

Only the German version of the General Terms and Conditions is legally binding!

## General Terms and Conditions

### Blue Water BREB GmbH, Cuxhaven

First issuing date: 01<sup>st</sup> January 2017

Rev.: 2 / 12.09.2018

## CONTENT

Part I – Scope.....	3
1. Scope of Application .....	3
2. Inclusion.....	3
Part II – General Terms about Service Provision .....	3
3. Service Provision.....	3
4. Customers' Responsibilities .....	4
5. Customs Clearance .....	5
6. Special Cargo / Restrictions .....	5
7. Control of Product Identification and Weight.....	5
8. Cargo Insurance.....	5
9. No-Smoking-Rule .....	6
10. Security, Security Fees, Impoundment.....	6
11. Fees .....	6
Part III – Special Conditions for Cargo Handling .....	7
12. Cargo Acceptance .....	7
13. Handling Storage / Warehousing.....	7
14. Loading the goods onto load carriers.....	8
15. Special features when loading with vessel transport.....	8
16. Processing of damaged vessels .....	9
17. Special features when loading with road vehicle transport .....	9
18. Stevedoring and cargo securing services / sea packaging .....	9
19. Delivery.....	10
Part IV – Vessel handling .....	11
20. Berths.....	11
21. Sequence of vessel handling, moving .....	11
22. Vessel Handling .....	11
23. Vesselping Company Representative.....	11

Only the German version of the General Terms and Conditions is legally binding!

The agreements made with the vesselping company's representative are binding for the vessel and the agreements with its captain.....	11
Part V – Special Rights.....	11
24. Right of Lien and Retention .....	11
25. Customer Rights.....	12
26. BWB Self-Help Law .....	12
27. Demurrage .....	13
28. Special Measures.....	13
Part VI – Case of Damage Control .....	13
29. Damage Assessment .....	13
30. Loss Advice.....	13
Part VII – Liability and Limitation.....	14
31. Customer Liability.....	14
32. Blue Water BREBs Liability .....	14
33. Liability of Blue Water BREB, Suspected no Fault .....	15
34. Total Limitation of Liability (Principle) .....	15
35. Liability of Blue Water BREB, Limitation of Liability for Damage to Goods .....	16
36. Exemption from Liability and Limitations no longer apply.....	16
37. Employee Liability .....	17
38. Limitation .....	17
Part VIII – Final Provision.....	17
39. Application of Law, Place of Performance, Place of Jurisdiction.....	17
40. Severability.....	17
Part IX – Terminal Regulations for Blue Water BREB Cuxhaven.....	18
41. Opening and check-in times.....	18
42. Requirements and special regulations for driving on and entering the Cuxhaven terminal.....	18

Only the German version of the General Terms and Conditions is legally binding!

## Part I – Scope

### 1. Scope of Application

These General terms and conditions are applicable for the handling and storage of goods, the required usage of the quay, the agency and all other additional services in regards to handling and storage of goods at the quay, for customers through Blue Water BREB GmbH (hereinafter referred to as „BWB”) and through third parties assigned by BWB.

### 2. Inclusion

2.1 BWB solely works on basis of this terms and conditions and the respectively applicable and valid (handling, quay-) tariffs when using the terminal, quay or others areas and harbour facilities and/or when customers demand under “1. Scope of Application” mentioned services. Varying agreements require written form.

2.2 BWB considers other general terms and conditions, which conflict with these regulations, waived.

2.3 The rules and regulations of AMBAU GmbH and Niedersachsen Ports GmbH & Co. KG (with more detailed accident prevention regulations) in their current version apply in addition to these regulations.

## Part II – General Terms about Service Provision

### 3. Service Provision

3.1 Generally, BWB only acts after receipt of a customer order and its written confirmation by BWB.

3.2 The customer orders are progressed by an order defined by BWB, which tries to consider the timely receipt of each order. In case of an order with fixation of a period, BWB only has to fulfil the claim in case of an earlier written confirmation of the date by BWB.

3.3 BWB may request customer orders and required declarations for the order processing on form sheets provided by BWB and/or transferred via electronic data communication (EDI). BWB only accepts possible belated amendments of the provided data from the customer, in written form with a date and confirmed by BWB.

3.4 BWB remains the right to refuse customer orders, without any legal claims resulting from the refusal towards BWB. BWB can request the acceptance of its service on a certain date and time, even outside of the normal working hours.

3.5 BWB can transfer contracted obligations to third parties fully and at any time. There is no restriction in the selection of these third parties.

3.6 The customer knows about the conditions of the terminal, quay and other facilities used by BWB and accepts these to the full extend according to the contract.

3.7 BWB is not required to check signatures, competences of signed persons or bearers, or correctness of provided data, unless there are apparent doubts about the authenticity, competence or correctness. In case of false information, the customer has to bear all costs for possible tests.

3.8 The customer (or carrier) has to inform the receiver of goods (e.g. forwarder) of the arrival date. BWB is also not obligated to inform the receiver of goods about possible deviations between the

**Only the German version of the General Terms and Conditions is legally binding!**

information on the transportation papers and the actual conditions, e.g. measurements, weight, markings or descriptions of the goods.

