

Dated the

day of

2014

1. Hezron Cotts Masitsa of PO Box 50454-00100 Nairobi

2. Stephen Omondi Kadenyo of PO Box 50454-00100 Nairobi

3. Alice Nagele of PO Box 50454-00100 Nairobi

DEED OF TRUST

Establishing

PAMOJA FOR TRANSFORMATION TRUST

DRAWN BY:

Angela A. Lebu

Advocate

George Williamson House, 2nd Floor,

4th Ngong Avenue

Nairobi.

THIS TRUST DEED is made this 17th day of November 2014 Two Thousand and Fourteen

BY:

1. Hezron Cotts Masitsa of PO Box 50454-00100 Nairobi

2. Stephen Omondi Kadengo of PO Box 50454-00100 Nairobi

3. Alice Nagele of PO Box 50454-00100 Nairobi

(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:

- I. The Trustees wish to carry out the following initiatives for the benefit of the communities in Kenya:
 - a. Enhancing Peace & Conflict Transformation through Community Capacity Building
 - b. Employment Promotion through Economic Opportunity & Livelihood
 - c. Promotion of Civic & Human Rights Education through Governance & Policy advocacy
 - d. Provide consultancy services in the afore mentioned areas in addition to: training, organizational development, policy development.
- II. As from the date of execution of this Deed the Trustees wish to establish in Kenya an irrevocable non-political non-profit making public trust and to this end the Trustees wish to declare certain trusts concerning the sum of Kenya Shillings One Hundred Thousand (KShs 100,000) already held by them.
- III. It is anticipated that further cash and property will hereafter be given, devised or bequeathed to the Trustees by other persons, corporations or organizations to be held by the Trustees upon the charitable trusts hereinafter declared.

NOW THIS DEED WITNESSES as follows: -

That the Trustees hereby declare they hold the sum of Kenya Shillings One Hundred Thousand (KShs 100,000) 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:

1 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: -

- (i) "Board" shall mean the board constituted by the Trustees on the commencement of the Trust to oversee the management of the Trust and the Trust Fund;

- (iii) “**Trust**” shall mean an irrevocable non-political non-profit making public charitable trust to be known as " **PAMOJA FOR TRANSFORMATION Trust**” with the Objects provided under Clause 2.3;
- (iv) “**Trust Fund**” shall mean the said sum of Kenya Shillings One Hundred Thousand (KShs 100,000) 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 organizations 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.

1 NAME, LOCATION AND OBJECTS

1.1 NAME

The Trust shall be called “**Pamoja for Transformation Trust**”.

1.2 REGISTERED OFFICE

The registered office of the Trust will initially be situated in Kenya at **Nairobi** of **P. O. Box 50454- 00100 Nairobi** provided always that the Trustees shall be at liberty to move the registered office.

1.3 OBJECTS AND PURPOSES OF THE TRUST

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

- i. To offer capacity building services in: Conflict Transformation, human rights, civic education, strategic plan development and organizational development, project design and management, entrepreneurship and financial management.
- ii. Facilitate rapid response interventions including interpersonal and community response for restoration, integration and humanitarian assistance.
- iii. Act as a liaison and resource for identifying and delivering opportunities for partners.
- iv. Promote traditional approaches and alternative dispute resolution mechanisms
- v. Undertake social, participatory research and documentation to inform peace and development policy and enhance access to information for increased knowledge.
- vi. Create safe spaces through development of community resource centers and transitional homes for victims, offenders and community to utilize their potential
- vii. Acquire any movable or immovable property or assets whatsoever and sell, dispose off, mortgage, lease or otherwise deal in all or any part of the property or rights of the organization and her partners.
- viii. Establish an endowment fund to receive grants, donations, gifts and any other form of assistance from the county or national governments of Kenya, private sector or any other source provided it is in support of one or more of the objectives of the organization and beneficial to the target community.

- ix. To receive and manage donations and grants; financial or otherwise in furtherance to the organizations mandate, and on behalf of development and implementing partners.
- x. To enter into partnership with local and international bodies, public organizations, corporations, foundations, governments, companies or individuals for and to support the needs and objectives similar to those of the organization and the target beneficiary provided it is within international and the laws of Kenya.
- xi. Subscribe to any local or other charities and provide technical support and advise in the interest of the public towards a particular service.
- xii. Do all other things as may be deemed conducive and incidental to the overall attainment of the above and other related objectives.

