

AGREEMENT FOR EXCESS INVENTORY

Genco Marketplace, Inc. ("Genco") is selling excess inventory from and on behalf of Sears, Roebuck and Co. ("Sears") and Kmart Corporation ("Kmart") (Such inventory referred to as "Excess Inventory") to _____ (Include all "d/b/a and affiliates and subsidiaries that Purchaser will operate under. All such entities shall be collectively referred to as "Purchaser"), located at _____. The parties hereby agree that any and all purchases of Excess Inventory shall be governed by this Agreement and Purchaser agrees to fully comply with all of the following terms and conditions:

1. Payment terms/"As Is". Purchaser shall make all payments for the Excess Inventory to "Genco Marketplace" by wire transfer or bank certified check (with Genco preapproval). No cash transactions are accepted. PURCHASER FURTHER ACKNOWLEDGES THAT EXCESS INVENTORY PURCHASED ARE PURCHASED "AS IS", "WHERE IS", WITHOUT ANY WARRANTY OF ANY NATURE OR TYPE WHATSOEVER, EXCEPT WARRANTY OF TITLE. PURCHASER FURTHER ACKNOWLEDGES THAT EXCESS INVENTORY DOES NOT INCLUDE ANY EXPRESS OR IMPLIED WARRANTIES OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EITHER FROM GENCO, SEARS OR KMART, THE ORIGINAL MANUFACTURER OF THE EXCESS INVENTORY OR ANY OTHER ENTITY, SUCH WARRANTIES HEREBY BEING EXPRESSLY DISCLAIMED. FURTHERMORE, GENCO, SEARS AND KMART DISCLAIMS ANY LIABILITY FOR ANY DAMAGES OF ANY KIND, INCLUDING DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, AS A RESULT OF THE USE, SALE, OR PURCHASE OF ANY OF THE EXCESS INVENTORY, OR THE REFUSAL OF GENCO, SEARS AND KMART TO SELL TO PURCHASER UNDER THIS AGREEMENT.
2. Taxes. Purchaser shall be responsible for all taxes, tariffs, duties and applicable expenses based on any sales transactions occurring under this Agreement. Sales taxes shall be added to the purchase price unless a copy of Purchaser's sales tax exemption agreement is received by Genco.
3. Title and risk of loss. Title and risk of loss shall pass to Purchaser at the location designated by Genco. Purchaser shall be solely responsible for arranging for shipping and transportation and any further sale of all Excess Inventory, including, without limitation, payment of all transportation and related costs, shipping document preparation, proper packaging and labeling, and compliance with all laws, rules and regulations related thereto, including, without limitation, those relating to exporting. Purchaser agrees to remove and destroy any written warranties packaged with the Excess Inventory, prior to any resale of the Excess Inventory by Purchaser. Any claims for shortage of Excess Inventory shipped shall be received by Genco no more than ten (10) days following the date of shipment. Genco, Sears and Kmart shall have no responsibilities or liability for any such claims received after such ten (10) day period. Any claim for shortage of Excess Inventory shall be governed by the Uniform Commercial Code (UCC) and must be received by Genco in writing within ten (10) calendar days of shipment.
4. Non-exclusive. Purchaser acknowledges and agrees that any purchase of Salvaged Goods is on a nonexclusive basis and subject to availability. Purchaser acknowledges that Genco, Sears and Kmart are not required to sell Salvaged Goods to Purchaser and Purchaser is not required to purchase Salvaged Goods from Genco, Sears and Kmart. Nothing in the Agreement should be construed as placing any obligation or liability upon Genco, Sears and Kmart to offer any particular kinds or quality of merchandise for sale, or to transact any business with Genco, Sears and Kmart.
5. Defacing. Purchaser agrees to also remove or obliterate any and all nomenclature, plates, identification tags, sales tickets, documents, labels, legends, stencil information, manuals, instructions, price tags, or any other materials or information on the packaging, inside the packaging or on Excess Inventory which in any way identify Sears and Kmart, or any affiliated or related company of Sears and Kmart with the Excess Inventory, to include, but not be limited to, those marks identified on the attached Exhibit A.
6. Penalty. If Excess Inventory is discovered for resale in violation of paragraph 6, Purchaser shall be subject to a fine in an amount up to \$50,000.00 per occurrence.
7. Sale of Excess Inventory. Purchaser may sell Excess Inventory to unrelated third party entities, provided (a) Purchaser has first complied with the obligations or paragraphs 1 - 6 of this Agreement; and (b) such third party entity has signed a written agreement with Purchaser wherein such third party entity has agreed to be bound by terms and obligations at least as strict as those listed in this Agreement and with the indemnity obligations and disclaimers inuring to the benefit of Genco, Sears and Kmart and any party from which Genco, Sears and Kmart acquired the Excess Inventory, a copy of which agreement shall be provided to Genco prior to selling any Excess Inventory to said third party. **Purchaser shall warrant and ensure that primary and all secondary purchasers will not sell Excess Inventory for resale within a fifty (50) mile radius of any Kmart, Sears or affiliated retail store format, to include, but not be limited to, Sears Dealer stores, The Great Indoors and Sears Hardware and Appliance stores. Purchaser shall also warrant and ensure that primary and all secondary**

