

Standard Terms of Service – Carver Port Operations

Effective Date: Version 2 – January 1, 2025

Applicability: These Standard Terms of Service (“**Terms**”) apply to all services and use of facilities provided by Carver Companies’ port operations, including the Port of Coeymans (owned by P&M Brick, LLC) and Pier J in North Charleston (owned by Carver Realty SC, LLC), as well as any affiliated Carver entity providing such services (collectively referred to as “**Carver**” or the “**Company**”). By requesting or using any Services (defined below) at Carver facilities, the customer or user (“**User**”) agrees to be bound by these Terms. These Terms may be incorporated by reference into quotations, tariffs, rate schedules, or other agreements for Carver’s services. In the event of any direct conflict between a separately negotiated written contract signed by Carver and the User and these Terms, the signed contract shall control; otherwise, these Terms apply **to all services and facility usage**.

1. Definitions

- **Carver / Company:** Refers to Carver Companies and all related or affiliated entities providing the services or operating the facilities, including without limitation P&M Brick, LLC (Port of Coeymans), Carver Realty SC, LLC (Pier J, North Charleston), Carver Maritime, LLC, and any owners, members, employees, directors, agents, and affiliated companies of the foregoing. These Terms extend to all such Carver entities and their personnel, who shall be entitled to all defenses, immunities, and limits of liability herein.
- **User:** Any person or entity that uses or accesses Carver’s facilities or requests or receives Services from Carver. “User” includes, without limitation, vessel owners and operators, ocean carriers, charterers, shippers, consignees, receivers, freight forwarders, trucking or rail carriers, agents, contractors, invitees, and any other person or company who, by themselves or through their agents or subcontractors, use Carver facilities or engage Carver for services. User also includes the “Merchant,” defined as the owner, shipper, consignee, or any party with an interest in the Cargo.
- **Services:** All services and operations provided or performed by Carver, directly or via subcontractors, including but not limited to: stevedoring (loading and unloading of vessels), terminal handling of cargo, wharfinger services, warehousing and storage (open or covered), staging of cargo (indoor/outdoor storage), bulk cargo handling and storage, heavy lift operations, crane and specialized equipment rental, tug and barge services (towing, assist, or barge transportation), ship and barge repair and dry-dock services, lay berth accommodations, dredging or marine construction, riprap waterway repair, recycling services, port-to-port transport services, trucking and inland transportation, foreign trade zone (“FTZ”) services, property or equipment rentals, and any other related or ancillary services in connection with cargo or vessels. (These Terms apply whether Services are performed on board vessels, at the terminal, at anchorages, wharves, rails, roads, or any other location where Carver operates.)
- **Facilities:** Any Carver-owned, operated, or controlled terminal, yard, dock, wharf, pier, warehouse, storage area, rail spur, staging area, crane, equipment, building, land, or premises used by Carver in providing Services. This includes all adjacent or appurtenant waters, land, and property at the Port of Coeymans, Pier J (North Charleston), and any other Carver Maritime facilities.
- **Cargo:** Any goods, commodities, wares, equipment, merchandise, or other personal property that is handled, stored, or transported via Carver facilities or Services. Cargo may include bulk cargo, break-bulk, containerized goods, project cargo, or any other type of freight or material.
- **Vessel:** Any ship, barge, boat, or other watercraft (whether or not self-propelled) that arrives at or uses Carver’s Facilities, including their engines, tackle, apparel, etc. “**Vessel**” also includes any floating equipment or rig employed by a User (such as

dredges or crane barges) that operates at Carver's Facilities

- **Ocean Carrier:** Any ocean shipping line, vessel owner, operator, or charterer that operates a Vessel calling at Carver's facilities.
- **Himalaya Clause:** A provision typically included in bills of lading or carriage contracts extending to stevedores, terminal operators, and other servants or agents of the carrier the same rights, defenses, exemptions, and liability limitations that the carrier itself enjoys. (See Section 9.4 below regarding User's obligation to ensure such clauses are in place.)
- **Tariff:** The posted schedule of rates, charges, rules, and regulations published by Carver for its port facilities (including these Terms and any amendments). Use of Carver's Facilities or Services shall constitute acceptance of all applicable tariff terms and these Terms. (Charges and payment terms may be varied by written agreement for a particular customer or project, but unless expressly agreed otherwise, these Terms apply to all Services.)

2. Scope and General Application

2.1 Use of Facilities Constitutes Agreement: These Terms and all rules and regulations in Carver's applicable Tariff apply to all use of Carver's Facilities or Services by any User. By entering Carver's Facilities or requesting Services, the User agrees to abide by these Terms (even if no separate contract is signed). If a User has provided Carver with its own purchase order, service order, bill of lading, or other form containing terms, the User agrees that Carver's Terms shall prevail. Any additional or different terms proposed by User (whether in a purchase order, dock receipt, bill of lading, etc.) are hereby rejected unless separately agreed in writing by an authorized officer of Carver.

2.2 Services by Carver or Authorized Subcontractors Only: Carver generally provides all stevedoring, terminal handling, and related port services with its own workforce or approved subcontractors. No outside stevedore, contractor, or third party may perform cargo handling, vessel services, or other operations at the Facilities without prior written permission from Carver (which may be withheld or revoked at Carver's discretion). If Carver

permits a User to engage a third-party service provider on the premises, that provider must be pre-approved by Carver and must carry insurance and agree to indemnify Carver under terms equivalent to these Terms. Carver's grant of such permission may be conditioned on the third party's compliance with all Facility rules (including safety and insurance requirements) and the payment of any applicable fees. Carver assumes no responsibility for the acts or omissions of any third-party service providers engaged by the User (absent Carver's gross negligence or willful misconduct). Carver may also require that any such third party execute a separate access agreement or be bound to these Terms as if they were the "User."

2.3 Independent Contractor Status: In performing Services, Carver acts as an independent contractor to the User. Nothing in these Terms creates a joint venture, partnership, or agency relationship between Carver and the User. Carver shall direct and control the manner and means of its performance and is solely responsible for the employment, compensation, and management of its own personnel. Carver does not serve as the agent or bailee of the User except to the limited extent necessary to carry out its contractual obligations, and Carver shall not be deemed to have accepted any cargo as a common carrier or bailee beyond what is expressly provided herein. The User and Carver do not intend to create any third-party beneficiaries to these Terms; any benefits or limitations hereunder accrue only to the contracting parties (and Carver's affiliates, subcontractors, and agents as stated).

2.4 Right to Refuse or Cease Services: Carver reserves the right to refuse, suspend, or terminate Services to any User or Cargo in circumstances including, but not limited to: (a) User's failure to accept these Terms or to maintain account in good standing; (b) safety, security, or legal compliance concerns; (c) hazardous or improperly declared Cargo; (d) the presence of conditions that, in Carver's judgment, could cause harm, delay, or extraordinary expense; or (e) labor disputes, strikes, weather events, or force majeure situations that prevent safe and efficient operations. In such events, Carver shall not be liable for any delay, inability to perform, or failure to provide Services, and no liability shall attach to Carver for refusal or cessation of operations under such circumstances. The User is responsible for removing or redirecting any

Cargo or Vessel at Carver's request if Services are refused or terminated.

2.5 Variation by Written Agreement: While these standard Terms govern all Services, specific charges, rates, or particular service arrangements may be the subject of a separate written agreement or rate schedule negotiated between Carver and User. Any such agreement must be signed by an authorized representative of Carver to be effective. If a written contract with the User (or an official Tariff publication) sets forth specific terms (e.g. rates, free time, volume commitments, special liability terms) that differ from these Terms, those specific provisions will control solely for the Services under that agreement, and the remaining provisions of these Terms will still apply. In the absence of a separate signed agreement, the Tariff rates and these Terms apply in full.

3. Services and Operational Conditions

3.1 Performance of Services: Carver will perform the Services requested by the User in a diligent and workmanlike manner, consistent with industry standards and Carver's published rules. Services will be provided during Carver's normal operating hours, except as may be arranged for overtime or extended hours (additional charges may apply for work outside of standard hours or on weekends/holidays as per Tariff). The scope of Services (such as loading, discharge, storage, etc.) and any specific procedures or requirements should be agreed in advance. Carver may rely on the information, instructions, and documents provided by the User in planning and performing the work. If conditions encountered differ materially from those represented by User (e.g. actual cargo stowage, weight, dimensions, hazardous nature, or other characteristics differ from the documentation), Carver reserves the right to levy additional charges for extra work or delays caused, or to refuse to perform work that cannot be safely or feasibly performed as initially agreed.

3.2 Labor and Equipment: Carver will supply the necessary labor, standard gear, and equipment to perform Services, subject to availability and any applicable labor agreements or work rules in effect at the port locations. Normal stevedoring gear and terminal equipment (e.g. forklifts, loaders, cranes) are included in Carver's rates unless otherwise specified. However, if specialized or extra

equipment is required – for example, heavy lift cranes, third-party machinery, trucks, railcars, or other special gear not in Carver's standard inventory – the User will be charged additionally for rental or procurement of such equipment. Carver shall make reasonable efforts to arrange such equipment upon User's request, but availability is not guaranteed.

