

D/C EXPORT AND DOMESTIC PACKING, INC. (THE COMPANY)

Terms and Conditions of Sale

1. Company offers to sell the services described in the accompanying quotation ("Work") upon these Terms and Conditions of Sale, which shall apply to the exclusion of any inconsistent or additional terms and, conditions of Customer's order, acceptance or acknowledgement. These Terms and Conditions of Sale and the contract formed by acceptance of them cannot be modified, cancelled, rescinded, or waived except by a written agreement signed by both parties, including an authorized officer of the Company.
2. Customer represents and warrants Company that Customer is the owner or in lawful possession of the goods, and has legal right and authority to contract for services in connection therewith. Customer further represents and warrants that all hazardous materials, if any, covered in this quotations have been prepared, labeled, shipped, packed and declared in accordance with the provisions of Title 49, CFR, Sections 171.8, 172, 173, 177, 178 and other applicable civil, military or governmental authorities, and of any other agency or institution of any jurisdiction, and of any amendment thereto. The Company will accept such shipments only with previous full written certified description by the Customer of the nature, packaging and labeling of such materials. Shipper shall be fully liable for and shall indemnify and save the Company harmless against any and all claims, loss, damage and expenses that the Company may sustain as a result of a breach of any Customer representations.
3. Overdue balances shall be subject to a service charge of one and one-half percent (1 ½%) per month. Goods not ordered shipped after expiration of thirty days from date of receipt are subject to storage charges.
4. The Company accepts the property as a bailee for hire in order to perform the Work. A Warehouse Receipt will be issued for all property placed in storage and subject customer (depositor) to the Company's Contract Terms and Conditions for a Merchandise Warehouseman
5. Unless otherwise requested by the Customer in writing, the Customer authorizes the Company to employ the services of a duly certified contract/common carrier for further transportation of the property at the lowest declared or released valuation and to execute necessary bills of lading or other documentation in Customer's behalf.
6. Customer assumes all risk, and no liability of any kind attaches to the Company for the transportation and/or shipping of any property that is not packed, or that is packed by persons other than the employees of the Company. The property is received subject to subsequent carriers or other agencies necessary for the transportation, transfer or handling of the shipment.
 - a) This shipment is accepted by the Company for handling at Customer's risk, subject to loss, damage or delay caused by acts of God, strikes, labor troubles, riots, insurrections, war and other causes beyond the control of the Company, and the acts or omissions of foreign or domestic civil or military authorities.
 - b) The Company will not be responsible for loss or damage to goods by rust, leakage, shrinkage or deterioration by time or the elements while property is in it's care and possession, or while being transported or transferred to other carriers or location.
 - c) The Company shall be liable only for loss or damage resulting from its failure to exercise due care in performing the Work provided for herein.
7. It is agreed that the Company shall have a lien upon any and all property in the Company's possession, and on the proceeds from any sale thereof, for all charges provided herein, including, without limitation, claims for monies advanced, interest, demurrage, storage, transportation, insurance, labor and materials, reasonable attorney's fees and other legal expenses incurred by the Company as a result of any litigation in which the Company shall be involved in connection with the Work.
8. The Company warrants that it shall use only materials of good quality in the performance of the Work. The Company's liability for any defect in material or workmanship shall be limited to the repair or replacement of the Work found to be defective by the Company. In no event shall the Company be liable for any consequential, special, tort and indirect or incidental damages. Except as otherwise expressly stated herein, THE COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, AS TO MERCHANTABILITY, and FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER WITH RESPECT TO THE WORK. NOTWITHSTANDING ANY PROVISION OF THESE TERMS AND CONDITIONS, THE WARRANTY CONTAINED IN THIS PARAGRAPH IS THE ONLY WARRANTY EXTENDED BY COMPANY IN CONNECTION WITH ANY SALE BY IT AND THIS WARRANTY IS EXTENDED TO CUSTOMER ONLY AND NOT TO ANY SUCCESSIVE BUYERS, USERS, THIRD PARTIES OR CUSTOMER'S EMPLOYEES AND IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. Customer Responsibility-Indemnity
 - a) If any part of the Work is performed at a location selected by the Customer, Customer shall be responsible for (1) providing adequate and safe grounds, work handling tools and safety devices necessary to provide a safe workplace and to protect all of the Company's personnel from bodily injury or death which otherwise may result from the performance of the Work; (2) compliance with Occupational Safety and Health Act and the regulations adopted under it and compliance with Occupational Safety and Health Act and the regulations adopted under it and with other applicable federal, state, and local codes and industry-accepted standards.
 - b) Customer covenants to indemnify and hold harmless Company and its agents and employees of, from and against any and all loss, damage, expense (including reasonable attorney's fees), claims, suits, or liability which Company or any of its agents or employees may sustain or incur at any time, for or by reason of any injury to or death of any person or damage to any property, arising out of any claimed or actual breach by Customer of its undertaking in Paragraph 9(a) above or any acts attributed to the conduct of Customer or its employees and agents.
 - c) Customer shall notify Company, in writing, within ten (10) days after its occurrence, of any accident or other incident involving any of the Work which results in injury to or death of persons, including Customer's property, or the loss of use of any property. Customer shall cooperate fully with Company in investigating and determining the cause of any such accident or incident.
10. Claims for any loss or damage must be presented in writing within thirty days from the date of arrival of shipment at destination. Company must be given a reasonable opportunity to inspect damaged goods prior to any repairs. Claims must be supported by fully paid bill for all services performed by the Company. If goods are placed in storage, claims, if any, must be made before storing. No action may be maintained by the Customer against the Company unless commenced within twelve months after date of arrival of shipment at destination or placement of the goods in storage.
11. The Company and Customer waive all rights against each other and the sub-contractors, agents and employees each of the other, for damages caused by fire or other perils to the extent uncovered by insurance.
12. Any notice required or permitted shall be made by certified mail, return receipt requested and mailed in a sealed envelope, postage prepaid to the Company and to the Customer at the addresses shown on the face of this document. Any notice given pursuant to this paragraph shall be deemed given as of the date it is postmarked.
13. These Terms and Conditions of Sale shall be constructed in accordance with the law of the State of Illinois.
14. Company's quotation and these Terms and Condition shall inure to the benefit of, and be binding upon, the successors of the parties to them.
15. The invalidity of any part of these Terms and Conditions shall in no way operate to validate any other portion and, except for the invalid part, the entire balance of these Terms and Conditions shall be and remain in full force and effect.
16. No waiver of Customer performance shall be valid unless in writing signed by a duly authorized officer of the Company. No waiver of a specific action shall be construed as a waiver of future performance.