purchasers will not sell Sears or Kmart proprietary branded Excess Inventory for resale through catalogs or on the Internet including, but not limited to, auction sites, proprietary websites or email solicitations. Purchaser agrees that it will sell all non-demanded proprietary brand Excess Inventory and any other Excess Inventory designated by Genco overseas. Customs declaration, port of departure, and port of arrival information will be provided to Genco by Purchaser on request. Purchaser shall be responsible for ensuring that secondary purchasers will not offer any non-demanded Excess Inventory for domestic resale. Genco, Sears and Kmart reserve the right to identify markets outside of the continental United States where Excess Inventory shall not be sold.

8. Default Merchandise. Purchaser agrees and acknowledges that default merchandise (defined as unmarked, unidentified generic product) shall be sold in accordance with this Agreement and shall be priced as follows: A predetermined percentage (as determined annually and/or reviewed from time to time) of the acquisition cost for the department/division to which the default merchandise is assigned.
9. Indemnity. Purchaser agrees to indemnify, hold harmless and defend Genco, Sears and Kmart and any affiliated or related company and their respective present, former and future shareholders, employees, officers and directors, and any party for (a) any liability, loss or damage whatsoever, including attorney's fees, expenses and court costs, resulting from any claims, suits (fine, settlement, penalty and expense) actions, or charges against Genco, Sears and Kmart, and any affiliated or related company as a result of or in connection with either the purchase, use, and/or resale of the Excess Inventory; (b) product liability claims based on sale, purchase, and/or use of Excess Inventory; (c) any breach of this Agreement by Purchaser, and (d) any breach of a third party sales agreement by Purchaser or the third party. Genco, Sears and Kmart disclaim any liability for any damages of any kind, including direct, incidental, or consequential damages as a result of any transportation, use, sale or purchase of any or all of the Excess Inventory. Purchaser shall procure and maintain all such insurance as is needed to cover Purchaser's entire liability under this Agreement and as is required by all applicable laws.
10. Materials/Publicity. Purchaser agrees that no Sears publications or publications from any party from which Sears acquired the Excess Inventory, or other materials referencing Sears and any affiliated or related company of any such other party will be made available to Purchaser's customers or placed in the selling areas of any of Purchaser's outlets. Additionally, Purchaser shall not advertise the Excess Inventory using any private label name, trademark or logo, of Sears and nothing in this agreement shall be construed as granting any right or license to Purchaser.
11. Inspection. Purchaser agrees that Genco or its representatives may periodically inspect any of Purchaser's business locations to verify strict compliance with all provisions of this Agreement.
12. Termination. This agreement may be terminated immediately by Genco with or without cause by providing immediate oral notice thereof to Purchaser followed by written notice specifying that the Agreement is hereby terminated. No reasons for termination need to be specified. Upon termination, Genco shall have the right, but not the obligation, to audit and immediately repurchase Purchaser's remaining inventory in Excess Inventory at the original purchase price to Purchaser, with Purchaser being responsible for shipment to Genco including costs for and risk of loss or damage during shipment. If more than 180 calendar days lapses from the Effective Date of this Agreement (as defined below) or from Purchaser's last purchase of Excess Inventory under this Agreement, then Purchaser shall be required to execute a new *Agreement for Excess Inventory*.
13. Breach. In the event that Purchaser fails to perform within these terms and conditions, Genco shall be entitled to seek both legal and equitable relief. Purchaser will be responsible to pay all incurred attorneys' fees, costs and expenses. Purchaser will be immediately barred from further transactions with Genco, Sears and Kmart.
14. Miscellaneous.
 - a. Purchaser agrees to maintain in strict confidence and not disclose to any third parties, any information relating to the price and other terms related to the purchase of Excess Inventory.
 - b. This agreement shall be construed in accordance with the laws of the State of Illinois.
 - c. This agreement shall not be assignable by Purchaser without the express, written permission of Genco.
 - d. Genco, Sears and Kmart shall not be liable for any delay in or the impairment of performance resulting in whole or in part Acts of God, labor disruptions, shortages, inability to produce product, supplies of raw materials, weather conditions, war or any other circumstances or causes beyond the control of Genco, Sears and Kmart in the conduct of its business.

