



**EXTRUSION NORTH AMERICA STANDARD TERMS AND CONDITIONS OF SALE  
[BILLET/LOG]**

1. **CONDITIONAL ACCEPTANCE:** HYDRO'S ACKNOWLEDGMENT AND ACCEPTANCE OF BUYER'S ORDER IS CONDITIONED UPON THESE TERMS AND CONDITIONS OF SALE CONSTITUTING THE SOLE AND EXCLUSIVE TERMS AND CONDITIONS OF AN ORDER AND HYDRO OBJECTS TO AND REJECTS ANY DIFFERENT OR ADDITIONAL TERMS PROVIDED IN RESPONSE. NO AMPLIFICATION, MODIFICATION, ADDITION OR VARIATION OF THESE TERMS AND CONDITIONS OF SALE WILL BE ACCEPTED BY HYDRO UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY HYDRO. The term "Hydro" refers solely to the Hydro legal entity that ultimately manufactures and sells the goods to Buyer.<sup>1</sup>
2. **TERMS OF PAYMENT:** Unless otherwise agreed to in writing by both parties, Net Cash thirty (30) days after date of invoice to be paid via ACH to an account to be provided by Hydro. Hydro may file, without the Buyer's signature, one or more financing statements or other notices disclosing Hydro liens and other security interests. THE BUYER HEREBY RATIFIES AND CONFIRMS HYDRO'S AUTHORITY TO FILE AND THE VALIDITY OF ANY AND ALL FINANCING STATEMENTS AND NOTICES FILED BY HYDRO.
3. **INTEREST CHARGES:** On accounts not paid within applicable terms, interest will be charged at the lesser of the maximum rate allowed by applicable law or 2% over the prime lending rate from time to time in effect at JP Morgan N.A., New York, U.S.A. Such interest will be charged beginning on the first date applicable law permits and will be invoiced monthly.
4. **TRANSPORTATION AND TITLE:** Except to the extent that Hydro and Buyer agree in writing to the contrary, all shipments shall be DDP (Incoterm 2010) Buyer's facility or other place where Buyer and his agent identifies and Hydro agrees in writing. Excess transportation charges assessed by carriers covering shipments requiring special equipment in handling or transporting or fuel charges will be charged to Buyer. Title to the goods sold hereunder shall transfer to Buyer from Hydro at Buyer's dock or facility.
5. **DUTIES / FEES:** Hydro has entered into an order in the current environment where there are no import duties on alloyed aluminum from countries where Hydro's own production or overseas joint venture partners are located. Harmonized Tariff Schedule 7601.20.90XX. In the event additional duties and/or fees are imposed upon Hydro by any governmental or regulatory authority which exceeds those fees / duties in effect as of the date Hydro's acceptance of an order related to the conversion billet/log, direct sale billet/log, or direct sale foundry alloy, Hydro shall have the sole and unilateral right to terminate any and all impacted orders. This termination shall be effective upon receipt by Buyer of written notice by Hydro and Hydro shall have no further liability of any kind whatsoever under any and all impacted orders as of the effective date of notice.
6. **CHANGES IN TERMS:** Terms of payment, interest and transportation are subject to changes to Hydro's terms in effect on date of shipment. Prices will be Hydro's prices in effect on date of shipment.
7. **CREDIT AND PAYMENT:** All sales are at all times subject to the approval of the Credit Department of Hydro, and in case of doubt as to Buyer's financial ability to pay, Hydro may at any time by written notice to Buyer require immediate payment or other terms of payment differing from those specified above or other satisfactory security that invoices will be paid when due. If Buyer fails to comply with any terms of payment or requirements to secure payment of this or any other order or contract with Hydro, Hydro may stop current and withhold further shipments or send such shipments sight draft with bill of lading attached, or Hydro may treat the contract as terminated by Buyer with all rights and remedies available to Hydro under applicable law. In the event of default by Buyer in payment, Buyer shall be liable for Hydro's cost of collection, including reasonable attorneys' fees.
8. **TOLERANCES:** Unless otherwise expressly provided, goods furnished by Hydro are to be within Hydro's size, gauge, temper and finish limits of manufacture and subject to Hydro's standard tolerances for variations, including those in quantity.
9. **TAXES:** Unless otherwise expressly provided by law, Hydro may require Buyer to pay or to reimburse Hydro for any tax (except income tax) which now or hereafter may be imposed by any taxing authority in respect of the goods or the sale, purchase, manufacture, delivery or use thereof.
10. **INSPECTION CHARGES:** Where Buyer requires tests or inspection not regularly provided by Hydro, Hydro may charge Buyer for the actual cost of such tests or inspection.
11. **WARRANTY:** Hydro warrants that goods sold hereunder shall be free from defects in materials and workmanship, except such defects as are commercially acceptable, and shall conform to specifications accepted by Hydro. Hydro shall not be liable for any incidental or consequential damages for breach of warranty, whether express or implied, including without limitation any expense for the use, handling or sale of defective goods. Hydro's sole liability and Buyer's exclusive remedy for breach of any warranty is expressly limited, at Hydro's option, to the repair of defective goods or the replacement thereof at the original point or the repayment of the purchase price. Any claim for breach of warranty is waived unless Buyer shall give Hydro written notice of such claim promptly after delivery of goods and in no event later than ninety (90) days after delivery and shall give Hydro reasonable opportunity to investigate such claim and inspect the goods. Replacement of defective goods or repayment of the purchase price shall be made only upon return thereof after inspection by Hydro and Buyer's compliance with written shipping instructions from Hydro. The giving or failure to give any advice or recommendation by Hydro shall not constitute any warranty by nor impose any liability upon Hydro. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS INCLUDING, BUT NOT LIMITED TO, FITNESS THEREOF FOR ANY PARTICULAR PURPOSE OR WARRANTIES OF MERCHANTABILITY.
