

## CHEMSTAR WATER STANDARD TERMS AND CONDITIONS

These Terms and Conditions ("Terms and Conditions") apply to and govern all services (e.g., installation and/or maintenance of water treatment systems, etc.; "Services") performed by, and all supplies, materials and other goods (e.g., treatment chemicals, etc.; "Goods") and equipment (e.g., tanks, pumps, analyzers and controllers, etc.; "Equipment") furnished by, International Chemstar Incorporated d/b/a Chemstar Water ("CHEMSTAR") for or on behalf of the customer who has ordered such Services, Goods and/or Equipment ("Customer"), and are incorporated into all customer purchase orders placed with CHEMSTAR (each, a "PO"). All sales by CHEMSTAR to Customer are expressly conditioned upon these Terms and Conditions, and no provision contained in any order, acceptance, confirmation, payment remittance or acknowledgment which is inconsistent with, different from, or in addition to these Terms and Conditions is binding upon CHEMSTAR unless expressly agreed to in writing by CHEMSTAR. Acceptance by CHEMSTAR of POs is subject to verification of Customer's creditworthiness. All POs are subject to acceptance by CHEMSTAR in writing. Customer's acceptance of Services, Goods and/or Equipment or granting to CHEMSTAR of access to Customer's facilities in furtherance of CHEMSTAR's performance of Services constitutes Customer's acceptance of these Terms and Conditions. The term of service, including any minimum term commitment, and any renewal provisions, and any other terms and specifications shall be as set forth in the PO executed by CHEMSTAR and Customer for the subject Services. These Terms and Conditions together with the PO for the subject Services (including the related CHEMSTAR quote, if expressly incorporated therein), and/or any other written agreement entered into by the parties which incorporates these Terms and Conditions, shall constitute the parties' "Agreement." Services may be provided by CHEMSTAR or its authorized contractors. Where included in the PO, the Services shall also include the furnishing of related Goods and Equipment. Unless stated otherwise in the PO, all Equipment furnished by CHEMSTAR is and remains the property of CHEMSTAR.

**1. QUOTE; ACCESS.** All rate quotes by CHEMSTAR are valid for 30 days, unless otherwise specified. These Terms and Conditions shall be evergreen and shall apply to all transactions between CHEMSTAR and Customer unless different terms and conditions are agreed to in writing signed by both CHEMSTAR and Customer. In the case of CHEMSTAR, any such signed writing must be signed by an officer to be effective. Customer must furnish CHEMSTAR, in writing, with complete and accurate information and data relevant to the scope of Services to be provided, such as information about site conditions, systems, related equipment and processes, feed water or other substances to be treated or measured with the Goods and Equipment, including any hidden, unapparent or changing conditions that may affect the effectiveness of the Services. Customer is responsible for affording appropriate access to CHEMSTAR for its performance of Services and ensuring a safe work site. CHEMSTAR reserves the right to reprice its Services, or terminate the Agreement, if there are changes to Customer's systems or variances from the design basis agreed to in connection with the quote.

**2. RATES AND PAYMENT TERMS.** The rates and charges for Services, Goods and Equipment shall be set forth in each mutually agreed upon signed PO (which may incorporate those set forth in the corresponding quote) and, unless the PO provides otherwise, are due and payable in advance. The rates are subject to change by CHEMSTAR upon 60 days' prior written notice due to industry wide increases in Service rates, regulatory compliance or CHEMSTAR's costs. In the event Customer disputes any portion of any invoice, Customer must give CHEMSTAR written notice of such disputed portion within 30 days after Customer's receipt of such invoice and shall pay to CHEMSTAR the undisputed portion of the invoice without delay. Once any disputed portion is settled, Customer shall pay the settled amount, if any, within the original payment timeframe, or if such original timeframe has already elapsed then payment shall be due immediately. If Customer fails to pay any invoiced amounts when due, CHEMSTAR may, at its sole discretion, defer further Service until payment has been made (in which event, CHEMSTAR may elect to extend the term of the Agreement for a time equal to that for which Services were so deferred), and interest will accrue on each unpaid amount at the rate of 1.5% per month, or the maximum amount allowed by law if less, from the date due until paid in full. Interest shall not be charged on any disputed invoice item that is finally resolved in Customer's favor. Customer is responsible for reimbursing CHEMSTAR for CHEMSTAR's out of pocket costs of collecting delinquent amounts owed to it by Customer. Except as set forth herein, all fees and charges are nonrefundable.

**3. TAXES.** Federal, state, and local taxes are not included in CHEMSTAR's Rates. Customer is responsible for any taxes applicable to the provision of Services or the sale of Goods or Equipment, except for taxes based on CHEMSTAR's income or based on wages paid to CHEMSTAR's employees.

