

CARVER DRY DOCK AND SLIP RENTAL TERMS AND CONDITIONS

Version: 1.1

Effective Date: January 1, 2025

Posted At: <https://www.carvercompanies.com/about-us/port-tariff-information/> (the "Tariff Page")

These Carver Dry Dock and Slip Rental Terms and Conditions (these "**Terms**") govern Customer's reservation, occupancy, access to, and use of any Carver Facility (as defined below) when incorporated by reference (including by hyperlink to the Tariff Page) in an Order Document (as defined below), and/or when Customer enters the Facility, commences any operations, or otherwise uses the Facility.

1. DEFINITIONS

For purposes of these Terms:

1.1 "**Carver**" means the Carver entity identified in the applicable Order Document, together with its parents, subsidiaries, affiliates, successors, assigns, and each of their respective members, managers, partners, officers, directors, employees, agents, representatives, insurers, and contractors (collectively, the "**Carver Parties**").

1.2 "**Customer**" means the counterparty identified in the applicable Order Document and includes Customer's parents, subsidiaries, affiliates, successors, assigns, and Customer Representatives.

1.3 "**Customer Representatives**" means Customer's employees, officers, directors, agents, representatives, contractors, subcontractors (of any tier), vendors, suppliers, consultants, towage providers, carriers, invitees, visitors, and any person or entity acting by, through, under, or at the request of Customer.

1.4 "**Facility**" means any Carver-owned, Carver-operated, or Carver-controlled dry dock, slip, berth, wharf, pier, dock, terminal, yard, laydown area, runway, access road, staging area, building, structure, utility, or other premises, including adjacent and supporting areas as designated by Carver.

1.5 "**Premises**" means the specific area(s) of the Facility made available to Customer under the Order Document, together with any designated access routes, staging/laydown areas, and other locations within the Facility that Carver authorizes Customer to use (expressly or by conduct).

1.6 "**Order Document**" means the written letter agreement, reservation confirmation, quote acceptance, work order, rental confirmation, or similar document issued by or accepted by Carver that identifies the Customer, Facility/Premises, Term, rate(s), and Permitted Use and incorporates these Terms by reference (including by hyperlink to the Tariff Page).

1.7 **"Permitted Use"** means the use/activity described in the Order Document, together with any ancillary activities expressly approved by Carver in writing, in each case subject to these Terms and the Carver Rules.

1.8 **"Carver Rules"** means all rules, policies, directives, safety/security requirements, operational procedures, and posted or provided requirements applicable to the Facility, including, without limitation, any "Tenant Port Rules and Additional Terms," tariff documents, site rules, traffic plans, and security requirements posted on or referenced by the Tariff Page, as amended from time to time.

1.9 **"Charges"** means all fees, rates, rent/license fees, tariffs, access charges, service charges, taxes, assessments, costs, reimbursements, interest, late fees, administrative charges, and any other amounts payable to Carver under the Order Document, these Terms, and/or Carver Rules.

1.10 **"Term"** means the term stated in the Order Document, plus any early access, staging, setup, demobilization, holdover, or other period during which Customer or any Customer Representative is present at the Facility.

2. STRUCTURE; INCORPORATION; ORDER OF PRECEDENCE; NO CUSTOMER TERMS

2.1 **Incorporation and Acceptance.** These Terms are incorporated into and form part of each Order Document that references them (including by hyperlink). In addition, Customer's entry onto the Facility, commencement of operations, delivery of equipment/materials, or occupancy of the Premises constitutes acceptance of these Terms, even if Customer has not executed the Order Document.

2.2 **Order of Precedence.** In the event of a direct conflict:

- **(a)** the Order Document controls **only** with respect to the specifically stated commercial deal terms (Facility/Premises description, Term, rates/Charges, and any special negotiated provisions expressly stated to override these Terms);
- **(b)** these Terms control over Carver Rules; and
- **(c)** Carver Rules control over any general site postings not incorporated as Carver Rules.

2.3 **No Customer Terms Apply.** No Customer purchase order terms, vendor forms, or other Customer terms apply (including "battle of the forms"), even if referenced in Customer communications or documents, unless Carver expressly agrees in a signed writing that specifically identifies the Customer document and the provisions accepted.

2.4 Updates; Version Lock. Carver may update these Terms from time to time by posting an updated version to the Tariff Page. For any Order Document already executed, the version posted and effective as of the effective date of the Order Document will govern unless Carver and Customer agree otherwise in a signed writing.

