

## Agency agreement

This agreement is made [date], between [principal], a corporation organized and existing under the laws of the State of Washington, with its principal office located at [address, city, county, state, country] (“principal”), and [agent], of [address, city, county or equivalent, state or province, country] (“agent”).

### **SECTION ONE – RECITALS**

- A. Principal is an NVOCC, ocean freight forwarder, air freight forwarder and customs house broker, duly licensed to operate as such under the applicable laws and agency regulations of the United States. Agent is an NVOCC, ocean freight forwarder, air freight forwarder and customs house broker, [remove what doesn't apply] and represents that it is duly licensed to operate as such in [country].
- B. Principal desires to appoint agent to provide the services described in this agreement.
- C. Agent desires to accept such appointment. Therefore, the parties agree as follows:

### **SECTION TWO – SCOPE OF AGENT'S AUTHORITY**

- A. Agent's authority is specifically limited to that stated in this agreement, and may be enlarged or contracted only by written addendum to this agreement, duly approved in writing by both parties.
- B. Agent's authority shall extend to [specified area of agent's home country].

### **SECTION THREE – DUTIES OF AGENT AND PRINCIPAL**

For the compensation hereinafter stated, Principal and Agent shall both use their best efforts to perform the following duties:

- A. Solicit the movement of cargo via Principal's Ocean Transportation Intermediary Services, and via Principal's and Agent's air freight forwarder services.
- B. Establish and maintain suitable container freight stations as required for the operational receiving, consolidating, loading, shipping, unloading and orderly release of cargo, including import and export, air and ocean cargo, and full

- container load and less than container load. Principal and Agent may, at their option, subcontract this work to a competent provider of these services.
- C. Timely provide shipment information to appointed agents of the United States government and the government of [Agent's country] by whatever means the government or its agents shall require.
  - D. Timely and accurately prepare and properly dispatch all necessary documentation.
  - E. Coordinate with all shippers, forwarders and their agents the timely delivery, loading, booking, draying and proper documentation for all export shipments.
  - F. Coordinate with all consignees, customs brokers and their agents to provide timely notice of arrival, timely drayage and unloading of consolidated containers and proper documentation for the timely release of import cargo, consistent with the other terms of this agreement.
  - G. Negotiate competitive rates for ocean and air services, and make these rates available to the other party.
  - H. Perform all other duties necessary and proper to accomplish efficiently and economically the specific tasks enumerated above as well as all other duties described in other sections of this agreement.

#### **SECTION FOUR – DUTIES OF PRINCIPAL**

The Principal shall:

- A. File and maintain Ocean Transportation Intermediary tariffs with the Federal Maritime Commission.
- B. Provide management of ocean common carrier services.

#### **SECTION FIVE – NONEXCLUSIVITY OF AGREEMENT**

Both parties recognize that this agreement is not exclusive, and both reserve the right to pursue development of ocean and air transportation sales with other parties not represented by this agreement. However, both parties agree that whichever party successfully solicits a customer for the joint services offered by Principal and Agent shall have exclusive right to participate in providing transportation services to that customer on the trade lane shared by Principal and Agent for the term of this agreement and shall receive full compensation according to Schedule B for such shipments.

#### **SECTION SIX – OWNERSHIP OF PRINCIPAL'S BILL OF LADING**

Agent agrees that the [Principal name] Bill of Lading and the [Principal name] House Airway Bill are the sole and exclusive property of the Principal. Agent shall not issue either document except in compliance with the terms of this agreement. Agent further shall not issue either document without disclosing full details to the Principal and without providing full compensation as agreed.

Upon termination of this agreement for any reason, Agent shall immediately cease issuing Principal's ocean transportation intermediary bill of lading or Principal's house airway bill.

## **SECTION SEVEN – COMPENSATION**

Principal and Agent may receive compensation from the shipper, forwarder or their authorized agent for export shipments, or from the consignee, customs broker or their authorized agents for import shipments, as set forth in Schedule A attached with respect to shipments moving on Principal's ocean transportation intermediary bill of lading or house airway bill.

Principal and Agent further agree to [share profits/compensate one another] for ocean or air freight as set forth in Schedule B attached.

Principal has a policy against the payment of any rebate, directly or indirectly, by the company or by any officer, employee or partner, which payment would be unlawful under the 46 US 41104.

Agent shall retain the full amount of the commissions paid by the Principal and shall not rebate or promise to rebate directly or indirectly, in any manner whatsoever such commissions or portion thereof to any shipper, client, shipper's agent, or any other person having any beneficial interest in the shipment for which payment is made.

