

PROPERTY DISPOSITION SERVICES AGREEMENT

PropertyRoom.com, Inc., a Delaware corporation ("PropertyRoom" or "PRC"), enters into this agreement (the "Agreement"), with the City of Overland Park, Kansas, a municipal corporation operating under the laws of the State of Kansas (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 Services of PRC.

Owner Information	Schedules, Supplements & Other Attachments
<u>City of Overland Park, Kansas</u> Owner Name	Mark included attachments:
<u>8500 Santa Fe Drive</u> Address	Terms and Conditions <u>Yes</u>
<u>Overland Park, Kansas 66212</u> City, State Zip Code	Exhibits: <u>Yes</u> <u>A -B</u>
<u>(913) 895-6000</u> Phone	_____
_____ Email	

This Agreement, including all of the terms and conditions set forth in the attached Terms and Conditions as well as all other attachments indicated in the box above, comprises the entire Agreement between the Parties. This Agreement cannot be modified except in writing by the duly authorized representatives of both parties.

Owner

Carl Gerlach
 Signor Name

Mayor
 Signor Title

 Signature

 Signature Date

PropertyRoom.com

 Signor Name

 Signor Title

 Signature

 Signature Date

PropertyRoom.com, Inc.
 26421 Crown Valley Parkway, Ste 200
 Mission Viejo, California 92691
 +1 (949) 282-0121
 Federal Tax ID 86-0962102

PRCOPERTY DISPOSITION SERVICES AGREEMENT, CONT'D

ADDITIONAL OWNER SIGNORS

Owner

Signor Name

Signor Title

Signature

Signature Date

Owner

Signor Name

Signor Title

Signature

Signature Date

Owner

Signor Name

Signor Title

Signature

Signature Date

Owner

Signor Name

Signor Title

Signature

Signature Date

Owner

Signor Name

Signor Title

Signature

Signature Date

Owner

Signor Name

Signor Title

Signature

Signature Date

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 PRC for Disposition Services. PRC 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 (the "Buyer"). Owner appoints PRC as its attorney-in-fact to sign any and all documents necessary to assign to Buyers all of Owners right, title and interest in and to Property sold or disposed. 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 PRC's right to PRC's Net Proceeds and funds attributable to credit card processing 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.**
 - a. **Portable Property Items.** PRC will, on Owners behalf, pick-up, store and list Property for sale by auction to the public on the internet on one or more domain names selected by PRC. To the extent that any Property is not sold by auction, PRC may, in any commercially reasonable manner selected by PRC, dispose of Property. PRC 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. PRC 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 Property will be auctioned; creating text and graphics to describe and depict Property submitted for auction; collecting Buyer information (such as name, billing address, shipping address, and credit card information); approving Buyer credit card purchase transactions; and collecting auction proceeds for completed sales from Buyers. PRC shall use reasonable commercial efforts in auctioning and selling the Property on the Internet and disposing of Property that does not sell at auction. PRC shall sell and dispose of all Property "as is" without any liability to the Owner. PRC 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.
 - b. **Large Property Items.** PRC will, at Owner's request and on Owner's behalf, list physically large Property ("Large-Items") for sale by auction, including but not limited to cars, trucks, boats, planes and bulk lots of bicycles. For Large-Items, PRC offers Owner different selling options ("Silver," "Gold," "Gold-Plus" and "Platinum"), each with different service components and associated pricing.
 - (1) **In-Place Options.** For Silver, Gold and Gold-Plus ("Gold+"), PRC will auction Large-Items in-place, and in this context, "in-place" means that PRC will not pick-up and store these specific Items but rather Owner will maintain physical control until transfer of Items to Buyers.
 - (2) **Haul-away Option.** For Platinum, PRC will, in conjunction with a partner and to the extent practical, pick-up and haul-away Large-items, selling via online auction and transferring title and physical possession to Buyers as described in Portable Property Items.
 - (3) **Large-Item Service Summary.** The Large-Item Auction Services Option Table below depicts service components associated with each option.