3. LICENSE GRANT; NO LEASE; NO TENANCY; NO BAILMENT; SPACE ONLY

3.1 License Only. Carver grants Customer a temporary, revocable, non-exclusive license to use the Premises during the Term solely for the Permitted Use. **No leasehold, tenancy, easement, possessory interest, or property right** is created, and Customer waives any claim that these Terms or the Order Document create a landlord-tenant relationship.

3.2 Revocability / Control. Carver retains control of the Facility and Premises at all times. Carver may impose reasonable restrictions on access, routes, staging, timing, and operations to protect safety, security, and Carver operations.

3.3 No Bailment. Carver does not accept custody, control, or care of Customer property, vessels, floating docks, cargo, tools, equipment, vehicles, or materials. **No bailment** is created. Customer bears all risk of loss to Customer property.

3.4 Space Only / No Services. Unless Carver expressly agrees in writing in the Order Document, Carver provides **space only**. Carver does not provide supervision, labor, safety management, traffic control, rigging, line handling, towage, security, fire watch, environmental compliance services, spill response, or any operational support for Customer.

4. TERM; ACCESS; SCHEDULING; HOLDOVER; REMOVAL

4.1 Access Subject to Carver Direction. Customer access and operations are subject to Carver's scheduling, operational directives, safety/security requirements, and Carver Rules.

4.2 Holdover. Any occupancy beyond the Term without Carver's prior written consent constitutes a material breach. Customer shall pay holdover charges at **200% of the then-applicable daily rate** (or, if no daily rate exists, 200% of a reasonable daily rate determined by Carver based on the Order Document's pricing structure), plus any incremental costs or damages incurred by Carver. Carver may require immediate removal at Customer's sole cost and risk.

4.3 Removal on Demand. Upon expiration/termination, and at any time upon Carver's written demand for safety/security/operational reasons, Customer shall

promptly vacate the Premises and remove all Customer property. If Customer fails to do so, Carver may (without obligation) relocate, store, secure, or dispose of Customer property at Customer's cost, and Customer grants Carver a license to do so.

4.4 No Setoff for Restricted Access. Customer is not entitled to any abatement, offset, or credit for Carver-imposed restrictions or stoppages issued in good faith for safety, security, compliance, weather, tide/current conditions, emergencies, or operational needs.

5. CHARGES; PAYMENT; TAXES; SECURITY; CREDIT; SETOFF

5.1 Charges. Customer shall pay all Charges stated in the Order Document plus any Charges arising under these Terms and Carver Rules, including without limitation: damage/replacement costs, environmental response costs, administrative charges, third-party costs incurred by Carver due to Customer, fines/penalties attributable to Customer, and Carver's enforcement costs.

5.2 Invoices; Due Date. Carver may invoice in advance, periodically, or after completion. Unless stated otherwise, invoices are due **net ten (10) days** from invoice date.

5.3 Late Fees; Collections. Past due amounts accrue interest at **1.5% per month** (or the maximum lawful rate, if lower) plus Carver's reasonable attorneys' fees, expert fees, and collection costs.

5.4 Taxes and Assessments. Customer is responsible for all taxes, fees, assessments, duties, and governmental charges arising from Customer's use/occupancy, excluding taxes based solely on Carver's net income.

5.5 Security Deposit / Credit Support. Carver may require at any time (including after execution) a security deposit, advance payment, standby letter of credit, guarantee, or other credit support in an amount and form acceptable to Carver. Carver may apply any security to amounts due without waiving other remedies.

5.6 Carver Setoff. Carver may set off any amounts owed by Customer to Carver against any amounts Carver owes Customer (if any), without limitation.

5.7 Suspension for Non-Payment. Carver may suspend access, stop work, and/or terminate for non-payment without liability.

6. CUSTOMER RESPONSIBILITIES; CONTRACTORS; SAFETY; SECURITY

6.1 Customer Is Responsible Party. Customer is the responsible party for all aspects of the Permitted Use and all activities by Customer Representatives, including supervision, safety planning, compliance, housekeeping, traffic control within Customer work areas, and protection of persons and property.

6.2 Contractor Management. Customer shall ensure all Customer Representatives comply with these Terms and Carver Rules. Customer is liable for the acts and omissions of all Customer Representatives as if they were Customer's own.

6.3 Badging / Access Control. Customer shall comply with Carver's access control, identification, badging, visitor rules, and security procedures.

