

General terms and conditions of purchase

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Chapter I General

Article 1 Definitions

The following terms and expressions will be defined in these general terms and conditions of purchase as follows:

- 1 **Client:** Schenker Logistics Nederland BV and associated companies, user of these Terms and conditions of purchase;
- 2 **Supplier:** the party who delivers Goods and/or Services to the Client pursuant to the Agreement;
- 3 **Agreement:** the written agreements between the Client and the Supplier regarding the delivery of Goods and/or Services, regardless of the form (quotation, contract etc.);
- 4 **Goods:** material objects to be delivered, including assembly and/or installation thereof;
- 5 **Services:** services to be provided by the Supplier for the benefit of the Client, insofar as they do not consist of the delivery of goods;
- 6 **Delivery:**
 - A. **of Goods:** realising the possession by, or bringing under the control of, the Client of one or more goods, regardless of the manner in which (purchase, rental, loan etc.) and the possible installation/assembly of these goods;
 - B. **of Services:** provision of services for the benefit of the Client.
- 7 **Performance:** depending on the concrete circumstances: the Delivery of Goods, the Delivery of Services or the Delivery of Goods and Services.
- 8 **Parties:** Client and Supplier jointly.

Article 2 Applicability

- A These Terms and conditions of purchase apply to all requests, offers and orders relating to the Delivery of Goods and/or Services by the Supplier to the Client, whereby the general terms and conditions of the Supplier – irrespective of how they were communicated, whether in the quotation, work order or invoicing – are expressly rejected.
- B The Parties may agree on special obligations in the Agreement. In the event of a conflict between the special obligations and these terms and conditions of purchase, the special obligations shall prevail.
- C If a provision of these terms and conditions of purchase is void or is nullified, the remaining provisions will remain in force and the Parties will consult in order to agree on a new provision (or provisions) to replace the void or nullified provision(s), whereby as much as possible the purpose and intent of the void or nullified provision(s) are taken into account.

Article 3 Amendments

- A Client is at all times authorised in consultation with Supplier to change the scope and/or quality of the Goods and/or Services to be delivered. Changes will be agreed in writing.
- B If, in the opinion of the Supplier, a change has consequences for the agreed fixed price and/or the time of delivery, the Supplier is obliged, before giving effect to the change, to inform the Client about this as soon as possible, no later than 8 working days after the notification of the intended change. If, in the opinion of the Client, the effect on the price and/or time of delivery is unreasonable, the Parties shall consult in this regard.

Article 4 Transfer of obligations

- A** The Supplier can only transfer an obligation under the Agreement to a third party with the prior written consent of the Client. Reasonable conditions may be attached to this consent. At the least, the Supplier will provide the coordinates of these third parties to the Client.
- B** In cases of transfer to a third party of (part of) the Supplier's obligations arising from the Agreement, the Supplier is obliged to notify the Client which collateral is provided for the payment of VAT, payroll tax and social security contributions, which are required by law for employers.
- C** The Supplier remains responsible and liable to the Client at all times for conduct and/or omissions of third parties engaged by it in connection with the performance of the Performance or duty of care. The Supplier indemnifies the Client against any claims of third parties involved in the completion of the Performance.
- D** The Supplier shall ensure that it complies with all obligations under social law and tax law with respect to the third parties appointed by it and shall indemnify the Client at all times against all claims in respect of third parties, government agencies or personnel. Payments that must be made by the Client in the context of claims under the aforementioned paragraph will automatically be deducted from the invoices of the Supplier.

