

**CONDITIONS OF SALE  
IMMOVABLE PROPERTY**

CLAREMART AUCTIONEERS (PTY) LTD T/A CLAREMART AUCTION GROUP  
(the "Auctioneer")

**DULY INSTRUCTED BY MS R PIETERS, JOINT LIQUIDATOR IN THE MATTER OF SALBAAI GRONDE PTY LTD (IN LIQUIDATION) (MASTER REFERENCE NO. C593/2018)**

will offer by public auction the following immovable property ("the property"):

|              |   |
|--------------|---|
| SITUATED:    | PTN 2 (REM. EXTENT) OF FARM 136, LADISMITH      |
| FARM NUMBER: | PTN 2 (REM. EXTENT) OF FARM 136, LADISMITH R.D. |
| FARM EXTENT: | 243.957H  |

This sale of the property by public auction is subject to the following conditions of sale (the "Conditions"):

1. The property will be sold by the rise and bids and will be taken in South African currency.
2. The property is sold *voetstoots* as it now stands. **This means that neither the Seller nor the Auctioneer shall be liable for any latent or patent defects therein.** Neither the Seller nor the Auctioneer shall be liable to indicate boundaries nor any existing encroachments. The Seller hereby renounces all claims to any excess and will not be answerable for any deficiency in the declared extent thereof.
3. The Purchaser purchases the property subject to:
  - 3.1 Any and every condition and servitude specified in the current and all prior title deeds and diagrams;
  - 3.2 All other rights of and conditions imposed by any statutory authority;
  - 3.3 Its own investigations and due diligence of the property **and the purchaser declares that it has satisfied itself in all respects with the condition and state of the property prior to the sale by public auction.**
4. The Auctioneer shall resolve any dispute which may arise between bidders at the auction and the Auctioneer's decision shall be final and binding.

5. The Purchaser shall sign the Conditions immediately after the auction.
6. The Purchaser is liable to effect payment of the purchase price by payment of:-
  - 6.1 an initial deposit of 5% of the purchase price at the fall of the hammer;
  - 6.2 the Auctioneer's Commission of 6% (excl. VAT) at the fall of the hammer;
  - 6.3 the balance of the purchase price, simultaneously against registration of transfer of the property into the Purchaser's name.
7. The payments referred to in clauses 6.1 and 6.2 above are payable directly to the Auctioneer, who:-
  - 7.1 shall hold the deposit until transfer, unless payment of the deposit is requested to be paid over to the Seller's appointed conveyancers (the "Conveyancers"), in an interest bearing trust account, with interest to accrue for the benefit of the Purchaser and who shall account to the Seller and the Purchaser in respect of the deposit and accrued interest respectively, on registration of transfer;
    - 7.1.1 the Seller is authorised to utilise such deposit or any part thereof to pay all the costs and charges relating to the realisation and transfer of the property which shall include, but not be limited to, the outstanding Rates, Levies and Advertising Costs.
  - 7.2 may appropriate therefrom the payment in respect of Auctioneer's Commission immediately upon receipt of the Seller's notification of acceptance of the Purchaser's offer (hereinafter referred to as the "effective date").
8. The balance of the purchase consideration is payable to the Seller's appointed Conveyancers simultaneously against registration of transfer of the property into the name of the Purchaser.
9. The Purchaser is liable to effect payment of all amounts payable in terms of these Conditions either by bank guaranteed cheque or by electronic funds transfer, in South African currency and free of exchange and/or bank charges. The Purchaser is obliged to furnish the Seller (c/o the Conveyancers) with a guarantee for payment of the balance of the purchase price against registration of transfer of the property:-
  - 9.1 issued by a registered South African bank and in a form ordinarily issued by South African banks;
  - 9.2 by no later than thirty days after the Auctioneer has given the Purchaser notice of the Seller's confirmation of the sale;
  - 9.3 regardless of whether or not the Seller is able to pass transfer as at the aforesaid date.
10. The Purchaser may not seek to apply set-off of any of its obligations to the Seller contained in these Conditions unless the:-

