

PURCHASE ORDER TERMS AND CONDITIONS
(Japan)

1. **CERTAIN DEFINITIONS:** Reference to "products" herein shall include, without limitation, goods, services, work and data, expressly or impliedly, ordered herein or delivered hereunder, or any part thereof. Whenever used in this order, the following terms shall have the indicated meanings unless the context otherwise requires: (i) "Buyer" is Global Advanced Metals Japan K.K.; (ii) "Seller" is the party or parties as noted in Buyer's purchase order; (iii) "order", "purchase order" or "Buyer's order" are Buyer's purchase order inclusive of all documents constituting a binding agreement regarding its subject matter meaning these terms and conditions, all referenced addenda and attachments setting forth the terms and conditions of purchase of products provided for herein; (iv) "work" shall mean the furnishing, doing or performing by Seller of all goods, services and other products required under this order; (v) "goods" shall include all materials, equipment and supplies to be furnished by Seller under this order; (vi) "delivery" shall be the act of transferring possession of products to Buyer in accordance with the term of Buyer's order, and if no delivery terms are specified via DDP at Buyer's designated location in the order (Incoterms 2010 or as updated); (vii) "parties" are collectively Buyer and Seller and (viii) "confidentiality agreement" any valid, preexisting confidentiality agreement among the parties or their affiliated companies entered with the intention of applying to the subject matter of this order.
2. **ACCEPTANCE; ENTIRE AGREEMENT:** Seller's acceptance, acknowledgment or commencement of performance shall constitute acceptance of Buyer's order. Except for any confidentiality agreement, Buyer's order represents the entire agreement of the parties and may not be changed, modified or revised unless in writing and signed by Buyer's authorized representative. The express terms and conditions hereof supersede any prior understanding, whether written or oral, and control any course of dealing or of performance or usage of trade. None of the terms and conditions contained in any Seller terms or conditions of sale or proposal or other business document shall be of any effect except where explicitly set forth herein. Notwithstanding anything to the contrary in the order, Buyer hereby expressly rejects, and does not agree to, any such other Seller terms and conditions as described in the preceding sentence.
3. **QUANTITY; INVOICING; PAYMENT; CURRENCY:** Products shipped in excess of quantity designated in Buyer's order may be returned at Seller's expense. Invoices shall not be submitted until after delivery. Payment shall be due and owing in accordance with the terms of Buyer's order, and if no payment terms are specified, amounts due shall be payable net one hundred fifty (150) calendar days (excluding where such period is in violation of applicable laws or regulations, to be shortened to a lawful period under such applicable laws or regulations) from Buyer's receipt and acceptance of Seller's invoice. Moreover, if cash discounts are applicable, the cash discount period shall be calculated from the date Buyer receives the invoice. Payment shall not be construed as constituting acceptance. Unless Buyer specifies otherwise, the applicable currency of this order is Japanese Yen.
4. **TITLE AND WARRANTIES:** Title to the products shall pass to Buyer upon delivery unless explicitly stated in the order. Seller warrants that the products delivered hereunder shall (a) have full and unrestricted title free and clear of all liens, restrictions, reservations, security interests or other encumbrances; (b) conform to the descriptions and specifications set forth by Buyer or, if Buyer provides no such description or specification, as referred to by Seller as consistent with this order; (c) be new (unless specified by Buyer as used), of merchantable quality, free from defects and deficiencies in workmanship, material and due to design, and fit for any intended use by Buyer which Seller has reason to know. Upon request of Buyer, Seller, at its sole expense, shall repair or replace all or any part of any product covered by this order which is defective or deficient in material, workmanship or design or otherwise fails to meet the requirements of this order or as otherwise provided by applicable law. If Seller delays in correcting any such defect, deficiency or failure, Buyer may correct the same and Seller shall be liable for all costs without prejudice to Buyer's rights for breach of contract. Seller shall pay all transportation charges in connection with such repairs and replacements and such repaired and replaced goods shall be subject to the foregoing quality, title and warranty provisions. The foregoing warranties do not constitute a waiver of any other rights of Buyer expressed or implied and are in addition to any warranties implied by applicable law. These warranties shall run to Buyer, its customers and users of Buyer's products and shall survive Buyer's inspection and acceptance.
