

## **TERMS AND CONDITIONS OF SERVICE**

By requesting or accepting goods or services from Carcam Global Logistics LLC (from here on CARCAM), the Customer agrees to the following terms and conditions of service:

- (a) CARCAM acts as the direct agent of Customer in all cases, except to the extent CARCAM acts as a carrier.
- (b) Unless CARCAM otherwise agrees, CARCAM has complete freedom in choosing the means, routes, and procedures to be followed in handling, transporting, loading, unloading, storing, clearing, entering, delivering, distributing, or otherwise dealing with the goods, and in choosing the third parties to perform these services. All such third parties shall be considered as the agents of the Customer. Advice by CARCAM to Customer that a particular person has been selected to render services shall not be construed to mean that such person will render such services.
- (c) Quotations by CARCAM are for informational purposes only and are subject to change without notice. No quotation binds CARCAM unless CARCAM agrees to handle or transport the goods at specific rates and payment terms.
- (d) By appointing CARCAM to provide Services, as defined herein, Customer expressly accepts these Service Terms as of the date the Services were first provided by CARCAM to Customer. In the event CARCAM issues a document in connection with Services, such as an air waybill, sea waybill, ocean bill of lading, road waybill, warehouse receipt, or a written and signed agreement, the terms set forth in such other document(s) shall govern those Services to the extent they are inconsistent with these Service Terms.
- (e) The Service Terms are subject to all mandatory applicable legislation, treaties, or conventions, and nothing herein shall be construed as a waiver by CARCAM of any of its rights or as an increase of any of its responsibilities or liabilities under such legislation, treaties, or conventions.

### **1. Customer must:**

- (a) provide and disclose all documents and information required to handle, transport, load, unload, store, clear, enter, deliver, distribute, and otherwise deal with goods (including commercial invoices in proper form and number, other documents necessary or useful in the preparation of the customs entry, and such further information to enable CARCAM to perform services, including the dutiable value, weights, measures, number of pieces, packages, cartons or containers, condition of the goods, classification, country of origin, genuineness of the goods and any mark or symbol associated with them, Customer's right to export, import and/or distribute the goods, and the admissibility of the goods, pursuant to Law, all in the

languages of and as may be required by the Laws of the country of origin or of destination);

- (b)** Immediately advise CARCAM of any errors, discrepancies, incorrect statements, or omissions in any document or other information.
- (c)** Review all documents, declarations, security filings, and other submissions prepared or filed with any Governmental Unit or any other Person.
- (d)** Maintain all records required under §§ 508 and 509 of the Tariff Act (19 U.S.C. §§ 1508 and 1509), as amended, or other applicable Law. Unless otherwise agreed, CARCAM shall only keep such records that applicable Law requires CARCAM itself to maintain but shall not act as a “record-keeper” or “third-party recordkeeper” for Customer. CARCAM has no liability for any action taken or fines or penalties assessed by any Governmental Unit because Customer fails to comply with any Law.
- (e)** Represent, warrant, and procure the accuracy, sufficiency, and completeness of all documents and information furnished to CARCAM. CARCAM has no duty to inquire into the accuracy, sufficiency, or completeness of any documents or information and in no instance shall be charged with information that Customer fails to give in writing. CARCAM may rely on all documents and information furnished to Carcam. If Customer fails to perform any obligation, CARCAM may use its judgment in connection with the goods.
- (f)** Represent, warrant and agree that it is and will remain in compliance with all applicable Laws, including anti-corruption Laws such as the U.S. Foreign Corrupt Practices Act (“FCPA”) and the U.K. Bribery Act (“UKBA”); the U.S. Export Administration Regulations (“EAR”) administered by the U.S. Commerce Department’s Bureau of Industry and Security (“BIS”); the International Traffic in Arms Regulations (“ITAR”) administered by the U.S. State Department’s Directorate of Defense Trade Controls (“DDTC”); the U.S. Anti-Boycott regulations, and the various U.S. economic sanctions programs administered by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”), and that the information the Customer provides to CARCAM in connection with Customer’s compliance with all such applicable Laws is true and complete.
- (g)** Comply with all applicable Laws of any country or other jurisdiction to, from, though, over or in which any goods may be carried, including all applicable Laws relating to the marking, packing, carriage, storage, clearance, or delivery of the goods. The customer represents, warrants, and agrees that the export jurisdiction and classification of all goods is correct and that it shall immediately notify CARCAM in writing of any changes to such information. Customer further represents, warrants, and agrees that all goods are properly marked, addressed, and packaged to withstand ocean transport, air transport, and ground transport.

