

# SHIPPED BY NEWEGG TERMS AND CONDITIONS

Shipped by Newegg ("SBN") provides fulfillment and related services for Your Products sold on www.newegg.com (including affiliated Newegg Global sites and the ttHigo site); www.neweggbusiness.com; and www.newegg.ca ("Newegg websites"). SBN is currently only available through Newegg fulfillment centers in the United States and Canada.

These Shipped by Newegg Terms and Conditions ("SBN Terms") are part of the Marketplace Seller Agreement ("Seller Agreement"), and, unless specifically provided otherwise, apply only to your participation in SBN. BY REGISTERING FOR OR USING SBN, YOU (ON BEHALF OF YOURSELF OR THE BUSINESS YOU REPRESENT) AGREE TO BE BOUND BY SELLER AGREEMENT AND THESE SBN TERMS. Unless defined in these SBN Terms, all capitalized terms used herein have those definitions given to them in the Seller Agreement.

## 1 Your Products

Once you are accepted into SBN, you must apply to register each Product you sell that you wish to include in the SBN program. We may refuse registration in SBN of any Product, including on the basis that it is an Excluded Product or that it violates applicable SBN Policies. You may at any time withdraw registration of any of your Products from SBN.

## 2 Product and Shipping Information

You will, in accordance with applicable SBN Policies, provide in the format we require accurate and complete information about your Products registered in SBN, and will provide Fulfillment Requests for any Units fulfilled using SBN that are not sold through the Newegg websites ("**Multi-Channel Fulfillment Units**"). You will promptly update any information about your Products in accordance with our requirements and as necessary so that the information is at all times accurate and complete.

## 3 Shipping to Newegg

**3.1** SBN is limited to Units that are shipped to and from Newegg fulfillment centers located within the United States and Canada, to be delivered to customers in the United States, Canada, and international countries/regions which are enabled through the Newegg Global and ttHigo cross border selling program. You will ship Units to us in accordance with applicable SBN Policies. You will be responsible for all costs incurred to ship the Units to designated Newegg fulfillment centers (including but not limited to costs of freight and transit insurance) and Newegg will not pay any shipping costs except as provided in [Section 3.2, below](#). You are responsible for payment of all customs, duties, taxes and other charges. In the case of any improperly packaged or labeled Unit, we may return the Unit to you at your expense (pursuant to [Section 7](#)) or re-package or re-label the Unit and charge you an administrative fee.

**3.2** You will not deliver to us, and we may refuse to accept, any shipment or Unsuitable Unit. We may return or dispose of any Unsuitable Unit as provided in [Section 7](#) (and you will be deemed to have consented to such action) if you fail to direct us to return or dispose of any Unsuitable Unit within ninety (90) days after we notify you that we are in possession of it. In addition, you will reimburse us for any expenses we incur in connection with any Unsuitable Units.

**3.3** We may, at our option, allow you to ship Units at your expense (as described in [Section 9.2](#)) to our designated fulfillment center using discounted shipping rates that we may make available to you for certain carriers. In such event, you will use the processes and supply the information that we require for you to obtain such discounted rates. You also must comply with standard operating procedures, weight and size restrictions, and other shipping requirements of the applicable carriers. If we provide you with the estimated shipping costs prior to shipment, you acknowledge and agree that actual shipping costs may vary from such estimates. In addition, if the weight of the Unit, as determined by the applicable carrier, differs from that submitted by you to us for purposes of determining the estimated shipping costs, then: (a) you may be charged more than the estimated shipping costs if the carrier determines that such Unit weighs more than as submitted by you; or (b) you may be charged the full amount of the estimated shipping costs even if the carrier determines

the weight to be less than that submitted by you. You will not use our carrier account information (e.g., carrier account number, amount of shipping rates, etc.) for any purpose, nor disclose such information to any third party, and you will protect such information as Newegg's confidential information in accordance with Section 8 of the Seller Agreement. As between you, us and our carrier, you will be the shipper of record, and we will be the payer of record with respect to all Units shipped to us using such discounted rates. Title and risk of loss for any Unit shipped using discounted rates provided by us under this Section will remain with you, and our provision of such shipping rates will not create any liability or responsibility for us with respect to any delay, damage or loss incurred during shipment. You hereby authorize the applicable carrier to provide us with all shipment tracking information.

