

# TERMS AND CONDITIONS FOR THE GUEST AGREEMENT

This Agreement is dated upon the date signed hereunder and entered into with you ('Guest' or 'you') by Tenkaraki Ing'uesi Limited incorporated and registered in the Republic of Kenya and P.O. Box 25215-00100, Nairobi ('TIL'). By sending a booking form, you are entering into a contract with Tenkaraki Ing'uesi Limited DBA The Maa Guest House, and therefore are bound by the following terms and conditions:

## Agreed terms

### 1. Interpretation

The following definitions and rules of interpretation apply in this Agreement.

#### 1.1. Definitions:

**Agreement:** means this Guest Agreement together with any applicable terms and conditions contained on TIL's Website ([www.themaaguesthouse.com](http://www.themaaguesthouse.com)) and the guest registration form.

**Booking:** means a confirmed and paid for (whether in part or full) Guest booking issued by TIL in response to your Service request (as defined in Clause 2 of this Agreement), regardless of the source of enquiry (appointed travel agent, direct telephone/email, online or otherwise).

**Business Day** (or reference to a 'Day'): a day other than a Saturday, Sunday or public holiday in Kenya when banks in Nairobi are open for business.

**Commencement Date:** has the meaning given to it in Clause 3 of this Agreement.

**Force Majeure Event:** means any event, circumstance or cause not within a party's reasonable control, including, without limitation: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic and/or action taken by a Government or Governmental Authority in respect thereof;



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- (a) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (b) nuclear, chemical or biological contamination;
- (c) any law or any action taken by a government or public authority, including, without limitation, imposing any travel ban or restrictions; collapse of buildings, fire, explosion or accident;
- (d) interruption or failure of a TIL in its service;
- (e) impossibility of the use of railways, shipping, aircraft, motor transport or other means of
- (f) public or private transport, including the closure or congestion of airports or ports; and
- (g) impossibility of the use of public or private telecommunications network.

**Privacy Policy** means the privacy policy set out on TIL's Website.

Services means the services as further described as 'Inclusions' in Schedule 1 provided by TIL together with any other supplies and services from time to time offered by TIL and which TIL includes within the scope of this Agreement. For the avoidance of doubt, the Services do not include any of the services described as 'Exclusions' in Schedule 1.

Territory: means the Republic of Kenya.

Website: means [www.themaquesthouse.com](http://www.themaquesthouse.com).

- 1.2 Headings.** Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 Person.** A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). References to 'you' or 'your' are references to the Guest as defined herein.
- 1.4 Schedules.** The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 Singular and plural.** Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include



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the singular

- 1.6 Gender.** Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender
- 1.7 Legislative references.** Reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 Writing.** A reference to writing or written includes email.
- 1.9 “Including”.** Any words following the terms including, include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.10 Clauses and schedules.** References to clauses and Schedules are to the clauses and Schedules of this agreement; references to paragraphs are to paragraphs of the relevant Schedule

## 2. Scope

This Agreement sets out the terms and conditions which govern your Booking at The Maa Guest House, a 20-minute drive from the Talek Gate of the Maasai Mara National Reserve (the ‘Guest House’).

## 3. Commencement and duration

This Agreement shall become effective immediately upon a payment (either in full or partial) being received by TIL or its appointed agent for your Booking and shall continue in full force until your check-out or unless terminated earlier in accordance with the terms of this Agreement (and thereafter the terms herein shall continue to govern any dispute arising between the parties in respect of this Booking).



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## 4. Accommodation Bookings

### 4.1. Direct Booking

- a) You can make a Booking with TIL by telephone on +254 798 979 858 or by email at [reservations@themaaguesthouse.com](mailto:reservations@themaaguesthouse.com).
- b) Upon completing payment and confirming your Booking directly with TIL in accordance with Clause 4.1(a) above, you will receive an automatic email from TIL confirming your Booking details ('Accommodation Confirmation'). You must read the Accommodation Confirmation carefully and notify TIL immediately if any of the details are incorrect.