- 10.1 Seller is in breach of these Conditions, and;
- 10.2 Purchaser has first given the Seller seven (7) days' prior notice of the Purchaser's intention to apply set-off which notice must:-
  - 10.2.1 be delivered to the Seller, care of the Conveyancers;
  - 10.2.2 state the amount which the Purchaser wishes to set-off;
  - 10.2.3 state the nature and cause of the indebtedness against which the Purchaser wishes to apply set-off.
11. In the circumstances contemplated in clause 10 above, the Seller may, by written notice to the Purchaser, elect to resile from the transaction, in which event both parties' rights to claim damages are fully reserved.
12. Registration of transfer of the property shall be effected by the Conveyancers and shall take place as soon as is reasonably possible after the effective date.
13. The Purchaser is obliged to sign, on demand, all documentation required for the purposes of registration of transfer and to pay, on demand in addition to the Purchase Price, and notwithstanding the fact that the Seller may not then be in a position to pass transfer of ownership, all costs associated with registration of transfer including, but not limited to:-
  - 13.1 transfer duty or VAT (if applicable);
  - 13.2 the Conveyancer's legal fees associated with registration of transfer calculated in accordance with the prescribed tariff;
  - 13.3 survey charges, if any;
  - 13.4 road construction and sewerage and stormwater drainage installation charges and fees, if any;
  - 13.5 the costs associated with obtaining any electrical and/or beetle and/or any other certificate as to the condition of the property as may be required by the Purchaser;
  - 13.6 all other costs and charges incidental to and necessary in order to effect registration of transfer of the property into the name of the Purchaser.
14. The Seller shall be liable for all rates and taxes and other municipal charges and/or all or any levy and charge that may be payable to any body corporate and/or homeowners' association (hereinafter referred to as the "Levies") levied on the property for the period up to the date of registration of transfer, and the Conveyancer is irrevocably authorised to satisfy these from the funds held by the Auctioneer in terms of clause 7 and/or from the purchase price. The Purchaser shall be liable for all Levies levied thereafter. Should any Levies be payable in advance (for the purposes of registration of transfer), the Purchaser shall be liable to pay its pro-rata portion of the Levies (as estimated by the Conveyancers) in the

manner and within the time period contemplated in clause 13 above..

15. Possession and occupation of the property, **subject to existing leases and tenancies which may exist and/or subject to the legal rights of all or any occupiers of the property**, shall be given and taken on registration of transfer, from which date all revenue accruing to, and expenditure, in respect of the said property, shall be for the account of the Purchaser and the property shall thereafter remain solely at the risk and be for the Purchaser's profit or loss.
16. **The Purchaser's offer, at the fall of the hammer, constitutes an irrevocable offer to the Seller, expiring seven (7) working days after the date of the auction ("the Expiry Date"). The first day being the day after the Auction.** The Seller may accept the offer at any time prior to the Expiry Date by communicating said acceptance to the Auctioneer. The Auctioneer is obliged to notify the Purchaser of the Seller's acceptance as soon as reasonably possible thereafter, and for this purpose may utilise any of the methods provided for in clause 19 below.
17. Should a higher offer be made to the Seller prior to the Expiry Date, the Seller may not accept said offer unless:-
  - 17.1 the offer was made to the Seller through the Auctioneer, on terms and conditions substantially similar to these Conditions, and;
  - 17.2 the Seller has given the Purchaser an opportunity to meet or beat the higher offer in the manner provided in clause 18 hereunder.
18. In the circumstances contemplated in clause 17 above:-
  - 18.1 the Seller must furnish the Purchaser with a copy of the offer within twenty four hours of receipt by the Seller;
  - 18.2 the Purchaser has the right to equal or better the higher offer (on the terms and conditions herein contained) within twenty four hours of receipt of a copy of the higher offer.
19. The parties hereby choose the respective postal, e-mail and SMS addresses set out in these Conditions, for the delivery of any notices to be served in terms of these Conditions. All or any notice from one party to another in terms of these Conditions may be sent by one or more of the following methods namely by SMS, by e-mail and/or by registered post, (in the latter event the recipient shall be deemed to have received such notification on the fourth business day after posting).
20. In the event of the Purchaser being represented by a trustee on behalf of a company to be formed and:-
  - 20.1 the company is not registered within 30 days from the date of auction, or;
  - 20.2 being registered, fails to furnish the Seller, care of the Auctioneer, with a properly constituted resolution ratifying and adopting this sale with retrospective effect, and/or fails to take transfer of the property for any reason;

**the said Trustee shall be deemed to be the Purchaser and he shall be bound personally to take transfer of the property in his name and to fulfil all the obligations of the Purchaser under these Conditions.**

