

General Terms and Conditions for Freight Forwarding

by Bertling Holding GmbH (hereafter called "Bertling")

I. APPLICABILITY

These General Terms and Conditions apply to all Freight Forwarding Services performed by Bertling, its sister, holding or associated companies. Freight Forwarding Services means services of any kind relating to the carriage, consolidation, storage, handling, packing or distribution of the goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the goods for official purposes, procuring insurance of the goods, and collecting or procuring payment or documents relating to the goods.

In the absence of specific terms and conditions that may be issued by local Bertling locations ("Regional Terms and Conditions") the present General Terms and Conditions are the governing terms and conditions of services that override any conflicting provisions even when Bertling does not expressly object to their inclusion. In the event that any Bertling country office issues Regional Terms and Conditions, those will take precedence in their entirety.

II. CONCLUSION OF CONTRACT

1. Unless a local office has issued independent terms and conditions all offers made by Bertling, its sister, holding or associated companies are based on and subject to these General Terms and Conditions. The order must be given to Bertling in writing and contain the following instructions:
 - kind of merchandise and descriptions or classification (e.g. dangerous goods)
 - value of the goods
 - type of packing with contents, numbers, quantity, and weight (gross/net) of packages
 - addresses of shipper/consignee
 - place of delivery/receipt
 - general instructions and conditions in respect of shipment, method of transportation (sea/air/road/express/groupage/breakbulk/containerized cargo, etc.)
 - special instructions in respect of customs clearance, issue of documents, etc.
2. In case of verbally given orders these must be confirmed by letter, fax or email. It is the responsibility of the customer to transmit the above required information correct and complete. Bertling shall carry out its services according to the customer's instructions if accepted.

III. DELIVERY HINDRANCES

If at any time Bertling's performance is or is likely to be affected by any hindrance or risk of any kind (including but not limited to condition of goods) not arising from any fault or neglect of Bertling and which cannot be avoided by the exercise of reasonable endeavors, Bertling may abandon the carriage of the goods under the respective contract and, where reasonably



possible, make the goods or any part of them available to the customer at a place which Bertling may deem safe and convenient, whereupon delivery shall be deemed to have been made, and the responsibility of Bertling in respect of such goods shall cease. In any event, Bertling shall be entitled to the agreed remuneration under the contract and the customer shall pay any additional costs resulting from the above-mentioned circumstances.

IV. LIABILITY

1. Bertling organizes the freight forwarding services as agent for the Customer at its own discretion and shall devote its best attention to the organization of the transport, carriage, and storage of the entrusted goods. Bertling shall select the appropriate means and mode of transport, as well as storage locations and shall be liable for its accurate and conscientious organization only.
2. Bertling is not liable for acts and omissions by third parties, such as, but not limited to carriers, warehousemen, stevedores, port authorities and other freight forwarders, unless Bertling has failed to exercise due diligence in selecting, instructing, or supervising such third parties.
3. These General Terms and Conditions apply whenever any claim is made against an employee, agent or other person Bertling engaged for the performance of the service (including any independent contractor) whether such claims are founded in contract or in tort, and the aggregate liability of Bertling and such employees, agents or other persons shall not exceed the limit applicable to the service concerned as expressly agreed between Bertling and the customer or following from these General Terms and Conditions.
4. Bertling is authorized to carry out the shipment of the goods by substituting himself for the third party he would otherwise deal with on the customer's behalf. If he makes use of this right, he has the rights and obligations of a carrier pertaining to the shipment. In such case Bertling is liable for damages to and loss of the goods in its care and custody.

With respect to services other than carriage of goods such as, but not limited to, storage, handling, packing or distribution of the goods, as well as ancillary services in connection therewith, Bertling shall be liable only in case such

services have been performed by Bertling itself using its own facilities or employees or Bertling has made an express undertaking to assume liability.

