

Dated 13th day of September, 2021

LEASE AGREEMENT

BETWEEN

THE NGORONGORO CONSERVATION AREA AUTHORITY
(NCAA)

AND

ASB TANZANIA LIMITED
(COMPANY)

IN RELATION TO REFURBISHMENT AND OPERATION OF THE
NGORONGORO WILDLIFE LODGE SITUATED ON THE CRATER RIM WITHIN
NGORONGORO CONSERVATION AREA

Drawn by:

Legal Service

Ngorongoro Conservation Area Authority

P.O.B ox 1Ngorongoro Crater,

Ngorongoro

THIS LEASE AGREEMENT (hereinafter referred to as the "**Lease**") is made this 13th day of September, 2021 and entered into by and

BETWEEN

THE NGORONGORO CONSERVATION AREA AUTHORITY (NCAA), a corporate body established under the Ngorongoro Conservation Area Act, Cap. 284 of the laws of Tanzania, of Post Office Box 1, NGORONGORO CRATER, **Arusha, Tanzania** (hereinafter referred to as "**the Lessor**") which expression shall where the context so admits include his/her successors and assigns of the one part;

AND

The **ASB TANZANIA LIMITED** a company incorporated and existing under Company's Act Cap 212 of the Laws of Tanzania, of Post Office 9574, Dar Es Salaam (hereinafter referred to as "**Lessee**") which expression shall where the context so admits include his/her successors and assigns which expression shall where the context so admits include the Company's successors and assigns in Tanzania, of the other part;

The LESSOR(S) and LESEE(S) (hereinafter shall collectively referred to the "**PARTIES**" and individually as the "**PARTY**").

RECITALS:

WHEREAS, the LESSOR is, subject to the Ngorongoro Conservation Area Act, the legal owner of **THE NGORONGORO WILDLIFE LODGE** (hereinafter referred to as the "**Property or the Lodge**"); AND

A. **WHEREAS**, the LESSOR is empowered in terms of section 22 of the Ngorongoro Conservation Area Act, to prohibit, restrict or control the construction or extension of buildings of works or restrict or control their sittings and therefore mandated to oversee land use activities within Ngorongoro Conservation Area; AND

- B. **WHEREAS**, the Lessor wishes to lease a piece of land *10 acres* and the buildings (**WILDLIFE LODGE**) situated at Ngorongoro crater rim at coordinates as it annexed to this agreement as **ANNEXURE "A"** (hereinafter referred to as the "PREMISES") subject to the covenants, agreements, conditions, stipulations and provisions hereinafter contained; AND
- C. **WHEREAS**, the LESSEE has signified to the LESSOR its willingness and ability to refurbish, rehabilitate, maintain, renovate and operate a maximum of 160 beds Lodge (80 rooms) and associated facilities at WILDLIFE LODGE [*within the Ngorongoro Conservation Area at WILDLIFE LODGE, 10 acres, situated at Ngorongoro crater rim.*]

NOW THEREFORE THIS LEASE WITNESSETH AS FOLLOWS:

SECTION 1

DEFINITIONS AND INTERPRETATION

In this Agreement it is agreed that unless the subject or context requires the words in this agreement shall have the following meaning:

1.1 Definitions

- 1.1.1 **Company** means ASB Tanzania Limited or LESSEE
- 1.1.2 **Conservation Area** shall mean the entire area of the Ngorongoro Conservation Area.
- 1.1.3 **Development** shall mean 10 acres, permanent buildings, fixed assets and staff quarters.
- 1.1.4 **Environmental Audit**, shall subscribe to the meaning provided by the relevant laws and regulations of Tanzania.
- 1.1.5 **Party** shall mean a party to this Agreement.
- 1.1.6 **Technical Proposal** shall mean a detailed project design document which includes architectural designs, financial estimates and investment plan.
- 1.1.7 **Refurbishment period**, shall mean a period within 18 months after commencement date of this agreement.

1.1.8 **Grace period** shall mean 6 months after refurbishment of the Lodge.

1.2 Interpretation

The singular includes the plural and *vice versa*:

1.2.1 Any written law includes that law as amended or re-enacted together with all rules and regulations as gazzetted from time to time.

