

FREIGHT SERVICES TERMS AND CONDITIONS

DD&S Logistics Inc: MC-666059

DD&S Express Inc: MC-326288

DD&S Logistics Inc. and DD&S Express Inc. (collectively “Carrier” or “Carriers”) hereby publish their standard terms and conditions applicable to all freight services provided by the Carriers, unless expressly superseded by written contract signed by the Carrier and its customer.

By tendering freight to either Carrier, You agree to be bound by these Terms and Conditions, except as may be set forth in a contract signed by You and Carrier. In the event of a conflict between these Terms and Conditions and any such signed contract, the signed contract shall control.

By tendering freight to either Carrier, You and Carrier enter into these Terms and Conditions in accordance with 49 U.S.C. § 14101(b)(1) and expressly waive any and all rights and remedies that each may have under Title 49 that conflict with these Terms and Conditions.

AGREEMENT

1. **SERVICE.** Carrier agrees to transport shipments of your freight that are acceptable to it (“Shipments”) in compliance with all federal, state and local laws and regulations.

2. **NO EXCLUSIVITY.** You are not restricted from tendering freight to other carriers, brokers, freight forwarders, or third-party logistics providers. Carriers are not restricted from transporting shipments of freight for other parties.

3. YOUR RESPONSIBILITIES.

A. Shipper Written Instructions.

i. You must provide necessary shipping instructions to prevent a change in value to the Shipment while in possession of the Carrier and properly identify all Shipments in the bill of lading or other shipping instructions. You agree not to tender any restricted commodities including, but not limited to, hazardous materials and waste, oversize or overweight shipments, coiled or rolled products, or commodities requiring protection from heat or cold, without properly identifying such shipments and making necessary prior arrangements for transportation, including but not limited to securing a quote for a higher transportation charge for the additional service(s) requested.

ii. At the time of booking, and no less than 48 hours prior to loading the Shipment, You must further specify all instructions to be followed by the Carrier to maintain the safety of the Shipment, including, without limitation, all temperature control requirements and temperature control documentation requirements, including an operating temperature for the transportation and, when necessary, the pre-cooling phase, all sanitation requirements and sanitation documentation requirements for the Shipment, including those for the Carrier's vehicle and transportation equipment, loading and securement restrictions, accurate height and weight of the Shipment, any specialty equipment required to transport the Shipment, any design specifications, cleaning procedures, or other requirements of any kind related to the Shipment in writing, via email, on the booking request, or otherwise and repeat the same on the face of the bill of lading ("Written Instructions").

C. Cargo Loading and Securement.

i. You are responsible for ensuring that each Shipment is properly and safely packaged and loaded for the type of transportation requested (i.e. LTL, TL, flatbed, refrigerated van, intermodal, etc.). If Carrier is not allowed on the dock during loading, You are responsible for ensuring that Shipments are supported, blocked, braced, and secured prior to transport. If You are loading the Shipment into or onto the motor vehicle, You must inspect the vehicle or other transportation equipment provided by the Carrier, to ensure it meets the requirements specified in the Written Instructions and is in an appropriate sanitary condition for

transporting the Shipment. If your agent, supplier or subcontractor is loading the Shipment, it shall be as if You loaded the Shipment.

ii. You must reject any equipment that is not in appropriate condition to protect and preserve the Shipment during transportation, or it shall be deemed appropriate when loaded and not rejected. Your failure to fulfill the obligations under this section will be considered an act or default of the Shipper, and a defense to any cargo claim resulting from the condition of the trailer or other transportation equipment.

D. Mitigating Damages. None of the provisions in these Terms and Conditions in any way limits your obligation to mitigate damages, including by salvaging all portions of a shipment for which there is a secondary market.

4. CARRIER'S RESPONSIBILITIES.

A. Carrier shall have:

i. Valid operating authority as a motor carrier of property (state or federal, as necessary).

ii. Insurance in the following minimum amounts:

1. \$1,000,000 per occurrence for Auto Liability.
2. \$100,000 per occurrence for Motor Truck Cargo Liability.
3. Statutory limits for Workers Compensation

5. RECEIPTS AND BILLS OF LADING. If requested by You, Carrier agrees to provide You with proof of acceptance and delivery of each Shipment in the form of a signed bill of lading or proof of delivery via US Mail, courier, or electronically by fax or email. The terms and conditions of any freight documentation used by You, other than those prepared by Carrier, will not supplement, alter, or modify these Terms and Conditions. Failure to provide proof of delivery shall not be grounds for non-payment where there is no dispute that a Shipment was successfully delivered.

