

General Terms and Conditions of DB Cargo Logistics GmbH (DB CL) for International Combined Transport

January 1st, 2023

1 Scope, supplementary terms and conditions

- 1.1. DB Cargo Logistics GmbH (hereinafter referred to as "DB CL") provides services in combined transport in accordance with the following General Terms and Conditions.
- 1.2. Combined transport within the meaning of these provisions is the carriage of loaded or empty loading units (ILU) which comply with the applicable statutory provisions and technical regulations (e.g. in accordance with DIN, EN, UIC leaflets, valid CSC safety approval plate) and bear the prescribed markings. ILUs must be approved, roadworthy, craneable, safe to operate, suitable for the cargo and for carriage on an open wagon.
- 1.3. The following are deemed to be ILUs for this purpose:
 - Containers (Ct) whose dimensions, corner fittings and strength comply with the standards of the International Organization for Standardization (ISO) as well as Ct according to UIC MB 592 for European mainland traffic.
 - Craneable swap bodies (SB) and craneable semi-trailers (Semi-tr) up to a P 400 codification.
- 1.4. These General Terms and Conditions are not applicable to contracts with consumers within the meaning of Section 13 German Civil Code (BGB).
- 1.5. In addition to these General Terms and Conditions, the following apply as if they were DB CL conditions:
 - "Standard tariffs and other provisions of DB Cargo AG",
 - Loading Guidelines of DB Cargo AG, in particular Loading Guidelines Code of Practice for the Loading and Securing of Cargo on Vehicles in Rail Freight Traffic Volume 2 Chapter 9 Link: https://www.dbcargo.com/resource/blob/5155786/96297b343803c0c94a713c3a275d6dca/02_uic_verladerichtlinien_teil2_gesamtausgabe-data.pdf
 - Praxishandbuch BGL/ BGF "Laden und Sichern", Volume 2, Ladungssicherung im kombinierten Ladungsverkehr Straße / Schiene.
- 1.6. The general terms and conditions of the party contracting with DB CL shall only apply if expressly confirmed in writing by DB CL.
- 1.7. Unless otherwise agreed, we provide freight forwarding, warehousing and other services customary in forwarding on the basis of the ADSp 2017, Link: <https://www.dslv.org/de/adsp>

2 Booking

- 2.1. The respective transport contract shall only come into effect upon confirmation of the booking, i.e. creation and transmission of a reference number by DB CL.
- 2.2. Booking/ Order confirmation
For each transport, it is obligatory for the contracting party to make a binding booking for the required number of slots via EDI or email.
- 2.3. The booking must contain the following mandatory information from the contracting party:
 - Dispatch terminal
 - Date of dispatch
 - Number of ILUs to be transported
 - Type of ILUs to be transported
 - Contract number/Order number
 - Reception terminalThe following information must also be available by no later than the booking deadline:
 - ILU code and vehicle registration number
 - Weight
 - All relevant customs and dangerous goods information
 - As well as all information that is mandatory due to the transport of the chosen product (see point 3)
- 2.4. If the contracting party fails to provide one of the listed information or makes changes to the order data, its actions shall have the following effect:
Missing data, which are mandatory for the implementation of the transport order, shall result in cancellation. The corresponding cancellation fee will be charged by DB CL.

- 2.5. Changes that have a fundamental effect on the subject matter of the contract, such as a change in the date of dispatch, dispatch terminal, type or reduction in the number of ILUs, result in cancellation. The corresponding cancellation fee will be charged by DB CL.

3 Products

DB CL offers the following products:

- 3.1. **Fixed Capacity**
By booking the Fixed Capacity product, the contracting party reserves a fixed quota of slots on the train for each train departure. This quota is subject to a fixed price and will be billed at 100% in any case, regardless of the actual usage. The contracting parties reserve the right to prove that the loss incurred by DB CL was lower due to non-utilisation of capacity.
The agreed quota may be changed on a quarterly basis but must be agreed between the contracting parties at least two weeks before the end of the quarter.
- 3.2. **Reserved Capacity**
If the Reserved Capacity product is booked, DB CL will reserve an agreed number of slots per train departure, for the contracting party, for a reservation period defined in the price list. The contracting party can book the slots up until the expiry of the reservation period. Once the reservation period expires, the reservation shall lapse. The vacated slots will then be freely available for use by DB CL. The ILUs actually commissioned will be billed. The reserved quota of slots may be changed on a quarterly basis but must be agreed between the contracting parties at least two weeks before the end of the quarter.
Use of the reserved slots is monitored by DB CL. DB CL reserves the right to adjust the number of reserved slots in the event of significant under-use.
- 3.3. **Spot**
If the Spot product is selected, no slots are reserved for the contracting party.
The contracting party's non-binding request will be examined by DB CL as part of capacity management. The contracting party will receive a response as soon as possible, subject to a deadline for acceptance where appropriate. The slot booking shall become binding on issue of a reference number by DB CL.
- 3.4. **Empty ILUs**
Empty ILUs can be ordered in coordination with customer service's capacity management, insofar as the transport service is not provided in accordance with Sections 3.1. - 3.3.
There is no entitlement to collection on the day of booking. However, transport will be carried out at the latest on the 3rd train departure following the booking day, unless otherwise agreed.
- 3.5. **Cancellation charges and stabling fees**
Cancellation charges and stabling fees are governed by the respective price list.

