

SGL CARBON – US COMPANIES (“OFFEROR”) - TERMS AND CONDITIONS OF PURCHASE

1. **Acceptance of Offer.** This purchase order and these terms and conditions (collectively, this "Offer") is the offer of Offeror to purchase from the party to whom it is sent ("Offeree") the products and/or services described in this Offer (collectively, "Goods"). This Offer may be accepted by any reasonable indication of acceptance by Offeree, including, but not limited to, acknowledgment or commencement of performance by Offeree. Offeree's acceptance, however made, is expressly limited to the terms of this Offer, and Offeror objects to all additions, exceptions, or changes to these terms whether contained in any printed form of Offeree or elsewhere. In the event that this Offer constitutes a written confirmation of terms previously agreed upon by Offeree and Offeror, or an acceptance of an offer previously made by Offeree, any such confirmation or acceptance by Offeror is expressly conditioned upon and subject to the terms and conditions set forth.

2. **Delivery.** Unless otherwise specified by Offeror in this Offer, all deliveries of Goods purchased hereunder shall be DAP Offeror's location designated on the face of this Offer (Incoterms® 2020). No tender of delivery of Goods or any documents, data, or other items pursuant to this Offer shall be deemed made to Offeror, and no liability or obligation to inspect Goods shall be imposed on Offeror, unless and until Goods are tendered in precise conformity to the specifications and instructions of this Offer (including, but not limited to, specifications and instructions relating to kind, quantity, quality, assortment, labeling and packaging, delivery, shipping, routing, and conformity to specifications, designs, and samples). Deliveries of Goods or any documents, data, or other items pursuant to this Offer shall be strictly in accordance with Offeror's delivery schedule. If delivery terms other than DAP are specified in this Offer and Offeror is responsible for import clearance, the Offeree will promptly deliver to Offeror all documents and other import relevant information which are necessary for the import clearance. If Offeree fails to comply with this obligation, even after a reasonable period of grace, Offeror may rescind and terminate this Offer without prior notice. If Offeree's deliveries fail to meet the schedule specified by Offeror, Offeree shall, at Offeree's sole expense, upon the request and at the direction of Offeror, and without in any way limiting Offeror's rights and remedies for any such delay in delivery, ship Goods by express shipment and Offeree will pay the difference between regular freight and express rates. Invoices covering Goods shipped in advance of the date set forth in Offeror's delivery schedule will not be paid until their normal maturity after the date specified for delivery. Partial shipments are not allowed without the express written consent of Offeror.

3. **Acceptance of Goods by Offeror.** Acceptance of Goods by Offeror shall occur only when all provisions and specifications of this Offer, including inspection of Goods, have been met and all data and documents noted in this Offer, including drawings, test results, reports, and shipping documents, have been received from Offeree. No reasonable delay in inspecting or in rejecting Goods shall be deemed an acceptance of them or a waiver of Offeror's right to reject Goods for any cause hereunder. Offeror shall have the right to accept any part of Goods notwithstanding that it may reject the balance for any cause hereunder. Acceptance by Offeror of all or any part of Goods shall not constitute a waiver of any claim which Offeror may have regarding Goods, including, without limitation, a claim against any warranty or guarantee due to delay, based on contractual penalties, or due to any other cause. Payment for any Goods under this Offer shall not be deemed acceptance of Goods.

4. **Non-Conforming Goods.** All Goods, supplied not in precise conformity with Offeror's specifications or shipped contrary to Offeror's instructions, may, at Offeror's sole discretion, be (i) rejected by Offeror and returned to Offeree at Offeree's sole expense, or (ii) held by Offeror at Offeree's sole risk and expense. In the event any Goods are rejected by Offeror for any cause, Offeree shall pay to Offeror immediately: (i) any prepayments which Offeror has made for the rejected Goods; (ii) the cost to Offeror of storing the rejected Goods; (iii) the cost to Offeror of returning the rejected Goods (by whatever reasonable means Offeror determines); and (iv) all other expenses incurred by Offeror in connection therewith.

5. **Price.** Unless otherwise specified, the prices stated in this Offer include all charges for packing, hauling, storage, transportation to point of delivery, and taxes. Sales and use taxes not subject to exemption shall be stated separately in Offeree's invoice. Offeree may not increase prices on Goods ordered after acceptance of this Offer. Offeree warrants that the prices quoted in this Offer are no greater than those currently charged to any other buyer; and Offeree agrees that any price reduction extended to others by Offeree prior to delivery of Goods shall also be extended to Offeror. Goods must be shipped as per instructions; any extra handling charge will be billed back to Offeree. Offeror retains the right to fulfill contractual payment obligations through any affiliate of Offeror. Offeree hereby expressly consents to such fulfillment by Offeror or Offeror's affiliate. Any restrictions on assignment or transfer of rights for the fulfillment of payment-obligations by Offeror shall not apply.

