

UPS Terms and Conditions of Carriage

The Romanian language version of the UPS Terms and Conditions of Carriage is the governing document. The English language translation is provided for convenience only.

1. Introduction

- A. These terms and conditions ("terms") set out the basis on which UPS will transport packages, documents and envelopes ("packages"). These terms are supplemented by the current applicable UPS Service and Tariff Guide ("the Guide"). The Guide contain important details about the services of UPS which the shipper should read and which form part of the agreement between UPS and the shipper.
- B. The term "UPS" will mean and the shipper's contract will be with SC UPS ROMANIA SRL, headquartered in Bucharest, 81, Calea 13 Septembrie, bloc 77A, ground floor, sector 5, registered with the Bucharest Trade Register under no. J40/6527/2000, Fiscal Code: R013191000, with postal address at the working point located in Otopeni, 11C, Aurel Vlaicu Str., Ilfov county. That company will also be the (first) carrier of the goods for the purposes of the Conventions referred to in paragraph C.
- C. Where carriage by air involves an ultimate destination or stop outside the country of origin the Warsaw Convention may apply. The Warsaw Convention governs and in most cases limits the liability of carriers in respect of loss of or damage or delay to cargo. (For the purpose of these terms the phrase "the Warsaw Convention" means (i) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12th October 1929 or (ii) that Convention as amended or supplemented by any protocol or supplementary convention or (iii) the Montreal Convention 1999, whichever is applicable.) Notwithstanding any clause to the contrary, international carriage by road may be subject to the provisions of the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19th May 1956 ("the CMR Convention").
- D. A shipment may be carried via any intermediate stopping places that UPS deems appropriate UPS may engage sub-contractors to perform services and contracts both on its own behalf and on behalf of its servants, agents and sub-contractors each of whom shall have the benefit of these terms.
- E. In these terms, "Waybill" shall mean a single UPS waybill/consignment note or the entries recorded against the same date, address and service level on a pick-up record. All packages covered under a Waybill shall be considered a single shipment.

2. Scope of Service

Unless any special services are agreed, the service to be provided by UPS is limited to the pick up, transportation, customs clearance where applicable and delivery of the shipment. The shipper acknowledges that shipments will be consolidated with those of other shippers for transport and that UPS may not monitor the inbound and outbound movement of individual shipments at all handling centres.

UPS is not a common carrier and reserves the right in its absolute discretion to refuse carriage to any package tendered to it for transportation.

3. Conditions of Carriage

This section sets out various restrictions and conditions which apply to the carriage of packages by UPS. It also explains what the consequences are of the shipper presenting packages for carriage which do not meet these requirements.

3.1 Service Restrictions and Conditions

Packages must comply with the restrictions in paragraphs (i) to (iv) below.

- (i) Packages must not weigh more than 31.5 kilograms (or 70 lbs) or 70 kilograms (or 150 lbs) (depending on the country where the shipment is presented to UPS for carriage and the country of destination, as specified in the Guide) or exceed 270 centimetres (or 108 inches) in length or a total of 419 centimetres (or 165 inches) in length and girth combined.
- (ii) The value of any package may not exceed the local currency equivalent of USD 50,000. In addition the value of any jewellery and watches, other than costume jewellery or costume watches, in a package shall not exceed the local currency equivalent of USD 500.
- (iii) Packages must not contain any of the prohibited articles listed in the Guide including (but not limited to) articles of unusual value (such as works of art, antiques, precious stones, stamps, unique items, gold or silver), money or negotiable instruments (such as cheques, bills of exchange, bonds, savings books, pre-paid credit cards, share certificates or other securities), firearms and dangerous goods.
- (iv) Packages must not contain goods which might endanger human or animal life or any means of transportation, or which might otherwise taint or damage other goods being transported by UPS, or the carriage, export or import of which is prohibited by applicable law.

The shipper shall be responsible for the accuracy and completeness of the particulars inserted in the Waybill and for ensuring that all packages set out adequate contact details for the shipper and receiver of the package and that they are so packed, marked and labelled, their contents so described and classified and are accompanied by such documentation as may (in each case) be necessary to make them suitable for transportation and to comply with the requirements of the Guide and applicable law. Unless a different service level is clearly selected on the Waybill or other applicable UPS shipping documentation, shipments will be carried under the Express service (where available to the selected destination) and all applicable charges will be calculated accordingly.

The shipper guarantees that all packages presented for carriage under these terms comply with the restrictions in paragraphs (i) to (iv) above and have been prepared in secure premises, by him (in the case of an individual shipper) or by reliable staff employed by him or (where different) by the party handing over the shipment to UPS and have been protected against unauthorised interference during their preparation, storage and transportation to UPS. UPS relies on this guarantee in accepting any package for carriage hereunder. Any other packages are excluded from carriage.