3.9 BWB is not obligated to work with a wind regime of 8 (Beaufort-scale) or more, without any obligations can be derived against BWB from it. The customer carries all waiting time and their consequences to the full extend.

## 4. Customers' Responsibilities

4.1 The customer has to hand in all required information concerning the handled cargoes, all transport documents, and other relevant documentation related to the cargoes and/or the handling.

4.2 The customer has to provide a (cargo-) list and all required documents at least three days before loading and/or unloading of the goods, within the office hours of BWB. It should include following information:

- Receiver
- Type and Number
- Number of items
- Kind of packing
- Weight (gross)
- Content

The statement of the vessel's arrival time has to be according to the system 72, 48, 24h prior to arrival. Documents handed in after 12:00 o'clock are considered as delivered on the next day. All information and documents can be submitted in electronical form.

4.3 The compliance of legal and/or governmental regulations (especially customs and tax regulations) and the terms concerning the Statistics of goods traffic concerns the customer. The customer must provide all required forms, special clearance for the cargoes or additional vesseling documents.

4.4 In case of a written agreement that BWB provides customs clearance, BWB will charge an additional amount.

4.5 BWB is not responsible for the call-off of cargos, transportation, equipment or material, needed by the customer or third parties. In case of a delay caused by the customer (late call-off), BWB is without liability.

4.6 If the customer or a third party provides the means of transportation, BWB has to be informed about the special requirements (especially concerning the loading). BWB is not responsible for delays caused by missing or lacking information (e.g. wrong loading).

4.7 The attendance of the customers, there employees and agents on the terminal area should not disturb the terminal work or endanger any persons. The customer vouches for the company, employees and contracted persons that are on the terminal to act according to the terminal regulations, especially the current accident prevention and no-smoking regulations.

4.8 Any circumstances that make it impossible to routinely load or unload cargo or endanger the staff, vessel, goods, or the equipment must announced by the customer.

4.9 Uncertainty, doubts, disadvantages or others that are results of unclear information or transmission, or poor, insufficient messages of the customer, are on the customers' account.

Only the German version of the General Terms and Conditions is legally binding!

## 5. Customs Clearance

5.1 Customers must follow all governmental regulations like customs, taxes or railroad-regulations and terms according to the Statistics of goods traffic. All required documentation and vesselping documents must be issued, provided, and/or handed in by the customer.

5.2 In case of a written agreement that BWB provides customs clearance, BWB will charge an additional amount.

5.3 The regulation to deliver cargo in bond or DDP includes the authorization, but not the liability, to handle the required customs clearance and to decide about the information set by the custom office.

## 6. Special Cargo / Restrictions

6.1 BWB can exclude the following cargoes from receipt and/or (direct) handling:

a) Goods, which disposition, handling and transport are forbidden in harbour areas or are restricted by valid legal regulations and/or by directive.

b) Goods that are judged by BWB and/or the port authorities as not suitable because of their characteristics, nature and/or packing for loading, unloading, or handling and endanger safe port handling and/or the facilities of BWB and/or the port authorities.

6.2 For the receipt and port handling of cargoes, which handling causes special difficulties for BWB separate agreements have to be made. The customer has to initiate such agreements. If no such separate agreement has been made, BWB has no responsibility and accountability relating to the special character of the cargoes.

6.3 If delivered or discharged cargo cannot be forwarded or further handled due to legal requirements or official directives, the customer is required to take the cargo back immediately.

## 7. Control of Product Identification and Weight

7.1 BWB can request detailed information concerning the cargo and content of the packages before handing over to the forwarder, if the correctness of the product identification is not flawlessly proved by the documentation. The customer carries any additional costs for such checking.

7.2 BWB can weigh the cargo but is not required to do so. In case the weighing shows more than 5% difference to the stated weight, the customer has to carry the possible extra handling costs caused by the additional weight.

## 8. Cargo Insurance

8.1 BWB will not arrange insurance coverage for handled cargoes (fire or other damage risks) without specific instruction from the customer. This is also applicable for such cargo which was ordered for direct handling but had to be short-term stored due to operational reasons and cargo as per § 23 (Selbsthilferecht).

8.2 The order to insure the cargo has to be send in written form and must include all necessary information for a proper competition of the insurance. BWB has to accept or decline the order promptly.

**Only the German version of the General Terms and Conditions is legally binding!**

8.3 In case of no or no full insurance coverage due to reasons BWB cannot influence, BWB is not accountable for any disadvantages this may cause. BWB is responsible to inform the customer directly about the missing, inadequate, or delayed insurance coverage.

8.4 Compensation payment of the insurance in case of a claim is limited. Additional claims against BWB due to general lawful or contractual regulations are untouched by this.

8.5 The customer can demand for BWB to assign the rights of the insurance contract ordered in his name.

## 9. No-Smoking-Rule

There is an explicit No-Smoking-Rule aboard vessel, at the Kaje, in warehouses, storage-facilities and other areas on the terminal.

## 10. Security, Security Fees, Impoundment

10.1 The regulations of the ISPS-Codes („International Vessel and Port Facility Security Code“) apply to the operational area of BWB. BWB is entitled to take all needed measures to ensure the ISPS-Codes. The costs are paid by the customer via a Security Fee per means of transport and/or other carrier (e.g. Container). The amount of Security Fee result from the official wharfage of Niedersachsen Ports Cuxhaven, if not otherwise agreed.

