

NOTARIAL DEED OF TRUST

in favour of

KUUMBA ARTS TRUST

MBIDZO, MUCHADEHAMA & MAKONI
Legal Practitioners
Harare

USD 50-00 CERTIFICATE	
Paid	(Stamp Duty and Fees)
Receipt No	Dated
584969 QQ	21 August 2012

REGISTERED AT Harare ZIMBABWE
 This 29th day of August
 2012 0000938/2012

 REGISTRAR OF DEEDS

PROTOCOL NUMBER

NOTARIAL DEED OF TRUST

KNOW ALL MEN WHOM IT MAY CONCERN

That on this the day of ^{29th} August before me

DANIEL MBIDZO,

Notary Public sworn and admitted, residing and practicing in Harare, Zimbabwe, personally came and appeared

MUTHEU MAITHA BOMBA

(Born 5 December 1973)

And

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JOHN BOMBA

(Born 5 August 1980)

(hereinafter referred to as "**the Founders**")

And

DEBORAH JOYCE MUBI

(Born 2 January 1968)

And

JOHN BOMBA

(Born 5 August 1980)

And

MUTHEU MAITHA BOMBA

(Born 5 December 1973)

(together hereinafter referred to as "**The Trustees**")

AND THE SAID APPEARERS DECLARED THAT;

WHEREAS:

- a. The Founders are desirous of setting up a Trust for the purpose of carrying out the objectives hereinafter fully set out for the benefit of the beneficiaries as hereinafter identified.
- b. The Founders are desirous of making donations of cash to the Trust.
- c. The Founders have identified arts, culture and heritage practitioners in Zimbabwe as the beneficiaries of this Trust.

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- d. In order to give effect to the foregoing, it is necessary, *inter alia* that fiduciary trustees be appointed to join the execution of this deed and to empower them to act thereunder in accordance with its provisions.

DEFINITIONS:

In this deed, unless the context otherwise requires, words importing the singular shall include the plural and *vice versa* and words importing the masculine shall include the feminine; and the following expressions used in this trust deed shall have the meanings hereinafter respectively assigned to them, unless the context shall clearly otherwise require, namely:

- Beneficiary:** shall mean arts, culture and heritage practitioners in Zimbabwe
- First Trustees:** shall mean the trustees appointed at the establishment of this Trust Deed
- Further donations:** shall mean and include all contributions by way of donations, gifts or grants, whether of money or any other property movable or immovable donated by any person or persons to and accepted by the Trust for the purposes of the Trust at any time or times after the establishment of the Trust.
- Trustees:** shall mean persons appointed as such under this Trust Deed as further specified below in the first instance and or any successors appointed to the said office.
- Trust Fund/Property:** shall mean the capital or property from time to time being administered by the Trustees, consisting in the first place of the donation made in terms of this deed and thereafter of all investments made by the Trustees, and any further donations or income donated to or made available to the Trust whether derived from the Founders or any other source.
- Trustees** shall mean in the first instance the First Trustees and any successors appointed in terms of this Trust Deed.

NOW THEREFORE: this Deed establishes the Trust on the following terms and conditions:

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1. **NAME OF TRUST**

The Trust created in terms of this Deed shall be known as **KUUMBA ARTS TRUST** (Hereinafter referred to as the Trust).

2. **OBJECTIVES**

- a) To facilitate development and promotion of arts, culture and heritage in Zimbabwe;
- b) To support advancement of artists, cultural and heritage practitioners in Zimbabwe;
- c) To provide technical and educational support for beneficiaries;
- d) To conduct workshops and training on arts, culture and heritage; and
- e) To do anything reasonable in furtherance of any or all of these objectives.

3. **THE TRUST CAPITAL RESOURCES AND DONATION**

The Founders hereby give, settle and donate to the Trustees as and by way of a donation *inter vivos* the sum of US\$50.00. In addition to the donation, the resources of the Trust shall consist of the following:

- 3.1 Any voluntary donations from well wishers.
- 3.2 Other resources received by the Trust.

4. **TRUSTEES**

- 4.1 The Founders hereby appoints the following Trustees as the First Trustees **JOHN BOMBA, MUTHEU MAITHA BOMBA** and **DEBORAH JOYCE MUBI**
- 4.2 There shall be at all material times not less than two (2) and not more than five (5) Trustees in office.
- 4.3 If as a result of the death, resignation or other failure or inability to act by any Trustee, the number of Trustees is reduced below two the Trustee remaining shall thereupon appoint and nominate another person to fill the vacancy.
- 4.4 A Trustee may resign from his office at any time on giving three months notice in

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writing to the board of Trustees of his intention to resign.

