



CONTRACTOR TRANSPORTATION AGREEMENT

ENTERED INTO BETWEEN

4PL.COM LOGISTICS CAPE (PTY) LTD

Registration Number: 2007/019644/ 07

(hereinafter referred to as "4PL.COM")

AND

Registration Number: _____

(hereinafter referred to as "THE CONTRACTOR")

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1. INTERPRETATION

- 1.1. Clause and paragraph headings are for purposes of reference only and shall not be used in interpretation.
- 1.2. Unless the context clearly indicates a contrary intention, any word connoting:
 - 1.2.1. any gender includes the other gender;
 - 1.2.2. the singular includes the plural and vice versa;
 - 1.2.3. persons include artificial persons and vice versa;
 - 1.2.4. insolvency includes provisional or final sequestration, liquidation or judicial management.
- 1.3. A reference to a Business Day is a reference to any day excluding Saturday, Sunday and a public holiday in the Republic of South Africa.
- 1.4. When any number of days is prescribed such number shall exclude the first and include the last day unless the last day falls on a Saturday, Sunday, or a public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding Business Day.
- 1.5. A reference to an enactment is a reference to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 1.6. The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that agreement shall not apply.
- 1.7. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 1.8. The eiusdem generis rule shall not apply and accordingly, whenever a provision is followed by the word "including" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.
- 1.9. Where any term is defined within the context of any particular clause in this Agreement, then, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, the term so defined shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in the definition clause.

2. DEFINITIONS

- 2.1. Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement, including this introduction, bear the meanings ascribed to them:
 - 2.1.1. "the/this Agreement" means the agreement as set out in this document including all appendices hereto;
 - 2.1.2. "4PL.COM" means 4PL.COM Logistics Cape (Pty) Ltd (Registration Number 2007/019644/ 07) a Company with Limited Liability registered under the Company Laws of the Republic of South Africa and its permitted successors and assigns in title herein represented by P.R.Cunliffe who warrants that he is duly authorised thereto;
 - 2.1.3. "Allocated loads" means all loaded products allocated to THE CONTRACTOR by 4PL.COM, upon 4PL.COM's instructions and as per specific order instructions (in the manner of instruction as set out in this agreement) which 4PL.COM requires THE CONTRACTOR to transport on behalf of 4PL.COM, for 4PL.COM's customers from time to time;

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- 2.1.4. "THE CONTRACTOR" means _____
 (Registration Number _____+) a Close Corporation registered under the Company Laws of the Republic of South Africa and its permitted successors and assigns in title herein represented by _____ who warrants that he is duly authorised thereto.
- 2.1.4. "Commencement date" means _____;
- 2.1.5. "Container" means any container (other than a vehicle) in which the products are conveyed and/or stored.
- 2.1.6. "the Customer" means the party who has instructed 4PL.COM to provide logistical support to by either instructing 4PL.COM to collect the products at a collection point and/ or to deliver such products at a designated delivery point; and/or the party reflected on the dispatch document as the sender of the products, whether acting on his own behalf or in his capacity as agent or in any other capacity for a third party;
- 2.1.7. "Dangerous goods" means and includes, without limitation, those classified as such by Spoor-net, the Marine Division of the Department of Transport, or which are considered by 4 PL.COM to be dangerous;
- 2.1.8. "Date of signature" means the date on which the last signing party to this agreement so signs;
- 2.1.9. "Day" means the period of 24 consecutive hours from one midnight to the next;
- 2.1.10. "Delivery" means the conveyance of one load of the products pursuant to this agreement in the dedicated vehicle from the loading point to the off-loading point;
- 2.1.11. "Delivery documents" means a collection and delivery instruction as generated by 4PL.COM, weigh – bridge ticket, load confirmation voucher, entrance confirmation and exit confirmation and delivery confirmation;
- 2.1.12. "Freight charges" means THE CONTRACTOR'S standard charges or such other consideration payable to THE CONTRACTOR by 4PL.Com in terms of this agreement;
- 2.1.13. "the handling of the products" means and includes, without limitation the products being handled, warehoused, held, controlled, loaded or unloaded, carried or otherwise possessed by THE CONTRACTOR for any purpose whatsoever;
- 2.1.14. "Loading point" means the various allocated and designated premises of 4PL.COM or the customer's applicable supplier or supply point of the products;
- 2.1.15. "Products" means any volume or mass allocation for transport or packaging supplied by 4PL.COM or the customer which is accepted by THE CONTRACTOR for transport;
- 2.1.15.1. Mineral Products means any volume or mass allocation of primarily mined and processed minerals, inclusive but not limited to chrome, vanadium, clay, iron ore, steel, platinum, aluminium and any other mined mineral product also including any container, pallet or similar article.