**4. WARRANTY.** CHEMSTAR warrants that the Services will conform to the descriptions set forth in CHEMSTAR's quote for the duration of the term of Service, *provided* Customer adheres to all instructions furnished by CHEMSTAR and Customer has furnished CHEMSTAR with complete and accurate information and data relevant to the scope of Services to be provided. If Customer believes CHEMSTAR has breached the Service warranties, Customer must notify CHEMSTAR in writing within 5 business days of the claimed occurrence of non-conformity and CHEMSTAR shall be given 30 days to cure the breach. THIS WARRANTY IS VOID IF NON-CONFORMANCE IS DUE TO ALTERATION OF ANY CHEMSTAR EQUIPMENT BY ANY PERSON OTHER THAN A CHEMSTAR EMPLOYEE OR AUTHORIZED CONTRACTOR OR ANY IMPROPER HANDLING OR USE

BY CUSTOMER OR THIRD PARTIES OF ANY EQUIPMENT OR GOODS FURNISHED OR INSTALLED BY CHEMSTAR IN CONNECTION WITH THE SERVICES. THE COMBINATION OF SUCH EQUIPMENT OR GOODS WITH ANY OTHER PRODUCT, CHEMICAL OR EQUIPMENT NOT EXPRESSLY APPROVED BY CHEMSTAR SHALL AUTOMATICALLY CANCEL ALL WARRANTIES. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTIES IN CONNECTION WITH PERFORMANCE OF THE SERVICES, OR THE EQUIPMENT AND GOODS USED IN CONNECTION WITH SUCH PERFORMANCE, WHETHER EXPRESS OR IMPLIED OR ARISING DUE TO COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, EXCEPT FOR THE LIMITED WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 4. CHEMSTAR'S SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY IN ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE, ARISING OUT OF PERFORMANCE OF THE SERVICES IS EXPRESSLY LIMITED TO REPERFORMANCE OF THE SUBJECT SERVICE, THE REPLACEMENT OF THE EQUIPMENT OR GOODS USED IN CONNECTION THEREWITH UPON RETURN OF THE UNUSED PORTION TO CHEMSTAR OR TO THE ALLOWANCE TO CUSTOMER OF CREDIT FOR THE COST OF SUCH ITEMS, AS ELECTED BY CHEMSTAR. FOR TREATMENT SERVICES, CHEMSTAR IS RELEASED FROM ALL REPRESENTATIONS AND WARRANTIES (INCLUDING THOSE SET FORTH IN CHEMSTAR'S QUOTE) IN THE EVENT THAT CHEMSTAR DETERMINES THAT CUSTOMER HAS NOT PROVIDED THE STIPULATED QUALITY AND QUANTITY OF INFLUENT WATER. THE WARRANTY OFFERED HEREIN BY CHEMSTAR FOR TREATMENT SERVICES SHALL LAST FOR THE DURATION OF THE SERVICE, OR, IF CUSTOMER IS PURCHASING SPECIALLY DESIGNED EQUIPMENT FROM CHEMSTAR UNDER A CAPITAL SALE SCENARIO, THE WARRANTY SHALL BE FOR A TERM OF 1 YEAR FROM THE DATE OF DELIVERY OF THE EQUIPMENT TO CUSTOMER'S SITE. OTHERWISE, FOR THE RESALE BY CHEMSTAR OF GOODS OR EQUIPMENT NOT MANUFACTURED BY CHEMSTAR, THERE IS NO WARRANTY OTHER THAN TO THE EXTENT CHEMSTAR CAN ASSIGN THE MANUFACTURER'S WARRANTY TO CUSTOMER, AND A 90-DAY WARRANTY ON ANY INSTALLATION PERFORMED BY CHEMSTAR IN RELATION TO THE SALE OF SUCH EQUIPMENT. CHEMSTAR SHALL NOT BE LIABLE TO ANY PARTY, INCLUDING CUSTOMER, FOR THE MISUSE OR MISAPPLICATION OF WATER OR CHEMICALS BY CUSTOMER OR ANY THIRD PARTIES USED OR FURNISHED IN THE PERFORMANCE OF THE SERVICES.

### **5. CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY.**

(A) CHEMSTAR WILL NOT BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, OR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER ARISING UNDER WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION, OR ANY OTHER CAUSE OR COMBINATION OF CAUSES WHATSOEVER, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT CHEMSTAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.

(B) IN NO CASE WILL CHEMSTAR'S LIABILITY FOR ANY CLAIM RELATING TO SERVICES OR THE AGREEMENT WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AMOUNT PAID TO CHEMSTAR BY CUSTOMER FOR THE SPECIFIC SERVICES GIVING RISE TO SUCH LIABILITY, NET OF ANY CREDITS OR REFUNDS.

