

# Terms and Conditions

As consideration for the advancement of credit, applicant (s) individually, jointly, and severally (“Customer”) agrees to the DTI terms and conditions set forth below.

In addition, Customer agrees to the terms and conditions of the selected principal Carrier, as set forth on such carrier’s website and elsewhere, as well as the current standards of the National Motor Freight Classification (“NMFC”), in place at the time of the shipment.

## **TERMS OF PAYMENT**

Subject to approval of Customers’ credit, net payment shall be due 30 days from the invoice date unless otherwise agreed to in writing. Past – due invoices are subject to a service charge, calculated on the outstanding balance, at the lesser of (i) the rate of 1 ½% per month or (ii) the highest legal rate authorized by applicable law. The service charge is not intended as an alternative to payment when due, and, upon delinquency, further purchases may be declined, and the customer’s account may be referred for collection. Customer agrees to pay all costs including reasonable collection costs, attorney’s fees and expenses related to the enforcement of applicant’s obligations hereunder. Returned checks will be subject to a \$35 fee.

## **CREDIT APPROVAL**

All Customers are subject to credit approval. DTI INTERNATIONAL TRANSPORTATION INC DBA DTI INTERNATIONAL (DTI) intends to perform a credit check based on the information provided by the customer. The amount of credit, if any, granted to the customer is at the sole discretion of DTI.

When paying by credit card or electronic funds, the Customer agrees they will be responsible for all charges due, including any adjustments that are made by the carrier on the Customer's shipment due to the weight, reclassification, additional services provided, etc.....These charges and adjustments, if any, will be automatically charged or debited from the Customer’s credit card or bank account.

## **RATE QUOTATIONS**

DTI reserves the right to amend or adjust the original amount quoted and re-invoice the customer if the original quote was based upon incorrect/inaccurate information and/ or for additional services that were not requested and were provided by the carrier to facilitate the delivery of the Customer’s merchandise.

All rate quotations are based on the shipment information provided and may be adjusted due to the following: differences in weight, freight reclassification, product dimensions, excess valuation, and also for charges for services that were performed by the carrier but were not requested at the time the quote was obtained.

Customer is permitted thirty (30) business days from the date of the invoice to present a written dispute to charges invoiced. If DTI does not receive a dispute within the allowable thirty (30) business days, the disputed item will be denied by DTI.

## **RATES**

- **Less Than Truckload (LTL)** rates are based on the freight class as determined by the NMFC (National Motor Freight Classification) and are based on the weight, destination, and value of the shipment. LTL shipments are quoted on a business to business, dock to dock basis and additional charges may apply for other services required. A charge of up to \$300 may apply to all orders cancelled less than 4 hours prior to the scheduled day and time of pick up.
- **Truckload (TL)** rates are quoted per vehicle on a business to business, dock to dock delivery basis and shipments that are to be loaded by the shipper and unloaded by the consignee. Rates may be calculated on a state to state and mileage based. Additional charges will apply for services, such as tractor/trailer detention, or for driver assistance in loading or unloading the shipment. A charge of \$500 or more may be assessed for all TL shipments cancelled less than 4 hours prior to the scheduled day and time of pickup.
- **Air Freight** rates are based on the greater of the actual or dimensional weight of the shipment and additional charges may apply for the freight that is oversize or of excessive length.
- **Van Line** shipments are rated on a state to state mileage basis and are dependent on weight (actual or density), commodity/product type, and the total cube of the trailer that the shipment occupied.
- **Flatbed rates** are based on equipment type, state to state mileage basis, and weight. If a flatbed shipment contains oversized freight, additional charges will apply.

## **TRANSIT TIMES**

All transit times are estimates ONLY and do not include day of pickup. They are deemed reliable but are NOT GAURANTEED.

## **FREIGHT CHARGES**

The Customer is liable for all freight charges, including but not limited to, transportation, fuel, and other applicable accessorial charges for extra services provided.

## **BILLS OF LADING**

All bills of lading are NON-NEGOTIABLE and are subject to the terms and conditions contained in the National Motor Freight Classification (NMFC). All bills of lading, prepared either by the customer or by DTI on behalf of the Customer, shall be deemed, conclusively, to have been prepared by the Customer.

