User Agreement - Terms and Conditions

This Agreement outlines the terms and conditions applicable to your use of our services available from NeoFill ("NeoFill®") and under the domain and sub-domains of www.NeoFillBids.com and BidDestination.com (the "Sites") and the general principles for the websites of our subsidiaries and affiliates. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT USE OR ACCESS OUR SERVICES.

You must read, agree with and accept all of the terms and conditions contained in this User Agreement and the Privacy Policy, which include those terms and conditions expressly set out below and those incorporated by reference, before you may become a subscriber of NeoFill®. We strongly recommend that, as you read this User Agreement, you also access and read the information contained in the other pages and websites referred to in this document, as they may contain further terms and conditions that apply to you as a NeoFill® user. By accepting this User Agreement, you also agree that your use of other NeoFill® websites will be governed by NeoFill® User Agreement and Privacy Policy.

1. **Subscriber Eligibility.**
Our services are only available to, and may only be used by individuals who can form legally binding contracts under applicable law. Without limiting the foregoing, our services are not available to children (persons under the age of 18) or to temporarily or indefinitely suspended NeoFill® members. If you are a under the age of 18, you can use this service only in conjunction with, and under the supervision of your parents or guardians. If you do not qualify, please do not use our Site. Further, your NeoFill® account and User ID and password may not be transferred or sold to another party. If you are registering as a business entity, you represent that you have the authority to bind the entity to this Agreement.

2. **Fees and Services.**
Joining and bidding on items at NeoFill® is free. Unless otherwise stated, all fees are quoted in U.S. Dollars. You are responsible for paying all fees associated with using our service and the Site and all applicable taxes.

3. **NeoFill® is a Venue.**
NeoFill® role is a third party that provides the e-commerce platform and facilitates the fulfillment of product purchases made on Sites. We are not involved in the actual transaction between sellers and buyers, and, as such, we have no control over the quality, safety or legality of the items advertised, the truth or accuracy of the listings, the ability of sellers to sell items or the ability of buyers to pay for items. Therefore, we cannot guarantee that two parties will actually complete a transaction.

3.1 NeoFill® is not an Auctioneer. Although we are commonly referred to as an online auction web site, it is important to realize that we are not a traditional "auctioneer." Instead, the Site acts as a venue to allow parties to offer and sell items during their "set auction dates", in a variety of pricing formats, including a fixed price format and an auction-style format commonly referred to as "online auctions" or "auctions." We have no control over the quality, safety or legality of the items advertised, the truth or accuracy of the listings, or the ability of sellers to sell items.

3.2 Release. Because we are a venue, in the event that you have a dispute with one or more users, you release NeoFill® (and our 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 or in any way connected with such disputes.

4 Bidding and Buying.
As a buyer, you are obligated to complete the transaction with the seller if you are the highest bidder at the end of an auction (meeting the applicable minimum bid or reserve requirements) and your bid is accepted by the seller, unless the item is listed in a category for Non-Binding Bids or the transaction is prohibited by law or by this Agreement. Upon auction close, you will have three business days submit payment using a valid credit card. In the event that you do not submit payment within this time frame, you authorize NeoFill® to process payment using the validated credit card used to authorize bidding.

4.1 Condition of Sales. By bidding on an item you agree to be bound by the conditions of sale included in the item's description so long as those conditions of sale are not in violation of this Agreement or unlawful. Sellers reserve the right to edit or make changes to an items Description or Terms. Bids are not retractable except in exceptional circumstances, such as: when the seller materially changes the item's description or terms after you bid or a clear typographical error is made. Prices and Availability of the Products and Services listed on the Sites are subject to change without notice. The listing, description of, or reference to a , a product or service on the Sites does not imply that the product or service is presently available or that we endorse that product or service. In the event a product or service is listed at an incorrect price due to a typographical error or error in pricing information received from another party, NeoFill® shall have the right to refuse or cancel any order placed for such product or service at the incorrect price, even if the order has been confirmed and/or your credit card has been charged. If your credit card has already been charged for the purchase and your order is canceled, NeoFill® shall promptly issue a credit to your credit card account in the amount of the incorrect price and notify you of this occurrence.

