

SHARE SALE AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA

TANZANIA PYRETHRUM BOARD

INTERNATIONAL CHEMICAL INDUSTRIES

AND

**TANZANIA PYRETHRUM PROCESSING AND MARKETING COMPANY
LIMITED**

FOR THE SALE OF 100% SHARES OF THE GOVERNMENT

Drawn By

Legal Unit

Presidential Parastatal Sector Reform Commission

P. O. Box 9252

Dar Es Salaam

SHARE SALE AGREEMENT

This Agreement made on the .5th day of February 1998

BETWEEN:

The **GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA** (the **Government**) represented by the **Presidential Parastatal Sector Reform Commission (PSRC)**, a Commission established by the Public Corporations (Amendment) Act, 1993 and having its Head Office in Dar es Salaam, Tanzania duly authorized by virtue of a Power of Attorney from the Treasury Registrar reproduced in **Appendix 1** hereto; (hereinafter referred to as the "**GOVERNMENT**")

OF THE FIRST PART

AND

TANZANIA PYRETHRUM BOARD a statutory body established under the laws of Tanzania having its Principal offices in Iringa

OF THE SECOND PART

[hereinafter referred collectively as the **Vendors**"]

INTERNATIONAL CHEMICAL PRODUCERS CC a **Company** established and organised under the laws of the Republic of South Africa, having its Head Office in Cape Town, South Africa (hereinafter called the "**Purchaser**");

OF THE THIRD PART

AND

TANZANIA PYRETHRUM PROCESSING AND MARKETING COMPANY a **Company** established and organised under the laws of Tanzania, having its Head Office in Dar Es Salaam (hereinafter called the "**Company**")

OF THE FOURTH PART

WITNESSETH:

WHEREAS, the decision of the **Government** on the divestiture of the **Company** takes into consideration national economic reform objectives, among which are: -

- the maximisation of **Government** revenue through enhanced corporate taxes;
- rehabilitation and expansion of the pyrethrum industry;
- transfer of technology and management skills to Tanzanians; and
- safeguarding and developing the employment base;

WHEREAS, the divestiture of the **Company** takes into consideration the following **Company** objectives:

- increased production and profitability and achieving competitive pyrethrum prices;
- enhancement of internal and external demand for the **Company** products through quality improvement and aggressive marketing, both locally and internationally;
- training and development of human resources;
- enhancement and promotion of environmentally friendly production facilities; and
- contribution to health and social facilities for the employees of the **Company** and their families;

WHEREAS, the **Company** was incorporated on the 1987 under the Companies Ordinance (Cap.212) of the United Republic of Tanzania;

WHEREAS, the **Company's** authorized share capital is Tsh three hundred million [Tsh 300,000,000] divided into three hundred thousand [300,000] ordinary shares of a value of Tanzania Shillings One Thousand each [Tsh 1,000] of which have been issued and are fully paid;

WHEREAS, prior to execution of this Agreement all the issued ordinary shares of the **Company** were legally owned and beneficially owned by the **Treasury Registrar**;



WHEREAS, under the terms of the Memorandum of Understanding dated the thof July 1997, the **Vendor** has agreed to sell to the **Purchaser**, and the **Purchaser** has agreed to buy from the **Vendor**, all the issued and outstanding ordinary shares of the share capital of the **Company** for a consideration of US\$ One Million Five Hundred Thousand (US\$ 1,000,500) and otherwise subject to the conditions set forth herein;

WHEREAS, the **Purchaser** agrees to carry out the Business Plan and the **Purchaser** will arrange the necessary funding to carry out such programme as hereinafter provided;

WHEREAS, the Parties believe that the agriculture industry in the United Republic of Tanzania has great development potential which will best be realised by the **Purchaser** investing in the **Company**;

WHEREAS, the **Purchaser** is willing to effectively provide a broad range of technical and managerial expertise and resources to the joint **Company** which include management systems and techniques, measuring and monitoring of quality standards, manufacturing, plant rehabilitation and processing techniques, marketing and distribution methods, procurement of spare parts, raw materials, plants, machinery, environmental protection, technology, know-how and the provision of information and technology in relation to pyrethrum production;

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the Parties hereto as set forth hereinafter, it is mutually agreed as follows.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions bear the meaning assigned to them hereunder (and cognate expressions bear corresponding meaning): -

"Agreement" means this Sale of Shares Agreement as originally executed, the Appendices thereto, which are an integral part of this Agreement, and any amendments to this Agreement or to the Appendices subsequently agreed upon from time to time in writing by the Parties;

