Preamble

This present ECL Intermodal 2016 replaces the previous version of the General Terms and Conditions as far as our ECL European Cargo Logistics GmbH ("ECL"), Intermodal Transports carried out national and international (on our own behalf and account) are concerned. Intermodal Transport used in these ECL Intermodal 2016 is defined as transportation of goods in an identical loading unit or vehicle using multiple modes of transportation whereas the loading unit or vehicle is moved but not its contents and one leg of transportation is in any case by rail.

1. Scope, differing and supplementary terms and conditions

1.1. In standard cases we carry your loading unit/vehicles by rail from Terminal to Terminal and perform the necessary cranage operations at the Terminal. Our services (carriage of loading units, transshipment, intermediate-storage and other services related to the carriage at the Terminal) are rendered in accordance with the following ECL Intermodal 2016 and the conditions set out in subsection 1.3. For international transports the Uniform Rules concerning the Contract of International Carriage of Goods by Rail ("CIM") and the Uniform Rules Concerning the Contract of International Carriage by Road ("CMR") are in accordance with the requirements and provisions of the ECL Intermodal 2016 to the extent they are compulsory applicable. The ECL Intermodal 2016 are not applicable to contracts with customers within the meaning of Section 13 of the German Civil Code ("BGB").

1.2. General Business Conditions of Clients/Shippers are explicitly excluded and not applicable.

1.3. Supplementary to these ECL Intermodal 2016 the respective latest versions of the following terms and conditions as well as other conditions which cannot be amended by General Business Conditions take precedence over these ECL Intermodal 2016 to the extent they are compulsory applicable. The ECL Intermodal 2016 are not applicable to contracts with customers within the meaning of Section 13 of the German Civil Code ("BGB").

1.4. Freight forwarding, warehousing and other services customary in forwarding are rendered on the basis of any further public law regulations and conventions for modes of transport utilized to carry out Intermodal Transport.

2. Performance of the Carriage

In performing Intermodal Transport we carry empty and laden loading units and render supplementary services based on special agreement (such as completion of the necessary freight documents). Loading units/trailers, Containers standardized by the International Standards Organization (ISO) are used for Intermodal Transport. Containers standardized by the International Standards Organization (ISO) are used for Intermodal Transport.

3. Duty of Disclosure and Information

We have to be informed before the unit has been loaded onto the rail car on substantial deviations between any pre-advised cargo and the actual cargo contained in the loading unit, or if the pre-advised or even the respective Terminal for days following the day of arrival after the notification for the collection had been given. If the time for collection has been exceeded we are entitled to store the goods at a third party warehouse or parking lot and to charge the costs incurred together with a lump-sum amount payable in case of loss of goods but not more than € 100,000 per incident. Sections 431 subsection 3 and 433 HGB remain unaffected.

4. Prices (Freight per leg of transport)

The prices quoted by ECL include the cranage operations to and from rail cars and/or wagons. Any additional movements on the terminals which have to be carried out according to customers' requirements are not contained and have to be ordered from the Terminals directly. Such additional services will be carried out by the terminals themselves and invoiced directly without creating a contractual relationship with us.

5. Dead freight (costs for "no show")

Should, in case of a firm booking without cancellation in good time, the loading unit not arrive at the terminal on schedule for the departure, ECL is entitled to charge the full freight to the customers/shippers without reduction.

6. Transports

The transport periods stated in the published schedules are estimates only and no agreed delivery periods. The time tables contain the compulsory applicable closing times which have to be observed. These times may change due to special circumstances on short notice. Transit times are not guaranteed. If, due to operational factors, the loading unit may not be carried with the intended and booked train we are carrying the loading unit on the next available train.

7. Payment conditions

Payment on delivery is due immediately on receipt of invoice without deduction. If payment has not been made within 21 days after receipt of invoice we are entitled to demand default-interest in the amount of 9 percentage point's p.a. above the prevailing basic interest rate of the Deutsche Bundesbank. No offset-set or retention of payment may be made because of alleged counter claims unless the counter-claim is undisputed or has been finally adjudicated by the competent court.

