

## **Record Maintenance Terms and Conditions**

At a minimum, importers are required to keep, for the period of six years following the importation of the commercial goods, all records that relate to the origin, marking, purchase, importation, costs and value of the commercial goods; payment for the commercial goods; the sale or other disposal of the commercial goods in Canada; and any application for an advance ruling made under section 43.1 of the Customs Act (the Act) in respect of the commercial goods.

### **Availability for Inspection and Delivery**

The records referred to in sections 2 and 3 of the Regulations shall be kept in such a manner as to enable a Canada Broker Services Agency “CBSA” officer to perform detailed audits and verifications to obtain, or verify the information upon which a determination of the amount of the duties paid or payable was made.

In accordance with subsection 43(1) of the Act, the Minister may, for any purpose related to the administration or enforcement of the Act, **require from any person the production of any record, book, letter, account, invoice, proof of payment, ledgers, journal entries, statement (financial or otherwise), or other document at a place, and within the time specified therein.**

In addition to granting access to the records, the importer must provide access to key personnel who can deliver explanations on the information provided.

### **Non-compliance**

Where it is determined that an importer has failed to comply with any of the requirements for the maintenance of records, the importer will be requested to fulfill these requirements within a reasonable period of time. If an importer fails to comply with the requirements of record maintenance under subsection 40(1) of the Act, the CBSA may:

- a. assess penalties in accordance with subsection 109.1 of the Act;
- b. detain under the authority of section 41 of the Act, any goods imported by the importer until the importer has complied with the requirements.

Where a person who is required by subsection 40(1) of the Act to keep records, other than a person referred to in section 3.1 of the Regulations, has not kept records or has been required to provide records in accordance with section 43 of the Act and fails to do so, additional steps may be taken, such as denying or withdrawing preferential tariff treatment for the commercial goods that are the subject of those records. In addition, failure to comply with sections 40 or 43 of the Act is an offence, pursuant to subsection 160(1) of the Act.

### **Indemnification and Limitation of Liability**

The importer shall indemnify, hold harmless, and defend P.F. Collins Customs Broker Limited and its officers, directors, and employees (“PF Collins”) against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees, that are awarded against PF Collins (collectively, the “Losses”), arising out of any claim, charge or offence against PF Collins from any third-party, including but not limited to any regulator, in respect of:

- a. the importer's failure to abide by the requirements of the Act or the Regulations.
- b. the importer's breach of these Record Maintenance Terms and Conditions.
- c. any negligence or willful misconduct or more culpable act or omission of the importer (including any reckless misconduct) in connection with the performance of its obligations under the Act, the Regulations, or these Record Maintenance Terms and Conditions; or
- d. PF Collins' inability to abide by the requirements of the Act or the Regulations as a result of the importer's failure to abide by the requirements of the Act or the Regulations, the importer's breach of these Record Maintenance Terms and Conditions, or any negligent or willful misconduct or more culpable act or omission of the importer (including any reckless misconduct) in connection with the performance of its obligations under the Act, the Regulations, or these Record Maintenance Terms and Conditions.

The importer shall not be required to indemnify, hold harmless, and defend PF Collins against any claim (whether direct or indirect) if such claim or corresponding Losses arise or result from, in whole or in part, the gross negligence or willful misconduct of PF Collins or its failure to comply with any of its material obligations to the importer under the Act or the Regulations.

In no event shall the aggregate liability of PF Collins arising out of or related to its services rendered to the importer, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, exceed the total amount paid to PF Collins in relation to its services rendered, and in no event shall PF Collins be liable to the importer for any consequential, indirect, incidental, exemplary, special, or punitive damages whatsoever, including any damages for business interruption, loss of use, revenue, or profit, cost of capital, loss of business opportunity, or loss of goodwill, whether arising out of breach of contract, tort (including negligence), or otherwise, regardless of whether such damages were foreseeable and whether or not the importer was advised of the possibility of such damages.

#### **Additional Information**

For more information, e-mail the CBSA at [cm-go@cbsa-asfc.gc.ca](mailto:cm-go@cbsa-asfc.gc.ca).

CBSA performs audits & verifications in reference to the Transaction Number assigned to the clearance at time of importation. PF Collins is not responsible for the file number you assign within your folders. The file number you assign must be in relation to the Customs clearance Transaction number and this file number must be shown on all the original importation documentation in order to collate.

A separate unique file must be created per clearance Transaction. Files cannot be renamed.

***Best practice is to use the Customs Clearance Transaction Number as your file number.***

PF Collins is not responsible for the validity of any of the documents. The importer is fully responsible as outlined in the Record Maintenance Regulations for downloading, reproducing, filing setup, and providing the key personnel who can deliver explanations on the information provided.

By creating a file with PF Collins and authorizing PF Collins for Record Maintenance, you have acknowledged and accepted these Terms and Conditions.