6. **Changes.** Offeror may at any time make changes in the scope or quantity of Goods in which event an equitable adjustment will be made to any price, time of performance, and other provision of this Offer, if appropriate. Claim for such an adjustment must be made within fifteen days after the date of receipt by Offeree of notice of the change. Substitutions or changes in quantities or specifications by Offeree shall not be made without Offeror's prior written approval.

7. **Cancellation.** Offeror reserves the right to cancel all or any part of this Offer or any other order between Offeror and Offeree. Offeror's cancellation of this Offer, or other orders or agreements between Offeror and Offeree, pursuant to this Section 7, shall be without liability except for deliveries previously made and accepted by Offeror. No rights shall accrue to Offeree against Offeror on account of such termination or cancellation pursuant to this Section 7. In the event of Offeror's cancellation of an order pursuant to this Section 7, Offeree shall repay to Offeror immediately any prepayments which Offeror has made for goods or services covered by such order. The remedies provided in this Section 7 shall be cumulative and in addition to any other remedies provided by law or equity.

8. **Warranty.** Offeree expressly warrants that Goods shall be merchantable; shall conform to this Offer, to specifications, drawings, and other descriptions referenced in this Offer, and to any accepted samples; shall be free from defects in materials and workmanship; shall be free from defects in design, and shall be fit and safe for their intended purposes. Offeree further warrants that it has clear title to Goods and that Goods shall be delivered free of any and all liens and encumbrances. Goods that meet the preceding standards are collectively called "conforming Goods." The Warranty Period will be for a period of 24 months from the date of delivery to the end user or such longer period of time as may have been accepted by Offeror from Offeror's customer or the date on which any longer or broader government requirement covering the Goods ends. These warranties will survive any delivery, inspection, acceptance or payment by Offeror for the entire Warranty Period. Claims for breach of warranty and the applicable statute of limitations do not accrue until discovery of noncompliance, even if the Goods were previously inspected. All these warranties and other warranties as may be prescribed by law shall extend to Offeror, its successors, assigns, and customers, and to users of Goods and shall run through any expiration date stated in Offeree's warranty. If Offeree is unable, within fifteen (15) days, to remedy the nonconformance or to deliver replacements or such measures are delayed for an unreasonable period of time, then Offeror may, at its election, rescind the Offer, demand a reduction of the purchase price and/or claim damages from Offeree. If conforming Goods are not furnished or are delivered late, then Offeror may, at its election and in addition to any other rights or remedies it may have at law or in equity, have the Goods repaired, replaced, corrected or sourced from a third party, at Offeree's expense. Offeree is also responsible for all related expenses and damages including without limitation, the costs of removal, disassembly, failure analysis, fault isolation, reinstallation, re-inspection and retrofit of the nonconforming Goods or of Offeror's affected end-product; all freight charges; all customer charges; and all corrective action costs (i.e., costs of additional inspection or quality control systems).

9. **Proprietary Information and Publicity.** All technical data, know-how, and any other information, however embodied, relating to Goods (the "Proprietary Information") is proprietary to Offeror and shall be kept confidential by Offeree. Offeree shall not disclose or use the Proprietary Information for any purpose except as required by Offeree's performance under this Offer. Upon cancellation, termination, or completion of this Offer, Offeree shall return to Offeror all such Proprietary Information and all documents and items embodying such Proprietary Information. Offeree shall keep confidential the existence of this Offer, all aspects of this Offer, and all Proprietary Information. Offeree shall not reproduce, cause to be reproduced, or allow to be reproduced the Proprietary Information, or any item which embodies Proprietary Information without the Offeror's prior express written consent. Offeree shall not make any reference, advertisement, or promotion regarding Offeror or Offeror's purchase or use of Goods without the prior written consent of Offeror, except to the extent required by law.

10. **Inspection/Testing.** During ordinary business hours and upon reasonable prior notice Offeror is entitled to inspect the Goods during manufacturing or the completed product. Offeree shall arrange to provide Offeror with access – if applicable – to the property of Offeree or third parties. Goods purchased under this Offer are subject to Offeror's reasonable inspection, testing, and approval at Offeror's location. Offeror will charge Offeree for the cost of inspecting rejected Goods.

11. **Recall.** In the event that a recall of Goods is reasonably required on account of any defect, a failure to conform to the specifications, applicable laws, or any other reason within Offeree's control, Offeree shall conduct such recall and shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, costs of returning Goods, lost profits, and other expenses incurred to meet obligations to third parties.