The Customer agrees to review the bills of lading for information accuracy, and to modify and revise all the information contained in all the shipping documents prior to the bills of lading and corresponding shipment being tendered to the carrier. DTI makes no assertions as to the accuracy of the information provided by the Client in preparing the bill of lading.

## **DOCUMENTATION**

If the Customer does not complete all the documents required for carriage, or if the documents which they submit are not appropriate for the services, pick up or destination requested, the Customer hereby instructs DTI, where permitted by law, to complete, correct, or replace the documents for them at the expense of the Customer. However, DTI is not obligated to do so and may refuse to do so at its discretion.

If a substitute form of Bill of Lading is needed to complete delivery of a shipment and DTI completes that document, the terms of this Bill of Lading will govern. DTI is not liable to the customer or to any other person for any actions taken on behalf of the Customer under this provision.

## **WARRANTIES**

The Customer is responsible for and warrants their compliance with all applicable laws, rules, and regulations including but not limited to transporting hazardous materials, custom laws, import and export laws and governmental regulation of any country to, from, through or over which the shipment may be carried. The Customer agrees to furnish such information and complete and attach to this Bill of Lading such documents as are necessary to comply with such laws, rules, and regulations. DTI assumes no liability to the customer or to any other person for any loss or expense due to the failure of the Customer to comply with this provision. Any individual or entity acting on behalf of the Customer in scheduling shipments hereunder warrants that it has the right to act on behalf of the Customer and the right to legally bind the Customer.

## **APPLICABILITY**

The Customer, Shipper, and/ or Consignee ("Customer") agree to these terms and conditions, which no agent, DTI employee, or employee of the parties may change, alter or modify in any way. These terms and conditions shall apply to this shipment, and all future shipments scheduled by the Customer.

Carrier's General Rules Tariff may contain certain restrictions and limitations that will supersede the terms and conditions contained herein.

## **CLAIMS**

DTI is not a trucking company and, as a Transportation Broker, has no responsibility, liability or involvement in the issuance of insurance, the denial of insurance, or in the payment of cargo claims. In the event of cargo loss or damage, the Claimant is to file a claim form directly with the carrier, as soon as possible. Cargo claims must be filed with the carrier within 9 months of delivery or expected delivery to be considered.

The filing of a cargo or other claim with the Carrier will not relieve the responsible party from payment of freight charges. Freight payment is necessary for a Carrier to process a claim.

In order to establish potential carrier liability, the Consignee must make a written notation on the driver's copy of the Bill of Lading or Delivery Receipt (whichever is tendered) at the time of delivery, which indicates either a loss, or that the shipment was not delivered in the condition in which it was tendered. If the loss or damage is not apparent (concealed) at time of delivery, the customer must contact the carrier directly, within 48 hours of receiving the merchandise, in writing, advising them of loss or damage.

DTI is not liable for any consequential damage resulting from a "late-delivery," or non-delivery whatsoever and those caused by the act, default, or omission of the carrier. DTI is not liable for late-delivery, or non-delivery caused by violation(s) by the Customer of any of the Terms and Conditions contained in the Bill of Lading or of the carriers General Rules Tariff including, but not limited to, improper or insufficient packaging, securing, marking or addressing, or of failure to observe any of the rules relating to shipments not acceptable for transportation or shipments acceptable only under certain conditions.

DTI is not liable for late delivery or non-delivery caused by acts of God, perils of the air, public enemies, public authorities, acts or omissions of Customs or quarantine officials, war, riots, strikes, labor disputes, weather conditions or mechanical delay or failure of aircraft or other equipment.

DTI is not liable for failure to comply with delivery or other instructions from the Customer or for the acts or omissions of any person other than employees of DTI.

## **LIMITATIONS OF LIABILITY**

Shipments coordinated by DTI are subject to limited liability in the event of a cargo claim. The Customer is responsible for providing the cargo value at the time the shipment is quoted to ensure that the customer's shipments will be amply insured.

Motor Carrier Cargo Insurance: Minimum one hundred thousand dollars (\$100,000.00) of coverage per occurrence for low value/ low risk loads and commodities, and standard class loads.

