

May 25, 2021

INVOICE

**STANDARD TERMS AND CONDITIONS OF SALE**

1. **Acceptance.** Any order for the purchase of goods from Aexcel Corporation, hereinafter called "Seller," shall be subject only to the terms and conditions set forth herein and to approval and acceptance by Seller. There are no understandings or agreements other than as set forth herein and on the face hereof, and no additions, deletions, or modifications of these terms or any matter set forth on the face hereof proposed by Buyer in its printed forms or otherwise shall bind Seller unless accepted by an authorized representative of Seller in writing, regardless of whether Seller commences shipping goods ordered hereunder and accepts payment therefore. Acceptance by Seller of each order by Buyer is expressly made conditional on Buyer's assent to these terms and conditions. Seller hereby objects to any additional, contradictory, or different terms contained in any communication, order, proposal form or any other document from Buyer, whenever made or received. Any quotation issued by Seller is for informational purposes only, does not constitute an offer, expires thirty (30) days after its date, and may be reinstated only by written confirmation by Seller. Stenographic and clerical errors are subject to correction. Buyer understands and agrees that these terms and conditions, and not those of Buyer, shall apply to all orders placed at any time by Buyer, including the order with respect to which these terms and conditions were first delivered to Buyer and all subsequent orders, whether or not a separate copy setting forth these terms and conditions is delivered to Buyer in connection with any subsequent order and regardless of the means by which any order is placed, whether by written document, telephone, facsimile, electronically, or otherwise. Seller may revise these terms and conditions from time to time without notice to Buyer.
2. **Prices.** Prices are F.O.B. point of shipment. If Seller makes a price adjustment with respect to any goods, which adjustment is unacceptable to Buyer, Buyer shall notify Seller to that effect in writing within fifteen (15) days after receipt by it of notice of such adjustment. The failure by Buyer to so notify Seller within such time shall be deemed an acceptance by Buyer of such changes. With respect to any goods ordered that are subject to any price adjustment to which Buyer timely objects as provided above, Seller shall have the option of either supplying the goods at the price in effect prior to the adjustment or canceling the order or that portion thereof to which the price adjustment applied, without liability to Seller. Buyer shall remain obligated with respect to all goods ordered and delivered not subject to any price adjustment objected to by Buyer. Unless specifically otherwise set forth, prices do not include the cost of freight, which is prepaid for Buyer's account, costs and charges for insurance and any applicable production, sales, use, transfer, transportation, gross receipts, excise or other tax, tariffs, or custom duties imposed on or attributable to Buyer's orders and/or goods and/or services delivered thereon. Buyer agrees to pay Seller directly or reimburse Seller for all such costs and/or charges in addition to the price(s) of the goods supplied hereunder and all amounts in respect thereof shall be due and payable on the same terms as apply to payment of the price(s) hereunder. If Buyer is exempt from the payment of any tax or holds a direct payment permit, Buyer shall, upon order placement, provide Seller with a copy, acceptable to the relevant governmental authorities, of any such certificate or permit. Seller shall have no responsibility for obtaining any insurance unless expressly requested by Buyer and approved by Seller.
3. **Terms.** Terms of payment, unless otherwise expressly agreed in writing, are net thirty (30) days from invoice date, without discount. All payments shall be made in United States dollars. Payment shall not prejudice claims on account of omissions or shortages in shipment, but no such claim will be allowed unless made within fifteen (15) days after receipt of the applicable shipment by Buyer. Seller shall not be obligated to ship any materials hereunder unless Buyer has paid in full all invoices for material in accordance with the terms of payment. Each order and shipment is a separate contract and Buyer shall not be entitled to set off against payments, adjustments or deductions of any kind relating to any order or shipment.
4. **Title.** Title to all goods shall remain in Seller until the complete purchase price and all additional costs and charges, as adjusted (collectively, the "Purchase Price") are paid by Buyer. Buyer shall keep the goods free from all liens, levies and encumbrances until the Purchase Price is paid in full by Buyer. Buyer hereby grants to Seller a security interest in any goods sold hereunder to secure payment in full of any amounts owed to Seller for such goods. Buyer agrees to execute and hereby appoints Seller as its attorney-in-fact to execute on Buyer's behalf, any document requested by Seller which is necessary for attachment and perfection of its security interest. If Buyer defaults, Seller will have all the rights of a secured creditor under the Uniform Commercial Code as enacted in the State of Ohio.
5. **Remedies.** If Buyer fails to pay when due any amount on any invoice issued in connection with this order, fails to pay when due any amount owing to Seller under any other contract or instrument with Buyer, is in breach of any of Buyer's obligations to Seller under this or any other contract with Seller or any division or subsidiary of Seller, or if the financial or business condition or responsibility of the Buyer shall become impaired or unsatisfactory to Seller, Seller reserves the right, at Seller's option, and in all cases without liability to Buyer, to suspend work on and other performance of any or all outstanding orders and any and all orders that may thereafter be received and/or withhold delivery of all or part of the goods subject hereto until past due payments are made and satisfactory assurance of payment is received, and/or to cancel any or all such orders, in all cases without prejudice to any other legal or equitable remedy. Buyer agrees to pay Seller the cost of collection of overdue invoices, including, without limitation, attorneys' fees. All amounts not paid when due shall bear interest at the lesser of eighteen percent (18.00%) per annum from the due date until paid or at the highest rate permitted by applicable law. Seller shall, in addition to the rights and remedies herein set forth, be entitled to all rights and remedies provided for in the Uniform Commercial Code and other applicable law as from time to time amended, and at equity. The remedies provided herein will be cumulative or in addition to any other remedies provided by law or in equity. Seller's waiver of a breach of any provision hereof, or failure at any time of Seller to enforce any provision hereof, will not constitute a waiver of any other breach or future non-observance of any provision hereof.
6. **Delivery.** Shipping dates are approximate only, and Seller is not responsible for delays or nonperformance resulting from (a) delays in receipt of final specifications or instructions from Buyer, (b) changes in specifications, and/or (c) force majeure, including, without limitation, strikes, lockouts, labor disturbances, material shortages, equipment failures, nonperformance by subcontractors or suppliers, or other abnormal manufacturing conditions, delays or failures of carriers or communications, fire, flood, storms, accident, riot, war, invasion, governmental requisitions or priorities, governmental regulations or orders, epidemics, pandemics, acts of God, or other causes beyond Seller's reasonable control. Production or delivery affected by any such circumstances shall be excused without liability and Seller's time for delivery shall be extended by the time required to eliminate such cause for delay, but this contract shall otherwise remain unaffected. If by reason of any such circumstances, Seller is unable at any time, or from time to time, to supply the total demand for the goods specified herein, Seller may distribute its available supply among any or all customers as well as departments and divisions of Seller and/or affiliates of Seller as Seller reasonably determines, without liability to Buyer. If delivery is delayed at the request of Buyer, or for any other reason beyond the control of Seller, the goods shall nevertheless be deemed to have been delivered to Buyer as of the date of notice from Seller to Buyer that the goods are available for delivery for purposes of determining the final price for the goods and the time payment will be due. Goods held by Seller for Buyer after the giving of such notice shall be held at the risk and expense (including, without limitation, storage and insurance) of the Buyer. Delivery to Buyer's designated carrier or to common carrier F.O.B. point of shipment shall constitute delivery to Buyer. Seller may, in its sole

