

CENTRAL  
**STOCKYARDS**

**Privacy Policy**  
**Terms and Conditions**

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## 1. Governing Agreement

This agreement, along with all FAQs posted on our Services (as defined below), which are incorporated into this agreement by this reference (collectively, "Agreement"), govern the relationship between you and Ag Global, LLC, a Nebraska limited liability company, doing business as Central Stockyards, and includes all of our subsidiaries, joint ventures, other entities under common ownership and any successor organizations in the event of a sale or merger ("Central Stockyards", also referred to as "we", "us" and "our").

This Agreement covers all our business you might interact with including our software, web applications, mobile applications, API's, notifications, servers, services, websites, social media accounts, devices, payment processing, similar products, similar services, and any information, data, text, graphics, photos, videos or other material uploaded, downloaded or appearing in or on Central Stockyards' products (collectively, our "Services").

By accessing our Services, using our Services or creating an account on our Services, you accept and agree to be bound by this Agreement and your digital signature will be date and time stamped when you first agree to this Agreement. You also agree to allow us to execute this Agreement on your behalf if your signature is needed to comply with any law.

By accessing our Services, using our Services or creating an account on any of our Services, you further consent to the collection, use and storage of your personal data as outlined in our Privacy Policy which is also included in this document.

You may contact us by email at [support@centralstockyards.com](mailto:support@centralstockyards.com). Our mailing address is Central Stockyards, PO Box 457, North Platte, NE 69103-0457, USA. Our telephone number is (800) 674-3737.

**PLEASE BE ADVISED THIS AGREEMENT CONTAINS PROVISIONS WHICH SUBSTANTIALLY LIMIT THE DAMAGES YOU MAY SEEK AGAINST CENTRAL STOCKYARDS, WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND CENTRAL STOCKYARDS HAVE AGAINST EACH OTHER ARE RESOLVED, AND REDUCES YOUR RIGHTS AS SET FORTH IN THE PACKERS AND STOCKYARDS ACT AND ITS REGULATIONS. IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY OPT OUT AT ANY TIME BY NOT USING OUR SERVICES.**

**THIS DOCUMENT CREATES A LEGALLY BINDING AGREEMENT BETWEEN YOU AND CENTRAL STOCKYARDS. THIS DOCUMENT WILL ALSO CREATE A LEGALLY BINDING CONTRACT BETWEEN YOU AND A SELLER OR BUYER IF YOU CONDUCT A TRANSACTION ON ONE OF OUR SERVICES. IF YOU DO NOT UNDERSTAND THIS DOCUMENT, YOU NEED TO SEEK LEGAL ADVICE.**

## 2. Last Update

This Agreement was last updated on January 15, 2018.

If you do not agree with any updates to this Agreement, please notify us at [support@centralstockyards.com](mailto:support@centralstockyards.com) within 15 days of the last update and request to have your

account disabled. Please include your reasoning of why you do not agree with any update. If we do not receive such a request, then your agreement to our update will become effective upon the update date.

Even if you request us to disable your account, the terms of the last Agreement you agreed to shall survive.

### **3. About Central Stockyards**

Central Stockyards is an advanced marketplace that allows users to sell and buy a variety of agricultural products in an auction style format with numerous proprietary features such as our End Auction Now feature. The actual sale contract is directly between the seller and buyer. We are not your traditional livestock auction company.

Even though we help facilitate the transaction between the seller and buyer, and we designed our marketplace to help protect both the seller and buyer, such as by providing escrow services, payment processing, dispute resolution and other ancillary services, we have no control over and we do not guarantee the existence, quality, safety or legality of any listing; the truth or accuracy of any users' content or listings; the knowledge and ability of sellers to list accurately; the ability of buyers to pay for items; or that a buyer or seller will actually complete a transaction.

### **4. Privacy Policy**

#### **4.1. Introduction**

This Privacy Policy explains what personal data Central Stockyards collects from you, through our interactions with you and through our Services, and how we use that data.

#### **4.2. Personal Data We Collect**

Central Stockyards collects data to operate effectively and provide you the best experiences with our Services. You provide some of this data directly, such as when you create an account, conduct a search, create a listing, upload a photo or video, bid on a listing, enter payment information or contact us for support. We obtain some data from you by recording how you interact with our Services using technologies such as cookies, receiving error reports or receiving usage data from your device. In some instances, we may obtain data about you from third parties. If we do, at the very least, we will protect this data according to the practices described in this Privacy Policy or as further described in any additional agreements we might have with such third parties.

The data we collect depends on your interactions with Central Stockyards and the Services you decide to use. The data we might collect on you can include, but is not limited to, the following:

First name, last name, middle name, email addresses, account number, postal addresses, billing addresses, phone numbers, mobile phone numbers, passwords, password hints, age, date of birth, gender, country, preferred language, profile photos, business names, biographies, bank names, credit card names, credit card

numbers, debit card numbers, cvc codes, bank routing numbers, bank account numbers, security codes, zip codes, device information, data about the features you use, items you purchase, pages you visit, search queries, saved searches, watch lists, commands, telephone conversations with support, conversations with chat bots, other communications with us, settings you select, configurations you use, connectivity data, networks you use, operating systems you use, product keys, IP addresses, device identifiers, IMEI numbers, language settings, error reports, error data, authentication data, data about the condition of your device if a fault occurs, location data, GPS data, voice recordings, all items you upload to our Services (*i.e.*, photos, videos, audio files, documents, files, text, information in fields, reviews, ratings, etc.) and if you interact with a Central Stockyards event (such as a live demonstration on Facebook, a presentation, etc.) your information or image may be captured by us for various marketing or security purposes.

You have a choice about some of this data we collect. When you are asked to provide personal data, you may decline. But if you choose not to provide data that is necessary to provide a Service or feature, you may not be able to use that Service or feature.

#### **4.3. How We Use Personal Data**

As described in more detail below, Central Stockyards may use the data we collect to (i) provide (including improving and personalizing) the Services we offer; (ii) to send communications (including promotional communications) and (iii) advertising. In carrying out these purposes, we may combine data we collect from our various Services or third parties to give you a more seamless, consistent and personalized experience. For example, based on what you search for, we may provide more relevant recommendations to you.