1.2.2 Any party includes that party's personal representatives, heirs assigns and/or successors.

1.2.3 Reference to any gender include each other gender and the neuter gender.

SECTION 2

RECITALS AND ANNEXURES OF THIS AGREEMENT

2.1 The recitals and annexures shall be deemed to form part of this Agreement.

2.2 This Agreement confers rights and impose duties to the Parties thereto, in relation to matters of refurbishment, rehabilitation, maintenance, renovate and operation of a maximum of 160 beds Lodge (80 rooms) and associated facilities, at **WILDLIFE LODGE, 10 acres, situated** at *Ngorongoro crater rim* hereinafter referred to as the "LODGE" or the "PROPERTY"

SECTION 3

COMMENCEMENT AND DURATION

3.1 The LESSOR leases and grants the LESSEE a PERMIT to refurbish, rehabilitate, maintain and operate a maximum of 160 beds Lodge (80 rooms) and its associated facilities at the WILDLIFE LODGE 10 acres, at *Ngorongoro*

crater rim in the form delineated on the approved and executed Architectural Drawings as annexed herein and marked **ANNEXURE B**.

- 3.2 This lease shall be for a period of **Thirty-Three (33) years** commencing on **13th** day of September, **2021** ("the commencement date") and shall endure until **12th** day of September, **2054**;
- 3.3 Notwithstanding Clause 3.2 above, the parties shall renew this lease for another period of 33 years upon expiry of the subsisting term.
- 3.4 Notwithstanding the foregone clauses, the LESSEE wishing to renew this agreement shall give a written notice of not less than six months prior to the expiry date.
- 3.5 The renewal terms of this lease shall be subject to;
 - i. Prevailing relevant government policies and laws
 - ii. Successful performance of this agreement; performance shall be measured in terms of;
 - a) the national average hotel occupancy rates;
 - b) operating the property through recognized international hotel brand;
 - c) execution of the investment plan;
- 3.6 The LESSEE shall upon completion of the refurbishment, rehabilitation of the **WILDLIFE LODGE** conduct, at its own cost, an Environmental Audit, including, identifying and commissioning an expert to undertake the same.
- 3.7 The LESSEE shall ensure that the refurbishment and rehabilitation of **WILDLIFE LODGE** is completed within eighteen (18) months from the date of signing this Agreement.

- 3.8 The LESSEE shall submit the quarterly progress report on the investment expenditure for the refurbishment and rehabilitation of **WILDLIFE LODGE** is completed within eighteen (18) months from the date of signing this Agreement.
- 3.9 For avoidance of doubt at the time of refurbishment and rehabilitation of the LODGE no concession fees shall be payable.

**SECTION 4
CONCESSION FEE**

- 4.1. Once the lodge is in operation the LESSEE shall pay the LESSOR a concession fee *per head* of half board or full board income whichever is charged (excluding VAT and other taxes) as per prevailing rules, regulations and law by the 10th day of the subsequent month.

**SECTION 5
COMMITMENT FEE**

- 5.1 The LESSEE shall, on the date of signing this agreement thereof, pay to the LESSOR a once off fee of USD 50,000 by way of a commitment fee;

**SECTION 6
LESSOR'S RIGHTS AND OBLIGATION**

- 6.1. The LESSOR shall demarcate boundaries of the leased property by using pins and other related tools.
- 6.2. The LESSOR shall-
- 6.1.1. At all reasonable times and upon giving LESSEE at least twenty-four (24) hours' notices in writing enter upon the premises for the purpose of ensuring compliance with Rules and Orders made from time to time under the Ngorongoro Conservation Area Act as well as the conditions of this Agreement.

- 6.1.2. Scrutinize the lodge's books of accounts to verify the correctness of the accounts as well as the room tariffs and rates for purposes of paying concessions and payable fees.
- 6.3 The LESSOR shall afford LESEE peaceful and quiet enjoyment of the premises or the entire term of this lease and without any unlawful interruption or disturbance and agrees that the premises may be used by LESEE for purposes consistent with Ngorongoro Conservation Area Authority activities.
- 6.4 The LESSOR shall not unreasonably withhold any consent required under this agreement.
- 6.5 The LESSOR shall be consulted on the best methods to employ and provide social services and other requirements to the employees of the LESSEE, including their security. Requirements for security and Safety shall be the responsibility of the LESSEE.

SECTION 7 LESSEE'S RIGHTS AND OBLIGATION

- 7.1 The LESSEE shall immediately after the executing of this Agreement proceed to obtain all necessary approvals and permits and commence *refurbishment* on the premise(s) according to approved and mutually agreed architectural drawings between the LESSOR and the LESSEE and endeavor to ensure that such buildings and structures are completed within eighteen (18) months to enable the full commencement of the businesses.
- 7.2 Without prejudice to the generality of this agreement, the LESSEE shall be obligated to:
- 7.2.1 Ensure that the refurbishment layouts of the Lodge shall be submitted in writing by the LESSEE to the LESSOR for scrutiny and subsequent approval before commencement of the refurbishment and rehabilitation work;
- 7.2.2 Ensure that the premises is aesthetically appropriate and, as much as possible, blends with the surroundings.

