

# Terms of Use for Service Facilities of

## Hutchison Ports Duisburg GmbH

The following “Terms of Use for Service Facilities” are essentially derived from the terms of use recommended by the Verband Deutscher Verkehrsunternehmen e.V. (VDV), the association of German transport undertakings. They regulate the business relationship with access permit holders that arises from the use of service facilities as defined in Art. 2(9), AEG (*Allgemeine Eisenbahngesetz*, or General Railways Act). They are broken down into a general section (NBS-AT) and a special section (NBS-BT). The NSB-BT contains additional provisions addressing company-specific concerns of Hutchison Ports Duisburg GmbH.

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#### List of abbreviations

AEG *Allgemeines Eisenbahngesetz* (General Railways Act)

BGB *Bürgerliches Gesetzbuch* (German Civil Code)

ERegG *Eisenbahnregulierungsgesetz* (Railways Regulation Act)

EVU *Eisenbahnverkehrsunternehmen* (railway undertakings)

GGVSEB *Gefahrgutverordnung Straße, Eisenbahn und Binnenschiff* (Road, Rail and Barge inlandwaterway Transport of Hazardous Goods Regulation)

HPfIG *Haftpflichtgesetz* (German Liability Act)

NBS-AT Terms of Use for Service Facilities - General Section

NBS-BT Terms of Use for Service Facilities - Special Section

RID Regulation concerning the International Carriage of Dangerous Goods by Rail

TEIV Trans-European Railway Interoperability Regulation

VDV *Verband Deutscher Verkehrsunternehmen e. V.* (the association of German transport undertakings)

## I. General section

### 1. Purpose and scope

- 1.1 Hutchison Ports Duisburg GmbH operates a transshipment facility that processes containers between modes of transport, being rail, inland waterway, and truck transport by road. Insofar as containers are transshipped to or from rail vehicles, the transshipment facility is a service facility within the definition of Section 2, paragraph 9 of the AEG (*Allgemeine Eisenbahngesetz*, or General Railways Act) in conjunction with Annex 2(2)(b), ERegG (*Eisenbahnregulierungsgesetz*, or Railways Regulation Act). The location, equipment and general performance characteristics of the transshipment facility are given in

#### Schedule 1: Infrastructure description

- 1.2 The present terms of use refer exclusively to the use of the transshipment facility as a service facility within the definition of Section 2, paragraph 9 of the AEG in conjunction with Annex 2(2)(b), ERegG. They are intended to enable access on a non-discriminatory basis to all persons with authorization to access these facilities, and to provide non-discriminatory use of the services associated with the operation of the transshipment facility. They apply for the entire business relationship arising between the authorized user and Hutchison Ports Duisburg GmbH.
- 1.3 The particulars of access, and specifically the time and duration of use and the fees to be paid for use, as well as all other conditions of use including those relating to operational safety, remain governed by a contract to be concluded in accordance with Section 20 and the second sentence of section 21(1), ERegG.
- 1.4 Contractual agreements between parties with authorization to access the transshipment facility and the EVUs contracted by them have no influence on the contractual agreements between the parties with access authorization and Hutchison Ports Duisburg GmbH.
- 1.5 The terms of use for service facilities are broken down into a general section (NBS-AT) and a company-specific special section (NBS-BT). Any arrangements made in supplement to or in departure from the NBS-AT are to be derived from the NBS-BT. Arrangements in the NBS-BT take precedence over arrangements in the NBS-AT.

## 2. General access conditions

### 2.1 License

- 2.1.1 Upon entering into a contract in accordance with Section 20 and the second sentence of Section 21(1), ERegG, the access permit holder must, upon request by Hutchison Ports Duisburg GmbH, demonstrate (by submitting either the original or an authenticated copy) that it is in possession of the following licenses issued by the competent authorities:
- a) an undertaking license in accordance with the first sentence of Section 6(1), AEG, for performing rail transport services. Licences for the performance of rail transport services for the carriage of passengers or goods issued in accordance with Section

6(3)(1), AEG, in the version valid until 2 September 2016, or licenses for the provision of rail transport services issued under the law of another Member State of the European Communities or a Member State of the Agreement of 2 May 1992 on the European Economic Area, will be deemed to be undertaking licenses (Section 38(3), AEG), and

- b) a safety certificate within the definition of the first sentence of Section 7a(1), AEG, or an additional national certificate in accordance with Section 7a(4), AEG.

