

Master Terms and Conditions Agreement

THIS AGREEMENT is entered into as of the date of the last signature set forth below by and between:

Custom House ULC

(hereinafter referred to as "Custom House")

- and -

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(hereinafter referred to as the "Customer")

BY SIGNING THIS AGREEMENT, THE CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS READ AND UNDERSTOOD ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IN WITNESS WHEREOF the parties have hereunto duly executed this Agreement, as evidenced by the hands of their respective proper signing representatives.

Per: Custom House ULC

Representative Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Insert Name of Business (if applicable): \_\_\_\_\_

Per \_\_\_\_\_

Title (if applicable) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Per \_\_\_\_\_

Title (if applicable) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Terms and Conditions

ARTICLE 1 – DEFINITIONS

1.1 Definitions. Whenever used in this Agreement, unless inconsistent with the subject matter or context, the following words shall have the following meanings: (a) "Agreement" means this Master Terms and Conditions Agreement, together with all Orders, schedules, attachments or other addenda attached or applicable hereto;

(b) "Application Form" means the application form which the Customer completed and submitted to Custom House for the purpose of using the Custom House Services;

(c) "Authorization Limit" means a limit on the value of an Order or all Orders that the Customer or an Authorized User may place with Custom House;

(d) "Authorized User" has the meaning given in Article 6.1;

(e) "Credit Limit" means a limit on the total amount of credit that Custom House will provide to the Customer;

(f) "Customer" means the customer named in this Agreement, together with its subsidiaries, affiliates, successors and/or assigns, as well as its officers, directors, employees and agents;

(g) "Custom House" means Custom House ULC, its subsidiaries, affiliates, successors and/or assigns, as well as its officers, directors, employees and agents;

(h) "Custom House Services" includes all of the services provided by Custom House to the Customer from time to time;

(i) "Custom House Website" means the Custom House website located at www.customhouse.com;

(j) "Day" means a day on which commercial banks are open for business (including dealings in foreign exchange) in the place specified for that purpose;

(k) "Draft" means an instrument issued by Custom House made payable to the client's nominated beneficiary in a specified single currency;

(l) "Insolvency Event" means

(i) any step is taken for:

(A) the winding up, dissolution or administration of the Customer;

(B) the Customer to enter into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation; or

(ii) a receiver, receiver and manager, or other controller, administrator or similar officer is appointed with respect to, or takes control of, the Customer or any of the Customer's assets and undertakings.

(m) "In the Money" means the value of the original contracted Forward Contract and/or Option Contract rate is more favourable than the current Mark to Market value;

(n) "Instruction" means any instruction or request given by telephone, letter, facsimile, email or the Internet.

(o) "Internet" means the interconnected system of networks that connects computers around the world;

(p) "Law" means any statute, regulation, rule, subordinate legislation or other document enforceable under any statute, regulation, rule or subordinate legislation;

(q) "Mark to Market" means the daily revaluation of a Forward Contract to reflect its current market value rather than its original contract value;

(r) "Order" means a transaction in which the Customer agrees to purchase or sell Currency from or to Custom House or purchase from Custom House drafts, wires, banknotes and/or traveler's cheques or enter into any other transaction with Custom House for Custom House Services;

(s) "Out of the Money" means the value of the original contracted Forward Contract and/or Option Contract rate is less favourable than the current Mark to Market value;

(t) "Third Party Instruments" means cheques, bank drafts, money orders and any other monetary instruments made payable in the first instance to a person other than Custom House;

- (u) "Value Date" means either the Day selected by the Customer for the settlement of an Order or if the Customer does not select a Day for the settlement of an Order, then two (2) Days following an executed Order;
- (v) "Wire" means an instruction from the client transmitted electronically to credit a nominated beneficiary's bank account in a specified currency located in Canada or an overseas country.

