

ELECTRONIC TERMS & CONDITIONS OF BUSINESS RELATING TO ONLINE AUCTIONS

1. ORIMAX SA ASSET MANAGEMENT (PTY) LTD

ORIMAX was formed to help companies improve their bottom-line cash by managing their surplus assets more effectively. ORIMAX offers a strategic approach to surplus asset management through tailor-made, full turnkey asset management solutions. This is aimed at helping large companies enhance their balance sheet through improved working capital management.

Stockpiles of surplus and idle assets accumulate faster than they can be sold, taking up valuable warehouse space and soaking up capital in most companies. These assets are an untapped source of revenue for their owners. These surplus and idle assets are invisible in most organisations and are typically understated in balance sheets due to the effects of depreciation.

Through our global and regional partnerships, ORIMAX provides its customers with integrated capital asset disposal and valuation services in order for them to receive the highest value for their assets. Closely coupled to this, ORIMAX provides professional sourcing services. Using proven cost effective marketing campaigns and customer relationship networks, ORIMAX creates heightened competition for your assets. The ORIMAX solution provides you with the convenience and simplicity of a turnkey solution. Access and use of any online auction site of Orimax (collectively the "Site") is subject to any and all specific terms and conditions set forth on any individual page within the Site. BY ACCESSING THIS SITE, YOU AGREE TO ACCEPT, WITHOUT LIMITATION OR QUALIFICATION, ALL OF THE TERMS AND CONDITIONS and agree to comply with all applicable laws, statutes, ordinances and regulations regarding your use of this Site. Legal action will be taken against anyone violating the Terms and Conditions or any other applicable law or regulation. Orimax reserves the right to periodically change the Terms and Conditions of the Site and it is the Bidders' responsibility to periodically review any and all changes made to the Terms and Conditions prior to each use of this Site. By using this Site, you agree in advance to accept any such changes.

2. DEFINITIONS

In these Terms and Conditions, unless the context otherwise indicates, the following words shall bear the meaning assigned to them:

- 2.1 **“ORIMAX”** means Orimax Asset Management Solutions (Pty) Ltd (Registration number: 2000/011461/07), a company with limited liability duly registered and incorporated in terms of the Company Laws of the Republic of South Africa with its principal place of business situated at Unit 4, Woodmead Willows Office Park, 19b Morris Road East, Woodmead, Republic of South Africa; which acts as an agent on behalf of its principal in pursuance of a written mandate for the disposal of specific merchandise via online auction.
- 2.2 **“The Seller”** means the owners of the specific Merchandise (listed online); which mandates ORIMAX in writing to dispose of, for and on the Sellers behalf via online auction.
- 2.3 **“The CONTRACTOR”** means any person, including an association of persons, a partnership, a firm, a company and or close corporation or any other legal entity, electing to participate in online auction proceedings, online or otherwise through means of its duly authorised representative, agent or agency, including its successors in title, also includes assignment who is successful on auction.
- 2.4 **“Merchandise”** means any asset, equipment or movable property; which ORIMAX has been authorised and or mandated to dispose of; of whatsoever nature and listed online.
- 2.5 In these Terms and Conditions (also referred to as “this Agreement”, which terms are interchangeable), any reference to one gender shall include the other and words importing the singular shall include the plural and vice versa.
- 2.6 Headings appearing in these Terms and Conditions are for reference purposes only and shall not affect, dictate, modify or limit the meaning or interpretation of these Terms and Conditions.
- 2.7 Acceptance of these Terms and Conditions online shall be effected by selecting the “Register” icon and or button and by doing so, the CONTRACTOR confirms that it has read and understands same and is bound by the specifics relating to each and every term hereof, even in the absence of a signed original to this effect.
- 2.8 No bid shall be valid and or entertained, nor shall any other form of interaction with ORIMAX in conjunction with or relating to any auction or business transaction be entertained; unless and until all required information has been provided and is submitted (along with FICA and or other required documentation), verified and accepted by ORIMAX online.

