

Schedule A Freight Forwarding Services

STANDARD TRADING CONDITIONS of The Canadian International Freight Forwarding Association, Inc.

1. ROLE OF AGILITY

Agility offers its services on the basis of these conditions that apply to all activities of Agility in arranging transportation or providing related services, such as, but not limited to, warehousing and any other kind of logistics services. Agility may provide its services as either principal or agent. Agility acts as agent of the Client, except

- (a) where it issues a transport document or electronic record evidencing its obligation for the delivery of goods, or
- (b) to the extent it physically handles goods by its own employees and equipment in the course of performing any service in which cases it acts as principal,

but whether acting as principal or as agent these conditions govern the rights and liabilities of the Client and Agility.

When determining any rights or liabilities of Agility under these conditions, the word "Client" shall include the party giving instructions, the shipper, the consignee, and the owner of the goods. Notwithstanding the foregoing, advice is for the Client only and is not to be furnished to any other party without Agility's prior written consent. Gratuitous advice and information that is not related to instructions accepted by Agility is provided without liability of any kind, including for negligence.

2. CLAIMS AGAINST OTHERS

These Conditions also apply whenever any claim is made against any employee, agent or independent contractor engaged by Agility to perform any transport or related service for the Client's goods, whether such claims are founded in contract or in tort, and the aggregate liability of Agility and all such persons shall not exceed the limitations of liability in these conditions. For purposes of this clause Agility acts as agent for all such persons who may ratify such agency at any subsequent time.

3. ROLE AS AGENT

When acting as an agent, Agility acts solely on behalf of the Client in engaging the services of third parties on the usual terms and conditions on which the third parties offer such services for the carriage, storage, packing or handling of any goods, or for any other service in relation to them, thereby establishing a direct contract between the Client and the provider of such services capable of being enforced by the Client as principal, whether or not the Client is identified in the contract. Agility shall on demand by the Client provide evidence of any contracts made on its behalf.

4. ROLE AS PRINCIPAL

Where requested by the Client Agility may

- (a) issue a transport document or electronic record by which it as principal undertakes carriage of particular goods; or
- (b) guarantee in writing proper performance of the terms of any contract between the Client and a third party whose services Agility has engaged on behalf of the Client.

Where it issues a transport document or electronic record, or provides a guarantee, the rights and obligations of Agility will be governed by the special conditions therein in addition to these conditions, and in any event Agility is liable only to the same extent as the third party who performs the carriage or guaranteed service, as may be limited by the conditions on which that party customarily offers its services. In the event of any inconsistency with these provisions, the special conditions prevail.

5. SERVICES REQUIRING SPECIAL ARRANGEMENTS

The Client must give instructions in writing to Agility a reasonable time before the tender of goods for storage or transport where it requests Agility to:

- (a) arrange for the departure or arrival of goods before specific dates;
- (b) arrange for goods to be carried, stored or handled separately from other goods;
- (c) arrange for the transport of goods that may taint or affect other goods, or may harbour or encourage vermin or pests;
- (d) make a declaration of value or special interest in delivery to any carrier or terminal;
- (e) direct carriers or delivery agents to hold goods until payment of any amount or until surrender of a document;
- (f) arrange for the transport of goods of unusual high value, luxury goods, currency, negotiable instruments or securities of any kind, precious metals or stones; antiques or art; human remains, livestock or plants, or any other comparable cargos.

Where for any reason it does not accept such instructions, Agility must promptly so advise the Client by any means of communication used in the ordinary course of business. If it continues to use Agility's services for the contemplated transport after receiving such advice, the Client assumes all risks connected with the non-performance of such instructions, whether caused or contributed to by Agility's negligence or not.

6. AGILITY'S GENERAL RESPONSIBILITIES

(a) Agility shall exercise reasonable care in the discharge of its obligations including the selection and instruction of third parties that provide any services engaged on behalf of the Client.

(b) Agility shall arrange transport and any related services within a reasonable time after receiving the Client's instructions.

(c) If it has reasonable grounds for departing from any of the Client's instructions, Agility can do so without prior authorization from the Client, but must act with due regard to the interests of the Client, and, as soon as possible, inform the Client of its actions and any additional charges resulting therefrom.

7. CLIENT'S GENERAL RESPONSIBILITIES

(a) The Client shall be deemed to be competent and to have reasonable knowledge of matters affecting the conduct of its business, including terms of purchase and sale, the need for insurance and the extent of coverage available for the type of goods being tendered for shipment, the need to preserve and retain documentation, the need for care to avoid transmitting viruses by electronic communications, the need for confidential handling of information relating to high value goods, and all other matters relating thereto.