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## ARTICLE 2 – REPRESENTATIONS AND WARRANTIES

**2.1 Representations and Warranties.** The Customer represents and warrants to Custom House that:

- (a) If the Customer is a natural person, the Customer is of sound mind, at least 18 years of age, and possesses full legal competence;
- (b) If the Customer is not a natural person,
- (i) The Customer is duly organized and validly existing under the applicable laws of the jurisdiction of its organization;
  - (ii) execution and delivery of this Agreement and all other transactions contemplated hereunder and performance of all obligations contemplated under this Agreement and all other transactions contemplated hereunder have been duly authorized by the Customer; and
  - (iii) each person executing and delivering this Agreement and all other transactions contemplated hereunder on behalf of the Customer, performing the obligations contemplated under this Agreement and any other transaction contemplated hereunder on behalf of the Customer, have been duly authorized by the Customer to do so;
- (c) Execution and delivery by the Customer of this Agreement, and performance of all of the Customer's obligations contemplated under this Agreement, will not violate any statute, rule, regulation, ordinance, charter, bylaw or policy applicable to the Customer. Customer hereby certifies that Customer will not discriminate against any employee or applicant for employment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or handicap, or any other grounds prohibited by applicable law; and
- (d) All information provided by the Customer to Custom House, including, but not limited to, the information provided on the Application Form, is true, correct and complete, and the Customer will notify Custom House promptly of any changes in such information.
- (e) None of the events set out in Article 5.4(c) have occurred with respect to the Customer or would occur with the giving of notice, lapse of time, determination of materiality or fulfillment of any other applicable condition (or any combination of the foregoing); and
- (f) All information provided by the Customer to Custom House is true in all material respects as at the date of this Agreement or, if later, when provided. Neither that information nor the Customer's conduct or the conduct of anyone acting on its behalf in relation to the transactions contemplated by this Agreement, was or is misleading, by omission or otherwise.
- (g) The Customer that is entering into the Option is a person that buys, sells, trades, produces, markets, brokers or otherwise uses currency in its business.

**2.2 Acknowledgement by the Customer —** The Customer acknowledges that Custom House has entered into this Agreement and will enter into the transactions contemplated by this Agreement in reliance on the representations and warranties in Article 2.1.

**2.3 Joint and Several Liability —** If the Customer is comprised of two or more legal persons then a reference to a right or obligation of the Customer under this Agreement or under a transaction contemplated by this Agreement confers that right or imposes that obligation, as the case may be, jointly and severally on those persons.

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## ARTICLE 3 – INDEMNITY

**3.1 Indemnity and Survival.** The Customer shall indemnify and hold harmless Custom House from any and all liabilities, claims, costs, expenses and damages of any nature, including, but not limited to, reasonable attorney's fees, expenses of litigation and any fees and expenses incurred in this provision, arising out of or relating to the Customer's negligence or willful misconduct, the violation of any law, regulation, rule, or ordinance, and should any of the Customer's representations and warranties fail to be true and correct. The Customer also agrees to promptly pay to Custom House all damages, costs and expenses, including reasonable attorney's fees and expenses, incurred by Custom House in the enforcement of any of the provisions of this Agreement. The Customer's obligations under this section shall survive the termination of this Agreement.

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## ARTICLE 4 – CONFIDENTIALITY

**4.1 Confidentiality.** Custom House will use reasonable precautions to maintain the confidentiality of information the Customer receives and material and/or data

the Customer provides, creates, inputs or develops in connection with the Customer's use of the Custom House Services. Nonetheless, because such data the Customer may send or information the Customer may receive may be provided through the Internet, the Customer hereby acknowledges and agrees that there can be no assurance that such transmissions, or any communication will continue to be confidential. The Customer acknowledges and agrees that Custom House may disclose the Customer's name and other personal and financial information about the Customer to its employees, representatives, officers, agents, and affiliates, as well as to a governmental entity or self-regulatory authority, an Internet service provider or any other third party agent or service provider for any purpose related to offering, providing, administering or maintaining the Custom House Services, or to comply with applicable laws, rules, regulations, orders, subpoenas or other legal process. Our privacy policy is available for review on request or at the Custom House Website.

**4.2 Money Laundering.** Due to the inherent risks in transferring currency between parties located in different countries, Custom House takes extraordinary measures to ensure that it is not participating or assisting in money laundering or terrorist financing. Law enforcement and regulatory agencies may periodically inspect all Orders executed with Custom House. Therefore, parties executing Orders with Custom House should be fully aware that all information regarding Orders, accounts, and related transactions could potentially be disclosed to and reviewed by law enforcement agencies in accordance with applicable law. Customer shall comply (and shall cause Customer's officers, principals and employees to comply) with all federal, provincial and local laws and regulations applicable to Customer's business, as the same may be amended from time to time, including but not limited to: (a) provincial licensing laws; (b) anti-money laundering laws, terrorist financing laws, cash reporting requirements and Custom House's written policies and procedures (as amended from time to time) as they relate to compliance with the detection and prevention of money laundering and cash reporting requirements; (c) all applicable federal and provincial money transfer or sale of cheques laws and regulations; and (d) all applicable federal and provincial privacy laws and regulations.

