

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_  
(Full Legal Name of Client)

Of \_\_\_\_\_  
(Address of Client) (Business Number of Client)

(hereinafter referred to as the "Client") does hereby constitute and appoint **Cole International Inc.** a Customs Broker licensed under the *Customs Act* (hereinafter referred to as the "Customs Broker") of **Calgary, Alberta, Canada** its true and lawful agent and attorney to transact business on the Client's behalf in all matters relating to the import and export of goods, including by not restricted to:

- (i) customs activities that may be transacted by a customs broker licensed under the *Customs Act* of Canada;
- (ii) advance data filing for admissibility purposes, the release of and accounting for goods, document and data preparation, payment of, and receipt of refunds of, all government duties, taxes, penalties, interest, fines and/or other charges or amounts in respect of imported and exported goods reported or released or to be reported or released or otherwise related to the import or export of goods ("**Government Charges**");
- (iii) the transportation, warehousing and distribution of such goods, and/or the arrangement thereof;
- (iv) excise activities under the *Excise Act* of Canada and any tax or levies payable under the *Excise Tax Act* of Canada; and
- (v) activities under such other legislation as may be promulgated from time to time respecting import and export of goods to and from Canada and any related taxes including all matters relating to the accounting for and payment and refund of customs and excise duties, excise tax, sales tax and goods and services tax or any other like taxes or duties in respect of imported goods released or to be released under such legislation, at the Canada Customs office(s) located in;

\_\_\_\_\_ and Client hereby engages Customs Broker to perform such services.  
(Location of Port)

**AND IN CONNECTION THEREWITH:**

- a) obtain, sign, seal, endorse and deliver for Client all bonds, entries, permits, bills of lading, bills of exchange, declarations, claims of any nature, or other means of payment or collateral security which comes into Customs Broker's possession and to use same, including drawbacks and claims of any nature, for reimbursement of any Government Charges;
- b) receive all such payments and sums of money as are now due or may hereafter become due and payable to Client relative to the foregoing; and to endorse on Client's behalf and as Client's agent and attorney and to deposit to and for Customs Broker's own account all such payments; and
- c) obtain from the Canada Border Services Agency ("**CBSA**") and review Client's CBSA importer profile and other data related to Client's import and export transactions.

Client confirms that this Agency Agreement and Power of Attorney (a) constitutes all notices and authorizations required by the Minister of Foreign Affairs and the Trade Controls Bureau in the Department of Foreign Affairs and International Trade (Global Affairs Canada) with respect to all matters for which such notices and authorizations are required for an agent or attorney to act on Client's behalf; and (b) authorizes Customs Broker to act on Client's behalf with respect to documentary compliance with any and all Federal Government departments or programs involving the import or export of goods.

Client further grants Customs Broker, as Client's agent and 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 Client's behalf and to revoke any such appointment and to 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 Customs Broker, as Client's agent and attorney, shall from time to time think fit.

Client acknowledges that any Government Charges paid on Client's behalf or to Client's account by Customs Broker, as Client's agent and attorney, or by sub-agent, shall be a debt due by Client to Customs Broker as Client's agent and attorney, or to the sub-agent, and any refund, rebate or remission of any Government Charges shall be the property of Customs Broker, as Client's agent and attorney, or of the sub-agent, and Client directs and authorizes any governmental agencies collecting same to deliver such rebate, refund or remission to Customs Broker, as Client's agent and attorney, or to the sub-agent, as and if directed by Customs Broker.

Client hereby undertakes that, to the best of Client's knowledge, all documents and/or information that will be provided to Customs Broker, as Client's agent and attorney, by Client or on Client's behalf, in connection with this mandate, will be true, accurate and complete.

The Client agrees to:

- (i) on demand, reimburse the Customs Broker for all monies properly expended by the Customs Broker or by any Sub-Agent including the payment of any duty and taxes, or posting of any surety bond deposited as security with any Canada Customs office; and
- (ii) to provide such security for such reimbursement or make such other arrangements for such reimbursement as the parties hereto may otherwise agree.

The Client agrees and covenants for itself, its heirs, executors, administrators, successors and assigns to ratify and confirm all that the Customs Broker and any Sub-Agent shall lawfully do on the Client's behalf by virtue of these presents.

Client hereby agrees that this Agency Agreement and Power of Attorney and all transactions hereunder are governed by the Standard Trading Conditions, as provided to and which have been read and agreed to by the Client.

**Non-Solicitation:** Client will not solicit for employment, employ, hire, consult with, or otherwise retain, directly or indirectly, the services of any personnel of the Attorney during the term of this Agreement and for a period of one (1) year following expiration or termination of this Agreement, except with the prior written consent of the Customs Broker. Any such actions in violation of these provisions will be considered a Breach of this Agreement and will entitle the Customs Broker to seek either:

- (i) immediate injunctive relief, and/or
- (ii) payment equal to fifty percent (50%) of the personnel's total annual salary from the Client to the Customs Broker as compensation for any violation of this provision.

Client Initials: \_\_\_\_\_



# GENERAL AGENCY AGREEMENT

Appointing a Customs Broker Power of Attorney with Power to Appoint a Sub-Agent

This Power of Attorney and Agreement shall be and remain in full force and effect until due notice of its revocation shall be given to the Customs Broker, in writing, by registered mail. An executed copy of this Power of Attorney and Agreement may be delivered by facsimile transmission and in such case, the transmitting party will concurrently deliver an originally executed copy of this document to the other party.

