

**ANNEXURE “A”**  
**CONDITIONS OF SALE**

**INTRODUCTION**

1. In terms of section 9 of the Admiralty Jurisdiction Regulation Act 105 of 1983 (“the Act”), the SV “LAMAT” is sold in accordance with the terms in these conditions of sale.

**DEFINITIONS**

2. Unless inconsistent with the context, the expressions set out below bear the following meanings:
  - 2.1. **“the auctioneer”**: shall mean Robin Mills Group CC;
  - 2.2. **“the declared purchaser”**: shall mean the person declared to be the purchaser in terms of the provisions of clauses 9, 12, 21 and 25 of these Conditions of Sale;
  - 2.3. **“the Vessel”**: shall mean the sailing vessel “Lamat”, including all fixtures, and its contents which were arrested under the above case number;
  - 2.4. **“the Fund”**: shall mean the Fund constituted in terms of the Order;
  - 2.5. **“the Order”**: shall mean the Order granted by this Court (“the Court”) under case number AC14/2024 for the sale of the Vessel by public auction in terms of section 9 of the Act;
  - 2.6. **“the purchase price”**: shall mean such amount as is bid and accepted as the highest bid, or declared to be accepted in terms of clauses 9, 12, 21, and 25 hereof, including such interest as is payable in terms of clause 29;
  - 2.7. **“the purchaser”**: shall mean the person(s) who makes the successful bid at the auction of the Vessel for the purchase of the Vessel subject to the Order, or the declared purchaser;

- 2.8. **“the Registrar”**: shall mean the Registrar of the High Court of South Africa, Western Cape High Court, Cape Town;
- 2.9. **“working day”**: shall mean a day other than a Saturday, Sunday or public holidays of the Republic of South Africa.

## **WARRANTIES**

3. The purchaser acknowledges that:
- 3.1. an opportunity has been afforded to the purchaser to view and inspect the Vessel;
- 3.2. he / she / it / they are satisfied as to and aware of the nature, extent and condition of the Vessel;
- 3.3. the Vessel is sold as is, where is, *voetstoots*, completely without any warranty, guarantee or the like whether express or implied and without any representation of any nature whatsoever having been made; and
- 3.4. neither the Registrar, the Applicant or any claimants participating in or claiming against the Fund, nor any of the above parties' servants, attorneys, advocates or agents shall be responsible for any defect in the Vessel whether patent or latent.

## **SALE FREE OF ENCUMBRANCES**

4. The Vessel is sold in terms of South African law, free of all liens, encumbrances, preferences or charges.
5. All arrests and attachments effected before the passing of ownership of the Vessel shall be discharged as against the Vessel on the passing of ownership of the Vessel to the purchaser.

## **BIDDING AND SALE**

6. The sale of the Vessel by public auction shall be subject to the exclusive control of the auctioneer, who shall regulate the bidding and shall have power, in its discretion but without derogating from the provisions of 9 below, to suspend or adjourn the auction, and to reconstitute it at a later date. All bidders shall pay a refundable registration amount of R10 000.00 (ZAR) into the Trust account of the Applicant's attorneys prior to the auction, and they shall identify themselves by providing the auctioneer with the following information, and any such other information as the auctioneer may require:
  - 6.1. A copy of their passports;
  - 6.2. Company registration documents;
  - 6.3. Proof of address;
  - 6.4. Power of Attorney, if bidding on behalf of another entity; and
  - 6.5. Company resolution.
7. Any value added tax (VAT) payable in respect of the sale of the Vessel shall be payable by the purchaser and each bid shall be deemed to be exclusive of VAT.
8. Every bid made shall constitute an offer to purchase the Vessel at the amount bid and shall be subject to the provisions of these Conditions and to the Order. The Vessel shall be sold to the highest bidder(s) of all bids not refused by the auctioneer and acceptance of that bid shall be indicated by such means as the auctioneer elects.
9. The auctioneer shall be entitled to refuse any bid. In the event of a dispute arising as to who the highest bidder is, or of the auctioneer accepting or refusing a bid and the bidder disputing the making or refusing thereof or the amount thereof, the auctioneer shall have the sole discretion to decide upon which bid to accept.
10. Bidders shall, prior to the commencement of bidding, identify themselves and the parties they represent to the auctioneer. They shall also furnish their address and the

address of the parties they represent, and the local address at which any notices or proceedings in terms hereof may be served.