### 4.2. Booking by telephone or email

- a) If you prefer to make your Booking by telephone or email, you accept that communication with TIL will be electronic and you agree to this means of communication for contractual purposes.
- b) Whether you contact TIL by telephone or email, once TIL has reviewed your desired arrangements, you will receive an email with a summary of those arrangements ('Accommodation Summary'), together with a source link to a copy of this Agreement and TIL's Privacy Policy, for you to review and sign off prior to confirming your Booking.
- c) Bookings will be confirmed as you comply with Clause 4.13 (payment terms) and confirm acceptance of the terms of this Agreement by signing and returning a copy of this Agreement, the Privacy Policy and the Accommodation Summary in accordance with the instructions provided to TIL. These documents (and any other documents referred to in them) will form your contract with TIL. Once you have confirmed your agreement to the arrangements set out in the Accommodation Summary and to all applicable terms (in accordance with the instructions provided), TIL will email you your Accommodation Confirmation (upon receipt of payment).

### 4.3 Your Status: Upon confirmation of your Booking in accordance with Clauses 4.1 or 4.2, you warrant that:

- a) You are legally capable of entering into binding contracts;
- b) You are at least 18 years old; and
- c) The details provided to TIL in connection with your Booking are true, complete and accurate, particularly that the credit or debit



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card used for the Booking is yours and that there are sufficient funds to cover the cost of the Booking requested.

**4.4 Changes in connection with the booking.** Subject to clause 4.10 (c) (Cancellation Policy), TIL will endeavour (but not guarantee) always subject to availability and at its discretion to accommodate any changes you may wish to make to your Booking ('Change Request'), which are limited to:

- a) any change to your arrival and/or departure date;
- b) any change to the number of people accompanying you and booked to stay at the Guest House;
- c) any change to the type of accommodation at the Guest House; and
- d) any transfer of your Booking to a substitute person.

In the event of a Change Request or to the information provided to TIL in relation to your Booking, it is your responsibility to inform TIL in writing addressed to the email addresses provided below as soon as possible after making your Booking.

Email: [reservations@themaquesthouse.com](mailto:reservations@themaquesthouse.com).

**4.5** Upon accepting and effecting your Change Request, a new Accommodation Confirmation will be issued by TIL setting out the new applicable rates (where applicable). Please note that changes accepted by TIL may not be accepted by any third-party service providers with whom you have contracted for other services, such as spa treatments, flights, among others. You hereby acknowledge that TIL shall not be liable for any loss or damage that you may incur or suffer as a result of a Change Request.

**4.6** Upon confirmation of your Booking, you shall take full responsibility for the Booking whether financial or otherwise on behalf of any other guest(s) accompanying you (unless accompanying guest(s) fill in their own booking form) and confirm that the information provided to TIL and/or the Guest House relating to such other guest(s) is true, accurate and complete in accordance with the terms of this Agreement.

**4.7** If a third-party undertakes the Booking for the Guest, the third-party and the Guest will be jointly and severally liable to TIL for all obligations arising from this Agreement.

**4.8 Guest Information.** Subject to the data protection provisions set out in Clause 11.2, TIL shall ensure that all information required by



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and provided to TIL and/or the Guest House relating to your booking is accurate, complete and true.

**4.9 Minors Policy.** The Guest House is more suitable to hosting accompanied minors above the age of eight (8) years, it being located in a wildlife reserve. However, for any exceptions, please contact the TIL sales office.

## **4.10 Cancellation Policy**

a) Booking cancellation instructions must be made in writing via email (and ensuring that a read receipt or acknowledgement email is received confirming the cancellation) to the addresses provided in Clause 4.4 ('Cancellation Notice').

*Email: [reservations@themaquesthouse.com](mailto:reservations@themaquesthouse.com)*

b) TIL will use all reasonable efforts to respond to emails on time but you are expected to ensure that you follow up on any cancellation notification as cancellations will only be deemed effective upon a response from TIL acknowledging such request. If no acknowledgement of the Cancellation Notice is issued by TIL, the Cancellation Notice shall not be valid.

c) TIL's Booking cancellation charges/no show policy is applicable on the total payable amount as follows:

- i. More than 120 days prior to arrival - deposit is refunded, net of bank/payment transaction/currency exchange charges and an administration fee of \$250
- ii. Between 120 - 60 days prior to arrival, the 20% deposit is forfeited
- iii. Between 59 days and 30 days, 50% of the full value is forfeited; the balance will be net of bank/payment transaction/currency exchange charges
- iv. Less than 30 days and no shows, 100% is forfeited.
- v. No refund will be given for guests who join a tour but leave before its completion.

d) ('Cancellation Policy') cancellation charges from your insurance provider. For the avoidance of doubt, TIL does not ensure cancellations and the Cancellation Policy above shall apply in all instances of cancellations and 'no shows'

## **4.11 Force Majeure Event**

a) In the event of a cancellation due to a Force Majeure Event, a reimbursement will be provided to the Guest (using the same method originally used by the Guest to pay for the accommodation) at the discretion of TIL, provided that sufficient information pertaining to the Force Majeure Event is provided to TIL. This Agreement shall stand terminated upon reimbursement of the



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amount paid by the Guest for the Services.

