



UPS Capital®

## TERMS AND CONDITIONS OF SERVICE AND EXPLANATION OF COVERAGE

These Terms and Conditions of Service and Explanation of Coverage (**T&Cs**) are an integral part of the transactional cargo insurance program (**Program**) established by UPS Capital Insurance Agency, Inc. (**we** or **UPSCIA**) for ShipCaddie, LLC (**Channel Partner**). As used herein, the term **Program Partner** means Channel Partner and any customer of Channel Partner that participates in the Program pursuant to an agreement with UPSCIA. To contact UPSCIA, see the "Contact Us" information in Section 19.

- 1. REVIEW AND ACCEPTANCE:** You (**you** or **End User**) should fully review and understand these T&Cs before you request to participate in the Program with respect to any shipment of goods. In particular, you should ensure that your shipments are eligible for coverage and that you understand the terms of protection offered under the Policies (defined below). Your acceptance of these T&Cs is a condition precedent for your goods to be protected under a Policy. In addition, you should fully review and understand each of the following before you request to participate in the Program with respect to any shipment of goods: the UPS Capital Group Technology Agreement (the current version of which is available at <https://upscapital.com/technology-agreement/>), and the UPS Capital Privacy Notice (the current version of which is available at <https://upscapital.com/privacy-notice/>) (together with these T&Cs, collectively, the **Acceptance Documents**). We may update or otherwise modify these T&Cs and the other Acceptance Documents from time to time in our discretion (without notice to you). Each time that you (a) elect to insure a shipment of goods (whether in the form of a specific election to insure specific goods or a general election to insure all or a designated portion of the goods purchased from or through a Program Partner from time to time) or (b) purchase or book a shipment for goods that are sold on the condition of being insured (or that purport to be sold on an insured basis) pursuant to the Program, you will be deemed to have accepted and agreed to the versions of the Acceptance Documents in effect at the time the insurance was requested or deemed to be requested (or, if the request or deemed request relates to a general election to insure future shipments of goods, the versions of such Acceptance Documents in effect at the time of booking of the applicable shipment of goods). For the avoidance of doubt, if the settings or preferences for your account with a Program Partner include a general election for purchased goods to be insured pursuant to the Program, then you will be deemed to have elected to insure goods purchased from or through a Program Partner until such time as you change that election.
- 2. OFFER TO INCLUDE GOODS UNDER POLICY:** Channel Partner or another Program Partner has offered you the opportunity to participate in the Program by including your eligible shipments of goods under one or more cargo insurance policies (**Policies**) issued through UPSCIA to either Channel Partner or UPS Capital Corporation, an affiliate of UPSCIA (**UPSC**). You shall be deemed to have requested to insure goods under a Policy at any time that you purchase goods that are sold on the condition of being insured (or that purport to be sold on an insured basis) pursuant to the Program. Your election to include your goods under any Policy applies only the shipment(s) you have elected to include under the applicable Policy and is entirely optional. This offer is exclusive to you. You are not permitted to offer any other party the opportunity to participate in the Program and any such offer will be null and void. No other party may participate in the Program except pursuant to a program agreement (or substantially similar agreement proposed by UPSCIA) between such party and UPSCIA. The Program may be terminated at any time without prior notice to you.
- 3. CERTAIN END USERS AND SHIPMENTS NOT ELIGIBLE:** End Users located or based outside of the United States are not eligible to participate in the Program. End Users who are individual persons are not eligible to participate in the Program except to the extent acting on behalf of a corporate or similar business entity for a business purpose. No personal shipments or shipments with contents unrelated to the business purposes of an End User will be protected under any Policy regardless of commodity type.
- 4. NO RIGHTS UNDER THE POLICIES:** This offer is not intended to provide insurance directly to you. You are neither an insured nor an additional insured nor do you have any other rights under any Policy. In the event of a loss covered under an applicable Policy, any resulting claim payment may be directed to you by Channel Partner as a loss payee and only to the extent of your interest in the insured shipment.
- 5. POLICY DETAILS:** All Policies for the Program are underwritten by an authorized insurance company (**Insurer**) and produced by UPSCIA. UPSCIA has prepared these T&Cs in part to summarize coverage terms under the Policies for your benefit in your capacity as a prospective loss payee. UPSCIA, UPSC, Channel Partner, and/or other parties may receive financial compensation in connection with the Program. You may request a copy of the Policies from Channel Partner or UPSCIA. Please consult the Policies for their exact terms and conditions.
- 6. NO BROKER OR CUSTOMER RELATIONSHIP WITH UPSCIA:** You acknowledge that we are an insurance broker for Channel Partner and that, except as expressly described in these T&Cs, we have no contractual relationship with you and do not serve as your broker, agent or other representative. We may communicate or otherwise interact with you from time to time to facilitate Channel Partner's administration of the Program (including any administration occurring through another Program Partner), including by delivering invoices to you for insurance-related fees; receiving payments from you; receiving from you, and administering, claims under the Program; and delivering claim payments to you at the request of Channel Partner. No such communications or interactions shall be deemed to create a broker or customer relationship between you and UPSCIA or our affiliates.
- 7. PRIVACY NOTICE:** UPSCIA and its affiliates will need to collect and process personal data from time to time in connection with your election to participate in the Program, including with respect to the adjustment and payment of claims made under any Policy. For details about how UPSCIA and its affiliates process personal data, please see the UPS Capital Privacy Notice located at <https://upscapital.com/privacy-notice/>. By accepting these T&Cs, you warrant that (i) you have obtained any personal data provided to UPSCIA (whether directly or through a Program Partner) lawfully, (ii) you are authorized to provide such data to UPSCIA and its affiliates, and (iii) you have duly informed any of your customers whose personal data is provided to UPSCIA or its affiliates in connection Program (e.g. in connection with the submission of a claim under a Policy) that UPSCIA and its affiliates will process such data in accordance with the above-linked UPS Capital Privacy Notice in effect at the time of collection.
- 8. REQUESTING COVERAGE UNDER A POLICY:** To request coverage under a Policy for any shipment, you must provide specific information regarding the shipment to the applicable Program Partner and/or UPSCIA and elect to insure the shipment, in each case in

