

General Terms and Conditions of BLG AutoRail GmbH

1. Purpose, deviating and supplementary provisions, scope of services

1.1.

The company BLG AutoRail GmbH (hereinafter 'BLG') is a rail transport and logistics company active in international rail freight transport. These General Terms and Conditions of Business (hereinafter 'GTC') apply to rail transports carried out by BLG on behalf of a client. These GTC are available on BLG's homepage.

1.2.

Terms and conditions of the client that deviate from or supplement these GTC shall not become part of the contract unless BLG has agreed to them expressly. These GTC shall also apply if BLG performs services without reservation in the knowledge of conflicting or deviating conditions of the client.

1.3.

These GTC shall also apply to similar future contractual relationships with the respective client without BLG having to refer to them again in each individual case.

1.4.

Subject to deviating provisions in individual contracts between BLG and the client, BLG's scope of services shall include traction services and train path orders. In the event of contradictions between the individual contractual provisions and these GTC, the individual contractual provisions shall take precedence. Individual bilateral ancillary agreements, supplements and amendments shall also take precedence over these GTC.

1.5.

The 'Uniform Rules Concerning the Contract of International Carriage of Goods by Rail' (CIM) shall apply to international carriage by rail, and these GTC shall apply in addition.

1.6.

In addition to these GTC, the German Freight Forwarders' Standard Terms and Conditions (ADSp) shall apply as amended from time to time. In the event of a contradiction or a gap between the GTC and the ADSp, these GTC shall take precedence.

2. Conclusion of contract and subcontracting

2.1.

BLG's offers shall be subject to change until the client's written declaration of acceptance. If an order by the client is not based on a BLG offer, a contract with BLG shall only be concluded when the client receives BLG's written order confirmation or BLG begins with the performance of the services.

2.2.

The conclusion of the contract and the performance of the service shall be subject to correct and timely performance by BLG's suppliers. This shall only apply in the event that BLG is not responsible for non-performance by the supplier, in particular if a congruent covering transaction is concluded with the suppliers. If BLG is unable to perform the contractual service due to non-delivery, BLG may withdraw from the contract. BLG shall inform the client immediately about incorrect or untimely delivery and immediately refund any consideration already received.

2.3.

If BLG acts as the client's subcontractor (e.g. as a subcarrier), the contract between BLG and the client shall not give rise to any claims by third parties (e.g. the consignee). Sentence 1 shall not apply in the case of legal claims by the third party. If a claim is made against BLG by a third party (e.g. by way of third-party damage liquidation), BLG may also assert all defences and objections to which the client is entitled against the third party. The client shall provide BLG with information on existing defences and objections in text form without delay upon request. If, in the event of a claim by a third party, BLG is liable to the third party for a higher amount than to the client (excess liability), the client shall be obliged to indemnify BLG against this excess liability at BLG's first written request.

2.4.

With regard to the performance of services, BLG shall be permitted to subcontract other companies. Quality specifications of the client in this respect shall be observed by BLG. The client may only refuse subcontracting for an important reason.

2.5.

BLG shall inform the client about the respective subcontracting.

2.6.

A refusal to subcontract is hereby excluded for other companies of the BLG Group.

3. Wagons and load units, loading and unloading

3.1.

Unless otherwise agreed with the client, the wagons and load units required for transport shall be provided by BLG. The client shall be responsible for the correct specification of the required number and types of wagons and load units.

3.2.

Before the start of transport, BLG shall provide suitable wagons at the agreed loading location. The client shall check the wagons and load units provided for their suitability and for visible defects before loading and inform BLG of any complaints without delay.

3.3.

With regard to the wagons and load units, all specifications of BLG and of the wagon keeper and the owner of the loading unit must be observed by the client. This applies in particular to loading and unloading.

3.4.

The client is responsible for loading and unloading, unless otherwise agreed in an individual contract.

3.5.

The client shall owe BLG demurrage also for international transports in accordance with the principles of Section 412 (3) of the German Commercial Code (HGB). Demurrage shall not be owed before BLG makes available the wagons.

3.6.

