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info@ENSafrica.com ENSafrica.com

Werksmans Attorneys  
Attention: E Levenstein  
By email: elevenstein@werksmans.com

G Oertel / L Field our ref

15 July 2016 your ref  
date

Dear Sirs

**RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) ("EVRAZ") / AIR LIQUIDE (PTY) LIMITED ("AIR LIQUIDE")**

1. We refer to our previous meetings and discussions regarding the supply agreement concluded between our respective clients, Evraz and Air Liquide.
2. We confirm that our clients, the business rescue practitioners of Evraz, have elected in terms of section 136(2) of the Companies Act, 71 of 2008, to suspend Evraz' obligation in terms of the supply agreement to pay the Monthly Fee, as defined and provided for in the supply agreement, until the said obligation has been cancelled by way of court order.
3. All of our clients' rights remain reserved.

Yours faithfully

**EDWARD NATHAN SONNENBERGS INC.**

**LETITIA FIELD**

Letitia Field

**From:** Letitia Field  
**Sent:** 19 October 2015 14:17  
**To:** Lauren Becker  
**Cc:** Gary Oertel; Eric Levenstein  
**Subject:** RE: HIGHVELD STEEL / AIR LIQUIDE [IWOV-Litigation.FID302862]

Dear Lauren

Highveld will pay the agreed unit price for the product supplied and used.

The balance of your client's claim for the product not used will be a concurrent claim.

Regards

**From:** Lauren Becker [mailto:LBecker@werksmans.com]  
**Sent:** 14 October 2015 07:47  
**To:** Letitia Field <lfield@ensafrica.com>  
**Cc:** Gary Oertel <goertel@ensafrica.com>; Eric Levenstein <ELevenstein@werksmans.com>  
**Subject:** HIGHVELD STEEL / AIR LIQUIDE [IWOV-Litigation.FID302862]



**ECOMOBILITY WORLD FESTIVAL: 1-31 OCTOBER 2015**

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Dear Letitia,

I refer to your letter dated 2 October 2015.

We note that your client does not intend to pay our client for product that our client has supplied your client (and for which our client has not received payment), or which it may continue to supply, and which your client does not take, receive or require.

Please can you advise how you intend to determine the amount that your client intends to pay our client for that which it has used given the preferential payment terms that our client afforded your client in light of the Supply Agreement as a whole.

Please can you also clarify whether the balance of our clients claim, for that which your client does not use, will be treated as a concurrent creditor and treated as such in terms of the business rescue plan, or as a cost of business rescue or as post commencement finance/supply.

I look forward to hearing from you.

Regards

**DELIVERED BY EMAIL****Edward Nathan Sonnenbergs**

Attention: Gary Oertel  
 Email: goertel@ensafrica.com

Cc: Letitia Field  
 Email: lfield@ensafrica.com

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YOUR REFERENCE:

OUR REFERENCE: Mr E Levenstein/Ms L Becker/lb/AIRL26674.3/#3955379v3

DIRECT PHONE: +27 11 535 8237/8196

DIRECT FAX: +27 11 535 8737/8796

EMAIL ADDRESS: elevenstein@werksmans.com/lbecker@werksmans.com

4 November 2015

Dear Sirs

**AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)**

- 1 We refer to your letter dated 2 October 2015 ("your letter").
- 2 As you are aware, we act for Air Liquide Proprietary Limited.
- 3 Capitalised words not defined in this letter shall bear the meaning ascribed to them in the Supply Agreement dated 7 December 2011 ("Supply Agreement").
- 4 Evraz-Highveld Steel and Vanadium Limited, your client, has not paid our client for Product that it consumed in September 2015 in the amount of R5 466 917.37, excluding interest and costs ("Outstanding Amount").
- 5 We note from your letter that your client does not intend to pay our client for Product that our client may continue to supply to your client and which your client does not take, receive or require.
- 6 We draw your attention to clause 9.2 of the Supply Agreement which requires your client to take Product at the Minimum Product Purchase Obligation ("MPPO") from our client and pay the Price/Monthly Fee, whether or not your client takes, receives or requires the Product.
- 7 Accordingly, your client's failure to pay the Outstanding Account and take Product and pay the MPPO, constitutes a breach of the Supply Agreement.
- 8 Our client disputes that your client is entitled to suspend its obligation to pay for Product that it does not take, receive or require. Our client reserves its right to challenge your client's conduct in this regard and accordingly nothing in this letter shall be construed to be a

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**Directors** D Hertz (Chairman) AL Armstrong BA Aronoff DA Arteiro T Bata JD Behr AR Berman NMN Bhengu L Bick HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman LJ du Preez RJ Feenstra S Fodor BJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollsen MGH Honiball VR Hosiosky BB Hotz HC Jacobs TL Janse van Rensburg N Jansen van Vuuren G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P le Roux MM Lessing E Levenstein JS Lochner JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo C Moraitis PM Mosebo KO Motshwane L Naidoo J Nickig JJ Niemand BPF Olivier WE Oosthuizen S Padayachy M Pansegrouw CP Pauw AV Pillay T Potter BC Price AA Pyzikowski RJ Raath A Ramdhin L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell W Strachan JG Theron JJ Truter KJ Trudgeon DN van den Berg HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker D Wegierski M Wiehahn DC Willans DG Williams E Wood BW Workman-Davies

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concession of the legality of your client's conduct or a waiver of our client's right to challenge your client's conduct.

- 9 On the basis that your client has not paid the Outstanding Amount and you have indicated that your client will not be paying for Product that it does not take, receive or require, please confirm that if our client were to invoke the provisions of either or both of clauses 18.1 and 20 of the Supply Agreement, your client would not be in a position to comply therewith.
- 10 Our client's rights remain reserved.

Yours faithfully

Werksmans

THIS LETTER HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.

**Letitia Field**

**From:** Letitia Field  
**Sent:** 18 November 2015 14:20  
**To:** Lauren Becker  
**Cc:** Gary Oertel; Eric Levenstein  
**Subject:** RE: AIR LIQUIDE / HIGHVELD STEEL [IWOV-Litigation.FID302862]  
**Attachments:** Letter to ENS - 4 November 2015 (3).pdf

Dear Lauren

We refer to your attached letter. We do not propose dealing with each allegation contained in your letter and all of our clients' rights to do so at a later stage are reserved.

In light of the business rescue, the suspension in terms of s136(2) of the Companies Act and the provisions of section 136(3) of the Companies Act, the provisions set out in paragraph 9 of your letter cannot be enforced.

Regards

**From:** Lauren Becker [mailto:LBecker@werksmans.com]  
**Sent:** 09 November 2015 08:49  
**To:** Letitia Field <lfield@ensafrica.com>  
**Cc:** Gary Oertel <goertel@ensafrica.com>; Eric Levenstein <ELevenstein@werksmans.com>  
**Subject:** AIR LIQUIDE / HIGHVELD STEEL [IWOV-Litigation.FID302862]

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Hi Letitia,

Just a reminder to let us have a response to the attached letters when possible.

I have spoken to IRL's attorney and am waiting for some dates when they will be available to meet with us and our client.

