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12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION

15 THOMAS & THOMAS RODMAKERS, )	Case No. CV-99-07796-FMC(RNBx)
16 INC., et al., On Their Own Behalf and )	<b>(Consolidated)</b>
17 On Behalf of All Others Similarly )	<u>CLASS ACTION</u>
18 Situated, )	
19 Plaintiffs, )	STIPULATION OF SETTLEMENT
20 vs. )	WITH HEXCEL CORPORATION
21 NEWPORT ADHESIVES AND )	
22 COMPOSITES, INC., et al., )	
23 Defendants. )	

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1 This Stipulation of Settlement with Hexcel Corporation dated as of August 26,  
 2 2004 (the “Stipulation”), is made and entered into by and among the following  
 3 Settling Parties (as defined further in §IV hereof): (i) the Representative Plaintiffs (on  
 4 behalf of themselves and each of the Class Members), by and through their counsel of  
 5 record in the Litigation; and (ii) Hexcel by and through its counsel of record in the  
 6 Litigation. The Stipulation is intended by the Settling Parties to fully, finally and  
 7 forever resolve, discharge and settle the Released Claims, upon and subject to the  
 8 terms and conditions hereof.

9 **I. THE LITIGATION**

10 On and after July 29, 1999, the following class actions were filed in the United  
 11 States District Court for the Central District of California (the “Court”):

<b>CASE NAME</b>	<b>CASE NUMBER</b>	<b>DATE FILED</b>
<i>Thomas &amp; Thomas Rodmakers, Inc. v. Newport Adhesives and Composites, Inc.</i>	CV-99-07796GHK(CTx)	07/29/99
<i>Lamiglas, Inc. v. Hexcel</i>	SACV-99-986-GLT(EEx)	07/30/99
<i>Highland Injection Molding, Inc. v. Amoco Polymers, Inc.</i>	CV-99-08017-WDK(RCx)	08/06/99
<i>Cape Composites, Inc. v. Mitsubishi Rayon Co., Ltd.</i>	CV-99-08260-RSWL(AJWx)	08/13/99
<i>Tex Tech Industries v. Amoco Polymers, Inc.</i>	SACV-99-1039-AHS(EEx)	08/19/99
<i>Gold Tip, Inc. v. Amoco Polymers, Inc.</i>	CV-99-09199-RJK(EXx)	09/09/99
<i>Royal Precision, Inc. v. Amoco Polymers, Inc.</i>	CV-99-10040-GHK(AIJx)	09/30/99

1 2 3 4 5 6 7 8 9	<i>Cannondale Corporation, Inc. v. Newport Adhesives and Composites</i>	CV-00-04913-HLH(CTx)	05/09/00
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By order entered September 21, 1999, the Court executed Amended Pretrial Order No. 1, in which the Court, among other things, appointed Co-Lead Counsel, and ordered the filing of a consolidated complaint. The operative complaint is the Amended and Consolidated Class Action Complaint for Violation of 15 U.S.C. §1 *et seq.* filed on October 5, 1999 (the “Complaint”). The Complaint and the claims contained therein are referred to herein as the “Litigation.”

**II. HEXCEL’S DENIALS OF WRONGDOING AND LIABILITY**

Hexcel has denied and continues to deny each and all of the claims alleged by the Representative Plaintiffs and the Class in the Litigation against Hexcel. Hexcel expressly has denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct or acts alleged, or that could have been alleged, in the Litigation. Hexcel also has denied and continues to deny, *inter alia*, the allegations that the Representative Plaintiffs or the Class have suffered damage as a result of any acts or omissions by Hexcel, or that the Representative Plaintiffs or the Class were harmed in any way by Hexcel’s conduct.

Nonetheless, Hexcel has concluded that further defense of the Litigation would be protracted and expensive, and would entail a continuing distraction of management and diversion of resources. Hexcel also has taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Litigation. Hexcel has, therefore, determined that it is desirable and beneficial to it that the Litigation be settled in the manner and upon the terms and conditions set forth in this Stipulation.

**III. CLAIMS OF THE REPRESENTATIVE PLAINTIFFS AND BENEFITS OF SETTLEMENT**

The Representative Plaintiffs believe that the claims asserted in the Litigation have merit. However, counsel for the Representative Plaintiffs and the Class recognize and acknowledge the expense and length of continued proceedings

1 necessary to prosecute the Litigation against Hexcel through trial and subsequent  
2 appeals. Counsel for the Representative Plaintiffs and the Class also have taken into  
3 account the uncertain outcome and the risk of any litigation, especially in complex  
4 actions such as the Litigation, as well as the difficulties and delays inherent in such  
5 litigation. Counsel for the Representative Plaintiffs and the Class also are mindful of  
6 the inherent problems of proof under and possible defenses to the violations asserted  
7 in the Litigation. Counsel for the Representative Plaintiffs and the Class believe that  
8 the settlement set forth in this Stipulation confers substantial benefits upon the Class.  
9 Based on their evaluation, counsel for the Representative Plaintiffs and the Class have  
10 determined that the settlement set forth in the Stipulation is in the best interests of the  
11 Representative Plaintiffs and the Class.

12 **IV. TERMS OF STIPULATION AND AGREEMENT OF**  
13 **SETTLEMENT**

14 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
15 among the Representative Plaintiffs (for themselves and the Class Members) and  
16 Hexcel, by and through their respective counsel or attorneys of record, that, subject to  
17 the approval of the Court, the Litigation and the Released Claims shall be finally and  
18 fully compromised, settled and released, and the Litigation shall be dismissed with  
19 prejudice, as to all Settling Parties, upon and subject to the terms and conditions of the  
20 Stipulation, as follows.

21 **1. Definitions**

22 As used in the Stipulation the following terms have the meanings specified  
23 below:

24 1.1 “Authorized Claimant” means any Class Member whose claim for  
25 recovery has been allowed pursuant to the terms of the Stipulation.