3.2 Perishable and temperature sensitive goods will be transported provided that the shipper accepts that this is at its risk. UPS does not provide special handling for such packages.

3.3 Refusal and Suspension of Carriage

- (i) If it comes to the attention of UPS that any package does not meet any of the above restrictions or conditions or that any COD amount stated on a COD Waybill exceeds the limits specified in paragraph 8, UPS may refuse to transport the relevant package (or any shipment of which it is a part) and, if carriage is in progress, UPS may suspend carriage and hold the package or shipment to the shipper's order.
- (ii) UPS may also suspend carriage if it cannot effect delivery, if the receiver refuses to accept delivery, if it is unable to effect delivery because of an incorrect address (having used all reasonable means to find the correct address) or because the correct address is found to be in another country from that set out on the package or Waybill or if it cannot collect amounts due from the receiver on delivery.
- (iii) Where UPS is entitled to suspend carriage of a package or shipment, it is also entitled to return it to the shipper at its own discretion.

3.4 The shipper will be responsible for the reasonable costs and expenses of UPS (including storage), for such losses, taxes and customs duties as UPS may suffer and for all claims made against UPS because a package does not meet any of the restrictions, conditions or representations in paragraph 3.1 above or because of any refusal or suspension of carriage or return of a package or shipment by UPS which is allowed by this paragraph 3. In the case of the return of a package or shipment, the shipper will also be responsible for paying all applicable charges calculated in accordance with the prevailing commercial rates of UPS.

3.5 If the shipper tenders to UPS a package which fails to comply with any of the restrictions or conditions in paragraph 3.1 above without UPS' express written consent, UPS will not meet any loss howsoever arising which the shipper may suffer in connection with the carriage by UPS of such package (regardless of whether that failure to comply has caused or contributed to the loss and notwithstanding any negligence, except wilful misconduct, of UPS or any negligence, including wilful misconduct, of its employees, contractors or representatives) and, if UPS does suspend carriage for a reason allowed by these terms, the shipper shall not be entitled to any refund on the carriage charges it has paid. UPS may bring a claim in respect of such non-compliance.

3.6 If, having suspended carriage of a package or shipment in accordance with these provisions, UPS is unable within a reasonable time to obtain the shipper's instructions on disposition of the package or shipment, or to identify the shipper or any other person entitled to the goods (having if necessary opened the package), UPS shall be entitled to destroy or sell the package or shipment, at its absolute discretion. The proceeds of any such sale shall first be applied to any charges, costs or expenses (including interest) outstanding in respect of the package or shipment or otherwise from the shipper concerned. Any balance shall be held to the shipper's order.

3.7 UPS reserves the right, but is not obliged, to open and inspect or scan by means of x-ray any package tendered to it for transportation at any time.

4. Customs Clearance

Where a package requires customs clearance, it is the shipper's responsibility to provide complete and accurate documentation for the purpose but UPS will unless instructed otherwise act as the shipper's agent in obtaining customs clearance. Provided that, in the case of shipments whose points of despatch and destination are both within the same customs area, UPS will only perform customs clearance if instructed to do so. The shipper also agrees that UPS may be considered as being the receiver of the package for the sole purpose of appointing a customs broker to carry out any customs clearance.

5. Payment

5.1 The rates for carriage and other services are set out in the Guide and unless paid before shipment, all charges must be paid within 7 days of receipt of invoice or within such other period as the shipper may have agreed in writing with UPS. UPS may verify the actual and/or dimensional weight of packages and, if greater than the declared weight, invoice on such basis. Unless proved otherwise, an invoice shall be considered for this purpose to have been received three business days following the date of invoice.

5.2 If a) UPS is required to pay any taxes, duties or levies on behalf of the shipper, receiver or a third party, b) the selected billing option indicates that the receiver or a third party should pay any charges, or (c) any taxes, duties, penalties, charges or expenses are imposed or incurred as a result of any action by customs authorities or any failure by the shipper or the receiver to provide correct documentation or any permits or licences required in connection with carriage, then in each case (without prejudice to the shipper's contractual liability for payment) the receiver or, where applicable, third party, will initially be charged by UPS for payment. Should the amount in question not immediately be paid to UPS in full by such party, such amount shall be payable by the shipper on first written demand. UPS shall not be obliged to separately issue a claim against the receiver or any third party for payment, as the shipper undertakes to be jointly liable with such third parties. In case of doubt, the burden of proving that the amount has been paid lies on the shipper.

5.3 Any sum payable to UPS which is overdue will bear interest at a rate of 2% above the interbank overnight lending rate applicable on the due date in the country where the package is presented to UPS for carriage from the due date to the date UPS receives payment whether before or after judgment. In addition, UPS reserves the right to charge a late payment administration fee up to a maximum of the local currency equivalent of 15 EUR per invoice.

