MAY 2026

# TERMS AND CONDITIONS OF SALE OF IMMOVABLE PROPERTY BY PUBLIC AUCTION
**(INCORPORATING A SURETYSHIP)**

**Place of auction:** **TIMED ONLINE** **Date of auction:** **12 NOVEMBER 2026**
**Time of auction:** **10h00**

## PARK VILLAGE AUCTIONS & PROPERTY SALES (PTY) LTD
**UNIT NUMBER 10, FERNDALE MEWS NORTH**
**355 OAK AVENUE**
**FERNDALE, RANDBURG**

(the "Auctioneer")

Mandated on behalf of and duly instructed by
**THE CURATOR BONIS**

## BHEKINKOSI NICHOLUS BUTHELEZI & OTHERS
## (UNDER CURATORSHIP)
## IN RE MAGOGUDI CONSTRUCTION CC, MANYELETI CONSULTING SA (PTY) LTD AND MR S M LAMOLA
## CASE NUMBER:

"Hereinafter referred to as the "Seller"

intends to and hereby offers for sale by public auction to prospective Purchasers the following property more fully described as:

## ERF NUMBER 687 ALLEN'S NEK EXTENSION 21
## SITUATED AT NUMBER STAND 687 STRUBEN RIDGE ESTATE
## 5 WILHELMINA AVENUE, ALLEN'S NEK, ROODEPOORT,
## DISTRICT OF THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY JR
## GAUTENG PROVINCE

("the Property")

measuring approximately**: 380m2 (Three Hundred and Eighty Square Meters)** in extent

**INTRODUCTION**

The Auctioneer undertakes in terms of what is herein set out and its mandate and authority granted to it by the Seller, to sell the aforementioned property by public auction on behalf of the Seller, to the Purchaser on the following terms and conditions and according to the published Rules of Auction:

1. **AUCTION PROCEDURE:**

1.1 The terms and conditions of this agreement incorporate the Rules of Auction which is available on the website at http://www.parkvillageauctions.co.za and are available from the Auctioneer's offices on 011 789 4375. The Rules will also be available at the auction.

1.2 The Auctioneer shall have the sole and exclusive control and the right to regulate any bidding as it may arise, which rights include the authority to correct any error made by him, whether by commission or omission.

1.3 Should the Auctioneer have any reason to believe that a Purchaser is not able to pay the deposit or the purchase price, he is entitled to refuse an Offer from such a Purchaser, or accept it provisionally, until he is satisfied that the Purchaser is able to pay the aforesaid amount. Should an offer be rejected under these circumstances, the Sale Object can immediately be put up for sale again.

1.4 The highest bidder, whose bid is accepted by the Auctioneer upon the fall of the hammer, shall subject to acceptance of his bid by the Seller, become the Purchaser. Should any dispute arise, the Auctioneer's decision and determination concerning the same shall be final and binding upon the parties.

1.5 The Auctioneer may, if so mandated by the Seller, forthwith at any time after the fall of the hammer, specifically and unequivocally accept on behalf of the Seller the highest bid from the highest bidder and so cause a firm agreement to come into being between the Seller and the Purchaser, on the basis that the property has been sold to the Purchaser on the terms and conditions contained herein.

1.6 The parties undertake as soon as possible to sign and complete all documents required to give effect hereto as required by the Auctioneer and / or the transferring attorney ("the conveyancer") appointed by the Seller.

1.7 The Auctioneer on behalf of the Seller, the Seller or either's representative may bid at the auction on behalf of the Seller up to the reserve price, if any.

2. **PURCHASE PRICE:**

2.1 The purchase price payable for the property is R_____
_____
_____
**excluding value added tax (if applicable)** and is payable as set out hereunder:

2.2 A deposit equal to **10% (ten percent)** of the purchase price is payable by the Purchaser to the Auctioneer on signature hereof by the Purchaser, which amount will be held by the Auctioneer (in a non-interest-bearing account) pending acceptance of the bid by the Seller. Thereafter, the Auctioneer shall pay over to the Seller or the Seller's conveyancer (at the election of the Seller or the Auctioneer) the said deposit amount (hereinafter referred to as "the trust amount"), after deducting agreed costs, disbursements and expenses.

2.3 The balance of the purchase price will be paid over by the Purchaser to the Seller or the Seller's conveyancer (again at the election of the Seller or the Auctioneer) within **30 (thirty)** calendar days of acceptance of this agreement by the Seller, or shall be secured by a bank guarantee, or guarantees, as required by and on terms acceptable to the Seller and the conveyancer within the same **30 (thirty)** calendar days aforesaid from date of acceptance of this agreement, which guarantees shall be payable against registration of transfer of the property into the name of the Purchaser.

2.4 The Purchaser hereby authorises the Auctioneer, upon written acceptance of this agreement by the Seller, to pay over the trust amount to either the Seller or the Seller's conveyancer (as nominated by the Seller or its Agent) and the conveyancer to utilise such portion of the trust amount as may be required for the purpose of obtaining clearance figures. The Seller and the Purchaser hereby irrevocably instruct and authorise the recipient to invest the trust amount in an interest bearing trust account, such as contemplated in terms of Section 86(4) of the Legal Practise Act No 28 of 2014 where the interest accrues for the benefit of the Seller.

3. **ACCEPTANCE:**

3.1 This document constitutes an Offer to Purchase by the Purchaser, which is subject to written acceptance by the Seller within **30 (thirty)** days (hereinafter referred to as "the offer period") from date hereof and shall remain irrevocable and open for acceptance by the Seller at any time during the offer period. For the sake of clarity, the Purchaser's offer is open for acceptance until 17h00 on the **30th (thirtieth)** day after the signature hereof by the Purchaser, the counting of the **14 (fourteen)** days to commence on the **1st (first)** after date of signature hereof and shall endure until 17h00 on the **30th (thirtieth)** thereafter.