If the client violate his obligation to load the goods safely for transport, if there is a considerable deviation between the agreed and actual load, if the permissible total weight is exceeded or if safe transport is endangered or impeded by the type of goods or the type of loading, BLG may request the client to remedy the situation within a reasonable period of time. Upon fruitless expiry of the deadline, BLG shall be entitled to assert the rights in accordance with Section 415 of the German Commercial Code (HGB).

3.7.

The client is obliged to remove loading and unloading residues at the respective loading point, including the access routes, immediately at his own expense. The client shall be responsible for ensuring that wagons are completely unloaded and usable after unloading and may be used again immediately. Costs incurred by BLG due to non-fulfilment in this respect shall be borne by the client; the client shall furthermore indemnify BLG against claims raised against BLG in this respect. Further claims for damages shall remain unaffected.

3.8.

Parking of empty wagons requested by the client is to be agreed and remunerated separately.

3.9.

The client shall be liable for any damage to wagons or load units caused by him or by third parties commissioned by him, unless the client is not responsible for the damage. Third parties in the aforementioned sense include the consignee or vicarious agents acting on behalf of the consignee in the context of unloading.

3.10.

BLG has joined the 'General Contract of Use for Wagons' (GCU) as a keeper (as of 02/2017).

3.11.

The client shall inform BLG in good time before performance of the contractual service of all factors influencing performance of the contract, in particular the number, type, dimensions and contents of the goods, loading capability and special properties (main weight points, hazardousness, temperature sensitivity, etc.).

3.12.

BLG shall not be obliged to check documents, planning materials or loading instructions they receive from the client, third parties attributable to the client or its vicarious agents for their correctness unless BLG has obvious indications of discrepancies. The same shall apply to permits. BLG shall also not be obliged to check the authenticity of signatures on the notifications or other documents concerning the goods and the power of representation of the signatory.

4. Consignment note, accompanying documents, objects, information

4.1.

A consignment note shall be issued by the client, unless expressly agreed otherwise. In the case of international carriage, a CIM consignment note shall be issued. The consignment note shall be deemed to be the transport order.

4.2.

The client shall provide BLG with all documents and accompanying papers as well as all other items required for the handling of the goods (such as car keys) and shall provide information that is of importance for the handling of the goods.

5. Hazardous goods

5.1.

The client and BLG shall comply with the relevant provisions of hazardous goods law.

5.2.

If the goods in question are hazardous goods within the meaning of the law on the transport of hazardous goods, for the transport or storage of which special regulations exist, the client shall provide BLG with all the information required for the proper execution of the order, in particular the classification in accordance with the relevant hazardous goods law, in writing and in good time before placing the order. If, from the client's point of view, special precautionary measures, exceeding the hazardous goods regulations, are required, the client shall likewise notify BLG of this in writing before placing the order. In the case of transports of hazardous goods, the client shall inform BLG in writing of when and where the goods are to be collected and delivered for the purpose of careful planning of the transport before the order is placed.

5.3.

BLG may only be subject to safety obligations from the time of acceptance of the hazardous goods at the place of acceptance. The safety obligations shall end with delivery of the loaded wagons and load units to the consignee named by the client.

5.4.

The client shall indemnify BLG against all obligations that arise from the transport, safekeeping or other handling of the hazardous goods and are attributable to the client's failure to comply with their obligations under hazardous goods law.

6. Dates, deadlines

6.1.

Dates or deadlines (acceptance or delivery) stated between BLG and the client, even if they are stated in the consignment note or transport order or a specific timetable is detailed, are exclusively non-binding information unless they have been agreed expressly in writing between the parties as binding.

6.2.

An agreed fixed date always requires that the agreed place of handover as well as the agreed place of delivery can be reached.

6.3.

The maximum delivery periods of Article 16 § 2 of CIM shall be deemed agreed between the client and BLG subject to the provisions of Article 16 § 3 and § 4 of CIM.

7. Charges, invoicing, offsetting prohibition

7.1.

The price agreed in each case shall apply. The remuneration shall be paid in euros and shall be charged in addition to the statutory value-added tax in the amount applicable on the day of performance of the service.