26 1.2 “Carbon Fiber”, as used herein, means carbon fiber and industrial fabrics,  
27 filaments and prepregs made from or with carbon fiber. When used herein, Carbon  
28 Fiber is intended to encompass all the products at issue in the Litigation.

1           1.3    “Claimant” means any Class Member who files a Proof of Claim in such  
2 form and manner, and within such time, as the Court shall prescribe.

3           1.4    “Claims Administrator” means the firm of Heffler, Radetich & Saitta  
4 L.L.P.

5           1.5    “Class” means all Persons (excluding governmental entities, Defendants,  
6 their subsidiaries and affiliates) who purchased Carbon Fiber in the United States  
7 directly from any of the Defendants or any subsidiary or affiliate thereof, at any time  
8 during the period from January 1, 1993 through January 31, 1999. Excluded from the  
9 Class are those Persons who requested exclusion pursuant to the Notice of Pendency  
10 of Class Action dated October 4, 2002, who are identified on Exhibit C hereto.

11          1.6    “Class Member” or “Member of the Class” means a Person who falls  
12 within the definition of the Class as set forth above.

13          1.7    “Class Period” means the period from January 1, 1993 through January  
14 31, 1999.

15          1.8    “Defendants” means Cytec Engineered Materials Inc. (the successor to  
16 Cytec Fiberite Inc.) and Cytec Industries Inc. (together, the “Cytec Defendants”), BP  
17 Amoco Polymers, Inc. (the successor to Amoco Polymers, Inc. and Amoco  
18 Performance Products, Inc.), Grafil, Inc., Hexcel, Hercules, Inc., Newport Adhesives  
19 and Composites, Inc., Mitsubishi Rayon Company, Ltd., Toho Carbon Fibers, Inc.,  
20 Toho Rayon Company, Ltd., Toray Composites America, Inc., Toray Industries, Inc.  
21 and Toray Carbon Fibers (America), Inc.

22          1.9    “Effective Date” means the first date by which all of the events and  
23 conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

24          1.10   “Escrow Agent” means jointly the law firms of Lerach Coughlin Stoia  
25 Geller Rudman & Robbins LLP or its successor(s); and Barrack, Rodos & Bacine or  
26 its successor(s).

27          1.11   “Final” means: the date on which the first of the following occurs: (i) the  
28 date of final affirmance on an appeal of the Judgment, the expiration of the time for a

1 petition for or a denial of a writ of certiorari to review the Judgment and, if certiorari  
2 is granted, the date of final affirmance of the Judgment following review pursuant to  
3 that grant; or (ii) the date of final dismissal of any appeal from the Judgment or the  
4 final dismissal of any proceeding on certiorari to review the Judgment; or (iii) if no  
5 appeal is filed, the expiration date of the time for the filing or noticing of any appeal  
6 from the Court's Judgment approving the Stipulation substantially in the form of  
7 Exhibit B attached hereto, *i.e.*, thirty (30) days after entry of the Judgment, such that  
8 the Judgment represents a final and binding judgment with respect to the Litigation.  
9 Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining  
10 solely to any plan of allocation and/or application for attorneys' fees, costs or  
11 expenses, shall not in any way delay or preclude the Judgment from becoming Final.

12 1.12 "Judgment" means the judgment to be rendered by the Court,  
13 substantially in the form attached hereto as Exhibit B.

14 1.13 "Hexcel" means Hexcel Corporation and its predecessors, successors,  
15 parents, subsidiaries, affiliates, divisions, present and former officers, agents, directors  
16 and employees and specifically excludes all Non-Settling Defendants and their  
17 predecessors, successors, parents, subsidiaries, affiliates and divisions, including  
18 Hercules, Inc.

19 1.14 "Non-Settling Defendants" means all Defendants except Hexcel.

20 1.15 "Person" means any individual, partnership, corporation, association or  
21 other business or legal entity.

22 1.16 "Plaintiffs' Settlement Counsel" means court appointed Co-Lead  
23 Counsel: Lerach Coughlin Stoia Geller Rudman & Robbins LLP, Joy Ann Bull,  
24 Bonny E. Sweeney, 401 B Street, Suite 1700, San Diego, California 92101, Telephone  
25 (619) 231-1058; Barrack, Rodos & Bacine, Leonard Barrack, Jeffrey B. Gittleman,  
26 3300 Two Commerce Square, 2001 Market Street, Philadelphia, Pennsylvania 19103,  
27 Telephone (215/963-0600); and Barrack, Rodos & Bacine, Stephen R. Basser, 402  
28 West Broadway, Suite 850, San Diego, California 92101, Telephone (619/230-0800).

1           1.17 “Plan of Allocation” means a plan or formula of allocation of the  
2 Settlement Fund whereby the Settlement Fund shall be distributed to Authorized  
3 Claimants after payment of expenses of notice and administration of the settlement,  
4 Taxes and Tax Expenses and such attorneys’ fees, costs, expenses and interest as may  
5 be awarded by the Court. Any Plan of Allocation is not part of the Stipulation and  
6 Hexcel shall have no responsibility or liability with respect thereto.

7           1.18 “Released Claims” means all claims for economic damages (including,  
8 but not limited to, Unknown Claims as defined in ¶1.24), losses, rights, causes of  
9 action, suits, appeals, demands, damages, penalties, sanctions, punitive, exemplary or  
10 enhanced damages, treble damages, restitution, disgorgement, costs, expenses,  
11 attorneys’ fees, and any other matters and issues, of any nature whatsoever, whether  
12 known or unknown, whether suspected or unsuspected, whether concealed or hidden,  
13 of any Representative Plaintiff or Class Member or its predecessors, successors,  
14 parents, subsidiaries, affiliates, or divisions against Hexcel, arising under the antitrust  
15 laws of the United States or of any state or other jurisdiction, or under any similar  
16 statute, whether sounding in antitrust, unfair or deceptive trade practices or unfair  
17 competition, consumer protection, fraud protection, price discrimination, unitary  
18 pricing, RICO, or other similar laws, that have been, might have been, or are now  
19 asserted in the Litigation and that arise out of any alleged unlawful conspiracy to fix,  
20 raise, maintain or stabilize the prices or allocate customers, products, markets or  
21 territories of Carbon Fiber in the United States during the Class Period. Released  
22 Claims do not include any claims against Non-Settling Defendants or any claims  
23 against any Person other than Hexcel. Released Claims also do not include and shall  
24 not be construed to affect or release and do not affect or release any Representative  
25 Plaintiff or Class Member’s claims against Hercules, Inc. arising from sales of Carbon  
26 Fiber by Hercules, Inc. prior to the acquisition of the Carbon Fiber assets of Hercules,  
27 Inc by Hexcel on June 27, 1996.

