

# TERMS AND CONDITIONS OF USE

Last revised: March 27, 2013

Welcome to BiddingOwl.com. BiddingOwl.com LLC (the "Company") provides its services to you, through the Site, as defined below, to enable you to search, list for sale, and buy certain goods and services. The following are the terms and conditions (the "Terms") under which you (a "User") may use (1) www.biddingowl.com, (2) any other co-branded web sites of and any web sites under the control of the Company, and (3) any applications for mobile and tablet devices any or all of which are herein individually or collectively referred to as the "Site".

## 1. ACCESS.

Please read these Terms carefully. BY ACCESSING, USING, BUYING ON, OR BROWSING THE SITE, YOU ACCEPT AND AGREE TO THESE TERMS, WITHOUT MODIFICATION, LIMITATION OR QUALIFICATION. These Terms apply exclusively to your access to, and use, of the Site and do not alter in any way the terms and conditions of any other agreement(s) you may have with the Company. If you do not agree to these Terms, you may not access, browse, buy on, sell on, or otherwise use the Site.

Your use of certain areas or features of the Site, including but not limited to transactions conducted on or in connection with the Site may be subject to additional or separate terms and conditions, or notices, which will be posted or otherwise made available to you in connection with such areas or features, and you agree to be bound by such separate terms and conditions. We strongly recommend that, as you read these Terms, you also access and read any such separate terms and conditions. By accepting these Terms, you also agree that the Privacy Policy will apply whenever you use the Site.

## 2. CHANGES TO THE TERMS.

The Company reserves the right, at its sole discretion, to change, modify, add, or remove portions of these Terms, at any time. It is your responsibility to check these Terms periodically for changes. Your continued use of the Site, following the posting of changes, will mean that you accept and agree to all changes. As long as you comply with these Terms, the Company grants you a personal, non-exclusive, non-transferable, limited privilege to enter and use the Site.

The Company reserves the right to change or discontinue the Site or portions of the Site with or without notice, including without limitation, removing features or functionality. The Company reserves the right to charge fees for use of the Site, including in relation to certain transactions.

## 3. CONTACT INFORMATION.

Please address technical questions or comments about the Site to [support@biddingowl.com](mailto:support@biddingowl.com)

For all other communications, please contact the Company at 1.989.312.3485

#### **4. PRIVACY POLICY.**

Please review the [Company's Privacy Policy](#) for the Site (add hyperlink). The Company's Privacy Policy applies to use of the Site, and its terms are made a part of these Terms by this reference. Additionally, by using the Site, you acknowledge and agree that Internet transmissions are never completely private or secure. You understand that any message or information you send to the Site may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

#### **5. COPYRIGHT COMPLAINTS.**

The Company respects the intellectual property of others, and expects its Users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide the Company's Copyright Agent the following information:

- a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- b) a description of the copyrighted work that you claim has been infringed;
- c) a description of where the Content that you claim is infringing is located on the site;
- d) your address, telephone number, and e-mail address;
- e) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- f) a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf

The Company's Copyright Agent for Notice of claims of copyright infringement on the Site is John S. Artz who can be reached as follows:

By mail:        John S. Artz  
                  Copyright Agent (BiddingOwl.com)  
                  Dickinson Wright PLLC  
                  2600 W Big Beaver, Suite 300  
                  Troy, Michigan 48084

By e-mail:     JSArtz@dickinson-wright.com  
                  Subject Line must include "Copyright Agent (BiddingOwl.com)"

## **6. COPYRIGHTS, TRADEMARKS, AND PERMISSIONS.**

You acknowledge and agree that the Company or third parties granting rights to the Company own, solely and exclusively, all rights, title and interest in and to any and all materials on the Site, the underlying software of the Site, and related technology, including all intellectual property rights therein. All content including text, graphics, photographs, illustrations, logos, audio, video, user interfaces, visual interfaces, trademarks, artwork and computer code (collectively, "Content"), including but not limited to the design, structure, selection, coordination, expression, "look and feel" and arrangement of such Content, contained on the Site is owned by, controlled by, or licensed by the Company, and is protected by trade dress, copyright, patent, and trademark laws, and various other intellectual property rights and unfair competition laws. You do not acquire or have any ownership, license, or other proprietary interest in the Site, Content, or any information contained on or provided by the Site. All rights not expressly granted in the Terms are reserved by the Company. Neither the availability of, nor anything contained within the Site shall be construed as conferring any license under any of the Company's or any third party's intellectual property rights, other or further than as expressly provided in the foregoing provisions of this paragraph, whether by implication, estoppel or otherwise.