6.4 Prohibited Activities. Unless Carver expressly approves in writing:

- no hot work, welding, cutting, or grinding;
- no fueling or refueling;
- no storage of hazardous materials;
- no blasting, pile driving, or penetrations/excavations;
- no changes to utilities or connections;
- no subleasing, assignment, or third-party occupancy.

6.5 Carver Stop Work Authority. Carver may stop work, restrict access, remove personnel, or require removal of equipment/materials for safety, security, environmental, compliance, or operational reasons. Such actions do not constitute breach by Carver and do not entitle Customer to damages.

6.6 Incident Reporting. Customer must immediately notify Carver of any injury, incident, property damage, spill/discharge, enforcement contact, or near-miss related to Customer activities.

7. COMPLIANCE WITH LAW; PERMITS; ITAR/EXPORT; REGULATORY CONTACTS

7.1 Compliance With Law. Customer shall comply with all applicable federal, state, and local laws/regulations, including OSHA and all environmental, traffic, and port/terminal requirements.

7.2 Customer Permits and Approvals. Customer is solely responsible for determining, obtaining, and maintaining any permits, approvals, plans, and authorizations required for Customer's activities. Customer shall not represent that Carver is the operator, permittee, sponsor, or responsible party for Customer's activities.

7.3 Regulatory Inquiries. Customer shall promptly notify Carver of any regulatory inspection, inquiry, citation, notice of violation, or enforcement action relating to

Customer activities, and shall cooperate with Carver in responding (at Customer's cost where attributable to Customer).

7.4 Export Controls / ITAR. Customer shall comply with all applicable export control laws and regulations (including ITAR/EAR, if applicable). Customer shall not introduce controlled technical data or regulated items into the Facility without ensuring compliance and obtaining any required approvals.

8. ENVIRONMENTAL; WASTE; SPILLS; CONCRETE WASHOUT; FINES/PENALTIES

8.1 No Discharge / No Washout. Customer shall not permit any spill, discharge, release, leakage, or deposit of any material (including concrete washout, wastewater, oil, fuel, additives, chemicals, solids, debris, or contaminated stormwater) to water, ground, or storm drains, except as expressly approved in writing by Carver and in full compliance with law.

8.2 Waste Handling. Customer is responsible for lawful storage, labeling, handling, and disposal of all waste generated by Customer or Customer Representatives, and for maintaining manifests/records if required.

8.3 Spill Response. Customer shall immediately implement spill response, containment, and reporting as required by law and Carver directives. Carver may respond (without obligation). All Carver costs incurred in response to Customer-related events are reimbursable by Customer upon demand.

8.4 Environmental Indemnity. Without limiting Section 11, Customer shall defend and indemnify Carver Parties from all environmental claims, liabilities, clean-up obligations, and costs arising out of or relating to Customer activities.

8.5 Fines, Penalties, and Citations. Customer shall pay and be responsible for any fines, penalties, citations, fees, assessments, or other governmental charges arising out of or attributable to Customer activities, including costs of defense and administrative handling by Carver.

9. CONDITION OF PREMISES; INSPECTIONS; DAMAGE; RESTORATION

9.1 AS-IS; No Warranties. Customer accepts the Facility and Premises **AS IS, WHERE IS, WITH ALL FAULTS**. Carver disclaims all warranties, express or implied, including any implied warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by law.

9.2 No Duty Created by Inspection. Carver may inspect Customer activities at any time. Inspection does not create a duty to Customer or any Customer Representative.

9.3 Damage. Customer is responsible for any damage to the Facility, Premises, or Carver property arising out of or relating to Customer or Customer Representatives, including damage by vehicles, cranes, pumping equipment, towage providers, deliveries, and staging.

9.4 Restoration. Upon expiration or termination, Customer shall restore the Premises to the condition required by Carver (including removal of debris and repair of damage). Carver may perform restoration and invoice Customer.

10. SUBCONTRACTOR INSURANCE; AUDIT; VERIFICATION RIGHTS

10.1 Subcontractor Insurance Required. Customer shall require all contractors/subcontractors/towage providers to maintain insurance consistent with these Terms (as applicable to their scope) and to name Carver Parties as additional insureds where relevant.

10.2 Right to Verify. Upon request, Customer shall provide Carver copies of certificates and endorsements for Customer Representatives and proof of payment/coverage. Failure is a material breach.

10.3 Audit Right. Carver may audit Customer's insurance compliance and related records reasonably necessary to verify compliance. Customer shall cooperate promptly.