- 4.5 The office of the Trustee shall *ipso facto* be deemed to be vacated if a Trustee shall be found to be of unsound mind, or if his estate shall be sequestrated or if, PROVIDED each of the First Trustees shall remain in office till he or she dies.
- 4.6 Notwithstanding that one or more vacancies may not have been filled, the remaining Trustee(s) shall continue to administer the Trust until such vacancy or vacancies have been filled and the decisions taken by such remaining Trustee(s) shall be binding on the Trust.
- 4.7 The Founders may appoint an alternate to act for and on behalf of any Trustee(s) and such alternate shall have all such powers as the initial Trustee(s). Whenever the word "Trustee" is used in this Deed it shall be deemed to include a properly appointed alternate.
- 4.8 The Trustees in consultation may appoint a Chairperson, secretary and treasurer to the Trust upon such terms and conditions of service as the Trustees may think fit.
- 4.9 No Trustee shall be disqualified from contracting with the Trust nor be liable to account to the Trust for any profit realized provided the nature of his interest is disclosed in writing to the other Trustees before such contract is entered into.
- 4.10 Any Trustee professionally engaged and so acting for the Trust will be entitled to the usual remuneration for his service in addition to his remuneration as a Trustee.

5 POWERS OF THE TRUSTEES

The Trustees shall have full and plenary powers and authority to do all such things as may appear to be necessary or desirable to give effect to the objects and intentions of the Trust hereby constituted, as may be necessary or incidental to the aforesaid administration and control and in such manner as in their opinion may best fulfill the objects of the Trust. And without prejudice to such general powers, the Trustees shall have the following powers, privileges and discretions namely:

- 5.1 To borrow money and if necessary to mortgage the immovable property of the Trust and to purchase, lease or sell any immovable property, and to bind the leasehold property of the Trust as security for a loan and to raise money whether by donation,

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- contribution, subscription or otherwise and secure the payments or repayments of money due or owing by the Trust or by any other person in such manner and upon such terms and conditions as the Trustees may deem fit.
- 5.2 To appoint an agent or agents to represent them for any specific purpose.
 - 5.3 To invest free monies of the Trust in such manner as they may think fit and to vary such investments from time to time.
 - 5.4 They shall be empowered to accept further gifts and bequests from any person in favour of the Trust and administer the same subject to such conditions as may be laid down by the donors provided that such conditions are not inconsistent with the terms of the Trust.
 - 5.5 They shall be empowered to open and operate a bank account in the name of the Trust and all monies not invested or expended shall be deposited in such bank account.
 - 5.6 To obtain, raise, collect, accept or solicit subsidies or grants from the state, local authorities statutory bodies or Trusts or to receive funds and money and goods of any description for the general purpose of the Trust or seek financial assistance from any source or collect contributions from the Public and generally to call attention to the activities of the Trust, or by such other lawful means that shall be deemed by the Trustees to be appropriate.
 - 5.7 To pay rates and other expenses incurred in connection with the administration of the Trust.
 - 5.8 To employ or engage all such persons, including auditors as they may consider necessary, in their absolute discretion, to assist them in the management of the Trust and to delegate to one or more of their number or such other person or persons as are employed by the Trust, the power to execute any documents, cheques, promissory notes, bills of exchange and such similar negotiable instruments, leases, declarations, powers of attorneys, servitudes and all other deeds and documents.
 - 5.9 To make donations to such persons and in such cases and either in cash or other assets as the Trust may think directly or indirectly conducive to any of its objects.
 - 5.10 To institute or defend legal proceedings and to sign deeds, powers of attorney or other documents they may think necessary in connection with such proceedings.

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- 5.11 To allow any person to occupy any building belonging to the Trust free of charge, or by lease contract.
- 5.12 To cause the Trust to be registered or recognised in any part of the world outside Zimbabwe.
- 5.13 To do all such things as are incidental or conducive to the attainment of the above objects or any one of them. The Trustees may by a resolution supported by two thirds of the Trustees for the time being of the Trust, dismiss any person as Trustee. The Trustees shall be entitled to nominate one or more of them or delegate their authority to any person or persons selected by them both for the purposes of management of the Trust and the execution of all documents of any nature relating to the carrying out of the purposes of the Trust.
- 5.14 Should any differences arise among the Trustees in regard to the affairs of the Trust, the same shall be determined by a majority vote of the Trustees taken at a meeting of the Trustees concerned on not less than 48 hours notice.
- 5.15 To cause a proper set of books of accounts to be kept relative to the affairs of the Trust which books and accounts shall be audited annually by an auditor appointed by the Trustees, such appointment may in the discretion of the Trustees be varied from time to time. The auditors shall at any time have access to all vouchers and records and to the property of the Trust. An annual balance sheet and statement of revenue and expenditure shall be prepared and certified as correct by the Trustees and auditors.
- 5.16 To allow time for the payment of any debt due to the Trust as they may think fit and to compromise, compound or submit to arbitration all claims, debts or things whatsoever belonging or relating thereto.
- 5.17 To enter into agreements with publishers and printers for the publishing, printing and recording of any publication or recording consistent with the objects of the Trust.
- 5.18 To apply the income of the Trust to the furtherance of its objects in such manner as the Trustees in their discretion may, from time to time determine.
- 5.19 To formulate frame rules, standing orders and regulations for the administration of the Trust in the conduct of its affairs and to alter vary or rescind the same from time

