

SCHENKER PERU SRL
GENERAL TERMS AND CONDITIONS
(HEREAFTER REFERRED TO AS "TERMS AND CONDITIONS")
Version 3 - Junio 2020

CHAPTER I. GENERAL TERMS AND CONDITIONS APPLICABLE TO ALL SERVICES PERFORMED BY SCHENKER

1. Introduction:

- a) Schenker Perú SRL is an international logistic operator that offers global solutions of integrated logistic designs tailored to each Customer, by means of a highly qualified multidisciplinary team and a management system that constitutes a tool to control the operation in all its stages (from the reception or collection of the merchandise in origin to its delivery - at destination - to the final customer).
- b) In this sense, we perform customs agency services, international cargo agency (air and sea), national and international land transport, storage of nationalized cargo, as well as any service related to foreign trade operations; handling all types of cargo, including oversized cargo (Projects) and perishable cargo.
- c) These services can be developed through Schenker's own units or through the subcontracting of homologated companies duly authorized by the competent authorities. Therefore, Schenker has the freedom to select the carrier according to the reservations and subject to space availability, unless the parties have previously agreed.
- d) It is clear that, part of the tariffs offered by Schenker and/or any related party consists of the limitations and exclusions of liability as set out in this document. Therefore, the award or assignment of the service to Schenker implies the acceptance by the Customer of the Terms and Conditions set forth herein.
- e) What is established in a Specific Contract or in the Quotation/Offer presented by Schenker shall prevail over the terms and conditions indicated in this document; the latter shall be applied in a supplementary manner in all that which is not regulated in the corresponding Specific Contract and/or Purchase Order and/or Quotation/Offer.
- f) The terms and conditions set out in this document may be amended by prior written agreement between Schenker and the Customer.
- g) In the event that a quotation has been sent by Schenker attaching the old terms and conditions (Version 2 - October 2015) and the service provided is still in force, the terms and conditions sent at that time shall prevail. For the services contracted with Schenker, where these terms and conditions are sent, what is stated in this document will prevail.

2. Definitions:

- a) **"Customer"** means any legal entity (including any Related Party) or natural person with business that directly requests Schenker to conduct business or provide advice, information or services, for its own account or on behalf of such party. In general, Customer shall be the person who contracts directly with Schenker for the performance of a particular service.
- b) **"Party(ies)"** includes legal entities, parties, corporations, firms and associations, and even a Related Party is considered within this definition, as long as it contracts the services to Schenker.
- c) **"Related Party(ies)"** means Schenker's Parent Company, any subsidiary, affiliate, branch or agent of Schenker or any party associated or related to Schenker or DB Schenker Group, including any company that contains the word "Schenker" in its name.
- d) **"Schenker"** means Schenker Peru SRL.
- e) **"Specific Contract(s)"**: shall mean any document, purchase order, service order, scope of services, financial proposal, quotation, statement, agreement, covenant or contract that has been accepted by Customer and that regulates the business, service or transaction that Schenker will provide to Customer which shall prevail over the terms and conditions, however, for those services or matters not regulated in the Specific Contract(s) this document shall apply.
- f) **"Claim"**: It is the formal request for a refund of money or compensation that is presented by means of a letter signed by a representative of the Customer to Schenker (it can be sent via e-mail) within the terms and form established in this document, which will only proceed in the event that the following events occur: a) Claims related to the cargo (damage, deterioration and/or loss of the goods); b) Claims due to Schenker's error or omission where damage and/or harm is directly caused to the Customer. Only Claims directly related to the service provided by Schenker will be accepted and not by any of the Related Parties, since such claims must be presented directly to such companies.

3. Customer Commitments:

- a) The Customer shall be deemed to be competent and have reasonable knowledge of the matters determining the performance of its business activities, including terms of sale and purchase and all matters relating thereto, and shall provide sufficient and enforceable instructions.
- b) In the event that, due to inaccuracy and/or incomplete information provided by the Customer, a demurrage charge for the goods in any warehouse or use of containers should arise, this shall be borne in full and immediately by the Customer.
- c) The Customer warrants that it is the Owner of the goods or the authorized agent of the Owner, and also that it accepts these Conditions not only in its own name but also as an agent on behalf of the Owner.
- d) The Customer shall pay to Schenker, according to the agreed conditions, immediately or within the agreed period of time (including advance payment), all amounts due at the due time according to the invoice, collection settlement or other proof of payment and sent to the Customer, without reduction, deferment or withholding by virtue of any claim, complaint or compensation the Customer has or