3.2 During the offer period, the Seller or the Auctioneer may continue to market the property in the normal course of business as they may deem fit and in consequence of same, they may take in further and better written Offers to Purchase from prospective Purchasers, to be submitted for the Seller's consideration.

3.3 The Auctioneer may in its sole and absolute discretion, without any obligation to do so, advise the Purchaser in writing (which may either be by telefax or by electronic mail) of any higher acceptable written offer (hereinafter referred to as "a competing offer") which is received from any third party during the offer period. The Purchaser shall, for a period of 24 (twenty-four) hours (hereinafter referred to as "the option

period") after transmission of the written advice of the competing offer by the Auctioneer as aforesaid, have the option to increase the purchase price offered by him in terms of this agreement to an amount equal to the purchase price of the competing offer, but subject otherwise to all other terms and conditions of this agreement.

3.4 If the Purchaser wishes to exercise the option to match the competing offer during the option period, the Purchaser must do so in writing in clear and unambiguous terms, which notice must be delivered to the Auctioneer before the expiry of the 24 (twenty-four) hour option period. This written notice must either be hand delivered to the business premises of the Auctioneer and a receipt signed in respect thereof, or may be telefaxed to the Auctioneer at the indicated telefax numbers or email, provided that in such an instance the Purchaser must telephonically confirm receipt of the said telefax or email at the business premises of the Auctioneer, as the onus rests upon the Purchaser to confirm receipt of the said notice by the Auctioneer.

3.5 If the Purchaser fails to exercise the option during the option period, the Seller shall be entitled, but not obliged, to accept the competing offer. Should the Seller however elect not to accept the competing offer, the offer contained in this agreement shall remain irrevocable and of full force and effect and open for acceptance by the Seller until the lapse of the offer period as set-out above.

3.6 Should the Purchaser exercise the option within the option period and match the competing offer, the purchase price in terms of this agreement shall be the increased amount. The Seller shall be entitled until the lapse of the offer period to accept this agreement at any increased purchase price. This option process is a continuation of the original process and any sale thus concluded shall be a sale by auction.

3.7 The date of sale of the property shall, for purposes of this agreement, be deemed to be either the date of written acceptance of this offer, or the increased offer, by the Seller. The Auctioneer will at the sole discretion of the Auctioneer thereafter notify the Purchaser in writing of such acceptance by pre-paid registered post, by hand delivery, by e-mail transmission or facsimile transmission.

3.8 Should the Seller not accept the Purchaser's offer, the Auctioneer shall immediately repay to the Purchaser any deposit plus buyer's commission and VAT thereon paid by him (including any amount paid in terms of clause 2.3).

3.9 The Seller reserves the right to decline the Purchaser's offer. The Seller shall have no obligation to accept the offer and shall not be obliged to furnish a reason for the rejecting of an offer. If the Seller rejects the Purchaser's offer, the Seller shall be entitled to accept any other offer that may be received in respect of the property.

3.10 In the event of the Seller requiring the consent of the Master of the High Court to effect transfer, then transfer of the property will be subject to such consent being obtained in writing as soon as possible and in the normal course of the conveyancing process. If such consent is refused or not obtained for whatever reason within a reasonable period (solely within the discretion of the Seller), then this offer will be voidable at the instance of the Seller and neither party shall have a claim against the other arising herefrom and both will reasonably be restored to their prior position.

3.11 Insofar as the Purchaser is a Company or Close Corporation and such Company or Close Corporation is not yet formed and the person signing as Purchaser acts or purports to act as agent or trustee for such Company or Close Corporation to be formed: -

3.11.1 such person undertakes in his/her personal capacity that the company or close corporation for which he/she is acting as agent or trustee will be formed within 30 (thirty) days of conclusion of this contract and will, within 14 (fourteen) days of being incorporated or formed, adopt or ratify this contract without modification;

3.11.2 if the said company or close corporation is not incorporated or formed within the period prescribed in 4.11.1, or having been incorporated or formed does not adopt or ratify this contract within the period of 14 (fourteen) days, then such person shall, in his personal capacity, be deemed to be the Purchaser in terms of this contract;

3.11.3 if the said company or close corporation is incorporated or formed and does adopt or ratify this agreement as contemplated in 4.11.1 and 4.11.2, then such person by his/her/their signature binds himself/herself/themselves in favour of the Seller as surety for and co-principle debtor in solidum with such company or close corporation, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company or close corporation in terms of or arising out of these Conditions of Sale.

3.11.4 If the Purchaser purports to be a legal entity which it subsequently transpires is not properly constituted or incorporated, the natural person signing this document shall be deemed to be the Purchaser and shall assume all the liabilities and obligations of the Offeror/Purchaser in terms hereof.

4. **AUCTIONEER'S COMMISSION AND ENTITLEMENT:**

4.1 The Purchaser shall in addition to the purchase price of the property, pay the Auctioneer's commission at the rate of 5**% (five percent)** plus VAT, calculated on the purchase price of the Property.

4.2 It is specifically agreed that the commission is earned on transfer and will immediately be payable to the Auctioneer on signature hereof. The commission shall be paid by the Purchaser simultaneously with the deposit set-out in Clause 2.2 above and shall be in addition to the said deposit.

4.3 In the event that the Purchaser was introduced to the Immovable Property by any party whatsoever claiming commission on the transaction, such commission shall be the sole responsibility of the Purchaser who hereby indemnifies the Seller against any claim whatsoever by any third party relating to commission on the sale of the Immovable Property

4.4 The parties agree that payment of any portion of the purchase price and the commission (even if made in separate payments) is deemed to be one indivisible transaction and payment of all amounts due under this agreement is required in order for the Purchaser to discharge its payment obligations arising from this agreement.

4.5 The Seller and the Purchaser acknowledge that the Auctioneer, is the sole effective cause of the sale of the property to the Purchaser.

