

SPECIFIC TERMS AND CONDITIONS FOR THE CONDUCT OF AUCTIONS

1. RULES OF AUCTION

- 1.1 The Service Provider undertakes to compile the Rules of Auction and to ensure that such Rules comply with all minimum requirements prescribed by the Consumer Protection Act, 2008 (Act No. 68 of 2008) [the “CPA”], as well as with all special conditions stipulated by SARS.
- 1.2 The Service Provider warrants that such Rules of Auction will contain all necessary and/or mandatory information.

2. MANAGEMENT OF AN AUCTION

- 2.1 The Service Provider shall provide adequate audio and visual aid equipment, at its own cost, for use on an auction date to conduct an Auction.
- 2.2 The Service Provider shall furnish each person registered for an Auction with a Catalogue and the following terms, read together with the provisions of the CPA, shall apply to an Auction conducted by the Service Provider-

2.2.1 RIGHT TO WITHDRAWAL

- 2.2.1.1 SARS may, at any time, stop an Auction or withdraw a lot, or lots, or part of a lot, without providing reasons.
- 2.2.1.2 No Goods on auction may be withdrawn from the sale by any parties other than SARS, except where written application has been made three (3) Business Days prior to any sale and the SARS Group Manager Operational Support in the larger Branch Offices and Controller / Branch Manager from other offices have granted approval for such withdrawal.

2.2.2 HIGHEST BIDDER

The Service Provider shall award the bid to the Successful Bidder who shall also be the highest bidder. Should any dispute arise between two or more bidders, the lot(s) will be put up for auction again and re-sold or, after

consultation with the SARS representative, the Service Provider may declare the Successful Bidder. Any dispute as to whether the Successful Bidder was the highest bidder shall be settled at the Service Provider's discretion, subject to applicable law.

2.2.3 LOTS

- 2.2.3.1 Lots may be grouped or, any single lot may be divided at the discretion of the SARS representative, in conjunction with the Service Provider, provided the lots do not belong to more than one consignment and Successful Bidders have no reasonable objection to such action.
- 2.2.3.2 The order, or sequence in which lots shall be sold, may be changed at the discretion of SARS's representatives in consultation with the Service Provider.
- 2.2.3.3 Goods from one consignment may be divided up or combined to make up a single lot for sale purposes by the Service Provider with the approval of the SARS representative. Such dividing / combining may not be performed with Goods belonging to more than one consignment, i.e. Goods belonging to various consignments may not be included in single lots for sale purposes.

2.2.4 FORFEITURE BY SUCCESSFUL BIDDERS

- 2.2.4.1 In the event that a Successful Bidder fails to make payment after a bid has been "knocked down", such Successful Bidder shall forfeit the deposit and the lot(s) concerned may be sold to other prospective bidders, at the same price after expiry of the maximum time of two (2) hours allowed for payment after the last bid. At the discretion of the SARS representative, the maximum time may be extended, but not later than 12h00 on the day following the day on which an Auction takes place i.e. by noon the next day. The forfeited deposit amounts shall become due to SARS and the Service Provider shall pay such monies to SARS within forty eight (48) hours of the closing of an Auction.
- 2.2.4.2 If the Successful Bidder fails to take possession of the Goods

within the prescribed time allowed, SARS may, without further communication, confiscate and dispose of the Goods as it may deem fit and without reimbursing the Successful Bidder.

2.2.5 NON-SOLD LIST

The Service Provider shall provide SARS with a list reflecting the Goods which have not been sold at an Auction or which a Successful Bidder has failed to pay for within the prescribed time as provided for under **clause 2.2.4.1** above.

2.2.6 SALE “VOETSOOTS” AND NO WARRANTIES

2.2.6.1 The Service Provider shall sell the Goods “voetstoots / as is” and no claims will be considered by SARS.

2.2.6.2 SARS shall not be liable for any claims arising from incorrect description, representations as to quantity, attributes, condition, or on any grounds whatsoever.

