

## TERMS AND CONDITIONS IN RESPECT OF SALE CONDUCTED BY AFRICAN GAME AUCTIONEERS

1. All goods and livestock (hereinafter referred to as the "assets") are sold by African Game Auctioneers (hereinafter referred to as the "auctioneer") as agent on behalf of the seller, who hereby authorises African Game Auctioneers to collect the purchase price from the buyer. The purchase price excludes VAT and VAT must be added to the purchase price and paid by the purchaser, unless specifically stipulated otherwise by the auctioneer
2. The sale by auction is subject to a reserve price, unless specifically stated to the contrary by the auctioneer.
3. The seller (owner) and/or his agent and the auctioneer may bid up to the reserve price of the owner (seller), but shall not be entitled to make a bid equal to or exceeding the reserve price.
4. The seller warrants that there are no encumbrances on such assets, that the said assets are the property of the seller and that the seller is competent and legally entitled to dispose of the assets.
5. African Game Auctioneers accepts no liability for any withdrawal of animals from the sale, or for any express or implied statements or guarantees which may be contained in catalogues or advertisements, been given verbally by its agents or employees, or by the seller.
6. The Rules of Auction comply with Section 45 of the Consumer Protection Act, Act 68 of 2008 (The Act hereafter) which Section stipulates: Section 45.
  - (1) In this section, "auction" includes a sale in execution of or pursuant to a court order, to the extent that the order contemplates that the sale is to be conducted by an auction.
  - (2) When goods are put up for sale by auction in lots, each lot is, unless there is evidence to the contrary, regarded to be the subject of a separate transaction.
  - (3) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in any other customary manner, and until that announcement is made, a bid may be retracted.
  - (4) Notice must be given in advance that a sale by auction is subject to —
    - (a) A reserve or upset price; or
    - (b) A right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, or anyone person on behalf of the owner or auctioneer, as the case may be, may bid at the auction.
  - (5) Unless notice is given in advance that a sale by auction is subject to a right to bid by or on behalf of the owner or auctioneer —
    - (a) The owner or auctioneer must not bid or employ any person to bid at the sale;
    - (b) The auctioneer must not knowingly accept any bid from a person contemplated in paragraph (a); and
    - (c) The consumer may approach a court to declare the transaction fraudulent, if this subsection has been violated.
  - (6) The Minister may prescribe requirements to be complied with by an auctioneer, or different categories of auctioneer, in respect of—the conduct of an auction; the records to be maintained with respect to property placed for auction; and the sale of any such property by auction.
7. The seller, who offers the animals for sale, accepts all liability regarding the information furnished as to pedigrees, ages, state of health or gestation or any other particulars which might be incorrect. In the event of any disputes, the buyer shall only have a claim against the seller and not against African Game Auctioneers.
8. The purchase price is payable by the buyer to African Game Auctioneers in cash, EFT or by bank guaranteed cheque on the date of sale (the payment date), unless other payment terms are agreed in writing between African Game Auctioneers and the buyer.
9. In the event that African Game Auctioneers agrees to facilitate the purchase of the assets by paying an amount equal to the purchase price to the seller, before the buyer makes payment to African Game Auctioneers, (the payment terms agreement) then the following shall apply:
  - (1) The election to make any payment to the seller, shall be in the sole and absolute discretion of African Game Auctioneers, which discretion may be exercised separately in regard to each transaction entered into by the buyer;
  - (2) Upon payment of the amount referred to in 9.1 above, the seller's right, title and interest in and to any claims and other rights as against the buyer in terms of or connected with the sale of the assets, shall forthwith be ceded and transferred to African Game Auctioneers;
  - (3) No payment terms agreement shall be valid unless reduced to writing and duly signed on behalf of African Game Auctioneers. The facilitation of any sale by African Game Auctioneers, as referred to in this paragraph 9, shall be strictly subject to the terms and conditions to the payment terms agreement.
10. In the event of any conflict between the contents of this document and the payment terms agreement, the provisions of the payment terms agreement shall prevail; no application for credit as defined in section 8 of the National Credit Act, Act 34 of 2005, will be received or considered by African Game Auctioneers.
11. The seller warrants to African Game Auctioneers, that the assets are free of patent and latent defects and that any right or claim ceded to African Game Auctioneers in terms of these terms and conditions, is free of any defect or right of deduction or set-off, and that the said right or claim is fully and immediately enforceable against the buyer.
12. The buyer shall not be entitled to withhold payment of the purchase price to African Game Auctioneers as a result of any possible or pending claim that he may have against the seller on the grounds of misrepresentation or for any other reason whatsoever.
13. In the event where buyers must register at an auction, and such registered buyer allows another person to purchase on his buyers card, the registered buyer shall be liable for payment of such purchases. No bid by an unregistered buyer will be accepted by African Game Auctioneers and the buyer will have no claim to any of the assets allegedly purchased by him.
14. Subject to any reserve placed on any of the assets by the seller and the provisions of clauses 16 and 17 below, the buyer at any sale shall be the highest bidder indicated by the auctioneer by the fall of the hammer or by such other means as he may select.
15. All assets shall, immediately after the bid is being knocked down, be deemed to have been delivered to the buyer. Notwithstanding delivery, the buyer shall not be entitled to remove any purchased assets unless the total amount reflected by African Game Auctioneers invoice in respect of such assets, has been paid in full.

