

**F-090000000632**

\_\_\_\_\_  
(Requestor's Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City/State/Zip/Phone #)

☐ PICK-UP    ☐ WAIT    ☐ MAIL

\_\_\_\_\_  
(Business Entity Name)

\_\_\_\_\_  
(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

2009 FEB 16 P 2:37

FILED

*Handwritten:* 150-81-2  
2009-02-11



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

February 12, 2009

OMAR YVAN VIVAS  
2800 GLADES CIR., SUITE 143  
WESTON, FL 33327

SUBJECT: REFRIAMERICA CA CORP  
Ref. Number: W09000006931

We have received your document for REFRIAMERICA CA CORP and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

The document must be signed by the chairman, any vice chairman of the board of directors, its president, or another of its officers.

A certificate of existence or a certificate of good standing, dated no more than 90 days prior to the delivery of the application to the Department of State, duly authenticated by the secretary of state or other official having custody of the records in the jurisdiction under the laws of which it is incorporated/organized, must be submitted to this office. A translation of the certificate under oath of the translator must be attached to a certificate which is in a language other than the English language. A photocopy of this certificate is not acceptable.

Please return the corrected original and one copy of your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6995.

Wanda Cunningham  
Regulatory Specialist II  
New Filing Section

Letter Number: 809A00005119

RECEIVED  
DEPARTMENT OF STATE  
09 FEB 16 PM 12:29

**COVER LETTER**

**FILED**  
2009 FEB 16 P 2:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**TO:** New Filing Section  
Division of Corporations

**SUBJECT:** Refriamerica CA Corp

(Name of corporation - must include suffix)

Dear Sir or Madam:

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida," "Certificate of Existence," and check are submitted to register the above referenced foreign corporation to transact business in Florida.

Please return all correspondence concerning this matter to the following:

Omar Yvan Vivas

(Name of Person)

(Firm/Company)

2800 Glades Circle Ste 143

(Address)

Weston, FL 33327

(City/State and Zip code)

For further information concerning this matter, please call:

Omar Yvan Vivas

(Name of Person)

at ( 954 ) 217-9720

(Area Code & Daytime Telephone Number)

**STREET/COURIER ADDRESS:**

New Filing Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**MAILING ADDRESS:**

New Filing Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Enclosed is a check for the following amount:

☐ \$70.00 Filing Fee

☐ \$78.75 Filing Fee &  
Certificate of Status

☐ \$78.75 Filing Fee &  
Certified Copy

☒ \$87.50 Filing Fee,  
Certificate of Status &  
Certified Copy

**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT  
BUSINESS IN FLORIDA**

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO  
REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

1. **REFRIAMERICA CA CORP**

(Enter name of corporation; must include "INCORPORATED," "COMPANY," "CORPORATION,"  
"Inc.," "Co.," "Corp.," "Inc.," "Co.," or "Corp.")

(If name unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

2. **VENEZUELA**

(State or country under the law of which it is incorporated)

3. **N/A**

(FEI number, if applicable)

4. **01/31/2005**

(Date of incorporation)

5. **PERPETUAL**

(Duration: Year corp. will cease to exist or "perpetual")

6. **N/A**

(Date first transacted business in Florida, if prior to registration)  
(SEE SECTIONS 607.1501 & 607.1502, F.S., to determine penalty liability)

7. **Calle Alfredo Jahn Qta Alex Los Palos Grandes, Caracas, Venezuela**

(Principal office address)

**2800 Glades Circle Ste 143, Weston, FL 33327**

(Current mailing address)

8. **Import & Export Refrigeration Systems**

(Purpose(s) of corporation authorized in home state or country to be carried out in state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: **Omar Yvan Vivas**

Office Address: **2800 Glades Circle Ste 143**

**Weston**

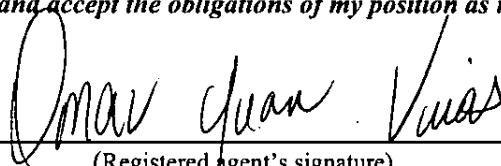
(City)

, Florida **33327**

(Zip code)

10. **Registered agent's acceptance:**

*Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.*



(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

**FILED**  
2009 FEB 16 P 2:37  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

12. Names and business addresses of officers and/or directors:

**A. DIRECTORS**

Chairman: Omar Yvan Vivas

Address: 2800 Glades Circle Ste 143  
Weston, FL 33327

Vice Chairman: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

**B. OFFICERS**

President: Omar Yvan Vivas

Address: 2800 Glades Circle Ste 143  
Weston, FL 33327

Vice President: Omar Salomon Vivas

Address: 2800 Glades Circle Ste 143  
Weston, FL 33327

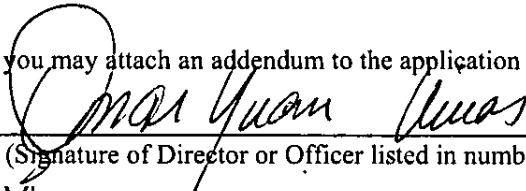
Secretary: \_\_\_\_\_

Address: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Address: \_\_\_\_\_

**NOTE:** If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13.   
(Signature of Director or Officer listed in number 12 of the application)

14. Omar Yvan Vivas

(Typed or printed name and capacity of person signing application)

**FILED**  
2009 FEB 16 P 2:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**V MERCANTILE REGISTRY OFFICE**  
**OF THE JUDICIAL CIRCUMSCRIPTION OF THE CAPITAL DISTRICT AND MIRANDA STATE**

**Dra. Gisela Rangel**

**V Mercantile Registrar**  
**Of the Judicial Circumscription of the Capital District and Miranda State**

**FILED**  
2009 FEB 16 P 2:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**505389**

**CERTIFIES**

That the entry of Commerce Registry transcribed further on, which original is recorded in

Book: **1035 A**      Number **30**      as well as:

**PARTICIPATION, MEMORANDUM AND DOCUMENT**

and copied straight ahead, are a faithful transfer of its originals which are according to following contents.

Document has been legalized  
bearing official stamps of the  
Bolivarian Republic of Venezuela  
Ministry of the Interior and Justice  
Capital District, Miranda State  
V Mercantile Registry Office

505389

LUCINDA GRINALDO  
Bar Member: No. 22.197  
(illegible signature)

FILED  
2009 FEB 19 P 2:39  
SECRETARY OF STATE  
HALLMARKS, FLORIDA

CITIZEN:

V MERCANTILE REGISTRY OFFICE  
OF THE JUDICIAL CIRCUMSCRIPTION OF THE CAPITAL DISTRICT AND MIRANDA STATE  
Their Office.-

I, PEDRO JOSE GARCIA, a Venezuelan, of legal age, bearer of personal I.D. No. V-5.309.145, before you and with due respect appear in order to file INCORPORATION AGREEMENT of the Mercantile Entity "**REFRIAMERICA, C.A.**" drawn up in sufficient extent so that it also serves as bylaws. I also attach inventory of merchandise proving the contributions made by the shareholders.

I request to ordain registration, settling and publication of aforementioned document and issuance of two (2) certified copies of same, one of them to the purpose of its publishing.

It is justice in Caracas, on the date of its presentation.

(illegible signature)  
5309145



Document has been legalized  
bearing official stamps of the  
Bolivarian Republic of Venezuela  
Ministry of the Interior and Justice  
Capital District, Miranda State  
V Mercantile Registry Office

**V MERCANTILE REGISTRY OFFICE**  
**OF THE JUDICIAL CIRCUMSCRIPTION OF THE CAPITAL DISTRICT AND MIRANDA STATE**

Caracas, thirty-first (31) of January of year 2005

194 and 146

Filed previous communication and complied the requirements by law, let it be recorded in the Mercantile Registry together with document presented, affix and publish the respective entry, compile the expedient and file original together with the copy of the Bylaws and other accompanying documents. Issue certified copy with insertion of this civil process for its publication. Release copy in order to comply with foreseen in Art. 226 of Commercial Code.

Aforesaid document edited by: **LUCINDA GRINALDO**

Is recorded under Number **30** Book **1035 A**

Customs taxes Bs. **176698** as per application No. **40993**

Fiscal taxes Bs. **1083980** as per application No. **21642**

The identification was done like this:

**PEDRO JOSE GARCIA WITH C.I.N. V-5.309.145**

Mercantile Registrar V

(illegible signature)

**Dra. Gisela Rangel**

(C) This page belongs to:

**REFRIAMERICA C.A.**

Document has been legalized  
bearing official stamps of the  
Bolivarian Republic of Venezuela  
Ministry of the Interior and Justice  
Capital District, Miranda State  
V Mercantile Registry Office



505389

LUCINDA GRINALDO  
Bar Member: No. 22.197  
(illegible signature)


