

**TERMS & CONDITIONS OF SALE****1. GENERAL**

- 1.1 In these conditions "The Company" shall mean Benteler Distribution Ltd. with whom an order shall be placed by "the Buyer" and "the Buyer" shall mean any person, firm or company placing an order with Benteler Distribution Ltd. The "U.K." shall mean the mainland of Scotland, England, Wales and Northern Ireland.
- 1.2 The "Contract" shall mean the contract made between the Company and the Buyer for the supply of goods comprising the terms set out herein.
- 1.3 The "Goods" means and includes all goods or materials supplied by the Company to the Buyer whether under this contract or any other contract.
- 1.4 Unless otherwise agreed in writing the Company's conditions herein set out shall be deemed incorporated in any order placed by the Buyer and any acceptance of a Buyers order by the Company shall be deemed subject to the acceptance by the Buyer of these conditions. In the event of any conflict arising between these conditions and any conditions which the Buyer might additionally seek to impose in relation to his order the Company's conditions shall prevail. These conditions override and replace any other conditions of the Company.

**2. PRICE - The Price payable by the Buyer shall be as follows:-**

- 2.1 Where the words "fixed price" appear in the Contract the price shall be the price appearing therein.
- 2.2 In any other case the price shall be deemed to be the Company's price prevailing at the date of despatch of the goods to the Buyer.
- 2.3 In all cases and unless otherwise agreed in writing the price shall be deemed to be exclusive of Value Added Tax which shall be payable in addition by the Buyer at the rate prevailing at the tax point.

**3. TERMS OF PAYMENT**

- 3.1 In the U.K. Settlement of account is strictly net and payable within 30 days of end of month of despatch of the goods. Any payments or part thereof remaining unpaid after such period of 30 days shall, in the absolute discretion of the Company, carry interest thereon at the rate of 3% per annum above the base rate of National Westminster Bank plc prevailing during the period such unpaid balance remains unpaid and shall be added to the said balance due from the Buyer to the Company and calculated on a daily basis.
- 3.2 Outside the U.K Settlement of account is strictly net. Full payment shall be due upon presentation by the Company of shipping documents and invoice in the U.K. or if Bills of Lading have been taken out by the Company then upon presentation of the Company's invoice and notification from the Company that the goods have been tested should that be necessary.

**4. DELIVERY AND TRANSPORT**

- 4.1 In the U.K. unless otherwise agreed in writing the Company reserves the right to charge the buyer the cost of transportation of the goods to the destination which appears in the Buyer's order. In all cases the Buyer warrants that in cases where delivery is to be made by Road Transport sufficient and suitable access to the said destination including a road surface capable of withstanding the weight and size of the transport and loads involved is available. In the event of any additional costs or expenses being incurred by the Company due to any breach of such warranty the Buyer shall reimburse the Company the full amount thereof on demand.
- 4.2 Outside the U.K. The delivery shall be F.O.B. to such U.K. point of departure as is mentioned in the Buyer's order unless otherwise agreed in writing.
- 4.3 Whilst every effort is made to deliver goods on the dates or within the periods mentioned in the Contract such dates or periods shall be deemed to be for information purposes only and shall not form part of the terms and conditions of the Contract unless specifically agreed in writing to be "of the essence of the Contract" and in the absence of such special agreement the Company accepts no liability whatsoever for any loss or damage of whatsoever nature and howsoever arising which may be suffered by the Buyer as a result of any failure on the part of the Company to deliver goods on or within the dates or periods mentioned in the Contract.

**5. TITLE TO GOODS**

- 5.1 Risk in Goods shall pass to the Buyer on delivery. Title to goods shall not pass to the Buyer until the Company has received payment in full (in cash or cleared funds) for such Products and all other sums which are (or which become) due to the Supplier from the Customer for sale of Products on any account
- 5.2 Until title to Goods has passed to the Buyer, the Buyer shall hold such goods on a fiduciary basis as the Company's bailee; store such Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Company's property; not remove, deface or obscure any identifying mark or packaging on or relating to such Goods; and maintain such Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Company. The Buyer shall obtain an endorsement of the Company's interest in the Goods on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Buyer shall allow the Company to inspect such Goods and the insurance policy, but the Buyer may resell or use Products in the ordinary course of its business
- 5.3 Until title to the Goods has passed to the Buyer then, provided that such Goods have not been resold and without limiting any other right or remedy the may have, the Company may at any time require the Buyer to deliver up such Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the relevant Products are stored in order to recover them
- 5.4 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in condition 8, then, without limiting any other right or remedy the Company may have, the Buyers right to resell the goods or use them in the ordinary course of its business ceases immediately. In addition the Company may at any time require the Buyer to deliver up all goods in its possession which have not been resold further if the Buyer fails to do so promptly enter any premises of the Buyer or any third party where the Goods are stored to recover them

**6. DEFECTS AND REPLACEMENT**

- 6.1 The Company will at its own cost and expense repair and/or replace at its discretion the whole or any part of the goods forming the subject of the Contract which are defective in quality or fail to comply with any specification laid down in the Contract subject however to the following conditions:-
- 6.1.1 In the event of any matter giving rise to complaint which would be apparent to the Buyer on reasonable inspection the Buyer must give notice thereof to the Company within 14 days from the date of delivery of the goods to the destination agreed in the Contract.
- 6.1.2 In the event of a complaint in respect of a matter not apparent on reasonable inspection the Buyer must give notice thereof to the Company within 14 days of the defect complained of coming to the attention of the Buyer and/or its servants or agents but in any event notice of complaint must be given to the Company by the Buyer within 6 months of delivery of the goods to the destination named in the Contract.

