

Offer Conditions of Schenker Deutschland AG relating to Land Transport

As at: September 2020



Offer Conditions of Schenker Deutschland AG relating to Land Transport As at: September 2020

The following contractual conditions apply to all individual contracts concluded with the Client by Schenker Deutschland AG relating to the procurement of land transport and all services connected thereto.

Schenker Deutschland AG is not obliged to conclude individual contracts. A contract for the procurement of a specific individual shipment – irrespective of the number of packages it contains – only comes into effect on written confirmation by Schenker Deutschland AG or on acceptance of the shipment for transportation.

Where the Client's purchase order relating to the implementation of the specific individual shipment is not accepted by Schenker Deutschland AG, Schenker Deutschland AG shall inform the Client of this within 24 hours in writing/by electronic communication.

Where individual contracts are concluded, the following contractual conditions apply:

General Conditions

1. Individual contracts concluded on the basis of this offer are governed exclusively by these conditions. The Client's general terms and conditions shall not form part of the contract even where they are not expressly excluded.
2. The offer is intended exclusively for the Client to whom it is addressed. The offer must be treated as confidential and may only be disclosed to third parties with our express written consent. The validity of the offer is based on the periods set out therein, in the absence whereof, the offer shall expire if no written acceptance is provided within 1 day of the date of issue.

Unless otherwise stipulated in the offer, the net cargo rate is increased by

- a) toll charges
- b) diesel charges
- c) postage/documents/telecommunications costs
- d) demurrage charges in the case of waiting times > 2 hours (total of loading + unloading + other waiting periods)
- e) costs arising from a customs examination
- f) charges and/or surcharges incurred abroad

Where, due to official measures beyond the control of Schenker Deutschland AG, additional costs arise between the time of the offer and the commencement of shipping, Schenker Deutschland AG shall be entitled to invoice for these additional costs. Where possible, Schenker Deutschland AG will notify the Client of this prior to the commencement of shipping without being legally obliged to do so.

3. Our offer is based on the transfer of non-hazardous "commercial goods" (within the meaning of the relevant hazardous goods regulations) which have been suitably packaged by the Client for safe transport in collective shipments by lorry and have been labelled accordingly. Unless otherwise agreed in writing in individual contracts, this prohibits inter alia hazardous goods, perishable goods, food, medicines, weapons and weapon parts, valuable items such as jewellery, works of art, antiques or other goods with a value over 1,000 euro/kg and other shipments which are subject to special handling requirements / guidelines / provisions.

Offer Conditions of Schenker Deutschland AG relating to Land Transport

As at: September 2020

Schenker Deutschland AG is not obliged to examine the shipment as to whether it is prohibited from transportation. Schenker Deutschland AG is entitled to refuse acceptance or further transportation where there is reason to believe that the shipment is prohibited from transportation under this Clause. The rights of Schenker Deutschland AG under Clause 14) of these conditions also apply. All accompanying documents necessary for transportation must have been submitted to Schenker Deutschland AG, in writing, prior to acceptance of the shipment for transportation.

4. Unless mandatory statutory rules take precedence, Schenker Deutschland AG operates exclusively in accordance with the Allgemeine Deutsche Spediteurbedingungen 2017 (ADSp 2017) (German Freight Forwarders' General Terms and Conditions 2017) and – if they do not apply for performing logistics services – with the Logistic-AGB (General Terms and Conditions of Logistics-Services Providers), as of 2019. The full text of the ADSp 2017 is available under the following link:

<http://www.dbschenker.de/log-de-en/adsp.html>

In clause 23 the ADSp 2017 deviates from the statutory liability limitation in section 431 German Commercial Code (HGB) by limiting the liability for multimodal transportation with the involvement of sea carriage and an unknown damage location to 2 SDR/kg and, for the rest, the customary liability limitation of 8,33 SDR/kg additionally to EUR 1,25 million per damage claim and EUR 2,5 million per damage event, but not less than 2 SDR/kg.