We, OMAR IVAN VIVAS GRIMALDO and OMAR SALOMON VIVAS GRIMALDO, Venezuelan, of legal age, bearers of personal I.D. No. 9.660873 and 9.660.712 respectively, and from this domicile, have agreed to incorporate in this act, as indeed we established, a Stock Company, which will be in force by this Incorporation Agreement drawn up with sufficient extent to serve as the Bylaws and which clauses are the following: **FIRST:** The company will be named "**REFIRAMERICA C.A.**" which main address will be Av. Romulo Gallegos, Centro Aloa, Planta Principal, Local PP-13 in the city of Caracas, Miranda State, and being able to establish operations and branches in any part of the republic of Venezuela and abroad. **SECOND:** The purpose of the Company will be: A) Everything related to the sale, distribution, import, manufacturing, assembly of spare parts and refrigeration units, rack systems, refrigeration of transports, domestic air conditioning, industrial air conditioners, chillers, cold water systems. B) Everything related to the refrigerating industry, transportation of refrigerated load, maintenance and installation of refrigerating systems and air conditioning. C) The import, export, manufacture, assembly, sale and distribution of tools, controls, machinery, measuring instruments, and all related to the industry of all types. D) The buying and selling of assets and real estate, as well as the money loan with guarantee of same. E) The exploitation of the electronic market, in Internet and any electronic market instrument. F) Any lawful commercial activity. **THIRD:** The Company will be in force for fifty (50) years counted as de date of inscription in the Mercantile Registry, which period could be prolonged for equal or different periods as per decision of the shareholders. **FOURTH:** The Company has a Capital of **ONE HUNDRED MILLION BOLIVARS (Bs. 100,000,000.00)**, divided in **ONE THOUSAND (1,000)** shares, with a nominal value of **TEN THOUSAND BOLIVARS (Bs. 10,000.00)** each,

[REDACTED]

which will give their legitimate holders equal rights and obligations. **FIFTH:** The Capital will be subscribed as follows: **OMAR YVAN VIVAS GRIMALDO**, subscribes **FIVE HUNDRED (500)** Shares, for a nominal value of **FIFTY MILLION BOLIVARS (BS. 50,000,000.00)** and **OMAR SALOMON VIVAS GRIMALDO**, subscribes **FIVE HUNDRED (500)** Shares, for a nominal value of **FIFTY MILLION BOLIVARS (BS. 50,000,000.00)** and said capital will be paid in a Hundred per Cent (100%) that is, the sum of **ONE HUNDRED MILLION BOLIVARS (Bs. 100,000,000.00)** as set forth in inventory of movables, computers and furniture of said office, as attached to this document. **SIXTH:** The Shares of the Company give the partners the same rights; each of them represents one (1) vote in the Meetings and their property will be verified through the corresponding inscriptions and declarations in the Book of the Company. For the cession and transfer of shares, compliance to requirements in Article No. 269 of the Commercial Code will be taken into account. **SEVENTH:** One of the shares will not be divisible in itself in regards to the partnership, and in consequence only one holder will be acknowledged for each one. In case one of the partners would decide to transfer part or all of his shares he must do so giving preference to the remaining partners to acquire same, to which effect must inform in writing of the intended operation to the rest of the partners who will have a period of **TEN (10)** days counted as of the date of receipt of the notice to exercise the preferred right granted to him and purchase the shares under the terms of the offer, the exercise of this right for each partner will be provisional to the percentage of shares he may have in the Partnership. Once the term in question expires without having exercised the alluded right by the partners, the offering partner is free to transfer said shares to third parties under the terms and conditions not inferior to the ones proposed by the offered partners. **EIGHTH:** The supreme administration of the affairs of the Company corresponds to the Shareholders Board. The Meetings can be Ordinary or Extraordinary. The Regular Meeting must assemble in ninety (90) days immediately following the closing of the fiscal year of the partnership, in the place, time and date previously stated in the summon, which can be done through notice published in the local press or by written communication addressed to the partners. The same type of arrangements could be used to summon the special meeting. Special meetings will assemble at any time it is judged convenient to consider any issue of interest to the partnership. **NINTH:** The attributions of the Shareholders Meetings are the following: 1) Discuss, approve or reject the General Balance and

2) Discuss, approve or reject the General Balance and

the Profit and Loss Statement, with the opinion report of the Commissary; 2) Agree upon special paragraphs for guarantee of reserves and other purposes, as well as ordering application of said funds. 3) Appoint, reelect or remove from their positions the managers responsible of the administration of the Company. 4) Decree dividends of the partnership, over liquid and collected profits. 5) Deliberate and solve in general any issue submitted to consideration. **TENTH:** The Shareholders Meeting will not be considered legally constituted to deliberate if at least seventy five percent (75%) of the paid Capital Stock is not present, all decisions must be taken by absolute majority of the shares represented in said Meeting, if not obtained no valid legal resolutions can be taken. The decisions taken in the Meetings legally constituted in aforementioned foreseen way, bind the partners not present in them. **ELEVENTH:** The management of the partnership will be in charge of the Board of Directors, represented by two (2) Directors, who would be the GENERAL DIRECTOR and ADMINISTRATIVE DIRECTOR whom acting jointly or indistinctly in the exercise of their functions represent and bind the Partnership. The DIRECTORS will be appointed by the Board of Shareholders and will last five (5) years in their respective positions, and can be reelected. Once said term has expired, they will continue in exercise of their functions until their reelection or substitution is effective. Prior to initiating their functions, each Director must deposit Five (5) shares in the fund of the Company as to the end foreseen in article 244 of the Commercial Code. **TWELFTH:** The Director General and Administrative Director acting jointly or indistinctively will have ample powers to dispose and administer. In consequence may exercise the following attributions: 1) represent the partnership judicially and extra-judicially, being able to appoint attorneys for the adequate representation of the partnership in specific cases. 2) Carry out operations that correspond to the turnover of the partnership, with attributions to sell and in any way dispose of properties and real estate, constitute mortgages, securities and any other type of liens and exercise the faculties of resolution. 3) Name, hire and remove employees and determine their remunerations. 4) Decide on the celebration of any act or contract of interest to the partnership. 5) Resolve acquisition of assets, grant, request and move loans of any nature and bank credits or not, open, move and close bank accounts, release, accept, endorse, discount and protest bills of exchange, checks, promissory notes, and any other commercial papers. 6) Exercise the necessary attributions for the good operation of the Partnership in accordance to set forth in this



Incorporation and Statutory Document and in the Commercial Code. 7) Grant powers to legal representatives, either attorneys or others to represent the Partnership in judgments in the courts of the Republic, and in any other legal proceedings as needed. 8) Exercise the necessary measures to summon a Shareholders Meeting at the request of any of the partners.

**THIRTEENTH:** The partnership will have as yearly fiscal year the one that corresponds to the natural year (Calendar), comprised between 01 January and 31 December of each year, nevertheless, in regards to the current year, the partnership will have as fiscal year the period comprised between the date of inscription before the Mercantile Registry and the 31 December of the current year. Every year once closed the economic fiscal year an inventory will be carried out which will be attached to the General Balance Sheet which will be submitted to the consideration of the Manager upon posterior review by the Ordinary Shareholders Meeting.

**FOURTEENTH:** After each fiscal year the following set asides will be done: 1) A five percent (5%) to develop reserves, until reaching a twenty percent (20%) of the Capital Stock. 2) The allocations for fringe benefits, guarantees and others previously agreed on in the Meeting.

**FIFTEENTH:** Once all and each of the expenses have been deducted from the benefits, as well as verification of allocations needed, the positive balance will be distributed among the partners in the way the Meeting to be summoned to this effect will determine.

**SIXTEENTH:** Under no circumstance at any time will the Company put as guarantor or endorser of obligations to third parties and in consequence the administrators will not constitute the partnership as guarantor of said obligations. **SEVENTEENTH:** In case of dissolution of the Partnership, the Board of Directors will determine if the Director General and Administrative Director jointly or some of them, or if the case be of third designated by unanimity, will be appointed as liquidator, who will have all the attributions of the Board appointing him or in its defect the Commercial Code.

**EIGHTEENTH:** In everything not foreseen in this Incorporation Statutory Documents, dispositions of the Commercial Code will be applied.

**NINETEENTH:** For the first five-year period, the Board of Directors has been designated as follows: As **DIRECTOR GENERAL, OMAR IVAN VIVAS GRIMALDO**, already identified, as **ADMINISTRATIVE DIRECTOR, OMAR SALOMON VIVAS GRIMALDO**, already identified, as **MANAGER**, will be appointed Lic. **CESAR ERNESTO AMUNDARAY VILLANUEVA**, a Venezuelan, of legal age, a public accountant, bearer of personal I.D. No. 7.070.108, and registered in the

[REDACTED]

C.P.C. as No. 25.535 and of this domicile. TWENTIETH: we authorize Mr. **PEDRO JOSE GARCIA**, bearer of personal I.D. No. 5.309.145 to proceed to the inscription, affixing and publication of this document before the Mercantile Registry on the date of its presentation.

OMAR IVAN VIVAS GRIMALDO  
I.D. No. 9.660.873  
(signed illegibly)

OMAR SALOM VIVAS GRIMALDO  
I.D. No. 9.660.712  
(signed illegibly)

(illegible signature)  
MERCANTILE REGISTRAR V

Document bears official stamp of  
the Bolivarian Republic of Venezuela  
Ministry of the Interior and Justice  
Capital District, Miranda State  
V MERCANTILE REGISTRY

A thick, black horizontal bar used to redact a signature.

