

# GENERAL AGENCY AGREEMENT

## APPOINTING WILLIAM L. RUTHERFORD LIMITED POWER OF ATTORNEY WITH POWER TO APPOINT A SUB-AGENT AND GRANTING SECURITY INTEREST

KNOW ALL MEN BY THESE PRESENTS

1. That I / WE (company name) \_\_\_\_\_
2. Of (company address) \_\_\_\_\_

(sometimes referred to as the "Client") do hereby constitute and appoint William L. Rutherford Limited, of 3350 Airway Drive, Mississauga, Ontario, Canada, L4V 1T3, (sometimes referred to as my "Attorney") my true and lawful Attorney to transact business on my behalf in all matters relating to:

- (i) Customs that may be transacted by a customs broker licensed under the *Customs Act*;
- (ii) Excise under the *Excise Act* and any tax under the *Excise Tax Act*;
- (iii) the services described in paragraph 3 on the reverse hereof; and
- (iv) any other Agent of Canada Taxes including Goods & Services Taxes, including all matters relating to the accounting for a payment and refund of customs and/or excise duties, excise tax, sales tax and Goods & Services Tax in respect of imported or exported goods released under such legislation, at the customs office(s) located in all ports of Canada.

3. AND IN CONNECTION THEREWITH:

- (a) to execute, sign, seal, deliver and endorse for me and in my name all bonds, entries, bills of lading, bills of exchange, warehouse receipts or other means of payment or collateral security which comes into its possession and to use same, including drawbacks and claims of any nature for reimbursement of customs duties, sales taxes, excise taxes, Goods and Services taxes and the like;
- (b) to receive all such payments and sums of money as are now due or may hereafter become due or payable to me by way of rebate, refund, or remission on the order of the Department of National Revenue of Canada relative to the foregoing; and to endorse on my behalf as my Attorney and to deposit to and for its own account all such payment from the Government of Canada.

3. I acknowledge that any duties, charges or other amounts paid on my behalf or to my account by my Attorney shall be a debt due by me to my Attorney and any refund or remission of such duties, charges or other amounts shall be the property of my Attorney and I direct and authorize any governmental agencies collecting same to deliver such rebate, refund or remission to my Attorney. I hereby grant a security interest to, and irrevocably assign to, my Attorney all of the said refunds or remission of such duties, charges or other amounts and all present and after-acquired personal property of the Client as security for any amounts due at any time to my Attorney, any obligation due to my Attorney and all reinforcement and other costs incurred by my Attorney.

4. I hereby certify that, to the best of my knowledge, all documents and/or information that will be provided to my Attorney by myself or on my behalf in connection with this mandate, will be true, accurate and complete.

5. I further grant my Attorney full power and authority to appoint any other person to whom a license to transact business as a Customs Broker has been issued under the Customs Act as a sub-agent to transact the aforesaid business on my behalf at any of the aforementioned Customs offices, and to revoke any such appointment and appoint any other person who holds such a license as a sub-agent in the place of any sub-agent whose appointment has been revoked, as he, my Attorney, shall from time to time think fit. I consent to my Attorney assigning its interest hereunder to any sub-agent if my Attorney deem it expedient.

6. I, the said Client, hereby agree that all transactions hereunder shall be governed by the Standard Trading Conditions of the Canadian Society of Customs Brokers which are on the reverse side hereof which form part of this agreement and which have been read by the undersigned. The assignment and security interest created shall be governed by the Personal Property Security Act of Ontario.

7. I hereby ratify and confirm and agree and confirm all that my said Attorney may do by virtue hereof.

8. I hereby waive the right to receive a copy of any financial statement or verification statement respecting the security interests created herein.

9. This Power of Attorney shall be and remain in full force and effect, until due notice of its revocation shall be given to or by my aforesaid Attorney in writing by personal delivery or double registered mail.