5. **RISK, CONTROL AND INSURANCE:**

5.1 The sole risk and control and benefit in and to the property shall, unless otherwise agreed in writing and signed by both parties, passes to the Purchaser **date of registration of transfer of the property into the purchaser's name** and from that date, the Purchaser shall be liable for all imposts levied on the property, inclusive of and without limiting the generality hereof, all municipal rates and taxes, licences and other official and/or municipal and consumable charges.

5.2 The Seller shall be obliged to make payment of all rates and taxes and any statutory levies payable in respect of the property and shall for the account of the Seller supply a clearance certificate to effect registration of transfer into the name of the Purchaser

5.3 Neither the Seller nor the Auctioneer shall be liable to the Purchaser for any damage or loss suffered, or inconvenience experienced by the Purchaser caused by any pests, insects or vermin, irrespective of when the damage, loss or inconvenience were caused.

5.4 From the date upon which the sole risk vests in the Purchaser, the Purchaser shall at his own expense insure the property and all improvements thereon against all general risks, losses or damages from any cause whatsoever including public liability.

5.5 The Purchaser shall inform the insurer and/or the underwriter of the Seller's insurable interest in and to the property and shall insist that the Seller's interest is recorded in the insurance policy or schedule. The Seller's interest shall persist until date of registration of transfer in the Deeds Office of the property into the Purchaser's name.

5.6 Should an event occur which gives rise to a claim covered by the terms of the insurance policy, then the Purchaser shall immediately commence the correct procedure to lodge a claim against the insurer arising from this policy.

5.7 The parties acknowledge that the happening of an insurable event shall not in any manner detract from the validity of this agreement, nor shall it be a cause for the delay of the transfer of the property or frustrate full consummation of this agreement in any manner.

5.8 The Purchaser shall remain fully liable to indemnify the Seller against any and all losses in and upon the property, notwithstanding the above requirements and notwithstanding whether or not the Purchaser complied with same, it being recorded that the above does not detract from or negate the Purchaser's liability towards the Seller in any form or manner in respect of any losses or damages suffered by the Seller arising herefrom, the intention being to always the restore the Seller to its pre-event condition, either by the insurer through the policy or the Purchaser itself, or a combination of them.

6. **OCCUPATION:**

6.1 The date of occupation for purposes of this agreement, is the date of **registration of transfer of the property into the purchaser's name.**

6.2 This date therefore does not refer to the actual date of the Purchaser moving into the property or receiving the keys thereto. **The Seller cannot give any warranty or guarantee that the Purchaser will obtain vacant occupation of the property on that date, and the Purchaser shall have no claim of whatsoever nature against the Seller should vacant occupation not be obtained on the said date or at all.**

6.3 The Seller will within reason assist the Purchaser at the Purchaser's expense, as may be reasonably necessary and/or required by law, to assist the Purchaser in obtaining vacant occupation of the property, but without the Seller obtaining any liability to pay for or effect any eviction itself, or obtaining any liability in respect of an unsuccessful eviction, or in respect of any damages suffered whatsoever by the Purchaser as a result hereof.

6.4 If the property is leased, this agreement is entered into subject to the rights of the tenants under any existing lease agreement or law, as well as under the Rental Housing Act if applicable and from the date of occupation the Purchaser accepts all pre-existing obligations and liabilities arising from any lease agreement with any tenants, notwithstanding any omission by either the Seller or Auctioneer to point out such obligations or liabilities.

6.5 The Seller does not guarantee vacant occupation of the Property.

7. **CONDITION OF PROPERTY:**

7.1 The Seller and the Auctioneer point out to the Purchaser that the immovable property sold herewith contains improvements and structures which could possibly have been constructed some time ago and will accordingly not have the same characteristics as a newly constructed building.

7.2 The Purchaser therefore acknowledges and accepts that the condition of the improvements will not be equivalent to that of a newly constructed building and that

due to the effluxion of time or as a result of wear and tear, certain latent (concealed and not known to the Seller or Auctioneer), and also patent (obvious and apparent upon inspection) defects will have developed in the property or its accessories, fixtures and fittings, particularly with regards to the condition of the roof, roof trusses, ceiling, electrical-, plumbing- and sewerage reticulations, walls, glazing, windows and skylight fittings, floors, fixtures and fittings, gates, pool or pond motors, garden installations and similar items.

7.3 The Purchaser agrees to have particular regard to potential problems including but not limited to roof leaks, rising damp, patently broken fixtures and fittings and appurtenances, possible swimming pool and pond leaks, possible broken electrical- and water installations such as swimming pool motors and pumps, irrigation systems, pond reticulations, electric gate motors, electrical garage doors, alarm systems, defective electric fencing and alarm systems and the like.

7.4 By its signature hereto, the Purchaser therefore accepts the condition of the property as it is and to the extent as it now lies and furthermore acknowledges that neither the Seller nor the Auctioneer hold themselves out to be experts in immovable property and that their failure to specifically point out each and every defect in the property cannot be ascribed to any misrepresentation on their part.

7.5 Neither the Seller nor the Auctioneer are therefore liable to the Purchaser for any defects, shortcomings, missing keys or movables, lost fixtures and fittings or any flaw otherwise in and to the property, nor for any damages suffered by the Purchaser by reason of such defects.

7.6 The Purchaser agrees to inspect the property to its satisfaction and accepts that neither the Seller nor the Auctioneer provide any guarantees or warranties, or make any representations concerning the nature of the property or regarding the condition or quality of the property or any of the improvements thereon, nor regarding any of the accessories thereto or in regard to any of the zoning or other town planning matters.

7.7 The property is therefore sold in the condition as it lies, which include all the conditions and the servitudes currently registered against the property and evidenced in the existing title deed thereto. Neither the Seller nor the Auctioneer are therefore accountable or liable for any deficiency in the extent of the property and the Purchaser agrees that it has fully acquainted itself with the situation, nature, condition, beacons, extent and locality of the property as well as all conditions of title and servitudes prior to entering into this agreement and accepts that neither the Seller nor the Auctioneer give any warranties in respect thereof and will therefore not accept any liability in respect thereof.

7.8 The Purchaser acknowledges that the Seller and the Auctioneer provided it with the opportunity to fully acquaint itself with the aforementioned clauses or the condition and status of the property, and that neither of them accepts any liability to the Purchaser in respect of same.

7.9 The Purchaser therefore willingly enters into this transaction, being fully aware of the condition of the property and improvements and without having been induced or influenced to enter into same by any warranties or representations or statements made or information given by either the Seller or the Auctioneer prior to the signature hereof, other than as set out in this agreement.

**8. TRANSFER, VAT AND COSTS THEREOF:**

8.1 The Purchaser and the Seller hereby undertake to sign all documents and fulfil all obligations as contained herein in order to give effect to this agreement and the completion thereof both timeously and in full on the basis that time is of the essence to effect registration of transfer of the property into the Purchaser's name. Transfer of the property will be effected by the conveyancer within a reasonable time after the Purchaser has complied with the terms and conditions of this agreement and paid to the conveyancer Transfer Duty or Value-Added Tax ("VAT") whichever is applicable, costs of transfer, transfer fees, disbursements and any other amounts due hereunder or required in the transfer process.

8.2 If the South African Revenue Services regard this sale as a VAT transaction, then the Purchaser shall, in addition to the purchase price, pay the Seller the amount of VAT calculated at the standard rate, it being specifically recorded that the purchase price excludes VAT. Such payment shall be made or secured at the time the balance of the purchase price is paid or secured in terms of 2.2 and 2.3 above.

9.3 The Purchaser and/or the individuals signing this document and acting in a representative capacity, warrant that their tax affairs with the South African Revenue Services (hereinafter referred to as "SARS") are in order and up to date or, in the event of this not being the case, that agreement has been reached and that the necessary arrangements have been made with SARS in respect thereof.

9.4 The Seller shall, after registration of transfer of the Property, furnish notice to the Local Authority and/or Eskom terminating any consumer agreements in respect of the supply of water, electricity or other services to the Property. The Seller shall under no circumstances be liable for any loss or damage whatsoever arising as a result of the Seller terminating any consumer supply agreements after the registration of transfer; and

9.5 The Purchaser shall forthwith after date of transfer; substitute himself with respect to the deposits and/or guarantees in respect of the Property paid to the local Authority and/or Eskom by the Seller, if any. The Purchaser shall notify the Seller that such substitution has been effected and the Seller shall be responsible for obtaining the return of any guarantees or refunds of any deposits from the local authority and/or Eskom.

**10 FINANCIAL INTELLIGENCE CENTRE ACT ("FICA")**

10.1 The Seller and the Purchaser acknowledge that the Auctioneer and conveyancer are designated "accountable institutions" in terms of FICA.

10.2 The Seller and the Purchaser hereby agree to comply with all the FICA requirements of the Auctioneer and the conveyancer and to supply the Auctioneer and the conveyancer with all their respective FICA requirements within three days of demand made therefore.

10.3 The Seller and the Purchaser hereby acknowledge that the conveyancer is not permitted in terms of FICA to invest and administer any deposits or any other monies paid in terms of this agreement, unless the Seller and the Purchaser have provided the conveyancer with the documentation and information the conveyancer requires in terms of FICA.

10.4 The Seller and the Purchaser hereby agree that neither the Auctioneer nor the conveyancer shall be liable for any loss or damage suffered by either of them, as a

result of either Seller or the Purchaser failing to comply with the provisions of this clause 10.

**11 INTEREST ENTITLEMENT:**

In the event that any payment or obligation is not paid in full on the due date, interest will be payable by the defaulting party thereon and calculated at the prime overdraft rate, as determined by the main bankers of the Auctioneer, plus 2 % per annum calculated from the date of default until the date that the default is remedied, both days being included

**12 COMPANY TO BE FORMED:**

12.1 In the event of the Purchaser signing this offer in a capacity as agent for a Company to be formed, and the Purchaser fails within 20 (twenty) days from date of acceptance of this offer, to register the Company having as one of its objects the ratification and adoption of this agreement, or such Company, if formed fails to adopt or ratify this agreement within 7 (seven) days after the date of its incorporation, then, and in such event, the Purchaser shall be deemed, as from the date of acceptance hereof, to have entered into this agreement in his personal capacity, and to have acquired and accepted all the rights and obligations of the Purchaser under this agreement, subject to the condition that all parties may in writing agree otherwise.

12.2 **In the event of such Company being registered and duly adopting or ratifying this agreement, the said Purchaser, the signatory to this agreement or of Schedule 1 hereto, shall be deemed to be bound to the Seller as surety and co-principal debtor *in solidum* with such Company for the due performance by it as the replacement Purchaser of all the terms, conditions and other obligations arising from this agreement, subject to the terms and conditions as set out in Schedule 1 hereto. (See schedule 1).**

**13 ASSOCIATIONS OR TRUSTS:**

If any person purports to represents another person, association or a trust and sign this agreement in that capacity, then the individual so signing shall be **personally liable** to procure the signatures of the other relevant individuals mandated to sign documents and agreements of this nature, in terms of that association's constitution or the trust's Deed of Trust. If the other designated persons either do not exist at the time of signing this document or if their signatures are not procured by the individual signing this agreement within two weeks from date of signature hereof, then and in that event, such person signing shall be **personally liable** and bound by the terms hereof and shall in all respects be considered to be the Purchaser in terms of this agreement.

