Supplier Agreement Contract for CAoN Members

Please note that you can contact CAoN to support you in filling out the contract. The purpose of the contract is to protect the interest of all parties and to be used as evidence should a dispute arise.

# Supply Agreement (Delivery of Goods)

This agreement*(“Agreement*”) is made on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a company organised and existing under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its registered office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as “Buyer”; and
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, **the charcoal producer**, a company organised and existing under the laws ofNamibia, having its registered or rented farm land at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
also referred below individually as “Party” and together as “Parties”

Buyer and Charcoal Producer respectively agree to the following:

## Supply of Products

During the term of this Agreement and any extension hereof, the Charcoal Producer shall sell and supply the products as set out in *Schedule 1* hereto *(“Products”)* to Buyer and Buyer shall buy from the Charcoal Producer such Products on a non-exclusive basis.

The specifications of the Products are set out in *Schedule 2* hereto.

Charcoal Producer shall provide to Buyer the technical information and material in regard to the Products as set out in *Schedule 3* hereto.

## Orders

Each purchase and sale between Buyer and Charcoal Producer shall be evidenced by an order placed by Buyer (“Order” or in plural “Orders”) to Charcoal Producer in accordance with the terms and conditions of this Agreement and the Charcoal Producer Company shall accept such Orders in writing within 2 working days after receipt of the Order. If the Charcoal Producer does not send a written order confirmation within 2 working days after receipt of the Order, the Order shall be deemed to be accepted by the Charcoal Producer. As long as this Agreement is in force and effect the terms and conditions of this Agreement shall apply to all Orders and all order confirmations of Charcoal Producer.

Orders shall be placed by Buyer to Charcoal Producer in writing (including, without limitation, by e-mail, fax, letter). Each Order shall contain the Products and the quantity of each Product ordered by Buyer, the price and the destination (address) of delivery (“Destination of Delivery”).

Neither the Charcoal Producer´s terms and conditions of sale and delivery nor the Buyer terms and conditions of purchase shall apply to any purchase and sale made under this Agreement.

## Price

The price ("Price") for the Products on the basis of FOB, Destination of Delivery as determined in the Order, is specified in *Schedule 4* hereof. The Price includes statutory VAT and other taxes, if any.

The price remains fixed for the period of the contract.

## Invoicing and Payment

Buyer shall pay a deposit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ before the Charcoal Producer will start with the packing of the charcoal.

Buyer shall pay to Charcoal Producer the Price for the Products ordered within \_\_\_\_\_\_\_\_\_\_\_\_\_ days of receipt of invoice.

Once the order is received, buyer needs to pay a deposit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to the Charcoal Producer, within \_\_\_\_\_\_\_\_\_\_ days of placing the order.

## Delivery and Stock

The date for delivery shall be as specified in the order. The minimum delivery time is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ weeks.

Charcoal Producer shall forthwith give notice to Buyer of any likely delay in delivery of which it becomes aware and shall provide Buyer with prompt and reasonable notice of the re-scheduled delivery date.

If Charcoal Producer is late with any delivery of Products, Buyer shall have the right to cancel the Order for such Products at any time before delivery of relevant Products is effected.

In order to ensure punctual deliveries, Charcoal Producer shall hold during the term of this Agreement a minimum stock of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

## Title and Risk

6.1 Title and all risk of loss or damage to the Products shall pass from the Charcoal Producer to Buyer when the Products shall be received and unloaded on the basis of FOB (Free on board), as determined in the Order.

## Warranty and Product Liability

The Charcoal Producer warrant that the Products shall

7.1 conform to the technical and quality standard and specifications as set out in Schedule 1 hereto, be safe, of good quality and free from any defect in manufacturing or material, correspond strictly with any and all representations, descriptions, advertisements, brochures, drawings, specifications and samples made or given by Charcoal Producer, and fit for the purpose of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7.2 Buyer shall inspect the received Products within 14 days after receipt of the delivery and shall inform the Charcoal Producer within a further period of 3 working days of any apparent defect. Non-apparent defects shall be informed to the Charcoal Producer within 14 days after they have become apparent.

If the Products are defective and/or do not conform with the warranty given in Art. 7.1 above ("Defective Products"), the Charcoal Producer shall, at the option of Buyer replace the Defective Products with Products in accordance with the warranty set out in Art. 7.1 above as soon as possible without any additional cost to Buyer, or
reimburse Buyer the Price paid for the Defective Products.

