

**Auction Flex Cloud Services Agreement**

This is an agreement between 402 Ventures, LLC, 115 Canopy Street, Suite 101, Lincoln, NE 68508 (doing business as Auction Flex)

And

Company ID:

(provided in email from Auction Flex)

Company Name:

Address:

City, State Zip:

Country:

Phone:

Customer website:

**“Agreement” shall mean this Auction Flex Cloud Services Agreement and Company’s Privacy Policy and Company’s Copyright and Terms of Use made available at the Websites from time to time and which are fully incorporated herein.**

**“License” shall mean the license granted under Section 1 of this Agreement.**

**“Pricing Pages” shall mean the pricing information on the Websites accessible by the following link:** [**https://www.auctionflex.com/pricing**](https://www.auctionflex.com/pricing)**.htm**

**“Company” shall mean 402 Ventures, LLC (doing business as Auction Flex), business address at 115 Canopy Street, Suite 101, Lincoln, NE 68508.**

**“Services” shall mean the Auction Flex Cloud Services**

**“Websites” shall mean** [**http://www.auctionflex.com/**](http://www.auctionflex.com/) **and** [**http://www.hibid.com/**](http://www.hibid.com/) **.**

**SECTION 1: LICENSE**

The application and this Agreement constitute a binding contract between Company and You and does not extend to any other person or entity. This License allows you to use the Services. Your rights to the Services are non-sub-licensable, non-exclusive, non-transferable, and you may not decompile, reverse engineer, disassemble, rent, lease, load, sell, distribute for profit the software or any portion thereof or use the License in a manner inconsistent with applicable law. You may not remove or modify any copyright or version information contained within EXEs, DLLs, APPs, nor OCZ/ActiveXs. Your rights under this License will automatically terminate without notice if you fail to comply with any term(s) of the Agreement, as amended from time to time by Company. Additionally, Company may terminate the Agreement at any time for any reason without any liability to you.

**SECTION 2: ADDITIONAL TERMS**

When you create a user account to access and use our Services, you also agree to the following (each of which shall be incorporated, as applicable, based on your use of the Services into these Terms):

* 1. **Website Terms of Use** (applicable to all that use our Services)
  2. **Bidder User Terms**  (applicable if you choose to participate in an auction using our Services as a bidder or buyer (collectively, a “Bidder”).
  3. **Seller User Terms** (applicable if you choose to conduct an auction using our Services as a seller (“Seller”).

**SECTION 3: DISCLAIMER**

You expressly understand and agree that:

3.1. The Services are provided on an "as is" and "as available" basis. Company expressly disclaims all warranties, representations and conditions, express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose, satisfactory quality and non-infringement.

3.2. Company does not warrant that the functions contained in the Services will meet your requirements or expectation and Company does not warrant that the operation of Auction Flex Cloud will be uninterrupted, timely, secure, error-free, free of viruses, or other harmful components. Company does not warrant or make any representations regarding the use, correctness, accuracy, quality, and reliability of the use of the Services, their results or related documents, information, material or other data. The entire risk as to the quality and performance of the Services is with you and you assume the entire cost of all necessary servicing, repair, and/or corrections.

3.3. Any documents, information, material, or other data downloaded or otherwise obtained through the use of the Services is done at your own discretion and your own risk and you will be solely responsible for any damage to your computer system or loss of data that results.

3.4. Any advice or information, whether oral or written, obtained by you from Company through or from the Services shall not create any warranty, representation or conditions, which is not already expressly stated in this agreement.

3.5. Your receipt and/or use of any documents, information, material or other data by from the utilization of the Services is at your sole and absolute risk. Likewise, your provision and/or storage of any documents, information, material or other data from, by, through, or pursuant the Services is at your sole and absolute risk and it is solely your responsibility to back-up your data, images and other files to locations unrelated to the Services.

**SECTION 4: LIMITATION OF LIABILITY**

Under no circumstances shall Company be liable for any incidental, special, indirect, or consequential damages arising out of, or relating to the Services including, but not limited to, any loss, cost, expense or damage due to any loss of data, disclosure of credit card information, and/or disclosure of any information contained in the Agreement or provided otherwise by your use of the Services. You agree to defend, indemnify, and hold harmless Company, its affiliates licensors and their respective officers, directors, employees and agents from and against any third-party claims, liability, actions or demands (including, without limitation, costs, damages and reasonable legal and accounting fees) alleging or resulting from or in connection with your use of the Services or your breach of the Agreement.

**SECTION 5: INTELLECTUAL PROPERTY**

Company is the sole owner of all rights, title and interest in and to the Services, and such rights, title and interest are protected by United States copyright, trademark and other laws. Except for the limited licenses expressly granted to you in the Agreement, Company reserves for itself and its licensors all other rights, titles and interest. Your use of the Services does not transfer to you any right, title, or interest and unauthorized use of Company’s property may violate these laws and/or applicable communications regulations and statutes, and is strictly prohibited. You must preserve all copyright, trademark, service mark and other proprietary notices contained in the Services on any authorized copy you make pursuant your rights in the Agreement.

**SECTION 6: GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Nebraska. Any legal action brought with regard to this contract shall be brought only in Lancaster County, Nebraska. In no event shall Company’s total liability to you exceed the amount paid by you for the Services within the twelve (12) months prior to the time the claim arose.