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## ARTICLE 5 – GENERAL

**5.1 Informational Purposes.** The information provided by Custom House and other sources on the Custom House Website is believed to be accurate and reliable when placed on this site, but Custom House cannot guarantee it is accurate or complete or current at all times. Information on the Custom House Website is for informational purposes only and is not intended to provide financial, legal, accounting, or tax advice and should not be relied upon in that regard.

**5.2 Jurisdiction.** This Agreement shall be governed exclusively by the laws of the Province of British Columbia. The courts of such jurisdiction shall have exclusive jurisdiction for settling disputes arising from the Agreement and both parties irrevocably submit to that jurisdiction.

**5.3 Notices.** Any notice or other writing required or permitted to be given under this Agreement or for the purposes of this Agreement ("Notice") shall be in writing and shall be sufficiently given if delivered, or if sent by prepaid registered mail or other form of recorded communication tested prior to transmission to such party:

- (a) If to the Customer, to such address as the Customer referred to in this Agreement, or such other address the Customer may have theretofore designated in writing, or by Custom House posting a Notice to the Custom House Website, and such Notice shall be deemed received by the Customer personally at the time so sent whether actually received or not; and
- (b) If to Custom House, to such address as Custom House referred to in this Agreement, or such other address Custom House may have theretofore designated in writing, and such Notice shall be deemed received by Custom House only if actually received by Custom House.

**5.4 Termination.**

(a) This Agreement shall continue and be in effect until terminated by the Customer or Custom House. Either party may terminate this Agreement at any time, effective as of the close of business on the Day Notice is sent to the Customer or received by Custom House, as the case may be. From and after termination Custom House shall not be required to accept or process any Order thereafter placed by the Customer.

(b) Subject to (c) hereof, termination by either party shall not affect any Order or other transactions previously entered into and shall not relieve either party of any obligations set out in this Agreement, nor shall it relieve the Customer of any obligations arising out of any Order or deficit balance with Custom House.

(c) In the event that Custom House is made aware of or has reason to believe any of the following:

- (i) that the Customer has provided false or misleading information to Custom House; or
  - (ii) that the Customer has or is participating or has or is assisting in money laundering or terrorist financing; or
  - (iii) that the Customer is being pursued by law enforcement and/or regulatory agencies; or
  - (iv) that an insolvency Event has occurred; or
  - (v) that the Customer is entering into the Option Contracts for speculative or investment purposes;
- then Custom House, at its sole discretion, may terminate this Agreement, and Custom House shall be relieved of any obligations set out in this Agreement, including any obligations arising out of any Order already placed with and accepted by Custom House.

**5.5 Post Termination.** Subject to s. 5.4(c), within two (2) Days of termination, each party shall pay all amounts due, and the Customer will dispose of all materials received from Custom House as per Custom House's written instructions. Duties of payment, delivery, and destruction of materials shall survive termination of this Agreement.

**5.6 Inurement.** This Agreement, including all transactions, shall inure to the benefit of Custom House, its successors and assigns and shall be binding upon the Customer and the Customer's personal representatives, executors, trustees, administrators, successors, assigns, principals, officers and agents.

**5.7 Assignment.** Any rights that the Customer may have pursuant to this Agreement shall not be assigned, transferred, sold, or otherwise conveyed, except with the written authorization of Custom House. Custom House may, however, assign this Agreement to another party without Notice to the Customer.

**5.8 Severability.** If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidation of the remaining provisions of this Agreement.

**5.9 Conflict.** This Agreement comprises the terms and conditions governing the relationship of the Parties. If there are different or conflicting terms in any schedule, attachment or other addenda attached hereto, then the terms of the schedule, attachment or other addenda shall govern over the terms in this Agreement.

**5.10 Amendments.** This Agreement, and any transactions hereto, may be amended by Custom House at any time. Custom House will (a) provide Notice to the Customer of any such amendment, or (b) provide notice to the Customer by posting the amendment or change to the Custom House Website. The Customer agrees to be bound by the terms of such amendment on the earlier of (a) ten (10) Days after Custom House has posted notice of such amendment on the Custom House Website; or (b) on the date of the entry of any Order thereafter.

**5.11 Entire Agreement.** This Agreement (which shall include any agreement that Custom House requires the Customer to enter into), and all schedules, attachments or other addenda attached hereto, constitute the entire agreement between the parties with respect to the use and provision of the Custom House Services, and supersedes and replaces any and all prior or contemporaneous understandings, communications or agreements, written or oral, regarding such subject matter.

