

## Terms and Conditions of Quotation and Sale of PLANSEE USA LLC

### 1. Acceptance

This Order constitutes the Seller's offer to Buyer, and acceptance is expressly limited to the terms set forth herein. If Buyer's terms and conditions of purchase were submitted for Seller's review or referenced in the RFQ or order, then any additional or conflicting terms proposed by Buyer are herewith rejected, and Seller's quotation and sale shall be subject to these Terms and Conditions of Quotation and Sale. If Buyer wishes to subject any contract or order to terms different from Seller's Terms and Conditions of Quotation and Sale, Buyer may request modifications in a counter offer so labeled. In case of conflict between these Terms and Conditions and any drawings, specifications or other terms referenced in the Order, these Terms and Conditions of Quotation and Sale shall prevail.

### 2. Payment Terms

The payment terms are net thirty (30) days from date of invoice. Any account ten (10) days or more over the term will be placed on credit hold at the option of PLANSEE USA LLC ("Seller") as to both ordering and shipments. All expenses of collection of overdue accounts shall be paid by Buyer including but not limited to interest, court costs and reasonable collection agent and attorney's fees. Seller reserves the right to charge Buyer late payment interest at the lower of 1.5% per month or the maximum permissible late charge.

### 3. Prices

Unless stated otherwise on the face of the quotation, order acknowledgment or invoice, all prices quoted are in U.S. Dollar and are for delivery in the continental United States and Canada only, and do not include sales or other applicable taxes.

### 4. Dispatch and Delays

Seller shall not be liable for loss, damage, or delay from causes beyond its control, such as acts of God, acts of the Buyer or failure of suppliers, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, car shortages, or inability to obtain necessary labor, materials or manufacturing facilities.

Any confirmed shipping dates are approximate and are based on prompt receipt of all necessary information from the Buyer. If included in the quotation, transportation and deliveries are estimates. Any additional costs for changed or expedited delivery shall be borne by Buyer.

Unless otherwise specified by Seller, all items are FCA (Shipment Point) INCOTERMS 2010. Items will ship collect (via Buyer's account number) when specified.

The products covered by this quotation shall be deemed finally inspected and accepted within ten (10) days after the delivery thereof, unless notice of rejection or notice of any claim is given in writing to Seller within said period. Failure to provide notice shall constitute acceptance and acknowledgement of full performance by the Seller of all its obligations hereunder except as further stated under paragraph entitled "WARRANTY/LIMITATION OF LIABILITY".

### 5. Credit

Seller reserves the right to review Buyer's financial condition and credit rating and may, at any time, request relevant financial information and trade references from Buyer prior to shipment.

If, in Seller sole judgment, Buyer's financial condition at any time does not justify continuance of credit or may jeopardize continued performance, Seller may require full or partial payment in advance of shipment(s). In the event of Buyer's bankruptcy or insolvency, or in the event any such proceeding is commenced by or against Buyer, voluntarily or involuntarily, Seller shall be entitled to cancel any order, in part or in whole, and invoice Buyer for reasonable cancellation charges. Seller's rights under this Article are in addition to all rights available to it at law or in equity.

### 6. Payments

Payment shall be made in accordance with Seller's invoice. If shipment is delayed by the Buyer, payments shall become due from the date when the Seller is prepared to make shipment. If manufacture is delayed by Buyer, Seller will invoice Buyer for work in process based on the contract price and percent of completion. In the event of any such delay or failure to accept delivery, title shall pass and products shall be held at the risk and expense of Buyer.

### 7. Credit Card Orders

Upon request, Seller may accept MasterCard/Visa credit cards. A three (3) percent processing fee is added to all orders over one thousand (\$1,000) U.S. Dollars. All credit card orders are subject to pre-approval.

### 8. Title

Unless a conditional sale is noted on this quotation, title to products covered by this quotation shall pass to Buyer upon delivery to carrier.

All drawings, novel techniques; special tooling, improvements and inventions made or acquired by Seller in fulfillment of any order resulting from this quotation shall be its property, regardless of whether separate items of price appear in this quotation for engineering or tooling. All drawings, process descriptions or tooling furnished by Buyer shall remain its property.

### 9. Warranty/Limitation of Liability

The Seller warrants that all products sold will be free from any defects in material and workmanship at the time of shipment. Any product of the Seller found to be defective under this warranty will at, the Seller's sole option, either be repaired or replaced. Any claims must be made within ten (10) business days of receipt, and any returns shall be in accordance with Seller's return procedure below. Damaged goods and containers must be kept until the commercial carrier has them inspected. If the product cannot be repaired or replaced to Buyer's satisfaction, then Buyer's sole and exclusive remedy against the Seller for any claim, including without limitation, breach of warranty or delivery of defective goods shall be a refund of the price paid by Buyer. The Seller's warranty to repair, replace or refund shall not apply to any goods which have been, in Seller's opinion, subject to abuse, modification, attempted repair, negligence, misuse or accident. In such case, Seller's warranty will not cover the item. Buyer shall bear all risk and expenses for any items returned to Seller.

