



**CHEMADA**  
Fine Chemicals

**CHEMADA Fine Chemicals Company (1996) Ltd.**

Nir Itschak D.N. Hanegev 8545500, Israel. Tel: 972-8-9989801 Fax: 972-8-9989889 WWW.CHEMADA.COM  
Authorized Dealer: 512372558 :פ.ח 08-9989889 פקס: 08-9989801 טל: ישראל, 8545500 הנגב

## **GENERAL CONDITIONS OF SALE**

### **1. GENERAL APPLICABILITY**

1.1. These General Conditions of Sale shall be applicable to all sales documents, offers, order confirmations, Purchase Orders, invoices and deliveries by \_\_\_\_\_ ("Seller") to the Buyer detailed in the Purchase Order ("Buyer"), that constitute an integral part of the Agreement.

1.2. No other agreements or general conditions shall be applicable or set aside this Agreement, unless expressly agreed to by Seller in writing.

1.3. Any conditions submitted, proposed or stipulated by Buyer in whatever form, whether written or oral, whether submitted in a later document or contained in any offer, acceptance or counter offer made by Buyer are hereby expressly waived and excluded, unless agreed to by the Seller in writing.

1.4. In this Agreement, headings are for ease of reference only and shall not affect construction.

### **2. DEFINITIONS**

Throughout this Agreement, the following terms shall have the respective meanings set forth below:  
"Agreement": These General Conditions of Sale, Purchase Orders and any sales, agreements, offers, order confirmations, invoices and deliveries between Seller and Buyer.

"Incoterms 2000": Incoterms 2000 Edition, published by the International Chamber of Commerce.

"Products": any product sold by the Seller under Seller's products specifications.

"Purchase Order": any order by the Buyer for the supply of Products, by the Seller, including quantities and dates of delivering specified in such order. The Purchase Order shall constitute an integral part of the Agreement.

### **3. ESTABLISHMENT OF THE AGREEMENT**

Any Purchase Order made by Buyer and any offer made by Seller shall bind Seller only after (i) explicit confirmation by Seller, in writing, of this effect; and (ii) explicit confirmation by Seller's credit insurer, in writing, regarding the credit risk of the Purchase Order.

### **4. PRICES**

4.1. The prices of the Products shall be as specified in the Purchase Order.

4.2. Prices are exclusive of local taxes, which will be added, where applicable, at the appropriate rate. Duties, taxes, fees, levies and other compulsory payments, if any, shall be for Buyer's account, unless otherwise explicitly specified in writing between Seller and Buyer.

### **5. DELIVERY**

5.1. Delivery terms are subject to and shall be interpreted in accordance with the terms of Incoterms 2000.

5.2. The time for delivery shall not be of the essence, and delivery dates are intended as estimates only. Seller shall not be liable for any loss or damage whether arising directly or indirectly from delay in delivery.

5.3. Seller may deliver the Products by installments and/or invoice Buyer for each such installment.

5.4. Seller is only responsible for delivering the Products to the location specified in the Purchase order.

5.5. Each delivery shall be considered as separate from other deliveries and the failure of any delivery shall not vitiate the Agreement as to others.

5.6. If delivery is delayed through Buyer's default or if Buyer declines or delays in accepting delivery, then in any such case Seller may (without prejudice to any other right or remedy available to it) do the following: (i) sell the Products for Seller's account; and/or (ii) cancel the Contract as regards any Products that remain to be delivered thereunder.

5.7. Seller's rights under this Section shall not be prejudiced by the fact that any delivery has been effected after the stipulated time.

5.8. Notice of non-arrival of Products to the designated point of delivery shall be made by Buyer to Seller no later than 5 (five) business days from the estimated date of delivery.

SHOULD BUYER FAIL TO GIVE SUCH NOTICE, SELLER SHALL NOT BE LIABLE FOR LOSS OF PRODUCTS NOT DELIVERED.