5. **DELIVERY; RISK OF LOSS:** Each package shall be labeled with Buyer's order number, stock number, contents and weight, shall contain an itemized packing slip, shall be properly packed for shipment and as otherwise reasonably requested by Buyer. No charges shall be allowed for packing, crating, freight, express or cartage, unless specified by Buyer in its order. Time is of the essence hereof and if any products are not delivered within the time specified in this order, or within a reasonable time if no time is so specified, Buyer may either (i) refuse to accept such products and terminate this order or (ii) cause Seller to ship the products by the most expeditious means of transportation whereupon any additional transportation charges in excess of those which would apply for the usual means of transportation shall be for the account of Seller. For avoidance of doubt, Seller assumes all risk of loss for the products until delivery.
6. **CHANGES:** Substitutions or additional charges of any kind initiated by Seller shall not be accepted without written authority from Buyer's authorized representative. Buyer may prior to delivery, by written notice, make changes within the general scope of this order to drawings and specifications, shipping and packing instructions, and place of delivery. Buyer shall have the right to make changes to work and to cancel in whole or in part at any time work covered herein to the extent not shipped or completed prior to cancellation. Any such changes shall be stated in a formal order revision from Buyer. If any such change materially increases or decreases the cost of or the time required for performance, an equitable adjustment in the price and/or delivery schedule will be made including an allowance for obsolescence, rework or scrapage, but only for materials in process within the Seller's normal manufacturing cycle required to meet the delivery schedule. Any requests by Seller for such adjustment must be asserted in writing immediately but in no event later than fifteen (15) calendar days from the date the change is ordered or within such other period of time as may be agreed upon in writing. In the event of failure by the parties to agree on any request for equitable adjustment under this section 6, Seller shall diligently perform this order at Buyer's request, as changed, pending the resolution of any such dispute.
7. **TERMINATION; SURVIVAL:** Buyer may terminate this order as follows: (a) if in the opinion of Buyer Seller jeopardizes work or its ability to perform and deliver products as provided hereunder by delay according to the timing set forth in this order or, in the absence thereof, for an unreasonable time or by reason of faulty workmanship, then, in addition to its other remedies, Buyer may upon twenty-four (24) hours notice terminate all or any part of the work or this order without further obligations hereunder; or (b) at any time in whole or in part as to undelivered products, in which event Buyer and Seller will negotiate an equitable settlement payment for the terminated portion consisting of consideration of Seller's relevant actual cost to date of termination, including an allowance for obsolescence, rework or scrapage but only for materials in process within Seller's normal manufacturing cycle required to meet the delivery schedule plus a reasonable profit thereon, less any value hereof to Seller; provided, however, that in no event shall such payment exceed the amount which would have been payable hereunder for such terminated portion, if this order had not been so terminated. Buyer shall have the right to acquire any inventory relating to this order in the hands of Seller at the time of termination. Any provisions of Buyer's order which by their nature extend beyond the expiration or termination of Buyer's order (including, but not limited to, sections 4, 7, 9-11 and 13-22) shall continue in full force or effect notwithstanding the expiration or termination of Buyer's order.

8. **EXCUSABLE DELAYS:** Neither party shall be liable for damages for failure or delay or performance of their obligations hereunder arising out of causes beyond its reasonable control and without its fault or negligence to the extent such failure or delay is caused by force majeure meaning acts of the public enemy, war between sovereign nations, terrorism, acts of the Government in either its sovereign or contractual capacity, fires, floods, hurricanes, epidemics, quarantine restrictions, strikes, and freight embargoes. Seller will notify Buyer in writing promptly, but in no event more than ten (10) calendar days after the beginning of any cause for such an excusable delay, or shall be deemed waived.