10.2 The customer assures that his company respects and complies to the valid regulation of the Council of the European Union (decree (EG) No. 2580/2001 from 27<sup>th</sup> December 2001 about specific, against certain persons and organisations restrictive measures to counteract terrorism, latest update though regulation (EU) No. 687/2011 of the Council from 18<sup>th</sup> July 2011, and the respectively valid antiterrorism laws and rules of the USA).

10.3 BWB can, at any time, decline persons or means of transport entry to the terminal due to security concerns and/or decline the transfer of stored or handled cargoes. BWB can take any measures to ensure the safety and security at the terminal. Every measure required from the authorities is a required measure in regards to this rule. In case of a culpable act or omission by the customer, which causes such measures, the customer must cover the accrued costs.

10.4 In case of impoundment and/or prohibition of transfer of cargoes to the customer or third-parties by authorities on the terminal, and the customer, his customers, vicarious agent or other assistants has acted in a culpable way or by omission which led to the impoundment and/or transfer prohibition, the customer has to pay for the cargo and/or means of transport and/or others on the terminal remaining packages, as per current port tariff of Niedersachsen Ports Cuxhaven. The customer pays all additional costs resulting from the order of forfeiture or other official regulations.

## 11. Fees

11.1 Calculation of the fees is according to the respectively valid tariffs of BWB, if not otherwise agreed.

11.2 Customers have to pay the tariff fees for waiting times, if the operation equipment and/or work force could not or not fully operate as planned

- due to an action caused by the customer,
- due to special circumstances on board,
- due to missing or not timely send paperwork or other before mentioned information (weight, packages,...),

**Only the German version of the General Terms and Conditions is legally binding!**

- or due to other reasons which are not caused or controlled by BWB – especially if it was the customer's responsibility, e.g. delay of vessel or adverse weather conditions. This also includes the tallymen's performance, who keeps his claim of agreed compensation, if he is committed and no before mentioned case took place.

11.3 Started days, started 100 kg or started qm/cbm are used as full unit for the storage fee calculation.

11.4 Fees and in advance paid costs calculated by BWB are payable within 14 days after invoice date, in case of stevedoring after eight days. If timely payment cannot be guaranteed or the customer is not resident in the Federal Republic of Germany, BWB can demand payment in advance.

## Part III – Special Conditions for Cargo Handling

The complete handling of cargo within the scope of this conditions is exclusively done by BWB employees and technical equipment. The handling in this regard includes all work of loading and unloading cargoes, transportation and/or long-term storage or moving for assembling – and all other scopes of work that are done by BWB on basis of this conditions. Rolling cargoes is generally un-/loaded by the transport company.

### 12. Cargo Acceptance

12.1 Delivered cargoes for handling, if not otherwise agreed, are accepted, unloaded and taken over for further handling to the defined transfer points for the land transportation by BWB. Unloading and transfer of supplied cargoes is done within of the possible BWB work scope.

12.2 BWB can decline the receipt of cargoes without being liable for damages towards the customer, on any legal basis, if the customer hasn't send the necessary information in regards to this terms, the customer cannot proof their power of disposition or due to operational reasons (e.g. due to cargo measurements).

### 13. Handling Storage / Warehousing

13.1 Short-term interim storage of cargoes, according to the seafreight practices seen as conditioned for handling (handling storage), can be handled by BWB; provided no other regulations are strictly opposed to it, BWB can store suitable cargoes outdoors.

13.2 In case of storage agreement between the parties, or because of legal binding (handling storage), §§ 467 to 475 (h) HGB are valid, as far as the regulations do not include variations. Excluded in this case is the legal liability regulations § 475 HGB (Haftung für Verlust oder Beschädigung), in which case the regulations of chapter VI „Schadensfallregelung“ are valid.

13.3 BWB is allowed to exclude all cargoes from handling / storage, also retrospectively, which are not suited for storage in silos or storage areas due to their condition and/or quality and/or packing, and/or are dangerous for the storage area and/or other cargoes in the storage area. Relocation is allowed at any time.

13.4 The handling storage / warehousing is done according to BWB choosing in own or third-party storage areas. Obligatory monitoring of the stored cargoes is done by BWB.

13.5 BWB will issue the customer with a payment notice for the stored goods and, if the customer requests this, a warehouse receipt. BWB can refuse to issue a warehouse receipt if there is a legitimate interest of the BWB, in particular if its claims for remuneration, expenses pp. against the customer is not covered by the stored goods.

**Only the German version of the General Terms and Conditions is legally binding!**

13.6 If the warehouse receipt has been lost or destroyed, BWB is entitled to surrender the goods to the customer or his legal successor, if the customer undertakes in writing to indemnify BWB from all consequences of this delivery and to guarantee this obligation provides a declaration of guarantee from a major German or international bank that meets the requirements of § 108 ZPO (Code of Civil Procedure) would suffice. At the customer's expense, BWB will immediately report the loss of the warehouse certificate in the Official Gazette and in two local newspapers and will indicate the expiry of the limitation period for claims against BWB, which is one year after publication in the Official Gazette.