discretion, without liability or penalty, make partial shipments of goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

7. **Method of Shipment; Weight.** Totes and other returnable containers are the property of Seller and are loaned to Buyer. At Seller's option, Buyer shall be required to make a deposit as security for the return of such containers, equal to Seller's then current deposit charge, such deposit to be paid prior to shipment or at such other time as Seller shall specify. Such containers must be kept in good condition, may not be used for any goods other than that shipped therein and must be returned (F.O.B. Seller's shipping point, unless otherwise specified by Seller) within thirty (30) days from the date of shipment. On such containers being so returned, a refund of the deposit will be made. If Buyer fails to return said containers in good condition or within the time specified, Seller may, without limiting its other rights in any way, elect to declare Buyer's deposit forfeited. Where the goods are shipped in tank cars furnished by Seller, Buyer agrees that such tank cars will be unloaded within forty-eight (48) hours after receipt thereof. Buyer shall ensure that all federal, state and local laws, rules and regulations applicable to the unloading, handling, storage and/or use of goods supplied by Seller are fully complied with, and Buyer shall indemnify Seller for any claims made or losses sustained by Seller as a result of any failure by Buyer to comply with this provision. In case of bulk carload, tank car, or tank truck shipments, shipper's weights, certified to by sworn weight master, shall govern.
8. **Cancellation.** Except as provided in paragraph 5, orders are not subject to cancellation or modification, in whole or in part, after Seller's acceptance, except with Seller's express written consent. Seller may require, as a condition to such consent, payment by Buyer to Seller of an amount specified by Seller to compensate Seller for costs incurred and lost profits relating to the canceled order. If Buyer cancels an order after acceptance by Seller without Seller's express written consent, Buyer agrees to pay all costs incurred by Seller and to compensate Seller for any loss of profits and other consequential damages that it may suffer in the event that Seller is unable to re-sell the good(s) at the contract price. Customized material procured by Seller to fill Buyer's order will be sent to Buyer upon payment of cancellation charges.
9. **Warranty and Disclaimers.** Seller warrants that goods supplied hereunder shall, at the time of delivery to the carrier, conform to the specifications set forth or referred to on the face hereof and in any other document issued by Seller stating such specifications, and Seller agrees to cure any failure of any such goods to conform to such warranty by, at Seller's option, repair, reprocessing, replacement, or refunding any portion of the price allocable to such nonconforming goods that has been paid to Seller; subject, however, to the Buyer giving written notice to Seller specifying all claimed nonconformities within the time periods prescribed in the next sentence and the goods have not been altered, processed, contaminated, or removed from the containers in which delivered. Buyer shall give Seller written notice specifying all claims of nonconformity based upon shortages or defects reasonably discoverable by inspection fifteen (15) days of receipt of the goods by Buyer and Buyer shall give Seller written notice of all other claims of nonconformity to warranty within ninety (90) days after delivery of the related goods. Failure to give such notice shall result in the waiver of all claims and defenses against Seller for or relating to nonconformity of goods to the warranties provided for hereunder. If Buyer gives any notice of nonconformity, Buyer shall not move or change the condition of any goods affected without Seller's prior written consent and shall fully cooperate with Seller in permitting Seller to inspect the goods and, if Seller determines any goods to be nonconforming, to effect cure of the nonconformity as directed by Seller. If Seller replaces or makes a refund with respect to any nonconforming goods, Buyer shall release the good replaced or in respect of which any refund is made to Seller or its designee and provide reasonable assistance and facilities for reshipment, all without charge to Seller.