Regards



**Lauren Becker**  
 Senior Associate  
 T: +27 11 535 8196 | F: +27 11 535 8796 | [lbecker@werksmans.com](mailto:lbecker@werksmans.com)

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**DELIVERED BY EMAIL****Edward Nathan Sonnenbergs**

Attention: Gary Oertel  
Email: goertel@ensafrica.com

Cc: Letitia Field  
Email: lfield@ensafrica.com

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**YOUR REFERENCE:****OUR REFERENCE:** Mr E Levenstein/Ms L Becker/lb/AIRL26674.3/#4044578v2**DIRECT PHONE:** +27 11 535 8237/8196**DIRECT FAX:** +27 11 535 8737/8796**EMAIL ADDRESS:** elevenstein@werksmans.com/lbecker@werksmans.com

30 November 2015

Dear Sirs

**AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)**

- 1 As you are aware, we act on behalf of Air Liquide Proprietary Limited ("our client").
- 2 Capitalised words not defined in this letter shall bear the meaning ascribed to them in the Supply Agreement dated 7 December 2011 ("Supply Agreement").
- 3 The purpose of this letter is to draw to your attention two matters which affect both our client and Evraz-Highveld Steel and Vanadium Limited ("Highveld Steel"), namely –
  - 3.1 the damages claim that our client will have in the event that the business rescue practitioners ("BRPs") of Highveld Steel cancel, and/or amend or suspend any provision of, the Supply Agreement; and
  - 3.2 the treatment of our client as a post-commencement finance supplier pursuant to the provisions of section 135 of the Companies Act 71 of 2008, as amended ("Companies Act") alternatively as a cost of business rescue in the event that the provisions of the business rescue plan, as amended, published on 15 September 2015 and adopted ("Plan") are implemented.
- 4 *Damages Claims*
  - 4.1 As at the date hereof, the Supply Agreement remains in force and has not been cancelled and/or any provision in respect thereof suspended.
  - 4.2 Pursuant to –
    - 4.2.1 the provisions of clause of 24.1.1 of the Plan; and

**Werksmans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa**

**Directors** D Hertz (Chairman) AL Armstrong BA Aronoff DA Arteiro T Bata JD Behr AR Berman NMN Bhengu L Bick HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman LJ du Preez RJ Feenstra S Fodor SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hosiosky BB Hotz HC Jacobs TL Janse van Rensburg N Jansen van Vuuren G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P le Roux MM Lessing E Levenstein JS Lochner JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo C Moraitis PM Mosebo KO Motshwane L Naidoo J Nickig JJ Niemand BPP Olivier WE Oosthuizen S Padayachy M Pansegrouw CP Pauw AV Pillay T Potter BC Price AA Pyzikowski RJ Raath A Ramdhin L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell W Strachan JG Theron JJ Truter KJ Trudgeon DN van den Berg HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker D Wegierski M Wiehahn DC Willans DG Williams E Wood BW Workman-Davies



4.2.2 clause 7.1.2 of the International Resources Project Limited ("IRL") offer dated 15 September 2015 ("IRL Offer"),

the BRPs of Highveld Steel and IRL respectively have identified the Supply Agreement for (i) cancellation or indefinite suspension; or (ii) modification or restructure.

4.3 To the extent that the Supply Agreement is amended our client will suffer damages which our client cannot quantify at this stage ("Unquantifiable Damages Claim"), and in the event of a cancellation of the Supply Agreement, our client will suffer damages in an amount equal to the amount of money that our client would have received had the Supply Agreement run its full term ("Damages Claim").

4.4 Accordingly, our client has at present two possible contingent damages claims – the Unquantifiable Damages Claim and the Damages Claim.

4.5 The Damages Claim will be an amount of not less than R1.4 billion.

4.6 We are of the considered view that our client's Unquantifiable Damages Claim and/or Damages Claim is not limited to either R50 000 000 pursuant to clause 20.12 of the Supply Agreement or to 6 months, pursuant to clause 24.2.1.2 of the Plan and will defend this position in the event that this becomes necessary.

4.7 Insofar as the 6 month limitation is concerned pursuant to clause 24.2.1.2 of the Plan, we recorded our client's disagreement with the BRPs' limitation of all damages claims to the lesser of 6 months and the balance of the duration of the relevant contract in a letter dated 28 September 2015 addressed to the BRPs and reserved our client's right to challenge such limitation to the extent necessary. A copy of this letter is enclosed marked **A**. We believe that such a limitation is unlawful and liable to be set aside.

4.8 On the basis that the Supply Agreement remains extant, our client is naturally not in a position to submit a claim for the Unquantifiable Damages Claim or the Damages Claim by 27 November 2015, and reserves its right fully to do so in the event that the Supply Agreement is suspended, amended and/or cancelled as the case may be. We do not believe that our client can be compelled to submit its claims by the date prescribed by the BRPs in the Plan (and as extended to 30 November 2015 with the consent of the BRPs for our client) in circumstances where its claims have not yet materialised. Such provision in the Plan is unlawful and liable to being set aside.

4.9 On the basis that IRL intend to acquire the business (and not the shares in) Highveld Steel, our client requires the BRPs to make provision, at a minimum, for the Damages Claim that our client will suffer if the Supply Agreement is cancelled, so that our client's claim, if it materialises, will not lie against the empty shell that remains of Highveld Steel once the IRL transaction has closed.

## 5 *Post-Commencement Finance and Costs of Business Rescue*

5.1 We refer to your letter dated 2 October 2015 ("your letter").

5.2 We note from your letter that your client does not intend to pay our client for Product that our client continues to supply to your client and which your client does not take, receive or require.

2

- 5.3 We draw your attention to clause 9.2 of the Supply Agreement which requires your client to take the Products from our client and pay the Price for the Monthly Product Purchase Obligation ("MPPO"), whether or not your client receives or requires the Product.
- 5.4 Accordingly, Highveld Steel's failure to pay the MPPO constitutes a breach of the Supply Agreement.
- 5.5 Our client disputes that your client is entitled to suspend its obligation to pay for Product that it does not take, receive or require. The Supply Agreement places reciprocal obligations on our client and Highveld Steel and your client cannot, in the circumstances, merely suspend its payment obligation.
- 5.6 Accordingly, we require your written confirmation that any monies that become due and payable to our client post the commencement of Highveld Steel's business rescue on 13 April 2015, and for which your client does not pay, should be treated as PCF in the Plan and paid in accordance with the preference set out in section 135 of the Companies Act 71 of 2008 or alternatively as a cost of business rescue in the event that the Plan is implemented in accordance with its terms.
- 6 Nothing contained in this letter shall be construed as our client agreeing to your client cancelling, amending and/or suspending any provision of the Supply Agreement nor taking any steps of any nature which has the effect, or may have the effect, of undermining any of our client's rights under the Supply Agreement or the Deed of Guarantee and Indemnity concluded between our client and Evraz PLC.
- 7 Our client's rights remain reserved.

Yours faithfully

Werksmans

THIS LETTER HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.



