



TRANSPORT AGREEMENT

Between

ABN Logistics (Pty) Ltd.

Registration number: 2012/152057/07

(hereinafter referred to as “**ABN**”)

And

.....

Registration Number :

(the “Carrier”)

WHEREAS ABN requires transport services from time to time.

AND WHEREAS the carrier wishes to render such transport services to ABN.

NOW THEREFORE the parties agree as follows:

1. INTRODUCTION

- 1.1 The terms of this agreement shall be applied between the parties notwithstanding previous terms and conditions agreed upon. All previous terms and conditions are therefore null and void with the signature hereof.
- 1.2 Any conflict, ambiguity or inconsistency between the provisions of this agreement and the Load Order Confirmation from ABN, the provisions of the Load Order Confirmation shall prevail.
- 1.3 The Carrier’s standard general and / or specific conditions of trading shall not apply as far as it is inconsistent with the terms of this agreement.

2. DEFINITIONS

In the context of this agreement, the following terms shall have the meaning specified and assigned to each of them below:

- a) **“Goods”** means any goods handled, transported or dealt with by the Carrier in the course of providing the Services, as more fully set out in the Order Confirmation;
- b) **“Services”** refers to the carriage of the Goods from the loading point to the off-loading point identified in the Order Confirmation and includes performances of all ancillary services required, or necessarily implied, in accordance with the Order Confirmation to be provided to ABN by the Carrier in order to fully perform the Services;
- c) **“Good Industry Practice”** means in respect of any of the Services:
 - (i) the exercise of that degree of diligence, foresight, prudence or skill that would reasonably be expected from a reputable and prudent person in carrying out or completing services similar to the Services in conditions similar to those applicable to the Services;
 - (ii) compliance with all applicable laws in force in all the countries and / or jurisdictions where the Services are provided, including, but not limited to, any environmental, labour, health and safety and Customs rules or regulations, which pertain to the Services and/or ABN, the Carrier and/or any of their directors, employees, agents, representatives and/or subcontractors from time to time.
- d) **“Order(s) Confirmation”** refers to purchase order(s) regarding the Services agreed between ABN and the Carrier, the terms of which are specifically incorporated into the Agreement.

3. ABN RESPONSIBILITIES

3.1 ABN shall make out an order containing all the details agreed between the parties before loading by the Carrier.

Directors B. Starck I G. Mason

9 Top Road, Anderbolt, Boksburg, South Africa

- 3.2 Where Order Confirmations have not been expressly accepted by the Carrier, they shall be deemed to have been accepted by the Carrier when the Carrier commences the performance of Services, unless the Carrier specified otherwise in writing prior to commencement of the Services.
- 3.3 In accepting the Order Confirmation as per clause 3.1 above, the Carrier agrees to provide the Services in accordance with the Agreement and Good Industry practice.
- 3.4 ABN may, when contracting with the Carrier, contract in the capacity of an agent. In terms of this agreement, and in the event that ABN contracts in the capacity of an agent, these terms shall, in addition, be binding as between ABN principal and the Carrier.
- 3.5 ABN will ensure that all loads are classified i.e. abnormal, hazardous.
- 3.6 Unless otherwise agreed in writing, the prices indicated in the Order Confirmation are to be considered fixed and not subject to revision. Any variations in prices for whatever reason shall be valid only if acceptable by ABN in writing and in advance of the provision of the Services.
- 3.7 The price of the Agent Services is set out in the Order Confirmation. This price excludes all regular costs to the delivery.
- 3.8 Payment shall be made in terms set out in the Order Confirmation on the Thursday preceding receipt of the original POD accompanied by a valid and correct invoice from the carrier.
- 3.9 ABN will ensure that loading and off-loading is done within reasonable times and will also provide correct load/off-loading addresses.
- 3.10 Time is of essence for the performance of the Services. All deliveries must be made in compliance with the conditions specified in the Order Confirmation and shall be deemed as performed only after the delivery to ABN of the relevant Proof of Delivery (hereafter the "POD"), stamped and signed by the relevant official at the offloading site or authorised appointed representative of ABN.

