, benefits, location, etc. Tailor your presentation as appropriate to your interest in the candidate.

7. CLOSING

Close the interview graciously. If you have already decided not to offer the applicant a job, you can let them know at this point. Do so cordially and uncritically; you needn't be specific about why you've rejected the candidate.

- "Do you have any other questions about us, the job, or anything else?"
- "I've enjoyed talking with you today, but we won't be able to offer you this position."

If you think that you would consider the applicant for another position in the future, say so. You've already spent the time on an interview.

If pressed for a reason why an applicant won't be offered a job, you always have the option of telling the applicant that you do not discuss the reasons for your hiring decisions. Or, you may explain that, for example, you have already interviewed other, more qualified applicants. Use your judgment, realizing that it can create a very awkward situation if you merely tell an applicant that he or she is "unqualified" or "lacking experience." Be honest, but don't be confrontational.

- If you've found a promising candidate, you can continue.

- "What is your level of interest in us at this point?"
- Explore any doubts or reservations the applicant might have. "Let me review what the next steps are."
- Let the applicant know what's likely to happen next, whether another interview will be needed, and how long it will be before a decision is made.
- Finish by thanking the participant: "I want to thank you for coming today...."



KNOWLEDGE WORKER INTERVIEW QUESTIONNAIRE

1. Do you own a personal computer and, if so, what kind? _____

2. What software do you know how to operate? _____

3. Do you have a fax modem? Yes _____ No _____
4. Do you use an e-mail program? Yes _____ No _____
5. What literature that relates to your profession do you read, including books, newspapers, trade magazines, etc.? _____

6. What classes or seminars have you taken on your own during the last three years to advance your career and personal growth? _____

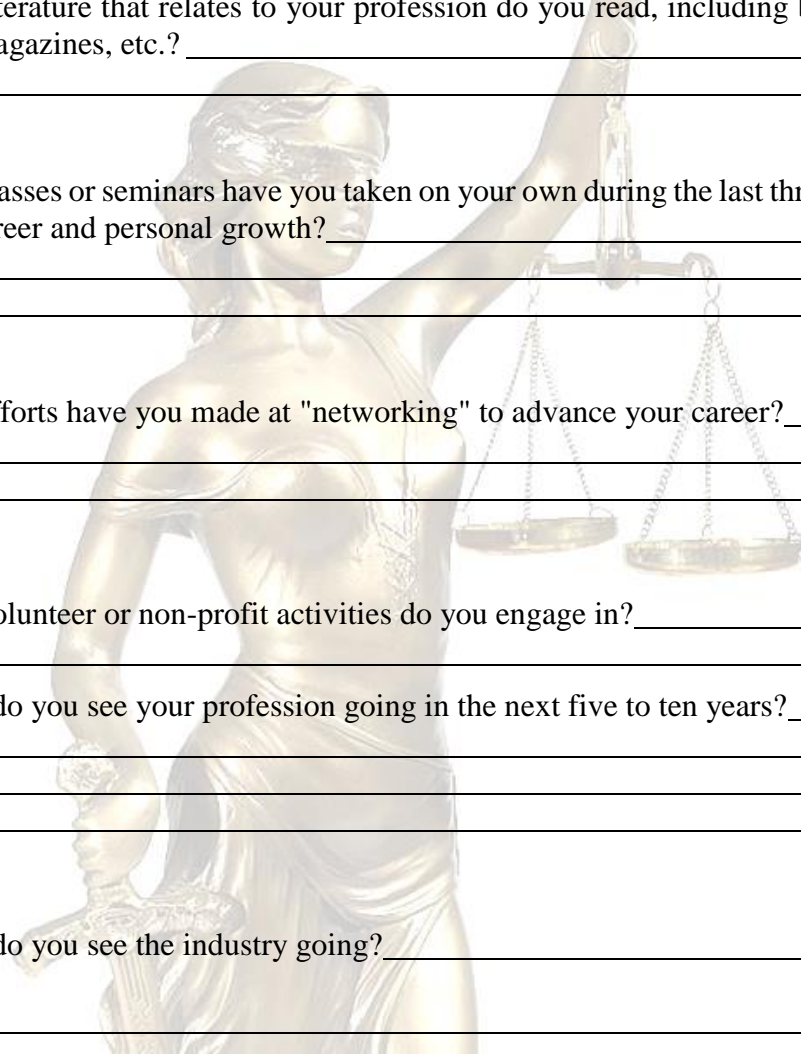
7. What efforts have you made at "networking" to advance your career? _____

8. What volunteer or non-profit activities do you engage in? _____

9. Where do you see your profession going in the next five to ten years? _____

10. Where do you see the industry going? _____

11. What are you doing to stay on top of these changes? _____



12. What are the most important things to you about any job? Is it the pay, the opportunities, feelings of self-worth, fellow employees, location, benefits, etc.? _____

13. What efforts do you make to keep yourself healthy? Do you exercise, eat a proper diet, refrain from smoking, take nutritional supplements, meditate, etc.? _____
_____do you consider to be your professional role model? Why do you consider this person to be so special? How can you improve on that person's contributions? _____

14. When it comes to getting paid, are you the type of person that is more interested in a steady paycheck with good benefits or would you rather work for a company where there may be greater risk but yet greater rewards in terms of both pay and job satisfaction? Please explain

15. What type of incentive programs have you found to work best? _____

16. Tell me about the most critical job project you ever worked on? _____

17. Please explain the best work experience you had in the past five years? _____

18. Please explain the worst work experience you had in the past five years? _____

19. What do you know about our company? What are our primary products and services? What do you perceive our strengths and weaknesses to be? _____

20. Please explain any dealings that you have already had with our company. Are any of our employees your personal friend? Do you have any potential conflicts of interest? _____

21. Have you signed any trade secret, non-compete or non-disclosure agreements?

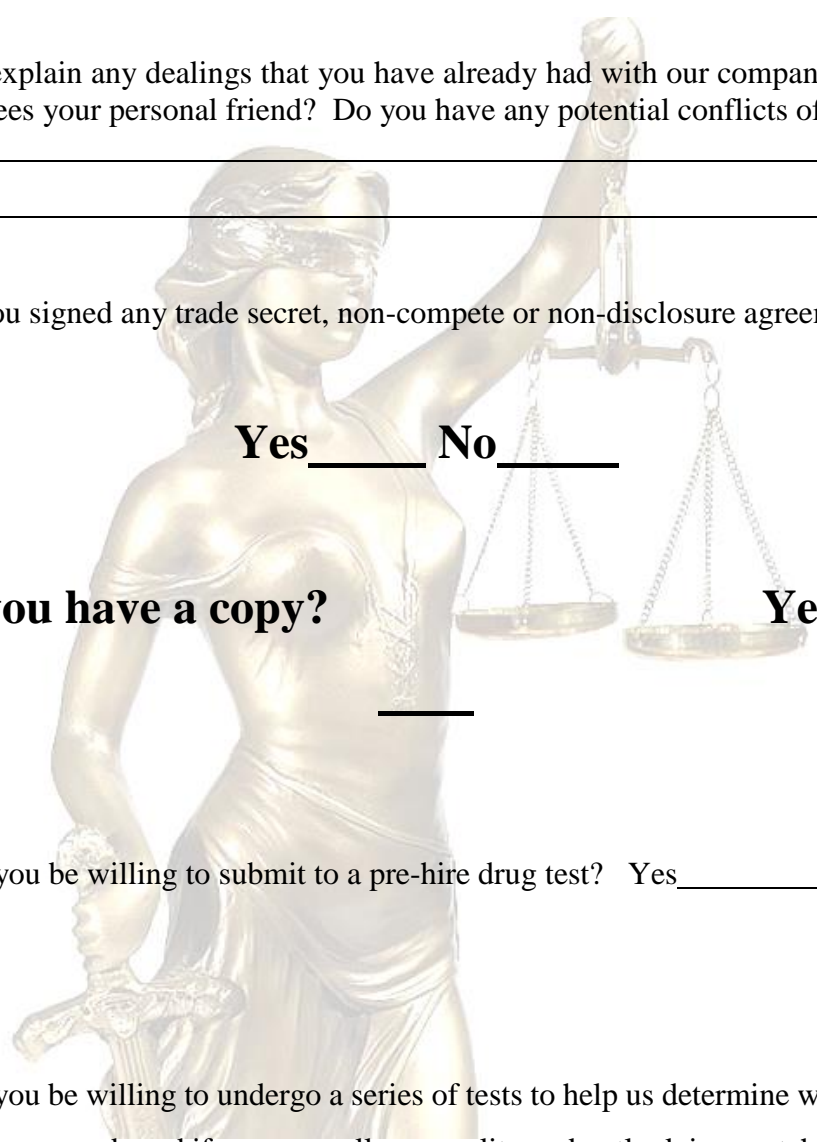
Yes _____ **No** _____

If so, do you have a copy?

Yes _____ **No** _____

23. Would you be willing to submit to a pre-hire drug test? Yes _____ No _____

24. Would you be willing to undergo a series of tests to help us determine whether or not your skills fit our needs and if your overall personality and outlook is a match for our company?



Yes _____ No _____

25. What do you think are the greatest strengths and values that you can bring to this company? Is it your knowledge of this industry, your ability to get along with people, dedication and loyalty, or is it something else? _____

26. If hired, where would you like to see yourself within this company in the next three to five years?

27. Have you placed your professional goals in writing? Yes _____ No _____

28. What are they? _____

29. What is your opinion about the followings and why?

- the issue of trust in the workplace _____
- the power of having a corporate vision _____
- the issues of loyalty and commitment _____
- taking risks in the workplace _____
- working with little supervision _____

- change in the workplace_____
- terminating poor performers_____
- being acknowledged for good performance_____

30. Is there anything else you would like to know or share?_____

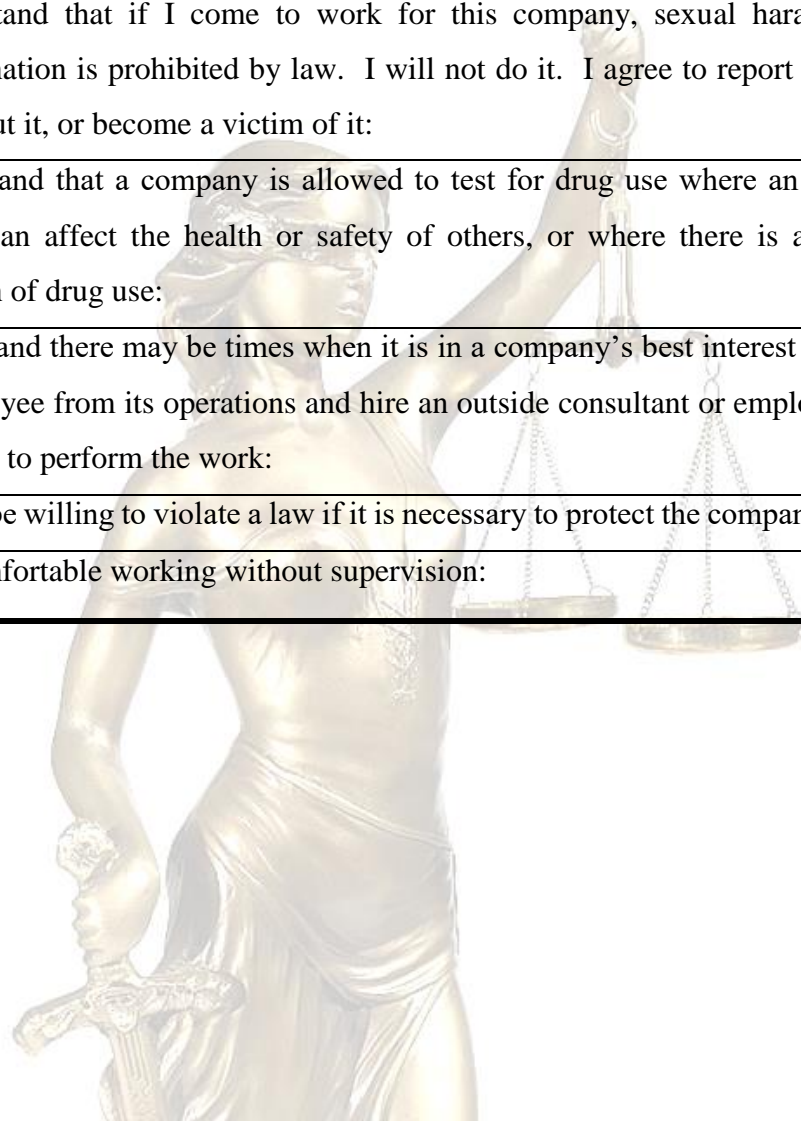
Notes: _____

PRE-INTERVIEW QUESTIONNAIRE

TRUE FALSE

1.	I prefer when change is introduced slowly:	T	F
2.	Rumors are never worth listening to:	T	F
3.	Group discussions are a good way to improve communications at work:	T	F
4.	People who say less usually have less to offer:	T	F
5.	People work best if they have a say in the way they do their work:	T	F
6.	When I fear criticism, I am less likely to talk:	T	F
7.	I understand that discrimination or harassment towards different races, ages, sexes, religions, our employees, customers or others will not be tolerated at this company:	T	F

8.	People are created with equal abilities:	T	F
9.	The best form of health protection is to exercise and eat a well balanced diet:	T	F
10	I take nutritional supplements to help support my health and energy levels:	T	F
11	I am very concerned about what I eat because it significantly affects my energy level and overall health status:	T	F
12	I understand that if I come to work for this company, sexual harassment and discrimination is prohibited by law. I will not do it. I agree to report it if I see it, hear about it, or become a victim of it:	T	F
13	I understand that a company is allowed to test for drug use where an employee's actions can affect the health or safety of others, or where there is a reasonable suspicion of drug use:	T	F
14	I understand there may be times when it is in a company's best interest to eliminate an employee from its operations and hire an outside consultant or employee leasing company to perform the work:	T	F
15	I would be willing to violate a law if it is necessary to protect the company's interest:	T	F
16	I am comfortable working without supervision:	T	F



1.	Employers have the legal right to terminate an employee for any reason, at any time:	T	F
2.	I have a computer that I use at home:	T	F
3.	I have a library card:	T	F
4.	I like working in a team:	T	F
5.	How do you intend to add value to this company if you are hired?		
6.	What are the three greatest books you have read?		
7.	What do you read that is related to the job you are applying for?		
8.	I am working to improve my communication skills by:		
9.	I engage in the following exercise on a regular basis:		
10.	What have you done to learn about our company and the business we are in?		
11.	In my experience, companies can improve themselves when they:		
12.	My greatest personal attributes are:		
Signature:		Date:	

DESIRED ANSWERS TO PRE-INTERVIEW QUESTIONNAIRE TRUE/FALSE QUESTIONS

- | | | | |
|----------|-----------|-----------|-----------|
| 1. True | 6. False | 11. True | 16. True |
| 2. True | 7. True | 12. True | 17. False |
| 3. False | 8. False | 13. True | 18. True |
| 4. False | 9. True | 14. True | 19. True |
| 5. False | 10. False | 15. False | 20. True |

QUESTIONS TO AVOID DURING AN INTERVIEW

The questions below are generally prohibited during the selection process because they inquire into information that is not required as a matter of business necessity, or are not job-related. The

- Questions such as, “With whom do you reside?” or “Do you live with your parents?”
- Questions as to applicant's complexion, or color of skin, eyes, or hair.
- Questions as to applicant's height and weight.
- Requiring an applicant to affix a photograph to the application.
- Requesting an applicant at his or her option, to submit a photograph.
- Questions regarding an applicant's general medical condition, state of health, or illness.
- Questions regarding the medical condition or health of an applicant's family or associates.
- Questions regarding AIDS, HIV and related conditions.
- “Have you ever made a worker's compensation claim?”
- Questions regarding receipt of worker's compensation benefits.
- "Do you have any mental or physical disabilities or handicaps?"
- Questions regarding arrest record, such as "Have you ever been arrested?" unless they are in a security-related position. It's okay to ask if they have been convicted of a felony.
- Questions regarding refusal or cancellation of bonding unless they are in a security-related position.
- Questions regarding service in foreign military.
- Questions regarding applicant's current or past assets, liabilities, or credit rating, including prior bankruptcies unless job-related.
- Questions regarding length of residence at a particular address.
- Requiring a list of all organizations, clubs, societies, or lodges to which applicant belongs.

- “Are your parents healthy?”
- “What did you parents die of?”
- “What is the prognosis for your disease?”
- “Is your skin condition caused by a disease?”
- “Do you have any physical or mental disability/handicap that will require reasonable accommodation?”
- “Have you ever abused alcohol?”
- “Is anyone in your family disabled?”

**JOB ANNOUNCEMENT
NOTICE OF JOB OPENING**

Position Posting Date:	Position Closing Date:

This company is committed to the principles of equal employment opportunity and is committed to making employment decisions based on merit. We are committed to complying with Federal, State and local laws providing equal employment opportunities, as well as all laws related to terms and conditions of employment. The company desires to keep a work environment free of sexual harassment or discrimination based on race, religion, color, national origin, sexual orientation, physical or mental disability, marital status, age or any other status protected by Federal, State or local laws.

LETTER TO APPLICANT

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CONFIRMATION OF AN OFFER OF EMPLOYMENT

Dear [CONTACT NAME],

Welcome to [NAME OF COMPANY]! We are pleased to confirm our offer to have you join [NAME OF COMPANY] as a [POSITION] reporting to [SUPERVISOR], commencing [DATE] on the following terms:

- a) you will be on probation for [NUMBER] weeks during which time we may terminate your employment at any time without notice or payment in lieu of notice; if your employment is continued, we may only terminate your employment without cause on two weeks notice or payment in lieu of notice; however, we reserve the right to terminate your employment at any time without notice or payment in lieu of notice for good cause;
- b) your gross cash salary, inclusive of any statutory vacation pay to which you may be entitled, during the probationary period of your employment is equivalent to [AMOUNT] per annum payable, subject to statutory deductions, in [WEEKLY, BI-WEEKLY] installments not in advance; if your employment is continued, your gross cash salary, inclusive of any statutory vacation pay to which you may be entitled, will increase to the equivalent of [AMOUNT] per annum also payable, subject to statutory deductions, in weekly installments not in advance; [EITHER CONTINUE] in addition, you have the following taxable fringe benefits in connection with your employment:[LIST FRINGE BENEFITS]; [OR CONTINUE] there are no fringe benefits in connection with your employment and, in particular, there is no sick leave;
- c) subject to statutory holidays, your hours of employment are [TIME] am to [TIME] pm, Monday through Friday, with [NUMBER] minutes off for lunch and [NUMBER] minute coffee-breaks (one to be taken in the morning and the other in the afternoon) each full working day;
- d) you have up to two weeks ordinary vacation each year; you will not receive your ordinary pay while on vacation but you will be paid any statutory vacation pay to which you are

If there is anything with which you do not agree, please feel free to discuss it with the writer.

We are very pleased to offer you the position and are sure that you will make a superb addition to our firm. Once again, welcome to the firm!

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

Employment on the terms set out in this letter is accepted.

Date: _____ By: _____

Date

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NEW EMPLOYEE WELCOME LETTER

Dear [CONTACT NAME],

It is with great pleasure that I welcome you as a new employee to [NAME OF FIRM]. I am very pleased that you have chosen to accept our offer of employment and know that this is the beginning of a mutually beneficial association. We encourage our personnel to take advantage of selected courses that are available in this vicinity, in order to improve their skills and learn new skills in related areas. The courses and their corresponding registration dates are listed on the employee bulletin board for your review. If you decide to attend one of these courses, please advice your office manager and he will make the necessary arrangements.

Once again, welcome to [NAME OF FIRM]!

Sincerely,

Your name

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DECLINE TO INTERVIEW

Dear [CONTACT NAME],

Having been away from the office for a few days, I didn't read your letter of [DATE] until today. While I am sure the young man you wrote to me about wouldn't warrant the recommendation you gave unless he is truly exceptional, I believe it would be unfair to him to set up an interview at this time.

We have just had to lay off [NUMBER] employees and there is no way that I could justify hiring someone new under those circumstances. We anticipate that business should improve over the next six months, but for now, the timing is off. I am sorry to have to disappoint you. You know, under the right circumstances, we are always looking for bright young people with potential. Thank you for thinking of us.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RECENT JOB APPLICATION

Dear [CONTACT NAME],

Thank you for your recent application to join our company as a [POSITION REQUESTED].

We regret to inform you that there are no openings in your area at this time. While we know this is disappointing news, we would like to retain your application in our files for future openings.

Thank you for your interest in working for our company.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: APPLICATION ACKNOWLEDGMENT

Dear [APPLICANT],

We recently received your correspondence indicating an interest in a position at [YOUR BUSINESS]. We want to thank you for taking the time to send us information about yourself, and we want to assure you that your application will be considered very carefully.

If your qualifications match our needs, you will hear from us by phone or mail to schedule an interview.

Thank you again for your interest.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

Signature: _____

Date: _____

Thank you for your cooperation and prompt response.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

[FORMER EMPLOYER NAME]

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REFERENCE CHECK FOR [APPLICANT NAME] – [SOCIAL SECURITY NUMBER]

Dear [FORMER EMPLOYER NAME],

A former employee of your company, [APPLICANT NAME], has applied for a position with our company. As part of interview process, we are hereby requesting background information from you on this employee. [HE/SHE] has given us permission to request such information from you and a copy of such request is attached hereto.

Please provide us the following information concerning this former employee:

Dates of employment: _____ Positions held: _____

Responsibilities: _____

Last total salary and bonus while employed: _____

Reason given for terminated/leaving: _____

How would you rate his/her overall competence? (Check one.)
Outstanding _____ Good _____ Average _____ Fair _____ Poor _____

Please state briefly what you believe to be his/her greatest strengths and weaknesses (if any):

Strengths _____

Weaknesses _____

If you had an opening for which he/she is qualified, would you rehire him/her? Yes ___ No ___

If no, please state why. _____

EMPLOYMENT REFERENCE PHONE SCRIPT

When telephoning another company to conduct a reference check, be sure to introduce yourself, giving your name and title, where you are calling from, and explain the reason for your call. Try to speak with the applicant’s supervisor. Make sure the person you do speak to has the authority to give references. Give the person you are speaking with the name of the applicant, the position they are applying for, and the supposed dates of employment with their company. Offer to fax a release if the person you are speaking to is reluctant to give information.

Applicant’s Name:	Date:		
Position Applied For:	Dept.:		
Person Conducting Check:	Title:		
Previous Employer:			
Person Giving Reference:		Title:	
Verified Dates of Employment:	From	End	To
Position Title:	Begin	End	
Salary/Wages:	Begin	End	
Brief description of previous job duties:			
How would you describe applicant’s performance of job duties?			
What value did the applicant add to their company?			
How did the applicant get along with others?			
Reason for applicant’s termination:			
Is applicant eligible for rehire with this company? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If not eligible for rehire, why not?			
Additional Notes:			

DR. LUBOGO ISAAC CHRISTOPHER

Name: _____ Relationship: _____

Address: _____

Telephone: _____ Date contacted: _____ Method of contact: _____

Notes: _____

EMPLOYMENT REFERENCES CHECKED:

Name: _____ Relationship: _____

Address: _____

Telephone: _____ Date contacted: _____ Method of contact: _____

Would you rehire? _____ Reason for termination: _____

Notes: _____

Name: _____ Relationship: _____

Address: _____

Telephone: _____ Date contacted: _____ Method of contact: _____

Would you rehire? _____ Reason for termination: _____

EMPLOYEE REFERENCE REQUEST

I, [EMPLOYEE], hereby authorize [FORMER EMPLOYER] to release any and all references and records related to my past employment and work history to [PROSPECTIVE EMPLOYER]. I release and forever discharge the above named former employer and prospective employer of any and all claims related to this Employee Reference Request and any related exchange of records or other communications related to my past employment.

Date

Social Security Number

Signature

Printed Name

Please answer the following questions as thoroughly as possible regarding the above named individual and their employment with your company. Thank you for your assistance.

Start Date	End Date	Final Position/Title
Final Salary	Time in Final Pay Grade	Your Relationship to Employee
Position Summary:		
Essential Job Functions:		
Reason for Leaving:		

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: THANK YOU TO APPLICANT FOR TESTING

Dear [CONTACT NAME],

Thank you for taking the time to be tested for employment at our main office yesterday. Within [NUMBER] weeks we should be able to provide you with a decision in regard to your application, and we want you to know that we will be giving your application our fullest consideration. If, for some reason, we are unable to offer you a position at this time, we will have your application and aptitude test on record which will enable us to inform you when there is an opening.

We would like to thank you again for your time and consideration and will be in touch with you as soon as we have some definitive information for you.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

Assignee agrees to pay all rent due after the effective date of this assignment, and to assume and perform all duties and obligations required by the terms of the lease.

7. CONSENT OF LESSOR

The Lessor, named in the above assignment of that lease executed on [DATE], wishes to consent to this Assignment. The Lessor also consents to the agreement by Assignee to assume after [DATE], the payment of rent and performance of all duties and obligations as set forth in the lease, and releases Assignor from all duties and obligations under the lease, including the payment of rent, after [DATE], and accept Assignee as lessee in the place of Assignor.

8. BINDING AGREEMENT

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

LESSOR

Authorized Signature

Print Name and Title

Print Name and Title

Print Name and Title

**ASSIGNMENT OF REAL ESTATE
CONTRACT AND SALE AGREEMENT**

This Assignment of Real Estate Contract and Sale Agreement (the "Agreement") is effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, Assignor has entered into a certain Real Estate Purchase and Sale Agreement with [NAME] as "Seller" and Assignor as "Buyer" which Agreement was executed on [DATE], by said Assignor and on [DATE], by said Seller for the purchase and sale of certain real property being, lying and situate in [CITY, STATE/PROVINCE], and more particularly described in said Agreement, copy of said Agreement being attached hereto as Exhibit "A"; and,

WHEREAS, Assignor desires to assign, transfer, sell and convey to Assignee all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement; and,

WHEREAS, Assignee is desirous of receiving all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement;

TERMS

NOW, THEREFORE, for and in consideration of the sum of [AMOUNT]and other good and valuable considerations, the receipt and sufficiency ofwhich are hereby acknowledged, Assignor has assigned, transferred, sold and conveyed and by these presents does hereby assign, transfer,

EXHIBIT A

REAL ESTATE PURCHASE AND SALE AGREEMENT

ASSIGNMENT OF REAL ESTATE CONTRACT

This Assignment of Real Estate Contract (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

For value received, which is acknowledged, the Assignor hereby assigns all interest and benefit in an Agreement of Purchase and Sale of [DESCRIBE PROPERTY] between [VENDOR] (the "Vendor") and the Assignor, accepted by the Vendor on [DATE], to the Assignee.

The Assignor stipulates, however, that this Assignment is made completely at the risk of the Assignee without any representations, warranties or collateral assurances of any kind whatsoever with regard to the subject matter of this assignment, its ownership or the right to make this assignment.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNMENT OF RENTS BY LESSOR

This Assignment of Rents (the “Assignment”) is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

For value received, Assignor assigns and transfers to Assignee, all rents and other sums due and to become due, assign or under that lease Dated [DATE], between Assignor as Lessor, and [NAME], as Lessee;

For the lease of the following described property:

[DESCRIBE]

5. ASSIGNOR WARRANTIES AND REPRESENTATIONS

- a. Assignor is the lawful owner of the above-described lease and of the rental property that is the subject thereof and of all rights and interests therein.
- b. The lease is genuine, valid, and enforceable.
- c. Assignor has a right to make this assignment.
- d. The rental property and rental payments and other sums are free from liens, encumbrances, claims and set offs of every kind whatsoever except as follows:

7. NOTICES

Notice of this assignment may be given at any time at Assignee's option. In the event any payment under the lease hereby assigned is made to Assignor, Assignor will promptly transmit such payment to Assignee.

8. BINDING AGREEMENT

This assignment is irrevocable and shall remain in full force and effect until and unless there is payment in full of any obligation, the payment of which is secured by it, or until and unless such obligation is released in writing by Assignee.

IN WITNESS WHEREOF this Assignment has been signed, sealed and delivered by Assignor and Assignee as of the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Tenant as contained herein. Sub-Tenant further agrees to indemnify and save harmless the Tenant from any breach of Sub-Tenant's obligations hereunder.

8. DELIVERY OF PREMISES

The parties acknowledge that Tenant shall deliver possession of the leased premises to Sub-Tenant on [DATE]; time being of the essence. All rents and other charges accrued under the Lease prior to said date shall be fully paid by Tenant, and thereafter by the Sub-Tenant.

9. LANDLORD’S OBLIGATIONS

Landlord hereby assents to the assignment of lease, provided that:

- d. Assent to the assignment shall not discharge Tenant of its obligations under the Lease in the event of breach by Sub-Tenant.
- e. In the event of breach by Sub-Tenant, Landlord shall provide Tenant with written notice of same and Tenant shall have full rights to commence all actions to recover possession of the leased premises [in the name of Landlord, if necessary] and retain all rights for the duration of said Lease provided it shall pay all accrued rents and cure any other default.
- f. There shall be no further assignment of lease without prior written consent of Landlord.

10. BINDING AGREEMENT

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

Signed, sealed and delivered in the presence of:

TENANT

SUB-TENANT

CONTRACTS, AGREEMENTS AND CHECKLISTS

ADDENDUM TO REAL ESTATE LEASE

This is an Addendum (the “Agreement”) to that certain Real Estate Lease dated [DATE] (the “Lease”) and effective [DATE]

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Addendum relates to the premises leased by the Tenant (the “Premises”) in the building owned by the Landlord (the “Building”), which is located at [FULL ADDRESS].

1. EXCLUSIONS FROM OPERATING COSTS

In the event the Tenant is required to pay a portion of the “operating costs” of the Building, the definition of "operating costs" shall not include: (i) costs incurred in renovating or otherwise improving, painting or redecorating usable space for tenants; (ii) Landlord's costs of any services sold or provided tenants or other occupants for which Landlord is entitled to be reimbursed by

a certified public accountant designated by Tenant, and reasonably acceptable to Landlord, to determine if the foregoing year-end statements are accurate and correct. Such audit shall be paid for by Tenant, unless the audit discloses a discrepancy in said statement in favor of Tenant which is greater than [%] of the amount shown on the year-end statement, in which case the audit shall be paid by Landlord and the amounts due by Tenant pursuant to this paragraph shall be adjusted accordingly.

4. CONDITION OF THE BUILDING

- A. Landlord represents that the Premises, at the time of occupation , will be in good and reasonable condition and that the Premises will be suitable, in all material respects, for Tenant's use.

- B. Landlord represents and warrants to Tenant that the Building does not present a health hazard to occupants or guests and that the Landlord is in compliance in all material respects with all laws, regulations, rules, ordinances, and court decrees affecting ownership and operation of the Building.

- C. Landlord shall maintain the Building in good order and condition (except for damage occasioned by the act of Tenant or employees, licensees or invitees of Tenant, which damage shall be repaired by Landlord at Tenant's expense) at least comparable to other buildings of the class and nature of the Building.

- D. Landlord shall adequately supply the Premises during reasonable and usual business hours with (i) electricity for lighting and operation of office machines, (ii) heating, ventilation and cooling reasonably required for the comfortable occupation of the Premises, (iii) elevator service, either automatic or with attendants, as Landlord elects, (iv) lighting replacement (for Landlord's designated Building standard lights), (v) restroom supplies, (vi) window washing, (vii) security service, (viii) janitor service, (ix) such other services and amenities as these customarily furnished in comparable buildings in the area.

- C. If this Lease is not terminated pursuant to the terms of this paragraph 6, Landlord shall diligently proceed to repair and rebuild the Premises and the Building, as necessary, as permitted by and subject to then applicable law, ordinance and regulation, and this Lease shall remain in full force and effect; provided that Landlord shall also be required to repair any injury or damage and to make any repairs or replacements of any improvements installed in the Premises by or for Tenant.

- D. During any period when the Premises are unusable for the conduct of Tenant's ordinary business operations, and are actually not used by Tenant, provided that the casualty is not the result of the negligence or willful misconduct of Tenant or Tenant's employees then during the period the Premises are rendered unusable by such casualty, Tenant shall be entitled to a reduction in rent in the proportion that the area of the Premises not occupied by Tenant bears to the total area of the Premises.

8. PERMITTED USES

Tenant is permitted to use the Premises for any legal purpose or business.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

each month and every month at [AMOUNT] per month beginning the first (1st) day of [MONTH]. If the first month's rental is adjusted, the rental sum of [AMOUNT] has been received by Owner for the period of [DATE] to [DATE]. The Tenant further agrees if monthly rent is not received on the first (1st) of the month, the Tenant will pay a fee of [AMOUNT] of rent to help defray the cost of collection. [AMOUNT] has been deposited as additional security by Tenant, which will become part of the total security for all agreements.

THIS PARKING SPACE AND/OR STORAGE ROOM IS SUBJECT TO THE COVENANTS AND OBLIGATIONS PROVIDED IN THE RENT AGREEMENT, ADDENDUM RELATING TO RENT, AND RULES AND REGULATIONS, ALL AS IF THIS ADDENDUM WAS INCLUDED THEREIN.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

AGREEMENT FOR PERMISSION TO SUBLET

DR. LUBOGO ISAAC CHRISTOPHER

In the event legal action is required to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

3. NOT A RELEASE TO LEASE

This permission to sublease in no way releases the above-named Tenant from any obligation, responsibility or duty of a Tenant as set forth in the above-described lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

- 6. In the event either party hereto shall neglect, refuse or in any way fail to execute the Lease herein provided or at said time and place, then the party in default shall pay to the other party the sum of [AMOUNT] as liquidated damages and not as a penalty.
- 7. The Lease shall contain the following provisions [ENTER PROVISIONS].
- 8. These presents shall operate only as an agreement to lease, and not as a lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

Executed in duplicate at [DESIGNATE PLACE OF EXECUTION].

SELLER

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Section [NUMBER] of the Lease is hereby amended to provide monthly rent, effective as of [DATE], shall be [AMOUNT].

2. OTHER CHANGES

The Lease is hereby amended in the following additional manner:

[DESCRIBE]

3. ENTIRE AGREEMENT

This Amendment, together with the Lease, constitutes the final, complete and exclusive statement of the agreement between the parties pertaining to their subject matter and supersedes any and all prior and contemporaneous understandings or agreements of the parties.

4. MODIFICATION

This Amendment may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, modification or amendment of this Amendment shall be binding unless it is in writing and signed by both parties.

5. INCONSISTENCY

In the event of any conflict between this Amendment and the Lease, the terms of this Amendment shall govern.

APPLICATION FOR ZONING VARIANCE

This Application for Zoning Variance (the “Agreement”) is made and effective [DATE],

BETWEEN: [BOARD OF ZONING OR BOARD OF ADJUSTMENT] (the "Board"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [APPLICANT NAME] (the "Applicant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

1. STATEMENT OF OWNERSHIP AND INTEREST

- a. The Applicant is the owner of property situated at [ADDRESS].
- b. The legal description of the property is as follows: [DESCRIBE].
- c. The applicant(s) acquired the above-described property on [DATE].

2. REQUEST

The Applicant requests the following variance(s):

- a. Section(s) of Zoning Ordinance concerned: [IDENTIFY].
- b. Description and purpose of use restriction(s) sought to be varied: [FOR EXAMPLE: REDUCTION IN FRONT SET-BACK REQUIREMENTS FROM 40 FEET TO 30 FEET].
- c. Statement of variance sought: [FOR EXAMPLE: TO OBTAIN A WAIVER OF THE USES PERMITTED IN RESIDENTIAL ZONE R-1 BY PERMITTING THREE-FAMILY OCCUPANCY OF THE SUBJECT PROPERTY].

conditions of the Lease. Except as otherwise expressly provided in this Agreement, all the terms, covenants and conditions of the Lease remain in full force and effect as applied to Assignee.

2. RESTRICTIONS

The assignment of the Lease is made subject, subordinate and inferior to any easements, covenants and other matters and exceptions of record or apparent as of the date of this Agreement.

3. SECURITY DEPOSIT

Upon the execution of this Agreement, Assignee shall pay to Assignor [AMOUNT], which is the amount of the security deposit held by the lessor pursuant to the Lease.

4. CONDITIONS OF THE PREMISES

“AS IS” ASSIGNEE ACKNOWLEDGES AND AGREES, BY ITS ACCEPTANCE HEREOF, THAT, EXCEPT AS MAY BE EXPRESSLY PROVIDED HEREIN, ASSIGNOR IS ASSIGNING THE LEASE AND DELIVERING THE PREMISES “AS IS, WHERE IS” AND IN ITS PRESENT CONDITION WITH ALL FAULTS, AND THAT ASSIGNOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE STATUS, NATURE, QUALITY OR CONDITION OF THE LEASE OR THE LEASED PREMISES.

5. INDEMNIFICATION

Assignee hereby agrees to indemnify, defend and hold harmless Assignor from any and all costs, liabilities, losses, damages, expenses, liens or claims (including, without limitation, reasonable

implied, not contained in this Agreement. As between Assignor and Assignee, in the event of any conflict or discrepancy between the Lease and this Agreement, the provisions of this Agreement shall control.

9. INTERPRETATION; AMENDMENT

In interpreting the language of this Agreement, all parties to this Agreement shall be treated as having drafted this Agreement after meaningful negotiations. The language in this Agreement shall be construed as to its fair meaning and not strictly for or against either party. This Agreement may be modified only by a writing signed by each party.

10. ATTORNEYS' FEES

If any party hereto fails to perform any of its obligations under this Agreement or if a dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, and an action is filed, the prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such incurred in connection with any appeal.

11. COUNTERPARTS

This Agreement may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on the all parties hereto, even though all parties are not signatory to the same counterpart.

12. BINDING EFFECT

This Agreement shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

13. GOVERNING LAW

DR. LUBOGO ISAAC CHRISTOPHER

EXHIBIT A

[DESCRIPTION OF PREMISES]

Electrical Systems			
Interior Lighting			
Exterior Lighting			
Other			
Plumbing			
Bathrooms			
Kitchen			
Laundry			
Other			
Glass			
Windows			
Glass Doors			
Other			
TOTAL			

Primary lease term

- What is the commencement date of the lease?
- What happens if the space is not ready on the commencement date? Is there rent abatement, monetary damages, right to cancel the lease, or other remedies specified?
- What is the termination date?
- Does the landlord have the right to terminate early without cause?
- Does the tenant have the right to terminate early by payment of a fee?

Rentals

- What is the base rent for the primary term?
- Are there escalation clauses?
- Determine whether the escalation is keyed to actual increases in operating
- Are there cost of living increases?
- Is there a cap on any rent increases?
- Is there a reasonable grace period and written notice before a late charge is imposed?

Common area maintenance and Operating costs

- What does the tenant have to contribute for common area maintenance, ventilating, heating, air conditioning, and other building operation costs?
- Is there a cap?
- Can the amount be increased each year?
- Real estate taxes and other impositions:
 - Does the tenant have to pay a portion of the real estate taxes?
 - What increases over base year are allowed?
 - Is there a cap on tax increases?
 - Does the tenant have to pay increased taxes that may occur on sale of the building?
 - Are there any special provisions or exceptions on the payment of these expenses?
 - When is payment due?
 - What detailed reports does the landlord have to provide the tenant showing the actual expenses?
 - What audit rights does the tenant have to review the landlord's books and records?
 - Are there provisions made for weekend and holiday service? What are the charges?
 - Does the tenant have a remedy for service interruption?

- All present or future mortgages?
- Execution of estoppel certificates required?
- Tenant agrees to attorn to landlord's successor in interest?

Destruction

- Is there a right of cancellation for the tenant in the event of destruction?
- What obligation does the landlord have to rebuild?
- Does the tenant share in any proceeds from insurance?

Indemnity and Disclaimer

- Indemnity mutual or tenant only?
- Waiver of claims mutual or tenant only?
- Waiver of subrogation?
- Landlord liability limited to interest in property?

Default

- Does the tenant have a cure period after notice of a breach?
- What remedies are available for breach?

Landlord's warranties

- First class services?
- Security building?
- Ownership of building?

Option to renew

- Does the tenant have the option to renew the lease?
- How long is the renewal option?
- How far in advance must the option be exercised?
- How is rent determined for the renewal period?

Insurance

- What insurance is the tenant required to maintain?
- What insurance is the landlord required to maintain?
- Has the tenant's insurance agent reviewed the insurance requirements in the lease?

Rules and Regulations for the Building

- Are there specific rules and regulations in existence?
- Can the rules be changed without approval of tenant?
- Is the landlord required to enforce the rules and regulations against other tenants?
- Are there any rules that interfere with the expected operations of the tenant?

Rights of Entry

- Except of emergencies, what notice must landlord give for entry into tenant's premises?
- Are there any restrictions on landlord interfering with tenant's business in showing the premises to buyers, lenders or prospective tenants?

Signage

What signage is the tenant allowed to put in or about the building and premises?

Parking

- How many parking spaces will be available to the tenant? At what cost?

Subletting

CHECKLIST

REAL ESTATE CONTRACT CLAUSES

This Checklist addresses some of the most common issues that occur when a real estate agreement is being negotiated. After reviewing it, you should be in good position to understand what to look for in any real estate contract. Of course, before signing any legal document, make sure that you have your attorney review it.

PURCHASER FINANCING CONDITIONS

This agreement is conditional in favor of the purchaser on the purchaser arranging adequate financing to complete the purchase on acceptable terms to the purchaser.

This agreement is conditional on the purchaser notifying the vendor in writing within [NUMBER] days of the date of this agreement that the purchaser has arranged adequate financing to complete the purchase on acceptable terms to the purchaser; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

PURCHASER INSPECTION CONDITION

This agreement is conditional on the purchaser notifying the vendor in writing within [NUMBER] days of the date of this agreement that the purchaser has obtain an inspection report satisfactory to the purchaser from a person chosen by the purchaser as to the condition of the building(s) on the subject property; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

PURCHASER HOME SALE CONDITION

This agreement is conditional on the purchaser notifying the vendor in writing within [NUMBER] days of the date of this agreement that the purchaser has entered into a binding agreement for the sale of the purchaser's property at [ADDRESS]; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction. While the agreement is subject to this condition, the vendor may continue to advertise the subject property for

VENDOR HOME PURCHASE CONDITION

This agreement is conditional on the vendor notifying the purchaser in writing within [NUMBER] days of the date of this agreement that the vendor has entered into a binding agreement to purchase another home; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

UNSPECIFIED VENDOR CONDITION

This agreement is conditional on the vendor notifying the purchaser in writing within [NUMBER] days of the date of this agreement that [DESCRIBE CONDITION TO BE FULFILLED]; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

VENDOR MORTGAGE TAKE-BACK

The vendor agrees to take a [FIRST, SECOND, ETC.] mortgage back as part of the purchase price payable on closing in the principal amount of [AMOUNT] accruing interest at the rate of [%] per annum, calculated semi-annually not in advance and amortized over [NUMBER] years for an actual term of [NUMBER] years, repayable in blended monthly payments of principal and interest of [AMOUNT]. The mortgage back shall be prepayable in full or in part at any time or from time to time without penalty or bonus.

VENDOR SURVEY

The vendor shall supply the purchaser with an up-to-date survey of the subject property, showing its lot lines in relation to neighboring properties and the location of any buildings and other structures on the subject property in relation to the lot lines, prepared by a qualified land surveyor and acceptable to the purchaser's mortgagee, within a reasonable time before closing.

NON-MERGING OUTSTANDING WORK COVENANTS

The vendor agrees to perform the work detailed in Schedule A before closing. This covenant is a condition of closing in favor of the purchaser but, at the option of the purchaser, also operates as a non-merging warranty surviving closing entitling the purchaser to sue the vendor for damages for breach of contract.

EXTENSION OPTION

**CONSENT BY LESSOR TO
ASSIGNMENT OF LEASE**

This Consent by Lessor to Assignment of Lease (the “Consent”) effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. Assignor, as lessee, and Lessor have executed that certain Lease, dated [DATE] (the “Lease”), covering those certain premises and related improvements described on Exhibit A attached hereto (the “Premises”).
- B. Assignor desires to assign its rights as lessee in the Lease to Assignee and Assignee desires to accept the assignment of the Lease and to assume the obligations of Assignor under the Lease, and Lessor is willing to consent to such assignment and assumption on the terms and conditions set forth in this Consent.

NOW, THEREFORE, in consideration of the payment by Assignor of [AMOUNT], payable on or before [DATE], the parties hereby agrees as follows:

1. CONSENT TO ASSIGNMENT

Lessor agrees never to commence or prosecute any action against Assignor or any of the other parties identified in Article 2 above based in whole or in part upon any of the claims described in Article 2 above.

4. ENTIRE AGREEMENT

This Consent constitutes the entire agreement of Lessor and Assignor pertaining to its subject matter and supersedes any prior or contemporaneous negotiations, representations, agreements and understandings of the parties with respect to such matters, whether written or oral. The parties acknowledge that they have not relied on any promise, representation or warranty, expressed or implied, not contained in this Consent. Parol evidence will be inadmissible to show agreement by and among the parties to any term or condition contrary to or in addition to the terms and conditions contained in this Consent.

5. INTERPRETATION; AMENDMENT

In interpreting the language of this Consent, the Lessor and Assignor shall be treated as having drafted this Consent after meaningful negotiations. The language in this Agreement shall be construed as to its fair meaning and not strictly for or against either party. This Consent may be modified only by a writing signed by Lessor and Assignor.

6. ATTORNEYS' FEES

If any party hereto fails to perform any of its obligations under this Consent or if a dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Consent, and an action is filed, the prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such incurred in connection with any appeal.

EXHIBIT A

DESCRIPTION OF PREMISES

CONSENT BY LESSOR TO SUBLEASE

This Consent by Landlord to Sublease (the “Consent”) is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. Tenant, as Tenant under the Lease, and Landlord have executed that certain Lease dated [DATE] (the “Master Lease”), covering those certain premises and related improvements described in the attached Exhibit “A” (the “Premises”).
- B. Tenant desires to sublease [all] [a portion] of the Premises to [NAME] (“Subtenant”) and Subtenant desires to accept a sublease in the form attached as Exhibit “B” (the “Sublease”). Landlord is willing to consent to the Sublease on the terms and conditions set forth in this Consent.

This Consent constitutes the entire agreement of Landlord and Tenant pertaining to its subject matter and supersedes any prior or contemporaneous negotiations, representations, agreements and understandings of the parties with respect to such matters, whether oral or written. The Parties acknowledge that they have not relied on any promise, representation or warranty, expressed or implied, not contained in this Consent.

5. INTERPRETATION; AMENDMENT

In interpreting the language of this Consent, Landlord and Tenant shall be treated as having drafted this Consent after meaningful negotiations. The language in this Agreement shall be construed as to its fair meaning and not strictly for or against either Party. This Consent may be modified only by a writing signed by Landlord and Tenant.

6. ATTORNEYS' FEES

If any Party hereto fails to perform any of its obligations under this Consent or if a dispute arises between the Parties hereto concerning the meaning or interpretation of any provisions of this Consent, and an action is filed, the prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such fees and disbursements incurred in connection with any appeal.

7. COUNTERPARTS

This Consent may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on all parties hereto.

8. BINDING EFFECT

DR. LUBOGO ISAAC CHRISTOPHER

EXHIBIT B

THE SUBLEASE

Transfer to Purchaser shall include all right, title, and interest of Seller in and to all streets, alleys, roads, and avenues adjoining the real property, and shall further include any award for damaging or taking by eminent domain by public or quasi-public authority, of the real property or any part of it.

1. PRICE

The purchase price for property is [AMOUNT], payable as follows:

[DESCRIBE TERMS].

2. TITLE; TENANCIES

- A. Conveyance of title to property shall be by warranty deed with full covenants, executed by Seller [IF APPROPRIATE, ADD: ACCOMPANIED BY A DULY CERTIFIED RESOLUTION OF THE BOARD OF DIRECTORS OF SELLER, AUTHORIZING THE CONVEYANCE], to Purchaser or Purchaser’s nominees. Title to be conveyed shall be good and marketable, subject only to [SPECIFY ACCEPTABLE LIENS, ENCUMBRANCES, RESTRICTIONS, EASEMENTS AND OTHER BURDENS].
- B. Property is presently occupied by [NUMBER] tenants under month-to-month tenancies or leases, as set forth in Exhibit B, which is attached and made a part of this agreement. Transfer of title and possession to property shall be subject to those tenancies, but all right, title and interest of Seller in property shall be transferred to Purchaser or its nominees at the time of conveyance of title.
- C. Conveyance of title shall be made and sale closed within [NUMBER] days after the date of this agreement. Title shall be evidenced by a standard form title insurance policy issued by [NAME OF TITLE COMPANY], insuring title to property to be in Purchaser or its nominees, subject only to the matters set forth in this agreement

3. ASSESSMENTS

6. COMMERCIAL ZONING

Seller warrants that property is zoned for commercial purposes and that all existing uses are lawful and within such zoning. Purchaser plans the use of property for [DESCRIBE PURPOSES]. Purchaser intends to apply for a [BUILDING PERMIT OR AS THE CASE MAY BE] for such additional use, and for appropriate amendments to the existing zoning plan for the area in which property is located. Seller will cooperate fully with Purchaser with respect to the contemplated plans. If Purchaser is unable to proceed with the described project because of any adverse decision of [CITY], or any board, commission, or officer of [CITY], Purchaser shall [STATE AGREED REMEDY, SUCH AS: REMIT [AMOUNT OF THE PURCHASE PRICE BY CREDITING THAT AMOUNT ON THE PURCHASE-MONEY MORTGAGE TO BE EXECUTED BY PURCHASER IN FAVOR OF SELLER].

7. BROKER’S COMMISSION

A commission of [AMOUNT] has become due from Seller to [NAME OF BROKER] by reason of the sale provided for in this agreement. That amount shall be paid to broker at close of escrow directly, from cash payable on close to Seller.

8. SURVEY

Within [NUMBER] days after the date of acceptance of this contract, the Seller will provide and deliver to Buyer or Buyer’s Attorney, a new spotted certified survey having all corners staked and showing all improvements upon the Property.

9. EXAMINATION OF TITLE AND TIME OF CLOSING

If the title evidence and survey as specified above disclose that Seller is vested with fee simple title to the Property (subject only to the permitted exceptions set forth above acceptable to Buyer),

12. ATTORNEY FEES AND COSTS

If any litigation is instituted with respect to enforcement of the terms of this contract, the prevailing party shall be entitled to recover all costs incurred, including, but not limited to, reasonable attorney's fees and court costs.

13. CONDITION OF THE PROPERTY

Seller agrees to deliver the Property to Buyer in its present condition, ordinary wear and tear excepted, and further certifies and represents that Seller knows of no latent defect in the Property. All heating, cooling, plumbing, electrical, sanitary systems, and appliances shall be in good working order at the time of closing. Seller represents and warrants that the personal property conveyed with the premises shall be the same property inspected by Buyer and that no substitutions will be made without the Buyer's written consent. Buyer may also inspect or cause to be inspected the foundation, roof supports, or structural member of all improvements located upon the Property. If any such system, appliance, roof, foundation, or structural member shall be found defective, Buyer shall notify Seller at or before closing and Seller shall thereupon remedy the defect forthwith at its sole expense (in which case the time for closing shall be reasonably extended as necessary). If the costs of such repairs shall exceed [%] of the total purchase price, Seller may elect not to make such repairs and the Buyer may elect to take the Property in such defective condition and deduct [%] from the purchase price or Buyer may, at his/her option, elect to terminate this contract and receive the full refund of all deposits and other sums tendered hereunder. In addition, Seller agrees to remove all debris from the Property by date of possession.

14. OCCUPANCY

Seller shall deliver possession to Buyer no later than the closing date unless otherwise stated herein. Seller represents that there are no persons occupying the Property. Seller agrees to provide true and accurate copies of all written leases to Buyer within [NUMBER] days after the date of

Print Name and Title

Print Name and Title

1. DATE OF CLOSING

The closing will take place on [DATE OF CLOSING], at [TIME OF CLOSING] at the offices of [NAME OF THE OFFICE WHERE CLOSING IS TAKING PLACE], located at [ADDRESS OF THE OFFICE], or at such other time and place as Seller and Buyer may jointly designate in writing. Pursuant to the Contract, Buyer must deposit [DOWN PAYMENT AMOUNT] as a down payment to be held in escrow by the Escrow Agent.

2. PAYMENT TERMS

If the closing takes place under the Contract, Escrow Agent at the time of closing shall pay the amount deposited with Agent to Seller or in accordance with Seller's written instructions. Escrow Agent shall make simultaneous transfer of the said property to the Buyer. If no closing takes place under the Contract, Escrow Agent shall continue to hold the amount deposited until receipt of written authorization for its disposition signed by both Buyer and Seller. If there is any dispute as to whom Escrow Agent is to deliver the amount deposited, Escrow Agent shall hold the sum until the parties' rights are finally determined in an appropriate action or proceeding or until a court orders Escrow Agent to deposit the down payment with it. If Escrow Agent does not receive a proper written authorization from Seller and Buyer, or if an action or proceeding to determine Seller's and Buyer's rights is not begun or diligently prosecuted, Escrow Agent is under no obligation to bring an action or proceeding in court to deposit the sum held, but may continue to hold the deposit. Escrow Agent assumes no liability except that of a stockholder. Escrow Agents duties are limited to those specifically set out in this Agreement. Escrow Agent shall incur no liability to anyone except for willful misconduct or gross negligence so long as the Escrow Agent acts in good faith. Seller and Buyer release Escrow Agent from any act done or omitted in good faith in the performance of Escrow Agents duties.

3. ACKNOWLEDGMENT OF DOWN PAYMENT

Authorized Signature

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

Should said property be sold or traded within [NUMBER] days after expiration of this listing agreement to a purchaser with whom you have been negotiating for the sale or trade of the property, the said commission shall be due and payable on demand.

We agree to furnish a certificate of title showing a good and merchantable title of record, and further agree to convey by good and sufficient warranty deed or guaranteed title on payment in full.

The listing contract shall continue until midnight of [DATE].

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER

OWNER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Landlord may alter, compromise, accelerate, extend or change the time or manner for the performance or payment of any obligation(s) of Tenant under the Lease, waive any default by Tenant, fail to assert any rights against Tenant, grant to Tenant any other indulgence or concession with respect to all or any part of any of the obligations of Tenant under the Lease, release, substitute or add Guarantors and may generally deal with Tenant, or any indebtedness of Tenant to Landlord, as Landlord sees fit, and no such action and no change, impairment or suspension of any right or remedy of Landlord shall terminate, release, reduce, diminish or in any way affect any of the obligations of Guarantor hereunder or give Guarantor any recourse or defense against Landlord.

3. LIABILITIES

The amount of liability of Guarantor and all rights, power and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor, including any other guaranty executed by Guarantor relating to any indebtedness of Tenant to Landlord, shall be cumulative and not alternative and shall be deemed to include all rights, powers and remedies given to Landlord by law. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any indebtedness of Tenant to Landlord.

4. OBLIGATIONS OF GUARANTOR

The obligations of Guarantor hereunder are independent of the Lease Obligation. In the event of any default hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not Tenant is joined therein or a separate action or actions is brought against Tenant. Landlord may maintain successive actions for other defaults. Landlord's rights hereunder shall not be exhausted by its exercise of any of its other rights or remedies or by any such action or by any number of successive actions until and unless all of the Lease Obligation hereby guaranteed has been fully performed and the period of time has expired during which any payment made by Tenant or Guarantor to Landlord may be determined to be a Preferential Payment.

5. SEVERABILITY

Each Guarantor shall be jointly and severally liable for, and agrees to pay to Landlord without demand, attorneys' fees in such amount as the Court determines is reasonable and all costs and other expenses which Landlord expends or incurs in enforcing, collecting or compromising the Lease Obligation hereby guaranteed or in enforcing or collecting upon this Guaranty against Guarantor the Lease Obligation hereby guaranteed whether or not suit is filed.

6. ENFORCEMENT

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective and enforceable.

DR. LUBOGO ISAAC CHRISTOPHER

LANDLORD

GUARANTOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

reference made a part hereof (the "Leased Premises"), together with, as part of the parcel, all improvements located thereon.

3. LEASE TERM

- a. **Total Term of Lease:** The term of this Lease shall begin on the commencement date, as defined in Section b) of this Article 3, and shall terminate on [DATE].

- b. **Commencement Date:** The "Commencement Date" shall mean the date on which the Tenant shall commence to conduct business on the Leased Premised, so long as such date is not in excess of [NUMBER] days subsequent to execution hereof.

4. EXTENSIONS

The parties hereto may elect to extend this Agreement upon such terms and conditions as may be agreed upon in writing and signed by the parties at the time of any such extension.

5. DETERMINATION OF RENT

The Tenant agrees to pay the Landlord and the Landlord agrees to accept, during the term hereof, at such place as the Landlord shall from time to time direct by notice to the Tenant, rent at the following rates and times:

- a. **Annual Rent:** Annual rent for the term of the Lease shall be [AMOUNT], plus applicable sales tax.

- b. **Payment of Yearly Rent:** The annual rent shall be payable in advance in equal monthly installments of one-twelfth (1/12th) of the total yearly rent, which shall be [AMOUNT], on the first day of each and every calendar month during the term hereof, and prorata for the fractional portion of any month, except that on the first day of the calendar month immediately following the Commencement Date, the Tenant shall also pay to the Landlord rent at the said rate for any portion of the preceding calendar month included in the term of this Lease.

Tenant shall not allow any waste or nuisance on the demised premises, or use or allow the demised premises to be used for any unlawful purpose.

9. DELAY IN DELIVERING POSSESSION

This lease agreement shall not be rendered void or voidable by the inability of Landlord to deliver possession to Tenant on the date set forth in Section 3. Landlord shall not be liable to Tenant for any loss or damage suffered by reason of such a delay; provided, however, that Landlord does deliver possession no later than [DATE]. In the event of a delay in delivering possession, the rent for the period of such delay will be deducted from the total rent due under this lease agreement. No extension of this lease agreement shall result from a delay in delivering possession.

10. SECURITY DEPOSIT

The Tenant has deposited with the Landlord the sum of [AMOUNT] as security for the full and faithful performance by the Tenant of all the terms of this lease required to be performed by the Tenant. Such sum shall be returned to the Tenant after the expiration of this lease, provided the Tenant has fully and faithfully carried out all of its terms. In the event of a bona fide sale of the property of which the leased premises are a part, the Landlord shall have the right to transfer the security to the purchaser to be held under the terms of this lease, and the Landlord shall be released from all liability for the return of such security to the Tenant.

11. TAXES

- a. **Property Taxes:** The Tenant shall be liable for all taxes levied against any leasehold interest of the Tenant or personal property and trade fixtures owned or placed by the Tenant in the Leased Premises.

Tenant may have prepared plans and specifications for the construction of improvements, and, if so, such plans and specifications are attached hereto as Exhibit "B" and incorporated herein by reference. Tenant shall obtain all certificates, permits, licenses and other authorizations of governmental bodies or authorities which are necessary to permit the construction of the improvements on the demised premises and shall keep the same in full force and effect at Tenant's cost.

Tenant shall negotiate, let and supervise all contracts for the furnishing of services, labor, and materials for the construction of the improvements on the demised premises at its cost. All such contracts shall require the contracting party to guarantee performance and all workmanship and materials installed by it for a period of one year following the date of completion of construction. Tenant shall cause all contracts to be fully and completely performed in a good and workmanlike manner, all to the effect that the improvements shall be fully and completely constructed and installed in accordance with good engineering and construction practice.

During the course of construction, Tenant shall, at its cost, keep in full force and effect a policy of builder's risk and liability insurance in a sum equal, from time to time, to three times the amount expended for construction of the improvements. All risk of loss or damage to the improvements during the course of construction shall be on Tenant with the proceeds from insurance thereon payable to Landlord.

Upon completion of construction, Tenant shall, at its cost, obtain an occupancy permit and all other permits or licenses necessary for the occupancy of the improvements and the operation of the same as set out herein and shall keep the same in force.

Nothing herein shall alter the intent of the parties that Tenant shall be fully and completely responsible for all aspects pertaining to the construction of the improvements of the demised premises and for the payment of all costs associated therewith. Landlord shall be under no duty to investigate or verify Tenant's compliance with the provision herein. Moreover, neither Tenant nor any third party may construe the permission granted Tenant hereunder to create any responsibility on the part of the Landlord to pay for any improvements, alterations or repairs occasioned by the

are the Landlord's duty to repair pursuant to Section a) and c) of this Article; and such federal, state or municipal government or any other department or division thereof, has ordered or required, or shall hereafter order or require, any alterations or repairs thereof or installations and repairs as may be necessary to comply with such laws, orders or requirements (the validity of which the Tenant shall be entitled to contest); and if by reason of such laws, orders or the work done by the Landlord in connection therewith, the Tenant is deprived of the use of the Leased Premises, the rent shall be abated or adjusted, as the case may be, in proportion to that time during which, and to that portion of the Leased Premises of which, the Tenant shall be deprived as a result thereof, and the Landlord shall be obligated to make such repairs, alterations or modifications at Landlord's expense. All such rebuilding, altering, installing and repairing shall be done in accordance with Plans and Specifications approved by the Tenant, which approval shall not be unreasonably withheld. If, however, such condemnation, law, order or requirement, as in this Article set forth, shall be with respect to an item which shall be the Tenant's obligation to repair pursuant to Section b) of this Article 9 or with respect to Tenant's own costs and expenses, no abatement or adjustment of rent shall be granted; provided, however, that Tenant shall also be entitled to contest the validity thereof.

- d. **TENANT'S Alterations:** The Tenant shall have the right, at its sole expense, from time to time, to redecorate the Leased Premises and to make such non-structural alterations and changes in such parts thereof as the Tenant shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Leased Premises. The Tenant may make structural alterations and additions to the Leased Premises provided that Tenant has first obtained the consent thereto of the Landlord in writing. The Landlord agrees that it shall not withhold such consent unreasonably. The Landlord shall execute and deliver upon the request of the Tenant such instrument or instruments embodying the approval of the Landlord which may be required by the public or quasi public authority for the purpose of obtaining any licenses or permits for the making of such alterations, changes and/or installations in, to or upon the Leased Premises and the Tenant agrees to pay for such licenses or permits.

- e. **Permits and Expenses:** Each party agrees that it will procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable. Each Party hereto shall give written notice to the other party of any repairs required of the other pursuant to the provisions of this Article and the party responsible for said repairs agrees promptly to commence such repairs and to prosecute the same to completion diligently, subject, however, to the delays occasioned by events beyond the control of such party.

Each party agrees to pay promptly when due the entire cost of any work done by it upon the Leased Premises so that the Leased Premises at all times shall be free of liens for labor and materials. Each party further agrees to hold harmless and indemnify the other party from and against any and all

of not less than [AMOUNT] for injury or death from one accident and [AMOUNT] property damage insurance, insuring Landlord and Tenant against injury to persons or damage to property on or about the Leased Premises. A copy of the policy or a certificate of insurance shall be delivered to Landlord on or before the commencement date and no such policy shall be cancelable without [NUMBER] days prior written notice to Landlord.

17. SIGNAGE

- a. **Exterior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect and thereafter, to repair or replace, if it shall so elect signs on any portion of the Leased Premises, providing that Tenant shall remove any such signs upon termination of this lease, and repair all damage occasioned thereby to the Leased Premises.
- b. **Interior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect, maintain, place and install its usual and customary signs and fixtures in the interior of the Leased Premises.

18. INSURANCE

- a. **Insurance Proceeds:** In the event of any damage to or destruction of the Leased Premises, Tenant shall adjust the loss and settle all claims with the insurance companies issuing such policies. The parties hereto do irrevocably assign the proceeds from such insurance policies for the purposes hereinafter stated to any institutional first mortgagee or to Landlord and Tenant jointly, if no institutional first mortgagee then holds an interest in the Leased Premises. All proceeds of said insurance shall be paid into a trust fund under the control of any institutional first mortgagee, or of Landlord and Tenant if no institutional first mortgagee then holds an interest in the Leased Premises, for repair, restoration, rebuilding or replacement, or any combination thereof, of the Leased Premises or of the improvements in the Leased Premises. In case of such damage or destruction, Landlord shall be entitled to make withdrawals from such trust fund, from time to time, upon presentation of:
 - i. bills for labor and materials expended in repair, restoration, rebuilding or replacement, or any combination thereof;

or replacement or any combination thereof, of the improvements so damaged or destroyed, shall in no way be construed by any person to effect any reduction of sums or proceeds payable under any rent insurance policy.

- b. **Repairs and Restoration:** Landlord agrees that in the event of the damage or destruction of the Leased Premises, Landlord forthwith shall proceed to repair, restore, replace or rebuild the Leased Premises (excluding Tenant's leasehold improvements), to substantially the condition in which the same were immediately prior to such damage or destruction. The Landlord thereafter shall diligently prosecute said work to completion without delay or interruption except for events beyond the reasonable control of Landlord . Notwithstanding the foregoing, if Landlord does not either obtain a building permit within [NUMBER] days of the date of such damage or destruction, or complete such repairs, rebuilding or restoration within [NUMBER] months of such damage or destruction, then Tenant may at any time thereafter cancel and terminate this Lease by sending [NUMBER] days written notice thereof to Landlord , or, in the alternative, Tenant may, during said [NUMBER] day period, apply for the same and Landlord shall cooperate with Tenant in Tenant's application. Notwithstanding the foregoing, if such damage or destruction shall occur during the last year of the term of this Lease, or during any renewal term, and shall amount to [%] or more of the replacement cost, (exclusive of the land and foundations), this Lease, may be terminated at the election of either Landlord or Tenant, provided that notice of such election shall be sent by the party so electing to the other within [NUMBER] days after the occurrence of such damage or destruction. Upon termination, as aforesaid, by either party hereto, this Lease and the term thereof shall cease and come to an end, any unearned rent or other charges paid in advance by Tenant shall be refunded to Tenant, and the parties shall be released hereunder, each to the other, from all liability and obligations hereunder thereafter arising.

20. CONDEMNATION

- a. **Total Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, the whole of the Leased Premises shall be taken under power of eminent domain by any public or private authority, or conveyed by Landlord to said authority in lieu of such taking, then this Lease and the term hereof shall cease and terminate as of the date when possession of the Leased Premises shall be taken by the taking authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to Tenant.
- b. **Partial Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, any public or private authority shall, under the power of eminent domain, take, or Landlord shall convey to said authority in lieu of such taking, property which results in a reduction by [%] or more of the area in the Leased Premises, or of a portion of the Leased Premises that substantially interrupts or substantially obstructs the

21. LANDLORD'S REMEDIES

In the event that:

- a. Tenant shall on three or more occasions be in default in the payment of rent or other charges herein required to be paid by Tenant (default herein being defined as payment received by Landlord ten or more days subsequent to the due date), regardless of whether or not such default has occurred on consecutive or non-consecutive months; or
- b. Tenant has caused a lien to be filed against the Landlord's property and said lien is not removed within [NUMBER] days of recordation thereof; or
- c. Tenant shall default in the observance or performance of any of the covenants and agreements required to be performed and observed by Tenant hereunder for a period of [NUMBER] days after notice to Tenant in writing of such default (or if such default shall reasonably take more than [NUMBER] days to cure, Tenant shall not have commenced the same within the [NUMBER] days and diligently prosecuted the same to completion); or
- d. [NUMBER] days have elapsed after the commencement of any proceeding by or against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, whereby such proceeding shall not have been dismissed (provided, however, that the non-dismissal of any such proceeding shall not be a default hereunder so long as all of Tenant's covenants and obligations hereunder are being performed by or on behalf of Tenant); then Landlord shall be entitled to its election (unless Tenant shall cure such default prior to such election), to exercise concurrently or successively, any one or more of the following rights:
 - i. Terminate this Lease by giving Tenant notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination, with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the term of this Lease, and all rights of Tenant under this Lease and in and to the Premises shall expire and terminate, and Tenant shall remain liable for all obligations under this Lease arising up to the date of such termination, and Tenant shall surrender the Premises to Landlord on the date specified in such notice; or

from such reletting shall at any time or from time to time be less than sufficient to pay to Landlord the entire sums then due from Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall, at Landlord's option, be calculated and paid monthly. No such reletting shall be construed as an election by Landlord to terminate this Lease unless a written notice of such election has been given to Tenant by Landlord. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for any such previous default provided same has not been cured; or

- v. Without liability to Tenant or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Tenant any property, material, labor, Utilities or other service, whether Landlord is obligated to furnish or render the same, so long as Tenant is in default under this Lease; or
- vi. Allow the Premises to remain unoccupied and collect rent from Tenant as it comes due; or
- vii. Foreclose the security interest described herein, including the immediate taking of possession of all property on or in the Premises; or
- viii. Pursue such other remedies as are available at law or equity.

e. Landlord's pursuit of any remedy of remedies, including without limitation, any one or more of the remedies stated herein shall not (1) constitute an election of remedies or preclude pursuit of any other remedy or remedies provided in this Lease or any other remedy or remedies provided by law or in equity, separately or concurrently or in any combination, or (2) sever as the basis for any claim of constructive eviction, or allow Tenant to withhold any payments under this Lease.

22. LANDLORD'S SELF HELP

If in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed and shall not cure such default within [NUMBER] days after notice from Landlord specifying the default (or if such default shall reasonably take more than [NUMBER] days to cure, shall diligently prosecuted the same to completion), Landlord may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Tenant, and any amount paid or contractual liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant and Tenant

24. TITLE

- a. **Subordination:** Tenant shall, upon the request of Landlord in writing, subordinate this Lease to the lien of any present or future institutional mortgage upon the Leased Premises irrespective of the time of execution or the time of recording of any such mortgage. Provided, however, that as a condition to such subordination, the holder of any such mortgage shall enter first into a written agreement with Tenant in form suitable for recording to the effect that:
 - i. in the event of foreclosure or other action taken under the mortgage by the holder thereof, this Lease and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder
 - ii. such holder shall permit insurance proceeds and condemnation proceeds to be used for any restoration and repair required by the provisions of this Agreement, respectively. Tenant agrees that if the mortgagee or any person claiming under the mortgage shall succeed to the interest of Landlord in this Lease, Tenant will recognize said mortgagee or person as its Landlord under the terms of this Lease, provided that said mortgagee or person for the period during which said mortgagee or person respectively shall be in possession of the Leased Premises and thereafter their respective successors in interest shall assume all of the obligations of Landlord hereunder. The word "mortgage", as used herein includes mortgages, deeds of trust or other similar instruments, and modifications, and extensions thereof. The term "institutional mortgage" as used in this Article 24 means a mortgage securing a loan from a bank or trust company, insurance company or pension trust or any other lender institutional in nature and constituting a lien upon the Leased Premises.
- b. **Quiet Enjoyment:** Landlord covenants and agrees that upon Tenant paying the rent and observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed hereunder, that Tenant may peaceably and quietly have, hold, occupy and enjoy the Leased Premises in accordance with the terms of this Lease without hindrance or molestation from Landlord or any persons lawfully claiming through Landlord .
- c. **Zoning and Good Title:** Landlord warrants and represents, upon which warranty and representation Tenant has relied in the execution of this Lease, that Landlord is the owner of the Leased Premises, in fee simple absolute, free and clear of all encumbrances, except for the easements, covenants and restrictions of record as of the date of this Lease. Such exceptions shall not impede or interfere with the quiet use and

time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other; and any two or more or all of such rights and remedies may be exercised at the same time.

- d. **Disputes:** It is agreed that, if at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of the said party to institute suit for the recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the costs thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and shall survive the right on the part of the said party to institute suit for the recovery of the costs of such work. If it shall be adjudged that there was no legal obligation on the part of the said party to perform the same or any part thereof, said party shall be entitled to recover the costs of such work or the cost of so much thereof as said party was not legally required to perform under the provisions of this Lease and the amount so paid by Tenant may be withheld or deducted by Tenant from any rents herein reserved.

- e. **Tenant's Right to cure Landlord's Default:** In the event that Landlord shall fail, refuse or neglect to pay any mortgages, liens or encumbrances, the judicial sale of which might affect the interest of Tenant hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, Tenant may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to Landlord the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by Landlord to Tenant.

business on the Leased Premises provided that at the time of such assignment or sublease Tenant shall not be in default in the performance and observance of the obligations imposed upon Tenant hereunder, and in the event that Tenant assigns or sublets this property for an amount in excess of the rental amount then being paid, then Landlord shall require as further consideration for the granting of the right to assign or sublet, a sum equal to [%] of the difference between the amount of rental to be charged by Tenant to Tenant's subtenant or assignee and the amount provided for herein, payable in a manner consistent with the method of payment by the subtenant or assignee to the Tenant, and/or [%] of the consideration paid or to be paid to Tenant by Tenant's or Sub-Tenant or assignee.

28. FIXTURES

All personal property, furnishings and equipment presently and all other trade fixtures installed in or hereafter by or at the expense of Tenant and all additions and/or improvements, exclusive of structural, mechanical, electrical, and plumbing, affixed to the Leased Premises and used in the operation of the Tenant's business made to, in or on the Leased Premises by and at the expense of Tenant and susceptible of being removed from the Leased Premises without damage, unless such damage be repaired by Tenant, shall remain the property of Tenant and Tenant may, but shall not be obligated to, remove the same or any part thereof at any time or times during the term hereof, provided that Tenant, at its sole cost and expense, shall make any repairs occasioned by such removal.

29. OPTION TO RENEW

Landlord grants to Tenant an option to renew this lease agreement for a period of [NUMBER] years after expiration of the term of this Lease agreement at a rental of [AMOUNT] per month, with all other terms and conditions of the renewal lease to be the same as those in this lease agreement. To exercise this option to renew, Tenant must give Landlord written notice of intention to do so at least [NUMBER] days before this lease agreement expires.

DR. LUBOGO ISAAC CHRISTOPHER

provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

33. RELATIONSHIP OF THE PARTIES

Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

34. BROKERAGE

No party has acted as, by or through a broker in the effectuation of this Agreement, except as set out hereinafter.

35. ENTIRE AGREEMENT

This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect. This Lease shall not be modified in any way except by a writing executed by both parties.

36. GOVERNING LAW

All matters pertaining to this agreement (including its interpretation, application, validity, performance and breach) in whatever jurisdiction action may be brought, shall be governed by,

To the extent cognizable at law, the parties hereto, in the event of breach and in addition to any and all other remedies available thereto, may obtain injunctive relief, regardless of whether the injured party can demonstrate that no adequate remedy exists at law.

40. RELIANCE ON FINANCIAL STATEMENT

Tenant shall furnish concurrently with the execution of this lease, a financial statement of Tenant prepared by an accountant. Tenant, both in corporate capacity, if applicable, and individually, hereby represents and warrants that all the information contained therein is complete, true, and correct. Tenant understands that Landlord is relying upon the accuracy of the information contained therein. Should there be found to exist any inaccuracy within the financial statement which adversely affects Tenant's financial standing, or should Tenant's financial circumstances materially change, Landlord may demand, as additional security, an amount equal to an additional [NUMBER] months' rent, which additional security shall be subject to all terms and conditions herein, require a fully executed guaranty by a third party acceptable to Landlord, elect to terminate this Lease, or hold Tenant personally and individually liable hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written or have caused this Lease to be executed by their respective officers thereunto duly authorized.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

DR. LUBOGO ISAAC CHRISTOPHER

EXHIBIT "A" LEGAL DESCRIPTION

The above-described property may be occupied and used by licensee solely for [SPECIFY PRIMARY PURPOSE(S)] and for incidental purposes related to such purpose during the period beginning [DATE], and continuing until this agreement is terminated as provided in this agreement.

3. PERIODIC PAYMENTS

Licensee shall pay licensor for this license at the rate of [AMOUNT] per [MONTH] payable in advance. The first payment shall be made on the date of the beginning of the period specified above. Subsequent payments shall be made in advance promptly on the [DAY OF EACH MONTH] thereafter during the continuation of this agreement.

4. VARIABLE PAYMENTS

In addition to making the payments provided for in Section Three of this agreement, licensee shall make payments based on the extent of utilization of the above-described property. Such payments shall be at the rate of [SPECIFY]. The first payment under this provision shall cover the period from and including [DATE], to and including [DATE], and shall be due and payable on [DATE]. Subsequent payments shall cover [NUMBER] intervals after [DATE], and each such payment shall be due and payable [NUMBER] days after the expiration of the [TIME] interval to which it is applicable. All payments shall be supported by appropriate statements certified by licensee.

5. TERMINATION

- A. Either party may terminate this agreement at any time, without regard to payment periods by giving written notice to the other, specifying the date of termination, such

8. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding on either party except to the extent incorporated in this agreement.

9. MODIFICATION OF AGREEMENT

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

10. NOTICES

Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of this agreement.

11. ATTORNEY’S FEES

In the event that any lawsuit is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party’s attorney fees.

12. ASSIGNMENT OF RIGHTS

MODIFICATION OF LEASE AGREEMENT

This Modification of Lease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- A. Pursuant to the lease dated [DATE] [“Lease”], lessee let from lessor [SQUARE FEET OF NET RENTABLE AREA IN THE BUILDING LOCATED AT (ADDRESS), (CITY), COUNTY, (STATE)] (the “Premises”), and more specifically described in the Lease, for a term which expires on [DATE] (the “Lease termination date”).
- B. Lessor and lessee desire to extend the lease for a term of [NUMBER] years from the lease termination date.

Therefore, in consideration of the mutual promises contained in this lease amendment and extension agreement, the parties agree as follows:

1. CONSTRUCTION

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

MORTGAGE NOTE

This Mortgage Note (the "Agreement") is made and effective [DATE],

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [MORTGAGEE NAME] (the "Mortgagee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

5. DEFAULT ON PAYMENT

Default shall include, but not be limited to non-payment of any respective installment within ten (10) days from the due date set out herein, or payment dates on three different occasions for any installments which are in excess of five (5) days subsequent to the due date therefore set out herein.

6. LITIGATION

Unless specifically disallowed by law, should litigation arise hereunder, service of process therefor may be obtained through certified mail, return receipt requested; the parties hereto waiving any and all rights they may have to object to the method by which service was perfected.

IN WITNESS WHEREOF, Lessor and Lessee duly executed this Modification of Lease Agreement, as of the day and year written above.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

TOGETHER with all and singular the tenements, easements, riparian and littoral rights, and appurtenances thereunto belonging or in anywise appertaining, whether now owned or hereafter acquired by Mortgagor, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise) together with the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, claim and demand whatsoever of Mortgagor of, in and to the same and of, in and to every part and parcel thereof; and,

TOGETHER with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter collectively called "Equipment"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection with any present or future operation of said property and now owned or hereafter acquired by Mortgagor; and,

TOGETHER with all the common elements appurtenant to any parcel, unit or lot which is all or part of the Premises; and,

ALL the foregoing encumbered by this Mortgage being collectively referred to herein as the "Premises";

TO HAVE AND TO HOLD the Premises hereby granted to the use, benefit and behalf of the Mortgagee, forever.

14. EQUITY OF REDEMPTION

Conditioned, however, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee, at its address listed in the Note, or at such other place which may hereafter be designated by Mortgagee, its or their successors or assigns, with interest, the principal sum of [AMOUNT] with final maturity, if not sooner paid, as stated in said Note unless amended or extended according to the terms of the Note executed by Mortgagor and payable to the order of Mortgagee, then these presents shall cease and be void, otherwise these presents shall remain in full force and effect.

15. COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Mortgagee as follows:

- a. **Secured Indebtedness:** This Mortgage is given as security for the Note and also as security for any and all other sums, indebtedness, obligations and liabilities of any and every kind arising, under the Note or this Mortgage, as amended or modified or supplemented from time to time, and any and all renewals, modifications or extensions of any or all of the foregoing (all of which are collectively referred to herein as the "Secured Indebtedness"), the entire Secured Indebtedness being equally secured with and having the same priority as any amounts owed at the date hereof.

materially fails to keep, observe, perform, carry out and execute the covenants, agreements, obligations and conditions set out in this Mortgage, or in the Note; (d) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any lien of any kind secured by any portion of the Premises and affecting the priority of this Mortgage.

- b. **Options Of Mortgagee Upon Event Of Default:** Upon the occurrence of any Event of Default, the Mortgagee may immediately do any one or more of the following: (a) Declare the total Secured Indebtedness, including without limitation all payments for taxes, assessments, insurance premiums, liens, costs, expenses and attorney's fees herein specified, without notice to Mortgagor (such notice being hereby expressly waived), to be due and collectible at once, by foreclosure or otherwise; (b) Pursue any and all remedies available under the Uniform Commercial Code; it being hereby agreed that [NUMBER] days' notice as to the time, date and place of any proposed sale shall be reasonable; (c) In the event that Mortgagee elects to accelerate the maturity of the Secured Indebtedness and declares the Secured Indebtedness to be due and payable in full at once, or as may be provided for in the Note, or any other provision or term of this Mortgage, then Mortgagee shall have the right to pursue all of Mortgagee's rights and remedies for the collection of such Secured Indebtedness, whether such rights and remedies are granted by this Mortgage, any other agreement, law, equity or otherwise, to include, without limitation, the institution of foreclosure proceedings against the Premises under the terms of this Mortgage and any applicable state or federal law.

17. PRIOR LIENS

Mortgagor shall keep the Premises free from all prior liens (except for those consented to by Mortgagee).

18. NOTICE, DEMAND AND REQUEST

Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request delivered in accordance with the provisions of the Note relating to notice.

19. MEANING OF WORDS

The words "Mortgagor" and "Mortgagee" whenever used herein shall include all individuals, corporations (and if a corporation, its officers, employees or agents), trusts and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them. The pronouns used herein shall include, when appropriate, either gender and both singular and plural. The word "Note" shall also include one or more notes and the grammatical construction of sentences shall conform thereto.

DR. LUBOGO ISAAC CHRISTOPHER

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MORTGAGOR

MORTGAGEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

Please consider this letter a final demand for you to remedy this situation. If you fail to comply, the undersigned may commence eviction proceedings against you.

Thank you for your anticipated cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

TOTAL _____

Please make the check payable to [COMPANY NAME] and mail it to the address shown below.
If you have any questions, please call [NAME] at [NUMBER].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

This position is not negotiable so please govern yourself accordingly. Feel free to contact me if you have any questions.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

- Monthly Rent:** [AMOUNT] for the first [NUMBER] years of the Lease. [AMOUNT] for the remaining [NUMBER] years of the Lease.
- Utilities:** All utilities to be paid for by the Lessee, except for [DESCRIBE].
- Parking:** Lessee to have [NUMBER] parking spaces in the building.
- Use of Leases Premises:** General office use and/or any other legal use.
- Improvements:** Lessor to make the following improvements to the Lease Premises prior to Lessee's occupancy: [DESCRIBE].
- Right to Renew:** Lessee to have the right to renew the Lease for an additional [NUMBER] years, for [AMOUNT] per month rent.
- Taxes:** All taxes on the property shall be payable by Lessor.
- Assignment Subletting:** & The Leased Premises shall not be assigned or sublet without the consent of Lessor, which consent shall not be unreasonably withheld or delayed.
- Form of Lease:** To be mutually agreed upon between Lessor and Lessee.

We are happy to discuss any of these terms and look forward to a long and mutually beneficial relationship. So that you may appreciate how

OPTION TO EXPAND SPACED LEASE

This Option to Lease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

D. Landlord hereby agrees that Tenant shall be offered the right of refusal to lease all or any portion of [describe other space in the building or designated space] (the “Expansion Space”), as it may become available for lease from time to time. Whenever any portion of the Expansion Space becomes available for lease, Landlord shall provide Tenant with written notice of such availability, which notice shall include the date when Tenant would begin occupancy of such Expansion Space and the rental rate which Tenant shall pay for such Expansion Space.

E. All other terms and conditions shall be those contained in the Lease between Landlord and Tenant and any Expansion Space leased shall be incorporated in the Lease through execution of an addendum to the Lease. Tenant shall then have [NUMBER] days to respond to such offer and to either accept or reject such Expansion Space. Tenant’s failure to respond timely to such offer shall be construed as a rejection of Landlord’s written offer.

OPTION TO LEASE AGREEMENT

This Option to Lease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

IN CONSIDERATION OF the sum of [AMOUNT] paid by the tenant to the landlord, the receipt whereof is hereby acknowledged, the landlord hereby grants to the tenant, its successors, and assigns, the exclusive option to lease the above mentioned property as per the attached Lease, upon the following terms and conditions:

5. TERM OF OPTION

This option and all rights and privileges hereunder shall expire the day of [DATE].

6. NOTICE OF EXERCISE OF OPTION

This option is to be exercised by the tenant by written notice delivered personally or forwarded by registered or certified mail, return receipt requested, within the time limited in paragraph 1 to the landlord at the address first above recited.

7. APPLICATION OF OPTION PAYMENT

OPTION TO PURCHASE PROPERTY

This Option to Purchase Property (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is entered into upon the basis of the following facts and intentions of the parties:

C. Seller owns that certain real property described in Exhibit A hereto (the Property”).

D. Buyer desires to obtain an option to purchase the Property from Seller and Seller is willing to grant such an option to Buyer.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

- 5.
- 6.

- E. The Seller has full power and authority to execute and deliver this Agreement, and this Agreement is a valid and binding agreement enforceable against the Seller in accordance with its terms;
- F. Neither the execution of this Agreement nor the sale of the Property will constitute a violation of, or conflict with, or default under, any contract, commitment, agreement, understanding or arrangement to which the Seller is a party or by which Seller is bound or of any law, decree, or judgment;
- G. Now and up to the time of exercise of the Option, the Seller will have valid title to the Property, free and clear of all claims, liens, charges, encumbrances deeds of trust and security interests other than ;
- H. [OTHER REPRESENTATIONS AND WARRANTIES AS APPROPRIATE].

34.

35.

20. COOPERATION

36.

37. Each party shall, upon request of the other party, promptly execute and deliver all additional documents reasonably deemed by the requesting party to be necessary, appropriate or desirable to complete and evidence the sale, assignment and transfer of the Shares pursuant to this Agreement.

21. PURCHASE AND SALE

38.

39. If Buyer exercises the Option, at a closing (the “Closing”), the Seller shall sell, transfer and deliver the Property, represented by appropriate [identify either warranty deed or quitclaim deed].

40.

41.

22. SURVIVAL

42.

43. All representations, warranties and agreements made by the Seller and by the Buyer in this Agreement shall survive the execution of this Agreement and any Closing and any investigation at any time made by or on behalf of any party hereto.

44.

45.

23. MODIFICATION; ASSIGNMENT

46.

47. This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto. Buyer may assign his rights under this Agreement with the consent of Seller.

48.

EXHIBIT A
PROPERTY MANAGEMENT AGREEMENT

This Property Management Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENT NAME] (the "Agent"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

A. Owner holds title to the following-described real property:

[INSERT LEGAL OR OTHER APPROPRIATE DESCRIPTION], here referred to as the property.

B. Agent is experienced in the business of operating and managing real estate similar to the above-described property.

C. Owner desires to engage the services of agent to manage and operate the property, and agent desires to provide such services on the following terms and conditions.

concessions, including rental concessions, as inducements to prospective tenants to occupy the property.

4. ADVERTISING AND PROMOTION

Agent shall advertise vacancies by all reasonable and proper means; provided, agent shall not incur expenses for advertising in excess of [AMOUNT] during any calendar quarter without the prior written consent of owner.

5. MAINTENANCE, REPAIRS AND OPERATIONS

Agent shall use its best efforts to insure that the property is maintained in an attractive condition and in a good state of repair. In this regard, agent shall use its best skills and efforts to serve the tenants of the property and shall purchase necessary supplies, make contracts for, or otherwise furnish, electricity, gas, fuel, water, telephone, window cleaning, refuse disposal, pest control, and any other utilities or services required for the operation of the property. Agent shall make or cause to be made and supervise necessary repairs and alterations and shall decorate and furnish the property. Expenditures for repairs, alterations, decorations or furnishings in excess of [AMOUNT] shall not be made without prior written consent of owner, except in the case of emergency, or if agent in good faith determines that such expenditures are necessary to protect the property from damage, to prevent injury to persons or loss of life, or to maintain services to tenants.

6. EMPLOYEES

6.1. Agent shall employ, discharge and supervise all on-site employees or contractors required for the efficient operation and maintenance of the property. All on-site personnel, except independent contractors and employees of independent contractors, shall be the employees of agent. Agent shall pay the salaries of such on-site employees and, to the extent there are revenues from the property available, pay all charges for services rendered by independent contractors and the employees of independent contractors.

cooperate with agent and any insurer in the making and delivery of all reports, notices, and other items required in connection with any of the insurance policies.

9. COLLECTION OF INCOME; INSTITUTION OF LEGAL ACTION

9.1. Agent shall use its best efforts to collect promptly all rents and other income issuing from the property when such amounts become due. It is understood that agent does not guarantee the collection of rents.

9.2. Agent shall, in the name of owner, execute and serve such notices and demands on delinquent tenants as agent may deem necessary or proper. Agent, in the name of owners, shall institute, settle or compromise any legal action and make use of such methods of legal process against a delinquent tenant or the property of a delinquent tenant as may be necessary to enforce the collection of rent or other sums due from the tenant, to enforce any covenants or conditions of any lease or month-to-month rental agreement, and to recover possession of any part of the property. No other form of legal action will be instituted and no settlement, compromise, or adjustment of any matters involved therein shall be made without the prior written consent of owner, except when agent determines that immediate action is necessary.

10. BANK ACCOUNTS

Agent shall deposit (either directly or in a depository bank for transmittal) all revenues from the property into the general property management trust fund of agent, here referred to as the trust account. Agent shall not commingle any of the above-described revenues with any funds or other property of agent. From the revenues deposited in the trust account, agent shall pay all items with respect to the property for which payment is provided in this agreement, including the compensation of agent and deposits to the reserve accounts as provided for in Section Eleven. After such payments agent shall remit any balance of any monthly revenues to owner concurrently with the delivery of the monthly report referred to in Section Twelve.

11. RESERVE ACCOUNT

11.1 Agent shall establish a reserve account for the following items: taxes, assessments, debt service, insurance premiums, repairs (other than normal maintenance), replacement of personal property, and refundable deposits. Agent shall use its best judgment in

13. COMPENSATION OF AGENT

Agent shall receive a management fee equal to [%] of the gross receipts collected from the operation of the property. Gross receipts are defined as all revenues collected plus refundable deposits. Any management fee due agent hereunder shall be paid to agent within [NUMBER] days after the end of each month.

14. COMMISSIONS FOR NEGOTIATING LEASES OR MONTH-TO-MONTH RENTAL AGREEMENTS

Agent shall receive no commissions or additional compensation for negotiating leases or month-to-month rental agreements with tenants.

15. OFFICE SPACE FOR AGENT

Owner shall allow agent to occupy the office numbered [NUMBER], on the [NUMBER] floor of the property, rent-free for the duration of this agreement. [ALL EXPENSES OTHER THAN RENT INCURRED BY AGENT IN THE OCCUPATION AND USE OF THIS OFFICE SPACE SHALL BE BORNE BY AGENT.]

16. ADDITIONAL DUTIES AND RIGHTS OF AGENT

In addition to the foregoing, agent shall perform all services that are necessary and proper for the operation and management of the property, and shall report to owner promptly any conditions concerning the property that, in the opinion of agent, require the attention of owner.

agent may terminate this agreement. Owner shall be entitled to all consequential damages awarded as a result of any eminent domain proceeding.

21. BANKRUPTCY

If bankruptcy proceedings, whether voluntary or involuntary, are commenced against either owner or agent, or if either party enters into a composition agreement with its creditors, either party may terminate this agreement by giving [NUMBER] days’ written notice to the other party.

22. NO PROPERTY INTEREST CREATED

Nothing contained in this agreement shall be deemed to create or shall be construed as creating in agent any property interest in or to the property.

23. LICENSING OF AGENT

Agent shall at all times during the term of this agreement maintain such licenses and permits as are required for any of the various services to be performed by agent on behalf of owner.

24. RELATIONSHIP OF THE PARTIES

Agent is an independent contractor and not an employee of owner for any purpose.

25. COVENANTS AND CONDITIONS

All of the terms and conditions of this agreement are expressly intended to be construed as covenants as well as conditions.

Should any section or any part of any section of this agreement be rendered void, invalid or unenforceable for any reason by any court of law exercising competent jurisdiction, such a determination shall not render void, invalid or unenforceable any other section or any part of any section in this agreement.

29. GOVERNING LAW

This agreement has been made and entered into in the State of [STATE/PROVINCE], and the laws of such state shall govern the validity and interpretation of this agreement and the performance due hereunder.

30. INTEGRATION

The drafting, execution and delivery of this agreement by the parties have been induced by no representations, statements, warranties or agreements other than those expressed in this agreement. This agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to in this agreement.

31. ARBITRATION

In case of any dispute regarding any terms or performance of the terms of this agreement, the dispute shall be subject to arbitration in accordance with the rules and regulations then obtaining under the [ASSOCIATION/ORGANIZATION].

32. ATTORNEY FEES

**REAL ESTATE SALESMAN INDEPENDENT
CONTRACTOR AGREEMENT**

This Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [BROKER NAME] (the "Broker"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SALESMAN NAME] (the "Salesman"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The Parties recite that:

- A. Broker is duly registered and licensed with the State of [STATE/PROVINCE] as a real estate broker whose license expires [DATE].
- B. Salesman is duly registered and licensed with the State of [STATE/PROVINCE] as a real estate salesman whose license expires [DATE].

In consideration of the mutual covenants set forth below, the parties agree as follows:

1. STATEMENT OF EMPLOYMENT

Effective as of the date of this Agreement, Broker employs Salesman as a real estate salesman.

2. DUTIES OF SALESMAN

Salesman will carry on the customary activities of a real estate salesman, including, but not necessarily limited to, the showing of parcels of real estate on which Broker has listings, the sale of such property in accordance with the terms of the listings, the

11. ATTORNEYS' FEES

In the event of any legal or equitable action, including any appeals, which may arise hereunder between or among the parties hereto, the prevailing party shall be entitled to recover a reasonable attorneys' fee. Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney.

12. SEVERANCE

The invalidity or unenforceability of any portion of this Agreement shall not affect the remaining provisions and portions hereof.

13. HEADINGS

The paragraph headings contained herein are for convenience of reference only and are not to be used in the construction or interpretation hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

BROKER

SALESMAN

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

This Security Deposit payment will be held by the Landlord under the terms of this lease, and unless required by law, will not bear any interest. This Security Deposit will be repaid when due under the terms of the lease.

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

Your name

Your title

Telephone contact

youremail@yourcompany.com

48. DESCRIPTION OF PREMISES

- a. Lessee has leased a building consisting of [NUMBER] floors and approximately [NUMBER] square feet of office space from [NAME], lessor, of [ADDRESS], [CITY], [STATE].
- b. Lessee shall demise to sub lessee the [NUMBER] square feet of the building, all located on the [#] floor, as more fully described in Exhibit A, which is attached to and made a part of this sublease agreement.

49. TERM OF SUBLEASE

- a. The term of this sublease agreement shall be for an initial period of [NUMBER] years, commencing on [DATE], and terminating on [DATE], unless earlier terminated by breach of the terms and conditions of this Sublease Agreement.
- b. Lessor concurs that sub lessee may remain in possession of the demised premises for the full term of this sublease agreement, despite any change that may occur in the status of lessee or the lease agreement between lessee and lessor.

50. ACCEPTANCE OF LEASED PREMISES

Sub lessee’s occupancy of the Leased Premises shall be conclusive evidence of Sub lessee's acceptance of all improvements constituting the Leased Premises, in good and satisfactory condition and repair. Sub lessee

correct any defects or deficiencies in the condition of the Leased Premises, reasonable wear and tear excepted.

53. RENT

Sub lessee shall pay to lessee as basic rent [AMOUNT] per month, on the [DAY] of each month, commencing on [DATE], and continuing each month thereafter during the term of this sublease agreement. Sub lessee shall pay all other sums due as additional rental under the provisions of this sublease agreement on the basic rental payment due date first occurring after the additional rental payment arises.

54. payment of RENT

Sub lessee hereby covenants and agrees to pay rent to Sub lessor, without offset or deduction of any kind whatsoever, in the form and at the times as herein specified. All rent shall be paid to Sub lessor at the address specified in this Sublease unless and until Sub lessee is otherwise notified in writing. Base Minimum Rent payments in the monthly amount set forth below shall be payable monthly, in advance, due on the first (1st) day of each calendar month commencing on the Commencement Date hereof and delinquent if not paid on or before the third (3rd) day of the month throughout the Term of this Sublease. Rent for any period which is for less than one month shall be a pro rata portion of the monthly installment. The required payments under Article 6 and all other charges payable by Sub lessee shall be deemed to be additional rent.

55. DELINQUENT PAYMENTS

In the event Sub lessee shall fail to pay the rent or any installment thereof, or any other fees, costs, taxes or expenses payable under this Sublease

Leased Premises upon such termination, as soon as practicable thereafter. In the event of the sale or other conveyance of the Leased Premises, the Security Deposit will be transferred to the purchaser or transferee and the Sub lessor will be relieved of any liability with reference to such Security Deposit. Sub lessor shall not be required to keep the Security Deposit separate from its other funds, and (unless otherwise required by law) Sub lessee shall not be entitled to interest on the Security Deposit.

57. USE OF PREMISES

- a. **Permitted Use:** The Leased Premises are to be used by Sub lessee for the sole purpose of [DESCRIBE] and for no other purpose whatsoever. Sub lessee shall not use or occupy the Leased Premises or permit the same to be used or occupied for any use, purpose or business other than as provided in this Section a) during the Term of this Sublease or any extension thereof.

- b. **Prohibited Activities:** During the Term of Sublease or any extension thereof, Sub lessee shall not:
 - i. Use or permit the Leased Premises to be used for any purpose in violation of any statute, ordinance, rule, order, or regulation of any governmental authority regulating the use or occupancy of the Leased Premises.
 - ii. Cause or permit any waste in or on the Leased Premises.
 - iii. Use or permit the use of the Leased Premises in any manner that will tend to create a nuisance or tend to adversely affect or injure the reputation of Sub lessor or its affiliates.
 - iv. Allow any activity to be conducted on the premises or store any material on the Leased Premises which will increase premiums for or violate the terms of any insurance policy(s) maintained by or for the benefit of Sub lessor.
 - v. Store any explosive, radioactive, dangerous, hazardous or toxic materials in or about the Leased Premises.

from the Leased Premises during the Term of this Sublease or any extension thereof. Sub lessor shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Leased Premises and no such failure or interruption shall entitle Sub lessee to terminate this Sublease.

b. Personal Property Taxes: Sub lessee shall be responsible for and shall pay before they become delinquent all taxes, assessments, or other charges levied or imposed by any governmental entity on the equipment, trade fixtures, appliances, merchandise and other personal property situated in, on, or about the Leased Premises including, without limiting the generality of the other terms of this Section, any shelves, counters, vault doors, wall safes, partitions, fixtures, machinery, or office equipment on the Leased Premises, whether put there prior to or after the Commencement Date of this Sublease.

c. Real Property Taxes and Assessments: Sub lessee shall pay directly to the charging authority all taxes (as hereinafter defined) respecting the Leased Premises. Sub lessee shall pay all taxes on or before [NUMBER] days prior to delinquency thereof. Sub lessee shall promptly after payment of any taxes deliver to Sub lessor written receipts or other satisfactory evidence of the payment thereof. As used herein, “taxes” shall mean all taxes, assessments, fees, charges, levies, and penalties (if such penalties result from Sub lessee’s delinquency in paying all or any taxes), of any kind and nature, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including, without limitation, all installments of principal and interest required to pay any general or special assessments for public improvements) now or hereafter imposed by any authority having the direct or indirect power to tax, including, without limitation the federal

- d. **Proration of Taxes:** Sub lessee's liability to pay taxes shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the lease Term and its commencement and expiration.

- e. **Tax Delinquency:** Failure of Sub lessee to pay promptly when due any of the charges required to be paid under this Article shall constitute a default under the terms hereof in like manner as a failure to pay rental when due, and if Sub lessor shall elect to pursue an unlawful detainer action upon said default, then Sub lessor shall be entitled to claim as an amount of additional rent owed for purposes of said unlawful detainer the amount of such taxes due and payable by Sub lessee.

- f. **All Other Charges:** Sub lessee shall pay to Sub lessor any and all charges, fees, taxes, and other amounts due from Sub lessor to the master lessor of the Leased Premises prior to its due date, for sums due or owing on or after the date of this Sublease.

- g. **Common Area Maintenance Charges:** Sub lessee shall be responsible for, and shall pay to Sub lessor on demand, any and all costs, fees, charges, assessments, expenses or payments for which Sub lessor is obligated or liable under the Master Lease with respect to the operation, maintenance and repair of common area of the Leased Premises. "Common area" shall include, without limitation, those areas in or about the property of which the Leased Premises are a part, which have been set aside for the general use, convenience and benefit of the occupants of the property and their customers and employees, including, without limitation, the automobile parking areas, sidewalks, landscaped areas and other areas for pedestrian and vehicular use.

- b. **Damage; Abatement of Rent:** Notwithstanding anything in this Sublease to the contrary, Sub lessee at its own cost and expense shall repair and replace as necessary all portions of the Leased Premises damaged by Sub lessee, its employees, agents, invitees, customers or visitors. There shall be no abatement of rent or other sums payable by Sub lessee prior to or during any repairs by Sub lessee or Sub lessor hereunder.

- c. **Alterations and Liens:** Sub lessee shall not make or permit any other person to make any structural changes, alterations, or additions to the Leased Premises or to any improvement thereon or facility appurtenant thereto without the prior written consent of Sub lessor first had and obtained. Sub lessee shall keep the Leased Premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Leased Premises at the instance or request of Sub lessee. As a condition to giving its consent to any proposed alterations, Sub lessor may require that Sub lessee remove any or all of said alterations at the expiration or sooner termination of the Sublease term and restore the Leased Premises to its condition as of the date of Sub lessee's occupation of the Leased Premises. Prior to construction or installation of any alterations, Sub lessor may require Sub lessee to provide Sub lessor, at Sub lessee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such alterations, to insure Sub lessor against any Liability for mechanic's and materialmen's liens and to insure completion of the work. Should Sub lessee make any alterations without the prior written consent of Sub lessor, Sub lessee shall remove the same at Sub lessee's expense upon demand by Sub lessor.

- d. **Inspection by Sub lessor:** Sub lessee shall permit Sub lessor or Sub lessor's agents, representatives, designees, or employees to

- g. Title to Alterations:** Unless Sub lessor requires the removal thereof, any alterations which may be made on the Leased Premises, shall upon installation or construction thereof on the Leased Premises become the property of Sub lessor and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of the term of this Sublease. Without limiting the generality of the foregoing, all heating, lighting, electrical (including all wiring, conduits, main and subpanels), air conditioning, partitioning, drapery, and carpet installations made by Sub lessee, regardless of how affixed to the Leased Premises, together with all other alterations that have become a part of the Leased Premises, shall be and become the property of Sub lessor upon installation, and shall not be deemed trade fixtures, and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of this Sublease.
- h. Removal of Alterations:** In addition to Sub lessor's right to require Sub lessee at the time of installation or construction of any alteration to remove the same upon expiration or sooner termination of this Sublease, Sub lessor may elect, by notice to Sub lessee at least [NUMBER] days before expiration of the Term hereof, or within [NUMBER] days after sooner termination hereof, to acquire Sub lessee to remove any alterations that Sub lessee has made to the Leased Premises. If Sub lessor so elects, Sub lessee shall, at its sole expense, upon expiration of the Term hereof, or within [NUMBER] days after any sooner termination hereof, remove such alterations, repair any damage occasioned thereby, and restore the Leased Premises to the condition existing as of the Commencement Date or such other condition as may reasonably be designated by Sub lessor in its election.

the State of [STATE/PROVINCE] insuring Sub lessee against loss or liability caused by or connected with Sub lessee's use and occupancy of the Leased Premises in an amount not less than [AMOUNT] per occurrence.

- c. **Casualty and Fire Insurance:** At all times during the Term hereof, Sub lessee shall keep the Leased Premises and personal property thereon insured against loss or damage by fire, windstorm, hail, explosion, damage from vehicles, smoke damage, vandalism, casualty and malicious mischief and such other risks as are customarily included in "all risk" extended insurance coverage, including coverage for business interruption, in an amount equal to not less than [NUMBER] of the actual replacement value of the Leased Premises and the personal property, fixtures, and other property on the Leased Premises.
- d. **Workers' Compensation Insurance:** During the term of this Sublease, Sub lessee shall comply with all Workers' Compensation laws applicable on the date hereof or enacted thereafter and shall maintain in full force and effect a Workers' Compensation Insurance policy covering all employees in any way connected with the business conducted by Sub lessee pursuant to this Sublease and shall pay all premiums, contributions, taxes and such other costs and expenses as are required to be paid incident to such insurance coverage, all at no cost to Sub lessor.
- e. **Policy Form:** The policies of insurance required to be secured and maintained under this Sublease shall be issued by good, responsible companies, qualified to do business in the State of [STATE/PROVINCE], with a general policy holders' rating of at least "A". Executed copies of such policies of insurance or certificates thereof shall be delivered to Sub lessor and to the Master Lessor under the Master Lease not later than [NUMBER] days prior to the commencement of business operations of Sub

and/or invitees. Sub lessee shall to the extent such insurance endorsement is available, obtain for the benefit of Sub lessor a waiver of any right of subrogation which the insurer of such party might otherwise acquire against Sub lessor by virtue of the payment of any loss covered by such insurance and shall give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Sublease.

61. SIGNS AND TRADE FIXTURES

- d. **Installation of Trade Fixtures:** For so long as Sub lessee is not in default of any of the terms, conditions and covenants of this Sublease, Sub lessee shall have the right at any time and from time to time during the Term of this Sublease and any renewal or extension of such term, at Sub lessee's sole cost and expense, to install and affix in, to, or on the Leased Premises such items (hereinafter called "trade fixtures"), for use in Sub lessee's trade or business as Sub lessee may, in its reasonable discretion, deem advisable.
- e. **Signs:** Subject to any and all requirements now or hereinafter enacted by any municipal, county, or state regulatory agency having jurisdiction thereover and subject to Sub lessor's written consent, Sub lessee may erect at Sub lessee's cost, a sign on the Leased Premises identifying the Leased Premises. Sub lessee shall maintain, at Sub lessee's sole cost and expense, said sign.
- f. **Removal of Signs and Trade Fixtures:** In addition to Sub lessor's right to require Sub lessee at the time of installation of any sign or trade fixtures to remove the same upon expiration or sooner termination of this Sublease, Sub lessor may elect, by notice to Sub lessee at least [NUMBER] days before expiration of the Term hereof, or within [NUMBER] days after sooner

exercised by giving written notice on or before [NUMBER] days after actual physical possession of the portion subject to the eminent domain power is taken by the agency or entity exercising that power and this Sublease shall terminate as of the date the notice is deemed given.

i. **Partial Condemnation Without Termination:** Should Sub lessee or Sub lessor fail to exercise the termination option described in this Article, or should the portion of the Leased Premises taken under the power of eminent domain be insufficient to give rise to the option therein described, then, in that event:

- i. This Sublease shall terminate as to the portion of the Leased Premises taken by eminent domain as of the day (hereinafter called the “date of taking”), actual physical possession of that portion of the Leased Premises is taken by the agency or entity exercising the power of eminent domain;
- ii. Base Minimum Rent to be paid by Sub lessee to Sub lessor pursuant to the terms of this Sublease shall, after the date of taking, be reduced by an amount that bears the same ratio to the Base Minimum Rent specified in this Sublease as the square footage of the actual floor area of the Leased Premises taken under the power of eminent domain bears to the total square footage of floor area of the Leased Premises as of the date of this Sublease; and
- iii. Except to the extent the Master Lessor under the Master Lease is so obligated, Sub lessee, at Sub lessee's own cost and expense shall remodel and reconstruct the building remaining on the portion of the Leased Premises not taken by eminent domain into a single efficient architectural unit in accordance with plans mutually approved by the parties hereto as soon after the date of taking, or before, as can be reasonably done.

j. **Condemnation Award:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of all or any portion of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, the compensation or damages for the taking awarded shall belong to and be the sole property of the Sub lessor.

63. SUBLEASING, ASSIGNMENT, DEFAULT AND TERMINATION

- a. **Subleasing and Assignment:** Sub lessee shall not sell, assign, hypothecate, pledge or otherwise transfer this Sublease, or any interest therein, either voluntarily, involuntarily, or by operation of law, and shall not sublet the Leased Premises, or any part thereof, or any right or privilege appurtenant thereto, for any reason whatsoever, or permit the occupancy thereof by any person, persons, or entity through or under it, or grant a security interest in Sub lessee's interest in the Leased Premises or this Sublease or any fixtures located on the Leased Premises, without the prior written consent of Sub lessor first had and obtained, which may be given or withheld in the Sub lessor's sole and absolute discretion. For the purpose of this Section, any dissolution, merger, consolidation or other reorganization of Sub lessee, or any change or changes in the stock ownership of Sub lessee, which aggregates [%] or more of the capital stock of Sub lessee shall be deemed to be an assignment of this Sublease. Sub lessee shall not mortgage, hypothecate or encumber this Sublease. Sub lessor's consent to one assignment, subletting, occupancy, or use by any other person, entity or entities shall not relieve Sub lessee from any obligation under this Sublease and shall not be deemed to be a consent to any subsequent assignment, subletting, occupancy or use. Any assignment, pledge, subletting, occupancy or use without Sub lessor's written consent shall be void and shall, at the option of the Sub lessor, terminate this Sublease.

Should this Sublease be assigned, or should the Leased Premises or any part thereof be sublet or occupied by any person or persons other than the original Sub lessee hereunder, Sub lessor may collect rent from the assignee, sub lessee or occupant and

pursuant to this paragraph shall be paid to Sub lessor promptly upon receipt by Sub lessee and shall be paid in cash, regardless of the form in which received by Sub lessee. In the event any rent or other consideration received by Sub lessee is in a form other than cash, Sub lessee shall pay to Sub lessor in cash the fair value of Sub lessor's portion of such consideration.

b. Events of Default: Sub lessee's failure to timely pay any rent, taxes or other charges required to be paid pursuant to the terms of this Sublease shall constitute a material breach of this Sublease and an event of default if not paid by Sub lessee within [NUMBER] days of the date such rent, taxes or charges are payable. Events of default under this Sublease shall also include, without limitation, the events hereinafter set forth, each of which shall be deemed a material default of the terms of the Sublease if not fully cured within [NUMBER] days of occurrence. Such events shall include:

- i. Sub lessee's failure to perform or observe any term, provisions, covenant, agreement or condition of this Sublease;
- ii. Sub lessee breaches this Sublease and abandons the Leased Premises before expiration of the Term of this Sublease;
- iii. Any representation or warranty made by Sub lessee in connection with this Sublease between Sub lessee and Sub lessor proving to have been incorrect in any respect;
- iv. Sub lessee's institution of any proceedings under the Bankruptcy Act, as such Act now exists or under any similar act relating to the subject of insolvency or bankruptcy, whether in such proceeding Sub lessee seeks to be adjudicated a bankrupt, or to be discharged of its debts or effect a plan of liquidation, composition or reorganization;
- v. The filing against Sub lessee of any involuntary proceeding under any such bankruptcy laws;
- vi. Sub lessee's becoming insolvent or being adjudicated a bankrupt in any court of competent jurisdiction, or the appointment of a receiver or trustee of Sub lessee's property, or Sub lessee's making an assignment for the benefit of creditors;
- vii. The issuance of a writ of attachment by any court of competent jurisdiction to be levied on this Lease; or

adapt them to another beneficial use. Sub lessee shall also indemnify, defend and hold Sub lessor harmless from all claims, demands, actions, liabilities and expenses (including but not limited to reasonable attorney's fees and costs) arising prior to the termination of this Sublease or arising out of Sub lessee's use or occupancy of the Leased Premises.

- ii. Sub lessor may, in any lawful manner, re-enter and take possession of the Leased Premises without terminating this Sublease or otherwise relieving Sub lessee of any obligation hereunder. Sub lessor is hereby authorized, but not obligated (except to the extent required by law), to relet the Leased Premises or any part thereof on behalf of the Sub lessee, to use the premises for its or its affiliates' account, to incur such expenses as may be reasonably necessary to relet the Leased Premises, and relet the Leased Premises for such term, upon such conditions and at such rental as Sub lessor in its sole discretion may determine. Until the Leased Premises are relet by Sub lessor, if at all, Sub lessee shall pay to Sub lessor all amounts required to be paid by Sub lessee hereunder. If Sub lessor relets the Leased Premises or any portion thereof, such reletting shall not relieve Sub lessee of any obligation hereunder, except that Sub lessor shall apply the rent or other proceeds actually collected by it as a result of such reletting against any amounts due from Sub lessee hereunder to the extent that such rent or other proceeds compensate Sub lessor for the non-performance of any obligation of Sub lessee hereunder. Such payments by Sub lessee shall be due at such times as are provided elsewhere in this Sublease, and Sub lessor need not wait until the termination of this Sublease, by expiration of the term hereof or otherwise, to recover them by legal action or in any other manner. Sub lessor may execute any lease made pursuant hereto in its own name, and the tenant thereunder shall be under no obligation to see to the application by Sub lessor of any rent or other proceeds by Sub lessor, nor shall Sub lessee have any right to collect any such rent or other proceeds. Sub lessor shall not by any re-entry or other act be deemed to have accepted any surrender by Sub lessee of the Leased Premises or Sub lessee's interest therein, or be deemed to have otherwise terminated this Sublease, or to have relieved Sub lessee of any obligation hereunder, unless Sub lessor shall have given Sub lessee express written notice of Sub lessor's election to do so as set forth herein.
- iii. Even though Sub lessee has breached this Sublease and may have abandoned or vacated the Leased Premises, this Sublease shall continue in effect for so long as Sub lessor does not terminate Sub lessee's right to possession, and Sub lessor may enforce all its rights and remedies under this Sublease, including the right to recover the rent and other charges as they become due under this Lease.
- iv. In the event any personal property of Sub lessee remains at the Leased Premises after Sub lessee has vacated, it shall be dealt with in accordance with the statutory procedures provided by applicable law dealing with the disposition of personal property of Sub lessee remaining on the Leased Premises after Sub lessee has vacated.

Sub lessee for such use. Neither the application nor the appointment of such receiver shall be construed as an election on the Sub lessor's part to terminate this Sublease unless written notice of such intention is given by Sub lessor to Sub lessee.

- e. **Attorneys' Fees:** If as a result of any breach or default in the performance of any of the provisions of this Sublease, Sub lessor uses the services of an attorney in order to secure compliance with such provisions or recover damages therefor, or to terminate this Sublease or evict Sub lessee, Sub lessee shall reimburse Sub lessor upon demand for any and all attorneys' fees and expenses so incurred by Sub lessor, including without the limitation appraisers' and expert witness fees; provided that if Sub lessee shall be the prevailing party in any legal action brought by Sub lessor against Sub lessee, Sub lessee shall be entitled to recover the fees of its attorneys in such amount as the court may adjudge reasonable. Sub lessee shall advance to Sub lessor any and all attorneys' fees and expenses to be incurred or incurred by Sub lessor in connection with any modifications to this Sublease proposed by Sub lessee, any proposed assignment of this Sublease by Sub lessee or any proposed subletting of the Leased Premises by Sub lessee.

- f. **Cumulative Remedies; No Waiver:** The specified remedies to which Sub lessor may resort under the terms hereof are cumulative and are not intended to be exclusive of any other remedy or means of redress to which Sub lessor may be lawfully entitled in case of any breach or threatened breach by Sub lessee of any provision hereof. If for any reason Sub lessor fails or neglects to take advantage of any of the terms of this Sublease providing for termination or other remedy, any such failure of Sub lessor shall not be deemed to be a waiver of any default of any of the provisions, terms, covenants, agreements or conditions of this Sublease. The waiver by Sub lessor of any breach of any term, condition or covenant herein contained shall not be deemed

Should the performance of any act required by this Sublease to be performed by either Sub lessor or Sub lessee be prevented or delayed by reason of an act of God, war, civil commotion, fire, flood, or other like casualty, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, unusually severe weather, or any other cause, except financial inability, not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused; provided, however, that nothing contained in this section shall excuse the prompt payment of rent or other monies due by Sub lessee as required by this Sublease or the performance of any act rendered difficult solely because of the financial condition of the party, Sub lessor or Sub lessee, required to perform the act.

66. NOTICES

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Sublease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party, Sub lessor or Sub lessee, to whom it is directed or any managing employee of such party, or, in lieu of such personal service, [NUMBER] hours after deposit in the United States mail, certified or registered mail, with postage prepaid, or when transmitted by telecopy or facsimile addressed to the parties as set forth on the signature page hereof. Either party, Sub lessor or Sub lessee, may change the addresses herein contained for purposes of this Section by giving written notice of the change to the other party in the manner provided in this Section.

67. AMENDMENTS

Sub lessee represents that neither it nor any of its affiliates has engaged the services of any real estate broker, finder, or any other person or entity in connection with this lease transaction and therefore should Sub lessee be found to be in violation of such representation, Sub lessee shall indemnify Sub lessor against any and all claims for brokerage commissions or finders fees in connection with this transaction, and to indemnify, defend and hold Sub lessor free and harmless from all liabilities arising from any such claim, including without limitation, attorneys' fees in connection therewith.

71. SOLE AND ONLY AGREEMENT

This instrument constitutes the sole and only agreement between Sub lessor and Sub lessee respecting the Leased Premises or the leasing of the Leased Premises to Sub lessee. Sub lessor shall have no obligations to Sub lessee, whether express or implied, other than those specifically set forth in this Sublease.

72. SEVERABILITY AND GOVERNING LAW

This Sublease shall be governed by the laws of the State of [STATE/PROVINCE]. Whenever possible each provision of this Sublease shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Sublease shall be prohibited, void, invalid, or unenforceable under applicable law, such provision shall be ineffective to the extent of such prohibition, invalidity, voidability, or enforceability without invalidating the remainder of such, or the remaining provisions of this Sublease.

73. CONSTRUCTION AND HEADINGS

77. NO LIGHT, AIR OR VIEW EASEMENT

Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Leased Premises shall in no way affect this Sublease or impose any liability on Sub lessor.

78. TRIPLE NET LEASE

It is the purpose and intent of Sub lessor and Sub lessee that this Sublease be deemed and construed to be a “triple net lease” so that Sub lessor shall receive all rentals and other sums specified hereunder during the term of this Sublease, free from any and all charges, costs, assessments, expenses, deductions and/or set-offs of any kind or nature whatsoever, and Sub lessor shall not be expected or required to pay any such charge, assessment or expense, or be under any obligation or liability hereunder, except as herein expressly set forth. All charges, costs, expenses and obligations of any nature relating to the repair, restoration, alteration, maintenance and operation of the Leased Premises shall be paid by Sub lessee, except as otherwise herein expressly set forth, and Sub lessor shall be indemnified and held harmless by Sub lessee from and against such charges, costs, expenses and obligations.

79. AUTHORITY

Each individual executing this Sublease on behalf of Sub lessee and the Sub lessee (if Sub lessee is a corporation or other entity) does hereby covenant and warrant that (i) Sub lessee is a duly authorized and validly existing entity, (ii) Sub lessee has and is qualified to do business in California, (iii) the entity has full right and authority to enter into this Sublease, and (iv) each person executing this Sublease on behalf of the entity was authorized to do so.

lessee hereby agrees to attorn to any such assignee or trustee. Sub lessee agrees to execute any and all documents deemed necessary or appropriate by Sub lessor to evidence the foregoing.

84. SUBORDINATION, ATTORNMENT

Without the necessity of any additional document being executed by Sub lessee for the purpose of effecting a subordination, this Sublease shall in all respects be subject and subordinate at all times to the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Leased Premises or Sub lessor's interest or estate is specified as security. Notwithstanding the foregoing, Sub lessor shall have the right to subordinate or cause to be subordinated any lien or encumbrance to this Sublease. In the event that any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Sub lessee shall, notwithstanding any subordination, attorn to and become the sub lessee of the successor in interest to Sub lessor, at the option of such successor in interest. Sub lessee covenants and agrees to execute and deliver, upon demand by Sub lessor and in the form requested by Sub lessor, any additional documents evidencing the priority or subordination of this Sublease.

85. NO MERGER

The voluntary or other surrender of this Sublease by Sub lessee, or a mutual cancellation hereof, shall not work a merger, and shall, at the option of Sub lessor, terminate all or any existing subleases or subtenancies or may, at the option of Sub lessor, operate as an assignment to Sub lessor of any or all such subleases or subtenancies.

86. RIGHT OF SUB LESSOR TO PERFORM

The liability of Sub lessor to Sub lessee for any default by Sub lessor under the terms of this Sublease shall be limited to the interest of Sub lessor in the Leased Premises and Sub lessee agrees to look solely to Sub lessor's interest in the Leased Premises for the recovery of any judgment from Sub lessor, it being intended that Sub lessor shall not be personally liable for any judgment or deficiency.

89. BREACH BY LANDLORD

Sub lessor shall not be deemed to be in breach in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation within [NUMBER] days after written notice by Sub lessee to Sub lessor specifying wherein Sub lessor has failed to perform such obligation; provided, however, that if the nature of Sub lessor's obligation is such that more than [NUMBER] are required for its performance then Sub lessor shall not be deemed to be in breach if it shall commence such performance within such [NUMBER] day period and thereafter diligently prosecute the same to completion. In any event, Sub lessee must bring an action for breach of this Sublease within [NUMBER] year of Sub lessor's breach or be deemed to have waived the breach and not harmed thereby.

90. SURVIVAL OF INDEMNITIES

The obligations of the indemnifying party under each and every indemnification and hold harmless provision contained in this Sublease shall survive the expiration or earlier termination of this Sublease to and until the last to occur of (a) the last date permitted by law for bringing of any claim or action with respect to which indemnification may be claimed by the indemnified party against the indemnifying party under such provision or (b) the date on which any claim or action for which indemnification may be claimed under such provision is fully and finally resolved and, if applicable, any compromise thereof or judgment or award

sublease agreement without any interruption by lessee or lessor or either of them or any person rightfully claiming under either of them.

94. MASTER LEASE

Notwithstanding anything in this Sublease to the contrary, the rights of Sub lessee shall be subject to the terms and conditions contained in the lease (“Master Lease”) between Sub lessor and the owner of the Leased Premises (the “Master Lessor”), as it may be amended from time to time. Sub lessee shall assume and perform and comply with the obligations of the lessee under the Master Lease to the same extent as if references to the Sub lessor therein were references to Sub lessee (all of which obligations are hereby incorporated herein), including, without limitation, the payment of any and all costs, expenses, charges, fees, taxes, payments or other monetary obligations (except for minimum rent and percentage rent) for which Sub lessor is liable or responsible under the Master Lease, as such costs, expenses, charges, fees, taxes, payment or other monetary obligations come due. Sub lessee shall not commit or permit to be committed on the Leased Premises any act or omission which shall violate any term or condition of the Master Lease. Notwithstanding anything in this Sublease to the contrary, the effectiveness of this Sublease shall be conditioned upon Sub lessor obtaining the written consent of the Master Lessor (if such consent is required under the Master Lease), in form and substance satisfactory to Sub lessor, within ten (10) days of the date hereof. If the Master Lease terminates for any reason, this Sublease shall terminate coincidentally therewith without any liability of Sub lessor to Sub lessee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

EXHIBIT A
TO SUBLEASE
DESCRIPTION OF LEASED PREMISES
TERMINATION OF LEASE OBLIGATION

This Release Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

On [DATE], a lease agreement was executed between Lessor and Lessee for the premises located at [ADDRESS], a copy of which is attached hereto and made a part hereof.

[FACTS GIVING RISE TO THIS RELEASE]

The parties desire to settle all claims of Lessor with respect to said lease and to terminate all obligations of either party thereunder.

Therefore, in consideration of [AMOUNT], from Lessee, receipt of which is hereby acknowledged, Lessor does hereby release Lessee from all obligations and duties of Lessee set forth in the above referenced lease. Lessor, for himself, his heirs, his legal representatives and his assigns also releases Lessee, his heirs, his legal representatives and his assigns from all claims, demands and causes of action that lessor had, has or may have against lessee or against his heirs, legal representatives or assigns in regard to said lease.

LOCATION WORKSHEET

Answer the following questions by indicating whether it is a strength (S) or weakness (W) of the potential site as it relates to your business. Once you have completed a work sheet for each prospective location, compare the relative strengths and weaknesses of each site to determine the value of each to the strategic success of your business.

CONCERNS AND QUESTIONS	S	W	NOTES
Is the facility large enough for your business?			
Does it meet your layout requirements well?			
Does the building need any repairs?			
Will you have to make any leasehold improvements?			
Do the existing utilities meet your needs, or will you have to do any rewiring or plumbing work? Is ventilation adequate?			
Is the facility easily accessible to your potential clients or customers?			
Can you find a number of qualified employees in the area in which the facility is located?			
Is the facility consistent with the image you would like to maintain?			
Is the facility located in a safe neighborhood with a low crime rate?			

EVICTIONS

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: 5-DAY NOTICE TO QUIT

Dear [CONTACT NAME],

TAKE NOTICE, that you are hereby required to quit, and deliver up to the undersigned the possession of the premises now held and occupied by you, being the premises known as:

[DESCRIBE]

at the expiration of 5 days commencing on [DATE] and ending on [DATE].

This Notice to Quit specifically terminates any oral/written agreement you may have with respect to the said premises at the date specified above.

THIS IS INTENDED as a 5-day notice to quit, for the purpose of terminating your tenancy aforesaid.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO QUIT FOR NON-PAYMENT OF RENT

Dear [CONTACT NAME],

You are hereby notified to quit and deliver up the premises you hold as our tenant, namely:

[DESCRIBE PREMISES]

You are to deliver up said premises on or within [NUMBER] days of receipt of this notice. This notice is provided due to non-payment of rent. The present rent arrearage is in the amount of [AMOUNT]. You may redeem your tenancy by full payment of said arrears within [NUMBER] days.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name
Address
Address2
City, State/Province
Zip/Postal Code

OBJECT: NOTICE TO TENANT OF RENT DEFAULT

Dear [CONTACT NAME],

This notice is in reference to the following described lease:

[DESCRIBE LEASE]

Please be advised that as of [DATE], you are in **DEFAULT IN YOUR PAYMENT OF RENT** in the amount of [AMOUNT].

If this breach of lease is not corrected within [NUMBER] days of this notice, we will take further action to protect our rights, which may include termination of this lease and collection proceedings.

This notice is made under all applicable laws. All of our rights are reserved under this notice.

Sincerely,

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

9. ASSIGNMENT OF LEASE

For value received, Assignor assigns and transfers to Assignee that lease, dated [DATE], executed by assignor as lessee and by [NAME] as lessor, of the following described premises:

[DESCRIBE]

together with all his right, title, and interest in and to the lease and premises, subject to all the conditions and terms contained in the lease, to have and to hold from [DATE], until the present term of the lease expires on [DATE].

A copy of the lease is attached hereto and made a part hereof by reference.

10. ASSIGNOR WARRANTIES AND REPRESENTATION

Assignor covenants that he is the lawful and sole owner of the interest assigned hereunder; that this interest is free from all encumbrances; and that he has performed all duties and obligations and made all payments required under the terms and conditions of the lease.

Assignee agrees to pay all rent due after the effective date of this assignment, and to assume and perform all duties and obligations required by the terms of the lease.

11. CONSENT OF LESSOR

The Lessor, named in the above assignment of that lease executed on [DATE], wishes to consent to this Assignment. The Lessor also consents to the agreement by Assignee to assume after [DATE], the payment of rent and performance of all duties and obligations as set forth in the lease, and releases Assignor from all duties and obligations under the lease, including the payment of rent, after [DATE], and accept Assignee as lessee in the place of Assignor.

12. BINDING AGREEMENT

The assignment shall be binding upon and inure to the benefit of the parties, and their successors and assigns.

ASSIGNMENT OF MORTGAGE

This Assignment of Mortgage (the "Assignment") is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

For and in consideration of [AMOUNT], the receipt of which is hereby acknowledged by, [NOTARY NAME], of [CITY, STATE/PROVINCE], the Assignor hereby grants, assigns and transfers to Assignee that certain mortgage executed by [NAME], and dated, [DATE], and recorded in [OFFICES], in [CITY, STATE/PROVINCE], in [BOOK OF MORTGAGE], at page [NUMBER], together with the note described therein and the money to become due thereon with the interest provided therein.

IN WITNESS WHEREOF, the Assignor has executed this Assignment on the day and year first above written.

ASSIGNOR

ASSIGNEE

ACKNOWLEDGMENT

State of [STATE]

County of [COUNTY]

On [DATE] before me, [NAME OF NOTARY], notary, personally appeared [NAME OF PERSON(S) INVOLVED], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____
Notary

(Seal)

TERMS

NOW, THEREFORE, for and in consideration of the sum of [AMOUNT]and other good and valuable considerations, the receipt and sufficiency ofwhich are hereby acknowledged, Assignor has assigned, transferred, sold and conveyed and by these presents does hereby assign, transfer, sell and convey unto Assignee all of Assignor's right, title and interest in, to and under said Real Estate Purchase and Sale Agreement. Assignee hereby assumes all of Assignor's duties and obligations under said Real Estate Purchase and Sale Agreement. This Assignment shall be binding upon Assignor and shall inure to the benefit of Assignee and its successors, heirs and assigns.

IN WITNESS WHEREOF this Assignment has been signed, sealed and delivered by Assignor and Assignee as of the day and year first above written.

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNOR

ASSIGNEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

[DESCRIBE]

- e. The balance of rental payments unpaid as of the date of this assignment is [AMOUNT] commencing with the next payment due on [DATE].

10. TERMS AND CONDITIONS OF THE ASSIGNMENT

Assignor understands and agrees that:

- a. Assignee does not assume any of the obligations arising under the Lease.
- b. Assignor will keep and perform all of his obligations as Lessor under the Lease. In addition, Assignor shall indemnify assignee against the consequences of any failure to do so.
- c. Assignor will not assign any other interest in the lease, nor sell, transfer, mortgage, or encumber the property described in the lease, or any part thereof, without first obtaining the written consent of Assignee.
- d. Assignee may, at his discretion, give grace or indulgence in the collection of all rent and other sums due or to become due under the lease, and grant extensions of time for the payment of any such sums.
- e. Assignor waives the right to require assignee to proceed against Lessee, or to pursue any other remedy.
- f. Assignor waives the right, if any, to obtain the benefit of or to direct the application of any security that is or may be deposited with Assignee until all indebtedness of Lessee to Assignee arising under the lease has been paid.
- g. Assignee may proceed against Assignor directly or independently of Lessee and the cessation of the liability of Lessee for any reason other than full payment shall not in any way affect the liability of Assignor hereunder, nor shall any extension, forbearance of acceptance, release, or substitution of security, or any impairment or suspension of Assignee's remedies or rights against Lessee in any way, affect the liability of Assignor hereunder.
- h. Assignor guarantees due and punctual payment under the terms of the lease, In addition, on any default by Lessee, assignor will, on demand, repurchase the rights assigned hereunder by paying to Assignee the then total unpaid balance of rental payments under the lease.
- i. Assignor appoints assignee as his attorney in fact to demand, receive, and enforce payment and to give receipts, releases, and satisfactions and to sue for all sums payable,

ASSIGNMENT OF SUBLEASE

This Assignment of Sublease (the "Assignment") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SUB-TENANT NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good consideration, it is agreed by and between the parties that:

11. ASSIGNMENT OF LEASE

Tenant hereby assigns, transfers and delivers to Sub-Tenant all of Tenant's rights in and to a certain lease between Tenant and Landlord for certain premises known as [Describe], under lease dated [DATE].

12. SUB-TENANT'S OBLIGATIONS

Sub-Tenant agrees to accept said Lease, pay all rents and punctually perform all of Tenant's obligations under said Lease accruing on and after the date of delivery of possession to the Sub-

DR. LUBOGO ISAAC CHRISTOPHER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

LANDLORD

Authorized Signature

Print Name and Title

improving, painting or redecorating usable space for tenants; (ii) Landlord's costs of any services sold or provided tenants or other occupants for which Landlord is entitled to be reimbursed by such tenants or other occupants as an additional charge or rental over and above the basic rental and escalations payable under the lease with such tenant or other occupant; (iii) legal fees and other related expenses associated with the negotiation or enforcement of leases; (iv) all items and services for which Tenant reimburses Landlord or pays third persons or which Landlord provides selectively without reimbursement to one or more tenants or occupants of the Building (other than Tenant) which are not customary for normal office use; (v) leasing commissions and other similar payments paid to agents or employees of Landlord, independent brokers and other persons incurred in connection with Landlord's leasing activities; (vi) costs for space planning of tenant space in the Building; (vii) repairs or other work occasioned by fire, windstorm or other casualty or damage to the extent Landlord is reimbursed by insurance; (viii) costs for structural replacements to the steel frame, concrete floors, roof membrane of the Building; (ix) Building depreciation; (x) interest on debt or amortization payments on any mortgages or deeds of trust and rent under any ground leases; (xi) advertising and publicity expenditures; (xii) Landlord's reserve accounts; (xiii) any compensation paid to clerks, attendants or other persons in commercial concessions, if any, operation of any retail space or similar concessions; (xiv) costs of correcting construction defects in the Building; (xv) costs of cleaning up or removing asbestos or hazardous materials; and (xvi) capital improvements, capital repairs, capital equipment, and capital tools, all as determined in accordance with generally accepted accounting principles. The operating costs shall be normalized to an assumed 100% occupancy of the Building.

10. PROPERTY TAX

Notwithstanding anything to the contrary contained in the Lease, Tenant shall not be liable (directly or indirectly) for any increase in real property taxes during the term of this Lease (as the same may be extended from time to time) that results from a change in ownership of the Building or the land upon which the Building is located.

11. AUDIT

13. COMPLIANCE

Landlord shall, at its sole cost and expense, comply with all laws, statutes, ordinances and governmental rules or regulations now in force or which may hereafter be in force, insofar as any thereof relate to Landlord's ownership and operation of the Building.

14. EXPANSION

Landlord agrees to negotiate in good faith with Tenant with respect to Tenant's needs for additional expansion space which may from time to time become available in the Building.

15. CASUALTY

In the event of a fire or other casualty in the Premises, or a fire or other casualty in such portions of the Building other than the Premises, where Tenant's direct access to the Premises and the use thereof for the conduct of its business is adversely impaired, Tenant shall promptly give notice thereof in writing to Landlord (unless Landlord already has notice thereof). The following provisions shall apply to a fire or other casualty occurring in the Premises and/or the Building:

- A. If portions of the Building outside the Premises are damaged or destroyed (whether or not the Premises are also damaged or destroyed) to such a degree that Tenant's direct access to the Premises and the use thereof for the conduct of its business are adversely impaired and sufficient repair can be made to the Building within [NUMBER] days from the date of such damage or destruction so as to provide Tenant with direct access to the Premises and the use thereof for the conduct of Tenant's business without significant impairment, Landlord, subject to the provisions of this paragraph, shall diligently proceed to repair the same and this Lease shall remain in full force and effect.

- B. If Landlord reasonably determines that it cannot complete the repairs provided in subparagraph (a) and (b) above within the time periods therein provided, Landlord shall notify Tenant of said effect within [NUMBER] days after the date of such damage and destruction, and in such event, Tenant may terminate this Lease within [NUMBER] days after the date of such notice.

ADDENDUM TO RENT AGREEMENT

This Addendum to Rent Agreement (the "Agreement") is made and effective [DATE]

BETWEEN: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

3. FOR STORAGE ROOM

That for the consideration of rent payments and covenants adherence on the part of the Tenant, the Owner rents to the Tenant, and the Tenant hires from the Owner, the storage room known as [DESCRIBE] at [ADDRESS], [CITY/STATE]. Rent is due in advance on the first (1st) day of each month and every month at [AMOUNT] per month beginning the first (1st) day of [MONTH]. If the first month's rental is adjusted, the rental sum of [AMOUNT] has been received by Owner for the period of [DATE] to [DATE]. The Tenant further agrees if monthly rent is not received on the first (1st) of the month, the Tenant will pay a fee of [AMOUNT] of rent to help defray the cost of collection. [AMOUNT] has been deposited as additional security by Tenant, which will become part of the total security for all agreements.

4. FOR RESERVED PARKING SPACE

This is an Agreement for Permission to Sublet (the "Agreement") effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is in regards with the premises of Landlord located at [ADDRESS OF PREMISES] and leased to Tenant under a lease dated [ENTER DATE OF LEASE], the term of which is to expire [ENTER DATE OF LEASE EXPIRATION].

Now, therefore, it is agreed as follows:

4. PERMISSION TO SUBLET

- A. Permission is hereby granted to Tenant to sublease the premises described above for a term of [LEASE TERM] beginning [DATE LEASE IS BEGINNING] and ending [DATE LEASE IS ENDING].
- B. Any and all subtenants shall be required to conform to all obligations and covenants of the Tenant as set forth in the above-described lease, all provisions of said lease remaining in full force and effect for the entire term of the sublease.

AGREEMENT TO CANCEL LEASE

This Agreement to Cancel Lease (the "Agreement") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

WHEREAS the Landlord and the Tenant executed a lease dated [DATE] (the "Lease") of certain premises located at [ADDRESS] (the "Premises") but the parties now wish to cancel the Lease;

It is agreed as follows:

TERMS

5. In return for the Tenant vacating the Premises on or before [DATE] (the "Termination Date"), the Lease is cancelled effective that date and the parties will have no further obligation to each other under the Lease.
6. Nothing in this agreement operates to discharge obligations and liabilities accrued under the Lease up to the date of its cancellation.
7. If the Tenant does not vacate the Premises on or before the Termination Date, this agreement is null and void.

AGREEMENT TO LEASE

This is an Agreement to Lease (the "Agreement") effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

It is agreed that:

9. Lessor does hereby agree to grant, demise and let and Lessee does hereby agree to take premises situated in [CITY, STATE/PROVINCE] at [ADDRESS] and described as [DESCRIBE] with appurtenances, from Start Date [DATE] to Ending Date [DATE], at the rent or sum of [AMOUNT], to be paid as follows:

[ENTER LEASE TERMS]

10. The parties here shall execute the lease herein provided for on[DATE].

11. The Lessor shall [ENTER ANY UTILITIES AND/OR MAINTENANCE PAID BY LESSOR].

12. The Lessee shall [ENTER ANY UTILITIES AND/OR MAINTENANCE PAID BY LESSEE].

13. In the event that the Lease herein provided for shall be executed, then and in such case the Lessor shall give, and the Lessee shall take possession of said premises on [DATE OF POSSESSION] and the rent shall commence and be payable from said last mentioned date.

AGREEMENT TO RESCIND CONTRACT OF SALE

This Agreement to Rescind Contract of Sale (the "Agreement") is a made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASER NAME] (the "Purchaser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- 5. The contract of sale of real property located in [CITY], [STATE/PROVINCE], and described as:

[SET FORTH LEGAL DESCRIPTION], which contract was executed on [DATE] by the undersigned as seller and purchaser, respectively, is hereby by mutual agreement of the parties, rescinded and terminated.

- 6. Seller waives and releases all right and claim against purchaser, and purchaser waives and releases all right against seller and all right, title, and interest in the described real property.
- 7. The deposit previously made by purchaser shall be [RETURNED IN ITS ENTIRETY TO PURCHASER OR RETAINED BY SELLER OR AS THE CASE MAY BE].
- 8. The escrow costs and charges incurred to date shall be [BORNE AND PAID EQUALLY BY THE PARTIES OR AS THE CASE MAY BE].

AMENDMENT TO LEASE

This Amendment to that certain Lease dated [DATE] (the "Amendment") is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, the parties wish to amend certain terms of the Lease; and

WHEREAS, certain capitalized terms not otherwise defined herein are defined in the Lease;

THEREFORE, the parties agree as follows:

7. RENT CHANGE

Section [NUMBER] of the Lease is hereby amended to provide monthly rent, effective as of [DATE], shall be [AMOUNT].

