



# PARK VILLAGE AUCTIONS

*Trusted by banks, respected by buyers*

## RULES OF AUCTION

(To be read in conjunction with the OFFER TO PURCHASE)

### **Special Terms and Conditions for all Auctions – Finsch Mine (Pty) Ltd (Under Business Rescue)**

Please note that some Assets are located in areas with restricted access. Purchasers, their transporters and any contractors must comply with all applicable mine health, safety, induction, vetting, access-control and security requirements. The allocated mine teams may assist with upliftment and loading onto the Purchaser's nominated transport vehicle. Such assistance does not include transportation or delivery of the Assets from the mine to the Purchaser's premises or any other destination.

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These Rules of Auction are to be read together with the Offer to Purchase and the auction-specific registration documentation. In the event of an inconsistency, the auction-specific provisions expressly applicable to the Finsch Mine sale and the Offer to Purchase shall prevail, subject to applicable law.

## **CONDITIONS OF SALE**

### **The Auction Floor**

1. The auctioneer certifies that to the best of its knowledge and belief, these Rules of Auction comply with Section 45 of the Consumer Protection Act 68 of 2008 ("the Act") and the Regulations ("the Regulation/s") that have been published in terms thereof in Government Gazette No. 34180 on the 1 April 2011 and any amendment/s thereto from time to time.
2. Notice is hereby given that the auction is subject to :
  - 2.1 a reserved / upset price, where applicable and as announced or advertised;
  - 2.2 confirmation and written acceptance of the sale by the Seller and any approval, consent and/or ratification by the Business Rescue Practitioners, secured creditors and/or any other authorised party as may be applicable;
  - 2.3 a right on behalf of the Seller to bid at the auction; and a right of the Auctioneer to bid at the auction on behalf of the Seller or as proxy for a registered bidder, subject to applicable law.

3. Only the auctioneer or his agent/s shall be entitled to bid up to the reserve price on behalf of the Seller but shall not be entitled to make a bid equal to or exceeding the reserve price.
4. The auctioneer has a non-interest bearing trust account into which all moneys will be paid for the benefit of the Seller, less any commission, buyer's premium or costs payable to the auctioneer in terms of these Rule of Auction and the Conditions of Sale ("the Conditions of Sale") that applies to this auction.
5. These Rules of Auction comply with and are subject to Section 45 of the Act and the following provisions are brought to the bidders' attention :

"45 (1) In this section, "auction" includes a sale in execution of or pursuant to a court order, to the extent that the order contemplates that the sale is to be conducted by an auction.

(2) When goods are put up for sale by auction in lots, each lot is, unless there is evidence to the contrary, regarded to be the subject of a separate transaction.

(3) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in any other customary manner, and until that announcement is made, a bid may be retracted."

(4) Notice must be given in advance that a sale by auction is subject to –

  - (a) a reserved or upset price; or
  - (b) a right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, or any one person on behalf of the owner or auctioneer, as the case may be, may bid at the auction.
6. Subject to any reserved price, the confirmation provisions applicable to the sale, and written acceptance by the Seller together with any required approval, consent and/or ratification, the highest bidder shall be the successful Offeror. No bidder acquires any right to the goods/lots merely by the fall of the hammer where the sale is subject to confirmation.
7. Each bid will constitute an offer to the Seller on the terms contained in the Conditions of Sale.
8. These Rules of Auction and the Conditions of Sale will be available to the general public for inspection :

