

GENERAL TERMS AND CONDITIONS OF SALE (Jan. 2021 - Rex Panels and profiles – EN)

Any and all sales by the Seller of products and/or accessories ("Product"/"Products") shall be subject to the terms and conditions set out below, provided that these terms and conditions are not incompatible with the provisions agreed upon by and between the Buyer and the Seller in a specific written agreement. No other terms and conditions that may be referred to in the orders by the Buyer or his/her proxy shall apply, even where these have not been rejected explicitly by the Seller.

Article 1. DELIVERY

Delivery dates specified in an order confirmation are not binding and the Seller accepts no liability for any delay, except when the delivery dates were confirmed by the Seller in writing and without any reservations in a separate document. Unless otherwise stipulated in the order confirmation, the Products are sold EXW. The Products shall be delivered in the Seller's standard packaging with the Seller's standard labels and markings. The trade terms (such as "EXW" and others) shall be interpreted according to the Incoterms 2020 rules as published by the International Chamber of Commerce (the "Incoterms").

Article 2. OWNERSHIP AND RISK

Ownership of the Products shall pass to the Buyer once the price has been paid in full to the Seller. Until that time, the Buyer shall ensure that the Products in his/her possession shall always be immediately identifiable at the location of the Buyer's place of business as the property of the Seller. In the event of re-sale, the Seller reserves the right to claim the amount that corresponds to the value of the Products. This reservation of ownership remains in force even when the sold Products are in the possession of third parties. Upon the Seller's request, the Buyer shall draw up all documentation and manage all actions required or desirable for the enforcement of the Seller's reservation of ownership in the country of his/her customer. Independent of any reservations of ownership, responsibility for safekeeping and the risk of damages to or destruction or loss of the sold Products or any part thereof shall in all events pass to the Buyer from the moment the Products are delivered to him/her, even in the event of destruction or loss in case of force majeure.

Article 3. PRICES

The Buyer shall pay the price for the Products as agreed upon with the Seller without any deductions or rebates, unless the Seller has agreed otherwise in writing. The Seller shall have the right to index the agreed price in accordance with the MEPS EU Carbon Steel Price Index for HD Galv. Coil (ref 1997) without any prior written notice from or acceptance by the Buyer, unless the index price is lower than the agreed price at the time of the order confirmation.

Article 4. FEES AND CHARGES

All fees, taxes, excises, duties, levies and other charges that may be levied now or in the future in connection with the Products shall be borne by the Buyer, except those fees, taxes, excises, duties, levies and other charges which should be paid by the Seller prior to the delivery of the Products pursuant to the Incoterm(s) agreed upon.

In the event that delivery of the Products deliverable is VAT exempt because the delivery is intra-community character of the supplies or because of the export destination of the supplied goods, and the Buyer transports the Products at his/her own risk and expense (Incoterm EXW, FOB, FCA, etc.), then the Seller shall only be able to apply the VAT exemption if the Buyer provides sufficient proof of transport to and arrival in the destination country for the Products supplied.

Article 5. INVOICING PAYMENT

Unless otherwise stipulated in the order confirmation, all payments must be made in euros, no later than 30 calendar days after the invoice date (the due date), without any discounts. In the event that payment has been received by the due date, the Seller shall by operation of law and without notice of default being required have the right to claim interest based on the reference interest used by the European Central Bank, increased by 8 percentage points and rounded to the higher half percentage point as determined in the Act of 2 August 2002 on the prevention of payment arrears in commercial transactions. If a late payment penalty is owed pursuant to the provisions of this Act, the Seller shall by operation of law and without notice of default being required have the right to the payment of fixed compensation in the amount of 40 euros for his/her own collection costs. In addition to this lump-sum amount, the Creditor shall have the right to reasonable compensation for all other collection costs that exceed this fixed amount and that have occurred due to the late payment.