21. In the event of the Purchaser being a juristic person, **the signatory hereby:-**
- 21.1 **warrants that he is duly authorised by such juristic person to enter into this transaction, and;**
- 21.2 **agrees to be bound as Purchaser if it should transpire that the juristic person is not bound by these Conditions for any reason whatsoever.**
22. The Purchaser shall be entitled, by notice in writing to that effect addressed to the Seller, to nominate a nominee in his/her place as Purchaser, upon the following terms and conditions:
- 22.1 The aforesaid notice shall be handed to the Seller not later than twenty four hours of the date of confirmation;
- 22.2 The notice shall set out the name and address of the nominee so nominated as Purchaser;
- 22.3 The notice shall be accompanied by written acknowledgement that the nominee is fully conversant with and bound by these Conditions;
- 22.4 Should the Purchaser nominate a nominee in terms of this clause, then:-
- 22.4.1 all reference to the Purchaser in these Conditions shall be deemed to be a reference to its nominee; and
- 22.4.2 **the Purchaser by its signature hereto, hereby binds himself/herself/itself as surety with, for and on behalf of all the obligations of the aforesaid nominee as Purchaser, to and in favour of the Seller, on the further terms and conditions set out in clause 33 below.**
- 22.5 **Should it transpire that the trust, close corporation or company is not liable for any reason to take transfer then in such event the signatory to these conditions of sale will be deemed to be the Purchaser.**
23. In the event of the Purchaser failing to make payment of the deposit, VAT or transfer duty, Levies (if applicable), Auctioneer's Commission and/or all of any other amount payable by the Purchaser to the Seller in terms of these Conditions, on due date or at all:
- 23.1 the Seller shall be entitled, by notice to the Purchaser, to:-
- 23.1.1 claim specific performance and such damages as the Seller may have suffered as a consequence of the breach (including consequential damages), or;
- 23.1.2 cancel the transaction and claim such damages that the Seller may

have suffered as a consequence (including any consequential damages suffered by the Seller);

- 23.2 the Auctioneer shall be entitled, by notice to the Purchaser, to claim payment of the Auctioneer's Commission.
24. In the event of the Purchaser committing any breach of these Conditions (other than a breach contemplated in Clause 23 above) the Seller shall be entitled but not obliged to give the Purchaser written notice calling upon the Purchaser to remedy said breach within three (3) days of delivery of said notice failing which:-
- 24.1 the Seller shall be entitled by notice to the Purchaser, to:-
- 24.1.1 claim specific performance and such damages as the Seller may have suffered as a consequence of the breach (including consequential damages), or;
- 24.1.2 cancel the transaction and claim such damages that the Seller may have suffered as a consequence (including any consequential damages suffered by the Seller);
- 24.2 the Auctioneer shall be entitled, by notice to the Purchaser, to claim payment of the Auctioneer's Commission.
25. In the event of the cancellation of the sale as a consequence of a breach on the part of the Purchaser as provided in clauses 23 and/or 24 above:-
- 25.1 the Seller shall be entitled to retain all amounts paid by the Purchaser up until date of cancellation on account of its genuinely pre-estimated damages, and;
- 25.2 if the Seller's damages exceed the amounts referred to in clause 25.1, the Seller may claim such additional amount from the Purchaser, and;
- 25.3 if the Seller's actual damages are less than the amount referred to in clause 25.1, the Purchaser shall be entitled to claim a refund, and;
- 25.4 the Auctioneer shall be entitled to retain the Auctioneer's Commission appropriated by the Auctioneer in terms of clause 7.2 above.
26. In the event of the Seller breaching any of the terms of this Agreement:-
- 26.1 the Purchaser shall be entitled to give the Seller written notice calling upon it to remedy said beach within (5) five days of delivery of said notice failing which the Purchaser shall be entitled to:-
- 26.1.1 claim specific performance and such damages suffered as a consequence of the Seller's breach, or;
- 26.1.2 cancel the Agreement and claim such damages as it may be entitled to claim in law.
- 26.2 the Auctioneer shall be entitled to retain the Auctioneer's Commission appropriated by it in terms of clause 7.2 above, and the Purchaser shall be



required to recover same from the Seller.

