

## Draft of the agreement for freight services

**THIS AGREEMENT** made on this XX th day of XXX.,2010 between **SHIRDI INDUSTRIES LIMITED** a company registered under the provision of the companies Act 1956, and having its registered office at ‘A’ Wing IInd Floor , Mhatre Pen Building , Senapati Bapat Marg, Dadar (W) Mumbai – 400028 Maharashtra. Here in after called **SIL or the Company** which expression shall unless exclude by or repugnant to the context be deemed to include their successor in business and assigns) of **ONE PART & XXXXX** having it’s Registered office at **XXXXXXXXXXXX** therein after called “**Transporter**” ( which expression shall , unless excluded by or repugnant to the context be deemed to include their successor in business and assign ) of the **OTHER PART**.

WHEREAS, SIL had invited quotation, for transport of MDF Board, Particle Board, Laminates and other value added products, herein after referred to as “Goods” form Pantnagar in Uttarakhand.

AND WHEREAS, in response to said invitation the Transporter had submitted their quotation for rendering services as desired by SIL.

AND WHEREAS after submitting the said quotation to SIL, the Transporter had discussions with SIL the rates quoted in the said quotation have been revised.

NOW IT IS HEREBY AGREED BY & BETWEEN THE PARTIES HERE TO AS FOLLOW:

1. Subject to the provision of this agreement, the Transporter shall carry the Goods to the destination listed in Schedule-1 here to attach as may be required by SIL.
2. This agreement shall be valid for a period of 36 months i.e. from XXX 2010 to XXX 2013 with an exclusive option with SIL to be decided by SIL on its sole desecration to extend the same by another period of 12 months at same terms and conditions.
3. In consideration of the Transporter carrying the Goods pursuant to this agreement.SIL should pay to the Transporter charges calculated at the rates as set out in Schedule here to attach.
4. The said rates set out in schedule – here to shall remain firm and there would be no revision of the same, during the period of Agreement. Also the said rates would be composite and no other charges such as Goods Tax, Hamali etc. would be claimed separately.

5. In case of change in the rates of HSD during the Agreement period, the following formula will be applicable.
  - a. No charge in rates will be granted for less than Rs. 1/-HSD rate. The rate at Kalamboli on the date of Agreement is Rs.XX/ Liters.
  - b. Rs.1/- & above change in rate of HSD, the freight will be increased or decreased by the amount calculated by the formula.

***Change in HSD rate multiplied with 40% will be divided by existing rate of freight to arrive at the % of change in freight charges. The new rate will be the existing rate, plus the change workout in above said manner.***

***(For example if the freight rate for some destination is Rs 1000/MT and existing diesel rate is Rs 40/ lit. If the diesel rate is increased by Rs 2/lit, the increase in freight rate shall be  $2*40\%/40=2\%$ . Hence the new rate shall be  $Rs\ 1000+2\%*1000=1020$ )***

6. That the bills would be submitted by the Transporter duly supported with acknowledge copy of Delivery Challan / Lorry Receipt/GC confirming receipt of the Goods in good condition and weight as recorded in the Challan / L.R at the destination.
7. The bills complete in all respect would be settled not earlier than Sixty (60 days) of their submission in prescribed manner however payments can be made on account basis in a period of 60 days from the date of Delivery Challan / Lorry Receipt/GC. UN-till the bills are settled, such payments shall be treated as advance payment by SIL.
8. The service tax on freight services shall be paid by the Transporter and reimbursed by the SIL with applicable rate during the period of Agreement.
9. The Tax Deduction at Sources (TDS) shall be deducted at source by SIL, as per the prevailing provision of the Income Tax Act, 1961, as amended from each payment. A certificate for the said TDS will be issued within the statutory time frame.
10. The transporter shall not sub Agreement the work to any other Transporter. In case the Transporter is found to sub Agreement the work to any other Transporter in any manner whatsoever.
11. The Transporter shall be responsible for safe custody and security of the materials and its delivery at the destination within schedule time of as mentioned in schedule -1.
12. The Transporter shall provide the number of trucks as may be indented on any day/ dates. The Transporter shall ensure to place the required trucks at

SIL's plants at the earliest and in any case within twenty four (24) hours from the time the indent is conveyed to them on phone / fax.

13. SIL shall make its best efforts to load the material within 24 hours of the placement of the truck at the required place of loading. After (24) hours, SIL shall pay Rs.500/= for 9mt truck & Rs.700/= for 15mt truck per day. In case of two point delivery SIL shall pay Rs.1000/= as Two point delivery charges.
14. ***In case the Transporter fails to provide the trucks within 24 hours, the same would be arranged for by SIL from another agency. The Transporter would reimburse SIL in entirety for any other consequential damages, which SIL may incur. SIL will debit such amount under intimation to the Transporter and deduct from freight charges payable to the Transporter.***
15. The Transporter shall carry the Goods by avoiding the damage to the Goods. The Transporter shall ensure that the Goods / Packages of the said Goods are tied properly to the body of the truck by good quality rope and also that the material is completely covered by good quality tarpaulin so as to ensure that no water or any other materials enter into the said Goods. The Transporter therefore shall arrange to keep good quality rope and tarpaulin with every truck at the Transporter cost.
16. The Transporter shall issue Lorry Receipt, giving full details of the materials and the quality after loading of the material in trucks and after due weighment.
17. The weighment of the materials shall be done in presence of the Transporter's representative and they shall be responsible for delivery of weight, as recorded in the invoice. A weighment allowance of  $\pm 50$  Kg. per truck would be allowed and for clear receipt of LR ( without having and discrepancy )
18. That the loading / unloading shall be done into trucks at the Plant/ warehouse with the help of mobile cranes, forklift or manually and Transporter shall have to provide proper truck to facilitate such loading.
19. The Transporter shall neither trans-ship nor loads any other materials in the truck carrying the Goods during transit and in case if same is found, the Bank Guarantee / Security Deposit will be forfeited by the Transporter in favour of SIL and losses if any will be recovered.
20. The Transporters shall entirely responsible for any damages / shortage or loss of materials in transit.
21. The Transporter shall not have any lien on goods in transit for transit charges payable by SIL to the Transporter under this agreement or for any other reason whatsoever and that the Transporter would only act as a carrier. The

Transporter shall neither mortgage nor dispose off the Goods in his custody for carriage in any manner whatsoever.

