Our Ref: 13.15.097.001
Your Ref: TBA

Date: 28th August, 2023

Advocates Complaints Commission,
Co-operative Bank House, Haile Selassie Avenue,
P. O BOX 56057- 00200,
NAIROBI.
Tel No: 020-2227461-9 /020-2251355 /
0732 529995 / 0700 072929
Email: info@ag.go.ke

Dear Sir,

Re: COMPLAINT BY JABES OKUMU AGAINST MISARE WILLIES OLOO (P.105/16476/19) T/A OLLANDO, MISARE & ASSOCIATES ADVOCATES

We refer to the above-referenced matter in respect of which we act for Mr. **JABES OKUMU** (hereinafter 'the Complainant').

In accordance with **Section 53(4) of the Advocates Act,** the Complainant wishes to lodge a complaint against **Misare Willies Oloo (P.105/16476/19) t/a Ollando, Misare & Associates Advocates** (hereinafter 'the Advocate') on account of the following facts:

1. On or about the 7th Day of December 2022, the Complainant sought legal representation from the Advocate's firm with regards to conveyancing of a 2 bed-room apartment, Number C4 on Block 22, 4th Floor, Erected on Unit Number L4-02 on Precinct 4B-2, Forming Part of Land Reference Number 28867/1 Lifestyle Heights, in Tatu City, Kiambu County (hereinafter 'the property').

2. The Advocate's firm herein confirmed instructions to act and issued the Complainant with a Letter of Engagement dated 7th December 2022, in the aforementioned conveyancing transaction.

3. Pursuant to **Clause 2 and 5 of the Letter of Engagement dated 7th December, 2022**, the Firm assigned the Advocate herein personal conduct of the Complainant's matter and pursuant to Clause 1 of the Letter of Engagement, the Advocate was entrusted with the following tasks: To carry out searches to ascertain the legal status of the ownership

of the property, to prepare and or review the sale/purchase agreement, to keep the Complainant fully appraised of the conveyancing progress and carry out all such other instructions as the Complainant may seek from time to time. The Complainant accordingly relied on the Advocate's professional guidance, judgment and competence as he reasonably and legitimately expected the Advocate to carry out his brief in a competent and meticulous manner.

4. In furtherance of the Letter of Engagement and Pursuant to **Clause 4(c)** thereof, the Complainant was to pay to the Firm's account **Ksh. 2,000,000.00** as a deposit of the purchase price and the firm was obligated to transmit the same to the Vendor's account immediately.

5. In line with the Advocate's specific instructions to the Complainant, a sum of Two Million Shillings **[Kshs. 2,000,000.00]** was transferred from the Complainant's account to the Advocate's personal account particulars of which are well within the Advocate's knowledge. This amount was intended to cover the first installment payment necessary for the conveyancing transaction, including the initial 10% of the purchase price.

6. The transfer of the said amount to the Advocate was made from the Complainant's Equity Account No: 1130172617659 as follows: **Kshs. 2,000,000.00** paid to Willies Oloo Misare (the Advocate) on 7th December, 2022 through his Account No. 0757202001 Diamond Trust Bank.

7. Again at the specific request of the Advocate, the Complainant additionally made a further deposit on 10th January, 2023 of **Ksh 230,00.00** to the Advocate's account through a PesaLink Bank Transfer, amount meant to be fees payment to the Vendor's Advocate as indicated under the second schedule of the Agreement for Sale.

8. In the circumstances, the Complainant entrusted the Advocate with the task of transferring the sum of **Ksh. 2, 230,000.00** received from the Complainant to Lifestyle Heights PLC (herein the Vendor). The Advocate however failed to immediately transfer the amount paid by the Complainant, in a gross violation of **Condition 5.1.2 of the Law Society of Kenya Conditions of Sale, 2015.**

9. Despite the Complainant fully discharging his obligations under the Agreement, the Advocate defaulted, failed, neglected, and or refused to release the monies in the manner prescribed under Clause 1.1.12 of the Agreement for Sale.

10. The Complainant has through phone calls and messages to the Advocate requested for updates on the status of these payments and the Advocate has on several occasions

promised to make payment of the monies due, but has repeatedly failed to honour his word. As a scheme to tame the Complainant after constant pestering, the Advocate went ahead and instead issued a bounced cheque dated 13th March 2023 in the sum of **Kshs. 520,000.00** in a purported part payment of the due amount.

11. Distraught by these unfolding events, the Complainant repeatedly visited the Advocate's offices and made numerous inquiries, seeking an amicable resolution to the impasse, but all his efforts were in vain as the Advocate was totally unresponsive and unwilling to address his grievances. In the circumstances, the Complainant was constrained to reach out and seek legal assistance.

12. The Complainant ultimately instructed the firm of Okoth & Kiplagat (our firm) to take up the matter with the Advocate and pursue the same to conclusion. Our firm has since served upon the Advocate a demand for the immediate and unconditional payment of the sum of **Ksh. 2,230,000.00** being a refund of the monies received from the Complainant in respect of the transaction, but the Advocate has to date, not heeded to the foregoing demand.

13. Pursuant to our demand letter dated 13th July, 2023 the Advocate scheduled a meeting at our chambers on the 3rd August 2023 where he proposed to provide a formal proposal for the reimbursement of the funds owed to the Complainant by close of business that day. He however failed to send us his formal proposal forcing us to write a follow up letter dated 8th August, 2023 expressing deep disappointment in the failure to honour his commitment to provide a written payment plan in line with his assurance during the meeting that he would do so by close of business that day.

14. Paradoxically, the Advocate delivered to our chambers a letter on the 9th August 2023, a letter ostensibly dated 3rd August, 2023 not in any way being a response to our letter dated 8th August, 2023 (*which they also strangely chose not to even refer to,)* but instead indicating when the advocate intends to make the first installment as payment of the money owed by our client the complainant.

15. Notably, in the Advocate's letter dated 3rd August 2023, he did not indicate how much the 'first payment" to be made by the 10th September, 2023 would be contrary to his verbal indications to us during the meeting in our chambers.

16. The Complainant has identified a pattern of dishonesty and deception, and has reason to believe that, the Advocate orchestrated a plan to unjustly enrich himself at the Complainant's expense, by defrauding him of **Kshs. 2,230,000.00** and by failing to

ensure that the deposit of the purchase price transferred to him in respect of the purchase of the Property was released to the Vendors.

17. In a flagrant breach of the Advocate's duties to the Complainant, the advocate has to date failed, refused, neglected, and defaulted to refund the complainant the sum of **Kshs. 2,230,000.00** that he had obtained from the Complainant. The Advocate has since refused to comply with the terms of the foregoing demand thereby necessitating the filing of this complaint.

18. In light of the foregoing facts, it is clear that whereas the Complainant relied on the Advocate's professional guidance, judgment and competence, and made payments based on this reliance, the Advocate defaulted, failed, neglected, and or refused to discharge his professional obligations as the Complainant's Advocate, namely, ensuring that the Advocate released the deposit of the purchase price to the Vendor, in accordance with Clause 1.1.12 Agreement for sale.

19. In a nutshell, the Complainant's complaint against the Advocate for professional misconduct are particularized as hereunder: -
    a) Failing, defaulting, neglecting and refusing to immediately transfer the deposit of the purchase price to the Vendor in accordance with Clause 1.1.12 **of the Agreement for sale** as read together with **Condition 5.1.2** of the Law Society of Kenya Conditions of Sale, 2015 and converting the same to his personal use;

    b) Issuing a bounced cheque dated 13th March, 2023 in the sum of **Ksh. 520,000.00** in purported part refund of the amount due and owing;

    c) Failing, defaulting, neglecting and refusing to pay to the Complainant the sum of **Kshs. 2,230,000.00,** being a refund of the monies received from the Complainant on diverse dates between 7th December, 2022 and 10th January, 2023; and

    d) Failing and or refusing to communicate with the Complainant regarding the status of the transaction in respect of the Property, and ignoring the complainant's repeated request for updates.

20. The Complainant therefore prays that the Advocate be found guilty of professional misconduct and be ordered to:
    a) Immediately and unconditionally pay back to the Complainant, the sum of **Kshs. 2,230,000.00,** being a refund of the monies received from the Complainant on diverse dates between 7th December, 2022 and 10th January, 2023;

b) Cease practice with immediate effect as he is a danger to other unsuspecting potential clients due to his callous conduct;

c) Pay the legal costs of this complaint forthwith.

We have enclosed, for your reference and attention, the Affidavit of Complaint sworn by the said **JABES OKUMU** annexing the documents in support of the assertions.

We look forward to your prompt action.

Yours faithfully,
OKOTH & KIPLAGAT ADVOCATES

CATHERINE WANJEHIA
catherine@kiplagat.com

Cc: 1. **Law Society of Kenya,**
Gitanga Road, Lavington,
P. O Box 72219-00200,
NAIROBI.

2. Client

Encl.

COMPLAINT AGAINST AN ADVOCATE
IN THE MATTER OF SECTION 53(4) OF THE ADVOCATES ACT, 1989 (CAP 16)

IN THE MATTER OF MISARE WILLIES OLOO (P.105/16476/19) T/A OLLANDO, MISARE & ASSOCIATES ADVOCATES

BETWEEN

JABES OKUMU.....COMPLAINANT

VERSUS

MISARE WILLIES OLOO
T/A OLLANDO, MISARE & ASSOCIATES ADVOCATES.....ADVOCATE

AFFIDAVIT OF COMPLAINT

I, **JABES OKUMU**, a resident of Nairobi and of Post Office Box Number of P.O.BOX 83-40405 SARE, within the Republic of Kenya and the above-named Complainant in this complaint do hereby make oath and state as follows:

1. **THAT** I am an adult Kenyan citizen of sound mind and I am the Complainant herein with full knowledge and information of the matters stated herein, hence competent to swear this Affidavit.

2. **THAT** for purposes of this complaint, my address of service is care **of OKOTH & KIPLAGAT ADVOCATES, DELTA CHAMBERS, OFF WAIYAKI WAY, P.O.B.O.X 9807-00100, NAIROBI.**

3. **THAT** I wish to lodge a complaint against **MISARE WILLIES OLOO T/A OLLANDO, MISARE & ASSOCIATES ADVOCATES (the Advocate)** of P.O.BOX 22604-00505, Nairobi (hereinafter 'the Advocate') on account of the following facts:

4. **THAT** on or about the 7th Day of December 2022, I sought legal representation from the Advocate's firm with regards to conveyancing of a 2 bed-room apartment, Number C4 on Block 22, 4th Floor, Erected on Unit Number L4-02 on Precinct 4B-2, Forming Part of Land Reference Number 28867/1 Lifestyle Heights, in Tatu City, Kiambu County (hereinafter 'the property'). ***Annexed hereto and marked "JO-1" is a copy of the Agreement for Sale.)***

5. **THAT** the Advocate's firm confirmed instructions to act and they issued me a Letter of Engagement dated 7th December 2022, in the above conveyancing transaction. ***(Annexed hereto and marked "JO-2" is a copy of the Letter Engagement dated 7th December 2022)***

6. **THAT** the Firm assigned the Advocate herein personal conduct of my matter and was entrusted with the following task; to carry out searches to ascertain the legal status of the ownership of the property, to prepare and or review the sale/purchase agreement, to keep me fully appraised of the conveyancing progress and carry out all such other instructions as I may seek from time to time.

7. **THAT** as such I relied on the Advocate's professional guidance, judgment and competence as I reasonably and legitimately expected the Advocate to carry out his brief in a competent and meticulous manner.

8. **THAT** in line with the letter of engagement from my advocate, I was to pay to the Firm's account **Ksh. 2,000,000.00** as a deposit to the purchase price and the firm would transmit the same to the Vendor's account immediately.