FORM SIR RIF 07		FISCAL INFORMATION REGISTRY (RIF)	
Bolivarian Republic of Venezuela		INSCRIPTION CERTIFICATE (RIF NUMBER)	
SENIAT (illegible)		J-31269845-4	
Names/Company name REFRIAMERICA, C.A.		City: LOS TEQUES	
Address: AV. ROMULO GALLEGOS CC ALOA NIVEL PB LOCAL PP-13 URB. HORIZONTE ZIP CODE 1070		Regional Management: CAPITAL	
		Date of inscription: 2/1/2005	
		Date of issuance: 8/3/2007	
		Date of expiration: 8/3/2010	
In agreement to foreseen by law in ARTICLE 9 of the RESOLUTION No.0073 dated 02/09/2006, published in Official Gazette No. 38.369 dated 03/02/2006, this certificate is issued			
Document bearing official stamp (illegibly signed) which reads: Bolivarian Republic of Venezuela Treasury Ministry SENIAT Sector of Contributions (illegible) COLLECTIONS			

Document also bears official seal of the SENIAT

F-06-07 No. 1428603

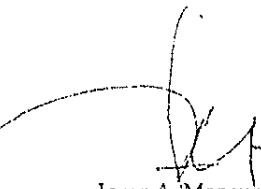
3312698454-INT  
Authorized signature

# *Certificate of Translation*

Before me this day personally appeared Jorge A. Marquez, who, being duly sworn deposes and says:

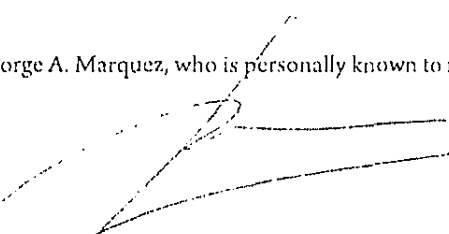
I am fluent in both English and Spanish.

I certify that I have accurately translated the attached document(s) from Spanish into English.

  
Jorge A. Marquez  
2800 Glades Cir., Ste 121, Weston, FL 33327-2278  
American Translators Association (ATA) Member # 23755

State of Florida            }  
County of Broward        }

Sworn to and subscribed before me this 2<sup>nd</sup> of October of 2008 by Jorge A. Marquez, who is personally known to me.

  
*Notary Public*

NOTARY PUBLIC-STATE OF FLORIDA  
Lourdes Nasr  
Commission # D11759738  
Expires: FEB. 18, 2012  
BONDED THRU ATLANTIC BONDING CO., INC.



**REGISTRO MERCANTIL V**  
DE LA CIRCUNSCRIPCIÓN JUDICIAL DEL DISTRITO CAPITAL Y ESTADO MIRANDA

**Dra. Gisela Rangel**

**Registrador Mercantil V**

De la Circunscripción Judicial del Distrito Capital y Estado Miranda

**CERTIFICA**

**505389**

Que el asiento de Registro de Comercio transcrito a continuación, cuyo original está inscrito en  
el Tomo: **1035 A** Número **30** así como

**PARTICIPACION, NOTA Y DOCUMENTO**

que se copian de seguida, son traslado fiel de sus originales, los cuales son del tenor siguiente



**[Redacted Signature]**



LUCINDA GRINALDO  
INPREBOGADO N° 22.197

505389

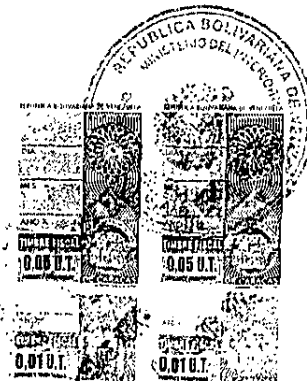
CIUDADANO:

Registró Mercantil Quinto de la Circunscripción Judicial del Distrito federal Y  
estado Miranda.

Su Despacho.-

Yo, PEDRO JOSE GARCIA, Venezolano, mayor de edad, titular de la Cédula de  
Identidad N° V-5.309.145, ante usted y con el debido respeto ocurro con la finalidad de  
presentar el Acta Constitutiva de la Entidad Mercantil "REFRIAMERICA C.A."  
redactada con suficiente amplitud para que a la vez constituya sus Estatutos. Acompaño  
igualmente inventario de mercancía acredita los aportes hechos por los accionistas.  
Ruégale ordenar la inscripción, fijación y publicaron del citado documento y expedirme  
dos (2) copias certificadas del mismo, una de ellas a los fines de su publicación.  
Es justicia, en caracas, a le fecha de su presentación.

5309145





## REGISTRO MERCANTIL V

DE LA CIRCUNSCRIPCIÓN JUDICIAL DEL DISTRITO CAPITAL Y ESTADO MIRANDA



Caracas.

*Treinta y Nueve (31)* de *Enero* del *2005*

194 y 146

Presentada la anterior participación y cumplidos como han sido los requisitos de ley, inscribise en el Registro Mercantil junto con el documento presentado, líjese y publíquese el asiento respectivo, fórmese el expediente y archívese original junto con el ejemplar de los Estatutos y demás recaudos acompañados. Expidase copia certificada con inserción del presente auto a los fines de su publicación. Librese copia a objeto de dar cumplimiento con lo establecido en el Art. 226 del Código de Comercio.

El anterior documento redactado por: **LUCINDA GRINALDO**

Se inscribe bajo el Nro. **30** Tomo **1035 A**

Derechos arancelarios Bs. **176698** según planilla Nro. **40993**

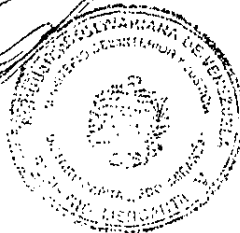
Derechos fiscales Bs. **1083980** según planilla Nro. **21642**

La identificación se efectuó así:

**PEDRO JOSE GARCIA CON C.I.N V-5.309.145**

Registrador Mercantil V

**Dra. Gisela Rangel**



(C) Esta página pertenece a:

**REFRIAMERICA C.A.**



  
LUCINDA GRIMALDO  
INPREABOGADO N° 22.197

505389



Nosotros, **OMAR YVAN VIVAS GRIMALDO** y **OMAR SALOMÓN VIVAS GRIMALDO**, Venezolanos, mayores de edad, titulares de las Cédulas de Identidad

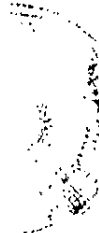
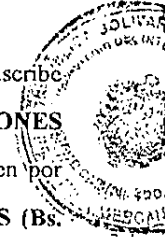
Nos. **9.660.873** y **9.660.712** respectivamente, y de este domicilio, hemos convenido en constituir en este acto, como en efecto constituimos, una Compañía Anónima, la que regirá por la presente Acta Constitutiva redactada con la suficiente amplitud para que sirva a la vez de Estatutos y cuyas cláusulas son las siguientes: **PRIMERA:** La

Compañía se denominará "**REFRIAMERICA C.A.**", cuyo domicilio principal será la Av. Romulo Gallegos, Centro Aloa, Planta Principal, Local PP-13 en la ciudad de Caracas, Estado Miranda, Y pudiendo establecer operaciones y sucursales en cualquier parte de la República de Venezuela y del Exterior. **SEGUNDA:** La Compañía tendrá como objeto; A) Todo lo relacionado a la venta, distribución, importación, fabricación, ensamblaje de repuestos y unidades de refrigeración, sistemas rack, refrigeracion de transportes, aires acondicionados domésticos, aires acondicionados industriales chillers, sistemas de agua helada. B) Todo lo relacionado con la industria de la refrigeración, transporte de cargas refrigeradas, mantenimiento e instalación de sistemas de refrigeración y aire acondicionado. C) La importación, exportación, fabricación, ensamblaje, venta y distribución de herramientas, controles, maquinarias, instrumentos de medición y todo lo relacionado con la industria de todo tipo. D) La compra y venta de bienes muebles e inmuebles, así como el préstamo de dinero con garantía de los mismos. E) La explotación del comercio electrónico, en Internet y cualquier instrumento de comercio electrónico. F) Cualquier actividad de lícito comercio.

**TERCERA:** La Compañía tendrá una duración de cincuenta (50) años contados a partir de la fecha de inscripción en el Registro Mercantil, pudiendo este periodo prorrogarse por iguales o diferentes por decisión de los accionistas. **CUARTA:** El Capital de la Compañía es de **CIENT MILLONES DE BOLIVARES (Bs. 100.000.000,00)**, divididas en **MIL (1.000)** Acciones, con un valor nominal de **DÍEZ MIL BOLIVARES (Bs. 100.000,00)** cada una, que darán a sus legítimos tenedores iguales derechos y obligaciones. **QUINTA:** El Capital será suscrito de la siguiente manera: **OMAR YVAN VIVAS GRIMALDO**, suscribe **QUINIENTAS (500)** Acciones, por un valor nominal de **CINCUENTA MILLONES DE BOLIVARES (Bs.**

50.000.000,00), y **OMAR SALOMÓN VIVAS GRIMALDO**, suscribe **QUINIENTAS (500)** Acciones, por un valor nominal de **CINCUENTA MILLONES DE BOLIVARES (Bs. 50.000.000,00)** y dicho Capital será pagado en un Cien por Ciento (100%) es decir, la cantidad de **CIENTOS MILLONES DE BOLIVARES (Bs.**

**100.000.000,00)**, según consta en inventario de mercancías muebles, computadoras, y mobiliario de oficina, que anexamos al presente. **SEXTA:** Las Acciones de la Compañía dan a los socios iguales derechos, cada una de ellas representa un (1) voto en las Asambleas y su propiedad se comprobará mediante las inscripciones y declaraciones correspondiente en el Libro de la Empresa. En la cesión y transferencia de acciones se cumplirán los requisitos del artículo No. 269 del Código de Comercio. **SÉPTIMA:** Una de las Acciones no será divisible entre si con respecto a la Sociedad, por lo tanto no se reconocerá mas de un propietario por cada una. En caso de que un socio resolviera ceder parte o todas sus acciones deberá hacerlo dándole preferencia para adquirirlas a los demás socios, a cuyos efectos deberá participar por escrito la proyectada operación al resto de los socios quienes tendrán un plazo de **DÍEZ (10)** días contados a partir de la fecha de recepción de la notificación para ejercer el derecho preferente que se le concede y adquirir las acciones en los términos de la oferta, el ejercicio de este derecho para cada socio será provisional al porcentaje de acciones que tenga en la Sociedad. Vencido el plazo en cuestión sin que hubiese ejercido el aludido derecho por los socios, el socio oferente queda libre de ceder a terceros dichas acciones en términos y condiciones no inferiores a las propuestas por los socios ofrecidos. **OCTAVA:** La suprema administración de los asuntos de la Compañía corresponde a la Asamblea de Accionistas. Las Asambleas podrán ser Ordinarias y Extraordinarias. La Asamblea Ordinaria deberá reunirse en los noventa (90) días de inmediato siguientes al cierre del ejercicio económico de la Sociedad, el lugar, hora y fecha preventivamente señalados en la convocatoria, la cual podrá hacerse en aviso publicado en la prensa local o por comunicación escrita dirigida a los socios. La misma forma de emplazamiento podrá ser utilizada para convocar la Asamblea Extraordinaria. Las Asambleas Extraordinarias se reunirán en cualquier momento que se juzgue conveniente para considerar cualquier asunto de interés para la Sociedad. **NOVENA:** Las atribuciones de las Asambleas de