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Werksmans Attorneys  
 Attention: E Levenstein  
 By email: [elevenstein@werksmans.com](mailto:elevenstein@werksmans.com) & [lbecker@werksmans.com](mailto:lbecker@werksmans.com)

G Oertel / L Field | our ref

your ref

15 December 2015 | date

Dear Sirs

**RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) ("HIGHVELD") /  
 AIR LIQUIDE (PTY) LIMITED ("AIR LIQUIDE")**

1. We refer to your letter of 30 November 2015.
2. We do not propose dealing with each of the allegations contained in your letter and all of our clients' rights to do so at a later stage are reserved.
3. In paragraph 4.1 of your letter, you allege that there has been no suspension of any provision of the supply agreement. This is incorrect as clause 9 of the supply agreement has been suspended and we confirmed such suspension in our letter of 2 October 2015.

4. In regard to:


4.1. Any damages claim/s:

4.1.1. the terms of the supply agreement and lease agreement are clear in regard to the limitation of any claim for damages that your client may have against Highveld and we deny any allegation in your letter to the contrary; and

4.1.2. we further deny that clause 24.2.1.2 of the business rescue plan is unlawful.

4.2. The request in paragraph 5.6 of your letter:

4.2.1. as set out above, our letter of 2 October 2015 clearly confirms the suspension of clause 9 of the supply agreement;



4.2.2. the provisions of the Companies Act provide that your client will only be entitled ~~to assert a claim for damages against Highveld in respect of the suspension of~~ clause 9 of the supply agreement. To this extent, any monies which become due pursuant to clause 9 of the supply agreement do not amount to post-commencement finance or a cost of business rescue; and

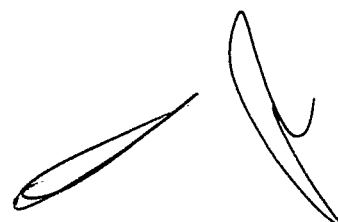
4.2.3. the only cost of business rescue is in respect of the product actually used by Highveld. To date, this has been paid by our clients each month.

5. All of our clients' rights are reserved.

Yours faithfully

**EDWARD NATHAN SONNENBERGS INC.**

  
LETITIA FIELD



**DELIVERED BY EMAIL****Edward Nathan Sonnenbergs**

Attention: Gary Oertel  
Email: goertel@ensafrica.com

Cc: Letitia Field  
Email: lfield@ensafrica.com

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**YOUR REFERENCE:****OUR REFERENCE:** Mr E Levenstein/Ms L Becker/lb/AIRL26674.3/#4426559v2**DIRECT PHONE:** +27 11 535 8237/8196**DIRECT FAX:** +27 11 535 8737/8796**EMAIL ADDRESS:** elevenstein@werksmans.com/lbecker@werksmans.com

28 July 2016

Dear Sirs

**AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)**

- 1 We refer to your letter dated 15 July 2016 ("letter") wherein you advised that your clients have elected to suspend Evraz-Highveld Steel and Vanadium Limited's ("Highveld Steel") obligation to pay the Monthly Fee (as defined in the Supply Agreement concluded between our respective clients on 7 December 2011 ("Supply Agreement")).
- 2 Our client disputes your clients' entitlement to suspend its obligation to pay the Monthly Fee.
- 3 Notwithstanding this, and assuming that your clients are entitled to suspend the Monthly Fee as your clients purport to suspend in terms of your letter, which suspension we dispute, kindly advise why your clients have not been paying the Monthly Fee until the date of the letter.
- 4 We remind you that the Supply Agreement requires Highveld Steel to take Product (as defined in the Supply Agreement) from our client and pay the Monthly Fee, whether or not your client receives or requires the Product.
- 5 The Supply Agreement places reciprocal obligations on our client and Highveld Steel and Highveld Steel cannot, in the circumstances, merely suspend its payment obligation for the Monthly Fee.
- 6 We await your court application.
- 7 Our client's rights remain reserved.

Yours faithfully

**Werksmans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa**

**Directors** D Hertz (Chairman) AL Armstrong BA Aronoff DA Arteiro T Bata LM Becker JD Behr AR Berman MN Bhengu Z Bliden HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman LJ du Preez RJ Feenstra S Fodor SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hosiosky BB Hotz HC Jacobs TL Janse van Rensburg N Harduth G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo SM Moerane C Moraitis PM Mosebo KO Motshwane L Naidoo J Nickig JJ Niemand BPF Olivier WE Oosthuizen S Padayachy M Pansegrouw CP Pauw AV Pillay D Pisanti T Potter BC Price AA Pyzikowski RJ Raath A Ramdthin L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell W Strachan JG Theron JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker L Watson D Wegielski G Wickins M Wiehahn DC Willams DG Williams E Wood BW Workman-Davies

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Werksmans Attorneys  
 Attention: E Levenstein  
 By email: [elevenstein@werksmans.com](mailto:elevenstein@werksmans.com) & [lbecker@werksmans.com](mailto:lbecker@werksmans.com)

G Oertel / L Field our ref

your ref

2 August 2016 date

Dear Sirs

**RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) ("HIGHVELD") /  
 AIR LIQUIDE (PTY) LIMITED ("AIR LIQUIDE")**

1. We refer to your letter of 28 July 2016.
2. We do not propose dealing with each of the allegations contained in your letter and all of our clients' rights to do so at a later stage are reserved.
3. We deny all allegations that our clients are not entitled to suspend the obligation to pay the monthly fee as well as the take or pay obligation.
4. All of our clients' rights are reserved.

Yours faithfully

**EDWARD NATHAN SONNENBERGS INC.**

  
**LETITIA FIELD**

Letitia Field

---

**From:** Letitia Field  
**Sent:** 13 April 2016 11:05  
**To:** 'david.brimer@afrox.linde.com'; 'Ben.Mabelane@afrox.linde.com';  
ELevenstein@werksmans.com; LBecker@werksmans.com  
**Cc:** Gary Oertel  
**Subject:** Evraz Highveld Steel and Vanadium Limited (in business rescue) ("Highveld") -  
Supply of utilities

Dear all

We refer to the various discussions regarding the supply of utilities, the draft supply agreements and the telecon on 5 April 2016.

We are instructed that our clients are not prepared to review and reduce the revised costs schedule any further or to incur any further delays in this matter.

We are accordingly instructed to advise that should the supply agreements not be finalised and signed by Friday, 29 April 2016, our clients will immediately proceed to cancel Highveld's obligations to supply the utilities by way of application, as contemplated in s136 of the Companies Act, 71 of 2008.

All of our clients' rights are reserved.

Regards

**INTERIM AGREEMENT**

entered into by and between

**EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED**

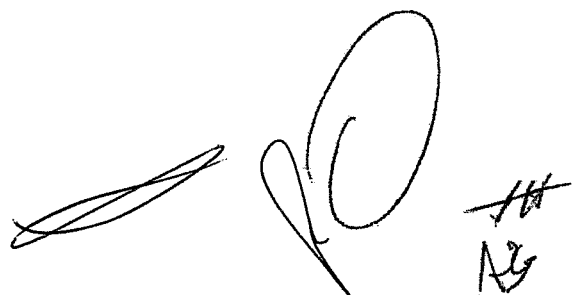
(in business rescue)

Registration Number 1960/001900/06

and

**AIR LIQUIDE (PTY) LIMITED**

Registration Number 1948/029574/07

The block contains three handwritten marks. On the left is a long, horizontal, slightly wavy line. In the center is a large, stylized circular signature. On the right are the initials 'H' and 'AG' written vertically.