"Bid Document" means the Offer and Bid Submission of the **Purchaser** made to the **Vendor** on the 20th February 1997, which is reproduced in **Appendix 2** hereto;



"**Business Plan**" means the Business Plan described in the Bid Document with additions as may have been agreed between the parties

"**Closing**" means the date on which the **Purchaser** will pay the Purchase Price and the **Vendor** will transfer the Purchased Shares to the **Purchaser**, the Parties will agree on the date of Closing but in any event the Parties commit that Closing will take within 45 days after signing of the Share Sale Agreement unless otherwise agreed to between the Parties in writing;

"**Conditions**" means the conditions precedent referred to in Article 2;

"**Parties**" means all the signatories to the Agreement, and "**Party**" means any of the signatories to the Agreement, as the case may be;

"**Purchase Price**" the purchase price referred to in Article 3.1.

"**Tsh**" means Tanzania shillings, being the unit of currency of the United Republic of Tanzania; and

"**US\$**" means the United States Dollar, being the unit of currency of the United States of America.

- 1.2 References to the singular include, when the context so admits, references to the plural and vice versa and reference to Articles and Appendices are references to Articles of and Appendices to the Agreement.
- 1.3 Words importing the masculine gender include the feminine gender and vice versa; words importing persons include companies and corporate bodies; and words such as "hereunder", "hereto", "hereof", "herein" and other words commencing by "here" shall, unless the context clearly indicates to the contrary, refer to the whole of the Agreement and not to any particular Article of the Agreement.
- 1.4 The headings as used in the Agreement are for convenience of reference only and shall be ignored in the construction of any of the terms and provisions hereof.
- 1.5 In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid or illegal in any respect, such

invalidity or illegality shall not affect any other provisions thereof and the invalid or illegal provisions will be deemed never to have been contained herein. In the event of any such invalidity or illegality, the Parties shall use their best efforts to achieve the purpose of the relevant provision by a new legally valid and legal stipulation.

- 1.6. As between the Parties hereto, in the event of any difference, conflict or ambiguity between the provisions of the Bid Document and those contained in the Agreement, the terms of the Agreement shall in all circumstances prevail.

2. CONDITIONS PRECEDENT

The whole of the Agreement is subject to the fulfilment of the following conditions precedent before Closing:

- (i) the signing of the document assigning of the Company's liabilities to the Treasury or the BOARD in respect of those liabilities not taken over by the **Purchaser**.
- (ii) the execution of the share transfer form with respect to the Purchased shares.
- (iii) the receipt by the **Vendor** of an amount referred to in Article 3.4 herein.

3. SALE OF SHARES

- 3.1 Subject to the terms and conditions hereof, the **Vendor** hereby sells to the **Purchaser**, and the **Purchaser** hereby buys from the **Vendor**, with effect from Closing the Purchased Shares one hundred per cent [100%] free and clear of all liens, encumbrances, restrictions and claims of any kind, hereinafter referred to as (the "Shares") held by the Government as of the date hereof, pursuant to the terms and conditions set out hereinafter for a consideration of United States Dollars One million and Five Hundred (US\$ 1,000,500), hereinafter referred to as the "Purchase Price" which shall be paid in accordance with Articles 3.2, 3.3, 3.4.
- 3.2 It is recorded that a sum of United States Dollars One Hundred Thousand Five Hundred Thousand (US\$ 100,500) being ten percent (10%) of the Purchase Price has already been paid on signing of the Memorandum of Understanding on account of the Purchase Price to the **Vendor** by the **Purchaser**.
- 3.3 On or before 15th December 1997 the **Purchaser** shall pay, in the same manner as described in Article 3.1, United States Dollars One Hundred Thousand (US\$ 100,000) being 25% of the Purchase Consideration for the purchased shares.

3.4 On signing the Sale Agreement hereinafter referred to as the "Agreement" the **Purchaser** shall pay, in the same manner as described in Article 3.1, (US\$ 150,075) being 15% of the Purchase Consideration.

3.5 The balance of (US\$ 500,250) shall be paid in the following manner and subject to the Vendor providing the Purchaser with document of title, free of encumbrances or lien for the purchased landed assets:

20% (US\$ 200,100) to be paid on 15th May 1998

15% (US\$ 150,075) to be paid on 15th August 1998

15% (US\$ 150,075) to be paid on 15th November 1998

3.6 All payments referred to in this clause shall be made in favour of the **Presidential Parastatal Sector Reform Commission** and the **Purchaser** shall provide a Bank guarantee to secure the balance of payment in Article 3.5 above.