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facultades de disposición. 3) Nombrar, contratar y remover empleados y determinar sus remuneraciones. 4) Decidir sobre la celebración de todo acto o contrato que tenga interés la Sociedad. 5) Resolver la adquisición de bienes, conceder, solicitar y movilizar prestamos de cualquier naturaleza y créditos bancarios o no, abrir, movilizar y cerrar cuentas bancarias, librar, aceptar, endosar, descontar y protestar letras de cambio, cheques, pagares y cualquier otro efecto de comercio. 6) Ejercer las atribuciones necesarias para la buena marcha de la Sociedad de conformidad con lo dispuesto en el presente documento Constitutivo y Estatutario y en el Código de Comercio. 7) Otorgar poderes a representantes legales, ya sean abogados u otros para representar a la Empresa en juicios en los tribunales de la República, y en cualquier otro acto legal que fuese necesario. 8) Ejecutar las medidas necesarias para convocar una Asamblea de Accionistas a petición de cualquiera de los socios. **DÉCIMA TERCERA:** La sociedad

tendrá como ejercicio económico anual el que corresponde al año natural (Calendario), comprendido entre el 01 de Enero y el 31 de Diciembre de cada año, sin embargo en cuanto al ejercicio en curso, la sociedad tendrá como ejercicio económico en curso, la sociedad tendrá como ejercicio económico al periodo comprendido entre la fecha de su inscripción en el Registro Mercantil y el 31 de Diciembre del año en curso. Todos los años una vez cerrado el ejercicio económico se practicará un inventario el cual se acompañará con el Balance General, el cual será sometido a la consideración del Comisario a su posterior examen por la Asamblea Ordinaria de Accionistas. **DÉCIMA**

**CUARTA:** Luego de cada ejercicio económico, se harán los siguientes apartados: 1) Un Cinco por Ciento (5%) para la formación de reservas, hasta alcanzar un Veinte por Ciento (20%) del Capital Social. 2) Los apartados para prestaciones sociales, garantías, y otros fines previamente acordados en la Asamblea. **DÉCIMA QUINTA:** Una vez

deducidos en los beneficios todos y cada uno de los gastos, así como lo verificaremos, apartados a que hubiere lugar, el saldo favorable será distribuido entre los socios en la forma que determine la Asamblea que se convoque al efecto. **DÉCIMA SEXTA:** La Compañía en ningún momento podrá en fiador o avalista de obligaciones de terceros y en consecuencia los administradores no podrán constituir a la Sociedad en garante de dichas obligaciones. **DÉCIMA SÉPTIMA:** En caso de disolverse la Sociedad, la

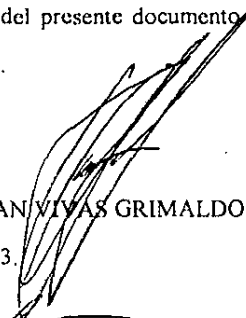

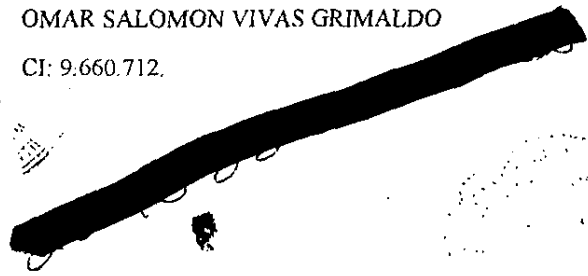

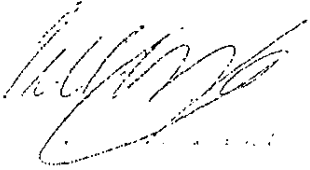
Accionistas son las siguientes: 1) Discutir, aprobar o rechazar el Balance General y el Estado de Ganancias y Perdidas, con vista del informe del Comisario; 2) Acordar apartados especiales para reservas de garantías y diversos fines, así como ordenar el empleo de dichos fondos. 3) Nombrar, reelegir o remover de sus cargos a los Gerentes responsables de la administración de la Compañía. 4) Decretar dividendos de la sociedad, sobre utilidades liquidas y recaudadas. 5) Deliberar y resolver en general sobre cualquier asunto sometido a consideración. **DECIMA:** La Asamblea de Accionistas no se considera válidamente constituida para deliberar si no esta presente en la sección al menos el Setenta y Cinco por Ciento (75%) del Capital Social pagado, todas las decisiones deberán ser tomadas por mayoría absoluta de las acciones representadas en dicha Asamblea, si no se obtuviere no podrán adoptarse resoluciones validas. Las decisiones tomadas en las Asambleas válidamente constituidas en la forma prevista anteriormente, obligan a los socios no presenten en ellas. **DÉCIMA PRIMERA:** La administración de la sociedad estará a cargo de una Junta Directiva, representada por dos (2) Directores, que serán **DIRECTOR GENERAL** y **DIRECTOR DE ADMINISTRATIVO** quienes al actuar en forma conjunta o indistintamente en el ejercicio de sus funciones representan y obligan a la Sociedad. Los **DIRETORES**, serán nombrados por la Asamblea de Accionistas y durarán Cinco (5) años en el ejercicio de sus respectivos cargos, pudiendo ser reelectos. Vencido dicho plazo continuarán en el ejercicio de sus Funciones hasta tanto se haga efectiva su reelección o sustitución. Ante de iniciar su función cada Director deberá depositar Cinco (5) acciones en la Caja de la Compañía los fines previstos en el artículo 244 del Código de Comercio. **DÉCIMA SEGUNDA:** El Director General y el Director de Administrativotas actuando en forma conjunta o indistintamente tendrán amplios poderes de disposición y administración. En consecuencia podrán ejercer las atribuciones siguientes: 1) Representar a la Sociedad judicial y extrajudicialmente, pudiendo constituir mandatarios para la adecuada representación de la sociedad en casos específicos. 2) Ejecutar operaciones que corresponden al giro de la sociedad, con atribuciones para vender y en cualquier forma enajenar bienes muebles e inmuebles, constituir hipotecas, prendas y cualquier otra clase de gravámenes y ejercer las



Asamblea de Accionistas determinará si los Directores General y Administrativo conjuntamente o alguno de ellos, o si fuere el caso de un tercero designado por unanimidad, será elegido como liquidador, quien en lo todo tendrá las atribuciones que le fije la Asamblea que lo nombre o en su defecto el Código de Comercio. **DÉCIMA OCTAVA:** En todo lo no previsto en este documento Constitutivo Estatutarios se aplicarán las disposiciones del Código de Comercio. **DÉCIMA NOVENA:** Para el primer periodo de Cinco (5) años ha sido designada la Junta Directiva de la siguiente manera: Como **DIRECTOR GENERAL OMAR YVAN VIVAS GRIMALDO**, ya identificado, como **DIRECTOR ADMINISTRATIVO OMAR SALOMÓN VIVAS GRIMALDO**, ya identificado, se designará como **COMISARIO** al Licenciado **CESAR ERNESTO AMUNDARAY VILLANUEVA**, venezolano, mayor de edad, Contador Público, titular de la Cédula de Identidad N° 7.070.108, e inscrito en el **C.P.C.** bajo el N° 25.535, y de éste domicilio. **VIGÉSIMA:** Se autoriza al señor **PEDRO JOSE GARCIA, C.I: 5.309.145.** Para que proceda la inscripción, fijación y publicación del presente documento por ante el Registro Mercantil de la fecha de su presentación.

OMAR YVAN VIVAS GRIMALDO  
CI: 9.660.873.

OMAR SALOMON VIVAS GRIMALDO  
CI: 9.660.712.

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## CARRIER INTERAMERICA CORPORATION DEALER AGREEMENT

This DEALER AGREEMENT is made on this 16<sup>th</sup> day of June 2006 between Carrier InterAmerica Corporation with offices at 3450 N.W. 115 Avenue, Miami, Florida 33178, U.S.A. (the "Seller") and RefriAmérica, C.A. with offices at Avenida Rómulo Gallegos, Urbanización Horizonte, Centro Comercial Aloa, P.P.-Local PP-13, Caracas, Venezuela, (the "Dealer").

Seller and Dealer agree as follows:

### 1.0 TERM AND SCOPE

This Agreement shall be effective for a period of one (1) year from the date hereof (the "Term"); and shall renew automatically for successive period of one (1), unless terminated as provided for in Section 4.9. This Agreement consists of this document, Appendix A ("Carrier Products"), Appendix B ("Dealer Sales Quota") and Appendix C ("Carrier InterAmerica Corporation Terms and Conditions of Sale").

