



TERMS AND CONDITIONS AGREEMENT

- Services.** By accepting this Agreement, you authorize AnythingAuctions to provide the following services in accordance with the terms and conditions of this Agreement, to (i) receive and store the goods you have described (the "Goods"), (ii) list, offer and sell the Goods on eBay, (iii) deliver the Goods to the buyer, if any, and (iv) collect the sales price from the buyer, deduct AnythingAuction ' sales fee and forward the remainder of the sales price to Seller in accordance with the "Services" below.
- Rights.** By accepting this Agreement, Seller confirms that they are at least 18 years of age, are the legal owner of the item, and have the right to sell the item.
- Binding Bids.** Seller is obligated to complete the transaction with the highest bidder upon the listing's completion, unless there is an exceptional circumstance, such as, (a) the buyer fails to pay for the Goods, or (b) AnythingAuction cannot authenticate the buyer's identity.
- Unsold Goods.** Should the Goods fail to sell after being listed on eBay, Seller hereby authorizes AnythingAuctions to return unsold Goods to the Shipping Address as stated by Seller in seller information section of this agreement.
- Payment to Seller.** As consideration for the Services, Seller agrees AnythingAuctions will be entitled to collect a sales fee ("Sales Fee") according to the following formula: thirty percent (30%) of the first \$300 of the price for which the Goods are sold (the "Sales Price") or \$20.00 (whichever is greater) plus twenty percent (20%) for anything over \$301.00 of the Sales Price. Following receipt by AnythingAuction of the Sales Price from the buyer, AnythingAuctions is authorized by Seller to deduct the Sales Fee from the monies received and forward the remainder to Seller at the Mailing Address as stated by Seller in the seller information section of this agreement, within fourteen (14) days from the date of receipt of the Sale Price.
- Bailment Relationship.** The relationship between AnythingAuctions and the Seller is that of bailor and bailee in which the bailee (Seller) deposits his personal property (Goods) with the bailor (AnythingAuctions) for the purpose of listing and selling the Goods to third parties through eBay. Nothing contained herein will be construed as creating any agency, partnership, or other form of joint enterprise between the parties.
- Title and Risk of Loss.** Title and risk of loss for the Goods remains with Seller until such time as the Goods are delivered to a carrier for delivery to the buyer. Title and risk of loss will not transfer to AnythingAuctions at any time. Title to Goods shipped will pass directly from Seller to Buyer.
- Seller's Warranty of Goods.** Seller warrants that (i) Seller has all the necessary rights and authorization to produce and distribute the Goods and to permit AnythingAuctions to offer, sell and deliver the Goods to any third party, (ii) the Goods and the rights granted under this Agreement do not infringe the proprietary rights of any third party, and (iii) the description of the Goods is truthful, accurate and complete. Seller represents and warrants that description of the Goods and the Goods will not: Be false, inaccurate or misleading; Be fraudulent or involve the sale of counterfeit or stolen items; Violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, antidiscrimination or false advertising); Be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; Be obscene or contain child pornography or otherwise adult in nature or harmful to minors.
- Breach.** Without limiting other remedies, AnythingAuctions may immediately remove Seller's Goods listings from eBay, temporarily suspend, indefinitely suspend or terminate the Services and refuse to provide future Services to Seller if (i) Seller breaches this Agreement, (ii) AnythingAuction is unable to verify or authenticate any information Seller provides to AnythingAuctions , (iii) AnythingAuctions believes that Seller's actions may cause financial loss or legal liability for Seller, AnythingAuctions ' users or AnythingAuctions , or (iv) AnythingAuctions suspects that Seller (by conviction, settlement, insurance or escrow investigation, or otherwise) has engaged in fraudulent activity in connection with the Goods, AnythingAuction or eBay.

10. **Indemnity.** Seller agrees to indemnify and hold AnythingAuctions and (as applicable) AnythingAuctions's parent, subsidiaries, affiliates, officers, directors, agents, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due, connected to or arising out of Seller's breach of this Agreement, or Seller's violation of any law or the rights of any third party.
11. **Warranty Disclaimer.** AnythingAuctions provides its services "as is" and without any warranty or representation as to the SERVICES, express, implied or statutory. AnythingAuctions specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose and non-infringement. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to Seller. This warranty gives Seller specific legal rights and Seller may also have other legal rights that vary from state to state.
12. **Waiver of Consequential Damages.** IN NO EVENT WILL ANYTHINGAUCTIONS BE LIABLE TO SELLER FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR ITS TERMINATION, REGARDLESS OF THE FORM OF ACTION (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY) AND IRRESPECTIVE OF WHETHER ANYTHINGAUCTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.
13. **Liability Cap.** AnythingAuctions's liability, and the liability of its employees and suppliers, to Seller or any third parties in any circumstance is limited to the greater of (i) the estimated value of the applicable Goods, as described by Seller, or (ii) \$100. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to Seller.
14. **Release.** Seller releases AnythingAuctions and eBay (and AnythingAuctions'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, suspected and unsuspected, disclosed and undisclosed, arising out of, resulting from or in any way connected with the Services. If SELLER is a California resident, SELLER waives California Civil Code p.1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."
15. **Term.** The term of this Agreement will commence upon completing the signing of this agreement for the Goods (the "Effective Date") and unless terminated earlier in accordance with the terms of this Agreement, will continue until all Goods accepted for listing by AnythingAuctions under this Agreement are sold and delivered, returned to Seller, or disposed of in accordance with Section 3, but in no event more than sixty (60) days from the Effective Date. AnythingAuction may terminate this Agreement without notice, for any reason or no reason, at any time.
16. **Survival of Certain Terms.** The following Sections will survive the termination of this Agreement for any reason: Reverse Page, 3,5,6,7,8,9,10,11,12,13,15 and 16. All other rights and obligations of the parties will cease upon termination of this Agreement.
17. **General.** This Agreement will be governed in all respects by the laws of the United States of America and the State of Ohio as such laws are applied to agreements entered into and to be performed entirely within Ohio between Ohio residents. All notices or requests will be in writing and will be sent by facsimile, or recognized commercial overnight courier. Notices will be deemed received upon receipt of written confirmation of signing for receipt of delivery if sent by overnight courier. Notices will be sent to the parties at the address set forth in the Mailing Address as stated by Seller in the seller information section of this agreement. The failure of either party to require performance by the other party of any provision hereof will not affect the full right to require such performance at any time thereafter; nor will the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement will be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity will not render this Agreement unenforceable or invalid as a whole, and, in such event, such provisions will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions. This Agreement and the Exhibits hereto, constitute the entire Agreement between the parties with respect to the subject matter hereof. This Agreement supersedes, and the terms of this Agreement govern, any prior or collateral agreements with respect to the subject matter hereof with the exception of any prior confidentiality agreements between the parties. This Agreement may only be changed by mutual agreement of authorized representatives of the parties in writing.

WITNESSETH this the _____ day of _____ 2001.

AnythingAuctions.com:

By: _____

Title: _____

Seller Information:

Signature

Name Printed

Date

DL# _____ State _____

OR SSN _____

Address

City, State

Zip

Phone & Fax

E-Mail