3.7 The Purchased Shares are sold subject to exclusion of;

3.7.1 all Company's liabilities including but not limited to, the Company's liabilities to its employees such as wages, severance payment and insurance, and

3.7.2 All properties other than those mentioned in **Appendix 4** shall be retained by the **Vendor**.

3.8 In addition to the Closing and subject to the Article 3.6 herein, the agreement shall be effective once the **Vendor** shall deliver or cause to be delivered to or place under the control of the **Purchaser** share transfer forms duly executed in respect of the Purchased Shares together with the relevant share certificate(s) representing the shares paid for.

3.9 The Assets listed in **Appendix 3** shall be formally handed over to the Company after signing of the Agreement.

4. REPRESENTATIONS AND WARRANTIES

4.1 The **Vendor** represents and warrants as follows to the **Purchaser**, and the **Vendor** acknowledges that the **Purchaser** is relying upon such representations and warranties in entering into the Agreement, and the **Vendor** represents and warrants that such representations and warranties will be true in all material respects on Closing: -

- (i) the **Vendor** has good and sufficient power, authority and right to enter into the Agreement and complete the transactions hereunder;
- (ii) the Purchased Shares of the **Company** are owned by the **Vendor** with good and marketable title and no third party has any rights affecting such shares in any manner whatsoever;
- (iii) there are no pledges, liens or other encumbrances on, over or affecting the Purchased Shares and there is no agreement or arrangement to give or create any such encumbrance and no claim has been or will be made by any person to be entitled to any of the foregoing; no third party has any right (including inter alia any option or pre-emption right) to acquire any of the Purchased Shares;
- (iv) the **Vendor** is entitled to give full legal and beneficial ownership of the Purchased Shares to the **Purchaser** on the terms of the Agreement without the consent of any third party;
- (v) the Purchased Shares shall be validly transferred once the transfer contemplated in the Agreement has been effected and the **Purchaser** shall receive title to the Purchased Shares and become the lawful owner of the Purchased Shares;
- (vi) The Company's authorized share capital is Tsh three hundred million [Tsh 300,000,000] divided into three hundred thousand ordinary shares [300,000] ordinary shares of a value of one thousand each [Tsh 1,000] each of which have been issued and are fully paid; such capital of the **Company** has not been modified except as provided in the Agreement, the authorized but not issued shares have not been issued other than the shares covered by the transaction, and the **Company** has not contracted any obligation to issue additional shares by agreement or otherwise prior to Closing;
- (vii) there are no circumstances in existence to prevent the transfer under the Agreement of Purchased Shares by the **Vendor** to the **Purchaser**;
- (viii) the execution and performance by the **Vendor** of the Agreement does not conflict with, and does not and will not result in a breach of any applicable law, rule or regulation or any material agreement or obligation to which the **Vendor** is a party or by which the **Vendor** is bound, except for breaches which would not individually or in the aggregate impair the validity of the

Agreement or have a material adverse effect on the ability of the **Vendor** to perform its obligations thereunder;

- (ix) the execution of the Agreement and the implementation of the transactions contemplated thereby have been duly and validly authorized by the **Vendor**, its agencies and authorities and such authorisation is in full force and effect, no other proceedings on the part of the **Vendor** are necessary to authorise the execution and delivery of the Agreement or the implementation of the transactions hereunder, and upon due execution and delivery by the other Parties thereto, the Agreement shall be binding and enforceable in accordance with its terms;
- (x) all negotiations relative to the Agreement and the transactions contemplated hereby have been carried out by the Parties hereto without intervention of any person or firm in such manner as to give rise to any valid claim against any of the Parties hereto for a broker's commission, finder's fee or other like payment to any person or entity;
- (xi) the **Company** will be entitled to set the price of its products in accordance with the laws of Tanzania; and
- (xii) subject to the laws of Tanzania, the **Company** will be entitled to sell domestically and export from Tanzania, all or any of its products in such manner and at such prices as it may deem fit including but without limitation the export of such products at such price as may be determined by the **Company** in its discretion provided that all such exports are conducted at market-related prices and upon arm's length terms and conditions.

