

Network E-Auctions

NETWORK E-AUCTIONS
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Terms and Conditions for Buyers

2 Hunters Close, Epsom, Surrey KT19 8HX

These conditions govern the conduct of online auctions (Network E-Auctions) in association with the Essential Information Group (EIG). All properties offered by auction using online auctions are governed by these terms and conditions. By bidding you agree to these terms and conditions and you will also be bound by them if you bid on other lots either now or in the future. If we change the terms and conditions we will ask you to accept the new terms before you continue to bid.

Bidders accept that the auctioneer cannot offer guarantees against internet connectivity and server or software malfunction. If an internet, server or software problem occurs the auctioneer reserves the right to stop the auction and to restart it when the service is restored.

1. Introduction and Glossary

The terms and conditions are set out as follows -

- **The Conduct of the Auction (Auction Conduct Conditions).**

Regulates the conduct of the auction. By bidding on any property offered for sale in a Network E-Auction you do so on the basis that you accept them.

- **Exclusivity Agreement Conditions**

If yours is the highest bid at the end of a Network E-Auction and your bid is at or above the reserve price, then your submission of that bid will be deemed to have secured your exclusive "Option to Purchase" the property at the bid price within the time period stated in the Exclusivity Agreement.

The Conditions are legally binding.

Important Notice

A prudent buyer should, before bidding for a property -

- Take professional advice from a legal adviser and in appropriate cases a chartered surveyor and an accountant.
- Read the conditions.
- Have finance available for the deposit and purchase price.

In addition, before buying a property a prudent buyer should -

- Carry out the relevant searches and make enquiries.
- Check whether VAT registration and election is advisable.
- Inspect the lot.
- Check that what is said about the lot in the Auctioneers description is accurate.
- Check the content of all available leases and other documents relating to the lot.
- Review the legal pack and forward it to their legal adviser.

These conditions assume that the buyer has acted as a prudent buyer. If you choose to bid on a property without taking these normal precautions you do so at your own risk.

Glossary defines the meaning of words used in the terms and conditions

This glossary applies to the auction conduct conditions and the sale conditions and the Exclusivity Agreement.

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.

Where the following words printed in bold appear they have the specified meanings.

Acceptance

Occurs when the Bidder is notified that theirs is the winning bid.

Actual Completion Date

The date when **completion** takes place or is treated as taking place for the purposes of apportionment and calculating interest.

Approved Financial Institution

A bank or building society that has signed up to the banking code or business banking code or is otherwise acceptable to the **Auctioneers**.

Arrears

Arrears of rent and other sums due under the tenancies and still outstanding on the actual completion date.

Arrears Schedule

The arrears schedule (if any) forming part of the **special conditions**.

Auction

The Online Auction.

Auctioneers

The auctioneer providing the Auction.

Bidder

A person who registers to bid and partake in an **Auction**.

Bidder Registration Process

The process by which information and data is taken in relation to a bidder. This may include but is not limited to their identity, debit or credit card details and contact information.

Business Day

Any day except Saturday or Sunday, a bank holiday in England and Wales and Good Friday or Christmas Day.

Buyer

The person who bids and secures the **Exclusivity Agreement** for the **property** or that persons representative or agent. If two or more are jointly the **buyer** their obligations can be enforced against them jointly or individually. The buyer confirms they are 18 years of age or older and entitled to enter into a binding contract.

Completion

Completion will be set 20 business days after **Contract Exchange** unless otherwise stated by the seller.

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.

Contract Exchange means the point at which the Contract is exchanged and the commitment to buy and sell is effective.

Exclusivity Agreement Fee of £800 + VAT means the non-refundable administration charge paid by the Buyer to the Auctioneer within 24 hours of their bid being accepted.

Exclusivity Agreement

The agreement (set out below) by which the **Buyer** and the **Auctioneer** (on behalf of the **Seller**) agrees to be bound giving the buyer the exclusive right to purchase the property within the **Exclusivity Period** established in the Agreement at the price of the Accepted bid.

Exclusivity Period means the period of 20 business days from the date of the Exclusivity Agreement (unless varied within the Exclusivity Agreement).

Fees means the Exclusivity Agreement Fee and the Reservation Deposit.

Legal Pack

Documents that may include title if registered, the entries on the register and other documents listed or referred to in any special conditions or the **Particulars of Sale** relating to the **lot**.

Lot

The **Property** described in the **Particulars of Sale** that the seller has agreed to sell.

Online

On Network Auctions website or on one of our approved partner's websites.

Option to Buy

Gives the winning **Bidder** an exclusive period of 20 **business days** to proceed to exchange of contracts with the **Property**.

Particulars of Sale

The description of the **Property** used by the **Auctioneers** in the **Auction** including and special conditions

Previously Marketed Price

A price at which the property has been previously listed, either by us or by our approved partner agents.

