

## **POLY-FLEX® LINER**

### **LIMITED WARRANTY**

POLY-AMERICA, L.P. warrants each Poly-Flex® Liner to be free from defects in materials and to be able to withstand normal weathering from the date of installation for a period of five (5) years for normal use in approved applications.

This Limited Warranty does not include damages or defects in the Poly-Flex® Liner resulting from acts of God, casualty or catastrophe including but not limited to: earthquakes, floods, piercing hail, tornados or force majeure. The term "normal use" as used herein does not include, among other things, the exposure of the Poly-Flex® Liner to harmful chemicals, abuse of the Poly-Flex® Liner by machinery, equipment or people, excessive pressures or stress from any source. This Limited Warranty is intended for commercial use only and is not in effect for a "consumer" as defined in the Magnuson-Moss Warranty Act or any similar federal, state, or local statutes.

Should defects or premature loss of use within the scope of the above Limited Warranty occur, Poly-America, L.P. will, at its option, repair or replace the Poly-Flex® liner on a pro-rata basis at the then current price in such manner as to charge the Purchaser/User only for that portion of the warranted life which has elapsed since purchase of the material. Poly-America, L.P. will have the right to inspect and determine the cause of any alleged defect in the Poly-Flex® Liner and to take appropriate steps to repair or replace the Poly-Flex® Liner if a defect exists and is within the term of this Limited Warranty.

Any claim for any alleged breach of this Limited Warranty must be made in writing, by certified mail, to the Sales Manager of Poly-America, L.P. within thirty (30) days after the alleged defect is first noticed. Should the required notice not be given, the defect and all warranties shall be deemed to have been waived by the Purchaser/User, and Purchaser/User shall have no right of recovery against Poly-America, L.P. In the event repairs and/or replacements are to be effected, said repairs and/or replacements shall not become due until the area subject to repair and/or replacement of Poly-Flex® Liner is available in a clean, dry, unencumbered condition, including without limitation being free from all water, dirt, sludge, residuals, and liquids of any kind.

Poly-America, L.P.'s, and its related entities', officers', shareholders', affiliates', agents', assigns', and successors' liability under this Limited Warranty shall in no event exceed the replacement cost of the material for the particular installation. Further, under no circumstances shall Poly-America, L.P. and/or its related entities, officers, shareholders, affiliates, agents, assigns and/or successors be liable for any special, direct, indirect, or consequential damages arising from loss of production or any other losses, including losses due to personal injuries and product liability, owing to the failure of the material or improper installation and no allowances will be made for repairs, replacements, or alterations made by the Purchaser/User without the express written consent of an officer of Poly-America, L.P.

**BY USE OF THIS PRODUCT IT IS AGREED THAT ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO SAID USE SHALL BE DECIDED BY BINDING ARBITRATION IN ACCORDANCE WITH THE UNITED STATES ARBITRATION ACT (Title 9, U.S. Code) IN DALLAS, TEXAS. THE ARBITRATION SHALL BE CONDUCTED BY A MUTUALLY AGREEABLE ARBITRATOR. IF THE PARTIES ARE UNABLE TO AGREE UPON AN ARBITRATOR, THEN EACH PARTY SHALL PICK AN INDIVIDUAL QUALIFIED TO SERVE AS AN ARBITRATOR AND THOSE TWO INDIVIDUALS SHALL THEN APPOINT A THIRD ARBITRATOR TO SERVE AS THE ARBITRATOR IN THE CASE. THE ARBITRATOR'S AWARD SHALL BE FINAL AND MAY BE CONFIRMED BY THE JUDGMENT OF A STATE OR FEDERAL COURT IN THE JURISDICTION WHERE THE ARBITRATION OCCURRED. THE ARBITRATOR SHALL HAVE NO POWER OR AUTHORITY TO AWARD EXEMPLARY OR PUNITIVE DAMAGES, OR TO ALTER, AMEND, OR SUPPLEMENT ANY TERM, CONDITION, OR PROVISION OF THIS AGREEMENT. THE PARTIES CONSENT TO JURISDICTION AND VENUE IN COMPETENT STATE AND FEDERAL COURTS IN DALLAS, TEXAS. EACH PARTY SHALL BEAR ITS OWN ATTORNEY'S FEES, REGARDLESS OF THE OUTCOME OF THE ARBITRATION. ALL COSTS OF ARBITRATION, INCLUDING BUT NOT LIMITED TO FILING FEES, ARBITRATOR(S) FEES, AND STENOGRAPHER FEES, SHALL BE SHARED EQUALLY BY THE PARTIES.**

Poly-America, L.P. neither assumes nor authorizes any person other than an officer of Poly-America, L.P. to assume for it any other or additional liability in connection with the Poly-Flex® Liner made the basis of this Limited Warranty. The Limited Warranty on the Poly-Flex® Liner herein is given in lieu of all other possible warranties, either express or implied, including warranties of merchantability and of fitness for a particular purpose and by accepting delivery of the material, Purchaser/User waives all other possible warranties, except those specifically given.

The parties expressly agree that the sale of the Poly-Flex® Liner is for commercial or industrial use only.

The Poly-Flex® Liner Limited Warranty is extended to the Purchaser/User and is non-transferable and non-assignable, without the written consent of an officer of Poly-America, L.P.

POLY-AMERICA, L.P. MAKES NO WARRANTY OF ANY KIND OTHER THAN THAT GIVEN ABOVE AND HEREBY DISCLAIMS ALL WARRANTIES, BOTH EXPRESS OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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If any provision of this Warranty shall be found to be illegal, invalid, or unenforceable under the present or future laws, such provision shall be fully severable and the remaining provisions shall remain in full force and effect. Any provision of this Warranty held illegal, invalid, or unenforceable shall remain in full force and effect to the extent not so held. In lieu of the provisions held illegal, invalid, or unenforceable, there shall be automatically added as part of this Warranty a provision as similar in its terms to such invalid provision as may be possible and may be legal, valid, and enforceable.