- 5.4 If any sum is not paid by the shipper, receiver or some other party under these terms, UPS may hold any packages it is carrying until it receives payment in full or may sell such packages and use the proceeds to make good the debt to it in accordance with applicable local law. Any unpaid balance will remain payable.
- 5.5 UPS' rates for carriage set out in the Guide are calculated only for the carriage of packages which do not exceed in value the local currency equivalent of USD 50,000 (or other applicable value, if lower). In the event that UPS becomes aware that it has carried a package without UPS' express written consent, exceeds this value, then, in addition to the otherwise applicable rates and charges and any other remedies under these terms, an additional carriage charge equivalent to 5% of the value of the package in excess of USD 50,000 is applicable.
- 6. Interruption of Service**
If UPS is unable to start or continue with carriage of the shipper's package for a reason beyond its control, UPS will not be in breach of its agreement with the shipper but UPS will take all steps that are reasonably practicable in the circumstances to commence or continue the carriage. Examples of events beyond UPS' control are disruption to air or ground transportation due to bad weather, fire, flood, war, hostilities, civil disturbances, acts of government or other authorities (including without limitation, customs) and labour disputes or obligations affecting UPS or some other party.
- 7. Money Back Guarantee**
For certain services and destinations, UPS offers a money back guarantee on the shipping charges. Details of its applicability, terms and conditions and of the corresponding delivery and latest pick up time for the relevant service and destination are as set out in the Guide and on the UPS website (www.ups.com) each as current at the time the goods are accepted for carriage and can also be confirmed by contacting the shipper's local UPS call centre.
For the avoidance of doubt, the liability of UPS under the money back guarantee is limited to the above and the guarantee does not otherwise constitute any form of undertaking or representation that the shipment will arrive by any particular time.
- 8. Collect on Delivery (COD)**
For certain destinations as advised by the local UPS call centre, UPS offers a COD service on payment of an additional charge as set out in the Guide. If the shipper makes use of this service, subject to the provisions set out below (including those relating to currency conversion) UPS will collect on behalf of the shipper the COD amount stated on the Waybill.
COD amounts must be specified on the Waybill in either EUR or, if different, the currency of the country of destination. Where any of the COD amounts specified on the Waybill, collected from the receiver and/or paid to the shipper are in different currencies from each other, the conversion(s) will be made at such exchange rate(s) as UPS may reasonably determine.
UPS does not accept responsibility for any currency exchange risks.
- 8.1 Cash COD - Where UPS is instructed on the Waybill in accordance with applicable UPS guidelines to accept cash only, UPS will collect only cash, in the currency of the country of destination. Where cash is collected, the maximum amount collectible in that form on behalf of a shipper shall be the local currency equivalent of USD 5,000 per receiver per day. Notwithstanding the foregoing, for COD shipments to receivers located in France, the maximum amount collectible in cash on behalf of a shipper is EUR 750 per receiver per day. Further limitations may apply in certain countries from time to time; details of such limitations will be set out either in the Guide or at the UPS Website (www.ups.com).
If the shipper specifies a COD amount that exceeds these limits, UPS will automatically be entitled to accept cheques for the whole or any part of that amount.
- 8.2 Cheque COD - If the Waybill does not clearly (and in accordance with applicable UPS guidelines) instruct UPS to accept only cash, UPS may accept payment either in cash (subject to the restrictions in section 8.1) or by any kind of cheque made out to the shipper that is recognised in the country of destination of the shipment. Where UPS accepts cheques the maximum amount collectible in any form shall not exceed the equivalent of USD 50,000 per package (or other applicable value, if lower). Where UPS is permitted to accept a cheque, it may collect a cheque denominated in either EUR or, if different, the local currency of the country of destination.
- 8.3 Payment of Collected COD Amounts - Where UPS collects cash, UPS will pay to the shipper an equivalent amount in the local currency of the country where the shipment was presented to UPS for transportation. UPS may make such payments of COD amounts by either wire transfer to any bank account notified to UPS by the shipper or issuing a cheque in favour of the shipper.
Any cheques in favour of the shipper, issued either by UPS as set out above or by the receiver and collected by UPS pursuant to Section 8.2, may either be forwarded to the shipper by regular mail at the shipper's risk or handed over to the shipper or to any other person appearing to have authority to accept the cheque on the shipper's behalf.
- 8.4 In the event of non-receipt by the shipper of COD amounts, the shipper must notify UPS in writing within 45 days of the date of delivery of the package concerned.
- 8.5 The shipper will indemnify UPS for all losses, expenses or any claims made against UPS by the receiver or a third party, arising where UPS does not deliver a package because the receiver does not pay the COD amount in the appropriate form or refuses to accept the package.
- 8.6 The liability of UPS in respect of the amount to be collected shall not exceed either the applicable maximum amount collectible under these terms or the COD amount indicated on the Waybill, whichever is the lesser. Further, the COD amount shall not in any event exceed the value of the goods at their destination plus applicable carriage charges. For the avoidance of doubt, a COD amount does not constitute declaration of a value for the purpose of paragraph 9.4 or otherwise and therefore shall not affect the liability of UPS for any loss, damage or delay to the goods themselves.
