

**CARVER COMPANIES**  
**STANDARD TERMS AND CONDITIONS OF SALE**  
**Salt and De-Icing Products**

*Version: 1 Effective Date: January 1, 2026*

**READ CAREFULLY.** These Standard Terms and Conditions of Sale (these “**Terms**”) govern every sale of Salt and De-Icing Products by Seller to Buyer. By submitting a Purchase Order, accepting delivery of Goods, signing an Order Confirmation, or otherwise dealing with Seller in respect of Goods, Buyer agrees to and is bound by these Terms. These Terms operate together with any signed letter agreement or master supply agreement between Buyer and Seller (a “**Supply Agreement**”) and any Order Confirmation issued by Seller. Section 19 (**Order of Precedence**) sets out how conflicts are resolved.

**THESE TERMS CONTAIN A LIMITED EXPRESS WARRANTY, A DISCLAIMER OF IMPLIED WARRANTIES INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, A LIMITATION OF LIABILITY EXCLUDING CONSEQUENTIAL DAMAGES, A WAIVER OF JURY TRIAL, AND A CONTRACTUAL LIMITATION OF THE PERIOD WITHIN WHICH BUYER MAY BRING ANY CLAIM.**

**1. DEFINITIONS**

In these Terms, the following capitalized words have the meanings set out below; other capitalized terms are defined where they first appear.

- (a) “**Affiliate**” means, with respect to a person, any person that directly or indirectly controls, is controlled by, or is under common control with such person.
- (b) “**Buyer**” means the person identified as the buyer or purchaser on the Order Confirmation or invoice.
- (c) “**Carver Companies**” means Carver Companies International, Inc. and its Affiliates.
- (d) “**Goods**” means rock salt, treated salt, blended salt products, de-icing products, ice melt, brine, and any other salt-based or de-icing products sold by Seller, together with any packaging, additives, dyes, anti-caking agents, and pallets supplied therewith.
- (e) “**Order Confirmation**” means a written acknowledgment, sales order, invoice, or other writing issued by Seller accepting a Purchase Order in whole or in part. Email confirmation is sufficient.
- (f) “**Purchase Order**” or “**PO**” means a written order submitted by Buyer for the purchase of Goods.
- (g) “**Seller**” means the Carver Companies entity identified as the seller on the Order Confirmation or invoice.
- (h) “**Specifications**” means the specifications for the applicable Goods set out in the Supply Agreement, the Order Confirmation, Seller’s then-current published specifications, or otherwise agreed in writing by Seller.
- (i) “**Supply Agreement**” has the meaning set out in the preamble above.

**2. SCOPE AND APPLICATION; NO OTHER TERMS**

- (a) **Exclusive Terms.** These Terms, together with the applicable Supply Agreement and Order Confirmation, constitute the exclusive terms governing the sale of Goods by Seller to Buyer.
- (b) **Rejection of Buyer’s Terms.** Any terms or conditions submitted by Buyer (whether in a Purchase Order, acknowledgment, invoice, web portal, or otherwise) that are inconsistent with, in addition to, or different from these Terms are expressly rejected and are not binding on Seller, regardless of when or how submitted, and notwithstanding any provision purporting to override standard terms. Seller’s acceptance of any Purchase Order, performance hereunder, or acceptance of payment does not constitute acceptance of Buyer’s terms.
- (c) **No Course of Dealing.** No course of dealing, course of performance, trade usage, or prior agreement modifies these Terms.

**(d) Amendment.** Seller may amend these Terms from time to time by posting a revised version on Seller's website. The version of the Terms in effect on the date of the Order Confirmation applies to the relevant sale. No modification of these Terms with respect to a particular sale is binding on Seller unless agreed in a writing signed by a duly authorized officer of Seller.

### 3. ORDERS AND ACCEPTANCE

**(a) Purchase Orders.** Buyer shall submit Purchase Orders identifying SKUs, quantities, requested delivery date, and ship-to location. A Purchase Order is an offer to purchase and is not binding on Seller until accepted in writing.

**(b) Acceptance.** Seller accepts a Purchase Order, in whole or in part, by issuing an Order Confirmation, by commencing performance, or by shipping the Goods. Seller may accept on partial or modified terms without acceptance of the balance.