Buyer understands, acknowledges, and agrees that (1) any advice, information, suggestions, or recommendations given to Buyer by Seller or any representative of Seller with respect to the goods or the suitability or desirability of the goods for any particular use or application are based solely on the general knowledge of Seller, are intended for informal guidance only, and do not constitute any representation or warranty by Seller that the goods will in fact be suitable or desirable for any particular use or application, (2) Buyer takes sole responsibility for the uses and applications to which the goods are put and Buyer shall conduct all testing and analysis necessary to validate the uses and applications to which Buyer puts the goods and for which Buyer may recommend the use or application of the goods by others, and (3) the characteristics, specifications, and/or properties of the goods may be affected by the processing, treatment, handling, and/or manufacturing of the goods by Buyer or others and Seller takes no responsibility for the nature or consequences of such operations or as to the suitability of the goods for the purposes intended to be used by Buyer or others after being subjected to such operations.

**In addition, and without limiting the generality of the foregoing, Buyer is hereby advised and cautioned that environmental hazards and hazards to the health and safety of persons may result from the use, handling, treatment, application, processing, and/or manufacturing of the goods supplied by Seller and/or goods incorporating such goods.**

**SELLER MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF THE GOODS SUPPLIED HEREUNDER, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE(S), AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. SELLER SHALL HAVE NO LIABILITY FOR LOSS OF PROFITS, OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES OR LEGAL THEORY, WHETHER BASED ON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, TORT, CONTRACT, OR OTHERWISE. SELLER SHALL IN NO EVENT BE LIABLE IN RESPECT OF THIS ORDER AND/OR GOODS DELIVERED ON ACCOUNT OF THIS ORDER FOR AN AMOUNT GREATER THAN THAT PAID BY BUYER TO SELLER ON ACCOUNT OF THIS ORDER. THE REMEDIES STATES IN THESE TERMS AND CONDITIONS CONSTITUTE BUYER'S EXCLUSIVE REMEDIES AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.**

10. **Limitation of Liability.** SELLER, ITS AFFILIATES AND THEIR REPRESENTATIVES SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, OVERHEAD, LABOR, INJURY TO PERSON OR PROPERTY, LOSS OF USE OF THE GOODS OR ANY ASSOCIATED GOODS, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, DOWNTIME COSTS, DELAYS, OR ANY OTHER INCIDENTAL LOSS RESULTING FROM ANY PERFORMANCE OR ABSENCE OF SUCH PERFORMANCE BY SELLER HEREUNDER, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED OR (D) WHETHER SUCH DAMAGES WERE INCURRED BY BUYER OR ANY THIRD PARTY TO WHOM BUYER IS LIABLE. THE LIMITATION OF LIABILITY PROVISIONS SET FORTH IN THIS PARAGRAPH 10 SHALL APPLY EVEN IF BUYER'S REMEDIES UNDER THESE TERMS AND CONDITIONS FAIL OF THEIR ESSENTIAL PURPOSE.
11. **Assumption of Risk.** Buyer expressly assumes all risk of patent infringement by reason of its use of goods provided hereunder in combination with other material, or in operation of any process. All uses and applications made of the goods are solely at Buyer's risk and Buyer assumes all risk and liability resulting from use of the goods delivered hereunder, whether used singly or in combination with other goods.
12. **Inspection; Return.** Buyer agrees to inspect and accept or reject goods delivered by or for Seller within fifteen (15) days after delivery thereof to Buyer's facility, and all goods delivered shall be conclusively deemed accepted and to conform to contract requirements reasonably

determinable by inspection unless rejection is made with specific objection or notice of nonconformity is given in writing within such fifteen (15) day period. Buyer also agrees to inspect the goods for shortages and visible defects upon delivery and noting any on the carrier's receipt. Goods shall not be returned to Seller without Seller's prior permission, and then only in the manner prescribed by Seller.

