

This is a legal agreement between Carvajal Consultants, Inc. d/b/a Webborne Xolutions, a Florida corporation ("CCI"), having its principal place of business at 7265 SW 138 Ave., Miami, Florida 33183; and the customer which is a signatory of the Service Order Form ("CLIENT") for the use of the eCourierManagement Service and/or eCargoManagement Service rendered by CCI. If you do not agree to the terms and conditions in this Agreement, do not register or use the eCourierManagement Service and/or the eCargoManagement Service. By completing the registration or the Service Order Form and using the eCourierManagement Service and/or eCargoManagement Service, you agree to the terms and conditions of this Agreement. If you do not agree to all of the terms and conditions of this Agreement, please do not complete the registration, Service Order Form and refrain from using the eCourierManagement Service and/or eCargoManagement Service.

## BACKGROUND

CCI is a software development company that has developed a web based computer service to provide international transportation businesses, with online business application and business web site, known as eCourierManagement or eCargoManagement.

Under the terms and conditions set forth in this Agreement, CLIENT desires to retain the services indicated in the Service Order Form provided by CCI, and CCI is willing to render such services. Unless explicitly stated otherwise, any new features that augment, modify or enhance the current services, will be subject to this Agreement.

**NOW, THEREFORE**, in consideration of it is CCI's desire and intention that CLIENT be permitted to use eCourierManagement and/or eCargoManagement as a tool to conduct its business, subject to the terms and conditions of this Agreement, the parties, intending to be legally bound, agree as follows:

### 1. THE SERVICE

eCourierManagement and eCargoManagement includes software components created by CCI, and other components from other providers, used with their permissions, and optionally may include associated media, electronic documentation, or associated materials (collectively the "SOFTWARE-PRODUCT").

The information generated by the use of the SOFTWARE-PRODUCT ("DATA"), is going to be stored by CCI in one of its servers ("DATA-STORAGE").

CCI keeps the SOFTWARE-PRODUCT to be accessed online ("SERVICE-ACCESS").

CCI or one of its affiliated distributors provides support for the SOFTWARE-PRODUCT ("SERVICE-SUPPORT").

eCourierManagement and eCargoManagement could optionally include website designs and software components created by CCI, and other components from other providers, used with their permissions, and optionally may include associated media, electronic documentation, or associated materials (collectively the "WEBSITE-ENGINE"), all of this with the text and information provided by CLIENT, form the CLIENT's web site (collectively the "WEBSITE"), as an integral part of this, CCI provides hosting for the WEBSITE ("HOSTING").

The SOFTWARE-PRODUCT, the SERVICE-ACCESS, the DATA-STORAGE, and the SERVICE-SUPPORT, altogether are the business automation service provided by CCI ("BUSINESS-AUTOMATION").

The WEBSITE-ENGINE and the HOSTING, altogether are the web presence service provided by CCI ("WEB-PRESENCE").

The BUSINESS-AUTOMATION and the WEB-PRESENCE, altogether are the services provided by CCI ("eCM-SERVICE").

Before the BUSINESS-AUTOMATION becomes workable and accessible for the CLIENT, a one-time business configuration ("BUSINESS-CONFIGURATION"), and a one-time per office configuration ("OFFICE-CONFIGURATION"), are necessary.

CCI renders the BUSINESS-AUTOMATION on a calendar monthly basis, according with this Agreement.

Before the WEB-PRESENCE becomes workable and accessible in the worldwide web, a one-time web site configuration ("WEBSITE-CONFIGURATION"), is necessary.

CCI renders the WEB-PRESENCE on a calendar monthly basis, according with this Agreement.

### 2. BUSINESS-AUTOMATION

If CLIENT subscribes to BUSINESS-AUTOMATION the following provisions of this Section shall apply (in addition to other provisions of this Agreement):

A. **LICENSE:** The SOFTWARE-PRODUCT is licensed, not sold.

The SOFTWARE-PRODUCT is licensed as a single integrated product, and cannot be separated in its components.

By accepting this Agreement, CLIENT does not become the owner of the SOFTWARE-PRODUCT, but CLIENT does have the right to use the SOFTWARE-PRODUCT as a part of the eCM-SERVICE, in accordance with this Agreement.

