

EVERZINC - GENERAL TERMS AND CONDITIONS OF SALE

I. GENERAL

The present general terms and conditions ("T&C") shall apply to all sales contracts concluded by EverZinc Belgium SA with registered offices at Belgium, 4431 ANS, Rue de l'Economie 4, registered with the Crossroads bank for Enterprises under the number 0631.891.157 ("EverZinc"), with a professional buyer ("Buyer"). Buyer's own general conditions shall explicitly be excluded. By passing an order, Buyer declares its agreement with the content and the applicability of these T&C and the language in which they are drawn up, it acknowledges effectively having taken note of them in advance, and expressly waives the application of its own general terms and conditions. The T&C remain, subject to change, applicable to all future orders. Whenever EverZinc decides to waive certain clauses in the T&C, this waiver is not to be interpreted as EverZinc's subsequent relinquishment of such clauses or of the totality of the T&C.

II. OFFERS AND ORDERS

Offers made by EverZinc are strictly limited to the specified objects and exclude all accessories packing and other such items which are not mentioned and not indispensable. All offers made by EverZinc are valid for a period of 2 hours from the moment on which they are made, unless otherwise specified. The prices stated in the offer are only valid to the extent that the complete offer is purchased. The placing of an order or any other form of confirmation of agreement with an offer issued by EverZinc to which the T&C have been attached shall imply unconditional acceptance of the T&C. T&C shall remain fully applicable to all future orders. EverZinc can only be considered bound by an order if it has issued a written order confirmation to that effect. EverZinc is not obliged to accept any order, and is entitled to refuse orders, e.g. in cases Buyer still has debts outstanding vis-à-vis EverZinc. Each and every order placed by Buyer constitutes the latter's irrevocable intent to purchase. Once accepted by EverZinc, an order can no longer be modified or cancelled. Nonetheless, EverZinc may expressly and in writing agree to:

- A change in the order, with the proviso that EverZinc reserves the right to postpone its original delivery date in consequence of such change;
- The cancellation of an order by Buyer with the proviso of payment by the latter of an indemnity covering the loss of profit and administration costs of EverZinc amounting to 25 % of the total order price.

Any request to change the order shall only be taken into consideration if it is notified to EverZinc in writing at the e-mail address that confirmed the order to Buyer. Any changes to the order approved by EverZinc shall result in an automatic extension of the delivery date stated in article III in accordance with EverZinc's estimate. In no event shall EverZinc be held liable for alleged damage due to extensions of the delivery dates arising from changes in the order requested by Buyer. In the event of changes to the order, the initial delivery dates can only be maintained with the express approval of EverZinc, always on the condition that Buyer shall assume all additional costs necessary to enable EverZinc to still meet the initial delivery dates. Negotiations concerning changes to the order can in no way affect the fulfillment of the initial purchase agreement. Neither party shall be entitled to suspend the fulfillment of the initial order or any commitments arising therefrom (such as payment for goods delivered) as a result of negotiations concerning changes to the order.

III. DELIVERY AND RISK

The order form and/or order confirmation by EverZinc may include a delivery date. However, this delivery date is purely indicative for information only. In no event shall the postponement of the delivery date be grounds for any form of compensation to Buyer, nor refusal to pay for the delivered goods, nor shall any such postponement be grounds for cancellation of the order. EverZinc shall be entitled to postpone delivery as long as Buyer has not paid the advance required for the goods to be delivered and/or the price of previous deliveries, in full.

The risk of loss and damage to the goods will be transferred at the time of delivery. Unless otherwise agreed in writing, delivery shall be Ex Works (Incoterms® 2020) at the address mentioned on the offer and order confirmation. The costs and risks of transport shall be borne by Buyer. EverZinc cannot be held liable for any consequence of transport, theft, destruction, or any other risk whatsoever, even if the carrier is selected by EverZinc. In the event of damage of any kind caused during transport, Buyer has no recourse against EverZinc and Buyer must pursue recourse against the carrier or its insurer. It is incumbent on Buyer, and Buyer alone, to safeguard his rights with respect to transport and insurance companies in the event of shortages, damage or any other incident.

