

Modern Method of Auction Buyer Terms and Conditions



These conditions govern the conduct of Modern Method auctions run by Auction House. By proceeding to bid you agree to these Modern Method Terms and Conditions. If you are successful in winning the Auction you agree to pay your non-refundable Reservation Fee as stipulated in the Exclusivity Agreement within 2 hours of winning the Auction. All properties sold by Auction House Modern Method of Auction are governed by these conditions. By agreeing to these Terms and Conditions, you agree to be bound by them for subsequent property lots that you bid on in the future. In the event that we change the Terms and Conditions, you will be required to accept the new Terms before you can continue to bid. The bidder accepts that the Auctioneer cannot guarantee that the internet connectivity, server or software will not fail from time to time. In the event of a total or partial failure the Auctioneer reserves the right to declare the result of the Auction null and void and to restart the Auction when the service is restored. All properties sold by auction using the Modern Method are governed by these conditions.

Introduction

These conditions have three main sections: -

1. Glossary

This gives special meanings to some words used in the rest of the conditions.

2. The Conduct of the Auction (Auction Conduct Conditions)

This section regulates the conduct of the auction. If you bid for a property which is offered for sale in a Modern Method of Auction sale, you do so on the basis that you accept the Auction Conduct Conditions.

3. Conditions of Exclusivity (Exclusivity Agreement Conditions)

If you are the highest bidder at the end of Modern Method auction, and your bid is at or higher than the Reserve Price, then your submission of your winning bid will be deemed to have secured your exclusive 'Option to Purchase' the property at the winning Bid Price within the prescribed time period as set out in the Memorandum of Sale. In the event of a sale being agreed Pre Auction or Post Auction to you, the Conditions of the Exclusivity Agreement shall apply. *The conditions are legally binding.*

Important Notice

A prudent buyer will, before bidding for a property:-

- Take professional advice from a conveyancer and, in appropriate cases, a chartered surveyor and an accountant.
- Read the conditions.
- Have a suitable source of finance available for the Reservation Fee, Purchase Price, and all other charges described in the property details and/or in the Special Conditions of Sale.
- If available, review the Property Legal Pack and, if necessary, provide this for review to a conveyancer.
- Check whether VAT registration and election is advisable.

The conditions assume that the buyer has acted like a prudent buyer. If you choose to buy a

property without taking these normal precautions you do so at your own risk.

1. GLOSSARY

This glossary applies to the Auction Conduct Conditions and the Exclusivity Agreement Conditions.

Wherever it makes sense:-

- singular words can be read as plurals, and plurals as singular words;
- a 'person' includes a corporate body;
- words of one gender include the other genders;
- references to legislation are to that legislation as it may have been modified or re-enacted by the date of the auction or the Contract date (as applicable); and
- where the following words printed in bold type appear they have the specified meanings.

Additional Fee

A payment made by a buyer to extend the Exclusivity Period beyond its original term.

Approved Financial Institution

Any bank or building society that has signed up to the Banking Code or Business Banking Code or is otherwise acceptable to Us.

Auction

Modern Method of Auction (conditional sale).

Auctioneer

Us as the auctioneer providing the Modern Method auction and moderating.

Bidder

The person who registers to bid and partake in Modern Method auction.

Bidder Registration Process

The process by which data and information is collected in relation to a Bidder. This will include but is not limited to identity, credit or debit card details, contact information.

Business Day

Any day except: (a) a Saturday or a Sunday; (b) a bank holiday in England and Wales or in Scotland; or (c) Good Friday or Christmas Day.

Buyer

The person who bids and wins the lot as the highest bidder), or whose offer is accepted Pre Auction or Post Auction, and secures an Exclusivity Agreement for the property or, if applicable, that person's personal representative or agent. If two or more are jointly the buyer, their obligations can be enforced against them jointly or against each of them separately. The buyer warrants that they are 18 years of age or older and entitled to enter into binding contracts.

Completion

Contract completion will be set for no later than 56 days following the securing of the Exclusivity Agreement unless agreed otherwise by the seller. The completion date represents the end date of the period of Exclusivity.