11. The purchaser shall immediately after the sale, on being declared the highest bidder and on being requested to do so by the auctioneer, sign these Conditions of Sale and, in the event of the purchaser having purchased on behalf of a third party, shall disclose the name of the principal and shall further produce proof of his or her authority so to act.
12. In the event of a purchaser's refusal or failure to sign the Conditions of Sale or to disclose the identity of the principal or to produce proof of authority, the auctioneer may cancel the sale to the purchaser in question and may either:
  - 12.1. declare the second highest bidder to be the purchaser of the Vessel; or
  - 12.2. forthwith, or on such date as directed by the Court, consequent upon an application by the auctioneer should it in its discretion elect so to apply, re-sell the said Vessel without prejudice to the creditors' or any other party's rights to recover damages on behalf of the Fund, or on behalf of any party entitled thereto, from the defaulting purchaser.
13. The second highest bidder shall also be obliged to sign the Conditions of Sale and otherwise comply with the provisions of 10, 11 and 12 above as though this bidder were the highest bidder.
14. The second highest bidder may, in the discretion of the auctioneer, be required (and shall be obliged forthwith on being so required) to pay or secure 10% of the final amount bid by him / her / it, in the manner set forth in 19 below.
15. The said amount shall be held by the auctioneer until such time as:
  - 15.1. the highest bidder has paid or secured the balance of the purchase price of the Vessel; or

- 15.2. the second highest bidder is declared to be the purchaser in terms of any of the provisions of these Conditions.
16. In the event of 15.1 above occurring, the said deposit (if in cash) shall, immediately once the balance of the purchase price is paid or secured by the highest bidder, be repaid to the second highest bidder, together with any interest that may have accrued on it. Any fluctuation in exchange rates shall be at the sole risk of the second highest bidder. If the deposit has been secured in non-cash form and without any amount being deposited in an account, the security only will be returned to the second highest bidder.
17. In the event of 15.2 above occurring, the said deposit (if in cash) shall be appropriated to the purchase price or (if in security form) shall be deposited and the balance of the purchase price shall be paid or secured as provide for in terms of 22 and 23 below.
18. In the event of the sale being cancelled in terms of any of the provisions of 12 and 21 hereof, any person or entity suffering loss or damage as a result of such cancellation(s) shall be entitled to claim in respect of such loss or damage from either or both of the said purchasers, as the case may be.

## **PAYMENT**

19. The purchaser shall pay 30% of the purchase price (or such other currency as may be designated by the auctioneer) at the fall of the hammer, and the balance of the purchase price within 24 hours, in cash, bank draft or by cheque drawn on a commercial bank registered in South Africa and payable on presentation in Cape Town, and which is guaranteed by such bank as being good for the amount of the cheque.
20. Notwithstanding the provisions of 19 above, the auctioneer may, in its sole discretion, allow the purchaser a further period not exceeding one day within which to pay the deposit.

