

## Schedule D

### Customs Brokerage Services provided by Agility Logistics, LTD.

These are the Standard Trading Conditions which govern the business practices of members of the Canadian Society of Customs Brokers. By signing the Agency Agreement and Power of Attorney, each of the Client and the Customs Broker agree to be bound by the Agency Agreement and Power of Attorney as well as these Standard Trading Conditions attached to the Agency Agreement and Power of Attorney unless or until a party advises the other party in writing to the contrary subject to the provisions of Section 8 of these Standard Trading Conditions.

#### 1. DEFINITIONS

"**Agency Agreement and Power of Attorney**" means that Canadian Society of Customs Brokers Continuous General Agency Agreement and Power of Attorney with Power to Appoint a Sub-Agent (to which these Standard Trading Conditions are attached) signed by the Client to appoint the Customs Broker as its agent and attorney in connection with the services described therein.

"**Applicable Laws**" has the meaning set out in Section 6 (a)

"Canadian Government Agencies and Departments" or "CGAD" means the Canada Border Services Agency, any other department or agency, and successor department or agency thereof, of the Government of Canada or any Province thereof having jurisdiction over the import and export of goods into and from Canada.

"Client" means that individual, partnership, association, entity or corporation at whose request or on whose behalf, either directly or, the Customs Broker undertakes any business or provides advice, information or services, and who is named as the Client in the Agency Agreement and Power of Attorney.

"**Customs Broker**" means that individual, partnership, entity or corporation licensed by the Canada Border Services Agency, or other authorized body, to engage in the business of a customs broker and who is named as the Customs Broker in the Agency Agreement and Power of Attorney. "Disbursements" means any payment made by the Customs Broker, on behalf of the Client, for any product or service rendered in connection with the facilitation of the import and export of goods, including but not limited to Government Charges, and any additional taxes, freight, storage, penalties, interest, fines and any other amounts, charges or payments, including, without limitation, payments for goods on COD shipments made by the Customs Broker on behalf of the Client.

"**Disbursement Fees**" means those fees charged by the Customs

"**Fees**" has the meaning set out in Section 2(a), and includes, without limitation, Disbursement Fees.

"**Government Charges**" means those duties, taxes, penalties, on imported or exported goods including, without limitation, goods imported into Canada, exported from Canada or reported or released or to be reported or released under the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act, the Special Import Measures Act and/or any other Applicable Laws relating to customs, import and/or export.

"**Losses**" means losses, damages, delays, costs, injuries, fees (including without limitation legal fees and expenses), liabilities, expenses, actions, suits, proceedings, demands and claims of any kind or nature

"**Services**" means those customs broker services described in Annex 1 which are required by the Client and agreed to be provided by the Customs Broker.

"**Sub-Agent**" means that person to whom a license to transact business as a customs broker has been issued under the Customs Act and who the Customs Broker may retain as its own agent in connection with the Services, or part thereof, that the Customs Broker performs for the Client.

#### 2. FEES AND DISBURSEMENTS

The fees for Services shall be in accordance with the fee schedule as agreed upon between the Client and the Customs Broker, as amended from time to time (the "Fees").

- (a) Disbursements incurred by the Customs Broker on behalf of the Client shall be reimbursed to the Customs Broker by the Client.

#### 3. INVOICING AND PAYMENT

The Customs Broker shall issue invoices to the Client for all Fees and Disbursements pertaining to the Services.

- (a) Promptly upon receipt of invoices hereunder, the Client shall pay to the Customs Broker, in cash or by other immediately available and irrevocable funds delivery as agreed to by the Customs Broker, as and when due in accordance herewith, all Fees and Disbursements for the Services without any reduction, deduction, set-off or deferment on account of any claim or counterclaim whatsoever.
- (b) Interest on all late payments shall be charged and paid at a rate equal to the prime lending rate set by the Bank of Canada plus 5% per annum, as it fluctuates from time to time, which interest shall be calculated and charged commencing 14 days after the relevant invoice date unless otherwise agreed to in writing by the parties.

(c) To the extent the Customs Broker owes any amounts to the Client, the Customs Broker may set-off that amount owing to the Client as against any amount the Client owes the Customs Broker.

