

General Terms of Business

of evb Logistik (Eisenbahnen und Verkehrsbetriebe Elbe-Weser GmbH and Mittelweserbahn GmbH)

Valid from 13 December 2020

**In the event of any deviations resulting from the translation,
the formulation set forth in the German version shall prevail.**

1. Scope

These GTBs apply exclusively to the contractual relationship between contractors and evb Logistik, unless otherwise agreed in individual cases. Opposing, deviating or supplementary terms of the contractor shall not become a contractual component, even if evb Logistik does not expressly object to such terms.

2. Terms on service provision

- 2.1. The trains shall be handed over on the tracks allocated by the respective railway infrastructure company (RIC). evb Logistik has no influence on this allocation. evb Logistik does not provide or lease siding tracks.
- 2.2. The dispatch data including loading schedule for incoming and outgoing trains must be entered into the corresponding electronic data processing applications by the client, where required according to the RIC/terminal/connector.
- 2.3. The client shall ensure that the wagons it provides are safe to operate, suitable for transport and technically approved according to applicable national and international provisions and remain technically approved during their period of service. We exclusively transport wagons allocated to a certified entity in charge of maintenance (ECM). Prior to conclusion of the service agreement, the contractor shall disclose to which ECM its wagons are allocated. The client must promptly communicate any changes with respect to the ECM.
- 2.4. The client shall ensure that it only hands over wagons to evb Logistik, whose owners have entered the General Contract of Use for Wagons (GCU), or shall provide them in such a manner as if they were such wagons. The respectively valid version of the GCU can be viewed online at www.gcubureau.org.
- 2.5. Moreover, the client shall ensure that it does not hand over any wagons from 13 December 2020, which are deemed noisy freight wagons according to the German Act on Preventing Rail Noise (Schienenlärmschutzgesetz – SchlärmschG). The handover of noisy freight wagons according to SchlärmschG will be rejected by evb Logistik from 13 December 2020.
- 2.6. The wagon groups for the respective terminals or connections must be coherently arranged on the incoming train formation. The outgoing train formation shall be arranged and provided in the same manner.
- 2.7. The client shall reserve the necessary loading time slots.
- 2.8. Any necessary shunting traction unit shall not remain attached to the wagons during loading work.
- 2.9. The client is responsible for loading and unloading unless otherwise agreed. evb Logistik is permitted to inspect the wagons and loading units for safe loading. If the client violates its obligation from Sections 2.2. to 2.7., there is a significant discrepancy between the agreed and actual load, the permitted total weight is exceeded or transport is impeded due to the nature of the load or loading or if there is otherwise a violation of statutory provisions, evb Logistik shall request the contractors to rectify the situation within a suitable period. Upon fruitless expiry of this period, we are permitted to assert the rights according to Section 415 (3) 1 of the German Commercial Code (Handelsgesetzbuch – HGB).
- 2.10. As a rule, any technical wagon inspections shall be performed according to the operational rules of the EVU evb and MWB.
- 2.11. The client is obliged to promptly clear any residual waste from loading and unloading at the loading site including access routes at its own cost.
- 2.12. evb Logistik is permitted to use subcontractors for service provision. No separate information shall be provided in this regard.

3. Hazardous material and waste

- 3.1. The client must observe the respectively valid version of pertinent legal provisions on hazardous material and waste regarding the transport of hazardous material and waste by rail. The client undertakes to provide evb Logistik with

transport papers and any other required documents under hazardous material law. evb Logistik is permitted to refuse transport if the transport papers are not provided prior to the start of transport or if they are incomplete or incorrect. The same applies if the wagons/loading units to be transported are not marked in accordance with the specifications of RID or other violations of RID provisions are determined. In this case, evb Logistik accepts no liability due to the refusal of transport. Additional costs, which demonstrably arise for evb Logistik in this case, shall be borne by the client.

- 3.2. Hazardous material shall only be accepted/delivered if the assumption of duties of safety and care until collection or from provision as well as, in the case of freight classes 1, 2 and 7, the physical handover/assumption of the load are agreed in writing. We shall not store hazardous material; this includes by way of parking loaded means of transport on the respective transport route.
- 3.3. A separate written agreement is required for the parking of uncleaned, empty tank wagons or tank containers for 24 hours – if the last load was a material with high hazard potential pursuant to RID (see Point 1.10.3.1.2. therein) – or for 48 hours in the case of other hazardous materials.
- 3.4. Uncleaned, empty and non-degassed pressurised gas tank wagons and pressurised gas tank containers shall not be parked by evb Logistik for longer than 24 hours.
- 3.5. The client undertakes to provide evb Logistik with all documents and information required for the transport of waste prior to the assumption of the waste by evb Logistik, in order that evb Logistik may fully comply with its obligations under waste regulations as a certified disposal firm. evb Logistik is permitted to refuse assumption of the waste if the documents and information required for the transport of waste are not provided to evb Logistik upon assumption or if they are incomplete or incorrect. In this case, evb Logistik shall not accept any liability for the refusal of transport. Any additional costs, which demonstrably arise for evb Logistik in this case, shall be borne by the client.

