

# Terms of Use

## 1. Introduction

This User Agreement and all policies and additional terms posted on and in our sites, applications, tools, and services (collectively "Services") set out the terms on which LastLook offers you access to and use of our Services. Tandy and all additional policies and additional terms posted on and in our Services are incorporated into this User Agreement. You agree to comply with all terms of this User Agreement when accessing or using our Services.

The entity you are contracting with is: LastLook LLC, 1040 Avondale Road Hendersonville, TN 37075. In this User Agreement, we may refer to ourselves as "LastLook," "we," or "us."

## 2. About LastLook

LastLook is a marketplace that allows users to offer, sell, and buy goods in various geographic locations using a variety of pricing formats. LastLook is not a party to contracts for sale between third-party sellers and buyers, nor is LastLook a traditional auctioneer.

Any guidance LastLook provides as part of our Services, such as pricing, shipping, listing, and sourcing is solely informational and you may decide to follow it or not. We may help facilitate the resolution of disputes between buyers and sellers through various programs.

## 3. Using LastLook

In connection with using or accessing our Services you agree to comply with this User Agreement, our policies, our terms, and all applicable laws, rules, and regulations, and you will not:

- breach or circumvent any laws, regulations, third-party rights or our systems, Services, policies, or determinations of your account status;
- use our Services if you are not able to form legally binding contracts (for example, if you are under 18 years old), or are temporarily or indefinitely suspended from using our Services, or are a person with whom transactions are prohibited under economic or trade sanctions;
- fail to pay for items purchased by you;

- fail to deliver items sold by you;
- manipulate the price of any item or interfere with any other user's listings;
- transfer your LastLook account and user ID to another party without our consent;
- share your log in credentials with any third parties. If you require that authorized third parties (employees, agents, etc.) have access to your account they must register for their own account with LastLook.
- create listings, post, or upload content in inappropriate categories or areas on our sites;
- post false, inaccurate, misleading, or deceptive content;
- distribute viruses or any other technologies that may harm LastLook or the interests or property of users;
- use any robot, spider, scraper, data mining tools, data gathering and extraction tools, or other automated means to access our Services for any purpose, except with the prior express permission of LastLook;
- circumvent any technical measures used to provide our Services.
- interfere with the functioning of our Services, such as by imposing an unreasonable or disproportionately large load on our infrastructure;
- export or re-export any LastLook application or tool, except in compliance with the export control laws, and rules and policies of any relevant jurisdictions;
- infringe the copyright, trademark, patent, publicity, moral, database, and/or other intellectual property rights (collectively, "Intellectual Property Rights") that belong to or are licensed to LastLook. Some, but not all, actions that may constitute infringement are reproducing, performing, displaying, distributing, copying, reverse engineering, decompiling, disassembling, or preparing derivative works from content that belongs to LastLook or someone else;

- commercialize any LastLook application or any information, data, or software associated with such application, except with the prior express permission of LastLook; or
- harvest or otherwise collect or use information about users without their consent.

Sellers must meet LastLook's minimum standards. Failure to meet these standards may result in LastLook charging sellers additional fees, and/or limiting, restricting, suspending, or downgrading your seller account. If we believe you are abusing LastLook and/or our Services in any way, we may, in our sole discretion and without limiting other remedies, limit, suspend, or terminate your user account(s) and access to our Services, delay or remove hosted content, remove any special status associated with your account(s), remove, not display, and/or demote listings, reduce or eliminate any discounts, and take technical and/or legal steps to prevent you from using our Services.

If we believe you are violating our policies prohibiting sales transactions transferred outside of LastLook you may be subject to a range of actions, including limits on your buying and selling privileges, restrictions on listings and account features, suspension of your account, application of fees, and recovery of expenses for policy monitoring and enforcement.

We may cancel unconfirmed accounts or accounts that have been inactive for a substantial period of time. Additionally, we reserve the right to refuse, modify, or terminate all or part of our Services to anyone for any reason at our discretion.

## **4. Policy Enforcement**

When a buyer or seller issue arises, we may consider the user's performance history and the specific circumstances in applying our policies. We may choose to be more lenient with policy enforcement in an effort to do the right thing for both buyers and sellers. The foregoing does not limit or impair our right to refuse, modify, or terminate all or part of our Services to anyone, or to terminate this agreement with anyone, for any reason at our discretion.

## **5. Fees and Taxes**

We charge fees for the use of our Services. In some cases, where buyers receive supplemental Services such as storage Services for items in certain categories, we may also charge those buyers for such supplemental Services.

The fees we charge sellers for using our Services to sell goods and services are listed on our [Selling fees](#) pages. We may change our selling fees from time to time by posting the changes on the LastLook site fourteen (14) days in advance, but with no advance

notice required for temporary promotions or any changes that result in the reduction of fees.