**14 AGENT / NOMINEE AND PROHIBITION ON FURTHER SALE**

14.1 Where the Purchaser is acting as an agent or nominee for a principal, the Purchaser shall be entitled, by notice in writing to that effect addressed to the Seller or Auctioneer, to nominate its principal in its place as Purchaser, upon the following terms and conditions:

14.1.1 notice of such nomination shall be handed to the Seller or the Auctioneer by not later than close of business on the day of acceptance of this offer by the Seller, accompanied by a copy of the agreement, *inter alia*, so appointing the Purchaser as agent or nominee;

14.1.2 the notice shall set out the name and address of the nominee so nominated as Purchaser;

14.1.3 the notice shall be accompanied by the principal's written acknowledgement:

14.1.3.1 that it is fully aware of all the terms and conditions of this agreement as well as the rules of auction as fully set out in such written acknowledgement; and

14.1.3.2 that it is bound by the provisions of this agreement and the rules of auction as the Purchaser;

14.2 Should the Purchaser nominate a nominee in terms of this clause, then:

14.2.1 all reference to the Purchaser in this agreement shall be deemed to be a reference to its nominee; and

14.2.2 the Purchaser, by its signature hereto, hereby interposes and binds itself jointly and severally as **surety** and **co-principal debtor** in solidum to the Seller and the Auctioneer for all the obligations of the nominee in terms of this agreement, including damages and losses and consequential damages as may arise.

14.3 Should the Purchaser fail to nominate a principal by close of business on the date of acceptance by the Seller, then it shall be bound to perform all his obligations as Purchaser in terms of this agreement.

14.4 Other than set out above in respect of nominee agreements, the Purchaser shall not without the express written consent of the Seller on-sell the property, or alienate, cede and/or assign any of its rights and responsibilities under this agreement to any third party prior to registration of transfer of the property into its name. Any transaction entered into by the Purchaser in contradiction of this prohibition may be ignored as *pro non scripto* by the Seller.

**15 CANCELLATION:**

15.1 Should the Purchaser fail to comply with any of the terms or conditions of this agreement within 7 (seven) days of dispatch of written demand, the Seller and/or the Auctioneer on behalf of the Seller (acting on the written instructions of the Seller) shall, on such breach, be entitled without further written notice to either:

15.1.1 cancel this agreement, take occupation of the property and have the property resold by auction or private treaty, in its sole discretion. The Purchaser shall then be liable for all costs of such re-sale, any deficiency in price which results therefrom, advertising costs and other damages and losses including consequential damages as may arise. All payments made by the Purchaser to the Seller and/or the Agent shall forthwith be paid to the Seller, after deduction and payment to the Agent of all amounts due to the Agent in terms of this agreement, all of which as agreed liquidated damages, and the Purchaser agrees that such sum is a reasonable pre-estimate of the loss sustained by the Seller, alternatively, at the election of the Seller, as pledged security for such damages as may be ascertained according to law; or

15.1.2 hold the Purchaser bound by this agreement and to claim forthwith payment of the entire purchase price and other benefits and entitlements and any

other losses and damages caused as a result of such breach; and in either instance

15.1.3 hold the Purchaser liable in terms of the agreement to pay all commissions, VAT and charges and expenses as incurred and contemplated in this agreement.

15.2 The Purchaser will be liable for all legal costs incurred by the Seller and/or the Auctioneer arising out of a breach of this agreement, on the attorney and own client scale of costs, including the collection costs relating to the payment of the purchase price and/or commission, as the case may be.

**16 REPAIRS AND IMPROVEMENTS AND VACATION ON CANCELLATION:**

16.1 The Purchaser will not be entitled to effect any alterations to the property without the prior written consent of the Seller. The Seller shall not be obliged to compensate the Purchaser for any alterations or improvements effected to the property, whether same were authorised or not, in the event of this transaction being cancelled.

16.2 The Purchaser shall not have a builder's lien, improvement lien or creditor's lien over the property or any portion thereof, regardless of whether any building works were effected with the Seller's consent or not.

16.3 The Purchaser shall be liable to the Seller upon cancellation for any damages suffered by the Seller as a result of any unauthorised alterations, demolition or improvements effected by the Purchaser to the immovable property.

16.4 The Purchaser and/or any persons occupying the property through or under the authority of the Purchaser shall be obliged to immediately vacate the property upon cancellation of this agreement for any reason whatsoever, it being agreed that no tenancy shall be created by any occupation of the Purchaser or any one through him, prior to registration of transfer. Should the Seller take any steps to procure vacant possession of the property in such an instance, the Purchaser shall be liable for all costs, fees and expenses incurred by the Seller pertaining to same.

**17 ELECTRICAL / GAS / SPLUMA AND PLUMBING COMPLIANCE CERTIFICATES:**

17.1 The Seller shall not be liable to provide any Certificates of Compliance in regard to any of the electrical, electric fences, gas, SPLUMA or plumbing installations in and to the property in terms of any relevant legislation, regulations or ordinances, including but not limited to the Electrical Installation Regulations of the Occupational Health and Safety Act No 85 of 1993, the Pressure Equipment Regulations of 2009, or the Water By-Law of the City of Cape Town 2010. The Purchaser shall be obliged to obtain such certificate/s at its own cost including the cost of any work required to any installation before such Certificate of Compliance can be issued.

17.2 Should an Entomologist's Certificate be required by any person or institution, the Purchaser shall, at its own expense obtain such certificate, and neither the Seller nor the Auctioneer shall be liable for any costs relating to such certificate being obtained.

**18 FIXTURES AND FITTINGS:**

18.1 The property is sold together with any buildings or other improvements thereon and to the extent as it lies. Upon the same terms and conditions ventilated in Clause 8

above (which terms are incorporated herein by reference, but appropriately adapted to what is pertinently described herein), neither the Seller nor the Auctioneer assume any liability in respect of the condition, usability, serviceability or possible state of disrepair of any of the buildings or improvements thereon, nor in respect of any of the fixtures and fittings therein, including stoves and whatever assets are sold in terms of this agreement, all of it in the condition as it currently lies.

18.2 Neither the Seller nor the Auctioneer will therefore be liable for any claims of whatsoever nature made by the Purchaser should the aforesaid improvements or fixtures and fittings either become unaccounted for, or are not in the same condition upon the date of occupation as it might have been on the date of signature hereof.

