

**JOINT VENTURE AGREEMENT  
BETWEEN  
MENGWEASSOCIATES  
AND  
SEBA CONSULTING SERVICES**

**1. PREAMBLE**

This agreement is made and entered into by and between **MENGWE ASSOCIATES** and **SEBA CONSULTING SERVICES**

***Of the first part***

MENGWE ASSOCIATES, legally registered partnership incorporated under The Business Names (Registration) ordinance (Cap 213) with Registration Number 401688 as Unlimited Liability Partnership, which expression shall include its successors, legal representatives and permitted assigns. With office at Unga Ltd Arusha, Sun flag Industrial Area, 1st Floor, and P. O. Box 13040 Arusha, Tanzania.

***Of the second part***

SEBA CONSULTING SERVICE, legally registered partnership incorporated under The Business Names (Registration) ordinance (Cap 213) with Registration Number 44462 as Unlimited Liability Partnership, which expression shall include its successors, legal representatives and permitted assigns, with office in at Rubada House opposite Ubungo Plaza, P.O. Box 3476 Dar es Salaam.

Whereas the foregoing parties have resolved to form a Joint Venture under the following

- (a) MENGWE Associates is a registered audit firm and allowed to practice under the Accountants and Auditors (Registration) Act of 1972 as amended by the Accountants and Auditors (Registration) Act No.02 of 1995 with National Board of Accountant and Auditors (NBAA) registration number PF 317 and **SEBA CONSULTING SERVICES** with registration number PF 370.
- (b) Where the parties have agreed to form a joint venture for the purpose of enhancing performance by pulling together professional experienced human resources and technology in the audit which we will be done jointly.
- (c) The Members have agreed to join hands in the form of a Joint Venture to provide the said professional audit services for assignment which may be sub-contracted to them by the Controller and Auditor General (CAG).
- (d) The Members have agreed to join hands in the form of a Joint Venture and subsequent make formal application to Bank of Tanzania for audit financial institutions and Banks upon becoming successful and the said audit will be carried out jointly.
- (e) The members agreed to join hands in the firms of and in case of:-
  - One of the firm become suspended by the Board
  - One of the firm become deregistered by the Board
  - Suspension of sole practitioner
  - Deregistration of Sole Practitioner
  - Long illness of sole practitionerThen, the other firm will take over all on going audit (Completion of ongoing works) without charging extra costs once one of the above situation occur.

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**2. DEFINITIONS AND INTERPRETATION**

**2.1 Definitions**

The following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are, in general, signified in the text of the Agreement by the use of capital initial letters, but the absence of such letters does not necessarily signify that a term, or word, is not defined.

- 'Agreement' means the agreement between the Members of the Joint Venture and includes this model form of agreement together with the Preamble, Specific Provisions, if any, and any relevant Documents prepared prior to the signing of the Agreement and appended there to.
- 'Contract' means the contract with the Employer for the supply of the Deliverables, for the purposes of securing and executing an audit assignment for which, the Joint Venture has been formed.
- 'Deliverables' means the works and/or services, equipment, materials, goods, etc. to be furnished by the Joint Venture to the Employer in terms of the Contract.
- 'Document' means any written, drawn, typed, printed, or photographic material, which relates to the Agreement.
- 'Employer' means the person, firm or body, which is to award the Contract and will employ the Joint Venture members if it is awarded the Contract.
- 'Joint Venture' means the joint venture formed by the Members in accordance with the Agreement.
- 'Management Committee' means a team of persons chosen in terms of the Agreement to manage all aspects of the work of the Joint Venture in securing and executing the Contract and in meeting the provisions for the Agreement.
- 'Member' Means a person, firm or body which, being a party to the Agreement is a member of the Joint Venture.
- 'Member's Interest' means the proportion expressed as a percentage, of the total monetary value of all resources provided and contributions made by a Member towards the execution by the Joint Venture of the Contract awarded to to the joint venture, and the total proceeds realized out of such values by all Members and, unless otherwise indicated in the Agreement, represents the extent to which the Member participates and realizes out their contributions in the Joint Venture.
- 'Representative' means the person representing a Member in the Management Committee.
- 'Schedules' Means Schedules which spell out general, financial and other information relating to the Members and the obligations, duties, rights, risks and benefits arising from their participation in the Joint Venture.
- 'Specific Provisions' means the variations, if any, required to this standard form of agreement for the specific purposes of the Agreement

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**3. Interpretation**

Unless inconsistent with the context, an expression in the Agreement which denotes:

- Any gender shall include the other genders
- A natural person shall include a juristic person and vice versa
- The singular shall include the plural and vice versa

**4. Headings**

The headings to clauses of the Agreement shall not be considered part thereof, nor shall the words they contain be taken into account in the interpretation of any clause.

