

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

## 1 Scope

- 1.1 These terms and conditions ("**T&C**") shall apply when DFDS Logistics ("**DFDS**") uses the services of a third party haulier (hereinafter referred to as the "**Haulier**") for the execution of transport orders and all related services, which will always be subject to separate orders ("**Specific Orders**"). These T&C apply to full exclusion of any and all standard terms or deviating and conditions of the Haulier, including, but not limited to terms and conditions referred to or contained in correspondence, emails, invoices, transport documents or other documents.
- 1.2 These T&C shall be incorporated in and form an integrated and inseparable part of any agreement between DFDS and the Haulier ("**Haulier Agreement**") and Specific Orders relating thereto. All amendments to these T&C shall be agreed in writing between the Parties.
- 1.3 The provisions of the CMR Convention shall apply to the Haulier Agreement and all Specific Orders as a matter of contract between DFDS and the Haulier. The CMR Convention applies regardless of the nature of the Specific Order i.e., whether the Specific Order relates to a contract of carriage or other related services.
- 1.4 For the avoidance of doubt, the Haulier is an independent contractor engaged by DFDS. Therefore, nothing in these T&C or a Specific Order shall be deemed to create any partnership, joint venture, agency or employer-employee relationship between the parties.
- 1.5 DFDS never guarantees a minimum number of transports, value, volume or frequency of use of the Haulier's services.

## 2 Amendment, termination and evaluation

- 2.1 If no other fixed Term has been agreed between the Parties (in the Haulier Agreement), the Haulier Agreement shall enter into force upon signature and be valid for a period of 12 (twelve) months thereafter. After this initial period of 12 (twelve) months, the Haulier Agreement will be tacitly renewed for consecutive periods of each time 12 (twelve) months, unless a party object to this renewal at least 1 (one) month before the expiration of the Haulier Agreement.
- 2.2 Either party may terminate the Haulier Agreement with at least 1 (one) week's written notice.
- 2.3 DFDS is entitled to terminate the Haulier Agreement in writing and with immediate effect, without prior notice of default and without notice, compensation or court intervention, in case of a substantial breach of contract by the Haulier, without prejudice to the right to claim compensation for the actual damages suffered. A substantial breach of contract can, amongst others, be:
  - a. If the Haulier fails to perform a Specific Order, or performs it incorrectly and/or defectively due to negligence, fault or intent, or fails to comply with a provision of the Haulier agreement or these T&C
  - b. In case of bankruptcy or (temporary) suspension of payment has been applied for in or has been granted in respect of the Haulier;
  - c. If the business of the Haulier is wholly or partly terminated, all or part is transferred to a third party or the (direct or indirect) control over the Haulier business is changed;
  - d. If the Haulier is in default in any way in the fulfilment of its obligations under these T&C, a Specific Order or the Haulier agreement;
  - e. If there is a situation of force majeure which continues for more than thirty (30) days;
  - f. If the refusal of the Haulier to cooperate with the review/audit/investigation/evaluation conducted by DFDS, including provision of the required documents at first request.
- 2.4 If the Haulier Agreement is terminated with immediate effect as a result of a cause as referred to in this Article 2, DFDS shall never be liable for any compensation in respect of the Haulier. On the other hand, DFDS reserves the right to claim compensation from the Haulier for the loss or damage it has suffered, either by its own right or in relation to third parties, as a consequence of termination in accordance with this article.
- 2.5 In connection with the certification of DFDS, the collaboration with the Haulier is evaluated annually and the Haulier shall be assessed by means of an evaluation form for hauliers. DFDS can conduct intermediate evaluations if deemed necessary.

## 3 Transport orders

- 3.1 DFDS will issue a Specific Order to the Haulier for each transport, the Haulier shall carry out for DFDS. The Haulier Agreement regulates how and when a Specific Order must be issued.

## 4 Operating licences

- 4.1 Prior to commencing the execution of a Specific Order, the Haulier and its drivers shall at all times be in the possession of the necessary operating certificates, permits, declarations and licenses

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

required for the execution of the Specific Orders.