##### **4.3.1. Providing and Improving Our Services**

We use data to provide and improve the Services we offer and to perform business operations. This includes operating the Services, maintaining and improving the performance of the Services, developing new features, developing new Services, conducting research and providing customer support. More specific examples of these uses are below.

We use data to carry out your transactions with us and to provide our Services to you. For example, if you create a listing on one of our platforms, we will use the data you have provided to publish the listing on that platform and across our other Services in order to create as much marketing as possible for you. In such instances, your listing will likely be indexed by search engines and discoverable across the internet.

We use data to continually improve our Services, including adding new features or capabilities. For example, we use error reports to improve security features, search queries and clicks to improve the relevancy of search results and usage data to determine what new features to prioritize.

We use data to protect the security and safety of our Services and customers, to detect and prevent fraud, to resolve disputes and enforce our agreements.

Finally, we use data to develop analysis and business intelligence that enable us to operate, protect, make informed decisions and report on the performance of our business.

#### **4.3.2. Communications**

We use data we collect to communicate with you and personalize our communications with you. For example, we may contact you by phone, email or other means to inform you about information related to our Services, listings you have sold or purchased, insufficient payments, account information, invite you to participate in a survey or tell you that you need to take a certain action regarding your account. Additionally, you may sign up for email subscriptions and similar promotional communications from Central Stockyards. Central Stockyards reserves the right to record any calls we may have with you regarding any of our Services.

#### **4.3.3. Advertising**

Central Stockyards currently does not, but it may in the future, use data we collect through our interactions with you, through our Services and on third-party web properties, to show you advertising. We may also share data we collect with third parties so they can select and deliver some of the ads you see in our Services, their Services or other sites and apps serviced by these partners. We may also share data directly with service providers to permit them to provide services on our behalf or to partner with us in selecting and serving ads for our advertising partners.

The ads you may see may be selected based on data we process about you, such as your interests, favorites, location, transactions, how you use our Services, search queries or the content you view. The ads you may see may also be selected based on other information learned about you over time using demographic data, location data, search queries, interests, favorites, usage data from our Services, as well as the sites and apps of our advertisers and partners.

#### **4.4. Reasons We Share Personal Data**

We share your personal data with your consent or as necessary to complete any transaction or provide any Service you have requested or authorized. For example, we share your content with third parties when you tell us to do so, such as when you send a message to another user or upload photos or videos for a listing. When you provide payment data to make a purchase, we will share this data with banks and other entities that process payment transactions or provide other financial services, and for fraud prevention and credit risk reduction.

In addition, we share personal data among our subsidiaries and vendors or agents working on our behalf for the purposes described in this Privacy Policy. For example, companies we have hired to build software, process payments, process notifications, send promotional emails, provide software support, customer service support or assist in protecting and securing our

systems and services may need access to personal data to provide those functions for us and for our Services. In such cases, these companies must abide by our data privacy and security requirements as described in this Privacy Policy. We may also disclose personal data as part of a corporate transaction such as a merger or sale of assets.

Finally, we will access, transfer, disclose and preserve personal data when we have a good faith belief that doing so is necessary to:

1. Comply with applicable law or respond to valid legal process, including from law enforcement or other government agencies;
2. Protect our customers, for example to prevent spam or attempts to defraud users of our Services, or to help prevent the loss of life or serious injury of anyone;
3. Operate and maintain the security of our Services, including to prevent or stop an attack on our computer systems or networks; or
4. Protect the rights or property of Central Stockyards, including enforcing the terms of this Agreement.

Please note some of our Services include links to systems of third parties (*e.g.*, Google Maps, Facebook, Instagram, Twitter, Snapchat, LinkedIn, Google Analytics, etc.) or access hardware or software provided by third parties (*e.g.*, your smartphone's camera, video recording device, GPS, phone, etc.). In such instances, these third parties' privacy practices differ from Central Stockyards'. If you provide personal data to any of these third-parties, your data is governed by their privacy policies.

#### **4.5. Technology We Use**

Central Stockyards uses cookies, web beacons, log files and similar technologies to provide our Services and to help collect data. The text in these technologies often consists of a string of numbers and letters that uniquely identifies your system, but it can contain other information as well.

##### **4.5.1. Use of Cookies and Similar Technologies**

Central Stockyards uses cookies and similar technologies for several purposes, depending on the Service, including:

1. Storing your preferences and settings in our Services. For example, if you enter your city or postal code in a search bar, we may store that data in a cookie so you will see the relevant information when you return to the Service. We also save preferences, such as language, browser and multimedia player settings, so those do not have to be reset each time you return to the Service.
2. Signing-in and authenticating our Services. When you sign into one of our Services, we



store a unique ID number, and the time you signed in, in an encrypted cookie on your device. This cookie allows you to move from page to page within the Service without having to sign in again on each page.

3. Security purposes. We use cookies to detect fraud and abuse of our Services.
4. Storing information you provide to one of our Services. For example, if you add an item to a shopping cart, we store that data in a cookie so it is there when you return to our Service.
5. Social media networks. Our Services may include social media cookies that enable users who are logged in to a social media service to share content via that service.
6. Service Feedback. Central Stockyards may use cookies to enable you to provide feedback on some of our Services.
7. Interest-Based Advertising. Central Stockyards currently does not, but may in the future, use cookies to collect data about your online activity and identify your interests so we can provide advertising that is more relevant to you.
8. Showing Advertising. Central Stockyards currently does not, but may in the future, use cookies to record how many visitors have clicked on an advertisement and to record which advertisements you have seen so you don't see the same one repeatedly.
9. Analytics. In order to provide our Services, we use cookies and other identifiers to gather usage and performance data. For example, we use cookies to count the number of visitors to a Service and to develop other statistics about the operations of our Services. This includes cookies from Central Stockyards and from third-party analytics providers such as Google Analytics.

In addition to the cookies Central Stockyards sets when you visit our Services, third parties may also set cookies when you visit our Services. In some cases, this is because we have hired the third party to provide services on our behalf, such as software development, support or analytics.

