

## UPS Terms and Conditions of Carriage

**The German 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 (the “terms”) set out the basis on which United Parcel Service (“UPS”) will perform transportation services. These terms are supplemented by the details in the current applicable UPS Service and Tariff Guide (the “Guide”). Except as otherwise provided in these Terms, for merchants the rules of the Allgemeine Deutsche Spediteurbedingungen (German General Terms and Conditions for Carriers, “ADSp”) apply in Germany (with the exception of item 27, 29 ADSp), and the rules of the Allgemeine Österreichische Spediteurbedingungen (Austrian General Terms and Conditions for Carriers, “AÖSp”) apply in Austria (with the exception of sections 39-41 AÖSp).
- B. Depending on the country where the shipment is presented to UPS for carriage, the term “UPS” will mean and the shipper’s contract will be with whichever of the following companies is applicable. That company will also be the (first) carrier of the goods for the purposes of the Conventions referred to Germany – United Parcel Service Deutschland S.á.r.l. & Co OHG; Austria – United Parcel Service Speditionsges.m.b.H.; Switzerland – UPS United Parcel Service (Schweiz) AG, all with the address c/o Avenue Ariane 5, 1200 Brussels, Belgium (however this address does not necessarily determine the jurisdictional venue).
- C. Where carriage by air involves an ultimate destination or intermediate stopping place outside the country of origin International Air Conventions may apply. (For the purpose of these terms the phrase International Air Conventions mean (i) the Convention for the Unification of Certain Rules Relating to International Carriage by Air, dated 28.May 1999 (Montreal Convention) or (ii) the convention about Unification of Certain rules relating to Air freight, signed at Warsaw on 12th October 1929 or (iii) that Convention as amended or supplemented by any protocol or supplementary convention or (iiii) any other international convention replacing or prevailing over any of the foregoing.) Further, international carriage 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 (“CMR”).
- D. A shipment may be carried via any intermediate stopping places that UPS deems appropriate. UPS may engage subcontractors, to each of whom these terms also apply.
- E. In these terms, “Waybill” shall mean a single UPS waybill/consignment note or the freight items recorded against the same date, address and type of service on a pickup 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 pickup, transportation, customs clearance where applicable and delivery of the shipment.

To enable transit times to be kept short and transportation prices to be kept low as desired by the shipper, shipments will be transported as consolidated shipments. In selecting the type of carriage, the shipper accepts that in view of this mass carriage it is not possible to guarantee the same care as with individual carriage. The shipper is advised that monitoring of the transport route by performing in- and outbound controls at each and every handling station within the UPS-System does not take place.

The shipper should, taking into consideration the kind and value of his goods, select the transportation as a declared value package by declaring a value and paying the surcharge as stipulated in the UPS Service and Tariff Guide. Declared value packages will be transported with more security and control measurements.

### 3. Restrictions on Carriage International Airfreight may be subject to different conditions which can be obtained from our local customer service center or on [www.ups.com](http://www.ups.com).

3.1 UPS will not carry packages that are excluded from transport under the provisions of paragraphs (i) to (iv) below.

- (i) Packages must not weigh more than 70 kilograms or exceed 274 centimeters in length or a total of 400 centimeters in length and girth combined.
- (ii) The value of any package must not exceed the local currency equivalent of USD 50,000. In addition the value of any jewelry or watches in a package must not exceed the local currency equivalent of USD 500, unless such shipment is sent from approved places of origin to approved destinations as part of the specific service detailed at [ups.com/jewelry](http://ups.com/jewelry).
- (iii) Packages must not contain any of the prohibited articles listed in the Service and Tariff Guide including (but not limited to) articles of unusual value, works of art, antiques, precious stones, stamps, unique items, gold or silver, money, prepaid cards or negotiable instruments (such as cheques, bills of exchange, bonds, savings books, share certificates or other securities) 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 Service and Tariff Guide and applicable law.

The shipper declares that all packages presented for carriage have been prepared in secure premises by himself or by reliable staff employed by him and have been protected against unauthorized interference during their preparation, storage until tendering to UPS.

3.2 Perishable and temperature sensitive goods will be transported at the shipper’s 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.
- (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 or if it cannot collect amounts due from the receiver on delivery.
- (iii) Where carriage is suspended, UPS may return the package or shipment in question to the shipper at its own discretion.