Motor Carrier Commercial Auto Liability: minimum of one million dollars (\$1,000,000.00) of coverage per occurrence.

Motor Carrier Workers Compensation: minimum is the statutory limits by each state's law where the Carrier is incorporated at and/or resides, or where Carrier's employees, agents, independent contractors reside, or where the accident occurs.

The individual carrier's governing General Rules Tariff will determine the standard liability cargo insurance coverage offered by all motor and air freight carriers. If the shipment contains freight with a predetermined exception value, as determined by the NMFC or the selected carrier, the maximum exception liability will override the otherwise standard liability coverage.

Subject to the limitations of liability contained in the Bill of Lading and the Carrier's General Rules Tariff, at the time of dispatch, DTI shall not be liable for loss, damage, miss-delivery or non-delivery except as caused by DTI'S own gross negligence. DTI'S liability shall be limited to the fees that DTI has earned with respect to the subject shipment. Supplemental insurance is available upon request.

#### **INDEPENDENT CONTRACTORS**

All service providers selected by DTI are independent contractors. Customers' goods shall be tendered to such service providers, subject to their rules, tariffs, and terms and conditions. Customer should review all such terms and conditions or request a reference to same from DTI.

#### **INDEMNIFICATION**

In the event a carrier, government agency, individual or entity makes any claim, or institutes legal action against DTI, in connection with the shipment of goods, Customer agrees to defend, hold harmless and indemnify DTI for any amount DTI may be required to pay, in addition to reasonable expenses, including attorney's fees and costs of suit, incurred by DTI, in connection with defending the claim or action, and obtaining reimbursement from Customer.

#### **ADVANCEMENT OF PAYMENTS**

DTI shall not be obligated to incur any expense, guarantee payment, or advance any money, in connection with its service, on behalf of Customer. Any decision by DTI to make an advance payment shall not be a waiver of this provision.

#### **REASONABLE DISPATCH**

DTI shall not guarantee, nor warrant, exact delivery times or days. Further, there shall be no liability or penalty for late delivery.

## **FORUM SELECTION AND CHOICE OF LAW**

Any claim, dispute or litigation relating to these Terms and Conditions, any shipment scheduled or tendered hereunder or through DTI's website, or relating to any and all disputes between DTI and the enrolled Customer, Shipper and/or Consignee and/ or Brokers for any enrolled Customer, Shipper and/or Consignee, shall be filed in San Diego County, California, and shall be subject to California law.

## **INJURY TO PERSONS OR PROPERTY**

DTI shall not be liable to the Customer or any other entity for injury to persons or property, unless such injury is the direct result of, and solely attributed to, DTI's acts or omissions. To the extent that Customer causes or contributes to such injury, it shall defend, indemnify and hold harmless DTI from any claims, suits, and/or causes of action, including reasonable attorney's fees and costs. DTI shall be entitled to reasonable attorney's fees and costs for enforcement of these terms.

## **FEES AND COSTS**

The Customer shall be liable for all attorney's fees and expenses incurred by DTI to collect payment from Customer for services provided, or to otherwise enforce DTI's rights, pursuant to these terms and conditions.

## **GOVERNING AND LAW JURISDICTION**

Any disputes relating to these terms and conditions shall be governed by California law, and shall be brought in San Diego County, California

## **ARBITRATION**

In the event the Parties are not able to resolve any dispute between them arising, out of or concerning these Terms and Conditions, or any provisions hereof, whether in contract, tort, or otherwise at law or in equity for damages or any other relief, then such dispute shall be resolved only by final and binding arbitration pursuant to the Federal Arbitration Act, conducted by a single neutral arbitrator and administered by the American Arbitration Association, or a similar arbitration service selected by the Parties, in San Diego county, California. The arbitrator's award shall be final, and judgement may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding or arbitration arises out of or concerns these Terms and Conditions, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees. The parties agree to arbitrate all disputes and claims regarding these Terms and Conditions or any disputes arising as a result of these Terms and Conditions, whether directly or indirectly, including Tort claims that are a result of these Terms and Conditions. The parties agree that the Federal

Arbitration Act governs the interpretation and enforcement of this provision. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the Arbitrator. This arbitration provision shall survive the termination of these terms and conditions. Notwithstanding the foregoing, either party may seek any interim or preliminary injunctive relief from any court of competent jurisdiction, as necessary to protect the party's rights or property pending the completion of arbitration. Nothing herein shall prevent the parties to any dispute from agreeing to attend mediation at any time.