(C) The limitation of liability set forth in Section 5(b) shall not apply to liability resulting from CHEMSTAR's gross negligence or willful misconduct.

**6. INSURANCE.** Upon request, CHEMSTAR can provide a certificate of insurance to Customer evidencing Workers' Compensation, Employer Liability, General Liability and Auto Liability coverages. Specific amounts of coverage will be outlined in the certificate but are not less than as statutorily required.

### **7. TERMINATION AND SUSPENSION.**

(A) As noted above, the minimum term of Service, and any renewal term, shall be set forth in the Agreement (the "Term").

(B) CHEMSTAR shall have the right to terminate the Agreement or suspend any and all Services upon written notice to Customer if Customer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, or if Customer breaches any of the provisions of the Agreement and fails to cure same to CHEMSTAR's satisfaction within 30 days of written notice of breach, or if Customer repeatedly is delinquent in paying fees and charges owing to CHEMSTAR.

(C) If CHEMSTAR is in violation of any provision of the Agreement, then Customer may suspend the provision of Services upon written notice until CHEMSTAR cures the breach to the reasonable satisfaction of Customer or CHEMSTAR notifies Customer that the matter has been resolved and that CHEMSTAR is ready to resume conforming Service, or terminate the Agreement upon written notice if such breach has not been cured to the reasonable satisfaction of Customer within 30 days of CHEMSTAR's receipt of notice of breach. Any notice given under this Section 7(C) must include sufficient detail to allow CHEMSTAR to troubleshoot the issue. Customer shall pay any increased costs incurred by CHEMSTAR

related to any suspension of Service by Customer if CHEMSTAR reasonably determines in good faith that such suspension was not due to the fault of CHEMSTAR.

(D) Either party may terminate the Agreement upon 30 days' prior written notice to the other party.

(E) If Customer terminates the Agreement before the end of the Term other than pursuant to Section 7(C), or CHEMSTAR terminates the Agreement before the end of the Term under Section 7(B), Customer is responsible for paying CHEMSTAR the fees related to the Services to be performed for the remainder of the Term, including any Goods that have been ordered but remain in production and inventories of special order supplies which CHEMSTAR cannot cancel or return to its supplier, plus any cancellation charges which are assessed against CHEMSTAR by its suppliers. If Customer terminates the Agreement pursuant to Section 7(C) or Section 15, or CHEMSTAR terminates the Agreement pursuant to Section 7(D), Customer shall only be responsible for Service fees and related charges incurred through the date of termination.

(F) Where Customer has contracted to purchase Equipment from CHEMSTAR, then any termination by Customer shall result in Customer paying any termination costs outlined in CHEMSTAR's quote or other sale documentation, or, if no termination costs are specified, then Customer shall pay CHEMSTAR for all costs incurred by CHEMSTAR in the design, fabrication, or other efforts to build the Equipment ordered by Customer.

**8. CONFIDENTIALITY.** The parties hereto covenant and agree each with the other that any trade and other secret processes, information, data, or designs given, disclosed, or supplied by one to the other will at all times thereafter be kept confidential by such other party and such other party will not at any time thereafter disclose any such trade or other secrets, processes, information, data, and designs to any person, firm, or corporation whomsoever or whatsoever, except to the extent that the same is (a) part of the public domain through no fault of the receiving party; (b) in the prior possession or knowledge of the receiving party; (c) obtained by the receiving party from third parties as a matter of right and without restrictions as to disclosure; or (d) required to be disclosed to any federal, state or local court or agency, in which case, notice shall be given as soon as practicable to allow a party to dispute the required disclosure in such court or agency. Nothing herein shall prevent CHEMSTAR from sharing any confidential information of Customer to the limited extent necessary to allow CHEMSTAR to perform the Services.

**9. IP RIGHTS.** There shall be no transfer of rights to, or interest in, any intellectual property as part of the Services or otherwise under these Terms and Conditions, regardless of the ability to patent or otherwise protect such intellectual property. Each party shall retain all right, title and interest in any documents, processes, know-how, trade secrets or other intangibles as the same were owned before this agreement went into effect. Further, each party shall retain all right, title and interest in any documents, processes, know-how, trade secrets or other intangibles developed by such party during the Services or otherwise under these Terms and Conditions. Customer shall be allowed to keep copies of any reports or other documentation submitted to Customer by CHEMSTAR that contain recommendations or other intellectual property created by CHEMSTAR as part of the Services, but the same shall not be considered "work product" or "work made for hire" for purposes of determining ownership of, or any other rights to, the contents of such reports or documentation.