2.1.2 Upon entering into a contract in accordance with Section 20 and the second sentence of Section 21(1), ERegG, the holder of railway vehicles must, upon request by Hutchison Ports Duisburg GmbH, demonstrate (by submitting either the original or an authenticated copy) that it is in possession of the following licenses required for independent participation in railway operations, issued by the competent authorities:

- a licence for independent participation in railway operations as a holder of railway vehicles within the meaning of the first sentence of Section 6(1)(2), AEG, for independent participation in railway operations as a holder of railway vehicles. Licences for independent participation in railway operations as a holder of railway vehicles issued in accordance with Section 6(3)(2), AEG, in the version valid until 2 September 2016, will be deemed to be undertaking licenses (Section 38(3), AEG), or
- a license for independent participation in railway operations as a holder of railway vehicles issued under the law of another Member State of the European Communities or a Member State of the Agreement of 2 May 1992 on the European Economic Area.

2.1.3 In the case of a license issued by a foreign authority, Hutchison Ports Duisburg GmbH may require the submission of a certified translation into German.

2.1.4 The access permit holder must immediately notify Hutchison Ports Duisburg GmbH in writing of the revocation of or any change to the license.

## 2.2 Liability insurance

Upon entering into a contract in accordance with Section 20 and the second sentence of Section 21(1), ERegG, the access permit holder must, upon request by Hutchison Ports Duisburg GmbH, demonstrate that it holds liability insurance in accordance with Section 14(1), AEG. In the situations as described in sentence 1(a) of Section 14a(1), AEG, the access permit holder will demonstrate that it has equivalent coverage under a liability loss compensation scheme exempted by the regulatory body for insurance under section 1(3)(3) of the Insurance Supervision Act (*Versicherungsaufsichtsgesetzes*). Changes to the existing insurance contract must be notified to Hutchison Ports Duisburg GmbH immediately and in writing.

## 2.3 Personnel requirements, compliance with Hutchison Ports Duisburg GmbH 's operating procedures

2.3.1 The operational personnel deployed by the access permit holder must have a command of the German language to the extent needed for their respective activities.

2.3.2 Any personnel driving a railway vehicle must hold the required permit.

2.3.3 The personnel deployed by the access permit holder must observe the operating procedures of Hutchison Ports Duisburg GmbH and the posted signs on the Hutchison Ports Duisburg GmbH operating location and comply with the instructions given by the management of Hutchison Ports Duisburg GmbH for the smooth handling of customers and compliance with safety-relevant processes and aspects. The track may only be driven on for the purposes referred to at paragraph 1.1. At no time may the track be blocked or the operational processes of Hutchison Ports Duisburg GmbH be hindered, nor may the track be used as a parking or shunting track, excepting for reasons associated with Hutchison Ports Duisburg GmbH. Timetable commitments that oblige Hutchison Ports Duisburg GmbH towards other undertakings must be observed, and the track must be cleared at the request of Hutchison Ports Duisburg GmbH.

## **2.4 Requirements for the vehicles**

2.4.1 The vehicles used must be in compliance with the legal requirements regarding construction, equipment and maintenance, and must be approved by the competent authority or be in possession of a commissioning approval within the definition of Article 6 et seq. of the Trans-European Railway Interoperability Regulation (TEIV). This requirement may be departed from in situations in which the use of maintenance facilities and other technical equipment is intended, so long as operational safety of the vehicle is insured in another way.

2.4.2 The equipment of the vehicle to be deployed must be compatible with the control, safety and communications systems of the railroads to be used, as described in the appropriate special section of the terms of use.

2.4.3 Upon request by Hutchison Ports Duisburg GmbH, the access permit holder must demonstrate that the conditions described under paragraphs 2.4.1 and 2.4.2 are met.

## **2.5 Provision of security**

2.5.1 If there are concerns about the solvency of the access permit holder, Hutchison Ports Duisburg GmbH will make the use of the railway infrastructure subject to the provision of adequate security. This does not apply to parties with access authorization as defined in Section 12(2)(a) and (c), ERegG.

2.5.2 There are concerns about the solvency of the access permit holder

- in the event of a delay in payment of a full invoice amount or full monthly payment by more than one month, or
- in the event of payment arrears in the amount of the average total monthly fees to be paid over the last three months.