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accordance with procedures established by Channel Partner and the applicable Program Partner and approved by UPSCIA from time to time. UPSCIA reserves the right to refuse coverage for certain shipments.

9. **COMPLIANCE WITH TRANSPORTATION CARRIER TERMS AND CONDITIONS:** Your compliance with the transportation carrier's shipping terms and conditions in effect at time of shipment shall be a condition precedent for coverage under the Policies. In accepting the transportation carrier's shipping terms and conditions and these T&Cs, you do so on behalf of yourself and on behalf of all parties with any interest in the goods.
10. **ELIGIBLE CONVEYANCES AND ROUTES:** Ground and air shipments are eligible for coverage under the Policies. International and domestic shipments are eligible for coverage under the Policies so long as you reside in the United States, provided that coverage will be null and void whenever it (or any related payment or other transaction) would be in violation of any U.S. economic or trade sanctions.
11. **COVERAGE LIMITS, INSURING TERMS, DEDUCTIBLES AND FEES:** The Policies may provide for different insuring terms, coverage limits, deductibles, and fees depending upon the commodity types being shipped. **Note that motorized vehicles are only eligible for "Free of Particular Average" or "FPA" coverage, meaning that only the risk of total loss is covered in most instances for such commodity types and not the risk of partial loss or damage.** If you are asked to indicate the type of commodity being shipped, when requesting coverage for shipments containing multiple commodity types, choose the commodity representing the majority of items in the shipment, but be advised that each specific commodity type will remain subject to all the insuring terms and restrictions applicable to that specific commodity type. Notwithstanding the foregoing, coverage under the Policies is limited in all events to \$10,000 per any one Parcel conveyance or occurrence, whichever is less, and coverage under the Policies is limited in all events to \$1,000 per any one Postal conveyance or occurrence, whichever is less.
12. **SCOPE OF COVERAGE:** The Policies provide coverage for physical loss and/or damage to package contents in the course of transit, subject to insuring conditions, limitations and exclusions. The Policies provide no coverage for delay in transit or for consequential or indirect losses. The scope of coverage under the Policies is summarized as follows:

- (a) **Duration:** Coverage under any Policy commences upon the shipment of cargo leaving the origin of the insured transport and continues during the ordinary course of the transit, including customary transshipment, until the sooner of: (i) delivery to the final destination of the insured transport; or (ii) fifteen days after the shipment arrives at the destination port, airport or other hub, if not yet delivered to final destination of the insured transport (or thirty days if the destination to which the goods are insured is outside the limits of the port). You acknowledge that coverage under a Policy may terminate before final delivery and that you are responsible for arranging and facilitating prompt final delivery of the shipment after its arrival at the destination port, airport or other hub.
- (b) **Valuation:** You should declare a value for new goods of invoice cost plus freight. You should declare a value for used or refurbished goods of actual cash value plus freight. In all cases, the claim payment will not exceed the lesser of verified valuation of the goods or the amount declared for insurance purposes, in each case less any applicable deductible. Loss valuations are subject to substantiation, and no Policy is an agreed value policy.

**Notice of Co-Insurance Penalty:** In the event that you declare a value that is less than the valuation provided for above, you will be compensated for a proportion of your loss based on the value that you declared and not based on any other valuation. For example, if you declared a value of \$500 for a shipment of goods with an actual value of \$1,000 (i.e., you declare a value for the goods equal to 50% of the actual value of the goods), and if an insurable event occurred which resulted in a loss with a value of \$400, then the Policy for such goods would only pay 50% of the loss value associated with such insurable event, or \$200.

- (c) **Excluded Commodities and Shipments:** Not all commodities are eligible for coverage under the Policies. Each Policy specifically excludes the following commodities from coverage: personal household goods; contraband, illicit goods; accounts receivable; fish meal; nuclear fuel and substances; fireworks, explosive agents, fire-starting devices or aids; live plants, animals and insects, human tissues or organs, human remains, corpses or body parts; bullion; stamps; cash; currency; money; coins; deeds; notes; securities; bills; evidence of debt; precious stones; and fine arts and jewelry. Commodity-specific coverage terms may apply.
- (d) **Excluded Risks:** As with all insurance, coverage under the Insurance Policy is subject to exclusions which specifically include:

- war risks for U.S. (continental) domestic shipments;
- radioactive contamination;
- delay, whether or not caused by an insured peril;
- temperature variation, whether or not caused by an insured peril;
- inherent vice;
- fraud or infidelity by you, the shipper or consignee;
- misrepresentation / false information by you, the shipper or consignee;
- cyber attacks;
- illicit trade;
- capture, seizure, arrest or detainment of goods by public authority;
- nuclear contamination;
- rust, oxidation, discoloration, scratching, marring, denting, chipping and/or electrical or mechanical derangement to used goods, whether or not caused by an insured peril;
- Consequential and indirect damages, such as loss of market, depreciation, or diminution in value as a result of repair
- improper, inadequate or otherwise unsuitable packing or preparation of the cargo, provided this exclusion will not apply to the extent that: (i) such packing or preparation was carried out by a third party other than you, the shipper, consignee or anyone bearing an interest in the cargo; and (ii) the deficiency was unknown to you, the shipper, consignee and anyone bearing an interest in the cargo;
- fraud or infidelity by you, the shipper or consignee;
- misrepresentation / false information by you, the shipper or consignee;
- a shipment of cargo being re-routed, stopped in transit or retrieved at a point other than the original consigned delivery point pursuant to any instruction or representation to the transport carrier by a fraudster or imposter;
- a shipment of cargo being sent as a result of fraud or trick upon the Customer, the shipper and/or consignee (including but not limited to product orders made by imposters); and
- package labels being changed or revised in the course of transportation for the purpose of fraudulent redirection.