**5. Law**

The Agreement shall be construed in accordance with and governed by the laws of the United Republic of Tanzania and the English language versions shall prevail.

**6. Language**

English shall be exclusively used by the Members in the preparation of Documents unless otherwise indicated.

**7. Conflict between Agreement and Contract**

Should any provision of the Agreement be in conflict with the terms of the Contract, the Agreement shall be amended after the approval of the Management Committee so as to eliminate the conflict.

**8. JOINT VENTURE GENERAL**

a) Establishment and Purpose

The Joint Venture established by the Members in terms of the Agreement is an unincorporated association with the exclusive purposes of securing and executing the Contract for the benefit of the Members.

b) Termination

The operation of the Joint Venture and the validity of the Agreement shall terminate if and when it becomes evident that the Joint Venture will not be awarded any Contract, or, if the Joint Venture secures a Contract, when, all obligations and rights of the Joint Venture and the Members in connection with the Contract and the Agreement have ceased and/or been satisfactorily discharged.

Unless otherwise decided by the Management Committee, the Agreement shall not terminate if a Member changes its name, or is taken over by, or merged with, another body.

c) Exclusivity

Unless otherwise agreed by the Management Committee, or provided for in the Contract no Member shall engage in any activity related to the Contract other than as a Member of the Joint Venture and Members shall ensure that their subsidiaries and other bodies over which they have control comply with this requirement.

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d) Participation of Members

Except as may otherwise be stipulated in the Agreement, each Member shall be responsible for all costs incurred by it prior to the date of inception of the Agreement. Subsequent to the date of inception of the Agreement, each Member shall, participate in the operations, risks, responsibilities and fortunes of the Joint Venture including, inter alia, the provision of funding, sureties, guarantees, insurances, human and other resources and participation in profits and losses to the extents indicated in the Schedules. Participation in any aspect not covered in the Schedules shall, if agreement cannot be reached between the Members, be to the same extents as indicated by the Members Interests.

**9. Management**

The affairs of the Joint Venture shall be directed and controlled by the Management

a) Confidentiality

All matters relating to the Agreement and the Contract shall be treated by the Members as confidential and no such matter shall be disclosed to any third party without the prior written approval of the Management Committee.

No Member shall be party to the dissemination of publicity relating to the Contract, or the Agreement, without the prior written approval of the Management Committee and the Employer.

b) Assignment

No Member shall cede, assign, or in any other way make over any of its rights, or obligations, under the Agreement without the prior written consent of the Management Committee.

c) Subcontracting

No Member shall subcontract any obligation, work or duty for which it is, itself, responsible in terms of the Agreement without the prior written consent of the Management Committee.

d) Variations to Agreement

No variation, modification, or waiver of any part of the Agreement shall be of any force, or effect, unless unanimously agreed by the Members and reduced to writing.

e) Liability

Each Member warrants that it will indemnify the other Members against all legal liabilities arising out of, or in connection with the performance of its obligations under the Agreement, provided that liability has been incurred by that member without the knowledge or consent of the other member in the execution of any works under this Joint Venture Agreement.

It is acknowledged by the Members that they may be held jointly and severally liable in respect of claims against the Joint Venture by the Employer or third parties.

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**10. MANAGEMENT OF JOINT VENTURE**

a) General

The affairs of the Joint Venture shall be directed, controlled and managed by the Management Committee, which, within the terms of the Agreement and the Contract, shall have full authority to bind the Members in all matters relating to the affairs of the Joint Venture.

