

## General Terms and Conditions of Sale

These General Conditions of Sale are issued by Global Tungsten & Powders spol. s r.o., with its seat in Bruntál, Zahradní 1442/46, Postal Code 79201, Czech Republic, Identification Number 27808408, and shall apply to all contractual relationships which are entered into by and between Global Tungsten & Powders spol. s r.o. as a seller/ supplier, and third persons or legal entities as buyers (hereinafter “customer”). The General Conditions of Sale were issued on the date set below and shall supersede any and all general terms and conditions of sale which have been adopted by Global Tungsten & Powders spol. s r.o. or by its legal predecessors hitherto.

### 1. GENERAL PROVISIONS

**1.1** The contract is based exclusively on the General Conditions of Sale of Global Tungsten & Powders spol. s r.o. (the “supplier”), as hereinafter set forth. They are valid by analogy also if the subject-matter of the contract is any work.

**1.2** The customer’s purchasing conditions shall not apply; they do not become part of the contract.

**1.3** These General Conditions of Sale are also valid for future businesses without further express agreement.

### 2. CONCLUSION OF CONTRACT

**2.1** Offers of the supplier shall not be binding. If the offer contains quantities, dimensions, weights or drawings, these are deemed approximate. If the customer requires the adherence to exact dimensions, he has to express this in his order.

**2.2** Plans, drawings, or other documentation are handed over to the customer for the purpose of conclusion of contract and, if applicable, for its completion. The supplier reserves property of these. No right of use is agreed. They must not be made accessible to third parties. The customer is obliged to return them if the contract negotiations fail or if they are no longer required for completion of the contract.

**2.3** Samples are only supplied for extra payment.

**2.4** Insofar as the customer places at disposal samples, plans, drawings, or other documentation, the provision of point 2.2 hereof shall be applicable likewise. The customer is liable towards the supplier for violation of rights of third parties by using this material. There is no obligation of the supplier to investigate this fact.

**2.5** The contract is concluded by the written order of the customer and the supplier’s written confirmation of this order. In the absence of the order confirmation, the customer’s contract offer may be accepted by the execution of the customer’s order by the supplier.

**2.6** Order quantities may be exceeded by +/- 10%. In any case, invoicing is based on the actually supplied quantity.

**2.7** Changes or amendments to the contract require written form. This applies also to an agreement on revocation of the requirement of written form.

**2.8** In doubt prices mentioned in the documents issued and/ or concluded by the supplier are net prices which are to be increased by the legal amount of VAT. These prices are ex works costs for transport and packing are not contained.

**2.9** If raw material prices increase after conclusion of the contract the supplier has the right to increase the prices accordingly. This does not come into effect if the period between conclusion of the contract and the agreed time of contractual supply is less than four months. If the price increase exceeds 10% the customer has the right to withdraw from the contract. The supplier has the right to withdraw from the contract in the case that the raw material prices increase by 20% or more.

### **3. DELIVERY**

**3.1** In doubt, the term of delivery begins with the receipt of the customer's order, but in any case not before clarification of all details necessary for fulfilling the contract and not before furnishing of all documentation or parts by the customer. It is prolonged by the period of time necessary for any import and export procedures. It is furthermore prolonged by the period of time of any obstacle (strike etc.) at the supplier or on of its sub-suppliers or subcontractors out of the supplier's influence, and by the period of time of any right of retention of the supplier.

**3.2** The supplier has the right of retention as long as the customer is in arrears with an obligation from this or another contract between the parties, except if this obligation is minor and does not affect the fulfillment of the contract by the supplier.

**3.3** The customer may only deny partial shipments if the supplied goods have major defects.

**3.4** If shipment is delayed upon the customer's request, the supplier may require prepayment in the agreed form. The time of delivery is considered to be fulfilled if the goods are shipped in time pursuant to the documents issued and/ or concluded by the supplier or if the customer is informed that the goods are ready for delivery.

### **4. DISPATCH**

**4.1** The risk of damage passes to the customer when the goods are handed over to the forwarder or carrier, at latest when leaving the supplier's premises. This applies also to FOB and CIF supplies.

**4.2.** Way and means of shipment are selected by the supplier's reasonable discretion. Any insurance of the goods has to be ordered and paid separately by the customer. The supplier has the right to supply COD, all costs arising are chargeable to the customer.