- 2.1.15.2. Agricultural Products means any volumes or mass allocation primarily farmed and processed inclusive but not limited to maize, dairy, vegetables, wheat, sugar cane, citrus, deciduous fruit, poultry products, sunflower seed, subtropical fruit, grain sorghum, cotton, Soya beans, barley, nuts, beans etc.
- 2.1.15.3. Commercial Products any bulk volume or mass allocation inclusive of steel, cement, tyres, spare parts, vehicles & machinery, equipment etc.
- 2.1.16 "Month" means a calendar month;
- 2.1.17 "Off-loading point" means the various addresses as specified by 4PL.COM or the customer;
- 2.1.18 "Party or Parties" means one or both of the parties to this Agreement, as the context requires;
- 2.1.19 "Routes" means a specified route which 4PL.COM or its customers require THE CONTRACTOR to travel as THE CONTRACTOR is required to collect and deliver the products at certain specified points of collection and delivery;
- 2.1.20 "Territory/Area/Magisterial districts/Radius from a central point; (to be included in instances where a CONTRACTOR is restricted to delivery and collection in a certain region or area ;)
- 2.1.21 "Vehicle" means any vehicle dedicated to 4PL.COM for the duration of this agreement used by THE CONTRACTOR in connection with this agreement upon which or in which the products and/or containers are conveyed;
- 2.1.22 "Week" means the period of seven consecutive days commencing on a Monday and expiring on the following Sunday;
- 2.1.23 "Working hours," means the time as allowed and stipulated by the various loading and off-loading points as per customer's requirements;
- 2.1.24 "Year" means each period of 12 months commencing on the commencement date and each anniversary thereof.

3. **PARTIES**

The parties to this agreement are as follows: -

- 3.1. "4PL.COM" is 4PL.COM Logistics Cape (Pty) Ltd (Registration Number 2007/019644/07) a Company with Limited Liability registered under the Company Laws of the Republic of South Africa and its permitted successors and assigns in title herein represented by **P.R Cunliffe** who warrants that he is duly authorised thereto;
- 3.2. "THE CONTRACTOR" is _____ (Registration Number: _____) and includes THE CONTRACTOR'S servants and agents and any person or persons carrying any products forming the subject matter of this contract.

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4. INTRODUCTION

- 4.1. **WHEREAS** 4PL.COM is a Logistical Services provider to its Customers, who from time to time, requires the assistance and services of Carriers in providing 4PL.COM's Logistical Solutions to 4PL.COM's Customers and is also possessed of a "Preferred Transport Contractor Base";
- 4.2. **AND WHEREAS** THE CONTRACTOR is primarily a Transport Services Provider who specialises, in this instance, in the collection and delivery of products as defined in this agreement;
- 4.3. **AND WHEREAS** 4PL.COM requires to utilise the services of THE CONTRACTOR on the express understanding and condition, that THE CONTRACTOR shall provide the Transport services to 4PL.COM in order to assist 4PL.COM to provide efficient and proper Logistical services to 4PL.COM's customers;
- 4.4. **NOW WHEREFORE** 4PL.COM agrees to appoint THE CONTRACTOR onto 4PL.COM's "Preferred Transport Contractor Base" on the terms and conditions of this agreement;

5. CONDITIONS PRECEDENT

- 5.1. The parties record and agree that the operation of this agreement, exclusive of this clause and its sub-clauses, is wholly suspended pending the fulfilment by THE CONTRACTOR of the following conditions: -
 - 5.1.1. That the personnel employed by THE CONTRACTOR to assist 4PL.COM at 4PL.COM's customers premises meet all clearance (both security and competency and fitness) requirements of 4PL.COM's customers, in order to gain access to 4PL.COM's customers premises as and if required;
 - 5.1.2. That THE CONTRACTOR has to provide to 4PL.COM proof of insurance on the following aspects: -
 - 5.1.3. Goods in Transit insurance policy to cover any losses and damages, to 4PL.COM or its customers products, that may be suffered as a consequence and result of THE Contractor's conduct or negligence, whilst THE CONTRACTOR on behalf of 4PL.COM transports the products be taken out by THE CONTRACTOR to the minimum value of R 500,000 per incident.
 - 5.1.4. That THE CONTRACTOR provide proof that all operators/drivers of the vehicles of THE CONTRACTOR are all properly qualified and licensed with the appropriate permits to operate the vehicles of THE CONTRACTOR;
 - 5.1.5. That all vehicles owned and operated by THE CONTRACTOR are licensed with the applicable statutory authorities and in accordance with all applicable and relevant legislation;
 - 5.1.6. The parties agree that should THE CONTRACTOR fail to fulfil the conditions as set out above that the entire agreement, excepting this clause and its sub-clauses, would be of no further force and effect.
 - 5.1.7. The parties agree that the stipulations of the conditions precedent stated above are included in this agreement for the benefit of 4PL.COM and if 4PL.COM so requires 4PL.COM, in its sole and absolute discretion may waive any non-compliance and non-fulfilment by THE CONTRACTOR of the above conditions and stipulations.