9. **THAT** in line with the Letter of Engagement and the Advocate's specific instructions, I transferred a sum of Two Million Shillings **[Kshs. 2,000,000.00]** to the Advocate's personal account particulars of which are well within the Advocate's knowledge. This amount was intended to cover the first installment payment necessary for the conveyancing transaction, including the initial 10% of the purchase price.

10. **THAT** at the request of the Advocate, I additionally made a further deposit on 10th January, 2023 of **Ksh 230,00.00** to the Advocate's account through a PesaLink Bank Transfer, amount meant to be fees payable to the Vendor's Advocate. ***(Annexed hereto and marked "JO-3" are copies of the funds transfer form indicating the respective payment of the sums of Kshs. 2,000,000.00 and 230,000.00 by myself to the Advocate.***

11. **THAT** in the circumstances, I entrusted the Advocate with the task of transferring the sum of **Ksh. 2, 000,000.00** to Lifestyle Heights PLC (herein the Vendor) and the sum of **Kshs 230,000.00** to the Vendor's advocate subject to the Agreement for Sale.

12. **THAT** despite the fact that I fully discharged my obligations under the Agreement, the Advocate defaulted, failed, neglected and or refused to release the monies in the manner prescribed in the Agreement for Sale.

13. **THAT** I have on several occasions through personal visits, phone calls and messages to the Advocate requested for updates on the status of these payments and the Advocate has on several occasions promised to make payment of the monies due, but has repeatedly failed to honour his word.

14. **THAT** being dismayed by these unfolding events, I visited the Advocate's offices and made numerous inquiries, seeking an amicable resolution of the foregoing 'impasse', but all my efforts were in vain as the Advocate was totally unresponsive and unwilling to address my grievances.

15. **THAT** in response to my constant pestering of the Advocate on the status of the money I transferred to him, he went ahead and instead issued a bounced cheque dated 13th March 2023 in the sum of **Kshs. 520,000.00** in a purported part payment of the due amount. ***Annexed hereto and marked "JO-4" is a copy of the bounced cheque dated 13th March, 2023.)***

16. **THAT** in the circumstances, I was constrained to reach out and seek legal assistance and I ultimately instructed the firm of Okoth & Kiplagat Advocates to take up the matter with the Advocate and pursue the same to conclusion. My current advocates on record through a letter dated 6th July 2023 and copied to me, went ahead and informed the Vendor's Advocate of the recent change the Purchaser's legal representation. ***Annexed hereto and marked "JO-5" is a copy of the letter dated 6th July, 2023.***

17. **THAT** my Advocates on record through a letter copied to me, served upon the Advocate a demand letter for the immediate and unconditional payment of the sum due in **Kshs. 2,230,000.00**. ***Annexed hereto and marked "JO-6" is a copy of the letter dated 13th July, 2023.)***

18. **THAT** I am informed by my advocates, which information I verily believe to be true that pursuant to the demand letter dated 13th July, 2023, the Advocate scheduled a meeting and met my advocate's in their chambers on the on 3rd August 2023 and I am informed that the Advocate proposed to provide a formal proposal for the reimbursement of the funds owed to me by close of business that day.

19. **THAT** I am informed by my advocates which information I verily believe to be true that the Advocate however failed to send them his formal proposal by close of business that day, and did nothing for the next whole week forcing them to write a follow up letter dated 8th August, 2023 with a copy to myself expressing deep disappointment for the failure to provide a written payment plan in line with his

assurance during the meeting that he would do so with urgency. ***Annexed hereto and marked "JO-7" is a copy of the letter dated 8th August, 2023 from my Advocates.)***

20. **THAT** I am informed by my advocates on record that the Advocate's office on the 9th August, 2023 delivered a letter to their chambers, a letter ostensibly dated 3rd August, 2023 which to their dismay was not a response in any way to my advocate's letter dated 8th August, 2023 but instead gave a general indication of when the Advocate intends to make the first installment of the money owed by him. ***Annexed hereto and marked "JO-8" is a copy of the letter dated 3rd August, 2023 from the Advocate to my Advocates on record.)***

21. **THAT** the Advocate in his letter dated 3rd August, 2023 but delivered on 9th August, 2023 failed by design (I believe) to indicate how much the '***first payment***" he intended to make by the 10th September, 2023 would be, contrary to his verbal indications to my advocates during the above-mentioned meeting.

22. **THAT** I have identified a pattern of dishonesty and deception, and I have reasons to believe that the Advocate orchestrated a plan to unjustly enrich himself at my expense, by defrauding me of **Kshs. 2,230,000.00** and by failing to pay part purchase price of the Property to the vendor.

23. **THAT** in a flagrant breach of the Advocate's duties to me, the Advocate has to date failed, refused, neglected, and defaulted to refund me monies in the sum of **Kshs. 2,230,000.00** fraudulently obtained from myself. The Advocate has since refused to comply with the terms of the demand served upon him thereby necessitating the filing of this complaint.

24. **THAT** in light of the above facts, it is clear that whereas I relied on the Advocate's professional guidance, judgment and competence, the Advocate defaulted, failed, neglected and or refused to discharge his professional obligations as my Advocate, namely, ensuring that the Advocate paid the part purchase price to the Vendor.

25. **THAT** in a nutshell, my complaints against the Advocate for professional misconduct are particularized as hereunder: -
    a) Failing, defaulting, neglecting and refusing to immediately pay the deposit of the purchase price to the Vendor and converting the same to his personal use;
    b) Issuing a bounced cheque dated 13th March, 2023 in the sum of **Ksh. 520,000.00** in purported part payment of the due amount to the vendor on my account.

c) Failing, defaulting, neglecting and refusing to pay/ refund the sum of **Kshs. 2,230,000.00,** being the monies received from me on diverse dates between 7th December, 2022 and 10th January, 2023; and

d) Failing and or refusing to communicate with me regarding the status of the transaction in respect of the Property.

26. **THAT** I pray that the advocate be found guilty of professional misconduct and be dealt with as by law permitted.

27. **THAT** what is deponed to hereinabove is true to the best of my knowledge save as to matters are deponed to on information sources whereof have been disclosed and matters deponed to on belief grounds whereupon have been given.

SWORN at NAIROBI by the said]
JABES OKUMU]
]
This 28 day of August, 2023]
]
BEFORE ME]
]
]
]
]
]
]

.....
(DEPONENT)

GEORGE RICHARD MAINA NEGNESA
ADVOCATE & COMMISSIONER FOR OATHS
P.O. Box 79510 – 00200
NAIROBI
ROLL NO. P105/7057/08
COMMISSIONER FOR OATHS
LSK .....

DRAWN AND FILED BY:
OKOTH & KIPLAGAT ADVOCATES
2ND FLOOR, DELTA CHAMBERS
WAIYAKI WAY, WESTLANDS
P.O BOX 9807- 00100
NAIROBI

TO BE SERVED UPON
OLANDO MISARE & ASSOCIATES ADVOCATES
Jadala Place, Suite 5.2 5th Floor
Opposite Double Tree by Hilton
Ngong Lane, Off Ngong road
P.O BOX 22604-00505
NAIROBI

DATED 28TH DAY OF JULY 2023

AGREEMENT FOR SALE

BETWEEN

HOME BRIDGE LIMITED

AND

JABES OKUMU

OVER

2 BEDROOM APARTMENT KNOWN AS C4 ON BLOCK 22 ERECTED ON UNIT NUMBER L4-01 AND L4-02 FORMING PART OF LAND REFERENCE NUMBER 28867/1 LIFESTYLE HEIGHTS

DRAWN BY:

NAOMI & KILEMI
advocates
Advocates . Commissioner for Oaths . Notary Public

Apartment No.7, 3rd Floor
27 Church Road, Off Waiyaki Way
Westlands
P.O Box 2766, 00606,
NAIROBI
info@naomikilemi.co.ke

(REF NKA/028/HBL/04-22C4)

This is the exhibit marked "JO-1" in the affidavit of JABES OKUMU Sworn/affirmed on the 28th day of AUGUST 2023 at NAIROBI

Commissioner for Oaths

AGREEMENT FOR SALE

THIS AGREEMENT FOR SALE (hereinafter "this **Agreement**") is made on 28TH day of JULY 2023.

BETWEEN:

1) **HOME BRIDGE LIMITED** a limited liability company incorporated pursuant to the provisions of the Companies Act, Chapter 486 of the Laws of Kenya (now repealed) under Certificate of Incorporation Number CPR/2014/166403 and whose postal address is Post Office Box Number 12649, 00100 Nairobi in the Republic of Kenya (hereinafter referred to as the "the Vendor" which expression shall where the context so admits includes its successors and permitted assigns)of the first part;

2) **JABES OKUMU** holder of Kenyan National Identity Card Number 33199658 and of Post Office Box Number 83, Sare - Awendo in the Republic aforesaid (hereinafter referred to as "the Purchaser" which expression shall where the context so admits include the Purchaser's Personal Representatives and permitted assigns) of the second part.

WHEREAS: -

A. The Vendor is the registered proprietor as lessee from **TATU CITY LIMITED** of the Property (hereinbelow defined) and more particularly described in the First Schedule to this Agreement together with the buildings, fixtures, fitting, additions and improvements erected thereon.

B. The Vendor is currently in the process of erecting and completing a development on the Property consisting of residential apartments together with pathways, driveways, commercial centre, parking spaces, gardens, playgrounds and other usual amenities known as **Lifestyle Heights** (hereinafter referred to as "**the Estate**") in accordance with the approved building documents which are available for inspection at the site offices on the Property.

C. The Vendor has caused to be incorporated a management company known as **LIFESTYLE HEIGHTS PLC** incorporated under the Companies Act No. 17 of 2015 as Certificate of Incorporation Number PLC/2016/018150 (hereinafter referred to as "**the Management Company**"). The Management Company has a share capital of Kenya Shillings One Million Five Hundred Thousand only (Kshs. 1,500,000/=) divided into One Thousand Five Hundred (1,500) ordinary shares of Kenya Shillings One Thousand (Kshs. 1,000/=) each for the purposes of managing the Estate.

D. The Vendor has agreed to sell and the Purchaser has agreed to purchase One (1) such apartment described as a **Two (2) bed-room Apartment known as C4 on Block 22 on the Fourth (4th) Floor** erected on the Property (hereinafter referred to as "**the Apartment**") together with the right to use one (1) parking space as specifically allocated and marked by the Vendor on site and the Common Areas (hereinafter defined) subject to the terms and conditions more specifically provided herein below.

E. The Apartment is sold together with One (1) Ordinary share in the Management Company

F. The Property is charged to KCB Bank Kenya Limited vide a Charge and Further Charge registered as Number I.R. **179706/2** and **179706/3** respectively and another Charge registered as Number I.R.**180700/2** (hereinafter together referred to as "**the Charge**").

G. The Vendor shall procure a Partial Discharge of Charge of the Apartment to enable the Vendor's Advocates register the Sub-Lease in favour of the Purchaser. On or before sale of the last apartment,

the Vendor shall register a Discharge of Charge over the Property.

H. The Purchaser shall upon registration of the Sub-Lease become a member of the Management Company and shall be entitled to allotment/transfer of one (1) Ordinary share in the Management Company for each Apartment purchased subject to the terms and conditions more specifically provided herein below.

I. Upon the final Sub-Lease of the other Apartments being granted and registered, the Vendor shall transfer the reversionary interest in the Property to the Management Company.