V. EXCLUSIONS, ASSESMENT AND MONETARY LIMITS OF LIABILITY

1. Bertling shall in no event be liable for:
 - loss or damage to goods, which occurs whilst the goods are not in actual custody and control of Bertling
 - valuables or dangerous goods unless declared to Bertling at the time of the conclusion of the contract
 - loss following from delay unless expressly agreed in writing

- indirect or consequential loss such as, but not limited to, loss of profit, loss of market and conventional fines
 - inherent vice and nature of the goods
 - consequences of loading and unloading operations which Bertling has not performed
 - lack of, or defective packing, markings or stowage insofar as Bertling has not executed the packing, markings or stowage
 - war, rebellion, revolution, insurrection, usurped power or confiscation, nationalization or requisition by or under orders of any government or public or local authority
 - natural disasters, acts of god, acts of robbery
 - circumstances which Bertling could not avoid and the consequence of which it was unable to prevent.
2. The value of the goods shall be determined according to the sales price as indicated in the sales invoice or, if there is no such invoice, the current market price at the time and place of taking over the goods or if there is no current market price, by reference to the normal value of the goods of the same kind and quality.
3. The liability of Bertling for any loss of or damage to the goods is limited to an amount equivalent of 2 SDR per kilogram of gross weight of the goods lost or damaged

If Bertling is liable in respect of loss following from delay, such liability shall be limited to an amount not exceeding the remuneration relating to the service giving rise to the delay. The aforementioned releases from and limitations of liability do not apply, if the damage was caused by intent or gross negligence of Bertling or its management staff or by violation of fundamental duties of the contract in which case damage claims shall be limited to foreseeable, typical damage as well as in cases covered by §§ 425 pp, 461 Abs. 1 of the German Commercial Code ("HGB") or by persons specified in §§ 428, 462 of the German Commercial Code acting intentionally or recklessly, knowing that damage to the goods would be probable.

Releases from and limitations of liability shall be considered as "aforementioned releases from and limitations of liability" within the meaning of these General Terms and Conditions only if they are provided herein in addition to the law applicable, to the exclusion of releases from and limitations of liability provided in statutory provisions or in international conventions. In particular this provision shall neither extend Bertling's liability nor its responsibility for agents, servants, employees, crewmembers or other third parties to the benefit of the customer beyond the content of provisions as for example article 25 of the Montreal Convention, article 36 of the CIM, article 21 of the CMNI or § 660 HGB.

VI. INSURANCE

Bertling arranges for the insurance of the goods (e.g., cargo or warehouse insurance) with an insurer of his choice only if instructed to do so in writing at the conclusion of the contract. All insurances effected are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. Unless otherwise agreed in writing Bertling shall not be under any obligation to effect a separate insurance on each consignment, but may declare it on any open or general policy held by Bertling.

Bertling Logistics

Bertling is obliged to cover its liabilities resulting from these terms with an insurer of his choice and will provide proof of his liability insurance cover upon the customer's written request.

VII. FORFEITURE

Upon delivery, the consignee shall check the condition of the goods, the quantity, the number and weight of packages and shall immediately report any apparent defects and missing items. Should any irregularity or missing item not be immediately apparent, the consignee shall send due reservations in writing within seven days after delivery. Otherwise, the conditions of the goods shall be deemed as delivered in the agreed upon condition. The same shall apply to claims resulting from delay if the consignee does not send due reservations in writing within 21 days after delivery of the goods.

VIII. CONDITIONS OF PAYMENT/LIEN

1. All monies due shall be paid without any reduction or deferment on account of any claim, counterclaim or set-off. This does not restrict the right of set-off with undisputed or legally decided claims.
2. Bertling shall, to the extent permitted by German law have a general lien on the goods and any documents relating thereto for any amount due at any time to Bertling from the customer including storage fees, uncontended remuneration from other freight forwarding contracts between Bertling and the customer and the cost of recovering same, and may enforce such liens in any reasonable manner.

IX. CLAIMS IN TORT

These General Terms and Conditions apply to all claims against Bertling whether the claim be founded in contract or in tort.

X. TIME BAR

Bertling shall, unless otherwise expressly agreed, be discharged of all liability under these Terms and Conditions unless suit is brought within one year after the delivery of the goods. The limitation period is three years if Bertling acted intentional or with gross negligence as per § 435 German Commercial Code.

XI. SEVERABILITY

The terms of these General Terms and Conditions shall be severable, and, if any part or term thereof shall be held invalid, such holding shall not affect the validity or enforceability of any other part or term thereof.

XII. GOVERNING LAW/ JURISDICTION

The legal relationship between Bertling and its customer shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. All actions against Bertling shall be in the sole jurisdiction of the courts in Hamburg, Germany.