

Hexcel Corporation
Terms and Conditions of Sale

1. **Offer, Acceptance:** **THESE TERMS AND CONDITIONS OF SALE, IF CONSIDERED TO BE AN OFFER, EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS OF THE OFFER, AND HEXCEL OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CUSTOMER. IF HEXCEL HAS ALREADY RECEIVED AN OFFER, THEN HEXCEL'S ACCEPTANCE OF THE OFFER IS EXPRESSLY CONDITIONAL ON THE ASSENT BY CUSTOMER TO ALL TERMS AND CONDITIONS CONTAINED IN THESE TERMS AND CONDITIONS OF SALE THAT ARE ADDITIONAL TO, OR DIFFERENT FROM, THE TERMS AND CONDITIONS CONTAINED IN CUSTOMER'S OFFER.** These Terms and Conditions of Sale shall be deemed incorporated into all orders that Customer may place with Hexcel (whether by mail, facsimile, or electronic data exchange). To the extent that an Order Acknowledgement contains a term or condition that conflicts with, or is in addition to, the terms and conditions herein, such conflicting or additional term or condition in the Order Acknowledgement shall take precedence as to that sale.
2. **Price:** Orders are accepted on the basis that (i) payment must be made to Hexcel in U.S. dollars and (ii) prices do not include sales, value added, use, excise or similar taxes, customs or import duties, freight and handling charges, non-standard packaging, the costs of certificates of origin or consular invoices or similar documents.
3. **Payment:** The purchase price is due and payable thirty (30) days from the date of Hexcel's invoice. Customer shall pay interest to Hexcel on overdue accounts at the rate of the lesser of (i) one and one-half percent (1 ½%) per calendar month or (ii) the maximum amount allowed by applicable law. Interest shall commence to run on the 31st day from the date of Hexcel's invoice and shall be assessed daily.
4. **Delivery:** (a) Delivery shall be by any method of transport chosen by Customer, shall be at the sole risk of Customer and Customer shall pay the freight and handling charges directly to the shipper; and title, liability for and risk to the products shall pass to Customer upon loading on a carrier at Hexcel's shipping dock.
 - (b) Hexcel will use reasonable commercial efforts to comply with the delivery dates set forth in the Order Acknowledgement. Hexcel shall not be liable for any damages, claims or losses resulting from Hexcel's failure to meet such delivery dates.
 - (c) In the case of short or damaged delivery, Customer must notify both Hexcel and the carrier in writing within seven (7) days after delivery by the carrier.
 - (d) Hexcel reserves the right to deliver the quantities stated in Hexcel's Order Acknowledgement subject to deviation not exceeding plus or minus ten percent (10%). In the event of any such quantity variance, payment will be based on the actual quantity delivered at the unit price specified in the Order Acknowledgement. Hexcel reserves the right to ship

such Order quantity (with or without quantity variance) up to five (5) business days ahead of scheduled shipment date.

(e) Products shall be shipped in standard commercial packaging. When special or export packaging is requested or, in the opinion of Hexcel is required, the cost will be the obligation of the Customer.

(f) Products may be rejected only to the extent that they do not meet the standard Hexcel specifications for the product. A product shall be deemed accepted upon the earlier of (i) use of the product or any portion of the product; (ii) affirmative acceptance by the Customer; or (iii) ninety (90) days following the delivery of the product.

5. Warranty and Limitation of Liability: (a) All products of Hexcel are manufactured in accordance with the standard Hexcel specifications for that product. Hexcel's obligation under this warranty is limited to defects of which Hexcel is notified in writing within (i) six (6) months for HexPly products, and (ii) twelve (12) months for other products including HexWeb and HexForce products, from the date of shipment to Customer and shall be limited, at the option of Hexcel, to either (i) Hexcel refunding the original purchase price of the defective product plus any transportation charges incurred by Customer, or (ii) Hexcel replacing or repairing such defective product and paying any transportation charges incurred by Customer. No claim shall be allowed for product that has been processed in any manner or has been damaged as a result of Customer mishandling or improper use.

