

General terms of sale for deliveries of the Distribution business unit

As on: May 2012

1. Area of application

- 1.1** These general terms of sale are used in all contracts, where one of the subsidiaries globally represents Benteler Distribution International GmbH (hereinafter referred to as "**Benteler**") as seller and the other contractual party ("**Buyer**") as buyer. A subsidiary refers to every legal person or semi-autonomous legal entities, whose businesses or organs Benteler can directly or indirectly manage, be it through the ownership of voting rights, through contracts or any other manner and irrespective of whether this option is also actually exercised. This is irrefutably supposed to be the case with direct or indirect ownership of 50% of the issued voting rights, wherein the existence of a low ownership of such voting rights however does not necessarily rule out a power of management.
- 1.2** Contrary terms of the buyer are not applicable, unless Benteler expressly approves of them in writing.

2. Contract conclusion

- 2.1** A contract only comes into effect through explicit or implied agreement (e.g. delivery or payment) of the parties, however especially not by merely remaining silent. In case of implied contract conclusion, the contract does not come into effect with the contents of the offer before the implied assumption, but with the content-related concordant regulations from this offer and the previous invitation by the other party to bid, in case such an invitation to bid has been sent. The statute law shall be applicable for the regulations that have contradicting contents.
- 2.2** In case of a contract conclusion, the buyer is under obligation, irrespective of any previously agreed pending obligation to collect, to remove all stocks stored by Benteler with respect to the ordered goods, at the latest within the same financial year.

3. Prices and terms of payment

- 3.1** Unless otherwise agreed in a separate contract, all prices shall be applicable as net prices exclusive of taxes, customs and other duties as well as the costs for packaging and transport. In the absence of any agreement of the parties about the prices, Benteler's list prices applicable at the time of delivery shall be considered or; in the absence of any valid price lists, the prices generally calculated by Benteler at the time of the delivery shall be considered.
- 3.2** The parties agree to the fact that the prices agreed at the time of the contract conclusion are based on the material and raw material costs applicable at this time as per the respective price index of the German trade association for steel for the respective goods. Thus, in case of increase in costs for every material and raw material costs by 5% as compared to the material and raw material costs applicable at the time of the contract conclusion, they agree on a quarterly automatic adaptation, to be carried out on the first of the month, of the prices for the subsequent quarter till the expiry of the contract term.
- 3.3** The buyer is under obligation to pay the purchase price at the latest 30 days after the delivery ex works (EXW) via bank transfer free of cost and without any discount deduction. For the punctuality of the payment, the receipt of the entire invoice amount with Benteler is decisive. However, if it has been agreed upon that the goods should be requested for dispatch by the buyer within a specific period after notifying the readiness for dispatch by Benteler, Benteler is already authorised to invoice the goods from the time of notifying the readiness for dispatch. In this case, the purchase price shall be due for payment 30 days after the invoice date contrary to sentence (1).
- 3.4** In case of a delay in payment, the buyer shall be under obligation to pay Benteler, for every working day of the delay in payment, a contractual penalty to the amount of 0.3% of the respective invoice amount up to an upper limit of 5% of this invoice

amount. Moreover, the buyer shall be under obligation to pay the statutory default interest of eight percent over the respective statutory base interest rate as well as a reimbursement of all additional damages caused by the delay, including the necessary internal and external legal costs. The contractual penalty stated in the aforementioned section 1 is however to be attributed to these delay damages and default interests.

3.5 A delay in the payment by the buyer by more than 30 days justifies a significant violation of the contract.

3.6 Benteler is additionally authorised to revoke collection authorisation issued as per clause 7 (retention of title) and to demand advance payments for future deliveries.

4. Continuous deliveries

4.1 In case of purchase contracts directed on continuous deliveries or in case of apportioned contracts, the buyer is under obligation, for the lack of other contractual agreement, to make monthly call-ups for primarily the same purchase quantities. Otherwise, Benteler is authorised to determine the purchase quantities at its reasonable discretion.

4.2 If individual call-ups by the buyer exceed the monthly quantity specified in section 1, Benteler is authorised, but not obligated to a delivery of this additional quantity.

5. Weights

As far as legally permissible, weights can be specified without actual weighing, pursuant to standards. Benteler is authorised to determine the weight without actual weighing pursuant to standards plus 2 ½ % (commercial weight). The number of units, bundles or the like specified on the dispatch notification is non-binding for goods invoiced by weight. Insofar as individual weighing does not normally take place, the total weight of the delivery shall apply. Any difference with regard to the calculated weight of the single pieces shall be proportionally allocated to them.