## 1. DEFINITIONS

1.1. In this Agreement, unless the context otherwise indicates, the following words and expressions shall bear the meaning assigned to them hereunder:

1.1.1. "Agreement" means the signed interim agreement recorded in this document together with annexure(s) attached hereto;

1.1.2. "Air Liquide" means Air Liquide (Pty) Limited, a limited liability company duly registered and incorporated in accordance with the laws of South Africa;

1.1.3. "Air Liquide Supply Agreement" means the written oxygen, nitrogen and argon supply agreement concluded between Air Liquide and EHSV on or about 7 December 2011;

1.1.4. "Air Liquide Plant" or "AL Plant" means the area adjacent to and across from EHSV's iron and steel works by EHSV's Site;

1.1.5. "Business Day" means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;

1.1.6. "Date of Signature" means the date upon which the last Party in time signs this Agreement;

1.1.7. "Direct Supply of Utilities" means:

1.1.7.1. the direct supply by Eskom to Air Liquide of electricity without passing through the EHSV electrical network;

1.1.7.2. the direct supply of water by the Local Municipality to Air Liquide through EHSV's reservoir and main pipeline, without passing through the EHSV water plant;

1.1.7.3. EHSV is not collecting water effluents from Air Liquide;

1.1.8. "Down Time" means –

1.1.8.1. in respect of the supply of electricity by EHSV to Air Liquide, any time; and

1.1.8.2. in respect of the supply of water and the return of effluent by EHSV to Air Liquide the period commencing 12 hours from the time,

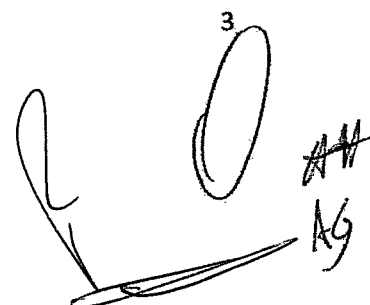
when EHSV does not, or is unable to, supply Utilities to Air Liquide;

Handwritten signatures and initials at the bottom right of the page, including a large signature, a smaller signature, and the initials 'AH' and 'AG'.



- 1.1.9. "EHSV" means Evraz Highveld Steel and Vanadium Limited (in business rescue), a limited liability company duly registered and incorporated in accordance with the laws of South Africa;
- 1.1.10. "EHSV's Bank Account" means the bank account of EHSV into which all payments due by Air Liquide must be paid, the details of which are as follows:
- 1.1.10.1. Account holder: Evraz Highveld Steel and Vanadium Limited  
 Bank: Nedbank Corporate  
 Branch code: 14 54 05  
 Account number: 1454 037 229;
- 1.1.11. "EHSV's Site" means Portions of the farm Elandsfontein 309 J.S., Old Pretoria Road, eMalahleni, Mpumalanga;
- 1.1.12. "Eskom" means Eskom Holdings Limited a state-owned public company with limited liability incorporated in accordance with the laws of South Africa;
- 1.1.13. "Local Municipality" means the eMalahleni Local Municipality in Witbank;
- 1.1.14. "HT Technicians" means high voltage technicians;
- 1.1.15. "Parties" means the parties to this Agreement and "Party" means each of them as the context requires;
- 1.1.16. "Utilities" means the raw water, domestic and potable water and electricity supplied by EHSV in accordance with the utilities specifications provided for in Annexure C to this Agreement;
- 1.1.17. "VAT" means Value-Added Tax levied in terms of the Value-Added Tax Act, No. 89 of 1991, as amended.
- 1.2. if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Agreement;
- 1.3. where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
- 1.4. where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day;

3



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- 1.5. any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.6. the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eludem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s; and
- 1.7. the terms of this Agreement having been negotiated, the contra proferentem rule shall not be applied in the interpretation of this Agreement.

## 2. RECORDAL

- 2.1. EHSV is currently winding down its operations in terms of its adopted business rescue plan which contemplates a sale of all EHSV's assets as well as the retrenchment of its employees.
- 2.2. In regard to the supply of the Utilities, the Air Liquide Supply Agreement remains of full force and effect and is binding on EHSV and in terms of the Air Liquide Supply Agreement, as supplemented by this Agreement, EHSV is obliged, and Air Liquide requires EHSV, to continue to supply the Utilities to the Air Liquide Plant on an ongoing and uninterrupted basis.
- 2.3. The business rescue practitioners of EHSV record that in terms of section 136 of the Companies Act, 71 of 2008 ("the Companies Act"), the business rescue practitioners of EHSV suspended EHSV's remaining obligations in terms of the Air Liquide Supply Agreement which suspension Air Liquide has contested and disputed and reserves its rights fully to challenge and enforce. The business rescue practitioners of EHSV reserve their rights in terms of section 136 of the Companies Act to apply to court to terminate EHSV's remaining obligations in terms of the Air Liquide Supply Agreement and Air Liquide reserves its right to oppose any such application and/or institute such proceedings in response to such proceedings as it deems, in its sole discretion, necessary to protect its interests.
- 2.4. EHSV has agreed, in accordance with the terms of this Agreement and the Air Liquide Supply Agreement, to supply Air Liquide with the Utilities and facilitate the Direct Supply of Utilities to the Air Liquide Plant from the Date of Signature.
- 2.5. The Parties hereby enter into this Agreement to set out the terms and conditions upon which EHSV will, in addition to the obligations it has to supply utilities to Air Liquide in terms of the Air Liquide Supply Agreement, supply the Utilities to Air Liquide from the Date of Signature.

## 3. DURATION

- 3.1. This Agreement will commence on the Date of Signature and will terminate upon either

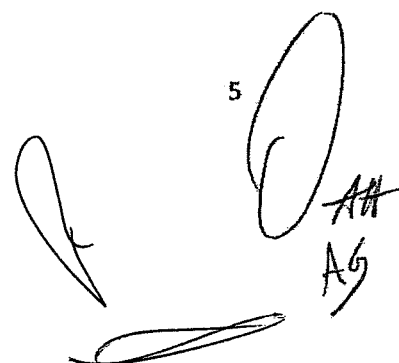
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- 3.1.1. Air Liquide receiving the Direct Supply of Utilities, following Air Liquide exercising the right to procure power directly from Eskom or a third party in the future and/or the right to procure water from the Local Municipality or a third party in the future, as provided for in the Air Liquide Supply Agreement, as read with this Agreement; or
- 3.1.2. Air Liquide giving EHSV 60 days' written notice, without reason, of its intention to terminate this Agreement.
- 3.2. For the avoidance of doubt, it is recorded and agreed by the Parties that EHSV will not have the right to terminate the supply of Utilities to Air Liquide (other than in terms of the provisions of this Agreement) in terms of section 136 of the Companies Act, 71 of 2008, for so long as this Agreement is in force.

