

# DSV CONTRACTUAL TERMS AND CONDITIONS

These Terms and Conditions apply to services provided by DSV to the Customer.

## 1. Definitions

These definitions apply to agreements (together with respective Annexes) agreed between the Parties:

**'Affiliate'** shall mean a legal entity that is either (a) directly or indirectly owning or controlling the Party, or (b) under the same direct or indirect ownership or control as the Party, or (c) directly or indirectly controlled by the Party for so long as such ownership or control lasts. Ownership or control shall exist through direct or indirect ownership of 50% (fifty percent) or more of the nominal value of the issued equity share capital or of 50% (fifty percent) or more of the shares entitling the holders to vote for the election of the members of the board of directors or other managing authority.

**'Agreement'** shall mean any agreement signed between the Customer and DSV, including all appropriate Annexes to those agreements.

**'Ancillary Services'** shall mean Services which are secondary to the primary Consultancy, Transport or Logistics Services.

**'Business Day'** shall mean a calendar day except Saturdays, Sundays and public/bank holidays in the jurisdictions where the Services are provided.

**'Cargo Insurance'** shall mean all risk insurance coverage of transported or stored items.

**'Consultancy Services'** shall mean services related to transport or logistics without the physical movement or handling of Goods. Such services can be related, but are not limited to, cost analysis of supply chains, optimization of transport or logistics setups.

**'Customs Services'** shall mean any aspect related to provision of customs services to the transport or handled Goods such as, but not limited to, clearance, storage in bonded warehouses, issuance of documents etc. performed on behalf of the Customer.

**'Direct Representative'** shall mean the handling of customs services in the way that the representative (DSV) shall not in any way be liable for any customs duties, excises, taxes, fines penalties and interest. All such costs and expenses will be levied solely on the importer/exporter (the Customer).

**'Goods'** shall mean any item handled by DSV during the term of the Agreement for or on behalf of the Customer.

**'Indirect Representative'** shall mean the handling of customs services in the way that the representative (DSV) shall be joint and severally liable with the import/exporter (the Customer) for all customs duties, excises, taxes, fines, penalties and interest.

**'Non-party'** shall mean a person or entity not party to the Agreement by either signature or affiliation to the signing parties.

**'Price(s)'** shall mean the remuneration for the Services rendered by DSV as agreed between the Parties.

**'Logistics Price(s)'** shall mean the remuneration for the Logistics Services rendered by DSV as agreed between the Parties.

**'Logistics Services'** shall mean the provision of freight forwarding, Customs Services by DSV under the Framework Agreement, which are set out in the applicable Annex or which may be agreed to in writing by the Parties from time to time.

**'Services Order'** shall mean a request in writing, by e-mail, web-based (including EDI or DSV e-service) or otherwise for Transport, Logistics, Warehousing or Ancillary Services.

**'Services'** shall mean Ancillary Services, Consultancy Services, Customs Services, Logistics Services, Transport Services and Warehousing.

**'Transport Price(s)'** shall mean the remuneration for the Transport Services rendered by DSV as agreed between the Parties.

**'Transport Services'** shall mean the physical movement of Goods by air, sea, rail or road or any combination including temporary storage during transport such as hubbing, cross docking etc. where such temporary storage is an integrated part of the movement of Goods.

**'Warehousing'** shall mean all activities such as but not limited to unloading, acceptance, storage, delivery, stock control, order handling, order picking, preparing for shipment, loading, invoicing, assembling, labelling, exchange, control of information and ancillary services with regard to Goods, that have been agreed between the Customer and DSV separate from any instructions to carry Goods.

**'Working Hours'** shall mean each hour of the Business Day.

## 2. Undertaking

### 2.1 DSV undertakes that:

- a) DSV's signing and performance in accordance with the Agreement shall not constitute a violation of applicable legislation, or of any judgement, order or decree of any court or governmental agency to which DSV is a party or by which DSV is bound;
- b) DSV has the authority to sign the Agreement and the Agreement is executed by a duly authorised representative of DSV and once duly executed will constitute a legal, valid and binding obligation for DSV;
- c) DSV will perform its duties and obligations under the Agreement (including the Services) in compliance with the applicable legislation codes or standards of government agencies or authorities.