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5.20 To indemnify the Trust and, or committee members and employees thereof against any claims which may be made against them arising out of their *bona fide* performance of their duties.

5.21 The Trustees shall not be personally liable for any loss which may be suffered or sustained by the Trust, nor, shall be responsible for the actions of any accountants, agents or attorneys appointed by them.

5.22 The Trust shall have perpetual existence but may at any time be wound up and dissolved on a resolution supported by at least 75% of the Trustees in office.

6. MEETINGS

The Trustees may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, save:

6.1 The Trustees shall meet no less frequently than twice in each calendar year provided that the first meeting of the Trustees shall take place within three months of the signing of this deed.

6.2 Subsequent to the signing of this deed the Trustees may meet together for the dispatch of their business, adjourn and otherwise regulate their meetings as they may think fit.

6.3 Any Trustee or the Secretary may at any time request the Chairperson of the Board of Trustees to convene a meeting of the Trustees who shall so convene the meeting by delivering a notice thereof in terms of clause 6.4 below.

6.4 Notice of every meeting shall be delivered by hand or sent by prepaid telegram or by telex or fax or e-mail or by ordinary post to the notified address of each Trustee in sufficient time to ensure the same is delivered in the normal course than 7 clear days before the date of the meeting. Provided nevertheless that the accidental omission, and not in bad faith, failure to send any notice or any expected and unanticipated postal telecommunications or other such failure shall not invalidate the proceedings of any meeting.

6.5 Every notice of the meeting shall state the place, date and time of the meeting and nature of the business to be transacted at the meeting.

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- 6.6 Any ordinary or special resolutions signed by all the Trustees for the time being shall be as valid and effectual as if passed at a meeting of the trustees duly convened and held.
- 6.7 The Trustees shall cause proper minutes to be kept and entered in a book provided for the purpose of recording all the resolutions and proceedings: and any copy or extract of any such minute signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting and also by the Secretary or by one other Trustee shall be sufficient evidence of the matter stated in such minutes for the purposes of all dealings or transactions or agreements between the Trust and any third party.
- 6.8 A quorum shall be formed by the presence of the majority for the time being of the Trustees at any meeting.
- 6.9 Each Trustee shall have one vote only and voting shall be by a show of hands unless a poll is demanded by not less than two Trustees.
- 6.10 Any ordinary resolution of the Trustees shall be carried by a vote in its favour of a majority of those Trustees present at the meeting and voting at a properly constituted meeting of the Trustees.
- 6.11 Any resolution proposed and which fails to receive in its favour a majority of the votes of those Trustees present and voting shall not be a resolution of the Trustees and any resolution on which there is an equality of votes for and against shall be decided by a casting vote of the Chairperson of that meeting.
- 6.12 A special resolution of the Trustees shall be one that is stated to be a special resolution and has been passed as an ordinary resolution but which has also received vote in favour of it and all written consent to it of at least two thirds majority of Trustees for the time being holding office as such.
- 6.13 The Trustees may from time to time appoint anyone of the Trustees as Chairperson of the Trust; and may determine the period for which he is to hold office as Chairperson; and may remove him from such office without removing him from his office as Trustee. A Chairperson shall cease to hold office as such upon him/her ceasing for any reason to be a Trustee.
- 6.14 If at a meeting of the Trustees, the Chairperson is not present within thirty minutes

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after the time appointed for the holding of the meeting, or if no Chairperson has been appointed, then the Trustees' present (quorum at this meeting) may choose one of their number to be the Chairperson of the meeting.

7. EXECUTION OF DOCUMENTS

All contracts, dates, cheques and other documents which require to be signed on behalf of the Trust will be signed in such manner as the Trustees shall from time to time determine.

8. DECISIONS

8.1 In the event of any disagreement between the Trustees at any time the decision of the majority of them shall prevail and be of the same force and effect as if it were a unanimous decision of all the Trustees.

8.2 In the event of the Trustees ever being equally divided in opinion, then the matter shall be determined by the casting vote of the Chairperson of the meeting.

