

CARVER COMPANIES

SITE ACCESS TERMS AND CONDITIONS

These Site Access Terms and Conditions (the “Terms”) govern all access to the Premises (defined below) operated by or under the control of Carver Companies. These Terms are incorporated by reference into each Site Access Letter, work order, badge issuance, electronic acknowledgment, or other written authorization issued by Landlord granting access to the Premises.

1. Definitions

1.1 **“Landlord” means** (i) all of the entities operating under the umbrella of “Carver Companies,” together with their subsidiaries, affiliates, members, officers, directors, employees, agents, and authorized representatives, and (ii) the owners and operators of the Port of Coeymans and the Coeymans Industrial Park.

1.2 **“Premises” or “Site” means** all areas of Coeymans Landing Marina, the Port of Coeymans, and the Coeymans Industrial Park, including without limitation docks, piers, warehouses, industrial areas, buildings, offices, parking lots, and all associated grounds and waters.

1.3 **“Visitor” means** any person or entity granted access to the Premises pursuant to a Site Access Letter or other authorization issued by Landlord, together with such person’s or entity’s agents, employees, contractors, representatives, invitees, and any other person entering the Premises under the Visitor’s auspices.

1.4 **“Site Access Letter” means** the cover letter, work order, electronic acknowledgment, badge form, or other written instrument issued by Landlord and countersigned (or otherwise accepted) by Visitor, which identifies the Visitor, the purpose and dates of access, and incorporates these Terms by reference.

1.5 **“Other Users” means** the tenants, licensees, contractors, customers, vendors, and other third parties (other than Landlord and Visitor) that occupy, use, or are present on the Premises from time to time.

2. Application, Acceptance, and Order of Precedence

2.1 **Application.** These Terms apply to all access to the Premises by any Visitor, regardless of the purpose, duration, or commercial or non-commercial nature of such access.

2.2 **Acceptance.** Visitor accepts these Terms by any of the following: (a) countersigning a Site Access Letter that references these Terms; (b) clicking, checking, or otherwise electronically acknowledging acceptance through any platform designated by Landlord; (c) signing a visitor log, badge form, or safety acknowledgment that references these Terms; or (d) entering the Premises after being given notice that access is conditioned on these Terms. Each method of acceptance constitutes a binding agreement enforceable to the same extent as a wet-ink signature.

2.3 **Effective Version.** Landlord may update these Terms from time to time. The current version is posted at www.carvercompanies.com/about-us/port-tariff-information/. The version of these Terms

in effect on the date the Site Access Letter is countersigned (or, for open-ended or recurring access, the date of each entry onto the Premises) shall govern that access.

2.4 Order of Precedence. In the event of any conflict between a Site Access Letter and these Terms:

- (a) the Site Access Letter shall control with respect to commercial particulars (e.g., identity of Visitor, dates, locations, scope of activities, and contacts); and
- (b) these Terms shall control with respect to risk allocation, including release, assumption of risk, indemnification, insurance, limitation of liability, governing law, and venue, except to the extent the Site Access Letter expressly references and modifies a specific Section of these Terms by number.

3. Scope of Access

3.1 Access Rights. Subject to these Terms and the Site Access Letter, Landlord grants Visitor a limited, revocable, non-exclusive license to enter the Premises solely for the purpose and during the dates specified in the Site Access Letter.

3.2 No Lease or Tenancy. This license does not create a lease, tenancy, easement, or any other interest in real property. It is a permission to enter, revocable as set forth herein.

3.3 Supervision and Control. Visitor shall remain under the direction of Landlord's designated representative(s) and shall comply with all directives issued by such representatives. Landlord may suspend, modify, or terminate Visitor's access at any time for safety, security, operational necessity, or breach of these Terms.

4. Acknowledgments

4.1 Multi-User Terminal. Visitor acknowledges that the Premises are used by Landlord and by numerous Other Users. Visitor shall not interfere with the operations or activities of Landlord or any Other User.

4.2 Industrial and Maritime Conditions. Visitor acknowledges that the Premises are industrial and maritime in nature. Visitor accepts the Premises in "AS IS" condition and assumes all risks associated with industrial and maritime operations, including without limitation heavy equipment traffic, open water, construction hazards, slippery surfaces, falling objects, and general industrial activity.

4.3 No Representations. Landlord makes no representations, warranties, or guarantees, express or implied, regarding the safety, condition, or fitness of the Premises for Visitor's purposes, except as expressly required by applicable law.

