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Switzerland

GENERAL TERMS AND CONDITIONS

(Version 01.01.2017)

Clause 1 (Goods)

Goods' assortment, quality, quantity, prices, delivery and payment terms are specified in a corresponding Order or Specification (hereinafter Specification). Technical data and quality characteristics of the Goods are specified in corresponding standard or technical delivery conditions or Technical protocol stated in the Specification signed by the Seller and the Buyer.

Clause 2 (Delivery terms)

Delivery terms are based on Incoterms 2000 or 2010 as reported in the Specification. Transportation is ruled by the convention foreseen by the respective transportation documents. Special conditions regarding availability of the means of transportation and submission of advices and documents must be agreed upon separately, as well as all further exceptions to the Incoterms and to the conditions of the above mentioned transportation documents. In addition, unless otherwise stated, the production period reported in the corresponding Specifications is given as an indication.

Clause 3 (Payment terms)

Payments are made according to the agreed payment conditions, which are reported in the corresponding Specification. All bank charges and commissions related to a payment outside Switzerland are for the Buyer’s account. Commissions and charges of the Seller’s bank are to be paid by the Seller. Any third party may pay against our invoices, quoting the number of the invoice under which the payment is effected.

Clause 4 (Transfer of the Goods)

In addition to clause 2, Goods shall be considered as handed over by the Seller and accepted by the Buyer when all agreed conditions have been met, and:
a) regarding the quantity: according to the weight quoted in the shipping documents;
b) regarding the quality: according to the quality certificate issued by the manufacturer, in compliance with the corresponding Specification and Technical protocol (Technical conditions).
In any case, as long as the Goods have not fully been paid, their title remains with the Seller (Retention of title). At his own expenses and after agreeing with the Seller, the Buyer has the right to check the weight and/or quality of the Goods, using his own experts or the experts of any mutually agreed independent competent organization. The quality shall be checked in strict conformity with the corresponding Specification, agreed by the Parties and the Technical protocol (Technical conditions) specified in the Specification. The delivery time of the Goods shall be extended for the time of the inspection if it entails obstacles or suspension of the production. The Seller or his representative has the right to be present during the inspection on the quality and/or weight of the Goods. The weight tolerance is stated in the corresponding

Specification. The final settlements shall be made on the basis of the weight quoted in the commercial and shipping documents.

Clause 5 (Packing and marking)

The packing and marking shall meet the requirements of the corresponding Specification and Technical protocol (Technical conditions) specified in the Specification and ensure the preservation of the Goods during delivery by any kind of transportation agreed between the Parties, under condition that the Goods are handled in a proper way. Any possible responsibility of the Seller shall not be applicable to any damage resulting from an inappropriate or careless handling of the Goods or from a wrong application of the Goods. The Goods' price includes the standard packing cost. The Buyer shall pay for any additional or non-standard packing. The Buyer is responsible for packing in conformity with specific requirements of the importing country, if any, which shall be fixed in the Specification and Technical protocol (Technical conditions) signed by the Parties.

Clause 6 (Force-majeure)

In case any Party is unable to fulfil its obligations as agreed, due to any impediments beyond its control occurred after agreeing the transaction (such as war, embargo, natural disasters, governmental actions that make impossible to fulfil the obligations, strikes etc), such Party shall notify the counter party of such an impediment in a written form. Should such impediments beyond control last for more than 90 days, the Parties are entitled to cancel this transaction. Such circumstances have to be confirmed by a certificate issued by the Chamber of Trade and Commerce of the country, where such a force-majeure circumstance occurred.

Clause 7 (Claims)

The Buyer may claim from the Seller in case:
a) the quantity resp. the weight of the delivered Goods differs from the weight stated in the shipping documents;
b) the quality of the delivered Goods differs from the requirements of the corresponding Specification and Technical protocol (Technical conditions).
Except otherwise agreed upon, the Buyer is entitled to claim:
a) on the quantity of the Goods within 60 days after the delivery date at the agreed destination,
b) on the quality of the Goods, on external visible defects, surface condition, results of ultrasonic check, firmness of metal, microstructure, chemical composition and geometrical parameters within 60 days after the delivery date at the agreed destination; on latent defects of metallurgical nature revealed in the production process (e.g. non-metallic inclusions, structure, etc.) within 365 days after the delivery date at the agreed destination.
Claims and complaints on the Goods supplied by the Seller shall be accepted and considered only in case the methods of control and acceptance have been applied by the Buyer, and if required also by any mutually agreed independent competent organization, in full conformity with the requirements of the corresponding Specification and Technical protocol (Technical conditions) indicated in Specification.
A certificate of claim shall be issued by the Buyer in 2 (two) copies and the below required documents must be attached thereto.
In case of absence or incomplete set of all documents as requested in the present clause (in respect of quality and quantity of the Goods) the Seller shall not compensate any loss that the Buyer has suffered.
A quality claim shall be raised only for the parameters stipulated in the corresponding Specification and Technical protocol (Technical conditions) according to which the products were supplied. The Certificate of claim shall contain the following data: company’s full name, customer reference number, specification number, description and marking of metal products in conformity with the transportation documents, number of packages and weight of the shipped lot and of the metal products claimed, transportation document and quality certificate numbers, treatments made to the Goods at the moment when discrepancies were discovered, ground of the claim - detailed description of the product inadequacy in respect of the requirements of the corresponding Specification and Technical protocol (Technical conditions) indicated in the Specification - as well as the Buyer’s requests in terms of replacement of the Goods or compensation for further