7.3 Charcoal Producer shall indemnify and hold Buyer harmless from and against all claims, actions, damages, losses, liabilities (including, without limitation, product liability claims) and other expenses (including lawyer´s and other legal fees) which Buyer may suffer or incur as a result of the delivery of Defective Products or a breach of the obligations set out in this Agreement by Charcoal Producer.

Any claim made under the breach of the warranty obligation as defined in Article 7.1 and 7.2 above shall endure for a period of \_\_\_\_\_\_\_\_\_\_ months after the date of delivery of the Products and any claim made under Art. 7.3 above shall endure until the expiration of the relevant statutes of limitations.

## Management Reporting

Charcoal Producer shall report to Buyer on a quarterly basis the following management information:

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## Term and Termination

9.1 This Agreement shall come into force and effect on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”) and shall remain effective for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. It shall be automatically renewed for subsequent periods of \_\_\_\_\_\_\_\_\_\_\_\_ months each, unless any party gives to the other party a written notice not to renew this Agreement at least one (1) month prior to the expiration of the initial term or any such subsequent term of this Agreement, or this Agreement terminates in accordance with 9.2 below.

9.2 Notwithstanding Art. 9.1 above this Agreement may be terminated at any time by each party on written notice with immediate effect in the event that:

a.) proceedings in bankruptcy or insolvency are instituted by or against the other party or a receiver, trustee, administrator or liquidator is appointed in respect of any part of the other party´s assets or any similar relief is granted under any applicable bankruptcy or equivalent law;

b.) one party (the defaulting party) shall be in breach, non-observance or non-performance of any of its obligations in this Agreement and does not remedy the same within 14 days of notice of such failure or breach being served upon it by the other party (the non-defaulting party).

## Force Majeure

In this Section “Force Majeure” shall mean any event beyond the reasonable control of BUYER or Charcoal Producer, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include but not be limited to war, insurrection, riot, civil unrest, sabotage, boycott, embargo, explosion, fire, earthquake, flood, unavoidable accident, epidemic, act of God, action or inaction of any governmental official or agency (civil or military) and refusal of any licences or permits, if properly applied for.

If either Party is prevented from or delayed in performing any of its obligations under this Agreement by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.

The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under this Agreement for so long as the relevant event of Force Majeure continues and to the extent that such Party’s performance is prevented or delayed. The occurrence of any event of Force Majeure affecting either party shall not give rise to any claim for damages or additional costs and expenses suffered or incurred by reason of Force Majeure.

If the performance of the work by BUYER is substantially prevented or is delayed for an aggregate period of more than sixty (60) days on account of one or more events of Force Majeure during the currency of this Agreement, BUYER and or Charcoal Producer may terminate this Agreement by giving written notice to Charcoal Producer and / or BUYER as the case may be.

## Notices

All notices, requests, demands and other communications shall be in writing (including fax) in the English language and shall be addressed as follows (or to such other address as notified in writing by one party to the other party):

If to Buyer to:

Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If to the Charcoal Producer to:

Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Miscellaneous

This Agreement shall be governed by and construed in accordance with the laws of Namibia.

All disputes between the parties as to the validity, execution, performance, interpretation or termination of this Agreement will be submitted to the exclusive jurisdiction of the Courts of Windhoek.

All Schedules attached to this Agreement are incorporated herein and shall be part of this Agreement.

Except as otherwise specifically provided herein, neither party may assign this Agreement or any of its rights, interests or obligations hereunder without the prior written consent of the other party.

Buyer and Charcoal Producer have executed this Agreement at the day and year first above written.

|  |  |
| --- | --- |
| Buyer | Charcoal Producer |
| Name:  | Name: |
| Date:  | Date: |
|  |  |
| (Signature) | (Signature) |

|  |  |
| --- | --- |
| Witness 1: | Witness 2: |
| Name: | Name: |
| Date: | Date: |
|  |  |
| (Signature) | (Signature) |

Schedule 1: List of Products

* Bulk Charcoal: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Charcoal Fines: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Charcoal >25 mm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Charcoal > 45 mm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Charcoal larger than 60 mm: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Wood: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Briquettes: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Other (Specify): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Schedule 2: Specifications of Products

* (FSC /non-FSC ) etc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Schedule 3: Technical Information and Material

* (Type of wood used) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Schedule 4: Prices of the Products

|  |  |  |  |
| --- | --- | --- | --- |
| Bulk Charcoal |  | Charcoal larger than 60 mm |  |
| Charcoal Fines |  | Wood |  |
| Charcoal >25 mm |  | Briquettes |  |
| Charcoal > 45 mm |  | Other |  |
| Deposit to be paid: |

# On the basis of FOB, port used for shipment:

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_