13.7 The customer must raise objections to the way in which the goods are stored against BWB immediately, otherwise he raises these objections, as far as the storage has been carried out with the care of a proper warehouse keeper.

13.8 Technical equipment, such as but not exclusively, vessel equipment of any kind, material for securing cargo / transport, lashing material, lifting tackle from vessels or the cargo side, are handled and stored by BWB exclusively at the expense and risk, including for completeness, number and condition, of the client and owner.

## 14. Loading the goods onto load carriers

Loading of conventionally delivered goods in or onto load carriers can be agreed between the customer and the BWB for a fee.

## 15. Special features when loading with vessel transport

The customer must ensure that the vessel / the captain complies with the regulations of these regulation rounds, which regulate the handling of goods from and to vessels. Any violation of this is considered a violation by the customer. Claims arising against the vessel / the captain remain unaffected.

15.1 The handling of the goods across the quay is carried out with the hoists of the quay company, or at the request of BWB with hoists of the vessel. Working with the hoists of the seagoing vessels between vessel and quay or between the seagoing vessel and inland and harbor vehicles (self-extinguishers) requires the approval of BWB. Vessels lying on the quay may only handle dust-generating goods outboard with the approval of BWB. The anchor device must be delivered by the vessel.

15.2 Endangered parts of the vessel, equipment, accessories or other protruding parts in the vessel's space must be protected against contact with the grippers or trimmers; the vessel is to be served in a state ready for loading and unloading.

15.3 At its own expense, the vessel has to provide sufficient and operationally safe vessel and other facilities for such work, such as the proper lighting of the place of work, energy, etc.

15.4 The goods are tendered to the next vessel in the vessel's slip or in the line service designated in the EDI message and handed over to the vessel in the order to be determined by the vessel representative. After discharging on the quay, the goods are considered as taken over by BWB. Receipts for discharged goods are only issued if they have been applied for before the start of the discharge and if the discharging conditions required by the quay are met. The goods are considered to have been taken over by the vessel when they pass the railing. All BWB activities (including their further use of equipment) after this point in time, which will bring the goods to the final stowage location, are carried out on behalf of and at the risk of the vessel. BWB hoists and / or floor conveyors work in the vessel area from the railing or vessel ramp in accordance with the instructions of the vessel's agent.



**Only the German version of the General Terms and Conditions is legally binding!**

15.5 At BWB's request, its employees are to be granted access to the areas of the vessel in which BWB works with its hoists. The personal responsibility of the vessel's personnel for the tasks incumbent on them, e.g. signing remains unaffected.

15.6 As a separate and separately remunerated order, BWB can take over the lashing of the load carriers it loads.

15.7 The load carriers to be discharged are brought ashore by BWB with their tools. When they are parked on the first intermediate storage place on land, they are taken over by BWB with the proviso that BWB keeps the custody for the vessel until the goods are delivered to the recipient. This also applies if the goods stowed in or on the load carriers are unpacked on behalf of the vessel prior to delivery by BWB or are removed from the load carrier.

15.8 When handling conventionally transported goods, the vessel is responsible for the continuous monitoring of the handling equipment when the goods are struck in the vessel, unless BWB has used its handling equipment. Envelope handling provided by the vessel must be in perfect condition. Loading and unloading with the vessel's own lifting gear is only permitted with the express consent of BWB.

15.9 BWB carries out all the usual stevedoring and cargo securing work on the seagoing vessels loading and unloading at its facilities based on the orders placed with it. The work is carried out according to instructions and under the supervision of the respective vessel's management; the order performance is deemed to have been carried out and accepted properly, unless the vessel's management notifies BWB in writing of a defect that it has complained about immediately after the end of work.

15.10 Exceptional stevedoring and / or load securing services require a special agreement. In particular, BWB can request special liability regulations.

## 16. Processing of damaged vessels

The discharge of cargo from or other work on or on damaged vessels is only undertaken within the framework of a special agreement made for the individual case. The taking over of such services can make BWB dependent on a complete exemption from liability.

## 17. Special features when loading with road vehicle transport

17.1 Goods arriving or leaving with road vehicles are usually unloaded or loaded by BWB according to the details of the orders placed with them. In exceptional cases, BWB can allow or request self-loading by the carrier.

17.2 If the goods are loaded by BWB, the goods are stowed in accordance with the instructions of the driver. BWB will follow special loading instructions provided by the customer, provided the driver agrees to the loading instructions. Fastening for the protection of goods (transport security) and for operational safety of the road vehicle is not part of a loading order. If BWB takes over the fastening of goods on road vehicles due to a separate order, this is done according to the instructions of the responsible driver.

## 18. Stevedoring and cargo securing services / sea packaging

18.1 Stevedoring services on board a vessel are provided exclusively on the basis of a separate fee-based agreement in accordance with the requirements of the customer, vessel agent or captain. BWB is not obliged to check the correctness of these requirements. The preparation of the goods, the

**Only the German version of the General Terms and Conditions is legally binding!**

lashing to secure the goods and the securing of loads on board the vessel are not the subject of the stevedoring contract, unless this is also expressly agreed.

18.2 The manufacture of sea packaging must be agreed separately and against consideration of the customer's requirements. BWB does not have to check the correctness of the requirements.