- 8.1 on the auctioneer's website (as per E above) and at the auctioneer's offices (physical address) at least 24 (twenty four) hours prior to the commencement of the auction; and
  - 8.2 at the auction location at Finsch Dimond Mine, Lime Acres, Norther Cape.
9. Every prospective bidder must, prior to the commencement of the auction, read and understand the Rules of Auction and the Conditions of Sale. A prospective bidder may not bid unless he or she has done so. Any queries in connection with the Rules of Auction and the Conditions of Sale must be raised with the auctioneer prior to the commencement of the auction.
10. The auction will commence at the published time (as per D above) and will not be delayed to enable any specific person or other persons in general to take part in the auction.
11. Any person who attends the auction to bid on behalf of another or a company/close corporation must produce a letter of authority expressly authorising him or her to bid on behalf of that person/entity or company/close corporation. Where a person is bidding on behalf of a company/close corporation, the letter of authority must appear on the company/close corporation's letterhead and must be accompanied by a certified copy of the resolution authorising him or her to bid on behalf of the company/close corporation.
12. In terms of Regulation 20(2)(h)(iii) all prospective bidders must register his or her identity in the bidders' record prior to the commencement of the auction and such registration must meet the requirements of Chapter 1 of the Regulations in terms of the Financial Intelligence Centre Act, 2001, published in terms of Notice No. R.1595 in Gazette No. 24176 of the 20 December 2002, in respect of the establishment and verification of identity, and that person must sign the registration entry.
13. For the purposes of Regulation 26(2), and in compliance with Regulation 30(2), a prospective bidder in an auction to be held via the internet or other electronic medium or platform must register by providing :
  - 13.1 his or her full names, identification or passport number, age, physical address, internet protocol address, and where applicable, login code or name, and password; and
  - 13.2 the details of the means by which payment will be effected.
14. The auctioneer may not accept bids from bidders who are not registered in accordance with these Rules of Auction and the bidders' record. A bid taken from an unregistered person is invalid.

15. A registered bidder must pay a refundable deposit as advertised and the amount thereof may vary from auction to auction.
16. The auctioneer will during the auction announce the reason for the auction unless that reason is the normal and voluntary disposal of the goods/lot(s) by the Seller.
17. The conduct of the auction is subject to the control of the auctioneer who has the sole right to regulate the bidding procedure. No “auction ringing” shall be permitted, and if the auctioneer suspects that bidders are involved in such activity, the auctioneer will be entitled to suspend or terminate the auction, or to prohibit those bidders suspected of such activity from making any further bids.
18. The bidders’ record contemplated in Regulation 26 and the vendor’s roll contemplated in Regulation 28(4) are available for inspection at the offices of the auctioneer during normal business hours, free of charge. The bidders’ record will also be available for inspection at the auction. The vendor’s roll of the auction is final and binding on all bidders.
19. The sale shall be by the rise and fall of the hammer and the goods/lot(s) shall be sold to the highest bidder subject to these Rules of Auction and the Conditions of Sale.
20. Every bid shall constitute an offer to purchase on the terms contained in these Rules and the Offer to Purchase. The Seller and PVA may accept or reject any offer, in whole or in part, in their sole discretion. The Seller reserves the right, in its sole discretion, to withdraw any Asset or Assets from the sale at any time prior to written acceptance, without prior notice and without liability to any bidder. Asset schedules and inventories are subject to amendment and/or withdrawal prior to acceptance.
21. In the event of any dispute between the bidders, the decision of the auctioneer shall be final and binding including, but not limited to, the right to resell the goods/lot(s) or to declare any bidder, the purchaser. The auctioneer shall be entitled to correct any error he might make. No bidder shall have any claim for damages or loss of any nature against the auctioneer flowing from or arising out of the auctioneer’s decision or as a result of the correction or any error which the auctioneer may have made.
22. No bid may be withdrawn after the fall of the hammer until the expiry of the confirmation period that is provided for in the Conditions of Sale, during which time the offer shall be open for acceptance by the Seller or his or her agent and if the offer is accepted, the sale shall be deemed to be a sale by auction for purposes of the Act.