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6. PREFERRED CONTRACTOR APPOINTMENT

- 6.1. The Parties agree that upon the commencement date of this agreement, that THE CONTRACTOR will be deemed to be appointed on 4PL.COM's "Preferred Transport Contractor Base".
- 6.2. It is understood and agreed that the appointment of THE CONTRACTOR is limited to a period of 60 (Sixty) consecutive months from the effective date (known as the "*initial period*");
- 6.3. In the event that the parties wish to renew this agreement (known as a "*subsequent period*") such renewal will be on the terms and conditions as stipulated and indicated in a separate new agreement to be concluded between the parties after this agreement terminates by the efflux ion of time.
- 6.4. THE CONTRACTOR explicitly acknowledges that by entering into this agreement that 4PL.COM by its appointment of THE CONTRACTOR does not create any expectation of any nature that THE CONTRACTOR will continue to be appointed after the initial period and that THE CONTRACTOR may expect to be appointed as a CONTRACTOR on 4PL.COM's "preferred Transport Contractor Base".
- 6.5. THE CONTRACTOR further confirms that THE CONTRACTOR will be subjected to 4PL.COM's regular review in order to ensure that THE CONTRACTOR continues to meet 4PL.COM's entry qualifications to be considered a member and appointed CONTRACTOR on 4PL.COM's "Preferred Transport Contractor Base".
- 6.6. By appointing THE CONTRACTOR in terms of this agreement to act as a CONTRACTOR on 4PL.COM's "Preferred Transport Contractor Base", THE CONTRACTOR acknowledges that 4PL.COM does not in any way represent or undertake to issue instructions to THE CONTRACTOR which in any way specifically create the impression or expectation that THE CONTRACTOR will be expected and entitled to Transport a certain amount of Products for any specified period of time.
- 6.7. The Parties agree that THE CONTRACTOR accepts that THE CONTRACTOR is appointed in terms of this agreement to act as an preferred CONTRACTOR, having access to all volumes at 4PL.COM's volumes who will receive and accept instructions from 4PL.COM to transport and convey the products of 4PL.COM's customers as and when instructed by 4PL.COM as per agreed Project Permission, referred to in terms of annexure to this agreement.
- 6.8. Should the parties not agree to any renewal of this agreement, or wish to terminate this agreement for any other reasons, and then such termination or non-renewal shall occur and be governed by the stipulations of clause 9 hereunder.

7. COMMENCEMENT

- 7.1. This agreement will commence on the commencement date. It is agreed that notwithstanding the commencement date, should the suspensive conditions as contained in clause 5 above not be fulfilled by THE CONTRACTOR or the non-fulfilment not be waived by 4PL.COM, then the agreement will not commence.
- 7.2. However the parties agree that should the suspensive conditions be fulfilled by THE CONTRACTOR, then this agreement will be deemed to be concluded on the commencement date.

8. DURATION

- 8.1. This agreement commences from the commencement date and endures for the initial period, together with an any subsequent renewal as described in clause 9 hereunder and will only terminate in the manner as described in clause 6 and in terms of clause 9 hereunder.
- 8.2. It is specifically recorded that should the parties agree to any subsequent renewal or extension of this agreement, that the parties agree to any subsequent renewal or extension of the agreement in writing and in accordance with the exact stipulations of a subsequent new agreement and the manner of renewal as contained in clause 10 below.

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9. TERMINATION

9.1. Without prejudice to any other remedies that 4PL.COM and its designated agents may have against THE CONTRACTOR and its agents 4PL.COM, shall have the right at any time by giving notice in writing to THE CONTRACTOR to terminate the agreement forthwith in any of the following events:

On breach

9.2. If THE CONTRACTOR commits a breach of any of the terms or conditions of this agreement;

On liquidation or insolvency of THE CONTRACTOR

9.3. If THE CONTRACTOR is a company:

9.4. If THE CONTRACTOR enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction), or compounds with its creditors, or takes or suffers any similar action in consequence of debt.

On prevention of performance of duties

9.5. If from any cause THE CONTRACTOR is prevented from performing its duties hereunder for a period of 3 (THREE) calendar months;

On prejudicial conduct

9.6. If THE CONTRACTOR is guilty of any conduct which in the opinion of **4PL.COM** is prejudicial to **4PL.COM**'s interests.

On termination by notice given by either party

9.7. Either party may terminate this agreement by giving to the other party 30 (Thirty) days notice **in writing** sent by registered post or recorded delivery service to the registered office of 4PL.COM or of THE CONTRACTOR as the case may be.

Penalty for Non-Compliance of Termination Notice Period

9.8 THE CONTRACTOR hereby acknowledges that 4PL.COM will suffer damages should this contract be terminated early and not as provided for in Para 9.7. Then THE CONTRACTOR will be liable to pay a penalty of R20 000.00 (Twenty thousand Rand) to 4PL.COM for damages suffered.

10. RENEWAL

10.1. The Parties specifically record that any subsequent renewal or extension of this agreement will only be valid if the below mentioned conditions are met and such renewal or extension is reduced to in writing and signed by both parties.