4 Transport order, consignment note

DB CL shall draw up the consignment note on the basis of the transport order submitted by the contracting party. The contracting party shall be liable in this regard for the accuracy of the information transmitted to DB CL.

5 Wagons provided by DB CL

- 5.1. Unless otherwise agreed, DB CL will provide wagons.
- 5.2. DB CL is entitled to choose the type of wagons, in particular the wagon category, even if this is specified in the transport order, taking into account the interests of the contracting party.

6 Loading regulations

- 6.1. The contracting party shall be responsible for secure loading of the ILUs. When loading, the relevant loading regulations for the respective mode of transport must be complied with.

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- 6.2. DB CL is entitled to inspect the ILUs and proper loading of the ILUs for operational safety.
- 6.3. If the contracting party breaches its obligations under Clause 6.1. or if the permissible total weight is exceeded, or if carriage is impeded or safe performance is threatened as a result of the type of cargo or method of loading, or if there has been a violation of legal provisions, DB CL shall, if such a situation becomes apparent, request the contracting party to remedy the situation within a reasonable period of time. If the situation is not remedied within the deadline, DB CL shall also be entitled to assert its rights in accordance with Section 415 (3) sentence 1 German Commercial Code (HGB).

7 Hindrance

Within the scope of Section 419 (3) German Commercial Code (HGB), DB CL is entitled to stable the ILU. For the duration of such stabling, DB CL shall be liable to exercise the care of a prudent businessman.

8 Presumed loss

Presumed loss pursuant to Section 424 German Commercial Code (HGB) takes effect 30 days after the delivery deadline.

9 Dangerous goods

- 9.1. The contracting party shall comply with the applicable legal requirements governing the carriage of dangerous goods.
- 9.2. DB CL shall accept and deliver dangerous goods only where the transfer of safety and custody obligations applicable up until collection and/or as from delivery – and additionally in the case of goods Class 1, 2 and 7 the physical handover/acceptance of the goods – have been agreed in writing with the consignor/consignee.
- 9.3. DB CL shall not store dangerous goods, nor shall we stable loaded wagons containing dangerous goods whilst in transit.

10 Settlement, Prohibition of offsetting

- 10.1. Invoices from DB CL shall be due and payable within 10 days of receipt.
- 10.2. There shall be no right of set-off or retention with respect to DB CL's claims unless the counterclaim is undisputed or has been established by a final court judgement.
- 10.3. DB CL may demand advance payment or the provision of security from the contracting party.

11 Price adjustments

- 11.1. If the planned route is not passable at all or only to a limited extent for a period of more than 7 consecutive calendar days due to impairments that were not foreseeable at the time the contract was concluded, e.g. due to construction sites, accidents and natural events, the customer shall bear the additional costs for transport via the alternative route from the 1st day of the necessary detour, but not before expiry of an advance notice period of 7 days.
The additional costs shall be calculated according to the following formula:
$$\text{Agreed freight price} * \text{km total detour route} / \text{km planned routing} = \text{freight price period detour.}$$

This regulation only applies if there is a kilometre difference of >10% between the planned route and the necessary detour (additional operating kilometres according to DB CL's proof).
- 11.2. In the event of an increase in the prices of the subcontractors commissioned by DBCL by more than 5% within a period of 3 months, DBCL shall be entitled to adjust the agreed freight prices in the amount of the additional costs. If this results in an increase of more than 2% of the freight prices, the customer may terminate the

affected relation(s) by giving one month's notice to the day on which the price adjustment takes effect. Until termination, the prices valid until then shall apply.

12 Customs and other administrative regulations

Compliance with customs and other administrative regulations, while the goods are in transit, shall be the responsibility of DB CL or its authorised representatives. For these services, and for delays for which DB CL is not responsible during the performance of such services, DB CL shall charge a fee as set out in the "Standard tariffs and other provisions of DB Cargo AG".