**10. INDEMNITY.** CHEMSTAR shall defend, indemnify, and hold harmless Customer from any and all losses and damages claimed by a third party in any action or proceeding, against Customer alleging that Customer's use of the Services infringes any U.S. patent or other U.S. intellectual property right, including any final monetary judgments, settlements, reasonable costs and reasonable attorneys' fees awarded therein, *provided* Customer (a) provides CHEMSTAR with prompt notice of the claim; (b) allows CHEMSTAR to control the defense and settlement of the claim, *provided, however*, that CHEMSTAR shall not agree to any injunctive relief or settlement that obligates Customer to perform any obligation, make an admission of guilt, fault or culpability, or incur any expense, without such indemnified party's prior written consent, which shall not be unreasonably withheld, delayed or conditioned; and (c) provides reasonable cooperation to CHEMSTAR. The foregoing indemnity obligation shall not apply to the extent any equipment or materials furnished by CHEMSTAR has been altered or combined with other processes or equipment without authorization by CHEMSTAR or used in violation of any terms of use.

**11. CHEMSTAR'S PROPERTY.** All Equipment and tools or any other property furnished to Customer by CHEMSTAR or specifically paid for by CHEMSTAR for use in the performance of the Services shall be and remain the property of CHEMSTAR; shall be subject to removal at any time upon CHEMSTAR's demand; shall be maintained by Customer in good order and condition and kept free from liens, abuse or misuse; and shall clearly be identified as the property of CHEMSTAR. Customer assumes all liability for loss or damage to such CHEMSTAR property. The foregoing items in this Section 11 shall not apply to Equipment purchased by Customer. Customer is responsible for using any and all Equipment and Goods in accordance with applicable instructions. In the event Customer fails to allow CHEMSTAR to retrieve its Equipment within 30 days of termination of the corresponding Service, Customer shall be liable to CHEMSTAR for the full price of such Equipment.

**12. ASSIGNMENT.** The Agreement may not be transferred or assigned, by operation of law or otherwise, by Customer without the prior express written consent of CHEMSTAR; *provided, however*, Customer may assign the Agreement to a business successor which expressly assumes the Agreement in writing and has a net worth (not including goodwill) equal to or greater than that of Customer at the time of the assignment, as demonstrated

with written financials, or otherwise meets CHEMSTAR's then current credit worthiness standards, to CHEMSTAR's satisfaction. Any transfer or assignment of rights, duties, or obligations hereunder without such consent shall be void; and, shall result in the collection of all fees, expenses, and/or charges associated with such transfer or assignment. Any assignment permitted hereunder shall not relieve Customer of any of its obligations arising prior to the assignment.

**13. GOVERNING LAW.** All claims, actions or other disputes arising out of the Services or the Agreement will be controlled by the internal laws of the State of Maryland. Any dispute arising hereunder shall be the exclusive jurisdiction of the Baltimore County Courts and the parties hereby submit to the personal jurisdiction of such courts and waive any argument of forum non-conveniens.

**14. WAIVER OF JURY TRIAL.** EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE SERVICES. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND (D) IT HAS DECIDED TO ENTER INTO THIS AGREEMENT IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**15. FORCE MAJEURE.** CHEMSTAR shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of CHEMSTAR including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, *provided* that, if the event in question continues for a continuous period in excess of 30 days, Customer shall be entitled to give notice in writing to CHEMSTAR to terminate the Agreement. Fees for Services not provided due to the force majeure event shall abate during the continuance of the force majeure period.

**16. INTERPRETATION.** The Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

**17. ENTIRE AGREEMENT; AMENDMENT; COUNTERPARTS.** The Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. No change, modification, or waiver to the Agreement or to the scope of the Services identified in Customer's order will be binding and valid unless it is accepted in writing and signed by an authorized representative of both parties. The Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of the Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of the Agreement. The Agreement shall be binding upon the parties hereto and their successors and permitted assigns.

**18. SURVIVAL.** These Terms and Conditions shall survive termination of the Agreement as necessary to allow the parties to enforce their respective rights and obligations.

**19. WAIVER.** No waiver of any of the provisions hereof shall be effective unless set forth in writing and signed by the party so waiving. No waiver shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

**20. NOTICES.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth in the Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by third-party messenger (with courier confirmation of delivery), nationally recognized overnight courier (with all fees pre-paid and with tracking), facsimile (with confirmation of transmission) or email (to an email address furnished in writing, provided no undeliverable message is received) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in the Agreement, a Notice is effective only (a) upon receipt by the receiving party (as confirmed by the above means), and (b) if the party giving the Notice has complied with the requirements of this Section. *Version Date: 2020.08.31*