

## STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

### 1. RECORDAL

- 1.1. Chempure hereby sells and the Customer hereby purchases the Goods on the terms and conditions as set out herein.
- 1.2. By signature of the Chempure Credit Application by the Customer, by placing an Order for Goods from Chempure, or by accepting Goods from Chempure on delivery or collection, the Customer agrees to be bound by these Standard Terms and Conditions, and acknowledges to have read, and to be bound by, these Standard Terms and Conditions.
- 1.3. The Parties accordingly set out herein the terms of their agreement relating to the purchase of Goods. These Standard Terms and Conditions apply to any and all Goods ordered, including Goods ordered prior to the Effective Date.
- 1.4. These Standard Terms and Conditions apply to the exclusion of any document, notice, order, terms, agreement, quotation or any other document, whether past or future, which the Customer purports to apply or seeks to impose between Chempure and the Customer in respect of the Goods.

### 2. INTERPRETATION

In the Agreement, clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention –

- 2.1. an expression which denotes –
  - 2.1.1. any gender includes the other genders;
  - 2.1.2. a natural person includes an artificial or juristic person and vice versa;
  - 2.1.3. the singular denotes the plural and vice versa;
- 2.2. the following expressions shall bear the meanings assigned to them below and cognate expressions bear the corresponding meanings –
  - 2.2.1. **"Agreement"** – the Chempure Credit Application (where applicable) and any Order together with these Standard Terms and Conditions, and all schedules and annexures hereto, as amended from time to time;
  - 2.2.2. **"Applicable Law"** – the common law, statutory law, and customary law applicable and in effect in the Republic of South Africa, including any present or future constitution, statute, judgement, decree, treaty, legislation, regulation, directive, ordinance, order, by-law, or other legislative measure, requirement, request or guideline issued by an Authority, as may be amended, replaced, re-enacted, restated or reinterpreted from time to time;
  - 2.2.3. **"Authority"** – any government, governmental, administrative, fiscal, monetary, central bank, judicial, regulatory, supervisory or government owned or controlled body, department, commission, authority, tribunal, agency or entity to whose jurisdiction a Party is subject;
  - 2.2.4. **"Book Debts"** – all the book debts of the Customer, existing as at the Effective Date or which may come into existence after the Effective Date of whatsoever nature and from whatsoever cause arising, whether actual, contingent, prospective, direct or indirect, whether a claim for payment of money or the performance of any other performance obligation and whether or not the aforesaid rights, title and interest were within the contemplation of the Parties;
  - 2.2.5. **"Business Day"** – any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
  - 2.2.6. **"Carrier"** – Chempure, any third party nominated by Chempure or a third party nominated by the Customer to deliver Goods to the Customer;
  - 2.2.7. **"Chempure"** – Chempure Proprietary Limited (registration number: 2011/011010/07), a private company incorporated in accordance with the laws of the Republic of South Africa with registered address at 50 Kambathi Street, N4 Gateway Industrial Park, Willow Park Manor, Pretoria, 0002;
  - 2.2.8. **"Chempure Credit Application"** – the credit application form styled "CHEMPURE CREDIT APPLICATION", and which is signed by the Customer seeking credit;
  - 2.2.9. **"Customer"** – the customer whose details appear on the Chempure Credit Application, or in the case of a cash customer, the customer whose details appear on the invoice rendered by Chempure;
  - 2.2.10. **"Customer Bank Accounts"** – all of the bank accounts opened in the name of the Customer and the amounts standing to the credit thereof;
  - 2.2.11. **"Effective Date"** – the date of signature of the Chempure Credit Application by the Customer, or the placing by the Customer of an Order for Goods, whichever occurs first;
  - 2.2.12. **"Goods"** – any products offered for sale by Chempure;
  - 2.2.13. **"Order"** – each order made by the Customer for Goods;
  - 2.2.14. **"Parties"** – Chempure and the Customer and **"Party"** means any of them, as the context may require;
  - 2.2.15. **"Payment Terms"** – the terms applicable to the Customer for payment of invoices issued by Chempure, as agreed to in writing by Chempure;
  - 2.2.16. **"Personal Information"** – bears the meaning set out in section 1 of POPIA;
  - 2.2.17. **"POPIA"** – the Protection of Personal Information Act 4 of 2013;
  - 2.2.18. **"Purchase Price"** – the Price set out on the Sales Order together with any other charges due in respect of the Order and the delivery of the Goods, including Carrier charges;
  - 2.2.19. **"Sales Order"** – a written quotation generated by Chempure;