#### **4.5.2. Use of Web Beacons and Similar Technologies**

We may also use other technologies such as (i) web beacons (which allow us to determine if a certain page was visited or whether an e-mail was opened); (ii) tracking pixels (which allow us to advertise more efficiently by excluding our current users from certain promotional messages or identifying the source of a new installation); and (iii) local shared objects also known as flash cookies (which help us prevent fraud, recall user settings for features and track your progress on certain tasks).

#### **4.5.3. Use of Log Files and Similar Technologies**

Like most standard servers, we also use log files. Log files track internet protocol (IP) addresses,

browser type, internet service providers (ISP), referring pages, exit pages, platform types, date and time stamps and number of clicks. We utilize this information to analyze trends, administer our Services, prevent fraud, track website navigation and gather broad demographic information for Service use.

#### **4.5.4. How to Control Cookies and Similar Technologies**

Most web browsers automatically accept cookies but provide controls that allow you to block or delete them. Instructions for blocking or deleting cookies in these browsers should be available in each browser's privacy settings. Flash cookies, however, operate differently than browser cookies and cookie management tools available in a web browser will not remove flash cookies. To manage flash cookies, visit [www.adobe.com](http://www.adobe.com).

Certain features of our Services depend on cookies. Please be aware if you choose to block cookies, you may not be able to use those features, and preferences dependent on cookies may be lost. If you choose to delete cookies, settings and preferences controlled by those cookies will be deleted and may need to be recreated.

#### **4.6. Security of Personal Data**

Central Stockyards is committed to protecting the security of your personal data. We use a variety of security technologies and procedures to help protect your personal data from unauthorized access, use or disclosure. For example, we store the personal data you provide on computer systems that have limited access and are in controlled facilities. When we transmit highly confidential data (such as a credit card number or password) over the Internet, we protect it through the use of encryption.

#### **4.7. Our Retention of Personal Data**

Central Stockyards retains personal data for as long as necessary to provide the Services and fulfill the transactions you have requested, or for other essential purposes such as complying with our legal obligations, resolving disputes and enforcing our agreements. Because these needs can vary for different data types in the context of different Services, actual retention periods can vary significantly.

#### **4.8. Minors**

Our Services are not intended for children under the age of 13 and we do not knowingly collect data from children. Children under the age of 13 should not use our Services at any time. In the event we learn we have inadvertently gathered data from a child under the age of 13, we will take reasonable measures to promptly remove the display of such data.

#### **4.9. International Users**

If you are located outside of the United States, please note our Services are hosted on servers located in the United States and your information will be processed and stored in the United

States. As a result, law enforcement or regulatory agencies may be able to obtain disclosure of your information through our laws.

#### **4.10. Your Communications Preferences**

You can choose whether you wish to receive promotional communications from Central Stockyards by email, SMS, physical mail and telephone. If you receive promotional email or SMS messages from us and would like to opt out, you can do so by following the directions in that message. You can also make choices about how you receive email and mobile push notifications in your account preferences page. These choices do not apply to mandatory Service communications that are part of certain Services.

#### **4.11. How to Access and Control Your Personal Data**

You can view, edit or delete your personal data online for many of our Services. You can also make choices about our collection and use of your data. For example, if you wish to access, edit or remove profile information, payment information, change your password, add security information or close your account, you can do so by visiting your account preferences page. If you wish to remove an active listing, visit the listing details page.

If you cannot access certain personal data using the methods described above, then you can always contact us at [support@centralstockyards.com](mailto:support@centralstockyards.com) and make a request. We will respond to requests to access or delete personal data within 30 days. If we cannot meet your request within the 30-day period, we will tell you when we will. Please note certain records, for example those having to do with payments or customer service matters, must be retained for legal and accounting purposes. Other content, such as if you have created a listing, or sent a message to another user, we may not be able to delete entirely.

#### **4.12. Changes to this Privacy Policy**

We will update this Privacy Policy when necessary to reflect customer feedback and changes in our Services. When we post changes to this Privacy Policy, or anything else in this Agreement, we will note the last update in the section entitled “Last Update.” Please periodically review this Privacy Policy to learn how Central Stockyards is protecting your information.

#### **4.13. How to Contact Us**

If you have a privacy concern, complaint or a privacy question, please contact us at [support@centralstockyards.com](mailto:support@centralstockyards.com). Our mailing address is Central Stockyards, PO Box 457, North Platte, NE 69103-0457, USA. Our telephone number is (800) 674-3737.

### **5. Security and Passwords**

Your Central Stockyards user account is protected by your password. You are solely responsible for maintaining the secrecy of your passwords and/or any account information and ensuring your network and transmissions are secure. Be sure to log out of your account after use. Be sure to

change your account password periodically (visit our FAQs on how to reset your password). If you suspect unauthorized use of your account, notify us immediately at (800) 674-3737.

You are solely responsible for all actions taken on your account and Central Stockyards will not be liable for any actions taken with your account because you failed to maintain the secrecy of your password or you provided access to someone you shouldn't have.

## **6. Prohibited Behavior**

By using or accessing our Services you agree you will not:

1. Breach or circumvent any laws, third-party rights or our systems.
2. Manipulate the price of any listing or interfere with any other user's listings or enjoyment of our Services.
3. Post false, inaccurate, misleading, deceptive, defamatory or libelous content.
4. Misrepresent any listing you create.
5. Take any action that may undermine our ratings systems.
6. Transfer your account (including ratings) to another party without our consent.
7. Distribute or post spam, unsolicited or bulk electronic communications, chain letters, or pyramid schemes.
8. Distribute viruses or any other technologies that may harm Central Stockyards or the interests or property of our users.
9. Use any robot, spider, scraper, data mining tools, data gathering and extraction tools, or other automated means to access our Services for any purpose.
10. Interfere with the working of our Services, or impose an unreasonable or disproportionately large load on our infrastructure.
11. Infringe the copyright, trademark, patent, publicity, moral, and/or other intellectual property rights that belong to or are licensed to Central Stockyards or our users. For example, reproducing, performing, displaying, distributing, copying, reverse engineering, decompiling, disassembling, or preparing derivative works from content that belongs to Central Stockyards or someone else.
12. Commercialize any of our Services or any information or software associated with our Services.
13. Collect any information about our users.
14. Circumvent any technical measures we use to provide our Services.
15. Create multiple accounts on our Services—each individual or entity may have only one Central Stockyards account.
16. Create duplicate listings of the same item.