28           1.19 “Released Persons” means Hexcel.

1           1.20 “Representative Plaintiffs” means Thomas & Thomas Rodmakers, Inc.,  
2 Lamiglas, Inc., Gold Tip, Inc., Cannondale Corporation, and Royal Precision, Inc.

3           1.21 “Representative Plaintiffs’ Counsel” means counsel who have appeared  
4 for any of the Representative Plaintiffs in the Litigation or who have performed work  
5 on behalf of the Class at the request of Plaintiffs’ Settlement Counsel.

6           1.22 “Settlement Fund” means the principal amount of Seven Million Dollars  
7 (\$7,000,000), plus any interest that may accrue thereon as provided for herein.

8           1.23 “Settling Parties” means, collectively, Hexcel and each of the  
9 Representative Plaintiffs on behalf of themselves and the Members of the Class.

10           1.24 “Unknown Claims” means Released Claims which any Representative  
11 Plaintiff or Class Member or its predecessors, successors, parents, subsidiaries,  
12 affiliates, or divisions does not know or suspect to exist in his, her or its favor at the  
13 time of the release of the Released Persons which, if known by him, her or it, might  
14 have affected his, her or its settlement with and release of the Released Persons, or  
15 might have affected his, her or its decision not to object to this settlement.

16           **2. The Settlement**

17           **a. The Settlement Fund**

18           2.1 The principal amount of \$7,000,000 (plus any interest that may accrue  
19 thereon as provided for herein) shall constitute the Settlement Fund. The Settlement  
20 Fund shall be paid by or on behalf of Hexcel by wire transfer into an interest bearing  
21 account maintained by the Escrow Agent at San Diego National Bank within two (2)  
22 business days after the date the Court executes an order approving the Settlement.  
23 The Settlement Fund will include \$7,000,000 plus all interest accrued on this sum  
24 from the earlier of (a) October 10, 2004 or (b) the date the Court grants preliminary  
25 approval of the Settlement. Interest owed will be calculated at the average 90-day T-  
26 bill rate over the interest period.

1                   **b.     The Escrow Agent**

2           2.2     The Escrow Agent shall invest the Settlement Fund deposited pursuant to  
3 ¶2.1 above in 90-day Treasury Bills that are backed by the full faith and credit of the  
4 United States Government or fully insured by the United States Government or an  
5 agency thereof and shall reinvest the proceeds of these instruments as they mature in  
6 similar instruments at their then current market rates. The Escrow Agent shall bear all  
7 risks related to investment of the Settlement Fund.

8           2.3     The Escrow Agent shall not disburse the Settlement Fund except as  
9 provided in the Stipulation or with the prior written agreement both of counsel for  
10 Hexcel and Plaintiffs' Settlement Counsel.

11          2.4     The Escrow Agent is authorized to execute such transactions on behalf of  
12 the Class Members as are consistent with the terms of the Stipulation.

13          2.5     All funds held by the Escrow Agent shall be deemed and considered to be  
14 in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court,  
15 until such time as such funds shall be distributed pursuant to the Stipulation.

16          2.6     Notwithstanding the agreement on timing of payment of the Settlement  
17 Fund in paragraph 2.1 hereof, if Hexcel has not previously contributed the Settlement  
18 Fund to the Escrow Agent, Hexcel shall be required to pay its *pro rata* share of the  
19 notice and administration costs within (5) calendar days following preliminary  
20 approval. The Escrow Agent may establish a "Notice and Administration Fund," and  
21 may at any time deposit up to \$100,000 in the aggregate from the Settlement Fund in  
22 it. The Notice and Administration Fund may be used by Plaintiffs' Settlement  
23 Counsel to pay Hexcel's *pro rata* share of the costs and expenses reasonably and  
24 actually incurred in connection with providing notice to the Class, locating Class  
25 Members, assisting with the filing of claims, administering and distributing the  
26 Settlement Fund to Authorized Claimants, processing Proof of Claim and Release  
27 forms and paying escrow fees and costs, if any. Hexcel's *pro rata* share shall be  
28 calculated as a percentage of the principal amount of the total settlement monies

1 included in the Notice and Summary Notice referenced in ¶3.1 hereof. The Notice  
2 and Administration Fund may also be invested and earn interest as provided for in  
3 ¶2.3 of this Stipulation.

4 **c. Taxes**

5 2.7 Settling Parties and the Escrow Agent agree to treat the Settlement Fund  
6 as being at all times a “qualified settlement fund” within the meaning of Treas. Reg.  
7 §1.468B-1. In addition, the Escrow Agent shall timely make such elections as  
8 necessary or advisable to carry out the provisions of this ¶2.7, including the “relation-  
9 back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted  
10 date. Such elections shall be made in compliance with the procedures and  
11 requirements contained in such regulations. It shall be the responsibility of the  
12 Escrow Agent to timely and properly prepare and deliver the necessary documentation  
13 for signature by all necessary parties, and thereafter to cause the appropriate filing to  
14 occur.