6. PAYMENTS. Carrier will invoice You for its services in accordance with the rates, charges and provisions set forth herein, and any written supplements or revisions that are mutually agreed to between the Parties in writing. If rates are negotiated between the Parties and not otherwise confirmed in writing, such rates will be considered “written,” and will be binding, upon Carrier’s invoice to You and your payment to Carrier. You agree to pay Carrier’s invoice within 30 days of invoice date without deduction or setoff.

Shipper shall be responsible for all charges related to the shipment, including but not limited to permits and escort charges.

7. CLAIMS.

Cargo Claims. For shipments within the United States, Carrier assume the liability of a motor carrier (i.e. Carmack Amendment liability) for loss of or damage to the Shipments while in transit, up to a maximum carrier liability of \$100,000 per Shipment. You must file claims for cargo loss or damage with Carrier within nine (9) months from the delivery date or, in the event of non-delivery, the anticipated delivery date. You must file any civil action against Carrier in a appropriate court of law within 2 years from the date Carrier provides written notice to You that any claim is disallowed in whole or part. If payment of a claim is made by Carrier to You, You automatically assign your right and interest in the claim to Carrier, so that it may pursue any other responsible party. In no event will Carrier be liable to You or any other party for special, incidental, or consequential damages for any reason whatsoever. On Shipments in whole or in part in Canada, Carrier’s liability is limited to \$2/lb. Carrier shall have no liability for cargo loss or damage on shipments in whole or in part in Mexico. Shipments containing used items, including but not limited to used machinery, are transported with an agreed upon declared value of \$.50/lb. Higher levels of carrier liability are available by requesting a quote from Carrier for the desired level of motor carrier liability in writing at least 72 hours prior to Shipment, receiving a quote for the corresponding transportation charge from the Carrier, and accepting that higher charge in writing.

All Other Claims. The Parties shall notify each other of all known material details of any claims within 60 days of receiving notice of any claims other than cargo loss or damage claims, and shall update each other promptly thereafter as more information becomes available. Civil actions must be commenced within two (2) years from the date either party provides written notice to the other Party of such a claim.

8. INSURANCE. Broker agrees to procure and maintain at its own expense, at all times during the term of these Terms and Conditions, the following insurance coverage amounts:

A. General	Liability:	\$1,000,000
B. Cargo	Insurance:	\$100,000
C. Workers Compensation:	Statutory Limits	

9. INDEMNIFICATION. You must defend, indemnify, and hold Carrier harmless, including reasonable attorney fees, against any losses caused by or resulting from (i) your or your employees' or agents' negligence or intentional misconduct, (ii) your breach of these Terms and Conditions, or (iii) your or your employees' or agents' violation of applicable laws or regulations. The obligation to defend includes payment of all reasonable costs of defense, together with all reasonable attorney fees, as they accrue.

10. SEVERABILITY/SURVIVABILITY. In the event that the operation of any portion of these Terms and Conditions results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree that such portion or provision shall be severable and that the remaining provisions of the Agreement shall continue in full force and effect. The representations and obligations of the Parties shall survive the termination of these Terms and Conditions for any reason.

11. NONWAIVER. Failure of either Party to insist upon performance of any of the terms, conditions or provisions of these Terms and Conditions, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of these Terms and Conditions, shall not be construed as thereafter waiving any such

terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

12. **FORCE MAJEURE.** Neither Party shall be liable to the other for failure to perform any of its obligations under these Terms and Conditions during any time in which such performance is prevented by fire, flood, or other natural disaster, war, pandemic, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of You or Carrier, provided that the Party so prevented uses its best efforts to perform under these Terms and Conditions and provided further, that such Party provide reasonable notice to the other Party of such inability to perform. Performance requirements are extended by the amount of the delay except for payment obligations.

13. **CHOICE OF LAW AND VENUE.** All questions concerning the construction, interpretation, validity and enforceability of these Terms and Conditions, whether in a court of law or in arbitration, shall be governed by and construed and enforced in accordance with the federal laws regarding transportation, where applicable, and otherwise by the laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply. The Parties agree to jurisdiction and venue in a United States Federal District Court in Texas, or if federal jurisdiction is not available, then in a State Court located in Texas.