

Modern Method of Auction Terms and Conditions

These conditions govern the conduct of “modern method” auctions operated by iamsold Limited (Company or Auctioneer or us/we/our). All properties sold by auction using the Company website or by a physical auction which are expressed as “modern method” of auction are governed by these conditions.

These conditions were last updated on **23 July 2019**

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

This section regulates the conduct of the auction. If you bid for a Property which is offered for sale by conditional auction you do so on the basis that you accept them.

3. Conditions of reservation

If you win a modern method auction for a Property you must sign a reservation form under which you agree to be bound by the conditions of reservation relevant to that Property.

The conditions are legally binding.

Important notice

A prudent Buyer will, before bidding for a Property:

1. Take professional advice from a conveyancer and, in appropriate cases, a chartered surveyor and an accountant
2. Read the terms and conditions carefully
3. Inspect the Buyer Information Pack for the relevant Property
4. Have finance available for the deposit and purchase price
5. Carry out usual searches and make usual enquiries
6. Consider with the chosen mortgage provider that the Property would be deemed suitable for mortgage lending purposes
7. Check the content of all available leases and other documents relating to the Property
8. Check that what is said about the Property in the Buyer Information Pack is accurate
9. 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.

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Glossary

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

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

The auction advertised as online or in the catalogue (as applicable).

Auction conduct conditions

The conditions so headed, including any extra auction conduct conditions.

Auctioneers

The auctioneers of the auction.

Buyer Information Pack

The pack of documents relating to a Property which is advertised online for conditional auction.

Business day

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

Buyer

The person who agrees to buy the Property or, if applicable, that person's personal representatives. If two or more are jointly the Buyer their obligations can be enforced against them jointly or against each of them separately.

Catalogue

Any catalogue to which the conditions refer including any supplement to it.

Client Due Diligence

The process that the Auctioneer is legally obliged under the Money Laundering Regulations 2017 to complete. The Auctioneer is required to verify identity and address and make enquiries of all Sellers and Buyers, as well as anyone they may represent. They are also required to obtain proof of funds from Buyers.

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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.

Online

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

Property

Each separate Property described in the catalogue or as the case may be online.

Price

The price that the Buyer agrees to pay for the Property.

Reservation Deposit

A non-refundable deposit paid by the Buyer to us to reserve a Property. This deposit is used by the Seller to pay our fees for conducting the conditional auction.

Reservation Fee

A non-refundable fee paid by the Buyer to us to reserve a Property. This is in payment of our fees for conducting the conditional auction.

Reservation Form

The form of contract which is to be signed by a Buyer and by us (on behalf of the Seller) reserving the Property for sale by the Seller to the Buyer as further described in the conditions of reservation.

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.

We (and us and our)

The auctioneers.

You (and your)

Someone who bids on an auction, whether or not a Buyer.

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A1 Auction Conduct Conditions

A1 Introduction

A1.1 Words in bold type have specified meanings, which are defined in the Glossary.

A1.2 Where a Property is advertised for auction:

(a) online, you have been given access to that auction only on the basis that you accept these auction conduct conditions;

(b) in a catalogue, you are only issued that catalogue on the basis that you accept these auction conduct conditions, which govern our relationship with you and cannot be disappplied or varied by the sale conditions (even by a condition purporting to replace the whole of the modern method of auction Conditions). They can be varied only if we agree.

A2 Our Role

A2.1 As agents for each Seller we have authority to:

(a) prepare the catalogue (as applicable) from information supplied by or on behalf of each Seller;

(b) offer each Property for sale by conditional auction;

(c) receive and hold reservation deposits (if applicable);

(d) receive reservation fees (if applicable);

(e) sign each reservation form on behalf of each Seller; and

(f) treat a reservation form as repudiated if the Buyer fails to sign that reservation form or pay a reservation fee or reservation deposit (as applicable).

A2.2. Our decision on the conduct of the conditional auction is final.

A2.3 We may cancel the modern method of auction or change the way in which a Property is offered for sale. We may also combine or divide properties. A Property may be sold or withdrawn from sale prior to the Auction commencing.

A2.4 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.

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A3 Bidding and Reserve Prices

- A3.1 All bids are to be made in pounds sterling exclusive of any applicable VAT.
- A3.2 We may refuse to accept a bid. We do not have to explain why.
- A3.3 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).
- A3.4 if there is a dispute over bidding, we are entitled to resolve it, and our decision is final.
- A3.5 Unless stated otherwise each Property is subject to a reserve price (which may be fixed just before the Property is offered for sale). If no bid equals or exceeds that reserve price the Property will be withdrawn from the modern method auction.
- A3.6 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.
- A3.7 Where a guide price (or range of prices) is given that guide is the minimum price at which, or range of prices within which, the Seller might be prepared to sell at the date of the guide price. But guide prices may change. 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.

A4 The Buyer Information Pack and other information

- A4.1 We have taken reasonable care to describe each Property (either online or in a catalogue). 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.
- A4.2 The description of a Property and the Buyer Information Pack may change prior to the conditional auction and it is your responsibility to check that you have the correct versions.
- A4.3 If we provide information, or a copy of a document, provided by others we do so only on the basis that we are not responsible for the accuracy of that information or document.