3. ONLINE AUCTIONS

The information and documentation to be furnished by the bidder, in any form, shall be utilised to prepare a subsequent agreement between the bidder and ORIMAX, should the bidder be successful on auction.

*** Until such time as the aforementioned information requirements have been completed, returned electronically, verified and accepted by ORIMAX, no bids and or other such interaction with ORIMAX shall be entertained.**

3.1. BIDDER

3.1.1. The name of bidder must include the registered name, registration number and registered address of the legal entity (company, firm, partnership or official trading name). Documents meeting FICA requirements are to be submitted and verified before the bidder may submit a legitimate bid.

3.2. THE MERCHANDISE: DETAILS, SPECIFICATIONS AND QUALITY

3.2.1 Refer to the Merchandise represented on the auction online.

3.2.2 Unless otherwise stated, any and all merchandise shall be considered and disposed of **“as is (condition), where is (site)”** and is sold **voetstoets**.

3.2.2 Bidders should indicate whether they are interested in attending a site visit. A date for a site visit can then be arranged in consultation with the Seller.

3.3 RULES GOVERNING AUCTIONS

3.3.1 All sales are subject to a reserve price unless otherwise stated.

3.3.2 The rules of auction comply with section 45 of the Consumer Protection Act, Act 68 of 2008 (“the Act”) and with the Consumer Protection Act Regulations (“the Regulations”) that have been published in terms thereof in Government Gazette No. 34180 on 1 April 2011 (Volume 550) and any amendments thereto from time to time.

3.3.3 Section 45 subsection (2) of the Act provides that: *“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.”*

3.3.4 The auction will close at the published time displayed online with the item, unless there is bidding within the last 5 minutes of the auction and will not be delayed to allow any specific person or more persons to take part in the auction, unless

3.3.5 For the avoidance of doubt, merchandise is sold by ORIMAX as an agent on behalf of the Seller, which Seller has authorised and mandated ORIMAX to collect the purchase price from the Contractor on its behalf.

3.3.6 Unless the reason for the auction is the normal and voluntary disposal of the merchandise by the Seller, the reason for same shall be displayed with the item online.

3.3.7 The conduct of the online auction is subject to the control of the auctioneer appointed to attend to the auction, even though online, who has the sole right to regulate the bidding procedure and who may accept or reject bids in his sole discretion without providing reasons.

3.3.8 ORIMAX does not permit the making of a bid on behalf of the Seller, nor are ORIMAX employees or their representatives permitted to bid on an auction. Only bids submitted from *bona fide* registered bidders will be accepted.

- 3.3.9 The sale shall be final and items shall be sold to the highest bidder or as confirmed by the Seller subject to these Terms and Conditions, and or any additional terms and conditions arising from the specific auction participated in.
- 3.3.10 Every prospective and registered bidder must familiarise themselves with the Terms and Conditions, specifically the rules of auction and must not bid unless he or she has done so. Acceptance of these Terms and Conditions online shall be effected by selecting the “Register” icon and or button and by doing so, you confirm that you have read and understand same and are bound by the specifics relating to each and every term hereof, even in the absence of a signed original to this effect.
- 3.3.11 Every bid shall constitute an Offer to Purchase the specific merchandise, for the amount bid, which ORIMAX and or the appointed auctioneer may accept or reject in their absolute discretion.
- 3.3.12 If no bid received equals or exceeds any reserve price placed on the merchandise by ORIMAX, such merchandise may be withdrawn from the auction.
- 3.3.13 In the event of any dispute arising in relation to an auction sale, the decision of ORIMAX and or the appointed auctioneer shall be final and binding.
- 3.3.14 ORIMAX or the appointed auctioneer is entitled to correct any *bona fide* error during the conduct of the auction or on conclusion of any sale, or arising from any incorrect reference to merchandise for sale. In the event that the error is not capable of being corrected, then the auction shall be deemed not to have taken place and no party to the auction shall have any claim against ORIMAX or the appointed auctioneer arising from the cancellation of the merchandise from sale on auction.
- 3.3.15 Subject to these, Terms and Conditions and all other ancillary and applicable terms and conditions; the bidder who submits the highest bid, at the time of conclusion of the auction, shall be the Purchaser and therefore the CONTRACTOR.
- 3.3.16 These, Terms and Conditions and all other ancillary and applicable terms and conditions shall be interpreted and used in conjunction with the laws of the Republic of South Africa. No variation, alteration or cancellation of any of these, Terms and Conditions and all other ancillary and applicable terms and conditions or any of the terms thereof, shall be of any force or effect, unless reduced to writing and confirmed by the parties hereto.

