

**CONTRACT OF BUILDING AND LEASE**

**Made**

**By and Between**

**THE REGISTERED TRUSTEES OF THE BAPTIST CHURCHE OF TANZANIA**

**AND**

**MENGI BUSINESS COMPANY LIMITED**

-----  
**For the Building and Lease of Plot No. 192 Block "K" Nyamanoro , Ilemela Municipality**  
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**Drawn By:**

Goldstone Law Chambers – Advocates,  
4<sup>th</sup> Floor N.S.S.F Commercial Complex  
Plot No. 254 , Block T  
Kenyatta Road,  
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## CONTRACT OF BUILDING AND LEASE

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This Agreement is made at Mwanza this 03<sup>th</sup> day of October 2021

### BY AND BETWEEN

**THE REGISTERED TRUSTEES OF THE BAPTIST' CHURCH OF TANZANIA** a body corporate vested in safeguarding the properties of the BAPTIST CHURCH OF TANZANIA a religious institution, duly constituted under the Laws of Tanzania and having its headquarters in the City of Dodoma of P.O. Box 489 DODOMA in the United Republic of Tanzania ( hereinafter referred to as "**The Lessor**")

### AND

**MENGI BUSINESS COMPANY LIMITED**, a private company incorporated with Limited liability in the United Republic of Tanzania, having its registered office situated at NHC Air Tanzania Building, Room No. 106 Kenyatta Road P. O. Box 681 Nyamagana – Mwanza City (hereinafter referred to as "The Lessee" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns) of the one part.

**WHEREAS;** the Lessor is absolutely seized and possessed of a vacant piece of land situated at Plot No. **192 Block "K"** Nyamanoro Ilemela Municipality ( hereinafter the Property).

**WHEREAS;** the Lessee has requested the Lessor to give the said piece of land on along lease to enable the Lessee to construct a building for commercial purpose for letting out the same.

**WHEREAS;** the Lessee is a Tanzania company involved in the project with a district role of formulation of the project, planning of the Project, sourcing of finance for the project, Advisory services, Implementation of the project to completion, and management and transfer of the facility to the institute.

**WHEREAS;** the Lessor has agreed to grant a lease of the said plot of land to the Lessee on the following terms and condition.

### **NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND PARTIES HERETO AS UNDER.**

- a) That, the Lessor agrees to demise and the Lessee agrees to take on lease the said piece of vacant land on plot No. **192 Block "K"** Nyamanoro, Ilemela Municipality for a term of **50** years from the date of execution of this deed.

- b) That, the Lessor shall make out a marketable title to the said land free from any encumbrances and reasonable doubt.
- c) That, it is specifically agreed that the Lessor shall through the Lessee's Architects submit plans for sanctioning of lay out for construction of buildings and / or other structure on the said property or any part or portion thereof.
- d) That the said plans shall be prepared by the Architects of the Lessee and at the costs of the Lessee and the Lessor shall submit only such plans as are prepared by the Lessee through their Architects and copy of the finally approved plan shall be given to the Lessor.
- e) That soon after the execution of this agreement , if so required , the Lessor shall executed a power of Attorney in favor of the Lessee or any other person nominated by the Lessee to approach all public authorities and to submit and obtain sanction of plans of lay –out and the buildings and structure /s to be constructed on the said property or any portion thereof from the Municipal authority and all other concerned authorities.
- f) That, upon completion of construction of the commercial building at the Property , the Lessee shall sub – let the Property to tenants and upon receipt of rent from the tenants the Lessee shall pay into the account of the Lessor 20% of the monthly rent paid by the tenants without and deductions or withholdings.

