



### **Custom Goods Small Parcel Terms and Conditions**

1. **Small Parcel Shipments.** Customer grants Service Provider the authority to arrange for the shipment of Customer's Small Parcel Shipments from Service Provider's facilities using Service Provider Shipping Accounts.

- **"Small Parcel Shipments"** means individual shipments of goods under one hundred fifty (150) pounds.
- **"Small Parcel Carriers"** means UPS, FedEx, USPS, DHL and/or any other carrier that handles Small Parcel Shipments under contract with Service Provider.
- **"Service Provider Shipping Accounts"** means Service Provider's accounts with Small Parcel Carriers.

Small Parcel Shipments will be subject to all terms and conditions herein. Small Parcel Shipments will also be subject to the terms and conditions of the Small Parcel Carriers, including but not limited to the Small Parcel Carriers' published terms and the terms and conditions in Service Provider's contracts with Small Parcel Carriers (collectively, the **"Small Parcel Carrier Terms & Conditions"**).

2. **Termination.** Either Party shall have the right to terminate the Small Parcel Shipment services at any time, for any reason or no reason, by providing the other Party with at least thirty (30) days' prior written notice of termination.

3. **Customer's Small Parcel Shipment Information.** In order for Service Provider to effectively manage Customer's Small Parcel Shipments, Customer agrees to furnish Service Provider with all information reasonably requested by Service Provider relating to Customer's Small Parcel Shipments.

4. **Selection of Small Parcel Carriers.** Service Provider shall have the sole discretion to select the Small Parcel Carrier for each Small Parcel Shipment.

5. **Rates and Payment Terms.**

(a) Service Provider shall invoice Customer the applicable rates for Small Parcel Shipments (the **"Small Parcel Fees"**) and Customer shall pay such invoices in accordance with the provisions of Section 5(b). Service Provider's compensation for its services is included in the Small Parcel Fees and is in addition to the rates and surcharges charged by Small Parcel Carriers. Customer acknowledges that Small Parcel Carriers may increase rates and surcharges, or add additional surcharges, at any time, with or without notice. In the case of an increase in the rates or surcharges by the Small Parcel Carriers, the applicable Small Parcel Fees are subject to increase by the same percentage as the Small Parcel Carrier's increase. The Small Parcel Fees are also subject to increase in the event that Service Provider's cost of providing the Small Parcel Shipment services increases due to regulatory changes, market changes, or other factors outside of Service Provider's reasonable control. Any increase to the Small Parcel Fees will be reflected on Customer invoices.

(b) Service Provider shall invoice Customer for the Small Parcel Fees on a weekly basis. Customer agrees to pay invoices for Small Parcel Shipments as submitted, without deduction or hold back, within seven (7) days of the date of invoice. All payments shall be made via wire transfer or ACH of immediately available funds to an account designated by Service Provider. Any amounts not paid when due shall accrue interest daily at a rate of twelve percent (12%) per annum, payable by Customer together with any and all collection costs, including attorneys' fees.

(c) Except as otherwise provided in this Agreement, each Party will be responsible for all costs and



expenses incurred by such Party in its performance of this Agreement. All payments for services performed hereunder are exclusive of taxes. Any such taxes shall be the Customer's sole responsibility and the Customer shall pay or reimburse Service Provider for any taxes based on the services provided; except that this provision shall not apply to taxes based on Service Provider's income, which shall be Service Provider's sole responsibility.

**6. Suspension of Services.** In the event Customer is overdue in paying any amounts due for Small Parcel Shipments and fails to cure such failure within two (2) business days of receipt of written notice of such overdue account, Service Provider shall have the right to suspend Small Parcel Shipment services until such overdue amounts are paid in full.

**7. Claims Process.** The following shall apply to Customer claims for loss of or damage to goods or delay in delivery of Small Parcel Shipments ("**Claims**"):

(a) The consignee must retain the original shipping carton and contents for inspection and must provide photographic evidence of any loss of or damage to the goods.

(b) Customer must provide Service Provider with a formal written notice of Claim no later than twenty-one (21) days from the delivery date or in the event of non-delivery, no later than twenty-one (21) days after the expected delivery date. Each Claim must be submitted by filling out a Claim Form and submitting it through the Claim portal at [www.custom-goods.com/parcel-claim](http://www.custom-goods.com/parcel-claim). Each Claim must include a valid tracking number, the reason for the Claim, the Claim amount, all other information and documentation set forth on the Claim Form, and all other information and documentation reasonably requested by Service Provider. No Claims will be processed until Customer provides all requested information.

(c) Claims not submitted in a timely manner in accordance with the above requirements will be waived. Customer acknowledges that Small Parcel Carriers have time limitations in place on the filing of claims and Customer hereby releases and holds harmless Service Provider and its affiliates and their respective members, managers, officers, directors, employees, contractors and agents, harmless from and against, all loss, liability, damage, fine, penalty, cost, demand, expense, action, claim, or cause of action (including costs of defense, settlement and reasonable attorneys' fees) ("**Losses**") resulting from Customer's failure to provide Service Provider with a formal notice of a Claim within the time period required hereunder.

