



E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
WILMINGTON, DELAWARE 19898

~~TRANSPORTATION PROCUREMENT SECTION~~
Materials and Logistics Department

BCC: G. E. Ruff, C&P, DeLisle
G. White, C&P, DeLisle
J. S. Lee, C&P, B-10372
R. M. Ripple, Legal, D-7126
M. F. Rummel
V. J. Marino
R. E. Prosser

March 3, 1983

File: A-Titanium Dioxide

Mr. Delve Swan
President
Deep South Trucking, Inc.
P. O. Box 359
Long Beach, MS 39560

Dear Delve;

In accordance with our recent phone discussions, attached is draft of the contract we propose to cover the on-site switching of trailers and containers at DeLisle, MS.

Upon receipt of your concurrence in this new arrangement, we will insert the appropriate dates, etc., and proceed with final execution.

If you have any questions, please let me know.

Very truly yours,

K. R. MEDLEY
TRANSPORTATION PROCUREMENT SECTION

KRM/mjh
Attachment

B.P.S. - R. M. Ripple:

Please note I have changed Appendix A to include a charge for after hours and for week-ends. Also I have added a definition of a "switch" for clarification purposes.

KRM *flm*

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 1983 by and between E. I. du Pont de Nemours and Company, a Delaware corporation, having an office at Wilmington, Delaware (hereinafter referred to as "DU PONT") and Deep South Trucking Inc., a Mississippi corporation, having an office at _____ (hereinafter referred to as "DEEP SOUTH").

W I T N E S S E T H :

In consideration of the mutual covenants hereinafter set forth, DU PONT hereby engages DEEP SOUTH and DEEP SOUTH agrees to perform the services set forth herein upon the following terms and conditions:

1. TERM

This AGREEMENT shall commence on _____, 1983, and remain in effect for one year, and continuing thereafter subject to the right of either party to terminate this AGREEMENT at any time upon giving the other party at least ninety (90) days' written notice.

2. SERVICES

DEEP SOUTH shall provide necessary equipment and competent personnel to perform trailer switching services for DU PONT's De Lisle, Mississippi Plant.

DU PONT agrees to tender that amount of work which will result in a minimum of one thousand dollars (\$1,000.00) revenue to DEEP SOUTH during any year of this AGREEMENT. If the AGREEMENT is terminated during a year, DEEP SOUTH will be paid for the actual work done or the prorated portion of the above minimum commitment, whichever is greater.

All work shall be done under the coordination, scheduling and inspection of DU PONT, but this shall not

relieve DEEP SOUTH from its responsibilities specified hereunder.

The number of drivers and equipment furnished by DEEP SOUTH for performing the services hereunder shall be equal to DU PONT's requirements. Further, the type and scope of DEEP SOUTH's services hereunder shall also be in accordance with DU PONT's instructions.

3. INDEPENDENT CONTRACTOR

It is the intention of the parties that in performing services hereunder, DEEP SOUTH shall be acting as an independent contractor and that employees of DEEP SOUTH performing these services shall not be deemed to be employees of DU PONT, and DU PONT shall not be responsible for any acts or omissions of said employees. DEEP SOUTH shall keep on the work a competent supervisor who shall be its authorized representative for all purposes under this AGREEMENT.

4. AVAILABILITY OF SERVICES

The services to be provided by DEEP SOUTH hereunder shall be available twenty-four (24) hours per day, seven (7) days per week, when and to the extent required by DU PONT.

5. COMPENSATION

DU PONT shall pay DEEP SOUTH as full compensation for its services hereunder the charges specifically set forth in Exhibit "A" attached hereto and made a part hereof.

6. TERMS OF PAYMENT

DEEP SOUTH shall invoice DU PONT monthly and payment of each invoice shall be made by DU PONT within fifteen (15) days from its receipt thereof.

7. DEFAULT

In the event that either party hereto shall default in the performance of any obligations specified herein, the nondefaulting party shall notify the other party thereof in

writing, and if such default is not remedied with reasonable promptness, but in no case more than thirty (30) days, then the nondefaulting party shall have the right to terminate this AGREEMENT immediately. Termination under this provision, or under any other provision of this AGREEMENT, shall not relieve or release either party hereto from any liability which accrued prior to the date of such termination.

8. LOSS AND DAMAGE

During the time DU PONT's products and equipment are under DEEP SOUTH's control, DEEP SOUTH shall use due diligence in the safe handling and safekeeping thereof and shall assume full responsibility for any loss or damage thereto unless attributable solely to DU PONT's negligent acts or omissions.

9. INDEMNIFICATION

DEEP SOUTH shall indemnify and save DU PONT harmless from any and all liability, expense (including attorney fees), cause of action, suit, claim or judgment, including liability for injury or death to persons (including DU PONT's employees), and for loss or damage to property (including DU PONT's property) arising out of or attributable to the equipment furnished or services performed hereunder, regardless of whether such equipment or services are furnished, or performed by DEEP SOUTH or his subcontractors or his agents, unless such injuries, death or damage results from the sole negligent acts or omissions of DU PONT.

10. INSURANCE

DEEP SOUTH shall provide and keep in effect during the period of this AGREEMENT insurance to cover hereunder the equipment furnished, or services performed, by DEEP SOUTH, his subcontractors, and agents, in minimum limits as follows:

- (a) Workmen's Compensation - Statutory

- (b) Comprehensive General Liability, including contractual - bodily injury \$300,000 per occurrence; property damage \$100,000 per occurrence;
- (c) Automotive Public Liability Bodily Injury - \$100,000/\$300,000;
- (d) Automotive Property Damage - \$25,000; and
- (e) Cargo Insurance of \$25,000 per vehicle.