23. The purchaser's bid/offer shall remain open for acceptance by the Seller or by the auctioneer on behalf of the Seller until the expiry of the confirmation period. The purchaser and the auctioneer acknowledge and agree that this provision is for the benefit of the Seller. Negotiations between the highest bidder and the Seller may arise during such confirmation period and should any subsequent bid be received during such confirmation period, the new bidder will be required to register in terms of these Rules of Auction and will have one opportunity to submit a higher bid and the highest bidder of the first instance shall have the right to equal or better such subsequent bid.
24. The Purchaser's bid/offer shall be deemed to have been accepted only when the Seller or the Auctioneer on behalf of the Seller has accepted the offer in writing and all required approvals, consents and/or ratifications applicable to the sale have been obtained. Until then, the Purchaser acquires no right to the Assets.
25. Should the Seller reject the purchaser's bid/offer, the auctioneer shall refund the purchaser's deposit and buyer's premium paid in terms of the Conditions of Sale.
26. Notwithstanding anything contained in these Rules, the acceptance of any bid/offer shall be subject to such approval, consent and/or ratification by the Seller, the Business Rescue Practitioners, secured creditors, any statutory authority, court of law and/or any other authorised party as may be applicable. No bidder shall acquire any right to the Assets until all required approvals and/or consents have been obtained and the offer has been accepted in writing.
27. The auctioneer shall be entitled to proceed with the auction without reading the Rules of Auction unless, after invitation by the auctioneer, any person present requires the Rules of Auction to be read.
28. Bidders shall be given a reasonable time and opportunity to inspect the goods/lot(s) prior to the commencement of the auction at a date and time specified by the auctioneer and it is the bidder's responsibility to do so. No fee will be charged for such opportunity. An auctioneer may however :
  - 28.1 refuse or restrict access to such goods/lot(s) if the prospective bidder, after gaining access, in any way acts unlawfully or contravenes the Rules of Auction; and/or
  - 28.2 require a prospective bidder to adhere to or submit to any security measures reasonably applicable in the circumstances.
29. All goods/lot(s) are sold voetstoots (as is). All descriptions, asset numbers, serial numbers, quantities, photographs and other information relating to the Assets are provided for identification and information purposes only. Neither the Seller nor PVA warrants the accuracy or completeness thereof. It is the responsibility of each

bidder to inspect and verify the Assets and all relevant particulars before bidding. No express or implied representations, guarantees or warranties of any nature are made regarding the condition, quality, description or any other characteristic of the goods/lots.

30. Where any Asset comprises a motor vehicle or trailer, no warranty or representation is given that the original registration certificate or NaTIS documentation is available, nor that the vehicle or trailer is currently registered on the NaTIS system. The Purchaser acknowledges and accepts that certain vehicles or trailers may have been deregistered and/or removed from the NaTIS system. The Purchaser shall be solely responsible, at its own cost and risk, for any re-registration and/or reinstatement on the NaTIS system, where possible, together with all licensing fees, arrears, penalties, interest, roadworthy requirements and other costs or formalities associated with registration and/or transfer. Neither the Seller nor PVA warrants that re-registration, reinstatement or transfer will be possible, unless expressly confirmed otherwise in writing.
31. No goods/lot(s) shall be removed prior to full payment therefor and not without a valid release note.
32. All goods/lot(s) are sold exclusive of VAT and in particular all motor vehicles are sold excluding documentation fees which may vary from auction to auction, and shall at all times after the sale remain the liability of the purchaser. Documentation fees are advertised excluding VAT.
33. The purchase price must be paid by way of a bank guaranteed cheque or electronic funds transfer upon the conclusion of the auction. No cash will be accepted at the auction house or at the auction location and any payment in cash paid into the auctioneer's bank account must include a 2% cash handling fee on the purchase price.
34. The balance of the purchase price, together with VAT and all other amounts payable in terms of these Rules and the Offer to Purchase, shall be paid in full and in cleared funds within 7 (seven) calendar days after written acceptance of the offer by the Seller, unless a different period is expressly stipulated in the auction-specific documentation. Failure to pay within the applicable period shall constitute a breach and may result in cancellation and the exercise of the Seller's and/or PVA's remedies under the Offer to Purchase and applicable law.
35. Ownership of all goods/lot(s) on auction shall remain vested in the Seller until paid for in full.

