

## NALCO'S STANDARD TERMS & CONDITIONS OF SALE FROM PLANT

All orders are accepted subject to NATIONAL ALUMINIUM COMPANY LIMITED's (hereinafter referred to as Seller) standard conditions of sale given below. Unless expressly accepted in writing, any qualification to these conditions in a Customer's (hereinafter referred to as Buyer) order to anything contrary to or inconsistent with any of these conditions, must be deemed to be and will be treated as inapplicable and of no effect.

### 1.0 PRICE :

1.1 The prices and other charges for the materials shown are ex-factory at NALCO NAGAR prevailing at present. Stockyard expenses, will be extra in case of sale from Stockyard. The prices are subject to alteration without notice. All materials will be invoiced at the Seller's prices ruling on the date of despatch irrespective of the date of booking or financial arrangements made.

1.2 Increase in price due to Government control or action shall be to Buyer's account.

### 2.0 MODE OF PAYMENT / FINANCIAL ARRANGEMENT :

2.1 Payment to be made in advance by demand draft/pay order for full value of materials including all taxes (i.e. excise, sales tax, etc. as applicable). The same should be drawn in favour of NATIONAL ALUMINIUM COMPANY LIMITED and should be on a scheduled bank in Bhubaneswar or at any other places where our zonal offices are located. Nalco shall separately submit challan/bills for deliveries made against the Despatch Instructions covering the offer. The advance paid by buyer for each offer will be adjusted against bills for such deliveries and the balance amount due, if any, on the particular offer will be refunded in due course. In case the amount falls short of value of deliveries, the buyer will immediately arrange balance payment on demand.

2.2 Besides the above, supplies shall also be effected against firm financial arrangements made by the buyer in the form of Sight L/C and Usance L/C in a format acceptable by Seller. The Beneficiary of the L/C shall be "National Aluminium Company Limited, NALCO BHAWAN, P/ 1, NAYAPALLI, BHUBANESWAR 751013", and the advising Bank shall be State Bank of India, NALCO Corporate office, Bhubaneswar- 751013.

The seller reserves the right to insist on the mode of payment which shall be indicated in the enquiry response form.

2.3 Any-terms of payment agreed to the contrary are valid when specifically indicated in the enquiry response form by Seller.

II. EXCISE DUTY, SALES TAX, & OTHER TAXES & LEVIES :

- a) Excise duty : Shall be charged at the rate as prevailing on the date of despatch. Any variation in the rate due to governmental action shall be to the Buyer's account.
- b) Sales Tax : Shall be charged at the rates as may be applicable at the time of actual despatch / delivery of materials. The Seller's sales tax registration numbers are as under :
  - i) Central Sales Tax (CST) : BHC 1113, Dtd. 16.09.1981
  - ii) Orissa Sales Tax (OST) : DL 1680, Dtd. 20.05.1982
- c) Other-taxes and levies : As imposed by Central or Local Government or any other public authority shall be to the Buyer's account.
- d) Entry Tax and Octroi : As legally applicable at the point of delivery of materials is to the Buyer's account.

III. DELIVERY

- 1. Orders are accepted and executed subject to "Force Majeure" circumstances including Acts of God in the event of stoppage of work in any establishment of the sellers during the delivery period owing to war, riot, strikes, lock-outs. Trade disputes, breakdowns, accident, fire, tempest, Government Orders, restrictions imposed by the Govt. of India, Government decree, shortage of raw-materials and/or any causes beyond the control of the seller or in the event of any stoppage of Railways or other carriers, deliveries may be postponed or partially or wholly cancelled by the Seller. The Seller will not be liable for any damages or compensation on this account or disruptions. This is without prejudice to the Seller's right to recover money owing to the Seller in respect of deliveries made prior to the commencement of such contingencies.
- 2. Liquidated Damages clause is not acceptable to seller.
- 3. Any time or date named by the Seller for delivery is given and intended only as an estimate. The Seller shall not be liable to make good any damage, Whether arising directly or indirectly because of delay in delivery, nor shall any delay/cancellation in delivery, entitle the buyer to refuse to accept any material.
- 4. The Seller has the right to supply ten percent more or less than the quantity ordered and price payable by the Buyer being adjusted according to the quantity actually supplied.
- 5. Goods (returned to the seller within 30 days from the date of despatch from the Seller's factory) and accepted by the Seller as defective will be either replaced as originally ordered or full credit shall be allowed for such portion, but shall not form the subject of any claim on account of work done upon the goods, transport costs, loss of profit or any other claim suffered through resale or any other loss, damage or expense whatsoever. No claim for

replacement of material on the grounds of quality will be entertained unless made within 14 (fourteen) days of receipt of such material. It may be noted that where replacement is made the same shall be done on the prevailing rates of prices statutory duties and differential, if any and shall be to the Buyer's account.