Article 5 Price and payment

- A** The prices as included in the Agreement are exclusive of VAT and include all costs (including but not limited to insurance, shipping, transport and installation costs) and levies in connection with the fulfilment of the Supplier's obligations.
- B** The prices are fixed, unless the Agreement states the circumstances that can lead to a price adjustment and the way in which the adjustment takes place.
- C** Payment of the invoice, including VAT, will take place 60 days after the invoice date.
- D** Client is entitled to suspend payment if it finds a shortcoming in the Goods and/or Services and any installation/assembly thereof.
- E** The Client has the right to deduct any due and payable amounts owed by the Supplier to the Client from the invoice.
- F** Payment by the Client does not in any way waive any right, nor does acceptance of the Delivery.
- G** The Client always has the right to pay the payroll taxes and turnover tax owed by the Supplier in connection with the work, for which he is jointly and severally liable pursuant to Articles 34 or 35 of the 1990 Recovery Act, to the Supplier by depositing it in his blocked account within the meaning of the aforementioned articles of law.
- H** By depositing funds in the blocked account pursuant to paragraph 4, the Client meets its payment obligations to the Supplier.
- I** If the Client erroneously fails to pay the due amount on time on the basis of the Agreement, the Supplier shall claim the statutory interest until the day that the Client still pays, only after proper notice of default and a reasonable rectification period. Any relevant collection costs will be determined on the basis of the Extrajudicial Collection Costs Scale (BIK).
- J** The invoice will contain, as far as relevant and/or communicated, the following: PO numbers; a detailed list of the performances charged and rates/prices. The work orders approved by the Client shall also be attached to the invoice.
- K** The Supplier undertakes to invoice its Performance no later than 6 months after its execution.

Article 6 (Time of) Delivery

- A** The Supplier will complete the Performance to the highest standards of good and proper work and in accordance with the Agreement. The Performance must have the characteristics necessary for the purpose for which the Performance is intended.
- B** The agreed time of the Delivery of the Performance is essential and is always included in the Agreement. Except in the event of force majeure, the Supplier is in default in the event of late delivery, without further notice of default. If Supplier expects delivery not to be timely in accordance with the agreements, the Supplier shall immediately inform the Client's purchasing department thereof in writing, indicating the circumstances giving rise to this and immediately suggests a proposal for bridging measures. Supplier is only entitled to provide an alternative Performance after the Client has given written consent.
- C** The Supplier must immediately notify the Client in writing of any imminent exceeding of the agreed time of Delivery. This does not affect any consequences of such delay in accordance with the Agreement or statutory provisions.
- D** In case of delivery, a packing list must be present; this must be clearly visible on the outside of the shipping package. The Client's order number(s) must be mentioned on the packing list, as well as the item number(s), number(s), article description(s), and lot numbers.

Article 7 Duration and termination

- A** Unless otherwise agreed in the Agreement, the Performance shall be binding for one year from the date on which such Performance is posted with the Supplier or, if a due date is included in the Order, until such date.
- B** At the end of the term, the Agreement will not be automatically renewed but will terminate by operation of law, unless the Client notifies the Supplier of its wish to renew the Agreement at least 30 days prior to the end of the term.
- C** The Agreement shall terminate by operation of law if the Supplier fails to comply with any or all of its obligations under the Agreement or any other agreements arising therefrom, fails to comply in a timely manner or fails to comply properly and in any event if:
 - Supplier is declared bankrupt/placed under guardianship or administration;
 - Supplier requests or obtains suspension of payment or a judicial reorganisation;
 - Supplier offers or enters into an out-of-court debt settlement;
 - Supplier discontinues or transfers its business (or any relevant part of its business) to a third party, or otherwise liquidates;
 - Liens are imposed in such a way that the business activities of the Supplier must be feared on good grounds of continuity of the business activities of the Supplier (relevant for the Client or a significant part thereof);then the Client has the right, without further notice of default and/or judicial intervention, to dissolve the Agreement in whole or in part, without prejudice to the Client's right to compensation for all damages, costs (including the related judicial and extra-legal costs) and interest.
All claims that the Client may have or obtain from the Supplier in these cases will be immediately and fully due and payable.
- D** Notwithstanding a dissolution of the Agreement as referred to in Article 8 (A) of these terms and conditions, the Client retains all its rights and the Supplier retains all its obligations as regulated in these terms and conditions or arising from the law.
- E** The Client is at all times entitled to terminate the agreement in whole or in part by means of written notice, provided that a notice period of three months is observed. In such a case, the Client will only reimburse the Supplier for the direct costs incurred prior to termination, supplemented by the direct costs for termination of the Agreement.

Article 8 Warranties

- A** The Supplier expressly warrants the soundness of the Products and/or Services it delivers. These warranties shall include at least:
- Goods and/or Services will be selected, designed, produced and assembled by the Supplier based on the use as specified by the Client and will be suitable and sufficient for the purposes as intended by the Client;
 - Goods are new, of good quality, and free from defects in design, processing, manufacture, construction and dimensioning, as well as free from defects in the parts and/or materials used; regardless of their nature or origin;
 - Goods and/or Services are manufactured or executed in accordance with the latest state of the art;
 - All Performances will be performed in an expert and professional manner, consistent with all standards and specifications agreed with the Client and otherwise consistent with industrial standards.
 - Goods comply with the communicated performance capabilities
 - Goods and/or Services fully comply with all applicable regulations, laws, decisions, standards etc.
- B** Goods and/or Services shall in any case be deemed to be defective if defects arise within one year after Delivery, unless this is due to gross negligence/intent on the part of the Client, deliberate misuse by the Client or a significant lack of maintenance by the Client.
- C** The warranty period for the Goods and/or Services will be two years, whichever is later: (i) from the day the Client accepts the Goods and/or Services; (ii) after the warranty period, as provided for by applicable law.
- D** The Supplier shall notify the Client immediately in writing as soon as it becomes aware of any part, component, design or defect in the Goods and/or Services that is or may be harmful to persons or property.

Article 9 Intellectual and industrial property rights

- A** Supplier warrants the Client's free and undisturbed use of the delivered goods. Supplier indemnifies the Client against the financial consequences of third-party claims for infringement of their intellectual and industrial property rights.
- B** The Supplier is only entitled to use the information provided by the Client if this use is related to the Agreement. The provision of this information does not in any way affect the property rights of the Client, who thus remains the owner of this information.
- C** Objects and working methods that the Supplier has developed in cooperation with the Client or in the Performance for the Client become the property of the Client and may only be made available to third parties with the written consent of the Client. The knowledge acquired by the Supplier during this development is exclusively available to the Client and will not be disclosed by the Supplier to third parties or used for its own benefit and/or for the benefit of third parties, unless the Client has given written permission to do so prior to such use.

Article 10 Documentation

- A** The Supplier is obliged to make the accompanying documentation available to the Client prior to or at the same time as the Delivery. This documentation (insofar as relevant) concerns, but is not limited to, execution drawings and/or details, plans, documents, technical information, manuals, CE (technical and/or construction) file (in accordance with the latest version of Machinery Directive 2006/42/EC), commissioning inspection and/or details.
- B** Client is free to use this documentation, including copying it for its own use.

Article 11 Liability

- A** The Supplier is liable for and shall indemnify the Client against all damage suffered by the Client or third parties as a result of a shortcoming or negligence in the execution of the Agreement and/or as a result of unlawful acts by the Supplier, its personnel or other persons or third parties that the Supplier engages in the execution of the Agreement.
- B** The Supplier is obliged to fully compensate the Client or third parties for this damage, regardless of whether the damage was caused by the Supplier itself, its personnel or by other persons that the Supplier involves in the execution of the Agreement.
- C** The Supplier shall indemnify the Client for all claims in connection with the Performance that are addressed to the Client by third parties, unless this claim is exclusively attributable to the Client.
- D** The Supplier is obliged, at its own expense, to adequately insure its liability arising from the Agreement or the law with a first-class European insurance company. Such liability insurance in any case includes occupational accidents, business and professional liability insurance.
The Client may, by simple request, request proof of insurance and premium payment from the Supplier.
- E** The insurance certificates of the policy or policies mentioned under 11(D) will be provided to the Client on first request, and the Supplier will demonstrate after request of the Client that it has paid the relevant insurance premiums.
- F** Within the legal limits, claims between the Parties for both contractual and extra-contractual damages caused by the non-performance of a contractual obligation shall be governed exclusively by their contractual agreements and, in addition, contract law, to the exclusion of the legal provisions on extra-contractual liability.
Within the legal limits, the Parties mutually waive any extra-contractual liability claim for damages caused by the non-performance of a contractual obligation against the following categories of their auxiliary persons: directors, employees, independent consultants and interim staff.

Article 12 Confidentiality, Data Security and Personal Data

- A** The Supplier shall keep the existence, nature and content of the Agreement as well as other company information secret and shall not disclose anything about it without written permission from the Client. The Supplier guarantees that its employees will comply with the same confidentiality obligation.
- B** The Supplier is not permitted to communicate publicly about its involvement in a Client's project without the prior written consent of the Client, for example during meetings (such as conferences and symposia) or by means of brochures or publication in newspapers, (technical) magazines, trade journals, newspapers for a broad public, social media or otherwise.
- C** Any consent of the Client will in any case be subject to the condition that the Client's involvement is correctly stated, all this at the discretion of the Client.
- D** In the event of a breach of this clause by the Supplier, the Client shall give the Supplier notice of default in writing. The Supplier will then pay as compensation a lump sum of 10,000 euros per established infringement, without prejudice to the right of the Client to demand additional compensation if this sum does not fully compensate for the damage.
- E** The Supplier warrants that all European and legal provisions concerning the data to be processed, including in particular the provisions of or pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation - GDPR), are and will be strictly observed. Supplier will promptly provide Client with the requested information. In any case, the Supplier will take appropriate technical and organisational measures to ensure a level of security tailored to the risk. The Supplier shall indemnify the Client against all claims of third parties that may be asserted against the Client due to violation of the applicable privacy law and/or regulations and/or statutory retention periods.
- F** Agreements between the Client and the Supplier regarding the processing of (also indirectly traceable) personal data will be recorded in writing. If at any time it is established that the Supplier is a processor on behalf of or for the benefit of the Client, these agreements will be laid down in a processor agreement.

Article 13 Order, safety and the environment

- A** The Supplier and its employees and any third parties engaged by the Supplier shall comply with all safety, health and environmental regulations prescribed by the laws of the Netherlands. All own waste, rubbish and packaging left by the Supplier and/or its (sub)contractors or its suppliers must be cleared, disposed of and processed by the Supplier in accordance with the applicable environmental legislation, all at its own and exclusive expense.
- B** Any business requirements and regulations of the Client in the field of safety, health and environment must also be followed. A copy of these requirements and regulations is immediately available to the Supplier free of charge upon request.

Article 14 Applicable law and disputes

- A** These Terms and conditions of purchase, the Agreement and other agreements resulting therefrom and/or related thereto are governed by Dutch law. Foreign law and treaties including, but not limited to, the Vienna Sales Convention are excluded.
- B** Disputes between the Parties, including those which are only regarded as a dispute by one of the Parties, will be resolved as far as possible in consultation.
- C** If the Parties fail to reach a solution, the disputes will only be submitted to the competent courts and tribunals in the district in which the Client's company is located. However, the Client reserves the right to apply to other courts and tribunals in this regard.

Article 15 Compliance

- A** Supplier represents and warrants that it, as well as each of Supplier's affiliates and any other third party that provides services to Supplier hereunder (hereinafter collectively referred to as "Representatives"), will perform its duties and obligations under these Terms and conditions and the Agreement in accordance with all applicable laws, requirements and regulations, including, but not limited to, applicable anti-corruption laws. The Supplier also declares and guarantees that it will comply with, and will ensure that its representatives will comply with, the DB Code of conduct for business partners – Annex 1; as well as the Standard of Business Conduct (Annex 2).
- B** A violation of criminal law, including but not limited to the applicable anti-corruption laws, by Supplier and/or its Representatives, in connection with the completion of the Performance and obligations under these Terms and conditions and the Agreement shall be deemed a material breach for the purposes of this article. An investigation by the Supplier and/or its Representatives by the government in connection with this is also regarded as such a material infringement. In the event that the Client has reason to believe that a material breach of a contractual obligation and/or guarantee has occurred, the Supplier will cooperate fully and in good faith with the Client in order to determine whether a breach has occurred.
- C** The Supplier further represents and warrants that:
 - I** it agrees that the export, import and re-export of goods may be subject to certain commercial laws and regulations validly enacted by a competent authority, including, but not limited to, European Union and United States export laws and regulations ("Trade Regulations").
 - II** it warrants and declares that, in fulfilling its obligations under the Agreement, it will comply with all applicable commercial regulations, which may include, but are not limited to, sanctions requirements and screening of restricted parties in respect of exports, customs, imports and activities in the country.
 - III** It further warrants and represents that neither it nor its affiliates, shareholders or directors have previously been placed on, or are currently on, an applicable list of sanctions or restricted parties, which may include, but is not limited to, EU and US lists. Supplier further warrants and represents that it is not currently owned by one or more limited party(s) for 50% or more, individually or in total.

Article 15 Compliance

IV The Supplier agrees to protect and apply in its activities and in its supply chain the human rights, minimum social and environmental standards laid down in the legislation applicable in the country where the Client, SCHENKER AG and/or the Supplier are registered and/or where the Services are provided, regardless of whether or not this legislation applies directly to the Supplier (e.g.: Supply Chain Due Diligence Act, Germany; Law relating to the duty of vigilance of parent companies and ordering companies, France; Child Labour Due Diligence Law, the Netherlands; Modern Slavery Act, Great Britain).

D In the event that a material breach of obligations and guarantees has occurred, the Supplier will – to the fullest extent permitted by law – indemnify, defend and hold harmless the Client, for all damages, claims, costs, liabilities or other losses arising from or in connection with such a breach. Furthermore, if a material breach of an obligation and/or guarantee has occurred, the Client will have the right to terminate the Agreement by means of a written notification with immediate effect. Such termination shall not affect, or affect, any right to damages or any other right or remedy that the Client may have under the Agreement or applicable law. The Client is entitled to withhold all payments (still due) that can be offset against all damages, claims, costs, liabilities or other losses arising from or in connection with such a violation.

E *Use of third parties* - The Supplier will not engage in services of third parties (including but not limited to any subcontractors or agents and self-employed persons without personnel) for the performance of its tasks and obligations under the Agreement, unless these third parties (I) are subject to contractual compliance provisions that are in all material respects comparable to those included in this section and (II) which have been approved in writing by the Client prior to the Performance of services.

F *Consultancy condition* - Contracts with active or former members of the board of directors and directors or senior managers of German and foreign companies affiliated with Deutsche Bahn AG in accordance with Article 290 of the German Commercial Code (HGB), as well as executives of the Group and politically exposed persons (PEP), are subject to special provisions and approval procedures carried out by Schenker and Deutsche Bahn AG due to specific legal and internal DB requirements or specific public interests/reputational risks. A politically exposed person (PEP) in this context is a person who holds or has held a high-profile public position at international, European or national level (or who holds or has held a public position of comparable political importance at national level). These include, in particular: (a) Heads of State, Heads of Government, Ministers, Members of the European Commission, Deputy Ministers and State Secretaries, (b) Members of Parliament and Members of similar legislative bodies, (c) Members of the political parties' governing bodies, (d) Members of the governing bodies of the Court of Auditors, (e) Members of the governing, managing and supervisory bodies of state-owned enterprises in Germany or abroad. 'Former position' shall mean (a) holding one of the above-mentioned positions less than two years ago or (b) holding a position on the Management Board at any time or as a director, senior manager or manager within the DB Group, irrespective of how long ago that has been.

For this reason, the Supplier undertakes, if he is a natural person, to inform the Client in text form if he belongs to one of the groups of persons referred to in paragraph 6. If the Supplier is a legal person or company, the Supplier undertakes to inform the Client in text form if a natural person belonging to one of the groups of persons referred to in paragraph 6 directly or indirectly owns more than 25% of the shares in the capital or the voting rights within the company of the Supplier.