21. In the event of the deposit not being paid in accordance with 19 and 20 above, the auctioneer may cancel the sale and may either:
  - 21.1. declare the second highest bidder to be the purchaser; or
  - 21.2. forthwith, on such date as directed by the Court, re-sell the Vessel without prejudice to the creditors or any other party's rights to recover damages on behalf of the Fund and any other party entitled thereto from the defaulting purchaser.
22. Subject to the provisions of 23 hereunder, the balance of the purchase price shall be paid either in cash, bank draft or by cheque in the form described in 19 above, and payable in Cape Town by 16h30 South African time on the fifth day after the date of the sale (excluding the day of the auction).
23. Notwithstanding the provisions of 19 and 22 above, the auctioneer may, in consultation with the Registrar and with her consent or with the leave of the Court, accept that the balance of the purchase price as referred to in 22 above shall not be paid in cash, bank draft or by bank cheque, but shall be secured by an irrevocable guarantee, draft or letter of credit in favour of the auctioneer, payable on demand on such terms, including interest, as the auctioneer in consultation with the Registrar and with her consent or with the leave of a Judge in chambers may deem appropriate.

#### **BREACH AND DECLARATION OF NEXT HIGHEST BIDDER AS PURCHASER**

24. In the event of a purchaser failing to pay the balance of the purchase price or to secure such balance in terms of 23 above, the deposit paid in terms of 19 above shall forthwith be forfeited to the Fund and the purchaser shall have no claim whatsoever in respect thereof, which forfeiture shall be without prejudice to any party's rights in terms of 18 and 27.
25. In the event of the deposit aforesaid not being paid as required or the balance of the purchase price not being paid or secured, the auctioneer may, within its discretion, cancel the sale and either:

- 25.1. forthwith make application to Court on notice to all known creditors and the owner of the Vessel for such further directions as the Court may deem appropriate, whether for the re-sale of the Vessel or otherwise; or
- 25.2. declare the second highest bidder to be the purchaser.
26. In the event of the second highest bidder being declared to be the purchaser in terms of 25.2 above, the 10% deposit paid by the second highest bidder in terms of 14 above will be appropriated to the purchase price and the second highest bidder shall be obliged thereafter to effect payment of the balance of the purchase price or to lodge the required security by close of business on the fifth day after such declaration, as if this bidder had been the highest bidder in terms of these Conditions and the provisions of 19-23 hereof shall apply *mutatis mutandis*.
27. The said procedure shall be without prejudice to the rights of the auctioneer, the creditors or any other parties to claim damages against the defaulting purchaser, either on their own behalf or on behalf of the Fund or any other party entitled thereto.
28. Notwithstanding the foregoing, in the event of the second highest bidder being declared to be the purchaser and the deposit not having previously been called for and paid in terms of 14 hereof, then the deposit required in terms of 19 above shall be payable forthwith by the second highest bidder upon such declaration.

#### **INTEREST ON UNPAID OR UNSECURED BALANCE OF THE PURCHASE PRICE**

29. In any event, the balance of the purchase price unpaid or unsecured at any time shall bear interest at the rate quoted by Nedbank Limited (South Africa) from time to time as being the deposit rate for the currency concerned, calculated from the date on which payment thereof was due, to the date of the payment of the balance of the purchase price or the provision of security in respect thereof.
30. The said interest shall be payable and shall form part of the purchase price for all purposes in terms of these Conditions.

## **RISK AND DELIVERY**

31. Risk in and to the Vessel shall pass to the purchaser on the falling of the hammer or, if the second highest bidder is declared to be the purchaser, then risk in and to the Vessel shall pass to such purchaser on the date of such declaration. The purchaser or declared purchaser shall be liable, on the passing of risk, for the maintenance of all insurances of the Vessel, and for the payment of all costs in respect of the Vessel, including but not limited to, the costs of the preservation and maintenance on the Vessel, from that date.
32. Subject to these Conditions of Sale, delivery of the Vessel shall be given and the purchaser shall be obliged to take delivery immediately on the payment of the full purchase price, or on such payment being secured to the satisfaction of the auctioneer.
33. Receipt of delivery shall be confirmed in writing by the purchaser upon delivery being effected.
34. In any event, and notwithstanding any dispute whatsoever and howsoever arising, the purchaser shall be obliged to accept delivery of the Vessel and a refusal or delay to do so shall be a breach of the purchaser's obligations in terms of these Conditions of Sale, entitling but not obliging any interested party to apply for an order cancelling the sale and declaring all amounts paid to be forfeited to the Fund without recourse by the purchaser in question.
35. Ownership in and to the Vessel shall pass to the purchaser only when the full purchase price for the Vessel is received by the auctioneer and delivery has been given to the purchaser.

