

## **DIRECT SHIP VENDOR AGREEMENT**

**THIS DIRECT SHIP VENDOR AGREEMENT** (the “Agreement”) is entered into effective this \_\_\_ day of {MONTH, YEAR} between {LEGAL COMPANY NAME}, a {STATE OF INCORPORATION} corporation, with a registered address at 1209 Orange St, Wilmington, DE 19801 (“Company”), and GENESCO INC. dba Journeys (“Journeys”), a Tennessee corporation with offices at 535 Marriott Dr, Nashville, Tennessee 37214.

WHEREAS, Company desires to participate in Journeys’ direct ship program, whereby certain items of merchandise (“Merchandise”) sold by Company to Journeys will be shipped directly by Company to Journeys’ customers who order it online or in Journeys’ stores, on the terms and conditions described herein; and

WHEREAS, Journeys is willing to allow Company to participate, from time-to-time (as determined in Journeys’ sole discretion), in Journeys’ direct ship program on the terms and conditions described herein.

NOW THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### **I. GUIDELINES; TERMS AND CONDITIONS; OTHER DOCUMENTS**

Company shall comply with Journeys’ Vendor Drop Ship Guidelines, which can be found at:

[https://www.genescopartners.com/journeys\\_direct\\_ship\\_dropship.php](https://www.genescopartners.com/journeys_direct_ship_dropship.php),

as they may be amended by Journeys from time to time upon 30 days’ written notice to Company. The financial terms of the purchase by Journeys of Merchandise for direct shipment by Company to Journeys’ customers are set forth on Exhibit B attached hereto. Additionally, the Terms and Conditions of Purchase of Genesco Inc. (“Terms and Conditions”) and the other documents made available to Company at [www.genescopartners.com](http://www.genescopartners.com), as they may be amended from time to time, and generally applicable to purchases of inventory by Journeys, all of which are incorporated herein by this reference, shall apply to all Merchandise sold by Company to Journeys as part of or through Journeys’ direct ship program.

### **II. CONFIDENTIALITY**

In addition to any confidentiality provisions contained in the Referenced Documents, Company hereby agrees to treat all information provided to Company from or about Journeys, including, but not limited to, information regarding Journeys’ customers (including, but not limited to, name, address, e-mail address, purchase information—and, if applicable—any information received for customizing Merchandise, such as images and/or sizing information, for example) or any other information relating to Journeys’ direct ship program, as confidential information pursuant to the terms of the Mutual Confidentiality and Non-Disclosure Agreement being executed by Company herewith, attached hereto as Exhibit A and incorporated herein by reference. Company hereby expressly acknowledges that it may only use Journeys’ confidential information for purposes of participating in, and fulfilling orders under, Journeys’ direct ship program.

### **III. SECURITY**

(a) To the extent Company receives any cardholder data in the course of carrying out its obligations hereunder (whereby “cardholder data” shall mean the full magnetic stripe of the card or the primary account number plus any of the following: cardholder name, expiration date, service code, or such other meaning as may be ascribed to it by the PCI Security Standards Council) and for which Payment Card Industry (“PCI”) compliance is required, Company agrees to comply with the PCI standards which may include, but is not limited to, the provisions of this Article III.