- e. The parties agree that is an arms-length transaction and relationship. There shall exist no implied or otherwise unstated covenants, rights or obligations by, of or against either party. The parties expressly disclaim the existence of any implied covenant of good faith and/or fair dealing.

This Agreement shall be effective on _____, 20__ ("Effective Date") and supersedes all previous letters, understanding, written agreements, or verbal agreements between the parties, which relates to the purchase of Excess Inventory by Purchaser.

IN WITNESS WHEREOF, the parties hereto have duly authorized their representatives to make and sign this Agreement.

GENCO MARKETPLACE, INC.

By: _____
Name: _____
Title: _____
Dated _____

By: _____
Name: _____
Title: _____
Dated _____

EXHIBIT A

The following is a list of Kmart's private label merchandise. This merchandise could be included in the hardgoods, soft, and discontinued merchandise. This merchandise is specially manufactured for Kmart, therefore all identifying markings have to be removed. This includes any reference on the product, packaging, owners manuals, and warranties.

Brand	Category
America Fare	Consumables
Athletic	Sports equip./Accessories
Autumn Fest	Seasonal gift items and decorations
B.A.S.S.	Sporting goods
Barbecue Pro	Gas/Charcoal grills/Accessories
Basic Editions	Apparel
BenchTop Tools	Hand and Power tools
Body Company	Apparel
Centura	Car Batteries
Comfort Action	Apparel
Concourse	Luggage
Crescent Valley Farms	Consumables (edibles)
Easter Jubilee	Seasonal gift items and decorations
Expressions	Apparel
1 st Auto	Automotive accessories
Family Pet	Pet Accessories
Focal	Film and camera accessories
Focal Pro	Film and camera accessories
Fun Spirit	Apparel
Gift Gallery	Seasonal gift items and decorations
GroBest	Horticulture
Home Essentials	Home fashion and Accessories
Image Essentials	Cosmetics and Accessories
Ingear	Bicycles and Accessories
Jaclyn Smith	Apparel
K-Gro	Horticulture
Kathy Ireland	Apparel
Ketch	Apparel
Knights Bridge	Apparel
Martha Stewart	Home fashion and Accessories
New Addition	Apparel
Northwest Territory	Outdoor apparel and Accessories
Office Select	Office equipment and Accessories
Patio Pro	Patio Furniture
Penske	Automotive supplies/Batteries
Performer	Hardware accessories
Pumpkin Time	Seasonal gift items and decorations
Route 66	Apparel
Sesame Street	Children's apparel
Shear Intrigue	Apparel
Splash Club (Private Club, Kids Club, Casual Club)	Swimwear, Accessories, & Toys
ToolSmart	Tools and Accessories
TR Bentley	Apparel
Trim-A-Home	Seasonal gift items and decorations
Western Plains	Apparel
White-Westinghouse	Appliances/Electronics

The following is a list of Sears private label merchandise.