#### 4. ELECTRICITY SUPPLY

- 4.1. Should Eskom request that EHSV participates in any load shedding and/or curtailment events, Air Liquide will immediately adhere to the requirements as set out by Eskom during any of these events.
- 4.2. Within 5 (five) days of the Date of Signature, EHSV will appoint an electrical team ("Electrical Team"), which will comprise the following persons:
  - 4.2.1. 8 (eight) HT Technicians. The HT Technicians will have the required equipment and an LDV vehicle;
  - 4.2.2. 1 (one) control and instrumentation specialist; and
  - 4.2.3. 1 (one) general machinery regulation 2(1) appointee to manage the Electrical Team.
- 4.3. The tasks that will be performed by the Electrical Team will include, but will not be limited to, those set out in Annexure A to this Agreement ("the Electricity Tasks").
- 4.4. EHSV will procure that the Electrical Team takes all such steps and attends to all such things as may be necessary to facilitate electricity being supplied by Eskom to the Air Liquide Plant on an uninterrupted basis from the Date of Signature.
- 4.5. EHSV acknowledges that Air Liquide has the right to procure electricity directly from Eskom or a third party in the future. In such event Air Liquide shall be relieved of its payment obligation in terms of this Agreement in respect of the Additional Costs related to electricity payable by Air Liquide in terms of this Agreement.
- 4.6. Should Air Liquide exercise the right to procure electricity directly from Eskom or a third party in the future, pending Eskom or such third party supplying electricity directly to Air Liquide, EHSV will:

5



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- 4.6.1. continue to supply electricity to Air Liquide in accordance with its obligations under the Air Liquide Supply Agreement and this Agreement; and
- 4.6.2. take all such reasonable steps and attend to all such things as may reasonably be necessary to facilitate Air Liquide obtaining electricity directly from Eskom or a third party in the future.

## 5. WATER SUPPLY AND EFFLUENT

- 5.1. Within 5 (five) days of the Date of Signature, EHSV will appoint an operation and maintenance team ("Water Team"), which will comprise the following persons:
  - 5.1.1. 1 (one) water plant operator;
  - 5.1.2. 8 (eight) HT Technicians; 1 (one) mechanical fitter;
  - 5.1.3. 1 (one) laboratory analyst;
  - 5.1.4. 1 (one) control and instrumentation specialist; and
  - 5.1.5. 1 (one) general machinery regulation 2(1) appointee to manage the operation and maintenance teams.
- 5.2. The tasks that will be performed by the Water Team will include, but not be limited to those set out in Annexure B to this Agreement ("the Water Tasks").
- 5.3. EHSV will procure that the Water Team takes all such steps and attends to all such things as may be necessary to facilitate water being supplied by the Local Municipality to the Air Liquide Plant and the return of effluent therefrom on an uninterrupted basis from the Date of Signature.
- 5.4. EHSV acknowledges that Air Liquide has the right to procure water directly from the Local Municipality or a third party in the future. In such event Air Liquide shall be relieved of its payment obligation in terms of this Agreement in respect of the Additional Costs related to water payable by Air Liquide in terms of this Agreement.
- 5.5. Should Air Liquide exercise the right to procure water directly from the Local Municipality or a third party in the future, pending the Local Municipality or such third party supplying water directly to Air Liquide, EHSV will:
  - 5.5.1. continue to supply water to Air Liquide in accordance with its obligations under the Air Liquide Supply Agreement and this Agreement; and
  - 5.5.2. take all such reasonable steps and attend to all such things as may reasonably be necessary to facilitate Air Liquide obtaining water directly from the Local Municipality or a third party in the future.

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## 6. COSTS AND PAYMENT

- 6.1. Despite anything contained in the Air Liquide Supply Agreement to the contrary, all amounts payable for Utilities by Air Liquide to EHSV in terms of the Air Liquide Supply Agreement and this Agreement shall, unless otherwise provided herein, be paid within 10 (ten) days of receipt of an invoice detailing the amounts payable by Air Liquide.
- 6.2. As the Electricity Tasks and Water Tasks will be performed to facilitate the supply to Air Liquide of Utilities from the Date of Signature, Air Liquide agrees that the monthly costs, as set out in clause 6.3, associated with giving effect to the Electricity Tasks and the Water Tasks ("Additional Costs"), will be borne and paid for by Air Liquide.
- 6.3. Until such time as Air Liquide receives the Direct Supply of Utilities or this Agreement is terminated in accordance with its terms, Air Liquide will pay EHSV, the Additional Costs in the amount of R967 567.16 (including VAT) which is made up of R511 459.63 (excluding VAT) for electricity and R337 283.53 (excluding VAT) for water, with –
  - 6.3.1. the first monthly amount being payable on the Date of Signature, with such amount being pro-rated from 15 May 2016 to 31 May 2016; and
  - 6.3.2. the subsequent monthly amounts being paid in advance by the 25<sup>th</sup> day of each month.
- 6.4. In the event that costs are incurred, in accordance with this Agreement, in excess of the Additional Costs EHSV will enclose the accounts, invoices and slips pertaining to the amount in excess of the Additional Costs.
- 6.5. The Parties agree to meet on a quarterly basis to review and adjust the cost as deemed appropriate and acceptable to EHSV and Air Liquide.
- 6.6. Air Liquide will not be required to make payment of its pro-rata portion of the Additional Costs to EHSV, and EHSV will refund such pro-rata portion of the Additional Costs to Air Liquide within 5 Business Days of receiving a written demand from Air Liquide, for the period of a Down Time.
- 6.7. The Additional Costs are subject to increase, which increase will be communicated in writing to Air Liquide one month prior to the increase. It is recorded that the increase will be effected annually, in accordance with any increase in the labour costs and the inflation rate.
- 6.8. All payments made by Air Liquide in terms of this Agreement shall be made into EHSV's Bank Account or to Eskom and/or the Local Municipality, as may be applicable.

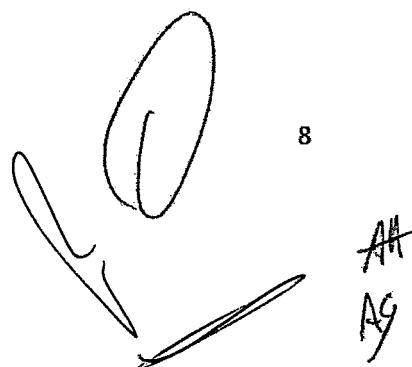
## 7. LIMITATION OF LIABILITY

- 7.1. EHSV shall not be held liable for any indirect, special or consequential damages arising from this Agreement, whether in terms of a breach of contract or delict.