Communication between the Joint Venture and the Employer, or third parties, relating to the Contract shall be conducted exclusively by the Management Committee, or by such person as it may delegate to perform this function.

The Management Committee shall have the power to appoint a project manager and/or such other persons as it may see fit to appoint for the purpose of executing the Contract and may delegate such of its powers, responsibilities and duties as it may consider necessary, or desirable, to persons or bodies appointed or seconded for this purpose.

Such administrative functions as are necessary to ensure the effective operation of the Management Committee shall be performed by its chairman only after the Management Committee has approved such performance.

**10.1 Management Committee**

b) Composition

The Management Committee shall, unless otherwise agreed by all the Members, consist of two Representatives of each Member and each Member shall be obliged, at all times, to maintain two Representatives on the Management Committee.

Each member shall, not later than three working days after the signing of the Agreement, appoint its Representative and notify the other Members in writing of the names and contact details of the Representatives. Such Representative shall have the power to bind the Member that they represent in all matters relating to the execution of the Contract and the performance of the Agreement.

A Member shall be entitled, after giving the other Members not less than three working days written notice of his intention to do so, appoint, remove and/or replace, an alternate who shall, at any meeting of the Management Committee from which the Representative whom he represents is absent, be vested with all rights and powers and subjected to all the obligations of the absent Representative.

The chairman of the Management Committee shall be the Representative of the Member which has the largest Member's Interest or shares. If two, or more, Members have the same, largest Member's Interest, the chairmanship shall rotate between the Representatives of such Members at three monthly intervals, the order of rotation to be determined by ballot.

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Notwithstanding the foregoing, the chairmanship of the Management Committee may be determined, or changed, at any time by unanimous decision of the Management Committee.

No remuneration shall be paid by the Joint Venture to Representatives or their alternates for serving on the Management Committee, unless otherwise decided by the Management Committee.

**c) Meetings**

Meetings of the Management Committee shall take place at such times and places as the Management Committee may determine, provided that the chairman shall convene a meeting of the Management Committee to be held not later than ten working days after he has been requested, in writing, by a Member to do so. Not less than five working days written notice of any meeting of the Management Committee shall be given to all Representatives and their alternates.

The Management Committee may permit, or invite, persons other than Representatives or alternates to attend any of its meetings, but such persons shall not have voting rights

**d) Decisions**

Each Representative shall have one vote on the Management Committee and where, in terms of this clause, a casting vote is required, this shall be exercised by the chairman.

All decisions of the Management Committee shall, desirably, be unanimous. Accordingly, if unanimity cannot, initially, be achieved in regard to a decision, the meeting at which that decision is sought shall be adjourned for a period of 48 hours to enable Representatives to consult with their principals. If, on resumption of the adjourned meeting, unanimity can still not be achieved, the decision, provided it is not one requiring unanimity of the Members, shall be taken by majority vote and, in the event of a tie; the chairman shall exercise a casting vote.

A Member not satisfied with a majority decision of the Management Committee may declare a dispute, to be dealt with in terms of Clause 8 hereof, but the majority decision shall, nevertheless, be implemented with immediate effect.

Decisions of the Management Committee, whether taken at a meeting, or otherwise, shall be recorded in written minutes, which shall be distributed by the chairman to reach the Representatives not later than five working days after those decisions were taken. Such minutes shall be deemed to have been affirmed by the Representatives unless written notice of dissent is received by the chairman not later than three working days after receipt of the minutes by the Representative.

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**10.3 Powers and duties**

The functions, responsibilities and powers of the Management Committee shall include, inter alia, those listed below:

- i. Formulating overall policy in regard to the achievement of the objectives of the Joint Venture.
- ii. Managing the day to day affairs of the Joint Venture.
- iii. Monitoring, directing and co-ordinating the activities of the Members to ensure that the objectives of the Joint Venture are achieved and that the obligations and responsibilities of the individual Members are met.
- iv. Monitoring and controlling the financial affairs of the Joint Venture and ensuring that proper books of account and financial records relating to affairs of the Joint Venture are maintained in an approved form and submitted to the Management Committee for approval at regular intervals, which shall not be longer than one month
- v. Determining the necessity for and the details of any changes in the duties and responsibilities of Members provided that any resulting changes in Members' Interests shall be unanimously approved by the Members.
- vi. Determining the terms and conditions of employment of personnel and the emoluments applicable to staff seconded to the Joint Venture by the Members.
- vii. Controlling and approving the appointment of all subcontractors.
- viii. Procuring, after the completion of the Contract and the release of all bonds, guarantees and sureties given in respect of the performances of the Joint Venture and the Members, the preparation and auditing of a final set of accounts, on the basis of which the final profits, or losses, attributable to the individual Members shall be determined and any necessary adjustments effected.