- 7.2.3 Exercise a high degree of conscientious and imaginative care in the refurbishment and rehabilitation including the use of suitable blending construction materials. The African quality of the premises should come out of its construction, finishing furnishing;
- 7.2.4 Ensure that the Construction work shall be carried out only between 8.00am to 6.00pm.
- 7.2.5 Ensure that the ferrying of building materials from one place to another in the Conservation Area shall be done only during day time.
- 7.2.6 Ensure that the LESSEE or its agent shall be directed by the LESSOR to the sites from which to collect building materials such as stones, gravel etc. And the LEESOR may put conditions on how to collect the same unless authorized by the LESSOR, the LESSEE shall not have right to collect any building materials at any place within the Ngorongoro Conservation Area.
- 7.2.7 The LESSEE shall ensure that the Lodge is refurbished such as to be aesthetically appropriate and, as such as possible, blends with the surroundings and the Ngorongoro Conservation Area ecosystem.
- 7.2.8 Refurbish the premises to be distinct in its own character thus setting it apart in visitors' minds from other lodges in Tanzania's Northern Tourist Circuit:
- 7.2.9 Ascertain the availability of adequate and suitable drinking water before construction work begins in order to ensure that the premise is constantly supplied with water upon completion. PROVIDED that water for the premises shall not be drawn from natural springs unless the LESSEE after consultation with LESSOR is satisfied that human residents, livestock wildlife is left with constant supply of drinking water.
- 7.3. The LESSEE shall avoid defacing of the surroundings and minimize accidents to wildlife and livestock and shall not install overhead electric cables or fences.
- 7.4. The LESSEE shall lay all sewage systems underground and with no allowance for expected leakages.
- 7.5. the LESSEE shall establish and environmentally appropriate waste disposal and treatment facilities and install incinerators.

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- 7.6. The LESSEE shall lay water pipes and renew and maintain pipes and ensure supplies of water, appropriate drainage, sewerage and such other facilities in the premises.
- 7.7. The LESSEE shall have the right to carry on, or procure to be carried on, in the premises, the business of hoteliers, camping, photography, creating a cultural centre, cultural education, information on culture and traditions, deal with curios, artifacts, memorabilia and all other related activities that are permitted in the Ngorongoro Conservation Area.
- 7.8. The LESSEE, its employees, servants, agents and licensees shall have the right of way over and along all roads within the Conservation Area subject to compliance with the provisions of the Ngorongoro Conservation Area Act and Rules and Orders made hereunder.
- 7.9. The LESSEE shall employ high quality Management personnel and ensure the provision of a commensurate high-quality service in the Lodge.
- 7.10. The LESSEE undertakes to secure all the required funds and resources to ensure that the property is refurbished and profitably operated on agreed standards and plans.
- 7.11. Through LESSOR's authorization, the LESSEE shall have the right to maintain a specific number of vehicles in the premises necessary for the LESSEE's performance of its day-to-day administrative functions.
- 7.12. The LESSEE shall not operate within the Conservation Area vehicles whose weight and/or capacity is in excess of that approval by the LESSOR.
- 7.13. The LESSEE shall:-
- 7.13.1. Not carry on in the said Area, any business other than those specified in this Agreement without written permission from the LESSOR.
 - 7.13.2. Keep the premises, buildings and structures thereon in good state of repair and restore any damage thereto.
 - 7.13.3. Pay electricity bills of the premises, keep sanitary and conservancy charges in connection with the premise.
 - 7.13.4. Issue passes to all its employees in such form as may be approved by the LESSOR and to instruct its employees to carry such passes with them at all times.

- 7.13.5. Use its best endeavour to ensure that visitors and employees do not leave the Area otherwise than in motor vehicles except as may be necessary to LESSEE's employees, servants and others in the performance of their normal duties.
- 7.13.6. Provide accommodation to visitors to the Conservation Area in the order in which bona fide bookings are received by the LESSEE.
- 7.13.7. Make available upon reasonable notice in writing for inspection to the LESSOR or persons authorized by it in writing at all reasonable times all registers of booking and books of accounts.
- 7.13.8. Permit the LESSOR or its duly authorized agents at all reasonable times and after the notice in that prospect to enter upon the Lodge Area for the purposes of ensuring compliance with Rules and Orders made from time to time under the Ngorongoro Conservation Area and the Government in general as well as the conditions of this Agreement.
- 7.13.9. Not carry in the Conservation Area business involving by products of flora and/or fauna.
- 7.13.10. Do all it can within its power through its employees and by provision of the necessary material resources both independently and at the request of the LESSOR to prevent or suppress fire within the Conservation Area and to assist and use its best endeavors in rescue operations and such emergencies as may arise at any place within the Conservation Area.
- 7.13.11. Not permit camping activities within the Conservation Area without prior approval of the LESSOR.
- 7.13.12. Not transfer, assign, pledge or make other disposition of this Lease or any part thereof, or any of its rights, claims, or obligations under this Lease except with the prior written consent from the LESSOR and any transfer made before obtaining such consent shall be null and void.
- 7.13.13. Charge special but fair rates for the accommodation of LESSOR's Board Members, Senior Officers and Conservation Area Officials whenever they are at the premises on official duties