11. INDEMNITY; DEFENSE; RELEASE

11.1 Broad Indemnity. To the fullest extent permitted by law, Customer shall **defend, indemnify, and hold harmless** the Carver Parties from and against all claims, demands, causes of action, suits, proceedings, damages, losses, liabilities, penalties, fines, judgments, liens, and expenses (including reasonable attorneys' fees and expert costs) arising out of or relating to:

- (a) Customer's access to, occupancy of, or use of the Facility/Premises;
- (b) the Permitted Use;
- (c) any act or omission of Customer or any Customer Representative;
- (d) bodily injury, death, or property damage occurring on or about the Facility in connection with Customer;
- (e) any spill, discharge, release, contamination, or environmental condition caused by or attributable to Customer;

- (f) any breach of these Terms or Carver Rules by Customer or Customer Representatives; and
- (g) any liens or encumbrances arising from Customer activities, **except to the extent caused by the gross negligence or willful misconduct of the Carver Party seeking indemnity**, and subject to limitations that cannot be waived under applicable South Carolina law.

11.2 **Duty to Defend.** Customer's defense obligation is immediate upon tender by Carver and includes defense of claims alleging concurrent negligence, except to the extent prohibited by law.

11.3 **Customer Release.** To the fullest extent permitted by law, Customer releases Carver Parties from claims arising from theft, vandalism, weather, tides, currents, wakes, utility interruption, third-party actions, or other hazards affecting Customer property or operations, except to the extent caused by Carver's gross negligence or willful misconduct.

11.4 **Survival.** This Section survives expiration/termination.

12. INSURANCE (CUSTOMER) – MINIMUMS, ADDITIONAL INSUREDS, POLLUTION

12.1 **Required Coverages (Minimum).** Customer shall maintain, at its expense, throughout the Term and any period of access:

- **Commercial General Liability (CGL):** \$2,000,000 per occurrence / \$4,000,000 aggregate
- **Automobile Liability (owned/hired/non-owned):** \$1,000,000 CSL
- **Workers' Compensation:** statutory; **Employer's Liability:** \$1,000,000
- **Umbrella/Excess Liability:** \$5,000,000, following form over CGL and Auto
- **Pollution Liability (Contractor's / Site Pollution as applicable):** \$2,000,000 per claim / \$2,000,000 aggregate (covering sudden and gradual pollution conditions, including transportation pollution liability if applicable)

Carver may require higher limits based on the risk profile, equipment, or activities, upon written notice.

12.2 **Additional Insured; Primary & Non-Contributory.** Customer shall name Carver Parties as **Additional Insureds** on CGL and Umbrella policies for liability arising out of Customer operations/use, on a **primary and non-contributory** basis.

12.3 **Waiver of Subrogation.** Customer shall obtain waivers of subrogation in favor of Carver Parties where commercially available on CGL, Workers' Compensation (where permitted), Auto, Umbrella, and Pollution policies.

12.4 **Evidence and Endorsements.** Customer shall provide certificates and additional insured endorsements acceptable to Carver **before any access or occupancy**. Failure is a material breach and permits immediate suspension/termination.

12.5 **No Limitation.** Insurance does not limit Customer's indemnity or other obligations.

13. LIMITATION OF LIABILITY; WAIVER OF CONSEQUENTIAL DAMAGES; CLAIM LIMITATIONS

13.1 **No Consequential Damages.** To the fullest extent permitted by law, Carver Parties shall not be liable for indirect, incidental, consequential, special, exemplary, or punitive damages, lost profits, loss of use, or business interruption, regardless of theory.

13.2 **Liability Cap.** To the fullest extent permitted by law, Carver Parties' total aggregate liability arising out of or relating to the Order Document, these Terms, the Facility, or the Premises shall not exceed the total Charges actually paid to Carver under the applicable Order Document (or, if none paid, **\$10,000**), except to the extent such limitation is prohibited by law or to the extent caused by Carver's gross negligence or willful misconduct where liability cannot be limited.

13.3 **Time to Bring Claims.** To the fullest extent permitted by law, any claim by Customer against Carver arising out of or relating to the Facility, Premises, Order Document, or these Terms must be brought within **one (1) year** after the event giving rise to the claim, or it is forever barred.

13.4 **No Duty to Protect.** Carver undertakes no duty to protect Customer property, equipment, vessels, floating docks, or personnel.

