

Domain Assets –ICAP IP Auction and Brokerage Buyer/Seller TERMS of SERVICE Agreement

DISCLAIMER

This web page and the other pages of DomainAssets/ICAPIP are provided by the company as a service to the public. It is hoped that the information provided here will be helpful to readers in familiarizing themselves with the concept of domain names and the relation they have to intellectual property issues and how these issues may affect them. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for the advice of competent counsel. In addition, be aware that intellectual property law varies considerably from jurisdiction to jurisdiction. Therefore, some information in these web pages may not be correct as it pertains to your jurisdiction.

Information on this web site may contain inaccuracies or typographical errors. Information may be changed or updated without notice. This website does not constitute an offer or contract.

As a service to you, we may provide links to other web sites that we feel have relevant content. However, we make no representations whatsoever about other web sites that you may access through this one. When you access a non-DomainAssets/ICAPIP web site, please understand that it is independent from DomainAssets / ICAP IP, and that DomainAssets /ICAPIP has no control over the content on that web site. In addition, a link to a non- DomainAssets/ICAPIP web site does not mean that DomainAssets/ICAPIP endorses or accepts any responsibility for the content, use or products and services made available through such web site.

IN NO EVENT WILL DOMAIN ASSETS OR ICAP IP BE LIABLE TO ANY PARTY FOR ANY DIRECT, INDIRECT, SPECIAL OR OTHER CONSEQUENTIAL DAMAGES FOR ANY USE OF THIS WEB SITE, OR ANY OTHER HYPERLINKED WEB SITE, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA OR OTHERWISE, EVEN IF WE ARE EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

INFORMATION ON THIS WEB SITE IS PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSIONS OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

Auction /Brokerage Buyer Agreement

1. Objective:

This agreement ("Agreement") outlines the terms by which a buyer ("Buyer") may participate in any live or online auction event or portion thereof ("Auction") or brokerage ("Private Sale") of domain names conducted by DomainAssets.com Inc. ("DomainAssets") or ICAP IP.com ("ICAP") By clicking on the "Accept" button, or submitting a bid online or via email, Buyer expressly acknowledges that they have read, understood and accept the terms in this Agreement and understand the bid, offer, or counter offer, if accepted by the seller is legally binding agreement.

2. Term:

This Agreement commences upon Buyer's express acceptance of the Agreement. The Agreement terminates at the end of the Auction or brokerage transaction, or when DomainAssets or ICAP IP.com has delivered all domains purchased by Buyer at Auction or through a brokerage transaction to Buyer, whichever comes later.

3. Payments:

A domain name purchased by Buyer during the Auction or brokerage transaction must be paid for in full within 7 business days of the close of the Auction. Payment must be remitted via wire transfer, cashier's check, or personal check. If payment is performed via personal check DomainAssets or ICAP IP.com may delay delivery of the purchased domain name until the check clears. DomainAssets reserves the right to accept payment in any form other than those listed at DomainAssets' sole discretion.

4. Confidentiality:

Domain Assets and ICAP IP.com will not share any personally identifying information we gather about Buyer unless we are legally compelled to do so. DomainAssets/ICAPIP reserves the right to share Buyer's bid alias and bids during the auction, and following the auction may disclose the domain names sold and their final auction prices.

5. DomainAssets/ICAPIP Responsibilities:

DomainAssets/ICAPIP will:

1. Auction or broker domain names and awards them to the highest qualified bidder at the close of bidding. A qualified bidder is one who in DomainAssets' sole discretion is determined to have the ability to fully comply with this Agreement.

