

CONTRACT FOR SERVICES

JOS HANSEN (E.A.) LIMITED

and

STARFREIGHT LIMITED

DRAWN BY: -

OLUOCH-OLUNYA AND COMPANY
ADVOCATES
KENCOM HOUSE, 1ST FLOOR,
CITY HALL WAY
P.O. BOX 14885
NAIROBI 00100

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This agreement is made on the day of
(E.A.) Limited of P.O. Box

2002 **between Jos Hansen**
whose registered offices are at _____

And **Starfreight Limited** of P.O. Box

whose registered offices are at _____

Definitions

“Person” includes bodies corporate.

“goods” means certain consignments to be specified from time to time and imported into Kenya by Jos Hansen (E.A.) Limited by air sea road and/ or rail.

Appointment

1.1 Jos Hansen (E.A.) Limited appoints Starfreight Limited to supply the services of order processing, clearing and forwarding of goods. Starfreight Limited agrees to provide the aforementioned services under such charges as are specified in schedule ‘A’ annexed hereto. All prices stated for provision of services therein are inclusive of insurance, VAT and other taxes unless otherwise stated therein.

Term

2.1 This agreement shall be for a term of _____ weeks/months/years from the date abovementioned.

Performance of the contract

3.1 It is understood that Starfreight Limited under the terms of this agreement is not the agent for Jos. Hansen (E.A.) Limited and that Starfreight Limited has contracted for the performance of the services specified in this agreement in its own name and subject to the totality of the conditions of this agreement accepts liability for loss and damage to goods taken into its charge between the time it takes the goods into its charge and the time when Jos. Hansen (E.A.) Limited is entitled to take delivery of them.

3.2 Starfreight Limited is entitled to perform the clearing, forwarding, order processing, transport and services related thereto in any reasonable manner and by any reasonable means,

methods and routes.

3.3 Starfreight Limited shall use all reasonable endeavours to complete the transport and to deliver the goods at the place designated for delivery.

3.4 The goods will be insured for their full value by Starfreight Limited from the time possession is taken of them by Starfreight Limited to the time Jos Hansen (E.A.) Limited is entitled to take delivery of them.

3.5 It is expected and understood that in performing its obligations under this agreement, Starfreight Limited will exercise that degree of skill and care exercised by competent members of the clearing, forwarding and transportation trade.

3.6 Except under special arrangement previously made in writing, Starfreight Limited will not accept or deal with bullion, coin, precious stones, jewellery, antiques, pictures, human remains, livestock, pets or plants.

3.7 Starfreight Limited may at any time waive its rights and exemptions from liability under the above sub clause in respect of any one or more of the categories of goods mentioned therein or any part of any category. If such waiver is not in writing, the onus of proving such waiver shall be on Jos Hansen (E.A.) Limited

3.8 The place designated for delivery at all times under the terms of this agreement shall be the offices of Jos Hansen (E.A.) Limited at **Jos. Hansen House, Baba Dogo Road, Ruaraka, Nairobi.**

Starfreight's liability

4.1 Starfreight Limited shall be liable for loss of or damage to the goods occurring between the time when it receives the goods into its charge and the time of delivery.

4.2 Starfreight Limited shall be responsible for the acts and omissions of any person whose services it makes use of for the performance of its obligations under this agreement.

4.3 Starfreight Limited shall, however, be relieved of liability for any loss or damage if such loss or damage arose or resulted from:

The wrongful act or neglect of Jos Hansen (E.A.) Limited.

Where packing is not the responsibility of Starfreight Limited, the lack of, or defective conditions of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed.

Handling, loading, stowage or unloading of the goods by or on behalf of Jos Hansen (E.A.) Limited.

Insufficiency or inadequacy of marks or numbers on the goods, covering or unit loads.

Any cause or event which Starfreight Limited could not be reasonably expected to foresee.

AND the burden of proving that the loss or damage was due to one or more of the above mentioned causes or events shall rest upon Starfreight Limited.

4.4 Where as a result of the above mentioned exclusions Starfreight Limited is not under any liability in respect of some of the factors causing the loss or damage, it shall only be liable to the extent that those factors for which it is liable have contributed to the loss or damage.

Notice of loss and damage

5.1 Unless notice of loss or damage to the goods, specifying the general nature of such loss or damage is given in writing by Jos Hansen (E.A.) Limited to Starfreight Limited when the goods are handed over to Jos Hansen (E.A.) Limited, such handing over is *prima facie* evidence of delivery by Starfreight Limited.

5.2 Where the loss or damage is not apparent, notice of the same must be given at such time as the loss or damage could reasonably be expected to have been discovered and in any event within one month from the date of delivery.

No assignment or subcontracting

6.1 Starfreight Limited will not assign any of its rights or duties under this agreement without the consent of Jos. Hansen (E.A.) Limited.

6.2 Starfreight Limited will not or sub-contract any of its rights or duties under this agreement without the consent of Jos. Hansen (E.A.) Limited.