36. No goods/lot(s) are sold subject to a bidder obtaining finance for the purchase price or any part thereof, and any such a bid will not be accepted. In order to avoid disappointment bidders must arrange finance in advance.
37. Where there is a sale of immovable property, the highest bidder (the purchaser) shall sign the Conditions of Sale immediately on the fall of the hammer.
38. Where a bid/offer is subject to confirmation, risk in and to the goods/lots shall pass to the Purchaser only upon written acceptance of the offer by the Seller in accordance with the Offer to Purchase and once any required approvals, consents and/or ratifications have been obtained. The Purchaser shall arrange appropriate insurance from that time. Ownership, possession and release shall remain subject to full payment in cleared funds and the other requirements of the Offer to Purchase.
39. The purchaser shall remove the purchased goods/lot(s) at its sole risk, cost and expense and shall be liable to pay the auctioneer storage costs if the goods/lot(s) are not removed within 48 (forty eight) hours of the sale.
40. The Purchaser shall, in addition to the purchase price and VAT thereon, pay PVA's commission calculated at 7% (seven percent) of the purchase price (excluding VAT), plus VAT on the commission, together with an upliftment and loading fee calculated at 1% (one percent) of the purchase price, plus VAT thereon. The upliftment and loading fee is subject to the Special Conditions below, including liability for any shortfall where the actual upliftment and loading costs exceed the 1% fee.
41. If any goods/lot(s) is/are sold subject to confirmation, the confirmation period will be 14 (fourteen) business days from date of the auction during which period the purchaser shall not be entitled to withdraw his or her offer.
42. In compliance with Regulation 21(2)(1) of the Act, the auctioneer hereby notifies that the total costs of advertising and conducting the auction is the sum of R calculated as follows :
  - 42.1 Press adverts R
  - 42.2 Web advertising R
  - 42.3 Street boards R
  - 42.4 SMS and social media campaigns R
  - 42.5 Travelling expenses per kilometre at AA rates R
  - 42.6 Storage fees R per day

43. The bidder/purchaser shall pay all legal and other costs, including costs on the attorney and client scale, incurred by the auctioneer/seller in successfully enforcing these Rules of Auction and/or the Conditions of Sale.
44. Bidders/purchasers agree to accept service of any notice or Court process at the address given with registration in terms of these Rules of Auction.
45. All disputes relating to these Rules of Action or the Conditions of Sale shall be governed exclusively by the Laws of the Republic of South Africa.
46. All parties should note that the auctioneer is only acting as an agent on behalf of the Seller in the auction.
47. I hereby certify that the rules of auction to the best of my knowledge meet the requirements of Regulation 21 of the Act.

AUCTION SITE SAFETY NOTICE: Auctions take place on mine premises where people, goods and vehicles are constantly moving and where associated safety and security risks may arise. All persons attending the auction must familiarise themselves with the environment and comply with all applicable mine health, safety, security and access requirements. Attendance at the mine premises is at each person's own risk, subject always to applicable law.

48. **Online Bidding**

48.1 Registered bidders participating by online auction or Webcast must be aware that the auctioneer cannot accommodate for slow or lost internet connections or the variable delay between bids placed online and reflecting on the auction system on the auction floor. Furthermore, the Auctioneer cannot guarantee uptime on the system. Should it occur that an online bid reflects after the auctioneer knocks-down or calls "sold" to a Purchaser on the auction floor, the online bid will be invalid. Webcast bidders can place pre-bids / max offers prior to auction commencing which the online auction administrator calls on behalf of the online bidder in bidding increments up to the maximum / pre bid amount.

48.2 Due to the above, online bidders must bid early.

49. **Location of Lots**

49.1 Not all assets may be located on the auction floor, particularly for online auctions. The Purchaser must confirm the location of each lot they intend to bid on. PVA will not be liable for bidders who do not know a Lot's location.

49.2 Where branding appears on a Lot, the Seller reserves the right to remove such branding prior to collection.

**50. Removal and Storage**

No goods may be removed during the auction. The Purchaser shall remove the lots from the auction site on the allocated calendar date given to each buyer or the period announced by the Auctioneer or written in the catalogue at the relevant auction or stipulated on the Auctioneers web site. Dispatch is completed on a first come, first serve basis on allocated calendar dates, see special conditions. It is the responsibility of the Purchaser to make certain that they comply with any health, safety or procedural requirements of the Auctioneer or the Seller.

## **SPECIAL CONDITIONS OF AUCTION**

### **REMOVAL, UPLIFTMENT AND TRANSPORT OF MINING ASSETS**

#### **1. Compliance with Mining Health and Safety Legislation**

1.1 All purchasers, their employees, agents, contractors, subcontractors, transporters and any other persons entering the mine premises for purposes of inspecting, dismantling, loading, removing or transporting purchased assets shall comply strictly with:

- the Mine Health and Safety Act 29 of 1996, as amended (“MHSA”);
- all regulations promulgated under the MHSA;
- all applicable mandatory Codes of Practice, standards, mine safety procedures and risk-control measures;
- all lawful instructions issued by the mine, Seller, mine management, safety personnel or authorised representatives; and
- all site-specific health, safety, environmental, access-control and security requirements applicable to the mine.