16. All profit, loss or risk in the assets, will pass to the buyer once it has been delivered to the buyer who shall at his own risk and expense, remove it from the sale venue, subject to clauses above.
17. Should a cartage contractor remove any assets from the sale venue on instruction of African Game Auctioneers, the contractor will be deemed an agent of the buyer who accepts all costs and risks connected with such removal.
18. The auction shall take place under the exclusive control of African Game Auctioneers. African Game Auctioneers reserves the right, in its sole discretion, to refuse the bid of any person, to regulate the bidding, to indicate the highest bidder and to vary the order of the sale at any time without giving reasons therefore. If the auctioneer suspects that a bidder has not made a *bona fide* bid, or is unable to pay the purchase price or has not made satisfactory arrangements for payment of the purchase price, he may refuse to accept the bid of such bidder or accept it provisionally until the bidder has satisfied him that he is in position to pay the purchase price or that he has made satisfactory arrangements for payment thereof. On refusal of a bid under such circumstances the assets may immediately be re-auctioned.
19. African Game Auctioneers shall not be liable for loss or damages caused to, or sustained in respect of any action by African Game Auctioneers or its helpers, employees or agents, notwithstanding an undertaking to care for dispatched, or deliver the assets. All assets are sold to the buyer "voetstoots" and African Game Auctioneers shall not be liable for any defects, latent or otherwise, which might exist with or without the knowledge of African Game Auctioneers.
20. The buyer shall, prior to the sale, ascertain whether there are any defects in the assets and any bid by a buyer shall be considered as acceptable of the assets with any patent or latent defects in their condition at the time of sale.
21. African Game Auctioneers reserves the right to refuse any cheque as payment.
22. Notwithstanding risk and delivery, ownership of the purchased assets will not pass to the buyer until the full purchase price plus interest, if payable, is paid.
23. Until all amounts owing by the buyer had been paid in full, the buyer hereby:
  - (1) irrevocably undertake to identify the purchased animals in such a manner that he can at any time identify and indicate the assets deemed to be the property of and pledged to, African Game Auctioneers;
  - (2) grants African Game Auctioneers access at all reasonable times to the premises where the assets are stored for the purposes of perfecting its pledge and exercising any other rights in terms of these terms and conditions.
24. The buyer and the seller hereby consent to the jurisdiction of the magistrate court in terms of section 45 of the Magistrate Courts Act, Act 32 of 1944, for any action instituted by African Game Auctioneers against the buyer although African Game Auctioneers is entitled to institute litigation in any competent court.
25. The entries made in the African Game Auctioneers auction roll shall be *prima facie* evidence of the transaction and shall be binding on the seller and the buyer.
26. A certificate issued by a manager of African Game Auctioneers, whose appointment and authority shall not be necessary to prove, shall be *prima facie* proof of moneys owing by the buyer to the seller or African Game Auctioneers.