10. I shall forthwith pay any amounts invoiced to me by my Attorney. Interest on any payments or other sums due to my Attorney shall bear interest at the rate of 24% per annum, compounded annually, commencing 14 days after the invoice date for the same, or at such time that both parties have agreed to in writing.

IN WITNESS WHEREOF the Client has caused these presents to be sealed with its corporate seal, attesting to by signature of its duly authorized officials at \_\_\_\_\_, in \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(affix seal or sign statement below)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

I HAVE THE AUTHORITY TO BIND THIS COMPANY IN ALL MATTERS

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted by: \_\_\_\_\_ for:

Date: \_\_\_\_\_ 20\_\_\_\_

**William L. Rutherford Limited**  
3350 Airway Drive  
Mississauga, Ontario, Canada L4V 1T3  
Tel: (905) 673-2222 Fax: (905) 673-2656

## STANDARD TRADING CONDITIONS

These are the Standard Trading Conditions which govern the business practices of members of the Canadian Society of Customs Brokers, of which WILLIAM L. RUTHERFORD LIMITED is a member. Both the Client and WILLIAM L. RUTHERFORD LIMITED agree to be bound by the Agency Agreement and Power of Attorney including the Standard Trading Conditions unless or until one of the parties advises the other in writing to the contrary subject to the provisions of paragraph 8 of the Standard Trading Conditions.

### 1. Definitions

"Canada Customs" means the Canada Border Services Agency, any other Department or Agency, and any other successor Department or Agency of the Government of Canada or any Province thereof having jurisdiction over imports and exports.

"Client" is any person, firm, association or corporation at whose request or on whose behalf, either directly or indirectly, the Customs Broker undertakes any business or provides advice, information or services.

"Customs Broker" is WILLIAM L. RUTHERFORD LIMITED, a corporation licensed by the Canada Border Services Agency, or other authorized body, to engage in the business of a Customs Broker.

"Customs Duties" means any duties, taxes and levies on imported goods under the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act, the Special Import Measures Act or any other law relating to customs, excluding any penalties, interest or fines imposed under any of the aforesaid acts or any other law relating to customs.

"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 but not limited to Customs Duties, taxes, freight, storage, penalties, interest and fines and any other payments, including payments for goods on COD shipments made by the Customs Broker on behalf of the Client.

"Services" shall mean those customs broker services which are agreed to by the Client and the Customs Broker.

### 2. Fees and Disbursements

(a) 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.

(b) The Client shall pay to the Customs Broker all fees charged for the Services rendered by the Customs Broker to the Client.

(c) 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

(a) The Customs Broker shall issue invoices to the Client for all fees and Disbursements pertaining to Services rendered to and on behalf of the Client.

(b) All such invoices shall be payable upon receipt, or as otherwise agreed, by the Client.

(c) Interest on all late payments shall be paid at the rate set by the Customs Broker, as amended from time to time, upon which interest shall be charged commencing 14 days after the invoice date or as otherwise agreed.

(d) In the event of default of payment by the Client, the Customs Broker, in addition to any other legal rights and remedies shall have the right to retain, in its possession, all goods of the Client which are currently in its possession and all goods of the Client which may, in the future, come into its possession. The right of possession shall include the right to sell the goods by public auction in the event that such default shall continue for a period of 45 days.

### 4. Advancement of Funds

(a) Upon request by the Customs Broker, the Client shall provide to the Customs Broker, prior to the release of a shipment of the goods imported by the client, 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 on such shipment.

(b) If, at any time, the Customs Broker or Canada Customs determines that additional funds are required with respect to goods imported by the Client, the Client shall upon demand advance such additional funds to the Customs Broker.

(c) If after payment of Disbursements by the Customs Brokers concerning the goods imported by the Client any balance of funds remains outstanding to the credit of the Client, the Customs Broker shall return to the Client, unless instructed by the Client to the contrary, any remaining balance of funds.