- e) may have in relation to Schenker. Delinquent interest shall be paid at the highest rate permitted by Peruvian law and shall be automatically applied on the day after the due date of the invoice or corresponding document, and until the effective payment date.
- e) In the event that Schenker grants credit to the Client, it should be considered that: i) this credit does not include associated costs (not indicated in the credit acceptance letter), such as: demurrage and expenses detailed in Chapter V, Section 1, numeral e), Subsection ii); ii) the term / validity of the credit will be for a maximum period of one (1) year and as specified in the letter, therefore, if the client wants to extend/renew it, they must send the necessary documents at least 15 calendar days before its expiration; iii) Schenker may suspend and / or modify the credit and / or the conditions at any time and in any case, mainly in the event that the Client does not comply with the payment term according to the accepted conditions. In this case, Schenker will notify the Client of the suspension and / or modification.
- f) The Customer shall refund and/or indemnify (as applicable) Schenker for all taxes, payments, fines, expenses, losses, damages (including physical and other damages) in excess of Schenker's liability under the Terms and Conditions, which Schenker has suffered or incurred in the performance of its obligations under any service.
- g) The customer shall notify Schenker in good time if any goods subject to any of the services set out in this document are dangerous goods and comply with the applicable regulations.
- h) The Customer warrants that all goods have been fully and properly prepared, packed, labelled and/or marked, and that the preparation, packing, labelling and marking are adequate for all services involving the goods.
- i) Any authorization and/or legal requirements that may be required as a result of this shipment and/or operation shall be the responsibility of the importer and/or exporter and/or Customer (as applicable) as well as any permits and/or legal requirements for entry/import and/or exit/export and/or ground transportation and/or storage.
- j) The Customer shall indemnify and hold Schenker harmless from and against any and all actions, claims, demands or demands of any nature whatsoever arising out of claims by third parties (all civil claims, fines, penalties, attorneys' fees, costs of proceedings, among other similar claims), caused in turn by Dangerous Goods, for inaccuracies, errors or omissions in the information or documentation delivered to Schenker by the Customer or its agents and used by Schenker for the performance of the contracted services.
- k) The customer has the responsibility to check for visible damage or weight differences, therefore, its forwarding agent or land carrier must confirm and make the corresponding observations at the time of receipt of the goods, so that there is a backup that the cargo is received with observations.
- l) The Customer is solely responsible for indicating to Schenker the temperature of its goods for any kind of transport and for their storage.
- m) In respect of all goods and documents relating to the goods which pass into Schenker's possession or control, Schenker shall have a security interest and a general right of retention in the goods, provided that the goods have been properly nationalized, as well as documents for all amounts due to Schenker. If the amount owed to Schenker is not paid within one calendar month of the notification to the customer that the goods have been nationalised, Schenker may enforce the security, taking into account a base sales value equivalent to two thirds (2/3) of the value of the goods. For each unsuccessful sale, Schenker shall be entitled to write off the sales value in the percentages it deems necessary to proceed with the sale. Schenker shall be entitled to recover from the sale of the encumbered goods the amount of its outstanding obligations under the contract that are pending of payment or execution on the part of the Customer, which include all expenses incurred by Schenker for the purposes of collection and execution, including expenses and fees of lawyers, experts and any other concept owed to Schenker. If there is a balance, it shall be returned to the Customer. Without prejudice to Schenker's option to carry out the extrajudicial (and judicial) sale of the merchandise, the Parties agree that Schenker may claim ownership of the merchandise, for which it will be sufficient for Schenker to notify the Client via notarized letter decision, as well as the unpaid amount.

4. Schenker's responsibility:

- a) Schenker shall use all reasonable care in providing the Services as a logistical operator, freight forwarder, customs agent and, if applicable, custodian of the goods and services set out herein. In this respect, Schenker shall only be liable for direct loss and damage caused by it or its personnel to the Customer's goods unless such loss and damage is normal. Such direct damage must be duly substantiated and accredited by the party claiming it, as well as considered as such by the competent judicial authority in a consented and final resolution (if applicable).
- b) Schenker shall be liable to the Customer for any theft, robbery or loss of the Customer's property, insofar as such theft, robbery or loss is directly caused by Schenker's personnel, due to causes duly established by Schenker and attributable to Schenker.
- c) Schenker shall keep the customer informed of the status of its offices in the different stages of the service.
- d) Schenker shall only consider, at the moment of reception and dispatch of the goods in the warehouse, what is indicated by the commercial invoice and the packing list.