Method of Selling Property: Large-Item Auction Services Option Table

Service Component	Responsible Party (if applicable)			
	Silver	Gold	Gold+	Platinum
1. List Large-Item for In-Place online auction	PRC	PRC	PRC	
2. Checklist review and coordination	PRC	PRC	PRC	PRC
3. Listing write-up and marketing	PRC	PRC	PRC	PRC
4. Auction and auction technology management	PRC	PRC	PRC	PRC
5. Customer Support to Bidders	Owner	PRC	PRC	PRC
6. Coordinate Buyer payment and Large-Item pick-up	Owner	PRC	PRC	PRC
7. Transaction (payment) processing	Owner	PRC	PRC	PRC
8. Photographing, vehicle review, equipment description	Owner	Owner	PRC	PRC
9. Provide or procure asset title, as applicable	Owner	Owner	Owner	Owner*
10. Pick-up and haul-away for off-premises online auction				PRC

* At Owner request, PRC will acquire title through its partner and pass-through title acquisition cost.

4. Term and Termination.

- a. This Agreement will become effective as of the Start Date and will continue for an initial term of one (1) year (the "Initial Term") following the "Launch Date" (as defined herein) and thereafter will automatically renew for consecutive one (1) year terms unless written notice of non-renewal is provided by either party to the other at least sixty (60) days prior to the expiration of the then current term.
- b. As used herein, "Launch Date" shall mean the date on which PRC completes the first auction of Owner Property.
- c. Either Party may terminate this Agreement for its convenience upon thirty (30) days prior written notice to PRC.
- d. This Agreement may be terminated by either party if there is a breach of any obligation, representation or warranty contained in this Agreement, upon thirty (30) days prior written notice to the other party unless the breach is cured within the thirty (30) day period, provided, however, if the breach is not capable of being cured within thirty (30) days, the breaching party will have a reasonable amount of time to cure the breach if it begins to cure during the thirty (30) day period and proceeds diligently thereafter. The written notice will specify the precise nature of the breach. Notwithstanding anything in this Section to the contrary, this Agreement may be terminated immediately for breach of this Agreement outlined in Sections 21 and 22, below.
- e. 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.
- f. Notwithstanding any termination by either party of this Agreement, PRC 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 PRC or returned to Owner, at Owner's election and cost.

5. Allocation of Sales Proceeds.

a. Portable Property Items

- (1) **Sales Price.** The total amount paid by Buyer 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 Buyer.
- (2) **The Split.** For each item of Property, Owner will be credited with 50% of the first \$1,000 of the Winning Bid and 75% of the Winning Bid portion, if any, that exceeds \$1,000. From this amount, the Owner's pro rata share of transaction fees (the "Processing Costs"), if any, will be deducted.

Processing Costs. Credit card processing costs ("Credit Card Cost") and affiliate processing fees (the "Affiliate Fees," which include commissions and processing costs paid to third parties who send winning bidders to the website), will be borne by Owner and PRC in proportion to the percentage of the revenue credited to the parties for each underlying

transaction. Other than the Fuel Surcharge described in Section 3, below, Processing Costs are the only costs credited against the Owner's Net Proceeds. All other services are provided at no charge including but not limited to those set out in Exhibit A, a copy of which is attached hereto and incorporated by reference herein.

(3) **Fuel Surcharge.** Fuel surcharges are set out in Exhibit B, a copy of which is attached hereto and incorporated herein. Fuel surcharges, if any, may be deducted from monthly Owner's Net Proceeds.

(4) **Net Proceeds.** Amounts received by the Owner will be called "Owner's Net Proceeds".

(5)

Portable Item Example. The following example illustrates allocation of proceeds from a Portable Property Item sale. Assume an item of Property sells at auction for a \$100 Winning Bid; 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 ($\$100 + \$10 + \$2 + \6) by credit card, and the Credit Card Cost is 3% of the Sales Price or \$3.54 ($0.03 \times \118) and the Affiliate Fee is 4.8% or \$4.80 ($0.048 \times \100). The Owner and PRC each share 50% of the underlying Winning Bid, therefore Credit Card Costs and Affiliate Fees are also shared equally, \$1.77 each ($\$3.54 \div 2$) for Credit Cost and \$2.40 each ($\$4.80 \div 2$) for Affiliate Fees. The Owner's Net Proceeds are \$45.83 ($\50.00 less \$4.17). Note: less than 1 out of 10 transactions include Affiliate Fees.

(6) To the extent that Property is not sold by Auction and PRC disposes of Property in a commercially reasonable manner (see "Method of Selling Property" section), including, but not limited to, sending to a charity, recycling center, landfill, or scrap metal processor, Owner understands and agrees to the following.

