

# **AGREEMENT**

**For the  
Establishment of Administrative Office, Visitors Information Centre  
and café/Restaurant  
At Karura Forest, Nairobi**

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**Between**

**KENYA FOREST SERVICE**

**- AND -**

**FRIENDS OF KARURA FOREST COMMUNITY FOREST ASSOCIATION**

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**DATED THIS** 24<sup>th</sup> **DAY OF** NOVEMBER **2014**

THIS AGREEMENT (hereinafter referred to as "the Agreement") is made this 24<sup>th</sup> day of NOVEMBER 2014.

**BETWEEN**

- I. **KENYA FOREST SERVICE**, a state corporation established under the Forests Act, 2005 and of Post Office Box Number 30513-00100, Nairobi in the Republic of Kenya (hereinafter referred to as 'the Service') and charged with the overall mandate of ensuring sustainable management and conservation of Kenyan forests and forest resources for the socio-economic development of Kenya, on the one hand

**AND**

- II. **FRIENDS OF KARURA FOREST COMMUNITY FOREST ASSOCIATION** of Post Office Box Number 63402 - 00609, Nairobi in the Republic of Kenya and registered under the Societies Act, Chapter 108, Laws of Kenya pursuant to the provisions of the Forests Act, 2005 (hereinafter referred to as 'the CFA') and whose key objective is partnering with the Kenya Forest Service in management and conservation of Karura Forest, on the other hand.

**PREAMBLE**

**WHEREAS** both Parties are committed to the ideals of protecting, conserving and sustainably managing Karura Forest for present and future generations;

**The Parties:**

1. **Recognize** the unique and important role that Friends of Karura CFA has played in the improvement and positive transformation of Karura Forest and acknowledge Friends of Karura Forest CFA as the key partner of the Service in Karura Forest which has invested significantly and is committed to working with the service to improve Karura forest;
2. **Recognize** the fact that the CFA immensely contributed to the development of the Strategic Forest Management Plan signed in March of 2010 and that the CFA and the Service jointly signed a Forest Management Agreement on February 1<sup>st</sup> 2013. Both parties are therefore well versed with the opportunities and challenges of sustainably managing the forest;
3. **Note and Appreciate** the milestones realized through the partnership between the Service and the CFA which has dramatically improved the status and value of Karura Forest. The CFA has made significant investments in forest infrastructure including the erection of an electric fence making the forest safe and secure.
4. **Acknowledge** that by making the forest a key attraction and establishing a flow of income from forest users for recreation and eco-tourism, we secure sustainability of the conservation of the Forest;



5. **Acknowledge** further the need to work together to strengthen the conservation and management of the forest through establishment of support infrastructure intended to improve administration and service delivery to an increasing number of visitors;

**NOW BOTH PARTIES** reiterate and re-affirm their commitment to protect and conserve Karura Forest Reserve through development of supportive infrastructure aimed at improving its value for the society at large.

### **THE PARTIES THEREFORE AGREE AS FOLLOWS:**

#### **Article 1 Objective**

The purpose of this Agreement is to provide for establishment of infrastructure intended to serve as the administrative offices for the KFS Forest Station and to host the station personnel of the Service and the CFA. The infrastructure will include a visitors' information centre and a Café/restaurant at Karura Forest. This Agreement is intended to complement and strengthen the existing Management Agreement and other legal instruments in force regarding the rights of both parties within the framework of the Forests Act 2005 and the current Strategic Management Plan for Karura Forest.

#### **Article 2 Definitions & Interpretations**

1. In this Agreement the following expressions and words shall have the meanings set out:

"FOREST" refers to Karura Forest Reserve

"CFA" - Refers to Friends of Karura Forest Community Forest Association.

"Agreement" - Means this Agreement;

"Office Block" refers to the proposed administrative offices to be constructed by the CFA for use by Karura Forest Station staff and the CFA and includes a café/restaurant and provisions for a Visitors Information Centre as per the site map "annexure 1".