15 (a) For the purpose of §468B of the Internal Revenue Code of 1986, as  
16 amended, and the regulations promulgated thereunder, the “administrator” shall be the  
17 Escrow Agent. The Escrow Agent shall timely and properly file all informational and  
18 other tax returns necessary or advisable with respect to the Settlement Fund  
19 (including, without limitation, the returns described in Treas. Reg. §1.468B-2(1)).  
20 Such returns (as well as the election described in this ¶2.7) shall be consistent with  
21 this ¶2.7 and in all events shall reflect that all Taxes as defined in subsection (b) below  
22 (including any estimated Taxes, interest or penalties) on the income earned by the  
23 Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.7(b)  
24 hereof.

25 (b) All (i) Taxes (including any estimated Taxes, interest or penalties)  
26 arising with respect to the income earned by the Settlement Fund, including any Taxes  
27 or tax detriments that may be imposed upon Hexcel with respect to any income earned  
28 by the Settlement Fund for any period during which the Settlement Fund does not

1 qualify as a “qualified settlement fund” for federal or state income tax purposes  
2 (“Taxes”), and (ii) expenses and costs incurred in connection with the operation and  
3 implementation of this ¶2.7 (including, without limitation, expenses of tax attorneys  
4 and/or accountants and mailing and distribution costs and expenses relating to filing  
5 (or failing to file) the returns described in this ¶2.7) (“Tax Expenses”), shall be paid  
6 out of the Settlement Fund; in all events Hexcel shall not have any liability or  
7 responsibility for the Taxes or the Tax Expenses. The Escrow Agent shall indemnify  
8 and hold Hexcel harmless for Taxes and Tax Expenses (including, without limitation,  
9 Taxes payable by reason of any such indemnification). Further, Taxes and Tax  
10 Expenses shall be treated as, and considered to be, a cost of administration of the  
11 Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement  
12 Fund without prior order from the Court and the Escrow Agent shall be obligated  
13 (notwithstanding anything herein to the contrary) to withhold from distribution to  
14 Authorized Claimants any funds necessary to pay such amounts including the  
15 establishment of adequate reserves for any Taxes and Tax Expenses (as well as any  
16 amounts that may be required to be withheld under Treas. Reg. §1.468B-2(1)(2)). The  
17 Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their  
18 tax attorneys and accountants to the extent reasonably necessary to carry out the  
19 provisions of this ¶2.7.

20 (c) For the purpose of this ¶2.7, references to the Settlement Fund  
21 shall include both the Settlement Fund and the Notice and Administration Fund and  
22 shall also include any earnings thereon.

23 **d. Termination of Settlement**

24 2.8 In the event that the Stipulation is not approved, or is terminated,  
25 canceled, or fails to become effective for any reason, including, without limitation, in  
26 the event the Judgment is reversed or vacated following any appeal taken therefrom,  
27 the Settlement Fund (including accrued interest) less Hexcel’s *pro rata* share of  
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1 reasonable expenses actually incurred or due and owing from the Notice and  
2 Administration Fund, shall be refunded to Hexcel as described in ¶7.5 below.

3 **3. Notice Order and Settlement Hearing**

4 3.1 Promptly after execution of the Stipulation, the Representative Plaintiffs  
5 shall submit the Stipulation together with its Exhibits to the Court and shall apply for  
6 entry of an order (the “Notice Order”), substantially in the form and content of Exhibit  
7 A attached hereto, requesting, *inter alia*, the preliminary approval of the settlement set  
8 forth in the Stipulation, and approval for the mailing and publication of a settlement  
9 notice substantially in the form and content of Exhibits A-1 (the “Notice”), and A-3  
10 (the “Summary Notice”) hereto. The Notice shall include the general terms of the  
11 settlement set forth in the Stipulation, the proposed Plan of Allocation, the general  
12 terms of the Fee and Expense Application as defined in ¶6.1 below and the date of the  
13 Settlement Hearing (*i.e.*, the final approval hearing) as defined below.

14 3.2 The Settling Parties request that after notice is given, the Court hold a  
15 hearing (the “Settlement Hearing”) and approve the settlement of the Litigation as set  
16 forth herein. At or after the Settlement Hearing, Plaintiffs’ Settlement Counsel also  
17 may request that the Court approve the proposed Plan of Allocation and the Fee and  
18 Expense Application.

19 **4. Releases**

20 4.1 Upon the Effective Date, as defined in ¶1.9, the Representative Plaintiffs  
21 and each of the Class Members shall be deemed to have, and by operation of the  
22 Judgment shall have, fully, finally, and forever released, relinquished and discharged  
23 all Released Claims against the Released Persons, whether or not such Class Member  
24 executes and delivers a Proof of Claim and Release. The Released Claims do not  
25 include claims for breach of the Stipulation. All rights of any Class Member against  
26 the Non-Settling Defendants or any other Person other than the Released Persons are  
27 specifically reserved by the Representative Plaintiffs and Class Members.

1           4.2    With respect to any and all Released Claims, the Settling Parties stipulate  
2 and agree that, upon the Effective Date, the Representative Plaintiffs and their  
3 predecessors, successors, parents, subsidiaries, affiliates, and divisions shall expressly  
4 waive and each of the Class Members and its predecessors, successors, parents,  
5 subsidiaries, affiliates, and divisions shall be deemed to have, and by operation of the  
6 Judgment shall have, expressly waived, the provisions, rights and benefits of Cal. Civ.  
7 Code §1542, which provides:

8                   A general release does not extend to claims which the creditor  
9                   does not know or suspect to exist in his favor at the time of executing the  
10                  release, which if known by him must have materially affected his  
11                  settlement with the debtor.