DR. LUBOGO ISAAC CHRISTOPHER

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

The Applicant requests the following variance(s):

- d. Section(s) of Zoning Ordinance concerned: [IDENTIFY].
- e. Description and purpose of use restriction(s) sought to be varied: [FOR EXAMPLE: REDUCTION IN FRONT SET-BACK REQUIREMENTS FROM 40 FEET TO 30 FEET].
- f. Statement of variance sought: [FOR EXAMPLE: TO OBTAIN A WAIVER OF THE USES PERMITTED IN RESIDENTIAL ZONE R-1 BY PERMITTING THREE-FAMILY OCCUPANCY OF THE SUBJECT PROPERTY].

6. REASONS FOR REQUEST

- h. The strict application of the above-referenced provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Ordinance of the City of [CITY].
- i. The exceptional or extraordinary circumstances or conditions applying to the property involved or intended use of the property involved or intended development of the property involved that do not apply generally to other properties or uses in the same zoning district or neighborhood are [SPECIFY].
- j. The granting of the variance(s) sought will not be a substantial detriment to the public interest or to the property or improvements in the zoning district concerned, and will not materially impair the purpose of the Zoning Ordinance of the City of [CITY] because [SPECIFY].
- k. Section of Zoning Ordinance proposed for amendment: [IDENTIFY].
- l. Proposed amendatory wording: [DESCRIBE].
- m. Circumstances or changed conditions that justify the proposed amendment: [DESCRIBE].
- n. The proposed amendment will clarify or improve the ordinance for the following reason(s): [DESCRIBE].

ASSIGNMENT OF LEASE

This Assignment of Lease (the “Agreement”) is made and effective [DATE],

BETWEEN: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNEE NAME] (the "Assignee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

- C. Assignor, as lessee, has executed that certain Lease, dated [DATE] (the “Lease”), covering those certain premises and related improvements described on Exhibit A attached hereto (the “Premises”).
- D. Assignor desires to assign its rights as lessee in the Lease to Assignee, and Assignee desires to accept the assignment of the Lease and to assume the obligations of Assignor under the Lease, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions contained in this Agreement, Assignor and Assignee hereby agree as follows:

14. ASSIGNMENT AND ASSUMPTION OF LEASE

WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE STATUS, NATURE, QUALITY OR CONDITION OF THE LEASE OR THE LEASED PREMISES.

18. INDEMNIFICATION

Assignee hereby agrees to indemnify, defend and hold harmless Assignor from any and all costs, liabilities, losses, damages, expenses, liens or claims (including, without limitation, reasonable attorneys’ fees and costs) arising out of or relating in any way to the Lease except to the extent they arise from any failure by Assignor to perform its duties or other obligations under the terms, covenants and conditions of the Lease prior to the Effective Date.

Assignee further agrees to protect, indemnify and hold harmless Assignor and its officers, employees, representatives, agents, fiduciaries, attorneys, directors, shareholders, insurers, predecessors, parents, affiliates, benefit plans, successors, heirs and assigns from and against any and all costs, liabilities, losses, damages, expenses, liens or claims (including, without limitation, reasonable attorneys’ fees and costs) directly or indirectly arising out of or attributable to the acts or omissions of Assignee or its agents, contractors, servants or employees with respect to Premises or any activities thereon. This indemnity shall survive the termination of the Lease and this Agreement.

19. RELATIONSHIP OF THE PARTIES

The relationship of the parties hereto is solely that of Assignor and Assignee with respect to the Premises and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

20. NOTICE

Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, or (d) by a commercial overnight courier that guarantees next day delivery and provides

24. COUNTERPARTS

This Agreement may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on the all parties hereto, even though all parties are not signatory to the same counterpart.

25. BINDING EFFECT

This Agreement shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

26. GOVERNING LAW

This Agreement is governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LESSOR

LESSEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

BUYER'S PROPERTY INSPECTION REPORT

	Satisfactory	To Change	Estimated Cost
Grounds			
Landscaping			
Sewers or Septic Tank			
Sprinklers			
Other			
Building			
Roof			
Chimney			
Foundation			
Wood Exteriors			
Other			
Heating & Air Conditioning Systems			
Furnace			
Air Conditioning			
Water Heater			
Other			
Built-In Appliances & Equipment			
Alarm System			
Ovens			
Burners			
Disposal			
Smoke Detectors			
Intercom			
Phone Connections			
Other			

CHECKLIST

FOR OFFICE LEASES

Nature and duration of the lease

- Determine the term of the lease, and when the lessee is entitled to possession.
- Is the lease to be a net lease?
- What are the duties of the lessor?

Competition

- Are the restrictions reasonable?
- What rights does the lessee have in the event the lessor violates any restrictive covenant, thereby reducing the value of the lease to the lessee?

Space

- What is the rentable and usable square footage?
- Is rent based on usable or rentable square footage?
- Verify square footage number provided by the landlord.

Permitted Uses of the Premises

- What uses of the premises are permitted?
- Is the permitted use clause broad enough for possible changes in the business?
- Is the permitted use clause broad enough for potential assignments or subleases?
- Can the use clause be drafted to include “any lawful purposes”?
- Can uses be changed with landlord’s consent, which consent can’t be unreasonably withheld or delayed?

Primary lease term

Tenant Improvements

- What tenant improvements will be necessary?
- What is the cost?
- How much time will it take to complete the tenant improvements?
- Will the landlord contribute to the cost for the tenant improvements?
- What approvals will be necessary?
- What permits will be necessary?
- Does the landlord or the tenant own any improvements?

Repairs and replacements

- What responsibility does the tenant have for repairs or replacements?
- What responsibility does the landlord have for repairs or replacements?
- At the end of the tenancy, is tenant's obligation to return the premises in same condition at the beginning of tenancy, excluding (1) ordinary wear and tear, (2) damage by fire and other unavoidable casualty, and (3) alterations previously approved by landlord?

Utilities

- Direct supply or individually metered?
- Method of computing payment?

Assignment and subletting

- Is the landlord's written approval required?
- What standard is there for approval? absolute discretion? reasonable approval?
- Does the landlord have the right to cancel lease if notified by assignment of sublease?
- If the assignment or sublet is at a higher price than the base rent, who keeps the excess?
- Can the lease be assigned to affiliates of the tenant without landlord approval?
- Can the landlord terminate the lease if the stock ownership of the tenant changes?

Subordination and attornment

- All present or future mortgages?

Right of first refusal or first offer for additional space

- What is the scope of any right of first offer or first refusal?
- How is rent determined?
- How long does the tenant have before exercising the right?

Security deposit

- What is the amount? Can it be a letter of credit?
- Is there interest on the security deposit?
- Does the lease provide for the return of the tenant's security deposit within a set number of days after termination of the lease?

Guaranty

- Is a personal guarantee required?
- When does the guarantee terminate?

Mortgages

Can any mortgages adversely affect the tenant's rights if foreclosed upon?

Free rent

- Will the landlord grant a free rent period?
- When does it have to be returned (e.g., on breach of lease)?

Compliance With Law

- Does landlord warrant that the premises are in compliance with applicable law?
- If tenant is obligated to comply with applicable law, does it exclude matters that should more properly be the responsibility of the landlord (e.g., asbestos problems, disability access)?
- Is landlord obligated to comply with all laws applicable to its control of the building?

Work letter

Space is rarely taken by tenants in "as is" condition, whether the building is new or old. The fitting out of the premises to mutually agreed specifications is accomplished by a work letter – a contract between the landlord and tenant describing what is to be built, who pays for it and how, what the schedule for completion is, who is responsible for delays and cost overrun and more.

Zoning

- What zoning applies to the building, and is lessee's intended use permitted?
- Are there covenants or restrictions on the property? Easements?
- How about easements the lessee must have on adjacent property in order to fully utilize the leased property?

UNSPECIFIED PURCHASER CONDITION

This agreement is conditional on the purchaser notifying the vendor in writing within [NUMBER] days of the date of this agreement that [DESCRIBE CONDITION TO BE FULFILLED]; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

VENDOR HOME PURCHASE CONDITION

This agreement is conditional on the vendor notifying the purchaser in writing within [NUMBER] days of the date of this agreement that the vendor has entered into a binding agreement to purchase another home; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

UNSPECIFIED VENDOR CONDITION

This agreement is conditional on the vendor notifying the purchaser in writing within [NUMBER] days of the date of this agreement that [DESCRIBE CONDITION TO BE FULFILLED]; failing such notice, this agreement is automatically void and the vendor shall immediately return any deposit paid by the purchaser without interest or deduction.

VENDOR MORTGAGE TAKE-BACK

The vendor agrees to take a [FIRST, SECOND, ETC.] mortgage back as part of the purchase price payable on closing in the principal amount of [AMOUNT] accruing interest at the rate of [%] per annum, calculated semi-annually not in advance and amortized over [NUMBER] years for an actual term of [NUMBER] years, repayable in blended monthly payments of principal and interest of [AMOUNT]. The mortgage back shall be pre-payable in full or in part at any time or from time to time without penalty or bonus.

VENDOR SURVEY

The vendor shall supply the purchaser with an up-to-date survey of the subject property, showing its lot lines in relation to neighboring properties and the location of any buildings and other structures on the subject property in relation to the lot lines, prepared by a qualified land surveyor and acceptable to the purchaser's mortgagee, within a reasonable time before closing.

NON-MERGING OUTSTANDING WORK COVENANTS

The vendor agrees to perform the work detailed in Schedule A before closing. This covenant is a condition of closing in favor of the purchaser but, at the option of the purchaser, also operates as

**CONSENT BY LESSOR TO
ASSIGNMENT OF LEASE**

This Consent by Lessor to Assignment of Lease (the “Consent”) effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [ASSIGNOR NAME] (the "Assignor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

C. Assignor, as lessee, and Lessor have executed that certain Lease, dated [DATE] (the “Lease”), covering those certain premises and related improvements described on Exhibit A attached hereto (the “Premises”).

D. Assignor desires to assign its rights as lessee in the Lease to Assignee and Assignee desires to accept the assignment of the Lease and to assume the obligations of Assignor under the Lease, and Lessor is willing to consent to such assignment and assumption on the terms and conditions set forth in this Consent.

NOW, THEREFORE, in consideration of the payment by Assignor of [AMOUNT], payable on or before [DATE], the parties hereby agrees as follows:

10. CONSENT TO ASSIGNMENT

Lessor hereby consents to the assignment of the Lease to Assignee on the terms and conditions of the Assignment of Lease of even date herewith delivered to Lessor. Lessor’s consent to the assignment of the Lease to Assignee shall not be deemed to be a consent to any other or subsequent assignment.

11. RELEASE

14. INTERPRETATION; AMENDMENT

In interpreting the language of this Consent, the Lessor and Assignor shall be treated as having drafted this Consent after meaningful negotiations. The language in this Agreement shall be construed as to its fair meaning and not strictly for or against either party. This Consent may be modified only by a writing signed by Lessor and Assignor.

15. ATTORNEYS' FEES

If any party hereto fails to perform any of its obligations under this Consent or if a dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Consent, and an action is filed, the prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such incurred in connection with any appeal.

16. COUNTERPARTS

This Consent may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on the all parties hereto, even though all parties are not signatory to the same counterpart.

17. BINDING EFFECT

This Consent shall be binding on Lessor, and inure to the benefit of Assignor and its respective heirs, executors, administrators, successors in interest and assigns.

18. GOVERNING LAW

This Consent is governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

EXHIBIT A

[DESCRIPTION OF PREMISES]

CONSENT BY LESSOR TO SUBLEASE

This Consent by Landlord to Sublease (the "Consent") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

C. Tenant, as Tenant under the Lease, and Landlord have executed that certain Lease dated [DATE] (the "Master Lease"), covering those certain premises and related improvements described in the attached Exhibit "A" (the "Premises").

D. Tenant desires to sublease [all] [a portion] of the Premises to [NAME] ("Subtenant") and Subtenant desires to accept a sublease in the form attached as Exhibit "B" (the "Sublease"). Landlord is willing to consent to the Sublease on the terms and conditions set forth in this Consent.

NOW, THEREFORE, in consideration of the payment by Tenant of [AMOUNT], payable on or before [DATE] to Landlord, the parties agree as follows:

10. CONSENT TO SUBLEASE

In interpreting the language of this Consent, Landlord and Tenant shall be treated as having drafted this Consent after meaningful negotiations. The language in this Agreement shall be construed as to its fair meaning and not strictly for or against either Party. This Consent may be modified only by a writing signed by Landlord and Tenant.

15. ATTORNEYS' FEES

If any Party hereto fails to perform any of its obligations under this Consent or if a dispute arises between the Parties hereto concerning the meaning or interpretation of any provisions of this Consent, and an action is filed, the prevailing party in any such action shall be entitled to recover from the other party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such fees and disbursements incurred in connection with any appeal.

16. COUNTERPARTS

This Consent may be signed in counterparts and all counterparts so executed shall constitute one contract, binding on all parties hereto.

17. BINDING EFFECT

This Consent shall be binding on Landlord, and inure to the benefit of Tenant and its respective heirs, executors, administrators, successors in interest and assigns.

18. GOVERNING LAW

This Consent is governed by and construed in accordance with the laws of the State of [STAE/PROVINCE].

IN WITNESS WHEREOF, the parties hereto have executed this Consent as of the day and year first written above.

EXHIBIT B
THE SUBLEASE

CONTRACT OF SALE OF COMMERCIAL PROPERTY

This Contract of Sale of Commercial Property (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASER NAME] (the "Purchaser"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of the covenants and agreements of the respective parties, as set forth below, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase and take from Seller, the real property situated in [CITY], [STATE], and particularly described as follows:

[SET FORTH LEGAL DESCRIPTION]

together with all improvements on the property and appurtenances to it, and the articles of equipment and other personal property listed in Exhibit A, which is attached and incorporated by reference. The real and personal property described above is referred to as property.

Transfer to Purchaser shall include all right, title, and interest of Seller in and to all streets, alleys, roads, and avenues adjoining the real property, and shall further include any award for damaging or taking by eminent domain by public or quasi-public authority, of the real property or any part of it.

- B. The following items shall be prorated as of the close of escrow: rentals, real estate taxes due but not delinquent, prepaid insurance premiums [ADD OTHER ITEMS, AS APPROPRIATE].
- C. Escrow shall close when the escrow company is in a position to record all documents required under this agreement, make all disbursements, and [ISSUE OR SECURE] a title insurance policy.

21. RISK OF LOSS; MAINTENANCE; TRANSFER OF POSSESSION

- A. Risk of loss or damage by fire or other casualty to property or any part of property prior to close of escrow shall be the risk of Seller. In the event of such loss or damage prior to closing, this agreement shall not be affected but Seller shall assign to Purchaser all rights under any insurance policy or policies applicable to the loss. If action is necessary to recover under any casualty policy, Seller shall grant permission to bring the action in Seller’s name.
- B. Improvements and personal property described above shall be maintained in their present condition prior to the close of escrow by Seller, wear from normal and reasonable use and deterioration excepted.
- C. Possession of property, subject to the leases and tenancies referred to above, shall be transferred at close of escrow.

22. COMMERCIAL ZONING

Seller warrants that property is zoned for commercial purposes and that all existing uses are lawful and within such zoning. Purchaser plans the use of property for [DESCRIBE PURPOSES]. Purchaser intends to apply for a [BUILDING PERMIT OR AS THE CASE MAY BE] for such additional use, and for appropriate amendments to the existing zoning plan for the area in which property is located. Seller will cooperate fully with Purchaser with respect to the contemplated plans. If Purchaser is unable to proceed with the described project because of any adverse decision of [CITY], or any board, commission, or officer of [CITY], Purchaser shall [STATE AGREED REMEDY, SUCH AS: REMIT [AMOUNT OF THE PURCHASE PRICE BY CREDITING THAT AMOUNT ON THE PURCHASE-MONEY MORTGAGE TO BE EXECUTED BY PURCHASER IN FAVOR OF SELLER].

If Buyer fails to perform the agreements of this contract within the time set forth herein, Seller may retain, as liquidated damages and not as a penalty, all of the initial deposit, it is being agreed that this is Seller's exclusive remedy.

27. DEFAULT BY SELLER

If Seller fails to perform any of the agreements of this contract, all deposits made by Buyer shall be returned to Buyer on demand, or the Buyer may bring suit against Seller for damages resulting from the breach of contract, or the Buyer may bring an action for specific performance. Buyer's remedies are cumulative and not exclusive of one another, and all other remedies shall be available in either law or equity to Buyer for Seller's breach hereof.

28. ATTORNEY FEES AND COSTS

If any litigation is instituted with respect to enforcement of the terms of this contract, the prevailing party shall be entitled to recover all costs incurred, including, but not limited to, reasonable attorney's fees and court costs.

29. CONDITION OF THE PROPERTY

Seller agrees to deliver the Property to Buyer in its present condition, ordinary wear and tear excepted, and further certifies and represents that Seller knows of no latent defect in the Property. All heating, cooling, plumbing, electrical, sanitary systems, and appliances shall be in good working order at the time of closing. Seller represents and warrants that the personal property conveyed with the premises shall be the same property inspected by Buyer and that no substitutions will be made without the Buyer's written consent. Buyer may also inspect or cause to be inspected the foundation, roof supports, or structural member of all improvements located upon the Property. If any such system, appliance, roof, foundation, or structural member shall be found defective, Buyer shall notify Seller at or before closing and Seller shall thereupon remedy the defect forthwith at its sole expense (in which case the time for closing shall be reasonably extended as necessary). If the costs of such repairs shall exceed [%] of the total purchase price, Seller may elect not to make such repairs and the Buyer may elect to take the Property in such defective condition and deduct [%] from the purchase price or Buyer may, at his/her option, elect to terminate this contract

Print Name and Title

Print Name and Title

THE OFFICE], or at such other time and place as Seller and Buyer may jointly designate in writing. Pursuant to the Contract, Buyer must deposit [DOWN PAYMENT AMOUNT] as a down payment to be held in escrow by the Escrow Agent.

6. PAYMENT TERMS

If the closing takes place under the Contract, Escrow Agent at the time of closing shall pay the amount deposited with Agent to Seller or in accordance with Seller's written instructions. Escrow Agent shall make simultaneous transfer of the said property to the Buyer. If no closing takes place under the Contract, Escrow Agent shall continue to hold the amount deposited until receipt of written authorization for its disposition signed by both Buyer and Seller. If there is any dispute as to whom Escrow Agent is to deliver the amount deposited, Escrow Agent shall hold the sum until the parties' rights are finally determined in an appropriate action or proceeding or until a court orders Escrow Agent to deposit the down payment with it. If Escrow Agent does not receive a proper written authorization from Seller and Buyer, or if an action or proceeding to determine Seller's and Buyer's rights is not begun or diligently prosecuted, Escrow Agent is under no obligation to bring an action or proceeding in court to deposit the sum held, but may continue to hold the deposit. Escrow Agent assumes no liability except that of a stockholder. Escrow Agents duties are limited to those specifically set out in this Agreement. Escrow Agent shall incur no liability to anyone except for willful misconduct or gross negligence so long as the Escrow Agent acts in good faith. Seller and Buyer release Escrow Agent from any act done or omitted in good faith in the performance of Escrow Agents duties.

7. ACKNOWLEDGMENT OF DOWN PAYMENT

The [DOWN PAYMENT AMOUNT] down payment referred to herein above has been paid by Buyer to Escrow Agent. Escrow Agent acknowledges receipt of [Down Payment Dollar Amount] from Buyer by check [CHECK NUMBER ON DOWN PAYMENT CHECK] subject to collection.

SPECIAL PROVISIONS

[DESCRIBE ANY SPECIAL PROVISIONS]

EXCLUSIVE RIGHT TO SELL

This Exclusive Right to Sell (the “Agreement”) is made and effective [DATE],

BETWEEN: [SELLER NAME] (the “Seller”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For and in consideration of your services to be rendered in listing for sale and in undertaking to sell or find a purchaser for the property hereinafter described, the parties understand and agree that this is an exclusive listing to sell the real estate located at [ADDRESS], together with the following improvements and fixtures:

[DESCRIBE]

2. TERMS

The minimum selling price of the property shall be [AMOUNT], to be payable on the following terms:

[SPECIFY]

You are authorized to accept and hold a deposit in the amount of [AMOUNT] as a deposit and to apply such deposit on the purchase price.

If said property is sold, traded or in any other way disposed of either by us or by anyone else within the time specified in this listing, it is agreed to and understood that you shall receive from the sale or trade of said property as your commission percent (%) of the purchase price.

Should said property be sold or traded within [NUMBER] days after expiration of this listing agreement to a purchaser with whom you have been negotiating for the sale or trade of the property, the said commission shall be due and payable on demand. We agree to furnish a certificate of title showing a good and merchantable title of record, and further agree to convey by good and sufficient warranty deed or guaranteed title on payment in full.

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RENEWAL OF LEASE

Dear [Contact name],

This is to notify you that we are exercising the option to renew our lease of [ADDRESS] for a further term of [NUMBER] years contained in [SECTION REFERENCE] of the lease.

Please advise us of the rent you propose to charge in the renewed term so that we can decide whether or not to submit the matter to arbitration in accordance with the provisions of [SECTION REFERENCE] of the lease.

Thank you for you cooperation.

Sincerely,

Your name & title

contact

DR. LUBOGO ISAAC CHRISTOPHER

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

Landlord may alter, compromise, accelerate, extend or change the time or manner for the performance or payment of any obligation(s) of Tenant under the Lease, waive any default by Tenant, fail to assert any rights against Tenant, grant to Tenant any other indulgence or concession with respect to all or any part of any of the obligations of Tenant under the Lease, release, substitute or add Guarantors and may generally deal with Tenant, or any indebtedness of Tenant to Landlord, as Landlord sees fit, and no such action and no change, impairment or suspension of any right or remedy of Landlord shall terminate, release, reduce, diminish or in any way affect any of the obligations of Guarantor hereunder or give Guarantor any recourse or defense against Landlord.

14. LIABILITIES

The amount of liability of Guarantor and all rights, power and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor, including any other guaranty executed by Guarantor relating to any indebtedness of Tenant to Landlord, shall be cumulative and not alternative and shall be deemed to include all rights, powers and remedies given to Landlord by law. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any indebtedness of Tenant to Landlord.

15. OBLIGATIONS OF GUARANTOR

The obligations of Guarantor hereunder are independent of the Lease Obligation. In the event of any default hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not Tenant is joined therein or a separate action or actions is brought against Tenant. Landlord may maintain successive actions for other defaults. Landlord's rights hereunder shall not be exhausted by its exercise of any of its other rights or remedies or by any such action or by any number of successive actions until and unless all of the Lease Obligation hereby guaranteed has been fully performed and the period of time has expired during which any payment made by Tenant or Guarantor to Landlord may be determined to be a Preferential Payment.

16. SEVERABILITY

Each Guarantor shall be jointly and severally liable for, and agrees to pay to Landlord without demand, attorneys' fees in such amount as the Court determines is reasonable and all costs and other expenses which Landlord expends or incurs in enforcing, collecting or compromising the Lease Obligation hereby guaranteed or in enforcing or collecting upon this Guaranty against Guarantor the Lease Obligation hereby guaranteed whether or not suit is filed.

17. ENFORCEMENT

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective and enforceable.

DR. LUBOGO ISAAC CHRISTOPHER

LANDLORD

GUARANTOR

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

- c. **Total Term of Lease:** The term of this Lease shall begin on the commencement date, as defined in Section b) of this Article 3, and shall terminate on [DATE].
- d. **Commencement Date:** The "Commencement Date" shall mean the date on which the Tenant shall commence to conduct business on the Leased Premised, so long as such date is not in excess of [NUMBER] days subsequent to execution hereof.

44. EXTENSIONS

The parties hereto may elect to extend this Agreement upon such terms and conditions as may be agreed upon in writing and signed by the parties at the time of any such extension.

45. DETERMINATION OF RENT

The Tenant agrees to pay the Landlord and the Landlord agrees to accept, during the term hereof, at such place as the Landlord shall from time to time direct by notice to the Tenant, rent at the following rates and times:

- e. **Annual Rent:** Annual rent for the term of the Lease shall be [AMOUNT], plus applicable sales tax.
- f. **Payment of Yearly Rent:** The annual rent shall be payable in advance in equal monthly installments of one-twelfth (1/12th) of the total yearly rent, which shall be [AMOUNT], on the first day of each and every calendar month during the term hereof, and prorata for the fractional portion of any month, except that on the first day of the calendar month immediately following the Commencement Date, the Tenant shall also pay to the Landlord rent at the said rate for any portion of the preceding calendar month included in the term of this Lease.
- g. Reference to yearly rent hereunder shall not be implied or construed to the effect that this Lease or the obligation to pay rent hereunder is from year to year, or for any term shorter than the existing Lease term, plus any extensions as may be agreed upon.
- h. A late fee in the amount of [AMOUNT] shall be assessed if payment is not postmarked or received by Landlord on or before the tenth day of each month.

any loss or damage suffered by reason of such a delay; provided, however, that Landlord does deliver possession no later than [DATE]. In the event of a delay in delivering possession, the rent for the period of such delay will be deducted from the total rent due under this lease agreement. No extension of this lease agreement shall result from a delay in delivering possession.

50. SECURITY DEPOSIT

The Tenant has deposited with the Landlord the sum of [AMOUNT] as security for the full and faithful performance by the Tenant of all the terms of this lease required to be performed by the Tenant. Such sum shall be returned to the Tenant after the expiration of this lease, provided the Tenant has fully and faithfully carried out all of its terms. In the event of a bona fide sale of the property of which the leased premises are a part, the Landlord shall have the right to transfer the security to the purchaser to be held under the terms of this lease, and the Landlord shall be released from all liability for the return of such security to the Tenant.

51. TAXES

- f. **Property Taxes:** The Tenant shall be liable for all taxes levied against any leasehold interest of the Tenant or personal property and trade fixtures owned or placed by the Tenant in the Leased Premises.
- g. **Real Estate Taxes:** During the continuance of this lease Landlord shall deliver to Tenant a copy of any real estate taxes and assessments against the Leased Property. From and after the Commencement Date, the Tenant shall pay to Landlord not later than [NUMBER] days after the day on which the same may become initially due, all real estate taxes and assessments applicable to the Leased Premises, together with any interest and penalties lawfully imposed thereon as a result of Tenant's late payment thereof, which shall be levied upon the Leased Premises during the term of this Lease.
- h. **Contest of Taxes:** The Tenant, at its own cost and expense, may, if it shall in good faith so desire, contest by appropriate proceedings the amount of any personal or real property tax. The Tenant may, if it shall so desire, endeavor at any time or times, by

Tenant shall negotiate, let and supervise all contracts for the furnishing of services, labor, and materials for the construction of the improvements on the demised premises at its cost. All such contracts shall require the contracting party to guarantee performance and all workmanship and materials installed by it for a period of one year following the date of completion of construction. Tenant shall cause all contracts to be fully and completely performed in a good and workmanlike manner, all to the effect that the improvements shall be fully and completely constructed and installed in accordance with good engineering and construction practice.

During the course of construction, Tenant shall, at its cost, keep in full force and effect a policy of builder's risk and liability insurance in a sum equal, from time to time, to three times the amount expended for construction of the improvements. All risk of loss or damage to the improvements during the course of construction shall be on Tenant with the proceeds from insurance thereon payable to Landlord.

Upon completion of construction, Tenant shall, at its cost, obtain an occupancy permit and all other permits or licenses necessary for the occupancy of the improvements and the operation of the same as set out herein and shall keep the same in force.

Nothing herein shall alter the intent of the parties that Tenant shall be fully and completely responsible for all aspects pertaining to the construction of the improvements of the demised premises and for the payment of all costs associated therewith. Landlord shall be under no duty to investigate or verify Tenant's compliance with the provision herein. Moreover, neither Tenant nor any third party may construe the permission granted Tenant hereunder to create any responsibility on the part of the Landlord to pay for any improvements, alterations or repairs occasioned by the Tenant. The Tenant shall keep the property free and clear of all liens and, should the Tenant fail to do so, or to have any liens removed from the property within [NUMBER] days of notification to do so by the Landlord , in addition to all other remedies available to the Landlord , the Tenant shall indemnify and hold the Landlord harmless for all costs and expenses, including attorney's fees, occasioned by the Landlord in having said lien removed from the property; and, such costs and expenses shall be billed to the Tenant monthly and shall be payable by the Tenant with that month's regular monthly rental as additional reimbursable expenses to the Landlord by the Tenant.

shall be the Tenant's obligation to repair pursuant to Section b) of this Article 9 or with respect to Tenant's own costs and expenses, no abatement or adjustment of rent shall be granted; provided, however, that Tenant shall also be entitled to contest the validity thereof.

- i. **TENANT'S Alterations:** The Tenant shall have the right, at its sole expense, from time to time, to redecorate the Leased Premises and to make such non-structural alterations and changes in such parts thereof as the Tenant shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Leased Premises. The Tenant may make structural alterations and additions to the Leased Premises provided that Tenant has first obtained the consent thereto of the Landlord in writing. The Landlord agrees that it shall not withhold such consent unreasonably. The Landlord shall execute and deliver upon the request of the Tenant such instrument or instruments embodying the approval of the Landlord which may be required by the public or quasi public authority for the purpose of obtaining any licenses or permits for the making of such alterations, changes and/or installations in, to or upon the Leased Premises and the Tenant agrees to pay for such licenses or permits.

- j. **Permits and Expenses:** Each party agrees that it will procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable. Each Party hereto shall give written notice to the other party of any repairs required of the other pursuant to the provisions of this Article and the party responsible for said repairs agrees promptly to commence such repairs and to prosecute the same to completion diligently, subject, however, to the delays occasioned by events beyond the control of such party.

Each party agrees to pay promptly when due the entire cost of any work done by it upon the Leased Premises so that the Leased Premises at all times shall be free of liens for labor and materials. Each party further agrees to hold harmless and indemnify the other party from and against any and all injury, loss, claims or damage to any person or property occasioned by or arising out of the doing of any such work by such party or its employees, agents or contractors. Each party further agrees that in doing such work that it will employ materials of good quality and comply with all governmental requirements, and perform such work in a good and workmanlike manner.

55. TENANT'S COVENANTS

Tenant covenants and agrees as follows:

- c. **Exterior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect and thereafter, to repair or replace, if it shall so elect signs on any portion of the Leased Premises, providing that Tenant shall remove any such signs upon termination of this lease, and repair all damage occasioned thereby to the Leased Premises.
- d. **Interior Signs:** Tenant shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect, maintain, place and install its usual and customary signs and fixtures in the interior of the Leased Premises.

58. INSURANCE

- a. **Insurance Proceeds:** In the event of any damage to or destruction of the Leased Premises, Tenant shall adjust the loss and settle all claims with the insurance companies issuing such policies. The parties hereto do irrevocably assign the proceeds from such insurance policies for the purposes hereinafter stated to any institutional first mortgagee or to Landlord and Tenant jointly, if no institutional first mortgagee then holds an interest in the Leased Premises. All proceeds of said insurance shall be paid into a trust fund under the control of any institutional first mortgagee, or of Landlord and Tenant if no institutional first mortgagee then holds an interest in the Leased Premises, for repair, restoration, rebuilding or replacement, or any combination thereof, of the Leased Premises or of the improvements in the Leased Premises. In case of such damage or destruction, Landlord shall be entitled to make withdrawals from such trust fund, from time to time, upon presentation of:
 - i. bills for labor and materials expended in repair, restoration, rebuilding or replacement, or any combination thereof;
 - ii. Landlord's sworn statement that such labor and materials for which payment is being made have been furnished or delivered on site; and
 - iii. the certificate of a supervising architect (selected by Landlord and Tenant and approved by an institutional first mortgagee, if any, whose fees will be paid out of said insurance proceeds) certifying that the work being paid for has been completed in accordance with the Plans and Specifications previously approved by Landlord , Tenant and any institutional first mortgagee in a first class, good and workmanlike manner and in accordance with all pertinent governmental requirements.

Any insurance proceeds in excess of such proceeds as shall be necessary for such repair,

damage or destruction, then Tenant may at any time thereafter cancel and terminate this Lease by sending [NUMBER] days written notice thereof to Landlord , or, in the alternative, Tenant may, during said [NUMBER] day period, apply for the same and Landlord shall cooperate with Tenant in Tenant's application. Notwithstanding the foregoing, if such damage or destruction shall occur during the last year of the term of this Lease, or during any renewal term, and shall amount to [%] or more of the replacement cost, (exclusive of the land and foundations), this Lease, may be terminated at the election of either Landlord or Tenant, provided that notice of such election shall be sent by the party so electing to the other within [NUMBER] days after the occurrence of such damage or destruction. Upon termination, as aforesaid, by either party hereto, this Lease and the term thereof shall cease and come to an end, any unearned rent or other charges paid in advance by Tenant shall be refunded to Tenant, and the parties shall be released hereunder, each to the other, from all liability and obligations hereunder thereafter arising.

60. CONDEMNATION

- a. **Total Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, the whole of the Leased Premises shall be taken under power of eminent domain by any public or private authority, or conveyed by Landlord to said authority in lieu of such taking, then this Lease and the term hereof shall cease and terminate as of the date when possession of the Leased Premises shall be taken by the taking authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to Tenant.

- b. **Partial Taking:** If, after the execution of this Lease and prior to the expiration of the term hereof, any public or private authority shall, under the power of eminent domain, take, or Landlord shall convey to said authority in lieu of such taking, property which results in a reduction by [%] or more of the area in the Leased Premises, or of a portion of the Leased Premises that substantially interrupts or substantially obstructs the conducting of business on the Leased Premises; then Tenant may, at its election, terminate this Lease by giving Landlord notice of the exercise of Tenant's election within [NUMBER] days after Tenant shall receive notice of such taking. In the event of termination by Tenant of this Lease and the term hereof shall cease and terminate as of the date when possession shall be taken by the appropriate authority of that portion of the Entire Property that results in one of the above takings, and any unearned rent or other charges, if any, paid in advance by Tenant shall be refunded to Tenant.

- c. **Restoration** In the event of a taking in respect of which Tenant shall not have the right to elect to terminate this Lease or, having such right, shall not elect to terminate this Lease, this Lease and the term thereof shall continue in full force and effect and Landlord , at Landlord's sole cost and expense, forthwith shall restore the remaining portions of the Leased Premises, including any and all improvements made theretofore

[NUMBER] days after notice to Tenant in writing of such default (or if such default shall reasonably take more than [NUMBER] days to cure, Tenant shall not have commenced the same within the [NUMBER] days and diligently prosecuted the same to completion); or

- d. [NUMBER] days have elapsed after the commencement of any proceeding by or against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, whereby such proceeding shall not have been dismissed (provided, however, that the non-dismissal of any such proceeding shall not be a default hereunder so long as all of Tenant's covenants and obligations hereunder are being performed by or on behalf of Tenant); then Landlord shall be entitled to its election (unless Tenant shall cure such default prior to such election), to exercise concurrently or successively, any one or more of the following rights:
 - ix. Terminate this Lease by giving Tenant notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination, with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the term of this Lease, and all rights of Tenant under this Lease and in and to the Premises shall expire and terminate, and Tenant shall remain liable for all obligations under this Lease arising up to the date of such termination, and Tenant shall surrender the Premises to Landlord on the date specified in such notice; or
 - x. Terminate this Lease as provided herein and recover from Tenant all damages Landlord may incur by reason of Tenant's default, including, without limitation, a sum which, at the date of such termination, represents the then value of the excess, if any, of (a) the Minimum Rent, Percentage Rent, Taxes and all other sums which would have been payable hereunder by Tenant for the period commencing with the day following the date of such termination and ending with the date herein before set for the expiration of the full term hereby granted, over (b) the aggregate reasonable rental value of the Premises for the same period, all of which excess sum shall be deemed immediately due and payable; or
 - xi. Without terminating this Lease, declare immediately due and payable all Minimum Rent, Taxes, and other rents and amounts due and coming due under this Lease for the entire remaining term hereof, together with all other amounts previously due, at once; provided, however, that such payment shall not be deemed a penalty or liquidated damages but shall merely constitute payment in advance of rent for the remainder of said term. Upon making such payment, Tenant shall be entitled to receive from Landlord all rents received by Landlord from other assignees, tenants, and subtenants on account of said Premises during

- xv. Foreclose the security interest described herein, including the immediate taking of possession of all property on or in the Premises; or
 - xvi. Pursue such other remedies as are available at law or equity.
- e. Landlord's pursuit of any remedy of remedies, including without limitation, any one or more of the remedies stated herein shall not (1) constitute an election of remedies or preclude pursuit of any other remedy or remedies provided in this Lease or any other remedy or remedies provided by law or in equity, separately or concurrently or in any combination, or (2) sever as the basis for any claim of constructive eviction, or allow Tenant to withhold any payments under this Lease.

62. LANDLORD'S SELF HELP

If in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed and shall not cure such default within [NUMBER] days after notice from Landlord specifying the default (or if such default shall reasonably take more than [NUMBER] days to cure, shall diligently prosecuted the same to completion), Landlord may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Tenant, and any amount paid or contractual liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant and Tenant agrees to reimburse Landlord therefore and save Landlord harmless there from. Provided, however, that Landlord may cure any such default as aforesaid prior to the expiration of said waiting period, without notice to Tenant if any emergency situation exists, or after notice to Tenant, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the Leased Premises or Landlord's interest therein, or to prevent injury or damage to persons or property. If Tenant shall fail to reimburse Landlord upon demand for any amount paid for the account of Tenant hereunder, said amount shall be added to and become due as a part of the next payment of rent due and shall for all purposes be deemed and treated as rent hereunder.

63. TENANT'S SELF HELP

- iv. such holder shall permit insurance proceeds and condemnation proceeds to be used for any restoration and repair required by the provisions of this Agreement, respectively. Tenant agrees that if the mortgagee or any person claiming under the mortgagee shall succeed to the interest of Landlord in this Lease, Tenant will recognize said mortgagee or person as its Landlord under the terms of this Lease, provided that said mortgagee or person for the period during which said mortgagee or person respectively shall be in possession of the Leased Premises and thereafter their respective successors in interest shall assume all of the obligations of Landlord hereunder. The word "mortgage", as used herein includes mortgages, deeds of trust or other similar instruments, and modifications, and extensions thereof. The term "institutional mortgage" as used in this Article 24 means a mortgage securing a loan from a bank or trust company, insurance company or pension trust or any other lender institutional in nature and constituting a lien upon the Leased Premises.

- b. **Quiet Enjoyment:** Landlord covenants and agrees that upon Tenant paying the rent and observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed hereunder, that Tenant may peaceably and quietly have, hold, occupy and enjoy the Leased Premises in accordance with the terms of this Lease without hindrance or molestation from Landlord or any persons lawfully claiming through Landlord .

- c. **Zoning and Good Title:** Landlord warrants and represents, upon which warranty and representation Tenant has relied in the execution of this Lease, that Landlord is the owner of the Leased Premises, in fee simple absolute, free and clear of all encumbrances, except for the easements, covenants and restrictions of record as of the date of this Lease. Such exceptions shall not impede or interfere with the quiet use and enjoyment of the Leased Premises by Tenant. Landlord further warrants and covenants that this Lease is and shall be a first lien on the Leased Premises, subject only to any Mortgage to which this Lease is subordinate or may become subordinate pursuant to an agreement executed by Tenant, and to such encumbrances as shall be caused by the acts or omissions of Tenant; that Landlord has full right and lawful authority to execute this Lease for the term, in the manner, and upon the conditions and provisions herein contained; that there is no legal impediment to the use of the Leased Premises as set out herein; that the Leased Premises are not subject to any easements, restrictions, zoning ordinances or similar governmental regulations which prevent their use as set out herein; that the Leased Premises presently are zoned for the use contemplated herein and throughout the term of this lease may continue to be so used therefore by virtue of said zoning, under the doctrine of "non-conforming use", or valid and binding decision of appropriate authority, except, however, that said representation and warranty by Landlord shall not be applicable in the event that Tenant's act or omission shall invalidate the application of said zoning, the doctrine of "non-conforming use" or the valid and binding decision of the appropriate authority. Landlord shall furnish without expense to Tenant, within [NUMBER] days after written request therefore by

for the recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the costs thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and shall survive the right on the part of the said party to institute suit for the recovery of the costs of such work. If it shall be adjudged that there was no legal obligation on the part of the said party to perform the same or any part thereof, said party shall be entitled to recover the costs of such work or the cost of so much thereof as said party was not legally required to perform under the provisions of this Lease and the amount so paid by Tenant may be withheld or deducted by Tenant from any rents herein reserved.

- e. **Tenant's Right to cure Landlord's Default:** In the event that Landlord shall fail, refuse or neglect to pay any mortgages, liens or encumbrances, the judicial sale of which might affect the interest of Tenant hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, Tenant may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to Landlord the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by Landlord to Tenant.
- f. **Notices:** All notices and other communications authorized or required hereunder shall be in writing and shall be given by mailing the same by certified mail, return receipt requested, postage prepaid, and any such notice or other communication shall be deemed to have been given when received by the party to whom such notice or other communication shall be addressed. If intended for Landlord the same will be mailed to the address herein above set forth or such other address as Landlord may hereafter designate by notice to Tenant, and if intended for Tenant, the same shall be mailed to Tenant at the address herein above set forth, or such other address or addresses as Tenant may hereafter designate by notice to Landlord.

66. PROPERTY DAMAGE

- a. **Loss and Damage:** Notwithstanding any contrary provisions of this Lease, Landlord shall not be responsible for any loss of or damage to property of Tenant or of others located on the Leased Premises, except where caused by the willful act or omission or negligence of Landlord , or Landlord's agents, employees or contractors, provided, however, that if Tenant shall notify Landlord in writing of repairs which are the responsibility of Landlord under Article VII hereof, and Landlord shall fail to commence and diligently prosecute to completion said repairs promptly after such

Tenant and susceptible of being removed from the Leased Premises without damage, unless such damage be repaired by Tenant, shall remain the property of Tenant and Tenant may, but shall not be obligated to, remove the same or any part thereof at any time or times during the term hereof, provided that Tenant, at its sole cost and expense, shall make any repairs occasioned by such removal.

69. OPTION TO RENEW

Landlord grants to Tenant an option to renew this lease agreement for a period of [NUMBER] years after expiration of the term of this Lease agreement at a rental of [AMOUNT] per month, with all other terms and conditions of the renewal lease to be the same as those in this lease agreement. To exercise this option to renew, Tenant must give Landlord written notice of intention to do so at least [NUMBER] days before this lease agreement expires.

70. ESTOPPEL CERTIFICATES

At any time and from time to time, Landlord and Tenant each agree, upon request in writing from the other, to execute, acknowledge and deliver to the other or to any person designated by the other a statement in writing certifying that the Lease is unmodified and is in full force and effect, or if there have been modifications, that the same is in full force and effect as modified (stating the modifications), that the other party is not in default in the performance of its covenants hereunder, or if there have been such defaults, specifying the same, and the dates to which the rent and other charges have been paid.

71. INVALIDITY OF PARTICULAR PROVISION

If any term or provision of this Lease or the application hereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

72. CAPTIONS AND DEFINITIONS OF PARTIES

The captions of the Sections of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease. The word "Landlord"

parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in [STATE/PROVINCE].

77. LITIGATION

In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled. In such event, no action shall be entertained by said court or any court of competent jurisdiction if filed more than one year subsequent to the date the cause(s) of action actually accrued regardless of whether damages were otherwise as of said time calculable.

If Landlord files an action to enforce any agreement contained in this lease agreement, or for breach of any covenant or condition, Tenant shall pay Landlord reasonable attorney fees for the services of Landlord's attorney in the action, all fees to be fixed by the court.

78. CONTRACTUAL PROCEDURES

Unless specifically disallowed by law, should litigation arise hereunder, service of process therefor may be obtained through certified mail, return receipt requested; the parties hereto waiving any and all rights they may have to object to the method by which service was perfected.

79. EXTRAORDINARY REMEDIES

To the extent cognizable at law, the parties hereto, in the event of breach and in addition to any and all other remedies available thereto, may obtain injunctive relief, regardless of whether the injured party can demonstrate that no adequate remedy exists at law.

80. RELIANCE ON FINANCIAL STATEMENT

Tenant shall furnish concurrently with the execution of this lease, a financial statement of Tenant prepared by an accountant. Tenant, both in corporate capacity, if applicable, and individually, hereby represents and warrants that all the information contained therein is complete, true, and

EXHIBIT "A" LEGAL DESCRIPTION

EXHIBIT "B" TENANT PLANS AND SPECIFICATIONS

LICENSE AGREEMENT

This License Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LICENSOR NAME] (the "Indemnitor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LICENSEE NAME] (the "Indemnitee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the mutual promises contained in this agreement, the parties agree as follows:

13. GRANT OF LICENSE; DESCRIPTION OF PREMISES

Licensor grants to licensee a license to occupy and use, subject to all of the terms and conditions of this agreement, the following described property located in [CITY], [STATE/PROVINCE]: [INSERT LEGAL DESCRIPTION].

14. LIMITATION TO DESCRIBED PURPOSE

The above-described property may be occupied and used by licensee solely for [SPECIFY PRIMARY PURPOSE(S)] and for incidental purposes related to such purpose during the period beginning [DATE], and continuing until this agreement is terminated as provided in this agreement.

18. APPORTIONMENT OF PAYMENTS ON TERMINATION

- D. On any termination of this agreement, licensor shall apportion, on a [NUMBER]-day basis, the [MONTHLY] fee paid in advance from and including the first day of the [MONTH] during which the agreement is terminated to and including the day on which the agreement is terminated, and the licensor shall refund to the licensee the unearned portion of such fee; provided, however, that no refund shall be in an amount less than [AMOUNT].
- E. On any termination of this agreement, licensee, shall quit the above-described property, and shall remove from such property all property installed in, on, or attached to the above-described property.
- F. Any termination of this agreement, howsoever caused, shall be entirely without prejudice to the rights of licensor that have accrued under this agreement prior to the date of such termination.

19. GOVERNING LAW

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of [STATE/PROVINCE].

20. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding on either party except to the extent incorporated in this agreement.

21. MODIFICATION OF AGREEMENT

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

22. NOTICES

MODIFICATION OF LEASE AGREEMENT

This Modification of Lease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

C. Pursuant to the lease dated [DATE] [“Lease”], lessee let from lessor [SQUARE FEET OF NET RENTABLE AREA IN THE BUILDING LOCATED AT (ADDRESS), (CITY), COUNTY, (STATE)] (the “Premises”), and more specifically described in the Lease, for a term which expires on [DATE] (the “Lease termination date”).

D. Lessor and lessee desire to extend the lease for a term of [NUMBER] years from the lease termination date.

Therefore, in consideration of the mutual promises contained in this lease amendment and extension agreement, the parties agree as follows:

6. CONSTRUCTION

This Agreement shall be construed in conjunction with the lease and, except as amended by this instrument, all of the terms, covenants, and conditions of the lease shall remain in full force and effect and are ratified and confirmed by this instrument.

7. DEFINED TERMS

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [MORTGAGEE NAME] (the "Mortgagee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

FOR VALUE RECEIVED the undersigned Mortgagor jointly and severally promise(s) to pay to the order of Mortgagee the principal sum of [AMOUNT] together with interest thereon from date at the rate of [%] per annum until maturity, said principal and interest being payable monthly on the [DAY] of each and every month in lawful money of the [COUNTRY] beginning on [DATE], in monthly installments of [AMOUNT], and continuing thereafter until [DATE], or until said principal and interest have been paid in full, at [ADDRESS], or at such other place as the holder hereof may designate in writing from time to time.

7. INSTALLMENT PAYMENT

Each installment payment shall be credited first to the interest then due, and the remainder to the principal.

8. GUARANTY

This Note with interest is secured by a mortgage on real estate, of even date herewith, made by the maker hereof in favor of said Mortgagee.

Each maker and endorser severally waives demand, protest and notice of maturity, non-payment or protest and all requirements necessary to hold each of them liable as makers and endorsers and, should litigation be necessary to enforce this note, each maker and endorser waives trial by jury and consents

to the personal jurisdiction and venue of a court of subject matter jurisdiction located in the State of [STATE/PROVINCE].

MORTGAGE

This Mortgage (the “Agreement”) is made and effective [DATE],

BETWEEN: [MORTGAGOR NAME] (the "Mortgagor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [MORTGAGEE NAME] (the "Mortgagee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, Mortgagor is justly indebted to Mortgagee in the sum of [AMOUNT] in lawful money of [COUNTRY], and has agreed to pay the same, with interest thereon, according to the terms of a certain note (the "Note") given by Mortgagor to Mortgagee, bearing even date herewith.

25. DESCRIPTION OF PROPERTY SUBJECT TO LIEN: "PREMISES"

NOW, THEREFORE, in consideration of the premises and the sum hereinabove set forth, and to secure the payment of the Secured Indebtedness as defined herein, Mortgagor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Mortgagee property situated in [CITY, STATE/PROVINCE] more particularly described in Exhibit” A" attached hereto and by this reference made a part hereof;

TOGETHER with all buildings, structures and other improvements now or hereafter located on, above or below the surface of the property herein before described, or any part and parcel thereof; and,

TOGETHER with all and singular the tenements, easements, riparian and littoral rights, and appurtenances thereunto belonging or in anywise appertaining, whether now owned or hereafter acquired by Mortgagor, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise) together with the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right,

in the Note, this Mortgage and all other documents constituting the Secured Indebtedness.

- c. **Extent Of Payment Other Than Principal And Interest:** Mortgagor shall pay, when due and payable, (1) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this instrument or the Secured Indebtedness or any interest of the Mortgagee in the Premises or the obligations secured hereby; (2) premiums on policies of fire and other hazard insurance covering the Premises, as required herein; (3) ground rents or other lease rentals; and (4) other sums related to the Premises or the indebtedness secured hereby, if any, payable by Mortgagor.
- d. **Insurance:** Mortgagor shall, at its sole cost and expense, keep the Premises insured against all hazards as is customary and reasonable for properties of similar type and nature located in [CITY, STATE/PROVINCE].
- e. **Care of Property:** Mortgagor shall maintain the Premises in good condition and repair and shall not commit or suffer any material waste to the Premises.
- f. **Prior Mortgage:** With regard to the Prior Mortgage, Mortgagor hereby agrees to: (i) Pay promptly, when due, all installments of principal and interest and all other sums and charges made payable by the Prior Mortgage; (ii) Promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Mortgagor under the Prior Mortgage, within the period provided in said Prior Mortgage; (iii) Promptly notify Mortgagee of any default, or notice claiming any event of default by Mortgagor in the performance or observance of any term, covenant or condition to be performed or observed by Mortgagor under any such Prior Mortgage. (iv) Mortgagor will not request nor will it accept any voluntary future advances under the Prior Mortgage without Mortgagee's prior written consent, which consent shall not be unreasonably withheld.

28. DEFAULTS

- a. **Event of Default:** The occurrence of any one of the following events which shall not be cured within [NUMBER] days after written notice of the occurrence of the event, if the default is monetary, or which shall not be cured within [NUMBER] days after written notice from Mortgagee, if the default is non-monetary, shall constitute an "Event of Default": (a) Mortgagor fails to pay the Secured Indebtedness, or any part thereof, or the taxes, insurance and other charges, as herein before provided, when and as the same shall become due and payable; (b) Any material warranty of Mortgagor herein contained, or contained in the Note, proves untrue or misleading in any material respect; (c) Mortgagor materially fails to keep, observe, perform, carry out and execute the covenants, agreements, obligations and conditions set out in this Mortgage, or in the Note; (d) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any lien of any kind secured by any portion of the Premises and affecting the priority of this Mortgage.

The terms and provisions of this Mortgage are to be governed by the laws of the State of [STATE/PROVINVE]. No payment of interest or in the nature of interest for any debt secured in part by this Mortgage shall exceed the maximum amount permitted by law. Any payment in excess of the maximum amount shall be applied or disbursed as provided in the Note in regard to such amounts which are paid by the Mortgagor or received by the Mortgagee.

34. DESCRIPTIVE HEADINGS

The descriptive headings used herein are for convenience of reference only, and they are not intended to have any effect whatsoever in determining the rights or obligations of the Mortgagor or Mortgagee and they shall not be used in the interpretation or construction hereof.

35. ATTORNEY'S FEES

As used in this Mortgage, attorneys' fees shall include, but not be limited to, fees incurred in all matters of collection and enforcement, construction and interpretation, before, during and after suit, trial, appeals and Proceedings. Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney.

36. EXCULPATION

Notwithstanding anything contained herein to the contrary, the Note which this Mortgage secures is a non-recourse Note and such Note shall be enforced against Mortgagor only to the extent of Mortgagor's interest in the Premises as described herein and to the extent of Mortgagor's interest in any personality as may be described herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MORTGAGOR

MORTGAGEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF BREACH OF LEASE

Dear [CONTACT NAME], You are hereby given notice that you are in breach of your tenancy of the premises located at [ADDRESS] under the terms of the lease dated [DATE], between [LANDLORD] and [TENANT].

You are in breach of the lease because you have failed to comply with the terms and conditions of your tenancy, as follows:

[LIST HOW TENANT HAS VIOLATED THE LEASE IN CLEAR AND CONCISE LANGUAGE]

If this breach of lease is not corrected within [NUMBER] days from the date of this letter, we will have no choice but to exercise all other legal means available to protect our rights under applicable law.

Please consider this letter a final demand for you to remedy this situation. If you fail to comply, the undersigned may commence eviction proceedings against you.

Thank you for your anticipated cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF NSF CHECK CHARGE AND LATE FEE OWED

Dear [CONTACT NAME],

Although we received your rent payment, your check was returned by the bank for non-sufficient funds in your bank account. If you recall from the rent agreement, all rent payments must be received by us on the first of every month. A [AMOUNT] fee will be assessed for rent payments received after the first of every month. In addition, a [AMOUNT] service charge will be assessed for returned checks.

Because your check was marked non-sufficient funds, you must immediately pay by CASHIER'S CHECK OR MONEY ORDER. We cannot accept a personal check. Therefore, we still need [AMOUNT] from you, calculated as follows:

Rent Due _____

Late Fee _____

NSF Fee _____

TOTAL _____

Please make the check payable to [COMPANY NAME] and mail it to the address shown below. If you have any questions, please call [NAME] at [NUMBER].

Sincerely,

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE THAT EVICTION WILL BE FILED IN COURT

Dear [CONTACT NAME],

It is never a pleasure to write this type of letter but it has come to my attention that your company has failed to comply with the terms of your agreement with us dated [DATE]. I understand that you have been given a [NUMBER] day notice in accordance with state and local laws and have failed to move. Therefore, I have instructed the [OFFICE/PREMISSE] manager not to accept any payment from you. All amounts you still owe will be offset against your security deposit or collected in a legal action.

If you have not moved out of your [OFFICE/PREMISSE] by [DATE], I will file suit the next day. I will also obtain an injunction forcing your removal, with the aid of the police. The lawsuit will be for the amounts owed under the agreement, the costs of filing suit, attorney's fees and enforcement. I plan to zealously collect these amounts from you. When you are evicted, I also plan to inform credit reporting and other agencies of this action.

This position is not negotiable so please govern yourself accordingly. Feel free to contact me if you have any questions.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: OFFER TO LEASE SPACE IN YOUR BUILDING

Dear [CONTACT NAME],

We have now reviewed your property at [ADDRESS] (the “Property”) and are quite interested in leasing space in the Property. We believe we would be excellent tenants and are prepared to consummate a lease as soon as possible.

As a way to commence our discussions, let us lay out some of the key terms which we believe would be acceptable to us:

Leased Premises: The [STOREY] floor at the Property, consisting of approximately [NUMBER] square feet.

Commencement Date of Lease: [DATE]

Length of Lease: [NUMBER] years

Monthly Rent: [AMOUNT] for the first [NUMBER] years of the Lease. [AMOUNT] for the remaining [NUMBER] years of the Lease.

Utilities: All utilities to be paid for by the Lessee, except for [DESCRIBE].

Parking: Lessee to have [NUMBER] parking spaces in the building.

Use of Leases Premises: General office use and/or any other legal use.

Improvements: Lessor to make the following improvements to the Lease Premises prior to Lessee’s occupancy: [DESCRIBE].

Right to Renew: Lessee to have the right to renew the Lease for an additional [NUMBER] years, for [AMOUNT] per month rent.

OPTION TO EXPAND SPACED LEASE

This Option to Lease Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

- G. Landlord hereby agrees that Tenant shall be offered the right of refusal to lease all or any portion of [describe other space in the building or designated space] (the "Expansion Space"), as it may become available for lease from time to time. Whenever any portion of the Expansion Space becomes available for lease, Landlord shall provide Tenant with written notice of such availability, which notice shall include the date when Tenant would begin occupancy of such Expansion Space and the rental rate which Tenant shall pay for such Expansion Space.
- H. All other terms and conditions shall be those contained in the Lease between Landlord and Tenant and any Expansion Space leased shall be incorporated in the Lease through execution of an addendum to the Lease. Tenant shall then have [NUMBER] days to respond to such offer and to either accept or reject such Expansion Space. Tenant's failure to respond timely to such offer shall be construed as a rejection of Landlord's written offer.
- I. Should Tenant reject the offer to lease any particular Expansion Space when offered, Landlord shall have the right to lease all remaining Expansion Space to other prospective tenants, so long as the terms and conditions of such lease are not more favorable than those offered to Tenant.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LANDLORD

TENANT

OPTION TO LEASE AGREEMENT

This Option to Lease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [LANDLORD NAME] (the "Landlord"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TENANT NAME] (the "Tenant"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

IN CONSIDERATION OF the sum of [AMOUNT] paid by the tenant to the landlord, the receipt whereof is hereby acknowledged, the landlord hereby grants to the tenant, its successors, and assigns, the exclusive option to lease the above mentioned property as per the attached Lease, upon the following terms and conditions:

9. TERM OF OPTION

This option and all rights and privileges hereunder shall expire the day of [DATE].

10. NOTICE OF EXERCISE OF OPTION

This option is to be exercised by the tenant by written notice delivered personally or forwarded by registered or certified mail, return receipt requested, within the time limited in paragraph 1 to the landlord at the address first above recited.

11. APPLICATION OF OPTION PAYMENT

In the event that the tenant does not exercise his option as herein provided, all sums paid on account thereon shall be retained by the landlord as consideration for this option free of all claims of the tenant, and neither party shall have any further rights or claims against the other.

12. EFFECT OF EXERCISE OF OPTION

In the event that the tenant does exercise its option as herein provided, the sum paid on account of the option shall be applied to the first month's rent, and the terms, covenants, and conditions in the attached Lease Agreement shall become the contract of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OPTION TO PURCHASE PROPERTY

This Option to Purchase Property (the "Agreement") is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Agreement is entered into upon the basis of the following facts and intentions of the parties:

- E. Seller owns that certain real property described in Exhibit A hereto (the Property").
- F. Buyer desires to obtain an option to purchase the Property from Seller and Seller is willing to grant such an option to Buyer.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

59.

60.

27. OPTION

61.

62. As of the date hereof, the Seller grants to Buyer an option (the "Option") to purchase the Property from Seller upon all of the terms, covenants and conditions hereinafter set forth. This option may be recorded at the election of Buyer.

63.

64.

28. CONSIDERATION FOR THE OPTION

65.

66. As consideration for the Option, Buyer shall pay to Seller the sum of [AMOUNT] on the date hereof. In the event this option is exercised, all consideration paid for the Option shall be applied against and be deemed to be a payment upon the purchase price. In the event that Buyer does not exercise the Option, the consideration paid to Buyer for the Option may be retained by Seller without deduction or offset.

67.

68.

29. TERM AND EXERCISE

69.

91. Each party shall, upon request of the other party, promptly execute and deliver all additional documents reasonably deemed by the requesting party to be necessary, appropriate or desirable to complete and evidence the sale, assignment and transfer of the Shares pursuant to this Agreement.

34. PURCHASE AND SALE

92.

93. If Buyer exercises the Option, at a closing (the “Closing”), the Seller shall sell, transfer and deliver the Property, represented by appropriate [identify either warranty deed or quitclaim deed].

94.

95.

35. SURVIVAL

96.

97. All representations, warranties and agreements made by the Seller and by the Buyer in this Agreement shall survive the execution of this Agreement and any Closing and any investigation at any time made by or on behalf of any party hereto.

98.

99.

36. MODIFICATION; ASSIGNMENT

100.

101. This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by the parties hereto. Buyer may assign his rights under this Agreement with the consent of Seller.

102.

37. SUCCESSORS

103.

104. This Agreement will be binding upon, inure to the benefit of and be enforceable by and against the parties hereto and their respective heirs, beneficiaries, executors, representatives and permitted assigns.

105.

106.

38. GOVERNING LAW

107.

108. This Agreement shall be governed by and construed in accordance with the laws of the State of [STATE/PROVINCE].

109.

110.

39. ENTIRE AGREEMENT

111.

EXHIBIT A
PROPERTY MANAGEMENT AGREEMENT

This Property Management Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [OWNER NAME] (the "Owner"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [AGENT NAME] (the "Agent"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

D. Owner holds title to the following-described real property:

[INSERT LEGAL OR OTHER APPROPRIATE DESCRIPTION], here referred to as the property.

E. Agent is experienced in the business of operating and managing real estate similar to the above-described property.

F. Owner desires to engage the services of agent to manage and operate the property, and agent desires to provide such services on the following terms and conditions.

In consideration of the mutual covenants contained herein, the parties agree:

34. EMPLOYMENT OF AGENT

Agent shall act as the exclusive agent of owner to manage, operate and maintain the property.

35. BEST EFFORTS OF AGENT

On assuming the management and operation of the property, agent shall thoroughly inspect the property and submit a written report to owner. The written report shall contain the opinion of agent concerning the present efficiency under which the property is being managed and operated, and recommended changes, if necessary, in the management structure of the property, in the rehabilitation of the property, and any other matters that will improve the efficient management

OBJECTION MY LORD: LEGAL PRACTICE DEMYSTIFIED. .x.
and operation of the property. After conferring with owner and obtaining approval to make any necessary improvements, agent shall undertake completion of the improvements.

36. LEASING OF PROPERTY

Agent shall make reasonable efforts to lease available space of the property, and shall be responsible for all negotiations with prospective tenants. Agent shall also have the right to execute and enter into, on behalf of owner, month-to-month tenancies of units of the property. Agent may negotiate all extensions and renewals of such month-to-month tenancies and leases. Agent shall not, without the prior written consent of owner, enter into any lease for a term less than [NUMBER] months or more than [NUMBER] months. Agent shall have the right to make concessions, including rental concessions, as inducements to prospective tenants to occupy the property.

37. ADVERTISING AND PROMOTION

Agent shall advertise vacancies by all reasonable and proper means; provided, agent shall not incur expenses for advertising in excess of [AMOUNT] during any calendar quarter without the prior written consent of owner.

38. MAINTENANCE, REPAIRS AND OPERATIONS

Agent shall use its best efforts to insure that the property is maintained in an attractive condition and in a good state of repair. In this regard, agent shall use its best skills and efforts to serve the tenants of the property and shall purchase necessary supplies, make contracts for, or otherwise furnish, electricity, gas, fuel, water, telephone, window cleaning, refuse disposal, pest control, and any other utilities or services required for the operation of the property. Agent shall make or cause to be made and supervise necessary repairs and alterations and shall decorate and furnish the property. Expenditures for repairs, alterations, decorations or furnishings in excess of [AMOUNT] shall not be made without prior written consent of owner, except in the case of emergency, or if agent in good faith determines that such expenditures are necessary to protect the property from damage, to prevent injury to persons or loss of life, or to maintain services to tenants.

39. EMPLOYEES

- 39.1. Agent shall employ, discharge and supervise all on-site employees or contractors required for the efficient operation and maintenance of the property. All on-site personnel, except independent contractors and employees of independent contractors, shall be the employees of agent. Agent shall pay the salaries of such on-site employees and, to the extent there are revenues from the property available, pay all charges for services rendered by independent contractors and the employees of independent contractors.

- 39.2. All salaries (including all contributions of employer not listed in the paycheck) of such on-site employees shall be charged to owner. To the extent there are insufficient funds available from revenues received from the operation of the property to reimburse agent for such salaries, owner shall directly reimburse agent within [NUMBER] days after demand by agent for reimbursement. Agent shall not be responsible or liable to owner for any act, default or negligence of on-site personnel, or for any error of judgment or mistake of law or fact in connection with their employment, conduct or discharge except that agent shall be responsible for any such act, default or negligence that is due directly or indirectly to its own negligent act or omission in the hiring or supervision of any such on-site personnel.

- 39.3. On-site personnel shall include all resident personnel, including, but not limited to, managers and maintenance personnel, all recreational personnel (whether part-time or full-time), day-care center personnel, and all other individuals located, rendering services or performing activities on the property in connection with its operation.

40. GOVERNMENT REGULATIONS

Agent shall manage the property in full compliance with all laws and regulations of any federal, state, county or municipal authority having jurisdiction over the property.

41. INSURANCE

- 41.1. Agent shall obtain the following insurance at the expense of owner, and such insurance shall be maintained in force during the full term of this agreement:
 - 41.1.1. Comprehensive public liability property insurance of [AMOUNT] single limit for bodily injury, death and property damage;

 - 41.1.2. Fire and extended coverage hazard insurance in an amount equal to the full replacement cost of the structure and other improvements situated on the property;
and

44. RESERVE ACCOUNT

- 11.3 Agent shall establish a reserve account for the following items: taxes, assessments, debt service, insurance premiums, repairs (other than normal maintenance), replacement of personal property, and refundable deposits. Agent shall use its best judgment in transferring adequate funds from the trust account to the reserve account in order to pay the above items without incurring late pay interest fees, cancellations or forfeitures. If the reserve account contains inadequate funds to pay any of the above items, agent must obtain approval from owner before paying the items directly from the trust account. If owner determines that the funds in the reserve account are excessive, owner shall direct that agent return such excess funds to the trust account. The reserve account shall be maintained in an interest-bearing savings account in a national or state bank that is a member of the Federal Deposit Insurance Corporation.

- 11.4 Anything in this agreement to the contrary notwithstanding, agent shall not be liable for any failure or bankruptcy of any bank used as a depository of any funds maintained in the reserve account.

45. RECORDS AND REPORTS

- 12.4 Agent will keep books, accounts and records that reflect all revenues and all expenditures incurred in connection with the management and operation of the property. The books, accounts and records shall be maintained at the principal place of business of agent. Agent shall, during regular business hours, make the books, accounts and records required to be maintained hereunder available to owner or the representatives of owner for examination and audit by appointment on no less than [NUMBER] days' prior notice. All such audits shall be at the expense of owner.

- 12.5 Agent shall furnish owner, no later than the end of the next succeeding month, a detailed statement of all revenues and expenditures for each preceding month, a summary of all concessions and rental concessions given to induce prospective tenants to occupy the property, the original copy of all invoices, statements, purchase orders and billings received and paid during such preceding month, as well as such other information relating to the operation or management of the property that, in the opinion of agent, requires the attention of owner. Owner shall retain for safekeeping and store all original invoices, statements, purchase orders, billings and other documents delivered by agent with respect to the property. Owner, on payment of reasonable costs incurred by it, shall make available to agent copies of all or any portion of any invoice, statement, purchase order, billing report or other document received from agent with respect to the property.

- 12.6 Within [NUMBER] days after the end of each calendar year, agent shall prepare and deliver to owner a detailed statement of revenues received and expenditures incurred and paid during

may be terminated by either party by giving not less than [NUMBER] days' notice in writing to the other party.

51. TERMINATION FOR CAUSE

If agent breaches any of the terms of this agreement, owner shall give agent written notice of such breach. If agent fails to remedy the breach within [NUMBER] days after receiving the above-described notice, owner may terminate this agreement.

52. SALE OF PROPERTY

On the voluntary sale of the property by owner and the delivery of the deed of conveyance therefor, this agreement shall automatically terminate. Owner shall notify agent of the sale of the property as soon as such sale is negotiated.

53. CONDEMNATION

This agreement shall terminate in the event of a total condemnation of the property. If there is a partial condemnation of the property, this agreement may be terminated at the option of owner. If such a partial condemnation of the property reduces the compensation of agent by more than [%], agent may terminate this agreement. Owner shall be entitled to all consequential damages awarded as a result of any eminent domain proceeding.

54. BANKRUPTCY

If bankruptcy proceedings, whether voluntary or involuntary, are commenced against either owner or agent, or if either party enters into a composition agreement with its creditors, either party may terminate this agreement by giving [NUMBER] days' written notice to the other party.

55. NO PROPERTY INTEREST CREATED

Nothing contained in this agreement shall be deemed to create or shall be construed as creating in agent any property interest in or to the property.

56. LICENSING OF AGENT

DR. LUBOGO ISAAC CHRISTOPHER

may not be assigned by agent without prior written consent of owner, or by owner without prior written consent of agent. Anything in the foregoing to the contrary notwithstanding, agent may, without the consent of owner, delegate the performance of (but not responsibility for) any duties and obligations of agent to any independent contractor or entity.

61. EFFECT OF PARTIAL INVALIDITY

Should any section or any part of any section of this agreement be rendered void, invalid or unenforceable for any reason by any court of law exercising competent jurisdiction, such a determination shall not render void, invalid or unenforceable any other section or any part of any section in this agreement.

62. GOVERNING LAW

This agreement has been made and entered into in the State of [STATE/PROVINCE], and the laws of such state shall govern the validity and interpretation of this agreement and the performance due hereunder.

63. INTEGRATION

The drafting, execution and delivery of this agreement by the parties have been induced by no representations, statements, warranties or agreements other than those expressed in this agreement. This agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to in this agreement.

64. ARBITRATION

In case of any dispute regarding any terms or performance of the terms of this agreement, the dispute shall be subject to arbitration in accordance with the rules and regulations then obtaining under the [ASSOCIATION/ORGANIZATION].

65. ATTORNEY FEES

**REAL ESTATE SALESMAN INDEPENDENT
CONTRACTOR AGREEMENT**

This Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [BROKER NAME] (the "Broker"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SALESMAN NAME] (the "Salesman"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

The Parties recite that:

- C. Broker is duly registered and licensed with the State of [STATE/PROVINCE] as a real estate broker whose license expires [DATE].
- D. Salesman is duly registered and licensed with the State of [STATE/PROVINCE] as a real estate salesman whose license expires [DATE].

In consideration of the mutual covenants set forth below, the parties agree as follows:

14. STATEMENT OF EMPLOYMENT

Effective as of the date of this Agreement, Broker employs Salesman as a real estate salesman.

15. DUTIES OF SALESMAN

Salesman will carry on the customary activities of a real estate salesman, including, but not necessarily limited to, the showing of parcels of real estate on which Broker has listings, the sale of such property in accordance with the terms of the listings, the solicitation of new listings, and such other services pertaining to the real estate business as Broker may require of him. Salesman shall devote his entire time and attention to such duties and shall use his best efforts with regard to all of such duties.

This Agreement constitutes the entire contract and agreement between parties, and there are no verbal understandings or other agreements of any nature with respect to the subject matter hereof except those contained in this Agreement.

22. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

23. GOVERNING LAW

This Agreement shall be governed, interpreted and construed by, through and under the laws of the state of [STATE/PROVINCE].

ATTORNEYS' FEES

In the event of any legal or equitable action, including any appeals, which may arise hereunder between or among the parties hereto, the prevailing party shall be entitled to recover a reasonable attorneys' fee. Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney.

24. SEVERANCE

The invalidity or unenforceability of any portion of this Agreement shall not affect the remaining provisions and portions hereof.

25. HEADINGS

The paragraph headings contained herein are for convenience of reference only and are not to be used in the construction or interpretation hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

BROKER

SALESMAN

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

LANDLORD

TENANT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

SUBLEASE AGREEMENT

This Sublease Agreement (the “Agreement”) is made and effective [DATE],

BETWEEN: [SUB LESSOR NAME] (the "Sub lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SUB LESSEE NAME] (the "Sub lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

In consideration of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, Sub lessor, hereby subleases to Sub lessee and Sub lessee does hereby take, lease, and hire from Sub lessor the Leased Premises hereinafter described for the period, and at the rental, subject to, and upon the terms and conditions hereinafter set forth, as follows:

95. DESCRIPTION OF PREMISES

- a. Lessee has leased a building consisting of [NUMBER] floors and approximately [NUMBER] square feet of office space from [NAME], lessor, of [ADDRESS], [CITY], [STATE].
- b. Lessee shall demise to sub lessee the [NUMBER] square feet of the building, all located on the [#] floor, as more fully described in Exhibit A, which is attached to and made a part of this sublease agreement.

96. TERM OF SUBLEASE

Sub lessee shall pay to lessee as basic rent [AMOUNT] per month, on the [DAY] of each month, commencing on [DATE], and continuing each month thereafter during the term of this sublease agreement. Sub lessee shall pay all other sums due as additional rental under the provisions of this sublease agreement on the basic rental payment due date first occurring after the additional rental payment arises.

101. payment of RENT

Sub lessee hereby covenants and agrees to pay rent to Sub lessor, without offset or deduction of any kind whatsoever, in the form and at the times as herein specified. All rent shall be paid to Sub lessor at the address specified in this Sublease unless and until Sub lessee is otherwise notified in writing. Base Minimum Rent payments in the monthly amount set forth below shall be payable monthly, in advance, due on the first (1st) day of each calendar month commencing on the Commencement Date hereof and delinquent if not paid on or before the third (3rd) day of the month throughout the Term of this Sublease. Rent for any period which is for less than one month shall be a pro rata portion of the monthly installment. The required payments under Article 6 and all other charges payable by Sub lessee shall be deemed to be additional rent.

102. DELINQUENT PAYMENTS

In the event Sub lessee shall fail to pay the rent or any installment thereof, or any other fees, costs, taxes or expenses payable under this Sublease within [NUMBER] days after the said payment has become due, Sub lessee agrees that Sub lessor will incur additional costs and expenses in the form of extra collection efforts, administrative time, handling costs, and potential impairment of credit on loans for which this Sublease may be a security. Both parties agree that in such event, Sub lessor, in addition to its other remedies shall be entitled to recover a late payment charge against Sub lessee equal to [%] of the amount not paid within said [NUMBER] day period. Additionally, any past due amounts under this Sublease shall bear interest at the rate of the lesser of [%] per month or the maximum rate permitted by applicable law. Sub lessee further agrees to pay Sub lessor any cost incurred by Sub lessor in effecting the collection of such past due amount, including but not limited to attorneys' fees and/or collection agency fees. Sub lessor shall have the right to require Sub lessee to pay monies due in the form of a cashier's check or money order. Nothing herein contained shall limit any other remedy of Sub lessor with respect to such payment delinquency.

103. SECURITY DEPOSIT

On execution of this Sublease, Sub lessee shall deposit with Sub lessor a sum equal to [AMOUNT] (the "Security Deposit") in order to provide security for the performance by Sub lessee of the

- v. Store any explosive, radioactive, dangerous, hazardous or toxic materials in or about the Leased Premises.
 - vi. Use or allow the Leased Premises to be used for sleeping quarters, dwelling rooms or for any unlawful purpose.
 - vii. Build any fences, walls, barricades or other obstructions; or, install any radio, television, phonograph, antennae, loud speakers, sound amplifiers, or similar devices on the roof, exterior walls or in the windows of the Leased Premises, or make any changes to the interior or exterior of the Leased Premises without Sub lessor's prior written consent.
- c. **Operational Permits:** Sub lessee, prior to the Commencement Date, shall obtain and thereafter continuously maintain in full force and effect for the Term of this Sublease or any extension thereof, at no cost or expense to Sub lessor, any and all approvals, licenses, or permits required by any lawful authority as of the Commencement Date or imposed thereafter, for the use of Leased Premises, including but not limited to business licenses.
- d. **Compliance With Laws:** Sub lessee shall comply with all federal, state, county, municipal, or other statutes, laws, ordinances, regulations, rules, or orders of any governmental or quasi-governmental entity, body, agency, commission, board, or official applicable to the Leased Premises and Sub lessee's business.

105. UTILITIES AND TAXES

- a. **Utility Charges:** Sub lessee shall be responsible for and shall pay, and indemnify and hold Sub lessor and the property of Sub lessor free and harmless from, all charges for the furnishing of gas, water, electricity, telephone service, and other public utilities to the Leased Premises during the Term of this Sublease or any extension thereof and for the removal of garbage and rubbish from the Leased Premises during the Term of this Sublease or any extension thereof. Sub lessor shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Leased Premises and no such failure or interruption shall entitle Sub lessee to terminate this Sublease.
- b. **Personal Property Taxes:** Sub lessee shall be responsible for and shall pay before they become delinquent all taxes, assessments, or other charges levied or imposed by any governmental entity on the equipment, trade fixtures, appliances, merchandise and other personal property situated in, on, or about the Leased Premises including, without limiting the generality of the other terms of this Section, any shelves, counters, vault

Taxes shall also include all charges, levies or fees imposed by reason of environmental regulation or other governmental control of the Leased Premises, and all costs and expenses and reasonable attorneys’ fees paid or incurred by Sub lessor in connection with:

- (1) any proceeding to contest in whole or in part the imposition or collection of any taxes;
- (2) negotiation with public authorities as to any taxes.

- d. **Proration of Taxes:** Sub lessee's liability to pay taxes shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the lease Term and its commencement and expiration.
- e. **Tax Delinquency:** Failure of Sub lessee to pay promptly when due any of the charges required to be paid under this Article shall constitute a default under the terms hereof in like manner as a failure to pay rental when due, and if Sub lessor shall elect to pursue an unlawful detainer action upon said default, then Sub lessor shall be entitled to claim as an amount of additional rent owed for purposes of said unlawful detainer the amount of such taxes due and payable by Sub lessee.
- f. **All Other Charges:** Sub lessee shall pay to Sub lessor any and all charges, fees, taxes, and other amounts due from Sub lessor to the master lessor of the Leased Premises prior to its due date, for sums due or owing on or after the date of this Sublease.
- g. **Common Area Maintenance Charges:** Sub lessee shall be responsible for, and shall pay to Sub lessor on demand, any and all costs, fees, charges, assessments, expenses or payments for which Sub lessor is obligated or liable under the Master Lease with respect to the operation, maintenance and repair of common area of the Leased Premises. “Common area” shall include, without limitation, those areas in or about the property of which the Leased Premises are a part, which have been set aside for the general use, convenience and benefit of the occupants of the property and their customers and employees, including, without limitation, the automobile parking areas, sidewalks, landscaped areas and other areas for pedestrian and vehicular use.

To the extent Sub lessor pays estimated amounts for such common area expenses, Sub lessee shall pay such amounts to Sub lessor on demand from Sub lessor and shall be entitled to reimbursements and/or offsets against future common area expenses as such reimbursements or offsets are received by Sub lessor.

equal to one and one-half times the estimated cost of such alterations, to insure Sub lessor against any Liability for mechanic's and materialmen's liens and to insure completion of the work. Should Sub lessee make any alterations without the prior written consent of Sub lessor, Sub lessee shall remove the same at Sub lessee's expense upon demand by Sub lessor.

- d. **Inspection by Sub lessor:** Sub lessee shall permit Sub lessor or Sub lessor's agents, representatives, designees, or employees to enter the Leased Premises at all reasonable times for the purpose of inspecting the Leased Premises to determine whether Sub lessee is complying with the terms of this Sublease and for the purpose of doing other lawful acts that may be necessary to protect Sub lessor's interest in the Leased Premises under this Sublease, or to perform Sub lessor's duties under this Sublease, or to show the Leased Premises to insurance agents, lenders, and other third parties, or as otherwise allowed by law.
- e. **Plans and Permits:** Any alteration that Sub lessee shall desire to make in or about the Leased Premises and which requires the consent of Sub lessor shall be presented to Sub lessor in written form, with proposed detailed plans and specifications therefor prepared at Sub lessee's sole expense. Any consent by Sub lessor thereto shall be deemed conditioned upon Sub lessee's acquisition of all permits required to make such alteration from all appropriate governmental agencies, the furnishing of copies thereof to Sub lessor prior to commencement of the work, and the compliance by Sub lessee with all conditions of said permits in a prompt and expeditious manner, all at Sub lessee's sole cost and expense.
- f. **Construction Work Done by Sub lessee:** All construction work required or permitted to be done by Sub lessee shall be performed by a licensed contractor in a good and workmanlike manner and shall conform in quality and design with the Leased Premises existing as of the Commencement Date, and shall not diminish the value of the Leased Premises in any way whatsoever. In addition, all such construction work shall be performed in compliance with all applicable statutes, ordinances, regulations, codes and orders of governmental authorities and insurers of the Leased Premises. Sub lessee or its agents shall secure all licenses and permits necessary therefor.
- g. **Title to Alterations:** Unless Sub lessor requires the removal thereof, any alterations which may be made on the Leased Premises, shall upon installation or construction thereof on the Leased Premises become the property of Sub lessor and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of the term of this Sublease. Without limiting the generality of the foregoing, all heating, lighting, electrical (including all wiring, conduits, main and subpanels), air conditioning, partitioning, drapery, and carpet installations made by Sub lessee, regardless of how affixed to the Leased Premises, together with all other alterations that have become a part of the Leased Premises, shall be and become the property of Sub lessor upon installation, and shall not be deemed trade fixtures, and shall remain upon and be surrendered with the Leased Premises at the expiration or sooner termination of this Sublease.

- b. **Liability Insurance:** Sub lessee shall, at its own cost and expense, secure and maintain during the term of this Sublease, a comprehensive broad form policy of Combined Single Limit Bodily Injury and Property Damage Insurance issued by a reputable company authorized to conduct insurance business in the State of [STATE/PROVINCE] insuring Sub lessee against loss or liability caused by or connected with Sub lessee's use and occupancy of the Leased Premises in an amount not less than [AMOUNT] per occurrence.
- c. **Casualty and Fire Insurance:** At all times during the Term hereof, Sub lessee shall keep the Leased Premises and personal property thereon insured against loss or damage by fire, windstorm, hail, explosion, damage from vehicles, smoke damage, vandalism, casualty and malicious mischief and such other risks as are customarily included in "all risk" extended insurance coverage, including coverage for business interruption, in an amount equal to not less than [NUMBER] of the actual replacement value of the Leased Premises and the personal property, fixtures, and other property on the Leased Premises.
- d. **Workers' Compensation Insurance:** During the term of this Sublease, Sub lessee shall comply with all Workers' Compensation laws applicable on the date hereof or enacted thereafter and shall maintain in full force and effect a Workers' Compensation Insurance policy covering all employees in any way connected with the business conducted by Sub lessee pursuant to this Sublease and shall pay all premiums, contributions, taxes and such other costs and expenses as are required to be paid incident to such insurance coverage, all at no cost to Sub lessor.
- e. **Policy Form:** The policies of insurance required to be secured and maintained under this Sublease shall be issued by good, responsible companies, qualified to do business in the State of [STATE/PROVINCE], with a general policy holders' rating of at least "A". Executed copies of such policies of insurance or certificates thereof shall be delivered to Sub lessor and to the Master Lessor under the Master Lease not later than [NUMBER] days prior to the commencement of business operations of Sub lessee at the Leased Premises and thereafter, executed copies of renewal policies of insurance or certificates thereof shall be delivered to Sub lessor within [NUMBER] days prior to the expiration of the term of each such policy. All such policies of insurance shall contain a provision that the insurance company writing such policy(s) shall give Sub lessor at least [NUMBER] days' written notice in advance of any cancellation or lapse, or the effective date of any reduction in the amounts or other material changes in the provisions of such insurance. All policies of insurance required under this Sublease shall be written as primary coverage and shall list the Master Lessor under the Master Lease and the Sub lessor as loss payees and as additional insureds. If Sub lessee fails to procure or maintain in force any insurance as required by this Section or to furnish the certified copies or certificates thereof required hereunder, Sub lessor may, in addition to all other remedies it may have, procure such insurance and/or certified copies or certificates, and Sub lessee shall promptly reimburse Sub lessor for all premiums and other costs incurred in connection therewith.

hereof, remove such sign or trade fixture, repair any damage occasioned thereby, and restore the Leased Premises to the condition existing as of the Commencement Date or such other condition as may reasonably be designated by Sub lessor in its election.

109. CONDEMNATION AND DESTRUCTION

- m. **Total Condemnation:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of all of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, this Sublease shall terminate as of the date actual physical possession of the Leased Premises is taken by the agency or entity exercising the power of eminent domain and both Sub lessor and Sub lessee shall thereafter be released from all obligations under this Sublease.
- n. **Termination Option for Partial Condemnation:** Should, during the Term of this Sublease or any renewal or extension thereof, title and possession of more than [%] of the floor area of the Leased Premises, and/or more than [%] of the parking area of the Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, Sub lessor may terminate this Sublease. The option herein reserved shall be exercised by giving written notice on or before [NUMBER] days after actual physical possession of the portion subject to the eminent domain power is taken by the agency or entity exercising that power and this Sublease shall terminate as of the date the notice is deemed given.
- o. **Partial Condemnation Without Termination:** Should Sub lessee or Sub lessor fail to exercise the termination option described in this Article, or should the portion of the Leased Premises taken under the power of eminent domain be insufficient to give rise to the option therein described, then, in that event:
 - i. This Sublease shall terminate as to the portion of the Leased Premises taken by eminent domain as of the day (hereinafter called the “date of taking”), actual physical possession of that portion of the Leased Premises is taken by the agency or entity exercising the power of eminent domain;
 - ii. Base Minimum Rent to be paid by Sub lessee to Sub lessor pursuant to the terms of this Sublease shall, after the date of taking, be reduced by an amount that bears the same ratio to the Base Minimum Rent specified in this Sublease as the square footage of the actual floor area of the Leased Premises taken under the power of eminent domain bears to the total square footage of floor area of the Leased Premises as of the date of this Sublease; and
 - iii. Except to the extent the Master Lessor under the Master Lease is so obligated, Sub lessee, at Sub lessee's own cost and expense shall remodel

- r. **Damage by Sub lessee:** Sub lessee shall be responsible for and shall pay to Sub lessor any and all losses, damages, costs, and expenses, including but not limited to attorney's fees, resulting from any casualty loss caused by the negligence or wilful misconduct of Sub lessee or its employees, agents, contractors, or invitees.

110. SUBLEASING, ASSIGNMENT, DEFAULT AND TERMINATION

- a. **Subleasing and Assignment:** Sub lessee shall not sell, assign, hypothecate, pledge or otherwise transfer this Sublease, or any interest therein, either voluntarily, involuntarily, or by operation of law, and shall not sublet the Leased Premises, or any part thereof, or any right or privilege appurtenant thereto, for any reason whatsoever, or permit the occupancy thereof by any person, persons, or entity through or under it, or grant a security interest in Sub lessee's interest in the Leased Premises or this Sublease or any fixtures located on the Leased Premises, without the prior written consent of Sub lessor first had and obtained, which may be given or withheld in the Sub lessor's sole and absolute discretion. For the purpose of this Section, any dissolution, merger, consolidation or other reorganization of Sub lessee, or any change or changes in the stock ownership of Sub lessee, which aggregates [%] or more of the capital stock of Sub lessee shall be deemed to be an assignment of this Sublease. Sub lessee shall not mortgage, hypothecate or encumber this Sublease. Sub lessor's consent to one assignment, subletting, occupancy, or use by any other person, entity or entities shall not relieve Sub lessee from any obligation under this Sublease and shall not be deemed to be a consent to any subsequent assignment, subletting, occupancy or use. Any assignment, pledge, subletting, occupancy or use without Sub lessor's written consent shall be void and shall, at the option of the Sub lessor, terminate this Sublease.

Should this Sublease be assigned, or should the Leased Premises or any part thereof be sublet or occupied by any person or persons other than the original Sub lessee hereunder, Sub lessor may collect rent from the assignee, sub lessee or occupant and apply the net amount collected to the rent herein reserved, but no such assignment, subletting, occupancy or collection of rent shall be deemed a consent to such assignment, subletting or occupancy or a waiver of any term of this Sublease, nor shall it be deemed acceptance of the assignee, sub lessee or occupant as a tenant, or a release of Sub lessee from the full performance by Sub lessee of all the terms, provisions, conditions and covenants of this Sublease.

In the event Sub lessee wishes to assign this Sublease or sublet or allow the use of the Leased Premises or any part thereof, Sub lessee shall give Sub lessor not less than [NUMBER] days written notice thereof and shall, in such notice, provide the name of the proposed assignee or sub lessee, its proposed use of the Leased Premises, its background, such financial and credit information as Sub lessor may require to

forth, each of which shall be deemed a material default of the terms of the Sublease if not fully cured within [NUMBER] days of occurrence. Such events shall include:

- i. Sub lessee's failure to perform or observe any term, provisions, covenant, agreement or condition of this Sublease;
- ii. Sub lessee breaches this Sublease and abandons the Leased Premises before expiration of the Term of this Sublease;
- iii. Any representation or warranty made by Sub lessee in connection with this Sublease between Sub lessee and Sub lessor proving to have been incorrect in any respect;
- iv. Sub lessee's institution of any proceedings under the Bankruptcy Act, as such Act now exists or under any similar act relating to the subject of insolvency or bankruptcy, whether in such proceeding Sub lessee seeks to be adjudicated a bankrupt, or to be discharged of its debts or effect a plan of liquidation, composition or reorganization;
- v. The filing against Sub lessee of any involuntary proceeding under any such bankruptcy laws;
- vi. Sub lessee's becoming insolvent or being adjudicated a bankrupt in any court of competent jurisdiction, or the appointment of a receiver or trustee of Sub lessee's property, or Sub lessee's making an assignment for the benefit of creditors;
- vii. The issuance of a writ of attachment by any court of competent jurisdiction to be levied on this Lease; or
- viii. Any event which is an event of default under the Master Lease or which would become so with the passage of time or the giving of notice or both.

c. **Sub lessor's Remedies for Sub lessee's Default:** Upon the occurrence of any event of default described in Section 10.02 hereof, Sub lessor may, at its option and without any further demand or notice, in addition to any other remedy or right given hereunder or by law, do any of the following:

- i. Sub lessor may terminate Sub lessee's right to possession of the Leased Premises by giving written notice to Sub lessee. If Sub lessor gives such written notice, then on the date specified in such notice, this Sublease and Sub lessee's right of possession shall terminate. No act by Sub lessor other than giving such written notice to Sub lessee shall terminate this Sublease. Acts of maintenance, efforts to relet the Leased Premises, or the appointment of a receiver on Sub lessor's initiative to protect Sub lessor's interest under this Sublease shall not constitute a termination of Sub lessee's right to possession. On termination, Sub lessor has the right to recover from Sub lessee:

such rent or other proceeds compensate Sub lessor for the non-performance of any obligation of Sub lessee hereunder. Such payments by Sub lessee shall be due at such times as are provided elsewhere in this Sublease, and Sub lessor need not wait until the termination of this Sublease, by expiration of the term hereof or otherwise, to recover them by legal action or in any other manner. Sub lessor may execute any lease made pursuant hereto in its own name, and the tenant thereunder shall be under no obligation to see to the application by Sub lessor of any rent or other proceeds by Sub lessor, nor shall Sub lessee have any right to collect any such rent or other proceeds. Sub lessor shall not by any re-entry or other act be deemed to have accepted any surrender by Sub lessee of the Leased Premises or Sub lessee's interest therein, or be deemed to have otherwise terminated this Sublease, or to have relieved Sub lessee of any obligation hereunder, unless Sub lessor shall have given Sub lessee express written notice of Sub lessor's election to do so as set forth herein.

- iii. Even though Sub lessee has breached this Sublease and may have abandoned or vacated the Leased Premises, this Sublease shall continue in effect for so long as Sub lessor does not terminate Sub lessee's right to possession, and Sub lessor may enforce all its rights and remedies under this Sublease, including the right to recover the rent and other charges as they become due under this Lease.
- iv. In the event any personal property of Sub lessee remains at the Leased Premises after Sub lessee has vacated, it shall be dealt with in accordance with the statutory procedures provided by applicable law dealing with the disposition of personal property of Sub lessee remaining on the Leased Premises after Sub lessee has vacated.
- v. Sub lessor may exercise any right or remedy reserved to the Master Lessor under the Master Lease (each of which rights and remedies are hereby incorporated herein), and any other remedy or right now or hereafter available to a landlord against a defaulting tenant under applicable law or the equitable powers of its courts, whether or not otherwise specifically reserved herein.
- vi. Sub lessor shall be under no obligation to observe or perform any provision, term, covenant, agreement or condition of this Sublease on its part to be observed or performed which accrues after the date of any default by Sub lessee hereunder.
- vii. Any legal action by Sub lessor to enforce any obligation of Sub lessee or in the pursuance of any remedy hereunder shall be deemed timely filed if commenced at any time prior to [NUMBER] year after the expiration of the term hereof or prior to [NUMBER] years after the cause of action accrues, whichever period expires later.
- viii. In any action of unlawful detainer commenced by Sub lessor against Sub lessee by reason of any default hereunder, the reasonable rental value of the Leased

any term, condition or covenant herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, condition or covenant herein contained. None of the provisions, terms, covenants, agreements or conditions hereof can be waived except by the express written consent of Sub lessor. Subsequent acceptance of rent hereunder by Sub lessor shall not be deemed to be a waiver of any preceding breach by Sub lessee of any provision, term, covenant, agreement or condition of this Sublease other than the failure of Sub lessee to pay the particular rental accepted, regardless of Sub lessor’s knowledge of such preceding breach at the time of acceptance of such rent.

111. ESTOPPEL

At any time and from time to time, upon request in writing from Sub lessor, Sub lessee agrees to execute, acknowledge, and deliver to Sub lessor a statement in writing within [NUMBER] days of request, certifying that this Sublease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications), the commencement and termination dates, the Base Minimum Rent, the other charges payable hereunder the dates to which the same have been paid, and such other items as Sub lessor may reasonably request. It is understood and agreed that any such statement may be relied upon by any mortgagee, beneficiary, or grantee of any security or other interest, or any assignee of any thereof, under any mortgage or deed of trust now or hereafter made covering any leasehold interest in the Leased Premises, and any prospective purchaser of the Leased Premises.

112. FORCE MAJEURE – UNAVOIDABLE DELAYS

Should the performance of any act required by this Sublease to be performed by either Sub lessor or Sub lessee be prevented or delayed by reason of an act of God, war, civil commotion, fire, flood, or other like casualty, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, unusually severe weather, or any other cause, except financial inability, not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused; provided, however, that nothing contained in this section shall excuse the prompt payment of rent or other monies due by Sub lessee as required by this Sublease or the performance of any act rendered difficult solely because of the financial condition of the party, Sub lessor or Sub lessee, required to perform the act.

113. NOTICES

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Sublease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when

This instrument constitutes the sole and only agreement between Sub lessor and Sub lessee respecting the Leased Premises or the leasing of the Leased Premises to Sub lessee. Sub lessor shall have no obligations to Sub lessee, whether express or implied, other than those specifically set forth in this Sublease.

119. SEVERABILITY AND GOVERNING LAW

This Sublease shall be governed by the laws of the State of [STATE/PROVINCE]. Whenever possible each provision of this Sublease shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Sublease shall be prohibited, void, invalid, or unenforceable under applicable law, such provision shall be ineffective to the extent of such prohibition, invalidity, voidability, or enforceability without invalidating the remainder of such, or the remaining provisions of this Sublease.

120. CONSTRUCTION AND HEADINGS

All references herein in the singular shall be construed to include the plural, and the masculine, and the masculine to include the feminine or neuter gender, where applicable, and where the context shall require. Section headings are for convenience of reference only and shall not be construed as part of this Sublease nor shall they limit or define the meaning of any provision herein. The provisions of this Sublease shall be construed as to their fair meaning, and not strictly for or against Sub lessor or Sub lessee.

121. EFFECT OF EXECUTION

The submission of this Sublease for examination shall not effect any obligation on the part of the submitting or examining party and this Sublease shall become effective only upon the complete execution thereof by both Sub lessor and Sub lessee.

122. INUREMENT

Sub lessor shall have the full and unencumbered right to assign this Sublease. The covenants, agreements, restrictions, and limitations contained herein shall also be binding on Sub lessee's permitted successors and assigns.

123. TIME OF ESSENCE

Time is expressly declared to be of the essence.

Sub lessee shall not record this Sublease or a short form memorandum hereof without the prior written consent of the Sub lessor.

130. TRANSFER OF MASTER LEASE

In the event of any assignment or transfer of the Master Lease by Sub lessor to any other party or entity, Sub lessor shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Sublease arising out of any act, occurrence or omission occurring after the consummation of such assignment or transfer; and the assignee or such transferee shall be deemed, without any further agreement between parties or their successors in interest or between the parties and any such assignee or transferee, to have assumed and agreed to carry out any and all of the covenants and obligations of the Sub lessor under this Sublease. Sub lessee hereby agrees to attorn to any such assignee or trustee. Sub lessee agrees to execute any and all documents deemed necessary or appropriate by Sub lessor to evidence the foregoing.

131. SUBORDINATION, ATTORNMENT

Without the necessity of any additional document being executed by Sub lessee for the purpose of effecting a subordination, this Sublease shall in all respects be subject and subordinate at all times to the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which the Leased Premises or Sub lessor's interest or estate is specified as security. Notwithstanding the foregoing, Sub lessor shall have the right to subordinate or cause to be subordinated any lien or encumbrance to this Sublease. In the event that any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Sub lessee shall, notwithstanding any subordination, attorn to and become the sub lessee of the successor in interest to Sub lessor, at the option of such successor in interest. Sub lessee covenants and agrees to execute and deliver, upon demand by Sub lessor and in the form requested by Sub lessor, any additional documents evidencing the priority or subordination of this Sublease.

132. NO MERGER

The voluntary or other surrender of this Sublease by Sub lessee, or a mutual cancellation hereof, shall not work a merger, and shall, at the option of Sub lessor, terminate all or any existing subleases or subtenancies or may, at the option of Sub lessor, operate as an assignment to Sub lessor of any or all such subleases or subtenancies.

133. RIGHT OF SUB LESSOR TO PERFORM

All terms, covenants and conditions of this Sublease to be performed or observed by Sub lessee shall be performed or observed by Sub lessee at its sole cost and expense and without any reduction

The obligations of the indemnifying party under each and every indemnification and hold harmless provision contained in this Sublease shall survive the expiration or earlier termination of this Sublease to and until the last to occur of (a) the last date permitted by law for bringing of any claim or action with respect to which indemnification may be claimed by the indemnified party against the indemnifying party under such provision or (b) the date on which any claim or action for which indemnification may be claimed under such provision is fully and finally resolved and, if applicable, any compromise thereof or judgment or award thereon is paid in full by the indemnifying party and the indemnified party is reimbursed by the indemnifying party for any amounts paid by the indemnified party in compromise thereof or upon a judgment or award thereon and in defense of such action or claim, including attorneys' fees incurred.

138. OPTION TO RENEW

Subject to the receipt by lessee of an extension of the original lease agreement for a sufficient duration to include this renewal, at any time before the commencement of the last calendar month of the first term of this sublease agreement, sub lessee is granted the option and privilege of extending and renewing the term of this sublease agreement for an additional [NUMBER]-year period at an annual rental to be agreed on or arbitrated as provided in this sublease agreement.

139. MEANING OF CONSENT

Whenever an act or provision contained in this Sublease is conditioned upon the consent or approval of Sub lessor, this shall be interpreted to mean, unless otherwise specified to the contrary, that the Sub lessor has the full unconditional right and sole discretion as to whether or not to give its consent, which may only be given in writing.

140. QUIET ENJOYMENT

If sub lessee performs the terms of this sublease agreement, lessee will warrant and defend sub lessee in the enjoyment and peaceful possession of the demised premises during the term of this sublease agreement without any interruption by lessee or lessor or either of them or any person rightfully claiming under either of them.

141. MASTER LEASE

Notwithstanding anything in this Sublease to the contrary, the rights of Sub lessee shall be subject to the terms and conditions contained in the lease ("Master Lease") between Sub lessor and the owner of the Leased Premises (the "Master Lessor"), as it may be amended from time to time. Sub

EXHIBIT A

TO SUBLEASE
DESCRIPTION OF LEASED PREMISES
TERMINATION OF LEASE OBLIGATION

This Release Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [LESSOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LESSEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

On [DATE], a lease agreement was executed between Lessor and Lessee for the premises located at [ADDRESS], a copy of which is attached hereto and made a part hereof.

[FACTS GIVING RISE TO THIS RELEASE]

The parties desire to settle all claims of Lessor with respect to said lease and to terminate all obligations of either party thereunder.

Therefore, in consideration of [AMOUNT], from Lessee, receipt of which is hereby acknowledged, Lessor does hereby release Lessee from all obligations and duties of Lessee set forth in the above referenced lease. Lessor, for himself, his heirs, his legal representatives and his assigns also releases Lessee, his heirs, his legal representatives and his assigns from all claims, demands and causes of action that lessor had, has or may have against lessee or against his heirs, legal representatives or assigns in regard to said lease.

In consideration of the release set forth above, Lessee hereby surrenders all rights in and to the subject leased premises. That possession of said premises shall be delivered up to Lessor immediately upon the execution of this instrument, and that Lessor is relieved of any responsibilities or obligations under the aforementioned lease.

LOCATION WORKSHEET

Answer the following questions by indicating whether it is a strength (S) or weakness (W) of the potential site as it relates to your business. Once you have completed a work sheet for each prospective location, compare the relative strengths and weaknesses of each site to determine the value of each to the strategic success of your business.

CONCERNS AND QUESTIONS	S	W	NOTES
Is the facility large enough for your business?			
Does it meet your layout requirements well?			
Does the building need any repairs?			
Will you have to make any leasehold improvements?			
Do the existing utilities meet your needs, or will you have to do any rewiring or plumbing work? Is ventilation adequate?			
Is the facility easily accessible to your potential clients or customers?			
Can you find a number of qualified employees in the area in which the facility is located?			
Is the facility consistent with the image you would like to maintain?			
Is the facility located in a safe neighborhood with a low crime rate?			
Are neighboring businesses likely to attract customers who will also patronize your business?			

DR. LUBOGO ISAAC CHRISTOPHER

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO QUIT FOR NON-PAYMENT OF RENT

Dear [CONTACT NAME],

You are hereby notified to quit and deliver up the premises you hold as our tenant, namely:

[DESCRIBE PREMISES]

You are to deliver up said premises on or within [NUMBER] days of receipt of this notice. This notice is provided due to non-payment of rent. The present rent arrearage is in the amount of [AMOUNT]. You may redeem your tenancy by full payment of said arrears within [NUMBER] days.

Sincerely,

Your name & Your title

contact

CERTIFIED MAIL, Return Receipt Requested

NOTICES

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF TERMINATION OF LEASE

Dear [CONTACT NAME],

This is to notify you to quit and deliver up possession of [ADDRESS], which you presently occupy as our tenant, by [DATE]. This notice is given pursuant to paragraph [INSERT PARAGRAPH NUMBER OF LEASE AGREEMENT WHICH PROVIDES FOR TERMINATION ON 7 DAYS NOTICE] of your lease agreement.

NOTICE IS FURTHER GIVEN that if you fail to vacate the above-described premises on or before the date specified in the paragraph above, the lessor will institute Unlawful Detainer proceedings against you to recover possession of the premises, treble damages, attorney fees and costs.

We remind you of your obligation to leave the premises in a reasonable condition at the end of your tenancy.

Thank you for you cooperation.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

CERTIFIED MAIL, Return Receipt Requested

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF CHANGE IN RENT

Dear [CONTACT NAME],

Please be advised that pursuant to the terms of that certain [LEASE/RENTAL AGREEMENT] dated [DATE], your rent for the space at [ADDRESS] will increase to [AMOUNT] per month, effective [DATE].

Let me know if you have any questions.

Sincerely,

Your name & Your title

contact

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF EXERCISE OF LEASE OPTION

Dear [CONTACT NAME],

I elect to exercise the option to [RENEW OR EXTEND] the lease agreement as provided in Section [SPECIFY] of our lease agreement, dated [DATE], for an additional period of [NUMBER] years, commencing on [DATE], and terminating on [DATE]. I will continue to abide by all other terms and conditions of the lease agreement including the provision for payment of rent on a monthly basis. I request that you send me a written reply acknowledging receipt of this renewal notice.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF INTENTION TO FILE A MECHANIC'S LIEN

Dear [CONTACT NAME],

Notice is hereby given that [COMPANY NAME] intends to file a mechanic's lien for [AMOUNT], on real property owned by you and commonly known as [STREET ADDRESS]. The legal for said property is as follows:

[DESCRIBE]

The filing of said lien, pursuant to [CITE STATUTE], is for the purpose of securing payment of amounts due for [SERVICES] performed by the undersigned within the last [NUMBER] days, in accordance with the [WRITTEN OR ORAL] agreement entered into on [DATE] between you and the undersigned.

Sincerely,

Your name & Your title

Telephone contact

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF BULK TRANSFER

Dear [CONTACT NAME],

You are presently in arrears of rent in the amount of [AMOUNT] in connection with your lease of [ADDRESS].

Please remedy this situation within [Number] days of the date of this letter or we will terminate the lease and institute collection proceedings without further notice to you.

Sincerely,

Your name & Your title

Telephone contact

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE FROM LANDLORD SELL UNCLAIMED PROPERTY AT AUCTION

Dear [CONTACT NAME],

This NOTICE is given that I, [NAME AND ADDRESS OF LANDLORD] will sell the following unclaimed property:

[DESCRIBE]

at a public auction on [DATE] at [LOCATION] to pay for the charges incurred in maintaining and storing the unclaimed property pursuant to [APPLICABLE STATUTE].

The property is stored at [LOCATION] until the date of public auction. The following charges have been incurred for the storage and maintenance of the property:

[DESCRIBE]

Sincerely,

Your name

Your title

Telephone contact

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE TO TERMINATE TENANCY-AT-WILL

Dear [CONTACT NAME],

Take notice, that pursuant to the provisions of paragraph [NUMBER] of that certain Lease under which you hold possession of the hereinafter described premises, I have elected to terminate said lease as of [DATE]; said lease is being terminated [SET FORTH REASON FOR TERMINATION] and you are hereby required to quit and deliver up possession of the premises on or before the above mentioned date.

The lease above mentioned is between [NAME], as Lessor, and [CONTACT NAME] as Lessee, is dated [DATE] and covers the property commonly known as:

[DESCRIBE]

Your collaboration would be much appreciated .

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: WE WANT TO WELCOME YOU!

Dear [CONTACT NAME],

You probably know already that the building where your offices are has changed hands. Tenants sometimes feel some apprehension when a changeover occurs, so we would like to take this opportunity to clear the air by letting you know exactly what you can expect in the future.

PAYMENT BY CHECK OR MONEY ORDER: Since it is unwise for anyone to keep or carry cash around in large quantities, we request that you pay your rent by check or money order (made payable to us). This will protect both you and the management.

PROMPT PAYMENT: You are expected to pay your rent within three days after the due date. For example, rent due on the first must be paid by the fourth at the very latest.

MAINTENANCE: We expect you to pay your rent promptly, and you can expect us to respond promptly to any maintenance problems that arise. Sometime within the next week, we will visit you to inspect for any building maintenance work that should be taken care of. You can help us by making a list of work that needs doing around the house.

MANAGING AND MOTIVATING EMPLOYEES

DISCIPLINE AND BEHAVIOUR

ACKNOWLEDGEMENT AND WAIVER REGARDING EMPLOYEE DATING

This Acknowledgment & Waiver Regarding Employee Dating (the "Agreement") is effective [DATE],

BETWEEN: [FIRST EMPLOYEE NAME] (the "First Employee"), an individual with his main address at:

AND: [SECOND EMPLOYEE NAME] (the "Second Employee"), an individual with his main address at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

WHEREAS, a concern has been expressed by the Company regarding the personal relationship which has occurred between First Employee and Second Employee;

WHEREAS, the Company on it's behalf as well as that of its employees and other affiliated entities is concerned regarding any potential for legal exposure which may arise out of said relationship; and

WHEREAS, First Employee and Second Employee wish to provide assurances to the Company, its employees and other affiliated entities, as consideration for continued employment and in lieu of transfer, termination or other action.

TERMS

1. As of the day of the signing of this agreement, First Employee has entered into a voluntary relationship with Second Employee;
2. First Employee has not requested, nor does expect favoritism from Second Employee as related to [HIS/HER] working relationship;
3. First and Second Employees are not aware of any conflicts related to their relationship.

CHECKLIST

INVESTIGATING COMPLAINTS OF HARASSMENT OR DISCRIMINATION

In most countries, the law requires a company to promptly and thoroughly investigate claims of harassment or discrimination. Remember that if a lawsuit is filed, many courts will require you to fully disclose your investigation. So don't rush through it! Depending on the individual situation, most or all of the following should be considered during an investigation.

- Remember your focus is to gather facts and commit to legal compliance.
- Be sure to understand that harassment and discrimination are very often about *power*, *ignorance* and *fear*.
- Address the *psychological needs* of those involved. Don't begin by telling the claimant they have no claim.
- Keep matters confidential but *don't promise absolute confidentiality* because of your need to investigate, communicate, discipline and terminate.
- Contact your attorney* if you think the matter could possibly lead to a claim.
- Get the complete story from the claimant in writing.
- Keep all interview notes, forms, etc. in a separate file, not part of the personnel file and limit access on a need to know basis only. Mark all documents "CONFIDENTIAL."
- Don't spread rumors* about the employee or the complaint. Resist the temptation to gossip about these matters. Share any information on a need to know basis only.
- Don't leap to conclusions! Perform a complete investigation. Interview the employee complaining, the person accused and any witnesses named by either. Take good notes.
- Make sure to ask for all *facts*, *documents* and *witnesses* supporting any claims made.

CHECKLIST

PROGRESSIVE DISCIPLINE DOCUMENTATION

After a discipline session, you will want to make some documentation based on your notes. Use this checklist to make sure you include everything you need in your documentation.

Verbal Warning

Be sure that all verbal warnings are documented in writing. They are a building block to more formal warnings in the future. All documentation should include:

- the employee's name
- the date of the verbal warning
- the specific offense or rule violation
- a specific statement of the expected performance
- any explanation given by the employee or other information that is significant

Example of verbal warning documentation

"I talked to [EMPLOYEE] today about him/her attendance record and gave him/her a verbal warning. Since [DATE], [EMPLOYEE] has been absent from work on [NUMBER] occasions for a total of [NUMBER] days. [THE EMPLOYEE] response was, 'You can't make people work when they are sick,' and he/she argued about the verbal warning. I told him/her that he/she could request a medical leave of absence if he/she needed it, but that I expected him/her to be here every day unless a doctor says otherwise.

Written Warning

A written warning is more serious than a verbal warning and represents a progression in the progressive discipline process.

In documenting a written warning, include:

- the employee's name
- the date of the conversation
- the specific offense or rule violation
- references to previous conversations and verbal warnings about the problem
- a specific statement of the expected performance
- any explanation given by the employee or other information that is significant
- a statement indicating your confidence in the employee's ability to perform properly in the future
- the employee's signature – if the employee refuses, include a note on the signature line indicating your attempt to get the employee to sign and his/her refusal to do so

- If a written warning has been issued, be sure to give the employee the opportunity to sign any documentation for the file.
- Give the employee a copy of the document no later than the end of the day following the conversation.
- If the employee has other supervisors, distribute copies to them, but emphasize that the information is confidential and not to be shared with anyone else.
- Monitor the employee's behavior and performance to make sure that the problem has been corrected.

Date of Warning	Supervisor:
Letter:	

RECORD OF DISCIPLINARY ACTION

Employee Name	Employee Title
Manager Name	Manager Title
Today's Date	Incident Date
Incident Time	Incident Location

Description of Incident

Witnesses to Incident:

Was this incident in violation of a company policy?

Yes

No

If yes, specify which policy and how the incident violated it.

Names of those in attendance at current disciplinary action meeting:

Goals to be Achieved:

Consequences for failure to improve performance or correct behavior:

Prior discussions or warnings on this subject, whether oral or written:

Employee statement:

I acknowledge that I have read and understand the above information and consequences.

Employee Signature

Date

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REPRIMAND

Dear [CONTACT NAME],

[NAME], one of our customers, called my office today to inform me that he had been treated in an extremely discourteous manner by you. He was referring to a telephone call which took place on (date) wherein he claims that you stated that you were too busy to find the answer to his question at that time and you seemed totally indifferent to his problem. This is, of course, completely against our policy, which is to make every attempt to please and keep our customers content. Without customers, we have no company. I would like you to find the source of the problem in this account, call [CONTACT NAME] with the information he has requested, and offer an apology.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

LETTERS AND MEMOS

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DISCRIMINATION AND HARASSMENT

Dear [CONTACT NAME],

As you probably know, in this country our rights to do something are limited when, by doing it, we infringe on the rights of others. We believe it's essential to follow those principles and that's why [COMPANY] does not tolerate discrimination or harassment of any kind because these actions clearly infringe on the rights of others.

[COMPANY] is committed to providing a workplace free from discrimination or harassment based on a person's sex, age, ethnicity, race, religion, or any other legally protected characteristic. Any obvious or implied discrimination is not allowed. Violators of this policy will be disciplined, and possibly terminated.

If you witness or are the victim of a single act of discrimination or harassment, please report the incident to your supervisor. Or, if this is inappropriate, please contact [NAME]. Any report you make will be confidential and without reprisal.

Your cooperation in this matter will be appreciated.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CHRISTMAS EMPLOYEE DISCOUNT OFFER

Dear [CONTACT NAME],

[COMPANY] has offered our employees a [%] discount on all merchandise purchased during the Christmas season as their way of wishing you all a Merry Christmas.

In order to receive this discount, you must present your employee identification card at the time of purchase. They have also requested that you limit the use of this discount privilege to purchases made in your own behalf.

Your cooperation in this matter will be appreciated.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: COMPANY BONUS LETTER

Dear [CONTACT NAME],

It is always a pleasure to work with brilliant people like you. The [PRESENTATION/DOCUMENT/ETC] you prepared for the [DESCRIPTION OF PROJECT] was truly outstanding. There is no doubt that we were awarded this project due to your fine work. I hope that you will be part of this team for many years to come. Please accept the enclosed check as our way of saying thank you for a job well done.

We are proud to have you onboard.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: DISCONTED MEMBERSHIP FOR EMPLOYEES

Dear [CONTACT NAME],

As an employee of [COMPANY], you're entitled to a [%] percent discount off the initiation fee at [CLUB], and a [%] discount off the monthly or annual fee. A savings today of [AMOUNT] on the initial fee and [AMOUNT] a month, this is an excellent benefit of working at [COMPANY]. So pass the word to your co-workers!

A brochure from the fitness club is attached. Note that [CLUB] offers [SERVICE], [SERVICE], and [SERVICE]. Exercise has been shown to be one of the greatest stress relievers!

If you have any questions, call [NAME] at the Club, [PHONE NUMBER].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: FAMILY AND MEDICAL LEAVE

Dear [EMPLOYEE'S NAME],

Employers have come a long, long way from the days when children and adults alike worked 14-hour days six days a week. In fact, today's organizations, including [COMPANY] have become very "family friendly." Our adherence to the Family and Medical Leave Act is an important aspect of our commitment to employees and their families.

Who is eligible?

Employees who have at least one year of service and have worked a minimum of [NUMBER] hours during the year before the leave is requested.

What leave is available?

Eligible employees may take up to a total of [NUMBER] weeks of unpaid leave per calendar year.

When may FMLA leaves be taken?

These leaves may be taken for the birth of a child, the placement of a child for adoption or foster care, caring for seriously ill family members, or your own serious health condition. Leave must be taken for more than a week to be counted as FMLA leave.

How far in advance must the leave be requested?

When a leave is foreseeable, the request must be made [Number] days in advance. When the need for an FMLA leave is unexpected, the request must be made as soon as possible.

More details about taking leave under FMLA are covered in the employee handbook. If you have

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: SEXUAL HARASSMENT COMPLAINT

Dear [EMPLOYEE'S NAME],

This will confirm that we met with you on [DATE], to discuss your allegations of possible sexual harassment by [ALLEGED HARASSER]. This letter explains what the Company policies, as well as state and federal law, require us to do once we receive such a complaint. [COMPANY] does not ignore sexual harassment in the workplace and is committed to preventing, investigating and, when appropriate, taking disciplinary and other action in response to incidents of harassment. For these reasons, we consider your allegations to be serious.

Specifically, you alleged that the following events occurred:

[DESCRIBE]

Our harassment policy requires that we consider both parties' understanding of the events about which you complain. Accordingly, we plan to conduct an investigation regarding the allegations, and we plan to interview [THE HARASSER] and other individuals who may have knowledge regarding these matters. We will do our best to conduct this investigation in as sensitive and confidential a manner as the circumstances allow, and will contact you and [THE HARASSER] once that investigation is complete. If you have other allegations that are not reflected above, please inform us immediately so that we have complete information before conducting the investigation.

In the meantime, please be assured that you will not be retaliated against because you complained about sexual harassment, and that we will take appropriate action if we determine that harassment has occurred. In addition, it is in all parties' best interests that disclosure of the allegations be limited only to those individuals who have a need to know them. Enclosed with this letter is a copy of [COMPANY]'s sexual harassment policy for your information.

If you have any questions, or can provide further facts regarding this matter, feel free to contact me.

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF PROMOTION

Dear [CONTACT NAME],

It is our great pleasure to inform you that you have been promoted to the challenging and demanding position of [POSITION].

This promotion is in recognition of the fine work you have done for this firm. We are very confident that you will meet the new responsibilities which accompany the position of [POSITION] with the same level of enthusiasm and enterprise which you have exhibited since you came to work with our firm.

Please accept our congratulations on your new promotion.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: NOTICE OF BONUS CANCELLATION

Dear [CONTACT NAME],

This has been a difficult year for [COMPANY]. I am sure that you all know that the loss of contracts with [COMPANY], due to [DESCRIBE], hurt us substantially.

In [MONTH], we had a major decision to make. The question we were faced with was whether to let some of our employees go, or to explore all other possible avenues of cost reduction, keeping everyone's job intact. We chose the latter course. Unfortunately, one of the policies we were forced to eliminate for this year, was our annual Christmas bonus to each of our employees.

This will be the first year since [YEAR] that we will be unable to thank you in this special manner for your hard work, loyalty and faithfulness. We are all hoping that [YEAR] will be a prosperous year and that we will be able to reinstate our traditional Christmas bonus policy.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: OFFER OF ASSISTANCE TO FAMILY DURING ILLNESS

Dear [CONTACT NAME],

Everyone here at [NAME OF FIRM] was saddened to learn of [NAME OF EMPLOYEE] sudden illness.

We know that this came on without any warning and while the proceeds from the group policy insurance coverage will defray a substantial amount of the medical costs, you may have need for some additional financial assistance to see you through this difficult time.

Please do not hesitate to call on us if you need our assistance in this area. We consider [NAME OF EMPLOYEE] to be one of our most valuable employees and a fine individual as well and would be most appreciative if you will let him know that we are all thinking of him.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

[date]

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: PROMOTION ANNOUCEMENT

Dear [CONTACT NAME],

We are pleased to announce the promotion of [NAME] to the position of [POSITION] in the [DEPARTMENT]. [NAME] joined our company [NUMBER] years ago as a [TITLE]. He/She has also held the positions of [LIST].

In this new position [NAME] will be in charge of [DESCRIBE]. He/She will be responsible [RESPONSABILITIES].

Please join us in congratulating [NAME] on his/her promotion and in wishing him/her continued success at our company.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REMINDER TO EMPLOYEE TO RENEW DRIVERS LICENSE

Dear [CONTACT NAME],

Our records indicate that your driver's license will need to be renewed on or before [DATE]. As you know, it is essential that all of our employees who drive company vehicles must keep their licenses current. We wanted to advise you of this to provide you ample time to renew your license.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: REQUEST TO LOCATE FORMER EMPLOYEE

Dear [CONTACT NAME],

For some time I have been unsuccessfully attempting to locate an individual who was previously in your employ.

His name is [NAME OF INDIVIDUAL] and I have been informed that he worked for you during [TIME PERIOD].

If you know his current whereabouts, I would appreciate your either informing me of same or forwarding this letter to him.

Thank you very much for your help in this matter.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: RETIREMENT PARTY INVITATION (INTERNAL)

Dear [CONTACT NAME],

On [DATE] at [TIME], in [SPECIFY], the company is organizing a retirement party. As you know, [NAME] has been with the company for [NUMBER] years now, and has been held in high regard by his fellow workers. I am requesting that each employee donate [AMOUNT] so that we might present to [NAME] a gift memorializing his time spent with our company. We are at this time undecided on the type of gift, and your suggestions are therefore encouraged. Look forward to seeing you on [DAY].

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: THANK YOU FOR SUPPORT DURING ILLNESS

Dear [CONTACT NAME],

Heart attacks are something that happen to the next fellow, and it was therefore rather surprising to wake up in [HOSPITAL] and be informed that I had just had one.

I have learned of the generous support you lent to my family during my illness, and would like to sincerely thank you for the kindness and assistance you provided during my immobility. Individuals like you are few and far between. I am looking forward to returning to work as soon as I get my clean bill of health. Thank you again.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: COMPLIMENTARY LETTER ON YOUR HANDLING OF DIFFICULTY

Dear [CONTACT NAME],

Several of your associates in the [DEPARTMENT] have informed me of the incident that occurred [DATE]. They have all agreed that [SPECIFY]. They also all agreed that you remained a gentleman throughout the entire time, attempting to solve the problem.

I compliment you on your self-control, and in handling the situation in such an exemplary manner.

I have placed a call to [COMPANY] and fully anticipate your receiving an apology from them.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CONGRATULATIONS ON A JOB WELL DONE

Dear [CONTACT NAME],

It is always a pleasure to write a letter to an employee that has shown great achievement in his work. I want to personally congratulate you on [SPECIFY]. I've always been persuaded that you were extremely qualified for [POSITION]. Quite a few [EMPLOYEES OF DEPARTMENT] told me that they have received numerous compliments from our clients.

Congratulations on a job well done. We are very proud of your association with our organization and hope that you will continue your good work in the future.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CONGRATULATIONS ON OUTSTANDING ACHIEVEMENT

Dear [CONTACT NAME],

You have proven the skeptics wrong and accomplished what most said was impossible.

There is no doubt that your recent achievements will be spoken of for some time to come and that the admiration for your accomplishments is felt by all of us within the company as well as the industry.

Please accept my heartiest congratulations for your success.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

DR. LUBOGO ISAAC CHRISTOPHER

February 28, 2022

Contact Name

Address

Address2

City, State/Province

Zip/Postal Code

OBJECT: CONGRATULATIONS ON YOUR 5-YEAR ANNIVERSARY

Dear [CONTACT NAME],

It seems like yesterday but [DATE] will mark your fifth anniversary as a valued member of the [NAME OF FIRM]. We would like to take this opportunity to thank you for these past five years of fine workmanship and company loyalty.

We know that the growth and success of our company is largely dependent on having strong and capable staff members, such as yourself, and recognize the contribution you make in helping us maintain the strong position we enjoy in the industry.

We are hoping that you will remain with us for many years to come and would like to offer our congratulations on this anniversary.

Sincerely,

Your name

Your title

Telephone contact

youremail@yourcompany.com

- The pay and benefits the employee receives and how they compare with other companies
- The consistency and fairness of the way employees are treated and disciplined
- Whether the employee feels that supervisors and coworkers tell the employee what the employee needs to know
- The potential for growth/advancement
- The employee's experiences with and feelings about coaching and feedback
- The usefulness and appropriateness of instructions and training received
- The effectiveness of communication among coworkers and between workers and supervisors
- The attitude of the managers/owners toward the employees

You might ask the employee to respond to each of these topics. Be sure to take good notes. After the discussion, sum up by saying:

Thanks very much for taking the time to let me know how you feel. I appreciate your honesty, and I hope you'll feel free to come and talk to me if you have questions, suggestions, or additional comments.

Let the employee know what to expect:

After I conduct some more meetings with other employees, I'm going to look at this information and try to figure out ways that we can change things to make your job even more fulfilling and rewarding. I hope to have some information back to you within two weeks that will tell you where we'll go from here.

Thanks again.

February 28, 2022

Contact Name

Address

Address 2

City, State/Province

Zip/Postal Code

OBJECT: LETTER OF ENCOURAGEMENT TO SALES STAFF

Dear [CONTACT NAME],

There are two sides to the story, two sides of a coin, and two ways to face the day. There are always the prophets of doom and the cynics who will be happy to lead their followers through long periods of drought and famine.

When an unfortunate individual starts blaming his own failures on others, and on conditions over which he has no control, he can usually forget about achieving his goals. There are good times and bad times, but at all times there are sales that are made and sales that are lost. You have all proven that you are not only capable, but excel as salesmen. I am proud of the accomplishments of our sales force and know that nothing can hold back the motivated individual who has an excellent product to sell.

In the months to come, I feel confident that you will persevere in a manner that will result in an increase in sales and commissions to each and every one of you that will far exceed our projections. The outlook for the coming year is brighter than it has been for some time. With a positive, assertive attitude, nothing can stop us!

Sincerely,

Your name

Your title

Telephone contact

- Computerworld
- Entrepreneur
- eWeek
- Forbes
- Fortune
- Home Office Computing Inc.
- Independent Business
- MacCentral
- Macworld Online
- PC Magazine
- PC Novice
- PC World
- None of these

5. As a small-business owner, please check those of the following topics that you consider useful.

- Tax information
- Financial (raising money, etc.)
- Marketing strategies
- Latest office equipment
- Franchise information
- All of the above
- New ideas for business
- Computer technology
- Company profiles
- Management tips
- Latest small-business trends and statistics
- None of these

6. Are you:

- Male
- Female

7. What is your total annual household income? (Include income from all family members and all sources—salary, bonuses, investment income, rents, royalties, etc.)

- Less than \$30,000
- \$40,000 - \$49,999
- \$60,000 - \$74,999
- \$100,000 - \$149,999
- \$250,000 - \$499,999
- \$1 million or more
- \$30,000 - \$39,999
- \$50,000 - \$59,999
- \$75,000 - \$99,999
- \$150,000 - \$249,999
- \$500,000 - \$999,999

PERSONALITY AND ABILITY TESTS

PERSONAL FLEXIBILITY SKILLS TEST

Are You Ready for Change?

These sample questions come from one of several tools that we use in our assessment and development programs. The focus of this particular tool is on development. Each of the questions represent different types of actions you must take in your career and/or job, and relates to the business situation you might use. Within each section (A, B, C, and D), read the questions and choose the one response which most closely describes your behavior. To receive results, you must respond to every section (a total of four sections). Your feedback results will be more accurate and helpful if you are as truthful as possible. If you rate yourself at or beyond the midpoint, "a 3, 4 or 5", on any section, you should be able to describe and document an example of how and when you performed the activity.

Maximum score of 20: (4 sections) X (5 points per section)

SECTION A: Willingness and Ability to Change your Position on Issues	
Points	
1	I am usually willing to change my mind when the majority of the group disagrees with me.
2	I modify my stance on issues when doing so would benefit others with whom I am associated.
3	I stay informed of various positions and scenarios and make changes as they are needed.
4	I quickly modify my stance when there is new and valid information.

5	I maintain or alter my position by considering how information and resources apply to situations.
---	---

SECTION B: Willingness and Ability to Initiate Action	
Points	
1	In most situations I seek additional information before choosing a course of action.
2	I insist on finishing all currently scheduled tasks before initiating action on additional work.
3	In unfamiliar situations, I readily seek assistance before taking action.
4	In most situations, I initiate action with just the immediately available information and resources.
5	I willingly consider and examine different methods to accomplish objectives.

SECTION C: Willingness and Ability to Make Decisions	
Points	
1	In unfamiliar situations I reach conclusions only after thoroughly studying the available information and resources.
2	I reanalyze all available information when presented with new, valid perspectives.
3	In new situations, I act only after considering possible outcomes and preparing to deal with contingencies.
4	I readily seek alternatives to ensure that I can make valid decisions.
5	I maintain or alter decisions by considering how information and resources apply to situations.

SECTION D: Willingness and Ability to Work with Others	
Points	
1	In difficult situations I almost always find that it is best to take the path of least resistance.
2	I consider others' views once they can provide me with all possible information and resources.
3	I seek others' input to support my decisions or suggested changes.
4	I actively seek opportunities to neutralize or turnaround difficult challenges.
5	I frequently offer effective ideas to others despite possible resistance or risks.

TOTAL POINTS: _____

Based on your responses, your current readiness for change appears to be:

17-20: Congratulations! You are ready now to deal with all expected and most unexpected changes. This score places you at the **Expert Level** meaning that you are extremely effective at managing change and leading individual, team, and organization change processes. At this level you are quite capable of helping individuals and teams effectively respond to change. Although you have few development needs, you will benefit from efforts to find additional opportunities to extend your Personal Flexibility strengths. We hope that you will continue your self-guiding and learning process.

12-16: Solid Performance. You are ready now to deal with routine, expected changes. This score places you at the **Experienced Level** meaning that you are good at managing change and working effectively with individuals and teams to incorporate new processes within your area of responsibility or expertise. At this level you work confidently with others to adjust to new situations and to improve individual and team performance. You have some development needs

but, with a persistent and focused developmental effort, you will see marked improvement and you will be ready to advance to the next level when the opportunity arises.

4-11: Significant Development Needs. You are ready now to learn more about dealing with expected and unexpected changes. This score places you at the **Entry Level** meaning that you have a ways to go before you are considered effective at managing change and working effectively with individuals, teams, and organizations in new programs and situations. At this level you work hard and focus on ensuring current work procedures are followed. However, you are more reactive than proactive in dealing with your work environment and market changes. Although you have many development needs, you will benefit from pinpointing one or two areas for development which will help you focus and achieve better results faster.

Note: If you scored yourself particularly high or low in any one of the four sections, you may want to validate this finding by asking your coworkers or staff to evaluate and document your performance using this same assessment tool. For example, if you scored yourself low in "Working with Others", ask your staff or team whether or not they perceive you as slow or unwilling to seek and consider their input when experiencing change. If they do not validate your self-evaluation, ask them to explain their evaluation or to give you more information.

Being ready for change is a **CRITICAL SUCCESS FACTOR** and is recognized as important for success in today's challenging and re-engineered work environment.

PERSONAL STRENGTHS AND WEAKNESSES WORKSHEET

The chart below will help you identify your strengths and weaknesses and will give you a better idea if you're ready to become a small business owner. Examine each of the skills areas listed in the chart. Ask yourself whether you possess some or all of the skills listed in the parentheses. Then rate your skills in each area by circling the appropriate number, using a scale of 1-5, with 1 as low, 2 as between low and medium, 3 as medium, 4 as between medium and high, and 5 as high.

Skills	Rating				
	low		medium		high
Sales					
Pricing	1	2	3	4	5
Buying	1	2	3	4	5
Sales planning	1	2	3	4	5
Negotiating	1	2	3	4	5
Direct selling to buyers	1	2	3	4	5
Customer service follow-up	1	2	3	4	5
Managing other sales reps	1	2	3	4	5
Tracking competitors	1	2	3	4	5
Marketing					
Advertising/promotion/public relations	1	2	3	4	5
Annual marketing plans	1	2	3	4	5
Media planning and buying	1	2	3	4	5
Advertising copy writing	1	2	3	4	5
Marketing strategies	1	2	3	4	5
Distribution channel planning	1	2	3	4	5
Pricing	1	2	3	4	5

Packaging	1	2	3	4	5
Financial planning					
Cash flow planning	1	2	3	4	5
Monthly financial	1	2	3	4	5
Bank relationships	1	2	3	4	5
Management of credit lines	1	2	3	4	5
Accounting					
Bookkeeping	1	2	3	4	5
Billing, payables, receivables	1	2	3	4	5
Monthly profit and loss statements/balance sheets	1	2	3	4	5
Quarterly/annual tax preparation	1	2	3	4	5
Administrative					
Scheduling	1	2	3	4	5
Payroll handling	1	2	3	4	5
Benefits administration	1	2	3	4	5

Personnel management					
Hiring employees	1	2	3	4	5
Firing employees	1	2	3	4	5
Motivating employees	1	2	3	4	5
General management skills	1	2	3	4	5
Personal business skills					
Oral presentation skills	1	2	3	4	5
Written communication skills	1	2	3	4	5
Computer skills	1	2	3	4	5
Word processing skills	1	2	3	4	5
Fax, e-mail experience	1	2	3	4	5
Organizational skills	1	2	3	4	5
Intangibles					
Ability to work long and hard	1	2	3	4	5
Ability to manage risk and stress	1	2	3	4	5
Family support	1	2	3	4	5
Ability to deal with failure	1	2	3	4	5
Ability to work alone	1	2	3	4	5
Ability to work with and manage others	1	2	3	4	5
Total					

After you've rated yourself in each area, total up the numbers. Then apply the following rating scale:

- If your total is less than 20 points, you should reconsider whether owning a business is the right step for you.
- If your total is between 20 and 25, you're on the verge of being ready, but you may be wise to spend some time strengthening some of your weaker areas.

- If your total is above 25, you're ready to start a new business now.

STAFF MANAGEMENT

CHECKLIST

Harassment Investigation

Getting the employee to describe the claim:

- Listen to the charge. Don't make comments like, "You're overreacting."
- Acknowledge that bringing a harassment complaint is a difficult thing to do.
- Maintain a professional attitude.
- Gather the facts; don't be judgmental.
- Ask who, what, when, where, why, and how. Find out if the employee is afraid of retaliation. How does the employee want the problem resolved?

Conducting an investigation of the claim—general rules to follow:

- Investigate immediately. Delaying or extending an investigation can make witness testimony increasingly unreliable.
- Remember that the manner in which the investigation is handled can itself furnish grounds for a hostile environment claim, so carefully document every step.
- Treat all claims seriously—even those that seem frivolous—until you have reason to do otherwise.
- Keep the investigation confidential. Emphasize to those involved that your discussions are not to be shared with unconcerned parties. Warn of possible disciplinary action, if necessary.
- Limit the number of persons who have access to the information. Communicate strictly on a "need to know" basis.
- Ask questions so that information is not unnecessarily disclosed. For example, instead of asking, "Did you see Paul touch Joan?" ask "Have you seen anyone touch Joan at work in a way that made her uncomfortable?" Remember—the purpose of the investigation is to gather facts, not disseminate allegations.

- If there is more than one allegation, treat each separately.
- To avoid defamation liability, never broadcast the facts of a given situation or the results as an example to others or as a training tool.

Interviewing the complainant (Can be done when employee first reports charge):

- Get specific details. Find out what the complainant wants.
- Find out whether there was a pattern of previous episodes or similar behavior toward another employee.
- Get the specific context in which the conduct occurred. Where? What time?
- Determine the effect of the conduct on the complainant. Was it economic, non-economic and/or psychological?
- Determine the time relationship between the occurrence of the conduct, its effect on the complainant, and the time when the complainant made the report.
- Prepare a detailed chronology.
- Analyze whether there might have been certain events that triggered the complaint, *i.e.*, promotion, pay or transfer denial.
- Determine whether there were any possible motives on the part of the complainant.
- Explain to the complainant that the charges are serious, that you will conduct a thorough investigation before reaching any conclusion, and that he or she will not be retaliated against for making the complaint.
- Don't make any statements about the accused employee's character, job performance, family life.

Interviewing the accused:

- Obtain a statement from the accused.
- Identify the relationship of the accused to the complainant.
- Was there any prior consensual relationship between the parties? How long have they known each other? Is there a history of group or individual socializing?
- If the individual was a supervisor, indicate the individual's job title, obtain a copy of the individual's job description, and determine the individual's specific duties at the time of the alleged harassment.
- Determine whether the accused directed, or had responsibility for the work of other employees or the complainant, had authority to recommend employment decisions affecting others or was responsible for the maintenance or administration of the records of others.
- You can expect the accused to deny the charges. Observe the reaction. Note whether there

is surprise, anger, or disbelief. Describe the details of the allegation and note the areas of disagreement between the testimony of both parties. If the accused denies the allegations, probe further to determine with the accused the background, reasons, and motivation that could possibly trigger the complaint.

Interviewing witnesses:

- Obtain statements from any witnesses who support or deny any of the complainant's allegations. Be aware that witnesses are often reluctant to come forward out of fear of reprisal.
- Assure all witnesses that their cooperation is important, that their testimony is confidential and that they will not be retaliated against for testifying.

Resolving the complaint:

- Apologize for the incident occurring, *if that is appropriate*.
- When attempting to remedy the conduct, avoid requiring the claimant to work less desirable hours or in a less desirable location. If you offer to transfer the complainant, try to get the complainant's consent and make sure the transfer position is substantially similar to the complainant's prior position. This helps ensure that the complainant is not being illegally punished for reporting discrimination or harassment.
- Consider the severity, frequency and pervasiveness of the conduct when imposing discipline on the harasser. There are several disciplinary options available, including:
 - oral and written warning
 - reprimand
 - suspension
 - probation
 - transfer
 - demotion
 - discharge
- When imposing discipline on the accused, any forms of discipline short of discharge should be accompanied by a warning that similar misconduct in the future may result in immediate discharge. If no discipline is imposed, document the reasons why.
- Provide remedial counseling and training on sexual harassment, if appropriate. Also take the opportunity to re-communicate your policy.
- Carefully and fully document the investigation, the discipline imposed, and any remedial steps taken.
- Conduct follow-up interviews with the parties to inform them of the company's actions.

CHECKLIST

DOCUMENTS TO KEEP IN EMPLOYEES' PERSONNEL FILE

Some or all of the following documents should be maintained in an employee's personnel file. It is generally recommended that personnel file, payroll and other records be maintained for 3 years after employment. Other health and safety records should be maintained for 5 years.

- 
- Resume
 - Letters of Reference
 - Employment Application
 - Interview Record
 - Pay Record
 - Employment Agreements
 - Employee Handbook Acknowledgment
 - Harassment and Discrimination Policy Acknowledgment
 - Employee Compliance Surveys
 - Drug Testing Policy Acknowledgment and Results
 - Police Check Policy Acknowledgment and Results
 - Driver's Record Policy Acknowledgment and Results
 - Confidentiality, Trade Secret and Non-Disclosure Agreements
 - Performance Appraisals and Performance Agreements
 - Transfer Notices, Layoffs and Recall Notices.
 - Discipline Notices
 - Absenteeism and Lateness Notices
 - Termination Documents
 - Exit Interviews
 - Unemployment and Worker's Compensation Documents
 - Severance Agreements and Releases
 - Medical Records (limited access!)
 - Injury Reports (limited access!)
 - Union Membership Records

EMPLOYEE SUGGESTION FORM

IDENTIFICATION

% Employee Name:	% Date:
Position/Title:	Dept:

CONCERN

Please state the nature of your suggestion, including how it improves your job, the job of others, value to the customers, and the concern being addressed (lost time, misuse of materials, loss of revenue, return of goods, inefficiency, morale, etc.).

RESOURCES NEEDED

Please explain how the company can help to support your suggestion. Please include estimates of labor, materials, capital, equipment, or other resources needed.

Labor Needed:
Materials Needed:
Equipment Needed:
Capital (Money) Needed:
Other Resource Needed (Please specify):
Total Estimated Cost to Address Concern:

DESIRED BENEFIT

Please explain the anticipated total benefit to the company:
Total Estimated Financial Benefit to Company:

PLANNING

Please outline the steps needed and the individuals/departments that must be involved to accomplish the suggestion set forth above.
1.
2.
3.
Total Estimated Time to Completion:

Employee Signature: _____

Date: _____

FOR MANAGEMENT USE ONLY

Supervisor Name:	Title:
Date Received:	Follow-up Date

Suggestion Merit (Please explain pros and cons in detail):

Benefit to Company:

Cost to Company (include Capital, Equipment, Manpower, etc.):

Is this suggestion cost efficient and related to the company mission (Please explain in detail)

Suggestion Priority (1= Low, 5 = High) **1** **2** **3** **4** **5**

Action to be taken:

Suggested employee reward	
Supervisor name	Date
Supervisor signature	

B-1



CHAPTER 1 Personnel Assessment

Personnel assessment is a systematic approach to gathering information about individuals. This information is used to make employment or career-related decisions about applicants and employees.