## **SECTION EIGHT – OBSERVANCE OF LAWS**

Principal and Agent acknowledge that Principal is subject to the laws and regulations of the United States government, and that Agent is subject to the laws and regulations of [Agent's country]. Principal and Agent will observe all laws and regulations of both the United States and [Agent's country] applicable to the sale of ocean and air transportation, or any other acts performed under this agreement

## **SECTION NINE – AGENCY DESIGNATION AND ADVERTISING**

Agent may represent itself on letterhead, advertising, directory listing, websites, office signs and otherwise as "agent", "cargo agent" or "general agent" of Principal, but shall not present itself as, or use any designation which would indicate or imply in any way that its office is an office of the Principal.

Upon termination of this agreement, all such displays of advertising shall cease, and Agent shall not thereafter use Principal's name, trade names, trade marks, acronyms or symbols, or those of any of Principal's affiliates, in any form for any purpose whatever.

## **SECTION TEN – REMITTANCES**

At time of shipment, Agent shall provide Principal with all information necessary and not immediately apparent from the shipping documents, to enable Principal to complete a settlement statement for that shipment. Agent shall receive a monthly accounting of all shipments, whether inbound or outbound, from the Principal. The statement will be itemized, will list monies due Agent and monies due Principal, and will list a final amount due Agent or Principal after the two balances are offset. Statement will be forwarded to Agent's office for confirmation no later than the [15<sup>th</sup>] day of the month for the previous month's shipments. Agent shall approve statement or propose corrections by the [20<sup>th</sup>] day of the month for the previous month's shipments. Before the [last day] of the month for the previous month's shipments, the party owing monies after the offset will wire transfer or deposit in the other party's account those monies due to the other party. Balances may be extended to the next month's statement by mutual consent.

All monies collected by the Agent on behalf of the Principal under this agreement are the property of the Principal until accounted for.

## **SECTION ELEVEN – EXTENSION OF CREDIT AND REMITTANCES**

Neither party is authorized to extend credit to shippers or owners of goods. Any credit allowed for freight charges or any other charges will be the sole responsibility of the party allowing such credit. Release of any negotiable documents to shipper without collection of prepaid charges is not permitted. Release of cargo without receiving collect charges is not permitted. Release of cargo without duly accomplished original bill of lading, unless cargo is moving on a waybill, is not permitted. Liability for any damages that result from violating these terms shall rest solely with the authorizing party.

## **SECTION TWELVE – COMMUNICATIONS, SUPPLIES AND ADVERTISING**

Cost of communications, including but not limited to telephone and fax expense, cost of internet access, postage costs and courier fees, by either party to the other party and to all other persons shall be paid by the party sending such communications.

Each party will bear its own costs for printing, advertising, promotional expenses, sales expenses, website design and website maintenance.

Principal will provide Agent with a supply of Principal's ocean transportation intermediary bills of lading. Agent will arrange printing of additional supplies of the bill of lading at its own expense.

## **SECTION THIRTEEN – LIABILITIES AND INDEMNIFICATION**

The Principal shall indemnify and hold harmless the Agent, its officers, agents and employees, from all responsibility and liability for any injury, damage, expense or loss sustained by any person or property caused by or arising from any negligent act,

omissions or willful misconduct by Principal, its officers, agents and employees, and related directly or indirectly to the sale of services pursuant to this agreement.

The Agent shall indemnify and hold harmless the Principal, its officers, agents and employees, from all responsibility and liability for any injury, damage, expense or loss sustained by any person or property caused by or arising from any negligent act, omissions or willful misconduct by Agent, its officers, agents and employees, and related directly or indirectly to the sale of services pursuant to this agreement.

#### **SECTION FOURTEEN – SUBCONTRACTORS**

In the execution of this agreement, both parties acknowledge their responsibility to appoint only subcontractors who are financially responsible and who indemnify both parties for any loss or damage to cargo handled or stored on their premises or transported on their vehicles.

#### **SECTION FIFTEEN – TERM**

This agreement shall continue in effect from the date hereof unless terminated. Either party shall have the right to terminate this agreement upon at least [90] days notice of such termination given to the other party. If termination shall be for a violation of this agreement then in such event no prior notice need be given but shall be effective upon receipt of such notice by the other party.

#### **SECTION SIXTEEN – AMENDMENTS**

This agreement may be amended only by written consent of both parties. Exchanges of emails, faxes or letters, in the course of which both parties acknowledge and consent to a proposed amendment shall be sufficient to amend this agreement. Where the written exchanges are ambiguous, the presumption will be that the amendment applies only to the individual shipment under discussion, and not to all shipments handled under this agreement hereafter. Where the written exchanges are ambiguous, the presumption will be in favor of the interpretation that most closely resembles this agreement.