8. Liability

8.1. In exclusive national transit our liability for loss or damage is limited to an amount of 8.33 units of account per kilogram and for delay according to section 425 and section 431 HGB. Our liability for claims connected with loss and/or damage to goods with the exclusion of personal injury claims and the liability for loss and damage to third party goods is limited to three times the amount payable in case of loss of goods but not more than € 100,000 per incident. Sections 431 subsection 3 and section 433 HGB remain unaffected.

8.2. In exclusive national transit our liability for loss or damage is limited to an amount of 8.33 units of account per kilogram and for delay according to section 425 and section 431 HGB. Our liability for claims connected with loss and/or damage to goods with the exclusion of personal injury claims and the liability for loss and damage to third party goods is limited to three times the amount payable in case of loss of goods but not more than € 100,000 per incident. Sections 431 subsection 3 and section 433 HGB remain unaffected.

8.3. Unless intention or willful misconduct in the meaning of section 243, 425 HGB or mandatory statutory provisions justify unlimited liability or if we are liable for bodily injury, no claims shall be admissible for damages beyond those set out in these General Terms and Conditions, of whatever kind, against us, our employees or vicarious agents. This shall not apply in the case of failure to comply with our obligations fundamental to performance of the contract. In such cases, claims for damages shall be limited to the foreseeable typical damage incurred.

8.4. Our liability is excluded for damage culpably caused by the customer, by instructions given by the customer or by a defect caused by or of the loading unit or goods. We are also not liable if the performance of our services is permanently or timely limited impossible due to cases of "force majeure", strike, civil commotion or orders by state authorities.

8.5. Additionally following incidents are deemed to be "force majeure": operational interruptions of the mode of transport or traction device, unforeseeable blockage of transit ways, statutory restrictions of working hours for the operational employees, as well as interruptions for the repair or regaining of fitness for use of wagons or loading units of third parties.

9. Booking

A final guarantee for a place on a certain departure requires an explicit statement by us (fixed price). In the case of a split transport via ferry the booking for the south-going train may be made before arrival of the vessel at Lübeck. For the opposite direction the ferry booking must be made simultaneously with the booking for the train and must be available at the arrival of the train at Lübeck in order to avoid additional costs and expenses for the customer/shippers.

10. Dangerous Goods

10.1. The application for the transport of dangerous goods has to be made not later than 24 hours before scheduled departure with our agent on form "A". Dangerous goods units must be handed over at the Terminal on the day of departure only after the booking had been accepted by us or our agent. They have to be collected immediately after arrival. The loading units and the goods carried have to be marked with the officially required dangerous goods signs as well as duly labeled.

10.2. The customer shall comply with the relevant legal requirements governing the carriage of dangerous goods by rail as well as the requirements of the respective Terminals. The customer shall indemnify us within the scope of the agreement for any obligation arising towards third parties from the transport movement, safeguarding or other handling of the goods, or arising from the nature of the goods or the failure of the customer to comply with his/her duty of care.

10.3. Dangerous goods will not be stored by us. This applies also to laden loading units on the respective Terminal for days following the day of arrival after the notification for the collection had been given. If the time for collection has been exceeded we are entitled to store the goods at a third party warehouse or parking lot and to charge the costs incurred together with a lump-sum amount for general expenses.

11. Loading unit

The weight for the load unit must not exceed 35t. The customer guarantees the suitability for the movement by crane as well as the general acceptance of the load unit for Intermodal Transportation. In case the load unit is not suitable for a movement by crane or the permission for Intermodal Transportation cannot be granted the customer has to indemnify us – even without being at fault – for all damages or claims by third parties without restriction. The cargo within the loading unit must be secured according to the requirements and demands of Combined and/or Intermodal Transport.

12. Place of Jurisdiction

Place of jurisdiction for any disputes arising from the contract of carriage hereunder is exclusively Lübeck, unless compulsory applicable legal provisions allow other jurisdictions. In this case Lübeck is an additional jurisdiction. The Law of Germany applies under exclusion of the rules of International Private Law and the CISG.