Assessment is conducted for some specific purpose. For example, you, as an employer, may conduct personnel assessment to select employees for a job. Career counselors may conduct personnel assessment to provide career guidance to clients.

Chapter Highlights

1. Personnel assessment tools: tests and procedures
2. Relationship between the personnel assessment process and tests and procedures
3. What do tests measure?
4. Why do organizations conduct assessment?
5. Some situations in which an organization may benefit from testing
6. Importance of using tests in a purposeful manner
7. Limitations of personnel tests and procedures—*fallibility* of test scores.

Principles of Assessment Discussed

Use assessment tools in a *purposeful manner*

Use the *whole-person approach* to assessment.

1. Personnel assessment tools: tests and procedures

Any test or procedure used to measure an individual's employment or career-related qualifications and interests can be considered a personnel assessment tool. There are many types of personnel assessment tools. These include *traditional knowledge and ability tests*, *inventories*, *subjective procedures*, and *projective instruments*. In this guide, the term *test* will be used as a generic term to refer to any instrument or procedure that samples behavior or performance.

Personnel assessment tools differ in

Purpose, e.g., selection, placement, promotion, career counseling, or training

What they are designed to measure, e.g., abilities, skills, work styles, work values, or vocational interests

What they are designed to predict, e.g., job performance, managerial potential, career success, job satisfaction, or tenure

Format, e.g., paper-and-pencil, work-sample, or computer simulation

Level of standardization, objectivity, and quantifiability—Assessment tools and procedures vary greatly on these factors. For example, there are subjective evaluations of resumes, highly structured achievement tests, interviews having varying degrees of structure, and personality inventories with no specific right or wrong answers.

All assessment tools used to make employment decisions, regardless of their format, level of standardization, or objectivity, are subject to professional and legal standards. For example, both the evaluation of a resume and the use of a highly standardized achievement test must comply with applicable laws. Assessment tools used solely for career exploration or counseling are usually **not** held to the same legal standards.

2. Relationship between the personnel assessment process and tests and procedures

A personnel test or a procedure provides only *part of the picture* about a person. On the other hand, the personnel assessment process combines and evaluates all the information gathered about a person to make career or employment-related decisions. Figure 1 on page 1-3 highlights the relationship between assessment tools and the personnel assessment process.

3. What do tests measure?

People differ on many psychological and physical characteristics. These characteristics are called *constructs*. For example, people skillful in verbal and mathematical reasoning are considered high on *mental ability*. Those who have little physical stamina and strength are labeled low on *endurance* and *physical strength*. The terms *mental ability*, *endurance* and *physical strength* are constructs. *Constructs* are used to identify personal characteristics and to sort people in terms of how much they possess of such characteristics.

Constructs cannot be seen or heard, but we can observe their effects on other variables. For example, we don't observe physical strength but we can observe people with great strength lifting heavy objects and people with limited strength attempting, but failing, to lift these

<p>Tests, inventories, and procedures are assessment tools that may be used to measure an individual's abilities, values, and personality traits. They are</p>

<p>components of the assessment process.</p>

<p>! observations</p>

<p>! physical ability tests</p>

- | | |
|-------------------------------------|---------------------------------|
| ! resume evaluations | ! personality inventories |
| ! application blanks/questionnaires | ! honesty/integrity inventories |
| ! biodata inventories | ! interest inventories |
| ! interviews | ! work values inventories |
| ! work samples/performance tests | ! assessment centers |
| ! achievement tests | ! drug tests |
| ! general ability tests | ! medical tests |
| ! specific ability tests | |

Assessment process

Systematic approach to combining and evaluating all the information gained from testing and using it to make career or employment-related decisions.

Figure 1. Relationship between assessment tools and the assessment process.

objects. Such differences in characteristics among people have important implications in the employment context.

Employees and applicants vary widely in their knowledge, skills, abilities, interests, work styles, and other characteristics. These differences systematically affect the way people perform or behave on the job.

These differences in characteristics are not necessarily apparent by simply observing the employee or job applicant. Employment tests can be used to gather accurate information about job-relevant characteristics. This information helps assess the fit or match between people and jobs. To give an example, an applicant's score on a mechanical test reflects his or her mechanical ability as measured by the test. This score can be used to predict how well that applicant is likely to perform in a job that requires mechanical ability, as demonstrated through a professionally conducted job analysis. Tests can be used in this way to identify potentially good workers.

Some tests can be used to *predict* employee and applicant job performance. In testing terms, whatever the test is designed to predict is called the *criterion*. A *criterion* can be any measure of work behavior or any outcome that can be used as the standard for successful job performance. Some commonly used *criteria* are productivity, supervisory ratings of job performance, success in training, tenure, and absenteeism. For example, in measuring job performance, *supervisory*

ratings could be the *criterion* predicted by a test of mechanical ability. How well a test predicts a criterion is one indication of the usefulness of the test.

4. Why do organizations conduct assessment?

Organizations use assessment tools and procedures to help them perform the following human resource functions:

Selection. Organizations want to be able to identify and hire the best people for the job and the organization in a fair and efficient manner. A properly developed assessment tool may provide a way to select successful sales people, concerned customer service representatives, and effective workers in many other occupations.

Placement. Organizations also want to be able to assign people to the appropriate job level. For example, an organization may have several managerial positions, each having a different level of responsibility. Assessment may provide information that helps organizations achieve the best fit between employees and jobs.

Training and development. Tests are used to find out whether employees have mastered training materials. They can help identify those applicants and employees who might benefit from either remedial or advanced training. Information gained from testing can be used to design or modify training programs. Test results also help individuals identify areas in which self-development activities would be useful.

Promotion. Organizations may use tests to identify employees who possess managerial potential or higher level capabilities, so that these employees can be promoted to assume greater duties and responsibilities.

Career exploration and guidance. Tests are sometimes used to help people make educational and vocational choices. Tests may provide information that helps individuals choose occupations in which they are likely to be successful and satisfied.

Program evaluation. Tests may provide information that the organization can use to determine whether employees are benefiting from training and development programs.

5. Some situations in which an organization may benefit from testing

Some situations include the following:

Current selection or placement procedures result in poor hiring decisions.
Employee productivity is low.
Employee errors have serious financial, health, or safety consequences.
There is high employee turnover or absenteeism.
Present assessment procedures do not meet current legal and professional standards.

6. Importance of using tests in a purposeful manner

Assessment instruments, like other tools, can be extremely helpful when used properly, but counterproductive when used inappropriately. Often inappropriate use stems from not having a clear understanding of what you want to measure and why you want to measure it. Having a clear understanding of the purpose of your assessment system is important in selecting the appropriate assessment tools to meet that purpose. This brings us to an important principle of assessment.

Principle of Assessment

Use assessment tools in a *purposeful manner*. It is critical to have a clear understanding of what needs to be measured and for what purpose.

Assessment strategies should be developed with a clear understanding of the knowledge, skills, abilities, characteristics, or personal traits you want to measure. It is also essential to have a clear idea of what each assessment tool you are considering using is designed to measure.

7. Limitations of personnel tests and procedures—fallibility of test scores

Professionally developed tests and procedures that are used as part of a planned assessment program may help you select and hire more qualified and productive employees. However, it is essential to understand that *all assessment tools are subject to errors*, both in measuring a characteristic, such as verbal ability, and in predicting performance criteria, such as success on the job. This is true for all tests and procedures, regardless of how objective or standardized they might be.

Do not expect any test or procedure to measure a personal trait or ability with perfect accuracy for every single person.

Do not expect any test or procedure to be completely accurate in predicting performance.

There will be cases where a test score or procedure will predict someone to be a good worker, who, in fact, is not. There will also be cases where an individual receiving a low score will be rejected, who, in fact, would actually be capable and a good worker. Such errors in the assessment context are called *selection errors*. Selection errors cannot be completely avoided in any assessment program.

Why do organizations conduct testing despite these errors? The answer is that appropriate use of professionally developed assessment tools on average enables organizations to make more effective employment-related decisions than use of simple observations or random decision making.

Using a single test or procedure will provide you with a limited view of a person's employment or career-related qualifications. Moreover, you may reach a mistaken conclusion by giving too much weight to a single test result. On the other hand, using a variety of assessment tools enables you to get a more complete picture of the individual. The practice of using a variety of tests and procedures to more fully assess people is referred to as the *whole-person approach* to personnel assessment. This will help reduce the number of selection errors made and will boost the effectiveness of your decision making. This leads to an important principle of assessment.

Principle of Assessment

Do not rely too much on any one test to make decisions. Use the *whole-person approach* to assessment.

CHAPTER 2 Understanding the Legal Context of Assessment—Employment Laws and Regulations with Implications for Assessment

The number of laws and regulations governing the employment process has increased over the past four decades. Many of these laws and regulations have important implications for conducting employment assessment. This chapter discusses what you should do to make your practices consistent with legal, professional, and ethical standards.

Chapter Highlights

1. Title VII of the Civil Rights Act (CRA) of 1964, as amended in 1972; Tower Amendment to Title VII
2. Age Discrimination in Employment Act of 1967 (ADEA)
3. Equal Employment Opportunity Commission (EEOC) - 1972
4. *Uniform Guidelines on Employee Selection Procedures* - 1978; adverse or disparate impact, approaches to determine existence of adverse impact, four-fifths rule, job-relatedness, business necessity, biased assessment procedures
5. Title I of the Civil Rights Act (CRA) of 1991
6. Americans with Disabilities Act (ADA) - 1990
7. Record keeping of adverse impact and job-relatedness of tests
8. The Standards for Educational and Psychological Testing²⁸³ - 1985; The Principles for the Validation and Use of Personnel Selection Procedures - 1987 9. Relationship between federal, state, and local employment laws.

Principles of Assessment Discussed

Use only assessment instruments that are *unbiased* and *fair* to all groups.

The general purpose of employment laws and regulations is to prohibit *unfair discrimination* in employment and provide equal employment opportunity for all. Unfair discrimination occurs when employment decisions are based on race, sex, religion, ethnicity, age, or disability rather than on jobrelevant knowledge, skills, abilities, and other characteristics. Employment practices that unfairly discriminate against people are called *unlawful* or *discriminatory employment practices*.

The summaries of the laws and regulations in this chapter focus on their impact on employment testing and assessment. Before you institute any policies based on these laws and regulations, read the specific laws carefully, and consult with your legal advisors regarding the implications for your particular assessment program.

²⁸³ Currently under revision by the American Psychological Association.

1. Title VII of the Civil Rights Act (CRA) of 1964 (as amended in 1972); Tower Amendment to Title VII

Title VII is landmark legislation that prohibits unfair discrimination in all terms and conditions of employment based on race, color, religion, sex, or national origin. Other subsequent legislation, for example, ADEA and ADA, has added age and disability, respectively, to this list. Women and men, people age 40 and older, people with disabilities, and people belonging to a racial, religious, or ethnic group are protected under Title VII and other employment laws. Individuals in these categories are referred to as members of a **protected group**. The employment practices covered by this law include the following:

- recruitment
- transfer
- performance appraisal
- disciplinary action
- hiring
- training
- compensation
- termination
- job classification
- promotion
- union or other membership
- fringe benefits.

Employers having 15 or more employees, employment agencies, and labor unions are subject to this law.

The *Tower Amendment* to this act stipulates that professionally developed workplace tests can be used to make employment decisions. However, only instruments that do not discriminate against any protected group can be used. Use only tests developed by experts who have demonstrated qualifications in this area.

2. Age Discrimination in Employment Act of 1967 (ADEA)

This Act prohibits discrimination against employees or applicants age 40 or older in all aspects of the employment process. Individuals in this group must be provided equal employment opportunity; discrimination in testing and assessment is prohibited. If an older worker charges discrimination under the ADEA, the employer may defend the practice if it can be shown that the job requirement is a matter of *business necessity*. Employers must have documented support for the argument they use as a defense.

ADEA covers employers having 20 or more employees, labor unions, and employment agencies. Certain groups of employees are exempt from ADEA coverage, including public law enforcement

personnel, such as police officers and firefighters. Uniformed military personnel also are exempt from ADEA coverage.

3. Equal Employment Opportunity Commission (EEOC)—1972

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination, including Title VII, the U. S. Environmental Protection Agency (EPA), the ADEA, and the ADA. It receives, investigates, and processes charges of unlawful employment practices of employers filed by an individual, a group of individuals, or one of its commissioners. If the EEOC determines that there is “reasonable cause” that an unlawful employment practice has occurred, it is also authorized to sue on behalf of the charging individual(s) or itself. The EEOC participated in developing the *Uniform Guidelines on Employee Selection Procedures*.

4. *Uniform Guidelines on Employee Selection Procedures*—1978; adverse or disparate impact, approaches to determine existence of adverse impact, fourfifths rule, job-relatedness, business necessity, biased assessment procedures

In 1978, the EEOC and three other federal agencies—the Civil Service Commission (predecessor of the Office of Personnel Management) and the Labor and Justice Departments—jointly issued the *Uniform Guidelines on Employee Selection Procedures*. The *Guidelines* incorporate a set of principles governing the use of employee selection procedures according to applicable laws. They provide a framework for employers and other organizations for determining the proper use of tests and other selection procedures. The *Guidelines* are legally binding under a number of civil rights laws, including Executive Order 11246 and the Civil Rights Requirements of the National Job Training Partnership Act and the Wagner Peyser Act. In reviewing the testing practices of organizations under Title VII, the courts generally give great importance to the *Guidelines*’ technical standards for establishing the job-relatedness of tests. Also, federal and state agencies, including the EEOC, apply the *Uniform Guidelines* in enforcing Title VII and related laws.

The *Guidelines* cover all employers employing 15 or more employees, labor organizations, and employment agencies. They also cover contractors and subcontractors to the federal government and organizations receiving federal assistance. They apply to all tests, inventories and procedures used to make employment decisions. Employment decisions include hiring, promotion, referral,

disciplinary action, termination, licensing, and certification. Training may be included as an employment decision if it leads to any of the actions listed above. The *Guidelines* have significant implications for personnel assessment.

One of the basic principles of the *Uniform Guidelines* is that it is unlawful to use a test or selection procedure that creates adverse impact, unless justified. Adverse impact occurs when there is a substantially different rate of selection in hiring, promotion, or other employment decisions that work to the disadvantage of members of a race, sex, or ethnic group.

Different approaches exist that can be used to determine whether adverse impact has occurred. Statistical Techniques may provide information regarding whether or not the use of a test results in adverse impact. Adverse impact is normally indicated when the selection rate for one group is less than 80% (4/5) that of another. This measure is commonly referred to as the four-fifths or 80% rule.

However, variations in sample size may affect the interpretation of the calculation. For example, the 80% rule may not be accurate in detecting substantially different rates of selection in very large or small samples. When determining whether there is adverse impact in very large or small samples, more sensitive tests of statistical significance should be employed.

When there is no charge of adverse impact, the *Guidelines* do not require that you show the jobrelatedness of your assessment procedures. However, you are strongly encouraged to use only jobrelated assessment tools.

If your assessment process results in adverse impact, you are required to eliminate it or justify its continued use. The *Guidelines* recommend the following actions when adverse impact occurs:

- Modify the assessment instrument or procedure causing adverse impact.

- Exclude the component procedure causing adverse impact from your assessment program.

- Use an alternative procedure that causes little or no adverse impact, assuming that the alternative procedure is substantially equally valid.

- Use the selection instrument that has adverse impact if the procedure is job related and valid for selecting better workers, and there is no equally effective procedure available that has less adverse impact.

Note that for the continued use of assessment instruments or procedures that cause adverse impact, courts have required justification by business necessity as well as validity for the specific use. The

issue of business necessity is specifically addressed in Title I of the Civil Rights Act of 1991 (see next section).

An assessment procedure that causes adverse impact may continue to be used only if there is evidence that

It is job-related for the position in question.

Its continued use is justified by business necessity.

Demonstrating job-relatedness of a test is the same as establishing that the test may be validly used as desired. Chapter 3 discusses the concept of test validity and methods for establishing the validity or job-relatedness of a test.

Demonstrating the business necessity of using a particular assessment instrument involves showing that its use is essential to the safe and efficient operation of the business and there are no alternative procedures available that are substantially equally valid to achieve the business objectives with a lesser adverse impact.

Another issue of importance discussed in the *Uniform Guidelines* relates to test fairness. The *Uniform Guidelines* define **biased** or **unfair assessment procedures** as those assessment procedures on which one race, sex, or ethnic group characteristically obtains lower scores than members of another group and the differences in the scores are not reflected in differences in the job performance of members of the groups.

The meaning of scores on an unfair or biased assessment procedure will differ depending on the group membership of the person taking the test. Therefore, using biased tests can prevent employers from making equitable employment decisions. This leads to the next principle.

Principle of Assessment

Use only assessment instruments that are *unbiased* and *fair to all groups*.

Use of biased tools may result in unfair discrimination against members of the lower scoring groups. However, use of fair and unbiased tests can still result in adverse impact in some cases. If you are developing your own test or procedure, expert help may be advisable to make sure your procedure is fair to all relevant groups. If you are planning to purchase professionally developed assessment tools, first evaluate the fairness of those you are considering by reading the test manuals and consulting independent reviews.

5. Title I of the Civil Rights Act of 1991

Title I of the CRA of 1991 reaffirms the principles developed in Title VII of the CRA of 1964, but makes several significant changes.

As noted previously, the Act specifically requires demonstration of both the job-relatedness and business necessity of assessment instruments or procedures that cause adverse impact. The business necessity requirement, set forth in Title I of the CRA of 1991, is harder to satisfy in defending challenged practices than a business purpose test suggested by the Supreme Court earlier.

Another important provision relates to the use of group-based test score adjustments to maintain a representative work force. The Act prohibits score adjustments, the use of different cut-off scores for different groups of test takers, or alteration of employment-related test results based on the demographics of the test takers. Such practices, which are referred to as *race norming* or *withingroup norming*, were used by some employers and government agencies to avoid adverse impact.

The Act also makes compensatory and punitive damages available as a remedy for claims of intentional discrimination under Title VII and the ADA.

6. Americans with Disabilities Act (ADA) - 1990

Under the ADA, qualified individuals with disabilities must be given equal opportunity in all aspects of employment. The law prohibits employers with 15 or more employees, labor unions, and employment agencies from discriminating against qualified individuals with disabilities. Prohibited discrimination includes failure to provide reasonable accommodation to persons with disabilities when doing so would not pose undue hardship.

A qualified individual with a disability is one who can perform the essential functions of a job, with or without reasonable accommodation.

Disability is defined broadly to include any physical or mental impairment that substantially limits one or more of an individual's major life activities, such as caring for oneself, walking, talking, hearing, or seeing. Some common examples include visual, speech, and hearing disabilities; epilepsy; specific learning disabilities; cancer; serious mental illness; AIDS and

HIV infection; alcoholism; and past drug addiction. Noteworthy among conditions **not** covered are current illegal use of drugs, sexual behavior disorders, compulsive gambling, kleptomania, and pyromania.

Essential functions are the primary job duties that are fundamental, and not marginal to the job. Factors relevant to determining whether a function is essential include written job descriptions, the amount of time spent performing the function, the consequences of not requiring the function, and the work experiences of employees who hold the same or similar jobs.

Reasonable accommodation is defined as a change in the job application and selection process, a change in the work environment or the manner in which the work is performed, that enables a qualified person with a disability to enjoy equal employment opportunities. Under this Act, qualified individuals with disabilities must be provided reasonable accommodation so they can perform the essential job functions, as long as this does not create undue hardship to the employer.

Undue hardship is defined as significant difficulty or additional expense and is determined based on a number of factors. Some factors that are considered are the nature and net cost of the accommodation, the financial resources of the facility, the number employed at the facility, the effect on resources and operations, the overall financial resources of the entire organization, and the fiscal relationship of the facility with the organization. An accommodation that is possible for a large organization may pose an undue hardship for a small organization.

The ADA has major implications for your assessment practices.

In general, it is the responsibility of the individual with a disability to inform you that an accommodation is needed. However, you may ask for advance notice of accommodations required, for the hiring process only, so that you may adjust your testing program or facilities appropriately. When the need for accommodation is not obvious, you may request reasonable documentation of the applicant's disability and functional limitations for which he or she needs an accommodation.

Reasonable accommodation may involve making the test site accessible, or using an alternative assessment procedure. Administering employment tests to individuals with disabilities that require those individuals to use their impaired abilities is prohibited unless the

tests are intended to measure one of these abilities. For example, under the ADA, when a test screens out one or more individuals with a disability, its use must be shown to be job-related for the position in question and justified by business necessity.

One possible alternative procedure, if available, would be to use a form of the test that does not require use of the impaired ability. Another possibility is to use a procedure that compensates for the impaired ability, if appropriate. For example, allowing extra time to complete certain types of employment tests for someone with dyslexia or other learning disability, or providing a test with larger print or supplying a reader to a visually impaired individual where appropriate, would be considered reasonable accommodation.

The ADA expressly prohibits making medical inquiries or administering medical examinations prior to making a job offer. Before making medical inquiries, or requiring medical exams, you must make an offer of employment to the applicant. You may make medical inquiries or require medical exams of an employee only when doing so is work-related and justified by business necessity. All medical information you obtain about your applicants and employees is strictly confidential and must be treated as such. Access to and use of this information is also greatly restricted. For a more detailed discussion of medical examinations see Chapter 4.

Your organization should develop a written policy on conducting testing and assessment of individuals with disabilities. This will help ensure compliance with the provisions of the ADA.

If you need assistance in complying with the ADA, there are several resources you may contact.

The Job Accommodation Network: (800) 526-7234

Industry-Labor Council on Employment and Disability: (516) 747-6323

The American Foundation for the Blind: (202) 408-0200, (800) 232-5463

The President's Committee on Employment of People with Disabilities: (202) 376-6200

Disability and Business Technical Assistance Centers: (800) 949-4232.

7. Record keeping of adverse impact and job-relatedness of tests

The *Uniform Guidelines* and subsequent regulations² require that all employers maintain a record of their employment-related activities, including statistics related to testing and adverse impact. Filing and record-keeping requirements for large employers (those with over 100 employees) are

generally more extensive than those for employers with 100 or fewer employees. To learn more about the specific requirements, refer to EEOC regulations on record-keeping and reporting requirements under Title VII, and the ADA, 29 CFR part 1602, and the *Uniform Guidelines*.

9. The Standards for Educational and Psychological Testing - 1985; The Principles for the Validation and Use of Personnel Selection Procedures—1987

There are two resource guides published by major organizations in the testing field that will help you set up and maintain an assessment program. The principles and practices presented in these publications set the standards for professional conduct in all aspects of assessment.

The Standards for Educational and Psychological Testing. This publication was developed jointly by the American Psychological Association (APA), the National Council on Measurement in

Education (NCME), and the American Educational Research Association (AERA). The *Standards* are an authoritative and comprehensive source of information on how to develop, evaluate, and use tests and other assessment procedures in educational, employment, counseling, and clinical settings. Although developed as professional guidelines, they are consistent with applicable regulations and are frequently cited in litigation involving testing practices.

The Principles for the Validation and Use of Personnel Selection Procedures. This publication was developed by the Society for Industrial and Organizational Psychology (SIOP). Like the *Standards*, the *Principles* are also an excellent guide to good practices in the choice, development, evaluation, and use of assessment tools. However, their main focus is on tools used in the personnel assessment context. The *Principles* explain their relationship to the *Standards* in the following way:

The *Standards* primarily address psychometric issues while the *Principles* primarily address the problems of making decisions in employee selection, placement, promotion, etc. The major concern of the *Standards* is general; the primary concern of the *Principles* is that performance on a test . . . is related to performance on a job or other measures of job success.

Compatibility of the Standards and the Principles with the Uniform Guidelines

The *Uniform Guidelines* were intended to be consistent with generally accepted professional standards for validating and evaluating standardized tests and other selection procedures. In this regard, the *Guidelines* specifically refer to the *Standards*.

It is strongly encouraged that you develop familiarity with both the *Standards* and the *Principles* in addition to the *Uniform Guidelines*. Together, they can help you conduct personnel assessment in a manner consistent with legal and professional standards.

9. Relationship between federal, state, and local employment laws

Some states and localities have issued their own fair employment practices laws, and some have adopted the federal *Uniform Guidelines*. These state and local laws may be more stringent than corresponding federal laws. When there is a contradiction, federal laws and regulations override any contradictory provisions of corresponding state or local laws. You should become thoroughly familiar with your own state and local laws on employment and testing before you initiate and operate an assessment program.

CHAPTER 3 Understanding Test Quality—Concepts of Reliability and Validity

Test *reliability* and *validity* are two technical properties of a test that indicate the quality and usefulness of the test. These are the two most important features of a test. You should examine these features when evaluating the suitability of the test for your use. This chapter provides a simplified explanation of these two complex ideas. These explanations will help you to understand reliability and validity information reported in test manuals and reviews and use that information to evaluate the suitability of a test for your use.

Chapter Highlights

1. What makes a good test?
2. Test reliability
3. Interpretation of reliability information from test manuals and reviews
4. Types of reliability estimates
5. Standard error of measurement
6. Test validity
7. Methods for conducting validation studies
8. Using validity evidence from outside studies
9. How to interpret validity information from test manuals and independent reviews.

Principles of Assessment Discussed

Use only *reliable* assessment instruments and procedures.

Use only assessment procedures and instruments that have been demonstrated to be valid for the specific purpose for which they are being used.

Use assessment tools that are appropriate for the target population.

1. What makes a good test?

An employment test is considered “good” if the following can be said about it:

The test measures what it claims to measure consistently or reliably. This means that if a person were to take the test again, the person would get a *similar* test score.

The test measures what it claims to measure. For example, a test of mental ability does in fact measure mental ability, and not some other characteristic.

The test is job-relevant. In other words, the test measures one or more characteristics that are important to the job.

By using the test, more effective employment decisions can be made about individuals. For example, an arithmetic test may help you to select qualified workers for a job that requires knowledge of arithmetic operations.

The degree to which a test has these qualities is indicated by two technical properties: *reliability* and *validity*.

2. Test reliability

Reliability refers to how dependably or consistently a test measures a characteristic. If a person takes the test again, will he or she get a similar test score, or a much different score? A test that yields similar scores for a person who repeats the test is said to measure a characteristic reliably. How do we account for an individual who does not get exactly the same test score every time he or she takes the test? Some possible reasons are the following:

Test taker's temporary psychological or physical state. Test performance can be influenced by a person's psychological or physical state at the time of testing. For example, differing levels of anxiety, fatigue, or motivation may affect the applicant's test results.

Environmental factors. Differences in the testing environment, such as room temperature, lighting, noise, or even the test administrator, can influence an individual's test performance.

Test form. Many tests have more than one version or form. Items differ on each form, but each form is supposed to measure the same thing. Different forms of a test are known as *parallel forms* or *alternate forms*. These forms are designed to have similar measurement characteristics, but they contain different items. Because the forms are not exactly the same, a test taker might do better on one form than on another.

Multiple raters. In certain tests, scoring is determined by a rater's judgments of the test taker's performance or responses. Differences in training, experience, and frame of reference among raters can produce different test scores for the test taker.

These factors are sources of chance or random measurement error in the assessment process. If there were no random errors of measurement, the individual would get the same test score, the individual's "true" score, each time. The degree to which test scores are unaffected by measurement errors is an indication of the **reliability of the test**.

Reliable assessment tools produce dependable, repeatable, and consistent information about people. In order to meaningfully interpret test scores and make useful employment or career-related decisions, you need reliable tools. This brings us to the next principle of assessment.

Principle of Assessment

Use only *reliable* assessment instruments and procedures. In other words, use only assessment tools that provide dependable and consistent information.

3. Interpretation of reliability information from test manuals and reviews

Test manuals and independent review of tests provide information on test reliability. The following discussion will help you interpret the reliability information about any test.

The reliability of a test is indicated by the **Table 1. General Guidelines for reliability coefficient**.

It is denoted by the letter **Interpreting Reliability Coefficients**

“r,” and is expressed as a number ranging between 0 and 1.00, with $r = 0$ indicating no reliability, and $r = 1.00$ indicating perfect reliability. Do not expect to find a test with perfect reliability. Generally, you will see the reliability of a test as a decimal, for example, $r = .80$ or $r = .93$. The larger the reliability coefficient, the more repeatable or reliable the test scores. Table 1 serves as a general guideline for interpreting test reliability. However, do **not**

Reliability coefficient value	Interpretation
.90 and up	excellent
.80 - .89	good
.70 - .79	adequate
below .70	may have limited applicability

select or reject a test solely based on the size of its reliability coefficient. To evaluate a test’s reliability, you should consider the type of test, the type of reliability estimate reported, and the context in which the test will be used.

4. Types of reliability estimates

There are several types of reliability estimates, each influenced by different sources of measurement error. Test developers have the responsibility of reporting the reliability estimates that are relevant for a particular test. Before deciding to use a test, read the test manual and any

independent reviews to determine if its reliability is acceptable. The acceptable level of reliability will differ depending on the type of test and the reliability estimate used.

The discussion in Table 2 should help you develop some familiarity with the different kinds of reliability estimates reported in test manuals and reviews.

Table 2. Types of Reliability Estimates

Test-retest reliability indicates the repeatability of test scores with the passage of time. This estimate also reflects the stability of the characteristic or construct being measured by the test.

Some constructs are more stable than others. For example, an individual's reading ability is more stable over a particular period of time than that individual's anxiety level. Therefore, you would expect a higher test-retest reliability coefficient on a reading test than you would on a test that measures anxiety. For constructs that are expected to vary over time, an acceptable test-retest reliability coefficient may be lower than is suggested in Table 1.

Alternate or parallel form reliability indicates how consistent test scores are likely to be if a person takes two or more forms of a test.

A high parallel form reliability coefficient indicates that the different forms of the test are very similar which means that it makes virtually no difference which version of the test a person takes. On the other hand, a low parallel form reliability coefficient suggests that the different forms are probably **not** comparable; they may be measuring different things and therefore cannot be used interchangeably.

Inter-rater reliability indicates how consistent test scores are likely to be if the test is scored by two or more raters.

On some tests, raters evaluate responses to questions and determine the score. Differences in judgments among raters are likely to produce variations in test scores. A high inter-rater reliability coefficient indicates that the judgment process is stable and the resulting scores are reliable.

Inter-rater reliability coefficients are typically lower than other types of reliability estimates. However, it is possible to obtain higher levels of inter-rater reliabilities if raters are appropriately trained.

Internal consistency reliability indicates the extent to which items on a test measure the same thing.

A high internal consistency reliability coefficient for a test indicates that the items on the test are very similar to each other in content (homogeneous). It is important to note that the length of a test can affect internal consistency reliability. For example, a very lengthy test can spuriously inflate the reliability coefficient.

Tests that measure multiple characteristics are usually divided into distinct components. Manuals for such tests typically report a separate internal consistency reliability coefficient for each component in addition to one for the whole test.

Test manuals and reviews report several kinds of internal consistency reliability estimates. Each type of estimate is appropriate under certain circumstances. The test manual should explain why a particular estimate is reported.

5. Standard error of measurement

Test manuals report a statistic called the **standard error of measurement (SEM)**. It gives the margin of error that you should expect in an individual test score because of imperfect reliability of the test. The SEM represents the degree of confidence that a person's "true" score lies within a particular range of scores. For example, an SEM of "2" indicates that a test taker's "true" score probably lies within 2 points in either direction of the score he or she receives on the test. This means that if an individual receives a 91 on the test, there is a good chance that the person's "true" score lies somewhere between 89 and 93.

The SEM is a useful measure of the accuracy of individual test scores. The smaller the SEM, the more accurate the measurements.

When evaluating the reliability coefficients of a test, it is important to review the explanations provided in the manual for the following:

Types of reliability used. The manual should indicate why a certain type of reliability coefficient was reported. The manual should also discuss sources of random measurement error that are relevant for the test.

How reliability studies were conducted. The manual should indicate the conditions under which the data were obtained, such as the length of time that passed between administrations

of a test in a test-retest reliability study. In general, reliabilities tend to drop as the time between test administrations increases.

The characteristics of the sample group. The manual should indicate the important characteristics of the group used in gathering reliability information, such as education level, occupation, etc. This will allow you to compare the characteristics of the people you want to test with the sample group. If they are sufficiently similar, then the reported reliability estimates will probably hold true for your population as well.

For more information on reliability, consult the APA Standards, the SIOP Principles, or any major textbook on psychometrics or employment testing. Appendix A lists some possible sources.

6. Test validity

Validity is the most important issue in selecting a test. Validity refers to *what characteristic* the test measures and *how well* the test measures that characteristic.

Validity tells you if the characteristic being measured by a test is related to job qualifications and requirements.

Validity gives *meaning* to the test scores. Validity evidence indicates that there is linkage between test performance and job performance. It can tell you what you may conclude or predict about someone from his or her score on the test. If a test has been demonstrated to be a valid predictor of performance on a specific job, you can conclude that persons scoring high on the test are more likely to perform well on the job than persons who score low on the test, all else being equal.

Validity also describes the *degree* to which you can make specific conclusions or predictions about people based on their test scores. In other words, it indicates the usefulness of the test. It is important to understand the differences between *reliability* and *validity*. Validity will tell you how good a test is for a particular situation; reliability will tell you how trustworthy a score on that test will be. You cannot draw valid conclusions from a test score unless you are sure that the test is reliable. Even when a test is reliable, it may not be valid. You should be careful that any test you select is both reliable and valid for your situation.

A test's validity is established in reference to a specific purpose; the test may not be valid for different purposes. For example, the test you use to make valid predictions about someone's

technical proficiency on the job may not be valid for predicting his or her leadership skills or absenteeism rate. This leads to the next principle of assessment.

Principle of Assessment

Use only assessment procedures and instruments that have been demonstrated to be valid for the specific purpose for which they are being used.

Similarly, a test's validity is established in reference to specific groups. These groups are called the reference groups. The test may not be valid for different groups. For example, a test designed to predict the performance of managers in situations requiring problem solving may not allow you to make valid or meaningful predictions about the performance of clerical employees. If, for example, the kind of problem-solving ability required for the two positions is different, or the reading level of the test is not suitable for clerical applicants, the test results may be valid for managers, but not for clerical employees.

Test developers have the responsibility of describing the reference groups used to develop the test. The manual should describe the groups for whom the test is valid, and the interpretation of scores for individuals belonging to each of these groups. You must determine if the test can be used appropriately with the particular type of people you want to test. This group of people is called your *target population* or *target group*.

Principle of Assessment

Use assessment tools that are appropriate for the target population.

Your target group and the reference group do **not** have to match on all factors; they must be sufficiently similar so that the test will yield meaningful scores for your group. For example, a writing ability test developed for use with college seniors may be appropriate for measuring the writing ability of white-collar professionals or managers, even though these groups do not have identical characteristics. In determining the appropriateness of a test for your target groups, consider factors such as occupation, reading level, cultural differences, and language barriers.

Recall that the *Uniform Guidelines* require assessment tools to have adequate supporting evidence for the conclusions you reach with them in the event adverse impact occurs. A valid personnel tool is one that measures an important characteristic of the job you are interested in. Use of valid tools will, on average, enable you to make better employment-related decisions. Both from

business-efficiency and legal viewpoints, it is essential to only use tests that are valid for your intended use.

In order to be certain an employment test is useful and valid, evidence must be collected relating the test to a job. The process of establishing the job relatedness of a test is called **validation**.

7. Methods for conducting validation studies

The *Uniform Guidelines* discuss the following three methods of conducting validation studies. The *Guidelines* describe conditions under which each type of validation strategy is appropriate. They do not express a preference for any one strategy to demonstrate the job-relatedness of a test.

Criterion-related validation requires demonstration of a correlation or other statistical relationship between test performance and job performance. In other words, individuals who score high on the test tend to perform better on the job than those who score low on the test. If the criterion is obtained at the same time the test is given, it is called concurrent validity; if the criterion is obtained at a later time, it is called predictive validity.

Content-related validation requires a demonstration that the content of the test represents important job-related behaviors. In other words, test items should be relevant to and measure directly important requirements and qualifications for the job.

Construct-related validation requires a demonstration that the test measures the construct or characteristic it claims to measure, and that this characteristic is important to successful performance on the job.²⁸⁴

The three methods of validity—criterion-related, content, and construct—should be used to provide validation support depending on the situation. These three general methods often overlap, and, depending on the situation, one or more may be appropriate. French (1990) offers situational examples of when each method of validity may be applied.

First, as an example of criterion-related validity, take the position of millwright. Employees' scores (predictors) on a test designed to measure mechanical skill could be correlated with their performance in servicing machines (criterion) in the mill. If the correlation is high, it can be said

²⁸⁴ Current thinking in psychology is that construct validity encompasses all other forms of validity; validation is the cumulative and on-going process of giving meaning to test scores.

that the test has a high degree of validation support, and its use as a selection tool would be appropriate.

Second, the content validation method may be used when you want to determine if there is a relationship between behaviors measured by a test and behaviors involved in the job. For example, a typing test would be high validation support for a secretarial position, assuming much typing is required each day. If, however, the job required only minimal typing, then the same test would have little content validity. Content validity does not apply to tests measuring learning ability or general problem-solving skills (French, 1990).

Finally, the third method is construct validity. This method often pertains to tests that may measure abstract traits of an applicant. For example, construct validity may be used when a bank desires to test its applicants for “numerical aptitude.” In this case, an aptitude is not an observable behavior, but a concept created to explain possible future behaviors. To demonstrate that the test possesses construct validation support, “. . . the bank would need to show (1) that the test did indeed measure the desired trait and (2) that this trait corresponded to success on the job” (French, 1990, p. 260).

Professionally developed tests should come with reports on validity evidence, including detailed explanations of how validation studies were conducted. If you develop your own tests or procedures, you will need to conduct your own validation studies. As the test user, you have the ultimate responsibility for making sure that validity evidence exists for the conclusions you reach using the tests. This applies to all tests and procedures you use, whether they have been bought off-the-shelf, developed externally, or developed in-house.

Validity evidence is especially critical for tests that have adverse impact. When a test has adverse impact, the *Uniform Guidelines* require that validity evidence for that specific employment decision be provided.

The particular job for which a test is selected should be very similar to the job for which the test was originally developed. Determining the degree of similarity will require a **job analysis**. Job analysis is a systematic process used to identify the tasks, duties, responsibilities and working conditions associated with a job and the knowledge, skills, abilities, and other characteristics required to perform that job.

Job analysis information may be gathered by direct observation of people currently in the job, interviews with experienced supervisors and job incumbents, questionnaires, personnel and

equipment records, and work manuals. In order to meet the requirements of the *Uniform Guidelines*, it is advisable that the job analysis be conducted by a qualified professional, for example, an industrial and organizational psychologist or other professional well trained in job analysis techniques. Job analysis information is central in deciding what to test for and which tests to use.

8. Using validity evidence from outside studies

Conducting your own validation study is expensive, and, in many cases, you may not have enough employees in a relevant job category to make it feasible to conduct a study. Therefore, you may find it advantageous to use professionally developed assessment tools and procedures for which documentation on validity already exists. However, care must be taken to make sure that validity evidence obtained for an “outside” test study can be suitably “transported” to your particular situation.

The *Uniform Guidelines*, the *Standards*, and the *SIOP Principles* state that evidence of transportability is required. Consider the following when using outside tests:

Validity evidence. The validation procedures used in the studies must be consistent with accepted standards.

Job similarity. A job analysis should be performed to verify that your job and the original job are substantially similar in terms of ability requirements and work behavior.

Fairness evidence. Reports of test fairness from outside studies must be considered for each protected group that is part of your labor market. Where this information is not available for an otherwise qualified test, an internal study of test fairness should be conducted, if feasible.

Other significant variables. These include the type of performance measures and standards used, the essential work activities performed, the similarity of your target group to the reference samples, as well as all other situational factors that might affect the applicability of the outside test for your use.

To ensure that the outside test you purchase or obtain meets professional and legal standards, you should consult with testing professionals. See Chapter 5 for information on locating consultants.

9. How to interpret validity information from test manuals and independent reviews

To determine if a particular test is valid for your intended use, consult the test manual and available independent reviews. (Chapter 5 offers sources for test reviews.) The information below can help you interpret the validity evidence reported in these publications.

In evaluating validity information, it is important to determine whether the test can be used in the specific way you intended, and whether your target group is similar to the test reference group.

Test manuals and reviews should describe

- Available validation evidence supporting use of the test for specific purposes. The manual should include a thorough description of the procedures used in the validation studies and the results of those studies.
- The possible valid uses of the test. The purposes for which the test can legitimately be used should be described, as well as the performance criteria that can validly be predicted.
- The sample group(s) on which the test was developed. For example, was the test developed on a sample of high school graduates, managers, or clerical workers? What was the racial, ethnic, age, and gender mix of the sample?
- The group(s) for which the test may be used.

The *criterion-related validity* of a test is measured by the *validity coefficient*. It is reported as a number between 0 and 1.00 that indicates the magnitude of the relationship, “r,” between the test and a measure of job performance (criterion). The larger the validity coefficient, the more confidence you can have in predictions made from the test scores. However, a single test can never fully predict job performance because success on the job depends on so many varied factors. Therefore, validity coefficients, unlike reliability coefficients, rarely exceed $r = .40$.

As a general rule, the higher the validity

Validity coefficient value	Interpretation
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coefficient the more beneficial it is to use the	above .35	very beneficial
Table 3. General Guidelines for		
Validity coefficients of $r=.21$ to $r=.35$	.21 - .35	likely to be useful
Interpreting Validity Coefficients	are .11 - .20	depends on circumstances
typical for a single test. Validities for selection		
systems that use multiple tests will probably be	below .11	unlikely to be useful
higher because you are using different tools to		

measure/predict different aspects of performance, where a single test is more likely to measure or predict fewer aspects of total performance. Table 3 serves as a general guideline for interpreting test validity for a single test. Evaluating test validity is a sophisticated task, and you might require the services of a testing expert. In addition to the magnitude of the validity coefficient, you should also consider at a minimum the following factors:

- level of adverse impact associated with your assessment tool
- selection ratio (number of applicants versus the number of openings)
- cost of a hiring error
- cost of the selection tool
- probability of hiring qualified applicant based on chance alone.

Here are three scenarios illustrating why you should consider these factors, individually and in combination with one another, when evaluating validity coefficients:

Scenario One

You are in the process of hiring applicants where you have a high selection ratio and are filling positions that do not require a great deal of skill. In this situation, you might be willing to accept a selection tool that has validity considered “likely to be useful” or even “depends on circumstances” because you need to fill the positions, you do not have many applicants to choose from, and the level of skill required is not that high.

Now, let’s change the situation.

Scenario Two

You are recruiting for jobs that require a high level of accuracy, and a mistake made by a worker could be dangerous and costly. With these additional factors, a slightly lower validity

coefficient would probably not be acceptable to you because hiring an unqualified worker would be too much of a risk. In this case you would probably want to use a selection tool that reported validities considered to be “very beneficial” because a hiring error would be too costly to your company.

Here is another scenario that shows why you need to consider multiple factors when evaluating the validity of assessment tools.

Scenario Three

A company you are working for is considering using a very costly selection system that results in fairly high levels of adverse impact. You decide to implement the selection tool because the assessment tools you found with lower adverse impact had substantially lower validity, were just as costly, and making mistakes in hiring decisions would be too much of a risk for your company. Your company decided to implement the assessment given the difficulty in hiring for the particular positions, the “very beneficial” validity of the assessment and your failed attempts to find alternative instruments with less adverse impact. However, your company will continue efforts to find ways of reducing the adverse impact of the system.

Again, these examples demonstrate the complexity of evaluating the validity of assessments. Multiple factors need to be considered in most situations. You might want to seek the assistance of a testing expert (for example, an industrial/organizational psychologist) to evaluate the appropriateness of particular assessments for your employment situation.

When properly applied, the use of valid and reliable assessment instruments will help you make better decisions. Additionally, by using a variety of assessment tools as part of an assessment program, you can more fully assess the skills and capabilities of people, while reducing the effects of errors associated with any one tool on your decision making.

CHAPTER 4 Assessment Tools and Their Uses

This chapter briefly describes different types of assessment tools and procedures that organizations commonly use to conduct personnel assessment. Included are techniques such as employment interviews and reference checks, as well as various types of professionally developed assessment instruments. This chapter also includes a discussion of the use of medical tests and drug and alcohol testing in the workplace. Table 4, which appears at the end of this chapter, contains a brief description of the advantages and disadvantages of different types of assessment instruments.

Chapter Highlights

1. Mental and physical ability tests
2. Achievement tests
3. Biodata inventories
4. Employment interviews
5. Personality inventories
6. Honesty and integrity measures
7. Education and experience requirements (including licensing and certification)
8. Recommendations and reference checks
9. Assessment centers
10. Medical examinations
11. Drug and alcohol tests

It takes a good deal of knowledge and judgment to properly use assessment tools to make effective employment-related decisions. Many assessment tools and procedures require specialized training, education, or experience to administer and interpret correctly. These requirements vary widely, depending on the specific instruments being used. Check with the test publisher to determine whether you and your staff meet these requirements. To ensure that test users have the necessary qualifications, some test publishers and distributors require proof of qualifications before they will release certain tests.

1. Mental and physical ability tests

When properly applied, ability tests are among the most useful and valid tools available for predicting success in jobs and training across a wide variety of occupations. Ability tests are most commonly used for entry-level jobs, and for applicants without professional training or advanced degrees. Mental ability tests are generally used to measure the *ability* to learn and perform particular job responsibilities.

Examples of some mental abilities are verbal, quantitative, and spatial abilities. Physical ability tests usually encompass abilities such as strength, endurance, and flexibility.

General ability tests typically measure one or more broad mental abilities, such as verbal, mathematical, and reasoning skills. These skills are fundamental to success in many different kinds of jobs, especially where cognitive activities such as reading, computing, analyzing, or communicating are involved.

Specific ability tests include measures of distinct physical and mental abilities, such as reaction time, written comprehension, mathematical reasoning, and mechanical ability, that are important for many jobs and occupations. For example, good mechanical ability may be important for success in auto mechanic and engineering jobs; physical endurance may be critical for fire fighting jobs.

Although mental ability tests are valid predictors of performance in many jobs, use of such tests to make employment decisions often results in adverse impact. For example, research suggests that mental abilities tests adversely impact some racial minority groups and, if speed is also a component of the test, older workers may be adversely impacted. Similarly, use of physical ability tests often results in adverse impact against women and older persons. See Chapter 7 for strategies to minimize adverse impact in your assessment program.

2. Achievement tests

Achievement tests, also known as proficiency tests, are frequently used to measure an individual's current knowledge or skills that are important to a particular job. These tests generally fall into one of the following formats:

Knowledge tests typically involve specific questions to determine how much the individual knows about particular job tasks and responsibilities. Traditionally they have been administered in a paper-and-pencil format, but computer administration is becoming more common. Licensing exams for accountants and psychologists are examples of knowledge tests. Knowledge tests tend to have relatively high validity.

Work-sample or performance tests require the individual to actually demonstrate or perform one or more job tasks. These tests, by their makeup, generally show a high degree of job-relatedness. For example, an applicant for an office-machine repairman position may be asked

to diagnose the problem with a malfunctioning machine. Test takers generally view these tests as fairer than other types of tests. Use of these tests often results in less adverse impact than mental ability tests and job knowledge tests. However, they can be expensive to develop and administer.

3. Biodata inventories

Biodata inventories are standardized questionnaires that gather job-relevant biographical information, such as amount and type of schooling, job experiences, and hobbies. They are generally used to predict job and training performance, tenure, and turnover. They capitalize on the well-proven notion that *past behavior is a good predictor of future behavior*.

Some individuals might provide inaccurate information on biodata inventories to portray themselves as being more qualified or experienced than they really are. Internal consistency checks can be used to detect whether there are discrepancies in the information reported. In addition, reference checks and resumes can be used to verify information.

4. Employment interviews

The employment interview is probably the most commonly used assessment tool. The interview can range from being totally unplanned, that is, *unstructured*, to carefully designed beforehand, that is, completely *structured*. The most structured interviews have characteristics such as standardized questions, trained interviewers, specific question order, controlled length of time, and a standardized response evaluation format. At the other end of the spectrum, a completely unstructured interview would probably be done “off the cuff,” with untrained interviewers, random questions, and with no consideration of time. A structured interview that is based on an analysis of the job in question is generally a more valid predictor of job performance than an unstructured interview. Keep in mind that interviews may contain both structured and unstructured characteristics.

Regardless of the extent to which the interview is structured or unstructured, the skill of the interviewer can make a difference in the quality of the information gathered. A skillful, trained interviewer will be able to ask job-relevant follow-up questions to clarify and explore issues brought up during the interview.

It is unlawful to ask questions about medical conditions and disability before a conditional job offer. Even if the job applicant volunteers such information, you are not permitted to pursue inquiries about the nature of the medical condition or disability. Instead, refocus the interview so that emphasis is on the ability of the applicant to perform the job, not on the disability. In some limited circumstances, you may ask about the need for reasonable accommodation.

Where disability is concerned, the law requires that employers provide reasonable accommodations (meaning a modification or adjustment) to a job, the work environment or the way things are usually done so that qualified individuals with a disability are not excluded from jobs that they can perform. These legal requirements apply to all selection standards and procedures, including questions and rating systems used during the interview process.

Following a structured interview format can help interviewers avoid unlawful or inappropriate inquiries where medical conditions, disability, and age are concerned. For additional information on the ADA, see the *EEOC Technical Assistance Manual on the Employment Provisions of the Americans with Disabilities Act* and the *EEOC ADA Enforcement Guidance: Preemployment Disability Related Questions and Medical Examinations*.

It is important to note that inquiries about race, ethnicity, or age generally are not expressly prohibited under the law, but usually serve no credible purpose in an interview. These types of questions are also closely scrutinized by organizations, including regulatory agencies, interested in protecting the civil rights of applicants.

5. Personality inventories

In addition to abilities, knowledge, and skills, job success also depends on an individual's personal characteristics. Personality inventories designed for use in employment contexts are used to evaluate such characteristics as motivation, conscientiousness, self-confidence, or how well an employee might get along with fellow workers. Research has shown that, in certain situations, use of personality tests with other assessment instruments can yield helpful predictions.

Some personality inventories have been developed to determine the psychological attributes of an individual for diagnostic and therapeutic purposes. These clinical tools are not specifically designed to measure job-related personality dimensions. These tests are used in only very limited employment situations, primarily with jobs where it is critical to have some idea about an

applicant's state of mind, such as in the selection of law enforcement officers or nuclear power plant workers. This distinction between clinical and employment-oriented personality inventories can be confusing. Applicants asked to take personality tests may become concerned even though only employment-oriented personality inventories will be administered.

If a personality inventory or other assessment tool provides information that would lead to identifying a mental disorder or impairment, the tool is considered a medical exam under the ADA. The ADA permits medical examinations of applicants and employees only in limited circumstances.

There are a few additional concerns about personality tests. Since there are usually no right or wrong answers to the test items, test takers may provide socially desirable answers. However, sophisticated personality inventories often have "lie-scales" built in, which allow such response patterns to be detected. There is also a general perception that these tests ask personal questions that are only indirectly relevant to job performance. This may raise concern on the part of test takers that such tests are an invasion of privacy. Some of these concerns can be reduced by including personality tests only as one part of a broader assessment program.

6. Honesty and integrity measures

Honesty tests are a specific type of personality test. There has been an increase in the popularity of honesty and integrity measures since the Employee Polygraph Protection Act (1988) prohibited the use of polygraph tests by most private employers. Honesty and integrity measures may be broadly categorized into two types.

Overt integrity tests gauge involvement in and attitudes toward theft and employee delinquency. Test items typically ask for opinions about frequency and extent of employee theft, leniency or severity of attitudes toward theft, and rationalizations of theft. They also include direct questions about admissions of, or dismissal for, theft or other unlawful activities.

Personality-based measures typically contain disguised-purpose questions to gauge a number of personality traits. These traits are usually associated with a broad range of counterproductive employee behaviors, such as insubordination, excessive absenteeism, disciplinary problems, and substance abuse.

All the legitimate concerns and cautions of personality testing apply here. For instance, test takers may raise privacy concerns or question the relevance of these measures to job performance. If you choose to use an honesty test to select people for a particular job, you should document the business necessity of such a test. This would require a detailed job analysis, including an assessment of the consequences of hiring a dishonest individual. Make certain that your staff have the proper training and qualifications to administer and interpret integrity tests.

It is generally recommended that these tests be used only for pre-employment screening. Using the test with present employees could create serious morale problems. Using current employees' poor scores to make employment decisions may have legal repercussions when not substantiated by actual counterproductive behavior.

All honesty and integrity measures have appreciable prediction errors. To minimize prediction errors, thoroughly follow up on poor-scoring individuals with retesting, interviews, or reference checks. In general, integrity measures should not be used as the sole source of information for making employment decisions about individuals.

A number of states currently have statutes restricting the use of honesty and integrity measures. At least one state has an outright ban on their use. Consult regulations in your state that govern the use of honesty and integrity tests before using them.

7. Education and experience requirements (including licensing and certification)

Most jobs have some kind of education and experience requirements. For example, they may specify that only applicants with college degrees or equivalent training or experience will be considered. Such requirements are more common in technical, professional, and higher-level jobs. Certain licensing, certification, and education requirements are mandated by law, as in the case of truck drivers and physicians. This is done to verify minimum competence and to protect public safety.

Requirements for experience and education should be job-related. If the requirements you set result in adverse impact, you will have to demonstrate that they are job-related and justified by business necessity. However, in some cases job-relatedness might be difficult to demonstrate.

For example, it is difficult to show that exactly 3 years of experience is necessary or demonstrate that a high school degree is required for a particular job.

8. Recommendations and reference checks

Recommendations and reference checks are often used to verify education, employment, and achievement records already provided by the applicant in some other form, such as during an interview or on a resume or application form. This is primarily done for professional and high-level jobs.

These verification procedures generally do not help separate potentially good workers from poor workers. This is because they almost always result in positive reports. However, use of these measures may serve two important purposes

- they provide an incentive to applicants to be more honest with the information they provide
- they safeguard against potential negligent hiring lawsuits.

9. Assessment centers

In the assessment center approach, candidates are generally assessed with a wide variety of instruments and procedures. These could include interviews, ability and personality measures, and a range of standardized management activities and problem-solving exercises. Typical of these activities and exercises are in-basket tests, leaderless group discussions, and role-play exercises. Assessment centers are most widely used for managerial and high level positions to assess managerial potential, promotability, problem-solving skills, and decision-making skills.

In-basket tests ask the candidates to sort through a manager's "in-basket" of letters, memos, directives, and reports describing problems and scenarios. Candidates are asked to examine them, prioritize them, and respond appropriately with memos, action plans, and problem-solving strategies. Trained assessors then evaluate the candidates' responses.

Leaderless group discussions are group exercises in which a group of candidates is asked to respond to various kinds of problems and scenarios, without a designated group leader. Candidates are evaluated on their behavior in the group discussions. This might include their teamwork skills, their interaction with others, or their leadership skills.

In **role-play exercises**, candidates are asked to pretend that they already have the job and must interact with another employee to solve a problem. The other employee is usually a trained assessor. The exercise may involve providing a solution to a problem that the employee presents, or suggesting some course of action regarding a hypothetical situation. Candidates are evaluated on the behavior displayed, solutions provided, or advice given.

Assessors must be appropriately trained. Their skills and experience are essential to the quality of the evaluations they provide. Assessment centers apply the whole-person approach to personnel assessment. They can be very good predictors of job performance and behavior when the tests and procedures making up the assessment center are constructed and used appropriately.

It can be costly to set up an assessment center. Large companies may have their own assessment centers; mid-size and smaller firms sometimes send candidates to private consulting firms for evaluation.

10. Medical examinations

Medical examinations are used to determine if a person can safely and adequately perform a specific job. Medical exams may also be part of a procedure for maintaining comprehensive employee health and safety plans. In some limited circumstances, medical exams may be used for evaluating employee requests for reasonable accommodation for disabilities.

The Americans with Disabilities Act outlines when and in what manner medical exams can be used in employment-related situations. For additional information on the ADA, see Chapter 2 of the Guide, the *EEOC Technical Assistance Manual on the Employment Provisions of the Americans with*

Disabilities Act, the *EEOC ADA Enforcement Guidance: Preemployment Disability - Related Questions and Medical Examinations*, and the *EEOC Uniform Guidelines on Employee Selection Procedures*. Some major points regarding medical exams are described below.

Administering medical exams to job applicants or asking questions related to disability prior to making a job offer is prohibited.

Once you make a job offer to an applicant, you may require a medical exam, as long as you require the exam of **all** persons entering the same job category. You may require a medical exam even if it bears no relevance to job performance. However, if you refuse to hire based

on the results of the medical exam, the reasons for refusing to hire must be founded on issues of job-relevance and business necessity. In addition, you must demonstrate that no *reasonable accommodation* was available or possible without imposing *undue hardship* on your business. A medical exam may disqualify an individual who is deemed to be a direct threat to the health and safety of self or others. The EEOC has provided an explanation of what constitutes a direct threat.

When an individual is rejected as a direct threat to health and safety,

- the employer must be prepared to show a significant current risk of substantial harm (not a speculative or remote risk)
- the specific risk must be identified
- consideration of the risk must be based on objective medical or other factual evidence regarding the particular individual
- even if a genuine significant risk of substantial harm exists, the employer must consider whether it can be eliminated or reduced below the level of a direct threat by reasonable accommodation.

Stricter rules apply for medical exams or inquiries of current employees. Unlike the rules for applicants, these exams or inquiries must be justified based on job relevance and business necessity. The need for a medical exam may arise as a result of some problems with job performance or safety caused by a medical condition or it may be mandated by federal law for certain job categories.²⁸⁵

Your organization may conduct voluntary medical exams and inquiries of employees as part of an employee health program. However, the ADA imposes limitations on the use of this information. Medical records of all applicants and employees must be kept separate from all other personnel information.

If your organization uses medical information to make personnel decisions, you should develop a written policy on medical testing to ensure compliance with relevant federal, state, and local laws. For additional information on the ADA, see the EEOC *Technical Assistance Manual on the*

²⁸⁵ Federal law (Occupational Safety and Health Act - OSHA) mandates medical monitoring of employees with exposure to specific occupational health hazards, e.g., exposure to toxic chemicals, carcinogens, or workplace sound levels exceeding 85 decibels on average.

11. Drug and alcohol tests

An employer may prohibit the use of alcohol and illegal drugs at the workplace and may require that employees not be under the influence of either while on the job. Some commonly reported negative work behaviors and outcomes associated with alcohol and drug abuse are industrial accidents, workrelated injuries, excessive absenteeism or tardiness, and workplace violence.

Current use, possession, or distribution of illicit drugs does **not** qualify as a “disability” under the ADA. You may prohibit the use of such drugs at the workplace, and you may administer drug tests to applicants and employees alike. You may deny employment to an applicant and discipline or discharge an employee currently engaged in illegal drug use. However, you may **not** discriminate against a former drug addict who has successfully undergone rehabilitation and does not currently use illicit drugs.

If your organization is in the public sector, federal courts have generally upheld the use of random drug tests only when applied to safety-sensitive positions. This federal restriction does not apply if you are a private employer. However, state or local laws and collective bargaining agreements pertaining to drug testing may impose restrictions on your drug testing policy.

Some legal medications or even some foods can produce a positive reading on a drug screening test for an individual who, in fact, has not used illegal drugs. To minimize such errors, it is advisable to have a formal appeals process, and also provisions for retesting with a more sensitive drug test when necessary.

Under the ADA, a test for the illegal use of drugs is not considered a medical exam, but a test for alcohol use is. Therefore, you must follow the ADA rules on medical exams in deciding whether and when to administer an alcohol test to applicants or employees.

Alcoholism may qualify as a disability under the ADA, and hence an individual with this condition may be extended protection. However, organizations may discipline individuals who violate conduct or performance standards that are related to the job. Organizations also may discharge, or deny employment to individuals whose use of alcohol impairs job performance or compromises

safety to the extent that he or she can no longer be considered a “qualified individual with a disability.”

If your organization uses drug or alcohol tests to make personnel decisions, you should develop a written policy governing such a program to ensure compliance with all relevant federal, state, and local laws. Most states require written consent of employees and applicants before drug or alcohol tests can be administered. Consult the ADA, the *EEOC Technical Assistance Manual on the Employment Provisions of the Americans with Disabilities Act*, the *EEOC ADA Enforcement Guidance*:

Preemployment Disability - Related Questions and Medical Examinations, and the *EEOC Uniform Guidelines on Employee Selection Procedures*, as well as your state and local laws when developing a drug or alcohol testing program.

Table 4. Main Advantages and Disadvantages of Different Types of Assessment Instruments

Type of assessment instrument	Advantages	Disadvantages
Ability tests	<ul style="list-style-type: none"> ○ Mental ability tests ○ Are among the most useful predictors of performance across a wide variety of jobs ○ Are usually easy and inexpensive to administer 	<ul style="list-style-type: none"> ○ Use of ability tests can result in high levels of adverse impact ○ Physical ability tests can be costly to develop and administer
Achievement/ proficiency tests	<ul style="list-style-type: none"> ○ In general, job knowledge and work-sample tests have relatively high validity ○ Job knowledge tests are generally easy and inexpensive to administer ○ Work-sample tests usually result in less adverse impact 	<ul style="list-style-type: none"> ○ Written job knowledge tests can result in adverse impact ○ Work-sample tests can be expensive to develop and administer

than ability tests and written
knowledge tests

Biodata inventories	C Easy and inexpensive to administer C Some validity evidence exists May help to reduce adverse impact when used in conjunction with other tests and procedures	C Privacy concerns may be an issue with some questions C Faking is a concern (information should be verified when possible)
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Employment interviews	C Structured interviews, based on job analyses, tend to be valid May reduce adverse impact if used in conjunction with other tests	C Unstructured interviews typically have poor validity Skill of the interviewer is critical to the quality of interview (interviewer training can help)
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Personality inventories	C Usually do not result in adverse impact C Predictive validity evidence exists for some personality inventories in specific situations May help to reduce adverse impact when used in conjunction with other tests and procedures Easy and inexpensive to administer	C Need to distinguish between clinical and employment-oriented personality inventories in terms of their purpose and use Possibility of faking or providing socially desirable answers Concern about invasion of privacy (use only as part of a broader assessment battery)
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Honesty/integrity measures	<ul style="list-style-type: none"> C Usually do not result in adverse impact C Have been shown to be valid in some cases Easy and inexpensive to administer 	<ul style="list-style-type: none"> C Strong concerns about invasion of privacy (use only as part of a broader assessment battery) Possibility of faking or providing socially desirable answers Test users may require special qualifications for administration and interpretation of test scores C Should not be used with current employees C Some states restrict use of honesty and integrity tests
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(continued)

Table 4. (continued)

Type of assessment instrument	Advantages	Disadvantages
Education and experience requirements	<ul style="list-style-type: none"> C Can be useful for certain technical, professional, and higher level jobs to guard against gross mismatch or incompetence 	<ul style="list-style-type: none"> C In some cases, it is difficult to demonstrate job relatedness and business necessity of education and experience requirements
Recommendations and reference checks	<ul style="list-style-type: none"> C Can be used to verify information previously provided by applicants Can serve as protection against potential negligent hiring lawsuits May encourage 	<ul style="list-style-type: none"> C Reports are almost always positive; they do not typically help differentiate between good workers and poor workers

applicants to provide more accurate information

Assessment centers C Good predictors of job and C Can be expensive to develop
C training performance, C and administer
managerial potential, and Specialized training required
leadership ability for assessors; their skill is
essential to the quality of
Apply the *whole-person* assessment centers
approach to personnel
assessment

Medical examinations C Can help ensure a safe work C Cannot be administered prior
environment when use is to making a job offer.
consistent with relevant Restrictions apply to
federal, state, and local laws administering to applicants
postoffer or to current
employees.
C There is a risk of violating
applicable regulations (a
written policy, consistent with
all relevant laws, should be
established to govern the
entire medical testing
program)

Drug and alcohol tests C Can help ensure a safe and C An alcohol test is considered a
favorable work environment • medical exam and applicable
when program is consistent law restricting medical
with relevant federal, state, examination in employment
and local laws must be followed. There is a
risk of violating applicable
regulations (a written policy,

consistent with all relevant laws, should be established to govern the entire drug or alcohol testing program)



CHAPTER 5 How to Select Tests—Standards for Evaluating Tests

Previous chapters described a number of types of personnel tests and procedures and use of assessment tools to identify good workers and improve organizational performance. Technical and legal issues that have to be considered in using tests were also discussed. In this chapter, information and procedures for evaluating tests will be presented.

Chapter Highlights

1. Sources of information about tests
2. Standards for evaluating a test—information to consider to determine suitability of a test for your use
3. Checklist for evaluating a test.

Principle of Assessment

Use assessment instruments for which *understandable and comprehensive documentation* is available.

1. Sources of information about tests

Many assessment instruments are available for use in employment contexts. Sources that can help you determine which tests are appropriate for your situation are described below.

Test manual. A test manual should provide clear and complete information about how the test was developed; its recommended uses and possible misuses; and evidence of reliability, validity, and fairness. The manual also should contain full instructions for test administration, scoring, and interpretation. In summary, a test manual should provide sufficient administrative and technical information to allow you to make an informed judgment as to whether the test is suitable for your use. You can order specimen test sets and test manuals from most test publishers.

Test publishers and distributors vary in the amount and quality of information they provide in test manuals. The quality and comprehensiveness of the manual often reflect the adequacy of the research base behind the test. Do not mistake catalogs or pamphlets provided by test publishers and distributors for test manuals. Catalogs and pamphlets are marketing tools aimed at selling products. To get a balanced picture of the test, it is important to consult independently published critical test reviews in addition to test manuals.

Mental Measurements Yearbook (MMY). The MMY is a major source of information about assessment tools. It consists of a continuing series of volumes. Each volume contains reviews of tests that are new or significantly revised since the publication of the previous volume. New volumes do not replace old ones; rather, they supplement them.

The MMY series covers nearly all commercially available psychological, educational, and vocational tests published for use with English-speaking people. There is a detailed review of each test by an expert in the field. A brief description of the test covering areas such as purpose, scoring, prices, and publisher is also provided.

The MMY is published by the Buros Institute of Mental Measurements. The Buros Institute also makes test reviews available through a computer database. This database is updated monthly via an on-line computer service. This service is administered by the Bibliographic Retrieval Services (BRS).

Tests in Print (TIP). TIP is another Buros Institute publication. It is published every few years and lists virtually every test published in English that is available for purchase at that time. It includes the same basic information about a test that is included in the MMY, but it does **not** contain reviews. This publication is a good starting place for determining what tests are currently available.

Test Critiques. This publication provides practical and straightforward test reviews. It consists of several volumes, published over a period of years. Each volume reviews a different selection of tests. The subject index at the back of the most recent volume directs the reader to the correct volume for each test review.

Professional consultants. There are many employment testing experts who can help you evaluate and select tests for your intended use. They can help you design personnel assessment programs that are effective and comply with relevant laws.

If you are considering hiring a consultant, it is important to evaluate his or her qualifications and experience beforehand. Professionals working in this field generally have a Ph.D. in industrial/organizational psychology or a related field. Look for an individual with hands-on experience in the areas in which you need assistance. Consultants may be found in psychology or business departments at universities and colleges. Others serve as full-time consultants, either working independently, or as members of consulting organizations. Typically,

professional consultants will hold memberships in APA, SIOP, or other professional organizations.

Reference libraries should contain the publications discussed above as well as others that will provide information about personnel tests and procedures. The *Standards for Educational and Psychological Testing* and the *Principles for the Validation and Use of Personnel Selection Procedures* can also help you evaluate a test in terms of its development and use. In addition, these publications indicate the kinds of information a good test manual should contain. Carefully evaluate the quality and the suitability of a test before deciding to use it. Avoid using tests for which only unclear or incomplete documentation is available, and tests that you are unable to thoroughly evaluate. This is the next principle of assessment.

Principle of Assessment

Use assessment instruments for which *understandable and comprehensive documentation* is available.

2. Standards for evaluating a test—information to consider to determine suitability of a test for your use

The following basic descriptive and technical information should be evaluated before you select a test for your use. In order to evaluate a test, you should obtain a copy of the test and test manual. Consult independent reviews of the test for professional opinions on the technical adequacy of the test and the suitability of the test for your purposes.

General information

— **Test description.** As a starting point, obtain a full description of the test. You will need specific identifying information to order your specimen set and to look up independent reviews. The description of the test is the starting point for evaluating whether the test is suitable for your needs.

- **Name of test.** Make sure you have the accurate name of the test. (There are tests with similar names, and you want to look up reviews of the correct instrument.)
- **Publication date.** What is the date of publication? Is it the latest version? If the test is old, it is possible that the test content and norms for scoring and interpretation have become outdated.
- **Publisher.** Who is the test publisher? Sometimes test copyrights are transferred from one publisher to another. You may need to call the publisher for information or for

- determining the suitability of the test for your needs. Is the publisher cooperative in this regard? Does the publisher have staff available to assist you?
- **Authors.** Who developed the test? Try to determine the background of the authors. Typically, test developers hold a doctorate in industrial/organizational psychology, psychometrics, or a related field and are associated with professional organizations such as APA. Another desirable qualification is proven expertise in test research and construction.
 - **Forms.** Is there more than one version of the test? Are they interchangeable? Are forms available for use with special groups, such as non-English speakers or persons with limited reading skills?
 - **Format.** Is the test available in paper-and-pencil and/or computer format? Is it meant to be administered to one person at a time, or can it be administered in a group setting?
 - **Administration time.** How long does it take to administer?
- **Costs.** What are the costs to administer and score the test? This may vary depending on the version used, and whether scoring is by hand, computer, or by the test publisher.
- **Staff requirements.** What training and background do staff need to administer, score, and interpret the test? Do you have suitable staff available now or do you need to train and/or hire staff?

Purpose, nature, and applicability of the test

- **Test purpose.** What aspects of job performance do you need to measure? What characteristics does the test measure? Does the manual contain a coherent description of these characteristics? Is there a match between what the developer says the test measures and what you intend to measure? The test you select for your assessment should relate directly to one or more important aspects of the job. A job analysis will help you identify the tasks involved in the job, and the knowledge, skills, abilities, and other characteristics required for successful performance.
- **Similarity of reference group to target group.** The test manual will describe the characteristics of the reference group that was used to develop the test. How similar are your test takers, the target group, to the reference group? Consider such factors as age, gender, racial and ethnic composition, education, occupation, and cultural background. Do any factors suggest that the test may not be appropriate for your group? In general, the closer your group matches the characteristics of the reference group, the more confidence you will have that the test will yield meaningful scores for your group.
- **Similarity of norm group to target group.** In some cases, the test manual will refer to a **norm group**. A norm group is the sample of the relevant population on whom the scoring

procedures and score interpretation guidelines are based. In such cases, the norm group is the same as the reference group. If your target group differs from the norm group in important ways, then the test cannot be meaningfully used in your situation. For further discussion of norm groups, see Chapter 7.

Technical information

- **Test reliability.** Examine the test manual to determine whether the test has an acceptable level of reliability before deciding to use it. See Chapter 3 for a discussion of how to interpret reliability information. A good test manual should provide detailed information on the types of reliabilities reported, how reliability studies were conducted, and the size and nature of the sample used to develop the reliability coefficients. Independent reviews also should be consulted.
- **Test validity.** Determine whether the test may be validly used in the way you intended. Check the validity coefficients in the relevant validity studies. Usually the higher the validity coefficient, the more useful the test will be in predicting job success. See Chapter 3 for a discussion of how to interpret validity information. A good test manual will contain clear and complete information on the valid uses of the test, including how validation studies were conducted, and the size and characteristics of the validation samples. Independent test reviews will let you know whether the sample size was sufficient, whether statistical procedures were appropriate, and whether the test meets professional standards.
- **Test fairness.** Select tests developed to be as fair as possible to test takers of different racial, ethnic, gender, and age groups. See Chapter 7 for a discussion of test fairness. Read the manual and independent reviews of the test to evaluate its fairness to these groups. To secure acceptance by all test takers, the test should also appear to be fair. The test items should not reflect racial, cultural, or gender stereotypes, or overemphasize one culture over another. The rules for test administration and scoring should be clear and uniform. Does the manual indicate any modifications that are possible and may be needed to test individuals with disabilities?
- **Potential for adverse impact.** The manual and independent reviews should help you to evaluate whether the test you are considering has the potential for causing adverse impact. As discussed earlier, mental and physical ability tests have the potential for causing

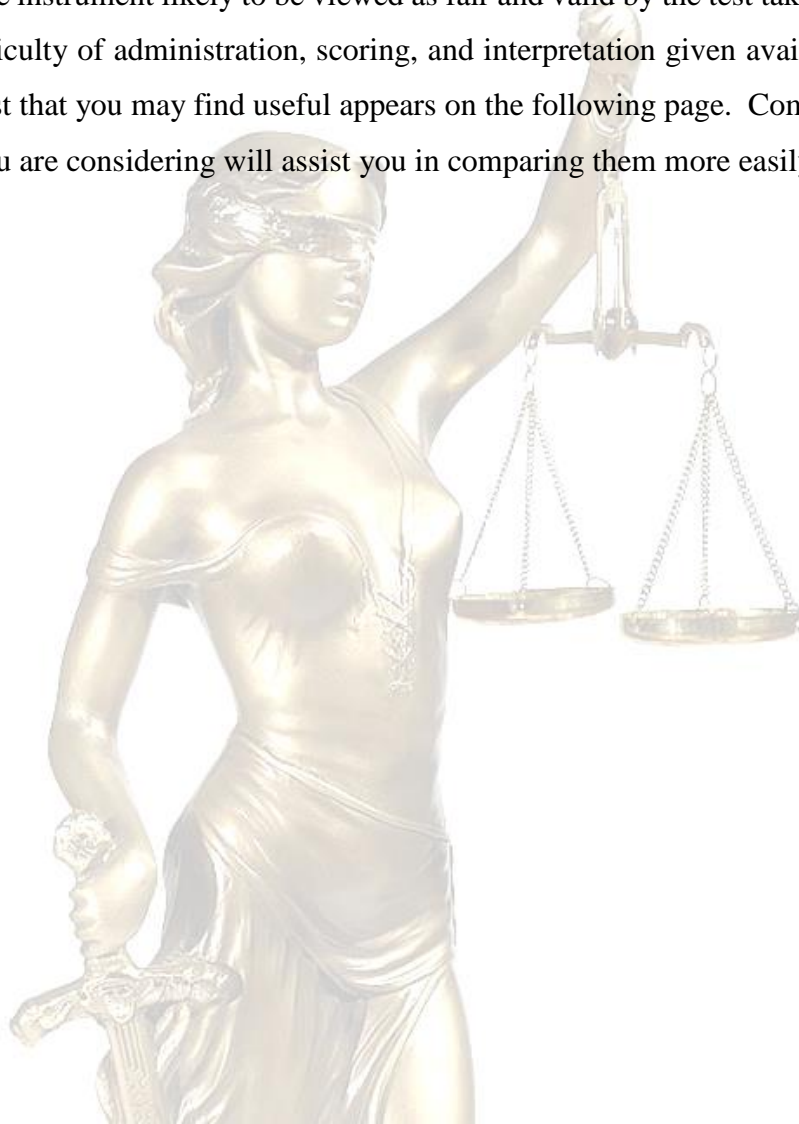
substantial adverse impact. However, they can be an important part of your assessment program. If these tests are used in combination with other employment tests and procedures, you will be able to obtain a better picture of an individual's job potential and reduce the effect of average score differences between groups on one test.

Practical evaluation

- **Test tryout.** It is often useful to try the test in your own organizational setting by asking employees of your organization to take the test and by taking the test yourself. Do not compute test scores for these employees unless you take steps to ensure that results are anonymous. By trying the test out, you will gain a better appreciation of the administration procedures, including the suitability of the administration manual, test booklet, answer sheets and scoring procedures, the actual time needed, and the adequacy of the planned staffing arrangements. The reactions of your employees to the test may give you additional insight into the effect the test will have on candidates.
- **Cost-effectiveness.** Are there less costly tests or assessment procedures that can help you achieve your assessment goals? If possible, weigh the potential gain in job performance against the cost of using the test. Some test publishers and test reviews include an expectancy chart or table that you can consult to predict the expected level of performance of an individual based on his or her test score. However, make sure your target group is comparable to the reference group on which the expectancy chart was developed.
- **Independent reviews.** Is the information provided by the test manual consistent with independent reviews of the test? If there is more than one review, do they agree or disagree with each other? Information from independent reviews will prove most useful in evaluating a test.
- **Overall practical evaluation.** This involves evaluating the overall suitability of the test for your specific circumstances. Does the test appear easy to use or is it unsettling? Does it appear fair and appropriate for your target groups? How clear are instructions for administration, scoring, and interpretation? Are special equipment or facilities needed? Is the staff qualified to administer the test and interpret results or would extensive training be required?

3. Checklist for evaluating a test

It is helpful to have an organized method for choosing the right test for your needs. A checklist can help you in this process. Your checklist should summarize the kinds of information discussed above. For example, is the test valid for your intended purpose? Is it reliable and fair? Is it cost-effective? Is the instrument likely to be viewed as fair and valid by the test takers? Also consider the ease or difficulty of administration, scoring, and interpretation given available resources. A sample checklist that you may find useful appears on the following page. Completing a checklist for each test you are considering will assist you in comparing them more easily.



CHECKLIST FOR EVALUATING A TEST

Characteristic to be measured by test (skill, ability, personality trait):	
Job/training characteristic to be assessed:	
Candidate population (education, or experience level, other background):	
TEST CHARACTERISTICS	
Test name:	Version:
Type: (paper-and-pencil, computer) Alternate forms available:	
Scoring method: (hand-scored, machine-scored)	
Technical considerations:	
Reliability: r=	Validity: r= Reference/norm group:
Test fairness evidence:	
Adverse impact evidence:	
Applicability (indicate any special group)	
Administration considerations:	Administration time:
Materials needed (include start-up costs, operational and scoring cost):	Costs:
Facilities needed:	
Staffing requirements:	
Training requirements:	
Other considerations (consider clarity, comprehensiveness, utility):	

Test manual:
Supporting documents from the publisher:
Publisher assistance:
Independent reviews:
Overall evaluation:



CHAPTER 6 Administering Assessment Instruments

Proper administration of assessment instruments is essential to obtaining *valid* or *meaningful* scores for your test takers. This chapter discusses how to administer assessment instruments so that you can be certain that the results will be valid and fair.

Chapter Highlights

1. Training and qualifications of administration staff
2. Following instructions and guidelines stated in the test manual
3. Ensuring suitable and uniform assessment conditions
4. How much help to offer test takers
5. Test anxiety
6. Alternative assessment methods for special cases
7. Providing reasonable accommodation in the assessment process to people with disabilities
8. Administering computer-based tests
9. Obtaining informed consent of test takers and a waiver of liability claims
10. Maintaining assessment instrument security
11. Maintaining confidentiality of assessment results
12. Testing unionized employees

Principles of Assessment Discussed

Ensure that administration staff are *properly trained*.

Ensure that *testing conditions are suitable* for all test takers.

Provide *reasonable accommodation* in the assessment process for people with disabilities.

Maintain assessment instrument *security*.

Maintain *confidentiality* of assessment results.

1. Training and qualifications of administration staff

The qualifications and training required for a test administrator will depend on the nature and complexity of the test. The more complex the test administration procedures, the more training an administrator will need. However, even simple-to-administer tests need trained staff to ensure valid results. Administrators should be given ample time to learn their responsibilities before they administer a test to applicants. Your staff may need professional training on test administration offered by some test publishers.

Only those staff who can administer the test in a professional and satisfactory manner should be assigned test administration duties. Test administrators should be well organized and observant,

Speak well, and be able to deal comfortably with people. They should also be trained to handle special situations with sensitivity. For example, they should know how to respond to a test taker's request for an accommodation and be able to calm down those who may become overly anxious about taking a test. This leads to our next principle of assessment.

Principle of Assessment

Ensure that administration staff are *properly trained*.

2. Following instructions and guidelines stated in the test manual

Staff should be thoroughly familiar with the testing procedures before administering the test. They should carefully follow **all** standardized administration and scoring procedures as outlined in the test manual. Test manuals will indicate the test materials that are needed, the order of presentation, and the instructions that must be read verbatim. They will also indicate whether there are time limits, and, if so, what those time limits are. Any special instructions noted by the test manual should be observed. This includes meeting the requirements for specific equipment or facilities. Alterations can invalidate results.

3. Ensuring suitable and uniform assessment conditions

There are various extraneous influences that may affect the reliability and validity of an assessment procedure. To maintain the integrity of results you and your staff should make sure that adverse conditions are minimized.

Choose a suitable testing location. Obtain a room that is well-lit, well-ventilated, with acceptable room temperature. Make sure the room is free of noise, traffic, and other interruptions. Chairs should be comfortable and tables should be at an appropriate height, with sufficient room for test booklets and answer sheets. Furthermore, testing facilities and conditions must be uniform for all test takers. This means that people taking the test in another room, or at a different time, should be in substantially the same testing environment. As indicated in Chapter 3, these extraneous factors can affect the reliability and validity of test results.

Prepare the room and test materials ahead of time. Chairs and tables should be set up in position. Staff should check that all needed test materials and equipment are available and in good condition.

Test taker readiness or suitability for testing. Be alert to problems individuals may have in taking the test. Before the assessment begins, give them an overview of the test and ask whether anyone anticipates having a problem taking the test. Some test takers may have forgotten to bring their eyeglasses; others may have bad colds or other temporary illnesses. These individuals should be rescheduled. Others may have disabilities that require accommodations or an alternate assessment arrangement (see section on ADA in Chapter 2).

Uniform administration. The practices and precautions discussed above should become standard procedures in preparing testing materials, equipment, and facilities. Also, make sure that all test takers understand the directions before the test begins and are ready to follow the standard set of instructions during the test. These steps will help ensure that the results reflect real differences among individuals, and not differences in test administration. This brings us to the next principle of assessment.

Principle of Assessment

Ensure that *testing conditions are suitable* for all test takers.

To maintain the integrity of test results, administrators need to be alert to test takers' activities throughout the session. For example, some individuals may lose their place in the test booklet or put answers in the wrong column on the answer sheet. Others may try to copy answers from someone else. An alert administrator will be able to correct these situations quickly before they invalidate the test takers' responses.

4. How much help to offer test takers

The test manual usually indicates the kind of assistance and information that can be provided to test takers during the test. Administration staff should be familiar with what is and is not permissible at each stage of the assessment process.

Some instruments allow the administrator to clarify the directions and practice exercises, but prohibit help with the actual test questions. This is generally true for ability and achievement

tests. However, other assessment tools, such as interest inventories or biodata instruments, may allow for more assistance with the assessment.

In general, test takers should not be coached on how best to answer test questions. Administrators should not offer more information than what is indicated in the instructions. If they do, some individuals will be given an unfair advantage.

5. Test anxiety

Most people feel some anxiety about taking a test. For some otherwise qualified individuals, test anxiety can have a paralyzing effect on their performance. There are a few things that can be done to alleviate anxiety.

Written orientation materials are available for many tests. These materials describe the test and provide sample questions. If such materials exist, they should be made available to all test takers well in advance of the test date.

Before the test begins, give test takers a brief orientation explaining the purpose of the test, the type of questions to expect, and how long the test will last.

Start test sessions promptly. A long wait will raise the anxiety level among test takers. All testing materials, equipment, and facilities should be ready well in advance of the scheduled session. A well-run test session helps to reduce test anxiety.

6. Alternative assessment methods for special cases

There may be qualified individuals who, due to cultural differences, poor skills in English, or limited formal education, are unable to score satisfactorily on some of the currently available selection tests. Poor test performance may not be a reflection of their job-related knowledge, skills, or abilities, but rather may be due to the existence of a cultural or language barrier. Some of these tests may be available in appropriate foreign language versions or in a version suitable for individuals functioning at low literacy levels. Also, where appropriate, work samples and structured interviews should be considered seriously as practical alternatives to written tests. At times, individual evaluations by outside agencies or consultants may be a suitable approach.

7. Providing reasonable accommodation in the assessment process to people

with disabilities

The ADA has opened up employment opportunities for a great number of qualified persons with disabilities. These opportunities have enabled persons with disabilities to apply their skills and be successful in the world of work. Under the ADA, you are required to provide reasonable accommodation in the assessment process to qualified persons with disabilities. This leads to our next principle of assessment.

Principle of Assessment

Provide *reasonable accommodation* in the assessment process for people with disabilities.

Accommodation in the assessment process may involve ensuring physical accessibility to the test site, modifying test equipment or tests, or providing qualified assistance. Giving extra time on certain kinds of tests to test takers with dyslexia or other learning disability, and administering a larger print version of a test to a person who is visually impaired are examples of reasonable accommodation. Note, however, that providing a reader for a reading comprehension test, or extra time for a speeded test could invalidate the test results. You should become familiar with what accommodations can be made for different conditions or circumstances without invalidating the test. Provide all test takers with descriptive information about the test in advance, so that they will have ample opportunity to request needed accommodations. When the need for accommodation is not obvious, you may ask for reasonable documentation of the disability functional limitations for which accommodation is needed. The test taker, test manual, the test publisher, and several professional associations (listed in Chapter 2 and Appendix A) can help you determine what the appropriate reasonable accommodations are for particular situations. If an accommodation cannot be made without invalidating the test, alternative assessment strategies, such as a review of past job experience, a review of school records, or a brief job tryout, must be considered.

8.Administering computer-based tests

Many tests are now computer-based. Computers can be used to administer and score tests and print results. A number of computerized tests also provide extensive test interpretations.

Some computer-based tests are adaptive. Adaptive tests, as opposed to conventional tests, present test questions based on the responses of the test taker to previous questions, and so adjust for his or her level of ability. This allows for a more reliable measure of ability with fewer items administered.

Advantages to computer-based testing include

- ! Administration procedures are the same for all test takers.
- ! The need for test administrators is reduced.
- ! Results can be available immediately.
- ! The test can be administered without delay to walk-in applicants.

Disadvantages of computer-based testing include

- ! A computer is needed for each test taker.
- ! Some test takers may feel uncomfortable using a computer; this could raise anxiety levels and adversely affect scores of these individuals.

9. Obtaining informed consent of test takers and a waiver of liability claims

When a test taker gives informed consent, it implies that he or she understands the nature of the test, the reasons for it, and how the results will be used. In applications for employment and educational admissions, informed consent is clearly implied, so obtaining permission is typically not required. However, there may be state regulations requiring that written consent of test takers be obtained before certain kinds of tests can be administered. For example, most states require written permission of test takers before drug or alcohol tests can be administered. You should also obtain similar permission when administering honesty or integrity measures and physical exams.

Obtaining written consent does not relieve the organization of legal liability if applicable laws are violated.

10. Maintaining assessment instrument security

In order to obtain fair and valid results, no test taker should have an opportunity to view the test beforehand. To ensure this, keep test materials secure at all times. Store all materials relating to

the test in locked rooms or cabinets when not in use, and account for all materials that are used during the testing session. Test takers should not take any items from the testing room, including scrap paper. Limit access to testing materials to staff involved in the assessment process. This brings us to the next principle of assessment.

Principle of Assessment

Maintain assessment instrument *security*.

Security measures are also required when you use computer-based tests. Establish a password procedure for accessing computerized test materials, and secure all related computer disks and manuals. Many computerized test developers encode test items and answer keys so that items cannot easily be read if electronic files are stolen.

When tests are used over a long period of time, it becomes increasingly likely that some test questions will leak out. To help maintain security, test developers periodically introduce new alternate forms. If alternate forms of the test are available, you can increase security by varying the form used.

11. Maintaining confidentiality of assessment results

Test results and answer sheets should be kept in a secure location. Results should only be released to those who have a legitimate need to know. This includes staff involved in making the employment decision but may exclude the candidate's first-line supervisor. Test results are confidential and should not be disclosed to another individual or outside organization without the informed consent of the test taker. This is the next principle of assessment.

Principle of Assessment

Maintain *confidentiality* of assessment results.

As discussed in Chapters 2 and 4, under the ADA, medical information about employees and applicants is confidential and must be kept in a separate location from other personnel information.

12. Testing unionized employees

Testing may be a mandatory subject of collective bargaining between management and labor unions. Therefore, if you are a unionized employer, do not institute a testing program or revise a

current program without first referring to the collective bargaining agreement. Include representatives of the union on teams or task forces charged with designing and implementing personnel assessment programs.



CHAPTER 7 Using, Scoring, and Interpreting Assessment Instruments

This chapter describes some of the most common assessment instrument scoring procedures. It also discusses how to properly interpret results, and how to use them effectively. Other issues regarding the proper use of assessment tools are also discussed.

Chapter Highlights

1. Assessment instrument scoring procedures
2. Test interpretation methods: norm and criterion-referenced tests
3. Interpreting test results
4. Processing test results to make employment decisions—rank-ordering and cut-off scores
5. Combining information from many assessment tools
6. Minimizing adverse impact

Principle of Assessment

Ensure that scores are interpreted properly.

1. Assessment instrument scoring procedures

Test publishers may offer one or more ways to score the tests you purchase. Available options may range from hand scoring by your staff to machine scanning and scoring done by the publisher. All options have their advantages and disadvantages. When you select the tests for use, investigate the available scoring options. Your staff's time, turnaround time for test results, and cost may all play a part in your purchasing decision.

Hand scoring. The answer sheet is scored by counting the number of correct responses, often with the aid of a stencil. These scores may then have to be converted from the *raw score* count to a form that is more meaningful, such as a *percentile* or *standard score*. Staff must be trained on proper hand scoring procedures and raw score conversion. This method is more prone to error than machine scoring. To improve accuracy, scoring should be double checked. Hand scoring a test may take more time and effort, but it may also be the least expensive method when there are only a small number of tests to score.

Computer-based scoring. Tests can be scored using a computer and test scoring software purchased from the test publisher. When the test is administered in a paper-and-pencil format, raw scores and identification information must be key-entered by staff following the completion of the test session. Converted scores and interpretive reports can be printed immediately. When the test is administered on the computer, scores are most often generated

automatically upon completion of the test; there is no need to key-enter raw scores or identifying information. This is one of the major advantages of computer-based testing.

Optical scanning. Machine scorable answer sheets are now readily available for many multiple choice tests. They are quickly scanned and scored by an optical mark reader. You may be able to score these answer sheets in-house or send them to the test publisher for scoring.

— **On-site.** You will need a personal computer system (computer, monitor, and printer), an optical reader, and special test scoring software from the publisher. Some scanning programs not only generate test scores but also provide employers with individual or group interpretive reports. Scanning systems can be costly, and the staff must learn to operate the scanner and the computer program that does the test scoring and reporting. However, using a scanner is much more efficient than hand scoring, or key-entering raw scores when testing volume is heavy.

— **Mail-in and fax scoring.** In many cases the completed machine-scannable answer sheets can be mailed or faxed to the test publisher. The publisher scores the answer sheets and returns the scores and test reports to the employer. Test publishers generally charge a fee for each test scored and for each report generated.

For mail-in service, there is a delay of several days between mailing answer sheets and receipt of the test results from the service. Overnight mail by private or public carrier will shorten the wait but will add to the cost. Some publishers offer a scoring service by fax machine. This will considerably shorten the turn-around time, but greater care must be taken to protect the confidentiality of the results.

2. Test interpretation methods: norm and criterion-referenced tests

Employment tests are used to make inferences about people's characteristics, capabilities, and likely future performance on the job. What does the test score mean? Is the applicant qualified? To help answer these questions, consider what the test is designed to accomplish. Does the test compare one person's score to those obtained by others in the occupation, or does it measure the absolute level of skill an individual has obtained? These two methods are described below.

Norm-referenced test interpretation. In norm-referenced test interpretation, the scores that the applicant receives are compared with the test performance of a particular reference group. In this case the reference group is the norm group. The norm group generally consists of large representative samples of individuals from specific populations, such as high school students, clerical workers, or electricians. It is their average test performance and the distribution of their scores that set the standard and become the test norms of the group.

The test manual will usually provide detailed descriptions of the norm groups and the test norms. To ensure valid scores and meaningful interpretation of norm-referenced tests, make sure that your target group is similar to the norm group. Compare the educational level, the occupational, language and cultural backgrounds, and other demographic characteristics of the individuals making up the two groups to determine their similarity.

For example, consider an accounting knowledge test that was standardized on the scores obtained by employed accountants with at least 5 years of experience. This would be an appropriate test if you are interested in hiring experienced accountants. However, this test would be inappropriate if you are looking for an accounting clerk. You should look for a test normed on accounting clerks or a closely related occupation.

Criterion-referenced test interpretation. In criterion-referenced tests, the test score indicates the amount of skill or knowledge the test taker possesses in a particular subject or content area. The test score is not used to indicate how well the person does compared to others; it relates solely to the test taker's degree of competence in the specific area assessed. Criterion-referenced assessment is generally associated with educational and achievement testing, licensing, and certification.

A particular test score is generally chosen as the minimum acceptable level of competence. How is a level of competence chosen? The test publisher may develop a mechanism that converts test scores into proficiency standards, or the company may use its own experience to relate test scores to competence standards.

For example, suppose your company needs clerical staff with word processing proficiency. The test publisher may provide you with a conversion table relating word processing skill to various levels of proficiency, or your own experience with current clerical employees can help you to determine the passing score. You may decide that a minimum of 35 words per minute with no more than two errors per 100 words is sufficient for a job with occasional word

processing duties. If you have a job with high production demands, you may wish to set the minimum at 75 words per minute with no more than 1 error per 100 words.

It is important to ensure that all inferences you make on the basis of test results are well founded. Only use tests for which sufficient information is available to guide and support score interpretation. Read the test manual for instructions on how to properly interpret the test results. This leads to the next principle of assessment.

Principle of Assessment

Ensure that scores are interpreted properly.

3. Interpreting test results

Test results are usually presented in terms of numerical scores, such as raw scores, standard scores, and percentile scores. In order to interpret test scores properly, you need to understand the scoring system used.

Types of scores

— **Raw scores.** These refer to the unadjusted scores on the test. Usually the raw score represents the number of items answered correctly, as in mental ability or achievement tests. Some types of assessment tools, such as work value inventories and personality inventories, have no “right” or “wrong” answers. In such cases, the raw score may represent the number of positive responses for a particular trait.

Raw scores do not provide much useful information. Consider a test taker who gets 25 out of 50 questions correct on a math test. It’s hard to know whether “25” is a good score or a poor score. When you compare the results to all the other individuals who took the same test, you may discover that this was the highest score on the test.

In general, for norm-referenced tests, it is important to see where a particular score lies within the context of the scores of other people. Adjusting or converting raw scores into standard scores or percentiles will provide you with this kind of information. For criterion-referenced tests, it is important to see what a particular score indicates about proficiency or competence.

— **Standard scores.** Standard scores are converted raw scores. They indicate where a person’s score lies in comparison to a reference group. For example, if the test manual indicates that the average or mean score for the group on a test is 50, then an individual

who gets a higher score is above average, and an individual who gets a lower score is below average. Standard scores are discussed in more detail below in the section on standard score distributions.

- **Percentile score.** A percentile score is another type of converted score. An individual's raw score is converted to a number indicating the percent of people in the reference group who scored below the test taker. For example, a score at the 70th percentile means that the individual's score is the same as or higher than the scores of 70% of those who took the test. The 50th percentile is known as the median and represents the middle score of the distribution.

Score distribution

- **Normal curve.** A great many human characteristics, such as height, weight, math ability, and typing skill, are distributed in the population at large in a typical pattern. This pattern of distribution is known as the *normal curve* and has a symmetrical bell-shaped appearance. The curve is illustrated in Figure 2. As you can see, a large number of individual cases cluster in the middle of the curve. The farther from the middle or average you go, the fewer the cases. In general, distributions of test scores follow the same normal curve pattern. Most individuals get scores in the middle range. As the

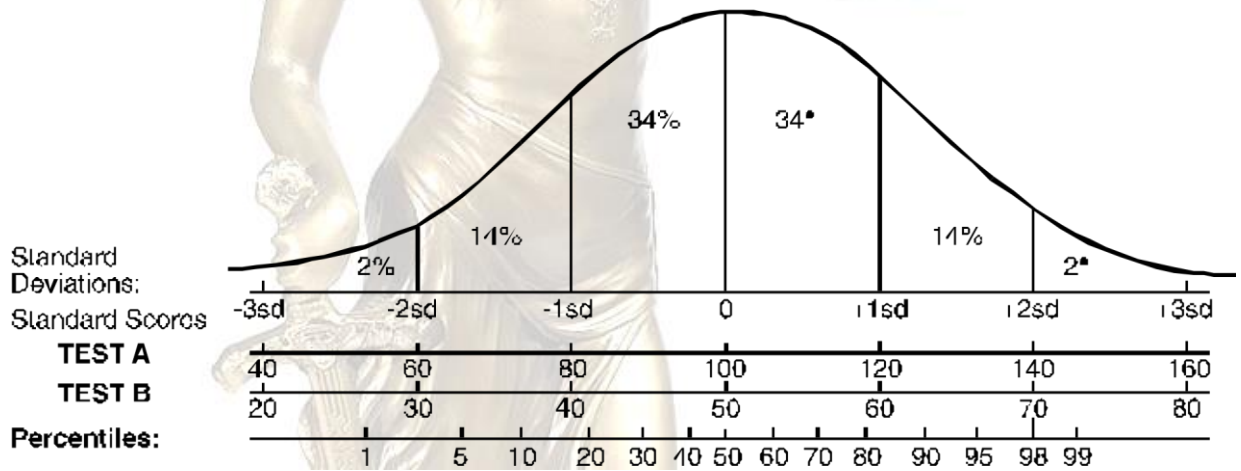


Figure 2. The normal curve illustrating standard score and percentile distribution. extremes are approached, fewer and fewer cases exist, indicating that progressively fewer individuals get low scores (left of center) and high scores (right of center).

— **Standard score distribution.** There are two characteristics of a standard score distribution that are reported in test manuals. One is the mean, a measure of central tendency; the other is the standard deviation, a measure of the variability of the distribution.

- **Mean.** The most commonly used measure of central tendency is the mean or arithmetic average score. Test developers generally assign an arbitrary number to represent the mean standard score when they convert from raw scores to standard scores. Look at Figure 2. Test A and Test B are two tests with different standard score means. Notice that Test A has a mean of 100 and Test B has a mean of 50. If an individual got a score of 50 on Test A, that person did very poorly. However, a score of 50 on Test B would be an average score.
- **Standard deviation.** The standard deviation is the most commonly used measure of variability. It is used to describe the distribution of scores around the mean. Figure 2 shows the percent of cases 1, 2, and 3 standard deviations (sd) above the mean and 1, 2, and 3 standard deviations below the mean. As you can see, 34% of the cases lie between the mean and +1 sd, and 34% of the cases lie between the mean and -1 sd. Thus, approximately 68% of the cases lie between -1 and +1 standard deviations. Notice that for Test A, the standard deviation is 20, and 68% of the test takers score between 80 and 120. For Test B the standard deviation is 10, and 68% of the test takers score between 40 and 60.

— **Percentile distribution.** The bottom horizontal line below the curve in Figure 2 is labeled “Percentiles.” It represents the distribution of scores in percentile units. Notice that the median is in the same position as the mean on the normal curve. By knowing the percentile score of an individual, you already know how that individual compares with others in the group. An individual at the 98th percentile scored the same or better than 98% of the individuals in the group. This is equivalent to getting a standard score of 140 on Test A or 70 on Test B.

4. Processing test results to make employment decisions—rank-ordering and cut-off scores

The rank-ordering of test results, the use of cut-off scores, or some combination of the two is commonly used to assess the qualifications of people and to make employment-related decisions about them. These are described below.

Rank-ordering is a process of arranging candidates on a list from highest score to lowest score based on their test results. In rank-order selection, candidates are chosen on a top-down basis.

A **cut-off score** is the minimum score that a candidate must have to qualify for a position. Employers generally set the cut-off score at a level which they determine is directly related to job success. Candidates who score below this cut-off generally are not considered for selection. Test publishers typically recommend that employers base their selection of a cut-off score on the norms of the test.

5. Combining information from many assessment tools

Many assessment programs use a variety of tests and procedures in their assessment of candidates. In general, you can use a “multiple hurdles” approach or a “total assessment” approach, or a combination of the two, in using the assessment information obtained.

Multiple hurdles approach. In this approach, test takers must pass each test or procedure (usually by scoring above a cut-off score) to continue within the assessment process. The multiple hurdles approach is appropriate and necessary in certain situations, such as requiring test takers to pass a series of tests for licensing or certification, or requiring all workers in a nuclear power plant to pass a safety test. It may also be used to reduce the total cost of assessment by administering less costly screening devices to everyone, but having only those who do well take the more expensive tests or other assessment tools.

Total assessment approach. In this approach, test takers are administered every test and procedure in the assessment program. The information gathered is used in a flexible or *counterbalanced* manner. This allows a high score on one test to be counterbalanced with a low score on another. For example, an applicant who performs poorly on a written test, but shows great enthusiasm for learning and is a very hard worker, may still be an attractive hire. A key decision in using the total assessment approach is determining the relative weights to assign to each assessment instrument in the program.

Figure 3 is a simple example of how assessment results from several tests and procedures can be combined to generate a weighted composite score.

Assessment instrument	Assessment score (0-100)	Assigned weight	Weighted total
Interview	80	8	640

Mechanical ability test	60	10	600
H.S. course work	90	5	450
			Total Score: 1,690

An employer is hiring entry-level machinists. The assessment instruments consist of a structured interview, a mechanical ability test, and high school course work. After consultation with relevant staff and experts, a weight of 8 is assigned for the interview, 10 for the test, and 5 for course work. A sample score sheet for one candidate, Candidate A, is shown above. As you can see, although Candidate A scored lowest on the mechanical ability test, the weights of all of the assessment instruments as a composite allowed him/her to continue on as a candidate for the machinist job rather than being eliminated for consideration as a result of the one low score.

Figure 3. Score-sheet for entry level machinist job: Candidate A.

6. Minimizing adverse impact

A well-designed assessment program will improve your ability to make effective employment decisions. However, some of the best predictors of job performance may exhibit adverse impact. As a test user, there are several good testing practices to follow to minimize adverse impact in conducting personnel assessment and to ensure that, if adverse impact does occur, it is not a result of deficiencies in your assessment tools.

Be clear about what needs to be measured, and for what purpose. Use only assessment tools that are job-related and valid, and only use them in the way they were designed to be used.

Use assessment tools that are appropriate for the target population.

Do not use assessment tools that are biased or unfair to any group of people.

Consider whether there are alternative assessment methods that have less adverse impact.

Consider whether there is another way to use the test that either reduces or is free of adverse impact.

Consider whether use of a test with adverse impact is necessary. Does the test improve the quality of selections to such an extent that the magnitude of adverse impact is justified by business necessity?

If you determine that it is necessary to use a test that may result in adverse impact, it is recommended that it be used as only *one part* of a comprehensive assessment process. That is, apply the whole-person approach to your personnel assessment program. This approach will allow you to improve your assessment of the individual and reduce the effect of differences in average scores between groups on a single test.



CHAPTER 8 Issues and Concerns with Assessment

It is important to remember that an assessment instrument, like any tool, is most effective when used properly and can be very counterproductive when used inappropriately. In previous chapters you have read about the advantages of using tests and procedures as part of your personnel assessment program. You have also read about the *limitations* of tests in providing a consistently accurate and complete picture of an individual's employment-related qualifications and potential. This chapter highlights some important issues and concerns surrounding these limitations. Careful attention to these issues and concerns will help you produce a fair and effective assessment program.

Chapter Highlights

1. Deciding whether to test or not to test
2. Viewing tests as threats and invasions of privacy
3. Fallibility of test scores
4. Appeals process and retesting
5. Qualifications of assessment staff
6. Misuse or overuse of tests
7. Ensuring both efficiency and diversity
8. Ethnic, linguistic, and cultural differences and biases
9. Testing people with disabilities

1. Deciding whether to test or not to test

How successful is your current assessment program? Is it in need of improvement? The decision to use a test is an important one. You need to carefully consider several technical, administrative, and practical matters.

Sometimes a more vigorous employee training program will help to improve individual and organizational performance without expanding your current selection procedures. Sometimes a careful review of each candidate's educational background and work history will help you to select better workers, and sometimes using additional tests will be beneficial.

Consider how much additional time and effort will be involved in expanding your assessment program. As in every business decision, you will want to determine whether the potential benefits outweigh the expenditure of time and effort. Be sure to factor in all the costs, such as purchase of

tests and staff time, and balance these against all the benefits, including potential increases in productivity.

In summary, before expanding your assessment program, it is important to have a clear picture of your organization's needs, the benefits you can expect, and the costs you will incur.

2. Viewing tests as threats and invasions of privacy

Many people are intimidated at the mere thought of taking a test. Some may fear that testing will expose their weaknesses, and some may fear that tests will not measure what they really can do on the job. Also, some people may view certain tests as an invasion of privacy. This is especially true of personality tests, honesty tests, medical tests, and tests that screen for drug use.

Fear or mistrust of tests can lower the scores of some otherwise qualified candidates. To reduce these feelings, it is important to take the time to explain a few things about the testing program before administering a test. Any explanation should, at a minimum, cover the following topics:

- ! why the test is being administered
- ! fairness of the test
- ! confidentiality of test results
- ! how the test results will be used in the assessment process.

3. Fallibility of test scores

All assessment tools and procedures are subject to measurement errors. This means that a test neither measures a characteristic with perfect accuracy for all people, nor fully accounts for their job performance. Thus, there will always be some errors in employment decisions made based on assessment results. This is true of all assessment procedures, regardless of how objective or standardized they might be.

It is, therefore, important not to rely entirely on any one assessment instrument in making employment decisions. Using a variety of assessment tools will help you obtain a fuller and more accurate picture of an individual. Consider such information as an evaluation of a person's education, work experience and other job-relevant factors in addition to standardized test results.

4. Appeals process and retesting

Every test taker should have a fair chance to demonstrate his or her best performance on an assessment procedure. However, at times this might not occur. If the results may not be valid for an individual, consider retesting or using alternative assessment procedures before screening the individual.

There are external circumstances or conditions that could invalidate the test results. These may include the test taker's state of mind or health at the time of the test, the conditions under which the test is given, and his or her familiarity with particular questions on the test. To give some specific examples, a person who has a child at home with the measles may not be able to concentrate on taking a vocabulary test. Someone sitting next to a noisy air conditioner may also not be able to concentrate on the test questions. On another day, under different circumstances, these individuals might obtain a different score.

If you believe that the test was not valid for an individual, you should consider a retest. If other versions of the test are not available, consider alternative means of assessment. Check the test manual for advice from the publisher regarding retesting. It is advisable to develop a policy on handling complaints regarding testing and appeals for retesting, so that these concerns can be resolved fairly and consistently.

5. Qualifications of assessment staff

Test results may not be accurate if the tests have not been administered and scored properly, or if the results are not interpreted appropriately. The usefulness of test results depends on proper administration, scoring and interpretation. Qualified individuals must be chosen to administer and score tests and interpret test results. These individuals must be trained appropriately. Test manuals will usually specify the qualifications and training needed to administer and score the tests and interpret results.

6. Misuse or overuse of tests

A single test cannot be expected to be valid in all situations and for all groups of people. A test generally is developed to measure specific characteristics and to predict specific performance

criteria for a particular group. For example, a test with items designed to select salespersons may not be valid for identifying good sales managers.

In addition, test results usually provide specific information that is valid for a specific amount of time. Therefore, it is unlikely to be appropriate to consider an employee for a promotion based on his or her test scores on a proficiency test taken 5 years earlier.

The test manual and independent reviews of the test remain your best guides on administering, scoring, and interpreting the test.

7. Ensuring both efficiency and diversity

Use of reliable and valid assessment tools can result in improved performance of your workforce. However, when designing an assessment system, it is also important to consider how to ensure a diverse workforce that can help your organization be successful in today's diverse marketplace. To encourage diversity in your organization, consider how different types of people perform on different types of tests. Some research has indicated that older workers and members of a variety of racial and ethnic groups do not do as well on certain types of tests as members of other groups. For example, older people and women tend to do less well on physical ability and endurance tests. Members of some ethnic and racial groups, on average, may do less well on ability tests. Older people tend not to score as high as younger people on timed tests. Even though these groups perform less well on certain tests, they may still perform on the job successfully. Thus by using certain types of assessments, or relying heavily on one type of test, you may limit the diversity of your workforce and miss out on some very productive potential employees (e.g., if you used only physical ability tests, you may unnecessarily exclude older workers). You might also be violating federal, state, and local equal employment opportunity laws.

To help ensure both efficiency and diversity in your workforce, apply the whole-person approach to assessment. Use a variety of assessment tools to obtain a comprehensive picture of the skills and capabilities of applicants and employees. This approach to assessment will help you make sure you don't miss out on some very qualified individuals who could enhance your organization's success.

8. Ethnic, linguistic, and cultural differences and biases

The American workforce is made up of a diverse array of ethnic and cultural groups, including many persons for whom English is not the primary language. Some of these individuals may experience difficulty on standardized tests due to cultural differences or lack of mastery of the English language. Depending on the nature of the job for which they are applying, this could mean that their test scores will not accurately predict their true job potential.

Before selecting new tests, consider the composition of your potential candidate population. Are the tests appropriate for all of them? The test manuals may provide assistance in determining this. If you need further clarification, contact the test publisher.

There may be cases where appropriate standardized tests are not available for certain groups. You may have to rely on other assessment techniques, such as interviews and evaluations of education and work experience, to make your employment decisions.

9. Testing people with disabilities

Many people with disabilities are productive workers. The ADA protects qualified individuals with disabilities from discrimination in all aspects of employment, including personnel assessment. Your staff should be trained to evaluate requests for reasonable accommodation and provide these

accommodations if they are necessary and would not cause “undue hardship.” These situations must be handled with professionalism and sensitivity. Properly handled, this can be accomplished without compromising the integrity of the assessment process.

Accommodation may involve ensuring physical accessibility to the test site, modifying test equipment or tests, or providing other forms of assistance. Giving extra time for certain kinds of tests to test takers with dyslexia or other learning disabilities and administering a braille version of a test for the blind may be examples of reasonable accommodation. See Chapters 2 and 6 for further discussions on testing people with disabilities.

A Review—Principles of Assessment



Employers can effectively use personnel assessment instruments to measure job-relevant skills and capabilities of applicants and employees. These tools can help to identify and select better workers and can help improve the quality of an organization’s overall performance. To use these tools properly, employers must be aware of the inherent limitations of any assessment procedure, as well as the legal issues involved in assessment.

The guide is organized around 13 important assessment principles and their applications. This final chapter brings all the principles together. They are listed below in the order of their appearance in the text, with the chapter number in parentheses. Together, the 13 principles provide a comprehensive framework for conducting an effective personnel assessment program.

Use assessment tools in a *purposeful manner* (Chapter 1)

Assessment instruments, like other tools, are helpful when used properly but can be useless, harmful, or illegal when used inappropriately. Often, inappropriate use results from not having a clear understanding of what you want to measure and why you want to measure it. As an employer, you must first be clear about what you want to accomplish with your assessment program in order to select the proper tools to achieve those goals.

Your assessment strategies should be based on both an understanding of the kind of employment decisions to be made and the population to be assessed. Once you are clear on your purpose, you will be better able to select appropriate assessment tools, and use those tools in an effective manner. Only use tests that are appropriate for your particular purpose.

Use the *whole-person approach* to assessment (Chapter 1)

An assessment instrument may provide you with important employment-related information about an individual. However, no assessment tool is 100% reliable or valid; all are subject to errors,

both in measuring job-relevant characteristics and in predicting job performance. Moreover, a single assessment instrument only provides you with a limited view of a person's qualifications. Using a variety of tools to measure skills, abilities, and other job-relevant characteristics provides you with a solid basis upon which to make important career and employment-related decisions and minimizes adverse impact.

Use only assessment instruments that are *unbiased* and *fair* to all groups (Chapter 2)

Using unbiased and fair tests will help you select a qualified and diverse workforce. Employment decisions based on tests that are biased are likely to lead to unfair and illegal discrimination against members of the lower scoring groups. You should review the fairness evidence associated with assessment instruments before selecting tools by examining the test manual and independent test reviews.

Use only *reliable* assessment instruments and procedures (Chapter 3)

If a person takes the same test again, will he or she get a similar score, or a very different score? A reliable instrument will provide accurate and consistent scores. To meaningfully interpret test scores and make useful career or employment-related decisions, use only reliable tools. Test manuals will usually provide a statistic, known as the reliability coefficient, giving you an indication of a test's reliability. The higher the reliability coefficient, the more confidence you can have that the score is accurate.

Use only assessment procedures and instruments that have been demonstrated to be *valid for the specific purpose* for which they are being used (Chapter 3)

Validity is the most important issue in selecting assessment tools. It refers to (1) the characteristic the assessment instrument measures, and (2) how well the instrument measures the characteristic. Validity is not a property of the assessment instrument itself; it relates to how the instrument is being used.

A test's validity is established in reference to a specific purpose; it may not be valid for different purposes. For example, a test that may be valid for predicting someone's "job knowledge," may not be valid for predicting his or her "leadership skills." You must be sure that the instrument is valid for the purpose for which it is to be used. Selecting a commercially developed instrument does not relieve you of this responsibility.

The test manual usually provides a statistic, the validity coefficient, that will give an indication of the test's validity for a specific purpose under specific circumstances. It measures the degree of relationship between test performance and job performance (i.e., job-relatedness of the test).

Use assessment tools that are appropriate for the *target population* (Chapter 3)

An assessment tool is usually developed for use with a specific group; it may not be valid for other groups. For example, a test designed to predict the performance of office managers may not be valid for clerical workers. The skills and abilities required for the two positions may be different, or the reading level of the test may not be suitable for clerical workers. Tests should be appropriate for the individuals you want to test, that is, your target population.

The manual should indicate the group or groups the test is designed to assess. Your target population should be similar to the group on which the test was developed, or normed. In determining the appropriateness of an instrument for your target group, also consider such factors as reading levels, cultural backgrounds, and language barriers.

Use assessment instruments for which *understandable and comprehensive documentation* is available (Chapter 5)

Are the instructions for administration and interpretation understandable? Is the information sufficiently comprehensive to evaluate the suitability of the instrument for your needs? Carefully evaluate the documentation provided by the test publisher to be sure that the tools you select do the job you want them to do and furnish you with the information you need. If the documentation is not understandable or complete, you run the risk of selecting inappropriate instruments.

Test manuals should provide information about both the development and psychometric characteristics of tests. They should cover topics such as procedures for administration, scoring

and interpretation, the recommended uses of an instrument, the groups for whom the test is appropriate, and test norms. They should also include a description of the validation procedures used, and evidence of validity, reliability, and test fairness.

Ensure that administration staff are *properly trained* (Chapter 6)

Assessment instruments must be administered properly to obtain valid results. Consult the test publisher and administration manual for guidelines on the qualifications and training required for test administrators. These requirements will vary depending on the nature and complexity of the test. Only suitable staff should be selected. Administrators should be given ample time to learn their responsibilities and should practice by administering tests to other staff before administering tests to applicants. Some test publishers may run training sessions for test administration and interpretation.

Administration staff should also be trained to handle special situations with sensitivity. An example would be responding to a request for accommodation based on a disability.

Ensure that *testing conditions are suitable* for all test takers (Chapter 6)

There are various extraneous influences that may affect the reliability and validity of an assessment procedure. For example, noise in the testing room, poor lighting, inaccurate timing and damaged test equipment may adversely affect test takers. Staff should ensure that the testing environment is suitable and that administration procedures are uniform for all test takers.

Provide *reasonable accommodation* in the assessment process for people with disabilities (Chapter 6)

To ensure that qualified individuals with disabilities have an equal chance to demonstrate their potential, accommodations in the assessment process may be necessary. Under the ADA, reasonable accommodation may involve ensuring physical accessibility to the test site, modifying test equipment or the testing process, or providing qualified assistance to the test taker. For example, administering a braille version of a test, allowing extra time to complete the test, or supplying a reader may be appropriate. It is important to become familiar with the types of

accommodations that can be made without invalidating test results. If reasonable accommodation involving test administration cannot be made, consider alternative assessment strategies.

Maintain assessment instrument *security* (Chapter 6)

All materials used in the assessment process, whether paper-and-pencil or computer-based, must be kept secure. Lack of security may result in some test takers having access to test questions beforehand, thus invalidating their scores. To prevent this, test users should, for example, keep testing materials in locked rooms or cabinets and limit access to those materials to staff involved in the assessment process. Security is also the responsibility of test developers. The security of a test may become compromised over time. To protect security, test developers periodically introduce new forms of tests.

Maintain *confidentiality* of assessment results (Chapter 6)

Assessment results are highly personal. Employers must respect the test taker's right to confidentiality. Assessment results should only be shared with those who have a legitimate need to know. This would include staff involved in interpreting assessment results and making employment decisions. Personal information should not be released to other organizations or individuals without the informed consent of the test taker.

Ensure that scores are *interpreted properly* (Chapter 7)

Tests are used to make inferences about people's characteristics, capabilities, and future performance. The inferences should be reasonable, well-founded, and not based upon stereotypes. If test scores are not interpreted properly, the conclusions drawn from them are likely to be invalid, thus leading to poor decision making.

Ensure that there is solid evidence to justify your test score interpretations and the employment decisions you make based on those scores. The test manual should provide instructions on how to properly interpret test results.

MEDIATION AND ARBITRATION AGREEMENT

Our company greatly values its relationships with its employees. We realize that no matter how hard we may try, an occasional breakdown in the relationship may occur. The purpose of this Mediation and Arbitration Agreement is to help avoid the time, expense and emotions associated with dragging our problems through the litigation system.

1. AGREEMENT TO MEDIATE

You and the Company agree to first attempt a mediation of any dispute covered by this Agreement. Mediation is a non-binding process allowing the parties to resolve claims without extensive cost, time and emotion. This mediation shall be conducted pursuant to the Rules and Procedures of the American Arbitration Association for the resolution of employment disputes, or as otherwise stipulated by the parties.

The parties agree to make a good faith effort at mediating any dispute prior to filing a claim for arbitration.

2. AGREEMENT TO ARBITRATE; DESIGNATED CLAIMS

The parties agree that all references to the "Company" in this Agreement shall include and all of its subsidiary and affiliated entities, including all former, current and future officers, directors and employees of all such entities, in their capacity as such or otherwise; all benefit plans and their sponsors, fiduciaries, administrators, affiliates and agents, in their capacity as such and otherwise; and all successors and assigns of any of them. Except as otherwise provided in this Agreement, the Company and the Employee hereby consent to the resolution by binding arbitration of all claims or controversies for which a federal or state court or other dispute resolution body otherwise would be authorized to grant relief, whether or not arising out of, relating to or associated with the Employee's employment with the Company, that the Employee may have against the Company or that the Company may have against the Employee.

Claims covered by this Agreement include, but are not limited to, claims for wages or other compensation due; claims for breach of any contract or covenant, express or implied; tort claims; claims for discrimination or harassment on bases which include but are not limited to race, sex, sexual orientation, religion, national origin, age, marital status, disability or medical condition; claims for benefits, except as excluded in paragraph 6; and claims for violation of any federal, state or other governmental constitution, statute, ordinance, regulation, or public policy including but not limited to [LAWS/CODE/ACT] and their [STATE/PROVINCE] equivalents. The purpose and effect of this Agreement is to substitute arbitration as the forum for resolution of the Claims; all responsibilities of the parties under the statutes applicable to the Claims shall be enforced. We both understand and agree that we are entering into this Agreement voluntarily, and that this Agreement provides for the waiver of our respective rights to a trial by jury on the claims covered by this Agreement.

3. NEUTRAL MEDIATOR OR ARBITRATOR

Any mediation or arbitration of disputes shall be conducted by a neutral mediator/arbitrator.

4. GOVERNING LAW

All arbitrations covered by this Agreement shall be adjudicated in accordance with the state or federal law that would be applied by a [COUNTRY] sitting at [the place of the hearing].

5. LOCATION OF ARBITRATION

The parties agree that any dispute shall be held in the [PLACE] pursuant to its [RULES FOR ARBITRATION EMPLOYMENT DISPUTES.]

6. RIGHTS

Please understand that by signing this agreement, and except for those matters excluded, the Employee and Company waives any right that it, he or she may possess to have employment related disputes litigated in a court or by jury trial.

7. CLAIMS NOT COVERED BY THIS AGREEMENT

This Agreement does not apply to or cover claims for workers' compensation or unemployment compensation benefits; claims resulting from the default of any obligation of the Company or the Employee under a loan agreement; claims for injunctive and/or other equitable relief for intellectual property violations, unfair competition and/or the use and/or unauthorized disclosure of trade secrets or confidential information; or claims based upon an employee pension or benefit plan that either (1) contains an arbitration or other non-judicial resolution procedure, in which case the provisions of such plan shall apply, or (2) is underwritten by a commercial insurer which decides claims. If either the Company or the Employee has more than one claim against the other, one or more of which is not covered by this Agreement, such claims shall be determined separately in the appropriate forum for resolution of those claims. Nothing in this Agreement shall preclude the parties from agreeing to resolve claims other than Claims covered by this Agreement pursuant to the provisions of this Agreement.

8. STATUTE OF LIMITATIONS

Any claim governed by this Agreement shall be filed no later than one year from the date of discovery, or one year from the last date employment, which ever comes first.

9. INITIATION OF MEDIATION PROCESS

Employee or Company can initiate the mediation process by filing a Request for Mediation with [HUMAN RESOURCES, CORPORATE COUNSEL, ETC.]

10. INITIATION OF THE ARBITRATION PROCESS

To initiate the arbitration process, the aggrieved party must file a written Claim. Claims can be filed with the office of [NAME]. Service of the Claim upon the responding party shall be made in accordance with Procedures. Copies of the Rules for Arbitration are available upon request from

the Human Resources Department in each of the Company's major facilities and from each of the Regional Offices, as well as from [NAME] offices.

11. ARBITRATION PROCEDURES

Arbitrations pursuant to this Agreement shall be conducted in accordance with the procedures set forth in [RULES FOR ARBITRATION], except where the Rules conflict with this Agreement, in which case the terms of this Agreement shall govern.

12. REPRESENTATION

Each party may be represented by an attorney at any mediation or arbitration covered by this Agreement.

13. FEES AND COSTS

The Company will pay reasonable costs for up to two alternative dispute resolution procedures during a [NUMBER]-month period beginning [DATE]. All other arbitration costs shall be shared equally by the Company and the Employee. Each party shall pay for each party's attorneys' fees and costs, if any. However, the arbitrator may, in his or her discretion, permit the prevailing party to recover fees and cost to the extent permitted by applicable law.

14. DISCOVERY

The parties shall be entitled to engage in reasonable discovery in the form of requests for documents, interrogatories, requests for admission, physical and/or mental examinations and depositions, in order to obtain information necessary to prosecute or defend the claims brought. Any disputes between the parties regarding the nature or scope of discovery shall be resolved by the Arbitrator(s) in his or her discretion.

15. WRITTEN AWARD

The Arbitrator shall issue a written award, setting forth the award and basis therefore. The award shall be final and binding upon the parties. The Arbitrator shall have the power to award any type of relief that would be available in court of competent jurisdiction. In addition, the Arbitrator shall have the authority to order any party found to have presented any claim or defense without substantial justification to pay the other party's attorney's fees and costs. Any award may be entered as judgment in any court of competent jurisdiction.

16. MOTIONS

The arbitrator will have the authority to grant motions dispositive of all or part of any claim pursuant to the [RULES FOR ARBITRATION OF EMPLOYMENT LAW DISPUTES.]

17. EXCLUSIVE REMEDY

For Claims covered by this Agreement, arbitration is the parties' exclusive legal remedy. The arbitrator has exclusive authority to resolve any dispute relating to the applicability or enforceability of this Agreement. The decision of an arbitrator on any Claims submitted to arbitration as provided by this Agreement shall be in writing setting forth the findings of fact and conclusions of law and the reasons supporting the decision and shall be final and binding upon the parties, except that both parties shall have the right to appeal to the appropriate court any errors of law in the decision rendered by the arbitrator.

18. CONSIDERATION

In addition to any other consideration, each party's promise to resolve Claims by arbitration in accordance with the provisions of this Agreement, rather than through the courts or other bodies, is consideration for the other party's like promise. So too is the Employer's willingness to pay costs of the procedure as set forth in paragraph 13.

19. NOT AN EMPLOYMENT AGREEMENT

This Agreement is not, and shall not be construed to create, any contract of employment, express or implied, nor shall this Agreement be construed in any way to change the status of the Employee from that of at-will employment.

20. TERM, MODIFICATION, AND REVOCATION

This Agreement shall survive the employer-employee relationship between the Company and the Employee and shall apply to any covered Claim whether it arises or is asserted during or after termination of the Employee's employment with the Company or the expiration of any benefit plan. This Agreement can be modified or revoked only by a writing signed by the Employee and an executive officer of the Company that references this Agreement and specifically states an intent to modify or revoke this Agreement.

21. SEVERABILITY

A court construing this Agreement may modify, or interpret it in order to render it enforceable. If this Agreement is declared unenforceable and cannot be administered, interpreted, or modified to be enforceable, the parties agree to waive any right to a jury trial with respect to any dispute to which this Agreement applies. If any provision of this Agreement or the Code is adjudged to be void or otherwise unenforceable, in whole or in part, such adjudication shall not affect the validity of the remainder of the Agreement or the Code.

22. SOLE AND ENTIRE AGREEMENT

This is the complete agreement of the parties on the subject of arbitration of disputes, except for any arbitration provision contained in any pension or benefit plan. This Agreement supersedes any prior or contemporaneous oral or written agreement or understanding on the subject. In executing this Agreement, neither party is relying on any representation, oral or written, on the subject of the effect, enforceability or meaning of this Agreement except as specifically set forth in this Agreement.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES CAREFULLY READING THIS AGREEMENT, UNDERSTANDING ITS TERMS, AND ENTERING INTO THIS AGREEMENT VOLUNTARILY AND NOT IN RELIANCE ON ANY PROMISES OR REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS AGREEMENT ITSELF.

EACH PARTY FURTHER ACKNOWLEDGES HAVING THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH PERSONAL LEGAL COUNSEL AND HAS USED THAT OPPORTUNITY TO THE EXTENT DESIRED.

COMPANY

EMPLOYEE

Signature

Signature

Print Name and Title

Print Name and Title

OVERTIME AUTHORIZATION FORM

Employee Name:				Date:	
Title:		Department:			
Overtime Needed From: To		Total Overtime not to exceed hours			
DETAILED EXPLANATION WHY OVERTIME IS REQUIRED:					
CUSTOMER(S)/CLIENT(S) OVERTIME IS NEEDED FOR:					
EMPLOYEE SIGNATURE:				DATE:	
SUPERVISOR SIGNATURE:				DATE:	

RESPONSE TO REQUEST FOR FAMILY

Employee Name:		Date:	
Title :		Department :	
Overtime Needed From:	To	Total Overtime not to exceed	hours
DETAILED EXPLANATION WHY OVERTIME IS REQUIRED:			
CUSTOMER(S)/CLIENT(S) OVERTIME IS NEEDED FOR:			
EMPLOYEE SIGNATURE:		DATE:	
SUPERVISOR SIGNATURE:		DATE:	

OR MEDICAL LEAVE OF ABSENCE

Employee Name:	Date:
Department:	Title:

On [DATE] you notified us of your need to take family/medical leave due to:

- The birth of a child or the placement of a child for adoption or foster care; or
- A serious health condition that you need care for; or
- A serious health condition affecting your spouse/child/parent, for which you are needed to provide care.

You requested leave beginning [DATE] and ending on or about [DATE].

This is to inform you that (check appropriate boxes):

1. You are eligible not eligible for leave under the FMLA (Family/Medical Leave of Absence).
2. The request leave will will not be counted against your annual FMLA leave entitlement.
3. You will will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by [DATE] (must be within 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We will will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used, the following conditions will apply:

5. If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of your FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make the premium payments as follows:

You have a [NUMBER] day grace period in which to make payment. If payment has not been made within that period, your group health insurance may be canceled, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

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6. We will will not pay your share of the premiums for your health insurance while you are on leave. We will will not do the same with other benefits (e.g. life insurance, etc.) while you are on FMLA leave. If we do, when you return from leave you will be expected to reimburse us for the payments made on your behalf.

7. You will will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return may be delayed until such certification is provided.

8. You are are not a “key employee” as described in the FMLA regulations. If you are a “key employee,” restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us as follows:

9. We have have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us as follows:

10. You will will not be required to furnish us with periodic reports of your status and intent to return to work every [Number] days while on FMLA leave.

11. You will will not be required to furnish recertification every [NUMBER] days relating to a serious health condition:

Except as explained above, you have a right under the FMLA for up to [NUMBER] weeks of unpaid leave in a [NUMBER] month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you

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continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or 2) other circumstances beyond your control, you may be required to reimburse the company for its share of health insurance premiums paid on your behalf during your FMLA leave.

Signature:	Date
Department:	Title:

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TELECOMMUTING AGREEMENT

This Telecommuting Agreement (the "Agreement") is made and effective [DATE],

BETWEEN: [EMPLOYEE NAME] (the "Employee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [COMPANY NAME] (the "Company"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

Employee agrees to participate in the telecommuting program and to adhere to the applicable guidelines and policies. Company concurs with the Employee's participation and agrees to adhere to the applicable guidelines and policies.

The Telecommuting Agreement is subject to the following terms and conditions:

1. DURATION

This agreement will be valid for a period of [SPECIFY TERM] beginning on [START DATE] and

ending on [END DATE]. At the end of that time, both parties will participate in a review which can result in the reactivation of the agreement.

2. WORK HOURS

Employee's work hours and work location are specified in the Attachment at the end of this agreement.

3. PAY AND ATTENDANCE

All pay, leave and travel entitlement will be based on the Employee's primary business location. Employee's time and attendance will be recorded as performing official duties at the primary business location.

4. LEAVE

Employee must obtain approval before taking leave in accordance with established office procedures. By signing this form, Employee agrees to follow established procedures for requesting and obtaining approval of leave.

5. OVERTIME

The Employee will continue to work in pay status while working at the home office. An Employee who works overtime that has been ordered and approved in advance will be compensated in accordance with applicable law and rules. The Employee understands that Company will not accept the results of unapproved overtime work and will act vigorously to discourage it.

By signing this agreement, the Employee agrees that failing to obtain proper approval for overtime work may result in removal from the telecommuting program or other appropriate action.

6. BUSINESS OWNED EQUIPMENT

In order to effectively perform their assigned tasks, Employees may use Company equipment at the telecommuting location with the approval of Company. The equipment must be protected against damage and unauthorized use. Company owned equipment will be serviced and maintained by Company. Any equipment provided by the Employee will be at no cost to Company, and will be maintained by the Employee.

7. INSPECTION

The telecommuting location will be inspected periodically to ensure that proper maintenance of Company equipment is performed, and that safety standards are met. Notice must be given to the Employee at least [NUMBER] hours in advance of the inspection, which must occur during normal working hours.

8. LIABILITY

Company will not be liable for damages to the Employees' property that result from participation in the telecommuting program.

9. REIMBURSEMENT

Company will not be responsible for operating costs, home maintenance, or any other incidental cost (e.g., utilities) whatsoever, associated with the use of the Employee's residence. The Employee does not relinquish any entitlement to reimbursement for authorized expenses incurred while conducting business for Company.

10. WORKERS' COMPENSATION

The Employee is covered under the [LAW] if injured in the course of performing official duties at the telecommuting location.

11. WORK ASSIGNMENTS

The Employee will meet with [DESIGNATE CONTACT PERSON] to receive assignments and to review completed work as necessary or appropriate. The Employee will complete all assigned work according to work procedures mutually agreed upon by the Employee and [THE CONTACT PERSON] according to guidelines and standards stated in the Employee's performance plan.

12. EMPLOYEE EVALUATION

The evaluation of the Employee's job performance will be based on norms or other criteria derived from past performance and occupational standards consistent with these guidelines. For those assignments without precedent or without standards, regular and required progress reporting by the Employee will be used to rate job performance and establish standards. The Employee's most recent performance appraisal must indicate fully achieved standards.

13. RECORDS

The Employee will apply approved safeguards to protect Company records from unauthorized disclosure or damage. Work done at the telecommuting location is considered Company business. All records, papers, computer files, and correspondence must be safeguarded for their return to the primary business location.

14. CURTAILMENT OF THE AGREEMENT

Specify whether the Employee may continue working for your business if the Employee no longer wishes to telecommute. Also specify the circumstances under which the telecommuting agreement will be terminated by your business (e.g., if continued participation fails to satisfy business needs) and the consequences of that termination on the worker's continued employment.

15. PERFORMANCE LOCATION

The Employee agrees to limit performance of assigned duties to the primary business location or to the approved home location. Failure to comply with this provision may result in termination of the telecommuting agreement and/or other appropriate disciplinary action.

16. ATTORNEY'S FEES

Attorney's fees and court costs shall be paid by the defendant in the event that judgment must be, and is, obtained to enforce this agreement or any breach thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY

EMPLOYEE

Signature

Signature

Print Name and Title

Print Name and Title

ATTACHMENT

The following hours and locations are agreed to in support of the Telecommuting Agreement.

Primary Business Location: _____

Telecommuting Location: _____

GENERAL WORK HOURS:

Day	Hours	Location (home, office, other)
Monday:	_____ - _____	_____
Tuesday:	_____ - _____	_____
Wednesday:	_____ - _____	_____
Thursday:	_____ - _____	_____
Friday:	_____ - _____	_____
Saturday:	_____ - _____	_____
Sunday:	_____ - _____	_____

Comments (Schedule flexibility, etc.):

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Your Company Name

Time Sheet

Your Company Slogan

Address

City, State ZIP

123.456.7890 Fax 123.456.7891

Employee Name:

Title:

Employee Number:

Status:

Department:

Supervisor:

Date	Start Time	End Time	Regular Hrs.	Overtime Hrs.	Total Hrs.
------	------------	----------	--------------	---------------	------------

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		WEEKLY TOTALS:			

COMPANY

EMPLOYEE

Signature

Signature

Print Name and Title

Print Name and Title

WITNESS STATEMENT FORM

As anyone in business you want to offer a stimulating, creative, respectful, friendly, and fun work environment that encourages ideas, diversity of thought, hard work, uncompromising product quality, and dedication to providing good value and good service to every customer. It is important to thoroughly investigate any claim of harassment, discrimination, or violations of law or company policy. It is also important to obtain witness statements during the course of your investigation that can be used later on in a court of law if necessary. To this end, any witness statement, in order to be used in lieu of testimony, must contain a declaration under oath, pursuant to the penalty of perjury. You may also consider having the statement notarized. You should also consider consulting an attorney prior to conducting any investigation or interview.

Be sure to obtain witness statements of employees while they are still under your employ. Very often, an employee will view the facts related to a claim differently once they leave your company. Make sure to place the statement in a work product protected file created in anticipation of possible litigation. The file should be marked Confidential and not be placed with the employee's personnel file. If you are ever notified of an actual claim being filed you should immediately forward the work product file to your attorneys.

Make sure that the employee's understanding on the following subject areas is set forth: background with the alleged violator and/or claimant; background with any other essential witnesses; physical proximity to the alleged incidences; understanding as to claimant's concerns; awareness of facts, documents or persons related to the claimant's concerns; and additional facts not originally addressed by the claimant, including the facts, documents and persons related to the additional facts. You will find on the next page all the steps to write a good witness statement form.

HOW TO WRITE A WITNESS STATEMENT FORM

I, [EMPLOYEE NAME], hereby declare as follows:

The following is a list of subject areas that should be addressed in any Witness Statement. Use a separate paragraph for each essential fact, document or statement:

[EMPLOYEE NAME]

[DATE OF STATEMENT]

[EMPLOYEE'S TITLE/POSITION]

[DATE OF INCIDENT]

[PRINCIPALS INVOLVED IN INCIDENT]

[EMPLOYEE'S STATEMENT RE: RELATIONSHIP TO PRINCIPALS]

[NAMES OF OTHER ESSENTIAL WITNESSES]

[EMPLOYEE'S STATEMENT RE: RELATIONSHIP WITH ESSENTIAL WITNESSES]

[UNDERSTANDING AS TO CLAIMANT'S CONCERNS]

[AWARENESS OF FACTS, DOCUMENTS OR PERSONS RELATED TO CLAIMANT'S CONCERNS]

[ADDITIONAL FACTS NOT ORIGINALLY ADDRESSED BY THE CLAIMANT, INCLUDING THE FACTS, DOCUMENTS AND PERSONS RELATED TO THE ADDITIONAL FACTS]

The following is a sample statement regarding documents or other materials used to support the witness' statement:

Attached to my Declaration as Exhibit A is a document identified as [DESCRIBE THE NATURE OR TITLE OF THE DOCUMENT] with which I am familiar in the usual course of business because [SET FORTH THE FOUNDATION OF THE WITNESS REGARDING THE DOCUMENT].

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The following is a sample statement regarding confidentiality that should be included at the end of any witness statement:

The above statement is a complete compilation of my understanding as to those facts, documents and witnesses related to the claimants concerns as I have set them forth in the above statement. I understand that this is a confidential statement which I agree not to share with any other person including, but not limited to, fellow employees, management personnel, investigators or agencies, without the permission of this company, it's attorney, or by court order.

Finish the declaration with the following (notarization is optional):

I declare under penalty of perjury under the laws of the State of [STATE] that the foregoing is true and correct.

Executed this [DATE], AT [CITY], [COUNTY], [STATE].

Dated: _____

[SIGNATURE OF DECLARANT]

[NAME AND TITLE]

TELECOMMUTING SITE WORKSHEET

This worksheet should be completed before setting up your employee’s office space. Ideally, the adequacy of the work space must be determined between you and the employees. The success of the telecommuting arrangement depends on the assessment of the work space and the ability of your employee to successfully complete the required work in this environment.

Tasks	Yes	No
Does the space seem adequately ventilated?		
Is the space reasonably quiet?		
Are all stairs with 4 or more steps equipped with handrails?		
Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?		
Do circuit breakers clearly indicate if they are in open or closed position?		
Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires fixed to the ceiling)?		
Are electrical outlets pronged (grounded)?		
Are aisles, doorways, and corners free of obstructions to permit visibility and movement?		
Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?		
Do chairs appear sturdy?		
Is the space crowded with furniture?		
Are the phone lines, electrical cords, and extension wires secured under a desk or alongside a baseboard?		
Is the office space neat and clean?		
Are floor surfaces clean, dry, level, and free of worn or frayed seams?		
Are carpets well secured to the floor and free of frayed or worn seams?		

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Is there a fire extinguisher in the home, easily accessible from the office space?		
Is there a working (test) smoke detector within hearing distance of the work space?		
The employee agrees to arrange for an energy audit of the home by the local utility company and fire safety inspection by the local fire department within 30 days of the signing of this agreement, provided they can be accomplished free of charge.		
We agree that in our opinion this is an acceptable home office space that allows the employee a reasonable opportunity to meet the job requirements as a telecommuter.		

Comments (optional):

Site Inspected by: _____

Signature: _____

Date: _____

SURVEYS AND EVALUATIONS

CHECKLIST

GIVING JOB PERFORMANCE FEEDBACK

Step 1. Get to the point

- The purpose for this meeting is...
- I asked you here to discuss....
- I want to spend some time discussing how you...

Step 2. State why you are having this conversation

- I have a concern about...
- A problem has occurred in...

Step 3. Describe what you know

- I saw...
- When I was told, I looked into the issue by...

Step 4. Describe the consequences of the continued behavior

- If this continues, then ...
- In looking at this situation as a customer would, it appears...

Step 5. Describe how you feel about what you know

- I am very concerned about...
- I do not think it is right that...
- I am upset that errors in the function keep occurring...

Step 6. Encourage the other party to give their side of the story

- Now, that's what I know but what is your view...
- Is that the way you saw it...
- OK, now what is your reaction?

Step 7. Ask as many questions as you need to understand the situation from the other person's perspective.