12. **LIMITATION OF LIABILITY; END USE:** Hydro's total liability for any claims, damages of any nature, losses, liabilities or costs or corrective efforts including, but not limited to, the warranty arising out of or related to performance of this Agreement shall not exceed the purchase price. Hydro shall not have any liability for special, indirect, incidental, punitive or consequential damages of any character including, but not limited to, lost profits, costs of delays or downtime, or property damage, whether suffered by Buyer or any third party. Hydro expressly disclaims any responsibility or liability for the end use or ultimate purpose of the goods including the adequacy of any design or specification, as well as any testing or certification requirements.
13. **PATENT PROTECTION:** Hydro agrees to indemnify Buyer against any claims or liabilities for or by reason of alleged infringement of any United States patent arising from the manufacture or sale of any good furnished Buyer hereunder, except where the specifications, process, design or method of manufacture of such good originated in Buyer in which event Buyer agrees to indemnify Hydro in a like manner.
14. **EXCUSABLE FAILURE OR DELAY; GOVERNMENT CONTRACTS:** Neither Hydro nor Buyer shall be held responsible for the failure or delay in delivery or acceptance of materials or goods sold hereunder where such failure or delay is due to any Act of God, or the public enemy, war, compliance with law, governmental act or regulation, fire, flood, quarantine, embargo, epidemic, unusually severe weather, strike, work stoppage, acts or omissions of carriers or other cause beyond the control of the party, but the party seeking to justify failure or delay shall promptly notify the other party of the reasons for any failure or delay in the delivery or acceptance. Buyer hereby acknowledges and agrees that it has an obligation to notify Hydro in writing if it has knowledge prior to or at the time of placing an Order if the Goods are (a) to be sold to or used by, or to be incorporated into products to be sold to or used by, the federal government, or a state or local government, in the United States or the federal government, or a provincial or local government, in Canada or (b) otherwise to be part of or governed by a government contract or subcontract, in which case Buyer shall also then notify Hydro in writing as to any flow down provisions applicable to Hydro.
15. **CONFIDENTIALITY:** All non-public and proprietary information provided by either party to the other including, with respect to an order, shall be held in confidence by both parties, shall be used for the sole and exclusive purpose of allowing each other to do business together and shall remain the property of the party disclosing such information. Such information shall not be disclosed (a) without the prior written consent of the disclosing party or (b) unless such disclosure is required by applicable law or by legal, judicial, administrative or regulatory process, provided that the receiving party, to the extent not prohibited by applicable law or the authority with jurisdiction over such process promptly notifies the disclosing party so that it may, if it so elects, seek a protective order or other appropriate relief. Under the circumstances described in clause (b) the receiving party shall, if requested, reasonably cooperate with and assist the disclosing party in obtaining relief and in limiting any required disclosures.
16. **CHOICE OF LAW AND JURISDICTION:** Any contract resulting from an Order shall be governed by and construed in accordance with the laws of the State of Illinois without regard to its conflict of law principles. In addition, the parties expressly exclude and waive the application of the United Nations Convention on Contracts for the International Sale of Goods (1980) (Vienna Sales Convention), as amended from time to time. The Parties agree that any dispute hereunder will be filed only in the federal or state courts located in Chicago, Illinois, unless Hydro elects to bring an action against Buyer in another court of competent jurisdiction. The Parties agree to waive any right to file a change of venue related to this provision.
17. **NOTICES:** All notices under any order shall be in writing and shall be deemed to have been duly delivered if sent by nationally recognized commercial overnight courier addressed to Buyer at its address listed in its order and addressed to Hydro at its address listed in its quote, provided a copy is also sent to: Hydro, 6250 N. River Road, Suite 5000, Rosemont, IL 60018, Attn: Legal Department.

<sup>1</sup>Hydro Extrusion Canada, Inc. = North York (Toronto), ON  
Hydro Extrusion Delhi, LLC = Delhi, LA  
Hydro Extrusion North America, LLC = Monett, MO & Phoenix, AZ  
Hydro Extrusion USA, LLC = Cressona, PA; St. Augustine, FL; Spanish Fork, UT; The Dalles, OR; & Yankton, SD