## **2. CARCAM obligations:**

- (a) CARCAM is not liable to the Customer for loss, damage, expense or delay due to the Customer's failure to comply with these Terms and Conditions. Customer shall indemnify and hold CARCAM harmless against all claims, losses, or damages arising from the conduct of Customer or any of its officers, directors, employees, agents, owners, or other Persons working for or with Customer under these Terms and Conditions that constitutes a violation of the Customer's obligations, representations, warranties, and agreements contained herein.
- (b) Unless otherwise agreed, CARCAM has no obligation to take any pre- or post-Customs release action, including obtaining binding rulings, advising of liquidations, filing of petitions and/or protests, etc.
- (c) When CARCAM prepares and/or issues a Transport Document or Storage Document, CARCAM has no obligation to specify thereon the number of pieces, packages and/or cartons, etc., or the condition of the goods.
- (d) Unless CARCAM agrees, CARCAM has no obligation to procure insurance. If CARCAM agrees to procure insurance, CARCAM has the right to select the insurance companies and underwriters. The insured shall have recourse against the insurer only and not against Carcam. The customer is responsible for all insurance premiums and for Carcam charges to arrange for insurance.
- (e) CARCAM has no obligations other than those set forth in these Terms and Conditions or in any Transport Document or Storage Document issued by Carcam. Except as specifically set forth in these Terms and Conditions, CARCAM makes no express or implied warranties in connection with its services.
- (f) If any part of the Service Terms is to any extent in conflict with such mandatory legislation, treaties, or conventions, such part shall be deemed stricken to that extent and no further.

## **3. Definitions.**

- (a) "CARCAM" shall mean the members of the Carcam Global Logistics LLC group of companies, including its parents, subsidiaries, affiliated and related companies, together with their agents and/or representatives.
- (b) "Customer" shall mean the person for which CARCAM is rendering Services, as well as its principals, agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehouse workers, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these Service Terms to all such entities.

- (c) "Documentation" shall mean all information received directly or indirectly from the Customer, whether in paper or electronic form.
- (d) "Services" shall mean any services provided by CARCAM in its normal course of business, including, but not limited to, customs brokerage, freight forwarding, drayage, transportation management and/or brokerage, trade services consulting, Warehouse Services, and other logistics services.
- (e) "Warehouse Services" shall mean any transloading, warehousing, cross-docking, consolidation, and other similar services, including related ancillary services such as loading/unloading, packing, crating, and handling, that occur in a facility or on a premises owned, leased, or operated by CARCAM.

#### **4. Role of CARCAM.**

- (a) CARCAM acts as an agent of Customer when performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with government agencies.
- (b) CARCAM also acts as an agent of Customer when performing "Direct IATA" airfreight services or the services of an ocean freight forwarder under 46 CFR 515.2(m)(1). CARCAM acts as a principal with respect to all other Services provided to Customer. With respect to any road transportation services performed in the U.S. it is understood and agreed that CARCAM shall not provide road transportation services to Customer as a carrier. The insertion of CARCAM' name as a carrier on the bill of lading for any rail or road shipment serviced hereunder is prohibited and shall not change CARCAM' status to that of a carrier.
- (c) CARCAM is not obligated to accept tenders for shipment, and CARCAM may reject any Customer booking request or shipment tender for any reason.
- (d) CARCAM shall not be responsible for failure to secure requested space, refusal of a shipment, shipment delays, cancellations, or rolls of containers.

#### **5. Limitation of Actions.**

Unless subject to a specific statute or international convention, all claims against CARCAM, including claims for overcharges, arising out of, or related to the Services must be made in writing and received by CARCAM within fifteen (15) days of the event giving rise to the claim (or, for customs brokerage, within ten (10) days of the liquidation of the entry). Failure to give CARCAM timely written notice of claim as provided for herein shall constitute a forfeiture by Customer of the right to assert that claim against CARCAM and shall be a complete defense to any suit or action commenced by Customer. All suits against CARCAM must be filed and properly

served on CARCAM within (6) months from the date of the loss or the event giving rise to the claim.

## **6. Quotations Not Binding.**

Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by CARCAM to the Customer are given based on immediate acceptance and are subject to change without notice. No quotation shall be binding upon CARCAM unless CARCAM in writing agrees to undertake the Services at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between CARCAM and the Customer.

Quotations are made based on information supplied by the customer on the goods (nature, number, weight, volume) or the vessels, taking particularly in consideration the nature or the scope of the services to be provided, and in accordance with the current tariffs, laws, regulations, and international conventions. They can be revised or suspended at any time, particularly in the event of the modification of the above-mentioned tariffs, laws, regulations, conventions or currency exchange rates, the interruption of traffic on the planned route, and, more generally, in the event of modification of the basic conditions of the quotation or the normal conditions of operation or execution caused by any unforeseen circumstances. Prices do not include levies, fees, duties, and taxes due, particularly under fiscal or customs legislation, nor any other possible ancillary costs. Prices quoted are valid only if they have been accepted within 15 days. If one or more of the basic elements are modified after the quotation has been made, the original quotation shall be modified accordingly.