(b) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION AND SECTION 8 HEREOF, HEXCEL MAKES NO EXPRESS OR IMPLIED WARRANTY (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FROM ANY COURSE OF DEALING OR TRADE USAGE) REGARDING THE PRODUCT.

(c) UNDER NO CIRCUMSTANCES SHALL HEXCEL HAVE ANY LIABILITY FOR LOSS OF USE OR FOR ANY INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR ANY OTHER LOSS) TO CUSTOMER OR TO ANY OTHER PERSON, FIRM, COMPANY OR OTHER ENTITY. CUSTOMER AGREES TO INDEMNIFY AND SAVE HEXCEL HARMLESS FROM EACH AND EVERY CLAIM, ACTION, OR PROCEEDING, MADE OR BROUGHT BY ANY OTHER PERSON, FIRM, COMPANY OR OTHER ENTITY SEEKING ANY RECOVERY OR RELIEF BASED ON THE SALE BY HEXCEL TO CUSTOMER OF THE PRODUCT.

(d) Customer, having the expertise and knowledge in the intended use of the product and any articles made therefrom, assumes all risk and liability for results obtained by use of the product, whether used alone or in combination with other materials.

(e) When ordering special processing (including heat-treating, brazing, machining, forming, etc.) to be accomplished on Customer furnished material, Hexcel warrants to

Customer only that the process ordered will be performed either in the way specified by Customer, or in such a way as to obtain the result specified by Customer, but not necessarily both. Customer assumes the risks inherent to Customer furnished material that is a result of the design, materials and processes employed prior to Hexcel's processing. If damage occurs to Customer's materials as a result of Hexcel's negligence in its processing methods, Hexcel's sole liability is limited to the amount of charges for the services applied by Hexcel to the damaged material. Claims by Customer under this section must be made within sixty (60) days from the date of shipment from Hexcel.

- 6. Excusable Delay or Nonperformance:** (a) Hexcel shall not be liable for delay or failure in performance due to fires, floods, strikes or other differences with workers, accidents, labor or material or transportation shortages, war (declared or undeclared), terrorist activities, riot, government orders or regulations (including Governmental delay in license issuance), legal interference or prohibitions, commercial impracticability, defaults on the part of suppliers, or other causes beyond Hexcel's reasonable control.

(b) If for any reason Hexcel is unable to supply the total demand for product, Hexcel may distribute its available supply among any or all purchasers as well as other businesses of Hexcel and its affiliates on such basis as Hexcel may deem fair and reasonable without liability for any failure of performance that may result therefrom. Hexcel shall have no obligation to purchase product to enable Hexcel to supply Customer.

- 7. Default:** (a) Hexcel may, without prejudice to any other rights it may have, by notice in writing to Customer, terminate any order if (i) Customer commits any breach of any of the terms of any orders with Hexcel or (ii) Hexcel has a reasonable concern regarding Customer's ability to pay its debts as and when they become due and payable and Customer refuses, or is unable, to provide adequate assurances of performance.

(b) If Customer is overdue on any amount owed Hexcel, then, without prejudice to any other rights, Hexcel may suspend all or any other deliveries to be made under the order or any other order with Customer. In such event, however, Customer shall not in any respect be released from its obligations to Hexcel under the order or any other order. Instead of suspension, Hexcel may terminate the order or any other order with the Customer and claim damages from Customer for breach.

(c) Customer agrees that if it is necessary to enforce collection of any amount due and unpaid on an order, Hexcel shall be entitled to recover reasonable legal and other collection costs.