**SGL GROUP – US COMPANIES (“Offeror”) - TERMS AND CONDITIONS OF PURCHASE
(continued)**

12. Compliance With Laws.

12.1 Employment, Discrimination, Environmental, Health and Safety. Offeree's performance under this Offer shall be performed in compliance with, and Goods covered by this Offer are guaranteed by Offeree to have been manufactured and sold in accordance with, the provisions of (i) the Fair Labor Standards Act of 1938, (ii) the Toxic Substances Control Act, (iii) Dodd Frank Consumer Protection Act (Conflict Minerals); (iv) the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, (v) the Williams-Steiger Occupational Safety and Health Act of 1970, (vi) any applicable federal, state, and local laws and regulations regarding discrimination because of race, color, religion, national origin, sex, age, disability, handicap, or veteran status, including, without limitation, 41 CFR Part 60-1, 41 CFR Part 60-250, and 41 CFR Part 60-741 as amended., and (vii) any and all other applicable federal, state, and local laws, rules, and regulations, all as may be amended and to provide information and otherwise assist Offeror with its compliance as requested by Offeror from time to time.

12.2 Foreign Trade Regulations, Import Clearance. Offeree shall comply with all applicable export control, customs and foreign trade regulations (“Foreign Trade Regulations”). Offeree shall advise Offeror in writing within two weeks of receipt of the Offer - and in case of any changes without undue delay - of any information and data required by us to comply with all Foreign Trade Regulations in case of export, re-export and import, including without limitation:

- All applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
- the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
- the country of origin and - upon our request – a certificate of origin

13. Security of the Supply Chain. Offeree shall provide the necessary organizational instructions and take measures, particularly with regard to the following security aspects: premises security, packaging and transport, business partner, personnel and information - in order to guarantee the security in the supply chain according to the requirements of respective internationally recognized initiatives based on the WCO SAFE Framework of Standards (e. g. C-TPAT, AEO). Offeree shall protect the goods and services provided to Offeror or provided to third parties designated by Offeror against unauthorized access and manipulation. Offeree shall only employ or engage reliable personnel for those goods and services and shall obligate any sub-suppliers to take equivalent security measures.

14. Indemnification. Offeree shall defend, indemnify, and hold harmless Offeror, its successors, assigns, employees, and customers, and all users of Goods with respect to all claims, liability, damages, losses, and expenses, including attorney's fees, incurred of every kind related to, caused by, or arising out of: (i) actual or alleged patent, copyright, or trademark infringement, or violation of other proprietary right, arising out of the purchase, sale, or use of Goods; (ii) actual or alleged defect in Goods, whether in design, manufacture, material, or otherwise; (iii) actual or alleged breach of any express or implied warranty; and (iv) failure of Offeree to deliver Goods on a timely basis in precise conformity with the terms and conditions of this Offer. In the event of a claim under this Section 14, Offeror may at its option terminate this Offer or defer acceptance of the balance of Goods ordered until the claim is resolved. If Offeror is enjoined from the use of Goods, Offeree shall, at Offeror's option, either procure for Offeror the right to continue using Goods, replace Goods with substantially equivalent goods, modify Goods as to be usable by Offeror, or repurchase Goods at the price set forth in this Offer.

15. Insurance. Offeree shall obtain and keep in force for three (3) years after the last delivery under this Offer general comprehensive liability insurance covering each occurrence of bodily injury and property damage in an amount of not less than \$1 million dollars (or any other amount Offeror may indicate in this Offer) combined single limit with special endorsements providing coverage for: (i) Products and Completed Operations Liability; (ii) Blanket Broad Form Vendor's Liability; and, (iii) Blanket Contractual Liability. If services are performed under this Offer on Offeror's premises, Offeree shall also obtain Premises-Operations, Personal Injury, and Independent Contractors, Protective Liability endorsements, and shall further obtain Workers' Compensation, Employer's Liability, and Automobile Liability insurance coverage in amounts reasonably acceptable to Offeror naming Offeror as an additional insured. Offeree shall furnish Offeror with a certificate evidencing the required insurance.

16. Risk of Loss. Offeree shall bear the risk of loss or damage to Goods covered by this Offer until they are delivered to and accepted by Offeror.