Failure to pay an invoice on its due date shall result in the balance of all other invoices becoming immediately payable even if these were not yet due under the payment terms already granted, without notice of default being required. In addition, under such circumstances, or if the Buyer becomes insolvent or the Buyer's credit is affected (e.g. following the issue of a bounced bill of exchange or cheque), or if doubts arise at any time as to the Buyer's creditworthiness due to the implementation of court decisions and/or any other identifiable event, the Seller will have the right to change the payment conditions with immediate effect and to demand advance or cash payment for deliveries still to be made, or to request (other) securities, even if the goods have already been shipped in full or in part. If the Buyer fails to fulfil his/her obligations, the Seller shall declare the Buyer to be in default. In the event that the Buyer fails to remedy the situation within seven (7) days, the Seller reserves the right to suspend all deliveries at his/her own discretion until full payment is made and/or adequate securities have been provided. Alternatively, the Seller may dissolve the sale in accordance with Art. 9 of these Terms & Conditions, without prejudice to the rights of the Seller to all damages and interest that he/she can claim. The Seller can claim these amounts by registered post.

Article 6. FORCE MAJEURE

No single Party (the Buyer and the Seller are each individually referred to as "Party" and jointly as "Parties") shall be liable vis-à-vis the other Party for any default or delay in the performance of any of his/her obligations as a result of a situation of force majeure, such as but not limited to, fire, explosion, strikes, riots, civil or international war, invasion, epidemics, mandatory act of government, storms, earthquakes, refusal by the authorities to grant import/export licences, or the cancellation thereof, the inability to obtain the Products and/or the raw materials and/or parts in a timely manner and/or in sufficient quantities because of force majeure affecting third parties, or any other cause beyond the reasonable control of the other Party. Force majeure is excluded with respect to payment obligations is excluded.

The Parties must immediately inform each other in writing if a situation of force majeure arises.

If the Parties are confronted with a situation of force majeure, the performance of each one of their contractual obligations shall be automatically and legally suspended for as long as the force majeure situation persists.

If the force majeure situation lasts for more than one month, the Seller has the right to terminate the agreement unilaterally, at no cost, and with immediate effect.

Article 7. WARRANTY

The Seller warrants (i) that at the time of delivery the Products shall conform to the specifications contained in the order confirmation taking into account the usual divergences in accordance with the existing and generally accepted European Standards with associated tolerances and customary usages applicable to the Products, (ii) that a general warranty for a period of 10 years is granted (the "Warranties"), provided that the Buyer complies with the obligations set out below. The Buyer guarantees in the event of resale that his/her customer and the end user shall comply with the conditions of Article 7. The Buyer fully indemnifies the Seller against any claims that may arise due to a failure to comply with the provisions of Article 7.

7.1. Conditions governing the applicability of the Warranties

The Warranties shall only apply to the extent that the Products or any component thereof:

1. Are always transported and stored in the original packaging under the conditions as indicated by the Seller (such as inter alia covered and in a safe location, minimum temperature, maximum humidity level, neutral atmosphere, etc...) or in the absence thereof, at least in conditions consistent with generally accepted practice for this type of product;
2. Are handled at all times in accordance with the Seller's instructions and directives, or, in the absence thereof, at least with the care and caution generally accepted for this type of product;
3. Are stored, installed, and maintained in accordance with the instructions and guidelines (including the product brochures in the catalogue) of the Seller, or, in the absence thereof, with at least the same care and diligence as commonly accepted for this type of products in order to avoid damage to the Products and/or to immediately identify and report any irregularities immediately;
4. Have not been subject to incorrect storage prior to the processing or placement of the Products or to any non-permitted adjustment, amendment or repair or attempts thereto;
5. Have at all times been "normally used" for the intended purpose and not have been used, misused, damaged, or incorrectly used in any way whatsoever. For these purposes of this, "normally used" shall mean, a regular, ordinary and routine usage of the Product in question as intended and/or recommended by the Seller;
6. Have always been maintained in accordance with the Seller's instructions or, in the absence thereof, at least at regular intervals and in a manner consistent with generally accepted practice for this type of product;
7. More specifically, the Buyer, and in the event of re-sale, his/her customer and end user, are required to take the following actions (with due observance of all rules on sound craftsmanship and all safety and precautionary measures when carrying out the instructions below):

