

**PROPERTY DISPOSITION SERVICES AGREEMENT**

PropertyBureau.com, Inc., an Arizona corporation ("PropertyBureau"), enters into this agreement (the "Agreement"), with the customer identified below (the "Owner") for the auction and disposition of personal property (the "Disposition Services"), in accordance with the Terms and Conditions and Addenda, if any, attached hereto and listed below.

Beginning \_\_\_\_\_, (the "Start Date") Owner engages the Disposition Services of PropertyBureau. This Agreement will terminate on \_\_\_\_\_, (the "Termination Date"), or at such other time as provided herein.

<p><b>OWNER INFORMATION:</b></p> <p><u>Othello Police Department</u>  <small>[Owner Name]</small></p> <p><u>500 E. Main St.</u>  <small>[Address]</small></p> <p><u>Othello, WA 99344</u></p> <p><u>509-488-3314</u>  <small>[Phone]</small></p>	<p><b>SCHEDULES, SUPPLEMENTS AND OTHER ATTACHMENTS: (Mark only if included)</b></p> <p>Terms and Conditions <u>yes</u></p> <p>Addendum <u>-----</u></p>
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**THIS AGREEMENT INCLUDING ALL OF THE TERMS AND CONDITIONS SET FORTH ON THE ATTACHED TERMS AND CONDITIONS, AND ALL OTHER ATTACHMENTS INDICATED IN THE BOX ABOVE, IS THE PARTIES' ENTIRE AGREEMENT AND CANNOT BE MODIFIED EXCEPT IN WRITING BY THE DULY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.**

EXECUTED on the date(s) indicated below:

Othello Police Department  
[Legal Name of Owner]

By: *Etan Sheldon*  
*Etan Sheldon, City Administrator*  
[Name and Title]

Date: 7.26.05

PropertyBureau, Inc.

By: *Steven Lupinacci*  
 Steven Lupinacci, President

Date: \_\_\_\_\_

**PropertyBureau.com, Inc;**  
 3551 Camino Mira Costa, Suite C  
 San Clemente California 92672  
 Phone: 800-799-2440

**Federal Tax ID 86-0962102**

## TERMS AND CONDITIONS

1. **Property to be Sold.** From time to time, Owner will designate items of personal property (the "Property") that it desires to provide to PropertyBureau for Disposition Services. PropertyBureau retains the right to accept or reject certain items in its sole discretion.

2. **Title.** Owner shall retain legal title to the Property until it is purchased by auction or otherwise disposed of in accordance with this Agreement at which time Owner will be deemed to have transferred title to the purchaser or other acquirer of the item of Property. Owner appoints PropertyBureau as its attorney-in-fact to sign any and all documents necessary to assign to purchasers of Property all of Owner's right, title and interest in and to Property sold or disposed. All cash receipts, accounts receivable, contract rights, notes, general intangibles, and other rights to payment of every kind, arising out of the sales and dispositions of Property (collectively the "Proceeds") belong to Owner, subject to PropertyBureau's right to PropertyBureau's Net Proceeds and funds attributable to Credit Card Costs and other transaction costs. Owner's Property shall, at all times before sale or disposition, be subject to the direction and control of Owner.

3. **Method of Selling Property.** PropertyBureau will, on Owner's behalf, list Property for sale by auction to the public on the World Wide Web of the Internet on one or more domain names selected by PropertyBureau. To the extent that any Property is not sold by auction, PropertyBureau may, in any commercially reasonable manner selected by PropertyBureau, dispose of Property. PropertyBureau will determine all aspects, terms and conditions of auctions of Property and dispositions of Property not purchased at auction, subject to the ultimate control of Owner. PropertyBureau will be responsible for all phases of submitting the Property for auction, including, but not limited to, determining when Property will be auctioned, setting the opening and reserve prices of Property, if any; determining the selling price, setting the length of time a Product will be auctioned; creating text and graphics to describe and depict Property submitted for auction; collecting all purchaser information (such as purchaser's name, billing address, shipping address, and credit card information); approving purchasers' credit card purchase transactions; and collecting auction proceeds for completed sales from purchasers. PropertyBureau shall use its best efforts in auctioning and selling the Property on the Internet and disposing of Property that does not sell at auction. PropertyBureau shall sell and dispose of all Property "as is" without any liability to the Owner. PropertyBureau is solely responsible for identifying and resolving sales and use tax collection issues arising from Property sales, including the necessity of charging and collecting such taxes.