The Company authorizes you to view and use the Site solely for your personal informational and noncommercial use, and downloading is limited to one electronic or hard copy of limited portions. If you download or print any pages or Content, you must: (1) not remove any proprietary notice language in all copies of such documents, (2) use such information only for your personal, non-commercial informational purpose and not copy or post such information on any networked computer or broadcast it in any media, (3) make no modifications to any such information, and (4) not make any additional representations or warranties relating to such documents. Unauthorized use of the Content may violate copyright, trademark, and other laws. You may not sell the Content, prepare derivative works based on the Content or modify the Content (including, without limitation, preparation of summaries of the Content or "thumbnails" of any images therein), or reproduce, publicly display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use of the Content or any portion thereof on any other web site, or in any publication, database, catalog or compilation, or in a networked computer environment for any purpose other than personal browsing of the Site without the express prior written permission of the Company is strictly prohibited. With respect to any copy you make of the Content within the scope of the limited personal license granted herein, you must retain therein, unmodified and unobscured, any and all copyright and other proprietary notices contained in the original Content. Some of the Content may contain digital "watermarks" to indicate their source and ownership. You agree not to attempt to remove, deactivate, reverse engineer, modify, tamper with or obscure any such watermarks. The trademarks, logos and service marks (the "Marks") displayed on the Site are owned by the Company or third parties. You are prohibited from using the Marks without the express, prior written permission of the Company or such third party.

If you have registered or created an account on the Site, Company authorizes you to view and use the Site for bidding, buying, listing items for sale, and selling items subject to you abiding by these Terms and any additional terms and conditions and notices.

Except as expressly provided in these Terms, no part of the Site or Content may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted or distributed in any way (including “mirroring”) to any other computer, server, website, or other medium for publication or distribution or for any commercial enterprise, without express prior written consent from the Company.

You will not frame or use framing techniques to enclose any portion of this Site or the Content without the express prior written consent of the Company. You will not use meta tags or any other hidden text using the Company name or trademarks and service marks without the express prior written consent of the Company.

No commercial use of the information on or under the Site is licensed or permitted. The use of automated systems (robots, spiders, or any other data-mining or similar data-gathering and extraction tools) to access, acquire, or download information on the Site is expressly prohibited where such systems are employed in connection with commercial objectives (other than indexing for search engines), or in a fashion that directly or indirectly violates any privacy interests.

The word "BiddingOwl" “BiddingOwl.com,” the Company logos, and the products and services described in the Site are either trademarks, trade names, or service marks of the Company and its licensors, or are the property of their respective owners. These marks may not be copied, imitated, or used, in whole or in part, without the express prior written permission of the Company or their respective owners, and then only with the proper acknowledgments. In addition, page headers, custom graphics, button icons, and scripts may be service marks, trademarks, or trade dress of the Company, and may not be copied, imitated, or used, in whole or in part, without the express prior written permission of the Company.

You will not reverse engineer or attempt to derive the source code of the Site. You will not send automated queries to the Site without the prior written approval of us. You will not decompile, reverse engineer or otherwise manipulate or work with the software or software architecture of the Site. You will not use any robot or any other automatic device and you will not use any manual process to monitor or to copy any information in the Site for any unauthorized purpose. You will not interfere with the operation of the Site or any other party’s use of the Site.

You will not use any “deep-link”, “page-scrape”, “robot”, “spider”, or other automatic device, program, algorithm or methodology, or any similar or equivalent manual process, to access, acquire, copy or monitor any portion of the Site or any Content, or in any way reproduce or circumvent the navigational structure or presentation of the Site or any Content, to obtain or attempt to obtain any materials, documents, or information through any means not purposely made available through the Site.

You will not attempt to gain unauthorized access to any portion or feature of the Site, or any other systems or networks connected to the Site or to any the Company server, or to any of the services offered on or through the Site, by hacking, password “mining” or any other illegitimate means. You will not probe, scan, or test the vulnerability of the Site or any network connected to the Site, nor breach the security or authentication measures on the Site or any network connected

to the Site. You will not reverse look-up, trace, or seek to trace any information on any other user of or visitor to the Site, or any other customer of the Company, to its source, or exploit the Site or any service or information made available or offered by or through the Site, in any way where the purpose is to reveal any information, including but not limited to personal identification or information, other than your own information, as provided for by the Site.

