



## **AUCTION CONSIGNMENT AGREEMENT**

This Auction Consignment Agreement, hereinafter referred to as “this Agreement”, states the terms of the parties’ agreement with respect to personal property, hereinafter referred to as “the property”, consigned to Zcose Sports Marketing LLC hereafter referred to as the “Consignee” by the seller identified below, hereafter referred to as the “Consignor”. The property is listed on a property inventory form attached to this Agreement, executed separately or property identified as being subject to this Agreement. Consignor agrees to offer the property for sale on eBay.com, subject to the terms set forth in this agreement. While the Consignee cannot guarantee any sale price, it agrees to use professional skill, knowledge and experience to the best advantage of both parties in preparing for and conducting the sale of the property. Consignee will act solely as an agent in any transaction between the Consignor and the eventual buyer.

### **1. EXCLUSIVE RIGHTS OF SALE.**

By consigning this personal property, Consignor agrees to grant to the Consignee exclusive rights to market and sell the property for a period of 90 days from the date this Agreement is signed. Accordingly, the property cannot be withdrawn from the sale and this Agreement by the Consignor for any reason without the consent of the Consignee. However, the Consignee may withdraw the property from consignment if in its sole discretion, the property is inappropriate for sale, morally objectionable, the property is not worth enough to sell, or for any other reason the Consignee deems appropriate. The Consignor may not attempt to sell, destroy, or alter the property during the period of this Agreement.

### **2. COMMISSION AND FEES.**

For the Consignee’s services, which may include preparing the property for sale, describing the property, photographing the property, listing the property, communicating with prospective buyers about the property, closing the sale, accepting payments for the property, and shipping the property to the buyer at the Consignor’s expense, Consignor agrees that, according to the Consignee’s current commission schedule, Consignee shall automatically deduct any commissions owed from the final sale price of item(s) prior to issuing final payment to Consignor.

The current Consignee commission schedule is as follows:

- a) For any item that either does not sell the commission is \$25.00 per item.
- b) For any item that sells the commission is 9%.

Final selling price is based on the final qualifying bid. When an item sells, the Consignee shall deduct commissions from the auction proceeds. In the event an item does not sell, Consignor shall be responsible for payment of auction listing fees and commissions.

### **3. ADDITIONAL FEES.**

The Consignor shall also pay the Consignee for any and all fees charged by third party auction websites used by the Consignee to market, list and/or sell the property which may include listing fees, final value fees, PayPal fees, and any optional fees charged for special website placement. Consignor shall also pay the Consignee for any moving, shipping, rental and/or storage fees relating to the sale of the property.

### **4. INSURANCE AND LIMITATION OF LIABILITY.**

The Consignor shall be solely responsible for maintaining insurance on the property until the auction is concluded and the property is shipped to the buyer. The Consignee shall not be liable in any way for damages, whether general, special, incidental or consequential, however caused, whether by loss, theft or damage, including negligence, arising out

of consignment and/or sale of the property, and including the packing and shipping of the property. Any insurance claims arising from the damage of the property during shipment or transportation shall be the responsibility of the buyer.

#### 5. RESPONSIBILITIES AND LIMITATIONS OF THE CONSIGNOR.

Along with the submission of the property, Consignor shall provide the Consignee with any and all information pertaining to the property which shall consist of all information about the property including, but not be limited to written descriptions, provenance, history, authorship, period, culture, source of origin, quality, rarity, existence of copyright or other proprietary or intellectual property rights pertaining thereto, condition/damage reports, estimates of value and reserves, and such other information as the Consignee may from time to time require of the Consignor.

#### 6. METHOD OF SALE.

(a) Timing of Auction. Consignee shall retain full control over the timing, method, location and type of auction to use in selling the property, including the use of reserves. Consignee shall have complete discretion as to the date(s) of sale of the property and may, at its discretion, display photos or descriptions of the property on other internet sites owned or operated by the Consignee, both during and after the sale of the property.