**(c) Forecasts Non-Binding.** Forecasts, estimates, projections, and indications of intended purchases provided by Buyer are non-binding and do not constitute Purchase Orders or commitments.

**(d) Cancellation.** Buyer may not cancel, reduce, modify, or reschedule any accepted Purchase Order without Seller's prior written consent. If Seller consents, Buyer shall pay Seller for all Goods produced, in production, in transit, or held for Buyer, plus a cancellation fee equal to

**(i) twenty percent (20%)** of the cancelled or reduced amount or such other amount as Seller may reasonably determine to cover Seller's costs incurred and margin lost.

**(e) Allocation.** If demand exceeds Seller's available supply, Seller may allocate available Goods among customers and uses in any manner Seller deems fair and reasonable in its sole discretion, without liability.

### 4. PRICING

**(a) Prices.** Prices are as set out in the Order Confirmation, the Supply Agreement, or Seller's then-current published price list. Quoted prices are valid for the period stated in the quotation or, absent a stated period, for thirty (30) days.

**(b) Price Changes.** Except where pricing has been fixed for a defined term in a Supply Agreement, Seller may change prices at any time on thirty (30) days' written notice. Notwithstanding the foregoing, Seller may pass through any increase in raw material costs, fuel, energy, tariffs, taxes, levies, transportation charges, or labor costs at any time on commercially reasonable notice.

**(c) Taxes.** Prices are exclusive of all taxes, duties, levies, tariffs, and similar charges. Buyer shall pay or reimburse Seller for all such amounts, other than taxes on Seller's net income. Buyer shall provide valid exemption certificates where applicable.

**(d) Transportation.** Unless expressly stated otherwise, prices are quoted F.O.B. Seller's facility. Buyer is responsible for all transportation, insurance, demurrage, detention, fuel surcharges, and ancillary charges.

**(e) Weights.** Weights determined by Seller's certified scales at Seller's facility are conclusive for billing purposes, absent manifest error.

### 5. PAYMENT TERMS

**(a) Invoicing.** Seller shall invoice Buyer on or after shipment. Each invoice is a separate transaction.

**(b) Payment.** Payment is due net thirty (30) days from invoice date in U.S. Dollars by wire transfer or other method acceptable to Seller, without setoff, deduction, counterclaim, or recoupment.

**(c) Late Payment.** Past-due amounts bear interest from the due date until paid at the lesser of (i) one and one-half percent (1.5%) per month and (ii) the maximum rate permitted by applicable law. Buyer shall reimburse Seller for all costs of collection, including reasonable attorneys' fees.

**(d) Credit; Suspension.** Seller may at any time, in its sole discretion, modify or revoke credit terms; require advance payment, cash on delivery, letter of credit, or other security; suspend or delay further shipments; or terminate any unfulfilled Purchase Order if (i) Buyer fails to pay any amount when due, (ii) Buyer's financial

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condition appears to Seller to have deteriorated, (iii) Buyer becomes the subject of an insolvency, bankruptcy, or similar proceeding, or (iv) Seller has reasonable grounds for insecurity regarding Buyer's performance.

**(e) Application of Payments.** Seller may apply payments received from Buyer to any outstanding invoice or amount owed by Buyer to Seller or any Affiliate of Seller, regardless of any designation by Buyer.

**(f) No Setoff.** Buyer shall not setoff, withhold, or deduct any amount from any payment due to Seller, whether on account of any alleged claim, defense, breach, or otherwise. All disputes shall be addressed separately and shall not delay or reduce any payment.

### 6. PURCHASE MONEY SECURITY INTEREST

**(a)** Buyer hereby grants Seller a continuing purchase money security interest in all Goods sold by Seller to Buyer, all proceeds thereof, and all accounts arising from Buyer's resale of such Goods, to secure payment of the purchase price and all other amounts owed to Seller.

**(b)** Buyer authorizes Seller to file financing statements (UCC-1 or equivalent) and any continuations or amendments necessary to perfect and continue Seller's security interest, and shall execute such further documents as Seller may reasonably request.

**(c)** Until Buyer has paid Seller in full for the relevant Goods, Buyer shall (i) hold such Goods (or, after resale, the proceeds thereof) in trust for Seller, (ii) keep such Goods identifiable and not commingle them in a manner that defeats Seller's security interest, and (iii) maintain insurance covering loss of or damage to such Goods.

