



YELLOW TAG AUCTIONS, LLC USER AGREEMENT TERMS AND CONDITIONS

July 11, 2014

1. Introduction

Welcome to the Yellow Tag Auctions, LLC Site www.yellowtagauctions.com. These are the Terms and Conditions applicable to all transactions and dealings with Yellow Tag Auctions, LLC (YTA).

By accessing the Site, utilizing the Services of YTA as Buyer or Seller, or by registering as a Buyer regardless of your physical location, you agree that: (1) you have read these Terms and Conditions; (2) you understand these Terms and Conditions; and (3) you are bound by these Terms and Conditions in your use of the Services and the Site. We refer to any person offering to sell goods through the Site as a Seller and any person registering to offer or offering to buy goods as a Buyer regardless of whether sale occurs. We refer to Buyers or Sellers as Users.

The Services provided on the Site enable Users, among other things, to:

1. place bids in Auctions;
2. make offers on items subject to a Sealed Bid procedure;
3. make offers on items subject to a Negotiated Sale.

These Terms and Conditions refer to Online Auctions, Sealed Bids, Negotiated Sales and Exchanges collectively as Selling Events.

These Terms and Conditions, together with (i) any additional terms and conditions specific to a particular Selling Event, or (ii) anywhere else on the Site constitute the entire agreement between YTA and the User regarding its subject matter and supersede and replace any and all prior or contemporaneous written or oral agreements between the parties regarding such subject matter and all other conditions whether express or implied at common law or by statute.

2. Use of the Site

1. Registration

Registration of each Buyer is a prerequisite for submitting bids and offers for Selling Events. The [User's Registration Form](#) is posted on the Site. When you [Register](#), you will be required to type your initials into a box and by doing so you bind yourself and your company to all of the Terms and Conditions contained in the User Agreement and to all other terms and conditions set forth anywhere on the Site. Users warrant that all information provided to YTA on registration is true, accurate and complete and the User will immediately inform YTA of all changes. Otherwise, the information provided is deemed to be correct and current. Please see our [Privacy Policy](https://www.yellowtagauctions.com/privacy-policy-of-yellow-tag-auctions-llc/) (<https://www.yellowtagauctions.com/privacy-policy-of-yellow-tag-auctions-llc/>) as to how we handle your information. Only individuals who are authorized to form legally binding contracts for themselves or on behalf of a business are eligible to register. As used in this Agreement, the term "you" and "your" refers to both an individual user and the business if represented by an individual. In requesting a registration or in any other communication with YTA you may not impersonate or misrepresent an affiliation with any other person or entity and you yourself guarantee the information you supply to YTA is accurate and you warrant that you are authorized to act on behalf of and bind the business you represent. Upon your completion of a registration application and acceptance of this Agreement, your registration application will be reviewed by YTA.

If you are representing a business, by registering you represent and warrant that you are acting on behalf of a business and are authorized to so act. To register as a Seller or Buyer on the Site you must provide, among other things, your name, the name of the business you are authorized to act for, your title, phone number and e-mail address.

2. Users' Accounts

Users are assigned an account name and password on registration. Users are responsible for all actions taken under their account name and password and shall only use the Site using their own account name and password. Users must keep their password safe and shall not disclose it to any other person and shall not permit any other person to utilize their account details. Users are required to complete those transactions that occur using their account name and password, whether such transactions are authorized or not.

3. Exclusion of Users & Rejection or Amendment of Bids & Offers

Without limitation to any other remedies, YTA may exclude any User from any Selling Event and block any registration if the User has breached or threatens to breach these Terms and Conditions or engages in any behavior which YTA in its sole discretion regards as likely to have an adverse effect on the conduct of the Selling Event or the reputation of YTA. Furthermore, YTA reserves the right, in its sole discretion, to exclude products from offers and refuse acceptances, bids or offers, as well as to discontinue Selling Events or its Services altogether at any time or for any reason.

4. Bidding

By placing a bid in response for Goods in a Selling Event, you are extending an irrevocable offer to purchase the Goods at the price set forth in the bid. Once entered, a bid may not be retracted. Buyer must immediately notify YTA if a mistake is made in bidding; however the Buyer may still be held responsible for the bid. The "Winning Bid" in an Auction is the highest bid entered during the auction that is greater than or equal to the opening bid price. There is no Winning Bid for the auction if no bid is entered at or above the opening bid price. There are no tie bids. If two bids are entered with equal amounts the first bid received by the site is designated the Winning Bid.