- Well, how do you know that...
- And then what happened?
- If you did that, then why did...

Step 8. Decide what specific actions must be done, when and communicate that to the other party

- I believe you must...
- In the next meeting, as Point 4 in the agenda, you will...

Step 9. Summarize the conversation

- Let's recap, you will... and I will...

Step 10. Follow up

- I will contact you next...

EMPLOYEE APPRAISAL FORM

Date: _____	
Name of Employee:	Completed By:
A. Most successful job accomplishments since last performance period:	
1. _____	
2. _____	
3. _____	
4. _____	
B. Key strengths of employee:	
1. _____	
2. _____	
3. _____	
4. _____	
C. Problems since last performance appraisal:	
1. _____	
2. _____	
3. _____	
4. _____	
D. Key areas that need improvement:	

1.					
2.					
3.					
4.					
E. Teamwork Ability:					
1.					
2.					
3.					
4.					
F. What Warnings, If Any, Should be Given to Employee?					
1.					
2.					
3.					
4.					
G. How Would You Rate the Employee on the Following:					
	Excellent	Satisfactory	Average	Below Average	Unsatisfactor y
Attitude					
Initiative					
Dependability					
Work quality					
Work quantity					
Knowledge of job					
Team Play					

Organization Ability					
Judgement					
Responsibility					
H. Any other Observations?					
I. Action to be taken if improvement is desired:					
Plan of action	By whom	Future Dates	Review Schedule	Completion Date	
J. Overall Performance:					
Excellent (90-100) _____		Average (70-74) _____			
Above Satisfactory (80-89) _____		Below Average (60-69) _____			
Satisfactory (75-79) _____		Unsatisfactory (under 60) _____			
Has this performance appraisal been reviewed with the employee? _____ Yes _____					
No					

EMPLOYEE COMPLAINT FORM

Our company takes employee complaints of discrimination, harassment, unethical or unfair conduct as serious matters. So that we may properly investigate your concern, you are requested to fill out this form as completely as possible. Please use additional sheets of paper where needed. After a prompt and thorough investigation into your complaint, you will be notified of the company's intended action. Should you have any questions about the process, please set them forth at the end of this form and we'll do our best to answer them. Thank you.

Employee Name:		Title:	
Department:		Supervisor Name:	

1. Please describe in as much detail as possible the nature of your complaint. Please provide or identify all known persons, documents and witnesses to your concerns:

2. Please describe how the actions you complain about have affected your ability to perform your job:

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3. Please describe any positive solutions you believe can help resolve your complaint:

4. Please provide any additional comments you wish the company to consider when investigating your complaint:

I declare that the facts set forth in this complaint form are true and accurate pursuant to the penalty of perjury under the laws of this State/Province.

Employee signature: _____

Date: _____

EMPLOYEE COMPLIANCE SURVEY

As everyone at the company knows we live in a very litigious society. So that the company does not have to face the time, expense, emotion and loss of productivity that comes with lawsuits, every few months or so we make sure our employees are familiar with company policies related to discrimination, harassment, ethics and other compliance areas. By using this survey we can help create an environment of respect and responsibility at this company that will benefit us all.

We are committed to eliminating wrongful conduct. As you know, it is never in a company's best interest to have it's managers or employees violate any laws, policies or ethical standards. When properly used, this survey will allow our company to be more competitive and to maintain trust within the workplace. Should you have any suggestions or comments regarding this survey, we would like to know about them.

Please help us by the answering the following questions:

Do you understand the company policies prohibiting harassment, discrimination safety and ethical violations?

Yes No

Comments:

Are you aware of, have you witnessed, or been a victim of, the violation of any company policy, including those prohibiting harassment, discrimination, safety or ethical violations?

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Yes No

Comments:

Would you like to speak to someone about a harassment, discrimination, safety, ethical or any other issue you feel needs to be addressed?

Yes No

Comments:

Signature

Name

Please return this form to [NAME] within [NUMBER] days.

EMPLOYEE SATISFACTION SURVEY

This is a survey for the employees of [NAME OF COMPANY] (the “Company”). This survey is intended to give the management of the Company guidance as to improve the workplace environment. This survey is to be answered anonymously.

1. Ratings

Please give your assessment of the Company on the following matters by circling one of the numbers from one to ten (one being awful, and ten being great).

Compensation to employees	1	2	3	4	5	6	7	8	9	10
Opportunity for advancement	1	2	3	4	5	6	7	8	9	10
Benefits	1	2	3	4	5	6	7	8	9	10
Friendly work environment	1	2	3	4	5	6	7	8	9	10
Training	1	2	3	4	5	6	7	8	9	10
Performance evaluation	1	2	3	4	5	6	7	8	9	10
Supervision	1	2	3	4	5	6	7	8	9	10
Culture	1	2	3	4	5	6	7	8	9	10
Job security	1	2	3	4	5	6	7	8	9	10
Flexibility in performing job	1	2	3	4	5	6	7	8	9	10
Overall satisfaction with job	1	2	3	4	5	6	7	8	9	10

2. Employee Morale

A) How would you describe general employee morale? _____

B) Do you have any specific recommendations to improve employee morale? _____

3. Guidance

A) Are you given enough guidance to perform your job? _____

B) Are you given enough feedback on your work? _____

C) How would you change the procedure for performance appraisals? _____

4. Training

A) What additional training of employees, if any, would be beneficial? _____

5. Technology

A) What additional technology do you believe would be beneficial for the Company? _____

6. Benefits

A) What benefits that the Company offers do you find valuable? _____

B) What additional benefits would you like to see the Company offer? _____

7. Flexibility

A) Are you given enough flexibility to perform your job? _____

B) What additional flexibility do you think would be valuable to help you perform your job better? _____

8. Supervisor

A) Are you adequately supervised? _____

B) Is your supervisor fully aware of your concerns? _____

C) How would you improve any supervisory procedures? _____

8. Profitability

A) Do you have any suggestions to improve the profitability of the Company? _____

9. Miscellaneous

A) Is there anything else that you believe needs change or improvement in the Company? ____

NEW EMPLOYEE SURVEY

As you're probably aware, one of the best sources of knowledge and innovation comes from new employees. We want to know what you've learned about our company and how you think it can be improved. Please use extra paper where needed.

BACKGROUND	
Name:	Position Title:
Date of Hire:	Current Department:
JOB DESCRIPTION	
Please describe in your own words the three most important things you do in your job:	
1 •	
2 •	
3 •	
Do you feel that your job title is properly named: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If "No," what should it be?	
NAME THE THREE MOST ENJOYABLE ASPECTS OF YOUR JOB	
1.	
2.	
3.	
NAME THE THREE LEAST ENJOYABLE ASPECTS OF YOUR JOB	

1.	
2.	
3.	
HIRING PROCESS	
Was the job accurately described during the hiring process? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Comment:	
What improvements can be made in the company's hiring process so that we can hire better employees?	
ORIENTATION AND TRAINING	
How can the company improve the orientation process which introduces new employees to the company's operations, personnel, products and services?	
What can the company do to provide you with skills training so that you can excel at your job?	
Would you be interested in cross training in another department?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, please state job position you would be interested in training for:	
WAGE AND HOUR ISSUES	
Is anything unclear about wage or hour issues (pay, overtime, vacation, missed time from work, sick days, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No	

If so, please indicate any questions that you have.	
COMPANY POLICIES AND PROCEDURES	
Are you unclear about any company policies or procedures as set forth in the employee handbook or by your supervisor? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, please indicate any questions you may have:	
COMMENTS	
If you are aware of any possible improvements to the way we run our business, please give us your comments or suggestions:	
<i>Thank you!</i>	
Signature:	Date:

PEER IMPROVEMENT FORM

One of this company's key values is constant improvement. By communicating and sharing the knowledge that all of us have regarding our jobs, clients, customers and other stakeholders, we can learn from each other to create a long term profitability and a pleasant, even exciting work environment.

This form asks how a fellow employee can improve their value to this company, and likewise how you or the company can improve your value to that employee. A full range of subject areas are covered. After the subject area headings, you will be given an example of some of the sub-categories that can be considered in formulating your response. Do not consider this a limitation, but merely as an example. Some areas may have little or no application to the employee being reviewed.

For each of the subject areas listed, please indicate how the employee, company, or you can improve or add value to this employee's performance in that particular subject area. For example, you may say that John can "improve his communication skills by listening better and by speaking louder, especially during group meetings." Or, you may say that John, who is an engineer, can improve his customer services skills by "establishing a better relationship with the sales team by having monthly meetings." Or you may say that "John can help bring in new clients by giving speeches on how to protect computer access." In the last example, you may also add that "the company can support John's effort by allowing him to use some of the audio-visual equipment maintained by the sales department."

Be honest, positive, understanding and most of all, think about how the employee can improve. Try not to be vague. Cite specific suggestions and examples. If you believe the employee has shortcomings, focus on the conduct, not on the person.

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Should you have any questions about the use of this form, please don't hesitate to contact your supervisor or the human resources department. You are to turn in this form within two weeks from today.

Reviewer's Name:	
Reviewer's Position:	
Employee Name:	
Employee Position:	
Length of Exposure to Employee's Work Performance:	

Describe what you consider to be the 3 most important functions of the employees' job:

1	
2	
3	

HOW CAN THIS EMPLOYEE IMPROVE IN THE FOLLOWING AREAS:

1. CUSTOMER SERVICE	(Focus on customer needs, problem solving, exceeding customer expectations)
2. QUALITY CONTROL	(Accuracy, neatness, thoroughness, precision, exceeds quality benchmarks, seeks constant improvement)

3. PRODUCTIVITY & PROFITABILITY	(Quantity of work, time and resource management, adaptability, flexibility, ability to meet deadlines)
4. INDEPENDENCE	(Ability to seek out solutions, seeks new assignments, adaptable to change, initiative)
5. JOB KNOWLEDGE/ SKILLS	(Technical knowledge, hands on skills, use of computer hardware and software, understanding of relationship to the overall company systems)

<p>6. CREATIVITY, INNOVATION & PROBLEM SOLVING</p>	<p>(Creates and improves processes and systems, lateral thinking ability, win-win solutions)</p>
<p> </p>	
<p> </p>	
<p> </p>	
<p>7. INTERPERSONAL RELATIONS</p>	<p>(Communication skills, writing, presentation, meeting skills, writing, presentation, team , listening and meeting skills, availability, openness, interrelations with all stakeholders and members of your team, respect for privacy)</p>
<p> </p>	
<p> </p>	
<p> </p>	
<p>8. INTERDEPARTMENTAL RELATIONS</p>	<p>(Are there any other teams or departments that the employee can interact with better?)</p>
<p> </p>	
<p> </p>	
<p> </p>	
<p>9. SUPERVISION SKILLS</p>	<p>(Knowledge of subordinate’s jobs, delegation, planning, the management of people and systems)</p>
<p> </p>	
<p> </p>	
<p> </p>	
<p>10. LEADERSHIP ABILITY</p>	<p>(Trust, responsibility, vision, integrity)</p>
<p> </p>	
<p> </p>	
<p> </p>	

DR. LUBOGO ISAAC CHRISTOPHER

MISCELLANEOUS QUESTIONS:

- 1. If you did a peer appraisal for this employee last year, how do you feel this employee improved their overall performance since that time?**

- 2. How can you help this employee improve their performance?**

- 3. What additional resources, tools or training do you believe the employee needs in order to improve their performance?**

I hereby certify that the information that I have provided is true and accurate to the best of my knowledge.

Signature

Date

PERFORMANCE EVALUATION

Employee:		Date Hired:	
Job Title:	Salary:	Date Of Review:	Next:
Evaluation Of Performance	Strength/ Weakness	Comments	
Team Player			
Meets Deadlines			
Organizational Skills			
Communication Skills			
Leadership Ability			
Interaction With Co-workers			
Attendance			
Quality Of Work			

DR. LUBOGO ISAAC CHRISTOPHER

Employers' Comments		
Goals		

Signature of Interviewer

Name

SELF-EVALUATION

Please answer the following questions by checking the appropriate box. It's important that you question yourself, assess your performance and give honest responses. After you have finished answering each question, total the number of checked boxes in each column. Multiply the total of each column by the severity factor for that category. Add together the total of each column. This is your evaluation score. The higher the score, the better your understanding is of our company, its structure and your role in it. Remember this questionnaire is strictly confidential and no one will judge you based on the information it contains.

QUESTIONS	Below Average	Adequate	Above Average	Superior
	X 1	X 2	X 3	X 4
I know what the responsibilities of my job are.				
I know who my supervisor is and what he or she is responsible for.				
I feel my workload is too heavy.				
I feel I can discuss my problems with my superior.				
I know what my benefits are.				
I feel that I am a part of a productive work team.				
I always know what my daily and weekly goals are.				
I know what the long-term goals of the company are.				
I know what the organizational structure of the company is.				
I feel I have had enough training to perform my job.				

DR. LUBOGO ISAAC CHRISTOPHER

Total the number of responses in each column				
Multiply answers by each column's severity factor				
TOTAL				

SEXUAL HARASSMENT I.Q. TEST

1. Quid pro quo harassment means which of the following?

- a) Fair treatment for all
- b) Something in exchange for sexual favors
- c) Live and let live
- d) None of the above

2. Which of the following comments can be considered sexual harassment?

- a) "Your ass looks great." (To a man or a woman)
- b) "You've been out sick a lot lately. You're not pregnant, are you?"
- c) "Why are you in such a bad mood today? PMS?"
- d) All of the above

3. In order to file a claim for "hostile environment" sexual harassment, a worker must demonstrate that the harassment caused them to suffer serious psychological injury.

- a) True
- b) False

4. The behavior of the alleged victim is relevant to the determination of whether the work environment was "sexually hostile."

- a) True
- b) False

5. Mike, a senior partner, tells a female associate, Julie, that he wants her to escort him to a client dinner. This is the third time in a month that Mike has demanded that Julie escort him to a business-related function. Julie objects but Mike tells her she really must go because it doesn't look good for him to go without a date. Can this be considered sexual harassment?

- a) Yes
- b) No

6. Marcy's boss Bob often approaches her workstation and tells her sexually explicit jokes. Marcy does not personally consider Bob's conduct offensive, but other "reasonable" women certainly would. Can Marcy state a claim for sexual harassment?
- a) Yes
 - b) No
7. Carla works with Marcy and Bob, and sits in the workstation next to Marcy. Although Bob directs his conversation to Marcy, Carla can easily overhear the sexually explicit jokes. She finds them offensive and becomes uncomfortable whenever she sees Bob approach Marcy's desk. Can Carla state a claim for sexual harassment?
- a) Yes
 - b) No
8. Bob, who owns a small printing company is sued by his former receptionist Tina, who claims she was harassed by a fellow employee. Bob knew nothing about this before the lawsuit. Can Bob's company be held personally liable for any damages awarded to Tina?
- a) Yes
 - b) No
9. A harasser can be which of the following?
- a) Supervisor
 - b) Co-worker
 - c) Customer
 - d) Contract employee
 - e) All of the above
10. Conduct considered to be sexual harassment can come in which of the following forms?
- a) Physical touching
 - b) Letters and gifts
 - c) Posters and calendars
 - d) E-mail
 - e) All of the above

ANSWER KEY

1. **B** Quid pro quo harassment can include everything from the “casting couch” to subtle implications or promotion of favoritism in exchange for sexual favors.
2. **D** Many individuals, courts and juries will differ on whether or not these statements constitute sexual harassment. The point is, there are no hard and fast guidelines. Sexual harassment is viewed from a “reasonable woman” standard, and is open to wide interpretation.
3. **B** In a recent U.S. Supreme Court case, the court ruled that it was not necessary for a plaintiff to claim serious psychological injury to support a sexual harassment claim.
4. **A** The answer is true. The victim’s behavior is viewed from a “reasonable woman standard.” For example, if a claimant “overreacts” to an item that she considers to be sexually hostile, she cannot claim discrimination if it is “unreasonable” for her to do so.
5. **A** This can be considered sexual harassment if Julie had a reasonable belief that Mike was interested in her and to refuse could result in negative consequences related to her job. If an employee’s job requires after work client contact, meetings and dinners, state that specifically in their job description.
6. **B** Marcy cannot claim sexual harassment because she was not offended by Bob’s conduct.
7. **A** The fact that Bob’s conversation was intended solely for Marcy does not insulate the company from a claim by Carla.
8. **A** Companies can be held responsible for sexual harassment even if they did not know about it! The amount of exposure will differ considerably based on efforts made to avoid sexual harassment in the first place.
9. **E** Sexual harassers come in all forms, shapes and sizes. For example, a company which allows its customers or vendors to constantly flirt with the receptionist, despite her having expressed her discomfort with the activity, can open itself up to a sexual harassment claim.
10. **E** Sexual harassment can come in any form. The only issue is whether or not it is considered to be offensive, severe, pervasive, etc., by a “reasonable woman” standard.

SUPERIOR IMPROVEMENT FORM

One of this company's key values is constant improvement. By communicating and sharing the knowledge that all of us have regarding our jobs, clients, customers and other stakeholders, we can learn from each other to create a long-term profitability and a pleasant, even exciting work environment.

This form asks how your supervisor can improve their value to this company, and likewise how you or the company can improve your value to that supervisor. A full range of subject areas are covered. After the subject area headings, you will be given an example of some of the sub-categories that can be considered in formulating your response. Do not consider these as limitations, but merely as an example. Some areas may have little or no application to the supervisor being reviewed.

For each of the subject areas listed, please indicate how your supervisor, company, or you can improve or add value to that particular subject area. For example, you may say that John can "improve his communication skills by listening better and by speaking louder, especially during group meetings." Or, you may say that John, who is an engineer, can improve his customer service skills if he "establishes a better relationship with the sales team by having monthly meetings." Or you may say that "John can help bring in new clients by giving speeches on how to protect computer access." In the last example, you may also add that "the company can support John's effort by allowing him to use some of the audio-visual equipment maintained by the sales department."

Be honest, positive, understanding and most of all, think about how your supervisor can improve. Try not to be vague. Cite specific suggestions and examples. If you believe your supervisor has shortcomings, focus on their conduct, not on the person.

Should you have any questions about the use of this form, please don't hesitate to contact the human resources department. You are to turn in this form within two weeks from today.

Reviewer's Name:	
Reviewer's Position:	
Supervisor's Name:	
Supervisor's Position:	
Length of Exposure to Supervisor's Work Performance:	

Describe what you consider to be the 3 most important functions of your supervisor's job:

1.	
2.	
3.	

How can your supervisor improve in the following areas:

1. CUSTOMER SERVICE	(Focus on customer needs, problem solving, exceeding customer expectations)
2. QUALITY CONTROL	(Accuracy, neatness, thoroughness, precision, exceeds quality benchmarks, seeks constant improvement)

3. PRODUCTIVITY PROFITABILITY	& (Quantity of work, time and resource management, adaptability, flexibility, ability to meet deadlines)
4. INDEPENDENCE	(Ability to seek out solutions, seeks new assignments, adaptable to change, initiative)
5. JOB KNOWLEDGE/ SKILLS	(Technical knowledge, hands on skills, use of computer hardware and software, understanding of relationship to the overall company systems)
6. CREATIVITY, INNOVATION & PROBLEM SOLVING	(Creates and improves processes and systems, lateral thinking ability, win-win solutions)
7. INTERPERSONAL RELATIONS	(Communication skills, writing, presentation, meeting skills, listening, availability, openness, interrelations with all stakeholders and members of your team, respect for privacy)

8. INTERDEPARTMENTAL RELATIONS	(Are there any other teams or departments that your supervisor can interact with better?)
9. SUPERVISION SKILLS	(Knowledge of subordinate's jobs, delegation, planning, the management of people and systems)
10. LEADERSHIP ABILITY	(Trust, responsibility, vision, integrity)

MISCELLANEOUS QUESTIONS:

- 1. If you did a peer appraisal for this supervisor last year, how do you feel this supervisor improved their overall performance since that time?**

- 2. How can you help your supervisor improve their performance?**

DR. LUBOGO ISAAC CHRISTOPHER

3. What additional resources, tools or training do you believe your supervisor needs in order to improve their performance?

I certify that the information provided above is true and accurate to the best of my knowledge.

Signature

Date

DEEDS



ASSIGNMENT FOR DEED

This Assignment for Deed (the "Assignment") is made and effective [DATE],

BETWEEN: [SELLER NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [PURCHASER NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. If the Purchaser shall first make the payments and perform the covenants hereinafter mentioned on the Purchaser's part to be made and performed, the Seller hereby covenants and agrees to convey and assure to the Purchaser, in fee simple, clear of all encumbrances whatever, by a good and sufficient Warranty Deed, with release and waiver of the right of homestead and dower, the following described real estate in the state of [STATE/PROVINCE], to wit:

2. The Purchaser hereby covenants and agrees to pay to the Seller the sum of in the manner following:

With interest at the rate of [%] per annum payable [monthly, annually] on the whole sum remaining from the time to time unpaid, and to pay all taxes, assessments, or impositions that may be legally levied or imposed upon said real estate, subsequent to [.

DR. LUBOGO ISAAC CHRISTOPHER

3. In case of the failure of the Purchaser to make any of the payments, or any part thereof, or perform any of the covenants on the Purchaser's part hereby made and entered into, this agreement shall, at the option of the Seller, be forfeited and all sums theretofore received shall be retained by the Seller in full satisfaction and in liquidation of all damages by the Seller sustained, and the Seller shall have the right to reenter and take possession of the premises aforesaid.

4. Purchaser shall maintain insurance on said real estate in an amount and of a type approved by the Seller.

5. Seller warrants to Purchaser that no notice from any city, village, or other governmental authority of any dwelling code violation has heretofore been issued and received by the owner or his/her agent with respect to any dwelling structure on the said real estate.

6. The time of payment shall be the essence of this contract, and the covenants and agreements herein contained shall extend to and be obligatory upon heirs, executors, administrators, and assigns of the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

SELLER

PURCHASER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ASSIGNMENT OF DEED OF TRUST

This Assignment of Deed of Trust (the "Assignment") is made and effective [DATE],

BETWEEN: [TRUSTOR NAME] (the "Lessor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [TRUSTEE NAME] (the "Lessee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

FOR VALUE RECEIVED, the undersigned Trustor hereby grants, assigns and transfers to Trustee all beneficial interest under that certain Deed of Trust, dated [DATE], executed by Trustor, to Trustee, and recorded as Instrument [number] on [date] in [BOOK, PAGE], of Official Records in the State Recorder's office of [STATE/PROVINCE], describing [LAND/REAL PROPERTY] therein as:

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

TRUSTOR

TRUSTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

DEED GRANTING EASEMENT

This Deed Granting Easement (the "Agreement") is made and effective [DATE],

BETWEEN: [GRANTOR NAME] (the "Grantor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [GRANTEE NAME] (the "Grantee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

1. The Grantor is the owner in fee simple of [it may be convenient to add "delineated on the annexed plan" and insert a plan of the land]. The Grantee is the owner in fee of [another or adjoining] parcel of land, described as [SET FORTH LEGAL DESCRIPTION].
2. The Grantee is desirous of [DESCRIBE] and the Grantor has agreed, in consideration of [AMOUNT] [or state other consideration] paid by the Grantee, the receipt of which by the Grantor is acknowledged, to grant to the Grantee an easement for [SPECIFY].
3. In consideration of [AMOUNT or other consideration] paid by the Grantee to the Grantor, the Grantor grants to the Grantee, his [her] heirs and assigns, full and free right and authority to [DESCRIBE].
4. The Grantee covenants with the Grantor that its heirs or assigns, will [DESCRIBE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

GRANTOR

GRANTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

DEED IN LIEU OF FORECLOSURE

This Deed in Lieu of Foreclosure (the "Agreement") is made and effective [DATE],

BETWEEN: [GRANTOR NAME] (the "Grantor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [GRANTEE NAME] (the "Grantee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee the following described real property in the State of [STATE/PROVINCE].

[DESCRIPTION OF PROPERTY]

This deed is an absolute conveyance, the Grantor having sold the above-described real property to the Grantee for a fair and adequate consideration, such consideration being full satisfaction of all obligations secured by the deed of trust heretofore executed by Grantor. Grantor declares that this conveyance is freely and fairly made and that there are no agreements, oral or written, other than this deed between Grantor and Grantee with respect to the above-described real property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

GRANTOR

GRANTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

MORTGAGE DEED

This Mortgage Deed (the "Agreement") is made and effective [DATE],

BETWEEN: [BORROWER NAME] (the "Borrower"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [LENDER NAME] (the "Lender"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

This Mortgage is given by Borrower to Lender, which term includes any holder of this Mortgage, to secure the payment of the PRINCIPAL SUM of [AMOUNT] together with interest thereon computed on the outstanding balance, [AMOUNT] all as provided in a Note having the same date as this Mortgage, and also to secure the performance of all the terms, covenants, agreements, conditions and extensions of the Note and this Mortgage.

In consideration of the loan made by Lender to Borrower and for the purpose expressed above, the Borrower does hereby grant and convey to Lender, with MORTGAGE COVENANTS, the land with the buildings situated thereon and all the improvements and fixtures now and hereafter a part thereof, being more particularly described in Exhibit A attached hereto and made a part hereof and having a street address of [ADDRESS].

[Attach Property Description]

TERMS

1. No superior mortgage or the note secured by it will be modified without the consent of Lender hereunder.
2. Borrower will make with each periodic payment due under the Note secured by this Mortgage a payment sufficient to provide a fund from which the real estate taxes, betterment assessments and other municipal charges which can become a lien against the mortgaged premises can be paid by Lender when due. This provision shall be effective only in the event that a fund for the same purpose is not required to be established by the holder of a senior mortgage.

DR. LUBOGO ISAAC CHRISTOPHER

3. In the event that Borrower fails to carry out the covenants and agreements set forth herein, the Lender may do and pay for whatever is necessary to protect the value of and the Lender's rights in the mortgaged property and any amounts so paid shall be added to the Principal Sum due the Lender hereunder.
4. As additional security hereunder, Borrower hereby assigns to Lender, Borrower's rents of the mortgaged property, and upon default the same may be collected without the necessity of making entry upon the mortgaged premises.
5. In the event that any condition of this Mortgage or any senior mortgage shall be in default for [NUMBER] days, the entire debt shall become immediately due and payable at the option of the Lender. Lender shall be entitled to collect all costs and expenses, including reasonable attorney's fees incurred.
6. In the event that the Borrower transfers ownership (either legal or equitable) or any security interest in the mortgaged property, whether voluntarily or involuntarily, the Lender may at its option declare the entire debt due and payable.
7. This Mortgage is also security for all other direct and contingent liabilities of the Borrower to Lender which are due or become due and whether now existing or hereafter contracted.
8. Borrower shall maintain adequate insurance on the property in amounts and form of coverage acceptable to Lender and the Lender shall be a named insured as its interest may appear.
9. Borrower shall not commit waste or permit others to commit actual, permissive or constructive waste on the property.
10. Borrower further covenants and warrants to Lender that Borrower is indefeasibly seized of said land in fee simple; that Borrower has lawful authority to mortgage said land and that said land is free and clear of all encumbrances except as may be expressly contained herein.

This Mortgage is upon the STATUTORY CONDITION and the other conditions set forth herein, for breach of which Lender shall have the STATUTORY POWER OF SALE to the extent existing under the laws of the State of [STATE/PROVINCE].

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BORROWER

LENDER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

DR. LUBOGO ISAAC CHRISTOPHER

QUIT CLAIM DEED

This Quit Claim Deed (the "Agreement") is made and effective [DATE],

BETWEEN: [GRANTOR NAME] (the "Grantor") corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [GRANTEE NAME] (the "Grantee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

For and in consideration of [AMOUNT], Grantor grants to Grantee all that real property situated in [CITY] in the state of [STATE/PROVINCE] bounded and described as follows:

[legal description of real property]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

GRANTOR

GRANTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

TRANSFER OF TITLE WARRANTY DEED

This Transfer of Title Warranty Deed (the "Agreement") is made and effective [DATE],

BETWEEN: [GRANTOR NAME] (the "Grantor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [GRANTEE NAME] (the "Grantee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

In consideration of the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

TERMS

Title to property shall be transferred and given by seller to purchaser on the close of this transaction by general warranty deed [IDENTIFY], with the usual covenants of title, with title to the property being free and clear of all liens and possessions except as otherwise provided in this contract, with documentary transfer stamps in the proper amount attached to the deed.

[DESCRIPTION OF PROPERTY]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

GRANTOR

GRANTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

DR. LUBOGO ISAAC CHRISTOPHER

WARRANTY DEED

This Warranty Deed (the "Agreement") is made and effective [DATE],

BETWEEN: [GRANTOR NAME] (the "Grantor"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [GRANTEE NAME] (the "Grantee"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

For good consideration, Grantor hereby bargain, deed and convey to Grantee the land legally described as [describe], free and clear with Warranty.

COVENANTS

Grantor, for itself and its heirs, hereby covenants with Grantee, its heirs, and assigns, that Grantor is lawfully seized in fee simple of the above-described premises; that it has a good right to convey; that the premises are free from all encumbrances; that Grantor and its heirs, and all persons acquiring any interest in the property granted, through or for Grantor, will, on demand of Grantee, or its heirs or assigns, and at the expense of Grantee, its heirs or assigns, execute and instrument necessary for the further assurance of the title to the premises that may be reasonably required; and that Grantor and its heirs will forever warrant and defend all of the property so granted to Grantee, its heirs, against every person lawfully claiming the same or any part thereof.

Being the same property conveyed to the Grantor by deed of [date].

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [place of execution] on the date indicated below.

GRANTOR

GRANTEE

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

OBJECTION MY LORD: LEGAL PRACTICE DEMYSTIFIED

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature_____

Notary

(Seal)

DR. LUBOGO ISAAC CHRISTOPHER

POWER OF ATTORNEY

ATTORNEY APPROVAL

This Attorney Approval (the "Agreement") is made and effective [DATE],

BETWEEN: [BUYER NAME] (the "Buyer"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [SELLER NAME] (the "Seller"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

NOW THEREFORE, it is further agreed by and between the parties hereto as follows:

TERMS

That their respective attorneys may approve and make modifications, other than price and dates, mutually acceptable to the parties. Approval will not be unreasonably withheld but, if within [NUMBER] business days after the date of this contract it becomes evident agreement cannot be reached by parties hereto, and written notice thereof is given to either party within the time specified, then this contract shall become null and void, and all the monies paid by the Buyer shall be refunded.

IN THE ABSENCE OF WRITTEN NOTICE WITHIN THE TIME SPECIFIED HEREIN; THIS PROVISION SHALL BE DEEMED WAIVED BY ALL PARTIES HERETO AND THIS CONTRACT SHALL BE IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BUYER

SELLER

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

GENERAL POWER OF ATTORNEY

This General Power of Attorney (the “Agreement”) is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

TERMS

KNOW ALL MEN BY THESE PRESENTS, that this Power of Attorney is given by Client to Attorney and that the Client hereby appoints Attorney to be its attorney and to do in its name and on its behalf anything that the Client can lawfully do by an attorney, including but not limited to;

6. To ask, demand, sue for, recover, collect, and receive all sums of money, debts, dues, accounts, legacies, bequests, interest, dividends, annuities, and demands of every type that are now or may later become due, owing, payable or belonging to Client and have, use, and take all lawful ways and means in Client’s name or otherwise for the recovery thereof, by attachments, arrest, distress, or otherwise, and to compromise and agree for them and acquaintances or other sufficient discharges for them;
7. For Client and in its name, to make, seal, and deliver, to bargain, contract, agree for, purchase, receive, and take lands, and tenements, and accept the possession of all lands, and all deeds and other assurances, in the law therefore, and to lease, let, demise, bargain, sell, release, convey, mortgage, and hypothecate lands, and tenements on the terms and conditions and under the covenants as Attorney thinks fit;
8. Also to bargain and agree for, buy, sell, mortgage, hypothecate, and in any and every way and manner deal in and with goods, wares, and merchandise, choses in action, and other property in possession or in action, and to make, do, and transact all and every kind of business of every nature and kind;

DR. LUBOGO ISAAC CHRISTOPHER

9. And also for Client and in its name, and as Client's act and deed, to sign, seal, execute, deliver, and acknowledge the deeds, leases, mortgages, hypothecations, contracts, charter, bills of lading, bills, bonds, notes, receipts, evidence or debt, releases and satisfaction of mortgage, judgments and other debts, and other instruments in writing of every kind and nature that may be necessary or proper in the premises;
10. GIVING AND GRANTING to the Attorney in fact full power and authority to do and person every act necessary, requisite, or proper to be done as fully as Client might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the Attorney in fact may lawfully do or cause to be done by virtue of this Power of Attorney.

All power and authority granted in this power of attorney will automatically terminate on [date] unless sooner revoked by me.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

LIMITED POWER OF ATTORNEY

This Limited Power of Attorney (the “Agreement”) is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the “Client”), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

KNOW ALL MEN BY THESE PRESENTS, that this Power of Attorney is given by Client to Attorney and that the Client hereby appoints Attorney to be its attorney and to do in its name and on its behalf anything that the Client can lawfully do by an attorney, including but not limited to;

28. General Grant of Power

To exercise or perform any act, power, duty, right or obligation whatsoever that Client now has or may hereafter acquire, relating to any person, matter, transaction or property, real or personal, tangible or intangible, now owned or hereafter acquired by Client, including, without limitation, the following specifically enumerated powers. Client grants to Attorney full power and authority to do everything necessary in exercising any of the powers granted here as fully as Client might or could do if personally present, with full power of substitution or revocation, ratifying and confirming all that Attorney shall lawfully do or cause to be done by virtue of this power of attorney and the powers granted here.

29. Collection Powers

To forgive, request, demand, sue for, recover, collect, receive, hold all such sums of money debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension, profit sharing, retirement, social security, insurance and other contractual benefits and proceeds, all documents of title, all property, real or personal, intangible or tangible property and property rights, and demands whatsoever, liquidated or unliquidated, now or hereafter owned by, or due, owing, payable or belonging to, Client or in which Client has or may hereafter acquire an interest; to have, use, and take all lawful means and equitable and legal remedies and proceedings in Client’s name for the collection and recovery of them, and to adjust, sell, compromise, and agree for the same, and to execute and deliver for Client, on its behalf, and in its name, all endorsements, releases, receipts, or other sufficient discharges for the same.

30. Real Property Powers

To bargain, contract, agree for, option, purchase, acquire, receive, improve, maintain, repair, insure, plat, partition, safeguard, lease, demise, grant, bargain, sell, assign, transfer, remise, release, exchange, convey, mortgage and hypothecate real estate and any interest in it (and including any interest which Client holds with any other person as joint tenants with full rights of survivorship, or as tenants by the entireties), lands, tenements and hereditaments, for such price, upon such terms and conditions, as Attorney shall determine.

31. Personal Property Powers

To bargain, contract, agree for, purchase, option, acquire, receive, improve, maintain, repair, insure, safeguard, lease, assign, sell, exchange, redeem, transfer, hypothecate and in any and every way and manner deal in and with goods, wares, merchandise, furniture and furnishings, automobiles, bills, notes, debentures, bonds, stocks, limited partnership interests, certificates of deposit, commercial paper, money market instruments, and other securities, choses in action and other tangible or intangible personal property in possession, for such price, upon such terms and conditions, as Attorney shall determine.

32. Gift Power

To make gifts of any kind, provided, however, that the aggregate of all gifts to one donee other than a charitable donee, in any one year shall not exceed Client's federal gift tax annual exclusion for the year in which the gifts are made, and this authority shall be non-cumulative.

33. Contract Powers

To make, do, and transact every kind of business of whatever nature, and also for Client and in its name, and as its act and deed, to sign, seal, execute, deliver and acknowledge such stock certificates, stock powers, assignments separate from certificate, deeds, conveyances, leases and assignments of leases, covenants, indentures, options, letters of intent, contracts, agreements, closing agreements, certificates, mortgages, hypothecations, bills of lading, bills, bonds, debentures, notes, receipts, evidence of debts, releases and satisfaction of mortgage, judgments and other debts, waivers of statutes of limitation, and such other documents and instruments in writing of whatever kind and nature as may be necessary or proper in the premises, as fully as Client might do if done in its own capacity.

34. Banking Powers

To make, draw, sign in Client's name, deliver and accept checks, drafts, receipts for moneys, notes, or other orders for the payment of money against, or otherwise make withdrawals from any commercial, checking or savings account which Client may have in its sole name or in joint name with its spouse or other person(s), in any bank or financial institution, for any purpose which Attorney may think necessary, advisable or proper; and to endorse and negotiate in its name and deliver checks, drafts, notes, bills, certificates of deposit, commercial paper, money market instruments, bills of exchange or other instruments for the payment of money and to deposit same, as cash or for collection, and cash into any commercial, checking or savings account which Client may have in its sole name or in joint name with its spouse or other person(s), in any bank or financial institution; and to carry on all its ordinary banking business.

35. Tax Returns

To prepare, execute and file reports, returns, declaration, forms and statements for any and all tax purposes including income, gift, real estate, personal property, intangibles tax, single business tax, or any other kind of tax whatsoever, to pay such taxes and any interest or penalty or additions to make and file objections, protests, claims for abatement, refund or credit in relation to any such tax proposed, levied or paid; to represent Client and to institute and prosecute proceedings in court or before any administrative authority to contest any such tax in whole or in part or for recovery of any amount paid in respect of any such tax, to defend or settle any amount paid in respect of any such tax, to give full and final receipt for any refund or credit and to endorse and collect any check or other voucher; to pay any and all such taxes and any interest, penalty or other additional amounts, to employ attorneys, accountants or other representatives and grant powers of attorney or letters of appointment for any of the purposes stated above.

36. Safe Deposit Box

To have access to any safe deposit box of which Client is a tenant or cotenant with full power to withdraw or change from time to time the contents of it; and to exchange or surrender the box and keys to it, renew any rental contract for it, and to do all things which any depository, association or bank or Attorneys may require, releasing the lessor from all liability in connection with it.

37. Employ Agents

To employ and compensate agents, accountants, attorneys, real estate brokers and other professional assistance and to retain and compensate such persons for services rendered; to waive any attorney-client privilege.

38. Motor Vehicles

To apply for a Certificate of Title upon, and endorse and transfer title, for any automobile, or other motor vehicle, and to represent in such transfer assignment that the title to the motor vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer assignment.

39. Settlement Powers

To adjust, settle, compromise or submit to arbitration any accounts, debts, claims, demands, disputes or matters which are now subsisting or may hereafter arise between Client or its Attorney and any other person or persons, or in which any property, right, title, interest or estate belonging to or claimed by Client may be concerned.

40. Legal Actions

To commence, prosecute, enforce or abandon, or to defend, answer, oppose, confess, compromise or settle all claims, suits, actions, or other judicial or administrative proceedings in which Client is or may hereafter be interested, or in which any property, right, title, interest or estate belonging to, coming to or claimed by Client may be concerned.

41. Dividends

To receive all dividends which are or shall be payable on any and all shares of stock in any corporation which may stand in Client's name on the books of such corporation or to which Client may be, in equity or otherwise, beneficially entitled; or to elect to reinvest such dividend, all as Attorney may deem appropriate.

42. Vote Stock

To vote at all stockholder meetings of corporations and otherwise to act as Client proxy or representative in respect of any shares now held or which may hereafter be acquired by Client and for that purpose to sign and execute any proxies or other instruments in its name and on its behalf.

43. Transfer Stock

To sell, assign, transfer, and deliver all and any shares of stock standing in Client's name on the books of any corporation, or to which Client may be, in equity or otherwise, beneficially entitled, and for the purpose to make and execute all necessary acts of assignment and transfer.

44. Insurance and Employee Benefit Plans

To redeem, surrender, borrow, extend, cancel, amend, pledge, alter or change, including change of beneficiary of any insurance policies in which Client may have an interest, as Attorney may deem proper and expedient, and for such purpose to sign and execute any documents, affidavits or forms required in Client's name and on its behalf, except however, Attorney shall have no power and authority over life insurance policies Client may own on Attorney's life; and to exercise all powers and options involving retirement programs, compensation plans, pension, profit sharing and other employee benefit plans.

45. Social Security and Government Benefits

To make application to any governmental agency for any benefit or government obligation to which Client may be entitled; to endorse any checks or drafts made payable to Client from any government agency for its benefit, including any Social Security checks.

46. Business Interests

To continue to conduct or participate in any business in which Client may be engaged or to carry out, modify or amend any agreement to which Client may be a party, and to sell, exchange, modify or terminate such interest to or with such person or persons as Attorney may deem proper and on such terms and with such security as Attorney may deem appropriate; execute partnership agreements, and amendments; incorporate, reorganize, merge, consolidate, recapitalize, sell, liquidate or dissolve any business; elect or employ officers, directors and Attorneys; carry out the provisions of any agreement for the sale of any business interest or the stock in it.

47. Borrow

To borrow from time to time such sums of money and upon such terms as Attorney may think expedient for or in relation to any purpose or object which Attorney may deem proper or expedient, unsecured or upon the security of any of Client's property, whether real or personal or otherwise, and for such purpose to give, execute in its name, deliver, and acknowledge promissory notes and/or renewals of, mortgages, pledges and guaranties with such powers and provisions as Attorney may think proper or requisite.

48. Debts and Expenses

To pay, compromise, and settle any and all bills, loans, notes or other forms of indebtedness owed by Client at the present time, or which may be owed by Client or incurred by Attorney for Client benefit at any time in the future, and to incur and pay from any of Client's assets or property all reasonable expenses in connection with the control, management, and supervision of Client's property and the maintenance, support, care, and comfort of Client, including reasonable compensation for the services of professionals, and including the fees and charges of such attorneys, accountants or others as Attorney may, in the exercise of discretion, employ in the management of any of Client's affairs.

49. Investments

To invest and reinvest in loans, stocks, bonds, including bonds purchased at a discount but redeemable at face value, securities, real estate, life insurance, annuities or endowment policies or combinations of them, or in any other investment which Attorney may deem proper; to reduce the interest rate at any time and from time to time on any mortgage or land contract; to deal with and give instructions to any brokerage firm with respect to the purchase, sale or other disposition of securities and other assets, add assets to or withdraw assets from any account in Client's name, and sign any representation, certification or agreement, including agreements regarding margin, option trading, or commodities accounts, that Attorney deems advisable.

50. Restrictions on Attorney's Powers

- a. Attorney cannot execute a will or codicil on Client's behalf.
- b. Attorney cannot execute any trust on Client's behalf, however, Attorney can enter into a custodial agreement with a bank with trust powers.
- c. Attorney cannot divert Client's assets to itself, its creditors or its estate.
- d. Attorney shall not exercise, and shall not be vested with any incidents of ownership as to insurance policies insuring Attorney's life, owned by Client.
- e. Attorney is a fiduciary, possessing no general or limited power of appointment.
- f. Attorney shall not exercise any powers which Client received from Attorney in a fiduciary capacity, and Attorney shall have no authority to exercise any powers, the exercise of which would cause assets of mine to be considered as taxable in Attorney's estate for the purposes of the federal estate tax or the [%] inheritance tax.

51. Interpretation and Governing Law

This instrument is to be construed and interpreted as a general durable Power of Attorney. The enumeration of specific powers here is not intended to, nor does it, limit or restrict the general powers granted here to Attorney. Paragraph headings are for convenience only and are not to be deemed to be part of this instrument. This instrument is executed and delivered in the state of [STATE/PROVINCE], and the laws of the state of [STATE/PROVINCE] shall govern all questions as to the validity of this power and the construction of its provisions.

52. Third-Party Reliance

Third parties may rely upon the representation of Attorney as to all matters relating to any power granted to Attorney, and no person who may act in reliance upon the representations of Attorney or the authority granted to Attorney shall incur any liability to Client or its estate as a result of permitting Attorney to exercise any power, and for the purpose of inducing third parties to rely on this power of attorney, Client warrants that, if this power of attorney is revoked by Client or otherwise terminated, Client will indemnify and save such third party harmless from any loss suffered or liability incurred by such third party in good faith reliance on the authority of Attorney prior to such third party's actual knowledge of revocation or termination of this power of attorney whether such termination is by operation of law or otherwise. This warranty shall bind Client's heirs, devisees and personal representatives.

53. Disability of Principal

This power of attorney shall not be affected by Client's disability. The authority of Attorney shall be exercisable notwithstanding Client's later disability or incapacity or later uncertainty as to whether Client is alive. Any act done by Attorney during any period of Client's disability or incompetency or during any period of uncertainty as to whether Client is alive shall have the same effect as though Client was alive, competent and not disabled, and shall inure to the benefit of and bind Client, its heirs, devisees and personal representatives.

54. Photographic Copies

Photographic or other facsimile reproductions of this executed power may be made and delivered by Attorney, and may be relied upon by any person to the same extent as though the copy were an original. Anyone who acts in reliance upon any representation or certificate of Attorney, or upon a reproduction of this power, shall not be liable for permitting Attorney to perform any act pursuant to this power.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness its hand and official seal.

Signature _____

Notary

(Seal)

REVOCAION OF POWER OF ATTORNEY

This Revocation of Power of Attorney (the "Agreement") is made and effective [DATE], **BETWEEN:** [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

KNOW ALL MEN BY THESE PRESENTS, that the [General or Special] Power of Attorney executed by [name of principal], constituted and appointed [name of attorney], for the purpose set forth in said Power of Attorney, is hereby wholly revoked, cancelled and annulled.

This document acknowledges that the Client – grantor of the Power of Attorney – hereby revokes, rescinds and terminates said Power of Attorney and all authority, rights and power thereto effective this date.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

ATTORNEY

CLIENT

Authorized Signature

Authorized Signature

Print Name and Title

Print Name and Title

ACKNOWLEDGMENT

State of [state]
County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

UNLIMITED POWER OF ATTORNEY

This Unlimited Power of Attorney (the “Agreement”) is made and effective [DATE],

BETWEEN: [ATTORNEY NAME] (the "Attorney"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

AND: [CLIENT NAME] (the "Client"), a corporation organized and existing under the laws of the [STATE/PROVINCE], with its head office located at:

RECITALS

BE IT KNOWN, that Client, do hereby grants an Unlimited Power of Attorney to Attorney, as its attorney-in-fact.

TERMS

- 4. The attorney-in-fact shall have full powers and authority to do and undertake all acts on Client’s behalf that Client could do personally including but not limited to the right to sell, buy, lease, mortgage, assign, rent or dispose of any real or personal property; the right to execute, accept, undertake and perform all contracts in Client’s name; the right to deposit, endorse, or withdraw funds to or from any of Client’s bank accounts or safe deposit box; the right to initiate, defend, commence or settle legal actions on Client’s behalf; and the right to retain any accountant, attorney or other advisor deemed necessary to protect Client’s interests relative to any foregoing unlimited power.

- 5. The attorney-in-fact hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with its best interests as Attorney in his best discretion deems advisable.

- 6. This power of attorney may be revoked by Client at any time, provided any person relying on this power of attorney shall have full rights to accept the authority of the attorney-in-fact until in receipt of actual notice of revocation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

LUBOGO ISAAC CHRISTOPHER

ATTORNEY

Authorized Signature

Print Name and Title

CLIENT

Authorized Signature

Print Name and Title

ACKNOWLEDGMENT

State of [state]

County of [county]

On [date] before me, [name of notary], notary, personally appeared [name of person(s) involved], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

Notary

(Seal)

Chapter Eight:
WORKSHOPS



Introduction.

This chapter will cover sample workshops attempted over time to help you learn and master the art of answering workshops.

CORPORATE AND COMMERCIAL PRACTICE.



FACTS.

A group of four persons would like to set up a legal practice under the name; **Divinely Inspired Legal Inc.** They want to set up a specialized law firm to explore synergies amongst public international law, international law and political advocacy. They hope to be among the top 3 firms in Uganda in the next five years. They would like the firm to outlive them and be up and running centuries after they have departed this world.

Nixon Zinde (“Nixon”) is a student at the Law Development Centre. He is repeating the course after failing to sit for his final examinations and special exams because he was on his honey moon in **Ho Chi Minh City**. He can’t wait to appear in court and try out the skills he gathered from all the years he spent in school. He also wants to impress his newly wedded wife who cannot wait to see him in action in court amassing wealth like most famous lawyers in town. He hopes he can put up a mansion for their matrimonial home in Kololo before **Easter Sunday 2019.**

Makubul Simpson (“Simpson”) was a renowned lawyer and a high flier starting in the year 1983 He was very much known for running a one –man law firm at Kampala Road majoring in expropriated properties. He however, fell sick in the year 2005 and has been bed ridden because of diabetes. This led to his landlord distressing for rent against **Simpson** and confiscation of all his law books including all clients’ files. He has no idea what happened to the cases he had in court. He cares less and wants a fresh start with this group of young men who are ready to conquer the legal world.

Nabende Nicole (“Nicole”) completed her master’s degree at New York University where she majored in mercantile law. She enrolled to the New York Bar where she has practiced since

2009. She is a member of the International Bar Association. She wants to return home and bring her legal skills to Uganda. She also thinks she can interest her friend **Kifampa Dickson** who has a successful legal practice (**Kifampa & Partners**) in **Kigali** to work closely with her and her friends. This will enable them leverage Nicole's contacts in **Rwanda** so that **Kifampa & Partners** and **Divinely Inspired Legal Inc** and can practice across the **East African region**.

However, Nicole is worried that with her immense contacts, her partners may live off her when she brings in the bulk of clients and work. She wants an arrangement which takes this into account and protects her. She hopes she can keep some of the 'proceeds of her sweat' to herself. She was also not very amused by the manner in which Simpson hugged and groped her during their first meeting to lay strategy for the firm.

Sir. Kasansula Emmas a venture capitalist and a condominium mogul is ready to advance as much money to **Divinely Inspired Legal Inc** to start their practice as long as they are able to give him some returns when they *rake in the money* as they have promised him.

All four parties above would like to have a mutually respectful arrangement between themselves as equal partners with an equal stake, power and influence in their firm but mindful of their unique contributions. Advise the Parties before you on;

ISSUES

1. Whether the parties are qualified to practice law in Uganda?
2. Whether the firm name meets requirements for a generic name?
3. Whether cross border legal practice possible?
4. Whether parties have the legal expertise to establish a specialized law firm?
5. Whether Simpson is in breach professional conduct regulations?
6. Whether the firm is likely to experience challenges?
7. Whether a non-lawyer can be a partner in a law firm?
8. whether there are legal formalities to be complied with?
9. Whether there are best practices to establish a modern practice?

10. Whether there are documents and agreements to be drafted?

LAW APPLICABLE

1. The Partnerships Act, 2010.
2. The Contracts Act No.7 of 2010
3. The Business Names Registration Act, Cap 109
4. The Registration of Documents Act, Cap 81
5. The Stamps Act, Cap 342 as amended
6. Uganda Registration Services Bureau Act, Cap 210
7. The Advocates Act Cap 267
8. The Business Names Registration Rules S.I 109-1.
9. The Business Names Registration (Amendment) Rules S.I 53 of 2005.
10. The Registration of Documents (Fees) (Amendment) Rules S.I 55 of 2005.
11. The Registration of Documents Rules S.I 81-2.
12. The Advocates (Professional Conduct) Regulations, S.I 267-2.
13. The Advocates (Inspection and Approval of Chambers) Regulations, SI 65 of 2005.
14. The Advocates (Use of Generic Names by Law Firms) Regulations, SI 16 of 2006
15. The Advocates (Enrollment and Certification) Regulations SI 267-1
16. The Protocol on the Establishment of the East African Community Common Market and the

Annexes

a) The qualities and considerations they should look out for from each other before establishing the practice.

Professional qualification; one of the major considerations they should look out for from each other is regarding the qualifications expected of any person intending to practice law as an advocate in Uganda. Firstly, the academic qualifications required of any person intending to practice law as an advocate in Uganda are contained in **Section 8(5) of the Advocates Act Cap.267** of Uganda as amended. This provides that any such person as stated above must be either the holder of a degree in law granted by a university in Uganda or other institution recognized by the law Council in a country operating the Common law System or has been enrolled as a legal practitioner by whatever name called, in any other country operating the common law system and designated by the law council by regulations; or holds a qualification that would qualify him or her to be enrolled in any country operating the common law system and designated by the Law Council by regulations. In addition, the person must then attend a bar course at the Law Development Centre after which they should be awarded a diploma in legal practice as provided for in regulation 2 of the Advocates (Enrollment and Certification) Regulations.

After getting enrolled, a person intending to practice law as an advocate must obtain a practicing certificate as per the provisions of Section 11 of the Advocates Act and regulation 4 of the regulations which shall be valid until the 31st day of December each year and must be renewed each year.

They should look out for the above qualifications because without them, a person is not authorized to practice law as an advocate in Uganda and according to Section 64(1) of the Advocates Act, any person other than an advocate who acts as an advocate either directly or indirectly commits an offence. Further Section 65 prohibits any person who is not an advocate

from holding out as such. Therefore, the qualifications are an important consideration that they should look out for in each other. That is being an advocate with a valid practicing certificate

Non-lawyers; Further a person cannot be a partner in a law firm unless he or she is an advocate. Law firms are partnerships under the partnership Act which provides for professional partnerships under S.2 of the Act. One feature of a partnership, is that each partner is an agent of the firm and his or her other partners (S.5 of the Act). However, S. 71 of the Advocates Act prohibits an advocate to be an agent an unqualified person. This means that if a person is not an advocate, he cannot be a partner in a law firm.

Citizenship; The other important consideration that they should look out for in each other is the issue of citizenship. This is because, under the Advocates Act, for a person who holds a degree from a university located outside Uganda to be considered for enrollment, they must be a Ugandan citizen, otherwise they are not eligible.

Motives of joining the firm; They should equally consider each other's intentions for entering into this venture. This is because a law firm is a partnership and under Section 2 of the partnerships Act, a partnership is defined as a relationship between or among persons who carry on business in common with a view to making a profit.

Professional ethics and integrity; They should also look out for qualities of ethics and integrity as expected of an advocate in Uganda. These are contained in the Advocates (Professional Conduct) Regulations SI 267-2. These include, among others, honesty, accountability and confidentiality. In **Bolton v Law Society**, it was held that a profession's most valuable asset is its collective reputation and confidence, which that inspires. The reputation of the profession is more important than the fortunes of any individual member. With that in mind, ethical considerations must be some of the qualities that the people intending to start the law firm must look out for in each other.

Expertise; since the above persons are desirous of establishing a specialized law firm, they should find out if either of them possesses expertise in those areas of law that is public international law, international law and political advocacy.

Experience Knowledge of the law Criminal record Bankruptcy Insolvency

b) The Likely challenges to the realization of their objectives

Lack of qualifications to practice law; The first likely challenge that they might face is the lack of qualifications of most of the members. Nixon has not completed the bar course, does not possess a valid practicing certificate and neither has his name been entered on the roll of advocates as required by the advocates act so he is unable to practice as an advocate which shall hinder his objective of showing off the legal skills and knowledge he has acquired by handling cases in courts of law. Simpson has been out of practice for a long time and he therefore does not possess a valid practicing certificate. Further, Nicole has academic qualifications from a country which is not recognized by the law council under the regulations.

Use of a generic name; Secondly, they are likely to face a challenge with the registration of their firm name. Under section 4 of the partnerships act, 2010, a firm carrying on business in Uganda under a business name which does not consist of the true surnames of all partners must register its name under the Business Names Registration Act cap 109. This is reiterated by S. 2 of the Business Names Registration Act.

However before registering a law firm name, Regulation 5(3) of the Advocates (Inspection and Approval of Chambers) Rules provides that a law firm with generic names shall only be approved if consent is sought from the Law Council prior to the registration of that name.

The Advocates (Use of Generic Names by Law Firms) Regulations 2005 provides for approval of generic names. A generic name is defined under regulation 1 to mean a name other than the name of a partner of a law firm. Regulation 3 requires a generic name to include the word “Advocates” at the end of the name of the law firm.

However, Reg 3(5) provides that generic name shall not make any reference, actual or derived, to any symbolic, cultic, political, religious, sectarian, discriminatory or specialty classification.

Sub-regulation 6 further requires that a generic name should not be misleading.

The name chosen for this firm is **Divinely Inspired Legal Inc**; it lacks the requirements for approval; it does not contain the word “Advocates”, it has a religious connotation “divine inspired” and is misleading to believers that such a law firm is inspired by God. It is therefore likely not to be approved in its current form.

Lack of expertise; They might equally face a challenge where expertise is concerned. According to the facts, these individuals intend to set up a firm which specializes in synergies amongst public international law, international law and political advocacy. However there is no evidence that any of them has any special qualifications in that area and so they might lack expertise and fail to achieve their objectives.

Profit and loss sharing; The other challenge that they might face is in the area of profit and loss sharing. As it is, according to the facts, Nicole is already worried that the other partners might live off her contributions which implies that she might be expecting to be entitled to a larger percentage of the profits than the rest once the firm business commences. As such, this might be a source of conflict between her and the other partners which might pose a big challenge to the realization of their objectives.

Management; In close relation to the above, they might also face a challenge of failure to agree on management. They are likely to fail to agree on who among them should be the managing partner and also who has powers to bind the other members.

Cross-boarder practice may be yet another challenge that they face especially with trying to bring Kifampa and his successful practice on board. This is because, they intend to partner with him and practice law all over East Africa. Even though the Protocol to the Establishment of the East Africa Common Market under Article 11 recognizes cross border professional practices, the common Labor market policy is yet to be adopted and implemented in the East African Community and as such, their objectives in that regard might prove difficult to realize.

Professional misconduct; The other challenge that they might face is with professional misconduct among some of the firm members. Firstly, Nixon's major concern is amassing wealth and impressing his new bride and this brings into question his ethical standards. Further, Simpson has committed a violation of the Advocates (professional conduct regulations) below when he abandoned his cases without formally withdrawing from them. Therefore he may continue to violate other provisions which would reflect poorly on the firm.

Interpersonal relationships; the firm is likely to have mistrust among the partners; already Nicole is complained of how Simpson hugged and groped her when they met first time. This can lead to a break down in communication and trust.

Financial challenges; they have no money

Health challenges

C) The legal formalities they need to satisfy to lawfully establish their intended practice.

Acquiring the required professional skills to practice;

Nixon

Nixon is not an advocate. He therefore cannot practice in courts of law as he wants to. Nixon therefore has to fulfill certain legal requirements to become an advocate.

He must first complete his diploma in legal practice. **Regulation 2(a)** of the **Advocates (Enrollment and Certification) Regulations** is to the effect that the requirements as to the acquisition of skill and experience under **Section (1)** of the Act shall be in the case of a person specified in **Section 8(8)(b)** Of the Act, attendance of the postgraduate bar course conducted by the law development center and award of the diploma in legal practice by the law development center on completion of the course.

After successfully completing and being awarded a diploma in legal practice he can apply to have his name entered on the roll by making an application to the law council and the Law Council if satisfied that the applicant is so eligible and is a fit and proper person to be an advocate shall issue to him or her a certificate to that effect. This is in accordance with section

8(2) of the Advocates Act.

Regulation 5 of Advocates (Enrollment and Certification) Regulations S. I 267-1 provides for the mode of applying for a certificate of eligibility and a form of the application is provided in **Form 1** of the second **Schedule** of the same rules. And that the application and affidavit shall each be accompanied.

There after a certificate is issued by the Law Council whose form is provided for in in Form 2 of the 2nd Schedule to the Regulation.

After obtaining the certificate the person may apply to the Chief Justice to have his or her name entered on the roll and the Chief Justice shall unless cause to the contrary is shown to his or her satisfaction, direct the register on receipt of a fee to enter the name on the roll.

Regulation 8 of the Advocates (Enrollment and Certification) Regulations provides that an application for enrollment is made by petition to the Chief Justice accompanied by a certificate of enrollment issued by the Law council.

Section 11 of the Advocates Act give authority to the registrar to issue a practicing certificate to every advocate whose name is on the roll and who applies for such a certificate on such form and on payment of such fees as the Law Council may by regulations prescribed the different fees may be prescribed for different categories of advocates.

Regulation 12 of the Advocates (Enrollment and Certification) Regulations provides that the form of the application is in Form 4 of the Second Schedule to the **Advocates (Enrollment and Certification) Regulations**.

After this Nixon will then be able to appear in court. Regulation 13 of the **Advocates (Enrollment and Certification) Regulations** provides that the person with such a certificate shall have a right of audience before magistrate's courts for a period of at least 9 months.

Makubul Simpson

Simpson can apply for renewal of his practicing certificate so that he can practice. Section 11(2) of the Advocates Act provides that the practicing certificate is to be renewed after its expiry on the thirty-first day of December every year.

Regulation 14 of the **Advocates (Enrollment and Certification) Regulations** provides that the application is provided for in form 5 of those rules in the third schedule.

He has to lawfully withdraw from his cases.

Nicole

Nicole is a Ugandan citizen who has enrolled in New York. However she is unable to practice in Uganda because the USA is not among the countries that are approved by the council under s.8(8) of the amendment.

Sir Kasansula Emma

Kasansula will enter into a contract with the partners regarding the relevant loan which will be governed by the Contracts Act 2010 Laws of Uganda.

The overall formalities required for the parties to achieve the Partnership.

THE FIRM NAME.

They need a name that is acceptable by the Law Council. They need to change their firm name to a more acceptable name that the law council can approve as a generic name.

They have opted to use a generic name. A generic name is defined in Regulation 2 of the **Advocates (Use of Generic Names by Law Firms) Regulations S. I No. 7 of 2006** as a name other than the name of a partner of a law firm.

Regulation 3 of the Advocates (Use of generic names by Law Firms) Regulations, 2006 provides that a generic name shall include the word 'advocates' at the end.

Regulation 5 of the **Advocates (Use of generic names by Law Firms) Regulations, 2006** also provides that a generic name shall not make any reference, actual or derived, to and symbolic, cultic, political, religious, sectarian, discriminatory or specialty classification.

The facts disclose that the parties are desirous to name the firm “Divinely Inspired legal Inc”.

The name does not end with the word advocates and it makes reference to religious classification which is contrary to the rules. Therefore, a more acceptable name would be recommended in order for the name to be registered with the registrar of business.

Regulation 5(1) of the **Advocates (Use of Generic Names by Law Firms) Regulations S. I No. 7 of 2006** is to the effect that a generic name cannot be registered with the registrar of Business unless it has been approved by the Law Council. Further Regulation 5(3) of the Advocates (Inspection and Approval of Chambers) Rules provides that a law firm with generic names shall only be approved if consent is sought from the Law Council prior to the registration of that name.

In order to use the firm name, it will require approval of the Law Council. This means that the partners should choose a different name without religious connotations and add the word “Advocate”

REGISTRATION OF THE BUSINESS NAME

In order to effectively carry out business, parties are advised to register their business name. **S. 4 of the Partnership Act 2010** provides for mandatory registration of a business name where persons are trading under a business name other than their true surnames. This is reiterated under S.2 of the Business Names Registration Act.

They should conduct a search and reserve a business name at the Uganda Registration Service Bureau offices by filling the respective forms and then apply for registration. There is need to pay for relevant fees.

THE PARTNERSHIP DEED.

The partners should write down a partnership deed providing for the rights, duties and obligations during their subsistence of their business relationship.

A partnership is defined under section 2 (1) of the Partnership Act as a relationship which subsists between or among persons not exceeding twenty in number who carry on a business in common with a view of making profits.

All the ingredients are existent among the parties for a partnership to be formed. Therefore a deed which governs that relationship should be drafted.

EXECUTION AND REGISTRATION OF THE PARTNERSHIP DEED

There is no mandatory requirement for having a written agreement in order to establish a partnership. In **Dr. Okello N. David Vs Komakech Steven, HCCS No. 30 Of 2004** , it was held; The fact that there is no partnership agreement is irrelevant because a partnership can be formed informally or by the conduct of the parties.

However, in order to protect the interests of the partners and for proper management of the business, we advise the clients to sign a properly drafted partnership deed that unequivocally encompasses all their concerns.

A Partnership deed¹ is a contract defining the partners' rights and duties toward each other. Section 10 (1) of the Contracts Act is to the effect that the parties are legally bound by the contract signed.

This Partnership deed can be registered for evidentiary purposes, however, this requirement is not mandatory. The case of **Mohammed Kafero V J Turyagenda [1980] HCB 122** provides that the registration or non-registration of a document has no bearing on its validity or invalidity.

Registration shall consist in the filing of a copy (to be furnished by the person presenting the document for registration) of the document brought for registration after that copy has been certified by the registrar as a true copy as per **Section 5 of the Registration of Documents Act Cap 81.**

In **Rule 2** of the **Registration of the Documents Rules Statutory Instrument 81 – 2**. It provides that copies of all documents presented to the registrar for filing under Sec 5 of the Act shall be either in manuscript and written in ink, or the original of type writing with a record ribbon on lined full scarp folio paper measuring approximately 13 inches in length and 8 inches in width and shall contain a margin of at least one- and one-half inches on the left hand side of the paper, the paper to be written on one side only and to be bound or sown together in book form. The fees for registering is Sh.10, 000 under the Registration of Documents (Fees) (Amendment) Rules, 2005.

This is registered at the Uganda Registration Service Bureau (URSB) as provided for in section 4 (2) (a) of the Uganda Registration Service Bureau Act which gives it the mandate to carry out all registration required under the relevant laws.

PAYMENT OF STAMP DUTY

Stamp duty must be paid on all instruments executed or received in Uganda under the Stamps Act as amended. It is paid on all instruments received in Uganda within 30 days. Stamp duty rates are either fixed or ad valorem rates.

The clients shall pay stamp duty of UGX 10, 000/- (Uganda Shillings 10,000) as provided for Stamps (Amendment) Act 2016.

OPENING UP OF AN ACCOUNT

According to Section 40 of the Advocates Act the Law firm is required to have a separate account for the firm and another for the clients.

INSPECTION AND APPROVAL OF THE FIRM PREMISES

Then the premises from which the firm shall conduct its business is to be inspected by the law council.

Regulation 3 of the Advocates (inspection and Approval of Chambers) Regulations S. I No. 15 of 2005 makes it mandatory for chambers to be inspected yearly.

Regulation 5 of the same Regulations provides for the requirements to be met before approval (1) An advocate's chambers shall be well maintained with a professional appearance and must have—

(a) a suitable desk for an advocate;

(b) a separate room for each advocate and another for a clerk, secretary and cashier; (c) a secretarial desk and computer or typewriter;

(d) a reception with chairs or benches for clients; (e) a bookshelf;

(f) a chest of drawers or a filing cabinet;

(g) a reasonable collection of reference law books including a full set of the Revised Laws of Uganda 2000;

(h) access to a toilet and sanitary facilities; and

(i) books of accounts.

(2) The headed paper of every law firm shall bear the names and qualifications of each partner, advocate and legal assistant in the firm.

(3) A law firm with generic names shall only be approved if consent is sought from the Law Council prior to the registration of that name.

(4) The consent referred to in sub- regulation (3) shall be in writing. (5) Trading shall not be carried on in any chambers.

(6) The Law Council may refuse to approve any chambers that do not meet any of the requirements set out in these Regulations and may order the closure of those chambers until the chambers meet the required standards set out in these Regulations.

After the inspection is completed, a certificate to that effect shall be issued by the Law Council. Regulation 6 provides that;

(1) A firm of advocates whose chambers have been approved shall be issued with a certificate of approval of chambers.

(2) A certificate of approval of chambers shall remain valid for one year.

The firm shall pay a fee of 62,000/- for the inspection of the premises according to the **Advocates (Council Fees) Regulations 2004.**

TRADING LICENSE

Under **section 8** of the **Trade (Licensing) Act as amended 2015**, no person shall trade in any goods or carry on any business specified in the schedule to this Act unless he or she is in possession of a trading license granted to him or her for the purpose under this Act.

Section 1(h) defines trade or trading to mean the selling of goods in which a license under the act is required in any trading premises whether by retail or wholesale.

However, the process of granting trade licences to law firms has been halted by an interim injunction in the case of **Uganda Law Society V KCCA and Attorney General HCMA 533 of 2017**.

NOTICE OF CESSATION OF BUSINESS

Simpson should notify the registrar of his intention to stop operating under his old business name.

S. 14 of the **Business Names Registration Act** imposes a duty on a partner or individual to notify the registrar in case of cessation of business. **Rule 8** of the **Business Names Registration rules** provides for notice where firm or individual ceases to carry on business and provide that the notice is in the form D of the Second Schedule of the Rules.

(d)The best practices that will enable them establish the intended modern practice. Compliance with the law; have the name approved, chambers inspected and approved, get license, pay taxes etc

Proper location of premise and well equipped chambers the partners should consider a location that can be easily accessed by many people so as to get clients and the chambers should be approved by the low council as required by the Advocates(inspection and approval of chambers) regulations under regulation 5

Regulation 5; Requirements to be met before approval and inspection of chambers regulations

(1) An advocate's chambers shall be well maintained with a professional appearance and must

have—

(a) a suitable desk for an advocate;

(b) a separate room for each advocate and another for a clerk, secretary and cashier;

(c) a secretarial desk and computer or typewriter; (d) a reception with chairs or benches for clients; (e) a bookshelf;

(f) a chest of drawers or a filing cabinet;

(g) a reasonable collection of reference law books including a full set of the Revised Laws of

Uganda 2000;

(h) access to a toilet and sanitary facilities; and

(i) books of accounts.

(2) The headed paper of every law firm shall bear the names and qualifications of each partner, advocate and legal assistant in the firm.

(3) A law firm with generic names shall only be approved if consent is sought from the Law Council prior to the registration of that name.

(4) The consent referred to in sub- regulation (3) shall be in writing. (5) Trading shall not be carried on in any chambers.

(6) The Law Council may refuse to approve any chambers that do not meet any of the requirements set out in these Regulations and may order the closure of those chambers until the chambers meet the required standards set out in these Regulations.

Good relationship between the client and advocate

Record keeping

Proper maintenance of client's files; It should have a proper filing reference system for easy location of files.

Regulation 29, every advocate shall account for client's moneys

Regulation 7, Advocate not to disclose or divulge information of the clients unless it is required by law

Regulation 10, advocate to disclose any personal interests to the clients and to maintain the fiduciary relationship

Regulation 11, not to exploit the lack of understanding of his clients

Regulation 12 Advocate to advise his clients diligently

Regulation 8 advocate not to use the client's money for his or her own benefit

Handling clients work diligently like appearing in court in time, proper keeping of the files

Highly qualified staff

Encourage advocates to go for continuing legal education so as to improve on their skills

Qualifications of the partners and other employees, e.g need for specialized advocates with special skill in different areas of law, well connected team in terms of network so as to easily get clients

The proposed best practices were also adopted in the IBA law firm governance initiative best practice guidelines which include the following;

The firm should set out in writing its governance and decision making structure

The firm should have transparent process for selection of leaders and appointment of managers

The capital structure of the firm should be described to partners in a clear way

The firm should establish an appropriate mechanism for partners to communicate with each other and with the firm leaders or management.

The way in which the profits and losses of the firm are to be distributed among the partners should be clearly described to all the partners

The firm should set out its recruitment policies and processes in writing so that all potential recruits like new partners and associates have access to enough information to allow them to make an informed decision about whether or not they wish to pursue recruitment discussions with the firm

The firm should adopt recruitment and promotion policies and process that are non- discriminatory in nature and that are designed to encourage diversity at all levels of the firm.

The partners should ensure that every person in the firm receives a clear written statement of the performance and behavior expected of them

The firm should seek to operate according to the highest professional and ethical standards. It should develop a policy on dealing with conflicts of interests with due regard to rules and requirements of the law.

The firm should state clearly and openly the basis on which people are promoted to higher positions in the firm

The firm should seek to ensure that the partners comply with the applicable laws and regulation. In order to catch up with contemporary practices, a firm should have a website and social media accounts.

There should be regular staff meetings

It should have all the relevant tools of trade; a well stocked library, telephones, emails, faxes, computers, business cards, safe, cabinets, firm seal. Stamp, practicing certificates, professional gowns etc.

It should have good security.

It should have proper management of finances by opening an office account, client account and a trust account as per S. 40 of the Advocates Act.

E. Documents and Agreements.

Search Fees-Shs.25.000/=

FORM OF APPLICATION TO SEARCH A RECORD

RECORD TO BE SEARCHED	
REGISTRATION PARTICULARS: Date Registration Number	
PURPOSE OF SEARCH	
DATE OF APPLICATION	

LUBOGO ISAAC CHRISTOPHER

PARTICULARS OF APPLICANT: Name Telephone number E-Mail Address	
Place of Work/Address	

COMMENTS RECORD OFFICER

COMMENTS REGISTRAR

THE REPUBLIC OF UGANDA APPLICATION FORM FOR RESERVATION OF NAME
(Under Section 36 of the Companies Act No.1 of 2012 & Section 4(b)(1b) of NGO Registration
Amendment Act, 2006)

TO : The Registrar of Companies P O Box 6848 KAMPALA

FROM :

Name/s:.....

.....

.....

.....

Tel. No/s

.....
.....

Email/s :

.....
.....

Signature/s :

.....
.....

Being promoters of an Entity : (please tick and indicate if it is a change of name.)

Company limited by Shares		
Company limited by Guarantee		
Non-Governmental Organisation		

Apply for the reservation of a name(Indicate in order of priority choice)

NAME CHOICE	PROPOSED NAME
1st Choice	
2nd Choice	

LUBOGO ISAAC CHRISTOPHER

3rd Choice	
------------------------------	--

Date

.....

...

+NB: *The Reservation Is Valid For Only 30 Days from Date Of Approval*

APPLICATION FOR REGISTERING A BUSINESS NAME

Form A

THE REPUBLIC OF UGANDA

APPLICATION FOR REGISTRATION OF BUSINESS NAME.

THE BUSINESS NAMES REGISTRATION ACT

Statement of Particulars required to be given pursuant to the Business

Name Registration Act

IN CASE OF A FIRM

1. Business names to be registered: *Simpson, Nixon, Nicole & CO ADVOCATES.*
2. General nature of the business: *LEGAL PRACTICE*
3. Principle place of the business: *KAMPALA WORKERS HOUSE 5th FLOOR (East Wing)*
4. Present Christian name (s) and surname of each of the individuals who are partners: *NIXON ZINDE, MAKUBUL SIMPSON, NABENDE NICOLE and KIFAMPA DICKSON.*
5. Former Christian name (s) and surname (if any) of each of the individuals who are partners:
NON
6. Nationality of each of the individuals who are partners: *ALL ARE UGANDA*
7. Usual Place of residence of each of the individuals who are partners: *UGANDA*
8. Other business occupation (if any) of each of the individuals who are partners: *NON*
9. Date of commencement of business: *01 OCTOBER 2018*
10. Corporate names of each corporation which is a partner: *NON*
11. Registered or principal office of each corporation which is a partner: *KAMPALA WORKERS HOUSE 5th FLOOR (East Wing).*

Sign

Date 01 day of October 20 18

STATUTORY DECLARATION

I,

.....

of.....Uganda

DO SOLEMNLY AND SINCERELY declare that the particulars hereon are true and correct AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act.

DECLARED atin this

.....District

Of.....this.....day

of.....20..... BEFORE ME,

.....

..... *Magistrate/Commissioner for Oaths.*

**THE REPUBLIC OF UGANDA
Certificate of Registration.
The Business Names Registration Act
Form B**

I certify that *Simpson, Nixon, Nicole & CO ADVOCATES* this *01* day of **OCTOBER** 2018 has/have been duly registered pursuant to and in accordance with the provision of the Business Names Registration Act and the Rules made under that Act and has/have been entered under the number *LDC2H2018/19* in the index of registration.

Given under my hand at *KAMPALA* this *01* day of *OCTOBER* 2018.

Registrar of Business Names

THE REPUBLIC OF UGANDA
NOTICE OF CESSATION OF BUSINESS
Pursuant to the Registration of Business Names Act
TO: THE REGISTRAR,

APPOINTED FOR THE PURPOSES OF THE ABOVE-MENTIONED ACT WHEREAS I/we the undersigned registered under the number..... in the index of Registration have ceased to carry on business.

Now I/we hereby give notice that I/we hereby give notice that I/we have ceased to carry on business as.....as from the.....day of.....20.....save for the purpose of winding up the said business.

Dated thisday of20.....

(Signed)
.....
.....
.....

LUBOGO ISAAC CHRISTOPHER

SUI GENERIS ADVOCATES

P.O Box 7117,

KAMPALA, UGANDA.

THE SECRETARY LAW COUNCIL, P.O BOX 7183, KAMPALA

Dear Sir/Madam,

RE: APPLICATION FOR THE INSPECTION AND APPROVAL OF CHAMBERS.

As the above matter refers, we hereby do apply for the inspection and approval of chambers in the name and style of All the necessary requirements have been compiled. We look forward to your positive consideration.

Yours faithfully

Makubul Simpson

(For and on behalf of **SUI GENERIS ADVOCATES**)

DR. LUBOGO ISAAC CHRISTOPHER

SUI GENERIS ADVOCATES

P.O Box 7117, KAMPALA UGANDA

1st – OCT – 2018.

THE SECRETARY LAW COUNCIL, P.O BOX 7183, KAMPALA

Dear Sir/Madam,

RE: APPLICATION FOR THE USE OF GENERIC NAME.

The above subject matter refers and on which I wish to address you as follows;

1. That I am a practicing advocate enrolled under the laws of Uganda.

2. That I intend to open up a law firm operating in Uganda under the name.....Advocates.

3. That I do hereby seek your approval to use the nameAdvocates prior to the name reservation of my law firm.

Hoping my application will be put under your utmost consideration. Yours faithfully
Makubul Simpson

(For and on behalf of **SUI GENERIS ADVOCATES**) Makubul Simpson

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE CONTRACT ACT 2010
CONTRACT AGREEMENT

This Contract Agreement is hereby made this 2nd day of October 2018 between Sir Kasansula Emmas and the future partners of *Simpson, Nixon, Nicole & CO ADVOCATES*) that go by the names of Nabende Nicole, Nixon Zinde and Makubul Simpson.

WHEREAS IT IS AGREED AS FOLLOWS,

The above named persons enter into an agreement with Sir Kasansula Emmas in which he agrees to advance money to the partnership to enable it to start in exchange for a return of 10% of the firm's annual profit for the period in which the firm will exist.

Sir Kasansula and the partners thus agree as follows:

1. That Sir Kasansula Emmas shall advance as much money to the firm as it will need to start.
2. That as consideration for the above said advance, Sir Kasansula will receive an annual return of 10% of the firm's annual profits for a period of 25 years after commencement of business of the firm.
3. That in case of failure by the partners to advance the 10% returns, Sir.Kasansula will be entitled to legal action against the firm.
4. That the above contract does not entitle Sir Kasansula to the status of a partner in the firm but rather an associate of the firm. His actions therefore shall in no way bind the firm or its members.

In witness, have the above mentioned person appended their respective signatures here under on this 2nd day of October 2018.

Sir Kasansula Emmas.

Nabende Nicole.

Nixon Zinde.

Makubul Simpson.

Witnesses

1.....

2.....

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE PARTNERSHIP ACT 2010
PARTNERSHIP DEED

This partnership deed is made this **3rd day of October 2018** by and among NABENDE NICOLE, MAKUBUL SIMPSON and NIXON ZINDE of Kampala, Uganda being of sound mind and full age herein collectively referred to as partners.

WHEREAS the above named partners have decided to establish the professional partnership business of legal practice have deemed it necessary and desirable to reduce the terms and conditions into writing as mentioned hereunder;.

IT IS NOW HEREBY AGREED AS FOLLOWS;

1. PARTNERSHIP:

That the partners shall form a partnership to be governed by the Partnerships Act 2010 and all relevant laws governing partnerships in Uganda.

2. NAME:

That the partnership shall operate under the name *Simpson, Nixon, Nicole & CO ADVOCATES*

3. NATURE OF BUSINESS:

That the partners shall engage in legal practice in the fields of Public International Law, International Law and Political Advocacy.

4. PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Partnership shall be at Mapeera House Kampala Road.

5. VISION

To be a leading specialized law firm in Uganda

6. MISSION

LUBOGO ISAAC CHRISTOPHER

To explore synergies amongst public international law, international law and political advocacy.

To venture into cross border legal practice in East African region

To ensure the operation of the firm for centuries

7. STRATEGIC PLAN

The firm shall come up with a strategic plan every year.

8. COMMENCEMENT

The partnership will be deemed to have commenced upon the issuance of a certificate of registration of the business name.

9. MANAGEMENT

5.1 Leadership;

- i) All members shall be eligible to manage the business of the firm.
- ii) The managing partner shall be agreed upon by all members whose term of office shall be two years. On expiration of the two years, another partner may take over the management of the firm for the same period.

9.2 Meetings;

The firm shall have meetings every first Monday of the month. The managing partner may call upon the partners for a meeting in case of any urgent issues with a day's notice.

10. RIGHTS AND DUTIES

7.1 Duties

Every partner shall;

- i) Not engage in any business that compete with the firm

- ii) Give accountability of all monies earned from running the firm's business
- iii) Attend meetings except where such attendance is prevented by any genuine and reasonable cause.
- iv) Execute their duties and with the legally required level of professionalism.

10.2 Rights

Every partner;

- i. Has a right to take part in the management of the firm.
- ii. Has the right to inspect the books of account

11. FINANCES AND ACCOUNTABILITY

7.1 Accounts;

The firm shall run two accounts namely; the client's account and firm account. The accounts shall be opened at a financial institution to be agreed upon by the partners.

11.2 Sources of Finances

The firm may receive finances from non-partners upon agreement of the partners.

11.3 Signatories to the Account;

Money from the firm account shall only be withdrawn by the managing partner upon approval of the other partners.

7.4. Accountability;

- 7.5. All necessary and proper books of account shall be maintained at the office of the partnership and shall be conclusive and final between the partners. The firm shall employ a qualified accountant to handle the books of account. These books of account shall be audited after every 4 months so as to ensure proper accountability of the firm's finances

12. PROFIT AND LOSS SHARING

8.1 Profits

Partners shall have an equal share of the profits made from the firm business.

8.2.Losses;

Losses shall be borne by the partners in equal shares.

8 COMMISSION

Any partner who registers a new client for the firm shall be entitled to 30% of the fees paid by the client and the balance of 70% shall be shared equally among all the partners.

9 PARTNERSHIP PROPERTY

The Partnership shall own all its personal property as an entity. No Partner shall have any ownership interest in the Partnership personal property in his or her own individual name except as other of the Agreement may provide.

10 BORROWING

The written consent of all Partners will be required for the partnership to avail credit facilities from any financial institution or any other creditor. The money borrowed shall be partnership money and to be used for partnership purposes.

11 ADMISSION

The partners may agree to admit a new member into the partnership provided such person bears the required qualifications and expertise.

12 CROSS BORDER PRACTICE

The firm shall enter into partnership with law firms in other countries to ensure cross border practice within the East African region subject to the laws governing states within East Africa.

13 AMENDMENT AND VARIATION

The Partners may amend and or vary this Agreement at any time by signing a written agreement

14 DISPUTE RESOLUTION

The partners shall resolve disputes amicably among themselves. Failure to agree, the partners may refer the dispute for mediation.

Where mediation is unsuccessful, the aggrieved party may seek redress in the courts of law.

15 LIABILITY;

All partners are jointly and severally liable for all debts and obligations incurred by the firm while they are partners.

16 TERMINATION OF PARTNER’S INTEREST

A Partner’s interest in the Partnership terminates upon the occurrence of any of the following:

- (i.) Withdrawal or retirement of the Partner upon written notice to the other partners within a reasonable time.
- (ii) suspension or disbarment from the practice of law by the law council which will automatically terminate the Partner’s interest without any additional formal action;
- (iii) Death of the Partner.
- (iv) where a partner is declared bankrupt, convicted of a crime, violating the partnership agreement or other actions that are harmful to the partnership upon a supermajority vote of three quarters of the partners.

17 DISSOLUTION

The partnership shall be dissolved by unanimous agreement of the partners. Death of a partner shall not dissolve the partnership but shall continue to be carried on by and between the surviving partners.

In witness hereof;

PARTNERS SIGNATURE

- 1. NABENDE NICOLE _____
- 2. MAKUBUL SIMPSON _____
- 3. NIXON ZINDE _____

BRIEF FACTS

Mendy hotels limited was incorporated in January 1999. Upon incorporation, started business in a house owned by Jasper which was converted into a guest house (comfort guest house). The company has now grown and owns a hotel called Mendy Country Resort in Bunga. From the time of incorporation, Ms Akello has not been involved in the running of the business. The company has not heard from her ever since, but she hoped to come back after retirement. The company has held only one meeting since incorporation. During the meeting, shares were allotted to Jasper and Peter. It is indicated that Joel and Akello were not considered owing to the fact that they were not in attendance. Jasper and Peter have since paid up for their shares of shs.

150 million and 10 million respectively. In the same meeting, Mr. Mapendo Jamilu was appointed a company secretary. Upon retirement, Akello relocated to Canada however her brother Mackmot has presented proof that he paid 11.5 million shillings for Akello's stake in the company and he insists that he should be made party to the affairs of the company. Jasper has decided to marry Vivian who now wants to convert Comfort guest house into their matrimonial home and intends to make the company pay for the years they have been in occupancy of the house.

Issues

- a. What breaches if any, of the Companies Act were committed, if so by whom and the likely consequences thereof.?
- b. Whether the intentions of Komu-luck with regard to the house in Busega are tenable, and how they will affect the company?
- c. What is the status of Macmot with regard to the company?
- d. What are the obligations of Akello to the company if any?
- e. What potential actions can Akello and Macmot take against the company?
- f. What response do you anticipate from the company and how will you respond to it?
- g. What are the necessary documents above?
- h. How can the company process the request from Akello and Mackmot?
- i. What is the procedure of the company enforcing its rights if any?
- j. What are the necessary documents to effect the above procedure?

Law Applicable

1. The Companies Act, No. 1 of 2012
2. The Stamps Act as amended
3. The companies General Regulations of 2016
4. Case law

RESOLUTION.

1. The breaches of the company if any The following breaches were committed; **Failure to hold annual general meetings.**

Company management is done through holding meetings from which resolutions are made and registered with the company registrar.

The Companies Act provides for 3 types of meetings;- **A statutory meeting, annual general meeting and extraordinary meetings.**

i. A statutory meeting.

S. 137(1) provides for a statutory meeting and it provides that a meeting shall be held for every company limited by shares not more than 3 months from the date of commencement of business. For other companies that are not public companies, the meeting is to be held upon receiving a certificate of incorporation.

Under the statutory meeting, there is a requirement for directors to forward a statutory report 14 days prior to the members. The format and content of such report is given in S.137(4)(a-e). The report must be certified by not less than 2 directors especially for public companies. (this is for proper management).

However, private companies are exempted from this requirement under S. 137(11) Companies Act 2012.

ii. The Annual General Meeting (AGM)

This is a meeting which is held once a year and is applicable to both private and public companies.

The meeting is exclusive to members of the company and shareholders. (S.138)

Under S.138(2) a private company, at the requisition of a member can hold an Annual General Meeting. Subsection 4 provides that where default is made in holding a meeting of the company in accordance with subsection (2), the registrar may, on the application of any member of the company, call or direct the calling of a general meeting of the company and give such ancillary or consequential directions as the registrar thinks expedient including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the company's articles.

In this meeting adequate notice should be given of at least 21 days. (S.140)

The objective of the AGM has generally been understood to mean an opportunity for the company to deliberate on directors, to look at the balance sheets, to look at the audited accounts of the company, to appoint a company secretary and appoint company auditors. The AGM is technically referred to as the company meeting.

iii. **The Extra-ordinary meeting**

Where some matters were not discussed or if an important and emergent point arises a resolution may be made to sit an extra-ordinary meeting. This is provided for under S. 139 Companies Act 2012;

This meeting can be by a requisition which should state the objectives of the meeting, which objective should be deposited at the requested office of the company.

For a member to requisition this meeting, they should have paid up 10% of their shares. Once the requisition for the meeting is deposited, the directors have up to 21 days to convene this meeting

Requirements as to meetings;

The Act regulates procedures for conducting meetings and any violation of provisions relating to notices, quorum, and other matters specifically provided for under the Act may render the meeting null and void.

Notice;

Notice.

S.140 provides for a notice to hold a company meeting not to be shorter than 21 days. Notices are intended to give members full information, fair and reasonable disclosure, in order that members can make a decision as to whether or not to attend the meeting.

S. 140(4) members can consent to meeting called on short notice.

S. 141(a) requires that the notice of the meeting of a company shall be served on every member of the company

The notice should fully have the details of what is intended to be discussed in the meeting.

It was held in *Re Pearce Duff Co Ltd* [1960] 3 All ER 222 that the mere fact that all the members are present at the meeting and pass a particular resolution, either unanimously or by a majority holding 95 per cent of the voting rights, does not imply consent to short notice and anyone who voted for a resolution in these circumstances can later challenge it.

Notice of convening a meeting must be sufficient and specific to enable members decide whether to attend or not.

In *Tiessen v. Henderson (1899) 1 Ch. 861* it was held that notice of a company meeting must be full and specific enough to enable a shareholder to decide whether he wants to attend or not.

Notice of a general meeting must be sent to every member of the company and every director and if notice of a meeting is not given to every person entitled to notice, the proceedings and any resolution passed at the meeting will be invalid.

Young v Ladies Imperial Club [1920] 2 KB 523

Mrs Young, who was a member of the club, was expelled by a resolution passed by the appropriate committee. The Duchess of Abercorn, who was a member of the committee, was not sent a notice of the meeting, it being understood that she would not be able to attend. In fact, she

had previously informed the chairman that she would not be able to attend. Nevertheless, in this action which was concerned with the validity of the expulsion, it was *held* – by the Court of Appeal – that the failure to send a notice to the Duchess invalidated the proceedings of the committee and rendered the expulsion void. *Per* Scrutton LJ:

Every member of the committee ought, in my view, to be summoned to every meeting of the committee except in a case where summoning can have no possible result, as where the member is at such a distance that the summons cannot effectively reach the member in time to allow him or her to communicate with the committee. Extreme illness may be another ground, though I should myself require the illness to be extremely serious, because a member of the committee receiving a notice to attend may either write to ask for an adjournment of the meeting or express his views in writing to the committee, and I should require the illness to be such as to prevent that form of action being taken on receiving notice of such a meeting.

Quorum.

Quorum refers to the number or members of any body of persons whose presence at the meeting is required in order that the business may be validly transacted. There is no agreed number for purposes of quorum and it is entirely dependent on the provisions of the articles in the absence of which recourse must be had to the company's Act or Table A, if the company so adopted it. S.141(c) of the Companies Act, the default position of quorum is 3 in public companies and 2 in private companies.

***Sharp v Dawes* (1876) 2 QBD 26**

The Great Caradon Mine was run by a mining company in Cornwall and was carried on the cost-book system, being controlled by the Stannaries Act 1869. The company had offices in London, and on 22 December 1874 notice of a general meeting was properly given. The meeting was held, but only the secretary, Sharp, and one shareholder, a Mr Silversides who held 25 shares, attended. Nevertheless, the business of the meeting was conducted with Silversides in the chair. Amongst other things, a call on shares was made and the defendant refused to pay it. He was sued by the secretary, Sharp, who brought the action on behalf of the company, and his defence was that calls had to be made at a meeting and there had been no meeting on this occasion.

Held – by the Court of Appeal – the call was invalid. According to the ordinary use of the English language, a meeting could not be constituted by one shareholder.

Directors' meetings.

Definition.

S.2 of the Companies Act defines director” to include any person occupying the position of director by whatever name called.

The word director was defined in the case of *R v Camps (1962) EA 403* that;

A person who acts as, and performs the functions of, a director, although not duly appointed as a director, is occupying the position of a director and includes a de facto director unless the context otherwise requires.

Under s. 185 every company must have at least one director. For public companies, there must at least be two directors. It is a legal requirement for every company to have at least one director. Under s. 186 the company in a general meeting has the right to appoint any number of directors and specify their general qualifications in accordance with the guidelines specified under the law. For public companies which have a share capital, a person is not capable of being appointed as a director unless that person has undertaken in writing and delivered for registration a consent to act as a director of the company. s. 192.

The directors should conduct a board of director’s meeting to efficiently manage the affairs of the company.

Under Art 98 of Table A, it states that subject to the provisions of the articles, the directors may regulate the proceedings as they think fit and directors can’t act individually unless they have been delegated powers by the BOD to do so.

The words as they ‘think fit’ were discussed in **Re Portuguese Consolidated Mines Ltd (1990) 42 Ch D 160** where Lord Justice Bright stated “when you talk of thinking fit must they not meet in order to think”

This requires issuance of notice to all persons supposed to attend a meeting.

Re Portuguese Consolidated Mines Ltd”

In this case an application was made for shares in a company and on the same day there was a meeting of 2 out of 4 of the directors. The other two not having been given sufficient notice, the meeting resolved that the 2 should form a quorum and allot the shares applied for. They adjourned the meeting till the next day. On that day, the allottee withdrew his application and again the meeting adjourned till the following day. On this 3rd occasion, 3 directors were present and one of those who had been previously absent approved the resolution relating to the quorum and the meeting to confer the allotment. The fourth director on the same day wrote approving the quorum and his letter was received the next day.

The *Court of Appeal* held that as there had been no notice of original meeting, none of the subsequent meetings was valid and the allotment was therefore bad and void.

This case is the authority for the rule that in general, the only way in which directors can exercise their powers is at or under the authority of a meeting which is properly convened or where proper notice had been given or where all directors are entitled to attend.

Slade, J., stated in **Industrial Coffee Growers (Uganda) Ltd v Tamale High Court Civil Case No. 215 of 1963** (unreported),

‘It seems well settled law that a meeting of directors is not duly convened unless due notice has been given to all the directors and that any business transacted at a meeting not duly convened is invalid”

In Mohanlal K Radia vs Rose Kato Nakeyenga and Six Others (HCT-00-CC-CS-0274-2005)

The plaintiff contended that he has been a director of the company since 1965 through to 200 but

when he appointed his son Radia Atul as his attorney to represent him on the board of directors, the defendants ignored Mr. Radia Atul, and did not invite him to meetings of the company. They did so contending that he is not a member of the company. There was a resolution of the company amending the memorandum of association of the company for the purpose of admitting new members. The meeting took place on 20th December 2000. No notice of this meeting was provided to the plaintiff or his attorney.

Held;

Clearly calling meetings of the company without due notice to all members of the company is mismanagement of that company's affairs, especially to the detriment of the members not notified. Business transacted at such meetings is invalid.

That the defendants wrongfully excluded the plaintiff from the management of the company both in his capacity as a shareholder and director of the company, by not inviting him to general meetings of the company and its board of directors in accordance both with the Companies Act, and the Memorandum and Articles of Association of the Company.

In Re Homer District Consolidated Gold Mines ltd (1883) 39 Ch D 546

There was a quorum for the BOD meeting but the meeting was held at a few hours notice, shorter than that prescribed by the company's articles and one of the directors did not receive the notice while another received it and sent his apologies that he would not be able to attend and court held that the resolution passed at the meeting was invalid.

From the facts, **the company has held only one meeting since incorporation whereat shares were allotted to Jasper Mulefu, and Peter Mbolimboli. Joel Bosiko and Akello Betty were not considered because they did not attend the meeting.**

This means that the company has failed to hold annual general meetings. Further the meeting that was called was not preceded by notice calling the rest of the members. This meeting was more of a board of directors meeting which was invalid as it did not issue to notice to the other two directors and as a result they were not considered for allotment of shares.

The directors were in breach of their duty to call meetings. The resulting effect is that any decision taken during such a meeting is invalid.

Failure to file relevant documents;

i. Return of allotment.

Under section 61 of the company act that whenever a private company limited by shares or guarantee makes any allotment of its shares, the company has to within 60 days after date of allotment deliver the return of allotment to registrar for registration stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees and the amount if any, paid or due and payable on each share; and

(b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment together with any contract of sale or services or other consideration in respect of which that allotment was made such contract being duly stamped and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up and the consideration for which they have been allotted.

Under S. 61(3) Where default is made in complying with this section, every officer of the company who is in default is liable to a fine of twenty five currency points and an additional fine of five currency points for every day during which the default continues.

The facts show that at the meeting, shares were allotted to two of the directors. However, the facts disclose that the only documents that have been filed are those documents attached to the file. This means that the directors are liable for failure to file a return of allotment to the registrar for registration.

ii. Notice of appointment of secretary;

S. 187 provides that (1) Every company shall have a secretary. Article 110 of Table A states that a secretary shall be appointed by directors. Section 190 provides for qualifications of a company secretary. The person should be an advocate of the high court, capable of discharging those duties and should be a member of Chartered Public Accountants or Chartered Secretaries and Administration. The facts show that the meeting at which the secretary was appointed lacked quorum as the other directors were not there. The facts further do not show that Mr. Mapendo Jamilu the appointed secretary met the qualifications under Section 190.

Further S. 228(1) requires A company to keep at its registered office a register of its directors and secretaries.

S. 228(5) provides that the company shall, within the periods respectively mentioned in subsection (6), send to the registrar a return in the prescribed form containing the particulars specified in the register and a notification in the prescribed form of any change among its directors or in its secretary or in any of the particulars contained in the register, specifying the date of the change.

Under Subsection (6) The periods referred to in subsection (5) are the following—

- (a) the period within which the return is to be sent shall be fourteen days from the appointment of the first directors of the company; and
- (b) the period within which the notification of change is to be sent shall be fourteen days from the happening of the change.

Under subsection (9) where there is default in complying with subsection 6 the company and every officer of the company who is in default is liable to a default fine of twenty five currency points.

Regulation 26(2) of the Companies General Regulations 2016 provides; Every company shall notify the registrar of the appointment of a director or secretary by filing a notice with the registrar in Form 20 in the Schedule.

The facts do not show compliance with this provision.

iii. Notice of situation of registered office. S. 115 provides that.

(1) A company shall, as from the day on which it commences to carry on business or as from the fourteenth day after the date of its incorporation, whichever is the earlier, have a registered office and a registered postal address to which all communications and notices may be addressed.

(2) Where a company fails to comply with subsection (1), the registrar may give notice to the company giving it reasonable time in which to comply.

S. 116. Provides for Notification of the situation of the registered office, the registered postal address and of any change in them.

(1) Notice of the situation of the registered office and the registered postal address, and of any change in them shall be given within fourteen days after the date of incorporation of the company or of the change as the case may be, to the registrar, who shall record the change.

(2) The inclusion in the annual return of the company, of a statement as to the situation of its registered office or as to its registered postal address shall not be taken to satisfy the obligations imposed by this section.

(3) Where there is default in complying with this section, the company and every officer of the company who is in default is liable to a default fine of twenty five currency points.

Regulation 25 provides that the notice of the situation of the registered office, postal address and of any change in them shall be filed with the registrar in Form 18 in the Schedule.

These documents were not filed.

iv. Notice of register of members;

S. 119 provides that (1) A company shall keep a register of its members at the registered office of the company. Subsection 3 requires that a company shall send notice to the registrar of the place where its register of members is kept and of any change of place. Default in compliance for fourteen days in the company and every officer of the company who is in default is liable to a daily default fine of twenty five currency points (subsection 6)

In the case of **Mathew Rukikaire v Incafex** *supra*, it was held that it is “the company” which has the obligation to enter each member on the members register. In this context the company’s duty lies with the company secretary, whose duty it is to ensure that the company complies with relevant legislation and regulations.

v. Filing annual returns;

S. 132 provides that (1) A company having a share capital shall, once at least in every year, make a return containing with respect to the registered office of the company, registers of members and debenture holders, shares and debentures indebtedness, past and present members and directors and secretary.

Subsection 4 provides that Where a company fails to comply with this section, the company and every officer of the company who is in default is liable to a default fine of twenty five currency points.

From the above, since the only documents were filed upon incorporations, it means there has been a failure by company officers to file documents subsequent to formation of the company.

2. If the intentions of Vivian Komu-luck with regard to the property in Busega are tenable, and how they will affect the company.

A company can own property independent from its members. This principle finds its roots in the case of **Salomom V Salomon & Co. Ltd.**

As such it enjoys a variety of privileges that a natural individual enjoys amongst which include the right to own property.

This is a Constitutional right by virtue of Article 26 of the 1995 Uganda Constitution as amended. In **Shonibare V Probate Registrar (1966) 2 A. L. L. Comm. 389**, it was held that an incorporated company is able to own property separately from its members.

. Company property belong to the company and not its members; Macaura V. Northern Assurance Co. Ltd (1925) A.C. 619

The Appellant owner of a timber estate assigned the whole of the timber to a company known as Irish Canadian Saw mills Company Limited for a consideration of £42,000. Payment was effected by the allotment to the Appellant of 42,000 shares fully paid up in £1 shares in the company. No other shares were ever issued. The company proceeded with the cutting of the timber. In the course of these operations, the Appellant lent the company some £19,000. Apart from this the company's debts were minimal. *The Appellant then insured the timber against fire by policies effected in his own name.* Then the timber was destroyed by fire. The insurance company refused to pay any indemnity to the appellant on the ground that he had no insurable interest in the timber at the time of effecting the policy.

The court held that it was clear that the Appellant had no insurable interest in the timber and though he owned almost all the shares in the company and the company owed him a good deal of money, nevertheless, neither as creditor or shareholder could he insure the company's assets.

That when Macaura sold the property to the company he ceased to enjoy any legal or equitable interest in it. The property was wholly and completely owned by the company.

Lord Buckmaster;

No shareholder has any right to any item of property owned by the company for he has no legal or equitable interest therein. If his contention were right, it would follow that any person would be at liberty to insure the furniture of his debtor and no such claim has ever been recognized by the courts.

In the instant facts, the house in Busega belongs to Jasper Mulefu and not the company. There is no indication that Jasper transferred ownership of the house to the Company or any indication that the company has paid any consideration for the utilization of the house.

Therefore, the house in Busega belongs to Jasper Mulefu and not the Company. The company has not been paying rent for the utilisation of the land and there is no formal arrangement between Jasper and the company as to how their relationship in relation to the house should work.

It follows then that Jasper can successfully occupy part of the house in Busega.

On the issue of whether Vivian can get rent for the duration the company has used the house, it is submitted that she cannot.

Jasper let the company use the house without payment of rent. He should therefore not be heard to require for rent after his conduct made the company omit payment of rent during that period.

This is known as the principle of equitable estoppel.

In **Pickard v Seers (112 E. R. 179)** it was held that for one to rely on this kind of estoppel, he must prove the following:

- a) That there was conduct in question, which led or caused him to believe something to be true;
- b) That he acted on such belief by doing or omitting to do something and thereby altered his position to his detriment;
- c) That as a result, denying the representation would be prejudicial to him.

All these requirements are met by the conduct of Jasper and therefore the rent for the previous duration cannot be claimed.

However, when Jasper and Vivian occupy the house, they can claim for rent of the remaining house occupied by the company moving forward.

In **Kampala Cotton Co. Ltd V Madhvani (1954) 21 EACA 129**, it was held that a company can occupy business premises as a tenant. Therefore the company can begin to pay rent if Jasper requires it.

A company has capacity to be a tenant.

Hindu Dispensary, Zanzibar v NA Patwa and Sons [1958] 1 EA 74

Held;

- (i) a trading company could be a “suitable tenant” of premises for the purposes of its business.
- (ii) the suit premises, though intended to be occupied as a dwelling house were qua the Dispensary “business premises”.

Per Curiam– “A company can have possession of business premises by its servants or agents. In fact that is the only way it can have physical possession.”

Notably, Vivian cannot do all this in her individual capacity. All the rights to deal with the land are vested only in Jasper the owner.

The consequences of the acts of Vivian on the company means that the company will start to pay rent and should enter into a tenancy agreement with Jasper.

3. The status of Mackmot with regard to the company.

Despite paying Akello for her stake in the company, Mackmot is not a member of the company nor a shareholder.

S. 47 of the Companies Act 2012 provides for two instances when a person is regarded as a member of the company.

(1) The subscribers to the memorandum of a company shall be taken to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) A person who agrees to become a member of a company, and whose name is entered in its register of members shall be a member of the company.

In the case of **Matthew Rukikaire V Incafex Limited SCCA No. 3 of 2015** it was stated that being on the register is evidence to prove membership. Hon. Lady Justice Prof Dr. Tibatemwa E clearly stated that an applicant for shares is neither a member nor a shareholder while his rights rest in contract until the issue of shares has been completed by registration.

In defining who shareholder is, she stated; who a shareholder or member of a Company is. The process of incorporating a company limited by shares involves registration of the company's memorandum and articles of association which are signed by subscribers. A 'subscriber' is the term applied to the first members of a private limited company who add their names to the memorandum of association during the company formation process. By so doing, they agree to form a company and become members/shareholders in the company.

However, other persons can become members of the company when shares in the company are allotted. When a person either individual or corporate is allotted shares subsequent to the formation of the company, that person becomes a 'shareholder', 'member' or 'owner' and stands in the same position as the subscriber. Such persons agree to become part of a company by taking a particular number of shares through a process known as allotment.

She thus concluded that what can be deduced from S. 47 is that a person may become a member of a company in two ways;

- (a) by subscribing to the memorandum of association; and
- (b) by agreement to be a member subsequent to the formation of a company.

That that a person becomes a shareholder or member of a company if allotment is followed by registration. that it is "the company" which has the obligation to enter each member on the members register. In this context the company's duty lies with the company secretary, whose duty it is to ensure that the company complies with relevant legislation and regulations.

Quoted; Lord Templeman in **National Westminster Bank Plc vs. IRC**

(1995) A.C.111 at 126 held that "*allotment does not make a person a member of the company. Entry in the register of members is also needed to give the allottee legal title to the shares. Allotment confers a right to be registered as a member.*"

Lord Templeman further stated that *an applicant (for shares) is neither a member nor a shareholder while his rights rest in contract until the issue of the shares has been completed by registration.*

In this case, Akello is a subscriber to the memorandum of association of the company and hence is a member of the company. However, she sold her stake in the company to Mackmot who can't become a member until there is a valid transfer of shares and his name being reflected on the register.

If a person is not entered on the register yet he or she is a member, the remedy is provided for under S. 125 whereby court has the power to rectify the register and payment by the company of any damages sustained by any party aggrieved.

Despite the above, courts and learned authors have noted that a person who buys shares from a member, becomes a beneficial owner of those shares in equity and thereby obtains an equitable interest.

According to Smith and Keenan's COMPANY LAW 14th edition 2009 at page 207, the following legal transactions are involved in transfer of shares.

The purchase and sale of shares involves the following separate and distinct legal transactions:

(a) An unconditional contract is agreed between the transferor and transferee. The transferor then holds the shares as a trustee for the transferee (who has an equitable interest) until registration but is still a member of the company and retains the right to vote as he chooses.

(b) The transferee pays for the shares. The position remains as in (a) above except that the transferor must now vote as the transferee directs. An unpaid transferor has the right to vote the shares free from any obligation to comply with the transferee's requirements (*JRRT (Investments) v Haycraft* [1993] BCLC 401).

(c) The position remains as in (b) above while the transfer is approved by the directors and the transfer is stamped.

(d) The transferee's name is entered on the register of members. At this stage the transferor ceases to be a member of the company. The transferee becomes the member and acquires the legal title to the shares. Since membership and membership rights are only effective when the transferee is on the register of members, it may be necessary to ask the court to rectify the register of members under CA 2006, s 125 where the company is refusing to register the transferee, *but only if this is contrary to the powers of the board*.

In Hawks v McArthur and Others, [1951] 1 All ER 22,

shares were transferred by M to two shareholders (R and F) without exhausting the pre-emption rights of other shareholders in accordance with a company's articles. R and F paid to M the full

purchase price for the shares, but the shares were still registered in the name of M. On 4 October 1949, the plaintiff (who was also a member of the company) recovered judgment for £539 2s 4d and costs in an action against M, and was granted leave to proceed under the judgment. On the same day he obtained a charging order *nisi* on the shares in the company standing in M's name, and on 17 October the charging order was made absolute. F and R claimed that by 4 October the beneficial interest in the shares was in them and that M had no interest therein on which the charging order could operate.

Held – Notwithstanding the complete failure to comply with the company's articles in regard to the procedure to be followed before shares could be transferred, F and R, having paid to M the full consideration for the shares, had obtained equitable rights therein, and, as their rights accrued earlier than the equitable right of the plaintiff under the charging order, their rights must prevail over his claim.

VAISEY J.; The one thing, however, which seems to me to be important is that they paid Mr McArthur the money, and I cannot bring myself to suppose that they got nothing by their bargain and that the whole property in the shares remained in Mr McArthur, notwithstanding the transfers which had been executed and the money which he received.

Hakim Semuwemba v Pius Kamugisha HCCS 0499 of 2012. Justice David Wagututsi;

The question that arises therefore is that when the Defendants paid the Plaintiff the 20,000,000/= (twenty million shillings), what was he paying for? What was the company to benefit? It must have been in the absence of any other explanation, that they were paying for shares. What is important here is that they paid out money to the Plaintiff and I would find it very difficult that in paying, they got nothing for the bargain and that the whole property in the shares remained that of the Plaintiff, He thus Concluded that the Plaintiff in receiving the 20,000,000/= (twenty million shillings) knew that it was payment for shares and indeed he severed all relations and interest in the 4th Defendant due to his the conduct of the Plaintiff after payment as he stayed away from the company until 2011, over two years later. He did not attend meetings, nor question the company about company meetings or ask for payments as a shareholder.

The issue of beneficial ownership of shares before transfer has been considered in the case of ;
AMRIT GOYAL v HARI CHAND GOYAL and ors MISCELLANEOUS APPLICATION NO. 649 OF 2001

HELD; Second, it is trite law that pending the formal transfer of a company's shares, the transferee (whether such transferee is the buyer or donee of such shares or otherwise) enjoys a beneficial interest in those shares as the equitable owner thereof — see GOWER's **Principles of Modern Company Law (6th Edn. 1997), p. 348**, which explains that:

“...only if and when the transfer is registered will the transferor cease to be a member and shareholder. However, notwithstanding that registration has not occurred, the beneficial interest in the shares may have passed from the transferor to the transferee.”

Notwithstanding that the transfer is not lodged for registration or registration is refused, the beneficial interest in the shares will, it seems, pass from the seller to the buyer.

The seller then becomes a trustee for the buyer and must account to him for any dividends he receives and vote in accordance with his instructions (or appoint him as his proxy).” [emphasis added]
see **Hardoon v. Belilios [1901] AC 118, P.C.** With regard to gifts (rather than sales of shares), it has been held that so long as the donor had done all he needs to do, the beneficial interest passes from him to the donee — see **Re Roe [1949] Ch 78**, and **Re Roe [1952] Ch 499 CA**.

Court thus declared the Plaintiff as the beneficial owner of the ROADMASTER CYCLE shares via a Memorandum of Family Arrangement and ordered for rectification of the share register of ROADMASTER CYCLES (U) LTD by deleting there from the name of the Fourth Defendant, and substituting therefore the name of the Plaintiff and his nominee as the true owner of the Fourth Defendant’s shares in ROADMASTER CYCLES (U) LTD;

In conclusion therefore, Mackmot having paid Akello for her stake in the company obtained an equitable interest in her shares and is therefore a beneficial owner of those shares.

Task 4..The obligations of Akello to the company, if any.

Akello is a subscriber in the company and the article of association proved that the subscribers shall be the first directors of the company, which therefore makes her a director of the company.

A subscriber is a shareholder or guarantor who agrees to become a member of a company at the time of its incorporation - original members must subscribe their names to the memorandum, hence the name subscriber.

Section 21 (1) of the Companies Act 2012, is to the effect that the memorandum and Articles shall when registered, bind the company and the members of the company to the same extent as if they had been signed and sealed by each member.

Section 47 of the Act provides that a person who agrees to become a member of a company and whose name is entered in its register of members shall be a member of the company.

In OLIVE KIGONGO v MOSA COURTS APARTMENT LTD COMPANY CAUSE NO. 01

OF 2015, Justice Stephen Musota stated;

My interpretation of the above provisions is that there are two ways of becoming a member of a company and these are:

- (i) By being a subscriber to the Memorandum of Association of a company at the time of incorporation of that company as in **Section 47(1) of the Companies Act**; or
- (ii) By acquiring shares in the company after incorporation that's **section 47(2) of the Companies Act**.

In interpreting option 1, the judge stated; To become a member as subscriber to the memorandum of association of a company one needs only to sign the memorandum as a subscriber and automatically will become a member of the company and holder of shares for which she or he has signed even if the company omits to fulfill its duty to put him on the register of members or to allot the shares to him or her. This was the position enunciated in **Evans Case [1867] L.R.2 Ch App 424**; and **Bytrust Holding Limited Vs I.R.C [1971] 1 W.L.R 1333**.

The rationale of this position is that an agreement between the company and the subscriber is that the subscriber shall become a member and the memorandum of association is a public document which makes publicity of the fact that the subscriber is a member of the company.

See; L u gan 's case [19 02] 1 Ch 707. In this option therefore entry on the register of members is not a condition precedent to being a member. All members are shareholders in the company but not all shareholders are members.

Borland's Trustee v Steel Brothers & Co Ltd [1901] 1 Ch 279

Farwell J; A share is the interest of a shareholder in the company measured by a sum of money, for the purpose of liability in the first place, and of interest in the second, but also consisting of a series of mutual covenants entered into by all the shareholders inter se in accordance with s 16 of the **Companies Act 1862**. *The contract contained in the articles of association is one of the original incidents of the share.* A share is not a sum of money settled in the way suggested, but is an interest measured by a sum of money and made up of various rights contained in the contract, including the right to a sum of money of a more or less amount.

A shareholder, is any person, company, or institution that owns at least one share of a company's stock. According to the facts Akello owns 15 shares in the company and thus making her a shareholder. Since she subscribed to the memorandum of association. She automatically becomes a member.

Therefore a shareholder, she is obligated to observe all the conditions stipulated in the articles and memorandum of association.

As a shareholder she has a duty to pay up the full amount of her shares and as when called up, in case of liquidation of a company the shareholders are to be placed in the list of contributories. In certain cases a transferor of a share still liable for the unpaid shares of a company.

All the shareholders are bound to follow the decision of the majority shareholders unless the majority are guilty of mismanagement and oppression.

The main duty of shareholders is to pass resolutions at general meetings by voting in their shareholder capacity. This duty is particularly important as it allows the shareholders to exercise their ultimate control over the company and how it is managed.

The articles of association constitute a binding contract between the shareholders and the company as stated under section 21(1). The Articles of association state some duties or obligations expected of a director, among which is the duty to manage the company and paying of all expenses incurred during the promotion of the company.

Section 198 of the Act provides for the duties of a director to include the following a) act in a manner that promotes the success of the business of the company.

Lord Greene MR in **Re smith and Fawcett ltd [1942]** Ch. 304 at page 306 held that the directors have to act bonafide in what they consider is in the company's interests and not for any collateral purpose.

b) exercise a degree of skill and care as a reasonable person would do looking after their own business

In **RE CITY EQUITABLE FIRE INSURANCE COMPANY LTD [1925] 1 Ch 407**, Romer J opined that In discharging company duties, a director must exercise such degree of skill and diligence as would amount to the reasonable care which an ordinary man might be expected to take in the circumstances, on his own behalf but such skill need not be of greater degree than reasonably expected of a person of his knowledge and experience, he isn't liable for mere errors of judgement.

C) act in good faith in interest of the company as a whole

He also has an obligation to ensure compliance with this Act and any other law.

Section 225 and Article 84 table A of the Act is to the effect that a director has an obligation to notify the company in writing, before the expiration of five days beginning with the day of appointment, of the subsistence of his or her interests at that time and of the number of shares of each class and the amount of debentures of each class of, the company or other such body corporate in which each of his interest subsists at that time.

She also has a duty under **section 213** of the Act to disclose payment for loss of office made in connection with take over or take over or transfer of shares in a company.

She also has an obligation under **section 197** to disclose her age.

Liability; as a member of the company she is liable for the company's debts up to the amount of shares not fully paid up in case of winding up/liquidation. Shareholders have a duty not to compete with the company.

5. Assuming further that upon receiving the demand from **Mackmot** with a cover letter from **Akello** to back it up, the company has not responded thereto. **Mackmot** and **Akello's** reminders have fallen on 'deaf ears' with **Jasper** saying for as long as he is in charge, he will not be bothered by small issues of **Mackmot** and **Akello** who abandoned the company at its hour of need and now wants to '*reap where she didn't sow*'. Jasper and Akello have waited for a period of 8 months for a response from the company, in vain; advise **Akello** and **Mackmot** on any potential action to take against the company. What response do you anticipate from the company and how will you respond to it?

The facts show that Akello agreed to transfer her shares in the Company.

Shares are personal property and are transferable subject to any restriction contained in the articles.

The most famous definition of a share is that of Farwell J in *Borland's Trustee v Steel Brothers & Co Ltd* [1901] 1 Ch 279, where he states that:

... a share is the interest of a shareholder in the company measured by a sum of money, for the purpose of liability in the first place, and of interest in the second, but also consisting of a series of mutual covenants entered into by all the shareholders. A share is not a sum of money ... but is an interest measured by a sum of money and made up of various rights contained in the contract.

According to **Section 83** of the **Companies Act 2012**, “The shares or other interests of any member in a company shall be movable property transferrable in the manner provided by the articles of the company.”

In a company therefore shares are really transferable and upon a transfer the assignee steps into the shoes of the assignor as a member of the company with full rights as a member.

Anything to do with transfer of shares has to be at the shareholder’s free will. A share holder has a right to transfer his or her own shares anytime he or she wants.

In **Re Smith & Fawcett Ltd (1942) 1 ALL ER , 542 Lord Greene** stated that it is to be borne in mind that one of the normal rights of a share holder is the right to deal freely with his property and to transfer it to whomsoever he pleases. That the shareholder has prima facie right, and that right is not to be cut down by uncertain language or doubtful implications.

S. 83 provides that transfer is subject to the Articles of Association. Therefore, unless the company’s Articles provide otherwise, in a private company, a shareholder is entitled to transfer as he wishes. According to the Articles of Association of Mendy Hotels (Uganda) Limited **Article 2b** provides that “The right to transfer shares shall be restricted as hereinafter prescribed.” **Article 3** provides that the regulations contained in Table A of the First Schedule of the Act shall apply to the Company. Therefore this means that in relation to transfer of shares recourse shall be taken to Table A which has been adopted through the Companies Articles in line with **Section 13(1)** of the Companies Act 2012.

Section 85 of the **Companies Act** also provides that notwithstanding anything in the Articles of a Company, it is not lawful for the Company to register a transfer of shares in or debentures of the Company unless a proper instrument of transfer has been delivered to the company.

Article 22 of **Table A** provides that the instrument of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be taken to remain a holder of the share until the name of the transferee is entered in the register of members in respect of the shares.

Article 23 further provides that subject to such of the restrictions of these Regulations as may be applicable, any member may transfer all or any of his or her shares by instrument in writing in any usual or common form or any other form which the directors may approve.

This means that there is no standard form as to what the transfer instrument should be used.

In *Jaspal Singh Sandhu vs Noble Builders (U) Ltd & Anor SCCA No. 13/2002*. The Supreme Court agreed with the Court of Appeal that there was a valid transfer of shares where the parties used Company Form 8, “**Notification of Change of Directors or Secretaries or their particulars**” stating the husband agreed to cease to be a member of the company and was replaced by his wife who took his shares.

Therefore the above procedure is the one the company has adopted in light of the transfer of shares and basing on the facts Akello gave Mackmot a cover letter stating that Mackmot paid up for her stake in the company and therefore her shares should be transferred to him. The cover letter in this case, would amount to a proper instrument of transfer.

Under **S.88** On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee

However, the company may restrict transfer of shares and creates its own procedure on how shares are to be transferred.

Buckley LJ explained the core company law position in *Re Discoverers Finance Corporation Ltd, Lindlar’s Case [1910] 1 Ch 312 at 316*:

‘The regulations [articles] of the company may impose fetters upon the right of transfer. In the absence of restrictions in the articles the shareholder has by virtue of the statute the right to transfer his shares without the consent of anybody to any transferee.’

Where a restriction is imposed, it binds parties as per **s.21**

According to **Section 21, Article 22 & 24 of Table A**, a company may restrict transfer of shares. And if the directors refuse a shareholder from transferring his shares, they have no duty to give reasons for the refusal. However, if the Articles lay down grounds for refusal of transfer, then the directors must adhere to those grounds or it must be in the company's interest.

Re Smith & Fawcett Ltd 1942 1 All ER, 542, The articles of association of a private company provided that “the directors may at any time in their absolute and uncontrolled discretion refuse to register any transfer of shares. Fawcett died and the newly appointed director refused to register Fawcett’s shares in the name of executor unless he was willing to sell half of them to Smith. **Held** – having regard to the terms of the article, the only limitation on the directors’ discretion was that it should be exercised *bona fide* in the interests of the company.

Court considered what constitutes the interest of a company and held that the directors of the company must act **bonafide** and not for any collateral purpose and in the interest of the company.

Court emphasized that in cases where articles are framed with some such limitation on the discretionary power of refusal

, it follows on plain principle that, if they go outside the matters which the articles say are to be the only matters to which they are to have regard, the directors will have exceeded their powers

As to the meaning of bonafide for the benefit of a company as a whole, Lord Evershade in the case of *Greenhalgh v Adine Cinemas (No.2)* (1950) 2 ALL ER 1120

it is now plain that “*bona fide* for the benefit of the company as a whole” means not two things but one thing. It means that the shareholder must proceed on what, in his honest opinion, is for the benefit of the company as a whole. Secondly, the phrase, “the company as a whole,” does not (at any rate in such a case as the present) mean the company as a commercial entity as distinct from the incorporators. It means the incorporators as a general body

Article 24 does indeed give the directors discretion to decline to register the transfer of a share. It states that, “The directors may decline to register the transfer of a share not being a fully paid share to a person of whom they do not approve, and they may also decline to register the transfer of a share on which the company has a lien.”

However, the powers vested in directors to refuse to register a transfer must be exercised within a reasonable time.

In this respect **Section 89(1)** of the **Companies Act** provides that “Where a company refuses to register a transfer of any shares or debentures, the company shall, within **sixty days** after the date which the transfer was lodged with the Company send to the transferee notice of the refusal.”

This is also provided for under **Article 26**.

Re Swaledale Cleaners [1968] 3 All ER 619

The personal representatives of H and A had executed transfers of H and A shareholdings in favour of L, but S as director refused to register them purporting to exercise a power of refusal contained in the articles. There was no resolution either of the board or of the shareholders on the matter of refusal to register the transfers. On 11 December 1967 L began proceedings for rectification of the register, and on 18 December 1967 S appointed an additional director and the two directors formally refused to register the transfers.

Held – by the Court of Appeal – the register must be rectified to show L as the holder of the shares of H and A. The power to refuse a transfer must be construed strictly because a shareholder ordinarily has a right to transfer his shares. Furthermore, the delay in exercising the power of refusal, i.e. four months, had been unreasonable and the power was no longer capable of being exercised.

Re Hackney Pavilion Ltd [1924] 1 Ch 276

The company had three directors, Sunshine, Kramer and Rose, each of whom held 3,333 shares in the company. Sunshine died, having appointed his widow as his executrix. Her solicitors wrote to the company, enclosing a transfer of the 3,333 shares from herself as executrix to herself in an individual capacity. At a board meeting at which Kramer, Rose and the secretary were present, Rose proposed that the shares be registered, but Kramer objected in accordance with a provision in the articles. There was no casting vote. The secretary then wrote to the solicitors informing them that his directors had declined to register the transfer.

Held – by the High Court – the board’s right to decline required to be actively expressed. The mere failure to pass the proposed resolution for registration was not a formal active exercise of the right to decline. The right to registration remained, and the register must be rectified

From the facts Mackmot and Akello have waited for a period of **8 months** for a response from the Company in vain.

Section 89(2) provides that where the default is made in complying with this section, the company and every officer of the Company who is in default is liable to a default fine of twenty five currency points. Therefore already Jasper being an officer of the Company i.e. a director by virtue of **Section 2** of the Act and the Company as well, he is liable by virtue of this section.

Therefore in light of the above position I would advise Akello and Mackmot to cause Mackmot's name to be added as a member of the Company on the Company Registrar by the Registrar of Companies i.e. rectify the Register by applying to Court.

S. 125. Provides for the power of the court to rectify register.

(1) Where— (a) the name of a person is without sufficient cause entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member, the person aggrieved or any member of the company or the company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is party to the application to have his or her name entered in or omitted from the register whether the question arises between members or alleged members on the one hand and the company on the other hand and generally may be decided for rectification of the register

In Re Milton Obote Foundation, Company Cause No 1. Of 1997, held; The High Court affirmed its jurisdiction to hear an application for rectification of the register of companies kept by the registrar of companies.

Court's power to rectify the register where no instrument of transfer

It was held by the Court of Appeal in *Re Hoicrest Ltd* [1999] 2 BCLC 346 that the power of the court to rectify the membership register of a company could be used to effect a transfer where there was no instrument of transfer so that the company had not had an opportunity to refuse the transfer.

In AMRIT GOYAL v HARI CHAND GOYAL and ors MISCELLANEOUS APPLICATION NO. 649 OF 2001

It was held that when the court entertains an application to rectify a share register, it is bound to

go into all the circumstances of the case, and to consider what equity the applicant has to call for its interposition — see **Halsbury's Laws of England, (4th Edn.), Vol. 7(1) para 394**. In this case even in absence of a transfer instrument Court declared the Plaintiff as the beneficial owner of the ROADMASTER CYCLE shares by relying on a Memorandum of Family Arrangement and ordered for rectification of the share register of ROADMASTER CYCLES (U) LTD by deleting there from the name of the Fourth Defendant, and substituting therefore the name of the Plaintiff and his nominee as the true owner of the Fourth Defendant's shares in ROADMASTER CYCLES (U) LTD Therefore the above is the potential action that Akello and Mackmot can take against the company. The procedure is provided for under Order 38 rule 4 of the Civil Procedure Rules SI 71-1 which states that Applications to rectify the register of members of a company shall be made by motion or summons in chambers.

The Companies Anticipated Response

Article (24) of table A states that, "The directors may decline to register the transfer of a share not being a fully paid share to a person of whom they do not approve, and they may also decline to register the transfer of a share on which the company has a lien

The anticipated Company's response shall be that they have a right under the law to decline to register the transfer of a share not being a fully paid up share when they called up the shares,

RESPONSE TO COMPANIES RESPONSE

The company waived its right to refuse.;

The company had sidelined Akello in the management of the company. The company has held only one meeting of which Akello was not even invited. Secondly, the company did not exercise their discretion to refuse registration and thereby waived their right to refuse. The company had sixty days within which to refuse registration and since its now 8 months, the right to exercise its discretion was waived in the circumstances.

As was noted by the learned authors Smith and Keenan's COMPANY LAW supra on page 206

Any power of veto on transfer vested by the articles in the directors must be exercised within two months after the lodging of the transfer for registration and the transferee notified. If not, the company may be compelled to register the transferee as a member.

This is supported by the above case of **Re Swaledale Cleaners [1968] 3 All ER 619**

DOCUMENTS;

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA (COMMERCIAL DIVISION)
MISCELLANEOUS CAUSE NO. ... OF 2018**

**1. AKELLO BETTY
2. MACKMOT ODONGO.....APPLICANTS
VERSUS**

**MENDY HOTELS (UGANDA) LIMITED.....RESPONDENT
NOTICE OF MOTION**

(Under Order 38 Rule 4, 5(d) of the Civil Procedure Rules, SI 71-1)

ALL PARTIES CONCERNED attend the learned Judge in chambers on the day of 2018 at O'clock in the fore/afternoon or as soon as counsel for the applicant can be heard for Orders that:

- a) The shares of the first plaintiff in the respondent company be transferred to the second applicant
- b) The respondent's register be rectified by replacing the name of the first plaintiff with the second applicant
- c) The respondent company pays damages to the applicant
- d) Any other order that court deems fit.
- e) Costs of this application be provided for.

TAKE NOTICE that the grounds of this application are;

- a) That the first plaintiff was a signatory to the Articles and Memorandum of Association.
- b) That the first plaintiff sold her stake in the company to the second plaintiff.
- c) That the first plaintiff executed a transfer instrument of his shares to the second plaintiff
- d) That the plaintiffs informed the directors of the company about the sale and sought to have the transfer of shares duly registered by the company.
- e) That for eight months, the plaintiffs have waited for a response from the directors of the company in vain.
- f) That the refusal to register the transfer of shares for 8 months without notice is unreasonable.
- g) It is in the interest of justice that this application be granted.

TAKE FURTHER NOTICE that this application is supported by the affidavit of Akello Betty attached hereto.

Given under my hand and the seal of this Honourable court, at Kampala, this day of 2018

.....
DEPUTY REGISTRAR

Drawn and Filed by:

SUI GENERIS & Co. Advocates

P.O Box, 7117, Kampala.

THE REPUBLIC OF UGANDA

IN THE HIGH OF UGANDA AT KAMPALA (COMMERCIAL DIVISION)

MISCELLANEOUS CAUSE NO. ... OF 2018

1. AKELLO BETTY

2. MACKMOT JOHN ODONGO.....PLAINTIFFS

VERSUS

MENDY HOTELS (UGANDA) LIMITEDDEFENDANT

AFFIDAVIT IN SUPPORT OF MOTION

I, Akello Betty of SUI GENERIS & Co. Advocates, P.O Box 7117, Kampala, do hereby state on oath as follows:

1. That I am an adult female Ugandan of sound mind, one of the plaintiffs herein and I swear this affidavit in that capacity
2. That the defendant is a private company limited by shares, duly incorporated under the Companies Act, with capacity to sue and be sued in its name.
3. That in January, 1999, the company was incorporated and I was one of the original signatories to its Memorandum and Articles of Association.
4. That from that time, I stayed away from the day to day running of the company because I had a full time job as a police officer with the Uganda Police Force.
5. That upon retirement from the force in 2016, I relocated to Canada where I work as secondary school teacher.

6. That I decided to sell my stake in the Company to my brother, the second plaintiff for a consideration of shs, 11,500,000. (Find attached the receipt marked A)

7. That I duly executed a transfer instrument to that effect, which is hereby attached as annexure B.

8. That the second plaintiff approached the company with proof of payment for my shares and the transfer instrument executed by me and requested that the transfer be registered by the company and that he be allowed to get involved in the affairs of the company.

9. That we have waited for a response from the company for eight months in vain despite issuing the directors a number of reminders.

10. That I am informed by my lawyers, which information I believe to be true, that the statutory period for the company to register a transfer of shares or issue a notice of refusal is sixty days and it already lapsed.

11. That the directors of the company have not offered us any substantial reason for refusing to register the transfer of shares.

12. That the second plaintiff and I have suffered great inconvenience resulting from this refusal.

13. That whatever I have stated above is true and correct to the best of my knowledge.

Sworn at Kampala by the said AKELLO BETTY thisday of2018.

.....
DEPONENT

BEFORE ME
.....

COMMISSIONER FOR OATHS

Drawn & Filed by
SUI GENERIS & Co.
Advocates
P.O Box 7117, Kampala

7. Assuming that the company has decided to consider Mackmot and Akello's request, Advise the company on

- a. How to process the request from Akello and Mackmot
- b. The procedure of enforcing its rights against Akello if any

8. Draft the necessary documents anticipated in 7 above

The best way to do this is through;

FIRST calling for a board meeting to approve the transfer. Articles 24 and 25 of Table A. Calling for a meeting and this would be conducting a board meeting called by a board of directors. The Articles of the company provide that Table A would apply. S. 13 of the Companies Act; (1) Articles of association may adopt all or any of the regulations contained in Table A.

(1) (2) In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered or, if articles are registered in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in the duly registered articles.

Table A under article 98 which is to the effect that "The directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairperson shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Uganda."

This could be through either a formal or an informal meeting. this is based on the decision in the case of *UK Safety Group Ltd v Heane [1998] 2 BCLC 208* where it was held that it is not necessary for a board meeting to meet formally in order to transact business. It may be possible for all directors to informally transact in business. Furthermore the case of *Runciman vs Walter Runciman plc [1992] BCLC 1084* stated that although the boards decision was made in an informal manners the directors had acquiesced and accordingly the decision had been validly made.

When calling for a board of directors meeting there are a few requirements which must by law be fulfilled and among others include;

- Presence of all directors except those abroad**

Every director has a right to attend and participate in all meetings of the board of directors. This is because a formally and duly appointed director cannot be excluded from a meeting by other directors as was held in the case of *Hayes vs Bristol Plant Hire ltd [1957]1 ALL ER 685* and on that basis he can enforce his right.

□ **Notice**

A notice of all meetings must be given to all directors whose whereabouts are known except for those outside Uganda otherwise whatever decisions are made will be invalid. **Section 140 of the Companies Act** provides for the Length of notice for calling meetings and states that for all meetings at least a *21 days' notice in writing* will be given before a meeting is conducted and except for insofar as the articles of a company make other provision in that behalf, a meeting of the company other than an adjourned meeting may be called by the twenty-one days' notice in writing.

The notice issued must also comply with some requirements for example;

1. The issuing person must have authority.

In the case of *Al-Amin Seatrans ltd vs Owners and Party interested in vessel MV loyal bird (1996)1 comp lj cal* it was held that notices issued by a secretary when she did not have power and authority to issue them was invalid.

2. Form

Section 140(2) of the companies Act is to the effect that every notice issued calling for and notifying persons of a meeting shall be in writing

3. Time

section 140(1) of the companies act is to the effect that the notice will be for at least 21 days otherwise it will be invalid. this was further discussed in the case of *Re Homer District Consolidated Gold Mines ltd ex parte Smith (1888) 39 Ch. D 546* that a meeting held after a few hours notice did not amount to the statutory notice as required by law. Likewise a letter sent

on Sunday for a board meeting on Monday was declared inadequate by court in the case of ***Bently and Stevens v Jones [1974] 1 WLR 638.***

The case of ***N.V.R Nagappa Chettiar v the madras race club (1949) MLJ 662*** discussed the aspect of what amounts to a day and stated that a day means clear day excluding both the date on which the notice for the meeting is served or expected to be served and the date of the meeting. The learned judge further held that the notice should be served at least 25 days before the meeting date to ensure that the 21 days notice is given to the recipients of the notice.

4. service of the notice

the notice at all times must have been duly served and if for any reason like service on wrong person or wrong time, the meeting is then irregular and any purported decisions taken through that meeting are invalid as was discussed in ***Re Portuguese consolidated copper mines limited [1889]42 Ch. D 160***

5. Quorum

Table A article 99 stated that the quorum necessary for transaction of the business of the company may be fixed by directors and unless so fixed shall be two. the case of ***Niddle Industries India ltd v Niddle Industries Neway Holding ltd (1981) 50 comp case 743 (S and C)*** where court held that provisions for quorum are not directory but mandatory and a decision taken by a lesser number than that quorum is void.

it is during this Board of Directors meeting that a decision regarding the request made by Mackmot and Akello would be considered. This decision is through a resolution which would be a board resolution as a board of directors meeting can only make ***board resolutions.***

Section 152 of the Companies Act is to the effect that minutes of proceedings of meetings of directors shall be entered in books kept for that purpose.

Procedure for transfer;

Under S. 85, it is not lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company. Therefore a transferee should have a proper instrument of transfer which he delivers to the company for registration.

Under **S.88** On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee

Upon transfer, the transferee is entitled to a share certificate. According to S. 90, a share certificate is prima facie evidence of title. The company is also required to notify the registrar of companies about the transfer of shares, and the transferee will be liable to pay a stamp duty assessed with regard to the share transfer.

S.91 of the Companies Act 2012 (1) A company shall, within two months after the date on which a transfer of the shares, is lodged with the company, complete and have ready for delivery the certificates of all shares, transferred, unless the conditions of issue of the shares otherwise provide. Subsection two provides that For the purposes of subsection (1), "transfer" means a transfer duly stamped and otherwise valid and does not include a transfer which the company is for any reason entitled to refuse to register and does not register

In **Re Bahia and San Francisco Railway Company (1868) LR 3 QB 584**, court held that a share certificate is prima facie evidence of the ownership of the person named thereon as shareholder. The company is estopped from denying as against a bonafide purchaser of the shares that the person named is entitled to the shares referred to.

The fees payable on Stamp duty is 1% of the Total Number of Shares as per Item 62(a) of the Stamps Amendment Act 2016.

The company should also file annual returns to reflect the new shareholding position as per S. 132 of the Companies Act 2012.

Documents Board resolution Annual returns

Part b

What rights can be enforced and under what procedure

Before registering the transfer of shares, the company can make a call on the shares. The starting point is S. 21, Companies Act 2012 which states as follows:

Subject to this Act, the memorandum and articles shall, when registered, bind the company and the members of the company to the same extent as if they had been signed and sealed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and articles.

This has the effect of establishing the memorandum and articles as a ‘statutory contract’ between the company and its members, and among members inter se the terms of which can be enforced both by the company and the members

Reference may be made to the case of **Hickman v. Kent (1950) 1 Ch. D 881**

Justice Ashbury had the following to say: “*That the law was clear and could be reduced to 3 propositions;*

i i. That no Article can constitute a contract between the company and a third party;

ii ii. No right merely purporting to be conferred by an article to any person whether a member or not in a capacity other than that of a member for example solicitor, promoter or director can be enforced against the company.

iii iii. Articles regulating the rights and obligations of the members generally as such do create rights and obligations between members and the company”.

Therefore it is on this premise that a company has rights that can be enforced against Akello. Generally, a share is a unit of capital. The most famous definition of a share is that of Farwell J in *Borland’s Trustee v Steel*, where he states that:

... a share is the interest of a shareholder in the company measured by a sum of money, for the purpose of liability in the first place, and of interest in the second, but also consisting of a series of mutual covenants entered into by all the shareholders. A share is not a sum of money ... but is an interest measured by a sum of money and made up of various rights contained in the contract.

According to the facts at hand, shares of 15 in number were issued to Akello each at 2,000,000 s hillings which were unpaid. The facts disclose that Akello sold her shares to her brother at 11,500,000 Million which means that out of 15, the number of shares issued to her which totalled up to 30,000000 Million each at 2,000,000 million, the balance of 18,500,000 Million was not paid up. Whenever a Company issues shares then those shares can either be fully paid or partly paid.

□ “Fully paid shares” are those shares for which full issue price has been paid by the shareholder to the Company.

□ On the other hand, “partly paid shares” are those shares for which the shareholder has paid only part of the issue price of the share. In case of partly paid shares, the Company has the right to demand from the shareholder the remaining payment on the partly paid shares as and when required by it.

“Call on shares” means the demand made by the Company on its shareholders holding partly paid shares to pay part or full unpaid amount on the shares. The board of directors of the Company makes such a call on shares in accordance with terms and conditions of issue of shares and as per articles of association of the Company.

The unpaid amount on partly paid shares is the liability of the shareholders to the Company and the Company has the right to call for payment of such liability as and when deemed fit by the board of directors of the Company. Generally, Companies prefer to collect the full amount of share issue price at the time of issue of shares. However, some companies may give the option to its shareholder to pay the share price in below instalments:

If a shareholder fails to pay the call money as demanded by the Company within the time period provided by the Company, then the Company may forfeit his shares.

The articles of association of this company has provisions on calling of shares. **CALLS ON SHARES**
16. The Directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed two fourth of the nominal amount of the share, or be payable less than one month from the last call; and each member shall (subject to receiving at least fourteen days’ notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on his shares. A Call may be revoked or postponed as the Directors may determine

17. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of eight per centum per annum from the day appointed for the payment thereof to the date of the actual payment, but the Directors shall be at liberty to waive payment of that interest wholly in part.

Procedure to make a call on shares.

A company which intends to make calls on its unpaid shares shall follow the following procedure:

Board Resolution

The board of directors shall pass a board resolution to make calls on shares which shall clearly specify the time and place to make payment for a call on shares. A call is deemed to be made when a board resolution is passed in this regard, such call can be paid in instalments also if so required.

Call notice

The Company should send to each shareholder as mentioned in its register of members a 14 day “Call notice” specifying the time and place for payment of calls. In the case of **Re National Bank of Wales, Taylor, Phillips and Rickards (1897)1 Ch 298 at 306** it was held that where shares have been transferred, the transferor remains liable for calls already made. Therefore, the company should make calls on shares of Akello before they are transferred to Mackmot.

