

General Terms and Conditions of Sale

All products furnished by Chemguard, Inc. (hereinafter "Chemguard" or "Seller") shall be in accordance with the following terms and conditions unless otherwise stated in writing:

- 1. ACCEPTANCE AND COMPLETE AGREEMENT** - Buyer's order is binding only when accepted in writing at the principal office of Seller. The terms and conditions of sale are only those stated below, which shall constitute the complete agreement between the parties and may not be altered or modified except in writing duly executed by each party. The parties agree there are no agreements between the parties, oral or written, with respect to the products sold hereunder (including any made or implied from past dealings) except as expressed herein. No terms and conditions stated in or attached to Buyer's communications to Seller, including but not limited to Buyer's purchase orders, the terms of which are hereby rejected, are applicable to these terms and conditions in any way and are not to be considered Buyer's exceptions to the provisions of these terms and conditions. Trade custom, trade usage and past performance are superseded by these terms and conditions and shall not be used to interpret these terms and conditions.
- 2. DELIVERY** - Delivery dates are estimates only and are not guaranteed. Seller will use every commercially reasonable effort to make shipments as scheduled and may make partial shipments.
- 3. EXPORTATION** - If the products ordered are to be exported from the United States, the quoted shipping dates are subject to receipt of all export documents and authorizations. Regardless of ultimate destination, the prices quoted are based on packing for domestic shipment unless otherwise stated in writing. Buyer agrees to provide Seller in writing with the ultimate destination and identity of the end-user prior to shipment if the products are to be exported. These commodities, technology or software shall be exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited. Domestic Destinations - The Buyer of items shipping to USA destinations is solely responsible for complying with applicable U.S. export laws.
- 4. PRICES** - Prices quoted, unless otherwise stated in writing, do not include sales, use, excise or similar taxes or duties. Buyer shall pay these taxes directly if the law permits or will reimburse Seller if it is required to pay them. Buyer will provide tax exemption certificates or evidence of tax payment on request. Unless otherwise stated, prices are valid for 60 days and for the delivery date specified in the quotation. Revisions to the desired delivery date by the Buyer and delays not due to Seller's negligence may be subject to escalation of prices at Seller's sole discretion.
- 5. ORDERS FOR FEDERAL GOVERNMENT CONTRACTS/SUBCONTRACTS** - For direct and indirect US government contracts, the products to be supplied by Seller are "commercial items" and "commercially available off-the-shelf (COTS) items" as defined in the Federal Acquisition Regulation (FAR), 48 CFR Part 52.
 - (a) Based on the FAR limitation of flowdown provisions for subcontracts for commercial items, if Buyer notifies Seller in writing that the products ordered by Buyer will be used in performance of a contract or subcontract with the U.S. Federal government Seller will accept the following clauses, listed in FAR 52.244-6, in lieu of all FAR clauses listed in Buyer's terms: (i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note) if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days; (ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5) if the subcontract is funded under the Recovery Act; (iii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities; (iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246); (v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212(a)); (vi) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793); (vii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)); (ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631) if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.
 - (b) Seller also will comply with the following mandatory terms of the Department of Defense FAR Supplement (DFARS) provided the Federal prime contract is identified by Contract Number in the Government Order and the Federal prime contract (i) is for supplies or services that are not commercial items AND (ii) contains any of the following four DFARS clauses: 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals; 252.246-7003, Notification of Potential Safety Issues; 252.247-7023, Transportation of Supplies by Sea; or 252.247-7024, Notification of Transportation of Supplies by Sea: (i) 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (10 U.S.C. 2533b); (ii) 252.236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (Pub. L. 110-329, Division E, Section 108); (iii) 252.246-7003 Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84); (iv) 252.247-7023 Notification of Potential Safety Issues; (v) 252.247-7023 Transportation of Supplies by Sea (10 U.S.C. 2631); and (vi) 252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).
 - (c) Any commercial computer software or commercial computer software documentation to be delivered by Seller will be acquired under Seller's standard commercial licenses customarily provided to the general public.
