

TANZANIA ZAMBIA RAILWAY AUTHORITY

AN ADDENDUM

FOR

CONSTRUCTION OF INLAND CONTAINER DEPOT

BETWEEN

AFRICA INLAND CONTAINER DEPOT

AND

TANZANIA ZAMBIA RAILWAY AUTHORITY

(TAZARA)

WHEREBY IT IS AGREED AS FOLLOWS

Article 1

INTRODUCTION

- 1.1. TAZARA (The Landlord) and African Inland Container Depot Limited (The Tenant) entered into Lease Agreement for the establishment of a Dry Pot in Dar es Salaam.
- 1.2. The Lease was registered by the Registrar of Documents, Tanzania, as one of the legal requirement of all long period agreements.
- 1.3. The total area leased to the Tenant by the Landlord is 8.4 Acres for the period of 25 (Twenty five) years.
- 1.4. The Tenant did not start business immediately due to conditions given by Tanzania Revenue Authority to the Tenant
- 1.5. It was directed, by Tanzania Revenue Authority, that in order to construct inland Container Depot, a minimum of 14 Acres is required.
- 1.6. In order to comply with Tanzania Revenue Authority, the Tenant requested for more land from the Landlord. The Landlord presented the request to the Board of Directors.
- 1.7. That during its 104th meeting the Board of Directors of the Landlord approved the request that an additional piece of land measuring eight point eight (8.8) acres situated along Mchicha area near Dar es Salaam Workshop be leased to the Tenant

Article 2.

COMPLIANCE TO THE DIRECTIVES

The Landlord shall offer eight point eight (8.8) more Acres (non-surveyed) to the Tenant and tenant shall accept such piece of land as an additional area to comply with the conditions given by Tanzania Revenue Authority

Article 3

RENTAL FEE

- 3.1. The rental for an additional eight point eight (8.8) acres shall be US\$20,952.00 (United States Dollar twenty thousand nine hundred fifty two only) per month.
- 3.2. Payment of rentals for the additional eight point eight (8.8) acres shall be done after handover, which depends much on acquiring Title Deed and upon securing building permit by the Tenant.
- 3.3. The total rental fee for 17.2 acres is USD 40,952.00 (United States Dollar forty thousand nine hundred fifty two only) per month payable one month in advance.

Article 4
SURVEY COST

- 4.1. The Tenant shall bear the survey cost that shall be recovered from the monthly rental fees.
- 4.2. The Surveyors who have been contracted by the Landlord through following the Landlord's Supplies and Procurement procedure are M/S Geosurface International Ltd of P O Box 35784 Dar es Salaam at the total cost of Tshs. 40,828,000.00 (Tanzanian shilling forty million eight hundred twenty eight thousand only) and M/S GeoPro International Ltd of P O Box 41875 Dar es Salaam, Tanzania.
- 4.3. The total survey cost is Tshs. 63,578,000.00 (Tanzania Shilling sixty three million five hundred seventy eight thousand only).
- 4.4. The Landlord shall approve payments to be done by the Tenant to the Contracted Surveyors.
- 4.5. To have clear record, the Surveyors shall provide Credit Note to the Landlord to substantiate payment made by the Tenant for survey total and final cost.

Article 5.
STATUS OF THE ADDENDUM.

- 5.1. This addendum does not affect the terms and condition of the main contract which has already been registered.
- 5.2. All terms and conditions of the main Lease agreement shall be obeyed and directly applied on this lease arrangement.
- 5.3. This Addendum to the Lease Agreement supplements the previous concluded and registered Lease Agreement between the Landlord and the Tenant.

Article 6
EFFECTIVE DATE TERMINATION AND AMENDMENT

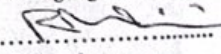
- 6.1. This addendum shall come into effect upon last signature of the parties
- 6.2. Conditions for termination of this addendum are the same as the conditions indicated in the main Lease Agreement.
- 6.3. Any amendments of this addendum shall be done in accordance with the conditions laid down in the main Lease Agreement.

Article 7

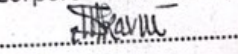
APPROVAL AND SIGNING OF THE AGREEMENT

IN WITNESS WHEREOF the parties hereto have caused this Addendum to be duly executed in duplicate this day of January 2014

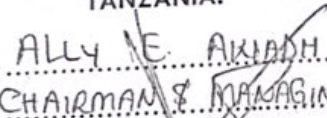
FOR THE LANDLORD: TANZANIA ZAMBIA RAILWAY AUTHORITY
P.O. BOX 2834
DAR ES SALAAM
TANZANIA.

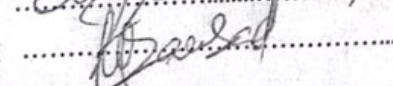
Name : Eng. Ronald M. Phiri
Title : Managing Director
Signature : 
Date : 06.05.2014



WITNESSED
Name : Marco MNS Mabala
Title : Corporation Secretary
Signature : 
Date : 06.05.2014

FOR TENANT: AFRICAN INLAND CONTAINER DEPOT LIMITED
P.O. BOX 40679
DAR ES SALAAM
TANZANIA.

Name : ~~ALLY E. AKIASH~~
Title : ~~CHAIRMAN & MANAGING DIRECTOR~~
Signature : ~~~~
Date : ~~28th APRIL 2014~~

WITNESSED BY
Name : ~~KHARSAF MOHAMMED~~
Title : ~~Cor Secretary~~
Signature : ~~~~
Date : ~~.....~~

LAND LEASE AGREEMENT

BETWEEN

TANZANIA - ZAMBIA RAILWAY AUTHORITY,
(TAZARA)
P. O BOX 2834,
DAR ES SALAAM, TANZANIA.

AND

AFRICAN INLAND CONTAINER DEPOT LIMITED,
P. O. BOX 40679,
DAR ES SALAAM, TANZANIA.

LAND LEASE AGREEMENT

(TAZARA Plot No. 302 - 8.4 acres portion)

This Land Lease Agreement ("Lease Agreement") is executed this 31st day of JULY, 2012;

BY AND BETWEEN

TANZANIA - ZAMBIA RAILWAYS AUTHORITY ("TAZARA"), a statutory institution owned by the two Governments of the United Republic of Tanzania and the Republic of Zambia, duly incorporated by Acts of Parliament of the two sovereign states, whose address is TAZARA Head Office, Nyerere/Mandela Road, P.O. Box 2834, Dar es Salaam, Tanzania (hereinafter referred to as the "Lessor") of the one part,

AND

AFRICAN INLAND CONTAINER DEPOT LIMITED, a private limited liability company duly incorporated under the Companies Act (Cap 212 of the laws of Tanzania, Revised Edition of 2002) whose address is P.O. Box 40679, Dar es Salaam, Tanzania (hereinafter referred to as the "Lessee") of the other part.

WHEREAS;

- A. the Lessor, through its Central Tender Committee which sat on 30th November 2011 and 01st December 2011, recommended to the Board of Directors of the Lessor to award a tender to lease a portion of 8.4 acres on TAZARA Plot No. 302 for a period of twenty Five (25) years on a Build, Operate and Transfer (BOT) basis;
- B. the Board of Directors of the Lessor which sat on 11th December, 2011 on its 99th Meeting, approved the award to the Lessee;
- C. on 16th December 2011, the Lessor wrote a letter of offer to the Lessee notifying it of the said award of Tender;
- D. on 19th December, 2011 the Lessee accepted the said Award of Tender;
- E. (the particular plot of land and production office is referred to in this Agreement as

"Site"); and
F. Both the Lessor and Lessee wish to enter into this Lease Agreement for the lease of the site for use by Lessee to build and operate an Inland Container Depot and its related business activities.