4.2 Order Acceptance. Your receipt of an electronic or other form of order confirmation does not signify NeoFill® 's acceptance of your order, nor does it constitute confirmation if NeoFill® offer to sell. NeoFill® reserves the right at any time after receipt of your order to accept or decline your order for any reason or for no reason at all. NeoFill® reserves the right at any time after receipt of your order, without prior notice to you, to supply less than the quantity you ordered of any product or service, with notice to you if this should occur, and a credit to your credit card if applicable.

4.3 Shipping and Delivery. NeoFill® does not guarantee delivery times of shipments; all delivery times given are estimates and NeoFill® is not liable for any shipping delays. NeoFill® is not liable for undeliverable shipments of Certificates, Goods or Vouchers. In the event an item is returned as undelivered, NeoFill® will attempt to contact the customer to resolve the error. In any event, customer is responsible for all shipping and handling fees related to the shipment. We ship to the continental US, Alaska and Hawaii addresses only. Please allow 7-10 days. In the event a Certificate, Good or Voucher is not received by the customer, NeoFill® ® within thirty (30) days from receipt of order, NeoFill® will attempt to resolve situation with Customer as long as

Customer contacts NeoFill® customer care support at 1-866-311-9806 within the thirty (30) days of receipt of order.

4.4 Closed Establishments. NeoFill® and its Sites offer third party deals. Neither NeoFill® nor its vendors and other partners are responsible if an establishment closes after a purchase is made. No refunds, exchanges or replacements will be offered. In the event of a closed establishment, we encourage the End User to contact NeoFill® Customer Care at 1-866-311-9806 and we will attempt to provide you with a discounted customer loyalty offer as a means to provide a solution for a situation that NeoFill®, and its Vendors and partners have no control over or any liability thereof.

4.5 Risk of Loss. When the Seller delivers the item(s) to the shipper for shipment to the Buyer, title to the item(s) and risk of loss will pass to the Buyer. If the item(s) is damaged in transit, the Buyer should contact the shipping agent and process a claim under the applicable insurance policy. A Seller is not obligated to take a item(s) back under the Conditions of Sale if the item(s) was damaged in transit (although Sellers are obligated to insure all items during transit and to provide reasonable assistance to help the Buyer resolve damage claims with the insurer.)

4.6 Withdrawing Item(s). The Site Provider reserves the right to withdraw any property before the end of the sale period, halt any sale during its progress, and/or remove, screen or edit any materials or content on the Site. The Site Provider may refuse to process a transaction for any reason or refuse service to anyone at any time in its sole discretion. Neither the Site Provider nor any of its affiliates will be liable to any Buyer, Seller or third party by reason of the Site Provider's withdrawal of any property prior to the end of the sale period; halting any auction or sale during its progress; removing, screening or editing any materials or content on the Site; refusing to process a transaction; or unwinding or suspending any transaction after processing has begun. In the event of failure of Buyer to complete a sale for any reason, including the Site Provider's decision to refuse to process the transaction, the Site Provider shall have the right to sell the property to the next highest bidder. In the event of similar bids, the earliest bidder at that level will be the successful Buyer. In all cases, Site Provider's determination of the successful Buyer will be final.

4.7 Closing Times. All closing times are decided by the SELLER using NeoFill® venue. Closing times are subject to change and may be changed at any time for any reason by the by the SELLER.

5. Integrity.

The Site Provider has the right, but not the obligation, to monitor any activity and content associated with the Site. The Site Provider may investigate any reported violations of the Site policies or complaints and take any action that it deems appropriate (which may include, but is not limited to, issuing warnings, suspending or terminating service, denying access and/or removing any materials on the Site, including listings and bids). The Site Provider may also investigate, in its sole discretion, the use of any credit card by a user registered to buy on the Site, and take such action as the Site Provider deems appropriate, including without limitation, contacting the individual using such card, cancelling bids or an offer to purchase placed by such user, and/or deactivating a Buyer's account.

