

Dated the ____ 2003

.....

-and-

.....

DEED OF TRUST

Establishing

..... CENTRE

THIS TRUST DEED is made this _____ day of _____ 2003

BY:

(1) of Post Office Box, Nairobi,

(2)

(together called the "Trustees" which expression shall where the context so admits include the trustee or trustees for the time being hereof whether original or substituted and their respective successors)

WHEREAS: -

(A) The Trustees wish to carry out certain initiatives for the benefit and welfare of destitute and poor girls by establishing a centre for rescue to be a home to cater for them and provide quality education where they can excel in education and character development together with such other initiatives as the Trustees may from time to time decide.

As from the date of execution of this Deed the Trustees wish to establish in Kenya an irrevocable

trust and to this end the Trustees wish to declare certain trusts concerning the sum of Kenya Shillings One Thousand (KShs. 1,000) already held by them.

It is anticipated that further cash and property will hereafter be given devised or bequeathed to the Trustees by other persons corporations or organisations to be held by the Trustees upon the charitable trusts hereinafter declared.

NOW THIS DEED WITNESSES as follows: -

DEFINITION AND INTERPRETATION

In this Deed where the context so admits the expressions hereinbefore defined shall have the meanings thereby assigned to them respectively and in addition: -

"Board" shall mean the board constituted by the Trustees upon the commencement of the Trust to oversee the management of the Trust and the Trust Fund;

"Deed" shall mean this instrument in writing signed under seal by the parties hereto in the presence of an independent witness and dated;

"Deserving Girl-Child (-ren)" includes a poor and needy girl of Kenyan citizenry who is between the ages of twelve (12) and eighteen (18) years and/ or still requiring secondary education belonging to any race tribe caste or religion;

"Management Committee" shall mean a committee appointed by the Trustees comprising of such members as provided by sub-clause 6.1(a) and such other members as appointed by the Trustees from time to time to be responsible for the day to day affairs and management of the Trust;

"Objects" shall mean the objects and purposes of the Trust as declared and stated in Clause 2 below;

"Trust" shall mean an irrevocable public charitable trust to be known as ".....CENTRE" with the Objects provided under Clause 2;

"Trust Fund" shall mean the said sum of Kenya Shillings One Thousand (KShs. 1,000) and such further moneys investments or other property as may during the continuance of the trusts hereby created be added thereto by the Trustees or any other persons corporations or organisations all accumulations of income lawfully made and the moneys investments or other property for the time being representing the same and held by the Trustees subject to the trusts hereof.

CHARITABLE TRUST

The Trustees hereby declare they hold the sum of Kenya Shillings One Thousand (KShs. 1,000) upon trust for the Objects hereafter specified **AND** it is the contemplation of the Trustees that funds and or assets may in the future be paid or transferred to them to be held upon the same trusts subject to the following terms and conditions:

2.1 NAME

The Trust shall be called ".....".

2.2 REGISTERED OFFICE

The registered office of the Trust will initially be situated in Kenya at the premises of, Nairobi provided always that the Trustees shall be at liberty to move the registered office.

2.3 OBJECTS AND PURPOSES OF THE TRUST

The Trustees shall hold the Trust Fund upon trust for the following public charitable purposes:

The relief of needy girl-children through the promotion of education and the well-being of the Deserving Girl-Children; and

The promotion and advancement of education and the establishment and maintenance of schools or centres for the provision of quality education and character development with particular reference to the benefit of the Deserving Girl-Children of Kenya.

2.4 The Trust shall be non-political.

THE TRUST FUND

The Trustees shall hold the capital and income of the Trust Fund upon the following irrevocable trusts:

- 3.1 Upon trust only for such purposes directed solely towards the advancement of the Objects of the Trust, as the Trustees may from time to time in their absolute discretion think fit and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, remuneration or otherwise howsoever by way of profit to the Trustees.
- 3.2 Upon trust to pay over appoint appropriate or apply for the benefit of and at any time the whole or any part of the capital or income of the Trust Fund to one or more of the Deserving Girl-Children (whether or not to the exclusion of the others) of this Trust as the Trustees in their absolute discretion may think fit;
- 3.3 Upon trust to hold any income appropriated to a Deserving Girl-Child (-ren) under the provisions of the preceding sub-clause and to pay or apply the same to or for the benefit of such Deserving Girl-Child (-ren) with power to declare such other trusts in respect of the same (without infringing any rule against perpetuities applicable hereto) for the benefit of such Deserving Girl-Child (-ren) as the Trustees may in their absolute discretion determine including such discretionary trusts and powers exercisable by such persons as the Trustees shall in their like discretion determine;
- 3.4 Notwithstanding the trusts aforesaid the Trustees may (but only so far as the law shall permit) at their absolute discretion accumulate and capitalise the whole or any part or parts of the income of the Trust Fund by investing the same in any of the investments hereby authorised and so that any such investments shall be an accretion to the capital of the Trust Fund and be held upon the same trusts as the Trust Fund and as one fund therewith for all purposes;
- 3.5 The Trustees may at any time or times by deed extinguish or restrict the future exercise of the power of accumulating income conferred by sub-clause 3.4;
- 3.6 **PROVIDED** that nothing herein contained shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or employee of the Trust, in return for any services actually rendered to the Trust, nor prevent the payment of interest on money lent or reasonable and proper rent for premises demised or let by the Trust. **PROVIDED** further that nothing hereinbefore contained shall prevent any payment to the Trustees of all expenses properly incurred by them in the course of their duties as Trustees.
- 3.7 Nothing hereinbefore contained shall prevent any payment to any company of which a Trustee, officer or employee of the Trust may be a director, member, or shareholder, and such person shall not be bound to account for any share of profits he may receive in respect

of such payment **PROVIDED** that prior to such payment a declaration of that person's interest is made to all Trustees.

4 THE BOARD OF TRUSTEES

There shall be a Board, which shall be constituted and its meetings regulated in accordance with the following provisions:

4.1 CONSTITUTION OF THE BOARD

The Board shall initially comprise of the seven (7) Trustees. There shall be not less than five (5) and not more than ten (10) trustees of the Trust.

4.2 DURATION OF OFFICE

The Trustees shall serve as trustees for a term of three (3) consecutive years each and unless previously disqualified shall be eligible for re-appointment.

4.3 OFFICE BEARERS

At the first general meeting of the Board the Trustees shall by a simple majority elect its Chairperson (who shall act as Chairperson of the Trust), Treasurer and Secretary to the Trust.

DISQUALIFICATION

Any member of the Board or of any other committee of the Trust shall cease to be a member of the Board or of such committee if he or she:

is removed pursuant to the provisions of this Deed;

resigns pursuant to the provisions hereof;

is adjudged bankrupt;

is found lunatic or becomes of unsound mind;

is punished with imprisonment for a term exceeding six months without the option of a fine;

is guilty of conduct, which in the opinion of the Board is unbecoming to a member or injurious to the welfare and interest of the Deserving Girl-Children.

4.5 RESIGNATION

A Trustee who wishes to resign should give ninety (90) days written notice to the existing Trustees. On the expiry of such notice, the Trustee shall cease to be a Trustee for all intents and purposes of the Trust, except as to acts and deeds necessary for the vesting of the Trust Fund in the continuing Trustees or as otherwise may be required.

4.6 APPOINTMENT AND REMOVAL OF TRUSTEES

Without prejudice to any other power of appointing trustees whether contained elsewhere in this Deed or conferred by statute or otherwise and subject always to the provisions of clause 4.1 the Trustees may by resolution of a meeting of the Trustees appoint additional trustees up to a maximum of ten (10) and whenever a trustee is so appointed a memorandum of his or her appointment shall be prepared and signed and sealed by the person presiding at such meeting and attested by two other persons present thereat.

Upon every appointment of a new trustee all such acts and things shall be done for the purpose of vesting in him or her jointly with his or her co-Trustees the powers and duties of which he or she is so appointed as

trustee.

- (c) Any Trustees may be removed by a resolution signed by not less than two thirds of the remaining Trustees.

EXECUTION OF INSTRUMENTS

The Trustees may confer on two or more of their number a general authority, or an authority limited in such manner as the Trustees think fit, to execute in the names of and on behalf of the Trustees assurances or other deeds or instruments for giving effect to transactions to which the Trustees are a party.

Any deed or instrument which is executed in pursuance of an authority so given shall be of the same effect as if executed by all the Trustees. The foregoing powers are additional to and do not derogate from any other powers.

An authority given under the foregoing power may be given in writing or by resolution of a meeting of the Trustees, notwithstanding that some other formality would be required apart from the foregoing power.

Subject to any restrictions imposed, the authority has effect as a continuing authority until revoked notwithstanding any change in the Trustees.

GENERAL MEETING

The first meeting of the Board shall be held at such time not less than one (1) month and not more than three (3) months after the establishment of the Trust and at such place as the Trustees may determine for drawing up the rules of the Trust which shall be voted upon by a majority of all the members of the Board.

Subsequent meetings shall be held as required but at least two (2) times a year.

