

Purchase Order Terms and Conditions

Last revised date: November 5, 2025

The following Purchase Order Terms and Conditions (the "**Terms**") apply to any purchase order issued by Tokai Carbon GS, Inc. ("**Tokai**") incorporated by reference via the link attached to the purchase order (the "**Purchase Order**"). The issuance of the Purchase Order to the party identified in the Purchase Order (the "**Seller**") is an offer by the Tokai for the purchase of goods specified in the Purchase Order (the "**Goods**") from Seller in accordance with and subject to these Terms. The Terms together with the terms of the Purchase Order are referred to herein as the "**Order**".

The Order constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits Seller's acceptance to the Terms of the Order. In the event of any inconsistency between the Terms and the Purchase Order, the statements in the Purchase Order control over the Terms. The Order's terms and conditions prevail over any terms or conditions contained in any other documentation, including but not limited to any sales order acknowledgment, and expressly exclude any of Seller's general terms and conditions of sale or any other document issued by Seller in connection with the Order which are expressly rejected.

These Terms also apply to any replacement or repaired Goods provided by Seller hereunder.

Tokai is not obligated to any minimum purchase or future purchase obligations under the Order.

1. Acceptance. The Order is not binding on Tokai until Seller accepts the Order by providing a written confirmation to Tokai, starting performance in accordance with the Order, or by not providing a written rejection of the Purchase Order within five (5) days of issuance. Tokai may withdraw the Order at any time before it is accepted by Seller, or within five (5) days of issuance, provided that, Seller has not completed substantial performance in accordance with the Order.

2. Deliveries. Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order; if no delivery date is specified in the Purchase Order, Seller shall deliver the Goods within 30 days of Tokai's issuance of the Purchase Order (the "**Delivery Date**"). Timely delivery of the Goods is of the essence. If Seller fails to deliver the Goods in full on the Delivery Date, Tokai, in its sole option, may: (a) agree in writing to a different Delivery Date; or (b) terminate the Order immediately by providing written notice to Seller, and Seller shall indemnify Tokai against any losses, claims, damages, and reasonable costs and expenses attributable to Seller's failure to deliver the Goods on the Delivery Date.

If Seller delivers more than the quantity of Goods ordered, Tokai may reject any or all excess Goods at Tokai's discretion. Any such rejected Goods shall be returned to Seller at Seller's risk and expense. The total Price (as hereinafter defined) for the Goods shall be adjusted on a pro rata basis to include any excess Goods not rejected by Tokai. Seller shall in no event deliver to Tokai less than the quantity of Goods ordered except with Tokai's express prior written consent, which may be withheld in Tokai's discretion.

3. Delivery Point and Shipping Terms. The Seller shall deliver the Goods to Tokai's address specified in the Purchase Order (the "**Delivery Point**") during Tokai's normal business hours or as otherwise instructed by Tokai. Delivery shall be made at the Delivery Point in accordance with the terms in the Purchase Order. Unless otherwise specified by Tokai in the Purchase Order, all deliveries are DDP (Incoterms 2020). Title passes to Tokai upon delivery of the Goods to the Delivery Point. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Point.

(a) Seller shall give written notice of shipment to Tokai when the Goods are

delivered to a carrier for transportation. Seller shall provide Tokai all shipping documents, including, but not limited to, the commercial invoice, packing list, air waybill/bill of lading, and any other documents necessary to release the Goods to Tokai within two (2) business days after Seller delivers the Goods to the transportation carrier. The Purchase Order number must appear on all shipping documents, and any other documents pertaining to the Order.

(b) Unless otherwise specified in the Purchase Order or otherwise agreed in writing, Seller may not make partial shipments of Goods to Tokai or early shipments before the Delivery Date as defined in Section 2.

4. Amendment and Modification. No change to the Order is binding upon Tokai unless it is in writing, specifically states that it amends the Order, and is agreed upon and signed by an authorized representative of Tokai.

5. Inspection and Rejection of Nonconforming Goods. Tokai has the right to inspect the Goods on or after the Delivery Date. Tokai, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are damaged, defective, or otherwise nonconforming. If Tokai rejects any portion of the Goods, Tokai has the right, at its sole option and effective upon written notice to Seller, to: (a) terminate the Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) require repair or replacement of the rejected Goods. If Tokai requires repair or replacement of the Goods, Seller shall, at its risk and expense, repair or replace the rejected Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the rejected Goods and the delivery of repaired or replacement Goods no later than five (5) business days after being notified of the nonconformance. If Seller fails to timely cure the nonconformance, Tokai may seek replacement performance from a third party and charge Seller the cost thereof and terminate the Order for cause pursuant to Section 14.