**5.12 For Residents of Quebec.** The Customer confirms that the Customer has requested this Agreement and all related documents to be drawn up in the English language only. Vous confirmez avoir exigé que ce contrat et tous les documents s'y rapportant soient rédigés en anglais seulement.

**5.13 Names and Marks.** At no time shall either party make commitments for or in the name of the other party. Except as specifically provided for in this Agreement, neither party will: (a) use the other party's name or proprietary marks without prior written approval; or (b) represent itself as being affiliated with, or authorized to act for, the other party.

**5.14 Compliance with Law.** Each party will conduct its activities under this Agreement in compliance with all applicable laws, which may include, but not be limited to, anti-money laundering and licensing laws. The Customer may be required to provide Custom House with personal information or information concerning its business, which will be kept on record. If prescribed by law, Custom House will make a report of the transactions to the appropriate regulatory or law enforcement agent.

**5.15 Force Majeure.** Neither party will be liable for any failure or delay in performance (except for duties of payment) due to governmental acts (including

currency controls), acts of God, war or civil unrest, acts or omissions of third parties, equipment or power interruption, market or banking conditions, or other circumstance beyond the party's reasonable control.

**5.16 Internet.** In using the Custom House Website and/or any Custom House Service, the Customer may be sending financial and other data as well as electronic messages directly to Custom House through the Internet. The Customer acknowledges that when the Internet, or any other electronic communications facilities are used to transmit or receive data and messages, the data and the messages may be accessed by unauthorized third parties. Custom House shall not be liable to the Customer for any damages in connection with any data and messages which may be accessed by unauthorized third parties.

**5.17 Hyperlinks.** Hyperlinks or other links to or from websites outside of the Custom House Website are for the convenience of Custom House's clients only. Custom House does not review, monitor, endorse or control, and is not responsible for, any sites linked to or from the Custom House Website. Custom House will not be liable for any damages in respect of linking or in consequence of following a link.

**5.18 Computer-Related Losses.** Custom House shall not be liable for any claims, losses, damages, delays in transmission, computer viruses, costs or expenses, including attorneys' fees, caused, directly or indirectly, by any breakdown or failure of any transmission or communication system, electrical power outage or any other cause beyond Custom House's control or anticipation.

**5.19 Extent of Liability.** Custom House's liability to the Customer and anyone claiming through the Customer hereunder for a breach of this agreement by Custom House shall be limited to the foreign currency value of the Order relating to the claim, determined as at the Value Date. Custom House shall not be liable for any claim of the Customer for economic loss or consequential damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE CUMULATIVE AGGREGATE LIABILITY OF CUSTOM HOUSE UNDER THIS AGREEMENT SHALL BE LIMITED TO A MAXIMUM AGGREGATE IN DIRECT DAMAGES SUFFERED IN THE AMOUNT AS CALCULATED ABOVE. IN NO EVENT SHALL CUSTOM HOUSE, OR ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **5.20 Set-off.**

(a) In addition to other remedies available to Custom House, if the Customer fails to pay any amount when due under this Agreement, Custom House may set-off against such amount any amount payable by Custom House to the Customer.

(b) Custom House is entitled to set-off against any amounts due to it by the Customer, any amounts received by Custom House from or on behalf of the Customer including but not limited to moneys received as Deposits or Margin Deposits. Custom House may determine the application of any amounts which are to be set-off at its own discretion.

(c) The Customer must not set-off against any amounts due to it by Custom House, any amounts Custom House owes the Customer.

#### **5.21 Credit Limits**

(a) The Customer understands that:

- (i) Custom House may advise the Customer of a Credit Limit applicable to some or all Orders including Forward Contracts and/or Option Contracts (either individually or in aggregate or both);
- (ii) Custom House is not obliged to agree to or accept any Order or Forward Contract;
- (iii) Custom House is not obliged to provide credit to the Customer;
- (iv) any Credit Limit set by Custom House may be reduced or withdrawn at any time by giving Notice to the Customer.

(b) The Customer acknowledges that if Custom House acts on an Instruction which would result in a Credit Limit being exceeded:

- (i) Custom House is not obliged to advise the Customer that the Credit Limit will be exceeded;
- (ii) the Customer will continue to be liable to Custom House for all amounts including those above the Credit Limit; and
- (iii) Custom House is not obliged to, though may, act upon any subsequent Instruction where a Credit Limit might be exceeded.