5. Winning Bid

The Buyer that entered the Winning Bid will consummate the purchase of the item within the time specified in the terms and conditions for the Selling Event. Each Selling Event will have specifically defined accepted forms of payment. The successful bidder will be required to sign a [Post-Sale Agreement \(https://www.yellowtagauctions.com/documents/PSA.pdf\)](https://www.yellowtagauctions.com/documents/PSA.pdf) following the sale and all risk of loss shall pass to Buyer at that time.

6. Lot Closing Time

Specific lot closing times are published on the site. YTA shall not be responsible for notifying any Buyer of a change in any closing date or time. YTA will not accept a bid that is received after the closing date and time for the auction and all dynamic close time extensions. In the event that a higher bid is entered within a designated time period, chosen by YTA, of the scheduled lot closing time, the closing time will automatically be extended, in increments specified by YTA, until no bids have been entered in the pre-stated increment prior to the closing time for the auction. Each Buyer is solely responsible for taking such actions as are appropriate to learn of changes to a closing date or time. The Buyer bears the sole risk of transmitting bids so that such bids are received on the site prior to close of the auction lot.

7. Asset Removal

Buyer is required to remove all items in the lots purchased by the removal time set forth in the specific Selling Event. All removal shall be at the expense, liability and risk of the Buyer, including disconnecting of utilities. If the Buyer does not remove an item within the removal period for the specific Selling Event, YTA and the Seller may, at their sole discretion, deem the item to have been abandoned by the Buyer and the Buyer will have no further rights with respect to the item. If items are not removed by the removal deadline, Buyer is liable for all removal and disposal costs associated with disposing of the assets that were not removed. All buyers, agents, outside contractors, including riggers and machinery movers, will not be allowed to work on the Seller's premises until they have provided insurance satisfactory to YTA and Seller, protecting YTA, the Seller and the landlord from all and any claims resulting from their actions and have signed the Waiver of Liability form posted on the site. There may be additional or different insurance requirements applicable to specific Selling Events.

8. Shortage Claims

No shortage claims will be allowed after the Goods have been removed from the premises. Neither the Seller nor YTA shall be liable for non-delivery to any Buyer of all or any portion of a lot, other than for the return to the Buyer of the corresponding portion of the sum paid on said lot. All of the limitations contained in paragraph 11 below shall apply.

9. Uniform Commercial Code

Notice is hereby given that all lots offered are with reserve unless otherwise stated, and in some cases Goods are sold subject to Seller's right of confirmation. In compliance with section 2-328 of the UCC, YTA hereby provides notice that YTA reserves the right to enter bids on behalf of the Seller.

10. Absentee Bidding

From time to time YTA may place bids on behalf of absentee bidders. When YTA is placing bids on behalf of an absentee bidder, Buyer acknowledges and agrees that YTA shall serve as agent for both seller and buyer in the transaction. YTA shall make every reasonable effort to represent seller and buyer in a balanced and fair manner.

11. YTA may, in its discretion, charge a Buyer's Premium or other service charge on assets sold (including any applicable sales or value added tax or similar taxes in the relevant jurisdiction at the current rate). All such charges will be indicated on the specific Selling Event terms and conditions. If charged, the Buyer's Premium shall be collected directly from each successful buyer, in addition to the purchase price as bid.

3. Data Protection & Corporate Information

YTA shall transmit all information in connection with the registration, the posting of an offer/bid/acceptance and offers/listings of products to the other Users in any part of the world in the form and to the extent suitable for the execution of a Selling Event. All data produced or transmitted in connection with the execution of a Selling Event at or to YTA may be stored, used and transmitted as described in the YTA [Privacy Policy](https://www.yellowtagauctions.com/privacy-policy-of-yellow-tag-auctions-llc/) (<https://www.yellowtagauctions.com/privacy-policy-of-yellow-tag-auctions-llc/>). Users undertake that information concerning other Users and their employees, contractors or agents obtained through the Site shall not be used for sending unsolicited commercial messages or for any purpose other than participation in Selling Events or use of the Site.

Users also agree that they will only use such information in accordance with applicable laws and regulations, including, without limitation, data protection and privacy laws.

4. Use of User Information on the Site

To enable the Site to use information provided by all Users, the Users grant YTA on registration a non-exclusive, world-wide, perpetual, irrevocable, royalty-free, sub-licensable (through multiple tiers) license to exercise the copyright, trademark and database rights the User has in any information provided and to do so in any media form whether now known or not currently known in order to provide the Services.