7.2.

If BLG provides work in individual cases that goes beyond the agreed scope of services and to which the client has agreed, this shall be invoiced according to the order and the incidence.

7.3.

The invoice shall be issued immediately after the service has been provided. The client agrees that the invoice shall only be issued in electronic form and sent by e-mail. Payment is due immediately upon receipt of the invoice.

7.4.

A cash discount deduction shall only be permissible in the event of a special written agreement between BLG and the client.

7.5.

In the case of expressly declared binding offers of prices and services, either party may demand an appropriate adjustment of the monetary payment owed by means of a written declaration if the consumer price index for Germany, officially determined by the Federal Statistical Office, has changed by more than 5% upwards or downwards since the conclusion of the contract or the date of the last adjustment. The amount of the adjustment must be at least half of the change in the CPI referred to in Sentence 1 and may in no case exceed the change. The adjustment may be demanded at the earliest with effect from the first day of the month following receipt of the request for adjustment. If the CPI determined by the Federal Statistical Office is no longer continued and is replaced by another index, such index shall be used accordingly for the issue of securing the value. In this case, the contracting parties undertake to agree a new clause corresponding to the economic purpose.

7.6.

The client may only offset undisputed or legally established claims. This shall also apply to the assertion of rights of retention and rights to refuse performance. The offsetting or assertion of a right of retention or right to refuse performance on the basis of a counterclaim for compensation for remedying defects or additional costs of completion arising from the same legal relationship is always possible, in deviation from Sentence 1.

7.7.

If the client does not pay as agreed or if circumstances become known that give rise to serious doubts about the client's solvency or creditworthiness or the client's fulfilment of the contract, BLG may – without prejudice to other rights or claims – terminate all existing contracts with the client, of whatever type, in whole or in part without notice; instead, BLG may, at its own discretion, also postpone the fulfilment of such contracts, make the readiness to perform dependent on an advance payment or the provision of suitable collateral by the client or declare all existing claims from the existing business relationship to be due for immediate payment.

7.7.

The client is in default if he has not paid the purchase price in full within seven calendar days after receipt of the invoice. In the event of default, the statutory provisions of the German Civil Code (BGB) shall apply.

8. Customs regulations

If cross-border transports are to be carried out, any customs regulations shall be complied with by BLG or its agents. BLG shall only act as the client's vicarious agent in this respect. The client shall remain obliged to pay in full any requested customs duties, taxes, levies, contributions and the like. In the event of a possible claim against BLG for payment of these customs duties, taxes, fees, levies, contributions and similar, the client shall be obliged to release BLG from this payment obligation upon first request. For these services and for delays for which BLG is not responsible on the occasion of the performance of these services, BLG shall charge reasonable fees to be agreed in the individual case.

9. Special conditions for combined transport

9.1.

Combined transport is the transport of empty and loaded load units, other containers and goods with different means of transport on the basis of a uniform contract of carriage. Load units within the meaning of these GTC are

- containers for overseas transport, whose dimensions, corner fittings and strength are standardised by the International Standards Organisation (ISO),
- inland containers for European mainland traffic,
- swap bodies, i.e. bodies which can be exchanged during operation, semi-trailers,
- road trains and articulated vehicles using the "rolling road".

9.2.

Load units must comply with the respective valid legal regulations and technical provisions (e.g. according to DIN, EN, UIC leaflets).

9.3.

Load units that the client hands over to BLG must be safe to operate and suitable for the load. The client shall be liable for damage caused by unsuitable, defective or unsafe load units.

9.4.

Load units shall generally be parked outdoors by BLG.

9.5.

BLG can take over the completion of the necessary transport documents and related services for the client. This must be agreed separately.

10. Liability and insurance

10.1.

BLG's liability for loss of and damage to the goods shall be governed by the CIM regulations for both international and national transports. It is limited accordingly to an amount of 17 units of account for each kilogram of gross weight of the consignment. In each case of damage, BLG's liability shall be limited to an amount of 1.25 million euros or two units of account for each kilogramme per case of damage, whichever is greater.

10.2.