10.2. 4PL.COM will only renew this agreement should THE CONTRACTOR comply with the following stipulations: -

10.2.1. This agreement is to be in force, prior to any renewal and no previous cancellations of this agreement have taken place;

10.2.2. The Parties enter into a new agreement for a defined period as described and agreed to in the new agreement.

10.2.3. THE CONTRACTOR has not previously committed a breach of this Agreement;

10.2.4. THE CONTRACTOR undergoes a process of accreditation as conducted by 4PL.COM and meets the requirements of such accreditation process and continues to be considered an accredited CONTRACTOR on 4PL.COM's "preferred Transport Contractor Base".

10.2.5. All deliveries in terms of this Agreement have been completed and finalised to 4PL.COM and its Customer's satisfaction;

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- 10.2.6. THE CONTRACTOR provides proof in writing that THE CONTRACTOR's vehicles or fleet are capable of providing Transportation services to 4PL.COM and its Customers and are in a good working order and are well –maintained in accordance with the manufacturer's specifications and requirements;
- 10.3. failing which this Agreement shall lapse on the Expiry Date of the initial period.
- 10.4. The Parties agree that by entering into this agreement and any subsequent agreement or subsequent renewal or extension of this agreement shall not furnish to THE CONTRACTOR any right, expectation or entitlement to any further renewal apart from any agreed renewal or extension of this agreement.

11. OBLIGATIONS OF THE CONTRACTOR

COLLECTION AND DELIVERY

- 11.1. Upon commencement of this agreement, THE CONTRACTOR will be obliged to collect products from the stipulated collection point as instructed by 4PL.COM from time to time and deliver such products timeously and without unnecessary delay to designated delivery points as instructed by 4PL.COM
- 11.2. THE CONTRACTOR will transport, collect and deliver the products in accordance with the delivery instructions, loading time, destination and condition of the loads requested by 4PL.COM.
- 11.3. THE CONTRACTOR agrees that THE CONTRACTOR will use the utmost of care and precaution, while transporting the products and will ensure that all applicable legislation is adhered to whilst THE CONTRACTOR is loading, transporting and off-loading the products.
- 11.4. THE CONTRACTOR will not overload (or under load) any vehicles if so THE CONTRACTOR shall be held liable to make payment for any loss suffered by 4PL.COM, due to such incorrect loading and THE CONTRACTOR agrees that 4PL.COM may withhold any payment of any amounts to THE CONTRACTOR for such overloaded (or under loaded) vehicles.
- 11.5. Any penalties incurred as a consequence of any overloading will be for THE CONTRACTORS account.
- 11.5.1. THE CONTRACTOR agrees that it shall at all times transport the products in vehicles which shall conform to all legal requirements as amended from time to time and further.
- 11.5.2. That THE CONTRACTOR'S vehicles will represent 4PL.COM at all times and that THE CONTRACTOR will be liable for the costs of placing 4PL.COM's chosen livery and logo's displaying that THE CONTRACTOR is providing the transportation services to 4PL.COM (on all THE CONTRACTOR's doors and front panels).
- 11.5.3. That at THE CONTRACTOR'S expense, THE CONTRACTOR will ensure that each and every load with a water resistant cover (if and when necessary) thereby ensuring that the product will remain in tact at all times.
- 11.5.4. That the operators of THE CONTRACTOR'S vehicles will be equipped with an operational cellular phone and be contactable at all times.
- 11.5.5. That the vehicle or transport unit will be equipped with an operational tested and approved fire extinguisher of suitable design.
- 11.5.6. That THE CONTRACTOR'S drivers will be medically fit to perform the work they are required to perform. Proof of medical fitness shall be provided on request of 4PL.COM.
- 11.5.7. That THE CONTRACTOR, while on site at 4PL.COM's customers, shall strictly adhere to and enforce discipline regarding the stipulations of the Occupational Health and Safety Act and all other applicable legislation.
- 11.5.8. THE CONTRACTOR shall strictly adhere to and enforce discipline regarding products Conveyed according to the stipulations and directions of the National Road Traffic Act 93 of 1996 as amended from time to time.
- 11.5.9. That THE CONTRACTOR and his employees shall wear closed shoes when they enter the premises of 4PL.COM and its customers and that hard hats and protective clothing are worn where applicable.

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- 11.5.10. THE CONTRACTOR shall ensure that safe working practices shall be adhered to and enforced and all employees shall be made conversant with and apply the contents of these practices.
- 11.5.11. THE CONTRACTOR agrees that THE CONTRACTOR shall be prohibited from utilising and operating any unsafe vehicles, equipment/machinery and/or articles by THE CONTRACTOR and its employees on 4PL.COM's customers' premises.
- 11.6. THE CONTRACTOR agrees that THE CONTRACTOR shall for the duration of this agreement adheres to all 4PL.COM and its customers' rules and regulations as well as all guidelines that may be applicable. THE CONTRACTOR will ensure that all employees are conversant with these rules and guidelines.
- 11.7. THE CONTRACTOR agrees to complete and adhere to any RESPONSIBLE CARE & INDUCTION program to which either 4PL.COM or its customers prescribes and will be committed to the provision of these standards and to the relevant Legislation, regulations and codes of practice to be included in any performance Measurement, auditing and corrective action procedures implemented by 4PL.COM or its customers.
- 11.8. THE CONTRACTOR acknowledges that time is of the essence and that all efforts of THE CONTRACTOR are to be focused to ensure the expeditious delivery of the product.

