

## UNCOMMON GOODS VENDOR TERMS AND CONDITIONS

At UncommonGoods, we want to be our customers' favorite place to shop. We also want to be your favorite retail account. We aim to do that by offering shoppers your creatively designed, high quality products combined with our award-winning service. And we guarantee our customers' satisfaction. Forever. This has been true since we founded the company back in 1999 and it has enabled UncommonGoods to grow every year since then, regardless of economic conditions.

We want to continue growing and selling more of your product, which means we must continue to improve. In order to provide an even better customer and supplier experience, we need to ensure that we have a clear and mutual understanding of standards and processes. The Vendor Manual, created with input from a wide range of our suppliers, will provide clarity and accountability on our processes and standards. The below Terms and Conditions will further outline our expectations of this partnership.

Vendor and Uncommon Goods ("UG") agree that all orders of products or services by UG from Vendor are governed by this Agreement and any additional terms and conditions included in the then-current UG Vendor Compliance Manual.

The terms and conditions of this Agreement are as follows:

1. Price and Payment.
  - (a) Orders shall not be filled at prices higher than those stated in an order unless authorized in writing by UG.
  - (b) Unless otherwise stated in an order, prices are deemed to include all taxes.
  - (c) Payment terms will be stated in each order.
  - (d) UG may set off any claims (including rights to reimbursement) against Vendor regarding one or more purchases or purchase orders from Vendor against amounts due for any other purchases.
2. Title and Delivery.
  - (a) Vendor shall have title to and bear the risk of any loss or damage to products until delivered to UG or a mutually agreed common carrier. Upon delivery, title shall pass from Vendor.
  - (b) Vendor shall deliver products in strict accordance with the delivery dates stated in an order,.
  - (c) Vendor agrees to promptly notify UG of any delay in delivery of products.
  - (d) Products shall be prepared for shipment as stated in the Vendor Compliance Manual.
3. Quantities. The signed bill of lading or other shipping documents shall constitute conclusive proof of the number of cases received by UG, and UG's count of the contents of each case shall be conclusive with respect to the quantity.
4. Inspection and Acceptance.

- (a) All products shall be subject to final inspection and acceptance after delivery.
- (b) If UG determines that products are defective or do not meet specifications, UG shall have the right, at its sole option, to:
  - (i) reject products and obtain a refund of the purchase price and any shipping charges;
  - (ii) require repair or replacement of the products by Vendor;
  - (iii) repair or replace such Products and charge to Vendor any cost incurred by UG;
  - (iv) obtain substitute products and charge Vendor for the cost;
  - (v) without further notice, terminate an order for default;
  - (vi) require an appropriate reduction in the purchase price;
  - (vii) take any other action contemplated by the Vendor Compliance Manual
- (c) Vendor shall reimburse UG for:
  - (i) all administrative expenses, set forth in the Charge Back Summary contained in the Vendor Compliance Manual, and transportation expenses for orders not in compliance, and
  - (ii) expenses incurred in marketing, promoting and/or selling products to which sales are cancelled or reduced because of back orders or order cancellations due to rejection of goods, late delivery or delivery of insufficient quantities.
- (d) Payment for, or failure to inspect, any products shall not be deemed an acceptance.

5. Cancellation.

UG may, without liability, by notice to Vendor, cancel any or all orders issued to Vendor, in whole or part if:

- (i) Vendor fails to deliver products by the date specified in an order,
- (ii) Vendor fails to make progress in work so as to endanger performance,
- (iii) any bankruptcy proceedings are filed by or against Vendor; or
- (iv) a receiver is appointed for the benefit of Vendor's creditors.

6. Termination for Convenience. By mutual agreement, UG and Vendor may terminate the whole or any part of an order for convenience at any time before delivery of products.

7. Warranty. Vendor warrants that the goods or services it provides:

- (a) will conform to the specifications, sizes, colors or styles and any samples furnished to and/or approved by UG without substitution;
- (b) will be of first class quality and material;
- (c) will be fit for the particular purpose intended by UG and free from defects of any kind in material and workmanship;
- (d) are suitable for the purpose ordinarily intended and for the anticipated use expressed by UG;

- (e) will satisfy any and all performance specifications and/or requirements specified by UG;
- (f) will have been designed, manufactured, sold and delivered in strict compliance with all industry safety standards, including but not limited to, all safety, design, and testing standards and procedures published by ASTM, ANSI, and UL, and with all applicable laws, regulations and codes to which the goods or services are subject;
- (g) comply with and are manufactured in accordance with the provisions of all federal and state laws, including all amendments thereto, and rules and regulations, including, but not limited to the following: The Consumer Products Safety Act; Consumer Product Safety Improvement Act of 2008; Flammable Fabrics Act; Federal Food Drug and Cosmetics Act; Child Protection and Toy Safety Act; Hazardous Substances Labeling Act; Poison Prevention Packaging Act of 1970; Textile Fiber Products Identification Act; Federal Wool Products Labeling Act; Federal Trade Commission Act;
- (h) will be in full compliance with U. S. Customs law and that all information provided on product descriptions, quantities, classification, quota, tariff and country of origin has been completely and accurately stated; and
- (i) do not violate the trademark, copyright, patent rights or any other intellectual property rights of others.

Any disclaimer of these express warranties or any implied warranties of merchantability or fitness for a particular purpose, or other contractual obligations, or limitation of remedies for breach of warranties shall be ineffective. All remedies and warranties shall survive inspection, tests, acceptance and payment by UG. These warranties are in addition to all other warranties, whether express or implied, given by Vendor to UG or imposed by law. All warranties of Vendor shall run to UG and its customers.

