

## INSOLVENT ESTATE AUCTIONS

### RULES OF AUCTION

(incorporating a conditions of sale)

in regard to an auction of immovable property to be held at the date, place and time as indicated hereunder in respect of the property as set out in the Schedule annexed to the Conditions of Sale annexed hereto as Annexure A:

**DATE OF AUCTION:**

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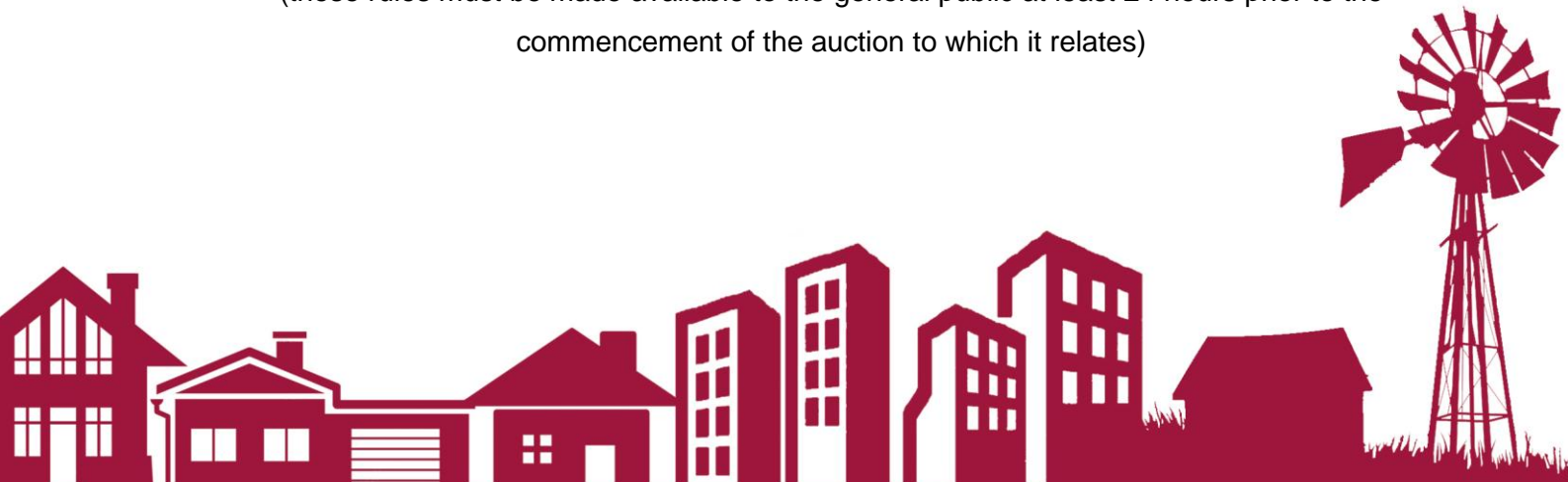
**PLACE OF AUCTION:**

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**TIME OF AUCTION:**

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(these rules must be made available to the general public at least 24 hours prior to the commencement of the auction to which it relates)



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**1. PARTICULARS OF AUCTIONEER AND AUCTION HOUSE**

1.1 Full names of the auctioneer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

1.2 physical address of the auctioneer: NRE Auctioneers, 162 Zastron Street, Westdene, Bloemfontein;

1.3 Contact details of the auctioneer: 051-405 9910;

1.4 Full names of the auction house: NRE AUCTIONEERS (PTY) LTD, Registration number: 2017/040646/07;

1.5 physical address of the auction house: 162 Zastron Street, Westdene Bloemfontein;

1.6 Contact details of the Auction house: 051-405 9910;

**2. RESERVED OR UPSET PRICE**

The sale by auction of the undermentioned immovable property is subject to a reserved or upset price as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

**3. RIGHT TO BID BY OR ON BEHALF OF THE OWNER OR AUCTIONEER**

The auction to which these Rule of Auction apply shall be on the basis that there will be a right to bid by or on behalf of the owner or auctioneer, and accordingly 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.