You agree that you will not take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Site or the Company's systems or networks, or any systems or networks connected to the Site or to the Company. You agree not to use any device, software, or routine to interfere or attempt to interfere with the proper working of the Site or any transaction being conducted on the Site, or with any other person's use of the Site.

You will not forge headers or otherwise manipulate identifiers in order to disguise the origin of any message or transmittal you send to the Company on or through the Site or any service offered on or through the Site. You will not pretend that you are, or that you represent, someone else, or impersonate any other individual or entity.

You will not use the Site or any Content for any purpose that is unlawful or prohibited by these Terms, or to solicit the performance of any illegal activity or other activity which infringes the rights of the Company or others. You will not transmit, install, upload, post or otherwise transfer any information in violation of the laws of the United States or any other country in which you reside.

## **7. REGISTRATION.**

You do not need to register or create an account on the Site in order to use the Site. Selling and buying on the Site is limited only to users who have registered with Company. Use of the Site is limited to those eighteen and older, and you must have reached your eighteenth birthday to bid on or sell items through the Site. To access and use certain features or functions of the Site, such as receiving email alerts, or certain services, you will need to register and create an account. You must provide complete, accurate, and truthful information when registering. You are responsible for maintaining the confidentiality of any password and username needed to access the Site. You are responsible for all activities that occur under your password or username. Should you suspect that any unauthorized party may be using your password or account or you suspect any other breach of security, you will contact Company immediately. Usernames are the property of Company, and Company may change your username in our discretion. Company may terminate or suspend your account if you are in violation of these Terms or if Company reasonably believes your use of your account or the Site could cause us to incur cost, damage, expense, or liability of any kind. You will not use anyone else's user ID, password, or account at any time without the express permission and consent of the holder of that user ID, password, or account. Company cannot and will not be liable for any loss or damage arising from your failure to comply with these obligations.

## **8. USE OF THE SITE.**

Company, at its sole discretion, may ban from further use any buyer or seller, which Company believes to have in any way misrepresented itself or any item being sold, failure to abide by these Terms, or any improper auction conduct. Any seller who misrepresented the items being auctioned and any buyer who improperly fails to complete a transaction will be banned from any further use and may be subject to additional legal actions.

While using the Site, you will not:

- a) post content or items in an inappropriate category on the Site;
- b) violate any laws, third party rights, Company's policies or these Terms;
- c) use the Site if you are not able to form legally binding contracts, are under the age of 18, or are temporarily or indefinitely suspended from using Site;
- d) fail to deliver payment for items purchased by you, unless the seller has materially changed the item's description after you bid, a clear typographical error is made, or you cannot authenticate the seller's identity;
- e) fail to deliver items purchased from you, unless the buyer fails to meet the posted terms, or you cannot authenticate the buyer's identity;
- f) manipulate the price of any item or interfere with third party listings;
- g) circumvent or manipulate our fee structure, the billing process, or fees owed to Company;
- h) post false, inaccurate, misleading, defamatory, or libelous content (including personal information);
- i) transfer your account and User ID to another party;
- j) distribute or post spam, unsolicited, or bulk electronic communications, chain letters, or pyramid schemes;
- k) distribute viruses or any other technologies that may harm Company, or the interests or property of users of the Site;
- l) copy, modify or distribute rights or content from the Site or tools; or
- m) harvest or otherwise collect information about users, including email addresses, without their consent.

Biddingowl works to keep the Site safe and working properly. Please report problems, offensive content, and policy violations.

Without limiting other remedies, we may limit, suspend or terminate our service and user accounts, prohibit access to our sites and their content, services and tools, delay or remove hosted content, and take technical and legal steps to keep users off the sites if we think that they are creating problems or possible legal liabilities, infringing the intellectual property rights of third parties, or acting inconsistently with the letter or spirit of our policies (for example, and without limitation, policies related to shill bidding, conducting off-Site transactions, circumventing temporary or permanent suspensions). Additionally, we may, in appropriate circumstances and at our discretion, suspend or terminate accounts of users who may infringe the intellectual property rights of third parties. We also reserve the right to cancel unconfirmed accounts or accounts that have been inactive for a long time.