4.2 The **Company** and the **Vendor** represent and warrant as follows to the **Purchaser**, and the **Company** and the **Vendor** acknowledge that the **Purchaser** is relying upon such representations and warranties in entering into the Agreement, and the **Company** and the **Vendor** represent and warrant that such representations and warranties will be true in all material respects on Closing: -

- (i) the **Company** has good and sufficient power, authority and right to enter into the Agreement and complete the transactions hereunder;
- (ii) the **Company** has been duly incorporated, properly organised and is validly existing and in good standing pursuant to the laws of the United Republic of Tanzania and it has all permits, approvals, licences, consents and the like required for its business as presently conducted including a valid business licence;

- (iii) the **Company** is not under any obligation (whether contingent upon the exercise of any right or otherwise) and no resolution has been passed requiring the Company to increase or to reduce its authorised or issued share capital or to vary any of the rights attaching to the issued shares or to issue any debentures;
- (iv) no resolution has been passed nor is the **Company** obliged to alter its memorandum, by-laws or Articles of Association or to create or to issue any debentures;
- (v) no person has any right to obtain an order for the rectification of the register of members of the **Company**;
- (vi) the **Company** has no subsidiaries;
- (vii) the **Company** has all the powers necessary to carry on its business and is operated in a normal fashion according to Tanzanian usual business practices;
- (viii) the **Company** is not party to any contract outside its ordinary course of business which is not disclosed to the **Purchaser** in writing;
- (ix) there are no actions, suits or proceedings of any nature in existence or, to the best of the **Company's** knowledge, threatened against the **Company** which shall materially affect the financial position of the **Company**;
- (x) the **Company** has complied with governmental regulations and orders applicable to the **Company** and materially affecting its business;
- (xi) the **Company** is not a party to any royalty agreement or restraint of trade agreement pursuant to which it pays a royalty ;
- (xii) the execution and performance by the **Company** of the Agreement does not conflict with and does not and will not result in a breach of the Articles of Association, by-laws or resolutions of the **Company**, and of any applicable law, rule or regulation or any material agreement or obligation to which the **Company** is a party or by which the **Company** is bound, except for breaches which would not individually or in the aggregate impair the validity of the Agreement or have a material adverse effect on the ability of the **Company** to perform its obligations thereunder;
- (xiii) the execution of the Agreement and the implementation of the

transactions contemplated thereby have been duly and validly authorized by the **Company**, and such authorisation is in full force and effect, no other proceedings on the part of the **Company** are necessary to authorise the execution and delivery of the Agreement or the implementation of the transactions contemplated thereby, and upon due execution and delivery by the other Parties thereto, the Agreement shall be binding and enforceable in accordance with its terms;

- (xiv) all negotiations relating to the Agreement and the transactions contemplated hereby have been carried on by the Parties hereto without intervention of any person or firm in such manner as to give rise to any valid claim against any of the Parties hereto for a broker's commission, finder's fee or other like payment to any person or entity;
- (xv) the **Purchaser** all facts and circumstances material to the Agreement and which would be material or would be reasonably likely to be material to a purchaser of the Purchased Shares and the Purchase Price payable in respect thereof of which the **Purchaser** is not aware; and

4.3 The **Purchaser** represents and warrants as follows to the **Vendor**, and the **Purchaser** acknowledges that the **Vendor** is relying upon such representations and warranties in entering into the Agreement, and the **Purchaser** represents and warrants that such representations and warranties will be true in all material respects on Closing: -

- (i) the **Purchaser** is a **Company** duly established, properly organised and validly existing under its law of incorporation;
- (ii) the **Purchaser** has good and sufficient power, authority and right to enter into the Agreement and complete the transactions contemplated hereby;
- (iii) the execution and performance by the **Purchaser** of the Agreement do not conflict with, and do not and will not result in a breach of the Articles of Association or other organisational documents, by-laws or resolutions of **Purchaser**, any applicable law, rule or regulation or any agreement or obligation to which the **Purchaser** is a party or by which the **Purchaser** is bound, except for breaches which would not individually or in the aggregate impair the validity of the Agreement or have a material adverse effect on the ability of the **Purchaser** to perform its obligations hereunder;
- (iv) the execution of the Agreement and the implementation of the

transactions contemplated thereby have been duly and validly authorized by the Board of Directors of the **Purchaser** and no other corporate proceedings on the part of the **Purchaser** is necessary to authorize the execution and delivery by the **Purchaser** of the Agreement or the implementation of the transactions contemplated thereby; upon due execution and delivery by the other Parties hereto, the Agreement shall be binding and enforceable in accordance with its terms;

- (v) the **Purchaser** is acquiring the Purchased Shares of the **Company** for its own account and such shares are being acquired for investment purposes and not with the view to the sale or distribution thereof to third parties other than the **Purchaser's** Affiliates;
- (vi) the **Purchaser** and its counsels, auditors, financial advisors and other agents have had sufficient access to the officers, directors, employees, properties, offices, books and records of the **Company**, and such additional financial and operating data and other information with respect to the **Company** as the **Purchaser** has requested to complete its due diligence investigation;
- (vii) the Business Plan reproduced in Appendix 2 will be implemented in accordance with its terms and conditions; and
- (viii) all negotiations relative to the Agreement and the transactions contemplated hereby have been carried on by the Parties hereto without intervention of any person or firm in such manner as to give rise to any valid claim against any of the Parties hereto for a broker's commission, finder's fee or other like payment to any person or entity.