27. Any person who purchases on behalf of a principal, must furnish African Game Auctioneers with a "power of attorney" prior to the commencement of the sale, failing which he will personally be liable for payment of any purchases made by him. The person bidding on behalf of or signing any documents on behalf of the buyer, pursuant to a successful bid, thereby binds himself personally as co-principal debtor with the buyer for payment of the purchase price and personally guarantees all the obligations of the buyer under these terms and conditions.
28. Any indulgence granted by African Game Auctioneers to the buyer or the seller, will not prejudice the rights of African Game Auctioneers in terms of these conditions and such indulgence will not constitute an amendment or waiver or novation of these terms and conditions.
29. All persons entering the sale venue do so at their own risk and African Game Auctioneers shall not be liable for any injuries, damages or losses of any nature whatsoever.
30. African Game Auctioneers reserves the right to amend these conditions of sale in writing.
31. Any assets entered or offered for sale are subject to payment by the seller of the agreed commission, or in absence of agreement, the usual commission by the seller to African Game Auctioneers at the rate customarily charged by African Game Auctioneers from time to time, whether the assets are sold by the auction or thereafter, or at any time thereafter by private treaty. Unless otherwise agreed in writing, commission shall become due and payable by the seller upon the fall of the hammer or upon the entering into of any private treaty involving the seller's said assets, whichever date is the earlier and notwithstanding any breach on the part of the seller.
32. The seller authorises African Game Auctioneers to deduct commission before payment of any moneys to the seller.
33. Any agreement contrary to these conditions of sale shall not be binding unless it is confirmed in writing and signed by a manager of African Game Auctioneers.
34. **A. ANIMALS IN PENS: The risk of profit & loss and the obligation of care devolve onto the buyer when the bid is knocked down. You are buying per piece to take the lot.**  
**B. CATALOGUE ANIMALS: In all instances the sellers responsibility for losses ceases when the animals are loaded onto the contractors vehicle.**
35. The bidder is buying per piece to take the lot.
36. Terms strictly cash, bank guaranteed cheques or EFT on the day of sale. Internet facilities are available. African Game Auctioneers reserves the right to delay delivery of animals until they have satisfied themselves that payment has been effected successfully.
37. VAT is payable on all purchases.
38. Once a bid has been made, it may not be withdrawn, unless it has been made and accepted in error by the auctioneer.
39. The Auctioneer shall at his own discretion be entitled to re-auction any lot of animals should a dispute arise between the Auctioneer and the bidders over such a lot.
40. The seller has determined the sexes as accurate as possible but does not guarantee the absolute correctness thereof.
41. It is the responsibility of the bidder to ensure that he is fully aware of the lot and the specific animals he is bidding on.
42. All instructions have to be given in writing to the sale's clerk at the sale.

