

PLANSEE USA LLC TERMS AND CONDITIONS OF QUOTATION AND SALE

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 its 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 forty (40) days and over the term will be placed on credit hold or COD at the option of PLANSEE USA LLC ("Seller") as to both ordering and shipment. All expenses of collection of overdue accounts shall be paid by debtor 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 taxes.

4. DELIVERY:

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

Confirmed shipping dates are approximate and are based on prompt receipt of all necessary information from the Buyer. Quoted deliveries are estimates and are subject to prior sale or filling of capacity.

Unless otherwise specified by Seller, all items are FCA (Shipment Point) INCOTERMS 2010. UPS ground will be used whenever possible. Air Freight is available upon request. Items will ship collect (via Buyer's account number) when specified. All packages are insured (UPS & FedEx) unless otherwise stated. If no insurance is requested and Buyer has not requested collect shipment, Buyer is responsible for any damaged materials.

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 the Seller within said period. Acceptance as aforesaid shall constitute 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:

All firms having a satisfactory Dun & Bradstreet rating will be shipped immediately on open account. For a new account, Seller may require Buyer to provide three (3) trade references. Processing of the reference checks may take up to one (1) week. If immediate processing is required before references can be checked, Buyer's order may be sent either by COD instruction or a check in advance can be sent with the initial order.

If Buyer's financial condition at any time does not justify continuance of the work to be performed by Seller hereunder on the agreed terms of payment, Seller may require full or partial payment in advance. In the event of Buyer's bankruptcy or insolvency or in the event any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, Seller shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its proper cancellation charges. Seller's rights under this Article are in addition to all rights available to it at law or in equity.

6. PAYMENTS:

Prorated payments shall become due as shipments are made. 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 the Buyer, payments shall there upon be made based on the contract price and percent of completion. In the event of any such delay, title shall pass and products held for the Buyer shall be at the risk and expense of the Buyer.

7. CREDIT CARD ORDERS:

Upon request, Seller accepts MasterCard/Visa credit cards. A three (3) percent processing fee is added to all orders over one thousand (1000) 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 the 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 and shall be returned upon completion of the order.

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. Damaged goods and containers must be kept until commercial carrier has them inspected. If the product cannot be repaired or replaced to the 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 the Seller's opinion subject to abuse, modification, attempted repair, negligence, misuse or accident. In such case, the Seller's warranty will not cover the item. Buyer shall bear all risk and expenses for any items returned to Seller. The Seller does not authorize any person to assume for it any liability or obligation in connection with the sale of any item.

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 THE 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 THE SELLER'S PRODUCTS, OR ARISING FROM THE SELLER'S TRANSACTION WITH BUYER.

Further Buyer agrees to indemnify, hold harmless and defend the 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 the Seller by reason of any claim, action or suit brought against the Seller as a result of manufacturing the product to Buyer's specifications or the 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). Any shipments not showing this number will be returned to Buyer. 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 the right to use the product sold hereby for the purpose for which it is sold.

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:**

This offer 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 the 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 the Seller unless in writing, and signed by its duly authorized representative.

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

All shipments are quoted subject to prior sale of material in stock or in process.

Since dimensions 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 stated otherwise specifically on Buyer's order, Seller reserves the right to ship up to ten (10) percent more or less of any item ordered.

This offer is valid for 30 days from the date written above, but shall not become a binding contract until an order based thereon is acknowledged from PLANSEE USA LLC.

15. **TAXES:**

Prices do not include state or local taxes, if any, based on or measured by the sales price, which taxes will be added to the prices where applicable.

16. **CANCELLATION:**

Cancellation of an Order or any part thereof may only occur with 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.