



# Wholesale FBA Prep Terms of Service

*Effective Date: January 1, 2023*

## **DESCRIPTION OF SERVICES**

Services Provided. Beginning upon execution of this agreement, Company shall perform FBA Prep responsibilities requested by the Client for wholesale and/or private label products shipped to the Prep Ninjas Warehouse by Client, including but not limited to:

- Receiving and inspection of inventory
- Creating FBA shipping plans, printing FNSKU labels, and creating Amazon FBA shipments.
- Preparing products according to Amazon's prep guidelines
- Processing shipment via Prep Ninjas software
- Packing products and assigning box content
- Shipping products to Amazon
- Storage of Inventory
- Carton Forwarding

Services NOT Provided. We DO NOT offer services for customer return processing/consolidation, FBA removal order inspection/relabeling, repackaging products, importing, exporting, or customs brokerage.

## **SENDING INVENTORY TO PREP NINJAS**

Inbound Shipment Notification. You are responsible for notifying us of the inventory you are sending to us by creating an Inbound Shipment via your Prep Ninjas Dashboard. You may create the Inbound Shipment by adding products manually or by importing a Shipping Plan from your Amazon account. Products SKUs that were ordered but are not listed on the Inbound Shipment may be subject to a Non-Compliance fee of \$5 per SKU. Inbound Shipments must be created prior to Prep Ninjas receiving the shipment. Receiving a shipment before a corresponding Inbound Shipment has been created creates additional work and disrupts our workflow so they are subject to a Non-Compliance fee of \$100 per shipment.

Naming Inbound Shipments. Your Inbound Shipment name must correspond with your supplier order in an obvious manner. We suggest naming your Inbound Shipment using the supplier name and order number. Inbound Shipment names that do not correspond with an order in an obvious way cause additional work and disrupt our workflow so they are subject to a Non-Compliance fee of \$100 per shipment.

Shipment Labeling. Every shipment we receive must be labeled with an identifier for your account. For small parcel shipments, each carton must be labeled with your name or business name. For freight shipments, the BOL must contain your name or business name. Shipments received without the proper identifiers may be subject to a Non-Compliance fee of \$5 per carton or \$100 per freight shipment.

Large Shipments. All large shipments must be approved by Prep Ninjas before sending them to us. A large shipment is defined as:

- 30 or more cartons via Small Parcel Carrier

- 4 or more pallets via LTL
- Container shipments

Once approved, you must notify us of the arrival of the Inbound Shipment at least three (3) business days in advance. Unexpected large shipments disrupt our forecast, increase labor costs, and are subject to a Non-Compliance fee of \$1 per carton or \$20 per pallet.

Pallets. Prep Ninjas is able to receive palletized shipments. Our receiving window is between 9:00 AM and 4:00 PM Pacific Time, Monday through Friday. We are closed on major holidays. Received pallets cannot weigh more than 1500 lbs. Pallets must be stacked and wrapped properly so they do not fall apart when the pallet wrap is removed. Pallets used must be high grade and not broken. Dangerous pallets (overweight, improperly stacked, or low grade/broken) can put our staff at risk for injury and are subject to a Non-Compliance fee of \$50 per pallet.

Acceptable Products. Prices under this agreement are only applicable to wholesale or private label products and must be procured by the Client through a wholesale distributor or manufacturer. Products purchased from retail stores, online stores, or from Amazon are not included in our standard pricing and will be subject to a Non-Compliance fee of \$2 per unit.

Unacceptable Products. Prep Ninjas reserves the right to refuse to accept or process any product or shipment we deem dangerous, excessively laborious, legally questionable, or that we are not properly equipped to process. These products include but are not limited to:

- Customer Returns
- FBA Removals (without express permission)
- **Grocery Items including food, beverages, petfood, vitamins, supplements, medications, etc. with the exception of tablets or capsules.**
- Meltable or temperature-sensitive, regardless of the time of year
- KONG Company brand pet products
- Used Products
- Dangerous products like corrosives, solvents, fuel, fertilizer, pepper spray, bear repellent, or firearms.
- Overly fragrant products that do not come in pre-sealed containers like essential oils, perfumes, sachets, or candles.
- Products heavier than 20 lbs (without express permission)
- Products larger than 24 inches on their longest side (without express permission)

Received products classified as Unacceptable are subject to a Non-Compliance fee of \$2 per unit and must be removed from Prep Ninjas warehouse within seven (7) calendar days at your expense. If the products are not removed by the deadline, we will consider your inventory abandoned and reserve the right to dispose of the items.

Unsellable Products. During the receiving process, we will inspect and count the items we receive. If a product is slightly dirty or can easily be repaired, we will clean or repair the product as part of our standard procedure. We charge \$1 per unit for this service. Products we receive in unsellable condition will be noted at the time of receipt and you will be notified. You can access your current unsellable items on your Prep Ninjas dashboard under "Fix Items" on the left navigation. You are responsible for advising us of the resolution to fix the unsellable items within seven (7) calendar days. If we do not receive a response before the deadline, we will consider your inventory abandoned and reserve the right to dispose of the unsellable items. Fix Items are subject to additional fees because of the extra labor involved. Fees vary depending on the required resolution.