- 2.2.20. **"Standard Terms and Conditions"** – these standard terms and conditions for the sale of goods and all schedules and annexures hereto, which may be amended from time to time on notice by Chempure; and
- 2.2.21. **"Surety"** – each of the sureties whose details appear on the Chempure Credit Application, and the signatory on behalf of the Customer;
- 2.3. the annexures and schedules to the Agreement form an integral part hereof;
- 2.4. any reference to an enactment is to that enactment as at the Effective Date and as amended or re-enacted from time to time, and includes all regulations, proclamations, ordinances and by-laws issued under that enactment;
- 2.5. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party then, notwithstanding that it is contained only in a definition, effect shall be given to such provision as if it were a substantive provision in the body of the Agreement;
- 2.6. where any term is defined within a particular clause other than this clause 2, that term shall bear the meaning ascribed to it in that clause wherever it is used in the Agreement;
- 2.7. when any number of days is prescribed in the Agreement, such number shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
- 2.8. 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;
- 2.9. a reference to time is a reference to South African Standard Time;
- 2.10. if an act prescribed under the Agreement to be done by a Party on or by a given day is done after 17:00 on that day, it is taken to be done on the next day;
- 2.11. any reference to a Party shall include such Party's successor-in-title or permitted assigns;
- 2.12. any term which refers to a South African legal concept or process (for example, without limiting the foregoing, winding-up or curatorship) shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which the Agreement may apply or to the laws of which a Party may be or become subject;
- 2.13. where a figure is referred to in numbers and in words and there is any conflict between the two, the words shall prevail;
- 2.14. the use of the word "including" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or specific example; and
- 2.15. the terms of the Agreement having been negotiated, the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation thereof, shall not apply hereto.

### 3. COMMENCEMENT AND APPLICATION

- 3.1. The Customer confirms that the Agreement did not come about as a result of direct marketing by Chempure, but that the Agreement has been concluded as a result of negotiations between the Parties after the Customer was provided sufficient time and opportunity to receive and understand the nature and effect of all of the provisions of the Agreement.
- 3.2. The Customer specifically acknowledges that the provisions of these Terms and Conditions highlighted in bold have been drawn to the attention of the Customer and which contain provisions which:
  - 3.2.1. limit the risk of Chempure;
  - 3.2.2. constitute an assumption of risk or liability on the part of the Customer;
  - 3.2.3. impose an obligation on the Customer to indemnify Chempure; and/or
  - 3.2.4. constitute an acknowledgement of facts by the Customer.

### 4. GOODS

- 4.1. The Customer may from time to time place an Order with Chempure for Goods.
- 4.2. Orders made by the Customer must be made in writing to the email address nominated by Chempure from time to time.
- 4.3. Orders must accurately specify the following:
  - 4.3.1. the Customer's full name, registration or ID number, and physical address, in the case of a cash customer;
  - 4.3.2. the Goods to be purchased;
  - 4.3.3. the desired quantities of the Goods;
  - 4.3.4. whether the Goods will be collected on prior arrangement with Chempure or the address at which the Goods must be delivered; and
  - 4.3.5. the estimated date on which the Customer would expect to receive the Goods.
- 4.4. Chempure may accept Orders verbally at its sole and absolute discretion.
- 4.5. All Orders accepted by Chempure will be confirmed on the transmission of a written Sales Order to the Customer.
- 4.6. Any Order which is accepted by Chempure will be binding on the Parties and cannot be varied or cancelled by the Customer without the written consent of Chempure.