(d) In the event that Customer submits a Claim to Service Provider, Service Provider's sole obligation will be to file a Claim on behalf of the Customer with the applicable Small Parcel Carrier and to tender amounts recovered from the Small Parcel Carrier to Customer as set forth in Section 8(b). Customer acknowledges that the Small Parcel Carrier's liability is subject to and limited by applicable law and the Small Parcel Carrier Terms & Conditions.

**8. Claims Against Small Parcel Carriers.**

(a) Customer grants Service Provider the right and authority to file all Claims on Customer's behalf against Small Parcel Carriers relating to the loss of or damage to goods or delay in delivery of goods shipped using a Service Provider Shipping Account.

(b) If Customer submits a Claim to Service Provider in accordance with the provisions set forth in Section 7, Service Provider will submit a Claim to the applicable Small Parcel Carrier, and any amounts recovered by Service Provider from the Small Parcel Carrier with respect to such Claim will be provided to Customer via a credit to Customer's account. Notwithstanding the foregoing, if Customer is overdue in payments to Service Provider, Service Provider shall have the right to retain all such amounts received



from Small Parcel Carriers and apply such amounts toward overdue accounts receivable.

(c) Customer acknowledges and agrees that Service Provider will settle each Customer Claim based on the Small Parcel Carrier's settlement of the corresponding Claim submitted by Service Provider and that Customer is not entitled to any compensation for a Claim unless or until the Small Parcel Carrier settles the Claim. Customer further acknowledges and agrees that it will not receive any amount in excess of the amount recovered by Service Provider from the Small Parcel Carrier with respect to any Claim. Customer acknowledges and agrees that Small Parcel Carriers have in place limits of liability for loss of or damage to goods and for delay in delivery of goods which limit Customer's recovery and that Service Provider has no control over amounts paid by Small Parcel Carriers.

(d) Customer shall not file Claims on its own behalf against a Small Parcel Carrier with respect to any goods shipped on a Service Provider Shipping Account; and if Customer does so in contravention of this provision, Customer releases and holds harmless Service Provider and its members, managers, officers, directors, employees, contractors and agents harmless from and against all Losses relating to such shipment.

## **9. Limitations of Liability.**

(a) Customer acknowledges and agrees that Service Provider is not an insurer or guarantor of any goods placed in its possession by Customer.

(b) Notwithstanding anything in the Agreement to the contrary, and except as provided in Section 8, Service Provider shall not be liable for, and Customer hereby releases and holds harmless Service Provider and its affiliates and their respective members, managers, officers, directors, employees, contractors and agents, from and against all Losses relating to: (i) damage to or loss of goods that occurs after the goods are tendered to a Small Parcel Carrier; (ii) delay in the delivery of the goods by Small Parcel Carrier; or (iii) any act or omission of a Small Parcel Carrier or its employees, contractors, agents or representatives.

(c) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR INDIRECT DAMAGES, INCLUDING CHARGEBACKS OR OTHER PENALTIES OR ASSESSMENTS IMPOSED BY THE CONSIGNOR OR CONSIGNEE, LOSS OF FUTURE REVENUE, LOST PROFIT, LOST INCOME, LOSS OF BUSINESS REPUTATION OR OPPORTUNITY, DIMINUTION OF VALUE, OR ANY DAMAGES BASED ON ANY TYPE OF MULTIPLE, WHETHER BASED ON STATUTE, CONTRACT, TORT OR OTHERWISE, AND WHETHER OR NOT ARISING FROM SERVICE PROVIDER'S SOLE, JOINT, OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, CRIMINAL LIABILITY OR OTHER FAULT, REGARDLESS OF WHETHER SERVICE PROVIDER HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

## **10. UPS Disclaimer and Beneficiary Provisions**

As a customer of Service Provider, Customer hereby acknowledges and agrees that all UPS shipping transportation and related services provided through or as part of Service Provider's services are part of a bundled service provided by Service Provider, and Service Provider is the contracting party with UPS for all such shipping transportation services. As a result, Customer acknowledges and agrees that (i) its sole and exclusive remedies for any losses incurred in connection with UPS shipping services facilitated or provided through Service Provider's service offerings are provided exclusively by Service Provider (as may be set forth under such Customer's agreement with Service Provider ("Customer Agreement")), which



resolution shall be final; (ii) UPS and its affiliates act as a Controller of personal information provided by Customer or by Service Provider on behalf of Customer and will process such personal information consistent with the UPS Privacy Notice found at [ups.com](https://www.ups.com); and (iii) UPS and its affiliates, to the fullest extent permitted under applicable law, shall have no liability to Customer arising out of any shipments facilitated by Service Provider and transported by UPS or its affiliates or business partners). UPS has no obligation to process or pay any claims submitted to it by Customer for shipment losses or damage.

Customer understands and agrees that UPS and its affiliates are third-party beneficiaries to this Agreement.