Violation of the obligations imposed in the aforementioned paragraphs gives the Client the right to terminate the agreement without notice, without giving reasons. Further rights and claims of the Client remain unaffected.

Article 16 Miscellaneous

A The language of this agreement is Dutch.

B Each of the Parties declares to choose its domicile at the address of its registered office. In the event of relocation of the registered office, this must be immediately notified in writing to the other Party.

C If one or more provisions of the Agreement are declared invalid, unlawful or inapplicable, this invalidity, illegality or inapplicability shall not affect the validity of the other provisions. The Parties will immediately start negotiations in good faith on the insertion of a legally valid clause that replaces the objection and that is closest to the clause to be replaced.

Chapter II Special conditions regarding the Delivery of goods

Article 17 Place and time of Delivery of goods

- A** Delivery of Goods takes place at the location and time agreed in the Agreement. Delivery of Goods is made according to the applicable Incoterm DDP (Delivered Duty Paid).
- B** Client has the right to postpone the Delivery of Goods. In this case the Supplier shall store, conserve, secure and insure the goods in a properly packaged, separated and recognisable manner.

Article 18 Transfer of risk and title

- A** The title to the Goods is transferred to the Client after the Goods have been delivered and, if necessary, assembled or installed. The Supplier is obliged to ensure unencumbered ownership of the goods. The Supplier waives any right to the goods that would accrue to it, for example right of retention and right of return.
- B** In the event that the Client makes materials, such as raw materials, consumables, tools, drawings, specifications and software available to the Supplier for the fulfilment of its obligations, these remain the property of the Client. The Supplier shall store these separately from objects that belong to itself or to third parties. The Supplier will mark them as the property of the Client.
- C** The moment materials, such as raw materials, auxiliary materials, and software from the Client are processed in the Supplier's goods, a new item is involved, the ownership of which belongs to the Client.
- D** The risk of the Goods transfers to the Client at the moment that the delivery and subsequently the approval of the Goods have taken place.

Article 19 Inspection

- A** Client is entitled at all times to inspect Goods or have them inspected during production, processing and storage and after delivery.
- B** At first request, the Supplier will provide access to the Client or its representative to the place of production, processing or storage. The Supplier shall cooperate in the inspection free of charge.
- C** If an inspection as referred to in this article cannot take place at the proposed time because of Supplier's acts or omissions, or if the inspection has to be repeated for the same reason, Supplier will be liable for the costs incurred by Client as a result.
- D** If delivered Goods are rejected, Supplier shall ensure the repair or replacement thereof within five working days. If Supplier does not comply with this obligation within the period stipulated in this article, Client will be entitled to purchase the necessary goods from a third party, take measures itself or have measures taken by a third party at Supplier's expense and risk.
- E** If Supplier does not collect the rejected goods within 7 days, Client will be entitled to return the Goods to Supplier at the Supplier's expense.

Article 20 Packaging

- A** Client will be entitled to return the transport and other packaging material at Supplier's expense at all times.
- B** Supplier is responsible for the processing and/or destruction of transport and other packaging material. If packaging materials are processed or destroyed at the request of the Supplier, this is done at the risk and expense of the Supplier.

Chapter III Additional terms and conditions for the provision of services

Article 21 Delivery of Services

- A** With regard to the Delivery of Services, a temporary interruption due to (a force majeure situation not attributable to the Supplier) automatically entails an extension of the original term and this for a period equal to the duration of the interruption.
- B** In the event that the Delivery is not made on time, the Client will suffer a disadvantage which must be reimbursed by the Supplier and which is fixed at 5/1000 of the price per calendar day of delay with a maximum of 5% of the price.

Article 22 Staff

- A** The Supplier must deploy sufficient personnel in number and ability to ensure the good progress of the Performance.
- B** The Client may – in a reasoned manner – demand that staff members, whom it considers to be incapable or of bad will, be removed before carrying out the task assigned to them and replaced immediately if necessary.

Annex: DB Code of Conduct for Business Partners

link: [Code of Conduct 2024](#)