27. In the event of the cancellation of the sale as a consequence of a breach on the part of the Seller as provided in clause 26 above:-
- 27.1 the Purchaser shall be entitled to claim from the Seller an amount equivalent to all amounts paid by the Purchaser up until date of cancellation, on account of its genuinely pre-estimated damages, and;
- 27.2 if the Purchaser's damages exceed the amounts referred to in clause 27.1, claim such additional damages from the Seller; and
- 27.3 the Auctioneer shall refund to the Purchaser any amount(s) paid by the Purchaser to the Auctioneer and the Auctioneer shall be entitled to proceed against the Seller for the recovery of the lost Auctioneer's Commission and any other damages that the Auctioneer may have suffered as a result of the Seller's breach, together with any other remedy in law that the Auctioneer may have against the Seller.
28. These Conditions contain the whole of the agreement between the parties relating to the conditions of purchase and sale of the property and no amendment, alteration, addition, variation or consensual cancellation hereof will be of any force or effect unless reduced to writing and signed by the parties. The parties agree that no other terms or conditions, whether oral or written, and whether express or implied, apply.
29. No waiver of any of the terms and conditions herein contained will be binding for any purpose unless expressed in writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege will operate as a waiver, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
30. In the event of any one or more of the provisions of these Conditions being invalid or unenforceable in law for any reason whatsoever then in that event said invalid provision(s) shall be struck from the Conditions without affecting the validity of the remainder of the Conditions.
31. In the event of any dispute arising from these Conditions being referred to litigation, the successful party shall be entitled to costs of suit on the scale as between attorney and own client limited to a maximum of double the prevailing High Court tariff as amended from time to time.
32. The general rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.
33. **In the event that the Purchaser is a juristic person or any other type of legal persona (other than a natural person) and/or in the circumstances described in clauses 20, 21 and 22 above; the Purchaser's representative, by his signature hereto, binds himself as surety with the Purchaser for the due fulfilment of the latter's obligations to the Seller contained in these**

**conditions, and in so doing the surety hereby:-**

- 33.1 renounces the benefits of excussion and division and no value received, the meaning and effect whereof he declares himself to be fully acquainted with;**
  - 33.2 undertakes to sign these Conditions (in his capacity as surety) upon demand.**
- 34. In the event that the Purchaser is married in community of property, the Purchaser warrants that he/she has obtained the requisite written consent of his/her spouse to sign this Agreement, as required by section 15 of the Matrimonial Property Act 88 of 1984. Alternatively, the purchaser warrants that he/she has entered into this Agreement in the ordinary course of his/her profession, trade or business, as set out in section 15(6) of the Matrimonial Property Act 88 of 1984.**



**AUCTION DATE:** \_\_\_\_\_ day of \_\_\_\_\_ of 20\_\_

**AUCTION BID** R \_\_\_\_\_ (words) \_\_\_\_\_

(excl. VAT, Transfer Duty,  
Auctioneer's commission & VAT  
thereon)

**DEPOSIT** R \_\_\_\_\_ (words) \_\_\_\_\_

**AUCTIONEER'S  
COMMISSION (excl. VAT)** R \_\_\_\_\_ (words) \_\_\_\_\_

**VAT on  
AUCTIONEER'S  
COMMISSION** R \_\_\_\_\_ (words) \_\_\_\_\_

**PURCHASER'S DETAILS**

(FULL NAMES).....

(ID/REG/IT NUMBER).....

(PHYSICAL ADDRESS).....

.....(POSTAL CODE).....

(POSTAL ADDRESS)..... (POSTAL CODE).....

(TEL NO).....

(MOBILE NO).....

EMAIL .....

**(PURCHASER (SIGNATURE):** .....

WITNESS: .....

PURCHASER'S SPOUSE (if married in community of property).....

(ID NO) .....

(SIGNATURE): ..... WITNESS: .....

**SELLER'S DETAILS**

(FULL NAMES).....

(ID/REG/IT NUMBER).....

(PHYSICAL ADDRESS).....

.....(POSTAL CODE).....

(POSTAL ADDRESS).....(POSTAL CODE).....

(TEL NO)..... (MOBILE NO)..... (EMAIL).....

**(SELLER'S SIGNATURE)** .....

SELLER'S SPOUSE (if married in community of property).....

(ID NO) .....

(SIGNATURE): .....

DATE: ACCEPTED BY ME ON ..... DAY OF ..... 20\_\_

**BENEFITS ACCEPTED BY AUCTIONEER**

The Auctioneer hereby accepts the benefits conferred in these Conditions.

SIGNED BY (NAME).....

who warrants that he/she is duly authorised to represent the Auctioneer

(ON THIS DATE).....

(SIGNATURE) .....