**AND WHEREAS** the Lessee, Mengi Business Company Limited confirms and covenants with the Lessor as follows:-

- a) Research into the project and production of a feasibility study.
- b) Development of the project proposal and report ,initial planning, identification and securing of project funding .Appointing the project design, legal and construction teams.
- c) The Lessee shall upon execution of this agreement ( subject to such authorizations certificates consents approvals and licences as aforesaid) by its contractors erect a commercial in accordance with drawing and specification which have been agreed between the parties prior to the execution of this Deed to the reasonable satisfaction of the Lessor upon a piece of land at Kona ya Bwiru area forming Plot No. **192** Block "K" Nyamanoro, Ilemela Municipality ,Mwanza Region.
- d) The Lessor shall proceed diligently with the construction of the commercial building and unless prevented or delayed by unavoidable cause or accident shall cause the commercial building to be practically completed not later than 12 months from the date of the execution of this agreement.
- e) The Lessee shall allow the Lessor the right for herself her agents or surveyors at all reasonable times and after reasonable notice to the Lessee, during the construction of the commercial buildings to enter upon the building in company with the Lessee or his

representative to view the state and progress of the works but the Lessor shall refer all matter whether of complaint or workmen whether on the site of the commercial building or during the progress of the works or if a reasonable complaint of a defect is made and such defect is reasonably remedied the building shall be deemed as between the Lessor and the Lessee to be property constructed

- f) To pay all existing and future rates taxes ,assessment and outgoings (whether parliamentary local or otherwise) hereafter impose or charge upon te Property or part thereof or on the Lessor or Lessee in respect thereof respectively ( except the charges, if any , of the local authority for or in respect of completing the road and foot ways abutting on the Property prior to the same becoming highways maintainable at public expenses which lat mentioned charges are to be born by the Lessor).
- g) To repair and keep the Property and every thereof together with the fences on the said plan thereto and all other buildings and erections which at any time during the said term may be upon any part of the said premises in a tenantable repair throughout the term hereby granted.
- h) Not to make alternations in the Property or erect any buildings thereon without obtaining the approval in writing of the Lessor to the plans and specification thereof and obtaining planning approval and all other requisite permissions from local and other authorities and to make all such alterations in conformity with such plans and specification and planning approval and permissions.
- i) Not to do or permit or suffer to be done anything in or upon the Property or any part thereof which may be or become a nuisance ,annoyance or cause damage or inconvenience to the Lessor or the neighborhood or whereby any insurance for the time being affected on the said Property may be rendered void voidable whereby the rate of premium thereon may be increased.
- j) Not to permit or allow any of the future tenants of the Property from selling alcohol at the Property as alcohol is strictly not permitted to be sold at the Property by the Lessor which is a religious organization.
- k) Project management for the project , until handover of the Property to the Lessor in **50** years ' time .
- l) Appointing the Operators and facility Managers for the respective facilities during v te period of the lease
- m)** The Lessee shall upon the completion of the construction of the Property within 12 months of execution of this agreement, sub-lease the Property to other tenants and shall therefore pay to the Lessor 20% of the rent monthly received from the tenants without any

deductions or with holding . The 20% of the rent shall be paid into an account of the Lessor which shall be communicated to the Lessee upon the completion of Construction.

**AND WHEREAS** the Lessor confirms and covenants with the Lessee as follow:

- a) Identifying Constitutional and legal requirements to enable the project succeed and ensuring compliance with the same.
- b) Making available vacant land for the Project.
- c) The Lessor hereby covenants with Lessee that the Lessee completing the construction of the commercial building as agreed herein and paying rents in the days and in the manner aforesaid and performing and observing the covenants , conditions and agreements on the part of the Lessee hereinbefore contained shall peaceably hold and enjoy the Property for the term hereby granted without any interruption by the Lessor or any person claiming through , under or in trust for the landlord.
- d) This Lease Agreement shall continue to insure on the terms mentioned herein .Any changes/amendment to any land /tenancy laws passed by the Government at any time shall not affect this Lease agreement signed between the Parties.
- e) The Lessor shall not transfer ,alienate or encumber or otherwise howsoever dispose of or deal with the Property or party thereof for their right , title and interest therein during the term of this Lease Agreement

**AND WHEREAS** the site survey and topographical assessment, Geo – technical investigation and other site investigation will entail undertaking several necessary investigations in –order to map out the site and to set the location and beacons .Additionally , the exercise will establish the existing condition of the ground to determine the most suitable design parameters to enforce .The exercise will further ascertain the locations of existing services, ideal location and orientation of new utility and service lines etc.

**WHEREAS** these costs will be met by the Lessee, and an avenue for reimbursement may be agreed with the Financier and if so this will be incorporated into this agreement.