- 4.2 In view of DFDS's certification and the related audits, the Haulier is subject to annual review. As part of that review, the Haulier shall annually submit copies of the certificates, permits, declarations, licences and (inspection) reports in its possession to DFDS. The Haulier shall provide these documents at DFDS' first request. DFDS can conduct intermediate revisions if deemed necessary.
- 4.3 If and to the extent that one of the obligations referred to in this Article cannot be met or the Haulier is involved in an investigation by the competent authorities regarding these obligations, the Haulier shall immediately notify DFDS.

## 5 Insurance

- 5.1 Prior to commencing the execution of a Specific Order, the Haulier shall have an appropriate insurance concluded with reputable insurers, rated not less than A- by a licensed rating agency (if applicable in the relevant country). This insurance should include the following:
- All-Risks Insurance cover in respect of trailers and containers of whatever nature, including all ancillary equipment (together "**Equipment**"), provided by or via DFDS and used in the course of the relationship between the Haulier and DFDS, including insurance for any additional costs, such as legal fees and salvage and recovery costs; with minimum standard cover equal to at least Euro 35,000 for dry transport and Euro 90,000 for refrigerated transport in respect of one event/incident of loss or damage to the Equipment;
  - Comprehensive Motor Insurance cover, including All-Risks cover for loss of or damage to the Haulier's vehicles, DFDS trailers and third party property and personal liability in respect of all of the Haulier's vehicles and trailers, whether owned or not, with such cover, terms and limits as may be required by law, or in the absence of a mandatory requirement, with such cover, terms and limits as may be customary in each jurisdiction;
  - Worker's Compensation and/or Employer's Liability Insurance, with such cover, conditions and limits as are customary in each jurisdiction;
  - Comprehensive General/Public Liability Insurance; with a minimum standard coverage of Euro 1 (one) Mio. per occurrence;
  - Goods in Transit Liability Insurance/Carrier's Liability Insurance; providing indemnity subject to the CMR Convention with a minimum coverage per occurrence equal to Euro 300,000, for any one loss, damage or delay for which the Haulier is liable; and
  - All or other mandatory insurances required to carry out a Specific Order.
- 5.2 Upon request from DFDS and in the event of material changes to the Haulier's insurances, copies of all of the above described insurance policies must be provided to DFDS as well as a confirmation (via the insurance broker) that the insurance policies are valid and in force.
- 5.3 The coverage, terms and sum limits of the Haulier's insurances do not constitute a limitation of the Haulier's possible liability under the Haulier Agreement or any Specific Order or towards a third party.
- 5.4 If and to the extent that one of the obligations referred to in this Article cannot be complied with, the Haulier shall immediately inform DFDS.

## 6 Obligations of the Haulier

- 6.1 The Haulier shall at all times ensure that the equipment used complies with the applicable legal regulations, is well maintained and is manned by competent, qualified and customer-oriented personnel.
- 6.2 The drivers of the Haulier shall comply with the guidelines and safety regulations which are applicable at the loading and unloading locations of DFDS, the customers of DFDS and DFDS' business relations. The Haulier shall appoint a single point of contact in their company who is responsible for communicating these guidelines and regulations to the drivers.
- 6.3 The Parties agree that no exceeding of the maximum loading capacity allowed by law shall take place. DFDS is not liable for (the consequences of) overloading.
- 6.4 The Haulier shall in all circumstances behave with due care and diligence and take all reasonable measures to limit or exclude the risk of theft, embezzlement, loss, defilement, or other irregularities when providing Services for DFDS.
- 6.5 The Haulier is not permitted to store goods or to leave them unattended/unguarded.
- 6.6 DFDS will use a truck and/or trailer reporting application (app) at the discretion of DFDS for operational communication with the driver and to track and trace the consignments as well as

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

generating status reports of the equipment. The truck/driver must have an updated mobile phone (smartphone) and use the system in accordance with DFDS' guidelines, which DFDS will provide to the Haulier who will inform the drivers thereof.

## **7 CMR notes/ proof of delivery**

- 7.1 The Haulier shall ensure that the drivers return the signed scanned CMR note/proof of delivery to DFDS within three (3) days after delivery/completion of the Specific Order. The Haulier is obliged to hand over the original CMR notes/delivery documents upon the request of DFDS. If and insofar as the Haulier fails to submit the CMR/ proof of delivery to DFDS, DFDS is entitled to suspend payment until the correct documentation is received by DFDS.