**4. COMPLIANCE WITH SECTION 45 OF THE ACT**

These rules of auction comply with section 45 of the Consumer Protection Act 68 of 2008 (“the CPA”) and with the regulations promulgated thereunder. If any of the terms and conditions of this Rules of Auction or the terms and conditions, which are annexed to these Rules of Auction are inconsistent with the CPA and its regulations, then the CPA and its regulations shall prevail.

**5. TIME OF AUCTION**

The auction will commence at the published time (as set out on page 1 of these Rules of Auction) and it will not be delayed to enable any specific person or more persons in general to take part in the auction.

**6. BIDDING ON BEHALF OF ANOTHER**

A person who intends at the auction to bid on behalf of another person must produce a letter of authority meeting the requirements of regulation 26(3) of the regulations promulgated in terms of the CPA, in order to so bid on behalf of that person;

[Regulation 26(3) reads as follows:

*“26(3) The auctioneer must ensure that a person who intends to bid on behalf of another, produces a letter of authority expressly authorising him or her to bid on behalf of that person, and both that person and the person bidding on his or her behalf must meet the requirements of subregulation (2)”*

And subregulation 26(2) reads as follows:

*“(2) Subject to regulation 30(2), the auctioneer must ensure that every prospective bidder must prior to the commencement of an auction register his or her identity in the bidder’s record, and such registration must with the necessary changes meet the requirements of Chapter 1 of the regulations in terms of the Financial Intelligence Centre Act, 2001, published in Notice No. R.1595 in Gazette No. 24176 of 20 December 2002, in respect of establishment and verification of identity, and sign that entry”]*

**7. TRUST ACCOUNT**

The auctioneer has a trust account into which all moneys, minus the agreed commission, will be paid for the benefit of the seller.

The particulars of which trust account are as follows: \_\_\_\_\_  
\_\_\_\_\_;

**8. REASON FOR AUCTION**

The auctioneer will, during the auction, announce the reason for the auction unless that reason is the normal and voluntary disposal of goods by the owner thereof.

**9. REGISTRATION OF BIDDER**

Any person who intends to bid at the auction must register prior to the commencement as contemplated in regulation 26(2) of the regulations promulgated in terms of the CPA, which reads as follows:

*“(2) Subject to regulation 30(2), the auctioneer must ensure that every prospective bidder must prior to the commencement of an auction register his or her identity in the bidder's record, and such registration must with the necessary changes meet the requirements of Chapter 1 of the regulations in terms of the Financial Intelligence Centre Act, 2001, published in Notice No. R.1595 in Gazette No. 24176 of 20 December 2002, in respect of establishment and verification of identity, and sign that entry”*

and regulation 30(2) reads as follows:

*“(2) For purposes of regulation 26(2), a prospective bidder in an auction to be held via the internet or other electronic medium or platform must register by providing -*

*(a) 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*

*(b) the details of the means by which payment will be effected.*

**10. BIDDERS' RECORD AND VENDOR ROLL**

The bidders' record contemplated in regulation 26 and the vendor roll contemplated in regulation 28(4) are available for inspection during normal business hours without the charge of a fee at the following address:

NRE AUCTIONEERS

162 Zastron Street, Bloemfontein, 9301;

**11. BREAKDOWN OF COST**

The breakdown of the total cost of advertising and conducting the auction is as follows: \_\_\_\_\_

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(the right is reserved to add additional costs which additional costs will be computed as follows:

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**12. AMENDMENT OF RULES**

These rules are the original rules relating to the auction to which these Rule of Auction apply

Alternatively

These rules are the amended version of the rules relating to the auction to which these Rule of Auction apply.

**13. READING OUT OF RULES**

13.1 These Rules of Auction will not be read out at the auction as:

13.1.1 they are available to the general public at least 24 hours prior to the commencement of the auction or;

13.1.2 the auction is a closed auction and these rules were made available to all persons to whom an invitation to take part in that auction was issued or;

13.2 Should clause 13.1 not apply the auctioneer will invite all present at the auction to object to the rules of auction not being read, and if nobody does object, these rules will not be read out at the auction.

