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ARGO USA, Inc.

October 11, 2017

**VIA ELECTRONIC MAIL**

Office of the Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway, Suite 820  
Bethesda, MD 20814

**RE: ATV Action Plan of ARGO USA, Inc.**

Dear Sir or Madam:

This plan is submitted on behalf of ARGO USA, Inc. ("ARGO"), which intends to become an importer and distributor of All Terrain Vehicles ("ATVs") in the United States. ARGO insists on promoting safe and responsible usage of all its ATVs and is fully committed to the goal of reducing ATV-related accidents. ARGO is implementing policies in accordance with the rules set forth by Section 232 of the Consumer Product Safety Improvement Act of 2008. The actions outlined below are part of our effort to provide the safest ATVs for ARGO customers.

**Age Recommendations**

ARGO will only recommend, market, advertise and sell ATVs for use pursuant to the age category/speed guidelines specified in Section 6 of the ANSI/SVIA-1-2010 Standards for ATVs ("the ATV Standard"). In addition, ARGO will not recommend, market, advertise or sell adult-sized ATVs for the use of individuals less than 16 years of age. ARGO will use its best efforts to ensure that our dealers comply with these requirements. ARGO will not recommend, market, advertise or sell Y-6+ youth-size ATVs for use of persons under 6 years of age, Y-10+ youth-size ATVs for the use of persons under 10 years of age, Y-12+ youth-size ATVs for the use of persons under 12 years of age, or category T ATVs for the use of persons under 14 years of age.

**Dealer Monitoring:**

1. **Scope and Components of Monitoring Program**

ARGO requires that its dealers verify the intended ATV rider's age prior to selling that rider, or his/her parent or guardian, an ATV. ARGO's warranty registration cards require the submission of the intended rider's name and date of birth to ensure that dealers do not sell ARGO ATVs to under-aged riders.

ARGO will use its "best efforts"<sup>1</sup> to ensure that its dealers comply with:

- the user age recommendation requirements of the ATV Standard;
- the requirements related to notifying ATV purchasers about the availability and importance of free, hands-on ATV training and the monetary incentive for taking such training; and
- the requirements relating to providing the ATV Hang Tag, the ATV Owner's Manual, the ATV Safety Video, and the ATV Safety Alert to ATV purchasers at the point of purchase.

ARGO will observe each dealer at least twice a year, with a minimum of 50 dealer visits per year, by means of independent, undercover investigators (also known as "secret shoppers") to ensure that these dealers comply with the above-listed requirements and other safety-related practices during sales or promotional functions. The dealers who will be subject to undercover monitoring will be randomly selected annually. ARGO will also modify the visitation criteria of its field personnel so that inspecting for dealer compliance with the above-listed requirements becomes a normal function of routine dealer visits.

## 2. Notice and Training Program

Within fifteen (15) days of learning of a dealer's noncompliance with the above-listed requirements from the CPSC staff or by one of ARGO's independent investigators<sup>2</sup> ARGO will:

- notify the dealer of its non-compliance;
- inform the dealer of the operative facts reported by the CPSC staff or the independent investigator (such as the name of the salesperson and the model(s) of the ATV(s) allegedly recommended during the inspection); and
- demand a cure of the reported violation(s).

In addition, within thirty (30) days after notifying the dealer of its non-compliance, ARGO will provide on-site training to all dealership personnel who are involved in the sale of ATVs. The training will include, but not be limited to, information concerning the above-listed requirements,

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<sup>1</sup> "Best Efforts" shall include, among other things, an obligation to require, to the extent permissible under federal and state law, compliance by ARGO's dealers, agents or representatives with the terms of this ATV Action Plan in future contracts entered into with dealers, agents or representative and, where possible and within a reasonable time, modification of existing contracts with dealers, agents or representatives to impose this duty.

<sup>2</sup> Within fifteen (15) days of learning of a dealer's non-compliance with the above-listed requirements from a third party (such as another dealer or distributor), ARGO will notify the dealer of the reported non-compliance and arrange an undercover, on-site inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If ARGO discovers a violation during this inspection, ARGO will initiate the notice and training procedures outlined in this section.

the need for compliance with them, and the potential enforcement actions (including termination and non-renewal of the dealership agreement) that the dealer may incur if non-compliance continues. A record of the training effort will be made by ARGO and provided to the CPSC staff during bi-annual reporting (as described in the "Reporting" section below).