- e) Schenker shall not be liable for indirect damages including - without limitation - claims arising from interruption of business activities, loss of profit or income, consequential damages, loss of profit, interest, fixed or variable costs, loss of goodwill, work stoppage, strike, deterioration of goods, loss due to stoppage or interruption of operations, increased operating expenses, or losses caused by fluctuations in the exchange rate, inflation, charges or taxes established by authorities, delay in delivery of goods due to cancellations and/or rescheduling of dates and times by the carrier whether by sea, land or air, among other similar.
- f) In addition to the limits indicated in the other chapters of this document, it must be taken into account that the maximum amount for which Schenker shall be liable to the Customer for any particular incident that generates loss, destruction and/or damage to the goods or to the Customer whether due to contractual or non-contractual liability (due to slight negligence), shall not exceed US\$ 10,000.00 (Ten thousand and 00/100 US Dollars) per shipment or an amount equivalent to 1.5 times the value of the price of Schenker's services, whichever is less ("Schenker's Total Limit Amount, general liability"). The Customer expressly waives the collection of any compensation in excess of the liability limits.
- g) The limits of liability set out in this document shall not apply in the event that the customer has declared a value for the goods in excess of the applicable limit of liability and has paid the additional sum - indicated in Schenker's quotation - for the purpose of Schenker acquiring cargo insurance on behalf of the customer covering the declared value of the consignment. In this case Schenker's liability shall extend to the declared value of the goods. If for any reason not attributable to Schenker the policy cannot be activated or the goods are not covered, the limits of liability set out in the relevant sections shall apply.
- h) Schenker's Services shall be deemed to be non-contractual liability insurance with a maximum annual limit of USD 500,000.00 (five hundred thousand US dollars); therefore, Schenker's total liability to the Customer for any event related to this policy shall be limited to this amount.
- i) Schenker is not responsible for the dates of departure or arrival of the goods. Therefore, we shall not be liable for delays in loading or unloading of goods, cancellations and/or rescheduling of transportation either by sea, land or air or demurrage charges at the warehouse or other penalties and/or fines caused by delays.
- j) If, in Schenker's opinion, the goods generate risks (actual or potential), Schenker shall be authorised to unload, destroy or neutralise them at any time and without compensation or payment of penalties.
- k) Schenker shall not accept or handle the goods described in point 4. of this chapter. If however a customer delivers one of these objects as goods to Schenker or causes Schenker to handle or handle one of these objects as goods, this must be established by the conclusion of a Specific Contract.
- l) According to Article 1315 of the Peruvian Civil Code, fortuitous case or force majeure is the non-attributable cause, consisting of an extraordinary, unforeseeable and irresistible event, which prevents the execution of the obligation or determines its partial, late or defective performance. The following are included within this term: fires, tremors, earthquakes, tidal waves, epidemic, pandemics, plague, quarantine restrictions, landslides, avalanches, floods, hurricanes, storms, explosions, unforeseeable acts of God, warlike conflicts, warfare, terrorist acts, sabotage, civil commotion, blockades, uncontrollable delays in transport, strikes, stoppages, impossibility of obtaining, despite having foreseen it, adequate facilities for the transport of materials, equipment and services, as well as the authorizations, approvals, licenses and permits in charge of the competent authorities; or any other cause, whether similar or different to those specifically listed herein, which is beyond reasonable control and could not be foreseen or, having been foreseen, could not be avoided. If Schenker is prevented from performing the services set out herein, it shall notify the Customer of such circumstance in writing or by e-mail within a period of no more than two (2) business days, providing full details concerning the event. In this regard, the referred situations of force majeure or fortuitous case will exempt Schenker and the Customer from the fulfillment of their obligations derived from the present Contract during the time in which such situation subsists. In the event that the hindrance due to force majeure or fortuitous event lasts longer than thirty (30) calendar days, Schenker shall be entitled to terminate the contract, without any liability whatsoever, and without having to pay any compensation or penalty, by sending a notarised letter to the Customer informing it of its decision to terminate the contract. The termination shall take place automatically and as of right from the date of notification of the aforementioned letter.
- m) Schenker shall take all necessary steps to carry out all accepted Customer Instructions; however, if at any stage of the service Schenker is unable to comply with any such instructions and/or reasonably considers that it would be burdensome to comply with any such instructions, Schenker shall be entitled to proceed at its own discretion and shall be released from any liability of the Customer for such action.
- n) Schenker shall not be liable for failure to provide the Services, in the event that such failure is the result of the application of applicable Peruvian laws or any other country from which the cargo originates or is dispatched, changes in the policies of the Authorities or by acts of God or force majeure.
- o) Due to changes in routes and/or services established by carriers due to various factors (including operational or commercial issues, force majeure or fortuitous event) in which we have no interference, changes in transit times and conditions (eg spaces) indicated in our proposal and/or booking can happen, therefore, we cannot assure that conditions will be met; however, these changes will be informed by us in due time and we will look for the best option to achieve the conditions detailed in our proposal.
- p) Services are based on normal market conditions without alterations in frequencies and/or routes that are available before the outbreak of Corona Virus "COVID-19" or other diseases, epidemic, plague, quarantine restrictions, pandemics and/or situations that could not be foreseeable and that could affect these conditions. Therefore, until the market stabilizes, we reserve the right to: i) adjust our proposal

and/or quotation -even after being accepted- in those cases where this kind of extraordinary events are generated and when the shipping companies/airfreight carriers change costs and/or other surcharges; or; ii) unilaterally terminate the service in case of operational or economic non-feasibility of the service.

- q) Customer shall reimburse Schenker for any increase in costs actually incurred by Schenker for resources and/or activities supporting the services for Customer in relation to Covid-19, such as but not limited to, delays, changes, reductions in capacity, cancellations or any other type of disruptions on the supply side or new laws, etc., not known to Schenker at the moment of conclusion of this Agreement.

5. Insurance:

- a) In general, the tariffs for the services offered by Schenker do not include insurance of any kind or class, and specific security measures such as: online GPS tracking, security guard and accompaniment in cabin. Schenker will not take out a specific insurance policy or measures to cover the goods of The Customer.
- b) The Customer is aware of the nature of the national and international logistic business (foreign trade), therefore, it assumes full responsibility in case of an accident (due to deterioration, theft and/or loss of the goods) when it chooses not to contract an insurance policy (door to door) when using the customs procedures for the entrance and exit of goods.
- c) In case the Customer opts for the contracting of an insurance policy to extend coverage to the Merchandise to be declared, the Customer must accept Schenker's services quotation when it contemplates a specific and supplementary item destined to the acquisition of a cargo insurance (door to door) that will be assumed by the Customer. If for any reason the customer has not fulfilled its obligation to pay the supplementary amount of the cargo insurance, even if the corresponding coverage could not be offered and/or extended.
- d) Therefore, given the nature of the services provided by Schenker, in the event that the Customer does not take out the respective insurance policies, Schenker shall not be liable for any damage and/or loss of the goods (even more so in cases where Schenker acts as an international freight forwarder).
- e) In cases where the customer uses its insurance policy, it undertakes to stipulate in the policy a clause waiving rights of subrogation against Schenker, and/or it undertakes that in no case shall Schenker be obliged to pay damages as a result of the indemnification action taken by the insurance company in charge of its insurance policy, except in cases where the liability is direct, manifest and provided that such liability has been duly established and disposed of by the competent judicial or arbitral authority by means of a final and conclusive decision. Likewise, the Customer undertakes to inform the respective insurance company of the existence of the limits of liability contemplated in that instrument.
- f) In the exceptional case where the quotation sent by Schenker includes cargo insurance, it must be taken into account that this insurance under no circumstances can cover the following goods: antiques, works of art, jewellery, watches, ingots, bank/financial or valuable documents, money, metals and semi-precious stones, containers and chassis, live cargo, plants, household goods, personal effects, cell phones, tobacco, cigarettes, computers, laptops, tablets, video game consoles, as well as other high technology products.
- g) In case of insuring bulk merchandise, dangerous cargo, candy, cargo contained in reefers; among others, take into account that for their coverage they have special requirements that will be informed in due time.
- h) It is clear that the customer is exclusively responsible and liable for the payment of premiums, deductibles, co-payments, charges, fees and/or any other costs related to the activation of the contracted insurance policy, either to the insurance company, a third party or to Schenker, as applicable.