### 2.0 TERRITORY

2.1 The geographic area (the "Territory") in which Dealer shall be measured in fulfilling its responsibilities for sales and services of Carrier Products (as defined herein) in this Agreement is: Venezuela. The authorized venue is located at : Avenida Rómulo Gallegos, Urbanización Horizonte, Centro Comercial Aloa, P.P.-Local PP-13, Caracas, Venezuela.

2.2 With the exception of export sales which are strictly prohibited, Dealer may sell Carrier Products outside of the Territory but shall retain all responsibility for all after-sale customer support (including warranty service) related to such sales. Dealer may fulfill its after-sale customer support responsibilities on its own or through arrangements agreed to with the Carrier distributor, dealer or sales representative for the territory in which the Carrier Products were sold. However, Seller does not encourage such out-of-Territory sales.

2.3 Seller may at any time reduce, enlarge or otherwise change the scope of the Territory covered by this Agreement by giving the Dealer ninety (90) days prior written notice of such change.

2.4 This Agreement is nonexclusive. Without limiting the foregoing, Seller shall have the absolute right to: (a) sell or service Carrier Products in the Territory and



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(b) appoint one or more additional Distributors and/or distributors or sales representatives in the Territory to promote and assist the Seller in the sale of the Carrier Products and, in the event of any such sales and/or appointments, Distributor hereby expressly agrees that it shall not be entitled to any commission of any kind or compensation, remuneration, indemnification or damages by virtue of such sales and/or appointment.

### 3.0 CARRIER PRODUCTS

3.1 Seller's Responsibilities: Seller hereby accepts and agrees to perform the following:

a. Sell to Dealer, subject to the terms and conditions hereof, the Carrier products described in Appendix A (hereinafter referred to as "Carrier Products").

b. Sell Carrier Products to the Dealer at such prices which Seller and Dealer agree to from time to time and which are in effect at the time of shipment.

c. At Dealer's expense, provide Dealer with pricing and technical data booklets (including product catalogues, installation and service manuals). Such information need only be supplied in the English language, but if Spanish language versions are available, Seller shall provide Dealer with such Spanish language versions.

3.2 Dealer's Responsibilities: Dealer hereby accepts and agrees to perform the following:

3.2.1 To use its best efforts to sell, advertise and promote the sale and use of Carrier Products throughout the Territory in such a manner as to maintain the high integrity and excellent reputation of Carrier Products.

3.2.2 To adequately capitalize the Dealership and maintain it on a financially sound basis in order to aggressively develop and promote the sale and service of Carrier Products within the Territory.

3.2.3. To utilize diligent efforts and employ a sufficient size staff to achieve and maintain market acceptance and penetration consistent with Seller's marketing objectives for Carrier Products within the Territory.

3.2.4. To develop and maintain, directly and through sub-dealers, an efficient, competent, and financially sound marketing organization for the purpose of distributing, selling, delivering, installing and servicing Carrier Products in accordance with written instructions, and other information and recommendations communicated from time to time by Seller.

3.2.5 To develop and provide through Dealer's marketing organization an adequate, efficient, properly trained and technically competent service force to render sufficient prompt and satisfactory service of Carrier Products and to provide such service either directly or through sub-dealers, in accordance with Seller's service and warranty policies, terms and conditions.

3.2.6. To maintain personal contacts with architects, consulting engineers, mechanical contractors, builders and similar customers located in the Territory and to make a good faith effort to get Carrier Products specified for new construction.

3.2.7. To purchase and carry in good salable condition a reasonable stock of Carrier Products and basic and special parts, tools and instruments in order to adequately supply and service said marketing organization and comply with any local requirements regarding renewal parts. Such stocking program shall be periodically and regularly reviewed and agreed upon by Dealer and Seller's representatives.

3.2.8 To sell during the Term of this Agreement, at a minimum, Carrier Products of the types and in the U.S. dollar volumes listed in Appendix B to this Agreement (the "Dealer Sales Quota").

3.2.9 To keep reasonably informed on all information, bulletins and price changes in connection with Carrier Products which may be issued to Dealer, and to adequately disseminate such information to its sales and service organization.

3.2.10. To advertise in a manner that will develop market acceptance and confidence in Dealer, Dealer's marketing organization, and Carrier Products, and not to use or approve of use by its marketing organization of any advertising or promotional campaign which tends to mislead or deceive the public, or is prohibited by federal or state laws. Dealer shall discontinue any advertising or promotional campaign which Seller reasonably determines to be false, misleading, or injurious to Seller's good will or business, or the good will or business of Seller's other dealers, distributors and sales representatives.

3.2.11. To submit to Seller, on a confidential basis, complete and accurate schedules and reports in and on such forms and at such times as Seller may reasonably request, including but not limited to: sales forecasts; audited income statements and balance sheets (on an annual basis or as required); inventory and movement reports; and sources of financing specifying any liabilities that are attached thereto.

3.2.12. To report operating results to Seller and provide Seller with copies of Dealer's financial statements when requested. To follow generally accepted

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accounting practices; and further, to permit Seller, on a confidential basis, to inspect Dealer's books, records, and facilities to ensure compliance with this Agreement and for any other reasonable purpose.

3.2.13 To carry a satisfactory amount of comprehensive general liability insurance including product liability coverage and to submit to Seller, if requested, evidence of such insurance and its effective term.

3.2.14. To submit the following information concerning the ownership and management of the Dealership as of the date of executing this Agreement and from time to time thereafter as requested by Seller:

(1) A copy of Dealer's Articles of Incorporation and By-Laws with the date and state/country of Incorporation.

(2) A listing of all classes of stock and as to each class of stock, the total amount authorized; par value of each share; rights of each class; and amount outstanding/unissued of each class of stock.

(3) A list of the names and addresses of all stockholders and amount of each class of stock owned by each.

(4) Copies of any and all agreements between the Dealer and any or all of its stockholders, and between and among the stockholders.

(5) A list of the names, addresses, dates of birth, title, description or responsibilities of each officer of the corporation.

(6) A list of all stock or ownership interests held by Dealer or any of its stockholders in any other corporations, partnerships, or joint ventures.

(7) A list of trade and credit references including copies of the most recent WTDR or Graydon's reports.

Dealer also agrees to provide prompt and full notice of, and obtain Seller's approval prior to any subsequent changes in the above.

3.2.15. To provide Seller, from time to time, with up-to-date market information with respect to the Territory which shall include, at a minimum: market size by product line; market share by product line; competitors' market shares by product line; and general market trends.

3.2.16 To not export any product to another country.

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### 3.3 Product Availability and Changes

Seller reserves the right to allocate its available Carrier Products as it may determine in the exercise of its business judgment. In order to conduct its business, Seller shall have the right at any time, in its sole and absolute discretion and without incurring any liability whatsoever to Dealer, to discontinue or to limit its production of any Carrier Products, to alter the design or construction of Carrier Products and to add new or additional products to its product line. Seller shall also have the right to delete any Carrier Product from this Agreement upon not less than ninety (90) days advance written notice given to Dealer. After the effective date of such deletion, neither Seller nor Dealer shall be under any obligation to deliver or accept delivery of such deleted Product.

## 4.0 GENERAL CONDITIONS OF DISTRIBUTION

### 4.1 Terms of Sale

4.1.1. All sales made by Seller to Dealer shall be subject to the provisions of this Agreement and Seller's standard "Terms and Conditions of Sale" in effect at the time Dealer's order is accepted by Seller. Seller's current "Terms and Conditions of Sale" are contained in Appendix C and are incorporated into, and made a part of this Agreement. Any modifications to these Terms and Conditions of Sale shall be effective upon thirty (30) days advance notice to the Dealer.

4.1.2. In the event that any terms or conditions contained herein (which includes those in the Appendices to this Agreement) conflict with any terms and conditions contained in any purchase or sales order forms, or any other agreement related to a specific and individual purchase and sale of Carrier Products, this Agreement shall govern and prevail. Seller and Dealer may agree, in the future, to any additional terms and conditions which are not addressed in this Agreement and which do not conflict with any terms and conditions contained herein. Such additional terms and conditions shall apply only to the individual sales/purchase order in which they are contained or otherwise pertain. This Agreement, however, may only be altered or modified by a writing, signed by both Seller and Dealer, which is a separate document from any individual purchase/sales order form, or other type of purchase/sales correspondence related to a specific purchase and sale of Carrier Products.

### 4.2 Relationship of Parties

Both Dealer and Seller shall make best efforts to establish a close and cooperative business relationship. Dealer is an independent entity from that of Seller and acts for its own account and at its sole risk. Dealer and/or its agents, subsidiaries, affiliates, and employees are in no way the legal representative or agent or employees of the

Seller for any purposes whatsoever and have no right or authority to assume or create, in writing, or otherwise, any obligations of any kind, expressed or implied, in the name of or on behalf of the Seller.

#### 4.3 Warranties, Liabilities, and Remedies

4.3.1. Seller makes no representations or warranties, express or implied, with respect to the Carrier Products or parts to be sold except as provided in Seller's standard Terms and Conditions of Sale and in Seller's standard printed warranty certificates. Dealer shall adhere to Seller's written policies as issued from time to time relating to product warranties and service, and to Seller's rules for returning any Carrier Product or part for repair or service.

4.3.2. Dealer will indemnify; defend, and hold harmless Seller from and against any and all liabilities, claims, actions, damages, losses, costs, and expenses (including reasonable attorneys' fees) of any kind or nature (including any such claims which Dealer may have) arising out of the purchase, sale, use or installation of Carrier Products and parts by Dealer or by Dealer's customers except claims for personal injury, including death, which arise solely from defects in the material and workmanship of the Carrier Products purchased by Dealer from Seller.