#### **4 Storage by Newegg; Transfer among Newegg Fulfillment Centers**

**4.1** We will provide storage services as described in these SBN Terms once we confirm receipt of delivery. We will keep electronic records that track inventory of Units by identifying the number of Units stored in any fulfillment center. We will not be required to physically mark or segregate Units from other inventory units (e.g., products with the same standard identification number) owned by us, our affiliates or third parties in the applicable fulfillment center(s). If we elect to commingle Units with such other inventory units, both parties agree that our records will be sufficient to identify which products are Units. Newegg does not track, nor capture seller's units by serial number, whether it is during inbound processing, internal inventory transfers among Newegg fulfillment centers or during customer order returns inspection by the Newegg return center. We may move Units among facilities. If there is a loss of or damage to any Units while we store them, we will, as your sole remedy, pay you the Replacement Value and you will, at our request, provide us a valid tax invoice for the Replacement Value paid to you. Payment of the Replacement Value is our total liability for any duties or obligations that we or our agents or representatives may have as a bailee or warehouseman, and your only right or remedy that you may have as a bailor. At all other times (including transfers between Newegg fulfillment centers), you will be solely responsible for any loss of, or damage to, any Units. Our confirmed receipt of delivery does not: (a) indicate or imply that any Unit has been delivered free of loss or damage, or that any loss or damage to any Unit later discovered occurred after confirmed receipt of delivery; (b) indicate or imply that we actually received the number of Units of Your Product(s) specified by you for such shipment; or (c) waive, limit or reduce any of our rights under the Seller Agreement. We reserve the right to impose, and change from time to time, scheduling restrictions and volume limitations on the delivery and storage of your inventory in our fulfillment centers, and you will comply with any of these restrictions or limitations.

**4.2** You may request that Newegg re-allocate your existing SBN inventory in Newegg fulfillment centers in the US to Newegg fulfillment centers in Canada when you turn on SBN fulfillment services for your seller account on [www.newegg.ca](http://www.newegg.ca). Upon approval, such transfer(s) of Products between fulfillment centers will be charged separately by Newegg, and you will be advised of such charges prior to shipment. For transfer(s) of SBN inventory between Newegg's U.S. and Canadian fulfillment centers, additional taxes and/or duties may apply, and you are solely responsible for the payment of any such taxes and/or duties. Additionally, you shall bear all risk of loss or damage to the Products while they are in transit between Newegg fulfillment centers, and you agree that Newegg will have no liability whatsoever in connection with the transfer of your Products.

**4.3** Not all Newegg US fulfillment centers are capable of shipping orders internationally. If you are planning to enable your US SBN inventory to sell and ship to the eligible Global countries (excluding China) currently available through a Newegg Global cross border selling program, your SBN inventory must be in Newegg's California and/or New Jersey fulfillment center. If you are participating in the Newegg ttHigo program (cross border selling to China) and wish to use your US SBN inventory to fulfill those orders, such SBN inventory must be in Newegg's California fulfillment center only. You can request Newegg to reallocate your existing SBN inventory in other Newegg fulfillment centers in the US to those Newegg fulfillment centers which are enabled for international shipping if you turn on your listing on [www.newegg.com](http://www.newegg.com) for global selling through the Newegg Global program or/and ttHigo program. You shall bear all risk of loss or damage to the Products while they are in transit between Newegg fulfillment centers, and you agree that Newegg will have no liability whatsoever in connection with the transfer of your Products. All terms and conditions on 'Newegg Marketplace Global Seller Program Agreement' will apply.

## **5 Fulfillment and Transportation**

**5.1** We will ship Units from our inventory of Your Products to the shipping addresses included in valid customer orders, or submitted by you as part of a Fulfillment Request (Multi-Channel fulfillment). Units fulfilled through multi-channel fulfillment request can only be delivered to customer addresses domestically via domestic transportation carriers in the United States or Canada. We may ship Units together with products purchased from other merchants, including any of our affiliates. We also may ship Units separately that are included in a single Fulfillment Request.

**5.2** Newegg will determine if additional packaging material will be required for a SBN shipment according to generally-accepted industry packaging practices for parcel transportation. In the event additional packaging material is added to a SBN shipment, Newegg fulfillment centers will use any designated packaging material available, including but not limited to envelope or mailer, corrugate box, void fill material, plastic or bubble wraps, or straps. Such packaging material may bear Newegg's logo or related marketing graphics.

