

General shipping conditions of EP Cargo a.s. defining rail shipment procedures (EPC)

GSC

Article I

Scope of applicability

1. The general shipping conditions of EPC regulate relations between customers and EP Cargo a.s. (EPC) and focus on transport and shipping services provided by EPC.
2. EPC operates as a railway carrier in the Czech Republic, Slovak Republic, Poland and Hungary.
3. Domestic shipments provided by EPC are subject to the laws of the country where the shipment is being currently made, even if the shipment exits and re-enters a neighbouring country.
4. GSC shall also apply to international shipments provided by EPC or by an authorized partner of EPC handling international freight transport.
5. Shipments are subject exclusively to currently valid international regulations. Liability for shipment is based mainly on the Uniform Rules Concerning the Contract for the International Carriage of Goods by Rail - CIM (Annex B attached to the COTIF Convention). Generally valid legal regulations of the Czech Republic are used as a supporting regulation.
6. In addition to GSC and CIM, the following and currently valid regulations apply as well:
 - a) Terms of delivery (Incoterms);
 - b) UIC loading guidelines;
 - c) International Carriage of Dangerous Goods by Rail - RID;
 - d) General agreement on the use of VSP / AVV freight cars;
 - e) customs regulations;
 - f) other regulations agreed on the basis of the concluded shipping contract.
7. The GSC version valid at the time when the shipping contract is concluded shall apply to individual shipments.
8. A shipping contract refers to: Shipping order, Order to carry out shipment, Shipping contract, One-off order.
9. The general terms and conditions of the customer shall apply only if the parties agree so in writing.

Article II

Shipping contract and contract of carriage

1. The basis for the services provided by EPC and by its authorized partners is a shipping contract concluded with the customer in writing and signed by all parties involved. This contract contains basic information about the services needed to conclude the required contract of carriage. Should the shipping contract confirmed by both parties not be concluded, the contract of carriage confirmed by EPC shall be binding for both parties. The contract of carriage confirms the shipment between the designated railway stations under pre-determined conditions.
2. The contract of carriage is concluded when the customer sends a shipping order to EPC in the manner specified in the shipping contract, EPC confirms the order and the shipment is handed over at the acceptance site, unless otherwise stipulated in the shipping contract.
3. The contract of carriage is terminated when the consignment is delivered to the recipient at the agreed handover site and when the recipient, or a third party, accepts the shipment, unless otherwise stipulated in the contract. Should the recipient fail to accept the goods immediately and without undue delay, the customer shall send EPC instructions specifying how to proceed. EPC shall invoice the customer for any additional costs incurred due to the refusal to accept the shipment.

4. The contract of carriage may be amended by subsequent instructions in accordance with the applicable laws and regulations. A fee is charged for changes made to the contract of carriage. Instructions for amending the contract of carriage must be submitted to EPC in written or electronic form.
5. EPC reserves the right to subcontract the shipment to a third party/subcontractor.

Article III

Shipping order

1. The shipping order and its form shall be defined in the shipping contract. The order must contain all information which is necessary to perform the shipping in accordance with the applicable regulations and must be sent to EPC.
2. EPC shall confirm the shipping order.
3. EPC is not obliged to check the correctness of the declared shipment.
4. EPC reserves the right to refuse to perform the shipment - based on available capacities.
5. EPC reserves the right to refuse the shipment due to the fact that the route calculated for the shipment will not be passable or available due to closures, natural disasters or other external influences.

Article IV

Railway cars and loading units, shipment loading and unloading process

1. The ordering process for railway cars or loading units is defined in the shipping contract.
2. In the event that the shipping contract specifies the provision of freight cars or loading units belonging to EPC, the free loading time shall begin at the moment the cars or loading units are ready and parked for loading, even if the loading process has not begun.
3. Before loading, the customer shall check the condition of the cars and loading units, as well as their suitability for the given shipment and the presence of any visible defects. Should the customer discover any non-compliance or defect, the customer shall inform EPC immediately.
4. The customer is responsible for inspecting the cars and for making sure that the freight cars and loading units have been completely unloaded and cleaned as required by applicable regulations and that all detachable components are present on the freight car. Freight cars and loading units must be returned to the agreed location without undue delay. In the event of non-compliance, EPC shall invoice the customer for all costs incurred due to such non-compliance.
5. The recipient is obliged to notify EPC about the completion of the loading and unloading process without undue delay.
6. The sender is responsible for the placement of the shipment on freight cars and on loading units, until the shipment is completed.
7. Should the relevant freight cars or loading units for the given shipment be provided by the customer or a third party designated by the customer, the customer will be invoiced for any additional costs associated with any repair of the freight car or with the inability to use the freight car for the shipment due to technical defects or damage not caused by EPC.
8. EPC is not responsible for the loading or unloading of the shipment, unless otherwise agreed in the shipping contract.