## **6. Listing Conditions**

When listing an item for sale on our Services, you agree to comply with LastLook's listing policies and also agree that:

- Your listings may renew automatically every calendar month, based on the listing terms at the time, until all quantities sell or the listing is ended by you or LastLook, in its sole discretion,
- Content that violates any of LastLook's policies may be modified, obfuscated, or deleted at LastLook's sole discretion,
- We may revise product data associated with listings to supplement, remove, or correct information,
- You will not sell and will promptly remove all listings for any product recalled by a manufacturer or governmental agency if the sale of the product is prohibited by law or regulation or the product poses a health or safety hazard as specified by any governmental agency. LastLook has no responsibility or liability for the safety or performance of any product that you list or sell using our Services, including any product that is subject to a recall. You are solely responsible for any non-conformity or defect in, or compliance with any public or private recall of any product you list or sell using our Services, and
- LastLook may publish and promote your listings, including related content such as username, product reviews and feedback on the websites or in the applications, services, and tools

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## **7. Purchase Conditions**

When buying an item using our Services, you agree to the our Rules and policies for Buyers that:

- You are responsible for reading the full item listing before making a bid or offer, buying, or committing to buy,
- You enter into a legally binding contract to purchase an item when you buy the item, commit to buy the item, your offer for the item is accepted, you have

the winning bid for the item, or your bid for the item is otherwise accepted, regardless of when payment is due or received,

## **8. International Buying and Selling; Translation**

Given the nature of LastLook's global marketplace, listings may be viewed and purchased by, and shipped to, buyers around the world. Many of our Services are accessible internationally. Sellers and buyers are responsible for complying with all laws and regulations applicable to the international sale, purchase, and shipment of items.

## **9. Content**

You represent and warrant that, for all such content you provide, you own or otherwise control all necessary rights to do so and to meet your obligations under this User Agreement. You represent and warrant that such content is accurate.. LastLook takes no responsibility and assumes no liability for any content provided by you or any third party.

We offer product data (including images, descriptions and specifications) that are provided by third parties (including LastLook users). You may use that content solely in your LastLook listings. LastLook may modify or revoke such permission at any time in our sole discretion. The product data includes copyrighted, trademarked, and other proprietary materials. You agree not to remove any copyright, proprietary, or identification markings in the product data and not to create any derivative works based on that data (other than by including the data in your listings).

We try to offer reliable product data, but we cannot promise that the content provided through our Services will always be available, accurate, complete, and up-to-date. You agree that LastLook is not responsible for examining or warranting the listings or content provided by third parties through our Services, and that you will not attempt to hold us or our data providers liable for inaccuracies.

The name "LastLook" and other LastLook marks, logos, designs, and phrases that we use in connection with our Services are trademarks or service marks of LastLook. They may not be used without the express written prior permission of LastLook.

## **10. Disclaimer of Warranties; Limitation of Liability**

We try to keep our Services safe, secure, and functioning properly, but we cannot guarantee the continuous operation of or access to our Services. Bid update and other notification functionality in LastLook's applications may not occur in real time. Such functionality is subject to delays beyond LastLook's control.

You agree that you are making use of our Services at your own risk, and that they are being provided to you on an "AS IS" and "AS AVAILABLE" basis. Accordingly, to the extent permitted by applicable law, we exclude all express or implied warranties, terms and conditions including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, and non-infringement.

In addition, to the extent permitted by applicable law, in no event will LastLook (including our parent, subsidiaries, and affiliates, and our and their officers, directors, agents, and employees) be liable to you or any third party under any claim at law or in equity for any consequential damages or losses (including, but not limited to, loss of money, goodwill or reputation, profits, other intangible losses, or any special, indirect, or consequential damages), and all such damages or losses are expressly excluded by this agreement whether or not they were foreseeable or LastLook was advised of such damages or losses. Without limiting the generality of the foregoing, we (including our parent, subsidiaries, and affiliates, and our and their officers, directors, agents, and employees) are not liable, and you agree not to hold us responsible, for any damages or losses (including, but not limited to, loss of money, goodwill or reputation, profits, other intangible losses, or any special, indirect, or consequential damages) resulting directly or indirectly from:

- the content you provide (directly or indirectly) using our Services;
- your use of or your inability to use our Services;
- pricing, shipping, format, or other guidance provided by LastLook;
- delays or disruptions in our Services;
- viruses or other malicious software obtained by accessing or linking to our Services;
- glitches, bugs, errors, or inaccuracies of any kind in our Services;
- damage to your hardware device from the use of any LastLook Service;
- the content, actions, or inactions of third parties, including items listed using our Services or the destruction of allegedly fake items;
- a suspension or other action taken with respect to your account or breach of the Using LastLook section above;
- the duration or manner in which your listings appear in search results as set out in the Listing Conditions section above; or

- your need to modify practices, content, or behavior, or your loss of or inability to do business, as a result of changes to this User Agreement or our policies. Some jurisdictions do not allow the disclaimer of warranties or exclusion of damages, so such disclaimers and exclusions may not apply to you.

