



Purchase Order Terms & Conditions



PURCHASE ORDER TERMS AND CONDITIONS

I. PAYMENT PROVISIONS

- A. **Billing Dates.** On end of the month (“EOM”) datings merchandise shipped on or after the twentieth (20th) of the month will be paid for as though shipped on the first of the following month and invoices for merchandise shipped before the twentieth (20th) of the month which are not received prior to the last day of the month will, for payment purposes, be dated the first day of the following month. On ten (10) day billing datings, all shipments made according to Purchaser’s shipping schedule begin on the date of receipt of invoice or merchandise, whichever is later.
- B. **Advance Shipments.** On all shipments made in advance of specified shipping dates, terms will be computed from the specified shipping date, and any extra expense caused by the Vendor’s advance shipment will be charged to the Vendor.
- C. **Non-Payment Claims.** Any claims for non-payment of an invoice or non-receipt of merchandise returned to the Vendor by Purchaser, on which Purchaser has agreed to hold title in transit, must be sent to Purchaser via certified mail at least ninety (90) days before which a claim must be filed with the involved carrier.
- D. **Proof of Delivery.** Upon receipt by Purchaser, Vendor will provide proof of delivery in the form of the bill of lading or carrier’s delivery receipt at least ninety (90) days prior to the date a claim must be filed with the involved carrier.
- E. **Setoff or Counterclaim.** Neither this Purchase Order nor any rights or duties hereunder may be assigned by the Vendor without the prior written consent of Purchaser. All claims for monies due soon or to become due to Purchaser are subject to payment by setoff or counterclaim from this Purchase Order or any other of Purchaser’s Purchase Order with the Vendor.
- F. **Bankruptcy.** In the event of any proceeding, voluntary or involuntary, in bankruptcy or under any other insolvency laws, federal or state, by or against the Vendor, or in the event of the appointment with or without the Vendor’s consent of assignee for the benefit of creditors or of a receiver of all or substantially all of the assets of the Vendor, the Purchaser may at its option cancel any unfilled part of the Purchase Order without any liability whatsoever save and except for the purchase price of the merchandise shipped in accordance with the terms hereby and prior to such cancellation.

II. SHIPPING, PACKING, and INVOICE REQUIREMENTS

1. Shipping Requirements

Each shipment must conform to the following parameters:

- a. The merchandise shall be sold to Purchaser F.O.B. at a warehouse designated by Purchaser.
- b. Pack each carton as specified by the Purchase Order: whether bulk, pre-pack, or by store.**
- c. Packing slips are to be affixed to the outside of the lead carton of each Purchase Order noting Purchase Order Number, number of cartons shipped for the Purchase Order, shipment summary including size by color breakdown, and any style substitution noted on the packaging slip.
- d. Cartons must be marked as follows: Purchase Order Number, Style Number, color or assorted color as directed by Purchase Order, size or prepack/store assortment as directed by Purchase Order, quantity, carton number within Purchase Order, ample marking as to each lead carton.
- e. Bills of lading are to include cartons shipped per Purchase Order, and the carrier is to be instructed to include such information in the Description Section of the Freight Bill.
- f. When shipping garments on hangers, follow Purchaser's specific hanger guidelines.
- g. Packing slips are to be affixed to the lead carton of each Purchase Order noting: Purchase Order Number, number of cartons shipped for that Purchase Order, shipment summary including prepack breakdown by color, any style substitutions noted on the packing slip.
- h. Cartons are to be minimum – Size L 12" X W 8" X H 4" and weight 3 lbs.
Cartons are to be maximum – Size L 36" X W 24" X H 30" and weight 50 lbs.
- i. Pack only one style in a carton, unless specified for pre-ticketed store packs. As referenced by the Purchase Order, shipments are to be tendered to carrier, as Purchaser does not pay for single shipments, or inside pickup charges. Failure to route your LTL ("Less Than Truckload" Shipment) as requested, or failure to meet any of the shipping requirements listed in these Terms and Conditions and in the Routing Guide found within the Vendor Relations Manual, will result in freight chargebacks at the costs listed in the "Offset Expense Charges" section found in the Vendor Relations Manual.