2. If Buyer is the highest qualified bidder for a certain domain name (the "Name"), work with Buyer to facilitate Buyer's payment to DomainAssets for the Name.
 3. If the Name is registered at a registrar account controlled by DomainAssets, DomainAssets will provide Buyer with all reasonable assistance to manage the Name.
 4. Upon receipt of payment to Escrow, DomainAssets will promptly deliver the Name to Buyer.
 5. Refrain from bidding during the Auction, either directly or via an agent, on domain names featured in the Auction. This responsibility applies to all Domain Assets and ICAP companies and their agents.
 6. Proactively and aggressively work to prevent and/or contain any fraudulent activity related to the Auction.
6. Buyer Responsibilities:

Buyer will:

1. Affirm that they understand and agree that any bid, offer, or counter offer entered in the Auction or through DomainAssets/ICAPIP bid form, make offer link, or email correspondence is a binding agreement to purchase the domain name bid upon at the price bid, and that Buyer agrees to be bound by his bid. A bid withdrawal or cancellation by a buyer on a domain(s) offer price that has been accepted by the seller, represents a breach and the buyer will be responsible for the commission fees normally paid by the seller. (See fees below)
 2. Agree that upon winning a Name, Buyer will promptly, within seven business days, pay DomainAssets the full purchase price in a manner prescribed by DomainAssets.
 3. Affirm that at the time of placing the bid Buyer has sufficient resources available so that should Buyer's bid be accepted the transaction can be completed.
 4. If acting as an agent, Buyer represents that it has the authority to bind Buyer's principal to all terms contained in this Agreement and that a breach of this Agreement by Buyer's principal will be considered a breach by Buyer.
7. Warranties; Disclaimer of Warranties:
1. ICAP IP/Domain Assets warrants with respect to itself only that:
 1. It has the legal power and authority to enter into this Agreement;
 2. It will perform its obligations under this Agreement in a timely manner, in good faith and with all due skill and care;
 3. Its performance under this Agreement shall comply with all applicable laws, regulation and policy.
 2. Buyer warrants with respect to itself only that:
 1. It has the legal power and authority to enter into this Agreement;
 2. It will perform its obligations under this Agreement in a timely manner, in good faith and with all due skill and care;
 3. To its knowledge, no action or relationship described or contemplated by this Agreement (including Buyer's ownership of a domain name purchased at the Auction) infringes, or will cause to be infringed, the intellectual property rights of any third person; and

4. Its performance under this Agreement shall comply with all applicable laws, regulation and policy.
5. By clicking on the "Accept" or "Submit" button , or submitting a bid online or via email, Buyer expressly acknowledges that they have read, understood and accept the terms in this Agreement and understand the bid, offer, or counter offer, if accepted by the seller is legally binding agreement.

OTHER THAN THE EXPRESS WARRANTIES ABOVE, THE PARTIES ACKNOWLEDGE THE ADVANCED AND SPECULATIVE NATURE OF DOMAIN NAME SALES AND AUCTIONS AND UNDERSTAND THAT NO GUARANTEES OR WARRANTIES CAN BE MADE OR EXPECTED WITH RESPECT TO SUCH CONCEPT OR THE SERVICES CONTEMPLATED HEREIN. EACH PARTY THEREFORE DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR THE PARTICULAR PURPOSE, AND EACH PARTY AGREES THAT THERE ARE NO WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. IN PARTICULAR, NEITHER PARTY WARRANTS THAT THE PERFORMANCE OF THEIR PORTION OF THE AGREEMENT WILL BE UNINTERRUPTED OR ERROR-FREE.

8. Indemnification:

1. Buyer agrees to indemnify, defend and hold harmless DomainAssets/ICAPIP and its subsidiaries, officers, directors, employees, agents, successors and assigns, at its expense, from any and all third party claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising from or related to any breach of a warranty or failure to perform any covenants required of it under this Agreement.
2. Procedure. The indemnified party will provide the indemnifying party with prompt and reasonable notice of the claim, allow the indemnifying party to conduct the defense or settlement of such a claim at the indemnifying party's sole expense and discretion, and provide reasonable cooperation with the indemnifying party in such defense or settlement; provided, however, that the indemnifying party will not settle any claim in a manner that does not unconditionally release the indemnified party or without obtaining the indemnified party's prior written consent, which consent will not be unreasonably withheld or delayed. The indemnified party will have the right to retain counsel of its own choosing and at its own expense.

9. Limitation of Liability:

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, AND CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSS OF BUSINESS, REVENUE OR PROFITS EVEN IF IT HAS BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S MAXIMUM LIABILITY TO THE OTHER UNDER THIS CONTRACT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY, WILL BE THE RECOVERY OF ACTUAL, DIRECT DAMAGES UP TO A TOTAL OF THE WINNING BID AMOUNTS WITH RESPECT TO THE DOMAIN NAME(S) AT ISSUE.

