I. **Introductory Comments on the FMC’s Notice of Proposed Rulemaking**

CaroTrans International, Inc. (“CaroTrans” or the “Company”) hereby submits the following comments to the Federal Maritime Commission (“FMC” or “Commission”) in response to the publication of the Commission’s Notice of Proposed Rulemaking regarding Amendments to Regulations Governing Negotiated Rate Arrangements and NVOCC Service Arrangements (“Notice of Proposed Rulemaking” or “NPR”). The Commission published this NPR in the Federal Register on November 30, 2017, and requested comments from the industry on the changes proposed therein. See 82 Fed. Reg. 56,781 (November 30, 2017). In furtherance and support of the FMC’s broader move to identify priorities for regulatory reform, CaroTrans supports the efforts of the Commission to identify regulations governing Negotiated Rate Arrangements (“NRAs”) and NVOCC Service Arrangements (“NSAs”) that are currently unnecessary or unjustifiable burdens on industry, and to discuss proposals to reform or eliminate those regulations, as necessary.¹

CaroTrans is a non-vessel-operating common carrier ("NVOCC") formed under the laws of the state of Delaware, with branch operations throughout the United States. CaroTrans operates pursuant to FMC Ocean Transportation Intermediary License No. 016017N. The Company provides NVOCC and other port-to-port, intermodal transportation, and related logistics services, to/from the United States and various points and ports throughout the world. As an NVOCC, CaroTrans does not own or operate vessels, but rather contracts with shipping lines to serve as a master loader and organize shipments on behalf of its customers. Additionally, CaroTrans does not own any product shipped on its customers’ behalf; rather, as an NVOCC, CaroTrans’ involvement is limited to arranging the shipment of product on other companies’ behalf.

Given the Company’s reliance on both NSAs and NRAs to conduct its business operations, CaroTrans welcomes the opportunity to submit comments in response to the Commission’s request for the submission of written comments on the proposed regulatory amendments.

II. Support for Reforming NRA Regulations at 46 C.F.R. Part 532

A. CaroTrans welcomes the proposals for reform of NRAs regulations, and also respectfully asserts that the reform should be followed by additional deregulation and flexibility for NRAs.

FMC regulations at 46 C.F.R. Part 532 generally provide for the use of NRAs by NVOCCs, and outline the requirements imposed by the Commission on and for their use. The

expressed purpose of the NRA regulations is to exempt NVOCCs from the tariff rate publication and adherence requirements of the Shipping Act of 1984, as amended. See 46 C.F.R. § 532.1 (Purpose). This in turn increases the flexibility and agility of US NVOCCs as they engage in the highly competitive international market for providing shippers with ocean transportation services.

CaroTrans fully supports the proposal, presented by NCBFAA in the original petition (P2-15) filed with the Commission on April 16, 2016 and proposed by the Commission in its NPR, to delete 46 C.F.R. § 532.5(e) and expand the NRA exemption in 46 CFR Part 532 to allow for modification of NRAs at any time upon mutual agreement between an NVOCC and its customer. This increased flexibility would allow CaroTrans and similarly situated NVOCCs to respond more quickly to the competitive and dynamic market conditions in the industry. As the FMC itself has noted in the NPR, an NVOCC and its customer should not be compelled to create a new NRA in every instance simply because the rules do not currently provide for amendment.

CaroTrans also supports the further change proposed by the Commission to modify 46 C.F.R. § 532.5(c) to allow a booking request made pursuant to an NRA to constitute the required shipper acceptance of such NRA. CaroTrans agrees that this practice more closely corresponds to the manner in which a shipper usually provides acceptance to a written rate quote in practice. Moreover, CaroTrans does not believe that the Commission should require any particular wording on an NRA regarding whether booking constitutes acceptance. CaroTrans understands that it may be necessary for notice to be provided to shippers regarding NRA acceptance procedures; nevertheless, CaroTrans respectfully asserts that a more straightforward approach
would be for the Commission to require such notice but not dictate any specific wording.

Requiring specific wording would merely raise the risk of noncompliance for NVOCCs without providing any real benefit to shippers.

Despite the real signs of progress that CaroTrans acknowledges are demonstrated in the NPR, CaroTrans believes that the steps proposed by the FMC should be followed by additional deregulation and further flexibility for usage of NRAs.

III. Support for Reforming NSA Regulations at 46 C.F.R. Part 531

A. CaroTrans respectfully asserts that the filing and publication requirements in Part 531 impose an unnecessary burden on NVOCCs and should be reformed.

FMC regulations at 46 C.F.R. Part 531 generally provide for the use of NVOCC Service Arrangements (NSAs) by NVOCCs. The expressed purpose of the NSA regulations is facilitate the filing of NSAs and the publication of certain essential terms of those NSAs, as a means to exempt NVOCCs from the tariff rate publication and adherence requirements that would be otherwise applicable due to the Shipping Act of 1984. See 46 C.F.R. § 532.1 (Purpose).

CaroTrans respectfully asserts that NSAs regulated by 46 C.F.R. Part 531 have filing and publication requirements that render NSAs unnecessarily burdensome and time consuming to use. Nevertheless, it is CaroTrans’ position that an NSA can serve as a useful tool that furthers the Company’s provision of quality ocean transportation services. In particular, an NSA can provide a meaningful commitment of cargo from a shipper over a longer and specified period of time, and can be amended repeatedly to provide some ability to adjust to market conditions. Furthermore, an NSA can be made subject to charges published by CaroTrans in its rules tariff.
Given the benefits provided by NSAs, CaroTrans has found that their usage makes sense for some longer term arrangements, despite the regulatory requirements that render them burdensome. Therefore, CaroTrans respectfully asserts that the most appropriate approach for the Commission to take is to amend the regulations authorizing and governing NSAs in order to make them more flexible. This would ensure that NSAs continue to be an option for NVOCCs and their customers that under some circumstances prefer the increased formality of the NSA.

In this vein, CaroTrans fully supports the Commission’s proposals to eliminate the filing and essential terms publication requirements. The proposed reform would substantially improve the NSA process without compromising any protections intended by the regulations for shippers. Moreover, the approach would be fully in line with the Commission’s recently announced Regulatory Reform Initiative, which supports reform intended to reduce unnecessary regulatory burdens. For these reasons, CaroTrans fully supports the Commission’s proposed reforms.

**IV. Conclusion**

In conclusion, CaroTrans supports the FMC’s efforts to amend the regulations governing NRAs in order to make them more flexible and useful for NVOCCs and shippers while at the same time ensuring that the NRA regulations continue to provide the transparency, accountability, and oversight necessary for a well-functioning industry. The proposed changes to NRA regulations would help to ensure that US NVOCCs remain competitive in the global market for ocean transportation services. Carotrans further asserts that the proposed amendments should be followed by further deregulation and regulatory reform.
CaroTrans reiterates that the regulatory burdens associated with NSAs are unduly time-consuming and costly for NVOCCs. CaroTrans agrees with the Commission’s proposal that the NSA filing and essential terms publication requirements should be eliminated.

CaroTrans appreciates the opportunity to provide the FMC with its thoughts and opinions on these regulations. Please do not hesitate to contact the undersigned if the Commission has any questions on these comments.

Respectfully Submitted,

[Signature]
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