Trademark	Product Category	Trademark	Product Category
Ah-H-Bra	Apparel	Capri	Appliances
Amanda Stewart	Apparel	Coldspot	Appliances
Amplify	Apparel	Elite	Appliances
Apostrophe	Apparel	Handi Mate	Appliances
Barrington	Apparel	Kenmore	Appliances
Bold Spirit	Apparel	Die Hard	Automotive
Canyon River Blues	Apparel	Toughcord	Bedspreads
Carriage Court	Apparel	Free Spirit	Bicycles
Chill Stoppers	Apparel	Gamefisher	Boats
Classic Elements	Apparel	Hillary	Camping Equipment
Covington	Apparel	X-Cargo	Car Top Carriers
Cross-Over	Apparel	Lifestyler	Exercise Equipment
Crossroads	Apparel	Elk River	Footwear
David Taylor	Apparel	Gold Bond	Footwear
Design in Motion	Apparel	I Love Comfort	Footwear
Fieldmaster	Apparel	Metaphor	Footwear
Flexjeans	Apparel	Soft Moc	Footwear
Flexslax	Apparel	Winner	Footwear
Girl Identity	Apparel	Clean Living	Home Fashions
Inner Most	Apparel	Colormate	Home Fashions
Irresistible Lace	Apparel	New Traditions	Home Fashions
Isn't It Divine	Apparel	Remarkable	Home Fashions
Junior Modern Essentials	Apparel	Resilience	Home Fashions
Kids Play	Apparel	Royal Court	Home Fashions
Lace Rose Expressions	Apparel	Royal Egyptian	Home Fashions
Laura Scott	Apparel	Smart Pillow	Home Fashions
Little Wonders	Apparel	Whole Home	Home Fashions
Mainframe	Apparel	Easy Living	Home Fashions/Paint
Mark Jason	Apparel	Companion	Home Improvement
Metro Express	Apparel	Craftsman	Home Improvement
Micro Fabulous	Apparel	Craftsman/Prof.	Home Improvement
Modern Essentials	Apparel	Eager-1	Home Improvement
Mosaic	Apparel	Beautifully Bare	Hosiery
Nevada Collection	Apparel	Cling-Alon	Hosiery
New Classics	Apparel	Hug-Alon	Hosiery
Oakton	Apparel	Nice Touch	Hosiery
Personal Identity	Apparel	Step Lively	Hosiery
Planetzzz	Apparel	Thi-Top	Hosiery
Premium Comfort	Apparel	Tradition	Jewelry
Pretty Plus	Apparel	Ultra Plus	Laundry Detergent
Property	Apparel	Canyonlands	Luggage
Roebucks	Apparel	Forecast	Luggage
Rose Expressions	Apparel	Global Gear	Luggage
Satin Caress	Apparel	Zanzibar	Luggage
Soft Shape	Apparel	Sears-O-Patic	Mattresses
Spa Time	Apparel	Spectrum	Motor Oil
Strap-It	Apparel	Weatherbeater	Paint
Take Nine	Apparel	Steadyrider	Shock Absorbers
TKS Basics	Apparel	Career Comfort	Shoes
Toughskins	Apparel	The Comfort Advantage	Shoes
Trader Bay	Apparel	TKS Shoes	Shoes
U-Kan-B-U	Apparel	Wonderlite	Shoes
Venchelle	Apparel	Super Spice Tans	Work Shoes
		Magic Blue	Vacuum Cleaners
		Phasar	Watches/Clocks