



## TERMS & CONDITIONS

1. **APPROVAL OF CONTRACT.** These Terms and Conditions ("Conditions") and the Sales Order Contract issued by Paragon Industries, Inc. ("Seller") of which these Conditions form a part (the "Sales Order Contract" and collectively with the Conditions, the "Contract") represent the entire agreement between Seller and the Buyer listed as the "Bill To" addressee in the Contract ("Buyer") relating to a single sale, service, and/or supply transaction specified in the Sales Order Contract and supersede any and all prior agreements with respect to the subject matter hereof including without limitation any prior negotiations, proposals, quotations, purchase orders, bid documents and/or writings in any way related to the Contract. In the event of any conflict between these Conditions and any Sales Order Contract, these Conditions will control. Each Sales Order Contract shall constitute a separate contract for the supply of the products or services detailed in such Sales Order Contract, notwithstanding prior negotiations, proposals, quotations, purchase orders, bid documents and/or writings in any way related to the Contract. The Contract is subject to the written approval and acceptance by an officer or sales manager of Seller in Sapulpa, Oklahoma. As used herein, the term "Deliverables" means, as applicable, the products or services detailed in the Sales Order Contract, including Coating Services (as defined in Section 8), but specifically excludes Coating Materials (as defined in Section 8).

2. **BUYER'S ACCEPTANCE.** Any of the following acts shall constitute acceptance by Buyer of the Contract and the terms and conditions set forth therein: (a) Buyer's execution and delivery to Seller of the Sales Order Contract or these Conditions; (b) Buyer's receipt of this Contract without written objection thereto within five (5) calendar days from receipt of the same; (c) Buyer's commencement of performance of this Contract; or (d) Buyer's express acknowledgment of this Sales Order Contract. Seller's Conditions are applicable specifically to Deliverables of the type quoted and/or ordered herewith, and Seller's Conditions shall govern whether or not at variance with conditions which may be a part of Buyer's general order form. No other terms, conditions or additions are acceptable to Seller or applicable to the sale of Deliverables under this Contract.

3. **PRICES.** Prices shall be adjusted to Seller's prices and extras in effect at time of Contract, as prices are subject to change without prior notice. If transportation charges from point of origin of the shipment to a designated point are included in the prices, any changes in such transportation charges shall be the responsibility of Buyer. Use of fabrication in transit privileges by Seller imposes no obligation for refund to Buyer. Except as otherwise agreed in writing by Buyer, Buyer shall be responsible for extra charges due to switching, spotting, handling, storage, demurrage, delays or any other transportation or accessorial service.

4. **CREDIT AND TERMS.** The terms of payment set forth in this Contract shall at all times be subject to approval of Seller's Credit Manager and shall be effective from date of invoice. Discounts or cash terms shall not be allowed on any transportation or attendant charges included in prices computed at destination or arising in connection with transportation. Should the financial condition of Buyer at any time become unsatisfactory to Seller, Seller reserves the right to require payment in advance of any shipment of Deliverables, or satisfactory security. If Buyer fails to make payment in accordance with the terms of this Contract, or fails to comply with any provision hereof, Seller may at its option (and in addition to other remedies), cancel any unshipped portion of this order and Buyer shall remain liable for all unpaid amounts, and for all damages suffered by Seller resulting from Buyer's failure to fulfill its obligation under this Contract, plus all other expenses and obligations incurred by Seller. In the event Buyer fails to make timely payment, Buyer agrees to pay all collection costs and expenses which Seller may incur in collecting or attempting to collect amounts payable under the Contract, including reasonable attorney's fees and interest at six per cent per annum from the due date of the unpaid balance.

5. **TITLE AND SHIPMENT.** The Deliverables shall be shipped to the destination set forth in the Sales Order Contract, with title to the Deliverables and risk of loss of the Deliverables passing to Buyer at Seller's facility when Seller invoices Buyer either upon delivery to the carrier or upon Seller making the Deliverables available to Buyer at Seller's facility, regardless of whether such Deliverables remain in storage on Seller's property. Unless otherwise agreed in writing by Buyer and Seller, Buyer shall arrange for shipping the Deliverables to the destination specified in the Sales Order Contract. If a specific delivery carrier is required to ensure proper delivery, Buyer must so state in writing on the purchase order, otherwise delivery will be at the discretion of Seller. Seller reserves the right to designate originating and intermediate carriers. All shipping charges shall be paid or reimbursed, as applicable, by Buyer, and are not subject to any discount.

6. **SPECIFICATIONS AND MANUFACTURING VARIATIONS.** Unless specified in writing and made a part of this Contract, all Deliverables shall be furnished subject to Seller's standard practices, tolerance and variations, and such specification as may be made a part of Seller's Deliverable description. Seller reserves the privilege of shipping nominal overages and underages in accordance with such of Seller's standard practices as may be applicable.