6. Price. The price of the Goods is the price stated in the Purchase Order (the "**Price**"). Unless otherwise specified in the Order, the Price includes all fees and applicable taxes. No increase in the Price is effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of Tokai. Seller shall promptly notify Tokai of any cost-savings initiatives undertaken by Seller, or applicable discount rates so that they can be applied to existing open Orders and future Orders.

7. Payment Terms. Seller shall issue an invoice to Tokai on or any time after the completion of delivery and only in accordance with the Terms. Tokai shall pay all properly invoiced and undisputed amounts due to Seller within sixty (60) days after Tokai's receipt of such invoice. In the event of a payment dispute, Tokai shall deliver a written statement to Seller no later than ten (10) days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this Section 7. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under the Order notwithstanding any such dispute.

8. Setoff. Without prejudice to any other right or remedy it may have, Tokai reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Tokai to Seller.

9. Warranties. Seller represents, warrants, and covenants to Tokai that:

(a) for a period of twenty-four (24) months from the Delivery Date, all Goods will: (i) be free from any defects in workmanship, material, and design; (ii) conform to applicable specifications, drawings, designs, samples, and other requirements specified by Tokai; (iii) be fit and safe for their intended purpose and operate as intended; and (iv) be merchantable;

(b) the Goods will be delivered or completed on or before the specified Delivery Date as set forth in the Order;

(c) the Goods do not and will not infringe or misappropriate any third party's patent or other intellectual property rights (unless the Goods covered by the Order are manufactured exclusively to detailed design specifications issued by Tokai); and

(d) Tokai will receive good and valid title to the Goods, free and clear of all encumbrances, liens, and actions of any kind.

These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods by Tokai and shall be for the benefit of Tokai and its customers, affiliates, and subsidiaries. Seller represents and warrants that the Price charged for Goods shall be no higher than Seller's current price to any other customer for the same quantity and quality of such Goods. These warranties are cumulative and in addition to any other warranty or remedy provided by law or equity or the Order. Any applicable statute of limitations runs from the date of Tokai's discovery of the noncompliance of the Goods with the foregoing warranties. If Tokai gives Seller notice of noncompliance with this Section, in addition to other remedies available to Tokai under the Order or at law or equity, Seller shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming Goods to Seller and the delivery of repaired or replacement Goods to Tokai.

Seller shall bear the cost of all Tokai's damages as a result of failing, defective, or nonconforming Goods, or failure to deliver the Goods on or before the Delivery Date including but not limited to downtime, breaches of Tokai's obligations to third parties, lost gross revenues, increased costs

of production, overtime, and other incidental and consequential damages regardless of whether or not they were foreseeable or Seller was notified of them. All payments by Seller shall be due no later than ten (10) days after Seller's receipt of an invoice from Tokai. Tokai reserves the right to offset any such amounts due under this Section 9 against any amounts owed to Seller by Tokai.

10. General Indemnification. Seller shall defend, indemnify, and hold harmless Tokai, Tokai's parent company, any and all subsidiaries, affiliates, successors or assigns, and respective directors, officers, shareholders, managers, members, advisors, and employees (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, or expense, actual and alleged including, but not limited to attorney and professional fees and costs and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**"), arising out of or occurring in connection with the Goods or Seller's negligence, willful misconduct, or breach of the Order. Seller shall not enter into any settlement without Tokai's or, as applicable, another Indemnitee's prior written consent.

11. Intellectual Property Indemnification. Except for Goods manufactured exclusively to detailed design specifications issued by Tokai, Seller shall, at its expense, defend, indemnify, and hold harmless Tokai and any other Indemnitee against any and all Losses arising out of or in connection with any claim that Tokai's or such Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret, or other intellectual property right of any third party. In no event shall Seller enter into any settlement without Tokai's or, as applicable, another Indemnitee's prior written consent.

12. Insurance. During the term of the Order, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including but not limited to product

liability) with limits no less than \$2,000,000.00USD for each occurrence and \$5,000,000.00USD in the aggregate with financially sound and reputable insurers. Upon Tokai's request, Seller shall provide Tokai with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this Section 12. The certificate of insurance shall name Tokai as an additional insured. Seller shall provide Tokai with thirty (30) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Tokai's insurers, Tokai, and any other Indemnitees.

