

Rijeka, January 15<sup>th</sup> 2020.

### **Allocation and Use of Rail Windows**

Adriatic Gate j.s.c. (hereinafter referred to as: „AGCT“) has developed these rules for the allocation and use of rail windows at its Brajdica 16 Rijeka terminal.

The purpose of the rules is to improve the efficiency of the terminal operations and encourage the efficient use of rail windows.

AGCT will manage the allocation and use of rail windows with the aim of maximizing the efficient operation of the terminal, minimizing dwell times at the terminal, and will do so in accordance with its obligations under the provisions of its lease.

Specifically, AGCT will manage the Brajdica 16 Rijeka container terminal so as to:

- manage demand with regard to the overall capacity and efficient operation of the terminal and the rail supply chain;
- drive efficient operational practices across the rail transport system;
- allocate access in a manner which is consistent across all applicants and non-discriminatory to any user; and
- ensure access is provided on reasonable commercial terms which appropriately balance the interests of AGCT (in recovering its reasonable costs and a fair and reasonable return on its investments), the rail operators (in accessing rail windows on fair and reasonable terms in a transparent, efficient and non-discriminatory manner) and the public (promoting competition and the efficient use of rail windows and investment in the infrastructure and equipment used to provide access to them).

### **Allocation Rules**

#### **a. Application for access for allocation and use of rail windows**

Allocation and use of rail windows may be submitted in writing, by electronic mail to email address: [commercial@ictsi.hr](mailto:commercial@ictsi.hr) or any other mean ensuring traceability.

AGCT commits to respond to the application within 3 days from the date of application reception.

#### **b. Content**

Application must contain following elements:

- Company name or the names of all the companies participating in the launch of the service, the name of the rail operator seeking access for allocation and use of rail windows.
- Leading party in case of more companies involved
- Specific date and time for rail windows
- Indicative number of containers for manipulation: export, import or both
- Rail service origin/destination
- Network rail paths rail operator reasonably expects to be used as a part of a service
- Owner of the cargo (containers) in case of company train (shipping line, end customer, etc.)

c. Allocation rules

AGCT will allocate rail windows at Brajdica 16 Rijeka container terminal in accordance with the following rules:

AGCT will assess whether the request meets the safety and accreditation requirements published by AGCT from time to time and is aligned with the relevant network paths.

If the request meets the relevant safety and accreditation criteria, AGCT will determine whether it is able to provide access to the relevant rail window. In doing so, AGCT will take into account the following:

- 1) the duration of access to the rail window requested by the rail operator, will be for 12 months, unless circumstances require otherwise;
- 2) the actual and reasonably forecasted requirements by AGCT during the period to which the application relates;
- 3) the actual and reasonably forecast requirements of existing rail operators at Brajdica 16 Rijeka during the period to which the application relates;
- 4) compatibility with network rail paths; and
- 5) any other topics/criteria AGCT considers is relevant, acting reasonably and transparently.

If AGCT determines that the request meets the relevant criteria and there is sufficient available capacity at the Brajdica 16 Rijeka terminal to meet the request, AGCT will allocate the window to the rail operator under the terms and conditions negotiated between AGCT and the rail operator, which will include the Terms and Conditions of Use as set out below.

In the event that more than one rail operator applies for access the same rail window, AGCT will manage the conflicting applications on the basis of the following priority:

1. AGCT will manage the Brajdica 16 Rijeka container terminal with the aim of maximizing the efficient operation of the terminal, increasing the efficient use of the terminal on the basis of the allocation rules and the rail supply chain requirements;
2. otherwise, AGCT will allocate rail windows to rail operators on a first come, first served basis provided those rail operators meet the relevant criteria and there is sufficient available capacity.
3. In cases of short time frame to connected vessel arrivals, to streamline cargo flow through container terminal, AGCT reserves the right to allocate rail slots based on cargo connection urgency
4. AGCT may notify the rail operators of any additional capacity which becomes available from time to time and invite them to request access to additional rail windows. Any application for access to additional rail windows will be processed by AGCT in accordance with these rules.
5. AGCT will use reasonable efforts to increase the capacity of the terminal to provide rail services over time, including acting reasonably in considering making further capital investment in the terminal if there is demand for additional investment to increase the capacity of the terminal to provide rail services and it is commercially viable for AGCT to make this investment.