3. Follow-up Monitoring and Enforcement for Repeated Non-Compliance

Within sixty (60) days after completing the above-referenced training for a non-compliant dealer, ARGO will conduct an undercover, on-site, follow-up inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If this follow-up inspection reveals evidence of continuing violations, ARGO will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with ARGO. If ARGO elects not to terminate the dealer's contract, remedial actions will at a minimum include additional undercover on-site inspections of the dealer. If these additional inspections reveal an additional violation ARGO will terminate or decline to renew the dealer's contracts. In each instance, ARGO will inform the CPSC Office of Compliance and Field Operations in advance of any remedial action or disposition, and it will provide the CPSC staff a reasonable opportunity to comment on such action or disposition before it occurs.

4. Reporting

ARGO will report the results of its dealer monitoring program to the CPSC staff on a bi-annual basis, with reports due to the CPSC's Office of Compliance and Field Operations on February 1 and August 1 of each year. These reports will include a list of non-complying dealerships, the date of inspection, and all training or enforcement actions taken by ARGO, along with dates of all follow-up activities and remedial actions. ARGO will maintain a list of all dealerships inspected each year in spreadsheet format, and this spreadsheet shall be provided promptly to the CPSC staff upon its request. The CPSC staff will maintain the confidentiality of these reports in accordance with applicable laws. The CPSC staff also reserves the right to request additional information from ARGO regarding the results of ARGO's dealer monitoring program.

5. Notice to Dealers

ARGO will notify its dealers in writing of its dealer monitoring program within fifteen (15) days of the effective date of this Action Plan or within 15 days of ARGO's notification to its dealers of its intention to begin distributing ATVs in the United States (whichever comes later). The notice will remind dealers of their ongoing obligations to comply with the above-listed requirements and the consequences of non-compliance, including, but not limited to, the assessment of administrative costs for ARGO's monitoring of the dealer and possible termination or non-renewal of the dealership agreement. ARGO will provide the CPSC's Office of Compliance and Field Operations an advance copy of the notice.

**Information and Education Program:**

The focus of the ARGO ATV safety and education program is to stress the importance of children under the age of 16 not operating Adult ATVs and the importance of wearing the appropriate safety gear while riding ATVs. The program's message will be delivered through in-store advertising, in-store pamphlets and the Internet.

The content of the ARGO ATV safety and education program will be consistent with information found on the ATV Safety Alert label. The elements of the ARGO ATV safety and education program include the following:

- ARGO makes a commitment to set aside \$10,000 per year for the next ten (10) years to support its Information and Education Program.
- ARGO will require that all authorized dealers implement a new information/education effort to communicate age recommendations, passenger, and other safety-related information to consumers. Our materials and information will be based on all publications produced by the Specialty Vehicle Institute of America ("SVIA") and the ATV Safety Institute ("ASI"). The materials will provide safety information and warn children under the age of 16 of the risks and dangers of operating adult-sized ATVs.
- ARGO will provide DVDs with every ATV sold. These DVDs will feature safety themes and messages consistent with the 1988 ATV Consent Decrees.
- ARGO will distribute safety reminders by direct mail within a few weeks of retail purchases. The reminders will include the safety messages and information about the free ATV training and incentives for completing that training.
- ARGO will distribute safety posters and flyers to authorized dealers. The content of these posters and flyers will include the safety messages for ARGO dealers to display.
- ARGO will require authorized dealers to display SVIA and ASI posters and educational materials in their retail locations.
- ARGO's company website will provide on-line access and the ability for consumers to download safety and education information. The website will provide appropriate warnings against the improper use of ATVs and teach about the risks associated with ATV use. Users will be able to print the valuable safety and education information for personal use or to share with others.
- ARGO will utilize its social media assets to actively promote safe riding and age recommendations, to include Facebook, Instagram, and Twitter.

**Training:**

- ARGO will offer free, hands-on ATV training to all ARGO first time purchasers and age appropriate members of their immediate family. This training will be conducted through the educational programs of the ASI. All authorized dealers are able to register purchasers and age appropriate members of their immediate family for ASI training course at the time of purchase.
- After completion of the ASI course, the rider will qualify for an incentive worth \$100.

3

The training program is in addition to the training information that will be provided in a variety of formats to all purchasers, including the owner's manual, hang tags, ATV safety video and other media.

**ATV Hang Tags:**

ARGO will provide all authorized dealers hang tags which are attached to all ARGO ATVs. The tags will comply with the requirements of Section 4.24 of the ATV Standard. The tags will convey the safety messages as required.

**ATV Labels:**

ARGO will use all required labels, which will conform to Section 4.23 of the ATV standard.

**Owner's Manuals:**

ARGO owner's manuals will conform to Section 4.21 of the ATV Standard. ARGO will update owner's manuals if required by law. A toll free information helpline will be included in owner's manuals.