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- 7.2. Similarly Air Liquide will not be liable to EHSV for any indirect, special or consequential damages arising from this Agreement, whether in terms of a breach of contract or delict.
- 7.3. For the avoidance of any doubt, EHSV will not be liable for any costs:
- 7.3.1. associated with any unforeseen breakdown resulting in EHSV not being able to supply electricity or water as provided for in this Agreement, provided that the breakdown was not caused by the gross negligence on the part of EHSV's employees, contractors or agents. For the avoidance of doubt, to the extent that any breakdown contemplated in this clause results in a Down Time, Air Liquide will not be liable to pay the pro-rata portion of the Additional Costs;
  - 7.3.2. to repair any unforeseen breakdowns, provided that the breakdown was not caused by the gross negligence of EHSV's employees, contractors or agents. Such costs will be discussed and agreed upon by the parties prior to carrying out the works and will be included in the monthly invoices issued by EHSV to Air Liquide. Should the Parties fail to reach an agreement, EHSV will have no obligation to conduct the repairs and EHSV will not be liable for any damages arising therefrom; or
  - 7.3.3. to conduct large scale maintenance which costs, including consumable costs, shall be included in the invoice detailing the Additional Costs. Such costs will be discussed and agreed upon by the Parties prior to carrying out the works. Should the Parties fail to reach agreement, EHSV will have no obligation to conduct the maintenance and EHSV will not be liable for any damages arising therefrom.
- 7.4. In the event of a *force majeure* event, which will include but not be limited to a major rupture on the main water pipeline, an explosion of the main feeder transformer or cable faults, provided the breakdown was not caused by the gross negligence of EHSV's employees, contractors or agents, EHSV will not be liable to supply any Utilities and Air Liquide will not be obliged to pay the pro-rata portion of the Additional Costs.

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## 8. UNDERTAKING

Air Liquide undertakes not to supply the Utilities to any third party without the prior written consent of EHSV.

## 9. MEETING

The Parties agree that they will meet on a monthly basis, and on the first Business Day of each month, to consider and discuss the implementation of this Agreement.

## 10. RECOVERY

10.1. In the event of any Party ("Defaulting Party") committing a breach of this Agreement and failing to remedy such breach within 14 (fourteen) calendar days of receiving written notice from a Party not in breach of the Agreement ("Aggrieved Party"), requiring the Defaulting Party to remedy such breach, then the Aggrieved Party will be entitled but not obliged to:

10.1.1. claim immediate specific performance of the Defaulting Party's breach, with or without a claim for damages;

10.1.2. to cancel this Agreement as between the Defaulting Party and the Aggrieved Party, without affecting the rights of the other Party to this Agreement;

10.1.3. take such steps as may be available to the Aggrieved Party at law whether or not in conjunction with or in addition to ~~9.1.1 or 9.1.2~~ 10.1.1 or 10.1.2

(The Defaulting Party irrevocably and unconditionally grants its consent to the Aggrieved Party enforcing its rights against the Defaulting Party in any High Court in South Africa enjoying jurisdiction).

## 11. DOMICILIUM

11.1. The Parties hereto choose their respective *domicilia citandi et executandi* for all purposes of and in connection with this Agreement as follows:

11.1.1. EHSV  
Portion 93 of the Farm Schoongezicht 309 JS  
Old Pretoria Road  
eMalahleni

11.1.2. AIR LIQUIDE  
Air Liquide Building  
Corner Vereeniging & Andre Marais Streets  
Alrode1451

11.2. Either Party hereto shall be entitled to change its *domicillum* from time to time, provided that any new *domicillum* selected by it shall be an address other than a post

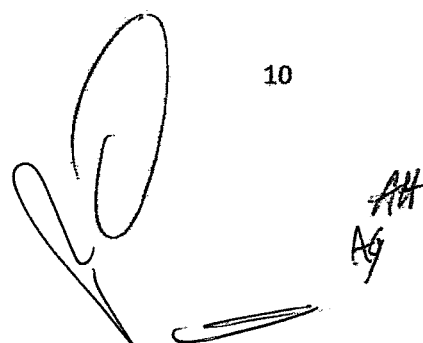
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box number in the Republic of South Africa, and any such change shall only be effective upon receipt of notice in writing by the other Parties of such change.

- 11.3. A notice sent by one Party to another Party shall be deemed to be received:
- 11.3.1. on the same day, if delivered by hand;
  - 11.3.2. on the same day of transmission if sent by telefax and accompanied by a completion of transmission confirmation;
  - 11.3.3. on the seventh day after posting, if sent by prepaid registered mail.
- 11.4. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

## 12. GENERAL

- 12.1. This Agreement shall in all respects be governed by the laws of South Africa.
- 12.2. This Agreement contains all the terms and conditions governing the agreement between the Parties for the continuous supply of Utilities to Air Liquide by EHSV from the Date of Signature.
- 12.3. No warranties, representations, stipulations or conditions, other than as recorded herein, shall be binding on the Parties.
- 12.4. No alteration, variation or cancellation of any of the terms or conditions contained herein shall be of force or effect unless such alteration, variation or cancellation is recorded in a written addendum to this Agreement and duly signed by the Parties.
- 12.5. No indulgence granted by a Party to the other shall constitute a waiver of any of that Party's rights under this Agreement. Accordingly, that Party shall not be precluded as a consequence of having granted that indulgence, from exercising any of its rights against the other Party.
- 12.6. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement as at the Date of Signature.
- 12.7. This Agreement contains the whole of the agreement between the Parties relating to the matters dealt with herein.
- 12.8. In all cases where the provisions of this Agreement (insofar as the provision of Utilities is concerned) conflict with the provisions of the Air Liquide Supply Agreement, the provisions of this Agreement will prevail.



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- 12.9. Any successor-in-title, including, but not limited to, any liquidator, curator, executor or trustee, of any Party will be bound by this Agreement.
- 12.10. By entering into this Agreement, Air Liquide does not waive or abandon any of its rights against Evraz plc under the Deed of Guarantee and Indemnity concluded between it and Evraz plc on or about 31 January 2012, all of which rights remain expressly reserved.

For: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED

Signature

Name

DAMEN TERBLANCHE

N.O.

Date

19 MAY 2016

Place

CAPE TOWN

For: AIR LIQUIDE (PTY) LIMITED

Signature

Name

Amine Houssaini

Date

23/05/2016

Place

Johannesburg

**Annexure A – Electricity Tasks**

1. The tasks that will be performed by the Electrical Team will include, but not be limited to, the following:
  - 1.1 conducting the necessary HT switching to ensure continued electricity supply to the Air Liquide Plant;
  - 1.2 ensuring that the electrical protection system is enabled;
  - 1.3 analysing any disturbances that the protection relay may record and taking action where necessary;
  - 1.4 performing substation checks;
  - 1.5 conducting general maintenance of the substation, switchgear and transformer;
  - 1.6 inspecting the fire system; and
  - 1.7 inspecting the transformers supplying the Air Liquide Plant.