- j. Invoices are to be mailed the day of shipment to :
GOODY'S FAMILY CLOTHING, INC.
ATTN: TRADE PAYABLES
P.O. BOX 22000
KNOXVILLE, TN 37933-2000
(EDI invoices are to be transmitted per EDI instructions.)
- k. Questions regarding shipment call:
Traffic: Al Gibson (865) 966-2000 Ext. 1168
- l. **Air Freight.** Shipment by air must be authorized in the Purchase Order. If Purchaser pays the freight ship collect, the Vendor shall not prepay and add to invoice except for UPS charges. Items shipped by air with freight charges C.O.D. will be refused by Purchaser. Vendors are to obtain an AIR APPROVAL # PRIOR to shipping their merchandise via this express method. If a vendor fails to obtain this AIR APPROVAL # prior to the shipment, the SE-7 Offset Expense chargeback will be assessed. This AIR APPROVAL # MUST appear on the merchandise invoice or freight payment will NOT be considered.
- m. **Special Instructions.** Vendor shall not add to invoices' insurance or handling charges for UPS shipments; any such charges will be deducted by Purchaser.
- n. **Late Shipments.** Shipments after "Cancellation Date" will be treated as tender of non-conforming merchandise and WILL BE REFUSED AT PURCHASER'S DOCKS. Purchaser's schedules are based upon the agreement that the merchandise will be delivered to Purchaser by the dates specified on the Purchase Order. Time is therefore of the essence and if merchandise is not delivered within the time specified on the Purchase Order, Purchaser may reject such merchandise and cancel such Purchase Order. The acceptance of late or defective deliveries shall not be deemed a waiver by Purchaser of its right to cancel any Purchase Order, or to refuse to accept further deliveries.
- o. **Failure to Follow Instructions.** Any defects or variations in pack, style, size or color will be treated as tender of non-conforming merchandise and is subject to refusal at dock and will be treated as per Purchaser's Offset Expense Policy.

III. TRANSPORTATION PROVISIONS

- A. **One Bill of Lading.** All shipments consigned to the same bill of lading destination on one day must be combined and shipped on a single bill of lading, irrespective of departmental variance. This also applies on shipments to a freight consolidator. Include the bill of lading on the outside of the Lead Carton of each shipment.
- B. **Tender of Non-conforming Merchandise.** Vendor will reimburse Purchaser for any freight and other expenses including, but not limited to, handling or storage charges incurred as a result of Vendor's failure to comply with routings or other specifications set forth in Purchase Order.
- C. **Designated Routing is Mandatory.** No changes may be made without approval of the Purchaser's Traffic Department. Shortage, loss or damage on shipments which move via other than routes specified by Purchaser Routing Instructions will be the responsibility of the Vendor.
- D. **Lowest Valuation and Classification.** All commodities or shipments subject to released rates must be released to be the value that will result in the lowest transportation charges. If carrier's charges are based on packing, strapping, designation of destiny, or any other provision or description relating to the classification or rate on Vendor's merchandise, such notation must be made on the bill of lading to secure lowest transportation cost. Vendor's failure to do so will result in charge back of the difference in freight charges.
- E. **Effect of Payment Provisions.** The provisions for payment of transportation charges apply to price only and have no effect upon passage of title or risk of loss. Until Purchaser inspects the merchandise and accepts it, there shall be no delivery. Delivery of the merchandise to Purchaser, after inspection, shall not release or discharge Vendor from liability in damages or any other legal remedy from breach of contract or warranty, express or implied, with respect to the merchandise ordered thereunder.
- F. **Returns to Vendor.** All risk of loss, filing of claims, freight charges and charges for storage, handling, and detention on Vendor's merchandise returned by Purchaser to Vendor is the responsibility of Vendor. If Vendor refused to accept return of merchandise or such merchandise is returned to Purchaser for any other reason, Vendor has full responsibility regardless of terms of sale or passage of title.
- G. **Special Instructions.** Vendor shall not add to invoices insurance or handling charges for UPS shipments; any such charges will be deducted.

IV. ROUTING INSTRUCTIONS

- A. **Directions.** From New York and New Jersey, **if routed to Hillside Trucking**, deliver all weights free at Vendor's expense to :

GOODY's
c/o Hillside Warehouse & Trucking
RARITAN CENTER
20 Northfield Ave.
Edison, NJ 08818
(732) 225-1271

This Purchase Order is accepted on condition that Vendor agrees to pay all local cartage charges to Purchaser's consolidator's terminal.