5. Taxes

Any price indicated on the Site or agreed to in a Selling Event is stated exclusive of any applicable tax. Buyers in Selling Events shall be responsible for paying any value added, sales, use or other taxes which may be due on amounts owed by the Buyers under these Terms and Conditions in the applicable jurisdictions at the rates prevailing at the date that their contract of sale is concluded.

6. Indemnities

Each User agrees to indemnify and hold YTA, its subsidiaries and affiliates and Seller and their respective officers, directors, agents, partners and employees (the "Yellow Tag Parties") harmless from and against any and all losses, demands, claims, damages, costs and expenses (including consequential losses or loss of profit, legal costs and expenses, sales and value added taxes or equivalent or similar taxes thereon) and liabilities suffered or incurred directly or indirectly arising from or related to:

- a. the use by the User of the Site or the Services;
- b. the User's breach or the User causing a breach by any of the Yellow Tag Parties of any legislation or law applying anywhere in the world;
- c. any breach of a third party's rights arising out of or in connection with any of the Yellow Tag Parties' use of any information or intellectual property in anything provided by the User;

d. any misrepresentation made by the User in connection with these Terms and Conditions, in its registration or otherwise in connection with any Selling Event;

e. any accident, injury or death howsoever arising, sustained by any person or persons who may attend at any premises for the purpose of a Selling Event, inspection, purchase, collection, removal or any other related activity.

f. any and all claims of any kind and nature related to or arising out of the use of any product sold or purchased, including but not limited to actions or claims for personal injury, death, disability, disfigurement, economic or other loss or damages, direct or indirect or consequential, whether classified as a products liability, warranty or other cause of action, as well as any attorney's fees incurred.

You hereby release the Yellow Tag Parties from any and all claims or actions related to or arising out of a dispute between you and any other User of the Site.

7. Use of the Site & Services

YTA grants a limited, non-transferable license to each User to access and make use of the Site for the purposes of the User using or evaluating the Site and the Services in accordance with these Terms and Conditions but not to download (other than page caching) or modify the Site, or any portion of the Site. This license expressly excludes and prohibits, without limitation: any resale or commercial use of the Site and the Services; modifying, distributing, copying, republishing or making any derivative use of the Site or the Services; any attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of the software offered in or under the Site and the Services; the collection and use of other Users' e-mail addresses or other information or listing, or any data extraction or data mining whatsoever. Notwithstanding the provisions of this clause, the Users shall be entitled to download documents and forms including Notices of Purchasers and/or sales brochures for their own internal use. Users must not use the Site or Services in any way that causes, or is likely to cause, the Site or Services to be interrupted, damaged or impaired.

Users are responsible for procuring and maintaining their network connections and telecommunication links from their systems in order to use the Site and the Services and all communications and content sent from their systems to YTA and must use the Site for lawful purposes only.

Users must not use the Site for any of the following:

1. for fraudulent purposes, or in connection with a criminal offense or other unlawful activity;
2. to send, use or re-use any material that is illegal, offensive, abusive, indecent, defamatory, obscene or menacing; or in breach of any law or third party rights; or is otherwise injurious to third parties; objectionable; or which consists of or contains software viruses, political campaigning, commercial solicitation, chain letters, mass mailing or spam;
3. to offer, sell, bid for or buy any items which are illegal or infringe any third party rights (including intellectual property rights).

Users are expressly forbidden from any form of bid manipulation, including collusion or bidding on lots that they themselves or a party affiliated with them are selling in a Selling Event. Buyers may not bid under a false name or as agent for a person or entity which would itself be prohibited by these Terms and Conditions or by the terms and conditions governing the specific Selling Event in question from placing a bid on a particular lot.

YTA may, in its sole discretion, reject a User's application for any reason and/or terminate a User's access to the Site at any time for any reason.

YTA shall use commercially reasonable efforts to protect against unauthorized access, but YTA cannot guarantee the security of any information you disclose online and you do so at your own risk. YTA is not responsible for the security of any information transmitted via the Internet or any error or delay in transmitting any information over the Internet, and you assume sole and complete risk for using this Site. By using this Site and providing this data, you consent to the collection of and use of the data in accordance with this Agreement.

YTA does not guarantee continuous, uninterrupted or secure access to the Site. The Site and Services are provided "as is" and "as and when available", and, to the extent permissible by law, YTA excludes all implied warranties, conditions or other terms, whether implied by statute or otherwise, including without limitation any terms as to skill and care or timeliness of performance. YTA may change, modify, amend, suspend or discontinue any aspect of the Site or the Services at any time without notice and YTA reserves the right to impose restrictions on certain features of the Site or the Services at any time without notice. If a technology

malfunction materially affects the outcome of a Selling Event, YTA reserves the right to withdraw the auction within 72 hours following the original Selling Event close time.