18.3 The parties record that **not all assets upon the property are included in the sale agreement** and that all cranes, gantries, cold rooms, spray booths, compressors, generators, production line equipment and household furniture and effects are specifically excluded from the sale and remain the property of the Seller, unless otherwise agreed upon in writing.

## 19 MAGISTRATE'S COURT JURISDICTION:

For the purposes of all or any proceedings arising out of this agreement, the parties hereby consent to the jurisdiction of the Magistrate's Court and the Regional Court, otherwise having jurisdiction under Section 28 of the Magistrates' Court Act 32 of 1944, as amended; notwithstanding that the proceedings would otherwise be beyond the monetary jurisdiction of the Magistrate's or Regional Court. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Courts, pursuant to the Magistrates' Court Act of 1944, as amended. Notwithstanding the aforegoing, this shall not preclude either party from approaching the High Court of South Africa for any relief sought.

## 20 JOINT AND SEVERAL LIABILITY:

Should there be more than one Purchaser, all Purchasers shall all be individually, jointly and severally liable for all the obligations in terms hereof, as well as for the payment of all obligations and benefits assumed hereunder and for complying with all the terms and conditions of this agreement of whatever nature.

## 21 COSTS

In the event of a breach of this agreement, the defaulting party shall be liable for all legal costs incurred by the Seller or Auctioneer in enforcing any of their rights arising herefrom, on an attorney and client scale, including collection commission.

## 22 WHOLE AGREEMENT (NO AMENDMENT):

22.1 This agreement constitutes the whole agreement between the parties relating to the subject matter hereof.

22.2 No amendment of this agreement or any provision or term of the agreement, or any other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension or consensual cancellation of any of the provisions or terms of this agreement or of any agreement or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by the relevant parties. Any such extension, waiver, relaxation, suspension or the like which is so provided or made will be strictly

construed as relating strictly to the matter in respect whereof it was made or provided.

22.3 No extension of time, or waiver, or relaxation of any of the provisions or terms of this agreement or any agreement or other document issued or executed pursuant to, or in terms of this agreement, will operate as an estoppel against the Seller and/or the Auctioneer in respect of any rights under this agreement, nor shall it operate so as to preclude the Seller and/or the Auctioneer thereafter from exercising any rights strictly in accordance with this agreement.

22.4 This agreement may be executed by the parties in one or more counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement. This agreement may also be executed by any one of the parties signing an original and telefaxing the original for signature to another party. Signature of a faxed copy shall be deemed to be the signature of an original.

23. **INTERPRETATION:**

23.1 The headings of the clauses in this agreement are for the purpose of convenience and reference only, and shall not be used in the interpretation of, nor modification or amplification of the terms of this agreement or any clause thereof. Unless the contrary intention appears, words importing:-

23.1.1 any one gender include the other gender;

23.1.2 singular include the plural and vice versa; and

23.1.3 any reference to persons includes natural persons, corporate or unincorporated entities and the state and for purposes of this agreement, also refers to trusts as represented by their trustees.

23.2 In the event that the Purchaser is a consumer, this agreement will be read subject to the Consumer Protection Act, 68 or 2008 and should any clause or time period referred to in the clauses be in conflict with any of the rights of the Purchaser in terms of the Act, then such a clause or time period shall be substituted with any rights afforded by the Act to such Purchaser.

24. **DOMICILIUM ADDRESS FOR ALL NOTICES**

24.1 The Purchaser hereby chooses as service address (*domicilium citandi et executandi)* for all purposes under this agreement, whether in respect of Court process, notices or other documents or communications of whatever nature, the following address:

| | |
|---|---|
| Residential Address: | |
| Postal Address: | |
| Telephone Number: | |
| Cell Number: | |
| Email: | |

24.2 The Seller hereby chooses as its service address (*domicilium citandi et executandi)* for all purposes under this agreement, whether in respect of Court process, notices or other documents or communications of whatever nature, the following address care of the Auctioneer:

| | |
|---|---|
| Physical Address: | Unit Number 10, Ferndale Mews North<br>355 Oak Avenue, Ferndale, Randburg |
| Postal Address: | P O Box 2871, Randburg, 2125 |
| Telephone Number: | 011 789 4375 |
| Fax Number: | 011 789 4369 |
| Email: | **auctions@parkvillage.co.za** |

24.3 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing, but it will be competent to give notice by telefax or email.

24.4. Any notice by any party:-

24.4.1 delivered by hand to a person apparently not less than 16 years of age and apparently residing or employed there during ordinary business hours at the physical address chosen as the other party's *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery, and

24.4.2 sent by pre-paid registered post, telefax or email to the other party's chosen telefax numbers stipulated above or email address shall be deemed to have been received on the date of transmission thereof (unless the contrary is proven).

24.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by the Purchaser shall be an adequate written notice or communication to the Purchaser notwithstanding that it was not sent or delivered to the other party's *domicilium citandi et executandi*.

25. **MATRIMONIAL PROPERTY ACT CONSEQUENCES:**

To the extent necessary, the Purchaser hereby warrants that all written consents required by the Matrimonial Property Act No 88 of 1984 in respect of this agreement or any matters arising therefrom or in terms hereof have been duly given.

26. **SEVERABILITY:**

Should any clause herein be ruled to be unenforceable, the offending clause shall be severed from this agreement and the residual clauses shall survive and remain fully binding on the Purchaser and Seller.

27. **APPROVAL FOR CERTAIN FUNDAMENTAL TRANSACTIONS (THIS CLAUSE IS NOT APPLICABLE TO INSOLVENT SELLERS)**

27.1 The parties declare that they are aware of the provisions of Section 112 of the Companies Act, which states that if the Seller is a company and the property constitutes either the whole or the greater part of the undertaking of the Seller, then

the shareholders of the Seller need to approve this transaction by way of a special resolution.