13. **Specification Changes; Product Discontinuance.** Seller may at its discretion (a) change or alter the quality or specifications of any of the goods hereunder, or (b) discontinue the manufacture or any such goods. If in the opinion of Seller such change or alteration will materially affect the performance of the goods, Seller will give Buyer thirty (30) days written notice and Buyer may terminate any order for goods subject to such change without liability to Seller. Seller shall give Buyer thirty (30) days written notice of the discontinuance of the manufacture of any goods covered by any order and the order shall terminate without liability to Seller as to any such goods not delivered by the end of such period.
14. **Limitation of Actions.** Any action for breach of contract arising out of Seller's acceptance of Buyer's order or goods supplied by Seller must be commenced within one (1) year after the cause of action has accrued.
15. **Governing Law; Forum.** The rights and obligations of the parties hereto and the construction and effect of any contract formed pursuant hereto shall be governed by the laws of the State of Ohio. Buyer and Seller each consent to venue and personal jurisdiction over them in the courts of that state, including the federal courts, for purposes of construction and enforcement of the agreement(s) between Buyer and Seller.
16. **Indemnification.** Buyer shall comply with and require its agents and employees to comply with any and all directions, safety notices, warnings and other instructions that may be furnished by Seller or of which Buyer is aware, and shall use and require its agents and employees to use reasonable care in the use of the goods. Buyer acknowledges that the goods covered hereunder may be, or become, hazardous materials under various laws and regulations. Buyer agrees to disseminate any product safety data sheets, including warnings and safety and health information concerning the goods and/or the containers for such goods furnished by Seller. Buyer shall disseminate such information so as to give warning of possible hazards to any person who Buyer can reasonably foresee may be exposed to such hazards, including, but not limited to, Buyer's employees, agents, contractors, and customers. Seller having no control over Buyer's (or other's) use, disposition, subsequent processing, admixture or reaction of the goods sold with other goods, chemicals or materials, Buyer assumes the entire responsibility therefor and agrees to indemnify and hold Seller harmless from any claim, demand, or cause of action (by Buyer and Buyer's employees and/or others) arising therefrom or related in any way thereto. Seller specifically disclaims any and all liability arising out of the use of the goods supplied hereunder.
17. **Labor Warranty.** Seller certifies that Seller complies with the Fair Labor Standards Act, as amended, and all regulations and orders issued pursuant thereto, which are applicable to Seller.
18. **Risk of Loss.** Risk of loss or damage to material sold to Buyer shall pass to Buyer upon delivery to the carrier. In the event of loss or damage in shipping, Buyer shall obtain a written statement from the carrier's representative as to the circumstances of the loss or damage and deliver a copy to Seller.
19. **Buyer's Duty to Report Complaints.** Buyer shall immediately report to Seller, in full, any claim, demands, or complaint, received by Buyer in regard to any goods sold hereunder.
20. **Assignability and Amendments.** Buyer may not assign this order or any contract resulting from its order without Seller's prior written consent. No amendment or other modification hereof shall be effective without express written consent by an authorized officer of Seller, except Seller may revise these terms and conditions from time to time without notice to Buyer.
21. **Confidential Information.** All non-public, confidential or proprietary information of Seller, including but not limited to specifications, blue prints, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this order is confidential, solely for the use of performing this order and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this section. This section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
22. **Entire Agreement.** These terms and conditions, together with the terms of any purchase order issued by Buyer and accepted by Seller pursuant to paragraph 1 or quotation issued by Seller and accepted by Buyer, comprise the entire agreement between the Buyer and Seller, and merge and supersede all prior understandings and representations (oral or written) between Buyer and the Seller as to the subject matter herein. In the event of any conflict or inconsistency between any such order or quotation and these terms and conditions, these terms and conditions shall control unless Seller has expressly indicated agreement otherwise. No subsequent agreement amending, supplementing or terminating these terms and conditions of sale, if any, including, but not limited to, changes, alterations, erasures, additions to, or deletions from the printed or typewritten portions of these terms and conditions of sale shall be binding upon Seller unless expressly agreed in writing by Seller. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Commencement of performance hereunder or under any such amended or subject agreement shall not be a waiver of the provisions of this paragraph. No waiver by Seller of any of the provisions of this order is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this order operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these terms and conditions. The relationship between the parties is that of independent contractors, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
23. **Survival.** Provisions of these terms and conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of this order including, but not limited to, the following provisions: Confidential Information, Governing Law; Forum, Indemnification, Limitation of Liability and Survival.