14. LIENS; ENCUMBRANCES; DISCHARGE

14.1 **No Liens.** Customer shall not permit any mechanic's, materialman's, maritime, or other lien or encumbrance to attach to the Facility, Premises, or Carver property arising from Customer activities.

14.2 **Immediate Discharge.** Customer shall promptly bond off, release, or discharge any such lien at Customer's sole cost. Carver may do so and invoice Customer, which shall be immediately due.

15. SUSPENSION; TERMINATION; REMEDIES; CUMULATIVE RIGHTS

15.1 **Suspension/Stop Work.** Carver may suspend access, stop work, restrict operations, or impose conditions for safety, security, environmental, compliance, non-payment, lack of insurance, or operational reasons.

15.2 **Termination.** Carver may terminate the Order Document and/or Customer's rights immediately for material breach (including non-payment, lack of insurance, or safety/environmental violations). Carver may also terminate upon written notice if Carver determines, in good faith, that Customer's activities present an unacceptable risk to persons, property, operations, or compliance.

15.3 **No Liability for Enforcement.** Carver is not liable for losses arising from good-faith suspension, restriction, or termination.

15.4 **Cumulative Remedies.** Carver's rights and remedies are cumulative and in addition to any rights available at law or equity.

16. FORCE MAJEURE; OPERATIONAL INTERRUPTIONS

16.1 **Force Majeure.** Carver is not liable for failure/delay caused by events beyond Carver's reasonable control, including weather, tides, currents, acts of God, governmental actions, emergencies, marine hazards, labor issues, utility interruptions, or third-party actions.

16.2 **Operational Interruptions.** Carver may reschedule or restrict access due to operational needs or safety conditions. Customer remains responsible for Charges unless the Order Document expressly provides otherwise.

17. CONFIDENTIALITY; PUBLICITY; IP

17.1 **Confidentiality.** Customer shall keep confidential non-public Carver information (including security procedures, site layouts, non-public pricing, and operations information) and use it only for the Permitted Use.

17.2 **No Publicity.** Customer shall not use Carver's name, logos, or marks in publicity without Carver's prior written consent.

17.3 **No IP Rights.** No intellectual property rights are granted by Carver.

18. NOTICES

18.1 **Method.** Notices must be in writing and will be deemed given when (a) delivered personally, (b) sent by nationally recognized overnight courier, or (c) sent by email with confirmation of transmission.

18.2 **Addresses.** Notice addresses are as stated in the Order Document. If not stated, notices to Carver must be sent to the legal/contract contact designated by Carver, with a copy to the Facility's general manager or designee. Either party may update notice information by written notice.

19. GOVERNING LAW; VENUE; JURY TRIAL WAIVER

19.1 **Governing Law.** These Terms and each Order Document are governed by the laws of the **State of South Carolina**, without regard to conflict-of-law rules.

19.2 **Exclusive Venue.** Exclusive venue for disputes is state or federal courts located in **Charleston County, South Carolina**.

19.3 **Waiver of Jury Trial.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE FACILITY, PREMISES, ORDER DOCUMENT, OR THESE TERMS.

20. MISCELLANEOUS

20.1 **Independent Contractor.** Customer is an independent contractor. No partnership, joint venture, employment, or agency relationship is created.

20.2 **Assignment.** Customer may not assign or transfer rights or obligations without Carver's prior written consent. Carver may assign to an affiliate or successor.

20.3 **No Third-Party Beneficiaries.** Except for Carver Parties expressly protected herein, there are no third-party beneficiaries.

20.4 **Severability.** If any provision is invalid or unenforceable, it will be modified to the minimum extent necessary to be enforceable, and the remaining provisions remain in full force.

20.5 **Survival.** Provisions that by their nature should survive will survive, including indemnity, insurance obligations (to the extent they relate to occurrences during the Term), payment obligations, confidentiality, limitations of liability, lien obligations, dispute provisions, and remedies.

20.6 **Waiver.** Failure to enforce any provision is not a waiver. Any waiver must be in writing and signed by Carver.

20.7 **Interpretation.** Headings are for convenience only. "Including" means "including without limitation." If drafted by Carver, no rule of strict construction against Carver applies.

20.8 **Entire Agreement Framework.** The Order Document, these Terms, and Carver Rules constitute the complete agreement regarding the subject matter, superseding prior discussions, except that Carver may enforce updated Facility rules for safety/security/compliance on a prospective basis.

20.9 **Counterparts; Electronic Signatures.** Order Documents may be executed in counterparts and electronically, each of which is an original.