2 ADMINISTRATION

2.1 THE TRUST

The Trustees shall hold the Trust Fund upon the following irrevocable trusts:

- 2.1.1 Upon trust for such one or more purposes directed wholly towards the advancement of the objects of the Trust, and for such one or more objects as the Trustees may from time to time in their absolute discretion think fit.
- 2.1.2 The Trustees shall have power at their absolute discretion to accumulate and capitalize the income of the Trust Fund and any part of the income of the Trust Fund by investing the same in any of the investments hereby authorized 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 funds of the Trust and as one fund therewith for all purposes.

2.2 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: -

2.2.1 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;

2.2.2 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;

2.2.3 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;

- 2.2.4 **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 authorized hereby and to sell or otherwise deal with any such chattels;
- 2.2.5 **Invite donations**
At any time to invite and with or without such invitation to receive contributions from any person, corporation or organization either by way of donations or annual or other subscription or legacy or otherwise for the benefit of the charitable purposes declared herein;
- 2.2.6 **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;
- 2.2.7 **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;
- 2.2.8 **Make by-laws or rules etc.**
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 and management 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.

3 THE BOARD OF TRUSTEES

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

3.1 COMPOSITION OF THE BOARD OF TRUSTEES

3.1.1 The Board shall initially comprise the Three (3) Trustees.

3.1.2 In the event that a Trustee is unable to attend a meeting of the Board, he may by written notice to the Board appoint a representative to attend and act in his stead.

3.2 DURATION OF OFFICE

The Trustees shall subject to the preceding sub-clause serve as trustees for a term of Five (5) consecutive years each and unless previously disqualified shall be eligible for re-appointment.

3.3 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.

3.4 DISQUALIFICATION OF THE BOARD OF TRUSTEES

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:

- a. Is removed pursuant to the provisions of this Deed;
- b. Resigns pursuant to the provisions hereof;
- c. Is adjudged bankrupt;
- d. Is found lunatic or becomes of unsound mind;
- e. Is punished with imprisonment for a term exceeding six months without the option of a fine;
- f. Is guilty of conduct, which in the opinion of the Board is unbecoming of a Trustee or injurious to the welfare and interest of the Trust;
- g. If by notice in writing to the Trust s/he resigns his/her office;
- h. Conducts him/herself in his personal or official capacity in a manner inconsistent with the objectives of the trust

3.5 RESIGNATION

A Trustee who wishes to resign should give thirty (30) 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.

3.6 APPOINTMENT AND REMOVAL OF TRUSTEES

3.6.1 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 five (5) 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 all persons present thereat.

3.6.2 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 the other Trustees the powers and duties of which he or she is so appointed as trustee.

3.6.3 Any Trustees may be removed at any time by a resolution signed by not less than two thirds of the remaining Trustees.

3.7 EXECUTION OF INSTRUMENTS

- 3.7.1 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.
- 3.7.2 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.
- 3.7.3 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.
- 3.7.4 Subject to any restrictions imposed, the authority has effect as a continuing authority until revoked by the Trustees notwithstanding any change in the Trustees.

4 THE SECRETARIAT AND REPRESENTATION OF THE TRUST

4.1 SECRETARIAT, APPOINTMENT OF AND PAYMENT OF EXPENSES

- 4.1.1 There may be a secretariat that shall carry out the activities of the Trust as directed by the Trustees.
- 4.1.2 The Trustees shall have power to appoint officers, staff, experts or specialists (not being Trustees) to assist in the management of the Trust Fund and out of the Trust to pay such officers, experts or specialists 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.

4.2 REGULATIONS

Within the limits prescribed by this Deed the Trustees shall have the 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.

4.3 COMMON SEAL

The Trust shall be incorporated under the Trustees (Perpetual Succession) Act, Cap 164 Laws of Kenya and subject to such registration the Trustees shall provide for the safe custody of the seal which shall have the inscription “**The Registered Trustees of Pamoja for Transformation Trust**” 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.