12. RESTRAINT OF CONTRACTOR

- 12.1. THE CONTRACTOR and its employees and agents agree that THE CONTRACTOR is prohibited and restrained from approaching 4PL.COM's customers and soliciting work from 4PL.COM's customers.
- 12.2. THE CONTRACTOR expressly undertakes that THE CONTRACTOR shall not, either prior to the termination of this agreement or for the duration of this agreement and for any reason whatsoever, whether directly or indirectly, persuade, induce, encourage or procure any customer or client of 4PL.COM, which customer utilises 4PL.COM for the provision of Logistical services and which customer 4PL.COM has introduced to THE CONTRACTOR in order that 4PL.COM may utilise THE CONTRACTOR'S services as provided by THE CONTRACTOR to 4PL.COM to assist 4PL.COM to provide Logistical support to 4PL.COM's customers in terms of 4PL.COM's agreement with its customers or to provide any services which are competitive with any products or services supplied by 4PL.COM to its customers, by THE CONTRACTOR or any competitor of 4PL.COM.
- 12.3. It is agreed and recorded herein that THE CONTRACTOR is aware that the restraint imposed above is reasonable and is designed to protect 4PL.COM's business interests and that should THE CONTRACTOR breach the terms of this restraint, that such breach would be prejudicial to 4PL.COM's interests and THE CONTRACTOR is liable for any losses suffered by 4PL.COM as a consequence of such breach.
- 12.4. It is further agreed that no agent of, or person employed by THE CONTRACTOR, has any authority to alter or vary in any way these conditions unless he is expressly authorised in writing to do so by 4PL.COM.
- 12.5. Any servant of THE CONTRACTOR OR his agent or subcontractor who enters into a contract with THE CONTRACTOR will be deemed to do so on behalf of THE CONTRACTOR and with his authority and no agreement will be deemed to have been entered into between 4PL.COM and THE CONTRACTOR's sub-contractor or agent.

13. NOTICE OF DELAY IN CARRIAGE

- 13.1. THE CONTRACTOR will inform 4PL.COM by telephone or telefax of any unusual delay occasioned by any circumstance whatsoever.

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14. BREAKDOWN OF VEHICLES

- 14.1. If any vehicle breaks down in the course of a journey THE CONTRACTOR will, unless otherwise instructed by 4PL.COM, substitute another vehicle at his own expense to carry the products to their destination.
- 14.2. In the event of such breakdowns 4PL.COM may decide in its sole and absolute discretion to carry the products to their destination and THE CONTRACTOR agrees that THE CONTRACTOR shall pay to 4PL.COM's reasonable costs in so doing.

15. CONTRACTOR'S INSURANCE

- 15.1. THE CONTRACTOR will effect in its own name policies of insurance to the satisfaction of the 4PL.COM to cover any claim for loss of, or damage to, the products or in respect of delay in the carriage thereof, or in respect of any other risk nominated by 4PL.COM and will produce to 4PL.COM on demand the said policies and receipts for the current premiums, and in default of the production on demand of such policies and receipts, 4PL.COM may effect such insurance and THE CONTRACTOR will be liable to pay 4PL.COM the cost of so doing.

16. OBLIGATIONS OF 4PL.COM

- 16.1. THE CONTRACTOR agrees that 4PL.COM will not be bound by any obligation to provide THE CONTRACTOR with a minimum agreed tonnage if the Customers of 4PL.COM terminate the agreement between 4PL.COM and its Customers.

General Obligations of 4PL.COM

- 16.2. THE CONTRACTOR shall not be under any obligation to provide any plant, power or labour which in addition to its vehicle's crew is required for the loading or unloading of any products.
- 16.3. However, any assistance given by THE CONTRACTOR in such loading or unloading shall be at the sole risk of THE CONTRACTOR.

17. SPECIAL PROVISIONS RELATING TO CARRIAGE

Compliance with Statutes

- 17.1. THE CONTRACTOR undertakes specifically to comply (without limitation) with all applicable regulations and stipulations of the following statutes:
 - 17.1.1. Road Transportation Act 74 of 1977;
 - 17.1.2. Road Traffic Act 29 of 1989;
 - 17.1.3. Occupational Health and Safety Act 85 of 1993;
 - 17.1.4. International Convention for Safe Containers Act 11 of 1985;
 - 17.1.5. Hazardous Substances Act 15 of 1973;
 - 17.1.6. Fire Brigade Services Act 99 of 1987;
 - 17.1.7. Regulations under the Explosives Act 26 of 1956;
 - 17.1.8. National Roads Act 54 of 1971;
 - 17.1.9. Regulations under the Health Act 63 of 1977;
- 17.2. THE CONTRACTOR undertakes to abide by any further legislation or legislative amendments, which might be applicable.