If you are engaging in prohibited behavior or we believe you are abusing Central Stockyards or our users in any way, we may, in our sole discretion and without limiting other remedies, limit, suspend or terminate your account, remove outstanding listings and cancel outstanding bids you may have and if necessary, refer the matter to the proper legal authorities.

Central Stockyards has the discretion to disable unconfirmed accounts or accounts that have been inactive for a long time or modify or discontinue our Services.

Central Stockyards reserves the right to refuse or terminate all or part of our Services to anyone for any reason at our discretion.

## **7. Consignment Agreement**

When you publish a listing to one of our Services, you are consigning the livestock listed to Central Stockyards and you are agreeing to all the terms and conditions set for this in this Agreement. If you consign livestock to Central Stockyards and then sell, or attempt to sell, that livestock outside of Central Stockyards during the listing term, you agree we may charge any of your financial accounts linked to our Services our full sale commission on your listing per our fee schedule.

Central Stockyards reserves the right, and you agree, to allow us to make minor revisions to your listing when needed; such as correcting spelling errors, punctuation and editing photos or videos if necessary. If major revisions are necessary, we will contact you for your review and approval.

## **8. Fee Schedule**

Our fee schedule is posted on our FAQs page and includes the date of last update. We may change our fee schedule from time to time by posting the changes on our FAQs page and if we do, the changes will only apply to new listings that occur after the last update date. We may apply promotions or discounts whenever we desire so long as they are uniformly enforced.

## **9. User's Intellectual Property**

When you provide content to our Services, directly or indirectly (*e.g.*, such as when you create a listing), you represent and guarantee you own or otherwise control all necessary rights to do so and you grant Central Stockyards a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise any and all intellectual property rights you have in such content in connection with our provision, expansion and promotion of our Services, in any media now known or ever developed and you waive your right to enforce against us, our assignees, our sublicensees and their assignees your intellectual property rights in that content in connection with our, those assignees', and those sublicensees' use of that content.

## **10. Our Intellectual Property and Proprietary Technology**

The name "Central Stockyards" and our other marks, rights of publicity, logos, designs and phrases we use in connection with our Services are trademarks, service marks or trade dress owned exclusively by Central Stockyards in the United States and other countries. You may not use our marks without our written permission.

Central Stockyards or our licensors exclusively own all rights, title, and interest in the patents, copyrights (including rights in derivative works), moral rights, trade secrets and other intellectual

property embodied by, or contained in our Services and such intellectual property is protected by copyright, trade secret, patent and other intellectual property laws.

#### **11. Agreement to Debit and Credit Financial Accounts; Right to Setoff**

You represent, agree and guarantee you have ownership or legal control of the financial accounts you link to our Services. You further agree and authorize us to debit or credit your financial accounts you link to our Services as necessary so we may fulfill the terms of this Agreement and operate our Services. Finally, you agree Central Stockyards has the right to setoff any funds of yours in our custody in the event you have any outstanding fees, commissions or penalties owed to Central Stockyards.

When you set your “Deposit Account” for seller’s payments, you will need to include your bank’s routing number and account number. We have built into our Services a microdeposit verification feature to help ensure you have entered the correct account information. However, only you can ensure the account information you provide to us is correct. If you provide us with incorrect account information, you (i) understand transfers may be sent to the wrong account and we may not be able to recover the funds and (ii) you agree you are solely responsible for any losses that might occur due to your incorrect information, you will not make any claims against us related to your error and you will fully reimburse us for any losses we incur.

If you reverse a transaction we initiated on one of your accounts pursuant to the terms of this Agreement, we will consider the reversal theft of our property and refer the matter to the proper authorities. In addition, you will be liable for actual damages, incidental damages, arbitration costs, our attorney’s fees and expenses to pursue the matter and you shall comply with any equitable relief determined.

#### **12. Insufficient Payments; Fees**

If we request a payment from you per this Agreement, and our initial request for your payment is denied by your financial institution, we will contact you very soon thereafter usually by phone, text, email and/or push notification. Once we contact you, you have 24 hours to remedy the matter. The simplest remedy is to pay for the purchase by credit card or debit card. If you cannot make the payment by credit card or debit card, then your only other remedy is to wire the funds to our account. Any credit card or debit card processing fees, wire fees or other fees are entirely your responsibility.

If you do not remedy the insufficient payment within the 24-hour timeframe, then we may take any one or all of the following actions:

1. Charge the amount to another financial account you have on file with us.
2. Charge you interest on the overdue amount at the highest rate allowed by law.
3. Disable your account, remove any outstanding listings and cancel any outstanding bids you may have.

4. Turn your account over to collections. Central Stockyards, or the collection agencies we retain, may report information about your account to credit bureaus, and as a result, late payments, missed payments or other defaults on your account may be reflected in your credit report.

### **13. Authorization to Obtain Information**

You authorize us to retrieve information about you from our service providers, including credit and information bureaus. You acknowledge this may include your name, addresses, phone numbers, dates of birth, family members, credit history and other information about you. You further acknowledge we may use your information to verify any other information you provide to us. In some cases, this information, or lack thereof, may lead to suspension or termination of your account or our inability to complete a transaction you are involved in.

### **14. Notices**

You agree to receive all communications, notices and disclosures, including those required by law, electronically, and you acknowledge these communications will have the same legal effect as if we provided you a physical copy. You further agree we may communicate with you by posting on our Services, email, SMS text or push notification and you agree to pay any costs associated with such communications. In some instances, however, we may still communicate with you via traditional mail and you agree to those communications as well.