You will not hold Company responsible for other users' content, actions or inactions, or items they list. You acknowledge that Company is not a traditional auctioneer. Instead, the Site is a Venue to allow anyone to offer, sell, and buy items or services, at any time, from anywhere, in a variety of pricing formats and locations, such as stores, fixed price formats and auction-style formats. Company is not involved in the actual transaction between buyers and sellers. While Company may help facilitate the resolution of disputes through various programs, Company has no control over and do not guarantee the quality, safety or legality of items advertised, the truth or accuracy of users' content or listings, the ability of sellers to sell items, the ability of buyers to pay for items, or that a buyer or seller will actually complete a transaction or return an item.

Company does not transfer legal ownership of items from the seller to the buyer. Michigan Uniform Commercial Code § 444.2401(2) and Uniform Commercial Code § 2-401(2) applies to the transfer of ownership between the buyer and the seller, unless the buyer and the seller agree otherwise.

If you have a dispute with one or more users, you release Company (and Company's officers, directors, agents, subsidiaries, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes.

By listing or buying an item on the Site, you agree to pay Company's fees for such. Further, by listing an item you assume full responsibility for the content of the listing and item offered, and accept your listing may not be immediately searchable by keyword or category for several hours, so Company cannot guarantee exact listing durations.

## **8A. PAYMENT, REFUND, CANCELLATION**

Company may require Sellers to have a reimbursement method on file with Biddingowl. Sellers agree to allow Company to charge the payment or reimbursement method they designate for amounts due buyers.

If sellers do not provide Company with a valid reimbursement method, Company may collect amounts owed using other collection mechanisms, including retaining collection agencies, and may suspend or restrict further selling on the Site until payment is made. Company reserves the right to fix any processing errors.

Company does not charge fees for listing items but instead, receives a portion of the sales price received. When you list an item or bid on an item, you have an opportunity to review and accept any fees, if applicable, that you will be charged. Sellers agree to authorize Biddingowl to charge their preferred payment method AUTOMATICALLY as soon as their auction has ended. The charge is 5%, unless otherwise stated, based on the highest bid for each item within the online auction or within in-room bidding. Company may and will charge your payment method, even though you may not receive an invoice AUTOMATICALLY and/or MANUALLY. Fees may change from time to time at Company's sole discretion, and such changes are effective immediately, or as provided in any notice regarding such changes.

Unless otherwise stated, all fees are quoted in U.S. Dollars. You are responsible for paying all fees and applicable taxes associated with our sites and services in a timely manner with a valid payment method.

BiddingOwl.com's products are intangible goods that are digitally delivered and we therefore have a strict no refund policy.

Please submit any cancellation of service via email to [info@biddingowl.com](mailto:info@biddingowl.com) or call us at 989.312.3485.

Email cancellations must contain the following: first name, last name and email address. This information must be identical to the information originally submitted.

## **9. YOUR CONTENT.**

To use the Site, you will need to submit search terms. Company will collect and use the search terms to provide the services requested by you and you give us permission to do so.

You grant Company a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise any and all copyright, trademark, publicity, and database rights (but no other rights) you have in any Content you provide to Company or upload to the Site, in any media known now or in the future.

While Company tries to offer reliable data, we cannot promise that the Site and any listings will always be accurate and up-to-date, and you agree not to hold our content providers, sellers, or us responsible for inaccuracies.

## **10. SEARCH RESULTS; THIRD PARTY CONTENT.**

You acknowledge that by using the Site, you will be presented with search results and listings that include or are solely credited with that direct you to third party content. Some, if not all, of the content and information you may access through the Site's search results is owned and controlled by third parties. You may find some third party content to be offensive, indecent, or otherwise objectionable. Information and other content obtained by using the Site has been indexed and compiled through an automated process with no advance review by Company. As a result, Company does not endorse or control and has no responsibility or liability for any such information.

## **11. SUBMISSIONS.**

Except as otherwise provided in a separate written agreement between you and Company, you agree that any materials, including but not limited to questions, comments, suggestions, ideas, notes, drawings, original or creative materials, or other information, provided by you in the form of e-mail or electronic submissions to Company, or postings at the Site, are nonconfidential and shall become the sole and exclusive property of Company to the fullest extent permitted by applicable law. Company shall own all exclusive rights and shall be entitled to the unrestricted use of these materials for any and all purposes, commercial or otherwise, without



acknowledgment or additional compensation to you. In the event applicable law operates to prevent Company from becoming the sole owner of any such property, then this provision shall be effective as granting to Company (with rights of assignment) a perpetual, worldwide, paid-in-full, nonexclusive right (including any and all moral rights) and license to make, use, sell, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, communicate to the public, perform and display the content (in whole or in part) worldwide and or to incorporate it in other works in any form, media, or technology now known or later developed, for the full term of any rights that may exist in any such material.

