

Infrastructure Utilisation Contract

(hereinafter IUC)

between

CargoBeamer Servizi Terminalistici Italia s.r.l

hereinafter referred to as RIU and

the Railway Undertaking

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represented by, hereinafter referred to as RU (railway undertaking)

hereinafter jointly referred to as RIU and RU Parties

Preamble

The RU provides public freight transport services originating or terminating at the RIU's service facility or the sidings connected to it. The RIU operates a public service facility and makes it available to the RU for use in return for payment on the basis of this contractual agreement.

§ 1 Subject matter of the contract

(1)

The subject of this IUC is the definition of the conditions for granting the use of the respective service facility of the RIU.

(2)

The RU shall pay the usage charges agreed in accordance with Section 3 of this IUC and the List of Charges for the use of the service facility.

(3)

The RU provides rail freight transport services in its own name, on its own responsibility and for its own account on the basis of the relevant regulations.

§ 2 Contractual components

Integrated components of this contract are as amended from time to time:

- Registration form (Annex 1)
- The Terms of Use for the Service Facilities, General Section - ToU-GP - of the RIU (Annex 2),
- Terms of Use for the Service Facilities, Special Section - ToU-SP - of the RIU (Annex 3) and
- the list of charges of the RIU (Annex 4) and
- the operating regulations of the RIU (Annex 5)

§ 3 Conditions of use

(1)

The RU holds the official authorisation required for the provision of its transport services in accordance with Article 7 of D.lgs No. 112/2015 under the law of another Member State of the European Communities or holds an authorisation to provide rail transport services granted under the law of a Member State of the Agreement of 2 May 1992 on the European Economic Area. The RU shall provide evidence of this authorisation to the RIU on request.

(2)



On request, the RU must provide the RIU with a valid public liability, comprehensive land liability and environmental liability insurance policy that complies with the statutory provisions.

(3)

The design, acceptance and authorisation of the RU's vehicles used must comply with D.lgs No. 57/2019 and the relevant decrees of *ANSFISA* as amended.

(4)

The RU shall operate the railway exclusively with personnel qualified in accordance with the requirements of the relevant *ANSFISA* decrees.

(5)

Use of the service facility is subject to the Terms of Use for Service Facilities of CargoBeamer Servizi Terminalistici Italia s.r.l -, General Section and Special Section. The user can request track plans of the service facility from the RIU for a fee. The current terms of use at the time of conclusion of the contract are attached to this contract as Annexes 2 and 3.

(6)

The RU shall only deploy personnel who have been familiarised with the operating instructions and the local guidelines and shall provide evidence of this at the request of the RIU. Instruction in the railway infrastructure to be used by the RU shall be provided by the RU against reimbursement of costs.

(7)

Simultaneous use of the RIU's railway infrastructure by several RUs is regulated by the RIU. The RU must comply with the instructions of the RIU in this regard.

(8)

Each use of the RIU's service facility must be registered using the order form in Annex 1. The application must be made at least 48 hours in advance. After checking the application, the RU shall allocate infrastructure utilisation to the RU within the scope of available free capacity.

§ 4 Remuneration

(1)

The RU shall pay a charge for the use of the RIU's service facility in accordance with the currently valid, published list of charges. The currently valid list of charges is enclosed as Annex 4.

(2)

The RU shall provide the RIU with all data on services used that are required for the purposes of calculating charges and transport statistics within two days of their provision (in the form of wagon lists or transport lists for goods trains by e-mail). The RU's reports are generally submitted using the order form (Annex 1) and are sent to the RIU as a file. If the RU introduces a standardised IT procedure for reporting, the RU shall use this exclusively. The RU shall also allow the RIU to check the correctness of these declarations on the basis of its business documents, whereby the check shall be limited to the documents relevant to transport and loading.

(3)

Charges for other services/deliveries and other services outside the list of charges shall be agreed separately.

(4)

Invoices are issued monthly with payment due within one week of receipt of the invoice. In the event of late payment, interest on arrears shall be charged in accordance with the statutory provisions. Payments are to be made to:

Bank details

.....

.....

(5)

If the RU fails to report the services it has utilised, fails to report them on time or reports them incompletely, it shall be obliged to pay double the charge for the service not reported or not reported on time. This contractual penalty shall not be charged if the user subsequently reports the services without being requested to do so and prior to notification of an inspection by the RU.