### **15. Inherent Risks of Equine Activities and Other Livestock**

Riding a horse or being around livestock can be dangerous and can lead to death. If you are afraid to ride a horse, don't. If the livestock at a user's facility concern you, remove yourself from the situation.

Central Stockyards does not, nor do any of our users, guarantee you or your guests' safety when viewing, trying out or delivering livestock and you do so entirely at your own risk. You and your guests further agree to indemnify, defend and hold harmless other users, their employees, principals and agents, from and against any and all actual or threatened claims, actions, losses, lawsuits, judgments, damages, liabilities, costs and expenses, including without limitation reasonable attorney's fees and expenses, arising out of or in connection with any injuries you may sustain while viewing, trying out or delivering livestock subject to this Agreement or any of our Services unless such action constituted gross negligence.

Please see the required notice below regarding the inherent risks of participating in equine activities which further limits your liabilities against the accused.

**WARNING. UNDER NEBRASKA LAW, AN EQUINE PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES, PURSUANT TO NEB. REV. STAT. §§ 25-21,249 TO 25-21,253.**

## **16. Contract Between Seller and Buyer**

### **16.1. Contract Terms**

When a seller creates and publishes a listing on one of our Services they are making an offer to sell the livestock listed. When a bidder/buyer bids on a seller's listing, they are legally obligated to purchase the livestock at that price unless they are out-bid. A contract is not created between a seller and buyer until the auction for the listing ends and the seller's reserve, if any, has been met. Through our "End Auction Now" feature, a seller can choose to end a listing's auction before the listing was originally set to expire. If the seller chooses to do this, a contract is still created at the moment the auction ends, provided the reserve, if any, has been met. If a seller decides to "Delete" their listing, however, or if the seller's reserve is not met, then no contract is ever created between a seller and a buyer. Remember, a seller can remove their reserve at any time.

When a contract is created between a seller and buyer, this section entitled "Contract Between Seller and Buyer" applies and governs the actions of seller, buyer and Central Stockyards. To avoid any doubt, the legally binding contract created is solely between the buyer and seller. Central Stockyards is only a third-party intermediary to this contract.

When a contract is created, the terms of this contract are derived from (i) this Agreement; (ii) our FAQs posted on our Services; and (iii) the specific listing sold.

The specific listing includes the details of the transaction and provides, among other things, the seller, buyer, purchase price, end time, phone numbers, addresses, bidding log, pictures, videos, summary, and pictures of documents, registration certificates, health certificates, etc. This listing becomes a permanent part of our record and is incorporated into this Agreement, and your contract, by this reference.

### **16.2. Additional Terms**

Buyer and seller agree this Agreement, and the contract created from it, (i) represents the entire agreement between the buyer and seller with respect to the transaction; (ii) supersedes any contemporaneous agreements or understandings, written or oral, between the buyer and seller; and (iii) Central Stockyards will only enforce the terms and provisions set forth in this Agreement. To be clear, in the event a seller adds additional terms to a listing (*e.g.*, "I will deliver the horse within 200 miles of my location.", "You can return the horse within 30 days for a credit on another horse.", etc.), such as in the summary portion of a listing, over a phone call or elsewhere, those terms are unenforceable and Central Stockyards will not enforce them. A buyer should consider such additional terms as a willingness to do the thing mentioned but not as a legally enforceable right.

### **16.3. Early Delivery**

If a seller delivers a horse they sold to the buyer prior to receiving our Delivery Email, as explained in more detail in our FAQs, they will do so entirely at their own risk of the buyer having insufficient



funds. If we are unable to collect the funds from the buyer based on our processes outlined in this Agreement, you agree that (i) we may charge your financial accounts for the commission and fees you owe us; and (ii) we can deem the transaction closed, or complete, and our obligations shall be fully satisfied. It will then be your responsibility to attempt to collect the funds from the buyer or seek other legal remedy against the buyer.

#### **16.4. Seller's Obligations; Default of Seller**

Each seller, in addition to the obligations set forth throughout this Agreement, agrees to the following obligations which shall occur on every transaction/listing that falls under this section entitled "Contract Between Seller and Buyer":

1. Seller represents to the best of seller's knowledge, there are no material health conditions or defects that affect the livestock that seller has not disclosed in the listing summary or that are not readily apparent upon inspection.
2. Seller agrees to maintain the livestock in the same condition as was represented by the seller in the listing until the delivery takes place.
3. Seller shall deliver the livestock sold within the timeframe we provide in our Delivery Email (see our FAQs for more detailed information on our delivery times) unless the delivery is impossible due to an act of God, disease, death or serious injury of the livestock which occurs after the formation of this contract. In the event the delivery is impossible due to the foregoing circumstances, seller shall complete our Seller's Inability to Deliver Form (available upon request from [support@centralstockyards.com](mailto:support@centralstockyards.com)) and submit it to us for our approval. Upon our approval, seller shall be excused from delivering the livestock, the transaction shall be terminated, we will promptly refund to buyer any payment they have made and seller shall only be charged the no-sale fee as specified in our FAQs which will be charged to their payment source on file.
4. Seller shall deliver good, right and marketable title to the livestock they sold when the exchange takes place with buyer.
5. Seller shall notify any lien holders as to the sale of any livestock that includes any lien or other encumbrance.
6. Seller shall deliver the livestock at the exchange free of all security interests, liens or encumbrances and any costs in doing so shall be the sole cost of seller.
7. Seller agrees to indemnify, defend and hold harmless buyer from and against any and all actual or threatened claims, actions, losses, lawsuits, judgments, damages, liabilities, costs and expenses, including without limitation reasonable attorney's fees and expenses, arising out of or in connection with liens, encumbrances or other defects in title to the livestock.
8. Seller shall file and pay any and all taxes (e.g., sales tax, etc.) necessary due to the sale at seller's own expense.
9. Seller represents, agrees and guarantees seller has full power, authority and legal right to enter into and perform this Agreement, and the performance of this Agreement (i) has all necessary approvals or authorizations, (ii) will not violate any judgment, order, law or

regulation, (iii) does not conflict with or constitute a default under any agreement or instrument, and (iv) seller is over 19 years of age.