Condition

One of the Auction Conduct Conditions or Sales Conditions.

Contract

The contract by which the seller agrees to sell and the buyer agrees to buy the property.

Exclusivity Agreement

The form of contract which the buyer agrees to be bound by, and by Us (on behalf of the seller) giving the buyer the exclusive right to exchange Contracts and Complete the purchase of the Property within the Exclusivity Period set out in the Memorandum of Sale.

Exclusivity End Date

The last day of the agreed Exclusivity Period.

Legal Pack (if applicable)

The pack of documents relating to the property which is being offered at a Modern Method auction.

Memorandum of Sale

Document that confirms the particulars of the transaction.

Modern Method of Auction (Modern Method)

Timed and conditional method of auction

Online

On our website or, where applicable, one of our accredited partner's websites.

Option to Buy

Provides the winning auction buyer an exclusive period of 56 days to proceed to exchange contracts and complete the purchase of the property.

Previously Marketed Price

The price at which the property has been previously offered by us or by any accredited partner agent.

Price

The price that the buyer agrees to pay for the property.

Property

The property that is the subject of the Modern Method auction.

Reservation Fee

For services to the buyer and to cover transaction costs incurred by the Auctioneer. This amount to be paid by the buyer to the auctioneer within 2 hours of winning the auction or having an offer accepted.

Seller

The person selling the property. If two or more are jointly the seller their obligations can be enforced against them jointly or against each of them separately.

Winning Bid

Highest bid at or above the reserve.

We (and us and our)

The auctioneers. You (and your), Someone who bids on an auction, whether or not a buyer.

2. MODERN METHOD OF AUCTION CONDUCT CONDITIONS

2.1 Introduction

2.1.1 Words in bold type have specified meanings, which are defined in the Glossary.

2.1.2 Where a property is advertised for a Modern Method auction, you have been given access to that auction only on the basis that you accept these Auction Conduct Conditions which govern our relationship with you and cannot be treated as not applicable or varied by the sale conditions (even by a condition purporting to replace the whole of the Modern Method of Auction, They can be varied only if we agree in writing. These conditions shall also apply in the case of Pre Auction and Post Auction sales.

2.2 Our role

2.2.1 As agents for each seller we have authority to:-

- (a) offer each property for sale by Modern Method of Auction;
- (b) receive non-refundable Reservation Fees;
- (c) sign each Exclusivity Agreement on behalf of each seller; and
- (d) treat an Exclusivity Agreement as void if the buyer fails to pay the Reservation Fee.

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2.2.2 Our decision on the conduct of the Modern Method auction is final.

2.2.3 We may cancel the Modern Method auction or change the way in which a property is offered for sale or vary the amount of Reservation Fee. We may also combine or divide properties. A property may be sold or withdrawn from sale prior to the Modern Method auction or Post Auction.

2.2.4 You acknowledge that to the extent permitted by law we owe you no duty of care and you have no claim against us for any loss.

2.3 Bidding and reserve prices

2.3.1 All bids are to be made in British pounds sterling exclusive of any applicable VAT.

2.3.2 We may refuse to accept a bid. We do not have to explain why.

2.3.3 All bids made online must comply with the terms and conditions which apply to use of our website or to the use of our partner's websites (as applicable).

2.3.4 If there is a dispute over bidding we are entitled to resolve it, and our decision is final.

2.3.5 Unless stated otherwise, each property is subject to a Reserve Price. If no bid equals or exceeds that Reserve Price at the end of the Modern Method auction, the property shall be withdrawn from the Modern Method auction.

2.3.6 Where there is a Reserve Price, the seller may bid (or ask us or another agent to bid on the seller's behalf) up to the Reserve Price but may not make a bid equal to or exceeding the Reserve Price. You accept that it is possible that all bids up to the Reserve Price are bids made by or on behalf of the seller.

2.3.7 Where a guide price (or range of prices) is given, that guide or up to 10% above that single figure guide, is the minimum price at which, or range of prices within which, the seller might be prepared to sell at. But guide prices may change and the last published guide price will normally be at or above any reserve price, but not always – as the seller may fix the final reserve price just before bidding commences.