### **6. WEIGHT AND QUANTITY**

6.1. Seller shall be deemed to have complied with the terms of the Agreement if it shall supply an excess or deficiency of up to 5 (five) percent of the quantity specified in the Purchase Order. Buyer shall pay for the quantity actually delivered. Seller's weights and quantities shall govern. In a case of a deviation of more than 5 (five) percent of the quantity specified in the Purchase Order, the invoice or payment in question, which is proven by an independent investigator appointed by the Seller, adjustment shall be made

6.2. Notwithstanding the aforesaid, in the event that the Products have been manufactured specifically for the Buyer, the Buyer shall accept and pay for up to 10 (ten) percent more than the quantity ordered.

## **7. PAYMENT**

7.1. Payment shall be as provided in the Purchase Order and in accordance with the payment terms stated on the invoice.

7.2. If any payment becomes overdue; or if before the fulfillment of this Agreement, the Buyer shall suspend payment or give notice that it is about to suspend payment of its debts; or commit an act of bankruptcy, whether voluntary or involuntary; or, being a company, shall be unable to pay its debts, either in fact or in law; or have an order made or pass a resolution for winding up or liquidation (other than for the purpose of reconstruction, merger or amalgamation); or have a receiver appointed; then, until payment in full thereof has been made or until the Buyer has fulfilled all its obligations, the Seller may (without prejudice to any other right or remedy available to it):

- Withhold future deliveries of Products to Buyer until such default has been cured or Buyer's financial responsibility has been established to Seller's satisfaction; or
- Require payment in advance as to future deliveries; or
- Require a payment guarantee by a parent or affiliate of Buyer; or
- Require the provision of a letter of credit or bank guarantee by an entity approved by Seller; or
- Demand return from Buyer of any Products under the Agreement for which payment has not been made;

or

- Cancel the Agreement upon 10 (ten) days written notice.

The Buyer shall be liable under the aforesaid circumstances for damages the Seller may suffer due to the above.

7.3. Without prejudice to any other right or remedy available to it, any default by Buyer to make any payment shall entitle the Seller to any of the following:

- Calculated as of the invoice date, an interest of three months Euribor plus two percent a year on the amount in default;
- Buyer shall reimburse all costs, including collection costs, incurred by the Seller to recover all or part of claims from the Buyer.

7.4. In the event of default in any payment by the Buyer, the Seller retains the right to collect the Products without warning, notice of default, or legal intervention, such without prejudice to any Seller's other rights such regarding such late payment.

7.5. Buyer shall not be entitled to withhold payment or to deduct from the price invoiced to it on the ground that it has a claim or set-off against Seller.

7.6. The remedies contained in this Section are (where applicable) cumulative and shall be in addition to any **other remedies available to Seller under applicable law.**

## **8. RETENTION OF TITLE**

8.1. The Products shall only become the property of the Buyer once all debts it has vis-a-vis Seller have been paid in full ("**Buyer's Fulfillment of Obligations**"), regardless of their nature, including claims for failure to comply with the Agreement, including in the event delivery takes place in part shipments, and risk of loss or damage to the Products shall pass to Buyer on delivery, in accordance with the provisions of the agreed Incoterms 2000. Notwithstanding the aforesaid, it is clarified that Seller shall have no liability regarding the Products once they are delivered to Buyer, except as specified in the Warranties and Claims and Limitation of Liability clauses.

8.2. Until Buyer's Fulfillment of Obligations, Buyer shall not be entitled to allow the Products to become a component of any other product, nor to mix them with any other product. If the Products are processed or mixed with other Products, Seller will acquire proportionate joint ownership in the new product and Seller will be entitled to the proportionate proceeds from the sale thereof.

## **9. FORCE MAJEURE**

9.1. Seller shall not be liable in any respect for failure to perform hereunder if hindered, delayed or prevented, directly or indirectly for a reason outside its reasonable control such as but not limited to, war, national emergency, terrorism, riot, inadequate transportation facilities, inability to secure materials, supplies, fuel or power, shortage or non-availability of raw materials, plant breakdown, fire, flood, windstorm, explosion, accident or other act of God, strike, lockout or other labour dispute, order or act of any government, whether foreign, national or local, whether valid or invalid, or any other cause of like or different kind ("**Force Majeure Event**").