- *Cargo Handling Equipment:* Carver's personnel will operate Carver's own equipment. If, by special arrangement, Carver permits User or its agents to operate Carver's equipment or provides equipment on a rental basis without operators, such use is at User's sole risk. User must ensure operators are qualified and comply with all safety rules. User shall indemnify and hold Carver harmless for any injury, damage, or loss arising from User-operated equipment, except to the extent caused by Carver's gross negligence. Any equipment provided "bare" (without operator) is provided as-is, with no warranty, and User is responsible for daily maintenance (e.g. checking oil, fuel, etc.) and for any damage beyond normal wear and tear.
- *Heavy Lift Operations:* If a heavy lift or oversized Cargo requires special handling (e.g. lifts above a certain weight or using multi-crane lifts), User must notify Carver in advance. Carver will determine if it can safely perform the lift and may require a specific lifting plan and engineer's approval. User warrants that any Cargo to be lifted is in a condition to be safely lifted (structure capable of taking the load), and Carver is not responsible for damage to Cargo caused by inherent weaknesses or defective packaging/lifting points on the Cargo. Any heavy-lift undertaken by Carver will be subject to Carver's liability limitations herein and possibly a supplemental heavy-lift surcharge or agreement.

3.3 Stevedoring and Vessel Operations: When Carver is loading or discharging a Vessel, the following terms apply for safety and efficiency:

- The Vessel shall provide a safe berth and access, and ensure that its gear

(such as cranes, winches, derricks, hooks, slings, ropes, shackles, etc.) and safety equipment are in good working order, properly certified, and compliant with applicable regulations for the intended operations. If Carver's stevedores are to use the Vessel's gear or equipment for cargo operations, the Vessel's officers must exercise due care to verify that such gear is in proper condition and suitably rated for the work. Carver assumes no responsibility for loss, damage, or injury resulting from any failure or defect in gear or equipment provided by the Vessel or User. The User/Vessel shall indemnify Carver for any claims arising from the use of defective gear provided by the Vessel.

- The loading, stowage, lashing, securing, and discharge of Cargo will be done in accordance with the directions of the Vessel's master or the User's appointed agent, as applicable. Any lashing, securing or dunnage work performed by Carver is carried out under the supervision and control of the Vessel's master or the User's representative, who shall have the sole responsibility for the adequacy of such lashing and securing (Carver's role being that of labor provided to the Vessel). Carver does not warrant the sufficiency of lashing, securing, or stowage plans, and Carver shall not be liable for consequences of improper stow or securing unless due solely to Carver's gross negligence in following a clear instruction.
- If Carver's workers or equipment are idle due to delays or disruptions not caused by Carver (such as shifting of Vessel, rain or weather delays for sensitive cargo, awaiting customs/inspections, or standby time due to mis-declared cargo, etc.), standby time and/or additional labor costs may be charged to the User as per the Tariff or agreed rates. Carver is not responsible for any demurrage or detention costs of Vessels, barges, railcars, or other conveyances, except to the extent directly caused by Carver's proven fault and not excused by these Terms.
- **Hazardous Conditions on Vessel:** The Vessel must provide a safe working environment. If Carver's

personnel encounter any condition on board (such as unsanitary or hazardous conditions, presence of dangerous gases, insufficient lighting/ventilation, etc.) that endangers safety or health, Carver may suspend operations until the condition is remedied. Any lost time or additional cost resulting from such suspension shall be for the User's account.

3.4 Warehousing and Storage: Carver offers indoor and outdoor storage, warehousing, and staging of Cargo as part of its Services. The following additional terms apply to stored Cargo:

- Carver will **receive, store, and release Cargo** pursuant to the User's instructions and will exercise reasonable care over stored goods. Carver will designate the storage location within its Facility and may, at any time and without prior notice, move the Cargo to a different location within the same Facility for operational reasons. (For example, Carver may consolidate Cargo, re-arrange yard stacking, or relocate goods to accommodate other operations or safety requirements.)
- If the User provides Carver with any specific handling instructions or an operating manual for the Cargo (e.g. for sensitive or high-value goods), Carver must explicitly consent in writing to those instructions before being bound to follow them. Carver's compliance with any User-provided operating procedures is at User's risk – Carver shall not be liable for loss or damage to Cargo resulting from adhering to the User's or Merchant's specific procedures or manual (assuming those procedures were agreed to).
- Free Time and Storage Charges: Cargo may be allowed a period of "free" storage or staging as per the Tariff or contract (especially import/export cargo often has a free period). After any such free time expires – or immediately upon arrival for Cargo with no free time – storage charges will accrue per the Tariff or agreed rate. User shall timely remove Cargo upon the end of the agreed storage period or upon Carver's request. Cargo that remains after notice to remove may be subject to increased storage rates or removal at User's

expense as described in Section 4.5 (Abandoned/Unclaimed Cargo).

- **Title and Transfer of Stored Goods:** The User/Merchant warrants that it is lawfully possessed of the Cargo and has the right to store it with Carver. The User shall not transfer ownership or title of the Cargo while it is in Carver's Facility without Carver's prior written consent. Carver is not obliged to recognize any transfer of ownership of Cargo in storage unless the new owner agrees to these Terms and Carver has evaluated the new owner's creditworthiness. User agrees to indemnify Carver against any claims or disputes alleging Carver lacks right to possession or storage of the Cargo as a result of any ownership dispute. Carver shall have, with respect to the stored goods, all the rights and remedies of a warehouseman under applicable law (including the UCC), in addition to the liens and rights set forth in these Terms.
- **Condition of Cargo for Storage:** The User is responsible to ensure Cargo delivered for storage is properly packaged, safe for handling, and suitable for storage. Carver does not accept liability for damage caused by inherent vice of the goods, insufficiency of packaging, or the nature of the goods (e.g. susceptibility to humidity, rust, mold, etc.), except as provided in Section 8 (Liabilities and Limits). Cargo susceptible to damage from temperature or humidity changes or other ambient conditions is stored at User's risk, unless special arrangements (e.g. climate-controlled storage) are made in writing. Carver is not obligated to provide climate control unless expressly agreed.
- **Accurate Information:** The User (or Merchant) shall provide Carver with complete and accurate information regarding all Cargo to be stored or handled, including its weight, dimensions, count, composition, condition, hazards, and any special handling requirements. This includes proper descriptions for hazardous materials, if any (see Section 4.3). Carver relies on this information to comply with laws and to safely handle the Cargo. User shall indemnify and hold Carver harmless for all losses, damages, penalties or claims (including

attorney fees) arising from incorrect, inaccurate, or incomplete information provided by User regarding the Cargo (For example, if a User mis-declares the weight of a cargo unit and equipment is damaged or a penalty incurred as a result, the User is responsible.)

3.5 Transportation and Drayage: If Carver arranges or provides inland transportation (trucking, rail drayage, etc.) or port-to-port barge transport for Cargo as part of its Services, such transportation is arranged as agent for the User unless otherwise stated. Carver may act to coordinate with third-party carriers (railroads, trucking companies, barge operators) to move Cargo to or from the Facility. Carver is not a common carrier and does not assume common carrier liability for over-the-road or off-site transport. If Carver uses its own equipment or subsidiary (e.g. Carver Companies' trucking fleet) for carriage, the liability of Carver during transportation is still subject to the limitations herein and any further limitations under applicable law (for instance, federal motor carrier law for trucking, etc.). Carver assumes no liability for loss, damage, or delay to Cargo while in custody of third-party carriers (rail or truck), and any claims arising from such transport must be pursued directly against the carrier unless caused by Carver's own negligence.

- If Carver provides on-terminal railcar switching or "track storage," it will exercise reasonable care but is not responsible for railcar demurrage or rail carrier charges. Users should provide Carver with any required release instructions in writing. Carver's liability for loss of or damage to Cargo during intra-terminal transport (e.g. moving from dock to warehouse on the terminal) is subject to the same limitations as other Services.

3.6 Ancillary and Special Services: Carver may provide other specialized or ancillary services by agreement:

- **Equipment and Property Rentals:** Carver may rent or license to User certain equipment (e.g. cranes, forklifts, loaders) or property (yard space, dock space, warehouse bays) for User's own use. Any such rental must be agreed in writing and is subject to

separate rental fees and terms. Unless a separate lease/rental agreement is executed, the User accepts the equipment or space "as is" and bears all risk of loss or damage during the rental period. For equipment rentals, User must at its own expense operate and maintain the equipment properly and return it in good condition. User is liable for any damage to the equipment (beyond normal wear) and for any injuries or damages caused by the equipment's operation during the rental (except to the extent caused by Carver's sole gross negligence). Carver shall be named as an additional insured on User's liability insurance for any equipment or property rental. Property rentals (such as laydown yard space) similarly require the User to keep the area clean, comply with all environmental and zoning laws, and return the premises to original condition. Carver retains all ownership rights and the right to access its equipment/property at all times.