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- 6.1.3 In all cases the Company must be given a reasonable opportunity following notice of complaint of examining the relevant goods.
- 6.1.4 In the event of damage occurring to goods during transit the Buyer must give written notice to the Company within 14 days of the date of delivery to the destination named in the Contract and further where such goods are consigned by an outside Carrier the Buyer must in addition comply in all respects with the Carrier's conditions of carriage for notification of claims for loss or damage in transit.
- 6.2 The Company shall subject to the normal rules concerning remoteness of damage be responsible for liability for death or personal injury caused by the goods or by the Company's servants if it is established that such death or personal injury is personally suffered by the Buyer or is personally suffered by a third party who uses the goods.
- 6.3 The liability accepted by the Company pursuant to sub-paragraphs 6.1 and 6.2 above is the absolute limit of the Company's liability arising under or as a result of the contract and all other liability is hereby expressly excluded and in particular but without prejudice to the generality of the foregoing the Company will not be liable to the Buyer for any other loss damage costs and expenses of any nature whatsoever incurred or suffered by the Buyer or by a third party whether direct or consequential (including but without limitation any economic loss or other loss of turnover profits business or goodwill) arising out of any dispute or contractual tortious or other claims or proceedings made by or brought against the Buyer in respect of the supply of the goods to the Buyer or the use of or any other dealing with the goods by the Buyer or a third party (including but without limitation product liability claims and claims by a third party alleging infringement of its intellectual property rights) nor shall the Company be responsible in any way whatsoever for dealing with any such disputes or contractual tortious or other claims or proceedings. The Buyer shall pay discharge and indemnify the Company and its officer's servants and agents at all time against all and any such loss damage costs legal costs professional and other expenses. The Buyer hereby acknowledges that the Company has authority to act as agent for and on behalf of its officers servants and agents for the purpose of this indemnity
- 7 TEST OR INSPECTION OF GOODS**  
Where the Contract provides for test or inspection (before despatch and delivery) by or on behalf of the Buyer at the Company premises the following conditions shall apply: -
- 7.1 In the event of inspection by the Buyer and/or their servants or agents any complaint in relation to the goods must be notified to the Company in writing within 7 days of that inspection and in the absence of such notice the Buyer shall be conclusively deemed to have accepted the goods as being in conformity with the Contract and shall not thereafter be entitled to reject the goods. Save as aforesaid the provisions of paragraph 6 above shall apply.
- 7.2 Examinations of goods during construction by an external authority where required will be payable by the Buyer in addition to the ordinary price of the goods.
- 7.3 The Company reserve the right to change the Buyer the cost of all test pieces which comply with specifications.
- 8 DETERMINATION AND DAMAGES**
- 8.1 Without prejudice to its rights the Company may determine the Contract or suspend any further deliveries to the Buyer in the event of:-
- 8.1.1 Any distress, execution or other legal process being levied upon any of the Buyer's assets.
- 8.1.2 The Buyer entering into any arrangement or composition with its creditors committing any act of bankruptcy or (being Corporation) entering into liquidation or having a winding up petition presented against it calling a meeting of its creditors, suffering the appointment of a receiver in respect of the whole or any part of its undertaking or assets.
- 8.1.3 Non payment by the Buyer of any monies due from it to the Company.
- 8.2 In the event of a determination by the Company of the Contract in accordance with sub-paragraphs 8.1.1, 8.1.2 or 8.1.3 above or a cancellation and or repudiation of the Contract by the Buyer the Company shall be entitled to recover as damages from the buyer the following:-
- 8.2.1 The value including any work completed or goods manufactured at the date of determination.
- 8.2.2 The value of any work begun or goods begun to be manufactured but not completed at the date of determination including the cost of materials, labour, overheads and profit connection therewith.
- 8.2.3 A sum representing any further profit which the Company would have made on the Contract but for its determination such profit to be determined by the Company's Auditors whose decision shall be conclusive and binding on the Buyer.
- 9 SET OFF**  
The Buyer shall not be entitled to withhold or set-off payment of any amount due to the Company under the terms of the Contract whether in respect of any claim of the Buyer in respect of faulty or defective goods or for any other reason which is a contested liability which is not admitted by the Company.
- 10 BUYER'S ACKNOWLEDGEMENT AND UNDERTAKING**  
The Buyer acknowledges having been supplied by the Company with all necessary information concerning any possible danger to health or safety of the Buyer's employees at work emanating from or associated with the goods supplied in this Contract and undertakes to ensure as regards the use to which the goods are made at the Buyer's place of work that the provisions of the Health and Safety at Work etc. Act 1974 and in particular the provisions of Section 6 thereof shall be fully complied with and agreed to indemnify and keep indemnified the Company in respect of any claim or costs which the Company may have to meet arising directly or indirectly out of the supply of the goods forming part of this Contract to the Buyer and due to the Buyer's failure to properly comply with the terms of this undertaking of the provisions of the said Act or any other Statutory provisions of modifications thereof.
- 11 FORCE MAJEURE CLAUSE**  
In the event of war invasion act of foreign enemy (whether war has been declared or not) civil war rebellion revolution insurrection or military usurped power the Company shall be relieved of liabilities incurred under this Contract whatever and to the extent to which the fulfilment of such obligations is prevented frustrated or impeded as a consequence of any such event or by any statute rules regulations orders or requisitions issued by the government department council or other duly constituted authority or from strikes lockouts breakdown of plant or any other causes (whether or not of a like nature) beyond the Company's control.