## 5.22 Authorization Limits

(a) The Customer may inform Custom House of an Authorization Limit applicable to some or all Orders including Forward Contracts and/or Option Contracts (either individually or in aggregate or both) either in general or for particular Authorized Users.

(b) Any Authorization Limit provided by the Customer to Custom House may be withdrawn by the Customer at any time by giving Notice to Custom House.

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## ARTICLE 6 — TRANSACTIONS

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**6.1 List of Users.** The Customer shall provide Custom House with a list of authorized users ("Authorized User") who shall access Custom House Services and/or enter into Orders on the Customer's behalf. The Customer shall immediately notify Custom House when any new person becomes an Authorized User or when any existing Authorized User is no longer entitled to be an Authorized User. All Orders, communications and uses of Custom House Services, by an Authorized User will be deemed to be Orders, communications and uses authorized by the Customer and shall be binding upon the Customer.

**6.2 Orders.** The Customer, an Authorized User or an unauthorized user (collectively referred to as a "User"), may place Orders by telephone, facsimile, email or other agreed means. Orders are non-cancelable once accepted by Custom House. Once the Order has been acted on or agreed to by Custom House (the "Acceptance") the Customer is bound by it.

**6.3 Rejection.** Custom House reserves the right to refuse any Order that is incorrect, incomplete, or unsatisfactory to Custom House for any reason.

**6.4 Payment of Order.** Following the Acceptance, the Customer must make each payment or delivery required to be made under the terms of the Order in the Currency, in the amount, on the date and in accordance with the settlement instructions for the Order. The Customer must ensure that any account from which payment obligations under an Order are to be made contain sufficient cleared funds to settle the Order on the Value Date for the Order. If the account does not contain sufficient cleared funds to settle the Order, the Customer will be liable for any resulting fees payable with respect to the account in accordance with the terms under which the Customer holds such account. In addition, if the Customer fails to settle the Order on the Value Date, Custom House may, without limiting any other remedies that it may have, in its absolute discretion cancel the Order, in which case the Customer will have to reimburse Custom House for any breakage costs and other expenses incurred by Custom House to cancel the Order. Custom House reserves the right to perform its obligations under the Orders by releasing its corresponding value to the Customer, only after receipt of sufficient funds for items exceeding the applicable transaction limits.

**6.5 Value Date.** If the Value Date for the settlement of an Order is not a Day in the jurisdiction in which any of the accounts from which the Customer will be making or receiving payment for an Order resides, the Value Date for the Order will be the first day following the Value Date that was selected that is a Day in each of the jurisdictions in which such accounts reside.

**6.6 Delay.** Although Custom House will use all reasonable efforts to process the Customer's Order on the same Day it is submitted to Custom House (provided that the Order is received before the close of that Day), Custom House shall not be responsible or liable for the time it may take financial institutions to settle accounts. Custom House shall not, in the absence of gross negligence or willful misconduct, be liable for delays, damages, failures or errors in the completion of the Order.

**6.7 Rates.** Rate indications are available by telephone, fax or the Internet (the "Indication"). The Indication is not binding, and the rates will be as agreed when the Order is placed. As a dealer in currency, Custom House has a spread between its purchase and sale prices; and it bases its individualized rates on many factors including its assessment of market conditions, its overhead and processing costs.

**6.8 Quoting Error.** Should a quoting error occur due to a typo or obvious mistake in a quote or Indication (the "Quoting Error"), Custom House is not liable for any damages, claims, losses, liabilities, costs arising from the Quoting Error. Custom House reserves the right to make the necessary adjustments to correct the Quoting Error. Any dispute arising from such Quoting Error will be resolved on the basis of the fair market value, as determined by Custom House, acting reasonably, of the relevant Currency at the time such Quoting Error occurred.

**6.9 Facsimile.** A User may request Custom House to accept instructions, enter into Orders and make financial dealing by facsimile. Custom House may accept such instructions sent by facsimile. The Customer acknowledges and agrees that upon the Acceptance by Custom House the Customer shall be bound by said instructions.

**6.10 Telephone.** A User may request Custom House to accept instructions, enter into Orders and make financial dealings by telephone. Custom House may check the authority of the caller by requesting the caller give his or her name and confirming that such name has been notified to Custom House by the Customer as an Authorized User. Upon such check confirming the identity of the caller, Custom House may assume that the caller has the full authority as previously advised by the Customer.