22. The Transporter shall intimate non-delivery of the Goods for any reason whatsoever to SIL's Transport Department immediately.
23. That after the trucks are loaded weighed and dispatched, the Transporter shall ensure that the Goods are delivered along with the documents under clear receipt at destination. The transporter shall take the acknowledgement at the destination for delivery of the Goods.
24. In case of loss of CENVAT copy of invoice, the transporter is to submit FIR & Affidavit at the time of unloading the material. An amount equivalent to the CENVAT / Sales Tax will be with held till its clearance from the customer.
25. The Transporter shall comply with all the provision of the Motor Vehicles Act 1939 and the rules made there under, as may be applicable.
26. The Transporter shall collect all the documents like excise documents (CENVAT copy of Invoice ) , permits, way bills etc. before leaving the place of loading and shall responsible for its safekeeping and delivery at destination . In case the original excise documents (CENVAT copy of invoice) are misplaced or lost during transit, SIL reserves the right to recover all losses / damages incurred / arising due to loss of the said document.
27. The Transporter hereby covenants that :
  - a. The Transporter has experience in handling and transportation of such materials or allied materials for over five (5) years.
  - b. The Transporter is capable of mobilizing sufficient number of truck.
  - c. The Transporter is registered with state / central / local authorities as required under law and has all required licenses, permits etc. The Transporter has trained and licensed drivers for their fleet of Vehicle and maintains the photography of their Driver, Cleaners and photocopy of licenses of the vehicles provided by them and ill produce / submit the same on demand.
  - d. All vehicles supplied by the Transporter are duly insured and have valid insurance certificates, tax tokens, blue book etc.
  - e. The Transporter shall have office/ his representative at the place of destination as per schedule / attached.
28. The Transporter shall be fully responsible in relation to the claim made by any other party / property damage during transit in respect of which,

Transporter shall also undertake necessary insurance to cover the aforesaid third-party risks.

29. In event of road accident or theft transporter must arrange for FIR/Spot survey and other necessary documents related to insurance claim/ Custom and excise formalities. In respect of all materials damage & short / non-delivery claims, transporter, should inform SIL and undertake all such obligation required for filing of the claim.
30. The Transporter further agrees that in the event of non-settlement of claim by the insurance company due to the failure of submission of certain documents, including damage certificate, which are required to be furnished by the transporter, the amount equivalent to the unsettled amount, shall be recoverable by SIL from the transporter.
31. Not With standing the above, the transporter would be entirely responsible for the liability / consequences of any infringement under the carries Act, 1985, as amended. The Motor Vehicles Act, 1939, as amended and the applicable rules, or any other laws.
32. That in case of any default / pilferages / shortage by the Transporter under this Agreement SIL shall be entitled to recover the losses which may arise due to the said default / pilferages/ shortage on the part of the Transporter. For recovery of the said losses, SIL interalia, reserves their right to adjust the same against pending bills of the Transporter.
33. This agreement supersedes all previous understanding and /or agreements, oral and /or written the parties with respect to the subject matter here of , and contains the entire understanding of the parties as to the subject matter hereof.
34. The terms included herein may not be contradicted by evidence of any prior oral / or written or of a contemporaneous oral and / or written agreement.
35. It is expressly agreed by and between the parties that any extension of time or any other dispensations or variations conceded by SIL shall not be deemed to be any waiver by SIL of any their rights under this agreement and that SIL shall be entitled to enforce their rights against the transporter, in respect of all the terms of this agreement.
36. Any notice to be served upon SIL or Transporter should be deemed to be properly served if sent by Registered Post to the respective addresses mentioned here in above.
37. Mumbai (Maharashtra) courts alone shall have jurisdiction in the event of any difference or dispute. Incase of any dispute or difference arising between the parties as to the interpretation of this agreement or as to any rights or obligations arising out of, in connection with or relating to this agreement,

these shall be referred to an arbitrator, to be nominated by the Directors of SIL, for adjudication. The proceeding before the arbitrator would be governed by the Indian Arbitration and Conciliation Act, 1996, as amended and rules made there under. The venue of arbitration shall be Mumbai, in the state of Maharashtra and Mumbai courts alone shall have jurisdiction in the event of difference or dispute.

38. SIL reserves the right to enter into parallel Rate Agreement with more than one transporter for the same destination.
39. All accidents / breakdown cases to be informed to Transporter Department at place of delivery immediately. In case of accident FIR copy, if required to be submitted within 24hrs. Suitable alternative arrangement must be made by Transporter for transshipment of the material within 12 hrs. From the time of accident / breakdown at transporter's cost.
40. The Transporter shall be liable to pay penalty delivery of goods at destination beyond the transit time by 24 hrs.
41. All disputes arising during the Agreement period shall be informed to SIL within 30 days from the date of occurrence.

IN WITNESS WHERE OF the parties have set their hands to this agreement the day, month and year first here in above written.

SIGNED & DELIVERED

For & on behalf of the with in named  
SHIRDI INDUSTRIES LIMITED  
By XXXXXXXXXXXXXXXX

SIGNED & DELIVERED

For & on behalf of the with in named  
Transporter M/s XXXXXXX  
By XXXXXXXXX