#### 4. ADVANCEMENT OF FUNDS

- a) Upon request by the Customs Broker, the Client shall, prior to the Customs Broker's release of any shipment of goods imported by the Client, promptly provide to the Customs Broker sufficient funds to enable the Customs Broker to pay on behalf of the Client all Disbursements that are estimated by the Customs Broker to be payable in connection with such shipment.
- b) If, at any time, the Customs Broker or CGAD determines that additional funds are required with respect to goods imported by the Client, the Client shall upon demand of either the Customs Broker or CGAD promptly advance such additional funds to the Customs Broker.
- c) If, after payment of Disbursements by the Customs Broker concerning the goods imported by the Client, any balance of funds remains outstanding to the credit of the Client, the Customs Broker shall promptly return to the Client any remaining balance of funds,
- I. unless otherwise instructed by the Client; or
  - II. unless there are past due accounts owing by the Client to the Customs Broker in which case the Customs Broker may, on notice to the Client, pay its outstanding Fees and/or Disbursements (or part thereof) from the said remaining balance of funds.
- d) If the Client fails to advance funds to the Customs Broker when requested by the Customs Broker or CGAD, the Customs Broker shall have no obligation to render or perform any Services for or on behalf of the Client, and the Client shall be responsible, and reimburse, defend indemnify and hold harmless the Customs Broker, for all Losses in connection therewith.

#### 5. DUTIES AND RESPONSIBILITIES OF CLIENT

- (a) The Client shall
- I. promptly provide to the Customs Broker all information necessary for the Customs Broker to provide the Services including, without limitation, all information required to complete CGAD's documentation and/or furnish required data to CGAD or other applicable governmental authorities;
  - II. promptly review all documentation and/or data and notify the Customs Broker of any inaccuracies, errors or omissions found therein; and
  - III. reimburse, defend, indemnify and save harmless the Customs Broker with respect to each matter set out in Section 5(c) and against any and all Losses which result from or arise in connection with inaccuracies, mistakes or omissions in the information and documentation provided to the Customs Broker by the Client or its employees, representatives and/or agents and relied upon by the Customs Broker and/or its own Sub--Agents.
- (b) The Client warrants that
- I. it is the importer, exporter and/or owner of the goods (as applicable) for which it has retained the Services of the Customs Broker;
  - II. it has full power and authority to retain and appoint as agent and attorney and authorize and instruct the Customs Broker including, without limitation, as set out in the Agency Agreement and Power of Attorney; and
  - III. all information provided to the Customs Broker is complete, true and accurate. The Client acknowledges that the Customs Broker is relying on such information to provide the Services.
- (c) The Client is solely liable and responsible for each and all of
- I. Disbursements made by the Customs Broker on behalf of the Client;
  - II. Government Charges; and
  - III. Losses incurred or sustained by the Customs Broker in relation to the provision of Services to the Client.

#### 6. DUTIES AND RESPONSIBILITIES OF THE CUSTOMS BROKER

- (a) The Customs Broker shall at all times provide Services in a timely and professional manner in accordance with the generally accepted standards of the Canadian customs brokerage industry and in compliance with all applicable laws and regulations of Canada and any applicable Province, Territory and municipality thereof ("Applicable Laws").
- (b) All information pertaining to the Client is, and shall be kept, confidential by the Customs Broker, its Sub--Agents and service providers, if applicable, and shall only be released to CGAD or other applicable government, police or official investigation authorities, if and as
- I. required by Applicable Laws or order of a body, agency or court of competent jurisdiction and authority; and/or

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- II. directed or authorized by written instructions from the Client to the Customs Broker to release confidential information, or any part thereof, to third parties.
- (c) The Customs Broker shall take all reasonable steps to provide the Services in accordance with the instructions from the Client, provided however, that if in the Customs Broker's judgment it is in the Client's interest to depart from the Client's instructions, the Customs Broker is hereby instructed and directed to do so and shall be reimbursed, defended, indemnified and saved harmless by the Client for all Losses incurred in so doing.
- (d) The Customs Broker shall provide to the Client in respect of each transaction or summary accounting made on the Client's behalf a copy of the accounting documents and data pertaining thereto.
- (e) The Customs Broker shall promptly account to the Client for funds received by the Customs Broker to the extent that these funds are
- I. for the credit of the Client from the receiver General for Canada or other applicable government authorities; or
  - II. from the Client by way of advances provided in Section 4 in excess of the Disbursements payable in respect of the Client or the Client's business.
- (f) The Customs Broker shall not be liable for any Losses resulting from or caused in any part by
- I. the Customs Broker's negligence, misconduct or breach or for anything which it may do or refrain from doing;
  - II. any act of God, unavoidable delay or event, or other act or cause beyond the reasonable control of the Customs Broker; or
  - III. the Customs Broker's failure to provide the Services as a result of or due to the operation of the Applicable Laws, or the applicable laws of any other country that affects the Services, or a change in the policies of CGAD or other applicable governmental authorities.
- (g) The Customs Broker shall use its commercially reasonable efforts, in accordance with industry standards, to advise the Client on matters referred to the Customs Broker. The Client
- I. acknowledges that the Customs Broker has given no assurances, representations or warranties to the Client regarding the outcome of these matters, and
  - II. understands that there is no guarantee of any specific results from the Services.