(b) Place of Auction. Consignee may use any third party website or any website owned by the Consignee to market and sell the property. Consignee may also sell the property to buyers it contacts directly if it thinks the best price is achieved in this manner, either before or after listing the property on any online auction website.

(c) Use of Consignor's Name. Consignor's name, or designated business name as noted in the Agreement, will not be disclosed by the Consignee to the successful buyer of the property. Consignor's name will not be used to publicize a sale or a sale's results.

(d) Reserves. Reserves may be established by the Consignor if the Consignee believes there is a reasonable chance the reserve will be met. If the property fails to reach its reserve, the Consignee may re-offer the property at a future sale, within the period of this Agreement, with no reserve, provided any re-listing fees shall be paid by the Consignor.

(e) Shill Bidding. Neither Consignor, its principal, if any, nor any other representative or agent shall bid on the property. Such bidding is considered shill bidding and is strictly prohibited by the Consignee and eBay. Consignor shall defend, indemnify and hold the Consignee harmless from any claims, actions, damages, losses or any liability, including fees and costs (including attorneys fees) arising from a breach of this paragraph, and be the basis for the Auction Company to immediately terminate this Agreement.

(f) Completion of Sale. No sale shall be considered complete until the buyer has made final and full payment to the Consignee in cash, credit card, PayPal payment, cashier's or certified check. In the event that payment is made by approved personal check, the sale shall be considered complete after such check has cleared, the property has been shipped to the buyer and the buyer has confirmed receipt of the property in the condition described and photographed.

(g) Non-paying Buyer. In the event that the Consignee is unable to collect payment from a buyer, no payment shall be made to Consignor for the property; however, any fees associated with the property shall still be paid to the Consignee to the extent that the Consignee is unable to recover the charges. Once the Consignee deems the sale unable to be collected, the property may be re-listed at the discretion of the Consignee or offered to the other bidders in the auction. Consignee shall not be responsible for collecting or attempting to collect any payments owed to it or the Consignor. The Consignor shall hold the Consignee harmless in the event of a non-paying buyer for any amount which would have been collected or any loss resulting from the resale of the property.

#### 7. SETTLEMENT OF ACCOUNT.

No later than 30 business days after the completion of sale, the Consignee shall pay Consignor the net proceeds received and collected from the sale of the property after deducting any fees or commissions due and, electronic transfer fees, as appropriate, and any other expenses, fees and charges due hereunder or required by law, provided that no claim has been made against any of the property or proceeds of sale, that there are no funds due Consignee for whatever reason, and further provided that the buyer has not given notice of intent to rescind the sale. The Consignor may at this time request any unsold property be returned and that any expenses incurred to return items is at the Consignor's expense.

#### 8. SELLER'S WARRANTIES AND INDEMNITY.

(a) Warranties. Consignor represents and warrants to the Consignee that: (1) Consignor has the right, power and authority to consign the property for sale and to enter into this Agreement and to perform all obligations hereunder; (2)

the property is, and, until sold, shall remain free and clear of all liens, encumbrances or claims of third parties of any kind whatsoever; (3) good title will pass to the buyer upon sale; (4) there are no restrictions on the Consignee to reproduce photographs of the property; and (5) the information Consignor has provided to the Consignee in the Agreement is true and correct. Consignor acknowledges and agrees that the Consignee will rely upon the accuracy and completeness of the foregoing warranties.

(b) Indemnity. Consignor shall defend, indemnify, and hold harmless, the Consignee, its employees and agents, against any and all claims, actions, damages, losses, liabilities and expenses (including reasonable attorney's fees for counsel of our choice) arising out of or resulting from any and all claims raised by the buyer of the property, including but not limited to, ownership or right to possession of any of the property, any alleged breach by Consignor of any obligation, representation or warranty pursuant to this Agreement, or from the Consignee's offering for sale or selling the property, whether or not it has been returned to Consignor. Consignee shall retain full copy, reproduction and photographic rights to any pictures taken during any and all processes and transactions, even if the transaction is withdrawn, cancelled, substituted, or changed in any way. Consignor's warranties and indemnification shall survive the completion of the transactions contemplated by this Agreement, and shall apply to the property sold or consigned for sale pursuant to this Agreement.

