



# WeBuyGymEquipment.com

## User Agreement (Seller)

### Introduction

This User Agreement (“**User Agreement**”), the WeBuyGymEquipment.com Privacy Policy <https://www.webuygymequipment.com/privacy-policy/>, all policies posted on our website and, where applicable, the terms of the WeBuyGymEquipment LLC Trade-in Agreement for Equipment (“**Trade-In Agreement**”) set out the terms on which we offer you access to and use of our websites and services (collectively “**Services**”). The Privacy Policy, all other policies and terms of the Trade-in Agreement (where applicable) are incorporated into this User Agreement by reference, and you agree to comply with terms and provisions of all of the foregoing agreements and policies when accessing or using our Services.

You are entering into a contract with **WeBuyGymEquipment LLC**, having offices at 5 Great Valley Parkway, Suite 210, Malvern PA, 19355 (“**WBGE.com**” or “**we**”, “**our**”, “**us**”). Any terms and conditions proposed in any document that are different from, conflict with, or add to this User Agreement shall not apply. This User Agreement shall be deemed accepted by the Seller upon your registration on the WBGE.com website (“**Platform**”).

**Seller** means you as the entity or individual that has registered as a user on the Platform with a view to selling pre-used gym equipment (“**Equipment**”) via the Platform and may be referred to as “**you**”, “**your**” or “**Seller**” in this User Agreement.

**Buyer** means the entity or individual that (i) has registered as a user on the Platform in order to view, offer and potentially complete transactions to purchase your pre-used gym equipment or that of one or more other sellers on the Platform, and (ii) made an offer on the Platform to purchase your Equipment, which offer was accepted by you.

### About our Services

We provide a marketplace that allows users to offer, sell and buy pre-used gym equipment.

We may review your listings or content, in particular to check compliance with the provisions set out under ‘Using our Services’ below. However, we have no control over and do not guarantee the truth or accuracy of any Buyer’s feedback; the ability of Buyers to pay for items; or that a Buyer or Seller will actually complete a transaction. We are not responsible for any fluctuations in exchange rates that may impact the price of the equipment as quoted on our Platform.

### The Selling Process & Conditions

- You will follow the registration process on our website, confirm your acceptance of this User Agreement and we will (at our discretion) approve you as a Seller.
- You will upload the equipment that you wish to sell.
- When we receive an offer from a potential Buyer, we will notify you using the contact information provided at registration.
- You may choose to accept or decline the offer.
- If you decline the offer, the equipment will continue to be listed as available for sale until you either:
  - accept an offer or
  - we remove the equipment from our website in accordance with our rights under this User Agreement.
- If the equipment listed changes in make, model and/or quantity, you must notify us as soon as possible. We will endeavour to change the listing during a live auction. If the auction has expired, we will approach the highest bidding Buyer and invite them to offer a revised price.
- If you accept an offer, you are legally bound to sell the equipment and we will provide you with the WBGE.com Trade-in Agreement which will set out a description of the equipment to be sold (“**Equipment**”), the price at which you have agreed to sell it and the terms of payment.
- The price at which you sell the Equipment shall be inclusive of all taxes unless expressly indicated otherwise and based on Ex Works shipping terms unless otherwise agreed.
- Title to the Equipment will pass to us on our first installment payment (or on full payment where installment payments do not apply) for the Equipment.
- Risk of loss or damage to the Equipment will pass to us and then immediately to the Buyer on its collection by the Buyer.
- Buyer shall have the right to inspect the Equipment prior to acceptance and collection at your place of business (or other agreed upon collection location). Such inspection may include any measurement, testing, or examination. The Buyer has the right to reject or revoke its acceptance of any equipment which does not strictly conform with its description on the Platform



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and, if the Buyer elects to so do, without prejudice to our legal rights and remedies, you will immediately refund all payments made by us for such equipment. Title to the equipment will pass back to you upon our receipt of such refund.