### 5. DELIVERY OF GOODS

- 5.1. The Goods ordered will be delivered at the address nominated by the Customer in the Order, or collected by the Customer on prior arrangement with Chempure.

- 5.2. Notwithstanding the date of delivery specified in an Order, the date for delivery of the Goods will be reasonably determined by Chempure based on the availability of the Goods and the Carrier.
- 5.3. All delivery dates must be treated as approximate dates only and the Customer will not be entitled to cancel an Order or the Agreement, or bring any claim of whatsoever nature against Chempure, as a result of any delays in delivery of the Goods.
- 5.4. Upon delivery or collection of the Goods, the Customer must fully inspect the Goods prior to the Carrier leaving the premises at which the Goods are delivered, or accepting the Goods on collection.
- 5.5. In the event of any discrepancies in the quantity or nature of the Goods, the Customer must inform Chempure in writing and clearly endorse the delivery note or the Carrier's waybill accordingly by specifying the discrepancy. No damaged Goods must be accepted by the Customer on delivery by the Carrier or collection by the Customer.
- 5.6. A delivery note signed by the Customer, its agent, employee or any other representative will be deemed to be acceptance of the Goods by the Customer, will be binding on the Customer and will constitute proof of delivery of the Goods.
- 5.7. The risk in the Goods passes to the Customer on collection by or delivery to the Customer.
- 5.8. Should the Customer fail or refuse to take delivery of the Goods in accordance with an Order on delivery by the Carrier, or to collect the Goods from Chempure as arranged, Chempure will be entitled to recover from the Customer, on demand, all costs incurred due to the failure or refusal including further delivery charges, interim storage, insurance and any other costs incurred as a result of the failure or refusal.
- 5.9. It is specifically recorded that time is not of the essence in the Agreement.
- 6. SALES ORDERS AND PRICING**
- 6.1. All Sales Orders issued by Chempure will be valid for a period of 7 (SEVEN) days unless otherwise communicated by Chempure. All Sales Orders shall be subject to the availability of Goods at the time that the Order is placed and will be based on the prevailing selling price as indicated in writing by Chempure on the date on which the Sales Order is issued.
- 6.2. The Purchase Price may be amended by Chempure at any time and without notification to the Customer, and the Customer understands that such change to the Purchase Price may be due to an escalation in fuel prices, exchange rates, courier fees, or any other generally applicable taxes and costs, or material changes to Applicable Law or by any Authority.
- 6.3. The Purchase Price is the price set out in a valid Sales Order together with all Carrier costs as specified in writing by Chempure.
- 6.4. Chempure shall deliver to the Customer, a product specification sheet, certificate of analysis and a physical sample. Upon approval by the Customer, such product specification and certificate of analysis is the standard against which such product is to be delivered.
- 7. PAYMENT**
- 7.1. As consideration for the Goods, the Customer undertakes to pay the Purchase Price.
- 7.2. In respect of cash customers:
- 7.2.1. the Customer agrees to make payment of the Purchase Price upfront to Chempure, prior to collection or delivery of the Goods; and
- 7.2.2. Chempure shall provide the Customer with a tax invoice in respect of the Goods ordered by the Customer setting out the total amount due and payable in terms thereof.
- 7.3. In respect of credit customers, and unless otherwise agreed to in writing by Chempure:
- 7.3.1. Chempure shall provide the Customer with a tax invoice in respect of the Goods supplied to the Customer setting out the total amount due and payable in terms thereof;
- 7.3.2. such invoiced amount shall be due and payable within the agreed Payment Terms of the date of the tax invoice;
- 7.3.3. notwithstanding any credit given, Chempure reserves the right to demand payment of a deposit prior to collection or delivery of any Goods; and