1.2 Nothing contained in these Conditions of Auction shall be interpreted as excluding, limiting or overriding any obligation imposed by applicable legislation, including the MHSA.

1.3 Where there is any conflict between these Conditions of Auction and any mandatory statutory health and safety requirement, the statutory requirement shall prevail.

#### **2. Authorised Removal Teams**

2.1 No purchaser shall be permitted to remove, dismantle, load, disconnect, move or otherwise uplift any asset from the mine premises unless the purchaser:

2.1.1 utilises the removal/upliftment team or teams allocated or approved by the Seller/mine; or

2.1.2 obtains the prior written approval of the Seller/mine to utilise its own removal team, contractor or subcontractor.

2.2 Any purchaser wishing to use its own personnel or contractors must submit the required information and documentation to the Seller/mine and/or its appointed safety representative for vetting and approval before such persons will be permitted onto the mine premises.

- 2.3 The Seller/mine reserves the right, in the interests of health and safety, to refuse access to or prohibit the use of any person, contractor, subcontractor, transporter, equipment or vehicle which does not satisfy the applicable site requirements.
- 2.4 No purchaser shall appoint or substitute removal personnel without prior approval where such approval is required by the mine's health and safety procedures.

### 3. Induction, Vetting and Access

- 3.1 Only persons who have been properly registered, vetted, inducted and authorised in accordance with the mine's applicable requirements shall be permitted to enter the relevant areas of the mine for purposes of upliftment.
- 3.2 Every person entering the mine for purposes of removal shall comply with all applicable induction, identification, access-control, personal protective equipment, medical, competency, training and other health and safety requirements applicable to that person's activities and the relevant work area.
- 3.3 No person shall be permitted to undertake any work for which that person is not appropriately competent, trained, authorised or otherwise legally permitted to perform.
- 3.4 All removal and upliftment activities shall take place under the supervision and/or control of the persons designated by the Seller/mine for that purpose.
- 3.5 The Seller/mine shall be entitled to stop any removal activity immediately if, in its reasonable opinion, the activity creates or may create a health, safety, environmental, security or property risk.
- 3.6 A purchaser and its personnel shall immediately comply with any instruction to stop work, leave an area or vacate the mine premises issued by authorised mine or safety personnel.

### 4. Upliftment and Loading Fee

- 4.1 The Purchaser shall pay an upliftment and loading fee calculated at 1% (one percent) of the purchase price, plus VAT thereon. The fee relates solely to the administration, coordination and assistance provided by the Seller/mine and/or allocated mine teams in facilitating upliftment and loading the purchased Assets onto the Purchaser's nominated transport vehicles at the relevant Premises.

- 4.2 Should the actual costs associated with the upliftment and loading of the purchased Assets exceed the 1% (one percent) upliftment and loading fee, the Purchaser shall be liable for any shortfall and shall pay such additional amount, together with VAT thereon where applicable, prior to the release and upliftment of the relevant Assets.
- 4.3 For the avoidance of doubt, the upliftment and loading fee does not include the transportation, delivery or conveyance of the Assets from the Premises to the Purchaser's premises or to any other destination. The Purchaser shall, at its own cost and risk, arrange and provide suitable transport vehicles for collection and transportation of the Assets from the Premises.
- 4.4 Once the purchased Assets have been loaded onto the Purchaser's nominated transport vehicle, neither the Seller, PVA nor the allocated mine teams shall have any obligation to transport or deliver the Assets to the Purchaser or to any other destination.
- 4.5 All applicable purchase consideration, PVA's commission, upliftment and loading fees, any shortfall in respect of actual upliftment and loading costs, and any other amounts required to be paid before upliftment must be paid in full and in cleared funds before an upliftment date and time will be allocated to the Purchaser.
- 4.6 No Purchaser shall acquire a right to uplift or remove any Asset merely by virtue of having been declared the successful bidder. Such right remains subject to full payment and compliance with all applicable sale, mine, access-control and health and safety requirements.

