

### TERMS & CONDITIONS

The applicable Bill of Lading and these Terms and Conditions (collectively, with the Bill of Lading, the "Agreement") shall apply to for-hire motor carrier transportation services provided by CarMax Auto Superstores, Inc. ("Carrier" or "CarMax") to the shipper ("Shipper"):

#### 1. Transportation Services.

- (a) By entering into this Agreement, Carrier agrees to transport the vehicle(s) identified on the Bill of Lading ("Vehicle(s)") to the destination address ("Destination") listed on the Bill of Lading ("Services").
- (b) Carrier shall only release the Vehicle(s) to the consignee listed on the Bill of Lading ("Consignee") and the Consignee's agents at the Destination.
- (c) The individual signing the Bill of Lading on behalf of Shipper represents and warrants that he or she has full authority from Shipper to purchase the Services.
- (d) Shipper shall pay the rate quoted by Carrier for the Services to Carrier before Carrier begins the Services, by either cash, ACH, certified funds, or check.
- (e) Shipper acknowledges and agrees to Carrier's use of contractors to complete any portion of the Services at Carrier's sole discretion.
- (f) Shipper shall not be entitled to any refund of or adjustment to the rate after Carrier has performed the Services or delivered the Vehicle(s) as contemplated in Section 6(c).

#### 2. Vehicle(s) Acceptance Criteria.

- (a) Shipper shall not place any personal property in the Vehicle(s) prior to the Services.
- (b) Shipper consents and agrees to cooperate with all of Carrier's efforts to confirm the ownership and identity of the Vehicle(s).
- (c) Carrier, in its sole discretion, may refuse to accept the Vehicle(s) for transportation if the Vehicle(s) poses a safety hazard, has any mechanical issues or defects, or is otherwise unsafe or impracticable to transport.
- (d) Any vehicle announced at a CarMax Auction as a no-runner shall not be eligible for the Services.

- 3. **Reasonable Dispatch.** Unless arranged or agreed to in writing or electronically, prior to shipment, Carrier is not bound to deliver the Vehicle(s) by a particular schedule or in time for a particular market but will transport the Vehicle(s) in the regular course of providing the Services. Carrier will notify Consignee when the Vehicle(s) has arrived at the Destination.

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### 4. Carrier Liability and Vehicle(s) Valuation.

- (a) Carrier shall not be liable for any pre-Services damage to the Vehicle(s).
- (b) Prior to executing this Agreement, Carrier and Shipper, or Shipper's agent, shall note any applicable pre-Services damage to the Vehicle(s) on the Bill of Lading ("Vehicle Walkaround"). If Shipper, or Shipper's agent, declines to be present for the Vehicle Walkaround, then Shipper agrees to be bound by Carrier's pre-Services damage notation on the Bill of Lading.
- (c) At the time the Vehicle(s) is delivered to the Destination, Consignee shall inspect the Vehicle(s) and mark any vehicle damage sustained during the Services on the Bill of Lading.
- (d) Carrier shall be liable for any loss or damage caused to the Vehicle(s) during the Services, except as provided in sub-section 4(g) of this Agreement.
- (e) Carrier's liability for loss or damage to the Vehicle(s) shall not exceed the total price listed on CarMax Wholesale Vehicle(s) Purchase Agreement ("Value") for each of the Vehicle(s). Carrier and Shipper agree that the actual value of the Vehicle(s) does not exceed the Value and that Carrier's liability shall not exceed this amount in accordance with 49 U.S.C. § 14706.
- (f) Carrier shall not be liable for any loss or damage to any personal property left in the Vehicle(s).
- (g) Carrier shall not be liable for any loss or damage or for any delay caused by an Act of God, the public enemy, the authority of law, the act or default of Shipper, riots or strikes, from a defect or vice in the property, or any related causes. Except in the case of its negligence, Carrier shall not be liable for loss, damage or delay which results from faulty or impassible highway, or by lack of capacity of a highway, bridge or ferry. The burden to prove Carrier negligence is on Shipper.

### 5. Claims.

- (a) Before Shipper may recover any loss or damage related to this Agreement, a claim must be filed, electronically or in writing, ("Claim") with Carrier in accordance with this Section 5. If a Claim is not filed or a civil action is not filed within the time limits set forth below, Carrier shall not be liable and such Claim will not be paid. A Claim must contain the following information: Shipper's name, telephone number, and e-mail address; Vehicle(s)' year, make, model, and VIN; description of damage; monetary amount or estimated amount of Claim; and photographs of the damage.
- (b) Shipper shall submit a Claim to Carrier at either: CarMax Home Office, Attn: Logistics, 12800 Tuckahoe Creek Parkway, Richmond, VA 23238; or [carmaxshippingclaims@carmax.com](mailto:carmaxshippingclaims@carmax.com).
- (c) A Claim for damage must be filed with Carrier not more than 9 months from the date of delivery. A Claim for loss must be filed with Carrier not more than 9 months from the date of the Bill of Lading.

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- (d) A civil action for loss or damage must be filed not more than 2 years after the date Carrier has given electronic or written notice that it has disallowed all or any part of the claim specified in the notice.