processing or others requests. The Certificate of claim shall be accompanied by the required documents as per our separate List of documents and samples for quality claims published on our web page www.dssint.ch, as well as by the relevant transportation documents confirming arrival of the Goods at the agreed destination, by a detailed calculation of all costs incurred by the Buyer and by a description of the sample(s) sent to the Seller, if any. If requested by the Seller a protocol of defects analysis issued by any mutually agreed independent competent organization shall be attached to the certificate of claim.
A claim for weight shortage shall be issued by the Buyer and confirmed by a Certificate of claim. It must be based on the results obtained from the complete weighing of the whole lot delivered at the agreed destination. If required by the Seller, the Buyer is entitled to arrange a reweighing by any mutually agreed independent competent organization, which shall issue a final protocol that is to be attached to the Certificate of claim. The Certificate of claim shall contain the following data: company's full name, customer reference number, specification number, description and marking of metal products in conformity with the transportation documents, number of packages and weight of the shipped lot, transportation document and quality certificate numbers, the weight obtained after each particular weighing, the number of packages and the unit of measurement used at weighing as well as the weight of the revealed shortage for every lot. The Certificate of claim shall be accompanied by the relevant transportation documents confirming arrival of the Goods at the agreed destination.
The Seller is entitled to check on-site the validity of the Buyer's claim through his representative.
Claims shall be forwarded by the Buyer to the Seller's address by a registered letter, containing all required documents confirming the claim essence. The date of the postal stamp at the place of destination shall be considered the date of the claim. A claim referring to any portion of the supplied Goods is not a reason for the Buyer to refuse to accept and/or pay in full for the entire or any next lot of the Goods. Until all disputes are settled, the Buyer is responsible for arranging the defective goods to be kept at the Seller's disposal. A special agreement between the Parties shall stipulate the return of the defective Goods. The maximum amount indemnified by the Seller to the Buyer, comprehensive of any direct or indirect cost, including charges for further analysis or treatments, also those effected by any independent competent organization, is limited to the total value of the delivered goods.

Clause 8 (Responsibilities of the parties)

If the Seller fails to supply (fully or partially) the Goods as agreed, the Seller shall pay the Buyer a penalty of 0.3% on the not delivered (not fully delivered) Goods value for each day of such delay, but totalling maximum 8% of the not delivered Goods value. In case any payment is delayed in respect to the agreed terms, the Seller has the right to temporary postpone the production or dispatch of the Goods until the full payment is performed. The Buyer shall pay a penalty of 0.3% on the delayed amount for each day of such delay, but totalling maximum 8% of the delayed amount. In case the Buyer refuses to accept the already manufactured Goods that meet all agreed terms in accordance with corresponding Specification and Technical protocol (Technical conditions) without any reason acceptable to the Seller and without correctly filing a claim within the terms under Clause 7 of the present General Terms and Conditions, the Seller is entitled to use the Goods to his own benefit and to request their payment, or make a deduction from any advance payment as specified in the corresponding Specification. The value of any Specification, which foresees payment after delivery of goods, will generally be covered through the Seller's credit insurance policy. In case of a subsequent reduction in coverage by the Insurer, the Seller is entitled to request from the Buyer an advance payment or a bank guarantee to cover the difference. If the Buyer does not provide the Seller with corresponding means of transportation (vessel/truck) in cases of FCA and FOB delivery terms and necessary logistics information in presence of other delivery terms, the Buyer shall pay the following storage fees: during 7 calendar days – free; from 8 to 25 calendar days – Euro 0.50 per ton per day; from 26 calendar days – Euro 1.00 per ton per day.

Clause 9 (Governing law)

These General Terms and Conditions are governed, construed and interpreted by the laws of Switzerland in every respect.

Clause 10 (Arbitration)

All disputes which cannot be settled by mutual assent shall be finally settled by the Arbitration Court of the International Chamber of Commerce (Zurich, Switzerland) in accordance with the rules of this Arbitration Court by a single arbitrator, appointed in accordance with said rules. The place of arbitration is Zurich, Switzerland. The language of arbitration shall be English.

Clause 11 (Other conditions)

The Parties came to an agreement that all information concerning the content or implementation of any transaction is a commercial secret and shall not be used or revealed without a written consent of the other party. The Buyer takes full responsibility for the observation of anti-dumping regulations, rights and procedures in his national market and in the markets of subsequent realization of the Goods. The Buyer further undertakes the obligations not to perform any operation on these markets that could be described as dumping operation according to the existing country's legislation, to be the single defendant for all possible anti-dumping suits and claims, to pay in full scale all dues, taxes and other payments due for the Goods that are the subject of the transaction as specified by the anti-dumping legislation of the country of import, and to reimburse all expenses of the Seller for defending his interests during such anti-dumping investigations. The Parties have agreed that the Buyer shall not re-export the Goods to the markets of third countries, without preliminary consent of the Seller. The Parties undertake to inform each other on changes in their addresses and in other questions that could harm the correct procedure of the transaction. The present General Terms and Conditions are considered as accepted once the Buyer has signed a Specification and are binding upon that Specification irrespective of any other and different past or present conditions. The General Terms and Conditions are published on our web page www.dssint.ch.
This is the official version and it is in English. They are reviewed whenever necessary, without notice. Should any part of the present General Terms and Conditions become invalid, the rest of the General Terms and Conditions remains valid. All exceptions to the present General Terms and Conditions, as well as to a Specification, must be mutually agreed upon in writing. ■