4. Prices and invoicing

- 4.1. Invoices are due without deduction within 14 days of the invoice date. All prices indicated by us are stated in euros before the valid rate of VAT. Payments of the client shall only be deemed settled upon their receipt on our company account. On the day of the payment due date, the client shall enter default upon non-payment without this requiring a reminder. In the event of payment default on the part of the client, we are permitted to charge lump-sum dunning costs in the amount of 40.00 euros and default interest at the statutory rate.
- 4.2. Offsetting against our claims or retention is not permitted.
- 4.3. As a rule, our prices do not include:
 - Wagon rental fees and demurrage, RIV and BZA costs
 - Costs for forwarding and customs processing
 - Shunting activities beyond the scope contained in the offer (e.g. fine shunting, scrapping of damaged wagons)
 - Time-dependent infrastructure usage costs for DB Netz AG and other RICs
 - Costs for the use of electronic data processing applications prescribed by the RIC
- 4.4. Costs not included in the offer price shall be charged in addition to an administrative fee of 5% of these costs.
- 4.5. Offers are non-binding and apply subject to free cable lines on the part of the DB network and/or other RICs and the availability of free routes.

5. Cancellation terms

- 5.1. Free cancellation is possible up to 48 hours prior to the start of the service. For cancellations of services with fewer than 48 hours' notice, 80% of the original service price shall be charged.
- 5.2. Compensation claims due to the technical outage of locomotives cannot be asserted.

6. Liability

- 6.1. The client shall release evb Logistik in connection with its share of liability from all obligations arising from transport, custody or other handling vis-à-vis third parties and which are attributable to the particular character of the load and the non-compliance of the duties of care incumbent on the client.
- 6.2. evb Logistik shall be liable for delivery delays and interruptions insofar as it is responsible for the same. This is not the case, in particular, if delivery delays or interruptions demonstrably arise as a result of:
 - weather-related impairments during loading, transport and unloading, in particular including the freezing of the load and the transport containers;
 - delays in transport due to the delayed return or delayed unloading of wagons, provided this is caused by the client or its subcontractors;
 - contaminations and residual loading waste in the wagons used following unloading by the client, the recipient or their subcontractors.

- 6.3. All incidents and circumstances, whose prevention lies beyond the control of the contractual partners, such as natural events, war, labour disputes, resource and energy shortages, impositions by authorities, shall release the affected contractual partner from its contractual obligations for the duration of the disruption and in the scope of their effects.
- 6.4. The affected contractual partner shall promptly inform the other contractual partner with respect to the expected duration and scope of the disruption and take all reasonable measures to quickly clear the disruption. The affected contractual partner will endeavour to make up for the delayed services to the extent possible.
- 6.5. For national transports, the liability in the event of loss or damage is in each case limited to an amount of one million euros or two accounting units for each kilogram per claim, depending on which amount is higher. The value of the accounting unit is determined by Section 431 (4) HGB.
- 6.6. Insofar as legally permissible, the liability for claims other than freight damages with the exception of personal injuries and material damages to third-party freight is limited in the amount to three times the amount that would have to be paid in the event of the loss of the freight, yet no more than an amount of 100,000 euros per claim. This shall not apply insofar as a lower amount of liability is provided by law for such claims.
- 6.7. Insofar as compensation claims are not otherwise established on the grounds of intent or grossly negligent conduct or due to injury to life, limb or health, or evb Logistik is not liable on the basis of other mandatory legal provisions, compensation claims of any kind against evb Logistik, its staff and vicarious agents beyond the claims regulated in the GTBs shall be excluded. This shall not apply to the infringement of essential contractual duties.
- 6.8. Essential contractual duties are duties, whose fulfilment enables the proper execution of the freight contract in the first place and in whose compliance the contractual partner may regularly trust. In these cases, compensation claims are limited to the foreseeable, contractually typical damage.
- 6.9. In other respects, liability is determined according to the provisions of HGB or CIM in the respectively valid version.
- 6.10. The client undertakes to provide evb Logistik the opportunity to inspect the damage.

7. Jurisdiction and applicable law

- 7.1. The sole place of jurisdiction is Zeven for all disputes arising from the contractual relationship.
- 7.2. The law of the Federal Republic of Germany applies decisively to the legal relations between domestic parties.

8. Confidentiality

- 8.1. The contractual partners undertake to treat confidentially the non-publicly accessible information disclosed in the execution of the mutually agreed contracts, not to make this information accessible to third parties and only to use such information for the purpose of service provision. Disclosure to third parties is only permissible if both contractual partners explicitly provide their written consent.
- 8.2. Should a contractual partner engage third parties in the fulfilment of contractual duties, these third parties must be subject to a corresponding confidentiality obligation.
- 8.3. The parties shall treat all circumstances as confidential, which are neither obvious nor publicly accessible.
- 8.4. The confidentiality obligation shall extend for a further two years beyond the end of this contract. Treatment as confidential shall not exclude the provision of information to affiliated companies within the meaning of Section 15 ff. of the German Stock Corporation Act (Aktengesetz – AktG), provided that this is required for the fulfilment of this transport contract.