Standing time

- 17.5. THE CONTRACTOR agrees that 4PL.COM will not be liable to make payment of any amounts to THE CONTRACTOR for any losses incurred by THE CONTRACTOR, while THE CONTRACTOR'S vehicles remain idle for any reason whatsoever.

Demurrage

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- 17.6. The CONTRACTOR will be liable for any losses due to any demurrage at either 4PL.COM's premises or its customers' premises. 4PL.COM shall not be liable for demurrage or storage charges of any nature whatsoever and howsoever arising. Where any such demurrage and/or storage charges are paid by 4PL.COM, such charges shall be refunded to 4PL.COM by THE CONTRACTOR on demand.

18. RATES

- 18.1. 4PL.COM shall from time to time, as and when 4PL.COM's clients provide 4PL.COM with fixed rates, provide THE CONTRACTOR with a rates schedule wherein the routes and tonnages are described, together with a request to THE CONTRACTOR avail itself to provide the Transportation services for the conveyance of the defined products.
- 18.2. THE CONTRACTOR will be requested by 4PL.COM to provide the Transportation services at a fixed and firm rate (exclusive of VAT) at which, if THE CONTRACTOR accepts the offer to transport the products, shall contractually bind THE CONTRACTOR to such rate presented by 4PL.COM to THE CONTRACTOR.
- 18.3. In the event that, THE CONTRACTOR accepts the instruction to transport the Products THE CONTRACTOR shall be placed on 4PL.COM's loading schedule.
- 18.4. On the rate having been tendered and having been accepted by the Customer, 4PL.COM shall notify THE CONTRACTOR and attend to the administration pertaining to the conveyance.

19. TERMS OF PAYMENT

- 19.1. The Parties agree that once THE CONTRACTOR has provided all services to 4PL.COM in an efficient and timeous manner, that THE CONTRACTOR shall generate an invoice and submit an Invoice together with all the relevant documentation of account, to 4PL.COM's Administration office within 7 days of completion of load.
- 19.2. A compulsory statement, generated by THE CONTRACTOR must be submitted monthly with the invoicing.
- 19.3. Payment shall be made to THE CONTRACTOR at the rate agreed and within the agreed terms agreed between 4PL.COM and the customer of 4PL.COM.

20. DOCUMENTATION

- 20.1. It is agreed that before all payments due to THE CONTRACTOR can be made if all CONTRACTOR invoices are accompanied by:
- 20.1.1. Original VAT invoice;
 - 20.1.2. Signed delivery note. Delivery note must also contain the following information:
Date and time of delivery.
 - 20.1.3. All documentation must be original and THE CONTRACTOR must keep copies on file.
 - 20.1.4. Final payment will take place once a statement reflecting the loads and the value has been received.
 - 20.1.5 THE CONTRACTOR acknowledges that all documentation relating to any deliveries made by THE CONTRACTOR remains the property of 4PL.COM and may not be withheld for any reason whatsoever, and that withholding such documentation shall constitute theft.
- 20.2. The original completed documents must be forwarded to 4PL.COM's Office via:
- By Courier Services: 34 Lourensford Rd
Somerset West, 7130
 - By Post: P.O. Box 2812
Somerset West, 7129

LIABILITY FOR DAMAGES AND INSURANCE

The products shall be carried at the sole risk of THE CONTRACTOR.

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THE CONTRACTOR hereby exempts 4PL.COM from and indemnifies 4PL.COM against all liability of whatsoever nature, arising directly or indirectly from the handling of the products by THE CONTRACTOR.

This exemption and indemnity includes, but is not restricted to, any liability for direct and/or consequential loss or damages arising from loss of the products, damage to the mineral products, the failure to collect or deliver the mineral products timeously, adequately or at all, or from or to the correct address, or from any other cause arising, whether any such liability, loss or damage is caused by or arises from breach of contract, negligence or gross negligence, on the part of THE CONTRACTOR, its servants, agents or employees.

4PL.COM does not accept responsibility for fires, delays in handling off loading and standing times and overloading or any delay caused which could not be controlled. Should any of these events occur and THE CONTRACTOR could have reasonably foreseen that such events could cause any losses or damages and /or delays, then in such event the Parties agree that THE CONTRACTOR will not be able to hold 4PL.COM liable for any such losses and THE CONTRACTOR will be prohibited from invoicing 4PL.COM for such losses incurred by THE CONTRACTOR.