### **CLASS ACTION WAIVER**

Any arbitration under these terms and conditions will take place on an individual basis; class arbitrations and class/representative/collective actions are not permitted. THE PARTIES AGREE THAT A PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY IN EACH'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PUNITIVE CLASS, COLLECTIVE AND/OR REPRESENTATIVE PROCEEDING, SUCH AS IN THE FORM OF A PRIVATE ATTORNEY GENERAL ACTION AGAINST THE OTHER. Further, unless both you and DTI agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding.

### **FOOD AND SAFETY MODERNIZATION (FSMA)**

DTI will make arrangements for shipments that may be subject to FSMA. DTI requires all Carriers ("Carrier") to adhere to all provisions of the FDA's Food Safety Modernization Act (FMSA) and the Sanitary Food Transportation Act effective April 6, 2017. DTI makes its best efforts to ensure that food and products are transported safely; however, DTI never has direct contact with these products and can only convey Shipper instructions to the Carrier.

Accordingly, DTI cannot be responsible or liable, in any way, for damages arising in connection with these shipments. Shipper and Receiver are responsible for ensuring that the Carriers are adhering to the requirements of the FSMA, some of which are outlined below, at the point of pickup and delivery.

DTI's selected carrier is required to: Monitor conditions during transport that are consistent with the requirements specified; is capable of maintaining temperatures necessary for the safe transport of food; has trained its personnel in sanitary practices; and retains all related records of its written procedures, agreements and training.

To ensure proper temperature control and cleanliness in its freight transit practices, DTI requires its selected carriers to have in place protective procedures and protocols for all loads, which are subject to temperature control. Before undertaking each load transit, Carrier should confirm with its drivers that the temperature and other critical Bill of Lading particulars are correctly inputted into the reefer settings. For those temperature sensitive meat, produce, or related cargo, DTI requires carrier to have procedures in place to address issues respecting continuous temperature control and cleanliness best practices. Before Carriers' equipment is taken to the shipping dock for

loading, Carrier must communicate to its driver the core freight transit requirements involving temperature control and cleanliness procedure.

Carrier also must instruct its drivers to undertake a trailer washout, prior to arriving at the shipping site, if they visually, or by the detection of odor, are made aware that the trailer is not sanitarily fit for the safe transit of food cargo. Carrier must commit to those procedures that govern the safe, effective transport of such cargo.

Carrier must always employ commercially customary and reasonable practices to ensure that temperature-controlled food loads are shipped according to best practice protocol, without preventable incident. Carrier agrees to provide DTI and/or the shipping customer evidence of its (1) temperature control, (2) trailer cleanliness and (3) related FSMA compliance procedures. Carrier acknowledges that it is in compliance with 21 C.P.R. pt. 1.908, 1.910, and 1.912, and with all applicable FSMA regulations.

Carrier agrees to secure confirmation from shipper that the trailer, and any loaded cargo contents, was loaded in a fully sanitary manner, which entirely complies with FSMA law and all related regulations.

**A quick summary of requirements:**

- Provide clean equipment in good operating condition
- Pre-cool trailers assigned to the dispatched load.
- Maintain the temperature of the load designated by shipper and/ or DTI personnel.
- Provide training for drivers and staff personnel to include potential food safety issues.
- Basic sanitation practices and instruction on setting/monitoring temperatures during transit; and
- Retain records, addendum agreement, temperature records and written procedures for up to twelve (12) months.

**CHANGES TO TERMS AND CONDITIONS**

DTI reserves the right to alter, modify, or amend these terms and conditions from time to time to be posted at [www.dtitrans.com](http://www.dtitrans.com) as dictated by market conditions. Such changes shall be effective for all transactions between DTI and the Customer after the changes have been posted.