12 The Representative Plaintiffs shall expressly waive and each of the Class Members  
13 and its predecessors, successors, parents, subsidiaries, affiliates, and divisions shall be  
14 deemed to have, and by operation of the Judgment shall have, expressly waived any  
15 and all provisions, rights and benefits conferred by any law of any state or territory of  
16 the United States, or principle of common law, which is similar, comparable or  
17 equivalent to Cal. Civ. Code §1542. The Representative Plaintiffs and Class Members  
18 or their predecessors, successors, parents, subsidiaries, affiliates and divisions may  
19 hereafter discover facts in addition to or different from those which any of them now  
20 knows or believes to be true with respect to the subject matter of the Released Claims,  
21 but each Representative Plaintiff shall expressly and each Class Member and its  
22 predecessors, successors, parents, subsidiaries, affiliates and divisions, upon the  
23 Effective Date, shall be deemed to have, and by operation of the Judgment shall have,  
24 fully, finally, and forever settled and released any and all Released Claims, known or  
25 unknown, suspected or unsuspected, contingent or non-contingent, whether or not  
26 concealed or hidden, which now exist, or heretofore have existed upon any theory of  
27 law or equity now existing or coming into existence in the future, including, but not  
28 limited to, conduct which is negligent, intentional, with or without malice, or a breach

1 of any duty, law or rule, without regard to the subsequent discovery or existence of  
2 such different or additional facts. The Representative Plaintiffs acknowledge, and the  
3 Class Members and their predecessors, successors, parents, subsidiaries, affiliates and  
4 divisions shall be deemed by operation of the Judgment to have acknowledged, that  
5 the foregoing waiver was separately bargained for and a key element of the settlement  
6 of which this release is a part.

7       4.3    The Proof of Claim and Release to be executed by Class Members shall  
8 release all Released Claims against the Released Persons and shall be substantially in  
9 the form and content contained in Exhibit A-2 attached hereto.

10       4.4    Upon the Effective Date, as defined in ¶1.9, each of the Released Persons  
11 shall be deemed to have, and by operation of the Judgment shall have, fully, finally,  
12 and forever released, relinquished and discharged each and all of the Class Members  
13 and Representative Plaintiffs' Counsel from all claims (including "Unknown  
14 Claims"), arising out of, in any way relating to, or in connection with the institution,  
15 prosecution, assertion, settlement or resolution of the Litigation or the Released  
16 Claims, except for claims for breach of the Stipulation.

17       **5.       Administration and Calculation of Claims, Final Awards**  
18       **and Supervision and Distribution of the Settlement Fund**

19       5.1    Plaintiffs' Settlement Counsel, or their authorized agents, acting on  
20 behalf of the Class, and subject to such supervision and direction of the Court as may  
21 be necessary or as circumstances may require, shall administer and calculate the  
22 claims submitted by Class Members and shall oversee distribution of the Net  
23 Settlement Fund (defined below) to Authorized Claimants. The Settlement Fund shall  
24 be applied as follows:

25           (a)    To pay all the costs and expenses reasonably and actually incurred  
26 in connection with providing notice, locating Class Members, assisting with the filing  
27 of claims, administering and distributing the Settlement Fund to Authorized  
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1 Claimants, processing Proof of Claim and Release forms and paying escrow fees and  
2 costs, if any;

3 (b) To pay the Taxes and Tax Expenses described in ¶2.7 above;

4 (c) To pay to Representative Plaintiffs' Counsel attorneys' fees,  
5 expenses and costs with interest thereon (the "Fee and Expense Award"); and

6 (d) To distribute the balance of the Settlement Fund (the "Net  
7 Settlement Fund") to Authorized Claimants as allowed by the Stipulation, the Plan of  
8 Allocation, or the Court.

9 5.2 Upon the Effective Date and thereafter, and in accordance with the terms  
10 of the Stipulation, the Plan of Allocation, or such further approval and further order(s)  
11 of the Court as may be necessary or as circumstances may require, the Net Settlement  
12 Fund shall be distributed to Authorized Claimants, subject to and in accordance with  
13 the following:

14 (a) Within one-hundred twenty (120) days after the mailing of the  
15 Notice or such other time as may be set by the Court, each person claiming to be an  
16 Authorized Claimant shall be required to submit to the Claims Administrator a  
17 completed Proof of Claim and Release, substantially in the form of Exhibit A-2  
18 attached hereto, signed under penalty of perjury and supported by such documents as  
19 specified in the Proof of Claim and Release and as are reasonably available to the  
20 Authorized Claimant.

21 (b) Except as otherwise ordered by the Court, all Class Members who  
22 fail to timely submit a Proof of Claim and Release within such period, or such other  
23 period as may be ordered by the Court, or otherwise allowed, shall be forever barred  
24 from receiving any payments pursuant to the Stipulation and the settlement set forth  
25 herein, but will in all other respects be subject to and bound by the provisions of the  
26 Stipulation, the releases contained herein, and the Judgment.

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1 (c) The Net Settlement Fund shall be distributed to the Authorized  
2 Claimants substantially in accordance with a Plan of Allocation to be described in the  
3 Notice and approved by the Court.

4 5.3 Hexcel shall have no responsibility for, interest in, or liability whatsoever  
5 with respect to the investment or distribution of the Settlement Fund, the Plan of  
6 Allocation, or the determination, administration, or calculation of claims, nor shall the  
7 release of Hexcel under §4 be affected by any such events.

8 5.4 Without waiving Hexcel's right to reimbursement under ¶¶6.2, 7.4 and  
9 7.5, no person shall have any claim against Representative Plaintiffs' Counsel or any  
10 claims administrator, or other agent designated by Plaintiffs' Settlement Counsel, or  
11 Hexcel or its counsel based on distributions made substantially in accordance with the  
12 Stipulation and the settlement contained herein, the Plan of Allocation, or further  
13 orders of the Court.

14 5.5 If there is any balance remaining in the Net Settlement Fund after six (6)  
15 months from the date of distribution of the Net Settlement Fund (whether by reason of  
16 tax refunds, uncashed checks or otherwise) Plaintiffs' Settlement Counsel shall  
17 reallocate such balance among Authorized Claimants in an equitable and economic  
18 fashion. In the event it is not economically feasible to distribute such balance among  
19 Authorized Claimants, any balance that remains shall be donated to an appropriate  
20 non-profit organization approved by Hexcel.