- **Marine Construction, Dredging, and Repair Services:** If Carver agrees to perform dredging, marine construction, riprap placement, waterway repair, or similar project services for User, such work may be subject to a separate project contract specifying the scope, schedule, and price. In absence of a specific contract, these Terms apply to such services. Carver will perform such work in a workmanlike manner but does not warrant specific project results or timing, especially where regulatory approvals, weather, or site conditions are involved. The User is responsible for obtaining any necessary permits or regulatory approvals for the work (unless expressly assumed by Carver in writing). Carver's liability for any claims arising from such project work is limited by these Terms; for example, Carver is not liable for consequential delays or damages if dredging is delayed by unforeseen conditions (see force majeure in Section 8.1). Any guarantee or warranty for construction work will be as expressly set forth in a project contract, or if not specified, then Carver's liability for defects in workmanship is limited to correction of the defective work if notified within a reasonable time.

- **Foreign Trade Zone (FTZ) Services:** If Carver's Facility includes a Foreign Trade Zone and the User's Cargo is admitted under FTZ status, the User must comply with all U.S. Customs and Border Protection (CBP) regulations and FTZ Board regulations. Carver, as the FTZ operator, will reasonably assist with zone admission and transfer formalities, but the User remains responsible for the accuracy of Customs documentation and the legality of all transactions. The User shall indemnify Carver for any customs duties, penalties, or fines that arise from the User's activities or Cargo in the FTZ (except to the extent caused by Carver's error). Carver assumes no liability for loss of FTZ status or duty-free status of Cargo except if directly caused by Carver's gross negligence. The User should secure a customs broker or consultant as needed; Carver's role is only to provide the facility and record-keeping required of the operator. If government authorities suspend or terminate FTZ privileges for User's failure to comply with laws, Carver is not liable for resulting costs.
- **Lay Berth and Vessel Services:** When Carver provides a lay berth or dock space for a Vessel (meaning the Vessel is moored without loading or unloading cargo), the Vessel remains responsible for its own security, safety, and maintenance while at the berth. Carver will not be responsible for watchman services or any marine custodial care unless expressly agreed. The Vessel must be moored safely with adequate lines, tenders, and crew to tend the ship. Any services provided (such as providing fresh water, gangway, garbage removal, etc.) will be charged per Tariff or agreement. Carver is not liable for any damage to the Vessel or any downtime, except if caused by Carver's gross negligence (for example, a clear case of Carver's crane striking the vessel). The Vessel and User agree to release and waive any claims against Carver for any injury or damage to the Vessel (including its crew, equipment, or cargo) arising out of the vessel being moored at Carver's facility, except to the extent caused by Carver's own gross negligence or willful misconduct. If the Vessel fails to vacate the berth as

agreed or when requested (e.g. in emergency or upon termination of the lay berth period), Carver may, at User's expense and risk, remove or tow the Vessel from the berth. Dockage fees and any damages for overstaying may apply.

- **Tug Assist and Barge Movement:** If Carver (through Carver Marine Towing or an affiliate) provides tugboat services or barge transportation for the User, such services will be governed by these Terms and any separate tug hire or towage agreement. Carver's tug and barge services are provided on the basis that Carver will not be liable for any damage to the assisted vessel, tow, or cargo except to the extent caused by the tug's or Carver's own gross negligence or intentional misconduct. In no case shall Carver's liability for any incident during towing or transportation exceed the limitation amounts set forth in Section 8.2 of these Terms. The User (and any vessel owner) agrees that Carver's tugs (and their crew) shall have the benefit of all defenses and limits of liability afforded to "water carriers" or under any applicable towage contract or tariff. If a standard towing contract (such as a BIMCO tow contract or other industry form) is signed, its terms will supplement these Terms. Otherwise, any towage or propulsion assistance is at the sole risk of the User's vessel; the User's vessel and owner shall be responsible for any resulting damage to third parties and shall indemnify Carver's tug for any third-party claims (except those caused by the tug's gross negligence). Carver's tug services do not include pilotage or navigation advice to the vessel – the vessel's master remains in command at all times.

4. User Responsibilities and Conduct

To ensure safe and efficient operations, the User and all of its personnel, contractors, and agents must adhere to the following obligations whenever present at Carver's Facilities or utilizing Carver's Services:

4.1 Compliance with Law and Facility Rules: User shall, and shall ensure that its employees, contractors, drivers, vessel crew, and all other invitees, comply with all applicable

federal, state, and local laws and regulations while on the Facilities or using Services. This includes (without limitation) OSHA and workplace safety laws, U.S. Coast Guard regulations, U.S. DOT regulations, environmental laws (EPA, DEC, DHEC, etc.), U.S. Homeland Security and Customs laws (including MTSA and CBP rules for port security and FTZ), and any other rules governing hazardous materials, security, and transportation. User must also comply with Carver's own terminal rules, safety policies, and signage as posted or provided (for example, rules on personal protective equipment, speed limits, parking, smoking, etc.). Carver reserves the right to refuse entry or remove from the Facility any person who violates safety or security rules.

- **Safety & Workmanlike Conduct:** User and its agents shall conduct all activities at the Facilities in a safe, workmanlike, and responsible manner. The use or possession of illegal drugs, alcohol, or other intoxicants on Carver property is strictly prohibited. The User must not permit any person to work in conditions that are unsanitary, hazardous, or dangerous to health or safety. Carver may halt any operation it deems unsafe until the condition is corrected. All accidents, injuries, or near-miss incidents must be immediately reported to Carver (see Section 4.6).
- **Personnel and Vehicle Access:** Carver's port areas (including piers, docks, and certain yard zones) are **restricted** access areas. Only individuals with legitimate business (and meeting security requirements) are allowed entry. All persons entering must present valid government-issued photo identification and, if required by law or Carver's rules, a Transportation Worker Identification Credential (TWIC) card. Regular visitors (more than twice in a 30-day period) are generally expected to have TWIC cards. Carver security may require sign-in/out logs and proof of authorization. All vehicles entering must obey posted traffic controls, speed limits, and parking restrictions. Vehicles parked improperly (in restricted or no-parking zones) may be towed at the owner's expense without notice. Entry onto Carver's Facilities constitutes consent to security

screening and searches of vehicles, persons, and belongings, which may be conducted randomly in compliance with the Maritime Transportation Security Act. Failure to comply with security procedures can result in access being denied or terminated.

4.2 Providing Information and

Instructions: The User shall timely provide all documents, information, and instructions needed for Carver to perform the Services. This includes (as applicable): bills of lading, cargo manifests, hazardous material documentation (see 4.3 below), weight certificates, packing lists, arrival notices, delivery orders, customs entries or releases, and any special handling instructions. User is responsible for the accuracy of all such documents and information. Carver is entitled to rely on the information provided by User without independent verification, and Carver shall not be liable for loss or expense due to incorrect or late information provided by User. If Carver incurs extra costs or penalties (e.g. fines for mis-declared weights, customs holds due to inaccurate paperwork, etc.), the User shall reimburse and indemnify Carver for all such costs.

4.3 Hazardous or Regulated Cargo:

The User must disclose in advance if any cargo is hazardous, ultrahazardous, toxic, explosive, flammable, environmentally regulated, or otherwise subject to special legal regulation (collectively, "Hazardous Materials"). Hazardous Materials will only be accepted or handled by Carver with Carver's prior written consent and in full compliance with all applicable laws and regulations. This includes compliance with U.S. DOT hazardous materials regulations (49 CFR), U.S. Coast Guard/IMO regulations (IMDG Code), OSHA standards, EPA and state environmental rules, and any specific port rules on hazardous cargo. The User is responsible for providing all required documentation, Safety Data Sheets (SDS), notifications, and placarding for Hazardous Materials shipments. Any Hazardous Materials tendered without proper disclosure and Carver's consent may be refused or returned at User's risk and expense, and may additionally subject User to liability for any resulting injuries, fines, or damages.

- **Spills and Environmental Protection:** In the event of any spill, leak, discharge or release of oil, fuel,

chemicals, or any Hazardous Material in or around Carver's Facilities attributable to the User's Cargo or operations, the User must immediately notify Carver and all relevant governmental authorities as required by law. The User is responsible, at its sole cost, for all necessary emergency response and cleanup of any such release, in coordination with Carver and authorities. If the User does not promptly take appropriate action, Carver may perform or contract for the cleanup itself, and User shall reimburse Carver for all costs and expenses of cleanup. Any fines or penalties imposed on Carver due to the User's hazardous cargo or environmental releases shall be for User's account. The User shall further indemnify Carver against any environmental claims or liabilities arising from the handling, storage, or presence of Hazardous Materials brought onto the Facilities by the User (see Section 8.3).

4.4 Care of Facilities and Equipment:

Users, including vessel interests and truckers, must exercise care to prevent damage to Carver's property, equipment, and Facilities. All Users (and their vessels or agents) are responsible for any damage caused to the Facilities or equipment as a result of their operations. This includes damage by vessels to docks or fenders, damage by vehicles to structures, or damage to equipment due to overload or improper use. If a User or its agent causes any damage to Carver property, it must promptly report it to Carver (see 4.6) and make arrangements satisfactory to Carver for repair. Carver reserves the right to itself repair or replace any damaged Facilities or equipment, or to contract for such repair/replacement, at User's cost. The User (and any responsible Vessel or carrier) shall be liable for the actual cost of repair or replacement plus fifteen percent (15%) overhead and supervision charge, as well as any other consequential damages allowed by law (except where excluded by these Terms). Carver may, at its discretion, detain a Vessel or impound equipment involved in an incident until adequate security is posted covering the estimated cost of repairs (up to 150% of the estimate) plus anticipated legal fees. If legal action is required to collect damages, Carver shall be entitled to recover all costs of collection, including reasonable attorneys' fees of at least 15% of the claim amount.