NOW THIS LEASE AGREEMENT WITNESSETH AS FOLLOWS:

Article 1

Definitions:

"Agreement" means this Lease Agreement between the Lessor and the Lessee dated ^{31st} day of ^{July} 2012;

"Effective Date" date when the Lessor shall handover the Site to the Lessee;

"Material Obligation" means the payment of monthly rent

"Parties" mean the Signatories to this Agreement;

"Lease Period" means the period of the lease which is twenty five years (25) years starting from 8th May 2013. i.e. on the date when the lessor handover vacant possession of the Site to the Lessee;

"Rent" means the monthly rent of United States Dollars Twenty Thousand only (USD 20,000/=); as may be reviewed from time to time;

"USD" means the currency of the United States of America

1.1 References to the singular include when the context so admits, references to the plural and vice versa and references to Clauses and Annexes are references to Clauses of and Annexes to this Agreement.

1.2 Words importing the masculine gender shall include the feminine gender and vice-versa and words importing persons shall include companies.

1.3 The headings as used in this Agreement are for convenience of reference only and shall not affect the construction of any of the terms and provisions hereof.

- 1.4 If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or not enforceable in any respect, such invalidity, illegality or non-enforceable provision shall be deemed never to have been contained herein. In the event of such invalidity, illegality or non-enforceability, the parties shall use their best efforts to achieve the purpose of the relevant provisions by amending the provisions in this Agreement and adding a new legally valid and enforceable provision.

Lessor and Lessee hereby agree as follows:

Article 2

Site.

The Lessor hereby agrees to lease to the Lessee the Site upon the terms and conditions set forth in this Lease Agreement.

Article 3

Purpose and Use.

- 3.1. Lessee is permitted to build operate and maintain an Inland Container Depot (ICD) and to carry out any other related business activities as the Lessee may deem fit. These includes Car Freight Services (CFS) and Break Bulk Cargo (BBC)
- 3.2 The Lessee may contract the lessor to transporter of Lessee's containers and other related freight belonging to the Lessee and going on the routes or areas where the Lessor operates. However, the Lessee shall be at liberty to use other transporters or means of transport for freight and containers destined for areas even where the Lessor does operate.

Article 4
Term of Lease.

This Lease Agreement shall be for a period of Twenty Five (25) years (the "Initial Term") or any extension thereof (the "Additional Term") as may mutually be agreed between the parties.

Article 5
Rent Payment.

- 5.1. Lessee agrees to pay Lessor, at Lessor's address set out above or at such other place as Lessor may designate in writing, rent for the Initial Term in the amount of [US\$ 20,000/=] (United States Dollars Twenty Thousand only) per month, payable monthly in advance. Rental for the Additional Term, if any, shall be as mutually agreed between the parties.
- 5.2. Rent shall be reviewed after every five (5) years at the rate of not more than 10 % of the previous agreed rent.

Article 6
Delivery of Exclusive Possession.

- 6.1. Lessor shall deliver exclusive and lawful possession of the entire Site (8.4 acre) to Lessee within seven working days from the date of signing of this Agreement.

Article 7
Conditions Precedent.

- 7.0. Prior to the Date of Delivery, Lessor shall satisfy the following conditions:
- 7.1 ensure that all necessary Government approvals, if any, for the award of the said tender have been sought and granted as required under applicable Laws of Tanzania.
- 7.2. Lessor has confirmed by writing to the lessee that the Site has been cleared of any occupants.

Article 8

Lessor's Warranties and Representations.

8.1 Lessor undertakes that Lessee shall lawfully, peacefully and freely hold, occupy, use, operate, and enjoy the Site in order to fulfill its obligations and exercise its rights under this Agreement during the Initial Term and the Additional Term (if any) without disturbance, nuisance, or interference by Lessor, successors, assigns, agents, or creditors.

Lessor undertakes that no third party shall have a right or claim to the Site during the Initial Term and the Additional Term of the Lease Agreement.

8.2 Lessor warrants and represents that it has obtained all approvals from the [Government], the municipal authorities and all other applicable government agencies or bodies, needed for Lessee to lawfully enter into this Lease Agreement and to use the Site for the purposes described in this Agreement at all times during the Initial Term and the Additional Term (if any).