Users' access to the Site may be occasionally suspended or restricted to allow for repairs, maintenance, or the introduction of new facilities or Services. YTA will use reasonable endeavors to limit the frequency and duration of any such suspension or restriction.

Users must take all reasonable steps to minimize loss or damages when accessing the Site, including implementing prudent security and back-up features.

In addition to the other obligations set out in these Terms and Conditions, each Buyer acknowledges and agrees that by placing a Bid in a Selling Event, it represents, warrants and undertakes that it has the authority and capacity to enter such Bid or make such offer and close the transaction and that any Bid that it makes constitutes an irrevocable offer to buy the lot in question for the full amount of the Bid.

The Services and the Site may provide links to the websites or services of others, including shipping, rigging and other services ("Third Party Providers"). Links to such Third Party Providers or any explanation or statement regarding those Third Party Providers do not constitute an endorsement or guarantee by YTA of such Third Party Providers or the services, products, content, material or information presented, made available or provided by such Third Party Providers. Each User acknowledges and agrees that YTA is not responsible for any damages or losses caused or alleged to have been caused by the use of any services provided by any Third Party Provider or any products, content, material or information presented, made available or provided by any Third Party Provider.

The aggregate liability of YTA and Seller in respect of any other loss or damage suffered by a User and arising out of or in connection with these Terms and Conditions or arising out of or in any way connected with any use of the Services or the sale or purported sale of any Goods on the Site, whether in contract, tort (including negligence) or for breach of statutory duty or in any other way, shall not exceed the amount received by YTA as compensation under these

Terms and Conditions in connection with the Goods which are the subject of the claim.

8. Proprietary Rights

Users acknowledge and agree that YTA and/or its licensors own all intellectual property rights in the Services. Except as may be expressly stated, Users are not granted any rights to, or in, patents, copyright, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the Services.

9. Liability

YTA and Seller, their respective affiliates, agents, servants, employees, officers and directors, shall not be liable, in contract, tort (including negligence) or for breach of statutory duty or in any other way for:

1. any loss arising from or in connection with loss of revenue, profits, production, contracts or business or failure to realize anticipated savings or profits;
2. any loss of goodwill or reputation;
3. any indirect or consequential losses suffered or incurred by a User,
4. any accident, injury or death howsoever arising, sustained by any person or persons who may attend at any premises for the purpose of a Selling Event, inspection, purchase, collection, removal or any other related activity.
5. any and all claims of any kind and nature related to or arising out of the use of any product sold or purchased, including but not limited to actions or claims for personal injury, death, disability, disfigurement, economic or other loss or damages, production, direct or indirect or consequential, whether classified as a products liability, warranty or other cause of action; arising out of or in connection with the use of the Site, or the inability to use the Site or the Services, or any other matter under these Terms and Conditions.

10. Miscellaneous

These Terms and Conditions may be amended at any time by YTA in its sole discretion. Such amendment will be posted on the Site and will become effective immediately. Users are encouraged periodically to review these Terms and Conditions posted on the

Site. Use of the Services and the Site constitutes acceptance of these Terms and Conditions, including any amendments.

Should any single provision of these Terms and Conditions be or become fully or partially invalid, illegal or unenforceable, the remainder of these Terms and Conditions shall continue in full force and effect.

Failure or neglect by YTA to enforce at any time any of the terms hereof will not be construed nor will it be deemed to be a waiver of YTA's rights hereunder nor in any way affect the validity of the term or any part of these Terms and Conditions nor prejudice YTA's rights to take subsequent action.

Users shall not without the prior written consent of YTA assign, sub-license or deal in any manner with these Terms and Conditions or any right under these Terms and Conditions.

11. Termination

YTA may, in its sole discretion, terminate these Terms and Conditions with respect to a User (without prejudice to its other rights and remedies) and may deny access to the Services immediately without notice of any breach of these Terms and Conditions by that User and without any liability for YTA except in case of past transactions.