## **7. Customer Representations, Warranties, and Covenants.**

Customer represents and warrants that it is the lawful owner of or has the legal right to ship, receive, and/or import the goods and has the right and authority to contract with CARCAM for the Services contemplated by these Service Terms relating to those goods.

**(a)** Customer shall disclose and provide to CARCAM all instructions, documents, and information required or necessary for CARCAM to import, export, or enter the goods or to perform the Services. Customer represents and warrants that all instructions, documentation, and information supplied by or completed by or on behalf of Customer is timely, complete, and accurate.

**(b)** Customer acknowledges that, per applicable laws and regulations, Customer is required to review and confirm the correctness of all documents and declarations prepared and/or filed with U.S. Customs & Border Protection or the customs authority of the territory in which the services are being performed, other Governmental Authorities (as defined below), and/or other third parties. Customer further acknowledges that in preparing and submitting customs entries, export

declarations, applications, security filings, documentation and/or other required data, CARCAM relies on the correctness of all documentation and information furnished by Customer. Customer shall use reasonable care to ensure the correctness of all such documentation and information, and shall immediately advise CARCAM of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on behalf of Customer.

- (c) Customer shall comply in all respect with all customs, import, and export laws, and all other applicable laws, rules, regulations, and orders of any Governmental Authority. "Governmental Authority" means any federal, state, provincial, territorial, municipal, local, or foreign court or governmental agency, authority, instrumentality or regulatory or legislative body.
- (d) Customer shall comply fully with all commodity restrictions, security, information, customs, packaging, and labelling requirements applicable to any Goods, as established by the applicable laws and regulations in force in the relevant territories. Customer shall cause all Goods to be properly and sufficiently prepared, stowed, packed, and labelled in compliance with any applicable laws or regulations and in a manner appropriate for usual shipping and logistics operations as envisaged by the Service to be performed under this Agreement. Prior to tendering Goods to CARCAM for shipment, Customer shall notify CARCAM in writing of any special precautions necessitated by the nature, weight, or condition of the Goods and of any statutory duties specific to Goods with which CARCAM may need to comply.
- (e) Customer shall defend, indemnify, and hold CARCAM harmless from and against all claims, liabilities, losses, costs, and expenses (including attorneys' fees) by reason of the Customer's breach of any term of this Section.

## **8. Force Majeure.**

Neither party shall be liable for damage to goods or delays and/or defaults in its performance due to causes beyond its reasonable control, including, but not limited to: acts of God, or of the public enemy; fire or explosion; flood; actions of the elements; war; acts of terrorism; pandemics or public health emergencies; cyber-attacks; closing of the public roads; embargoes; quarantine; labor disputes; failure of transportation; acts or requests of any governmental authority (any such event, a "Force Majeure Event"). In such an event, CARCAM reserves the right to amend any tariff or negotiated freight or logistics rates, on one day's notice, as necessary to provide the requested service.

## **9. Insurance.**

Unless requested to do so in writing and confirmed to Customer in writing prior to a shipment's departure, CARCAM shall be under no obligation to procure insurance on Customer's behalf for such shipment. In all cases where insurance is procured on

Customer's behalf, Customer shall pay all premiums and costs in connection with procuring requested insurance. 8. Disclaimers; Limitation of Liability.

- (a)** Except as specifically set forth herein, CARCAM makes no express or implied warranties in connection with its Services. CARCAM shall endeavor to perform Services within a reasonable time but no date or time for completion or delivery is fixed and CARCAM shall have no liability arising out of or related to delivery dates or times except by written agreement in advance of Services commencing.
- (b)** With respect to Warehouse Services, CARCAM shall not be liable for any loss of or damage to goods tendered, stored, or handled however caused, unless such loss, damage, or liability resulted from the failure by CARCAM to exercise such care in regard to them as a reasonably careful warehouseman would exercise under like circumstances, and CARCAM is not liable for damages that could not have been avoided by the exercise of such care.
- (c)** With respect to all other Services governed by these Service Terms, CARCAM shall only be liable for its negligent acts that are the direct and proximate cause of any injury to the Customer, including loss or damage to the Customer's goods. CARCAM shall in no event be liable for the acts of third parties.
- (d)** In connection with Services governed by these Service Terms, Customer may obtain increased limits of liability, up to the actual or declared value of the shipment or transaction, by requesting such increased limits and agreeing to make payment therefor, which request must be confirmed in writing by CARCAM prior to rendering Services.
- (e)** In the absence of increased limits under (d) above, CARCAM liability shall be limited, in all cases whether a claim is based on contract, tort, or otherwise, to the following:

  - (i) where the claim arises from activities other than those relating to activities described in (ii), (iii), or (iv) below, \$50 per shipment or transaction;
  - (ii) where the claim arises from Customs brokerage business, \$50 per entry or the amount of brokerage fees paid to CARCAM for the entry, whichever is less.
  - (iii) where the claim arises from Warehouse Services, the lesser of (1) \$0.25 per pound of lost or damaged goods, or (2) Customer's actual cost of the lost or damaged goods (i.e., manufactured cost, plus incoming freight charges and taxes, less manufacturer's allowances discounts and credits or similar deductions).
  - (iv) where the claim arises from activities relating to domestic surface transportation, \$50 per shipment or \$0.50 per pound of cargo lost or damaged, whichever is less.

(f) Customer will (or will cause its consignee to) ensure that the goods, its packaging, and its container or trailer are held for inspection at the delivery point or is otherwise made available for inspection by CARCAM and/or the carrier(s). The customer is entitled to mitigate its damages.

The customer agrees not to withhold or set off payments to CARCAM in case of a claim for loss or damage to goods.

IN NO EVENT SHALL CARCAM BE LIABLE OR RESPONSIBLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, EVEN IF IT HAS BEEN PUT ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING IS A SEPARATE, ESSENTIAL TERM OF THESE SERVICE TERMS AND SHALL BE EFFECTIVE EVEN IN THE EVENT OF THE FAILURE OF ANY REMEDY, EXCLUSIVE OR NOT. CARCAM' LIABILITY TO CUSTOMER OR TO ANY THIRD PARTY UNDER OR IN ANY MANNER RELATED TO THESE SERVICE TERMS SHALL NOT IN THE AGGREGATE EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CARCAM PURSUANT TO THESE SERVICES TERMS DURING THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, LESS CARCAM' COSTS AND EXPENSES FOR PURCHASED TRANSPORTATION.

#### **10. Payment of Charges/Duty Advance.**

All duties and taxes owing in connection with customs entries must be paid by Customer directly to the applicable governmental agencies unless CARCAM agrees in writing to advance such duties and taxes. CARCAM will invoice Customer for the Services in accordance with the rates, charges, and provisions set forth in any quote offered by CARCAM and accepted by Customer.

CARCAM is also entitled to impose charges in accordance with CARCAM then-current rules and tariffs, as amended from time to time, which are available upon request. All charges must be paid within credit terms extended by CARCAM to Customer, and without deduction, set-off, or counterclaim. CARCAM may, in its sole discretion, establish credit limits to Customer, which limits may be revised from time to time in CARCAM' sole discretion. Customer must notify CARCAM in writing of any dispute regarding a CARCAM invoice within fifteen (15) days of the invoice date. Failure by Customer to notify CARCAM of such invoice dispute shall constitute Customer's acceptance of the invoice in full and Customer will be deemed to have waived all claims and defenses regarding such invoice.

#### **11. Indemnification/Hold Harmless.**

Customer shall indemnify CARCAM and hold CARCAM harmless from and against all charges, claims, damages, liabilities, judgments, costs, expenses, payments or losses of any kind (including for purchase price, freight, storage, demurrage, detention, duties, taxes, fines, penalties, incidental, indirect, consequential or exemplary damages, and



Carcam litigation expenses and reasonable expenses, including attorneys' fees) arising from or related to any one or more of the following:

- (a) any breach of any representation, warranty, covenant, agreement, undertaking, consent, or waiver by Customer.
- (b) any failure of Customer to pay or perform when due its obligations to CARCAM or to any other Person (including any Governmental Unit, carrier, vendor, holder or assignee of any Transport Document, Storage Document, or other commercial document).
- (c) Customer's violation of any Law or failure to disclose, correct, or complete any entry, export, security or other data or documents.
- (d) any other claim by any such other Person, in each case, even if not due to any negligence or other fault of Customer. If any action, claim, suit, or proceeding is brought against Carcam, CARCAM shall give notice in writing to the Customer by mail to the address on file with Carcam. At the Customer's expense CARCAM may employ attorneys and other professionals of its own choice in connection with any indemnified matter. Customer's indemnity obligation in this paragraph shall not apply to the extent a court of competent jurisdiction enters a final, non-appealable judgment, specifically finding that the charge, claim, damage, liability, judgment, cost, expense, payment, or loss was directly and proximately caused by Carcam gross negligence or willful misconduct.

## **12. C.O.D. or Cash Collect Shipments.**

CARCAM shall use reasonable care regarding written instructions relating to "Cash/Collect on Deliver (C.O.D.)" shipments, bank drafts, cashier's and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for the shipment.