DOCUMENTS

Board resolution

THE REPUBLIC OF UGANDA BOARD RESOLUTION

AT THE MEETING OF THE DIRECTORS OF..... Ltd Reg.
No..... (“THE COMPANY OR ORGANISATION“) held at Kampala on the of _____
19.....

IT WAS RESOLVED:

1. That the Company admits a one Mackmot as a shareholder in the company having purchased the same form Akello and as such he will be registered on the members register.
2. That a call on shares has been made to share holders who hold unpaid shares to pay up by 5th January 2019 through the Company’s bank account of 147899383799843 Centenary Bank in the names of Mendy Hotels Uganda ltd.

.....Chairman

.....Secretary

.....Date

This document is to be certified by the registrar of companies of the republic of Uganda.

No. Of Company

GOVERNMENT OF UGANDA FORM OF ANNUAL RETURN

OF A COMPANY HAVING A SHARE CAPITAL

Third Schedule Part II (section 132)

Annual return of Limited,
made up to the day of 20 being
the fourteenth day after the date of the annual general meeting for the year 20.....).

 s

1. Address. (*Situation and postal address of the registered office of the company*)

2. Situation of registers of members and debenture-holders. a) (*Address of place at which the register of members is kept, if other than the registered office of the company*).

b) (*Address of any place in Uganda other than the registered office of the company at which is kept any register of holders of debentures of the company or any duplicate of that register or part of the register which is kept outside Uganda*).

Delivered for filing by

Note: All parts of the form must be properly completed; if not applicable using the words “not applicable”, “nil”, “none”, etc

Name & address of the Auditor.....

3. Summary of share Capital and Debentures

a) Nominal Share Capital

Nominal Share Capital Shs.....divided into:

(Insert number and class)

..... Share of
.....each

..... Share of
.....each

..... Share of
.....each

b) Issued Share Capital and Debentures

	Number	Class
Number of shares of each class taken up to dateShares
of this return (which number must agree with the	..	
total shown in the list held by existing members.)Shar
	..	es
Shar
	...	es
Shar
	...	es

Number of shares of each class issued subject to Payment wholly in cash

.....

....

.....SharesSharesSharesShares

.....-.....Shares

..Shares.....Shares

ber of shares of each class issued as fully paid up for a consideration other than cash.

Shares issued as paid up to the extent of shs.....per share Shares issued as paid up to the extent of

Shs.....on

.....

.....shares

.....

.....shares

.....

.....shares

.....

.....sharestal amount (if any) agreed to be considered as

Paid on number of shares of each class issued as partly paid up for a consideration other than cash.

Shs.....onshares

.....

.....shares

.....

.....shares

.....

.....shares

Total amount of calls unpaid Shs.....

..... Total amount of the sums (if any) allowed by way of commission in respect of any shares of debentures.

Shs.....

.....

Total amount of the sums (if any) allowed by way of discount in respect of any debentures since the date of last return.

Shs.....

.....Total number of each shares of each class forfeited Number

Class

.....

.....shares

.....

.....shares

.....

.....shares

.....

.....shares

Total amount paid (if any) on shares forfeited Shs.....

.....tal amount of shares for which shares warrants to bearer are outstanding.

Shs.....

.....otal amount of share warrants to bearer issued and surrendered respectively since the date of the last return.

Issued: Surrendered:

Shs.....

.....

Shs.....

.....

Number of shares comprised in each share warrant tobearer, specifying in the case of warrants of different kinds, particulars of each kind.

. List of Past and Present Members

List of persons holding shares or stock in the company on the fourteenth day after the annual meeting for 20.....and of persons who held shares or stock therein at any time since the date of the last return, or in the case of the first return, of the incorporation of the company.

Folio in

register ledger containing particulars

Name and Postal addresses Number of

shares held by existing members at date of return

+* ACCOUNTS OF SHARES

Remarks

Particulars of shares transferred since the dare of the last return, or in

case of the first return, of the incorporation of the company, by (a) persons who are still members and (b) persons who have ceased to be members

Number +

Dates of registration of transfer

(a) (b)

*The aggregate number of shares held by each member must be stated and the aggregates must be added up so as to agree with the number of shares stated in summary of shares Capital and Debentures to have taken up.

When shares are of different classes these columns should be sub-divided so that the number of each class held or transferred, may be shown separately, where any shares have been converted into stock the amount of stock held by each must be shown.

The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferrer and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer

Notes:

1. If the return for either of two immediately preceding years has given as at the date of that return the full particulars required as to past and present members and the shares and stock held and transferred by them, only such of the particulars need given as relate to persons ceasing to be or

becoming members since the date of the last return to shares transferred since the date or to changes as compared with that date in the amount of stock held by member.

2. If the names in the list are not arranged in alphabetic order an index sufficient to enable the name of any person to be readily found must be annexed.

6. Particulars of Directors and Secretaries

Particulars of the persons who are Directors of the company at the date of this return. (See footnote on page 6)

particulars of the person who is secretary of the company at the date of this return

Name (In the case of an individual, present first name or names and surname. In the case of a corporation the	Any former first name or names and surname	Usual postal address. (In the case of corporation the registered office)

Signed.....Director

Signed.....Secretary

NOTES:

1. "Director" includes any person who occupies the position of a director by whatsoever name called, and any person in accordance with whose directions or instructions the directors of the company are accustomed to act.
2. "**First name**" includes a forename, and "**surname**", in the case of peer ot person usually known by title different from his surname, means that title.
3. "**Former First name**" and "**former surname**", do not include:-

- a) in the case of any person, a former first name or surname was changed or disused before the person bearing the name attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; or
- b) In the case of a married woman the name or surname by which she was known previous to the marriage

The names of all bodies corporate incorporated in Uganda of which the director is also a director, should be given except bodies corporate of which the company making the return is the wholly – owned subsidiary or bodies corporate which are the wholly-owned subsidiaries either of the company or of another company of which the company is the wholly owned subsidiary.

A body corporate is to be the wholly-owned subsidiary of another if it has no members except that other and that other’s wholly-owned subsidiaries and its or their nominees. If the space provided in the form is insufficient particulars of other directorships should listed on a separate statement attached to this return.

Dates of birth need only to be given in the case of a company which is not private company or which, being a private company, is the subsidiary of a body corporate incorporated in Uganda which is not a private company.

Where all the partners in a firm are joint secretaries the name and principal office of the firm may be stated.

CERTIFICATES AND OTHER DOCUMENTS ACCOMPANYING ANNUAL RETURN

Certificate to be given by a Director and the Secretary of Every private Company

We certify that the company has not since the date *(incorporation of the company/the last annual return) issued any invitation to the public to subscribe for any share or debentures of the company.

Signed.....

...Director

Signed.....

...Secretary

Further Certification to be Given if the Number of Members of the Company Exceeds One hundred.

We certify that the excess of the number of members of the company over One hundred consists wholly of persons who, under paragraph (b) of sub-section (1) of section 5 of the Companies Act, 2012, are not to be included in reckoning the number of fifty

Signed.....

...Director

Signed.....

...Secretary

Certified Copies of Accounts

In the case of any company to which section 135 of the Act applies, there shall annexed to this return a written copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which this return relates including every document required by law to be annexed to the balance sheet and a copy so certified of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet.

If the balance sheet or document required by law to be annexed to it did not comply with the requirements of the law to be annexed to it is a foreign language there must also be annexed to that balance sheet a translation in English of a balance sheet or document certified in the prescribed manner to be a correct translation.

If the balance sheet or document required by law to be annexed to it did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheet or documents as the case may be, there must be made such additions to and the corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with those requirements, and the fact that the copy has been amended must be stated on it.

Signed.....
.....**Director**

Signed.....
.....**Secretary**

PARTNERSHIPS

PARTNERSHIPS ACT 2010

Sec 2 defines a partnership as a relationship which subsists between or among persons not exceeding twenty in number who carry on a business in common with a view to making profits.

Key elements in the definition.

- Relationship
- Carrying on a business in common
- With a view of profits
- Limit the numbers
- Existence of a partnership.

W v COMMISSIONER OF TAXES (1969) 1 AFRICA LAW REPORT Comm 91.

Held; by definition, a partnership must have 4 essentials. i. each partner must pool something into the business i.e money, Labor or skill. (ii) business must be carried on for the joint benefit of all partners. (iii) the object must be to make a profit and (iv) the contract must be legal.

Existence of a partnership.

Sec 3 of the Act provides a criteria for determining the existance of a partnership.

- Co.ownership of property does not of itself create a partnership
- Sharing of gross returns does not of itself create a partnership.
- Profit and los sharing ; the receipt by a person of a share of the profits is prima facie evidence that there is a partnership but it does not of itself make him a partner.

Reamton ltd v Uganda Co orperative creameries1996]3 KALR 28; *Held;* the receipt by a person of a share of the profits of a business is strong evidence that he is a partner but not conclusive ipso facto. Court must take into account the agreement and intention of the parties. In the instant case, other co-existing factors show that there was no partnership. The co-existing factors include the fact that the defendant had borrowed money from other banks which loan was only the liability of the defendant and yet if the business were a partnership, the two said parties would be jointly liable.

All Allport Ports Freight Service V Julius Kamanyi & Anor. [1996] V KALR 21.

At the instance and on the order of the defendants who were carrying on business as a partnership in the name and under the style of Aero International Limited which was unregistered, the plaintiff delivered to the defendants cement valued at 200m but the defendants reneged on the debt balance of 147m. The second defendant denied liability but the first defendant admitted.

Whether there was a partnership between the first and second defendants?

Held:

i. If two or several persons jointly purchase goods for resale with a view to dividing the profits arising from the transaction, a partnership is created and each of them will be liable to third parties. In the instant case it was clear that both defendants obtained cement from the plaintiff, for resale at a profit to be shared. Therefore, a partnership relationship was established as under s.3 (1) of the Partnership Act.

ii. A partnership need not be established formally and in writing. It is sufficient to establish that a community of interest exists between the parties. This was amply proved in this case.

Receipt of profits by way of annuity to a widow or child of deceased doesnot create a partnership.

Advance of a money by way of a loan to a person engaged in or about to engage in a bussiness does not make the lender a partner.

Number of partners.

Sec 2[1] limits the number to 20 people

Sec 2[2] provides for a maximum of 50 for partnerships formed for purposes of carrying on a profession.

Commencement of a partnership.

The partnership commences on carrying on a business. Carrying on a business entails going beyond the preparatory stages of setting up the venture and actually doing the business.

A partnership is not created by a mere intention to do business together but by an intention which is manifested practically.

Henshaw V Roberts [1967]1 ALR comm.5

The plaintiff formed a business syndicate and each partner paid an amount to a central fund but the partnership was not formed as agreed. It was held ; *existence of a partnership depends on carrying on a business in partnership and not the agreement to form a partnership. if the parties have begun to carry on business they will be regarded partners.*

In **Omella V Raymond 1984 HCB 62** it was held that the act of opening up an account in itself does not create a partnership.

W v COMMISSIONER OF TAXES (1969) 1 AFRICA LAW REPORT Comm 91.

Held; the mere execution of a partnership agreement is not in itself sufficient to constitute a partnership. Nor on the other hand will the absence of a formal agreement entitle one to infer that there is no partnership between the parties concerned. There must be a course of dealing and conduct of the partnership which must be consistent with its terms.

ABUBAKER WALAKIRA v ABUBAKER WALUSIMBI CIVIL SUIT No. 579 OF 2012

Held; The Partnership Deed defined the relationship between the parties but did not provide for the event of the partnership coming to an end. That in such an event, the subsequent existence of the partnership could not be perceived from the Partnership Deed but from extrinsic evidence and from the conduct of the parties.

Quoting the definition of a partnership in S. 2 of the Partnership Act, Court held that in order to say that a partnership is in existence and operational, there must be business being carried on by the partners.

However, where partners have done more than enough to embark on the actual business a partnership exists.

Miah and ors V Khan and Anor 2001 ALLER 20

Lord Millet; There is no rule of law that the parties to a joint venture did not become partners until actual trading commenced. Rather, the rule was that persons who agreed to carry on a business activity as a joint venture did not become partners until they actually embarked on the activity in question. It was therefore necessary to identify the venture in order to decide whether the parties had actually embarked upon it, but it was not necessary to attach any particular name to it. The acquisition, conversion and fitting out of the premises and the purchase of furniture and equipment had all been part of the joint venture, had been undertaken with a view of ultimate profit and had formed part of the business which the parties had agreed to carry on in partnership together. Thus the question was not whether the restaurant had commenced trading, but whether the parties had done enough to be found to have commenced the joint enterprise in which they had agreed to engage. They had done so, and accordingly the appeal would be allowed.

FORMATION OF A PARTNERSHIP

Unlike other business organizations such as companies, formation of a partnership does not require formalities such as registration;

A Partnership can also be made orally or writing .It can also be implied from the conduct of the parties.

Bubare company V meble kente 1982 HCB 143 ;It was held the fact there was no written agreement between the parties when the partnership was immaterial since a partnership may be formed orally or by the conduct of the parties. This was approved in **Allport Freight service V Julius Kamanyi [1996]KALR 21**

Allports Freight Service V Julius Kamanyi & Anor. [1996] V KALR 21. It was held that if two or several persons jointly purchase goods for resale with a view to dividing the profits arising from the transaction, a partnership is created and each of them will be liable to third parties. That a partnership need not be established formally and in writing. It is sufficient to establish that a community of interest exists between the parties.

Ref Dr Okello N David V Komakkech Stephen HCT- 02- CR-CS-0030-2004.

Dr. Okello N. David Vs Komakech Steven, HCCS No. 30 Of 2004

The plaintiff and the defendant contributed equally to purchase for the purposes of jointly running a transport business. A vehicle a taxi omnibus was purchased and started plying the Adjumani - Arua route as taxi. The two parties hereto also opened a joint account with the now defunct commercial bank into which the revenue from the operations of the taxi omnibus were supposed to be banked. The defendant being a qualified driver ran the duty affairs of the omnibus taxi and for some time banked the proceeds on the said joint account. The defendant later failed to account to the plaintiff and transferred the vehicle into his names.

The defendant denied the existence of a partnership on grounds that there was no partnership deed, the plaintiff was not involved in the business and that the plaintiff did not contribute towards the purchase of the vehicle but only lent the defendant money. The defendant denied that the joint account opened by himself and the plaintiff was for banking partnership proceeds but that it was opened to pay back the money he had borrowed from the plaintiff and it was agreed it would be closed once the plaintiff had been fully paid.

Whether there was a partnership between the parties

Held;

Section 2(1) of the Partnership Act defines a partnership as the relationship which subsists between persons carrying on a business in common with a view of profit. The fact that there is no partnership agreement is irrelevant because a partnership can be formed informally or by the conduct of the parties. **See Bubare Company Vs Mbale Kente [1982]HCB 143.**

The defendant disputed the existence of a partnership were not written and because the plaintiff was not in the daily management of the taxi business. As it was held in **Bubare Company vs. Mbale Kente (supra)** a partnership can be informal. It is also trite that not every partner in a partnership should get actively involved in the management of the partnership business for a partnership to exist. In fact there are partnerships with inactive partners known as sleeping partners.

Court thus concluded that the parties had agreed to buy a vehicle jointly and operate a taxi business with a view to profit. The parties went a step further by opening a joint bank account for collecting the proceeds of their businesses. That a partnership was the intention of the parties and that their conduct pointed to the existence of a partnership.

Capacity to form a partnership.

Sec 10 of the Act provides that a minor may be admitted to the benefits of a partnership but cannot be personally liable for any obligation of the firm.

Types of partnerships.

General partnerships; this is where the liability of the partners is unlimited.

Limited liability partnership; where one or more of the partners enjoy limited liability while the liability is unlimited. The limited liability partner does not partner in the daily running of the business and if he does so, this liability becomes unlimited Sec 52.

Professional Partnerships eg lawyers, accountants doctors maximum number is of 50 members. Sec 2[2]

Liability of partners;

A Partner is jointly and severally liable

Rights, duties and obligations

- Duty of disclosure S30
- Duty not to make a secret profit S31
- Duty not to compete with the firm S 32
- Right to the management of the firm, every partner may take part in the management of the firm
- Right to Indemnity for expenses incurred in carrying out the business S.26b **Admission to partnership**; S26 [g] requires consent of all existing partners. **Partnership property** S 22; Property brought to the firm at its commencement is partnership property unless a contrary intention is expressly stated.

S23 Property acquired during the subsistence of the firm is partnership property.

Dissolution of a partnership

By expiration or notice S34

By bankruptcy or death S35[1], A partnership may at the option of the partners be dissolved by death or bankruptcy of any partner.

FORMALITIES

1. Registration of partnership

S.4 of the partnership Act 2010 makes it mandatory for the registration of a business name which does not consist of the true Surnames of all partners. Subsection 2 makes it an offence to contravene this section. The registration is under the Business Names Registration Act S2 thereof reiterates the above position.

Before registration, its prudent practice that a search is carried out to establish the availability of the suggested business name and if its available it is reserved by the registrar prior to registration.

Registering a partnership deed

There is no mandatory requirement for having a written agreement in order to establish a partnership. In **Dr. Okello N. David Vs Komakech Steven, HCCS No. 30 Of 2004** , it was held; The fact that there is no partnership agreement is irrelevant because a partnership can be formed informally or by the conduct of the parties.

However, in order to protect the interests of the partners and for proper management of the business, we advise the clients to sign a properly drafted partnership deed that unequivocally encompasses all their concerns. The parties can execute a partnership deed to govern their relations . However there is no requirement that the partnership should be registered as stated in **Kafero V Turyagenda** , registration is important for evidential purposes .The deed is registered with the registrar documents.

BUSINESS NAMES REGISTRATION ACT CAP 109

S1 defines a business name to mean the name or style under which any business is carried out whether a partnership or otherwise.

A firm is defined to mean an unincorporated body of two or more individuals or one or more individuals and one or more corporations..... who have entered in to partnership with one another with a view of carrying ob business for profit.

S2 provides for firms to be registered .Every firm having a place of business in Uganda and carrying on business under a business name which does not consist of the true surnames of all the partners who are corporations without any addition other than the Christian names of individual partners or initials of such names shall be registered in the manner directed by the Act.

S4 provides for manner and particulars of registration. These include ;

- The business name
- The general nature of the business
- The principal place of business

- The present Christian name and surname ,nationality, the usual residence and other business occupation.
- Date of commencement of business
- Age of each of the partners

S 7 provides for the registration of changes in the particulars of the firm which should be done within 14 days after the changes.

This is made by a statement in writing whose format is given under Rule 7 of the Business Names Registration Rules S.I 109-1

Under S8 failure to furnish the registrar with particulars or change in particulars, every partner in the firm commits an offence.

S14 Provides for removal of the firms name from the register where the firm ceases to carry on business. This is the duty of every partner which should be done with in 3 months. Failure of which is an offence.

Rule 8 of the Business Names Registration rules provides for the form of the notice. The format for the application for a business name is provided in the schedule to the rules.

The application for registering a business name attracts 20,000 under the Business Names Registration [Amendment] Rules 2005 S.I 2005 No35. There are other fees to be paid on conducting a search and reserving a business name. According to the form provided by URSB for the reservation of a name, a person pays 25,000. Thereafter a certificate of registration is issued under Rule 10 of the Business Names

Registration Rules S.109-1

THE REGISTRATION OF DOCUMENTS ACT Cap 81

S. 2 defines “registrar” to mean the registrar of documents or any assistant registrar of documents appointed.

S. 3 provides for the **Register of documents**. The registrar shall keep a register of documents and, subject to the exceptions hereafter stated, shall register in it in the manner hereafter provided all documents presented to him or her in the prescribed form on payment of the prescribed fee.

S. 4 provides for **Persons to present documents for registration**. A document presented for registration must be so presented either by a person executing or claiming an interest under it or the agent of that person, and the registrar may require to be satisfied as to the identity and interest of the person by whom it is brought, or, in the case of an agent, as to his or her authority.

S. 5 provides for how **Registration is effected**. Registration shall consist in the filing of a copy (to be furnished by the person presenting the document for registration) of the document brought for registration after that copy has been certified by the registrar as a true copy.

S. 6 provides for the **Numbering and filing of documents**. The registrar shall number every copy so filed consecutively and record on it the date of registration and the name of the person presenting it and shall file copies in the order in which he or she receives the documents.

Documents in foreign language should be translated as provided for under S. 11.

In **Rule 2** of the **Registration of the Documents Rules Statutory Instrument 81 – 2**. It provides that copies of all documents presented to the registrar for filing under Sec 5 of the Act shall be either in manuscript and written in ink, or the original of type writing with a record ribbon on lined full scarp folio paper measuring approximately 13 inches in length and 8 inches in width and shall contain a margin of at least one and one half inches on the left hand side of the paper, the paper to be written on one side only and to be bound or sown together in book form. The fees for registering is Sh.10, 000 under the Registration of Documents (Fees) (Amendment) Rules, 2005.

This is registered at the Uganda Registration Service Bureau (URSB) as provided for in section 4 (2) (a) of the Uganda Registration Service Bureau Act which gives it the mandate to carry out all registration required under the relevant laws.

Fees; in registering documents, there are prescribed fees which is according to the Registration of Documents (Fees) (Amendment) Rules, 2005 S.I No. 55as follows;

1. For registering documents 10,000
2. For a general search (whether in the old or new register or in both).... 2,000
3. For inspection of a particular document (whether in the old or new register) 2,000

PAYMENT OF STAMP DUTY

Stamp duty must be paid on all instruments executed or received in Uganda under the Stamps Act as amended. It is paid on all instruments received in Uganda within 30 days. Stamp duty rates are either fixed or ad valorem rates.

The clients shall pay stamp duty of UGX 10, 000/- (Uganda Shillings 10,000) as provided for Stamps (Amendment)Act 2016.

TRADE LICENSE

Under **section 8** of the **Trade (Licensing) Act as amended 2015**, no person shall trade in any goods or carry on any business specified in the schedule to this Act unless he or she is in possession of a trading license granted to him or her for the purpose under this Act.

Section 1(h) defines trade or trading to mean the selling of goods in which a license under the act is required in any trading premises whether by retail or wholesale.

S,9 provides for the licensing authority to be the town clerk of the respective council. For Kampala, The licensing authority is the Kampala Capital City Authority

S. 11, the licensing authority grants a license on application made to it in the prescribed manner and on payment of the appropriate fee.

The fee to be paid depends on the nature and size of business as provided for under the Trade Licensing (Amendment of Schedule) Instrument 2017 S.1. No. 2.

ESTABLISHMENT OF A LAW FIRM FOR LEGAL PRACTICE.

The legal profession in Uganda is governed by the Advocates Act Cap 267 as amended and several regulations made thereunder to enable execution of the mandate given to the Law Council as provided for under S. 3 of the Act.

S. 1 of the Advocates Act defines an advocate as any person whose name is duly entered upon the roll.

S.2 establishes the Law Council whose functions is inter alia under S. 3 to exercise general supervision and control over professional legal education in Uganda, to advise and make recommendations to the Government on matters relating to the profession of advocates; and to exercise, through the medium of the Disciplinary Committee, disciplinary control over advocates and their clerks.

Qualifications.

S, 8 of the Advocates Act as amended provides for the “**Admission and enrolment of advocates.**”

Under Subsection 3 provides that any person eligible to have his or her name entered on the Roll may make application to the Law Council, and the Law Council, if satisfied that the applicant is so eligible and is a fit and proper person to be an advocate, shall, direct the Registrar, on receipt of the prescribed fee, to enter the applicant’s name on the Roll unless cause to the contrary is shown to its satisfaction.

Subsection 7; The application under this section shall be made and advertised in such manner as may be prescribed by regulations made by the Law Council

For a person to be eligible for enrollment subsection 8 provides that;

He must be (a) is the holder of a degree in law granted by a university in Uganda;

or

(b) *he must be* a Uganda citizen and—

(i) is a holder of a degree in law obtained from a university or other institution recognised by the Law Council in a country operating the common law system; or

(ii) has been enrolled as a legal practitioner by whatever name called, in any country operating the common law system and designated by the Law Council by regulations; or

(iii) holds a qualification that would qualify him or her to be enrolled in any country operating the common law system and designated by the Law Council by regulations.

In addition to hold a degree from a university in Uganda or from a country operating the common law system and designated by the Law Council, the person must then attend a bar course at the Law Development Centre after which they should be awarded a diploma in legal practice as provided for in regulation 2 of the Advocates (Enrollment and Certification) Regulations.

For a person who has been a legal practitioner in a country operating the common law system for less than five years, that person is not eligible for enrolment under this section unless he or she works under the surveillance of and in chambers approved by the Law Council for that purpose or he or she serves as a State Attorney for at least one year. S.8(10) However where he has practiced for more than five years that person may be enrolled without having to work in chambers approved by the Law Council for that purpose or serving as a State Attorney. S. 8(11).

The countries that are designated by the law council are provided for under part II of the First Schedule to the Advocates Enrollment and Certification Regulations. These are Kenya, Tanzania, Zambia and Any other country with reciprocal arrangements in force in favour of Uganda.

Regulation 5 of **Advocates (Enrollment and Certification) Regulations S. I 267-1** provides for the mode of applying for a certificate of eligibility and a form of the application is provided in **Form 1** of the second **Schedule** of the same rules. And that the application and affidavit shall each be accompanied.

There after a certificate is issued by the Law Council whose form is provided for in in Form 2 of the 2nd Schedule to the Regulation.

After obtaining the certificate the person may apply to the Chief Justice to have his or her name entered on the roll and the Chief Justice shall unless cause to the contrary is shown to his or her satisfaction, direct the register on receipt of a fee to enter the name on the roll.

Regulation 8 of the **Advocates (Enrollment and Certification) Regulations** provides that an application for enrollment is made by petition to the Chief Justice accompanied by a certificate of enrollment issued by the Law council.

Practicing certificate

A person who has been enrolled has to apply for a **practicing certificate** under **S.11** of the Advocates Act.

Regulation 4 of the Advocates Enrollment and Certification Regulations provides for the particulars of the application.

(1) In an application for a certificate under section 8(2) of the Act, there shall be stated—

(a) the name and address of the applicant;

(b) the qualifications of the applicant, being one or more of the qualifications set out in section 8(8) of the Act, and the date of the qualifications; (c) the date and place of birth of the applicant;

(d) if the applicant was not born in Uganda, the aggregate period of continuous residence in Uganda during the twelve months immediately preceding the date of the application or the aggregate period during which he or she has been in practice as an advocate in any of the countries specified in Part II of the First Schedule to these Regulations;

(e) whether the applicant is at the date of the application subject to any disqualification or disciplinary proceedings, and whether he or she has been convicted in or is subject to any pending or present criminal proceedings described in section 12(1)(h) of the Act;

(f) whether the applicant is an undischarged bankrupt or the subject of any bankruptcy proceedings in any country.

(2) The application shall conclude with a prayer that the applicant be granted a certificate of eligibility for enrollment as an advocate

Regulation 12 of the Advocates (Enrollment and Certification) Regulations provides that the form of the application is in Form 4 of the Second Schedule to the **Advocates (Enrollment and Certification) Regulations**.

The practicing certificate is only valid till the 31st day of December next after issue and can be renewed on application being made on such form and on payment of such fee as the Law Council may, by regulations, prescribe; and different fees may be prescribed for different categories.
S. 11(2)

Under S. 12 as amended, a person who is not a Ugandan citizen can apply for a special practicing certificate. However he is only entitled to appear or act—

(a) in the case or matter for which that person is admitted;

and

(b) if that person is instructed by, and if when appearing in any Court in the conduct of the case or matter, that person appears together with, an advocate with a valid practising certificate.

S. 11(3) provides that every advocate who has in force a practising certificate may practise as such in the High Court or in any court subordinate to the High Court.

Only persons who are advocates can be allowed to establish a law firm. This is because S. 64 prohibits unqualified persons other than advocates from practicing and S. 71 of the Act prohibits advocates for acting as agents of persons other than advocates.

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THE FIRM NAME.

To establish a law firm, an advocate requires a firm name.

The firm name is registered under the Business Names Registration Act and the rules made thereunder. Procedure similar to that of registering a partnership name.

The partners can use their names or a generic name. The generic name must be acceptable by the Law Council.

Regulation 5(3) of the **Advocates (Inspection and Approval of Chambers) Regulations S. I No. 65 of 2005** requires that a law firm with generic name should get the consent of the Law Council in writing prior to registration of that name.

A generic name is defined in Regulation 2 of the **Advocates (Use of Generic Names by Law Firms) Regulations S. I No. 7 of 2006** as a name other than the name of a partner of a law firm.

There are restrictions on registering a generic name. **Regulation 3 of the Advocates (Use of generic names by Law Firms) Regulations, 2006** provides that a generic name shall include the word 'advocates' at the end.

Regulation 5 of the **Advocates (Use of generic names by Law Firms) Regulations, 2006** also provides that a generic name shall not make any reference, actual or derived, to and symbolic, cultic, political, religious, sectarian, discriminatory or specialty classification.

Regulation 6 provides that the name should not be misleading.

OPENING UP OF AN ACCOUNT

According to Section 40 of the Advocates Act the Law firm is required to have a separate account for the firm and another for the clients.

INSPECTION AND APPROVAL OF THE FIRM PREMISES

Then the premises from which the firm shall conduct its business is to be inspected by the law council. Regulation 3 of the Advocates (inspection and Approval of Chambers) Regulations S. I No. 15 of 2005 makes it mandatory for chambers to be inspected yearly.

Regulation 5 of the same Regulations provides for the requirements to be met before approval (1) An advocate's chambers shall be well maintained with a professional appearance and must have—

(a) a suitable desk for an advocate;

(b) a separate room for each advocate and another for a clerk, secretary and cashier; (c) a secretarial desk and computer or typewriter;

(d) a reception with chairs or benches for clients; (e) a bookshelf;

(f) a chest of drawers or a filing cabinet;

(g) a reasonable collection of reference law books including a full set of the Revised Laws of Uganda 2000;

(h) access to a toilet and sanitary facilities; and

(i) books of accounts.

(2) The headed paper of every law firm shall bear the names and qualifications of each partner, advocate and legal assistant in the firm.

(3) A law firm with generic names shall only be approved if consent is sought from the Law Council prior to the registration of that name.

(4) The consent referred to in sub- regulation (3) shall be in writing. (5) Trading shall not be carried on in any chambers.

(6) The Law Council may refuse to approve any chambers that do not meet any of the requirements set out in these Regulations and may order the closure of those chambers until the chambers meet the required standards set out in these Regulations.

After the inspection is completed, a certificate to that effect shall be issued by the Law Council. Regulation 6 provides that;

(1) A firm of advocates whose chambers have been approved shall be issued with a certificate of approval of chambers.

(2) A certificate of approval of chambers shall remain valid for one year.

The firm shall pay a fee of 62,000/- for the inspection of the premises according to the **Advocates (Council Fees) Regulations 2004.**

TRADING LICENSE

Under **section 8** of the **Trade (Licensing) Act as amended 2015**, no person shall trade in any goods or carry on any business specified in the schedule to this Act unless he or she is in possession of a trading license granted to him or her for the purpose under this Act.

Section 1(h) defines trade or trading to mean the selling of goods in which a license under the act is required in any trading premises whether by retail or wholesale. However, the process of granting trade licences to law firms has been halted by an interim injunction in the case of **Uganda Law Society V KCCA and Attorney General HCMA 533 of 2017.**

THE BEST PRACTICES THAT WILL ENABLE THEM ESTABLISH THE INTENDED MODERN PRACTICE.

Compliance with the law; have the name approved, chambers inspected and approved, get license, pay taxes etc.

Proper location of premise and well equipped chambers the partners should consider a location that can be easily accessed by many people so as to get clients and the chambers should be approved by the low council as required by the Advocates(inspection and approval of chambers) regulations under regulation 5

Regulation 5; Requirements to be met before approval and inspection of chambers regulations

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(6) The Law Council may refuse to approve any chambers that do not meet any of the requirements set out in these Regulations and may order the closure of those chambers until the chambers meet the required standards set out in these Regulations.

Good relationship between the client and advocate

Record keeping

Proper maintenance of client's files; It should have a proper filing reference system for easy location of files.

Regulation 29, every advocate shall account for client's moneys

Regulation 7, Advocate not to disclose or divulge information of the clients unless it is required by law

Regulation 10, advocate to disclose any personal interests to the clients and to maintain the fiduciary relationship

Regulation 11, not to exploit the lack of understanding of his clients

Regulation 12 Advocate to advise his clients diligently

Regulation 8 advocate not to use the client's money for his or her own benefit

Handling clients work diligently like appearing in court in time, proper keeping of the files

Highly qualified staff

Encourage advocates to go for continuing legal education so as to improve on their skills

Qualifications of the partners and other employees, e.g need for specialized advocates with special skill in different areas of law, well connected team in terms of network so as to easily get clients

The proposed best practices were also adopted in the IBA law firm governance initiative best practice guidelines which include the following;

The firm should set out in writing its governance and decision making structure

The firm should have transparent process for selection of leaders and appointment of managers

The capital structure of the firm should be described to partners in a clear way

The firm should establish an appropriate mechanism for partners to communicate with each other and with the firm leaders or management.

The way in which the profits and losses of the firm are to be distributed among the partners should be clearly described to all the partners.

The firm should set out its recruitment policies and processes in writing so that all potential recruits like new partners and associates have access to enough information to allow them to make an informed decision about whether or not they wish to pursue recruitment discussions with the firm

The firm should adopt recruitment and promotion policies and process that are non- discriminatory in nature and that are designed to encourage diversity at all levels of the firm.

The partners should ensure that every person in the firm receives a clear written statement of the performance and behavior expected of them.

The firm should seek to operate according to the highest professional and ethical standards.

It should develop a policy on dealing with conflicts of interests with due regard to rules and requirements of the law.

The firm should state clearly and openly the basis on which people are promoted to higher positions in the firm

The firm should seek to ensure that the partners comply with the applicable laws and regulation. In order to catch up with contemporary practices, a firm should have a website and social media accounts.

There should be regular staff meetings

It should have all the relevant tools of trade; a well stocked library, telephones, emails, faxes, computers, business cards, safe, cabinets, firm seal. Stamp, practicing certificates, professional gowns etc.

It should have good security. nIt should have proper management of finances by opening an office account, client account and a trust account as per S. 40 of the Advocates Act.

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE PARTNERSHIP ACT 2010
PARTNERSHIP DEED

This partnership deed is made this **3rd day of October 2018** by and among NABENDE NICOLE, MAKUBUL SIMPSON and NIXON ZINDE of Kampala, Uganda being of sound mind and full age are herein collectively referred to as partners.

Whereas the above the above named partners have decided to establish the professional partnership business of legal practice have deemed it necessary and desirable reduce the terms and conditions into writing as mentioned hereunder;.

IT IS NOW HEREBY AGREED AS FOLLOWS;

PARTNERSHIP:

That the partners shall form a partnership to be governed by the partnership act 2010 and all relevant laws governing partnerships in Uganda.

NAME:

That the partnership shall operate under the name divinely Inspired Legal & Co. Advocates.

NATURE OF BUSINESS:

That the partners shall engage in legal practice in the fields of Public International Law, International Law and Political Advocacy.

COMMENCEMENT

The partnership will be deemed to have commenced upon the issuance of a certificate of registration of the business name.

MANAGEMENT

5.1 Leadership;

- i) All members shall be legible to manage the membership of the firm.
- ii) The managing partner shall be agreed upon by all members whose term of office shall be two years. On expiration of the two years, another partner may take over the management of the firm for the same period.

Meetings;

The firm shall have meetings every first Monday of the month. The managing partner may call upon the partners for a meeting in case of any urgent issues with a days notice.

RIGHTS AND DUTIES

Every partner shall;

Not engage in any business that compete with the firm

Give accountability of all monies earned from running the firm's business

Attend meetings except where such attendance is prevented by any genuine and reasonable cause.

Execute their duties and with the legally required level of professionalism.

Have the right to inspect the books of account

FINANCES AND ACCOUNTABILITY

7.1 Accounts;

The firm shall run two accounts namely; the client's account and firm account

Sources of Finances

The firm may receive finances from non-partners upon agreement of the partners.

Signatories to the Account;

Money from the firm account shall only be withdrawn by the managing partner upon approval of the other partners.

PROFIT AND LOSS SHARING

8.1 Profits

Partners shall have an equal share of the profits made from the firm business.

Losses;

Partners shall share the losses of the firm equally among themselves.

COMMISSION

Any partner who registers a new client for the firm shall be entitled to 30% of the fees paid by the client and the balance of 70% shall be shared equally among all the partners.

ADMISSION

The partners may agree to admit a new member into the partnership provided such person bears the required qualifications and expertise.

AMENDMENT

This partnership deed is subject to amendment as and when the partners deem it necessary.

DISPUTE RESOLUTION

The partners shall resolve disputes amicably among themselves. Failure to agree, the partners may refer the dispute for mediation.

Where mediation is unsuccessful, the aggrieved party may seek redress in the courts of law.

DISSOLUTION

The partnership shall be dissolved by unanimous agreement of the partners.

In witness hereof;

PARTNERS

NABENDE NICOLE

MAKUBUL SIMPSON

NIXON ZINDE

WORKSHOP 2.

SIGNATURE

Brief facts

Hish Hash (U) Limited, a private limited company incorporated under the companies ordinance of 1958 is in dire need of a Centenary Bank loan to expand its business and to further set up a factory manufacturing tiles.

The facts disclose the following legal issues.

1. *What gaps are on the company file and the necessary measures before it can obtain the centenary bank loan?*
2. *What are the other internal and external options of raising funds and their respective merits and demerits?*
3. *What process flows need to be undertaken by the company to access external funding from Centenary Bank?*
4. *What are the necessary documents to access the external funding particulars on the resolution?*
5. *What are probable securities will be required by Centenary Bank?*
6. *What procedure formalities will be perfect the above securities?*

The law applicable.

1. The Companies act No. 1 of 2012
2. The Contracts act No. 7 of 2010
3. Table A of the Companies act No. 1 of 2012
4. The stamps act cap 342
5. The stamp rules S1 342-1
6. The Uganda Registration services Bureau

Issue No.1: What gaps are on the company file and the necessary measures before it can obtain the centenary bank loan?

One of the attributes of a company is that it is a legal person as per *Salmon Versus Salmon (1897) AC 22*. A company can therefore contract to the same extent as a natural person but however, the directing mind of the company should strictly observe and comply with the intra vires rule to avoid the executed contracts being null and void. This is a protective mechanism to insiders and outsiders who part with money on the faith of the implied representation that the capital will be applied for the business purposes stated in the company's memorandum. Therefore a company should at all times act within its objectives to avoid ultra vires, null and void contracts as per **AG Versus Great Eastern Railway (1880)5AC, Rolled Steel (1985) 3**

ALLER 52.

Therefore co-relating the ultra vires doctrine, the intended contract, purpose and the company objectives set out in the memorandum of association, the intended contract is intra vires, legal and valid but there are gaps on the file and correction measures that need to be taken.

a) Appointment of directors and secretary;

Article 41 of the Company's articles states the directors shall be appointed

in WRITING by the subscribers to the Memorandum of Association.

The documents on the file are executed by someone signing as a director but without stating the name of that person.

So the question as who are the directors of the company is not clear. There is no resolution of company meeting appointing the directors nor is there an appointment letter of the said directors. In absence of these, the Bank would not be certain that the persons signing have capacity to enter into such contracts.

Article 50 of the company's articles provide for appointment of company secretary by the directors. However, there is no Board resolution appointing the secretary. Yet some documents bears the signature of the secretary.

b) Manner of signing.

The manner of signing documents is in latin character, that is by writing the full name of the person appending a signature.

In FREDRICK J.K. ZAABWE v ORIENT BANK LTD SCCA No. 04 of 2006 court emphasized the execution of documents being in latin character. In this case the persons signing merely scribbled and their signatures did not give the names of the persons signing. It was held; that documents should be signed in latin character. The rationale requiring a signature to be in Latin character must be to make clear to everybody receiving that document as to who the signatory is so that it can also be ascertained whether he had the authority or capacity to sign. When the witness attesting to a signature merely scribbles a signature, without giving his name or capacity, how would the Registrar or anyone else ascertain that that witness had capacity to witness. Court declared the mortgage invalid where there was no signing in Latin character.

The judge noted; The names of the signatories are not given, nor their

capacity to sign on behalf of the company. One cannot tell whether they are directors, secretary or even officers of the company at all. There is no company seal or stamp at all. Furthermore, even the witness to the signatures has neither disclosed his name nor his capacity to witness instruments. In the circumstances, how would the registrar know that the persons who signed the mortgage deed on behalf of the company, had authority to execute that deed? Or that the attesting witness had the legal capacity to do so?

As per the facts, the documents merely have scribbles of persons signing as director or secretary. Further Article 49 of the Company's articles require the company to sign documents by affixing a company seal but none had ever been used.

c) Return of allotment of shares.

S. 61 of the Companies Act 2012 requires companies to file with the registrar for registration of a return of allotment of shares where shares have been allotted. Article 6 of the Company's articles provide that shares shall be under the control of directors who may allot them to such persons and on such terms as they think fit.

Clause 5 of the company's Memorandum of Association and Article 4 of the Company's articles show that the share capital of the company is 2,000,000 divided into 100 ordinary shares of 20,000/= with power to increase or reduce them.

S, 71 of the Companies act 2012 provides (1) A company limited by shares or a company limited by guarantee and having a share capital, if authorised by its articles, may alter the conditions of its memorandum by—

(a) increasing its share capital by new shares of such amount as it thinks expedient

However S. 73 requires that (1) Where a company having a share capital, has increased its share capital beyond the registered capital, it shall, within thirty days after the passing of the resolution authorising the increase, give the registrar notice of the increase and the registrar shall record the increase.

Article 26(b) of the Companies Articles provide that the company may increase its share capital by ordinary resolution.

According to the Memorandum of Association out of 100 shares, only two shares were issued to two subscribers, meaning the company remained with 98 unissued shares.

However, according to the Board resolution dated 20th July 2018, Mr Jjombwe Joe, transferred 250 shares to Mrs Joy Jjombwe. He again transferred 2250 shares to Mr. Ola Otto.

This means that Joe alone had 2500 shares yet the maximum number of shares are 100 of which 98 are unissued. The question is where did the 2500 come from? This means there was increase of a company's share capital and subdivision into more shares. This requires an ordinary resolution which is not on file. Also this requires a notice to the registrar which is not on file.

Secondly, it means there was an issue and allotment of shares to Joe who had one share on subscription. Allotment of shares requires a Board Resolution which is not on file. The allotment should have been issued with a share certificate under Article 9 but this is also not on file. Further, the company should have filed a return of allotment with the registrar but this is also not on file.

d) Notice of change of director;

According to Board resolution dated 20th July 2018, Mrs Joy Jjombwe was appointed director of company replacing Mr. Jjombwe Joe. Under S. 228 of the Companies Act 2012 requires S.

228(5) provides that the company shall, within the periods respectively mentioned in subsection (6), send to the registrar a return in the prescribed form containing the particulars specified in the register and a notification in the prescribed form of any change among its directors or in its secretary or in any of the particulars contained in the register, specifying the date of the change.

Regulation 26(2) of the Companies General Regulations 2016 provides; Every company shall notify the registrar of the appointment of a director or secretary by filing a notice with the registrar in Form 20 in the Schedule.

Further article 43 provides for removal of a director by ordinary resolution or shareholders holding more than 51% of all the shares of the company. On the file, there is a board resolution replacing Joe with Joy yet what is required is a company resolution by shareholders. This is not on file. Also the notice of change of directors is not on file. In fact this raises a contradiction in regard to the certificate of board resolution to borrow and give security which gives Jjombwe and Sam Mpiima the right to execute documents on behalf of the company but does not state in what capacity. Then five days later, a resolution is passed replacing Joe as director. The bank might be confused about the capacity of Joe in absence of a filed notice to the registrar on change of directors.

e) Board Resolution to borrow.

On file is a certificate of board resolution to borrow but the original board resolution is not attached. There is no resolution on the creation of a mortgage.

f) Guarantees;

The certificate for resolution to borrow contain numerous guarantees from Brejo (U) ltd and Directors but there is no evidence of such guarantee.

g) Contradictory dates.

The certificate of board resolution to borrow shows that the resolution was made on 15th July 2018 but again it shows it was filed on 06/02/2002 and that's when it was received.

The board resolution for transfer of shares is dated 20th July 2018 but again shows that it was filed on 26th August 1999.

The Mortgage was dated on 15th March 2006 but shows was registered 16th March

2006 but there is a handwritten date of 23/12/1988...

These dates are contradictory.

h) Profits and loss account attachments provided for in section 155(1) of the companies act and the balance sheet as per section 155 (3) which is supposed to the date when the profit and loss account is made up. This is all because in line with section 156(1), the company balance sheet gives a true and fair view of the state of affairs of the company as the end of its financial year and also every profit and loss account of the company gives a true and fair view of the profit or loss of the company for the financial year.

i) A satisfaction certificate of all previous charges on the intended property of the company debenture. There was a previous mortgage created on 15th March 2006 and it is therefore pertinent to find out whether the property was released from the charge and a memorandum of satisfaction issued because the company seems to want to charge the same property.

Task 2. Advise the company on the available options of funding, both internal and external. Discuss the merits and demerits of each option.

Corporate financing refers to the transactions by which accompany raises capital in order to create, develop or grow its business.

According to Gower & Davies, Principles of Modern Company Law, 9th Edition there are 2 broad ways in which a company can fund its operations, internally and externally .These are discussed below.

The internal options include;

1) Share capital / Equity financing.

The funds provided by the company's shareholders in exchange for shares are referred to as share capital. It can also be termed as equity or shareholders equity. Equity is a term used to describe ordinary share capital of a company. Thus equity financing is a contribution made out of the shareholders own fund or from a retained profits to the company. The company reserves power to increase the share capital hence generating more funds.

2) Allotment and issue of shares at nominal value.

After the company has been registered, any unissued shares may be allotted to interested persons, the allottees must pay the company the nominal value of shares and thus the company earning more funds this method.

A right issue is an offer of new shares to existing shareholders in proportion to their current holding. A right issue is communicated by sending a letter of allotment to all shareholders and the shareholder pays the issued shares in accordance with terms of issue.

OBJECTION MY LORD

Therefore, since Hish Hash (Uganda) Ltd has own issued shares, the same can be allotted to existing shareholders at a nominal value so as to raise more funds.

3) Issuance of unallotted shares at a premium.

Section 66 of the Companies Act permits Company's to issue shares at premium. This happens in instances in which a company issues shares at an amount which is higher than their nominal value. According to the Gower & Davies, Principles of Modern Company Law 9th edition at Pg 891- Allotment is the process by which a company finds someone who is willing to become a shareholder of the company. A premium is the difference between the nominal value of the shares and what is actually paid and in this case, if it is the amount which exceeds the nominal value of the share.

Section 5(1) (c) Companies Act prohibits Private companies from inviting of the public to subscribe for any shares in the company.

4) Issuance of Redeemable shares.

Section 68 of the Companies Act, a company limited by shares can issue redeemable shares. According to Nelson Nerima, "A practical guide to company law and practice in Uganda", the term redeem means bought back, preference refers to those shares which have priority over ordinary shares, usually fixed at a percentage per value.

S 68 (2) (a) the said shares if issued have to be redeemed or bought back out of the profits of the company they must be fully paid for.

There must be unallotted shares out of which the redeemable preference shares may be issued and the Act must be permissible under the company's articles of associations.

Regulation 3 of Table A of the Companies Act allows accompany to issue preference shares. This shall be effected by an ordinary resolution.

Therefore Hish Hash (Uganda) Limited, the company redeemable preferences shares.

5) Increase of share capital.

The company can increase its nominal share capital in order to create new shares.

Regulation 44 of the companies act provides that the company may from time to time by ordinary resolution increase the share capital by such sum to be divided into shares of such amount as the resolution shall prescribe

S.71 (2) Companies Act –(1) (a) of the Company ltd by shares if authorized by its articles, may alter the conditions of its memorandum by increasing its share capital by new shares of such amount, as the resolution shall prescribe.

Regulation 20(2) of the Companies (General) Regulations provides that the increase of share capital is effected by special resolution of the company in a general meeting.

Regulation 20(1) of the Companies (General) Regulations provides that this resolution shall be accompanied with notice of increase of the share capital by filling Company Form 12 which must be filled with the registrar of companies.

A stamp duty shall be paid to that effect of 0.5% of the increment.

Registration fees for the ordinary resolution, notice of increase of share capital and return of allotment are also payable.

However Article 26 of the Articles of association of Hish Hash (Uganda) limited allows the company to increase its share capital by ordinary resolution.

6) Retained profits.

According to Nelson Nerima, A practical guide to company law and practice in Uganda, a company law and practice in Uganda' a company can retain money instead of distributing it to shareholders as dividends.

Article 128 table A the company may in general meeting upon recommendation of directors, resolve that it is desirable to capitalizes any part of the amount for time being to stand to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or at for distribution.

Article 51 of the Articles of Hish allows the company to capitalize its profits and Article 53 allows directors to create a reserve fund.

The company therefore has an option of retaining the dividends of the shareholders so as to fund its operations .

Call on shares

The company can raise funds internally by calling on shares.

A call is a demand from the company to a member to pay all or part of the money unpaid on his share.

Art 16 of the company's articles permits directors of the co. to call upon members in respect of it, all or any monies unpaid of shares, whether on account of nominal values or by way of premium.

Therefore in case a company had unpaid up shares, it can make a call on them.

External options of funding.

Private companies have limited sources of funding. These include banks, insurance companies and other financial institutions.

1. Borrowing (Debts Financing)

The Memorandum of Association allows the company to borrow money for corporate purposes (Clause 3(i) by making and accepting promissory notes, bills of exchange, bonds, debentures and to secure payment of any obligations by mortgage, pledge, guarantee, deed of trust or otherwise.

Debt securities are financial instruments issued by a company to financiers in exchange for cash where a company agrees to pay the money at an agreed date with interest.

A charge is a form of security for payment of a debt or other obligation consisting of the right of the creditor to receive payment out of some specific fund or out of the proceeds of the realization of specific property.

A company's borrowing must be for reasons consistent with the company's objects contained in the memorandum as per the case of *Re-introduction Ltd V Nathan Provincial Bank 1970 Ch. D*

199-209

2. Over draft

It allows a company to draw money from the bank in excess of the amount in credit or an agreement between the bank and the company that allows the business to over draw their account up to an agreed limit and for a specific time to help overcome a temporary cash fall. The company can obtain an overdraft from where it maintains a current account. No security is required but the parties may agree to have security for an overdraft which may be converted into a loan.

Advantages

- It assists with liquidity/ cash flow problems
- Can be arranged at short notice
- Convenient
- Easy to make repayments
- Tax deductions on interests.

Disadvantages

- High interest rate as interest is charged for each day the account is overdrawn.

3. Bank loan

It involves Conventional lending through a financial institution such as a bank or credit union is available for a private business that can provide proof of a strong financial track record. Banks may require owners to show revenue sources, profit levels and detailed business plans prior to approving the loan.

Advantages

- It allows extended repayment over time.
- Creditors have priority over equity holders and must be paid interest on the money borrowed before dividends are paid to shareholders

Disadvantages

- It does not favor businesses in the start -up phase as they usually don't qualify for financing from a bank, nor does an established company that makes losses each year.
- The interests on the loan tend to be high making it hard to make repayments.
- the creditor may force the company in to bankruptcy where the debtor is unable to pay or work out an arrangement with the creditor.

4. Saving of the Investors. (Equity)

Investors are usually high net worth individuals who lend funds to companies in exchange for an ownership stake in the company. The business seeking funding must pitch its need for financing along with current financial statements, its business plan and a viable exist strategy because most angle investors are professionals in private equity.

Advantages

- High income flow for the company.
- It creates equity for the company.

Disadvantages

- They usually work with companies that have exponential growth potential and a desire to transition from private to public in the future.
- They usually intend to become part of the company.
- Creditors have priority over equity holders.

5. Venture capital.

This is a group of high net worth individuals or an enterprise that manages the assets of those individuals. They are similar to investors and usually invest in companies with a strong track of revenue and potential for extreme growth over time. They tend to require an active role in business operations such as an equity stake into a new business, a management buyout or a representative appointed to the company's board. They also tend to require an exit strategy which makes this financing option best for companies that plan to go public or sell to another company in the future.

Disadvantages

- They require a high expected rate of return on investments to compensate for the high risk. They usually don't want to retain their investment in a business indefinitely.

6. A private company can also go public so as to raise funds.

This can be done by inviting the public to subscribe for shares and debentures in the company as a means of raising additional funds. This can be through direct offers to the public done by means of a prospectus issued by the company. It can also be through offers to sale i.e. the company sells the issue of shares or debentures to an issuing house which invites the public through a prospectus to buy the shares at a high price. The issuing house bears the risk and is responsible for underwriting the issue.

Alternatively capital can be raised through placing, which is done by the issuing house undertaking to place the securities with or without buying them itself. The issuing house then persuades its clients to buy the securities.

Disadvantages

The company becomes a public company from a private company limited by shares.

7. Donation / Grants

8. Government assistance

The government provides finance to companies in cash grants and other forms of direct assistance as part of its policy of helping to develop the national economy.

9. Franchising

This alternative to raising extra capital for growth. It is a method of expanding business on less capital than would otherwise be needed by the franchise paying the franchisor for the right to operate a local business, under the franchisor's trade name.

Advantages

-the capital outlay needed to expand the business is reduced substantially.

-the image of the business is improved and the franchise benefits from the franchisor's company's good name.

Task 3. Advise the company on the process flow so as to access external funding from its bankers Centenary Bank.

Article (1) of the Memorandum of Association of Hish Hash (U) Limited empowers its directors to borrow money for its corporate purpose, and to make, accept, endorse, execute and issue promissory notes, bills of exchange, bonds, debentures other obligations from time to time, for the purchase of property or for any purpose relating to the business of the company and if deemed proper, to ensure the payment of any such obligations by mortgage, pledge, guarantee, deed for trust or otherwise.

Section 13 of the Companies Act Cap 2012 empowers Company limited by shares to adopt Table A if so requires. Hence Article 79 of the same Table gives the directors powers to borrow on behalf of the company through a board resolution. However the same Act is to the effect that if accompany wants to borrow money which exceeds the nominal amount of the share capital of the company shall be required to call an extra general meeting to pass an ordinary resolution to borrow such amount of money.

However, the Articles of HishHash specifically excluded application of Table A by 1 of the articles. Money lent by the bank or other lender is known as debt facility and the contract made thereunder is

under is known as a loan agreement or facility agreement which should contain; the type of facility, amount of the facility, interest rate and how it is to be computed, collateral or security required, penalties, conditions present, representations and warranties, methods and procedure of realisation of security, undertakings, purpose of the facility, conditions subsequent, and other terms the parties deem necessary.

There are various types of facilities such as overdraft facility, term loan, receiving credit facility, syndicate facility

The process flow for a company to access external funding from the bank centenary bank is as follows;

1. BOD should first make inquiries regarding the securities to be pledged and availability of funds
2. Hold a board meeting.

Article 98(1) of Table A provides that the directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meeting, as they think fit. The quorum if not fixed is two.

Article 86 of the same table is to the effect that directors shall cause minutes to be made in books provided for the purpose with all resolutions and proceedings at all meetings of the company and the names of every directors present at the meeting.

3. Aboard resolution.

This is obtained from the minute taken from the board meeting held under Article 98 of the Table A of the Company Act Cap 2012.

4. Notice to members for an extra general meeting.

However, when a company intends to borrow a loan that exceeds the nominal share capital of a company, it shall issue out notice to hold an extra ordinary general meeting as required under Article 32 of the articles of HishHash allows directors to call for an extra ordinary general meeting.

5. Hold an extra-ordinary general meeting.

This must be in conformity with Article 52 of Table A of the Act which provides and governs the proceedings at a general meeting.

6. An ordinary resolution.

Article 79 of the same table is to the effect that the company shall only borrow such amount of money which exceeds its share capital if it is duly passed and approved through an extra ordinary general meeting and a resolution passed to that effect.

7. Filling of the above resolutions to the registrar of companies for registration.

8. Apply to the bank formally for a loan with certified copies of Memorandum of Association and Articles of Association.

OBJECTION MY LORD:

8. Enter into a loan agreement with the bank.

ORDINARY RESOLUTION

At the meeting of company shareholders and members held at its registered offices on the day of 2018, an ordinary resolution was passed as follows:-

1. That the Company increases and consolidates its current share capital to a sum of UGX. 500,000,000/= divided into 100 shares of 5,000,000/= each.

2. That the said increased and consolidated share capital is divided between JJOMBWE JOY, SAM MPIIMA and JJOMBWE JOE in a sum of 80, 10 and 10 shares respectively.

3. That the Registrar of Companies be notified accordingly.

Dated at Kampala this.....day of.....2018

..... SAM MPIIMA JJOMBWE JOE
(SHAREHOLDER/DIRECTOR) (DIRECTOR/SHAREHOLDER)

.....

JJOMBER JOE (SHAREHOLDER)

OBJECTION MY LORD:

Drawn By:-

SUI GENERIS & Co. Advocates

Company Form 12

THE REPUBLIC OF UGANDA

Reg 20

THE COMPANIES ACT

NOTICE OF INCREASE OF SHARE CAPITAL

(Under section 73 of the Act)

TO: THE REGISTRAR OF COMPANIES

.....

(Insert name of company)

Hereby gives notice in accordance with section 73 of the Act that by resolution of the company dated theday of.....the year....., the share capital of the company was increased from..... to.....

A copy of the resolution authorizing the increase is attached.

The conditions (such as voting, dividend rights) subject to which the new shares have been or are to be issued are as follows:

Signed.....

(Director/Secretary)

Dated this.....day of.....the year.....

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE COMPANIES ACT No.1/2012

AND

IN THE MATTER OF HISH HASH (U) LIMITED

ORDINARY RESOLUTION

At the extraordinary meeting of company shareholders and members held at its registered offices on the day of 2018, an ordinary resolution was passed by the shareholders and members as follows:-

1. That the shareholders and members resolved and approved the Directors’ resolution to borrow UGX. 50,000,000/= and USD 350,000.

2. That the Registrar of Companies be notified accordingly.

Dated at Kampala this.....day of.....2018

..... SAM MPIIMA JJOMBWE JOE
(SHAREHOLDER/DIRECTOR) (DIRECTOR/SHAREHOLDER)

.....

JJOMBER JOE (SHAREHOLDER)

OBJECTION MY LORD

Drawn By:-

C1 Advocates

Company Form 14

Reg 23(3)

THE REPUBLIC OF UGANDA

THE COMPANIES ACT

STATEMENT OF PARTICULARS OF CHARGES TO SECURE A SERIES OF DEBENTURES.

(Under section 105 (8) of the Act)

Name of the company:..... Presented by:.....

The company hereby gives notice that the following charges created by the company are subsisting-

Date & Description of the instrument creating or evidencing the mortgage or Charge	Amount secured	Short Particulars of property mortgaged or charged	Names, addresses and Description of mortgages or persons entitled to the charge	Commissions/ allowances/ discounts paid by company

Signature:

Designation of Position in relation to company

OBJECTION MY LORD

Dated thisday ofthe year Company
Number **No. Of Company**
.....

GOVERNMENT OF UGANDA

FORM OF ANNUAL RETURN OF A COMPANY HAVING A SHARE CAPITAL

Third Schedule Part II (section 132)

Annual return of Limited,
made up to the day of 20 being
the fourteenth day after the date of the annual general meeting for the year 20.....).

1. Address. (*Situation and postal address of the registered office of the company*)

2. Situation of registers of members and debenture-holders. a) (*Address of place at which the register of members is kept, if other than the registered office of the company*).

b) (*Address of any place in Uganda other than the registered office of the company at which is kept any register of holders of debentures of the company or any duplicate of that register or part of the register which is kept outside Uganda*).

Delivered for filing by

Note: All parts of the form must be properly completed; if not applicable using the words “not applicable”, “nil”, “none”, etc

Name & address of the Auditor.....

3. Summary of share Capital and Debentures

a) Nominal Share Capital

**Nominal Share Capital Shs.....divided into:
(Insert number and class)**

OBJECTION MY LORD:

..... Share ofeach

..... Share ofeach

..... Share ofeach

b) Issued Share Capital and Debentures

Number Class Number of shares of each class taken up to date

.....Shares of this return (which number must agree with the

.....Shares total shown in the list held by existing members.)

.....Shares

.....Shares

Number of shares of each class issued subject Share

to s

Payment wholly in cash Share

..... s

.....Shares

.....Shares

.....Shares

.....Shares

.....Shares

.....Shares

Number of shares of each class issued as fully paid up for a consideration other than cash.

OBJECTION MY LORD

Shares issued as paid up to the extent of
shs.....per share

Shares issued as paid up to the extent of
shs.....per share

Shares issued as paid up to the extent of
shs.....per share

Shares issued as paid up to the extent of
shs.....per share

Number of shares (If any) of each class issued at	.....	.....Share
a discount	.....	.....Share
	.....	.....Share
	.....	.....Share

Amount of discount on the issue of shares, which
has not been written off at the date of this return Shs

Amount called up on number of shares of each class	Shs.....per share on	.....	.....Share
	Shs.....per share on	.....	.....Share
	Shs.....per share on	.....	.....Share
	Shs.....per share on	.....	.....Share

Total amount of calls received, including payments on application and allotment and any sums received
on shares forfeited Shs.....

Total amount (if any) agreed to be considered as paid on number of shares of each class issued as fully paid up for a consideration other than cash

} **Shs.....o** {shares
n {shares
.....shares
.....shares

Total amount (if any) agreed to be considered as paid on number of shares of each class issued as partly paid up for a consideration other than cash.

} **Shs.....o** {shares
n {shares
.....shares
.....shares

Total amount of calls unpaid **Shs.....**

Total amount of the sums (if any) allowed by way of commission in respect of any shares of debentures.

Shs.....
.

Total amount of the sums (if any) allowed by way of discount in respect of any debentures since the date of last return

Shs.....
.

Total number of each shares of each class forfeited **Number Class**

.....**shares**

.....**shares**

.....**shares**

.....**shares**

Total amount paid (if any) on shares forfeited **Shs**.....

Total amount of shares for which shares warrants to bearer are outstanding.

Shs.....

al amount of share warrants to bearer issued and surrendered respectively since the date of the last return.

Issued:

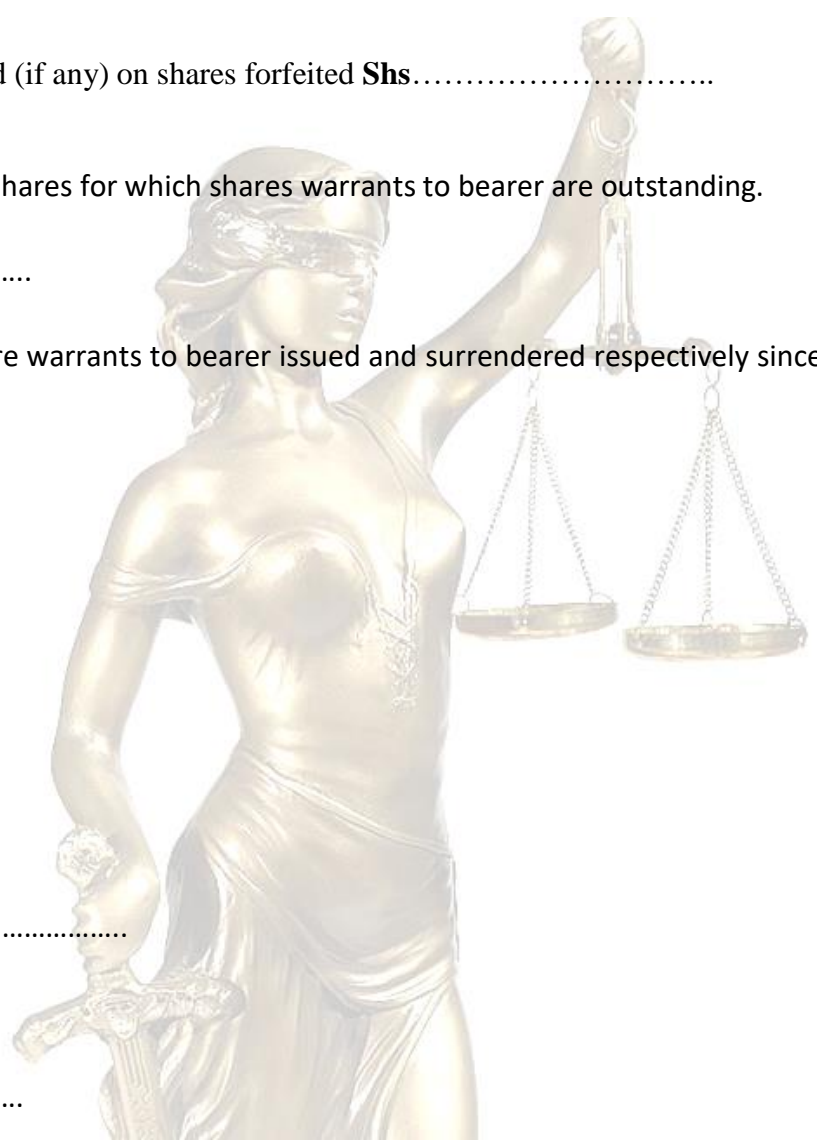
Surrendered:

Shs.....

Shs.....

Number of shares comprised in each share warrant to bearer, specifying in the case of warrants of different kinds, particulars of each kind.

Shs.....



Particulars of Indebtednessount of indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar of Companies under the companies Act. 2012



Statement of Past and Present Members

List of persons holding shares or stock in the company on the fourteenth day after the annual meeting for 20.....and of persons who held shares or stock therein at any time since the date of the last return, or in the case of the first return, of the incorporation of the company.

Folio in register ledger containing particulars	Name and Postal addresses	Number of shares held by existing members at date of return	ACCOUNTS OF SHARES	
			Particulars of shares transferred since the date of the last return or in case of the first return, of the incorporation of the company	
			(a)	(b)

*The aggregate number of shares held by each member must be stated and the aggregates must be added up so as to agree with the number of shares stated in summary of shares

Capital and Debentures to have taken up.

- ✦ When shares are of different classes these columns should be sub-divided so that the number of each class held or transferred, may be shown separately, where any shares have been converted into stock the amount of stock held by each must be shown.

The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferrer and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer

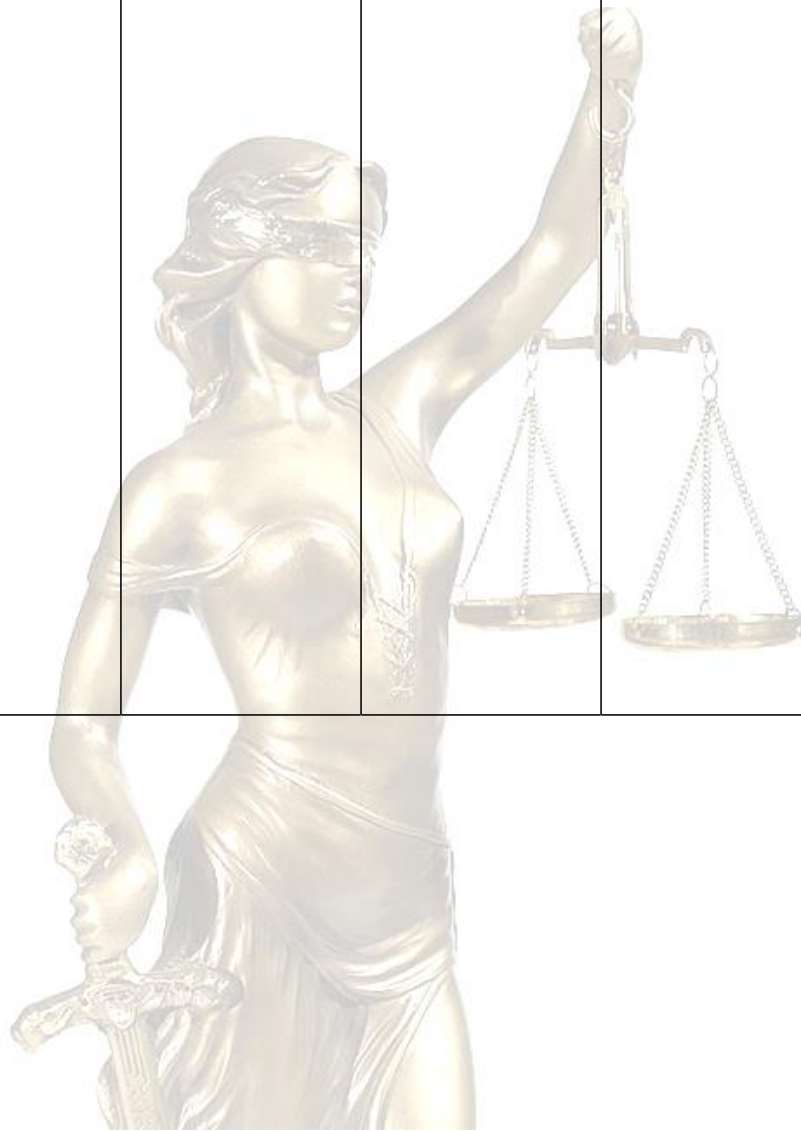
Notes:

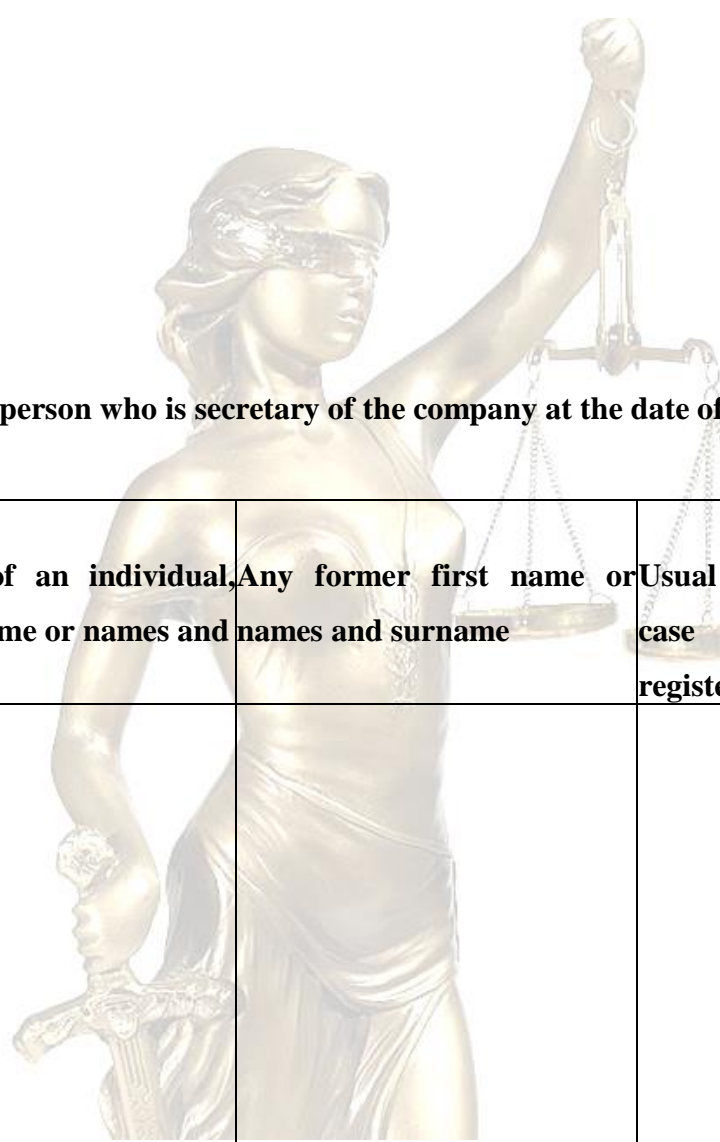
1. If the return for either of two immediately proceeding years has given as at the date of that return the full particulars required as to past and present members and the shares and stock held and transferred by them, only such of the particulars need given as relate to persons ceasing to be or becoming members since the date of the last return to shares transferred since the date or to changes as compared with that date in the amount of stock held by member.
2. If the names in the list are not arranged in alphabetic order an index sufficient to enable the name of any person to be readily found must be annexed.

6. Particulars of Directors and Secretaries

Particulars of the persons who are Directors of the company at the date of this return. (See footnote on page 6)

Name (In case of an individual, present first name or names and surname. In the case of a corporation,	Any former first name or names and surname	Nationality	Usual Postal and Residential address, (in the case of a corporation, the registered or principal	Business occupation and particulars of other directorships
--	--	-------------	---	--





particulars of the person who is secretary of the company at the date of this return

Name (In the case of an individual, Any former first name or present first name or names and surname.	Any former first name or names and surname	Usual postal address. (In the case of corporation the registered office)

Signed.....Director

Signed.....Secretary

NOTES:

1. **“Director”** includes any person who occupies the position of a director by whatsoever name called, and any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

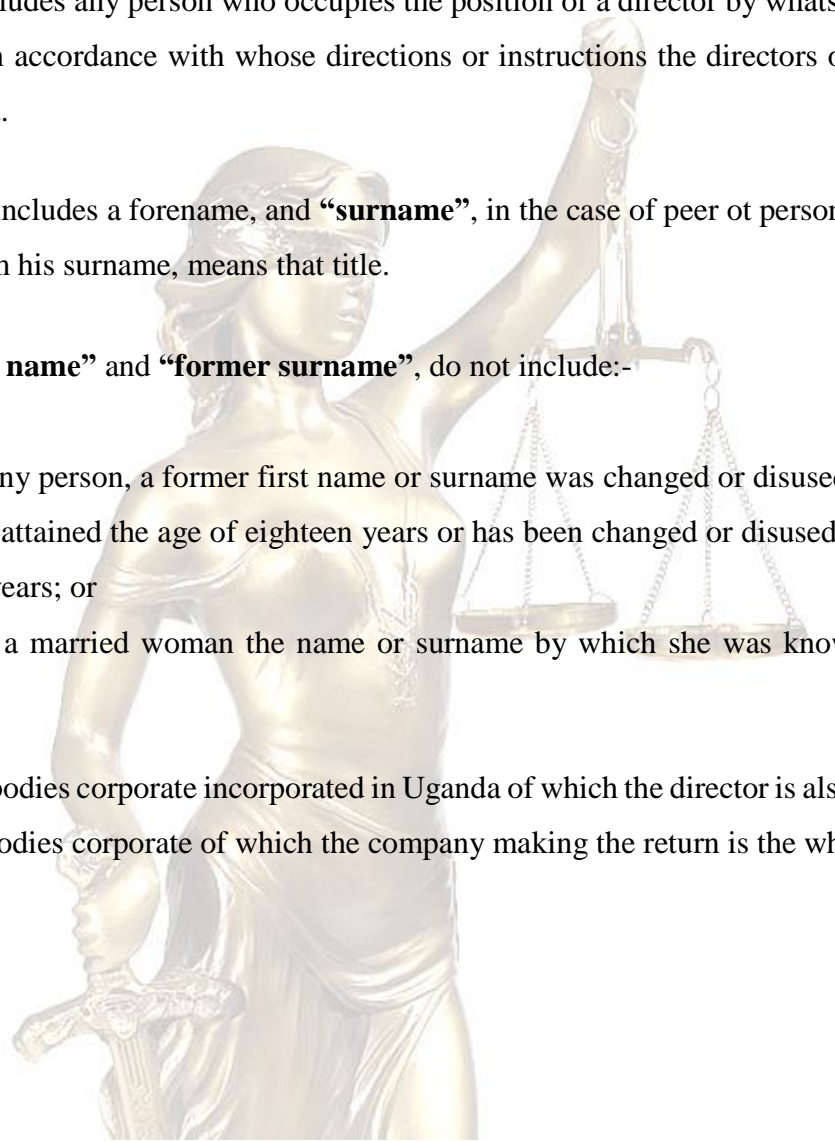
2. **“First name”** includes a forename, and **“surname”**, in the case of peer ot person usually known by title different from his surname, means that title.

3. **“Former First name”** and **“former surname”**, do not include:-

a) in the case of any person, a former first name or surname was changed or disused before the person bearing the name attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; or

b) In the case of a married woman the name or surname by which she was known previous to the marriage

The names of all bodies corporate incorporated in Uganda of which the director is also a director, should be given except bodies corporate of which the company making the return is the wholly – owned



subsidiary or bodies corporate which are the wholly-owned subsidiaries either of the company or of another company of which the company is the wholly owned subsidiary.

A body corporate is to be the wholly-owned subsidiary of another if it has no members except that other and that other's wholly-owned subsidiaries and its or their nominees. If the space provided in the form is insufficient particulars of other directorships should be listed on a separate statement attached to this return.

Dates of birth need only to be given in the case of a company which is not a private company or which, being a private company, is the subsidiary of a body corporate incorporated in Uganda which is not a private company.

Where all the partners in a firm are joint secretaries the name and principal office of the firm may be stated.

CERTIFICATES AND OTHER DOCUMENTS ACCOMPANYING ANNUAL RETURN

Certificate to be given by a Director and the Secretary of Every private Company

We certify that the company has not since the date *(incorporation of the company/the last annual return) issued any invitation to the public to subscribe for any share or debentures of the company.

Signed.....

...Director

Signed.....

...Secretary

Further Certification to be Given if the Number of Members of the Company Exceeds One hundred.

We certify that the excess of the number of members of the company over One hundred consists wholly of persons who, under paragraph (b) of sub-section (1) of section 5 of the Companies Act, 2012, are not to be included in reckoning the number of fifty

Signed.....

...Director

Signed.....

...Secretary



Certified Copies of Accounts

In the case of any company to which section 135 of the Act applies, there shall annexed to this return a written copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which this return relates including every document required by law to be annexed to the balance sheet and a copy so certified of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet.

If the balance sheet or document required by law to be annexed to it did not comply with the requirements of the law to be annexed to it is a foreign language there must also be annexed to that balance sheet a translation in English of a balance sheet or document certified in the prescribed manner to be a correct translation.

If the balance sheet or document required by law to be annexed to it did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheet or documents as the case may be, there must be made such additions to and the corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with those requirements, and the fact that the copy has been amended must be stated on it.

Signed.....

.....**Director**

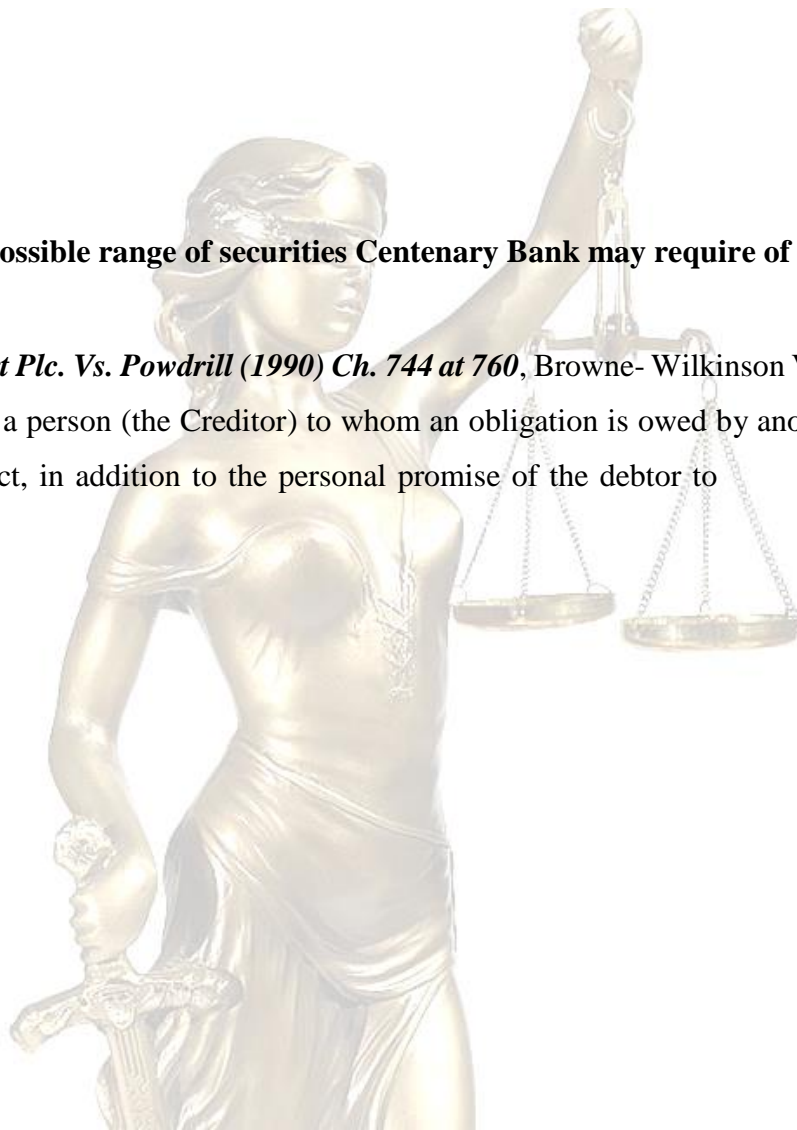
Signed.....

.....**Secretary**

*In the case of the first return strike out the second alternative. In the case of the second or subsequent return strike out the first alternative.

e) What is the possible range of securities Centenary Bank may require of the company?

In *Bristol Airport Plc. Vs. Powdrill (1990) Ch. 744 at 760*, Browne- Wilkinson V.C stated; “Security is created where a person (the Creditor) to whom an obligation is owed by another (the debtor) by statute or contract, in addition to the personal promise of the debtor to



discharge the obligation, obtains rights exercisable against some property in which the debtor has an interest in order to enforce the discharge of the debtor's obligation to the creditor.”

Gower and Davies in Principles of Modern Company Law, 9th Edition mentions the essential features of a security;

- a) Classification of security interests is a matter of law and depends upon the rights agreed upon between the parties, not on their intention to create one form of security rather than another.
- b) Every security gives the holder a proprietary claim over assets. An unsecured creditor on the hand merely has a personal claim to sue for the payment of their debt.

The learned authors stated further the benefits of taking security to include;

- i. In the event of insolvency of the company, a secured creditor has priority over unsecured creditors.
- ii. A secured creditor has a right of pursuit. This arises where a company wrongfully disposes of the property subject to the charge. The charge is entitled to enforce the security against any identifiable proceeds of the disposition.
- iii. It gives the holder the right of enforcement. This allows a charge to remain outside any concurrent insolvency proceeding and to enforce the charge independently of such proceedings.
- iv. Affords a charge a measure of control over the business of the debtor.

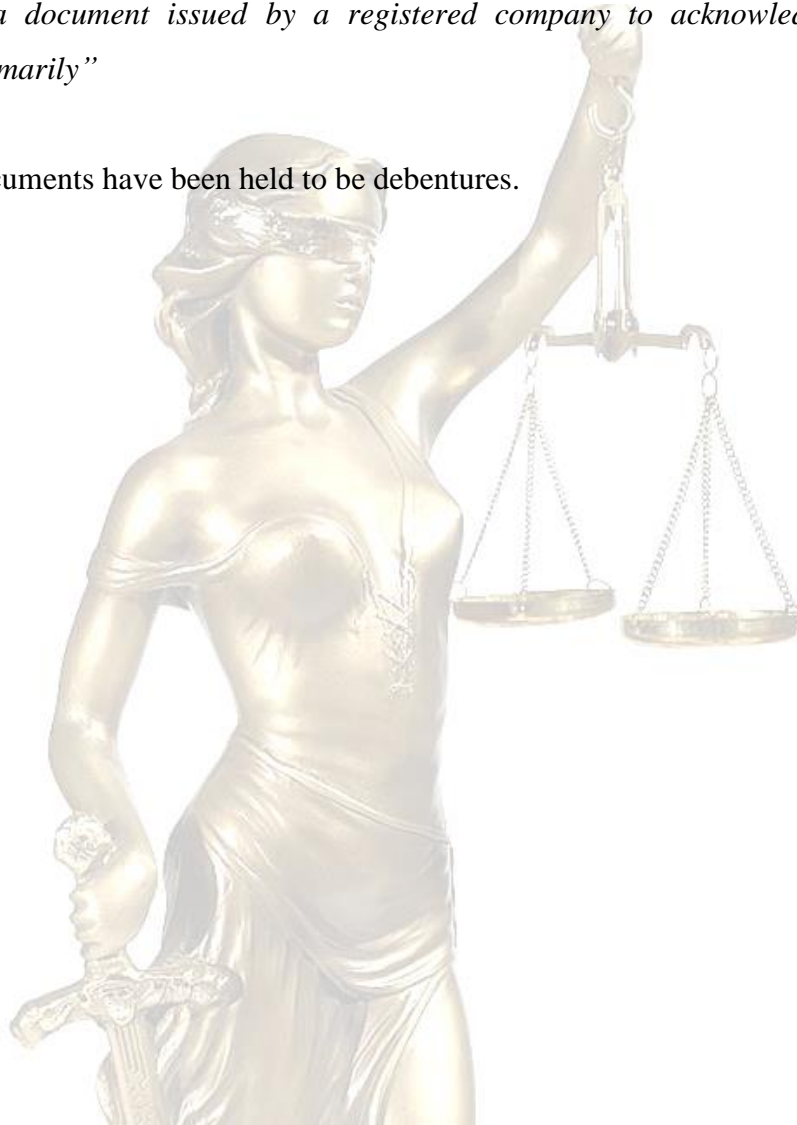
The possible securities include;

1. Debentures.

Section 2 of the Companies Act defines debentures to include debenture stock, bonds and other securities of a company whether constituting a charge on the assets of the company or not.

In *Levy Vs. Abercorris Slate & Slab Co. (1887) 37 Ch. D 260* at 264 Per Chitty J, “ *The Word debenture is not, either in law or commerce, a strictly technical term, or what is called a term of art. Etymologically, the word is a derivation from the Latin Debentur mihi meaning “owing” which were the opening words of certain documents which used to be issued by the English companies in the 1860s as acknowledgement of a loan the companies had received from persons to whom the debenture was issued. With the passage of time, the word acquired the meaning it generally has today, namely a document issued by a registered company to acknowledge or evidence an indebtedness primarily*”

A number of documents have been held to be debentures.



- A legal mortgage of freehold and leasehold land (Knightsbridge Estates Trust Ltd Vs Bryne (1940) AC 613).
- A series of income bonds by which a loan to a company was repayable only from profits.(Lemon Vs Austin Friars Investment Trust Ltd (1926)Ch. 1)
- A note by which a company undertook to pay a loan but have no security. (British India Steam Navigation Co. Vs IRC (1881)7 QBD 165).

Types of Debentures.

- Debentures issued singly or in a series.

Debentures may be issued in a series, e.g. where there is a public offer, or alternatively they may be issues singly, e.g. to secure a bank loan or overdraft. Where debentures are issued in a series, it is usual to provide expressly that they are to rank *pari passu* i.e. equally. This is essential because loans rank for priority according to the time they are made, and if such expression provision was not made, the debentures in the series would rank for priority of payment and security according to the date of issue, and if all were issued on the same day, they would rank in numerical order.

Where debentures rank *pari passu*, there can be no action at law brought by an individual debenture holder merely in respect of his own rights, and any such action brought by him is deemed to be a representative action on behalf of all the debenture holders of the series.

In *Gartside Vs Silkstone and Dodworth Coal and Iron Ltd (1882) 21 Ch. D 762*, “When two deeds are executed on the same day, the court must inquire which of them was executed first, but if there is anything in the deeds to show such an intention, they may take effect *pari passu*.”

- Secured debentures.

These are normally secured by a charge on the company’s assets, either by a provision to that effect in the debenture itself, or by the terms of the trust deed drawn up in connection with the issue. Sometimes a provision appears in both documents.

In *Mbarara Coffee Curing Works Vs Grindlays Bank (1976) HCB 175*, the bank had a debenture secured as a floating charge over movable property and a fixed charge over immovable property. The Bank sealed the factory and sold it to realize the money owing. Court held that at the time the bank realized its security, the debenture was valid and operative. The company had not discharged it. The company never requested a discharge and the bank was therefore entitled to realize its security under the debenture for so long as discharge had been executed or money owing paid.

A negative pledge or restrictive clause is a term in a debenture or other loan security by which the company undertakes not to create later charges ranking in priority or pari passu with the present security.

In *Rother Iron Works Ltd Vs Canterbury Precision Engineers Ltd (1973) ALL ER 394*; court held that a negative pledge or restrictive clause in a secured debenture is an equitable restriction on the company's power to create later charges having priority to the first. It will therefore bind a later charge having notice of the pledge and a later equitable charge having no notice of the pledge if the equities between the first and second charge are equal.

Unsecured debentures

Such a debenture is no more than an unsecured promise by the company to repay the loan. The holder can, of course, sue the company on the promise, but is only an ordinary creditor in a winding up, although, since he is a creditor, he can petition the court for a winding up. A negative pledge in an unsecured debenture will not constitute an equitable restriction on the company's power to create further charges and will operate only contractually between the company and the original lender.

Registered debentures.

These are recorded in the register of debenture holders. Such debentures are transferrable in accordance with the provisions of the terms of issue, but transfer is usually effected by an instrument in writing a way similar to that of shares. The transferee of a debenture takes it subject to equities, and this includes claims which the company has against the transferor. However, the company's claims are normally excluded by the terms of issue of the debentures, these terms usually stating that the money secured by the debentures will be paid without regards to any equities between the company and the previous holders.

In *Hilger Analytical Ltd Vs Rank Precision Industries Ltd (1984) BCLC 301*; held that where the actual agreement specifically allows the holder of transfer free of all equities, following such a transfer, the issuing company is bound to register the transfer.

Under *Section 99(3)* of the Companies Act, every registered holder of debentures may require a copy of the register of the holders of debentures of the company or any part of it on payment of a reasonable fee prescribe by the company for every hundred words required to be copied.

Redeemable debentures.

Debentures are usually redeemable, and the company may provide a fund for their redemption. The annual amount so provided must be charged whether profits are made or not, though in some cases the terms of issue may stipulate that the fund be provided only out of profits, if made.

Debentures may be redeemed in the following ways.

- a) By drawings by lot, either at the company's option or at fixed intervals.
- b) By the company buying them in the market, and if the debentures are brought in the market at a discount, the consequent profit to the company is a realized profit available for divided unless the articles otherwise provide.
- c) By the company redeeming them either out of a fund or possibly by a fresh issue of debentures. A fresh issue is useful to the company where rates of interest have fallen, because the old debentures can be redeemed and the money re-borrowed by the fresh issue at lower rates of interest. Where redemption is by fresh issue, it is usual to allow the existing debenture holders to exchange the old debentures for the new ones if they so wish.

The company will redeem at a fixed future date, but usually has an option to redeem on or after a given earlier date, and this allows the company to choose the most convenient time for redemption.

Section 112 of the Companies Act provides for the powers to reissue redeemed debentures in certain cases.

Bearer debentures.

They are negotiable instruments and are transferable free from equities by mere delivery and it is not necessary to give the company notice of transfer. Interest is paid by means of coupons attached to the debenture, these coupons being in effect an instruction to the company's banker to pay the bearer of the coupon a stated sum on presentment to the bank after a certain date. The company can communicate with the holders of bearer debentures only by advertisement, and it is often provided that the holders of such debentures may exchange them for registered debentures.

Irredeemable Debentures.

A debenture which is issued with no fixed date of redemption is an irredeemable debenture, though such debentures are redeemable on a winding up, and the liquidator is empowered to discharge them. In addition, irredeemable debentures always empower the debenture holders to enforce their security should the company, for example fail to pay interest on the loan and such enforcement will result in the payment of the debenture debt.

Section 101 of the Companies Act provides that such debentures may be issued, and this provision is necessary because otherwise the general rule of equity, that redemption of a mortgage cannot be postponed for long a time, would apply. The result is that a company can create long mortgages over its land and other property by means of debentures, whether irredeemable or for a long contractual period prior to redemption.

Acquisition of debentures.

- Issue by the company

Article 79 Table A; the directors may exercise all the powers of the company to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party.

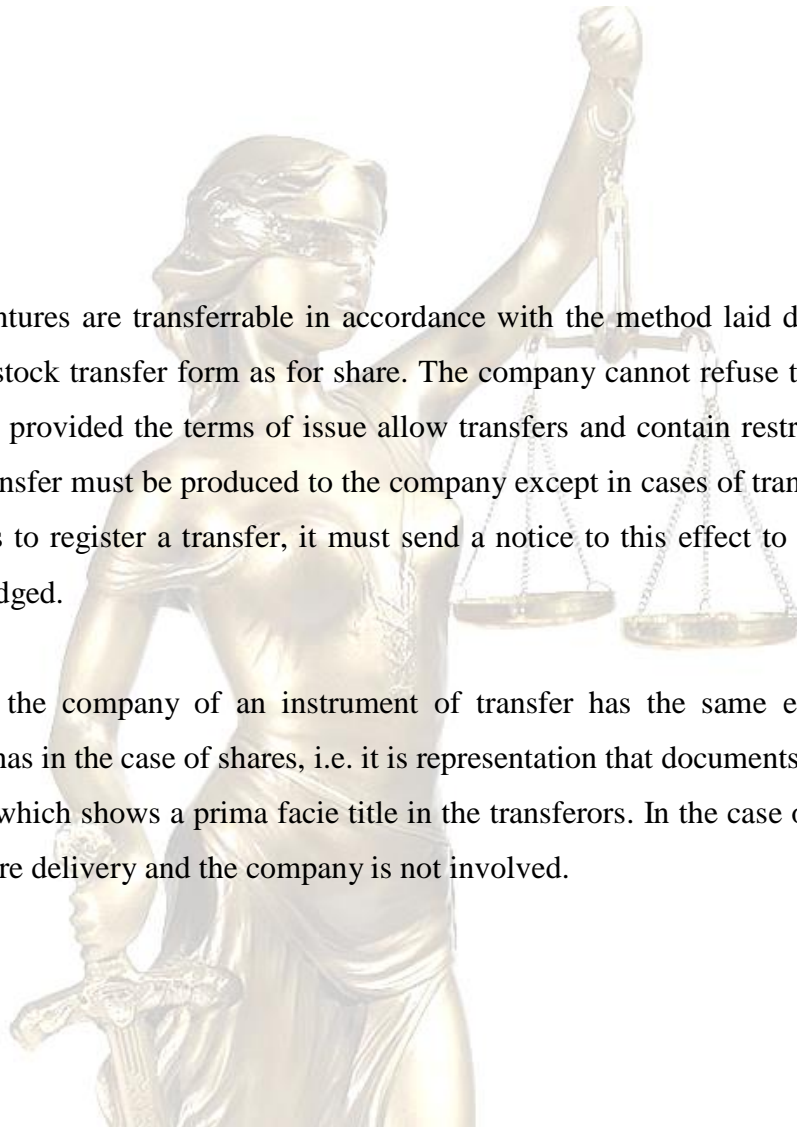
A company may issue debentures either individually or in a series or in a series. They may be allotted at par, at a discount, or at a premium, unless this is forbidden by the company's articles. If debentures are issued at a discount together with a right to exchange them for shares at par value, the debentures are good but the right to exchange is void unless the provisions of Section 67 that permit the issue of shares at a discount are complied with.

If a person agrees to take a debenture from the company in return for a loan, the contract may be enforced by both the lender and the company by specific performance. **Section 103** gives this right because, in the absence of such statutory provision, equity would not specifically enforce a loan.

Under **Section 91 (1)**; A company shall, within sixty days after the allotment of any of its shares, debentures or debenture stock and within two months after the date on which a transfer of the shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

Registered debentures are transferrable in accordance with the method laid down in the terms of issue, usually a stock transfer form as for share. The company cannot refuse to register a properly stamped transfer provided the terms of issue allow transfers and contain restrictions, but a proper instrument of transfer must be produced to the company except in cases of transmission. Where the company refuses to register a transfer, it must send a notice to this effect to the transferee of the transfer being lodged.

Certification by the company of an instrument of transfer has the same effect in the case of debentures as it has in the case of shares, i.e. it is representation that documents have been produced to the company which shows a prima facie title in the transferors. In the case of bearer debentures, transfer is by mere delivery and the company is not involved.



Section 85 of the Companies Act; Notwithstanding anything in the articles of a company, it is not lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company.

Section 90: Certification of a transfer.

(1) The certification by a company of any instrument of transfer of shares in or debentures of the company shall be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company, such documents as on the face of them show a prima facie title to the shares or debentures in the transferor named in the instrument of transfer but not as a representation that the transferor has any title to the shares or debentures.

(2) Where a person acts on the faith of a false certification by a company made negligently, the company shall be under the same liability to him or her as if the certification had been made fraudulently.

(3) For the purposes of this section—

(a) an instrument of transfer shall be taken to be certified if it bears the words “certificate lodged” or words to the like effect;

(b) the certification of an instrument of transfer shall be taken to be made by a company if—

(i) the person issuing the instrument is a person authorized to issue certificated instruments of transfer on the company’s behalf; and

(ii) the certification is signed by a person authorized to certificate transfers on the company’s behalf or by any officer or servant either of the company or of a body corporate so authorized; (c) a certification shall be taken to be signed by a person if—

(i) it purports to be authenticated by his or her signature or initials whether handwritten or not; and

(ii) it is not shown that the signature or initials was or were placed there by himself or herself or by any person authorized to use the signature or initials for the purpose of certifying transfers on the company's behalf.

Under Section 99 of the Companies Act, a debenture holder has a right to inspect the register of debenture holders and to have copies of a trust deed.

Company Charges

Any charge created by a company over an asset may be a legal charge or an equitable charge. A legal charge will, potentially, bind any person who acquires a charged asset from the company, even if that person knows nothing of the charge (however, note that the position is different where the charge is registrable).

In contrast, an equitable charge does not bind a person who subsequently acquires an interest in the charged asset bona fide, for value and without notice of the existence of the charge

Debentures may be secured by a fixed or by a floating charge, or by a combination of both types of charge. The expression "mortgage debenture" normally denotes a debenture secured by a fixed charge.

a) Fixed (or specific) charge.

Such a charge usually takes the form of a legal mortgage over specified assets of the company. E.g. its land and buildings and fixed plant. The mortgage is usually created by a charge by deed expressed to be by way of legal mortgage.

The major disadvantage from the company's point of view is that it cannot dispose of the assets subject to the charge without the consent of the debenture holder. However, the major advantage for the directors in a fixed charge because they will almost always have personally guaranteed the company's draft, and in insolvency it is important to them that the bank gets as much as possible from the debenture securing the overdraft so that their liability is extinguished or reduced.

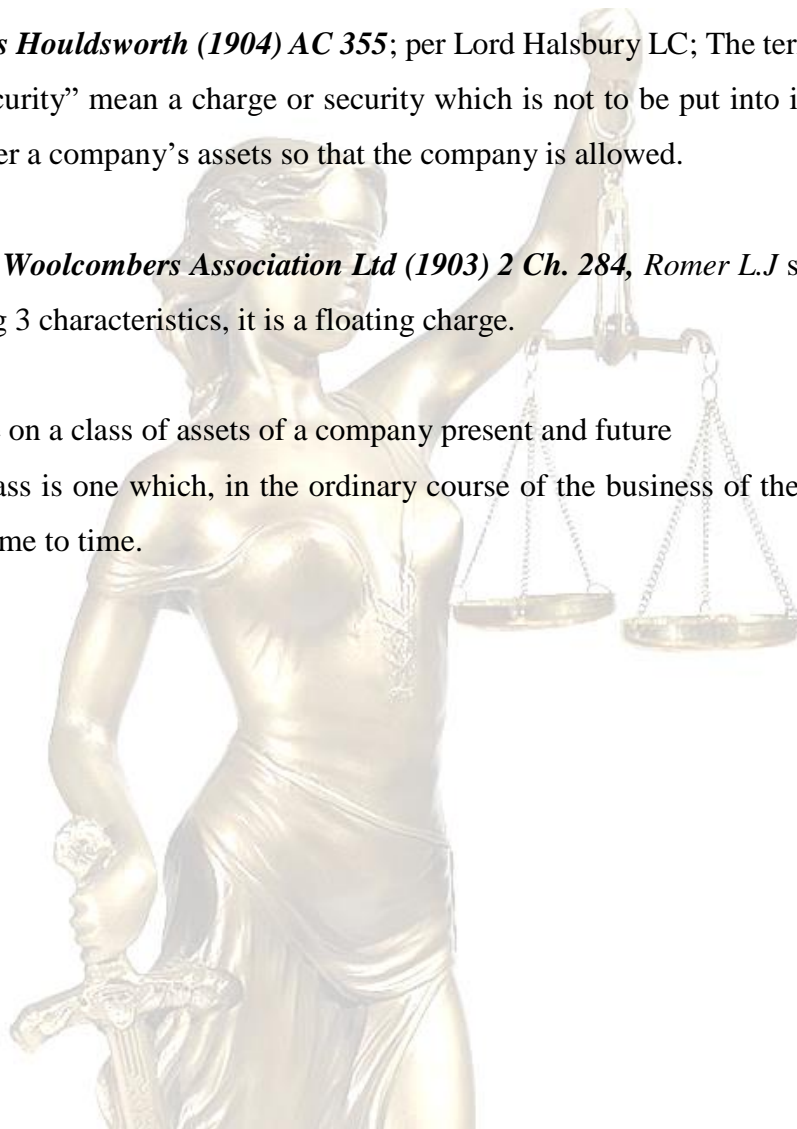
It is trite to note that a fixed charge is not postponed to preferential creditors and other creditors as is a floating charge and the bank will get more from the security on realization.

b) Floating charge

In *Illingworth Vs Houldsworth (1904) AC 355*; per Lord Halsbury LC; The terms “floating charge” and “floating security” mean a charge or security which is not to be put into immediate operation, but is to float over a company’s assets so that the company is allowed.

In *Re Yorkshire Woolcombers Association Ltd (1903) 2 Ch. 284*, Romer L.J stated that if a charge has the following 3 characteristics, it is a floating charge.

- i. If it is a charge on a class of assets of a company present and future
- ii. If that class is one which, in the ordinary course of the business of the company, would be changing from time to time.



iii. If you find that by the charge it is contemplated that, until some future step is taken by or on behalf of those interested in the charge, the company may carry on its business in the ordinary way as far as concerns the particular class of assets I am dealing with..

In other words, a fixed or specific charge is taken over identified assets of the company, not used in the day to day business of the company whereas a floating charge may cover company assets used in the ordinary course of business.

The charge floats or hovers over the assets until some event occurs causing it to crystallize. This may arise with default of payment, default of the company, liquidation or is wound up or cessation of business, etc.

□ **When is a charge deemed to have crystallized?**

The essence of a floating charge is that it leaves the company free to deal with the charged asset in the ordinary course of business without consulting the charge holder (although the security contract may restrict this freedom). Since a floating charge is over a class of assets, the chargee is uncertain as to the value of his security at any moment before the charge 'crystallises'.

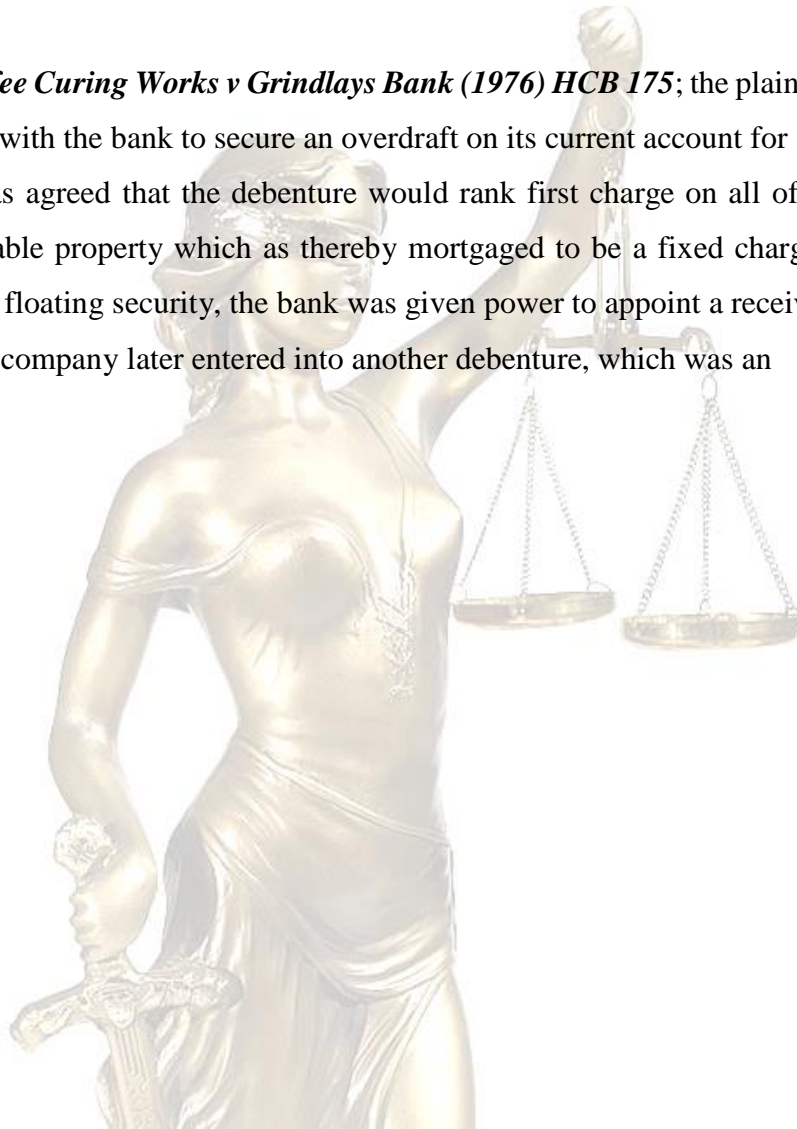
Crystallization, when a floating charge becomes a fixed charge over the assets currently comprising the relevant class, occurs automatically on the happening of certain events, namely:

- a) if a receiver is appointed by the court or any chargee;
- b) when winding up commences (even a member's voluntary winding up); or
- c) when the company ceases to carry on its business as a going concern

However, a company may also, in its debenture, create conditions when the charge may crystallize.

In *Stephen Lubega v Barclays Bank (U) Ltd (1992) 111 KALR 30*, Mrs. Ssezibwa Estates Ltd, secured a loan from the respondent bank for purchase of a lorry, and the bank took all assets, debentures plus legal mortgages for the debtors coffee factory and one residential house. The lorry was subject to a floating charge created by the debenture from the respondent bank. The bank appointed a receiver, impounded the lorry and advertised it for sale. It was held that a floating charge crystallizes the moment there is default and a receiver is appointed.

In *Mbarara Coffee Curing Works v Grindlays Bank (1976) HCB 175*; the plaintiff company entered into a debenture with the bank to secure an overdraft on its current account for 500,000/=. It was agreed that the debenture would rank first charge on all of the property, in the event of unmovable property which as thereby mortgaged to be a fixed charge and as regards all other property, a floating security, the bank was given power to appoint a receiver in case of default in payment. The company later entered into another debenture, which was an



enlargement of the first debenture increasing the level of the overdraft. The plaintiff owned a factory in Mbarara and the factory was mortgaged through the debenture with the bank. Later the bank sealed this factory and sold it to realize the money owing by the company. Held; At the time the bank realized its security, the debenture was still valid and operative and the bank was entitled to realize its security under the debenture in the absence of repayment or discharge.

□ **Effect of crystallization**

Upon crystallization, a floating charge becomes a fixed charge. The right of the company to deal with the charged assets in the ordinary course of business ceases and the rights of the charge holder/bank are essentially those stated for a fixed charge holder. That is when the floating charge crystallizes, it becomes fixed. When there is crystallization, the charger's right to deal with the property comes to an end and it becomes a fixed charge attached to the assets within the scope of the charge.

Upon crystallization, the charge becomes fixed only from that moment and the charge is not retrospectively transformed into a fixed charge from its inception. This has important consequences on winding up. If there are two charges attaching to the same asset, a floating charge, being, until crystallization, an equitable charge, is ranked in the order of priorities after a fixed legal charge over the same asset. The fixed charge has priority even if it was created after the floating charge and that charge had been registered.

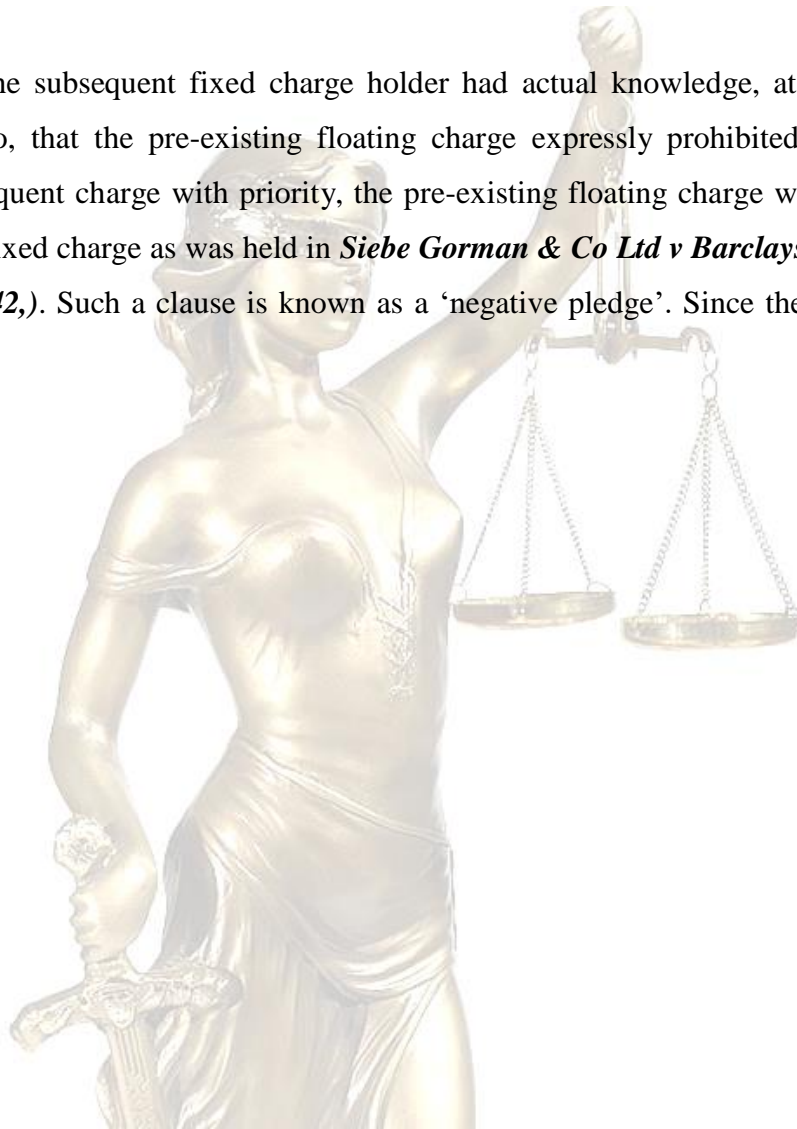
The freedom of the chargor to deal with the assets in the ordinary course of business includes the freedom to create other fixed charges ranking in priority.

□ **Priority of charges.**

Provided charges have been properly registered with the registrar pursuant to the provisions of the Companies Act, the following basic rules apply to determine the priority of charges:

i. Fixed charges rank in order of the time at which they are created: the first in time takes priority over all subsequent fixed charges over the same property. Fixed charges establish stronger rights than floating charges and a later-in-time fixed charge ranks in priority over an earlier floating charge. In *Re Castell & Brown Ltd [1898] 1 Ch. 315*, a company created a floating charge over debentures but later created an equitable mortgage over the various properties by deposit of title deeds. It was held that the mortgage charge had priority over the floating charge.

Except that if the subsequent fixed charge holder had actual knowledge, at the time its charge was entered into, that the pre-existing floating charge expressly prohibited the company from creating a subsequent charge with priority, the pre-existing floating charge will take priority over the subsequent fixed charge as was held in *Siebe Gorman & Co Ltd v Barclays Bank Ltd [1979] 2 Lloyds Rep 142*,). Such a clause is known as a 'negative pledge'. Since there is the risk of a



later charge obtaining priority, prudent floating chargees commonly insert negative pledge clauses into the security contract.

A negative pledge principally operates as a contractual right between the company and the first charge holder. If the subsequent fixed charge holder has actual knowledge, because it has actually read the information on the public register, Siebe Gorman is authority for the proposition that the pre-existing floating charge will take priority over the subsequent fixed charge.

ii. Floating charges rank in order of time of creation: the first in time takes priority over all subsequent floating charges over the same property In **Re Benjamin Cope & Sons Ltd [1914] 1 Ch. 800**. It was held that prior general floating charge does, of course, have priority over a subsequent general floating charge

A floating charge over specific assets may rank in priority to an earlier floating charge expressed to be a charge over all the assets and undertaking of the company ('a general floating charge') if power is reserved to the company in the earlier charge to create a later charge having priority In **Re Automatic Bottle Makers Ltd [1926] Ch. 412**, It was held that even true that a subsequent specific floating charge will take priority over a prior general floating charge.

Distinction between a floating and a fixed charge?

i. Whilst the floating charge remains floating (before crystallization), the company/ chargor remains free to deal with the charged property in the ordinary course of business.

ii. Various statutory rules relating to validity and priority are worded to apply to one form of security (e.g. floating charges) but not the other, including:

Registration requirements are different: all floating charges are registrable but not all fixed charges are registrable;

iii. Floating charge property proceeds are available to pay the expenses of winding up, preferential debts and a statutory 'prescribed' part is set aside for unsecured creditors out of them;

iv. Priority of charges against the same property: the floating nature of the floating charge until it crystallises, results in it being treated differently from a fixed charge in determining priority of charges.

v. Note that it is common for banks to take both a fixed charge and a floating charge in the same document thereby seeking to combine the priority advantages of the fixed charge with the flexibility of the floating charge. A bank can even create three charges, i.e. a



legal mortgage, a fixed charge and a floating charge over the same assets. It is instructive to look at the language actually used in such documents.

In *Re Spectrum* (above), for example, the charge was expressed in the following language: ‘A specific charge [of] all book debts and other debts ... now and from time to time due or owing to [Spectrum]’ (para 2(v)) and ‘A floating security [of] its undertaking and all its property assets and rights whatsoever and whosoever present and/or future including those for the time being charged by way of specific charge pursuant to the foregoing paragraphs if and to the extent that such charges as aforesaid shall fail as specific charges but without prejudice to any such specific charges as shall continue to be effective’ In this case, a fixed charge and a floating charge were created over the same assets.

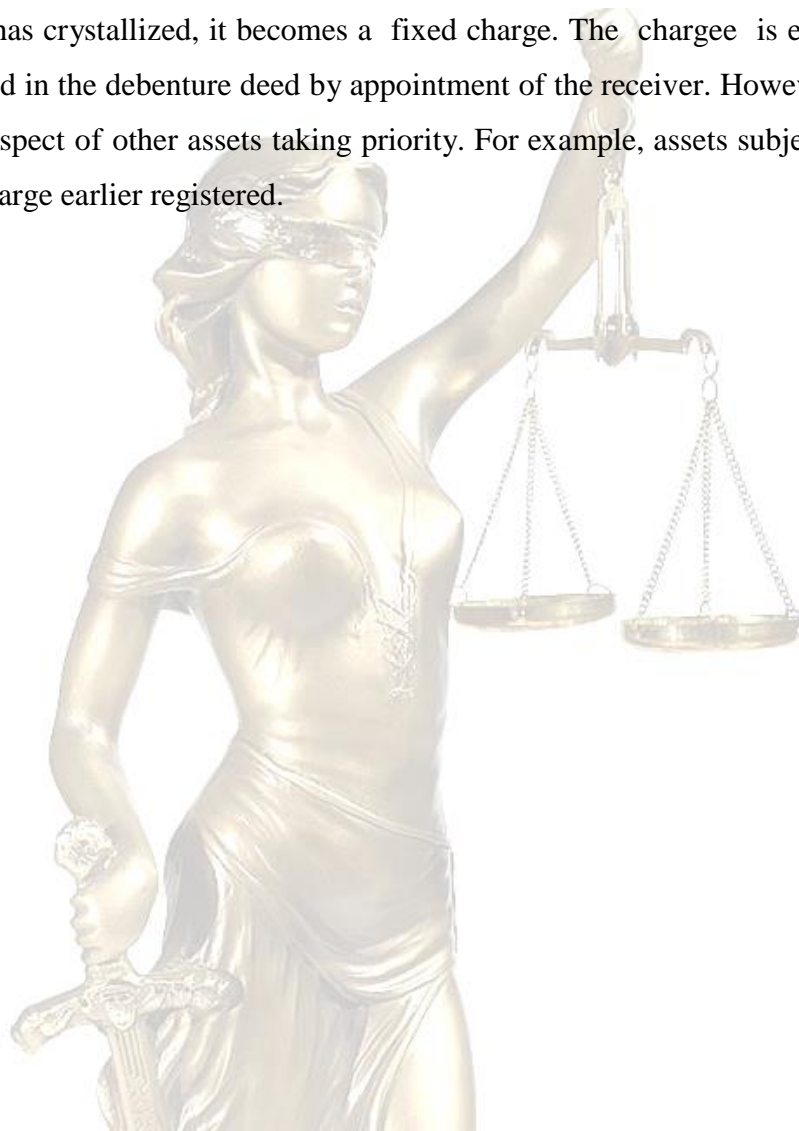
vi. A subsequent fixed charge takes free of an earlier floating charge even where the fixed chargee is aware of the existence of that earlier floating charge except where he had actual knowledge of a *romalpa* clause.

In *Wheatley v Silkstone and Haigh Moor Coal Co (1885) 29 Ch. D 715* per North J, where a mortgage made in the ordinary course of business and for the purpose of the business was found to be a good mortgage upon and a good charge upon the property comprised in it and thus not subject to the claim created by [a] debenture ... intended to be a general floating security over all the property of the Company. This is because companies creating floating charges may generally, without the consent of the charge holder; deal with them in the ordinary course of business.

vii. As between two floating charges over the same assets, the first created will have priority; competition must be between two floating charges. Thus if one charge has already been crystalized or otherwise converted into a fixed charge, then the facts no longer involve two floating charges and the charge which has crystalized will have priority.

In terms of enforcement, if a secured creditor took out a legal mortgage, the mortgagee takes priority under the express terms of the mortgage or common law. Likewise if a creditor has taken a fixed charge over the company's plant or equipment, a creditor has rights in rem with respect to those plants and machinery.

viii. A floating charge as noted just hovers over the assets within it until it crystallizes. In addition, once a charge has crystallized, it becomes a fixed charge. The chargee is entitled to realize the assets as provided in the debenture deed by appointment of the receiver. However, the chargee may not recover in respect of other assets taking priority. For example, assets subject of a fixed charge, and a floating charge earlier registered.



ix. A floating charge which is not a fixed charge is subject to the prior claims of preferential debts accorded statutory priority e.g. government taxes, judgment debts. Fixed charges on the other hand have priority over all unsecured claims, preferential or otherwise. A floating charge would therefore rank after preferential claims if the latter cannot be satisfied by the other assets of the company, potentially leaving very little or nothing for the floating charge holders whilst paying the preferential creditors in full. It is clear that a fixed charge is the superior charge. But it is worth noting that a floating charge is also required to secure the rights of a lender. Even when a floating charge is subject to prior preferential debts and expenses on winding, it still has priority over the claims of unsecured creditors.

x. A fixed charge would give the chargee control and participation in the company's business.

3. Guarantee

According to S68 contracts Act ,2010 a contract of guarantee means a contract to perform a promise or to discharge the liability of a 3rd party in case of default of that 3rd party which may be oral or written

It is common for the lender to require the directors or shareholders of a borrower to guarantee the payment of the facility .In case of breach the guarantees are personally liable for the debt .Execute personal guarantees and register them evidence purposes.

4. Pledge

This arises when a debtor delivers a chattel or its document of title to a creditor as security for the discharge of an obligation .The creditor retains possession of the chattel or document of the title until the debtor fulfills his contractual obligations .The creditor has a right to sell the asset in case the debtor fails to pay. A pledge of chattels is registrable under the chattels securities Act No.7 of 2014.

f) Illustrate the process of perfecting the securities in (e) above.

Perfection relates to the additional steps required to be taken in relation to a security interest in order to make it effective against third parties or to retain its effectiveness in the event of default by the grantor of the security interest.



Generally speaking, once a security interest is effectively created, it gives certain rights to the holder of the security and imposes duties on the party who grants that security. However, in many legal systems, additional steps regarding perfection of the security interest are required to enforce the security against third parties such as a liquidator.

Debentures

Under Section 98 of the Companies Act, 2012 (1) A company which, issues a series of debentures shall keep at the registered office of the company a register of holders of the debentures.

The company must give notice to the registry of the place where the register and any duplicate is kept and of any change in that place.

A company is not required to give notice if the registrar or duplicate has at all times since it came into existence after the commencement of the companies Act been kept at the registered office of the company.

Debenture holders and shareholders have a right to inspect the register of debenture holders and to have copies of the trust deed for securing the issue of the registered office of the company.

Charges

- Charges created by a company may need to be registered: with the registrar of companies;
- in the company's own register of charges;
- With Land Registry (charges on registered land) or at the Land Charges Department (charges on unregistered land).

The procedure is provided for under Section 105- 108 of the Companies Act. The company has a primary duty of ensuring registration of the charges within forty two days after the date of its creation. The document for registration should include the following particulars.

Section 105(8) the following particulars— (a) the total amount secured by the whole series; (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; (c) a general description of the property charged; and (d) the names of the trustees, if any, for the debenture holders, together with the deed containing the charge or a copy of it verified in the prescribed manner or, if there is no such deed, one of the debentures of the series.

Regulation 23 of the Companies (General) Regulations 2016, charges created by companies situate in Uganda must be registered using Form 13.



According to Section 111 of the Companies Act, it provides that registration must be done within 42 days from the date of creation of the charge, but an application for extension of time may be made to the registrar.

Once the charge is registered, the registrar issues a certificate which is conclusive evidence that the registration requirements have been complied with. S.108.

Stamp Duty:

Subject to certain limited exemptions, stamp duty is payable on all security documents which relate either to;

- (i) property situated in Uganda; or
- (ii) a transaction which relates to a thing done or to be done in Uganda.

If the security instrument is executed in Uganda it must be stamped within 45 days of execution. Any security instrument executed outside of Uganda must be stamped within 30 days from the date the security document is delivered to Uganda. The person taking security bears the cost related to stamp duty, unless otherwise agreed.

The failure to pay stamp duty on a security document can result in a fine not exceeding 10 currency points for each day the default subsists. Furthermore, the security document may not be validly registered and will be deemed inadmissible in the Ugandan courts.

Stamp duty is typically payable at a fixed or ad volarem rate. Ordinarily, security instruments are charged at a rate of 0.5% of the amount secured by any principal security document. Where there is more than one security instrument relating to the same transaction, the parties may elect a principal document which shall attract stamp duty, such that any supplemental security will only attract nominal duty. However, where the various security instruments relate to different aspects of the same transaction and are capable of separation, each instrument is to be charged stamp duty separately.

In exceptional circumstances, an exemption from paying stamp duty may be obtained from the Minister of Finance upon application. This only applies if the industry where the entity seeks to invest is deemed to be a priority industry. In this case, stamp duty may be waived when perfecting security. The relevant Minister waives the duty by issuing a statutory instrument to that effect.

According to Section 108 and Regulation 23(4) Companies (General) Regulations 2016, upon registration, the registrar issues a certificate of registration of a charge in the company Form 17.

The effect of registration.

Registration ensures that the charge is effective against other creditors and the liquidator. However, registration is not notice of the terms of the charge instrument.

Consequences of non-registration.

S.105 provides that the security given by a registrable charge shall be void against the liquidator and any creditor of the company. However, the debt is still repayable immediately on an unsecured basis. The result is that the holder of the charge is reduced to the level of an unsecured creditor. Indeed S. 105(2) states that under this section the money secured by the charge shall immediately become payable. The other consequence of failing to register is the liability of the company to a fine for a continuing default under S. 107(3).

In *Kasozi Ddamba v M/S Male Constructions Co. (1981) HCB 26*, Grindlays Bank advanced money to a judgment debtor secured by debentures. The decree holder contained a decree against the judgment debtor and advertised property for sale. The bank tried to impose the debenture; however counsel for decree holder argued that the debenture was void for failure to have it registered within 42 days. It was held that the debenture was not registered within 42 days and was void against a liquidator and any creditor of the company and could not be enforced against the judgment creditor.

Pledge

Perfection of a pledge is provided for under the Chattels Securities Act No.7 of 2014. Under Section 17, a security interest is perfected where;

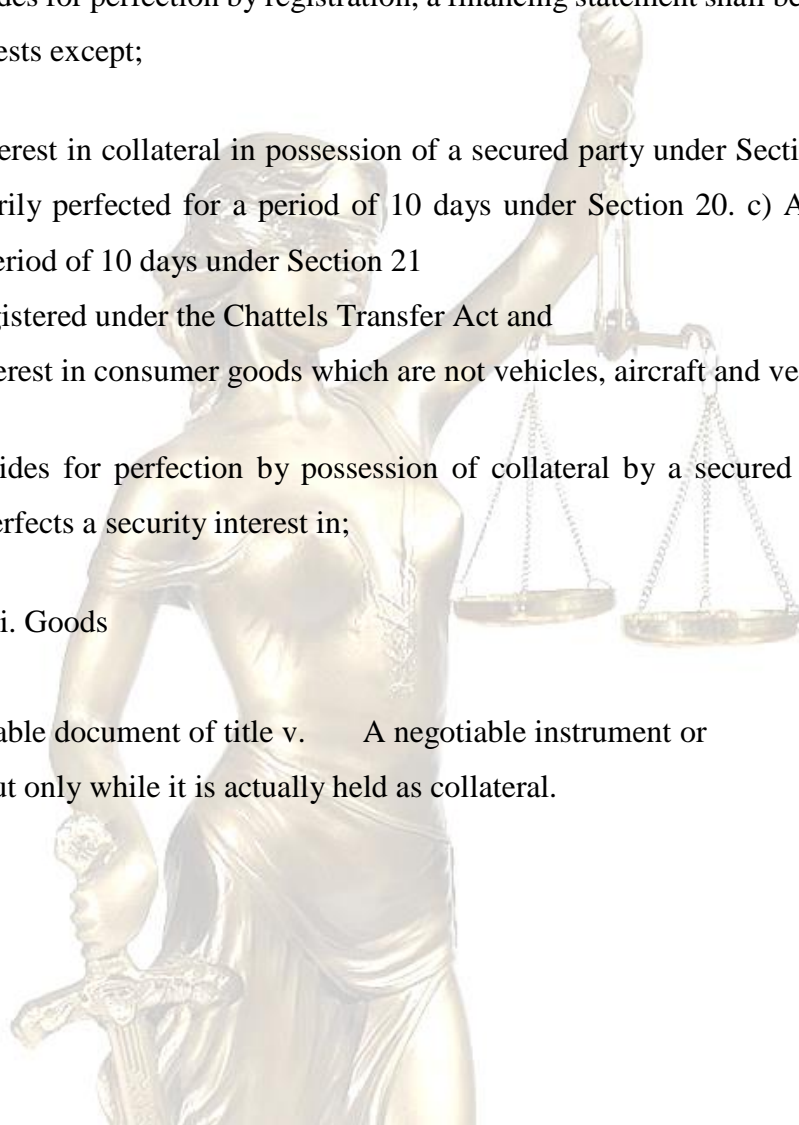
- It is attached and
- All steps required for perfection under this Act are completed regardless of the order in which the attachment and steps occur.

Section 18 provides for perfection by registration, a financing statement shall be registered to perfect all security interests except;

- a) A security interest in collateral in possession of a secured party under Section 19.
- b) A security interest temporarily perfected for a period of 10 days under Section 20.
- c) A security interest in proceeds for a period of 10 days under Section 21
- d) A security registered under the Chattels Transfer Act and
- e) A security interest in consumer goods which are not vehicles, aircraft and vessels.

Section 19 provides for perfection by possession of collateral by a secured or on behalf of the secured party, perfects a security interest in;

- i. Chattel paper
- ii. Goods
- iii. Money
- iv. A negotiable document of title
- v. A negotiable instrument or
- vi. A security, but only while it is actually held as collateral.



Subsection (2), a security interest in money or a negotiable instrument other than a certified security or a negotiable instrument which constitutes part of a chattel paper is perfected only by possession under subsection 1.

Under subsection (3), where collateral is an uncertified security, a secured party is deemed to take possession of the security when a transfer of the security to the secured party is registered.

Under subsection (4), where collateral other than goods covered by a negotiable document of title is held by a bailee, the secured party is taken to have possession from the time the bailee receives notification of the interest of the secured party.

WORKSHOP TWO

Assuming you set up the local entity in workshop 1. 5 Years after setting up the business entity, **Blasio Mpiima** died peacefully in his sleep. This information has just been brought to your attention as counsel, 8 months after the death. However, the company continued transacting business using his electronic signature as they decided on how to move forward.

1. Advise Jules Mitterand and Faustin Rochelu on;

i) The legal consequences of Blasio's death on their business.

A company is at law separate and distinct from all its members

Salomon Vs Salomon and Co. Ltd (1897).

Held - Lord Macnaghten - "The company is at law a different person all together from the subscribers to the memorandum".

One of the features of corporate personality is that a company has perpetual succession. This Means that a company continues to exist despite a change in membership.

Therefore, Death, insolvency or insanity of the members doesn't affect the company's legal existence.

In Micheal Oscar Kayemba Vs James Mulwana and 3 ors (1999) Facts: The sole owner of the shares in the company died.

Held –Bossa J; On the authority of *Salomon Vs Salomon*, where a company had only one paid up shareholder, it still remains in law a corporation with independent existence. The company continues to exist despite the death of its shareholder.

Similarly in *Re Noel Tedman Holdings Pty Ltd [1967] QDR 561*. A husband and wife were the only shareholders of the company. Both of them died in an accident and were survived by their infant. Court held that the company still existed in law inspite of their death.

According to the learned authors K Smith and DJ Keenan in their book **Company Law 14th edition at page 2**, “**A company** has perpetual succession, i.e. its existence is maintained by the constant succession of new persons who replace those who die or are in some other way removed. This means that even though a member dies, goes bankrupt, or retires from the company by transferring his shares, the company carries on and is not dissolved.”

When a shareholder, dies his shares are transmitted to his or her legal representative. As stated by the learned author **Simon Goulding** in his book; **Company Law** Second edition at page 8 “because the company is a corporate body and a recognized legal entity, it survives the death of one, or even all, of the members. The shares of any deceased member are simply transferred to their personal representatives. The company therefore has a potentially perpetual existence.”

The transfer of shares on death of a shareholder is by operation of law and is termed as transmission.

S. 85(1) of the Companies Act 2012;

(1) Notwithstanding anything in the articles of a company, it is not lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company.

However, subsection (2) provides that nothing in this section shall prejudice any power of the company to register as shareholder or debenture-holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of the law.

This is reinforced by regulation 29 of Table A which states that . (1) In case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the company as having any title to his or her interest in the shares.

(2) Nothing in this regulation shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him or her with other persons.

In conclusion therefore, the death of Blazio has no effect on the conduct of business. The shareholders can continue carrying out business as before and register the personal representative of Blazio on whom the shares have been transmitted by operation of law.

Any breaches committed by Jules and Rochelu.

S. 198 of the Companies Act provides for duties of directors, these include to; (a) act in a manner that promotes the success of the business of the company;

(b) exercise a degree of skill and care as a reasonable person would do looking after their own business; and

(c) act in good faith in the interests of the company as a whole

S. 55 provides for the execution of documents; A document executed by a director and the secretary of a company or by two directors of a company and expressed to be executed by the company has the same effect as if executed under the common seal of the company.

S. 59 further provides for the authentication of documents; A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company and need not be under its common seal.

S. 52 provides for power of directors to bind the company; (1) The power of the board of directors to bind the company or authorise others to do so in favour of a person dealing with the company in good faith shall not be limited by the company's memorandum.

S. 53 provides that a party to a transaction with a company is not bound to enquire whether it is permitted by the company's memorandum or as to any limitation on the powers of the board of directors to bind the company or authorize others to do so.

A company is bound by any transaction entered into by a person it holds out as having the capacity to enter into such a contract.

This was stated by Diplock LJ in *Freeman and Lockyer v Buckhurst Properties*, (1964)2 Q.B, 480,

“If the foregoing analysis of the relevant law is correct, it can be summarised by stating four conditions which must be fulfilled to entitle a contractor to enforce against a company a contract entered into on behalf of the company by an agent who had no actual authority to do so. It must be shown: (a) *that a representation that the agent had authority to enter on behalf of the company into a contract of the kind sought to be enforced was made to the contractor;* (b) *that such representation was made by a person or persons who had ‘actual’ authority to manage the business of the company either generally or in respect of those matters to which the contract relates;* (c) *that he (the contractor) was induced by such representation to enter into the contract, i.e., that he in fact relied on it;* and (d) *that under its memorandum or articles of association the company was not deprived of the capacity either to enter into a contract of the kind sought to be enforced or to delegate authority to enter into a contract of that kind to the agent.*

So, the principle operates as a form of estoppel, in that a company which holds out a person as someone who is authorised cannot subsequently plead lack of actual authorisation if a contracting party had relied on the holding out.

The facts show that after the death of Blazio, the company continued to transact business using his electronic signature. This would amount to a forgery if it was done by persons who did not have an authority to enter into such transactions. However, in this case, the surviving directors had power to enter into such transactions and by using Blazio’s signature only HELD HIM OUT as a person who could bind the company. Therefore whatever transactions they entered into, the company would be bound under the doctrine of holding out.

In explaining a similar scenario, the learned author Simon Goulding in his book; **Company Law** Second edition at page 166 explains;

“Certainly, if an unauthorised outsider obtains the company’s seal and uses it on a document, forging the signatures of the directors, this will be held to be a forgery. But, where there are genuine signatures of the directors and simply an unauthorised use of the seal, it is difficult to justify a finding of forgery, since the company is holding out those persons as having authority to represent the document as genuine.”

S. 2 of the Electronic Signatures Act defines “electronic signature” to mean data in electronic form affixed to or logically associated with a data message, which may be used to identify the signatory in relation to the data message and indicate the signatory's approval of the information contained in the data message; and includes an advance electronic signature and the secure signature.

A “signatory” is defined to mean a person that holds signature creation data and acts either on its own behalf or on behalf of the person it represents.

Section 6 of the **Electronic Signatures Act** 2011 provides for the use of electronic signature. It states that where a law requires a signature or provides for consequences where a document is not signed, the requirement fulfilled if an electronic signature is used. Therefore use of an electronic signature on documents is legally binding.

Under S. 2 of the Act; To “forge a digital signature” means—(a) to create a digital signature without the authorization of the rightful holder of the private key;

The facts do not suggest that the directors forged the digital signature. This means the signature was already created, the directors were holders of that signature and after the death they continued using it not fraudulently but for purposes of running the business.

Therefore in using Blazio’s signature for purposes of carrying on business and in absence of any fraud, the directors did not commit a forgery but rather the company had held out Blazio as having authority to bind it.

Breaches

The only breach committed by the Jules and Rochelu is in respect to S. 119(1)(c) and subsection 6 thereof.

S. 119(1)(c) provides that A company shall keep a register of its members and enter in the register the following particulars (c) the date on which any person ceased to be a member. Subsection 2 thereof provides that the register of members shall be kept at the registered office of the company.

Subsection (6) provides that where a company defaults in complying with subsection (1) the company and every officer of the company who is in default is liable to a daily default fine of twenty five currency points.

This is reinforced by Regulation 22 of the Companies (General) Regulations 2016 which states that; (1) A company shall notify by resolution, the registrar of any change in the register of members kept by the company under section 119 of the Act within 30 days after the change.

Subsection (2) provides that a company, which does not notify the registrar of a change in the register of members is liable to a default fine of forty currency points and shall, in addition, be liable to a default fine of six currency points for every day on which the default continues after the 30 days.

Since the company continued carrying on business using the electronic signature of Blazio for 8 months after his death, the company should have notified the registrar that Blazio ceased to be a member. This wasn't done and was a breach of the above provisions of the law.

The changes to be made to the business after Blazio's death and how to effect them

Transfer/transmission of Blazio's shares.

Section 83 of the Companies Act No .1 of 2012 provides that the shares or other interest of any member in a company shall be movable property transferable in a manner prescribed by the articles of the company.

Under **section 85** of the companies act no. 1 of 2012 a share transfer of shares is not effective until registered by delivering a proper transfer instrument to the company.

However, subsection (2) provides that nothing in this section shall prejudice any power of the company to register as shareholder or debenture-holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of the law.

When a person dies, his shares are transmitted to his personal representative. The first change is to register the personal representative of Blazio or any person elected by him to take the shares.

S. 2 of the Companies Act defines “personal representative” to mean—

(a) in the case of a deceased person to whom the Succession Act applies either wholly or in part, his or her executor or administrator;

Article 29 of Table A. (1) In case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the company as having any title to his or her interest in the shares.

Article 30 of Table A provides that any person becoming entitled to a share in consequence of the death or bankruptcy may upon such evidence being produced as may from time to time properly be required by the directors and subject to these regulations elect either to be registered himself or herself as holder of the share or to have some person nominated by him or her registered as the transferee of the shares but the directors shall have the same right to decline or suspend registration as they would have had in the case of transfer of shares by a member before his death or bankruptcy.

S. 94 provides that the production to a company of any document which is by law sufficient evidence of—

(a) probate of the will or letters or certificate of administration of the estate, of a deceased person having been granted to some person; or

(b) the Administrator General having undertaken administration of an estate under the Administrator General’s Act,

shall be accepted by the company, notwithstanding anything in its articles as sufficient evidence of the grant or undertaking.

The personal representative can have the shares transferred to him or to any other person. The transmission of shares does not require a transfer instrument as stated in S. 85(2) above.

Under **article 31** where a person entitled in regulation 30 elects to be registered himself or herself he or she shall deliver or send to the company a notice in writing signed by him or her stating that he or she so elects.

31(2) Where he or she elects that some other person registered he or she shall testify his or her election by executing to that person a transfer of shares.

Section 86 of the Companies Act provides for the transfer of shares or other interests of the deceased member of a company, made by his or her representative shall although the personal representative is not himself or herself the member of the company be valid as if he or she had been a member at the time of the execution of the instrument of transfer

Under article 32 where a person become entitled to shares by death or bankruptcy they are entitled to dividends as well.

Under 32(2); The directors may at any time give notice requiring a person referred to in regulation 31 to elect either to be registered himself or herself or to transfer the share, and if the notice is not complied with within ninety days, the directors may withhold payment of all dividends, bonuses or other monies payable in respect of the share until the requirements of the notice have been complied with.

Thus the procedure on death of a shareholder is that the person representative must elect to have the shares transmitted to him or transfer them to someone else. This is by delivering a notice in writing to the company.

The director and other company meeting will thus hold a meeting in which they will either accept or decline.

When they accept, they must notify the registrar of the resolution.

In case of a change in directors the registrar should be notified. S. 228 (1) A company shall keep at its registered office a register of its directors and secretaries.

Subsection 5 provides that the company shall, within the periods respectively mentioned in subsection (6), send to the registrar a return in the prescribed form containing the particulars specified in the register and a notification in the prescribed form of any change among its directors or in its secretary or in any of the particulars contained in the register, specifying the date of the change.

Subsection (6) The periods referred to in subsection (5) are the following—

(b) the period within which the notification of change is to be sent shall be fourteen days from the happening of the change.

DOCUMENTS;

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE COMPANIES ACT No.1/2012

AND

IN THE MATTER OF LIMITED

RESOLUTION

At the Board of Directors meeting of the Company held at its registered offices on the day of 2018 to consider registration of shares in Blasio Mpiima’s personal representatives inlimited, it was resolved and passed as follows:-

1. That the entire 30 shares of the deceased Blasio Mpiima inlimited be transferred to his personal representatives Bobi Byansi and Kentaro Eudancio.
2. That the personal representatives shall proceed to register the said shares in their names.
3. That the Registrar of Companies be notified accordingly of the changes in the company memorandum of association.