12. DISCLAIMERS

YTA AND SELLER MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ITEMS OR THEIR CONDITION, AND EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OR REPRESENTATIONS. BUYER ACKNOWLEDGES THAT THE ITEMS ARE SOLD "AS IS," WITHOUT WARRANTY OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. YTA MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE SITE, OR THE SUITABILITY, LEGALITY OR ACCURACY OF THE INFORMATION, PRODUCTS AND SERVICES DESCRIBED OR CONTAINED ON THE SITE. THE SITE AND ALL SUCH INFORMATION, PRODUCTS AND SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

IN NO EVENT SHALL YTA OR SELLERS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SITE OR WITH THE DELAY OR INABILITY TO USE THE SITE, OR ANY INFORMATION, PRODUCTS AND SERVICES AVAILABLE ON OR THROUGH THE SITE, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF YTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

BUYER HEREBY REPRESENTS AND COVENANTS THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO REVIEW AND INSPECT THE ITEMS PRIOR TO THE SALE AND THAT BUYER HAS SATISFIED ITSELF AS TO THE CONDITION OF THE ITEMS. THE ONLY WARRANTIES, IF ANY, WITH RESPECT TO EACH PRODUCT PURCHASED HEREUNDER ARE SOLELY MADE BY THE ORIGINAL MANUFACTURER THEREOF (AND YTA AND SELLER MAKE NO REPRESENTATION THAT THERE IS ANY SUCH WARRANTY) WITH ALL SUCH LIMITATION AND QUALIFICATIONS AS SUCH MANUFACTURER MAY HAVE IMPLIED ON SUCH WARRANTIES.

YTA relies on information about assets in the auction provided by the Seller and undertakes no investigation of that information. YTA shall not be responsible for the correct description, genuineness, authenticity of, or defect in any lot, and makes no warranty therewith. YTA assumes no responsibility for, and makes no representations or warranties concerning, descriptions of assets contained in marketing materials for Selling Events. Users acknowledge that YTA has not taken title to any Goods offered for sale, has not and will not make any alteration or repair to such Goods, has relied and has a right to rely on Seller's description and representation as to the condition and function of the Goods.

It is the bidders' obligation to verify such descriptions prior to bidding. The description of Goods appearing in Selling Events and in advertising prior to Selling Events is believed to be correct; however YTA relies on Sellers for information, depictions and information. Neither those descriptions nor any oral statements made by YTA or Seller shall be construed as a warranty either express or implied. Buyers acknowledge that the Goods are available for inspection prior to Selling Events and YTA strongly encourages Buyers to inspect carefully before bidding. If you want to have a high level of confidence when bidding you MUST inspect for yourself and make decisions based on this inspection. YTA strongly urges you to inspect on the pre-assigned inspection dates that will be posted on the site. There will be no adjustments to the final bid price should you find any problems with the item after the bidding closes. Buyers rely solely on personal inspection and not on information listed on the site or otherwise provided by

YTA. Buyer's failure to inspect or otherwise determine that the Goods are as Buyer believes shall not be grounds for any claim or action against YTA, nor any excuse for failing to comply with a bid or finalizing a purchase.

13. Force Majeure

YTA will not be liable for any delay or failure to comply with its obligations under these Terms and Conditions if such delay or failure results from circumstances beyond its control.

14. Notice

Any notice given to YTA under these Terms and Conditions shall be in writing and in English and shall be served by hand delivering it or sending it to YTA or to such other address as YTA may specify from time to time. For the avoidance of doubt, notice given by Users to YTA under those Terms and Conditions shall not be validly served if sent by e-mail. Notices to Users by YTA may be sent to the e-mail address provided to YTA during the registration process, receipt of which is deemed to have occurred twenty four (24) hours after an e-mail is sent, or by any other method to any address provided by a User.

15. Choice of Law & Venue

ALL DISPUTES RELATING TO THESE TERMS AND CONDITIONS BETWEEN USERS AND YTA SHALL BE EXCLUSIVELY GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH CAROLINA.

THE PARTIES AGREE THAT THE STATE AND FEDERAL COURTS SITTING IN SPARTANBURG COUNTY, SOUTH CAROLINA, USA SHALL HAVE PROPER AND EXCLUSIVE JURISDICTION AND VENUE FOR ANY PROCEEDINGS ARISING FROM THIS AGREEMENT. EACH USER ACKNOWLEDGES THAT YTA WOULD NOT PERMIT THE USER TO REGISTER AS A BUYER OR PARTICIPATE AS USER IF THE TERMS OF THIS CLAUSE 13 WERE NOT VALID, BINDING AND ENFORCEABLE.

Users irrevocably consent to any process in any legal action or proceedings arising out of or in connection with these Terms and Conditions or its enforceability being served in accordance with the provisions of these Terms and Conditions relating to the service of notices. Nothing contained in these Terms and Conditions shall affect the right to serve process in any other manner permitted by the laws of the country in which service is to be effected.