- **Cleaning of Facilities:** The User is responsible to clean up any debris, dunnage, spillage, or materials resulting from its use of the Facilities after each use. This includes ensuring that wharves, piers, yards, warehouses, and adjacent aprons or gutters used by the User are left in a clean condition. If the User fails to clean up after its operations, Carver will perform the cleanup and charge the User for the actual cost of cleanup plus 15% for administration. Disposal of any hazardous or special waste will be charged to User at cost. Carver's invoice for cleanup is due upon receipt; failure to pay will give rise to a lien as described in Section 5.3.

4.5 Abandoned Cargo and Salvage: Any Cargo that remains at the Facility beyond the agreed period (or, if no period was specified, beyond 30 days after arrival) without ongoing storage arrangements or without prompt instructions for disposition may be considered unclaimed or abandoned. In such case, Carver will make reasonable attempts to contact the User or known consignee. If the User fails to remove or claim the Cargo within a further reasonable time after notice, Carver may, at its option: (a) transfer the Cargo to public storage or warehouse at User's risk and expense; (b) retain the Cargo in Carver's own storage with continued storage charges accruing; or (c) after giving any notice required by law, sell or dispose of the Cargo to satisfy any accrued charges. Perishable goods or hazardous materials may be disposed of sooner if required for safety or legal compliance. The proceeds of any sale will be applied to amounts owed to Carver (including storage and sale costs), and any surplus will be tendered to the User if claimed. If proceeds are insufficient to cover Carver's charges, Carver retains all rights to pursue the deficit from the User. Carver shall not be liable to User for any loss in value of Cargo removed or sold under these provisions, provided Carver has acted in good faith.

4.6 Incident Reporting: The User must immediately notify Carver of any accidents, injuries, property damage, hazardous material release, or security incident that occurs on the Facilities or in connection with Carver's Services. This includes incidents involving the User's employees or contractors, and damage to Cargo or equipment. Notification should be made to Carver's management or

security office without delay, and written notice should follow as soon as practicable with details of the incident. If any damage is discovered to Cargo or property for which the User believes Carver may be responsible, the User must give Carver an immediate opportunity to inspect the damage at the time of discovery. Carver will not consider or be liable for any claim for damage unless the User has given Carver timely notice and a reasonable opportunity to inspect the alleged damage or loss when it was first discovered. In addition, in the event of any injury to persons, the User shall cooperate fully with Carver in any investigation and reporting required.

4.7 Insurance by User: The User is required to maintain adequate insurance for its activities and liabilities while on Carver's Facilities or using Carver's Services, as detailed in Section 7 below. Proof of insurance (certificates) must be provided to Carver upon request or prior to commencing work at the Facilities. Maintaining the required insurance is a condition to access the Facilities and receipt of Services. Failure to maintain required insurance or to provide proof may result in denial of entry or suspension of Services.

5. Charges, Invoicing, and Liens

5.1 Rates and Tariffs: Charges for Services shall be as set forth in Carver's published Tariff or as agreed in writing for the specific engagement. Many Services (stevedoring, handling, dockage, wharfage, storage, etc.) have standard rates published in the Tariff. Carver may issue a written quotation or rate proposal for User's needs, which typically will reference these Terms. All rates are subject to change as per Tariff updates, but the rate in effect at the time of service will apply. Additional charges may apply for special services, overtime work, heavy lifts, Hazardous Materials, or other non-routine services. The User is encouraged to obtain a cost estimate in advance. Note: *Use of the Facilities by a Vessel constitutes consent to Tariff charges and the incurrence of a maritime lien on the Vessel for those charges.*

5.2 Invoicing and Payment Terms: Invoices for Services will be issued by Carver upon completion of the service or periodically (e.g. monthly for ongoing storage). All invoices are due upon presentation and payable in U.S. Dollars. At Carver's discretion, an invoice may allow a grace period (for example, net 30 days)

for payment; however, in no case shall payment be made later than 30 days from invoice date without written agreement. Carver reserves the right to require payment in advance or satisfactory security (such as a bond or letter of credit) before performing Services or releasing Cargo if the User's credit has not been established or if the User has been delinquent in prior payments. Carver may also, at its option, apply any funds received to the oldest outstanding invoices on User's account.

- **Late Payments:** Any amounts not paid within 30 days of invoice (or within the agreed credit period) shall be subject to interest at 1.5% per month (18% per annum), or the highest rate allowed by law, whichever is less. Additionally, Carver may suspend ongoing Services or refuse release of Cargo or documents if the User is past due on any payment (without prejudice to Carver's lien rights). The User agrees to pay all costs of collection incurred by Carver for overdue amounts, including reasonable attorneys' fees and court or arbitration costs, as an element of damages.
- **Disputed Charges:** If the User disputes any portion of an invoice in good faith, it shall notify Carver in writing within 15 days of the invoice, providing details of the dispute. The undisputed portion shall be paid by the due date. The parties will negotiate in good faith to resolve invoice disputes. Carver's acceptance of partial payment does not waive its right to collect the remaining balance. No User is entitled to offset or withhold other monies owed to Carver on account of any claim or alleged liability.

5.3 Liens and Security Rights: Carver shall have a lien on Cargo and on vessels for all amounts due:

- **Maritime Lien on Vessel:** To the extent Services provided are maritime in nature (e.g. stevedoring, wharfage, dockage, supplies, repairs), Carver has a maritime lien on the served Vessel for charges incurred, enforceable under U.S. maritime law. This lien extends to wharfage and dockage fees which are secured by a maritime lien on the vessel by Tariff rule, as well as stevedoring and other necessities provided to the Vessel. Carver may pursue arrest of the

Vessel in admiralty to enforce such lien if necessary.

- **Lien on Cargo and Warehouseman's Lien:** At all times, Carver has a lien on any User's or Merchant's Cargo in its custody or within the Facilities for all charges and amounts due from the User or Merchant, whether related to that specific Cargo or any other services or agreements between Carver and the User. This includes charges for storage, handling, transportation, and any other accruing fees, as well as any advances or expenses incurred by Carver (such as duties, fines, or insurance if paid on User's behalf). Carver's lien attaches to the Cargo from the moment it arrives at the Facility or when Carver's Services are engaged, whichever is earlier, and persists while the Cargo is in Carver's possession or control. Title to the Cargo remains with the Merchant/User (or its transferee) but subject to Carver's liens for charges. No Cargo will be released until all sums due to Carver by User have been paid in full, including sums unrelated to that particular Cargo if the User has other outstanding invoices. This provision constitutes a contractual lien in addition to any statutory warehouseman's lien or freight lien available. If payment is not made, Carver may enforce its lien by public or private sale of the Cargo after giving notice as required by law (also refer to Section 4.5 on Abandoned Cargo for additional rights).
- **Security for Damage:** In the case of damage to Facilities caused by a Vessel or User (see Section 4.4), Carver may demand and hold a security deposit, bond, or other surety from the responsible party in an amount sufficient to cover estimated repairs (typically 150% of the estimate) plus legal fees. Failure to post requested security may result in detention of a Vessel or continued possession of equipment/cargo until the matter is resolved.

5.4 Taxes and Other Charges: The User shall pay any applicable sales tax, use tax, VAT, duties, or similar taxes assessed on the Services provided (excluding taxes on Carver's income). If Carver is required to collect or pay any such taxes or any government-imposed fees on the Services or Cargo, those amounts will be added

to the User's invoice. For example, certain jurisdictions may impose wharfage fees or tonnage taxes for which the user of the port is responsible – any such charges will be passed through to User. The User is also responsible for any customs duties, import taxes, or levies on the Cargo; Carver assumes no obligation to pay such charges unless explicitly agreed, and any that Carver does pay on User's behalf (as a convenience) shall be reimbursed by User immediately.

5.5 No Delivery Without Payment: Carver is entitled to withhold delivery or release of Cargo, equipment, or documentation to the User or any third party until all outstanding charges and amounts due have been received by Carver (whether or not related to such Cargo). This includes refusing to spot railcars, load trucks, or permit a vessel departure from berth if invoices are unpaid. Carver is not liable for any delays, demurrage, or consequential costs arising from exercise of lien or retention rights due to User's non-payment. The lien and retention rights are in addition to, and not a waiver of, any other remedies available to Carver at law.

