



CERTIFIED DIAMOND DEALER AGREEMENT

*Shop Name: _____

*Shop Owner Name: _____

*Physical Address: _____

*City: _____ *State: _____ *Zip: _____

*Shop Phone Number: _____ Website Address: _____

Facebook (if applicable): _____ eBay ID (if applicable): _____

*Email Address: _____

*Upper Deck Authorized Distributor(s)
("Distributors"): _____

Territory ("Territory"): UNITED STATES OF AMERICA

*DESIGNATES A REQUIRED FIELD

Agreement

This Certified Diamond Dealer Agreement ("Agreement") is entered into as of _____, 2015, by and between The Upper Deck Company, a Nevada corporation, located 2251 Rutherford Road, Carlsbad, California 92008 ("UDC") and the above mentioned hobby store ("Shop") to permit Shop to sell UDC's sports and entertainment trading cards and collectibles (collectively the "Products" or individually a "Product") as described herein. For good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

- At all times, Shop will maintain at least one (1) permanent Retail Location, defined as a brick and mortar store located in the Territory and that is open to the public a minimum of thirty five (35) hours per week during regular business hours, primarily selling sports and entertainment trading cards, memorabilia and collectibles directly to individual Consumers ("Retail Location"). A Consumer is defined as an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes ("Consumer").
- Shop will only purchase Current Product from (a) a Distributor listed above, or (b) UDC directly. **Product is deemed "Current Product" from the time it is officially solicited by UDC, up to and including, one hundred eighty (180) days after the Product's street release date.** Shop will not purchase Current Product from outside sources including, but not limited to, secondary and gray markets. This provision may be modified or amended by UDC, in its sole discretion, on a case by case basis.
- Shop will strictly adhere to all Current Product release dates provided by UDC or its Distributors.
- Shop will ONLY sell Current Product to end Consumers. Shop is NOT permitted to sell, trade, or gift Current Product to other retailers, sub-distributors, or any entity other than to a Consumer or a Distributor. Shop may not sell, directly or indirectly, any Product to any person or entity that Shop knows or should know is or could be purchasing the Products for re-sale.
- Shop is NOT permitted to sell online any sealed Current Product unless Shop is accepted by UDC as an Authorized Internet Retailer ("AIR"). "Online" includes, but is not limited to, Shop's website, online auction site, online wholesale networks, and any other external website. To clarify, the sale of boxes and/or cases of Current Products via online box or case breaks, whether performed on Shop's website or on an external third party website, is not permitted unless Shop and/or such third party website is in good standing as an AIR, as determined by UDC in its sole discretion.
- Shop is not permitted to list Current Product prices for one hundred eighty (180) days after the Current Product's release date, including, but not limited to, those Current Product prices for cases, boxes, or packs, on Shop's website unless Shop is an AIR.
- If Shop is interested in becoming an AIR, Shop must apply in writing to and receive UDC's approval. UDC reserves the right and sole discretion to add or remove AIRs at any time.
- Shop will not sell any Products outside of the Territory; for clarification, if Shop is located in the United States, Shop may only sell Product in the United States; if Shop is located in Canada, Shop may only sell Product in Canada and may not sell Product in the United States. This includes sales of both Current Products and any other Products less than one (1) year after the Product's street release date.
- Shop is responsible for all aspects of Shop's sales and fulfillment of Products. **Shop will not take any action which, in UDC's sole discretion, disparages or diminishes the value or reputation of UDC or the Products.** Shop agrees to notify UDC immediately and in writing of any issues pertaining to UDC or the Products.
- For each transaction, Shop is required to provide each customer with an invoice identifying Shop as the source of the Product sale. This invoice will be necessary in the event the customer requires UDC to address any Product quality concerns. Customer service and Product quality issues stemming from Products purchased from an unauthorized shop or website will NOT be accepted by UDC.
- Shop may use the UDC "Certified Diamond Dealer" logo on page 2 of this Agreement solely to promote Shop and may include the logo on Shop's sales and promotions. UDC reserves the right to request Shop to immediately remove the logo for any reason at any time.

- UDC reserves the right and sole discretion to modify this Agreement at any time. This Agreement may only be amended or modified in writing executed by UDC. No term or provision of this Agreement will be considered waived by UDC, unless such waiver is in writing signed by UDC.
- **Shop agrees and acknowledges that any breach of this Agreement constitutes a ground for immediate termination of its ability to purchase Product from a Distributor and/or UDC directly.**
- Shop agrees to indemnify and hold harmless UDC and its Distributors from any and all claims, losses, actions, liabilities, damages (including, but not limited to, attorney’s fees and costs) arising out of or related to Shop’s action, inaction, or breach of this Agreement.
- Shop may not assign this Agreement or any of Shop’s rights or obligations hereunder.