There are also concerns about the solvency of the access permit holder if

- the expected fee to be paid exceeds the credit line of the access permit holder as determined by a credit agency, or the credit rating determined by a credit agency otherwise indicates that the access permit holder may have difficulties with future payments,

- an application for the opening of insolvency proceedings is filed against the party's assets,
  - the party has applied for legal aid, or
  - the party is not reachable at the address indicated by the party for a period exceeding two weeks.
- 2.5.3 Security furnished in the amount of the total fee to be paid in a month (security period) for services already agreed or services used based on experience will be deemed appropriate. Additionally:
- 2.5.3.1 Security will be furnished in the amount of the total fee to be paid for the rest of the current month. Thereafter, security will be furnished in the amount of the total fee to be paid for the subsequent month.
- 2.5.3.2 If further services are agreed for a security period for which security has already been furnished, additional security for the fee to be paid for these services will be furnished.
- 2.5.4 The security may be furnished in accordance with article 232, BGB (*Bürgerliches Gesetzbuch*, or German Civil Code) or by bank guarantee (with direct enforceability upon demand and under waiver of the right to invoke failure to pursue remedies). A bank guarantee from a bank that has been assigned a non-investment grade by a ratings agency will not be accepted.
- 2.5.5 Hutchison Ports Duisburg GmbH will issue any demand for the furnishing of security in text form. The security is due as follows:
- 2.5.5.1 If security is to be furnished for the rest of the current month, the security must be furnished within five banking days after receipt of the request for security, and in any event prior to the start of performance.
- 2.5.5.2 If security is to be furnished for a subsequent months, the security must be furnished no later than two business days prior to the start of the subsequent month.
- 2.5.5.3 If security is to be furnished for further services falling within a security period for which security has already been furnished, the security for these services must be furnished no later than two business days prior to the start of the services. If this is no longer possible in a timely manner due to services agreed at short notice, the security must in any case be provided before the start of the service.
- 2.5.6 If Hutchison Ports Duisburg GmbH is unable to establish that the security has been furnished in a timely manner, Hutchison Ports Duisburg GmbH is entitled to refuse performance without notice until the security has been demonstrably furnished.
- 2.5.7 The access permit holder may eliminate the need to furnish security by making payment in advance.

### **3. Use of the railway infrastructure**

#### **3.1 General**

- 3.1.1 Use of the railway infrastructure is permitted only within the framework and scope of the contractual agreements.
- 3.1.2 Use of the railway infrastructure is further subject to the provisions of law and these NBS-AT and NBS-BT, the operating procedures and the operating instructions of Hutchison Ports Duisburg GmbH. Hutchison Ports Duisburg GmbH will provide the access permit holder with the relevant operating instructions and any other documents required and (e.g. site plans). This may be done by publication online. If so requested by the access permit holder, Hutchison Ports Duisburg GmbH must provide the documents in printed form once at no additional charge. For each additional time this is required Hutchison Ports Duisburg GmbH may charge a fee, which will be the same fee for all access permit holders. An access permit holder may also make its own duplicates of the documents provided.
- 3.1.3 The actual use of the railway infrastructure is based on the operational instructions given orally by Hutchison Ports Duisburg GmbH on the basis of the arrangements agreements or on the documents drafted and provided to the access permit holder.

#### **3.2 Principles of the coordination procedure**

- 3.2.1 If there are requests for simultaneous uses of the facility that cannot be reconciled, then in accordance with Section 13, ERegG, Hutchison Ports Duisburg GmbH will negotiate simultaneously with all access permit holders involved in the conflict and attempt to arrive at an amicable solution. All relevant parties must participate in the negotiations with the same level of information.
- 3.2.2 If no agreement can be reached, the procedure described in Section 13(3), ERegG, applies.
- 3.3.3 An access permit holder whose request is rejected in whole or in part may submit an appeal to the regulatory authority (first sentence of Section 13(5), ERegG) within three business days after receipt of the notification of the intention to reject the request (first sentence of Section 13(4), ERegG).

### **4 Use fee**

#### **4.1 Calculation basis**

The basis for the calculation of the fee for the use of the service facilities and the railway infrastructure of Hutchison Ports Duisburg GmbH and the performance of services is the fee structure of Hutchison Ports Duisburg GmbH. The fee for the use of the service facilities and railway infrastructure of Hutchison Ports Duisburg GmbH is calculated according to the number of transshipped containers (per container hub, differentiated by empty and full containers). The fee structure and the fees are set out in the NBS-BT (at article 3) and in the fee list.

**Schedule 2: Fee list**

## **4.2 Cancellations**

In the event that contrary to contractual arrangements, the railway infrastructure will not be used due to reasons attributable to the access permit holder, Hutchison Ports Duisburg GmbH will charge a cancellation fee as follows:

- 30% of the applicable fee in accordance with the current fee list for cancellations notified to Hutchison Ports Duisburg GmbH earlier than the 7th calendar day before the agreed use,
- 80% of applicable fee in accordance with the current fee list for cancellations notified to Hutchison Ports Duisburg GmbH later than 7 calendar days but more than 24 hours before the agreed use,
- 95% of the applicable fee in accordance with the current fee list for cancellations notified to Hutchison Ports Duisburg GmbH later than 24 hours before the agreed use.