3.4 The shipper will be responsible for the payment of all costs and expenses resulting from such suspension of carriage, including but not restricted to the costs of forwarding, disposal, return, storage or administration together with all duties and taxes where applicable. UPS will not refund carriage charges of any kind in any of the above cases.

3.5 The shipper may only hand over prohibited goods for carriage if a separate written agreement has been concluded prior to handing over to UPS. If prohibited goods are handed over for carriage without such agreement, the shipper will be liable for any damage resulting to the goods in question and to other articles, means of transport and/or persons and must indemnify UPS. It is not the responsibility of UPS to check that goods are not prohibited from carriage. UPS is not liable for loss of or damage to goods that are handed over for carriage contrary to the prohibition on carriage (see also clause 9.2).

3.6 In case UPS can, even after opening a package, not identify the consignee or the shipper or anyone else who would be entitled to receive the package, UPS may after 6 weeks sell the goods and keep the proceeds of the sale, unless it is proven that the proceeds exceed UPS' expense. Goods which cannot be sold may be disposed.

3.7 UPS reserves the right, but is not obliged, to open and inspect packages in accordance with applicable laws or scan by means of X-ray any package tendered to it for transportation. X-ray, even when properly used, may cause damage to radiation sensitive goods.

## 4. Customs Clearance

It is the shipper's responsibility to provide complete and accurate documentation especially for customs clearance. UPS will, unless instructed otherwise, act as the shipper's agent in obtaining customs clearance.

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. In principle, UPS will not take responsibility for any customs clearance for shipments within the EU or within a customs area unless UPS is given a separate instruction to do so.

## 5. Payment

- 5.1 The rates for carriage and other services are set out in the current Service and Tariff Guide. All charges must be paid latest within 7 days of receipt of invoice.
- 5.2 If UPS is required to pay any taxes, duties or levies on behalf of the shipper, receiver or some other party, and UPS is unable to collect such amount on first request from the relevant person, that amount will be payable by the shipper on demand. This also applies in cases where the receiver or, in the case of third party billing, the third party fails to pay any charges which they are due to pay.
- 5.3 Any sum payable to UPS which is overdue will bear interest at the statutory rate, indicated in the invoice, (but at least at an annual rate of 9% in Austria and 5% in Switzerland) from the due date to the date on which UPS receives payment. In additions UPS may charge a late payment fee of up to 40 EUR (43 CHF in Switzerland).
- 5.4 If any sum is not paid by the shipper or receiver in accordance with these terms, UPS reserves the right to hold packages until it receives payment in full or to sell such packages and use the proceeds to settle the debts. Any unpaid balance will remain payable.

## 6. Interruption of Service

UPS is not liable for interruptions or disturbances to its services due to circumstances that are not the sole responsibility of UPS. Examples of events falling within paragraph 6 are disruption to air or ground transportation (e.g. due to particular weather conditions), fire and flood, war, hostilities and civil disturbances, acts of government or other authorities and labour disputes or obligations (whether affecting UPS, its agents, subcontractors or third parties).

## 7. Money Back Guarantee

For certain services and destinations, UPS offers a money back guarantee as added service. Details are as set out in the Guide and on the UPS website ([www.ups.com](http://www.ups.com)) current at the time the goods are accepted for carriage and can also be obtained from local UPS call centers.

The guarantee will not apply where late delivery results from non-compliance with the restrictions or conditions in paragraph 3.1, from the exercise of any retention lien by UPS in accordance with these terms or where either paragraph 3.3 or paragraph 6 applies. The liability of UPS under the money back guarantee is limited to the above and the money back guarantee does not constitute any form of undertaking or representation that the shipment will arrive by any particular time. UPS does not agree or confirm delivery times.

## 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 Service and Tariff

Guide.

The COD amount is to be shown on the Waybill exclusively either in EUR or, if different, in the currency of the destination country. The COD amount entered does not under any circumstances replace the declaration of value and accordingly does not give rise to any higher liability for loss of or damage to the goods. Where the currency of the COD amount entered in the Waybill differs from the currency of the amount collected by UPS from the receiver and/or paid by UPS to the shipper, the conversion is to be carried out on the basis of the exchange rate deemed appropriate by UPS.