2.2.6.3 No guarantees or warranties relating to the Goods may be given to any prospective and/or Successful Bidder by the Service Provider, its employees or contractors.

2.2.6.4 The Service Provider shall ensure that all driven, general, and electrical machinery, governed by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) [“the OHSA”], which are sold by SARS without any maintenance documentation or operation manual, are sold “voetstoots / as is”. To this extent, the Service Provider must procure a written undertaking in terms of section 10(4) of the OHSA from a Successful Bidder in the following terms:

“The Successful Bidder hereby acknowledges that the Goods are sold without any maintenance documentation and/or operation manual. The Successful Bidder hereby undertakes that it shall take all steps sufficient to ensure, as far as it is reasonably practicable, the Goods will comply with all prescribed legislative requirements and will be safe and without risks to health when properly used.”

2.2.7 INSPECTION OF GOODS

The Service Provider must ensure that prospective bidders are advised to inspect the lot(s), or have the Goods inspected before an offer is made. A bid shall be taken as proof that the bidder has acquainted himself / herself with the condition of Goods, on which the bid is made.

2.2.8 RESERVE PRICE AND “KNOCK DOWN” PURCHASE PRICE

The Service Provider must make potential bidders aware that the calculation of the reserve price is based upon the pre-determined tariff classification of goods in terms of the Act, and that the subsequent Knock Down Price includes customs duties based upon rates of customs duty according to the pre-determined tariff classification of the Goods. For this purpose, all Goods must be classified according to tariff prior to the sale. State Warehouse rent and any other charges, except VAT (if applicable), due to SARS, are included in the Knock Down Price.

2.2.9 OWNERSHIP AND RISK

When a lot has been “knocked down” to a registered Successful Bidder, the ownership and risk of the Goods passes to the Successful Bidder as soon as payment of the purchase price has been received and accepted by the Service Provider.

2.2.10 REMOVAL OF GOODS

2.2.10.1 Lots purchased, may be removed at a time determined by SARS. The release of any lots purchased shall only be given by the SARS representative upon receipt of the Service Provider's sales slip / invoice, in duplicate. The duplicate Service Provider's sales slip / invoice signed by the Successful Bidder or his/her representative shall be retained by SARS as proof of delivery.

2.2.10.2 All Goods must be completely removed by the Successful Bidder within three (3) Business Days after the date of the sale, at the Bidder's own risk and cost. Should the Successful Bidder not remove the Goods within the prescribed time allowed, rent and

storage costs at the legally prescribed rates shall become payable upon expiry of the aforesaid time period. SARS shall not be responsible for any loss of or damages to Goods not collected by the Successful Bidder under such circumstances.

- 2.2.10.3 Goods sold subject to compliance with a condition of any law applicable to the sale, e.g. obtaining an import permit from the International Trade Administration Commission (ITAC), a letter of authority from the South African Bureau of Standards (SABS), or the like, may be allowed to remain in the State Warehouse for up to three (3) months from the date of the sale without payment of any rent becoming due. Should the Successful Bidder fail to comply with such conditions within this period the Goods must be dealt with as provided for in Section 43(4)(b) of the Act, i.e. the sale shall be considered null and void and the payment shall be refunded.

2.2.11 ATTENDANCE AND REPRESENTATION

- 2.2.11.1 A prospective Bidder may attend either personally or be represented at an Auction, and a Successful Bidder may attend either personally or be represented to supervise the loading of their Goods after conclusion of an Auction. SARS is under no obligation to provide assistance with the loading or removal of Goods purchased.
- 2.2.11.2 In the event that the Service Provider becomes aware that a Successful Bidder or his representative is the person who purported to import the Goods, or is the subject of any investigation by SARS in relation to the Goods, the Service Provider shall not “knock down” or consider a bid from such person.
- 2.2.11.3 No staff members of SARS, the Service Provider and/or their related parties / persons (including family members) are permitted to place any bids or buy being auctioned.