4. CARRIERS OBLIGATIONS

- 4.1 During the execution of the Services, the Carrier agrees to:
- a) Comply with the provisions of all the applicable laws of the country(ies) where the Services are performed;
 - b) Pre-advise ABN of vehicles that will be provided to execute the Services and to provide such vehicles as pre-advised;
 - c) Send on a daily basis, or as requested by ABN from time to time, a tracking report and estimated time of arrival of vehicles utilised for the Services;
 - d) All trucks must have satellite tracking and ABN Logistics must be granted access to satellite tracking;
 - e) Ensure that specialised personnel are qualified to perform the Services and are employed under a legal employment agreement, compliant with all the relevant applicable legislation;
 - f) All Permits and Licences for the Vehicle and Trailer must be up to date and valid,
 - g) Immediately, both telephonically and in writing, notify ABN in the event that a vehicle providing any of the Services is subject to an accident, hijack, breakdown, theft of all or part of the Goods.;
 - h) Carry Goods in a manner so as not to cause loss or damage to the Goods and to be fully responsible for the Goods whilst under the control of the Carrier, its sub-contractors, its agents or their employees.
 - i) Use all technical and organisational measures and all equipment required or recommended by current applicable health, safety and environmental protection legislation and/or regulation(s) (including, but not limited to the use of appropriate personal protective equipment by its own employees and/or the employees of Carrier's agents or subcontractors;
 - j) Inspect the Goods for compliance with the Agreement's specifications, quality, weight and physical dimension, as well as for any damage to the Goods or their packaging prior to commencement of the Services;
 - k) Not trans-ship Goods in transit, unless prior written approval of ABN is obtained;
 - l) Be responsible for the safety of people, equipment, plant and objects belonging to ABN and to third parties in compliance with current applicable legislation;

- m) The Carrier shall procure adequate carrier's liability insurance and insurance referred to hereunder to cover the Carrier against all risks relating to provisions of services by the Carrier. **The Carrier is obliged to provide confirmation of all such insurance to ABN on a monthly basis.** The Carrier shall further ensure that any-subcontractors it appoints in terms of the Agreement to perform Services, has similar carrier's liability insurance cover in place to that of its own. It is specifically agreed that the Carrier and/or it's subcontractor, if any, shall have the following insurance for each load transported for ABN:
- (i) Public liability, insurance to the value of R500 000.00
 - (ii) Goods in Transit insurance to the value of R2 000 000.00 or the value of the cargo (whichever is the greater);
 - (iii) Each vehicle is to be comprehensively insured.
- m) In the event of a claim lodged with its Insurers which arise from the services that form the subject matter of this Agreement, the carrier irrevocably cedes and assigns all its rights to the claim, proceeds of any such claim to ABN Logistics as beneficiary and undertakes to, on demand, sign all required documentation of its Insurers to give effect to the provision.
- n) Comply with applicable environmental, trade sanctions, anti-bribery, anti-corruption, anti-money laundering and antiterrorism financing regulations in force under all laws applicable to the performance of the Services in this Agreement. Any breach of this clause shall be deemed to be a material breach of this Agreement of such a nature entitling ABN to terminate the Agreement immediately
- o) Possess the required skills to handle Goods declared as hazardous including possession of all licenses required by law and to ensure all employees of the Carrier are adequately trained as required by law for the handling of such hazardous materials;
- p) Only appoint a sub-contractor to perform the Services where the prior written consent of ABN has been obtained;
- q) Waive any right to exercise a lien over Goods in its possession, or in the possession of a sub-contractor, in respect of any amounts which the Carrier alleges to be due to it;
- r) Waive any right to sell or otherwise dispose of Goods in its possession, or in the possession of a sub-contractor, in respect of any amounts which the Carrier alleges to be due to it.
- s) The Carrier shall not act in any way with the goods other than indicated on the loading instruction and only written amendments thereto.
2. The Carrier is responsible for the Services execution and shall be liable to ABN for the total or partial loss of, or damage to Goods that occurs when the Goods are in the Carrier's custody or control, including where the Goods are in the custody of a sub-contractor appointed by the Carrier, until their arrival and unloading and / or if the Goods have not arrived on the agreed arrival date or within the agreed arrival period as per the Order Confirmation.
3. Where the Services include the transport of high value Goods, including but not limited to Copper, Cobalt metal, Nickel and other base metals, abnormal goods and project cargo; the Carrier will ensure (in addition to the responsibilities included in clause 5) that:
- a) All vehicles travel in a convoy of minimum 2 vehicles and maximum 6 vehicles;
 - b) Escorts are provided by ABN from Kasumbalesa Zambia Border Post through out the whole journey to the offloading point in South Africa. A single convoy will consist of 1 Guard per Two Trucks.; Three Trucks will have 3 Guards,
 - c) In the event of a breakdown, the remaining convoy is to remain with the vehicle on breakdown until such time as otherwise instructed by ABN;
 - d) No After Hours Driving will be allowed, trucks are only allowed to drive from 06:00 to 18:00; if there is an operational change in transit hours, then it will be communicated to the Carrier prior to starting of trip.