3.4 REGISTRATION

- 3.4.1 “Bidder warrant that all information provided when registering to use the site (or when updating your registration details) is true and complete and you shall indemnify Orimax against all liabilities, losses, claims, fees and expenses that may arise out of or in connection with any breach of these terms of use, whether made by you or any third party logging into the site using the log in details. Registration is affected upon completion and submission of the required documentation hereto. Until such time as the aforementioned documentation have been completed, returned electronically, verified and accepted by ORIMAX, no bids and or other such interaction with ORIMAX shall be entertained.
- 3.4.2 All bidders must register his or her identity in terms of the requirements of FICA (Financial Intelligence Centre Act, 2001) in respect of the establishment and verification of identity of the natural person, who must sign the registration entry confirming that all information submitted is both true and correct. All documentation is to be uploaded and or submitted electronically and shall be verified by ORIMAX before being accepted and the bidder registered.

- 3.4.3 A natural person who intends to bid on behalf of a legal person (i.e. company, firm, close corporation or trust) must produce a letter of authority, on that entity's official letterhead, expressly authorising him or her to bid on behalf of that entity, along with a certified copy of the resolution passed by the said entity authorising the natural person to bid on its behalf. Such registration must meet the requirements of FICA (Financial Intelligence Centre Act, 2001) in respect of the establishment and verification of identity of the entity. All documentation is to be uploaded and or submitted electronically and shall be verified by ORIMAX before being accepted and the bidder registered.

3.5 DEPOSIT

- 3.5.1 Upon registration, Bidders are required to make payment to ORIMAX of a refundable deposit in the amount of **R 5 000.00**, no later than 5 (five) working days before the date of auction; into the following banking account: Orimax SA Asset Management (Pty) Ltd, Standard Bank, Account number: 003294641 ; Northcliff branch, with Branch code: 006 305.
- 3.5.2 The deposit shall be refunded to the bidder upon finalisation of the auction, provided that the bidder was not the highest bidder on any item that was cleared at the auction and provided that the CONTRACTOR fulfils all obligations due and owing to ORIMAX in respect of their success on auction. Should the CONTRACTOR fail to fulfil any such obligations, the deposit paid to ORIMAX shall be forfeited as *rouwkoop*. A 2% handling fee of the total amount will be levied and held back from any refunds for any cash deposits made by bidders and contractors. For contractors, a further 2% will be levied if payment is made via cash deposits.
- 3.5.3 Should the bidder be successful on auction, the deposit shall be applied towards settlement of the purchase price payable to ORIMAX in respect of the merchandise purchased. Where applicable an additional R2000, documentation handling fee will be levied on the Contractor. The documentation fee is subject to change without notice should the documentation fees be higher.

3.6 AUCTION RESULT

- 3.6.1 Every bid shall constitute an irrevocable Offer to Purchase the merchandise for the amount bid, which the SELLER (alternatively ORIMAX as mandated by the SELLER), alternatively the auctioneer, may accept or reject in their absolute discretion.
- 3.6.2 All bids made and received are exclusive of VAT. VAT is applicable on bids. Commission is payable by the SELLER to ORIMAX and not by the CONTRACTOR UNLESS OTHERWISE STIPULATED.
- 3.6.3 ORIMAX are entitled, in their absolute discretion, to withdraw the merchandise from sale on auction, prior to acceptance by ORIMAX of any Offer to Purchase unless ORIMAX instructs the appointed auctioneer to accept or ORIMAX accepts a lower bid.
- 3.6.4 Upon completion of the auction, a completed sale shall be indicated on site showing the item as "SOLD!"
- 3.6.5 If bids on the merchandise do not meet or exceed the reserve stipulated by ORIMAX and the sale is not confirmed, the bidder shall be permitted to submit their maximum bid or offer during the confirmation period of 48 (forty eight) hours (" the confirmation period") subsequent to the close of the auction.
- 3.6.6 The bidder's offer shall remain open for acceptance by ORIMAX or the appointed auctioneer on behalf of the Seller, until expiry of the confirmation period (Until such time as the Seller either approves or rejects the bidders offer). The bidder, ORIMAX and the appointed auctioneer