4.4 Each of the warranties in this Article 4 is given without prejudice to any other warranty and, except where expressly stated otherwise, no Article contained in the Agreement shall govern or limit the extent or application of any other aforesaid warranties.

5. INDEMNIFICATION AND RELATED MATTERS

5.1 The representations, warranties and covenants provided for in the Agreement shall survive the transaction for a two (2) years from Closing and shall be for the benefit of the Parties only. Recovery for misrepresentation or breach of warranty shall be allowed only in respect of claims made prior to the fifteenth anniversary of Closing, and no Party shall have any obligation in respect of claims submitted thereafter.

5.2 Subject to this Article, in the event of any breach or misrepresentation of any warranty, representation or covenants made by either Party under the Agreement, such Party ("Indemnifying Person") shall indemnify the other ("the Indemnified Person") and hold it harmless from direct damages, costs and expenses suffered or incurred by the Indemnified Person or the **Company** as a result of said breach or misrepresentation, provided that the Indemnified Person presents a reasonably detailed claim to the Indemnifying Person in respect of each such breach or misrepresentation (a "Claim" or "Claims") prior to the end of the periods provided for in Article 5.1 above. Neither Party shall be entitled to claim damages for the breach of any warranties, representations or covenants made by the other Parties if such damages have been caused by such other Parties' breach of warranties, representations or covenants.

5.3 Notwithstanding anything to the contrary, neither party shall be entitled to any indemnification or other compensation from the other party where the aggregate direct damages, costs and expenses of all Claims of such party are lower than the sum of US\$ One Hundred Thousand (US\$ 100,000), beyond which amount the Indemnified Person shall be entitled to indemnification for the whole amount of the aggregate direct damages, costs and expenses of all such Claims.

7. PURCHASER'S COMMITMENTS

7.1 The **Purchaser** within the period proposed in the Bid Document undertakes to carry out and implement and cause the **Company** to adopt and implement the Business Plan [**Appendix 2**] in accordance with its terms and conditions, and without limiting the generality of the foregoing, with respect to: -

- [a] implementation of an investment plan of up to United States Dollars Three Million Four Hundred Thousand (US\$ 3.4m) into the company within three years after the acquisition of the Shares of the **Company**;
- [c] implementation of a business plan (the "Business Plan") which includes, among other things, a plan to
 - i] increase the export volume for the products to be manufactured by the **Company**, which shall form part of the Agreement;
 - ii] development and implementation of appropriate training programs for the employees of the **Company**; and
 - iii] hiring of management personnel from the qualified local population whenever possible and enhancement of technology and management skill transfer to the **Company** and Tanzanians.

- 7.2 The **Purchaser** shall prepare and submit to the **Vendor** or its appointed agent half yearly written progress reports on the implementation of the Business Plan and personnel. The **Vendor** shall have authority to monitor the implementation of the Business Plan to ensure it is implemented.
- 7.3 The **Purchaser** shall exercise its best efforts to retain employees of the Company as committed in the Business Plan in the Bid Document and undertakes not to alter by reducing the terms enjoyed by the employees under the current remuneration or compensation benefits or in connection with termination or retirement of employment or office of such persons as required by the labour laws.
- 7.4 **Purchaser** shall create and allot 15% preferential shares to the **Government** at no cost which will be held in trust for the farmers of the pyrethrum flowers which shall have the right to appoint one director to the Board of Directors of the Company to represent the farmers. These shares shall be held by the **Government** until such time as a mechanism will have been put in place to enable the farmers participate in the ownership directly.
- 7.5 Immediately after the signing of the Agreement the parties shall prepare a Trust Deed which will outline the rights and obligations of the shareholders in the **Company**.

