

AGREEMENT FOR SALE OF LAND ASSETS & BUSINESS – ASLAB – CP182

AN AGREEMENT made the _____ day of _____ Two Thousand between _____ of Post Office Box Number _____ Kenya of the first part (hereinafter called “the Vendor” which expression includes its successors and assigns) and _____ of Post Office Box Number _____ Kenya of the second part (hereinafter called “the Purchaser” which expression includes its successors and assigns):

WHEREAS:

The Vendor is the owner of the land set out in the First Schedule **TOGETHER WITH** the buildings and improvements erected thereon set out in the second Schedule (the land and the improvements being together called “the Land”).

The Vendor carries on business on the Land as _____ (hereinafter called “the Business”).

The Purchaser wishes to purchase the Land and to take over the Business and the Vendor has agreed to sell the Land and to permit the take over of the Business.

The Vendor is the owner of certain assets presently situate on the Land, which assets are set out in the Third Schedule (hereinafter called “the Assets”).

The Purchaser wishes to purchase and the Vendor has agreed to sell the Assets.

NOW IT IS HEREBY AGREED as follows: -

The Vendor agrees to sell and the Purchaser agrees to purchase the Land and the Assets and to take over the Business.

The consideration for the purchase of the Land and the Assets is Kenya Shillings

(hereinafter called “the Consideration”). A deposit of Kenya Shillings _____ has been paid to _____ as stakeholders. The balance of the Consideration shall be paid as follows:

Instalments of Kenya Shillings _____ a month together with interest thereon; the first payment to be made on _____ 2000.

Interest at the rate of _____ % per annum shall be paid on the reducing balance of the Consideration;

If the Purchaser fails to pay any instalment or any other amount due under this Agreement on the due date or fails to perform its obligations or breaks any term or condition of this Agreement, the balance of the Consideration together with interest to the date of default shall immediately become due and payable by the Purchaser and in addition the Vendor may exercise any statutory or other power of sale exercisable by it under the mortgage referred to in Clause 5 hereunder without any further notice or application to the Purchaser.

Notwithstanding the provisions of this clause the Purchaser may at any time without notice to the Vendor in addition to the instalments set out above make payments in reduction or in discharge of the Consideration.

The Consideration is allocated as follows:

For the Land the sum of Kenya Shillings

For the Assets the sum of Kenya Shillings

(a) Save as set out hereunder the Purchaser shall be entitled to the possession of the Land and the Assets on the _____ day of _____ 2000 (hereinafter called "the Takeover Date") on which date the risk and profit in the Land and Assets shall pass to it including the income and expenses of the Business **PROVIDED THAT** until the full Consideration and interest due in terms hereof has been paid in full the Purchaser may not sell, assign, lease, charge or otherwise part with the possession or ownership of the Land or Assets without the prior written consent of the Vendor.

All rates and Land Rent shall as from the Takeover Date be borne by the Purchaser, the same to be apportioned on the Takeover Date.

Notwithstanding completion and registration of the Transfer in favour of the Purchaser as hereinafter provided the terms and conditions of this Agreement and the Charge shall remain in full force and effect until the obligations of the Purchaser have been fully satisfied. Condition 28 of the 1974 Law Society Conditions of Sale referred to hereunder does not apply to this Agreement.

After the Takeover Date the Land will be transferred to the Purchaser simultaneously with the registration of a charge by way of a first legal mortgage in favour of the Vendor in a form required by the Vendor (hereinafter called "the Charge").

6. (a) Until the Consideration and interest due thereon has been paid in full the purchaser shall insure the Assets against all risks including without limitation destruction or damage by fire for their full replacement value with an Insurance company and under a policy or policies approved by the Vendor; and

The Purchaser shall promptly and timously pay all premiums due in terms of the said insurance policy or policies and will on demand by the Vendor produce the said insurance policy or policies for inspection together with all receipts for premiums:

Upon default by the Purchaser in effecting such insurance or in producing the said policies or receipts the Vendor may insure the Assets and the amount so expended shall be repayable by the Purchaser on demand and be forthwith recoverable by action;

All monies received under the aforesaid insurance policy or policies prior tot he payment in full by the Purchaser of the Consideration and the interest due thereon shall be applied at the Vendor's option in replacing what was destroyed damaged or stolen or in paying the Vendor the balance of the Consideration and interest due thereon:

The Purchaser will note the Vendor's interest on the aforesaid insurance policy or policies and shall produce confirmation from the respective insurance company or companies when requested that the Vendor's interest have been so noted.

