

Hupac SpA

Busto Arsizio - Gallarate Terminal

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General Contractual Conditions **(GCCs)**

GENERAL CONTRACTUAL CONDITIONS

1. Object and scope

- 1.1 These General Contractual Conditions (GCCs) shall rule the relationships between the Clients and Hupac SpA, as regards the totality of the services provided by the latter within the terminal managed by the same.
- 1.3 In case of any discrepancies between the provisions contained in these GCCs and the provisions in a Contract, the conditions given in the Contract shall prevail exclusively.

2. Definitions

For the purposes of this document, the terms listed here below shall bear the given meanings:

Client/Clients:

Any legal or natural persons to whom Hupac SpA provides Services.

Contract:

Any written document or agreement that rules the provision of the Services rendered by Hupac SpA to the benefit of the Clients.

Consideration, rate and/or price:

Any amount applied to each service offered by Hupac SpA.

Handling:

All the terminal operations related to the handling of the ILUs.

Client representative:

The person entrusted by the Client and in charge of delivering or withdrawing an ILU at the Terminal.

Performed services:

Any services or sundry activities carried out by Hupac SpA at the terminal managed by the same to the benefit of third parties.

Terminal:

All the areas and facilities where Hupac SpA performs the activities.

ILU:

Intermodal Loading Unit, including swap bodies, semi-trailers, containers, tanks, etc. qualified for railway transportation and arranged with hooking systems for their handling by means of a wheeled crane or portal;

3. Entitlement to the provision of the services

The Clients shall be entitled to benefit from the Services provided only after signing these GCCs.

4. Services

- 4.1 Where required, the terminal services defined in article 2 of this contract shall include, as a mere example however not limited to, the following:
- Cherry pickers to load or unload trains;
 - Cherry pickers to load and/or unload ILUs from the railway wagon to the lorry and vice versa;

- Incoming ILU technical stop at the terminal (not under ADR/RID regime), ruled by the Bonus-Malus system;
- Administrative management of trains, including – for instance – the release of railway bills, train documents, etc.
- For the purposes of the Service provision, the Client shall be required to comply with the Terminal users' rules of conduct drawn up by Hupac SpA, which the Client declares to have read and accepted in full;
- Sundry additional services.

The Parties may agree on the provision of additional services following a written agreement.

5. Modalities to provide Terminal Services: accepting ILUs at the Terminal

- 5.1 Before introducing the ILU into the terminal, the Client shall inform Hupac SpA – under defined modalities – about the nature and weight of the goods contained in the loading units. Thereafter and, however, before the provision of the services by Hupac SpA, the latter shall check the external, visible conditions of the same ILUs and acknowledge their status in compliance with the UIRR provisions. Thereafter, Hupac SpA shall issue a 'Shipping Mandate' that, when signed by the Client or by a representative of the same, accounts for a full acceptance of the ILU. Hupac SpA shall not be liable for any damage, tampering and other effects that are not detectable on the ILU upon its introduction into the Terminal and during the check performed pursuant to the provisions in the first period of this item.
- 5.2 Upon accepting the ILU, the Client shall hold harmless Hupac SpA from any liability as regards the goods contained therein and from the damage possibly produced on the same during transportation.
- 5.3 The Client guarantees appropriate stowage, fastening (or anchoring) of the loads inside the ILUs and the compliance of the same with regard to the railway regulations and, in general, to combined (road/railway) transportation. Thus, the Client holds harmless Hupac SpA from any liability on them even if the latter accepts the ILU without raising objections.
- 5.4 Hupac SpA shall suffer no liability for any damage, loss or breakdown on the ILUs and for any other responsibility if the same can be attributed to force majeure in full or in part. Force majeure shall include, as a mere example, however not limited to, atmospheric phenomena, natural disasters, war conflicts, etc. and/or negligence and/or malpractice and/or imprudence by the Client.

6. Modalities to provide Terminal Services: delivering the ILUs

- 6.1 Hupac SpA shall provide for the delivery of the ILUs only to the Client or the Client representative – duly authorised in writing by the Client to take possession of the same – who, however, is not breaching any of the obligations deriving from these General Contractual Conditions or from any other contracts possibly stipulated separately.
- 6.2 Upon the delivery of an ILU, Hupac SpA shall issue a 'Withdrawal Notice' that the Client or the Client representative signs and receives a copy thereof. The description of the ILU contained in the 'Withdrawal Notice' is based on the ILU conditions upon the delivery back to the Client or the Client representative.

7. Modalities to provide Terminal Services: Handling ILUs – loading and unloading trains

- 7.1 If so provided for in the Contract and within the limitations and conditions defined by the same, after the arrival of the ILU into the terminal and before the delivery back to the Client, Hupac SpA shall load and unload the ILUs onto and from the railway wagons. Thus, handling services are provided that possibly include ground handling if so required.
- 7.2 Hupac SpA shall charge the handling costs as detailed in the price list currently in force, unless otherwise agreed in writing by the Parties.