43. Transport can be arranged through Mpatamacha Game Capture. Arrange directly with Wimpie Van Der Walt: 083 454 5645

**Mpatamacha Transport tariffs are as follows:**

<b>ANIMALS IN BOMAS</b>	<b>Per km + VAT</b>	<b>ANIMALS ON CATALOGUE</b>	<b>Per RUNNING km + VAT</b>
Truck	R 35 - 00	Truck	R 17 - 50
Horse and trailer	R 37 - 00	Horse and trailer	R 18 - 50
Giraffe trailer	R 40 - 00	Giraffe trailer	R 20 - 00
Rhinoceros truck	R 47 - 00	Rhinoceros truck	R 23 - 50

44. The Transport rates above are applicable and exclude VAT. VAT is payable. A transport invoice will be generated on completion of the transport, and will be payable on presentation of said invoice. Interest at a rate of 10.25% will be charged on any overdue transport invoices, not paid within 7 days of delivery.
45. Buyers must ensure that they have the necessary permits in place. It is the buyers responsibility to obtain the necessary permits.
46. Buyers must ensure that the area where they intend offloading the animals is safe to offload and has the necessary offloading facility (offloading ramp) to facilitate the safe offloading process. Buyers are to use their own staff if necessary to assist with the offloading of certain species.
47. Mpatamacha Game Capture does not insure the animals being transported on behalf of the buyer. The animals are transported at the buyers risk.
48. Buyers are advised to take out the necessary insurance which is the responsibility of the buyer.
49. Mpatamacha Game Capture is not responsible for any damage or loss caused that may be due to any action, intentionally or negligently, by any of its representatives or staff.
50. A duly authorised representative of Mpatamacha will control the loading of the game. Buyers are not allowed to enter the pens themselves.
51. It is the responsibility of the Buyer to ensure that he qualifies for the game he has bought. Mpatamacha and African Game Auctioneers may request proof thereof as issued by Department of Environmental Affairs. No permits will be issued if the requirements are not met. **In respect of protected species, you must be in possession of: an exemption permit/TOPS-permit/WR certificate.** The purchaser remains responsible for payment on day of purchase, even though his permit is refused.
52. **Minimum hectare for relocation as prescribed by Nature Conservation:**

<b>Specie</b>	<b>Hectare</b>
Blesbok, Impala, Springbok	50
Giraffe, Sable, Tsessebe and Buffalo	400
Other	200

53. Count the game in the presence of the truck driver before opening the doors of the truck to unload the game.
54. Should an animal be severely injured before being loaded, we shall consult with the SPCA and with their permission and recommendation, have it treated or destroyed. The buyer will be informed accordingly.
55. Animals will be delivered as soon as possible, but only if the buyer has made payment in full and has met all his financial obligations.
56. A R500 permit/admin fee is payable, plus VAT.
57. In order to comply with relevant legislature, certain permit and administration fees may be charged.
58. **Boma Fees:** Animals will be held in the bomas free of charge for up to and including 5 days after the date of the auction. Thereafter the fees detailed in Table 1 will be levied per head on a daily basis for the next 14 days. Thereafter the fees detailed in Table 2 will be levied per head on a daily basis. Prices exclude VAT. VAT is payable.

**Table1:**

<b>Species</b>	<b>Rate per day</b>
Common Species	R 50
Zebra	R 80
Buffalo	R 80
Giraffe	R 100
Hippo	R 200
White Rhino	R 320
Black Rhino	R 350

**Table2:**

<b>Species</b>	<b>Rate per day</b>
Common Species	R 100
Zebra	R 160
Buffalo	R 160
Giraffe	R 100
Hippo	R 440
White Rhino	R 640
Black Rhino	R 700

NOTE: These costs are applicable to buyers who request animals to be boma trained or where buyers fail to collect their purchased animals within the specified time frames.