Price

The price that the **Buyer** agrees to bid for the Property in order to obtain the benefit of the Exclusivity Agreement.

Property

The property that is the subject of the **Auction**.

Reservation Deposit

The fee paid by the **Buyer** to the **Auctioneer** to purchase the **Exclusivity Agreement being the greater of 1% of the winning bid and £3,500** which will if contracts are exchanged form part of the purchase price payable on completion.

Seller

The person **Selling** the property. If two or more are jointly the **Seller** their obligations can be enforced against them jointly or individually.

We (and us, our)

The **Auctioneers**.

You (and your)

Someone who participates in an auction by bidding, not necessarily the buyer.

2. Auction Conduct Conditions

When a property is advertised for auction **Online**, you will be granted access to the auction solely on the basis that **you** accept these Online Auction terms and conditions which regulate **our** relationship with **you** and cannot be treated as not applicable or varied by any **sale conditions** (even by a condition purporting to replace the whole of the terms). They are only varied if Network Auctions Limited agree in writing.

3. Our role

3.1 As agents for the **seller** we are authorised to: -

- a. Offer the **Property** for sale by **Auction**.
- b. Receive **The Fees** (where applicable).
- c. Sign the **Exclusivity Agreement** on behalf of the **Seller** and the **Buyer**.

Cancel the **Exclusivity Agreement** should the **Buyer** fail to pay the **Fees**.

3.2 **Our** decision on the conduct of the **Auction** is final.

3.3 **We** are authorised to cancel the **Auction** or amend the way in which a **property** is offered for sale. We may also combine or separate properties. We retain the right to sell or withdraw a property prior to the **Auction**.

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

4. Bidding and Reserve Prices

4.1 Bids will be made in pounds sterling exclusive of any Value Added Tax (**VAT**) that may apply.

4.2 No bids will be accepted without you having provided us prior to the Auction the security of a pre authorised credit or debit card for the Exclusivity Agreement Fee of £960 (£800 + VAT).

Payments are processed by Sagepay (www.sagepay.co.uk) and funds will be taken on a "pre-authorised" basis, no money will be taken from your card but it will show as a "Pending Transaction". Pre-authorisation is technically a hold on your funds and at the close of the auction the pre-authorisation amount will be replaced by an actual charge debited from your card but only if you are the winning bidder. If you are not the winning bidder or if the property is not sold we will immediately release the hold on your funds, however, it can take up to 5 days for the release to be confirmed by your bank or card provider.

4.3 **We** may refuse to accept a bid for any other reason. **We** do not have to explain why.

4.4 Every bid made **Online** must comply with the terms and conditions which apply to use of our website or our partner's websites (as applicable).

- 4.5 If there is a dispute over bidding **we** are entitled to resolve it, and **our** decision is final.
- 4.6 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 **Auction**, the property will be withdrawn from the **Auction**.
- 4.7 The **Seller** may bid (or instruct **us** or another party to bid on their behalf) up to the reserve price but may not make a bid at or exceeding the reserve price. You accept that all bids up to the reserve price may be made by or on behalf of the **seller**.
- 4.8 Where a guide price or range of prices is used, that guide in the Particulars of Sale is just a guide and does not guarantee that bidding that sum will result in a bid being accepted. Guide prices may be subject to 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.
- 4.9 Should you wish to place a bid in person then such a bid can be placed by attending at our offices by prior arrangement.

5. The Particulars of Sale and Other Information

- 5.1 **We** have taken reasonable care to prepare **Particulars of Sale and Legal Pack** that correctly describe the **Property**. The particulars are based on information supplied by or on behalf of the Seller. **You** need to check that the information is correct.
- 5.2 The **Particulars of Sale and Legal Pack** may change prior to the **Auction** and it is **your** responsibility to check that **you** have the correct version.
- 5.3 If **we** provide reports, information or copies of documents supplied to **us** by others **we** are not responsible for the accuracy of that report, information or document.

