Our Ref: OG/2016/002

1st February, 2016

Attorney-General & Minister of Justice
Attorney-General's Department and Ministry of Justice
Accra

Minister
Ministry of Transport
Accra

Dear Madam & Sir:

Re: Bus Branding Transaction between the Ministry of Transport and Smarttys Management & Productions Ltd – Request for Information/Notice of Intention of Civil Action

OccupyGhana® is composed of citizens of Ghana who are interested in ensuring good governance in Ghana, and are committed to the principles of freedom, justice, probity and accountability, as are enshrined in the preamble to Ghana's Fourth Republican Constitution. As citizens of Ghana, we are also mindful of our constitutional duty under article 41(f) of the Constitution "to protect and preserve public property and expose and combat misuse and waste of public funds and property."

We have closely followed the matters surrounding the bus branding transaction involving Smarttys Management and Productions Ltd. ("Smarttys") leading to the investigation conducted by the Attorney-General at the request of the Chief of Staff. This culminated in the resignation of the immediate past Minister for Transport, Madam Dzifa Attivor, and the subsequent agreement between the Ministry of Transport ("Ministry") and Smarttys for the refund some of GHS1.5 million to the state.

As citizens of this country, we are not satisfied with the apparent position of the Government that the said resignation and refund should conclude the matter, and we note, sadly that the Government has not been forthcoming with any information about the Attorney-General's investigation and its findings, and full details of the impugned transaction. Indeed, we have every reason to believe that the Government is deliberately suppressing information on this matter with the aim of preventing the proper legal steps from being taken to tackle this serious allegation of corruption.

We however believe that all the information surrounding the impugned bus branding contract constitutes information that should be made available to all Ghanaians. We are fortified in this belief by Article 21(1)(f) of the Constitution which provides that "[a]ll

persons shall have the right to... information, subject to such qualifications and laws as are necessary in a democratic society." We are not aware of any restrictions and laws essential to democracy that prevent citizens from being informed of all the facts surrounding the impugned transaction. We also respectfully assert that there is no conceivable public interest privilege that applies to deny us access to that information. We have cause to believe that most of the as yet undisclosed circumstances surrounding the impugned transaction amount to corruption, and the misuse and waste of public funds.

On the bases of the foregoing, we write to you to request information from you, based on the following questions:

1. Was it Smarttys that approached the Ministry with a proposal to brand the buses or was it the Ministry that wrote to Smarttys to solicit interest in, and request a quotation for, the impugned transaction? May we have copies of any relevant letters or other communication?

2. If it was the Ministry that wrote to Smarttys, did the Ministry receive a written response from Smarttys, giving quotations for the impugned transaction, and if so, may we have a copy of that letter?

3. Did the Ministry, at any time relevant to the impugned transaction, write to request for quotations from any other companies or entities (apart from Smarttys) for the spraying or branding of buses, and if so, may we have copies or confirmations of those requests?

4. Did the Ministry, at any time relevant to the impugned transaction, receive any quotations from any other entities (apart from Smarttys) for the spraying or branding of buses, and if so may we have copies or confirmations of those quotations?

5. Which public procurement procedure did the Ministry adopt in selecting Smarttys? If it was single-source procurement, as we have cause to believe, did the Ministry write to the Public Procurement Authority ("PPA") to request for approval in respect of the impugned transaction? May we have a copy of any such letter and all attachments to it?

6. Did the Ministry receive written approval from the PPA for the procurement of services from Smarttys in respect of the impugned transaction, and if so, may we have a copy of that letter?

7. If PPA approval was obtained, did the Ministry communicate that approval in writing to Smarttys, and if so, may we have a copy of that letter and any attachments to it?

8. Did the Ministry and Smarttys execute a contract in respect of the impugned transaction, and if so, may we have a copy of the signed contract?

9. Metro Mass Transit Ltd. ("MMT") is a private limited liability company incorporated under the laws of Ghana. Although the Government is a significant shareholder, MMT is a separate and distinct entity under law. The MMT's buses are and remain the property of the MMT, and not the Ministry. Did the Ministry enter into any contract with the MMT for the branding of its buses, and if so how much was paid the MMT? May we have a copy of any signed contract with MMT and evidence of payments made pursuant to that contract, with all relevant approvals?

10. When did MMT surrender the buses to Smarttys to begin the actual work of branding the buses, and when was that work completed?

11. Did the Ministry write to the Ministry of Finance requesting the release of funds for payment to Smarttys for the impugned transaction, and if so, may we have a copy of that letter?

12. Did the Ministry, receive from the Ministry of Finance, an approval in writing to any request to release funds for the impugned transaction, and if so, may we have a copy of that written approval?

13. How many payments were made to Smarttys, and when? For each payment may we have copies of all the usual, relevant documents, including, but not limited to: (i) request for payment by the Ministry, (ii) release letter from the Ministry of Finance, (iii) Controller and Accountant-General's letter to the Bank of Ghana for payment, (iv) payment advice from Bank of Ghana, and (v) any payment vouchers issued?

14. Were any taxes paid or withheld, as the case may be, particularly with respect to withholding tax, value added tax and the national health insurance levy, and if so, may we have copies of any relevant invoices?

We are sending copies of this letter to the Minister of Finance, the Chief Executive of MMT, and the Chief Executive of the PPA, to also request from them the relevant documents or information to or from them as stated herein. We will also send a copy to Smarttys so that they are put on notice on these demands.

We respectfully request that you, the Minister of Finance, the MMT and the PPA (and Smarttys, if it is inclined to do so) supply the information requested herein within seven (7) days of the date of this letter, failing which you should consider this letter as the written Notice of Intention of Civil Action under section 10 of the State Proceedings Act, 1998 (Act 555), effective as at the date hereof.

Yours in the service of God and Country

Nana Sarpong Agyeman-Badu (0264771508)
OccupyGhana®

cc.
Minister of Finance
Accra

Chief of Staff
Office of the President
Accra

Managing Director/Chief Executive
Metro Mass Transit Ltd.
Accra

Chief Executive
Public Procurement Authority
Accra

The Managing Director/Chief Executive
Smarttys Management and Productions Limited
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