21 5.6 It is understood and agreed by the Settling Parties that any proposed Plan  
22 of Allocation of the Net Settlement Fund including, but not limited to, any  
23 adjustments to an Authorized Claimant's claim set forth therein, is not a part of the  
24 Stipulation and is to be considered by the Court separately from the Court's  
25 consideration of the fairness, reasonableness and adequacy of the settlement set forth  
26 in the Stipulation, and any orders or proceedings relating to the Plan of Allocation  
27 shall not operate to terminate or cancel the Stipulation or affect the finality of the  
28

1 Court's Judgment approving the Stipulation and the settlement set forth herein, or any  
2 other orders entered pursuant to the Stipulation.

3 **6. Representative Plaintiffs' Counsel's Attorneys' Fees and**  
4 **Reimbursement of Expenses**

5 6.1 Representative Plaintiffs' Counsel may submit an application (the "Fee  
6 and Expense Application") for distributions to them from the Settlement Fund for: (a)  
7 an award of attorneys' fees from the Settlement Fund; and (b) reimbursement of  
8 expenses and costs incurred in connection with prosecuting the Litigation, plus any  
9 interest on such attorneys' fees, costs and expenses at the same rate and for the same  
10 periods as earned by the Settlement Fund (until paid) as may be awarded by the Court.  
11 In no event shall Hexcel be required to pay attorneys' fees and expenses over and  
12 above the sums paid from the Settlement Fund.

13 6.2 One-half of the attorneys' fees and expenses, including the fees of  
14 experts and consultants, as awarded by the Court, shall be paid to Plaintiffs'  
15 Settlement Counsel from the Settlement Fund, as ordered, immediately after the Court  
16 executes an order awarding such fees and expenses. The remainder of the attorneys'  
17 fees and expenses awarded by the Court shall be paid to Plaintiffs' Settlement Counsel  
18 when the Order awarding such fees and expenses becomes Final. Plaintiffs'  
19 Settlement Counsel shall allocate the attorneys' fees amongst Representative  
20 Plaintiffs' Counsel in a manner in which they in good faith believe reflects the  
21 contributions of such counsel to the prosecution and settlement of the Litigation. In  
22 the event that the Effective Date does not occur, or the Judgment or the order making  
23 the Fee and Expense Award is reversed or modified, or the Stipulation is canceled or  
24 terminated for any other reason, and in the event that the Fee and Expense Award has  
25 been paid to any extent, then Representative Plaintiffs' Counsel shall within two (2)  
26 business days after receiving notice from Hexcel's counsel, refund to the Settlement  
27 Fund the fees, expenses and costs previously paid to them from the Settlement Fund  
28 plus interest thereon at the same rate as earned on the Settlement Fund in an amount

1 consistent with such reversal or modification. Each Representative Plaintiffs'  
2 Counsel's law firm, as a condition of receiving such fees and expenses, on behalf of  
3 itself and each partner and/or shareholder of it, agrees that the law firm and its  
4 partners and/or shareholders are subject to the joint and several obligation to make  
5 appropriate refunds or repayments to the Settlement Fund and to the jurisdiction of the  
6 Court for the purpose of enforcing the provisions of this paragraph.

7       6.3 The procedure for and the allowance or disallowance by the Court of any  
8 applications by any of the counsel to the Representative Plaintiffs for attorneys' fees,  
9 costs and expenses to be paid out of the Settlement Fund, are not part of the settlement  
10 set forth in the Stipulation, and are to be considered by the Court separately from the  
11 Court's consideration of the fairness, reasonableness and adequacy of the settlement  
12 set forth in the Stipulation, and any orders or proceedings relating to the Fee and  
13 Expense Application, or any appeal from any order relating thereto or reversal or  
14 modification thereof, shall not operate to terminate or cancel the Stipulation, or affect  
15 or delay the finality of the Judgment approving the Stipulation and the settlement of  
16 the Litigation set forth herein.

17       6.4 Hexcel shall have no responsibility for, and no liability whatsoever with  
18 respect to the allocation among Representative Plaintiffs' Counsel and/or any other  
19 person who may assert some claim thereto, of any Fee and Expense Award that the  
20 Court may make in the Litigation.

21       **7. Conditions of Settlement, Effect of Disapproval,**  
22       **Cancellation or Termination**

23       7.1 The Effective Date of the Stipulation shall be conditioned on the  
24 occurrence of all of the following events:

25           (a) Hexcel has made or caused the contributions to be made to the  
26 Settlement Fund as required by ¶2.1 above;

27           (b) The Court has entered the Judgment, or a judgment substantially in  
28 the form of Exhibit B attached hereto; and

1 (c) The Judgment has become Final, as defined in ¶1.11, above.

2 7.2 Upon the occurrence of all of the events referenced in ¶7.1 above, any  
3 and all remaining interest or right of Hexcel in or to the Settlement Fund, if any, shall  
4 be absolutely and forever extinguished.

5 7.3 If all of the conditions specified in ¶7.1 are not met, then the Stipulation  
6 shall be canceled and terminated subject to ¶7.5 unless Plaintiffs' Settlement Counsel  
7 and counsel for Hexcel mutually agree in writing to proceed with the Stipulation.

8 7.4 In the event the Stipulation shall terminate, or be canceled, or shall not  
9 become effective for any reason, within five (5) business days after written  
10 notification of such event is sent by counsel for Hexcel or Plaintiffs' Settlement  
11 Counsel to the Escrow Agent, the Settlement Fund (including accrued interest), plus  
12 any amount then remaining in the Notice and Administration Fund (including accrued  
13 interest) less Hexcel's *pro rata* share of expenses and any costs that have either been  
14 properly disbursed pursuant to ¶¶2.7 or 2.8 herein, or are determined to be chargeable  
15 to the Notice and Administration Fund, shall be refunded by the Escrow Agent  
16 pursuant to written instructions from counsel for Hexcel. At the request of counsel for  
17 Hexcel, the Escrow Agent or its designee shall apply for any tax refund owed to the  
18 Settlement Fund and pay the proceeds, after deduction of any fees or expenses  
19 reasonably incurred in connection with such application(s) for refund on a *pro rata*  
20 basis to those entities contributing to the Settlement Fund.