### 7. DELIVERY, TITLE, AND RISK OF LOSS

**(a) Delivery Terms.** Unless the Order Confirmation expressly states otherwise, all sales of Goods are F.O.B. Seller's facility (Incoterms 2020 EXW or its UCC equivalent). Title to and risk of loss for the Goods pass to Buyer upon Seller's tender of the Goods to Buyer or Buyer's carrier at Seller's facility.

**(b) Delivery Dates.** Any delivery dates or shipment schedules quoted by Seller are estimates only and are not binding. Seller is not liable for any delay in delivery. Time is not of the essence.

**(c) Partial Shipments.** Seller may make partial shipments. Each partial shipment is a separate sale and a separately invoiceable transaction. Failure of any partial shipment to conform to these Terms does not affect any other shipment.

**(d) Carrier; Insurance.** Buyer is responsible for arranging carriage and unloading. Buyer shall maintain insurance covering the Goods from the point risk of loss passes.

**(e) Failure to Take Delivery.** If Buyer fails to take delivery of Goods when tendered, Seller may (i) hold the Goods at Buyer's sole risk and expense, (ii) store the Goods at any commercially reasonable location and charge Buyer storage and handling charges at Seller's then-current rates, (iii) deem the Goods delivered for all purposes (including invoicing, title, and risk of loss), and/or (iv) after thirty (30) days, resell or dispose of the Goods and apply the proceeds (net of costs) against amounts owed by Buyer.

**(f) Export Compliance.** If Goods are exported, Buyer is the exporter of record and is responsible for export licenses, customs clearance, duties, and compliance with all applicable export control, sanctions, and anti-boycott laws, including the U.S. Export Administration Regulations and OFAC sanctions programs.

### 8. SPECIFICATIONS, INSPECTION, AND ACCEPTANCE

**(a) Specifications.** Goods conform to these Terms if they meet the applicable Specifications at the time of delivery, subject to the tolerances set out below and customary industry tolerances for variances in moisture, screen size, particle distribution, color, dust content, and similar characteristics.

**(b) Salt-Specific Tolerances.** The following are accepted variances and are not considered defects:

(i) moisture content variance of up to **ten percent (10%)** by weight; (ii) screen size variance within customary commercial tolerances; (iii) reasonable shrinkage during transport, handling, and storage; (iv) color variation between batches; and (v) clumping, caking, or hardening occurring after delivery, which is inherent to the hygroscopic nature of salt and is the responsibility of Buyer to manage through proper storage.

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**(c) Inspection.** Buyer shall inspect the Goods immediately upon delivery. Buyer is conclusively deemed to have accepted the Goods, and to have waived any claim of non-conformity, unless Buyer notifies Seller in writing of any non-conformity within

**(i) twenty-four (24) hours** of delivery, specifying the alleged non-conformity in reasonable detail. Latent defects not reasonably discoverable on inspection must be reported in writing within

**(i) one (1) business day** of delivery. Failure to provide timely notice constitutes irrevocable acceptance.

**(d) Deemed Acceptance.** Buyer is conclusively deemed to have accepted Goods upon the earliest of (i) the expiration of the inspection period; (ii) any use, processing, application, resale, or commingling of the Goods; or (iii) failure to give timely notice of non-conformity.

**(e) Returns.** No Goods may be returned to Seller without Seller's prior written authorization. Returned Goods are subject to a restocking charge.

**9. LIMITED EXPRESS WARRANTY**

**(a) Warranty.** Seller warrants to Buyer that, at the time of delivery, the Goods will conform to the applicable Specifications, subject to the tolerances in Section 8. This is the sole and exclusive warranty made by Seller with respect to the Goods.

**(b) Exclusions.** The warranty in Section 9(a) does not apply to, and Seller has no liability for, any non-conformity, damage, or loss caused by or arising from: (i) handling, storage, transportation, application, blending, treatment, or processing of the Goods after delivery; (ii) commingling of the Goods with other materials; (iii) exposure of the Goods to moisture, humidity, weather, or temperature after delivery; (iv) clumping, caking, or hardening; (v) use of the Goods other than for their ordinary commercial purpose; (vi) failure of the Goods to perform de-icing or other functions under particular weather, temperature, application, or surface conditions; (vii) Buyer's failure to follow Seller's or the manufacturer's instructions or applicable safety data sheets; or (viii) any modification of the Goods after delivery.