(d) If the Client fails to advance funds to the Customs Broker upon request by the Customs Broker as aforesaid, the Customs Broker shall have no obligation with respect to rendering Services concerning the goods for which advance funds had been requested by the Customs Broker.

### 5. Duties and Responsibilities of the Client

(a) The Client shall:

i. provide to the Customs Broker all information necessary for the Customs Broker to provide the Services set out herein, including all information required to complete Canada Customs documentation and/or data requirements;

ii. promptly review all documentation and/or data and notify the Customs Broker of any inaccuracies, errors or omissions found therein and advise the Customs Broker promptly and within the time periods set out in paragraph 7 hereof;

iii. reimburse, indemnify and save harmless the Customs Broker with respect to any of the matters set out in subparagraph (c) hereof;

iv. indemnify and save harmless the Customs Broker against any and all actions, claims, suits or demands of any nature whatsoever arising from

third party claims which result from inaccuracies, mistakes or omissions in the information and documentation provided to the Customs Broker by the Client or its agents and relied upon by the Customs Broker.

(b) The Client warrants that it is the importer, exporter, or owner of the goods for which it has retained the Customs Broker; that it has full power and authority to retain, appoint as attorney and instruct the Customs Broker; and that all information provided to the Customs Broker shall be complete, true and accurate and acknowledges that the Customs Broker shall be relying on such information to provide the services set out herein;

(c) The Client shall be solely liable for:

i. any and all Disbursements made by the Customs Broker on behalf of the Client;

ii. any Customs Duties, fines, penalties, interest or other levies imposed by Canada Customs or other Government Departments with respect to the goods imported or to be imported into Canada, or exported or to be exported from Canada, by the Client;

iii. any loss or damage incurred or sustained by the Customs Broker in relation to the provision of services to the Client herein.

### 6. Duties and Responsibilities of the 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 Province or Territory thereof.

(b) All information pertaining to the Client shall be kept confidential by the Customs Broker and his sub-agent, if applicable, and shall only be released to Canada Customs as required by law, subject to instructions from the Client to the Customs Broker to release the information to third parties.

(c) The Customs Broker shall take all reasonable steps to provide Services in accordance with the instructions from the Client, provided however, that should the Customs Broker reasonably consider that it is in the interest of the Client to depart from the Client's instructions, the Customs Broker shall have the authority to do so and shall be indemnified and saved harmless by the Client for 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/or data pertaining thereto.

(e) The Customs Broker shall promptly account to the Client for funds received to the extent that these funds are:

i. for the credit of the Client from the Receiver General for Canada, or

ii. from the Client by way of advances provided in paragraph 4 hereof in excess of the Disbursements payable in respect to the Client's business with Canada Customs or other Government Departments.

(f) The Customs Broker shall not be liable for any error in judgment or for anything which it may do or refrain from doing or for any resulting or consequential damage or loss caused by the negligence of the Customs Broker or by an act of God or other act or cause beyond the reasonable control of the Customs Broker. The Customs Broker shall not be liable for any failure to provide the Services which is a result of the operation of the applicable laws of Canada or any other country or a change in the policies of Canada Customs.

### 7. Errors and Omissions

Any errors or omissions on Canada Customs documents and/or data transmissions must be reported in writing to the Customs Broker by the Client as soon possible but in any event within 10 days of receipt of the documents and/or data. The Customs Broker shall not be responsible for any errors or omissions unless the same are reported to the Customs Broker within the said 10-day period.

### 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, the Agency Agreement and Power of Attorney 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 liabilities of the Customs Brokers to Canada Customs and others (including all Fees and Disbursements) has been made by the Client.

### 9. Governing Law

These conditions shall be governed by the laws of the Province within Canada, or Territory, within which the Customs Broker has its principal place of business and the Client hereby irrevocably attorns to the Courts of such Province or Territory. The General Agency Agreement and these conditions shall enure to the benefit of and be binding upon the parties and their respective executors, administrators, successors and assigns.

### 10. Severability

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

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