6. **Expiration Dates and Underlying Value.**
Under the provisions of law applicable to your purchase of a Voucher, the Merchant may be required to allow you to redeem the Voucher for the actual price you paid for it, even after the expiration date printed on the Voucher (in other words, if you paid $25 for a $50 Voucher with a 6-month expiration date, the Merchant must continue to honor the Voucher after 6-months in the amount of $25, for the period provided by applicable law). The expiration date on the Voucher sets forth the last date on which you can redeem your Voucher for the full promotional value as stated on the Voucher, but applicable law may provide that the Merchant is responsible for honoring the cash value that you paid for the Voucher for a period of time beyond that expiration date. If you have an expired Voucher and would like to redeem it, please present it at the Merchant to redeem the Voucher for the price paid for it. We have instructed the Merchant to honor the Voucher after its expiration date in the amount of the purchase price, for the minimum period of time required by applicable law. If you have presented the Voucher to the Merchant and the Merchant has refused to either redeem the Voucher for the purchase price or refund the purchase price to you (at the Merchant's option), please contact NeoFill® in writing at 650 S Prospect Ave, Hartville, OH 44632-8904. If you are within the redemption period required by applicable law, we will work with you to obtain a refund of the purchase price for the Voucher.

7. **Breach.**
Without limiting other remedies, we may limit your activity, immediately remove your bids, warn our community of your actions, issue a warning, temporarily suspend, indefinitely suspend or terminate your membership and refuse to provide our services to you if: (a) you breach this Agreement or the documents

8. **No Warranty**.
WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES AND OUR SUPPLIERS PROVIDE OUR WEB SITE AND SERVICES "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES AND OUR SUPPLIERS SPECIFICALLY DISCLAIM 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 you. This warranty gives you specific legal rights and you may also have other legal rights that vary from state to state.

9. **Indemnity.**
You agree to defend, indemnify and hold harmless NeoFill®, its affiliates, subsidiaries, officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable attorney's fees) arising from (i) your use of and access to NeoFill®, NeoFillBids.com., BidDestination.com and HalfOffDeals.com; (ii) your violation of any term of these Terms and Conditions; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that any Content submitted by you causes damage to a third party. This defense and indemnification obligation will survive these Terms and Conditions and your use of NeoFill®.

10. **Legal Compliance.**
You shall comply with all applicable domestic and international laws, statutes, ordinances and regulations regarding your use of our service and your bidding on, listing, purchase, solicitation of offers to purchase, and sale of items.

11**. General**.

This Agreement shall be governed in all respects by the laws of the State of Ohio as such laws are applied to agreements entered into and to be performed entirely within Ohio. The parties agree to venue and jurisdiction in Courts of Common Pleas of Summit County, Ohio and the United States District Court for the Northeastern District of Ohio, Southern Division. We do not guarantee continuous, uninterrupted or secure access to our services, and operation of the Site may be interfered with by numerous factors outside of our control. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that this Agreement and all incorporated agreements may be automatically assigned by NeoFill® in accordance with Section 13 "Notices", in our sole discretion, Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. This Agreement sets forth the entire understanding and agreement between us.

12**. Limitation of Liability.**

EXCEPT FOR INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY BE LIABLE OR OBLIGATED TO THE OTHER PARTY OR ANY THIRD PARTY IN ANY MANNER FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF ANY SUCH DAMAGES IN ADVANCE. NEOFILL®'S SOLE AND COMPLETE LIABILITY TO YOU FOR ANY CLAIMS ARISING OUT OF OR RELATING TO THIS SITE AND AGREEMENT OR ANY ERRORS, OMISSIONS SHALL BE LIMITED TO AN AMOUNT NO GREATER THAN $100. THIS LIMITATION OF LIABILITY SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING THE FAILURE OF ANY LIMITED REMEDY.