21 7.5 In the event that the Stipulation is not approved by the Court or the  
22 settlement set forth in the Stipulation is terminated or fails to become effective in  
23 accordance with its terms, the Settling Parties shall be restored to their respective  
24 positions in the Litigation as of August 25, 2004. In such event, the terms and  
25 provisions of the Stipulation, with the exception of ¶¶1.1-1.24, 2.2-2.8, 7.3-7.5, and  
26 8.4 herein, shall have no further force and effect with respect to the Settling Parties  
27 and shall not be used in the Litigation or in any other proceeding for any purpose, and  
28 any judgment or order entered by the Court in accordance with the terms of the

1 Stipulation shall be treated as vacated, *nunc pro tunc* (unless the Judgment has  
2 become Final in accordance with the terms hereof). No order of the Court or  
3 modification or reversal on appeal of any order of the Court concerning the Plan of  
4 Allocation or the amount of any attorneys' fees, costs, expenses and interest awarded  
5 by the Court to the Representative Plaintiffs or any of their counsel shall constitute  
6 grounds for cancellation or termination of the Stipulation. If the Effective Date does  
7 not occur, or if the Stipulation is terminated pursuant to its terms, neither the  
8 Representative Plaintiffs nor any of their counsel shall have any obligation to repay  
9 any amounts actually and properly disbursed from the Notice and Administration  
10 Fund. In addition, any expenses already incurred and properly chargeable to the  
11 Notice and Administration Fund pursuant to ¶2.6 hereof at the time of such  
12 termination or cancellation but which have not been paid, shall be paid by the Escrow  
13 Agent in accordance with the terms of the Stipulation prior to the balance being  
14 refunded in accordance with ¶7.4 above.

15       7.6 If a case is commenced in respect to Hexcel under Title 11 of the United  
16 States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any  
17 similar law, and in the event of the entry of a final order of a court of competent  
18 jurisdiction determining the transfer of the Settlement Fund, or any portion thereof, by  
19 or on behalf of Hexcel to be a preference, voidable transfer, fraudulent transfer or  
20 similar transaction, then, as to Hexcel, the releases given and Judgment entered  
21 pursuant to this Stipulation shall be null and void, and the Settling Parties shall  
22 thereupon be restored to their respective positions as of August 25, 2004.

23       7.7 In the event Representative Plaintiffs agree to a settlement with more  
24 than one other Defendant, other than the Cytec Defendants, for less than 2.8% of such  
25 Defendant's Carbon Fiber sales in the United States to Class Members during the  
26 Class Period, Representative Plaintiffs will refund to Hexcel an amount determined by  
27 multiplying the difference between 2.8% and the percentage of sales such settlement  
28 represents times Hexcel's Carbon Fiber sales to Class Members during the Class

1 Period. Settlements with related company defendants shall be aggregated for purposes  
2 of this calculation, *i.e.*, sales of Mitsubishi Rayon Company, Ltd., Grafil, Inc. and  
3 Newport Adhesives and Composites, Inc. will be aggregated and sales of Toray  
4 Composites America, Inc., Toray Industries and Toray Carbon Fibers (America), Inc.  
5 will be aggregated. It is agreed that the provisions of this paragraph shall expire and  
6 no longer be applicable upon the earliest of: (a) distribution of the net Settlement Fund  
7 to the Class or (b) a final judgment in favor of any Non-Settling Defendant as to that  
8 Defendant only.

9 **8. Miscellaneous Provisions**

10 8.1 The Settling Parties: (a) acknowledge that it is their intent to consummate  
11 this agreement; and (b) agree to cooperate to the extent reasonably necessary to  
12 effectuate and implement all terms and conditions of the Stipulation and to exercise  
13 their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

14 8.2 Hexcel warrants that, at the time the payment provided for herein is  
15 made, it is not insolvent and the payment will not render it insolvent. This  
16 representation is made by Hexcel Corporation, and is not made by counsel for Hexcel.

17 8.3 The Settling Parties intend this settlement to be a final and complete  
18 resolution of all disputes between them with respect to the Litigation. The settlement  
19 compromises claims which were contested and shall not be deemed an admission by  
20 any Settling Party as to the merits of any claim or defense. Hexcel agrees not to bring  
21 any claim asserting that the Litigation was not filed in good faith and in accordance  
22 with Rule 11 of the Federal Rules of Civil Procedure. The Settling Parties agree that  
23 the amount paid to the Settlement Fund and the other terms of the settlement were  
24 negotiated in good faith by the Settling Parties, and reflect a settlement that was  
25 reached voluntarily after consultation with competent legal counsel.

26 8.4 Neither the Stipulation nor the settlement, nor any act performed or  
27 document executed pursuant to or in furtherance of the Stipulation or the settlement:  
28 (a) is or may be deemed to be or may be used as an admission of, or evidence of, the

1 validity of any Released Claim, or of any wrongdoing or liability of Hexcel; or (b) is  
2 or may be deemed to be or may be used as an admission of, or evidence of, any fault  
3 or omission of Hexcel in any civil, criminal or administrative proceeding in any court,  
4 administrative agency or other tribunal. Hexcel may file the Stipulation and/or the  
5 Judgment in any action that may be brought against them in order to support a defense  
6 or counterclaim based on principles of *res judicata*, collateral estoppel, release, good  
7 faith settlement, judgment bar or reduction or any other theory of claim preclusion or  
8 issue preclusion or similar defense or counterclaim.