- 7.3.4. Chempure shall be entitled to reduce or withdraw any credit granted to the Customer in its sole and absolute discretion.
- 7.4. All amounts due by the Customer to Chempure shall be free from any deduction or set-off, and paid by way of electronic funds transfer into the bank account nominated by Chempure in writing from time to time.
- 7.5. It is recorded that, should the Customer's internal processes or policies require that a purchase order number be issued and reflected on Chempure's invoice, it is the Customer's responsibility to timeously provide Chempure with any purchase order numbers required. The Customer undertakes to timeously issue such purchase order numbers prior to the due date and invoice generation date, and if the purchase order numbers are not timeously provided to Chempure, Chempure is entitled to issue the relevant invoice, and the absence of the relevant purchase order number shall not entitle the Customer to withhold payment. Any such failure by the Customer to pay timeously shall constitute material breach, entitling Chempure to exercise its remedies in terms of clause 12, including the levying of default interest on the outstanding amount.
- 8. INTEREST ON OVERDUE PAYMENTS**
- 8.1. All amounts payable by the Customer in terms hereof that remain unpaid on the due date thereof shall bear interest at the rate of prime lending rate plus 2% (TWO PERCENT) per month.
- 8.2. Interest as aforesaid shall be calculated daily from the due date for payment of the unpaid amount to the actual date of payment thereof (both dates inclusive), and capitalised monthly in arrears on the last day of each calendar month that such amount remains unpaid.
- 8.3. Chempure is entitled to allocate any payment to capital, interest, costs or any other outstanding amount as Chempure deems fit in its sole discretion, despite any allocation made or deemed to be made by the Customer.
- 9. RESERVATION OF OWNERSHIP**
- 9.1. Ownership of the Goods shall remain vested in Chempure until the entire Purchase Price and all other amounts due in terms of the Agreement have been paid in full.
- 9.2. The Customer shall not allow the Goods to blend or be formulated with other products with the effect that it is not reasonably possible to separate the Goods from such other products. In the event that the Customer does cause the Goods to be formulated into an end product prior to payment in full thereof, then the Customer shall have automatically deemed to have ceded, assigned and transferred all of its rights to such formulated products to Chempure until such time as the Customer has paid for the Goods in full. Such cession, assignment and transfer of rights shall be without prejudice to, and shall not effect, any claims or rights which Chempure has.
- 9.3. The Customer shall fully insure the Goods purchased from Chempure against loss or damage, from the date of collection or delivery until the full Purchase Price has been paid by the Customer for the Goods. Pending payment to Chempure for Goods purchased, all benefits in terms of the insurance policy relating to the insurance of such Goods are ceded to Chempure.
- 10. RETURN OF GOODS**
- 10.1. Once the Goods have been delivered or collected, the Goods may only be returned if the Goods are tested and are found to be defective, in accordance with an approved testing method unless agreed to by Chempure in writing.
- 10.2. Should a claim arise in respect of defective Goods, the Customer shall, at the Customer's cost, continuously store the defective Goods in a clean, dry place or in such conditions as required by the product specification, for 15 (FIFTEEN) calendar days following delivery, during which time Chempure, accompanied by the Customer's representative, shall be entitled to examine such Goods at the place of storage.
- 10.3. If the Goods supplied are deemed to be defective, the Customer must notify Chempure within 5 (FIVE) days after receiving the Goods and thereafter return the Goods within 15 (FIFTEEN) days from the date of delivery, provided that any return must be authorised in writing by Chempure's sales manager.