4.3.3. In no event shall Seller be liable for special, incidental, or consequential damages or losses of any kind. Specific performance shall not be available to Dealer as a remedy for breach of any obligation in connection with this Agreement. Seller's liability and Dealer's sole and exclusive remedy shall be limited to monetary damages in the maximum amount of the price of the Carrier Products alleged to be the cause of any such loss or damage suffered by Dealer.

#### 4.4 Orders

Seller will endeavor to fill Dealer's orders for Carrier Products. However, no failure on the part of Seller to make deliveries shall create any claim or liability against Seller, and Seller shall not be responsible for any delay in delivery occasioned by war, labor trouble, governmental regulations, shortages of labor or material, transportation difficulties, or any other cause of a like or different nature beyond the reasonable control of Seller.

#### 4.5 Trademarks

4.5.1. Dealer acknowledges and agrees that all rights in and to the trademarks, servicemarks and trade names "CARRIER", "CARRIER", "PAYNE", "DAY & NIGHT", and "TOTALINE" are the exclusive property of Seller's parent company, Carrier Corporation, of the United States of America, and Dealer shall not, without the

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• prior written consent of Seller, either during or after the term of this Agreement, acquire, assert or register any rights in or to any trademark, servicemark or trade name which is in whole or in part the same as or similar to the foregoing names or any other trademark, servicemark or trade name which is now or hereafter owned or used by Seller or Carrier Corporation or any subsidiary thereof. Seller hereby transfers and assigns to Carrier Corporation all ownership in, and rights to such marks and names which it may have acquired as of the date of this Agreement.

4.5.2. Dealer agrees that it shall use such marks and names only in a form and manner which is approved by Seller, and Dealer shall immediately discontinue any unapproved use of such marks and names upon request by Seller. Dealer will reimburse Seller for all costs, expenses, attorney's fees and damages incurred by Seller to enforce Dealer's obligations to cease any unauthorized or unapproved use of such marks or names. Dealer will report to Seller all infringement or illegal uses of Seller's and Carrier Corporation's marks and names and assist Seller and Carrier in obtaining protection of these assets in the Territory, but Dealer acknowledges and agrees that only Seller and Carrier have the right to sue for any infringements.

#### 4.6 Confidential Information

The Dealer shall maintain in confidence and safeguard all business and technical information which becomes available to the Dealer in connection with this Agreement and which information is either of a confidential or proprietary nature or is not intended to be disclosed to others. Without limiting the foregoing, pricing information, unpublished performance data, and technical drawings are deemed confidential and proprietary. Price and Data Books and other manuals supplied by Seller for Dealer's convenience remain the property of Seller (returnable to Seller at Seller's request) and may not be given, sold or disclosed to others without the prior written consent of Seller. Copyrighted materials made available to Dealer by Seller may not be translated or copied wholly or in part without Seller's prior written consent.

#### 4.7 Assignment

This Agreement or any rights, privileges or obligations hereunder may not be assigned or delegated by Dealer without the prior written consent of Seller, and any such assignment or delegation without Seller's written consent shall be void and constitute cause for termination. Seller has the unrestricted right to assign this Agreement or to otherwise delegate, fulfill, administer or carry out the terms of this Agreement in whole or in part through one or more subsidiaries, affiliates or designees authorized by Seller to act on its behalf, and unless such right is exercised, only Seller shall be deemed a party to this Agreement.

#### 4.8 Fixed Term Agreement

This Agreement shall automatically expire at the end of its Term (set forth in Section 1.0 above). Dealer acknowledges and agrees that **THERE IS NO PROMISE, EXPRESSED OR IMPLIED, MADE BY SELLER TO DEALER THAT DEALER SHALL HAVE ANY RIGHT TO HAVE THIS AGREEMENT RENEWED AFTER THE TERM HEREOF OR THAT THIS AGREEMENT WILL BE RENEWED.** Seller shall have no liability whatsoever to Dealer when this Agreement terminates (including termination pursuant to Section 4.9) or if Seller and Dealer fail to enter into a subsequent Dealer Agreement. If this Agreement terminates, for any reason, any further sales of Carrier Products by Seller to Dealer shall not be deemed an extension or renewal of this Dealer Agreement. However, such sales shall be subject to Seller's then current Terms and Conditions of Sale.

#### 4.9 Termination

This Agreement may be terminated:

- a. by mutual agreement in writing between the Seller and the Dealer;
- b. by either Seller or Dealer, with or without cause, upon not less than one hundred and eighty (180) days advance notice in writing to the other party; or
- c. by the Seller unilaterally without advance notice in the event that:
  - (1) Dealer attempts to assign this Agreement or any rights hereunder, or delegate any duties hereunder without the Seller's prior written consent;
  - (2) there is a change in control or management of the Dealer which is unacceptable to the Seller (for any reason whatsoever);
  - (3) Dealer fails to pay Seller when due amounts owed for purchases of Carrier Products;
  - (4) Dealer ceases to function as a going concern, or ceases to conduct its operation in the normal course of business as a Dealer, or a receiver or the like for Dealer is appointed, or the Dealer otherwise takes advantage of any insolvency law, or files a petition in bankruptcy or the like; or

- (5) Dealer fails to achieve the Dealer Sales Quota or fails to make regular purchases or sales of Carrier Products consistent with successful achievement of the Dealer Sales Quota;
- (6) Dealer breaches any other provision of this Agreement and such breach is not cured within fifteen (15) days after Seller notifies Dealer of such breach.
- (7) Either Party gives written notice to the other party at least sixty (60) days prior to the anniversary date of the agreement.

Each of the foregoing events described in this subparagraph c. shall, without limitation, be deemed "just cause" for termination by the Seller.

#### 10 Rights and Obligation upon Expiration or Termination

Upon expiration or termination of this Agreement:

a. Dealer shall return to Seller any property loaned to Dealer by Seller for Dealer's convenience and use and Seller may, at its sole option and without any obligation to do so, buy from Dealer any of Dealer's currently owned Carrier Products which are in new and unused condition at a price equal to the lesser of Dealer's original landed cost or the then current landed cost to Dealer.

b. Dealer shall turn over to the Seller, in accordance with Seller's instructions and free of charge, all of the Dealer's sales, product and service records, customer lists and other records and data relating to sales and service of Carrier Products

c. Dealer shall cease to use any of Seller's or Carrier Corporation's trademarks, service marks and trade names and shall remove such marks and names from all facilities under Dealer's control.

d. Neither party has a right to receive from, nor any obligation to pay to the other termination compensation or any other compensation, reimbursement, or damages on account of any loss of prospective profits on anticipated sales or on account of expenditures, investments, leases, or other commitments relating to the business or goodwill of either party, to the other. Dealer acknowledges and agrees that its compensation under this Agreement consists solely of the difference between Dealer's purchase price paid to Seller for Carrier Products and the selling price Dealer receives from its customers. Dealer hereby agrees to waive any rights to termination compensation, consequential damages, and indemnification which it may have under federal, state, or local law and will indemnify, defend, and hold harmless the Seller from





and against all claims of its employees, agents or representatives for any similar compensation or for any severance, disability or social security pay.

#### 4.11 Dealer Warranties and Representations

4.11.1 The Dealer represents and warrants to the Seller, and agrees that no money or thing of value has been or will be paid, offered, given or promised by the Dealer, its agents or employees, (in this Section 4.11.1 collectively referred to as the "Dealer") directly or indirectly, to:

a. The Seller, its parent corporation, or any of its divisions, subsidiaries or affiliates, (in this Section 4.11.1 collectively referred to as the "Seller"), or to any directors, officers or employees of the Seller other than the purchase price of the Carrier Products sold by the Seller to the Dealer in accordance with this Agreement; or

b. Any person, firm or corporation, at the direction of or by arrangement with the Seller or any directors, officers or employees of the Seller; or

c. Any political party or official thereof, any candidate for political office, or any officer, employee or agent of any government or government-controlled entity, for purposes of:

(1) Influencing any act or decision of such party, official, candidate, officer, employee or agent, in his or its official capacity, including a decision to fail to perform his or its official functions; or

(2) Inducing any such party, official, candidate, officer, employee or agent, to use his or its influence with a government or government-controlled entity thereof to affect or influence any act or decision of such government or entity, in order to promote sales of Seller's products or otherwise to assist the Dealer in any aspect of its business.

4.11.2 Notwithstanding any provision to the contrary, this Agreement may be unilaterally terminated effective from the date of written notice by Seller:

a. If Seller has reason to believe the representations and warranties made by the Dealer in Section 4.11.1 above are no longer valid; or

b. If Seller, in its sole discretion, determines that any of the provisions of this Agreement violates or contravenes any laws or regulations of the Territory or the United States of America.

4.11.3 Termination under Section 4.11.2 above shall be, but not by way of limitation, a termination for just cause, relieving Seller of any obligation to make further sales under this Agreement or to deliver any Carrier Products to Dealer.



#### 4.12 Performance

Failure of Seller at any time to require performance by Dealer of any provision hereof shall not be deemed a waiver of any of Seller's rights nor shall it affect Seller's right to require such performance at any time thereafter.

#### 4.13 Previous Agreements

This Agreement represents the entire understanding and agreement between the Seller and Dealer with respect to the subject matter hereof and cannot be amended, supplemented or changed, nor can any provision hereof be waived, except by written instrument signed by both parties. This Agreement supersedes and replaces any prior agreements, representations and understandings, between the parties as to the subject matter hereof, whether oral, written or established by course of dealing.