10. Governing Law, Venue:

This Agreement will be governed by the laws of the state of NEW YORK, without reference to conflict of laws principles. The parties agree that jurisdiction and venue for any action arising out of or pertaining to this License will be proper only in the state and federal courts located in NEW YORK.

11. Modifications:

All amendments or modifications of this Agreement will be binding upon the parties despite any lack of consideration so long as the same are expressly agreed to by Seller and DomainAssets. It is expressly agreed that no usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement or alter in any manner the express terms of this Agreement.

12. Miscellaneous:

The parties are independent contractors and do not intend to create any partnership, joint venture, agency, franchise, sales representative or employment relationship between the parties. This Agreement constitutes the entire understanding between the parties relating to the subject matter of this Agreement and supersedes all prior writings, negotiations or understandings with respect thereto. No modification or addition to this Agreement will have any effect except as set forth in Section 11. Notice must be given to DomainAssets or ICAP IP at the address set forth on its web site and to Seller at the administrative address listed in the Seller's account. Notice will be deemed to have been received upon personal delivery (including confirmed fax), one day after mailing by nationally known overnight carrier or five days after mailing by certified mail, return receipt requested. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

Sample standard agreements for Private Brokerage sale & Auction Buyer/Seller agreement:

DOMAIN NAME PURCHASE AGREEMENT

This Purchase Agreement is entered into by and between _____, a _____ corporation (hereinafter referred to as "Purchaser") whose address is _____ and _____ (hereinafter referred to as "Seller") whose address is _____

and is made and effective as of the later of the date on which it is signed by Purchaser and Seller (the "Effective Date").

WHEREAS, Seller is the legal owner of certain Domain Name; and

WHEREAS the Domain Name is "_____" (the Domain Name ""); and

WHEREAS, Purchaser wishes to purchase the Domain Name, or has won the domain in an auction transaction, and all related rights thereto;

THEREFORE, the parties agree as follows:

1. Purchase. Seller hereby transfers and assigns to Purchaser through the escrow process:
 - a. all right, title and interest in and to the Domain Name;
 - b. any registered or unregistered trademarks, service marks, copyrights or other intellectual property or proprietary rights based on a related to the Domain Name; and
 - c. all goodwill associated with the Domain Name.
2. Payment. As consideration for the matters set forth in Section 1, Purchaser agrees to pay the Purchase Price of \$, including brokerage and escrow fees agreed to by buyer seller pursuant the transaction.
3. Escrow Service. Within 2 Days of execution of the Purchase Agreement Buyers Broker /Agent ("Escrow Agent") shall set the Transaction on Escrow.com (the "Escrow Service"). Upon receipt of the Purchase Price ay Escrow.com, Buyer shall request a transfer of the domain from the seller to the buyer at an ICANN Accredited registrar pursuant to the Escrow.com Service Policies and Procedures.

4. Registration of Transfer. Seller shall cooperate as reasonably requested by Purchaser to ensure that the Domain name is validly transferred to Purchaser upon final payment to Escrow.

5. Representations and Warranties of Seller. Seller hereby represents

and warrants to Purchaser as follows:

- a. Seller is the sole owner of all right, title and interest to the
- b. Seller has full authority to enter into this Agreement and to perform its terms.
- c. The Domain Name is being transferred to Purchaser free of any liens, encumbrances, restrictions, licenses, or security interests.
- d. Seller has the right, power and authority to enter into this Agreement.
- e. To Seller's best knowledge, the and use of the domain name by Purchaser does not and will not violate or infringe any trademark, service mark or other right of any third party.
- f. The Domain Name has not been, and is not currently, the subject of any litigation, claims, arbitration or other legal proceeding nor has the Seller received any notice of any such pending items.