9.2. If Seller is unable to perform its obligations hereunder due to a Force Majeure Event, or if Seller considers it likely that it may become so unable, then Seller shall as soon as reasonably practicable, notify Buyer of the estimated extent and duration of such inability, and Seller shall be entitled to end the Agreement, in part or in



full, or suspend execution thereof, in part or in full, by registered letter and without legal intervention, without being liable for damages.

9.3. Seller, during any period of shortage due to a Force Majeure Event, may allocate its available supply of Product among its internal requirements and its customers on whatever basis Seller may deem fair and practical.

9.4. Any quantity of Products so affected shall be deducted from the total quantity purchased by Buyer.

9.5. Seller shall not be required to procure Products from third parties to satisfy its obligations to Buyer hereunder during any period of shortage due to a Force Majeure Event.

#### **10. HARDSHIP CLAUSE**

10.1. Should the circumstances assumed by Seller at the time after signing the Agreement materially change during the term of the Agreement that compliance with one or more of the stipulations cannot reasonably be expected from Seller, consultations shall take place regarding the interim amendment of the Agreement.

10.2. In the event that the Parties fail to agree as to the amendment of the Agreement, Seller will be entitled to unilaterally end the Agreement by registered letter, while observing a period of notice of 3 months.

10.3. During this period of notice, the conditions stipulated in the Agreement shall remain in force without prejudice.

#### **11. WARRANTIES AND CLAIMS**

TO THE EXTENT PERMITTED BY LAW, ALL CONDITIONS, WARRANTIES OR OBLIGATIONS WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE, INCLUDING SPECIFICALLY ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED AND THE PROVISIONS OF THE AGREEMENT SHALL APPLY IN LIEU THEREOF.

11.1. The Seller warrants that Products delivered in accordance with the Agreement meet the Seller's standard specification for the Products or such other specifications as have been expressly agreed between the Seller and the Buyer and that the Products are adequately contained, packaged and labeled and conform to the premises and affirmations of fact made on the container and label.

11.2. The Buyer represents and declares that it is aware that the Products, by their very nature, are hazardous and shall apply the necessary professional and legal standards of diligence and the Seller's instructions regarding the use, handling, storage and maintenance of the Products. If any claim is brought subject to the conditions mentioned above, the Buyer must prove to the satisfaction of the Seller that the Buyer applied said standards and instructions.

11.3. This warranty is specifically made and limited to Buyer in respect of the Products actually manufactured by Seller, and in respect of other Products sold, but not manufactured, by Seller, to the extent of the liability assumed by Seller's supplier. No warranty is made to any other person, firm or company, whether subsequent Buyer or user, or to any bailee, licensee, assignee, employee, agent or otherwise.

11.4. Buyer must determine for itself, by preliminary tests or otherwise, the suitability of the Products for Buyer's purpose and the substances present or not present in the Products. Seller warrants only that the Products shall meet the specifications identified in Purchase Order.

**11.5. Seller makes no other warranty, express or implied, except as expressly provided herein. In furtherance, and not in limitation, of the foregoing, Seller makes no warranty that the Products are merchantable or fit for any particular purpose, or with respect to freedom from infringement of any patent and/or copyright resulting from Buyer's use of products or Seller's information.**

#### **12. LIMITATIONS OF LIABILITY**

12.1. Seller's liability and Buyer's exclusive remedy for any cause of action arising out of the sale, use, or non-delivery of the Products or under any warranty, is expressly limited at Buyer's option to (1) replacement of the non-conforming Product, or (2) payment not to exceed the invoiced purchase price of the Product for which remedy is claimed (plus transportation costs, if any, paid by Buyer with respect thereto).

12.2. Return consignments of Products may only take place after prior written permission under conditions determined by the Seller, as provided within the Purchase Order.