6. Warranty Disclaimer; Performance

6.1 NO WARRANTIES BY CARVER: CARVER PROVIDES ITS SERVICES AND FACILITIES ON AN "AS IS, WHERE IS" BASIS, WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES EXCEPT AS EXPRESSLY STATED HEREIN. ALL WARRANTIES OF WORKMANLIKE PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER STANDARD OF CARE ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. CARVER DOES NOT GUARANTEE CONTINUOUS AVAILABILITY OF BERTHS, EQUIPMENT, OR LABOR, NOR WARRANT THE CONDITION OF ITS FACILITIES BEYOND THE OBLIGATION TO EXERCISE ORDINARY CARE. ANY ESTIMATES OF TIMING OR THROUGHPUT ARE NOT GUARANTEED AND DO NOT FORM A WARRANTY OF PERFORMANCE. THE USER ACKNOWLEDGES THAT IN A PORT/MARITIME ENVIRONMENT, DELAYS OR INEFFICIENCIES CAN OCCUR FOR REASONS BEYOND CARVER'S CONTROL (INCLUDING WEATHER, LABOR ISSUES, REGULATORY INSPECTIONS, ETC.), AND CARVER MAKES NO WARRANTY THAT SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

6.2 Exceptions / Force Majeure: Carver shall use reasonable diligence in performing Services, but shall not be liable for failure to perform or

delays in performance caused by circumstances beyond its reasonable control. Such circumstances include, but are not limited to: Acts of God, floods, fire, explosion; adverse weather (hurricanes, extreme storms, river flooding, icing); earthquakes or other natural disasters; war, terrorism, civil unrest, riots, or insurrection; strikes, lockouts, labor shortages or disputes (whether involving Carver's own workforce or external longshore labor); governmental actions or orders (embargoes, port closures, health quarantines/epidemics, etc.); breakdown or failure of machinery, equipment or utility systems despite regular maintenance; congestion or unusual surges in port traffic; or any other cause beyond Carver's control or without Carver's fault or negligence. In any such event, Carver's obligations shall be suspended during the period of interference, and Carver shall have no liability for damages or losses resulting from the delay or failure to perform. Carver will, where feasible, give notice to User of such events and will attempt to resume Services as soon as reasonably possible. The User should have contingency plans (such as insurance or alternate routing) for such force majeure events, as Carver's tariff rates do not contemplate assuming such risks.

6.3 Performance of Third Parties: If any portion of the Services is carried out by a third party (such as a railroad, trucker, or subcontractor arranged by Carver), Carver's responsibility is to use due care in selecting and instructing such parties. Carver is not liable for the negligence or default of third-party service providers (unless mandated by law), provided Carver made a reasonable effort in their selection and the third party is reputable. Any claims for loss or damage while Cargo is in custody of a third-party carrier should be directed to that carrier. Carver will reasonably cooperate with User in pursuing such claims (e.g. providing information), but Carver does not assume liability for the third party's actions. If Carver pays any such claim to facilitate customer service, it will be subrogated to User's rights against the third party.

7. Insurance

7.1 User's Insurance Obligations: The User (at its own expense) shall procure and maintain in force throughout the duration of any Services or use of Facilities insurance policies meeting at least the following minimum requirements. All such insurance must be placed with reputable insurers and in forms acceptable to Carver, and

must name Carver Companies (and its affiliates as their interests may appear) as Additional Insureds (except for Workers' Compensation) and include a waiver of subrogation in favor of Carver. The User's insurance is primary and any Carver insurance is excess for User's acts. The required coverages include:

- **Workers' Compensation and Employer's Liability:** Covering all User's employees performing work or entering Carver's premises, as required by law. Employer's Liability coverage with limits not less than \$100,000 per accident, \$100,000 per employee (disease), \$500,000 policy limit (disease) or equivalent. The policy shall include a waiver of subrogation endorsement in favor of Carver (so the insurer cannot seek recovery from Carver if it pays an employee claim).
- **Commercial General Liability (CGL):** Covering liability for bodily injury, death, and property damage arising out of the User's operations, including contractual liability to cover the indemnity obligations herein. The CGL policy shall have a minimum combined single limit of at least \$1,000,000 per occurrence (and Carver reserves the right to require higher limits depending on the nature of operations; e.g. a higher limit may be required for hazardous activities). If a general aggregate applies, it should be not less than \$2,000,000. The policy must be occurrence-based (not claims-made) and include Carver as Additional Insured. It shall provide coverage at least as broad as ISO CG 00 01. Waiver of subrogation in favor of Carver is required. The limits may be achieved with a combination of primary and umbrella/excess policies.
- **Automobile Liability:** (If applicable) Covering all owned, hired, and non-owned vehicles used by User on the Facilities or in connection with Services, with a combined single limit of at least \$1,000,000 per accident for bodily injury and property damage. (This requirement applies to any User who will bring vehicles into the terminal – e.g. trucking companies or others driving on site.)
- **Marine Liability (Protection & Indemnity) and Hull:** (If applicable) If

the User is a vessel owner or if a vessel (ship or barge) will be used in connection with the User's operations at Carver (such as a tug, workboat, or barge provided by User), then the User (or vessel owner) must carry standard Protection & Indemnity (P&I) insurance and, if applicable, Hull & Machinery coverage. P&I (including coverage for crew claims under Jones Act) should be carried with limits not less than \$5,000,000 per occurrence. Hull & Machinery coverage should be at least equal to the value of the vessel, with Carver named as Additional Insured and waiver of subrogation. (In lieu of P&I, a Charterer's Liability or Terminal Operators Legal Liability policy with comparable limits may be acceptable for barges under certain circumstances, at Carver's discretion.) The intent is that any vessel using the Facilities is adequately insured against collision, pollution, wreck removal, and other maritime liabilities, and that Carver is protected from claims arising from the vessel's presence.

- **Cargo Insurance:** It is understood that Carver does not insure the User's Cargo (see Section 8.1). The User is strongly advised to carry all-risk property or cargo insurance for its own goods, especially high-value or sensitive Cargo, because Carver's liability is limited. Any such cargo insurance shall include a waiver of subrogation against Carver to the extent of Carver's limited liability under these Terms.
- **Additional Insurances:** Depending on the nature of the operations, Carver may require other coverages (for example: Pollution Liability if hazardous materials are involved; Longshore and Harbor Workers' Compensation Act coverage if applicable to User's workers; Contractor's Equipment insurance for any equipment brought onto site by User; etc.). If the User is itself performing any stevedoring or terminal operations on Carver's premises (with permission as per Section 2.2), the User must carry U.S. Longshore and Harbor Workers' Compensation Act coverage and Terminal Operator's Liability insurance with limits of at least \$10,000,000. Carver will specify any such additional requirements in

advance or in the Tariff or permission agreement.

7.2 Certificates and Failure of Insurance:

Users must furnish Carver with certificate(s) of insurance evidencing the required coverages and endorsements, prior to commencing operations and upon each policy renewal. If any required insurance is canceled or materially altered, User shall notify Carver with reasonable advance notice and cease operations if coverage lapses. Failure to maintain required insurance or provide proof thereof will be considered a material breach of these Terms and may result in denial of access to the Facilities or suspension of Services, at Carver's option. The User's insurance obligations are separate from and do not limit the User's indemnity obligations; i.e., the User remains responsible for the full extent of any indemnity even if insurance is insufficient or unavailable. Carver's acceptance or review of any certificate or policy shall not waive or reduce any requirements nor be deemed an assumption of any obligation by Carver.

7.3 Carver's Insurance: Carver maintains its own insurance as it deems appropriate (e.g. general liability, property, etc.), but Carver's insurance does not cover the User's interest in Cargo or operations, and Carver is not obligated to insure User's Cargo or liabilities. Charges assessed by Carver do not include any insurance coverage for the User's benefit. In some cases Carver's liability insurers may be subrogated to Carver's rights; however, as stated, the User's own insurance should respond first for User's risks. The limits of liability in Section 8 apply regardless of the availability of any insurance.

8. Liability and Indemnity

8.1 Liability of Carver – Limitations and Exceptions:

The User acknowledges that the rates charged by Carver are predicated on the following liability limitations, and that, **in consideration of such rates**, the User agrees to the following:

- **No Liability Absent Fault; No Liability for Others' Acts:** Carver shall not be liable for any loss, damage, delay, misdelivery, or failure in performance unless such loss or damage is directly caused by the gross negligence or willful misconduct of Carver or its employees. In particular,

Carver is not responsible for losses caused by: (i) the negligence of the User, its agents or third parties, or inherent defects of the Cargo; (ii) any cause beyond Carver's reasonable control as enumerated in Section 6.2 (force majeure events); or (iii) any acts or omissions of third parties (including carriers, customs authorities, truckers not employed by Carver, etc.) not acting under Carver's direction. Even if Carver is found negligent in part, Carver is liable only for the portion of the loss attributable to its negligence, and only to the extent not further limited below.

- **Exclusion of Certain Damages:** Under no

circumstances shall Carver be liable for any indirect, special, or consequential damages whatsoever, including but not limited to loss of profit, loss of business opportunities, loss of market, or punitive damages, even if Carver had knowledge that such damages might occur. This exclusion applies to any claim by User, vessel interests, cargo interests, or third parties for economic losses that are not the direct result of physical damage and to any loss of use of property not physically damaged. Carver will not be liable for any delay or business interruption costs (e.g. demurrage, charter hire, truck detention, or other time-based charges) except to the extent that (and only for the period that) the delay was solely caused by Carver's gross negligence or intentional misconduct, and even then any liability for delay is subject to the per-day or per-package limitations herein.

