

MEMORANDUM OF UNDERSTANDING

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Between

Build Africa Holdings Limited, Tanzania

And

AM & PARTNERS Limited, Tanzania

September, 2024

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MEMORANDUM OF UNDERSTANDING

This Agreement is made this 23rd day of September Year 2024

BETWEEN

Buld Africa Holdings Limited, a limited liability company duly incorporated in the United Republic of Tanzania, whose principal office is located at Plot No. 2 Block "H" Uhindini Street, Near Jengo la Wizara ya Ujenzi, Uchukuzi na Mawasiliano, P.O Box 2397, Dodoma, Tanzania (*herein referred to as "BAH" which expression witness the context requires otherwise shall include its successors, nominees and or agents, on one part*);

AND

AM & PARTNERS Limited (Project Partner), a limited liability company dully incorporated in the United Republic of Tanzania, whose principal office is located at Kanga Street, Kinyerezi P.O Box 67432, Dar es Salaam, Tanzania (*herein referred to as "AM & PARTNERS" which expression witness the context requires otherwise shall include its successors, nominees and or agents, on the other part*);

Collectively to be referred to as "the Parties;"

WHEREAS the Parties wish to enter into an Agreement to establish and implement Dodoma Clay Brick Project; and

WHEREAS the Parties have opted to operate a Dodoma Clay Brick Project for the purpose of pursuing the objects set forth herein;

AND WHEREAS BAH and AM & PARTNERS have agreed to enter into this Agreement for the purpose of creating a binding obligation between the Parties.

NOW, THEREFORE, in consideration of mutual agreement on the terms, conditions and covenants hereinafter set forth, **THE PARTIES AGREE AS FOLLOWS:**

1. Definitions and Interpretation

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter assigned to them:

"Agreement" means this Agreement, any amendments thereto and any Annexure hereto made in accordance with the provisions contained in this Agreement;

"Business Plan" means the business plan mutually agreed between the Parties;

"Business" means the Business to be carried out by the Parties in accordance with the Business Plan as updated by the JOC from time to time;

"Board" means the Joint Operating Committee (JOC) mandated to manage the affairs of the Project;

"Commencement date" means the date on which the business of the Parties shall begin;

"Dollars" shall mean United States Dollars, the lawful Currency of the United States of America;

"TZS" shall mean Tanzania Shillings, the lawful Currency of the United Republic of Tanzania;



"Force majeure" means war, emergency, accident, fire, earthquake, flood, storm, industrial strike or other impediment which the affected party proves that was beyond its control and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of this agreement or to have avoided or overcome it or its consequences;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

"Ownership" shall mean project contribution in the capital for the Parties;

"Senior management" means the Joint Operating Committee

"Termination" means the expiry or termination of this Agreement hereunder pursuant to a Termination Notice or otherwise, in accordance with the provisions of this Agreement;

"Dodoma Project" shall mean Dodoma Clay Brick and Tiles Factory;

In this agreement, reference to any statute or statutory provision shall include a reference to that statute or statutory provision for the time being in force and also to amendment, extension, modification, re-enactment or repeal thereof;

References to articles shall be to Articles of this agreement;

References to persons shall include companies, bodies corporate, unincorporated associations and partnerships;

The words and expressions not expressly defined in this agreement shall, as far as possible, bear the same meaning as is given to them by the Companies Act [Cap 212 RE 2002] or any statutory modification or re-enactment thereof in force in the United Republic of Tanzania at the time of entering into this Agreement; and

Words importing the singular shall include the plural and vice and versa.

2. Essence of Agreement

- (i) The Parties hereby form formal business relations for the purpose of making excavation of clay minerals for production of clay bricks, roofing tiles, pavers and other related products and their packaging, storage and delivery to customers. Hence, therefore, establishing Clay bricks and roofing tiles Project in Dodoma Tanzania to manufacture and supply various Clay related products and conduct its business activities under the name of JENGA BRICKS and its place of business shall be at Dodoma Region in the United Republic of Tanzania, or at such other place or places as the Parties may from time to time agree upon;
- (ii) The ownership of the project in the agreement shall be in the ratio of 70% for BAH and 30% for AM & PARTNERS;
- (iii) The Business shall be conducted in the best interests of the parties in accordance with the Memorandum and Articles of Association of BAH.