9       8.5    The Settling Parties agree that there is no need for an additional opt-out  
10 period pursuant to Rule 23(e) of the Federal Rules of Civil Procedure since prior  
11 notice of the pendency of the Litigation dated October 4, 2002 was sent to the Class.  
12 However, in the event the Court decides to allow an additional opportunity to opt-out  
13 of the Class, Plaintiffs' Settlement Counsel will provide counsel for Hexcel with a list  
14 of those Class Members who timely request exclusion from the class within ten (10)  
15 days following the Court's deadline for such exclusion from the Class. The Settling  
16 Parties agree that, in the event the Court allows additional opt-outs from the Class,  
17 Hexcel shall have the option to rescind this settlement if the aggregate Carbon Fiber  
18 purchases during the Class Period of current Class Members who request exclusion  
19 during the additional opt out period exceeds an amount specified in a separate  
20 Supplemental Agreement between the Settling Parties. To be valid for purposes of the  
21 Supplemental Agreement, a Request for Exclusion will need to contain the  
22 information requested in the Notice of Settlement of Class Action. The Supplemental  
23 Agreement will not be filed with the Court unless and until a dispute among the  
24 Settling Parties concerning its interpretation or application arises.

25       8.6    Hexcel shall be entitled to exercise the above option to withdraw from  
26 the Settlement only if Hexcel provides Plaintiffs' Settlement Counsel with written  
27 notice of its withdrawal from the Settlement and files that notice with the Court within  
28 three (3) calendar days prior to the Settlement Hearing.

1           8.7    In addition, any sales of Hexcel in the United States shall remain in the  
2 Litigation as against the Non-Settling Defendants as a basis for damage claims and  
3 shall be part of any joint and several liability claims against the Non-Settling  
4 Defendants in the Litigation.

5           8.8    The Representative Plaintiffs agree not to oppose any motion to  
6 consolidate or coordinate any case Hexcel may file alleging antitrust violations against  
7 the Non-Settling Defendants (which for purposes of this Settlement shall be any  
8 defendant in the Litigation other than the Cytec Defendants) relating to the sale of  
9 Carbon Fiber during the Class Period.

10          8.9    All discovery is hereby stayed between and among the Settling Parties  
11 during the pendency of the negotiation of the Stipulation and final approval of the  
12 Settlement. If the Settlement is not consummated for any reason, all discovery will be  
13 reinstated at the same point at which it was stayed notwithstanding the close of  
14 discovery as to Non-Settling Defendants.

15          8.10   All agreements made and orders entered during the course of the  
16 Litigation relating to the confidentiality of information shall survive this Stipulation.

17          8.11   All of the Exhibits to the Stipulation are material and integral parts hereof  
18 and are fully incorporated herein by this reference.

19          8.12   The Stipulation may be amended or modified only by a written  
20 instrument signed by or on behalf of all Settling Parties or their respective successors-  
21 in-interest.

22          8.13   The Stipulation and the Exhibits attached hereto constitute the entire  
23 agreement between Representative Plaintiffs and the Class on the one hand, and  
24 Hexcel on the other hand, and supersedes and replaces all prior negotiations and  
25 proposed or actual agreements whether written or oral. No representations, warranties  
26 or inducements have been made to any party concerning the Stipulation or its Exhibits  
27 other than the representations, warranties and covenants contained and memorialized  
28

1 in such documents. Except as otherwise provided herein, each party shall bear its own  
2 costs.

3 8.14 The undersigned Plaintiffs' Settlement Counsel, are fully authorized to  
4 enter into the terms and conditions of the Stipulation and settlement on behalf of the  
5 Representative Plaintiffs and Class Members and to execute and legally bind the  
6 Representative Plaintiffs and all Class Members to the terms of the Stipulation.  
7 Plaintiffs' Settlement Counsel are expressly authorized to enter into any modifications  
8 or amendments to the Stipulation on behalf of the Class which they deem appropriate  
9 and to take all appropriate action required or permitted to be taken by the Class  
10 pursuant to the Stipulation to effectuate its terms.

11 8.15 Each counsel or other person executing the Stipulation or any of its  
12 Exhibits on behalf of any party hereto hereby warrants that such person has the full  
13 authority to do so.

14 8.16 The Stipulation may be executed in one or more counterparts. All  
15 executed counterparts and each of them shall be deemed to be one and the same  
16 instrument. A complete set of executed counterparts shall be filed with the Court.

17 8.17 The Stipulation shall be binding upon, and inure to the benefit of, the  
18 successors and assigns of the Settling Parties.

19 8.18 This Stipulation has been negotiated among and drafted by all  
20 signatories. To the extent there is any uncertainty or ambiguity in the Stipulation,  
21 none of the signatories shall be deemed to have caused such uncertainty or ambiguity.

22 8.19 In the event any one or more of the provisions contained in the  
23 Stipulation shall for any reason be held by a court of competent jurisdiction to be  
24 invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable  
25 provision shall be ineffective but shall not in anyway invalidate or otherwise affect  
26 any other provision.

27 8.20 The Court shall retain jurisdiction with respect to implementation and  
28 enforcement of the terms of the Stipulation, and all Settling Parties submit to the

1 jurisdiction of the Court for purposes of implementing and enforcing the settlement  
2 embodied in the Stipulation.

3 8.21 The Stipulation and the Exhibits hereto shall be considered to have been  
4 negotiated, executed and delivered, and to be wholly performed, in the State of  
5 California, and the rights and obligations of the Settling Parties shall be construed and  
6 enforced in accordance with, and governed by, the internal, substantive laws of the  
7 State of California without giving effect to that State's choice of law principles.

8 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be  
9 executed, by their duly authorized attorneys, dated as of August 26, 2004.

10 LERACH COUGHLIN STOIA GELLER  
11 RUDMAN & ROBBINS LLP  
12 JOY ANN BULL  
13 BONNY E. SWEENEY  
14 DAVID W. MITCHELL

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Attorneys for Hexcel

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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 401 B Street, Suite 1700, San Diego, California 92101.

2. That on October 4, 2004, declarant served the **STIPULATION OF SETTLEMENT WITH HEXCEL CORPORATION** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed this 1st day of October, 2004, at San Diego, California.

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YVETTE D. GRAY