6. Notification of Claims to Schenker:

- a) Schenker Peru SRL only receives claims related to shipments or operations where the purchase relationship with the Customer is direct, that is to say, it will only proceed to evaluate when the services are provided by Schenker and not by any Related Party. Therefore, if you negotiated the shipments with an office of the Schenker Group (affiliate, related party or agent), please file the Claim directly with such office.
- b) The Claim must be informed by the Customer within the time limits of notice established in the terms indicated in the respective transport document under which the goods are transported; otherwise, the time limits indicated in this document must be considered. Failure to notify Schenker within such time limits may result in a rejection and/or denial of the claim due to untimeliness. For reference purposes, in the chapter corresponding to each service, the terms in force according to international agreements are detailed.
- c) All notices of claim must describe the claim in detail, include copies of all corresponding written evidence or material and indicate the amount of the claim. Schenker has a model formal letter and a detail of the information/documentation that is necessary to process the claim, which will be sent to you when we are notified of the existence of the Claim.
- d) If a notice of claim is received, Schenker will make every effort to respond to such notice within four (4) months from the date of receipt of the completed Formal Claim. However, Schenker may extend the period for responding to the notice of claim, in its sole discretion. In addition, in the case of a Claim relating to an airline or shipping company or an insurance company, the Customer shall take into account the time period that the latter has, in accordance with its own procedures and rules.
- e) If Schenker responds to the notice of claim with a request, the Customer shall respond in a manner satisfactory to Schenker (by providing all requested documents and information) within a maximum of thirty (30) calendar days from receipt of the request, otherwise Schenker shall have no liability whatsoever for the claim made by the Customer.
- f) In the event that Schenker is found to be liable, payment of compensation shall only be made if the customer and Schenker enter into an out-of-court settlement

agreement in advance. In case the Client owes any sum to Schenker, the parties will compensate the corresponding part and if there is a balance in favor of Schenker, the Client must cancel it within 48 hours of signing the agreement.

- g) It is expressly stated that the customer assumes at its own risk and cost that it must pay for the transport of the goods (international freight, local costs and cost of transport in general), even if the goods arrive damaged, spoiled and/or deteriorated. Under no circumstances may customers unilaterally compensate amounts derived from Claims, nor may they use the presentation of a claim as an excuse to not comply with their payment commitments.
- h) The Carrier or Schenker shall be deemed to have made proper delivery of the goods, unless notice of any loss, damage or claim indicating the general nature of such loss and damage has been given in writing within the notice period set out in the terms set out in the respective transport document under which the goods are carried and which are referenced herein.
- i) It must be taken into account that, in order for the notification of the pre-claim and/or formal claim to be considered to have been made on the same day of the shipment by the Customer, it must be received by Schenker from Monday to Friday (working day) until 5:00pm Peruvian time, otherwise it will be considered carried out on the next business day.

7. Commitments undertaken between the parties:

- a) The Customer acknowledges that Schenker shall be governed by its own policies, manuals, procedures and in particular its Integrated Management System and its DB Code of Conduct for business partners that can be found in the following link: https://www.deutschebahn.com/resource/blob/4160992/e4a7e3e7d2c8c4dc1d2f98c38335c286/spanish_may-data.pdf.
- b) Both Customer and Schenker agree that all information submitted between the parties in relation to the services shall be treated as confidential by both parties, and shall only be disclosed to the Peruvian customs authority as required by law or by judicial or arbitral authority. This obligation will remain in force for up to three (03) years from: (i) that such information was exchanged or, (ii) the time that the contractual relationship between the parties ended. It is specified that SCHENKER may indicate to current and/or potential Customers that it provides services to the CUSTOMER; without providing confidential information on the terms of this, it may only provide the following information: Company name, type of service (international cargo agency and/or customs agency and/or land transport), transport route (air and/or sea) and whether it is import and/or export cargo.
- c) Comply with the procedures related to the prevention, detection and control of Money Laundering, Financing of Terrorism and other illegal activities in its processes, in turn complying with the obligations and duties of this Agreement with strict observance of all applicable national and international laws.
- d) Develop a selective filter in order to have sufficient information of the potential Customer and/or supplier to accept them as such, thus maintaining an impeccable profile in the development of their commercial operations.
- e) To process all the information they become aware of from the present contractual relationship, and which contains personal data, following the principles and provisions established in Law No. 29733, Law of Personal Data Protection, and its Regulations approved by Supreme Decree 003 - 2013 - JUS and its amendments, executing for its compliance and that of this clause, the security measures provided in such regulations, of legal, organizational and technical nature, which are necessary to avoid its alteration, loss, treatment or unauthorized access. Any of the services that Schenker provides to the Customer and that involve the processing of personal data, shall be performed under the figure of processing by order, as defined and regulated in the Law of Protection of Personal Data - Law No. 29733, its Regulations approved by Supreme Decree No. 003-2013-JUS, the other complementary and amending provisions. The Customer shall be the owner of the data banks it delivers and/or the person responsible for the processing of personal data, while Schenker shall be the data processor.