#### **SECTION SEVENTEEN – NOTICES**

All notices required to be given by either party to the other must be given in writing, which shall include any form of electronic transmission that produces a hard copy. If by mail, the notices shall be effective as of the time and date of receipt as indicated on the return receipt card. All mailed notices must be made by certified or registered mail, return receipt requested. If notices are sent by courier, notice shall be effective as of the date of delivery as shown in the courier's tracking software. Notices by electronic transmission must be dated and timed, and shall be effective as of such date and time. Acknowledgement of receipt, whether automatic or generated by the recipient, shall be sufficient to show receipt.



## Schedule A

In the case of cargo being exported from Agent's territory on Principal's bill of lading, Agent is authorized to collect from shippers, forwarders and their authorized agents a receiving charge as per tariff on file with the Federal Maritime Commission for receiving, sorting, loading and other services normally associated with container freight station (CFS) and container yard (CY) operations.

In the case of cargo being imported to Agent's territory on Principal's bill of lading, Agent is authorized to collect from consignee, consignee's customs broker or consignee's agent a destination delivery charge as per tariff on file with the Federal Maritime Commission, for delivery, devanning, sorting and all other services and documentation normally associated with container freight station (CFS) and container yard (CY) operations.

Agent is authorized to collect a document handling fee for import and export shipments moving on Principal's bill of lading at a rate established by usage of trade.

Agent shall inform Principal of rates used in compliance with this schedule and of subsequent rate changes.

Schedule A is attached to and made a part of this agreement, and is expressly subject to Section Sixteen, and all other provisions of this agreement.

## Schedule b

Principal and Agent agree to divide profits for all shipments handled through Principal's and Agent's combined efforts, and for all cargo which Agent routes on Principal's bill of lading without regard to Principal's contribution of effort. "Profit" is defined, for purposes of this agreement, as the revenue which remains for each shipment after freight and operational costs directly associated with the shipment are deducted from freight revenue and surcharges collected from the customer. Sales expenses shall not be deemed an operational cost.

For individual shipments handled under the terms of this agreement which are profitable according to the excess revenue set forth on Principal's accounting statement, Agent will be compensated as follows:

- 1) It is agreed that profit for all ocean cargo, whether import or export, shall be divided on the basis of XX% Principal and XX% Agent. ***Or*** It is agreed that all ocean cargo, whether import or export, shall be divided on the basis of XX% to the party securing the customer's nomination and XX% to the other party.
- 2) It is agreed that profit for all air cargo, whether import or export, shall be divided on the basis of XX% Principal and XX% Agent. ***Or*** It is agreed that all air cargo, whether import or export, shall be divided on the basis of XX% to the party securing the customer's nomination and XX% to the other party.
- 3) Losses for any shipment indicated as a negative amount on Principal's accounting statement shall be shared according to the same formula that would apply for profit sharing on that shipment.
- 4) It is agreed that brokerage payments as provided for in Principal's export tariff will be paid to FMC licensed freight forwarders as an expense prior to calculation of profit for shipments exporting from the United States. No such brokerage payments shall be made to Principal for any shipments moving on Principal's bill of lading.

Schedule B is attached to and made a part of this agreement, and is expressly subject to Section Sixteen, and all other provisions of this agreement.

## Schedule B (Alternate)

Principal and Agent agree to compensate each other for all cargo moving under the terms of this agreement. The party that has secured the nomination from the customer who controls the routing of the cargo (hereafter “selling party”) shall pay the other party (hereafter “supporting party”) according to the following schedule of handling fees:

Air Freight Shipments - \$XX per house airway bill

Less Than Container Load Ocean Shipments - \$XX per house bill of lading

Full Container Load Ocean Shipments -\$XX per 20’ container and \$XX per 40’ container.

The supporting party shall remit to the selling party any revenue collected on the selling party’s behalf. However, the supporting party shall be entitled to be reimbursed for any expenses directly incurred in providing the services which the selling agent has offered the customer. Sales expenses shall not be deemed an operational cost.

The supporting agent shall be entitled to full payment of its handling fees and its direct expenses as described in this schedule, and shall not be entitled to any additional compensation from the selling agent. This provision shall remain in force without regard to whether the shipment generates a net loss or a net profit for the selling agent and without regard to the size of said loss or profit.

Schedule B is attached to and made a part of this agreement, and is expressly subject to Section Sixteen, and all other provisions of this agreement.