**AND WHEREAS** the parties agree that confidential and proprietary information belonging to a party and share with the other will be held in confidence and shall not be disclosed to third parties without prior written consent of the owners of said information unless the said thirty part is a government authority undertaking its statutory obligation of which prior consent will not be required . To further, confidential and proprietary information relating to the project shall be maintained as such and no party shall divulge any such material information without the written consent of the non – disclosing parties.

**WHEREAS** the parties acknowledge and agree that this contract and all discussions held in connection with it and /or any other information exchanged in whatsoever form shall be kept

confidential. This information shall not be disclosed by a party without obtaining the prior written consent of the other party.

**AND WHEREAS** the parties have agreed that, any party that fails to comply with the terms of this contract shall be considered to be in breach of this contract and shall be liable for damage. To further, any party which by its own misconduct , negligence or recklessness cause loss, damage injury or delay due shall be considered to have breached this contract and shall be liable for damages

**AND WHEREAS** No. party shall be liable for any loss, damage, injury or delay due to any cause beyond its control including ( without prejudice to the generality of the foregoing expression) Acts of God , strikers lockouts, fire lightning, air accidents, explosions , riots civil commotion ,acts of War , malicious mischief or theft.

**AND WHEREAS** the parties to this contract shall not be liable for damages under the following events of force Majeure as stated herein under:-

- a) That, any failure or delay by a party in performance of its obligation under this agreement owing to one or more of foregoing cause shall not be considered a breach of this contract . upon the occurrence of any of the foregoing events, the party affected shall promptly notify the other and provide relevant proof thereof .
- b) That, of either party is prevented, hindered or delayed from in performing any of its obligations under or subject to this contract by even of force Majeure , then it shall notify the other in writing of the occurrence of such event and the circumstance of the event of force Majeure within fourteen (14) days after the occurrence of such event.
- c) That the party who has given such notice shall be excused from the performance or punctual performance of its obligations under the contract for so long as the relevant even of force Majeure continues and to the extent that such party's performance is prevented , hindered, or delayed .The Time for Achieving Operational Acceptance shall be extended.
- d) That, the party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the contract and to fulfill its or their obligation under the contract, but without prejudice to either party's right to terminate the contract under the provision of this arrangements.

**AND WHEREAS** The parties to this contract shall have no liability to the other parties for any loss suffered which arises out of any action or inaction if in good faith , it is determined that such course of conduct was I the best interest of this contract and such course of conduct did not constitute negligence or misconduct.

**AND WHEREAS** This contract shall not create or be deemed to have created a partnership between the parties named herein.

**AND WHEREAS** in disputed resolution, any difference or claim arising out or in relation to this contract, which is not resolved by the parties amicably within thirty days, shall be resolved by mediation conducted by a mediator, under and in accordance with the Arbitration Act under the laws of the United Republic of Tanzania or any amending legislation. To further, the Mediator shall be selected by agreement of the parties, in default of which, he shall be appointed by the Chairperson of the Chartered Institute of Arbitration (Tanzania) upon written request from either or both of the parties.

**AND WHEREAS** the venue of Mediation proceedings shall be as determined by the Mediator but within the Jurisdiction of the United Republic of Tanzania. All proceedings shall be in English or Swahili. And all awards shall be reasoned awards, which disclose the factual and legal basis for the same.

**AND WHEREAS** If Mediation fails, then the aggrieved party may refer the matter to arbitration under the Laws of Tanzania. The Arbitrator shall be selected by agreement of the parties within 30 days, in default of which, he shall be appointed by the Chairperson of the Tanzania Institute of Arbitration (Tanzania) upon written request from either or both parties.

**AND WHEREAS** This contract shall be terminated upon issuance of a six month' notice by one party to the other party subject to payment of compensation for the loss suffered by the other party.

**AND WHEREAS** the formation of this contract as well as its validity, interpretation, amendment, termination and settlement of the disputed arising hereunder shall be governed by the relevant laws of the Republic of Tanzania.