9. **PUBLICITY; DISCLOSURE OF ORDER:** Seller shall not, without the prior written consent of Buyer's Law Department, use Buyer's name in advertising or promotional material or publicity releases or in any manner advertise or publish the fact that Buyer has placed this order with Seller or its subject matter or terms and conditions.
10. **CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY:** If the parties have entered into a confidentiality agreement which covers disclosure of Confidential Information (as hereinafter defined) under this order, and if the term of the confidentiality agreement expires before the expiration or termination of this order, then the term of the confidentiality agreement shall be automatically extended to match the term of this order. If the parties have not entered any such confidentiality agreement, the Seller agrees that any non-public and proprietary information disclosed by or on behalf of Buyer to Seller whether provided orally or in writing and on whatever medium, concerning the Buyer's business and/or operations including, without limitation, any materials, trade secrets, know-how, formulas, processes, algorithms, ideas, strategies, inventions, data, designs, flow charts, drawings, proprietary information, business and marketing plans, financial and operational information, customers' identities and requirements, customer lists, suppliers' identities and products, pricing information, product information, manufacturing processes and procedures, product research, financial information and other similar non-public information along with that information, material or data relating to the current and/or future business and operations of the Buyer and any analyses, compilations, studies, summaries, extracts or other documentation prepared by the Seller or a third party based on such information including Intellectual Property (as hereafter defined), (collectively, "Confidential Information"), shall be treated as strictly confidential, not to be disclosed to third parties, shall remain Buyer's exclusive property, and be used only in the performance of orders from Buyer or Buyer's written designees, and together with all copies thereof, be delivered to Buyer or destroyed by Seller, as Buyer specifies. As to consulting, engineering, design, research, testing or similar or related services that are subject to this order, any inventions, improvements, copyrightable work and other work product which are first created or produced by Seller in the performance of such services for Buyer or which are based on or suggested by any such information from Buyer or by any employee of Buyer or its affiliates, Seller agrees that Buyer (or its parent company) is the sole and exclusive owner of such work product, including all patents, copyrights and other intellectual property rights therein ("Intellectual Property"). All such works of authorship will be further deemed "works made for hire" to the extent allowed by law. Seller shall disclose and does hereby assign to Buyer all inventions, improvements, discoveries, techniques and processes resulting herefrom, including Intellectual Property, and does grant Buyer the right to use for any purpose all data specified to be delivered under this order. Seller agrees to assist Buyer in every way in perfecting and recording title to such property (including all Intellectual Property) in the name of Buyer or its designee.
11. **GENERAL INDEMNITY:** Notwithstanding anything to the contrary, Seller agrees to defend, protect, indemnify and hold Buyer, its affiliates, successors and assigns, officers, directors, employees, subcontractors, customers, agents and lessors ("Buyer Indemnitees") harmless against from and against any and all losses, claims, demands, fines, penalties, costs and expenses (including attorneys' fees and court costs), causes of action, suits and liabilities of every kind and character ("Claims") arising in favor of any entity, Buyer or person, including both Buyer's and Seller's employees or contractual indemnitees of Buyer, occurring, growing out of, incident to or resulting directly or indirectly from Seller's performance of this order or the products supplied hereunder, including but not limited to (i) personal injuries or death, or damage to property, (ii) defects in materials, workmanship or design of the products, and (iii) any act or omission of Seller, its employees, agents, servants or subcontractors, whether such Claim arises from or is contributed to by the negligence of Buyer or its employees, whether insured against or not, and whether due to imperfection of any material furnished by Buyer, or the premises themselves or any equipment thereon, whether latent or patent, or for any other cause whatsoever.