IT IS HEREBY AGREED as follows:

1. DEFINITIONS

1.1. In this Agreement unless the context otherwise requires, the following expressions shall have the following meanings: -

1.1.1. **"Apartment"** means all that Apartment described as a Two (2) bed-room Apartment known as C4 on Block 22 on the Fourth (4th) Floor erected on the Property and the same is more particularly shaded on the Plan;

1.1.2. **"Anticipated Construction Completion Date for the Apartment"** means on or before the 31st day of December 2023;

1.1.3. **"Architect"** means the Party engaged by the Vendor to construct and erect the buildings and develop the Estate on the Property who is qualified and registered as an Architect and whose name has been entered into the Register of Architects and Quantity Surveyors pursuant to the provisions of the Architects and Quantity Surveyors Act, Chapter 525 of the Laws of Kenya;

1.1.4. **"Architect's Certificate of Practical Completion"** means a Certificate issued by the Architect to the effect that in the opinion of the Architect Practical Completion of the Building Works has been achieved;

1.1.5. **"Balance"** means the sum of Kshs. 4,053,000/= (Kenya Shillings Four Million and Fifty-Three Thousand only) to be paid by the Purchaser on or before the Completion Date to the Vendor in accordance with this Agreement;

1.1.6. **"Building Documents"** means (subject to paragraph 4.4. of the Fourth Schedule to this Agreement) the approved building plans, drawings, specifications and other documents relating to the Works pursuant to the Third and Fourth Schedule to this Agreement;

1.1.7. **"Certificate Date"** has the meaning specified in paragraph 7.2 of the Fourth Schedule to this Agreement;

1.1.8. **"Common Areas"** means the commercial centre, pedestrian ways, forecourts, service roads, gardens, entrance halls, landings, staircases, passages and other ways and areas on the Property which are from time to time during the Term provided by the Vendor for the common use by the Purchasers and occupiers of the Estate or persons expressly or by implication authorized by them;

1.1.9. **"Completion"** means successful registration of the Sub-Lease in favour of the Purchaser;

1.1.10. **"Completion Date"** means Ninety (90) days from the date of this Agreement or Thirty (30) days from the date of issue of a Certificate of Practical Completion by the Architect that the building works have been completed on the Property in accordance with the approved drawings which Certificate shall be conclusive evidence that all the works have been so concluded with respect to the Development, whichever shall be later;

1.1.11. **"Day"** means a calendar day;

1.1.12. **"Deposit"** means the sum of Kshs. 2,147,000/= (Kenya Shillings Two Million One Hundred and Forty-Seven Thousand only) paid by the Purchaser to the Vendor on or before the signing of this Agreement;

1.1.13. **"Disbursements"** means the costs and expenses listed in the Second Schedule of this Agreement to be paid by the Purchaser;

1.1.14. **"Estate"** means all the infrastructure, amenities, buildings, and improvements constructed on the Property in accordance with the Building Plans;

1.1.15. **"Interest Rate"** means Five per cent (5%) per annum above the Central Bank of Kenya Rate;

1.1.16. **"LSK Conditions"** means the Law Society of Kenya Conditions of Sale (2015 Edition);

1.1.17. **"Management Company"** means LIFESTYLE HEIGHTS PLC a public company incorporated under the Companies Act No. 17 of 2015, under Certificate of Incorporation Number PLC/2016/018150 in the Republic of Kenya.

1.1.18. **"Plan"** means the building plans registered at the Registry of Documents at Nairobi in Volume..... Folio..... File.....;

1.1.19. **"Property"** means ALL THOSE parcels of land more particularly defined in the First Schedule hereto;

1.1.20. **"Purchaser's Advocates"** means Okoth & Kiplagat Advocates, 2nd Floor, Delta Chambers, Waiyaki Way, Westlands, P.O. Box 9807, 00100 Nairobi;

1.1.21. **"Purchase Price"** means the sum of Kshs. 6,200,000/= (Kenya Shillings Six Million Two Hundred Thousand only);

1.1.22. "Service Charge" means Kshs. 5,000/= (Kenya Shillings Five Thousand only) per month (or such other amount as the Management Company shall prescribe from time to time) payable by the Purchaser being contribution towards the collective account/fund for the use and account of the Management Company in accordance with the provisions of the Sub-Lease;

1.1.23. **"Service Charge Deposit"** means Kshs. 30,000/= (Kenya Shillings Thirty Thousand only) payable by the Purchaser on the Completion Date;

1.1.24. **"Shares"** means ordinary shares of Kenya Shillings One Thousand (Kshs. 1,000/-) each in the capital of the Management Company and the term "Share" shall be construed accordingly;

1.1.25. **"Site"** means Property as described above;

1.1.26. **"Sub-Lease"** means the Sub-Lease to be granted by the Vendor to the Purchaser for the residue of the term of Ninety-Nine (99) years from the 1st day of November 2008 (less the last Sixty (60) days) subject to the payment of the Service Charge;

1.1.27. **"Vendor's Advocates"** means Naomi & Kilemi Advocates, Apartment 7, 3rd Floor, 27 Church Road, off Waiyaki Way and of Post Office Box Number 2766, 00606 Nairobi; and

1.1.28. **"Works"** means the works which are to be carried out on the Property in accordance with the terms of this Agreement and more particularly the Fourth Schedule to this Agreement.

1.2. In this Agreement, unless the context otherwise requires, reference to:

1.2.1. The "Vendor" includes the Vendor's successors and assigns and the "Purchaser" includes the Purchaser's personal representatives/ successors and assigns;

1.2.2. Words importing the singular number only shall include the plural number also and vice versa and words importing the masculine gender includes the feminine gender and neuter and vice versa;

1.2.3. Conditions and Sections shall be construed as referenced to Conditions and Sections of this Agreement;

1.2.4. The expression "person" shall include any legal or neutral person, partnership, trust, company, joint venture, agency, governmental or local authority department or other body (whether corporate or unincorporated);

1.2.5. Any statute or any provision of any statute shall be deemed to refer to any statutory modification or re-enactment thereof and to any statutory instrument, order or regulation made thereunder or under any such re-enactment;

1.2.6. The expression "month" shall mean calendar month;

1.3. In this Agreement, any reference to any document means that document as is supplemented, amended or varied from time to time between the parties thereto in accordance with the terms (if applicable) hereof and thereof;

1.4. Headings to sections are for convenience only and shall not affect the construction or interpretation of this Agreement.

1.5. All references in this Agreement to a statutory provision shall be constructed as including references to all statutory instruments or orders pursuant to a statutory provision and any statutory provisions of which a statutory provision is a consolidation, re-enactment or modification.

2. LSK CONDITIONS

2.1. The sale and purchase of the Apartment is subject to the LSK Conditions which shall be deemed incorporated herein in extenso save in so far as the LSK conditions are not consistent with the provisions of this Agreement, or are varied or excluded by the terms of this Agreement;

2.2. The LSK Conditions shall be varied as follows:

2.2.1. "Interest rate" means the interest rate prescribed in this Agreement; and

2.2.2. Conditions 5, 7.2, 7.3, 8, 13.1.2 and 23 shall not apply to this Agreement.

3. THE WORKS

The Vendor shall procure the carrying out of the Works in accordance with the provisions of the Fourth Schedule to this Agreement.

SALE OF APARTMENT

4.1. The interest sold in the Apartment is leasehold.

4.2. The Apartment is sold with vacant possession on Completion.

4.3. The Purchaser shall not be entitled to vacant possession of the Apartment until the Purchaser has paid the Purchase Price and all other disbursements including the interest (if any) together with the costs as set out in the Second Schedule hereto having been paid in full by the Purchaser.

4.4. The Apartment is sold subject to;

4.4.1. The covenants, terms, conditions, stipulations, restrictions and rights as provided and reserved in the Leases registered as number I.R 179706/1 and 180700/1;

4.4.2. The covenants, terms, conditions, stipulations, restrictions and rights as provided and reserved in the Sub-Lease;

4.4.3. All subsisting easements, quasi-easements and rights of way (if any);

4.4.4. Any provisional liability or assessment for road or sewerage charges on the Property; and

4.4.5. Any amendment or revision of the laws affecting registration of land/property in Kenya

BUT otherwise free from encumbrances

5. PAYMENT OF THE PURCHASE PRICE

5.1. As consideration for the grant of the Sub-Lease and the Share the Purchaser on entering into this Agreement shall pay the Purchase Price as follows;

5.1.1. Prior to the execution of this Agreement the Purchaser paid the Deposit directly to the Vendor (receipt whereof the Vendor hereby acknowledges).

5.1.2. The Balance shall be paid to the Vendor on or before the Completion Date as follows:

5.1.2.1. Kshs. 1,263,000/= (Kenya Shillings One Million Two Hundred and Sixty-Three Thousand only) shall be paid to the Vendor on or before 31st day of July, 2023;

5.1.2.2. Kshs. 1,395,000/= (Kenya Shillings One Million Three Hundred and Ninety-Five Thousand only) shall be paid to the Vendor on or before 30th day of September, 2023;

5.1.2.3. Kshs. 1,395,000/= (Kenya Shillings One Million Three Hundred and Ninety-Five Thousand only) shall be paid to the Vendor on or before the Completion Date.

5.1.3. In the event that any monies due as part of the Purchase Price hereinabove remain unpaid by the Purchaser after the due date for payment, interest at the Interest Rate shall begin to accrue on such outstanding amount until payment in full (both days inclusive).

5.1.4. Unless otherwise specifically advised in writing the proceeds of the Purchase Price shall be directly into the Vendor's bank account (details as follows) or as directed otherwise by Time Gross Settlement (R.T.G.S) or cash and the Purchaser shall avail to the Vendor a cop the remittance advice and/ or banking slip within 48 hours of such banking:

ACCOUNT NAME: HOME BRIDGE LIMITED
ACCOUNT NO: 1165997290
BANK: KCB BANK KENYA LIMITED
BRANCH: SALAMA HOUSE CENTRE
SWIFT CODE: KCBLKENX

5.1.5. Any payments made by ordinary cheque shall be deposited at the Vendor's Advocates of at least Seven (7) working days before the due date and if for whatever reason the Purcha cheque is dishonoured, a penalty of Kenya Shillings Ten Thousand (Kshs. 10,000/-) wi levied to the Purchaser.

5.2. It is agreed by the Purchaser that time shall be of the essence in respect of payments due fron Purchaser.

5.3. The Vendor is hereby authorized to utilize the payments received in the construction of the Est

5.4. The Purchaser understands that some aspects of infrastructure for the overall Estate will be com at the end of construction of the Estate.

6. GRANT OF SUB-LEASE

6.1. The Sub-Lease is exempt from the provisions of the Sectional Properties Act No. 21 of 2020 pu to Regulation 22 (c) of the Sectional Properties Regulation 2021.

6.2. The Sub-Lease shall be in standard form and Purchaser's Advocates undertake to review the sa give their approval within Ten (10) days of receipt of the draft Sub-Lease

7. VALUATION, STAMPING AND REGISTRATION

7.1. The Vendor's Advocates will notify the Purchaser or the Purchaser's Advocates of the issu the Architect's Certificate of Practical Completion for the Apartment and accordingly, Completion Date.

7.2. The valuation, stamping and registration of the Sub-Lease shall be conducted by the V Advocates but at the Purchaser's cost and such valuation, stamping and registration shall c place after the Purchaser has made all the required payments as provided for in the Second S hereto.

7.3. The Vendor is exempt from capital gains tax for purposes of this transaction pursuant to P 3(1) of the Eighth Schedule to the Income Tax Act (Chapter 470 of the Laws of Kenya) and the Capital Gains Tax Exemptions from Kenya Revenue Authority (KRA) shall not form pa Completion Documents herein.

7.4. Stamp duty payable on the Sub-Lease shall be paid to the Vendor's Advocate and the Purch procure that all the other documentation necessary for the registration are provided at leas one (21) days before the Completion Date. Provided that the Vendor's advocates will not c the valuation process until stamp duty is fully paid. Alternatively, where the Purchaser/P Advocates shall be responsible to raise the KRA stamp duty e-slip and pay the stamp duty pa

penalties (if any), the same shall be done seven (7) days of delivery by the Vendor's Advocates of the endorsed Valuation Requisition Form and scanned copy of the endorsed page of the Sub-Lease ("the Endorsed Documents") and the Vendor's Advocates shall ensure that the Endorsed Documents are scanned and sent to the Purchaser's Advocates on the day they are released by the Land Registry.