4.9 SPECIAL MEETINGS

Meetings of the Trustees may at any time be summoned by the secretary to the Board or any other two Trustees upon not less than fourteen (14) days notice being given to all the other members of the matters to be discussed.

4.10 WRITTEN RESOLUTIONS

A resolution in writing, signed by all the Trustees entitled to receive notice of a meeting of Trustees or of a committee of Trustees, shall be as valid and effective as if it had been passed at a meeting of Trustees or (as the case may be) a committee of Trustees duly convened and held. Such a resolution may consist of several documents in the same form.

MINUTES

A minute book shall be provided and maintained by the secretary of the Board and minutes of all proceedings of the Board shall be entered therein.

The minute book shall be kept at the registered office of the Trust and shall during business hours be open to the inspection of any member of the Board.

The minutes of all meetings of the Board shall be furnished to the Trustees within seven (7) days after any such meeting.

4.12 CONDUCT OF BUSINESS AT MEETINGS

Any meeting of the Trustees shall be deemed duly constituted by attendance of a quorum of the Trustees. Decisions of the Trustees shall be made based on the majority of the votes of those present at such meetings. No Trustee shall have more than one vote.

A quorum shall consist of at least five (5) Trustees.

4.13 CONFLICT OF INTEREST

No Trustee shall vote on any matter in which he or she is personally interested, pecuniarily or otherwise, or debate on such matter without the permission of the majority of the persons present and voting, such permission to be given or withheld without discussion.

4.14 REGULATIONS

Within the limits prescribed by this Deed the Trustees shall have full power from time to time to make regulations for the management of the Trust and for the conduct of their business including the summoning of meetings, the deposit of money at a proper bank and the custody of documents, and shall have power to vary or rescind any rules so made.

5 TRUSTEES ADDITIONAL POWERS

Without prejudice to any powers which expressly or by implication may be vested in the Trustees under the provisions hereof or by law the Trustees shall have the following additional powers: -

(a) Invest

To invest the Trust Fund in such stocks funds shares securities or other assets of whatsoever nature wheresoever situated and whether producing income or not and the Trustees shall in their absolute discretion think fit to the intent that the Trustees shall have the same full and unrestricted powers of investing and changing investments as if they were beneficially entitled thereto;

(b) Immoveable property

To purchase lease or otherwise acquire any freehold, leasehold or other immovable property either by way of investment or for the occupation management or use for any of the charitable purposes hereby authorised and to sell surrender let or otherwise deal with any such property;

(c) Borrow

At any time to borrow money on the security of the Trust Fund with power to charge any part of the capital or income of the Trust Fund with the repayment of any money so borrowed and to pay or apply money so borrowed in any manner that money forming part of the Trust Fund may be paid or applied;

(d) Moveable property

To purchase hire or otherwise acquire any moveable assets required or likely to be required for the purposes of or in connection with any charitable works being carried on by the Trustees and authorised hereby and to sell or otherwise deal with any such chattels;

(e) Invite donations

At any time to invite and with or without such invitation to receive contributions from any person corporation or organisation either by way of donations or annual or other subscription or legacy or otherwise for the benefit of the charitable purposes declared herein;

(f) Vest property in nominee names

To allow any part of the Trust Fund to be held by or registered in the name of nominees whether or not including the Trustees or any of them without being accountable for any default of such nominee;

(g) Operate bank account

To open and maintain in their joint names or in the joint names of any of them an account at such bank as they shall from time to time decide and to place any cash forming part of the

Trust Fund to the credit of such account or on deposit with any building or investment society or other financial institution;

Make by-laws or rules etc.

Without prejudice to Clause 6.7 at any time and from time to time to make such arrangements draw up such schemes and make and frame such by-laws and rules as they shall in their discretion think fit for the administration of the charitable trusts declared herein and for the management of the Trust Fund or any part thereof and at any time or times to amend alter or repeal any of the said arrangements schemes by-laws or rules as they shall think fit **PROVIDED** that such amendments additions or repeals shall not be inconsistent with the objects of the Trust.

6 THE MANAGEMENT COMMITTEE

The Trustees are hereby empowered to appoint a Management Committee governed by the following rules and regulations **PROVIDED** that nothing herein contained shall prevent the Trustees from appointing some members of the Management Committee from among their number as the Trustees in their absolute discretion deem fit:

CONSTITUTION OF THE COMMITTEE

The Management Committee shall be constituted and its meetings regulated in accordance with the provisions contained in this Deed and shall comprise eight (8) members being:

- a) (i) Director for the time being of The Starehe Girls' Centre

Director for the time being of The Starehe Boys' Centre

Three individuals having a specialised knowledge in the field of girl-child welfare nominated by the Trustees.