8. COVENANTS OF THE VENDOR

- 8.1 In accordance with the immigration laws of Tanzania, the **Vendor** will endeavour to assist the **Company** to obtain the necessary work and residence permits for its expatriate employees and their families provided that the required procedures are complied with.
- 8.2 Assist the **Company** to obtain the Investment Incentives which provides for benefits and incentives under the Tanzania Investment Act 1997 as amended, provided the conditions for obtaining such benefits and incentives are met by the **Purchaser**.

9.0 EXISTING BOARD LIABILITIES AND OBLIGATIONS

- 9.1 All outstanding and contingent liabilities with the exception of the Tanzania Investment Bank estimated at Tanzania shillings Two Hundred Seventy Nine Million (T.Shs. 279,000,000] and obligations of the Company up to the time of the signing of the Sale Agreement shall be the responsibility of the **Vendor**.

9.2 Payment of the liabilities related to or connected with the assets sold hereunder shall be made out of the divestiture proceeds or assumed by the **Vendor**.

10.0 TREATMENT OF EMPLOYEES

The services of employees who will not be employed by the **Company** under the new ownership, shall be terminated and their dues settled by the **Government** prior to or at the same time as the signing of the Sale Agreement and hand over of the Purchased Assets to the **Purchaser**.

11.0 FORCE MAJEURE

11.1 When the obligations of a Party under this agreement cannot be performed in full or in part according to the agreed terms as a direct result of an event, that is unforeseeable and of which the occurrence and consequences cannot be prevented or avoided, such as earthquake, typhoon, flood, fire and other natural disasters, war, insurrection and similar military actions and civil unrest (an "event of force majeure ") The Party shall not be deemed to be in breach of the Agreement if all of the following conditions are met: -

- (i) the event of force majeure was the direct cause of stoppage, impediment or delay encountered by the hindered Party in performing its obligations under the Agreement;
- (ii) the hindered Party used its best efforts to perform his obligations under the Agreement and to reduce the losses of the other party arising from the event of force majeure; and
- (iii) at the time of the occurrence of the event of force majeure the hindered Party immediately informed the other Party sending written information of such event within fifteen (15) days of its occurrence, including a statement of the reasons for the delay in implementing or partially implementing the Agreement.

11.2 If an event of force majeure shall occur, the Parties shall meet within thirty (30) days of its occurrence to consider whether it is desirable to implement emergency measures. The parties shall decide, within one hundred eighty (180) days of such occurrence, whether the Agreement should be amended in the light of the impact of the event upon the implementation hereof, and whether the hindered party should be partially or fully freed from its obligations hereunder.

12.0 DISPUTE SETTLEMENT

- 12.1 In the event of any dispute or difference arising out of or relating to the Agreement or the breach thereof, the Parties hereto shall use their best endeavours to settle such disputes or differences amicably; to this end they shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach a just and equitable solution satisfactory to all Parties.
- 12.2 If they do not reach such solution within a period of sixty (60) days after any Party has in writing requested consultations as per Article 12.1, then the disputes or differences shall be finally settled by arbitration in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules in force at the time of the dispute (the "Rules").
- 12.3 The arbitration shall be conducted by three arbitrators appointed in accordance with the Rules.
- 12.4 The arbitration shall take place in London, England or any other venue as may be agreed by the Parties. The language to be used in the arbitration proceedings shall be English.
- 12.5 The award of the arbitrators in any proceeding shall be final and binding upon the Parties. The Parties hereby agree that such award may be enforced by any court having jurisdiction over the Party against which the award has been rendered or the assets of such Party, wherever the same may be located. In any arbitration proceeding, any legal proceeding to enforce any arbitration award and in any other legal proceeding between the Parties pursuant to or relating to the Agreement, each Party expressly waives the defence of sovereign immunity and any other defence based on the fact or allegation that it is an agency or instrumentality of a sovereign state or is otherwise entitled to immunity, provided that no enforcement proceedings or attachment shall be taken against assets protected under the State Immunity Act of England or the Foreign Sovereign Immunities Act of the United States and provided that prior to enforcement of any award rendered pursuant hereto all applicable notice requirements of the Government Proceedings Act 1967 (as amended) of Tanzania have been complied with.

13.0 TERMINATION

- 13.1 Subject to Article 13.2, the Agreement may be rescinded in the following events: -
- (i) by the **Vendor** if the **Purchaser** becomes insolvent, commits any

act of bankruptcy, takes advantage of any law for the benefit of debtors or goes into voluntary or compulsory liquidation;

- (ii) by the **Vendor** if the **Purchaser** fails to carry out or to cause the **Company** to carry out the Business Plan in accordance with its terms and conditions; and
- (iii) by either the **Vendor** or the **Purchaser** in the event of a material breach of the representations and warranties made by the **Vendor** or the **Purchaser** that is of such an essential nature that the **Vendor** or the **Purchaser** would not have entered into this Agreement had it been aware of the breach of such representation or warranty provided the aggrieved Party has given written notice thereof to the defaulting Party and the defaulting Party has, within a period of grace of ninety (90) days thereafter not remedied the default.