In the event a seller fails to meet the obligations set forth above and throughout this Agreement, they will be in default. In the event of seller's default:

1. We may deem the transaction terminated. In such event, we will promptly return to the buyer any payment they have made.
2. We may charge any of seller's financial accounts linked to our Services our full sale commission per our fee schedule.
3. We may act upon seller's behalf as to any action or inaction completed or not completed by seller. In such case, seller shall be liable for actual damages (including increases in price due to market conditions), incidental damages, arbitration costs, attorney's fees and expenses and seller shall comply with any equitable relief determined. For example, if seller fails to deliver livestock (maybe because seller decided to sell the livestock outside of our system after consigning with us), we may purchase comparable livestock for buyer in order to meet seller's contractual obligations and charge all damages to seller.
4. We may disable seller's account, remove any outstanding listings and cancel any outstanding bids seller may have.

#### **16.5. Buyer's Obligations; Default of Buyer**

Each buyer, in addition to the obligations set forth throughout this Agreement, agrees to the following obligations which shall occur on every transaction/listing that falls under this section entitled "Contract Between Seller and Buyer":

1. Buyer shall pay Central Stockyards, on the seller's behalf, for the livestock immediately following the close of the auction. The purchase price is the current bid stated on the listing details page (*i.e.*, the bidding page) at the time the auction ends plus any and all fees, as applicable, as stated in our FAQs (*i.e.*, credit card or debit card fees, etc.).
2. Buyer shall pick-up the livestock they purchased within the timeframe we provide in our Delivery Email (see our FAQs for more detailed information on our delivery times) unless the delivery is impossible due to an act of God, disease, death or serious injury of the livestock which occurs after the formation of this contract.
3. Buyer is purchasing the livestock based upon buyer's personal inspection and investigation of the livestock.
4. Buyer agrees if seller includes a warranty on the livestock as described in our FAQs, such warranty shall only cover medical conditions that were not disclosed in the listing. Information on how and when to file a warranty claim can be found in our FAQs. As to all other matters not covered in the warranty, buyer is purchasing the livestock at buyer's own risk and the livestock is being provided by seller "AS IS." Seller excludes all express or implied warranties, terms and conditions including, but not limited to, implied warranties of merchantability and fitness for a particular purpose.

5. Buyer represents, agrees and guarantees buyer is not currently in bankruptcy proceedings and bankruptcy is not imminent within the twelve-month period following the transaction.
6. Buyer represents, agrees and guarantees buyer has full power, authority and legal right to enter into and perform this Agreement, and the performance of this Agreement (i) has all necessary approvals or authorizations, (ii) will not violate any judgment, order, law or regulation, (iii) does not conflict with or constitute a default under any agreement or instrument and (iv) seller is over 19 years of age.

In the event a buyer fails to meet the obligations set forth above and throughout this Agreement, they will be in default. In the event of buyer's default:

1. We may enforce the provisions found in the section entitled "Buyer's Insufficient Payment for a Purchase."
2. We may deem the transaction terminated. In such event, and assuming buyer has made full payment, we will promptly return 50% of the purchase price to buyer. The remainder shall be forfeited as a breach of contract penalty.
3. We may act upon buyer's behalf as to any action or inaction completed or not completed by buyer. In such case, buyer shall be liable for actual damages (including decreases in price due to market conditions, re-selling costs, etc.), incidental damages, arbitration costs, attorney's fees and expenses and buyer shall comply with any equitable relief determined. For example, if buyer fails to pay for the livestock, we may purchase the livestock, pick up the livestock, care for the livestock, re-sell the livestock and charge all damages to buyer.
4. We may disable buyer's account, remove any outstanding listings and cancel any outstanding bids buyer may have.

#### **16.6. Buyer's Insufficient Payment for a Purchase**

In addition to the provisions set forth in the section entitled "Insufficient Payments; Fees," if a buyer does not remedy an insufficient purchase payment within the 24-hour timeframe as provided in the section entitled "Insufficient Payments; Fees," then we may charge buyer up to \$100 per day for every day buyer is past due. If buyer does not remedy the insufficient purchase payment within five business days beginning on the day we sent buyer the initial insufficient purchase payment notification, then we may take any one or all of the following actions, which are in addition to any other actions we may take as specified throughout this Agreement:

1. Deem the contract terminated in which case the delivery will not take place and the seller is free to attempt to re-sell the livestock.
2. Disable buyer's account, remove any outstanding listings and cancel any outstanding bids buyer may have.
3. Charge buyer penalties and fees up to 50% of the purchase price buyer failed to pay which we may process on any of buyer's financial accounts linked to our Services.
4. Turn buyer's account over to collections.

### **16.7. Security Interest**

In the event we deem necessary in order to protect a seller's, buyers' or Central Stockyards' interests as to a transaction that comes within the provisions of this section entitled "Contract Between Seller and Buyer," you agree to grant Central Stockyards a security interest in whatever livestock you might have a right to under this Agreement, including any products or proceeds from such livestock, and you further agree to grant us the authority as your agent to execute and file whatever documents may be necessary on your behalf in order to grant Central Stockyards this security interest.

### **16.8. Forward Contract**

You agree and will defend with us that the contract created by this Agreement is (i) a forward contract pursuant to 11 U.S.C. §101(25); (ii) the transactions that occur with our Services are part of the forward contract trade; (iii) that Central Stockyards is in the business of entering into forward contracts; (iv) the livestock traded with our Services are commodities as defined by the Commodity Exchange Act; and (v) Central Stockyards is a forward contract merchant.

### **16.9. No Assignment**

Neither buyer or seller shall assign any right or interest in the contract created by this Agreement and any such assignment shall be void.

### **16.10. Transfer of Title**

Transfer of title to the livestock shall not pass to buyer, regardless of delivery or exchange, until all of buyer's obligations as specified in this Agreement have been fully satisfied.

### **16.11. Risk of Loss**

When the livestock is loaded on buyer's carrier, regardless of whether the Confirm Delivery buttons have been pressed, the buyer assumes all risk of loss on the livestock.