6. Delivery terms and delivery dates / delays

6.1 For the adherence to the delivery terms and dates, the time of provision of the goods ex works Benteler (EXW) is decisive for the lack of other agreement.

6.2 In cases of force majeure, the delivery terms will be extended or delivery dates will be postponed by the period of the existence of the event of force majeure. As defined by these contractual terms, force majeure refers to all unforeseeable and inevitable events for which none of the parties are responsible, and however without reference to industrial disputes in their own and other companies, delays in transit and interruptions in the machinery through no fault of their own as well as sovereign measures, and especially not any delays in the customs clearance. Benteler is under obligation to promptly report to the buyer the event of force majeure. If the aforementioned event lasts longer, the buyer is authorised to withdraw from the contract at the earliest six weeks after the beginning of the event of force majeure.

6.3 In case of delay, Benteler's liability is limited to 5% of the net purchase price of the respective delivery. Any claims of the buyer to compensation instead of performance, remain unaffected subject to the regulation in clause 10.

7. Retention of title

7.1 Benteler reserves the right to ownership of the delivery goods until the fulfilment of all requirements (even future and conditional) from the business relationship with the buyer ("**reserved goods**").

7.2 Working and processing of the reserved goods takes place for Benteler as well as for the manufacturer as defined by § 950 Civil Code, without obligating Benteler. The worked and processed goods are also considered as reserved goods as defined by the previous section.

7.3 If the reserved good is combined by the buyer with other objects to form a unified item and if the other object is to be considered as the main object, then the buyer transfers

to Benteler the title of retention and expectant rights granted to it for the new object now itself, within the scope of the invoice value of the reserved goods with the invoice value of the other used goods and the processing and detains it for Benteler free of cost.

- 7.4** The buyer may resell the reserved goods only in the normal course of business transactions and as long as it is not in payment arrears, provided that it reserves the right of title retention and the claims from the resale are transferred to Benteler as per the following sections 7.5 and 7.6. It is not authorised to the dispositions of the reserved goods. Resale as defined by this clause also refers to the use of the reserved goods for the fulfilment of service contracts and those for work materials.
- 7.5** The buyer's claims from the resale of the reserved goods are already assigned to Benteler. Within the same scope, they serve as security as the reserved goods. The buyer is authorised to collect the receivables from the resale of the reserved goods. This collection authority ceases in case of a revocation, to which Benteler is authorised at all times, especially however in case of delay in payment by the buyer, in case of dishonour of an exchange or the justifiable request by Benteler or another creditor of the buyer to initiate insolvency proceedings about its assets.
- 7.6** If the reserved goods are resold by the buyer together with the other goods, then it assigns the claim from the resale in relation to the invoice value of the reserved goods to the invoice value of the other goods, to Benteler. In case of resale of goods, to which Benteler holds co-ownership shares as per section three, it assigns a part of the claim corresponding to Benteler's co-ownership shares to Benteler. Benteler herewith accepts the assignment.
- 7.7** For a justifiable reason, the buyer is under obligation at Benteler's request, to announce the assignment to third party buyers, to provide Benteler with the information required for the assertion of its rights and to hand over documents.
- 7.8.** The buyer is under obligation to notify Benteler immediately about a seizure or other detriment to the reserved goods by third parties. Moreover, it is under obligation to immediately inform third parties about Benteler's ownership of the reserved goods in case of a seizure and to undertake the best possible measures to prevent such a seizure by third parties.
- 7.9** If the buyer is in arrears and indicates a threat to the feasibility of a significant part of Benteler's receivables, Benteler is authorised to refuse the further processing of the delivered goods, to fetch the goods back and to enter the buyer's company if required for this. The fetching back should however not be understood as a declaration of contact withdrawal.
- 7.10** Benteler is under obligation to release the securities held on account of this clause inasmuch as its value exceeds the receivables to be secured by more than a total of 20%.
- 7.11** *In case of delivery of goods outside the Federal Republic of Germany, the buyer is under obligation to grant a security interest comparable to the extended title retention as regulated in the previous sections for Benteler, and to substantiate it upon request in writing. The violation of this contractual obligation justifies a significant contractual violation.*