- 8. Patents:** Customer shall hold Hexcel harmless from and against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Customer's designs, specifications or instructions. Except as otherwise provided in the preceding sentence, Hexcel shall defend and protect Customer against any suit or proceeding brought against Customer so far as it is based on a claim that any product furnished by Hexcel hereunder constitutes an infringement of any patent of the United States; provided that Hexcel is notified promptly in writing and given authority, information and assistance for the

defense of same. In case said product is, in such suit, held to constitute an infringement and the use of said product is enjoined, Hexcel shall at its own expense and at its option, either (i) procure for Customer the right to continue using said product, (ii) replace the product with a non-infringing product, (iii) modify the product so it becomes non-infringing, or (iv) remove said product and refund the purchase price and the transportation cost thereof. Hexcel shall, however in no event be liable for any use made by Customer of the product supplied hereunder which is thereafter asserted to be covered by any adversely held patents. The foregoing states the entire liability of Hexcel for patent infringement by said product or any part thereof.

9. **Severability:** If any term or provision of these Terms and Conditions is found to be invalid, illegal or unenforceable, the Terms and Conditions shall remain in full force and effect and such term shall be deemed stricken and replaced with an alternate term which, to the maximum extent possible, is enforceable and reflects the intent of the parties as set forth herein.
10. **Technical Advice:** Any technical advice furnished by Hexcel with reference to the use of its products is provided without compensation and Hexcel assumes no obligation or liability for the advice given or results obtained. Any technical advice furnished by Hexcel shall not constitute a warranty, which is expressly disclaimed, all such advice being given and accepted at Customer's risk.
11. **Returns:** Returns to Hexcel may be made only with the prior authorization of Hexcel and according to Hexcel's instructions. Materials returned without prior permission or contrary to instructions will be refused by Hexcel. Customer will be responsible for all shipping costs, corresponding surcharges including storage, customs clearance, inland freight, and other related charges for unauthorized returns.
12. **Product Information:** Customer acknowledges that it has received and is familiar with Hexcel's labeling and literature concerning the product and its properties. Customer will forward such information to Customer's employees and any others, including Customer's customers, who may handle, process or sell the product and advise such parties to familiarize themselves with such information.
13. **Propriety Data and Processes.** All inventions, discoveries and improvements developed by Hexcel in the course of fulfilling Customer's order are and remain the property of Hexcel.
14. **Disputes.** Any and all disputes, controversies or claims arising under or relating to this Agreement upon written notice, must first be referred to a senior management representative from each of the parties who will confer in good faith to attempt to resolve the matter prior to pursuing other legal remedies. The notice shall describe in detail the claims or issues in dispute and designate that party's representative ("initial notice"). The other party shall have five (5) business days from receipt of the initial notice to designate its representative and add any other issues or claims for resolution not identified in the initial notice. The representatives shall have thirty (30) days from the date of the initial notice to resolve the issues identified in the notices. Customer and Hexcel expressly waive their rights to a jury

- 15. Applicable Law:** The rights and obligations of the parties under these Terms and Conditions of Sale shall be governed by the law of the state of California, without regard to choice of law or conflicts principles of any jurisdiction, and the parties hereto irrevocably commit to the jurisdiction of the state of California and the venue of Alameda County in any action brought by the parties hereto concerning products sold to Customer hereunder. The United Nations Convention on Contracts for the Sale of Goods shall not be applicable to any purchases made by Customer from Hexcel or any aspect of any dispute arising therefrom.
- 16. Inspection:** If source inspection is required, it shall be performed at reasonable times and be limited to plant areas designated by Hexcel.
- 17. Changes:** If Customer requests a change to an order, Hexcel may, in its sole discretion, accept such change. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the order, an equitable adjustment shall be made to the purchase price and/or delivery schedule, and the order will be modified accordingly. Hexcel must assert any claim for adjustment within 90 days from the date of receipt of the modification or change.
- 18. Entire Agreement:** These Terms and Conditions of Sale contain all of the terms and conditions with respect to the purchase and sale of the products sold pursuant to the order. No other agreement, order amendment, quotation or acknowledgement in any way purporting to modify any of the terms and conditions is binding upon Hexcel unless made in writing and signed by Hexcel's authorized agent. If any sample was shown to Customer, such sample was used merely to illustrate the general type and quality of goods and not to represent that the products would necessarily conform to the model sample.