5 ASSETS AND FINANCES

- 5.1 The assets and finances of the Trust shall consist of
 - 5.1.1 Cash holdings;
 - 5.1.2 Moveable property, immoveable property and other rights which may be donated, contributed or pledged by members of the Board of Trustees or third parties; and

5.1.3 Property which may eventually be acquired by the Trust.

5.2 **BANK ACCOUNTS**

The Trustees shall have the power to open and maintain in the name **PAMOJA FOR TRANSFORMATION TRUST** 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.

5.3 **AUDIT**

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

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

5.3.2 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.

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

5.3.4 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.

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

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

5.4 **APPLICATION OF PROFITS**

5.4.1 The Trust Fund, wheresoever derived, shall be applied solely towards the promotion of the objects of the Trust as set forth in this Deed, 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.

5.4.2 **PROVIDED** that nothing herein contained shall prevent the payment, in good faith, of reasonably and proper remuneration to any officer or employee of the Trust, in return for any services actually rendered to the Trust, nor prevent 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 property incurred by them in the course of their duties as Trustees.

5.4.3 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 found to account for any share of profits he may receive in respect of such payment.

6 LAND

All immoveable property which by deed is owned by the Trust for conservation purposes in perpetuity shall be held by the Trust for the furtherance of its objectives and the Trust shall not sell that property or encumber that property with any encumbrances except such sale or encumbrances which enhance the furtherance of the said objectives.

7 GENERAL MEETING

7.1 MEETING OF TRUSTEES

7.1.1 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.

7.1.2 Subsequent meetings shall be held as required but at least Four (4) times a year.

7.2 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 Seven (7) days notice being given to all the other members of the matters to be discussed.

7.3 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.

7.4 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 two of the Trustees for the time being.

7.5 CONFLICT OF INTEREST

No Trustee shall vote on any matter in which he or she is personally interested, pecuniary 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.

8 INDEMNITY

8.1 In the execution of the trusts powers and discretions herein contained or hereby or by law conferred no Trustee or any member of 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 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:

- (a) Arising from any fraud or fraudulent breach of trust in which such Trustee or was a party or privy;
- (b) 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 ADMINISTRATIVE PROVISIONS

9.1 AMENDMENT

Any part of this Deed other than the charitable trusts declared in Clause 2.3 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 for the time being are in favour.

9.2 ARBITRATION

Save whereby in this Deed there is an express provision, if at any time hereafter any dispute, difference or question shall arise between the Trustees, any or of them respectively shall be referred to mediation or arbitration by a single arbitrator appointed by agreement between the parties and in default of such agreement by the Chairman for the time being the Chartered Institute of Arbitrators, Kenya in accordance with and subject to the provisions of the Arbitration Act, 1995 of the Laws of Kenya.

9.3 NOTICES

Any notice which under the provisions of this Deed is required to be given to or to be served upon the Trustees, shall be served in writing, delivered or addressed to the Trustees at the addresses given in the descriptive clause of this Deed.

9.4 DISSOLUTION

9.4.1 The Trust may be dissolved 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 resolve that it is expedient to do so.

9.4.2 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 2.3 hereof as the Trustees may in their complete discretion determine.

9.4.3 Subject to clauses 10.2.1 and 10.2.2 the Trustees may dissolve the Trust specifically for the purpose of replacing this Trust with a corporate entity established by the Trustees for the specific purpose of taking over all the rights, obligations, functions, assets and liabilities of the Trust hereby established.

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

10.4.3 Subject to clauses 10.2.1 and 10.2.2 the Trustees may dissolve the Trust or specifically for the purpose of replacing this Trust with a corporate entity established by the Trustees for the specific purpose of taking over all the rights, obligations, functions, assets and liabilities of the Trust hereby established.

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

SIGNED by Hezron Cotts Masitsa

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) National Id. No. 10007282

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SIGNED by Stephen Omcndi Kadenyo

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) National Id. No. 22226203

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SIGNED by Alice Nagele

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) Liechtenstein Passport No. R 03232

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In my presence

ANGELA A. LEBU
ADVOCATE

P.O. Box 955000, BUSIA (K)
Tel: 0724 - 053 192

ADVOCATE

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Presented on 13/01/2014			
Registration No.	Volume	Page	File
2308	DI	389	MMXIV
31. M. Mutgah 26.			