**14. PROHIBITED BEHAVIOUR**

The auctioneer shall not -

14.1 charge or receive any fee or commission in respect of the sale of immovable property until the purchaser and the seller have signed a written agreement in respect of the sale of such immovable property;

14.2 charge or receive any fee or commission from the purchaser if the seller defaults or where such fee or commission has already been paid by the purchaser to the auctioneer, the auctioneer shall immediately refund the purchaser the amount paid, including the deposit;

- 14.3 charge or receive any fee or commission from the purchaser, if the purchaser defaults, exceeding ten percent of the purchase price or the total cost of advertising and conducting an auction and such additional costs as may have been reasonably incurred in accordance with regulation 21 (2)(1), whichever is the lesser;
- 14.4 charge or receive any fee or commission from the seller, unless agreed otherwise in writing, if the buyer defaults or where such fee or commission has already been paid by the seller to the auctioneer, the auctioneer shall immediately refund the seller the amount paid;
- 14.5 charge or receive any fee or commission from the seller if the seller defaults, unless agreed otherwise, exceeding ten percent of the purchase price or the total cost of advertising and conducting an auction and such additional costs as may have been reasonably incurred in accordance with regulation 21 (2)(1), whichever is the lesser;
- 14.6 accept a bid from a person unless he or she is registered in the Bidders' Record as contemplated in regulation 26;
- 14.7 set a minimum or reserve price without the express written permission of the seller;
- 14.8 allow bidding on an item or a lot if the auction thereof has not been advertised as contemplated in regulations 19 and 20;
- 14.9 during an auction deviate from the sequence of goods as advertised;
- 14.10 knowingly misrepresent, or cause or permit to be misrepresented the value, composition, structure, character or quality or manufacture of the goods put up for sale at the auction;
- 14.11 hinder the access of any person to any advertisement contemplated in the regulations promulgated in terms of the CPA, rules of auction or vendor's roll;
- 14.12 pay any other person in order to be appointed as auctioneer, whether in general or for a particular auction or in respect of any specific goods; or
- 14.13 enter in any record kept or required to be kept by the auctioneer under or in terms of the regulations promulgated in terms of the CPA or any other applicable law, any name or other details other than the real name and details of the actual successful bidder.

15. **BIDDING ON BEHALF OF A COMPANY**

If a person will be bidding on behalf of a company, the letter of authority contemplated in subregulation 26(3) of the regulations promulgated in terms of the CPA must appear on the letterhead of the company and must be accompanied by a certified copy of the resolution authorising him or her to do so.

16. **BIDDERS' RECORD**

The bidders' record is available for public inspection in respect of the names of bidders and the bidders' numbers referred to in subregulation 26(6) of the Regulations promulgated in terms of the CPA only, at any time, free of charge -

16.1 during the auction, at the premises where the auction is being held; and

16.2 before or after an auction, at the auction house or auctioneer's place of business and during normal business hours.

17. **OWNERSHIP**

The auctioneer ensured that the sellers whose property will be disposed of by way of the auction to which these Rules of Auction related signed a declaration stating that he or she is the owner or rightful holder of the goods (who has the right to sell) and that declaration was submitted to the auctioneer.

18. **BIDDING**

18.1 Each prospective bidder whose name appears in the bidders' record will be provided with a bidder number before he or she may bid, as well as a paddle or other device to which that number is attached in such a way that it is clearly visible to the persons present at the auction.

18.2 A bid will not be taken from an unregistered person.

18.3 The place where the auction will be held shall be open and accessible to any member of the public, subject to the auctioneer's right to refuse a person the right to remain on the auction's premises in the event that, that person repeatedly behaves in such a way so as to disrupt the auction.



## 19. **VENDOR'S ROLL**

The auctioneer shall have a vendor's roll in which all details of the auction will be recorded and, which shall include -

- 19.1 the advertising of the auction;
- 19.2 these Rules of Auction;
- 19.3 the bidders' record;
- 19.4 the declarations contemplated in regulation 21(2)(h) and 27 of the regulations promulgated in terms of the CPA;
- 19.5 a list of all goods on auction, including goods which were withdrawn from auction;
- 19.6 the names of the successful bidders, the goods bought, and the prices paid in respect thereof;
- 19.7 the details of any challenges to the validity of the auction or the conduct thereof, and the particulars of the persons making such challenges, if available;
- 19.8 any items or lots not sold;
- 19.9 the details of any reserved price or any matter contemplated in subsections (4) and (5) of section 45 of the CPA.