2.2.12 RISK AT AUCTIONS

Prospective bidders, Successful Bidders, their representatives and/or workers, as well as their vehicles and equipment, shall be allowed on an Auction site(s) at their own risk, and SARS accepts no responsibility for their safety, or for the safety of their property. The Service Provider undertakes to communicate such condition in the Catalogue and at the commencement of an Auction when the Rules of the Auction and Conditions of Sale are read out loud.

2.2.13 PREMISES

The Service Provider, with the assistance of SARS, shall endeavour to ensure that no Successful Bidders, their representatives or workers shall be permitted to enter or remain on SARS premises and/or at the appointed Auction site(s) at times which fall outside the normal working hours of SARS.

2.2.14 CONDITIONS OF SALE

Certain Goods may have conditions of sale attached to them whereby Successful Bidders may be required to lodge cash deposits to serve as a provisional payment (DA 70), pending proof of compliance with certain conditions such as proof of export of second-hand motor vehicles and/or clothing (high risk Goods) sold to be exported.

2.2.15 AUCTIONEER'S COMMISSION

Upon the awarding of the bid, the Successful Bidder shall become liable for the Auctioneer's Commission being **(TO BE ADDED)** percent (_ %) of the Knock Down Price, excluding VAT.

2.2.16 MINIMUM INCREMENT

The Service Provider shall have the right to refuse any bid which does not exceed the previous bid by at least five percent (5%).

2.2.17 PAYMENT

- 2.2.17.1 Payment of the Knock Down Price shall be made to the Service Provider on demand by the Service Provider, and in any event within two (2) hours after the bid has been awarded to the Successful Bidder.
- 2.2.17.2 Should the Successful Bidder not make payment as contemplated above, the sale shall be cancelled and the Successful Bidder shall forfeit the deposit made at the time of registration.

2.2.18 VAT

- 2.2.18.1 The sale price (Knock Down Price) does not include VAT. All Goods sold excluding Goods exempted in terms of Schedule No. 1 of the Valued-Added Tax Act, 1991 (Act No. 89 of 1991) [the "VAT Act"], and Goods where a condition of sale specifies that the Goods shall be exported, shall be subject to payment of VAT at a rate of fifteen percent (15%) calculated on the Knock Down Price.
- 2.2.18.2 The VAT charged and collected from the sale of Goods on which no VAT has previously been paid (un-entered goods) must be accounted for and paid to SARS by the Service Provider, within forty eight (48) hours of closing of an Auction.
- 2.2.18.3 Amounts collected as VAT on Goods sold where the VAT has previously been paid (cleared goods), must be paid over to the Service Provider. The aforesaid VAT should be indicated as "output VAT" on the VAT return of the Service Provider, and VAT on Goods on which VAT has previously been paid is payable to the Service Provider.
- 2.2.18.4 The Service Provider acknowledges that the above provisions relating to VAT on un-cleared goods may need to be revised and agrees that SARS shall provide it with a directive on how to deal with the VAT for each particular auction. The Service Provider agrees that SARS may at any time prescribe what actions need to be taken to ensure compliance with the VAT Act and any Customs directives in respect of Goods sold at an Auction.

2.2.19 LIABILITY AND DISCLAIMER

The Service Provider shall ensure that an adequate disclaimer is published in the Catalogue indicating that under no circumstances shall SARS be liable in contract or in delict for any loss or damage (including direct, indirect, future and/or consequential damages) suffered by a Successful Bidder, neither shall SARS be liable for any loss or damage of whatsoever nature and howsoever arising sustained by third parties, notwithstanding in either case any negligence on the part of SARS or the Service Provider or its employees or agents in the conduct of an Auction.

2.2.20 SECURITY

The Parties shall, subject to prior agreement, be jointly responsible for the provision of security services on the day of an Auction. Any security concerns need to be identified and discussed by and between the Parties prior to an Auction date, and the Parties must endeavour to implement the appropriate actions necessary to address and mitigate any security risks which may arise.