Jos Hansen (E.A.) Limited's obligations

Jos Hansen (E.A.) Limited warrants:

7.1 That the description and particulars of any goods furnished by or on its behalf are accurate.

7.2 That where goods have been received from Jos Hansen (E.A.) Limited, the goods are properly and sufficiently prepared, packed, stowed, labelled and or marked in a manner appropriate to any operations or transactions affecting the goods and the characteristics of the goods.

7.3 That where goods have been received from Jos Hansen (E.A.) Limited already stowed in or on a container, tanker or any other device specifically constructed for the carriage of goods by land, sea or air ('each hereinafter referred to as 'the transport unit') the transport unit is in good condition, and is suitable for the carriage to the intended destination of the goods loaded therein or thereon.

In consideration of the services to be rendered by Starfreight Limited, Jos Hansen (E.A.) Limited agrees to make the following payments:

7.4 Fees will be paid within 30 days of delivery of goods to Jos Hansen (E.A.) Limited.

7.5 Payment will be directed to Starfreight Limited, Lusaka Road, Nairobi and will be made by ordinary bank cheque. Starfreight Limited will pay on behalf of Jos. Hansen all third party costs as well as duties vide Bankers cheques.

7.6 The payments specified above will be made promptly and without demand.

8. Force Majeure

8.1 Neither party shall be liable for any failure to fulfil any term of this agreement, save for payment of money, if and to the extent that such fulfilment is delayed, interfered with or prevented by circumstances that are beyond the control of such party including but not limited to civil unrest, terrorist acts, acts of God or Government action.

9. Limitation of liability

9.1 The period of limitation of liability under this agreement will be in accordance with the Limitation of Actions Act (Cap 22) of the Laws of Kenya.

10. Storage and Disposal of uncollected goods

10.1 If delivery of the goods or any part thereof is not taken by Jos Hansen (E.A.) Limited at the time and place where it is entitled to take delivery Starfreight Limited shall be entitled to store the goods or any part thereof at the sole risk of Jos Hansen (E.A.) Limited.

10.2 The cost of such storage shall be payable by Jos Hansen (E.A.) Limited and shall be paid forthwith upon demand by Starfreight Limited to Jos Hansen (E.A.) Limited.

10.3 Starfreight Limited will be entitled to sell or dispose of such uncollected goods in accordance with the provisions of the Disposal of Uncollected Goods Act Chapter 38 of the Laws of Kenya.

11. Amount of compensation

11.1 Where Starfreight Limited is liable for compensation in respect of loss or damage to the goods, such compensation shall be calculated by reference to the value of such goods at the place and time they are delivered to Jos Hansen (E.A.) Limited or should have been so delivered in accordance with this Agreement.

11.2 The value of the goods shall be fixed according to the commodity exchange price or, if there be no such price according to the current market price or, if there be no commodity exchange price or current market price, by reference to the normal value of the goods of the same kind and quality.

11.3 Where Starfreight Limited is liable for compensation in respect of loss or damage to the goods, such compensation shall be paid to Jos Hansen (E.A.) Limited within thirty (30) days of notice of such loss or damage.

12. Confidentiality

12.1 No party shall during or after the Term divulge or allow to be divulged to any person confidential information relating to this agreement or to the operation, sources, payment terms and the business or affairs of the other unless the said person has signed a similar undertaking of confidentiality approved by the other party.

13. Termination

13.1 Either party giving 6 weeks notice in writing may terminate this agreement. In lieu of notice the terminating party will be liable to pay Kshs. _____ to the other.

14. Status of Starfreight Limited

14.1 During the term Starfreight Limited shall be the independent contractor and not the servant of Jos Hansen (E.A.) Limited.

15. Proper law and jurisdiction

15.1 This agreement shall be governed by Kenyan law in every particular and shall be deemed to have been made in Kenya.

16. Entire agreement

16.1 This agreement contains the full and complete understanding between the parties and supersedes, replaces and cancels all prior arrangements or understandings whether in written or oral pertaining to the provision of the services outlined in this agreement and may not be varied except by an instrument in writing signed by the parties to this agreement.

16.2 If any legislation is compulsorily applicable to any business undertaken, this Agreement shall, as regards such business, be read as subject to such legislation and if any part of these conditions be repugnant to such legislation to any extent such part shall as regards such business be overridden to that extent and no further.

17. Arbitration

17.1 All disputes or differences which shall at any time arise between the parties concerning any matter in any way connected with or arising out of the subject matter of this agreement shall be referred to a single arbitrator appointed by the parties or in default of agreement to be appointed by the Law Society of Kenya.

SEALED WITH THE COMMON SEAL)
OF STARFREIGHT LIMITED)
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) _____
DIRECTOR

) **WOLFGANG BUSCH**

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SEALED WITH THE COMMON SEAL OF)
JOS. HANSEN (E.A.) LIMITED)

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DIRECTOR

) _____

) **DIETMAR LANGE**