**6.11 Email.** A User may request Custom House to accept instructions, enter into Orders and make financial dealing by email. Custom House may accept such instructions sent by email. The Customer acknowledges and agrees that upon the Acceptance by Custom House the Customer shall be bound by said instructions.

**6.12 Cancellation or Amendment.** Should the Customer subsequently wish to reverse or alter or cancel any Order made in person, by fax, telephone, Internet or email, the Customer shall be liable to reimburse Custom House in full, on demand, for any loss or costs incurred as a result of such cancellation or amendment.

**6.13 Confirmation of Orders.** An Order made by telephone will be confirmed by Custom House in writing to the Customer by facsimile transmission or email and the Customer shall on receipt of the Order, immediately notify Custom House by phone and in writing of any discrepancy, otherwise the Customer shall be deemed to have accepted the confirmation as an accurate record of the telephone transaction.

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## ARTICLE 7 – DRAFTS AND/OR WIRES

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**7.1 Delivery.** At the request of the Customer, the Order may be dispatched by Custom House via draft ("Draft") and/or wire ("Wire"). If the request to dispatch the Order is received after 4:00 p.m. EST, the Order will be dispatched on the next Day. Custom House will periodically issue updates on estimated transmittal times.

**7.2 Requests.** The Customer will contact Custom House immediately if it requests a stop order on a Draft or Wire, and Custom House may assist without obligation or liability, with said request.

**7.3 Stop Orders.** As it may not be possible to stop payment on Drafts or Wires, Custom House's obligation shall be limited to sending the applicable stop payment order within two (2) Days of its receipt of the following: (a) a satisfactory stop order, (b) an indemnity agreement, and (c) payment for the related charges.

**7.4 Refunds.** Refunds will be made in the currency of the original item converted into Canadian dollars at the then-applicable Custom House determined rate, less Custom House handling charges. Unless the original Draft is returned, Draft refunds may require (a) verification that the Draft has not been paid and that the bank has stopped payment; and (b) receipt of a satisfactory indemnity agreement and/or lost instrument bond. Wire refunds are conditional upon successful recall of the funds.

**7.5 Limited Liability.** Custom House undertakes to use reasonable care to insure that Drafts will be paid by the drawee bank, in accordance with its normal practices; and that Wires will be credited to the designated account or available for pick-up at the time specified by Custom House, in accordance with the payor's normal practices. However, Custom House cannot be responsible for any loss, seizure, delay, or nonpayment unless due to its gross negligence or willful misconduct in selecting drawees, intermediaries, and payors, and in otherwise performing its duties under this Agreement. Custom House takes no responsibility for infringement of import/export or currency control restrictions.

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## ARTICLE 8 – BANKNOTES AND/OR TRAVELER'S CHEQUES

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**8.1 Sales.** Custom House will supply the Customer with banknotes and/or traveler's cheques ("Banknotes") in agreed currencies, denominations and amounts.

**8.2 Purchases.** Custom House will, in its sole discretion, purchase Banknotes from the Customer at Custom House's applicable rates when the Customer places the order. Custom House will pay the Customer for the Banknotes within one (1) Day of Custom House's receipt and verification of the Banknotes.

**8.3 Limited Warranty and Liability.** When selling Banknotes to Custom House, the Customer represents that the Banknotes are genuine, current legal tender of the agreed type and denomination. If the Banknotes are found nonconforming or defective, Custom House may return the Banknotes within thirty (30) Days of first receipt; and the Customer will replace the Banknotes, or remit to Custom House the current market value of the Banknotes in Canadian dollars, based on Custom House's sell rate on the Day that the Banknotes were received by Custom House.

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## ARTICLE 9 – RECEIPTS AND/OR RECEIVABLES

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**9.1 Cheque Shipments.** All Third Party Instruments must be restrictively endorsed by the Customer, payable to the order of Custom House, and, if the Third Party Instruments are bulk shipped, they must be accompanied by a list of the items.

**9.2 Return Items and Repayment.** Custom House will promptly forward to the Customer any Third Party Instrument returned to Custom House unpaid, and Custom House will inform the Customer when Custom House learned of the loss or seizure of an item, or of a claim against any paid item (e.g. forged endorsement). If Custom House has paid the Customer for the item, the Customer will repay Custom House the face value of the item, plus any bank charges, converted into Canadian dollars at Custom House's then-applicable rate, within two (2) Days of Custom House's request for payment. Custom House will provide reasonable assistance to the Customer in pursuing claims concerning such items.