7. (a) Until the Consideration and any interest due thereon has been paid in full the purchaser agrees to maintain and keep the building s and improvements and the Assets in good order and repair:

The Vendor is entitled to access to the land for the purposes of inspecting the said improvements and Assets and in the event of any breach of the provisions of this clause may remedy the same and claim repayment upon demand from the Purchaser of all monies expended in terms hereof.

The Vendor warrants that save for the Assets which are specifically stated in the Third Schedule as being subject to a

leasehire agreement the remainder of the Assets belong to the Vendor and are its sole and absolute property and are not yet subject to any encumbrance hire purchase agreement or lien.

The Sale is subject to the 1974 Law Society Conditions of Sale in so far as they are not inconsistent with the conditions contained in this agreement or specifically excluded as follows: -

Condition No. 6 (7) of the said Law Society Conditions of Sale is excluded:

The aforesaid Law Society Conditions of Sale are hereby amended as follows: -

Condition 2(1) relating to interest is amended by deleting the figure "8%" and substituting the figure " % " ;

Condition 4(1) is amended by deleting the words "on completion" and substituting "on the Takeover Date" at the beginning of the said Condition; and

Condition 25(1) is amended by deleting the word "reasonable" in the second line thereof.

The title deeds of the Land shall be retained by the Vendor until the Consideration and any interest due thereon has been paid in full.

10. (a) The Land is sold subject to: -

all existing easements, quasi-easements and rights of way (if any);

the Act, reservations stipulations, restrictions and conditions contained or implied in the titled deeds of the Land.

The Vendor has made no representations nor given any warranties as to any restrictions relating to the Land and is not responsible nor liable for damages in the event that it transpires that there are restrictions or permission is required before transfer of the Land can be effected.

The Purchaser agrees that it has been afforded full opportunity to satisfy itself as to the condition of the Land and to inspect the documents of title to the land and that no covenants as to title have been given by the Vendor.

Any condition or warranty whatsoever as to the Condition of the Assets and their fitness for any purpose is hereby excluded.

12. (a) Save as set out hereunder at the Takeover Date the Vendor will dismiss all the staff and labour presently employed by it in the Business:

The Vendor shall be responsible for all salary, wages, accrued leave, severance pay and other terminal benefits which have accrued in respect of the aforesaid staff and labour.

Upon signature of this agreement the parties will sign the required notice in terms of the Transfer of Businesses Act (Cap. 500).

Each party shall bear its own costs and disbursements in connection with the preparation approval and completion of this Agreement. The Purchaser shall bear and pay all costs of the Vendor of and in connection with the preparation and registration of the Charge to secure the balance of the Consideration and all other sums and amounts due in terms of this Agreement.

This Agreement contains the whole agreement between the parties and the Purchaser acknowledges that no representations or promises contrary to its terms have been made to the Purchaser or are outstanding at date of execution of this agreement.

Any notice required to be served hereunder is properly served on the other party if delivered or sent by prepaid registered post to the address at the beginning of this Agreement and any notice sent by post shall be deemed served 5 days after posting and proof of posting shall be proof of service.

IN WITNESS whereof the parties have affixed their Common Seals on the day month and year first herein written.

FIRST SCHEDULE

The Land

SECOND SCHEDULE

Buildings and improvements.

THIRD SCHEDULE

Assets

SEALED with the Common Seal of)
LIMITED in the presence of : -)
)
)
)
Director)
)
)
Director / Secretary)

SEALED with the Common Seal of)

LIMITED in the presence of : -)
)
)
)
 Director)
)
)
 Director / Secretary)

Drawn By:-