(b) In addition to any security provisions contained in the Referenced Documents, Company hereby agrees to utilize, and require its subsidiaries, affiliates and agents to utilize, VISA CISP Payment Card Security Standards and industry standard encryption technologies when necessary to provide a secure environment for conducting transactions and/or transferring private customer information to and from Journeys or Journeys’ direct shipping processing vendor, if applicable. Company acknowledges that Company is responsible for the security of Journeys’ confidential information while in Company’s control or possession and Company hereby agrees to utilize best efforts to ensure such security to achieve this result and conform to industry standards relating to security (including, if applicable, the VISA CISP Payment Card Security Standards). Without limiting the foregoing, Company hereby agrees to maintain environmental, safety and facility procedures, data security procedures and other safeguards against the destruction, loss, or alteration of Journeys’ confidential information in Company’s possession. In the event of a security breach or an unauthorized disclosure, Company hereby agrees to cooperate with Journeys in every reasonable way to help Journeys regain possession of Journeys’ confidential information and prevent its further use or disclosure. Without limiting the foregoing, in the event of a known or suspected security breach or an unauthorized disclosure, Journeys or its designated third party representatives shall be permitted to access Company’s facilities, files and data to conduct a security review, assessment and audit, and Company hereby agrees to provide all reasonably requested assistance and cooperation in conjunction with any such security review, assessment and audit. Company is responsible for taking appropriate precautions against damage to its operations, information systems and data that could be caused by defects, interruptions or malfunctions of communications or equipment, and shall maintain any necessary means or the storage, reconstruction, and transmission of any lost or damaged data. All measures undertaken by Company for security pursuant to this Agreement while Journeys’ confidential information is in Company’s control or possession will be at Company’s sole cost and expense.

### **IV. PRODUCT CONTENT AND WEBSITE**

(a) In addition to agreeing to comply with all of the requirements specified in the Policies, Company hereby covenants, represents and warrants that the product descriptions, knowledge sheets, feature/benefit information, photography, images, video animation or interactive media, graphics, audio, website addresses and links to Company’s own website (e.g., for customized Merchandise), and any other content (collectively, “Product Content”) furnished by Company to Journeys for any Merchandise displayed on websites relating to Journeys’ e-commerce or special order programs shall be accurate, complete, and comply with all relevant laws – including, but not be limited to: (i) all existing laws, regulations, standards, orders, rulings, rules and guides of all United States federal, state and local governments (and all departments, boards, bureaus and commissions thereof), including, but not limited to the Federal Trade Commission Act, the American with Disabilities Act, the Consumer Product Safety Act, the CAN-SPAM Act, the Textile Fiber Products

Identification Act and regulations relating to statement of fiber content of rayons, wool, linens, and other textiles contained in such Merchandise, the Wool Products Labeling Act, the Care Labeling Rule, the Fair Packaging and Labeling Act, the Magnusson-Moss Warranty Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Radiation Control for Health and Safety Act, the Food, Drug and Cosmetics Act, and the Fur Products Labeling Act; and (ii) the laws, regulations and rules of all countries in which Merchandise is produced or delivered.

(b) Company hereby grants to Journeys (subject to subsection (c) below), a non-exclusive, royalty-free license to use the Product Content furnished by Company to Journeys solely for the purpose of advertisement or display of the Merchandise, including, but not limited to, on any of the websites relating to Journeys' e-commerce programs (www.journeys.com). Company hereby covenants, represents and warrants that Company is the sole owner and copyright proprietor or legal licensee of the Product Content furnished by Company to Journeys, that Company is free to grant Journeys all rights hereunder and that Company possesses all rights to the Product Content necessary for the grant of the license provided for herein. Company further covenants, represents and warrants that the Product Content furnished by Company to Journeys shall not infringe the contractual or proprietary rights of any other person, firm or corporation, including without limitation, the designs, design patents, trademarks, trade names, trade dress, copyrights, rights of privacy and publicity, trade secrets and other proprietary or intellectual property rights of any third party.

(c) If, at any time during the term of this Agreement, in the event Company no longer has the necessary rights with respect to any of the Product Content for use as described herein, Company shall provide Journeys with immediate written notice and Journeys will use its commercially reasonable efforts to discontinue any use objected to by Company as soon as reasonably practicable.

## **V. INDEMNIFICATION**

With respect to actions or omissions on the part of Company, Company hereby agrees to defend, indemnify and hold Journeys, its parent and affiliates and its and their officers, directors and employees harmless from any claim, liability, loss, damage or expense, including attorneys' fees, which arises, grows out of, results from or is based on (i) any claim of (a) unlawfulness, (b) infringement of any proprietary or intellectual property rights, (c) unfair competition or (d) unfair or deceptive trade practices in connection with the Product Content furnished by Company to Journeys; (ii) any claim of negligence, recklessness or willful misconduct on the part of Company; or (iii) any breach by Company of this Agreement.