I have read and agree to the terms of this Agreement, including, but not limited to, the UDC Terms and Conditions below, and represent that the above agreement is valid and true and that I am duly authorized to sign behalf of Shop and ***that I have signed this Agreement in the presence of a NOTARY PUBLIC.¹***

Printed Name of Shop Owner _____

Shop Owner Signature _____

Name of Shop _____

Date _____

Verified by Notary:

Signature _____

Seal:

Certified Diamond Dealer Logo



UDC Terms and Conditions

- Notices to the parties shall be sent via email and shall be deemed served on the same date of email. All emails to Shop will be sent to the email address listed above; all emails to UDC shall be sent to hobbypolicy@upperdeck.com.
- Any legal proceedings resulting from a breach or failure by UDC to perform under this Agreement must be commenced within two (2) years after the event has occurred, unless a shorter period applies under applicable law.
- If any provision of this Agreement is held to be unenforceable for any reason, it will be adjusted rather than voided, if possible, to achieve the intent of the parties. All other provisions of this Agreement will be deemed valid and enforceable to the extent possible.
- This Agreement shall not be construed against any party on the grounds that such party drafted the Agreement or caused it to be drafted.
- The Settlement Agreement dated April 18, 2012 between CDD and UDC (“Settlement Agreement”) is incorporated herein by reference and remains in full force and effect. To the extent any the terms of this Agreement conflict with the Settlement Agreement, the Settlement Agreement shall supersede and control. Notwithstanding, this Agreement, together with such exhibits, constitutes the entire agreement among the parties pertaining to the subject matter hereof.
- Nothing contained in this Agreement shall be construed to make Shop and UDC into partners, joint ventures, principals, agents, or employees of the other.
- **IN NO EVENT SHALL UDC BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS) OF ANY KIND ARISING OUT OF THIS AGREEMENT, EVEN IF SHOP HAS, HAD OR DID NOT HAVE KNOWLEDGE OF THE POSSIBILITY OF ANY POTENTIAL LOSS OR DAMAGE.**
- Shop acknowledges that pursuant to this Agreement, Shop may obtain confidential information regarding or related to UDC and its affiliates. Confidential information includes, but is not limited to, information regarding UDC’s ownership, financials, investments, products, trade secrets, intellectual property, software, business partners, customers, business plans, vendors, technology, samples, and designs. Shop will not reveal such confidential information without UDC’s prior written consent.
- This Agreement will be construed and governed in accordance with the laws of California, County of San Diego and both parties irrevocably consent to personal jurisdiction of any such court.

¹ Any Shop who has not previously applied to become a CDD or has experienced a change of ownership or a change in control, as determined by UDC in its sole discretion, must notarize this Agreement.

■ Any claim, dispute, or controversy arising out of or relating to this Agreement or the relationships among the parties hereto shall be resolved by one arbitrator through binding arbitration administered by Judicate West, to be decided by a retired judge on Judicate West's panel in San Diego, California. The arbitrator's decision shall be final, binding, and non-appealable. Judgment upon the award may be entered and enforced in any court having jurisdiction. The arbitrator, and not any federal, state, or local court, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, arbitrability, unconscionability, enforceability, or formation of this Agreement, including any claim that all or any part of this Agreement is void or voidable.

■ Any claims or dispute arising out of this Agreement must be brought in the respective party's individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple plaintiff, or similar proceeding ("Class Action"). The parties expressly waive any ability to maintain any Class Action in any forum. The arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action nor make an award to any person or entity not a party to the arbitration. Any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void, or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator. THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT TO LITIGATE THROUGH A COURT, TO HAVE A JUDGE OR JURY DECIDE THEIR CASE AND TO BE PARTY TO A CLASS OR REPRESENTATIVE ACTION. HOWEVER, THEY UNDERSTAND AND CHOOSE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY, THROUGH ARBITRATION.

■ All rights not herein specifically granted to Shop will remain the property of UDC.

■ Shop agrees to fully and timely cooperate with UDC in providing and discussing facts pertaining to matters regarding or related to UDC and in relation to UDC's defense, prosecution, or other involvement in any claims, lawsuits, charges, and/or internal or external investigations regarding or related to UDC, and its affiliates, officers, directors, employees, and agents.

■ Shop, its affiliates, and their officers, directors, employees, and agents will not, directly or indirectly, make to any person or entity, including but not limited to, any UDC customers, competitors, vendors, past or current licensors, partners, and media and press, any negative or disparaging oral or written statements about, or do anything which may, in UDC's sole discretion, damage UDC or its affiliates, customers, licensors, partners, products, goodwill, reputation, or financial status, or which may damage any of UDC's current or prospective business relationships or endeavors.