Storage. Prep Ninjas does not charge storage fees for the first seven (7) days of receiving any shipment. Storage fees are assessed beginning the 8th day and end the day your inventory is removed from our warehouse by way of FBA Shipment, forwarding to another warehouse (at your expense), or disposal. Storage fees accrue daily at the rate published on our website for that day.

Disposal of Inventory. In most cases, Prep Ninjas will dispose of any product per the Client's request for no additional charge. If disposing of the product requires additional expenses for Prep Ninjas, including but not limited to waste management fees, you will be responsible to pay the additional charges. Once the disposal request is submitted, the product becomes the property of Prep Ninjas and may be disposed of at Prep Ninjas discretion.

Processing Time. Prep Ninjas processing time varies depending on a number of factors but typically takes 24-72 business hours. Longer processing times are possible between May and July and between September and December. 24-hour Rush Processing is available for a service charge of \$25. Business days are defined as Monday through Friday, excluding holidays. Prep Ninjas is closed on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Prep Ninjas may also be closed or only open limited hours on Christmas Eve and/or New Year's Eve.

Shipping Fees. With the exception of HAZMAT shipments, we ship FBA shipments to Amazon using Amazon's Partnered Carrier, so you will pay shipping for each FBA shipment through your Seller Central account. For HAZMAT shipments, where we are not allowed to ship using the partnered carrier, we will purchase the shipping through UPS and add the shipping charges to your bill. For HAZMAT shipments, we require user permission to your Seller Central account so we can complete the shipment and add the tracking number. HAZMAT shipments are subject to an additional service charge. See published prices on our website.

## **SERVICE CHARGES**

Prices. The prices of Prep Ninjas' services and other items are as indicated on our website at <https://prepninjas.com>. Notwithstanding any other statement herein, Prep Ninjas may change these prices from time to time in accordance with this Contract. If the service required is not listed on the website, please contact us for an estimate.

Pricing for Prep Ninjas' services is based on the time Prep Ninjas receives your inventory. Subsequent orders for Prep Ninjas Services, or subsequent shipments of inventory under an existing order, shall be governed by the Prices and Terms as published on Prep Ninjas' Website as of the date of that subsequent order.

Payment. Prep Ninjas shall be entitled to payment for services rendered as per the following schedule:

- Receiving charges, Inbound Shipment related service charges, and Non-Compliance related to Inbound Shipments are charged upon receipt of the shipment.
- Outbound shipment processing fees, prep fees, and Non-Compliance fees related to Outbound Shipments are charged upon shipment completion. Payment must be completed prior to Prep Ninjas releasing the shipment to the carrier.
- Storage fees are charged on a monthly billing cycle.
- Miscellaneous charges such as shipping, fixing charges, or disposal charges are due at or before the time the services are completed.

Client is required to provide authorization of credit card to be kept securely on file in the Billing section of your Prep Ninjas dashboard.

Non-payment and Lien Rights. Outstanding balances must be paid in full before any additional shipments will be completed. Balances over 30-days past due will accrue a late payment fee of 1.5% per month. Prep Ninjas shall

have a lien on the Goods tendered by Client and upon any and all property belonging to Client in Prep Ninjas' possession, custody or control for all charges, advances or amounts of any kind due to Prep Ninjas under this Warehouse Receipt or under any prior or subsequent invoices issued to Client by Prep Ninjas (including charges for prep, processing, storage, handling, shipping, transportation, labor, and any other charges incurred). Prep Ninjas shall have a lien on the Goods and may refuse to surrender possession of the Goods until all charges or debts are paid in full. If such amounts remain unpaid for 30 days after Prep Ninjas' demand for payment, Prep Ninjas may sell the Goods at public auction or private sale or in any other manner reasonable, and shall apply the proceeds of such sale to the amounts owed. Client remains responsible for any deficiency outstanding to Prep Ninjas.

## **LIABILITY**

Duty of Care. Prep Ninjas' duty of care shall be that of a reasonably careful person under like circumstances and Prep Ninjas shall not be liable for any loss, damage or injury to goods stored however caused unless such loss, damage or injury resulted from the failure by Prep Ninjas to exercise such reasonable care, and Prep Ninjas is not liable for losses, damages or injuries which could not have been avoided by the exercise of such care. Prep Ninjas and Client agree that Prep Ninjas' duty of care referred to herein shall not extend to providing a sprinkler system at the warehouse complex or any portion thereof.