Three distinguished individuals nominated by the Trustees.

6.2 DURATION OF OFFICE

The members of the Management Committee shall subject to the preceding sub-clause serve as members of the Management Committee for such period until removed by a vote of the Trustees.

Any member of the Management Committee may by a simple majority vote of the Trustees voting thereof be removed as a member of the Management Committee at any time and at the absolute discretion of the Trustees.

COMMITTEE MEETINGS

Unless otherwise resolved meetings of the Management Committee shall be held once every month on such day and at such place as the members of the Management Committee shall decide. Notice in writing of each meeting shall be delivered or sent by post at least Seven (7) days before the meeting to each member of the Committee by the secretary.

There shall be a quorum when four (4) members of the Management Committee are present at any meeting (subject to the notice having been given as provided for in sub-clause 6.3(a)) and every proposal shall be determined by a simple majority of the members of the Management Committee present and voting thereon and in case of equality the matter shall be deferred to the subsequent meeting of the Management Committee. There shall be no second or casting vote.

6.4 APPOINTMENT OF OFFICE BEARERS

At the first meeting of the Management Committee after its appointment or as soon as possible thereafter, the members of the Management Committee shall by a simple majority appoint the chairperson, a vice-chairperson, a secretary and a treasurer from among their number and the office bearers shall hold such positions until removed by a vote of the Management Committee.

In the absence of the chairperson, the vice-chairperson shall be chairperson of every meeting of the Management Committee. If neither the chairperson nor the vice-chairperson shall be present at any meeting of the Management Committee, the members present at such meeting shall elect from their own number a member to be chairperson of that meeting.

DELEGATION OF POWERS

The Management Committee may from time to time delegate any of their powers to committees consisting of such members of the Management Committee as they may think fit. Any such committee shall in the exercise of the powers so delegated conform to any regulations from time to time made by the Management Committee.

The Management Committee shall have power to appoint officers, staff, experts or professionals (not being Trustees) to assist in the management of the Trust and out of the Trust Fund to pay such officers staff experts or professionals or to pay for the services of such officers staff experts and professionals and also to pay any other expenses incidental to the establishment and management of the Trust including the cost of appeals for contributions to the Trust.

6.6 MINUTES

A minute book shall be provided and maintained by the secretary of the Management Committee and minutes of any vacancy or entry into office of any member of the Management Committee and of all proceedings of the Management Committee shall be entered therein.

The minute book shall be kept at the registered office of the Trust and shall during business hours (subject to such reasonable restrictions as the Management Committee may by its regulations or meetings impose) be open to the inspection of any member of the Board or Management Committee or of any other committee of the Trust.

The minutes of all meetings of the Management Committee or of any other committee of the Trust shall be furnished to the Trustees within seven (7) days after any such meeting of the Committee or of any other committee of the Trust.

6.7 REGULATIONS OF THE MANAGEMENT COMMITTEE

The members of the Management Committee shall have full power from time to time to make regulations for the management of the Trust in respect of which any power or duty is hereby vested in them as they may think proper and shall have power to vary or rescind any rules so made **PROVIDED** that such amendments additions or repeal shall not be inconsistent with the objects of the Trust.

6.8 REGISTER

The Management Committee shall provide and keep or cause to be provided and kept a book in which shall be entered the names ages and descriptions of each Deserving Girl-Child admitted into the centre together with the dates of their respective admissions and the date and occasion of every departure and also a book in which shall be entered all daily events occurrences discipline cases and any other matters which the Committee may think fit.

AUDIT

The Trustees shall appoint a reputable audit firm for the Trust and their duties regulated in accordance with the following provisions:

All the Trust accounts, records, and documents shall be open to inspection by the auditor at any time.

The treasurer of the Trustees shall produce an account of his receipts and payments and statement of assets and liabilities made up to the end of each accounting year.

The auditor shall examine such annual accounts and statements and either confirm that they are correct, duly vouched and in accordance with all legal requirements or report to the Trustees in what respect they are found to be incorrect, unvouched or not in accordance with the law.

A copy of the auditor's report on the accounts and statements together with such accounts and statements shall be furnished to all the Trustees.

An auditor may be paid such audit fees for his duties as may be decided by the Trustees.

No auditor shall be an officer of the Trust or a Trustee.

8 INDEMNITY

8.1 In the execution of the trusts powers and discretion's herein contained or hereby or by law conferred no Trustee or any member of the Management Committee or of any other committee of the Trust shall be liable for any loss to the Trust Fund arising in consequence of the failure depreciation or loss of any investments made in good faith or by reason of any mistake or omission made in good faith or of any other matter or thing except willful and individual fraud and wrongdoing or personal conscious bad faith on the part of the Trustee or any member of the Management Committee or of any other committee who is sought to be made liable.