UPS accepts no liability for exchange rate 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 previous rule,, the amount collectible in cash on behalf of a shipper from receivers located in the following countries for COD shipments may not exceed the respective amounts per receiver per day: Belgium: EUR 3.000; Spain: EUR 2.499; Greece: EUR 500; Portugal: EUR 1.000; Italy: EUR 1.999,99; France: EUR 1,000; Romania: RON 10,000 for individuals, RON 5,000 for legal entities; Sweden: SEK 3.000, Poland: 15.000 PLN . 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. Further limitations may apply in certain countries from time to time; details of such limitations will be set out either in the Guides or at the UPS Website ([www.ups.com](http://www.ups.com)).
- 8.2 Collection of COD amounts by cheque: Unless the COD Waybill clearly and correctly instructs UPS to accept only payment in cash, UPS may either refuse the order or exceptionally accept as a substitute method of payment cheques of any kind made out to the shipper and qualifying as an official method of payment in the destination country or alternatively payment in cash up to the limits in paragraph 8.1. Where UPS accepts a cheque in payment, the maximum collectable COD amount per package is the equivalent of USD 50,000. For a cheque to be accepted by UPS, it must be drawn in EUR or in the relevant national currency.
- 8.3 Payment of the collected COD amounts: If UPS collects COD amounts in cash, UPS must pay the shipper the equivalent value in the currency of the country in which the shipment was handed over to UPS for carriage. UPS has the right either to transfer these amounts to a bank account nominated by the shipper or to make out a cheque for these amounts in the shipper's favor.

All checks whether drawn by UPS as described above or drawn by the receiver in the shipper's favor and collected by UPS in accordance with paragraph 8.2 will either be sent to the shipper by normal post at the shipper's risk or handed over to the shipper or to another person who may be assumed under the circumstances to have authority to accept the cheque for and on behalf of the shipper.

- 8.4 In the event of non-receipt by the shipper of the COD amount or cheque, the shipper must notify UPS in writing within 45 days of the date of delivery of the package concerned. Failing such notification, all claims against UPS arising from the COD order are excluded.
- 8.5 If the COD Waybill is not fully or correctly completed or if the COD shipment has been wrongly prepared by the shipper, the shipper will be liable for all losses arising to UPS as a result and for all claims brought against UPS in consequence, and will indemnify UPS against all thirdparty claims.
- 8.6 If UPS delivers the package to the receiver without collecting the COD amount, UPS will at most be liable for whichever amount is the lowest of (i) the highest permissible COD amount under these terms, (ii) the COD amount shown on the Waybill, or (iii) the actual value of the goods handed over to UPS for carriage and for which UPS was to collect the COD amount shown. The COD amount may not in any case exceed the value of the goods to be transported plus carriage.

UPS does not accept any liability for any dishonest or fraudulent acts on the part of the receiver. This exclusion of liability also covers the presentation of forged cheques, cheques that are not covered, or cheques made out by the receiver incorrectly or without authority.

## 9. Liability

- 9.1 Insofar as mandatory national or international law applies, UPS's liability is regulated and limited in accordance with these provisions. In international air traffic, the restrictions of the Warsaw Convention apply, unless the Montreal Convention is relevant.
- 9.2 Where the rules mentioned in clause 9.1 do not apply, the liability of UPS shall be exclusively governed by these terms according to the country where the shipment has been presented to UPS for carriage.

In Germany, liability for loss or damage is limited to proven direct losses to a maximum of EUR 510 per shipment or 8.33 SDR per kilogram, whichever amount is greater.

In Austria and Switzerland UPS is liable in case of fault for proven direct losses to a maximum of CHF 130 per shipment in Switzerland, and in Austria to a maximum of EUR 85 per shipment or the amount determined under section 54 AÖSp, whichever amount is higher.

Where there is partial loss or damage, liability will be determined on the weight of the devalued part of the shipment.

The above limitations on liability including clause 3.5 do not apply if the loss or damage results from an act or omission carried out by UPS, its legal representatives or agents intentionally or grossly negligent and in the awareness that the damage was likely to occur. Regardless of the aforementioned the liability with respect to international air transportation is exclusively governed by Art. 22 Montreal Convention. Art 25 Montreal Convention is excluded. Art 27 of Adsp is not applicable.

- 9.3 If the claimant (or any person from whom he derives his right to claim) has caused or contributed to the loss or damage, the liability to be incurred by UPS may be reduced or extinguished.
- 9.4 In case of transportation as declared value package, the shipper may benefit from an increase in the limit of liability under paragraph 9.2 by correctly declaring a higher value for the shipment and paying the additional charge as stated in the Guide for the declared value. If the shipper declares a higher value for carriage and pays the applicable charge, then UPS's liability shall be limited to a maximum of the value declared for carriage. The amount declared shall not exceed the limits of clause 3.1. By refraining from a value declaration the shipper declares that his interest in the goods does not exceed the basic liability set out in paragraph 9.2.