Loading of the goods shall be done by Buyer at its own risk. Buyer is liable for all damage during or after delivery. Buyer will collect purchased goods no later than 30 days of the goods being made available, even if the order has only been executed in part. Buyer who refuses to collect the goods ordered shall be liable to pay a storage charge of 1 EUR net per m³ per day after the 15th day following the initial delivery date. All risks of fire, theft or any other damage shall be assumed by Buyer as of initial delivery date. If Buyer refuses to collect the ordered goods on the initial delivery date, purchase price shall be immediately due and payable to EverZinc from the initial delivery date. After that, Buyer can only take receipt of the goods if it has paid EverZinc the full purchase price, storage charges due and any late payment interest and compensation. In the event of Buyer failing to take delivery of the products on the agreed due date, EverZinc reserves the right (in each instance at Buyer's cost and risk and on his responsibility) to demand a forced sale, to cover itself by means of re-selling the transaction on the London Metal Exchange ("LME") or to renew or extend its cover on the LME for a period of its choice.

The packaging and packing and any other form in which products are made available will be of the simplest most commonly used type for the products in question. The packaging, packing and any other arrangements for shipment will be approved at EverZinc's plant, prior to shipment where applicable. Unless Buyer actually checks such packaging, packing and arrangements and expresses any reservation with regard to it in writing before the delivery, it will be presumed to have approved the same, and any risks inherent therein will be transferred prior to the products leaving EverZinc's plants. EverZinc shall pack and mark its products according to its standard procedures for domestic and/or export delivery. The products and/or packaging will carry a trade mark of EverZinc, at EverZinc's discretion. EverZinc is entitled to deliver the goods in instalments, unless agreed otherwise. EverZinc shall be entitled to issue separate invoices for these partial deliveries.

Buyer will purchase products from EverZinc solely for professional purposes. Goods, products and/or packaging in which Buyer has incorporated EverZinc products will be marked as Buyer's products.

IV. NON-CONFORMITY AND VISIBLE DEFECTS

It is up to Buyer to check the delivered goods and, if necessary, to make all necessary remarks about the goods in accordance with the conditions as described below. In the absence of remarks, the goods shall be considered to have been delivered in accordance with the terms of the agreement. Buyer confirms that it possesses the necessary technical skills to carry out this conformity check and will be deemed to have approved the products unless it notifies EverZinc to the contrary regarding the conformity of the goods or visible defects no later than 2 working days after receipt of the products by registered letter, and in any case before they are used, processed or resold, either entirely or in part, and must be accompanied by documents proving the non-conformity or visible defects. Any resale or use of the goods by Buyer shall deprive the latter of its future right to make any remarks concerning their conformity. The warranty does not cover defects or loss of goods resulting from careless handling or storage of the goods by Buyer. The remarks submitted by Buyer shall not permit the latter to default on its payment obligations with respect to the delivered goods. After 1 month following delivery of the goods, no legal procedure can be instituted by Buyer on the grounds of non-conformity, while legal action within this time limit can be brought only in so far as the remarks have been formulated and forwarded duly accompanied by photographs in evidence within 2 working days after delivery of the goods. Following the expiry of said term, Buyer shall no longer be able to invoke any kind of non-conformity or visible defect of the goods, or resort to any non-conformity or visible defect as a defense vis-à-vis EverZinc if the latter starts a legal procedure to claim payment of outstanding debts. All charges for carrying out conformity checks and other charges (e.g., for collecting products, subsequently shipping the products, etc.), formalities (customs, environmental or other formalities) and the taxes and costs entailed thereby are payable by Buyer.

V. HIDDEN DEFECTS

Hidden defects refers to production faults that render any normal use of the product impossible and that remained hidden from Buyer prior to commissioning ("Hidden defects"). EverZinc warrants Buyer against Hidden defects, under the legal provisions and under the following conditions:

- The warranty is only valid for goods that have legitimately been acquired by Buyer;
- The warranty only applies to goods sold by EverZinc;
- The warranty is limited to the replacement or repair of the defective parts, without the possibility for Buyer to claim any kind of compensation, and this irrespective of the cause of the defect in question;
- The warranty does not cover defects and theft as a result of storage at Buyer's premises;
- The warranty does not cover any abnormal use of the goods or any use that is contrary to the user instructions that are included in the technical data sheet, which can be provided to Buyer on request;
- The warranty does not cover any level of performance, nor intended use desired by Buyer;
- The warranty period of each product is set out in the technical data sheet of the product, which shall either be (i) attached to the order confirmation, or (ii) included in the product list of the Agreement and which in any case will be considered to be part of the contractual scope for each individual sale agreement concluded with Buyer.

