

REGUPOL AMERICA LLC (“SELLER”) TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE / CONTRACT FORMATION

These terms and conditions shall govern and control any contract for the sale of products sold by Seller to Buyer (“Products”) or the performance by Seller of services for Buyer, irrespective of whether Seller’s accompanying documentation constitutes an offer to Buyer or an acceptance of Buyer’s prior offer to Seller. Offers or acceptances by Buyer may be communicated orally, delivered in person or by telephone or in writing, delivered by regular mail, hand delivery, overnight courier, facsimile or electronic mail. Additional or conflicting terms from those in these terms and conditions in an offer or acceptance by Buyer are expressly objected to and shall not be deemed accepted by Seller unless Seller’s acceptance thereof is in writing and specifically refers to each such additional or conflicting term.

2. DELIVERY / FORCE MAJEURE

All shipping and delivery dates are approximate. Seller shall not be responsible for any prohibition, failure, interruption or delay in manufacture or delivery which may be caused by sabotage, fire, flood, explosion, labor dispute, strike, work stoppage, riot, insurrection, war, act of, or priorities granted by request of or for the benefit, directly or indirectly, of any governmental body, authority or agency, shortage of raw materials or supplies, act of God, insufficient capacity, or other cause beyond Seller’s control. In the event of any such prohibition, failure, interruption or delay, Seller may, at its option, extend the delivery time or cancel the order, in whole or in part.

3. WARRANTY / CLAIMS / LIMITATIONS OF LIABILITY

Seller warrants that all Products sold by Seller to Buyer, for a period of one (1) year from the date of shipment by Seller to Buyer, shall be free of defects in material and workmanship at the time of delivery and shall perform in accordance with the specifications published by Seller for such Product. Seller warrants further that, during the warranty period, the Product shall not exhibit signs of excessive deterioration, as reasonably determined by Seller. All other warranties, including the warranties of merchantability and fitness for a particular purpose, are expressly excluded. Buyer’s sole and exclusive remedy for defective Product shall be, at Seller’s option, to repair or replace the defective Product or to refund the purchase price of the defective Product. Seller shall not, under any circumstances, including, but not limited to, delay in delivery, breach of contract, breach of warranty, negligence or strict liability, be liable to Buyer or any other party for any special, incidental, indirect or consequential damages or losses of any kind whatsoever. In no event shall Seller’s liability for defective Product sold to Buyer exceed the purchase price paid for such Product. Buyer’s failure, as reasonably determined by Seller, to transport, store or install Product in accordance with any instructions provided by Seller to Buyer shall void this Product warranty. Buyer agrees to inspect Product upon delivery and acceptance and to promptly notify Seller in writing of any allegedly defective Product. No claim shall be allowed by any party other than Buyer. Any claim for breach of the express Product warranty that is not made promptly shall be deemed to have been waived. Unless otherwise agreed to in writing by Seller, Buyer shall set aside, protect and hold such allegedly defective Product without further use until Seller has inspected the Product and advised Buyer of the disposition to be made of such Product. In no event shall any Product be returned by Buyer without the prior written consent and authorization of Seller. Buyer acknowledges and agrees that it is purchasing Product solely in reliance upon the advice of Buyer’s architects, engineers and other consultants, and not in reliance upon any representation made by Seller or its representatives.

4. PRICES AND FREIGHT

All quoted prices, extras (including applicable surcharges), and all freight or transportation rates, are subject to change, without notice, to reflect Seller’s prices and extras, and applicable freight or transportation rates, in effect as of the date of shipment. Unless otherwise agreed, freight will be charged from the point of original manufacture or processing.