Schenker Deutschland AG has taken out indemnity insurance pursuant to Clause 28 ADSp 2017 with AXA Corporate Solutions, Cologne.

5. Unless otherwise stipulated in the offer, Schenker Deutschland AG will only arrange transport and / or warehouse insurance at the Client's expense where the latter issues a corresponding written/electronic purchase order.

Schenker Deutschland AG will procure insurance for the goods (e.g. transport or warehouse insurance) from an insurer of its own choice where the Client commissions it to do so prior to handover of the goods. The insured amount corresponds to the net invoice value not including value added tax. Schenker Deutschland AG is entitled but not obliged to procure insurance for the goods where this is in the Client's interest.

6. Any party affected by a case of force majeure is not responsible for the resulting delay or impossibility. Force majeure within the meaning of this document is deemed to be any unavoidable incident or an incident which – even if foreseeable – is beyond the control of the affected party and whose impact on contractual performance cannot be prevented by the reasonable efforts of the affected party.
7. Schenker Deutschland AG is free to choose sub-contractors.
8. Unless otherwise stipulated in the offer, all shipments are exclusive of customs clearance (ATLAS procedure), customs duties and taxes; Schenker Deutschland AG is happy to submit an offer for customs clearance on request.
9. Information on customs tariffs provided by Schenker Deutschland AG is in principle non-binding and subject to change. It does not discharge the Client or the Client's agent from examining the customs tariff numbers.
10. The offer is only valid for freight charges paid in Germany and where the purchase order is placed with the office of Schenker Deutschland AG which issued this offer.
11. Unless otherwise expressly agreed, offers and invoicing for services take place exclusively in EURO.

Offer Conditions of Schenker Deutschland AG relating to Land Transport

As at: September 2020

12. Unless otherwise indicated in the offer, all invoices are due immediately without deductions. The Client shall be in default of payment, without the need for a reminder, no later than 10 days after the invoice date, unless default occurs earlier by law.
13. All the aforementioned prices are net prices not including statutory value added tax at the applicable rate in Germany.
14. The Parties agree that export, import and re-export of goods and/or the provision of related services may be subject to trade laws and regulations validly enacted by a competent authority ("Trade Regulations"), which may inter alia include EU and U.S. export laws and regulations. Each Party warrants and represents that, in the fulfilment of its obligations under the Agreement it complies and will continue to comply with all Trade Regulations applicable to it, which may include, but not be limited to sanctions requirements, antiboycott restrictions and restricted party screening in export, customs, import and in-country activities.

Customer is responsible for determining whether Customer's goods are subject to such Trade Regulations and will obtain all necessary licenses, approvals, authorizations and/or exemptions thereto and will provide Schenker with all relevant information Schenker may reasonably request for review of compliance with Trade Regulations prior to Schenker's performance of respective Services.

With respect to Services related to countries for which U.S. embargos have been imposed or are imposed in the future, Customer specifically confirms that

- a. these shipments will not contain U.S. origin products or products with a U.S. content, except in accordance with an applicable authorization from competent U.S. government authorities and
- b. shipments and/or other services related to such countries will have no U.S. connections, unless such shipments and/or services are authorized by competent U.S. government authorities.

Schenker reserves the right to suspend provision of Services without any liability in cases where any trade restrictions apply, are newly imposed/ re-imposed, or amended.

Customer acknowledges that Schenker is not obligated and will not provide services relating to goods for internal repression, ITAR goods and/or military goods and warrants to not hand over or have handed over such goods to Schenker for the provision of services.

15. Where one or more provisions contained in this document is invalid or impracticable, this will not affect the validity of the other provisions contained herein. The same applies in the event of any omissions in the Contract.
16. Any addenda or amendments to this Contract must be recorded in writing in order to be valid. This shall also apply to a possible waiver of this written form obligation. No oral ancillary agreements have been made.
17. The exclusive place of jurisdiction is the location of the registered office of the branch of Schenker Deutschland AG with which the order is placed. The foregoing provision applies only in the absence of any requirement to the contrary under mandatory international law. German law applies.