

General Terms and Conditions of Packaging

1. General

- 1.1. Exclusively the General Terms and Conditions of Packaging of Schenker Deutschland AG (hereinafter called Schenker) apply; no terms of the customer which are contrary to or deviate from our Terms of Packaging will apply to the services scheduled to be rendered.
- 1.2. Schenker's General Terms and Conditions of Packaging will be valid for all contracts with the customer, including those made in the future.
- 1.3. Schenker's General Terms and Conditions of Packaging apply exclusively to corporate customers.

2. Scope of Services

- 2.1. If nothing is agreed to the contrary, Schenker's offers are without engagement. Solely the written confirmation of the order shall be the criterion for the scope of the services to be rendered by Schenker.
- 2.2. Any verbal agreements and all other statements, in particular subsidiary arrangements and amendments to the contract, must be recorded in writing in order to be effective. This also applies to the cancellation of agreements and to any undertakings, advice and statements given or made by Schenker personnel.
- 2.3. Schenker holds all ownership rights and copyrights to illustrations, drawings, calculations, models and any other documents; such documents must be treated as confidential and must not be made available to third parties without Schenker's express consent. Any production of copies is also subject to Schenker's consent.
- 2.4. Schenker has the right to appoint sub-contractors to render the contractual services.

3. Prices – Terms of Payment

- 3.1. If nothing is agreed to the contrary, Schenker's prices shall apply with addition of value-added tax at the statutory rate.

- 3.2. Any deduction of a discount or any other deductions are subject to prior written agreement.
- 3.3. If unforeseeable, more difficult working conditions result during the performance of the contract or if performance is delayed for reasons for which Schenker is not responsible, Schenker shall have the right to increase the prices to a reasonable extent in accordance with the extra work and expenditure necessary. This applies in particular if additional downtime costs for the personnel assigned by Schenker are incurred in the customer's operations.
- 3.4. The customer will only hold offsetting and retention rights if its counter-claim has been finally established by a court of law or is recognized or undisputed; in addition, a right of retention is only held insofar as the counter-claims are based on the same contractual relationship.

4. Obligations of the Customer

- 4.1. For due performance of the packaging order, Schenker must be supplied in due time with the goods to be packaged and they must be in a condition ready and suitable for performance of said packaging order. If nothing has been agreed in writing to the contrary, any parts that are particularly susceptible to corrosion must be cleaned and treated with suitable anticorrosion agents before being supplied to Schenker. In addition, the customer must have given notification in writing of the correct weight data and any other special features of the goods, which include, in particular, data on the center of gravity and information on the load fastening points for crane work. Hazardous goods must be declared in writing, giving the required data.
- 4.2. The customer must notify Schenker in writing of any additional treatment which may be necessary for the goods to be packaged. For example, Schenker must be informed of the goods for which further anticorrosion procedures need to be applied.

- 4.3. The customer must notify Schenker in writing of any particular risks resulting from public-authority regulations and from the requirements for the respective route of transport or for the means of loading and transportation (e.g. bulk carriers) or for general environmental influences in the event of possible subsequent storage.
- 4.4. The customer is responsible for the translation of packaging lists into other languages.
- 4.5. If nothing is agreed to the contrary, goods will be packaged at Schenker's operations. The customer is responsible for on-time delivery and collection of the goods. If it is agreed that a packaging order will be performed outside of our operations, the customer must provide the following free of charge for rapid and professional performance of the packaging order: adequate space, energy and the required hoisting devices, including the necessary operating personnel.
- 4.6. In due time before performance of the packaging order, Schenker must be provided in writing with all the documents and information necessary for performance and with the data required for labeling.
- 4.7. The customer is solely responsible for adequate insurance of the goods to be packaged and the packaged goods (e.g. insurance for transportation and for storage, fire insurance). A separate written agreement must be made if Schenker is to take out insurance for the customer. The customer will pay the associated costs separately.

5. Times of Performance – Default

- 5.1. If nothing is agreed in writing to the contrary, the particulars given in Schenker's written confirmation of order constitute the criterion for the time of performance.
- 5.2. The time of performance will be reasonably extended if unforeseen events occur, insofar as Schenker is not responsible for the delay. This shall apply irrespective of whether the delay occurs at Schenker or at another location.
- 5.3. If, during the time of performance, Schenker encounters physical conditions or artificial obstacles which are likely to make performance of the contract more difficult or to delay the same and which, in Schenker's opinion, were not able to be reasonably foreseen by an experienced entrepreneur, Schenker will notify the customer of the

occurrence by fax or telephone immediately after learning of the same.

If a case of force majeure occurs, the contracting partner which is affected will notify the other partner of the occurrence by fax or telephone immediately after learning of the same. When doing so, said partner must describe the relevant event in detail and state which contractual obligations it will not be able to meet or will only be able to meet subject to a delay. The respective contracting partner shall not be responsible for the delay in performance or impossibility of performance thus caused.