13.2 The rescission of the Agreement for any of the reasons mentioned in Article 11.1(iii) can only be sought within three years from Closing and in that case the **Vendor** shall reimburse to the **Purchaser** all payments made by the **Purchaser** under the Agreement and the **Purchaser** shall transfer the Purchased Shares to the **Vendor** upon receipt of the Purchase Price.

13.3 The Parties' right to seek specific performance or damages shall not be affected by the exercise of its rights to terminate the Agreement as provided in Article 11.2.

14. CONFIDENTIALITY AND PERMITTED DISCLOSURE

14.1 The Parties shall maintain confidential and shall not publicly disclose the subject matter, the terms and contents of this Agreement except with the prior written consent of the other Parties and pursuant to mutually agreeable press releases or to the extent required by law and/or the requirements of any recognised stock exchange.

14.2 The Parties agree to co-operate with each other in development and distribution of all news releases and other public information disclosures relating to the Agreement, its implementation and any transaction incidental thereto.

15. RETURN OF DOCUMENTS

If the Agreement ceases to have effect for any reason the **Purchaser** will

release and return to the **Vendor** all documents concerning the **Company** provided to the **Purchaser** or its advisors in connection with the Agreement and will not use or make available to any other person any information which it or its advisors have been given in respect of the **Company** and which is not in the public domain.

16. COMPANY BOUND BY THE AGREEMENT

16.1 The **Company** undertakes with each of the **Vendor** and **Purchaser** to be bound by and comply with the terms and conditions of the Agreement in so far as they relate to the **Company** and to act in all respects as contemplated by the Agreement.

16.2 The **Vendor** and **Purchaser** undertake with each other to exercise their powers in relation to the **Company** so as to ensure that the **Company** fully and promptly observes, performs and complies with its obligations under the Agreement.

17. MISCELLANEOUS

17.1. Each of the Parties to the Agreement undertakes to take all steps necessary for its implementation and to sign, or to have signed, from time to time all other documents, contracts or writings and to do, or to see that there is done, all that which is considered necessary in order to fulfil the object of the Agreement and in order to give full effect to all of its provisions.

17.2. The Agreement constitutes the complete agreement between the Parties as to the matters herein dealt with.

17.3 The Agreement shall constitute the entire understanding and agreement made by the Parties with respect to the subject matter hereof and supersedes all prior agreements and undertaking between the parties (including the parties' shareholders or Affiliates) relating to the subject matter hereof, all of which prior agreements and undertakings shall be of no force or effect whatsoever. In the event of any contradiction between any document and the Agreement, the terms of the Agreement shall prevail.

17.4 The Agreement can only be modified or amended by a written document signed by each of the Parties to the Agreement.

17.5 The Agreement does not create and shall not be interpreted as being a partnership agreement, none of the Parties will be at any time considered as the authorized agent or the legal representative of the

other Parties and no Party can bind or obligate the others without their express written consent.

- 17.6 Except in the case of express written waiver, the fact that one Party does not exercise all or any part of its rights which are conferred by the Agreement shall not constitute in any event the waiver or abandonment of the rights not exercised.
- 17.7 No party shall be bound by an express or implied term, undertaking representation, warranty, promise or the like not recorded herein.
- 17.8 The Agreement may be executed in one or more counterparts, and in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.
- 17.9 All costs and expenses incurred in connection with the Agreement and the transactions contemplated hereby, including without limitation attorneys, accountants, brokers, finders and financial advisors shall be paid by the Party incurring such expenses.
- 17.10 Subject to the rights of the **Vendor** as stated in Article 9, no Party may transfer or assign the Agreement to any other person, firm or corporation without the prior written consent of the other Party hereto; provided, that the **Purchaser** may transfer or assign the Agreement and its respective rights and obligations hereunder to any of its Affiliates on the condition that the **Purchaser** remains liable for the execution of any of its obligations under the Agreement. The **Purchaser** may be released of that obligation with the approval of the **Vendor**, which cannot be unreasonably withheld, if sufficient security is provided to the **Vendor**.
- 17.11 The provisions of the Agreement shall be binding upon any successor-in-title and assigns of the Parties. Accordingly, the rights and obligations of each Party arising out of the Agreement shall devolve upon and bind its legal personal representative/s, successors-in-title and permitted assigns.
- 17.12 All matters arising from or in connection with the Agreement including, without limitation, its interpretation, validity, existence or termination for any reason shall be determined in accordance with the Laws of the United Republic of Tanzania.
- 17.13 Time shall be of the essence of the Agreement, both as regards to the dates and periods specifically mentioned and as to any dates and periods which may by agreement in writing between the **Vendor** and the **Purchaser** be substituted for them.