6. Exclusivity Agreements

- 6.1 A winning bid is the:-
 - 6.1.1 highest bid at the end of the **Online Auction** and is at or above the reserve price; and/or
 - 6.1.2 is the bid that is **Accepted** by the **Seller**
- 6.2 If yours is the winning bid **you** must pay the **Fees** to **us** within 24 hours of the end of the auction.
- 6.3 By accepting these terms and conditions **you** authorise the **Exclusivity Agreement** to be signed by **us** on your behalf at the end of the auction if **you** are the winning bidder being notified that your bid is **Accepted**.
- 6.4 **You** must supply the information **we** reasonably need from **you** to enable **us** to complete the **Exclusivity Agreement**.
- 6.5 If you fail to pay the **Fees** within 24 hours of the close of the Auction we may treat that failure as your voiding of the Agreement and offer the Property for sale again or offer the right to Exclusivity to another Bidder but in such circumstances you remain liable for the **Exclusivity Agreement Fee** and we reserve the right to take action against you to receive that **Exclusivity Agreement Fee** and the costs of doing so.
- 6.6 Where a **Reservation Deposit** is paid it shall be held by **us** as stakeholder for the **Seller** but otherwise is to be held as stated in the conditions of the **Exclusivity Agreement**. The **Fees** must be paid by debit card, bankers draft, transfer or personal cheque. Directions for payment will be provided by **us**.
- 6.7 **We** shall retain electronic data of an **Accepted Bid** and may retain any other bid activity on the property.

- 6.8 If **you** fail to 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.
- 6.9 If the **Buyer** is a company, you certify the Buyer is properly constituted and able to buy the property.

7. **Binding obligations**

- 7.1 These conditions should be read together with the **Exclusivity Agreement** applicable to a particular property. If there is inconsistency between these conditions and the provisions of an individual **Exclusivity Agreement** the relevant provisions of the **Exclusivity Agreement** shall apply.
- 7.2 As these conditions and the **Exclusivity Agreement** contain 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

8. **Auctioneer**

- 8.1 You agree that we act as the agent of the **Seller** and not in our own capacity.
- 8.2 Save in the event of fraudulent activity, death or personal injury resulting from our negligence, neither **us** nor any of our partners, group companies, affiliates, third party service providers, licensors, officers, directors or employees shall have a liability of any nature howsoever arising in relation to these conditions or to any **property**.
- 8.3 You accept and agree that the **Auction** as provided by the Auctioneer, their agents or servants, could be subject to interruption, full or partial failure from time to time due to, but not limited to, internet connectivity, server or software. The **Auctioneer** will not be liable in any way for any loss or damage to **you** in this event.

Exclusivity Agreement

The
Property

2 Hunters Close, Epsom, Surrey KT19 8HX

Between

Seller

.....
.....
.....

Buyer

.....
.....
.....

PRICE :

.....

This agreement is binding from the date and time that the online auction ends. It describes the terms and conditions under which the seller and buyer will enter into a period of exclusivity for the purpose of completing the Transaction.

Parties Involved in the Transaction

(1) (Sellers name and address) (**Seller**).

.....
.....
.....

(2) (Buyers name and address) (**Buyer**).

.....
.....
.....

BACKGROUND

- (A) The Seller and buyer intend to enter into the Transaction subject to contract.
- (B) The Seller will not enter into the Transaction with any person other than the Buyer during the Exclusivity Period.
- (C) The Seller and Buyer are entering into this agreement in good faith and will rely on its terms.

AGREED TERMS

1. **INTERPRETATION**

1.1 The definitions in this clause apply throughout this agreement.

Buyer’s Obligations: the obligations of the Buyer set out in clause 3 below.

Buyer’s Solicitors: The buyers nominated solicitor or legal representative.

Exclusivity Period: is 20 working days beginning on the date of this Agreement.

Reservation Deposit means the greater of 1% of the winning bid made by the Buyer and Accepted by the Seller and £3,500.

Exclusivity Agreement Fee of £800 + VAT means the administration charge paid by the Buyer within 24 hours of their bid being Accepted.

Property: [ADDRESS OF THE PROPERTY].

2 Hunters Close, Epsom, Surrey KT19 8HX

Seller’s Obligations: the obligations of the Seller set out in clause 2 below.

Seller’s Solicitors: Seller’s nominated Solicitor or legal representative.

Transaction: the sale of the Property.

Transaction Documents: the draft sale and purchase agreement including but not limited to replies to Standard Enquiries and the Legal Pack.

VAT: value added tax chargeable under the Value Added Tax Act1994 or any similar replacement or additional tax.

2. SELLER'S OBLIGATIONS

- 2.1 In consideration of the Buyer undertaking and incurring costs in connection with the Buyer's Obligations, including payment of the Exclusivity Agreement Fee, the Seller undertakes: -
- 2.1.1 to instruct their solicitors as soon as possible to send the Transaction Documents to the Buyer's Solicitors by first class post or by recognised document exchange or by hand to their address or document exchange number (as appropriate);
 - 2.1.2 during the Exclusivity Period not to send, instruct or permit anyone else to send any Transaction Documents to anyone other than the Buyer's Solicitors;
 - 2.1.3 during the Exclusivity Period, not to (nor instruct or allow anyone else to): -
 - (i) transact or attempt to transact with the title to the Property except with the Buyer; or
 - (ii) solicit or respond to any offer to transact or attempt to transact with the title to the Property with anyone other than the Buyer.
- 2.2 During the Exclusivity Period the Seller agrees: -
- a. they have not instructed anyone to grant another Exclusivity Agreement of the Property;
 - b. not to transact with the title to the Property;
 - c. not to send, instruct, or permit anyone else to send any contract for sale of the property to anyone other than the buyer's solicitors;
 - d. to provide access to the property that may be reasonably required by any surveyor or valuer appointed by the buyer;
 - e. not to negotiate terms with anyone other than the Buyer for the sale of the property;
 - f. to use all reasonable efforts to proceed to a formal exchange of contracts within the exclusivity period;
 - g. to immediately instruct the seller's solicitors to issue a contract for the sale of the property to the buyer's solicitors.