2.4 Property Description

2.4.1 We have taken reasonable care to describe each property. The description of a property is based on information supplied by or on behalf of the seller. You need to check that the information is correct.

2.4.2 The description of a property may change prior to the Modern Method auction and it is your responsibility to check that you have the correct version.

2.4.3 If we provide information, or a copy of a document, provided by others we are not responsible for the accuracy of that information or document.

2.5 The Exclusivity Agreement

2.5.1 A successful bid is one which is the highest bid at the end of the Modern Method auction and is at or higher than the reserve or alternatively Pre Auction or Post Auction offers that are agreed by negotiation.

2.5.2 You are to ensure that the payment of the Reservation Fee will be made to Us in accordance with the Modern Method of Auction, and that payment will take place within 2 hours after the end of the auction or in the case of Pre Auction or Post Auction Sales within 2 hours of agreement.

2.5.3 By accepting these terms and conditions you authorise the Memorandum of Sale to be

signed by us on your behalf at the close of the auction if you are the successful bidder, or alternatively this could be signed by you remotely using a digital signature.

2.5.4 You must provide all information we reasonably need from you to enable us to complete the Memorandum of Sale (including proof of your identity and address).

2.5.5 If you do not we may as agent for the seller treat that failure as your voiding of the Exclusivity Agreement and offer the property for sale again or offer the property to any under-bidder. The seller may then have a claim against you for breach of contract.

2.5.6 Where a Reservation Fee is paid, that Reservation Fee:-

- (a) is a non-refundable payment made by the buyer to the auctioneer for services provided to the buyer.
- (b) must be paid in British pounds sterling by a debit card, or direct
- (c) bank transfer. Directions for payment will be provided by Us.

2.5.7 We will retain electronic data of your winning bid and all other bid activity on the property.

2.5.8 If you do not comply with your obligations under the Exclusivity Agreement then you are personally liable to comply even if you are acting as an agent for the buyer or buying on behalf of a company.

2.5.9 Where the buyer is a company, you warrant that the buyer is properly constituted and able to buy the property.

3. EXCLUSIVITY AGREEMENT CONDITIONS

3.1 Introduction

3.1.1 Words in bold type have specified meanings, which are defined in the Glossary.

3.1.2 Where you are the successful bidder with an Exclusivity Agreement, you agree that your winning bid is legally binding to proceed on these Terms and Conditions.

3.1.3 These conditions summarise the terms of the Exclusivity Agreement.

3.2 Payment of Reservation Fee

3.2.1 This condition applies where a Reservation Fee must be paid by you on securing the highest bid over the Reserve Price for a property

3.2.2 Conditional upon payment of the Reservation Fee and the signing of the Memorandum of Sale, the property shall be reserved to you, the buyer for the Exclusivity Period stated in that Exclusivity Agreement, this is the period in which time the buyer is to exchange contracts and complete the purchase of the property.

3.2.3 The Reservation Fee is paid to and retained by us. This is an additional cost of purchase, made on top of the purchase price.

3.3 Seller's obligations

3.3.1 Upon the Exclusivity Agreement being signed and Reservation Fee being paid, the seller will grant to the buyer a period of exclusivity to proceed to exchange contracts and legally complete.

3.3.2 During the Exclusivity Period the seller agrees:-

- (a) he or she has instructed us not to agree another Exclusivity Agreement of the property;
- (b) not to transact or attempt to transact with the title to the property;

- (c) not to send, instruct, or allow anyone else to send any contract for sale of the property to anyone other than the buyer's solicitors;
- (d) to give such access to the property as may be reasonably required by any surveyor or valuer appointed by the buyer;
- (e) not to negotiate with anyone other than the buyer any terms for the sale of the property;
- (f) to use all reasonable endeavours to proceed to a formal exchange of contracts and to legally complete within the Exclusivity Period;
- (g) to immediately instruct the seller's solicitors via the Memorandum of Sale to issue a contract for the sale of the property to the buyer's solicitors and to do all other work required to enable contracts for the sale of the property to be exchanged within the Exclusivity Period.