22. SET OFF AND DEDUCTION

THE CONTRACTOR unequivocally agrees that should THE CONTRACTOR, for any reason whatsoever, be obligated to make payment of any monies to 4PL.COM and be lawfully indebted to 4PL.COM, that 4PL.COM will be entitled to deduct any amounts due to 4PL.COM by THE CONTRACTOR, inclusive of but not limited to the costs mentioned below, in respect of and/or against any monies due to THE CONTRACTOR by 4PL.COM: -

Short payments to 4PL.COM by 4PL.COM's Customers due to overloading and damaged tarpaulins.

THE CONTRACTOR will be liable for any demurrage to 4PL.COM's or 4PL.COM's Customers' property unless proofed otherwise by him.

Losses due to theft and hi-jacking (Cost of product to be worked out by the 4PL.COM and its Customer concerned in their sole and absolute discretion.)

Damages suffered by 4PL.COM and its Customers due to THE CONTRACTORS handling and transportation of the mineral Products.

Diesel used by THE CONTRACTOR at any time filled at either the Customer or 4PL.COM's depot or filling points.

23. TACIT HYPOTHEC / LIEN

It is specifically recorded and agreed that all Goods transported under this agreement are legally in the possession of 4PL.COM by virtue of an agreement between 4PL.COM and it's Customer and that the Contractor is therefore, for all intents and purposes, and a mere holder of the goods on behalf of 4PL.COM. It is recorded and agreed that the Contractor can therefore never acquire a lien or tacit hypothec or other possession right over the Goods or part thereof, or any trailer/load/equipment/accessory/documentation of 4PL.COM relating to this agreement, or in any way connected herewith. The Contractor hereby irrevocably and unconditionally waives any right of whatsoever nature he may nevertheless now have or in future acquire in this respect.

24. FORCE MAJEURE/ IMPOSSIBILITY OF PERFORMANCE

Definition:

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For purposes of this agreement and in the event that THE CONTRACTOR and 4PL.COM are prevented from performing or carrying out a part of or any of their obligations, the parties agree that the following instances will be classified, without limitation, as instances of force majeure: - acts of God (*vis major*), for example floods; casus fortuitus; riots, sabotage, terrorism, war; strikes, lock-outs, labour disputes; fuel and water shortages;

Upon the happening of any of the events mentioned in 23.1. above, both parties agree that they will do all such things necessary and reasonable in the circumstances in co-operation with each other, to carry out their obligations in terms of this agreement and take any possible and reasonable steps in the circumstances to reasonably minimise and mitigate any loss or damage, which may be incurred by either party.

The Parties agree that should the circumstances giving rise to Force Majeure continue for more than 60 days, the party which has not claimed or both may terminate this agreement.

25. NOTICES AND LEGAL PROCESSES

Each party chooses as its address for all purposes under this Agreement ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice"), as follows:

| | |
|-----------------------------|----------------|
| PHYSICAL ADDRESS | 4PL.COM |
| 34 Lourensford Road | |
| Somerset West, 7130 | |
| FAX NUMBER - 021 – 851 8305 | |
| TEL NUMBER - 021 – 851 8305 | |

| | |
|--------------------|-----------------------|
| PHYSICAL ADDRESS | THE CONTRACTOR |
| _____ | |
| _____ | |
| FAX NUMBER - _____ | |
| TEL NUMBER - _____ | |

Any notice required or permitted under this Agreement shall be valid and effective only if in writing.

Any party may by notice to the other party change its chosen address to another physical address in the Republic of South Africa and such change shall take effect on the seventh day after the date of receipt by the party who last receives the notice.

Any notice to a party contained in a correctly addressed envelope and delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received on the date of delivery.

Notwithstanding anything to the contrary herein, a written notice actually received by a party, including a notice sent by telefax or e-mail shall be an adequate notice to it notwithstanding that it was not sent or delivered to its chosen address herein.

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26. SOLE RECORD OF AGREEMENT

This Agreement constitutes the sole record of the agreement between the parties with regard to the subject matter hereof. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

27. NO AMMENDMENTS EXCEPT IN WRITING

No addition to, variation of, or agreed cancellation of, this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.

28. WAIVERS

No relaxation or indulgence, which any party may grant to any other, shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

29. SURVIVAL OF OBLIGATIONS

Any provision of this Agreement, which contemplates performance or observance subsequent to any termination, or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect.

30. APPROVALS AND CONSENTS

Any approval or consent given by a party under this Agreement shall only be valid if in writing and shall not relieve the other party from responsibility for complying with the requirements of this Agreement nor shall it be construed as a waiver of any rights under this Agreement except as and to the extent otherwise expressly provided in such approval or consent, or elsewhere in this Agreement.