- 6. PAYMENT** - Standard payment terms are net thirty (30) days from date of invoice. In the event credit has not been established Seller reserves the right to require payment, or the issuance of an irrevocable letter of credit, in advance of shipment. Any amounts not paid when due shall bear interest at the rate of 1 1/2% per month or at the highest rate permitted by law (whichever is less), from the date of shipment until paid. Seller reserves a purchase money security interest in each product shipped, which will be satisfied by payment in full. Seller has the right to file a copy of this document as a financing statement.
- 7. SOLVENCY** - Buyer's order will be deemed a representation that Buyer is solvent and able to pay for the products ordered. If Buyer fails to make payments when due or if bankruptcy or insolvency proceedings are instituted by or against Buyer, or if Buyer makes an assignment for the benefit of creditors, Buyer will be deemed to be in default and Seller will have the right to terminate its obligations by written notice to Buyer, but such termination will not affect Buyer's obligation to pay for products delivered and works in progress.
- 8. CANCELLATION** - No products may be returned without prior written approval of Seller. Orders placed with and accepted by Seller may not be canceled except upon Seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation charges which shall protect Seller against all costs and losses. Seller reserves the right to cancel any sale hereunder in Seller's sole discretion without liability to Buyer (except for refund of monies already paid).
- 9. MANUFACTURE** - Seller reserves the right to discontinue the manufacture of, or change or modify the design and/or construction of the products sold pursuant to these terms and conditions, without incurring any obligation to Buyer.
- 10. JURISDICTION AND DISPUTES** - These terms and conditions shall be governed in accordance with the law of the Commonwealth of Pennsylvania. All disputes under these terms and conditions shall be resolved by the state or federal courts of the Commonwealth of Pennsylvania and the parties all consent to the jurisdiction of such courts, agree to accept service process by mail, and hereby waive any jurisdiction or venue defenses otherwise available.
- 11. INSPECTION** - All products must be inspected within five (5) calendar days of receipt. If any damage is discovered, a claim must be filed with the carrier. A full report of the damage must be forwarded to Seller so that it can arrange for repair or replacement.
- 12. TITLE** - Unless otherwise provided on the face hereof, all products furnished hereunder will be shipped "Ex-Works (EX-W)" and title in, risk of loss, and the right of possession to such goods shall pass to the Buyer upon the Seller's delivery to carrier at Seller's shipping facility, and Seller is not responsible for damage or loss in transit, regardless of whether or not Buyer may have the right to reject or revoke acceptance of said products. Seller can arrange for in-transit insurance at Buyer's expense, but will not do so without Buyer's written instructions. Unless otherwise stated in contract documents, all goods will be shipped freight prepaid and billed. Charges for shipping may not reflect net transportation cost paid by the Seller.
- 13. WARRANTY** - Unless otherwise stated in quotation documents or product literature provided with the product at the time of sale, products manufactured by Chemguard are warranted solely to the original Buyer for eighteen months (18) months - from date of shipment or one (1) year from date of installation against defects in material and workmanship when paid for and properly installed and maintained under normal use and service. In all cases, this warranty will expire not later than ten (10) years from date of shipment by Chemguard. Warranty will be immediately voided by substitution of non-Chemguard provided parts. No warranty is given for products or components manufactured by companies not affiliated by ownership with Chemguard or for products and components which have been subject to misuse, improper installation, corrosion, or which have not been installed, maintained, modified or repaired in accordance with applicable Standards of the National Fire Protection Association, and/or the standards of any other Authorities Having Jurisdiction. Materials found by Chemguard to be defective shall be either repaired or replaced, at Chemguard's sole option. Chemguard neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of products or parts of products. Seller shall not be responsible for sprinkler system design errors or inaccurate or incomplete information supplied by Buyer or Buyer's representatives. In no event shall Chemguard be liable, in contract, tort, strict liability or under any other legal theory, for incidental, indirect, special or consequential damages, including but not limited to lost profits and labor charges, regardless of whether Chemguard was informed about the possibility of such damages, and in no event shall Chemguard's liability exceed an amount equal to the sales price. **THE FOREGOING WARRANTY IS MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** This limited warranty sets forth the exclusive remedy for claims based on failure of or defect in products, materials or components, whether the claim is made in contract, tort, strict liability or any other legal theory. This warranty will apply to the full extent permitted by law. The invalidity, in whole or part, of any portion of this warranty will not affect the remainder.