59. The auction will start at the published time. The auction will not be delayed to allow any specific person or more persons to take part in the auction.
60. All assets other than the catalogue animals shall immediately after the bid has been knocked down and accepted by the seller, be deemed to have been delivered to the buyer. Notwithstanding delivery, the buyer shall not be entitled to remove any purchased assets unless the total amount reflected on the invoice in respect of such assets has been paid in full.
61. Any error by the auctioneer shall be entitled to be corrected by him or her upon discovery.
62. Any buyer that intends to bid at the auction must register his or her identity on the bidders record prior to the commencement of the auction and such registration must meet the requirements of FICA (Financial Intelligence Centre Act, 2001) in respect of the establishment and verification of the buyers identity. The buyer must sign the registration/buyers card and must furnish the auctioneer with a copy of his/her identity document and proof of residence.
63. Any buyer buying on behalf of a Principal must furnish the auctioneer with a signed Power of Attorney. He/ she will be personally liable for payment of purchases if this is not adhered to. The Power of Attorney is binding on the Principal.
64. Where a person is bidding on behalf of another entity (eg. a company) the letter of authority must appear on the official letterhead of that entity and must be accompanied by a certified copy of the resolution authorising that person to bid on behalf of the entity.
65. The vendu roll can be made available for inspection within reason.
66. Should the buyer default on the payment of his/her purchases, the auctioneer is entitled to claim interest from the buyer on the unpaid assets. The auctioneer can repossess the assets for resale but at the risk of the buyer to recover the monies owed. The auctioneer is entitled to then proceed with legal action against the same buyer, and recover the auctioneers legal costs.
67. Buyers will be refunded for non delivery or short delivery of catalogue animals. The auctioneer will collect monies due for any additional animals delivered over and above the original purchases.
68. The auctioneer will be under no obligation whatsoever to accept the highest or any other bid and will have the right to determine the minimum bid that will be accepted and to refuse any bid lower than the minimum bid. The auctioneer shall be entitled to refuse any bid (including the highest) without giving any reason whatsoever and he may withdraw the property from the sale before or after it has been offered for sale. Any refusal or withdrawal by the auctioneer will be deemed a decision by the seller despite any contradictions.
69. The buyer shall be bound by all announcements made by the auctioneer at the commencement of and during the sale, whether or not the buyer is present at the time such announcements are made.
70. Unless otherwise stipulated by the auctioneers at the start of the sale, livestock is offered for sale on a per head basis.
71. If a sale subject to confirmation is confirmed, the auctioneer shall inform the buyer of such confirmation orally within the period stipulated for confirmation. If the bidder whose bid has been provisionally accepted is not so informed, the property shall be deemed not to have been sold. The bidder whose bid is provisionally accepted shall not be entitled to withdraw his bid during the sale period. The auctioneer shall inform him of the amount and terms and conditions of any higher offer which it receives during that period and which the seller is prepared to accept and such bidder shall have the option to purchase on those same terms and conditions and at a sum equal to the highest of such other offers so notified to him.
72. The seller and the buyer indemnify and hold the auctioneer harmless against all claims for loss and/ or damage arising from any error in description of any property submitted for sale. Furthermore, the seller warrants, if the goods to be sold on his behalf comprise livestock, that to the best of his knowledge and belief, such livestock is, and at the time of the sale shall be, free of disease. In any event, both the seller and the purchaser agree that the auctioneer shall not be responsible for any loss or damages arising from the sale of diseased livestock from contamination of healthy livestock due to the placing of such livestock in proximity to diseased livestock, whether at the auction grounds or elsewhere.
73. Every bid is irrevocable and the Auctioneers retain the sole right to: reject any bid, indicate the highest bidder, change the order of the sale, suspend the auction during its course, declare a sale null and void in case of dispute and to put up the animals for resale.
74. Any bona fide error committed by the Auctioneer before, during or after the auction does not bind the Seller and can be rectified immediately.
75. According to Regulation 26(2) of the Consumer Protection Act all prospective Buyers must hand in the necessary FICA documentation with Registration.
  - 69.1. PRIVATE PERSON as well as the person registering on behalf of a third party.
    - 69.1.1 Copy of identity document.
    - 69.1.2 Proof of physical address not older than 3 months.
  - 69.2. CLOSE CORPORATION
    - 69.2.1 Founding document;
    - 69.2.2 Copies of identity documents for all the Members;
    - 69.2.3 Proof of physical address for all the Members, not older than 3 months.
  - 69.3. COMPANY
    - 69.3.1 Certificate of Incorporation;
    - 69.3.2 Copies of identity documents for all the Directors;
    - 69.3.3 Copies of identity documents for all the shareholders;
    - 69.3.4 Proof of physical address.
  - 69.4. TRUST
    - 69.4.1 Copy of Trust Deed;
    - 69.4.2 Copy of Letter of Authority to act on behalf of the Trust;
    - 69.4.3 Copies of identity documents for all the Trustees.
    - 69.4.4 Copies of identity documents for all the Beneficiaries