6. Each delivery made against an order shall be deemed to be completed and separate for all purposes.
7. If after goods are ready for delivery or despatch, the Buyers do not take delivery within the stipulated time, the cost of shortage, demurrage and insurance pending despatch or delivery shall be to the Buyer's account.

IV. CANCELLATION/SUSPENSION/MODIFICATION OF ORDER :

No cancellation, suspension or modification of orders by the buyer can be accepted unless special circumstances exist, where the Seller's prior agreement in writing is given and on the express condition that full payment will be made for all work done or expenses incurred prior to our acceptance or cancellation or suspension. The Seller's decision as to such charges shall be final and binding on the Buyer.

V. INSPECTION :

Testing and inspection when mutually agreed between Seller and Buyer or his Agent shall be at the Seller's works and Seller's decision shall be final.

1. No guarantee, express or implied is given that the materials supplied is suitable for use under any specified conditions or for any specific purposes although such conditions or such purpose may be known to the Seller nor is any guarantee given as to the life or wear of the materials. All material will conform to the Seller's standard manufacturing tolerances.

VI. PAYMENT TERMS :

1. Term of payment as indicated is binding on the Buyer. Title of goods shall remain with the Seller until full payment is received from the Buyer on account of goods sold.
2. Should default be made by the Buyer in paying any sum due under any order as and when it becomes due, the Seller shall have the right either to suspend all further deliveries as regards the order in respect of which the default occurred or any other order until the default be made good or (and notwithstanding that the Seller may have exercised the right to suspend delivery) to cancel the order so far as any further goods remain undelivered. The Seller shall also have the right to cancel any other order he may have in hand from the Buyer, such right of cancellation being in addition to and not in substitution for all other rights and remedies the Seller may have against the Buyer in consequence of the default.
3. The interest for the interest bearing credit period will be charged at Nalco's rate prevailing on date of despatch.

4. If the Buyer shall default in or commit any breach of any of their obligations to the Seller or if any distress of execution shall be levied upon the Buyer, his property or assets if the Buyer shall make or offer to make any arrangement or composition with creditors, or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be present or made against him, or if the Buyer shall be Limited Company and any resolution or petition to wind up such Company's business shall be passed or presented or if a Receiver of such Company's undertaking, property or assets or any part thereof shall be appointed, the Seller shall have the right forthwith to determine any order then subsisting and upon written notice of such determination being posted by him to Buyer's last known address any and every subsisting order shall be deemed to have been cancelled without prejudice to any claim or right the Seller might otherwise make or exercise.

5. The Buyer shall be held responsible for all expenses, loss, damages or any other expenses, whatsoever incurred by the Seller due to the failure on the part of the Buyer to clear the documents forwarded through bank or take delivery of the goods from the carriers or failure to perform any of the terms of the order.

VII. JURISDICTION / GOVERNING LAWS :

a) All disputes arising out of the contract shall be subject to the exclusive jurisdiction of Courts of Bhubaneswar, Orissa only.

The contract shall govern and construe according to the laws in India.

VIII. ARBITRATION :

In case of any dispute or difference arising out of the contract, which cannot be resolved mutually between Nalco & Buyer, it shall be referred to a Sole Arbitrator to be appointed by the CMD of NALCO. The CMD, NALCO shall communicate, cause to be communicated, a panel of three names of persons to BUYER in this regard within thirty days of notice for Arbitration, for BUYER to select any one of them to be appointed as the Arbitrator. In case BUYER does not communicate its selection as above within thirty days, CMD, Nalco will appoint any one of them as a Sole Arbitrator. The Arbitrator shall give a reasoned and speaking award. The award of the Arbitrator shall be binding on both the parties. The venue of arbitration shall be at Bhubaneswar. In case of any vacancy, another Arbitrator will be appointed in the same manner as above. The provisions of the Indian Arbitration Act and the Rules made thereunder shall apply to the proceedings.

IX. GENERAL

1. Materials are despatched at the Buyer's risk and no claim for loss, damage in transit or short delivery will be entertained. Material shall be despatched uninsured.

2. Transportation charges and Transit Insurance to Buyer's account.

3. If by law any Licence shall be required to enable the Buyer to acquire or the Seller to sell to the Buyer, the goods, such Licence shall be obtained by the Buyer. In the event that seller shall receive directions by a Government Department as to the disposal of the Seller's output of goods of the type or kind or category of goods within the order, and in the opinion of the Seller such direction shall prevent or hinder the fulfilment by the Seller of the order, the Seller may by notice to the Buyer cancel the order in whole or in part. This is without prejudice to the Seller's right to recover money owing to him in respect of deliveries made prior to the date of such cancellation.
4. The Buyer shall not be entitled to change or modify the instructions contained in the order without the Seller's written consent.
5. Materials are sold on actual scale weight. The Seller's scale weight shall be accepted as final with standard tolerance limit as provided in the Indian Standards.