**(c) Warranty Period.** Any claim of breach of warranty must be made within the inspection periods set out in Section 8(c) and is subject to the procedural requirements of Section 10.

**10. DISCLAIMER OF OTHER WARRANTIES**

**EXCEPT FOR THE LIMITED EXPRESS WARRANTY SET FORTH IN SECTION 9(A), SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE GOODS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND SELLER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE.**

**BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON, AND SELLER MAKES NO WARRANTY REGARDING, THE SUITABILITY, EFFECTIVENESS, OR PERFORMANCE OF THE GOODS FOR ANY PARTICULAR APPLICATION, INCLUDING ANY DE-ICING, ANTI-ICING, ROAD TREATMENT, INDUSTRIAL, OR ENVIRONMENTAL USE. BUYER IS SOLELY RESPONSIBLE FOR DETERMINING THE FITNESS OF THE GOODS FOR ITS INTENDED USE AND FOR THE MANNER, RATE, AND CIRCUMSTANCES OF APPLICATION.**

**11. BUYER'S EXCLUSIVE REMEDIES**

**(a) Sole and Exclusive Remedy.** If Goods are timely rejected as non-conforming in accordance with Section 8(c) and Seller agrees they are non-conforming, Seller shall, at Seller's sole option and as Buyer's sole and exclusive remedy, either (i) repair or replace the non-conforming Goods, (ii) refund the purchase price paid for the non-conforming Goods, or (iii) issue a credit equal to such purchase price.

**(b) No Other Remedies.** The remedies in Section 11(a) are Buyer's sole and exclusive remedies for any breach of these Terms by Seller, including any breach of warranty, and are in lieu of all other remedies whether in contract, tort (including negligence), strict liability, statute, or otherwise.

**(c) Failure of Essential Purpose.** If the exclusive remedies in this Section are held to fail of their essential purpose, Seller's total liability shall nevertheless remain subject to the limitations in Section 12.

## 12. LIMITATION OF LIABILITY

**IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THESE TERMS, ANY SUPPLY AGREEMENT, ANY ORDER CONFIRMATION, OR ANY SALE OF GOODS, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY, EXCEED THE LESSER OF (A) THE AMOUNT ACTUALLY PAID BY BUYER TO SELLER FOR THE SPECIFIC GOODS GIVING RISE TO THE CLAIM, AND (B) THE AMOUNTS PAID BY BUYER TO SELLER UNDER THE APPLICABLE PURCHASE ORDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.**

**IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST REVENUE, LOST BUSINESS, LOSS OF GOODWILL, LOSS OF DATA, BUSINESS INTERRUPTION, DOWNTIME, COST OF SUBSTITUTE GOODS OR SERVICES, COST OF CAPITAL, OR DAMAGE TO REPUTATION, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE.**

**THE LIMITATIONS IN THIS SECTION ARE A MATERIAL PART OF THE BARGAIN BETWEEN THE PARTIES, AND THE PRICES CHARGED BY SELLER REFLECT THESE LIMITATIONS. THESE LIMITATIONS APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

## 13. INDEMNIFICATION

**(a) Buyer's Indemnification of Seller.** Buyer shall defend, indemnify, and hold harmless Seller, its Affiliates, and their respective officers, directors, employees, agents, successors, and assigns (collectively, the “**Seller Indemnitees**”) from and against any and all claims, suits, actions, proceedings, losses, damages, liabilities, judgments, settlements, fines, penalties, costs, and expenses (including reasonable attorneys' fees and costs of investigation) arising out of or relating to: (i) Buyer's use, handling, storage, application, distribution, resale, or disposal of the Goods; (ii) any injury, death, or property damage caused by the Goods after delivery to Buyer; (iii) any environmental claim arising out of the storage, handling, or application of the Goods after delivery; (iv) Buyer's failure to comply with applicable laws, regulations, or Seller's safety data sheets and product literature; (v) Buyer's breach of these Terms; (vi) Buyer's negligence or willful misconduct; and (vii) any third-party claim arising from Buyer's representations, warranties, or statements made to its customers regarding the Goods.