8. U. S. Customs. Upon request, Vendor shall provide UG's employees and representatives with (a) access to its facilities and (b) true and accurate copies of all documentation necessary to evaluate Vendor's facilities and procedures for compliance with U. S. Customs laws, procedures and security guidelines.

9. Imported Merchandise. (Applicable only to Vendors who import to the United States part or all of products supplied.) UG may seek duty drawback with regard to products on eligible, imported, duty-paid merchandise. If Vendor supplies products which are eligible for duty-drawback, Vendor shall, at UG's request, provide directly to an independent drawback broker designated by UG within **30** days of request the documentation or information required by such broker in order to complete a drawback claim with respect to said merchandise, including, without limitation, a Certificate of Delivery, Certificate of Manufacture (if applicable), import entry, date of entry, port of entry, and amount of duty paid. Each document provided pursuant to this paragraph shall be in a form that will be acceptable to the United States Customs Service for purposes of claiming a duty drawback. No documentation or information required pursuant to this paragraph will be disclosed by the broker to UG, and Vendor may require such broker to agree to maintain the confidentiality of this information prior to disclosure.

10. Intellectual Property Rights. Unless otherwise expressly agreed in writing, all rights to products cooperatively developed or designed by UG and Vendor, or designed by UG in part or whole, shall vest in and be the sole property of UG, and Vendor retains no intellectual property rights. Vendor agrees to execute documents acknowledging UG's ownership.

11. Indemnity. Vendor agrees to defend, protect, hold harmless and indemnify UG from any claims, suits, liabilities, damages, losses or expenses, including:

- (a) reasonable attorney's and consultants' fees and expenses,
- (b) expenses of recall, inspection, testing, and replacement or correction of goods or services of every kind and nature, and
- (c) consequential damages asserted against or incurred by UG that arise from:
  - (i) actual or alleged infringement of patent, copyright, trademark (other than exclusive marks specified by UG), or intellectual property rights;
  - (ii) violation of any federal or state unfair trade practice or consumer protection laws;
  - (iii) the purchase, sale or use of products supplied by Vendor to UG; or
  - (iv) Vendor's breach of representations or warranties.

12. Limitation of Liability of UG. UG SHALL NOT BE LIABLE FOR INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES.

13. Protection of Trademarks. Without UG's prior written consent, Vendor shall not sell, either at retail or wholesale, or otherwise transfer to third parties, merchandise or materials which bear UG's label, trademark, logo or design or any other characteristics which identify the goods as coming from UG. All distinctive identification marks must be completely removed or defaced before being liquidated to third parties. In addition, Vendor is in no way authorized to sell, use, or otherwise distribute excess UG labels beyond those needed to fulfill UG orders. In the event that Vendor has UG merchandise to be liquidated, Vendor shall notify UG. If liquidations by Vendor violate this paragraph, UG shall be entitled to recover all damages, losses, and costs incurred as a result of improper liquidations, and to equitable relief to prevent any threatened or actual violation.

14. Confidentiality. All confidential information disclosed by UG, including without limitation information regarding purchasing, handling and marketing of goods and customers and UG's purchases from Vendor, shall be treated as confidential and shall not be disclosed to third parties without the written consent of UG. Vendor agrees that all customer information, including but not limited to the addresses and telephone numbers of UG's customers, shall be maintained in confidence by Vendor, shall not be disclosed to third parties without the written consent of UG and shall be used by Vendor only in connection with UG's purchase of products from UG. Information shall not be considered confidential if Vendor demonstrates that such information has been supplied to Vendor without restriction by a third party who is under no obligation to the disclosing party to maintain such information in confidence.

15. Relationship Between the Parties. Vendor is not authorized to act on behalf of or under the authority of UG and is not an agent or other representative of UG.

16. Miscellaneous.

- (a) Vendor may not assign or subcontract this Agreement or any order without UG's prior written consent.
- (b) This Agreement shall be governed by New York law without regard to conflicts of law provisions. Any dispute arising out of this Agreement shall be finally resolved by binding arbitration before a single arbitrator in New York, New York in accordance with the JAMS (Judicial Arbitration and Mediation Services, Inc.) Streamlined Arbitration Rules and Procedures, and judgment may be entered upon the award in any court having jurisdiction. The parties waive any right to jury trial.
- (c) The rights and remedies of UG shall be cumulative and in addition to any other rights and remedies provided by law or equity or those provided under the Uniform Commercial Code.
- (d) This Agreement contains the entire agreement between the parties. This Agreement may be amended only in writing signed by the parties, and shall not be modified or interpreted by any trade usage or prior course of dealing. Any terms in Vendor's invoice, billing statements, acknowledgment forms, or other documents that are inconsistent with or add to the terms and conditions of this Agreement shall be of no force or effect.
- (e) This Agreement shall not be waived except in writing signed on behalf of the party against whom the waiver is asserted. No waiver of a breach shall constitute a waiver of a subsequent breach.
- (f) If any part of this Agreement is found invalid or unenforceable, it will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of this Agreement will remain in full force;
- (g) In any proceeding arising from or related to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and expenses.
- (h) All notices required by this Agreement must be in writing and shall be effective upon receipt or refusal when delivered via email.
- (i) This Agreement will survive any termination of the relationship between the parties.
- (j) The person who signs this Agreement on behalf of a party is duly authorized to do so.

UNCOMMON GOODS

[VENDOR LEGAL NAME]

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By: [Print Name]  
Its: [Print Title]  
Dated:

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By: [Print Name]  
Its: [Print Title]  
Dated: