

# General Conditions of Sale

## Attachment "A"

IMPORTANT: SEE WARRANTY PROVISIONS LIMITS THEREON AND CAUTION RESPECTING THE PRESSURE TESTING OF GOODS SOLD. ALL ORDERS, SALES, AND TRANSACTIONS WITH GRACE COMPOSITES, L.L.C. (SELLER) ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF SALE, NOT WITHSTANDING ANY CONTRARY OR INCONSISTENT TERMS OR CONDITIONS THAT MAY BE SET FORTH ON THE BUYER'S PURCHASE ORDER.

1. **PRICES:** Unless Grace Composites (GC) has issued to the end user (the Customer) or its distributor (the "Distributor") in behalf of the Customer a limited period of price protection, prices are subject to change without prior notice. Shipments will be invoiced at the price in effect on the date shipment is made from GC's plant.

2. **TAXES:**

A. All prices are exclusive of any applicable of U.S.A., federal, state or local sales, use, excise or other similar taxes. All such taxes shall be for Buyer's account and paid by Buyer.

B. Any taxes (including income, stamp and turnover taxes), duties, fees, charges, or assessments of any nature levied by any governmental authority other than of the U.S.A. in conjunction with this transaction, whether levied against Buyer, against Seller or its employees, or otherwise, shall be for the Buyer's account and concern. If Seller is required by law or otherwise to pay any such levy and/or fines, penalties, or assessments or regulations governing the payment of such levies by Buyer, the amount of any payments so made by Seller shall be reimbursed by Buyer to Seller upon submission of Seller invoices.

3. **SHIPMENT: Domestic:** If specific instructions are not provided by Distributor (which term, for the purpose of this paragraph shall include Customer where GC has agreed to ship directly thereto) on date the goods are ready for shipment, GC may select any reasonable method of shipment without liability by reason of such selection. Parcel post shipments may be insured at Distributor's expense. GC will not provide a valuation on any shipments unless requested by Distributor in writing directed to GC. Unless otherwise agreed to in writing by GC, the goods sold hereunder shall be delivered to Distributor, F.O.B. GC's plant, at which point title to the goods shall pass to Distributor who, alone thereafter, shall bear all risk of loss of, or delay in transit and damage to, the goods. These terms shall also apply to direct shipments to the Customer.

GC will make an effort to comply with requested shipment dates but it cannot guarantee compliance therewith, and it shall not be held liable for any delay in shipment. In the event Distributor delays shipment beyond the date when GC is prepared to ship the goods, Distributor shall pay GC in accordance with the provisions of the next paragraph. In addition, Distributor shall be liable for, and agree to pay, prior to shipment by GC, a warehousing and handling charge for such delay.

DISTRIBUTOR ACCEPTS AND SHALL BEAR ALL RISK OF LOSS OF OR DAMAGE TO THE GOODS WHILE THEY ARE WAREHOUSED BY GC.

Export: As a service to Buyer, Seller, upon Buyer's request and Seller's written agreement, shall arrange for export shipment on behalf of Buyer. Buyer shall pay Seller, for all fees and expenses including, but not limited to those covering preparation of consular documents, freight, storage and warehouse-to-warehouse (including war risk) insurance, upon submission of Seller's invoices. Seller will comply with any reasonable instruction of Buyer or, in the absence thereof, herein; Seller shall be without liability on any claim asserted by the Buyer with respect to such export shipment of Seller's services related thereto.

4. **PAYMENT:** All orders are subject to final approval by GC, which may require full or partial prepayment before any order is accepted. Full payment for the goods shipped is due within thirty (30) days after shipment date and will be paid in U.S. dollars.

Payment for shipments to foreign countries shall be made through a Letter of Credit to be established by the Buyer at Buyer's expense including any bank confirmation charges. All Letters of Credit shall be in favor of and acceptable to Seller and shall be maintained in sufficient amounts and for the period necessary to meet all payment obligations, shall be irrevocable and based by a bank in the United States satisfactory to Seller within 30 days after acceptance of any order, permit, partial deliveries, acceptance of state documents, contains the term documents to be accepted as presented and shall provide for pro-rata payments upon presentations of Seller's invoices and Seller's certificate of delivery of Products to buyer, or of delivery into storage with certification of cause therefore and for the payment of any termination charges. In the event Distributor delays shipment beyond the date on which GC could have shipped the goods, Distributor shall make full payment within thirty (30) days of such date. In the event Distributor delays the processing of any order, Distributor shall pay GC an amount reasonably calculated to compensate GC for its expenses incurred up to the date of receipt of Distributor's request for delay, which amount shall include the costs of completed goods or work in progress under such order together with any sums expended by GC for special tooling, retooling, and modification of equipment, as well as the procurement of articles, chemicals or machinery necessary to fulfill the order.

**DELAYS:** The date on which Seller's obligations are to be fulfilled shall be extended for a period equal to the time lost by reason of any delay arising directly or indirectly from (1) acts of God, unforeseeable circumstances, act (including delay of failure to act) or any governmental authority (de jure or de facto), war (declared or undeclared), riot, revolution, priorities, fires, strikes, labor disputes, sabotage or epidemics, (2) inability due to causes beyond Seller's reasonable control to promptly obtain instructions or information from Buyer, necessary and proper labor, materials, components, facilities, and If delay resulting from any of the foregoing causes extends for more than 90 days and the parties have not agreed upon a revised basis for continuing the work at the end of the delay, including adjustment of the price, then either party, upon 30 days written notice, may terminate the order in respect to the unexecuted portion of the work whereupon Buyer shall pay Seller its termination charges.

5. **SHORT OR DAMAGED GOODS:** Claims for goods delivered short or damaged (which transportation, or (3) any other cause beyond Seller's performance of its obligations has been delayed for other causes.

6. GC has determined are not due to the fault of the carrier) shall be filed in writing with GC within thirty days (30) days after the date of shipment. All claims for shortages shall detail shipment weights and the Buyer's method of counting the goods received.

7.

### CANCELLATIONS OR CHANGE ORDER

**CHARGES:** Neither Customer nor Buyer shall cancel or change any order except upon written notice and payment to GC of all reasonable costs arising there from, determined on the basis consistently observed by GC and in accordance with sound accounting principles.

8. **RETURNABLE ITEMS:** The Buyer may return Products to Seller's original F.O.B. point for credit. Credit will be issued less any required charges, in accordance with the provisions of the Return Policy as published from time to time in Seller's Terms of Conditions of Sale.

- A. Buyer must receive written approval from Seller for authorization to return merchandise. Buyer must prepay freight on all PRODUCTS returned to Seller's designated F.O.B. point.
- B. Seller has the right to inspect and reject any PRODUCTS returned that are not in salable condition or cannot be reconditioned to a salable condition.
- C. Items must be returned within twelve (12 months) of the invoiced date.
- D. All PRODUCTS designed and manufactured to Buyer's specifications and /or all specialty fabrication PRODUCTS are not subject to return.

9. **GAUGES AND TOLERANCES:** Unless otherwise specifically agreed by GC in writing, all goods will be manufactured to standard commercial tolerances in effect at date of manufacture. Orders for special gauges, tolerances, or nonstandard fixtures are subject to additional charges, and GC reserves the right to request payment from Buyer in advance of GC's commencement of manufacture.

10. **SAMPLES:** Upon Buyer's request, GC will submit samples of nonstandard good being manufactured for a specific purchase order. However, GC reserves the right to make changes in any goods for which samples have been submitted without notice at any time and without any requirement to conform the good to any samples provided.

11. **TRADEMARKS:** Nothing herein, nor implied by sale of the goods to Buyer or Customers. Shall be interpreted as granting Customer a license to utilize any trademarks, service mark, or other proprietary mark of GC

12. **RESTRICTIONS ON ASSIGNMENT:** Neither Buyer nor Customer shall assign any right or delegate any duty hereunder without the prior written consent of GC. Any assignment or delegation effected in contravention of the provisions of this paragraph shall be null and void.

13. **FAIR LABOR STANDARDS ACT:** GC represents that all goods covered by Buyer's or Customer's order were, or will be produced in compliance with the requirement so the FAIR Labor Standards ACT of 1938 as amended.

14. **RISK OF LOSS AND TITLE:** For non-export sales, title and risk of loss to PRODUCTS will pass to Buyer at the time of delivery specified in Article 3.

For export sales, title to, beneficial ownership of, Right of possession to, risk of loss on, and all property rights in PRODUCTS will pass to Buyer upon Seller's delivery of the Products to the carrier at Seller's designated works.

Neither the time, method, place or medium of payment provided herein, nor any combination of the foregoing, nor the manner of consignment provided for, whether to, or to the order of, the Buyer or its agent, will in any way limit or modify the rights of Seller, as the owner of the Products, to have control over and the right to possession of the Products until the title thereto passes to Buyer as provided for above. The term "free on board" or other commercial abbreviation, if used on any document related to the transaction contemplated herein, will not be deemed to relate to the time when or the place where the ownership of and responsibility for the Products transferred from Seller to Buyer. Buyer will pay all freight and insurance cost from the point of delivery specified in Article 3. In-transit insurance to the point that title passes to Buyer as provided above will be purchased for

Seller's account and will be in an amount in U.S. Dollars. The insurance policies purchased by Buyer will be for the benefit of Seller, whether or not Seller is named as an insured in such policies, until title and risk or loss to Products pass to Buyer pursuant to this Article. If Seller received full payment from Buyer for Products shipped and, in addition, insurance proceeds with respect to such Products, Seller will promptly remit the excess insurance proceeds to the Buyer.

