

# General terms and conditions of sale and delivery [GTC-EN-ver.2020]

## Contract conclusion

Any declaration of intent sent in a digital or a written form by persons authorized by the Buyer or by any employee of the Buyer contacting the Seller aimed at a contract conclusion shall be acknowledged as a declaration of intent resulting in contract conclusion and/or further changes to the contract.

Final sale conditions are included in Order Confirmation issued by the Seller. In case the Buyer places an order which conditions differ from conditions confirmed by the Seller in Order Confirmation, the binding conditions for both parties are those stated in Order Confirmation.

The Buyer has the right to submit remarks regarding conditions included in Order Confirmation provided that it will be done immediately, but not later than 3 working days from the issue of Order Confirmation. The lack of remarks regarding Order Confirmation results in the Buyer's approval of the conditions from Order Confirmation.

In case of submission of any remarks by the Buyer in the time established above, the Seller shall take it under consideration in the new Order Confirmation or shall refuse to accept the order.

For the purpose of settling any disputes that may arise between the Buyer and the Seller, it is agreed that the place of a contract performance is the city of Konin in Poland, where the production plant of the Seller is located. The above does not limit the obligations of the Seller regarding deliveries of Goods to the place indicated in Order Confirmation.

## Deliveries

Deliveries shall be performed under Incoterms 2010.

The date of delivery stated in Order Confirmation is an approximate date not being a direct obligation of the Seller. The Seller shall make all efforts to complete the order with delivery date stated in Order Confirmation. The Seller reserves the right to change the date of delivery or perform partial deliveries in case of events independent of the Seller (production equipment failure, delay in materials delivery, weather incidents, lockouts, road accidents and other situations not arising directly from the fault of the Seller), whereby change in delivery date or performance of partial deliveries shall not be treated as non-fulfillment of a contract from the fault of the Seller and the Seller is not liable for losses arising directly or indirectly from such an event.

Deliveries can be completed in total or partially. Due to the production specifics of aluminum rolled products, the quantity tolerance +/- 10% is acceptable and cannot be the reason of Goods refusal. The aforementioned quantity differences can concern the whole order as well as its parts and/or assortment and/or packaging.

The products manufactured according to Order Confirmation shall be collected by the Buyer in the date fixed. In case of lack of collection or lack of delivery on the confirmed date due to the Buyer's fault (including payments delays) 14 days after confirmed delivery date, the Seller has the right to charge the Buyer with any costs of storing, insurance, special transport and other costs incurred due to the fault of the Buyer.

In case of lack of Goods collection within 60 days after the confirmed date of delivery, the Seller has the right to scrap the Goods and charge the Buyer with relevant costs.

The Buyer is obliged to confirm the receipt of the Goods on CMR document. The confirmation of the receipt on CMR should reach the Seller latest 7 days after the delivery date. If the Buyer fails to present to the Seller such confirmation in stipulated time, the Seller has the right to charge the Buyer with VAT of 23% of the value of delivered Goods and the Buyer agrees to pay this extra charge without any delay.

## Payments

Payment for the Goods shall be made by a bank transfer to the account of the Seller latest on the payment date indicated on the invoice. The date of money receipt on the Seller's account is considered as the date of payment. Any costs arising from payment are covered by the Buyer.

In case of failure of payment on due date the Seller shall have the right to debit the Buyer with legal interests.

In case of delay in payments the Seller may stop deliveries and production for ongoing orders until the payment by the Buyer has been made. The suspension of deliveries and the execution of open orders may result in a long term change in contract completion schedule due to the fault of the Buyer.

Any claims resulting from mutual relations including completion of the contract cannot result in delay or partial payments for completed goods deliveries.

In case of conclusion of the contract with deferred payment terms the Buyer shall deliver to the Seller all necessary data including financial data that would enable the Seller to estimate the credit rating of the Buyer. The Seller is entitled to send aforementioned data to financial institutions in order to indemnify receivables or refinance commercial credits.

In case of delayed payments or when financial situation of the Buyer assessed by an independent entity or assessed by the Seller shall in any way threaten due payments or when Buyer is under insolvency procedure, the Seller has the right to demand additional indemnity of the commercial

credit, settlement of a part or all Seller's receivables, prepayment for future deliveries. The failure to complete the Seller's aforementioned demands results in waiver of a part or the whole contract due to the Buyer's fault.

## Hedging

All contracts concluded with fix prices shall not be the subject to any amendments in terms of quantities and delivery dates after the formal confirmation has been sent by the Seller to the Buyer. In such cases the Buyer is obliged to specify all the material in the tonnage contracted and in the prices agreed between the Parties, as well as to collect the material in the agreed delivery time.

In case of any above-mentioned conditions are not fulfilled, the Buyer will be charged with the penalty value of 100% loss which will be covered by the Seller as a result of the LME stock derivatives closures.