7. **INSPECTION.** Unless otherwise specified and agreed upon, the Deliverables sold under this Contract shall be subject to Seller's standard inspection at the place of manufacture or performance. If Buyer is to inspect or furnish inspection services, such inspection shall be so conducted at the time and place of manufacture or performance of services as not to interfere unreasonably with Seller's operations.

8. **LIMITED WARRANTY.** Subject to the terms and conditions set forth herein (including the Warranty Exclusions set forth in Section 9), Seller provides the limited warranty set forth in this Section 8 ("Limited Warranty") with respect to only Seller's Coating Services and the Deliverables supplied under this Contract, and not with respect to "Limited Service" grade products or Coating Materials. Seller warrants to Buyer that the Deliverables purchased shall meet the standards and specifications set forth in the Contract, shall be free from defects in material and workmanship of pipe mill origin and have been manufactured or performed in a workmanlike manner. This Limited Warranty is applicable only to new Deliverables sold to Buyer under this Contract that have not been altered, modified, or changed in any manner. This Limited Warranty shall expire on the earlier of (a) twelve (12) months following the date such Deliverables are placed into service, and (b) eighteen (18) months following the date title to such Deliverables passes to Buyer in accordance with this Contract. If Seller determines its Deliverables delivered under this Contract failed to conform to the provisions of this Contract and the Deliverables are covered by this Limited Warranty, Seller will, at its sole option and discretion, either (i) repair or replace only those portions of the Deliverables Seller determines are covered by this Limited Warranty or (ii) allow credit for such portions of such Deliverables; provided the Deliverables have been used consistent with the standards and specifications set forth in the Sales Order Contract, and in no event will Seller be liable for any costs or expenses arising out of any inspections, any remediation or repair work, or any other costs or expenses. EXCEPT FOR THE LIMITED WARRANTY SPECIFIED HEREIN, SELLER'S DELIVERABLES AND COATING SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ANY WARRANTY REGARDING THE COMPATIBILITY OF THE DELIVERABLES SUPPLIED UNDER THIS CONTRACT WITH ANY CHLORINATED POLYVINYL CHLORIDE PRODUCTS, AND ANY WARRANTY REGARDING COATING SYSTEMS OR COATING OR REPAIR MATERIALS. If any Deliverables are resold by Buyer, Buyer will incorporate the following language in writing into the agreed terms of such resale:

"EXCEPT FOR [insert name of party selling to customer]'S ("RESELLER") WARRANTIES SPECIFIED HEREIN, WHICH WARRANTIES ARE PROVIDED SOLELY BY RESELLER AND NOT BY PARAGON INDUSTRIES, INC., THE PRODUCTS ARE PROVIDED "AS IS" AND NEITHER OF RESELLER OR PARAGON INDUSTRIES, INC. MAKE ANY WARRANTY OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE."

If Buyer fails to incorporate the preceding language into the agreed terms of such resale, Buyer shall indemnify Seller for any and all demands, claims, suits, damages, losses, judgments and liabilities, including, reasonable attorneys' fees, expenses and other costs of litigation, fines, penalties or assessments asserted against Seller, in excess of that stipulated in this Section 8. This Limited Warranty shall be Buyer's sole and exclusive remedy on account of or in respect of the furnishing of non-conforming Deliverables. Buyer shall provide Seller with written notice of non-transportation-related claims within thirty-six (36) hours from the time of discovery of any damage or non-conformance or from the date on which a diligent purchaser should have discovered the damage or non-conformance. Failure to give written notice within the aforesaid periods shall release Seller from any liability thereof. Seller shall have a reasonable opportunity to investigate the alleged defective Deliverables. No claims will be allowed until approved by Seller's inspection department. Buyer shall (x) inspect the Deliverables for transportation-related damage or shortage immediately upon delivery; (y) describe any such damage or shortage on the bill of lading; and (z) immediately report the damage or shortage to Seller and carrier's local representative (if any). Buyer may not reject or revoke the acceptance of Deliverables or fail to make payment for Deliverables without filing a claim with proof of damage, shortage or non-conformance. The claim must include photographs and a copy of the original bill of lading signed by Buyer noting in detail the claimed damage, shortage or non-conformance. Buyer's remedies for transportation-related damages will be limited to those provided by the carrier.