- b) Alternatively, TIL may, at its own discretion, elect instead to issue a credit and allow for a modification of the date of the Booking. The specific terms and conditions of such credit will be outlined in the credit note issued. Subject to these terms, TIL shall have the discretion to issue specific terms and conditions to apply in specific Force Majeure Events

## 4.12 Payment terms

- a) Payment for all Bookings made pursuant to clauses 4.1 and 4.2 must be made upfront and in full without any deductions or set off, unless otherwise specified in writing by TIL, save for direct Bookings where the Guest shall be required to pay a deposit of twenty percent (20%) of the applicable Booking fee immediately upon receipt of the Accommodation Confirmation and the balance of eighty percent (80%) shall be paid within forty-five (45) days from the date of the Accommodation Confirmation.
- b) Please note that a surcharge of three percent (3%) (or such other amount as may be charged by TIL from time to time) may apply to all payments made by credit card.

## 5 Travel documents and health advice

- 5.1 It is your responsibility to ensure that you have valid travel documents and acquaint yourself with any travel or health advisory released by the Government of Kenya or the relevant regulatory authorities. In the event that TIL suffers any loss (whether by way of fine or otherwise) as a result of you failing to hold the correct travel documents, you shall be liable to indemnify TIL in full.

- 5.2 **Vaccination Certificates.** In addition, and having regard to the relevant laws and any relevant guidance in force from time to time, all guests must possess and provide proof of relevant vaccinations, including but not limited to a COVID-19 vaccination certificate, when checking in at the Guest House.

## 6 Travel and Medical Insurance

- 6.1 The Guest hereby agrees to take out adequate travel and medical insurance before travelling, taking into account that the Guest house is located in a wildlife reserve. TIL will not accept guests unless a comprehensive travel and medical insurance has been taken out by the Guest or on behalf of the Guest. If a Guest does not have full travel and medical insurance, TIL is entitled to cancel the Booking and the



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Cancellation Policy under clause 4.10(c) will apply accordingly. In the event of failure of any client (individual, company or other legal entity) to comply with these insurance conditions and requirements or failure to organise appropriate insurance, then neither Tenkaraki Ing'uesi Limited DBA The Maa Guest House, nor its officers or employees, nor any third party contracted by this company shall be liable in any way for any financial loss, damages, expenses or costs arising from any incident or last-minute cancellation. While every care is taken to ensure the health of our clients, Tenkaraki Ing'uesi Limited DBA The Maa Guest House accepts no liability if a client contracts COVID-19 or any other illness during their travels.

- 6.2** The Guest further acknowledges and accepts that, subject to the indemnity provisions set out in Schedule 2, TIL shall not, to the extent permitted by law, be responsible for any inconvenience, delay, loss, damage, costs or expenses incurred by the Guest or any other person(s) accompanying the Guest as a result of his/her failure to obtain adequate cover.

## **7 The Services**

- 7.1** TIL shall make available the room(s) and Services the Guest has reserved and paid for in accordance with this Agreement. The Guest has no right to demand the provision of specific rooms or specific Services unless TIL has confirmed the provisions of particular rooms or Services beforehand and in writing.
- 7.2** Pursuant to Schedule 1 (Inclusions), it is hereby agreed and accepted by the Guest that all ownership of intellectual property vesting in the photographs of and in The Maa Guest House and taken by the Guest or TIL's staff shall remain with TIL and that all times, TIL will not use any photographs taken of Guests without their express permission to do so.

## **8 Arrival and departure**

- 8.1** **Check-in** is at 1200 HRS on the date of arrival.
- 8.2** **Check-out** is at 1000 HRS on the date of departure.
- 8.3** Early check-in and late check-out are subject to availability at the discretion of TIL. This notwithstanding, TIL may charge a fee (to be





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determined on a case-by-case basis) on the applicable rate for late check-out to compensate it for the additional use of the room and the costs incurred due to delayed availability of the room.

**8.4 In-room dining** at the Guest House is available from 0700 - 2200 HRS

**8.5 Personal items.** TIL recommends that all personal items, including valuables, money or other articles of value, be kept in the in-room safe for safekeeping. The Guest shall report to TIL or the Guest House any loss, destruction or damage to the personal items immediately after he/she has become aware of it. For the avoidance of doubt, TIL shall not be responsible for any loss of or damage to any personal effects. It is therefore recommended that each Guest maintain their own personal effects and valuable items insurance.