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AA

AG

#### Annexure B – Water Tasks

1. The tasks that will be performed by the Water Team will include, but not be limited to, the following:
  - 1.1. conducting the necessary operation and monitoring of the water plant system to ensure continued water (raw and potable) supply to the Air Liquide Plant;
  - 1.2. conducting general maintenance of the water plant system to ensure continued water supply to the Air Liquide Plant;
  - 1.3. water treatment;
  - 1.4. inspecting the main water pipeline from the Local Municipality to EHSV;
  - 1.5. alternating between the main water supply and emergency dam, if required;
  - 1.6. ensuring that the desired water level at the emergency dam is maintained;
  - 1.7. ensuring that the desired water level at the reservoir dedicated for EHSV at the Local Municipality is maintained;
  - 1.8. liaising with the Local Municipality in the event of water interruptions and to restore water supply;
  - 1.9. isolating the water system in the event of any emergency such as a major leak;
  - 1.10. receiving effluent water from the Air Liquide Plant;
  - 1.11. maintaining the Black River trench leading to EHSV's main catchment dam to accommodate the return of effluent water;
  - 1.12. monitoring and controlling the dam level to ensure effluent water does not result in overflows off-site;
  - 1.13. facilitating the billing of invoices based on water consumed; and
  - 1.14. assisting Air Liquide on a consultant basis for installation of a permanent water pipeline as the long term solution.

#### Annexure C

##### RAW WATER

Raw water shall be available at the Battery Limit as per specification below.

Conditions at Battery Limit:

Parameter	Values (min / norm / max)
Pressure (barg)	2 / 3.5 / 4

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Temperature (°C)	Ambient
Maximum Flow rate (m <sup>3</sup> /hr)	40

#### RETURN WATER

Return water shall be returned free from Oil contamination by Air Liquide to EHSV,

#### DOMESTIC/POTABLE WATER

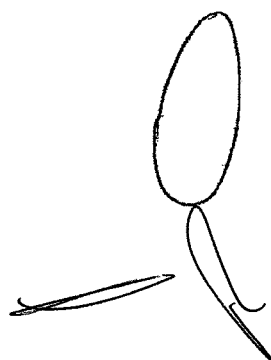
Potable Water (domestic water) shall be available at Battery Limit.

A quantity of 20m<sup>3</sup>/day at 2 barg will be made available by EHSV to Air Liquide.

Potable Water quality will be in line with SANS241.

#### ELECTRICAL POWER

Electrical power shall be available at the Battery Limit as per specification below:

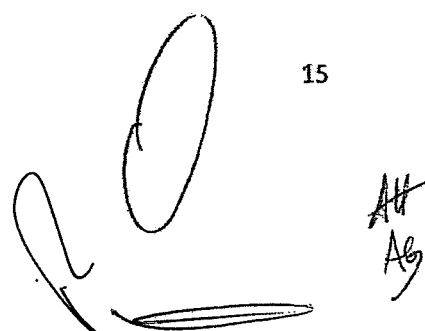


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Conditions at Battery Limit:

Parameter	Minimum	Nominal	Maximum
Voltage (kV) – Primary	32.8	33.5	34.2
Voltage (kV) – Secondary	10.8	11.5	11.8
Voltage (kV) – Tertiary	0.38	0.4	0.42
Power (MVA) - NMD	n/a	n/a	25

Electrical power quality to be in line with South African power quality standard NRS048.



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"FA13"<sup>295</sup>

Revised invoice following suspension of take-or-pay obligation				
Period:		October 2015		
	Quantity (ton)		R/ton	R
Monthly fee	1	R	1 382 711.84	R 1 382 711.84
Oxygen (Actual consumption)	435.3	R	364.01	R 158 453.55
Nitrogen (Actual consumption)	212.92	R	222.30	R 47 332.12
Argon (Actual consumption)	0	R	3 000.00	R -
Oxygen supplementary	0	R	876.66	R -
Nitrogen supplementary	0	R	876.66	R -
			Sub Total	R 1 588 497.51
			V.A.T	R 222 389.65
			TOTAL	R 1 810 887.16



Revised invoice following suspension of take-or-pay obligation				
Period:		November 2015		
	Quantity (ton)		R/ton	R
Monthly fee	1	R	1 382 711.84	R 1 382 711.84
Oxygen (Actual consumption)	305.23	R	364.64	R 111 299.07
Nitrogen (Actual consumption)	0	R	222.30	R -
Argon (Actual consumption)	0	R	3 000.00	R -
Oxygen supplementary	0	R	876.66	R -
Nitrogen supplementary	0	R	876.66	R -
			Sub Total	R 1 494 010.91
			V.A.T	R 209 161.53
			TOTAL	R 1 703 172.43



Revised invoice following suspension of take-or-pay obligation				
Period:		December 2015		
	Quantity (ton)		R/ton	R
Monthly fee	1	R	1 382 711.84	R 1 382 711.84
Oxygen (Actual consumption)	469.53	R	381.03	R 178 905.02
Nitrogen (Actual consumption)	0	R	232.69	R -
Argon (Actual consumption)	0	R	3 000.00	R -
Oxygen supplementary	0	R	894.18	R -
Nitrogen supplementary	0	R	894.18	R -
			Sub Total	R 1 561 616.86
			V.A.T	R 218 626.36
			TOTAL	R 1 780 243.22





Revised invoice following suspension of take-or-pay obligation				
Period:		January 2016		
	Quantity (ton)		R/ton	R
Monthly fee	1	R	1 382 711.84	R 1 382 711.84
Oxygen (Actual consumption)	435.61	R	374.58	R 163 170.79
Nitrogen (Actual consumption)	65.57	R	228.75	R 14 999.14
Argon (Actual consumption)	0	R	3 000.00	R -
Oxygen supplementary	0	R	887.94	R -
Nitrogen supplementary	0	R	887.94	R -
			Sub Total	R 1 560 881.77
			V.A.T	R 218 523.45
			TOTAL	R 1 779 405.22



Revised invoice following suspension of take-or-pay obligation				
Period:		February 2016		
	Quantity (ton)		R/ton	R
Monthly fee	1	R	1 396 047.53	R 1 396 047.53
Oxygen (Actual consumption)	109.89	R	369.98	R 40 657.10
Nitrogen (Actual consumption)	45.29	R	225.95	R 10 233.28
Argon (Actual consumption)	0	R	3 000.00	R -
Oxygen supplementary	0	R	883.29	R -
Nitrogen supplementary	0	R	883.29	R -
			Sub Total	R 1 446 937.91
			V.A.T	R 202 571.31
			TOTAL	R 1 649 509.21



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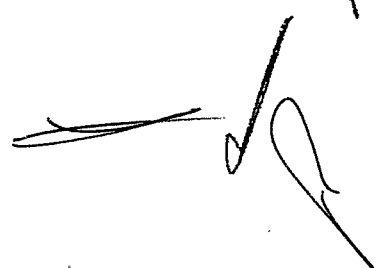
DEED OF GUARANTEE AND INDEMNITY

between

EVRAZ PLC

AND

AIR LIQUIDE (PROPRIETARY) LIMITED

 M

— ~~XX~~ M

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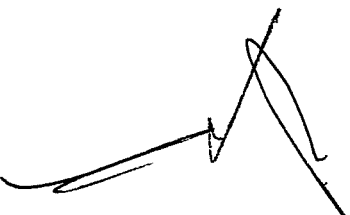