B. **OWNERSHIP:** Except as expressly licensed to CLIENT in this Agreement, CCI retains all rights, title, ownership, and interest in and to the SOFTWARE-PRODUCT and any copies of the SOFTWARE-PRODUCT, regardless of the location or the form in which the copies may exist. The SOFTWARE-PRODUCT's structure, organization, and code are valuable trade secrets of CCI.

C. **COPYRIGHT:** All titles and copyrights in and to the SOFTWARE-PRODUCT, in all forms, and all copies of the SOFTWARE-PRODUCT are owned by CCI. Copyrights laws and international copyright treaties and agreements, as well as other intellectual property laws and treaties protect the SOFTWARE-PRODUCT. Therefore, CLIENT must treat the SOFTWARE-PRODUCT like any other copyrighted material.

D. **OTHER PROVISIONS:** CLIENT must not modify, decompile, disassemble, reverse engineer or otherwise attempt to discern the source code of the SOFTWARE-PRODUCT, by any means or in any form.

CLIENT must not create a derivative work based on the SOFTWARE-PRODUCT or any portions thereof.

E. **CLIENT OBLIGATION:** In order to use the eCM-SERVICE, CLIENT must obtain its own access to the Internet, and pay any service fees, expenses and charges associated with such access. CLIENT must provide all equipment necessary to operate some parts of the SOFTWARE-PRODUCT.

The authorized users, created by CCI, its distributors, or the CLIENT, are completely the CLIENT's responsibility.

CLIENT must assure the confidentiality, intransferability and correct use of its user code(s) and password(s). CLIENT

will be responsible for all the electronic operations or transactions entered through or with CLIENT's user code(s) and password(s). CLIENT agrees to immediately notify CCI if CLIENT becomes aware of any loss, theft or unauthorized use of any of CLIENT's user code(s) and/or password(s).

CLIENT agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by the eCM-SERVICE. Until notified otherwise by CCI, CLIENT agrees to use software that supports the Secure Socket Layer (SSL) protocol or other protocols accepted by eCM-SERVICE and to follow the login procedures for eCM-SERVICE that support such protocols. CLIENT acknowledges that CCI is not responsible for notifying CLIENT of any upgrades, fixes or enhancements to any such software or for any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. CLIENT acknowledges that it is possible that the DATA may be accessed by unauthorized third parties when communicated between CLIENT and one of the CCI's servers using the Internet, other network communications facilities, telephone or any other electronic means.

- F. **LIMITED WARRANTY:** CCI warrants that the SOFTWARE-PRODUCT will perform substantially in accordance with the accompanying or electronic documentation created by CCI for the duration of this Agreement.
- G. **CLIENT REMEDIES:** CCI and its representative's entire liability and CLIENT exclusive remedy under the express warranty is, at CCI's option, either (a) refund the amount actually paid by CLIENT for the use of the eCM-SERVICE, corresponding to the last month, or (b) repair or replace the SOFTWARE-PRODUCT that does not meet CCI's Limited Warranty. This Limited Warranty is void if failure of the SOFTWARE-PRODUCT has resulted from accident, abuse or misapplication.
- H. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES:** CLIENT acknowledges and agrees that CCI or its representatives are not liable for any damages whatsoever (including without limitation, special, incidental, consequential, or indirect damages for loss of business profit, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use these eCM-SERVICES (including as a result of any suspension of use for non-payment, malfunction, breakdown, error or virus), even if CCI has been advised of the possibility of such damages. In any case, CCI and its representative's entire liability under any provision of this Agreement shall be limited to the amount actually paid by CLIENT for use of the eCM-SERVICES, corresponding to the last 30-day period. Should CCI terminate CLIENT's use of these eCM-SERVICES for any reason, CCI shall not be held liable for any damages, consequential or otherwise, arising from its failure to supply access to use the eCM-SERVICE. CCI or its representatives is not liable for any illegal use of the SOFTWARE-PRODUCT.
- I. **BEST EFFORT:** CCI agrees to provide its best efforts in performing the services that CLIENT requests. CCI makes no other warranty; expressed or implied, except as it may be specifically provided herein. CLIENT agrees that shall be liable for correction of misinformation or errors it makes and that in no case shall CCI be liable for any consequential or monetary damages, including loss of business or any other pecuniary loss.