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9. Should the loading or unloading time be exceeded, the customer will be charged a downtime (idle) fee, which is defined in the shipping contract.
10. If the recipient, sender, or a third party designated by the customer is unable to accept the shipment directly and without undue delay, the customer will be charged for any additional incurred costs.
11. Should the loading or unloading process contaminate the loading or unloading area, it must be cleaned immediately after the loading or unloading process is completed by the entity which performed the loading/unloading process. The customer is responsible for making sure that the above is complied with. It is strictly forbidden to leave any cargo items on the tracks or on the loading (unloading) area. If the cleaning is provided by EPC or by a third party, the costs incurred will be billed (re-invoiced) to the customer.
12. The customer is responsible for making sure that the sender or the loading party ensures proper packaging of the shipment to protect the shipment against partial or complete destruction during loading, transport or unloading
13. EPC reserves the right to inspect the shipment or car for damage at any time during loading, transport, or unloading
14. The customer is responsible for damage occurred to the cars caused by loading or unloading and also for loss of detachable parts of cars caused by loading or unloading.
15. Any damage to the shipment or to the car, or loss of detachable parts, must be reported immediately to EPC.
16. EPC reserves the right to check the suitability and cleanliness of the loading or unloading location.

Article V

Invoicing and payments

1. Invoices are due within the deadline agreed in the shipping contract. Should the due date be exceeded, statutory late interest shall apply.
2. Payment of the invoice shall be regarded as properly executed when the amount is credited to the account of EPC.
3. EPC may require a prepayment or similar action, such as a bank guarantee.

Article VI

Liability

1. EPC is responsible for shipments as defined in the applicable legislation, in particular in the COTIF Convention and CIM Connection. Certain shipping or transport restrictions in terms of goods liabilities may be agreed in the shipping contract, particularly for difficult transports or goods that involve special risks.
2. The customer shall be responsible for its own mistakes and for mistakes made by its representatives or third parties appointed by the customer, in particular for all consequences of defective packaging and loading, for inaccurate or incorrect or missing information in the shipping order, bill of lading or in the relevant customs forms.
3. The customer is responsible for all additional costs that were not defined in the shipping contract, especially in the "Price includes" section.
4. The customer is liable for any damage of freight cars, loading units and loading equipment caused by the customer or by a third party designated by the customer.

5. Unless otherwise agreed in the shipping contract, the waiting time reserved for the handover of the shipment over to a third party, or for the acceptance and handover of the goods to a third party designated by the customer (e.g. another railway carrier at a border station) shall not exceed 3 hours after the agreed handover time. Should this three-hour period be exceeded, the incurred costs, including the downtime (idle time) and waiting time of freight cars and loading units, providing that it applies to an extended stay or time for the loading or unloading agreed in the contract of carriage, shall be invoiced by EPC.

Article VII

Removal of identified defects on wagons and commissioning of wagons included in transports carried out by EP Cargo a.s.

1. The contract regulates the rights and obligations of the contracting parties in the implementation of joint business activities in the field of national and international rail freight transport according to the valid COTIF Convention, where EP Cargo a.s. (**further as "EPC"**) provides suitable rail freight wagons used as means of transport.
2. The aim of the contract is to standardize processes and procedures between the contracting parties, especially when detecting defects on these wagons and their administration in accordance with AVV principles.
3. EPC declares that it is entitled to use these wagons, of which it is the owner, or that this disposition right has arisen based on other contracts with third parties. The EPC, for wagons meeting the conditions of this contract, acts as the holder towards Železniční dopravní podnik (**further as "ŽDP"**), and is entitled to take steps according to the AVV, related to the accounting of the costs of putting the wagons into operation according to Article 19 of the AVV, and ŽDP agrees with this procedure.
4. The use of wagons is governed by the provisions of the General Agreement on the Use of Freight Vehicles (VSP/AV-V/GCU). The contracting parties and their business partners (suppliers) are obliged to proceed in accordance with this regulation. If one of the contracting parties or its supplier does not respect or does not comply with the provisions of the VSP, the EPC is entitled to demand the incurred costs from the contracting party that secured the relevant ŽDP for the transport.
5. The EPC can be represented, if necessary, in negotiations with the holders and using transport companies by the company EP Cargo Invest a.s. (EPCI), which is part of the EP Logistics International a.s. group, responsible for managing the fleet and managing the repair and maintenance process.
6. ŽDP will ensure the commissioning of the wagons in accordance with the provisions of Annex 10 AVV.
7. EPC can ensure the commissioning of the wagon based on the request of the ŽDP user. In such a case, the commissioning of the wagon will be comprehensively ensured through EPC / EPCI, including communication with the owner of the wagon, if the repair requires the delivery of specific spare parts, or its cost exceeds the value in EUR, in the amount specified in Chapter IV of the current version of the AVV. Part of putting the wagon into operation is also the processing and sending of relevant requests for the supply of spare parts (Muster H, Muster HR) necessary to put the wagon into operation. ŽDP will always be informed about the dispatch of these documents in the form of a copy of the relevant application.
8. The user of ŽDP is obliged to cooperate in full, so that the wagon is put into operation in accordance with AVV and in the shortest time possible.