## Claims

The Seller ensures that Goods delivered to the Buyer comply with technical specifications stated in Order Confirmation.

In case Goods do not comply with technical specifications stated in Order Confirmation the Buyer has the right to submit a claim.

Any quantity shortages discovered during unloading as well as any damages including wet packaging and destroyed packaging, require an immediate action in the form of a protocol countersigned with the carrier including an appropriate note on CMR document and an immediate notification of the Seller but not later than 3 days from Goods collection.

Any hidden defects shall be reported within 7 days from detection but not later than 12 months from delivery date.

The Seller has the right to reject the claim in case of non-compliance with aforementioned conditions.

In case Goods do not comply with technical specification stated in Order Confirmation the Buyer shall submit a complaint in a written form with a full identification of the Goods, a description of defects, pictures, samples, results of lab tests, and other documents proving defects. The Seller may request for additional information in order to evaluate legitimacy of the claim.

The Seller shall make a decision about resolving complaints within 35 days from the date of the notification and from receiving full documentation of the defect from the Buyer. The Buyer will be advised accordingly. If the visit of representatives of the Seller for resolving the complaint is necessary, or the shipment of defect materials to the factory (Konin) is required, the period of resolving the complaint starts from the moment of aforementioned actions taking place.

In case of the complaint's approval the Seller will grant the Buyer with an appropriate discount corresponding to the real direct cost or will collect defect Goods on the Seller's cost. The Buyer has also the right to order replacement Goods at the same price and the Seller will produce it and deliver in the shortest time possible, taking production technology and production capacity into account.

The Seller warrants the chemical and strength properties declared in **the Quality Certificate** until the Buyer processed the Goods no longer than 24 months.

The Seller is not liable for defects which are the result of improper transportation, unloading or storage.

Strips (sheets) shall be transported in covered, dry and clean means of transport maintaining applicable regulations, protecting them from mechanical damages, humidity and harmful effects of atmospheric agents.

Strips (sheets) shall be stored in covered, dry and clean **space** to protect them from humidity and influence of active chemicals. A particular attention should be paid to ensure the front of the rolls not to be damaged. Frontal damages cause difficulties in unrolling the strip.

While storing, the temperature in a store shall be constant. Changing temperature in the storage causes appearing humidity condensing from the air on the strip's surface, as a result of the capillary action and penetrates into the coils causing corrosion.

The discount value cannot exceed the total value of the Goods that are the subject of the complaint.

Any complaint, an ongoing complaint process or an accepted complaint cannot withhold payment or a part of payment for the complained Goods or any other Goods sold to the Buyer.

## Retention of title

For deliveries to Buyers in Germany and/or Austria: The ownership of goods delivered by the Seller to the Buyer will pass to the Buyer only at the time of fulfilment of all payment claims which the Seller has for the delivery. This applies also for future claims.

The Buyer is entitled to process and to resell the goods in the ordinary course of business. In case of processing, combination or mixing of the goods by the Buyer with other goods, the Seller will acquire co-ownership of the newly built good in proportion of the invoice value of the goods delivered by the Seller in relation to the invoice value of such other goods.

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Buyer's payment claims deriving from the resale of the goods are herewith assigned in advance to the Seller in order to serve as a security to the same extent as the goods.

In case the goods will be resold together with other goods or where the Seller holds a co-ownership, the payment claims deriving from such resale are assigned in proportion of the invoice value of the goods delivered by the Seller in relation to the invoice value of such other goods.

The Seller authorizes the Buyer to receive payments for reselling the Goods to its customers as long as the Buyer complies with his payment obligations towards the Seller.

In case that the value of the existing securities exceeds the secured claims of the Seller by more than 10%, the Seller is obliged on the Buyers request to release secured goods accordingly.

The terms of this Clause shall be governed by the laws of Germany in case of deliveries to a German Buyer or by the laws of Austria in case of deliveries to an Austrian Buyer.

## **Applicable Law**

Within the scope of the Contract an applicable law shall be the law of The Republic of Poland including the provisions of the Polish Civil Code. The court that is liable for solving any arising disputes between the parties out of the Contract is The Commercial Division of the Common Court, having jurisdiction at the place where the contract is performing.

## **Force majeure**

In case of force majeure circumstances, that the Seller is not liable for, the Seller may totally or partially suspend an execution of contractual obligations for the time of the proven occurrence of force majeure.

Force majeure circumstances are the events and occurrences that started after the conclusion of the contract as a result of unpredictable and irreversible events and occurrences such as: war, fire, flood, earthquake, breakdown, strike, and other natural disasters or other events beyond the control of the Seller. If force majeure fails to cease within a period of 6 months each Party has the right to terminate the contract without any consequences.