- 10.4. During the period in which the Goods undergo testing, the Goods must be stored in accordance with the product specification.
- 10.5. In the event that Chempure, in its sole and absolute discretion, accepts the return of any Goods, such Goods and must be in its original packaging and such packaging of the Goods must be complete, clean, saleable and undamaged. Any credit suitable for such Goods will be calculated on the invoice value as at the time the Goods were purchased.
- 11. FORCE MAJEURE**
- 11.1. If either Party ("**the Affected Party**") is prevented, restricted or delayed directly or indirectly from performing its obligations under the Agreement due to any cause beyond such Party's reasonable control (including without limiting the generality of the afore-going, war, civil commotion, riot, insurrection, strikes, lock-outs, boycotts, fire, explosion, flood, embargoes, export control, international restriction, global production delays, shipping delays, delays caused by customs and excise control, any order of any international authority, any court order, any requirements of any other competent authority, acts of any state or government or other authority and continuous disease, owner's death or other acts of God) ("**Force Majeure Event**"), then the Affected Party must, within 48 (FORTY-EIGHT) hours of the occurrence of the Force Majeure Event, give the other Party ("**the Other Party**") written notice containing full details of the alleged Force Majeure Event, the extent to which the Affected Party is prevented, restricted or delayed directly or indirectly from performing its obligations under the Agreement due to the occurrence of the Force Majeure Event, the steps taken by the Affected Party to mitigate the effects of the Force Majeure Event, and the expected duration of the Force Majeure Event and the expected consequences ("**Force Majeure Notice**").
- 11.2. Provided that the Affected Party duly provides the Force Majeure Notice:
- 11.2.1. the Affected Party shall be relieved of its affected obligations during the period that such event and its consequences continue, but only to the extent so prevented due to the Force Majeure Event; and
- 11.2.2. the Affected Party shall not be liable for any such delay or failure in the performance of any of its affected obligations thereunder or for any loss or damage (general, special or consequential) which the Other Party may suffer due to or resulting from such delay or failure, but only to the extent caused by the Force Majeure Event.
- 11.3. The Affected Party shall use its reasonable endeavours to terminate the circumstances giving rise to such Force Majeure Event. Upon termination of the circumstances giving rise to the Force Majeure Event, the Affected Party shall forthwith give written notice thereof to the Other Party.
- 11.4. It is recorded that a direct or indirect inability by the Customer to pay shall not constitute a Force Majeure Event.
- 12. BREACH**
- 12.1. If either Party ("**the Defaulting Party**") commits any breach of the Agreement and fails to remedy such breach within 10 (TEN) Business Days from receipt of written notice requiring the breach to be remedied, then the other Party ("**the Aggrieved Party**") will be entitled, without prejudice to any of its other rights in law, including any right to claim damages, to demand immediate specific performance of the Defaulting Party's obligations in terms of the Agreement, or, in the case of material breach, to terminate the Agreement on written notice to the Defaulting Party.
- 12.2. If the Customer is the Defaulting Party, then on the failure by the Customer to remedy its breach as provided for in 12.1, Chempure will be entitled, at its option and without prejudice to any of its other rights in law:
- 12.2.1. to claim immediate payment or specific performance of any of the Customer's obligations under the Agreement, with or without claiming damages, whether or not such obligation has fallen due for performance; or
- 12.2.2. to cancel the Agreement, with or without claiming damages, in which case written notice of the cancellation shall be given to the Customer, and the cancellation shall take effect on the furnishing of the notice;
- 12.2.3. and in any event:

- 12.2.3.1. to suspend the delivery of Goods on the conditions notified in writing by Chempure;
- 12.2.3.2. to claim the immediate return of all Goods of which Chempure has reserved its ownership;
- 12.2.3.3. to exercise all such rights of security which have been granted to Chempure by the Customer or any other person; and
- 12.2.3.4. in any event, to exercise all such rights of security which have been granted to Chempure by the Customer or any other person.
- 12.3. The Customer hereby consents in terms of section 58 of the Magistrates' Court Act 32 of 1944, as amended, to judgement being taken against it in respect of any amount owed by it to Chempure upon cancellation of the Agreement.
- 12.4. Chempure's remedies in terms of this clause 12 are without prejudice to any other remedies to which Chempure may be entitled in law.
- 12.5. A certificate signed by any manager or director of Chempure, whose authority it shall not be necessary to prove, as to the existence and amount of indebtedness of the Customer and/or the Surety at any time and as to the fact that the same is due and payable shall be sufficient proof, for the purposes of provisional sentence and summary judgement against the Customer and/or the Surety in any competent court, of the existence of the debts referred to in such certificate, and amounts owing thereon and the fact that such amounts are liquidated, due and owing and have not been paid.
- 12.6. In event of breach of the Agreement, the Customer will be liable for Chempure's legal costs incurred, on a scale as between attorney and own client, which costs shall be due on demand.
- 13. SURETYSHIP**
- 13.1. Each Surety hereby binds themselves as surety and co-principal debtor jointly and severally together with the Customer in favour of Chempure for the repayment on demand of any sum of money which the Customer now owes or may hereafter owe to Chempure arising from the Agreement and for the due fulfilment of all obligations of the Customer to Chempure in respect of such indebtedness. The Surety hereby renounces the benefits of cession of action, excussion, division, *exceptio de duobus vel pluribus reis debendi*, exception of revision of accounts, exception of no value received, *exceptio erroris calculi*, *exceptio non numeratae pecuniae*, and *exceptio non causa debiti*, the full force, meaning and effect of which the Surety declares himself to be fully acquainted with. To the extent that the law requires the consent of the Surety's spouse, the Surety warrants that such consent has been given and will provide such written consent on demand by Chempure.
- 13.2. The Surety chooses, as his *domicilium citandi et executandi* for all purposes under the Agreement, in respect of court process, notice or other documents or communications of whatsoever nature, the physical address of the Customer as set out in the invoice.
- 13.3. The Surety consents to a credit check being conducted on him with any credit bureau of Chempure's choice.
- 14. CESSION**
- 14.1. As security for any and all obligations which the Customer now has, or may from time to time have, in terms of this Agreement, including any amount due to Chempure from any cause whatsoever ("the Secured Obligations"), the Customer hereby cedes, transfers and makes over, and pledges, *in securitatem debiti* to Chempure all of the Customer's right, title and interest in and to the:
- 14.1.1. Book Debts; and
- 14.1.2. Customer Bank Accounts, ("the Ceded Rights").
- 14.2. The Customer shall, as soon as possible after the Effective Date, but by no later than 5 (FIVE) Business Days of the Effective Date, notify the relevant banks of the cession in security of the Customer's bank accounts and ensure that the interests of Chempure are noted against all such bank accounts.
- 14.3. The Customer shall provide Chempure with confirmation from the relevant banks that the interests of Chempure have been noted against all bank accounts of the Customer within 5 (FIVE) Business Days of written request by Chempure.
- 14.4. The Customer shall deliver to Chempure full and complete schedules setting out details of the Customer's debtors and the amounts owing to the Customer by such debtors on the last day of the preceding calendar month, within 5 (FIVE) Business Days of a written request by Chempure from time to time.
- 14.5. In the event of breach by the Customer or non-payment of any of the Secured Obligations, and a subsequent failure by the Customer to remedy such breach (where in Chempure's sole discretion such breach is capable of being remedied) within 10 (TEN) Business Days of written notice to do so, then, without prejudice to any of Chempure's rights in terms of this Agreement or in terms of Applicable Law, all amounts due in terms of this Agreement shall immediately become due and payable to Chempure, and Chempure shall be entitled but not obliged, without notice to the Customer and without first obtaining any order of Court:
- 14.5.1. to exercise all, or any part of, the rights, powers and privileges attaching to the Ceded Rights, or that are afforded to the Customer pursuant to the Ceded Rights, as though Chempure were the Customer, including taking possession of the Ceded Rights on written notice to the Customer and any relevant third party;
- 14.5.2. to sell, alienate, purchase, transfer, compromise, receive payment for, delivery of and/or performance in respect of, the Ceded Rights; and
- 14.5.3. to pay the any surplus of the proceeds of the realisation of the Ceded Rights to the Customer of the claim against the Customer.
- 14.6. Chempure has no obligation to the Customer to maintain, monitor or otherwise ensure that the *status quo* with regards to the Ceded Rights is maintained and the Customer hereby holds Chempure harmless for any loss, costs or claims arising as a result thereof.