6. Miscellaneous.

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- b. This Agreement is the complete and exclusive agreement between Purchaser /Buyer and Seller . This Agreement supersedes all prior agreements and understandings between the parties.
- c. This Agreement may be executed in counterparts.
- d. The parties agree that the sole remedy for Purchaser's failure to make any payment owed to the seller under this agreement shall be full return of the Domain Name to the seller
- e. Both buyer and seller agree that the prevailing party, in the event of any legal dispute, will be entitled to recovery of all the attorney fees (Excluding the Brokerage Escrow Fees paid by seller and /or buyer to the Escrow Agent).

[Signatures on Following Page] In witness whereof, the Parties have executed this Purchase Agreement as of the Effective Date.

Buyer/Purchaser

By: _____

Name: _____

Title: _____

Date: _____

Seller

By: _____

Name: _____

Title: _____

Date: _____

DOMAIN ASSETS LLC

AUCTION BUYER PURCHASE AGREEMENT

This AUCTION PURCHASE AGREEMENT (this **“Agreement”**) is made and entered into as of the date set forth on the signature page hereto by the person or entity set forth below under the heading “Buyer” on the signature page hereto (the **“Buyer”**).

WHEREAS, Buyer has participated in a live or online auction of internet domain names, including a silent or online auction including following a live auction (an **“Auction”**), conducted by ICAP IP (**“ICAP”**), in partnership with DOMAIN ASSETS LLC . (**“DomainAssets”**); and

WHEREAS, Buyer desires to consummate the purchase of certain domain names for which it submitted the winning bid in an Auction.

NOW, THEREFORE, Buyer, intending to be legally bound, hereby agrees as follows:

1. Terms of Service. The Auction Terms of Service (Buyer Agreement) set forth in Schedule II (the **“Terms of Service”**) are hereby incorporated into this Agreement as if such terms were specifically set forth herein. By executing this Agreement, Buyer hereby agrees to be bound by the Terms of Service. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Terms of Service.

2. Purchase and Sale.

(a) In accordance with the Terms of Service, Buyer hereby purchases each of the domain names set forth on Schedule I (each a **“Domain Name”**) for the aggregate purchase price (in United States Dollars) set forth opposite such Domain Name on Schedule I, which includes all applicable transaction fees (the **“Purchase Price”**). Each Domain Name so purchased by Buyer is purchased directly from the owner of such Domain Name (such person or entity, the **“Seller”**). The consummation of the sale of the Domain Name by the Seller and the purchase of such Domain Name by the Buyer is referred to as the **“Closing of the Transaction”**.

(b) In order to effectuate the foregoing, (i) Seller has agreed to cause the Domain Name(s) to be transferred to Buyer through an ICANN-accredited registrar, or other registrar approved by DomainAssets, and (ii) (A) if payment of the Purchase Price is being made by check or wire transfer, Buyer hereby agrees to remit the Purchase Price to WELLS FARGO, who shall serve as escrow agent for the holding and disbursement of the Purchase Price (in such capacity, the **“Escrow.com Bank Escrow Account”**), (B) if payment of the Purchase Price is being made by credit card, Buyer hereby agrees to have the Purchase Price charged to the credit card for which information is provided by Buyer on the signature page hereto and (C) if payment of the Purchase Price is being made by papal, Buyer hereby agrees to fund its Paypal account and authorizes the amount deposited to be transferred to Escrow.com’s papal account. Once

the Domain Name(s) have been secured through ESCROW.com either in its restricted account or at another registrar, DomainAssets has verified the receipt of the Purchase Price with the Escrow Agent or has verified the charge has gone through on the applicable credit card or in the appropriate paypal account, and all other conditions to the Closing of the Transaction, if any, have been completed, (A) in the event payment of the Purchase Price is made by wire transfer or check, DomainAssets will authorize the Escrow Agent to pay the net proceeds for the sale of the Domain Name(s) to the Seller per the Seller's instructions and DomainAssets will cause Registrant to transfer the Domain Name(s) to the Buyer or (B) in the event payment of the Purchase Price is made by credit card or paypal, Escrow.com will pay the net proceeds for the sale of the Domain Name(s) to the Seller per the Seller's instructions and will cause Registrants to transfer the Domain Name(s) to the Buyer.