13. **CLAIM REPORTING LIMITATION & CLAIM PROCESS:** Pursuant to procedures established by Channel Partner and approved by UPSCIA from time to time, immediately report to Channel Partner or UPSCIA, as applicable, in writing any loss or damage to an insured shipment of cargo. As a condition precedent for coverage under the Policies, claims must in all events be submitted in writing within the following timeframes: (i) in the event of a claim for concealed loss or damage, within 30 days from the date of delivery; or (ii) for all other claims, within

nine months from the date of delivery. In the event of a claim for non-delivery, the time-for-claim shall run from the date that the cargo was scheduled to have been delivered or should have reasonably been delivered, whichever is first in time. Loss verification will be required. You should take photos of any damaged goods, packaging and/or containers. Damaged goods, packaging and/or containers should be retained for inspection at the discretion of UPSCIA and/or the Insurer. By submitting any claim under a Policy, you agree to fully cooperate with Channel Partner, other Program Partners, UPSCIA and/or the Insurer in providing all documentation and information pertinent to such claim, including an examination under oath if requested by the Insurer. At the direction of the named insured on the applicable Policy, we will remit proceeds of claims payable under the Policies directly to you as a loss payee pursuant to remittance instructions you provide. In all other cases, we will remit claim proceeds to Channel Partner (or, if applicable, to another Program Partner), and Channel Partner (or, if applicable, such other Program Partner) will be solely responsible for ensuring that such proceeds are paid to you

**14. NOTICE OF FULL AND ADDITIONAL TERMS:** Under all circumstances, the terms and conditions set forth in the applicable Policy shall control and determine insurance coverage. To the extent any terms and conditions stated herein conflict with those in any Policy, the Policy shall control and be binding as to issues of coverage under such Policy. UPSCIA reserves the right to change Insurers and to allow insuring terms for coverage to be modified in at any time and without notice to you, provided that coverage shall always substantially adhere to the summary herein and shall absent notice be without interruption.

**15. DAMAGES AND WARRANTIES:**

**(a) Limitation of Direct Damages; Disclaimer of Indirect Damages:** The cumulative aggregate liability of UPSCIA and its affiliates for all direct losses, claims, suits, controversies, breaches or damages for any cause whatsoever (**Loss**) and regardless of the form of action or legal theory shall be limited to the total insured value amount declared during the shipment booking process for the shipment at issue in the Loss, less (i) any amount(s) recovered or recoverable from any other party; (ii) any insurance proceeds that reduce the amount of the Loss payable under the applicable Policy or any other policy of insurance; and/or (iii) any amount(s) recovered or recoverable from any third party with respect to the Loss. Nothing in the foregoing shall limit End User's rights to claims for shipment loss or damage properly payable under the applicable Policy. UPSCIA IS NOT LIABLE TO END USER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER UPSCIA OR ANY PERSON OR ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**(b) Warranties:** EXCEPT AS OTHERWISE EXPRESSLY STATED IN THESE T&Cs AND THE APPLICABLE POLICY, UPSCIA MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THESE T&Cs AND THE APPLICABLE POLICY, END USER EXPRESSLY DISCLAIMS, AND EXPRESSLY WAIVES, ANY AND ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO DESCRIPTIONS OR SPECIFICATIONS, WHETHER OR NOT INCORPORATED INTO THESE T&Cs AND THE APPLICABLE POLICY, SHALL CONSTITUTE WARRANTIES OF ANY KIND.

**16. FURTHER ACKNOWLEDGEMENTS:** End User acknowledges and agrees that UPSCIA is the insurance producer through which each Policy was issued. End User further acknowledges and agrees that the Insurer and UPSCIA are the **only** parties who determine Policy coverages, exclusions and limitations, underwrite Policies, set insurance-related fees, collect insurance-related fees (except to the extent such fees are collected by Channel Partner or another Program Partner), adjust insurance claims under the Policies and issue insurance claim payments (**Insurance-Related Activities**). End User expressly acknowledges and agrees that no other party manages, controls or contributes in any way to the Insurance-Related Activities or decisions made pertaining to the Insurance-Related Activities.