8. Resolution and/or Termination of the Services provided by Schenker:

- a) Schenker shall be entitled to immediately terminate (in its sole discretion) any and all services set out in this document that it is providing to the Customer in any of the following cases:
 - a.1) If the Customer initiates or is initiated into bankruptcy proceedings, whether ordinary or preventive, or if its dissolution and liquidation is agreed upon.
 - a.2) The Customer is intervened judicially or administratively.
 - a.3) If the period indicated for a fortuitous case or force majeure expires.
 - a.4) In the event Schenker ceases to operate in Peru (this shall not give rise to any penalty or right to compensation for the Customer).
 - a.5) Violation of compliance and anti-corruption policies and regulations.
 - a.6) In the event that the services or any part of them are prohibited by any law or regulation of Peru or any other country that may be applicable to the shipments and/or service. In this case, Schenker shall be entitled to its own discretion to cancel the service partially or completely at any time.
- b) Schenker shall have the right to terminate the agreement for any reason with 30 calendar days prior written notice to the intended date of termination. In the event of a breach of contract by either party, a minimum period of fifteen (15) calendar days must be given for the breach to be remedied, and in the event that the breach is not remedied within such period, the contract may be terminated by the non-breaching party as of right, with the debtor being liable for compensation for damages. It will be considered a default by the Customer if it does not comply with the timely payment of two (02) consecutive or alternate invoices in six (06) months of service.
- c) Schenker's termination shall be without any obligation to pay penalties and/or damages to the Customer.

9. Divisibility, Jurisdiction:

- a) Each of the Clauses of the Terms and Conditions is and shall be deemed independent and severable, and if any provision or portion of the Terms and Conditions is declared unenforceable for any reason, the remainder of the Terms and Conditions shall remain in full force and effect.
- b) The Terms and Conditions of the contract to be entered into with Schenker and any claims against Schenker resulting from the services hereunder shall be governed and dealt with exclusively by the provisions of the specific contract, this document, the applicable international conventions and the Peruvian laws, in such order of priority.
- c) It is clear that any litigation, controversy, interpretation, disagreement, claim resulting from, related to or derived from this legal act or contract that is related to it, including those related to its interpretation, validity, effectiveness or termination including those of the arbitration agreement, shall be resolved by means of an International Arbitration of Law at the Conciliation and Arbitration Center of the Lima Chamber of Commerce. The award issued in the arbitration process shall be final and unappealable. The arbitration shall be conducted in the Spanish language. The arbitration shall be in law.
- d) The arbitral tribunal shall be comprised of three (3) arbitrators who shall be lawyers with no less than five years of recognized experience in international trade matters. The award shall be final and not subject to appeal, in accordance with the rules and regulations of the Conciliation and Arbitration Center of the Lima Chamber of Commerce. To whose rules, regulations, administration and decision the parties submit themselves unconditionally, declaring that they know and accept them in their entirety.
- e) Each party shall pay the professional fees of the arbitrator whom it appoints and both parties shall, on a pro rata basis, cover the fees of the presiding arbitrator and the court clerks involved. The costs and expenses of the arbitration shall be borne by the losing party.
- f) Arbitration jurisdiction shall not extend to the collection of invoices for services rendered, and the courts of Lima Cercado shall be competent for such purpose.

CHAPTER II. ADDITIONAL TERMS AND CONDITIONS APPLICABLE WHEN SCHENKER PROVIDES THE SERVICE OF FREIGHT FORWARDER

Chapters I and II of the Terms and Conditions shall constitute a contract between the Customer and Schenker to provide the Freight Forwarder service.

1. Customer's Commitments

- a) When goods are accepted or handled under instructions to collect freight, taxes, charges or other expenses from the consignee or other person, the Customer shall remain liable for such amounts if they are not paid by the consignee or the person concerned immediately when they become due, regardless of the reason for non-payment.
- b) It is clear that all domestic and international lines (both air and sea) have a cut-off or transportation schedule, which shall be communicated in advance by Schenker to the Customer. In that sense, if the Customer decides to transport the goods outside the schedule established by the line (previously communicated to the Customer), Schenker will make its best effort to board the goods, however, Schenker will not assume any kind of responsibility or cost for the result to be boarded.
- c) All Shipping Instructions must be sent in writing to Schenker before shipment at least one (01) week prior to the date of transport in the case of sea transport, and in the case of air transport at least two (02) working days in advance, unless otherwise communicated by Schenker.
- d) In compliance with International Phytosanitary Regulations, Schenker does not ship merchandise with wooden packaging without fumigation. Therefore, the Customer must make sure that these parameters are complied with.
- e) The Customer accepts that if their supplier or client or themselves responsibility there is a difference between the weight of the merchandise that is boarded and the formulated quotation, Schenker reserves the right to vary the amount for the service rendered, charging a greater amount in a proportional way to the variation of the weight of such merchandise, being the Customer responsible for the cost in its entirety; on the other hand, in the event that the weight is lower, the price indicated in the quotation will be maintained.
- f) The Customer undertakes not to assign to Schenker cargo for transport requiring temperature control and/or specific configurations in terms of humidity, CO2 levels, ventilation, etc., without prior written notice of their nature and the particular temperature range to be maintained.