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9. An integral part of the costs for the repair and commissioning of the wagon are, in addition to the direct costs for its execution and transportation of the mobile service to the repair site, also the costs incurred for handling the wagon, in particular the costs of moving the wagon to the repair track, transportation to / from the repair shop, or location of the repairs specified by the owner of the wagon (if the scope and method of repair requires it or were ordered by the owner of the wagon). The subsequent costs of including the wagons in the train, including transport costs if it is necessary to send the wagon separately as a delivery. Furthermore, the costs of delivery and removal of spare parts, provision of the necessary handling and repair equipment, use of emergency equipment, or other costs not mentioned above, which are directly related to ensuring that the wagon is put into operation.
10. EPC is also entitled to demand costs for rent paid in vain for wagons of third parties with which it has a contractual relationship. This right does not exclude the possibility of claiming compensation for damage that occurred in connection with the damage to the wagon. The EPC is entitled to make a claim from the date of damage to the wagon until the time of its full commissioning, in the event that the responsibility for the defect falls on the user of ŽDP. This replaces the application of the principle of compensation for the inability to use the wagon according to Annex No. 6 AVV.
11. Liability for individual types of defects is governed by Appendix No. 12 of the AVV – Vehicle Damage Catalog, where for the purposes of this EPC contract it acts as the owner of the vehicle.
12. The incurred costs for the commissioning of a wagon directly or partially provided by EPC will be settled according to the responsibility for the occurrence of damage between EPC and ŽDP based on the tax document issued by EPC. Part of the invoice (as its attachment) will be proof of incurred costs invoiced for EPC from the supplier of the relevant service.
13. In the event that ŽDP does not take any steps to put the wagon into operation or deliberately delays its commissioning, and even though EPC has informed it of this fact, EPC is entitled to ensure the commissioning of the wagon even without ŽDP's prior consent. In such a case, the EPC is entitled to apply all costs for putting the wagon into service directly to ŽDP, regardless of responsibility for the occurrence of the defect, including costs for the rent paid from the time of damage to the time the wagon is put into service.
14. If the ŽDP does not provide at all, or provides late information about the damage to the wagon, thereby making it impossible to determine the real culprit of the damage, in accordance with the AVV, it can be designated as the entity responsible for the occurrence of the damage with the obligation to pay the incurred costs for putting the wagon into operation, if the defect is the responsibility of the user of the ŽDP. In the event that due to a procedural error or delay in notifying the holder of the damage, the holder refuses to pay all or part of the costs of putting the wagon into operation, EPC is entitled to charge these costs to ŽDP regardless of fault liability.

Article VIII

Disputes, jurisdiction

1. The contractual relationship between the customer and EPC is governed by Czech law and / or by the applicable and binding international law.
2. The only applicable court authorized to solve any disputes arising from the contractual relationship shall be the competent court designated by EPC based on the registered address of EPC.

Article IX

Cancellation policy

- Should the customer cancel a confirmed order, the following conditions shall apply:
- if the cancellation request arrives less than 48 hours before the scheduled shipment time/departure time of the train, the customer shall pay a cancellation fee equal to 50% of the total price of the shipment;
 - if the cancellation request arrives less than 48 hours before the scheduled departure time of an empty train that has been set for loading, and if EPC provides freight cars or loading mechanism for the given transport, the customer shall pay a cancellation fee equal to 50% of the total price of the shipment;
 - a postponement of train services will be regarded as a cancellation of the shipment.

Article X

Extra costs

1. Locomotive and staff waiting time: 130.00 EUR excl. VAT/per each commenced hour of wait.
2. Extension of train shunting for loading / unloading organized by EPC: 1,650.00 EUR excl. VAT/per each commenced 12-hour period of shunting.
3. Train stoppage wait time: 600 EUR excl. VAT + the cost for new arrival of the locomotive.
4. Removal of a freight car from the train: 160.00 EUR/per each commenced hour of shunting + additional costs for the freight car parking.
5. Issuance of CIM, CIT documents: 20 EUR/document.

Article XI

Final provisions

1. The conditions agreed by the contracting parties in the shipping contract are binding for both participants and/or the recipient.
2. Should certain cases be addressed differently in the shipping contract than specified in these GSC, then the relevant provisions defined in the shipping contract shall be binding for both parties.
3. The GSC are published on the EPC website.
4. EPC reserves the right to amend these GSC..
5. Should these GSC-EPC be changed during the performance of the shipping contract, this contract shall only be affected by the change if the change is defined in an annex attached to the contract.
6. The parties involved in the shipping contract undertake to keep all data, documents and information shared between them in connection with the conclusion of the shipping contract confidential, and not to provide them to any third parties.
7. Any agreements between EPC and the customer which may be in conflict with the shipping contract, the GSC or in conflict with applicable binding regulations, shall be deemed invalid.