acknowledge and agree that this provision is for the benefit of the Seller. No such bid may be withdrawn until the expiry of the confirmation period.

- 3.6.7 ORIMAX shall not be required to notify the bidder of the acceptance of its offer prior to expiry of the confirmation period.
- 3.6.8 Should maximum bids received on the merchandise not meet or exceed the reserve stipulated by ORIMAX during the confirmation period, the bidder's deposit shall be refunded to it within 7 working days

3.7 PAYMENT

- 3.7.1 The CONTRACTOR shall become liable for payment of the merchandise within 24hrs, upon confirmation by the auctioneer of the Contractor being the successful Contractor.
- 3.7.2 The CONTRACTOR undertakes to make payment, in terms of any successful bid, for the merchandise to ORIMAX within 24hrs from confirmation by the auctioneer of the Contractor being the successful Contractor and shall provide proof of such payment made to ORIMAX immediately upon payment and submit along with such proof, all such additional documentation as may be required from ORIMAX pursuant to the auction; upon receipt of which ORIMAX shall provide the CONTRACTOR with a VAT invoice.
- 3.7.3 All purchase prices shall be reflected and are payable in South African Rand (ZAR).
- 3.7.4 The purchase price in respect of the merchandise shall be paid by the CONTRACTOR by Electronic Funds Transfer only, within 24hrs from confirmation by the auctioneer of the Contractor being the successful Contractor
- 3.7.5 Any additional fees and or costs pursuant to a successful bid and or emanating from the purchase of merchandise on auction shall be for the CONTRACTORS account.
- 3.7.6 Commission is payable **by the SELLER to ORIMAX and not by the CONTRACTOR**, unless otherwise stated in writing

3.8 DELIVERY AND COLLECTION

- 3.8.1 The CONTRACTOR shall be responsible for determining and be liable for the payment of any and all costs related to the removal of the merchandise from its current location; which includes any applicable handling and dismantling; as well as for the onward logistics and transport of the merchandise.
- 3.8.5 The CONTRACTOR assumes full responsibility and liability for the merchandise and its removal from its current location from confirmation by the auctioneer of the Contractor being the successful Contractor. The Contractor shall, within 7 (seven) days, from confirmation by the auctioneer of the Contractor being the successful Contractor, remain responsible and liable therefore until the transaction is completed.

3.9 THE CONTRACTOR: OWNERSHIP, RISK AND SPECIAL OBLIGATIONS

- 3.9.1 By their acceptance of these Terms and Conditions, the CONTRACTOR warrants that, they are able to fulfil all terms and obligations emanating from a successful bid and shall comply with all reasonable policies and procedures applicable to the purchase of the merchandise on auction.