### 2.2 The Customer undertakes that:

- a) the Customer's signing and performance in accordance with the Agreement shall not constitute a violation of applicable legislation or of any judgement, order or decree of any court or governmental agency to which the Customer is a party or by which the Customer is bound;

- b) the Customer has the authority to sign the Agreement and the Agreement is executed by a duly authorised representative of the Customer and once duly executed will constitute a legal, valid and binding obligation for the Customer; and
  - c) the Customer shall perform its duties and obligations under the Agreement in compliance with the applicable legislation, codes or standards of government agencies or authorities.
- 2.3** Each sub-Clause 2.1(a) to 2.1(c) and 2.2 (a) to 2.2 (c) shall be construed as a separate undertaking and shall not be limited or restricted by any provision of the Agreement.

### **3. Rights and obligations of the Customer**

- 3.1** The Customer shall provide DSV with all necessary details for DSV to perform the Services such as including, but not limited to certificates, information on the nature and classification of the Goods, stock keeping unit information, transshipment method, storage and transport conditions in respect of temperature and humidity, etc. The Customer guarantees the correctness and completeness of such details.
- 3.2** The Customer shall prepare and make the Goods available for the Services correctly packaged, classified, sealed, labelled and/or addressed.
- 3.3** Unless otherwise agreed by the Parties, the Customer shall perform the loading, stowage and unloading of the Goods in the facility of the Customer or at a designated site for the delivery/collection of Goods. If DSV is requested to assist with the loading, stowing or unloading of the Goods this assistance will be carried out at the cost and risk of the Customer.
- 3.4** The Customer bears ultimate responsibility for payment of all taxes, customs duties and other statutory charges for Goods, including fees and additional costs in case of discrepancies between the inventory balance and the quantity and value declared by the Customer. In a situation where DSV is called to account by competent national or regional/supranational authorities with respect to payment of customs duty, VAT and excise duty and related interest due (hereinafter referred to as '**Liabilities**') for customs services provided hereunder, the Customer ensures all necessary cooperation to pay such liabilities in line with this section or, if applicable, makes all reasonable efforts to adopt measures to prevent such liabilities being imposed on DSV by such authorities. The Customer shall indemnify and hold DSV harmless against any financial consequences of customs declarations made by DSV on behalf of the Customer based on information provided to DSV by the Customer wherever DSV, based on the provisions of national or regional/supranational law or regulation, is subject to individual and/or joint and several liability for the payment of fines and liabilities for the customs services in line with the provisions hereof; all this provided that such liability cannot be attributed solely to DSV.

### **4. Rights and obligations of DSV**

- 4.1** DSV will obtain the necessary commercial licences and permits for DSV to perform the Services.
- 4.2** DSV will provide suitable equipment to perform the Services as requested in the Services Order and to perform the Services in accordance with applicable legislation and industry standards.
- 4.3** DSV shall perform a visual inspection of the Goods intended for transport or handling in relation to visible damages and overall fitness for transport and handling. During the

inspection DSV will evaluate the Goods for visual damages and evaluate the Goods fitness for transport and/or handling. DSV will furthermore check whether the quantity of Goods received matches the figures shown in the enclosed documents and will notify of any discrepancies found in the enclosed documents. DSV is not obliged to open any crates, boxes or packages for the purpose of verifying whether their content is consistent with the quantity and/or quality indicated in the specification, unless the Customer and DSV agree otherwise in writing. DSV will be released from liability for shortages and damage to Goods on original pallets discovered at a later date (e.g. in the picking process). Regardless of the inspection the Customer shall be responsible for inspection of the goods.

- 4.4** In the event of visible damage to or delay of the Goods, DSV will inform the Customer as soon as it will be reasonably possible.
- 4.5** DSV is entitled to and without prior notice, to refuse to transport, store or otherwise handle dangerous and/or improperly packed Goods. If, in the reasonable opinion of DSV, the Customer's Goods constitute a danger to other goods, property, life or health, DSV will whenever possible, inform the Customer by e-mail in accordance with the contact list of such a problem, but DSV reserves the right to remove or otherwise dispose of the Goods in such circumstances, at the expense of the Customer, in order to minimise losses.
- 4.6** During the term of the Agreement, DSV will keep a register of stored Goods in its warehouse IT system.
- 4.7** DSV shall notify the Customer in case of an impediment to the provision of the Services as soon as such notice may be given.
- 4.8** DSV may relocate Goods stored on behalf of the Customer to a different but comparable location within a reasonable geographical vicinity of the existing Warehouse. If DSV relocates the Goods on DSV's own accord, DSV shall not charge the Customer for the costs related to the relocation.

### **5. Business ethics**

- 5.1** DSV will conduct the Services in accordance with the DSV Code of Conduct. The DSV Code of Conduct is based on the values of DSV and signifies DSV's intentions regarding ethical business behaviour and applies to all DSV Group entities and employees, including managers and executive officers.
- 5.2** The Customer shall conduct its business in an ethical and legal manner.
- 5.3** DSV shall not be liable for loss, damage or delay of Goods due to DSV's adherence to the principles of the DSV Code of Conduct.

### **6. Termination of the Agreement**

- 6.1** Either Party may terminate the Agreement with cause with immediate effect if the other Party is declared bankrupt, is deemed to be insolvent, is put into liquidation or receivership, or due to the other Party's fraud or violation of applicable law.
- 6.2** In case of material breach of the Agreement the Parties shall be entitled to the following remedies:
- a) If the breach is remediable, the Party shall be entitled to require the defaulting Party to remedy the breach, at its own account and risk, within a stated reasonable period of time from receipt of a written notification.
  - b) If the breach is not remediable or if the defaulting Party has not remedied the breach within a period of thirty (30) working days, the Party shall be entitled to terminate the

relevant order form and this Agreement by providing thirty (30) calendar days' notice in writing to the defaulting Party.

**6.3** Upon termination of the Agreement neither Party will be under any further obligations to the other Party, except that such termination will not relieve the other Party of any obligation incurred prior to termination.

## **7. Prices and payment terms**

**7.1** The Customer shall pay the agreed Prices as stipulated in the applicable Annex for rate schedule.

**7.2** The Prices do not include VAT, customs duties, and other government taxes related to the Goods. These costs and taxes shall be the sole responsibility of the Customer.

**7.3** Unless otherwise agreed the Customer shall pay the invoiced amount 14 (fourteen) days from the date of DSV's issuance of the invoice.

**7.4** DSV will charge interests in case of late payment. The interests charged will be in accordance applicable legislation. Interests will be levied from the due date of the overdue invoice until payment is made in full. If no legislation applies regarding interests for late payment DSV may charge 2% (two percent) per month from the due date of the overdue invoice, or the maximum permitted under applicable law.

**7.5** DSV may charge the Customer for additional costs such as but not limited to waiting time, demurrage, additional or unexpected storage or handling redirection of goods during transit or failed attempts of pick-up or delivery of Goods not attributable to DSV.

**7.6** Unless otherwise agreed DSV shall have a right of lien in the Customers Goods. The Customer shall not pledge rights of surety, lien or any other type of security related to the Goods to a Non-party without DSV's prior written consent.

**7.7** DSV and/or its Affiliates reserves the right at any time during the agreement to take out a debtor insurance policy ("**Debtor Insurance**") on the Customer and/or its Affiliates covering any debts that the Customer and/or its Affiliates may incur pursuant to the services that DSV and/or its Affiliates may render under the Agreement. If the debtor insurance is rejected or revoked due to conditions on the part of the Customer and the Customers is in default payment of legitimate invoices DSV shall have the right of lien over the carried goods. DSV may waive its right of lien in the Goods if the Customer provides DSV with an adequate surety of payment.

## **8. Customs clearance**

**8.1** DSV will only perform Customs Services as a Direct Representative. The Customer accepts that all charges, duties or taxes will be levied on the Customer by any customs or governmental agency or authority.