8. Dispatch and packaging / Default of acceptance/ Transfer of risk

- 8.1** Benteler is authorised to appoint the forwarding agent or freight carrier.
- 8.2** If the loading or transportation of the goods is delayed by the buyer after a request made by Benteler to collect the goods, Benteler is authorised to store the goods at the expense and risk of the buyer, to take all measures considered necessary for their preservation and to charge them to the buyer as delivered irrespective of its persistent right to collect. The same shall be applicable if the goods reported as ready-to-dispatch are not collected within three days after notifying the 'ready-to-dispatch' status. Other rights of Benteler to compensation remain unaffected.
- 8.3** As far as customary in the trade, Benteler delivers the goods in the packaging and

protected from rust; the costs shall be borne by the buyer. Standard means of transport such as lattice boxes and lifting straps shall be returned to Benteler by the buyer upon delivery of the goods. Packaging and means of protection and other transport aid are however not taken back. Packaging beyond the purpose of transport or other special protection, however especially not for a longer safekeeping or storage, requires express agreement.

- 8.4.** The risk of accidental loss is transferred to the buyer with the transfer of the goods to the forwarding agent or freight carrier. Contrary to this, the transfer of risk upon delivery EXW however takes place with the provision of the goods in the factory or warehouse.

9. Guarantee

- 9.1** A material defect exists when the goods deviates from the agreed specifications more than only insignificantly at the time of transfer of risk; the contractually agreed quality of the goods exclusively complies with the explicit agreements. A liability for a specific purpose or a specific suitability is only accepted when and to the extent that it has been accepted by Benteler in writing; apart from that, the risk of suitability and use lies with the buyer. A liability for material defects is ruled out apart from the rules for exclusion stated in the law even when the deviation from the contractually agreed quality is based on improper handling of the goods by the buyer. Benteler's liability for defects of title is limited as per the provisions stated in clause 10.
- 9.2** Contractually agreed specifications and any expressly agreed purpose do not justify any guarantee; acceptance of guarantee requires explicit written agreement.
- 9.3** The buyer shall immediately check the received goods after delivery for any material defects, and reprove, with customary care, the obvious defects immediately, however at the latest within a period of one week after delivery. Even in case of defects not obvious despite the customary care taken (hidden defects), the inspection and complaint period starts from the time at which the defect was detected. In case the parties have agreed to a preliminary acceptance or "pre-inspection" and if obvious defects are present with the customary care taken, the inspection and complaint period starts from the end period of this preliminary acceptance or "pre-inspection" itself. Section (2) is also applicable in case of hidden defects.
- 9.4** The buyer is under obligation to immediately grant Benteler the opportunity to inspect the rejected goods from the issuance of the notice of defects. Upon request, the relevant goods or a sample of the same must be sent to Benteler at the expense of Benteler. In case of a culpably unjustified complaint, Benteler is authorised to demand a compensation of all damages caused thereby from the buyer. The scope of the damage to be compensated for especially includes, although not limited to the compensation of all internal and external inspection costs, dispatch costs and internal and external costs of legal defence.
- 9.5** In the presence of a material defect, Benteler is under obligation to carry out subsequent fulfilment as per the applicable legal provisions. Benteler's obligation to install and remove the defective goods or to accept the costs for the same only exists if Benteler is to be blamed. Except in case of manufacturer recourse as per the following section 6, this takes place, as per Benteler's choice, either through defect rectification or a delivery of defect-free goods. If Benteler fails to carry out the subsequent fulfilment successfully within a reasonable period, then the buyer is authorised after an unsuccessful expiry of a set extension period, either to reduce the purchase price or to withdraw from the contract. As the place of fulfilment for the subsequent fulfilment, the parties herewith explicitly agree Benteler's registered office.
- 9.6** The buyer's claims as per § 478 Civil Code can be asserted again Benteler only if the sale of consumer goods exists in the contractual relationship between the buyer and its customer. The claims are limited to the legal scope of the defect claims asserted against the buyer by its customer, and require that the buyer has fulfilled its incumbent inspection and complaint obligation as per clause 9 section 3 in its relationship with Benteler.