**11. RESOURCES OF JOINT VENTURE**

The resources to be utilised by the Joint Venture in securing and executing the Contract shall, insofar as these are to be provided directly by the Members, be as set out in the Schedules and may, from time to time, be amended by decision of the Management Committee, provided that the Member's Interests are not, except with the unanimous approval of the Members, affected thereby.

Similarly, specific areas of responsibility of the Members for the performance of work and the provision of facilities shall be as set out in the Schedules and may, from time to time, be amended by decision of the Management Committee, provided that the Members' Interest are not, except with the unanimous approval of the Members, affected thereby.

**11.1 Schedule General**

The Schedule General shall contain general information relating to the Joint Venture including, inter alia, the following:

- i. The Employer's name and address.
- ii. A brief description of the Contract and the Deliverables.
- iii. The name, physical address, communications addresses and domicile of each

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- Member and of the Joint Venture.
- iv. The Members' Interests.
- v. A statement indicating whether, or not, Specific Provisions apply to the Agreement.
- vi. A schedule of insurance policies which must be taken out by the Joint Venture and by the individual Members.
- vii. A Schedule of sureties, indemnities and guarantees that must be furnished by the Joint Venture and by the individual Members.
- viii. Details of the persons, who, in the event of failure by the Members to reach agreement on the appointments of mediator and arbitrator, will nominate appointees to these positions in terms of Clauses contain in the agreement
- ix.

**11.2 Schedule Financial**

Schedule Financial shall contain information regarding the financial affairs of the Joint Venture including, inter alia, the following:

- i. The working capital required by the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the individual Members from time to time.
- ii. The banking accounts that are to be opened in the name of the Joint Venture and the manner in which these are to be operated if need arise
- iii. The rates of interest that will be applicable to amounts by which Members are in debit, or credit, to the Joint Venture.
- iv. The names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture.
- v. The intervals at which interim financial accounts and forecasts will be prepared for approval by the Management Committee.
- vi. Insofar as not covered in Schedule for contribution by members, the basis on which contributions of various types by the Members towards the work of the Joint Venture in securing, executing, managing and satisfactorily completing the Contract, will be valued.
- vii. The basis on which profits and/or surplus cash will, if available from time to time, be distributed to Members.
- viii. The basis upon which losses, if any, are to be apportioned to Members.

**11.3 Schedule Contributions by Members**

Contributions shall set out the contributions of various types, other than cash, that will be made by the individual Members towards the work and obligations of the Joint Venture and shall, as far as possible, indicate the monetary values to be placed on such contributions, which may include, inter alia, the following

- i. Staff seconded to the Joint Venture.
- ii. Work carried out and services provided to, or on behalf of, the Joint Venture.
- iii. Plant, equipment, facilities etc. made available for use by the Joint Venture.
- iv. Materials and goods supplied to, or on behalf of, the Joint Venture.
- v. Licences, sureties, guarantees and indemnities furnished to, or on behalf of, the Joint Venture.
- vi. Joint Venture Disclosure form required for the Contract.



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**12. BREACH OF AGREEMENT**

If a Member breaches any material provision of the Agreement, or delays or fails to fulfil its obligations in whole, or in part, and does not remedy the situation within fourteen calendar days of receipt of notice from the Management Committee, or another Member, to do so, the other Members shall have the right, without prejudice to any other rights arising from the default, to summarily terminate the Agreement and re-assign the defaulting Member's rights and obligations in the Joint Venture as they see fit and withhold any moneys due to the defaulting member by the Joint Venture.