## **13. Costs of Collection.**

In any dispute involving monies owed to CARCAM, CARCAM shall be entitled to all costs of collection, including reasonable attorney's fees and interest at 15% per annum or the highest rate allowed by law, whichever is less.

## **14. General Lien and Right to Sell Customer's Property.**

CARCAM shall have a general and continuing lien on any and all property and documents relating thereto of Customer coming into CARCAM actual or constructive possession, custody or control or in route, which lien shall survive delivery, for all charges (including but not limited to storage charges incurred in order to preserve the property until sale),

expenses or advances owed to CARCAM with regard to the shipment against which the lien is asserted or on any prior shipment(s). If such claim remains unsatisfied for 30 days after demand for its payment is made, CARCAM may sell at public auction or private sale, upon 10 days written notice, registered mail to Customer, the property or so much as may be necessary to satisfy such lien and the costs of recovery and apply the net proceeds of such sale to the payment of the amount due CARCAM. Any surplus from such sale shall be transmitted to the Customer, and the Customer shall be liable for any deficiency in the sale. To protect its lien rights, CARCAM reserves the right to require advance payment of all charges prior to shipment or release of Customer's goods.

#### **15. Non-Acceptance of Delivery.**

If delivery of the goods or any part thereof is not taken by the Customer or consignee at delivery, CARCAM shall be entitled to store the goods or any part thereof at Customer's sole risk of loss. The cost of storage of the goods and of transportation to and from the warehouse shall be paid by the Customer to CARCAM upon demand. The failure of Customer to pay for such storage and transportation charges upon demand shall give rise to CARCAM's lien and sale rights set forth in the previous section.

#### **16. No Duty to Maintain Records for Customer.**

Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and §1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

#### **17. Obtaining Binding Rulings, Filing Protests.**

Unless requested by Customer in writing and agreed to by CARCAM in writing, CARCAM shall be under no obligation to undertake any pre- or post-Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petitions and/or protests, etc.

#### **18. No Duty to Provide Licensing Authority.**

Unless requested by Customer in writing and agreed to by CARCAM in writing, CARCAM shall not be responsible for determining licensing authority, obtaining any license or other authority pertaining to the export from or import into the United States, including but not limited to determining applicability of an Export Classification Control Number (ECCN) or EAR99 classification, or determining whether a destination is an embargoed or sanctioned country, whether a consignee or recipient is a denied party or party of concern, or whether a use is a prohibited end use.

#### **19. Hazardous Materials.**

Goods of an inflammable, explosive, radioactive, corrosive, toxic or other dangerous nature may not be tendered for carriage unless written notice of their nature and proper hazardous classifications sufficient to provide Carrier with all information necessary to evaluate the risk of carriage has been given to Carrier, and Carrier has given written consent. The nature and risk of the cargo must be clearly marked on the outside of the packages. The goods must be properly packed to prevent any damage to the Carrier, all other persons, and the environment. All notices, disclosures, marks, and packing shall, at a minimum, meet all applicable regulations or statutes. Merchant shall be responsible for all damages, including consequential damages, and expenses arising out of its failure to comply with the foregoing provisions of this paragraph, and shall indemnify and hold Carrier harmless from any resulting loss, damage, or expense, including attorney's fees.

#### **18. Prohibited Items.**

Except by written agreement prior to commencing Services, CARCAM will not accept or deal with goods with a replacement value that exceeds \$100,000; bullion; coin; precious stones; jewelry; valuables; antiques; pictures; human remains; livestock; plants; arms; pharmaceuticals; currency; fresh produce; oversize or overweight shipments; coiled or rolled products; commodities requiring protection from heat or cold or temperature control equipment; or radioactive material.

#### **19. Severability.**

In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in Full force and effect. CARCAM decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or invalidate any other provision herein.

#### **20. Governing Law.**

These Terms and Conditions shall be construed according to the Laws of the State of Florida, without regard to conflict of law principles. Customer irrevocably consents to non-exclusive jurisdiction and venue for all proceedings related to disputes involving Customer and CARCAM in the federal or state courts sitting in Broward County, Florida. The customer irrevocably consents to the commencement and transfer of all proceedings to such courts. The customer also irrevocably consents to the commencement and to the transfer of venue in any action to any other venue in which CARCAM is party to an action brought by itself or another Person. Customer waives all defenses based on inconvenience of forum in all actions commenced in or transferred to the venues agreed to above.

#### **21. No Liability for The Selection or Services of Third Parties and/or Routes.**

Unless Services are performed by persons or firms engaged pursuant to express written instructions from the Customer, CARCAM shall use reasonable care in its selection of third parties, or in selecting the means, route, and procedure to be followed in the handling, transportation, clearance, and delivery of the shipment. Advice by CARCAM that a particular person or firm has been selected to render Services with respect to the goods shall not be construed to mean that CARCAM warrants or represents that such person or firm will render such Services, nor does CARCAM assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and CARCAM shall not be liable for any delay or loss or damage of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party. All claims related to the acts or omissions of a third party shall be brought by the Customer solely against such party and/or its agents. In connection with any such claim, CARCAM shall cooperate with the Customer, who shall be liable for any charges or costs incurred by CARCAM.