10. Guarantee and liability limitation

- 10.1** Benteler bears liability towards the buyer for compensation on account of defective delivery as well as on account of the violation of other contractual obligations (especially such as contractual secondary obligations or pre-contractual obligations) and delict subject to the limitations in section 4 only in cases of intent and gross negligence. This is also applicable to any claims for compensation in place of delivery. Benteler bears liability for compensation on account of violation of duties (§280 Civil Code) only in case of proven fault. Aforementioned liability limitations are however not applicable in case of a violation of life, limb or health and in case of a violation of significant contractual obligations. Significant contractual obligations refer to an obligation, the compliance to which enables the execution of the contractual purpose in the first place and the observance of which the buyer justifiably trusts by taking into account this concrete contractual purpose. The parties herewith expressly agree that the freedom of the goods from protective rights of third parties does not represent any significant contractual obligation for Benteler. Moreover, claims as per the product liability law remain unaffected.
- 10.2** In cases of gross negligence and in case of violation of a significant contractual obligation, Benteler's liability is however limited to the contract-typical damages foreseeable upon conclusion of the contract. This amount to a maximum of, however not mandatorily, EUR 500,000 per case of damage and calendar year.
- 10.3** Benteler's liability on account of delay exclusively complies with the regulation made in clause 6.

11. Limitation period

- 11.1** The limitation period for claims arising from guarantee amounts to one year from the delivery of the goods to the buyer. The limitation period of any recourse claims of the buyer towards Benteler in case of a manufacturer regress as per clause 9 section 6 remains unaffected.
- 11.2** The limitation period for other claims subject to the maximum limits regulated in §199 Civil Code amounts to two years from the notice of the buyer of the circumstances justifying the claim. Any claims arising from product liability however become time-barred as per the legal regulations.

12. Export / Import / Customs / Foreign trade law

- 12.1** The adherence to all authorisation requirements and notices with respect to the goods as regards (re-)exporting or re-importing as well as customs specifications are only incumbent upon the buyer. In case of obtaining any approvals and providing any notices with respect to the goods as regards (re-)exporting or re-importing as well as customs specifications, Benteler shall exclusively work for the fulfilment of its own duties. Inasmuch, the buyer does not have any claim, or claim for performance or compensation towards Benteler.
- 12.2** If the goods are collected by a buyer or its representative residing outside the Federal Republic of Germany and in case of a transfer to the outer area, the buyer shall be under obligation to produce to Benteler the export certificate necessary for tax purposes. Otherwise, the buyer shall be under obligation to the payment of the value added tax applicable for deliveries within the Federal Republic of Germany.
- 12.3** In case of deliveries within the EU, the buyer shall be under obligation to send to Benteler a proof of export corresponding to the respective VAT-related obligations immediately upon delivery.

13. Assignment/ Offsetting/ Retention

- 13.1** The buyer is authorised to an assignment of claims towards Benteler only after prior written consent. In case of money claims, the consent may however not be rejected by Benteler unreasonably.

- 13.2** The buyer is authorised to offset only with undisputed or legally determined claims.
- 13.3** The buyer is authorised to retention of the purchase price payment only if undisputed or legally determined outstanding counter-claims against Benteler exist for the same legal relationship. Benteler is authorised to retention even if the Benteler's rights against the buyer are not based on the same legal relationship or are not due yet.
- 14. Insolvency of the buyer**
- 14.1** Benteler is authorised to completely or partly withdraw from the contract or to terminate it in case of ongoing debts, if the buyer ceases its payments or if an insolvency proceeding or a similar legal proceeding subordinate to another legal system has been applied for by it or permissible by Benteler or another creditor.
- 14.2** Benteler also has the aforementioned termination or withdrawal right if an insolvency proceeding or a similar proceeding is initiated over the buyer's assets, or the initiation of such a proceeding is rejected only for the lack of assets.
- 14.3** The same is applicable in case of an occurrence or the threat of a significant deterioration in assets with the buyer, which leads to a threat to the fulfilment of liabilities toward Benteler.
- 14.4** The provisions of the aforementioned clause 14 are however applicable only and to the extent that the applicable national insolvency law does not mandatorily exclude such a termination right.
- 15. Applicable law and place of jurisdiction**
- 15.1** This contract is subject to the Law of the Federal Republic of Germany with the exclusion of the regulations of the United Nations Convention on Contracts for the international sale of goods dated 11 April 1980.
- 15.2** All disputes from or in connection with these terms of payment shall be settled as per the rules of arbitration of the Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS) with the exclusion of the ordinary legal proceedings by one or more arbitrators appointed as per this regulation. The place of arbitral proceedings is Düsseldorf.
- 16. Severability clause**
If individual provisions of these General Terms of Payment are invalid or ineffective, the effectiveness of the remaining provisions remains unaffected.