§ 5 Term

(1)

The agreement enters into force at and is concluded for the duration of Thereafter, the contract is extended by 12 months in each case if it is not cancelled with a notice period of 3 months to the end of the contract at the latest.

(2)

If the RU uses the RU's service facility before a signed contract has been concluded, the RU recognises the RU's terms of use without restriction.



§ 6 Termination

(1)

If the licensing authority of the respective member state of the European Union revokes the RU's licence, the RU is obliged to notify the RIU immediately. If the authorisation is revoked, the RU's right to use the infrastructure of the RIU expires with immediate effect.

(2)

The RIU is authorised to terminate the contract without notice in accordance with Art. 1456 of the *Civil Code* if

- (a) insolvency proceedings are opened against the assets of the RU or are rejected for lack of assets
- (b) the RU is more than 2 months in arrears with its payment obligations to the RIU - despite a reminder
- (c) the RU fails to fulfil its obligations under this contract despite a written reminder and it is therefore unreasonable to expect the RU to continue the contractual relationship.

(3)

Claims for compensation of any kind by the RU against the RU due to premature termination of this contract are excluded. Notwithstanding termination without notice, the RU reserves the right to claim damages from the RU.

§ 7 Liability

The liability regulation is regulated in the TOU - General Part and applies accordingly. The parties declare that they are aware of the content of DL no. 231/2001 on the administrative liability of companies and that they apply organisational, management and control models and codes of ethics in accordance with the guidelines of DL 231/2001.

§ 8 Contact persons

(1)

The parties mutually appoint contact persons for the areas of administration and operation who are authorised to make decisions on behalf of the respective company at short notice.

(2)

The contracting parties shall notify each other immediately of any changes to the contact persons.

§ 9 Data storage and processing

(1)

The data is collected in accordance with the General Data Protection Regulation (GDPR) and D.lgs. No. 196/2003 only for the contractual relationship and the fulfilment of the services.

(2)

The parties are authorised to transfer data resulting from the application documents or the execution of the contract to insurers for the purpose of assessing the risk and processing insurance claims to the extent necessary.

(3)

They are also authorised to keep general contract, billing and performance data in joint data collections and to pass them on to their representatives insofar as this is necessary for the use of the infrastructure. This does not affect the information obligations with regard to the notification of accidents to the competent investigating authority "Ufficio per le investigazioni ferroviarie e marittime", pursuant to Art. 20 D.lgs. No. 50/2019.

§ 10 Miscellaneous

(a) Amendments and supplements to this IUC, including this clause, must be made in writing to be effective.

(b) The parties have not agreed any verbal collateral agreements.

(c) Should a provision of the IUC be or become invalid in whole or in part or be unenforceable for legal reasons or should this IUC contain loopholes, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provision, the valid or enforceable provision that comes closest to the economic and legal meaning and purpose of the invalid or unenforceable provision shall be deemed to have been agreed. In the event of loopholes, the legally permissible provision that comes closest to what would have been agreed according to the economic and legal sense and purpose if the matter had been considered from the outset shall be deemed to have been agreed.

(d) This agreement is subject to Italian law. The exclusive place of jurisdiction is Bolzano .

(e) The IUC is drawn up in duplicate, with each contracting party receiving one copy.

Leipzig, den _____, den _____

RIU

ENERGY SUPPLY COMPANY



CargoBeamer

The parties declare that each point of this Infrastructure Utilisation Contract has been the subject of detailed negotiations and also confirm, in accordance with and for the effects of Articles 1341 and 1342 *of the Italian Civil Code*, by this second signature, in particular, to expressly accept the following contractual clauses as an integral part of the content of the contract:

§ 1 (Subject matter of the contract)

§ 2 (parts of the contract)

§ 3 (Conditions of use)

§ 4 (Remuneration)

§ 6 (Termination)

§ 7 (Liability)

§ 9 (Data storage and processing)

§ 10(Other)

Leipzig, den _____

_____, den _____

RIU

ENERGY SUPPLY COMPANY

CargoBeamer

Appendix 1

CargoBeamer Servizi Terminalistici Italia s.r.l

Ordering a Service facility utilisation