With respect to actions or omissions on the part of Journeys, Journeys hereby agrees to defend, indemnify and hold Company, its parents and affiliates and its and their respective officers, directors and employees harmless from any claim, liability, loss, damage or expense, including attorneys' fees, which arises, grows out of, results from or is based on (i) any claim of (a) unlawfulness, (b) infringement of any proprietary or intellectual property rights, (c) unfair competition, or (d) deceptive trade practices; (ii) any claim of negligence, recklessness or willful misconduct on the part of Journeys; or (iii) any breach by Journeys of this Agreement.

## **VI. MISCELLANEOUS**

(a) Non-Exclusivity. Nothing contained in this Agreement or in any discussions undertaken or disclosures made pursuant hereto shall (i) be deemed a commitment on the part of Journeys to engage in any business relationship, contract or future dealing with Company or any other party, or (ii) limit either party's right to conduct similar discussions or perform similar work to that undertaken pursuant hereto, so long as such discussions or work do not violate this Agreement.

(b) No Assignment. Company may not assign this Agreement without the prior written consent of Journeys, which shall not be unreasonably withheld or delayed. No permitted assignment shall relieve Company of its obligations hereunder. Any assignment in violation of this section shall be void. This Agreement shall be binding upon the parties and their respective successors and assigns.

(c) Term. This Agreement shall be effective as of the date first written above and shall continue until terminated by either party upon sixty (60) days advance written notice to the other party. All obligations undertaken respecting any confidential information already provided hereunder shall survive any termination or cancellation of this Agreement.

(d) Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed deleted and replaced by a valid and enforceable provision which so far as possible achieves the parties' intent in agreeing to the original provision. The remaining provisions of this Agreement shall continue in full force and effect.

(e) Representations and Warranties. In addition to all other express representations and warranties set forth in this Agreement, each of the parties further represents and warrants to the other that: (i) it has the authority to enter into this Agreement; (ii) its signatory below is authorized to bind the party to this Agreement and its obligations contained herein; and (iii) in performing all aspects of its obligations hereunder, it will comply with all applicable laws, rules and regulations.

(f) Choice of Law. This Agreement and the parties' rights and obligations hereunder shall, in all respects, be governed by, construed and enforced in accordance with the laws of the State of New York, without regard for its conflicts of law principles.

(g) Counterparts. This Agreement may be signed in two or more counterparts, each which shall be an original. Furthermore, the parties expressly agree that with respect to this Agreement, an electronic fsignature, including an executed document which has been formatted as a Portable Document Format (PDF) and electronically exchanged) shall be binding upon the parties.

(h) Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally, sent by registered or certified mail, return receipt requested, postage prepaid, or by a recognized overnight delivery service, addressed as follows:

**{COMPANY INFO}**

**If to GENESCO INC.**

535 Marriott Dr.

Nashville, Tennessee 37214

**Copy to:**

legalnotices@genesco.com

Either party may change its address for notice by giving written notice to the other party in accordance with this provision.

**IN WITNESS WHEREOF**, each of the parties, intending to be legally bound, has caused this Direct Ship Vendor Agreement to be duly executed as of the day and year written above.

**{COMPANY NAME}**

By: \_\_\_\_\_  
(an authorized representative)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**GENESCO INC. dba Journeys**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Exhibit A**

The terms and conditions of this MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“MNDA”) are expressly incorporated into the Direct Ship Vendor Agreement (the “Agreement”) to which it is attached by and between the Company and Journeys. The parties expressly agree as follows:

1. **Confidential Information.** In connection with discussions concerning a future business relationship between Journeys and Company and/or in connection with an ongoing business relationship, Journeys and Company may disclose to the other certain information that is confidential and proprietary to the disclosing party (whether or not such information is marked as “Confidential”) which may be used for the purpose of bidding, negotiating—and, if successful—providing goods and/or services to Journeys, as well as for the purpose of providing Journeys with the direct ship services pursuant to the terms and conditions of the Agreement and the Referenced Documents incorporated therein (the “Permitted Use”).