**ATV Safety Video:**

ARGO will provide a Safety Video to all retail purchasers of ARGO ATVs at the point of sale. The video will comply with all requirements described at Section H.3.b(4)(b) and paragraphs II.A and II.C of Appendix I of the 1988 ATV Consent Decrees.

**Safety Alerts:**

ARGO will provide to its dealers, for dissemination to prospective purchasers, information that conveys substantive safety messages including information concerning the estimated number of injuries and fatalities associated with ATVs as described at Section H.3.b(4)(c) and Appendix J of the 1988 Consent Decrees. Information on injury and death statistics for ATVs, safety rules and age recommendations will be included. ARGO will also include information about availability of ATV safety training in its Safety Alerts.

**ATV Safety Posters:**

ARGO will provide ATV Safety Posters to our dealers. All the dealers are required to promote the ATV Safety Posters to all actual and prospective ATV consumers.

**24 Hour Toll-Free Hotline:**

ARGO will provide a 24-hour toll-free hotline in accordance the requirement of Section H.4 of the 1988 ATV Consent Decrees. Information provided by this shall be consistent with all other safety-related messages disseminated by ARGO including those regarding or containing the age

recommendations, warning labels, owner's manuals, advertising and promotional materials and ATV Safety Alerts. The toll-free number will be shown in all owner's manuals, ATV websites and other promotional materials.

**Advertising:**

- ARGO will use its best efforts to encourage dealers to comply with advertising requirements and our company safety policy.
- ARGO will require that all advertising and promotional materials depict the safe and responsible operation of ATVs. All riders shown in such advertisements and promotional materials will wear helmets and full protective gear. The advertising shall include the safety messages described in Section J.1. and Appendix K of the 1988 ATV Consent Decrees.

**Participation in ASI's Safety Program:**

If at any time ARGO is no longer a participating member of ASI's Safety Program, and therefore no longer able to access ASI's training and safety materials and services, ARGO will cease to distribute ATVs into U.S. commerce until such time that ARGO is able to provide equal or greater materials and services as described herein.

**Voluntary Standards**

Argo USA, Inc. will participate in the ongoing efforts to update and revise the ATV voluntary standard. Potential technical issues identified by CPSC staff will be discussed and considered in good faith as part of those efforts.

**3-Wheel ATVs:**

ARGO will not manufacture, market or sell 3-wheel ATVs.

**Notice of Change:**

ARGO will inform CPSC with at least sixty (60) days advance notice if we have any intention to terminate or materially change any commitment under this action plan. ARGO will provide information about these activities upon request from CPSC.

**Amendment and Termination Procedures:**

If Commission staff determines that ARGO's approved ATV Action Plan is no longer effective or adequate, Commission staff may take certain action, including but not limited to notifying ARGO that the ATV Action Plan must be amended to address the effectiveness of adequacy of the plan. With that notification, Commission staff shall provide ARGO with the text of any proposed amendment. ARGO and Commission staff must reach agreement on the proposed amendment within thirty (30) calendar days of the notification, unless Commission staff grants

an extension for good cause. If ARGO and Commission staff fail to reach an agreement within the designated timeframe, then Commission staff may recommend termination of the Action Plan. Additionally, (i) if ARGO fails to comply with the obligations of this ATV Action Plan, or (ii) if Commission staff determines that ARGO can no longer comply with the obligations of this ATV Action Plan, or (iii) if ARGO fails to adopt a requested amendment within the timeframe specified by staff, Commission staff, after providing ARGO with notice and an opportunity to respond, may recommend termination of the ATV Action Plan. ARGO may not manufacture, import, or distribute any ATV in the United States under this Action Plan after receiving notice of termination. Failure to cease manufacture, importation, or distribution in the United States commerce of any ATV under this ATV Action Plan after receipt of notice of termination is a prohibited act under section 19(a)(1) of the CPSA, 15 U.S.C. §2068(a)(1).

On behalf of ARGO, thank you in advance for your attention to this important matter. ARGO stands ready to comply with all ATV action plan requirements. ARGO hereby agrees to take all of the actions to promote ATV safety set forth in this ARGO ATV Action Plan, and further agrees to fulfill each undertaking set forth in this Plan. ARGO understands that any failure to perform the actions, or fulfill the commitments set forth in the Plan may result in termination of the Plan.

ARGO requests that its proposed action plan be kept confidential until such time as it is accepted and approved by the U.S. Consumer Product Safety Commission.

If you have any questions about the proposed action plan or desire any additional information, please let me know.

Very truly yours,



Douglas Braswell  
Vice President – ARGO USA, Inc.