**17. EFFECTIVENESS; GOVERNING LAW:** These T&Cs shall become effective when accepted (or deemed to have been accepted) by you and shall be governed by and construed in accordance with the internal laws of the State of Georgia, without regard to its conflict of laws principles.

**18. AGREEMENT TO ARBITRATE CLAIMS:** End User and UPSCIA agree that, except for disputes that qualify for state courts of limited jurisdiction (such as small claims, justice of the peace, magistrate court, and similar courts with monetary limits on their jurisdictions over civil disputes), any controversy or claim between any person or entity, whether at law or equity, arising out of or related to any Policy and/or coverage of shipments thereunder, regardless of the date of accrual of such dispute, shall be resolved in its entirety by individual (not class-wide nor collective) binding arbitration. Arbitration is the submission of a dispute to a neutral arbitrator, instead of a judge or jury, for a final and binding decision, known as an "award." Arbitration provides for more limited discovery than in court, and is subject to limited review by courts. Each party has an opportunity to present evidence to the arbitrator in writing or through witnesses. An arbitrator can only award the same damages and relief that a court can award under the law and must honor these T&Cs.

Any controversy or claim between any person or entity, whether at law or equity, arising out of or related to the Program, a Policy and/or coverage of shipments thereunder shall be resolved solely based on these T&Cs and the applicable Policy.

**(a) Institutional Arbitration:** The arbitration shall be conducted by the American Arbitration Association (AAA) in accordance with its Commercial Arbitration Rules and the Supplementary Procedures for Consumer-Related Disputes (**Rules**), and judgment on the award may be entered in any court of competent jurisdiction. The Rules, including instructions for how to initiate arbitration, are available at <http://www.adr.org> or by calling the AAA at 1-800-778-7879. The arbitrator shall decide all issues of the case on the basis of the applicable law, not equity. If you initiate arbitration, you must serve the opposing parties or their registered agent for service of process.

Any arbitration under these T&Cs will take place on an individual basis; class, mass, consolidated or combined actions or arbitrations or proceeding as a private attorney general are not permitted. End User and UPSCIA each waive their right to trial by jury. End User is further giving up the ability to participate in a class, mass, consolidated or combined action or arbitration.

**(b) Place of Arbitration/Number of Arbitrators/Costs of Arbitration/Governing Law/Survival:** Any arbitration will take place in the county where End User resides (or, notwithstanding Section 3 of these T&Cs, solely with respect to an End User that does not reside in the United States, Fulton County, Georgia) and will be determined by a single arbitrator. Any filing fee or administrative fee required of End User by the AAA Rules shall be paid by End User to the extent such fee does not exceed the amount of the fee required to commence a similar action in a court that otherwise would have jurisdiction. For all non-frivolous complaints, UPSCIA will pay the amount of such fee in excess of that amount. The arbitrator will allocate the administrative costs and arbitral fees consistent with the

applicable rules of the American Arbitration Association. Reasonable attorney's fees and expenses will be allocated or awarded only to the extent such allocation or award is available under applicable law.

All issues are for the arbitrator to decide, except that issues relating to the scope, application, and enforceability of the arbitration provision are for a court to decide. The Federal Arbitration Act governs the interpretation and enforcement of this provision. This agreement to arbitrate shall survive termination of the Policies and/or End User's and UPSCIA's agreement to be bound to these T&Cs.