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3. Objects of forming business relations

The main object of the agreement shall be to establish a clay brick factory for the purpose of utilizing clay minerals available in Dodoma, Tanzania for production of clay bricks, roofing tiles, pavers, water tanks and other related products and set to run the Dodoma Clay Brick Project to manufacture and supply Clay bricks, tiles and other related building material as shall be agreed by the Parties.

4. Term and commencement of the business

- (i) This agreement shall cover seven (2) years from the date of signing.
- (ii) The parties may renew this agreement as shall be mutually agreed by the parties.
- (iii) The business of the Parties shall commence on the 1st day of signing this MoU until determined otherwise by the Parties in accordance with article 17.

5. Ownership Contribution

- (i) The Project contribution for undertaking Dodoma clay Brick Project shall be 70% for BAH and 30% for AM & PARTNERS starting from the 1st day of signing this MoU.
- (ii) BAH shall regard all activities done including Price on Explorations undertaken for Clay deposit in Tanzania, clay deposit records and documentations, details for Kisarawe and Dodoma clay brick project, the retained technical team and all other project details for clay brick manufacturing and its business to form 70% stake needed for establishing Dodoma Clay Brick Project. AM & PARTNERS shall unconditionally contribute to participate during full feasibility study activities ahead and acquisition of all necessary permits, licenses and other documents needed for Dodoma Clay Brick Project; to form 30% stake needed for establishing Dodoma Clay Brick Project.
- (iii) The project contribution of the Parties may from time to time be increased by such sum as shall be mutually agreed. Project contribution of the Parties shall be reviewed in the proportions of 70% by BAH and 30% for AM & PARTNERS subject to all project costs incurred from the start of the project.
- (iv) Both parties agree to secure financing for the Dodoma Clay Brick Project from Afreximbank or any other financial institution. The parties shall at any time submit any required legal documents for financing application.
- (v) Project ownership shall be determined based on the contribution made by each Party for the Dodoma Clay Project to total costs incurred for the project.

6. Dividend policy

The Parties shall declare dividend out of the net surplus profit after deductions of all relevant Income Tax and other taxes and after providing for such reserves and deductions as may be required by law or otherwise as may be determined by the JOC from time to time in accordance with prudent financial practices and business requirements.

7. Management

- (i) BAH and AM & PARTNERS shall establish a Joint Operating Committee (herein referred to as the "JOC" or "Board") which shall constitute five (5) representatives, three (3) from BAH and two (2) from AM & PARTNERS, and other three (3) representatives nominated by both Parties based on their merits to the Project. JOC members functions, shall be to make decisions on all matters relating to the conduct of project operations including overseeing the investment activities, making strategic decisions for the parties, to consider and approve budgets and other operation plans, and other functions which shall be necessary for the effective implementation of clay brick Projects. Each party shall receive 2.5% Gross Sales Revenue being administrative charges of the Project. The budget of the JOC which shall be deducted from the calculation of Gross Sales Revenue shall not exceed USD 150,000 per financial year.
- (ii) AM & PARTNERS shall undertake to facilitate the Project management services, marketing and related activities under the agreement, for all financial requirements relating to the Dodoma clay brick Project, with prior consent from the Joint Operating Committee. AM & PARTNERS shall be refunded a management fee of 9% Gross sales Revenue for investment support responsibilities.
- (iii) AM & PARTNERS shall guarantee the Dodoma clay brick Projects if required, under the agreement that, it shall be paid a guarantee fee of 1% Gross sales Revenue for investment guarantee task. Both management support in (ii) above and investment guarantee task, shall be repaid till end of the debt recovery period. Similar to that, BAH shall be paid refunding fee of 10% Gross sales revenue for financing initial BAH expenditures upon submission of all supporting documents indicating expenses incurred.
- (iv) There shall be a Chairperson of the Board nominated from amongst the Board members. The Chairperson shall lead the Board for four (4) years.
- (v) There shall be a Managing Director (herein referred to as the MD) a nominee of either BAH or AM & PARTNERS and shall be from amongst the five (5) representatives nominated to form a Board. This position shall be held on rotational basis between BAH and AM & PARTNERS.
- (vi) There shall be a Chief Financial Officer (herein referred to as the CFO). This position shall be held on rotational basis between BAH and AM & PARTNERS.
- (vii) The Parties have agreed that, when the Managing Director comes from one Party, the Chief Financial Officer shall be from the other Party, and vice versa.
- (viii) The Chairperson of the Board position shall be a Non- Executive post.
- (ix) The MD shall be the overall in-charge of the daily functions of the Project, and shall hold this position for three (3) years.
- (x) The Managing Director shall be the Secretary of the Board, during Board meetings;
- (xi) CFO shall among other financial advisory roles to the MD on day to day activities, shall take care of all financial matters of the project.



- (xii) The Parties shall ensure that individuals nominated by either of the Parties to be members of the JOC are duly appointed.
- (xiii) The Parties shall be entitled from time to time require removal of their respective nominee member and nominate others in place of the members so removed.
- (xiv) Each appointment and removal by BAH or AM & PARTNERS of a JOC member pursuant to its entitlement shall be notified in writing to the other party.
- (xv) There shall be a Technical Expert for the project. The parties, by mutual agreement shall approve the Technical Expert who shall also attend JOC and Owners' meetings.

8. Meetings

- (i) General meetings of the parties shall take place in accordance with the applicable provisions of the Articles of Association which shall include the terms that:
 - (a) The quorum for transaction of any Business shall require the presence of a duly authorized representative of each of the Parties;
 - (b) The notice of meeting shall set out an agenda identifying in reasonable detail the matters to be discussed, unless the Parties agree otherwise.
- (ii) At least 14 days written notice shall be given to each member of the JOC of any meeting of the Committee, provided always that a shorter period of notice may be given with the written approval of at least two (2) BAH members and one (1) AM & PARTNERS members. Any such notice shall include an agenda identifying in reasonable details the matters to be discussed at the meeting and shall be accompanied by copies of any relevant papers. The Committee shall meet regularly and, unless otherwise agreed, not less than quarterly.
- (iii) The quorum for the transaction of business at any meeting of the Committee shall be at least two (2) BAH members and at least one (1) AM & PARTNERS member present at the time when the relevant Business is transacted.
- (iv) Except as the parties may otherwise agree in writing, the parties shall exercise their powers as Owners of the Dodoma clay Brick and Tiles Project and cause the exercise of the powers by their nominees in the Committee Meetings.

9. Monitoring and Evaluation

- (i) The parties shall establish an independent Monitoring and Evaluation Team ("Evaluation Team"). BAH shall appoint three (3) executives and AM & PARTNERS three (3) executives.
- (ii) The Evaluation Team is mandated to monitor and evaluate implementations of the project's operations.
- (iii) The functions of the Evaluation Team shall commence on the commencement date, and shall present its report to the parties on monthly basis or on such other terms to be decided otherwise by the parties.





10. Human Resources

- (i) The JOC shall decide on the number and category of technical and non-technical personnel to perform the works for the project.
- (ii) The MD shall be responsible for hiring and firing workers except managers and technical workers who shall be hired and fired after obtaining the consent of the JOC.

11. Remuneration of the members of the JOC and Monitoring Team

The MD, other members of the JOC and members of the Evaluation Team referred to in article 7(i) 9(i) shall be paid such amount of money to be decided by special resolution of the parties as remuneration for their services and shall be reimbursed for all reasonable expenses incurred in the performance of their duties.

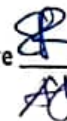
12. Liability of the Parties on the actions of the senior management

- (i) The parties shall be bound by any action taken by the senior management of the project in good faith under this agreement, provided that such action does not contravene the JOC resolution, and the memorandum and articles of association of the company.
- (ii) In no event shall any Party be called upon to pay any amount beyond the liability of such Party.
- (iii) The MD shall not be liable for any error in judgment or any mistake of law or fact or any act done in good faith in the exercise of his/her power and authority as the MD except for gross negligence or willful default.

13. General Responsibilities

To achieve the main objects of the project as mentioned in article 3, BAH and AM & PARTNERS shall contribute particular resources, knowledge, skills or expertise to assist the establishment and success of the project:

- (i) The general responsibilities of BAH towards the Project shall be to:
 - (a) Provide Exploration study reports, clay deposit records and any other technical documentations;
 - (b) Mobilize Clay and ceramics Experts and Project Technical Team;
 - (c) Guide on the process for acquisition of all necessary permits, licenses and other documents needed for Dodoma Clay Brick Project;
- (ii) The general responsibilities of AM & PARTNERS towards the project shall be to:
 - (a) Participate on feasibility study exercise, encompassing doing topographical and geo-technical surveys, identifying compliance requirements, designing civil, mechanical and electrical drawings. Undertake clay material testing, Environmental and social Impact Assessment (ESIA), Resettlement and Compensation Action Plan (RAP) and writing a business plan for the project.
 - (b) Provide technical support in terms of documents to enable acquisition of permits and licenses for the project, and any other document when needed,



- (c) Cover Project management service as indicated in Table 3 (See annex 1) and other related project charges.
- (d) Assist in obtaining all licenses, permits and approvals from any Government authority of the United Republic of Tanzania necessary for the operations of the project.

14. Applicable Law and Dispute Resolution

- (i) This agreement shall be governed by and interpreted under the laws of the United Republic of Tanzania.
- (ii) Any claim arising out of or relating to this agreement, or the breach thereof, shall be settled by negotiations between the parties and if negotiations fail the matter shall be referred to arbitration in accordance with the Rules of Arbitration Act [Cap 15 R.E 2002] and the Civil Procedure Code [Cap 33 R.E 2019].
- (iii) Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

15. Force Majeure

- (i) No party shall be deemed to be in breach of this agreement, or otherwise be liable to the other, by reason of any delay in performance, or the non-performance, of any of its obligations under this agreement where the delay or non-performance is due to any *force majeure* of which it has notified the other party in accordance with sub article (ii) of this article; and the time for performance of that obligation shall be negotiated by the Parties in good faith and agreed accordingly.
- (ii) If any *force majeure* occurs in relation to either party, that party shall within a reasonable time notify the other party as to the nature of the circumstances in question and their effect on its ability to perform.

16. Confidentiality

During the subsistence of this Agreement, and after termination or expiry of this Joint Agreement the parties shall:

- (i) Keep confidential information confidential for the period of 5 years from the date of terminating membership;
- (ii) Not disclose the confidential information to any other person other than with prior consent of the other party, unless compelled by the law or in accordance with the Mutual Non-disclosure Agreement; and





17. Termination

In any circumstances in which a Party wishes to terminate or substantially change the structure of the agreement, the matter shall be referred to the respective chairperson of the party's project owner's meetings who shall seek to resolve the matter on an amicable basis. In case the Parties fail to resolve the matter, the parties may do one of the following:

- (i) The purchase by the parties of the Party's equity contribution on terms acceptable to the Parties;
- (ii) The purchase by the other Party of the Party's equity contribution in the project, or the sale of that Party's equity contribution to one or more third Parties;
- (iii) The sale of the whole of the recorded contribution of the project to a third Party; or
- (iv) Winding up of the agreement.

18. Supremacy of this Agreement

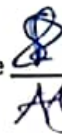
This agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it, and supersedes all prior and contemporary agreements, representations, warranties and understandings of the parties:

- (i) No supplement, variation or amendment of this agreement shall be binding unless executed in writing by the parties hereto;
- (ii) No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute a waiver of any other provision, whether similar or not, nor shall any waiver constitute a continued waiver;
- (iii) No waiver shall be binding unless in writing and signed by the party making the waiver.

19. Mutual Cooperation

The Parties hereby agree to establish and develop a mutual cooperation:

- (i) By working together for the purpose of making excavation of clay minerals for production of clay bricks, roofing tiles, pavers and other related products, establish clay brick Projects with a view to start clay mining operations, bricks and tiles manufacturing and selling the products;
- (ii) To finance respective clay brick Projects, cover anticipated working capital and capital expenditure subject to the prepared business plan or as shall be decided by the parties from time to time.



20. Miscellaneous


- (i) Nothing in this Agreement shall be deemed to constitute a partnership or agency relationship between the parties and neither party shall have any authority to bind or obligate the other party in any manner whatsoever in relation to third parties, unless and until expressly agreed by the parties;
- (ii) Neither this agreement nor any interest in the MoU may be assigned, transferred, pledged, ceded in security or otherwise disposed of or encumber all or any of its rights or obligations under this Agreement without the prior written consent of the Parties hereto;
- (iii) Any and all notices, requests, consents, demands, waivers or other communications under or in connection with this Agreement shall be in writing, in Swahili or English language and shall be addressed at the address of the party maintained by the parties at its registered office.






IN WITNESS WHERE OF the parties hereto have executed this Agreement the day and year first herein above written.

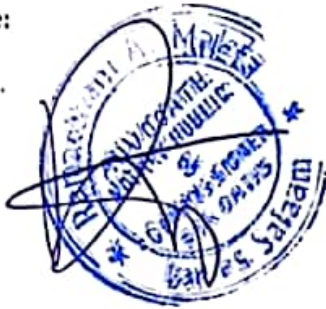
SIGNED with Managing Director of the said Build Africa Holdings Limited and DELIVERED at Dar es salaam in my presence this 23rd day of September, 2024

Shauri Robert Lyak 
Name Signature

SIGNED with Managing Director of the said AM & Partners Ltd and DELIVERED at Dar es salaam in my presence this 23rd day of September, 2024

Eng. Ab. Kallah Y. Msimu 
Name Signature

Before Me:



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Annex 1: Project Preparation Costs

Table 1: Preparation Studies on Feasibility, Technical, Environmental, Designs & BOQ,

No.	Activity	Activity Descriptions	Existing	Forecast
1.	Feasibility Study	<ul style="list-style-type: none"> • Topographical Surveys • Geo-Technical Survey • Designs - Civil • Designs - Electrical • Designs - Mechanical 	34,946.20	40,312.90
2.	Clay Materials Lab Analysis	<ul style="list-style-type: none"> • 12 Pits/Boreholes • 36 Bags of Clay Samples, @ 20kgs • Export Permits and Sample Transportation • Raw Material/Clay Investigation 	23,613.77	24,316.30
3.	Resettlement and Compensation Action Plan	<ul style="list-style-type: none"> • Properties identification for people whose land falls within the Project area. • Baseline Socio-economic Survey • Census of Project Affected Persons (PAPs) 	-	11,294.40
4.	Projected Compensation	<ul style="list-style-type: none"> • 120 PAPs 	-	72,867.50
5.	Environmental and Social Impact Assessment	<ul style="list-style-type: none"> • Site visit for data collection and assessment • Preparation of registration documents (Scoping Report and ToR) • Project registration (NEMC) • Consultation process • Different measurements unit samples to be taken 	20,933.20	22,576.00
6.	Business Plan	<ul style="list-style-type: none"> • Compliance Requirements • Financial Projections and Costs • Infrastructures - Availability of Water, Electricity, Roads, Manpower, Coal, Other Fuels, Clays for the Project 	47,131.65	13,448.30

