

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

This Certified Diamond Dealer Agreement ("Agreement") is entered into as of _____, 2018, by and between The Upper Deck Company, a Nevada corporation located 5830 El Camino Real, Carlsbad, California 92008 ("UDC") and the above ("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.

AGREEMENT

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. 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.

■ Shop will only purchase Current Product from (a) a Distributor, 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 right and 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 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 written 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 or addressed 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. Shop will exercise its best efforts to promote, develop and expand the market for the Products.

■ 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 termination of its ability to purchase Product from a Distributor and/or UDC directly.** Upper Deck reserves the right and sole discretion to immediately terminate this Agreement for any reason, without penalty, and without notice to Shop and Shop must immediately pay any and all outstanding balances due to UDC within 15 days from UDC's demand.

■ Shop agrees to indemnify, defend, and hold harmless UDC and its Distributors, officers, affiliates, directors, shareholders, licensors, employees and agents, and their respective successors and assigns 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 acts and omissions regarding or related to this Agreement and any breach by Shop of any representations, covenants, warranties, or obligations herein. In the event of defense, UDC shall select legal counsel. Shop may not enter into any settlements or make any admissions on UDC's behalf without UDC's prior written consent.

■ Shop may not assign this Agreement or any of Shop's rights or obligations, in whole or in part, 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 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:



UDC Terms and Conditions

■ This Agreement is governed by the laws of the state of California, County of San Diego, without reference to its choice of law rules. 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 in San Diego, California. The arbitration shall be conducted in accord with this arbitration provision and the Judicate West Rules, which may limit discovery. The arbitrator’s decision shall be final, binding, and non-appealable. Prior to, during, and following any arbitration, Shop agrees that it shall not publicize any matters regarding or related to such arbitration.

■ UDC MAKES NO REPRESENTATIONS OR WARRANTIES TO SHOP IN CONNECTION WITH THIS AGREEMENT OR THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY PRODUCTS. NO WARRANTIES ARISE FROM IMPLICATION OR BY REASON OF CUSTOM OR USAGE IN TRADE OR BY COURSE OF DEALING. IN NO EVENT SHALL UDC BE LIABLE TO SHOP FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING COMPENSATION OR REIMBURSEMENT OF LOSS OF PROSPECTIVE PROFITS, LOSS OF INCOME, OR ANTICIPATED SALES OR SERVICE REVENUE OCCASIONED BY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

■ This Agreement together with any exhibit and other attachments constitute a confidential business relationship between the parties. Shop acknowledges that, in the course of performing this Agreement, Shop will receive information which is confidential and/or proprietary to UDC, its affiliates, and licensors including, without limitation, this Agreement and information regarding UDC’s, its affiliates’, and licensors’ ownership, financials, intellectual property, customers, trade secrets, products, releases, investments, marketing and/or business plans and strategies, pricing, partners, management, plans, technologies, techniques (collectively the “Confidential Information”). Shop agrees that significant irreparable damage will be done to UDC and/or its affiliates should the Confidential Information become public knowledge and UDC has the right to enforce this Agreement and any of its provisions by injunction, specific performance, or other equitable relief without prejudice to any other relief to which it may have for breach of this Agreement and without any obligation to post a bond or other security. Shop agrees not to reveal the Confidential Information to any third party (excluding employees, agents, attorneys, accountants and others to whom Shop has a legal obligation to disclose), and Shop will exercise reasonable precautions to ensure that neither Shop nor any of the foregoing persons will allow the terms of this Agreement to become public knowledge. Such confidentiality obligations will continue for two years from the termination or expiration of this Agreement; Shop’s obligations regarding trade secret information shall continue for two (2) years or until such information no longer constitutes proprietary information under applicable law, whichever is later. Confidential Information does not include information that: (a) is or becomes publicly known through no wrongful act or omission of Shop; or (b) is lawfully required to be disclosed to any governmental agency or is otherwise required to be disclosed by law, provided that before making such disclosure, Shop notifies UDC in writing at least fifteen (15) days prior to the disclosure of such Confidential Information. Trade secret misappropriation will be immunized if the disclosure is made: in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law, or in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

■ 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.

■ This Agreement, together with such exhibits, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith. The parties expressly represent and warrant that in entering into this Agreement they are not relying on any prior representations made by any other party concerning the terms, conditions or effects of this Agreement which terms, conditions or effects are not expressly set forth herein.

■ Nothing in this Agreement shall be construed to make Shop and UDC into partners, joint ventures, principals, agents, or employees of the other.

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.