**5.3** Newegg will determine the appropriate shipping carriers and shipping methods for handling all SBN shipments according to order shipping transit time requirements. The SBN fulfillment service generally does not provide special handling with its shipments, such as a signature option or a declared value option. Newegg is not liable for shipment lost or damage with multi-channel fulfillment. This is solely your responsibility. In the case of lost or damaged shipments, Newegg can file the claim with the carrier on behalf of the seller. Any financial reimbursement to a seller for a lost or damaged shipment is limited to the approved amount issued by the carrier on the claim.

## **6 Customer Returns**

**6.1** You will be responsible for and will accept and process returns of, and provide refunds and adjustments for, any Multi-Channel Fulfillment Units in accordance with the Seller Agreement (including the applicable SBN Policies).

**6.2** We will receive and process returns of any Fulfillment Units that were shipped to addresses within the United States, Canada, and international countries/regions which are enabled through the Newegg Global and ttHigo cross border selling program in accordance with the terms of your Seller Agreement, these SBN Terms and the SBN Policies. Any Sellable Units that are also Fulfillment Units and that are properly returned will be placed back into the inventory of your Products in the SBN Program. We may fulfill customer orders for your Products with any returned Fulfillment Units. Except as provided in [Section 7](#), you will retake title of all Units that are returned by customers.

**6.3** Newegg Return Center will conduct general inspection on returned units through visual check ONLY. Returned units generally are checked according to product manufacturer model number, GTIN number, product description, and product pictures provided by sellers. Newegg Return Center does NOT conduct any product functional test, NOR does Newegg Return Center verify product serial numbers on each individual unit to match seller's original units from SBN inventory. Receiving returned units by Newegg Return Center does not indicate returned units are the exact same units sellers sent to Newegg fulfillment centers or free of any defects or damages. You will be solely responsible on returned units with functional defects, concealed damages, or unmatched product serial number.

**6.4** Except as provided in [Section 5](#), we will, at your direction, either return or dispose of any Unit that is returned to us and that we determine is an Unsuitable Unit as provided in [Section 7](#). Without limitation of our rights under [Section 7.1](#), we may elect to return or dispose of that Unsuitable Unit as provided in [Section 7](#), and you will be deemed to have consented to our election if you fail to direct us to return or dispose of the Unsuitable Unit within ninety (90) days after we notify you of the Unsuitable Unit.

**6.5** If Newegg receives a customer return of a Multi-Channel Fulfillment Unit, you will direct us to return or dispose of the Unit at your own cost failing which we may dispose of the Unit as provided in [Section 7](#).

## **7 Returns to You and Disposal**

**7.1** You may, at any time, request that Units be returned to you. We may return Units to you for any reason, including upon termination of these Service Terms or termination of your seller agreement. These returned shipments will be sent to your designated domestic shipping address we have on file that is within the same country of the Newegg Fulfillment Centers or Return Center your Units are stored. If we have an outdated, incorrect or international address for you, or if we cannot make arrangements for you to pay for the return shipment, the Unit(s) will be deemed abandoned and we may elect to dispose of the Unit(s) as provided herein.

**7.2** You may, at any time, request that we dispose of Units. We may dispose of any Unit we are entitled to dispose of in the manner we prefer. Title to each disposed Unit will transfer to us at no cost to us as necessary for us to dispose of the Unit, and we will retain all proceeds, if any, received from the disposal of any Unit.

**7.3** You will promptly notify us of any recalls or threatened recalls of any of your Products and cooperate and assist us in connection with any recalls, including by initiating the procedures for returning items to you under our standard processes. You will be responsible for all costs and expenses you, we or any of our or your affiliates incur in connection with any recall or threatened recall of any of your Products (including the costs to return, store, repair, liquidate or deliver to you or any vendor any of these products).

**7.4** You acknowledge and agree that we have an absolute and unqualified right to require you to remove your goods from Newegg's facilities, at your expense, in accordance with California Commercial Code §7206, and that NLS has an absolute and unqualified right to exercise the enforcement of a warehouseman's lien in accordance with the California Commercial Code §§7209 & 7210 for settlement of all charges, including reasonable attorneys' fees incurred by us in the exercising of such lien. If your goods are not stored in the state of California, then you acknowledge and agree that we have an absolute and unqualified right to exercise the enforcement of a warehouseman's lien in accordance with the laws of the jurisdiction in which your goods are stored, in addition to any other relief available by law. You shall hold harmless and release us, absolutely and forever, from any claims, obligations, suits, actions or causes of actions or attorneys' fees incurred by you, as a result of our exercising such rights and the final disposition of your goods. If this Agreement is terminated or expires, or your seller agreement is terminated or expires, and you have an outstanding balance due to us, then you agree we may withhold your goods, or a necessary portion thereof, to secure such warehouseman's lien rights in order to satisfy the outstanding amount due to us.