2. General Responsibilities of Schenker as a Freight Forwarder:

- a) If, after conclusion of the Contract, Schenker becomes aware of incidents or circumstances which, in its opinion, prevent it from partially or fully fulfilling its obligations, it shall inform the Customer of such events or circumstances.
- b) Quotations are provided on the basis of their immediate acceptance and/or as stated therein, and may be withdrawn or modified without liability or payment of any penalty or compensation, until prior to the Customer's acceptance.
- c) Except as provided in the Customer Specific Agreements, Schenker shall not be obliged to make any representations under any statute, convention or contract concerning the nature or value of any goods.
- d) All instructions from the Customer in relation to the delivery or release of the goods are accepted by Schenker only in its capacity as the Customer's freight forwarder.
- e) Schenker may enter into Specific Contracts with the Customer to provide transport and/or storage services independently. However, by virtue of the provisions of this clause Schenker may act as a freight forwarder providing the service of consolidation and deconsolidation of the goods, as well as including the services of transport and/or storage of the goods if applicable; the provisions of the other chapters being applicable according to the applicable rules.

- f) Schenker as Carrier has the same limitation rights that are or would be available to the shipowner and/or the carrier under the Hague Convention of 1924 (by sea) or Montreal Convention of 1999 (by air) or any other applicable convention or law governing the rights of shipowners.
- g) It is specified that Schenker shall have no liability for loss of or damage to the Goods or for non-delivery or mis-delivery, if such loss or damage occurs prior to loading or after unloading of the ship.
- h) In the event that the service is performed by Combined/Multimodal Transport and the service includes custody and transport from the Place of Receipt or the Port of Loading (as applicable) to the Port of Discharge or the Place of Delivery (as applicable) the limits of liability set out in this chapter shall also apply.
- i) Notwithstanding the Terms and Conditions, to the extent that any applicable mandatory national law provides for any additional liability for such parts of the Carriage prior to loading or after discharge, the Carrier shall have the benefit of all rights and defences under the applicable international Treaty or Convention in the country during such additional period of liability, even if the matter giving rise to the Carrier's liability, loss or damage did not occur at sea or in the air.
- j) In accordance with Chapter I, point 4(i) Schenker is not liable for loss or damage due to delay. Notwithstanding the foregoing, if it is determined that we are responsible for delays, liability shall be limited to the Freight paid by the Customer in the proportionate part applicable to the relevant stage of the carriage.
- k) If the Customer fails to comply with the requirements and commitments incumbent upon it hereunder and in accordance with the customs and practices of international trade, neither Schenker nor the carrier shall be liable for any loss or damage to the goods caused by such failure, and the Customer shall be required to indemnify the relevant party for any consequential loss arising out of such failure.
- l) Neither the carrier nor Schenker shall be liable for any loss or damage to the goods due to defects, failures, breakdowns and stoppages of the temperature control machinery, plant, insulation or any apparatus of any Container used to transport the goods.
- m) In the event of loss, destruction and/or damage to the goods whose transport was carried out by means of the issuance of a Direct Guide between the airline or shipping line and the Customer, Schenker shall have no liability whatsoever for such transport; however, in exceptional cases we may support them with the respective claim against the airline or shipping line. To this end, the customer must inform us of the existence of a claim within the relevant time limits and comply with the applicable claims procedure set out in this document.

3. International air transport:

- a) Without prejudice to what is indicated in paragraph 4 f) of Chapter I of this document, Schenker's responsibility (applicable defenses, exclusions and limitation of liability) as an international freight forwarder, in case of delay, loss and/or damage to the goods that are generated by the international air transport (regardless of whether any other mode of carriage or transportation -including any carriage or transportation by land or road- is required for the performance of such services at any time); will be subject to what is indicated in: i) the transport document (AWB), ii) the International Convention applicable in Peru (Montreal Convention of 1999); iii) when the Montreal Convention does not apply it will be 22 SDR per Kilogram, iv) the Peruvian regulations; in this order of priority and whenever they are applicable. The above applies unless a higher monetary limit per kilogram is established in any agreement and/or contract signed by Schenker.
- b) Notwithstanding the previous, the terms to present pre-claims or in its defect Claims will be those indicated on the back of the international transport document. At present, the following deadlines are applicable:
 - b.1) In case of damage (visible or hidden) to the goods during the transport service, the Customer must communicate its claim within fourteen (14) calendar days from the date of receipt of the cargo.
 - b.2) In the case of non-delivery and/or loss of the goods that were subject to transportation, the Customer must communicate its claim within twenty-one (21) calendar days from the date the goods were made available. In case of loss (including non-delivery) within one hundred and twenty (120) days from the date of issuance of the air waybill.