## **12. FORUMS, INTERACTIVE AREAS, POSTINGS, AND FEEDBACK.**

The Site may include discussion forums or other interactive areas. You hereby agree to not upload, distribute, or otherwise publish through the Site any content that is unlawful, libelous, defamatory, obscene, pornographic, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, or otherwise objectionable, or that would constitute or encourage a criminal offense, violate the rights of any party, or otherwise create liability or violate any law. Forums and interactive areas shall be used only for your personal and noncommercial purposes. On the Site you cannot, without the express written approval of Company, distribute or publish promotions, advertising or solicitations for funds, goods, or services. You shall remain solely liable for the content of any messages or other information posted by you on the Site, and Company takes no responsibility and assumes no liability for the content of posted or uploaded material. Company reserves the right, in its sole discretion, to remove or edit any material posted by you that is determined to be harmful, offensive, or otherwise inappropriate. You are solely responsible for all posts to any discussion forums or other interactive areas made with your account information.

You agree to comply with all additional rules, procedures and policies posted by Company for any forums or other interactive areas. Such additional rules, procedures, or policies will be posted in the applicable forum or other interactive area.

## **13. ADVERTISERS.**

The Site may contain advertising and sponsorship from third parties. By using the Site, you acknowledge that third party advertisements may be served to you on the Site. Company is not responsible or liable for any advertisements or the products or services being advertised, and advises you to review any third party's privacy policy and terms of use for more information about those products, services, and companies. Your dealings with advertisers and third party vendors found on or through the Site or advertisements on the Site, including your participation in promotions, purchase of goods and services, and any terms, conditions, warranties or representations associated with such activities, are solely between you and the third party advertiser or vendor.

## **14. LINKS.**

The Site search results will include links to other websites. There may also be links in third party advertisements served on the Site. You acknowledge that these links are provided solely as

a convenience to you and not as an endorsement by Company or by any of its third-party providers regarding the contents of those other websites. Company and its third-party providers are not responsible for will not have any liability with respect to the information or content contained in on or in any Boards and other websites that you may access as a result of such links including any objectionable or offensive content. Company reserves the right, but does not have any obligation, to remove any offensive or objectionable content. Company may establish links to websites that are operated by third parties. Company has no control over such websites and makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature, or reliability of websites accessible by hyperlink from the Site, or websites linking to the Site. Visitors to such third party websites should refer to such websites' respective privacy policies, terms and conditions and practices. Any mention on the Site of products or services provided by third parties is for informational purposes only and does not constitute and endorsement or recommendation by Company.

## **15. DISCLAIMER.**

YOU USE THE SITE AT YOUR OWN RISK. COMPANY DOES NOT REVIEW OR EDIT SEARCH RESULTS, AUCTION POSTINGS, BIDS, RELATED CONTENT, OR THIRD PARTY ADVERTISEMENTS. COMPANY DOES NOT PROMISE THAT THE SITE OR ANY CONTENT, SERVICE OR FEATURE OF THE SITE WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ANY DEFECTS WILL BE CORRECTED, OR THAT YOUR USE OF THE SITE WILL PROVIDE SPECIFIC RESULTS. THE SITE AND ITS CONTENT ARE DELIVERED ON AN “AS-IS” AND “AS-AVAILABLE” BASIS WITH NO WARRANTIES OF ANY KIND. ALL INFORMATION PROVIDED ON THE SITE IS SUBJECT TO CHANGE WITHOUT NOTICE. COMPANY CANNOT ENSURE THAT ANY FILES OR OTHER DATA YOU DOWNLOAD FROM THE SITE WILL BE FREE OF VIRUSES OR CONTAMINATION OR DESTRUCTIVE FEATURES. COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF ACCURACY, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DISCLAIMS ANY AND ALL LIABILITY FOR THE ACTS, OMISSIONS AND CONDUCT OF ANY THIRD PARTIES IN CONNECTION WITH OR RELATED TO YOUR USE OF THE SITE AND/OR ANY COMPANY SERVICES. YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE SITE AND ANY LINKED SITES. YOUR SOLE REMEDY AGAINST COMPANY FOR DISSATISFACTION WITH THE SITE OR ANY CONTENT IS TO STOP USING THE SITE OR ANY SUCH CONTENT. THIS LIMITATION OF RELIEF IS A PART OF THE BARGAIN BETWEEN THE PARTIES. YOU AGREE THAT YOUR USE OF OR RELIANCE UPON ANY INFORMATION OBTAINED THROUGH THE SITE IS AT YOUR OWN DISCRETION AND RISK.