- B. **Special Directions.** From all other points not served by our consolidator ship as follows: (including Tennessee intra-state shipments)

0-125 lbs. Via UPS GROUND, Maximum 14 cartons. **Charge UPS freight through the Goody's UPS Account # 1938X8.**

Over 125 lbs. and/or 15 or more cartons- follow the Vendor Relations Manual. On shipments of this type, you **MUST** contact the respective Traffic Office for specific routing instructions. See Routing Guide- Page 3- Items E & F.

V. GENERAL PROVISIONS

- A. **Vendor's Acceptance.** Vendor must notify Purchaser in writing that it intends to reject or otherwise refuse to honor this Purchase Order within three (3) days of receipt of this Purchase Order. Otherwise, Vendor will be deemed to have recognized the existence of a binding obligation to ship merchandise to Purchaser in conformance with this Purchase Order. Unless otherwise notified by Vendor, Purchaser is entitled to expect full performance by Vendor and receive the merchandise by the Cancellation Date.
- B. **Acceptance Limited.** The offer to purchase merchandise contained in the Purchase Order is expressly limited to the terms and conditions herein stated, and except as provided in the preceding paragraph, it is a condition of this Purchase Order that any provisions printed or otherwise contained in any acknowledgement by Vendor hereof, inconsistent with or in addition to the terms and conditions herein stated, and any alteration in the Purchase Order, shall have no force or effect.
- C. **Acceptance Expressly Conditional.** If this Purchase Order is deemed an acceptance by Purchaser of a prior offer by Vendor, such acceptance is expressly made conditional on assent by Vendor to the terms and conditions herein stated. Any additional or different terms in Vendor's prior offer or any attempt by Vendor to vary in any degree any of the terms and conditions of this Purchase Order are objected to and automatically rejected by the Purchaser.
- D. **Purchaser's Commitment.** Purchaser is not committed to purchase any merchandise or services except in such quantity and at such price as may be set forth in this Purchase Order or on a separate "Purchase Order Change" issued hereunder. Separate "Purchase Order Changes" shall reference this Purchase Order by number and, when issued, shall become part hereof, including all conditions hereof.
- E. **Indemnification.** Vendor hereby agrees to defend, protect, indemnify, and hold harmless Purchaser and Purchaser's successors, assigns, agents, and customers, including Purchaser's distributors and dealers, against and in respect of any and all claims, actions, liabilities, damages, losses, costs, and expenses, including attorneys' fees, arising out of or incident to the performance of this Purchase Order and the merchandise related thereto.
- F. **Waiver.** Neither Purchaser's delay in exercising or Purchaser's failure to exercise any rights hereunder, nor Purchaser's acquiescence in or waiver of Vendor's breach of any term, provision, or condition of this Purchase Order shall be deemed or construed to operate as Purchaser's continuing waiver of any such right.
- G. **Applicable Law.** The Purchase Order shall be construed and enforced in accordance with the laws and in the courts of the State of Tennessee. Vendor and Purchaser specifically consent to the exclusive jurisdiction of the courts of Knox County in the State of Tennessee for any court action or controversy relating to the Purchase Order.

- H. Limitation on Purchaser's Liability/Statute of Limitation.** Any legal action against Purchaser based on Purchaser's alleged breach of its obligations hereunder must be commenced within two years after the cause of action has accrued. In no event shall Purchaser be liable for anticipated profits or for any special, incidental, or consequential damages relating to such breach. Purchaser's liability for any such breach shall in no case exceed the price allocable to the merchandise or services or unit thereof which gives rise to the claim. Purchaser shall not be liable for penalties of any kinds.
- I. Recovery of Attorney's Fees.** Purchaser may recover from the Vendor, as damages, any attorney's fees and costs incurred by Purchaser to enforce its rights and remedies under this Purchase Order.
- J. Enforceability.** If any provision or clause of this Purchase Order is held invalid, the remainder of the Purchase Order shall be enforced without the Invalid provision or clause.
- K. Headings.** The paragraph headings contained in this Purchase Order are for convenience only and are not to be relied upon to interpret this Purchase Order.
- L. Entire Purchase Order.** The terms contained in this Purchase Order and any releases, specification, and other documents incorporated by Purchaser into this agreement by reference shall constitute the entire agreement between Purchaser and Vendor.