8.3 Lessor warrants and represents that it is the lawful and sole owner during the Initial Term and the Additional Term and that there are no encumbrances, mortgages, liens or security interests on the Site other than those created pursuant to this Agreement.

8.4 Lessor warrants and represents that the Site will be free from any occupants as at the Delivery Date.

8.5 Lessor warrants and represents that the Site is free from pollution, unexploded ordinances and environmental damage.

Article 9

Authorization to Build.

9.0. Lessee is hereby authorized by Lessor to carry out all construction works on the Site, in accordance with its drawings or as it may deem necessary in order to carry on its business on the Site. Lessee may renovate the leased structures, demolish the buildings on the Site (if any) and reconstruct others

in order to carry out its obligations and exercise its rights under this Agreement.

Article 10
Signs.

- 10.0. Lessee shall have the right to erect any sign related to its business on the condition that such signs comply with Tanzania laws.

Article 11
Lessee Compliance with Tanzania Laws.

- 11.0. Without limiting the general requirements under Tanzania law, Lessee while using the Site shall ensure, during the Initial Term and the Additional Term (if any) the following:
- 11.1 Compliance with the laws and regulations on hygiene.
 - 11.2 Compliance with the laws and regulations on environmental protection and security.
 - 11.3 Compliance with the laws and regulations on fire, explosion prevention and fire extinguishment.

Article 12
Lessee Undertakings

- 12.1 Lessee undertakes to maintain the Site in good condition at Lessee's own risks and expense and to keep all Lessee's belongings inside the Site at all time during the Initial Term and the Additional Term (if any) of this Lease.
- 12.2 Lessee undertakes to procure and maintain insurance covering any damages occurring within the Site to third parties and its personal property from fire and other risks, or as required under applicable Laws of Tanzania.
- 12.3 Lessee undertakes that there will be no illegal or prohibited matters, objects, substances materials, products and/or the like allowed to operate, manufacture or held inside the Site.

- 12.4 Lessee shall return the Site to Lessor upon termination of the Agreement in good condition.
- 12.5 In the event of termination of the Lease under Article 17 and 18 hereof, Lessee shall within **thirty (30) business days** following the termination date with which to remove all movable property belonging to Lessee from the Site.

Article 13

Taxes.

- 13.0. Lessor agrees to be responsible for payment of any and all taxes or fees levied by applicable laws, or any organ or agency of the Tanzania Government, arising from the lease of the Site, including Income Tax, Property tax, and or any other Municipal taxes levied on the Site. Should Lessor fail to pay the said taxes and the Government holds Lessee responsible for paying such tax, Lessee shall have the right to deduct the amount of the tax from the next lease payment or payments. Lessee shall provide written notice to Lessor prior to making such deduction. Lessee agrees to be responsible for payment of any and all taxes arising from Lessee's operation of the business on the Site, such as sales or turnover tax etc.

Article 14

Lessor's Access to Site.

- 14.0. Lessor, Lessor's agents and employees shall have no right of entry onto the Site, except as provided by applicable laws or pursuant to the provision of this Agreement, during the Initial Term and the Additional Term of the Lease Agreement without prior written consent of Lessee.

Article 15

Property of Buildings Erected by Lessee.

Subject to the terms of this Agreement, the erected buildings and all works and developments carried out by Lessee or its legal successors will remain the property of Lessee to the extent permitted by law, during the Initial Term, and during any extensions.

Article 16 8

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Article 16

Assignment

Lessee may have assign or transfer the Site in whole or in part with the lessor's written consent. Lessor. Lessor may assign or conditionally assign its interest in this Lease Agreement PROVIDED THAT the assignee assumes in writing all of the Lessor's obligations and liabilities under this Lease Agreement.

Article 17

Termination by Lessee.