- You shall ensure that the Equipment is made available at the agreed time, date and location for inspection, testing and collection and time is of the essence in relation to the agreed time and date. You shall promptly notify us and the Buyer in writing of any anticipated delay in the scheduled collection date and we may require you to pay any additional costs attributable to such delay. You shall ensure an authorised representative is available at the agreed time to confirm the Buyer's assessment of the Equipment. If your representative is not available in accordance with this paragraph, the condition of the Equipment as stated by the Buyer will be deemed to be accurate.
- You must provide written notice if you intend to make available more or less equipment than that which is identified on the Platform and in the Trade-in Agreement. We may choose to accept or reject any such changes at our discretion.

### Warranties and Representations

You represent and warrant that all Equipment purchased, collected and delivered: (a) shall strictly conform to that which is identified in the Platform listing and Trade-in Agreement; (b) shall be merchantable and fit for the purpose for which such Equipment is intended; and (c) shall be free from all defects, including latent defects. In addition to the foregoing express warranties, the Equipment purchased shall be subject to all warranties arising by operation of law. All representations and warranties contained in this User Agreement and in the Trade-In Agreement shall survive inspection, delivery, acceptance, and payment; shall run to us, the Buyer, its officers, agents, employees, successors, assigns, customers, and users of the Equipment; and shall not be deemed to be exclusive.

You represent and warrant that you shall keep confidential at all times all non-public information about us, Buyer and the terms, conditions and transactions associated with this User Agreement.

You warrant that the Equipment has been sold in strict compliance with all applicable laws, including without limitation all laws and regulations applicable to international sales, purchases, and postage of items.

You represent and warrant that (i) you have good and marketable title to the Equipment free and clear of all liens, encumbrances, conditions, pledges, hypothecations, rights or interests of others, rights of first refusal, claims, security interests, title defects, options, charges or similar restrictions or limitations (collectively, "Liens"), (ii) your possession, ownership and use of the Equipment did not and will not result in such Equipment infringing on any patent, trademark, copyright, or other intellectual property rights of a third party, (iii) you have full authority, power and capacity to make and enter into this User Agreement and the Trade-In Agreement and to sell, assign, transfer, convey and deliver the Equipment to us and to the Buyer, (iv) each of this User Agreement and the Trade-In Agreement has been duly executed and delivered by you pursuant to all necessary authorization and constitutes the legal, valid and binding obligation of you enforceable against you in accordance with its terms, and (v) upon consummation of the sale contemplated by the Trade-In Agreement, we will acquire good, valid and marketable title to the Equipment free and clear of Liens, and will be able to provide identical title to the Equipment to Buyer.

### Cancellation

We may, by written notice to you, cancel this User Agreement, or any portion of it, upon the occurrence of any of the following events ("Events of Default"): (a) you fail to perform any of your obligations under this User Agreement or breach a representation or warranty under this User Agreement; or (b) we reasonably believe that your ability to perform this User Agreement is impaired. In the event of our cancellation under this paragraph, we shall have the rights and remedies set out below, and our sole liability to Seller shall be payment for conforming Equipment delivered to Buyer in accordance with this User Agreement.

### Right & Remedies

If an Event of Default occurs, we shall, in addition to the right of cancellation, be entitled to all remedies for a breach of contract and all other remedies available at law or in equity, including, without limitation, specific performance and injunctive relief. Additionally, we may, at our option, elect any one or more of the following remedies, in any combination: (a) refuse to accept delivery of the Equipment; (b) refuse to accept a substantial tender of substitute, conforming Equipment; (c) return non-conforming Equipment to you at your expense for a full credit and, at our option, obtain replacement Equipment; (d) return late delivered Equipment to you at your expense for a full credit; (e) recover any advance payments we have made to you for undelivered Equipment; (f) rework the Equipment to make the Equipment conform to the warranties and charge you for all expenses related to the rework; (g) have you repair or replace defective Equipment at your expense and on an expedited basis; or (h) if defective Equipment is repaired or replaced by us, charge you for all costs and expenses of repairing or restoring defective Equipment disturbed as a consequence of repairing or replacing defective Equipment. We may exercise all remedies, successively or concurrently.