Each Member shall indemnify the other Members against all losses, costs and claims which may arise against them in the event of the Agreement being terminated as a result of breach of the Agreement by the said Member.

**13. INSOLVENCY OF MEMBER**

Should a Member be placed in liquidation, or under judicial management, whether provisionally or finally, or propose any compromise with its creditors, the other Members shall be entitled to proceed in terms of this Clause in the agreement, as if the Member had breached the Agreement.

**14. DISPUTES**

**14.1 Settlement**

The Members shall negotiate in good faith and make every effort to settle any dispute, or claim, that may arise out of, or relate to, the Agreement.

If agreement cannot be reached, an aggrieved Member shall, if he intends to proceed further in terms of Clause 12 of the agreement hereof, advise all other Members in writing that negotiations have failed and that he intends to refer the matter to mediation in terms.

**14.2 Mediation**

Not earlier than ten working days after having advised the other Members, in terms of Clause 14.1, that negotiations in regard to a dispute have failed, an aggrieved Member may require that the dispute be referred, without legal representation, to mediation by a single mediator.

The mediator shall be selected by agreement between the Members, or, failing such Agreement, by the person named for this purpose in Schedule 'A'. The costs of the mediation shall be borne equally by all Members.

The mediator shall convene a hearing of the Members and may hold separate discussions with any Member and shall assist the Members in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Members shall record such agreement in writing and thereafter they shall be bound by such agreement.

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The mediator is authorised to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Members.

**14.3 Arbitration**

Where a dispute or claim is not resolved by mediation, it shall be referred to arbitration by a single arbitrator to be selected by agreement between the Members or, failing agreement, to be nominated by the person named for this purpose in Schedule General.

The Member requiring referral to arbitration shall notify the other Members, in writing, thereof, not later than thirty calendar days after the mediator has expressed his opinion, failing which the mediator's opinion shall be deemed to have been accepted by all Members and shall be put into effect.

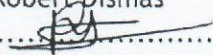
Arbitration shall be conducted in accordance with the provisions of the Arbitration procedures in Tanzania, as amended, and in accordance with such procedure as may be agreed by the Members or, failing such agreement, in accordance with the rules for the Conduct of Arbitrations published by the Association of Arbitrators and current at the date that the arbitrator is appointed.

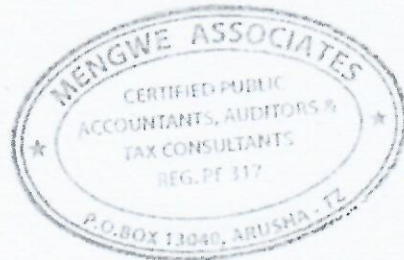
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The decisions of the arbitrator shall be final and binding on the Members, shall be carried into immediate effect and, if necessary, be made as an order of any court of competent jurisdiction.

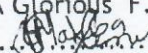
IN WITNESS WHEREOF this Agreement has been duly executed by the Parties hereto as of the day and year first herein before written.

SIGNED and DELIVERED for and on behalf of MENGWE ASSOCIATES on this .....13<sup>th</sup>.....day of February..... 2020

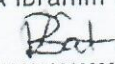
Full Name: CPA Robert Dismas  
Signature: ..........  
Postal Address: P. O. Box 13040 Arusha  
Designation: Managing Partner



In the presence of :


Full Name: CPA Glorious F. Temu  
Signature: ..........  
Postal Address: P. O. Box 13040 Arusha  
Designation: Partner.....

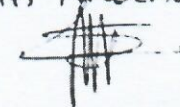
SIGNED and DELIVERED for and on behalf of SEBA CONSULTING SERVICES on this .....day of ..... 2020

Full Name: CPA Ibrahim I. Balama  
Signature: ..........  
Postal Address: P. O. Box 3476, Dar Es Salaam  
Designation: Managing Partner



In the presence of :

Full Name: CPA Athman Shaaban  
Signature: ..........  
Postal Address: P. O. Box 3476, Dar Es Salaam  
Designation: Partner

BEFORE ME!  
  
SITTA NICOLAUS MAMUNGA  
P.O. Box 14517 DSM.  
NOTARY PUBLIC  
18<sup>th</sup> February 2020  