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*R* *m*



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**DELIVERED BY EMAIL**

**Edward Nathan Sonnenbergs**

Attention: Gary Oertel  
Email: goertel@ensafrica.com

Cc: Letitia Field  
Email: lfield@ensafrica.com

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Tel +27 11 535 8000  
Fax +27 11 535 8600  
www.werksmans.com  
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**YOUR REFERENCE:**

OUR REFERENCE: Mr E Levenstein/Ms L Becker/lb/AIRL26674.3/#4338769v1  
DIRECT PHONE: +27 11 535 8237/8196  
DIRECT FAX: +27 11 535 8737/8796  
EMAIL ADDRESS: elevenstein@werksmans.com/lbecker@werksmans.com

8 June 2016

Dear Sirs

**AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE)**

- 1 We refer to your letter dated 15 December 2015 ("your letter").
- 2 We do not intend to deal with each and every point raised in your letter and reserve our client's rights to do so, to the extent necessary, and in the appropriate forum.
- 3 As you are aware from the content of our letter dated 30 November 2015 and your letter, in reply thereto, and our previous subsequent correspondence, there is a dispute, which our client hereby declares, that has arisen between our respective clients.
- 4 The dispute pertains to the following issues –
  - 4.1 whether the obligation of Evraz Highveld Steel And Vanadium Limited ("Evraz") to pay our client in terms of the Supply Agreement concluded between our respective clients on 7 December 2011 ("Supply Agreement") has been properly suspended (pursuant to your letter dated 2 October 2015) in terms of section 136(2)(a) of the Companies Act 71 of 2008, as amended ("Companies Act") by the business rescue practitioners of Evraz, as contended for by you; and
  - 4.2 whether the provision of the products by our client to Evraz post the commencement of Evraz's business rescue, constitute either a cost of Evraz's business rescue or post-commencement finance in terms of section 135 of the Companies Act.
- 5 These issues will be fully ventilated and expanded on in the dispute resolution process.
- 6 Our client has instructed us to nominate retired judge Kriegler or judge Harms as arbitrator.

**Werksmans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa**

**Directors** D Hertz (Chairman) AL Armstrong BA Aronoff DA Arteiro T Bata LM Becker JD Behr AR Berman NMN Bhengu Z Blieden HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman LJ du Preez RJ Feenstra S Fodor SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hosiosky BB Hotz HC Jacobs TL Janse van Rensburg N Harduth G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo SM Moerane C Moraitis PM Mosebo KO Motshwane L Naidoo J Nickig JJ Niemand BPF Olivier WE Oosthuizen S Padayachy M Pansegrouw CP Pauw AV Pillay D Pisanti T Potter BC Price AA Pyzikowski RJ Raath A Ramdhin L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell W Strachan JG Theron JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker L Watson D Wegierski G Wickins M Wiehahn DC Williams DG Williams E Wood BW Workman-Davies



- 7 We await to hear from you so that a joint approach can be made to either of the retired judges to determine if either accepts the nomination, and if so, to determine the way forward in respect of the dispute resolution.
- 8 Our client's rights remain reserved.

Yours faithfully

Werksmans

THIS LETTER HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.

Letitia Field

---

**From:** Letitia Field  
**Sent:** 15 July 2016 12:37  
**To:** 'Lauren Becker'; Gary Oertel  
**Cc:** Eric Levenstein  
**Subject:** RE: AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

Dear Lauren

As advised telephonically on Friday, 8 July 2016 and yesterday, we confirm as follows:

- Our clients have, in their sole and absolute discretion provided for in paragraph 38.4 of the adopted business rescue plan, decided that the dispute resolution mechanism is not appropriate for resolving the disputes and/or that the application of the dispute mechanism may result in prejudice to other creditors or employees.
- In light of the aforesaid, our clients will be instituting an application for:
  - o the cancellation of Evraz Highveld Steel and Vanadium Limited's obligations, save for the obligations relating to the supply of utilities, in terms of the supply agreement; and
  - o a declarator regarding the validity of the suspension of obligations by our clients and the status of your client's damages claims pursuant to same as well as a cancellation.

Regards

---

**From:** Lauren Becker [mailto:LBecker@werksmans.com]  
**Sent:** 14 July 2016 09:18  
**To:** Letitia Field <lfield@ensafrica.com>; Gary Oertel <goertel@ensafrica.com>  
**Cc:** Eric Levenstein <ELevenstein@werksmans.com>  
**Subject:** RE: AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

Hi Letitia,

We have still not received a formal response to our letter. Please could we have same today.

Regards



**Lauren Becker**

Director

T: +27 11 535 8196 | F: +27 11 535 8796 | [lbecker@werksmans.com](mailto:lbecker@werksmans.com)

---

**Werksmans Attorneys**

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---

**From:** Lauren Becker [mailto:LBecker@werksmans.com]

**Sent:** 08 July 2016 09:30 AM

**To:** Letitia Field; Gary Oertel

**Cc:** Eric Levenstein

**Subject:** RE: AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

Hi Letitia,

We have still not heard from you on this. Kindly revert to us today.

Regards



A member of the LEX Africa Alliance

**Lauren Becker**

Director

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**From:** Letitia Field [<mailto:lfield@ensafrica.com>]

**Sent:** 01 July 2016 09:40 AM

**To:** Lauren Becker; Gary Oertel

**Cc:** Eric Levenstein

**Subject:** RE: AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

Dear Lauren

We will revert with our instructions early next week.

Regards

**From:** Lauren Becker [<mailto:LBecker@werksmans.com>]

**Sent:** 28 June 2016 12:28

**To:** Gary Oertel <[goertel@ensafrica.com](mailto:goertel@ensafrica.com)>; Letitia Field <[lfield@ensafrica.com](mailto:lfield@ensafrica.com)>

**Cc:** Eric Levenstein <[ELevenstein@werksmans.com](mailto:ELevenstein@werksmans.com)>

**Subject:** RE: AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

**WE ARE MOVING.**

> Keep us close

A member of the LEX Africa Alliance

From 4 July 2016, our new  
Cape Town address will be:  
Level 1, No. 5 Silo Square,  
V&A Waterfront, Cape Town

All other phone numbers remain the same



This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Gary and Letitia,

We refer to our letter dated 8 June 2016 enclosed with our email below and await to hear from you.

Regards



A member of the LEX Africa Alliance

**Lauren Becker**

Director

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**Letitia Field**

senior associate

insolvency, business rescue and debt recovery

tel: +27 21 410 2500 / +27 21 410 2500

cell: +27 82 787 9504

**From:** Lauren Becker [<mailto:LBecker@werksmans.com>]

**Sent:** 08 June 2016 11:02 AM

**To:** [goertel@ensafrica.com](mailto:goertel@ensafrica.com); [lfield@ensafrica.com](mailto:lfield@ensafrica.com)

**Cc:** Eric Levenstein

**Subject:** AIR LIQUIDE PROPRIETARY LIMITED / EVRAZ-HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) [IWOV-Litigation.FID302862]

Dear Gary and Letitia,

Enclosed please find a letter for your attention.

Regards



**Lauren Becker**

Director

T: +27 11 535 8196 | F: +27 11 535 8796 | [lbecker@werksmans.com](mailto:lbecker@werksmans.com)

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