Such insurance shall be in such form, and carried in such insurance companies as are acceptable to DU PONT and shall name DU PONT as a coinsured if DU PONT should so request. Said policies shall provide that the insurance companies will not cancel or modify the policies without giving DU PONT at least ten (10) days' prior written notice thereof, and copies of all such policies shall be furnished to DU PONT.

11. TAXES

DEEP SOUTH agrees to pay and assume all taxes, licenses, fees and other assessments which may be levied upon the equipment furnished hereunder. Further, DEEP SOUTH assumes full responsibility for the payment of all Federal and state Social Security and Unemployment Compensation Taxes, Withholding Taxes, and all other taxes or charges applicable to the personnel performing services hereunder.

12. FORCE MAJEURE

Neither party shall be liable for delays and/or defaults in its performance under this AGREEMENT due to causes beyond its control and without its fault or negligence, including, but without limiting the generality of the foregoing, acts of God, or of the public enemy, fire or explosion, flood, actions of the elements, war, riots, embargoes, quarantine, strikes, lockouts, disputes with workmen or other labor disturbances, total or partial failure of transportation, delivery facilities or supplies, act or

requests of any governmental authority or any cause beyond its control, whether or not similar to the foregoing.

13. SAFETY PRACTICES

DEEP SOUTH, his subcontractors and agents, shall comply with the safety practices established at the Plant, as revised from time to time. Failure to comply with said established safety practices will be considered default of contract and could result in immediate termination of this contract if DU PONT judges such a breach of safety practices to be a serious and unacceptable risk to personnel and/or property.

Although DEEP SOUTH must arrange for emergency first-aid treatment, DU PONT may make emergency first aid available to DEEP SOUTH's employees in the case of dire emergency, in consideration for which DEEP SOUTH, his successors, and assigns hereby assume full and complete responsibility and liability for all injuries and damages to any of his employees arising out of or allegedly attributable in any way to such emergency first-aid treatment and services. DEEP SOUTH further undertakes and agrees to indemnify and save harmless DU PONT, its employees, contractors, successors, and assigns, from any and all actions, rights of action, suits, debts, claims, damages, expenses and demands whatsoever with respect to or on account of any injury to or the death of any employee of DEEP SOUTH in any way attributable to or in connection with the performance of such emergency first-aid treatment, and related services of DU PONT, whether or not such injury, damage or death is caused by or alleged to have been caused by negligence of DU PONT. Nothing contained herein shall be construed as imposing any duty upon DU PONT to provide facilities necessary to furnish emergency first-aid treatment or related services to DEEP SOUTH's employees or to make such facilities and services available to DEEP SOUTH's employees.

14. LAWS

DEEP SOUTH, his subcontractors, and agents shall at all times in the performance of the services hereunder conform to the requirements of applicable Federal, State and local laws, ordinances and regulations.

15. ASSIGNMENT AND SUBCONTRACTS

The rights and obligations hereunder are personal to each party hereto and for this reason this AGREEMENT shall not be assignable by either party, in whole or in part, without the written consent of the other party. Also, DEEP SOUTH shall not subcontract this work without the prior written consent of DU PONT.

16. ENTIRETY

This contract embodies the entire understanding and agreement between DU PONT and DEEP SOUTH covering the services to be performed hereunder, and there are no agreements, understandings, conditions, warranties or representations, oral or written, express or implied, with reference to the subject matter hereof which are not merged herein. Specifically, the prior agreement between the parties, dated June 1, 1979, shall be terminated on the effective date of this AGREEMENT.

17. SECTION HEADINGS

All section headings are inserted for convenience only and shall not affect any construction or interpretations of this AGREEMENT.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the date first set forth hereinabove.

E. I. du Pont de Nemours and Company Deep South Trucking Inc.

By: _____

By: _____

Title: _____

Title: _____

0404A

APPENDIX A

Switching charges listed below will be in effect during the term of this AGREEMENT unless the parties mutually agree to amendment thereof.

- a) From 7:00 a.m. to 5:00 p.m., Monday through Friday. \$10.00 per switch
- b) After 5:00 p.m. until next 7:00 a.m., Monday through Friday. \$15.00 per switch
- c) Saturday and Sunday. \$15.00 per switch

For definitive purposes, one complete "switch" will consist of all of the following activities.

- 1) Connection of a power unit to a trailer or a container/chassis.
- 2) Repositioning of the connected trailer or container/chassis.
- 3) Disconnection of the power unit from the trailer or container/chassis.

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writing, and if such default is not remedied with reasonable promptness, but in no case more than thirty (30) days, then the nondefaulting party shall have the right to terminate this AGREEMENT immediately. Termination under this provision, or under any other provision of this AGREEMENT, shall not relieve or release either party hereto from any liability which accrued prior to the date of such termination.

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E. I. du Pont de Nemours and Company Deep South Trucking Inc.

By: _____

By: _____

Title: _____

Title: _____

0404A

APPENDIX A

Charges listed below will be in effect during the term of this AGREEMENT unless the parties mutually agree to amendment thereof.

a) Trailer Switching \$10.00 each