## **8 Lien**

- 8.1 Under no circumstances shall the Haulier attempt to exercise any lien, or similar right, nor shall it acquire any property rights, on goods or Equipment of whatsoever nature, which have come into the Haulier's possession directly or indirectly through DFDS' T&C for hauliers and the Haulier Agreement.

## **9 No subcontracting**

- 9.1 The Haulier shall not be entitled to subcontract any part of a Specific Order to a third party without the prior written consent of DFDS. If the Haulier subcontracts to a third party, the Haulier will be fully liable and shall indemnify DFDS for any actions and/or omissions by the sub-contractor, as if the Haulier had carried out the Specific-Order himself. The Haulier shall be entitled to use other legal entities within the Haulier's group of companies, if they are wholly or partly (more than 50%) owned by the Haulier. In this event, the Haulier warrants and represents that these legal entities comply with all rules and regulations as set forth in these T&C.

## **10 Rates and charges**

- 10.1 The rates charged shall be included in the Haulier agreement.
- 10.2 DFDS shall expressly not guarantee the Haulier a minimum revenue in any period. DFDS is, thus, free to determine whether and when DFDS will use the Haulier during the term of the Haulier agreement.
- 10.3 The payment period within which DFDS shall pay the any undisputed invoices received from the Haulier shall be forty-five (45) days after receipt of the invoice concerned. DFDS reserves the right to set off amounts owed to the Haulier for any reason whatsoever.

## **11 Compliance**

- 11.1 The Haulier shall at all times comply with all applicable international, EU and national legislation concerning performance of road haulage services, including but not limited to, the EU Mobility Package i.e. the rules on driving times and resting periods, tachographs and other equipment in road transport, technical requirements concerning vehicles, requirements for establishment of a haulage company and obtainment of transport licences, cabotage and combined transport, labour law and social security including posting of drivers, parking facilities, and environmental law. The Haulier is furthermore obliged to comply with all applicable tax and social security regulations and provide DFDS with a copy of its certificate of residence.
- 11.2 The Haulier shall comply with all guidelines given by DFDS, site regulations and all DFDS Policies, including DFDS' Supplier Code of Conduct, which can be found at:  
<https://www.dfds.com/en/about/sustainability/commitments/policies>  
If DFDS provides the Haulier with general directions on how to perform the Services, these instructions will only concern the effective performance of the contractual duties. The instructions do not interfere with the modalities of performance of the Agreement which belongs to the Haulier's exclusive autonomy.
- 11.3 The Haulier is responsible at all times for ensuring that its drivers can work, reside and drive legally. All drivers must be qualified to work in the required country and must comply with all relevant migrant worker legislation where required.  
The Haulier confirms and guarantees explicitly that any foreign employee is employed and will stay employed during the entire term of the Agreement in accordance with all legal obligations. Whether the employment is legal will be evaluated on the basis of the following aspects:
- a. Employment: the Haulier confirms that, if necessary, he applied or will apply for all necessary work cards and/or work permits for its foreign employees.

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

- b. Residence: the Haulier confirms that all foreign employees (will) comply at all time during the entire term of the Agreement with the statutory obligations for access to and stay in the territory where the Haulier is located. The Haulier confirms explicitly that he does not and will not employ any illegal foreigners.
- c. Formalities: before the beginning of the performance of the Agreement, the Haulier provides DFDS with all necessary secondment declarations.

The Haulier will schedule all transports (Specific Orders) itself with its drivers, and the Haulier warrants that all rules and regulations will be observed in countries where Services are performed.

11.4 The Haulier shall indemnify and hold DFDS harmless for all fines, costs, losses or damages (incl. legal costs and salary debts) incurred as a result of the Haulier's non-compliance with the applicable legislation and breach of the Haulier Agreement. This indemnity obligation also concerns indemnities which are in principle payable by the Haulier, but for which DFDS could be jointly and/or severally liable under any statutory joint and several liability.