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7.	Environmental and Social Impact Assessment Certificate	<ul style="list-style-type: none"> Obtaining Certificate from NEMC 	-	17,145.30
8.	Mining License	<ul style="list-style-type: none"> Obtaining Mining License from the Ministry of Minerals Land Occupancy Charges 	6,183.40	42,863.20
9.	Certificate of Incentive	<ul style="list-style-type: none"> Obtaining certificate of Incentive from Tanzania Investment Centre 	-	1,114.44
10.	BOQ + Other Additional Works	<ul style="list-style-type: none"> Land Use Plan Architectural Designs Bill of Quantities 	9,024.66	36,005.05
Total			141,832.88	281,943.39

Table 2: Transaction Advisory Services

No.	Service Particulars	Existing	Forecast
1.	Technical Consultancy	14,858.60	102,251.33
2.	Legal Services	2,700.90	18,942.20
3.	Financial/Economics/Project Management Services	3,922.45	110,660.18
4.	Investments Advisory Services	2,318.05	28,478.70
Total		23,800.00	260,332.41

Table 3: Project Management Services

No.	Service Particulars	Existing	Forecast
1.	Project Management	9,278.77	24,736.60
2.	Executive Committee -Monitoring & Evaluation	3,173.33	13,502.20
3.	Technical & Procurement Audit	4,011.10	8,886.74
Total		16,463.20	47,125.54

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Table 4. Project Preparation Implementation Timeframe

Item	Activity	Purpose	Specifics/Rationale	Deliverable	Time/Days	Consultant(s)	APPF
1.	Feasibility Study.	Site visit, Assessment of Terrain, Designs - Civils, Electrical, & Mechanical Designs.	Water, Electricity, Roads, Manpower, Gas, Coal, Fuels, Clays etc, Identification of Positions and Levels. CAD Drawings, Transformers, MCB's Conveying Systems, Chutes and Receivers.	Report & Drawings	90	• Technical	40,312.90
2.	Clay Deposits & Lab Analysis.	Evaluation of Existing Reports, determine bulkiness, economic value.	Analysis and recommendation on suitable production processes.	Report	90	• Technical	24,316.30
3.	Environmental and Social Impact Assessment.	Effects assessment and mitigation measures within the site.	Site visit for data collection and assessment, Preparation of registration documents (scoping report and ToR), Project registration (NEMC), Consultation process, Different measurements unit samples to be taken, Health, Safety, Environment, Mining.	Report	90	• Technical • Legal • Social	22,576.00
4.	Resettlement and Compensation Action Plan.	Establish records and statistics for valuation of properties.	Properties identification for people whose land falls within the project area, Baseline socio-economic survey, Census of Project Affected Persons (PAPs), Projected Compensation.	Report	90	• Social • Economic • Valuer • Legal	84,161.90

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5.	Business Plan.	Compliance Requirements, Familiarisation with Regulatory and Compliance Authorities, NEMC, TBS, NCC, OSHA etc	Raw Materials, Overheads, Cost Per Unit, ROI. Infrastructures - Availability of Water, Electricity, Roads, Manpower, Coal, gas or Others Fuels, Buyers, Competitors, Logistics, Administration.	Report	90	<ul style="list-style-type: none"> • Technical • Financial • Legal 	13,448.30
6.	Transaction Advisory Services.	Advisory Project support.	Technical Consultancy, Legal Services, Financial Management Services, Investments advisory Services, <ul style="list-style-type: none"> • Engagement of Equipment Suppliers, • Construction - Supervision, Installation - Supervision. 	<ul style="list-style-type: none"> • MoUs • Services Procurement guidelines • Audit procedure guidelines 	90	<ul style="list-style-type: none"> • Financial 	260,332.41
7.	BOQ + Other Additional Works.	Projections and Costs.	Bill of Quantities, Land use Plan, Architectural Designs.	Schedule of costs and Service Tendering Report	90	<ul style="list-style-type: none"> • Technical • Procurement • Legal 	36,005.05
8.	Environmental and Social Impact Assessment Certificate	Certification award.	ESIA proposal accepted	Certificate	90	<ul style="list-style-type: none"> • Technical 	17,145.30
9.	Mining License	Certification award.	Long-term mineral rights and land occupancy granted (33 years lease)	License	90	<ul style="list-style-type: none"> • Technical 	42,863.20