Hidden defects must be communicated to EverZinc by registered letter within 2 working days following identification thereof, and must be supported by documents evidencing the Hidden defect. Failing this, any intervention on the part of EverZinc shall lapse. In the event that Buyer has outstanding debts, EverZinc shall invariably be entitled to suspend repairs and/or replacements in the context of the warranty until receipt of full payment of the outstanding debts.

VI. RETURNS/REPAIRS

In the event of a delivery where a non-conformity or a visible or hidden defect is effectively determined by EverZinc, and the conditions for intervention under the warranty are fulfilled, EverZinc may freely choose to either replace or repair the goods concerned free of charge, or take these goods back and refund the price, without Buyer being entitled to any damages, regardless of the consequences of the defects found. No goods may be returned by Buyer without prior written approval by EverZinc. By disregarding the aforementioned points, Buyer forfeits its rights under the warranty.

VII. PRICE

Prices and rates applicable to the order are those in force at the time Buyer places the order, as provided for in II. Prices and rates are determined exclusively by EverZinc and may be adjusted by it at any time, albeit without retroactive effect and only for the future. Changed prices shall become effective as soon as they are communicated to Buyer. No document submitted by Buyer shall bring about any change in the prices or rates. They are net and without discount and payable in accordance with the conditions specified below. EverZinc may at the time of the quote grant a discount based on the size of the total order. If Buyer decides to reduce the quantity of goods after placing the order, EverZinc reserves the right to revoke the discount and charge standard full price. As a general rule, all charges, duties or taxes (in respect of invoices, companies or sub-companies, transport, transit, or the value of the products) or other such charges will be added to the price of the products and will always be paid by Buyer.

Without prejudice to XII "Hardship", and without prejudice to article 57 of the Belgian Act of 30 March 1976 (if applicable), EverZinc reserves the right to increase agreed prices, even after the date of written order confirmation, in the event of an increase in the cost price of raw materials, labour, energy, petrol or in the cost price of any other objective element (which result e.g. in a price increase of one or more elements of the production chain) to the extent (i) the increase refers to parameters that reflect real costs, and that (ii) each such parameter only applies to a fraction of the price that is proportionate to the cost it represents. Modified prices shall apply as soon as they are communicated to Buyer.

VIII. PAYMENTS

All invoices are payable in Euro or in US Dollars at EverZinc's registered office in Loncin, without rebate. Specific payment terms will be foreseen in the offer and/or the order confirmation issued by EverZinc. If a payment is covered by an accepted draft, all charges (stamp duty, discount, presentation, etc.) shall be borne by Buyer. Title to the products sold does not pass to Buyer until they have been paid in full. Only the effective collection of the total amount of the sums owing shall be considered as full payment.

To be enforceable against EverZinc, any objection to an invoice must be submitted to EverZinc by registered mail within 8 calendar days following invoice receipt. In order to be valid, the objection must be fully substantiated. Payment may not be delayed as a result of third party (individual or organization) being commissioned to check conformity of the products. In the event of Buyer disposing of, pledging or encumbering in any way whatsoever his business or his assets, or in the event of a payment not being effected on the agreed date, all amounts due to EverZinc (including all charges incurred) will be come immediately due, irrespective of the conditions agreed. In the event that EverZinc has reasonable suspicions that Buyer is in financial difficulties, does not provide any proof of its solvency, or has already in the past failed to pay EverZinc or other providers for one or more orders under the agreed term, EverZinc shall be entitled to suspend the acceptance or execution of an order until receipt of an advance payment or of the full amount of a future invoice.

In the event that Buyer rejects the aforementioned conditions as drawn up by EverZinc and fails to provide adequate proof of its solvency, EverZinc shall be entitled to refuse the further execution or delivery of orders already placed, without the possibility for Buyer to claim unjustified refusal to sell or without any right to compensation.

IX. LATE PAYMENT

If Buyer fails to pay the total invoiced amount by its due date:

- Buyer shall immediately and automatically be obliged to pay an interest of 12 % per annum until date of full payment;
- In case of non-payment, Buyer shall pay a fixed compensation of 10% of the total price of the invoice, with a minimum of 125,00 EUR. EverZinc shall be entitled to recover the costs incurred for the collection of outstanding amounts from Buyer.
- Any postponement of payment granted for other deliveries shall lapse, and all other invoices, even those not yet payable, shall become immediately payable.

