

Rules of Auction

Estate name : Timed Online Footwear Auction
Date of Auction : 9 September 2020 – 11 September 2020
Time of Auction : 12noon

- The Auctioneer is Peter C Maskell, from Peter Maskell Auctions CC, 47 Ohrtmann Road, Willowton, Pietermaritzburg, 3200 Telephone 033-3971190
- The auction will commence at the published time and will not be delayed to allow any specific person or more persons to take part in the auction.
- The Auctioneer shall announce the reason for the auction, unless the reason for the auction is the normal and voluntary disposal of goods by the owner.
- No person shall bid unless he/she is registered as a prospective bidder before the start of the auction. All satisfactory proof of identity and residential address as required in Chapter 1 of the Regulations made in terms of the Financial Intelligence Centre Act, 2001, published in Notice No. R 1595, in Government Gazette No. 24176 on 20 December 2002, is required.
- A deposit in an amount of R5,000.00 by EFT. Strictly NO CASH is required from each registered bidder.
- The bidder's Record and Vendor's roll may be inspected, free of charge, between 08.00 and 17.00 at the address referred to above. The Vendor's roll prepared by Peter Maskell Auctions is final.
- The conduct of the auction shall be subject to the control of the auctioneer, who shall have the sole right to advance the bidding.
- If there is a dispute between the bidders, the decision by the auctioneer shall be final and binding.
- If the auctioneer makes a *bone fide* mistake in conducting the auction, the auctioneer shall be entitled to rectify the mistake.
- The sale is subject to reserve prices.
- The Seller Reserves the Right to Accept or Reject Any Bids received on date of auction
- The Rules of Auction comply with Section 45 of the Consumer Protection Act, Act 68 of 2008 ("the Act")
- The following provisions are brought to your attention: Section 45 sub section (1),(2) and (3) of the Act provides that:
 - (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 auctioneers announce 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.
- The Rules of Auction comply with Section 45 of the Consumer Protection Act, Act 68 of 2008 ("the act").

- A person who attends the auction to bid on behalf of another person (i.e. on behalf of a company) must produce a letter of authority that expressly authorizes him or her to bid on that person. When a person is bidding on behalf of a company the letterhead of the company and must be accompanied by a certified copy of the resolution authorizing him or her to bid on behalf of the company.
- Peter Maskell Auctions CC operates a Trust Account and the proceeds of any sale of goods (less commission) that is not immediately paid to the seller, shall be deposited into the trust account for the benefit of the seller. The seller shall be entitled to the interest earned on the nett proceeds.
- Peter Maskell Auctions shall be entitled to withdraw any lot prior to it being knocked down and shall not be liable for damages suffered by any person as a result of the auction not being proceeded with.
- If a lot is sold subject to confirmation, the successful bidder shall not be entitled to withdraw his or her bid for 72 hours from the time at which the auction closes.
- The purchase price is payable to Peter Maskell Auctions at the address above, in cash or bank guaranteed cheque, without deduction or set-off 24hours after the lot being knocked down to the successful bidder shall pay Peter Maskell Auctions a penalty equivalent to 10% of the purchase price and interest at 12% per annum. The purchase price is exclusive of VAT, unless otherwise announced by the auctioneer. If the successful bidder fails to pay the purchase price as required in terms of the above, then the auctioneer shall have the discretion to declare the bid and any resulting sale to be void, and to re-auction the goods afresh.
- The successful bidder shall pay Peter Maskell Auctions a commission calculated at 10% (plus VAT) unless otherwise announced by the Auctioneer.
- The seller retains ownership of all goods purchased until such time as payment has been made in full. Unless Peter Maskell Auctions consents, no lot may be removed until the purchase price is paid in full.
- As soon as the lot has been knocked down to the successful bidder, all risk in the lot shall be deemed to have passed to the purchaser. Peter Maskell Auctions are not responsible for any error or deficiency in description of the property. The purchaser is deemed to have seen and judged for himself.
- If the successful bidder is a company or close corporation, then the person signing these rules on behalf of the company or close corporation binds himself or herself in favour of Peter Maskell Auctions as surety and co-principal debtor with the successful bidder in solidum for the due fulfilment of the bidder's obligations in terms of these rules.
- For the purpose of all the proceedings hereunder the parties consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 29 of the Magistrate's Court Act of 1944 as amended notwithstanding that such proceedings are otherwise beyond jurisdiction, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrate Court Act of 1944 as amended.
- If the successful bidder fails to comply with any of these rules, then Peter Maskell Auctions on behalf of the seller shall be entitled, without further notice, and without prejudice to any of the seller's common law rights, either cancel any resulting sale agreement, retake possession of the property and sell the property again by auction or private treaty in its sole discretion or to hold the successful bidder bound by the purchase and to claim forthwith the payment of the whole purchase price. If Peter Maskell Auctions cancel the sale agreement, then the successful bidder shall be liable for the lesser of 10% of the purchase price of the lot or the total costs of the sale. Failure by the successful bidder to pay and take delivery or remove the items purchased at auction does not exonerate that person from these rules.
- **Removal of goods purchased:**
- No movable articles purchased by the purchaser shall be removed from the site without the express consent of the auctioneer who shall provide a removal permit to the purchaser for such purpose.