#### 7. LIMITATION OF LIABILITY

Neither the Customs Broker nor the Client will be liable for any consequential, special, incidental, indirect, punitive or exemplary damages resulting from these Standard Trading Conditions, the Agency Agreement and Power of Attorney, any act of God, force majeure' or unavoidable delay, or event beyond the reasonable control of the affected party. In addition, the Customs Broker shall not be liable for any loss of profit, loss of revenue, loss of use or other like damages or losses, or damages arising in tort, whether or not known or contemplated, in connection with the Services, these Standard Trading Conditions and/or the Agency Agreement and Power of Attorney.

#### 8. TERMINATION

In the event that the Agency Agreement and Power of Attorney is terminated and there are any outstanding matters pertaining to the Client for which the Customs Broker has been engaged by the Client and for which the Customs Broker remains liable to make payment, the Agency Agreement and Power of Attorney (with these Standard Trading Conditions) shall continue in force with respect to such matters until such matters are concluded and payment by the Client to the Customs Broker of such funds as may be required to satisfy all outstanding payment obligations and liabilities of the (a) Customs Broker to CGAD and/or others and (b) Client to Customs Broker, CGAD and/or others (including all Fees and Disbursements), has been made by the Client.

#### 9. GOVERNING LAW

These Standard Trading Conditions are governed by the laws of the Province or Territory in Canada within which the Customs Broker has its principal place of business, and the federal laws of Canada applicable therein, and the Client hereby irrevocably attorns to the courts of such Province or Territory. The Agency Agreement and Power of Attorney, together with these Standard Trading Conditions, enure to the benefit of and are binding upon the parties and their respective executors, administrators, successors and assigns.

The parties agree that where they have used electronic communications in whole or in part to transact any business, those communications will be given legal effect in accordance with the provisions of the Uniform Electronic Commerce Act (or successor legislation) as approved by the Uniform Law Conference of Canada or enacted by the federal or provincial legislatures, as applicable.

#### 10. SEVERABILITY

Each provision of these Standard Trading Conditions is and shall be deemed to be separate and severable and if any provision or part thereof is held for any reason to be unenforceable, the remainder of these Standard Trading Conditions shall remain in full force and effect.

#### Annex 1

##### Customs Broker Services

The Customs Broker will provide to the Client import and export services, and ancillary services related thereto, when requested by the Client and accepted by the Customs Broker. These may include, as selected by the Client.

- I. assisting the Client in the preparation of information required by CGAD with respect to trade-related matters including, without limitation, the importation of goods into Canada by the Client or the exportation of goods from Canada by the Client;
- II. presenting information, by any acceptable means, on behalf of the Client to CGAD required to report, release and/or account for the Client's goods including information as may be required for in-bond transportation within Canada;
- III. arranging for, managing, making and/or paying any requisite Government Charges and/or Disbursements by or on behalf of the Client and obtaining release of goods from CGAD;
- IV. making arrangements for delivery of the goods;
- V. assisting the Client in preparing and presenting information required by domestic and foreign jurisdictions including, without limitation, CGAD and other applicable government authorities with respect to trade-related matters and/or goods imported into or exported from Canada by the Client;
- VI. providing information and advice concerning the relevant laws and regulations pertaining to trade-related matters and/or the import into Canada and the export from Canada of the Client's goods;
- VII. providing advice on tariff classification, value for duty, origin and any other relevant federal or provincial customs requirements;
- VIII. providing advice on federal and provincial tax implications, payment options and any other tax requirements concerning the Client's imported goods;
- IX. providing advice concerning Government Charges, refunds, drawbacks, and remissions, as well as appeals of tariff classification or value for duty decisions of CGAD;
- X. preparing and filing refunds, appeals, drawbacks and remission applications;
- XI. providing consulting, advice, information and assistance to the Client on matters pertaining to the seizure, detention, and forfeiture of goods; and
- XII. providing consulting, advice, information and assistance on all other matters necessary and incidental to the foregoing Services;

in each case, all the foregoing at and subject to the instructions of and on behalf of the Client.