- 14. COMPLIANCE WITH LAWS, CODES, AND STANDARDS** - Seller represents that the Products will be produced in compliance with applicable fair labor standards laws, occupational safety and health laws, and laws related to nonsegregation and equal employment opportunity. Warranties for design services and the accuracy of any materials list provided by Seller shall be limited only to those codes, standards or specification requirements specifically stated in Seller's quotation documents or transmittal sheets or accepted change order or revisions and only as in effect at the time of quotation or Seller accepted change revisions. The Contract price, delivery and performance dates and any performance guarantees will be equitably adjusted to reflect additional costs or obligations incurred by Seller resulting from a change in industry specifications, codes, standards, applicable laws or regulations.
- 15. DRAWINGS** - Any drawings submitted herewith are only to show the general style, arrangement, and approximate dimensions of the products offered. No work is to be based on drawings unless the drawings are certified. In no event will manufacturing or proprietary drawings be supplied.
- 16. CONFIDENTIALITY** - Buyer agrees that all drawings, prints and other technical material which Seller provides to Buyer, whether prepared by Seller or by third parties under contract to Seller, contain data which embody trade secrets and confidential know-how of commercial value to Seller or third parties under contract to Seller. Buyer agrees (a) to keep such information confidential; (b) that it will not disclose such information to any other person, corporate division or entity; (c) will not use such information except in connection with the products supplied hereunder; and (d) will not sell, lease, loan or permit any other person, corporate division or entity to use such information for any purpose, without Seller's prior written consent. Nothing herein shall restrict the use of information generally available to the public.
- 17. INTELLECTUAL PROPERTY** - Buyer acknowledges Chemguard and its affiliates are the owners of brands, trademarks, designs, patents, copyrights and other intellectual property relating to its products and services, and that no right or license is conveyed by Chemguard to Buyer to manufacture, have manufactured, modify, import or copy such products and services. Buyer agrees that it will reference brands of Chemguard or its affiliates only in connection with the use or sale of products and services delivered to Buyer hereunder, and not in connection with the sale of any other product or service, except as separately authorized by Chemguard in writing.
- 18. PATENT INDEMNITY** - If a product delivered by Seller to Buyer becomes or, in Seller's opinion, may become the subject of any claim, suit or proceeding for infringement of any patent, Seller may at its option and expense (i) obtain for Buyer the right to use, lease or sell the product, (ii) replace the product, (iii) modify the product, or (iv) remove the product and refund the purchase price paid by Buyer less a reasonable amount for use, damage or obsolescence. Seller will not be liable for any infringement arising from any modification of a product, from any combination of a product with any product(s), or from the use of a product in practicing a process or unintended applications. Seller's total liability to Buyer will not, under any circumstances exceed the purchase price paid for the allegedly infringing product. Buyer agrees, at its expense, to protect and defend Seller against any claim of patent infringement arising from compliance with Buyer's designs, specifications or instructions and to hold Seller harmless from damages, costs and expenses attributable to any such claim.
- 19. INDEMNITY** - Buyer agrees to defend, indemnify and hold the Seller (and its agents, representatives, employees, officers, related companies, successors and assigns, and customers) harmless from all claims, demands, actions, damages, and liabilities (including attorney's fees and consequential and incidental damages) arising out of any injury (including death) to any person or damage to any property in any way connected with any act or omission of Buyer, its agents, employees, or subcontractors.
- 20. EXCUSABLE DELAYS** - Seller shall not be liable nor in breach or default of its obligations under the Contract to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, terrorism, war (declared or undeclared), epidemics, material shortages, insurrection, acts (or omissions) of Buyer or Buyer's suppliers or agents, any act (or omission) by any governmental authority, strikes, labor disputes, transportation shortages, or vendor non-performance. The delivery or performance date shall be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay. If Seller is delayed by any acts (or omissions) of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, Seller shall be entitled to an equitable price and performance adjustment.
- 21. WAIVER** - No failure to exercise and no delay in exercising on the part of Seller any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege hereunder preclude further exercise of the same right, power or privilege.
- 22. VALIDITY OF PROVISIONS** - In the event any provision or any part or portion of any provision of these Terms and Conditions shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that provision, or any other provision hereof.