- 14.7. The Customer undertakes to sign any document or do any other act necessary to vest the Ceded Rights in Chempure or otherwise necessary to perfect this Agreement, and to enable Chempure to take possession of the bank accounts.
- 14.8. This cession operates as continuing covering security notwithstanding any temporary extinction of the Secured Obligations, and shall remain in full force and effect until Chempure has delivered written notice to the Customer releasing the Customer from the Cession.
- 15. SUMMARY TERMINATION**
- 15.1. Chempure shall be entitled, without prejudice to any other rights or remedies to which it may be entitled in such circumstances, to terminate the Agreement forthwith in any one or more of the following circumstances:
- 15.1.1. if the Customer is wound up, liquidated, sequestered, deregistered, placed in business rescue or placed under judicial management, whether provisionally or finally, and whether voluntarily or compulsorily, or passes a resolution for any such event, or has any such application or other process brought against or in respect of it; or
- 15.1.2. if the Customer enters into a compromise or attempts to enter into a compromise with its creditors; or
- 15.1.3. if the Customer has any judgement (or similar award) awarded against it and fails to satisfy such judgement within 30 (THIRTY) days after demand; or
- 15.1.4. if the Customer commits any act that is calculated to harm the reputation of, or goodwill attaching, to Chempure.
- 15.2. Chempure is entitled to terminate the Agreement at any time on the delivery of 1 (ONE) calendar month's written notice to the Customer.
- 16. WARRANTIES AND INDEMNIFICATION**
- Notwithstanding any other clause in the Agreement:
- 16.1. All warranties of Chempure shall be confined to the terms of warranties provided by each manufacturer of the Goods at the time that a claim is made in writing by the Customer, and Chempure shall not under any circumstances be liable for any warranty, indemnification, claim, loss, liability, cost, or expense which extends beyond that which is provided in respect of the quality non-conformance.
- 16.2. Subject to clause 6.4 above, Chempure makes no warranties as to the usability, durability, or fitness for purpose of the Goods.
- 16.3. In the event that the Goods have been proven to be defective in terms of this clause 16 or otherwise, as the Customer's sole and exclusive remedy, Chempure will replace such Goods and neither Chempure nor the manufacturer will be liable to the Customer or any third party, for any injury, loss, damage, whether direct, indirect, consequential or otherwise, arising out of the use or the inability to use the Goods or any other cause of action.
- 16.4. The Customer shall indemnify Chempure, and hereby holds Chempure harmless, against any claim or action that may be brought or threatened by any third party in respect of any liability, loss, damages, expenses or costs relating to or arising from or in connection with the Goods supplied by Chempure to the Customer.
- 16.5. The Customer warrants that as at the Effective Date, no prior cession, assignment, transfer or encumbrance of the Ceded Rights has been granted to any third party, and that the Ceded Rights are free of any encumbrance or third-party claims.
- 16.6. The Customer warrants and undertakes that, in the event that there is any prior ranking cession in respect of the Ceded Rights, clause 14 shall operate as a cession of reversionary rights, becoming fully effective once such prior-ranking cession has been terminated, discharged or fulfilled.
- 16.7. Chempure shall not be liable to the Customer for any losses which constitute indirect, special or consequential damages.
- 16.8. Each Party warrants to the other Party that it has the power, authority and legal right to sign and perform in terms of the Agreement, and that the Agreement has been duly authorised by all necessary actions of its directors and constitutes valid and binding obligations on it in accordance with the terms of the Agreement.
- 17. PRIVACY CONSENTS**
- The Customer hereby:
- 17.1. warrants that the information set out in the Chempure Credit Application is true and correct in all respects, and undertakes to immediately notify Chempure should any of the information contained therein change;
- 17.2. consents to the processing by Chempure, each member of Chempure's group, and any third party on behalf of Chempure, in accordance with POPIA, of Personal Information of the Customer, and all Personal Information of third parties furnished by the Customer to Chempure, to enable Chempure to perform its contractual obligations to the Customer;
- 17.3. warrants that all Personal Information furnished by the Customer is strictly necessary for the compliance by Chempure of its contractual obligations to the Customer;
- 17.4. warrants that the Customer has obtained the consent, in accordance with POPIA, to the processing by Chempure of any Personal Information of third parties furnished by the Customer to Chempure; and
- 17.5. consents to a credit check being conducted on the Customer and its principals (including directors, members, and shareholders) with any Credit Bureau of Chempure's choice.
- 18. DOMICILIA AND NOTICES**
- 18.1. The Parties choose as their *domicilia citandi et executandi* for all purposes under the Agreement, whether in respect of court process, notice or other documents or communications of whatsoever nature, the following addresses:
- 18.1.1. Chempure:  
Physical Address: 50 Kambathi Street, N4 Gateway Industrial Park, Willow Park Manor, Ext 65, Pretoria, 0002  
Email Address: [dolan@chempure.co.za](mailto:dolan@chempure.co.za)  
Reference: Chempure Credit Application