Liability for damage other than to goods, with the exception of personal injury, is limited to three times the amount that would have been payable if the goods had been lost, up to a maximum of 100,000 euros per claim. Art. 33 of CIM remains unaffected.

10.3.

BLG shall be liable for exceeding delivery deadlines in accordance with Art. 33 CIM if BLG is responsible for this instance. This is not the case in particular if delivery deadline overruns are caused by the conduct of an infrastructure operator or disruptions in the rail infrastructure. Reference is also made to the provisions in Section 6 of these GTC.

10.4.

Liability/damage claims are otherwise excluded unless they are caused by BLG, their employees and vicarious agents intentionally or through gross negligence. This exclusion shall again not apply to the violation of essential contractual obligations or in the case of personal injury. In the latter case, however, liability shall be limited to the foreseeable typical damage.

10.5.

BLG and the client shall give each other the opportunity to inspect the damage in any case of damage.

10.6.

BLG shall be liable for the provision of forwarding, warehousing and other customary forwarding services (Section 1.6.) in accordance with the provisions of the ADSp 2017.

10.7.

Any losses or damage as well as delays in delivery must be reported to BLG in writing in compliance with the deadlines regulated in the CIM. Delays in this respect shall be borne by the client.

10.8.

The client is liable within the framework of the statutory provisions (HGB, CIM) as well as for the fulfilment of the obligations assumed by him in individual contracts or by these GTC.

10.9.

The client is obliged to insure the goods against all insurable damage. BLG shall only be obliged to procure transport or storage insurance cover for the goods at the client's express request. The client undertakes to agree with their insurance company on a waiver of recourse against BLG and its vicarious agents. At BLG's request, the client shall provide BLG with evidence of the existence of the insurance and the waiver of recourse.

11. Unavoidable events

11.1.

If a case occurs through no fault of BLG or due to force majeure that makes the commissioned transport impossible, BLG shall be released from the transport obligation without any further obligation, in particular without any payment obligation. Cases of force majeure affecting BLG's service providers shall at the same time be considered as force majeure releasing us from our obligation.

11.2.

If a case of force majeure occurs, the contracting party concerned shall notify the other party of the incident without delay, if possible, within 3 days. In doing so, the party concerned shall describe the event in more detail and indicate which contractual obligations they cannot fulfil or can only fulfil with delay as a result. The affected contractual partner shall undertake every effort to make up for lost services within the scope of their possibilities.

11.3.

Force majeure shall be deemed to be all unforeseeable events or such events that are beyond the control of the contracting party concerned and whose effects on the performance of the contract cannot be prevented by reasonable efforts. These include, but are not limited to war (declared or not), warlike condition, riot, revolution, rebellion, military or civil coup, insurrection, tumult, disturbances, blockade, embargo, government order, unannounced official measures, shortage of raw materials, transport damage, machinery damage, sabotage, strikes, slowdowns, lockouts, epidemics, pandemics, fires, floods, storm surges, typhoons, hurricanes or other catastrophic weather, earthquakes, landslides, lightning strikes as well as disruptions of traffic and operations.

11.4.

If BLG or the subcontractor appointed by BLG in accordance with Section 2 of these GTC has to make an unforeseen diversion and BLG or the subcontractor is not at fault for this diversion, BLG shall be entitled to pass on the proven additional costs to the client. This shall also apply in cases of force majeure, but generally only if BLG and the client have agreed the actual route to be taken in advance and BLG has given the client the opportunity by telephone to avert the diversion and issue other instructions before the start of the diversion. The additional costs calculated on the basis of Sentence 1 may amount to a maximum of 20% of the net price owed for the specific transport order. BLG must also contact the party causing the diversion before passing on the additional costs, insofar as this can be determined or there is such a party (force majeure). If the latter refuses to assume the costs in writing, BLG may hold the client responsible in accordance with these regulations. If the party responsible reimburses the additional costs at a later date and the client has already paid additional costs to BLG on the basis of Sentence 1, BLG shall be obliged to repay the amount paid by the client to the latter.

12. Cancellation or postponement by the client

12.1.