Dated at Kampala this.....day of.....2018

.....

JULES MITTERRAND EXECUTIVE DIRECTOR.

..... FAUSTIN ROCHELU

DIRECTOR

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE COMPANIES ACT No.1/2012

AND

IN THE MATTER OF LIMITED

RESOLUTION

At the Board of Directors meeting of the Company held at its registered offices on the day of 2018 upon the demise of the company secretary/director Blasio Mpiima, it was resolved and passed as follows:-

1. That the company appointsas the new company Secretary/director

2. That the Registrar of Companies be notified accordingly.

Dated at Kampala this.....day of.....2018

.....

JULES MITTERRAND EXECUTIVE DIRECTOR.

..... FAUSTIN ROCHELU

DIRECTOR

Company Form 20

Reg 26(2)

THE REPUBLIC OF UGANDA

THE COMPANIES ACT

**NOTIFICATION OF APPOINTMENT OF DIRECTOR AND SECRETARY OF
COMPANY**

(Under section 192(4) of the Act).

Name of Company:..... Presented
by:.....

TO: THE REGISTRAR OF COMPANIES.

TAKE NOTE that the person/ persons whose particulars are provided below has/ have been appointed as director/ directors/ secretary of the above named company with effect from the..... day of..... the year.....

(a) PARTICULARS OF DIRECTORS -INDIVIDUALS

Names (first name and	Date of birth	Address	Nationality	Occupation	Directorsh i ps Other

PARTICULARS OF CORPORATE DIRECTORS

Corporate Name	Registered or principal office	Postal address

(b) PARTICULARS OF THE PERSON (S) WHO IS SECRETARY

PARTICULARS OF INDIVIDUAL SECRETARY

Names (first name and	Residential and postal

*state any former first and surnames

PARTICULARS OF CORPORATE SECRETARY

Corporate Name	Registered office

Dated theday of the year

.....

DIRECTOR

PART B

Jules Mitterand decided to maintain his company Great Travels Incorporated in Belgium. His intention is to give it a presence so that it can contract on its own and execute business without having to revert to him or to Great Travels Inc in Belgium. He wants the entity to enter into a working relationship with whatever entity **Faustin Rochelu** and **Blasio**

Mpiima may have set up in Uganda.

ADVISE JULES MITTERRAND ON;

(i) HOW TO SET UP HIS COMPANY'S PRESENCE IN UGANDA.

The first step would be to establish principle place of business in Uganda as required under *section 252 of the companies Act*. This place of business must be registered and also have a registered postal address to which all communications and notices may be addressed in compliance with *section 115 of the Companies Act 2012*.

It should be noted that **Sections 252 to 260** shall apply to all foreign companies, being companies incorporated outside Uganda which, establish a place of business in Uganda and companies incorporated outside Uganda which have, established a place of business in Uganda and continue to have a place of business in Uganda.

PROCEDURE.

Section 252 (1) of the Companies Act 2012 provides that a foreign company which, **establishes a place of business within Uganda shall**, within **30** (thirty) days after the establishment of the place of business, deliver to the registrar for registration;

(a) A certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, where the instrument is not written in the English language, a certified translation of the instrument;

(b) A list of the directors and secretary of the company containing the particulars mentioned in subsection (2) below

The list referred to in subsection (1) (b) shall contain the following particulars with respect to each director and secretary

in the case of an individual, his or her present first name and surname and any former first name or surname, his or her usual postal address, his or her nationality and his or her business occupation, if any; and

In the case of a corporation, its corporate name and registered or principal office and its postal address, except that where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be stated instead of the particulars mentioned in this subsection.

Regulation 29(2) of the Companies (General) Regulations 2016; The list of directors and secretary of a foreign company required by section 252(1) (b) of the Act shall be in Form 24 in the Schedule

(c) A statement of all subsisting charges created by the company, being charges of the kinds set out in section 105(2) and not being charges comprising solely property situated outside Uganda; **S.105 (2)**; these charges refer to any contract or obligation for repayment of the money secured by the charge and when a charge becomes void the money secured by the charge shall immediately become payable.

(d) The names and postal addresses of one or more persons resident in Uganda authorized to accept on behalf of the company service of process and any notices required to be served on the company;

(e) The full address of the registered or principal office of the company. Regulation 29(4) (4)
The particulars of the address and registered or principal office of a foreign company required by section 252(1) (e) of the Act shall be in Form 26 in the Schedule

According to **Section 253 (1)** on the registration of the documents specified in section 252 the registrar shall issue a certificate signed by him or her that the company has complied with that section, and that certificate shall be conclusive evidence that the company is registered as a foreign company under this Act.

Regulation 30; The form of the certificate of registration of a foreign company in Uganda issued by the registrar under section 253 of the Act shall be in Form 27 in the Schedule.

It's important to note that upon registration of a foreign company, the provisions of this Act shall with the necessary modifications apply to the foreign company as they apply to a company incorporated under this Act. (**S. 253(2)**)

From the date of registration under this Act, a foreign company shall have the same power to hold land in Uganda subject to the Constitution, the Land Act and the Investment Code Act, as if it were a company incorporated under this Act.

A foreign company registered above wont be able to carry out business in Uganda unless it gets an investment license

License;

S. 10 of the Investment Code Act Cap 92 provides that a foreign investor shall not operate a business enterprise in Uganda otherwise than in accordance with an investment licence issued under this Code.

S. 11 provides that; (1) An application for an investment licence shall be made in writing to the executive director and shall contain the following information—

(a) the name and address of the proposed business enterprise, its legal form, its bankers, the name and address of each director or partner, as the case may be, and the name, address, nationality and shareholding of any shareholder who is not a citizen of

Uganda;

- (b) the nature of the proposed business activity and the proposed location where that activity is to be carried on;
- (c) the proposed capital structure, amount of investments and the projected growth over the next five years or more;
- (d) the estimated number of persons to be employed
- (e) the qualifications, experience, nationality and other relevant particulars of the project management and staff;
- (f) the incentives for which the applicant expects to qualify and the details of such qualifications; (g) any other information relating to the viability of the project or other matter as the applicant considers relevant to his or her application.

S. 15 Investment licence.

(1) When the applicant for an investment licence and the authority have agreed on the terms and conditions of the investment licence and the incentives, if any, the authority shall issue to the applicant an investment licence

Therefore, on top of getting registered as a company, Jules must obtain a license in order to invest.

(II) How to co-operate with the entity that Faustin and Mpiima may have set up

The working relationship that can best be introduced is a **joint venture**

A joint venture is a business entity created by two or more parties generally characterized by shared ownership, shared returns, and risks and shared governance. Companies typically pursue joint ventures to access new market, to gain scale efficiencies by combining operations and assets.

In the case of *Intercar(u) Ltd v spear motors limited HCT CC MA 0704 2004* where Hon. Justice Lameck Mukasa held that a joint venture relationship maybe characterized as a partnership under the Partnership Act where it qualifies as such and where either party presents or holds out the other as a partner.

In *United Dominion Corporation ltd v Brian Pty ltd (1985) 157 CLR 1*

Court on commenting on joint ventures held that the term joint venture is not a technical one with a settled common law meaning, that it connotes an association of persons for the purpose of a particular trading, commercial, financial undertaking with a view of making profit with each participant contributing money, property or skill. Such a joint venture will often be a partnership. The term is however opposite to refer to a joint undertaking or activity carried out through a medium other than a partnership such as a company, a trust, an agency or joint ownership.

It is important for the parties in a joint venture agreement entered into for a specific business purposes to hold out as partners. To the extent they do, their relationship falls to be categorized as a partnership which will attract the usual legal implications of partnerships under the partnership Act

Blacks Law Dictionary 8th edition defines a joint venture as A business undertaking by two or more persons engaged in a single defined project. • The necessary elements are: (1) an express or implied agreement;

(2) a common purpose that the group intends to carry out; (3) shared profits and losses; and (4) each member's equal voice in controlling the project.

(II) WHAT are the documents to be drafted and necessary fees

These are provided for under S. 252 of the Companies Act.

- (i) A certified copy of the charter, statutes or memorandum and articles of the company
- (ii) A list of the directors and secretary of the company containing the particulars mentioned in subsection. The list referred to shall contain the following particulars with respect to each director and secretary
- (iii) A statement of all subsisting charges created by the company. Form 13
- (iv) The names and postal addresses of one or more persons resident in Uganda authorized to accept on behalf of the company service of process and any notices required to be served on the company;
- (v) The full address of the registered or principal office of the company.

Fees payable

Head C of The Companies (fees) Rules 2005 provides that \$250.00 should be paid for registering certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, where the instrument is not written in the English language, a certified translation of the instrument.

\$55.00 should be paid to register any other document required to be delivered to the registrar under S.252(1) of the Companies Act

PART 2 documents

Company Form 24

Reg 29

THE REPUBLIC OF UGANDA

THE COMPANIES ACT

LIST OF DIRECTORS AND SECRETARY OF FOREIGN COMPANY.

(Under section 252 (1) (b) of the Act)

Name of Company.....(*insert name of company*) Presented
by (a)

PARTICULARS OF THE PERSONS WHO ARE DIRECTORS

PARTICULARS OF INDIVIDUAL DIRECTORS

Names (first name and surname)	Date of birth	Address	Nationality	Occupation	Other Directorships

PARTICULARS OF CORPORATE DIRECTORS

Corporate Name	Registered or principal Office	Postal address

(b) PARTICULARS OF THE PERSON (S) WHO IS SECRETARY

PARTICULARS OF INDIVIDUAL SECRETARY

Names (first name and surname)*	Residential and postal address

*state any former first and surnames

PARTICULARS OF CORPORATE SECRETARY

Corporate Name	Registered office

Dated the day of the year.....

Signed

Director

Signed

Secretary

Company Form 25

THE REPUBLIC OF UGANDA

THE COMPANIES ACT

**LIST OF NAMES AND ADDRESS OF PERSONS RESIDENT IN UGANDA
AUTHORISED TO ACCEPT SERVICE ON BEHALF OF A COMPANY
INCORPORATED OUTSIDE UGANDA**

(Under section 252 (1) (d) of the Act).

List of Persons Resident in Uganda authorised to accept on behalf of the Company

Service of Process and any Notices required to be served on

.....(*insert name*

Reg 29

of company), a company incorporated in

(insert country of incorporation) and which has established a place of business

in Uganda at

Names (first name and surname)	Address	Occupation

Signed*

Dated the

.....day ofthe year

**Signed by the person authorised to act on behalf of the company under section*

252(1), (d).

Company

Form 26

THE REPUBLIC OF UGANDA

THE COMPANIES ACT

**ADDRESS OF THE REGISTERED OR PRINCIPAL OFFICE OF A
COMPANY INCORPORATED OUTSIDE UGANDA** (*Section 252 (1) (e) of
the Act*)

NOTICE

NOTICE of the situation of the Registered or Principal office of

Reg 29(3)

.....(*insert name of company*), a company
Incorporated in (*insert country of incorporation*) and
which has established a place of business in Uganda
at.....

TO THE REGISTRAR OF COMPANIES:

I hereby give notice, in accordance with section 252(I) (e) of the companies Act
that the Registered office of the Company is situated at.....

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

Signed*

Dated thisday of the year.....

**Signed by the person authorised to act on behalf of the company under section
252(1)(d).*

Reg. 30,

THE REPUBLIC OF UGANDA
THE COMPANIES ACT

CERTIFICATE OF REGISTRATION OF FOREIGN COMPANY (Under section 253 of the Act)

I CERTIFY THAT:

(insert name of company) has this day been registered as a foreign company under the
Companies Act, 2012 with the following company
number.....

Dated this.....day of.....the year.....

..... REGISTRAR OF COMPANIES

Company Form 13

Reg 23(2)

THE REPUBLIC OF UGANDA
THE COMPANIES ACT

STATEMENT OF ALL SUBSISTING CHARGES CREATED BY THE COMPANY BEING
CHARGES OF THE KIND SET OUT IN SECTION
105(3) THE ACT AND NOT BEING CHARGES COMPRISING SOLELY
PROPERTY SITUATE OUTSIDE THE REPUBLIC OF UGANDA.

(Under section 105 (3) of the Act)

Name of the company:

Presented by:.....

The company hereby gives notice that the following charges created by the company are subsisting:—

Date & Description of the instrument creating or evidencing the mortgage or	Amount secured	Short Particulars of property mortgaged or charged	Names, addresses and Description of mortgages or persons

Signature

Designation of Position in relation to company

Dated thisday ofthe year

Company Number

PART 3

Effect registration of the entity in 1 i) in Uganda

Have the required documents ready. Fill in the particulars

File the documents at the Registry of Companies at the URSB and upon satisfying themselves as to the contents.

Pay the requisite fees

Registrar issues a certificate.

Section 252 (1) of the Companies Act provides that a foreign company which, **establishes a place of business within Uganda shall**, within **30** (thirty) days after the establishment of the place of business, deliver to the registrar for registration a copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company. The documents listed under S.252(2) as discussed above should be attached and requisite fees paid

Head C of The Companies (fees) Rules 2005 provides that \$250.00 should be paid for registering certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and, where the instrument is not written in the English language, a certified translation of the instrument.

\$55.00 should be paid to register any other document required to be delivered to the registrar under S.252(2) of the Companies Act

According to **Section 253 (1)** on the registration of the documents specified in section 252 the registrar shall issue a certificate signed by him or her that the company has complied with that section, and that certificate shall be conclusive evidence that the company is registered as a foreign company under this Act.

PART C

Blasio Mpiima has the blessing of his wife **Kentaro Eudancio** decided to run **Meketa Foods** alone. However, **Mpiima and Kentaro** would like to ensure the continuity of the business should **Blasio** who is now aged 83 years die. **Blasio** trusts his wife **Kentaro** who is a *tender* 55 years old to carry on this wish. **Blasio** believes that his wife **Kentaro** and son **Bobi Matyansi** can take over and run the business upon his demise.

i) The best possible business organization to set up

The best possible business organization to set up would be a single member company.

Since 2012 when company law in Uganda was reformed and a new legislation, The Companies Act 2012 put in place, several changes were introduced in relation to company formation and management. One of the landmark changes was the introduction of a single member company. Unlike before 2012 where every company had to be constituted of at least two members, a single person, be it individual (natural person) or corporate (artificial entity) may register a company as sole member and shareholder.

S.4 of the Act provides that any **ONE** or two persons may for lawful purposes form a company by subscribing their names to the memorandum of association or registering the company as provided under the Companies Act.

Single Member Companies have been provided for under the Companies (Single Member) Regulations, 2016 which provide the procedure for their registration.

Under Regulation 3 a single member company is a company incorporated under the Act with one person; whether natural or corporate.

The single member company is the best option because in the facts we are made aware that Kentaro Eudancio, the wife of Blasio Mpiima has given her blessing for their informal business, Meketa Foods to be run by her husband alone. Therefore Blasio can register a single member company in which he could be succeeded by his wife and son Bobi Matyansi.

Procedure for registration:

According to Regulation 4 of The Companies (Single Member) Regulations, 2016, any person who wishes to form a single member company shall submit to the registrar a duly filled form for registration of a company specified in the Second Schedule to the Act. This form may be in hard copy or electronic form as per regulation 4 (2). However where the form is submitted in

electronic form, the promoter shall, in addition, print out the duly filled form and submit it to the registrar.

Pursuant to regulation 4 (4), every form for the registration of a single member company shall be accompanied with the prescribed fees.

Under Regulation 5 (1) the form of the memorandum of association of a single member company, if any, shall, with necessary modifications, be in accordance with the form set out in Table B of the Second Schedule to the Act. A single member company may also adopt or modify the articles of association contained in the First Schedule to these Regulations.

The nature of a single member company is that there is a single director and that can be problematic if such director dies and for such reason, S. 186 of the Act provides that (1) A single member shall nominate two individuals, one of whom shall become nominee director in case of death of the single member and the other shall become alternate nominee director to work as nominee director in case of non-availability of the nominee director.

This is reiterated in Regulation 6(1) of the Regulations which provides that a person registering a single member company shall, at the time of incorporation, file with the registrar the particulars of a nominee director in **Form 1** set out in the Second Schedule. Regulation 6(2) provides that a nominee director or alternate nominee director shall be an individual; not being the secretary of the company or member of the company.

Regulation 7 is to the effect that the memorandum, if any, and articles of association of a company, shall be submitted to the registrar at the time of submitting the form for the registration of the company.

The registrar shall, upon the registration of a company, issue to the company a certificate of incorporation in **Form 2** set out in the Second Schedule. Reg. 8

According to regulation 9, every single member company shall add the initials “SMC LTD” or the words “Single Member Company Limited” at the end of its name.

Online registration:

Conduct a search. This process takes between two days to two weeks. You are required to fill a form at Uganda Registration Services Bureau (URSB). Charges for this service is Ush 2,000.

Once the Uganda Registration Services Bureau (URSB) confirms that your name is unique and non-existence in their system, they reserve it until you fully register your business. Name reservation is done once an individual fills a form and submits it to the Uganda Registration Services Bureau (URSB). The fully filled form is returned to the same institution together with a fee which should not exceed Ush 23,000. The amount should be paid at the bank.

The form obtained from the URSB should have the following details:

i) Business name

ii) Nature of the business

iii) Name, surname, nationality and place of residence

Name reservation takes 30 days. If the period elapses, an individual must do reservation again; this must include the name reservation fees.

Log into Uganda Revenue Authority website and obtain a form which will enable you fill the details, submit and wait for your URA pin. This pin is very important, especially when applying for a tender.

Once you have submitted the required details to the Uganda Registration Services Bureau

(URSB), wait for one month to confirm whether you are fully registered.

ii) the structures he needs to set up and the role kentaro will play.

It should be noted that the key organs of the company are, the board of directors and the secretary who is charged with the duties of a secretary provided for under the Act.

Nominee director;

Regulation 3 defines a nominee directors as an individual nominated by a single member company to act as director in case of death of single member

S. 186 provides for director of a single member company. It states;

(1) A single member shall nominate two individuals, one of whom shall become nominee director in case of death of the single member and the other shall become alternate nominee director to work as nominee director in case of non-availability of the nominee director.

This is reiterated by Regulation 11.

This means Kentaro should be appointed a nominee director.

The roles played by a nominee director are stated in **S. 186(2) and regulation 11(2)**.

(2) The nominee director shall—

(a) manage the affairs of the company in case of death of the single member until the transfer of shares to legal heirs of the single member;

(b) inform the registrar of the death of the single member, provide particulars of the legal heirs and in case of any impediment report the circumstances seeking directions within fifteen days after the death of the single member;

(c) transfer the shares to the legal heirs of the single member; and

(d) call the general meeting of the members to elect directors.

Alternate nominee director

Regulation 3 defines an alternate nominee director as **an** individual nominated by a single member company to act as a nominee director in case of non-availability of the nominee director. The appointment of an alternate nominee director is provided for under S. 186 of the Act and Regulation 11.

Secretary.

S. 187(1) provides that every company shall have a secretary and a sole director shall not also be secretary. But subsection 3 thereof states that Notwithstanding subsection (1) a single member company is not obliged to have a secretary

However regulation 12 provides that subject to S. 187(3), a single member company may appoint a company secretary. Where a single member company appoints a company secretary, the company shall notify the registrar of the appointment in the form and time specified in the regulations.

Other structures are contained in the code of corporate governance under Table F in the schedule

Board of directors. The single member operate as a director but may appoint other directors to form a board of directors. This is a unitary board with executive and non executive directors. It is accountable for the performance and affairs of the company. Its duties are provided for under **Article 4 of table F**, The board is expected to act in good faith with due diligence and care in the interest of the company. It retains full and effective control.

Chairperson and CEO. This is provided for under **Article 3 of table F** that there shall be a division of responsibilities between the CEO and the Board chairperson to ensure no one has unfettered power or authority. They report to the board of directors. They are responsible for the day today operations of the company and can appoint manager..

Internal auditors. These report to all audit meetings and to the CEO and they are charged with the duty to evaluate risk management control and governance. **Table F Article 14.**

Audit committee. Provided for under **table F Article 19** these are charged with the duty to prepare annual reports and the committee chairperson has to answer questions relating to that report.

As per

a. **Board committee. Table F article 7** shall assist the board in the performance of its duties. There shall be transparency and full disclosure of committee matters. This committee is chaired by the non executive director, and these include the audit committee, remuneration committee.

How his wife and/or son will be able to take over the business upon his death

The best way to take over the business upon Blazio's death is by converting a single member company into a private company. This is after transferring the shares into their names.

S. 87 of the Companies Act 2012 provides that (1) A single member company may transfer or allot shares on the death of the single member.

Subsection 3 provides that (3) In case of death of single member, the company may either be wound up or be converted into a private company not being a single member company for which— (a) the nominee director shall transfer the shares in the name of the legal heirs of the single member within thirty days;

(b) the company shall pass a special resolution for change of status from single member company to private company not being a single member company and alter its articles accordingly within thirty days of transfer of shares; and

(c) the members shall appoint or elect one or more additional directors in accordance with this Act and within fifteen days of date of passing of the special resolution and notify the appointment to the registrar.

Subsection 6 provides that (6) Where a single member company converts into a private company pursuant to subsection (1), it shall file a notice in writing, with the registrar within sixty days from the date of passing of special resolution.

Regulation 9(2) provides that where a single member company converts into a private company under S. 87 the company shall deliver to the registrar the certificate previously issued and the registrar shall issue a new certificate.

Regulation 10 (2) provides that. Where a single member company converts into a private company, it shall;

- a. Appoint and notify the registrar of the appointment of directors within fifteen days from the date of the appointment.
- b. File with the registrar, a notice of conversion from a single member company to a private company in **Form 4** within 60 days from the date of the resolution of conversion.

Under sub regulation 3, on conversion, the positions of nominee director and alternate nominee director shall cease.

In this case, the nominee director will have to notify the registrar of companies of the death of Blasio and also provide the particulars of Blasio's personal representatives, that is, Kentaro and Bobi. He will then have to transfer shares to Blasio and Kentaro and call a meeting for them to elect directors. That way, they shall have become members of the company and they shall then take over the business.

PART C (2)

Explain the salient features of the necessary documents

Memorandum of Association

i) name of the company ii) Share capital

The companies act as amended has codified the fundamental company law rule that dividends must not be paid out of capital and can only be paid out of profits available for that purpose

iii) Objects

iv) Signature of subscribers the subscriber's occupation and postal address

Articles of Association

These are found in the first schedule of the regulations as provided for by Regulation 5(2)

They contain an interpretation clause, nature of the company as a single member, shares and share capital, transfer and transmission of shares, change of status, meetings, notice of general meetings, directors, secretary, dividends, accounts, indemnity, notices, and company seal.

Form for registration.

This is found in the second schedule to the Act. It contains name of the company, subscribers address, place of business, nature of business, proposed share capital and signature of subscribers.

PART D

PART D

Suppose upon incorporation of the local entity in workshop No. 1 above, the parties inform you that as a corporate citizen and part of its corporate social responsibility their company would like to;

a) Fund and assist People Power movement of Bobi Wine in their quest to resist misrule by the ‘misleaders’

b) Assist Batwa youth in Bwindi by equipping them with skills relating to crafts and how to fight poverty, and to this end are willing to avail some of the real estate to collect rental and royalties to support this cause. The company is also ready to provide some funds from its profits for this cause.

The entity however intends to do (a) & (b) through an independent entity.

Advise the parties on;

i. the considerations to make before implementing the decision above

Corporate Social Responsibility is a concept whereby companies integrate social and environmental concerns into their business operations and in their interaction with their stakeholders (employees, customers, shareholders, investors, local communities, government), on a voluntary basis. Corporate responsibility programs can help businesses entice customers, attract and retain talent, assure investors, reduce operating costs, improve employee morale and enhance a company's reputation.¹

Before carrying out corporate social responsibility a number of factors must be taken into consideration.

It must be in line with the company's objectives, vision and mission. In the case of *Hutton V. West Cark Railway Co. (1883) 23 ch D 654*

Court Held that directors can not spend money which is not their's but the Company's if they are spending it for the purposes which are incidental to the Company.

The project being undertaken should have demonstrative support of the beneficiaries. The Company should make no profits from it.

Benefits and limitations; business owners should understand the benefits and limitations of corporate responsibility programs in order to choose an initiative that benefits the community and the company.

Corporate responsibility programs must be embraced and supported by top management and woven into company culture and operations.

Regulatory framework. Before establishing a charitable cause, you need to be guided by the laws of the country. Some acts are prohibited by law.

Culture of the community. It is important to consider the cultural behavior of the community within which to operate. For example which can kind of basic needs are acceptable among the Batwa tribe.

Level of economic development; a good charitable cause should aim at alleviating the poor living conditions.

Corruption; most people use charitable entities to benefit themselves

Environmental issues; whether the activities to be carried out have an effect on the environment. Human rights; this must be put into consideration; for example the members want to exploit the cheap Labor of the Batwa people. This could lead to violations of Labor rights. Availability of Labor and human resource; which people will put the desire into effect.

ii. the most appropriate entity that can be established in Uganda to carry out the activity

Non- Government Organizations.

The most appropriate entity is the Non-Governmental Organization governed by the NGO Act of 2016.

This is provided for under the Non-Governmental Organization Act 2016

S. 2 defines an "Organisation" to mean a legally constituted non-governmental organisation under this Act, which may be a private voluntary grouping of individuals or associations established to provide voluntary services to the community or any part, but not for profit or commercial purposes;

Section 4 (e)(i) is to the effect that the Non-Governmental Organization shall promote and to develop a charity culture that is voluntary, non-partisan and relevant to the needs of the and aspirations of the people of Uganda. Therefore an NGO may be established assist the youth in Bwindi by equipping them with skills relating to crafts and how to fight poverty.

Under Section 44 (g) of the NGO Act require the Organization to be non-partisan and shall not engage in fundraising or campaigning to support or oppose any political party or candidate for an appointive office or elective political office, nor may it propose or register a candidate for elective political office

However that our client's wish maybe to assist people power movement of Bobi Wine in the quest to resist misrule by misleaders it is our cardinal role to advise our client who wants to invoke the 2 objectives in one independent entity that, the Law under NGO Act may not favor him to converse assistance for any political movement and this is manifested

Procedure;

S.29 (1) Non-Government Organization Act- a person or group of persons incorporated shall register with the Bureau

Regulation 3 (2) NON-GOVERNMENT ORGANIZATION Regulations 2017-provides for the form of the application as being in Form A in the Schedule and shall be accompanied by;

- evidence of a statement in the application as the Minister may prescribe by the regulations.
- certified copy of the certificate of incorporation
- a chart showing the governance structure of the organization
- a copy of the constitution
- evidence of payment of fees
- source of funding of the activities of the organization
- copies of valid identification documents for at least 2 founder members

minutes and resolutions of the members authorizing the organization to register with the Bureau

a statement complying with S.45 of the Act

a recommendation from District NON-GOVERNMENT ORGANIZATION Monitoring Committee where the headquarters are located and the responsible ministry or ministries or a government department or agency.

Regulation 3 (3)- the application for registration shall be signed by at least 2 founder members
S.29 (3) Non-Governmental Organisations Act/ Regulation 5 the Bureau shall register the entity upon proof of the above requirements and shall issue a certificate of registration to the organization as in **Form B**.

S. 30 (a) Non-Governmental Organisations Act is to the effect that an organization shall not be registered where it is in contravention with the laws of the country.

Regulation 6 states that where the Bureau refuses to register an organization, the Bureau shall give the reasons for the refusal and notify the organization for its decision within 30 days from the date of refusal, notification is in **Form C**.

In our facts, the company wants to provide funding and assistance to the Peoples Power Movement of Bobi Wine in their quest to resist misrule by the leaders.

Regulation 7, requires the parties to include the objectives of the entity which in our facts among others is to *'fund Peoples Power Movement'*. The application is likelt to be granted on grounds that one of the objectives is unlawful in contravention with section 30 (a) of the Non-Governmental Organizations Act

S.30 (b) Non-Governmental Organisations Act states where the application for registration does not comply with the requirements under the Act it may not be registered. **S.3 the Act** restricts organizations from making profits and engaging in commercial purposes.

In our facts, the company intends to equip the Batwa youth with skills relating to crafts and fight poverty and real estate to collect rentals and royalties to support this cause. The company is ready to provide some funds from its profits for this cause. The company's objective of equipping the Batwa youth with skills in crafts and fighting poverty is in line with **S.3 of the NON- GOVERNMENT ORGANIZATION Act.**

Regulation 7- an organization shall upon registration apply to the Bureau for a permit in **Form D.**

The application for permit shall specify the following: the operations or objectives of the organization, staffing of the organization, geographical area of coverage of the organization, location of the organization's headquarters, evidence of payment of the prescribed fees and intended period of operation not exceeding five (5) years

Regulation 7 (4)- subject to S.31 of the Act and this regulation, the Bureau shall not issue an organization with permit to operate in the permit beyond five years.

The permit shall be in Form E indicating the name, the operations or objectives, geographical area of operation and the date of issue and expiry of the permit.

Regulation 8-provides for conditions under which the permit is to be used as follows;

- (i) The permit shall not be used for purposes or objectives other than those specified in the permit, and an organization shall not engage in any form of activity relating to sector than the sector specified in the permit.
- (ii) The permit shall not be transferable to any other organization or person
- (iii)The permit shall be specific to the geographical area of operation specified in the permit
- (iv)The organization shall within fourteen days after making any change in the area of operation, headquarters of the organization or activities, notify the Bureau of the change.
- (v) Any other condition that may be specified in the permit by the Bureau.

Regulation 41 provides that an organization seeking to operate in a district shall seek in writing the approval from the District NON-GOVERNMENT ORGANIZATION Monitoring Committee & the Local Government of that district.

Regulation 42 provides that where the District NON-GOVERNMENT ORGANIZATION Monitoring Committee and the Local Government has approved an organization to operate in a district, the Local Government shall sign a Memorandum of Understanding with the organization to carry out its activities in the district. The MOU has a template in **Form V** in the Schedule.

Therefore, the company must seek for permission from the district in which they want to operate.

FORM A

regulation 3 (2)

THE REPUBLIC OF UGANDA

THE NON-GOVERNMENTAL ORGANISATIONS ACT, 2016

APPLICATION FOR REGISTRATION.

To the Executive Director

National Bureau for Non-Governmental Organisations

We the undersigned members hereby apply for registration of an organisation under the Non-Governmental Organisations Act, 2016.

(a) Name of the incorporated organisation.....
.....
.....
.....

(b) Nationality of the members

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

(c) Physical address of the

organisation.....

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

(d) Telephone contacts of the

organisation.....

.....
.....

(e) Name of each organisation or group established outside or inside
Uganda, if any, to which the organisation is affiliated or connected to

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.....
.....

NO. 2

FORM D

regulation 7 (2)

THE REPUBLIC OF UGANDA

THE NON-GOVERNMENTAL ORGANISATIONS ACT, 2016

APPLICATION FOR A PERMIT

To the Executive Director National Bureau for Non-Governmental Organisations

We the undersigned members hereby apply for a permit for an organisation registered under the Non-Governmental Organisations Act, 2016 or the Companies Act, 2012 or the Trustees Incorporation Act.

(a) Name of the registered organisation.....
.....

..... (b) The registration number of the organisation
.....

(c) Physical address of the organisation.....
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.....

(d) List of operations/ objectives of the organisation
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.....

(e)The staffing structure of the organisation

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N0.3

FORM F

regulation 9 (1)

THE REPUBLIC OF UGANDA

THE NON-GOVERNMENTAL ORGANISATIONS ACT, 2016

APPLICATION TO REVIEW A PERMIT

To the Executive Director National Bureau for Non-Governmental Organisations

We the undersigned members hereby apply for a review of a permit issued by the Bureau.

(a) Name of the registered organisation.....

.....

..... (b) The registration Number of the organisation

.....

(c) Physical address of the organisation.....

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.....

(d) List of operations/ objectives of the organisation include.....

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(e) Specify the changes proposed and the justification for the proposed changes.....

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TRUSTS

The most appropriate entity that can be established in Uganda to carry out the activity.

There are a number of bodies through which an entity can carry out charitable work. These include company limited by guarantee, Non-Governmental Organisations and Trusts.

The facts show that the company wants to

c) Fund and assist People Power movement of Bobi Wine in their quest to resist

misrule by the ‘misleaders’

d) Assist Batwa youth in Bwindi by equipping them with skills relating to crafts and how to fight poverty, and to this end are willing to avail some of the real estate to collect rental and royalties to support this cause. The company is also ready to provide some funds from its profits for this cause.

To realise these objects, the appropriate entity is a trust. A company limited by guarantee requires incorporation under the Companies Act and has more requirements which might make it hard for this company to establish another company.

A Non-Governmental Organisation is established under the NGO Act 2016 which has stringent procedures and requirements in order to form one. Under S. 44, an NGO should be non-partisan. Therefore it wouldn’t fit these objects. Further NGO is not viable because it requires more administrative presence, more employees and supervision.

This leaves an incorporated trust as the most appropriate entity. This is because the employees can do the work at the same place of business and doesn’t have many restrictions on establishment.

INCORPORATED TRUST

This is governed by the **Trustees Incorporation Act Cap 165**.

Section 1 of the **Trustees Incorporation Act** provides that a trustee(s) may be appointed by anybody or association of persons established for any religious, educational, literary, scientific, social or charitable purpose and such trustee(s) may apply in the manner herein after mentioned to the Minister for a certificate of registration of the trustee(s) of such body or association of persons as a corporate body.

If the Minister having regard to the extent, nature and objects and other circumstances of such body or association of persons considers that incorporation expedient they may grant such certificate accordingly subject to such conditions or directions generally as s/he shall think fit to insert in the certificate relating to;

- (i) The qualifications and number of trustee(s)
- (ii) Their nature and avoidance of office
- (iii) The mode of appointing new trustees
- (iv) The custody and use of the common seal
- (v) The amount of land the trustees may hold and the purpose for which that land may be applied

The procedure and documents required.

Appointment of trustees. This requires a company resolution. The trustees should form a board of trustees and proceed to be incorporated.

An application letter; the procedure is by making a written application letter to the Minister for a certificate of incorporation.

S. 1 provides that the trustees appointed may apply for a certificate of incorporation.

S.3 is to the effect that every application to the Minister for a certificate under this Act shall be in writing signed by the person making it and shall contain the several particulars specified in the Schedule of this Act or as may be prescribed or such of them as shall be applicable to the case.

According to the schedule these are the **Particulars to be inserted in applications for incorporation**

- (i) The objects of the of the body or association of persons, and the rules and regulations of the body or association of persons, together with the date of, and parties to every deed, will or other instrument, if any, creating, constituting or regulating the body or association of persons.
- (ii) The statement and short description of the land or interest in the land which at the date of application is possessed by or belonging to or held on behalf the body or association of persons.
- (iii) the names, residences and additions of the trustees and the manner and date of their appointment, their number, qualification, tenure and avoidance of office;
- (iv) Mode of appointing new trustees
- (v) The proposed title of the proposed body of which title the words ‘‘registered trustees’’ shall form part.
- (vi) The proposed device of the common seal.
- (vii) The regulations for the custody and use of the common seal.

Subsection 2 thereof provides that (2) The Minister may require such declaration or other evidence in verification of the statements and particulars in the application, and such other particulars, information or evidence as he or she may think necessary or proper.

Regulation 2 of the **The Trustees Incorporation Rules** Statutory Instrument 165—1 provides that every application for a certificate of registration as a corporate body shall be submitted to the commissioner for land registration and shall in substance follow Form I in the First Schedule to these Rules.

S. 9 provides that on every application for a certificate of incorporation under this Act, and on the issue of every such certificate, the prescribed fee shall be paid.

Regulation 6 of the **The Trustees Incorporation Rules** Statutory Instrument 165 provides that The fees set out in the Second Schedule to these Rules shall be payable in respect of the matters specified in that Schedule. This is 20,000 upon submission of an application for a certificate of registration as a corporate body

S. 4 provides that Before a certificate of incorporation is granted, the trustees or trustee shall have been effectually and lawfully appointed to the satisfaction of the Minister.

S.1(2) provides that if the Minister, having regard to the extent, nature and objects and other circumstances of such body or association of persons, considers that incorporation expedient, he or she may grant such certificate accordingly

On grant of certificate S.1(3) provides that the trustees or trustee shall thereupon become a body corporate by the name described in the certificate, and shall have perpetual succession and a common seal, and power to sue and be sued in the corporate name

S. 6 is to the effect that a certificate of incorporation granted under this Act shall be conclusive evidence that all the preliminary requisitions herein contained and required in respect of the incorporation have been complied with, and the date of incorporation mentioned in the certificate shall be deemed to be the date at which incorporation has taken place.

DOCUMENTS

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE TRUSTEES INCORPORATION ACT CAP 165

AND

IN THE MATTER OF LIMITED

RESOLUTION

At the Board of Directors meeting of the Company held at its registered offices on the day of 2018 to consider the establishment of an incorporated trustee, it was resolved and passed as follows:-

- i. That an incorporated trust be registered to assist the Batwa tribe.

- ii. That real estate be availed to collect rental and royalties to support this cause
- iii. A board of trustees be appointed for this cause.
- iv. That the following persons be appointed as trustees for purposes of incorporating a trust.
 - a.
 - b.
 - c.

Dated at Kampala this.....day of.....2018

..... DIRECTOR

.....

DIRECTOR

Form I.

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE TRUSTEES INCORPORATION ACT CAP 165

Application for Certificate of Registration.

To the Minister,

I/We have the honour to apply for a certificate of registration as a corporate body under the Trustees Incorporation Act. I/We desire to be regulated in the manner set out in the subjoined particulars and in the documents attached.

Date , 20 ____

Signatures of all Applicants Being the
Trustees of the Proposed Corporate Body

Particulars.

(It is unnecessary to set out below any particulars contained in any printed book of rules, instrument or document attached.)

1. The objects of the proposed corporate body are' __

2. A copy of the rules of the attached(*state name of body or association*) is

(if none submitted so state) _____

3. Copies of the following instruments or documents are attached

(state nature, setting out date and parties to the instruments or documents; if none submitted so state)

4. It is desired to acquire the following (*interest in*) land

(give particulars of situation, title, reference and area; and state if already held on behalf of the body or association)

5. The number of trustees of the proposed corporate body is

6. The names, addresses and occupations of the trustees are _____

(in full in block letters) _____

7. The trustees have been appointed in the following manner—

(certified copy of the minute relating to any resolution of any meeting, with full particulars thereof to be attached)

8. The proposed qualification of future trustees is__

9. It is proposed that the trustees shall hold office for _____ (*state period*)

9. Any trustee may avoid his or her office (*in the following circumstances*) _____

11. Any trustee may be removed from his or her office (*in the following circumstances*) _____ (*state where and by whom*)

12. The proposed mode of appointing new trustees is _____

13. The proposed name of the corporate body is the Registered Trustees of _____

14. The common seal shall be kept _____

15. The common seal shall be affixed in the presence of _____

Trustees) and the (*state number of tr* _____

16. The proposed device of the common seal is as below—(specify any officer of the

LAND TRANSACTIONS.



BRIEF FACTS

Major Allan Nkusi who just received his retirement terminal benefits from UPDF is interested in acquiring properties of Brenda Komugabe, land comprised in LRV 1289, Folio 15 , Plot No Misc 437, Ntinda- Kampala developed with the commercial house in occupation of her tenants, land in her children's names comprised in Kyadondo Block 83, Plot 818 Bubale.

Further still, he intends to buy other pieces of land from Brenda Komugabe using his company Reach the Rich Ltd to wit FRV 98, Folio 27, Plot 11 Kyotokyamandwa partly used by Brenda's family for cattle, sheep, goats rearing and the other 20 acres being in use for subsistence and commercial farming and the other remaining part being in exclusive use of Bitumen Byekwaso who inherited it from his late father 40 years ago. There is also land comprised in Kyandodo Block 224, plot 620, Kisugu, developed with a residential house in occupation of Brenda Komugabe's entire family.

ISSUES

What are the pertinent aspects of Komugabe Brenda's land as discerned from the certificates of title?

What are the requisite steps and inquiries to undertake to establish the viability of purchasing Brenda's land?

What are the necessary documents to be drafted?

Whether there are any identifiable third party rights and legal factors that substantially affect the purchase of Brenda's land?

What is the most appropriate document to conclude the sale and purchase of Kyadondo Block 244 Plot 620 Kisungu land?

What steps would be undertaken to cause Nkusi obtain legal interest in this land?

What are the levies, duties and fees payable in the in the process of obtaining legal interest in this land?

What are the likely ethical issues that may arise in the course of completion of this transactions and how to address them?

Law applicable.

The 1995 Constitution of Uganda as Amended.

The Registration of Titles Act Cap 230.

The Land Act Cap 227 as amended.

The Land Regulations of 2004 as Amended.

Physical Planning Act of 2010, No. 8 of 2010.

The Survey Act Cap 232

Stamp's Act Cap 342 as Amended.

Registration of Documents Act Cap 267.

The Advocates Professional Conduct Regulations S.1 267-2

Issue 1. What are the pertinent aspects of Komugabe Brenda's land as discerned from the certificates of title?

Certificate one

Cover page- The cover page is descriptive and shows that the title is issued by the Uganda government, the laws under which it is issued, the County, block and a plot which all give the description of the land.

It also bears the seal of the issuing authority.

Part 1;

This part describe the type of tenure, size of the land, location, district, County, Township, Block and plot number and the endorsement and seal of the Registrar.

It also shows easements and any other rights existing on the land.

Part II of the title.

Part II of the title is about ownership. It shows previous and current ownership and specifically shows the date of registration, instrument number, previous and current proprietors' addresses, father's name, clan, encumbrance, price paid per acre and signature of the registrar. So we are able to figure out our current proprietor Brenda.

Deed plan

The deed plan gives detailed geographical description.

It shows the location, computed dimensions and size of the land.

The deed plan can be used for identifying physical features near the titled land. It provides for various plot numbers, easements, rights, highways etc.

Part III of the title

This part provides for encumbrances if any registered in respect to the land. It provides for the date of registration, instrument number, names and addresses of service for mortgagee, creditor, caveator etc, particulars of encumbrances or entry and Registrar's endorsement. In our title 1, there is a subsisting lease registered on 21st April 1971, instrument number Kla 60551 by Jean Barker of P.o Box 1337 Kampala, lease for 99 years from 17th March 1965 and a withdrawn caveat by Paulo Wandera which was withdrawn on 1st November 1996 at 9:40 under Kampala instrument 181040.

It also shows there was a caveat lodged by Paul Wandera but the same was withdrawn in 1996 before selling to Brenda.

Certificate two

Cover page.

This gives a description of the land and the type of tenure system.

The above is the free hold title and is one of the land tenure systems provided for in the constitution under article 237(3) (a). Free hold system allows for holding of the land in perpetuity and the owner has full powers to use the land they want to.

It also has the volume number and folio number. The folio number is 27. The folio number is distinct for every property and is what identifies the property in the registry.

It shows the size, location of the land, the stamp and signature of the registrar.

It also has a date on which the title was issued. 5th March 1960.

Part II.

Ownership.

This part shows the different owners from whom the title has revolved from up to the current owner. Once a sale has occurred, the name and address of the former owner is crossed out and the name and address of the new owner is written. The signatures of the registrar and the vendor are written besides the crossed name of the owner, the instrument number and the date and time at which the transfer was registered.

The instrument number represents the number that was given when the transfer forms were registered.

Deed plan.

The deed plan gives detailed geographical description and plot number and also shows the location, computed dimensions and size of the land.

The deed plan can be used for identifying physical features near the titled land.

Part 3

This is the encumbrance page. This shows the equitable interests on the land or any other encumbrances on the land. This land has no encumbrance.

Certificate three

The land in document three is registered under the lease hold register under the registration of titles act cap 230.

Lease hold is one of the land tenure systems provided for in the constitution under article 237(3) (a).

The front page of the certificate of title displays a description of land. It gives the plot no, location of the land, and district. It also shows the volume number and folio whose importance is to help in identifying the piece of land.

The description of land on the certificate of title is meant to clearly state where the land being registered is situate that is plot number 437 at Ntinda Kampala . These descriptions can as well include the street number, the road name where the land is situated and the township or municipality and district.

The certificate of title also contains expressly the size of the land and in this title the land is 0.199 of a hectare. All these are for purposes of properly situating the land in that even if a person was to carry out due diligence, they would know where the land is and easily locate it by searching at the registry of lands.

The next description on the certificate of title is the term of the lease that is five years and the lease is subject to the implied conditions and covenants under the Registration of Titles Act Cap 230 and the lessee is bound by any encumbrances if any entered in the encumbrance register.

The leasehold title is also subjected to a right of way by other members of the public and that is why there is a word easements on the certificate of title.

The next feature is the proprietorship of the lease. The lease according to the certificate belonged to Patrick Moga of P.O BOX 7664 Kampala

Next Patrick Moga sold his lease to Afzal Khan of P.O BOX 10516 Kampala.

There is a provision of a column for inserting the date the lease was registered as well as the day it was sold and the time the entries were made in the register.

The date of issue of title is the next pertinent issue which is the 14th of January 1984.

There under is the signature of the registrar of titles and the seal thereto.

The current owner of the lease is Komugabe BRENDA OF P.O BOX 445195 KAMPALA.

The most important feature of this title is that a lease agreement between the lessor and the lessee must be attached on the register. As such the lease in question was made on the 16th day of December 1983 under the Public Land Act and the rules between Uganda Land Commission the lessor and Patrick Moga of P.O BOX 7664 Kampala who is the lessee .

The lease agreement contains or stipulates the terms and conditions under which the lease is granted. That the lease of the demised premises is granted in return of a consideration of 80,000 shillings paid to the lessor and the lessor acknowledges receipt.

This money shall be paid yearly in two installments one installment at the beginning of January each year and another in July and that these installments shall be equal in value.

The third paragraph in a lease agreement contains the conditions that the lessee agrees to;

To observe and perform all conditions and covenants implied by law in the lease.

The lease agreement fully contains the terms and conditions that both the lessor and lessee will follow or abide by and at the end of the lease are signatures of the parties and witnesses thereto.

Once the lessee passes on the lease to another person the person acquires the lease subject to the terms and conditions and the lease is registered in the volume as an encumbrance on the freehold or mailo title of the leased land.

Further the lease agreement contains an automatic renewal clause of 49 years.

The next element of the title is the *deed plan* which shows the accurate location of the land and the easements on the land and other physical features like swamps on the land. The main purpose of the deed plan is to show location basically of the demised premises.

The next pertinent issue is the page for *encumbrances* on the title. This page is meant to register registrable third party interests in the land and in this case we notice that there is actually no encumbrance on the land.

In conclusion therefore the pertinent distinctions between a lease hold title and other titles is that it is formed by contract between the parties, then it runs for a specific period of time compared to freehold and mailo which are owned in perpetuity. Then the tenant is usually required to pay a fee as rent or premium for a certain period of time and lastly the lessee only uses the land in line with the terms and conditions laid down in the lease agreement.

Certificate four.

The pertinent aspects of land comprised in Kyadondo Block 83 plot 818, Bubale.

The first pertinent aspect, at the cover page shows the land is registered under the laws of Uganda as it is titled 'UGANDA' at the start and is registered under the registration of Titles Act as titled.

It is also showing the location of the property and that it's located in Wakiso District, Kyadondo County at Block 83, plot 818. Complying with a format and procure laid down in section 38 and the 3rd schedule of the Registration of Titles Act cat 230.

It is showing the description of the property in part 1 as the land situate at Bubale and its private Mailo Land. Mailo ownership is one of the land tenure systems provided for in the constitution under article 237(3). This system allows for the ownership of land in perpetuity but also allows for the separation of ownership on the land from the ownership of the developments on the land by a lawful or bonafide occupant.

The title also shows the area in hectares occupied by the land as 0.6150 counter signed by the registrar and the proprietor of the land, indicating the authenticity of the title issued.

Part 2 is indicating the ownership of the land title as Phylis Koku who is still a minor until the 10th may 2025 and Fillian Mpako alos aminor until 17th July 2023 c/o P.O.BOX 44195, Kampala, and that acquired the said land property on 6/09/2017 at 11:45am , who hand acquired the same land from Malyanga Mukasa and it is well signed by the registrar acknowledging the same.

It shows the location, hectares, and all the borders of the land of Block No 83 Plot 818 as it was surveyed and signed by the surveying officer on the 26/07/2017

It also contains a deed plan.

The last pertinent aspect is that the land has no any encumbrance attached to it, which means that there is no person claiming any interest in the suit land.

Task 1b

Advise the client on all the requisite steps and inquiries you would undertake to establish the viability of the transaction. Draft any documents you would use at this stage.

Art 237 (1) of the constitution of the Republic of Uganda, 1995 provides that land in Uganda belongs to the citizens of Uganda and shall rest in accordance with the land tenure system provided for in this constitution.

Art 236 (3) of the Constitution 1995 provides that land in Uganda shall be owned in accordance with following land tenure systems.

- a) Customary
- b) Freehold
- c) Mailo and
- d) Leasehold.

– Sec.2 of the land Act, Cap 227 as amended provides that subject to article 237 of the constitution, all land in Uganda shall rest in the citizens of Uganda and shall be owned in accordance with the following land tenure systems.

The client is required to carry out due diligence and specific inquiries in order to ensure that the various properties he intends to acquire are legally purchased. In case of any claim from any persons, he would be able to raise the defence of bonafide purchaser for value without notice.

Before an interested purchaser transacts in registered land, there are quite a number of pertinent steps that must be taken to safe guard the interests of a potential purchaser.

Particulars of the land

The intending purchaser should be availed with the particulars of the subject land in terms of description. It must have a block and plot, who is registered on the title, location of the land, how many acres etc.

The purpose of the particulars is to enable an intending purchaser to cause a search at the relevant land registry to confirm not only the proprietorship but also the existence of a white page with corresponding particulars like those on the duplicate.

Uganda Broadcasting Corporation v Sinba K Ltd & Ors

Court found that the purchaser did not make a search at the land registry to ascertain the proprietorship of the property the subject of sale. And held that she had a duty and obligation to ascertain the proprietor of the property even before attempting to bid for it. Had she done so she would have found out that the property she was bidding for did not belong to the respondents. At least she was on full notice. It appears that she actually was well aware of the fact that the respondent was not the registered proprietor but she went ahead to buy the property anyway. She cannot turn around and contend that she is an innocent purchaser for value without notice

Search.

S. 201 of the Registration of Titles Act Cap 303 provides that any person may, on payment of the fee for the time being payable in that behalf, inspect the Register Book during the hours and upon the days of business.

Subsection 2 further provides that the registrar, on payment of the fee for the time being payable for a certified copy, shall furnish to any person applying for it a certified copy of any certificate of title, caveat or registered instrument affecting land under the operation of this Act; and every such certified copy signed by the registrar and authenticated by the seal of the office of titles shall be received in evidence in any court or before any person having by law or by consent of the parties authority to receive evidence as prima facie proof of the original certificate of title.

In the case of **Father Narsensio Begumisa and Ors v Erick Tibebaga SCCA No 17/2002**. Court opined that the purchaser must carry out all due diligence by cross checking the title at hand /examine the certificate of title and all its pages to ensure that all the pages reflect the essential features of a valid certificate of title.

The intending purchaser, Nkusi should therefore after having examined the certificates of title, conduct a search at the land registry to confirm the particulars.

In regards to location, whether the cover page corresponds with part that provides for the Block Number, County, District, and Plot Number.

The purchaser should ensure that the seal and the stamp of the registrar of titles is valid. Easements on the physical land should be checked thoroughly in part I and the Deed plan print. The signature of the purported vendor and name and other previous owners. The name of the current owner should correspond with the vendor. Encumbrances on the title should be brought to the attention of the client.

The procedure is that you write a formal/ordinary letter to the registrar of titles.

The fees payable on the application letter is 10,000 payable to URA under the Registration of Titles (fees) (amendment) Rules 1998

Spousal consent.

Also the intending purchaser should find out whether the land is subject to spousal consent or if there are any equitable interests on the land.

Section 38A of the Act as amended gives every spouse security of occupancy on family land which means a right of access to and a right of residence therein. It provides that every spouse shall in every case have the right to use the family land and to give or withhold his or her consent to any transaction referred to under section 39 which may affect his or her rights. Family land is defined to mean land on which is situated the ordinary residence of a family and inclusive of where the family derives sustenance.

Section 39 (1) of the Land Act Cap. 227 as amended by the Land Amendment Act No. 1 of 2004 prohibits the mortgaging of family land except with the prior consent of a spouse.

Alice Okiol vs. Global Capital Save 2004 Limited HCCS No. 149/2010

; HELD; The requirement for spousal consent is intended to provide security of occupancy on family land unless a spouse consents to doing away with it. That in the absence of written spousal consent to mortgaging the property in issue for the amount stated in the mortgage, the mortgage created over it is void

If the land is family land then consent of spouse must be availed in writing.

Physical visit and opening of boundaries

The person must verify the authenticity of the certificate of title presented by the vendor. This is because the registry of land is authorised under the law to create a special certificate of title where the duplicate is misplaced, destroyed or obliterated. Where a special certificate is issued a white page indicates so and the title itself contains the words 'special certificate'

A certificate of title must contain the particulars of the land that correspond with the ground. It is therefore important for the intending purchaser to cause a boundary opening to confirm whether the boundaries are in tandem/ consistent with the particulars of the land. This is important in case of fraud and also where there is a mistake/error on the title.

Fr. *Nascensio Begumisa v Eric Tibebaga supra*

The appellants pleaded that they were rightful customary owners of the suit land, which was different from, and was located about 2-3 kilometres away from the land described in the certificate of title.

Court found that Block 53 Plot 9 was in Masya parish, and that the suit land was not surveyed, and that it was located in Block 59 in Kijubwe parish. Court **held** that the significance of that evidence lies in the elementary principle of the land registration system under the RTA, namely that a certificate of title relates to only one parcel of land.

Mulenga; "In my view, it follows that the inviolability of a certificate of title is circumscribed in as much as it is confined to the particulars in the certificate. The court therefore, cannot receive the certificate as evidence of particulars, which are not set forth in it. For that reason, and particularly in view of the defence, the respondent also had to show that the particulars in Exh.P1, relate to the suit land on the ground. He fell far short of doing that. The certificate of title, Exh.P1, does not relate to the suit land. It was issued to the respondent in error because it relates to land for which he did not apply. Much as I agree with the trial judge that the respondent cannot be held responsible for that error, I do not accept that he can take advantage of the error and use the certificate to prove ownership of land to which the certificate does not relate"

The question of conducting a search is further discussed in **Uganda Posts and Telecommunications v Lutaaya CA 36/1995** where Court held that the mere search on the register is not enough. The person ought to inquire beyond the register.

Therefore an intending purchaser should undertake a physical visit to the land /physical search to ensure that the particulars of the title reflect onto the land otherwise regarded as boundary opening.

One ought to discover the following;

What is on the land?

Inquiry from the locals, local authority to ensure that the respective pieces of land belong to Brenda Komugabe.

Check with the planning Authority and find out the use under which that land is put. It may be a road reserve.

Check with NEMA whether such land is put under use by the authority; such land may be declared on wet land.

Find out whether the land suits the purpose of your client who is a buyer. He could be planning to bring onto the land developments which are not allowed in such an area or may be such business cannot be sustained in such area.

Consult a surveyor in clarifying and verifying the dimensions, measurements etc on the land in question to be very sure of what your client is going to buy.

The purchaser should further find out third party rights (equitable interests) in the land such as leases, bonafide occupants among others.

It was stated in by Vaughan Williams in **Hunt V Luck** that "... if a purchaser or a mortgagee has notice that the vendor or mortgagor is not in possession of the property, he must make inquiries of the person in possession ... and find out from him what his rights are, and if he does not choose to do that, then whatever title he acquires as purchaser or mortgagee will be subject to the title or right of the [person] in possession."

It was further stated in *David Sejjaka Nalima —Vs- Rebecca Musoke, SCCA No. 12/85* that where a party abstains from making inquiries for fear of learning the truth about a property he is purchasing, that party may be found not to be a bona fide purchaser for value and fraud may be properly ascribed to him.

Therefore in order to be a bonafide purchaser for value without notice it is pertinent to carry out a physical search and ascertain any third party rights in the land.

Documents;

APPLICATION FOR A SEARCH STATEMENT

**SUI GENERIS&CO ADVOCATES
PLOT 24 LD TOWERS 2ND FLOOR
P.O.BO BOX 7117 KAMPALA
20TH OCTOBER 2018**

**TO THE REGISTRAR OF TITLES
KAMPALA CITY COUNCIL AUTHORITY**

Dear Sir/Madam;

RE: APPLICATION FOR SEARCH STATEMENT ON KYANDONDO BLOCK 224 PLOT 620, KISUGU, FRV 98 Folio 27, Plot 11 KYOTOKYAMANDWA, LRV 1289 FOLIO 15 PLOT NO. MISC 437, NTINDA, KAMPALA and KYADONDO BLOCK 83 PLOT 818 BUBALE.

We act for and on behalf of our client **Major Allan Nkusi** upon whose express instructions, we write to you as follows;

That our client is desirous to purchase the land whose particulars are stated here in above. In the circumstances, we kindly request your good office to conduct a search of the above reference title and avail us with the information in that respect so that we can diligently advise our client. The requisite fees have been paid.

We shall be most obliged.

.....

SUI GENERIS &CO. ADVOCATES

1.c. Whether there are any identifiable third party rights and legal factors that substantially affect the purchase of Brenda’s land?

According to *Article 26*²⁸⁶ “Every person has a right to own property either individually or in association with others.” Furthermore *Section (2) of the Land Act* supported by *Article 237* of the Constitution gives ownership of the land to the citizens of Uganda and this right is to be exercised by owning land in accordance with the following land tenure systems;

Customary

Freehold

Mailo

Leasehold

Family property/Spousal consent;

Art 31(1)(b) provides that a man and woman have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution.

Section 38A (1) of the Land Act as amended by the Land Amendment Act, No. 1 of 2004 guarantees security of occupancy of a spouse on family land and family land. The security of occupancy prescribed under subsection (1) means a right to have access to and live on family land.

²⁸⁶ 1995 Constitution of the Republic of Uganda

Subsection (3) provides that for the purposes of subsection (2), the spouse shall in every case have a right to use the family land and give or withhold his or her consent to any transaction referred to in section 39, which may affect his or her rights.

Subsection (4) of that section defines family land to mean land—

(a) on which is situated the ordinary residence of a family;

(b) on which is situated the ordinary residence of the family and from which the family derives sustenance;

(c) which the family freely and voluntarily agrees shall be treated to qualify under paragraph (a) or (b); or

(d) which is treated as family land according to the norms, culture, customs, traditions or religion of the family;

“ordinary residence” is defined to mean the place where a person resides with some degree of continuity apart from accidental or temporary absences; and a person is ordinarily resident in a place when he or she intends to make that place his or her home for an indefinite period;

“land from which a family derives sustenance” means—

a) land which the family farms; or

(b) land which the family treats as the principal place which provides the livelihood of the family;

or

(c) land which the family freely and voluntarily agrees, shall be treated as the family's principal place or source of income for food.

And subsection (5) provides that for the avoidance of doubt, this section shall not apply to spouses who are legally separated.”

Section 39 (1) of the Land Act Cap. 227 as amended by the Land Amendment Act No. 1 of 2004 prohibits transactions on family land except with the prior consent of a spouse.

Subsection (2) of that section provides that the consent required shall be in the manner prescribed by the regulations.

Regulation 64 (1) of the Land Regulations 2004 prohibits the recorder or registrar from registering any transaction where the consent required under section 34 or 39 of the Act is not produced, except where there is an order of the tribunal or a court to dispense with that consent. Regulation 64 (3) provides that the consent shall be in Form 41 specified in the first schedule to the Regulations.

In **Alice Okiror v Global Capital Save**, it was emphasised that the consent can only be in writing as specified in that form.

Under Subsection (4) Where any transaction is entered into by a purchaser in good faith and for value without notice that subsection (1) of this section has not been complied with, the transaction shall be void but the purchaser shall have the right to claim from any person with whom he or she entered into the transaction, any money paid or any consideration given by him or her in respect of the transaction.

In INID TUMWEBAZE v MPWEIRE STEPHEN & AN'OR HCCS NO 39/2010

Per : *Hon Mr. Justice Bashaija K Andrew.*

According to the facts of the instant case, Ssenkima John Bosco, the husband to the Appellant, pledged as security for money borrowed the property where he lived with his spouse, Inid Tumwebaze (the Appellant) to Mpweirwe Steven. Senkima had, however, not procured consent from; nor informed his spouse Inid Tumwebaze. The Respondent's main contention is premised on the position that by the time of the attachment the suit property had been demarcated off the homestead; implying that the two were separate and that the banana plantation could not be subject of spousal consent under **Section 39(supra)**

Held; This act and / or omission evidently runs counter the spirit and letter of *Section 39(1)(c)(i)* (*supra*) which categorically prohibits transactions in such land as the one in question. To argue that the banana plantation had been demarcated from the homestead would be to defeat the stipulation of —*land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance*||; for it is inconceivable that a homestead without the banana plantation in this case would provide the sustenance contemplated by the law. Therefore, even transacting in family land on which the banana plantation was in this case would require spousal consent as it formed part —*of land on which the person ordinarily resides*||. Needless to emphasise that the said provisions of the law are mandatory and cannot be circumvented.

Court found that clearly, the whole dealing in the land was void *ab initio* for want of spousal consent, and to that extent, the Respondent is precluded from hiding under the argument that *Section 39(supra)* does not apply where it is sought to sell family land in execution of a judgment debt against the land owner. The law on illegalities well is settled. In the case of *Makula International Ltd V Cardinal Wamala (1982) HCB 11* cited by Counsel for the Appellant, it was held, *inter alia*, that:

—*A court of law cannot sanction what is illegal, an illegality once brought to the attention of court, overrides all questions of pleading, including any admission made thereon.*||

It is thus settled law that an illegality supersedes everything else raised by the parties, even in the instant case.

The facts show that land comprised in **Kyadondo Block 244 Plot 620, Kisugu**, which is developed with a residential house in which Brenda resides with her husband and other family members. This means that this is family land on which the family ordinarily resides. As such the husband of Brenda has rights in the said and land and his consent prior to any transaction is needed.

Land comprised in **FRV 98 Folio 27, Plot 11 Kyotokyamandwa** has a farm with cattle, goats and sheep. Part of the land measuring about 20 acres is used by Brenda's family and has a large banana plantation used for both sale to marketers and for subsistence and from which Brenda's husband Harry collects food, fruits and vegetable for the family every weekend.

This land is also family land as land from which the family derives sustenance. Spousal consent is necessary.

Therefore, Brenda's husband Harry has rights and interest in the two plots of land. His consent is necessary for any transaction on the land.

Bonafide occupant.

Art 237(1) of the constitution, 1995 provides that, land in Uganda belongs to the citizens of Uganda and shall rest in them in accordance with the land tenure systems provided for in this constitution.

Art 237 (8) of the constitution supra, stipulates that, upon the coming into force of this constitution and until parliament enacts an appropriate law under clause (a) of this articles, the lawful or bonafide occupants of mailo land, freehold or leasehold land shall enjoy security of occupancy on the land.

Sec 1 (e) of the Land Act supra, stipulate that —bonafide occupant has the meaning assigned to it in section 29

Sec 29(2) (a) of the land Act, Cap 227 defines —Bonafide occupant to mean a person who before the coming into force of the constitution has occupied and utilized or developed any land unchallenged by

the registered owner or agent of the registered owner for twelve years or more;

Sec 1 (dd) of the land Act, cap 227 provides that, a tenant by occupancy on registered land shall enjoy security of occupancy on the land.

Sec 31 (2) of the land Act supra, stipulates that, a tenant by occupancy referred to in subsection (1) shall be deemed to be a tenant of the registered owner to be known as a tenant by occupancy subject to such conditions as are set out in this Act or as may be prescribed.

S.31 (9) Land Act Supra, provides that for avoidance of ... the security of tenure of a lawful or bonafide occupant shall not be prejudiced by reason of the fact that he or she does not possess a certificate of occupancy.

Sec 35 (1) of the Land Act as amended provides that a tenant by occupancy who wishes to assign the tenancy shall, subject to this section, give the first option of taking the assignment of the tenancy to the owner of the land.

Subsection (2) thereof, provides that, the owner of land who wishes to sell the reversionary interest in the land shall, subject to this section give the first option of buying that interest to the tenant by occupancy.

This means that the tenant can sell his/her assignment to the title holder and the title holder can sell his/her reversion to the tenant. Subsection (3) stipulates that such transactions are on the basis of willing buyer willing seller.

The Land (Amendment) Act 2010 introduces section 35 (1) (1a) which makes it an offence for the tenant to sell without giving the first option to the landlord.

The facts show that; part of the land comprised in **FRV 98 Folio 27, Plot 11 Kyotokyamandwa** is exclusively occupied by Bitumen Byekwaso aged 70, who inherited the same from his father 40 years ago and has his own banana plantation on it.

This means that Bitumen Byekwaso is a bonafide occupant on registered land and has an interest in the land. In case of sale, he should be given the first priority.

Other interests of third parties.

The Tenants

The tenants as 3rd parties to this property have rights however their rights extend only as far as their prepaid rent runs. Therefore their interests expire at the expiration of their tenancy. Furthermore as tenants, they are entitled to notice as of practice.

It should however be understood that the terms of the tenancy agreement are also are determinant as to whether the tenants are entitled to notice when the property they are renting is being sold off.

Land comprised in **LRV 1289 Folio 15 Plot No. Misc 437, Ntinda, Kampala**, on which there is a large commercial building fully occupied by tenants.

Tenants have interest in land subject to the tenancy agreement. Tenants are only entitled to notice on termination.

Land in the names of minors.

Land comprised in **Kyadondo Block 83 Plot 818, Bubale**, registered in the names of Brenda's children.

This land is registered in the names of two minors **Phylis Koku** (a minor until 10th May 2025) and **Fillian Mpako** (a minor until 17th July 2023) who have every right to own this land but cannot transact in this said land.

For Brenda and Major Nkusi to transact in this land there has to be an appointment of “guardian of property” Brenda needs to apply to the High Court for guardianship of this land in accordance with **article 139(1)** of the Constitution and **section 14 of the Judicature Act** which give the High Court unlimited original jurisdiction in all matters. **Section 98 of the Civil Procedure Act** empowers the High Court to invoke its inherent powers to grant remedies where there are no specific provisions. Also the application is made under S. 43B of the Children Act as amended.

The Application must be in the minor's best interests that the applicant be granted legal guardianship to enable her sell the land that is the **welfare principle** in accordance with **section 3 of the Children Act as amended**. In all matters concerning children, the best interests of the child shall be the primary consideration. This is also contained in Article 34 of the Constitution

The best interests of the child set out by the Children Act include the ascertainable wishes and feelings of the child in light of his or her age and understanding; the child's physical, emotional and educational needs; the child's age, background and other circumstances relevant in the matter.

In the case of **Ajdiru Lulua Jenifer V Ndera Justine Anguzu And Asianzo Jovia Anguzu Miscellaneous Civil Application No. 0031 Of 2016 Hon. Justice Stephen Mubiru** held that “In matters of this nature, where the legal property rights of children are involved, yet by virtue of their status as legal incompetents, the children do not have the capacity to safeguard those rights on their own, courts are expected to exercise a *parens patriae* authority.

In the matter of an application for guardianship of Valeria Nakyonyi Gozaga by Walakira George (father of the above named minor) family cause 199 of 2013

In this case court granted a guardianship order to the child's biological father authorizing him to sell and/or dispose of land comprised in Kyadondo Block 180 Plot 662 land situate at Kitukutwe registered in the names of Valeria Nakyonyi Gozaga (a minor) for the benefit of the minor.

IN RE MARVIN KAKOOZA where the applicant, who is child's biological mother, sought an order that would enable her to sell the land she jointly owned with the child, that it is for construction of the family's residence and paying the minor's school fees, court held that such order should not be denied as it is for the welfare and best interests of the minor. Court thus granted guardianship to the biological mother of the child.

Therefore Brenda should apply for a guardianship order to allow him sell the property in the names of her children if such a sale is within the children's best interests.

2. a

THE REPUBLIC OF UGANDA

**IN THE MATTER OF THE REGISTRATION OF TITLES ACT CAP 230 AND
IN THE MATTER OF THE LAND ACT CAP 227**

AND

**IN THE MATTER OF AN AGREEMENT OF SALE OF 0.30 HECTARES OF LAND
SITUATE AT KISUGU ZONE, KYADONDO COUNTY WEST MENGO DISTRICT,
COMPRISED IN BLOCK 244 PLOT 620.**

REGISTERED PROPRIETOR: BRENDA KOMUGABE ARIKO

SALE AGREEMENT

THIS AGREEMENT OF SALE is made and executed this.....day of.....,2018

BETWEEN

BRENDA KOMUGABE ARIKO of Kyadondo Block 244 Plot 620, Kisugu (Hereinafter referred to as “the **seller/vendor**” which expression shall include his legal representatives, successors in title, agents and assignees) on the one hand.

AND

REACH THE RICH UGANDA LIMITED C/o Ms Firm C1, Kagugube Road Wandegaya Kampala District (Hereinafter called “the **purchaser**” which expression shall where the context so permits include her successors in title, legal representatives and assignees) on the other hand.

Both of whom are collectively referred to as the “parties”

WHEREAS:

The Vendor is a registered proprietor of the land Comprised in Kyadondo Block 244 Plot 620 at Kisugu Measuring 0.30 Hectares (Hereinafter referred to as the Property)

AND WHEREAS The Vendor is desirous of selling the said property and all the buildings on it to the purchaser and the purchaser is also willing to buy the same;

AND WHEREAS the vendor warrants good title to the above property

THEREFORE THIS AGREEMENT WITNESSETH as follows:

AGREEMENT

Subject to the terms hereof and in consideration of the price set out and payable as prescribed in Clause 2 below, the Vendor hereby agrees to sell and assign all their legal and equitable title and interests in the Property and assets within the said property to the Purchaser and the Purchaser hereby agrees to purchase the same.

2 CONSIDERATION

In consideration of the sum of UGX **320,000,000/= (Uganda Shillings Three hundred twenty Millions only)**, being the agreed value.

3 MODE OF PAYMENT

3.1. Upon execution of this agreement the parties have agreed for the payment of the said Land to be in three equal monthly installments not beyond 30th January 2019.

3.2. The first installment of 110,000,000/= (**one hundred ten million shillings**) shall be paid on 30th October 2019.

3.3. Failure to pay within the stipulated time, the parties shall treat the contract as repudiated and the vendor shall refund the purchaser's money already paid.

4 INCUMBERANCES AND INDEMNITY

The property is sold on the understanding that it is free from enquiries or encumbrances OF ANY DESCRIPTION and the Vendor undertakes to indemnify the Purchaser against all actions, proceedings, claims costs, losses and all expenses whatsoever which may be suffered or incurred in respect of the property as a result of any encumbrances which may have not been disclosed to the Purchaser by the Vendors if the same arise in breach of the Vendor's promises herein.

TRANSFER:

The vendor agrees to procure the granting or completion, as the case may be, all consents, certificates of title, duly signed transfer forms, passport sizes photographs, copy of national id, and approvals as shall be necessary to transfer ownership of her interest into the purchaser's name, her nominee and for the purpose of duly carrying out and fulfilling this agreement to its entirety.

All transfer, survey fees and other expenses for the transfer and or subdivisions of the property into the name of the purchaser shall be borne by the purchaser.

Whenever called upon the vendor shall give to the purchaser all the necessary assistance to enable her to complete this transaction effectively.

POSSESSION:

The vendor shall provide vacant possession of the property to the purchaser, after payment of the first installment and the purchaser shall take immediate possession of the same thereafter.

ENUREMENT:

This agreement of sale will enure for the benefit of and be binding upon the parties hereto and their successors in title and assignees.

TAXES AND OTHER DISBURSEMENTS:

All taxes and disbursements for and incidental to the acquisition of a certificate of title and all transfers for the purchaser shall be met by the purchaser.

GOVERNING LAW:

This agreement will be governed, construed and enforced in accordance with the laws of Uganda.

LEGAL FEES:

Parties shall meet all necessary legal fees for the witnessing Advocate(s) to these presents.

SPOUSAL CONSENT

The property is subject to spousal consent under the Land Act Cap 227 as amended which is *hereby attached*

LOCAL AUTHORITIES

The Vendor undertakes to introduce the purchaser or his agents to the local authorities as the new owner of the property

SEVERABILITY:

If any provision of this agreement is invalid or unenforceable for any reason whatsoever, such invalidity or un-enforceability will not affect the validity or enforceability of any or all of the remaining provisions of this agreement which shall continue in full force and effect and be construed as if this agreement had been executed without the invalid or unenforceable provisions.

IN WITNESS WHEREOF the parties hereto have executed these presents on the day and year first above written.

SIGNED and Delivered for

And on behalf of the said;

BRENDA KOMUGABE ARIKO

{VENDOR}

SIGNED and Delivered for

And on behalf of the said

.....

DIRECTOR OF REACH THE RICH UGANDA LIMITED

{PURCHASER}.

In the presence of:

Name: Signature: Contact

.....

.....

All In the presence of

.....

ADVOCATE

Drawn and Drafted by;

SUI GENERIS ADVOCATES

P.O.BOX 112211

LDC, level 3 Suit 1

Kagugube Rd, Kampala
Uganda

2.(B)

Advise the senior Partner on :-

the steps that you would take to cause the client to obtain the legal interest in the land (Draft the most pertinent documents)

Title by registration as a feature of the Torrens system, is where the interests in land are created or transferred by registration under the R.T.A Act. *Section 54 of the R.T.A* provides; No instrument until registered in a manner herein provided shall be effectual to pass any estate or interest in any land under the operation of this Act, or to render such land liable to any mortgage. But upon such registration, the estate or interest comprised shall pass...or be liable to the ... conditions set forth in the instrument or by this Act.

The operation of S.54 is illustrated in the case of „*Lumu v Lindo Musoke*“ where it was held by *Musoke J*, that the agreement for sale of land did not transfer any interest in the disputed land to the defendant. It merely gave him a contractual right entitling him to bring an action against the plaintiff for damages or for specific performance if the plaintiff refused to execute in his favour the statutory transfer.

The case of „*Zimbe v Kamanza*‘ further reiterates the principle as propounded by S.54 viz; that title does not pass until a transfer is registered under the Registration of Titles Act. That no man can become the owner of land until a statutory transfer of land to him has been registered.

The general rule is that no one can transfer an estate or interest unless it is registered as required in the R.T.A by the registrar. Title does not pass by mere execution of sale agreements. In *Ndigejjerawa v Kizito and Kubulwamwana*, both the buyers executed documents but none of them got the title.

Therefore in order for Maj Nkusi to obtain legal interest in the land, he must have the land brought under the operation of the Registration of Titles Act by having it registered.

Execution of an agreement for sale.

Having carried out due diligence and inquiries, the parties should execute an agreement for sale. The RTA does not provide for any mandatory requirement to execute an agreement of sale of land and a sale agreement is not an instrument for purposes of passing an interest in registered land. *Refer to S. 54 of RTA and Zimbe v Tokana kamanza*

The Contracts Act provides for formalisation of a contract in writing. A sale agreement contains evidence of the subject matter purchased, the acreage and the consideration paid.

The agreement must be duly signed by the parties. Where the parties to the agreement or any of them is an illiterate, it is mandatory under S.s 2 and 3 of the Illiterates Protection Act to include a certificate of translation certifying that the contents were read and translated to the parties before they appended their respective signatures thereto.

Registration of sale agreement.

There is no mandatory requirement to have the agreement of sale registered save that for purposes of evidence in any proceedings in court an unregistered agreement may not be admitted in evidence for want of payment of stamp duty.

It should be noted that an agreement for sale attracts stamp duty. Under S.32 of Stamp Duty Act 2014, any instrument on which a duty is chargeable is inadmissible in evidence unless that instrument is duty stamped as an instrument on which duty chargeable thereon has been paid.

Wasukira Fred v M/S Harmony Group

In the instant application, the plaint was supported by an agreement for commission payments/remittances signed by the 1st and 2nd plaintiffs as Managing Director and company Secretary respectively on which no stamp duty was paid.

Held; Where a cause of action is based on a document where stamp duty must be paid and the duty is not paid a cause of action cannot in law be based on such document. Generally under S.42 of the Stamps Act (now 32 of Stamp Duty Act 2014), any instrument on which a duty is chargeable is inadmissible in evidence unless that instrument is duty stamped as an instrument on which duty chargeable thereon has been paid. If the plaintiff wanted to rely on such unstamped instrument, they ought to have sought leave of court to have the duty paid. The plaintiffs however have not sought leave of court to do so. Therefore the plaintiffs cannot rely on the unstamped agreement as evidence in this suit.

HOUSING FINANCE BANK V EDWARD MUSIISI

Held; The stamp duty for the agreement of sale had not been paid in accordance with section 42 of the Stamps Act. That notwithstanding the land could not be transferred into the names of the buyer without paying the stamp duty and other taxes connected with land transfers.

Therefore for evidential purposes, the sale agreement should be registered under the Registration of Documents Act Cap 81 and also pay the requisite stamp duty.

Executing a transfer instrument

An interest in registered land can only pass upon execution and registration of a proper instrument. S. 54 RTA, *Mustafa Ndigejjerawa v Kizito* where **Ainley.J** gave his judgment that "... No document or instrument can be registered unless it fulfils the requirements, and no instrument (however perfectly it fulfils the statutory requirements) is effectual to transfer any interest in land unless it has been registered..."

The proper instrument for purposes of registration is a transfer form which must be in the form set out in the RTA, should be properly executed by the parties and must be duly attested by the legally designated persons.

S. 147 of the RTA provides that an instrument shall be duly executed if attested to by one witness. Further S. 148 of the RTA requires the signature to be in Latin character.

FREDRICK J.K. ZAABWE v ORIENT BANK LTD

HELD. Per **KATUREEBE, JSC.**

In my view, the rationale behind section 148 requiring a signature to be in Latin character must be to make clear to everybody receiving that document as to who the signatory is so that it can also be ascertained whether he had the authority or capacity to sign. When the witness attesting to a signature merely scribbles a signature, without giving his name or capacity, how would the Registrar or anyone else ascertain that that witness had capacity to witness in terms of section 147 of the Registration of Titles Act? **Held** that where the signatures to a mortgage are not in Latin character, the mortgage is not valid

The attesting witness must sign the transfer instrument having witnessed the transferor or transferee sign.

Where the transferor or transferee is illiterate, the attesting witness must execute a certificate of attestation. This is to certify and confirm that the contents were understood. Section 3 of the Illiterate Protection Act (Cap) 78 of the Laws of Uganda 2000, enjoins any person who writes a document for or at the request or on behalf of an illiterate person to write in the jurat of the said document his/her true and full address. This shall imply that he/she was instructed to write the document by the person for whom it purports to have been written and it fully and correctly represents his/her instructions and to state therein that it was read over and explained to him or her who appeared to have understood it.

S. 92 of the Registration of Titles Act Cap 230 provides that the proprietor of land may transfer the same in one of the forms of transfer in the Seventh Schedule to the Act.

The transfer form shall be accompanied by the consent form of the spouse(s). Since Maj. Nkusi intends the piece of land to be owned by his company, a registered Board Resolution of the Company Director(s) of ***Reach the Rich Uganda Limited*** is necessary.

Therefore, the parties should execute a transfer instrument, sign it and have it attested.

Valuation and stamp duty

A transfer instrument is incapable of being effectively registered unless the requisite stamp duty is duly paid. Valuation for purposes of payment of stamp duty is done by the chief government valuer who certifies the amount payable by the transfer and its usually 1.5% of the whole consideration as per Stamps (Amendment) Act 2016.

HOUSING FINANCE BANK V EDWARD MUSIISI

Held; The stamp duty for the agreement of sale had not been paid in accordance with section 42 of the Stamps Act (now 32 of Stamp Duty Act 2014.) That notwithstanding the land could not be transferred into the names of the buyer without paying the stamp duty and other taxes connected with land transfers.

It's a requirement of the law that the intending transferee discloses the consideration paid in the transfer instrument and consent form and any under valuation of the property by the transferee may amount to fraud if it was intended to defraud government of its revenue.

WAKANYIRA GEORGE DAVID v KAVUYA BEN

Counsel for the plaintiff further referred to a decision of Justice Alfred Karokoora (J. as he then was) in the case of **Samuel Kizito Mubiru & Another vs G.W. Byansiba & Another** [1985] HCB 106, where he held that by Public Policy any transaction designed to defraud the Government of its revenue is illegal.

Held Per Hon. Mr. Justice Geoffrey Kiryabwire

—I find that there is a difference between not paying stamp duty on a sale agreement and not paying stamp duty on a transfer form. There is no doubt that by failing to pay due tax is contrary to public policy. In attacking which document should be scrutinized I think it should be the transfer form. This *present case should be distinguished from the Mubiru case (Supra) because in that case the plaintiff sought protection in a land transaction that he was a bona fide purchaser for value without notice. However, the Judge in that case rightly pointed out that you cannot be a bona fide purchaser if you do not pay Government tax*

The transferee must also pay registration fees which is payable to the local authority.

Filing of documents.

Upon payment of the requisite fees the transferee has to submit the duplicate certificate of title, signed transfer forms, photographs and valid identification with evidence of payments which must be paid in the relevant land registry. The land office normally checks the submitted documents, passes them if they are competent, gives them or allocates an instrument number where after will be effected in the names of the transferee.

Also on lodging the documents, the registration fee should be paid as provided for under the Registration of Titles (Fees) Rules S.I 230-1

S. 92(2) of the RTA provides that upon registration of the transfer, the estate and interest of the proprietor shall pass to the transferee and the transferee shall thereupon become the proprietor thereof.

Upon registration a person whose name appears in the title is deemed to be a registered proprietor.
S. 59 RTA

DDUNGU LILLIAN v MARC WIDMER & ANOTHER

HELD

Where a duly registered proprietor exists, as is the case presently, the certificate of title is conclusive evidence of ownership and therefore no further proof of ownership is required save for where there are allegations of fraud.

Therefore any purchaser of land under the Torrens system must be diligent to follow the above steps in order to acquire a valid title (legal interest) that cannot be impeached in light of the defence of bonafide purchaser for value without notice.

Therefore in order to secure a legal interest for Maj. Nkusi, the above procedure should be followed to ensure an effective transfer of the land from Brenda to Maj. Nkusi.

BREIFLY, the following steps should be undertaken.

Step 1

Applicant must have in possession the following;

The Land transfer forms as provided in Section 92 of the Registration of the Titles Act Cap 230.

Spousal consent form under section 39(2) of the Land Amendment Act of 2004

A photocopy of duplicate certificate of title

Two (2) authentic passport photos of both buyer and seller

Land sale agreements as provided for in the 21st Schedule of the Registration of Titles Act Cap 230

A Registered Board Resolution of the Company Director(s) of *Reach the Rich Uganda Limited*

Consent to transfer forms.

Step 2

The property must be assessed at the market value, by the government valuer for purposes of the applicant paying for Stamp duty which is 1.5%

The applicant checks after 3 working days to collect assessment forms

Step 3

Pay Stamp duty and Registration fees in the bank and get a receipt and transfer forms embossed by Uganda Revenue Authority after the valuation of the land by the government valuer

Transfer form should be embossed with a sticker by Uganda Revenue Authority

Pay Registration fees at Land Registry 20,000/= for a Company or 10,000/= for an individual

Step 4

Submit all documents together with duplicate Certificates of title, Receipts and Photocopies of all documents

Photocopy of the transfer forms, stamped and Received to the office of Titles.

The registrar will Cancel the name of the registered proprietor and enter the new name in the Registration book.

The Applicant is asked to check after 10 working days to collect the title

MOST PERTINENT DOCUMENT.

TRANSFER FORM

THE REPUBLIC OF UGANDA

TRANSFER OF LAND, MORTGAGE OR CHARGE

MAILO; KYADONDO BLOCK 244 PLOT 620

FORM 1.

TRANSFER OF LAND

I Brenda Komugabe Ariko (transferor) being the Registered Proprietor of the Land Comprised in the above-mentioned block in consideration of the sum of three hundred Million shillings (320,000,000/=) paid to me by the Reach the Rich Uganda Limited (Transferee) on or before the execution of these presents the receipt of which I acknowledge hereby transfer that land Reach the Rich Uganda Limited for all my estate and interest in the land.

Dated this _____ day of _____, 2018

Signed by (Transferor) _____

In the presence of _____

Signed by (Transferee) _____

In the presence of _____

Consent Form

**THE REPUBLIC OF UGANDA
THE LAND ACT CAP 227
THE LAND REGULATIONS 2004
CONSENT BY SPOUSE(S) TO TRANSACTION IN LAND**

Location of the Subject of Consent

Village/Zone **KISUGU**

Parish/Ward

Subcounty/Town **SAABAGABO**

County/Division **KYADONDO**

District **WEST MENGO**

Approximate area (ha) **0.30**

If Land is registered, state

BLOCK 244

PLOT 620

Use or Occupation of the Land, **housing**

State the nature of the transaction

Sale of land.

I/We, being the spouse(s) of the owner of the above Land and the Land under the provisions of Section 39 of the Act grant consent/ I do not grant consent to the transaction

Reasons for refusalNIL

Name and signature/thumbprint

(i)

(ii)

(iii)

Date

ii) All the duties, levies and fees that would be required to be paid in the process of 2b (i) above.

Stamp duty 1.5% of the value of the land under the Stamps (Amendment) Act 2016 second schedule which is 4,800,000.

A search fees paid through the Bank 10,000/= under 22nd schedule of RTA

Registration fees is 10,000/= (extra plots 5,000/= each)

A search of the registry book where reference to the volume or block and plots ..10,000/=

Counsels fees

(iii) The pertinent ethical challenges that may arise in this transaction and how you would address them.

Acting ethically involves adhering to the letter of the code of professional ethics in the first place and also in morally appropriate manner.

The ethical conduct of advocates is generally governed by the **Advocates Act cap 227** and the **Advocates (professional conduct) regulations SI 267-2**

The following are the pertinent ethical challenges that may arise in the transaction.

Diligent and competent service;

An advocate has a duty to perform their services diligently and competently.

Regulation 12 of the **Advocates (Professional Conduct) Regulations** is to the effect that every advocate must advise his clients in their best interest, and no advocate should knowingly or recklessly encourage a client to enter into, oppose or continue any transaction in respect of which a reasonable advocate would advise that to do so would not be in the best interest of the client or would be an abuse of court process.

Competent advice is therefore crucial as an ethical consideration in such a transaction. The advocate must be well equipped with all the relevant legal requirements to advise accordingly.

Disclosure;

Disclosure is the act or process of making known something that was previously unknown.²⁸⁷

An advocate has a duty to notify his client of all the developments concerning the transaction. This is because he client also suffers the consequences even when they do not have the actual knowledge from their clients.

In **David Sejjaka Nalima V Rebecca Musoke CACA no. 12 of 1985** the appellant appealed claiming that he was a bonafide purchaser for value without notice. Court held that since the appellant's advocate knew of the rightful owner, the knowledge was imputed on the appellant and therefore the appellant knew.

This challenge must therefore be dealt with by disclosing everything from the beginning.

Lawful legal Fees;

The advocate must bill the client according to legal requirements that have been established by the law.

Regulation 28 of the **Advocates (Professional Regulations) Regulations** is to the effect that an advocate must not charge a fee which is below the specified fee under the **Advocates (Remuneration and Taxation of costs) Rules**.

²⁸⁷ Bryan A. Garner, Black's Law Dictionary, eighth edition, p1399.

Dealing with unrepresented parties;

When a lawyer is dealing with an unrepresented party then they must ensure transparency. An advocate must desist from giving the unrepresented party advice except advise him to get independent representation.

Over valuing land;

There is also a challenge as some advocates over value the land after negotiating independently with the vendors. This is so that they can make a profit out of the sale on top of the legal fees.

This can be solved by involving the client every step of the way throughout the entire transaction. The client ought to be appraised on the progress at every crucial step of the process.

Balancing the client's needs and abiding by the law;

Sometimes clients want advocates to do things which are outside the confines of the law. An advocate must always ensure that the law comes before a client's needs.

When the clients insist on doing something which will break the law then the advocate may withdraw from representing the client.

Regulation 3(1)(b) of the Advocates (Professional conduct) regulations S.I 267-2 is to the effect that an advocate may withdraw from representing a client where the client instructs the advocate to do anything which leads to professional misconduct.

Other challenges;

Fraud or forgeries or bribery; ensuring that there are no forgeries committed.

Invalid documents; ensuring that the documents are executed in accordance with the law.

Spousal consent; getting spousal consent is a bit tricky. Counsel should ensure that the parties are legally married and the person giving spousal consent is the true husband of Brenda.

WORKSHOP TWO TASK (i)



BRIEF FACTS

Major Allan Nkusi who just received his retirement terminal benefits from UPDF is interested in acquiring properties of Brenda Komugabe, land comprised in LRV 1289, Folio 15 , Plot No Misc 437, Ntinda- Kampala developed with the commercial house in occupation of her tenants, land in her children's names comprised in Kyadondo Block 83, Plot 818 Bubale.

Further still, he intends to buy other pieces of land from Brenda Komugabe using his company Reach the Rich Ltd to wit FRV 98, Folio 27, Plot 11 Kyotokyamandwa partly used by Brenda's family for cattle, sheep, goats rearing and the other 20 acres being in use for subsistence and commercial farming and the other remaining part being in exclusive use of Bitumen Byekwaso who inherited it from his late father 40 years ago. There is also land comprised in Kyandodo Block 224, plot 620, Kisugu, developed with a residential house in occupation of Brenda Komugabe's entire family.

ISSUES

What steps a vendor should take to lawfully sell land in the names of minors?

What remedies are available to a vendor where the buyer fails to complete the purchase price and what is the procedure of invoking those remedies?

What interest did Nkusi obtain on paying a deposit to and how can the interest be protected?

What steps should be taken to enable Nkusi obtain legal interest in land on death of a vendor?

What are the steps an administrator of an estate should take to lawfully sell the land registered in the names of the deceased?

What is the pertinent document needed to handle transactions on behalf of Nkusi?

How can a beneficiary's interest be protected?

LAW APPLICABLE

- Constitution of Uganda of 1995 2.
- The Registration of Titles Act, CAP.
- The Land Act, CAP 227 (as amended)

- The Land Regulations of 2004 (as amended);
- The Succession Act Cap 162;
- The Contract Act, No.7 of 2010;
- The Stamps Act Cap 342 (as amended); 8.
- The Registration of Documents Act Cap 81.

RESOLUTION.

1. After concluding the purchase of the land at Kisugu Major Nkusi is now interested in purchasing the land comprised in Kyadondo Block 83 Plot No.818 Bubale. The parties have agreed on purchase price of shs. 80 million payable in four equal monthly installments.

Advise the Vendor on the steps that she would have to take to enable her to ultimately lawfully transact in this land.

Important to that land comprised in Kyadondo Block 83 Plot no. 818 is registered in the names of Brenda's children. Therefore Brenda cannot sell in her owns because she is not the registered proprietor of the land thus the rules that govern selling land that belongs to minors come into play.

Article 257(c) of the Constitution of the Republic of Uganda 1995 as amended defines a child to mean a person under the age of eighteen years. Under **Article 26** of the constitution of the republic of Uganda 1995 as amended every person has the right to own property either individually or in association with others. This imputes that a minor has the right to own property and has thus can own land as such. **Under section 59 of the registration of titles act** cap 230 it provides that a certificate is conclusive evidence of title.

In this regard Brenda Komugabe cannot sell the land in Kyadondo block 83 because she has no title in that land and thus no right to dispose of it. However since the land is registered in the names of her children she will have to apply for legal guardianship and an order authorizing her to sell off that property. The application is brought ex-parte under S. 3, of the Children Act as amended and sections 43A, 43B and 43F of the Children (Amendment) Act 2016.

The procedure for application for legal guardianship is provided for under S. 43B of the Children Act as amended. The application shall be made to the High Court by way of petition in Form 1 of the Third Schedule and shall be accompanied by a report of the probation and social welfare officer.

However, since the procedure to get legal guardianship for purposes of dealing with a minor's property is not provided for under the Children Act as amended, the application should be brought by way of notice of motion. The application is brought ex parte by way of notice of motion pursuant to Article 139(1) of the Constitution of the Republic of Uganda, 1995, sections 3, 4, and 5 of the Children Act; Section 98 of the Civil Procedure Act and Order 52 rules 1 and 2 of the Civil Procedure Rules. The application must be supported by an affidavit in support.

Before making the guardianship order Court has to satisfy itself the order is in the best interests of the child and where the child is above 12 years, his or her consent must be obtained. S. 43F(1)(f) of the Children Act as amended.

In the case of **Ajdiru Lulua Jenifer V Ndera Justine Anguzu And Asianzo Jovia Anguzu Miscellaneous Civil Application No. 0031 Of 2016 Hon. Justice Stephen Mubiru** held that "In matters of this nature, where the legal property rights of children are involved, yet by virtue of their status as legal incompetents, the children do not have the capacity to safeguard those rights on their own, courts are expected to exercise a *parens patriae* authority.

In the matter of an application for guardianship of Valeria Nakyonyi Gozaga by Walakira

George (father of the above named minor) family cause 199 of 2013

In this case court granted a guardianship order to the child's biological father authorizing him to sell and/or dispose of land comprised in Kyadondo Block 180 Plot 662 land situate at Kitukutwe registered in the names of Valeria Nakyonyi Gozaga (a minor) for the benefit of the minor. **It was stated that the best interests of the child must be taken into account while granting legal guardianship to sale of land owned by a minor.**

In Re Mavin Kakooza (infant) family cause 236 of 2013 , court held that where the applicant who is the child's biological mother seeks an order that will enable her sell land jointly owned by her and her child and where the child who is of understanding age is not opposed to the sell such order would not be denied if it is in the best interest of the child that is to pay school fees and build a residential house.

Therefore Brenda should apply for a guardianship order to allow him sell the property in the names of her children if such a sale is within the children's best interests. The application should be accompanied by a supporting affidavit. She should also attach the duplicate certificate of title and the birth certificates of the minors.

Since one of the children, Fillian Mpako is above 12 years, Brenda should procure his consent as required under S. 43F(1)(f) of the Children Act as amended.

After the above procedure is followed and Brenda is appointed legal guardian of the minors then she can go ahead to draft and execute a land sale agreement between her and Major Nkusi.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA FAMILY DIVISION
FAMILY AND CHILDREN CAUSE NO..... OF 2018
IN THE MATTER OF THE CHILDREN ACT CAP 59
AND
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF PHYLIS KOKU
AND FILLIAN
MPAKO BY BRENDA KOMUGABE ARIKO (MOTHER YOU OF THE ABOVE NAMED
MINORS)

NOTICE OF MOTION

Application for legal guardianship brought by notice of motion exparte under Article139 (1) the children Act, section 98 of the civil procedure act cap 71 and order 52 of the civil procedure rules
The applicant is seeking the following orders;

This honourable court does grant legal guardianship over Phylis Koku and Fillian Mpako (minors) to the applicant herein biological mother Brenda Komugabe

This honourable court grants authority to Brenda Komugabe to sell and/dispose of land comprised in Kyadondo Block 83 Plot no.818 Bubale registered in the names of Phylis Koku and Fillian Mpako (minors) for the benefit of the minor.

Costs of this application provided for.

The grounds of the application are that:

That Phylis Koku and Fillian Mpako are biological children of the applicant Brenda Komugabe Ariko

That the applicant has been in custody of the minors since they were born

That the applicant is the sole provider of the minors

That it is in the best interests and welfare of the minor that the applicant who is the biological mother of the minors be appointed legal guardian and is authorized to sell or dispose of the property comprised in Kyadondo Block 83 Plot No. 818 land situate in Bubale.

That it is the applicants legal duty as a biological mother to offer good upbringing of the minors, administer property and apply any income that comes out of the property to the welfare of the minor.

That the applicant is a fit and proper person to pursue the minors interests.

Dated at Kampala thisday of2018

.....

Counsel for the applicant

SUI GENERIS &Co. Advocates

Given under my hand and seal of this court this.....day of2018

.....

REGISTRAR

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA FAMILY DIVISION
FAMILY AND CHILDREN CAUSE NO..... OF 2018
IN THE MATTER OF THE CHILDREN ACT CAP 59**

AND

**IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF PHILYS KOKU
AND FILLIAN MPAKO BY BRENDA KOMUGABE (MOTHER OF THE ABOVE
MENTIONED MINORS)**

AFFIDAVIT IN SUPPORT

I Brenda Komugabe of do solemnly swear and state as follows;

That I am a female adult Ugandan of sound mind and a mother to the minors I which capacity I swear this affidavit.

That the land I bought comprised in Kyadondo Block No.83 Plot No. 818 was bought by me and registered in the names of my children Phylis Koku and Filiian Mpako who are minors .

That I would like to sell the said land and the sale will be in the best interests of the children.

That I am the sole provider of the minors and they have been in my custody since they were born.

That it is from this background that I apply for legal guardianship since the land is registered in the names of the minors.

That it is just and equitable and it is in the best interests of the afore said minors that I be granted the guardianship.

That what I have stated herein is true to the best of my knowledge and belief.

Sworn at Kampala thisday of2018

.....

DEPONENT

BEFORE ME

..... COMMISSIONER FOR OATHS

DRAWN AND FILED BY
SUI GENERIS & CO. ADVOCATES
P.O BOX 7117 KAMPALA

2. Assuming that having lawfully entered into the transaction in (i) above and after paying the first installment, the purchaser has failed to pay the balance of the purchase price.

The vendor has the following remedies where the purchaser fails to pay the balance of the purchase price.

Where the purchaser has paid part of the purchase price, he obtains an equitable interest in the property.

Lysaght vs. Edwards (1876) 2 Ch. D. 499.

Sir George Jessel MR, in delivering his judgement said:

“The moment you have a valid contract for sale the vendor becomes in equity a trustee for the purchaser of the estate sold, and the beneficial ownership passes to the purchaser, the vendor having a right to the purchase-money, a charge or lien on the estate until the purchase- money is paid, in the absence of express contract as to the time of delivering possession”

The above position was reiterated in *Osuman v Hajji Haruna Mulangira* SCCA No. 58 of 1995 and approved in *Kagumya Godfrey Vs Ntale Deo* HCCs 298 of 2004 stating the doctrine of sale to be referred to as where the vendor becomes in equity a trustee for the purchaser of the estate sold and the beneficial ownership passes to the purchaser, the vendor having a right to the purchase money,

a charge or lien on the estate of the security of that purchase money and a right to retain possession of the estate until the purchase money is paid.

The case of **Ismail Jaffer Akkubhai & Others Vs Nandakak Harjivan Karia & Another SCCA 53/95 reported in (1996) KALR 109** is very clear that in a deal of immovable property, upon payment of a deposit, property passes to the purchaser who acquires an equitable interest in the property and the vendor becomes the trustee who holds the property in trust for the purchaser. The legal title remains with the vendor until the final payment when the legal title passes to the purchaser.

The remedies available to a vendor where the purchaser fails to pay the remaining balance of the purchase price.

Rescission of contract.

The failure of the purchaser to pay the purchase price is breach of contract.

Black's Law Dictionary defines breach of contract as failure without legal excuse to perform any promise which forms the whole or part of a contract.

Where the contract is breached, the vendor can treat the contract as repudiated and elect to either refuse to accept the repudiation and continue to require performance or accept the repudiation and bring the contract to an end.

In **Holland Vs Wiltshire (1954) 90 CLR 409,420** also approved in **Kagumya Godfrey Vs Ntale Deo HCCs 298 of 2004 Lord Kitto** stated as follows:-

“In the context of contracts for sale of land the vendor's obligation is to deliver a good title and the purchaser's obligation is to pay the price. Those are concurrent and mutually dependent obligations in the absence of any provision in the contract to the contrary. If any party informs the other that it cannot or will not complete the contract by the settlement date he or she commits anticipatory breach amounting to a repudiation which gives the innocent party a right to terminate the contract. Presented with the repudiatory conduct of the guilty party, the innocent party has an election to either refuse to accept the repudiation or continue to require performance or accept the repudiation and bring the contract to an end”.

The principles governing rescission were articulated in **Buckland Vs Farmer & Moody (1978) 3 ALLER 929 at 938. Halsbury laws of England, Vol. 9 (1)**. Re-issue, paragraph 989 cited in **Sihra Singh Santoh Vs Falulu Uganda Ltd HCCs No. 517 of 2004** as follows:

“where one party (A) to a contract has committed a serious breach of contract by defective performance or by repudiating his obligation under the contract, the innocent party (B) will have a right to rescind the contract *de futuro*, that is, to sue for damages for any loss he must have suffered as a result of breach. Such a breach by A does not automatically terminate the contract. B has a right to elect to treat the contract as continuing or to terminate the contract by rescission. In case where it is alleged that B has a right to rescind for breach, it must be determined (1) whether there has been a breach by A of the term of the contract or a mere representation: (2) Whether the breach is sufficiently serious to justify rescission *de futuro* of the contract by B as well as claim for damages, and (3) Whether B has instead elected to affirm the contract”

The High Court further explained in **Sihra Singh Asantokh Vs Faulu Uganda LTD HCCs No. 517 of 2004** that:-

“Where a wronged party such as the Defendant, elect to rescind a contract de future following a breach by the other party all the primary obligations of the parties under the contract which have not yet performed are terminated.”

In **NKEMBA ELIZABETH v KABAHENDA JOY HCT-01-LD-CA-0024 OF 2017**

Court held that the Appellant’s breach of contract was a continuing breach such that for each day that the purchase price remained due, the purchaser continued to be in breach of the contract giving rise to daily right to rescind in favour of the vendor.

Therefore, the vendor in the instant case should rescind the contract *de futuro*, that is, to sue for damages for any loss he must have suffered as a result of breach.

However, in order to rescind the contract, the vendor must do it within a reasonable time by giving notice of rescission to the purchaser immediately after the expiry of the deadline.

In Kagumya Godfrey Vs Ntale Deo HCCs 298 of 2004 court emphasized the importance of communicating the decision to rescind the contract. It was held that the Defendant failed to prove to court during the hearing how far he had tried to contact the Plaintiff/purchaser for the balance due and owed him. Instead the Plaintiff did prove how he tried to contact the Defendant in order to pay the balance of the purchase price. In fact it would have been different if the Defendant had done what the Plaintiff did in moving all corners tracing for the Defendant for his payment. As it is evident, it is apparent that the Defendant was playing monkey tricks to ensure that the deadline for payment of the balance was over to enable him reclaim the property on the basis of breach of terms and conditions of sale.

The procedure for rescinding a contract is therefore by issuing a notice of rescission to the purchaser.

The vendor, upon rescission, has a right to resell the property and retain any excess of price obtained beyond the amount fixed by the contract.

Vendor's Action for the Price

A second remedy available to the disappointed vendor is an action for the purchase price..

In **NKEMBA ELIZABETH v KABAHENDA JOY HCT-01-LD-CA-0024 OF 2017** it was held that It is trite law that where land is bought and any substantial amount is paid on the sale price whether possession has passed on the purchaser or not, the vendor is always entitled to the balance on the sale price and not repossession of the land even if the balances are not fully paid.

The vendor can therefore sue for the balance on the price.

Damages.

When the buyer breaches the contract the seller is entitled to damages in the amount of the injury sustained by reason of the breach. Failure to pay the purchase price amounts to breach of contract. The vendor can therefore sue for damages arising from breach of the contract.

The *procedure* for an action on the price and damages is by issuing a demand notice first requesting for the remaining sum. If the purchaser does not honour the demand, then the vendor can institute a suit to recover the balance and damages arising out of the breach of contract.

DEMAND NOTICE

Our Ref:.....

Date: 18th October 2018

**TO: MAJOR ALLAN NKUSI
P.O. BOX 495
KAMPALA**

Dear Sir,

RE: DEMAND NOTICE/NOTICE OF INTENTION TO SUE

We act for and on behalf of Brenda KomugabeAriko (herein after referred to as Our Client) on whose instructions we address you as hereunder;

On theday of.....2018 at....., our client the registered proprietor of land comprised in Kyandondo Block 83 Plot 818, BubaleWakiso District entered into a land sale agreement with you as the willing buyer at and agreed price of UGX. 80,000,000 (Eighty million Uganda Shillings) to be paid in four equal installments.

Upon conclusion of the said contract, you paid a sum of UGX. 20,000,000(Twenty million Uganda Shillings) in respect of the first monthly installment with the remaining balance of UGX. 60,000,000(Sixty Million Uganda Shillings) that was to be paid on theday of.....2018.

Our client is aggrieved by the fact that you have since failed to honour your debt obligation despite the various reminders.

The purpose of this letter therefore is to inform you that you pay the outstanding balance within fourteen days upon receipt of this letter failure of which we shall have no other recourse other than filing the matter in court without further notice.

Yours Sincerely,

For: M/s SUI GENERIS ADVOCATES

c.c Our Client

WORK SHOP TWO (iii)

An interest in land can be legal or equitable. A legal interest is an interest in land that was recognized and protected by the common law courts. It can also be defined as one which is notified as an encumbrance on the folium of the certificate of title.. An equitable interest is one that is recognized and protected by the court of equity even though at law the interest was not recognized or it can be defined as an interest that is not registered.

In John Katarikawe V William Katwiremu & Onceziforo Bakampata (1977)HCB.187

Ssekandi.J. held that though in a contract of sale of land an unregistered instrument of transfer is not effective to transfer title, the purchaser acquires an equitable interest in the land, which is enforceable against the vendor.

The case of **Ismail Jaffer Akkubhai & Others Vs Nandakak Harjivan Karia & Another SCCA 53/95 reported in (19960 KALR 109** is very clear that in a deal of immovable property, upon payment of a deposit, property passes to the purchaser who acquires an equitable interest in the property and the vendor becomes the trustee who holds the property in trust for the purchaser. The legal title remains with the vendor until the final payment when the legal title passes to the purchaser.

In NKEMBA ELIZABETH v KABAHENDA JOY HCT-01-LD-CA-0024 OF 2017 it was held that It is trite law that where land is bought and any substantial amount is paid on the sale price whether possession has passed on the purchaser or not, the vendor is always entitled to the balance on the sale price and not repossession of the land even if the balances are not fully paid.

Major Nkuisi's interest in land is an equitable interest. He can protect this interest by lodging a caveat to that effect.

In *Katarikawe v katwiremu and Anorther supra* Ssekandi.J. held that taking possession of title deeds by a purchaser is insufficient to protect an interest unless a caveat is lodged.

A caveat acts as a statutory injunction to the registrar to prevent registration of any dealings, which might affect an alleged interest of the person lodging it (the caveator) caveat. A caveat forbids registration of any person as registered proprietor or registration of any instrument affecting the applicant's interest on the land.

A caveat is provided for under **Section 139 of the Registration of titles Act** which provides that Any person claiming any estate or interest in land under the operation of this Act may lodge a caveat with the registrar in the form in the Fifteenth Schedule to this Act forbidding the registration of any person as transferee or proprietor of and of any instrument affecting that estate or interest until after notice of the intended registration or dealing is given to the caveator, or unless the instrument is expressed to be subject to the claim of the caveator as is required in the caveat, or unless the caveator consents in writing to the registration.

In **Musisi v Grindlays bank SCCA 5/1986** court held that **Section 139 of the Registration of titles Act** requires that no dealings in the land should be done while there is a caveat prohibiting the same. **SENTONGO PROCEDURE & COFFEE FARMERS LTD Vs ROSE NAKAFUM MUYIISE; HCMA NO. 690/1999**. Arach Musoke T, stated that for a caveat to be valid , it must have protectable interests, legal or equitable to be protected by the caveat , otherwise the caveat would be invalid

Subsection 3 of S. 139 RTA further provides that the person lodging such caveat shall, if required, support the caveat by an affidavit, stating the nature of the title under which the claim is made, and may withdraw any such caveat.

Since Nkusi has already paid the first two installments out of three, he has an equitable interest in the land and should lodge a caveat to protect such interest.

To lodge a caveat, the applicant must have in his or her possession

Two sets of embossed documents duly witnessed by an advocate and signed by the person who is placing the caveat and dated.

A statutory declaration (affidavit) signed by the deponent and a commissioner for oaths Two pass port photo graphs of the person placing the caveat.

The applicant presents the full set of original documents and a photocopy of the same to the office of the titles for processing .The photo copy is stamped, received and returned to the applicant.

The applicant checks with the office of titles after 10 working days to confirm entry of the caveat upon the registration.

He has to be in possession of the following documents

Caveat

Affidavit

Set of passport photographs

General receipts of payment.

Pay fees of 10,000 under 22nd schedule RTA, and also a stamp duty of 10,000 under item 19 of the Second Schedule of the Stamp Duty Act 2014 as amended in 2016.

A caveat

**THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT CAP, 230**

AND

**IN THE MATTER OF THE LAND COMPRISED IN FRV 98 FOLIO 27 Plot No..11,
Kyotoyamandwa .REGISTERED PRORIETOR; BRENDA ARIKO**

CAVEAT To the Registrar of Titles.

Kampala City Council Authority.

TAKE NOTICE that I ,Major Nkusi , claim an equitable interest in the land comprised in the above folio , and I forbid the registration of any person as transferee or proprietor of land of any instrument affecting the estate or interest until after notice of such registration given to me at the address here after mentioned or unless I consent in writing there to(as the case may require).

I appoint SUI GENERIS and Co. Advocates, P.O.BOX 7117 KAMPALA,UGANDA as the place at which notices and proceedings relating to this caveat may be served.

Dated this 20th day of October 2018.

.....

For SUI GENERIS AND CO.ADVOCATES

COUNSEL FOR THE SAID CAVEATOR

Drawn and Lodged for Registration By.
SUI GENERIS AND CO, ADVOCATES
P.O.BOX 7117 KAMPALA.

AFFIDAVIT IN SUPPORT

THE REPUBLIC OF UGANDA IN THE MATTER OF THE REGISTRATION OF TITLES ACT
CAP, 230 AND

IN THE MATTER OF THE LAND COMPRISED IN FRV 98 FOLIO 27 Plot No..11,
Kyotoyamandwa

REGISTERED PRORIETOR .Brenda Ariko .

AND

**IN THE MATTER OF A CAVEAT FORBIDDING REGISTRATION OF ANY CHANGE IN
PROPRIETORSHIP OR ANY DEALING WITH ESTATE OR INTREST.**

AFFIDAVIT IN SUPPORT OF A CAVEAT I, Major Nkusi do solemnly and state an oath as follows:

That am a male adult Ugandan of sound mind with an equitable interest in the captioned land and I make this declaration in that capacity.

That the above described land was sold to me by the **Brenda Komugabe Ariko** (copy of sale agreement marked annexure A)

That I would like to register a caveat over the above land to protect my equitable interest there in.

That I swear this affidavit in support of a caveat for bidding the registration of any person as transferee or proprietor of the said land and any instrument affecting the said interest until after notice of such registration is given to me at the address mentioned in the caveat or unless I consent in writing thereto.

I CERTIFY that what is stated herein above is true and correct to the best of my knowledge.

Sworn at Kampala this 20th day of October 2018.

By the said:

Major Nkusi Deponet

..... Before me

.....

COMMISSION FOR AOTHS

DRAWN AND FILED BY
SUI GENERIS AND CO.ADVOCATES
P.O.BOX 7117
KAMPALA

TASK IV WORKSHOP 2.

Assuming instead that Major Nkusi having paid off the entire purchase price in the transaction outlined in (iii) above and taken possession of the land, Brenda sadly passes on without signing any transfers in favour of Major Nkusi, though she had put him in possession the land and her husband is willing to handover the duplicate certificate of title and is willing to hand it over. **Advise the purchaser on the steps that he could take to obtain the legal interest in the land.**

Apply for vesting orders.

I would advise the purchaser to apply for a Vesting. Osborne’s concise law dictionary defines a vesting order as an order of a court under which property passes as effectually as it would under a conveyance.

Under S. 78 of the Registration of Titles act Cap. 230, a person who claims that he or she has acquired a title by possession to land registered under this act may apply to the registrar for an order vesting the land in him or her for an estate in fee simple or other estate claimed.

Section 79 RTA provides for the form of application.

Every application under section 78 shall be—

in writing in the form or to the effect of the Sixth Schedule to this Act, and shall include the several particulars mentioned or referred to in that Schedule;

signed by the applicant, or in the case of a corporation by a person authorised in that behalf in writing under the seal of the corporation;

attested by at least one witness being a person mentioned in that behalf in section 147; (d) supported by a statutory declaration by the person signing it that the several statements in it are true; and

(e) accompanied by a survey plan (with field notes) of the land.

S.80RTA: provides that Registrar should advertise the application in the Gazette at the applicant's expense.

S.81 RTA: Applicant shall cause notice to be served.

S.82RTA: After a period not more than 12 months registrar may grant the application unless the caveat has been lodged forbidding the same.

S. 87 RTA provides that after the expiration of the time appointed, the registrar if satisfied that the applicant has acquired a title by possession to the land, may

— (a) cancel the existing certificate of title and any instrument, entry or memorial in the Register Book altogether or to such extent as is necessary; and

(b) issue to the applicant or person entitled to receive it a new certificate of title for an estate in fee simple or the other estate acquired in the land by the applicant free from all incumbrances appearing by the Register Book to affect the existing title, which have been determined or extinguished by such possession and free from any easement notified as an incumbrance which has been proved to the satisfaction of the registrar to have been abandoned.

Also under S.167 of the RTA the registrar has power to make a vesting order in cases of completed purchases.

In **Re Ivan Mutaka** [1980] HCB 27:, it was held that in order to invoke and rely on S.167 of the

RTA and before the court can make a vesting order, the applicant must prove the following; a) There was a sale of land.

The land was registered under the RTA.

The whole purchase price was paid.

The purchaser is in possession of the land.

Entry and possession have been acquiesced by the vendor.

Transfer has never been executed.

The vendor cannot be obtained by reason of death or residing outside the Jurisdiction or cannot be found.

It was further stressed in **Re: An Application by the Trustees of Lugave Clan (1960) EA 322 (HCU)** that if the applicant has never taken possession of the land, they cannot be awarded a vesting order. Also in **Adonia v Mutekanga (1970) EA 429**, it was held that a vesting order can only be made where the purchaser takes possession of the land and his entry has been acquiesced by the vendor.

Application for vesting order

There is no procedure for the application under S. 167. One applies to the registrar by formal letter and attaches a statutory declaration.

THE REPUBLIC OF UGANDA IN THE MATTER OF THE REGISTRATION OF TITLES ACT
CAP 230 IN THE MATTER OF APPLICATION FOR A VESTING ORDER

The Principal Registrar of Titles

.....

Dear Sir/ Madam

INkusi Allan of, apply for a vesting order in all that piece of land comprised in FRV 98 FOLIO 27, Plot NO. 11, Kyotokyamandwa which land is delineated coloured red upon the plan numberedin the schedule to this application for an estate free from incumbrances and I declare;

That in 2018, I purchased the said land from one Brenda Komugabe Ariko of Kyaddondo.

To date I have been in possession of the said land and have enjoyed possession unchallenged by the registered owner.

That there are no documents and any other evidence affecting such land in my possession and under my control other than those ascertaining my rights on the land.

There are no mortgages or encumbrances registered on the above mentioned title or land description.

That however, the seller to date has not been able to execute or sign transfer forms in my favour due to her death.

That I have a sale agreement in my possession.

Dated at Kampala this 20th day of October, 2018.

Name and signed by

In the presence of

STATUTORY DECLARATION

(Pursuant to S.79(a) and (d) of the RTA)

I Nkusi Allan do hereby solemnly declare and state on oath that the above is true and correct information of the best of my knowledge.

And I make this solemn declaration consciously believing the same to be true in accordance with the statutory declaration Act Cap 22.

Dated at Kampala this 20th day of October, 2018.

By the said Nkusi Allan.

.....

Deponent

Before me;

.....

Commissioner for oaths.

5. Assuming further that Brenda having passed on, her husband, Harry Ariko, has now obtained Letters of Administration over Brenda’s estate and is desirous of selling off the land comprised in **LRV 1289 Folio 15 Plot No. Misc.437, Ntinda, Kampala.**

Advise him on the steps he would have to take to enable him lawfully sell that land.

The administrator must apply for transfer of land into his name.

Sec 270 –Succession Act Cap 162 –provides that —an executor or administrator has power to dispose of the property of the deceased, either wholly or in part in such manner as he or she may think fit.

An administrator is therefore entitled to registration as the proprietor of the estate of the deceased.

Sec 134(1) R.T.A – A person registered as administrator or executor of a deceased may get registered as proprietor of any land on application to the registrar and upon that entry being made that executor or administrator shall become the transferee and be deemed to be the proprietor of such land.

In **SHOKALATI ABDULLAH DHALLA VS SANDRUDIN SCCA no. 32/1994; held; FOR AN Administrator to transfer land (even to the beneficiaries) he or she must first get registered as proprietor before transfer land.**

Procedure;

The instrument used is a formal letter applying for registration of the administrators.

To it must be attached a certified copy of the letters of administration and passport photographs and copies of identification documents of the applicants.

The applicants must submit to the registrar the duplicate of title to enable the registrar of titles to make the sought entries.

Registrar receives the application and give it an instrument number.

He cancels the name of the deceased from the register and in his place register the administrators of the estate as proprietors on both the original and duplicate certificate of title pursuant to sections 134 of the R.T.A , Cap 230.

Once registered has power to deal with the land but must act bonafide.

S. 134(4) RTA provides that no registration fees are payable.

6. Assuming on the other hand that having purchased, fully paid up for and got registered as the proprietor of **Kyadondo Block 244 Plot No.620, Kisugu**, Major Nkusi has now been contracted by the United Nations to train officers serving under *UNISOM* in Somalia and has to leave immediately. However, he wants to immediately sell off that land at a profit, and from the proceeds purchase the land comprised in **LRV1289 Folio 15, Plot Misc.437, Ntinda, Kampala**. He is due to leave the country next week for a continuous period of four years but would want the transactions to proceed even in his absence. He has asked you to advise on and handle these transactions.

Furnish the advice and draft the most pertinent document that you would need and use to handle the transactions in his absence.

Major Nkusi can have his interests catered for through powers of attorney.

The supreme court of Uganda in Frederick **JK Zaabwe v Orient Bank and 5 others (SCCA No.4 of 2006)** quoted the Black's Law dictionary, defining power of attorney as an instrument in writing whereby one person, principal, appoints another, his agent and confers authority to perform certain specified acts or kinds of acts on behalf of the principal. Such power may be general (full) or special(limited).

This is provided for under the Registration of Titles Act, section 146(1) which is to the effect that, the proprietor of any land under the operation of the RTA or of any lease or mortgage may appoint any person to act for him or her in transferring that land, lease or mortgage or otherwise dealing with it by signing a power of attorney in the form in the Sixteenth Schedule to this Act. This therefore gives the powers of attorney legal effect and implies that the donee of the powers of attorney for Major Nkusi can transact on behalf of Major Nkusi in his absence.

For the power of attorney to have effect in law, it should be registered in accordance with the

Registration Of Documents Act as provided for under section 146(2) of the Registration of Titles Act cap 230 and if so registered within four months after the date thereof shall be presumed to be in force at the time of its registration unless a revocation of that power of attorney has been previously registered under that act but nothing in this act shall diminish the force and effect of any power of attorney if registered after the expiration of that period of four months.

Under s.147 of the RTA cap 230, powers of attorney are duly executed when signed by a person and attested by any witness falling within the ambit of s.147 and in Uganda these are; any officer in the service of the Government of Uganda or of Kenya;

a justice of the peace;

an advocate;

a notary public;

a bank manager;

a minister of religion authorised to celebrate marriages within Uganda; (vi) a medical practitioner;

any literate chief of the rank of a gombolola chief or a corresponding or higher rank; or

any other person authorised in that behalf by the Minister by statutory instrument; and

without the limits of Uganda—

either a notary public or else the mayor or other chief officer of any city or municipal corporation within the United Kingdom of Great Britain and Northern Ireland or the Republic of Ireland;

the officer administering the government of, or the judge of any court of record in, any Commonwealth country;

a foreign service officer or a diplomatic representative of any Commonwealth country at any foreign place;

a police magistrate, resident magistrate, stipendiary magistrate or special magistrate in any Commonwealth country;

the manager or accountant of any branch of any bank incorporated under the law of the United Kingdom of Great Britain and Northern Ireland or the Republic of Ireland; and

any other person authorised in that behalf by the Minister.

Powers of attorney have to be strictly construed and this principle was ably laid out by the supreme court of Canada in **Powis And Bryant Vs Lc Quebec Bank** 1892 AC 170 and further in **Sidpa vs Uganda Rehabilitation Development Foundation HCCS No 199/1993** which held inter alia that a contracting party is bound to inquire into the extent of the agent's authority.

SALIENT FEATURES OF A POWER OF ATTORNEY

name of person giving the power of attorney/donor/principal

name of person given powers of attorney/donee/agent

capacity of person giving powers of attorney

purpose and object

date and signatures of donor, donee and witness.

NOTE: under S. 148 RTA No instrument or power of attorney shall be deemed to be duly executed unless either— (a) the signature of each party to it is in Latin character; or

(b) a transliteration into Latin character of the signature of any party whose signature is not in Latin character and the name of any party who has affixed a mark instead of signing his or her name are added to the instrument or power of attorney by or in the presence of the attesting witness at the time of execution, and beneath the signature or mark there is inserted a certificate in the form in the Eighteenth Schedule to the RTA.

FREDRICK J.K. ZAABWE v ORIENT BANK LTD

HELD. Per **KATUREEBE, JSC.**

In my view, the rationale behind section 148 requiring a signature to be in Latin character must be to make clear to everybody receiving that document as to who the signatory is so that it can also be ascertained whether he had the authority or capacity to sign. When the witness attesting to a signature merely scribbles a signature, without giving his name or capacity, how would the Registrar or anyone else ascertain that that witness had capacity to witness in terms of section 147 of the Registration of Titles Act? **Held** that where the signatures to a mortgage are not in Latin character, the mortgage is not valid

Draft copy of a power of attorney

THE REPUBLIC OF UGANDA IN THE MATTER OF THE REGISTRATION OF TITLES ACT
CAP 230

POWER OF ATTORNEY.

I, **Maj. Allan Nkusi** appoint SUI GENERIS ADVOCATES my attorney to sell to any person **Kyadondo Block 244 Plot No.620, Kisugu**, and use the proceeds to purchase the land comprised in **LRV1289 Folio 15, Plot Misc.437, Ntinda, Kampala**

ALSO to exercise and execute all powers which now are or shall hereafter be vested in or conferred on me as a lessor or mortgagee under the Act

AND for me and in my name to sign all such transfers and other instruments and do all such acts, matters and things as may be necessary or expedient for carrying out the powers hereby given and for recovering all sums of money that are now or may become due or owing to me in respect of the premises and for enforcing or varying any contracts, covenants or conditions binding upon any lessee, tenant or occupier of the lands or upon any other person in respect of the same and for recovering and maintaining possession of the lands and for protecting the lands from waste, damage or trespass.

Dated this _____ day of _____, 20 ____.

Signed by _____, in the presence of _____.

Task 7

Brenda having passed on, one of her elder children Bosco is opposed to the sale of any of her properties for fear that his father, Harry, may use the proceeds to marry another woman. Bosco has come to you seeking that you protect his interests (if any) and those of his siblings.

Advise him on the steps you are likely to take should you accept the instructions. Draft the requisite documents.

Bosco can protect his interests by lodging a caveat on this land. Sec. 139 of the Registration of Titles Act provides that a caveat may be lodged and withdrawn.

S.139 (1) Any **beneficiary** or other person claiming any estate or interest in land under the operation of this Act or in any lease or mortgage under any unregistered instrument or by devolution in law or otherwise may lodge a caveat with the registrar in the form in the Fifteenth Schedule to this Act or as near to that as circumstances permit, forbidding the registration of any person as transferee or proprietor of and of any instrument affecting that estate or interest until after notice of the intended registration or dealing is given to the caveator, or unless the instrument is expressed to be subject to the claim of the caveator as is required in the caveat, or unless the caveator consents in writing to the registration.

SEC. 139. (3) The person lodging such caveat shall, if required, support the caveat by an *affidavit*, stating the nature of the title under which the claim is made, and may withdraw any such caveat.

S. 141 RTA prohibits any entry to be made in the Register book while the caveat continues to be in force.

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE REGISTRATION OF TITLES ACT, CAP 230

AND

**IN THE MATTER OF LAND COMPRISED IN LRV 1289 FOLIO 15 PLOTS NO 437
NTINDA NAKAWA DIVISION, KAMPALA DISTRICT.**

CAVEAT

To:

The Registrar of Titles

Land Registration Kampala

TAKE NOTICE THAT I, BOSCO of Kisasi, Kawempe, Division Kampala district, Tell No 0704250025 claim an interest as the beneficiary of land described above, and forbid the registration of any person as transferee or proprietor of land or any instrument affecting the said land or interest until after notice of such registration is given to me at the address hereinafter mentioned or unless such instrument be expressed to be subject to my claim or unless I consent in writing thereto. I appoint **M/s Law Development Centre SUI GENERIS (LDC) Plot339, Makerere.**

P.O.Box 7117, Kampala, Uganda, as the place at which notices and proceedings relating to this caveat may be served.

Dated at Kampala this22.... day of ...OCTOBER 2018

..... **BOSCO CAVEATOR**

Signed in the presence of:

ADVOCATE

***M/s CI LAW DEVELOPMENT CENTRE, LEGAL AID CLINIC, MAKERERE KAGUGUBE
P.O.BOX 7117 ,KAMPALA.***

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE REGISTRATION OF TITLES ACT, CAP 230

AND

**IN THE MATTER OF LAND COMPRISED IN LRV 1289 FOLIO 15 PLOTS NO 437
NTINDA NAKAWA DIVISION, KAMPALA DISTRICT.**

AND

**IN THE MATTER OF A CAVEAT FORBIDDING REGISTRATION OF ANY CHANGE
IN PROPRIETORSHIP OR ANY DEALING WITH ESTATE OR INTEREST**

AFFIDAVIT IN SUPPORT

I, **BOSCO** of SUI GENERIS, Law Development Centre (LDC) Plot 339, Kagugube Road, Makerere P.O.Box 7117, Kampala, Uganda, do hereby make Oath and swear as follows:

THAT I am a male adult Ugandan of sound mind with capacity to swear this affidavit.

THAT I am a son and beneficiary to the estate of the late Breda Komugabe , Ariko the proprietor of land in LRV 1289 Folio 15 Plots No 437 Ntinda Nakawa Division, Kampala District which was left as part of estate of my said late mother.

THAT the Late Bender Komugabe Ariko left no will and i have come to larn that my father has obtained title to the said property and is planning to dispose it off without my consent as a beneficiary.

THAT I suspect that there is a third party that might benefit from the sale of this property without my consent.

THAT I pray that the said land be protected from any transaction without my notice.

THAT I swear this affidavit in support of the lodgment of a caveat on LRV 1289 Folio 15 Plots No 437 Ntinda, Nakawa Division, Kampala District

I CERTIFY that what is stated herein above is true and correct to the best of my knowledge.

SWORN at Kampala by the said

BOSCO

.....

This.....22ND Day of 2018

DEPONENT

Before me:

.....

MAGISTRATE / COMMISSIONER FOR OATHS

DRAWN & FILED BY:

SUI GENERIS, LEGAL AID CLINIC, MAKERERE KAGUGUBE P.O.BOX 7117 ,KAMPALA.

BRIEF FACTS

Muzamir Mudde is interested in acquiring two parcels of land whose certificates of title show that one is under Mailo Tenure (A) and the other Leasehold tenure. Part of **Property A** measuring about 25 decimals is developed with four blocks of old dilapidated structures. The rest of the land is vacant. Muzamir intends to establish a beef processing plant on the land. The project is intended to break even in the fifteenth year of its operation. Muzamir wants to own this land together with his two wives, Michelene Bontue', a French national who has three children with Muzamir and is contributing one half of the start-up capital for the project and Aisha Nakazibwe, a Ugandan, who stays at home typically as a housewife and has nine children with Muzamir.

On the other hand, **Property B** is fully developed with a storeyed commercial building and is fully occupied. The ground floor is occupied by a pharmacy, a restaurant, salon and a dentist clinic respectively each paying 1.5M per month paid 3 months in advance. The 1st floor is occupied by BETAFRICA limited paying USD 4000 annually, payable in 2 equal installments in advance. The 2nd floor is fully occupied by Crane school of tourism paying 6M annually payable in advance of every 2 years. The 3rd floor is occupied by the relatives of the executive directors of Style Real Property Limited and they do not pay any rent

ISSUES

What is the meaning and implications of all the salient entries on and features of the Certificate of Title of Property B?

Which pertinent inquiries and steps ought to be made or undertaken to ensure viability of the respective transactions;?

c) what steps would be undertaken to obtain a proprietary interest in the respective parcels of land?

What steps Muzamir would have to be undertaken to immediately lawfully obtain physical possession of the whole of Property B from the various persons currently in possession?

What further steps Muzamir would have to take in order to lawfully establish and implement his personal venture in Property B if such venture is a Hospital whose business break-even period is projected to be 20 years.?

What steps Muzamir would take to address default in rental payments by each of the tenants in Property B assuming that he took over as landlord and retained them in the premises.?

What steps Muzamir's Lessor would have to take to effectively terminate the Lease in the event that Muzamir defaulted on the terms of the lease for a substantial period of time.?

What steps Muzamir would have to take to retain the property in the event that his Lessor has written to him terminating the lease in property B and is preparing to evict Muzamir for non-payment of rent.?

Whether Muzamir can eventually convert the acquired interests into another tenure and, what steps would he have to take?

What is the forum, procedure and documents necessary?

LAW APPLICABLE

1. Constitution of Uganda of 1995
2. The Registration of Titles Act CAP. 230;
3. The Land Act CAP 227(as amended)
5. The Physical Planning Act of 2010, No. 8 of 2010;
6. The National Environment Act CAP 153;
7. The Public Health Act CAP 281;
8. The Stamps Act CAP 342;
9. The Judicature Act CAP 13;
10. The Distress for Rent Act CAP 50;
11. The Civil Procedure Act CAP 71;
12. The Common Law;
13. The Land Regulations of 2004 (as amended);
14. The Distress for Rent (Bailiffs) Rules SI 68-1;
15. The Civil Procedure Rules SI 71-1.

RESOLUTIONS

What is the meaning and implications of all the salient entries on and features of the Certificate of Title of Property B?

S. 1 of the Registration of Titles Act Cap 230 defines a “certificate of title” to mean a certificate of title issued by the registrar under this Act.

A certificate of title is a document signifying ownership.

S. 37 provides for the Register Book.

(1) The registrar shall keep a book, to be called the “Register Book” and shall register in it certificates of title, and shall enter in such manner as to preserve their priorities the particulars of all dealings and matters affecting the land by this Act required to be registered or entered.

(2) The registrar may—

(a) keep the Register Book, or any part of it, in such loose-leaf or other form as he or she may consider appropriate;

(b) keep the Register Book in parts, each relating to a district, county, subcounty or other convenient area.

(3) Every person whose name is entered in the Register Book as proprietor of any land, or any interest in land, or as a caveator, or as entitled to receive any notice, or in any other capacity, shall furnish to the registrar a place of address in Uganda.

S.38 provides for the contents of a Certificate of title.

(1) Certificates of title shall be in one of the forms in the Third Schedule to this Act and shall be in duplicate.

(2) One of the certificates shall be registered in the Register Book, and the other original (hereafter called the duplicate) shall be issued to the person entitled to it.

(3) Each certificate of title shall constitute a separate folium of the Register Book.

(5) Where the Register Book is kept in parts under section 37(2)(b), the registrar shall—

- (a) file each certificate in the appropriate part of the Register Book, by reference to the location of the land in respect of which the certificate is registered; and
 - (b) enter upon the certificate a reference to the block and plot number of the land in respect of which the certificate is registered, as shown on a plan approved by the commissioner of lands and surveys.
- (6) Where the registrar has entered upon a certificate a reference to the block and plot number under subsection (5), references in this Act to a volume or folium of the Register Book shall be construed as references to that block or plot number, as the case may be.

S.46. provides for Effective date of registration; the duly registered proprietor.

- (1) Subject to section 138(2), every certificate of title shall be deemed and taken to be registered under this Act when the registrar has marked on it—
- (a) the volume and folium of the Register Book in which it is entered; or
 - (b) the block and plot number of the land in respect of which that certificate of title is to be registered.
- (2) Every instrument purporting to affect land or any interest in land the title to which has been registered under this Act, shall be deemed to be registered when a memorial of the instrument as described in section 51 has been entered in the Register Book upon the folium constituted by the certificate of title.

S. 51. Memorial defined.

Every memorial entered in the Register Book shall state the nature of the instrument to which it relates, the time of the production of that instrument for registration and the name of the party to whom it is given and shall refer by number or symbol to the instrument, and shall be signed by the registrar.

S. 59. Certificate to be conclusive evidence of title that the person named in the certificate as the proprietor of or having any estate or interest in or power to appoint or dispose of the land described in the certificate is seized or possessed of that estate or interest or has that power.

S. 64. Estate of registered proprietor paramount except for fraud.

Entries and features of certificate of title to Property B.

The land in Property B is registered under the lease hold register under the Registration of Titles Act Cap 230.

Lease hold is one of the land tenure systems provided for in the constitution under article 237(3) (a) and S. 2 (d) of the Land Act Cap 227.

Under S. 1(s) of the Land Act “leasehold land tenure” means the holding of land for a given period from a specified date of commencement, on such terms and conditions as may be agreed upon by the lessor and lessee, the incidents of which are described in section 3, and includes a sublease;

S. 3(5) of the Land Act provides for leasehold tenure system as a form of tenure

- (a) created either by contract or by operation of law;
- (b) the terms and conditions of which may be regulated by law to the exclusion of any contractual agreement reached between the parties;
- (c) under which one person, namely the landlord or lessor, grants or is deemed to have granted another person, namely the tenant or lessee, exclusive possession of land usually but not necessarily for a period defined, directly or indirectly, by reference to a specific date of commencement and a specific date of ending;
- (d) usually but not necessarily in return for a rent which may be for a capital sum known as a premium or for both a rent and a premium but may be in return for services or may be free of any required return;
- (e) under which both the landlord and the tenant may, subject to the terms and conditions of the lease and having due regard for the interests of the other party, exercise such of the powers of a freehold owner as are appropriate and possible given the specific nature of a leasehold tenure.

Leases are classified into fixed term and periodic leases.

A fixed term lease is a lease whose duration is fixed by the parties at the onset so that once the term expires; the lease comes to an end. For example, a lease for 12 months or 49 years is a fixed term lease and it expires at the end of the term. A periodic lease is a lease which continuously renews from one term to another until terminated by the proper notice served by either party as was held in *Prudential Assurance co ltd v London Residuary [1992] 3 ALL ER*

Essential Features of A lease

At common law, a lease has two basic features.

1. Certain duration

2. Exclusive possession.

Though a lease is normally granted for monetary consideration, this is not an essential feature. S 3(5)(d) Land Act states that a lease may be created even where there's no requirement for rent payment.

Duration

At common law, a lease can be of any duration but a lease must have a certain or ascertainable beginning and ending before it takes effect. Otherwise, it is void as a lease. The classical example of the application of this rule is in *Lace v Chantler [1944] 1 ALL ER 305*; The plaintiff during the 2nd world war sublet a house to the defendant for the duration of the war. It was held that the lease was void for uncertainty of duration because at the time, the purported lease took effect it was neither certain nor ascertainable when the war would end.

In *HARVEY V PRATT (1978) 2 ALL ER 786*

held

In order that an agreement for a lease shall be valid there must be, among other essentials, agreement on the date of commencement of the term; and in the absence of this date validity will not be given to the agreement either by implication that the term shall begin within a reasonable time or by taking the date of the agreement as the date of commencement

Per Lord Denning, —It is settled beyond question that, in order for there to be a valid agreement for a lease, the essentials are that there shall be determined not only the parties, the property, the length of the term and the rent, but also the date of its commencement. This document does not contain it. It is not sufficient to say that it can be supplied by an implied term as to reasonable time.

In Dr. Adeodanta Kekitinwa & 3 Others Vs. Edward Mbudo Wakida CACA 3/97.

Mpagi Bahigeine quoted ; Lord Green M.R in an earlier case of ***Lace v Chantler (1944) 1KB 368 at 370***, which neatly wraps up the legal position —”The habendum in a lease must point out the period during which the enjoyment of the premises is to be had, so that the duration, as well as the commencement of the term, must be stated. The certainty of a lease as to its continuance must be ascertainable either by the express limitation of the parties at the time the lease is made, or by reference to some collateral act which may, with equal certainty, measure the continuance of it, otherwise it is void. If the term be fixed by reference to some collateral matter, such matter must either be itself certain or capable before the lease takes effect of being rendered so. The important words to observe in that last phrase are the words —before the lease takes effect.

Exclusive possession

S.3(5) of Land Act defines a lease as a form of tenure under which a landlord grants or is deemed to grant exclusive possession of the land. Thus, exclusive possession is the most important consideration of a lease and is what distinguishes a lease from a mere license. In *Street v Mountford [1985] 2 ALL ER 289*; The test whether an occupancy of residential accommodation was a tenancy or a licence was whether, on the true construction of the agreement, the occupier had been granted exclusive possession of the accommodation for a fixed or periodic term at a stated rent, and unless special circumstances existed which negated the presumption of a tenancy ...a tenancy arose whenever there was a grant of exclusive possession for a fixed or periodic term at a stated rent.

Entries and features of COT.

The front page shows the law under which the land was registered, and the tenure system. This land is registered under the RTA in the leasehold register hence it is under the leasehold tenure system.

It also shows the volume number and folio whose importance is to help in identifying the piece of land on the register. S. 38 (3) and (6) RTA. In this certificate the land is found in the leasehold register volume 1866 folio 17.

The front page of the certificate of title displays a description of land. It gives the plot no, location of the land, and district as required under S. 38(5) of the RTA. The land is on plot 77 Nakawa (commercial area) in the district of Kampala. The size of the land is 0.389 hectares. All these are for purposes of properly situating the land in that even if a person was to carry out due diligence, they would know where the land is and easily locate it by searching at the registry of lands.

The next description on the certificate of title is the term of the lease that is for 47 years running from 1st August 1988 subject to the implied conditions and covenants under the Registration of Titles Act Cap 230 and the lessee is bound by any encumbrances if any entered in the encumbrance register S. 3(5)(c) requires a lease to be for a period defined, directly or indirectly, by reference to a specific date of commencement and a specific date of ending;

The next feature is the **propriatorship** of the lease. The lease according to the certificate belongs to Shiv Construction Company Ltd. S. 59 RTA a person whose name appears on the title is the owner of the property.

There is a provision of a column for inserting the date the lease was registered and the time the entries were made in the register. This lease was registered on 17/8/1990 via instrument no 244832 and is signed by the registrar. This is in compliance with S. 46(2) and S. 51 RTA.

The most important feature of this title is that a lease agreement between the lessor and the lessee must be attached on the register. As such the lease in question was made on the 1st day of August 1990 16th under the Public Land Act and the rules between City Council of Kampala as the lessor and Shiv Construction Company as the lessee.

The lease agreement contains or stipulates the terms and conditions under which the lease is granted. That the lease of the demised premises is granted on a consideration of rent which is reserved subject to covenants and conditions to be observed by the lessee.

One of the conditions is that the lessee will hold land for 4 years running from 1st August 1988 by paying a yearly rent of 5000 shillings in two equal half year payments with an advance on 1st January and the other half on 1st July

The second paragraph provides for observance of covenants and conditions implied by law. However, the lessee is supposed to erect a building whose value is not less than 50million shillings in accordance with plans and specifications to be approved by the lessor.

Paragraph 4 stipulates that where the building covenant is complied with and without any other breach, the lease shall be enlarged to 47 years automatically running from 1st August 1988 as if it was originally granted for 47 years.