(b) The Client warrants that all information in whatever form relating to the general and dangerous character of the goods, their description, bar-coding, marks, number, weight, volume and quantity of the goods, as furnished by the Client or on its behalf, was accurate and complete at the time the goods were taken in charge by Agility or any third party whose services it has engaged. The Client further undertakes to provide independent confirmation of such particulars on the request of Agility.

8. CLIENT'S RESPONSIBILITY FOR PACKAGED AND CONTAINERIZED GOODS

(a) Except where Agility has accepted instructions in respect of the preparation, packing, stowage, labeling or marking of the goods the Client warrants that all goods have been properly and sufficiently prepared, packed, stowed, labeled and/or marked, and that the preparation, packing, stowage, labeling and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the goods. Without limiting the foregoing the Client is responsible for timely communication of and warrants the accuracy of the verified gross mass (VGM) of the package(s) and or the transport unit and the identity of the duly authorized person so verifying. The Client shall maintain documentation evidencing measurement of VGM as required by law.

(b) Unless Agility has accepted instructions to arrange for or to perform the loading of a transport unit by its employees, the Client warrants that:

- I. the transport unit has been properly and competently loaded;
- II. the goods are suitable for carriage in or on the transport unit; and
- III. the transport unit is in a suitable condition to carry the goods loaded therein (save to such extent as Agility has approved the suitability of the transport unit).

9. QUOTATIONS AND INVOICING

(a) Agility does not assume a role as principal by providing a fixed price quotation, or by rendering an invoice where the difference between the amounts payable to third parties retained to carry out the Client's instructions and the fixed price represents Agility's gross profit for its services. A Client agrees that Agility is an agent as provided in Section 1 where the Client

- I. accepts a fixed price quotation, or
- II. does not within thirty days after receipt of the invoice object to Agility charging a fixed price for its services.

(b) Quotations are given on the basis of immediate acceptance and are subject to withdrawal or revision. Unless otherwise provided in the quotation Agility may, after acceptance, revise quotations or charges upon notice in the event of changes beyond Agility's control, including changes in exchange rates, rates of freight, carrier surcharges, or any charges applicable to the goods.

10. CHARGES COLLECT SHIPMENTS

When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person, the Client shall remain responsible for the same if they are not paid by such consignee or other person immediately when due.

11. CHANGED CIRCUMSTANCES/FAILURE TO TAKE DELIVERY

If events or circumstances, including a Client's failure to take delivery, occur that affect performance of the Client's mandate, Agility shall take reasonable steps to obtain the Client's further instructions. If for whatever reason it does not receive timely instructions, Agility may

- (a) store the goods at the sole risk and expense of the Client, or
- (b) sell the goods immediately and without further notice, and hold any net proceeds for the account of the Client or
- (c) authorize any third party to abandon carriage and make the Goods or any part of them available to the Client at a place that is reasonable in the circumstances.

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12. DANGEROUS GOODS

(a) The Client undertakes not to tender for transportation any goods that are of a dangerous, inflammable, radioactive, hazardous or damaging nature without giving full particulars of the goods to Agility. The Client undertakes to mark the goods and the outside of any packages or container in which they may be placed to comply with any laws or regulations that may be applicable during the carriage. In the case of goods where the place of receipt is a point within Canada, the Client further warrants that the goods, the packaging and marking thereof comply in all respects with the provisions of any legislation or regulations governing the transportation of dangerous goods.

(b) If it fails to comply with the requirements of sub-clause (A), the Client shall indemnify Agility against all loss, damage or expense arising out of the goods being tendered for transportation or handled or carried by or on behalf of third parties retained by Agility.

(c) Goods which in the opinion of Agility or the person who has custody or possession thereof are or may become dangerous and present a hazard may at any time or place be unloaded, destroyed or rendered harmless without liability on the part of Agility.

13. INSURANCE

(a) The Client must give Agility instructions in writing to arrange insurance on its goods a reasonable time before the tender of goods for storage or transport. Agility may carry out these instructions by declaring the value of the goods under an open marine cargo policy taken out by Agility, and, upon request, provide a certificate or declaration of insurance, or other evidence of insurance. The coverage on goods so declared is subject to the terms and conditions of the policy. Agility is not liable if the Client for any reason whatsoever fails to recover a loss in whole or in part from the insurer under the policy, even though the premium charged by the insurer is different from Agility's charges to the Client.