Loss or Damage Liability Limitations. In no event shall Prep Ninjas be liable for any loss or damage caused by:

- a) acts of God; public authorities acting with actual or apparent authority; strikes; labor disputes; weather; mechanical or equipment failures; cyber attacks; civil commotions; hazards incident to a state of war; acts of terrorism; acts or omissions of customs or quarantine officials; acts of carriers related to security; the nature of the freight or any defects thereof; inherent vice of the goods; perishable qualities of the merchandise; fires; frost or change of weather; sprinkler leakage; floods; wind; storm; moths; public enemies; or other causes beyond its control;
- b) fragile articles injured or broken, unless packed by Prep Ninjas' employees and unpacked by them at the time of delivery;
- c) pilferage or theft unless such loss or damage is caused by the failure of Prep Ninjas to exercise such ordinary care required by law; and
- d) concealed damage, or for losses incurred due to the concealed damage of the Goods.

Storage Liability. Unless specifically agreed to in writing, Prep Ninjas shall not be responsible for storage of the Goods in a temperature or humidity controlled environment. Client knowingly accepts that the Goods will be warehoused in a non-temperature/humidity controlled environment. Prep Ninjas will not be responsible for any loss or damage to the Goods that result from fluctuations in temperature range or in humidity levels of the warehouse. Prep Ninjas will furthermore not be responsible for losses or damages incurred to Perishable Goods, unless otherwise agreed to in writing prior to tender of the Goods for storage.

Compensation Limit. In the event of loss or damage to the Goods for which Prep Ninjas is legally liable, Prep Ninjas' liability shall be limited to the cost of the Goods paid by Client at time of purchase.

Errors. Prep Ninjas will not be liable for any shipment level, box level, or product level errors as indicated by Amazon unless the error resulted from the failure by Prep Ninjas to exercise such reasonable care when processing said products. If it can be determined that Prep Ninjas' failure to exercise care caused the error, Prep Ninjas will reimburse the Client for any charges or fines imposed by Amazon including removal charges. In the event of loss of Goods for which Prep Ninjas is legally liable, Prep Ninjas' liability shall be limited to the cost of Goods paid by Client at time of purchase.

IN NO EVENT, WHETHER AS A RESULT OF BREACH OF COMPANY'S DUTIES, NEGLIGENCE LIABILITY WITHOUT FAULT OR ANY OTHER LEGAL THEORY OR BASIS, SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, STATUTORY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF MARKET, LOSS OF INCOME, DAMAGES ARISING FROM LOSS,

ATTORNEYS FEES OR PUNITIVE DAMAGES, WRONG DELIVERY, OR DAMAGE TO PROPERTY, LOSS OF USE OF GOODS, COST OF SUBSTITUTED GOODS, DELAYED DELIVERY OR FAILURE TO ATTEMPT DELIVERY, WHETHER OR NOT COMPANY HAD KNOWLEDGE THAT SUCH DAMAGES OR LOSSES MIGHT OCCUR.

**USER PERMISSIONS REQUIRED.** Clients are required to purchase at their own expense and maintain an Amazon Seller account in order for Prep Ninjas to provide FBA prep services. You are required to sync your Amazon account with your Prep Ninjas dashboard. Direct access and user permissions to your Seller Central account are required for completing shipments for HAZMAT products.

**TERM.** This Agreement may be terminated by either party upon written notice to the other party and will terminate at the end of the calendar month in which notice was received. In the event of termination, the client is responsible for removing any inventory at their expense from the Prep Ninjas warehouse within seven (7) calendar days of the termination date. If your inventory is not removed by the deadline, we will consider your inventory abandoned and reserve the right to dispose of it.

**CONFIDENTIALITY.** Company and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of Company, or divulge, disclose, or communicate in any manner, any information that is proprietary to Client. Company and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Agreement.

**RELATIONSHIP.** The relationship created by this Agreement is one of Client and independent contractor. Nothing herein is intended, or shall be construed, to create an agency, partnership, joint venture or other liability-sharing relationship. Prep Ninjas authorizes the use of its address for the purpose of sending inbound inventory only. Prep Ninjas does not authorize the use of Prep Ninjas address as the Client's business address with Amazon, suppliers, bank accounts, business licenses, or for other purposes. By signing this agreement, the client agrees not to post, share or disclose Prep Ninjas warehouse address with anyone other than with suppliers for the purpose of sending inbound inventory. Unauthorized use of our address will result in a Non-Compliance fee of \$500 per instance.

**DEFAULT.** The occurrence of any of the following shall constitute a material default under this Agreement:

- a. The failure to make a required payment when due.
- b. The insolvency or bankruptcy of either party.
- c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d. The failure to make available or deliver the Services in the time and manner provided for in this Agreement.

**REMEDIES.** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Agreement (including without limitation the failure to make a monetary payment when due), the other party may terminate the Agreement by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 15 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Agreement.

**FORCE MAJEURE.** If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work

stoppages. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**ARBITRATION.** Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association. The parties shall select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators, in turn, shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location that is reasonably centrally located between the parties or otherwise mutually agreed upon by the parties. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made available to the other party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority to modify any provision of this Agreement or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Agreement.

**ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the parties.

**SEVERABILITY.** If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**AMENDMENT.** This Agreement may be modified or amended in writing if the writing is signed by the party obligated under the amendment.

**GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of Oregon.

**NOTICE.** Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

**WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.