12.3. Seller shall not be liable for loss of profits, loss of production, indirect, or other special, incidental or consequential damages.

#### **13. INSPECTION AND COMPLAINTS**

13.1. The Buyer shall inspect the Products and packing materials as quickly as possible and to the extent which can be reasonably and/or customarily expected of him. Defects noted by the Buyer in the Products and packing materials during this inspection shall be reported to the Seller immediately, but in any case at the latest within



**CHEMADA**  
Fine Chemicals

**CHEMADA Fine Chemicals Company (1996) Ltd.**

Nir Itschak D.N. Hanegev 8545500, Israel. Tel: 972-8-9989801 Fax: 972-8-9989889 WWW.CHEMADA.COM  
Authorized Dealer: 512372558 :פ.ח 08-9989889 פקס: 08-9989801 טל: ישראל, 8545500 הנגב

ten (10) days after delivery. To limit the damage, the Buyer shall follow the Seller's directions regarding the Products and packing material.

13.2. Buyer shall, in case of defective products, make sure that the whole consignment, in respect of which a claim will be lodged, remains available for inspection by Seller; in case only part of the product is available for inspection, the same will constitute a waiver by Buyer or any claim in respect of the other part of the consignment.

13.3. Buyer's failure to give notice of any claim within 30 (thirty) days from the date of delivery shall constitute a waiver by Buyer of all claims with respect thereto.

13.4. For avoidance of doubt, it is clarified that Buyer's failure to give notice of any claim within thirty (30) days after date of delivery that the Products are not in accordance with the Purchase Order, shall constitute a waiver by Buyer of all claims with respect thereto and the Products delivered shall be deemed to be in all respects in accordance with the Purchase Order.

13.5. The Seller will label the Products according to the Purchase Order and in accordance with the Buyer's request, will endeavor to comply with any additional, reasonable labeling requirements. Buyer is responsible for checking that such requirements have been complied with and the Seller will not incur any liability in this regard.

**14. SAFETY AND HEALTH COMMUNICATIONS:**

14.1. Buyer acknowledges that it has consulted Seller's documents, including information set forth on Seller's Material Safety Data Sheets regarding the Products and other technical bulletins and publications containing safety, health, handling and environmental hazard information concerning Products and their properties, that it has read and it understands such information, and that it agrees to incorporate such information into its personnel safety programs.

14.2. Buyer shall fully and adequately inform its employees, contractors, agents and other third parties who may become exposed to Products after delivery to Buyer hereunder, of any hazards associated with Products, and of the proper storage, handling and use procedures for Products, whether disclosed in such documents or in additional documents which are transmitted to Buyer during the term of the Agreement.

14.3. Buyer acknowledges its independent obligation to fully and adequately incorporate available information, including that supplied by Seller, into its product safety communications and to provide to all of its employees, contractors, agents and customers copies of such hazard communication documents.

14.4. If Products are further processed, mixed or incorporated into another product, Buyer shall likewise disseminate appropriate health and safety information to all persons Buyer reasonably foresees may be exposed.

**15. RETURNABLE EQUIPMENT AND CONTAINERS**

Tankers, whether owned or made available by the Seller, shall be emptied promptly after arrival at place of delivery and returned to the delivering factory within 24 hours after arrival at the station of destination. In the case of delivery in the Buyer's tanker, such a tanker must be ready for filling on arrival at the delivering factory.

**16. SHIPPING INSTRUCTIONS**

If Buyer's shipping instructions are delayed or provide for later delivery than the date agreed upon pursuant to confirmed and accepted Purchase Order, Seller will store the Product for Buyer at Buyer's expense.

**17. TERMINATION**

Seller is entitled to, by giving Buyer at least thirty (30) days prior written notice and without judicial interference, to unilaterally terminate the Agreement for whatever reason.

**18. ASSIGNMENT**

The Agreement shall be binding upon and inure to the benefit of the respective successors of the parties hereto, but it shall not be transferred or assigned by Buyer without the prior written consent of the Seller, which consent shall not be unreasonably withheld; Seller shall have the right to assign the Agreement without Buyer's consent.