- It shall be the purchaser's responsibility to dismantle and remove all immovable items or other articles purchased at the auction. Should dismantled items be left on site for later collection, the Seller nor the auctioneer shall be responsible for any loss of or damage to such goods and materials and the purchaser indemnifies the seller/auctioneer accordingly.
- The purchaser accepts that should he/she damage a building or any permanent structure or articles or a movable asset when removing the goods purchased by himself/herself, he /she shall be liable in his/her capacity as purchaser to restore or repair or make good any damage so caused and that the said repairs shall only be deemed to have been satisfactorily completed once the Seller has accepted same.
- Further to above clauses ,the purchaser or agent of the purchaser, being authorized by the purchaser , acknowledges and accepts that having been given permission to enter the site of the auction and to participate therein and /or to dismantle or immovable articles and to remove same from site, and recognizing that hazards exist on the said site and in respect of the said dismantling of such articles or structures and such removal, that he /she enters the said site entirely at his/her own risk and that he/she waives all rights to claim , or seek other legal redress, against the auctioneer, seller or their agents , employees or mandataries, in respect of any loss , damage or injury suffered by him/her on the said site, no matter the nature of the said loss, damage or injuries and no matter the cause thereof , including the negligence of the said auctioneer, the seller and /or their agents, employees or mandataries, nothing at all excepted and further the purchaser or agent of the purchaser, indemnifies the auctioneer and seller and all their agents, employees and mandataries against any claims for losses, damage and injuries suffered by the purchaser's or agent's employees, mandataries or contractors when on the seller's site for such purposes on the same conditions and bases herein set out.
- For the purpose of these rules, including the giving of notices and the serving of legal process, the bidder chooses Domicilium citandi et executandi ("Domicilium") as follows and Peter Maskell Auction chooses Domicilium at 47 Ohrtmann Road, Willowton, Pietermaritzburg :

➤ _____

Telephone No: _____ Telefax No: _____

Certificate by Auctioneer:

I certify that, to the best of my knowledge, these auctions rules comply with the requirements of regulation 21 of the Consumer Protection Act Regulations.

Full Name _____

Date: _____

Signature: _____

Signature by the prospective bidder

I accept these auction rules and agree to be bound by them:

Full Names: _____

Date: _____

Signature: _____

Conditions of Sale

The auction sale shall commence by the Auctioneer announcing and identifying the property to be put up to auction (hereinafter referred to as "the lot") and calling for offers (hereinafter referred to as "the bid")

1. Deposit

The Auctioneer requires a deposit of R5,000.00 from each respective bidder subject to the following conditions:

The deposit shall give the bidder the right to bid for each and every lot.

The deposit is refundable should a lot not be knocked down to a bidder

The deposit is not refundable once a lot is knocked down to a bidder, but shall be deemed incorporated in the lot price;

The Auctioneer may, in its sole discretion, waive its right to claim a cash deposit from a purchaser.

2. Bidding

All bidding is to be regulated by the Auctioneers, as they in their sole discretion deem necessary;

Every bid shall constitute an offer to purchase the property for sale at the amount bid;

The highest accepted bidder to be the purchaser.

In the event of a dispute between two or more bidders, the lot may be put up again and resold, or the Auctioneer in its sole discretion may declare the purchaser;

The Auctioneer's decision in 2.4 above shall be final and bidding on all parties;

The Auctioneers:

- (a) reserve the right to refuse any bid without being obligated to give any reasons for such refusal.
- (b) shall have the right to withdraw any lot prior to it being knocked down, in which event the Auctioneer shall not be liable in damages for any cause whatsoever to any person by person of the sale not being proceeded with.
- (c) if the item is SOLD SUBJECT TO CONFIRMATION the PURCHASER shall not be entitled to WITHDRAW HIS/HER BID for a period of 72 (SEVENTY-TWO) hours. No higher offers will be entertained after the auction.

3. Purchase Price

The purchase price is payable-

- (a) in cash, without deduction or set-off;
- (b) to the Auctioneers at 47 Ohrtmann Road, Willowton, Pietermaritzburg.
- (c) Immediately after the lot being knocked down to the purchaser, failing which 10% for collection and interest 12% per annum will be charged.

The purchase price is exclusive of Vat; unless otherwise announced by the Auctioneer, as of 1 April 2018, the effective VAT rate will rise from 14% to 15% adding over and above the hammer bid.

4. Delivery

The seller retains ownership of all goods purchased until such time as the payment cheque is honoured.

Unless Auctioneer consents thereto, no lot may be removed until the purchase price is paid.

5. Risk

As soon as the lot has been knocked down to the purchaser all risk therein shall be deemed to have passed to the purchaser.