Regardless of the previous paragraphs, if we are found to be liable, our liability to you or to any third party is limited to the lesser of (a) the price the item sold for on LastLook and its original shipping costs, or (b) any maximum liability amounts on LastLook's corporate insurance policies.

## **11. Release**

If you have a dispute with one or more users, you release us (and our affiliates and subsidiaries, and our and their respective officers, directors, employees, and agents) from claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes. **In entering into this release, you expressly waive any protections (whether statutory or otherwise) that would otherwise limit the coverage of this release to include only those claims which you may know or suspect to exist in your favor at the time of agreeing to this release.**

## **12. Indemnity**

You will indemnify and hold us (including our affiliates and subsidiaries, as well as our and their respective officers, directors, employees, and agents) harmless from any claim or demand, including reasonable legal fees, made by any third party due to or arising out of your breach of this User Agreement, your improper use of our Services or your breach of any law or the rights of a third party.

## **13. Legal Disputes**

**PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND LASTLOOK HAVE AGAINST EACH OTHER ARE RESOLVED.**

**You and LastLook agree that any claim or dispute at law or equity that has arisen, or may arise, between you and LastLook (or any related third parties) that relates in any way to or arises out of this or previous versions of this User Agreement, your use of or access to the Services, the actions of LastLook or its agents, or any products or services sold or purchased through the Services, will be resolved in accordance with the provisions set forth in this Legal Disputes section.**

### **A. Applicable Law**

You agree that, except to the extent inconsistent with or preempted by federal law, the laws of the State of Tennessee, without regard to principles of conflict of laws, will

govern this User Agreement and any claim or dispute that has arisen or may arise between you and LastLook, except as otherwise stated in this User Agreement.

## **B. Agreement to Arbitrate**

You and LastLook each agree that any and all disputes or claims that have arisen, or may arise, between you and LastLook (or any related third parties) that relate in any way to or arise out of this or previous versions of the User Agreement, your use of or access to our Services, the actions of LastLook or its agents, or any products or services sold, offered, or purchased through our Services shall be resolved exclusively through final and binding arbitration, rather than in court. Alternatively, you may assert your claims in small claims court, if your claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The Federal Arbitration Act ("FAA"), and to the extent not inconsistent with the FAA, the laws of the State of Tennessee, without regard to principles of conflict of laws, governs the interpretation and enforcement of this Agreement to Arbitrate.

### **1. Prohibition of Class and Representative Actions and Non-Individualized Relief**

**YOU AND LASTLOOK AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, OR REPRESENTATIVE OR PRIVATE ATTORNEY GENERAL ACTION OR PROCEEDING. UNLESS BOTH YOU AND LASTLOOK AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, CLASS, OR PRIVATE ATTORNEY GENERAL ACTION OR PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT AFFECT OTHER USERS.** If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular claim or a particular request for a remedy (such as a request for injunctive relief), then that claim or that remedy request (and only that claim or that remedy request) must be severed from the arbitration and may be brought in court (pursuant to Section 18.C below), subject to your and LastLook's right to appeal the court's decision. All other claims will be arbitrated.

### **2. Arbitration Procedures**

Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and court review of an arbitration award is very limited. However, an arbitrator can award the same damages and relief on an individualized basis that a court can award to an individual. An



arbitrator should apply the terms of the User Agreement as a court would. All issues are for the arbitrator to decide, except that issues relating to arbitrability, the scope or enforceability of this Agreement to Arbitrate, or the interpretation of Section 1 of this Agreement to Arbitrate ("Prohibition of Class and Representative Actions and Non-Individualized Relief"), shall be for a court of competent jurisdiction to decide.

The arbitration will be administered by the American Arbitration Association ("AAA") under its rules and procedures, including the AAA's Consumer Arbitration Rules and the AAA's Commercial Arbitration Rules, and the AAA's International Centre for Dispute Resolution Rules (as applicable), as modified by this Agreement to Arbitrate. Absent agreement of the parties, the AAA shall decide which AAA rules apply to the arbitration. The AAA's rules are available at [www.adr.org](http://www.adr.org) and [www.icdr.org](http://www.icdr.org). In the event that the AAA is unavailable to administer the arbitration, another administrator will be selected by the parties or, if the parties cannot reach the agreement, the court (pursuant to Section 18.C below) shall select the administrator.