- **No Liability for Certain Events:** Without limiting the generality of the foregoing, Carver shall not be

liable for any loss or damage to Cargo or other property arising from or caused by any of the following enumerated causes, whether or not foreseeable: fire, heat or cold (unless temperature-controlled storage was expressly agreed); water damage; explosion; breakdown or failure of machinery or equipment (including cranes, forklifts, etc., whether belonging to Carver or third parties); collapse of buildings, sheds, platforms or wharves; settling of foundations; breakage of pipes; infestation or damage by rats, mice,

insects, or other vermin; theft, robbery, or vandalism (except to the extent caused by Carver's gross negligence in providing security); riots or civil disturbances; strikes or labor interruptions (whether or not Carver is a direct participant); war, terrorist acts, or acts of public enemies; government order or embargo; acts of God or natural forces (earthquake, flood, wind, lightning, hurricane, storm, tidal surge, etc.); pandemic or epidemic-related disruptions; or any events or circumstances beyond Carver's control. For example, Carver shall not be liable if a freak storm causes flooding in the storage yard that damages Cargo, or if a crane breaks down and delays operations (except Carver will make efforts to mitigate such delays).

- **No Warranties; No Implied Liabilities:** As noted in Section 6.1, Carver makes no warranties of any kind, and none shall be implied. The liability of Carver is strictly limited to that provided in these Terms. Carver does not guarantee the seaworthiness or safe operation of any Vessel (which is the Vessel owner's responsibility). Carver does not assume liability as an insurer of the Cargo or property – the User must carry appropriate insurance for full protection.

8.2 Limitation of Liability: In all cases where Carver is found liable (whether in contract, tort, bailment or otherwise), Carver's liability shall be limited to a maximum amount as set forth below. The User agrees that these limitations are reasonable in light of Carver's charges and the availability of User's own insurance.

- **PER PACKAGE OR UNIT LIMITATION:** FOR LOSS OR DAMAGE TO CARGO (INCLUDING GOODS IN STORAGE OR IN TRANSIT), CARVER'S LIABILITY SHALL NOT EXCEED \$500 PER PACKAGE (OR PER CUSTOMARY FREIGHT UNIT, IF NOT SHIPPED IN PACKAGES) BY DEFAULT. A "PACKAGE" MEANS THE CUSTOMARY PACKAGE OR SHIPPING UNIT AS DEFINED UNDER THE U.S. CARRIAGE OF GOODS BY SEA ACT (COGSA) OR SIMILAR LEGISLATION. IF CARGO IS NOT PACKAGED (E.G. BULK COMMODITIES, VEHICLES, ETC.), THE LIMITATION OF \$500 SHALL APPLY PER

EACH UNIT OF CARGO OR, IF APPROPRIATE, PER SHIPPING UNIT (SUCH AS PER LONG TON OF BULK CARGO, OR PER BARGE LOAD, ETC., AS REASONABLY DETERMINED). IN THE CASE OF GOODS SHIPPED IN CONTAINERS, THE CONTAINER AND ITS CONTENTS MAY BE DEEMED ONE PACKAGE FOR LIMITATION PURPOSES EXCEPT WHERE THE BILL OF LADING OR SHIPPING DOCUMENTS ITEMIZE CONTENTS AS INDIVIDUAL PACKAGES.

- **AD VALOREM OPTION:** THE ABOVE \$500/PACKAGE LIMITATION SHALL APPLY UNLESS THE USER, BEFORE THE COMMENCEMENT OF SERVICES, DECLARES IN WRITING A HIGHER VALUE FOR THE CARGO AND PAYS ANY APPLICABLE ADDITIONAL CHARGE TO OBTAIN INCREASED LIABILITY COVERAGE. CARVER MAY AGREE (BUT IS NOT OBLIGATED) TO A HIGHER LIABILITY LIMIT FOR A PARTICULAR CARGO OR SHIPMENT IF THE USER REQUESTS IT IN ADVANCE AND PAYS AN AGREED SURCHARGE, WHICH SHALL BE AT MINIMUM 1% OF THE DECLARED VALUE IN EXCESS OF \$500 PER PACKAGE OR UNIT (OR A DIFFERENT % AS CARVER MAY QUOTE). IF SUCH ARRANGEMENT IS MADE, IT MUST BE CONFIRMED IN WRITING BY CARVER'S MANAGEMENT. IN NO CASE SHALL CARVER'S LIABILITY EXCEED THE DECLARED VALUE, EVEN IF THE ACTUAL LOSS IS HIGHER. IF THE USER DECLARES A VALUE BUT DOES NOT PAY THE REQUIRED SURCHARGE, THE DECLARATION SHALL BE INEFFECTIVE AND CARVER'S LIABILITY WILL REMAIN LIMITED TO \$500 PER PACKAGE. THE USER'S MERE COMMUNICATION OF THE CARGO'S VALUE WILL NOT INCREASE CARVER'S LIABILITY ABSENT AN EXPLICIT AGREEMENT AND PAYMENT OF THE ASSOCIATED CHARGE.
- **SPECIAL LIMITS FOR BULK OR STORAGE CARGO:** IN THE CASE OF BULK CARGO (LOOSE CARGO NOT IN PACKAGES, SUCH AS AGGREGATES, SCRAP, LIQUIDS, ETC.) IN CARVER'S POSSESSION, CARVER'S LIABILITY, IF ANY, FOR LOSS OR DAMAGE IS FURTHER LIMITED TO \$0.01 (ONE CENT) PER POUND OF BULK DRY CARGO, OR \$0.01 PER GALLON OF BULK LIQUID CARGO, OR 75 TIMES THE DAILY STORAGE RATE PER TON OR PER

PIECE FOR BREAKBULK GOODS IN STORAGE, WHICHEVER IS LESS. IF A DIFFERENT LIMITATION FORMULA IS SPECIFIED IN AN APPLICABLE CARVER TARIFF OR WAREHOUSE RECEIPT, THAT SPECIFIC FORMULA WILL APPLY FOR THOSE SERVICES. THESE BULK/STORAGE LIMITS APPLY UNLESS A LOWER LIABILITY LIMIT IS PROVIDED BY OTHER APPLICABLE LAW OR CONTRACT (FOR EXAMPLE, IF A BILL OF LADING OR INTERNATIONAL CONVENTION IMPOSES A LOWER PER-UNIT LIMIT, THAT LOWER LIMIT WILL GOVERN).

- **MAXIMUM AGGREGATE LIABILITY:** NOTWITHSTANDING ANY OF THE ABOVE, CARVER'S TOTAL CUMULATIVE LIABILITY FOR ANY SINGLE OCCURRENCE OR SERIES OF RELATED OCCURRENCES SHALL NOT EXCEED USD \$250,000.00 (TWO HUNDRED AND FIFTY THOUSAND U.S. DOLLARS) IN AGGREGATE, REGARDLESS OF THE VALUE OR VOLUME OF CARGO OR CLAIMS INVOLVED. THIS MEANS IF MULTIPLE USERS OR CLAIMS ARE AFFECTED BY ONE INCIDENT (FOR INSTANCE, A CRANE ACCIDENT AFFECTING MULTIPLE CARGOS), CARVER'S TOTAL PAYOUT FOR ALL CLAIMS COMBINED WILL BE CAPPED AT \$1,000,000 (UNLESS CARVER HAS INSURANCE THAT COVERS MORE, BUT CARVER DOES NOT WAIVE THIS CAP). USERS OF HIGH-VALUE CARGO SHOULD INSURE ACCORDINGLY.
- **APPLICATION TO CLAIMS IN TORT OR OTHER:** THE FOREGOING LIMITATIONS APPLY TO ALL CLAIMS AGAINST CARVER ARISING IN THE COURSE OF BUSINESS, WHETHER THE CLAIM IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, BAILMENT, CONVERSION, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY. THE USER AGREES THAT THESE LIMITATIONS REFLECT A FAIR ALLOCATION OF RISK. IF ANY CLAIM IS BROUGHT AGAINST ANY EMPLOYEE, AGENT, OR SUBCONTRACTOR OF CARVER ARISING FROM THE SAME OCCURRENCE, THE AGGREGATE LIABILITY OF CARVER AND ALL SUCH PERSONS SHALL NOT EXCEED THE LIMITATION THAT WOULD APPLY TO CARVER ITSELF.

- **HIMALAYA PROTECTIONS:** CARVER SHALL BE ENTITLED TO THE FULL BENEFIT OF ANY PROVISIONS IN ANY APPLICABLE BILL OF LADING OR TRANSPORT DOCUMENT THAT LIMIT THE LIABILITY OF CARRIERS OR THEIR SERVANTS. SPECIFICALLY, IF CARVER'S SERVICES RELATE TO CARGO MOVING UNDER AN OCEAN OR AIR CARRIER'S BILL OF LADING OR WAYBILL THAT CONTAINS DEFENSES, EXEMPTIONS, OR LIMITATIONS (SUCH AS THE \$500/PACKAGE UNDER COGSA OR A LIMITATION IN SDRS UNDER HAGUE-VISBY RULES), ALL SUCH PROTECTIONS EXTEND TO CARVER AS A STEVEDORE, TERMINAL OPERATOR, OR SUBCONTRACTOR BY VIRTUE OF THE "HIMALAYA CLAUSE" IN THAT CARRIAGE CONTRACT. EVEN IF THE CARRIER'S CONTRACT DID NOT EXPLICITLY EXTEND SUCH PROTECTION, THE PARTIES AGREE THAT CARVER IS AN INTENDED BENEFICIARY OF THOSE CARRIER CONTRACTUAL LIMITS AND DEFENSES, AND USER WILL COOPERATE TO ASSERT THOSE DEFENSES ON CARVER'S BEHALF.