5. Upon completion, the Vendor's Advocates will deliver the following documents to the Purchasers' Advocates:

7.5.1. The duly registered Partial Discharge of Charge(s) over the Apartment or Discharges of Charge over the Property;
7.5.2. The duly registered original Sub-Lease for the Apartment in favour of the Purchaser or the Purchaser's nominee;
7.5.3. KRA original Stamp duty e-payment slip with appurtenant payment voucher over the Sub-Lease;
7.5.4. A letter from the Management Company confirming that the Share Certificate for the Purchaser's one (1) ordinary share in the Management Company will be issued upon registration of all the Sub-Leases;
7.5.5. Certified copy of the approvals for the Development from Kiambu County Government;
7.5.6. Certified copy of certificate of occupation of the Apartment from the Kiambu County Government;
7.5.7. Certified copy of the NEMA Environmental Impact Assessment Licence for the development;
7.5.8. Certified copy of the booking form for registration of the Sub-lease and Partial Discharge of Charge(s) over the Apartment;
7.5.9. Certified copy of Certificate of Practical Completion;
7.5.10. Certified copy of the valuation report in respect of the Apartment;
7.5.11. Certified copies of the Land Rent and Rates clearance certificates together with the respective payment receipts for the year of Completion in respect to Land Reference Number 28867/1 (Head Title);
7.5.12. The Certified copy of the Leases to the Property containing the endorsement of the Sub-Lease in favour of the Purchaser; and
7.5.13. Certified copies of Certificate of Incorporation and Articles of Association of the Management Company.

PROVIDED THAT if prior to registration of the Partial Discharges and Sub-Lease, the Ministry of Lands (or the relevant Ministry for the time being) issues policies, directives, orders and/or notices as regards the process and mode of registration of the Sub-Lease and as a result of enactment and implementation of such policies, directives, orders and/or notices, the parties are unable to complete this Agreement in the manner contemplated under this Agreement, then it is hereby acknowledged and agreed by the parties that this Agreement shall not be frustrated but be completed in such a manner and within such period of time as is permitted by such policies, directives, orders and or notices and as nearly as possible, *mutatis mutandis* as equates to the manner and time period envisaged under this Agreement.

OSSESSION

1. The Purchaser further hereby expressly confirms that the Purchaser shall not, under any circumstances, be entitled to possession of the Apartment nor receipt of the rents and profits of the Apartment until the Purchase Price together with interest (if any) and all costs and expenses as provided herein shall have been paid in full without any set- off or deduction whatsoever.

2. The Purchaser shall only be entitled to possession of the Apartment upon payment and receipt by the Vendor and/or Management Company of the following costs:

8.2.1. **Kshs. 60,000/= (Kenya Shillings Sixty Thousand only)** being the Service Charge for the twelve (12) Months; and

8.2.2. **Kshs. 30,000/= (Kenya Shillings Thirty Thousand only)** being the Service Charge Deposit.

9. DEVELOPMENT BY THE VENDOR AND DEFECTS LIABILITY

9.1. Development By the Vendor

9.1.1. The Vendor will undertake the Works as detailed in the Building Documents (which are available for inspection by the Purchaser at the Site) and as further provided in the Fourth Schedule hereto.

9.1.2. The Purchaser shall be deemed to have approved and accepted the Building Documents upon execution of this Agreement.

9.1.3. The Vendor hereby covenants and undertakes to complete the Works in accordance with the Building Documents.

9.2. Defects Liability

9.2.1. The Vendor shall not be liable for any damages, loss, costs or expenses, whatsoever o howsoever incurred or suffered by the Purchaser by reason of any defects or other faults which shall appear or occur in the Apartment after six (6) months from Completion or from the dat of taking possession of the Apartment by the Purchaser (whichever is earlier) notwithstandin that the Apartment is newly built.

9.2.2. Any defects or faults appearing or occurring in the Apartment (save for defects or default caused by any act or omission of the Purchaser) within the period provided for in clause 9.2. hereinabove must be notified in writing to the Vendor and shall be rectified by the Vendor at it own cost.

9.2.3. It is hereby agreed and understood that if the Vendor shall not have completed the rectificatio of the said defects or faults to the reasonable satisfaction of the Vendor's Architects within thirt (30) days after receiving a schedule of defects certified by the Architect and delivered to th Vendor then the Purchaser shall be at liberty to rectify the defects himself using the services c workmen approved by the Vendor, and the Vendor shall forthwith on demand reimburse to th Purchaser all costs of rectifying aforesaid defects or faults.

10. SHARE IN THE MANAGEMENT COMPANY

The Purchaser hereby subscribes for an allotment/transfer of the Share and the Vendor shall ensure th the Management Company allots/transfers and issues the Share to the Purchaser.

11. MANAGEMENT COMPANY

11.1. The Estate shall be managed in accordance with the rules and regulations promulgated from tim to time by the Management Company.

11.2. The Purchaser [whether purchasing the Apartment alone or jointly or as tenants in common wit another person(s)] shall be entitled to One (1) share in the Management Company upon th registration of the Sub-Lease in favour of the Purchaser. Provided that, it is hereby agreed by th Purchaser that the share certificate in the Management Company will be issued upon registration all the sub-leases in the Estate.

11.3. The Purchaser may (subject to election by the shareholders) be appointed as director of the Management Company and to remain as such for as long as the Purchaser continues to own the Apartment and or resigns/retires/is disqualified pursuant to the Articles of Association of the Management Company. The Secretary of the Management Company shall in liaison with the Vendor's Advocates procure the filing of the requisite Forms CR6 and CR8 appointing the Purchaser as a director.

11.4. In the event the Purchaser shall be more than one person, then the Purchaser shall subject to clause 11.3 above be entitled to present one of the Purchasers to be appointed a director of the Management Company.

11.5. The Purchaser hereby undertakes and covenants that in the event that the Purchaser shall hereafter sell the Apartment; such sale shall always be subject to the Purchaser also transferring the Purchaser's Share in the Management Company to the new purchaser of the Apartment.

12. REVERSIONARY INTEREST

12.1. The parties agree that the Vendor will sell and transfer the reversion expectant upon and to the Property to the Management Company for the sum of Kenya Shillings Kshs. 10,000 (read Kenya Shillings Ten Thousand) per Apartment within Ninety (90) days of the last of the Sub-Leases being registered to the respective Purchasers of Apartments in the Estate.

12.2. The Vendor hereby covenants with the Purchaser that it shall do all things required and necessary to ensure the reversionary interest is transferred to the Management Company within the said period unless prevented by an event of Force Majeure or other circumstances beyond the control of the Vendor. Provided that in such instances the Vendor shall procure transfer of the Reversionary Interest within such a reasonable period as the circumstances may allow.

13. REPRESENTATIONS

13.1. In the event that the Purchaser elects not to use their own independent advocates/legal advisors for the purposes of this Agreement, and the transactions envisioned herein, the Purchaser hereby confirms that the Purchaser has obtained independent legal advice and that no duty of care shall be implied or imposed on the Vendor's Advocates as towards the Purchaser. The Purchaser further confirms that the Purchaser shall ensure that all legal documents (including the Purchaser's National Identity Card and KRA Pin Certificate) are executed before a licenced Advocate or Notary Public in the country of the Purchaser's residence.

13.2. No agent, adviser or other person acting for the Vendor has at any time prior to the making of this Agreement been authorized by the Vendor to make to the Purchaser or to any agent adviser or other person acting for the Purchaser any representation whatsoever (whether written, oral or implied) in relation to the Estate and/ or the Apartment or to any matter contained or referred to in this Agreement.

13.3. Any statement made in writing by the Vendor's Advocates to the Purchaser's Advocates prior to the making of this Agreement (in reply to an inquiry made in writing by the Purchaser's Advocates) was made with the authority of the Vendor.

13.4. No immaterial error or omission or misstatement in this Agreement or in any plan of the Site or the Apartment referred to in this Agreement or in any statement made by any person prior to the making of this greement shall in any way affect the obligations of the parties under this Agreement or entitle any party to damages or compensation.

14. RESTRICTION ON ASSIGNMENT

14.1. The Purchaser shall not transfer or assign this Agreement without the written consent of the Vendor (provided that such consent shall not be withheld unreasonably).

14.2. The Purchaser agrees that consent to assign their interest in the Apartment shall only be granted upon:-

14.2.1. Payment of Purchase Price together with any other monies due and owing in this Agreement; and

14.2.2. The assignment agreement providing that the assignee shall be bound by the provisions of this Agreement and to perform and observe all the obligations on the part of the Purchaser contained in this Agreement which remain to be performed and observed.

14.3. Subject to clause 14.2 hereinabove, it is hereby agreed that the Purchaser shall pay handling costs of Kshs. 20,000/= plus VAT in respect to the Assignment Agreement.

15. NOTICES

15.1. In this Clause:

15.1.1. The "Vendor's Address" means the address of the Vendor shown on the first page of this agreement or such other address as the Vendor may from time to time, notify to the Purchaser as being its address for service for the purpose of this agreement.

15.1.2. The "Purchaser's Address" means the address of the Purchaser shown on the first page of this agreement or such other address as the Purchaser may from time to time notify to the Vendor as being its address for service for the purpose of this agreement.

15.1.3. Any notice or other communication given or made in accordance with this Agreement shall be in writing and:

15.1.3.1. may (in addition to any other effective mode of service) be sent by registered or recorded delivery post. It is agreed between the parties that any notice posted shall be deemed to have been received Seven (7) days after its posting.

15.1.3.2. shall (in the case of a notice or other communication to the Vendor (but subject to clause 15.1.3.1.) be served on the Vendor at the Vendor's Address; and

15.1.3.3. shall (in the case of a notice or other communication to the Purchaser (but subject to clause 15.1.3.2.) be served on the Purchaser at the Purchaser's Address.

15.2. Notice given to one of the Purchasers shall be notice to all the Co-purchasers.

15.3. Any notice or other communication given or made in accordance with this Agreement.

15.3.1. by or to the Vendor may be given or made by or to the Vendor's Advocates on behalf of the Vendor.

15.3.2. By or to the Purchase may be given or made by or to the Purchaser's Advocates on behalf of the Purchaser.

16. FORCE MAJEURE

16.1. Neither the Vendor nor the Purchaser shall be liable in respect of any delay in performing, failure to perform or failure to adequately perform any of its obligations hereunder (other than the obligations of the parties to make payment to each other in accordance with this Agreement) in consequence of any act, cause or event which (i) was not within the control of the affected party, (ii) was not caused or precipitated by such party's negligence, and (iii) could not have been prevented by the affected party's reasonable diligence, including without limitation;

16.1.1. any act of God;
16.1.2. any war or hostilities (whether war be declared or not);
16.1.3. any sabotage, riots or other act of civil disobedience, civil commotion rebellion, act of a public enemy or invasions.
16.1.4. any judicial actions, strikes, lockouts, industrial disputes or actions of any such nature;
16.1.5. any actions or inactions of any government or agency or subdivision thereof;
16.1.6. any act of terror;
16.1.7. any storms, floods or other inclement weather, earthquakes, subsidence epidemics, pandemics save for Covid-19 which both Parties are aware of and have anticipated its effect vis a vis their obligations under this Agreement or other natural physical disasters; and
16.1.8. fire, accident, explosion, or shortage of labour.

16.2. The party affected by any of the circumstances referred to in this clause (the 'Force Majeure Event(s)") shall promptly notify the other party (the "Force Majeure Notice") when such circumstances cause a delay in performance, failure in performance or failure in adequate performance and when they cease so to do. If such circumstances continue for more than six (6) months after the date of the Force Majeure Notice, either party may terminate this Agreement by notice and both parties shall thereafter be discharged from its/his/her/their obligations under this Agreement. The parties shall as much as possible be restituted to their original position *ante*.