4. International maritime transport:

- a) Notwithstanding the provisions of paragraph 4 f) of Chapter I of this document, Schenker's responsibility (applicable defenses, exclusions and limitation of liability) as an international freight forwarder, in case of delay, loss and/or damage to the goods that are generated by the international maritime/sea transport (regardless of whether any other mode of carriage or transportation -including any carriage or transportation by land or road- is required for the performance of such services at any time); will be subject to what is indicated in: i) the transport document (BL), ii) the International Convention applicable in Peru (Hague Rules of 1924); iii) when the International Convention does not apply it will 100 pounds sterling per package or unit, or the equivalent of that sum in other currency; iv) the Peruvian regulations; in this order of priority and whenever they are applicable. The above applies unless a higher monetary limit per kilogram is established in any agreement and/or contract signed by Schenker.
- b) Without prejudice of the above, the terms to present pre-claims or in its defect Claims will be those indicated on the back of the international transport document. At present, the following deadlines are applicable:
 - b.1) In case of visible damage to the goods: the Customer must communicate his claim immediately upon receipt of the cargo and at the latest on the first working day following the date of delivery of the goods.
 - b.2) In case of hidden damage to the goods: the Customer must communicate its claim within three (03) calendar days from the date of delivery of the shipping company.

- b.3) In case of loss and/or delay of the goods: the Customer must communicate its claim within a maximum period of thirty (30) calendar days from the date the goods were placed in the hands of the consignee.

CHAPTER III. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE STORAGE SERVICE

Chapters I and III of the Terms and Conditions shall constitute a contract between the Owner, the Customer or the Depositor, and Schenker, which may provide the storage service either directly or through the subcontracting of a warehouse.

Schenker shall be engaged to be involved by moving the goods to, within, between or from storage facilities owned by it or owned by third parties and under the supervision of Schenker.

1. **Customer's Commitment:** Where, in Schenker's opinion, the nature or condition of the goods stored constitutes a dangerous condition for the safe storage of other goods in the warehouse, or for property and/or persons, Schenker may remove such goods from the warehouse immediately, and notify the Customer of their removal and transfer to the new location. In such case, the customer shall be responsible, in addition to all other amounts due to Schenker including all storage charges, and other charges related to the transfer of the goods to the new location. Furthermore, all liability of Schenker for the custody of such goods shall be extinguished.

2. **General responsibilities of Schenker when providing or subcontracting the storage service**

- a) Schenker can only be responsible for the goods stored in the same packaging or storage unit (such as; pallets, boxes, or others), but not for the internal content of the same, nor for internal faults that may occur, either in quality and/or quantity.
- b) Any change in depreciation period, especially for racks, startup, security and IT, will be subject to evaluation and agreement between the parties.
- c) Schenker has considered the Global Inventory Control as an assumption of the policies and objectives for inventory control and management. However, taking into account the startup process and the learning curve, Schenker is considering a progressive measurement timeline, as follows
 - c.1) 2.00% of the variation of the allowed value for the first 120 days of operation.
 - c.2) 1.00% of the variation of the permitted value from day 121 to day 180 of commissioning.
 - c.3) 0.30% of the variation of the applied inventory value, such as excellence, after 181 days from the commissioning date.

In any case, in the event of inventory differences, for the purposes of Schenker's responsibility, positive balances shall be offset against negative ones, with Schenker being responsible only for the net difference of the crossing of product families.

- d) Schenker proposes an implementation plan of three (3) months as a learning period for the implementation of KPI's. During this period the KPIs will be monitored and subject to the respective improvements.
- e) It is specified that Schenker's proposal does not include an Insurance to cover Third Party Stock applicable to physical loss, destruction or damage of the goods that occur during the storage period in our warehouses due to, among others FLEXA (fire, lightning, explosion, fall of an aircraft), natural disasters (e.g. storms, hail, flooding, earthquake, volcanic eruption, snow pressure, etc.) as well as extended coverages (civil commotion, malicious damage, strike or lockout, vehicle impact, sonic bombs, sprinkler leakage, wet tap water and breaking and entering).

3. **Notification of Claims to Schenker:** The Customer shall notify Schenker of its Claim immediately upon learning of the incident and always within forty-eight (48) business hours after the incident has occurred or on the date it could be detected, whichever occurs first.

4. **Specific Contracts:** For these, the following should be taken into consideration:

- a) For a duration of one (1) to three (3) years. In case the Customer wishes to terminate the Specific Agreement before the aforementioned term, it shall assume the residual costs of implementation and investments that Schenker assumed as an integral part of the service. The conditions of payment of costs for possible early termination shall be detailed in the above mentioned Contract.
- b) The payment of the services rendered can be made according with the conditions agreed in the Specific Contract. The mere delay in payment beyond the above-mentioned period shall entitle Schenker to charge interest for late payment at the conventional rates prevailing in the financial market.
- c) In special cases where our scope includes temporary or in-transit storage, the times will be according to commercial negotiation.

CHAPTER IV. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE INLAND TRANSPORT SERVICE

Chapters I and IV of the Terms and Conditions shall constitute a contract between the Customer and Schenker to provide the inland transportation service.

1. **Customer's Commitment:** The Customer is required to provide the value of all products to be transported prior to the performance of the service.
2. **Schenker's General Responsibilities as Contractual Carrier**
 - a) If the goods or any part thereof are not received by the Customer, consignee or Owner at the place and time where Schenker is authorised to make delivery, Schenker may determine and store the goods at any place and the risk of such action shall be solely with the Customer. Schenker's liability in respect of stored goods shall

thereby be extinguished completely and the cost of such storage (if paid or due by Schenker or any party with whom Schenker has negotiated) shall be paid in full by the customer to Schenker immediately upon request.