**8.2** DSV will only act as an Indirect Representative for the Customer if the Customer has provided DSV with adequate surety such as Bank Guarantee or parent company guarantee. DSV may at any time cease any Customs Services if DSV reasonably deems the provided surety to be inadequate.

**8.3** The Customer shall indemnify DSV for all outlays and/or expenses in relation to Customs Services within 8 (eight) calendar days.

## **9. Export Controls**

**9.1** The Customer shall ensure that the Goods may be legally exported or imported to or from the origin or destination in respect of the applicable export control legislation.

**9.2** The Customer shall furthermore perform all necessary denied party screenings of the commercial parties involved and ensure that the Goods are not subject to restrictions, embargoes or other legal limitations. It is the obligation of the Customer to obtain all necessary licenses related to the Goods. DSV may reject to perform Services due to issues of export control if DSV reasonably deems (i) the origin, destination or country of transit to be a restricted or embargoed country, (ii) the goods to be a restricted commodity or any of the involved parties to the trade to be a denied or excluded party.

**9.3** DSV will adhere to all applicable laws and licenses in relation to export controls when performing Services which may involve restricted or embargoed countries, restricted or embargoed commodities or denied parties.

**9.4** The Customer shall indemnify DSV for all export control costs, charges, fines, penalties and legal fees arising from the Services due to the Customer's negligent or wilful misconduct. This obligation of indemnification will not apply if DSV has acted negligently in respect of export control requirements in relation to the specific Service.

**9.5** DSV will not be liable for delays caused by inspections conducted by DSV with the aim of finding out possible violations of export control rules.

## **10. Insurance**

**10.1** DSV will take out liability insurances, as may be required by law or as is the common practice in DSV's trade or business.

**10.2** Unless specifically agreed in writing DSV will not take out Cargo Insurance on the transported, handled or stored Goods. As DSV's liability is limited in accordance with the Terms and Conditions Section 11 DSV encourages the Customer to take out a Cargo Insurance to cover the Goods during transport, handling and storage.

## **11. Liability**

**11.1** DSV shall be liable for loss, damage or delay of the Goods caused by DSV's negligence or wilful misconduct occurring from the time that the Goods are taken into DSV's charge until the time of delivery.

**11.2** Regardless of Clause 11.1 DSV shall not be liable for loss, damage or delay arising from the special risks inherent in one or more of the following circumstances:

- a. the act or omission of the Customer or Owner or any person acting on their behalf,
- b. compliance with the instructions given to DSV by the Customer, Owner or any other person entitled to give them,
- c. insufficiency of the packing or labelling of the Goods, except where such service has been provided by DSV,
- d. handling, loading, stowage or unloading of the Goods by the Customer or Owner or any person acting on their behalf,
- e. inherent vice of the Goods,
- f. riots, civil commotions, strikes, lockouts, stoppage or restraint of labour from whatsoever cause,
- g. fire, flood, storm, explosion or theft or

h. any cause which DSV could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.

**11.3** For Consultancy Services DSV's liability shall be limited to the total sum of the fees paid by the Customer. This liability shall not include VAT or expenses incurred by DSV during performance of the Consultancy Services.

**11.4** Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any indirect or consequential loss, damage, costs or expenses of any nature whatsoever incurred or suffered by the other Party; or for any loss of actual or anticipated profits, loss of revenue, loss of goodwill and/or business, loss of savings or any other pure economic loss whether direct or indirect.

## **12. Indemnity**

**12.1** DSV shall indemnify, hold harmless, and at the Customer's request, defend the Customer, its officers, directors and employees, against claims by any Non-party to the Agreement due to the negligence, gross negligence or wilful misconduct by DSV causing damage to the Non-party's property or injury or death of the non-party. If the Customer wishes to exercise this right the Customer must promptly notify DSV about the claim.

**12.2** The Customer shall indemnify, hold harmless, and at DSV's request, defend DSV, its officers, directors and employees, against claims by any Non-party to the Agreement due to the negligence, gross negligence or wilful misconduct by the Customer causing damage to the Non-party's property or injury or death of the non-party. If DSV wishes to exercise this right DSV must promptly notify the Customer about the claim.