### 3. WEB-PRESENCE

If CLIENT subscribes to WEB-PRESENCE the following provisions of this Section shall apply (in addition to other provisions of this Agreement):

- A. **LICENSE:** The WEBSITE-ENGINE is licensed, not sold.  
By accepting this Agreement, CLIENT does not become the owner of the WEBSITE-ENGINE, but CLIENT does have the right to use the WEBSITE-ENGINE as a part of the eCM-SERVICE, in accordance with this Agreement.
- B. **OWNERSHIP:** Except as expressly licensed to CLIENT in this Agreement, CCI retains all rights, title, ownership, and interest in and to the WEBSITE-ENGINE and any copies of the WEBSITE-ENGINE, regardless of the location or the form in which the copies may exist. The WEBSITE-ENGINE's structure, organization, and code are valuable trade secrets of CCI.
- C. **COPYRIGHT:** All titles and copyrights in and to the WEBSITE-ENGINE, in all forms, and all copies of the WEBSITE-ENGINE are owned by CCI. Copyright laws and international copyright treaties and agreements, as well as other intellectual property laws, agreements and treaties protect the WEBSITE-ENGINE. Therefore, CLIENT must treat the WEBSITE-ENGINE like any other copyrighted material.
- D. **OTHER PROVISIONS:** CLIENT understands that a high degree of subjectivity is involved in the nature of the services to be performed. CCI agrees to perform quality work in providing these services to CLIENT. CLIENT agrees that CCI shall be the sole judge as to the final acceptability of such quality.
- E. **CCI RESERVES THE RIGHT TO REFUSE UNACCEPTABLE MATERIAL:** CCI does not accept adult, inflammatory, or discriminatory material nor allow links to any of these types of sites or companies that produce or provide pornographic or illegal products or services (which CCI will have complete discretion to define). In addition, CCI may, in its complete discretion, refuse the use of any other material that it deems inappropriate or harmful.
- F. **PROBLEMS AND CORRECTIVE MEASURES:** CCI agrees: 1. (a) to promptly correct any bugs or failed links, within 5 business days of notification of problem by writing; (b) if necessary, to revise the site to comply with the functionality specifications; and; 2. to an "Acceptance Testing" period beginning from the time the CLIENT is notified of the completion of all Website work by CCI and that the site is ready for testing, then for a period of 48 hours from notification the CLIENT may evaluate the site on its premises to make sure the site functions as anticipated and in accordance with the Agreement. The CLIENT will have the right to reject the site if it does not meet the written specifications and will allow CCI the opportunity to make any needed corrections to the written specifications at the time of a rejection for a final acceptance of the site by the CLIENT.
- G. **FUNCTIONALITY OF THE SITE:** The CLIENT'S site will be functioning 24 hours a day, seven days a week, except for scheduled maintenance / downtime, or unexpected hardware or electrical power failure; and the site will be compatible with the latest versions of Internet browser software, especially the Microsoft, Netscape and AOL browsers.
- H. **WEB SITE HOSTING:** Hosting of CLIENT's web site will be available in one of CCI's web servers.

- I. **SUBCONTRACTORS:** CCI reserves the right to assign other subcontractors to this project to insure the right fit for the job as well as on-time completion.
- J. **DISCLAIMER:** Regardless of service provider chosen, CCI is not responsible for quality or reliability of any other Internet Service Providers. CCI does not warrant that the operation of this Web site will be uninterrupted or without error. Further, CCI is not responsible to CLIENT or any third party for damages of any kind arising out of the operation or inability to operate this Web site.

#### 4. ENTIRE AGREEMENT

This Agreement is the entire understanding between CLIENT and CCI with respect to the eCM-SERVICE, and supersedes any prior negotiation, agreement, understanding or License, oral or written, relating to the eCM-SERVICE.

#### 5. CONFIDENTIALITY WAIVER

CLIENT understands that CCI may provide services to other parties who may advertise the same or similar products, services, ideas, or other matters. Any information or material CCI receives from the CLIENT is for advertisement to the general public and CLIENT agrees not to give us materials or information which CLIENT considers confidential, proprietary, or private in nature, and hereby release CCI from any obligation to protect or keep confidential or private any information CLIENT provides CCI or liability arising therefrom.