## **4.3 Turnover tax**

The fees to be paid by the access permit holder on the basis of the Hutchison Ports Duisburg GmbH fee structure will be exclusive of the statutory turnover tax to be charged at the applicable rate.

## **4.4 Method of payment**

The access permit holder must pay the fee by transfer, at its own expense, to an account to be designated by Hutchison Ports Duisburg GmbH, within one week after receipt of invoice.

## **4.5 Entitlement to offsetting**

The contracting parties may only offset claims against other contracting parties where these claims are undisputed or have been established at law.

# **5 Rights and obligations of the contracting parties**

## **5.1 Principles**

- 5.1.1 The contracting parties commit to undertake a cooperation based on trust, in observance of the particulars of the use of railway infrastructure and endeavouring to minimize the negative impact on the other contracting party.
- 5.1.2 For the purposes of guaranteeing safety and efficiency in the use of the railway infrastructure, the contracting parties will each provide the other with all necessary information without delay. This applies specifically to hazardous incidents.
- 5.1.3 In the contract, each contracting party will designate one or more persons or positions with the authorization and capacity to make operational decisions on its behalf as quickly as possible.

## **5.2 Information on the agreed uses**

- 5.2.1 Hutchison Ports Duisburg GmbH will ensure that the contracting party is, at a minimum, informed immediately, or at least in good time, of the following circumstances:

- (a) the condition of the railway infrastructure to be used, and specifically of changes affecting the route of travel and which relate to train traffic (e.g. construction works, signal changes, changes in the technical or operational qualities of the route of travel),
  - b) irregularities during the use of the railway infrastructure insofar as these may be significant for further allocations to the parties with access authorization.
- 5.2.2 The access permit holder will ensure that Hutchison Ports Duisburg GmbH is informed immediately of, at a minimum, the following circumstances:
- a) the composition of the train (length, gross load of train, changes from the use as requested)
  - b) any unusual details (e.g. transport of hazardous goods in accordance with GGVSEB/RID and their position in the train, any excesses of loading gauge)
  - c) irregularities during the use of the railway infrastructure, and specifically factors pertaining to delays (e.g. reduced braking capacity, failure of tractive units)

### **5.3 Operational failures**

- 5.3.1 Hutchison Ports Duisburg GmbH and the access permit holder will inform each other immediately of any nonconformities, and specifically deviations from the agreed uses, as well as any other irregularities (operational failures). Hutchison Ports Duisburg GmbH will inform the access permit holder of any restrictions on the use options resulting therefrom.
- 5.3.2 In the event of technical failures of the service facilities, this specifically including technical failures of a container crane, Hutchison Ports Duisburg GmbH is entitled to suspend the services for the duration of the failure until repairs are carried out and to instruct the access permit holder to have the transshipment services performed at other container terminals.
- 5.3.3 The access permit holder must immediately remedy any operational failures that fall under its scope of responsibility (including, but not limited to, failure of railway vehicles). Specifically, the active permit holder must ensure that the demands placed on the service facility used do not exceed the agreed level (including, but not limited to, as a result of trains left standing). In the event of technical failures of rail vehicles belonging to the access permit holder, the access permit holder is obliged to immediately arrange for repairs so that the track is cleared. Hutchison Ports Duisburg GmbH may at any time require the train and/or rolling stock to be removed from the track by a replacement locomotive so that the track is released for services to customers. In any event, Hutchison Ports Duisburg GmbH is also entitled at all times to remedy the disruption in the operational process (for example, by hauling away inoperative trains) at the expense of the party causing the disruption.

## **5.4 Incentive system**

5.4.1 In the event of operational failures, Hutchison Ports Duisburg GmbH applies the following incentive system to reduce disruptions and improve the performance of the service facility.

5.4.2 The incentive system goes into effect when the service facility contractually allocated to an access permit holder under an infrastructure use contract is not available in a timely manner as contractually agreed and the operational failure falls under the scope of responsibility of either Hutchison Ports Duisburg GmbH or the access permit holder. If the cause of the operational failure cannot be indisputably assigned to the scope of responsibility of Hutchison Ports Duisburg GmbH or the access permit holder, the incentive system does not go into effect.