**9.3 Indemnification.** The Customer does hereby indemnify and save harmless Custom House from and against all claims, demands, actions, suits, losses, costs, charges, expenses, damages, and liabilities whatsoever, including, but not limited to, all legal costs and expenses incurred in connection with any such claims or liabilities which Custom House may sustain, suffer or incur, directly or indirectly by reason of or in connection with the acceptance from the Customer of any and all such Third Party Instruments for deposit to Custom House's bank accounts.

**9.4 Demand for Payment.** The Customer's liability to make payment upon a default shall arise forthwith after demand for payment has been made on the Customer and the Customer's liability shall bear interest from the date of such demand at the lower of (a) 5% above the prime rate as published daily in the Wall Street Journal in effect at that time and from time to time thereafter or (b) the highest rate of interest permissible under applicable law.

**9.5 Recourse.** Custom House shall not be bound to exhaust its recourse against the Customer, others, or any securities or other guarantees it may at any time hold before being entitled to payment from the Customer pursuant to this Agreement.

**9.6 Limited Power of Attorney.** The Customer does hereby make, nominate, constitute and appoint Custom House as its true and lawful attorney for it and in its name, place and stead and for its sole use and benefit to:

- (i) exchange the Third Party Instruments for checks, drafts and/or wires made payable to the Customer in domestic currency or foreign currency; and
- (ii) deposit the Third Party Instruments to a bank account for the credit of Custom House.

**9.7 Additional Powers.** For all and every of the purposes aforesaid the Customer does hereby grant and give unto Custom House, full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done for any of the above purposes, and also to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and for the above purposes as fully and effectually to all intents and purposes as it could do if personally present and acting therein and also with full power and authority for the said attorney to appoint a substitute or substitutes and said substitution at the pleasure of Custom House to be revoked by Custom House, the Customer hereby ratifying and confirming and agreeing to ratify and confirm and allow Custom House as its attorney or such substitute or substitutes, all that it or they shall lawfully do or cause to be done in the premises and by virtue hereof.

**9.8 Irrevocable.** The limited power of attorney referred to above is irrevocable and is coupled with an interest in the rights of the Customer to the Third Party Instruments referenced herein which from time to time are provided by the Customer to Custom House.

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## ARTICLE 10 – FORWARD EXCHANGE CONTRACTS AND OPTIONS

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**10.1 Forward Contract.** The Customer may buy or sell currency for the purpose of hedging the risk of movement in the value of a currency (for commercial and not for speculation or investment purposes) by placing an Order with Custom House specifying the currency, amount of currency, and the Value Date (the "Forward Contract"). At the option of the Customer the delivery of the currency pursuant to the Forward Contract may be either: (a) processed on the Value Date (the "Fixed Term Forward Contract"), or (b) processed in multiple draw downs at any time between the acceptance of the Forward Contract and the Value Date (the "Optional Delivery Date Forward Contract").

**10.2 Pre-delivery of Fixed Term Forward Contract.** At the request of the Customer, Custom House may, at its sole discretion, deliver the currency pursuant to the Fixed Term Forward Contract prior to the Value Date (the "Fixed Term Pre-delivery Date"). For any such pre-delivery, an adjusted rate of exchange calculated on the Fixed Term Pre-delivery Date may be applied at the sole discretion of Custom House.

**10.3 Optional Commencement Date.** Pursuant to the terms of the Optional Delivery Date Forward Contract, the Customer requests that the delivery of the multiple draw downs commence on a specific date (the "Optional Commencement Date").

**10.4 Pre-delivery of Optional Delivery Date Forward Contract.** At the request of the Customer, Custom House may, at its sole discretion, deliver the multiple draw downs pursuant to the Optional Delivery Date Forward Contract prior to the Optional Commencement Date (the "Optional Pre-delivery Date"). For any such pre-delivery, an adjusted rate of exchange calculated on the Optional Pre-delivery Date may be applied at the sole discretion of Custom House.

**10.5 Deposit.** Custom House may, at its sole discretion, require the Customer to submit a deposit in order to validate the Forward Contract and/or Option Contract (the "Deposit"). The Deposit may either be by way of: (a) a cash deposit (in Canadian or US funds, only) of a certain mutually agreed percentage of the currency value of the Forward Contract and/or Option Contract (the "Contract Value"); (b) an irrevocable letter of guarantee (the "Letter of Guarantee") for a certain mutually agreed percentage of the Contract Value; or (c) unless otherwise agreed to in writing between the parties, the amount of 2.0% of the Canadian dollar value of the Contract Value at the time the Forward Contract and/or Option Contract is entered into (the "Floating Margin Deposit").