#### 4.14 Applicable Law and Choice of Forum

THIS AGREEMENT SHALL BE GOVERNED AND CONTROLLED BY THE INTERNAL LAWS OF THE STATE OF FLORIDA, U.S.A., WHICH STATE IS THE LOCATION OF SELLER'S PRINCIPAL OFFICES. Dealer irrevocably agrees that, subject to Seller's sole and absolute election, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS AGREEMENT SHALL BE LITIGATED IN COURTS HAVING SITUS WITHIN THE CITY OF MIAMI, STATE OF FLORIDA WHICH CITY IS THE LOCATION OF SELLER'S PRINCIPAL OFFICES. DEALER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURTS LOCATED WITHIN SAID CITY AND STATE. Dealer hereby irrevocably appoints and designates the Secretary of State of Florida, whose address is Tallahassee, Florida (or any other person having and maintaining a place of business in such state whom Dealer may from time to time hereafter designate upon ten (10) days written notice to Seller and who Seller has agreed in its sole discretion in writing is satisfactory and who has executed an agreement in form and substance satisfactory to Seller agreeing to act as such attorney and agent), as Dealer's true and lawful attorney and duly authorized agent for acceptance of service of legal process. Dealer agrees that service of such process upon such person shall constitute personal service of such process upon Dealer. DEALER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST DEALER BY SELLER IN ACCORDANCE WITH THIS SECTION. DEALER HEREBY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING WHICH PERTAINS DIRECTLY OR INDIRECTLY TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Agreement in triplicate in  
Miami, Florida, U.S.A.

REFRIAMERICA, C.A.  
("Dealer")

By: \_\_\_\_\_  
(signature)

OMAR YVAN VIVAS  
GENERAL DIRECTOR

CARRIER INTERAMERICA  
("Seller")

By: Joseph M. Gleeson  
(signature)

JOSEPH M. GLEESON  
GENERAL MANAGER

[REDACTED]

APPENDIX A  
TO  
CARRIER INTERAMERICA CORPORATION DEALER AGREEMENT

CARRIER PRODUCTS

For purposes of Section 3.0 of the Dealer Agreement dated June 16<sup>th</sup>, 2006 and made between Carrier InterAmerica Corporation and RefriAmérica, C. A the term "Carrier Products" is defined to mean products manufactured or sold by Carrier Corporation of the following product model series:

<u>Description of Products</u> <u>Model Series</u>	<u>Product</u>
Package Equipment Group 28,38,40,46,49,50,58 & 60 Series	Carrier
Applied Equipment 5, 6, 7, 9, 10, 27, 28, 29, 30, 36, 37, 39, 40, 42, 43, & 46 Series	Carrier
Heavy Refrigeration 16, 17 & 19 Series (for water chilling applications only)	Carrier
Mini-Splits--Hi-Wall Type	Carrier
Mini-Splits-Console Type	Carrier
Residential Condensing Units 38 Series	Carrier
Residential Air Handlers FB4 Series	Carrier
Service parts for all above listed products.	

APPENDIX B  
TO  
CARRIER INTERAMERICA CORPORATION DEALER AGREEMENT  
DEALER SALES QUOTA

For purposes of Section 3.2.9 of the Dealer Agreement dated June 16<sup>th</sup>, 2006 and made between Carrier InterAmerica Corporation and RefriAmérica, C. A., the term "Dealer Sales Quota" is defined to mean the sale of Carrier Products of the following product types and U.S. dollar volumes over the Term of this Agreement:

DESCRIPTION OF PRODUCTS

SALES QUOTA

Carrier

400,000.00 - 1st. Year

Total (in U.S. Dollars)

APPENDIX C  
TO  
CARRIER INTERAMERICA DEALER AGREEMENT

CARRIER INTERAMERICA CORPORATION  
TERMS AND CONDITIONS OF SALE

1. CONTRACT OF SALE: Subject to the terms and conditions stated herein (including all drawings, specifications and other documents attached to this offer or referred to in this offer), Carrier InterAmerica Corporation ("Seller") agrees to sell to Buyer and Buyer agrees to purchase from Seller, the goods or services described in this sales ("order"). If for any reason Buyer shall fail to return to Seller the signed acknowledgement copy of this order, any conduct by Buyer which recognizes the existence of a contract pertaining to the subject matter hereof shall constitute unqualified acceptance by Buyer of this order and all of its terms and conditions. Any terms proposed by the Buyer which add to, vary from, or conflict with the terms herein are hereby objected to. If this order has been issued by Seller in response to Buyer's offer and if any of the terms herein are additional to or different from the terms of such offer, then the issuance of this order by Seller shall constitute an agreement between Buyer and Seller with respect to the subject matter hereof and the subject matter of such offer. Further, Buyer shall be deemed to have so assented to, and acknowledged Seller's terms unless Buyer notifies Seller to the contrary in writing within seven (7) calendar days of receipt of this order. Any reference by Seller to Buyer's proposal is solely for the purpose of incorporating the description and specifications of the goods and services contained therein to the extent that such description and specifications do not conflict with the description and specifications of this order. Price quotes given by Seller are only valid for thirty (30) days after given.

2. TITLE, DELIVERY, RISK OF LOSS AND SHIPPING: Title to and risk of loss to all goods sold under this order by Seller, shall pass to the Buyer upon their delivery Ex Works {Seller's warehouse, or, in the case of factory-direct shipments, Seller's factory} to an agent of Buyer, including a common carrier. Wherever transportation rates and carrier's liability for damage depend upon the value of the shipment as declared by shipper, Seller will declare such value as will entitle Buyer to have goods shipped at the lowest permissible transportation rates unless otherwise instructed in writing by Buyer. Buyer will furnish written shipping instructions for all goods as promptly as possible. In the absence of such instructions, Seller may, at any time beginning ten (10) days after forwarding notice to Buyer by mail, facsimile or otherwise, that the goods are ready for shipment, do either of the following for the account and at the expense and risk of Buyer, (a) arrange for shipment of the goods by a carrier of its own selection to Buyer's place of business or other destination reasonably believed to be suitable, or (b)

warehouse the goods. Buyer will not hold Seller liable for loss or damage attributed to negligence either in selection of the carrier or the warehouse or in agreeing with either of them to contract terms on Buyer's behalf.

3. INSPECTION: If upon receipt of the goods by Buyer at destination the same shall appear not to conform to this order. Buyer shall, within thirty (30) days after receipt, notify Seller of such condition and afford Seller a reasonable opportunity to inspect the goods and make any appropriate adjustment or replacement. The same remedies afforded Buyer under the paragraph entitled "Warranties, Remedies and Limitations" (paragraph 4) shall be applicable for defective goods discovered upon inspection. Buyer shall not delay payment for the goods pending their inspection. Nothing within this clause shall be construed to limit any of the Buyer's rights under paragraph 4 below.

4. WARRANTIES, REMEDIES AND LIMITATIONS:

a) Warranty - Seller warrants the goods sold to be free from defects in material and workmanship, under normal use and proper maintenance, for a period of eighteen (18) months from the date of shipment to Buyer, or twelve (12) months from the date of original installation, whichever comes first. Seller will, at its sole option, either provide a new or re-manufactured component to replace any defective components, or provide a complete replacement equipment unit. Such replacement component or unit shall be furnished by Seller Ex Works {factory}. As a condition to this warranty, Buyer must make any warranty claims in writing to Seller within three (3) months of discovery of the defective condition. This warranty applies only to the goods in their original installation location and is void if the goods are reinstalled elsewhere. This warranty does not include labor or other expense incurred for diagnosing, removing, installing, shipping, servicing or handling of any defective component or unit. No allowance will be made for repairs or alterations performed by anyone other than Seller unless made with the prior consent of Seller and only to the extent such expenses are reasonable. All replacement components or units, whether new or remanufactured, assume as their warranty period only the remaining time period of this warranty. No goods shall be returned to Seller without Seller's prior consent. In the event goods are returned to Seller, all transportation charges and other associated costs for the return of defective goods to Seller and the reshipment to Buyer, and the risk for loss in transit, shall be borne by the Buyer. Seller reserves the right to reject any warranty claim with respect to goods that have been altered, or shipped by means of transportation other than that designated by Seller. Buyer shall be responsible for all damage to returned goods resulting from improper packing or handling, notwithstanding any defect or nonconformity in the goods.

c) Title: Seller warrants to Buyer that it will convey good title to the goods sold. Seller's liability and Buyer's remedy under this warranty are limited to the removal of

any title defect or, at the election of the Seller, to the replacement of the goods or parts which are defective in title.

(c) Exclusive Warranties and Remedies: The foregoing warranties are exclusive and are given and accepted in lieu of (i) any and all other warranties, express or implied, including without limitation the implied warranties of merchantability and fitness for a particular purpose; and (ii) any obligation, liability, right, claim or remedy in contract or tort against Seller whether or not arising from the negligence, actual or imputed, of Seller. The remedies of the Buyer shall be limited to those provided herein to the exclusion of any and all other remedies including, without limitation, special incidental or consequential damages or damages from loss of commercial profits, use, or customer goodwill. No agreement varying or extending the foregoing warranties, remedies, or this limitation will be binding upon Seller unless in writing and signed by a duly authorized agent of Seller. Buyer agrees to indemnify and hold Seller harmless from all reasonable attorney's fees, costs and expenses arising or incurred because of any suit or action relating to or arising out of this order, brought against Seller by Buyer in which Seller is a successful party, or brought by Seller to enforce the terms and conditions of this order.

(d) Cancellation: This order may be canceled by Buyer only with the prior consent of Seller and only upon payment of reasonable cancellation charges. Such charges shall take into account costs and expenses thereto incurred, purchase or contract commitments made by Seller, and all other losses due to such cancellation including a reasonable profit.