5.4.3. The amount of the incentive payment depends on the use fee for the service facility, which in turn is based on the current fee list for the agreed use. In the event of an operational failure, the party that bears the responsibility for the operational failure owes to the other party an incentive fee for each calendar day of the failure in the amount of 10% of the use fee agreed for the calendar day up to a maximum of 10 calendar days.

5.4.4 Without prejudice to the foregoing, no incentive fee is owed for an operational failure in the following circumstances:

- in the event of an operational failure that falls under the responsibility of Hutchison Ports Duisburg GmbH, insofar as Hutchison Ports Duisburg GmbH remedies the failure within a period of 24 hours from the scheduled termination of use of the service facility as contractually agreed (scheduled departure from the container terminal).
- Hutchison Ports Duisburg GmbH has entitled the access permit holder to have the transshipment services performed at another container terminal in accordance with article 5.3.2.

5.4.5 The foregoing is without prejudice to all other claims of Hutchison Ports Duisburg GmbH, and specifically where the access permit holder fails to fulfil its obligations under article 5.3.3 of these terms of use.

## **5.5 Right of verification, right of inspection, right of instruction**

On its own premises, Hutchison Ports Duisburg GmbH is at all times entitled to ascertain to its own satisfaction that the access permit holder is meeting its contractual obligations. To the extent necessary to ensure safe and proper operations, authorized personnel of Hutchison Ports Duisburg GmbH may enter vehicles, facilities and equipment of the access permit holder and give instructions to the personnel of the access permit holder. The personnel of the access permit holder are obliged to follow the instructions.

## **5.6 Changes with respect to railway infrastructure**

Hutchison Ports Duisburg GmbH is entitled to modify both the railway infrastructure and the technical and operational standards for the use of the railway infrastructure in due observance of the interests of the access permit holder. Hutchison Ports Duisburg GmbH will also inform the access permit holder immediately of any scheduled modifications and will keep the access permit holder informed in cases of works of a longer duration. Existing contractual obligations remain unaffected.

## **5.7 Maintenance and construction works**

5.7.1 Hutchison Ports Duisburg GmbH is entitled to perform maintenance and construction works on the railway infrastructure at any time.

5.7.2 Hutchison Ports Duisburg GmbH will immediately inform the access permit holder of any scheduled works that may have an impact on the operations of the access permit holder. The access permit holder can submit a response to the scheduled works.

## **6. Liability**

### **6.1 Basis**

6.1.1 Each of the parties bears the liability as dictated by the provisions of law insofar as the terms of use (AT/BT) and the general terms and conditions applied by Hutchison Ports Duisburg GmbH and/or the contracts in question do not contain clauses to the contrary.

6.1.2 Each of the parties is only liable to the other for indirect damages in the event of damage to life and limb and in the event of gross negligence. In the event of simple negligence, the parties are only liable towards each other for indirect damages in the event of violation of material contractual obligations and only for damages that would be generally foreseeable under normal circumstances. Material contractual obligations are obligations the fulfilment of which is essential for proper performance. Beyond this, the parties are not liable for indirect damages.

6.1.3 In the relationship between Hutchison Ports Duisburg GmbH and the access permit holder, compensation of the individual parties' property damage is excluded. This does not apply if a party's property damage exceeds an amount of €10,000; further, it does not apply in cases of intent or gross negligence by the other party or in cases in which material damages of third parties or personal injury must also be compensated alongside the party's own material damages. Hutchison Ports Duisburg GmbH may stipulate a different system to govern the amount of the exclusion of liability in the special section of its terms of use.

### **6.2 Contributory negligence**

Article 254 of the German Civil Code and section 13 of the German Liability Act (*Haftpflichtgesetz*, or HPfIG) apply accordingly.

### **6.3 Liability of employees**

The liability of employees will not exceed the liability of the contracting parties. This is without prejudice to the personal liability of the employees towards third parties. Recovery against employees of a party bearing liability is only possible by that party itself on the basis of its own internal procedures.

#### **6.4 Assignment of liability in the event that the party responsible for the damages is unknown**

In the event that the identity of the party causing damages suffered by Hutchison Ports Duisburg GmbH or third parties cannot be determined, both parties are liable in equal measure. If other access permit holders use or have used the tracks in question, the following system applies:

- a) If an access permit holder demonstrates that there is no possibility that it contributed to the occurrence of the damages, that party is exempt from the liability.
- b) In all other cases, the damages will initially be apportioned among all other remaining participants.
- c) The total amount apportioned to the access permit holders in this way will then be divided among them in proportion to their actual use of the railways in the three months prior to the occurrence of the damages.