8.3 Indemnity by User: To the fullest extent permitted by law, the User shall defend, indemnify, and hold harmless Carver (including its affiliates, directors, employees, and agents) from and against any and all claims, suits, liabilities, losses, fines, penalties, damages, costs, and expenses (including reasonable attorneys' fees) arising out of or related to the User's use of the Facilities or the Services, or the presence of the User, its Cargo, employees, contractors or agents at the Facilities. This indemnity specifically includes, but is not limited to:

- **Injury or Property Damage Claims:** Claims by any third party (including User's employees or subcontractors, vessel crew, truck drivers, or any other invitees) for personal injury, illness or death, or for property damage, arising out of or incident to the User's operations or use of the Facilities, regardless of whether caused in part by Carver's negligence. (However, the User is not obligated to indemnify Carver for Carver's sole gross negligence or willful misconduct). For example, if a trucker employed by User

is injured on site due to a condition partly caused by Carver's negligence and partly by the trucker's own actions, the User's duty is to indemnify Carver for the claim, even if Carver was partially negligent. All such indemnity obligations shall be supported by the User's insurance as required in Section 7.

- **Environmental Indemnity:** Any liability, claim, fine or remediation cost arising from (i) a release or threatened release of Hazardous Materials or pollutants brought to the Facility by the User or contained in the User's Cargo, or (ii) any violation of environmental laws by the User. This applies whether the incident occurs during storage, handling, transport, or any other activity. For example, if the User's cargo leaks chemicals requiring cleanup, the User indemnifies Carver for all cleanup costs and any penalties—even if Carver undertakes the cleanup on User's behalf. Environmental indemnity obligations shall survive termination of the User's use of the Facilities and are not limited by any other provision hereof.
- **Violation of Law:** Any penalties, fines, or liabilities incurred by Carver due to the User's or Cargo's failure to comply with laws or regulations, such as customs violations, improper export declarations, safety citations caused by User's acts, overweight citations, or other regulatory infractions attributable to User. The User will indemnify and hold Carver harmless from all such consequences (including attorneys' fees in defending any enforcement action).
- **Lien or Cargo Disputes:** Any disputes or litigation asserting that Carver lacks title to or wrongfully detained any Cargo (except if caused by Carver's breach of contract). For example, if Carver is drawn into a dispute between the User and another party over ownership of Cargo, the User will indemnify Carver for all costs and claims, as Carver's role is that of bailee per User's instructions. Also, if the User fails to include a Himalaya clause in its contracts of carriage as required by Section 9.4 below, and Carver faces a claim without the benefit of carrier defenses, the User must indemnify Carver to the extent Carver's liability exceeds what it would

have been if the Himalaya clause had been in place.

- **Employee Claims (No Recourse):** The User agrees that its own employees (and their heirs/insurers) shall have no claim directly against Carver for injuries covered by workers' compensation or maritime employee remedies, and to the extent necessary the User's indemnity covers any such claims. This is to reinforce that the User (or its insurer) is the primary responsible party for employee injuries, not Carver.

This indemnification shall apply even if Carver is concurrently negligent (whether actively or passively) except to the extent that a claim is finally determined to have been caused by Carver's sole gross negligence or intentional misconduct. User's duty to defend Carver means User will provide a legal defense for Carver against any such claim or suit, with counsel reasonably acceptable to Carver, from the time such claim is asserted until it is resolved. Alternatively, at Carver's option, Carver may tender its defense to User's insurance carrier if applicable. If Carver chooses to defend itself, the User will reimburse Carver's legal expenses and costs on a current basis.

The indemnity obligations hereunder shall survive the termination or expiration of any contract with the User and until all relevant statutes of limitations have run. Carver shall have the right to recover as damages under these Terms all attorney fees and costs incurred in enforcing its rights to indemnity, or in defending any claim that should have been indemnified by User.

8.4 Notice and Time Limit for Claims: As a condition precedent to any claim against Carver:

- **Notice of Loss or Damage:** The User (or cargo owner) must give prompt written notice to Carver of any loss or damage to Cargo or other property that the User believes Carver is responsible for, and in any event no later than ten (10) days after the User becomes aware of such loss or damage. If the User fails to notify Carver in writing within 10 days of discovery, then Carver shall be discharged from all liability for that claim. (This short notice period is

necessary so that Carver can conduct a timely investigation while facts are fresh.) In addition, Carver must be given immediate opportunity to inspect the damage at the time of discovery, as stated in Section 4.6 above; failing such opportunity, no claim will be honored.

- **Filing of Suit / Arbitration:** Any lawsuit or arbitration demand by User (or any party claiming through User) against Carver for loss, damage, or other claims arising from Services must be commenced within one (1) year from the date of the event giving rise to the claim, or the date the Cargo left Carver's custody, whichever is earlier. In the case of hidden damage or loss not discoverable at the time of delivery, the one-year period runs from the date the damage reasonably should have been discovered. This one-year limitation period applies to all claims, including indemnity claims that User might assert if it has paid a third-party. If a shorter time to sue is provided under any applicable law or international convention (e.g. the 9-month period under the U.S. Surface Transportation Board terms for rail carriers, or COGSA's one-year), then that shorter period will apply. Any claim not commenced within this time shall be forever barred. User and Carver agree that these contractual limitations period replaces any longer period that might be provided by law.
- These notice and filing requirements shall also apply to any claim against Carver's employees or subcontractors, to the extent any such claim is not barred by the liability provisions herein. The intent is to ensure timely claims and avoid prejudice to Carver.

8.5 Exclusive Remedy: The liability and exclusive remedy of User as against Carver, for any and all claims or causes of action arising out of the performance of Services or use of Facilities, shall be as stated in this Section 8. The User hereby waives any rights to pursue any other remedies or damages except as provided herein. In no event shall any employee or agent of Carver be individually liable to the User – any claim must be brought against Carver (the entity) alone, and the liability of Carver's personnel is extinguished and/or covered by the foregoing limitations as a condition of their service.

9. Special Provisions for Bills of Lading and Carriage Contracts

9.1 Himalaya Clause Requirement: The User (and/or Merchant) shall ensure that any bill of lading, sea waybill, or other contract of carriage issued for cargo that is handled by Carver contains a clause extending the carrier's defenses and liability limitations to third-party stevedores, terminals, and independent contractors ("Himalaya Clause"). For example, if the cargo is imported or exported by ocean, the ocean carrier's bill of lading should expressly include Carver (as stevedore or terminal) as an entity protected by the carrier's liability limits (such as the \$500 per package COGSA limitation). The purpose is to ensure that Carver enjoys the same immunities, defenses, and limitations as the carrier or vessel under that contract. This requirement applies to any User who is in a position to issue or negotiate the terms of such transport documents (e.g. NVOCCs, forwarders, ocean carriers themselves, etc.).

If the User fails to include such a Himalaya Clause for Carver's benefit in the contract of carriage, and as a result Carver is exposed to a claim by any party (such as the cargo owner or insurer) without the benefit of the carrier's defenses/limitations, then the User shall indemnify and hold Carver harmless to the full extent of any liability in excess of what Carver would have if the Himalaya protection had been in place. This essentially makes the User the "insurer" for any gap in coverage caused by the missing Himalaya Clause. For example, if Carver is sued by a cargo owner for \$50,000 and cannot invoke the \$500/package limit because the bill of lading lacked a Himalaya Clause, the User must indemnify Carver for the difference (any amount exceeding \$500 per package).

9.2 Clause Paramount: If Carver is found liable in connection with the carriage of goods by sea (or other modes), and if the carriage is subject to any national or international law or convention that imposes mandatory liability rules (such as the U.S. Carriage of Goods by Sea Act (COGSA), Hague or Hague-Visby Rules, Carmack Amendment for rail/truck, etc.), then Carver shall be entitled to any and all defenses, exemptions, and limitations under such laws as if it were the carrier. For instance, if a claim arises during international sea carriage portion, Carver may invoke the one-year time bar and the package limitation of COGSA. If a claim arises during inland U.S. transport under

a through bill of lading, Carver may invoke the liability limitations of 49 USC §14706 (Carmack) or any tariffs thereunder. This Clause Paramount ensures that Carver's liability is not greater than that of the actual carrier involved in the transport.

9.3 General Average and Salvage: Users (especially vessel owners or cargo owners) agree that Carver has no responsibility to contribute in General Average for any service provided or for any cargo in its custody. Any General Average claims or liens on cargo must be settled directly between cargo interests and vessel interests. If Carver is holding cargo that is subject to a General Average lien, Carver may refuse release until authorized by the General Average adjuster. Carver shall not be liable for any sacrifice or contribution of cargo in General Average. Similarly, Carver is not responsible for any salvage services or salvage awards; those are matters between the salvors, vessel, and cargo owners.

