

## EMPLOYEE CAR PURCHASE LOAN AGREEMENT

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_ 2003

### BETWEEN:

\_\_\_\_\_ of Post Office Box Number \_\_\_\_\_, Nairobi, Kenya (hereinafter the "Borrower" which expression includes his personal representatives and assigns) of the one part; and

**XXXXXXXX KENYA LIMITED** a limited liability company incorporated in Kenya whose postal address is care of Post Office Box Number KKKK Nairobi, Kenya (hereinafter the "Lender" which expression shall include its successors and assigns) of the other part.

### WHEREAS:

A The Borrower is employed by the Lender as an administrator.

B The Borrower has identified and wishes to purchase a motor vehicle (hereinafter the "Vehicle") for his personal use and wishes the Lender to assist him in the purchase of the same subject to the terms hereof.

C The Borrower has requested the Lender to make advances to him by way of a loan facility for a total sum not exceeding at any time the aggregate sum of Kenya Shillings \_\_\_\_\_ (KShs. \_\_\_\_\_) (hereinafter the "Loan") for purposes of purchasing the Vehicle

D The Lender has agreed to make the Loan available to the Borrower and the Borrower has agreed to take the Loan for purposes of purchasing the Vehicle subject to the terms and conditions hereinafter contained.

### NOW IT IS HEREBY AGREED as follows: -

In consideration of the Loan by the Lender (receipt of which the Borrower hereby acknowledges) the Borrower hereby agrees:

To strictly utilise the Loan for the purpose of purchasing the Vehicle and not for any other purpose;

Within one (1) week of the purchase of the Vehicle:

To deposit the original log-book and other title documents of the Vehicle with the Lender;

1.2.2 To sign a transfer form for the Vehicle left blank as to the transferee and deposit the same with the Lender;

In further consideration for the Loan and until repayment in full of the same the Borrower shall:

- 2.1 Take out and maintain a comprehensive insurance cover for the Vehicle to the full insurable value thereof in the joint names of the Borrower and the Lender with a reputable insurance company;
- 2.2 Take good care of the Vehicle keep it in repair and procure that the provisions and conditions of any policy of insurance relating thereto are observed;
- 2.3 Take out and maintain at all times the requisite licences required for the Vehicle by any relevant authority;
- 2.4 Not take out the Vehicle or permit it to be taken out of Kenya without the prior written consent of the Lender;
- 2.5 Immediately produce the Vehicle's original insurance policy and all the requisite licences relating thereto upon demand by the Lender and to avail copies of all such documents to the Lender immediately upon receipt of the originals;
- 2.6 Execute a Power of Attorney in favour of the Lender empowering the Lender to sell the Vehicle in the event of the determination of the Borrower's employment prior to the full repayment of the Loan together with interest thereon and to transfer good title to the Vehicle to any third party purchaser for value.

The parties hereby agree that:

- 3.1 The Loan shall attract interest at the rate of \_\_\_\_\_ per cent (\_\_\_\_\_% ) per annum such interest to accrue from day to day until repayment of the Loan in full;
- 3.2 The Borrower shall commence repayment of the Loan on the \_\_\_\_\_ day of \_\_\_\_\_ XXXXX
- 3.3 The Loan shall be repayable by the Borrower over a period of \_\_\_\_\_ (\_\_\_\_\_) years from the commencement of such repayment in equal monthly installments of Kenya Shillings \_\_\_\_\_ (KShs. \_\_\_\_\_) or such other period as may be agreed by the parties in writing.
- 3.4 The monthly repayment installments of the Loan together with interest thereon shall be deducted from the Borrower's monthly salary by the Lender until the Loan has been fully discharged and the Borrower hereby authorises the Lender to do so.
- 3.5 The Lender shall at all times retain possession of the log-book, the duly executed transfer and all other title documents of the Vehicle until repayment of the Loan

together with interest thereon in full by the Borrower however all liability risk and responsibility for the Vehicle shall at all times be the Borrower's and not the Lender.

4. 4.1 The parties further agree that should the Borrower's employment with the Lender determine anytime after the commencement of this Agreement but prior to the Borrower fully discharging the Loan together with interest thereon the Borrower shall immediately discharge any such amounts due at the date of such determination.

4.2 In the event the Borrower is unable to discharge the remainder of the Loan together with interest thereon outstanding at the date of the determination of his employment with the Lender as aforesaid the Borrower hereby agrees that the Lender shall have the right to repossess and sell the Vehicle to any willing third parties at the prevailing market price.

4.3 In pursuance of sub-clause 4.2 if the Borrower is unable to discharge the remainder of the Loan together with interest thereon upon the determination of his employment the Borrower hereby undertakes and agrees to immediately deliver the Vehicle in good order and condition to the Lender;

4.4 Should the net proceeds of the sale of the Vehicle pursuant to clause 4.2 exceed the balance of the Loan together with interest outstanding to the Lender the excess shall be paid to the Borrower;

4.5 The Borrower hereby agrees and confirms that he shall execute and perform or procure the execution and performance of such other acts deeds documents and things as may be necessary for the Lender to sell the Vehicle in pursuance of clause 4.2.

5. The Borrower hereby warrants and undertakes to the Lender that:

5.1 The Borrower shall not dispose of or attempt to dispose of the Vehicle or otherwise encumber the same without the prior written consent of the Lender;

5.2 In the event of an accident involving the Vehicle the Borrower shall procure that the insurance moneys received from its insurer is used first to repay the outstanding amount of the Loan together with interest due to the Lender;

5.3 In the event the Borrower is unable to repay any part of the Loan together with interest thereon during the continuance of his employment for any reason whatsoever the Lender may at its discretion require the Borrower to deliver the Vehicle to the Lender who shall be entitled to sell the Vehicle to any willing third parties at the prevailing market price and use the sales proceeds to settle the outstanding moneys due from the Borrower. In such case the provisions of sub-clause 4.4 shall apply.

6. In the event that the Lender exercises its right of sale under clause 4.2 the Borrower shall pay to the Lender interest on the amount of the Loan outstanding together with any interest accrued at the prevailing market rate until repayment in full of the outstanding amount such interest to accrue from day to day.

7. For the avoidance of doubt it is hereby agreed that the Borrower shall reimburse the Lender on demand all expenses including legal fees incurred by the Lender in connection with the enforcement or preservation of any of the Lender's rights under this Agreement.
8. The Borrower may not assign or transfer all or any of his rights, benefits or obligations hereunder without the prior written consent of the Lender.
9. This Agreement contains the entire agreement between the parties and replaces all previous correspondence undertakings and warranties whether written or oral and may not be varied except in writing.
10. If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this agreement and the enforceability of the remainder of this agreement shall not be affected.
11. Any dispute difference or question which may arise between the parties to this Agreement or any of them touching upon the construction of this Agreement shall be referred to the decision of a single arbitrator to be agreed between the parties or in default of agreement within fourteen (14) days to be appointed at the request of either of the parties by the chairman for the time being of the Institute of Chartered Arbitrators – Kenya Branch in accordance with and subject to the provisions of the Arbitration Act (Cap 49 Laws of Kenya) or any statutory modification or re-enactment thereof for the time being in force.
12. This Agreement shall be governed and interpreted in all respects in accordance with the Laws of Kenya.

