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[FIRM LETTERHEAD]

Date.....

Maisha Mazuri,
Managing Director,
ABC Ltd
P.O BOX 000
Arusha

Dear Maisha Mazuri

RE: A REASONED LEGAL OPINION ON TERMINATIONS OF EMPLOYEES BASED ON EMPLOYET'S FINANCIAL CONSTRAINTS

You have informed us that your company, ABC Ltd is contemplating workforce termination for financial constraints reasons. Consequently, you have requested a legal opinion on the validity of the decision and the proper legal procedures for such actions under Tanzanian Law.

The following is our opinion based on your request;

1. DOCUMENTS EXAMINED

In rendering this opinion the following documents were perused and relied upon:

- (a) The Employment and Labour Relations Act, Cap. 366 of R.E 2019
- (c) Relevant Court Decisions

2. ISSUE

In this opinion, we seek to answer the question:

Whether it is lawful to terminate employees when the employer faces financial constraints

3. OPINION

The Employment and Labour Relations Act, Cap. 366 of R.E 2019 allows the employer to terminate the employee based on **operational requirements**.

According to that law operational requirements mean requirements based on the economic, technological, structural, or similar needs of the employer

It is our opinion that the financial constraints issue that your company is currently facing is falling within **operational requirements** angles.

Therefore it is lawful to terminate your employees based on that ground.

Procedures

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The procedures to terminate an employee based on **operational requirements** are strongly laid under section 38 of The Employment and Labour Relations Act, Cap. 366 of R.E 2019.

In nutshell, the following is what you are supposed to do;

1. give notice of any intention to retrench as soon as it is contemplated
2. disclose all relevant information on the intended retrenchment for the purpose of proper consultation;
3. consult prior to retrenchment or redundancy on –
 - o the reasons for the intended retrenchment;
 - o any measures to avoid or minimize the intended retrenchment;
 - o the method of selection of the employees to be retrenched
 - o the timing of the retrenchment
 - o severance pay in respect of the retrenchment,
4. give the notice, make the disclosure, and consult trade unions and employees about your retrenchment plan.
5. Once you fail to obtain agreement during notices and consultation processes, then you have to refer the matter to mediation.
6. Where the mediation has failed, the dispute shall be referred for arbitration

It is important to note that, the procedures above are mandatory and there must be followed no matter what.

The same was well-cemented by the High Court in the case of **Nas Dar Airco Co. LTD vs Emmanue Igonda & others, Labour Revision NO. 38 OF 2021, HC At Moshi, that**

retrenchment has a deleterious impact not only on the lives of the retrenched employees but that of their respective facilities. It is, therefore, imperative that it should not proceed in disregard of the mandatory legal requirements.

CONCLUSION

This opinion is limited to matters of the Tanzanian Laws and Practices stated herein and may not be read as extending by implication to any matters not specifically referred to. Nothing in this opinion should be taken as expressing an opinion in respect of any representations of warranties or other information, or any other document examined in connection with this opinion except as expressly confirmed herein.

This opinion is addressed to you solely for the benefit of ABC CO. alone and may not be relied upon, used by, or shown to any other person or for any other purpose.

We submit.
Respectfully,

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ABCD AND Y ADVOCATES

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