3. BUYER'S OBLIGATIONS

- 3.1 In consideration of the Seller undertaking the Seller's Obligations, the Buyer undertakes to pay the Reservation Deposit to the Auctioneer at the direction of the Sellers along with the Exclusivity Agreement Fee. The payment must be made immediately upon the Seller's Acceptance of the Buyers bid.
- 3.2 Upon Acceptance the Buyer will immediately instruct their solicitors to take such steps as are necessary to enable contracts for the Transaction to be exchanged within the Exclusivity Period.
- 3.3 The Buyer authorises the Auctioneer on exchange of contracts to purchase the Property to release the Reservation Deposit to the Seller less any sums due by the Seller to the Auctioneer.
- 3.4 If the Buyer withdraws from the process during the Exclusivity Period, or if Exchange of Contracts has not otherwise been achieved on expiry of the Exclusivity Period, or if the Seller terminates in circumstances where the Buyer is in material breach of the Buyer's obligations, the Buyer authorises forfeit of the Reservation Deposit and its release to the Auctioneer and the Seller.
- 3.5 The Buyer agrees that the Exclusivity Agreement Fee is due and payable to the Auctioneer if the Buyer gets the benefit of the Exclusivity Agreement and its Exclusivity Period.
- 3.6 The Buyer agrees to promptly: -
- (i) if the Buyer intends to use a loan or mortgage in connection with the purchase of the property, the buyer shall apply to the relevant lender and complete all necessary documentation and do all such things as the lender may require to process the Buyer's application as soon as possible including the payment of any

application fees;

- (ii) if the Buyers mortgagee or lender requires that the property is surveyed and/or valued, the buyer will use all reasonable endeavours to arrange for the survey or valuation to take place at the property as soon as reasonably possible including the payment of any valuation fee; and
- (iii) keep the auctioneer or our partner agent and the Seller's Solicitors informed of progress with the application for the loan.

4. **TERMINATION** and the Reservation Deposit and Exclusivity Agreement Fee

4.1 Foregoing Exclusivity Agreement Fee

- 4.1.1 The Buyer may terminate this agreement with immediate effect by written notice to the Seller in which case the Buyer will forfeit the Reservation Deposit and the Exclusivity Agreement Fee.
- 4.1.2 This agreement shall terminate on expiry of the Exclusivity Period and if contracts are not exchanged through no fault of the Seller, the Buyer will forfeit the Reservation Deposit and its Exclusivity Agreement Fee.
- 4.1.3 The Seller may terminate this agreement with immediate effect by written notice to the Buyer if the Buyer is in breach of any of the Buyer's Obligations, in which case the Buyer will forfeit the Reservation Deposit and Exclusivity Agreement Fee.

4.2 Recovery of Exclusivity Agreement Fee and Reservation Deposit.

- 4.2.1 The Buyer may terminate this agreement with immediate effect by written notice to the Seller if the Seller is in material breach of the Seller's obligations, in which case the Reservation Deposit and Exclusivity Agreement Fee will be returned to the Buyer.
- 4.2.2 The Seller may terminate this agreement with immediate effect by written notice to the Buyer at the Seller's discretion and convenience, in which case, provided the Buyer has taken all reasonable steps to comply with the Buyer's obligations, the Reservation Deposit and Exclusivity Agreement Fee will be returned to the Buyer.
- 4.2.3 The Buyer can terminate this agreement if the property is damaged or destroyed so as to make it uninhabitable.
- 4.2.4 The Buyer can terminate this agreement in the event that; i) a survey reveals a serious structural defect that renders the property unmortgageable; ii) the Seller is unable to deduce good and valued legal title to the Property prior to Exchange of Contracts.

5. **TIME OF THE ESSENCE**

Time is of the essence for the purposes of this agreement.

6. **EXCLUSION OF THIRD PARTY RIGHTS**

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

This agreement has been entered into on the date stated on page 1.

Signed by

.....

(Name of seller)

Date.....

Signed by

.....

(Name of buyer)

Signed for and on behalf of Network Auctions as instructed by the Buyer.