5. Staggered Upliftment Calendar

- 5.1 In order to ensure the safe, orderly and efficient removal of assets, and to prevent congestion, bottlenecks, unnecessary transport waiting time and associated risks, upliftment shall take place strictly in accordance with a staggered upliftment calendar determined by the Seller/mine and/or Park Village.
- 5.2 Each purchaser shall be allocated a specific date and, where applicable, a specific time slot for the removal of its assets.
- 5.3 The allocation of dates and time slots shall be determined having regard to, amongst other things:
- the nature, size and location of the assets;
  - the equipment and personnel required for removal;
  - mine access and traffic-control requirements;

- health and safety requirements;
- availability of mine personnel and removal teams;
- loading facilities;
- transport requirements;
- the number of purchasers requiring access; and
- the need to maintain safe and orderly operations on the premises.

5.4 Purchasers shall strictly adhere to their allocated upliftment date and time.

5.5 A purchaser shall ensure that all necessary personnel, contractors, transport vehicles, lifting equipment and other resources required for upliftment are available and ready at the allocated time.

5.6 A purchaser who fails to arrive on time, is not ready to commence upliftment, or otherwise fails to comply with its allocated upliftment slot may be refused access for that period and shall be allocated a new date and/or time slot, subject to availability. (This may attract a storage fee so buyers must make sure of calendar dates allocated).

5.7 Park Village and the Seller shall not be liable for any costs, losses, transport charges, standing time, storage charges, contractor costs or other expenses incurred by a purchaser as a result of the purchaser failing to comply with its allocated upliftment date and time, or in the event that upliftment takes longer, due to difficulty or upliftment taking longer by teams.

## 6. No Unscheduled Upliftment

6.1 No purchaser, transporter, contractor or other person may enter the mine premises for purposes of upliftment outside of the purchaser's allocated date and time without prior written authorisation.

6.2 The fact that a purchaser has purchased an asset does not entitle that purchaser to attend at the mine at any time of its choosing to remove the asset.

6.3 No purchaser may interfere with, obstruct or otherwise disrupt the removal activities of another purchaser.

6.4 The Seller/mine shall be entitled to refuse access where permitting access would create congestion, an unsafe condition or a breach of mine safety procedures.

7. Responsibility for Purchaser's Personnel and Contractors

- 7.1 The purchaser shall remain responsible for ensuring that all persons engaged by it or acting on its behalf comply with these Conditions of Auction and all applicable mine health and safety requirements.
- 7.2 Any breach by a purchaser's employee, contractor, subcontractor, transporter, agent or other representative shall be deemed a breach by the purchaser for purposes of these Conditions of Auction.
- 7.3 The purchaser shall be responsible for any damage, loss, injury, cost, expense, delay or claim arising from the negligent, unlawful, reckless or unsafe conduct of the purchaser or any person acting on its behalf, to the extent permitted by law.
- 7.4 Nothing in these Conditions shall relieve any person from liability imposed by applicable law.

8. Damage to Mine Property and Assets

- 8.1 Purchasers shall exercise all reasonable care to prevent damage to:
  - the purchased assets;
  - other mine property;
  - buildings and infrastructure;
  - roads and access ways;
  - electrical, mechanical, hydraulic or other installations;
  - plant and equipment;
  - underground or surface workings; and
  - any property belonging to the Seller or any third party.
- 8.2 Any dismantling, disconnection, cutting, lifting, loading or removal operation which could affect mine infrastructure, services or safety shall only be undertaken with the prior approval of the authorised mine representative and in accordance with the applicable safe work procedure.
- 8.3 The purchaser shall be liable for damage caused by its negligence, misconduct, breach of these Conditions or breach of applicable legislation, to the extent permitted by law.

9. Right to Stop Work and Remove Persons from the Premises

9.1 The Seller, mine management, authorised safety personnel or any other person lawfully exercising authority at the mine may immediately stop any upliftment or removal activity where the activity is considered unsafe, unlawful or contrary to mine procedures.

9.2 Any purchaser, employee, contractor, subcontractor, transporter or other person who:

- fails to comply with a lawful safety instruction;
- breaches the MHSA or applicable regulations;
- breaches the mine's safety procedures;
- enters an unauthorised area;
- undertakes unauthorised dismantling or removal;
- acts recklessly or negligently;
- creates a danger to any person or property; or
- otherwise materially breaches these Conditions,

may be required to immediately cease the relevant activity and leave the affected area or the mine premises.

9.3 Where necessary for health, safety or security reasons, such person may be escorted from the premises by authorised personnel.