12. **INSURANCE:** Except where Seller falls under small businesses that are under the application of the Japanese Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors (Act No. 120 of 1956)), Seller shall purchase at its cost and maintain in full force and effect at all times during the term of this order (and for applicable policies as long as any warranty obligations shall continue) the following insurance policies and minimum coverages (or other obtainable insurance policies that have equivalent coverages), which shall be primary as to any other existing, valid, and collectible insurance: (i) Workers' Compensation and Employers' Liability with Coverage "A" coverage at statutory limits and Coverage "B" – Employers' Liability at \$1,000,000 Limit of Liability; (ii) Comprehensive General Liability at \$2,000,000 Limit of Liability and (iii) Automobile Liability at \$2,000,000 Limit of Liability. All insurance companies shall be rated by A.M. Best as "A-" (or by similar qualified rating agencies of similar rating as such "A-") or higher and have a financial size of "VII" (or a size similar to such "VII") or larger. For any work to be performed at facilities of Buyer or its affiliates or contractors, Seller shall, before commencing such work, secure from its liability insurers an endorsement naming Buyer and its affiliates as additional insureds and obtain Waivers of Subrogation against Buyer and its affiliates from such insurers. Certificates of Insurance as evidence of the required insurance and coverages shall be provided to Buyer prior to such work. If Seller employs subcontractors to perform any such work hereunder, Seller agrees to require such subcontractors to obtain, carry, maintain, and keep in force during the time in which they are engaged in performing any such work hereunder, policies of insurance which comply with the requirements as set forth above. Seller shall also secure from its subcontractors Waivers of Subrogation against Buyer and its affiliates.
13. **INTELLECTUAL PROPERTY INDEMNITY:** Seller agrees to defend, protect, indemnify and hold the Buyer Indemnitees harmless from and against any Claims for or by reason of any actual or alleged infringement of any patent, copyright, license or other intellectual property right arising out of the manufacture, use, sale, delivery, or disposal of the products furnished under this order and the cost of replacing such products with non-infringing goods.
14. **COMPLIANCE WITH LAWS:**
 - A. Seller represents and warrants that it will comply with all applicable local and national laws and regulations pertaining to its performance of its obligations under this order including, without limitation, any of the following where applicable:
 - (i) Applicable anti-bribery legislation (including without limitation, the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and Japanese legal equivalent), which prohibits the offering, giving or promising to offer or give, or receiving, directly or indirectly, money or anything of value to any third party to assist it them or Buyer in retaining or obtaining business or in performing the obligations herein. Seller's failure to comply with this provision shall constitute a material breach of this order;
 - (ii) U.S. and local trade control laws that impose restrictions or requirements on our international activities by means of trade sanctions or embargoes which may, from time to time, be enforced by the U.S. government and applicable Japanese trade control laws (provided those laws do not conflict with U.S. laws) and will not knowingly export or re-export, directly or indirectly, (i) any technical data (as defined in the United States Export Administration Regulations) received from Buyer under this order, or (ii) any immediate product, process or service directly produced by the use of such technical data, to any destination to which such export or re-export is restricted or prohibited by U.S. or other applicable local laws (provided those laws do not conflict with U.S. laws), including those countries that are currently subject to U.S. trade sanctions; will comply with all U.S. laws that prohibit U.S. persons and companies from cooperating with the Arab League Boycott of Israel; and will not do business with prohibited parties, terrorists, or narcotics traffickers as specified under U.S. law

including, but not limited to, the U.S. Department of the Treasury's Office of Foreign Assets Control "Specially Designated Nationals" list; and

(iii) Applicable safety and environmental laws and Seller shall supply material safety data sheets or similar material relating to the products, including without limitation any pertinent toxicity data in its possession or of which it is aware relative to human and environmental health concerning the products and offer recommendations for the safe storage and lawful disposal of the products. Seller warrants that any chemical substance, as defined in the U.S. Toxic Substances Control Act (as amended from time to time) or Japanese law equivalent, sold or otherwise furnished by Seller or its contractors to Buyer is or will be on the list of chemical substances compiled and published by the U.S. Environmental Protection Agency or Japanese law equivalent pursuant to such acts on the date as of which the substance is sold or otherwise furnished to Buyer. Seller warrants that any facility to be utilized in the performance of this order has not been listed on the EPA List of Violating Facilities or Japanese law equivalent and that its will promptly so inform Buyer of this fact in writing.