- 7.13.14. Immediately deposit with the Ngorongoro Police Station for safe custody any firearm or weapon declared at the LESSEE's reception by a transient visitor until such time as the visitor departs from the Conservation Area.
- 7.13.15. Inform the LESSEE's employees that they are not required to pay entrance fees whether or not they are living in the premises, however, any servants accompanying visitors shall be liable to pay entrance fees. Relatives of staff living in the premises will be required to acquire free entry permit within 48 hours of the entry into the Conservation Area, failure of which they will be liable for payment of the normal entry fee.
- 7.13.16. Endeavour to establish and maintain bachelor quarters at the premises for employees. Noting that employees' families are strictly prohibited to live in the premises
- 7.13.17. Take such insurance policies as are necessary against claims under public liability, employees' liability and other hazards as is customary among operators of similar businesses under comparable circumstances.
- 7.13.18. Ensure the provision of social facilities for employees of the lodge.
- 7.13.19. Not to use fuel wood for purposes of cooking and heating in the lodge, except for campfires on written approval by the LESSOR.
- 7.13.20. Maintain firebreaks around the premises as may be approval by the LESSOR and ensure proper installation and maintenance of fire extinguishers and other firefighting equipment.
- 7.13.21. Do all it can within its power through its employees and by provision of the necessary material resources both independently and at the request of the LESSOR to prevent or suppress fire within the Conservation Area and to assist and use its best endeavours in rescue operations and such emergencies as may arise at any place within the Conservation Area.
- 7.13.22. Maintain all established feeder roads to the premises and improve such roads as far as possible to such standards as shall appear reasonable with regards to the promotion of the Tourist Industry and as far as financial resources of the LESSOR permit. Provided that should the LESSEE rehabilitate any existing road at its own cost before approval of the LESSOR, the LESSOR shall not be liable to pay for that cost.

- 7.13.23. Ensure the premises and employee are insured for all risks, including fire, explosion, civil strife, as well as earthquake, flood or other natural phenomenon, and war risks under a comprehensive policy issued by an insurance company.
- 7.13.24. Deal with any claims by third parties for personal injury, loss, illness, death or damage to their property arising from its occupation and use of the Premises and attributable to the acts or omissions of LESEE or of its servants or agents.

SECTION 8 TERMINATION

- 8.1. That the LESSOR may, subject to the foregoing provisions below, terminate this Agreement and the LESSEE shall not be entitled to compensation in the event of a continued material unresolved breach of any condition relating to the period of refurbishment of the Lodge provided that such breach should be brought in writing and the LESSEE shall have refused or neglected to remedy the same. The material breach during the refurbishment shall include; non-compliance to the agreed investment plan annexed hereto as **ANNEXURE "C"**.
- 8.2. The buildings and structures within the Premises shall remain in possession of the LESSEE during the term of this Agreement as defined in section 3, hereby created; and for such period of renewal as may be extended. After expiry of the Agreement period and any extension thereto, possession of the buildings and structures shall revert to the LESSOR.
- 8.3. That upon termination of this Agreement by the LESSOR for reasons other than those referred to in the next clause, the LESSEE shall be entitled to full and fair compensation for all or any unexhausted improvements on the Lodge.

8.4. That the LESSOR may, subject to the foregoing provisions below, terminate this Agreement with six (6) month notice and the LESSEE shall not be entitled to compensation in the event of:

8.4.1. Failure to rectify, without reasonable cause, a material breach of a provision of this agreement for more than 90 days from the date the LESSOR requested the LESSEE to rectify such a material breach.

8.4.2. A persistent non-complying LESSEE.

8.4.3. The LESSEE conducts business within the site other than the business for which the lease was granted despite repeated reminders to comply with the conditions of the agreement.