### 6. Vehicle(s) Delivery.

- (a) Carrier and Consignee shall coordinate a mutually agreeable time for Carrier to deliver the Vehicle(s) to the Destination (“Delivery”).
- (b) Consignee shall ensure that it, or someone authorized to receive the Vehicle(s) on its behalf, is available at Delivery.
- (c) If Consignee refuses to accept the Vehicle(s) by Carrier, Carrier is unable to deliver the Vehicle(s) because of fault or mistake of Shipper or Consignee, or Shipper advises and instructs Carrier to stop movement of the Vehicle(s) and hold it in transit, then Carrier’s liability thereafter immediately shall be that of a warehouseman. Carrier shall attempt to provide notice, by telephonic or electronic communication as provided on the face of the Bill of Lading. If Carrier is unable to contact Shipper or Consignee, then Carrier, in its sole discretion, may either (a) store the Vehicle(s) at a CarMax location or (b) store the Vehicle(s) in public storage. Shipper shall be responsible for any and all costs incurred by Carrier for Carrier acting as a warehouse man. If Carrier elects to store the Vehicle(s) at a CarMax location, then Carrier shall charge Shipper or Consignee \$25 per day per Vehicle. Any storage fees assessed by Carrier must be paid before Carrier will release the Vehicle(s) to Consignee.
- (d) If Carrier is instructed by Shipper, Consignee, or their agent to unload or deliver the Vehicle(s) at any other place besides the Destination, then after unloading or delivery of the Vehicle(s) the risk of loss or damage is not that of Carrier but is assumed by Shipper or Consignee.

### 7. Inoperable Vehicle(s) during the Services

- (a) In the event that the Vehicle(s) become inoperable due to no fault of Carrier or its contractors, Carrier shall not be required to complete the Services. If Carrier is unable to complete the Services because the Vehicle(s) become inoperable, then Carrier may issue Shipper a refund of the applicable rate or pro rata portion of the applicable rate, in Carrier’s sole discretion.
- (b) If the Vehicle(s) become inoperable during the Services, Carrier shall notify Shipper via the telephone number provided by Shipper to obtain Shipper’s instructions for the Vehicle(s). If Carrier is unable to make contact then Carrier shall be authorized to have the Vehicle(s) towed to the nearest repair facility, at Shipper’s sole expense.
- (c) Carrier shall not be liable for any expenses incurred under this Section 7 if the Vehicle(s) become inoperable during the Services.

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- 8. Hazardous Materials.** Shipper shall not include any hazardous materials, as defined in the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., as amended, and the regulations of the U.S. DOT made thereunder (“Hazardous Materials”), in the Vehicle(s). If Shipper includes any Hazardous Materials or dangerous goods in the Vehicle(s), then Shipper shall be liable for and indemnify Carrier against all loss, damage, injury, expense or claim of any kind or nature caused by such goods.
- 9. Authorization to Copy Driver’s License.** Shipper expressly consents to CarMax copying, retaining and using information from Shipper’s driver’s license or government identification card, including personal information, by means of photocopy, scan, swipe, accessing machine-readable information, or otherwise.
- 10. Independent Contractor.** Nothing in this Agreement creates any agency, joint venture partnership or other form of joint enterprise, employment or fiduciary relationship between the Parties. Carrier is an independent contractor and separate employer under this Agreement, not a joint employer. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement or undertaking with any third party or employee.
- 11. Force Majeure.** Carrier’s obligations to furnish Services shall be temporarily suspended during any periods when Carrier is unable to perform the services by reason of acts of God, public enemy, fire, floods, civil commotion, closing of public highways, governmental interference, and other situations beyond Carrier’s control.
- 12. Integration and Merger.** The Agreement and any writing contemplated in Section 3 of this Agreement, if applicable, supersedes any and all agreements, either oral or written, between the Parties with respect to the matters contained herein and contains all the agreements between the Parties with respect thereto. Any amendments to this Agreement must be in writing and signed by both parties.
- 13. Compliance with Laws.** Carrier and Shipper shall comply with all federal, state and local laws, regulations, and rules applicable to the transportation of the Vehicle(s).
- 14. Third Party Beneficiaries.** This Agreement does not confer any enforceable rights or remedies upon any person other than Carrier and Shipper and it is agreed and understood that there are no third-party beneficiaries.
- 15. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, to its affiliate or in connection

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with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

- 16. Amendments; Waivers.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party. No failure to exercise or delay in exercising any rights or remedies under this Agreement will be deemed a waiver of such rights or remedies or any other rights or remedies, and any waiver of either Party's rights or remedies under this Agreement shall only be effective when set forth in writing and executed by the waiving Party.
- 17. Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof.
- 18. Construction.** Unless the context requires otherwise, all words used in this Agreement in the singular shall extend to and include the plural, all words in the plural number shall extend to and include the singular and all words in any gender shall extend to and include all genders. This Agreement has been fully negotiated by the Parties and shall not be construed against either Party as the drafting Party. The section headings in this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement.
- 19. Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflicts of laws rules. The Parties agree that any dispute arising out of or related to this Agreement (each, a "Dispute") shall be litigated exclusively in the United States District Court for the Eastern District of Virginia, Richmond Division ("District Court") and any reviewing appellate court thereof. In the event that the District Court lacks subject matter jurisdiction over a Dispute, then, and only then, the Parties agree that such Dispute shall be litigated exclusively in the Circuit Court of Goochland, Virginia ("Circuit Court") and any reviewing appellate court thereof. The Parties hereby consent to the personal jurisdiction of the District Court and the Circuit Court for the resolution of such disputes. The Parties further waive any objections based on venue or forum non conveniens to any proceeding brought in accordance with this Section.