As used herein, the term “Confidential Information” shall mean the existence of a potential or actual relationship between the parties and any and all information disclosed to a receiving party (whether previously disclosed, disclosed simultaneously herewith or hereafter disclosed), in whatever form or medium (whether oral, written, graphic, visual and/or computer generated), which has or could have commercial value or other utility in the business or prospective business of the disclosing party or any information of which unauthorized disclosure could be detrimental to the interests of the disclosing party. By way of example and without limitation, Confidential Information shall include:

- (a) **Intellectual Property:** trade secrets, patent and trademark applications, ideas, formulas, client lists, private or secret processes of the disclosing party as they exist from time-to-time, inventions, methods, designs, blueprints, drawings;
- (b) **Business Information:** strategic plans, the identity of business partners and suppliers, customer information (expressly including names, addresses, order history, size information, payment information (including payment card data, if applicable) and the like with regard to Journeys customers whose orders are fulfilled pursuant to the Agreement), employee information, mailing and other contact information lists, descriptions of non-public transaction structure proposals, descriptions of business operations, store operations and future locations, billing and receivable operations, healthcare information including claims, marketing and operational procedures and strategies, other business plans and strategies, products, services;
- (c) **Technical Information:** computer systems, inventory systems, distribution networks, systems development, technical systems, product development methodologies and strategies, technical data, know-how, discoveries, manufacturing data, engineering data, test data, materials, costs, tolerances, specifications, software, equipment;

- (d) Financial Information: financial performance figures, financial information and projections, credit and financial information and techniques, procurement and sales activities and procedures, promotions, pricing; and/or
- (e) Other Nonpublic Information: any information received from others that the disclosing party is obligated to treat as confidential and any information that (under the circumstances surrounding disclosure) ought to be treated as confidential.

Each party further acknowledges and agrees that all information disclosed by a disclosing party hereunder, and all other information to which a recipient may have access by virtue of any such disclosure or relating to the disclosing party, shall be presumed by the parties to be Confidential Information unless the disclosing party shall advise the recipient that any item or items need not be regarded or treated as confidential.

**2. Confidentiality and Restrictions on Use.** The receiving party acknowledges the economic value to the disclosing party of all Confidential Information. With respect to Confidential Information, the recipient shall:

- (a) use Confidential Information only for the Permitted Use;
- (b) restrict disclosure of (i) Confidential Information; (ii) the fact that Confidential Information is being disclosed by or to either party; and (iii) the fact that discussions, proposals, meetings and/or work in connection with the Permitted Use are taking place; solely to those employees and agents of such party (collectively, "Employee(s)") with a "need to know" (but only after first informing the Employees of the obligation of confidentiality pursuant to this MNDA) and not disclose it to any other person or entity without the prior written consent of the disclosing party;
- (c) make only the number of copies of the Confidential Information necessary to disseminate the information to those Employees who are entitled to have access to it, and ensure that all confidentiality and proprietary notices and legends affixed to or set forth on Confidential Information are reproduced in full on such copies;
- (d) safeguard Confidential Information with the same degree of care to avoid unauthorized disclosure as recipient uses to protect its own confidential and private information of a similar nature (but in no event less than a reasonable degree of care);
- (e) notify the disclosing party immediately upon discovery of any suspected or actual unauthorized use or disclosure of Confidential Information or any other breach of this MNDA by the receiving party, and cooperate with the disclosing party in every reasonable way to help the disclosing party regain possession of the Confidential Information and prevent its further use or disclosure; and
- (f) not make, or permit to be made by any of its directors, officers, employees, representatives or agents any public statement or press release regarding the Permitted Use or the fact that discussions, proposals, meetings and/or work with regard to the Permitted Use are taking place without first consulting with the other party so that such public statement or press release may be jointly issued by the parties. No such public statement or press release shall be made or issued by either party unless and until jointly approved by both parties.

For the purposes of this MNDA only, a "need to know" means that the Employee requires the Confidential Information in order to perform his or her responsibilities in connection with the

Permitted Use. Each of the parties shall be responsible for any breach of this MNDA by its Employees.