#### 4. Allocation of Sales Proceeds.

a. The total amount paid by the purchaser shall be called the "Sales Price". The Sales Price shall include the winning bid amount (the "Winning Bid") and all costs, shipping and handling charges, taxes, and insurance costs associated with the transaction and paid by the purchaser.

b. For each item of Property, Owner will be credited with 50% of the first \$1,000 of the Winning Bid and 75% of the portion, if any, of the Winning Bid that exceeds \$1,000. From this amount, the owner's pro rata share of transaction fees, if any, assessed by the credit card processor ("Credit Card Costs") will be deducted.

c. Credit Card Costs will be borne by Owner and PropertyBureau in proportion to the percentage of the revenue credited to the parties for each underlying transaction.

d. Amounts received by the Owner will be called "Owner's Net Proceeds".

The following example illustrates how proceeds of a sale are to be allocated. Assume an item of Property sells at auction for a Winning Bid of \$100; the buyer pays shipping and handling of \$10, insurance of \$2, and sales tax of \$6. The buyer pays the Sales Price of \$118.00 by credit card, and the Credit Card Costs are 2% of the Sales Price. The Credit Card Cost is therefore \$2.36 ( $\$118 \times .02$ ). The Owner and PropertyBureau each share 50% of the underlying Winning Bid, therefore Credit Card Costs are also shared equally (\$1.18 each). The Owner's Net Proceeds are \$48.82 ( $\$50.00$  less  $\$1.18$ ).

5. **Payment Terms.** Not later than the 15<sup>th</sup> of each month, PropertyBureau will pay to Owner the amount of Owner's Net Proceeds payable for completed sales during the preceding month. Sales are deemed completed when all items comprising a line item on the original manifest or other list of Property are sold. With each monthly payment, PropertyBureau will deliver to Owner a detailed report of completed sales activity for the preceding month showing PropertyBureau's calculation of the amount of Owner's Net Proceeds for the month. With each payment of Owner's Net Proceeds, PropertyBureau will deliver to Owner a written report setting forth the following information for the immediately preceding month: (i) the completed sales during the prior month, including the total amount of related proceeds collected, the Owner's and PropertyBureau's share of Credit Card Costs, the Owner's Net Proceeds; (ii) other dispositions of Property during the month; (iii) the Property, if any, inventoried by PropertyBureau at the end of the month.

**6. PropertyBureau's Obligations Concerning Property in Its Possession.** With respect to Property in PropertyBureau's possession: (i) PropertyBureau will exercise due care in the handling and storage of any Property; (ii) PropertyBureau shall keep the Property free of liens, security interests, and encumbrances, and shall pay when due all fees and charges with respect to the Property; (iii) PropertyBureau shall sign and deliver to Owner any UCC-1 financing statements or other documents reasonably requested by Owner; (iv) PropertyBureau shall obtain and maintain insurance in an amount (determined by PropertyBureau) not less than the replacement value of Property in its possession. The insurance will cover the Property against fire, theft, and extended coverage risks ordinarily included in similar policies. PropertyBureau shall give Owner an insurance certificate upon Owner's request; and (v) If PropertyBureau returns any Property to Owner, PropertyBureau shall pay all freight charges, insurance and related costs to return the Property to Owner's nearest warehouse. PropertyBureau, at PropertyBureau's expense, shall insure Property during shipping in an amount not less than the replacement value of any item of Property returned to Owner.

**7. Owner's Obligations.** Owner will use its best efforts to provide to PropertyBureau such Property as becomes available for sale to the public. Owner will complete paperwork reasonably necessary to convey custodial possession of the item of property to PropertyBureau, including a written manifest or list that describes the item of Property in sufficient detail for identification.

**8. Restrictions on Bidding.** PropertyBureau and its employees and agents may not directly or indirectly bid for or purchase auctioned Property on the Property Bureau web site.

**9. Representations and Warranties of Owner.** Owner hereby represents, warrants and covenants as follows: (i) Property delivered to PropertyBureau is available for sale to the general public without any restrictions or conditions whatever; (ii) Owner will not knowingly deliver to PropertyBureau any Property of a counterfeit or illegal nature; and (iii) Owner has taken all required actions under applicable law that are conditions precedent to Owner's right to transfer title to the Property to purchasers (the "Conditions Precedent").

**10. Books and Records.** PropertyBureau will keep complete and accurate books of account, records, and other documents with respect to this Agreement (the "Books and Records") for at least three years following expiration or termination of this Agreement. Upon reasonable notice, the Books and Records will be available for inspection by Owner, at Owner's expense, at the location where the Books and Records are regularly maintained, during normal business hours.

**11. Term and Termination.** Unless terminated earlier, the term of this Agreement will begin on the Start Date and terminate on the Termination Date. This Agreement may be terminated if there is a breach by either party of any obligation, representation or warranty contained in this Agreement, upon thirty days prior written notice to the other party unless the breach is cured within the thirty day period, provided, however, if the breach is not capable of being cured within thirty days, the breaching party will have a reasonable amount of time to cure the breach if it begins to cure during the thirty day period and proceeds diligently thereafter. The written notice will specify the precise nature of the breach. The rights of the parties to terminate this Agreement are not exclusive of any other rights and remedies available at law or in equity, and such rights will be cumulative. The exercise of any such right or remedy will not preclude the exercise of any other rights and remedies. Notwithstanding any termination by either party of this Agreement, PropertyBureau will continue to remit amounts due to Owner under this Agreement in connection with any sales made before the effective date of the termination. At the time of termination, any unsold inventory shall continue to be auctioned by Property Bureau or returned to Owner, at owner's election and cost.