17. NON MERGER

17.1. Subject to all the provisions of this Agreement (including without limitation the provisions of the Fourth schedule) the terms and conditions herein shall (to the extent that they remain to be observed and performed) continue in full force and effect notwithstanding completion of the Sub-Lease. For the avoidance of doubt it is hereby agreed by and between the parties hereto that the terms and conditions shall not merge on completion of the sale and purchase of the Apartment;

17.2. No defect in the Works or the Property at the date on which the Sub-Lease is granted shall in any way lessen or affect the obligations of the Purchaser under the Sub-Lease.

18. USE OF THE APARTMENT

18.1. The Purchaser, their family members, employees, guests, agents shall not: -

18.1.1. obstruct or carry out any activity in the Common Areas that may prejudicially interfere with or cause damage or annoyance to the purchasers or occupiers of other Apartments in the Estate.

18.1.2. keep and/or throw dirt, rubbish, rags or other refuse or permit the same to be thrown into or on any part in the Estate and undertakes to dispose all waste, rubbish, refuse in designated areas.

18.1.3. erect any additional units, structures and/or extensions on the Common Area and the Purchaser shall be held wholly liable for the costs of pulling down any unauthorized structures.

18.1.4. use or permit the Apartment to be used for any purpose other than as a private residenc or in any manner which may be a nuisance to the owners or occupiers of any apartmer in the Estate or be detrimental to the reputation of the Estate as a highclass estate.

18.1.5. make any structural alterations in or addition to the Apartment, not to damage the floor walls or timbers and not to overload the floors, and undertakes not to change the extern colour or decoration of the Apartment nor to erect any fence or partition surrounding th Apartment.

18.1.6. Affix, exhibit or paint any plate, name or notice of a trade, profession or business c entrance doors of the Apartment or near any of the said doors and shall not exhibit in ar window or upon any external part of the Apartment any trade, professional or busine notice or advertisement whatsoever.

18.1.7. use the Apartment or permit it to be used for any purpose of an illegal, immoral improper nature that may be detrimental to the reputation of the Estate as a highcl estate.

18.1.8. use the roof of the Apartment in any manner whatsoever or hang or permit to be hang any washing or affix external radio or television aerials except at the place or area designated.

18.1.9. not use any kerosene stoves or charcoal burners in the Apartment or the Estate undertake any act or omission which may cause a public nuisance or interference with environment such as noise or chemical or smoke pollution.

18.2. The Purchaser shall ensure that the Apartment is at all times neat and tidy so as to preserve aesthetic beauty of the Estate.

19. ENTIRE UNDERSTANDING

19.1. This Agreement embodies the entire understanding of the parties and there are no ot arrangements between the parties relating to the subject matter of this Agreement.

19.2. No amendments or modification of this Agreement shall be valid or binding on any party unless same:

19.2.1. is made in writing
19.2.2. refers expressly to this Agreement; and
19.2.3. is signed by both parties or their duly authorized Representatives.

19.3. Subject to clause 19.2 hereinabove, it is hereby agreed that the party requesting for the amendm or modifications to this Agreement shall pay to the Vendor's Advocates legal fees of Kshs. 20,00 plus VAT in the respect to each Variation Agreement and or the Addendum to this Agreement

19.4. Upon registration of the Sub-Lease if there shall be any inconsistency between the provisions of Agreement and the provisions of the Sub-Lease, the provisions of the Sub-Lease shall prevail.

20. EXECUTORY AGREEMENT

20.1. This Agreement is an executory agreement only and shall not operate nor be deemed to op as Sub-Lease of the Apartment.

20.2. The Purchaser shall not be entitled to occupation or possession of the Apartment until the entire Purchase Price has been paid in full.

21. NEW LAND LAWS

21.1. If prior to registration of the Sub-Lease the Land Act and/ or the Land Registration Act or any other Bill of Parliament relating to Land generally are enacted and fully implemented ("the New Land Laws") and as a result of such enactment and implementation the parties are unable to complete this Agreement in the manner contemplated under this Agreement, then it is hereby acknowledged and agreed by the parties that;

21.1.1. This Agreement shall not be frustrated;

21.1.2. This Agreement shall be completed in such a manner and within such period of time as is permitted by the New Land Laws and as nearly as possible, *mutatis mutandis* as equates to the manner and time period envisaged under this Agreement; and

21.1.3. The Vendor shall, at the cost of the Purchaser, grant to the Purchaser such right, title and interest to the Apartment as permitted by the New Land Laws and as nearly as possible, *mutatis mutandis* as equates to the interest intended to be granted pursuant to this Agreement.

22. ANTI-MONEY LAUNDERING

22.1. The Purchaser confirms that the moneys employed to pay for the Purchase Price and other moneys due from the Purchaser under this Agreement are not and shall not be from the proceeds of crime.

22.2. The Purchaser shall, within seven (7) days from the date of issuance of written request by the Vendor, avail to the Vendor such information or documents as may be reasonably required by the Vendor in connection with due diligence as to the identity of the Purchaser (or persons whom it represents) and source of funds.

22.3. Failure by the Purchaser to adhere to the provisions of this clause shall be treated as a material breach of the provisions of this Agreement and shall entitle the Vendor, without prejudice to any other rights or remedies that the Vendor may have, to terminate this Agreement forthwith by issuance of written notice to that effect to the Purchaser and confiscate all monies paid by the Purchaser to the Vendor and submit such monies to the relevant Government Authorities.

23. INSURANCE

The Vendor shall insure the Apartment against damage and destruction by fire and other risks up to and including the completion date and thereafter the obligation to insure the Apartment will be the responsibility of the Purchaser. If the Apartment shall be damaged or destroyed before the Completion Date, and the Vendor is unable to commence reconstruction within Six (6) months after investigation and compensation by its insurance, the Purchaser may rescind this Agreement by notice in writing to the Vendor in which event the Vendor shall refund to the Purchaser all monies paid by the Purchaser on account of the Purchase Price and other unutilized completion costs.

4. DATA PROTECTION

The parties hereby agree and consent to: -

24.1. the collection, use, processing and transfer of certain personal information about themselves (hereinafter the "Data");

24.2. any transfer of Data for the purposes of drafting the legal documents and registration of th Sub-Lease;

24.3. the use, processing and transfer of the Data to the Vendor's Advocates, employees consultants, Ministry of Lands and Companies Registry officials (where applicable), Keny Revenue Authority or other competent authority for the implementation of the terms of thi Agreement;

24.4. the use, processing and transfer of the Data in fulfilment of any legal obligations under th laws of the Republic of Kenya or directive of any competent authority;

24.5. the transfer and retention of the Data by third parties in connection with the aforesai purposes; and

24.6. for purposes of this Clause, the term "Data" means the parties' names, date of birth or da of incorporation (as applicable), gender, postal address, physical office and home addres identification details and documentation, telephone number(s), email address, tax or oth identification numbers, and any other general personal information that may be provided t the Advocates.

SPECIAL CONDITIONS

1. Profits (if any) and outgoings (if any) shall be apportioned between the parties from Completion possession (whichever is earlier) PROVIDED THAT the portion payable by the Purchaser as a who shall be one over all the apartments in the Estate of the total of such outgoings.

2. In the event the transaction herein shall not be completed on the Completion Date due to the defa of the Purchaser or if the Purchaser fails to make payment of any of the amounts on the due dates:

2.1. The Vendor shall be entitled to serve a notice in writing upon the Purchaser to make su payment in full within twenty-one (21) days from the date upon which such notice is served the Purchaser. If the Purchaser shall fail to make such payment and the interest accrued there before the expiry of the said notice then the Vendor shall be entitled at its sole discretion eith to:-

2.1.1. extend such period for payment or

2.1.2. rescind this Agreement by notice in writing in that behalf to the Purchaser.

2.2. In the event the Vendor shall extend the time for payment, the Purchaser shall pay the Vend interest on any unpaid Balance under this Agreement at the Interest Rate computed from t date such payment is due until the date of payment in full both days inclusive and for t avoidance of doubt, the Purchaser hereby agrees that such interest shall automatically st accruing immediately any payment which is due is not paid on the due date whether or no formal demand has been made.

2.3. In the event the Vendor shall rescind this Agreement as aforesaid then Ten Percent (10%) of Purchase Price shall be forfeited by the Purchaser to the Vendor as agreed liquidated dama and the other payments (if any) paid by the Purchaser to the Vendor (less the fees due to Vendor's Advocate which shall be payable by the Purchaser for such failed transaction) shall refunded to the Purchaser without interest thereon within sixty (60) days after the Vendor has sold the Apartment to another purchaser and has received payment in full from such purcha Thereafter this Agreement shall then absolutely terminate PROVIDED THAT if the Ven shall incur a loss on the resale of the Apartment then the Purchaser shall pay to the Vendo

damages the amount of such loss together with any expenses incurred by the Vendor in respect of the resale.

3. In the event the transaction herein shall not completed on the Completion Date due to a default by the Vendor, the Purchaser shall be entitled to serve a notice on the Vendor requiring the Vendor to remedy the breach within twenty-one (21) days from the date upon which such notice is served on the Vendor. If the Vendor shall fail to make good the breach before the expiry of the said notice with the Purchaser having complied with his obligations under this Agreement and being ready, able and willing to complete the transaction on the Completion Date), the Vendor shall refund to the Purchaser all monies paid to the Vendor on account of the Purchase Price without interest within Twenty One (21) days of the rescission and on refund, this Agreement shall terminate and neither Party shall then have a claim against the other. Upon rescission of this Agreement by the Purchaser, the Vendor's Advocates shall also refund to the Purchaser all other amounts paid to them towards the closing costs less VAT and apportioned disbursements.

4. Notwithstanding Completion, this Agreement shall continue to remain in force until all the parties' obligations have been performed and the transactions envisaged herein are fully completed.

5. If any term or condition of this Agreement shall to any extent be found or held to be invalid or unenforceable, the parties shall negotiate in good faith to amend such term or condition of this Agreement so as to be valid and enforceable. In the event that the parties do not reach an agreement in this regard, the affected term or condition of this Agreement shall to that extent be invalid or unenforceable. The remainder of this Agreement shall not be affected, and every other term and condition shall be valid and enforceable to the fullest extent permitted by law.

6. Risk of the Apartment shall pass to the Purchaser on Completion notwithstanding that the Purchaser may not have taken possession of the Apartment **PROVIDED** that if the Purchaser is granted possession or access (albeit limited access) prior to Completion for any reason whatsoever, including being allowed to commence with fitting out of the Apartment, then Risk shall pass to the Purchaser on that earlier date that limited access/possession is granted.

7. If any dispute, difference or questions shall arise whether during continuance of this Agreement or upon or after its determination between the parties hereto touching or concerning this Agreement or as to any other matter in any way connected with or arising out of or in relation to the subject matter of this Agreement such dispute, difference or question whatsoever shall be referred to one arbitrator under the rules of the Chartered Institute of Arbitrators of the United Kingdom, Kenya Branch or any statutory modification or re-enactment for the time being in force, such arbitrator to be appointed by agreement of both parties and in the absence of agreement within fourteen (14) days of the notification of the dispute by either party to the other then on the application of any one party by the Chairman of the Chartered Institute of Arbitrators (Kenya Branch). The language to be used in the arbitral proceedings shall be English. The proceedings shall take place in Nairobi. The decision of such arbitrator shall be final and binding on the parties hereto and so far as the law permits, not subject to appeal. Notwithstanding the foregoing, a party is entitled to seek preliminary injunctive relief or interim conservatory measures from any court of competent jurisdiction pending the final decision or award of the arbitrator.

