

DMX Logistics, LLC Terms & Conditions of Brokerage

DMX Logistics, LLC (DMX or Broker) is a licensed property broker offering services to assist customers in the arrangement of shipping needs. DMX arranges transportation through carriers chosen by DMX. These Terms & Conditions of Brokerage supersede all previous contracts and agreements with shipping customers whether express or implied.

1. Applicability: By tendering freight to Broker, customer agrees to the following Terms & Conditions:
2. Definitions:
 - 2.1 Broker shall mean DMX, a licensed Broker operating under MC # 951620, USDOT # 2841345 and not a Motor Carrier. As a broker DMX will arrange for shipments on behalf of customer. Broker shall comply with any statutory or regulatory surety bond requirements.
 - 2.2 Carrier shall mean a motor, air, water, or rail carrier selected by and contracted with Broker who will be used to provide customer with transportation services. All contracted carriers are licensed and registered at the time of booking to the extent required by applicable law to provide transportation of customer's freight. Customer understands that carriers are independent contractors with exclusive control over their drivers and employees and are not agents, employees or authorized representatives of Broker, and Broker is not the agent or authorized representative of the carriers.
 - 2.3 Customer shall mean the party using the Broker's services of arranging for transportation services, including the owner of the goods transported by the carrier, the shipper, the consignor or consignee. By accepting brokerage services from the Broker, customer agrees to the terms and conditions set forth herein.
3. Independent Contractor and Agency. Customer is and will remain an independent contractor of Broker with respect to the services being performed. Nothing herein shall be construed to create a legal partnership or joint venture between the parties. Broker shall not be considered an agent of customer nor an agent of carrier. Further carrier shall not be considered an agent of Broker and customer shall not be considered an agent of Broker. The parties acknowledge and agree that no agency or trust relationship of any kind is created by the use of Broker's services.
4. Customer's Warranties. Customer warrants to comply with applicable laws, rules and regulations including but not limited to hazardous materials laws, import and export laws, customs laws, and governmental regulation of any country to, from, through or over which shipment may be carried. Customer agrees to provide any information required to comply with such laws, rules and regulations and attach to the bill of lading such documents needed.
5. Rates and Charges. The rates and charges for the transportation services provided by Broker shall be in accordance with any rates and charges stated in any rate quotation provided to the

customer via email, or formal rate quotation form. In the event that a rate and charge is not provided prior to Broker providing its services customer and Broker agree that the amount billed by Broker and paid by customer shall be the rates and charges for that particular service.

6. Payment. All charges for services are payable in United States currency and are due within thirty days of the date of Broker's invoice.

- 6.1 Freight Charge Indemnification. Broker shall indemnify, defend and hold harmless customer for any claims for payment for freight charges from carriers to the extent customer has paid Broker in full for same. Customer shall have no right to offset amounts owed to Broker for any reason.

7. Bills of Lading. Each shipment tendered by customer and accepted by Broker shall be evidenced by and subject to the terms, conditions and provisions of a bill of lading or other proof of delivery receipt. If the terms and conditions of the bill of lading or other delivery receipt differ from the Terms and Conditions of Brokerage herein, the Terms and Conditions of Brokerage herein shall govern. Customer warrants that it will not name Broker on the bill of lading as anything other than a broker and agrees that in the event Broker is named on the bill of lading as anything other than a broker it shall not subject Broker to the liability above and beyond its liability herein as a property broker. Customer agrees further that naming Broker on the bill of lading is merely an act of convenience for customer and not in any way intended to change Broker's liability to anything other than a broker. Customer acknowledges and agrees that Broker is not physically hauling any freight and that the carriers are the ones physically hauling the freight.

8. Insurance. Broker warrants that contracted carriers shall maintain at their own expense at all times while performing services under these Terms & Conditions of Brokerage the following minimum insurance coverage.:

Automobile Liability:	\$1,000,000.00 per occurrence
Cargo Liability:	\$100,000.00 per occurrence

9. Contingent Cargo Liability: \$100,000.00 per occurrence

- 9.1 Broker insurance terms. Broker's insurance shall be contingent, and secondary to any insurance available to carriers or customer. Broker's insurance shall only extend coverage to claims of any kind or nature caused by Broker's negligence. Without admitting liability for any cargo loss, damage, or delay claims, should a court of law or binding arbitration find Broker liable for cargo loss, damage, or delay, Broker's liability shall be the same as if it had been the carrier under section 11 of these Terms and Conditions of Brokerage, and Broker shall be entitled to the same defenses and liability caps as would have applied to the carrier under section 11 of these Terms and Conditions of Brokerage.