## **22. Air and Ocean Services as Agent.**

In those instances where CARCAM is arranging for transportation by air or ocean, but does not issue its own air waybill or bill of lading, the rights and obligations as between CARCAM and Customer will be governed by these Service Terms, and Customer acknowledges and agrees that its rights and obligations with respect to the underlying air or ocean carrier will be governed by the waybill or bill of lading issued by the carrier.

## **23. Declaring Higher Value to Third Parties.**

Third parties to whom the goods are entrusted may limit their liability for loss or damage. CARCAM will request increased limits only upon specific written instructions from the Customer, who must agree to pay any charges therefor. In the absence of written instructions or the refusal of the third party to agree to increased limits, at CARCAM discretion, the goods may be tendered to the third party, subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

## **24. Compensation of CARCAM.**

The compensation of CARCAM for its services and advances shall be included with and is in addition to the rates and charges of all third parties to handle, transport, load, unload, store, clear, enter, deliver, distribute, or otherwise deal with the goods, and shall be exclusive of any brokerage, commissions, dividends, or other revenue received by CARCAM from insurers or other Persons. Customer shall pay all costs, expenses, and fees (including reasonable attorneys' fees) incurred by CARCAM in connection with

- (a) the enforcement of payment or performance of any indebtedness or obligation of Customer (including by any action or participation in, or in connection with, a bankruptcy or insolvency proceeding, wherever pending) or

(b) any dispute between CARCAM and Customer or any other Person. All amounts owed to CARCAM must be paid in the lawful currency specified in Carcam invoices in immediately available funds, without abatement, counterclaim, set-off, recoupment, and free and clear of, and without any deduction or withholding for, any taxes, duties, confiscation, detention, or other matters. If any amount is not paid when due, it shall accrue interest until paid at one and one-half percent (1.5%) per month (19.72% per annum).

## **25. Removal of Goods.**

In the event of default, CARCAM may, upon written notice of not less than thirty (30) days to the Customer and any other person known by CARCAM to claim an interest in the goods, require the removal of any goods. Such notice shall be given to the last known place of business of the person to be notified. If goods are not removed before the end of the notice period, CARCAM may sell or dispose of the goods in CARCAM sole discretion. If CARCAM in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of CARCAM warehouseman's' lien before the end of the thirty (30) day notice period referred to above, CARCAM may specify in the notification any reasonable shorter time for removal of the goods and if the goods are not removed, may sell or dispose of the goods in CARCAM sole-discretion. If because of a quality or condition of the goods of which CARCAM had no notice at the time of deposit the goods are a danger to the warehouse, or to persons and property within the warehouse, CARCAM may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If CARCAM after a reasonable effort, is unable to sell the goods it may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale or return of the goods, CARCAM may remove the goods from the warehouse and shall incur no liability by reason of such removal.

## **26. Payments- Credit Terms**

Carcam standard payment terms require receipt of cash before performance of services. CARCAM may in its sole discretion extend credit to the Customer. The amount and terms of credit are subject to CARCAM periodic review. CARCAM may in its sole discretion increase, decrease, suspend, or revoke credit at any time for any reason and without advance notice. Except to the extent CARCAM otherwise agrees, CARCAM has no obligation to make or incur any expense, guarantee, or advance for any purpose.

Without limiting the foregoing, CARCAM reserves the right to require Customer to pay all final invoices owed prior to any goods or assets being removed from the warehouse. These Service Terms are based on the Terms and Conditions of Service promulgated by the National Customs Broke

## **27. Limitation of Liability**

- (a)** Except as specifically set forth herein, CARCAM makes no express or implied warranties in connection with its Services. CARCAM shall endeavor to perform Services within a reasonable time but no date or time for completion or delivery is fixed and CARCAM shall have no liability arising out of or related to delivery dates or times except by written agreement in advance of Services commencing.
- (b)** With respect to Warehouse Services, CARCAM shall not be liable for any loss of or damage to goods tendered, stored, or handled however caused, unless such loss, damage, or liability resulted from the failure by CARCAM to exercise such care in regard to them as a reasonably careful warehouseman would exercise under like circumstances, and CARCAM is not liable for damages that could not have been avoided by the exercise of such care.
- (c)** With respect to all other Services governed by these Service Terms, CARCAM shall only be liable for its negligent acts that are the direct and proximate cause of any injury to the Customer, including loss or damage to the Customer's goods. CARCAM shall in no event be liable for the acts of third parties.
- (d)** In connection with Services governed by these Service Terms, Customer may obtain increased limits of liability, up to the actual or declared value of the shipment or transaction, by requesting such increased limits and agreeing to make payment therefor, which request must be confirmed in writing by CARCAM prior to rendering Services.