The above mentioned compensation amounts are calculated on the price including taxes and are due regardless of the granting of a grace period. EverZinc reserves the right to suspend any order or delivery of goods if an order remains unpaid.

X. RETENTION OF TITLE

Goods shall remain EverZinc's property until full payment of the price stated in the relevant invoice, as well as any interest and costs due. This article applies to all outstanding claims EverZinc has against Buyer and to all goods bought from EverZinc and held in Buyer's possession.

Buyer cannot resell goods for which price has not yet been paid in full. At no time shall Buyer be entitled to use the unpaid goods bought from EverZinc as collateral security. Any transaction in breach of this provision shall not be enforceable against EverZinc. Buyer undertakes to insure the goods against loss and to give EverZinc access to the insurance policy at its request. Should it appear that Buyer has not taken out such an insurance policy, or the policy taken out is insufficient, EverZinc reserves the right to take out an insurance policy against loss of the goods, at the expense of Buyer.

In the event of non-payment, EverZinc shall be entitled to request the immediate restitution of all goods sold to Buyer in Buyer's possession, without judicial intervention and without further notice of default (and, if necessary, to demand a prior inventory of such products). Buyer shall consequently be obliged to return the goods to EverZinc's registered office without delay, failing which Buyer shall grant EverZinc the right to enter its warehouse in order to recover the goods; it being understood that all costs incurred for the recovery of the goods shall be paid by Buyer.

During retention of title, Buyer shall mark all goods as being the property of EverZinc. If goods are stored on third-party premises (e.g. belonging to the owner of real estate rented by Buyer), Buyer shall inform EverZinc of this before actually storing the goods on those third-party premises. In such case, Buyer must provide the identity and address of that third party, to allow EverZinc to inform this third party about the retention of title. All costs incurred to identify and take back the goods shall be borne by Buyer.

XI. LIABILITY

Buyer shall be obliged to carry out necessary tests before using the products. Buyer shall be deemed to be aware of the regulations regarding the use of the products, as included in the technical data sheet, which is available at Buyer's request. Buyer shall be solely responsible for any risks associated with their use. In no case shall EverZinc be liable for any loss, damage or injury as a result of the use of the products that are the object of this sale, for any specific purpose, whether or not following a suggestion or recommendation by EverZinc. In case of any kind of damage, this shall be deemed to have been caused by an incorrect use on the part of Buyer, concretely a use for which the products are not suitable, unless Buyer can prove that the damage was caused by a hidden defect in the product and only in case that Hidden defect finds its origin in fraudulent conduct, or intentional or gross negligence of EverZinc. In that case, EverZinc is only liable for direct damage. Except in the case of deceit or willful misconduct, EverZinc shall never be liable for indirect damage, including but not limited to consequential damage, lost profit, missed savings, and damage to third parties. Parties explicitly agree that the limitations of liability as mentioned in this article, also apply in case of grave fault of EverZinc. Total liability per claim is except in case of deceit or willful misconduct in any case limited to the invoice value of the defective delivery, or to the amount covered by the liability insurance subscribed by EverZinc, if the invoice value of the defective delivery is higher than the amount covered by the liability insurance subscribed by EverZinc. Buyer shall fully indemnify EverZinc towards third parties in the event of claims by third parties that are made as a result of the incorrect use by Buyer of the delivered goods or any other claim to which Buyer is subject.