10. Carrier access to facilities. Customer agrees that carrier shall have no liability for penalties, fines, or damage to cargo arising out of improper loading or unloading of cargo unless carrier is given access to the loading and unloading process.
11. Cargo claims – Limitation of liability. Broker and customer agree that broker is not a carrier, and Broker shall not be liable for loss, damage, missed delivery, non-delivery, or delay in transportation with respect to Customer's property arising out of any act, default or omission of the carrier, customer or any other person who has an interest in the shipment. The carrier shall be liable for loss, damage, missed delivery, non-delivery or delay in transportation in accordance with the provisions below. Notwithstanding the first sentence of this section, should Broker be found liable for loss or damage to customer's property, Broker shall be entitled to the same standard of liability and maximum liability as determined and measured for the carriers in this section and below.
 - 11.1 Truckload freight claims. Truckload freight covers shipments where the entire trailer load is contracted to a single customer for an over-the-road shipment by a carrier.
 - 11.1.1 Truckload Cargo Loss or Damage. Carrier shall be liable for any loss or damage to shipments that occur while the shipment is in the carrier's exclusive care, custody and control and carrier's liability shall be that of a common carrier under 49 U.S.C 14706 (commonly referred to as the "Carmack Amendment") and controlling case law for any new equipment, machinery, products or merchandise. The carrier shall be liable for the full actual value of lost or damaged property, provided, however, that the maximum liability for any single shipment shall not exceed \$100,000.00. For any used equipment, machinery, products or merchandises the carrier shall be liable for the full actual value of the lost or damaged property, provided however, that the maximum liability for any single shipment shall not exceed \$0.10 per pound.
 - 11.2 Less than Truckload (LTL) freight claims. LTL freight refers to shipments in which customer's freight is mixed with the freight of other shippers or customers in a single trailer.
 - 11.2.1 LTL Cargo Loss or Damage. Broker warrants that all carriers transporting less than truckload shipments arranged by Broker are covered by carrier, at carrier's expense at a liability limitation level based on the carrier's current rate classification system. Liability limitations depend on the type of freight, weight, volume, shipping characteristics, lane, packaging, shipment requirements. And rates. Customer may request from Broker the name of the carrier that will be providing services prior to the dispatch of a load so that the customer may view the carrier's liability limitations. In no event shall the carrier's liability for loss or damage to property exceed \$100,000.00 per occurrence.
 - 11.3 Air Freight Claims. Air freight refers to shipments while transported via air carrier and via any pick up and delivery motor carriers performing pick up and delivery services of an air shipment. Air carriers transporting shipments shall be governed by the air carrier's then applicable terms of service document. Customer may request from Broker the name of the air carrier that will be providing services prior to the dispatch of

a load so that the customer may view the air carrier's liability limitations. In no event shall the air carrier's liability for loss or damage to property exceed \$10,000.00 per occurrence.

11.4 Rail Freight Claims. Rail freight refers to shipments while transported via rail carrier. Rail carriers transporting shipments shall have the same liability as rail common carriers, and such liability shall be governed by the rail carrier's then applicable terms of services document. Customer may request from Broker the name of the rail carrier that will be providing services prior to the dispatch of a load so that the customer may view the rail carrier's liability limitations. In no event shall the rail carrier's liability for loss or damage to property exceed \$100,000 per occurrence.

11.5 Multi-Modal Freight Claims. Multi-modal freight refers to shipments transported via more than one mode of transportation such as, but not limited to, a shipment transported via water and motor carrier. Any mode of carrier transporting multi-modal shipments, regardless of the origination or destination of the shipment, shall have the same liability as the lowest maximum liability of any mode used within the transport of the shipment, regardless of where the loss or damage occurred. This section shall apply regardless of whether or not any through bill of lading is issued, or if the shipment contains separate bill of lading for each mode.

14. Filing of Cargo Claim. Claims for loss or damage must be filed with carrier in accordance with 49 C.F.R. Part 370. Broker may facilitate the processing of claims at the request of the parties, and to such event customer agrees to provide any documentation requested by Broker. While not obligated to for any reason, should Broker choose to pay customer for any freight claims of any kind, by making such payments customer assigns any and all rights to the property and any claims against carriers related to the same, and customer agrees to fully cooperate in such claims against carriers.

16. Indemnification. Customer agrees to release, indemnify, hold harmless and defend Broker against any and all claims, demands, suits and liability (collectively "claims") arising from customer's negligence related to its obligations under these Terms & Conditions of Brokerage and any shipment offered for transportation hereunder. Broker agrees to indemnify, hold harmless and defend customer against any claims (except cargo claims which are governed by section 10 above) to the extent claims are caused directly by the negligence of Broker. Neither party shall be liable to the other party for any claims, actions or damages due to the negligence of the other party nor for any special or consequential damages (except for claims brought by third parties).

17. Force Majeure. The obligations of the parties under these Terms and Conditions of Brokerage shall be temporarily suspended during any period in which either party is unable to reasonable comply with the provisions of the Terms and Conditions by reason of acts of God, fire, flood, labor strike, closing of public roads, war, or other contingencies beyond the control of any party.

18. Governing Law. Broker and customer agree these Terms and Conditions of Brokerage shall be governed by the laws of the state of New Hampshire.

19. Non-Exclusivity. These Terms and Conditions of Brokerage apply on a non-exclusive basis to customer shipments. Every shipment tendered will be subject to the terms and conditions hereof. Broker is free and able to provide brokerage services to any person or entity and customer is free and able to use other persons or entities for brokerage.

20. Severability. The invalidity of any term and/or part of these Terms and Conditions of Brokerage shall not invalidate or otherwise affect any other terms and/or parts hereof.