For the purposes of this contract, force majeure is deemed to be all unforeseeable events or any events which, even if they were foreseeable, are outside the sphere of influence of the relevant contracting partner and the effects of which on contractual performance cannot be prevented by reasonable effort. They include war (whether declared or not), warlike conditions, insurgency, revolution, rebellion, military or civilian coup, uprising, turmoil, riots, act of terror, blockade, piracy, embargo, government ruling, sabotage, strikes, go-slow strikes, lock-out, epidemics, fire, floods, storm tides, hurricane, typhoon or other storms of catastrophic size, earthquake, landslide, stroke of lightning, shipwreck, severe transportation accidents.

6. Passage of Risk

If nothing is agreed to the contrary, the risk of accidental destruction or accidental deterioration passes to Schenker upon hand-over of the unpackaged goods for packaging (ending of unloading process at place of performance of packaging services) and to the customer upon hand-over of the goods packaged by Schenker (beginning of loading process at place of performance of packaging services) but no later than when the customer receives the packaged goods. The same applies if the customer is in default with acceptance of the services.

7. Reservation of Title / Lien

- 7.1. Schenker reserves the title to its packaging materials until settlement of all liabilities to Schenker which have already been incurred by the customer.

- 7.2. To secure all of Schenker's claims under this contract, Schenker shall hold a contractual lien which is hereby agreed in respect of the goods given to Schenker for packaging or for performance of other work.

8. Liability for Defects

- 8.1. If the application of adequate state-of-the-art corrosion protection constitutes part of the packaging services to be rendered by Schenker, the agreed rust-proofing period, calculated as of the packaging date, must be observed as a condition of said services. No warranty of durability is given through this agreement.
- 8.2. If a defect occurs, Schenker holds the right of decision between remedying the defect and repeating the packaging services.
- 8.3. If subsequent performance proves unsuccessful, the customer has the right, at its discretion, to either rescind the contract or require a price reduction.
- 8.4. Further liability on the part of Schenker is governed by Section 9.
- 8.5. Defect claims are subject to a time limitation of 12 months as of the passage of risk.
- 8.6. For defect claims to be submitted by the customer, the latter must have met its duties of inspection and notification under Section 377 of the German Commercial Code (Handelsgesetzbuch, HGB).
- 8.7. The customer has an obligation to provide evidence that packaging services were defective. This also applies in particular if conserving packaging was opened or damaged for customs inspection. In particular, the customer must secure any evidence on site, so that Schenker is able to itself check the justification of the claim, in terms of both the basis and the amount of said claim.

9. Overall Liability

- 9.1. Schenker is liable in accordance with legal rulings if a breach of obligations for which Schenker is responsible is the result of intent or gross negligence.
- 9.2. If a breach of obligations attributable to Schenker is the result of ordinary negligence and a major contractual obligation has been

breached, Schenker will be liable within the limits of its liability insurance. The coverage of its liability insurance amounts to € 1,000,000.- per loss event.

- 9.3. If nothing is agreed to the contrary in Nos. 9.1 to 9.2., liability on the part of Schenker is ruled out. In view of the ruling in No. 9.2, the customer is free to require further insurance coverage for reason of a particular risk. If Schenker is able to take out further insurance for the customer, the customer has an obligation to pay the additional insurance premium incurred.

10. Limitation of Liability of Third Parties

Insofar as liability on the part of Schenker is ruled out or restricted above, this also applies to any claims which the customer may assert against Schenker's employees, collaborators, vicarious agents or sub-contractors.

11. Extraordinary Termination

The contract can be terminated by Schenker for good cause without observance of a period of notice. Such good cause can be, in particular,

- a) if instigation of insolvency proceedings relating to the assets of the customer is refused due to insufficient funds,
- b) if the customer fails to meet its major contractual obligations even after two reasonable periods of grace have been allowed for the remedying of the breach of contract,
- c) if Schenker can no longer be reasonably expected to uphold the contract.

In the event of extraordinary termination for any reason whatsoever, Schenker will receive the agreed remuneration for the services which can be proved to have been rendered prior to termination.

12. Legal Venue – Written Form – Area of Application – Escape Clause

- 12.1. The place of fulfillment and the legal venue, including for litigation between merchants relating to checks and bill of exchanges, are exclusively Schenker's seat of business. All contracts made by Schenker are governed by German law. This also applies in the event of foreign customers.
- 12.2. Any amendments or additions to a contract or any cancellation of a contract must always be recorded in writing. This also applies to the amendment, addition or cancellation of this written-form requirement.
- 12.3. This contract is governed by the law of the Federal Republic of Germany.
- 12.4. If one or more provisions in this contract should become ineffective and/or impracticable, the remaining provisions in the contract will not be affected thereby. In such a case, the parties are required to replace the ineffective and/or impracticable provision by an effective and/or practicable one approaching the financial intent of the parties as closely as possible. The same applies in the event of an omission.