



eBay Mutual Nondisclosure Agreement

This **Mutual Nondisclosure Agreement** (the "Agreement") is made effective as of the last date signed by a party below ("Effective Date") by and between **eBay Inc.**, including its subsidiaries, and _____.

1. INFORMATION. "Confidential Information" is limited to information disclosed in writing by the disclosing party ("Disclosing Party") to the receiving party ("Receiving Party") and marked as "Confidential," or disclosed orally and identified as confidential at the time of disclosure then summarized in a writing marked as "Confidential" and transmitted to Receiving Party within 30 days of the oral disclosure. Notwithstanding the foregoing, Confidential Information shall include proprietary technical and business information provided by either party during meetings between the parties, including but not limited to: (a) patent and patent applications; (b) techniques, sketches, drawing, works of authorship, models, inventions, processes, equipment, algorithms, demonstrations, mock-ups, software, software source comments, and formulae related to current, future and proposed products and services of each of the parties, including information concerning software code, research, development, design details and specifications; and (c) financial information, procurement and purchasing requirements, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising data, and marketing plans.

2. OBLIGATIONS. For three years from the disclosure date, Receiving Party shall protect Disclosing Party's Confidential Information at least as closely as its own Confidential Information and with no less than a reasonable standard of care, and shall: (i) disclose the other party's Confidential Information only to its officers, directors, employees or contractors, provided such personnel are bound by confidentiality restrictions no less protective than those set forth in this Agreement; (ii) not disclose any Confidential Information to any third party without Disclosing Party's prior written consent; (iii) use such Confidential Information only to the extent required for the purpose of evaluating a potential business relationship; (iv) reproduce Confidential Information only as required to accomplish such purpose; (v) not reverse engineer, decompile or disassemble any software disclosed; (vi) not directly or indirectly export or transmit any Confidential Information to any country to which such export or transmission is restricted by regulation or statute; and (vii) promptly provide Disclosing Party with notice of any actual or threatened breach of this Agreement. Receiving Party may use, without restriction, all information it receives from Disclosing Party that does not meet the definition of Confidential Information above. However, Receiving Party may disclose Confidential Information in accordance with a judicial or other governmental order only after giving Disclosing Party written notice and the opportunity to seek confidential treatment of the information prior to disclosure.

3. EXCLUSIONS. The foregoing obligations shall not apply to Confidential Information that: (a) is now or hereafter becomes generally known through no act or failure to act on Receiving Party's part; (b) Receiving Party independently knows at the time of receiving such information, as evidenced by its written records; (c) a third party furnishes to Receiving Party without breaching any obligation of confidentiality and without restriction on disclosure; (d) Receiving Party has independently developed without using Disclosing Party's Confidential Information or breaching this Agreement; or (e) Disclosing Party gives written permission to Receiving Party to disclose.

4. OWNERSHIP. Confidential Information and copies thereof shall remain Disclosing Party's property of and shall be returned or destroyed, at Disclosing Party's option, on written request or when Receiving Party's need for it has expired, and in any event, on termination of this Agreement. No rights or licenses to trademarks, inventions, copyrights or patents are implied or granted under this Agreement. Confidential Information is provided "as is" without warranty express or implied.

5. TERM. This Agreement shall continue for so long as the parties continue to exchange Confidential Information and may be terminated by either party at any time upon written notice to the other party. Sections 2 through 8 shall survive termination.

6. REMEDIES. The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized use or disclosure of Confidential Information and that each party may, without waiving any other rights or remedies or posting bond, seek injunctive or equitable relief as a court of competent jurisdiction may deem proper.

7. COMPETITIVE MATERIALS. In no event shall either party be precluded from discussing, reviewing, developing for itself, having developed, or developing for third parties, materials competitive with the Confidential Information, irrespective of their similarity to the Confidential Information, so long as such party complies with the terms of this Agreement.

8. GENERAL. This Agreement shall be governed by the laws of the State of California, excluding its conflicts of laws principles. Any dispute under this Agreement shall be brought in a State or Federal court located in San Jose, California and the parties hereby consent to the personal jurisdiction and venue of these courts. This Agreement constitutes the entire Agreement and supersedes all prior or contemporaneous oral or written agreements regarding the subject matter hereof. The Agreement may be changed only by a writing signed by both parties. Any provision of this Agreement held unenforceable shall be severed and the remainder of this Agreement will continue in full force and effect.

eBay Inc., 2065 Hamilton Ave., San Jose, CA 95125		Company	
By		By	
Name		Name	
Title		Title	
Date		Date	