**12. Indemnification.** Subject to the limitations specified in this Section 12, each party will indemnify, hold harmless and defend the other party and its agents and employees from and against any and all losses, claims, damages, liabilities, whether joint or several, expenses (including reasonable legal fees and expenses), judgments, fines and other amounts paid in settlement, incurred or suffered by any such person or entity arising out of or in connection with (i) the inaccuracy of any representation or warranty made by the party hereunder, (ii) any breach of this Agreement by the party, or (iii) any negligent act or omission by the party or its employees or agents in connection with the performance by the party or its employees or agents of obligations hereunder, provided the negligent act or omission was not done or omitted at the direction of the other party.

**13. Limitations on Liability.** UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THE AGREEMENT, THE SALE OF PROPERTY, OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS (COLLECTIVELY, "DISCLAIMED DAMAGES"); PROVIDED THAT EACH PARTY WILL REMAIN LIABLE TO THE OTHER PARTY TO THE EXTENT ANY DISCLAIMED DAMAGES ARE CLAIMED BY A THIRD PARTY AND ARE SUBJECT TO INDEMNIFICATION PURSUANT TO SECTION 12. LIABILITY ARISING UNDER THIS AGREEMENT WILL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES. THE MAXIMUM LIABILITY OF ONE

PARTY TO THE OTHER PARTY FOR ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AGGREGATE AMOUNT OF PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY HEREUNDER IN THE YEAR IN WHICH LIABILITY ACCRUES; PROVIDED THAT EACH PARTY WILL REMAIN LIABLE FOR THE AGGREGATE AMOUNT OF ANY PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY PURSUANT TO THE AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, OWNER'S LIABILITY IS NOT LIMITED UNDER THIS AGREEMENT WITH RESPECT TO LIABILITY ARISING FROM OWNER'S FAILURE TO SATISFY TIMELY ALL CONDITIONS PRECEDENT.

14. **Notices.** Any notice under this Agreement must be in writing. Initially the addresses of the parties will be as follows: (i) If to PropertyBureau: PropertyBureau, Attn: Tom Lane, President, 3551 Camino Mira Costa, Suite C, San Clemente California 92672; and (ii) If to Owner: At the address stated below Owner's Signature block on the first page of this Agreement. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least ten days' written notice to the other party.

15. **Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

16. **Complete Agreement.** This Agreement and any related documents delivered concurrently herewith, contain the complete agreement between the parties relating to the subject of this Agreement and supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may be related to the subject matter hereof in any way.

17. **Attorneys' Fees and Legal Expenses.** If any proceeding or action is brought to recover any amount under this Agreement, or for or on account of any breach of, or to enforce or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party will be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which will be fixed by the court, and will be made a part of any judgment rendered.

18. **Further Assurances.** PropertyBureau and Owner will each sign such other documents and take such actions as the other may reasonably request in order to effect the relationships, services and activities contemplated by this Agreement and to account for and document those activities.

19. **Governing Law.** The internal law, and not the law of conflicts, of the state in which the Owner is located will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement. The proper venue for any proceeding at law or in equity will be the state and county in which the Owner is located, and the parties waive any right to object to the venue.

20. **Relationship of the Parties.** The relationship created hereunder between Owner and PropertyBureau will be solely that of independent contractors entering into an agreement. No representations or assertions will be made or actions taken by either party that could imply or establish any agency, joint venture, partnership, employment or trust relationship between the parties with respect to the subject matter of this Agreement. Except as expressly provided in this Agreement, neither party will have any authority or power whatsoever to enter into any agreement, contract or commitment on behalf of the other, or to create any liability or obligation whatsoever on behalf of the other, to any person or entity. Whenever PropertyBureau is given discretion in this Agreement, PropertyBureau may exercise that discretion solely in any manner PropertyBureau deems appropriate.

21. **Force Majeure.** Neither party will be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to acts of God, public enemy, war, strikes or labor disputes, or any other cause beyond the parties' reasonable control (each a "Force Majeure"), it being understood that lack of financial resources will not to be deemed a cause beyond a party's control. Each party will notify the other party promptly of the occurrence of any Force Majeure and carry out this Agreement as promptly as practicable after such Force Majeure is terminated. The existence of any Force Majeure will not extend the term of this Agreement.

22. **Counterparts.** This Agreement may be signed in any number of counterparts.