### **Terms and Conditions of Use**

The allocated time of a rail window will be determined by AGCT (taking into account the requests for windows by rail operators) in its absolute discretion but will be offered for a minimum of 2 hour plus additional 30 minute increments (**Rail Window**), so minimum Rail Window is 2 hour and 20 minutes in total;

It is the intention of AGCT to work with the rail operators to decrease the size of the rail windows and increase productivity over time.

Subject to a Force Majeure Event, AGCT will use its best efforts to provide access to the Brajdica 16 Rijeka terminal for the duration of the Rail Window and to perform targeted lifts per hour during the Rail Window, provided the train arrives and departs within the relevant Rail Window.

AGCT will also use reasonable efforts to:

- release on-time trains within the allocated window and applicable tolerances;
- manage and load the volume of import boxes notified by the rail operator at the time the rail window is requested
- minimize unplanned changes to rail windows; and
- minimize rail window cancellations.

A train will be deemed to have arrived by the beginning of its Rail Window if it is positioned and handed over to the terminal by the train crew at the time the Rail Window commences. AGCT will work towards putting in place a system so that this can be measured, monitored and audited.

A train will be deemed to have been serviced by AGCT by the end of its Rail Window if the terminal has handed back possession of the train. AGCT will work towards putting in place a system so that this can be measured, monitored and audited.

If the rail operator's train arrives after expiry of the Rail Window AGCT will use reasonable efforts to provide access to the train but will not be obliged to do so.

If a rail operator's train arrives within a Rail Window but after commencement of that Rail Window, AGCT will:

- use reasonable efforts to accommodate the train (taking into account whether servicing the train will impact on other operators) but will not be under any obligation to meet the standards or to complete the lifts within the relevant Rail Window; and
- use best efforts to provide sufficient time for AGCT to enable the train to perform discharge of the whole train and departs within the relevant Rail Window.

The rail operator may cancel a Rail Window on a weekday (Monday to Friday) by giving AGCT 48 hours written notice (preferred way via email address: [rail@ictsi.hr](mailto:rail@ictsi.hr) ).

The rail operator may cancel a Rail Window on a Saturday or Sunday by giving written notice (preferred way via email address: [rail@ictsi.hr](mailto:rail@ictsi.hr) ) to AGCT prior to 5:00 pm on the Thursday before the relevant Saturday or Sunday.

If the rail operator cancels a Rail Window in accordance with mentioned above, AGCT is able to re-allocate equipment and labour to other services and AGCT will not require the rail operator to pay the Charge for the relevant Rail Window.

If the rail operator cancels a Rail Window without giving the notice in accordance with mentioned above, AGCT will notify rail operator about allocated amount of equipment and labour for the relevant Rail Window and will request reimbursement and charge shift/gang cancellation.

AGCT may cancel a Rail Window in the event of:

- major unplanned and planned maintenance and closed port days; or
- Force Majeure Event occurs by giving rail operators as much notice as is reasonably possible in the circumstances of such cancellation.

If AGCT cancels a Rail Window, AGCT will use best efforts to find an alternative Rail Window for the rail operator.

AGCT will use reasonable efforts to reallocate unused Rail Windows

If a train arrives after the commencement of its Rail Window more than 4 out of 12 times in any quarter, AGCT will (acting reasonably) review the performance of the rail operator and work with the rail operator if AGCT can better align the Rail Windows allocated to that operator and its network rail paths.

AGCT may review the arrival and departure of a rail operator's trains in any 3-month period. If this review reveals a material difference between the arrival of a train and the commencement of the relevant Rail Window, the parties will negotiate in good faith to amend the Rail Windows allocated to that rail operator.

In case agreement for allocated rail windows is not reached, AGCT reserves the right to cancel the allocated rail windows.