3. Payment Instructions. In order to fulfill its obligations to pay the Purchase Price to the Seller in accordance with Section 2, Buyer must make payment in accordance with the following acceptable payment methods and instructions:

Wire transfer – Please wire amounts using the instructions provided below and please be sure to add the domain name and the words “Auction” to the comment field of the wire transfer.

PayPal/Credit Card – processed directly through the Payment Center/Add Funds section of your ESCROW.com account. Limited to amounts **under \$5,000**.

Wire information:

ESCROW.com

USD \$ _____ Transactions

Bank Name: Wells Fargo Bank, N.A.

Bank Address: 420 Montgomery St, San Francisco, CA 94104

ABA Routing Number: 121000248

Swift Code: WFBIUS6S

Credit Account Name: Internet Escrow Services Inc

Credit Account Number: 7101167844

Note: Please notify us by email at sales@domainassets.com before wiring funds or transferring by ACH.

4. Third Party Beneficiary. The Seller shall be an intended third party beneficiary of this Agreement and Section 1 of the Terms of Service.

5. Entire Agreement. This Agreement, together with the Terms of Service, constitutes the entire agreement of Buyer and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties with respect to the subject matter hereof.

* * * * *

IN WITNESS WHEREOF, the Buyer has executed this Auction Purchase Agreement as of the date set forth below.

BUYER:

By: _____

Name:

Title:

Address: _____

Date: _____

Schedule I

| Service | Cost |
|--------------------------------|-------------|
| | |
| Domain Name Purchase | |
| Transaction processing service | Included |
| Expedited transfer service | Included |

Auction and Brokerage Seller Fees & Policies

It is free to submit a domain for consideration in a auction or to schedule a auction! Fees are only charged for sold domains at the completion of a sale.

Additionally, policies have been set-up to promote a fair and efficient bidding for both buyers and sellers.

Fees

The seller payout amount is the final selling price of the domain less any fees. *Fees are assessed based on the type of auction it is sold at as follows:

| Domain Assets /ICAP IP Auction Fees | |
|--|--------------------------------------|
| Submission Fee | Free |
| Commission Fee | 15% of the final selling price |
| Handling Fee Important: All domains scheduled for an auction must be in your in an ICANN Accredited registrar account and under your full control prior to the auction being scheduled | Free |
| Placement in Promotional Emails and Auction Lists | Free |
| Auction Example: | |
| Your Reserve Price | \$100,000 |
| Winning Auction Sales Price | \$200,000 |
| Commission Fee @ 15% | (\$40,000) |
| Your Net Payout | \$160,000 |

Policies

Please be sure to review the policies **before** submitting or scheduling a domain for auction.

Sellers **can** promote domains for auction by referring others to the ICAP IP and DomainAssets marketplace URL and forwarding all leads and inquiries to your ICAP IP Account Executive.

Sellers **cannot** do the following:

- Take any action to avoid fees while under non-circumvent or exclusivity terms (see examples below).

Examples of circumvention of the ICAP IP and DomainAssets fees include, but are not limited to:

- Contacting potential buyers or bidders with the intention of avoiding fees by selling a domain outside of the ICAP IP live event or extended online auction and DomainAssets marketplace.
- Requesting an auction cancellation or removing a domain submitted for consideration in an auction.
- Setting a reserve price above the market value in an attempt to gain exposure for a sale outside of the ICAP IP and DomainAssets marketplace.
- Directly selling a domain to an interested party within one year that was a direct or indirect result of sales and marketing efforts of a Live or Extended Auction; such as exposure generated from articles, press releases, advertising and sales any other activities.
- Attempt to avoid paying any applicable fees on the sale of a domain outside of the ICAP IP or DomainAssets marketplace while under an exclusivity period.
- Accept a Bid through auction or private brokerage communications and then later renege/cancel the acceptance of the sale for any reason.
- Bid on a domain that is owned or represented by the seller, often referred to as shill bidding.
- Misrepresent any data or information provided about the domain including traffic statistics, revenue, use complaints, ownership rights, or legal proceedings.

If a policy violation occurs, commission fees are immediately due, an auction may be ended and parties involved may be prevented from participating in the future auctions