- a. To remove the film within one month of the delivery with respect to Products with a protective film;
 - b. To store the Products in the following manner: the Products must be stored in a dry place (under a canopy or a tarpaulin), no water may remain between the Products, the storage location must be sufficiently ventilated, and the Products may not be stored for longer than 1 month after the delivery.
 - c. When cutting edges are not coated or when corrosion takes place, to take immediate steps for retouching with materials and in accordance with the methods set out by the Seller; and
 - d. To check the Products and cladding of the building regularly, at least once a year; and
 - e. To clean and touch up the Products where necessary regularly, so as to conform with the directives and instructions of the Seller or, in the absence thereof, in the manner and with the same care and diligence as is generally accepted for this type of Product.
8. In no event shall the Seller be liable for any defect, shortage, loss or damage to the Products or any component thereof which arises as a consequence of (i) failure to comply with the conditions set out in Article 7.1., or (ii) condensation, mould or any stains attributable to storage and/or maintenance and/or installation that is not in accordance with the directives and instructions of the Seller or in the absence thereof, in accordance with generally accepted practices for this type of product, or (iii) the corrosion of cutting edges which were not coated or corrosion as a result of the reaction of the Products and/or covering to corrosive substances and gases, containing acids, bases or solvents or abrasive substances, or (iv) wear and tear, or (v) conditions that may accelerate the process of corrosion of steel, such as but not limited to climatological conditions such as exposure to extreme temperatures, or salt and/or sand in the environment, or other effects resulting from causes within the building, or as a result of the presence of contaminating substances or of abnormal atmospheric pollution or contact with aggressive fumes or chemicals, the emission of harmful gases, fumes or chemicals from natural or artificial sources at or within 500 metres of the location where the Products have been placed, or (vi) the accumulation of dirt, or forming of pools on roofs and/or insufficiently closed off covering areas by which water and other polluted substances are trapped, or (vii) the installation of other products and accessories (including but not limited to) solar panels or any other activity which leads to an additional pressure on the Products of the Seller, except for the use and application of the Products recommended by the Seller for this purpose from his/her Product Range in accordance with the product brochures of the Seller.

7.2 Tints and colours

Unless specifically agreed in writing, the Seller does not guarantee the uniformity of the tints and the colours. If the aforementioned stipulation is agreed upon, said uniformity will be judged in accordance with the local practices acceptable in the sector at that time and will only apply to all Products or any part confirmed as such by the Seller and ordered by the Buyer in one (1) order (from the same batch of steel). Colour charts and/or colour photos of Products in the Seller's catalogue, prospectuses and other canvassing material is merely for advertising purposes only and may deviate from the actual colours and tints delivered.

7.3 Remedies under the Warranties

7.3.1. If with respect to any Products that have not yet been processed or installed the Seller acknowledges that the defective Product or any part thereof does not meet the Warranties,

the Seller shall at his/her own expense and at his/her discretion, either: (i) repair, correct or adjust the Product or the component concerned; or (ii) replace the Product or component(s) thereof or (iii) refund the price or (iv) in the event that the price has not yet been paid fully or has only partially been paid by the Buyer, reduce the price or (v) dissolve the contract with restitution of the corresponding purchase price. A replacement component shall be at least a functional equivalent to the original component. The replaced Product and/or component/component(s) shall become the property of the Seller and shall, at the request of the Seller, be returned by the Buyer to the Seller at the Seller's risk and expense.

7.3.2. Repair of the installed and processed Products and/or components under the Warranties shall cover the cost of material and labour. However, this shall not extend the original duration of the Warranties. The replacement of the installed and processed Products and/or components under the Warranties does cover the cost of material and labour and does extend the original duration of the Warranties.

7.3.3. Return of defective Product or component to the Seller and back to the Buyer:

a. In no event shall the Buyer return a defective Product or any component thereof to the Seller without the Seller's prior written approval.

b. Prior to the return of any defective Product or part thereof to the Seller, the Seller shall, in consultation with the Buyer, determine whether the repair or replacement of the defective Product shall be carried out at the location where the Product is installed or on the Seller's premises or at any other location appointed by the Seller.

c. The cost for the packing, transport and insurance with regard to the shipment of the alleged defective Product or part thereof to the Seller for repair or replacement shall be borne by the Buyer if it should appear that no repair or replacement was necessary. These costs shall be the responsibility of the Seller if it is established that essential repairs were required or replacements were to be made.

7.3.4. The remedies set forth in Article 7.3.1 shall constitute the sole and exclusive options for the Buyer and be the sole and exclusive liability of the Seller regarding the Warranties incumbent upon him/her, which shall never exceed the applicable sales price of the Product to be replaced, which means that any compensation for any resulting damage is excluded.

