

Section F: Credit Terms

1. The Customer agrees that the amount contained in an invoice or tax invoice issued by AFROX shall be due unconditionally
 - (a) cash on delivery; or
 - (b) if the Customer is a credit approved customer, within the granted credit period as specified on the Application for Credit, from the date of an invoice or tax invoice being issued by AFROX. Should any amount not be paid on due date as per agreed terms the whole amount shall become due, owing and payable irrespective of the date(s) when the goods were purchased.
2. The Customer agrees to pay the amount on the invoice or tax invoice at the offices of AFROX or its appointed agents.
3. The risk of payment by cheque through the post rests with the Customer.
4. The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature shall be extended to the Customer, and any such extension will not be applicable or enforceable unless agreed to by AFROX, reduced to writing and signed by the Customer and a duly authorised representative of AFROX.
5. The Customer is not entitled to set off any amount due to the Customer by AFROX, against this debt.
6. Any printout of computer evidence tendered by any party shall be admissible evidence.
7. The Customer agrees that in the case of late payment, interest shall be payable to AFROX on the overdue monies, which shall be calculated at the prime overdraft rate of AFROX's Bankers plus five percent from the date of invoice. 8. The Customer agrees that if an account is not settled in full
 - (a) against delivery; or
 - (b) within the period agreed in clause 1 above in the case of a credit approved customer;AFROX is (i) entitled to draw a notice of default to the attention of the Customer for settlement of the account, failing which AFROX will immediately institute action against the Customer at the sole expense of the Customer; or (ii) to cancel this Agreement and take possession of any goods delivered to the Customer and claim damages. These remedies are without prejudice to any other right AFROX may be entitled to in terms of this Agreement or in law. AFROX reserves its right to stop supply immediately on cancellation or on non-payment.
9. A credit approved customer will forthwith lose this approval when payment is not made according to the conditions as set-out in this section. Credit facilities may also be suspended at any time that the customer is in default, without prior notice and/or withdrawn on 10 (ten) business days' written notice to the Customer and the extent and nature of such facilities shall at all times be in AFROX's sole discretion.
10. The Customer hereby selects and nominates the address stated in Section B to Section E above, as the chosen address at which service of all notices and demands will be accepted. Should AFROX proceed with legal action against me/us, I/we confirm that the address as stated in specific Section and Clause above shall be my/our chosen address where I/we shall accept service of a summons and/or application or any court process as may be required.
11. A certificate by one of AFROX's Senior Managers or authorised employees showing the amount due and owing by the Customer to AFROX at any given time shall be *prima facie* proof of the facts therein stated for the purpose of all legal proceedings against the Customer for recovery of the said amount.
12. Ownership of goods sold shall remain vested in AFROX, notwithstanding delivery, until AFROX have received payment in full for the goods purchased and the Customer further agrees that the risk shall pass immediately on delivery of all or any portion of such goods purchased and delivered.
13. Should the Customer or any of its officers or employees become aware at any stage that a third party, i.e. Someone other than the Customer, is using the Customer's account with AFROX, and fails to inform AFROX of such use, then the Customer will be responsible to AFROX for all amounts of money owing to AFROX by the third party with effect from the time that the Customer or its officer(s) or employee(s) will become so aware.

14. Should the Customer be a partnership (including but not restricted to a joint venture) then as between AFROX and all the partners of the Customer, the partnership will be deemed to continue to exist until the date on which AFROX will receive written notice of the termination of the partnership.
15. The Customer hereby declares that the information contained in this application—
 - i. Is complete and accurate in all respects;
 - ii. Will be used to assess the credit worthiness of the Customer;
 - iii. Will be updated by the Customer whenever necessary.
16. The Customer agrees that AFROX may contact any bank, trade reference, credit bureau or other entity referred to in this application, in order to verify any information set out herein or to obtain further information in regard to the Customer. The Customer further agrees that AFROX may in turn furnish to any credit bureau or other entity seeking a credit reference on the Customer any relevant information regarding the customer's dealings with AFROX.
17. The Customer acknowledges that AFROX's standard terms and conditions of sale, which are set out hereunder, are binding on the Customer.

Section G: Standard Terms and Conditions of Sale

The following terms and conditions of sale are applicable to all sales and supplies by IGL (PTY) LTD (herein referred to as "AFROX") to any customer unless expressly agreed in writing to the contrary.

1. PRICES

1.1 Prices, rentals, deposits and other charges appearing in AFROX's quotations, delivery and sale documentation, invoices, catalogues and price lists are those ruling at the date of issue.

1.2 AFROX shall be entitled to charge industry standard rentals on all cylinders placed under the control or in possession of the Customer, and the Customer shall be liable for the replacement cost of any cylinder lost or damaged while under the control or in the possession of the customer.

1.3 Unless otherwise stated or withdrawn a Quotation is open for acceptance within a period of 30 days only from the date thereof.

1.4 Quotations are unless otherwise stated, based on costs, taxes and duties ruling at the date of tender and any variations in AFROX's costs directly due to variations in these or other charges outside the control of AFROX and any variation in taxes and duties as from date of tender shall entitle AFROX to increase the price accordingly.

2. PAYMENT

2.1 Payment shall be made within 30 days of date of statement by the Customer, without set-off or deduction for any cause whatsoever.