18.3 Services according to paragraph 2 and 3 must be checked by the customer immediately after completion. Obvious defects must be reported immediately, otherwise the services are considered to be in accordance with the contract. The services are deemed to be in accordance with the contract at the latest when they are moved.

18.4 BWB provides information to the extent that it can be grasped or that goods are ready for loading to the best of its knowledge, but without liability. BWB is in no way liable for barge, lighter and barge money, etc. Inquiries about the readiness for unloading and loading are to be collected on board if possible.

18.5 If the BWB workers requested by the customer to work cannot be employed through no fault of the BWB, the client must pay the BWB the costs of the unsuccessful provision of workers and resources.

## 19. Delivery

19.1 BWB can refuse delivery until the means of transport has been completely discharged if, at its discretion, the proper execution of the discharge business and / or the required overview of the batches to be delivered would be impaired.

19.2 The goods to be delivered are loaded onto the means of transport by BWB at the locations specified by it and made available for collection.

19.3 BWB delivers the goods to those who present the necessary documents and declarations, which identify the customer as a legitimate recipient (such as a bill of lading and / or delivery note - each with a delivery stamp and / or delivery and / or loading order and / or a written declaration of exemption of the vessel, the vesselowner or the owner of the goods). BWB can stipulate a specific form for such exemptions. Alternatively, the BWB vessel representative can name a person authorized to receive in writing or via EDI.

19.4 Partial quay notes are to be issued by the holder of the bill of lading or delivery note and stamped by BWB against delivery of the bill of lading or delivery note. The number and content of the quay part slips are to be certified by the exhibitor on the bill of lading or delivery note.

19.5 At official request, BWB is obliged to stop goods and make delivery dependent on special conditions.

19.6 BWB can make the delivery of the goods dependent on the payment of all fees incurred by BWB (including storage fees), but without prejudice to BWB's rights pursuant to Section IV.

Only the German version of the General Terms and Conditions is legally binding!

## Part IV – Vessel handling

### 20. Berths

The berths are assigned to the vessel by BWB through the vesselping agent. Regardless of this, each captain remains responsible for ensuring that the public-law regulations for the port call and for taking a berth are permanently met and that traffic on the quay facilities is not impaired.

### 21. Sequence of vessel handling, moving

21.1 The order for the processing of the vessels is assigned by BWB.

21.2 In order to ensure optimal utilization of the facilities and smooth traffic, BWB reserves the right to request that vessels move to other berths and leave the berth assigned to them immediately after the handling work has been completed.

21.3 If a vessel does not meet the regulations set out in the first two paragraphs, BWB is entitled, after coordination with the port authority / port captain, to have the measures ordered carried out by third parties for the account and at the risk of the vessel.

21.4 The public law provisions of the Port Act and the General Lower Saxony Port Ordinance remain unaffected, in particular the regulations on the issuing of public law mooring permits.

### 22. Vessel Handling

22.1 The submission of the required loading and unloading documents must be submitted in good time so that BWB can make the necessary handling arrangements. Loading and / or unloading vessels have to set up their activities in the hatch, below or on deck in such a way that the work on the quay does not come to a standstill or is extended. BWB can require vessels to work continuously until they are completed.

22.2 BWB is entitled to stop handling the goods and to request that the vessel be moved to another berth if the vessel does not properly fulfill its obligations due to a lack of personnel, refusal to do so or for other reasons (including the effects of force majeure). BWB is not responsible for the resulting disadvantages of the vessel.

22.3 Loading and unloading with your own vessel's harness is only permitted in exceptional cases and with the express consent of BWB.

### 23. Vesselping Company Representative

The agreements made with the vesselping company's representative are binding for the vessel and the agreements with its captain.

## Part V – Special Rights

### 24. Right of Lien and Retention

24.1 BWB has a lien and a right of retention on the goods or other objects in its disposal, including all accompanying documents, due to all claims that it is entitled to for the customer. Section 475 b) HGB applies to stored goods.

**Only the German version of the General Terms and Conditions is legally binding!**

24.2 BWB may only exercise the right of lien due to outstanding claims from another contractual relationvessel if the customer has been in arrears with the payment of the outstanding claim for at least 21 calendar days and the amount of the lien from the contractual relationvessel from which the outstanding claim results is insufficient to secure the claim of the BWB.

24.3 BWB has the right to suspend or hold another service for the customer until the customer has made other open claims from BWB from other contractual relationvessels within the scope of the services mentioned in section 1 without the customer being able to derive any claims against BWB from this.

24.4 Instead of the waiting period of one month specified in § 1234 BGB, there is a waiting period of two weeks in all cases.

## 25. Customer Rights

25.1 The customer may only exercise a right of retention due to undisputed or legally established claims. The customer may only offset undisputed or legally established claims. Offsetting or exercising a right of retention is only effective if it has been announced in writing at least three weeks in advance.

25.2 If the customer is in arrears, BWB can sell after the threat of sale of the goods and assets in its possession as much as is reasonably required to satisfy them. The private sale can also take place if the debtor cannot be determined despite the research carried out.

## 26. BWB Self-Help Law

26.1 BWB can accept goods whose acceptance is refused or is not effected in time or for which a person entitled to dispose cannot be determined, or goods whose delivery is not possible for other reasons, for account and risk and at the expense of the customer or the person entitled to dispose of them Place discretion elsewhere.