#### 6. TERMS, DELIVERY OF SERVICES AND TERMINATION

##### 6.1 Term

**Initial Term:** The term for each service will commence on the Service Start Date.

**Renewal Term:** Upon expiration of the Initial Term, the term will be renewed automatically for successive equal terms, unless and until either party gives the other no less than 15 days written notice of a termination. The termination of any service will not affect CLIENT's obligations to pay for other service(s).

##### 6.2 Delivery of Services

CLIENT agrees to take and pay for (i) the eCM-SERVICE indicated in the Service Order Form during the Initial Term and for any Renewal Term, (ii) the corresponding fees for any exceeded limit ("SURPLUS-CHARGES"), these limits are indicated in the Service Order Form, and (iii) other services related or not with the eCM-SERVICE provided by CCI at the specific CLIENT's request ("PROFESSIONAL-SERVICE"), where such services are not included within the scope of the eCM-SERVICES as described in the Service Order Form. CLIENT agrees to pay CCI the fees charged by CCI for any SURPLUS-CHARGES, and hereby authorizes CCI to perform such services. ALL PROFESSIONAL-SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND EXCLUDE WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED in accordance with CCI's then current policies and prices and CLIENT does hereby acknowledge to honor such policies and prices and waive any claim, complaint or dispute upon them.

##### 6.3. Termination by CCI

This Agreement may be terminated by CCI upon the occurrence of any of the following events:

- Any material breach of this Agreement by CLIENT.
- Should CLIENT becomes delinquent in payments and subsequently cure such delinquent payments more than four times in one calendar year.
- Should CLIENT files for bankruptcy protection with court.

##### 6.4 Termination by CLIENT

This Agreement may be terminated by CLIENT upon the occurrence of any of the following events:

- Any material breach of this Agreement by CCI and fails to cure such breach within 10 business days after receipt of written notice of it.
- If CLIENT decides for any reason to cancel before the term of any of the services under this Contract and Service Order Form, it agrees to pay for the fees and other charges for the remaining part of the Contract, specified in the Service Order Form and such balance shall immediately become due and payable.

##### 6.5 Upon Any Termination

Upon any termination of this Agreement, CCI will prevent CLIENT's use of the eCM-SERVICES.

#### 7. FEES AND PAYMENT TERMS

CLIENT agrees to pay all fees due according to the prices and terms listed in the Service Order Form and all other fees incurred by CLIENT related to SURPLUS-CHARGES, PROFESSIONAL-SERVICES, reinstatement of service fees, all in accordance with CCI's then current prices and policies. CLIENT does hereby acknowledge to honor CCI's then current policies and prices and waive any claim, complaint or dispute upon them.

The One Time Configuration Fees must be paid when executing the Agreement, along with the Monthly Subscription Fee for the 1<sup>st</sup> Month of service. CLIENT agrees to pay the Monthly Subscription fees in advance on the 1<sup>st</sup> day of every calendar month. CLIENT agrees to pay all costs, charges and expenses (including but not limited to attorney fees), if any, incurred by CCI in collecting overdue fees from CLIENT. CLIENT also agrees to pay all foreign, federal, state and local taxes applicable to its access, use or receipt of the eCM-SERVICES.

#### 8. RIGHTS AND LIMITATIONS

**Price Duration:** The prices stated in the Service Order Form will be in effect, for a one-year period from the Service Start Date. Thereafter, the price increase for any renewal period will not exceed 20%.

**Continuing Use:** In the event CLIENT fails to make timely payment to CCI, CLIENT acknowledges that CCI will not allow CLIENT to continue to use the eCM-SERVICES and the eCM-SERVICES will become inaccessible. In such case, CLIENT must satisfy all outstanding and overdue fees, along with any penalty or other charges, before CCI reinstates the eCM-SERVICES for the CLIENT.

**Delinquent Payments:** Should any payment be delinquent, CCI shall be entitled to interest on any unpaid balance at the maximum interest rate permitted by the applicable law and any other charges that may become necessary to make the eCM-SERVICES accessible.

**Miscellaneous:**

CLIENT may not either temporarily or permanently give, loan, rent, lease, share, distribute, license, assign, transfer, copy, reproduce, transmit, market, sell, disclose, translate, or sublicense the eCM-SERVICE, or its rights to use the eCM-SERVICE.