**8.6 Wild Animals.** Safaris in Africa entail a certain degree of risk. Attacks by wild animals are rare, but no safari into the African wilderness can guarantee that this will not occur. The Guest shall consult the Maa Guest House staff before undertaking any activity that may bring them into an area populated by wild animals.

**8.7 Property Damage/Loss indemnity.** You are responsible for any loss or damage to lodge property, furnishings, fittings or equipment (including, without limitation, linen and towels), caused by you or by any of your visitors. Amounts required to remedy any damage caused will be charged at your sole expense. By booking with us, you agree to indemnify us and to pay us on demand an amount reasonably required to make good or to rectify such damage or loss caused by you. Normal wear and tear are excluded.

**8.8 Environmental Policy.** The owners of the Guest house are dedicated to the protection of our planet's resources and would encourage the Guest to help us by:

- a) Switching off lights when not in use.
- b) Ensuring that taps are always turned off after use.
- c) Avoiding the unnecessary use of towels
- d) Properly disposing of rubbish and waste as guided by the Maa Guest House staff.



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## 9 Indemnity

- 9.1** The Guest hereby acknowledges that the Services provided at the Guest House entail a certain degree of risk, including, without limitation, attacks by wild animals. Guests are advised to consult the relevant personnel at the Guest House at all times before undertaking any activity that may bring them harm and comply with safety briefings provided on arrival by the Guest House staff. All guests must adhere to the directions provided by the personnel relating to their safety at the Guest house or within the Maasai Mara National Reserve.
- 9.2** All guests are required to read, understand and sign the Indemnity Form provided when signing this Agreement and prior to checking in at the Guest house.

## 10 Confidentiality

- 10.1 Obligations of confidentiality.** TIL undertakes that it shall not at any time disclose to any person any confidential information concerning the Guest or his/her affairs except as permitted by clause 11.2.
- 10.2 Confidentiality exceptions.** TIL may disclose the Guest's confidential information:
- a) to its employees, officers, representatives, advisers or for emergency purposes to those parties who need to know such information and for the purposes of carrying out TIL's obligations under this Agreement. TIL shall procure that its employees, officers, representatives or advisers to whom it discloses the Guest's confidential information comply with this clause 11; and
  - b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.



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## 11 Compliance

### 11.1 Compliance

- (a) TIL hereby covenants that it shall at its own expense comply with all laws and regulations relating to its activities under this Agreement, as amended from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.
- (b) All guests must comply with all applicable laws and regulations during their stay in Kenya. TIL will not be liable for any breach of any such laws by the guests.

**11.2 Privacy Policies.** TIL shall comply with all applicable Data Protection Legislation in Kenya (including, without limitation, the Data Protection Act No. 24 of 2019 and the regulations thereto) and TIL's Privacy Policy. While Tenkaraki Ing'uesi Limited DBA The Maa Guest House is intent on keeping all personal information from the agents confidential, they are not liable for any loss or damage arising from third parties unauthorized to access this information.

**11.3 Anti-bribery compliance.** The parties shall comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act No. 47 of 2016 (Laws of Kenya).

## 12 Termination

**12.1** TIL may, at its discretion and without liability or cost to itself, at any time cancel or terminate the Guest's booking and this Agreement if it considers that:

- (a) the use of the Services by the Guest could significantly jeopardize the running of the Guest House's operations or the safety of other guests or employees or cause damage to property or tarnish the reputation of TIL and the Guest House in the public eye;
- (b) the Booking(s) are made under misleading or erroneous information concerning material matters, e.g., relating to the identity of the Guest;
- (c) there is a material breach of this Agreement by the Guest;



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- (d) there is non-compliance of any applicable laws by the Guest;
- (e) the circumstances described in clauses 4.11, 4.12 and 6.1 apply; or
- (f) attachment, distraint or specific liquidation proceedings have been initiated against any third-party responsible for the booking on behalf of the Guest.

**12.2** Upon termination of this Agreement pursuant to Clause 12.1, the Guest and any person(s) accompanying him/her will be prevented from using the Guest House, transport and any other travel arrangements forming part of the Services. For the avoidance of doubt, and save as is provided elsewhere in this Agreement, TIL shall not be liable for any refund, compensation or any other costs in connection with such termination, and the Guest will not be entitled to claim damages.