UPS does not accept any responsibility for any dishonest or fraudulent acts on behalf of the receiver including, but not limited to, presenting a fraudulent cheque or one which is later dishonoured, or for cheques incorrectly completed by the receiver.
- 9. Liability**
- 9.1 Where the Warsaw or CMR Conventions or any national laws implementing or adopting these conventions apply (for convenience referred to as Convention Rules) or where (and to the extent that) other mandatory national law applies, the liability of UPS is governed by and will be limited according to the applicable rules.
- 9.2 Where Convention Rules or other mandatory national laws do not apply, UPS will only be liable for failure to act with reasonable care and skill and its liability shall be exclusively governed by these terms and (save in the case of personal injury or death) limited to proven damages of the local currency equivalent of USD 100 per shipment, unless a higher value has been declared by the shipper under paragraph 9.4 below.
- 9.3 If the claimant (or any person from whom he derives his right to claim) has caused or contributed to any loss, damage or delay to a shipment or package, any liability UPS may incur in respect thereof (limited as above) may be reduced or extinguished in accordance with the law applicable to such contributory negligence.
- 9.4 Subject to the provisions of paragraph 9.5, the shipper may obtain the benefit of a greater limit of liability than UPS provides under paragraph 9.2 above or than may be provided by Convention Rules or other mandatory national law. The shipper may do so by declaring a higher value on the Waybill and paying an additional charge as stated in the Guide. If the shipper declares a higher value for carriage and pays the applicable charge, then UPS's liability shall be limited to proven damages not exceeding the sum so declared. The value of the goods concerned shall not in any event exceed the limits specified in paragraph 3.1(ii).
- 9.5 Save where Convention Rules or other mandatory national laws require otherwise, UPS does not accept responsibility for purely economic losses, such as the costs of any alternative means of transport, loss of profits, loss of business opportunities or loss of revenue resulting from loss of use, arising from any loss of or damage or delay to a shipment or package, whether or not a value has been declared in respect of the relevant shipment under paragraph 9.4.
UPS shall not be liable for any damage to or loss of any packaging.
- 10. Delivery**
UPS may deliver a shipment to the receiver named on the waybill or to any other person appearing to have authority to accept delivery of the shipment on the receiver's behalf (such as persons at the same premises as the receiver or neighbours of the receiver). UPS may use an electronic device to obtain proof of delivery and the shipper agrees that it will not object to UPS relying on a printed copy of this as evidence merely on the grounds that the information concerned is obtained and stored in electronic form. The receiver shall be informed of any alternate delivery arrangements by note left at their premises.
Save where Convention Rules or other mandatory national laws require otherwise, UPS accepts no responsibility in any circumstances to suspend carriage, redirect delivery (whether to a different receiver or address from that named on the Waybill) or return a package to its shipper and, in the event that it should attempt but fail to do so, shall have no liability for any losses thereby occasioned.
- 11. Data Protection**
The shipper agrees that UPS and other companies in the UPS group of companies worldwide, including companies in countries which may not have the same level of data protection as the country where the shipment is presented to UPS for carriage, may use any data provided by the shipper to UPS for management analysis and monitoring, the purchase and supply of customer materials, administration of customer accounts and the advertising of services and products provided by UPS companies. The shipper has certain rights under the law (exercisable by contacting UPS) to have access to, rectify, object to the use for direct marketing of, or delete personal data held by UPS about it.
- 12. Claims Procedure - Prescription**
All claims against UPS must be notified in writing as soon as reasonably practicable and in any event within 14 days of receipt in the case of damage (including partial loss of a shipment) and in the case of delay within 21 days of the goods being placed at the disposal of the person entitled to delivery and in the case of loss within 60 days of the goods being consigned with UPS for carriage. In addition, all claims against UPS in connection with any shipment shall be prescribed and barred by expiration of time, unless legal proceedings are brought and written notice of them is given to UPS within eight months after delivery of the goods concerned or, in the case of non-delivery, within eight months from the scheduled date for delivery. This term shall not affect any rights the shipper may have under Convention Rules or other mandatory national laws.
- 13. Entire Agreement & Severability**
It is the intention of UPS that all the terms of the contract between it and the shipper are contained in this document and in the Guide. If the shipper wishes to rely on any variation to these terms, it must ensure that that is recorded in writing and signed by the shipper and on behalf of UPS before the shipment is accepted for carriage by UPS. If any part of these terms is not enforceable, this will not affect the enforceability of any other part.
- 14. Governing Law**
These terms shall be governed by the laws of the country where the shipment is presented to UPS for carriage.