

TERMS OF SALE

Unless otherwise expressly agreed to in writing by Fielding Chemical Technologies Inc. (FCT), all sales shall be subject to the following terms and conditions.

FCT warrants that the products herein described shall conform to FCT's specifications for such products. FCT's obligations under such warranty shall be limited to replacing any product which does not conform to FCT's specifications. This warranty shall constitute FCT's sole liability and Buyer's sole remedy, and is in lieu of all other warranties and conditions, written or verbal, express or implied, statutory or otherwise, including but not limited to merchantability or fitness for any particular purpose. Buyer assumes all risks and responsibilities for results in use of the products or handling of the products, whether singly or in combination with other products.

In accepting the products described herein, Buyer shall be deemed to have declared itself familiar with the nature, hazards and use of the products and their containers and shall assume all liability resulting from, or in any way connected with their possession, transportation, handling or the use thereof or their suitability for any particular end use.

The rate of existing taxes, duties, exchange taxes or other charges shall be the rate in effect at the time of transfer of title to Buyer. Title to and ownership of the products shall remain with FCT, at Buyer's risk, until all amounts due to FCT with respect to the products are paid in full, at which time title shall pass to Buyer. After acceptance of goods, Buyer shall be liable for all loss of or damage to the products, however caused, and assumes all of the obligations and risks of an absolute owner.

Claims on account of defect in quality, or loss of, damage to, or shortage in quantity of, the products shall be deemed to be waived by buyer unless made in writing within ten (10) days from the date of receipt at destination and the amount of any such claim and FCT's liability shall in no event exceed the purchase price of the products with respect to which such claim is made, together with the transportation charges paid thereon to destination by Buyer. FCT's weights, volumes, and sizes at shipping points shall govern.

IN NO EVENT SHALL FCT BE LIABLE OR RESPONSIBLE, REGARDLESS OF WHETHER SUCH LIABILITY OR RESPONSIBILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, FUNDAMENTAL BREACH OR OTHERWISE, FOR ANY DEATH OR INJURY, WHETHER PHYSICAL OR MENTAL, OR FOR ANY LOSS OF OR DAMAGE TO REAL OR PERSONAL PROPERTY, OF ANY NATURE OR KIND WHATSOEVER, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOSS OF WORK IN PROGRESS, LOSS OF DATA, DOWN TIME OR LOSS OF PROFITS) ARISING OUT OF THE PRODUCTS, THEIR DESIGN, SPECIFICATIONS, FORMULATIONS, POSSESSION, STORAGE, LOADING, UNLOADING, AND USE, AND WHETHER OR NOT ANY SUCH DEATH, INJURY, LOSS, DAMAGE OR DAMAGES RESULT FROM THE NEGLIGENCE, DEFAULT OR ERROR IN JUDGEMENT OF FCT OR ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

BUYER AGREES TO INDEMNIFY AND HOLD HARMLESS FCT AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND CONTRACTORS, FROM AND AGAINST ANY AND ALL LIABILITY, DAMAGES, LOSSES, COSTS, JUDGEMENTS, FINES, PENALTIES AND EXPENSES (INCLUDING LEGAL EXPENSES) OF ANY KIND OR NATURE, INCLUDING, WITHOUT LIMITATION, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, ARISING OUT OF CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS OR SUITS, WHETHER IN LAW OR IN EQUITY, DUE TO ANY DEATH, INJURY, LOSS, DAMAGE OR DAMAGES AS HEREINBEFORE REFERRED TO.

The waiver by FCT of any breach by Buyer of any of the terms and conditions contained herein, or the failure by FCT to enforce any of the terms or conditions contained herein shall not in any way affect, limit or prevent FCT's right thereafter to enforce and compel strict compliance with each and every term or condition contained herein.

Returnable containers shall remain the property of FCT and shall not be used by Buyer for purposes other than the storage of products delivered therein by FCT. Buyer undertakes to return such containers to FCT promptly when empty. Buyer shall pay FCT container deposit charges, as established by FCT from time to time, and shall remit the amounts of such charges when making payment for the products delivered therein. Container deposit charges will be refunded to Buyer upon return of the containers provided they are returned in good condition.

In the event that FCT agrees to respond to an emergency involving products sold by FCT to Buyer where Buyer has a legal responsibility to respond to the emergency, Buyer agrees to accept the actions of FCT and its affiliates and their respective officers, directors, employees, contractors and agents, and agrees to indemnify and save them harmless from and against all claims, losses, damages, costs, expenses, injuries, liabilities, actions, and proceedings resulting from their actions at the emergency excepting such claims caused by their willful misconduct or gross negligence.

FCT may assist Buyer in unloading the products but this service will be rendered only under the direction of Buyer. Buyer shall indemnify and save FCT and its affiliates and their respective officers, directors, employees, agents and contractors harmless from and against any claims, damages, losses, costs, expenses, injuries, liabilities, actions and proceedings resulting from unloading the products.

Any typographical or clerical errors in any quotation, invoice or packing slip are subject to correction.