**THIS AGREEMENT TO CREDIT AND REPAIR, OR REPLACE DEFECTIVE GOODS IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTS BUYER'S SOLE REMEDY UNDER THIS AGREEMENT. ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY OTHER DAMAGES, INCLUDING WITHOUT LIMITATION, CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES, DAMAGES TO PERSONS, PROPERTY, EQUIPMENT, PRODUCTS, MERCHANDISE, LOST PROFITS, GOODWILL OR REPUTATION, ARISING FROM SELLER'S GOODS, INCLUDING DEFECTS OR FAILURES IN SELLER'S PRODUCTS, OR ARISING FROM SELLER'S TRANSACTION WITH BUYER.**

Further, Buyer agrees to indemnify, hold harmless and defend Seller, its successors and assigns, from any and all losses, costs, expenses, damages (whether to persons or property) and liabilities whatsoever including legal fees incurred by Seller by reason of any claim, action or suit brought against Seller as a result of manufacturing the product to Buyer's specifications or Buyer's or any third party's reliance upon or use of any product, except in accordance with the Seller warranty set forth above.

The Seller makes no representations or warranties concerning infringement of any patent or other intellectual property rights.

**10. Returns**

No material is accepted for return after thirty (30) days of receipt. All returns must have prior written authorization and require a RMA (Return Merchandise Authorization) number. Seller will not be responsible for any returns unless accompanied by a RMA number. Damages sustained from improper packaging of any returned product may void any claim for credit or repair. Returns may be subject to restocking charges. Buyer shall comply with any applicable regulations and shipping requirements associated with any authorized returns and shall indemnify, defend and hold Seller harmless from any liability, losses, damages, penalties or claims arising from Buyer's actual or alleged violation of such regulations or requirements.

**11. License**

The Seller grants no license by this sale under any patent rights it may now own or hereafter acquire except such rights as are automatically accorded to any purchaser of products.

**12. Limitation of Remedy**

Any legal action for breach must be commenced within one year from the date of delivery or the time that such right of action had accrued, whichever is earlier.

**13. Compliance with Laws and Code of Conduct**

Buyer agrees to comply with all laws and regulations that concern this order or the product provided hereunder and further agrees to adhere to and act in a manner consistent with the principles set forth in Seller's Code of Conduct, available by request or at <http://www.plansee.com/code-of-conduct/EN.pdf>. In particular, Buyer will not and will cause its affiliates not to provide or transfer any goods or information under this order that would be prohibited under applicable import or export control laws or sanctions regulations, unless it has obtained all necessary licenses or approvals. Buyer shall indemnify, defend and hold Seller harmless from any liability, losses, damages, penalties or claims arising from Buyer's actual or alleged failure to comply with any of the above.

**14. General**

Seller's quotation and any sale resulting from it shall be construed in accordance with the laws of the Commonwealth of Massachusetts, excluding its conflicts of law rules and excluding the U.N. Convention on Contracts for the International Sale of Goods. Buyer hereby consents to the jurisdiction of the state and federal courts located in Massachusetts for the determination of any dispute between the parties.

This quotation constitutes the entire offer and Seller shall not be bound by any agent's or employee's representation, promise or inducement not set forth herein. No waiver, alteration or modification of any of the provisions hereof shall be binding on Seller unless in writing, and signed by its duly authorized representative.

Buyer shall not assign or transfer the contract or any right or obligation hereunder without written consent of the Seller.

Dimensions and or weight of ingots, electrodes and mill products vary within commercial tolerances; Firm prices are quoted per kilogram, unless the price is stated as a lot or piece price.

Quotations ordinarily describe the desired dimensions, and list estimated weights. Unless otherwise agreed to in writing, Buyer will be invoiced according to actual weight of the pieces as shipped.

Unless specifically agreed otherwise in the order, Seller reserves the right to ship up to ten (10) percent more or less of any item ordered.

Seller's quotation is valid for thirty (30) days from the date written, but shall not become a binding contract until an order based on these Terms and Conditions of Quotation and Sale is acknowledged by Seller.

**15. Concluding Provisions**

Cancellation of an Order or any part thereof requires Seller's express written consent. In such a case, Buyer shall be liable for any finished or unfinished work-in-process, including labor costs and pre-material relating to the Order, and the applicable non-utilization charge imposed by Seller for loss of volume.