9.4 Any removal of a person from the premises shall not prejudice any other rights or remedies available to the Seller, mine or Park Village in terms of the auction conditions, contract or applicable law.

10. Consequences of Breach

10.1 Any purchaser who materially breaches these Conditions may, subject to the applicable auction terms and law, have its upliftment activities suspended until the breach has been remedied and the purchaser has been re-authorised.

10.2 Where the breach is serious, repeated or creates a health, safety, security or property risk, the purchaser may be denied further access to the premises.

10.3 The Seller and/or Park Village shall be entitled to recover from the purchaser, to the extent permitted by law, any reasonable losses, costs,

damages or expenses caused by the purchaser's negligent, reckless, unlawful or unauthorised conduct.

- 10.4 Nothing in these Conditions limits any statutory right, duty, power or remedy available to the Seller, mine management, an inspector, the Department of Mineral and Petroleum Resources or any other competent authority.

## 11. No Liability for Failure to Comply with Mine Safety Requirements

- 11.1 The purchaser acknowledges that access to and removal of assets from an operating or former mining area may involve inherent risks and that access is subject to the mine's health and safety requirements.
- 11.2 No purchaser shall have a claim against the Seller or Park Village arising merely from the enforcement of statutory or mine health and safety requirements, including the refusal, suspension or postponement of access where such action is reasonably required for compliance with applicable law or the protection of persons or property.
- 11.3 The Seller and Park Village shall not be responsible for any delay or additional cost suffered by a purchaser where such delay or cost arises from the purchaser's failure to comply with the applicable health and safety, access-control, induction, vetting or upliftment requirements.
- 11.4 Nothing in this clause shall exclude or limit liability to the extent that such exclusion or limitation is prohibited by law.

## 12. Acknowledgement by Purchaser

By participating in the auction and/or purchasing any asset, each purchaser acknowledges and agrees that:

- 12.1 upliftment is subject to the requirements of the mine and applicable law;
- 12.2 payment of the purchase price, VAT, PVA's commission, the upliftment and loading fee, any shortfall in actual upliftment and loading costs and all other applicable amounts is a prerequisite to the allocation of an upliftment date;
- 12.3 only properly authorised, inducted and approved persons may enter the mine for upliftment purposes;
- 12.4 the purchaser will comply with the allocated upliftment date and time;
- 12.5 the purchaser will ensure that all persons acting on its behalf comply with the same requirements;

- 12.6 the Seller/mine has the right to stop unsafe or unauthorised activities immediately; and
- 12.7 the purchaser accepts that orderly and staggered upliftment is necessary to protect persons, property and the mine and to minimise congestion, delays and safety risks.

13. Governing Legislation

- 13.1 These Conditions shall be interpreted and applied subject to the laws of the Republic of South Africa.
- 13.2 In particular, all parties shall comply with the Mine Health and Safety Act 29 of 1996, as amended, and all applicable regulations, Codes of Practice, directives and lawful requirements applicable to the mine and the activities contemplated by these Conditions.
- 13.3 These Conditions shall not be interpreted as permitting any act or omission which would constitute a contravention of applicable mining, occupational health and safety, environmental, transport or other legislation.
- 13.4 Where a provision of these Conditions is found to be invalid or unenforceable, that provision shall, to the extent necessary, be severed or read down without affecting the validity of the remaining provisions.

14. Final Authority on Site Safety

- 14.1 For purposes of immediate operational health and safety, all purchasers and their representatives shall comply with the lawful directions of the mine's authorised management and safety personnel.
- 14.2 The Seller and Park Village reserve the right to amend or supplement upliftment procedures where reasonably necessary to comply with legislation, mine safety requirements, changes in site conditions or instructions from a competent authority.
- 14.3 Any such amendment shall apply to the extent reasonably necessary to ensure the safe and lawful removal of assets.

**IMPORTANT: Participation in the auction constitutes acceptance of these Special Conditions, together with the general Rules and Conditions of Auction and any site-specific mine health and safety requirements communicated to purchasers.**

The Auctioneers will not be responsible for any damages caused during removal or releasing of equipment. It will be the Purchasers' responsibility to make right any

damages to property even if the Purchaser has nominated to use a third-party company or mine team to remove the assets.