### **16.12. Payment Terms and Waiver of Prompt Payment Rules**

We strive to complete each transaction as fast, but also as safe, as possible. In most cases, we will complete the transaction quite fast and faster than traditional livestock auction companies. In other cases, it may take more time than traditional auction companies.

Due to the ever-increasing risk of fraudulent transactions which occur through internet transactions, we have built security protocols to protect ourselves, our Services and our users. These protocols take time and the amount of time it takes for each transaction varies depending on numerous circumstances as described throughout this Agreement and some of which are proprietary. Therefore, you agree that regardless of traditional definitions of when livestock are "transferred," and regardless of how the Packers and Stockyards Act and its regulations define the term "transfer," the livestock bought and sold through our Services are not considered

“transferred,” and therefore, we will not remit payment to the seller, until all of the following conditions have been met:

1. We have received full payment from the buyer of the purchase price and any applicable fees, and such payment has been fully honored by the buyer’s financial institution;
2. We have completed our security protocols which may vary depending on multiple circumstances related to the transaction including the dollar amount of the transaction (*i.e.*, transactions over \$30,000 may require more due diligence), the uniqueness of the livestock (*i.e.*, a one-of-a-kind horse) or our inability to complete due diligence on the seller and buyer;
3. The livestock has physically been transferred from the seller to the buyer;
4. Any transfer or registration papers are fully signed, completed and in the buyer’s possession;
5. The seller and buyer have both pressed their “Confirm Delivery” buttons;
6. In the event a warranty was included on the livestock, the warranty has fully expired without a warranty claim;
7. In the event a warranty was included on the livestock, and if a warranty claim has been filed, the warranty claim has been satisfied and agreed to in writing by both the buyer and seller;
8. If any reversal of funds by any party’s financial institution occurs, the matter has been fully resolved, the funds have been received again into our custodial account and the matter has been agreed to in writing; and
9. If any dispute occurs, such dispute is satisfied in full and we have received either written agreement by both the seller and buyer or an arbitrator’s order as to how we are directed to proceed with the funds in our custodial account.

Upon satisfaction of the foregoing conditions, we will promptly create an automated clearing house (“ACH”) transaction to the seller for the net amount due to the seller after subtracting our fees and commissions; provided, however, we reserve the right to suspend a transfer to a seller for the following additional reasons: (i) due to an anticipated dispute; (ii) in the event we suspect suspicious activity; or (iii) where we are required by law or court order. If we exercise our right to withhold a transfer for any reason, we will communicate the general reason and give the seller a timeline for releasing the funds. Once we initiate our ACH payment, the transaction will either reach the ACH network that day or the next business day provided such day does not occur on a government holiday.

**BY AGREEING TO OUR PAYMENT TERMS AS SET FORTH IN THIS SECTION AND THROUGHOUT THIS AGREEMENT, YOU HEREBY WAIVE THE PROMPT PAYMENT RULES AS SET FORTH IN THE PACKERS AND STOCKYARDS ACT AND ITS REGULATIONS.**

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

We endeavor 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 functionality in our applications may not occur in real time. Such functionality is subject to delays

beyond our control.

**YOU AGREE YOU ARE USING OUR SERVICES AT YOUR OWN RISK, AND THEY ARE BEING PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS. 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, Central Stockyards, including our 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, reputation, profits, other intangible losses, or any special, indirect or consequential damages) resulting directly or indirectly from:

1. The content you provide (directly or indirectly) from using our Services;
2. Your use of or your inability to use our Services;
3. Guidance provided by Central Stockyards;
4. Delays or disruptions in our Services;
5. Viruses or other malicious software obtained by accessing or linking to our Services;
6. Glitches, bugs, errors or inaccuracies of any kind in our Services;
7. Damage to your device hardware from the use of any of our Services;
8. The content, actions or inactions of third parties, including the theft of livestock listed using our Services or the destruction of such livestock;
9. A suspension or other action taken with respect to your account;
10. The duration or manner in which your listings appear in search results; or
11. Your need to modify practices, content or behavior, or your loss of or inability to do business, as a result of changes to this Agreement.

Central Stockyards is providing you a service at a fraction of the cost of traditional services which operate in our industry. We further assume our users are honest, informed individuals who represent their livestock fairly and conduct honest business. Accordingly, our pricing structure and business model are based upon you agreeing to limit our liability which may arise between you and us. **THEREFORE, IF WE ARE FOUND TO BE LIABLE AS TO ANY MATTER DEALING WITH THIS AGREEMENT, OUR SERVICES OR ANY MATTER DEALING WITH OUR BUSINESS, YOU AGREE OUR LIABILITY TO YOU OR TO ANY THIRD PARTY IS LIMITED TO THE AMOUNT OF FEES YOU ACTUALLY PAID TO US IN THE THREE-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.**

The foregoing limitations on our liability to you will apply regardless of the legal theory on which your claim is based, including contract, tort (including negligence), strict liability, or any other theory or basis.

## **18. Dispute Resolution**

**PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND CENTRAL STOCKYARDS HAVE AGAINST EACH OTHER ARE RESOLVED. IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY OPT OUT AT ANY TIME BY NOT USING OUR SERVICES.**

You and Central Stockyards agree any claim or dispute, at law or in equity, that has arisen, or may arise, between you and us (including our employees, principals or agents) or you and another user (including such user's employees, principals or agents) that relates in any way to or arises out of this or previous versions of this Agreement, your use of or access to our Services, the actions of Central Stockyards or its employees, principals or agents, or any products or services sold or purchased through our Services, will be resolved in accordance with the provisions set forth in this section entitled "Dispute Resolution" rather than in court. However, anything in this Agreement to the contrary notwithstanding, if we suspect you of violating our intellectual property rights, we may bring appropriate legal action against you in any manner, including any court, we deem appropriate.

When an issue arises between you and us or between you and another user, we may consider your performance history and the specific circumstances in applying our policies.