**(b) Seller's Limited Indemnification.** Subject to the limitations in Sections 11 and 12, Seller shall defend, indemnify, and hold harmless Buyer from and against third-party claims for direct property damage or bodily injury, in each case to the extent caused by a non-conformity of Goods with the express warranty in Section 9(a) and not subject to any of the exclusions in Section 9(b). Seller's indemnification obligation under this Section is Seller's sole indemnification obligation under these Terms.

**(c) Procedures.** As conditions to indemnification, the indemnified party shall: (i) promptly notify the indemnifying party in writing of the claim; (ii) give the indemnifying party sole control of the defense and settlement; and (iii) cooperate with the indemnifying party at the indemnifying party's expense. The indemnifying party shall not settle any claim in a manner that imposes any obligation or liability on the indemnified party without its prior written consent (not to be unreasonably withheld).

## 14. INSURANCE

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Throughout the term of the parties' dealings and for **two (2) years** thereafter, Buyer shall maintain, at its own expense, insurance coverage with reputable insurers (rated A- or better by A.M. Best) of the following types and minimum amounts: (a) commercial general liability insurance, including products and completed operations and contractual liability coverage, with limits of not less than **\$2,000,000** per occurrence and **\$5,000,000** general aggregate; (b) commercial automobile liability insurance covering owned, hired, and non-owned vehicles with a combined single limit of not less than **\$1,000,000**; (c) workers' compensation insurance as required by applicable law and employer's liability insurance with limits of not less than **\$1,000,000**; and (d) such other insurance as Seller may reasonably require. Each policy (other than workers' compensation) shall name Seller and its Affiliates as additional insureds and shall be primary and non-contributing to any insurance maintained by Seller. Buyer shall provide certificates of insurance to Seller on request.

### 15. FORCE MAJEURE

**(a) Excused Performance.** Seller shall not be liable for any failure or delay in performance to the extent caused by any event or circumstance beyond Seller's reasonable control, including without limitation: acts of God; weather (including unusually severe winter or warm winter conditions); fire; flood; earthquake; pandemic, epidemic, or quarantine; war, terrorism, sabotage, or civil unrest; strikes, lockouts, or other labor disputes (whether or not involving Seller's employees); failure or shortage of supply of raw materials, fuel, energy, equipment, packaging, or transportation; failure or breakdown of equipment, machinery, or facilities; embargoes, sanctions, tariffs, or other governmental acts; orders, decrees, or directives of any governmental authority; cyber events; or any other cause beyond Seller's reasonable control (each, a **"Force Majeure Event"**).

**(b) Allocation.** In the event of a Force Majeure Event, Seller may allocate available Goods, raw materials, and capacity among its customers, internal uses, and other commitments in any manner Seller deems fair and reasonable in its sole discretion, without liability.

**(c) No Make-Up.** Seller is not required to make up shortfalls in deliveries caused by Force Majeure Events.

**(d) Termination.** If a Force Majeure Event prevents performance for more than **ninety (90) days**, either party may terminate any unfulfilled Purchase Order affected by the Force Majeure Event on written notice, without liability.

**(e) Buyer's Obligations.** A Force Majeure Event does not excuse Buyer's obligation to pay for Goods already delivered.

### 16. COMPLIANCE WITH LAWS

**(a) Buyer Compliance.** Buyer shall comply with all applicable federal, state, provincial, local, and foreign laws, regulations, and orders relating to the purchase, transportation, storage, handling, sale, distribution, application, and use of the Goods, including without limitation environmental laws, occupational safety and health laws, transportation laws (including DOT and TDG regulations), trade laws (including U.S. export control and economic sanctions laws), and anti-corruption laws (including the U.S. Foreign Corrupt Practices Act).

**(b) Safety Data.** Seller will make available to Buyer current Safety Data Sheets (SDS) for the Goods. Buyer shall provide the SDS and other safety information to its employees, contractors, customers, and end users, and shall ensure that the Goods are handled, stored, transported, and used in accordance with the SDS and applicable laws.

**(c) Environmental.** Buyer acknowledges that road salt and de-icing products can contribute to chloride loading in surface and groundwater, vegetation damage, corrosion of infrastructure, and other environmental impacts if misapplied or mismanaged. Buyer is solely responsible for application practices, storage practices, runoff control, environmental permits, and compliance with all applicable environmental laws.