XII. HARDSHIP

Parties recognize it is practically impossible to make provisions for every contingency that may arise during the validity of the Agreement. Consequently, if, after conclusion of the Agreement, events or circumstances occur which have not been contemplated by Parties and which fundamentally alter the equilibrium of the Agreement, thereby placing an excessive burden on a Party in the performance of its contractual obligations, that affected Party shall be entitled to request the revision of the Agreement/its financial conditions, provided that such events or circumstances are beyond said affected Party's control. Parties undertake to renegotiate (financial) conditions in good faith, in a spirit of cooperation and fairness with a view to restoring the equilibrium which existed before the occurrence of this change. Parties agree to meet no later than 7 days after the receipt date of the registered letter with acknowledgment of receipt sent by a Party to the other and requesting renegotiation, which shall not exceed 30 days. Parties agree that the renegotiation shall be carried out in good faith and without any wrongful conduct impeding the renegotiation. During this period, the Agreement will continue under conditions applicable before the change. If no agreement is reached at the end of the renegotiation period, the Agreement can be terminated by simple notice and without judicial intervention, without either Party being entitled to claim any compensation. Such early termination shall take effect upon expiration of a 30 day notice period and shall terminate the Agreement for the future as well as all any unfulfilled commitments or obligations the performance of which had become unreasonably burdensome due to hardship. Individual orders which were already binding prior to such termination shall however remain binding and be performed according to their individual terms and the terms of the Agreement. Without prejudice to the right of each Party to seek a court or arbitral ruling to assess the (in)correct application and invoking of this clause, its consequences or the negotiating parties' good faith conduct; the Parties exclude the possibility for a court or arbitral tribunal to amend the terms of the Agreement by reason of hardship.

XIII. FORCE MAJEURE

Force majeure shall mean any act beyond the control of the Parties, which Parties could not reasonably have foreseen or avoided and which makes it impossible to fulfill their contractual obligations. The following shall be non-exclusively deemed to be situations of Force majeure which do not allow a Party to meet its obligations: acts of civil or military authority, explosion or civil unrest, telecommunications disruptions (including "denial of service" attacks and similar unavailability of Internet connections), any interruptions in production, transport or delivery, any shortage of raw materials, strikes (general or partial, of personnel or suppliers and carriers), lock-outs, embargoes, war, epidemics, pandemics, attacks, fire, flood, war, bad weather, technical defects in the production line, road blockages or obstruction or a cut-off of the power or gas supply, or any other cause preventing delivery by EverZinc. In case of Force majeure on the part of one Party, the non-performing party shall notify the other Party of such Force majeure within 8 days after such occurrence by giving written notice to the other Party stating the nature of the Force majeure, its anticipated duration, and any action being taken to avoid or minimize its effect and of the immediate suspension of its obligations, without giving rise to any right to compensation. If Force majeure situation persists for more than 6 months, both Parties shall be entitled to terminate the Agreement without prior judicial intervention and without being liable to pay damages to the other Party.

XIV. INDIVISIBILITY

If one or more (part(s)) of the clauses in the T&C or the Agreement are declared invalid, such invalidity shall in no way affect the validity of the remaining (part(s)) of the clauses in the T&C or of the Agreement as a whole. In such a case, Parties will negotiate in good faith to replace the unenforceable or contradictory stipulation by an enforceable and legal stipulation that is as close as possible to the intent and purpose of the original stipulation.

XV. INTELLECTUAL PROPERTY

Every technical document, technique or asset to which EverZinc holds intellectual property rights must be returned at the latter's request and may not be sold, copied, used or marketed without prior written consent from EverZinc. Any patentable inventions and protectable creations as well as their results arising from Buyer's order shall belong to EverZinc.

XVI. CONFIDENTIALITY

Buyer undertakes to treat as strictly confidential all information and documents relating to EverZinc's commercial activities that are communicated in the context of negotiations or agreements with EverZinc or come to the knowledge, even after the negotiations have ceased, the order has been executed or the agreement has been terminated.

XVII. DATA PROTECTION

Each Party shall comply at all times with the General Data Protection Regulation (EU) 2016/679 and/or any relevant national privacy legislation that applies to it in performing its obligations and exercising its rights under this agreement ("Data Protection Laws") and neither Party shall perform its obligations under this agreement in such a way as to cause the other Party to breach any of its obligations under such Data Protection Laws. Any personal data received by a Party in connection with the sales agreement, shall only be used, shared or otherwise processed in accordance with the Data Protection Laws and for the sole purposes of implementation of the Agreement.

XVIII. COMPETENT JURISDICTION AND APPLICABLE LAW

Unless expressly agreed otherwise, relations between Parties shall exclusively be governed by and construed in accordance with Belgian law. The application of the Vienna Sales Convention is expressly ruled out. Any dispute between EverZinc and Buyer shall be brought exclusively before the courts of Liège.

XIX. ACCEPTANCE BY BUYER

Buyer confirms having taken due cognizance of the T&C and explicitly states and declares its agreement therewith. Buyer waives each and any recourse to any document contrary to these T&C, including its own general terms and condition.