5. Compliance and Safety

5.1 Applicable Laws. Visitor shall comply with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation OSHA standards, New York State regulations, and U.S. Coast Guard maritime security requirements.

5.2 Landlord Rules. Visitor shall comply with all posted or otherwise communicated safety rules, security procedures, and directives from authorized Landlord personnel.

5.3 Restricted Areas. Visitor shall not enter any restricted areas (including docks, machinery rooms, vessel decks, or any area marked “Authorized Personnel Only” or similar) unless explicitly authorized in writing by Landlord.

5.4 Prohibited Items and Activities. Visitor shall not bring firearms, weapons, illegal substances, or hazardous materials onto the Premises, and shall not engage in smoking or other hazardous activities outside designated areas. The foregoing restriction on firearms and weapons does not apply to: (a) sworn law enforcement officers acting in the lawful performance of their official duties; or (b) any other person to the extent expressly authorized in writing by Landlord.

6. Conditions Precedent to Entry

6.1 Entry to the Premises is conditioned on Visitor:

- (a) executing or accepting a Site Access Letter incorporating these Terms;
- (b) completing any safety and security briefing required by Landlord; and
- (c) wearing, in active port and industrial areas, all required personal protective equipment (“PPE”), which may include a hard hat, ANSI-approved safety glasses, steel-toe boots, high-visibility vest, and any additional PPE specified by Landlord.

7. Release and Assumption of Risk

7.1 Release. To the fullest extent permitted by law, Visitor, on behalf of itself and its heirs, executors, administrators, successors, and assigns, releases, waives, and discharges Landlord and Other Users from any and all claims, demands, damages, liabilities, or causes of action arising out of or related to Visitor’s presence on the Premises, except to the extent caused by the gross negligence or willful misconduct of the party being released.

7.2 Assumption of Risk. Visitor knowingly and freely assumes all risks associated with entering and conducting activities on the Premises, including the risk of personal injury, property damage, illness, and death.

7.3 No Custody or Control. Landlord shall not be deemed to have custody, possession, or control of any equipment, vehicle, vessel, or other property brought onto the Premises by Visitor, and assumes no responsibility for the condition, security, or operation of any such property.

8. Indemnification

8.1 To the fullest extent permitted by law, Visitor (and, if Visitor is acting as the agent or representative of a third party, such third party) shall defend, indemnify, and hold harmless Landlord and Other Users from and against any and all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys’ fees) arising out of or related to:

- (a) Visitor’s use of, entry upon, or presence on the Premises;

(b) any injury or damage caused in whole or in part by the acts or omissions of Visitor or Visitor's employees, agents, contractors, or invitees; or

(c) any failure by Visitor to comply with these Terms, the Site Access Letter, or any applicable law, regulation, or rule,

except to the extent such claims, losses, or liabilities arise from the gross negligence or willful misconduct of the indemnified party. This indemnity is subject to the Governmental Limitations in Section 15.8.

9. Insurance

9.1 **Commercial Visitors.** If Visitor is a commercial entity, contractor, vendor, or other non-governmental organization, Visitor shall maintain, at its sole cost, the following minimum insurance coverages throughout the period of access:

(a) Commercial General Liability with limits of not less than \$[INSERT — typically \$1,000,000] per occurrence and \$[INSERT — typically \$2,000,000] aggregate;

(b) Workers' Compensation as required by applicable law and Employer's Liability with limits of not less than \$[INSERT];

(c) Automobile Liability with limits of not less than \$[INSERT — typically \$1,000,000] combined single limit, if Visitor will operate vehicles on the Premises;

(d) where Visitor's activities involve any vessel, Marine Protection & Indemnity coverage with limits of not less than \$[INSERT]; and

(e) any additional coverage reasonably required by Landlord based on the nature of Visitor's activities.

Each policy (other than Workers' Compensation) shall name Landlord and its affiliates as additional insureds, shall be primary and non-contributory with respect to any insurance maintained by Landlord, and shall include a waiver of subrogation in favor of Landlord. Visitor shall provide Landlord with a certificate of insurance evidencing such coverage prior to entry.

9.2 **Government Visitors.** If Visitor is a governmental entity or public agency, Visitor represents that it maintains insurance coverage, self-insurance, or other financial responsibility sufficient to respond to claims arising out of its activities on the Premises, in accordance with applicable law. Upon request, Visitor shall provide reasonable evidence of such coverage or self-insurance, to the extent permitted by law.