**19. WAIVER**

No failure or delay by the Seller in exercising any right hereunder shall operate as a waiver therefore or extend or extend to or effect any other subsequent event or impair any rights or remedies consequent thereon or in any way modify or diminish the rights of the Seller under the Agreement.

**20. SEVERABILITY**



**CHEMADA**  
Fine Chemicals

**CHEMADA Fine Chemicals Company (1996) Ltd.**

Nir Itschak D.N. Hanegev 8545500, Israel. Tel: 972-8-9989801 Fax: 972-8-9989889 WWW.CHEMADA.COM  
אור יצחק ד.נ. הנגב 8545500, ישראל. טל: 08-9989801 פקס: 08-9989889

If any provision or part of a provision of the Agreement shall be, or be found by any authority, tribunal or court of competent jurisdiction to be, invalid or unenforceable, such validity or enforceability shall not affect the other provisions or parts of such provisions of the Agreement, all of which shall remain in full force and effect.

**21. ENTIRE AGREEMENT**

The Agreement, together with any documents expressly incorporated herein by reference, constitutes the entire Agreement between the Parties and supersedes any previous writing or understanding relating to the subject matter. No alteration of or addition to the Agreement shall be effected by the acknowledgment or acceptance by Seller of a Purchase Order, acknowledgment, release or any other forms or conditions. Neither party shall claim any modification, limitation or release from any of the terms or conditions contained herein except by mutual agreement to that effect, signed by both Seller and Buyer.

**22. INDEMNITY**

Buyer shall indemnify, defend and forever hold Seller and its directors, officers, employees, agents, suppliers, parents, affiliates, subsidiaries, successors and assigns harmless from any and all fines, penalties, suits, actions, claims, liabilities, judgments, costs, and expenses (including attorneys' fees and expenses) resulting or arising from any one of the following: (a) Buyer's liability under law including Buyer's negligence or breach of this Agreement; or (b) Buyer's use, sale, handling, storage, or disposal of the Products or any product or waste derived therefrom; or (c) Buyer's discharge or release of the Products or any product or waste derived therefrom into water, onto land or into the air; or (d) Buyer's exposing any person (including Buyer's employees) to the Products or any product or waste derived therefrom, including failure to warn of such exposure; or (e) The transportation of the Products after delivery by Seller in accordance with the provisions of the Purchase Order and the relevant Incoterms 2010.

The foregoing indemnification shall apply, but shall not be limited to, injury to person (including death) or damage or harm to property or the environment. Buyer shall not be obligated to indemnify Seller for any fine, penalty, suit, action, claim, liability, judgment, cost, or expense to the extent attributable to Seller's negligence or willful misconduct.

**23. INFORMATION REGARDING USE OF PRODUCTS**

Upon request, Buyer shall inform Seller of any use it will do of the Products, in order that Seller can comply with any legal regulation or obligation that will apply on Seller from time to time.

**24. NOTICES**

Notices by either Seller or Buyer shall be made in writing only by facsimile or similar electronic transmission, or by e-mail, effective at the time sent, with confirmation, or by registered letter addressed to the other Party at its address set forth below, and shall be considered given as of the time it is sent through the post postage prepaid. Notices to Seller shall be sent to the attention of its CEO.

**25. GOVERNING LAW**

The Agreement shall be governed and construed in all respect in accordance with the laws of the state of Israel, excluding Israeli rules of conflict of laws. The Parties hereby consent to the exclusive jurisdiction of the court of Israel in any action brought under the Agreement.

Notwithstanding the foregoing, the Seller reserves the right to commence any proceedings arising out of the Agreement in any other jurisdiction it may deem appropriate.

THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE AGREEMENT SHALL NOT BE GOVERNED BY OR CONSTRUED IN ACCORDANCE WITH THE PROVISIONS OF THE CONVENTION FOR THE UN INTERNATIONAL SALE OF PRODUCTS.