9. **WARRANTY EXCLUSIONS.** SELLER PROVIDES THE WARRANTIES SET FORTH IN THIS CONTRACT ONLY TO BUYER, AND NOT TO ANY OTHER THIRD PARTY. WITH RESPECT TO ANY SUCH THIRD PARTY, SELLER MAKES NO WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ANY WARRANTY REGARDING THE COMPATIBILITY OF ANY COATING MATERIALS OR OTHER DELIVERABLES SUPPLIED UNDER THIS CONTRACT WITH ANY CHLORINATED POLYVINYL CHLORIDE PRODUCTS. NOTWITHSTANDING ANYTHING IN THIS CONTRACT TO THE CONTRARY, ANY "LIMITED SERVICE" GRADE PRODUCTS AND ANY COATING MATERIALS PROVIDED BY SELLER ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ANY WARRANTY REGARDING THE COMPATIBILITY OF ANY COATING MATERIALS OR OTHER DELIVERABLES SUPPLIED UNDER THIS CONTRACT WITH ANY CHLORINATED POLYVINYL CHLORIDE PRODUCTS, AND THE LIMITED WARRANTY SET FORTH IN THIS CONTRACT. FOR THE AVOIDANCE OF DOUBT, SELLER DOES NOT PROVIDE ANY COATING SERVICES INTENDED FOR USE IN CONNECTION WITH MICROBIOLOGICALLY INDUCED CORROSION AND MAKES NO EXPRESS OR IMPLIED WARRANTY RELATED THERETO. For purposes of these Conditions: (a) "Coating Materials" means any materials used to provide coatings for any Deliverables sold by Seller; and (b) "Coating Services" means the services performed by Seller to apply Coating Materials to Deliverables sold by Seller.

10. **TAXES.** Prices do not include any present or future federal, state or local taxes based upon, or measured by sale, use, manufacture or shipment. All such taxes, where applicable, will be added to the price shown hereon and shall be paid by Buyer, unless Buyer furnishes a tax exemption certificate in a form acceptable to the respective taxing authorities.

11. **DELAY.** Seller shall not be liable for loss or damage resulting from any delay in performance of this Contract due to, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, fires, flood, accidents, quarantine, restrictions, mill conditions, strikes, difference with workmen, delays in transportation, shortage of cars, fuel, labor, or raw materials, or any other cause beyond the reasonable control of Seller. Seller agrees to make all reasonable efforts to make delivery in accordance with the terms of this Contract and Buyer agrees that delivery of Deliverables made up or in process (including raw material) cannot be cancelled or extended beyond the agreed delivery date except with Seller's consent, and upon such terms as may be agreed upon in writing.

12. **ASSIGNMENT.** Except with Seller's written consent, Buyer shall not assign or otherwise transfer this Contract (including by operation of law).

13. **COMPLIANCE WITH LAW.** Seller assumes only such liability with respect to renegotiation of contracts or subcontracts by and for the United States Government as may be lawfully imposed upon Seller under the provisions of the Renegotiation Act.

14. **LIMITATIONS.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER IS NOT LIABLE UNDER ANY CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY LOST PROFITS, LOSS OF USE OF THE DELIVERABLE, INCONVENIENCE OR DAMAGES, WHETHER DIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE, RESULTING FROM THE USE OF SELLER'S DELIVERABLES OR INFRINGEMENT OF SELLER'S DELIVERABLES ON ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, RELATING TO WARRANTY SERVICE, RELATING TO DELIVERY OF SELLER'S DELIVERABLE, OR ARISING OUT OF ANY BREACH OF THE LIMITED WARRANTY PROVIDED HEREIN. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE LESSER OF (A) ONE HUNDRED THOUSAND DOLLARS (\$100,000), AND (B) TEN PERCENT (10%) OF THE AGGREGATE PURCHASE PRICE FOR THE DELIVERABLES SET FORTH IN THE SALES ORDER CONTRACT; PROVIDED, HOWEVER, THAT SELLER SHALL HAVE NO LIABILITY WHATSOEVER FOR DAMAGES ARISING OUT OF THE SALE OF ANY "LIMITED SERVICE" GRADE PRODUCTS OR COATING MATERIALS. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS CONTRACT MAY BE BROUGHT BY BUYER MORE THAN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED. IN NO EVENT SHALL SELLER BE LIABLE FOR (I) POLLUTION, CONTAMINATION OR RADIATION, RADIATION-RELATED DAMAGE (INCLUDING THE COST OF CONTAINMENT, CLEANUP AND DISPOSAL), AND/OR (II) SUBSURFACE LOSS OR DAMAGE, INCLUDING LOSS OF OR DAMAGE TO ANY RESERVOIR, FORMATION, STRATA, WELL, OR BOREHOLE OR IN-HOLE EQUIPMENT, OR IMPAIRMENT OF ANY PROPERTY RIGHT TO WATER, OIL, GAS OR OTHER MINERAL SUBSTANCES, AND/OR (III) DAMAGE, LOSS OR DESTRUCTION, OR PERSONAL INJURY OR DEATH AS A RESULT OF SUBSURFACE OCCURRENCE (INCLUDING DAMAGE TO OR LOSS OR DESTRUCTION OF ANY EQUIPMENT, DRILLING RIG, PLATFORM OR OTHER FIXED OR FLOATING STRUCTURE AT OR AROUND THE WELL SITE), AND/OR (IV) KILLING OR REGAINING CONTROL OF A WILD WELL, OR REDRILLING, REWORKING OR FISHING (INCLUDING THE COST THEREOF). BUYER SHALL DEFEND AND HOLD HARMLESS SELLER AND ITS AFFILIATES FROM, AGAINST, FOR AND IN RESPECT OF ANY CLAIM, LOSS, LIABILITY OR DAMAGE ASSERTED AGAINST SELLER (INCLUDING ANY OF ITS AFFILIATES); (X) BY ANY THIRD PARTY IN EXCESS OF THE LIMITATIONS OF LIABILITY SET FORTH UNDER SECTION 8 ABOVE OR THIS SECTION 14; OR (Y) DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF BUYER OR ANY OTHER SUPPLIER OF GOODS. THE LIMITED WARRANTY SHALL NOT APPLY IN THE EVENT THE DELIVERABLES ARE UTILIZED IN ANY NUCLEAR APPLICATION OR OTHER APPLICATION INVOLVING EXPOSURE TO RADIOACTIVE MATERIALS.