The remedies set forth in Article 7.3.2 will only entitle the Buyer to additional compensation for the costs for installation or removal against market-related tariffs, if it is established that the defect did not exist and was not detectable prior to the assembly or installation of the Product and under the condition that the Buyer complied with his/her obligation to limit damages and strictly followed all assembly/installation procedures and under the express condition that compensation for any derivative damage is excluded. The Warranties included in these conditions are not applicable to the Products bought by the Buyer in the state as was known to the Buyer with any visible defects and deformities and/or for Products that are specifically marked as "non-prime" or any other equivalent, and sold as such.

7.3.5. Any technical advice given by the Seller before and/or during the use of the Products, either verbally or in writing, shall be given in good faith based on the current state of scientific knowledge. The advice does in no way release the Buyer from his/her obligation to assess the Products delivered by the Seller for their suitability for the intended processes and/or application(s) and to use them exclusively for these purposes. The use and processing of the Products for a specific application are thus take place subject to the exclusive responsibility of the Buyer.

Article 8. COMPLAINTS

8.1. Visible defects

The Buyer shall inspect the Products at the time of delivery, including in regard to quantity, dimensions, weight, and conformity with the data listed on the order confirmation/shipping note, and shall record any visible damage to the Products on the shipping note with enforceable effect. Acceptance by the Buyer without reservations means that the accepted delivery fully complies with the order confirmation and shipping note. Any reservation on behalf of the Buyer related to any deviation as regards the contents of the order confirmation must be followed by a written complaint sent to the Seller within 72 hours of the delivery of the Product. In the event that the Products are transported at the expense and/or risk of the Buyer, the Buyer must send a substantiated and detailed complaint to the Seller by registered post and, in the event of transport by CMR, to the transporter for any loss of and/or transport damage to the Products.

Contested Products must be put free of charge at the Seller's disposal so that the Seller can carry out any cross-inspection (in or out of court) and they can only be returned to the Seller with the Seller's prior written consent.

8.2. Hidden shortcomings

The Seller must be notified of any repair or replacement claims based on the Warranties set out in Article 7 in writing within eight (8) days from the date on which the defect or shortcoming was discovered or noticed or could have been noticed for the first time.

Article 9. DISSOLUTION

The Seller is entitled to dissolve the agreement with the Buyer in the following cases:

1. at all times, with immediate effect, without the need for a court order and without owing any form of compensation, in the event of (i) suspension of payment or (a petition for) bankruptcy of the Buyer, or (ii) in the event of liquidation or termination of the Buyer's activities, or (iii) in the event that (part of) the Buyer's assets are seized;

2. if the Buyer fails to fulfil his/her obligations with respect to the Seller, including (but not limited to) financial obligations at any time, despite written notice of default whereby a period of seven days is observed.

Where relevant, all of the Seller's claims shall become immediately payable, and the Buyer shall owe the Seller a fixed compensation amount of 10% of the overall price for the (part still to be executed of) the relevant order, without prejudice to the right of the Seller to claim a higher compensation amount if the actual damage incurred is greater.

This without prejudice to the Seller's right to implement the agreement in exchange for cash payment in the cases described above. In the event that the Seller has already delivered the Products, he/she shall be entitled, without prejudice to all his/her rights, to take possession of his/her identifiable Products, without the involvement of a court and whereby the Buyer or appointed curator, liquidator or proxy provides ad-hoc assistance to the Seller.

Article 10. CANCELLATION / NON-ACCEPTANCE OF AN ORDER BY THE BUYER

The Buyer accepts that the order is final from the moment on which his/her order is placed. The order cannot be modified, cancelled, or revoked, except in the event of prior written approval of the Seller. In the event that the Buyer does not accept delivery of the Products on the agreed delivery date due to an event that cannot be attributed to the Seller, the Seller, without notice of default or any other notification to this effect, shall have the right to invoice his/her storage costs at a rate of 0.5% of the invoiced value of the Products per started week after the original delivery date for a maximum of ninety (90) days.

Should the Buyer not accept the delivery of an order, the Buyer must pay the Seller the full amount of the order as lump-sum compensation, notwithstanding the fact that storage is limited to ninety (90) days. Advances already received shall be used by the Seller for the aforementioned compensation. The Parties agree that production shall also be understood as acquisition by the Seller of raw materials and/or materials that are not often used.