- 18.1.2. The Customer: The physical and email addresses as set out in the Chempure Credit Application, or in the absence thereof, as set out in an Order.
- 18.2. Any notice or communication required or permitted to be given in terms of the Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by email.
- 18.3. Either Party may by written notice to the other Party change the physical address chosen as its domicilium citandi et executandi to another physical address, provided that the change shall become effective on the 4th (FOURTH) Business Day from the deemed receipt of the notice by the other Party.
- 18.4. Any notice to a Party:
- 18.4.1. sent by prepaid registered post in a correctly addressed envelope to it at its domicilium citandi et executandi shall be deemed to have been received on the 10th (TENTH) Business Day after posting (unless the contrary is proved); or
- 18.4.2. delivered by hand to a responsible person during ordinary business hours at its domicilium citandi et executandi shall be deemed to have been received on the day of delivery; or
- 18.4.3. sent by email to its chosen email address, shall be deemed to have been received on the date of dispatch (unless the contrary is proved).

## 19. GENERAL

- 19.1. The Customer shall not be entitled to cede or assign any of its rights or delegate any of its obligations under the Agreement without the written consent of Chempure, which consent will not be unreasonably withheld.
- 19.2. Chempure shall be entitled to cede or assign any of its rights or delegate any of its obligations under the Agreement, on notice in writing to the Customer, and the Customer shall on the written demand by Chempure promptly execute any document required to effect such cession or assignment.
- 19.3. Save as expressly provided for herein, each paragraph, clause, term and provision of the Agreement and any portion thereof shall be considered severable, and if for any reason any part of the Agreement is held to be invalid or unenforceable, same shall not impair the validity and operation of the remainder of the Agreement, which shall continue to be in full force and effect and be binding upon the Parties.
- 19.4. The Agreement constitutes the sole record of the agreement between the Parties with regard to the subject matter hereof. Neither Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
- 19.5. No addition to, variation of, or agreed cancellation of, the Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties.
- 19.6. No relaxation, indulgence or extension of time, which any Party may grant to any other, shall constitute a waiver of the rights of that Party, or preclude that Party from exercising any existing or future rights.
- 19.7. Without prejudice to any other provision of the Agreement, any successor-in-title of either Party shall be bound by the Agreement.
- 19.8. The Agreement shall be interpreted and governed by the laws of the Republic of South Africa.
- 19.9. The Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.
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