This Agreement shall be governed by the Laws of Kenya

FIRST SCHEDULE

THE PROPERTY

FIRSTLY, all that Unit Number L4-01 measuring 10 Acres (40,468.56 square meters) or thereabout whic said Unit is for purposes of identification marked on the Plan registered at the Registry of Documents Nairobi in Volume D1 Folio 229/3204 and File MMXVI being a portion of Precinct 4B-2 as more particular described on the Plan registered at the Registry of Documents at Nairobi in Volume D1 Folio 83/857 and F MMXVI and thereon marked 4B-2 forming part of Land Reference Number 28867/1, being the Premis comprised in a Lease registered at the Land Titles Registry at Nairobi aforesaid as number I.R. 179706/1 a held by the Vendor for the residue now unexpired term of Ninety Nine (99) Years from the First day November Two Thousand and Eight (less the last Thirty (30) days thereof) Subject to the performance a observance of the covenants, conditions contained in the said Lease and to the Acts, special Conditio Encumbrances and other matters specified in the Memorandum hereunder written.

MEMORANDUM

a. The Government Lands Act (Chapter 280 of the Laws of Kenya) (now repealed);
b. The Registration of Titles Act (Chapter 281 of the Laws of Kenya) (now repealed);
c. The Land Act (No.6 of 2012);
d. The Land Registration Act (No. 3 of 2012);
e. The special conditions contained in a Grant registered as Number I.R. 137858/1; and
f. The Provisions of the Lease registered as Number I.R. 179706/1

SECONDLY, all that Unit Number L4-02 measuring Twenty (20) Acres (80,937.13 square meter thereabout which said Unit is for purposes of identification marked on the Plan registered at the Regist Documents at Nairobi in Volume D1 Folio 246/3147 and File MMXVI being a portion of Precinct 4B more particularly described on the Plan registered at the Registry of Documents at Nairobi in Volume D1 83/857 and File MMXVI and thereon marked 4B-2 forming part of Land Reference Number 28867/1, the Premises comprised in a Lease registered at the Land Titles Registry at Nairobi aforesaid as numbe 180700/1 and held by the Vendor for the residue now unexpired term of Ninety Nine (99) Years fro First day of November Two Thousand and Eight (less the last Thirty (30) days thereof) Subject t performance and observance of the covenants, conditions contained in the said Lease and to the Acts, s Conditions, Encumbrances and other matters specified in the Memorandum hereunder written.

MEMORANDUM

a. The Government Lands Act (Chapter 280 of the Laws of Kenya) (now repealed);
b. The Registration of Titles Act (Chapter 281 of the Laws of Kenya) (now repealed);
c. The Land Act (no.6 of 2012);
d. The Land Registration Act (no. 3 of 2012);
e. The special conditions contained in a Grant registered as Number I.R. 137858/1; and
f. The Provisions of the Lease registered as Number I.R. 180700/1

SECOND SCHEDULE

1. All costs for preparation of this Agreement and completion and registration of the Sub-Lease incurred by the Vendor including Vendor's advocate costs, stamp duties, registration fees, copying charges, outgoings and incidentals shall be paid by the Purchaser upon execution of this Agreement.

2. The Purchaser agrees and acknowledges that they shall not be entitled to the duly executed and stamped counterpart of this Agreement until and unless the Purchaser has settled the Vendor's Advocates legal fees and disbursements.

3. Legal fees and disbursements shall accrue and be due and payable on or before execution hereof and the payment cheque shall be submitted to the Vendor's Advocates together with the duly executed Agreement for Sale as follows;

i) Legal Fees for: Preparation of Agreement for Sale, Sub-Lease, and Transfer of Reversionary Interest, registration of the Sub-Lease, and incorporation and allotment/ transfer of shares in the Management Company inclusive of VAT (subject to any amendments in Value Added Tax Act Cap 476 of the Laws of Kenya)	Kshs.	69,600/=
ii) Other disbursements including but not limited to Bank charges, Registration of plans, valuation expenses (for purposes of stamp duty), registration expenses for the Sub-Lease and Transfer of Reversionary interest, cost of Purchase of reversionary interest plus duties, Cost of purchase of a share in the Management Company, Secretarial expenses for allotment of shares, stamp duty and register of members.	Kshs.	53,500/=
Total	**Kshs.**	**123,100/=**

4. Other transactional expenses shall be payable upon valuation and assessment by the Ministry of Lands and the remittances shall be made directly to the Vendor's Advocates or as may be directed as follows;

iii) Approximate Stamp Duty @ 4% of the Purchase Price (subject to valuation and final assessment)	Kshs.	248,040/=

5. Other expenses for maintenance of the Apartment shall be payable on or before the Completion date and the remittances shall be made directly to the Management Company or as may be directed as follows:

iv) Service charge for the first twelve (12) months	Kshs.	60,000/=
v) Service charge deposit (equivalent to service charge for six (6) months)	Kshs.	30,000/=
TOTAL	**Kshs.**	90,000/=

6. Expenses for connection of utilities to the Apartment shall be payable on or before handover of possession of the Apartment and the remittances shall be made directly to the Vendor or as may be directed as follows:

i)	Cost of installation of water and Electricity to the Apartment.	Kshs.	40,000/=

THIRD SCHEDULE

BUILDING DOCUMENTS

The approved plans and drawings shall be available for inspection by the Purchaser at the Vendor's Site Office during Working Hours upon prior appointment.

FOURTH SCHEDULE

Provisions relating to the works

1. DEFINITION AND INTERPRETATION

In this schedule:

1.1. Words and expressions defined in paragraph 1 of this Agreement and in the other paragraph of this schedule have the meanings specified.

1.2. "**Building Contract**" means the contract made between the Vendor and the Contractor.

1.3. "**Contractor**" means the person appointed by the Vendor to carry out the Works

1.4. Any reference to a paragraph or paragraphs is a reference to the relevant paragraph c paragraphs of this schedule

1.5. Any reference to the "**Architect**" shall have the same meaning as in the Building Documen and clause 1.1.3 of this Agreement.

2. APPROVALS

2.1. "**Planning Permission**" means the detailed planning permission for the carrying out of th Works.

2.2. "**Approvals**" means (subject to paragraph 2.4.) below the Planning Permission and all oth approvals, consents, permissions and licences of any local or other competent authority approvals given by the Architect which may from time to time be necessary to enable th Vendor lawfully to commence and to carry out the Works and each and every stage or pha of the Works and (if the same are destroyed or damaged) to reinstate the Works and "Approva shall be construed accordingly.

2.3. The Vendor shall:

2.3.1. use all reasonable endeavours to obtain all Approvals which are from time to tir necessary;

2.3.2 use all reasonable endeavours to procure that none of the Approvals is revoked a that all Approvals continue in full force and effect;

2.3.3 pay all fees costs and expenses of and incidental to the matters referred to in th paragraph;

2.4. "Approvals" shall be construed as referring to the Approvals as from time to time varied relaxed or waived.

3. MATERIALS

3.1 If the Architect certifies that any of the materials referred to in the Building Documents are not or will not be procurable within a reasonable time then the Vendor may in carrying out the Works substitute for them such alternative materials as the Architect may in his certificate specify as being the material which (of those readily available) most closely resemble and of the quality of the materials referred to in the Building Documents at the contracted cost thereof.

3.2. Notwithstanding anything to the contrary contained or implied elsewhere in this Agreement the Vendor undertakes that no material or substance not in accordance with good current building practice shall be used or incorporated in the Works.

3.3. Save for what is stated in the Recital hereof, the Vendor has made no other representation to the Purchaser regarding the Apartment or the Estate or the layout the construction, the finishes, the quality or with regard to any other matter or aspect of the Apartment or the Estate.

4. VARIATIONS

4.1. "**Variations**" means any amendment to or departure from the Building Documents and the details of the Works contained in them (whether by way of alteration addition or omission)

4.2. "**Unacceptable Variation**" means any Variation which would substantially alter the design layout, nature, capacity or standard of construction of the Apartment as provided for in the Building Documents or prejudice the use of the Apartment for the purpose specified in the Sub-Lease.

4.3. "**Permitted Variation**" means

4.3.1 any Variation which is not an Unacceptable Variation and which is required by any local or other competent authority either as a condition of the grant or continuance in force of any Approval or in consequence of any variation relaxation or waiver of any approval;

4.3.2 any Variations to the interior of the Apartment suggested by the purchaser provided that the changes do not affect the exterior of the Apartment and the changes are approved by the Architect in accordance with a set down procedure which will include the additional costs for such variation; and

4.3.3. any Variation made in accordance with paragraph 4.1. and 4.5. and any other Variation which is not Unacceptable Variation and which is proposed by the Architect and "Permitted Variations" shall be construed accordingly.

4.4. References in this schedule to "Building Documents" shall be construed as referring to the Building Documents as may from time to time be varied by any Permitted Variations.

4.5. The Vendor may from time to time make variations to the design, layout or position of the Apartment and other Apartments in the Estate due to the need to preserve existing trees.

4.6. In all matters relating to the carrying out of the works and finishes workmanship and in authorizing any necessary or other variations the decision of the Vendor's architect shall be final PROVIDED THAT there shall be no variation which would alter the design, layout,

capacity or standard of construction of the Estate (including the Apartment) as provided for in the architect's plan which would adversely affect the user of the Estate (including the Apartment). Upon the Vendor's architect issuing a certificate of practical completion the Vendor shall be deemed to have carried out its obligations as far as the works are concerned in full and the Purchaser shall (save as provided elsewhere in this Agreement) have no claims for any alleged faulty, defective or incomplete work save and except for any defects for which the building contractor engaged by the Vendor to carry out building and construction works may be liable to the Vendor under the building contract (and only to the extent therein provided) between the Vendor and the building contractor.

5. CARRYING OUT WORKS

5.1. The Vendor shall commence the Works as soon as all necessary Approvals have been obtained to enable the Vendor lawfully to commence the Works and shall subsequently at its own expense diligently carry out and complete the works;

5.1.1 in a good and workmanlike manner and with sound materials of their respective kinds;
5.1.2. in accordance with the terms of all Approvals and otherwise in compliance with all Restrictions;
5.1.3. in accordance with the Building Documents; and
5.1.4. otherwise in accordance with the provisions of this schedule

5.2. The Vendor shall:

5.2.1 pay and indemnify the Purchaser against all fees charges and other payments whatever which may at any time be payable to any local or other competent authority in respect of the carrying out of the Works;

5.2.2. be answerable for and indemnify the Purchaser against all actions costs claims demands and liability whatever in relation to any failure by the Vendor to comply with its obligation under clause 5.1 of this Schedule.

5.2.3. be answerable for and indemnify the Purchaser against all actions costs claims demands and liability whatever in relation to any interference caused by the Works with any rights of light or air or other rights or easements whatever enjoyed over or in respect of the Site by the owners or occupiers of any property adjoining or in the neighborhood of the Site or by any statutory undertaker.

6. TIME FOR COMPLETION OF WORKS

6.1. "**Delaying Factor**" means any circumstances beyond the control of the Vendor or its Contractor for the Works which the Vendor or its Contractor could not have prevented or avoided.

6.2. "**Estimated Completion Date**" means **31st December, 2023** or such earlier or later date as may be permitted pursuant to the provisions of paragraph 6.5 herein.

6.3. Subject to the provisions of paragraph 6.4. the Vendor shall use all reasonable endeavours to carry out the Works to such a stage as would entitle the Architect to issue a certificate in respect of all the Works pursuant to the Building Contract not later than the Estimated Completion Date.

6.4. If on one or more occasions the carrying out of the Works is delayed and the delay is notified to the Vendor and to the Purchaser by the Architect as being in the Architect's opinion

attributable to any Delaying Factor then on each such occasion the Vendor shall be allowed such extension of time for carrying out the Works as may be determined in accordance with paragraph 6.5. and the date by which the Vendor is required to carry out the Works as provided in paragraph 6.2 shall be postponed accordingly.

6.5. The period of such extension shall be such (if any) as shall be certified by the Architect as being reasonable having regard to the delay in question.