**SECTION 7: COMPLETE AGREEMENT**

This Agreement constitutes the entire agreement between Company and you with respect to the Services provided by Company and supersedes all prior or contemporaneous understandings regarding such subject matter. The Agreement does not extend to any other person or entity. Company reserves the rights to make changes to the Agreement, without your prior consent and without providing notice to you, by updating the version of the Agreement on the Websites. The changes to the Agreement will be effective immediately upon publication on the Websites and you acknowledge and agree it is your responsibility to monitor the Websites for such changes. You may not assign or transfer your right without Company’s prior written consent.

**SECTION 8: ACCOUNT ADMINISTRATOR DESIGNATION**

You agree to designate a single person to be the account administrator. You acknowledge and agree the person designated as the account administrator below will be the only person allowed to make changes to the account and/or receive usernames, passwords and other information related to any account provided to you pursuant the Services.

Name:

Email:

**SECTION 9: USERNAMES AND PASSWORDS**

**You agree to list below the users and passwords for all Licenses to the Services you are contracting for pursuant this Agreement.** You agree should you have any questions concerning any use of any username or password listed below, you will make every attempt to resolve the issue directly with Company. You also acknowledge and agree to indemnify and hold harmless Company for any loss you incur in relation to disclosing the username and password information, and in relation to disclosing any additional username and password information to Company moving forward, unless such loss is due to Company’s intentional misconduct or gross negligence.

Usernames MUST be between 6 and 20 characters long and must be unique.

Passwords MUST be between 8 and 20 characters long and MUST contain at least one UPPER CASE LETTER (A-Z), one lower case letter (a-z), one number (0-9), and one special character (!@#$%^&\*).

User 1. UN: PW:

User 2. UN: PW:

User 3. UN: PW:

User 4. UN: PW:

User 5. UN: PW:

User 6. UN: PW:

User 7. UN: PW:

User 8. UN: PW:

User 9. UN: PW:

User 10. UN: PW:

User 11. UN: PW:

User 12. UN: PW:

**SECTION 10: PRICING POLICY**

Pricing for the Services is determined in accordance with the pricing published on the Pricing Pages which may be amended from time to time by Company. You acknowledge and agree it is your responsibility to review and understand the pricing published on the Pricing Pages before signing the Agreement, and you acknowledge and agree it is your responsibility to monitor the Pricing Pages for such changes. You agree, should you have any questions concerning the prices for the Services, this Pricing Policy and/or the Pricing Pages, you will make every attempt to resolve the issue directly with Company. To view today’s current pricing published on the Pricing Pages access the Pricing Pages through the following links:

[**https://www.auctionflex.com/pricing**](https://www.auctionflex.com/pricing)**.htm**

**SECTION 11: AUTOMATIC AND RECURRING CREDIT CARD BILLING AUTHORIZATION AND ACKNOWLEDGEMENT**

All requested information regarding your credit card is required. Upon approval, we will store your credit card information and automatically bill your credit card on a recurring monthly basis, for the total amount of charges you accrued during a month for the Services provided to you in accordance with our Pricing Policy in Section 10 of this Agreement.

Your total charges will appear on your monthly credit card statement.

Credit Card Information:

We accept the following credit cards: Visa, MasterCard, American Express, Discover:

Credit Card Type:

Credit Card Number:

Expires (mm/yyyy):

Cardholder’s name:

Billing Address:

Billing City:

Billing State/Province:

Billing Zip:

Billing Country:

By signing below, you hereby authorize Company to store and automatically charge your credit card listed above on a recurring basis for the total amount of charges you accrued during each month for the Services provided to you by the Company until the Agreement is terminated or until you provide written notification to the Company of the withdrawal or cancelation of your authorization, whichever is earlier. You hereby authorize the Company to treat your electronic signature as evidence of your authorization and consent to store and initiate recurring electronic payment transactions from your credit card listed above. You acknowledge and agree you have reviewed the Pricing Policy in Section 10 of this Agreement. You acknowledge and agree you have reviewed the pricing information on the Pricing Pages and should you have any questions concerning any credit card charge made to your account, you will make every attempt to resolve the issue directly with Company. You may contact the Company concerning such questions at [**support@auctionflex.com**](mailto:support@auctionflex.com) or 352-414-1947 or at the address below. You also acknowledge and agree to indemnify and hold harmless Company for any loss you incur in relation to disclosing your credit card information to the Company, and in relation to disclosing any additional credit card information to Company moving forward, unless such loss is due to Company’s intentional misconduct or gross negligence.

Your authorization for the storing and recurring automatic charges of your credit card automatically renews until the Agreement is terminated or until you provide written notification to the Company of the withdrawal or cancelation of your authorization, whichever is earlier. You acknowledge and agree that you may withdraw or cancel your authorization and consent to the recurring automatic payment transactions at any time by notifying the Company in writing at 115 Canopy Street, Suite 101, Lincoln, NE 68508.

Signature: (signature must match name on credit card used for payment)

Name of Signatory:

Title:

Date:

**Signature**

By signing, you acknowledge and agree you have read and understand the Agreement in its entirety, including the authorizations contained therein, and that you agree to be bound by its terms and conditions.

Signature: (**signature must match name on credit card used for payment)**

Name of Signatory:

Title:

Date:

V7-07-2022