A party who intends to seek arbitration must first send to the other, by certified mail, a valid Notice of Dispute ("Notice"). The Notice to LastLook must be sent to LastLook, LLC 1040 Avondale Drive Hendersonville, TN 37075. LastLook will send any Notice to you to the physical address we have on file associated with your LastLook account; it is your responsibility to keep your physical address up to date. To be valid, you must personally sign the Notice and complete all information on the Notice form, including a description of the nature and basis of the claims you are asserting, the specific relief sought, and the email address and phone number associated with your account.

If you and LastLook are unable to resolve the claims described in a valid Notice within 30 days after LastLook receives that Notice, you or LastLook may initiate arbitration proceedings. A form for initiating arbitration proceedings is available on the AAA's site at [www.adr.org](http://www.adr.org). In addition to filing this form with the AAA in accordance with its rules and procedures, the party initiating the arbitration must mail a copy of the completed form to the opposing party.

The arbitrator will decide the substance of all claims in accordance with applicable law, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator shall not be bound by rulings in prior arbitrations involving different users, but is bound by rulings in prior arbitrations involving the same LastLook user to the extent required by applicable law. The arbitrator's award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

### **3. Costs of Arbitration**

Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules, unless otherwise stated in this Agreement to Arbitrate. In the event the arbitrator determines the claim(s) you assert in the arbitration to be frivolous, you agree to reimburse LastLook for all fees associated with the arbitration paid by LastLook on your behalf that you otherwise would be obligated to pay under the AAA's rules.

**4. Severability**

With the exception of any of the provisions in Section 1 of this Agreement to Arbitrate ("Prohibition of Class and Representative Actions and Non-Individualized Relief"), if an arbitrator or court decides that any part of this Agreement to Arbitrate is invalid or unenforceable, the other parts of this Agreement to Arbitrate shall still apply.

**5. Future Amendments to the Agreement to Arbitrate**

Notwithstanding any provision in the User Agreement to the contrary, you and we agree that if we make any amendment to this Agreement to Arbitrate (other than an amendment to any notice address or site link provided herein) in the future, that amendment shall not apply to any claim that was filed in a legal proceeding against LastLook prior to the effective date of the amendment. The amendment shall apply to all other disputes or claims governed by the Agreement to Arbitrate that have arisen or may arise between you and LastLook. We will notify you of amendments to this Agreement to Arbitrate by posting the amended terms on [www.LastLook.com](http://www.LastLook.com) at least 30 days before the effective date of the amendments and by providing notice through the LastLook Message Center and/or by email. If you do not agree to these amended terms, you may close your account within the 30-day period and you will not be bound by the amended terms.

## **C. Judicial Forum for Legal Disputes**

If the Agreement to Arbitrate above is found not to apply to you or to a particular claim or dispute, either as a result of your decision to opt out of the Agreement to Arbitrate or as a result of a decision by the arbitrator or a court order, you agree that any claim or dispute between you and LastLook will be resolved exclusively by a state or federal court located in Sumner County, Tennessee. You and LastLook agree to submit to the personal jurisdiction of the courts located within Sumner County, Tennessee for the purpose of litigating all such claims, disputes, or matters.

## **19. General**

Except as otherwise provided in this User Agreement, if any provision of this User Agreement is held to be invalid, void or for any reason unenforceable, such provision shall be struck out and shall not affect the validity and enforceability of the remaining

provisions. In our sole discretion, we may assign this User Agreement, and in such event, we will post notice on [www.lastlook.com](http://www.lastlook.com).

Headings are for reference purposes only and do not limit 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. We do not guarantee we will take action against all breaches of this User Agreement.

We may amend this User Agreement at any time by posting the amended terms on [www.LastLook.com](http://www.LastLook.com). Our right to amend the User Agreement includes the right to modify, add to, or remove terms in the User Agreement. We will provide you 30 days' notice by posting the amended terms. Additionally, we will notify you through the LastLook Message Center and/or by email. Your continued access or use of our Services constitutes your acceptance of the amended terms. We may also ask you to acknowledge your acceptance of the User Agreement through an electronic click-through. This User Agreement may not otherwise be amended except through mutual agreement by you and an LastLook representative who intends to amend this User Agreement and is duly authorized to agree to such an amendment.

Without limiting LastLook's ability to refuse, modify, or terminate all or part of our Services, LastLook may also terminate this Agreement with anyone at any time for any reason, at our sole discretion, by giving notice of such termination.

The policies and terms posted on our Services may be changed from time to time. Changes take effect when we post them on the LastLook Service.

If you create or use an account on behalf of a business entity, you represent that you are authorized to act on behalf of such business and bind the business to this User Agreement. Such account is owned and controlled by the business entity. No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this User Agreement.

The User Agreement and all terms and polices posted through our Services set forth the entire understanding and agreement between you and LastLook, and supersede all prior understandings and agreements of the parties.