8. ILUs containing dangerous goods/wastes

- 8.1 As regards the ILUs that possibly contain dangerous goods and/or wastes, the Client guarantees the compliance with the national and international safety regulations and that the statements made upon the stipulation of the Contract – and any other documents delivered to Hupac SpA – are true.
- 8.2 If the statements or the information released by the Client pursuant to what given in the previous paragraph 8.1 were not complete or correct for any reasons, Hupac SpA shall be entitled to reject the ILU upon its delivery or, if this has already occurred, to immediately hand the ILU back to the Client. In such a case, Hupac SpA shall owe nothing to the Client as a compensation and/or indemnity against the failed forwarding of the ILU. At the same time, the Client shall however be obliged to pay in full the services performed by Hupac SpA until the ILU is delivered back.
- 8.3 The Client holds harmless – and commits to hold harmless – Hupac SpA and any possible third parties from any damage, complaint or claim possibly arising – directly or indirectly – from the non-compliance of any ILUs containing dangerous goods and/or wastes and/or from the failed respect of the provisions in both national and international regulations applicable to such special shipments.
- 8.4 It is not allowed to stock any ILUs containing dangerous goods at the terminal. The Client shall therefore be obliged to withdraw the ILUs quickly and however not beyond the solar day within which the ILUs containing dangerous goods are made available to the same Client at the Terminal.
- 8.5 The Client shall be obliged to deliver the ILUs containing dangerous goods only on the very same day when the train it is assigned to leaves.

9. Performance of the services

- 9.1 Unless written agreements are signed by the parties stating the contrary, Hupac SpA shall not take up any obligations as regards the times required to perform the Services. Therefore, the same shall not be liable for any damage originating directly or indirectly from Hupac SpA processing times.
- 9.2 When performing the Services, Hupac SpA shall be allowed to avail of third parties' help too.
- 9.3 Hupac SpA shall commit to respect the defined opening hours. Any possible changes shall be reported to the Client in due advance and however at least 12 hours before.

10. Duration

Unless different written agreements are signed by the parties, these GCCs are valid for one year (solar year) starting from the moment when the GCCs are signed by the Client. They are renewed tacitly, year

after year, unless Hupac SpA withdraws and informs the Client of the withdrawal by registered letter with return receipt at least 3 months in advance.

11. Economic considerations and payment modalities

- 11.1 Without prejudice to the rates detailed in the price list currently in force – which the Client expressly declares to know and accept unreservedly by signing these general provisions –, the considerations due to Hupac SpA for the provision of the Services described here above, the guarantees and payment modalities as well, shall be ruled by single trade agreements too. The considerations shall be paid within the due date given in the invoice issued by Hupac SpA.
- 11.2 Hupac SpA shall consider whether to ask for special guarantees (bank/insurance guarantees; pre-payments; advance payments; minimum guaranteed) to cover the own receivables or not. The surety policy – to be kept valid for the whole duration of the contract validity – shall be issued by a primary Insurance Company or Credit Institution. At the date of the activation, the issuing entity shall have a rating not lower than 'A-' for Standard & Poor's or the equivalent, by a primary rating agency, with the indication of the specialized company that assigned it. The policy shall:
- Include the commitment by the Insurance Company or the Credit Institution to inform Hupac S.p.A., by registered letter with return receipt, about any situation that could negatively impact on the validity of the guarantees, particularly the failed payment of the premium and/or the failed renewal of the policy upon expiry;
 - Be in Italian;
 - Include the express waiver by the Insurance Company or the Credit Institution to the right of subrogation provided for in art.1916 of the Italian Civil Code against those people towards whom the Parties (Hupac S.p.A. and any other party involved in an accident) must be held responsible under the law, unless the case of fraud.
- Any situation attributable to the Client that might affect the validity of the insurance shall bring to the resolution of the contract pursuant to art.1456 of the Italian Civil Code due to the act and fault of the same Client.
- 11.3 The failed compliance with the agreed payment terms for one or more services shall involve the loss of the benefit from all the possible extensions and/or easier payment terms previously granted by Hupac in addition to the calculation of default interests as provided for by the Legislative Decree no.231/02 and the following modifications.
- 11.4 Possible compensations between active and passive invoices exchanged by Hupac SpA and its clients/providers shall be possible only in compliance with special agreements, with the exclusion of any other compensation modalities. Only undisputed invoices can be compensated.
- 11.5 Hupac SpA shall be entitled to change any rates and prices applied by the same in any moment by sending special commercial circulars to the clients at least 30 days before their implementation date.
- 11.6 If, during the whole duration of the contract, the ILUs brought by the Client inside the Terminal were to undergo any limitations in their use and/or circulation as a consequence of any measure of civil, criminal and administrative nature (as a mere example: seizures, administrative detentions, etc.) issued by the Italian authorities, the Client shall commit to pay in any case, even though the

ILUs being the object of this contract are not materially available for the same, the fee for the occupation of the spaces inside the Terminal according to the prices from time to time defined by the parties or, failing them, pursuant to the price list as under item 11.1 here above until the moment when the measures limiting the circulation of the ILUs are revoked and/or become ineffective.