#### **6.5 Departures from the agreed use**

Departures from the agreed use as a result of unavoidable events or events that could not have been avoided even if the duty of care as dictated by generally accepted standards had been observed fall under the general operating risk, and the expense and risk for such events are to be borne by the party in question, excepting where agreed otherwise by the parties. This also applies accordingly to departures from the agreed use that could not have been avoided even if the duty of care as dictated by generally accepted standards had been observed. This is without prejudice to liability for intent and gross negligence.

### **7. Environmental hazards**

#### **7.1 Basis**

The access permit holder is obliged to minimize its environmental impact. Specifically, transshipment of goods designated as environmentally hazardous, as well as refuelling of vehicles, may only be carried out at locations suitable for doing so. The access permit holder is obliged to declare the transport of hazardous goods and containers and tanks for hazardous goods in accordance with the applicable instructions. The access permit holder must, at its own expense, ensure that hazardous goods containers are brought to Hutchison Ports Duisburg GmbH's warehouse for storage of hazardous materials at the appropriate times as prescribed by law if they cannot be transhipped within one business day. In such cases Hutchison Ports Duisburg GmbH is entitled to charge a separate depot fee for the transfer of these containers into the hazardous materials warehouse using a reach stacker, as well as for the use of the hazardous materials warehouse. This fee will be charged to all access permit holders in the same manner.

#### **7.2 Environmental impact**

If the access permit holder's operations produce emissions that are hazardous to the environment, or if the use of the access permit holder's equipment releases water pollutants into the soil, or in the event of risk of explosion, fire or other hazards, the access permit holder must immediately notify the nearest manned operations point of Hutchison Ports Duisburg GmbH. This report is without prejudice to the access permit holder's responsibility to also take remedial measures and emergency measures (e.g. notifying the local police, fire brigade, etc.). If the hazardous situation as described in the first sentence of this article requires an evacuation of the premises of Hutchison Ports Duisburg GmbH, the other party must bear the resulting costs.

### **7.3 Soil Contamination**

In the event of soil contamination caused by the access permit holder (even if not at fault), Hutchison Ports Duisburg GmbH will make arrangements for the cleanup measures required. The cost of the cleanup will be borne by the access permit holder causing the contamination. If the party causing the contamination cannot be established, the liability as described under article 6.4 applies.

### **7.4 Obligation for compensation of damages**

If Hutchison Ports Duisburg GmbH as party causing the damages is obliged to remedy environmental damage caused by the access permit holder (even if not at fault), then the party causing the damages must bear the costs resulting for Hutchison Ports Duisburg GmbH. If Hutchison Ports Duisburg GmbH has contributed to causing the damages, then the obligation to pay compensation depends on the circumstances, and in particular on the extent to which the damage was predominantly caused by one party or the other. If the party causing the contamination cannot be established, the liability as described under article 6.4 applies.

## **II. Special section**

### **1. Description of service facility and infrastructure**

#### **1.1 General information**

Hutchison Ports Duisburg GmbH commercially operates a container terminal. It offers trimodal container transshipment services and, for the performance of these tasks, has four container gantry cranes and mobile transshipment equipment (reach stackers), as well as storage space and a hazardous goods warehouse for the temporary storage of containers. The transshipment of containers between inland waterway vessels and freight trucks for road transport represent the bulk of the activities.

On its site, which it leases from Duisburger Hafen AG ("Duisport"), Hutchison Ports Duisburg GmbH also has two railway tracks (leased with the property) connected over a rail connection to the rail network of Deutsche Bahn AG. These tracks allow trains to reach 3 of the 4 total container gantry cranes by rail. At present, loading and unloading of trains (rail transshipment) is only possible with two of the container gantry trains.

#### **1.2 Description of the individual services**

Hutchison Ports Duisburg GmbH provide services as defined in Section 2(9) AEG, in the form of gantry cranes and mobile heavy-duty forklifts (reach stackers). The location, equipment and general performance characteristics of the services to which these terms of use apply are described in Schedule 1: Infrastructure description

## **2. Access conditions**

### **2.1 Use contract**

2.1.1 The use of the service facility is subject to a separate request by the access permit holder to Hutchison Ports Duisburg GmbH. This request must be submitted in writing to

Hutchison Ports Duisburg GmbH  
Stahlinsel 9  
47138 Duisburg, Germany  
Tel.: +49 203 80906220

or by e-mail to: [Operations@hutchisonportsduisburg.de](mailto:Operations@hutchisonportsduisburg.de)

The request must contain the following information:

1. Requester: contact person and contact address/telephone number of the authorized person(s)
  2. transport connection, terminals involved
  3. date of the scheduled transshipment
  4. transport day(s), duration of transport
  5. incoming train, desired times
  6. outgoing train, desired times,
  7. transshipment track, requirements per terminal:  
length of track required
  8. transshipment services:  
Incoming quantity per train: - rail/road,  
outgoing quantity per train: - road/rail,  
quantity of rail-(parking)-rail per train
  9. quantity of hazardous goods arriving by rail: quantity of hazardous goods departing by rail,
  10. Parking requirements per train (incoming by rail), parking needs per train (outgoing by rail).
- 2.1.2 The service facility offered by Hutchison Ports Duisburg GmbH can be used exclusively on the basis of a separate use contract entered into between Hutchison Ports Duisburg GmbH and the access permit holder in accordance with Section 20 and the second sentence of Section 21(1), ERegG, which together with NSB-AT and NSB-BT constitutes the contractual basis. These dictate the particulars of the access, and in particular the moment and duration of the use and the fee to be paid.

## **2.2 Operating hours**

2.2.1 The normal operating hours of Hutchison Ports Duisburg GmbH during which the service facility can be used without additional surcharges are:

Monday 6 AM – Saturday 6 AM.

2.2.2 Requests for any use of the service facility must in all cases be received by Hutchison Ports Duisburg GmbH no later than 48 hours prior to the desired moment of use. Outside the regular operating hours (Saturday 6 AM – Monday 6 AM), any request must always be received by Hutchison Ports Duisburg GmbH no later than Thursday 12 PM (in observance of at least 48 hours' notice). Hutchison Ports Duisburg GmbH will then either confirm or decline the use of the service at least 24 hours before the scheduled arrival of the train.

2.2.3 Outside the regular operating hours (Saturday 6 AM – Monday 6 AM) and on official holidays, a surcharge of 10% on the fee as provided in the most current fee list must be paid. Additionally, any such use must comprise a volume of at least 20 container transshipments (actions).

## **3. Payment principles**

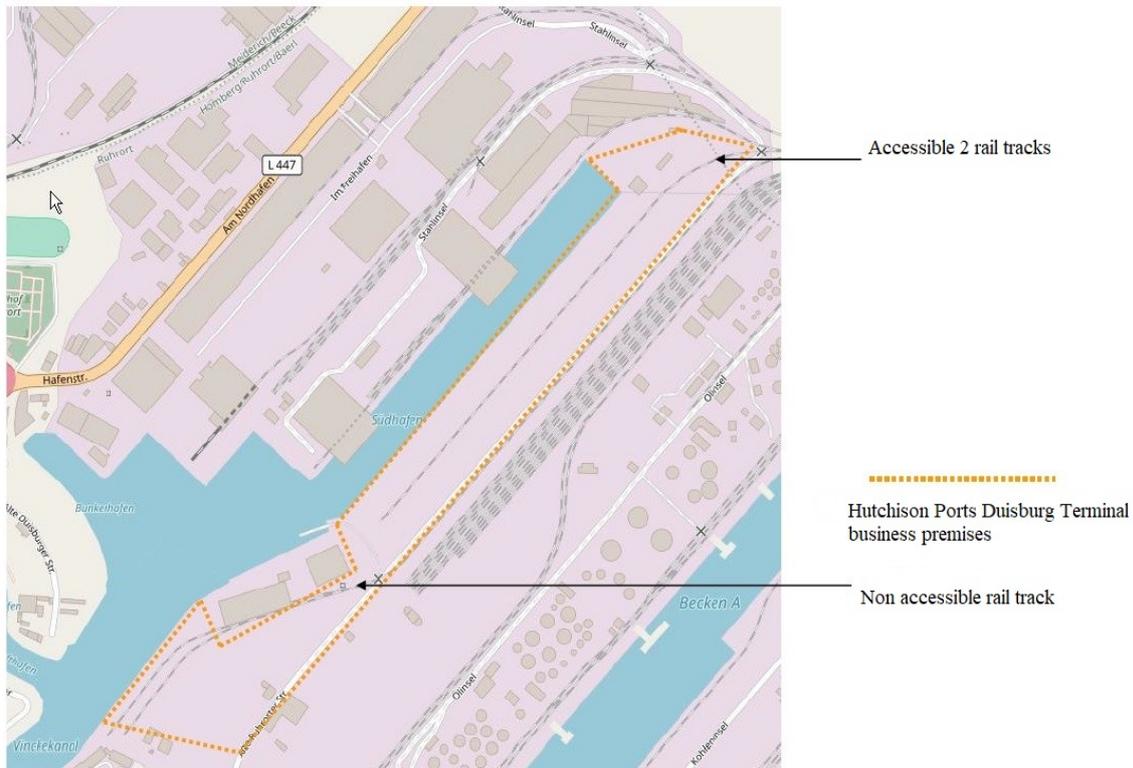
3.1 The calculation of the fees for the use of Hutchison Ports Duisburg GmbH 's service facility is based on Hutchison Ports Duisburg GmbH's current fee list. The fee list can be consulted at the end of this document (appendix 2)