- (a) When Property is not sold by Auction, PRC disposition activities create additional PRC processing costs (the "Disposal Costs") and potentially a disposition Sales Price (the "Disposition Proceeds").
- (b) Disposal Costs include, but are not limited to, labor cost of reloading Property onto a truck, labor and vehicle costs associated with transporting Property for disposition, and third-party fees, such as landfill, recycling, and hazardous material disposal fees.
- (c) Disposition Proceeds include, but are not limited to, a Sales Price obtained for scrap metal.
- (d) PRC will bear the burden of Disposal Costs.
- (e) PRC will retain Disposition Proceeds, if any, as an offset to Disposal Costs, except if Disposition Proceeds for an item of Owner Property exceed \$250, in which case PRC will credit Owner a portion of Disposition Proceeds per "The Split" and "Example" above.

b. Large-Items.

(1) **Sales Price, Processing Costs and Net Proceeds.** Calculated in a manner directly analogous to Portable Items.

(2) **The Split.** For each Large-Item of Property, Owner will be credited with a percent of the Winning Bid which varies according to the Large-Item service option employed.

- (a) **Silver.** Owner will be credited with 100% of the Winning Bid and PRC will charge Buyer a 15% Buyer's Premium.
- (b) **Gold.** Owner will be credited with 95% of the Winning Bid and from this amount, the Owner's pro rata share of the Processing Costs, if any, will be deducted. PRC will charge Buyer a 15% Buyer's Premium.
- (c) **Gold-Plus.** Owner will be credited with 90% of the Winning Bid and from this amount, the Owner's pro rata share of the Processing Costs, if any, will be deducted. PRC will charge Buyer a 15% Buyer's Premium.
- (d) **Platinum.** Owner will be credited with 70% of the Winning Bid less any title pass-through fees from PRC partner.

Large-Item Example. Assume a Large-Item sells at auction for a Winning Bid of \$1,000.00, and with no shipping or handling charges yields a \$1,000.00 Sales Price. For the Silver, Gold and

Gold-Plus options, PRC collects and retains a 15% Buyer's Premium, \$150.00 (0.15 x \$1,000), from Buyer. With regard to collecting the Sales Price and sharing proceeds, the approach differs by option:

Silver. Owner completes the sale by collecting the \$1,000.00 Sales Price from Buyer, retaining 100% as Owner's Net Proceeds.

Gold. PRC completes the sale by collecting the \$1,000.00 Sales Price from Buyer. The underlying Winning Bid is shared 95% by Owner, \$950 (0.95 x \$1,000) and 5% by PRC, therefore a 3% (\$30.00) Credit Card Cost is split 95% by Owner, \$28.50 (0.95 x \$30) and 5% by PRC, \$1.50 (0.05 x \$30). The Owner's Net Proceeds are \$921.50 (\$950.00 less \$28.50).

Gold-Plus. PRC completes the sale as described in Gold, but with a 90-10 Split.

Platinum. PRC complete the sale as described in Gold, but with a 70-30 Split and with a deduction of any title acquisition pass-through fees.

6. **Payment Terms.** Not less than once every month, PRC 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 payment of Owner's Net Proceeds, PRC will make available to Owner a detailed report setting forth the following information for the immediately preceding month:
 - a. The completed sales during the prior month, including the total amount of related proceeds collected, Owner and PRC share of Credit Card Costs, the Owners Net Proceeds;
 - b. Other dispositions of Property during the month; and
 - c. The Property, if any, inventoried by PRC at the end of the month.
7. **PropertyRoom's Obligations Concerning Property in Its Possession.** With respect to Property in PRC's possession:
 - a. PRC will exercise due care in the handling and storage of any Property;
 - b. PRC 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;
 - c. PRC shall sign and deliver to Owner any UCC-1 financing statements or other documents reasonably requested by Owner; and
 - d. PRC shall obtain and maintain insurance in an amount (determined by PRC) 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. PRC shall give Owner a certificate or a copy of each of the upon Owner's request.
 - e. PRC shall provide the services outlined in Exhibit A at no additional cost to Owner.
8. **Owner Obligations.** Owner will complete paperwork reasonably necessary to convey custodial possession of the item of Property to PRC, including a written manifest or list that describes the item of Property in sufficient detail for identification. Owner agrees that it will not provide Property that is illegal or hazardous, including but not limited to explosives, firearms, counterfeit or unauthorized copyrighted material ("knock-offs"), poisons or pharmaceuticals. In addition, to help comply with public notification statutes as well as to support internet traffic flow to the PRC auction website,
9. **Restrictions on Bidding.** PRC and its employees and agents may not directly or indirectly bid for or purchase auctioned Property on the PRC web site.
10. **Representations and Warranties of Owner.** Owner hereby represents, warrants and covenants as follows:
 - a. Property delivered to PRC is available for sale to the general public ; and
 - b. Owner has taken all required actions under applicable law that are conditions precedent to Owner's right to transfer title to the Property to Buyers (the "Conditions Precedent").
11. **Books and Records.** PRC 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 (3) 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.