Orders cancelled by the client are divided into 3 groups:

- Cancellation more than 72 hours before scheduled departure (order processing). The departure time is the time specified by the client in the order, it is not the scheduled departure time.
- Cancellation between 72 hours and 24 hours before scheduled departure (order processing). The departure time is the time specified by the client in the order, it is not the timetable departure time.
- Cancellation less than 24 hours before scheduled departure (order processing). The departure time is the time specified by the client in the order, it is not the timetable departure time.

12.2.

In the event of a cancellation more than 72 hours before the planned departure, BLG shall charge a flat-rate planning fee of 600.00 euros. In the event of a cancellation between 72 hours and 24 hours before planned departure, BLG shall charge a cancellation fee of 40% of the order value. In the event of a cancellation less than 24 hours before scheduled departure, BLG shall charge a cancellation fee amounting to 60% of the order value.

12.3.

If the client postpones the departure time specified in the order, BLG shall be entitled to refuse the transport. If BLG refuses the transport in such a case, the cancellation fees shall be deemed owed in accordance with the schedule detailed in Section 12.2. If the transport is carried out by BLG despite the postponement, the client shall reimburse BLG for any additional costs incurred due to the postponement.

12.4.

The client shall have the right to prove to BLG that the loss incurred as a result of the cancellation or postponement is less than the cancellation fee.

12.5.

The client shall not owe a cancellation fee if BLG is responsible for the cancellation or postponement. The client must provide evidence thereof.

12.6.

The regulations in Section 7 of these GTC apply accordingly to the cancellation fees.

13. Legal venue, applicable law and miscellaneous

13.1.

The exclusive legal venue for all disputes arising from or in connection with this contractual relationship shall be Mainz, Germany. BLG shall also be entitled to file an action at the client's place of business. The above agreement on the legal venue shall apply as an additional agreement on the legal venue in the case of Art. 46 § 1 of CIM.

13.2.

All contracts between BLG and the client – this shall also apply to any partial legs of a multimodal transport – including the questions of conclusion, effectiveness and inclusion of these terms and conditions shall be governed exclusively by the law of the Federal Republic of Germany.

13.3.

The client undertakes to treat all documents, data or information of BLG entrusted to them, made accessible to them or becoming known to them as strictly confidential, not to make them directly or indirectly accessible to third parties, either in whole or in part, and to use them exclusively for the

contractually intended purposes. Any use beyond this for the client's own purposes or for third parties shall only be permitted if BLG declares their express consent to this in writing and in advance. Unless otherwise agreed, the client shall use technical information, in particular intentions, experience, findings or designs that become accessible to him in the context of the cooperation with BLG or that he receives from BLG, only in the context of the cooperation under the contract concluded on the basis of these GTC and shall treat it confidentially for a period of 2 years even after termination of the contractual relationship. The confidentiality obligation shall not apply to information and documents that were demonstrably already known to the client at the beginning of the cooperation; demonstrably lawfully received from third parties; are or become generally known without violation of the obligations contained in these GTC.

13.4.

BLG shall be entitled to refer to its logistics activities for the client in general form in advertising and, if applicable, in other invitations to tender and offers.

13.5.

Information on the collection and processing of personal data in accordance with Articles 13, 14 and 21 of the German General Data Protection Regulation (DSGVO) can be accessed by the client on the blg-logistics.com website.

13.6.

Should individual provisions of the contract be or become invalid or void, this shall not affect the validity of the remainder of the contract. The invalid or void provision shall therefore be replaced by a provision that comes as close as possible to the economic sense and purpose of the invalid or void provision in a legally effective manner. This shall also apply in the event of loopholes. Should individual provisions of the contract be general terms and conditions, §§ 306 para. 1 and para. 2 BGB (German Civil Code) shall apply in deviation from the above.

13.7.

No action by BLG, other than an express waiver, shall constitute a waiver of a right to which BLG is entitled under the contract or the law. A delay in exercising BLG's rights shall neither be deemed a waiver of the right concerned. A one-time waiver of a right shall not be deemed a waiver of the right on another occasion.

General Terms and Conditions of BLG AutoRail GmbH as of February 2023