**4.3** Goods ready for shipment have to be taken over by the customer immediately following the supplier's respective notice. Otherwise the supplier shall be entitled to store the goods at the customer's expenses.

**4.4** Notice of transport damage is to be given immediately to the carrier by the customer or to be written down in a protocol together with the carrier.

### **5. PAYMENT**

**5.1** The agreed price is due for payment net and thus without deduction of cash discount at receipt of invoice.

**5.2** The customer shall not be entitled to offset any of its receivables which it has towards the supplier, unless agreed otherwise between the parties.

**5.3** A payment claim is considered in arrears at latest 30 days after maturity and arrival of the invoice without requirement of further dunning.

**5.4.** Any payment made by the customer is considered to be effected when the payment is credited to the supplier's account.

**5.5** In case of payment arrears, the supplier has the right to prohibit resale, further use, or processing of the goods supplied, and to withdraw from the contract, as well as to charge to the customer interest on late payment in the amount calculated according to valid Czech Law.

**5.6** If payments are delayed or circumstances become known after conclusion of contract which indicates that the customer will not be able to pay, the supplier may require prepayment.

## **6. DEFECTS AND COMPENSATION**

**6.1** Notice of defects is to be given immediately. Notice of defects which could not be detected even after meticulous inspection at receipt of the goods is to be given immediately on discovery. The notice has to be given in writing and per fax in advance. The customer has to allow the supplier to inspect the defects.

**6.2** The customer has the right of claims for compensation only in the case of intention and gross negligence of the supplier. This limitation of liability does not come into effect for damages of injury of life, body and healthy, and for the violation of any obligation which is part of the contract (cardinal obligation).

## **7. RESERVATION OF TITLE**

**7.1** The supplier reserves ownership (in Czech, *výhrada vlastnictví*) of the supplied goods until the fulfillment of all claims from the business relation with the customer. If a reservation of ownership does not come into effect acc. to the laws in the country of the customer, the customer has to inform the supplier of this circumstance. In this case the customer is obliged to offer to the supplier an equal security. Instead, the supplier can require prepayment or a letter of credit.

**7.2** The customer is given the revocable right to sell, use, or process the goods in the normal course of business.

**7.3** For the case of resale, the customer assigns his claims towards his customer to the supplier at the time of conclusion of the contract between the customer and its customer. The supplier will accept this assignment. He has to support the supplier in the enforcement of his claims to the best of his ability. If the goods are resold together with other goods, the assignment is limited, in alteration to sentence 1, to the part of the claim which is in relation of the invoiced amount for the reserved material to the total claim of the customer to his customer.

**7.4** For the case of processing of goods being under the reservation of title (hereinafter referred to as "reserved goods"), the parties agree as follows now: The supplier is co-owner of the new good. The amount of co-ownership is based on the relation of the invoiced amount of the reserved material to the value of the new good. No. 7.3 is valid in analogy.

**7.5** Insofar as the value of the reserved goods exceeds 120% of the claim to be secured, upon request of the customer, the supplier has to set free the reserved goods of his choice by assigning the goods being under reservation of title to the customer or by re-assigning him the claims towards the customer's customer.

**7.6** In the case of loss, seizure, destruction, or damage of the reserved goods the supplier has to be informed immediately. The customer herewith assigns in advance his claims arising from this towards any third party, particularly the damaging party or the insurance.

## **8. TOOLS**

**8.1** Tools or moulds which the supplier produced or procured for fulfilling the contract remain property of the supplier, also if these are invoiced to the customer.

## **9. LONG-TERM TRANSACTIONS**

**9.1** In current long-term transactions, the customer has to make notification timely in advance of the required monthly quantities and request for delivery respectively. Otherwise the supplier has the right to fix the quantities to be supplied monthly himself and supply accordingly after the extension of the original time limit.

**9.2** If the agreed total quantity is exceeded by the total of individual requests for delivery, the supplier has the right to make the supply of the exceeding quantity dependent on a new price agreement.

## **10. FINAL PROVISIONS**

**10.1** This contract is subject to the Czech Law. Any relations of the contracting parties not determined in this General Conditions of Sale or in contracts of the contracting parties are governed by respective provisions of the Commercial Code of the Czech Republic, Act. No. 513/1991 Coll. and other related Czech legal regulations. The application of the UN Convention on Contract for the International Sale of Goods is excluded.

**10.2** The place of jurisdiction is the court of law competent at the domicile of the supplier.

August 1, 2008