3.3.3 The seller may (but shall not be obliged to) grant an extension of the Exclusivity Period stated in the Exclusivity Agreement. Any such extension shall be confirmed in writing by us to the seller's solicitor and to the buyer's solicitor. An extension will usually require the payment of an Additional Fee.

3.4 Buyer's obligations

3.4.1 The buyer agrees:-

- (a) to use all reasonable endeavours to proceed to a formal exchange of contracts and completion on or before the deadline date as referenced within the Memorandum of Sale with completion on or before the Exclusivity end date.
- (b) to immediately instruct the buyer's solicitors to review the Legal Pack including title to the property, for the purchase of the property, raise enquiries of the seller and any third parties about the property and do any other work required to enable contracts for the purchase of the property to be exchanged within the exclusivity period;
- (c) to promptly:-
 - (i) if the buyer intends to use a loan in connection with the purchase of the property, apply to the relevant lender and complete all necessary documentation and do all such things as such lender may require to process the buyers application as soon as possible including the payment of any application fees;
 - (ii) if the buyer or the buyers mortgagee or lender requires that the property is surveyed and/or valued, use all reasonable endeavours to arrange for the survey and/or valuation to take place at the property as soon as reasonably practicable including the payment of any valuation fee; and

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- (iii) keep the auctioneer and our accredited partner agent (if applicable) and the sellers solicitors advised of progress with the application for the loan.
- (d) the date of completion shall be specified in the contract exchanged for the purchase of the property and the buyer shall use all reasonable endeavours to complete the purchase of the property by such date;
- (e) the buyer agrees that if contracts for the purchase of the property have not been legally and unconditionally exchanged within the exclusivity period the seller has the absolute right to re-offer the property for sale free of any obligation to the buyer. In such a case the buyer accepts that the Reservation Fee is non-refundable.

3.5 Binding obligations

3.5.7 These conditions of exclusivity must be read in conjunction with the Exclusivity Agreement applicable to a particular property. Where there is any conflict or inconsistency between these conditions and the provisions of an individual Exclusivity Agreement, the relevant provisions of the Exclusivity Agreement shall apply.

3.5.2 As these conditions and the Exclusivity Agreement comprise legally binding obligations on you, it is recommended you seek independent legal advice on these conditions and the Exclusivity Agreement before making any bid on a property.

3.6 Auctioneer

3.6.1 You acknowledge and agree that we act as an agent of the seller and not in our own capacity.

3.6.2 Save in the event of fraud or death or personal injury resulting from our negligence, neither us nor any of our group companies, affiliates, third party service providers, licensors, officers, directors or employees shall have any liability of any nature howsoever arising in relation to these conditions or to any property.

3.6.3 The Bidder accepts and agrees that the Auction as provided by the Auctioneer, their agents or servants, can be subject to full or partial failure from time to time due to, but not limited to, internet connectivity, server or software, and the Auctioneer will not be liable in any way for any loss or damage to the buyer in this event.

Complaints Procedure

Should you have any problems with Auction House services which you are unable to resolve with the Auctioneer involved you should write to: Managing Director, Auction House, The Barn, Newmarket

Road, Cringleford, Norwich NR4 6UE. The complaint will be acknowledged within five working days of receipt and an investigation undertaken. A formal written outcome of the investigation will be sent to you within 15 working days of our acknowledgement letter to you. This letter will also confirm that you are entitled, if dissatisfied, to refer the matter to The Property Ombudsman (TPO) within six months for a review (for further details see below).

The Property Ombudsman

We are certain that you will be satisfied with our service but if you have any concerns we operate a formal Complaints Procedure as detailed above. We are a Member of The Property Ombudsman (TPO) scheme and abide by its Code of Practice. Our Registration number with the TPO is D8266 (North East) or N3814 (Tees Valley). For the avoidance of doubt, TPO will only review complaints made by consumers. By signing this Agreement, you give us consent to provide any information regarding the sale of your Property and how you can be contacted if the Ombudsman asks us to do so.

Full details of the Ombudsman scheme are available on request to the buyer. For more information, please visit the website www.tpos.co.uk.