7. PRACTICAL COMPLETION

7.1. "**Certificate of Practical Completion ("Certificate")**" means a certificate by and in the reasonable and proper opinion of the Architect to the effect that in the opinion of the Architect Practical Completion of the Works has been achieved (and "Practical Completion" shall for the purposes of this agreement have the same meaning as in the Building Contract)

7.2. "**Certificate Date**" means the date on which the Certificate is issued.

7.3. "**Plant**" means all plant machinery and equipment installed or to be installed in respect of the borehole (if any) to be sunk at the Site.

7.4. "**Maintenance Contracts**" means contracts with any third parties relating to the inspecting servicing repair or maintenance of any items of Plant.

7.5. "**Guarantee**" means written guarantees or warranties given or offered by the manufacturers, suppliers or installers of any items of Plant or other items or other items incorporated in the Works.

7.6. The Vendor shall procure the issue of a Certificate as soon as in the opinion of the Architect a Certificate may properly be issued.

7.7. The Vendor shall procure that not later than the Certificate Date.

7.7.1 all items of Plant installed are in good working order and (where applicable) operate to the relevant design specification mentioned in the Building Documents; and

7.7.2 all water electricity and drainage services to the Apartment as provided for in the Building Documents are fully operational.

7.7.3. all water and electricity services are connected to the Apartment.

IN WITNESS WHEREOF the parties hereto have hereunto set out their respective hands the day and year first hereinbefore written:

SEALED WITH THE COMMON SEAL)
OF THE VENDOR)
In the presence of: -)
)
)
)
)
)
)
)
)
)
)

DIRECTOR

DIRECTOR/SECRETARY

Evelyn K. Kilemi
Advocate & Commissioner for Oaths
Admission No: P.105/8794/11
Practice No: LSK/2023/02595
P. O. Box 2766 - 00606, Nairobi

ADVOCATE

I CERTIFY that PETER MURAGE KAROKI a Director and DAINAH KARIUKO MURAGE another Director of the Vendor herein appeared before me and duly signed and affixed the Company Seal on this Agreement voluntarily in my presence.

Name of Advocate:
Address:
Signature:

Evelyn K. Kilemi
Advocate & Commissioner for Oaths
Admission No: P.105/8794/11
Practice No: LSK/2023/02595
P. O. Box 2766 - 00606, Nairobi

ADVOCATE

SIGNED by JABES OKUMU
As Purchaser

In the presence of

Advocate J. A. ORIEMA OKOTH
ADVOCATE
P. O. Box 12056 - 00100 G.P.O.
NAIROBI.

I CERTIFY that JABES OKUMU being the Purchaser herein appeared before me and duly signed this Agreement in my presence.

Name of Advocate: J. A. ORIEMA OKOTH
ADVOCATE
Address: P. O. Box 12056 - 00100 G.P.O.
NAIROBI
Signature:
ADVOCATE

DRAWN BY:
Naomi & Kilemi Advocates
Apartment Number 7, 3rd Floor
27Church Road, Off Waiyaki Way
Westlands
P.O. Box 2766, 00606
NAIROBI

OMA-LAW

OLLANDO, MISARE & ASSOCIATES LLP,
ADVOCATES

CRIMINAL & CIVIL LITIGATION | CONVEYANCING | COMMERCIAL TRANSACTIONS | IMMIGRATIC
LEGAL COMPLIANCE AUDITS | LABOR & EMPLOYMENT LAW | TAX CONSULTAN

Our Ref:
OMA/NAI/JO/CONV/01/22
Your Ref: TBA

7th December, 2022

JABES OKUMU
0700865722
NAIROBI.

This is the exhibit marked "JO-2"
In the affidavit of JABES OKUMU
Sworn/affirmed on the 28th day of AUGUST
20 23 at NAIROBI

Commissioner for Oaths

Dear Sir,

RE: LETTER OF ENGAGEMENT WITH REGARDS TO CONVEYANCING OF 2 BED-ROOMED APARTMENT NUMBER A7 ON BLOCK 22 ON SEVENTH FLOOR ERECTED ON UNIT NUMBERS L4-01 AND L4-02 ON PRECINCT 4B-2 FORMING PART OF LAND REFERENCE NUMBER 28867/1 LIFESTYLE HEIGHTS, IN TATU CITY, KIAMBU COUNTY

We refer to the above matter

We are glad to confirm that the Firm of OLLANDO, MISARE & ASSOCIATES has agreed to represent JABES OKUMU (*"the Client"*) with regards to conveyancing over the property known as Lifestyle Heights, Tatu City situated in Kiambu County;

1. Services to be rendered.

a. To conduct site visit and determine the fitness for purpose;

b. To carry out searches to ascertain the legal status of the ownership of the property;

c. To prepare and/or review the sale/purchase agreement;

legal@omalaw.co.ke

d. To obtain all necessary consents on behalf of the client

e. To obtain the requisite conveyance documents from the vendor on behalf of the client;

f. Keep the Client fully appraised of the progress;

g. Carry out all such other instructions as the Client may from time-to-time issue;

2. Personnel Responsible for Your Matter

We confirm that the undersigned shall be the Partner responsible for the work carried out by **OLLANDO, MISARE & ASSOCIATES** as contemplated by this engagement. In doing so he will be assisted by one of the lawyers in the Firm, **Amos Ochieng' Otieno.**

3. Time frames

We shall undertake the above assignment expeditiously and in accordance with the timeframes provided by your counterparts and by statute.

Please note that where the matter is filed in court, we cannot guarantee the timelines within which it will be concluded as we have no control over the court diary.

4. Legal Fees, Disbursements and Filing Fees

a) Legal Fees

The legal fees shall be KSHs 100,000 exclusive of taxes, disbursements and Court fees as shall be raised by the firm from time to time.

b) Disbursements Costs.

The Firm will charge provisional disbursements of 20,000 exclusive of VAT, at the commencement of the instructions payable on the signing of this Letter of Engagement. The said sum payable under this limb shall cover, among others, the following;

i. Correspondences with the Vendor and/or their advocate.
ii. Transport and fuel costs to site visit and meetings.
iii. Conducting searches at the land registry.
iv. Services fees.
v. Disbursements including printing, photocopies and other costs

c) Selling Price.

The Firm undertakes to receive and handle the selling price as directed by the client. The same shall be payable to the Firm Accounts Provided below and in three equal sums of KES. 2,000,0000.

5. Contact persons

It is agreed that the contact person for OLLANDO, MISARE & ASSOCIATES shall be as hereunder;

Name:	WILLIES OLOO MISARE
Position:	Managing Partner
Email Address:	misare@omaadvocates.com
Telephone:	0722926323
Assisted by;	

OMA-LAW
OLLANDO, MISARE & ASSOCIATES LLP,
ADVOCATES

CRIMINAL & CIVIL LITIGATION | CONVEYANCING | COMMERCIAL TRANSACTIONS | IMMIGRATION | LEGAL COMPLIANCE AUDITS | LABOR & EMPLOYMENT LAW | TAX CONSULTANCY

Name:	AMOS OCHIENG' OTIENO
Position:	Associate
Email Address:	amos@oma-law.com
Contact:	0718679808

It is agreed that the contact person for the Client shall be as hereunder

Name:	JABES OKUMU
Email Address:	jabeskm@gmail.com
Telephone:	0700865722

6. Default.

The parties have agreed that the client shall settle the agreed fees as set out in clause 2 above and any delay or default will attract compound interest charged on the outstanding balance at the rate of 2% per month.

7. Client Satisfaction

If you have any queries or concerns, please do not hesitate to contact the undersigned.

8. Acceptance of Terms

Please confirm that the above terms of engagement are acceptable to you. Acceptance shall be either by email, message, conduct and/or signing of this letter.

.....

OMA-LAW
OLLANDO, MISARE & ASSOCIATES LLP,
ADVOCATES

CRIMINAL & CIVIL LITIGATION I CONVEYANCING I COMMERCIAL TRANSACTIONS I IMMIGRATION I
LEGAL COMPLIANCE AUDITS I LABOR & EMPLOYMENT LAW I TAX CONSULTANCY

Thank you for the opportunity to be of service.

We look forward to working with you.

Yours Faithfully,

OMA LAW LLP
OLLANDO, MISARE & ASSOCIATES LLP ADVOCATES
07 DEC 2022
legal@omadvocates.com

WILLIES OLOO MISARE
OLLANDO, MISARE & ASSOCIATES
misare@omadvocates.com

APPLICATION FOR FUNDS TRANSFER

EQUIT

Date 07/12/2022

Please effect on my/our behalf: ☐ EFT ☐ Internal Transfer ☐ SWIFT Transfer ☐ RTGS ☐ International Money Transfer (IMT)

CUSTOMER'S DETAILS

Customer's name JABES OKUMU Mobile No. 0700865722

Postal address 83-40405 SAKE Physical address LIFESTYLE HEIGHTS, TATU

Email JAHBESKM @ GMAIL.COM

Account No. 1130172617659 Currency KES

Amount in figures 2000.000 Amount in words TWO million kenya shillings

BENEFICIARY'S DETAILS

Beneficiary's name WILLIES OLOO MIGARE

Account No. / IBAN 0757202001

Bank DIAMOND TRUST BANK Branch RIVAAN CENTER

Country KENYA Physical address RIVAAN CENTER

For international transfer's as applicable:

SWIFT Code _____ SORT / Bank Code _____ FED WIRE NO. _____

Beneficiary's Mobile No. [For IMT] _____ Beneficiary's email address. [For IMT] _____

Intermediary bank [if applicable] _____

Payment details: [Invoice No./Bill No./Student No./etc] OMA/NAI/JO/CONV/1/2022

Purpose of remittance Purchase of House at Lifestyle Heights, Tatu City

ADDITIONAL TRANSACTION DETAILS

Foreign bank charges to be paid by: [ ] Myself/Ourselves [ ] Beneficiary [ ] Shared

Exchange Rate _____ Ticket No. _____ cheque No. _____

In the event of Electronic funds Transfer, it is understood that the transfer is sent at the customer's risk and that the bank shall not be held liable for a error, delay or commission which may occur in the transmission of the message or from its misinterpretation when received. I/We undertake to pay a charges incurred for repetition or elucidation of the message if this occurs. I / We understand that we may be required to provide further information / documentation in support of the transaction herein and I / We confirm that the information and documentation provided to the Bank is correct and accurate to the best of my/our knowledge.

EQUITY BANK (KENYA) LIMITED CHEQUE 07 DEC 2022 RECEIVED KENYATTA UNIVERSITY BRANCH

Customer[s]'s ID No. 33199658

Customer[s]'s Signature [signature]

EQUITY BANK (KENYA) LTD. KENYATTA UNIVERSITY BRANCH Signature Verified Sign: Date:

FOR OFFICIAL USE

Need call back? No [ ] YES [ ] Phone No. _____ Talked to

Comments/call back by [signature]

Transaction No. _____

Support documents obtained: Yes ☐ No. ☐

Branch: Input by _____ Verified by _____

HO SWIFT: Verifier _____ Authoriser _____

This is the exbihit marked "JO-3"

In the affidavit of JABES OKUMU

Sworn/affirmed on the 28th day of AUGUST

20 23 at NAIROBI

Commissioner for Oaths

STP 070

PESALINK TRANSFER RECEIPT

Easy . Affordable . Instant .

Transaction Date: 10-Jan-2023	Reference No: 00680063202301101601145085247O
Beneficiary Account No: ****302001	Sender Account No: *******617659
Beneficiary: WILLIES OLOO MISARE	Sender: JABES OKUMU
Beneficiary Bank: DIAMOND TRUST BANK	Sender Bank: EQUITY BANK
Transaction Amount: 230,000	Transaction time: 16:01
Remarks: Pesalink Transfer	

Disclaimer

You transfer is successful and the beneficiary's account will be credited. However, this does not serve as confirmation of credit into the beneficiary's account. Pesalink is not liable for malfunctions in communications facilities not within its control that may affect the accuracy or timeliness of messages and transactions you send. All transactions are subject to verification and our normal fraud checks.