26.2 BWB is entitled to these goods if they threaten to spoil quickly or if they cannot be stored according to local conditions or if their value would be disproportionately reduced by longer storage or the resulting storage costs would be disproportionate or at the latest after three months if the storage BWB from others Reasons cannot reasonably be expected to sell in the best possible way. The intended sale, except for perishable goods, will be displayed to the entitled person or, if this is not known, resident or findable, will be publicly displayed in a legal manner and carried out at the earliest one week later.

26.3 Goods that have been added to BWB's facilities without notification or contrary to the provisions of section 4 ff., As well as goods that BWB believes should be considered spoiled, must be removed by BWB at the customer's request. If this request is not complied with immediately, BWB is entitled, at its discretion, to further accommodate the goods concerned for the account and risk of the customer, without selling any further formalities or, if both prove to be impractical, to destroy or have them destroyed.

26.4 BWB will notify the customer or other beneficiaries of the upcoming measures.

26.5 The proceeds from a sale carried out in accordance with this Section 26 will be allocated to the parties entitled to dispose of the costs after deducting BWB if the party entitled to dispose is known or reports to BWB. The claim to the net proceeds mentioned in sentence 1 expires after one year in favour of BWB.

26.6 In all cases, BWB can charge a sales commission of the net proceeds in the amount of local rates for the pledge or self-help sale.

Only the German version of the General Terms and Conditions is legally binding!

## 27. Demurrage

BWB is not obliged to pay surplus allowance unless expressly agreed; a reference to the customer's terms and conditions is not sufficient for this.

## 28. Special Measures

28.1 If the customer transfers the surrender claim to the goods in his possession to a third party, the assignee must tolerate BWB's right of lien and retention as long as BWB does not waive it. § 404 BGB remains unaffected.

28.2 If delivered / deleted goods cannot be made available or loaded due to legal regulations or official orders, the customer is obliged to take back the goods free of charge.

28.3 BWB is entitled to stop the handling of goods and to request that the vessel be moved to another berth if the vessel does not properly fulfill its obligations due to a lack of personnel, refusal of any ordered revision or for other reasons (including such force majeure). BWB is not responsible for the resulting disadvantages for the vessel.

## Part VI – Case of Damage Control

### 29. Damage Assessment

29.1 BWB only detects such defects in the pick-up and delivery or delivery of goods, as well as in handling activities, which are obvious and easily recognizable from the outside. The defect is recorded on the corresponding orders or otherwise in writing and promptly communicated to the beneficiary in a suitable manner.

29.2 When goods are taken over from vessels, BWB does not represent to the vesselper the rights of the recipient derived from the bills of lading or loading slips. In particular, BWB is not responsible for notifying damage in accordance with § 438 BGB / § 611 HGB or for participating in an inspection of the goods arranged by the vessel.

29.3 BWB does not have any other duties. If the customer reports a defect, BWB endeavours to provide the possible help in clarifying the problem.

### 30. Loss Advice

30.1 BWB must be notified in writing of any loss or damage to goods at the latest when the goods in question are delivered to the recipient. If the loss or damage was not externally recognizable, it is sufficient if the notification is received in writing by BWB within 7 days after this point in time. The loss or damage must be generally indicated on the display. A form-based identification of the damage is not sufficient.

30.2 Delivery to the recipient is equivalent to handing over the goods to the recipient's agent or to his carrier, who is authorized to receive the goods. Furthermore, the loading of the goods in railway wagons or containers, as well as the transfer of the goods to the vessel, are equivalent to the delivery.

30.3 The notification according to paragraph 30.1 is not required if the condition of the goods at the latest in the 30.1, sentence 1, has been determined with the help of the supervisory staff responsible for damage assessment by BWB and recorded in writing.

**Only the German version of the General Terms and Conditions is legally binding!**

30.4 If the goods are not lost or damaged in accordance with no. 30.1 still displayed in the 30.3 has been determined, it is presumed that the goods have been delivered in full and in the manner shown in the BWB envelope and that if loss or damage to the goods is proven this damage is due to a circumstance BWB is not responsible for.

30.5 Claims for exceeding a handover period must be reported in writing, at the latest seven days after the agreed handover date; otherwise they will expire.

## Part VII – Liability and Limitation

### 31. Customer Liability

31.1 The customer is liable for any damage caused by him, in particular that resulting from incorrect, inaccurate, insufficient or delayed information, in particular regarding the number of items, weight, quality, special features of the means of transport or due to defects in the goods or their packaging, in particular to the goods themselves, the BWB systems, the goods stored or handled there, the property of third parties or persons. Sections 413, 414 HGB apply accordingly.

31.2 The customer is responsible for the fault of the persons whom he uses to fulfil his obligations to the same extent as his own fault. This applies in particular to the correctness of orders, cargo lists, loading lists, packing lists, etc.

31.3 In addition, the customer is liable to BWB for all damages that he, his employees or agents cause upon entering, driving on or other use of BWB's systems to third parties and / or BWB and their employees.