In the absence of increased limits under (d) above, CARCAM liability shall be limited, in all cases whether a claim is based on contract, tort, or otherwise, to the following:

- (i) where the claim arises from activities other than those relating to activities described in (ii), (iii), or (iv) below, \$50 per shipment or transaction.
- (ii) where the claim arises from Customs brokerage business, \$50 per entry or the amount of brokerage fees paid to CARCAM for the entry, whichever is less.
  - (a) where the claim arises from Warehouse Services, the lesser of (1) \$0.25 per pound of lost or damaged goods, or (2) Customer's actual cost of the lost or damaged goods (i.e., manufactured cost, plus incoming freight charges and taxes, less manufacturer's allowances discounts and credits or similar deductions).
  - (b) where the claim arises from activities relating to domestic surface transportation, \$50 per shipment or \$0.50 per pound of cargo lost or damaged, whichever is less.

Neither CARCAM nor any carrier shall have any liability for loss, damage, or delay of goods or shipments occurring in Mexico.

- (e)** Customer will (or will cause its consignee to) ensure that the goods, its packaging, and its container or trailer are held for inspection at the delivery point or is otherwise made available for inspection by CARCAM and/or the carrier(s). The customer is entitled to mitigate its damages. The customer agrees not to withhold or set off payments to CARCAM in case of a claim for loss or damage to goods.

In the absence of proven negligence or other fault by CARCAM while the goods are in the physical custody of CARCAM, CARCAM has no liability whatsoever for any loss, damage, expense, or delay.

- (f)** Subject to the further limitations of liability in above subparagraphs, Carcam liability for any loss, damage, expense, or delay resulting from the proven negligence or other fault of CARCAM is limited as follows:

- (i) if the claim arises from Carcam Customs brokerage services, the lesser of fifty dollars (US) (\$50) per entry or the amount of brokerage fees paid to CARCAM for the entry.
- (ii) (ii) if the claim relates to transportation services covered by a Transport Document or storage, distribution or handling services covered by a Storage Document issued by Carcam, the monetary limits on Carcam liability provided for in the Transport Document or Storage Document; or
- (iii) (iii) if clauses (i) and (ii) do not apply, the lesser of fifty dollars (US) (\$50) per shipment or the commercial invoice value of the shipment. However, the applicable amount of any partial loss, damage, expense, or delay shall be adjusted pro rata.

- (g)** Customer acknowledges that CARCAM and third parties to whom goods are entrusted limit their liability for loss, damage, expense, or delay. Customer may obtain an increase in the liability of CARCAM above the limits set forth in subparagraph (f) if CARCAM agrees to the request before it renders any services, and the agreement sets forth the limit of Carcam liability and the additional compensation received or paid for the added liability. Otherwise, any valuation that Customer places on the goods shall be considered for export or customs purposes only.

AS A FURTHER LIMITATION ON CARCAM LIABILITY, CUSTOMER AGREES THAT THE MAXIMUM AGGREGATE OF CARCAM'S LIABILITY TO CUSTOMER FOR ANY CHARGES, CLAIMS, DAMAGES, LIABILITIES, JUDGMENTS, COSTS, EXPENSES, PAYMENTS, OR LOSSES OF ANY KIND DURING ANY CALENDAR YEAR, WHETHER OR NOT THE SAME ARISE OUT OF OR RELATE TO SERVICES PERFORMED BY CARCAM, SHALL BE NO MORE THAN THE LESSER OF THE FOLLOWING:

- (a) FIVE THOUSAND DOLLARS (US) (\$5,000).
- (b) ACTUAL, DIRECT DAMAGES; OR

(c) THE AGGREGATE SERVICE CHARGES PAID BY CUSTOMER TO CARCAM DURING THE SAME PERIOD.

Customer hereby waives all rights and remedies under the Carmack Amendment. (i) Goods may be entrusted to third parties subject to all conditions as to limitations of liability for loss, damage, expense, or delay and to all rules, regulations, requirements, and conditions appearing in Transport Documents, Storage Documents, receipts, tariffs, or other documents issued by such Persons. CARCAM has no additional liability for any loss, damage, expense, or delay caused by the acts or omissions of third parties.

**28. Limitation of Actions.**

(a) With respect to any act or omission by Carcam, Customer must present to CARCAM at CARCAM office.