2.2 Interest shall accrue on all overdue amounts at a rate equal to 2% above the prime overdraft rate charged by the bank until such overdue amounts are paid in full.

2.3 AFROX may suspend the Customer's credit facilities thus placing the account on a COD basis without notice if there is good reason to do so, including but not limited to late payment or non-payment.

2.4 All invoices and statements are sent "Error and Omissions Exempt".

2.5 Any payments made by the customer to AFROX may be appropriated by AFROX in its discretion first to interest accrued and then to pay any amount due by the customer to AFROX

3. DELIVERY RISK AND OWNERSHIP

3.1 Risk in goods supplied shall pass on delivery to the Customer, but ownership remains with AFROX until the whole of the contract price together with any interest levied thereon has been paid in full. Cylinders remain the property of AFROX and are never sold.

3.2 Special delivery charges may be levied where geographic or commercial reasons so require.

3.3 The time specified in a Quotation for dispatch or completion is given in good faith but is to be treated as an estimate only.

3.4 Only AFROX or their authorized agents shall be permitted to fill AFROX's own cylinders (including portapaks cylinders).

4. DAMAGE TO AND LOSS OF GOODS

4.1 Goods should be examined immediately on receipt. No claim in the respect of any damages or apparent defect in the goods will be considered by AFROX unless full details of such damage or apparent defect have been finished in writing by the Customer to AFROX within seven days of the receipt of goods.

4.2 In all cases where the goods are sent by rail or by a carrier other than AFROX, the goods are at the risk of the Customer from the time the goods are handed by AFROX to the carrier or the rail transport authorities and AFROX is not responsible for any loss or damage that may occur thereafter.

5. GUARANTEE - GOODS

5.1 The goods supplied by AFROX are guaranteed to conform to the relevant AFROX specifications, but the Customer must continually satisfy itself that the goods supplied are suitable for its intended application. No warranty is given as to merchantability or fitness for use.

5.2 Should the goods fail to conform to the above guarantee, AFROX shall to the exclusion of any other remedy available to the Customer and at AFROX's election, either replace to point of delivery or pass a credit for such goods. Any claim in this regard must be lodged in writing with AFROX within seven days after the date of delivery of such goods failing which all liability on the part of AFROX shall cease.

5.3 Return of defective goods shall be the responsibility of the Customer.

5.4 The Customer shall not permit any repairs or inspections to be carried out on any goods other than by AFROX or its authorized agents. Failure to comply shall result in the above guarantee being rendered null and void.

6. LIABILITY AND INDEMNITY

6.1 The Customer shall not have any right of action against AFROX, its agents, employees, representatives or independent contractors and AFROX will not be liable for any loss (including economic loss), damage or injury whether direct, indirect or consequential suffered by the Customer howsoever arising and from whatsoever cause.

6.2 The Customer hereby indemnifies AFROX against all liability for loss (including economic loss), damage or injury whether direct, indirect or consequential suffered by any third party arising from the commission of a delict by the Customer or howsoever else.

6.3 The Customer shall bear sole civil and criminal liability in respect of any damage or offence occasioned by a breach of clause 5.4,

6.4 The Customer shall not have any claim of whatsoever nature against AFROX in respect of any AFROX owned cylinders not filled by AFROX or their authorized Agents.

7. VIZ MAJOR

7.1 Notwithstanding anything to the contrary contained herein, AFROX shall not be liable for failing to fulfill any of its obligations if such failure is due to war, civil disturbance, riots, acts of terrorism, fire, storm, industrial dispute, quarantine, breakdown of equipment or vehicles, acts of God or state or to any other cause which is beyond AFROX's reasonable control.

8. SAFETY

8.1 The Customer's attention is drawn to the cautionary levels attached to AFROX's equipment and portable containers and the precautions relating to the use of equipment and portable containers as set out in the South African Bureau of Standards Code of Practices S.A.B.S 0191985 and the Regulations promulgated under the Occupational Health and Safety Act 85 of 1993 (as amended) together with the various instruction Booklets / Charts published by AFROX from time to time, which are available on request. The customer shall also draw the above to the attention of all persons using or handling gas and AFROX's equipment and portable containers.

9. LEGAL PROCEEDINGS

9.1 Any legal proceedings arising shall be governed by the laws of Namibia and adjudged in the relevant Namibian court, but should AFROX so elect, the relevant Magistrate's Court shall have jurisdiction and the Customer hereby consents thereto in terms of the Magistrates Court Act, 1944 (as amended). The Customer shall be liable for all legal costs incurred by AFROX, on an attorney and client scale, and including collection commission and tracing charges.

10. WAIVER OR INDULGENCE

10.1 No waiver or indulgence granted by AFROX to the Customer in respect of any matter or thing whatsoever shall be a continuing waiver or indulgence or constitute a novation of any kind.

11. WHOLE AGREEMENT, VARIATION AND PRECEDENCE

11.1 No representations, undertakings, guarantees or warranties, or variation of any of these terms or conditions shall be binding unless recorded in writing and signed by both parties.

11.2 Should-

11.2.1 The Customer's order for goods contain the Customer's standard terms and conditions of purchase, the supply of goods by AFROX shall be governed by these terms and conditions and not by the standard terms and conditions contained in the Customer's order.

11.2.2 AFROX and the customer enter into a written agreement which contains terms and conditions which conflict with these terms and conditions, the former shall prevail.