CLIENT may not obtain possession of any source code or other technical material relating to the eCM-SERVICE.

CLIENT may not use the eCM-SERVICE in any service bureau arrangement.

CLIENT agrees to notify its employees, representatives, sub-contractors, agents and any other persons related, who may have access to the eCM-SERVICE, of the restrictions contained in this Agreement to ensure their compliance with these restrictions. CLIENT will be liable for any breach, non-compliance or violation of this agreement by any of the above mentioned persons.

CLIENT will use its best efforts and take all reasonable steps to protect the eCM-SERVICE from unauthorized use, illegal reproduction or illicit distribution.

This Agreement does not grant CLIENT any rights in connection with any trademarks or service marks of CCI, or its representatives.

CLIENT will not use the eCM-SERVICES for any purpose that is unlawful, abusive, harassing, libelous, defamatory, obscene or threatening.

The CLIENT will be completely responsible of the security of the DATA. CLIENT agrees that CCI has no responsibility or liability either for the deletion or failure to store any DATA transmitted by CLIENT or anyone else to the eCM-SERVICE or the operation, or failure, or weakness, of any data encryption, data security protocols, passwords or other security methods employed.

**9. NOTICES**

Any and all notices or other communications which are required or permitted under this Agreement shall be in writing and shall be sufficient if delivered or mailed by registered or certified mail, return receipt requested, and shall be effective three days upon delivery, to the address set forth below or to such other address CCI may advise the other parties.

Carvajal Consultants, Inc.  
d/b/a Webborne Xolutions  
7265 SW 138 Ave.  
Miami, FL 33183

**10. LIMITED WARRANTY**

**NO OTHER WARRANTIES.** CCI's and its representative's disclaim all other warranties, either expressed or implied, including but not limited to implied warranties of performance or merchantability and fitness for a particular purpose, with regard to the eCM-SERVICES. This limited warranty gives CLIENT specific legal rights.

**11. OTHER PROVISIONS**

- **Indemnity.** CLIENT will indemnify CCI and keep CCI indemnified against: (a) all and any demands, claims, actions and proceedings whatsoever and howsoever arising made by any third person in connection with or arising out of CLIENT's use of the eCM-SERVICES; and (b) all and any loss, costs, expenses and damages whatsoever and howsoever incurred by CCI in connection with or arising out of a breach by CLIENT of any provisions of this document.
- **Governing Law.** This Agreement will be governed by and construed under the laws of the State of Florida, U.S.A.
- **Survival of Terms.** The representations, warranties and copyrights contained in the Service Order Form and this Agreement, shall be continuous and shall survive the expiration or termination of this Agreement.
- **Waiver.** Failure of CCI to enforce any provision of this Agreement does not constitute and should not be construed as a waiver of such provision or of the right to enforce such provision.
- **Severability.** In the event any provision of this Agreement is determined to be invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions will not be affected thereby.
- Nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy which is conferred on CLIENT by any other consumer or other laws, rules, regulations or legislation (the "ACTS") which we are not lawfully able to exclude, restrict or modify. Where CCI breaches a non-excludable condition or warranty which has been implied by the ACTS, CCI's liability for breach will be limited, to the extent lawfully permissible, to the supplying of the eCM-SERVICES again, or the payment of the cost of having the eCM-SERVICES supplied again; whichever CCI sees fit to provide.
- **Headings.** The headings at the beginnings of the Sections of this Agreement are for identification purposes and shall not affect the interpretation or construction of this Agreement.
- **Export Laws.** The SOFTWARE-PRODUCT, the WEBSITE-ENGINE, the SOFTWARE-PRODUCT technology, the WEBSITE-ENGINE technology, and its related Documentation may not be exported or re-exported in violation of the U.S. Export Administration Act and its implementing regulations.
- **U.S. Government Restricted Rights:** The SOFTWARE-PRODUCT, the WEBSITE-ENGINE, the Documentation and any other accompanying materials are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013; or subparagraphs (c)(1) or (2) of the Commercial Computer Software-Restricted Rights clause at 48 CFR 52.227-19, as applicable. The manufacturer is Carvajal Consultants, Inc., 7265 SW 138 Ave., Miami, FL 33183.