- 11.7 If the Client does not pay the related costs and without prejudice to the possibility to start any judicial actions aimed at protecting the own credit, Hupac SpA shall be entitled to exercise the retention right as in articles 2756-2761 of the Italian Civil Code, even providing for the sale of the goods. By signing this contract, however, the Client who does not pay all the dues shall waive to any right on the ILU one year after warehousing began. Thus, the ILU shall become fully available for Hupac SpA, even for charity purposes to the benefit of National or International entities, Institutions or Foundations.

12. Liability – Claim for Damages

- 12.1 To define the possible liability of Hupac SpA, no presumptions of any nature shall be applicable. Thus, the responsibility of Hupac SpA for damages or losses can be attributed to Hupac SpA only if the Client provides the undisputable evidence of a contractual default by Hupac SpA and of the origin of damages and losses in the said default or in other causes directly referred to the responsibility of Hupac SpA.
- 12.2 In any case, the responsibility of Hupac SpA shall be excluded for any damages, losses or breakdowns of the ILUs, and for any other responsibility as well, where the same are – in full or in part – attributable to a third-party fault, to extraordinary events or to force majeure. As a mere example, however not limited to, force majeure includes atmospheric phenomena, natural disasters, war conflicts, riots or demonstrations, etc.
- 12.3 Hupac SpA shall not be responsible for any delays or suppressions due neither to the activities of the railway companies on the circulation of trains or their manoeuvring nor to the railway network manager's ordinary or extraordinary activities.
- 12.4 Hupac SpA shall not be responsible for any delays or suppressions due to possible emergencies caused by natural and/or weather phenomena of any special entity. Thus, Hupac SpA shall not be responsible for any damages deriving directly or indirectly from the said evidence.
- 12.5 The compensation due by Hupac SpA for any damage originating from losses or breakdowns of the ILUs shall not be higher than two SDRs (Special Drawing Rights) for each kilogram of gross weight of the lost or damaged goods.

13. Express termination clause and contract termination

Hupac SpA shall be entitled to apply the express termination clause in the contract (pursuant to art. 1456 of the Italian Civil Code) after sending a notice to the Client by registered letter with return receipt or fax or certified e-mail, in case the Client does not comply with any of the obligations contained in these GCCs.

The contract shall also be intended as terminated by right if the Client undergoes any insolvency proceedings.

14. Price transparency

14.1 The parties expressly and irrevocably:

- declare that no mediation or action by third parties was resorted to for the stipulation of this contract;
- declare that no amounts and/or other fees were paid and not even promised to be paid to any third parties either directly or through associated or controlled companies, for any mediation or the like, however aimed at easing the stipulation of the contract;
- commit not to pay to any third parties, for any reasons, any amounts aimed at easing and/or making less expensive the execution and/or management of this contract as regards the obligations taken up, and not even to perform any actions however aimed at attaining the same results.

14.2 If any one of the statements made pursuant to the paragraph here above were not true, e.g. one of the parties did not comply with the commitments and obligations taken up for the whole duration of this contract, the same shall be intended as automatically terminated, pursuant to and for the effects of the provisions in art. 1456 of the Italian Civil Code, due to fact and fault of the defaulting party that shall be thus obliged to pay all the damages originating from the termination.

15. Confidentiality

Whatever relates to the contracts with the Client – e.g. documents, agreed provisions, rates, know-how, plans, procedures, data and information on shipments, plants and equipment – shall be strictly confidential and shall not be spread or reported to third parties, even after the termination of these GCCs, without the written consent by the Client and Hupac SpA.

16. Governing Law – Jurisdiction

16.1 These General Contractual Conditions and all their possible annexes are ruled by the Italian law and they must be construed by virtue of the same.

16.2 The Court of Busto Arsizio shall have the exclusive jurisdiction in case of any controversy directly or indirectly connected with the execution and/or the construction of this contract, its appendixes and annexes.

17. Communications

17.1. All the communications between Hupac SpA and the Client shall occur in writing by registered letter with return receipt, fax, certified e-mail, and, more in general, by any other modality appropriate to guarantee and document the reception of the communication content by its addressee.

Pursuant to and for the effects of the provisions in articles 1341-1342 of the Italian Civil Code, the parties declare that they have read and approved the following articles specifically: 1. Object and Scope; 3. Entitlement to the Provision of Services; 4. Services; 5. Modalities to provide Terminal Services: accepting ILUs at the Terminal; 6. Modalities to provide Terminal Services: delivering the ILUs; 7. Modalities to provide Terminal Services: Handling ILUs – loading and unloading trains; 8. ILUs containing dangerous goods/wastes; 9. Performance of the services; 10. Duration; 11. Considerations; 12. Claim for Damages; 13. Express Termination Clause and Contract Termination; 14. Price Transparency; 15. Confidentiality; 16. Governing Law - Jurisdiction.