9.3 **Individual Visitors at Public Events.** Individuals attending a public event (such as a community day, open house, or family event) on the Premises in their personal capacity are not required to provide separate proof of insurance, but remain fully bound by these Terms, including the Release in Section 7 and the indemnification obligations in Section 8.

10. Direct Contractual Nexus

10.1 **Visitor as Agent.** If Visitor is present on the Premises as an agent, employee, representative, or contractor of another person or entity (a tenant, customer, contractor, or Other User), Visitor agrees that these Terms apply to Visitor in Visitor's personal capacity in addition to any obligations

owed by Visitor's employer or principal. Landlord shall have the right to enforce these Terms directly against Visitor (and against Visitor's employer or principal, if applicable) regardless of any separate agreement between Landlord and the employer or principal.

10.2 Authority. Visitor represents and warrants that it has full authority to enter into and accept these Terms and to bind itself (and, where applicable, its organization) to the obligations set forth herein.

11. Confidentiality, Photography, and Property

11.1 Confidential Information. Visitor shall not disclose any confidential or proprietary information obtained while on the Premises, including any information pertaining to the operations, processes, customers, or security of Landlord or any Other User, except as required by law or with Landlord's prior written consent.

11.2 Photography and Recording. Visitor shall not photograph, video record, or otherwise capture images or audio of: (a) operational areas of the Premises; (b) the equipment, vessels, cargo, or personnel of any Other User; (c) any area marked or identified as restricted, secure, or sensitive; or (d) any other area where photography is prohibited by posted signage or by direction of Landlord personnel; in each case without Landlord's prior written consent. Personal photography by individual Visitors of their own group within publicly accessible event areas is permitted unless restricted by posted notice or Landlord direction.

11.3 Removal of Property. Visitor shall not remove samples, spares, documents, digital data, or any other property from the Premises without Landlord's express written permission.

12. Term and Termination

12.1 Term. Visitor's permission to access the Premises shall remain in effect only for the duration set forth in the Site Access Letter or until revoked by Landlord, whichever occurs first.

12.2 Right to Revoke. Landlord may revoke Visitor's access immediately and without prior notice for any violation of these Terms, for safety or security reasons, or at Landlord's sole discretion.

13. Limitation of Liability

13.1 Exclusion of Certain Damages. To the fullest extent permitted by law, Landlord and Other Users shall not be liable for special, consequential, incidental, indirect, or punitive damages arising out of or in connection with these Terms or Visitor's presence on the Premises, regardless of the form of action.

13.2 Damage to Premises. Visitor shall be responsible for any damage to the Premises, or to the property of Landlord or any Other User, caused by Visitor's equipment, vehicles, vessels, personnel, or activities, and shall promptly repair such damage or reimburse Landlord for the cost of restoration.

14. Governing Law and Dispute Resolution

14.1 Governing Law. These Terms shall be governed by and construed in accordance with the laws of the State of New York, without reference to its conflicts of laws principles. To the extent any matter is governed by U.S. federal maritime law, such law shall apply.

14.2 Venue and Jurisdiction. Any dispute arising out of or relating to these Terms, the Site Access Letter, or Visitor's presence on the Premises shall be brought exclusively in the state or federal courts located in the County of Albany, State of New York. Visitor consents to the personal jurisdiction of such courts and waives any defense of inconvenient forum.

15. Miscellaneous

15.1 Entire Agreement. These Terms, together with the Site Access Letter, constitute the entire understanding between the parties with respect to Visitor's access to the Premises and supersede all prior or contemporaneous written or oral agreements on the subject.

15.2 Severability. If any provision of these Terms is found to be unenforceable, such provision shall be modified to the minimum extent necessary to make it enforceable, and the remainder of these Terms shall remain in full force and effect.

15.3 No Waiver. The failure of Landlord to enforce any provision of these Terms shall not be deemed a waiver of the right to later enforce that or any other provision.

15.4 Amendments. These Terms may be amended only by a written instrument issued by Landlord (which may include an updated version posted to the URL specified in Section 2.3). A Site Access Letter may modify a specific Section of these Terms only by expressly referencing that Section by number.