- (i) a preliminary notice of claim within seven (7) days after the loss or incident giving rise to the claim and
- (ii) a formal written sworn proof of claim within one ninety (90) days from the date of loss or incident giving rise to the claim. Failure to satisfy these requirements is a complete defense to any suit or action by Customer, to the extent applicable Law does not mandatorily provide otherwise.

(b) As an additional requirement, any suit to recover on a claim against CARCAM must be commenced within one (1) year after the date of delivery or release of the goods, the date when the goods should have been delivered or released, or the date when any other loss, damage, expense, or delay first arose.

**29. Sale of Perishable Goods.**

Perishable goods or live animals for which Customer gives no instructions for disposition may be sold or otherwise disposed of without any notice to the Customer, owner, or consignee, and payment or tender of the net proceeds of any sale after deduction of charges is equivalent to delivery of the goods. If for any reason a shipment is refused or remains unclaimed at any place or is returned, the Customer must still pay CARCAM for all charges and expenses in connection with the goods. Nothing obliges CARCAM to forward, enter or clear the goods or arrange for their disposal.

**30. Intellectual Property.**

Carcam intellectual property provided, demonstrated or used in connection with any services, including databases, software, web pages, programs, processes and procedures, reports, manuals, presentations, patents, trademarks, copyrights, trade secrets, service marks, know-how and any other similar rights or intangible assets recognized under applicable Law (all of the foregoing, including source codes and similar



information, "Intellectual Property"), was developed and maintained at great expense, is of great value to Carcam, is confidential and proprietary, and shall remain the sole and exclusive property of CARCAM at all times. Without Carcam prior written consent, Customer shall neither directly nor indirectly attempt to or disclose, use, re-create, duplicate, decode, alter, change, disassemble, decompile, or reverse engineer any Intellectual Property. The customer acknowledges and agrees that a violation of any of the foregoing shall cause irreparable harm to Carcam.

### **31. Data Privacy.**

Customer represents, warrants, and agrees that it complies with all applicable privacy and data protection Laws with respect to information ("Customer Data") about contacts or clients of Customer or about other Persons that Customer provides to CARCAM to enable CARCAM to perform services. With respect to Customer Data, Customer acts as a "data controller" or similar term under applicable Law. Customer further represents, warrants, and agrees that it has obtained the proper consent from all data subjects to the disclosure and transfer of Customer Data to Carcam. In providing services to Customer, CARCAM may be required to share Customer Data with Governmental Units and may process Customer Data and thus act as a "data processor" or similar term under applicable Law with respect to such data and will process Customer Data in accordance with lawful instructions from Customer. CARCAM may use Customer Data as part of its customer account opening, general administration process (e.g., to carry out compliance, financial checks, invoicing, or debt recovery), and otherwise in performing services. The information may be transferred to or accessible from Carcam offices around the world.

### **32. Force Majeure.**

The Service Provider's liability shall, in any event, be discharged by the occurrence of Acts of God, defined as any event outside the Service Provider's control, including but not limited to the following: natural catastrophes, earthquake, typhoon, fire, explosions and floods caused by an Act of God, riots, popular movements, war, declared or not, revolution, rebellion, insurrection, civil disturbances, civil war, foreign war, acts of terrorism or sabotage, generalized looting, requisition, destructions ordered by government or by any other public authority, embargoes, epidemics, strikes by stevedores, all work stoppages in ports and transport companies, sub-contracted or not, lock-out, total or partial work obstructions, whatever the cause, by a public authority, proclamations, prohibitions, bans on the import, export or transit of goods, consequences of laws, regulations, circulars and all other administrative acts emanating from a public authority that lead to an Act of God, no availability or diversion of the means of transport or handling equipment, derailment, shipwreck...

### **33. Miscellaneous.**

Notwithstanding any course of dealing, course of conduct, course of performance, or usage of trade,

- (a)** Whenever reference is made to the Carcam agreement, acceptance, approval or consent, even if not specifically so stated such agreement, acceptance, approval or consent is not effective unless in writing and signed by a duly authorized officer of Carcam.
- (b)** Neither failure nor delay by CARCAM to exercise any right, remedy, power, or privilege operates as a waiver.
- (c)** no single or partial exercise of any right, remedy, power, or privilege by CARCAM precludes any other or further exercise thereof or the exercise of that or any other right, remedy, power, or privilege.
- (d)** no amendment, modification, rescission, waiver or release of all or part of these Terms and Conditions, any Transport Document, or any Storage Document is effective without the Carcam specific prior written approval.

CARCAM may change these Terms and Conditions. The applicable Terms and Conditions can be found on Carcam website, [www.carcamlogistics.com](http://www.carcamlogistics.com), are effective seven (7) days after such publication and may differ from the pre-printed terms. In the event of a conflict between these Terms and Conditions and the updated version on Carcam website in effect on the date that CARCAM commences services, the updated version controls.