5. EXCUSABLE DELAYS: Buyer acknowledges that the goods called for hereunder are to be manufactured by or for Seller to fulfill this order and that the delivery dates are based on the assumption that there will be no delay due to causes beyond the reasonable control of the Seller. Seller shall not be charged with any liability for delay or nondelivery when due to delays of suppliers, acts of God or the public enemy, compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it proves to be invalid, fires, riots, labor disputes, unusually severe weather or any other cause beyond the reasonable control of Seller. To the extent that such causes actually retard deliveries on the part of Seller, the time for the performance shall be extended for as many days beyond the original delivery date as is required to obtain removal of such causes. This provision shall not, however, relieve Seller from using its best efforts to avoid or remove such causes and continue performance with reasonable dispatch whenever such causes are removed.

6. TAXES: In addition to the agreed purchase price of the goods, any and all taxes (not including any income or excess profit taxes) which may be imposed by any taxing authority, arising from the sale, delivery, or use of the goods (including, without limitation, excise and value added taxes, and any import or export duties) and for which



Seller may be held responsible for collection or payment, either on its own behalf or for that of Buyer, shall be paid by Buyer to Seller upon Seller's demand.

7. BUYER'S FINANCIAL STATUS: If before completion of performance of this order by Seller a receiver or trustee is appointed for any of Buyer's property, or Buyer be adjudicated a bankrupt, or application for reorganization pursuant to the Bankruptcy Code 11 U.S.C., Section 101 et seq. (or its equivalent law in any other country) be filed by or against Buyer which shall not be dismissed within thirty (30) days or if Buyer becomes insolvent or makes an assignment for the benefit of creditors or takes, or attempts to take, the benefit of any insolvency acts, or an execution be issued pursuant to a judgment rendered against Buyer, or should Buyer be unable to refuse to make payment to Seller in accordance with any of its obligations to Seller, Seller may at its option in any of such events terminate this order by giving to Buyer a written notice. Upon such termination, Seller shall be relieved of any further obligation to Buyer and Buyer shall reimburse Seller the Seller's termination costs and expenses and a reasonable allowance for profit.

8. SECURITY INTEREST: To secure the payment of the purchase price of the goods sold hereunder, Buyer hereby grants to Seller a continuing security interest in the goods and in the proceeds of any subsequent resale, including, without limitation, any accounts, trade acceptances, notes, and contract rights relating to it. Buyer shall have the right to sell the goods during the time Seller retains this security interest but only in the ordinary course of its business. Upon default in payment when due of any invoice or invoices covering goods subject to this order, Seller shall have the right to (a) foreclose the security interest by any available judicial procedure, (b) take possession of the goods and prepare or process the goods for disposition or sale, or (c) accept the goods in discharge of the obligation of Buyer under this order. Except for the case in which the Seller accepts the goods in discharge of the payer obligations hereunder, Buyer shall remain liable for any deficiency between the unpaid amount due under this order and the proceeds of such sale or foreclosure. At all times while the goods are subject to this security interest, Buyer agrees not to engage in any transactions that would in any way affect or impair the rights of Seller or its security interest granted hereunder. This security interest shall terminate upon complete payment by Buyer of the purchase price of the goods sold pursuant to this order.

9. LIABILITY LIMITATION: Specific performance shall not be available to either party as a remedy for breach of any obligation in connection with this order. Seller's liability and Buyer's sole and exclusive remedy, whether at law or at equity, shall be limited to monetary damages in the maximum amount of the price allocable in this order to any of the goods or services alleged to be the cause of any loss or damage to the Buyer, whether founded in contract or tort (including negligence) arising out of, or resulting from, (a) this order or the performance or breach thereof, (b) the design, manufacture, delivery, sale, repair, replacement or use of any such product, or (c) the furnishing of

any such service. In no event shall Seller have any liability for any special incidental or consequential damages.

10. PAYMENT: Unless otherwise specified by Seller in writing, goods sold hereunder shall be paid "Cash Prior to Shipment" or pursuant to irrevocable Letter of Credit (approved by Seller in advance) payable in the United States of America ("U.S.A.") and payable in lawful currency of the United States of America without any offset of payment for any claim against, or obligations due from, the Seller. In the event that Seller does not receive payment when due, Buyer agrees to pay to Seller interest on the unpaid balance at the rate of one and one-half percent (1½%) per month, compounded monthly. Interest shall accrue beginning on the fifth day after the applicable due date and will continue until all outstanding amounts have been paid. In the event that this interest rate exceeds the maximum rate allowed by applicable law ("Maximum Rate"), then the obligation to pay interest hereunder shall be reduced to the Maximum Rate. Any amounts paid to Seller in excess of the Maximum Rate shall not be deemed payments of interest but instead shall be applied to reducing any outstanding obligations owed by Buyer to Seller, and if all such obligations are fully paid, such excess amounts shall either be returned to Buyer or credited to Buyer's account with Seller. Buyer's failure to make perfect tender of any payment when due shall be deemed a fundamental breach of this order. Inability of Buyer to make payment as specified, due to any foreign or domestic governmental restrictions shall not be an excuse for non-payment.

11. EXPORT LICENSE: The Buyer shall be responsible for obtaining any export license or similar authorization required by the U.S. Government for the export of the goods sold under this order. The Seller shall not be responsible for the issuance of such export license or authorization or the continuance in effect (force) of such license or authorization if issued.

12. BUYER'S REPRESENTATIONS AND WARRANTIES: Buyer hereby represents, warrants and agrees that no money or thing of value has been or will be paid, offered, given or promised by the Buyer, his agents or employees (in this paragraph collectively referred to as the "Buyer"), directly or indirectly, to the following individuals or entities for the purpose of promoting Seller's products or otherwise assisting Seller in any aspect of its business: (1) the Seller, its parent corporation, or any of its divisions, subsidiaries or affiliates (in this paragraph collectively referred to as the "Seller"), other than the purchase price of the goods sold by Seller to Buyer pursuant to these Terms and Conditions of Sale, or to any directors, officers or employees of Seller; or to (2) any person, firm, or corporation, at the direction of or arrangement with Seller, or with any directors, officers or employees of Seller; or to (3) any official or employee of any government or government-controlled entity, any person acting on behalf of any government or government-controlled entity, any political party or official thereof, or any candidate for political office, for purposes of influencing any act or decision of such

official, employee, person; party or candidate, in his or its official capacity, including a decision to fail to perform his or its official functions, or to induce any such official, employee, person, party or candidate to use his or its influence with a government or government-controlled entity to affect or influence any act or decision of such government or entity. In the event that Seller has reason to believe that the foregoing representations and warranties are not being complied with or that any purchase or sale transaction between Buyer and Seller may violate the laws of the United States of America or Buyer's country, then Seller may cancel Buyer's order and otherwise terminate the purchase and sale transaction.

13. MODIFICATION, APPLICABLE LAWS, CONSTRUCTION AND CAPTIONS: No modifications of this order shall be binding unless in writing signed by both parties hereto. If the subject matter of this order pertains either in part or in whole to services, this order shall be interpreted in accordance with, and the construction thereof shall be governed solely and exclusively by, the laws of the State of Florida, U.S.A. To the extent the subject matter of this order pertains to goods, this order shall be interpreted in accordance with, and the construction thereof shall be governed solely and exclusively by, the provisions of the Uniform Commercial Code as adopted by the State of Florida, U.S.A. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this order in whole or in part. In all other respects, this order shall be governed solely and exclusively by the laws of the State of Florida, U.S.A. Definitions of shipping terms shall be governed by INCOTERMS 1990. The courts of the State of Florida, U.S.A. are the exclusive forum for resolving any disputes arising under this order. Captions, as used in these terms and conditions, are for convenience of reference only and shall not be deemed or construed as in any way limiting or extending the language of the provisions to which such captions may refer.

14. ACCELERATED DELIVERY/PARTIAL SHIPMENT: The Seller is authorized to exceed the delivery rate, or to complete performance of this order, prior to the time set forth in the order. The decision to accelerate delivery of the goods or perform the order prior to the time set forth therein shall be within the sole discretion of the Seller and the Buyer agrees to reasonably assist the Seller to make deliveries or perform the order on an accelerated basis. Unless otherwise agreed, Seller shall have the right to deliver the goods in partial shipments and invoice Buyer for that portion of the sales order which was shipped.

15. ENTIRE AGREEMENT: The terms and conditions of this order shall constitute the entire agreement between the parties hereto and shall supersede all previous or contemporaneous statements, communications, representations, or agreements, either oral or written, by or between the parties hereto with respect to the subject matter hereof and no contemporaneous or subsequent agreement or understanding modifying, varying, or expanding the same, shall be binding upon either party hereto unless in writing and signed by a duly authorized officer or representative thereof. It is

expressly agreed by the parties hereto that this constitutes the entire and only agreement between the parties hereto and that there are no agreements, understandings or covenants between the parties hereto of any kind, nature, or description, expressed or implied, oral or otherwise, which have not been set forth or incorporated herein.

16. ASSIGNMENT: No right, interest or duty in this contract shall be assigned or delegated by Buyer without the prior written permission of the Seller. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes. Buyer shall remain liable for performance notwithstanding Seller's approval of an assignment or delegation. Any person or entity to which this order is assigned pursuant to the provisions of Bankruptcy Code 11 U.S.C., Section 101 et seq., (or its equivalent law in any other country) shall be deemed without further act or deed to have assumed all of the obligations arising under this order on and after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Seller an instrument confirming such assumption.