27.2 Accordingly, the Seller declares that the provisions of Section 112 are/are not **(delete whichever is not applicable)** applicable to the sale of this property.

27.3 If Section 112 is applicable to the sale of this property and the special resolution has not yet been obtained from the shareholders as described in Section 112 of the Companies Act, then the Directors of the Seller warrant that they will procure the said special resolution within 14 (fourteen) days from date of acceptance of this agreement, specifically mentioning therein that the shareholders ratify this sale of the property.

28. **BUILDING PLANS**

The Seller does not warrant that all plans are in order and have been approved by the relevant municipality concerned. The Purchaser satisfies himself prior to entering into a sale agreement that the improvements on the property are built in accordance with approved plans and according to municipal regulations. Should the purchaser neglect to ascertain the status of the improvements prior to transfer, he will have to accept the property with the prevailing defects. The Purchaser confirms he has investigated the plans and acquires the property as is, and any outstanding plans will be for the cost of the Purchaser.

29. **SECURITY OF TENURE**

Purchaser acknowledges that it is acquainted with the provisions of the Extension of Security of Tenure Act No.62 of 1997 and the factual position regarding the occupants of the property. The Purchaser also acknowledges that it is aware that the provisions of the said Act are binding on the Purchaser as successor in title of the Seller and the property is sold subject to the said provisions and any alleged occupancy rights.

30. **RESTITUTION OF LAND RIGHTS**

30.1 The property is sold subject to the provisions of the Restitution of Land Rights Act No. 22 of 1994.

30.2 The sale is subject to any land claim registered in terms of the Restitution of Land Rights Act 1998 on the relevant property. In the event that a claim has been noted against the property by the Land Claims Commissioner, the Seller shall give 30 (thirty) days' notice to the Land Claims Commissioner in respect of this sale agreement;

30.3 The Seller does not warrant or guarantee that there is no land claim against the property and the Purchaser purchases the property subject to any land claims being instituted or to be instituted in terms of the restitution of Land Rights Act 1998;

31. **MANDATORY DISCLOSURE DOCUMENT / IMMOVABLE PROPERTY CONDITION REPORT IN COMPLIANCE WITH SECTION 67 OF THE PROPERTY PRACTITIONERS ACT, ACT 22 OF 2109**

In compliance with Section 67 of the Property Practitioners Act, Act No 22 of 2019, as read with Regulation 36 thereof, the parties to this Agreement have completed and signed the **MANDATORY DISCLOSURE DOCUMENT / IMMOVABLE PROPERTY CONDITION REPORT** annexed hereto marked **Annexure "A"**.

## 32. FORCE MAJEURE

Should an event of *force majeure* occur neither the Seller nor the Agent will be liable for any loss, damages or costs incurred by the Purchaser as a result of the Purchaser's inability to exercise its rights in terms of this agreement.

## 33. SPECIAL CONDITIONS

33.1 In the event that the Seller fails to obtain an acceptable rates clearance certificate from the relevant municipality, within one hundred and twenty (120) days from the date of acceptance of this Agreement, then the Seller may resile from this contract.

33.2 Cancel this Agreement with immediate effect and without any further force or effect; and

33.3 Refund to the Purchaser all monies paid in respect of the deposit, Buyer's commission, and VAT thereon in full, without interest, within seven (7) days of such cancellation.
The Purchaser hereby acknowledges and agrees that neither the Seller nor the Agent shall be liable for any loss, damage, or inconvenience suffered by the Purchaser arising from such cancellation or the circumstances giving rise thereto.

**DECLARATION BY AUCTIONEER:**

I, the undersigned ROY MARK LAZARUS being the Auctioneer who conducted the auction, hereby certify that the Rules of Auction are, to best of my knowledge and belief, according to the requirements of Regulation 21 of the Consumer Protection Act, Act 68 of 2008.

I, the undersigned, _____,
being the Purchaser, (full names)

Identity Number _____

hereby offer to purchase the property from the Seller for the Purchase Price recorded in this agreement, being R_____ (Words) _____
(purchase price) **excluding value added tax (if applicable)**

SIGNED at on this the day of

As witnesses:

1. _____

2. _____ _____
**PURCHASER**
Duly authorised

_____
**Signature of Purchaser's Spouse** (If applicable)

SIGNED at on this the day of

As witnesses:

1. _____

2. _____ _____
**AUCTIONEER**
(Duly authorised and who accepts all benefits hereby conferred)

SIGNED at on this the day of

As witness:

1. _____

2. _____ _____
**SELLER**
(who warrants authority to sign this agreement)

# Schedule 1
# SURETYSHIP

I/we, the undersigned _____
_____ do hereby bind myself/ourselves jointly and severally as Surety/ies for and co-principal debtor/s in *solidum* with the Purchaser _____ (as defined in the Terms and Conditions of Sale to which this suretyship is attached) to and in favour of the Seller BN BUTHELEZI & OTHERS (UNDER CURATORSHIP) IN RE MAGOGUDI CONSTRUCTION CC (as defined) for the due and punctual payment and performance by the Purchaser of all obligations assumed in terms of the Terms and Conditions of Sale with which I/we acknowledge myself/ourselves to be fully acquainted.

I/we hereby renounce all benefits of the legal exceptions of division, excussion, cession of action, error and the like and hereby confirm my/our understanding thereof as well as my/our understanding of the effect of the renunciation.