17.14 The Agreement has been executed in five originals, all of them being authentic, two for the **Vendor**, two for the **Purchaser** and one for the **Company**.

17.15 The official text of the Agreement shall be in the English language.

17.16 The **Purchaser** shall be responsible for the payment of transfer duty as provided by the Tanzanian laws.

17.17 All notices, requests, consents, demands, waivers or other communications shall be in writing in the English language and shall be sent by hand delivery or by prepaid first class registered air mail or prepaid telegram, telex, or telefax to the addresses set forth below:

For the **Vendor**:
MINISTRY OF FINANCE
Madaraka Avenue
Dar es Salaam
Tanzania
Telephone: 111174/75
Facsimile: (255-51) 38573
Attention: Treasury Registrar

For the **Purchaser**:
INTERNATIONAL CHEMICAL PRODUCERS CC
P.O. Box 3484, SOMERSET WEST, CAPE, SOUTH AFRICA
Telephone: [27-21] 955-1483
Facsimile: [27-21] 955-1488
Attention: Mr.N. Landsberg

For the **Company**:
**TANZANIA PYRETHRUM PROCESSING AND
MARKETING COMPANY LIMITED**
P.O. Box
Dar Es Salaam
Tanzania
Telephone:
Facsimile:
Attention:

17.18 Each of the Parties shall be entitled from time to time, by written notice to the others, to vary it address and/or fax number, so long as its gives prior advance notice to the other Parties.

17.19 Any notice given and any payments made by any party to any other which -

- (i) is delivered by hand during the normal business hours of the addressee at the appropriate address for the time being shall be rebuttably presumed to have been received by the addressee at the time of delivery; and
- (ii) is posted by prepaid registered airmail or post to the addressee at his address for the time being shall be rebuttably presumed to have been received by the addressee on the tenth business day after the date of posting.

17.20 Any notice which is sent by fax machine during the normal business hours of the addressee to his address for the time being shall be rebuttably presumed to have been received on the date of success transmission thereof.




IN WITNESS WHEREOF, the Parties hereto, acting through their authorized officers or representatives thereto duly authorized, have executed the Agreement the day and year first written above.

SIGNED AND DELIVERED
for and on behalf of

the **GOVERNMENT OF UNITED REPUBLIC OF TANZANIA**
by the **Presidential Parastatal Sector Reform Commission**

Signature:



Name:

N.N. P. Shimwela

Address:

P.O. Box 9252,
Dar es Salaam

Qualification:

Authorised Representative



SEALED WITH THE COMMON SEAL OF
TANZANIA PYRETHRUM BOARD



Signature:

[Handwritten signature]

Name:

DR JOHN M LUGENGA

Address:

TANZANIA PYRETHRUM BOARD

IRINGA

Qualification:

CHAIRMAN TPB

Signature:

[Handwritten signature]

Name:

ELIAS M REUBEN MHEKWA

Address:

Box 149 IRINGA.

Qualification:

CHIEF EXECUTIVE OFFICER

[Handwritten mark]

[Handwritten mark]

SEALED WITH THE COMMON SEAL OF
INTERNATIONAL CHEMICAL PRODUCERS CC



Signature:

Norman M Landsberg

Name:

NORMAN M LANDSBERG

Address:

P.O. Box 3284

SOMERSET WEST, CAPE, SOUTH AFRICA

Qualification:

MEMBER

Signature:

Kidwani K. Nwishi

Name:

KIDWANI K. NWISHI

Address:

P.O. Box 10220

DODA - TANZANIA.

Qualification:

MEMBER.

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INDEMNITY

104. Every Director, agent, auditors, secretary and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending in such capacity and proceeding, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted..

SEALED with the Common Seal of
the said TREASURY REGISTRAR
being Subscriber to all the
shares of the Company and
authenticated on

W. Magange

by:

Signature: *V. Malipesa*

Postal Address: *P.O. Box 9111*

ASM

Qualification: *Statistician*