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## Using our Services

In connection with using or accessing the Services you will not:

- post, list or upload inappropriate, false, inaccurate, misleading, defamatory, spam, unsolicited or bulk electronic communications or libellous content or items;
- breach any laws, third party rights or our systems or policies;
- sell any counterfeit items or otherwise infringe the copyright, trademark or other rights of third parties;
- use our Services if you are not able to form legally binding contracts or are suspended from using our Services;
- interfere with any other user's listings;
- transfer your account and user ID to another party without our consent;
- use the contact information of or collect information about other users for any purpose other than in relation to a specific WBGE.com transaction;
- distribute viruses or any other technologies that may harm WBGE.com, or the interests or property of WBGE.com users;
- use any robot, spider, scraper or other automated means to access our Services or interfere with their working for any purpose;
- export or re-export any products except in compliance with the export control laws of any relevant jurisdictions; or
- copy, modify, or distribute rights or content from our Services or WBGE.com's works of authorship, designs and trademarks or copy, reproduce, reverse engineer, modify, create derivative works from, distribute, perform or publicly display any content (except for your information) from our Services.

You agree that we will commence supplying our Services to you as soon as you accept this User Agreement.

We may cancel unconfirmed accounts or accounts that have been inactive for a long period or modify or discontinue our Services at any time.

## Abusing WBGE.com

Without limiting other remedies, we may limit, suspend, or terminate your user account(s) and access to our Services, restrict or prohibit access to, and your activities on, our Services, cancel offers, remove or demote listings, delay or remove hosted content and take technical and legal steps to keep you from using our Services if:

- we think that you are creating problems or possible legal liabilities, which may include infringing third party rights;
- we think that such restrictions will improve security;
- we think that you are acting inconsistently with the letter or spirit of this User Agreement;
- despite our reasonable endeavours, we are unable to verify or authenticate any information you provide to us; or
- you fail to make full payment of any fees due for our Services by your payment due date.

## Equipment Listing Conditions

When listing an item, you agree that:

- you have full rights to sell and title to the listed items;
- you are responsible for the accuracy, content and legality of the item listed;
- your listing will appear on the Platform once it has been approved by us;
- content that violates any of WBGE.com's policies may be deleted at WBGE.com's discretion;
- we may remove or alter any meta-tags and URL links that are included in any listing so as not to affect third party search engine results.

## Content

When providing us with content (including causing content to be posted using our Services), you grant us a free and unrestricted right to use the content (including without limitation, creating and using derivative works and granting the same rights to our partners and customers) and you authorize us to exercise any and all copyright, trademark, publicity, database or other intellectual property rights you have in or to the content. Further, to the fullest extent permitted under applicable law, you waive your moral rights in the content and



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promise not to assert such rights or any other intellectual property rights you have in the content against us, our sublicensees or our assignees.

### Liability

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

We (including our affiliates, directors, agents and employees) shall not be liable to you in contract, tort (including negligence) or otherwise for any business losses, such as loss of data, profits, revenue, business, opportunity, goodwill, reputation or business interruption or for any losses which are not reasonably foreseeable by us.

You accept sole responsibility for the legality of your actions under laws applying to you and the legality of any items you list on any of our sites.

WBGE.com cannot and does not confirm, and is not responsible for ensuring, the accuracy or truthfulness of users' purported identities or the validity of the information which they provide to us or post on our sites.

Subject to the previous paragraphs in this section (Liability), if we are found to be liable, our aggregate liability to you or to any third party is limited to the greater of (a) an amount equivalent to 10% of the price paid for the Equipment, and (b) One Hundred Dollars (\$100.00).

Nothing in this User Agreement shall limit or exclude our liability for fraudulent misrepresentation, or for death or personal injury resulting from our gross negligence or willful misconduct.