**12.3** Section 12.1 and 12.2 shall not apply to damage, loss or delay of Goods.

## **13. Hindrance**

**13.1** DSV shall use reasonable efforts to perform and complete the agreed Services. If at any time the performance of Services is affected by any hindrance, risk or delay not attributable to DSV or DSV's subcontractors, including, but not limited to, failures of suppliers or information security systems, DSV shall not be liable for any related loss, damage or delay of Goods.

**13.2** Any delay or failure in performance of Services due to a hindrance event shall not constitute a breach of the Agreement.

**13.3** If a hindrance continues for more than 30 (thirty) consecutive calendar days the Customer or DSV may terminate the specific Services Order affected by the hindrance event with a written notice.

## **14. Confidentiality**

**14.1** The Parties shall keep materials (including but not limited to hard copy, soft copy or any other format) related to the Agreement and as otherwise disclosed and designated as "confidential" by the disclosing party confidential during the term of the Agreement and 3 (three) years after expiry or early termination of the Agreement. The Parties shall not directly or indirectly disclose or distribute, either partially or wholly, without the prior written agreement of the other Party, any confidential information relating to the Agreement, other than to any of its, partners, members of the

management board, directors/principals, associates, advisors, managers (senior or junior), consultants, officers, employees, or representatives or members of staff under the strict condition that such persons are fully informed of the confidential nature of this information and are bound by a similar confidentiality and non-disclosure undertaking.

**14.2** The obligations of confidentiality mentioned above will not apply to any confidential information that one party:

- a) is required to disclose pursuant to legal, governmental or judicial requirements of a mandatory nature, but only to the extent required, or
- b) can prove was in the public domain prior to disclosure, or
- c) can prove, to the reasonable satisfaction of the Party, it knew independently and prior to disclosure, or
- d) can prove, to the reasonable satisfaction of the other Party, it received from a rightfully possessing third party without a duty of confidentiality.

**14.3** Upon expiration of the Agreement or upon request all confidential materials must be destroyed. If destruction constitutes violation of applicable law, financial or accounting standards; the Parties may store the confidential information with the necessary diligence as to prevent any intentional or unintentional disclosure.

## **15. Miscellaneous**

### **15.1 Intellectual Property Rights**

Any assignment or transfer of intellectual property, such as, but not limited to, copyrights, patent rights, trademarks, data base rights, and know-how must be specifically agreed to in writing by the Parties. Intellectual property rights created or established during the term of the Agreement that relate to DSV's performance of Services hereunder shall vest with DSV, and Customer shall reasonably cooperate and execute any necessary documents to transfer such rights to DSV.

### **15.2 Assignment**

The Customer shall not assign or transfer any rights or obligations under this Agreement without DSV's prior written consent. DSV may assign or transfer its rights and obligations to an affiliated entity of DSV without prior written consent from Customer.

### **15.3 Subcontracting**

**15.3.1** DSV may subcontract the Services in whole or in part without the Customers prior consent. The subcontracting of the Services shall not release DSV from its obligations under the Agreement.

### **15.4 Independent Contractors**

**15.4.1** The Agreement stipulates the rights and obligations of the Parties as independent legal entities. Neither DSV nor DSV's employees or subcontractors will become agents or employees of the Customer nor will they have the right to represent the Customer. Neither the Customer nor its employees or subcontractors will become agents or employees of DSV, nor will they have the right to represent DSV.

**15.4.2** All instructions given by the Customer on the basis of the Agreement will be given exclusively in the capacity of a principal of logistic services on the basis of the Agreement.

### **15.5 Severability**

If one or more provisions of the Agreement are invalid or unenforceable, this provision shall not affect any other provision or the Agreement as a whole. The invalid or unenforceable provision shall be replaced by a new provision which legally comes closest to what the Parties intended with the invalid or unenforceable provision.

**16. Dispute resolution and applicable law**

**16.1** Unless otherwise agreed in writing any dispute arising out of or in connection with the understanding, interpretation, performance or breach of the Agreement or its Annexes shall be settled at the venue of DSV.

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