- 3.9.2 All merchandise is sold “*voetstoots*” and all risk in and to the merchandise (and any spares) shall pass to the CONTRACTOR immediately upon acceptance of the CONTRACTORS bid by ORIMAX and the CONTRACTOR assumes full responsibility and liability for obtaining the insurance of the merchandise necessary from this time and shall remain so responsible and liable therefore, during removal and until the transaction is completed in full.
- 3.9.3 Ownership of and in the merchandise shall pass to the CONTRACTOR only upon receipt and confirmation of payment of the full purchase price by ORIMAX, plus VAT if applicable and any applicable commission.
- 3.9.4 Disclaimer: Whilst all reasonable care has been taken to obtain the correct information, neither ORIMAX, nor the Seller, nor the appointed auctioneer; guarantee the correctness of information provided on the site and none of the aforementioned will be held liable for any direct or indirect damages or loss, of whatsoever nature, suffered by any person as a result of any errors or omissions made as a result of the information supplied, whether due to the negligence or otherwise of ORIMAX, the Seller or the appointed auctioneer.
- 3.9.5 The CONTRACTOR undertakes to comply with any and all applicable legislation pertaining to the removal of the merchandise from its current location in so far as the relevant materials, handling procedures, dangers and hazards associated with the removal of the merchandise (and any spares) are concerned and indemnify the SELLER in full against any damage and or loss suffered as a result of the removal of the merchandise from its current location.
- 3.9.6 The CONTRACTOR undertakes to ensure that all information that might be reasonably required by ORIMAX, the Seller in their pursuance of the letter and spirit of any legislation aimed at promoting the health and safety of either the employees of the CONTRACTOR or of the Seller is conveyed in writing to the relevant management CONTRACTOR prior to the removal of the merchandise from its current location. Such information shall include, but not necessarily be limited to, a written warning (appropriately marked to draw the attention of the reader to the fact that it contains a warning) regarding any particular danger or dangers associated with the removal and further handling of the merchandise. The CONTRACTOR shall ensure that the individual/s tasked with the dismantling (if necessary) and removal of the merchandise (and any spares), is possessed of the requisite training and knowledge in regard to the dangers associated handling and removal of the merchandise (and any spares) and that such person shall be instructed to forewarn the Seller’s employees of any such dangers.
- 3.9.7 The CONTRACTOR confirms that it is aware and has knowledge of all statutory health and safety duties and obligations placed upon, in contemplation of its removal of the merchandise (and any spares) and undertakes to comply with same.

3.10 BREACH

- 3.10.1 In the event of the bidder and or CONTRACTOR breaching any of the, Terms and Conditions and all other ancillary and applicable terms and conditions or any of the terms thereof; he, she or it shall be liable for and shall pay the total cost of advertising (if applicable) and conducting the auction of the merchandise purchased and such additional costs as provided for by the Consumer Protection Act Regulations. The contractor will forego his deposit should he breach any provision of the Terms and Conditions.

4. SUPPLEMENTARY INFORMATION

4.1 ARBITRATION CLAUSE

- 4.1.1 Any dispute, including, without limitation, a disputed claim resulting from the Mandate which sounds in money, will be and is hereby referred to arbitration on demand by any of the parties.
- 4.1.2 The arbitration shall be governed by the Arbitration Act, 1965, and shall otherwise be conducted by a single arbitrator in terms of the rules of the Arbitration Foundation of South Africa (Association incorporated under Section 1), hereinafter referred to as AFSA.
- 4.1.3 The arbitrator shall be appointed within 7 (seven) days from the date on which the arbitration is first demanded, from the commercial panel or arbitrators of AFSA. The appointment shall be made by agreement between the parties, failing which the chairman of AFSA shall make the appointment.
- 4.1.4 The arbitration shall be held at the offices of AFSA in Sandton, and shall commence within 7 (seven) days from the date on which the arbitrator is appointed.
- 4.1.5 The arbitrator's award shall be final, and any party shall be entitled to have the award made an Order of Court.

5. SEVERABILITY

Each clause of this agreement is severable, the one from the other, and if any clause is found to be defective or unenforceable for any reason by any competent court, then the remaining clauses shall be and continue to be of full force and effect.

6. NO WAIVER

No relaxation, indulgence or extension of time granted by either party ("**Grantor**") to the other party shall be construed as a waiver of any of the Grantor's rights in terms hereof, or a novation of any of the terms of this agreement or estop the Grantor from enforcing strict and punctual compliance with the terms of this agreement.

NOTE: Acceptance of these Terms and Conditions is effected electronically. By selecting the "Register" icon or button present hereunder; and by doing so; the CONTRACTOR confirms that it has read and understands same and is bound by the specifics relating to each and every term hereof, even in the absence of a signed original to this effect. The signatory further expressly warrants that he or she is invested with the necessary authority required and is duly authorised to bind the entity to the terms hereof.