8.2 If a Trustee retires resigns fails to be re-elected or becomes incapable of acting as a trustee hereof such Trustee shall be released from all claims demands actions proceedings and accounts of any kind on the part of any person (whether in existence or not) actually or prospectively interested under this Trust for or in respect of the Trust Fund or the trusts of this Trust or an act or thing done or omitted in execution or purported execution of such trusts other than and except only actions:

Arising from any fraud or fraudulent breach of trust in which such Trustee or was a party or privy;

To recover from such Trustee Trust property or the proceeds of Trust property in the possession of such Trustee or previously received by such Trustee or any of the officers of the Trust and converted to his or her use.

9 BANK ACCOUNTS

Without prejudice to sub-clause 5(g) the Trustees shall have the power to open and maintain in the name of a banking account or banking accounts at

such bank or banks as they shall from time to time decide and to place any moneys forming part of the Trust Fund to the credit of such account or accounts or place the same on deposit with any banker or bankers or with any building or investment society or other financial

institution.

The Trustees are hereby empowered to authorise the Management Committee to open and maintain an operational banking account or banking accounts in accordance with the mandate from the Management Committee for the specific purpose of discharging the day to day expenses and running costs incurred in the management of the Trust.

All cheques and orders for the payment of money shall be signed by any two or more Trustees empowered by the Board, or in the case of a banking account or banking accounts authorised by the Board to be opened and operated by the Management Committee, by any two or more members of the Management Committee duly authorised to do so, in accordance with the provisions of this Deed.

10 LIABILITY FOR LOSS

In the execution of the trusts powers and discretion herein contained or by law conferred no Trustee shall be liable for any loss to the Trust arising in consequence of the failure, depreciation or loss of any investments in good faith or by reason of any other matter or thing except wilful and individual fraud and wrongdoing or bad faith on the part of the Trustee who is sought to be made liable.

11 COMMON SEAL

The Trust shall be incorporated under the Trustees (Perpetual Succession) Act and subject to such registration the Trustees shall provide for the safe custody of the seal which shall have the inscription” and which shall only be used by the authority of a resolution of the Trustees, and every instrument to which the seal shall be fixed shall be witnessed by the Chairperson, Secretary and Treasurer.

12 LAND

All immoveable property which by deed is owned by the Trust for the benefit of the Deserving Girl-Children in perpetuity shall be held by the Trust for such purposes and the Trust shall not sell that property or encumber that property with any encumbrances except encumbrances which ensure that the property remains subject to the Objects of the Trust and the use of the Deserving Girl-Children.

13 DISPUTE RESOLUTION

All disputes arising between the parties touching on any provisions in this Deed shall be resolved by good faith negotiations between the parties and if the parties cannot reach an amicable settlement, the same shall be referred to arbitration under the Laws of Kenya.

Save as may be hereinbefore otherwise specifically provided all questions hereafter in dispute between the parties hereto and all claims for compensation or otherwise not mutually settled and agreed between the parties shall be referred to arbitration by a single arbitrator being a practicing advocate of the High Court of Kenya of not less than fifteen (15) years and a member of the Institute of Arbitrators Kenya Branch standing assisted by such assessors or professional advisers as the arbitrator shall deem necessary to appoint to sit with him or her to be appointed in default of agreement by the parties by the Chairman for the time being of the Institute of Arbitrators Kenya Branch and every award made under this Clause shall be expressed to be made under the Arbitration Act 1995 or any Act amending or replacing such Act. The parties hereby agree that they shall abide by any decision so made by such arbitration.

14 AMENDMENT

Any part of this Deed other than the charitable trusts declared in Clause 2 may be amended, in whole or in part, by a special meeting of all the Trustees for the time being of the Trust convened specially for that purpose **PROVIDED** that at least three quarters of the Trustees are in favour.

15 DISSOLUTION

The Trust may be dissolved by a special meeting of all the Trustees for the time being of the Trust convened

especially for that purpose **PROVIDED** that at least three quarters of the Trustees resolve that it is expedient to do so.

If upon dissolution of the Trust there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall be distributed to such other charitable organisations as are established either partially or exclusively to promote the charitable purposes of the trusts declared in Clause 2 hereof as the Trustees may in their complete discretion determine.

IN WITNESS whereof the Trustees have hereunto set their hands and seals the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED by)
.....in the presence of: -)
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)
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)
)
ADVOCATE)