5. TITLE / SECURITY INTEREST

Failure by Buyer to make any payment due hereunder, or on request to give proper shipping instructions, or to accept delivery at times stated, or to comply with all terms of any contract between Buyer and Seller shall give Seller, in addition to all other available remedies, the right at its option to deduct any undelivered quantities of material from the total quantity of material to be furnished whether under this or any other contract between Buyer and Seller. Title to materials shall pass immediately upon delivery to a carrier at the point of shipment. Buyer hereby grants to Seller a security interest (which shall be deemed a purchase money security interest) in all Products and materials provided to Buyer by Seller, to secure payment by Seller for all such Products, materials or services. In the event of nonpayment by Buyer of any debt, obligation or liability now or hereafter incurred or owing by Buyer to Seller, Seller shall have all rights of, and all of the remedies available to, an unpaid secured creditor under the applicable state Uniform Commercial Code (UCC), and all other rights and remedies available at law or in equity. Buyer agrees, and, to the extent permitted by law, Seller is authorized to, execute and file whatever documents are necessary, including security agreements or financing statements, to evidence and perfect the security interest granted by this paragraph.

6. TAXES

Any excise, levies or taxes which Seller is required to pay or collect, under any existing or future law or regulation (domestic or foreign), upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the material covered hereby, shall be for the account of the Buyer, and Buyer agrees to pay the amount thereof to Seller upon request.

7. DELIVERY / RISK OF LOSS

Unless otherwise specifically stated on a document of sale furnished by Seller or agreed to in writing and signed by Seller, delivery shall occur, and risk of loss shall pass to Buyer, upon delivery of the material to a carrier at the point of shipment. Transportation shall be at Buyer’s sole risk and expense, and any claim for loss or damage in transit shall be against the carrier only.

8. CANCELLATION / CHANGE ORDER REQUESTS

An order cannot be modified or cancelled by Buyer without the written consent of Seller.

9. QUANTITY

Seller reserves the right to deliver commercially reasonable overages or underages of weight, length, size and/or quantity, and any reasonable variation shall constitute compliance with Buyer’s order, and the unit price will continue to apply.

10. PAYMENT TERMS

Unless otherwise specifically stated on a document of sale furnished by Seller or agreed to in writing and signed by Seller, the terms of payment for each order without setoff shall be net cash (U.S. Dollars) in thirty (30) days from date of invoice. Restrictive endorsements on Buyer’s checks will not reduce Buyer’s obligations to Seller. The unpaid portion of any amounts due to Seller shall bear interest at the rate of 1.5% per month, or the maximum legal rate if less.

11. ADEQUATE ASSURANCE / RIGHTS OF SELLER

Seller may, at any time or times, suspend performance of any order or require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller’s opinion, the financial condition of Buyer or other grounds for insecurity warrant such action.

12. ASSIGNMENT / SUBCONTRACTING

Buyer shall not assign any order or any interest therein without the written consent of Seller. Any such actual or attempted assignment without Seller’s proper written consent shall entitle Seller to cancel such order upon notice to Buyer.

13. PATENT INFRINGEMENT INDEMNIFICATION

Buyer shall indemnify, hold harmless and defend Seller against any liability whatsoever for patent, trademark or trade name infringement in any way arising out of the preparation, manufacture or processing of any material, or performance of services, in accordance with Buyer’s order, specifications or instructions.

14. MERGER CLAUSE / ENTIRE AGREEMENT / MODIFICATION OF TERMS

These terms and conditions and sales documentation constitute the entire contract between Seller and Buyer. To the extent that any terms in the sales documents and these terms and conditions conflict, the terms on the front of Seller’s sales documents shall control and prevail. No modification hereof shall be of any force and effect unless in writing and signed by the party claimed to be bound thereby. A waiver of any of the terms or conditions hereof shall not be deemed a continuing waiver, but shall apply solely to the instance to which the waiver is directed. If any portion of these terms and conditions is declared to be unenforceable by a court of competent jurisdiction, all other portions shall be considered to be valid and enforceable to the extent that they are reasonably severable. The headings contained in these terms and conditions are for convenience of reference only and are not intended to have any substantive significance in interpreting this document.

15. GOVERNING LAW / JURISDICTION

These terms and conditions, and any sales documentation of Seller accompanying them, shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without application of the conflict of law principles thereof. The parties agree that any claim, dispute or controversy arising from or relating to any contract for Seller’s Products or services, directly or indirectly, may be brought only in the state and federal courts located in the Commonwealth of Pennsylvania, and the parties hereto consent to be subject to the jurisdiction of such courts.