13. **Notices.**
Except as explicitly stated otherwise, any notices from you shall be given by postal mail to NeoFill® and NeoFill® will send notice to your email address you provide to NeoFill® during the registration process. Notice shall be deemed given twenty four (24) hours after email is sent, unless the sending party is notified that the email address is invalid. Alternatively, NeoFill® may give you notice by certified mail, postage prepaid and return receipt requested, to the address provided to NeoFill® during the registration process. In such cases, notice shall be deemed given three (3) days after the date of mailing.

14. **Resolution of Disputes.**
In the event a dispute arises between you and NeoFill®, our goal is to provide you with a neutral and cost effective means of resolving the dispute in a prompt manner. Accordingly, you and NeoFill® agree that any claim or controversy at law or equity that arises out of this Agreement or

our services ("Claims") shall be resolved in accordance with Section 11 of any other applicable section in this Agreement or as otherwise mutually agreed upon in writing by the parties. Before resorting to these alternatives, we strongly encourage you to first contact us directly to seek a resolution and we will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation, as an alternative to litigation.

The contract between the Buyer and the Seller will be completed when the sale period for the item ends, at which point the person who agreed to pay the listed asking price or submitted the highest valid bid, received and accepted by the Site Provider, will be the Buyer. THE SITE PROVIDER IS LOCATED IN OHIO; THE CONTRACT OF SALE IS THEREFORE DEEMED TO HAVE BEEN COMPLETED IN OHIO, U.S.A. Buyer and Seller each waive the right to bring a claim in any court located outside Ohio, or to argue that any such court has jurisdiction over any claim arising under or related to this agreement or any transaction consummated hereunder. The Site Provider reserves the right to reject any bid or offer to buy at any time. In the event of identical bids or offers, the first bid or offer received by the Site Provider will take precedence. In the event of any dispute between potential Buyers, or in the event of doubt as to the validity of any bid or offer, the Site Provider will have the final discretion to determine the successful Buyer. If any dispute concerning bidding or any offer to purchase arises after the sale, the Site Provider's determination is conclusive. Please note that the Site Provider is not responsible for errors or omissions in connection with the transmission of bids or offers to the Site (including without limitation your receipt of emails regarding the status of a bid, offer, item or purchase), nor for any on-line or other charges you may incur in connection with participating in a sale.

15. **Additional Terms.**
The following policies are incorporated into this Agreement by reference and provide additional terms and conditions related to specific services offered on the Site: Privacy Policy. Each of these policies may be changed from time to time and are effective immediately after we post the changes on the Site. In addition, when using particular services on the Site, you agree that you are subject to any posted policies or rules applicable to services you use through the Site, which may be posted from time to time. All such posted policies or rules are hereby incorporated by reference into this Agreement.

16**. Ownership.**

All content included on this Site, such as text, graphics, logos, button icons, images, audio clips and software, is the property of the Site Provider or the Site Provider’s Media Partner, Supplier, Merchant or any other approved Seller or other content suppliers and is protected by U.S. and foreign copyright laws and international conventions. As between you and the Site Provider, the compilation (meaning the collection, arrangement and assembly) of all content on this Site is the exclusive property of the Site Provider or the Site Provider’s Media Partner, Supplier, Merchant or any other approved Seller or other content suppliers and is protected by U.S. and foreign copyright laws and international conventions. All software used on this Site is the property of the Site Provider or its software suppliers and is protected by U.S. and foreign copyright laws and international conventions. The content and software on this Site may be used only as a shopping resource. Any other use, including the reproduction, modification, distribution, transmission, republication, display or performance, of the content on this Site is strictly prohibited.

Please Note: Employees of Clear Channel and their families may not participate in or bid on items in auctions run by Clear Channel stations.