3.2 The fee for the transshipment of the services described at no. 1.2 NSB-BT is calculated per container hub service.

3.3 The fee includes the processing of requests for allocation of service facilities and the permission for the use of the allocated service facility.

3.4 Insofar as Hutchison Ports Duisburg GmbH provides services under these terms of use, no separate use fees will be charged for the use of and access to the track as required for this purpose. Only container transport and/or transshipment will be charged.

## Schedule 1. Infrastructure description



### Administration

Hutchison Ports Duisburg GmbH  
Stahlninsel 9  
47138 Duisburg  
[www.hutchisonportsduisburg.de](http://www.hutchisonportsduisburg.de)

### Terminal operations

Hutchison Ports Duisburg GmbH  
Stahlninsel 9  
47138 Duisburg  
[www.hutchisonportsduisburg.de](http://www.hutchisonportsduisburg.de)  
Tel.: +49 (0) 203 – 80 90 6 -220  
E-Mail:  
[operations@hutchisonportsduisburg.de](mailto:operations@hutchisonportsduisburg.de)

### Owner of the railway infrastructure

Duisburger Hafen AG  
Alte Ruhrorter Strasse 42-52  
47119 Duisburg

### Rail-side infrastructure

Number of transshipment tracks: 2  
Track length: 677 Meter  
electrification : nein  
Route class : D4

### Infrastructure handling facility

Number of Cranes: 3, of which 2 are available for rail handling  
Load capacity: 41 to  
Number of mobile devices: 4  
Load capacity: 42to  
Mobile leakage tray for hazardous substances: 1  
Brake testing system: 0  
with brake filler stand: 0  
storage area: 44795 qm  
Total area: 104 000 qm

## Schedule 2. Fee list

### SERVICES for Hutchison Ports Duisburg GmbH as of 01.01.2024

<b>Handling</b> Full and empty Container, per handling	
From / on Truck	€35
From / on Rail	€35
From/ on Vessel	€35
<b>Conditions:</b> <ul style="list-style-type: none"> <li>• Valid from Monday 6:00 AM to Friday 10:00 PM, and only upon request and subject to availability. • Weekends and holidays are available upon request. Surcharges may apply.</li> <li>• Rail and ship rates are exclusive of quay dues / charges.</li> <li>• Quay dues / charges will be passed on to the customer at a 1:1 ratio and are subject to adjustment (as published by Duisburg). • Quay dues / charges are published by Duisport:</li> <li>• Rail: <a href="https://www.duisport.de/wp-content/uploads/2023/11/Entgeltverzeichnis-DHAG-ab-01-01-2024-FINAL.pdf">https://www.duisport.de/wp-content/uploads/2023/11/Entgeltverzeichnis-DHAG-ab-01-01-2024-FINAL.pdf</a> (Rate from 01.01.2024: €6.25 per empty or full container)</li> <li>• Ship: <a href="https://www.duisport.de/wp-content/uploads/2022/11/Tarif-Hafen-und-Ufergeld-01-01-2023-deutsch.pdf">https://www.duisport.de/wp-content/uploads/2022/11/Tarif-Hafen-und-Ufergeld-01-01-2023-deutsch.pdf</a> (Rate from 01.01.2023: €7.90 per full container and €1.20 per empty container)</li> </ul>	

<b>Container storage, Full or Empty (non-IMO)</b> Per TEU per calendar day or part thereof	
Day of Arrival	Free
1-5 days	€ 0,00
6-10 days	€ 8,00
11-16 days	€ 15,00
17> days	€ 15,00
<b>Conditions:</b> <ul style="list-style-type: none"> <li>• On day 6, we charge an additional handling fee per container.</li> <li>• Maximum storage capacity: 100 TEU</li> </ul>	

Truck registration is only possible with a valid Cargo Card and through the Do-It-Yourself-Desk (DIYD).

Additional services are available upon request. Details will be specified in the contract.

Payment of invoices is required within 30 days.