"Café" refers to the coffee shop/restaurant to be constructed by the CFA in Karura Forest under this Agreement;

"Party" - Means the Service and FKF-CFA individually while "Parties" means the Service and FKF-CFA collectively;

2. Words importing the singular include the plural and vice versa and references to Articles or Clauses and Schedules are references to Articles or Clauses and Schedules to this Agreement.
3. Reference to any person includes the person's assigns or transferees or successors in title, whether direct or indirect.
4. The headings in this Agreement are for ease of reference only and do not affect the construction of any of the terms and provisions hereof.

### **Article 3** **Commencement and Duration**

1. This Agreement will enter into force upon the signing by the duly authorized representatives of both parties.
2. The Agreement is intended to last for a period of fifteen (15) years. The same may be renewed for a further period of ten (10) years upon mutual consent of both parties.
3. Any alterations or amendments to this agreement will be mutual agreed and will only be effective once they are in writing and are duly signed by both parties.
4. This Agreement shall not be terminated except as provided for under Article 6 herein.

### **Article 4** **Obligations of the Parties**

1. Kenya Forest Service and FRIENDS OF KARURA CFA jointly agree:-
  - (a) To support each other to conserve and transform Karura Forest further to make it more attractive to visitors and residents of the County of Nairobi and beyond;
  - (b) To uphold the provisions of the Forests Act, 2005 and Regulations thereunder (and successive legislation) and to strengthen the existing partnership between the parties in propelling conservation and management of Karura Forest to even greater heights in accordance with the existing SMP at the time;



2. The obligations of FRIENDS OF KARURA CFA shall be:-

- (a) To raise funds for the construction of the administrative offices, the cafe and associated infrastructure as well as any structure intended to improve management of the forest;
- (b) To initiate, design and prepare technical specifications for the administrative offices, café, visitors centre and associated infrastructure at the designated site in Karura Forest Reserve in consultation with the Service;
- (c) To carry out the construction of the administrative offices, café and associated infrastructure as per plans agreed between the parties;
- (d) To secure necessary approvals for the construction and building works authorized by this Agreement;
- (e) To work with KFS in assigning the office spaces for the Joint Forest Management Committee;
- (f) To operate the café as part of its income-generating program;
- (g) Carry out any other activity or obligation agreed by both parties intended to satisfy the objects of this Agreement.

3. The obligations of the Service shall be to:-

- (a) Maintain conservation and protection of Karura Forest in partnership with the CFA pursuant to the Forests Act, 2005 and to uphold the terms of Karura Forest Strategic Management Plan, the Management Agreement existing between the parties and this Agreement;
- (b) Review and approve the technical plans for the structures to be constructed by the CFA and to permit construction of the structures;
- (c) Maintain security within Karura forest including the construction sites;
- (d) Provide any technical assistance available at the Service for the building, maintenance and manning of the structures;
- (e) Assist the CFA in procuring any approvals required for the construction works;

- (f) Allow access to duly authorized servants, employees and agents of the CFA within the forest area for purposes of carrying out construction and post construction related activities;
- (g) Retain reasonable forest station technical personnel as well as forest security personnel to work closely with the CFA in the sustainable management of the forest;
- (h) Support the CFA in any manner necessary to ensure realization of better accommodation for the forest station personnel through the completion of the office complex infrastructure;
- (i) Carry out any other activity or obligation agreed by both parties intended to satisfy the objects of the Agreement;
- (j) Allow the CFA to run the café/restaurant by themselves or through their agents, assigns, partners or contractors

#### **Article 5**

##### **Management of the Construction Works and Café/Restaurant**

1. The supervision and management of the construction of the structures including the administrative offices and the café, once approved by the parties, shall be undertaken by the CFA and progress reports given to the Joint Management Committee.
2. The construction shall be carried out in such manner as will cause minimal disruption to the ecological status of the forest;
3. The Joint Management Committee shall make periodic progress reports on the implementation of this agreement to the Director of KFS;
4. The CFA will operate the CFA exclusively as part of its income generating activities

#### **Article 6**

##### **Amendment, Alteration & Termination**

1. No amendments, variations or waiver of this shall be effective unless made in writing and duly executed by both parties herein.
2. This Agreement shall only be terminated as set forth below upon the occurrence of any of the following:



- (a) Upon expiry of its full term where renewal is mutually ruled out;
  - (b) By mutual consent of both parties on the appointed date under agreed terms;
  - (c) If one party ceases to exist through bankruptcy, dissolution, deregistration or by order of court;
3. In the event of termination other than by mutual consent herein, the financial or investment rights of the CFA with respect to construction of the administrative offices and operation of the Café shall be secured in terms of Articles 3 (2) and 7 (2) and any resources developed shall be preserved, and subject to any legal provisions affecting the process, applied for the benefit of conservation of Karura Forest as the Board of the CFA may direct.

#### **Article 7** **Dispute Resolution**

1. The parties pledge to work together in good faith and to maintain communications discuss disagreements and resolve problems.
2. In the event of any dispute, question or disagreement arising from or relating to this Agreement, the parties hereto shall use their best efforts to settle the dispute, question or disagreement. To this end, they shall consult and negotiate with each other in good faith and, recognizing their material interest, attempt to reach a just and equitable solution satisfactory to both parties.
3. The parties may seek the assistance of a neutral third party to help them arrive at a voluntary resolution of any disputes.
4. If the parties have failed to resolve any disputes voluntarily, either party may, upon thirty (30) days notice to the other party, refer the dispute to the National Environmental Tribunal Pursuant to Section 63(2) of the Forest Act 2005.

**Article 8**  
**Proper law and jurisdiction**

1. This agreement shall be governed by Kenyan Law in every particular including formation and interpretation and shall be deemed to have been made in Kenya.
2. Nothing in or relating to this Agreement shall be deemed to be a waiver of statutory provisions of Kenyan law.

**Article 9**

**Notices**

Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed to have been duly delivered on the date of personal delivery or on the seventh (7) day after the mailing date if mailed by registered or certified mail, postage prepaid and return receipt requested, or if delivered by overnight courier, and shall be deemed to have been received on the date of personal delivery or on the date set forth on the return receipt, and subject to any change in address to be duly communicated in writing to the other party within seven (7) days, to the addresses above indicated for the attention of the respective Chief Executive Officers:

**Article 10**  
**Invalidity**

If any provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent, the parties shall negotiate in good faith and attempt to agree on an amendment to this Agreement that will provide the parties with substantially the same rights and obligations, to the greatest extent possible, as the original Agreement in valid, binding and enforceable form. In the event of any provisions of this Agreement being or becoming legally ineffective or invalid, the validity or effect of the remaining provisions of this Agreement shall not be affected.



**Article 11**  
**Confidentiality & General Provisions**


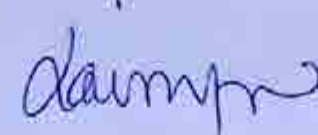

The Parties shall, at all times during and in a period of 3 years after the termination of this Agreement, keep strictly confidential, all information relating to or concerning the construction of the office buildings and the Café including accounting, funding and Karura Forest attractions and resources which could reasonably be considered to be confidential ("Confidential Information"); and each Party shall procure that any Confidential Information coming into its possession or that of its associated companies, consultants or advisers or its or its employees (who shall for the avoidance of doubt be entitled to receive such Confidential Information) shall be maintained as confidential.

IN WITNESS WHEREOF the parties have caused this AGREEMENT to be duly executed on the day and year first herein above appearing:

Signed on behalf of  
KENYA FOREST SERVICE  
By: -

DIRECTOR

CORPORATION SECRETARY

Signed for and on behalf of  
FRIENDS OF KARURA  
COMMUNITY  
FOREST ASSOCIATION  
By: -

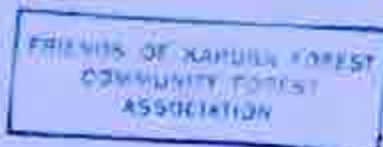
CHAIRMAN

SECRETARY



CAMILLE WEKESA





# PROPOSED SITE FOR KARURA FOREST OFFICES