6. Public Announcement of Conditions

The purchaser acknowledges that the conditions of sale as read out in public at the onset of the auction:

- Are applicable to the property at the auction, and;
- The purchaser is bound thereby, whether or not he was present when the conditions were read out.

7. Auctioneers rights

The Auctioneer's Vendu Roll is final.

8. Defects

All property is sold Voetstoets without any warranty or guarantee whatsoever, and neither the seller nor the Auctioneer shall be responsible for any latent or patent defect;

The Auctioneers are not responsible for any error or deficiency in description of the property. The purchaser is deemed to have seen and judged for himself.

9. Company / Close Corporation as Purchaser

Should the purchaser be a company or close corporation than the person signing the conditions on behalf of the company or close corporation hereby binds himself to the Auctioneer as surety and co-principal debtor of the Auctioneer with the purchaser in solidum for the due fulfilment of the conditions hereof and for payment of the purchase price.

10. Error in Sale

Should the Auctioneer commit any error in conducting the sale, such mistake should not be considered biding upon the parties, but be rectified by the Auctioneer.

11. Variation

Any variation, alteration or addition to this agreement shall not be of any force or effect or legal validity unless reduced to writing and signed by the respective parties.

12. Magistrates Court Jurisdiction

For the purpose of all the proceedings hereunder the parties consent to the jurisdiction of the Magistrate Court otherwise having jurisdiction under Section 29 of the Magistrate Court Act of 1944 as amended notwithstanding that such proceedings are otherwise beyond jurisdiction. This clause shall be deemed to constitute the require written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrate Court Act of 1944 as amended.

13. Joint and Several Liability

Should there be more than one purchaser, the purchaser shall be liable jointly and severally and in solidum for the payment of all monies hereunder and for carrying out of all terms of this contract.

14. Domicilium

The purchaser chooses his *Domicilium citandi et executandi* for all purchases arising out of his agreement at:

The Purchaser:

1) Physical Address: _____

2) Postal Address: _____

3) Telephone Number: _____

4) Fax Number: _____

5) E-mail: _____

15. Cancellation

Should the purchaser fail to comply with any of the conditions of this sale and demand, the Auctioneer on behalf of the seller shall be entitled, without further notice, and without prejustice to any of the seller's common law rights, either:

- (a) To cancel this agreement, retake possession of the property and sell the property again by auction or private treaty in his sole discretion. In this event the purchaser shall be liable for:
 - (i) All costs which result therefrom and the Auctioneer's commission to which the Auctioneer would have been entitled but for the cancellation and consequent resale; and
 - (ii) Any damages the Auctioneer may suffer as a result of the property realizing a lesser amount than that realized in the pursuance of the aforesaid cancelled agreement; or
- (b) To hold the purchaser bound by his purchase and to claim forthwith the payment of the whole purchase price.
- (c) Failure by the purchaser to pay and take delivery or remove the items purchased at auction does not exonerate the purchaser from the above conditions of sale.

I, the purchaser acknowledge that his or her offer to purchase, made on the auction is not subject to viewing. The purchaser acknowledges that all items are sold voetstoots and the onus is on the Purchaser to inspect all assets prior to the commencement of the auction. It has been recorded that the Purchaser is fully acquainted with goods and the Purchaser hereby indemnifies the Auctioneer or the Seller against any possible claim that may arise as a result of his or her failure to inspect the assets prior to the commencement of the auction.

I, the purchaser hereby understand and agree

SIGNED AT.....ON THIS.....DAY OF.....2020.

SIGNATURE: _____ ON BEHALF OF _____

ID NUMBER: _____

AS WITNESS ON BEHALF OF PETER MASKELL'S AUCTIONS

I will comply with the Conditions of Sale as displayed and will not hold the auctioneers responsible for any damage, deficiency, error of description, genuineness or authenticity of any default in a lot. I will pay by cash or Bank guaranteed cheque with exchange for any purchases. All good purchased will be for my responsibility when knocked down. The auctioneer has the right of deciding who was the last bidder and may withdraw any item at any time. If payment is not made on the day of sale, I will pay a collection fee of 10% and interest at 12% p.a. Seller retains ownership until payment cheque is honoured.

INVOICE TO : _____

CONTACT NAME : _____

COMPANY : _____

VAT NUMBER _____

I.D. NO. _____ TELEPHONE NO. : _____

ADDRESS : _____

DEPOSIT RETURNED SIGNATURE : _____

SIGNATURE : _____ DATE : _____

BANKING DETAILS TO BE COMPLETED

Banking details are required for deposit refunds. Kindly complete below information:

BANK NAME	:	
ACCOUNT NUMBER	:	
BRANCH NUMBER	:	
ACCOUNT TYPE	:	
ACCOUNT NAME	:	
CONTACT PERSON	:	
ID NUMBER	:	
CONTACT NUMBER	:	
EMAIL ADDRESS	:	
METHOD OF DEPOSIT	:	
AMOUNT	:	
DATE OF EFT	:	
PAYMENT REFERENCE	:	