**10.6 Letter of Guarantee.** The Letter of Guarantee shall: (a) be payable to Custom House, (b) be drawn on a Custom House approved financial institution, and (c) have a maturity date a minimum of fourteen (14) Days after the Value Date of the Forward Contract and/or Option Contract.

**10.7 Floating Margin Deposit.** Where a Floating Margin Deposit has been requested, Custom House shall, at its sole discretion, have the right to request that the Customer submit additional monies in Canadian dollars to Custom House at any time when the mark-to-market deposit is less than one (1%) percent, or a percentage otherwise agreed to in writing between the parties, of the Canadian dollar value of the Forward Contract and/or Option Contract (the "Additional Funds"). If Additional Funds are requested, the Customer shall receive Notice from Custom House. Custom House shall have right, at its sole discretion, to determine the mark-to-market value of the Additional Funds required on a daily basis. To determine such mark-to-market value, Custom House shall apply the closing international money market Canadian dollar/US dollar futures price as at 12:00 noon EST each day. Custom House's determination of such mark-to-market value shall be final and binding on the Customer.

**10.8 Payment of Additional Funds.** The Customer shall have until 4:00 p.m. EST, the following Day that Notice is sent by Custom House requiring the Additional Funds, to provide the Additional Funds to Custom House. The Additional Funds shall be payable by the Customer to Custom House by bank draft, certified funds or, in specific circumstances as determined by Custom House, a corporate or personal cheque, in the amount determined by Custom House to ensure that the entire deposit held by Custom House is not less than a predetermined percentage, determined by the parties, of the Canadian dollar value or U.S. dollar value of the Forward Contract and/or Option Contract, as determined by Custom House on the prior day (the "Predetermined Percentage").

**10.9 Failure of Request of Additional Funds.** Any failure by Custom House to require Additional Funds from the Customer on any particular occasion when the value of the Deposit is less than one (1%) percent, or a percentage otherwise agreed to in writing between the parties, of the Canadian dollar value of the Forward Contract and/or Option Contract shall not prevent Custom House from requiring the Customer to provide Additional Funds on any other occasion when the Deposit is less than one (1%) percent, or a percentage otherwise agreed to in writing between the parties, of the Canadian dollar value of the Forward Contract and/or Option Contract.

**10.10 Increase in Value of Deposit.** Subject to section 10.11, in the event that the Customer has provided Additional Funds to Custom House and the international money market subsequently moves such that the Deposit and the Additional Funds (the "Total Deposit") held by Custom House exceeds the Predetermined Percentage, then upon Notice by the Customer to Custom House, Custom House will refund that portion of the Total Deposit above the Predetermined Percentage (the "Refund").

**10.11 Refund.** The Refund shall only be paid out by Custom House to the Customer in increments of 0.5% of the Canadian dollar value of the Forward Contract and/or Option Contract.

**10.12 Default.** Failure of the Customer to: (a) complete the Forward Contract and/or Option Contract by the Value Date, or (b) pay any Deposit, including any Additional Funds, to Custom House then the Customer agrees that Custom House shall no longer be obligated to fulfill the Forward Contract and/or Option Contract, or any other existing contract with the Customer, nor to enter into any further contract with the Customer, and Custom House may, in its sole discretion: (a) sell the necessary covering currency to terminate the Forward Contract and/or Option Contract, (b) charge the Customer with the damages, losses, including loss of profit, incurred by Custom House, and shall include

additional processing fees, costs and expenses incurred by Custom House (collectively referred to as the “Costs”), and (c) apply the Deposit held by Custom House to pay the Costs. The Customer agrees to reimburse and indemnify Custom House forthwith on demand therefore, for all Costs suffered or incurred by Custom House which are not covered by the Deposit. Any remaining portion of the Deposit not required to pay the Costs shall be refunded by Custom House to the Customer.

**10.13 Return of Deposit.** Subject to section 10.12, the Deposit, without interest, will either be returned to the Customer when the amount of the deposit exceeds the Predetermined Percentage, upon the completion of the Forward Contract and/or Option Contract or will be applied by Custom House in settlement of any amount owing to Custom House by the Customer at any time hereunder.