### Indemnity

You shall fully indemnify and hold harmless us and our officers, directors, agents, representatives, advisors, subsidiaries, joint ventures and employees, successors, assigns, customers, Buyers and users of the Equipment against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with: (a) any breach by you of your representations and warranties contained in this User Agreement; (b) your breach or negligent performance or non-performance of or non-compliance with this User Agreement; (c) any claim made against us by a third party arising out of or in connection with the supply or use of the Equipment; (d) your improper use of our Services; and (e) any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with the Equipment.

### Governing Law; Legal Disputes

This User Agreement shall be governed by and construed under the laws of the Commonwealth of Pennsylvania, without regard to the conflict of law principles of that or any other jurisdiction. If a dispute arises between you and WBGE.com, we strongly encourage you to first contact us directly to seek a resolution by contacting us at [enquiries@webuygymEquipment.com](mailto:enquiries@webuygymEquipment.com). We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation. You and We agree to submit to the exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania located in Philadelphia County and, if it has jurisdiction, the United States District Court for the Eastern District of Pennsylvania, for purposes of any claim, action, suit or other proceeding enforcing, interpreting or otherwise related to this Agreement. You and We irrevocably: (a) accept generally and unconditionally the personal jurisdiction and venue of such courts; (b) waive any defense of *forum non conveniens*; and (c) agree that service of process in such proceeding may be made by registered or certified mail, return receipt requested, to the party being served at its address provided in this Agreement, and that such service shall confer personal jurisdiction over such party in such proceeding and otherwise constitutes effective and binding service in every respect.

### General

We shall not be in breach of this User Agreement nor liable for delay in performing, or failure to perform, any of our obligations if such delay or failure result from events, circumstances or causes beyond our reasonable control including, without limitation, labor shortages, riots, fire, weather, casualty, accidents, acts of God, acts of terrorism, epidemics, pandemics or outbreaks of disease (such as COVID-19) and related issues caused by related government actions, civil disorder, war, shortage of labor or materials or governmental acts or restrictions or other similar causes.



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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.

We may assign our rights and obligations under this User Agreement.

Our failure to act with respect to a breach or non-compliance by you or others does not waive our right to act with respect to subsequent or similar breaches or non-compliances.

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.

We may amend this User Agreement at any time by email, or by posting the amended terms on <https://webuygymequipment.com>. All amended terms shall automatically be effective 30 days after they are initially posted. Your continued use of our Services after the effective date of these amended terms constitutes your acceptance of them.

The policies posted on our sites may be changed from time to time. Changes take effect when we post them on the WBGE.com website.

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this User Agreement. Buyer shall be a third party beneficiary of this User Agreement and the Trade-In Agreement and shall have the right to enforce directly against you any and all breaches by you of, or failures to comply by you with, the terms and provisions of this User Agreement and/or the Trade-In Agreement as if such Buyer were a party to each agreement.

You acknowledge, agree, represent and warrant that the transactions contemplated by this User Agreement are commercial transactions and not for personal, family or household use.

The User Agreement (together with all other documents to be entered into pursuant to it), the WBGE.com Privacy Policy, the WBGE.com Trade-in Agreement where applicable and all policies posted on our site are the entire agreement between you and WBGE.com and supersede all prior understandings and agreements of the parties.

The following Sections survive any termination of this User Agreement: Warranties & Representations; Rights & Remedies; Content, Liability, Indemnity, Legal Disputes and the provisions contained in this General section. If you wish to send us a legal notice, this must be served by registered mail to **WeBuyGymEquipment LLC**, having offices at 5 Great Valley Parkway, Suite 210, Malvern PA, 19355. We shall send notices to you by email to the email address you provide to WBGE.com during the registration process. Notice to you shall be deemed given 24 hours after the email is sent, unless the sending party is notified that the email address is invalid. Alternatively, we may give you legal notice by registered mail to the address provided during the registration process. Notices sent to either party by registered mail shall be deemed to have been received by that party three days after the date of mailing.