31.4 The customer guarantees that all liability regulations in all contracts between him and third parties and / or in loading documents that exist in the customer's favour also apply to BWB to the same extent. BWB agrees to these clauses insofar as they do not extend BWB's liability under these company regulations and law. The customer is liable for any damage resulting from the non-application of these liability regulations and BWB must indemnify BWB against the claims of third parties within the scope of these operating regulations.

31.5 The customer is liable for all costs that arise because, upon official request, measures have to be taken that fall within the customer's risk sphere or because a violation of the customer's regulations has resulted in BWB's costs.

### 32. Blue Water BREBs Liability

32.1 The liability provisions of these regulations in favor of BWB apply regardless of the contractual or non-contractual basis of claims for which the customer's claim for damages can be based. These operating regulations should under no circumstances extend BWB's liability under the law.

32.2 Individual liability agreements (liability extensions) are subject to notification. Liability extensions from individual contracts that are not indicated and have been confirmed as insured do not apply as insured.

32.3 BWB is responsible for the actions and omissions of its employees, subject to the following sentence 3, to the same extent as its own actions and omissions if the employees act in the exercise of their duties. The same applies to the actions and omissions of other persons who BWB uses when carrying out the order placed with it. However, BWB's liability is excluded for such damage that occurs during the execution of the order due to slight negligence or negligence on the part of the persons named in sentences 1 and 2 of this paragraph. This does not apply to the consequences of defects or mistakes of the company organization i.S.d. Section 307 paragraph 2 no. 2 BGB.

**Only the German version of the General Terms and Conditions is legally binding!**

32.4 Except in the case of intent or gross negligence, BWB is not liable for causing damage in the case of free assistance which it grants and to which it is not contractually obliged.

### 33. Liability of Blue Water BREB, Suspected no Fault

33.1 If damage has occurred that, depending on the circumstances of the case, could result from the realization of one of the following dangers, it is assumed that the damage arose from this risk - with the result that BWB is not liable for this, regardless of section 33.2 :

- lightning, fire, water ingress, storm, explosion;
- serious theft or robbery (§§ 243, 244, 249 StGB);
- Losses or damage to goods that are accommodated by agreement or usually outdoors or in only covered warehouses or storage areas;
- Force majeure, strike, lockout or other work disabilities;
- Acts or omissions by those authorized to dispose of them or their representatives, employees, agents or agents;
- loading or unloading of the goods by the persons entitled to dispose of them or their representatives, employees, agents or agents;
- Missing or defective packaging, inadequate or incorrect labeling, marking, dimensions or weight information or insufficient labeling of centers of gravity and / or attachment points, delivery of goods that are not suitable for gripper handling;
- hidden defects or the peculiar natural nature and nature of the goods
- malicious concealment of defects
- for damage to objects that are under the goods in the holds
- for damage to objects remaining in the area of the working grippers, which could have been removed without excessive expenditure of time and money;
- for damage caused by the fact that a part of the goods to be deleted or loaded are dropped from the floating and swinging grippers - due to the nature of the goods; for damage that can be attributed to the natural nature of the goods to be deleted or loaded
- for damage to parts or equipment or accessories of the vessels that are in the holds or protruding parts
- if such parts of the vessel, equipment, accessories or protruding parts have been exposed to contact with the grippers or the goods they are attacking without protection by protective wood that is in good condition and prevents hooking of the gripper, nor for those caused by the protective wood itself damage;

33.2 BWB is only liable in cases of this type if it has been proven by the customer that the damage (also) on a 32.2 their liability is based on fault, which could not be averted even with the care of a prudent businessman, warehouse keeper or stevedore. In this case, the obligation to pay compensation and the scope of the compensation to be paid depend on the extent to which the 33.1 specified specific dangers and, on the other hand, the fault causing liability contributed to the damage, cf. also § 254 BGB.

### 34. Total Limitation of Liability (Principle)

Insofar as BWB is liable to pay compensation for losses or damage to goods, subject to the following paragraphs, it replaces the injured party with the ordinary trade value and, failing that, the ordinary value, which goods of the same type and nature had in Cuxhaven at the time when BWB's performance was due was effect. This will deduct what has been saved as a result of the loss or damage, in particular in terms of customs duties, other costs and freight, as well as the sales value for damaged goods.

Only the German version of the General Terms and Conditions is legally binding!

## 35. Liability of Blue Water BREB, Limitation of Liability for Damage to Goods

35.1 The calculation for the loss of or damage to goods (hereinafter referred to as “damage to goods”), even during tranvesselment-related interim storage, is in accordance with the statutory provisions in §§ 429, 439 HGB. The liability for loss or damage to the goods to be stowed is limited to the amount of each damage event.

35.1.1 The objective time value of the lost or damaged goods in Cuxhaven,

35.1.2 At the most

- a) SDR 2 per kilogram gross weight of the lost or damaged goods,
- b) 5,000.00 € per loading unit (container, pallet, package etc.),
- c) € 50,000.00 in total per claim.

35.2 The limitations of liability mentioned in paragraph 35.1.1 do not apply if the customer specifies a higher value for the goods in writing when placing the order and in good time before the start of the dam work. The specified value of the goods then applies as the limit of liability. In this case, the stevedore will insure its activity in accordance with the declared value at the customer's expense.

