

# Teijin Carbon America, Inc.

## Terms and Conditions of Sale

**1. Acceptance:** EXCEPT AS SET FORTH OTHERWISE IN AN ORDER CONFIRMATION OR OTHER WRITING SIGNED BY TEIJIN CARBON AMERICA, INC. (TEIJIN CARBON), THE SALE OF ANY CARBON FIBER OR OTHER SPECIALTY PRODUCTS BY TEIJIN CARBON AMERICA IS SUBJECT TO AND CONDITIONED UPON THE ACCEPTANCE BY BUYER OF THESE TERMS AND CONDITIONS. These Terms and Conditions of Sale shall be deemed incorporated into all orders that Buyer may place with Teijin Carbon (whether by mail, facsimile, telephone or electronic data exchange). Any terms and conditions submitted by Buyer that are inconsistent with or in addition to the terms and conditions contained herein are not binding upon Teijin Carbon unless specifically accepted by Teijin Carbon in writing.

**2. Payment:** Payment must be made to Teijin Carbon in U.S. dollars. The price does not include, and Buyer is responsible to pay, any and all city, state and federal taxes due on the sale of the Product. Unless agreed otherwise in writing by Teijin Carbon, the purchase price is due and payable thirty (30) days from the date of Teijin Carbon's invoice. Buyer shall pay a late fee to Teijin Carbon on overdue accounts at the rate of 1 ½ per cent per month (18 % per year) or, if less, the maximum amount allowed by applicable law.

**3. Delivery:** All deliveries are made FOB Teijin Carbon's warehouse. Transportation shall be by common carrier, at Buyer's risk and expense, with the transportation, insurance and related charges added to the quoted price. Delivery dates communicated to Buyer are approximate only. Teijin Carbon shall not be liable for any damages, claims or losses resulting from Teijin Carbon's failure to meet a delivery date. In the case of short or damaged delivery, Buyer must notify both Teijin Carbon and the carrier in writing within ten (10) days after delivery by the carrier. Failure to give such notice shall be deemed an acceptance in full of any such delivery. Teijin Carbon reserves the right to deliver the quantities requested by Buyer subject to deviation not exceeding plus or minus ten percent (10%). In the event of any such quantity variance, payment will be based on the actual quantity delivered at the specified unit price.

**4. Warranty and Limitation of Liability:** (a) Teijin Carbon warrants that the Products sold hereunder will be free from defects in material and workmanship and will, on the date of delivery, conform to Teijin Carbon's standard specifications. Teijin Carbon's warranty obligation is limited to defects of which Teijin Carbon is notified in writing within thirty (30) days of the date of delivery and at the option of Teijin Carbon, to either (i) Teijin Carbon refunding the original purchase price of the defective Product or (ii) Teijin Carbon replacing such defective Product. No claim shall be allowed for Product that has been processed in any manner or has been damaged as a result of Buyer mishandling or improper use.

(b) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, TEIJIN CARBON MAKES NO EXPRESS OR IMPLIED WARRANTY (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FROM ANY COURSE OF DEALING OR TRADE USAGE) REGARDING THE PRODUCT. Buyer, having the expertise and knowledge in the intended use of the Product and any articles made therefrom assumes all risk and liability for results obtained by the use of the Product, whether used alone or in combination with other materials.

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

**5. Excusable Delay or Nonperformance:** Teijin Carbon shall not be liable for delay or failure in performance due to fires, floods, strikes or other differences with workers, accidents, Product shortages, transportation difficulties, war (declared or undeclared), terrorist activities, riot, government orders or regulations (including Governmental delay in license issuance), legal interference or prohibitions, commercial impracticability, defaults on the part of suppliers, or other causes beyond Teijin Carbon's reasonable control. Teijin Carbon shall have no obligation to purchase supplies of Product to enable Teijin Carbon to perform.

**6. Default:** (a) Teijin Carbon may, without prejudice to any other rights it may have, by notice in writing via mail or facsimile to Buyer, terminate any order if (i) Buyer commits any breach of any of the terms of any order with Teijin Carbon or (ii) Teijin Carbon has a reasonable concern regarding Buyer's ability to pay its debts as and when they become due and payable and Buyer refuses, or is unable, to provide adequate assurances of performance. (b) Buyer agrees that if Teijin Carbon utilizes an attorney or collection service to enforce collection of any amount due and unpaid on an order, Teijin Carbon shall be entitled to recover reasonable legal and other collection costs as well as interest as set forth in Section 2.

**7. Applicable Law:** The rights and obligations of the parties under these Terms and Conditions of Sale shall be governed by the law of the state of Tennessee without regard to choice of law or conflicts principles of any jurisdiction. Buyer agrees that any litigation arising out of any sales made by Teijin Carbon to Buyer shall only be brought in the federal or state courts in the state of Tennessee and Buyer consents to the jurisdiction of such courts. The United Nations Convention on Contracts for the International Sale of Goods shall not govern any sales made by Teijin Carbon to Buyer hereunder or any aspect of any dispute arising therefrom.

**8. Miscellaneous:** If any term or provision of these Terms and Conditions is found to be invalid, illegal or unenforceable, the Terms and Conditions shall remain in full force and effect and such term shall be deemed stricken and replaced with an alternate term which, to the maximum extent possible, is enforceable and reflects the intent of the parties as set forth herein.

### Equal Employment Opportunity Clauses

If applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR Sections 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. This subcontract may also be subject to Executive Order 13496 and implementing regulations at 29 CFR Part 471, Appendix A to Subpart A.