**IN THE EVENT THE CLAIM OR DISPUTE IS BETWEEN YOU AND CENTRAL STOCKYARDS, YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AND SEEK RELIEF AGAINST CENTRAL STOCKYARDS (INCLUDING OUR EMPLOYEES, PRINCIPALS OR AGENTS) ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR A CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.**

### **18.1. Informal Negotiations**

Any controversy, dispute or claim arising out of or relating to the Services we provide or this Agreement, regardless of whether the claim is between two or more users or a user(s) and Central Stockyards, shall first be informally negotiated between the parties and Central Stockyards. Central Stockyards and the parties agree to attempt in good faith to reach a reasonable resolution within a reasonable timeframe. Upon reaching a resolution, the parties shall memorialize the agreement in writing and we will close the matter. You may begin any informal dispute process by filing a detailed notice of your controversy, dispute or claim at [legal@centralstockyards.com](mailto:legal@centralstockyards.com).

In the event an agreement cannot be reached through these informal negotiations, then the parties agree to proceed to arbitration as described below.

## **18.2. Arbitration**

If the parties cannot reach an informal agreement as described above, then the matter shall be submitted to arbitration by the American Arbitration Association (“AAA”) and shall be heard by at least one neutral arbitrator, unless the parties agree to additional arbitrators, who shall have reasonable experience in commercial transactions of the type provided for in this Agreement and who shall be chosen by the AAA.

The arbitration shall take place in Omaha, Nebraska and you hereby waive all objections based upon improper or inconvenient venue. The arbitration shall apply the AAA Commercial Arbitration Rules then in effect, and judgment upon any award rendered in such arbitration will be binding upon the parties and may be entered in any court having jurisdiction; provided, however, that any relief awarded shall not affect any other users of Central Stockyards; provided further, if the value of the relief sought is \$10,000 or less, the arbitration shall be conducted by telephone and based solely on written submissions. In arbitrations where an in-person hearing is held, any party may attend by telephone, unless the arbitrator requires otherwise.

The parties shall each pay their own counsel fees and other costs and expenses in connection with their participation in or preparation for the arbitration and the parties further agree to equally share the related costs, expenses and fees of the AAA and all arbitrators participating in such arbitration; provided, however, in the event Central Stockyards is joined to a dispute involving two or more users, such users shall equally share the cost of Central Stockyards’ reasonable attorney’s fees and expenses in order to participate in the arbitration and Central Stockyards shall not share in the expenses and fees of the arbitration in any manner whatsoever.

If an arbitrator or court decides that any controversy, dispute or claim cannot be arbitrated due to applicable law, such controversy, dispute or claim shall be severed from the arbitration, and, if Central Stockyards is a party to the severed dispute, such dispute shall be brought in an appropriate state or federal court located in Douglas County, Nebraska and all parties hereby waive all objections based upon lack of jurisdiction or improper or inconvenient venue of any such court; all other controversies, disputes or claims not severed shall continue to be arbitrated as specified in this Agreement.

## **19. Indemnification**

**YOU AGREE TO INDEMNIFY, RELEASE, DEFEND AND HOLD HARMLESS CENTRAL STOCKYARDS AND OUR EMPLOYEES, PRINCIPALS AND AGENTS, FROM AND AGAINST ANY AND ALL ACTUAL OR THREATENED CLAIMS, ACTIONS, LOSSES, LAWSUITS, JUDGMENTS, DAMAGES, LIABILITIES, COSTS AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY’S FEES AND EXPENSES, ARISING OUT OF OR IN CONNECTION WITH (1) YOUR USE OF OUR SERVICES, (2) ANYTHING RELATING IN OR TO THIS AGREEMENT, INCLUDING YOUR FAILURE TO FOLLOW THE TERMS OF THIS AGREEMENT; (3) ANY TRANSACTION THAT OCCURS ON OUR MARKETPLACE; (4) ANY INJURY YOU MAY SUSTAIN WHILE TRYING OUT LIVESTOCK, VIEWING LIVESTOCK OR ANY OTHER INJURY RELATED TO OR WITH YOU USING OUR SERVICES; OR (5) ANY DISPUTE YOU MAY HAVE WITH ANOTHER OF OUR USERS.**



## **20. Miscellaneous Provisions**

### **20.1. Good Faith**

You agree to act in good faith as to all matters dealing with our Services and this Agreement.

### **20.2. Further Action**

If necessary, you agree to perform all further acts and to execute, acknowledge and deliver any documents which may be necessary, appropriate or desirable to carry out the terms and provisions of this Agreement.

### **20.3. Waiver**

No failure or delay by Central Stockyards in exercising any right, power or privilege we may have shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other exercises of any right, power or privilege.

### **20.4. Entire Agreement**

This Agreement represents the entire agreement between you and Central Stockyards and supersedes any contemporaneous agreements or understandings, written or oral, between you and Central Stockyards with respect to the subject matter of this Agreement. If there is a conflict between the terms of this Agreement and our FAQs posted on our Services, the terms of this Agreement shall prevail.

### **20.5. Ambiguity**

This Agreement shall be deemed to have been equally drafted by all parties and in the event of ambiguity shall not be construed against one party or the other.

### **20.6. Severability**

If any provision of this Agreement is determined to be unenforceable, such provision shall be construed or deemed amended to conform to applicable law to the greatest extent possible given the original intent of such provision; provided, however, if the provision as construed or deemed amended materially alters the overall intent of this Agreement, then such provision shall be separate, severable and stricken and the unenforceability of such provision shall not invalidate or render unenforceable any other provision of this Agreement.

### **20.7. Successor and Assigns**

This Agreement is for the mutual benefit of the parties, and the covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, personal representatives, executors, administrators and other successors and assigns of the parties.

**20.8. No Joint Relationship**

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

**20.9. Applicable Law**

This Agreement and your use of our Services, regardless of where your actual use of our Services might occur, shall be governed and construed in accordance with the laws of the State of Nebraska without regard to the provisions for choice of laws thereunder.

**20.10. Headings**

The headings contained in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

\*\*\*\*\*

In witness whereof, I agree to the terms of this Agreement as of the date set forth in my date and time-stamped acceptance of this Agreement.

\_\_\_\_\_  
User's Signature

\_\_\_\_\_  
Date and Time Stamp

\_\_\_\_\_  
User's Printed Name