

TRANSPORT AGREEMENT

AN AGREEMENT made this day of Two Thousand **BETWEEN LIFT KENYA LIMITED** a limited liability Company having its registered office situated at Athi River in the Republic of Kenya and having a place of business at Athi River and elsewhere in the Republic of Post Office Box Number 12345 Nairobi (hereinafter called “the Company”) of the one part and **SPEEDY TRANSPORT CO. LIMITED** a limited company having its registered office situated at Nairobi in the Republic of Kenya and having its business at Nairobi and elsewhere in the Republic (hereinafter called “the Transporter”) of the other part whose address is Post Office Box Number 54321 Nairobi WITNESSETH THAT it is mutually agreed that the Transporter shall supply and the Company shall hire the services of and charter the Vehicle unit(s) described in Attachment (A) hereto for purpose of operating the same for transportation of cement from Athi River to Kigali, Rwanda subject to the following terms and conditions:-

The Transporter shall supply with the said Vehicle unit(s) an experience and competent driver or drivers who shall for the purpose of the Agreement be the servants of the Transporter and not of the company shall obey all the lawful and reasonable directions of the Company. The board lodging travelling and other expenses of the driver or drivers shall be paid by the Transporter.

During the continuance of the Agreement, the Company shall pay the Transporter the sum of US\$ 95.00 per tonne. The Company shall pay to Transporter fifty per centum of the total costs upon loading and the balance in accordance with clause 14 hereunder. If the need arises, the costs will be evaluated every three months.

The transporter shall during the duration of the Agreement keep the said vehicle unit(s) in good and serviceable order and condition and validly licensed for all the purpose for which they are being used and either fully insure the vehicles(s) and product under a comprehensive insurance policy or policies or fully cover the product separately under Goods in Transit Policy or Policies (including but not limited to nuisance and loss of product) taken out with a company or

Companies approved in writing by the Company in the name of the Transporter but bearing a clause stating that African Portland Cement Company limited has some interest in the policy AND will without demand produce to the Company such

policy or policies and duly pay all premiums and produce to the Company renewal receipts in respect thereof.

The transporter shall at all times adhere to the maximum allowable axle load capacity as per Kenya Road Transport Laws.

It is hereby agreed that all costs of maintenance and running expenses for the purpose of operating the said vehicle unit(s) in and out of the Republic of Kenya for the purpose aforesaid shall be borne by the Transporter.

- a) Every consignment of the company's product shall be accompanied by a consignment note on which shall be stated.

What the consignment consists of, the products name, the quantities and the quality of the product;

The full name and addresses of the company and consignee;

Particulars of destination.

The transporter shall be responsible for witnessing and certifying qualities of products loaded and offloaded for the company.

The Transporter shall be entirely responsible for products in transit and the Company shall not be liable for losses or contamination occurring during the transit.

All products supplied by the Company to the Transporter are warranted at the point of supply to be of the quality and quantity stated on the consignment note described in paragraph 6(a) (i) above.

The Transporter shall be liable for loss or contamination proved by the Company to have been caused by delay to or the misdelivery detention or unreasonable deviation of the products transported or any loss being the fault of the Transporter in the carriage of the products unless the Transporter proves that such delay, misdelivery detention, unreasonable deviation or other such loss has occurred without negligence on the part of the Transporter and/or his servant.

The Transporter hereby undertakes that it will at all times hereafter well and sufficiently

indemnify the Company and keep the Company indemnified against all and every liability in respect of claims that may be made against its servants or agents arising directly or indirectly out of any accident causes by or contributed to by any goods or equipment of the Company carried on the said vehicle unite(s) or any of them and however such claims may arise and whether made by the consignee of the product of the Company or otherwise and also against all actions suits proceedings claims demands costs and expenses whatsoever which may be taken or made against the company or incurred by or become payable by the Company in respect thereof.

The Transporter shall insure and keep themselves insured from and against all liabilities herein contained and shall pay all premiums necessary for that purpose within seven days after the same shall become due and shall produce to the company on demand the policy or policies of insurance and the receipt for the current year's premiums.

The Transporter shall establish and maintain appropriate business standards procedures and controls including those necessary to avoid any real or apparent impropriety or to prevent any action or conditions which could result in conflict with the Company's best interest. This obligation shall apply to the activities of the employees of the Company and the families of such employees and third parties arising from this Agreement. The efforts of the Transporter shall include, but not limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts or entertainment of

more than nominal value, payments loans or other consideration to anyone for the purpose of influencing individuals, firms or body corporates to act contrary to the company's interest.

The Transporter shall comply and ensure compliance at all times by its driver or drivers with the Company's safety, security requirements and procedures which apply to the location at which services are rendered.

All invoices rendered to Lift Kenya Limited are to properly reflect the facts concerning the transaction including the nature of any cost incurred for the account or Lift Kenya Limited. The Transporter is not expected or authorised to take any action which would violate applicable laws in carrying out the business on behalf of Lift Kenya Limited.

The Transporter undertakes to submit invoices and accounts supported by copies of consignment notes for services rendered to the Company upon the delivery of the

Company's products. The Company shall settle such bills within 15 days from the date of receipt of such bills PROVIDED that the Company shall be entitled to deduct from such payments:-

Any such amounts incurred due to loss of product as set out in clause 8 above and;

Any other monies which the Transporter may owe the Company

The Transporter shall during the duration of this Agreement use the said vehicle unit(s) exclusively for the transportation of the Company's products and shall transport at 1 Six Hundred 600 metric tonnes per month provided that there is demand for the Company's products in such quantities.

The Transporter shall not assign or purport to assign the benefit of this agreement without the prior consent of the company provided that in case of a

Company transfer of more than fifty per cent of its shares shall be deemed to the assignment within the context of this clause.

This Agreement shall be for THREE YEARS and shall commence on the 6th day of March Two Thousand and thereafter shall be deemed to continue from year to year until terminated as proved in clause 18 hereunder.

This Agreement may be terminated by either party giving to the other 3 months' notice to the effect. Either party shall be entitled to terminate this Agreement at any time without notice if the other commits a breach of the terms and conditions of this Agreement.

The Transporter shall pay all sums of money due to the Company under this Agreement within 30 days from the date of statement of such account. The Transporter shall not be permitted to set off against such accounts any sums, accounts or other payments which may be due to it under any other account.

No delay or failure in performance by either party thereto shall constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if such delays or failure is caused by Force Majeure. Force Majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which the said party is

unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to; acts of God or of the public enemy; appropriation or confiscation of facilities; lack of demand; any form of Government intervention; war rebellion; terrorist activity or other catastrophes; strikes or any other concerted acts of employees; or other similar occurrences.

Unless otherwise agreed the Agreement shall be subject to the Laws of Kenya any dispute which may arise between the parties in connection with this agreement and which cannot be solved mutually by the parties, shall be referred for decision by an arbitrator agreed upon by both parties in accordance with the provision of the Arbitration Act Cap 49.

The Transporter will be required to submit to the Company, twice a year, a certified report of mechanical inspection for all trucks in service to the Company. The inspection must be carried out by an approved vehicle dealer.

SIGNED by _____ }
On behalf of the Company in the presence }
_____ }
_____ }
_____ }
Advocate _____ }
_____ }
_____ }
SEALED with the Common Seal _____ }
Of the Transporter in the presence _____ }
_____ }
_____ }
Director _____ }
_____ }
_____ }
Director/Secretary _____ }
_____ }
_____ }