

General Terms of Sale and Delivery



1. Application and Validity

The following terms of sale and delivery shall apply to all orders unless otherwise agreed in writing. Any deviation therefrom, which may be stipulated in the Buyer's order or the like, shall be regarded as invalid unless otherwise agreed in writing by Seller.

2. Quotations

Written quotations by the Seller shall be valid for one week from the quotation date unless otherwise specified. The Buyer's acceptance must be in the Seller's possession before the expiry of the acceptance period.

3. Orders

Orders shall not be binding on the Seller until the Buyer receives the Seller's order confirmation. If the Buyer has objections to the contents of the order confirmation, they must be made in writing and be in the Seller's possession no later than one week after the date of the order confirmation.

4. Prices

Agreed prices shall be exclusive of value-added tax. Unless otherwise agreed the price shall include carriage and insurance paid to the Buyer's address (CIP), see also section 5.

5. Insurance

Unless otherwise agreed the Seller shall effect insurance in accordance with the CIP clause. The Buyer's address shall be understood to be the address stated in the Buyer's order unless the Buyer specifies otherwise. The Seller shall not be liable for any damage in transit. See also section 12.

6. Payment

Payment shall be subject of the terms of payment fixed by the Seller. However, the Seller reserves the right to change the terms of payment, if the Seller receives information which shows that the Buyer's ability to pay has been impaired. Any delay in payment shall also entitle the Seller to withhold further deliveries and shall release the Seller from all other contractual obligations. Late payments shall be subject to interest at the rate fixed by the Seller from time to time.

7. Reservation of Title

All deliveries shall be subject to reservation of title. Title to the product shall not pass to the Buyer until debts from all deliveries made by the Seller, including more recent deliveries, have been redeemed.

The product may only be sold in proper course of business. All claims of the Buyer arising from resale shall be regarded as assigned to the Seller. The buyer shall be authorized to collect claims arising from resale. If so requested, the Buyer shall be obliged to name the customers and advise them of the assignment. In the event that the product supplied by the Seller is used for processing with other products the title to which is held by a third party, the Seller shall become the joint owner of the new product. The scope of such joint ownership shall be determined by the ratio of the invoice value of the product supplied by the Seller to the invoice value of the rest of the product. If the value of the security available to the Seller exceeds the total debt by more than 10%, the Seller shall be under an obligation at the request of the Buyer to release security of Seller's choice.

8. Delivery

The delivery time shall be fixed in each individual case either in the Seller's quotation, if any, or in the Seller's order confirmation. The delivery time shall run from date of the Seller's order confirmation, but not until the Seller has received all specifications including approved drawings specifying sizes and dimensions. If such specifications have not been received by order confirmation, the delivery time shall be run from the date when the Seller receives them. If it is agreed that the order is to be subject to further instructions from the Buyer (e.g. with regard to quantity or delivery time for part deliveries), such instructions must reach the Seller at the agreed time. If not so, the Seller shall be entitled to cancel the purchase for the unperformed part of the contract and demand compensations for the loss. The Seller may choose instead to claim performance of the unperformed part of the contract. Delivery shall then be effected at the time fixed by the Seller. Unless a delivery time is agreed the Seller shall state his delivery time as soon as possible after receiving the Buyer's request for delivery or specification.

9. Scope of Supply

The Seller shall be entitled to deliver up to 10% more or less than the quantity ordered. The weights in kg./m. specified in the Seller's drawings are theoretical and shall be without any obligation on the part of the Seller.

10. Tolerances

The Seller's standard tolerances for sizes and dimensions shall apply, unless otherwise specified.

11. Dies

If dies have to be made for the production of the goods ordered by the Buyer, the cost of such dies shall be charged to the Buyer. The dies are designed as part of the Seller's machinery and shall be property of the Seller. The die costs charged are in any case only part of the total cost of making the dies. The Buyer is only paying for the exclusive right to the production for which such dies are used.

12. Seller's Liabilities and Buyer's Obligations

The Seller shall not be liable for a consignment to the Buyer being fit for the intended purpose. Nor shall the Seller be liable for any advice given to the Buyer in connection with the preparation of drawings or planning of the production. The Seller's risk for a consignment passes when it is handed over to a carrier for the purpose of transmission to the Buyer. The Buyer shall be under an obligation as soon as he receives the consignment to make the necessary examinations and tests to ascertain whether delivery has been effected in accordance with the contract. If the Buyer wishes to complain about the consignment, he shall be under an obligation to do so in writing to the Seller. Such complaints shall be made as soon as the defect is discovered. If the Buyer wishes to make a claim for visible transport damage, he must endorse the consignment note to that effect on receipt. If there is a defect in the consignment for which the Seller is liable in accordance with this provision, the Seller shall always be entitled to release himself from his liability for the defect by effecting replacement delivery. If replacement delivery is effected, the Buyer may not make any further claims against the Seller. If the Seller is not able to effect replacement delivery, the Buyer shall be entitled to have the purchase price paid refunded in return for placing the consignment at the Seller's disposal. The Seller's liability for damages in the event of delay of defects shall be limited to the Seller's price for the consignment. The Seller shall under no circumstances be liable for any consequential loss, loss of profit or other indirect loss.

13. Force Majeure

The Seller shall not be liable for failing to perform his obligation to deliver, if such failure is due to circumstances beyond his control, including non-delivery or lat delivery by the Seller's suppliers or other obstacles to delivery including force majeure. Force majeure shall be considered to include the following circumstances affecting the Seller or the Seller's suppliers; natural disasters, war, civil unrest, mobilization, shortages of raw materials, lack of transport, import and export bans, currency restrictions or labour shortage or any other occurrence which prevents or restricts normal production, strike, lockout, conflagration or damage of the Seller's production plant. In the event of force majeure the Seller may choose either to cancel the contract or part thereof or to effect delivery as soon as the obstacle to normal delivery ceases to exist.

14. Returns

If the Seller has accepted that a consignment is defective, the consignment may be returned for the Seller's account and risk provided that the Buyer complies with the Seller's instructions concerning packing and forwarding. Goods must be returned to the Seller in original undamaged packing. If the original packing is damaged or destroyed, it shall be the duty of the Buyer to provide proper packing. When a consignment is returned, the same forwarding method must be used as the Seller used to send it to the Buyer. If the consignment is not returned by the method prescribed by the Seller and it is damaged as a result hereof, the Buyer shall not be entitled to make any complaint about such damage.

15. Cancellation and Alteration

An order may only be cancelled or altered with the written approval of the Seller. The Buyer shall compensate the Seller for additional costs and loss in the event of cancellation, such minimum compensation being equivalent to 10 % of the agreed purchase price excluding value-added tax.

16. Building Supplies Clause

The building supplies clause shall apply to consignments intended for building purposes in Denmark, cf. section 2 of the Danish National Building Agency Circular of 25th June 1986.

17. Product Liability

Hydro Aluminium Tønder a.s is covered by statutory product liability insurance. The insurance policy is underwritten by the Industriforsikring A/S insurance company and is valid throughout the world.

18. Legal Venue etc.

Any disputes between the parties shall be decided by the Maritime and Commercial Court in Copenhagen pursuant to Danish law. The International Sale of Goods Act No. 733 of 7th December 1989 shall not apply between the parties.