**Surety No. 1**

Signature _____

Consent of Spouse (if applicable) _____
Full name _____
Marital status _____
Street address _____
_____
_____
Postal address _____
_____
_____
Place of signature _____
Date of signature _____

**Witnesses**

1. Signature _____ 2. Signature _____
Full name _____ Full name _____
Occupation _____ Occupation _____
Street address _____ Street address _____

**Surety No. 2**

Signature _____

Consent of Spouse (if applicable) _____

Full name _____

Marital status _____

Street address _____

_____

_____

Postal address _____

_____

_____

Place of signature _____

Date of signature _____

**Witnesses**

1. Signature _____ 2. Signature _____

Full name _____ Full name _____

Occupation _____ Occupation _____

Street address _____ Street address_____

Signed and Accepted by the Seller at _____on this the _____ day of _____

As witness:

1. _____

2. _____ _____

SELLER

PARK VILLAGE AUCTIONS
Trusted by banks, respected by buyers

**Annexure A**
**MANDATORY DISCLOSURE AGREEMENT**
**IMMOVABLE PROPERTY CONDITION REPORT**

**1 DISCLAIMER**

This condition report concerns the immovable property situated at: **ERF NUMBER 687 ALLEN'S NEK EXT 21, SITUATED AT STAND 687 STRUBEN RIDGE ESTATE, 2 WILHELMINA AVENUE, ALLEN'S NEK, ROODEPOORT, GAUTENG PROVINCE** (the "Property"). This report does not constitute a guarantee or warranty of any kind by the owner of the Property or by the property practitioners representing that owner in any transaction. This report should, therefore, not be regarded as a substitute for any inspections or warranties that prospective purchasers may wish to obtain prior to concluding an agreement of sale in respect of the Property.

**2 DEFINITIONS**

In this form -

2.1 "to be aware" means to have actual notice or knowledge of a certain fact or state of affairs; and

2.2 "defect" means any condition, whether latent or patent, that would or could have a significant deleterious or adverse impact on, or affect, the value of the property, that would or could significantly impair or impact upon the health or safety of any future occupants of the property or that, if not repaired, removed or replaced, would or could significantly shorten or adversely affect the expected normal lifespan of the Property.

**3 DISCLOSURE OF INFORMATION**

The owner of the Property discloses the information hereunder in the full knowledge that, even though this is not to be construed as a warranty, prospective purchasers of the Property may rely on such information when deciding whether, and on what terms, to purchase the Property. The owner hereby authorises the appointed property practitioner marketing the Property for sale to provide a copy of this statement, and to disclose any information contained in this statement, to any person in connection with any actual or anticipated sale of the Property.

**4 PROVISION OF ADDITIONAL INFORMATION**

The owner represents that to the best of his or her knowledge the responses to the statements in respect of the Property contained herein have been accurately noted as "**yes", "no" or "not applicable".** Should the owner have responded to any of the statements with a "yes", the owner shall be obliged to provide, in the additional

information area of this form, a full explanation as to the response to the statement concerned.

## 5 STATEMENTS IN CONNECTION WITH PROPERTY

| | YES | NO | N / A |
|---|---|---|---|
| I am aware of the defects in the roof | | | **X** |
| I am aware of the defects in the electrical systems | | | **X** |
| I am aware of the defects in the plumbing system, including in the swimming pool (if any) | | | **X** |
| I am aware of the defects in the heating and air conditioning systems, including the air filters and humidifiers | | | **X** |
| I am aware of the defects in the septic or other sanitary disposal systems | | | **X** |
| I am aware of any defects to the property and/or in the basement or foundations of the property, including cracks, seepage and bulges. Other such defects include, but are not limited to, flooding, dampness or wet walls and unsafe concentrations of mould or defects in drain tiling or sump pumps | | | **X** |
| I am aware of structural defects in the Property | | | **X** |
| I am aware of boundary line dispute, encroachments or encumbrances in connection with the Property | | | **X** |
| I am aware that remodelling and refurbishment have affected the structure of the Property | | | **X** |
| I am aware that any additions or improvements made to or any erections made on the property, have been done or were made, only after the required consents, permissions and permits to do so were properly obtained. | | | **X** |
| I am aware that a structure on the Property has been earmarked as a historic structure or heritage site | | | **X** |
| **ADDITIONAL INFORMATION** | | | |
| Park Village Auctions has been instructed on behalf of the Curator Bonis to auction the | | | |

Property and Park Village Auctions and/or the Curator Bonis has/have no knowledge of any latent defects in the Property and makes no representations regarding the condition of the Property. The Purchaser acknowledges that he/she/it has been informed that professional expertise and /or technical skill and knowledge may be required to detect defects and/or deficiencies in the Property and non-compliance aspects concerning the Property.
The Purchaser is to obtain his/her/its own professional advice and/or undertake a professional inspection of the Property. The Purchaser waives any claims again Park Village Auctions and/or the Curator Bonis as he/she/it may otherwise have had, and as may have otherwise arise from its/their failure to respond to the Statements referred to in 5. above

**6 OWNER'S CERTIFICATION**

The owner hereby certifies that the information provided in this report is, to the best of the owner's knowledge and belief, true and correct as at the date when the owner signs this report.

**7. CERTIFICATION BY PERSON SUPPLYING INFORMATION**

If a person other than the owner of the property provides the required information that person must certify that he/she is duly authorised by the owner to supply the information and that he/she has supplied the correct information on which the owner relied for the purposes of this report and, in addition, that the information contained herein is, to the best of that person's knowledge and belief, true and correct as at the date on which that person signs this report.

**8. NOTICE REGARDING ADVICE OR INSPECTIONS**

Both the owner as well as the potential Purchasers of the property may wish to obtain professional advice and/or to undertake a professional inspection of the property. Under such circumstances adequate provisions must be contained in any agreement of sale to be concluded between the parties pertaining to the obtaining of any such professional advice and/or the conducting of required inspections and/or the disclosure of defects and/or the making of required warranties.

**9. BUYER'S ACKNOWLEDGEMENT**

The prospective Purchaser acknowledges that he/she has been informed that professional expertise and/or technical skill and knowledge may be required to detect defects in, and non-compliant aspects concerning the, the property.

**10. SIGNATURES**

SIGNED at on this the day of

**Signature of Owner(s):** _____

**Signature of Purchaser:** _____

**Signature of Property Practitioner(s)** _____