The Purchaser shall not be entitled to cancel the sale as a result of timeous non-delivery of the lots or on non-signature of the required documents. PVA shall be entitled, without penalty, to cancel the sale should the required documents of or relating to the lots not be signed and delivered to PVA within 21 days of the date of the Auction; the Purchaser must look to the Seller for any damages that the Purchaser may have suffered due to such non-delivery or non-signature. So make sure that every purchaser remove assets on the date allocated.

### **Storage**

The Purchaser shall be liable to pay daily storage fees of 1% of the value of the item(s) not collected with a minimum fee of R100 per lot per day if the lots remain on PVA's premises without written approval. Should after the dispatch period PVA need to remove an asset from an auction venue for any reason whatsoever; PVA will nominate a service provider to undertake the removal. The actual invoice cost for any such removal plus a 20% (twenty per cent) handling fee will be for the account of the Purchaser as will any additional storage fees. No lots will be released until the full invoice price of such removal cost has been paid.

### **Indulgence**

Save for the announcements and signage referred to above, no variations or amendments hereto shall be of any force and effect unless reduced to writing and signed by the Purchaser and PVA. No indulgence which the Seller and/or PVA may grant to the Purchaser shall prejudice, or constitute a waiver of, the rights of the Seller and PVA, who shall not there be precluded from exercising any rights against the Purchaser which may have arisen in the past or may arise in the future.

### **Special Conditions for Motor Vehicles and Items Requiring NATIS Paperwork**

The Purchaser confirms that it has been afforded an opportunity to inspect the motor vehicles and trailers concerned and independently verify their particulars. Odometer readings, year, make, model and other descriptions are not warranted. No warranty or representation is given that original registration certificates or NaTIS documentation are available or that any vehicle or trailer remains registered on the NaTIS system. Certain vehicles or trailers may have been deregistered and/or removed from the NaTIS system. The Purchaser accepts sole responsibility, cost and risk for any re-registration or reinstatement, where possible, and for all licensing fees, arrears, penalties, interest, roadworthy requirements and other registration/transfer formalities. Neither the Seller nor PVA warrants that re-registration, reinstatement or transfer will be possible unless expressly confirmed otherwise in writing.

## **General**

The Purchaser chooses as domicilium citandi et executandi (the address of delivery for all purposes arising from these terms and conditions), the physical address of the Purchaser reflected on the registration form or reflected in any document signed or handed by the Purchaser to PVA in respect of the lots and/ or the auction concerned.

The Purchaser consents to the jurisdiction of the Magistrate's Court and agrees that the Seller and/or PVA shall be entitled to institute proceedings in the High Court. In the event that any legal steps are taken against the Purchaser, the Purchaser agrees to pay all of the legal costs (on the attorney and own client scale) of PVA and/or the Seller and which is or may be actually paid to PVA/the Seller's attorneys (by agreement or otherwise), alternatively, where there is no such agreement, on the attorney and own client scale as per the tariff of the relevant Court involved.

## **Seller FICA Compliance Notice & Sharing of Information**

Any personal information and/or documents belonging to you or that of any third party as required by the Financial Intelligence Centre Act, 38 of 2001, that is processed through the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, use or such other means as defined in the Protection of Personal Information Act, 4 of 2013, as provided by you to us shall be processed for legitimate business purposes in the provision of any products or services herein, which may include the transmission of such information to our Sellers (or any such division, subsidiary or affiliate) for processing.

In the event that a further risk assessment is required, the Auctioneer and/or Seller reserves the right to conduct such assessment after the auction process is concluded and may cancel the sale transaction should the Auctioneer and/or Seller no longer deem the transaction to fall within an acceptable threshold of their risk appetite to conclude the sale. Release of the asset will be subject to the completion of the risk assessment.

## **ON BEHALF OF THE BUYER WHO WARRANTS THEY ARE DULY AUTHORIZED**

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Name and Surname

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Signature

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Date

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Place

**AND THE AUCTIONEER HEREBY CERTIFIES, TO THE BEST OF HIS KNOWLEDGE THAT THESE RULES OF AUCTION MEET THE REQUIREMENTS OF REGULATION 21 OF THE REGULATIONS TO THE CONSUMER PROTECTION ACT, 68 OF 2008**

**A SIGNED COPY OF THIS DOCUMENT IS AVAILABLE FROM THE AUCTIONEER**