The above disclaimer applies to any damages, liability or injuries caused by an failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction of or unauthorized access to, alteration of, or use, whether for breach of contract, tort, negligence or any other cause of action.

Company reserves the right to do any of the following, at any time, without notice: (1) to modify, suspend or terminate operation of or access to the Site, or any portion of the Site, for any reason; (2) to modify or change the Site, or any portion of the Site, and any applicable policies or terms; and (3) to interrupt the operation of the Site, or any portion of the Site, as necessary to perform routine or non-routine maintenance, error correction, or other changes.

#### **16. LIMITATION OF LIABILITY.**

COMPANY CANNOT GUARANTEE CONTINUOUS OR SECURE ACCESS TO THE SITE. ACCORDINGLY, TO THE EXTENT LEGALLY PERMITTED, COMPANY EXCLUDES ALL IMPLIED WARRANTIES, TERMS, AND CONDITIONS. COMPANY IS NOT LIABLE FOR ANY LOSS OF MONEY, GOODWILL, OR REPUTATION, OR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING, DIRECTLY OR INDIRECTLY, OUT OF YOUR USE OF OR YOUR INABILITY TO USE OUR SITES, SERVICES, AND TOOLS. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YOU AGREE THAT COMPANY WILL NOT BE LIABLE TO YOU OR TO ANY OTHER PARTY FOR ANY INDIRECT DAMAGES, OR FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST TIME), WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH ANY ACCESS TO THE SITE OR ANY VIEWING OR USE OF ANY INFORMATION ON OR THROUGH THE SITE OR ANY CONTRACTUAL OR OTHER DEALINGS OR RELATIONSHIPS YOU MAY HAVE WITH THIRD PARTIES BASED UPON ANY INFORMATION INCLUDED IN OR THROUGH THE SITE. IN NO EVENT WILL COMPANY'S AGGREGATE LIABILITY TO YOU ARISING FROM OR RELATED TO YOUR USE OF THE SITE EXCEED \$100. YOU ACKNOWLEDGE THAT, AS NO SUBSCRIPTION OR OTHER FEES ARE REQUIRED FOR YOUR ACCESS TO THE SITE, THE LIMITATIONS IN THIS PARAGRAPH ARE REASONABLE AND APPROPRIATE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

Except where prohibited by law, in no event will Company be liable to you for any indirect, consequential, exemplary, incidental or punitive damages, including lost profits, even if Company has been advised of the possibility of such damages.

#### **17. INDEMNIFICATION.**

You shall indemnify, defend, and hold Company, its subsidiaries, affiliates, officers, employers, directors, shareholders, predecessors, successors in interest, and other agents, harmless from and against any claim, demand, suit, cause of action, proceeding, loss, liability, damage or expense (including reasonable attorney fees) arising out of or related to your use of the Site, including, without limitation, any violations by you of the Terms and your use of or reliance on any search results.

**18. NO AGENCY.**

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

**19. VIOLATION OF THESE TERMS OF USE.**

Company may disclose any information Company has about you (including your identity) if Company determines that such disclosure is necessary in connection with any investigation or complaint regarding your use of the Site, or to identify, contact, or bring legal action against someone who may be causing injury to or interference with (either intentionally or unintentionally) Company's rights or property, or the rights or property of visitors to or users of the Site, including Company's customers. Company reserves the right at all times to disclose any information that Company deems necessary to comply with any applicable law, regulation, legal process or governmental request. Company also may disclose your information when Company determines that applicable law requires or permits such disclosure, including exchanging information with other companies and organizations for fraud protection purposes.

You acknowledge and agree that Company may preserve any transmittal or communication by you with Company through the Site or any service offered on or through the Site, and may also disclose such data if required to do so by law or Company determines that such preservation or disclosure is reasonably necessary to (1) comply with legal process, (2) enforce these Terms, (3) respond to claims that any such data violates the rights of others, or (4) protect the rights, property or personal safety of Company, its employees, users of or visitor to the Site, and the public.