**7.5** If your account is closed due to inactivity and you fail to contact us regarding the disposition of your existing inventory, then you acknowledge and agree that we have an absolute and unqualified right to dispose of your goods under such circumstances pursuant to these terms and conditions. We will provide you with written notice (email is sufficient) of at least sixty (60) calendar days prior to disposing your goods. You shall indemnify, hold harmless and release us, absolutely and forever, from any claims, obligations, suits, actions or causes of actions or attorneys' fees incurred by you, as a result of our exercising such rights and the final disposition of your goods.

## **8 Customer Service**

**8.1** For Multi-Channel Fulfillment Units we will have no customer service obligations other than to pass any inquiries to your attention at the contact you provide, and to make available a reasonable amount of information regarding the status of the fulfillment of Your Products if you request it and if and to the extent we possess the requested information. You will ensure that all of your policies and messaging to your customers regarding shipping of Your Products and other fulfillment-related matters, reflect our policies and requirements, including with regard to shipping methods, returns and customer service; and, you will conspicuously display on your website(s), in emails or in other media or communications any specific disclosures, messaging, notices, and policies we require.

**8.2** We will be responsible for and have sole discretion regarding all customer service issues relating to packaging, handling and shipment and customer returns, refunds and adjustments related to Fulfillment Units. We will have the right to determine whether a customer will receive a refund, adjustment or replacement for any Fulfillment Unit and to require you to reimburse us where we determine you have responsibility in accordance with the Seller Agreement (including these

SBN Terms and the SBN Policies). Except as provided in this Section 8 regarding any Fulfillment Units, customer service will be handled as set forth in your Seller Agreement.

**8.3** In situations relating to Fulfillment Units where the wrong item was delivered or the item was damaged or lost or is missing, unless we determine that the basis for such request is caused by you or any of your employees, agents or contractors, we will, as your sole and exclusive remedy and at our option: (a) for any Fulfillment Unit, (i) ship a replacement Unit to the customer and pay you the Replacement Value (as described in the SBN Policies) for the replacement Unit, or (ii) process a refund to the customer, pay you the Replacement Value for the Unit (and you will, at our request, provide us a valid tax invoice for the Replacement Value paid to you); or (b) for any Multi-Channel Fulfillment Units, Newegg can file the claim with the carrier on behalf of the seller and any financial reimbursement to the seller for a lost or damaged shipment is limited to the approved amount issued by the carrier on the claim. Any customer refund will be processed in accordance with your Seller Agreement. Notwithstanding the terms of your Seller Agreement, you will not be required to reimburse us for such customer refunds, and we will be entitled to retain the applicable fees payable to us (including, if applicable to you, the Referral Fee or the Fulfillment Fee payable under the Seller Agreement and these SBN Terms, respectively). Except as expressly provided in this Section 8.3, you will be responsible for all costs associated with any replacement or return.

**8.4** If we provide a replacement Unit or refund as described in the preceding sentence to a customer and that customer returns the original Unit to us, we will be entitled to dispose of the Unit pursuant to [Section 7](#), or, if it is a Sellable Unit, we may, at our option, place such Unit back into your inventory in accordance with [Section 6](#). If we do put it back into your inventory, you will reimburse us for the Replacement Value of the returned Unit. Any replacement Unit shipped by us under these SBN Terms will be deemed to be, and will be treated in the same manner as, an order and sale of such Unit from you to the customer via the [www.newegg.com](http://www.newegg.com) website in accordance with the Seller Agreement, and will be subject to all terms and conditions applicable thereto.

## **9 Compensation**

**9.1 Handling and Storage Fees.** You will pay us the applicable fees (including storage, fulfillment, return processing, removal and disposal fees) set forth in the **SBN Fee Schedule**. You will be charged the Storage Fees beginning on the day (up to midnight) that the Unit arrives at our fulfillment center and is available for fulfillment by Newegg (or in the case of any Unsuitable Unit, the arrival day (up to midnight), until the earlier of: (a) the day (up to midnight) we receive a valid customer order for such product or a request from you to return or dispose of the Unit; or (b) the day (up to midnight) we actually ship the Unit to your designated return location or dispose of the Unit.