**(d) Anti-Corruption; Sanctions.** Buyer represents and warrants that (i) it is not a Sanctioned Person and is not owned or controlled by a Sanctioned Person; (ii) it will not resell, divert, or transship the Goods to any Sanctioned Person or Sanctioned Country in violation of applicable sanctions laws; and (iii) neither Buyer nor any of its officers, directors, employees, or agents has offered, paid, or agreed to pay any bribe, kickback, or

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other improper payment in connection with the purchase or use of the Goods. “**Sanctioned Person**” and “**Sanctioned Country**” mean any person or country, respectively, that is the subject of comprehensive sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), the United Nations Security Council, the European Union, His Majesty's Treasury, or any other applicable sanctions authority.

### 17. CONFIDENTIALITY

Buyer shall not disclose to any third party, or use for any purpose other than purchasing Goods from Seller, any non-public information disclosed by Seller, including without limitation pricing, discounts, rebates, technical information, specifications, formulations, customer lists, business plans, and the terms of any Supply Agreement or Order Confirmation, in each case other than (a) Buyer's professional advisors who are bound by duties of confidentiality; (b) as required by applicable law or court order, provided Buyer gives Seller prompt notice and reasonable opportunity to seek a protective order; or (c) with Seller's prior written consent. The obligations in this Section survive any termination of the parties' dealings.

### 18. INTELLECTUAL PROPERTY; NO IMPLIED LICENSES

No license, express or implied, is granted by Seller to Buyer under any patent, trademark, trade name, trade secret, copyright, or other intellectual property right, other than the limited right to use, resell, and distribute the Goods purchased in their original form and packaging in the ordinary course of Buyer's business. Buyer shall not modify, repackage, relabel, or alter the Goods, or use any of Seller's trademarks or trade names, without Seller's prior written consent. Any feedback or suggestions provided by Buyer regarding the Goods may be used by Seller without restriction or compensation.

### 19. ORDER OF PRECEDENCE

In the event of a conflict among the documents governing a sale of Goods, the order of precedence is: (a) any signed Supply Agreement or signed amendment thereto, (b) the Order Confirmation, and (c) these Terms. The order of precedence in this Section applies only to the extent of the conflict; all other provisions remain in effect. Buyer's Purchase Order is an offer subject to acceptance and does not modify any of the foregoing.

### 20. DEFAULT AND TERMINATION

**(a) Buyer Defaults.** Each of the following is an event of default by Buyer: (i) failure to pay any amount when due; (ii) breach of any other provision of these Terms or any Supply Agreement; (iii) Buyer becoming insolvent, making an assignment for the benefit of creditors, filing or having filed against it any petition under bankruptcy or insolvency laws, or having a receiver or trustee appointed for any of its assets; (iv) Buyer ceasing or threatening to cease conducting business in the ordinary course; (v) a material adverse change in Buyer's financial condition; (vi) Buyer's failure to provide adequate assurance of performance within ten (10) days of Seller's request; or (vii) any representation or warranty made by Buyer being untrue in any material respect when made.

**(b) Seller's Remedies.** Upon any event of default by Buyer, Seller may, in addition to all other rights and remedies available at law or in equity, exercise any or all of the following remedies: (i) suspend performance and withhold delivery of any Goods; (ii) require advance payment, cash on delivery, or other security as a condition of further performance; (iii) accelerate all amounts owed by Buyer to Seller and declare them immediately due and payable; (iv) terminate any or all Purchase Orders, Order Confirmations, and Supply Agreements; (v) repossess Goods sold to Buyer for which payment has not been made in full; (vi) exercise all rights of a secured party under the Uniform Commercial Code; (vii) recover from Buyer all costs of collection (including reasonable attorneys' fees); and (viii) recover from Buyer all losses and damages including lost profits. Seller's remedies are cumulative.

**(c) Survival.** The provisions of these Terms which by their nature should survive termination shall survive, including Sections 5 (Payment), 6 (Security Interest), 10 (Disclaimer), 11 (Exclusive Remedies), 12 (Limitation

of Liability), 13 (Indemnification), 15 (Force Majeure), 17 (Confidentiality), 18 (IP), 20 (Default), 21 (Governing Law), 22 (Limitation of Actions), and 23 (Miscellaneous).