15. **DESIGN.** Seller assumes no liability for loss or damage arising from improper design, field testing or use. When alternate material classifications, specifications, sizes or grades are quoted or discussed by Seller, this is not to imply suitability to Buyer's or any third party's operating conditions. Buyer is solely responsible for selecting all services, products and materials (including without limitation all material classifications, sizes or grades), and Buyer shall independently determine the suitability of any services, products and materials to the application for which such services, products and materials are intended by Buyer or Buyer's customer, as applicable.

16. **SECURITY INTEREST.** This Contract shall serve as a security agreement applicable to any Deliverables in which Seller has not been paid in full, regardless of whether such Deliverables were sold or delivered to Buyer under this Contract or another contract or agreement between Buyer and Seller. Buyer hereby grants Seller and Seller hereby reserves a first and prior purchase money security interest in and to any of Seller's Deliverables, including, without limitation, all Deliverables, proceeds, insurance proceeds, and accessions, to secure payment of the purchase price set forth herein and any damages incurred by Seller on account of Buyer's breach of this Contract. At the request of Seller, Buyer agrees to promptly execute all documents submitted by Seller to further evidence such security interest. Further, Buyer grants Seller a possessory lien and security interest in any and all Deliverables stored or existing on Seller's property, and Buyer agrees that Seller may immediately and without notice to Buyer exercise a self-help against any Deliverables stored on Seller's property to be applied against any outstanding amounts due under this Contract and/or damages Seller may incur by Buyer's failure to pay such amounts or other breach of this Contract. Buyer designates Seller as attorney-in-fact for the purposes of recording and filing any public documents in every jurisdiction where appropriate to perfect and/or notify creditors of such security interest.

17. **GENERAL CONDITIONS.** There are no warranties, understandings or agreements, either written or oral, between Buyer and Seller relative to this sale that are not fully and acceptably expressed in this Contract; and all prior proposals and negotiations are merged herein. Waiver by Seller of this Contract shall not be construed as a waiver of any other breach. All Deliverables are quoted subject to prior sale, based upon conditions known to exist at the time the quotation is made. No Deliverables may be returned without written consent of Seller, and upon terms and conditions satisfactory to Seller.

18. **GOVERNING LAW; VENUE.** This Contract shall be governed by the law of the State of Oklahoma. Each party hereto expressly consents, with respect to any litigation arising out of or related to this Contract, to the exclusive jurisdiction and venue of any court of competent jurisdiction located in Creek County, Oklahoma or Tulsa County, Oklahoma, and waives the right, and hereby agrees not, to assert by way of motion, as a defense or otherwise in any proceeding brought in any such court, any claim that it is not subject to the jurisdiction of such court, that such proceeding is brought in an inconvenient forum or that the venue of such proceeding is improper.

19. **MISCELLANEOUS.** If any portion of this Contract is ruled invalid for any reason, such ruling shall not affect the other portions of this Contract, and all remaining covenants, terms and conditions of this Contract shall remain in full force and effect. No waiver shall be effective unless in writing and no delay in exercising any right hereunder shall operate as a waiver thereof. Paragraph headings used herein are for convenience only and shall not be construed to be a part of this Contract. No Deliverables may be returned without the written consent of Seller, and only upon terms and conditions satisfactory to Seller. A facsimile signature, scanned and emailed signature, and/or an electronic signature shall be deemed to have the same force and effect as an original signature. This Contract may be amended only by the unanimous written consent of Buyer and Seller.

I have reviewed and approved the Sales Order Contract and the Conditions. I understand that these supersede any written or oral agreements, terms or conditions by Buyer prior to acceptance and approval of this Contract.

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_