Article 11. LIMITATION OF LIABILITY

Without prejudice to the provisions of Article 7 and except in the event of gross negligence or deliberate intent of the Seller, the Seller's liability is expressly limited to (i) compensation for foreseeable, personal, and direct damage to the Buyer and (ii) the amount that the insurer of the Seller shall pay, where appropriate, or (in the event of no payment) the invoiced amount relating to the payment or service from which the liability arises.

The liability of the Buyer concerning all indirect or consequential damage is excluded.

Article 12. RIGHTS OF THIRD PARTIES

The Seller shall have no liability nor any obligation to indemnify for any Product or any part thereof that (i) is based on the specifications, drawings, models or other data provided by the Buyer or (ii) has been unilaterally adjusted by a party other than the Seller or (iii) to the extent that the Buyer continues with infringing activities after having been provided with adjustments to avoid the infringement or (iv) when the use of the Product or the combination thereof with other products, processes or materials or the mutual composition thereof, rather than the Product itself, is the primary cause of the infringement.

In the event that it has been determined by a legally awarded judgement that the Seller has infringed upon or misappropriated third party rights or at the Seller's discretion upon realisation of improper use or infringement, the Seller may decide, at his/her own expense, to (i) modify the Product in a way that shall no longer infringe upon or misappropriate the rights of third parties or (ii) attempt to obtain a licence or other right to use the Product or (iii) replace the applicable Product by a non-infringing product. If the aforementioned options are not available under commercially reasonable terms and conditions and/or within a reasonable period, the Seller may demand the return of the Product and refund the Buyer the amount he/she paid for the Product, minus any incidental compensation.

The remedies set forth in Article 11 are the sole and exclusive remedies available to the Buyer for indemnification. The Seller shall not be liable for direct and indirect damages.

Article 13. CONFIDENTIALITY – INTELLECTUAL PROPERTY RIGHTS

Except as otherwise specifically agreed in writing by the Seller, the Buyer shall under no circumstances disclose to the public or any third parties any confidential information or information that is owned by or under the control of the Seller.

All patents, trademarks, copyrights and/or any other intellectual property rights and/or any property or confidential information regarding the Products shall remain the property of the Seller or his/her licensor. Nothing herein shall be construed as conferring on the Buyer any rights, title or interest in or any licence under an intellectual property right belonging to or in the possession of the Seller, and the Buyer is not allowed to disclose any confidential information, even of a commercial nature with respect to these intellectual property rights, under penalty of compensation for proven damages.

Article 14. USE OF VISUAL MATERIAL

The Buyer agrees that the Seller may take photos of projects created with its materials and use them for advertising purposes (online and offline communication).

Article 15 – DIVISIBILITY

The possible partial invalidity, nullity, viability, or unenforceability of one or more provisions of these general terms and conditions does not affect the validity, viability, and enforceability of the other provisions. Where appropriate, the Parties undertake to replace the relevant provision with a valid, viable, and enforceable clause, which corresponds to the original purpose of the relevant provision as closely as possible.

Article 16: TRANSFER

Neither party may, without prior written consent, transfer the benefits or obligations arising from the agreement, partially or completely in one way or another to third parties, except for the Seller that may assign the agreement, without the Buyer's consent, (i) to an affiliated company or to a third party pursuant to an assignment, splitting, merger or exchange of a department/branch of the Seller or (ii) pursuant to factoring. The contract shall in that case be valid and binding and shall inure to the benefit of the legal successors of either party hereto.

Article 17: APPLICABLE LAW AND COMPETENT COURTS AND PREVALENCE OF THE DUTCH LANGUAGE

All sales agreements are deemed to have been entered into at the Seller's registered office, even unless otherwise specified. Belgian law shall therefore exclusively apply to their implementation and interpretation and possible disputes. Any dispute between the Seller and the Buyer shall be settled by the competent courts of Ghent, Bruges division. The provisions of the United Nations Convention on contracts for the International Sales of Goods of 1980, known as the "Vienna Convention", shall not apply.

In the event of any contradictions between the Dutch-language version of the general terms and conditions of sale and a version drawn up in a different language, the Dutch text shall prevail.

Article 18: PRIVACY

Insofar as Personal Data are processed in the context of the performance of the work, these Personal Data will be processed in a proper and careful manner and in accordance with the Belgian Personal Data Protection Act of 30 July 2018 and the General Data Protection Regulation (EU) 2016/679. Technical and organisational measures will be taken to protect Personal Data against loss or any other form of illegitimate processing, taking into account technical knowledge and the nature of the processing.