## **13 Entire agreement**

**13.1 Entire agreement.** This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

**13.2 No reliance on matters outside the agreement.** Unless expressly recognized in writing by TIL, the Guest acknowledges that in entering into this Agreement, he/she does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.



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## 14 No automatic waiver

**14.1** No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

**14.2** No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## 15 Severance

**15.1 Deemed modification or deletion.** If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

## 16 Notices

**16.1 Form of notices.** Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, by commercial courier, by email or posted on the Website.

**16.2 Deemed receipt of notices.** A notice or other communication shall be deemed to have been received:

- a) if delivered personally, when left receipted at the address referred to in clause 4.10 (a);
- b) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed;
- c) if sent by email, upon receipt of a 'delivery receipt'; and
- d) if posted on TIL's Website, immediately when posted.



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**17 Third-party rights.** This Agreement shall be binding on, and enure to the benefit of the parties to this Agreement and their respective personal representatives, successors and permitted assigns.

## **18 Amendment**

**18.1** TIL reserves the right to revise and amend the terms of this Agreement from time to time, including the rates and prices payable for any bookings.

**18.2** The Guest is subject to the policies and the terms and conditions in force at the time of booking unless any change to those policies or terms and conditions is required to be made by law or governmental authority (in which case it will apply to bookings previously placed by the Guest).

**18.3** TIL shall notify the Guest of any changes made prior to sending the Guest an Accommodation Confirmation, in which case TIL shall have the right to assume that the Guest has accepted the changes to the relevant terms and conditions, unless the Guest notifies TIL to the contrary within seven (7) Business Days of receipt of the relevant Accommodation Confirmation.

## **19 Assignment and other dealings**

The Guest shall not assign, transfer or deal in any other manner with any of his/her rights and obligations under this Agreement without prior written consent of TIL.

## **20 Governing law**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Kenya.

## **21 Complaints in respect of any booking or accommodation**

Any complaints regarding any aspect of the Services provided by TIL must be made to [feedback@themaaguesthouse.com](mailto:feedback@themaaguesthouse.com). TIL will use its best endeavors to deal with the complaint and offer a workable solution as quickly as possible.



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## 22 Dispute Resolution

- 22.1** Any dispute, controversy or claim arising out of or relating to this Agreement or a termination hereof (including without prejudice to the generality of the foregoing, whether as to its interpretation, application or implementation) (the Dispute), must be brought to the attention of Tenkaraki Ing'uesi Limited DBA The Maa Guest House before the client's departure to finalize on-site issues and shall be resolved by way of consultation held in good faith between the parties. Such consultation shall begin immediately after one party has delivered to the other a written request. If not possible before departure, concerns must be addressed in writing no later than 14 days after departure. The Kenyan legal system will be exclusively adhered to in such cases. Further, the dispute shall be submitted to mediation in accordance with the provisions of sub-clause 22.2.
- 22.2** Should any Dispute as is referred to in clause 22.1 arise between the Parties and the consultation process referred to in sub-clause 22.1 has not resolved such Dispute within ten (10) Business Days after receipt by one party of the other party's request for such consultation, the parties shall refer the dispute to a mediator agreed upon between them and if within ten (10) days (or within such extended time as the parties may mutually agree) of one party requesting mediation the parties do not agree on a mediator or fail to settle the dispute through mediation the provisions of clause 22.3 shall apply.
- 22.3** Should any dispute arise between any of the parties concerning this Agreement or a termination hereof (including, without prejudice to the generality of the foregoing, whether in its interpretation, application or implementation) and the consultation process referred to in clause 22.1 or the mediation process referred to in clause 22.2 shall have not resolved such dispute the dispute shall upon application by any party, be referred for arbitration (which decision shall be final and binding upon the parties) to a single arbitrator appointed by agreement between the parties and in the absence of an agreement of the parties within fourteen (14) Business Days of the notification of a dispute, upon the application of any party, by an arbitrator appointed by the chairperson for the time being of the Kenya Branch of the Chartered Institute of Arbitrators.
- 22.4** The provisions of the Arbitration Act, 1995 (as amended) shall apply to such arbitration proceedings. The arbitration proceedings shall be held in Nairobi, and the language of arbitration shall be English. Notwithstanding the foregoing, a party is entitled to seek preliminary injunctive relief or interim or conservatory measures from any court of competent jurisdiction pending the final decision or award of the arbitrator.