9.4 Through Transportation: Port-to-Port Services: If Carver provides or arranges carriage of cargo from one port to another (e.g. by barge or coaster vessel between the Port of Coeymans and another port), and issues its own transport document for that move, then Carver's role may be that of a carrier for that segment. In such case, Carver shall be entitled to all rights and immunities of a carrier under applicable carriage laws, and the Terms of that transport (including liability limits, schedule of rates, and claims procedure) will be provided in the Carver-issued bill of lading or contract. However, even as a carrier, Carver's liability will not exceed the limits stated in Section 8.2 (or the applicable carriage law limits, if lower). If any such carriage is within the U.S., Carver's liability may be further limited by any freight tariff on file or the default rules for motor/rail carriage.

Note: This Section 9 is primarily intended to protect Carver when working alongside international carriers and to ensure consistency of legal regimes. Users should ensure their logistics partners include appropriate clauses to protect Carver as a vital service provider.

10. Governing Law; Dispute Resolution

10.1 Governing Law: These Terms and any dispute or claim arising out of or relating to Services provided by Carver shall be governed

by the laws of the State where the Services are performed *except as* otherwise provided herein. Each port facility's day-to-day operations will adhere to the laws and regulations of that facility's jurisdiction (e.g. New York law for Port of Coeymans, South Carolina law for Pier J, etc.). However, notwithstanding the foregoing, any dispute, controversy, or claim between Carver and User shall ultimately be governed by the substantive law of the State of New York, U.S.A., excluding its conflict of law principles. The Parties acknowledge that Carver's principal place of business is in New York, and a uniform governing law (New York law) will aid in consistent interpretation of these Terms. To the extent maritime law applies to certain issues, U.S. federal maritime law will supplement New York law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.

10.2 Mediation Requirement: The Parties shall attempt in good faith to resolve any dispute arising out of these Terms or the Services by negotiation and mediation before resorting to arbitration or litigation. If any dispute arises that cannot be settled through informal discussions, either party may serve written notice to the other of the existence of a dispute and request mediation. The Parties will then select a neutral, independent mediator (experienced in maritime or commercial matters) and schedule a mediation in Albany, New York (or another location mutually agreed, or virtually). The mediation shall be conducted within 30 days of the mediator's appointment, unless the parties agree to extend. Each party shall send a representative with full settlement authority to the mediation. The mediator's fees will be split evenly between the parties, and each party will bear its own attorney fees for mediation. All communications at mediation shall be confidential and inadmissible in any later proceeding except as mutually agreed. If the dispute is resolved in mediation, the parties will document the settlement in writing.

10.3 Arbitration of Disputes: If the parties cannot resolve a dispute through mediation within a reasonable time (or if either party refuses to participate in mediation), then any and all disputes, claims, or controversies arising out of or relating to the Services, these Terms, or the breach, termination, or validity thereof, shall be finally resolved by binding arbitration. The arbitration shall be administered by the American Arbitration Association (AAA) under its Commercial

Arbitration Rules (including the Expedited Procedures for smaller claims, where applicable), or such other rules or administering body as the parties may agree. The arbitration shall take place in New York State – unless otherwise agreed, the default venue shall be Albany, New York. The arbitration will be heard and determined by a single arbitrator, unless the parties agree to a panel of three for a particularly complex or large dispute. The arbitrator shall be an attorney or retired judge with experience in maritime or commercial contract law.

- **Arbitration Proceedings:** The arbitration shall be conducted in English. The arbitrator shall have the power to order limited discovery consistent with the expedited nature of arbitration. The arbitrator's award shall be in writing and provide the reasons for the decision. The arbitrator is empowered to award any relief available in a court, including damages (subject to the exclusions and limitations in these Terms), injunctive relief, and attorneys' fees/costs, but shall not award any punitive or exemplary damages, as the parties waive such damages. The award shall be final and binding, and judgment on the award may be entered in any court having jurisdiction.
- **Confidentiality:** The parties agree to keep the arbitration proceedings and award confidential, except as necessary to enforce the award or as required by law.
- **Exceptions:** Notwithstanding the agreement to arbitrate, Carver may at its option pursue action in a court of law for the limited purpose of arresting a vessel or exercising an in rem or maritime lien remedy, or seeking a pre-award security or injunction to maintain the status quo pending arbitration (e.g. attachment of assets under Admiralty Rules), without waiving the right to arbitrate the underlying merits. Also, claims for debt collection (for uncontested invoices) may be brought in court at Carver's discretion, and the defending party can then compel arbitration if it contests the debt.

10.4 Forum Selection and Jurisdiction: Subject to the arbitration clause above, for any matters that are determined not

to be subject to arbitration or for enforcement of arbitral awards or interim relief:

- **New York Courts:** The User consents to the exclusive jurisdiction of the state or federal courts located in the State of New York for any litigation arising out of these Terms or the Services (including actions to compel arbitration or to enforce arbitral awards). Specifically, if litigation is pursued, it shall be filed in the Supreme Court of New York (Albany County) or the U.S. District Court for the Northern District of New York, provided subject matter jurisdiction exists. The User waives any objection to personal jurisdiction or venue in those courts, and agrees not to argue that such forum is inconvenient.
- **Alternate Forum (Local) for Interim Relief:** In addition, Carver shall have the option to initiate legal proceedings in the courts of the state where the facility is located, but solely for obtaining pre-arbitration remedies (such as vessel arrest in South Carolina for a Pier J claim, etc.). Such action will not waive the requirement for final arbitration on the merits.

10.5 Waiver of Jury Trial: To the extent any dispute is litigated in court rather than arbitrated, the User and Carver each hereby knowingly and voluntarily waive any right to a trial by jury in any such lawsuit. The waiver of jury trial is a material inducement to the agreement to these Terms.

10.6 Class/Collective Action Waiver: The User agrees that any arbitration or court proceedings will be conducted only on an individual basis, and that neither party shall have the right to consolidate claims or arbitrate or litigate any dispute as a class, collective, or representative action. Any dispute whether this class-action waiver is enforceable shall be decided by a court (not an arbitrator). If for any reason a claim proceeds in court rather than arbitration, the class/collective waiver in this clause shall still apply.

10.7 Attorneys' Fees: In any arbitration or litigation between Carver and User arising out of these Terms, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the other party, in addition to any relief awarded. "Prevailing party" means the

party who substantially obtains the relief sought (or successfully defends against the claims) in the dispute.

11. Miscellaneous Provisions

11.1 Severability: If any provision of these Terms (or its application to certain facts or parties) is held by a court or arbitrator of competent jurisdiction to be illegal, invalid, or unenforceable, such provision shall be given effect to the extent allowed, and the remaining provisions shall remain in full force and effect. The parties agree that any invalid or unenforceable provision shall be deemed modified or limited to the minimum extent necessary to make it valid and enforceable, consistent with the original intent. If a provision is so fundamental that it cannot be modified without materially altering the intent of the parties, it shall be severed and the remainder of the Terms enforced as written.

11.2 No Waiver: No failure or delay by Carver in enforcing any right, power, or remedy under these Terms shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of that or any other right or remedy. Carver's consent to or waiver of any breach by User shall not constitute a consent to or waiver of any different or subsequent breach. To be effective, any waiver must be in writing and signed by an authorized Carver representative.

11.3 Amendments: Carver reserves the right to amend or update these Terms (and any Tariff rules) from time to time. Official updates will be posted in the Tariff or provided to Users in writing. However, no amendment shall apply retroactively to services already in progress (unless required by law). For any bespoke changes to these Terms in a particular contract with a User, such changes must be in a written amendment or addendum signed by both parties. General staff or operational personnel of Carver are not authorized to modify these standard Terms verbally.

11.4 Assignment: The User may not assign or transfer its rights or obligations under these Terms (or any agreement with Carver for Services) to any third party without Carver's prior written consent, which shall not be unreasonably withheld. Carver may assign its rights and obligations to an affiliate or successor

in interest (for example, if operation of a Facility is transferred within Carver Companies). These Terms will be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

11.5 Entire Agreement: These Terms, together with any applicable service contract, rate agreement, or the Carver Tariff, constitute the entire agreement between Carver and the User with respect to the subject matter hereof. They supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, whether written or oral, with respect to such subject matter. The User acknowledges that no promises or representations have been made by Carver that are not expressly stated herein or in Carver's official Tariff/publications.

11.6 Interpretation: Captions and headings in these Terms are for convenience only and shall not affect the interpretation of any provision. The term "including" means "including without limitation." Where context requires, the singular includes the plural and vice versa. These Terms shall be construed neutrally and not against the drafter. If these Terms are translated into another language, the English version shall govern in case of conflict.

11.7 Survival: Provisions of these Terms which by their nature should apply beyond completion of Services or termination of the business relationship (such as indemnities, limitations of liability, law and forum clauses, and confidentiality obligations) shall survive indefinitely until fulfilled.

By using Carver's port facilities or services, the User acknowledges that it has read and understood these Standard Terms of Service and agrees to be bound hereby, intending to confer the benefits of all defenses and limitations herein on Carver and related indemnitees to the fullest extent allowed.