17. Offeror-Furnished Material. Offeree shall not use, reproduce, or appropriate for or disclose to anyone other than Offeror, any material, tooling, dies, drawings, designs, or other property or information furnished by Offeror (“Material”) without Offeror's prior written approval. Title to all Material shall remain in Offeror at all times, and where practicable Offeree shall make or tag the Material to indicate Offeror's ownership. Offeree shall bear the risk of loss or damage to the Material until it is returned to Offeror. All Material, whether or not spoiled or used, shall be returned to Offeror at cancellation, termination, or completion of this Offer unless Offeror shall otherwise direct in writing.

18. Assignment of Interests. Offeree hereby assigns to Offeror all of Offeree's rights and interests in and to all original works reduced to tangible form and specifically created by Offeree or its employees for delivery to Offeror in connection with this Offer (including, but not limited to, drawings, designs, computer software and all copyright, patent, trade secret, and trademark rights, and any other forms of intellectual property protection which may be available) and title in such works shall belong to Offeror.

19. Termination for Convenience. Offeror may terminate this Offer, in whole or in part, at any time by notice to Offeree in writing. Offeree's sole compensation for such termination shall be payment by Offeror of the percentage of the total order price corresponding to the proportion of work completed in filling the order prior to such notice, plus any reasonable expenses incurred by Offeree in terminating orders and work in progress. Such termination claim must be submitted to Offeror within sixty (60) days after the date of termination and shall be subject to Offeror's approval. Upon termination, title to all Goods (finished or unfinished), equipment, materials, plans drawings, specifications, information, special tooling, and any other items shall vest in Offeror, and Offeree shall promptly deliver these items to Offeror and take all necessary action to protect such property prior to such delivery.

20. Setoff. Any counterclaim against Offeree or any of Offeree's related entities by Offeror or by any of Offeror's related entities which arises out of this or any other transaction may be set off against any money due Offeree under this Offer.

21. Assignment/Subcontracting. Offeree shall not assign this Offer or subcontract any material portion of the performance of this Offer without Offeror's prior written consent. Offeror may assign this Offer to (i) any subsidiary company controlled by Offeror or (ii) the successor of all or substantially all of Offeror's business or the business division to which this Offer relates, without prior written consent of the Offeree. This Offer shall inure to the benefit of and be binding upon each of the parties hereto and its successors and assignees.

22. Excusable Delay (Force Majeure). Neither party will be in default for any delay or failure to perform due to causes beyond its reasonable control and without its fault or negligence (“Force Majeure Event”). Offeree's ability to sell Goods at a more advantageous price or Offeree's economic hardship in buying materials or processing necessary for manufacture of the Goods will not constitute a Force Majeure Event. The party affected by a Force Majeure Event will promptly provide written notice to the other, explaining in detail the full particulars and expected duration of the Force Majeure Event, and will use its best efforts to remedy the delay. If Offeree's delivery is delayed, Offeror may, at Offeror's sole option, cancel deliveries scheduled during the period of the Force Majeure Event or elect to extend the period of performance to cover the period caused by the Force Majeure Event. If a Force Majeure Event occurs that affects delivery of Goods to Offeror, Offeree will allocate its available supply of Goods in a manner that assures Offeror of at least the same proportion of Offeree's total output of Goods as was allocated to Offeror before the Force Majeure Event. If delivery of any Goods is delayed for more than 30 days, Offeror may, without liability, cancel all or any part of this Offer.

23. Choice of Law. This Offer and the performance under it shall be controlled and governed by the laws of the state in which Offeror's facility, to which the Goods are delivered, is located, excluding its conflict of laws principles.

**SGL GROUP – US COMPANIES (“Offeror”) - TERMS AND CONDITIONS OF PURCHASE
(continued)**

24. Consent to Jurisdiction. Offeree and Offeror consent to the exercise of jurisdiction over them by the federal and state courts in the state in which Offeror’s facility, to which the Goods are delivered, is located with respect to any dispute or controversy, and Offeree and Offeror waive any objection to the assertion or exercise by such courts of such jurisdiction.

25. Other. Offeror will not be responsible for any goods delivered without purchase order. Offeror may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

26. Supplier Code of Conduct. Offeror expects all of its suppliers to follow legal and ethical business practices. Offeree warrants that it shall abide by Offeror’s Code of Conduct for Subcontractors and Suppliers, which may be found at [SGL Carbon’s website](#).

27. Construction of Agreement. This Offer, including these terms and conditions, may not be amended, modified, or supplemented except by written agreement executed by Offeree and Offeror. The provisions of this Offer are hereby deemed by the parties to be severable, and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision. Offeree and Offeror acknowledge that this Offer, including these terms and conditions, together with any invoice of Offeror, constitute the entire agreement between Offeree and Offeror with regard to the sale or transfer of Goods, and supersede all prior oral or written statements of any kind made by the parties or their representatives.