## 21. GOVERNING LAW; JURISDICTION; JURY WAIVER

**(a) Governing Law.** These Terms, each Supply Agreement, each Order Confirmation, and each sale of Goods are governed by and construed in accordance with the laws of the State of New York, without regard to its conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

**(b) Jurisdiction.** The parties irrevocably submit to the exclusive jurisdiction of the state and federal courts located in Albany County, New York, for any action or proceeding arising out of or relating to these Terms, any Supply Agreement, any Order Confirmation, or any sale of Goods. The parties waive any objection based on lack of personal jurisdiction, improper venue, or forum non conveniens.

**(c) Jury Waiver.** EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THESE TERMS, ANY SUPPLY AGREEMENT, ANY ORDER CONFIRMATION, OR ANY SALE OF GOODS, REGARDLESS OF LEGAL THEORY.

**(d) Equitable Relief.** Notwithstanding the foregoing, Seller may seek injunctive or other equitable relief in any court of competent jurisdiction to prevent or restrain a breach of these Terms or to enforce its rights under Section 6 (Security Interest) or Section 17 (Confidentiality).

## 22. LIMITATION OF ACTIONS

**ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THESE TERMS, ANY SUPPLY AGREEMENT, ANY ORDER CONFIRMATION, OR ANY SALE OF GOODS MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OR BUYER IS PERMANENTLY BARRED FROM BRINGING SUCH ACTION OR PROCEEDING. THIS CONTRACTUAL LIMITATION SHORTENS THE PERIOD OTHERWISE PROVIDED BY APPLICABLE LAW, AND BUYER ACKNOWLEDGES THAT THE PARTIES INTEND THIS SHORTER PERIOD TO APPLY.**

## 23. MISCELLANEOUS

**(a) Entire Agreement.** These Terms, together with the applicable Supply Agreement (if any) and Order Confirmation, constitute the entire agreement of the parties with respect to the sale and purchase of the Goods and supersede all prior or contemporaneous oral or written communications, proposals, and representations.

**(b) Modification; Waiver.** No modification of or waiver under these Terms is binding on Seller unless in a writing signed by a duly authorized officer of Seller. No waiver of any breach is a waiver of any other or subsequent breach. Seller's failure or delay in exercising any right is not a waiver of that right.

**(c) Severability.** If any provision of these Terms is held invalid, illegal, or unenforceable, the remaining provisions remain in full force and effect, and the invalid provision shall be reformed to the minimum extent necessary to make it valid and enforceable while preserving the parties' intent.

**(d) Assignment.** Buyer may not assign or transfer these Terms, any Supply Agreement, any Order Confirmation, or any of its rights or obligations hereunder (including by operation of law, merger, change of control, or sale of substantially all assets) without Seller's prior written consent. Any attempted assignment without consent is void. Seller may assign these Terms or any Supply Agreement to any Affiliate or to any successor in connection with a merger, reorganization, or sale of all or substantially all of the assets of the relevant business.

**(e) No Third-Party Beneficiaries.** These Terms are solely for the benefit of Seller and Buyer; no other person has any rights hereunder.

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**(f) Notices.** All notices required or permitted hereunder shall be in writing and delivered by hand, overnight courier, or certified mail (return receipt requested) to the addresses set forth in the Order Confirmation or Supply Agreement, or by email to the email addresses regularly used by the parties for business communications. Notices are effective upon receipt.

**(g) Relationship.** The parties are independent contractors. Nothing in these Terms creates any partnership, joint venture, agency, fiduciary, or employment relationship.

**(h) Counterparts; Electronic Signatures.** Any Supply Agreement or Order Confirmation may be executed in counterparts, each of which is an original, and all of which constitute one instrument. Electronic signatures (including DocuSign, Adobe Sign, and similar) are binding.

**(i) Headings; Interpretation.** Section headings are for convenience only and do not affect interpretation. The words “**including**” and “**include**” mean including without limitation. References to days are calendar days unless otherwise specified.

**(j) Language.** These Terms are drafted in English. Any translation is for convenience only, and the English version controls.

**(k) Construction Against Drafter.** These Terms have been negotiated at arm's length and shall not be construed against either party as the drafter.

*These Terms and Conditions are posted at <https://www.carvercompanies.com/about-us/port-tariff-information/> and may be updated by Seller from time to time. The version in effect on the date of the Order Confirmation governs the relevant sale. Questions should be directed to **Legal@CarverCompanies.com***