8.3 Any dispute on the interpretation of this Deed shall be determined by the Founders. The decision of the Founders shall be final and binding on the Trustees and under no circumstances whatsoever shall any of the Trustees or any beneficiary or any potential beneficiaries make such decision the subject of any legal proceedings.

9. INDEMNITY

9.1 No Trustee shall be answerable for or liable to make good any loss sustained by the Trust or by any beneficiary save and except such loss as might arise from or because by his or her own dishonesty. In particular, the Trustees shall not be answerable for or liable to make good any loss sustained by the Trust or any beneficiary by reasons of their advancing monies without security or with inadequate security where such money has been loaned in a businesslike basis. Furthermore, the Trustees shall be indemnified by and from the Trust or by and from any beneficiary against any loss or damage or claim whatsoever which might arise against them out of the *bonafide* administration by them of the Trust.

9.2 The Trustees shall be indemnified out of the Trust Fund against all claims of

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whatsoever nature that may be made against them arising out of the lawful exercise of any of the powers hereby conferred upon them.

- 9.3 If the Trustees *bona fide* make any payment to any person whom they assume to be entitled thereto under the terms of this Deed and it be subsequently found that some other person or persons is or are entitled thereto hereunder, the Trustees shall nevertheless not be responsible to refund or make good the monies so paid.

10. MINORS

Any monies payable to, or on behalf of, or for the benefit of any beneficiary, while such beneficiary is still a minor, shall not be paid or handed over to the Guardians or other Statutory Fund. While any beneficiary is a minor, the Trustees may pay and hand over to his or her parent or guardian or to any person in whose legal custody that beneficiary is in. Any acceptance of payment by that person shall be a valid and legal discharge to the Trustees in respect of the monies in question.

11. COMMUNITY OF PROPERTY AND MARITAL POWER

All benefits which any beneficiary may receive in terms of this Trust Deed shall at all times and for all purposes be excluded from any community of property, or any community of profit and loss or any accrual in terms of any matrimonial regime.

12. PAYMENT TO BENEFICIARIES

Payment to any beneficiary under this Trust Deed may be made by the Trustees either by delivery of assets of the Trust or in cash as they in their sole and absolute discretion shall determine. The Trustees shall have the right to make any payment to any beneficiary or beneficiaries by delivery or transfer of assets to them or to pay cash *in lieu of* such delivery or transfer of assets to the said beneficiary or beneficiaries. The Trustees shall determine the valuation of such assets delivered or to be delivered or transferred or to be transferred to any beneficiary or beneficiaries and such valuation shall not be open to challenge by the said beneficiary or beneficiaries to whom payment is made and by all other beneficiaries or persons affected thereby.

13. AMENDMENT/...

Handwritten initials and signatures in the bottom right corner, including "MMB", "JB", and "A".

13. AMENDMENT OF TRUST DEED

The Trustees shall have power to amend the Trust Deed in the event of any legislation being enacted necessitating such amendment or revision.

14. LEGAL STATUS

14.1 The Trust shall be a separate legal entity.

14.2 The Trust shall enjoy perpetual succession and be capable in law of acquiring property both movable and immovable in its own name and right, assuming and incurring obligations and suing and being sued in its own name, apart and distinct from the Trustees.

15. AMENDMENT OF TRUST DEED

The Trustees shall have power to amend the Trust Deed by two-thirds majority of the Trustees at a special meeting provided that the objectives stated in clause may not be altered without the written consent of the Founders.

16. ACCEPTANCE OF TRUSTEES

And at the same place before me, the said notary in the presence of the subscribed witnesses the said Trustees, declared by these presence, to accept appointment as Trustees upon the terms and conditions hereinbefore stated and contained, undertook to accept the donation of the aforesaid properties.

17. WINDING UP

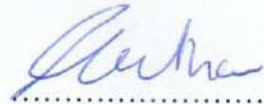
The Trust may be wound up at the discretion of the Founders and any capital or assets of the Trust shall be transferred to any charitable trust or organization with similar objectives at the discretion of the Trustees then in office.

18. ATTESTATION CLAUSE

THUS DONE AND EXECUTED by the donor and the trustees on the date aforementioned **AT HARARE BEFORE ME** the Notary Public and in the presence of the undersigned witnesses.

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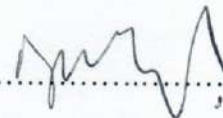
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MUTHEU MAITHA BOMBA
(As Founder and Trustee)




JOHN BOMBA
(As Founder and Trustee)



DEBORAH JOYCE MUBI
(As Trustee)

AS WITNESSES:

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Before me:-



NOTARY PUBLIC