This is the exhibit marked "JO-3"
in the affidavit of JABES OKUMU
sworn/affirmed on the 28th day of AUGUST
20 23 at NAIROBI

Commissioner for Oaths

KCB SALAMA HOUSE Date 2023/03/13

Bounced

CHEQUE DEPOSIT

NAME HOME BRIDGE LIMITED

BENEFICIARY BRANCH Salama House A/C: 1185997029

PAID IN BY WILLIES OLOO REF F08204F2D2D64516AB56

Drawer	Chq No.	TT No.	Bank			Amount
0757302001	000012	TTN23072YLFK	DIAMOND TRUST BANK	Bazaar Centre	01	520,000.00

IMPORTANT: Totals: 520,000.00

CHEQUES WILL BE GIVEN VALUE WHEN PAID.

KINDLY CONFIRM THAT ALL CHEQUES HAVE BEEN CAPTURED CORRECTLY

Teller Sign Customer Sign

Transaction Number F08204F2D2D64516AB56

22-A7

Thank you for banking with us. You have been served by Nyamongo Kevin Nyabuti

* * * Advice not valid unless Transaction Number shown * * *

KCB BANK KENYA LTD. TELLER No.2 13 MAR 2023 PAID/RECEIVED SALAMA HOUSE, NAIROBI.

BANK KCB

PAP 1064 Beam Version 11 (Revised Jan 2017)

This is the exhibit marked "JO-4"

In the affidavit of JADES OKUMU

Sworn/affirmed on the 28th day of AUGUST

20 23 at NAIROBI

Commissioner for Oaths

NAOMI & KILEMI ADVOCATES
TEL: 0724 [illegible]
RECEIVED
27 JUL 2023
RECEIVED BY TIME

OKOTH & KIPLAGAT
ADVOCATES

Our Ref: 13:15:097:001
Your Ref: TBA

6th July, 2023

NAOMI & KILEMI ADVOCATES
Apartment Number 7
Gate Number 27 along Church Road
Off Waiyaki Way, Westlands,
P.O.BOX 46160- 00100
NAIROBI.

Dear Madam,

RE: CHANGE IN PURCHASER'S LEGAL REPRESENTATION IN SALE AND PURCHASE OF 2 BEDROOMED APARTMENT NUMBER A7 ON BLOCK 22 ON SEVENTH FLOOR ERECTED ON UNIT NUMBERS L4-01 AND L4-02 ON PRECINCT 4B-2 FORMING PART OF LAND REFERENCE NUMBER 28867/1 LIFESTYLE HEIGHTS, IN TATU CITY, KIAMBU COUNTY.

We are writing to formally notify you of a recent change in the Purchaser's representation regarding the above transaction. Kindly note that, as of 6th July, 2023, our firm, **Okoth& Kiplagat Advocates,** has been appointed as the new Purchaser's Advocates for **JABES OKUMU**. We have taken over from the previous advocates and will now be representing the purchaser's interests in this matter moving forward.

In light of this change, we kindly request that all future correspondences, communications, and legal documents related to the aforementioned conveyance be directed to our attention. We request you to update your records accordingly and address all further communication to:

OKOTH & KIPLAGAT ADVOCATES
DELTA CHAMBERS
2nd FLOOR, Waiyaki Way
P.O BOX 9807-00100
NAIROBI
Tel: +254 722 363136
Mob: +254789102226
Email: mail@kiplagat.com

This is the exbihit marked "JO – 5"
In the affidavit of JABES OKUMU
Sworn/affirmed on the 28th day of AUGUST
20 23 at NAIROBI

Commissioner for Oaths

We will review the existing documentation and acquaint ourselves with the details of the conveyancing as quickly as possible. In this regard we would appreciate to have the draft sale agreement for our review/approval.

Thank you for your attention to this matter, and we look forward to working with you in the best interests of our respective clients.

Yours faithfully,
OKOTH & KIPLAGAT ADVOCATES

CATHERINE WANJEHIA
catherine@kiplagat.com

CC: Client

OKOTH & KIPLAGAT
ADVOCATES

J. A. O Okoth
okoth@kiplagat.com

Our Ref: 13.15.097.001
Your Ref: TBA

13th July, 2023

OLLANDO,MISARE & ASSOCIATES LLP
ADVOCATES
JAMII BORA TOWERS, 3rd FLOOR
KILIMANI COMMERCIAL CENTRE
P.O.BOX 22604-00505
NAIROBI.

This is the exhibit marked "JO-6"
In the affidavit of JABES OKUMU
Sworn/affirmed on the 28th day of AUGUST
20 23 at NAIROBI
Commissioner for Oaths

Attn: WILLIES OLOO MISARE

Dear Sirs,

RE: DEMAND FOR PAYMENT OF MONIES OWED TO JABES OKUMU IN THE SUM OF KSHS. TWO MILLION, TWO HUNDRED AND THIRTY THOUSAND (KSH 2. 230,000)

We act for **JABES OKUMU** (herein referred to as "**our client**") on whose instructions we address you as follows:

On or about 1st December, 2022, our client sought legal representation from your firm regarding a conveyancing transaction involving a Two Bedroom Apartment, Number C4 on Block 22, 4th Floor, located at Unit Number L4-02 on Precinct 4B-2, forming part of the Land Reference No. 28867/1 Lifestyle Heights, in Tatu City, Kiambu County. Your firm confirmed instructions to act and issued our client with a Letter of Engagement dated 7th December 2022, in the aforementioned conveyancing transaction.

In furtherance of the said brief and in line with your instructions to our client, a sum of Two Million Shillings **[Kshs. 2,000,000]** was transferred from our client's Equity Bank account to your account through a Bank Transfer on 7th December 2022, details whereof are known to you. This amount was intended to cover the first installment payment necessary for the conveyancing transaction, including the initial 10% of the purchase price. Our client reasonably expected that you would timely transmit the said funds to the vendors. This has never happened to date, long past the due dates of such transmission.

Additionally, on 10th January 2023, our client made a further deposit of Kshs.230,000/- to your account through a PesaLink Bank Transfer (details whereof are known to you) which amount was meant to be the payment of the Vendor's Advocate's fees as indicated

OMA LLP
OLLANDO, MISARE & ASSOCIATES LLP ADVOCATES
18 JUL 2023
RECIEVED
Sign

Bruce House, 12th Floor, Standard Street
P.O. Box 9807 00100 Nairobi,
T: (+254-20) 2241922 (Pilot) | F: (+254-20) 2241949

in the Agreement for Sale. Regrettably, you failed to remit this amount to the vendor's Advocate's and to date, they have not received the said funds.
It is our further instructions that you have on several occasions, promised to make payment of the funds due, but you have repeatedly failed to honour your word to remit the monies owed to our client, call him back or arrange a physical meeting with him. Instead, you issued a bounced cheque dated 13th March 2023 in the sum of **Kshs. 520,000** in purported part payment of the due amount. This is despite our client's repeated reminders and requests for updates on the status of these payments.

Your failure to fulfill your professional duties to our client, as well as the lack of communication and disregard for your financial obligations, constitute a violation of your fiduciary duty as an advocate. Consequently, our client has experienced significant distress and financial hardship resulting from your actions.

In light of the above unfortunate circumstances, we have been instructed to demand from you, which we hereby do, immediate payment of the outstanding amount, currently standing at **Kshs. 2,230,000/-**. We demand that you make the full payment within 14 days from the date of this letter failure to which, our client shall take precipitate actions in order to recover the owed amount. Also, note that we have instructions to lodge a formal complaint against you with the Advocates Disciplinary Tribunal if you fail to timely accede to our client's demand.

Please note to channel all future communications regarding this matter through our firm.

Be notified accordingly!

Your Faithfully,
OKOTH & KIPLAGAT ADVOCATES

CATHERINE WANJEHIA
catherine@kiplagat.com

Cc: Client

Our Ref: 13.15.097.001
Your Ref: TBA

8th August, 2023

OLLANDO,MISARE & ASSOCIATES LLP
ADVOCATES
Suite 5.2, Fifth Floor,
Jadala Place,
Ngong Road,
NAIROBI.

This is the exhibit marked "JO-7"
In the affidavit of JABES OKUMU
Sworn/affirmed on the 28th day of AUGUST
20 23 at NAIROBI
Commissioner for Oaths

Attn: WILLIES OLOO MISARE

Dear Sirs,

RE: DEMAND FOR PAYMENT OF MONIES OWED TO JABES OKUMU IN THE SUM OF KSHS. TWO MILLION, TWO HUNDRED AND THIRTY THOUSAND (2, 230,000)

We write further to our letter dated 11th July, 2023 and the meeting at our offices held on 27th July 2023. We write to express deep disappointment over your failure to honor the commitment you made to provide a formal proposal for the reimbursement of funds owed to our client, which has now been overdue for several months.

During the meeting, you promised to provide us with a written payment plan that would address our client's dues. However, despite your assurance during the meeting, when you displayed a genuine commitment to resolving this matter promptly, we have yet to receive any communication from your end regarding the fulfillment of your pledge.

This delay in honoring your own commitment to us, as advocates has had a significant negative impression of your sincerity in your pledges.

It was our belief that we could settle this matter amicably, but it is clear that you do not have a genuine intention to resolve it in a timely manner. Our instructions is to proceed to the Advocates Disciplinary Tribunal which we shall do, without further reference to yourself.

You will not say we did not accommodate you.

Your Faithfully,
OKOTH & KIPLAGAT ADVOCATES

CATHERINE WANJEHIA
catherine@kiplagat.com

Cc: Client

OMA LAW LLP
OLLANDO, M SARE & ASSOCIATES LLP ADVOCATES
17 AUG 2023
RECIEVED
Sign:

This is the exhibit marked "JO-8"
In the affidavit of JABES OKUMU
Sworn/affirmed on the 23rd day of AUGUST
20 23 at NAIROBI

Commissioner for Oaths

OMA-LAW
OLLANDO, MISARE & ASSOCIATES, LLP
ADVOCATES
PARTNERING FOR PRACTICAL LEGAL SOLUTIONS

CRIMINAL & CIVIL LITIGATION | CONVEYANCING | COMMERCIAL TRANSACTIONS | IMMIGRATION | LEGAL COMPLIANCE AUDITS | LABOR & EMPLOYMENT LAW | TAX CONSULTANCY

Our Ref: OMA/NRB/O&K/01/23

3rd, August, 2023

Your Ref: 13.15.097.001

OKOTH & KIPLAGAT
ADVOCATES
RECEIVED
09 AUG 2023
BY:
TIME: 13:53 PM
SERIAL No:

Okoth & Kiplagat
Delta Chambers
Waiyaki Way
P.O Box 9807-00100 GPO
NAIROBI
mail@kiplagat.com

ATTN; Catherine Wanjehia,

RE: DEMAND FOR PAYMENT OF MONIES OWED TO JABES OKUMU

We refer to the above captioned, your referenced letter and to our meeting at your chambers on the 3rd Instant.

As agreed, we are to pursue alternative means of availing these funds through passing on a transaction to another firm while we pursue the very delicate matters between our firm, the DCI, the BFID and the KRA, which matters have dragged on and in a manner that has since crippled our operations as a firm.

As further agreed, we will by the 10th of September, 2023 make the first payment, or the complete payment of the claimed sums as we bank on the earlier mentioned transaction going through.

We are of the firm belief that we can as colleagues find an amicable way out that ensures the clients interests are fully covered, without any escalations.

We thank you for your indulgence.

Yours Faithfully,

OMA LAW LLP
OLLANDO, MISARE & ASSOCIATES LLP ADVOCATES
02 AUG 2023

MISARE WILLIES
misare@oma-law.com
+254 722 926 323
MANAGING PARTNER