- e) All Goods are covered by a secured tarpaulin in such a manner that material is not visible and cannot be easily tampered with. The Carrier is to place tarpaulin seals on the tarpaulin and such seals are required to be intact prior to offloading of the vehicles;
- f) All vehicles are equipped with a satellite tracking system equipped with route deviation software. Vehicles are to be monitored on a 24 (twenty-four) hour basis to ensure that vehicles are proceeding as planned, have not deviated from the planned route and have not made any unauthorised stops en-route and ABN is given access to the tracking system;
- g) All vehicles are equipped with a radio/cellular phone to facilitate regular contact with drivers from the control room and between drivers within a convoy;
- h) High value commodities will be subject to a weighing exercise on receipt into the offloading warehouse or facility.

Such record of weights will constitute and final record of the weight of cargo delivered and will be the basis of the assessment of any claims for loss or shortage of the Goods.

In the event that tarpaulin is damaged on arrival of it and it is determined that the Goods have been short delivered, both the vehicle and driver of the vehicle may be detained by the warehouse pending investigation by the authorities and provision of all required statements by the Carrier, its agents and employees.

5. NON-ASSIGNMENT

The Carrier shall not be entitled to cede, delegate or assign the rights and obligations arising from this Agreement without the prior written consent of ABN. Should ABN give its consent, the third-party assignee shall comply with all the rights and obligation under this Agreement, provided however that the Carrier shall be always the sole entity fully and generally liable towards ABN for the performance of this Agreement. ABN shall be entitled to cede, delegate or assign the rights and obligations under the Agreement to any third party.

6. CONFIDENTIALITY

Unless previously agreed in writing by ABN, the Carrier agrees not to publicise its commercial relations with ABN and in all cases, to treat as confidential, all commercial information or other information concerning ABN, including but not limited to the Goods, materials, products, processes, quantities, qualities and activities which may come to its knowledge in relation to the execution of the Agreement (hereinafter the "Confidential Information"). The Carrier also agrees to restrict the disclosure of

Confidential Information solely to those of its employees who need to know the Confidential Information for the purpose of the

Agreement and to advise such employees of the confidentiality requirement and limitations on use with respect to the Confidential Information and shall remain jointly liable in case of breach of the terms of the present clause. Any information that is lawfully in the public domain shall not be regarded as Confidential Information.

7. RESTRAINT

The Contractor agrees that it shall be restrained for a period of 12 (twelve) month from date of service rendered to a specific customer of ABN to have any direct or indirect business with ABN customers.

8. TERMINATION

8.1 In the event of any breach by the Carrier of its obligations under this Agreement, ABN shall have the right, without prejudice to any additional remedies specified under the applicable law, to notify the Carrier with a written notice requiring compliance with this Agreement. Should the Carrier not comply with the above-mentioned written notice within 5 (five) calendar days from the receipt of the same, ABN shall have the right to terminate this Agreement.

8.2 If any action instituted by ABN, the Carrier shall be liable for costs on an attorney-client scale.

8.3 The Parties choose as their respective *domicilium citandi et executandi* for purposes of service of all notices and legal proceedings arising out of or relating to the Agreement, the addresses set out on the Order Confirmation. Notices may not be validly sent by email. Notices shall be regarded as having been sent within three (3) days of being sent by registered post, and on the day of their delivery or sending in the case of hand delivery or telefax sending.

9. APPLICABLE LAW AND JURISDICTION

All aspects of the Agreement are governed by the law of the Republic of South Africa. Any disputes which may arise in relation to this Agreement, its efficacy, validity, execution, interpretation, cancellation and cessation, and all matters referring to or connected with the deliveries and/or the Order Confirmation or terms hereof and all related credits and debts, shall fall under the exclusive jurisdiction of the competent Courts of the Republic of South Africa.

10. WHOLE AGREEMENT

10.1 This is the entire agreement between the parties.

10.2 Neither party relies in entering into this agreement on any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this agreement as warranties or undertakings.

10.3 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

11. NON-WAIVER

11.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this agreement by reason of such party having at any time for, or having shown any indulgence to, the other party with reference to any payment or performance hereunder, or having failed to enforce or delayed in the enforcement of, any right of action against the other party.

11.2 The failure of either party to comply with any non-material provision of this agreement shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.



By signing this transport agreement, the Carrier agrees that he fully understands the content of this transport agreement without any omissions, and will comply with all instructions as indicated in the transport agreement. The following Documents is required and must be attached to this transport agreement:

- Copy Carriers Registration Documents
- Copy of Owner / Director ID
- Valid Certificate of Current Insurance {Letter of Good standing Insurance}
- Valid Certificate of Current Tracking Company {Letter of Good standing Tracking}

SIGNED and DATED aton this.....day of20.....

Witnesses:

1.

 ABN Logistics (Pty) Ltd.
2.

 Full name and surname

 Capacity

SIGNED and DATED aton this.....day of20.....

Witnesses:

1.

 Carrier: duly authorised Signature
2.

 Full name and surname

 Capacity

 Company