13 Acceptance and handover of load units

- 13.1. The contracting party is responsible for ensuring that the closing devices of loaded ILUs are secured by means of security devices (e.g. seals).
- 13.2. Acceptance of the ILU is carried out by the terminals and is documented in the check-in log used in the acceptance inspection. The reference number assigned by DB CL is used for identification. DB CL will not accept ILUs that are defective or unsuitable for carriage. The contracting party shall bear all costs resulting therefrom.
- 13.3. The ILU becomes the responsibility of DB CL once the terminal has successfully completed the acceptance inspection. Delivery of the ILU to the contracting party shall take place at the reception terminal; DB CL's responsibility shall end on handover of the ILU, and no later than the end of the terminal opening hours on the specified day of delivery. DB CL shall prepare a check-out log upon collection, which must be countersigned by the contracting party. The reference number issued by DB CL, which must be submitted by the contracting party when registering/collecting the goods, also authorises collection.
- 13.4. The ILU must be handed over on the day of dispatch and accepted on the day of delivery. For an earlier handover or later delivery of the ILU, stabling must be agreed.
- 13.5. The ILUs are stabled outside.
- 13.6. In the event of cancellation of the transport order, the transport shall nevertheless be carried out at the contracting party's expense if it is no longer possible to unload the ILU from the wagon.

14 Liability

- 14.1. Unless otherwise agreed below, DB CL shall be liable in accordance with the statutory provisions.
- 14.2. **Notwithstanding the legally prescribed amount, DB CL's liability per claim is limited to an amount of one million euros or two units of account per kilogram, whichever is the greater. This shall not apply to cases described in Section 435 German Commercial Code (HGB).**
- 14.3. **Insofar as the German Freight Forwarders' Standard Terms and Conditions (ADSp) apply, we advise that: in deviation from the statutory liability provisions, clause 23 of the ADSp 2017 limits statutory liability for damage to goods in accordance with Section 431 HGB (German Commercial Code) in the amount of 8.33 SDR/kg per claim or per loss event to 1,25 million or 2,5 million euros or 2 SDR/kg, whichever is higher, and in the case of multimodal transports including carriage by sea generally to 2 SDR/kg.**
- 14.4. **In the event of stabling and ordered storage, DB CL's liability shall be limited in amount:**
 - for damage to goods in accordance with Section 431 (1), (2) and (4) German Commercial Code (HGB), liability shall be limited to 8.33 special drawing rights per kilogram up to a maximum of EUR 25,000 per claim;
 - for damages arising from a difference between the actual and expected stock, liability shall be limited to a maximum of EUR 50,000 per year;
 - for damage other than to goods, with the exception of personal injury and damage to third party property, limited to EUR 25,000 per claim.**In other cases, Clause 13.2 shall apply.**

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- 14.5. Unless claims for damages are otherwise justified by mandatory legal provisions or intentional or grossly negligent conduct, DB CL's liability is excluded. In the case of failure to meet obligations fundamental to performance of the Agreement, DB CL shall be liable in accordance with the statutory provisions, but liability shall be limited to foreseeable typical damage.
- 14.6. The contracting party must give DB CL an opportunity to inspect the damage.
- 14.7. The contracting party shall indemnify DB CL within the scope of its share in the liability against any obligation arising towards third parties from the transport, safekeeping or other handling of the goods, or arising from the nature of the goods or the failure of the contracting party to comply with its duty of care.
- 14.8. Timetables and transport plans supplied to the contracting party shall not constitute agreements on delivery periods.
- 14.9. Where DB CL is contractually obliged to insure third-party equipment or cargo, it is granted the right to self-insure.

15 Transfer of rights and obligations

DB CL shall be entitled to transfer its contractual rights and duties to affiliated companies within the meaning of

Sections 15 et seq. German Stock Corporation Act (AktG) without the consent of the contracting party.

16 Prohibition of sub-sales

Capacities allocated to the contracting party may not be actively passed on by the contracting party to other carriers operating as freight forwarders.

17 Rectification of defects up to € 200

If defects prevent the transport of an ILU (e.g. shifting of cargo, damage to ILU preventing safe loading, missing or insufficient hazardous goods markings, etc.), these may be remedied at the contracting party's expense up to an amount of € 200 without prior consultation with the contracting party.

18 Place of jurisdiction, applicable law

- 18.1. The law of the Federal Republic of Germany shall apply to the exclusion of German private international law.
- 18.2. The place of jurisdiction for all disputes shall be Darmstadt, or at request of DB CL the domicile of the contracting party.