## **GENERAL**

36. In the event of the auctioneer making any error or mistake in the conduct of the auction or the conclusion of the sale, such error or mistake shall not be binding on the auctioneer or the Registrar, either of whom shall be entitled to require the Vessel to be resold on like terms. No representation made by the auctioneer not in



accordance with these Conditions of Sale or the Order shall be binding on the auctioneer or the Registrar.

37. The purchaser shall be liable to make payment of any value added tax or other tax or duty payable to the South African authorities or to any other authority. It shall be the purchaser's duty to provide proof of compliance with these provisions when required to do so by the Registrar or the auctioneer.
38. The purchaser is deemed to have submitted to the jurisdiction of the Western Cape Division of the High Court of South Africa (in the exercise of its Admiralty Jurisdiction) in respect of any proceedings arising in any manner whatsoever for any amount, including but not limited to recovery of any damages or payment of the purchase price, or any part thereof, or other charges, or otherwise.
39. The sale of the Vessel shall be subject to South African law.
40. From the fall of the hammer, the purchaser or declared purchaser shall be liable for the Vessel's port dues and berth dues, and other similar charges.

**SIGNATURE OF AUCTIONEER**

The Vessel, having been put up for sale by public auction in accordance with the terms and conditions herein contained, at Cape Town on the \_\_\_\_ day of \_\_\_\_\_ 2025, was \_\_\_\_\_ sold \_\_\_\_\_ to \_\_\_\_\_ for the sum of ZAR \_\_\_\_\_

DATED at CAPE TOWN this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

**COURT APPOINTED AUCTIONEER**

Per: \_\_\_\_\_  
 being the person appointed by the Auctioneer to  
 conduct the auction sale on behalf of the  
 Auctioneer, being:

Name:

Address:

Name of person conducting the sale:

**SIGNATURE OF HIGHEST BIDDER**

I/We \_\_\_\_\_ the undersigned,  
 \_\_\_\_\_ represented herein by  
 \_\_\_\_\_ in his capacity as  
 \_\_\_\_\_ of \_\_\_\_\_ hereby acknowledge that  
 the Vessel was today sold to me/us for the sum of and bind myself/ourselves, as  
 purchaser of the Vessel, to pay the sale price thereof in terms of and to perform all and  
 singular of the terms and conditions set out herein.

DATED at CAPE TOWN this \_\_\_\_\_ day of \_\_\_\_\_ 2025

\_\_\_\_\_  
**PURCHASER**

(HIGHEST BIDDER)

**SIGNATURE OF SECOND HIGHEST BIDDER**

I/We \_\_\_\_\_ the undersigned,  
 \_\_\_\_\_ represented herein by  
 \_\_\_\_\_ in his/her capacity  
 as \_\_\_\_\_ of  
 \_\_\_\_\_ having today the \_\_\_\_\_ made the  
 second highest bid at the auction of the above Vessel in the amount of ZAR  
 \_\_\_\_\_ signed these Conditions in terms of clause 13 thereof  
 and, in the event that I/we am/are declared to be the purchaser of the Vessel in terms  
 of any of the provisions of these Conditions, bind myself/ourselves to perform same in  
 all respects as purchaser of the Vessel, and I/we further bind myself/ourselves as the  
 second highest bidder to perform such of these Conditions as apply to me/us in that  
 capacity.

DATED at CAPE TOWN this \_\_\_\_\_ day of \_\_\_\_\_ 2025

\_\_\_\_\_  
 (SECOND HIGHEST BIDDER)