- b) Schenker shall not be liable for loss of products in transit due to inventory shortages or unexplained and mysterious disappearance of products unless the customer establishes and proves that such loss occurred due to Schenker's failure to exercise due care.
- c) Any presumption of conversion imposed by law shall not apply to the loss and to the claim made by the depositor of the conversion must be established by positive evidence that Schenker converts the products to its own use. (Package: is a container / box / carton / bag or any type of packaging containing products temporarily to group units mainly for the purpose of handling, transport and storage).
- d) In case of loss, destruction and/or damage to the goods that are generated by national (or international (from or to countries not mentioned in point e) of this chapter) land transport, Schenker is liable for the loss or damage to the goods resulting from the execution of the services, only to the extent that such liability arises from Schenker's negligence or intentional misconduct (direct liability), provided that the liability: (1) is limited to the lesser of the actual damages or loss of such products, or fifty dollars (\$50.00) per package of such products damaged or lost, (2) shall not exceed in the aggregate US\$ 10,000.00 (Ten Thousand and 00/100 US Dollars), including taxes; in respect of any one incident and/or for all incidents during any 12-month period.
- e) In case of loss, destruction and/or damage to the merchandise generated by the international land transportation, these will be subject to the limit of responsibility (maximum amount assumed by the carrier) established in the land transport charter, the international conventions in force or the amounts described in letter d) above, in such order of priority. By way of reference, it may be noted that they are currently in force:
 - e.1) Agreement on International Land Transport concluded under the auspices of the 1980 Treaty of LAIA (ALADI), signed on 1 January 1990, which regulates international land transport between the following countries: Republic of Argentina, Republic of Bolivia, Federative Republic of Brazil, Republic of Paraguay, Republic of Peru, Eastern Republic of Uruguay and Republic of Chile and
 - e.2) Decision 399 "International Transport of Goods by Road", which regulates international land transport between the member countries of CAN (Bolivia, Colombia, Ecuador and Peru).

Liability for delay is limited to the price of the freight. However, the aggregate liability of the carrier (for loss, damage or delay), including that of its employees or agents or other persons engaged by it in the performance of the service, shall in no case exceed US\$ 3 per KG of gross weight carried.

3. Notification of Claims to Schenker

- a) In the case of Claims related to the national or international land transport service (from countries other than those mentioned in point 2.e), the Customer must communicate its Claim - in writing - immediately upon knowledge of the incident and always within 48 working hours after its occurrence or on the date that it could be detected, whichever occurs first.
- b) In the case of Claims related to the international land transport service indicated in point e) of this chapter, the Customer must communicate its Claim in accordance with the provisions of the regulations on international land transport, a period of time that may not exceed one (01) calendar year, counted from the day following the event or failure to comply with the reason for the claim.

CHAPTER V. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE CUSTOMS BROKERAGE SERVICE

Chapters I and V of the Terms and Conditions shall constitute a contract between the Customer and Schenker. Schenker further provides that it shall provide this service on its own behalf or by engaging a natural and/or legal person in its free discretion as a customs broker.

1. Duties and Responsibilities of the Customer

- a) To provide Schenker with all the necessary information to provide the services described herein, including all the information required to complete the documentary requirements and/or data required by the Peruvian Customs Authority (e.g. information needed to determine the tariff classification and customs value of the goods).
- b) To review as soon as possible all documentation and/or data and to inform Schenker of any inaccuracies, errors or omissions in them, as well as to inform Schenker within five (05) calendar days after sending the documentation and/or data.
- c) Reimburse, indemnify and hold harmless Schenker in connection with the matters described in (b) above;
- d) The Customer declares that it is the consignee, consignor or owner of the goods for which it has contracted with Schenker; that it has the necessary powers and authority to contract with Schenker, to appoint it as its representative and to give it instructions.
- e) The Customer shall be solely responsible for and shall assume: i) Any and all disbursements made by Schenker on behalf of the Customer; ii) All customs duties, taxes, fines, penalties, interest and other items established by the Peruvian Customs Authority, other Peruvian government agencies or government representatives of any other country or jurisdiction, in connection with the goods imported or to be imported into Peru or exported or to be exported from Peru, by the Customer.

2. Schenker's Obligations

- a) If necessary, to subcontract companies and/or persons at its own account and risk that it considers necessary for the provision of the service that is the subject of this Contract.
- b) Comply with the following activities:
 - b.1) Coordination of collection or reception of original final documents.
 - b.2) Numbering of the Customs Declaration of goods.
 - b.3) Submission of documentation to the Customs Authority to obtain the release of the goods.
 - b.4) Withdrawal and/or collection of goods.
 - b.5) Details and solution and/or rectification to be made to the documentation delivered.
 - b.6) Confirm the arrival of the cargo.
 - b.7) Confirm the term of unloading.
 - b.8) Inform the assigned channel / release date / possible notifications made by the Customs Authority.
 - b.9) Send the Invoices and Collection Liquidations issued by the service within the agreed period.

- 3. **Special Power of Attorney:** For the specific purposes of this Chapter V, the Customer or the person duly authorized by the Customer shall grant in favor of Schenker Peru S.R.L. a mandate -not exceeding twelve months- to carry out the customs procedure of the goods, which includes the power to perform acts and procedures related to the customs clearance and withdrawal of the goods.