8.5. The LESSOR shall not terminate this Agreement:

8.5.1. Unless the breach shall have been brought to the attention of the LESSEE in writing and the LESSEE shall have refused or neglected to remedy the same; or

8.5.2. If the LESSOR is the cause or one of the contributing causes for the breach relating to the period of refurbishment aforesaid; or

8.5.3. If the cause or one of the causes of the breach is beyond the reasonable control of the LESSEE and this has been notified in writing by the LESSEE to the LESSOR

SECTION 9

FORCE MAJEURE AND OTHER CHANGES IN CONDITIONS

9.1. Neither party is liable to the other for defaults or delays in performing their obligations under this Agreement if such default or delays result from force majeure. For the purpose of this Agreement "Force Majeure" means;

9.2. Any Act of War (Declared or undeclared), civil disobedience, coup d'etat, act of terrorism, government intervention, riots, explosion, epidemic, storm, flood, draught, earthquake, hurricane, tornados, lightening, volcanic activity, or other adverse weather conditions, or any other act of God whenever and however occurring provided that any such event occurs within or directly involves or affects Tanzania.

SECTION 10
OWNERSHIP OF BUILDING AND STRUCTURES

- 10.1. The building and structures erected on the premises by the LESSEE shall be owned by the LESSOR and remain in possession of the LESSEE during the whole term of this lease.
- 10.2. Upon completion of the term of this lease, the possession of the buildings erected by the LESSEE on the premises shall be transferred to the LESSOR and shall be the property of the LESSOR.

SECTION 11
AMENDMENTS

- 11.1 Subject to operation of law and change in policy, this agreement may be amended.
- 11.2 Parties may mutually agree to amend the clauses of this agreement subject to compliance of law.
- 11.3 Any amendments to this agreement shall be in writing and executed in the same manner as in this Agreement.
- 11.4 Parties may review this contract without affecting the laws of the United Republic of Tanzania.

SECTION 12

NOTICES

12.1 Any notice required to be given by any party hereto to any other shall be deemed validly served by hand delivery or by email or prepaid registered post to its address (or fax number) given herein or such other address as may from time to time be notified for this purpose and any notice served by hand shall be deemed to have been served on delivery, any notice served by email shall be deemed to have been served when the sender receives confirmation that the message was transmitted in full and without error and any notice served by prepaid registered post shall be deemed to have been served three (3) days after the date on which it was posted and in proving service it shall be sufficient to prove that the notice was properly addressed and delivered or posted (and in the case of an email that the email was correctly transmitted), as the case may be.

12.2 Parties agreed that any notice shall be served to the below addresses. It is party's obligation to notify the other in writing when addresses below changes, otherwise, the below addresses shall remain valid for the lifetime of this agreement.

12.2.1 LESSOR'S Address

Conservation Commissioner
P.O Box 1 Ngorongoro Crater,
Ngorongoro.
Email; cc@ncaa.go.tz
Phone: +255 27 2537006/19 Fax: +255 2537007

12.2.2 LESSEE'S Address

Director,
P.O Box 9574,
Dar Es Salaam.
Email: pradeep@albwardy.com
Phone: +255 688 905011

SECTION 13
GOVERNING LAW

13.1 This agreement shall be governed by the laws of the United Republic of Tanzania.

SECTION 14
DISPUTE SETTLEMENT

14.1 The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of this Lease or the breach, termination, or invalidity thereof.

14.2 Where the Parties wish to seek such an amicable settlement through conciliation or mediation, the said conciliation or mediation shall take place in accordance with the Conciliation/Mediation Rules made under the Civil Procedure Code, Cap. 33.

14.3 Any dispute, controversy, or claim between the Parties arising out of this Lease or the breach, termination, or invalidity thereof, unless settled amicably within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the arbitration Rules of Tanzania Arbitration Centre and the place of Arbitration shall be Arusha, Tanzania.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed in accordance with their respective laws the day and year first above written.

SEALED with the Common Seal and DELIVERED

by the said **NGORONGORO CONSERVATION AREA AUTHORITY**

In the presence of us this 13th day of September, 2021



Signature.....

Name **FREDDY S. MANONGI**

Postal Address **Box 1 Ngorongoro CRATER.**

Qualification (**Conservation Commissioner**)

Signature.....

Name **JUMANNE DEDE**

Postal Address **Box 1 Ngorongoro CRATER.**

Qualification (**Ag. SACC-Legal**).

SEALED with the Common Seal and DELIVERED by the said

ASB TANZANIA LIMITED

In the presence of us this 13th day of September, 2021



Lessee

Signature.....

Name **MAHMOUD CASIM**

Postal Address **P.Box 9574, Dar es Salaam**

Qualification (**Director**)

Signature.....

Name **PRADEEP SURANA**

Postal Address **P.O. Box 9574, Dar es Salaam**

Qualification (**Director**)