**AND WHEREAS** so far this contract is concerned;

- a) No party shall assign or purport to assign any or all of its right and obligation under this contract to any third party without the prior written consent of the other party.
- b) The obligation in this contract shall be legally binding and to the successors or assigns of the parties.
- c) This contract contains an entire indulgent of the parties herein and it further supersedes any existing oral or written agreements or understanding between the parties.
- d) Each party represents to the other parties that the execution, delivery, and performance by it of this contract and the transactions contemplated hereby constitute legally binding obligations on it and have been authorized by all necessary action (corporate or otherwise) and do not contravene any law or contractual or other restriction binding on it.
- e) The parties shall execute or cause to be executed all such further deeds and documents and perform such further actions as may be necessary to carry the provisions of this contract into full force and effect.

- f) No for barnacle, delay or indulgence by any party in enforcing the provisions of this contract shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right , power or remedy herein conferred upon or reserved for a party is exclusive of any other right , power or remedy available to that Party and each such right power or remedy shall be cumulative.
- g) **THE LESSEE** warrants and represents that it is duly licensed to perform , o carry on business within the United Republic of Tanzania and it is in compliance with all applicable laws and regulations.
- h) **The LOSSER** represents that it is the legal owner of the Property or other wise has full legal authority to enter into this contract without need of approvals from any other person or entity.
- i) Bothe parties will execute and deliver to the other or to third parties any and all documents necessary to effectuate the provisions of this contract subject to the condition and obligation stipulated herein .
- j) If for whatever reasons any provision of this contract is found to be invalid , illegal ,or unenforceable the remaining portions shall remain in full force and effect.

**AND WHEREAS** for the purpose of this contract the following addresses will be deemed of the parties herein and any service will be dully served in case it delivered by hand in the said Head Office of each party and a dispatch signed to that effects or the digital communication as follows:-

- (i) The Lessor :  
 Head Office for purpose of this arrangement shall be in the City of Dodoma  
 P . O. BOX 489, DODOMA- TANZANIA  
 Email:-----  
 Mobile Phone: 0763 472077  
 Contract Person shall be : REV.ISAAC SUI
- (ii) The Lessee:  
 Head Office for the Purpose of this arrangement shall be in the City of Mwanza  
 P . O . Box 681 Mwanza  
 Email:mengibusiness@gamil.com  
 Mobile Phone:0786389700  
 Contract Person: MENGI MOSHI LUBAMBO

**AND WHEREAS** All notice concerning this contract will be in English and shall be deemed to be validity and effectively served if sent by email, hand delivery ./ courier , fax or post . Notice under this Clause shall be deemed delivered as follows:

- a) In the case of faxes , if the receiver fax receipt confirms delivery ; or
- b) In the case of hand delivery or courier , when it is served by or on behalf of the recipient ; or
- c) In the case of post , within seven days proof of postage; and

d) In the case of email, upon departure of email, coupled by the non – rejection of such an email.

**IN THE WITNESS** where of the parties have thereunto set their hands and appended their signature in the manner and on the date of the year hereinafter appearing.

**SEALED** with the Common Seal of the aid }  
**MENGI BUSINESS COMPANY LIMITED**

And DELIVERED in the presence of us  
On 03<sup>th</sup> day of OCTOBER 2021



FULL NAME : **MENGI MOSHI LUBAMBO**

SIGNATURE: 

POSTAL ADDRESS: P.O.BOX 681 MWANZA

POSITION: MANAGING DIRECTOR

FULL NAME : **AMINA RAMADHANI MBILIZI**

SIGNATURE: 

POSTAL ADDRESS: P.O.BOX 681 MWANZA

POSITION: DIRECTOR

**SEALED** with the Common Seal of the aid }  
**REGISTERED TRUSTEES OF BAPTIST CHURCH**

And DELIVERED in the presence of us  
On 03<sup>th</sup> day of OCTOBER 2021




FULL NAME : **REV. ISA]nsAC SUI**

SIGNATURE: 

POSTAL ADDRESS: P.O.BOX 1281 , ARUSHA

POSITION: **REGISTEED TRUSTEE**

FULL NAME : **REV. JAMES KASOMI**

SIGNATURE: 

POSTAL ADDRESS: P.O.BOX 1281 , SHINYANGA

POSITION: **REGISTEED TRUSTEE**