The deed is signed by both parties whose seals are affixed and attested to.

The next element of the title is the *deed plan* which shows the accurate location of the land and the easements on the land and other physical features like swamps on the land. The main purpose of the deed plan is to show location basically of the premises.

The next pertinent issue is the page for *encumbrances* on the title. The lease is encumbered by a Sublease granted to Styles Real Property Ltd for 15 years from April 2017 for 85 million to be paid annually.

b). Which pertinent inquiries and steps ought to be made or undertaken to ensure viability of the respective transactions?

Rule 2(2) of the Advocates Professional Regulations S1. 267-2 provides that an advocate shall exercise due diligence at all times when handling client's matter.

Rule 12(2) further provides that an advocate shall not advise a client to enter into a transaction which he knows a reasonable advocate would not advise them to enter as not being in their best interests.

The client is required to carry out due diligence and specific inquiries in order to ensure that the various properties he intends to acquire are legally purchased. In case of any claim from any persons, he would be able to raise the defence of bonafide purchaser for value without notice.

Particulars of the land

The intending purchaser should be availed with the particulars of the subject land in terms of description. It must have a block and plot, who is registered on the title, location of the land, how many acres etc.

The purpose of the particulars is to enable an intending purchaser to cause a search at the relevant land registry to confirm not only the proprietorship but also the existence of a white page with corresponding particulars like those on the duplicate.

Uganda Broadcasting Corporation v Sinba K Ltd & Ors

Court found that the purchaser did not make a search at the land registry to ascertain the proprietorship of the property the subject of sale. And held that she had a duty and obligation to ascertain the proprietor of the property even before attempting to bid for it. Had she done so she would have found out that the property she was bidding for did not belong to the respondents. At least she was on full notice. It appears that she actually was well aware of the fact that the respondent was not the registered proprietor but she went ahead to buy the property anyway. She cannot turn around and contend that she is an innocent purchaser for value without notice.

Search.

S. 201 of the Registration of Titles Act Cap 303 provides that any person may, on payment of the fee for the time being payable in that behalf, inspect the Register Book during the hours and upon the days of business.

Subsection 2 further provides that the registrar, on payment of the fee for the time being payable for a certified copy, shall furnish to any person applying for it a certified copy of any certificate of title, caveat or registered instrument affecting land under the operation of this Act; and every such certified copy signed by the registrar and authenticated by the seal of the office of titles shall be received in evidence in any court or before any person having by law or by consent of the parties authority to receive evidence as prima facie proof of the original certificate of title.

In the case of **Father Narsensio Begumisa and Ors v Erick Tibebaga SCCA No 17/2002**. Court opined that the purchaser must carry out all due diligence by cross checking the title at hand /examine the certificate of title and all its pages to ensure that all the pages reflect the essential features of a valid certificate of title.

The intending purchaser, should therefore after having examined the certificates of title, conduct a search at the land registry to confirm the particulars.

In regards to location, whether the cover page corresponds with part that provides for the Block Number, County, District, and Plot Number.

The purchaser should ensure that the seal and the stamp of the registrar of titles is valid.

Easements on the physical land should be checked thoroughly in part I and the Deed plan print.

The signature of the purported vendor and name and other previous owners. The name of the current owner should correspond with the vendor. Encumbrances on the title should be brought to the attention of the client.

The procedure is that you write a formal/ordinary letter to the registrar of titles.

The fees payable on the application letter is 10,000 payable to URA under the Registration of Titles (fees) (amendment) Rules 1998

Spousal consent.

Also the intending purchaser should find out whether the land is subject to spousal consent or if there are any equitable interests on the land.

Section 38A of the Act as amended gives every spouse security of occupancy on family land which means a right of access to and a right of residence therein. It provides that every spouse shall in every case have the right to use the family land and to give or withhold his or her consent to any transaction referred to under section 39 which may affect his or her rights. Family land is defined to mean land on which is situated the ordinary residence of a family and inclusive of where the family derives sustenance.

Section 39 (1) of the Land Act Cap. 227 as amended by the Land Amendment Act No. 1 of 2004 prohibits the mortgaging of family land except with the prior consent of a spouse.

Alice Okirol vs. Global Capital Save 2004 Limited HCCS No. 149/2010

; HELD; The requirement for spousal consent is intended to provide security of occupancy on family land unless a spouse consents to doing away with it. That in the absence of written spousal consent to mortgaging the property in issue for the amount stated in the mortgage, the mortgage created over it is void

If the land is family land then consent of spouse must be availed in writing. The Certificate of Title of Property A is in the names of Douglas Tomusange and was registered in 1978. It is important to find out if Tomusange is married and if so whether the property is family property for purposes of spousal consent.

Physical visit and opening of boundaries

The person must verify the authenticity of the certificate of title presented by the vendor. This is because the registry of land is authorised under the law to create a special certificate of title where the duplicate is misplaced, destroyed or obliterated. Where a special certificate is issued a white page indicates so and the title itself contains the words ‘special certificate’

A certificate of title must contain the particulars of the land that correspond with the ground. It is therefore important for the intending purchaser to cause a boundary opening to confirm whether the boundaries are in tandem/ consistent with the particulars of the land. This is important in case of fraud and also where there is a mistake/error on the title.

Fr. Nascensio Begumisa v Eric Tibebaga supra

The appellants pleaded that they were rightful customary owners of the suit land, which was different from, and was located about 2-3 kilometres away from the land described in the certificate of title.

Court found that Block 53 Plot 9 was in Masya parish, and that the suit land was not surveyed, and that it was located in Block 59 in Kijubwe parish. Court **held** that the significance of that evidence lies in the elementary principle of the land registration system under the RTA, namely that a certificate of title relates to only one parcel of land.

Therefore an intending purchaser should undertake a physical visit to the land /physical search to ensure that the particulars of the title reflect onto the land otherwise regarded as boundary opening.

One ought to discover the following;

What is on the land?

Inquiry from the locals, local authority to ensure that the respective pieces of land belong to Brenda Komugabe.

Check with the planning Authority and find out the use under which that land is put. It may be a road reserve. S. 3 of the Physical Planning Act, the whole of Uganda is a planning area. S. 33 of the Act a person cannot carry out a project within a planning area without obtaining development permission from the physical planning committee.

Check with NEMA whether such land is put under use by the authority; such land may be declared on wet land.

The client wants to establish a beef processing plant in the area. He needs to find out whether such project can be situate in that area. He will also be required to get an environment impact assessment in respect of the beef processing plant under S. 19 and 20 of the National Environment Act Cap 153. Under the third schedule to the Act abattoirs and meat-processing plants require environment impact assessment.

Consult a surveyor in clarifying and verifying the dimensions, measurements etc on the land in question to be very sure of what your client is going to buy. S. 2 of the Survey Act Cap 212 provides that the commissioner of lands and surveys at any time may authorize the carrying out of any topographical survey or of any other survey specifying the local limits of the area affected. S. 149 RTA, the registrar may require a physical survey of the land.

The purchaser should further find out third party rights (equitable interests) in the land such as leases, bonafide occupants among others.

The facts show that Property B has a commercial building which is fully occupied; it should be found out what are the terms of their different tenancies. Further the certificate of title of property B shows a subsisting sublease for 15 years. The facts do not clearly tell whose tenants are the persons in occupation, either of the lessee or sub-lessee.

It was further stated in *David Sejjaka Nalima —Vs- Rebecca Musoke, SCCA No. 12/85* that where a party abstains from making inquires for fear of learning the truth about a property he is purchasing, that party may be found not to be a bona fide purchaser for value and fraud may be properly ascribed to him

The certificate of title of property A shows that it is a mailo land. There is need to ascertain the presence of any bonafide occupants on the property since they are protected under Article 237(8) and S. 1, 29 and 31 of the Land Act.

Kampala District Land Board v National Housing and Construction Corporation CA. No. 2 of 2004 where it was held that a bonafide occupant was given security of tenure and his interest could not be alienated except as provided for by the law.

The question of conducting a search is further discussed in **Uganda Posts and Telecommunications v Lutaaya CA 36/1995** where Court held that the mere search on the register is not enough. The person ought to inquire beyond the register. That the law is very clear that if a person purchases an estate which he knows to be in the occupation of another other than the vendor he is bound by all the equities which the parties in such occupation may have in the land.

Sir John Bagaire v Ausi Matovu CACA No. 7 of 1996 at page 26 Court emphasized that it is vital to carry out a search as due diligence to establish ownership before purchase. It was held that “lands are not vegetables that are bought from unknown sellers. Lands are valuable properties and buyers are expected to make thorough investigations not only of the land but of the seller before purchaser”

In **Grace Manjeri Nafula v Brig Elly Kayanja and Anor HCCS No. 136 of 2011** court found that the defendant was required to inquire from the occupants of the premises on the suit as to what their interest was in the suit land. He did not; either for fear of knowing the truth or in order to intentionally defeat the plaintiff’s interest in the land. In either case, it would amount to actual fraud.

Court then quoted the case of *Nabanoba Desiranta & Another vs. Kayiwa Joseph & Another, HCCS No. 496 of 2005* quoting the case of *UP&TC vs. Abraham Katumba [1997] IV KALR 103*, it was held that as the law now stands, a person who purchases an estate which he knows to be in occupation and use of another other than the vendor without carrying out the due inquiries from the persons in occupation and use commits fraud. Further citing *Taylor vs. Stibbert [1803 – 13] ALL ER 432*, the court held that the failure to make reasonable inquiries of the persons in possession and use of land or the purchaser’s ignorance or negligence to do so formed particulars of fraud

Citizenship of Muzamir Mudde; it is important to ascertain the citizenship of client since non citizens in Uganda can only own a leasehold of 99 years but can’t own mailo or freehold as stated under S. 40 of the Land Act.

Therefore in order to be a bonafide purchaser for value without notice it is pertinent to carry out a physical search and ascertain any third party rights in the land.

what steps would be undertaken to obtain a proprietary interest in the respective parcels of land?

Title by registration as a feature of the Torrens system, is where the interests in land are created or transferred by registration under the R.T.A Act. *Section 54 of the R.T.A* provides; No instrument until registered in a manner herein provided shall be effectual to pass any estate or interest in any land under the operation of this Act, or to render such land liable to any mortgage. But upon such registration, the estate or interest comprised shall pass...or be liable to the ... conditions set forth in the instrument or by this Act.

The operation of S.54 is illustrated in the case of „*Lumu v Lindo Musoke*“ where it was held by *Musoke J*, that the agreement for sale of land did not transfer any interest in the disputed land to the defendant. It merely gave him a contractual right entitling him to bring an action against the plaintiff for damages or for specific performance if the plaintiff refused to execute in his favour the statutory transfer.

The case of „*Zimbe v Kamanza*’ further reiterates the principle as propounded by S.54 viz; that title does not pass until a transfer is registered under the Registration of Titles Act. That no man can become the owner of land until a statutory transfer of land to him has been registered.

**Therefore in order for Muzamir to obtain legal interest in the land, he must have the parcels of land brought under the operation of the Registration of Titles Act by having it registered.
Property A.**

The facts show that Mazimur would like to own property A together with two wives but one of them is a French national. He wants to establish a beef processing plant whose break even period is 15 years.

According to *Article 26 of the Constitution* provides that “Every person has a right to own property either individually or in association with others.”

Art 237 (1) of the constitution of the Republic of Uganda, 1995 provides that land in Uganda belongs to the citizens of Uganda and shall rest in accordance with the land tenure system provided for in this constitution.

Art 237(3) of the Constitution 1995 provides that land in Uganda shall be owned in accordance with following land tenure systems.

- a) Customary
- b) Freehold
- c) Mailo and
- d) Leasehold.

Art 237 (2)(c) of the constitution , 1995 provides notwithstanding clause (1) of this article, non citizens may acquire leases in land in accordance with the laws prescribed by parliament and the laws so prescribed shall define a non-citizen for the purposes of this paragraph.

– Sect 40(1) of the land Act Supra, provides that subject to article 237 (2) (c) of the constitution, a non citizen may acquire a lease in land in accordance with this section.

– Sect 40 (2) of the land Act stipulates that a lease of five years or more acquired by a non citizen shall be registered in accordance with the registration of titles Act

.

– Section 40 (3) of the land Act provides that a non citizen shall not be granted a lease exceeding ninety-nine years

Sec 40 (3) of the land act provides that subjects to the other provisions of this section, a non citizen shall not a... or hold mailo or freehold land.

– Sect 40(7) (a) of the land Act provides that —non citizen means a person who is not a citizen of Uganda a defined by: constitution and the citizenship Act

Since one of the wives of Mazimur is a French National, she cant be a registered proprietor of Mailo or Freehold. As such, Mazmur can only own property with her by getting a lease on property A.

Creation of a lease.

S. 3 (5(a) of the Land Act provides that (a) Leasehold tenure is a form of tenure created either by contract or by operation of law.

The parties can therefore enter into a lease agreement

A lease can be created over registered land. S. 101 of the RTA provides that the proprietor of any freehold or mailo land under the operation of this Act may, subject to any law or **agreement** for the time being in force, lease that land for any term exceeding three years by signing a lease of it in the form in the Eighth Schedule to this Act.

In every lease there are implied covenants against the lessee as laid out in S. 102 of the RTA which include; payment of rent, keeping leased property in good and tenantable repair.

There are also implied powers of the lessor under S. 103 which include; power to enter and view the state of the property and power to re enter and take possession in case of breach of any covenant.

Registration;

Sect 40 (2) of the land Act stipulates that a lease of five years or more acquired by a non citizen shall be registered in accordance with the Registration of Titles Act

In order to acquire a legal interest, the lease should be registered. S. 54 of the RTA provides that that no estate or interest in land can be created or transferred by an unregistered instrument and that no land can be made liable to the covenants in an unregistered instrument.

An unregistered lease at common law operates as contract, in equity, it is an equitable lease because equity looks at that as done which ought to be done. This is fortified by the case of Walsh v Lonsdale (1882)2CH 9.

In **SOUZA FIGUERIDO & CO LTD v. MOORINGS HOTEL CO. LTD** (1960) EA 926 it was **held** that there is nothing in the Act stating that an unregistered instrument cannot operate as a contract inter partes; that an unregistered document operates as a contract inter partes and can confer on the party in the position of intending lessee a right to enforce the contract specifically and to obtain from the intending lessor a registrable lease.

In **City Council of Kampala v Mukiibi** it was held that the tenancy agreement, although not in statutory form and bearing no endorsement with a certificate of registration, was enforceable against the defendant as an agreement to grant a lease;

From the facts; Muzamir wants to own together with his two wives in respect of **Property A**. He wants the transactions concluded immediately. One of his wife is a French national.

The best way to obtain legal interest in Property A is therefore to create a lease by entering into a lease agreement with Tomusange the registered proprietor and then have the lease registered.

Documents.

Lease agreement

Form in the 8th schedule of the Act.

Property B.

Execution of an agreement for sale.

Having carried out due diligence and inquiries, the parties should execute an agreement for sale for each of the parcels of land.

In respect to property B, there is a subsisting lease in the names of Shiv Construction Company. Mudde cannot get a lease from City Council of Kampala the lessor when there is a subsisting lease with 17 years to lapse. He can only buy the interest of Shiv Construction Company and have it transferred to him.

In the case of **Livingstone Ssewanyana Vs. Dr. Martin Alier SCCA 4/1990**

Held; the appellant's application in response to which the grant was made should not have been considered and still less approved. It was invalid when it was made because the suit property which it applied for was not available for leasing. If the application had been made or approved after the expiration of the respondent's original lease, the consequences would have been different. In the instant case the Commission granted a lease and issued title to the suit property to the appellant when the respondent's title to the same was in existence and when it had no proprietary interest in the suit property until the expiration of the respondent's title. The Title issued to the appellant was therefore null and void.

Therefore Mudde can only enter into a sale agreement with Shiv Construction Company. Thereafter the lease will be transferred to him under the RTA but with the consent of the lessor.

Registration of sale agreement.

The RTA does not provide for any mandatory requirement to execute an agreement of sale of land and a sale agreement is not an instrument for purposes of passing an interest in registered land. *Refer to S. 54 of RTA and Zimbe v Tokana kamanza*

There is no mandatory requirement to have the agreement of sale registered save that for purposes of evidence in any proceedings in court an unregistered agreement may not be admitted in evidence for want of payment of stamp duty.

It should be noted that an agreement for sale attracts stamp duty. Under S.32 of Stamp Duty Act 2014, any instrument on which a duty is chargeable is inadmissible in evidence unless that instrument is duty stamped as an instrument on which duty chargeable thereon has been paid.

Wasukira Fred v M/S Harmony Group

In the instant application, the plaint was supported by an agreement for commission payments/remittances signed by the 1st and 2nd plaintiffs as Managing Director and company Secretary respectively on which no stamp duty was paid.

Held; Where a cause of action is based on a document where stamp duty must be paid and the duty is not paid a cause of action cannot in law be based on such document. Generally under S.42 of the Stamps Act (now 32 of Stamp Duty Act 2014), any instrument on which a duty is chargeable is inadmissible in evidence unless that instrument is duty stamped as an instrument on which duty chargeable thereon has been paid. If the plaintiff wanted to rely on such unstamped instrument, they ought to have sought leave of court to have the duty paid. The plaintiffs however have not sought leave of court to do so. Therefore the plaintiffs cannot rely on the unstamped agreement as evidence in this suit.

HOUSING FINANCE BANK V EDWARD MUSIISI

Held; The stamp duty for the agreement of sale had not been paid in accordance with section 42 of the Stamps Act. That notwithstanding the land could not be transferred into the names of the buyer without paying the stamp duty and other taxes connected with land transfers.

Therefore for evidential purposes, the sale agreement should be registered under the Registration of Documents Act Cap 81 and also pay the requisite stamp duty.

Executing a transfer instrument

An interest in registered land can only pass upon execution and registration of a proper instrument. S. 54 RTA, *Mustafa Ndigejjerawa v Kizito* where **Ainley.J** gave his judgment that “... No document or instrument can be registered unless it fulfils the requirements, and no instrument (however perfectly it fulfils the statutory requirements) is effectual to transfer any interest in land unless it has been registered...”

The proper instrument for purposes of registration is a transfer form provided for under S. 92 which must be in the form set out in the RTA, should be properly executed by the parties and must be duly attested by the legally designated persons.

S. 147 of the RTA provides that an instrument shall be duly executed if attested to by one witness. Further S. 148 of the RTA requires the signature to be in Latin character.

FREDRICK J.K. ZAABWE v ORIENT BANK LTD

HELD. Per **KATUREEBE, JSC.**

In my view, the rationale behind section 148 requiring a signature to be in Latin character must be to make clear to everybody receiving that document as to who the signatory is so that it can also be ascertained whether he had the authority or capacity to sign. When the witness attesting to a signature merely scribbles a signature, without giving his name or capacity, how would the Registrar or anyone else ascertain that that witness had capacity to witness in terms of section 147 of the Registration of Titles Act? **Held** that where the signatures to a mortgage are not in Latin character, the mortgage is not valid

The attesting witness must sign the transfer instrument having witnessed the transferor or transferee sign.

Where the transferor or transferee is illiterate, the attesting witness must execute a certificate of attestation. This is to certify and confirm that the contents were understood. Section 3 of the Illiterate Protection Act (Cap) 78 of the Laws of Uganda 2000, enjoins any person who writes a document for or at the request or on behalf of an illiterate person to write in the jurat of the said document his/her true and full address. This shall imply that he/she was instructed to write the document by the person for whom it purports to have been written and it fully and correctly represents his/her instructions and to state therein that it was read over and explained to him or her who appeared to have understood it.

S. 92 of the Registration of Titles Act Cap 230 provides that the proprietor of land may transfer the same in one of the forms of transfer in the Seventh Schedule to the Act.

The transfer form shall be accompanied by the consent to transfer form in respect of Property B. under Regulation **92 of the Land Regulations 2004** (1) A lessee shall not assign or sub-let land leased out of former public land without the prior written consent of a board or the commission (2) Transfers, assignment, leases or sub-leases in respect of registered land shall comply with the requirements in Form 53 specified in the First schedule to these Regulations.

Therefore, the parties should execute a transfer instrument, sign it and have it attested.

Valuation and stamp duty

A transfer instrument is incapable of being effectively registered unless the requisite stamp duty is duly paid. Valuation for purposes of payment of stamp duty is done by the chief government valuer who certifies the amount payable by the transfer and its usually 1.5% of the whole consideration as per Stamps (Amendment) Act 2016.

HOUSING FINANCE BANK V EDWARD MUSIISI

Held; The stamp duty for the agreement of sale had not been paid in accordance with section 42 of the Stamps Act (now 32 of Stamp Duty Act 2014.) That notwithstanding the land could not be transferred into the names of the buyer without paying the stamp duty and other taxes connected with land transfers.

It's a requirement of the law that the intending transferee discloses the consideration paid in the transfer instrument and consent form and any under valuation of the property by the transferee may amount to fraud if it was intended to defraud government of its revenue.

WAKANYIRA GEORGE DAVID v KAVUYA BEN

Counsel for the plaintiff further referred to a decision of Justice Alfred Karokoora (J. as he then was) in the case of **Samuel Kizito Mubiru & Another vs G.W. Byansiba & Another** [1985] HCB 106, where he held that by Public Policy any transaction designed to defraud the Government of its revenue is illegal.

Held Per **Hon. Mr. Justice Geoffrey Kiryabwire**

—I find that there is a difference between not paying stamp duty on a sale agreement and not paying stamp duty on a transfer form. There is no doubt that by failing to pay due tax is contrary to public policy. In attacking which document should be scrutinized I think it should be the transfer form. This *present case should be distinguished from the Mubiru case (Supra) because in that case the plaintiff sought protection in a land transaction that he was a bona fide purchaser for value without notice. However, the Judge in that case rightly pointed out that you cannot be a bona fide purchaser if you do not pay Government tax*

The transferee must also pay registration fees which is payable to the local authority.

Filing of documents.

Upon payment of the requisite fees the transferee has to submit the duplicate certificate of title, signed transfer forms, photographs and valid identification with evidence of payments which must be paid in the relevant land registry. The land office normally checks the submitted documents, passes them if they are competent, gives them or allocates an instrument number where after will be effected in the names of the transferee.

Also on lodging the documents, the registration fee should be paid as provided for under the second schedule of RTA which is 10,000/= for each of the documents, that is Property A and B.

S. 92(2) of the RTA provides that upon registration of the transfer, the estate and interest of the proprietor shall pass to the transferee and the transferee shall thereupon become the proprietor thereof.

Upon registration a person whose name appears in the title is deemed to be a registered proprietor.

S. 59 RTA

DDUNGU LILLIAN v MARC WIDMER & ANOTHER

HELD

Where a duly registered proprietor exists, as is the case presently, the certificate of title is conclusive evidence of ownership and therefore no further proof of ownership is required save for where there are allegations of fraud.

Therefore any purchaser of land under the Torrens system must be diligent to follow the above steps in order to acquire a valid title (legal interest) that cannot be impeached in light of the defence of bonafide purchaser for value without notice.

Therefore in order to secure a legal interest for Mudde, the above procedure should be followed to ensure an effective transfer of the land from the two proprietors

BREIFLY, the following steps should be undertaken.

Step 1

Applicant must have in possession the following;

The Land transfer forms as provided in Section 92 of the Registration of the Titles Act Cap 230., the lease agreement and Form for lease.

A photocopy of duplicate certificate of title

Two (2) authentic passport photos of both buyer and seller

Land sale agreement and Lease agreement;

A Registered Board Resolution of the Company Director(s) of *Shiv Construction Company Ltd*

Consent to transfer forms. Form 53 Land Regulations 2004 first schedule.

Step 2

The property must be assessed at the market value, by the government valuer for purposes of the applicant paying for Stamp duty which is 1.5%

The applicant checks after 3 working days to collect assessment forms

Step 3

Pay Stamp duty and Registration fees in the bank and get a receipt and transfer forms embossed by Uganda Revenue Authority after the valuation of the land by the government valuer

Transfer form should be embossed with a sticker by Uganda Revenue Authority

Pay Registration fees at Land Registry 10,000/= for an individual

Step 4

Submit all documents together with duplicate Certificates of title, Receipts and Photocopies of all documents

Photocopy of the transfer forms, stamped and Received to the office of Titles.

The registrar will Cancel the name of the registered proprietor and enter the new name in the Registration book.

The Applicant is asked to check after 10 working days to collect the title

THE REPUBLIC OF UGANDA

IN THE MATTER OF REGISTRATION OF TITLES ACT (CAP. 230)

Title

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this.....day of.....2018

BETWEEN

TOMUSANGE DOUGLAS of P.O.Box 1142..Kampala . (Hereinafter referred to as “the LESSOR” which expression shall where the context so admits include their successors and assignees in title) on the one part;

AND

MUZAMIR MUDDE , MICHELENE BONTUE and NAKAZIBWE AISHA all of SUI GENERIS P.O.Box ...Kampala (Hereinafter referred to as “the LESSEE” which expression shall where the context so admits include their successors and assignees in title) of the other part;

WHEREAS:

The lessor is the holder of a certificate of title of ownership of land located at Block 250 plot 123 Kyadondo measuring 0.28 hectares

The lessor hereby demises unto the lessee all that piece of land described here in above.

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY MUTUALLY AGREED as here under.

IN CONSIDERATION for the sum of UGX. UGX/= (Amount in words) paid to the LESSOR by the LESSEE on or before the execution of these presents (the receipt whereof the LESSOR doth hereby acknowledge) and conditions hereinafter contained on the part of the LESSEE to be observed and performed, the **LESSOR HEREBY LEASES UNTO THE LESSEE** all that parcel of land comprised an area measuring approximately 25 decimals with four blocks of old dilapidated structures. See plan annexed hereto and edged in red together with all the fixtures erected or to be erected thereon

TO HOLD the same unto the LESSEE for a term of **15 years** (hereinafter referred to as the initial term) commencing the 26th day of NOVEMBER 2018 YIELDING AND PAYING therefore during the said term a nominal yearly rent of UGX..... /= (Amount in words) payable in advance on the first day of January in every year. Upon expiration of the term the lease shall determine.

THE LESSEE HEREBY COVENANTS WITH THE LESSOR as follows:

To observe and perform all the conditions and covenants implied by law in this lease or otherwise herein contained or referred to,

To pay the LESSOR the rent herein reserved in the manner herein specified.

To use the demised premises for the purpose of establishing a beef processing plant

The lessee will at its own expense, in all things and under the inspection and control of its qualified technical personnel develop the demised plot to suit its desired use(s) in compliance with all the relevant municipal, town planning and other relevant laws.

The LESSEE shall install any equipment, machinery or other facilities and make any changes to the premises as it shall deem fit without first having to obtain the LESSOR's consent.

To keep insured the demised premises to the full value thereof in a reasonable insurance office against loss or damage or fire.

Not at any time during the said term to use, exercise or carry on or permit or suffer to be used, exercised or carried on in or upon the said land or buildings or any part thereof any noxious, noisome, or offensive art, trade, business, occupation or calling or to allow any matter or thing whatsoever to be done at any time during the said term in or upon the said land or building which shall or may be or grow to the annoyance, nuisance, grievance, damage, or disturbance of the occupiers or owners of the adjoining lands and properties.

To pay all future taxes such as ground rent, property rates and any other outgoings in respect of the land herein leased.

To bear all costs, charges, taxes and expenses for the registration of this lease and all legal costs for preparing the same.

THE LESSOR HEREBY COVENANTS WITH THE LESSEE as follows:

At all times during the continuance of the term hereby created to permit the LESSEE to make such alterations and additions to any of the buildings or other structures erected on the demised premises as per this Lease Agreement.

That the demised land is and shall be free of any encumbrances of whatever nature legal or equitable that may adversely affect the LESSEE'S interest.

Agrees that the Lessee may transfer, sell or sublet or part with possession of or suffer anyone to use or confer on anyone an equitable interest in or in any way mortgage the said land or buildings or any part thereof without having first obtained the consent of the LESSOR.

That the LESSEE paying the rent hereby reserved and performing the covenants and conditions herein-before contained and on the part of the LESSEE to be observed and performed shall quietly possess and enjoy the demised premises during the term hereby granted (including an extension of the term in the said event as stipulated) without any interruption by the LESSOR or any person claiming under or in trust for him.

To register this Lease as an encumbrance on the certificate of title pertaining to the premises and to do everything necessary to enable the LESSEE obtain a valid leasehold title.

That the LESSOR shall not revise or demand for any more premium or consideration apart from what is provided herein.

To hand over vacant possession of the premises on execution hereof.

In the event that it shall become lawful and permissible under the laws of the Republic of Uganda for the LESSEE to hold the mailo estate in the demised land, the LESSOR or his legal representatives, assignees or successors in title shall execute a transfer of the mailo estate to the LESSEE for a nominal consideration of UGX/= (Amount in words) and for the avoidance of doubt it is agreed that the LESSEE or its successors in title, representatives, assigns or nominees shall have the exclusive right to purchase and transfer the mailo estate in the demised land from the LESSOR into their own name(s).

To pay all outstanding rates/ Ground rents due and owing to any authority in respect of the premises prior to execution hereof whereupon responsibility thereafter shall become the LESSEE'S while the lease subsists.

In the event that the LESSOR fails to hand over vacant possession of the demised land or in case the lease agreement is set aside for want of authority to lease on the part of the LESSOR, then the LESSOR shall refund the sums so far paid by the LESSEE with interest at the prevailing commercial bank rate as well as all other incidental expenses incurred by the LESSEE.

That the LESSOR shall not seek to terminate this lease for any reason whatsoever and undertakes that the LESSEE shall have the first option of renewal upon expiry of the term created herein.

IT IS FURTHER AGREED AND DECLARED as follows:

That during the subsistence of this Agreement, the LESSOR shall not engage in any activities prejudicial to the business or occupation of the LESSEE particularly not to part, transfer or lease the above parcel to any person or entity without the consent of the LESSEE.

At the completion of the lease term, the LESSEE shall have the first option to renew upon such further terms as the parties shall agree upon at the time.

If and whenever any difference shall arise between the LESSOR and the LESSEE relating to the construction of any of the articles herein contained or any act or anything made or done or omitted in regard to the rights and liabilities arising hereunder or arising out of the relationship existing between the LESSOR and the LESSEE by reason of these presents, such difference shall forthwith be referred to arbitration in accordance with the Arbitration and Conciliation Act Cap 4 or such other law in force regarding arbitration in Uganda at the time before recourse can be made to court.

The terms of this agreement are intended by both PARTIES as a final expression of their agreement. This agreement supersedes any prior written or oral agreement between the PARTIES and shall not be contradicted by any evidence precedent to its execution PROVIDED that any PARTY wishing to amend this agreement shall do so with the consent of the other PARTY and any amendment agreed upon shall be in writing and deemed an integral part of this agreement.

The ineffectiveness, invalidity or unenforceability of any provision of this agreement shall not affect other valid provisions thereof which shall remain in full force and effect.

This agreement shall be governed by the Laws of the Republic of Uganda.

IN WITNESS WHEREOF the parties hereto set hereunder their respective hand(s) / seal(s) on the date and year first above written.

Dated this 24 Day of NOVEMBER in the year 2018

_____ signed _____ (1) _____ signed _____

.....

DOUGLAS TOMUSANGYE (LESSOR) MUZAMIR MUDDEE (LESSEE)

_____signed_____

..... MICHELENE BONTUE' (LESSEE)

_____signed_____

.....
AISHA NAKAZIBWE (TRANSFEE)
(LESSEE)

WITNESS

WITNESS FOR THE LESSOR WITNESS FOR THE LESSEE

1, NAME: 1, NAME:

SIGN;..... SIGN; ADDRESS:.....

ADDRESS:

CONTACT:..... CONTACT:

DATE DATE:

IN THE PRESENCE OF:

Name

Signature _____signed_____ Certificate of Attesting Witness

This Lease agreement is signed by.....in my presence
at.....in the District of Kampala

this.....day of.....20.....and I certify that the above instrument was
signed by him/her/them after having read the same.

BEFORE ME:

_____signed_____

COMMISSIONER FOR OATH

DRAWNED AND FILED BY:

SUI GENERIS & CO ADVOCATES

**P.O.BOX 7117 KAGUGUBE RD
KAMPALA UGANDA**

Eighth Schedule.

s. 101.

Lease by Owner in Fee Simple.

Freehold Register

Mailo Vol. ____ Fol. ____

Lease by Owner in Fee Simple of All or Part of His or Her Land.

I, _____ (*insert name and addition*), (hereafter called the lessor) being registered as the proprietor of an estate in fee simple in the land (*or mailo land*) comprised in Freehold/Mailo Register Vol. _____ Fol. _____ hereby lease to _____ (*insert name and addition*) _____ (hereafter called the lessee) all that piece of land being the land/part of the land comprised in that folio (*if the land leased is part only of the land comprised in the certificate of title, set out the description and refer to a plan*) to hold to the lessee for the term of _____ years from the _____ day of

_____, 20 ____, at the clear yearly rent of shs. _____ payable _____ (*here insert terms of payment*) subject to the covenants and powers implied under the Registration of Titles Act, (unless hereby negatived or modified) and also to the covenants and conditions hereafter contained (*here set out any special covenants and conditions*).

The following covenants by the lessee are to be construed according to section 104 of the Registration of Titles Act—

The lessee will not transfer or sublet.

The lessee will cultivate.

The lessee will not cut timber.

The lessee will paint outside every _____ year.

The lessee will paint inside every _____ year.

The lessee will not use the premises as a shop.

The lessee will not carry on any offensive trade.

Dated this _____ day of _____, 20 ____.

Signed by the lessor, _____,

in the presence of _____ .

Signed by the lessee, _____,

in the presence of _____

PROPERTY B

THE REPUBLIC OF UGANDA

TRANSFER OF LAND, MORTGAGE OR CHARGE

Freehold Register

Leasehold

Mailo

Vol. ____ Fol. ____

Form 1.

TRANSFER OF LAND.

I, _____ (*insert name and addition of transferor*), being the registered proprietor of the lands comprised in the above-mentioned folio in consideration of the sum of shs. _____ paid to me by _____ (*insert name and addition of transferee*) on or before the execution of these presents the receipt of which

I acknowledge hereby transfer that land (*if the land leased is part only of the land comprised in the certificate of title, set forth the description and refer to a plan*) to _____ (*name of transferee*) to hold to the _____ (*name of transferee*) for all my estate and interest in the land.

Dated this _____ day of _____, 2018

Signed by (Transferor) _____

In the presence of _____

Signed by (Transferee) _____

In the presence of _____

Form 53 under Reg 92.

THE REPUBLIC OF UGANDA

THE LAND ACT, CAP 227

THE LAND REGULATIONS, 2004

APPLICATION FOR APPROVAL TO DEAL IN LAND

PART ONE: PARTICULARS OF LAND DEALING

1) (To be filled by all)

Block Plot

FRV/MRV/LRV Folio

Location.....

Area.....

Use of land.....

Details of development on the land

.....

Nature of land transaction (Transfer/ Lease/ Sub-lease).....

FROM

Name :.....

Address :.....

Citizenship:

TO

Name :.....

Address :.....

Citizenship:

TRANSFER:

Consideration:.....

LEASE/SUB-LEASE:

Term:years.....months.....from.....to

Premium (if any).....Rent.....per annum

2) (To be filled only by applicants seeking consent)

I/We the registered proprietor(s) of the land described above hereby apply for consent to transfer/sublease/assign the above land.

3) (To be filled by all)

I/WE the undersigned hereby declare that the information given in this application is correct to the best of my/our information and belief.

Name and Signature of applicant(s) or agent(s)*

.....

Date:

FOR OFFICIAL USE

PART TWO

For stamp duty purposes, I hereby assess the value of the land at Shillings:

Figure

Words.....

Date.....

.....

Chief Government Valuer's signature

PART THREE

The commission/board * hereby consent/do not consent * to the application to assign/sub-lease.

.....

Name and signature, Secretary,
Uganda land commission

.....

Name and Signature, Secretary.

District Land Board

Date

What steps Muzamir would have to take to immediately lawfully obtain physical possession of the whole of Property B from the various persons currently in possession?

Property B is fully developed with a storeyed commercial building and is fully occupied. The building currently has the following occupants.

- The ground floor is occupied by a pharmacy, a restaurant, a salon and a dentist’s clinic, respectively, each paying rent of Shs.1.5 million per month, payable three months in advance.
- The 1st Floor is fully occupied by a branch of BETAFRICA Ltd., a sports betting company paying USD4000 annually payable in two equal installments in advance;
- The 2nd Floor is fully occupied by Crane School of Tourism paying Shs.6 million annually payable in advance of every two years.
- The 3rd Floor is occupied by the relatives of the Executive Director of Styles Real Property Limited and they do not pay any rent.

However, certificate of title shows that there is a sublease for 15 years granted to Styles Real Property Limited. The facts do not exactly tell whose tenants the above persons are, whether for the lessee or sub-lessee.

In this respect therefore, Mudde should first terminate the sublease and then terminate the tenancies.

A sublease is provided for under S. 109 RTA which states that a lessee can sublet for a term not less than three years.

Termination of leases.

Leases may be terminated by forfeiture, effluxion of time, notice, surrender and merger.

Effluxion of time

At common law, a lease for a fixed term automatically terminates when the period expires. There is no requirement for either party to serve notice of termination unless their lease agreement expressly says so.

Notice to quit.

A lease for a fixed period cannot be terminated by notice by either party unless the right to terminate is expressly reserved in the lease or in the event of breach of a term, which entitles either party to terminate the lease.

However periodic tenancies are by nature terminable by either party giving an appropriate notice. According to Mugambwa; Principles of Land Law in Uganda at page 111, in absence of any express agreement between the parties a weekly tenancy is terminable by one week's notice, a monthly tenancy by one month's notice and a quarterly tenancy by three month's notice. The exception to this rule is a yearly tenancy which is terminable by six months notice.

In **Rukandema v Kabale Town Council CA No. MKA 10 of 1985**, Karokora JSC held that a yearly tenancy is terminable by notice of atleast six months expiring at the end of a full period.

He stated; the law governing dtermination of yearly tenancy is spelt out by R. E. Megarry QC & Wade in The Law of Real Property 3rd ed at page 641 “ a yearly tenancy may be determined by such notice and a t such time as the parties agree. See *Allison v Scorgall (1920) 3 KB 443*. In default of such agreement, it can be determined by atleast half a year's notice expiring at the end of a completed year of tenancy.”

Surrender;

Surrender occurs before the expiration of the lease, the lessee gives up possession of the land to the lessor. Once the lessor accepts possession the lease merges with the reversion and is thereby terminated. Surrender may be by express agreement of the parties, operation of law or statutory provision.

S. 108 RTA provides that **Lease may be surrendered by endorsement.**

(1) A lease under this Act may be surrendered and determined, as well by operation of law or under any Act now or hereafter to be in force relating to bankrupts and their estates, as by the word "Surrendered" with the date being endorsed upon the lease or on the duplicate of the lease, if any, and signed by the lessee or his or her transferee and by the lessor or his or her transferee and attested by a witness.

(2) The registrar shall enter in the Register Book a memorandum recording the date of such surrender, and shall likewise endorse upon the duplicate, if any, a memorandum recording the fact of the entry having been made.

(3) Upon such entry in the Register Book the estate and interest of the lessee or his or her transferee shall vest in the lessor or in the proprietor for the time being of the reversion and inheritance in the land immediately expectant on the term; and production of such lease or duplicate, if any, bearing the endorsement and memorandum shall be sufficient evidence that the lease has been legally surrendered.

Merger;

According to Megarry supra, merger is the counterpart of surrender. Under a surrender, the land lord acquires the lease, whereas merger is the consequence of the tenant retaining the lease and acquiring the reversion or of a third party acquiring both lease and reversion.

Forfeiture;

This is the re-entry by the landlord for breach of covenant that entitles the landlord to terminate the lease. This is provided for under S. 103(b) RTA.

In *Kasaja v Registrar of Titles MA 51 of 1993*, it was held that forfeiture is only manifested by actual physical re-entry or by the commencement of an action for repossession.

Termination of a sublease;

S. 112 RTA provides that **Provisions as to leases to apply to subleases.**

(1) The provisions of this Act affecting leases, lessors and lessees shall apply to subleases, sub lessors and sub lessees with such modifications and exceptions as the difference between a lease and sublease, and in the mode of registration of each require; and the entries of recovery of possession and of surrender provided for by sections 106 and 108 shall, in the case of a sublease, be made on the sublease and on the lease, and not in the Register Book; and the memorandum directed by section 108 to be endorsed on the duplicate shall be written across the entry of such sublease in the Sublease Register; and in case of a surrender evidenced by a separate document, that document shall be annexed to the original sublease.

(2) If the lease is determined by forfeiture or operation of law or by surrender under any Act relating to bankrupts and their estates, that determination or surrender shall determine the sublease.

From the facts there is a sublease of 15 years registered as an encumbrance to the lease. On purchase of the Lease Mudde holds the lease subject to the sublease. Since the sublease is fo a fixed term, it cannot be terminated by notice. The available option is surrender. Mudde should enter into an agreement with Styles Real ltd for surrender of their sublease.

The rest of the persons in occupation are periodical tenants whose tenancies can be determined by a notice to quit.

In this respect Mudde should give a monthly notice to the occupants of the ground floor, a six months notice to quit to the occupants BETAFRICA, and six months notice to quit to Crane School of Tourism.

Documents;

DEED OF SURRENDER OF LEASE (PRECEDENT)

THE REPUBLIC OF UGANDA

THE REGISTRATION OF TITLES ACT (CAP 230)

RE; LEASEHOLD COMPRISED IN VOLUME 1866, FOLIO 17, PLOT NO.77 NAKAWA

DEED OF SURREDER OF LEASE

TO: THE REGISTRAR OF TITLES

KAMPALA

TAKE NOTICE, that I STYLES REAL PROPERTY LTD of P.O.BOX 4877 Kampala having been registered as a sub lessee for 15 years over the above mentioned leasehold on the 05/04/2017 and the sublease thereby registered as an encumbrance on the lease;

Do surrender all interest in the above mentioned lease and any and all interest in the above mentioned property back to MAZIMUR MUDDE the lessor and registered proprietor of the lease hold land interest relating to the property herein stated.

Dated and signed as a deed at Kampala thisday of November 2018.

SIGNED by the said

STYLES REAL PROPERTY LTD

.....

In the presence of

I MAZIMUR MUDDE do hereby consent to and approve the said surrender in the terms as proposed.

Signed by the said

In the presence of

ADVOCATE

Drawn and filed by

SUI GENERIS and CO ADVOCATES

P.O.BOX 7117 KAMPALA

What further steps Muzamir would have to take in order to lawfully establish and implement his personal venture in Property B if such venture is a Hospital whose business break-even period is projected to be 20 years.?

Whenever there is a transfer of a lease, the transferee holds it subject to the existing covenants and conditions. This is provided for under Section 105 RTA and it further provides that. In every transfer of a lease made under this Act, and in every transfer of a grant for years, there shall be implied a covenant with the transferor by the transferee binding him or her and his or her executors, administrators and transferees that he or she or they will thenceforth **pay the rent by the lease or grant reserved, and perform and observe all the covenants contained in the lease or grant or by law declared to be implied in the lease** or grant and on the part of the lessee or his or her transferees to be performed and observed, and will indemnify and keep harmless the transferor and his or her representatives against all actions, suits, claims and expenses in respect of the nonpayment of the rent or the breach or nonobservance of the covenants or any of them.

This simply means that the transferee has to comply with the terms of the lease agreement.

The lease obtained from Shiv Construction Ltd has only 17 years remaining and is sublet to the condition that the plan and specification of buildings on the land should be approved by the lessor.

Since the lease has 17 years remaining, and yet the business break even period of the hospital is 20 years, **Muzamir** requires enlargement of the lease term beyond the remaining 17 years to cover the time of the business break even period.

Further, the original covenant in the lease was to have a building constructed on the land whose value was not less than 50million shillings but its plans and specifications had to be approved by KCCA.

In this respect, for **Muzamir** to construct a hospital, he needs approval from KCCA and further to have security of his business, he needs enlargement of the term of the lease. This requires variation of the lease deed.

The steps that Muzamir has to take to enable him establish and implement his personal venture are;

Muzamir has to enter into a new agreement with the lessor to vary he terms of the lease agreement to enable him use the land by constructing a hospital and have the lease term enlarged beyond the remaining 17 years.

Seek permission from the physical planning authority in accordance with Section 33(1) of the Physical Planning Act. A person is not supposed to carry out a development within the planning areas without obtaining development permission from the Physical planning authority.

Application for development permission should be in form P.P.A.1 in the 6th Schedule as per Section 34.

After the requisite permission is obtained, the variation deed will be drafted and registered. It is important to note that variation is between a lessor and lessee and one is not a lessee until registered. (S 54 RTA)

According to item 22 of the 22nd schedule of RTA, the fees for registration of a variation deed is 10,000.

Variation Deed

THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT CAP 230
LEASEHOLD REGISTER
VOLUME 1866 FOLIO 17
Known as
PLOT 77, NAKAWA
KAMPALA

VARIATION OF LEASE

THIS VARIATION OF LEASE made thisday of.....2018
BETWEEN
KAMPALA DISTRICT LAND BOARD herein after referred to as “lessor” and having their address as Kampala District Land Board PO.BOXKampala.
AND
MUZAMIR MUDDE here in after referred to as lessee C/o SUI GENERISand Co. Advocates P.O.BOX 7117 Kampala.
WHEREAS

Kampala City Council Authority former Urban Authority did on the 1st day of August 1990 lease land situate at Plot 77 Nakawa (Commercial Area) of lease hold register to Shiy Construction Company Limited for 47 years commencing on 1st November 1988 which lease was registered Instrument Number 404781.

The lease was transferred to Muzamir Mudde of P.O.BoxKampala and registered under Instrument Number on2018.

The parties have agreed to change the lease from the date of execution hereof in consideration of the conditions and covenants hereafter set.

NOW THIS VARIATION OF DEED WITNESSETH AS FOLLOWS:

That the lease registered on 17.8.90 for purposes of erecting a building is hereby varied to the purpose of constructing a hospital commencing on the date of execution of this variation deed.

That the lease shall be extended from a period of 17 years to a period of 50 years

IN WITNESS WHEREOF THE PARTIES HERETO have affixed their respective signatures, the date , month and year first above written.

Signed by the said (secretary and chairperson)

Kampala District Land Board

In the presence of

Muzamir Mudde

In the Presence of

Drawn and filed by

SUI GENERIS &Co. Advocates

P.O.BOX 7117

Kampala

What steps Muzamir would take to address default in rental payments by each of the tenants in Property B assuming that he took over as landlord and retained them in the premises.?

There are several remedies available to a landlord against a defaulting tenant.

- suing the tenant to recover the rent under O. 36 of the Civil Procedure Rules.

- Self help remedy of eviction
- Distress for rent for purposes of only recovering the rent (not eviction)

Muzamir can choose to distress for rent.

According to Principles of Land Law in Uganda by T Mugambwa pg 105 distress for rent is a common law self help remedy by which land lord may enter the leased premises if rent is in arrears and confiscate any goods found on the premises of the value of outstanding rent as highlighted in Megarry and Wade the Law of Real Property pg 709-12

However the remedy depends on the existence of the landlord tenant relationship.

In Male Mabirizi and Anor v Owere Franco and Ors MISC. APPLICATION No. 2763 OF 2014 held; The common law principle is that *distress for rent is only applicable* where there subsists a relationship of landlord *and tenant between the* parties; notwithstanding that the former tenant is *still* in possession.

Quoting Halsbury's Laws of England, Third Edition, vol. 38, states at p. 741, paragraph 1207 as follows: -

"If a tenancy determines by effluxion of time or otherwise, and former tenant remains in possession against the will of the rightful owner the former tenant is, apart from statutory protection, a trespasser from the date of the determination of the tenancy

This principle was applied in Souza Figueiredo & Co. Ltd. vs George & Others (1959] E.A. 756, which states that for a landlord to exercise to levy for distress for rent, a landlord/tenant relationship must subsist between the two.

This authority was cited **by** the Supreme Court of Uganda, with approval and restatement of the **proposition of** law therein, in **Joy Tumushabe & Anor vs M/s Anglo Africa Ltd & Anor SCCA No. 7 of 1999** where in *Kanyeihamba JSC* stated as follows: "In any event, distress for rent is only permissible if the relationship of tenant and landlord exists between the parties: but as I have shown, that relationship had had ceased to exist as a result of the appellants acts and conduct. In the result, distress for rent in this case was affected against trespassers and it could not have been *possible for the* persons who effected the alleged distress for rent to *do so under the Act.*"

Distress for rent would only be applied where the landlord does not intend to terminate the tenancy. According to the case of **Joy Tumushabe and another v Anglo African Limited and Anor S.C.C.A 7/99** it was held that when the appellants refused to pay rent or acknowledge the title of the owner as landlord, they became trespassers..... At this juncture, the landlord could have chosen to legally evict them as trespassers.”

In MUSUMBA VS KASAKA (1971) IULR 222 held Distress for rent only arises where the rent is in arrears.

At common law landlord has no right to sell distressed property without a court order, he or she could only retain the property as a coercive measure to enforce payment or could only sell after authorization from court shown. In Uganda, landlord has no power to sell without a judicial order unlike in England where the right of sell was introduced under the *Distress Act*.

In Assist (U) Limited Versus Italian Asphalt & Haulage Limited & Anor H.C.C.S No. 1291 of 1999 (Commercial Court) it was held that The law in Uganda like the common law does not provide a right to sell the distrained items. Simply put the remedy of distress for rent allows the landlord or person authorized by him and certified by court to take into his possession the chattels of his tenant who has not paid rent to be held as a pledge/lien but not for sale to compel the payment of-rent.

In Uganda distress for rent is provided for under **Distress for Rent (Bailiffs) Act Cap 76**; Section 2 of the Act provides that “No person, other than a landlord in person, his or her attorney or the legal owner of a reversion, shall act as bailiff to levy any distress for rent unless he or she shall be authorized to act as bailiff by a certificate in writing under the hand of a certifying officer, and such certificates may be general or apply to a particular distress or distresses”

This means that distress must be carried out by the landlord in person, by a lawyer, or by a duly licensed bailiff.

In it was held **Yoka Rubber Industries Ltd v The Diamond Trust Properties Ltd HCT-00-CC-CS-0685-2006** that though the right to distress for rent is a common law right, how that distress is to be effected is regulated by the written law above. Other than a registered or certified bailiff the only persons authorised to distress for rent are firstly a landlord in person; secondly an attorney of the landlord and thirdly an owner of a reversion.

Therefore this means that it is only when the landlord seeks to distress for rent through someone else who is not either his attorney or legal representative that a certificate will be necessary.

According to Section 1(b) of the Distress for Rent Bailiffs Act Cap 76 a certifying officer means a chief Magistrate and a magistrate grade 1 whereas bailiff under s.1 (a) means a bailiff for the purpose of distress for rent.

Therefore application is addressed to either the Chief Magistrate or Grade 1.

In **Male Mabirizi and Anor v Owere Franco and Ors supra** it was held that It is unmistakably clear, from the provision of the law cited above, that the jurisdiction to issue a certificate for the levying of distress, and the appointment of the bailiff in that regard, vests solely in a Magistrate's Court; and this mandate is exclusively exercisable either by a Chief Magistrate or by a Magistrate Grade 1. Accordingly, in issuing the certificate to levy distress for rent, the Registrar Execution acted without jurisdiction; for which his act was illegal, and cannot be allowed to stand.

In **Joy Tumushabe and Anor v Anglo African Limited and Anor supra** held that “that he who chooses to distress for rent under the Act must do so strictly in accordance with the provisions and rules of that Act. The bailiffs who are authorized to distress for rent must be qualified and do so in accordance with the terms and conditions prescribed in the Act or rules made there under. that Under that section the persons who could levy distress for rent are the landlord himself, the attorney of the landlord, the legal owner of the reversion and a person authorized to act as bailiff by a certificate in writing under the hand of a magistrate.

Rule 3 (2) of the Distress for Rent (Bailiffs) Rules, a special certificate has to specify the particular distress to which it applies. Rule 20 prevents the one levying distress from charging fees, charges or expenses, other than those specified in and authorized by Rule 21 and the scales set out in the second schedule of the Rules. In case of any dispute as to the amount of fees payable then the fees are to be taxed by a certifying officer in the area, where the distress is levied. Rule 24 requires that every bailiff, levying a distress, once requested by the tenant to produce to that tenant the certificate authorizing distress and a copy of the table of fees, charges and expenses, authorized by the Rules. It should be noted that under section 17 of the Limitations Act that no action shall be brought or distress made to recover arrears of rent or damages in respect of these arrears after the expiration of 6 years from the date on which the arrears became due.

In conclusion Muzamir can first demand the arrears from the tenants through demand letters and if they do not pay shall then make an application for an order for distress for rent and attach the tenancy agreements as well as the demand notes to pay rent.

The application is to either the Chief Magistrate or Grade 1 Magistrate. It's made by Notice of Motion supported by an affidavit under Order 52 rules 1 and 3 of the Civil Procedure Rules.

The Application is made *ex parte* usually to prevent the Tenant from spiriting away his property on notice being given to him.

What steps Muzamir's Lessor would have to take to effectively terminate the Lease in the event that Muzamir defaulted on the terms of the lease for a substantial period of time.?

Forfeiture/Re-entry

Muzamir's Lessor has to re-enter the land by taking possession and register the re-entry with the Registrar of Titles once the lease defaults on the terms of the lease.

Section 3 (5) (e) of the Land Act, Cap. 227 as amended by Acts 1 of 2004 and 2010, provides that a lease may be subject to terms and conditions of the lease.

S. 103(b) RTA provides for the right of forfeiture. It states that (b) that in case the rent or any part of it is in arrear for the space of thirty days, although no legal or formal demand has been made for payment of that rent, or in case of any breach or nonobservance of any of the covenants expressed in the lease or by law declared to be implied in the lease on the part of the lessee or his or her transferees, and the breach or nonobservance continuing for the space of thirty days, the lessor or his or her transferees may reenter upon and take possession of the leased property.

Re-entry is effected by taking physical possession of the land or by commencing an action in court for termination of the lease and an order of vacant possession. This principle which is well established was stated in **Kasaja V Registrar of Titles 1992 4 KALR-** and cited with approval in **Erukana Kuwe Vs Vasrambhai Damji Vader SCCA NO. 2 of 2002.**

However constructive possession is sufficient provided the lessor ejects the lessee and puts on the premises a third party who is directly answerable to the lessor as was the case in **Erukana Kuwe v Vasrambhai Damji Vader SCCA NO. 2 of 2002**. In this case, the lessor terminated the lease and entered into a fresh tenant agreement with the lessee's tenant. It was held ; , *the consequences of what the appellant did in that regard were the same as if he had terminated the respondent's lease by sub-letting it to a complete stranger who had not been the respondent's tenant. Further, the appellant's action amounted to a lawful re-entry of the suit property. He did not take physical possession of the property, but I think that by putting his tenant in possession thereof, he thereby took constructive possession of the suit property. The respondent was thereby put out of possession of the suit property.*

Re entry must be registered.

S.114. Determination of lease or sublease by reentry to be entered in Register Book or Sublease Register.

In the case of a lease or sublease of land under this Act, if it is proved to the satisfaction of the registrar that the lessor has reentered upon the premises in strict conformity with the provisions for reentry contained in the lease or sublease, or under the power of section 103(b), where the lease or sublease is under this Act, the registrar may make an entry of that reentry in the Register Book and the term for which the land was leased or subleased shall, upon that entry being made, determine and may be removed as an incumbrance from a certificate.

Whether or not the re-entry is registered, as between the lessee and the lessor the lease is terminated the moment the lessor takes physical possession or obtains an order of vacant possession

"In Lugogo Coffee Co. Ltd. -vs- Singo Combined Growers Ltd. (1976) H.C.B. 92, quoted in Erukana Kuwe v Vasrambhai Damji Vader for the proposition that where the Registrar of Titles declines to note a re-entry and advises that the dispute be resolved by court action, the lease does not remain subsisting as between the lessee and the lessor. It is terminated notwithstanding a refusal by the Registrar of Titles to note the re-entry. In this case The Registrar declined to mark the re-entry and advised that the dispute be resolved by court action. The vendor did not refer the matter to court but instead sold the land to the plaintiff company. Nyamuchoncho J., as he then was, held inter alia, a lease is a contract and breach of a term of a contract rescinds the contract. First that as between the lessor and the lessee the lease is determined by the lessor's lawful re-entry. Secondly, the learned trial judge held that refusal by the Registrar of Titles to make an entry did not have the effect of keeping the lease subsisting. The lease was terminated by the lessor's re-entry for all intents and purposes as between the lessor and the lessee although the law had not recognized the re-entry.

In **Eurukana Kuwe** Supra, it was held that **The lease agreement between the appellant and the respondent was terminated by the appellant's re-entry for clear breaches of covenants by the respondent. It only remained for the High Court to order the registrar of titles to perfect the re-entry by noting in the register, a remedy which the appellant sought by his suit.**

Muzamir's Lessor can also petition court for an order determining the lease and vacant possession. Thus in **Namayanja V DAPCB (supra)** where the suit was brought, inter alia, for determination of the lease for breach of contract, Ekirapa J granted all the prayer for vacant possession holding that the Defendant disobeyed and was guilty of fundamental breach of the contract.

Notice of re- entry

THE REPUBLIC OF UGANDA

THE REGISTRATION OF TITLES ACT, CAP 230

LEASEHOLD REGISTER

LRV 1866 FOLIO 97

PLOT NO.77

AT NAKAWA

(COMMERCIAL AREA).

TO: THE REGISTRAR OF TITLES
DEPARTMENT OF LAND REGISTRATION
KAMPALA.

Dear Sir/Madam,

RE: **APPLICATION FOR NOTING RE- ENTRY.**

(Under Section 103 (b) and 114 Of the Registration of Titles Act Cap 230,)

I, **Tumwesigye Patrick** the town clerk of Kampala City Council Authority on behalf of the Authority, being the lessor in the above mentioned leasehold land hereby apply for noting re-entry in the register book and removal of the above given lease from the leasehold certificate of the title on the ground that the Authority has re-entered upon the leased premises in strict conformity with the provisions for re- entry contained in the lease agreement.

This application is supported by my statutory declaration filed herewith and any other statutory declaration (s) that may be filed hereafter.

Dated at Kampala this 26th day of November 2018.

Signed by the said;

.....

Tumwesigye Patrick

Town Clerk KCCA

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT, CAP 230
AND
IN THE MATTER OF THE STATUTORY DECLARATIONS ACT, CAP 22
AND
IN THE MATTER OF AN APPLICATION BY TUMWESIGYE PATRICK (on behalf of
KCCA) TO NOTE RE- ENTRY AGAINST LAND COMPRISED IN LRV 1866 FOLIO 97
PLOT NO.77AT NAKAWA (COMMERCIAL AREA).

STATUTORY DECLARATION

I, Tumwesigye Patrick on behalf of Kampala City Council Authority P.O BOX 678, Kampala do solemnly swear and declare as follows;

That I am a male Ugandan adult of sound mind and the town clerk of Kampala City Council Authority.

That Kampala City Council Authority is the registered proprietor of the land comprised in LRV 1866 Folio 97 Plot No.77at Nakawa (Commercial Area).

That in 2017 the Authority leased the above mentioned land to Mudde Muzamir.

That pursuant to clause 3 (a) of the lease, the Authority instructed its legal department to give the lessee the prescribed 30 days' notice of the several breaches of the lease namely;

Non- payment of ground rent

Failure to erect one dwelling house on the demised land.

Subletting or otherwise parting with possession of the demised land without the written consent of the lessor

That the Authority's advocates issued the a foresaid notice by letter a copy of which is hereto annexed as — A

That the prescribed notice expired but the lessee failed to take corrective steps and the aforesaid breaches continued unallocated.

That as a result, Kampala City Council Authority exercised its right of re- entry and as of now has unchallenged possession of the said land.

That I make this statutory declaration in support of my application on behalf of Kampala City Council Authority for noticing re- entry in the register and cancelation of the lease.

That I hereby declare that whatever is stated herein above is true and correct to the best of my knowledge and by virtue of the Statutory Declaration Act, Cap 22 of the Laws of Uganda.

Declared at Kampala This 26th day of November, 2018 by the said;

.....
Tumwesigye Patrick

BEFORE ME;

.....
COMMISSIONER FOR OATHS

Drawn and filed by
M/S SUI GENERIS ADVOCATES
P.O Box 7117,
Kampala

What steps Muzamir would have to take to retain the property in the event that his Lessor has written to him terminating the lease in property B and is preparing to evict Muzamir for non-payment of rent.?

Muzamir should apply to the high court for relief against forfeiture.

Section 25 The Judicature Act Cap 13 provides for relief from re-entry or forfeiture for non-payment of rent. Under Subsection 1, where a lessor is proceeding, by action or otherwise, to enforce a right of re-entry or forfeiture for non-payment of rent, the lessee, his or her executors, administrators or assigns may, in the lessor's action or in an action brought by himself or herself, apply to the High Court for relief.

The relief is explicitly granted were the landlord can be compensated for any loss occasioned by the breach as Per Judge **Nyamchoncho in Kiwanuka Musisi vs. Segawa (1973) E.A 561**

Before court grants the relief, attention will be given to the conduct of the applicant. The court will have to consider whether the breach was wilful, negligent and its general gravity the court shall further have to compare the value of the property and the alleged damages occasioned by the breach as Per Lord Wilberforce in **Shiloh Spinners L.T.D vs. Harding (1973) A.C 275**

Oder JSC in Erukana Kuwe Vs. Vader SCCA 2/2002 stated thus “*Under the provisions of sub-section 27(2) now Section 25 of the J.S. the High Court has discretion under sub-section (1) thereof to grant relief sought against forfeiture for non-payment of rent. It may grant any relief it considers fit. It may also refuse the relief sought as thinks fit. In the instant case, the High Court purported to exercise discretion of granting relief against forfeiture for breaches of covenants where it did not have jurisdiction to do so. Consequently, with respect, the question of the Court of Appeal declining to disturb the exercise of discretion by the trial court did not arise.*”

In the same case Mulenga JSC observed further that

“The applicable law is section 27 of the Statute, which creates the remedy of "relief from forfeiture" and renders it available only lessees threatened with re-entry or forfeiture "for non-payment of rent". In my view, to make it available to lessees in breach of other covenants also, would be tantamount to amending the statute which cannot be what is envisaged under section 16(2) of the Statute

In **Gombia Marines and Contractors vs. Kiwana Misc Application No. 13/1B/9 (Unreported)**, Byamugisha Judge noted that relief will not be granted were the lessor actually re-enters with the parties altering their positions and new interests are at time of application already created e.g. there are new tenants.

In the case of the *Executrix of the Estate of the late Christine Mary Namatovu Tebejjukira and another vs Noel Grace Shalita Stananzi* Civil Appeal No. 2 of 1988 (S.C.) (unreported) ("*Tebejjukira's Case*"), this Court held that a lessee seeking relief against forfeiture is also so precluded "*where the registered proprietor has re-entered*" lawfully. The rationale behind that is that a lawful re-entry terminates the lease. In the circumstances therefore, the issue framed at the trial, whether there was "*a re-entry of the premises in law by the plaintiff (appellant)*" was critical, and it had to be answered unequivocally.

In **Dr. Adeodanta Kekitinwa & 3 Others Vs. Edward Mbudo Wakida CACA 3/97**. It was held that equity leans against forfeiture, where the lease is running and there is an earnest intention of compliance with the covenants

Procedure; The application is brought under Section 98 of the Civil Procedure Act that provides for the inherent powers of court and Order 52 Rule 1 of the Civil Procedure Rules S.I 71-1

Documents:

Notice of Motion.

Affidavit in support.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS CAUSE NO 094 OF 2018**

MUDE MUZAMIR.....APPLICANT

VERSUS

KAMPALA DISTRICT LAND BOARD.....RESPONDENT

NOTICE OF MOTION

(Under Section 25 (1) of The Judicature Act, Cap 13, Section 98 of The Civil Procedure Act, Cap 71 And Order 52 Of The Civil Procedure Rules S.1 71-1)

TAKENOTICE that this honourable court shall be moved on the 26th day of November, 2013 at 10:00 O'clock in the forenoon/afternoon or soon thereafter as counsel for the applicant can be heard on the application for orders that

The applicant be granted relief from feature for non-payment of rent.

The costs of this application be provided for.

TAKE FURTHER NOTICE that the grounds this application are set out in the affidavit of the applicant attached herewith, but briefly they are;

That the applicant undertakes to pay the respondent the outstanding rent arrears.

That the applicant undertakes to pay the respondent any costs and damages incurred.

That it is in the best interest of justice that this honorable court grants this application.

Dated at Kampala this 26th day of November 2018.

.....

COUNSEL FOR THE APPLICANT

Given under my hand and the seal of this honourable court this 26th day of November 2018.

.....

REGISTRAR

Drawn and filed by

M/S SUI GENERIS ADVOCATES

P.O Box 7117,

Kampala

Affidavit in support of notice of motion

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS CAUSE NO 094 OF 2018**

MUDEDE MUZAMIR.....APPLICANT

VERSUS

KAMPALA DISTRICT LAND BOARD.....RESPONDENT

AFFIDAVIT IN SUPPORT OF MOTION

I, Mudde Muzamir of C/ SUI GENERIS and Co. Advocates P.O Box 7117, Kampala, do solemnly swear and state as follows.

That I am a male Ugandan adult of sound mind and the applicant in this matter and swear this affidavit in that capacity.

That I am the registered proprietor of land comprised in LRV 1866 Folio 97 Plot No.77 Nakawa (Commercial Area).

That on the 23rd day of November 2018, the respondent board wrote to me terminating the lease.

That the respondent board is preparing to evict me from the said land for non-payment of rent.

That I undertake to pay the lessor, the respondent in this matter all the outstanding rent arrears, any damages or costs incurred.

That I certify that whatever I have stated herein above is true and correct to the best of my knowledge.

Sworn at Kampala this 26th day of November 2018 by the said;

.....

DEPONENT

BEFORE ME;

.....

COMMISSIONER FOR OATHS

Drawn and filed by

M/S SUI GENERIS ADVOCATES

P.O Box 7117,

Kampala

Whether Muzamir can eventually convert the acquired interests into another tenure and, what steps would he have to take?

Article 237(2) of the 1995 Uganda Constitution as amended and **Section 2** of the Land Act Cap 227 provides for the four types of land tenure which are **Customary, Freehold, Mailo** and **Leasehold** land tenure systems.

In the instant facts the tenure in contention is Leasehold tenure system provided for **under Article 237(3)(d)** of the Constitution and **Section 2 (d)** of the Land Act.

Leasehold tenure is a system of holding land where land is held for a specific period of time. Lease tenure can be converted into Freehold tenure.

Article 237 (5) of the Constitution is to the effect that a lease granted to a Ugandan citizen out of public land may be converted into freehold.

Section 28(1) of the **Land Act** is to the effect that any lease which was granted to a citizen out of public land may be converted into freehold.

This means that Muzamir can convert the leasehold title into freehold under the above provisions of the law.

Freehold land tenure is a system of holding land in which the land is held in perpetuity. Article 237(3)(b) of the Constitution and **Section 2(b)** of the Land Act provide for freehold tenure as one of the recognized ones in Uganda.

The Land Act provides for conversion of leases to freehold. **Section 28(1)** provides for conditions that must be satisfied before a lease is converted into freehold. Firstly, the lease must have been granted to a Uganda. The Board must be satisfied that the following conditions have been complied with. The leasehold is authentic and genuine.

There were no customary tenants on the land at the time of acquisition of the lease.

If there were any customary tenants on the land at the time of acquisition whose tenancy was disclosed, those tenants were duly compensated.

That all development conditions and covenants have been complied with.

Any other conditions imposed by law have been complied with.

The conversion shall be limited to one hundred hectares and that any area in excess shall be converted only if the board has verified it and is satisfied that it is desirable in the public interest that it should be converted into freehold.

The sublease that exists on the land would turn into a lease if the conversion is successful. **Section 28(3)** of the **Land Act** is to the effect that any sublease held under a lease converted in accordance with **subsection (1)** is taken to be upgraded to a lease under the same terms, conditions and covenants.

(4) Upon conversion the registrar shall endorse on the leasehold certificate of title the words “Converted to Freehold”, cite the applicable law and append his or her signature

Regulation 14 of the land regulations 2004 provides that leasehold conversion of a former public land into free hold shall be in form 5 of the first schedule to the regulations.

The practical steps of the conversion would be as follows;

2. Location of land the subject of application:

- a) Village/Zone
- b) Parish/Ward
- c) Sub-county/Town
- d) County/Division
- e) District

3. LRV

Fol.

Block

Plot

4. Approximate area (ha)

(number 5 and 6 to be filled only if the conversion concerns land exceeding one hundred hectares.)

5. I/We wish to convert land in excess of one hundred hectares by

.....
(state amount in excess of one hundred hectares) and I/we wish the board to verify it.

6. Justification for grant of land in excess of 100 hectares

.....
.....

Name and signature of applicant(s)

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

Date of application

DECLARATION

*I/We declare that the above particulars are true to the best of my/our knowledge and belief and that the following conditions have been complied with-

(i)) (i) i)	that the leasehold is authentic and genuine; that there were no customary tenants on the land at the time of acquisition (whose tenancy was not disclosed)*;
-----------------------	--

(iii) that the customary tenants, who were on the land at the time of acquisition and whose tenancy was disclosed, were duly compensated*;

(iv) that all development conditions and covenants have been complied with;

(v)	that any other conditions imposed by law from time to time have been complied with; and
-------------	---

(vi) that the conversion is limited to one hundred hectares/that the conversion exceeds one hundred hectares (*delete whichever is not applicable)

Name and Signature/Thumbprint of applicant(s)

.....

.....

.....

Date

Declared before me,

Name and Signature

Commissioner for oaths

(Official Stamp)

Date

PART

DECISION OF DISTRICT LAND BOARD

A: Having considered the above application for conversion from leasehold into freehold of land not exceeding one hundred hectares, the District land board:

- a) is satisfied/not satisfied that the conditions provided under the Land Act Cap 227 and regulations made under it affecting conversion of leaseholds to freehold have been complied with;
- b) the verified area is..... hectares
- c) it is in the public interest/not in the public interest to convert the leasehold land in excess of 100 hectares which is the subject of the application to freehold.

B: The application for conversion is -

- a) approved
- b) not approved

C: Reasons for decision

.....

.....

.....

.....

D: Minute number

.....

.....

.....

OFFICIAL SEAL

..... <i>Name and signature of the Secretary, district land board</i> <i>Name and signature of the Chairperson, District Land Board</i>
---	---

Date

* The board shall send a copy of this form to the Registrar to effect the conversion.

Regulation 23

**THE REPUBLIC OF UGANDA
THE LAND ACT, CAP 227
THE LAND REGULATIONS, 2004**

Form 19

Land at

Village:.....

Parish:.....

Sub-county.....

County:.....

Municipality:.....

District:.....

Approximate area:.....

To

.....

.....

FREEHOLD

OFFER

(in case of land held by a district land board)

1. The district land board is in receipt of your application dated for a freehold.
2. Subject to your obtaining any necessary approval or consent required by law, the board has approved a grant of freehold in respect of the above land on the following terms and conditions:-
 - a) user to be restricted to
 - b) a premium of Shswill be payable
 - c) compensation to any tenant on the land will be done by the applicant.
 - d) Any other condition (if any).....
4. The offer is conditional on the terms and conditions of the grant of freehold being accepted within forty five days of the date of this offer.
5. Acceptance shall be in writing to the board and shall be accompanied by the following payments
 - i) premium.....
 - ii) survey and mark stones.....
 - iii) assurance of title.....
 - iv) registration of grant.....
 - v) issue of certificate of title.....

TOTAL	Shs	.....
Less deposit paid (if any)	Shs	.....
Balance payable (if any)	Shs	.....
6.	Stamp duty will be paid before registration.	

7. Minute number
8. Upon acceptance of the above requirements, a grant of freehold under Form 4 will be prepared in your favour for registration. This offer is made this day ofyear

.....
Name and signature
Secretary, district land board

*(Delete whichever is inapplicable)

Workshop two Task A

Muzamir having fully paid up the consideration for property A is now before you with his two wives and seeks that you advise them on the most appropriate mode or type of co owning the land.

Furnish the advice with credible justifications for the mode or type you would have advised them to adopt

Section 56 of the Registration Of Titles act cap 230 provides that two or more persons who are registered as joint proprietors of land shall be deemed to be entitled to the land as joint tenants and in all cases where two or more persons are entitled as tenants in common to undivided shares of or in any land those persons shall in the absence of any evidence to the contrary be presumed to hold that land in equal shares.

This section creates two types of tenancies in land that is joint tenancy and tenancy in common.

Article 26(1) of the constitution provides for the right to own property either individually or in association with others.

One of the ways in which you can own land in association with others is by co ownership. According to **Mugambwa; Principles of Land Law in Uganda at page 145**, co-ownership is where two or more persons concurrently own an interest in land. The interest maybe leasehold, freehold, or mailo. Each co-owner is entitled to the simultaneous enjoyment or use of the land, claiming not a separate portion but mutual right in the whole.

As stated in Megarry and Wade; *The Law of Real Property*, at page 417, English law recognises two forms of co ownership that is joint tenancy and tenancy in common.

Joint tenancy.

Where coownership exists in the form of a joint tenancy, the co-owners are regarded as being wholly entitled to hold all the property that is co-owned. In respect to land, this means that each of the joint tenants is regarded as simultaneously owning the whole of the land concerned and that they cannot be regarded as holding specific shares of the property.

Expressed negatively, there is no part of the land that they do not each own. The expression joint tenancy was expressed by Lord Browne Wilkinson in the case of **Hammersmith LBC v Monk[1992]1 AC 47**, “in property law, a transfer of land to two or more persons jointly operates as to make them viz-a-viz the outside world one single owner”

Osborn's concise law dictionary 11th edition sweet and Maxwell at page 235 defines joint tenancy as a form of ownership in which two or more persons are regarded as being wholly entitled to the whole property. On the death of one of the joint owners the property remains vested in the survivors by a right of survivorship (*jus accrescendi*).

Features of a joint tenancy.

According to **Mugambwa; Principles of Land Law in Uganda at page 145**, a joint tenancy has two essential features which distinguish it from a tenancy in common; presence of the four unities and the right of survivorship. Unless these two features exist, there cannot be joint tenancy.

In the case of **AG Securities versus Vaughan (1988) 2 ALLER 173** Sir George Waller considered the essential ingredients of a joint tenancy and held that first of all there must be unity of interest, there must be unity of title, unity of time, and finally unity of possession of the whole property.

Co owners in joint ownership hold the whole jointly and nothing separately they do not have distinct shares

The four unities.

Megarry and Wade *The Law of Real Property* (5th edn, 1984) pp 419–422 sets out the four unities of possession, title, time and interest as the requirements for a joint tenancy.

In **AG Securities v Vaughan and others** held a joint tenancy is one where the tenancy commences on the same day [1988] 2 All ER 173 at Sir George Waller 184, for all, where the term is the same for all, where the rent should not be altered without due notice to all and possibly where all are jointly liable for the rent.

Unity of possession

This means that each co owner is entitled to undivided possession of the whole of co owned land and none holds any part separately to the exclusion of the other co owners. In *Wiseman v Simpson* [1988] 1 All ER 245 it was held that As joint tenants each has the right to occupy the property and neither can lawfully exclude the other.

Unity of interest

This essentially means that the kind of interest the co owners have in the property must be uniform or rather identical in nature. For example one co owner cannot claim to have a leasehold interest while the other claims to have freehold . It must be of the same nature

Unity of Title.

Joint tenants must derive their identical interests in the land by an identical means through the same act or document e.g if they have derived title by the same act of adverse possession from a single conveyance.

AG Securities v Vaughan and others [1988] 2 All ER 173 at 184 Sir George Waller **held**; *Unity of title*. The unity of title for a joint tenancy has to be the same act or document. *Megarry and Wade* were repeating that which was contained in Blackstone's Commentaries (2 Bl Com 180):'Joint-tenancy cannot arise by descent or act of law; but merely by purchase, or acquisition by the act of the party: and, unless that act be one and the same, the two tenants would have different titles

Unity of Time; the interest of each joint owner must vest at the same time.

The above four unities were illustrated in the case of *AG Securities versus Vaughan* (1988)3 ALLER 1058 the appellants owned a four bedroom house under separate contracts entered into at different times. They granted the right to occupy the flat to four individuals referred to as flat sharers. The contract entitled each occupant to use the premises in common with other people who might from time to time have a similar right. The rent payable by each occupant varied. The court of appeal held that the occupants held the flat in joint tenancy. The House of Lords reversed this decision on holding that the agreements entered into by the appellant with the four occupants whereby each occupant had exclusive possession of one bedroom and shared the remainder of the accommodation did not have the effect of creating a collective joint tenancy among the occupants of the flat for the time being by virtue of their having between them exclusive possession of the flat, since the agreements were independent of one another, commenced on different dates, covered different periods and provided for different payments for that occupation.

Lord Jauncey; I should be surprised indeed if a joint lease could be created by four separate documents of different dates in favour of four independent persons each paying a different rent and also for different periods of six months. Such an arrangement would, as Sir George Waller pointed out be notably deficient in the four unities of interest, title, time and possession

The HoL holding was on the ground that the arrangement was notably deficient in the four unities of interest of title, interest, time and possession. There was no unity of time because each occupant commenced his or her occupation at a different date, no unity of title because each tenant had his own contract, no unity of interest because the arrangements covered a different period and provided for different payment for that occupation.

THE RIGHT TO SURVIVORSHIP UNDER JOINT TENANCY

This is the second feature of joint tenancy which is also known as **jus accrescendi**. Joint tenants do not have distinct shares in the co owned land they own the whole as co owners. Therefore upon death of one joint tenant his or her interest in land is extinguished and does not form part of his or her estate. (Mugambwa; Principles of land Law in Uganda at page 146)

The essence of survivorship –*jus accrescendi*– is that when one of the joint tenants dies, his interest in the land automatically passes to the remaining joint tenants. This is a logical consequence of the fact that all the joint tenants are regarded as being wholly entitled to the whole of the land. In a sense, when one of the joint tenants dies, the extent of the interest of the others in relation to the land remains unchanged. They are entitled to no more than they were entitled to before the death of the joint tenant namely the whole of the land.

Because of this doctrine property owned in joint tenancy cannot devolve by will or intestate succession unless the joint tenancy has been previously severed in the life time of the deceased joint tenant.

Where joint tenants die in a common calamity in circumstances which render it impossible to determine who survived the other, the doctrine of survivorship does not apply.

In the case of **Wilcox versus Mcleroth (1933) KLR 82** a husband and wife executed identical wills each appointing the other sole heir and executor of my estate and effects. They both drowned in the lake in circumstances in which it was not known who survived the other. It was held that according to common law the estate of each of the deceased must be administered in intestacy it being presumed that they died at the same time.

TENANCY IN COMMON

This differs from joint tenancy in that tenants in common hold land in individual shares. In other words each tenant owns a distinct share in the property. What makes parties co owners is that they all have shares in the same piece of land though the land is not physically divided amongst them. Because each person has a distinct share in the property the doctrine of survivorship does not apply. Hence if one of the tenants in common dies, his or her share of the land passes under his will or intestacy. The most important feature of tenancy in common is unity of possession.

Creation of tenancy in common.

At common law where a grant is made to two or more persons it is presumed that the grantor intended to create a joint tenancy.

In *Re Murrum Murter* 18 KLR 65. A testator granted his estate to a trustee to apply for the benefit of G and J; the issue was whether G and J were to hold the estate as joint tenants or tenants in common. It was held that where property is given to several persons concurrently, prima facie, they take as joint tenants. In this case since there was nothing to suggest a tenancy in common, it was held that the testator intended G and J to hold in joint tenancy.

The presumption of joint tenancy is discharged either where the grant contains words of severance. The words of severance are expressions that indicate the grantor's intentions that each grantee should take a separate and distinct share in the property.

In *Robertson v Fraser*, (1871) 6 Ch App 696 Lord Hartherly said, "anything which in the slightest degree indicates the intention to divide the property must be held to abrogate the idea of joint tenancy and create a tenancy in common. Examples of words which have been held to constitute severance include "share and share alike", "amongst", "in equal share", "equally", and "participate",

In equity, a grant of property to two or more persons without words of severance creates a joint tenancy whereas a grant with words of severance creates a tenancy in common just like at common law.

Traditionally, there were three such situations in which persons who were joint tenants at law were compelled by the court of equity to hold the legal estate upon trust for themselves as equitable tenants in common. This is called a resulting trust. These were;

Where the property was purchased with funds contributed in unequal shares.

Where the property constituted partnership assets.

Where the property was held as security for a loan advanced by the joint tenants

TERMINATION OF CO OWNERSHIP

Termination of joint tenancy

Joint tenancy may be terminated by conversion into sole proprietorship, severance and partition.

Upon death of one of the joint owners land vests in the surviving co owner as the sole owner by virtue of the rule of jus accrescendi. Such a person may apply to the registrar to be registered as the sole proprietor thereof.

Severance basically means converting joint tenancy into tenancy in common by dividing the land into different shares.

Both joint tenancy and tenancy in common can be determined by sale or partition of the land. Termination by sale is where the land is sold and the proceeds are shared amongst the different tenants in accordance with their share taking into consideration the necessary adjustments like fees , reimbursements among others .

Partition on the other hand is where the land is physical division of land amongst the co-owners. As already discussed under workshop one, Muzamir can only create a leasehold interest over private mailo since one of his wives Michelene is a non-citizen. Co-ownership can be under leasehold, mailo or freehold.

CREATION OF CO-OWNERSHIP UNDER THE RTA

Joint tenancy and tenancy in common is created by registration under the RTA as joint tenancy or tenancy in common respectively. S.56 and s.94 RTA,

Section 56 of the Registration Of Titles act cap 230 provides that two or more persons who are registered as joint proprietors of land shall be deemed to be entitled to the land as joint tenants and in all cases where two or more persons are entitled as tenants in common to undivided shares of or in any land those persons shall in the absence of any evidence to the contrary be presumed to hold that land in equal shares.

S. 94 provides that **94. Proprietor may vest estate jointly in himself or herself and others**

without limiting any use. That The proprietor of land or of any estate or interest in land under the operation of this Act, may transfer that land, to his or her spouse or jointly with any other person to himself or herself alone and upon the registration of the transfer the land, estate or interest shall vest in the transferee solely or jointly, and she, he or they shall become and be deemed the proprietor or proprietors thereof.

Instruments presented that would transfer an estate or interest to two or more persons should set out the manner in which the co-owners hold the estate/interest. Where persons desire to hold as joint tenants, the instrument of transfer should state that the transfer was made to the transferees “as joint tenants”. If they desire to hold as tenants in common, the instrument should state likewise and the proportions in which the land is held. Registration of the co-owners of joint tenants and tenants in common is conclusive evidence as concerns third parties who act in reliance upon the registrar.

Muzamir and his wives should own the land as joint tenants. This is because of the practical application of joint tenancy.

Practical application of co ownership

Many people who own land in tenancy in common or joint tenancy are not clear in their minds of the advantages of joint tenants over the other. Where it is the wish of the co-owners that whoever is the survivor should enjoy the property in solo, they would put on hold the property in joint tenancy.

Normally, joint tenancy is best suited for married people because upon the death of either spouse, survivor automatically becomes the sole owner without need of probate.

It is also a convenient manner of holding legal title by administrators of estates and trustees. This is because where there are two or more administrators or trustees and one of them dies by operation of the doctrine of *jus accrescendi*, a survivor would have legal power to administer the estate- s.186 Succession Act Cap 139 Laws of Uganda provides that “when probate has been granted to several executors and one of them dies, the entire representation of the estate accrues to the surviving executor or executors” see also s.275 SA and s.19 (1) TA

For the same reason, it is advantageous for partners to be registered as joint tenants. Upon death of one of the partners, the firm normally dissolves and the survivor has legal obligation to wind up the business which usually involves sale of partnership property. By operation of right of survivorship, the remaining partner will have power to sell off the partner's property without the consent of the representatives of the deceased partners unlike if it were a tenancy in common.

The beneficial interest of the estate of the deceased in the partnership is protected by the presumption that the beneficial interest is held in tenancy in common.

However, joint tenancy as a manner of holding property can be a trap for the unwary in particular because of the draconian operation of the right of survivorship. Thus Muzamir, Michelene and Aisha Nakazibwe would become joint owners subject to the doctrine of survivorship that upon death of either co owners, land remains property of the surviving co owners until the last survivor upon death of which property will form part of his or her estate either in intestacy or under a will. This implies that the land would continue to be owned by the wives incase Muzamir dies and would automatically pass on to them upon his death without need of a will.

Illustrate to them how the type of co-ownership adopted will be reflected on their Duplicate Certificate of Title.

The type of co-ownership is illustrated on the certificate of title by inserting the words: "survivorship" or "no survivorship"

S. 57 RTA provides for effect of insertion of the words "no survivorship"

(1) Upon the transfer of any land and upon the lease of any freehold land to two or more persons as joint proprietors with the words "no survivorship" endorsed on the transfer or lease, the registrar shall enter those words in the memorial of that transfer or lease and also upon any certificate of title issued to the joint proprietors pursuant to the transfer and sign his or her name thereto.

(2) Two or more joint proprietors of any land or of any lease of freehold land may by writing under their hands direct the registrar to enter the words "no survivorship" upon the certificate of title or instrument relating to the property.

(3) In every case after the words “no survivorship” have been signed by the registrar, whether under this or any preceding section, it shall not be lawful for any persons other than the proprietors registered to transfer or otherwise deal with the property without the order of the High Court.

B) Muzamir has informed you that one of his neighbours on the east side of **Property A** has blocked off the only road by which the property could be accessed. That neighbour is in possession of a Decree of the Chief Magistrates Court of Makindye in Civil Suit No.0681 of 2003 granting a permanent injunction to the decree holder against Douglas Tomusange restraining him from trespassing on the decree holder/neighbour’s said land by illegally using the same as a road. The only other neighbour whose land is not fully built up and comprises in **Kyadondo Block 250 Plot 89** has refused to talk to Muzamir over granting him an access on any terms.

Advise Muzamir on the possible options he has in the circumstances and draft the documents you would use in the most appropriate circumstances.

ACCESS TO ROAD.

Mugisha Stephen v Karugaba Yostasi HCCS LD 0050 of 2013; An easement means an interest in land owned by another person with the right to use or control the land, or an area above or below it, for a specific limited purpose (such as to cross it for access to a public road). (**See: Black’s Law Dictionary 8th Edition Pg. 548**)

In situations where one has no access to a public road and there is a plot of land between his piece of land and the road then the provisions of the Access to Roads Act cap.350 are invoked.

Section 2 of the Access to Roads Act provides that, the person in need of the road of access is supposed to ask neighbours for access upon provision of compensation, if the neighbour refuses, he or she may apply to the land tribunal by way of use of form specified in the schedule to the Act.

Under Article 43 of the Constitution of the Republic of Uganda, in the enjoyment of the rights and freedoms described in the constitution no person shall prejudice the fundamental or other human rights and freedoms of others or public interest while enjoying their rights.

Section 7 of the Act provides that once the order of access to the road is granted it shall be for accessing the road not exceeding 20feet the order is granted under **section4** of the Act and such order shall be registered in the register book under the RTA within three months from the date of issue of the order.

Mugisha Stephen v Karugaba Yostasi HCCS LD 0050 of 2013. Held; The objective of the Access to Roads Act, as is stated in the long title, is to provide for procedure by which a private land owner who has no reasonable means of access to a public highway may apply for leave to construct a road of access to a public highway and for other purposes connected with that.

Access is defined in **Black's Law Dictionary, 6th Edition Page 12**, in real property law, as denoting the right vested in the owner of land which adjoins a road or other highway to go and return from his own land to highway without obstruction that "access" to property does not necessarily carry with it possession. An easement of access is that right which a landowner has of ingress and egress from his premises, in addition to the public easement in the street. The order to construct an access road on another person's land is normally granted where there is no other way by which the Applicant/grantee can access the public highway except through the land of the Respondent/grantor who is another landowner.

In the case of Barclays Bank versus Patel, [1970] EA 88, Court of Appeal of Kenya, held that;

"A way of necessity arose by operation of law and continues to exist for as long as the necessity exists notwithstanding that it was not referred to in the certificate of title to the servient tenement.,,and cannot be defeated unreasonably.

Procedure for acquiring an order of accessing a public road.

1. There must have been failure of negotiation. **Section2(1)** of the Act provides that the owner of the land should be un able to obtain leave from adjoining land owners through negotiation to construct a road of access to the public road . According to our facts the other neighbour whose land is not fully built up has refused to talk to Muzamir over granting him access on any term, this shows that he or she is not willing to negotiate with Muzamir to allow him get an alternative access to the public road.

2. The application is made to the land tribunal as per **Section2(1)** of the Act. However, Practice direction no 1. Of 2006 gave Courts presided over by Magistrate Grade 1 and above jurisdiction in all matters that were being handled by the District Land Tribunals;

Zziwa Ssalongo & Another versus Kafumbe Anthony Luyirika, Civil Appeal No. 33 of 2012 HELD; the Land tribunals created under the Constitution and the Land Act ceased to exist following the expiry of contracts of chairpersons and members of district land tribunals. Consequently Practice Direction No. 1 of 2006, was put in place conferring jurisdictions formerly exercised by the land tribunals on magistrate's courts presided over by Magistrate Grade 1 and above.

3. **Section 2(1) (a)** provides that the application must be in form set out in the schedule to the Act. In **Zziwa v Kafumbe** supra it was held that the application is in a format set out in the Access to Roads Act.

– **S.2 (2)(b)** supra –the application must be accompanied by a sketch or plan showing approximately the course and direction of the proposed road and present means of access, if any to the public high way.

– S.2 (3) supra –in case the applicant is unable to make a sketch plan, an application can be made to the Magistrate court for leave to enter the land and make a sketch plan.

4. The tribunal shall then ensure that the owner of the affected land is served with notice so as to show cause against the grant of the application, **section 3(2)**. The service is preferably personal or by leaving it with an adult member of the family or servant residing with him or at a conspicuous place on his property or in a local news paper as per **subsection 4** of section 3. And **Order 5** of the civil procedure Rules SI 1-71.

6. A hearing date is then set of the application. **Section 4(1)** After the expiration of 1 month from the date of service of notice on the owner of the land is when the hearing is set.

7. According to **section4 (2) (a)** and b, the land tribunal may make an order after the hearing of such evidence as may be adduced in respect the application subject to any other terms it may so deem fit to impose and payment of compensation.

8. – S.5 Supra- The land tribunal (Magistrates Court) may at any time, on application made by the owner of adjoining land for the revocation of an order made under S.4 and after giving the other party an opportunity to show cause why the order should not be revoked, make an order revoking the order.

S.6 supra –the width of the road shall never exceed 20 ft.

Section 7(1) of the Act provides that, an order made under section 4 is registrable in the register book under the RTA on application made by the person affected by the order within 3 months of the date of the order, or where an appeal is pending within one month after determination of the appeal.

Section 7(2) an application for registration of the order made to the registrar must be accompanied by, a certified copy of the order, a sketch of the course and direction of the proposed road of access as approved by the land tribunal and such certificate of title as the registrar of titles may require for endorsement of the order on the certificate.

S. 7(3) If the registrar of titles is satisfied that the application is in order, he or she shall, on payment of the fee prescribed under the Registration of Titles Act, register the order in the Register Book. Item 22 – schedule 27 to the R.T.A, Cap 230 – application fees is UGX 10,000

Section 54 of the R.T.A, Cap 230 – provides to the effect that an instrument not effectual unless registered.

Section 65 R.T. A , Cap 230 is to the effect that easements existing under deed or writing to be noticed as incumbrances by the registrar of titles.

Section 60 R.T. A, Cap 230- provides to the effect that a certificate conclusive evidence as to title to easements

Sec. 8 of the Access to roads Act , Cap 350-When a road of access has been constructed, the applicant or his servants any other person lawfully going to or from the applicants land or this successors in title shall have leave at all times to use the road of access.

DOCUMENTS

– Application for leave to construct a road of access .s.2 form set out in the schedule to the access to roads act, cap 350 and practice direction no.1 of 2006.

However, since the matter is now before Court and not tribunals, court cannot be moved by a form. It has to be a notice of motion supported by an affidavit.

– **STEP X** Appeal

– An appeal shall lie , with thirty (30) days , from any order of the land tribunal (magistrates court) under this Act, to the High court whose decision shall be final.

Compensation

In the case of **Ahmed Dauda Ziwa and another V. Kafumbe Anthony HCCA No. 33 of 2012**. It was stated that compensation should conform to Article 26 of the constitution and should also take into account the loss of the land itself.

According to our facts muzamir has no alternative access to his land and thus can apply to court for this remedy to grant him access.

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF

IN THE MATTER OF LAND COMPRISED IN KYADONDO PLOT 123 BLOCK 250 BUNGA.

APPLICATION FOR LEAVE TO CONSTRUCT A ROAD OF ACCESS

(under section 2 of the access to roads act, Cap 350 and the schedule thereof practice direction No. 1 of 2006)

1. Name of applicant.....	
Place of abode.....	
Nationality.....	
2. Name, situation and registered title reference of land or lease of land in respect of which the road of access is required, stating the title reference of land, county and all particulars which may assist in locating it	
3. Name of public highway to which the road of access is required	

4. Name or names of land over which it is proposed to construct the road of access, together with the name or names of the respective owner or owners of the land	
5. The means of access (if any) to any highway at present available for the use of the applicant and whether use of that highway is subject to any payment or other terms or conditions	
6. Whether any crops or building will be damaged or destroyed by the construction of the road of access; if so, to what extent	
7. Maximum width between drains of proposed road of access	
8. Any other facts of which the applicant is aware which may affect the grant	

Applicant

Draft a notice of motion and an affidavit but attach the above form.

Group 3.

C/ Having started the operations of a Hospital on **Property B**, the Ministry of Health has identified Muzamir's Hospital as a health facility that government could take over in pursuit of its policy to put a functional hospital in every sub county. The Ministry intends to cause the Ministry of Finance to avail funds to compensate Muzamir and take over his property instead of building a completely new facility in the same area. Muzamir is completely opposed to this development but the Ministry of Health is also insistent. Muzamir has petitioned the Inspector General of Government to intervene.

As a Legal Officer working with the Inspectorate of Government, you have been asked by the Inspectorate's Head of the Legal Directorate to advise the Inspector General of Government on what Government would have to do to lawfully take over privately owned land and whether it is applicable in the case of Muzamir's property.

Furnish the sought opinion.

COMPULSORY LAND ACQUISITION

In Uganda land ownership belongs to the citizens. Article 237 of the 1995 Constitution provides that land in Uganda belongs to the citizens and shall vest in them in accordance with the land tenure systems provided for in the constitution which include customary, freehold, leasehold and mailo.

The right to own land is further fortified by Article 26 of the Constitution which provides that every person has a right to own property either individually or in association with others. The question that can be asked is whether this right to own property is absolute? Under the constitution the right to own property is not non-derogable and can be limited within the meaning of article 43 of the Constitution.

S. 42 of the Land Act provides that the Government or a local government may acquire land in accordance with articles 26 and 237(2) of the Constitution

Article 237(2)(a) provides that notwithstanding clause 1, the government or a local government may subject to Article 26, acquire land in the public interest; and the conditions governing such acquisition shall be as prescribed by parliament. This means that though land in Uganda belongs to the citizens it can be acquired by government in public interest hence the right to own land is not sacrosanct.

This was emphasised in the case of **Amooti Godfrey Nyakaana v NEEMA & Ors** Constitutional Appeal No. 05/2011 where it was held that “an analysis of the provisions of the Constitution (articles 26, 237, 242, 245) points to the principle that although one has a right to own land through one of the systems of land tenure listed in the constitution, there may be situations which necessitate the government either to take over that land or to regulate its use for the common good of all the people of Uganda.” This is what is referred to as compulsory acquisition of land.

The law alluded to in article 237(2)(a) is the Land Acquisition Act Cap 226. Compulsory acquisition of land by government or any other public body is provided for in S.s 3 and 7 of the Act

The Land Acquisition Act Cap 226 provides for the procedure to follow before compulsory acquisition of land.

1. Any person authorised by the minister may enter the land in order to examine and ascertain the suitability of the land for a public purpose. Section 2 Land acquisition Act. He can survey the land, dig into the subsoil and remove samples and do any other thing necessary for ascertaining its suitability. The government has a duty to pay compensation to any person who suffers damages as a result of entering and examining the land.
2. When the minister is satisfied that the land is needed for public purpose, he or she may by statutory instrument declare that the land is required by the government for a public purpose as per Section 3. The instrument shall specify the location of the land to which it relates and the approximate area of the land. The minister shall cause a copy of the every declaration to be served on the registered proprietor of the land specified in the declaration. Section 3(3).
3. On publication of a declaration under Section 3, the assessment officer shall cause the land to be marked out and measure a plan of the land to be mad if a plan of the land has not already been made as per Section 4.

4. As soon as may be after the publication of the declaration in respect of any land, the assessment officer causes a notice to be published in the gazette and exhibited at the convenient place or near the land. It should state that government intends to take possession of the land. The notice of not less than 15 days is given inviting all people having interest in the land by the assessment officer on a day, time and place specified in order to determine the nature of their claims, the amount of compensation to be paid and any objections they may have to the plan for the land use as per Section 5 (1) (2) and (3) of the Land Acquisition Act. The assessment officer may require a statement in pursuance of Section 5(3) to be made in writing and signed by the party making it or his or her agent.

5. The Assessment officer on the day specified hears the claims and makes an inquiry into the claims and objections made in respect of the land. While carrying out this inquiry, the assessment officer has the same power as a magistrates court in its civil jurisdiction to summon and enforce attendance of witnesses and to compel production of documents.

6. An award is made by him or her specifying the true area of the land and the compensation among all persons which should be paid to each person having an interest in the land (Section 6(1) of the Land Acquisition Act). The award also specifies the apportionment of compensation among all the persons know or believed by him to have an interest in the land whether or not they have appeared before him or her.

Important to note is that Compensation is paid basing on the current market price of the land in the area prepared annually by the District Land Board. (Section 59(1) (e)&(f) of the Uganda Land Act).

7. Where an assessment officer makes an award under section 6, he can cause a copy of the award to be served on the minister and persons who have an interest in the land but where not personally there when the award was made.

8. Any person aggrieved by the award of the Assessment officer may appeal to the District Land Tribunal or the High court if the Value of the land exceeds 50,000,000/= (Section 76 1(b) &(c) of the Land Act)

9. The Uganda Land Commission then pays compensation for the value of the land if no appeal is made to the Courts of law (Section 6(4)(b) of the Land Acquisition Act).

10. It is only after all people having interest in the land have been fully and adequately compensated that Government then takes possession of the land as provided for in Article 26(2)(b)(i) of the Constitution. The land is then managed by the Uganda Land Commission as per Section 7(1) of the Land Acquisition Act.

The minister may however take possession at any time after the publication of the declaration if the minister certifies that is in the interest of the public for him to do so. Section 7(1).

The estate and interest of every person having an interest in the land immediately before the land so vested is deemed converted into a claim for compensation under the Act. This means that it is only that the owner has been compensated that his rights are extinguished.

11. Soon after taking possession, the assessment officer forwards to the registrar of titles a copy of the declaration relating to the land, endorsed with a certificate signed by the assessment officer which states that the assessment officer has taken over possession of the land and specifies the date on which he did so.

12. On receipt of the endorsed declaration, the registrar of titles may take such steps to give effect in the register book to the operation of the possession specified in the declaration.

It should be noted that article 237 allows for compulsory acquisition subject to article 26 of the Constitution. One of the requirements for land acquisition in article 26 is prior compensation before acquisition. However the Land Acquisition Act does not provide for mandatory prior compensation before acquisition.

Important to note is that the Land Acquisition Act is one of the enactments that came in force before the passing of the 1995 Constitution. Art 274 of the Constitution provides that existing law before coming into force of the constitution shall be read with necessary modifications and qualifications to bring it in line with the provisions of the constitution. This was emphasised in **Osotraco v Attorney General and also Kabandize V Kampala City Council Authority**.

Article 2(2) provides that the constitution is the supreme law of the land and no statutory provision in any enactment inconsistent therewith can supersede the provisions of the Constitution. It follows therefore that for any compulsory acquisition of land to be valid, such acquisition must be within the confines of Article 26(2) of the Constitution. It is provided that every person has a right to own property either individually or in association with others. Property for that purpose is not defined but ordinarily included land or landed property. In **Phillip Karugaba v Attorney General Constitutional Appeal No. 1/2004**

Justice Bart Katureebe stated that "The word property does not have a limited connotation but applies to "personal" as well as "tangible" property."

It follows therefore that for the right of ownership of property to be interfered with such interference of any form must be in accordance with article 26(2) of the constitution.

Compulsory acquisition of land is therefore an exception and permitted interference with the right of ownership of property enshrined in Article 26 not forgetting that Article 43 of the constitution provides for the limitation of enjoyment of rights. In that context any limitation imposed on the right of ownership can only be legally effective if it is in tandem with the pre-condition set out in Article 26(2)

Article 26(2) allows compulsory Acquisition of land for purposes stipulated therein and subject to satisfaction of the condition precedent set out in the article. The condition precedent upon which compulsory acquisition may be deemed to be legal is provision for prior compensation before such acquisition. The compensation must be fair and adequate in the circumstances.

In **Oneg Obel & Anor vs. AG & Anor HCCS No. 0066/2002** the government moved onto the suit land and constructed a road without the consent of the plaintiff who was the registered proprietor thereof. The plaintiff was deprived of his interest and right over the land without promptly being paid fair and adequate compensation contrary to Article 26. Court held that the acts of the defendant were illegal. That one of the conditions of acquiring private property by government is to pay prompt fair and adequate compensation. Court granted exemplary and general damages by declaring that the conduct of the agents of the government was arbitrary, oppressive and unconstitutional.

In that context any compulsory acquisition of land will be rendered unconstitutional and illegal if provision is not made for prior and adequate compensation. In **Venansio Bamweyaka v Kampala district Land Board, Civil Appeal No. 2 of 2007** Okello JA held that where the application for and the alienation of the land by the controlling authority has been done without consultation of those in occupation thereof such grant would not be allowed to stand

As noted earlier, the Land Acquisition Act is contrary to Article 26 of the Constitution in not providing for prior compensation before acquisition. The legality of S.7 of the Land Acquisition Act was challenged in the case of **Advocates For Natural Resources, Irumba Asumani And Others v Attorney General. Constitutional Petition No. 40/2013** ;In this case the government in upgrading the Hoima-Kaiso-Tonya road in order to ease and facilitate the oil exploration and exploitation activities, expropriated the land of Irumba Asumani without prompt payment of compensation. The petitioner contended that this act of the respondents contravened his rights as enshrined under Article 26 of the Constitution. The Constitutional Court held that S.7 of the Land Acquisition Act is inconsistent with and contravenes Article 26. The provision was nullified to the extent of its inconsistency that is as it does not provide for prior payment of compensation before government compulsorily acquires or takes possession of any person's property. It was further emphasised that judicial bodies should construe old laws that predate the 1995 Constitution in conformity with Article 274.

However, of great importance in regard to this matter is the Supreme Court's judgement on appeal in **UNRA v Irumba Asumani SCCA No. 2 of 2014** where the highest court confirmed the decision of the Constitutional Court. It was held that S.7(1) of the Land Acquisition Act was inconsistent with article 26 of the Constitution as it allowed government to compulsorily acquire land without prior compensation. The Court went on to hold that whereas Article 26 is not among the non derogable rights stated under article 44, this doesnot give powers to government to compulsorily acquire people's land without prior payment and that such planned government projects do not fall under the exceptions of disasters and emergences.

The ruling of the Supreme Court is thus applauded for confirming and preserving the sanctity of property rights. As noted above the court made it clear the right to own property is absolute save in instances of disasters, calamities and emergences. Those are the only limits court qualified to be the exceptions where someone can be deprived of their property without prior compensation.

Compensation must be fair and adequate.

Article 26(2) of the 1995 Constitution makes a requirement that the enabling law must provide for prompt payment of fair and adequate compensation prior to the taking of possession or acquisition of the property by the Government.

The Land Acquisition Act does not provide for payment of '**fair and adequate**' compensation as laid down in the Constitution. The Act only makes reference to compensation and does not clearly state how that compensation should be assessed"

Although the Land Act of 1998 attempted to remove the lacuna by providing under Section 41(6) that “Compensation must be paid to the land owner at a fair market valuation assessed on a willing seller willing buyer basis.

Sheema Cooperative Ranching Society & 31 Ors v Attorney General (HIGH COURT CIVIL SUIT NO.103 OF 2010) [2013] court held that the compensation award offered by Government pursuant to the Valuation Report of August 2005 was outdated and insufficient and inadequate since it was not based on the open market value and disturbance allowances were never considered.

The reasons for acquisition of land compulsorily are provided for in the Constitution.

Article 237(2)(a) provides that the Government or a local government may, subject to article 26 of this Constitution, acquire land in the **public interest**; and the conditions governing such acquisition shall be as prescribed by Parliament;

In **B.P BHATT & ANOR vs. HABIB RAJANI VERSI (1958) EA. 536 at 540** Court held that the phrase public interest means much the same as the purpose in the public interest. It must include the purpose, an aim or objective in which the general interest of the community as opposed to the particular interests of individuals directly and virtually concerned.

Article 26 (2) of the Constitution provides that no person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied

The taking of possession or acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health.

In **Oneg Obel & Anor vs. AG & Anor HCCS No. 0066/2002** it was held that by both provisions of S. 73 of the Land Act and article 26 of the Constitution the government is bound by statute to show that the property it intends to acquire compulsorily is necessary for defence, public security, public health or public morality and to pay adequate compensation prior to such acquisition. In the instant case the defendant failed to prove the plaintiffs land was necessary for defence, public security, public health or public morality and to pay adequate and prompt compensation as required by the Land Act and the Constitution.

From the facts, government under the Ministry of Health would like to take over the Hospital constructed by Muzamir. Public health is a matter of public interest and is one of the conditions stipulated under Article 26(2)(a). therefore government can acquire Muzamir's hospital compulsorily subject to prior fair and adequate compensation assessed on fair market value. As stipulated in **UNRA v Irumba**, this is not a situation of emergency that government should take land without prior compensation.

D/ Muzamir has informed you that the land which he uses as a ranch and from which he gets the animals for his project on **Property A** measures approximately 108 acres in size. It is located on land comprised in **Mawokota Block 83 Plot No.674** which is registered in the name of Zubair Nkumba who owns and uses numerous other parcels of land in the area. Muzamir has used the land for the last 32 years without permission and without paying anything to Zubair Nkumba, but also without any complaint from the latter. Rumour reliably has it, however, that Zubair never sells his land, and there is no chance whatsoever of Muzamir ever purchasing the land from Zubair, in spite of the fact that Muzamir has the capacity to make a very lucrative offer. Muzamir nevertheless wants to lawfully acquire a certificate of title over the land he occupies so that he can obtain credit from a financial institution to enable him expand his meat processing business in order to start exporting beef to the Arabian region. Muzamir has sought your legal services.

Advise Muzamir on the following -

The circumstances under which he may obtain a certificate of title without Zubair's indulgence.

Assuming it were possible, what steps would Muzamir have to take? Draft the documents he would use in the circumstances.

What steps could Zubair take to resist Muzamir's actions and what would be the grounds of the objection?

ADVERSE POSSESSION

Under **Section 59 RTA** registered proprietor of land is protected and his or her title is in absence of fraud and other infirmities indefeasible. However, the doctrine of adverse possession acts as an exception.

Adverse possession is a legal theory under which someone who is in possession of land owned by another can actually become the owner if certain requirements are met for a period of time defined in the statutes of that particular jurisdiction. Adverse possession was historically used as a means of encouraging people to bring unused or uninhabited land into productive use.

According to *the Blacks Law Dictionary by Bryan A Garner 9th edition page 62* adverse possession is the enjoyment of real property with a claim of right when that enjoyment is opposed to the another persons claim and is continuous, exclusive, hostile, open, and notorious.

It is based on the limitation of the time when a person is entitled to bring an action for the recovery of land under the **Limitation Act (Cap 80**

Section 5 of the limitation Act (supra) which provide for limitation of actions for the recovery of land. It stipulates as follows;

“No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or her or, if it first accrued to some person through whom he or she claims, to that person.”

Further, Section 11 (1) (supra) provides that;

“No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as “adverse possession”) and where under sections 6 to 10, any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall not be deemed to accrue until adverse possession is taken of the land.”

Section 16(supra) further provides that;

“Subject to sections 8 and 29 of this Act and subject to the other provisions thereof, at the expiration of the period prescribed by this Act for any person to bring an action to recover land (including a redemption action), the title of that person to the land shall be extinguished.”

Section 29(supra) also stipulates that;

“Without prejudice to the operation of section 187 of the Registration of Titles Act, (which contains certain provisions relating to the limitation of actions), this Act shall apply to land registered under the Registration of Titles Act in the same manner and to the same extent as it applies to land not so registered, except that where, if the land were not registered, the estate of the person registered as proprietor would be extinguished, that estate shall not be extinguished but shall be deemed to be held by the person registered as proprietor for the time being in trust for the person who, by virtue of this Act, has acquired title against any person registered as proprietor, but without prejudice to the estates and interests of any other person interested in the land whose estate or interest is not extinguished by this Act.

Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012.

Held; It is important to note that all the above provisions are specific on the issue of limitation of the time when a person is entitled to bring an action for the recovery of land. The effect of the law of limitation on the defendant’s claim for the recovery of the suit land must therefore be viewed in the light of the plaintiff’s concurrent claim of title over the same land by adverse possession. This raises the issue of whether it is possible for a person to claim and obtain title to land as against the registered owner by adverse possession. A wealth of authorities seems to suggest that it is possible. Whereas a registered proprietor of land is protected and his or her title is in absence of fraud and other infirmities indefeasible under *Section 59 and 176(2) RTA*, adverse possession appears to provide the exception to the general principle of indefeasibility of the title.

In the case of *Jandu vs. Kirpal & Anor [1975] EA 225 at 323*, in which the court relied on the definition adopted in the case of *Bejoy Chundra vs. Kally Posonno [1878] 4 Cal.327 at p. 329*; adverse possession was defined to constitute possession by a person holding the land on his own behalf,[or on behalf] of some person other than the true owner, the true owner having immediate possession. If by this adverse possession the statute is set running, and it continues to run for twelve years, then the title of the owner is extinguished and the person in possession becomes the owner.

Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012.

The spirit of the definition above is similarly captured in provisions of *Section 16 of the Limitation Act (supra)* to the effect that *at the* expiration of the period of twelve years prescribed under *Section 5(supra)* for any person to bring an action to recover land the title of that person to the land shall be extinguished.

The *RTA* under *Section 78* thereof recognises adverse possession as a basis on which a person in use and occupation of land can claim title to the land of the registered owner.

It states that *“A person who claims that he or she has acquired a title by possession to land registered under this Act may apply to the registrar for an order vesting the land in him or her for an estate in fee simple or the other estate claimed.”*

Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012.

HELD; According to decided cases of persuasive authority by the Supreme Court of India on the same issue, the rationale of the exception of adverse possession to general principle of the indefeasibility of title is premised on the theory or presumption that the owner has abandoned the property to the adverse possessor or on acquiescence of the owner to the hostile acts and claims of the person in possession. In other words, the law regards the owner of land to be under duty to protect his or her interests in the land and is not expected to just look on when his or her rights are either infringed or threatened by third parties such as squatters and trespassers occupying his or her land. See also: *P.T. Munichikkanna Reddy & O’rs vs. Revamma & O’rs, (2007) AIR (SC) 1753 P.T.*

In *Annakili vs. A. Vedanayagam & Ors, AIR 2008 SC 346* the Supreme Court of India gave the essential elements of adverse possession which were considered in light of the Limitation Act of India with provisions similar to the Uganda *Limitation Act (Cap 80)*. It was held that;

“Claim by adverse possession has two elements: (1) the possession of the defendant should become adverse to the plaintiff; and (2) the defendant must continue to remain in possession for a period of 12 years thereafter. Animus possidendi as is well known is a requisite ingredient of adverse possession. It is now settled principle of law that that mere possession of land would not ripen into possessory title for the said purpose. Possessor must have animus possidendi and hold the land adverse to the title of the true owner. For the said purpose, not only animus possidendi must be shown to exist, but the same must be shown to exist at the commencement of the possession. He must continue in the said capacity for the prescribed period under the Limitation Act. Mere long possession for a period of more than 12 years without anything more do not ripen into a title.”

Again the principles stated in the above holding are also encapsulated in the local legislations under *Section 5 and 16 of the Limitation Act (supra)*.

Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012.

HELD; The direct import of these two provisions is, firstly; that a person dispossessed of land cannot bring an action to recover land after the expiration of twelve years from the date on which the right of action accrued; which is the date of dispossession. Secondly; after the expiration of the said twelve years the title of the registered owner shall be extinguished. Thirdly; the person in adverse possession is entitled to a title by possession. *Section 29 (supra)*, crowns it all by providing that the registered owner ceases to hold the title to land in his own right but in trust of one in adverse possession. Therefore, provisions of *Section 5 of Limitation Act (supra)* operate, as a rule, not only to cut off the defendant's right to bring an action for the recovery of the suit land that has been in adverse possession of the plaintiff for over twelve years, but also under *Section 16 (supra)* entitles the plaintiff as the possessor to be vested with title.

However it would also be noted that it is essential to establish that the adverse possession of the adverse possessor was neither by force nor by stealth nor under the license of the owner. It must be adequate in continuity, in publicity and in extent to show that the possession is adverse to owner as was discussed in the case of *OMUNGA BAKHIT 's AGRASIELA alias DACONTRACTARI*
In the case of *Karnataka Board of Wakf vs. Government of India & Ors [(2004) 10 SCC 779]* it was stated that for a party to succeed in their claim of title to the suit land through adverse possession they have to show on

what date they came into possession of the property;

what was the nature of her possession;

whether the factum of their possession was known to the other party;

how long her possession has continued; and

whether her possession was open and undisturbed.

Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012

HELD; It need emphasis that adverse possession is a right which comes into play not just because someone loses high right to reclaim the land out of continuous and willful neglect but also on account of possessor's positive intent to dispossess. It is thus important for this court, before stripping the defendant of his lawful title, to take into account whether the plaintiff is an adverse possessor worthy and exhibiting more urgent and genuine desire to dispossess and step into the shoes of the defendant the registered owner of the suit land. Once again, the efficacy of adverse possession by the plaintiff would much depend on the provisions of the *Limitation Act (Cap. 80)*; by operation of which right of the defendant to access the court expired through effluxion of time. There is yet another huddle for the plaintiff to succeed in her claim of title to the suit land through adverse possession. She has to show on what date she came into possession; what was the nature of her possession; **whether the factum of her possession was known to the other party**; how long her possession has continued; and whether her possession was open and undisturbed. See also: *Karnataka Board of Wakf vs. Government of India & Ors [(2004) 10 SCC 779]*.

The case of *OMUNGA BAKHIT 's AGRASIELA alias DACONTRACTARI* Is to the effect that possession ought to be Uninterrupted and uncontested possession of land for over twelve years, hostile to the rights and interests of the true owner, is considered to be one of the legally recognized modes of acquisition of ownership of land. This was also discussed in the case of *Perry v. Clissold [1907] AC 73, at 79*

In respect of unregistered land, the adverse possessor acquires ownership when the right of action to terminate the adverse possession expires, under the concept of “extinctive prescription” reflected in sections 5 and 16 of The Limitation Act. In such cases, adverse possession has the effect of terminating the title of the original owner of the land. The case of *Rwajuma v. Jingo Mukasa, H.C. Civil Suit No. 508 of 2012* The trial judge held that where the party claiming adverse possession wins the suit, it has the effect of terminating the title of the original owner and then title is vested in the adverse possessor.

The case of Miza v Bruna Ososi (CIVIL APPEAL No. 0026 OF 2016) [2017] UGHCLD 101 (21 December 2017) Explains the input of the law of limitation in adverse possession stating that the law of limitation guarantees that people should be free to get on with their lives or businesses without the threat of stale claims being made. The Limitation Act also encourages claimants to bring their claims promptly and not, in the old phrase, “to sleep on their rights”. Section 5 of The Limitation Act, which provides for limitation of actions for the recovery of land, states as follows;

"No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or her or, if it first accrued to some person through whom he or she claims, to that person."

This limitation is applicable to all suits for possession of land based on title or ownership i.e., proprietary title as distinct from possessory rights. Furthermore, **Section 11 (1)** of the same Act provides that;

"No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as "adverse possession"), and where under sections 6 to 10, any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall not be deemed to accrue until adverse possession is taken of the land."

These provisions have been applied in cases such as ***Semusambwa James v. Mulira Rebecca [1992-93] HCB 177 and Kintu Nambalu v. Efulaimu Kamira [1975] HCB 222***, where it was held that a suit for a claim of right to land cannot be instituted after the expiration of twelve years from the date the right of action accrued.

According to **section 6** of the Limitation Act, the right of action is deemed to have accrued on the date of the dispossession. A cause of action therefore accrues when the act of adverse possession occurs. In ***F. X Miramago v. Attorney General [1979] HCB 24***, it was held that the period of limitation begins to run as against a plaintiff from the time the cause of action accrued until when the suit is actually filed. Once a cause of action has accrued, for as long as there is capacity to sue, time begins to run as against the plaintiff.

The case of Iga v. Makerere University [1972] EA 65 If by reason of disability, fraud or mistake the operative facts were not discovered immediately, then **section 21 (1) (c) of The Limitation Act** confers an extension of six years from the date the facts are discovered. This disability though must be pleaded as required by **Order 18 rule 13 of The Civil Procedure Rules**, which was not done in the instant case. A litigant puts himself or herself within the limitation period by showing the grounds upon which he or she could claim exemption, failure of which the suit is time-barred, the court cannot grant the remedy or relief sought and must reject the claim

In this case, . Muzamir has used the land for the last 32 years without permission and without paying anything to Zubair Nkumba, but also without any complaint from the latter. He therefore qualifies to get a certificate of title on grounds of adverse possession.

Assuming it were possible, what steps would Muzamir have to take? Draft the documents he would use in the circumstances.

Possible steps to be taken to obtain a certificate of title are provided for under section 78 to section 91, part V of the RTA Act.

Apply to the Registrar or commissioner of lands for a vesting order under section 78 RTA

The form of the application is provided for under. S.79. Every application under section 78 shall be— (a) in writing in the form or to the effect of the Sixth Schedule to this Act, and shall include the several particulars mentioned or referred to in that Schedule;

(b) signed by the applicant, or in the case of a corporation by a person authorised in that behalf in writing under the seal of the corporation;

(c) attested by at least one witness being a person mentioned in that behalf in section 147;

(d) supported by a statutory declaration by the person signing it that the several statements in it are true; and

(e) accompanied by a survey plan (with field notes) of the land.

Upon acceptance by the registrar under section 80, the Registrar shall advertise a notice of the application in the gazette at the expense of the applicant and will cause such notice to be served on each person(s) with interest in the land. S, 81 RTA.

The applicant shall cause the copy of the notice of the application to be posted in a conspicuous place on the land or at such place as the commissioner shall direct for not less than three months s.82.

The commissioner of land or a registrar shall grant the application after a period of not less that 3 months nor more than 12 months from the date of advertisement of the notice if no caveat has been lodged against the grant. S. 83

After the expiration of such period, if the registrar of commissioner for land is satisfied that the applicant has acquired a title by possession cancel the existing certificate and issue a new certificate of title to the applicant.. S.87(a) RTA Cap 230.

Under S. 89 the commissioner shall on granting the application make entries in the register similar to those entered by virtue of a vesting order by court under S. 166.

S.91 provides that (1) Any certificate of title issued by the registrar upon the granting of any application under this Part of this Act shall be issued and registered in the manner prescribed by section 37, and thereupon the person named in the certificate of title shall become the registered proprietor of that land. (2) The certificate shall be dated the date of the granting of the application by the registrar

Documents required.

Application is by formal letter meeting all requirements in form under the 6th schedule of the RTA. Statutory declaration.

Survey plan

Notice of the publication.

Fees

22nd schedule of the RTA , item 7 provides that for every publication under s.78 pay 0.5 % of the value of the land.

Certificate issued 10.000.Item i

Form in sixth schedule.

SUI GENERIS AND CO.ADVOCATES

P.O Box 7117

Kampala.

Date: 27th November, 2018

To the Commissioner for land Registration

.....

Dear Sir/ Madam,

RE: **APPLICATION FOR A VESTING ORDER IN LAND COMPRISED IN MAWOKOTA BLOCK 83 PLOT NO.674.**

I, Muzamir Mudde of, apply for a vesting order in the piece of land comprised in Mawokota Block 83 Plot NO. 674 measuring approximately 108 acres, which land is delineated coloured red upon the plan numberedin the schedule to this application for an estate free from incumbrances and I declare;

That I have been in exclusive possession of the said land for over 32 years unchallenged by the registered proprietor,one Zubair Nkumba.

That there are no documents and any other evidence affecting such land in my possession and under my control other than those ascertaining my rights on the land.

There are no mortgages or encumbrances registered on the above mentioned title or land description.

That the present value of the land, including all improvements does not exceed Ugx shs.....

Dated at Kampala this 27th day of November, 2018.

Name and signed by

MUZAMIR MUDDE

In the presence of

THE REPUBLIC OF UGANDA
IN THE MATTER OF THE REGISTRATION OF TITLES ACT CAP 230.
AND
IN THE MATTER OF LAND COMPRISED IN MAWOKOTA BLOCK 83 PLOT NO. 674.
AND
IN THE MATTER OF AN APPLICATION FOR AVESTING ORDER
STATUTORY DECLARATION.

(Pursuant to section 79 RTA Cap 230)

I, Muzamir Mudde of SUI GENERIS and CO. Advocates, do hereby solemnly declare and state as follows;

That I am a male adult Uganda of sound mind, the applicant in this matter and make this oath in that capacity.

That I have been in exclusive possession of the land comprised in Mawokota Block 83 Plot No.674 measuring approximately 108 acres in size for over 32 years unchallenged by the registered proprietor, one Zubair Nkumba.

That the above described land is registered in the names of one Zubair Nkumba.

That I have various projects on the same land including a ranch from which I get the animals for my project carried on, on the same described land.

That I make this oath in support of my application for a vesting order in respect of the above described land.

I hereby confirm and declare that whatever I have stated above is true and correct to be best of my knowledge.

Dated at Kampala by the said Muzamir Mudde this 26th, day of November , 2018.

DEPONENT

BEFORE ME

COMMISSIONER FOR OATH

Drawn and filed by:

SUI GENERIS and CO. Advocates.

P.O Box7117

Kampala

What steps could Zubair take to resist Muzamir's actions and what would be the grounds of the objection?

Zubair can object to the grant of a certificate by lodging a caveat.

S. 86. Provides for Caveat forbidding grant of application.

(1) A person claiming any estate or interest in the land in respect of which any such application is made may before the granting of the application lodge a caveat with the registrar forbidding the granting of the application.

(2) The caveat shall in all other respects be in the same form and be subject to the same provisions and have the same effect with respect to the application against which it is lodged as a caveat against bringing land under the operation of this Act.

A caveat acts as a statutory injunction to the registrar to prevent registration of any dealings, which might affect an alleged interest of the person lodging it (the caveator) caveat. A caveat forbids registration of any person as registered proprietor or registration of any instrument affecting the applicant's interest on the land.

A caveat is provided for under S. 20 RTA (1) Any person claiming any estate or interest in the land described in any notice issued by the registrar under this Act may, before the registration of the certificate, lodge a caveat with the registrar in the form in the Fourth Schedule to this Act forbidding the bringing of that land under this Act.

(2) Every caveat lodged under subsection (1) shall be signed by the caveator or by his or her agent, and shall particularise the estate or interest claimed; and the person lodging the caveat shall, if required by the registrar, support the caveat by a statutory declaration stating the nature of the title under which the claim is made, and also deliver a perfect abstract of the title to that estate or interest.

(3) No caveat under this section shall be received unless some address or place in which a post office is situated shall be appointed in it as the place at which notices and proceedings relating to the caveat may be served.

In **Musisi v Grindlays Bank SCCA 5/1986** court held that **Section 139 of the Registration of titles Act** requires that no dealings in the land should be done while there is a caveat prohibiting the same **Procedure;**

To lodge a caveat, the applicant must have in his or her possession

Two sets of embossed documents duly witnessed by an advocate and signed by the person who is placing the caveat and dated.

A statutory declaration (affidavit) signed by the deponent and a commissioner for oaths

Two pass port photo graphs of the person placing the caveat.

The applicant presents the full set of original documents and a photocopy of the same to the office of the titles for processing .The photo copy is stamped, received and returned to the applicant.

The applicant checks with the office of titles after 10 working days to confirm entry of the caveat upon the registration.

He has to be in possession of the following documents

- 1) Caveat
- 2) Affidavit
- 3) Set of passport photographs
- 4) General receipts of payment.
- 5) Pay fees of 10,000 under 22nd schedule RTA, and also a stamp duty of 10,000 under item 19 of the Second Schedule of the Stamp Duty Act 2014 as amended in 2016.

However, lodging a caveat serves as an interim measure usually pending judicial determination of the caveator's claim over the land. Therefore Zubair should file a case before Court and seek an injunction restraining registration of Muzamir and determine whether the land is subject to adverse possession.

Grounds

Zubair's grounds for objection would be that he is the registered proprietor of the property and his title is under S. 59 and 64 RTA paramount in absence of fraud. He also can claim eviction of Muzamir for trespass. He would claim that Muzamir is a trespasser on the suit land and could not have acquired any interest whether legal or otherwise.

The essentials of adverse possession as stated in the case of **Hope Rwaguma v Jingo Livingstone Mukasa HCCS 508 of 2012** have not been fulfilled notably, it is not shown on what date Muzamir came into possession; the grazing of animals does not amount to possession, the factum of possession was not known to Zubair.

FAMILY LAW PRACTICE



BRIEF FACTS

Matovu Bosco and Monica Akiiki got married on 22nd December 2015 at the CAO's office at Fort Portal at 6.00pm without any witnesses and having not informed Monica's parents. After the marriage, Bosco who was 25 years discovered that Monica who had informed him that she was 19 years old was actually on 5th May 1999. In September 2016 after Monica gave birth to twins, Bosco went to visit the twins, but Monica's parents insisted that he marries her customarily. Bosco agreed and in March 2017, together with his parents, Bosco visited the home of Monica's parents. The family of Monica demanded for a cow and bull as bride price. Bosco paid shillings 2,000,000 being the cost of the cow. He had no money to pay for the price of the bull. However, the parents of Monica allowed her to go stay with Bosco, her husband.

Soon after, in August 2017, Bosco lost his job, resorted to spending all his days and nights at church and stopped providing for Monica and the twins. He stopped having sexual intercourse with her claiming that he wants to remain "clean" awaiting the return of the Lord. In the meantime in August 2018, while washing Bosco's trousers, Monica found in the pockets a box of Wild Life Condoms. When Monica asked Bosco about the condoms, he gave her a big slap and asked her to mind her own business. Monica is frustrated and wants to leave the home. Bosco too wants the money he paid to Monica's parents refunded to him. He has identified one of the born again girls called Bulandina and wants to ask her hand in marriage.

ISSUES;

1. What is the status of Bosco's marriage?
2. Whether Bosco has any remedy?

3. What documents are needed for the above remedy?
4. What advice should be given to Monica who still wants to remain married to Bosco?
5. What documents are necessary for court proceedings?
6. What is the remedy for stopping the marriage between Monica and Peter
7. What is the procedure of obtaining the remedy?

LAW APPLICABLE

1. The Constitution of the Republic of Uganda 1995
2. The Marriage Act, Cap 251
3. The Divorce Act, Cap 249
4. The Customary Marriages(Registration) Act, Cap 248
5. The Uganda Registration Services Bureau Act Cap 210
6. The Judicature Act Cap 13
7. The Divorce Rules SI 249-1

RESOLUTION;

1. ADVICE TO BOSCO MATOVU ON THE STATUS OF HIS MARRIAGES AND REMEDIES IF ANY.

Marriage was defined by Lord Peasance in the case of **HYDE VS HYDE (1866) LRPD**

131 as a voluntary union for life of one man and one woman to the exclusion of the others.

Article 31(3) of the Constitution of the Republic of Uganda as amended provides that marriage shall be entered into with the consent of the man and woman intending to get married.

Uganda's legal pluralistic system recognizes multiple types of marriage, including civil, customary and religious (Christian, Islamic and Hindu) marriages. While customary and Islamic marriages are potentially polygynous, Christian, Hindu and civil marriages are monogamous and follow the Common Law requirements laid out in the 1866 English case of *Hyde v. Hyde*

The 2015 civil marriage

Civil marriages include marriage under the Marriage Act Cap 251 which can be solemnised in a church or by a Chief Administrative officer/ Registrar of marriages. In order to contract a valid marriage, the parties must possess the legal capacity to marry and must comply with certain formalities: a failure in either respect renders the marriage void. The requirements of a civil marriage are laid out in Section 10 of the Marriage Act as;

1. Residence.; One of the parties must have resided in the district where the marriage is to be celebrated for at least fifteen days.

2. Age.

Each of the parties must be above 21 years of age and if below , consent of the parents must be sought. This should however be reconciled with the Constitution of Uganda 1995 which provides for 18 years as the age of consent.

3. Parties should not be within the prohibited degrees of marriage.

4. None of the intended parties to the marriage should be in a subsisting marriage whether customary or under the Marriage Act.

Notice.

Under section 6, one party must give notice to the registrar or the person in charge of a church. section 9.

The notice must be posted for public knowledge for at least 21 days according to

According to section 10 the registrar issues a certificate authorising this marriage.

☐☐ If marriage is not done within three months of the notice a fresh notice is needed according to section 11.

The same notice is applicable to church marriage where banns will be announced for three consecutive Sundays usually in the church where the marriage will take place. Under S. 34(2)(c) A marriage shall be null and void if both parties knowingly and wilfully acquiesce in its celebration without the registrar's certificate of notice duly issued.

There are procedural requirements

the marriage is celebrated must be licensed i.e. place of worship or the office of the registrar. Sections, 4, 5 and 22 of the Marriage Act. The marriage must be celebrated with open doors between 8:00am and 6:00pm in case of church marriage under S. 20(2) and in case of Civil Marriage, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, under S. 26 of the Act.

witnesses apart from the minister celebrating and there after filling of certificate. Section 20(2) and 26.

In the current facts, the marriage that took place in 2015 is void ab initio because the major requirement of age was not met. Monica was only 16 years and therefore a minor who is not eligible for marriage. Further the marriage was celebrated secretly at 6;pm at the office of the CAO. The facts do not show that Sections 6, 9 and 10 were complied with. The marriage was therefore a nullity for want of registrar's certificate of notice as per S. 34(2)(c) of the Marriage Act.

Possible remedy

Given that there was misrepresentation of the fact of age by Monica, Bosco can petition for nullification of the marriage.

The 2016 customary marriage

Section 1(b) of the Customary Marriages Registration Act Cap 252 defines a

customary marriage as a marriage celebrated according to the rites of an African community and one of the parties to which is a member of that community or any marriage celebrated under Part 3 of the Act. This definition was further emphasised in the case of **Uganda V Kato & Others [1976] HCB 204**.

In **Uganda v Peter Kato and 3 others [1976] HCB 204**, Ssekandi J as he was then, held that the test of determining what a marriage is, under customary law, is whether the union is treated as a marriage by the laws or customs of the nation, race or sect to which the parties belong.

Section 4(2) of the Customary Marriage (Registration) Act provides that customary marriages are polygamous in nature.

In **John Tom Kintu v Myllious Gafabusa Kintu High Court Divorce Appeal No. 135 of 1995** it was stated by Justice S.B. Bossa as she was then that, “...*if a person married under customary law continues to marry more wives under the same type of marriage, he doesn't commit adultery thereby [the marriage is polygamous]. I think however, that the situation is different where the other person involved is not legally married to that person under customary law. There the association must be clearly adulterous.*”

Article 37 of the 1995 Constitution provides that every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.

The Judicature Act Cap under S. 15 provides that customs or traditions will be applicable in so far as they are is not repugnant to natural justice, equity and good conscience and not incompatible either directly or by necessary implication with any written law. This was further emphasised in the case of **Kimani V Gikanga (1965) EA**

735 Court held that customs that are repugnant to public policy or natural justice, equity and good conscience would not be enforced.

The custom being relied on by a party in court must be established by them to the satisfaction of court so that the Court may take judicial notice of it. In **Ernest Kinyanjui Kimani v Muiru Gikanga and another [1965] 1 EA 735**, it was held that where African customary law is neither notorious nor documented it must be established for the court's guidance by the party intending to rely on it and that as a matter of practice and convenience in civil cases the relevant customary law, if it is incapable of being judicially noticed, should be proved by evidence or expert opinions adduced by the parties. (Also refer to **Halsbury's Laws of England, 3rd Edition, Vol. 15** – "*Judicial notice is taken of facts which are familiar to any judicial tribunal by virtue of their universal notoriety or regular occurrence in the ordinary course of nature or business. As judges must bring to the consideration of the questions they have to decide their knowledge of the common affairs of life, it is not necessary on the trial of any action to give formal evidence of matters with which men of ordinary intelligence are acquainted whether in general or to natural phenomenon.*") And also **Mifumi (U) Ltd & another vs Attorney General & Another Constitutional appeal No. 2 of 2014** where the Court observed that, "*It is not necessary to require that the custom should be formally proved in court in order for the court to know it exists...*"

Section 11 of the Customary Marriages Registration Act provides for the requirements of a customary marriage as;

- a) The female party has to be of or above 16 years of age (To be read together with the constitution).
- b) The male party should have attained 18 years of age
- c) They should be of sound mind
- d) The parties should not be within the prohibited degrees of kinship as laid out in the second schedule.

In **Uganda V Kato & Others (supra)**, Court observed that the test for determining whether there is a customary marriage, the union is regarded as such by the customs of the tribe to which the parties belong and that the parties must satisfy all the requirements of marriage under the customary laws of that community. Bride price is also an essential element of customary marriage since it is a custom of different tribes and it therefore validates a marriage. In **Uganda v Eduku (1975) HCB**

359 court held that since bride price had not been paid in full, there was no subsisting marriage.

In **Nemezio Ayiiva Pet vs. Sabina Onzia Ayiiva** HCCS No. 8/1973 it was held that dowry is essential in marriage in Uganda that it can be paid in instalments, but that until the last instalment is paid, no valid customary marriage exists. It was emphasised that, a man and a woman cohabiting can be regarded as husband and wife but marriage is not valid until ALL the dowry is paid.

In **Mifumi (U) Ltd & another vs Attorney General & Another Constitutional appeal No. 2 of 2014** Although the Supreme Court abolished the **traditional practice of refunding dowry under customary divorce**, the institution of bride wealth was left intact as an essential element of customary marriages.

Dowry therefore is an essential ingredient of a valid customary marriage. The customary marriage can thus be nullified on two grounds; one is failure to complete bride price and secondly Monica was still below 18 years having been born in May 1999 yet the ceremony was in March 2017. It should be further noted that the law does not allow conversion of civil marriage to customary marriage.

S. 36 of the Marriage Act provides **that** any person who is married under this Act, or whose marriage is declared by this Act to be valid, shall be incapable, during the continuance of that marriage, of contracting a valid marriage under any customary law. Therefore, in any case where the first civil marriage is found valid, the second customary marriage would still be invalid. However, Bosco cannot demand for a refund of the bride price.

This was clearly discussed in the case of **Mifumi (U) & 12 Others V Attorney General and Kenneth Kakuru**, the Supreme Court held that the custom and practise of demand and refund of bride price as a condition precedent to a valid dissolution of a customary marriage is inconsistent with Articles 2, 21(1) and 2, 31(1)(b); 31(3), 32(2), 33(1) and 33(4) of the constitution because it undermines the dignity and status of women.

Remedy.

The available remedy for Bosco is to petition court for nullification of the above marriages. Both marriages were void for violating procedural requirements. In the first civil marriage, Monica had no requisite age of 18 which is a violation of Article 31 of the Constitution, and as a result, such marriage is void under Art 2 of the Constitution. The same marriage is void for want of registrar's certificate of notice which should be issued before celebration of the marriage. S. 34(2)(c) declares such marriage as void.

The second customary marriage was invalid for failure to pay full bride price in accordance with Toro customs. Also Monica still lacked the requisite age since she was 17 years and 10 months old. This is a violation of the Constitution. There is a difference between a void and voidable marriage.

The distinction between void and voidable marriages is well brought out in the case of **De Reneville v De Reneville [1948] 1 ALLER 56, 60 CA**. Lord Greene considered the essential distinction between void and voidable marriage:

“The substance [of the distinction] may be expressed thus. A void marriage is one that will be regarded by every court in any case in which the existence of the marriage is in issue as never having taken place and can be so treated by both parties to it without the necessity of any decree annulling it. A voidable marriage is one that will be regarded by every court as a valid subsisting marriage until a decree annulling it has been pronounced by a court of competent jurisdiction.”

Technically, a void marriage is void even if it has never been declared to be so by a court, whereas a voidable marriage is valid from the date of the marriage until the court makes an order. That said, a party who believes his or her marriage to be void would normally seek a court order to confirm this to be so. This avoids any doubts over the validity of the marriage and also permits the parties to apply for court orders relating to their financial affairs.

Re Roberts (deceased) [1978] 3 All ER 225

Walton J; if one can show that a ceremony is void, that does not need the pronouncement of the court to establish that fact. It may be highly desirable that the court should so pronounce and, indeed, one would be very slow, as a practical matter, normally in relying on such a position without the decree of the court. But if something is void, void it is: the court is then doing no more than pronounce a blinding glimpse of the obvious at the end of the day.

Since the above marriages are void, Bosco should petition Court for a decree of nullity. It is after that decree, that Bosco can now legally marry Bulandina.

b.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL FAMILY DIVISION
MATRIMONIAL CAUSE NO. 1 OF 2018
MATOVU BOSCO.....PETITIONER VERSUS
AKIIKI MONICA.....RESPONDENT

PETITION FOR NULLITY (Under The Marriage Act Cap 251)

1. The petitioner is an adult male Ugandan of sound mind and the petitioner's address for purposes of this petition is Kiketo and Company Advocates P.O BOX 2112 Kampala.
2. The respondent is a female adult Ugandan of sound mind resident at Nyakasura, Fortportal and the petitioner's advocates undertake to effect court process on him/her.
3. The petitioner and the respondent are domiciled in Uganda.
4. That on 22nd December 2015 the petitioner contracted a civil marriage with the respondent at the office of the CAO at Fort Portal.(attached is a marriage certificate marked Annexure A)
5. That the respondent lacked capacity to enter such a marriage as she was 16 years which is below the age of consent.
6. That no registrar's certificate of notice was issued nor prior consent of the parents sought before the marriage as envisaged by the Marriage Act
7. That the marriage was contracted between the petitioner and respondent without any person to witness the marriage centrally to the Marriage Act.
8. That the civil marriage was conducted after the hour of 4'Oclock contrary to the Marriage Act.
9. That the said civil marriage was therefore null and void for contravening the Constitution and the Marriage Act.
10. That in March 2017 the petitioner contracted a customary marriage with the respondent in accordance with Toro customs.
11. That the Customary Marriage conducted in March 2017 is invalid as the petitioner did not pay the full bride price requested.
12. That the customary marriages is invalid since the respondent had not yet attained the age of consent having been born in May 1999.
13. That this matter arises within the jurisdiction of this honourable court.

WHEREFORE the petitioner prays for;

1. That the said marriages between the petitioner and the respondent be nullified.
2. That the parties pay their own costs

Dated at Kampala this 27th day of October 2018

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....

Petitioner

Before me commissioner for oath Drawn and filed by;

Kiketo and Co Advocates

PO.BOX 2112

KAMPALA.



THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL FAMILY DIVISION

SUMMARY OF EVIDENCE

The petitioner will adduce evidence to show that the alleged civil and customary marriages are not valid reason of below age or no capacity to contract, no notice was given, no witnesses and also bride price was not completed.

LIST OF WITNESSES

1. Matovu Bosco
2. Other witnesses with leave of court

LIST OF AUTHORITIES

OBJECTION MY LORD.

1. The Constitution 1995
2. The Judicature Act Cap 13
3. The Marriage Act Cap 251
4. The Divorce Act Cap 249

LIST OF DOCUMENTS

1. The Marriage Certificate
2. Other documents with leave of court

Dated at Kampala this 27th day of October 2018

..... Counsel for Petitioner

Drawn and filed by; SUI GENERIS & CO. Advocates

PO.BOX 2112

KAMPALA.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL FAMILY DIVISION
MATRIMONIAL CAUSE NO. 1 OF 2018

SUMMONS TO ANSWER PETITION

To: Akiiki Monica

WHEREAS the petitioner has petitioned this court for a decree of nullity of marriage; YOU ARE hereby summoned to file an answer to the petition in this court within 15 days from the date of service of summons.

AND TAKE FURTHER NOTICE that in default of doing so, the petition will be heard and determined in your absence.

Dated at Kampala this 27th day of October 2018

..... REGISTRAR

WORKSHOP 1(C)(I)

Assume that instead of the customary marriage, Bosco and Monica underwent a Church marriage at All Saints Cathedral, Viirika after following all the necessary procedures. That despite all the problems Monica still wants to remain married to Bosco. She wants him to resume looking after the home and having sexual intercourse with him.

What advice would you give her?

I would advise her to try mediation with the husband. Mediation is an alternative method of dispute resolution other than instituting a suit. It involves a third party called the mediator intervening to help the two conflicting parties reach an agreement. In marriage proceedings, mediation is encouraged before parties proceed to court in order to give parties a chance to resolve the matter amicably and preserve the sanctity of marriage as an institution. Under Rule 5 of the Judicature(mediation) rules, mediation is compulsory before intending litigants proceed to trial.

Restitution of conjugal rights.

Where mediation has failed, I would advise Monica petition court for the restitution of conjugal rights under Section 20(1) and (2) of the Divorce Act Cap 249. Under this provision court has the power to decree that a husband or wife who has unreasonably withdrawn from intercourse with the spouse to be ordered to resume the same.

In **Aremezi vs Rideway** [1949] ALL ER 664 it was stated by **Hilburg J.** that;

“I am quite sure that no young woman when she accepts a proposal of marriage and a contract is formed could be satisfied if she were told that all the Youngman is undertaking by promise is to go through a form of ceremony with her. What the parties intend is an exchange of mutual promises to become another’s spouse that is husband and wife and all that it should entail”

The withdrawal of conjugal rights must be unreasonable and the other party must have no defence.

However it is important to note that a court can not order specific performance apparently because you can’t supervise people having sex or coerce them into the same.

Each partner has a right to **reasonable sexual intercourse with the other**: this does not entitle a husband (or a wife) to have intercourse by force, but unreasonable refusal (or demands unreasonable in their frequency or nature) could well be grounds for annulment or divorce.

However, the successful party is not entitled to use extra judicial means to enforce his

/her rights. In **R vs Jackson, (1896) 1 QR 671**, where a husband obtained the decree nisi for restitution of conjugal rights and his wife refused to comply. He then abducted her and confined her in a house. Court held that notwithstanding her refusal to live in the same house with him, the husband was not entitled to keep her in confinement for the purpose of enforcing the decree for restitution by her of his conjugal rights. Court granted her an order for habeas corpus to secure her release.

In the present case, Bosco stopped having sexual intercourse with Monica claiming that he wants to remain “clean” awaiting the return of the Lord.

Such withdrawal is unreasonable. Monica can therefore seek restitution of conjugal rights.

Maintenance rights.

There is no statutory provision relating to the duty and a right to maintenance of spouses, however, under common law the husband has to duty to maintain his wife. However, S. 76 of the Children Act provides for maintenance order given by court to one of the parties

In **Edith Nakiyingi Vs Meleki Zadeki** (1978) HCB 107, court recognized that the right to maintenance in marriage includes the duty of the husband to maintain his wife.

However the right to maintain a wife in particular is founded in common law and is limited to necessities. This was observed in the case of **Carlott v Harsh**.

The wife has a right to occupy the matrimonial home and be provided with necessities of life and where this isn't done, the wife can exercise what under common law is called the **Deserted wife's Equity**, which means that the wife may insist on remaining in the matrimonial home if she has been deserted by the husband.

In Uganda statutory law does not create a right of a wife to seek maintenance order where the marriage is still ongoing. However Article 139 of the constitution, Judicature Act Cap 13 section 14, Civil Procedure Act Cap 71 section 98 and Magistrate Courts Act Cap 16 section 10 provides courts with jurisdiction to use its inherent powers and grant a suitable remedy. Courts may apply doctrines of common law and equity in ensuring there is maintenance between the husband and the wife.

Monica should therefore petition the court for an order of maintenance. ii. DOCUMENTS

Summons:

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT AT FORT PORTAL

**AKIIKI MONICA PETITIONER VERSUS
MATOVU BOSCO RESPONDENT**

SUMMONS TO FILE A RESPONSE

WHEREAS the above named Petitioner has instituted a suit against you upon the claim, the particulars of which are set out in the copy of the Petition attached hereto.

YOU ARE HEREBY required to file a response in the said suit within 15days from the date of service of summons on you in the manner prescribed under Order 9 rule 1 of the Civil Procedure Rules S.I 71-1. (As described overleaf)

SHOULD YOU FAIL to file a response on or before the date mentioned, the Petitioner may proceed with the said suit and judgement may be given in your absence.

GIVEN UNDER my hand and the seal of the Court this **29th** day of **October 2018**

at

Kampala.

(REGISTRAR)

PETITION

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT AT FORT PORTAL MATRIMONIAL
CAUSE NO:.....OF 20..... AKIIKI MONICA PETITIONER
VERSUS
MATOVU BOSCO RESPONDENT

PETITION FOR MAITENENCE ORDER AND RESTITUTION OF CONJUGAL RIGHTS
(Under S.20 Divorce Act, Cap 249)

1. The petitioner is a female of sound mind residing at Nyakasura, Fort Portal and the petitioner's address for purposes of this petition is c/o SUI GENERIS Company Advocates, P.O. Box 7117, Kampala.
2. The respondent is male Ugandan believed to be of sound mind and the petitioner's advocate's undertake to effect court process on him.
3. The petitioner and the respondent are both Africans domiciled in Uganda.
4. That on theday of20.....went through a valid church marriage ceremony within accordance the Marriage Act.

5. That during the subsistence of the said marriage the respondent stopped looking after the home and having sexual intercourse with the petitioner.

6. That this cause of action arose at Nyakasura, Fort portal within the jurisdiction of this honorable court.

7. Wherefore the petitioner prays for orders:

(a) For the resumption of looking after the home; (b) For restitution of conjugal rights.

DATED at Fort Portal thisday
of.....20.....

PETITIONER

BEFORE ME:

COMMISSIONER FOR OATHS

VERIFICATION

I, Akiiki Monica certify that the statements above are true to the best of my knowledge and belief.

DATED at Fort Portal thisday of
.....20.....

PETITIONER

SUMMARY OF EVIDENCE

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT AT FORT PORTAL MATRIMONIAL
CAUSE NO:.....OF 20..... AKIIKI MONICA PETITIONER
VERSUS
MATOVU BOSCO RESPONDENT
SUMMARY OF EVIDENCE

The petitioner shall adduce evidence to show that the petitioner is legally married to the respondent and that as a result of the said marriage they have two children. That on various occasions, the respondent has committed desertion and treated the petitioner with cruelty thus putting her under mental distress.

LIST OF WITNESSES:

1. Parents of the petitioner
2. Priest who officiated the marriage
3. Local Council 1 Chairman

LIST OF DOCUMENTS:

1. Constitution of the Republic of Uganda 1995
2. The Marriage Act, Cap 251
3. Divorce Act, 249
4. Marriage Certificate

DATED this.....day of.....20.....

OBJECTION MY LORD.

PETITIONER

Maintenance summons:

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
AT FORT PORTAL**

AKIIKI MONICA

.....**APPLICANT**

VERSUS

MATOVU

BOSCO.....RESPONDENT

MAINTENANCE SUMMONS

WHEREAS AN APPLICATION has been made by the above named applicant residing in **Nyakasura, Fort Portal** for the issue of a summons seeking a maintenance order against against you on grounds **THAT YOU**, the above named respondent residing in **Nyakasura, Fort Portal**, being the spouse of the said applicant, **HAVE FAILED TO PROVIDE MAINTENANCE** as is proper in the circumstances of the said applicant and the defendant children of the family, namely;

1• BABIRYE MATOVU born in **September 2016**

2• NAKATO MATOVU born in **September 2016**

under the age of **18 years**.

THIS IS TO COMMAND YOU the respondent to appear at the sitting of **The High Court** circuit in **Fort Portal, Kabarole District** to be held on the **..... day of**

DR. LUBOGO ISAAC CHRISTOPHER

.....**2018** at..... **a.m./ p.m.** on the hearing of the said application for a maintenance order.

Dated this day of 2018

Signed : _____

(District Court Clerk)

To : **MATOVU BOSCO**

Of : **Nyakasura, Fort Portal**

(Respondent)

a) Supposing that Bosco pays the full bride price, however his demands for sexual intercourse become to frequent and Monica cannot take it any longer. She is always uncomfortable to go back home because she knows that as soon as she gets home, Bosco immediately demands for sexual intercourse. As a result of this frustration, Monica confides in Peter Seko, her workmate and good friend. Peter, who secretly admired Monica, advised her that she should leave Bosco and instead marry him. Indeed she ran away from Bosco and started living with Peter. They started wedding plans and the first church banns have been read. Bosco has learnt of this development and needs advice. Moreso he has learnt that Monica and Peter are first cousins.

(i) Advise Bosco on any remedy that he has.

Bosco's remedy is to lodge a caveat against the intended marriage.

Under **S.13** of the Act, if a person has an objection to the marriage, he or she may enter a caveat against the issue of the Registrar's certificate by writing at any time before the issue, the word "Forbidden" opposite the entry of the Notice in the Marriage Notice Book. The caveat should indicate particulars of the person objecting to the marriage and the grounds.

When a caveat has been lodged a registrar forwards a matter to court for reviewing. Under Section 14 of the Marriage Act Cap 251, it is High Court to make a ruling, which should be final. Under Section 15 of the Marriage Act Cap 251, if there are no valid grounds for caveat, a Courts Orders cancellation of a caveat and also award compensation for damages and costs under section 16 of the Marriage Act Cap 251.

The caveator must have reasons for stopping the marriage.

In the Matter of the marriage of Alfred Nderi & Charity Kamweru

A man gave notice of his intention to marry a lady and a caveat was then placed by the Respondent claiming that the man was already married to the Respondent and therefore had no capacity to contract the intended marriage. It was held that the common knowledge that Nderi had in fact been married to both women under Kikuyu Customary Law while one of the marriages had been dissolved the other one had not. It was held that the registrar should therefore not issue the certificate of marriage because Nderi did not have capacity to marry under statutory law.

In the present case, Bosco having paid the full bride price, means there is a valid subsisting customary marriage between him and Monica. The law prohibits parties from contracting a civil or church marriage where one of the parties is customarily married to another person. S. 10(1) (d) prohibits the registrar from issuing a certificate until he or she has been satisfied by affidavit that neither of the parties to the intended marriage is married by customary law to any person other than the person with whom such marriage is proposed to be contracted.

S. 34(1) of the Marriage Act invalidates a marriage where either of the parties to it at the time of the celebration of the marriage is married by customary law to any person other than the person with whom the marriage is had. Since Bosco is validly customarily married to Monica, she can't contract a subsequent marriage with Peter. This is a ground for lodging a caveat.

The facts show that Monica and Peter are first cousins. The law prohibits marriage between persons who are closely related. S. 10(1)(c) prohibits the registrar from issuing a certificate where there is an impediment of kindred or affinity. S. 34(1) declares a marriage void on grounds of kindred or affinity. Further S. 12(1)(b) of the Divorce Act provides for nullification of marriage where the parties are within the prohibited degrees of consanguinity, whether natural or legal, or affinity.

Under the Second Schedule of the Customary Marriage Registration Act, first cousins are within the prohibited degrees of consanguinity.

Sottomayer, otherwise De Barros v De Barros No. 2 (1879) 5 PD 94

The petitioner and the respondent were domiciled in Portugal and first cousins to each

other. They contracted a marriage in England but returned to Portugal, their domicil. By law of Portugal a marriage between first cousins was illegal as being incestuous, but maybe celebrated under papal dispensation,

Held; the parties being by the law of the country of their domicil under a personal disability to contract marriage, their marriage was null and void. Though such marriage was valid in England.

Therefore, since the marriage between first cousins is prohibited by law, Bosco can also lodge a caveat. The intended marriage is a church marriage which falls under the Marriage Cat Cap 251. A caveat should be lodged under S. 13 of the Act.

Sometimes the role of the registrar is played by a church minister in case of a church marriage. The caveat should be lodged in the marriage register book where the bans of marriage are read.

ii) Outline the procedure to fulfil the remedy in (i) above.

a. Write to the registrar of marriages forbidding the marriage./church minister
(lodging a caveat)

b. The word “Forbidden” is written opposite to the entry of the notice in the
Marriage Notice Book./marriage register book where the church bans are read.

c. Append to the word, name and place of abode, and the grounds of forbidding issue of certificate.

d. The registrar refers the matter to the High Court

e. The caveator and the Parties to the intended marriage are summoned **f.** The case is heard and determined in a summary way.

g. The decision of the High Court shall be final.

CAVEAT FORBIDDING MARRIAGE THE REPUBLIC OF UGANDA

IN THE MATER OF THE MARRIAGE ACT, CAP 251

AND

**IN THE MATTER OF A CAVEAT FORBIDDING SOLEMNISATION OF A
MARRIAGE**

CAVEAT FORBIDDING MARRIAGE

TO: THE REGISTRAR OF MARRIAGES AT FORT PORTAL

TAKE NOTICE THAT I, **Bosco** being the husband to **Monica** who intends to get married at All Saints Cathedral, Viirika on do hereby forbid the marriage (solemnisation) on grounds that:

1. That Monica is already married to me Customarily.
2. That Monica and Peter are within the prohibited degrees of consanguinity as first cousins.

My address for service for purposes of this caveat is **Kiketo and Co. Advocates Po. Box 7117, Kampala**

DATED at Kampala this 28th day of October 2018. SIGNED by the said

CAVEATOR

BEFORE ME

COMMISIONER FOR OATHS

STATUTORY DECLARATION

(Pursuant to S. 13 of the Marriage Act Cap 251)

I **Bosco** do hereby solemnly declare and state on oath that the above is true and correct information of the best of my knowledge.

And I make this solemn declaration consciously believing the same to be true in accordance with the Statutory Declaration Act Cap 22.

OBJECTION MY LORD

Dated at Kampala this 28th day of October, 2018

Signature of declarant

Declared on this 28th day of October, 2018 at Kampala

.....

DEPONENT

BEFORE ME;

.....

COMMISSIONER FOR OATHS.

BRIEF FACTS

Matovu Bosco and Monica Akiiki got married on 22nd December 2015 at the CAO's office at Fort Portal at 6.00pm without any witnesses and having not informed Monica's parents. After the marriage, Bosco who was 25 years discovered that Monica who had informed him that she was 19 years old was actually on 5th May 1999. In September 2016 after Monica gave birth to twins, Bosco went to visit the twins, but Monica's parents insisted that he marries her customarily. Bosco agreed and in March 2017, together with his parents, Bosco visited the home of Monica's parents. The family of Monica demanded for a cow and bull as bride price. Bosco paid shillings 2,000,000 being the cost of the cow. He had no money to pay for the price of the bull. However, the parents of Monica allowed her to go stay with Bosco, her husband.

Soon after, in August 2017, Bosco lost his job, resorted to spending all his days and nights at church and stopped providing for Monica and the twins. He stopped having sexual intercourse with her claiming that he wants to remain "clean" awaiting the return of the Lord. In the meantime in August 2018, while washing

Bosco's trousers, Monica found in the pockets a box of Wild Life Condoms. When Monica asked Bosco about the condoms, he gave her a big slap and asked her to mind her own business. Monica is frustrated and wants to leave the home.

Bosco too wants the money he paid to Monica's parents refunded to him. He has identified one of the born again girls called Bulandina and wants to ask her hand in marriage.

ISSUES;

What is the status of Bosco's marriage?

Whether Bosco has any remedy?

What documents are needed for the above remedy?

What advice should be given to Monica who still wants to remain married to Bosco?

What documents are necessary for court proceedings?

What is the remedy for stopping the marriage between Monica and Peter

What is the procedure of obtaining the remedy?

LAW APPLICABLE

OBJECTION MY LORD

The Constitution of the Republic of Uganda 1995

The Marriage Act, Cap 251

The Divorce Act, Cap 249

The Customary Marriages(Registration) Act, Cap 248

The Uganda Registration Services Bureau Act Cap 210

The Judicature Act Cap 13

The Divorce Rules SI 249-1

RESOLUTION;

1. ADVICE TO BOSCO MATOVU ON THE STATUS OF HIS MARRIAGES AND REMEDIES IF ANY.

Marriage was defined by Lord Peasance in the case of **HYDE VS HYDE (1866) LRPD 131** as a voluntary union for life of one man and one woman to the exclusion of the others.

Article 31(3) of the Constitution of the Republic of Uganda as amended provides that marriage shall be entered into with the consent of the man and woman intending to get married.

Uganda's legal pluralistic system recognizes multiple types of marriage, including civil, customary and religious (Christian, Islamic and Hindu) marriages. While customary and Islamic marriages are potentially polygynous, Christian, Hindu and civil marriages are monogamous and follow the Common Law requirements laid out in the 1866 English case of *Hyde v. Hyde*

The 2015 civil marriage

Civil marriages include marriage under the Marriage Act Cap 251 which can be solemnised in a church or by a Chief Administrative officer/ Registrar of marriages.

In order to contract a valid marriage, the parties must possess the legal capacity to marry and must comply with certain formalities: a failure in either respect renders the marriage void.

The requirements of a civil marriage are laid out in Section 10 of the Marriage Act as;
Residence.; One of the parties must have resided in the district where the marriage is to be celebrated for atleast fifteen days.

Age.

Each of the parties must be above 21 years of age and if below , consent of the parents must be sought. This should however be reconciled with the Constitution of Uganda 1995 which provides for 18 years as the age of consent.

Parties should not be within the prohibited degrees of marriage.

None of the intended parties to the marriage should be in a subsisting marriage whether customary or under the Marriage Act.

Notice.

Under section 6, one party must give notice to the registrar or the person in charge of a church.

The notice must be posted for public knowledge for at least 21 days according to section 9.

According to section 10 the registrar issues a certificate authorising this marriage.

If marriage is not done within three months of the notice a fresh notice is needed according to section 11.

The same notice is applicable to church marriage where banns will be announced for three consecutive Sundays usually in the church where the marriage will take place.

Under S. 34(2)(c) A marriage shall be null and void if both parties knowingly and wilfully acquiesce in its celebration without the registrar's certificate of notice duly issued.

There are procedural requirements the marriage is celebrated must be licensed i.e. place of worship or the office of the registrar. Sections, 4, 5 and 22 of the Marriage Act.

Marriage should be celebrated with open doors between 8:00am and 6:00pm in case of church marriage under S. 20(2) and in case of Civil Marriage, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, under S. 26 of the Act. witnesses apart from the minister celebrating and there after filling of certificate. Section 20(2) and 26.

In the current facts, the marriage that took place in 2015 is void ab initio because the major requirement of age was not met. Monica was only 16 years and therefore a minor who is not eligible for marriage. Further the marriage was celebrated secretly at 6;pm at the office of the CAO. The facts do not show that Sections 6, 9 and 10 were complied with. The marriage was therefore a nullity for want of registrar's certificate of notice as per S. 34(2)(c) of the Marriage Act.

Possible remedy

Given that there was misrepresentation of the fact of age by Monica, Bosco can petition for nullification of the marriage.

The 2016 customary marriage

Section 1(b) of the Customary Marriages Registration Act Cap 252 defines a customary marriage as a marriage celebrated according to the rites of an African community and one of the parties to which is a member of that community or any marriage celebrated under Part 3 of the Act. This definition was further emphasised in the case of **Uganda V Kato & Others [1976] HCB 204**.

In **Uganda v Peter Kato and 3 others [1976] HCB 204**, Ssekandi J as he was then, held that the test of determining what a marriage is, under customary law, is whether the union is treated as a marriage by the laws or customs of the nation, race or sect to which the parties belong. **Section 4(2) of the Customary Marriage (Registration) Act** provides that customary marriages are polygamous in nature.

In **John Tom Kintu v Myllious Gafabusa Kintu High Court Divorce Appeal No. 135 of 1995** it was stated by Justice S.B. Bossa as she was then that, “...*if a person married under customary law continues to marry more wives under the same type of marriage, he doesn't commit adultery thereby [the marriage is polygamous]. I think however, that the situation is different where the other person involved is not legally married to that person under customary law. There the association must be clearly adulterous.*”

Article 37 of the 1995 Constitution provides that every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.

The Judicature Act Cap under S. 15 provides that customs or traditions will be applicable in so far as they are is not repugnant to natural justice, equity and good conscience and not incompatible either directly or by necessary implication with any written law. This was further emphasised in the case of **Kimani V Gikanga (1965) EA 735** Court held that customs that are repugnant to public policy or natural justice, equity and good conscience would not be enforced.

The custom being relied on by a party in court must be established by them to the satisfaction of court so that the Court may take judicial notice of it. In **Ernest Kinyanjui Kimani v Muiru Gikanga and another [1965] 1 EA 735**, it was held that where African customary law is neither notorious nor documented it must be established for the court's guidance by the party intending to rely on it and that as a matter of practice and convenience in civil cases the relevant customary law, if it is incapable of being judicially noticed, should be proved by evidence or expert opinions adduced by the parties. (Also refer to **Halsbury's Laws of England, 3rd Edition, Vol. 15** – "*Judicial notice is taken of facts which are familiar to any judicial tribunal by virtue of their universal notoriety or regular occurrence in the ordinary course of nature or business. As judges must bring to the consideration of the questions they have to decide their knowledge of the common affairs of life, it is not necessary on the trial of any action to give formal evidence of matters with which men of ordinary intelligence are acquainted whether in general or to natural phenomenon.*" And also **Mifumi (U) Ltd & another vs Attorney General & Another Constitutional appeal No. 2 of 2014** where the Court observed that, "*It is not necessary to require that the custom should be formally proved in court in order for the court to know it exists...*"

Section 11 of the Customary Marriages Registration Act provides for the requirements of a customary marriage as;

The female party has to be of or above 16 years of age (To be read together with the constitution).

The male party should have attained 18 years of age

They should be of sound mind

The parties should not be within the prohibited degrees of kinship as laid out in the second schedule.

In **Uganda V Kato & Others (supra)**, Court observed that the test for determining whether there is a customary marriage, the union is regarded as such by the customs of the tribe to which the parties belong and that the parties must satisfy all the requirements of marriage under the customary laws of that community.

Bride price is also an essential element of customary marriage since it is a custom of different tribes and it therefore validates a marriage. In **Uganda v Eduku (1975) HCB 359** court held that since bride price had not been paid in full, there was no subsisting marriage.

In **Nemezio Ayiiva Pet vs. Sabina Onzia Ayiiva** HCCS No. 8/1973 it was held that dowry is essential in marriage in Uganda that it can be paid in instalments, but that until the last instalment is paid, no valid customary marriage exists. It was emphasised that, a man and a woman cohabiting can be regarded as husband and wife but marriage is not valid until ALL the dowry is paid.

In **Mifumi (U) Ltd & another vs Attorney General & Another Constitutional appeal No. 2 of 2014** Although the Supreme Court abolished the **traditional practice of refunding dowry under customary divorce**, the institution of bride wealth was left intact as an essential element of customary marriages

Dowry therefore is an essential ingredient of a valid customary marriage.

The customary marriage can thus be nullified on two grounds; one is failure to complete bride price and secondly Monica was still below 18 years having been born in May 1999 yet the ceremony was in March 2017.

It should be further noted that the law does not allow conversion of civil marriage to customary marriage.

S. 36 of the Marriage Act provides **that** any person who is married under this Act, or whose marriage is declared by this Act to be valid, shall be incapable, during the continuance of that marriage, of contracting a valid marriage under any customary law.

Therefore, in any case where the first civil marriage is found valid, the second customary marriage would still be invalid.

However, Bosco cannot demand for a refund of the bride price.

This was clearly discussed in the case of **Mifumi (U) & 12 Others V Attorney General and Kenneth Kakuru**, the Supreme Court held that the custom and practise of demand and refund of bride price as a condition precedent to a valid dissolution of a customary marriage is inconsistent with Articles 2, 21(1) and 2, 31(1)(b); 31(3), 32(2), 33(1) and 33(4) of the constitution because it undermines the dignity and status of women.

Remedy.

The available remedy for Bosco is to petition court for nullification of the above marriages.

Both marriages were void for violating procedural requirements. In the first civil marriage, Monica had no requisite age of 18 which is a violation of Article 31 of the Constitution, and as a result, such marriage is void under Art 2 of the Constitution. The same marriage is void for want of registrar's certificate of notice which should be issued before celebration of the marriage. S. 34(2)(c) declares such marriage as void.

The second customary marriage was invalid for failure to pay full bride price in accordance with Toro customs. Also Monica still lacked the requisite age since she was 17 years and 10 months old. This is a violation of the Constitution.

There is a difference between a void and voidable marriage.

The distinction between void and voidable marriages is well brought out in the case of **De Reneville v De Reneville [1948] 1 ALLER 56, 60 CA**. Lord Greene considered the essential distinction between void and voidable marriage:

“The substance [of the distinction] may be expressed thus. A void marriage is one that will be regarded by every court in any case in which the existence of the marriage is in issue as never having taken place and can be so treated by both parties to it without the necessity of any decree annulling it. A voidable marriage is one that will be regarded by every court as a valid subsisting marriage until a decree annulling it has been pronounced by a court of competent jurisdiction.”

OBJECTION MY LORD

Technically, a void marriage is void even if it has never been declared to be so by a court, whereas a voidable marriage is valid from the date of the marriage until the court makes an order. That said, a party who believes his or her marriage to be void would normally seek a court order to confirm this to be so. This avoids any doubts over the validity of the marriage and also permits the parties to apply for court orders relating to their financial affairs.

Re Roberts (deceased) [1978] 3 All ER 225

Walton J; if one can show that a ceremony is void, that does not need the pronouncement of the court to establish that fact. It may be highly desirable that the court should so pronounce and, indeed, one would be very slow, as a practical matter, normally in relying on such a position without the decree of the court. But if something is void, void it is: the court is then doing no more than pronounce a blinding glimpse of the obvious at the end of the day.

Since the above marriages are void, Bosco should petition Court for a decree of nullity. It is after that decree, that Bosco can now legally marry Bulandina.

b.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
FAMILY DIVISION
MATRIMONIAL CAUSE NO. 1 OF 2018
MATOVU BOSCO.....PETITIONER
VERSUS
AKIIKI MONICA.....RESPONDENT

PETITION FOR NULLITY

(Under The Marriage Act Cap 251)

The petitioner is an adult male Ugandan of sound mind and the petitioner's address for purposes of this petition is Kiketo and Company Advocates P.O BOX 2112 Kampala.

The respondent is a female adult Ugandan of sound mind resident at

Nyakasura, Fortportal and the petitioner's advocates undertake to effect court process on him/her.

The petitioner and the respondent are domiciled in Uganda.
That on 22nd December 2015 the petitioner contracted a civil marriage with the respondent at the office of the CAO at Fort Portal.(attached is a marriage certificate marked Annexure A)
That the respondent lacked capacity to enter such a marriage as she was 16 years which is below the age of consent.
That no registrar’s certificate of notice was issued nor prior consent of the parents sought before the marriage as envisaged by the Marriage Act
That the marriage was contracted between the petitioner and respondent without any person to witness the marriage centrally to the Marriage Act.
That the civil marriage was conducted after the hour of 4’Oclock contrary to the Marriage Act.
That the said civil marriage was therefore null and void for contravening the Constitution and the Marriage Act.
That in March 2017 the petitioner contracted a customary marriage with the respondent in accordance with Toro customs.
That the Customary Marriage conducted in March 2017 is invalid as the petitioner did not pay the full bride price requested.
That the customary marriages is invalid since the respondent had not yet attained the age of consent having been born in May 1999.
That this matter arises within the jurisdiction of this honourable court.
WHEREFORE the petitioner prays for;
That the said marriages between the petitioner and the respondent be nullified.
That the parties pay their own costs
Dated at Kampala this 27th day of October 2018

VERIFICATION

I CERTIFY that the statements above are true to the best of my knowledge and belief.

.....

Petitioner

Before me commissioner for oath

.....

Drawn and filed by;

OBJECTION MY LORD

SUI GENERIS & CO. Advocates
PO.BOX 2112 KAMPALA.

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
FAMILY DIVISION**

SUMMARY OF EVIDENCE

The petitioner will adduce evidence to show that the alleged civil and customary marriages are not valid reason of below age or no capacity to contract, no notice was given, no witnesses and also bride price was not completed.

LIST OF WITNESSES

Matovu Bosco

Other witnesses with leave of court

LIST OF AUTHORITIES

The Constitution 1995

The Judicature Act Cap 13

The Marriage Act Cap 251

The Divorce Act Cap 249

LIST OF DOCUMENTS

The Marriage Certificate

Other documents with leave of court

Dated at Kampala this 27th day of October 2018

.....

Counsel for Petitioner

Drawn and filed by;

SUI GENERIS and Co Advocates

PO.BOX 2112 KAMPALA.

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
FAMILY DIVISION
MATRIMONIAL CAUSE NO. 1 OF 2018

SUMMONS TO ANSWER PETITION

To: **Akiiki Monica**

WHEREAS the petitioner has petitioned this court for a decree of nullity of marriage; YOU ARE hereby summoned to file an answer to the petition in this court within 15 days from the date of service of summons.

AND TAKE FURTHER NOTICE that in default of doing so, the petition will be heard and determined in your absence.

Dated at Kampala this 27th day of October 2018

.....
REGISTRAR

WORKSHOP 1(C)(I)

OBJECTION MY LORD

Assume that instead of the customary marriage, Bosco and Monica underwent a Church marriage at All Saints Cathedral, Viirika after following all the necessary procedures. That despite all the problems Monica still wants to remain married to Bosco. She wants him to resume looking after the home and having sexual intercourse with him.

What advice would you give her?

I would advise her to try mediation with the husband. Mediation is an alternative method of dispute resolution other than instituting a suit. It involves a third party called the mediator intervening to help the two conflicting parties reach an agreement. In marriage proceedings, mediation is encouraged before parties proceed to court in order to give parties a chance to resolve the matter amicably and preserve the sanctity of marriage as an institution. Under Rule 5 of the Judicature(mediation) rules, mediation is compulsory before intending litigants proceed to trial.

Restitution of conjugal rights.

Where mediation has failed, I would advise Monica petition court for the restitution of conjugal rights under Section 20(1) and (2) of the Divorce Act Cap 249. Under this provision court has the power to decree that a husband or wife who has unreasonably withdrawn from intercourse with the spouse to be ordered to resume the same.

In **Aremezi vs Rideway** [1949] ALL ER 664 it was stated by **Hilburg J.** that;

“I am quite sure that no young woman when she accepts a proposal of marriage and a contract is formed could be satisfied if she were told that all the Youngman is undertaking by promise is to go through a form of ceremony with her. What the parties intend is an exchange of mutual promises to become another’s spouse that is husband and wife and all that it should entail”

The withdrawal of conjugal rights must be unreasonable and the other party must have no defence.

However it is important to note that a court can not order specific performance apparently because you can’t supervise people having sex or coerce them into the same.

Each partner has a right to **reasonable sexual intercourse with the other**: this does not entitle a husband (or a wife) to have intercourse by force, but unreasonable refusal (or demands unreasonable in their frequency or nature) could well be grounds for annulment or divorce.

However, the successful party is not entitled to use extra judicial means to enforce his /her rights. In **R vs Jackson, (1896) 1 QR 671**, where a husband obtained the decree nisi for restitution of conjugal rights and his wife refused to comply. He then abducted her and confined her in a house. Court held that notwithstanding her refusal to live in the same house with him, the husband was not entitled to keep her in confinement for the purpose of enforcing the decree for restitution by her of his conjugal rights. Court granted her an order for habeas corpus to secure her release.

In the present case, Bosco stopped having sexual intercourse with Monica claiming that he wants to remain “clean” awaiting the return of the Lord.

Such withdrawal is unreasonable. Monica can therefore seek restitution of conjugal rights.

Maintenance rights.

There is no statutory provision relating to the duty and a right to maintenance of spouses, however, under common law the husband has to duty to maintain his wife. However, S. 76 of the Children Act provides for maintenance order given by court to one of the parties

In **Edith Nakiyingi Vs Meleki Zadeki (1978) HCB 107**, court recognized that the right to maintenance in marriage includes the duty of the husband to maintain his wife.

However the right to maintain a wife in particular is founded in common law and is limited to necessities. This was observed in the case of **Carlott v Harsh**.

The wife has a right to occupy the matrimonial home and be provided with necessities of life and where this isn't done, the wife can exercise what under common law is called the **Deserted wife's Equity**, which means that the wife may insist on remaining in the matrimonial home if she has been deserted by the husband.

In Uganda statutory law does not create a right of a wife to seek maintenance order where the marriage is still ongoing. However Article 139 of the constitution, Judicature Act Cap 13 section 14, Civil Procedure Act Cap 71 section 98 and Magistrate Courts Act Cap 16 section 10 provides courts with jurisdiction to use its inherent powers and grant a suitable remedy. Courts may apply doctrines of common law and equity in ensuring there is maintenance between the husband and the wife.

Monica should therefore petition the court for an order of maintenance.

ii. DOCUMENTS

Summons;

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT AT FORT PORTAL

**AKIIKI MONICA PETITIONER VERSUS
MATOVU BOSCO RESPONDENT**

SUMMONS TO FILE A RESPONSE

WHEREAS the above named Petitioner has instituted a suit against you upon the claim, the particulars of which are set out in the copy of the Petition attached hereto.

YOU ARE HEREBY required to file a response in the said suit within 15days from the date of service of summons on you in the manner prescribed under Order 9 rule 1 of the Civil Procedure Rules S.I 71-1. (As described overleaf)

SHOULD YOU FAIL to file a response on or before the date mentioned, the Petitioner may proceed with the said suit and judgement may be given in your absence.

OBJECTION MY LORD

Wherefore the petitioner prays for orders: (a) For the resumption of looking after the home; (b) For restitution of conjugal rights.

DATED at Fort Portal thisday
of.....20.....

PETITIONER

BEFORE ME:

COMMISSIONER FOR OATHS

VERIFICATION

I, Akiiki Monica certify that the statements above are true to the best of my knowledge and belief.

DATED at Fort Portal thisday of
.....20.....

PETITIONER

SUMMARY OF EVIDENCE

**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATES COURT AT FORT PORTAL
MATRIMONIAL CAUSE NO:.....OF 20.....
AKIIKI MONICA PETITIONER**

VERSUS

MATOVU BOSCO

RESPONDENT

SUMMARY OF EVIDENCE

The petitioner shall adduce evidence to show that the petitioner is legally married to the respondent and that as a result of the said marriage they have two children. That on various occasions, the respondent has committed desertion and treated the petitioner with cruelty thus putting her under mental distress.

LIST OF WITNESSES:

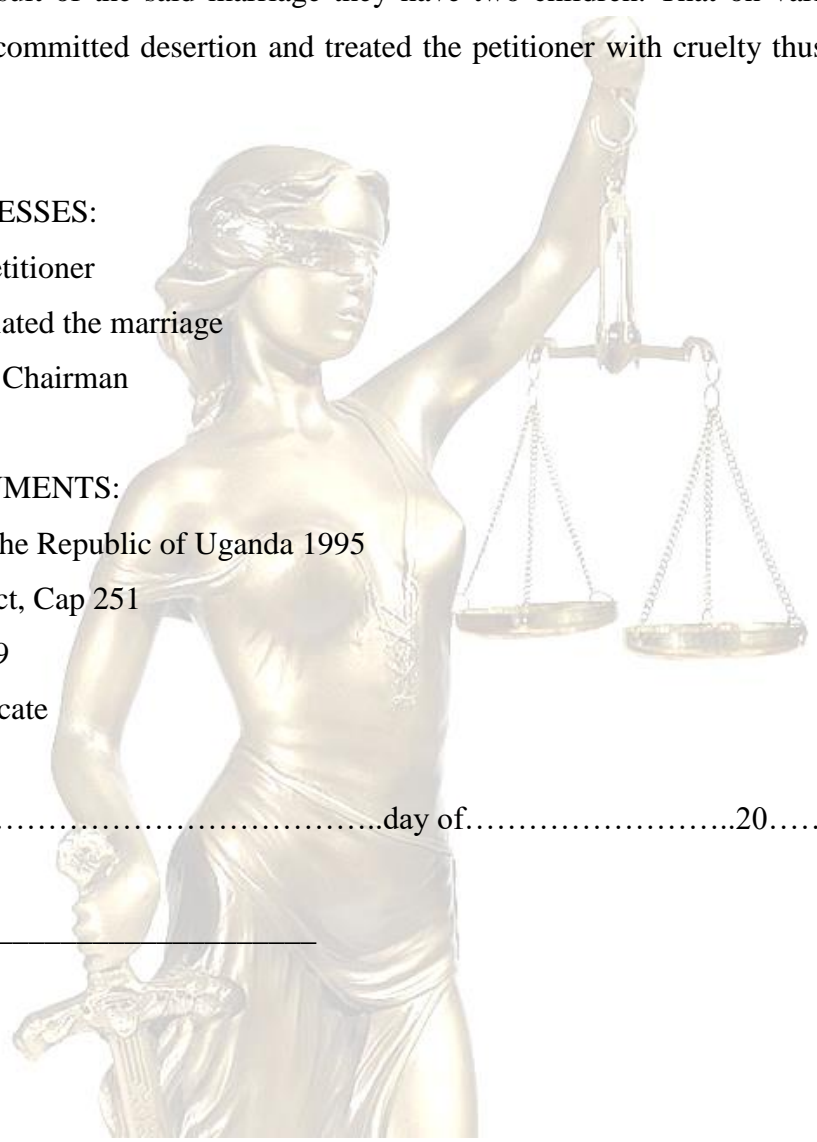
- Parents of the petitioner
- Priest who officiated the marriage
- Local Council 1 Chairman

LIST OF DOCUMENTS:

- Constitution of the Republic of Uganda 1995
- The Marriage Act, Cap 251
- Divorce Act, 249
- Marriage Certificate

DATED this.....day of.....20.....

PETITIONER



Maintenance summons;

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
AKIIKI MONICAAPPLICANT
VERSUS
MATOVU BOSCO.....RESPONDENT

MAINTENANCE SUMMONS

WHEREAS AN APPLICATION has been made by the above named applicant residing in **Nyakasura, Fort Portal** for the issue of a summons seeking a maintenance order against against you on grounds **THAT YOU**, the above named respondent residing in **Nyakasura, Fort Portal**, being the spouse of the said applicant, **HAVE FAILED TO PROVIDE MAINTENANCE** as is proper in the circumstances of the said applicant and the defendant children of the family, namely;

- 1• BABIRYE MATOVU** born in **September 2016**
- 2• NAKATO MATOVU** born in **September 2016** under the age of **18 years**.

THIS IS TO COMMAND YOU the respondent to appear at the sitting of **The High Court** circuit in **Fort Portal, Kabarole District** to be held on the **..... day of2018** at..... **a.m./ p.m.** on the hearing of the said application for a maintenance order.

Dated this **..... day of 2018**

Signed : _____

(District Court Clerk)

To : **MATOVU BOSCO**

Of : Nyakasura, Fort Portal

(Respondent)

a) Supposing that Bosco pays the full bride price, however his demands for sexual intercourse become to frequent and Monica cannot take it any longer. She is always uncomfortable to go back home because she knows that as soon as she gets home, Bosco immediately demands for sexual intercourse. As a result of this frustration, Monica confides in Peter Seko, her workmate and good friend. Peter, who secretly admired Monica, advised her that she should leave Bosco and instead marry him. Indeed she ran away from Bosco and started living with Peter. They started wedding plans and the first church banns have been read. Bosco has learnt of this development and needs advice. Moreso he has learnt that Monica and Peter are first cousins.

(i) Advise Bosco on any remedy that he has.

Bosco's remedy is to lodge a caveat against the intended marriage.

Under **S.13** of the Act, if a person has an objection to the marriage, he or she may enter a caveat against the issue of the Registrar's certificate by writing at any time before the issue, the word "Forbidden" opposite the entry of the Notice in the Marriage Notice Book. The caveat should indicate particulars of the person objecting to the marriage and the grounds.

When a caveat has been lodged a registrar forwards a matter to court for reviewing. Under Section 14 of the Marriage Act Cap 251, it is High Court to make a ruling, which should be final. Under Section 15 of the Marriage Act Cap 251, if there are no valid grounds for caveat, a Courts Orders cancellation of a caveat and also award compensation for damages and costs under section 16 of the Marriage Act Cap 251.

The caveator must have reasons for stopping the marriage.

In the Matter of the marriage of Alfred Nderi & Charity Kamweru; A man gave notice of his intention to marry a lady and a caveat was then placed by the Respondent claiming that the man was already married to the Respondent and therefore had no capacity to contract the intended marriage. It was held that the common knowledge that Nderi had in fact been married to both women under Kikuyu Customary Law while one of the marriages had been dissolved the other one had not. It was held that the registrar should therefore not issue the certificate of marriage because Nderi did not have capacity to marry under statutory law.

In the present case, Bosco having paid the full bride price, means there is a valid subsisting customary marriage between him and Monica.

The law prohibits parties from contracting a civil or church marriage where one of the parties is customarily married to another person. S. 10(1) (d) prohibits the registrar from issuing a certificate until he or she has been satisfied by affidavit that neither of the parties to the intended marriage is married by customary law to any person other than the person with whom such marriage is proposed to be contracted.

S. 34(1) of the Marriage Act invalidates a marriage where either of the parties to it at the time of the celebration of the marriage is married by customary law to any person other than the person with whom the marriage is had.

Since Bosco is validly customarily married to Monica, she can't contract a subsequent marriage with Peter. This is a ground for lodging a caveat.

The facts show that Monica and Peter are first cousins. The law prohibits marriage between persons who are closely related.

S. 10(1)(c) prohibits the registrar from issuing a certificate where there is an impediment of kindred or affinity. S. 34(1) declares a marriage void on grounds of kindred or affinity. Further S. 12(1)(b) of the Divorce Act provides for nullification of marriage where the parties are within the prohibited degrees of consanguinity, whether natural or legal, or affinity.

Under the Second Schedule of the Customary Marriage Registration Act, first cousins are within the prohibited degrees of consanguinity.

Sottomayer, otherwise De Barros v De Barros No. 2 (1879) 5 PD 94

The petitioner and the respondent were domiciled in Portugal and first cousins to each other. They contracted a marriage in England but returned to Portugal, their domicil. By law of Portugal a marriage between first cousins was illegal as being incestuous, but maybe celebrated under papal dispensation,

Held; the parties being by the law of the country of their domicil under a personal disability to contract marriage, their marriage was null and void. Though such marriage was valid in England.

Therefore, since the marriage between first cousins is prohibited by law, Bosco can also lodge a caveat.

The intended marriage is a church marriage which falls under the Marriage Cat Cap 251. A caveat should be lodged under S. 13 of the Act.

Sometimes the role of the registrar is played by a church minister in case of a church marriage. The caveat should be lodged in the marriage register book where the bans of marriage are read.

ii) Outline the procedure to fulfil the remedy in (i) above.

Write to the registrar of marriages forbidding the marriage./church minister
(lodging a caveat)

The word “Forbidden” is written opposite to the entry of the notice in the Marriage Notice Book./marriage register book where the church bans are read.

Append to the word, name and place of abode, and the grounds of forbidding issue of certificate.

The registrar refers the matter to the High Court

The caveator and the Parties to the intended marriage are summoned

The case is heard and determined in a summary way.

The decision of the High Court shall be final.

OBJECTION MY LORD

CAVEAT FORBIDDING MARRIAGE

THE REPUBLIC OF UGANDA

**IN THE MATER OF THE MARRIAGE ACT, CAP 251 AND
IN THE MATTER OF A CAVEAT FORBIDDING SOLEMNISATION OF A
MARRIAGE**

CAVEAT FORBIDDING MARRIAGE

TO: THE REGISTRAR OF MARRIAGES
AT FORT PORTAL

TAKE NOTICE THAT I, **Bosco** being the husband to **Monica** who intends to get married at All Saints Cathedral, Viirika on do hereby forbid the marriage (solemnisation) on grounds that:

That Monica is already married to me Customarily.

That Monica and Peter are within the prohibited degrees of consanguinity as first cousins.

My address for service for purposes of this caveat is **Kiketo and Co. Advocates Po. Box 7117, Kampala**

DATED at Kampala this 28th day of October 2018.

SIGNED by the said _____

CAVEATOR

BEFORE ME

COMMISSIONER FOR OATHS

STATUTORY DECLARATION

(Pursuant to S. 13 of the Marriage Act Cap 251)

I **Bosco** do hereby solemnly declare and state on oath that the above is true and correct information of the best of my knowledge.

And I make this solemn declaration consciously believing the same to be true in accordance with the Statutory Declaration Act Cap 22.

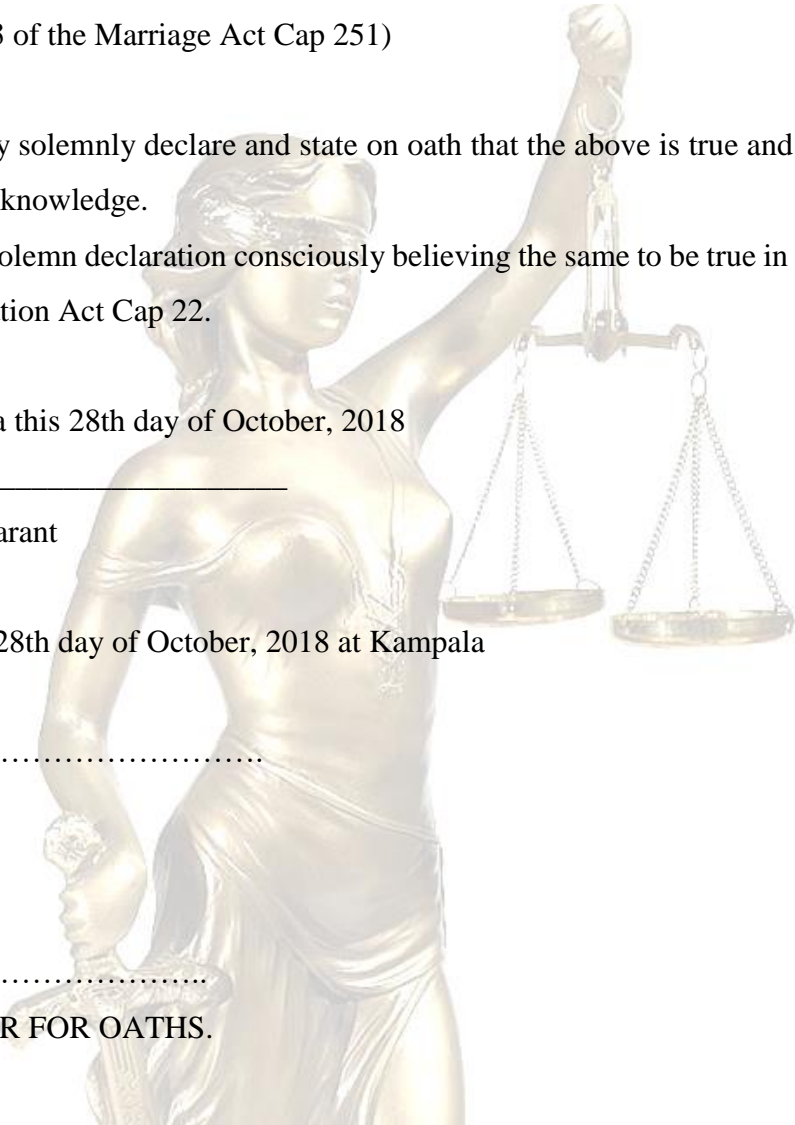
Dated at Kampala this 28th day of October, 2018

Signature of declarant

Declared on this 28th day of October, 2018 at Kampala

.....
DEPONENT

BEFORE ME;
.....
COMMISSIONER FOR OATHS.



CRIMINAL PROCEEDINGS



BRIEF FACTS

The Refugee Desk Officer-Arua (John Musisi) prepared three requisitions and sent them by email to the to the Permanent Secretary Office of the Prime Minister, Kampala through Candiru Lucy who printed them out and signed on his behalf for the release of a total of UGX.498,886,000 [Four hundred ninety eight million eight hundred eighty six thousand shillings only]. The requisitions were for emergency funds for settlement of Congolese and Sudanese refugees, OPM Arua. The funds were received on Account Number 9030008274281 held in the names of the Refugee Desk Officer-Arua with Stanbic Bank, Arua Branch, it was the account provided by the Desk Officer-Arua to enable the office (OPM) to transfer Government of Uganda funds to the Refugee Desk Office. The signatories to the account are John Musisi and Moses Anguzu and money was deposited on 4th June 2018. However, the accountabilities submitted by John Musisi and Moses Anguzu from Arua Regional Office dated 25th August 2018 for UGX.498,886,000 had a lot of discrepancies in the items vis a vis the costs involved. For instance, the cost of poles and Laborers appeared inflated and water was under another project but it featured in these accountabilities.

ISSUES

- (a) What offences are disclosed by the facts.?
- (b) Whether the evidence on the police file supports the offences identified,? (c) What document(s) are necessary for court action?
- (d) What is the next course of action for the investigator where evidence is insufficient? (e) What practical steps should be undertaken by a Chief magistrate for injustice caused by Magistrate grade 1?

LAW APPLICABLE

1. The Constitution of the Republic of Uganda
2. The Anti Corruption Act, No. 6 of 2009,
3. Inspectorate of Government Act
4. The Criminal Procedure Code Act, Cap 116;
5. The Evidence Act, Cap 6;
6. The Magistrates' Courts Act, Cap.16 as amended by Act 7 of 2007;
7. The Magistrates' Courts (Magisterial Areas) Instrument of 2017

Case law.

RESOLUTION

(a) What offences are disclosed by the facts.?

The Inspectorate of Government was initially established by the Inspector General of Government statute 1998. However, with the promulgation of the 1995 constitution, the Inspectorate is now entrenched there in under chapter 13, which prescribes its mandate, functions and powers and other relevant matters.

The Inspectorate of Government is an independent institution charged with the responsibility of eliminating corruption as laid down by Article 225[1]b of the 1995 Constitution of Uganda. Other powers enshrined in the constitution and Inspectorate of Government Act include to investigate or cause investigation, arrest or cause arrest, prosecute or cause prosecution, make orders and give directions during investigations. Article 230 of the Constitution provides for special powers of the Inspectorate of Government and states that; The Inspectorate of Government shall have powers to investigate, cause investigation, arrest, cause arrest, prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or of public office. These powers are reechoed in the Inspectorate of Government Act particularly S. 8 which provides for the functions of the Inspectorate of Government.

The Anti-Corruption Act 2009 gives the Inspector General of Government power to prosecute persons committing offences under this Act.

Principle of legality.

The principle of legality requires that no person should be punished except in accordance with the law (nulla poena sine lege)

Section 2 of the Penal Code Act defines an offence as an act, attempt or omission punishable by law.

As a matter of law, all offences should be provided for under written law. This is espoused in Article 28(7) and 28(8) of the 1995 constitution of the Republic of Uganda. Article 28(7) of the Constitution of the Republic of Uganda 1995 as amended provides that no person shall be charged or convicted of an offence which is founded on an act or omission that did not at the time it took place constitute an offence. Furthermore, article 28(12) of the constitution of Uganda 1995 as amended provides that except for contempt of court , no person shall be convicted of a criminal offence unless the offence is defined and the penalty for it prescribed by law.

.An offence has two major components namely the actus reus and the mens rea, that is the act or omission and the malicious intent respectively.

The offences disclosed by the facts given include; Abuse of Office

Section 11(1) of the Anti-Corruption Act provides;

“A person who being employed in a public body or a company in which government has shares, does or directs to be done an arbitrary act prejudicial to the interest of his or her employer or of any other person, in abuse of the authority of his or her office, commits an offence and is liable on conviction to a term of imprisonment not exceeding seven (7) years or nine (9) fine not exceeding one hundred and sixty eight currency points or both.”.

Section 1 of the Anti Corruption Act 2009 provides a boarder definition of public body” to include:

- the Government, any department, services or undertaking of the Government;

□ any corporation, committee, board, commission or similar body whether corporate or incorporate established by an Act of Parliament for the purposes of any written law relating to the public health or public undertakings of public utility, education or for promotion of sports, literature, science, arts or any other purpose for the benefit of the public or any section of the public to administer funds or property belonging to or granted by the Government.

In **Uganda v Godfrey Kazinda HCT- 00- SC- 0138- 2012**, Justice David K. Wangutusi held that;

Abuse of Office is committed when the office holder acts (or fails to act in a way that constitutes a breach of the duties of that office. In such a case the Prosecution must prove;

1. That the accused was an employee of a public body
2. That the accused performed the arbitrary act
3. That this act was in abuse of his authority.
4. That the arbitrary act was prejudicial to the interests of his employer.

He defined a public officer by quoting Lord Mansfield in *R Vs Bembridge (1783) 3 Dong K.B 32* referred to a public officer as one *“Having an office of trust, concerning the public, especially if attended with profit by whomever and in whatever way the officer is appointed.”*

He is therefore; *“A public office holder who discharges any duty in the discharge of which the public are interested, more clearly so if he is paid out of fund provided by the public”*

An arbitrary act is, *“ an action, decision or rule not seeming to be based on reason, system, or plan and at times seems unfair or breaks the law”*. It is therefore an action or decision that is based on personal will or discretion without regard to rules or standards. It is a decision that may be made outside the existing law.

OBJECTION MY LORD

The arbitrary act or omission must be done willfully. Willful in this case is; “*Deliberately doing something which is wrong knowing it to be wrong or with reckless indifference as to whether it is wrong or not*”.

He found that committing forgery is a breach of law which is arbitrary.

An act is said to be prejudicial if it contrary to the established procedures and is also against the interest of the public body. In *Ignatius Barungi v Uganda (1988-1990) HCB 68*, the court held that an essential ingredient for the offence of abuse of office was that the acts complained of should be prejudicial to the rights of another and further that the right was an interest recognized and protected by law in respect of which he has a duty and disregard of which was wrong. Abuse of authority is acting beyond ones powers. However, this is usually difficult too because most organizations do not have operational manuals although in some cases it can be proved by established procedure.

In Uganda V Atugonza, Crim. Case 37 of 2010 Francis Atugonza was charged with Abuse of Office, contrary to section 11(1) of the Anti Corruption Act. Court considered that the burden is on the prosecution to prove the charge against the accused person beyond reasonable doubt. Court held that accused held a public office in the according of section 11(1) of the Anti corruption Act but acted as an individual but not in his official capacity and did not abuse of Office or act arbitrary. Therefore it is important to prove that the accused acted in an official capacity.

Embezzlement

S.19 of the Anti Corruption Act provides that a person who being-

- (a) an employee, a servant or an officer of the Government or a public body; (b) a director, an officer or an employee of accompany or a corporation;
- (c) a clerk or servant employed by any person, association or religious or other organization;
- (d) a member of an association or a religious organization or other organization, steals a chattel, money or valuable security-

(i) being the property of his or her employer, association, company, corporation, person or religious organization or other organization

(ii) received or taken into possession by him or her for or an account of his or her employer, association company, corporation, person or religious organization or other organization;or

(iii) to which he or she has access by virtue of his or her office;

commits an offence and is liable on conviction to a term of imprisonment not exceeding fourteen years or a fine not exceeding three hundred and thirty six currency points or both.

The ingredients of the offence of embezzlement with regard to government employment were spelt out in the case of **Abahikye Moses V Uganda High Court Appeal No 0010 of 2009** to be the following:

(a) That the accused is employed by the government;

(b) That he stole employer's property i.e. money or any other chattel capable of being stolen;

(c) That the property came into his possession by virtue of his employment.

The offence attracts a sentence of imprisonment for not less than three years and not more than fourteen years.

Diversion of public resources

Under section 6 of the Anti Corruption Act is an offence where a person converts, transfers or disposes of public funds for purposes unrelated to that for which the resources were intended for his or her own benefit or a third party commits an offence.

Section 26(1) a person convicted under section 6 is liable to a term of imprisonment not exceeding ten years or a fine not exceeding two hundred and forty currency points or both.

The ingredients for diversion were stated in the case of as **Uganda v Lwamafa and 2 others Criminal Session Case 9 of 2015;**

OBJECTION MY LORD

- a. That the accused converted, transferred or disposed of public funds.
- b. That the purpose was unrelated to that for which the resources were intended.

Causing Financial Loss C/S 20 ACA 2009

Under section 20 it is an offence for any worker who does anything knowing or having reasons to believe that it will cause financial loss to his/her employer commits an offence.

It was also held in the case of *Uganda Versus B.S Okello, Ocira George and Okot Jalon High Court Appeal No 008 of 2009*. by Hon. Justice Paul Mugamba that Causing Financial Loss is an offence committed when any person employed by a public body, in the performance of his duties does any act or omits to do any act knowing or having reason to believe that such act or omission will cause financial loss to the public body.

In Uganda v Abraham Byandala and Ors SESSION CASE 12 OF 2015

The prosecution is required to prove the following elements.

- (a) That the accused are employees of government. (This has been admitted.)
- (b) That in the performance of their duties, the accused did an act or omission knowing or having reason to believe that it will cause financial loss to employer.
- (c) That actual loss occurred.

The term “loss” was defined in the case of *Kassim Mpanga Versus Uganda* Supreme Court Criminal Appeal No. 30 of 1994 to mean inter alia a detriment or disadvantage resulting from deprivation. Put differently, to suffer loss is to cease to possess something, to be deprived of or part with something of one’s possession. It was further held that “loss” is generic and relative term. It signifies the act of losing or the thing lost; it is not a word of limited, hard and fast meaning, and has been held to be synonymous with or equivalent to “damage”, “damages”, “deprivation”, “detriment”, “injury” and “privation. That a thing may properly be said to be lost after a reasonable time has lapsed to allow diligent, search and of recovery and such diligent search has been made and has been fruitless.

False Accounting by a Public Official

Under section 22 it is an offence for any person taking care of public money or property but knowingly gives a wrong statement of that money or property.

In **Uganda v Lwamafa and Ors supra** it was held that the prosecution is required to prove that the accused are public officers charged with receipt, custody or management of public revenue who knowingly furnished false statement or return of money entrusted to them.

Corruption

S. 2 of ACA provides that a person commits the offence of corruption if he or she does any of the following acts;

(c) the diversion or use by a public official, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any movable or immovable property, monies or securities belonging to the State, to an independent agency, or to an individual, which that official has received by virtue of his or her position for purposes of administration, custody or for other reasons

(h) any act or omission in the discharge of his or her duties by a public official for the purpose of illicitly obtaining benefits for himself or herself or for a third party.

(b) Whether the evidence on the police file supports the offences identified,?

Burden of Proof.

OBJECTION MY LORD

Under S. 101 of the Evidence Act the burden of proof is on who alleges. In criminal cases, the burden of proof is always on the prosecution. **Woolmington v DPP**

In **Uganda v Teddy Szezi Cheeye** High Court Criminal Case No. 1254 of 2008.

Held; It is a cardinal principle of English Criminal Law, that the burden of proving the guilt of an accused person lies squarely on the prosecution and does not, with a few exceptions with which I am not concerned here, shift to the accused person. That burden is only discharged on proof beyond any reasonable doubt.

Standard of proof.

Speaking of the degree of proof required in Criminal Law

LORD DENNING in MILLER U. MINISTER OF PENSIONS [1947] 2 ALL E.R. 323

said: “-----that degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond doubt does not mean beyond the shadow of doubt. The law would fail to protect the community if it admitted fanciful probabilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote probability in his favour which can be dismissed with the sentence “ of course it is possible but not in the least

probable” the case is proved beyond reasonable doubt but nothing short of that will suffice.”

In **Uganda v Abraham Byandala** supra it was held that the Prosecution is required to prove all the essential elements of the offence against each of the accused persons beyond reasonable doubt. *Beyond reasonable* doubt means that the evidence adduced must carry a reasonable degree of probability of the accused’s guilt leaving only a remote possibility in his favour.

Abuse of office.

In evaluation of the facts, **Mr. John Musis** was a refugee desk officer under the Office of the Prime Minister Arua whereas **Mr. Moses Anguzu** was a Finance Officer under the Office of the Prime Minister Arua. The office of the Prime Minister is a Government Ministry through which the Prime Minister of Uganda provides leadership of the Ministers under the Executive arm of Government. Therefore the two accused persons are employees of the government thus satisfying the first ingredient of the offence which is that the accused was an employee of a public body.

The two accused persons were the signatories to the account held in the names of the Refugee Desk Office in Arua under the OPM to transfer Government of Uganda funds to the refugee Desk Office. UGX 498,886,000 (Uganda Shillings Four Hundred Ninety Eight Million Eight Hundred Eighty Six Thousand) was sent to this account and withdrawn by the two signatories.

This money was not utilized for its purposes as the accused arbitrary acts and decisions portray that, the suppliers for poles worth UGX 216,000,000 was never paid to the suppliers as was accounted for by the two accused persons. The items of hot meals preparation worth UGX 197,886,000/= and demarcation in Koboko worth UGX 85,000,000/= were never done by OPM Arua as was accounted for by the two accused persons but rather they were carried out by UNHCR Mr. Moses Anguzu admitted that for hot meal preparation, inflated receipts were got from purported service providers J Lutux Enterprises Ltd to reflect the accountability of the aforementioned amount of UGX 197,886,000/= This qualifies the other elements of the offence that the accused was an employee of a public body, that the accused performed the arbitrary act, that this act was in abuse of his authority and that the arbitrary act was prejudicial to the interests of his employer gross misuse of office since Investigations found that false accountability was made for the entire sum of UGX.498,886,000 which prejudiced the Office of the Prime Minister.

Embezzlement

OBJECTION MY LORD

According to the facts Mr. John Musis was a refugee desk officer under the Office of the Prime Minister Arua whereas Mr. Moses Anguzu was a Finance Officer under the Office of the Prime Minister Arua. The office of the Prime Minister is a Government Ministry through which the Prime Minister of Uganda provides leadership of the Ministers under the Executive arm of Government. Therefore the two accused persons are employees of the government thus satisfying the first ingredient of the offence.

The two accused persons were the signatories to the account held in the names of the Refugee Desk Office in Arua under the OPM to transfer Government of Uganda funds to the refugee Desk Office. UGX 498,886,000 (Uganda Shillings Four Hundred Ninety Eight Million Eight Hundred Eighty Six Thousand) was sent to this account and withdrawn by the two signatories.

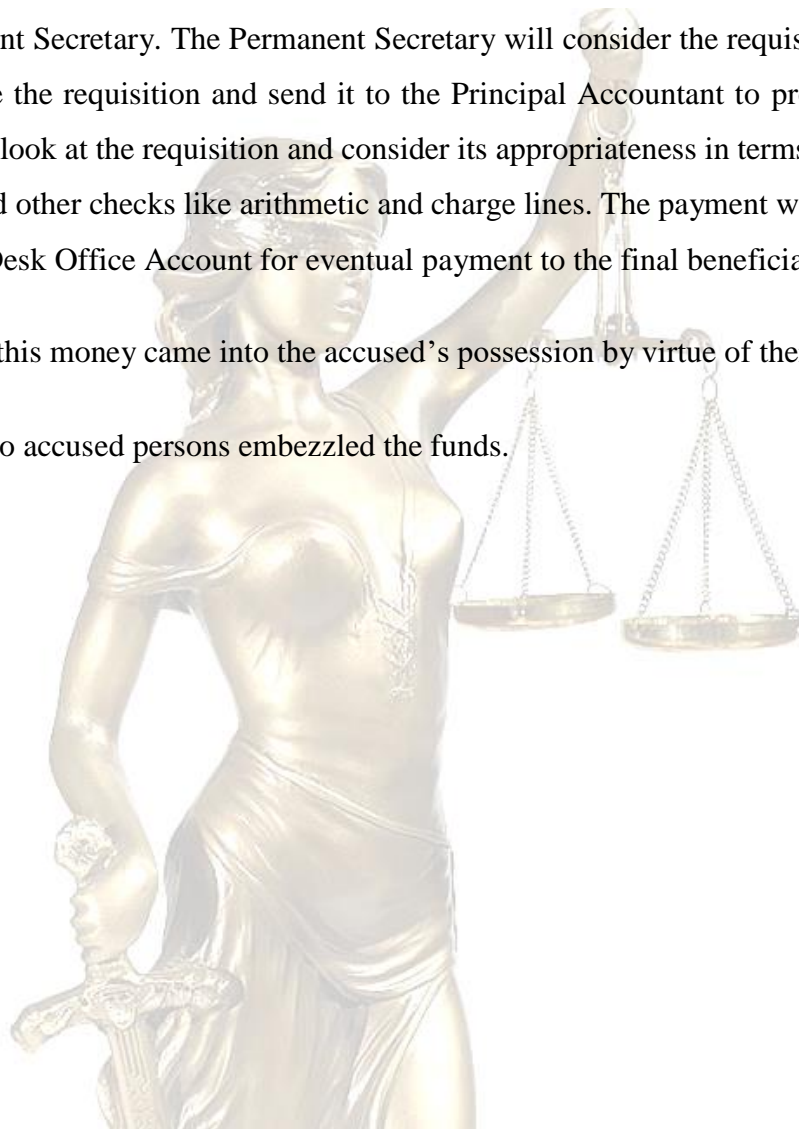
This money was not utilized for its purposes, the suppliers for poles worth UGX 216,000,000 was never paid to the suppliers as was accounted for by the two accused persons. The items of hot meals preparation worth UGX 197,886,000/= and demarcation in Koboko worth UGX 85,000,000/= were never done by OPM Arua as was accounted for by the two accused persons but rather they were carried out by UNHCR Mr. Moses Anguzu admitted that for hot meal preparation, inflated receipts were got from purported service providers J Lutux Enterprises Ltd to reflect the accountability of the aforementioned amount of UGX 197,886,000/=

The above acts by the two accused persons amount to stealing of the employer's money thus satisfying the second element of the offence.

Finally this money came into possession of the two accused persons by virtue of their employment. According to the interview of Mr. Kyambade Joseph the Principal Accountant OPM the two accused persons were the signatories to the account held in the names of the Refugee Desk Office in Arua under the OPM to transfer Government of Uganda funds to the refugee Desk Office of UGX 498,886,000(Uganda Shillings Four Hundred Ninety Eight Million Eight Hundred Eighty Six Thousand). The procedure was that an officer will generate a requisition for funds to the Accounting Officer/Permanent Secretary. The Permanent Secretary will consider the requisition and if satisfied she will approve the requisition and send it to the Principal Accountant to process. The Principal Accountant will look at the requisition and consider its appropriateness in terms of fund availability in the budget and other checks like arithmetic and charge lines. The payment will then be processed to the Refugee Desk Office Account for eventual payment to the final beneficiaries/payees.

This shows that this money came into the accused's possession by virtue of their employment.

Therefore the two accused persons embezzled the funds.



Diversion of public resources

According to the facts the two accused persons were in touch of the account at the refugee Desk in Arua however they didn't utilize it for its purpose. They did not pay the casual Laborers the actual amount they were supposed to be paid a day that is 50,000/= rather they were paid 10,000/= per day. The suppliers for poles worth UGX 216,000,000 were never paid to the suppliers as was accounted for by the two accused persons. The items of hot meals preparation worth UGX 197,886,000/= and demarcation in Koboko worth UGX 85,000,000/= were never done by OPM Arua as was accounted for by the two accused persons but rather they were carried out by UNHCR. The money qualified as public funds and the two accused persons did not utilize the money for the intended purposes.

Causing Financial Loss C/S 20 ACA 2009

Employees of government; this element has already been established that the accused were employees of government in the OPM.

Doing an act knowing that it will cause financial loss; the evidence shows that there was improper accountability of the money sent to the accused. They render false accounts and stole some of the money. This means they knew that government will lose that money. Actual loss; since the money sent to the accused could not be properly accounted for and the accused stole the money that means that indeed actual loss occurred.

False accounting by public officer.

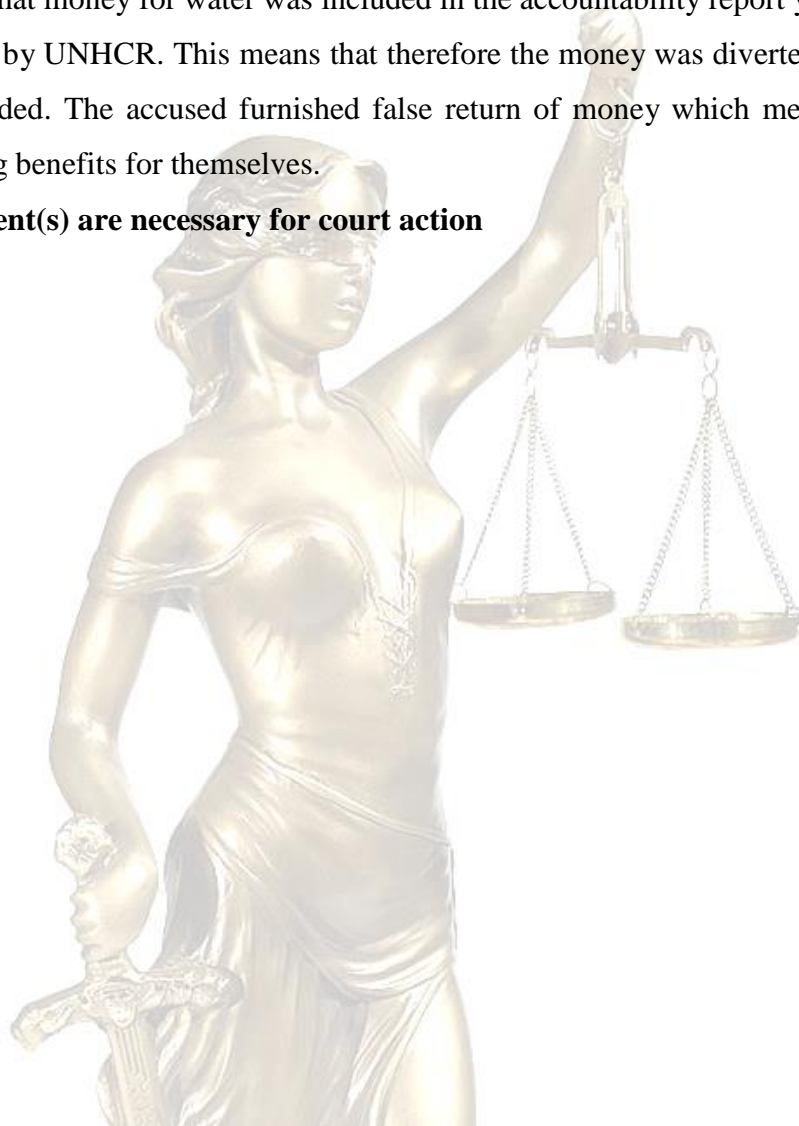
Public officer; the accused were public officers in the office of the Prime Minister as they acted in interest of the public. Charged with receipt or management of public revenue; all the evidence including statements from the accused show that they received money from the OPM and they were the only signatories of that money hence satisfying this ingredient.

Knowingly furnished false statement or return of money entrusted to them; the evidence shows that the accused misappropriated the money and rendered false accountability of the money entrusted to them for refugee activities.

Corruption

The facts show that money for water was included in the accountability report yet it was under a different project by UNHCR. This means that therefore the money was diverted for purposes other than those intended. The accused furnished false return of money which means they used it for illicitly obtaining benefits for themselves.

c. What document(s) are necessary for court action



OBJECTION MY LORD

CHARGE SHEET

THE REPUBLIC OF UGANDA

STATION; INSPECTORATE OF GOVERNMENT

REF; KLA/19/11/2018

DATE; 19th November 2018

CHARGE

UGANDA VERSUS

A1. MUSISI JOHN M/A, 53 years, Muganda by tribe, Refugee Desk Officer, Department of Refugees, Arua, OPM, Office of the Prime Minister, Arua Regional Office 0720645912, residence unknown.

A2. ANGUZU MOSES M/A, 46 years, Finance Officer, Department of Refugees, Arua, Office of the Prime Minister, Arua Regional Office 0790443765, residence unknown.

COUNT 1 STATEMENT OF OFFENCE

Abuse of Office contrary to S. 11(1) of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, between May to July, 2018, while being employed by the Department of Refugees under the Office of the Prime Minister (OPM), Arua, abused the authority of your office by accounting for items that were under a different project which is prejudicial to the interests of the OPM.

COUNT 2 STATEMENT OF OFFENCE

Embezzlement contrary to S.19 of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, between May to July , 2018, being servants of the Department of Refugees, stole money to the tune of Ug. Shs. 498,886,000, to which you had access by virtue of your offices.

COUNT 3 STATEMENT OF OFFENCE

False Accounting contrary to S.22 of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, between May and July, 2018, being servants of the Department of Refugees knowingly furnished false statements or return of money Ug. Shs. 498,886,000 entrusted to them.

COUNT 4 STATEMENT OF OFFENCE

Causing Financial Loss contrary to S.20 of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, between May and July, 2018, being persons employed under the Office of the Prime Minister, in performance of their duties, performed acts knowing that they would cause financial loss to the Government.

COUNT 5 STATEMENT OF OFFENCE

Diversion of Public Resources contrary to S.6 of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, between May and July, 2018, converted public funds being intended for demarcation of plots in the refugee camp, for purposes unrelated to that which they were intended for their own benefit.

COUNT 6 STATEMENT OF OFFENCE

Corruption contrary to S.2 of the Anti Corruption Act, 2009.

PARTICULARS OF OFFENCE

Musisi John and Anguzu Moses, being public officials, diverted, for purposes unrelated to that which it was intended, money belonging to the state, which they received by virtue of their offices for purposes of administration

Dated at Kampala this 19th day of November 2018

.....

Officer preferring the charge

MAGISTRATE

I consent to the above charges

.....

Inspector General of Government

(d) What is the next course of action for the investigator where evidence is insufficient?

Task 1 (c); The advice to the investigator will lie in gathering more evidence to establish and prove the other offence ingredients not established to the required standard of beyond reasonable doubt from evaluation of the same. This is so because the consequence of failure to prove all the ingredients in any offence count results into an acquittal.

The law provides for powers of the investigator.

S. 33 ACA provides for **Special investigation powers of the Inspector General of Government and Director of Public Prosecutions.**

It states; (1) Notwithstanding anything in any other law except the Constitution, the Inspector

General of Government, or the Director of Public Prosecutions, if satisfied that there is a reasonable ground for suspecting that an offence under this Act has been committed by a person, may, by order authorise a police officer of or above the rank of Assistant Superintendent or an inspectorate officer named in the order or a special investigator named in the order to investigate any bank account, share account or purchase account of that person and that authority shall be sufficient warrant for the production of the accounts and documents, as may be required for scrutiny by the officer authorised in the order.

Under S. 34; Court to restrict disposal of assets or bank accounts of accused, etc.

(1) A court may, upon application by the Director of Public Prosecutions or Inspector General of Government issue an order placing restrictions as they appear to the court to be reasonable, on the operation of any bank account of the accused person or a person suspected of having committed an offence or any person associated with such an offence or on the disposal of any property of the accused person, the suspected person or a person associated with the offence or the suspected person for the purpose of ensuring the payment of compensation to any victim of the offence or otherwise for the purpose of preventing the dissipation of any monies or other property derived from or related to an offence under this Act.

S. 36 provides for Powers of the Inspector General of Government and the Director of Public Prosecutions, to order inspection of documents.

(1) The Inspector General of Government or the Director of Public Prosecutions, may, if satisfied that any evidence of the commission of an offence under this Act by a person employed by a public body is likely to be found in any document relating to that person, his or her spouse or child or to a person reasonably believed by the Inspector General of Government or Director of Public Prosecutions to be a trustee or agent for that person, by order, authorise any police officer of or above the rank of Assistant Superintendent of Police or an inspectorate officer named in the order or any special investigator named in the order to inspect the document.

(2) A police officer, an inspectorate officer or special investigator authorised under subsection (1) may, at a reasonable time, enter the place specified in the order and inspect the document referred to in subsection (1) kept in that place and may take copies of the documents.

Under S. 41 **41. Director of Public Prosecutions and Inspector General of Government's powers to obtain information.**

(1) In the course of an investigation or proceedings into or relating to an offence by any person employed by any public body under this Act, the Director of Public Prosecutions or the Inspector General of Government may, notwithstanding anything in any other written law to the contrary, by written notice— (a) require that person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by the person and by the spouse, sons and daughters of the person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;

Under S. 50. **Appointment of special investigators.**

(1) Where the Inspector General of Government or the Director of Public Prosecutions considers it necessary for the purposes of an investigation under this Act, he or she may appoint any person who in his or her opinion possesses the necessary skill or experience to be a special investigator.

The facts show discrepancies in evidence which is central to the case. For example; The report of the handwriting expert is not included;

The employment contract of Musisi is not attached

Bank statements showing depositing and withdrawal of the amount are not attached.

There is no report indicating how much money was actually stolen by the accused since some of the activities were indeed carried out though process of items were inflated.

The evidence of payment of various service providers and casual laborers is not attached

A search was conducted with a search warrant but on the file the said search warrant is not attached nor is the search certificate showing the documents recovered.

The three documents recovered after the search are also not included.

Therefore my advise to the investigator is to use the powers granted by the law as stated above to ensure all relevant information is on the police file.

The following course of action can be taken.

- 1) A Direction that the accused persons furnish sworn statements in writing enumerating all their movable or immovable property in their names or in the names of their Spouses, sons, daughters and specifying the dates on which of each of the properties was acquired whether by purchase, gift or inheritance.
- 2) Investigations into the accused persons Bank Accounts, statements and copies therefrom.
- 3) A report of a handwriting expert on the denied signatures of PW2 MADIRA SALIM who asserts to have been paid a total of 50,000/= and not the accused persons accounted 250,000/=. There is also need to investigate and procure a report on the written name of PW1 OJWANG JUDE which has a corresponding payment of 50,000/= per day yet he asserts to have received a daily amount of 10,000/=. This is portray the above witnesses as credible and it will also corroborate their story as being truthful and safe for Court to act upon.
- 4) An estimate report of the number and cost of the cut forest trees of PW3 AKENA ROLAND and ANDAMA PIUS who assert to have sold a total of 440 tree poles instead of the reported 18,000 poles and received 1,480,000/= but not the alleged amount of 144,000,000/= by the accused persons.
- 5) There is also need for a video coverage record from DFCU BANK to prove that ANGUZU MOSES was banking and withdrawing money from his corrupt dealings with J-LUTEX ENTERPRISES LIMITED

In DFCU ACCOUNT NO.0145077852700 in the names of J-LUTEX ENTERPRISES LIMITED. this will help corroborate PW3 story LOKETO JOEL.

- 6) There is also need for procuring a copy of notice of the registered office of J-LUTEX ENTERPRISES LIMITED from the company registry to corroborate PW3 story LOKETO JOEL which is to the effect that the Company has no office in Ndeeba-Kampala and that his company didn't issue the false invoice and receipts which were tendered to the accused persons head office for accountability.
- 7) There is also need for copies of the Memorandum and Article of Association of J-LUTEX ENTERPRISES LIMITED who deny ever dealing in Vehicle spares, batteries, Vehicle accessories etc. This is to dissociate his company from the payments that were received by the accused persons in regard to the above supplies.
- 8) Obtaining Copies of UNHCR Payment receipt of water supplies to eagle logistics solutions

limited to discredit the accused persons' false receipts of 97,736,000/= for the same, UNHCR Payment receipts of meals preparations, demarcation costs and this is to rebut the accused persons false receipt of 197,886,000/= and 85,000,000/= which were falsely for payments made by UNHCR.

9) Lastly a hand writing expert report on the water receiving sheet since PW5 KILAMA ORIS denies writing dates, numbers of trips on the same but acknowledges signing the sheet. This is to corroborate his story before Court and portray him as truthful in every aspect.

10) Appointing an auditor to ascertain how much money was stolen.

(e) As defence counsel, assume that the prosecution has closed its case after leading evidence of the two witnesses in (d) above, proceed and make a submission of a no case to answer.

No case to answer;

According to S.126 of the MCA Cap 16, when an accused person pleads not guilty or refuses to answer, a plea of not guilty is entered and court proceeds to hear the prosecution's case. According to S.131 (1) of MCA Cap 16, the prosecution and the accused shall be entitled to address court at the commencement of their respective cases. The prosecution opens its case and leads evidence by examining its witness/s in chief, whom the accused or his advocate has a right to cross examine.

The prosecution may re-examine its witness for purposes of explaining any facts or ambiguity that may arise from the cross examination.

At the closure of the prosecution's case, the court allows the prosecution to submit on establishment of a prima facie case and the defense also is required to submit on a no case to answer.

A prima facie case has been defined in the case of **Bhatt V R (1957) EA 332**, as one on which a reasonable tribunal properly directing its mind to the law and evidence would convict if no explanation is offered by the defense.

In **Francis Xavier Kayemba V Uganda [1983] HCB 330**, it was stated that a prima facie case does not mean proof beyond reasonable doubt. It was further stated that a prima facie case is not made out if at the close of the prosecution case, the case is only one which on full consideration might possibly be thought sufficient to sustain a conviction.

OBJECTION MY LORD

In **Francis Xavier Kayemba V Uganda [1983] HCB 330**, court stated that a submission of no case to answer may be upheld when;

- a) There has been no evidence to prove an alleged essential element of the offence
- b) The evidence adduced by the prosecution has been discredited as a result of cross examination
- c) The prosecution evidence is so manifestly unreliable that no reasonable tribunal could safely convict on it.

In **Uganda V Swaibu Ssebale [1998] HCB 36**, it was held that where there is no evidence to sustain a charge, there is no case for the accused to answer, and that the essential ingredients of the offence should be proved if a prima facie case is to be established against the accused.

Under S.127 MCA Cap 16, if at the close of the evidence in support of the charge, it appears to the court that a case is not made out against the accused person sufficiently to require him to make a defense, the court shall dismiss the case and forthwith acquit him or her.

Uganda v Kato Kajubi HCT-O6-CRSCO16/2009

The accused was indicted for the murder of 12 yr old child. Prosecution adduced evidence of a man and his wife who claimed to have carried out the murder on behalf of the accused and giving him certain body parts of the deceased.

held

The judge entered a no case to answer by disbelieving the evidence adduced by the prosecution. A submission of no case to answer can be upheld either where there is no evidence to prove an essential element in the alleged offence, or the prosecution evidence has been so discredited in cross-examination or is so manifestly unreliable that no reasonable tribunal can safely convict thereon.

In this case court found the evidence by the prosecution witness so manifestly unreliable that no reasonable court can safely convict on their evidence. It considered the witnesses as accomplices and their evidence in court contradicted their statements to police.(PW3) had been shown to have deliberately lied to court in narrating to court the circumstances of the actual murder of Joseph Kasirye, the deceased. *It is the law that if the principal prosecution witnesses have been shown to be most unreliable then a submission of No case to answer may succeed.*

The court thus found that there were major contradictions in the evidence given by the prosecution witnesses on matters which go to the very root of the case. It had been shown that the principal witnesses intended to tell and actually told court deliberate lies about the actual killing of Kasirye Joseph. In law court is entitled to reject the evidence of those witnesses. Court held that the prosecution evidence was so manifestly unreliable that no reasonable tribunal could safely convict the accused on it if no explanation is offered by him. A case of no to answer was entered for kato Kajubi and he was acquitted.

On appeal, CRIMINAL APPEAL NO. 39 OF 2010

The court of appeal considered the concept of a prima facie case

One of the most famous ones is **Fred Sabahashi vs Uganda, Criminal Appeal No.23 of 1993 (SC)**. This decision was cited to the trial judge in this instant case. The supreme Court stated:

“In the Practice Note (1962) ALL ER 448, Lord Parker stated

‘A submission that there is no case to answer may properly be made and upheld; (a) when there has been no evidence to prove an essential element in the alleged offence; (b) when the evidence adduced by the prosecution has been so discredited as a result of cross examination or is so manifestly unreliable that no reasonable tribunal could safely convict on it.’

Lord Parker continued and gave the test of a prima facie case:

OBJECTION MY LORD

'If however, a submission is made that there is no case to answer, the decision should depend not so much on whether the adjudicating tribunal (if compelled to do so) would at that stage convict or acquit but on whether the evidence is such that a reasonable tribunal might convict. If a reasonable tribunal might convict on the evidence so far laid before it, there is a case to answer.'

A definition of a prima facie case was given by Sir Newhan Worley D, in *Ram Lal T. Bhatt v R* (1957) E.A 332 ABR 335, as follows:

'It may not be easy to define what is meant by a prima facie case, but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.'

Lord Parker concluded thus – *"It is clear from the above two authorities that the test of a prima facie case is objective and that a prima facie case is made out if a reasonable tribunal might convict on the evidence so far adduced. Although the court is not required at this stage to decide whether the evidence²⁸⁸ is worth of credit or whether if believed is weighty enough to prove the case conclusively, a mere scintilla of evidence can never be enough nor any amount of worthless discredited evidence. But it must be emphasised that a prima facie case does not mean a case proved beyond reasonable doubt;*

Court of Appeal **held**

A submission of no case can only be properly made and upheld, (a) When there has been no evidence to prove an essential element in the alleged offence. (b) When the evidence adduced by the prosecution has been so badly discredited as a result of cross-examination or is manifestly unreliable that no reasonable tribunal could safely convict on it.

Court found that the prosecution witnesses were not accomplices and that their evidence was corroborated. This means that the evidence of PW3 and PW4 was neither discredited nor was it worthless.

Ramanlal Trambaklal Bhatt v R [1957] 1 EA 332

²⁸⁸ *Wilbire v R. (1960) E.A. 184.*

Held –

That it may not be easy to define what is meant by a “*prima facie* case,” *but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence*

(i) the onus is on the prosecution to prove its case beyond reasonable doubt and a *prima facie* case is not made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.”

(ii) the question whether there is a case to answer cannot depend only on whether there is “some evidence irrespective of its credibility or weight, sufficient to put the accused on his defence. A mere scintilla of evidence can never be enough; nor can any amount of worthless discredited evidence.”

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF ARUA

CRIMINAL CASE NO.OF 2018

UGANDAPROSECUTOR

VERSUS

1. MUSISI JOHN

2. ANGUZU MOSES ACCUSED

SUBMISSION OF NO CASE TO ANSWER

YOUR WORSHIP, the accused person stands charged with the offences of **CAUSING FINANCIAL LOSS, CORRUPTION, FRAUDULENT FALSE ACCOUNTING, ABUSE OF OFFICE, EMBEZZLEMENT AND DIVERSION OF PUBLIC RESOURCES** contrary to sections **20,2&4,23,11,19** and **6** respectively of the **Anti-Corruption Act 2009**.

YOUR WORSHIP, the state always has the burden to prove all the ingredients of the above offences disclosed beyond reasonable doubt as stated in **WOOLMINGTON V DPP [1955] AC 462** and **MILLER V MINISTER OF PENSIONS...**, the accused has no duty to prove their innocence.

YOUR HONOUR, the offence of causing financial loss is provided for under **S.20** of the **Anti-Corruption Act 2009**. The essential ingredients of the offence are;

- a) That the accused is employed
- b) While in performance of his or her duties, does or omits to do an act
- c) Knowing or with reason to believe that that act will cause financial loss to the employer
- d) That act or omission actually causes loss.

To prove these ingredients, the state led evidence of two witnesses that is Madira Salim [peasant farmer] and Kilama Oris [Compound cleaner at Rhino Camp Refugee Settlement, Arua District]

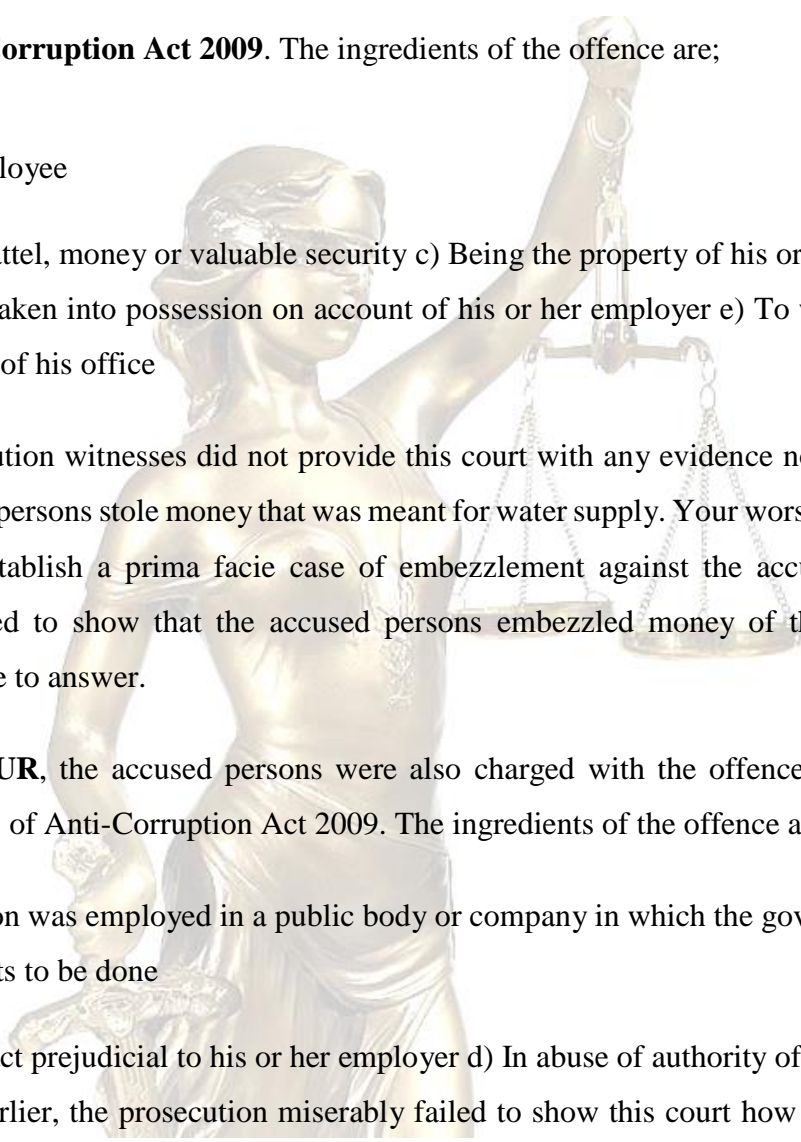
The 1st prosecution witness only testified that he was being paid 10,000/= per day for five days totaling to 50,000/=. However, the receipts he signed show that he was paid 50,000/= per day for five days totaling to 250,000/=. He disputes the signature on the receipts but he did not provide this honorable court with any evidence to prove that he did not sign on the receipts.

The 2nd witness testified that he was assigned as acting registration assistant at rhino camp by the 2nd accused. While acting in the same capacity, he was directed and forced by the 2nd accused to sign empty water receiving sheets. He further states that the handwriting of the dates and number of trips on the water receiving sheets is not his. However, court should take note that, the prosecution while leading the 2nd witness did not prove to this court that the handwriting on the water receiving sheets is not his. It could be proper if he provided court with any document bearing his signature and handwriting to disprove the signature on the receipt. Your worship, in absence of this, the signatures and handwriting on the water receiving sheets are actually of the 2nd witness.

YOUR WORSHIP, the prosecution has failed to establish a prima facie case of causing financial loss against the accused persons as no evidence was led to show the accused persons caused financial loss to the employers and therefore no case to answer.

YOUR WORSHIP, the other count against the accused persons is embezzlement contrary to S.

19 of the **Anti Corruption Act 2009**. The ingredients of the offence are;

- 
- a) Being an employee
 - b) Stealing a chattel, money or valuable security c) Being the property of his or her employer
 - d) Received or taken into possession on account of his or her employer e) To which he or she has access by virtue of his office

The two prosecution witnesses did not provide this court with any evidence nor did they mention that the accused persons stole money that was meant for water supply. Your worship, the prosecution has failed to establish a prima facie case of embezzlement against the accused persons as no evidence was led to show that the accused persons embezzled money of their employers and therefore no case to answer.

YOUR HONOUR, the accused persons were also charged with the offence of abuse of office contrary to **S. 11** of Anti-Corruption Act 2009. The ingredients of the offence are;

- a) That the person was employed in a public body or company in which the government has shares
- b) Does or directs to be done
- c) An arbitrary act prejudicial to his or her employer d) In abuse of authority of his or her office

As submitted earlier, the prosecution miserably failed to show this court how PW2, Kilama Oris, was directed or forced by the 2nd accused person to sign the water receiving sheets. Prosecution should have provided a written directive from the 2nd accused to the prosecution witness. Your worship, the prosecution has failed to establish a prima facie case of abuse of office against the accused persons as no evidence was led to show that the accused persons did or directed the witness to sign the water receiving receipts and therefore no case to answer.

OBJECTION MY LORD

The accused persons were also charged with the offence of **Fraudulent False Accounting**

Contrary to **S.23 OF** the Anti-Corruption Act, 2009. The ingredients of this offence are;

a) Being employed

b) Makes or is privy to making , any false entry in any book, document or account c) That the book, document or account is for the employer.

It's the defense's submission that the prosecution has also totally failed to establish a prima facie case of fraudulent false accounting against the accused persons. The document [water receiving sheets] that is alleged to have been falsely made by the accused persons does not bear the signature of any of the accused persons by that of the prosecution witness. Whereas the witness alleges that he was directed and forced by the accused person to sign the document, he did not prove to this court that actually such a directive exists. He also denies the signature and handwriting on the documents but no evidence was led to prove the same. In absence of any explanation, the accused persons remain innocent and as no prima facie case is established against the accused persons. In absence of the same, the prosecution has not established a case to answer against the accused persons.

YOUR HONOUR, it is our humble submission that the evidence adduced by the prosecution is too weak to require the accused persons to be put to their defense. In other words, the prosecution has not established a prima facie case against the accused persons on any of the offences they are charged with. As per the case of Bhatt V R [supra]. The evidence cannot afford a conviction in the absence of the accused persons' explanation.

IN CONCLUSION YOUR WORSHIP, we pray that this honorable court be pleased to acquit the accused persons on a no case to answer in accordance with S.127 of the MCA,Cap 16.

We so pray

.....

M/s C1 & Co. Advocates

Cc: Prosecution

DRAWN & FILED BY;
SUI GENERIS & CO.ADVOCATES P.O.BOX 7117,
KAMPALA.

f) Assume that you are the Chief Magistrate of the Anti-Corruption Court and in the Course of your routine duties you have come across a court file involving the accused person herein. Upon perusal, you discover that the accused person appeared before Grade 1 Magistrate at your station on 15th/11/2018. He pleaded guilty to the charges disclosed herein and was sentenced to 12years imprisonment. What practical step would you take to address the injustice occasioned to the convict?

The Injustice:

Section 161 of the MCA provides that a Magistrate Grade 1 may try any offence other than one whose maximum penalty is death or life imprisonment. The Sentencing powers of the Magistrate Grade 1 is provided for under Section 162(1)(b).He/she cannot imprison someone for a period not exceeding 10 years.

On the other hand, the Magistrate Grade 2 under Section 161(1) (c) has the jurisdiction to try any offence and enforce any provisions of any law other than the offences provided for under the first schedule of the MCA. There sentencing powers are stated in Section 162(1) (c), cannot imprison someone for a period exceeding 3 years and if a fine, not exceeding the amount of 500,000/= or both.

OBJECTION MY LORD

However it is trite to note that there can be a combination of sentences Under Section 172 of the Magistrates Courts Act thus a magistrate's court may pass any lawful sentence combining any of the sentences which it is authorised by law to pass.

Section 173 provides sentences requiring confirmation; where any sentence to which this section applies is imposed by a magistrate's court (other than by a magistrate's court presided over by a chief magistrate), the sentence shall be subject to confirmation by the High Court. This section applies to a sentence of imprisonment for two years or over or preventive e detention under the Habitual Criminals (Preventive Detention) Act. Section 174 provides for release on bail pending confirmation.

Section 175 provides for sentences in cases of conviction of several offences at one trial. Thus when a person is convicted at one trial of two or more distinct offences, the court may sentence him or her, for those offences, to the several punishments prescribed for them which the court is competent to impose, those punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court may direct, unless the court directs that the punishments shall run concurrently.

Under subsection 2, in the case of consecutive sentences it shall not be necessary for the court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to impose on conviction of a single offence, to send the offender for trial before a higher court.

Subsection 3 is to the effect that for the purposes of appeal or confirmation the aggregate of consecutive sentences imposed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Therefore if you are a chief Magistrate, write a letter to the Registrar or the Judge or the Head of Criminal Division in the High court.

If you are counsel for the convict, write to the Chief Magistrate or Registrar of High court for the file to be placed before the Chief magistrate or the Judge of the High court.

Under Section 221(1) of the Magistrates Courts Act, A chief magistrate shall exercise general powers of supervision within the area of his or her jurisdiction.

Section 221(2) MCA; a chief magistrate may call for and examine the record of any proceedings before a magistrate's court inferior to that court which he is empowered to hold and situate within the local limits of his or her jurisdiction. This is done for purposes of satisfying himself or herself as to the correctness; legality or propriety of any finding, sentence, decision, judgment or order recorded or passed and as to the regularity of any proceedings of that magistrate's court.

Under Section 221(3) MCA; if the chief Magistrate is of the opinion that there is any illegality or impropriety or irregularity, he/she shall forward the record with remarks therein as he/she thinks fit to the High Court.

Section 221(4) gives the Chief Magistrate the powers to release any person serving a sentence of imprisonment as a result of those proceedings on bail pending determination of the High court if he/she is of the opinion that it is in the interests of justice to do so.

In Uganda Vs. Akai and Others (1979) HCB 8; The Chief Magistrate has no powers of revision over decisions of the Grade Magistrate 1 and 2. He can only call for and examine the record of such courts within the local limits of his jurisdiction to satisfy himself to the legality of any finding or order passed.

THE CHIEF MAGISTRATES COURT
OF THE ANTI-CORRUPTION COURT

P.O BOX 4536

KAMPALA

20/11/2018.

OBJECTION MY LORD

**TO; THE JUDGE/ THE REGISTRAR (HEAD OF CRIMINAL DIVISION) HIGH COURT
OF UGANDA
CRIMINAL DIVISION**

Your Lordship/Your Worship,

**RE: CRIMINAL CASE NO 74 OF 2018 VIDE UGANDA VERUS MUSISI JOHN AND
ANOR.**

Reference is made to the above case wherein the convict was tried by the Magistrates Court Grade 1 at Arua Court on the offences;

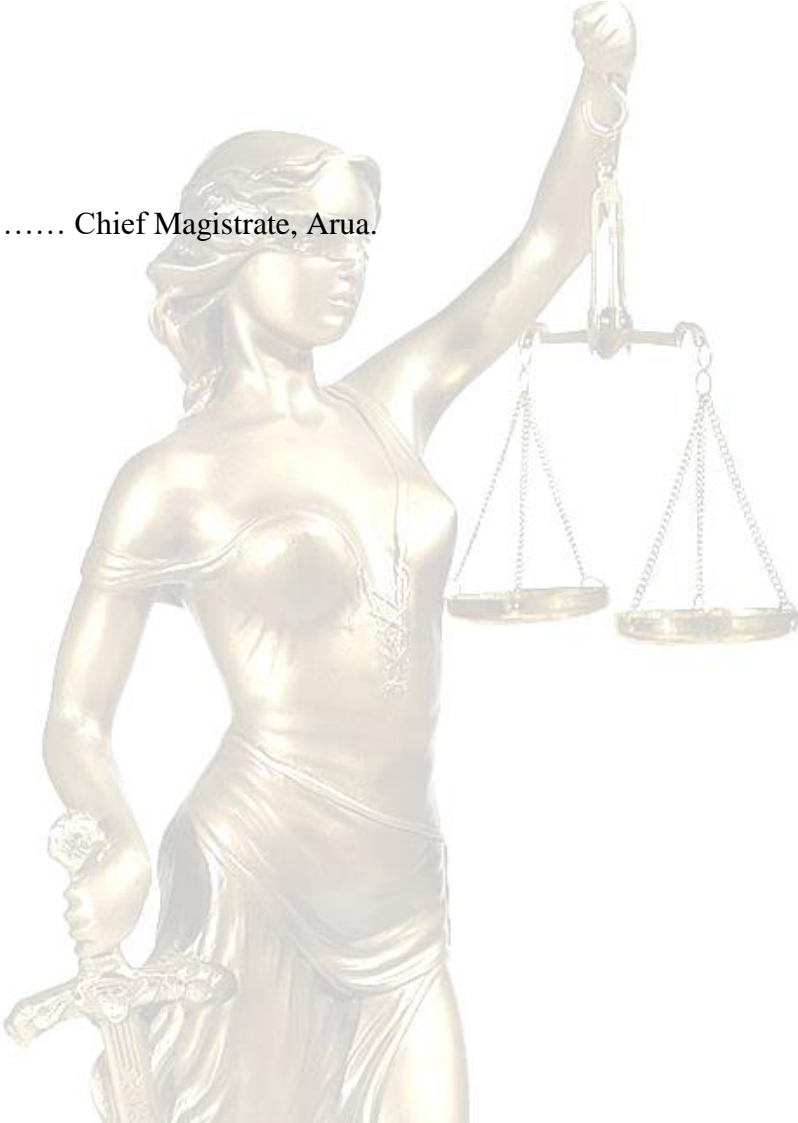
1. Abuse of Office contrary to Section 11 of The Anti-Corruption Act, 2009.
2. Fraudulent Accounting contrary to Section 21 of The Anti-Corruption Act, 2009.
3. Embezzlement contrary to Section 19 of The Anti-Corruption Act, 2009.
4. Corruption contrary to Section 2 of The Anti-Corruption Act, 2009.
5. Diversion of Public Resources contrary to The Anti-Corruption Act, 2009. Wherein he concluded and sentenced the accused person to 12 years of imprisonment.

However, upon perusal of the court file on the court record, I found that the subsequent sentence was irregular and illegal since the Magistrate Grade 1 has no sentencing powers of a period exceeding 10 years pursuant to Section 162(1) (b) of the Magistrate Courts Act, Cap 16.

I therefore pray that this Honorable court exercises its revisionary power to rectify this irregularity. The record is hereby attached.

Yours faithfully

..... Chief Magistrate, Arua.



WORKSHOP ONE:



CRIMINAL BRIEF FACTS

A one Rutaro Felix the director of “Savvy Saucy & Spicy Trading Company” reported a case of theft of around 1200kg of dried vanilla from the same factory valued at three billion shillings.

Complainant reported that the theft of the vanilla happened between April 2018 up to 24/09/2018 but it was much discovered on the 26/09/2018 after when the CCTV Cameras at the factory captured/photographed one Philemon who was in the store of vanilla stealing having connived with one of the security guards who was on duty at night called Kapale Bruno. The two suspects were arrested. On the 26/09/2018, they were interviewed by police. Bitama Philemon confessed that on the 26/09/2018 he went at night and entered into the store intending to steal vanilla but he was discovered by Kapale Bruno who was on duty (on night guard) and then he took off before he could steal. Kapale Bruno also denied stealing the vanilla. He further confessed that on the 24/09/2018, one Moze the former worker of the vanilla company found him at Nansana with a sack of vanilla weighing about 8 kgs, that he escorted him up to Namungona where then Moze also known as Tugume Moses proceeded to sell the same vanilla and on 25/09/2018, Moze Alias Tugume Moses gave him a share of 6,000,000/= (Six million shillings cash) as his share.

However, the video footage captured by CCTV Cameras erected at the factory were played and it showed one Philemon in the store with a sack, he took it to the extreme corner of the factory and then he carried vanilla and packed it then he jumped through the factory window structure/store. The CCTV footage also shows one Kapale Bruno the security guard who was on duty standing in the vanilla store a few meters from where Philemon was but no action was taken to him. Kapale Bruno who was armed with a gun claimed he corked it but it refused to fire/release a bullet.

ISSUES;

Whether the facts disclose and support any possible offences?

Whether the evidence is sufficient to support the offences identified above? What necessary court documents should be drafted?

Which areas require further investigations?

What options are available to police in ensuring that the suspect who is still at large are equally charged?

What is the proper procedure for police to follow to recover and preserve 200kgs of vanilla locked up in a suspects house?

What steps would defense counsel take to secure a suspect's freedom?

LAW APPLICABLE.

1. The Constitution of the Republic of Uganda, 1995;
2. The Penal Code Act, Cap 120
3. The Police Act, Cap 303 as amended by Act 16 of 2006;
4. The Criminal Procedure Code Act, Cap 116;
5. The Evidence Act, Cap 6;
6. The Magistrates' Courts Act, Cap 16 as amended by Act 7 of 2007;
7. The Magistrates' Courts (Magisterial Areas) instrument, 2007; S.1 No.45 of 2017
8. The Judicature (Criminal Procedure) (Applications) Rules; S.I. 13-8.
9. Case law.

Task A

Identify the possible offence(s) disclosed by the facts and evaluate the evidence on the police file in support of the charges.

Section 2 of the Penal Code Act defines an offence as an act, attempt or omission punishable by law. As a matter of law, all offences should be provided for under written law. This is espoused in Article 28(7) and 28(8) of the 1995 constitution of the Republic of Uganda.

Article 28(7) of the Constitution of the Republic of Uganda 1995 as amended provides that no person shall be charged or convicted of an offence which is founded on an act or omission that did not at the time it took place constitute an offence. Furthermore, article 28(12) of the constitution of Uganda 1995 provides that any offence must be written.

.An offence has two major components namely the actus reus and the mens rea, that is the act or omission and the malicious intent respectively.

1. Theft

The definition of theft is contained in Section 254(1) and 261 of the Penal Code Act Cap 120 which provides that a person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person other than the general or special owner thereof anything capable of being stolen, is said to steal that thing. From the above definition, the major ingredients of the offence of theft are as follows;

- i. Fraudulent intent. The particulars of what may be considered as amounting to fraudulent intent are contained in S. 254(2) of the act.
- ii. Claim of Right; Under S.7 of the Penal Code Act, a person is not criminally responsible in respect of an offence relating to property if the act done or omitted to be done by the person with respect to property was done in the exercise of an honest claim of right and without intention to defraud. For the offence of theft to stand, it must be proved that the offender had no claim of right in respect of the property.
- iii. Taking; This refers to the act of carrying away or any removal of anything from the place which it occupied. It is taking if the defendant moves the thing at all.

iv. Things capable of being stolen; S.253 provides for the things which are capable of being stolen. The gist of this section is that for something to qualify as being capable of being stolen, it must be either movable or capable of being made movable.

v. Conversion; Conversion is dealing with goods in a manner inconsistent with the rights of the true owner provided that it is also established that there is an intention on the part of the accused in so doing to deny the owner's rights or to assert a right which is inconsistent with the owner's right.

2. Conspiracy to commit a felony

Conspiracy is provided for in Ss. 390 of the Penal Code Act, Conspiracy can be defined as the agreement between two or more persons to effect any unlawful purpose. The crime is complete if there is any such agreement.

This was emphasized by Simon in the case **Crofter Handwoven Harris Tweed Co. Ltd. V. Vutch [1942] AC 432 at 439**. He stated that conspiracy when regarded as a crime is the agreement of two or more persons to effect any unlawful purpose. The crime is complete if there is such agreement.

The elements of the offence of conspiracy can be broken down as follows;

- i. Agreement between at least two persons.
- ii. Which if carried out in accordance with the parties' intentions.
- iii. Necessarily amounts to the commission of the offence.

There are different categories of parties to conspiracies; there are those who enter into the conspiracy before the objective is achieved, those who enter after the formation of the conspiracy and those who enter into the conspiracy after the offence has been committed.

3. Breaking into building and committing felony

Under S. 297 of the Penal Code Any person who—

(a) breaks and enters a schoolhouse, shop, warehouse, store, office or counting house or a building which is adjacent to a dwelling house and occupied with it but is no part of it, or any building used as a place of worship, and commits a felony in it; or

(b) having committed a felony in a schoolhouse, shop, warehouse, store, office or counting house or in any such other building as mentioned in paragraph (a), breaks out of the building, commits a felony and is liable to imprisonment for seven years.

Elements.

(a) Breaking and entering

(b) Committing a felony;

S.2 of the PCA defines a felony as an offence which is declared by law to be a felony or, if not declared to be a misdemeanor, is punishable, without proof of previous conviction, with death or with imprisonment for three years or more.

4. Criminal trespass

Under S.302 of the PCA, any person who enters into or upon property in the possession of another with intent to commit an offence or having lawfully entered upon such property remains there with intent to commit an offence commits the misdemeanor termed criminal trespass and is liable to imprisonment for one year.

Evaluation of evidence in Police File.

1. Theft

On the Police File, there are a number of statements from different individuals and a common thread of reference is made to the existence of certain CCTV footage which is said to show Bitama Philemon entering into the warehouse where the dried vanilla is stored, taking some of it and leaving with it. This evidence seems to satisfy all the necessary elements of theft. Firstly, there must be fraudulent intent which under S.254(2)(a) includes the intent to permanently deprive the general or special owner of the thing of it and indeed Philemon's actions imply that he had such intent. Further, Philemon had no claim of right and the dried vanilla, being movable, qualifies as a thing capable of being stolen. Therefore it can be concluded that there is enough evidence to support the charge of theft.

2. Conspiracy

On the File, there is evidence from the statement of various Akampulira Ezra who viewed the CCTV footage that Kapale Bruno was standing a few metres away from Philemon as he carried out the theft of the vanilla but that the former did nothing to stop the latter from taking the vanilla despite him being the guard on duty and having in his possession a gun. Bruno's act of deliberately neglecting to take action to stop Philemon, and considering that it was his duty and responsibility to guard the vanilla, implies that there was an understanding of some sort between the two of them which would serve to satisfy the element of agreement between at least two persons which is crucial in proving conspiracy. Further, because they seem to have agreed to carry out an unlawful act, this can be considered as evidence to support the charge of Conspiracy.

3. Breaking into building and committing felony

In the statement of Bibuuza Aisha, she states that during the time of the incident, she was asleep in one of the houses in the factory premises. Then Bruno- security guard called her to where he was and told her that an unknown person entered a vanilla store and when he (Bruno) tried to shoot him the gun failed to release the bullet. Further according to the statement of Ezra the investigating officer, the CCTV footage showed a one Philemon in the store with a sack, he took it to the extreme corner of the factory and then he carried vanilla and packed it then he jumped through the factory window structure/store. This evidence credibly supports the charge of breaking into a building and committing a felony. The suspects entered into a vanilla store and Philemon jumped through the window with a sack of vanilla. Therefore there was breaking and entering and committing a felony that is stealing vanilla.

4. Criminal Trespass

From the evidence on the file, Philemon entered upon the factory premises with intent to steal vanilla and this fulfills the required ingredients of the offence of Criminal trespass and therefore there is evidence to support the charge.

b. Draft the necessary court document(s) envisaged in (a) above

The necessary document is a charge sheet.

A charge is a formal written accusation of an offence drawn up either by a police officer or a magistrate and signed by a magistrate to be used in a magistrate's court as a basis for trial or preliminary proceedings. Where the charge is filed in the high court, it is called an indictment. A charge sheet is for the magistrate's court as an indictment is for the high court.

A trial without a charge is a nullity because the accused person would not know the case he is facing. Sir Udo Udoma stated in the case of **Judagi & Ors v West Nile district Administration** that the failure to frame a charge was a fundamental mistake and therefore the trial was declared a nullity.

CHARGE SHEET

CHARGE

POLICE FORM 53

POLICE STATION: NANSANA DATE: 15TH OCTOBER 2018

POLICE CRBOF 2018

UGANDA VERSUS A1.KAPALE BRUNO

Male Ugandan aged about 29 years security guard of G4 Security Group resident of *Kamwufu Zone, Nansana, Wakiso District*

A 2. BITAAMA PHILMON

COUNT 1: STATEMENT OF OFFENCE

Theft contrary to sections 254 and 261 of the Penal Code Act Cap 120

PARTICULARS OF OFFENCE

Kapale Bruno and Bitama Philemon and others still at large between April 2018 and 26th September 2018 in the premises of Savvy Saucy And Spicy Trading Limited Nansana you stole vanilla amounting to or about 1200 kilograms valued at three billion Uganda shillings and being property of Savvy Saucy Trading Limited .

COUNT 2: STATEMENT OF OFFENCE

Breaking into building and committing felony contrary to section 297(1) and section 295(2) of the Penal Code Act Cap 120

PARTICULARS OF OFFENCE

Kapale Bruno and Bitama Philemon and others still at large on or about 26th September 2018 you broke and entered into the stores of Savvy Saucy and Spicy Trading Limited Nansana at night and stole vanilla amounting to or about 1200kgs valued at three billion Uganda shillings and being property of Savvy Saucy Trading Limited .

COUNT 3: STATEMENT OF OFFENCE

Conspiracy to commit a felony contrary to section 390 of The Penal Code Act Cap 120

PARTICULARS OF OFFENCE

Kapale Bruno and Bitama Philemon and others still at large on or about the 26th of September 2018 you conspired to commit a felony in the stores and premises of Savvy Saucy Trading Limited Nansana

COUNT 4: STATEMENT OF OFFENCE

Criminal Trespass contrary to Section 302 of the Penal Code Act Cap 120. PARTICULARS OF OFFENCE

Kapale Bruno and Bitama Philemon and others still at large on or about 26th of September 2018 you entered into a vanilla store being the Property of Savvy Saucy Trading Limited with intent to steal the vanilla therein.

Dated this 15th day of October 2018

.....

Officer preferring charge.

.....

CHIEF MAGISTRATE.

C) Identify the areas, if any, which require further investigation(s) The electronic evidence;

Electronic evidence has been defined in **Amongin Jane Frances Akili V Lucy Akello HC CV Election Petition No. 1 of 2014** as any probative information stored or transmitted in digital form that a party at a trial or proceeding may use.

Section 5 of the **Electronic Transactions Act 2011** provides that information shall not be denied legal effect, validity or enforcement solely on the ground that it is wholly or partly in the form of data message.

Courts always require the ascertainment of its relevance, authenticity, whether or not it is here say and whether or not it is original for electronic evidence to be admitted.

In order to admit electronic evidence, the proponent of the evidence must lay the proper foundation.

In **Amongin Jane FancesAkili V Luc Akello HC CV Election Petition No. 1 of 2014**, it was held that the proper foundation should show court the following;

- Reliability of the equipment used.
- The manner in which the basic data was initially entered.
- The measures taken to ensure the accuracy of data as entered.
- The method of storing the data and precautions taken to prevent loss or alteration.
- The reliability of the computer program used to process the data.

- The methods taken to verify the accuracy of the program,
- Checking the software used to preserve digital evidence in its original form and to authenticate it for admissibility.
- The competence of the person who accessed the original data and his or her ability to give evidence explaining the relevance and implications of electronic transactions.

The facts show that the main evidence being relied upon is a CCTV camera footage which is electronic evidence. Therefore, the investigating officer should ensure that an investigation to determine whether the electronic evidence is reliable. It is not shown whether the video footage was extracted.

It is vital to ascertain the authenticity of the electronic evidence as above, through more and further investigations.

The Gun;

Kapale Bruno, in his statement said that his A. K 47 failed to release the bullet. There is need to investigate further on whether or not indeed the A. K 47 was faulty. It is also not shown whether the said gun was recovered and exhibited.

This will establish whether he tried to stop the thief or not thus establishing whether he was party to the commission of the offence.

The telephone records.

In Aisha Bibuza's statement, she stated that on the day of the event, while she was still talking to Bruno, somebody called him. Secondly, Philemon called thereafter asking her for a job. It is important to ascertain whether or not these calls were made. This would help establish Bruno's participation in the commission of the offence.

The Police would need a court order to extract the call records that happened that day and inspect them.

Time:

The complainant, in his statement indicated that the theft occurred around 04:00 because he got a telephone call around the same time. The general manager indicated that she woke up at around 04:32 which means she could not have called the complainant until after then.

The offences are alleged to have been committed on 26th September but the investigating officer Ezra notes the date as 16/09/2018. It is not clear whether this was a slip of the pen.

It is therefore necessary to investigate further into the exact crucial times to establish the correct timeline.

(d) Advise the police on the options available in ensuring that the suspect who is still at large is equally charged.

The available option is **arrest**.

According to the **Uganda Criminal Justice Bench Book at page 42 quoting Odoki's Criminal Procedure in Uganda** an arrest is the temporary deprivation of liberty for the purpose of compelling a person to appear in court to answer a criminal charge or testify against another person.

Arrest can be with a warrant or without a warrant. Arrest with a warrant involves the court ordering the arrest of a person by issuing a warrant in writing, signed by the judge or magistrate issuing it, bearing the seal of the court, stating the offence charged and order the person to whom it is issued to apprehend the person against whom it is directed and bring him or her before court.

According to **Section 55 of the Magistrates Courts Act**, a warrant of arrest is usually granted after the accused has disobeyed the summons i.e. if the person does not appear before court at the appointed time. The warrant will only be issued upon court receiving evidence on oath confirming that the summons were duly served and this can be by appearance of the process server before the court or him/her swearing an affidavit **Section 55 (4) of the Magistrates Courts Act**.

The court issues the warrant of arrest in circumstances where it is necessary to secure the appearance of an accused person to answer a charge after the charge has been laid against the person by a public prosecutor or a police officer or been drawn by a judicial officer on the basis of a complaint (**S. 42 of the MCA**).

The facts indicate that the person who is at large is **Machomoto Deus**. The said arrest warrant should be obtained from the Nabweru Chief Magistrates Court to effect his arrest so that he can equally be charged.

However, he can equally be arrested without the said warrant where the police has a reasonable cause to believe a warrant of arrest has been issued as provided for under **Section 10(h) of the Criminal Procedure Code Act Cap 116**.

Documents.

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF WAKISO AT WAKISO CRIMINAL OFFENCE NO 001 OF 2018

UGANDAPROSECUTION

VERSUS

XYZ..... ACCUSED.

TO; **XYZ**

CRIMINAL SUMMONS



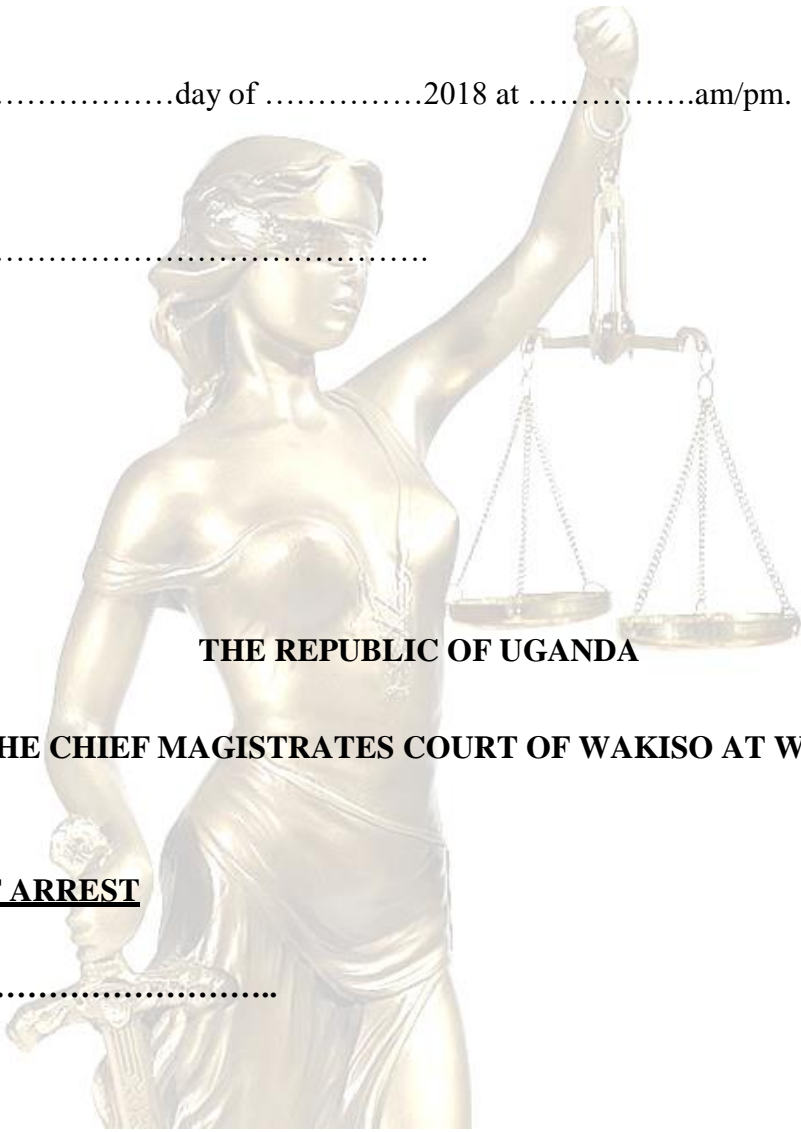
WHEREAS yours attendance is necessary to answer to a charge of

YOU ARE HEREBY COMMANDED by the Uganda Government to appear in this court on the day of 2018 at am/pm or soon thereafter as the case can be heard.

Dated thisday of2018 atam/pm.

.....

MAGISTRATE



THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF WAKISO AT WAKISO

WARRANT OF ARREST

TO;

WHEREAS stand charged with the offence of

YOUR ARE HEREBY directed to arrest the said And to produce him/her before me Herein fail not.

Dated this day of2018.

.....

CHIEF MAGISTRATE.

4. (e) Assume the investigating officer is informed that 200 kilograms of dry vanilla are locked up in the suspects house in Natete , advise the police on the proper procedure to follow to recover and preserve it for future court action.

A search may be defined as an inspection made on a person or in a building for the purpose of ascertaining whether anything useful in criminal investigation may be discovered on the body of the person or in building searched.

It's mainly carried out for the purpose of collecting evidence and exhibits which may be used in a criminal trial .It can be carried out in any place.

Normally searches are carried out on authority of search warrants issued by court but police officers are empowered to search without warrant in certain cases.

A search warrant is a written authority given by a court ordering the search of the premises, place ,vessel named in the warrant for the purpose of seizing anything there in which is required or material in the investigations of an offence.

Section 74 of the **Magistrate Courts Act** states that a search warrant must be signed by the magistrate issuing it ,and must bear the seal of the court.

Section 56(3) of the **Magistrate Courts Act** provides that a search warrant shall remain in force until it is executed or until it is cancelled by court which issued it.

Section 70 of the **Magistrate Courts Act** grants power to the court to issue a search warrant.

Section 58 of the **Magistrate Courts Act** provides that a search warrant may be directed to one or more police officers or chiefs named there in.

Section 50 of the **Magistrate Courts Act** is to the effect that a search warrant can be executed out by any officer

Section 71 of the **Magistrate Courts Act** is to the effect that a search warrant may be issued and executed on Sunday .It must be executed between the time of sunrise and sun set or any other hour stated by court.

Section 72(2) of the **Magistrate Courts Act** grants the officer executing out a search warrant power to enter into such premises and carry out the search without interruption.

However an officer can carry out a search without a search warrant. **Section 69** of the a **Magistrate Courts Act** provides that in instances where an officer has an honest belief that material evidence can be obtained in connection with offence for which an arrest has been authorized.

After the search the officer who carried out the search shall proceed to draft a search certificate indicating the result of the search.

In comparison to the facts before us I would advise the police to draw a search warrant granting it permission to search the premises.

However Section 69 of the **Magistrate Courts Act** allows a police officer to carry out a search without a warrant. This usually occurs during or after arrests. The proper procedure for conducting a search bt a police officer where premises of a suspect are searched without a warrant is as follows;

- a) Local authorities are invited.
- b) The premises are searched in the presence of local authorities and the suspect.
- c) A certificate of search is made by the officer making the search which must include;
 - i. The place, date and time.

- ii. Names of those present during the search
- iii. Signature of the officer conducting the search
- iv. Signature of those local authorities witnessing the search.
- v. Signature of the suspect or where he refuses to sign a comment by the investigating officer.

Section 73(1) of the **Magistrate Courts Act** provides for the seizure of any property brought before it until the conclusion of the case or investigation. At this point it's referred to as an exhibit.

The items obtained from the search may be entered in the Police Exhibit Book and an exhibit slip issued and kept in the case file.

The black's law dictionary defines an exhibit to be a document, record or tangible object formally introduced as evidence in court. The original copy should be looked for.

Facts involved in establishing a foundation for tendering an exhibit are.

- Competence of the witness
- Relevancy of the evidence
- Authentication or identification
- Trust worthiness of exhibit.

However there are steps which ought to be taken into consideration for an exhibit to be kept safe for further investigation as discussed below.

All exhibits in a case must be entered in the police exhibit books of the relevant police station and an exhibit slip issued and kept in the case file. The exhibits must be securely kept under lock and key by the officer in charge of the Police Exhibits Store. This is the officers who will finally handover the exhibits in court during trial.

The chain of handling of police exhibits is so crucial that if any doubt is created as to the source of the exhibit or that there was a break in the chain of handling them, the evidential value of such exhibits may be challenged by objection to their tendering in.

Exhibits which are likely to decay or decompose must be sent to the Chief Government Chemists as soon as possible. Such Government Chemist will then make a report on the state of the exhibit and accompany it with photos which shall be tendered in court.

Documents

THE REPUBLIC OF UGANDA UC FORM 109

SEARCH WARRANT

IN THE CHIEF MAGISTRATES COURT OF WAKISO AT WAKSIP

TO: AKAMPULIRA EZRA.

WHERE AS it has been proved to me that in fact or according to reasonable suspicion the following things / thing;

.....

Upon by or in respect of which an offence has been committed OR which is / are necessary to the conduct of an investigation into an offence is /are in the Building/ vessel , Carriage, Box,

Receptacle, place herein named and described as follows:

.....

.....

.....

This is to authorize and require you to enter /open the said Building, Carriage, Vessel, Box, Receptacle, Place, described as aforesaid and if found to seize and carry it/them before this court or some court to be dealt with according to Law, returning this warrant with an endorsement certifying that you have done under it immediately upon it’s execution.

Given under my hand and seal of this court this.....day of.....20.....

.....

CHIEF MAGISTRATE.

Search Certificate.

REF;..... Date:.....

SEARCH CERTIFICATE.

I HAVE CONDUCTED A SEARCH IN THE
ON THE AT
IN THE PRESENCE OF;

- 1)
- 2)
- 3)

ITEMS RECOVERED INCLUDE;

- i.
- ii.
- iii.

WITNESSED BY;

- 1)
- 2)

SIGANATURE: RANK:

f) Assuming the suspect is still in police custody and you have been approached by his wife to secure his freedom, Identity and demonstrate all the practical steps you would take as defense counsel to achieve the desired goal?

Article 23(4) of the Constitution provides that a person arrested or detained or detained for the purpose of bringing him or her before a court in execution of an order of a court shall, if not earlier released, be brought to court as soon as possible but in any case not later than 48 hours from the time of his or her arrest.

The above provision gives justification for the grant of bond by the police officer in charge of a police station has power to release a person taken into custody without a warrant if it is not practicable to take that person to court within 48 hours of arrest.

Bond simply means the release of a person who has been arrested with or without a warrant upon payment of a specified amount if provided for in the warrant with the understanding that he/she will appear before the court or police officer at a specified time. Bond can be granted where a person has been arrested with or without a warrant.

Under **section 17(1) of the Criminal Procedure Code Act**, a police officer in charge of a police station may release a person detained without a warrant upon executing a bond for a reasonable amount to appear before a magistrate's court at a time and place specified in the bond if it is impracticable to bring the person before a magistrate's court within 24 hours, provided that it is an offence other than murder, treason or rape or the offence does not appear to the officer to be of a serious nature.

Section 38(1) of the Police Act requires no fee or duty to be charged by a police officer on a bond in a criminal case or on a recognizance for personal appearance or otherwise issued or taken by a police officer.

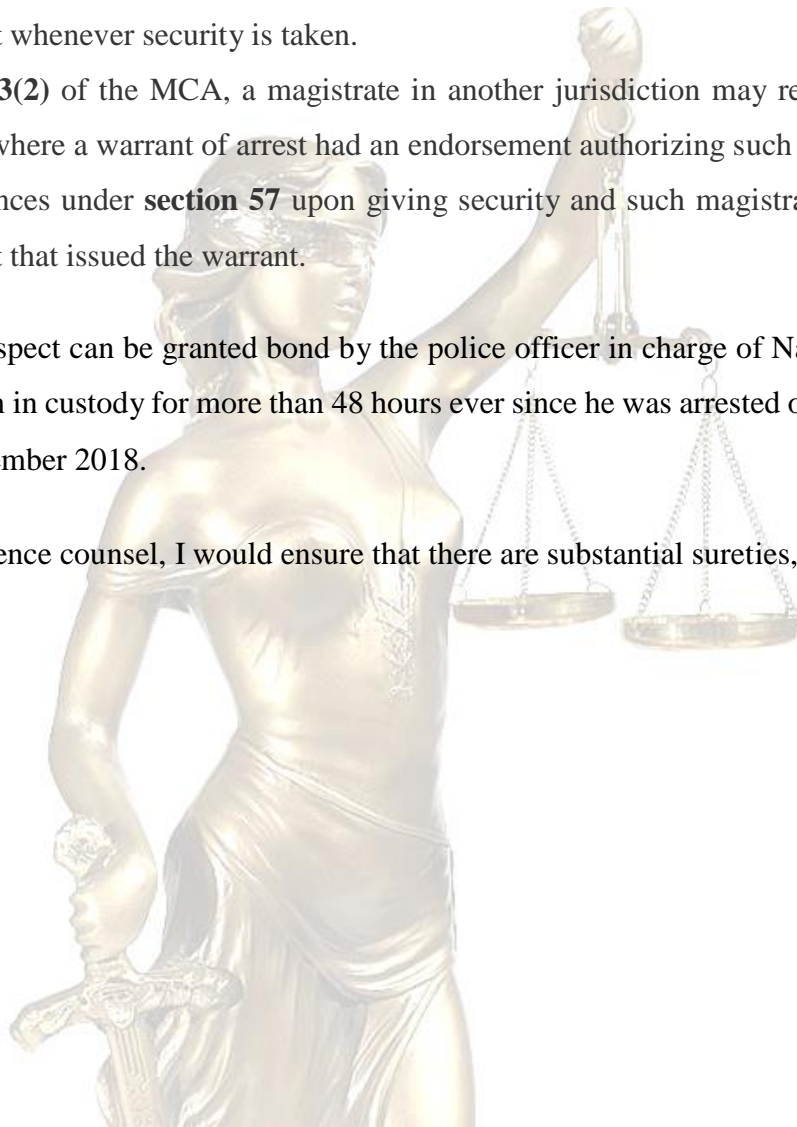
On the other hand, under **section 57(1) and (2) of the MCA**, a magistrate may permit the release on bond of a person whose name is stated in the warrant of arrest if such a person executes a bond with sufficient sureties for his/her attendance before the court and upon the person giving security for his release. A surety has a duty to ensure that the accused person adheres to the bond conditions.

However **section 57(3)** of the MCA requires the officer to whom the warrant is issued to forward the bond to the court whenever security is taken.

Under **section 63(2)** of the MCA, a magistrate in another jurisdiction may release a person from custody in case where a warrant of arrest had an endorsement authorizing such person's release in the circumstances under **section 57** upon giving security and such magistrate shall forward the bond to the court that issued the warrant.

Therefore the suspect can be granted bond by the police officer in charge of Nansana police station since he has been in custody for more than 48 hours ever since he was arrested on the morning of the 26th day of September 2018.

Therefore as defence counsel, I would ensure that there are substantial sureties, and thereafter apply for bond.



POLICE BOND

UGANDA POLICE RELEASE ON BOND

(Sec 17 of Crim Procedure Code Act) FORM 18

I **Kapale Bruno** being charged with the offence of **theft** Vide SD Ref and after required to appear before the OC **Nansana Police Station** do hereby bind myself to appear at the **Chief Magistrates Court-Nabweru**

At **10:00pm** on the **20th day of October 2018** and I shall continue to attend further to answer the said charge until Otherwise directed by the Court.

Dated this day of20.....
Signed.....

I **Nalonda Crispus Ceasor** Hereby DECLARE myself surety for the above named person(s) about the offence of **theft**,

That he / she shall attend as above stated and in any case of any default, I bind myself to be Responsible for accessory after fact.

Dated this day20.....
Signature.....

.....

EXECUTED BEFORE ME.

THE REPUBLIC OF UGANDA

**IN THE CHIEF MAGISTRATE COURT OF WAKISO AT WAKISO CRIMINAL MISC.
CAUSE NO. 001 OF 2018.**

BRUNO KAPALE APPLICANT

VS

UGANDA RESPONDENT.

NOTICE OF MOTION.

(Under Art. 50 the Constitution, Art. 23 (4), Section 25 (3) Police Act)

TAKE NOTICE That this honorable court shall be moved on the day of 2018
.....atam/pm or soon thereafter as counsel for the applicant shall be heard on the
following orders.

- a) That the applicant be released from custody unconditionally.
- b) That this honorable court makes such orders as is deemed just for enhancement of justice.

TAKE FURTHER NOTICE That this application is brought by way of Notice of Motion
supported by an affidavit of Miss Wandy Kaitesi, wife to the applicant stating the grounds which
shall be relied upon at the hearing but briefly include:

- a) That the applicant was arrested on the 26th day of September 2018 at Nansana and has been held
in police custody up to date.
- b) That the applicant has since been denied police Bond and not charged with any offence in any
court of law.
- c) That the applicant's fundamental rights have been violated.
- d) That is just and equitable that this court grants an unconditional release of the applicant.

Dated at Kampala this day of 2018.

..... **SUI GENERIS ADVOCATES. Counsel for the Applicant.**

Given under my hand and seal of this honorable court this day of 2018.

.....
CHIEF MAGISTRATE.

Drawn And Filed By;
Sui Generis Advocates
P.O Box 7117 Kampala

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE COURT OF NABWERU HOLDEN AT NABWERU.

CRIMINAL MISC. CAUSE NO. 001 OF 2018.

BRUNO KAPALE APPLICANT

VS

UGANDA RESPONDENT.

AFFIDAVIT IN SUPPORT

I **Kaitesi Wendy of c/o SUI GENERIS Co. Advocates** do solemnly swear and that as follows:

- 1) That I am a female adult Ugandan of sound mind and a spouse to the applicant I which capacity I swear this affidavit.
- 2) That my husband was arrested by policemen from Nansana on the 26th day of September 2018.
- 3) That the applicant has since been held in police custody without being charged
- 4) That I have been informed by my lawyers who I believe to be true to the best of my knowledge that the applicant's fundamental rights have been violated.
- 5) That it is just and equitable that the applicant be released unconditionally.
- 6) That whatever I have stated herein is true to the best of my knowledge and belief.

Sworn at Kampala this day of2018 by the said Kaitesi Wendy.

.....

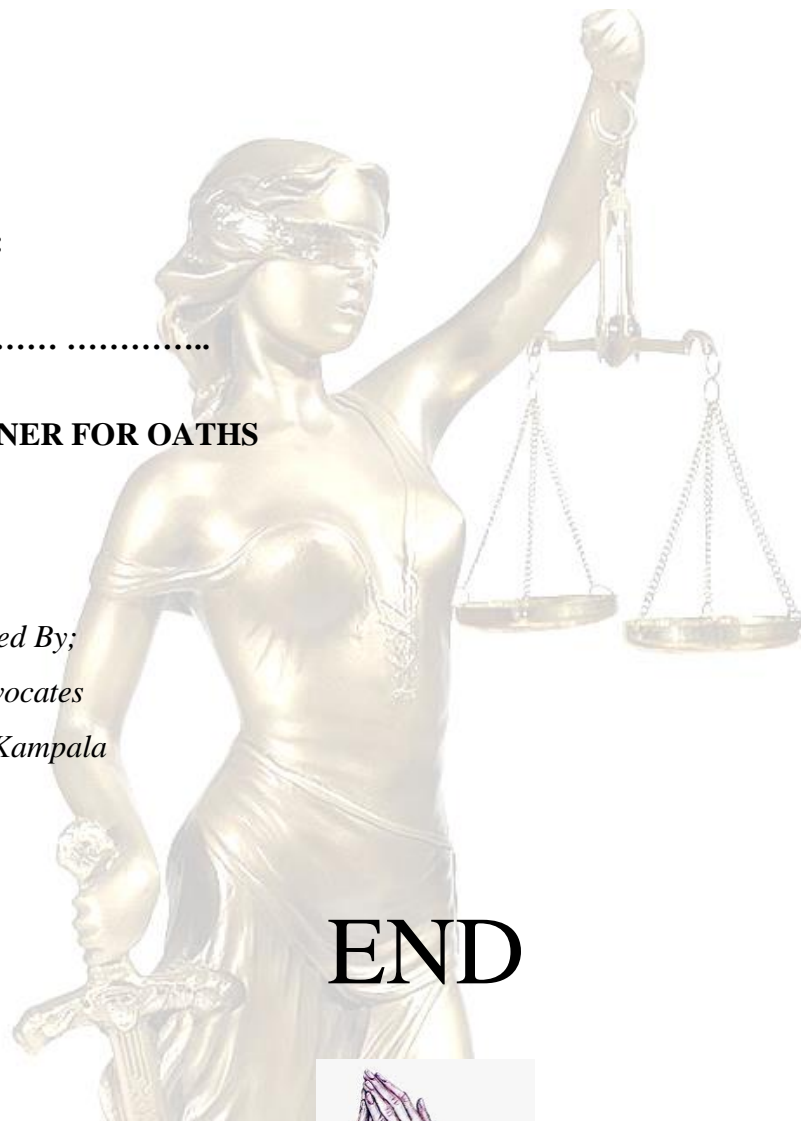
DEPONENT

BEFORE ME:

.....

COMMISSIONER FOR OATHS

*Drawn And Filed By;
Sui Generis Advocates
P.O Box 7117 Kampala*



END



[Always Give Praise To God; Creator of the Entire Universe]



ABOUT THE BOOK

"Objection My Lord" is a phrase often used in court. This book covers all the nitty-gritty for one to practice law in the best and legal way possible within limits of good conduct and professionalism. Charles Dickens in "The Old Curiosity Shop" has spoken this of lawyers, "If there were no bad people, there would be no good lawyers." I have already listed how the good lawyers conduct themselves in my former book, "Professional Malpractice in Uganda;" this book will thence equip the reader with the practical tools of the legal profession, making them grasp these basic skills in addition to mastering legal professionalism.

This is a package to my Learned Friends, to know the must know and learn to practice within the legal limits and more so, discover the legal exceptions and present such in a legal manner; to distinguish precedents tactically and persuade intellectually where no such exist. It is a summary of legal principles requisite for one to properly establish their case before court. This book is a one stop masterpiece for a reader to grasp the other more practical duties of a lawyer apart from litigation and drawing deeds. By training consistency yet with honest dealings, this book navigates along the professional to the moral and most practical situations encountered by a lawyer while furnishing one with the gist and nothing less. It is a training for every "officer of court" to make use of their greatest tool "the tongue" to not only persuade but also assist court and the state in ensuring justice.

Be blessed to find all you seek and be gifted a package, so much more than you expect in this book.

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