15.5 Headings. Section headings are for convenience only and shall not affect the interpretation of these Terms.

15.6 Maritime Liens. To the extent Visitor's activities on the Premises involve any vessel owned, operated, or controlled by Visitor, Visitor waives all maritime liens, possessory rights, salvage rights, maintenance and cure, or similar rights in rem against any vessel, dock, or other property owned, operated, or controlled by Landlord or any Other User.

15.7 Independent Status. Visitor is an independent party. Nothing in these Terms creates any employment, agency, partnership, or joint-venture relationship between Visitor and Landlord.

15.8 Governmental Limitations. Nothing in these Terms shall be construed to require a governmental entity Visitor to indemnify, insure, or assume liability beyond the extent permitted under applicable law. All other risk-allocation provisions shall be enforced to the maximum extent allowable.

15.9 Force Majeure. Neither party shall be liable for any failure or delay in performance under these Terms (other than payment obligations, if any) to the extent caused by acts of God, natural disasters, war, terrorism, civil unrest, governmental action, labor disputes, pandemic or public health emergency, fire, flood, or other events beyond the reasonable control of such party.

15.10 **Assignment.** Visitor may not assign or transfer any rights or obligations under these Terms or any Site Access Letter without Landlord's prior written consent. Landlord may assign these Terms freely to any successor or affiliate.

15.11 **Notices.** Any legal notice required under these Terms shall be in writing and delivered to Carver Companies, Attn: Legal Department, 26 Corporate Circle, Albany, NY 12203, or such other address as Landlord may designate in writing. Notices to Visitor shall be sent to the address set forth in the Site Access Letter.

15.12 **Third-Party Beneficiaries.** Except as expressly set forth in this Section 15.12, these Terms create no rights in favor of any third party. Other Users are intended third-party beneficiaries of the Release in Section 7.1, the indemnification obligations in Section 8, and the Limitation of Liability in Section 13, and may enforce such provisions directly against Visitor.

15.13 **Counterparts and Electronic Signatures.** A Site Access Letter may be executed in counterparts and by electronic signature, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

ANNEX A

Activity-Specific Terms — Rock Walls and Similar Interactive Activities

This Annex A applies in addition to the Terms whenever Visitor provides, installs, operates, or supervises a rock climbing wall, inflatable, dunk tank, climbing structure, or similar interactive or attraction-style activity on the Premises (each, an "Activity"). In the event of any conflict between this Annex A and the Terms, this Annex A shall control with respect to the Activity.

A.1 **Indemnity.** To the fullest extent permitted by law, Visitor shall defend, indemnify, and hold harmless Landlord, its affiliates, and their respective officers, directors, members, employees, agents, and representatives from and against any and all claims, demands, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from: (a) Visitor's provision, installation, operation, maintenance, or removal of the Activity and any related equipment; (b) any actual or alleged injury to persons (including death) or damage to property in connection with the Activity; or (c) any negligent act, error, omission, or willful misconduct of Visitor or its employees, contractors, or agents in connection with the Activity. This indemnity shall not apply to the extent a claim is caused by the gross negligence or willful misconduct of Landlord.

A.2 **Equipment Warranty.** Visitor represents and warrants that: (a) all equipment used in the Activity is in good working order, free from defects, and suitable for its intended use; (b) such equipment has been properly inspected, maintained, and, where applicable, certified in accordance with applicable laws and industry standards; and (c) Visitor and its personnel possess the requisite training, experience, and, where applicable, licenses and certifications to safely install, operate, and supervise the Activity.

A.3 **Supervision.** Visitor shall be solely responsible for the installation, operation, inspection, and supervision of the Activity. Visitor shall ensure that competent, trained personnel are present at all times during operation to monitor use, enforce safety rules, and assist participants. Visitor shall implement and enforce appropriate safety procedures, including without limitation equipment checks,

user instruction, and appropriate harnessing or belay systems where applicable. Landlord shall have no responsibility for supervising or operating the Activity, and any presence of Landlord personnel near the Activity shall not be deemed to create or assume any duty of supervision.

A.4 Participant Waivers. Visitor shall be responsible for implementing appropriate participant safety protocols, which may include the use of participant acknowledgments or waivers, in each case to the extent permitted by applicable law.

A.5 Insurance. In addition to the insurance required under Section 9, Visitor shall maintain, or cause to be maintained, insurance specifically covering the Activity in such amounts and on such terms as are reasonable and customary for the Activity, naming Landlord and its affiliates as additional insureds.