SIGNED AT _____ ON _____ 2007

P.R.Cunliffe FOR 4PL.COM

DULY AUTHORISED SIGNATORY

AND

4PL.COM REPRESENTATIVE (_____)
AS WITNESSES :

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SIGNED AT _____ ON _____ 2007

FOR : THE CONTRACTOR

DULY AUTHORISED SIGNATORY

AS WITNESSES :

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APPENDIX 1

DISPUTES

1. If a dispute arises, any Party to the Agreement shall notify the other Parties to this Agreement in writing. Should the dispute not be resolved between the Parties within 14 (fourteen) days of receipt by the other Parties of such notice, and then any of the Parties to the dispute may refer the dispute for determination in terms of the provisions of this clause 1.
2. If a Party exercises its right in terms of clause 1 to refer the dispute for determination, such dispute shall be referred to an advocate practising as such at the JHB Bar of not less than 10 (ten) years' standing or a practising attorney in JHB of not less than 10 (ten) years' standing, in either case as agreed upon among the parties to the dispute, or failing such agreement within 14 (fourteen) days after receipt of the notice referred to in clause 1 above, nominated by the President for the time being of the Law Society of the Gauteng or its successor-in-title. The person so agreed upon or nominated shall act as the "arbitrator".
3. Save as specifically provided in this clause, the arbitrator should in terms of both the common and statute law of South Africa in all respects act as an arbitrator and not as an expert.
4. The arbitrator shall be bound to follow the general principles of South African law.
5. As soon as possible after the arbitrator has been appointed, the Parties shall, by agreement, prepare and submit terms of submission to him setting out, *inter alia*, the nature of the dispute, the issues to be decided by the arbitrator and the procedure to be followed by the Parties in connection with submission of pleadings or the issues to the arbitrator and the procedure and manner to be followed by the arbitrator in arriving at his decision. If the Parties are unable to agree upon the terms of submission, they shall submit separate terms of submission to the arbitrator. If the arbitrator receives separate terms of submission from the Parties or regards any aspect of the single terms of submission received by him as unacceptable or impractical, he shall be vested with the entire discretion as to the final content of the terms of submission and the procedure and manner to be followed by him in arriving at his decision.
6. The arbitrator shall not be bound to follow principles of South African law with regard to procedure and evidence, providing that discovery must be made.
7. The Parties shall use their best endeavours to procure that the decision of the arbitrator shall be given as soon as possible after the notice referred to in clause 1 above.
8. Either Party to the dispute may be represented.
9. Should the arbitrator deem it necessary to obtain technical advice on any matter relating to the dispute, he shall be entitled to obtain such advice from a technical expert in the relevant field.
10. The arbitrator's decision shall be final and binding on the Parties.
11. The provisions of sections 24, 27, 28, 29, 30 and 31 of the Arbitration Act No. 42 of 1965 and any corresponding provisions in any amendment thereto or replacement legislation shall apply to any dispute determined in terms of this clause in that:

- 11.1. The arbitrator's decision shall be in writing and signed by the arbitrator and shall contain the reasons for his decision.
 - 11.2. Unless the terms of submission provide otherwise, the arbitrator may order specific performance of any contract in any circumstances in which a court would have power to do so.
 - 11.3. Unless the terms of submission provide otherwise, the arbitrator's determination shall be final and not subject to appeal and all Parties to the dispute shall abide by and comply with the arbitrator's determination in accordance with its terms.
 - 11.4. Where the arbitrator's determination orders the payment of a sum of money, such sum shall, unless the determination provides otherwise, carry interest as from the date of the determination and at the Prime Rate.
 - 11.5. The arbitrator may correct in any determination any clerical mistake or any patent error arising from any accidental slip or omission.
 - 11.6. The arbitrator's decision may, on the application to a court of competent jurisdiction by either party to the dispute, after due notice to the other party, be made an order of court.
 - 11.7. A determination, which has been made an order of court, may be enforced in the same manner as any judgment or order to the same effect.
12. This clause constitutes an irrevocable consent by the Parties to any proceedings in terms hereof and neither of the Parties shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause.
 13. This clause is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated or cancelled for any reason.
 14. Unless the terms of submission provide otherwise the arbitrator shall be entitled to make whatever award he deems appropriate in regard to costs.
 15. The receipt by either Party to this Agreement of a notice in terms of clause 1 shall constitute the service of a process for the purposes of interruption of prescription in terms of Section 15 of the Prescription Act No. 68 of 1969 or the corresponding provision in any amendment thereto or replacement legislation.
 16. The Parties agree to keep the proceedings for determination of the dispute, including the subject matter of the dispute and evidence heard during the proceedings, confidential and not to disclose them to any other person, except for the purposes of obtaining an order of court.
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APPENDIX 2

This document serves to confirm that rates and obligations specific to the "Contractor Transportation Agreement" entered into between 4PL Logistics Cape (Pty) Ltd & Felicite Transport Services cc

Date : 4 November 2010

Route : Various

Rate : R 10.76 / km exclusive of Value Added Tax, per load over a period of 1 Production month. This amount will be linked to the fuel price fluctuations at a percentage of 43% of total cost.

Production Month : 1st of the Calendar month to the last day of the Calendar month unless agreed in writing between the parties.

Signed 4PL.Com

Signed Contractor

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