11.5 The Supplier shall ensure compliance with all applicable export control and sanctions laws and regulations ("Export Laws") and warrants, in particular, that:

- (i) Neither the Haulier, nor any holding company, agent, consignee, consignor or any other third party or sub-contractor directly contracted by the Haulier for the provision of the Services are listed on any applicable sanctions lists as a denied or restricted party;
- (ii) The provision of the Services do not constitute a breach of any applicable Export Laws;
- (iii) The Haulier has obtained all necessary permits, licenses or other government authorizations required for the provision of the Services;
- (iv) The Haulier shall provide DFDS with all information, including permits and licenses, required by applicable Export Laws to provide the Services;
- (v) DFDS may immediately terminate all contracts with the Haulier due to breaches or likely breaches of Export Laws; and
- (vi) The Haulier shall indemnify and hold DFDS harmless in respect of all charges, fines, penalties, legal fees and all other costs arising from or in connection with the provision of the Services due to the Supplier's failure to comply with the obligations under this clause 11.

11.6 DFDS shall not be liable for any loss or delay due to actions or omissions caused by any action taken in relation to this clause. In addition, failure to comply with rules and regulations and/or obligations under this clause may result in immediate termination of the Haulier Agreement. DFDS reserves all rights to claim compensation for damages suffered and to take legal action against the Haulier in case of material breach of the Haulier Agreement.

## 12 Confidentiality

12.1 The Parties shall keep the contents of the Haulier Agreement and of each Specific Order confidential and shall not disclose the contents thereof to any third party, unless required by applicable law or regulation. Likewise, the Haulier shall keep confidential all information regarding the type of goods, volumes, names of senders and consignees and all other information relating to each Specific Order. The Haulier will make sure that this obligation is also binding upon the members of its staff and is responsible for any breach.

## 13 Business relations

13.1 The Haulier may not, directly or indirectly execute transport assignments for (legal) persons or entities with which the Haulier has come into contact during or because of the execution of the Haulier Agreement/ Specific Orders, insofar as these are business relations of DFDS.

## 14 Liability

14.1 The Haulier is fully liable towards DFDS for any loss or damage, whether in contract or tort, that

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

DFDS may suffer in connection with or resulting from the Specific Order or Haulier Agreement. In the event of loss or damage of a third party, caused by the Haulier but for which DFDS would be held liable, whether in contract or in tort, the Haulier shall fully indemnify DFDS.

- 14.2 DFDS can never be held liable by the Haulier for any indirect or consequential loss, including but not limited to, loss of turnover and/or profit, loss of customers, loss of and/or damage to property, reduction of activities or indirect or consequential loss.
- 14.3 All (financial) damage to equipment suffered by the Haulier that is caused during the Haulier's use will be for the account and risk of the Haulier.
- 14.4 The Haulier is obliged to immediately report all damages to and/or losses of DFDS's property, to the transported goods / cargo in question or all other irregularities (such as delays and waiting times) to (the transport planning of) DFDS.
- 14.5 The Haulier shall be fully liable for the loss of and/or damage to all equipment made available by DFDS. In the event of loss and/or damage, DFDS shall immediately be indemnified by the Haulier.
- 14.6 The Haulier indemnifies DFDS for every liability of third parties which is/can be caused by the Haulier, including members of its staff, causing damage to goods of third parties and/or by the occurrence of injuries.

## 15 Audit

- 15.1 The Haulier shall allow DFDS, DFDS' customers or a third party appointed by DFDS, subject to seven (7) days' notice (except in the event of an emergency), an audit/ inspection regarding compliance with applicable laws and regulations relating to, but not limited to the Specific Orders, these T&C, DFDS's Supplier Code of Conduct, the EU Mobility Package including transport licences, registration, declarations, registrations and documentation requirements relating to collective agreements, posting and minimum wages, and documentation requirements relating to the Carrier's access to the relevant road freight market. The Haulier shall cooperate with such audits/inspections. The Haulier shall provide reasonable assistance to DFDS, its customers or any third party appointed by DFDS conducting the audit/inspection, including but not limited to access to premises, personnel and workspace. DFDS shall have the right to continue to perform such audits for a period of six (6) months after the end of a Haulier Agreement.
- 15.2 Failure to cooperate or hand over the requested documents may be considered a material breach of the Haulier Agreement, entitling DFDS to terminate the Haulier Agreement with immediate effect, without notice, damages or judicial intervention.