- B. Each party represent and warrants to each other that they are not an anti-social force (which means gangster organizations, gangster-related companies and related organizations as defined in the "Act on Prevention of Unjust Acts by Organized Crime Group Members", including constituent members and any group or individual equivalent thereto) or were not an anti-social force in the past, shall not utilize anti-social forces, shall not impair the honor and credibility of the other party or obstruct the other party's business by spreading rumors, using fraudulent means or using force, shall not make unreasonable demands, shall not furnish funds to anti-social forces, and shall not pursue close relations with anti-social forces. Each party also represents and warrants that, to their actual knowledge, any persons who have effective control over their respective operations, or officers are not constituting members of anti-social forces, and they do not allow anti-social forces to utilize its name for this order. Seller shall additionally ensure that its subcontractors will comply with the provision of this paragraph in connection to this order.
15. **BUYER'S SUPPLIER CODE OF CONDUCT AND SAFETY POLICIES:** Seller represents and warrants that it shall comply with Buyer's policies as follows:
- A. Supplier Code of Conduct located at <http://www.globaladvancedmetals.com/about-us/supplier-code-of-conduct.aspx>; and
- B. Supplier Safety Policy to be provided to Seller if it performs work at Buyer's facilities.
16. **LIMITATION OF LIABILITY:**
- A. NOTWITHSTANDING ANYTHING ELSE IN THIS ORDER OR OTHERWISE, BUYER WILL NOT BE LIABLE TO SELLER WITH RESPECT TO THE SUBJECT MATTER OF THIS ORDER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY AMOUNTS IN EXCESS IN THE AMOUNT BUYER PAID TO SELLER IN THE THREE (3) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCE GIVING RISE TO SUCH LIABILITY.
- B. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE ORDER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF, OR IN CONNECTION WITH, THIS ORDER, WHETHER OR NOT THEY WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- C. THESE LIMITATIONS IN THIS SECTION 16 WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. NOTHING IN THIS ORDER LIMITS EITHER PARTY'S LIABILITY FOR BODILY INJURY OF A PERSON, DEATH, OR PHYSICAL DAMAGE TO PROPERTY OR ANY LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW.
17. **ASSIGNMENT AND SUBCONTRACTING:** Seller may not assign this order or any part hereof without Buyer's prior written consent. Seller shall not subcontract for completed or substantially completed material called for by this order or for services without the prior written consent of Buyer.
18. **NON WAIVER:** Failure of the Buyer to insist upon strict performance of any terms and conditions herein shall not be deemed a waiver of any rights or remedies that the Buyer shall have and shall not be deemed a waiver of any subsequent default of terms and conditions hereof. Shipment or receipt of any article under this order shall not constitute a waiver of any right of the Buyer hereunder or any obligation of the Seller to comply with any of the provisions of this order.
19. **INSOLVENCY:** Buyer may cancel this order in the event of the happening of any of the following, or of any other comparable event: (i) insolvency of Seller, (ii) the filing of a voluntary petition in bankruptcy by the Seller, (iii) the filing of an involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty (30) calendar days from the date of filing, (iv) the appointment of a Receiver or Trustee for Seller provided such appointment is not vacated within thirty (30) calendar days from the date of such appointment, or (v) the execution by Seller of an assignment for the benefit of creditors.
20. **APPLICABLE LAW; DISPUTES:** This order shall be governed by the laws of the jurisdiction of the Buyer party issuing this order. Except for matters requiring injunctive relief related to the Buyer's confidential information and intellectual property, any and all other disputes between the Buyer and Seller arising out of this order shall be finally resolved in accordance with the rules of arbitration of the Japan Commercial Arbitration Association, before a tribunal of one arbitrator, and the place of arbitration shall be Tokyo, Japan, and the language shall be Japanese and English.
21. **SEVERABILITY:** Any provision of this order which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent only of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
22. **TRANSLATION:** This order also exists in a translated Japanese language version for reference by the Seller. If there is any conflict with the English version of this order and the Japanese translated version, Seller agrees that the English version shall govern and control over any conflicting terms with the Japanese translated version of this order.