**3. Exceptions.** Notwithstanding anything to the contrary expressed herein, “Confidential Information” shall not include any item of information which the recipient can successfully demonstrate:

- (a) is or becomes available to the public through no breach of this MNDA;
- (b) was previously known by the recipient without any obligation to hold it in confidence;
- (c) is received from a third party free to disclose such information without restriction;
- (d) is independently developed by the recipient without the use of Confidential Information of the disclosing party;
- (e) is approved for release by written authorization of the disclosing party, but only to the extent of, and subject to, such conditions as may be imposed in such written authorization;
- (f) is required by law or regulation to be disclosed, but only to the extent and for the purposes of such required disclosure; or
- (g) is disclosed in response to a valid order of a court or other governmental body of the United States or any political subdivisions thereof, but only to the extent of and for the limited purposes of such order and only after the recipient notifies the disclosing party of the order and permits the disclosing party to seek an appropriate protective order, if such notification is not in conflict with the disclosing party’s legal obligation pursuant to such order.

**4. Securities Laws.** Each party acknowledges that it is aware (and that its Employees who have access to Confidential Information have been or will be advised) that federal and state securities laws prohibit any person or entity who has material, non-public information about a publicly- traded company (such as the Confidential Information) from purchasing or selling securities of such company, or from communicating such information to any other person or entity under



circumstances in which it is reasonably foreseeable that such person or entity is likely to sell or purchase such securities. Each party further acknowledges that if one of its Employees uses Confidential Information that it receives from the other party in a manner that violates federal and state securities laws (as set forth above), such use will be deemed a violation of this MNDA, as such use falls outside of the Permitted Use. Furthermore, the disclosing party will be able to seek any remedies available to it pursuant to the terms contained herein as well as at law or in equity.

**5. Ownership and Return of Information.** Confidential Information, including permitted copies, is and at all times shall remain the property of the disclosing party. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this MNDA or any disclosure hereunder, except for the right to use such Confidential Information for the sole purpose of the Permitted Use. Each recipient shall, upon the termination of its business relationship with the other, or at any time upon a written request by the other party, whichever is earlier, promptly return to the disclosing party all Confidential Information, including all copies, reproductions or summaries thereof and all records, notes and other written, printed or tangible materials in its possession pertaining thereto, or, if so directed by the disclosing party, provide written certification that all of the aforementioned has been destroyed in a manner which preserves its confidentiality. The return of Confidential Information, copies thereof and other written materials pertaining thereto shall in no event relieve the recipient of any obligation of confidentiality and non-use contained herein with respect to the Confidential Information.

**6. Reasonableness Remedies.** Both parties acknowledge that these covenants are reasonable and necessary for the protection of the proprietary interests of each other and agree that an impending or existing violation of any provision of this MNDA may cause the disclosing party irreparable injury for which it would have no adequate remedy at law, and that the disclosing party shall be entitled to seek specific performance and/or immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it at law or in equity. Each party further agrees to indemnify the other party against any and all losses, damages, claims, and expenses incurred or suffered as a result of a breach of this MNDA, including the reimbursement of the other party (if successful on the merits) for all court costs and legal fees, including reasonable attorney's fees, incurred in enforcing this MNDA or obtaining relief hereunder.

**7. Miscellaneous.**

- (a) Term. This MNDA shall be effective as of the date first written above and shall continue until terminated by either party as described above. All obligations undertaken respecting Confidential Information already provided hereunder shall survive any termination or cancellation of this MNDA.
- (b) Warranties. unless otherwise agreed to in writing by the parties, no warranties of any kind are given with respect to the Confidential Information disclosed under this MNDA, except each party warrants to the other that: (i) the party providing the Confidential Information is the owner of such information, or otherwise has the necessary rights to share the Confidential Information, as provided hereunder; and (ii) the provision of any of the Confidential Information hereunder shall not violate or otherwise conflict with any third party's legal (contractual or otherwise) rights with respect to such Confidential Information.

## **Exhibit B**

- TBD