You agree that Company may, in its sole discretion and without prior notice, terminate your access to the Site and/or block your future access to the Site if Company determines that you have violated these Terms or other agreements or guidelines which may be associated with your use of the Site. You also agree that any violation by you of these Terms will constitute an unlawful and unfair business practice, and will cause irreparable harm to Company, for which monetary damages would be inadequate, and you consent to Company obtaining any injunctive or equitable relief that Company deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Company may have at law or in equity.

You agree that Company may, in its sole discretion and without prior notice, terminate your access to the Site, for cause, which includes (but is not limited to) (1) requests by law enforcement or other government agencies, (2) a request by you (self-initiated account deletions), (3) discontinuance or material modification of the Site or any service offered on or through the Site, or (4) unexpected technical issues or problems.

If Company does take any legal action against you as a result of your violation of these Terms, Company will be entitled to recover from you, and you agree to pay, all reasonable attorneys' fees and costs of such action, in addition to any other relief granted to Company. You agree that Company will not be liable to you or to any third party for termination of your access to the Site as a result of any violation of these Terms.

## **20. LEGAL DISPUTES/GOVERNING LAW/JURISDICTION.**

If a dispute arises between you and Company, our goal is to provide you with a neutral and cost effective means of resolving the dispute quickly. Accordingly, you and Company agree that we will resolve any claim or controversy at law or equity that arises out of this Agreement or our services (a "Claim") in accordance with one of the subsections below or as we and you otherwise agree in writing. Before resorting to these alternatives, we strongly encourage you to first contact us directly to seek a resolution. We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation.

**Improperly Filed Claims** - All claims you bring against Company must be resolved in accordance with this Section. All claims filed or brought contrary to this Section shall be considered improperly filed. Should you file a claim contrary to the Legal Disputes Section, Company may recover attorneys' fees and costs up to \$1000, provided that Company has notified you in writing of the improperly filed claim, and you have failed to promptly withdraw the claim.

These Terms and your access to and use of information from the Site shall be governed in all aspects by the laws of the State of Michigan as they apply to agreements entered into and to be performed entirely within Michigan between Michigan residents, without regard to any conflict of laws rules. All claims, suits, or causes of action arising out of or relating to these terms or the Services will be litigated exclusively in the federal or state courts of Oakland County, Michigan, USA, and you and Company consent to personal jurisdiction in those courts.

## **21. ENTIRE AGREEMENT.**

These Terms constitute the entire agreement between you and Company regarding your access to the Site and your reproduction and use of any information in the Site. Any waiver of any term or condition of this User Agreement shall not be effective unless in a written document signed by an authorized representative of Company. These terms control the relationship between Company and you. They do not create any third party beneficiary rights. If you do not comply with these terms, and Company does not take action right away, this doesn't mean that Company is giving up any rights that Company may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms.

## **22. WAIVER.**

No waiver by Company of any right under or term or provision of these Terms and Conditions will be deemed a waiver of any other right, term or provision of these Terms and Conditions at that time or a waiver of that or any other right, term or provision of these Terms and Conditions at any other time.

## **23. LANGUAGE.**

It is at the express consent of the parties that the present agreement be written in English. C'est la demande expresse des parties que cette convention soit rédigée en anglais.

## **24. NOTICES.**

Except as explicitly stated otherwise, legal notices shall be served on Company's national registered agent (in the case of Company) or to the email address you provide to Company during the registration process (in your case). Notice shall be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid. Alternatively, we may give you legal notice by mail to the address provided during the registration process. In such case, notice shall be deemed given three days after the date of mailing.

The Company reserves the right to employ robot exclusion headers and similar mechanisms within the Web Site, and you agree that you and all persons and facilities under your control will honor such headers and mechanisms. Regardless of the presence or absence of any such headers or mechanisms, and without limiting the generality of any other restriction on use of the Web Site or the Content set forth in this Agreement, you will not in any event use any robot, spider, or other automatic or manual device or process for the purpose of compiling information regarding the identification, address or other attributes of any of our Users, bidders or sellers, or to recreate in original or modified form any substantial portion of the Web Site. You further agree not to use any device, software or routine to interfere or attempt to interfere with the proper functioning of the Web Site or any transactions being conducted on or in connection with the Web Sites. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on our servers or systems.

If you violate any provision of the Agreement, your permission to use the Content and the Site automatically terminate and you must immediately destroy any copies you have made of the Content.

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