**9.2 Shipping and Gift Wrap.** For any Fulfillment Units we will determine the amounts charged to the customer for shipping and gift wrap services for the Units that we fulfill through the SBN Program. As between you and us, these charges will be your charges to the customer, and we will report them to you. We will charge you (and you will pay us) a fee equal to the actual amounts charged to us by the applicable carrier for shipment of any Fulfillment Unit. If you ship Units to us using the shipping rates that we may make available pursuant to Section 3.3, you will reimburse us for the actual amounts charged to us by the applicable carrier for such shipments.

**9.3 Proceeds.** We may keep all proceeds of any Units that we dispose of or to which title transfers, including returned, damaged or abandoned Units. You will have no security interest, lien or other claim to the proceeds that we receive in connection with the sale, fulfillment and/or shipment of these Units.

## **10 Disclaimer**

IN ADDITION TO THE DISCLAIMER IN THE SELLER AGREEMENT, WE HEREBY DISCLAIM ANY DUTIES OF A BAILEE OR WAREHOUSEMAN, AND YOU HEREBY WAIVE ALL RIGHTS AND REMEDIES OF A BAILOR (WHETHER ARISING UNDER UNITED STATES COMMON LAW OR STATUTE OR OTHERWISE), RELATED TO OR ARISING OUT OF ANY POSSESSION, STORAGE OR SHIPMENT OF YOUR PRODUCTS BY US OR OUR AFFILIATES OR ANY OF OUR OR THEIR CONTRACTORS OR AGENTS.

## **11 Effect of Termination**

Following any termination of the Seller Agreement or these SBN Terms, we will, as directed by you, return to you or dispose of the Units as provided in Section 7. If you fail to direct us to return or dispose of the Units within ninety (90) days after termination, then we may elect to return and/or dispose of the Units in whole or in part, as provided in Section 7, and you will be deemed to have consented to this. Upon any termination of these SBN Terms, all rights and obligations of the parties under these SBN Terms will be extinguished, except that the rights and obligations of the parties under Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 with respect to Units received or stored by Newegg as of the date of termination will survive the termination.

## **12 Tax Matters**

You understand and acknowledge that storing Units at our fulfillment centers may create tax nexus for you in any country, state, province, or other localities in which your Units are stored, and you will be solely responsible for any taxes owed as a result of such storage. If any Foreign Shipment Taxes or Your Taxes are assessed against us as a result of performing services for you in connection with your participation in SBN or otherwise pursuant to these SBN Terms, you will be responsible for such Foreign Shipment Taxes and Your Taxes and you will indemnify and hold Newegg harmless from such Foreign Shipment Taxes and Your Taxes.

## **13 Representations**

In addition to your representations and warranties in Seller Agreement, you represent and warrant to us that: (a) you have valid legal title to all Units and all necessary rights to distribute the Units and to perform under these SBN Terms; (b) you will deliver all Units to us in new condition (or in such condition otherwise described by you in the applicable your Product listing) and in a merchantable condition; (c) all Units and their packaging will comply with all applicable marking, labeling and other requirements required by law; (d) no Unit is or will be produced or manufactured, in whole or in part, by child labor or by convict or forced labor; (e) you and all of your subcontractors, agents and suppliers involved in producing or delivering Units will strictly adhere to all applicable laws of the United States and all other countries where Units are produced or delivered, regarding the operation of their facilities and their business and labor practices, including working conditions, wages, hours and minimum ages of workers.

## **SBN Definitions**

**"Fulfillment Units"** means Units fulfilled using SBN that are sold through the [www.newegg.com](http://www.newegg.com) website.

**"Excluded Product"** means any Unit that is an Excluded Product, or is otherwise prohibited by the SBN Policies.

**"Fulfillment Request"** means a request that you submit to us in (accordance with the standard methods for submission prescribed by us) to fulfill one or more Multi-Channel Fulfillment Units.

**"Multi-Channel Fulfillment Units"** has the meaning in Section 2.

**"Sellable Unit"** means a Unit that is not an Unsuitable Unit.

**"Shipping Information"** means with respect to any purchased Unit(s), the following information: the name of the recipient, the shipping address, the quantity of Units to be shipped, and any other shipping-related information we may reasonably request.

**"Unit"** means a unit of Your Product that you deliver to Newegg in connection with the SBN Program.

**"Unsuitable Unit"** means a Unit: (a) that is defective, damaged, or lacking required label(s); (b) the labels for which were not properly registered with Newegg before shipment or do not match the product that was registered; (c) that is an Excluded Product or does not comply with the Seller Agreement (including applicable SBN Policies); or (d) that Newegg determines is otherwise unsuitable.