## 20. **CONDITIONS OF SALE**

The Condition of Sale that will apply to the sale(s) at the auction to which these Rules of Auction relate will be substantially the same as those set out in Annexure "A" to these Rules of Auction.

## 21. **FALL OF HAMMER**

No bid may be withdrawn after the fall of the hammer until expiry of the confirmation period that is provided for in these Rules of Auction, during which time the offer shall be open for acceptance by the seller or his agent and if the offer is accepted, the sale shall be deemed to be a sale by auction for the purposes of the CPA.

The highest bidder ("the purchaser") on which the hammers fall shall immediately complete the conditions of sale annexed hereto as Annexure A and sign same.

## 22. **FEE FOR PARTICIPATION**

No fee shall be charged for participation in the auction, but that does not apply to refundable deposits.

## 23. **ACCEPTANCE AND CONFIRMATION**

23.1 The purchaser's offer shall remain open for acceptance by the Seller or by the Auctioneer on behalf of the Seller, for a period of 14 (Fourteen ) business day confirmation period after the date of auction and the fall of the hammer ("the confirmation period"). The Purchaser and the Auctioneer acknowledge and agree that this provision is inserted and intended for the benefit of the seller. The offer shall remain irrevocable and open for acceptance by the Seller at any time during the confirmation period.

23.2 The Auctioneer shall inform the purchaser of any higher written offer which is received from a third party during the confirmation period. The Purchaser shall for a period of 24 (twenty-four) hours after having received such notice, have the right to increase the purchase price offered by him to equal the subsequent higher offer, but subject otherwise to all other terms ad conditions of the Conditions of Sale. Should the Seller elect to sell the Property for a higher amount and the Purchaser agrees to match the higher offer, then the Seller shall be obliged to accept the said increased offer of the Purchaser.

23.3 The purchaser's offer shall be deemed to have been accepted only when the seller or the Auctioneer, whichever may be applicable, has signed the Conditions of Sale Annex hereto as Annexure A, on behalf of the seller in the space provided at the end of the Conditions of Sale.

23.4 Should the Seller reject the purchaser's offer, the Auctioneer will repay any deposit and commission paid to it in terms of this rules of auction or conditions of sale.

23.5 In the event of the sale requiring the consent of any statutory authority or any court of law, then the sale flowing from the auction is subject to the granting of such consent.

## 24. **GENERAL**

24.1 The Conduct of the auction is subject to the control of the auctioneer who has the sole right to regulate the bidding procedure.

24.2 It is advisable that every prospective bidder should read the Rules of Auction and Conditions of Sale and must not bid unless he or she has done so.

- 24.3 Every bid shall constitute an offer to purchase the property for the amount bid, upon the terms and conditions contained herein, which the Seller or the Auctioneer may accept or reject in their absolute discretion. The Seller shall be entitled, in his absolute discretion, to withdraw the property from the sale prior to the acceptance by the Seller.
- 24.4 If no bid equals or exceeds the reserve price, the property may be withdrawn from the auction. The Seller shall be entitled to instruct the auctioneer to accept any lower bid.
- 24.5 In the event of any dispute between the bidders, the decision of the Auctioneer shall be final and binding.
- 24.6 No bid may be withdrawn after the fall of the hammer until the expiry of the confirmation period that is provided for in the Rules of Auction, during which time the offer shall be open for acceptance by the Seller or the Auctioneer on his authority. If the offer is accepted the sale shall be deemed to be a sale by Auction for the purposes of the CPA.

Thus, signed at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_

Auctioneer who, by his signature, certify that these Rules of Auction to the best of his or her knowledge meets the requirements of regulation 21 of the regulations promulgated under the CPA.