- (c) **Severability:** Notwithstanding anything to the contrary in the AAA Rules, if any part of this arbitration provision is deemed invalid or ineffective for any reason, this shall not affect the validity or enforceability of the remainder of this arbitration provision, and the arbitrator shall have the authority to amend any provisions deemed invalid or ineffective to make the same valid and enforceable.
  - (d) **Desk Arbitration:** For all disputes concerning an amount less than fifteen thousand dollars (\$15,000.00), End User and UPSCIA shall submit their arguments and evidence to the arbitrator in writing and the arbitrator shall make an award based only on the documents; no hearing will be held unless the arbitrator in his or her discretion, and upon request of a party, decides it is a necessity to require an in-person hearing. For a dispute governed by the AAA Consumer-Related Disputes Supplementary Procedures, and concerning an award between fifteen thousand dollars (\$15,000.00) and fifty thousand dollars (\$50,000.00), inclusive, UPSCIA shall pay End User's filing fee under the AAA Rules, provided that End User agrees that both parties shall submit their arguments and evidence to the arbitrator in writing and that the arbitrator shall make an award based only on the documents, without a hearing being held. Notwithstanding this provision, the parties may agree to proceed with desk arbitration at any time.
  - (e) **Access to Small Claims Courts:** All parties shall retain the right to seek adjudication in a state court of limited jurisdiction, such as small claims, justice of the peace, magistrate court, and similar courts with monetary limits on their jurisdiction over civil disputes, for individual disputes within the scope of such court's jurisdiction.
  - (f) **Acknowledgements:** End User and UPSCIA acknowledge and agree that pursuant to this Agreement to Arbitrate Claims:
    - a. END USER AND UPSCIA AGREE THAT EACH IS WAIVING THE RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST END USER, UPSCIA, OR ANY PERSON OR ENTITY IN CONNECTION WITH ANY INSURANCE POLICY AND/OR COVERAGE OF SHIPMENTS THEREUNDER;
    - b. END USER AND UPSCIA AGREE THAT EACH IS WAIVING THE RIGHT TO HAVE A COURT, OTHER THAN A STATE COURT OF LIMITED JURISDICTION AS DEFINED ABOVE, RESOLVE ANY DISPUTE ALLEGED AGAINST END USER, UPSCIA, OR ANY PERSON OR ENTITY IN CONNECTION WITH ANY INSURANCE POLICY AND/OR COVERAGE OF SHIPMENTS THEREUNDER;
    - c. END USER AND UPSCIA AGREE THAT EACH IS WAIVING THE RIGHT TO HAVE A COURT REVIEW ANY DECISION OR AWARD OF AN ARBITRATOR, WHETHER INTERIM OR FINAL, EXCEPT FOR APPEALS BASED ON THOSE GROUNDS FOR VACATUR EXPRESSLY SET FORTH IN SECTION 10 OF THE FEDERAL ARBITRATION ACT; AND
    - d. END USER AND UPSCIA AGREE THAT EACH IS WAIVING THE RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, JOIN AS A CLASS MEMBER, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF END USERS IN ANY CLASS, MASS, CONSOLIDATED OR COMBINED ACTION OR ARBITRATION FILED AGAINST END USER, UPSCIA, OR ANY PERSON OR ENTITY IN CONNECTION WITH THE POLICIES AND/OR COVERAGE OF SHIPMENTS THEREUNDER.
  - (g) **Award:** The arbitrator may award money or equitable relief in favor of only the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. Similarly, an arbitration award and any judgment confirming it apply only to that specific case; it cannot be used in any other case except to enforce the award itself. To reduce the time and expense of the arbitration, the arbitrator will not provide a statement of reasons for his or her award unless a brief explanation of the reasons is requested by one of the parties. Unless both End User and UPSCIA agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative, private attorney general or class proceeding.
  - (h) **Confidentiality of Arbitration:** Notwithstanding anything to the contrary in the AAA Rules, End User and UPSCIA agree that the filing of arbitration, the arbitration proceeding, any documents exchanged or produced during the arbitration proceeding, any briefs or other documents prepared for the arbitration, and the arbitral award shall all be kept fully confidential and shall not be disclosed to any other person or entity, except to the extent necessary to enforce this arbitration provision, arbitral award or other rights of the parties, or as required by law or court order. This confidentiality provision does not foreclose the American Arbitration Association from reporting certain consumer arbitration case information as required by state law.
19. **CONTACT US:** If you have questions or want more information about the Policies, the Program, insurance coverage, pricing, the claims process and documents or any issues discussed in these T&Cs, email UPSCIA at [isconnect@ups.com](mailto:isconnect@ups.com).