(b) If coverage under its open marine cargo policy is not satisfactory, Agility will recommend an insurance broker to arrange insurance appropriate to the Client's needs. After making this recommendation, Agility has no further duty regarding insurance, and no liability for loss of or damage to the goods during transport or storage that could have been covered by insurance on the goods, whether such loss or damage has been caused or contributed to by its negligence or breach of these conditions, or otherwise.

14. NOTIFICATION OF CLAIMS

The Client on its own behalf and on behalf of the owner of the goods shall notify Agility in writing of any claim

(a) in case of loss and/or damage to goods within 7 days of the completion of transit

(b) in case of delay in delivery or non-delivery within 45 days of the date when the goods should have been delivered

(c) in any other case within 45 days of the event giving rise to the claim.

If a claim was not discoverable by the exercise of reasonable care within the applicable time period, the Client must give notice forthwith after receiving information as to events that may give rise to a claim. Failing notice as required by this clause, the claim is barred and no action can be brought against Agility to enforce the claim.

15. LIMITATION OF LIABILITY

Compensation for any claim for which Agility is liable shall not in any event exceed 2 SDR (SDR = Special Drawing Rights) per kilo of the gross weight of the goods that are the subject of the claim. Without prejudice to any other conditions herein or other defences available to Agility, in no circumstances whatsoever shall Agility be liable to the Client or owner for

(a) consequential or indirect loss, including loss of market, except as provided for in paragraph (b);

(b) loss of, damage to or consequential or indirect loss caused by delay or deviation in connection with the transport of goods in a sum in excess of twice the difference between the charges invoiced by Agility and amounts paid by Agility to third parties for transport or other service related to those goods;

(c) amounts in excess of a maximum recoverable of 75,000 SDR's per transaction.

Upon the Client's written request, Agility may accept liability in excess of these limits provided the Client pays Agility's additional charges for such increased liability. The Client can obtain details of these charges from Agility.

16. INDEMNITY

The Client shall indemnify Agility against all duties, taxes, payments, fines, expenses, losses, claims and liabilities, including without limitation any storage, demurrage, port, or terminal charges and any liability to indemnify any other person against claims made against such other person by the Client or by the owner

(a) for which Agility may be held responsible unless caused or contributed to by any negligence or breach of duty of Agility, or

(b) in excess of the liability of Agility in accordance with these Conditions,

resulting from or connected with the actions of Agility related to any service to which these Conditions apply.

17. SET OFF AND COUNTERCLAIM

The Client shall pay to Agility in cash, or as otherwise agreed, all sums immediately when due without reduction or deferment on account of any claim, counterclaim or set off.

18. RIGHT OF DETENTION AND LIEN

All goods (and documents relating to goods) shall be subject to a particular and general lien and right of detention for monies owing either in respect of such goods, or for any particular or general balance or other monies owed, whether then due or not, by the Client, sender, consignee or owner of the goods to Agility. If these monies remain unpaid for 10 days after Agility sends notice of the exercise of its rights to these persons by any means of communication reasonable in the circumstances, the goods may be sold by private contract or otherwise at the sole discretion of Agility, and the net proceeds applied on account of the monies owing. Agility will not be liable for any deficiencies or reduction in value received on the sale of the goods nor, will the Client be relieved from the liability merely because the goods have been sold.

19. TIME BAR

Agility shall, unless otherwise expressly agreed, be discharged of all liability under these conditions unless suit is brought within 9 months from

(a) the date of delivery of the goods for claims to damage to goods, or

(b) the date when the goods should have been delivered for claims for delay in delivery or loss of goods.

With respect to loss or damage other than loss of or damage to the goods, the 9 months period shall be counted from the time when the act or omission of Agility giving rise to the claim occurred.

20. CUSTOMARY REMUNERATION RECEIVED FROM THIRD PARTIES

Agility shall be entitled to be paid and retain all brokerages paid by carriers, commissions, documentation allowances, profits on foreign exchange and other remunerations paid by third parties as is customary in the trade.

21. APPLICABLE LAW AND JURISDICTION

These Conditions shall be governed by the laws of Canada and of the province within Canada in which Agility has its principal place of business. By accepting the services provided under these Conditions, the Client irrevocably attorns to the exclusive jurisdiction of the Courts of that Province and the Federal Court of Canada. The Parties agree that where they have used electronic communications to transact in whole or in part any business such communications will be given legal effect in accordance with the provisions (so far as they may be applicable) of the Uniform Electronic Commerce Act as approved by the Uniform Law Conference of Canada.