In Witness Whereof \_\_\_\_\_ has caused these presents  
(Name of Client)

to be signed at \_\_\_\_\_ in \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Name of Municipality) (Name of Province/State) (Day) (Month) (Year)

**SIGNED, SEALED IN THE PRESENCE OF:**

\_\_\_\_\_  
Signature of Witness  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FOR THE CLIENT:** (Signature indicates you have read and understood Cole International Inc. Trading Conditions as constituted on Page 2 of this transmission)

\_\_\_\_\_  
Signature (Seal)  
\_\_\_\_\_  
Print Name Title  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name Title

Client Initials: \_\_\_\_\_

Client: \_\_\_\_\_

All transactions with the Client will be governed by these Trading Conditions. Both 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 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 indirectly, 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 Broker to the Client in connection with arranging, making and/or managing Disbursements.

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

**"Government Charges"** means those duties, taxes, penalties, interest, fines or other charges or amounts charged or levied by CGAD or other applicable governmental authority 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 whatsoever.

**"Services"** means those customs broker services described in Annex A 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").
- The Client shall pay to the Customs Broker, as and when due in accordance herewith, all Fees for the Services.
- 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.
- The Client shall pay all invoices within 21 days of receipt by the client unless otherwise agreed to in writing by the parties 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.
- 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 21 days after the relevant invoice date unless otherwise agreed to in writing by the parties.
- 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.
- Upon default of payment by the Client, the Customs Broker, in addition to any other rights and remedies the Customs Broker may have, has the right to (i) retain, in its possession, all goods of the Client then in the Customs Broker's possession and all goods of the Client which may, in the future, come into the Customs Broker's possession; and (ii) sell any or all such goods by public auction if the Client's payment default continues for a period in excess of 45 days from the date of the relevant invoice therefor.

### 4. Advancement of Funds

- 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.
- If, at any time, the Customs Broker or CGAD determines that additional funds are required with respect to goods imported or exported by the Client, the Client shall upon demand of either the Customs Broker or CGAD promptly advance such additional funds to the Customs Broker. If, after payment of Disbursements by the Customs Broker concerning the goods imported or exported by

the Client, any balance of funds remains outstanding to the credit of the Client, the Customs Broker shall (i) promptly return to the Client any remaining balance of funds, unless otherwise instructed by the Client; (ii) or 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.

- 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 any Losses in connection therewith.

### 5. Duties and Responsibilities of the Client

- The Client shall:
  - 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 documentation and/or furnish required data to CGAD or other applicable governmental authorities;
  - within 45 days review all documentation and/or data and notify the Customs Broker in writing of any inaccuracies, errors or omissions found therein; and
  - 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.
- 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.
- The Client is solely liable and responsible for each and all of:
  - Disbursements made by the Customs Broker on behalf of the Client;
  - Government Charges; and
  - 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

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**").

- All information pertaining to the Client is, and shall be kept, confidential by the Customs Broker and its sub-agents, if applicable, and shall only be released to CGAD or other applicable government, police or official investigation authorities, if and as (i) required by the Customs Broker in the performance of Services for the Client; (ii) required by Applicable Laws or order of a body, agency or court of competent jurisdiction and authority; and/or (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.
- The Customs Broker shall take all reasonable steps to provide 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.
- 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.
- The Customs Broker shall promptly account to the Client for funds received by the Customs Broker to the extent that these funds are:
  - for the credit of the Client from the Receiver General for Canada or other applicable government authorities; or
  - 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.
- 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.
- 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

Client: \_\_\_\_\_

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 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 as approved by the Uniform Law Conference of Canada or enacted by the federal or provincial legislatures, as applicable.

#### 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.

#### 11. Entire Agreement

This Agreement constitutes the entire agreement between the Customs Broker and the Client with respect to the subject matter hereof.

#### 12. Waiver Negated

The waiver of acquiescence by either party of any breach of this Agreement shall not constitute a waiver of any subsequent or other breach of this Agreement.

#### 13. Province of Quebec

The parties hereto acknowledge that they have requested and are satisfied that the present Agreement be drawn up in English. Les parties reconnaissent qu'elles ont exigé que cette convention soit rédigée en anglais et s'en déclarent satisfaites.

#### 14. Privacy

Client acknowledges that the Customs Broker and any of its affiliates, subsidiaries, divisions and related companies, may have access to confidential materials or data relating to the Client's business, when required in providing services to the Client. Except with actual or implied consent, or as permitted or required by law, the Company, including its affiliates, subsidiaries, divisions and related businesses, will not sell or distribute your personal information outside the Customs Broker.

#### Annex A: 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:

- (a) 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;
  - (b) 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;
  - (c) 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;
  - (d) making arrangements for delivery of the goods;
  - (e) 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;
  - (f) 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;
  - (g) providing advice on tariff classification, value for duty, origin and any other relevant federal or provincial customs requirements;
  - (h) providing advice on federal and provincial tax implications, payment options and any other tax requirements concerning the Client's imported goods;
  - (i) providing advice concerning Government Charges refunds, drawbacks, and remissions, as well as appeals of tariff classification or value for duty decisions of CGAD;
  - (j) preparing and filing Customs Duties refunds, appeals, drawbacks and remission applications;
  - (k) providing consulting, advice, information and assistance to the Client on matters pertaining to the seizure, detention, and forfeiture of goods; and
  - (l) 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.