35.3 The stevedore is not liable for consequential damage due to damage to goods.

35.4 For the rest, the liability of the stevedore for damage other than goods is limited to € 50,000.00. Deviating from this, the liability of the stevedore for personal injury is limited to € 500,000.00.

35.5 The liability exemptions and limitations apply to claims of any kind by the customer for whatever legal reason (contractual or non-contractual).

35.6 Legal representatives, executives and other vicarious agents of the stevedore can also rely on the above liability exemptions and limitations.

35.7 If there is a breach of duty for which the stevedore is not responsible and which does not constitute a defect in the stevedore's work, the customer is not entitled to withdraw from the contract.

## 36. Exemption from Liability and Limitations no longer apply

36.1 The limitation of liability of these regulations does not apply to the violation of essential contractual obligations. Significant contractual obligations are those that only enable the proper execution of the contract and on which the contractual partners can rely or obligations without which the purpose of the contract can no longer be achieved (cardinal obligations). In the event of a breach of essential contractual obligations through slight negligence, the scope of liability is limited to the replacement of the immediate and foreseeable and typical damage (e.g. no consequential damage, no lost profit).

36.2 The liability restrictions do not apply insofar as it concerns injury to life, limb or health.

36.3 In cases where mandatory law or international conventions for damage to goods apply. Under these operating regulations, however, liability limitation regulations in favor of BWB should under no circumstances be waived in these mandatory regulations.



Only the German version of the General Terms and Conditions is legally binding!

### 37. Employee Liability

If claims for damages from non-contractual liability are raised against loss or damage to the goods or other damage against BWB employees, they can rely on the statutory and the liability exemptions and limitations contained in these regulations. This does not apply if the employee concerned has acted deliberately or lightly and in the knowledge that damage is likely to occur.

### 38. Limitation

38.1 All contractual and other claims against BWB, its legal representatives, employees and vicarious agents expire after one year. In the case of intent or a wilful intent according to para. 36.1 The statute of limitations is three years if the fault is the same. The start and end of the limitation period are calculated in accordance with Section 439 (2) HGB.

38.2 The limitation period of a claim against BWB is inhibited by a declaration in text form by the customer, with which the customer claims compensation, until BWB refuses to fulfil the claim at least in text form. A further declaration, which has the same claim for compensation, does not inhibit the limitation period again.

## Part VIII – Final Provision

### 39. Application of Law, Place of Performance, Place of Jurisdiction

39.1 The law of the Federal Republic of Germany applies to all legal relationships between BWB and its customers, with the exception of the regulations on the United Nations Convention on Contracts for the International Sale of Goods (CISG).

39.2 The place of fulfilment is the place at which BWB performed the contractual service.

39.3 The exclusive place of jurisdiction is Bremen.

### 40. Severability

Should one or more of the preceding provisions be or become wholly or partially ineffective / void, this does not affect the effectiveness of all other provisions of these operating regulations. The ineffective / void provisions are to be reinterpreted in the way of the contract extension in such a way that they achieve the desired economic purpose as far as possible.

Only the German version of the General Terms and Conditions is legally binding!

## Part IX – Terminal Regulations for Blue Water BREB Cuxhaven

Rev.: 1 / 01.01.2017

### 41. Opening and check-in times

#### 41.1 Regular opening and handling times:

Containers and other units: Monday - Friday: 7.00 to 22.00 h, Saturday: 7.00 - 12.00 h

Cargo: Monday - Friday: 7.00 to 19.00 h, Saturday 7.00 - 12.00 h

**Check-in outside of the regular opening hours only by appointment, which must be made at least 12 hours before the start of each special check-in.**

41.2 Persons who drive through BWB's (and TITAN) company premises with vehicles or use it in any other way or who are staying there must comply with the bans and bids announced by the signs and follow the instructions of the BWB employees appointed for supervision. In addition, all persons must comply with the provisions of the applicable accident prevention regulations.

41.3 The latest version of the Road Traffic Regulations (StVO) applies to the company premises.

41.4 It is strictly forbidden to stand in the turning area of the cranes during handling work.

41.5 Smoking is prohibited outside the offices and outside the canteens and lounges serving the employees in the entire operating area.

41.6 Carrying and consuming alcoholic beverages as well as intoxicants and drugs are prohibited on the entire company premises.

41.7 The use of fire and open light, in particular the execution of welding and burning work, require the prior written consent of BWB, regardless of any official permission.

41.8 The latest version of the Blue Water BREB general operating regulations also applies to all BWB services.

### 42. Requirements and special regulations for driving on and entering the Cuxhaven terminal

42.1 An exception or a permanent permit is required to drive or enter the terminal, which is issued on reasoned request.

42.2 The exemption to drive or enter the terminal is to be obtained in the gatehouse.

42.3 Permanent permits must be presented in the gatehouse without being requested or attached to the windshield of the vehicle in a clearly visible manner.

42.4 The holder of the exceptional or permanent permit is liable to BWB for any damage that is caused intentionally or negligently on the systems or on the BWB equipment or equipment, systems and goods of third parties when the exceptional or permanent authorization is exercised.

42.5 The stay on the BWB / TITAN site is at your own risk. We hereby expressly draw your attention to the special sources of danger caused by traffic with working machines and suspended loads.