12. **Assignment.** This Agreement may not be assigned, in whole or in part, by either of the parties without the prior written consent of the other party (which consent may not be unreasonably withheld or delayed).
13. **Notices.** Any notice or other communication given under this Agreement will be in writing and will be delivered by hand, sent by facsimile transmission (provided acknowledgment of receipt thereof is delivered to the sender), sent by certified, registered mail or sent by any nationally recognized overnight courier service to the addresses provided on the signature page of the 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 (10) days written notice to the other party.
14. **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.
15. **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.
16. **Further Assurances.** PRC 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.
17. **Governing Law.** This Agreement is governed by the laws of the State of Kansas.
18. **Relationship of the Parties.** The relationship created hereunder between Owner and PRC 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.
19. **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.
20. **Discrimination Laws.**
 - a. PRC shall observe the provisions of the Kansas Act against Discrimination and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, national origin, ancestry or age;

- b. In all solicitations or advertisements for employees, PRC shall include the phrase “equal opportunity employer,” or a similar phrase to be approved by the Kansas Human Rights Commission (“Commission”);
- c. If PRC fails to comply with the manner in which PRC reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, PRC shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, immediately by the Owner;
- d. If PRC is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the Commission which has become final, PRC shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part immediately by the Owner;
- e. PRC shall include substantially the provisions of subsections (a)-(d), above in every subcontract or purchase order that is specifically entered with or issued to a subcontractor or vendor for the sole purpose of providing services to Owner, so that such provisions will be binding upon such subcontractor or vendor.
- f. The provisions of this section shall not apply to PRC if:
 - (1) PRC employs fewer than four employees during the term of this Agreement; or
 - (2) If PRC’s contracts with the Owner cumulatively total \$5,000 or less during the fiscal year of the Owner.
- g. PRC further agrees that PRC shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision in the Americans with Disabilities Act (42 U.S.C. 1201 et seq.) as well as all federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local government agency in connection therewith.

21. **Contingent Fees.** PRC warrants that it has not employed or retained any person, firm, or corporation, other than a bona fide employee working solely for PRC, to solicit or secure the awarding of this Agreement based upon an arrangement that the person, firm or corporation would receive any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of this Agreement. For the breach or violation of the foregoing provision, the Owner shall have the right to terminate the Agreement immediately without liability and, at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

23. **Insurance.** During the performance of this Agreement, PCR agrees to maintain for the duration of the Agreement insurance coverage of the types and minimum liability as set forth below. PCR shall furnish to the Owner a Certificate of Insurance verifying such coverage. The certificate holder on the Certificate of Insurance shall be as follows:

City of Overland Park, Kansas
 8500 Antioch
 Overland Park, KS 66212

Prior to any material change or cancellation, the City will be given thirty (30) days advanced written notice by registered mail to the stated address of the certificate holder.

a) Commercial General Liability insurance on an occurrence basis in amounts no less than \$500,000 bodily injury and property damage per occurrence, including personal and advertising injury; \$500,000 general aggregate including products and completed operations.

b) Fidelity Bond PCR agrees to purchase and maintain a fidelity bond for its officers, directors, agents and employees in an amount not less than \$25,000. PCR will continue to maintain such bond for the duration of the Agreement and will advise City if such bond is terminated for any reason.

Industry Ratings – Owner will only accept coverage from an insurance carrier who carries a Best’s policyholder rating of A:-VIII or better; or is a company mutually agreed upon by the Owner and PCR.

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