## 16 Force Majeure

- 16.1 Force majeure is the situation in which a Party cannot fulfil one or more of its contractual obligations (temporarily or permanently) due to an unforeseeable, external cause which is not attributable to that Party.  
Force majeure situations include, but are not limited to; strike, war, lock-out, riot, pandemic, epidemic, disease, quarantine measures, fire, import and export bans, national or international transport bans, government measures, storms, explosions, natural disasters, earthquakes and lack of materials.
- 16.2 In the event of force majeure, the defaulting Party must notify the other Party of the force majeure situation and the consequences with regard to the Haulier Agreement, in writing by registered letter, within 10 (ten) calendar days of the occurrence of the force majeure situation. Subsequently, the contractual obligations of both Parties shall either (i) be temporarily suspended until the force majeure situation has ceased to exist (after which the contractual obligations must again be fully complied with) or (ii) be permanently suspended if it is clear that the force majeure situation has made the performance of the contractual obligations permanently impossible.
- 16.3 Any force majeure situation, when invoked by the defaulting Party, shall relieve the defaulting Party of its liability for non-performance of any obligation under the Haulier Agreement, provided that the non-performance is the result of the force majeure situation.
- 16.4 In the event of force majeure, the Parties shall use all reasonable efforts to mitigate the effects and consequences of the force majeure situation and shall negotiate in good faith for the continued performance of both Parties' respective obligations under the Haulier Agreement.
- 16.5 If the force majeure event continues for more than thirty (30) days, the Haulier Agreement can be terminated in accordance with clause 2.2 of the DFDS Terms and Conditions for Hauliers.

## 17 Governing law and dispute resolution

- 17.1 These T&C and any Specific Order shall be exclusively governed by the law of the registered

# DFDS Logistics Terms and Conditions for Hauliers

(Paragraph headings are for ease of reference only and do not form part of this contract) valid from 01.11.2023

office of the contracting DFDS entity, without giving effect to any choice of law or conflict of law provisions.

- 17.2 All disputes arising from these T&C, the Haulier Agreement or any Specific Order, shall be brought to the competent court in the region where the contracting DFDS entity has its registered office. Notwithstanding this, DFDS shall be entitled to include the Haulier in proceedings to which DFDS is a party at any other place of business. In addition, DFDS shall be entitled at its sole discretion to initiate proceedings at the Haulier's place of business or to initiate arbitration proceedings in Copenhagen (place of arbitration) at the Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in effect at the time when such proceedings are commenced. In such case the language used in the arbitration proceedings shall be English.

## **18 Processing of personal information**

- 18.1 DFDS may receive personal data relating to the drivers in connection with the fulfilment of any Specific Order. DFDS will treat such personal data as confidential information in accordance with applicable data protection legislation. DFDS will process the personal data only on behalf of the Haulier and in accordance with the instructions received from the Haulier as the data controller. Upon request by DFDS, the Haulier agrees to enter into a data processing agreement provided by DFDS.
- 18.2 Before transferring any personal data to DFDS, the Haulier shall receive the data subjects' express written consent to the processing/transfer. In addition, the Haulier agrees that the processing of personal data shall be carried out in accordance with the relevant provisions of any applicable data protection legislation and, where applicable, has been notified to the relevant authority.
- 18.3 DFDS and the Haulier shall take all necessary technical and organisational security measures in order to prevent the accidental or unlawful destruction, loss or alteration of the data and to prevent unauthorised access to such data or the misuse of processing of the data in violation of the provisions of applicable law.

## **19 Severability**

- 19.1 Each provision of these T&C and the Haulier Agreement is severable and distinct from the others, and if at any time one or more of these provisions, fully or partially, is or becomes invalid, null and void, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions of these T&C and the Haulier Agreement shall not in any way be affected or impaired as a result thereof.
- 19.2 In the event of such illegality, invalidity or unenforceability, the parties shall negotiate in good faith to replace such provision with a provision which is legal, valid and enforceable and which corresponds as far as possible to the intentions and purposes of the Agreement and is as close as possible in its economic effect to the provision being replaced.