#### 9. WITHDRAWAL BY CONSIGNOR.

Consignor shall not withdraw the property from the sale, for any reason, after this Agreement has been signed, without the permission and signed consent of the Consignee. Consignor shall not sell or dispose of the property by any other means during the period of this Agreement. A breach of this paragraph shall be grounds for the Consignee to immediately terminate this agreement. A cancellation fee of \$125 will be charged for each cancelled listing. All fees incurred for said listings must be paid before the Consignee may retrieve their item(s) from the Consignee. Additionally, Consignor shall be barred from using the Consignee Consignment Services in the future.

#### 10. CONSIGNEE'S RIGHT TO WITHDRAW PROPERTY FROM SALE.

Consignee shall have the right to withdraw the property at any time prior to the sale if, in its judgment, (1) there is doubt as to the information provided by Consignor, (2) the information provided by Consignor concerning the property is inaccurate, (3) Consignor has breached or it is anticipated it will breach any provision of this Agreement, or (4) the Consignee has doubt about title to the property or the authority to pass clear title to the property. Withdrawal of property pursuant to this paragraph shall be the basis for immediate termination of this Agreement.

#### 11. MISCELLANEOUS.

(a) This Agreement and any and all signed schedules or attachments hereto, including all information submitted by Consignor, and other document(s) executed by the parties concurrently herewith, along with the Conditions of Sale attached hereto, constitute the entire agreement between the parties with respect to the property and supersedes any and all prior negotiations or agreements regarding the property. The terms of the Special Instructions, if any, are incorporated into this Agreement.

(b) Except as otherwise specified herein, no modifications or amendment of this Agreement shall be binding unless contained in a writing signed by the party to be bound thereby and no waiver, promise or representation by the Consignee or any of its agents or representatives shall bind the Consignee unless contained in a writing signed by the Consignee.

(c) Any notice given hereunder must be by email, fax or in writing, which shall be deemed effective upon deposit in the U.S. mail, postage prepaid, if addressed to either of the parties at their respective addresses indicated below.

(d) If any part of this Agreement is deemed to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

(e) Except as provided by law, nothing contained in this Agreement shall be construed as any agency, partnership or other joint enterprise between the parties.

(f) For purposes of this agreement, Electronic signatures or agreed upon alternative electronic confirmation of agreement to any issue, change or addition shall be binding as an original signature as provided by law.

(g) The parties acknowledge that they have carefully read this Agreement, understand the contents thereof, and sign this Agreement as their own free act and deed.

(h) This Agreement shall be interpreted and enforced pursuant to the laws of the State of Ohio and Cuyahoga County.

Consignor has read and understands all of the terms and conditions of this agreement. Should the Consignor bring any legal action against the Consignee related to this transaction, the matter shall be decided in a court of law in the State of Ohio and Cuyahoga County. In the event that said court of law decides in favor of the Consignee, the Consignor agrees to pay all legal costs incurred by the Consignee to defend against such action.

Zcose Sports Marketing LLC  
PO Box 360951  
Cleveland, OH 44136  
www.ZcoseSportsMarketing.com

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Consignor: \_\_\_\_\_

Consignor Address: \_\_\_\_\_

Consignor Telephone #: \_\_\_\_\_

Consignor E-mail: \_\_\_\_\_

Consignor eBay User ID: \_\_\_\_\_

Consignor Signature: \_\_\_\_\_

CONSIGNMENT AGREEMENT PROPERTY INVENTORY LIST

ITEM	DESCRIPTION OF ITEM (SERIAL #, CONDITION, DAMAGE, ETC.)	ESTIMATED VALUE *	MINIMUM PRICE **
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

\* Please specify your perceived / actual value of the item  
 (Once the item is received by the Consignee and evaluated this value may change but shall be agreed upon by both parties to insure a successful sale)

\*\* The minimum amount you want to sell the item for