9.5 Save where mandatory provisions of the applicable laws require otherwise, UPS does not accept responsibility for lost profits (lucrum cessans) and indirect or consequential damages such as but not limited to purely economic losses, loss of business opportunities or loss of sales or loss of goodwill.

Any liability of UPS for damages resulting from X-ray scanning as per clause 3.7 is excluded.

UPS will not be liable for any damage or loss if this is due to defects in the packaging used by the shipper and not for damage to or loss of the packaging.

## 10. Delivery

UPS may deliver a shipment to the receiver or to any other person appearing to have authority to accept the delivery of the shipment on the receiver's behalf (such as persons at the same premises as the receiver). If no such person is available, the package may be left in the receiver's letter box, if suitable, or delivered to a neighbor, unless the shipper has excluded such delivery options by using the applicable additional service. The receiver shall be informed of any alternate delivery arrangements (or redirection to a UPS Access Point®) by note left at their premises. Notwithstanding the previous paragraph, and unless otherwise agreed with the shipper, UPS may apply any alternative delivery methods chosen by the receiver in accordance with the UPS My Choice® Service Terms or any other agreement between UPS and the receiver. Such alternative delivery methods include, without limitation, redirecting delivery of a package to an alternate address (including a UPS Access Point), authorizing the driver to leave a package at the receiver's premises, modifying a service selected by the shipper or rescheduling delivery. The shipper also agrees the receiver may receive delivery information regarding a package. The shipper expressly waives any claim it may have against UPS arising from UPS following any such instructions provided by 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.

## 11. Data Protection

11.1 UPS has the right to process data provided by the shipper or receiver in connection with carriage by UPS, to transfer such data to other group companies and contractors of UPS, including in other countries which may not have the same level of data protection as the country where the shipment is presented to UPS, and to have it processed there if and to the extent the transfer and processing of the data in such countries is required for performing the agreed shipment services. The shipper warrants that it (i) has obtained personal data the shipper provided to UPS for the shipment lawfully, (ii) is authorized to provide such data to UPS, including if and to the extent the transfer and processing of the data in such countries is required for performing the agreed shipment services, and (iii) has obtained informed and specific consent from such receiver that UPS may send e-mail and other notifications related to the agreed shipment services to the receiver. UPS uses the shipper's personal data provided by the shipper in accordance with the UPS Privacy Notice published on UPS's web site at <http://www.ups.com/content/ch/en/resources/ship/terms/privacy.html>.

11.2 Furthermore, the shipper warrants that he has duly informed the receiver that UPS may use the receiver's personal data in accordance with the above linked UPS Privacy Notice in effect at the time of shipping with regard to uses other than those specified in subsection 11.1 above.

## 12. Claims Procedure - Prescription

All claims against UPS must be notified in writing as soon as reasonably practicable in accordance with the applicable legal regulations. In addition, all claims against UPS in connection with any shipment shall be barred by expiration of time unless legal proceedings are brought and written notice of them is given to UPS within 1 year in Austria and eight months in Switzerland after delivery of the goods concerned or, in the case of non-delivery, from the scheduled date for delivery.

A shipment is only considered lost if it has not been found within 30 days, or 40 days for cross-border shipments, after receipt of the fully completed UPS processing form and the necessary attachments at the responsible customer service center.

This provision does not apply if other regulations apply due to mandatory regulations.

## 13. Entire Agreement

All the terms of the contract between UPS and the shipper are contained in this document and in the current applicable Guide. Variations to these contractual terms with merchants are only effective on the basis of a separate agreement in writing.

The failure to invoke any provisions of these terms shall not represent any waiver of the right of UPS to invoke those or other provisions in future. Agents of UPS are not authorized to waive clauses of the present terms and conditions of carriage or to modify these terms.

If any part of these terms is or becomes unenforceable, this will not affect the enforceability of any other part.

## 14. Governing Law

These terms and conditions of carriage and any contract concluded which incorporates these terms shall be governed by the laws of the country where the shipment is presented to UPS for carriage.

Place of jurisdiction for merchants shall be the seat of the UPS entity, where the shipment has been presented to UPS for carriage.

## 15. Notice to Consumers

To the extent permitted by law, UPS does not participate in arbitration procedures at Dispute Resolution bodies.

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