

Rules of Auction

Estate names : **Bluebay Freight Solutions Pty Ltd (In Liquidation) | Master`s Number: N000148/2020**

Auction type : Timed On-line Auction through our AuctionMobility app

Bidding starts : 19 July 2022 at 12 noon (midday)

Bidding closes : 21 July 2022 from 12 noon (midday)

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- 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.
 - 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 R100,000.00 by EFT. Strictly NO CASH only EFT
 - 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.
 - Online Timed Auction Notes:
 - If a lot receives a bid within the last 10 min. it will remain open for an additional 10 min.
 - If any further bidding occurs, the extension timer will reset to 10 min.
 - If no further bidding activity occurs, the lot closes when the timer runs out.
 - The sale is subject to confirmation.
 - 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 until the confirmation date being 3 days after date of auction (Not including weekends or holidays).
 - 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 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.
 - In the event of the Purchaser failing to pay the full purchase price of any lot within the prescribed time, or if he fails to comply with any other terms of the sale the Purchaser shall be liable for an amount not more than 10 (ten) percent of the total purchase price or the total cost of advertising and conducting an auction and such additional costs may have been reasonably incurred as disbursements pursuant to the auction whichever is the lesser in addition the auctioneers shall exercise a possessory lien over all lots / goods of the Purchaser.
 - The Purchaser authorizes the Auctioneer to resell such lots for and on behalf of the Purchaser by public auction or private treaty sale. The Purchaser shall not be entitled to any further notice in this regard.

- Should the Auctioneers resell any lot, the proceeds therefrom, after the deduction of any costs incurred by the Auctioneer, shall be credited to the original Seller's account. Any shortfall on the original purchase price bid by the Purchaser shall be the Seller's measure of damages flowing from the Purchaser's default and shall be payable by the Purchaser to the Seller or the Auctioneers on behalf of the Seller upon demand. Any excess shall be for the benefit of the Purchaser.
- The Purchaser shall be bound by these Rules and all announcements made by the Auctioneer at the commencement of and during the sale, whether or not he is present at the time of making such announcements.
- In the event of the Seller instituting legal proceedings against the Purchaser, the following provision shall apply :
 - Such proceedings may be at the election of the Seller or the Auctioneer be instituted in magistrate's court, having jurisdiction over the person of the Purchaser, in terms of Section 28 of the Magistrate's Court Act No. 32 of 1944, notwithstanding the fact that the claim of the value of the matter in dispute might exceed the jurisdiction of such magistrate's Court, and
 - The Seller shall be entitled to claim payment of the legal costs from the Purchaser on an attorney and client basis, and
 - The Purchaser shall be deemed to have selected and appointed as his *domicilium citandi et executandi* the address inserted by him / her on the buyer's card/s signed by him / her.
- A certificate issued under the hand of the Auctioneer setting forth the amount of the Purchaser's liability arising from and out of any sale by the Auctioneer shall constitute conclusive proof of such indebtedness by the Purchaser and shall further constitute a liquid document for the purpose of provisional sentence, summary judgment or otherwise.
- The purchaser or agent of the purchaser, being authorized by the purchaser , acknowledges and accepts 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:

_____ Email address: _____

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 as listed hereunder from each respective bidder subject to the following conditions:

- A deposit in an amount of R100,000.00 by EFT. Strictly NO CASH only EFT

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 binding 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 until date of confirmation being 3 days after date of auction (Not including weekends or holidays)

3. Online Timed Auction Notes:

- (a) - If a lot receives a bid within the last 10 min. it will remain open for an additional 10 min.
- (b) - If any further bidding occurs, the extension timer will reset to 10 min.
- (c) - If no further bidding activity occurs, the lot closes when the timer runs out.

4. 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.

5. 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.

6. 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.

7. 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.

8. Auctioneers rights

The Auctioneer's Vendu Roll is final.

9. 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.

10. 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.

11. Error in Sale

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

12. 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.

13. 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.

14. 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.

15. 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) E-mail: _____

16. 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 prejudice 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, including Security, 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.

17. 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 or demolish and remove all immovable items , building structures or other articles purchased at the auction and to remove same from site and in effecting the said demolition , dismantling or removal of goods and /or material, the purchaser and /or his /her contractor shall be subject to the Contractor's Health and Safety Regulations of the Seller which the purchaser shall sign and which shall form part of these terms and conditions. Should dismantled items or demolished materials 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 on 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 demolish fixtures or immovable articles and structures and to remove same from site, and recognizing that hazards exist on the said site and in respect of the said demolition and /or 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.

18. Acknowledgements:

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.....2022.

SIGNATURE: _____ ON BEHALF OF _____

ID NUMBER: _____

AS WITNESS ON BEHALF OF PETER MASKELL'S AUCTIONS

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	:	