17.0. Lessee has the right to terminate this Lease Agreement, upon written notice to Lessor, without penalty, under the following circumstances:

17.1 Any breach by Lessor of any of its material obligations, representations under this Lease Agreement and Lessor has failed to take appropriate measures to rectify this breach within 60 days after receiving written notices of the breaches from Lessee.

Article 18

Termination by Lessor.

18.0. Lessor shall have the right to terminate this Lease Agreement under the following circumstances:

18.1 Any breach by the Lessee of any of its material obligations, representations under this Lease Agreement and Lessee has failed to take appropriate measures to rectify this breach within 60 days after receiving written notices of the breaches from Lessor.

18.2 In the event the Lessor intends to terminate this Agreement before the same expires, the Lessor shall compensate the Lessee for all unexhausted improvements on the Site at the fair market value at the time of termination and the Lessee shall only vacate the Site after payment of the said compensation.

Article 19

Registration of the Lease.

19.0. The parties shall, to the extent required by law and practice, properly register this Lease Agreement with the relevant Land Registry Office, and any other relevant government office that may serve as a place for registering or recording leases. Any registration cost that may arise shall be paid by the Lessee.

Article 20
Force Majeure.

- 20.1 For the purpose of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impracticable as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation by government agencies;
- 20.2 Force Majeure shall not include:
- 20.2.1. any event which is caused by the negligence or intentional action of a Party or such Party's Sub consultants or agents or employees, or.
- 20.2.2. any event which a diligent Party could reasonably have been expected to both:
- (A) take into account at the time of the conclusion of this Agreement and
- (B) avoid or overcome in the carrying out of its obligations hereunder
- 20.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

Article 21
Partial Invalidity.

- 21.0. If any term of this Lease Agreement shall be invalid or unenforceable, the remainder shall be valid as written to the fullest extent permitted by law.

Article 22
Governing Law.

- 22.0. This Lease Agreement shall be interpreted and governed by the laws of Tanzania.

Article 23
Entire Agreement.

23.0. This document contains the entire agreement of the parties and supersedes all previous communications, representations and agreements, whether oral or written, with respect to the Site. This Lease Agreement may not be modified except in writing signed and acknowledged by both parties.

Article 24
Heirs and Assignees.

24.0. This Lease Agreement shall be binding on the heirs, assignees and the successors in interest of the Lessor and Lessee.

Article 25
Language.

25.0. This Lease Agreement and any amendments to it shall be executed in 4 originals in [English] language. All notices required herein shall be written in the English language.

Article 26
Dispute Clause:

26.0. Any dispute arising from or in connection with this Agreement shall be settled amicably between the Parties, failing which the aggrieved Party may take legal action at any Court or Tribunal with jurisdiction to try the matter at the time of dispute.

IN WITNESS WHEREOF, Lessor and Lessee hereby execute and agree to the terms and conditions of this Lease Agreement on the date first set out above.

SEALED with the common seal of
African Inland Container Terminal Ltd and
DELIVERED in the presence of us this 31st
day of July 2012.

)
) _____
) SEAL
)

Name: TAIBALI ABUHAMIS TAIBALI

Signature: 

Postal Address: Box 40679 DSM

Qualification: DIRECTOR

Name: FATHIM MOHAMAD SAAD

Signature: 

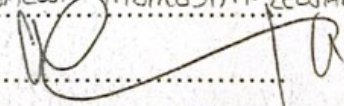
Postal Address: Box 40679 DSM

Qualification: COMPANY SECRETARY

SEALED with the common seal of
TANZANIA - ZAMBIA RAILWAY AUTHORITY
And DELIVERED in the presence of us this 31st
day of JULY 2012.

)
) _____
) SEAL
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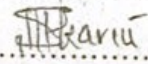
Name: AKASHAMBALWA MBIKUSIFA-LEWANIKA

Signature: 

Postal Address: P.O. Box 2834 DSM

Qualification: MANAGING DIRECTOR

Name: MARCO MNS MABALA

Signature: 

Postal Address: P.O. Box 2834 DSM

Qualification: AG. CORPORATION SECRETARY.