#### 15. **GOVERNMENTAL AUTHORIZATIONS.**

- A. Buyer shall be responsible for the timely obtaining of License, Exchange Permit or any other governmental authorization, even though Seller may apply for any such authorization. Buyer and Seller shall assist each other in every manner reasonably possible in securing such authorizations as may be required. Seller shall not be liable if any authorization is delayed, denied, revoked, restricted or not renewed and Buyer shall not be relieved hereby of the obligations to pay Seller for its work.
- B. All sales herein at all time shall be subject to the export control laws and regulations of the United States Government and any amendments thereof. Buyer agrees that it shall not make any disposition by way of transshipments, re-export, diversion or otherwise, except said laws and regulations may expressly permit, of U.S. original goods purchased from Seller, other than to the ultimate country of destination special on Buyer's order and/or declared as the country of ultimate destination on Seller's invoice.

#### 16. **LIMITED WARRANTY:**

These Terms and Conditions of Sale and the warrant and disclaimers set forth below constitutes all terms governing the sale and purchase of the goods. No modification of these conditions shall be of any force or effect unless in writing and signed by GS, or by the acknowledgement or acceptance of any purchase order or similar forms containing different conditions. The determination by a court of law as to the invalidity of any terms hereof shall not affect the validity of any other terms.

Limited Warranty: Seller warrants that Products manufactured by Seller when properly installed, used, and maintained shall be free from defects in material and workmanship. Seller's responsibility under this warranty shall be limited to replacing or repairing Products, at Seller's option, that prove defective in material or workmanship within one year(1) from the date of installation, provided that Buyer gives Seller prompt notice of any defect or failure and satisfactory proof thereof. Any defective product must be returned to Seller's factory, or any other repair facility designated by Seller, Seller will deliver replacement of defective Products to Buyer freight prepaid to the destination provided for in the original order. Products returned to Seller for which Seller provides replacement under this warrant shall become the property of the Seller.

Sole Remedy: Customer's sole remedy under the warranty provide above shall be the replacement or repair, at GC sole option, of any goods that GC shall determine to be defective. No cost will be reimbursed to customer for any repairs not authorized in writing or carried out by GC.

No GC Warranty AS to Installation: GC does not warrant the installation of the goods and shall not be responsible for the workmanship of any Buyer, subcontractor, Customer or any other person or entity engaged in installation of the goods or installation of the goods or installation supervision.

In the event Products are altered or repaired by the Buyer and /or end user without prior written approval of the Seller, all warranties are void. Equipment and accessories not manufactured by the seller warranted only to the extent of and by the original manufacturer's warranty. A new warranty period shall not be established for repaired or replaced materials, Products, or supplies. Such items shall remain under warrant only for the remainder of the warranty period on original materials, Products, or supplies.

## 17. DISCLAIMER:

NO WARRANTY, OTHER THAN AS EXPRESSLY STATED IN PARAGRAPH 2 OF ITEM 16 ABOVE (OTHER THAN TITLE), SHALL BE IMPLIED FROM THE MANUFACTURE, SALE OR DISTRIBUTION OF THE GOODS TO CUSTOMER. GC AND CUSTOMER AGREE THAT INCONSIDERATION OF THE ABOVE EXPRESS WARRANTY, ALL OTHER WARRANTIES (OTHER THAN TITLE) EITHER EXPRESS OR IMPLIED, WHETHER ARISING UNDER LAW OR EQUITY, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED.

CONSEQUENTIAL DAMAGES: IN NO EVENT SHALL GC HAVE ANY LOSS OF ANTICIPATED PROFITS, LOSS BY REASON OF SHUTDOWN, NONOPERATION OR INCREASED EXPENSE OF OPERATION OF ANY BUSINESS, OR FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES SUFFERED BY CUSTOMER OR ANY OTHER PERSON OR ENTITY ARISING FROM ANY CAUSE WHATSOEVER.

MISUSE OR IMPROPER TESTING- WARRANTY VOID; THE EXPRESS WARRANTY PROVIDED ABOVE SHALL BE VOID AND OF NO FURTHER EFFECT IF: (1) THE GOODS HAVE BEEN SUBJECTED TO ANY ACCIDENT, FAULTY INSTALLATION, MISAPPLICATION, ABUSE OR MISUSE (2) CUSTOMER HAS USED THE GOODS WITHOUT GC PRIOR WRITTEN CONSENT AFTER DISCOVERY OF A DEFECT; (3) DEFECT; (4) CUSTOMER OR ITS AGENTS, REPRESENTATIVES, CONTRACTORS, OR EMPLOYEES EFFECT ANY TEST OF THE GOODS USING COMPRESSED AIR OR GAS WITHOUT FOLLOWING GC' REQUIRED TESTING PROCEDURES FOR THE GOODS.

TESTING – CAUTION; CUSTOMER ACKNOWLEDGES AND RECOGNIZES THE POTENTIAL HAZARDS INHERENT IN TESTING THE INSTALLATION OF THE GOODS WITH COMPRESSED AIR OR GAS. INSTALLATION PROCEDURES ARE NOT FOLLOWED, AND GC SHALL NOT BE LIABLE IN TORT OR IN REPRESENTATIVES, CONTRACTORS, OR ANY EMPLOYEES THEREOF OR BY ANY INSTALLATION PERSONNEL.

18. GENERAL: Any sale by Seller to Buyer shall in all respects be construed under and be given legal effect in conformity with the law of the State of Arkansas, U.S.A.