13. Compliance with Law. Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the Order.

14. Termination. Tokai may terminate the Order, in whole or in part, at any time with or without cause for undelivered Goods on fifteen (15) days' prior written notice to Seller. In addition to any other remedies that may be provided under these Terms or otherwise, Tokai may terminate the Order with immediate effect upon written notice to the Seller if Seller has not performed or complied with the Order, in whole or in part. If the Seller becomes insolvent, is generally unable to pay, or fails to pay, its debts as they become due, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors, then Tokai may terminate the Order upon written notice to Seller. If Tokai terminates the Order for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted by Tokai prior to the termination.

15. Waiver. No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Exercise of any right under the Order does not constitute a waiver of any other right. Except as otherwise set forth in the Order, no failure or delay in exercising any right, remedy, power, or

privilege arising from the Order shall operate or be construed as a waiver thereof.

16. Confidential Information. All non-public, confidential, or proprietary information of the Tokai, including, but not limited to, trade secrets, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Tokai to Seller, whether disclosed orally or disclosed or accessed in written, electronic, or other form or medium, and whether or not marked, designated, or otherwise identified as "confidential," in connection with the Order is confidential, may only be used for the purpose of performing the Order and may not be disclosed unless authorized by Tokai in writing. Upon Tokai's request, Seller shall promptly return all documents and other materials received from Tokai. If information cannot be returned, then Seller shall be responsible for providing to Tokai a written affidavit stating that unreturned materials were destroyed and that any copies that Seller may need to retain for the purposes of record retention as required by law cannot be placed back into use. Tokai shall be entitled to injunctive relief for any violation of this Section without the necessity of posting a bond. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party. It shall be the burden of the Seller to demonstrate that any of the exceptions listed in (a) through (c) apply.

17. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached the Order, for any failure or delay in fulfilling or performing any term of the Order when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) any governmental agency order, law, or action; or (e) embargoes or blockades in effect on or after the date of the Order. The Impacted Party shall give notice as soon as practicable after notice or commencement of

the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. If the Impacted Party's failure or delay remains uncured for a period of thirty (30) days following written notice required by this section, the other party may thereafter terminate the Order upon fifteen (15) days' written notice.

18. Assignment. Seller shall not assign, transfer, or delegate any of its rights or obligations under the Order without the prior written consent of Tokai. Any purported assignment or delegation in violation of this Section 18 shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Tokai may at any time assign, transfer, or delegate any or all of its rights or obligations under the Order without Seller's prior written consent.

19. Choice of Law. Each Order and any dispute or claim relating to it shall in all respects be governed by and construed in accordance with the laws of the State of New York, excluding its conflict of law principles.

20. Choice of Forum. Each party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other party in any way arising from or relating to the Order, including all exhibits, schedules, attachments, and appendices attached to the Order, and all contemplated transactions in any forum other than General Courts of Justice of New York, and the United States District Courts situated in Rochester, NY shall constitute the exclusive forum(s) for the adjudication of any and all disputed or controversies arising out of or relating to this Order or to Goods. Tokai and Seller consent to the exercise of jurisdiction over them by such courts with respect to any dispute or controversy, and Tokai and Seller waive any

objection to the assertion or exercise by such court of such jurisdiction. If the ultimate destination of the Goods is outside of the United States, the parties agree that Convention on the Contracts for the International Sale of Goods does not apply in any way to this Agreement.

21. Cumulative Remedies. The rights and remedies under each Order are cumulative and not exclusive, and the exercise by either Tokai or Seller of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, through the Order, or otherwise. Notwithstanding the foregoing, the parties intend that, if Tokai terminates the Order in accordance with Section 14, Seller's sole and exclusive remedy if the right to payment for Goods received and accepted.

22. Severability. If any term or provision of the Order is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Order or invalidate or render unenforceable such term or provision in any other jurisdiction.

23. Survival. Subject to the limitations and other provisions of the Order: (a) the representations and warranties of the parties contained in the Order shall survive its expiration or earlier termination; and (b) the following provisions, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of the Order: Warranties, Intellectual Property Indemnification, Confidentiality, and Survival.

24. Advertising. Seller shall not, without first obtaining the prior written consent of Tokai, in any manner advertise or publish the fact that Seller has furnished or contracted to furnish to Tokai the Goods set forth in any Order.