A5 The Reservation Agreement

- A5.1 A successful bid is one we accept as such (normally on the fall of the hammer or close of an auction online). This condition A5 applies to you if you make the successful bid for a Property.

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- A5.2 You are required to enter into a reservation agreement which obliges you to proceed to purchase the Property at the price you bid plus VAT (if applicable).
- A5.3 You must:
- (a) provide all information we reasonably need from you to enable us to complete the reservation form (including proof of your identity and address if required by us);
 - (b) sign the completed reservation form; and
 - (c) pay the reservation fee or reservation deposit (as required by the reservation form).
- A5.4 If you do not, we may either:
- (a) as agent for the Seller treat that failure as your repudiation of the reservation form and offer the Property for sale again. The Seller may then have a claim against you for breach of contract; or
 - (b) sign the reservation form on your behalf.
- A5.5 Where a reservation deposit is paid, that reservation deposit:
- (a) is to be held by us as agent for the Seller, but otherwise is to be held as stated in the reservation conditions; and
 - (b) must be paid in pounds sterling either by credit/debit card or by way of a bank transfer made payable to us from an approved financial institution. Please note, we are not able to accept payments made in cash or accept Bank Transfers where the deposit for the transfer was paid in cash.
- A5.6 We may retain the reservation form signed by or on behalf of the Seller until the reservation deposit or reservation fee (as applicable) has been received in cleared funds.
- A5.7 If you do not comply with your obligations under the reservation form then you are personally liable to comply with the obligations under the reservation form even if you are acting as an agent for the Buyer.
- A5.8 Where the Buyer is a company, you warrant that the Buyer is properly constituted and able to buy the Property.

Reservation Conditions

R1 Introduction

- R1.1 Words in bold type have specified meanings, which are defined in the Glossary.

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- R1.2 Where you win a conditional auction for a Property you must sign a reservation form, which is a legally binding contract between the Buyer and Seller reserving the Property for purchase by the Buyer within 2 hours of the winning bid being accepted and the auction ending.
- R.1.3 These reservation conditions summarise the terms of the reservation form.

R2 Payment of reservation fee

- R2.1 This condition applies where a reservation fee must be paid by you on winning a conditional auction for a Property. Payment is to be made within 2 hours of the winning bid being accepted and the auction ending.
- R2.2 Conditional upon payment of the reservation fee and you signing the reservation form, the Property shall be reserved to the Buyer for the reservation period stated in that reservation form, this is the period in which time the Buyer is to exchange contracts to purchase the Property.

R3 Payment of reservation deposit

- R3.1 This condition applies where a reservation deposit must be paid by you on winning a conditional auction for a Property. Payment is to be made within 2 hours of the winning bid being accepted and the auction ending.
- R3.2 The reservation deposit is to be held by us and, following formal exchange of contracts for the sale and purchase of the Property, transferred to the Seller's solicitors as part payment of the purchase price under the contract for the purchase of the Property.

R4 Seller's obligations

- R4.1 On the reservation form being signed and either reservation fee or reservation deposit being paid, the Seller will grant to the Buyer a period of exclusivity.
- R4.2 During the exclusivity period the Seller agrees:
- (a) he or she has instructed us not to agree another reservation of the Property;
 - (b) not to encumber or deal 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;

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- (e) not to give access to any other person to view the Property nor 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 within the exclusivity period;
- (g) to supply all documentation, information and authority to enable the Seller's solicitors to draft and negotiate the sale and purchase contract and do all work necessary to enable contracts for sale of the Property to be exchanged and completed within the exclusivity period;
- (h) to immediately instruct the Seller's solicitors 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.

R4.3 The Seller may (but shall not be obliged to) grant an extension of the exclusivity period stated in the reservation form. Any such extension shall be confirmed in writing.

R5 Buyer's obligations

R5.1 The Buyer agrees:

- (a) The Auctioneer is legally obliged under the Money Laundering Regulations 2017 to complete customer due diligence on the Buyer before a binding agreement is entered into. The Buyer must use all reasonable endeavours to complete this process. Failure to reasonably co-operate with requests from the Auctioneer will be considered a breach of the agreement, and a forfeit of the Reservation Fee or Reservation Deposit.
- (b) to proceed to a formal exchange of contracts and completion within the exclusivity period;
- (c) to immediately instruct the Buyer's solicitors to investigate title to the Property, negotiate the draft contract 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 and for completion to take place, within the exclusivity period;
- (d) to promptly:
 - (i) if the Buyer intends to use a loan 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 such lender may require to process the Buyer's application as soon as possible including the payment of any application fees;

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- (ii) if the Buyer or the Buyer's mortgagee or lender requires that the Property is surveyed and/or valued, the Buyer will 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;
- (iii) keep the auctioneer and the Seller's solicitors advised of progress with the application for the loan;
- (e) Within 5 working days of receiving draft contracts from the Seller's solicitor, the Buyer must ensure that their nominated solicitor has raised initial enquiries in relation to the draft contract, in writing with the Seller's solicitor. If this has not been undertaken, the Seller reserves the absolute right to re-offer the Property for sale free of any obligation to the Buyer. In this event the Reservation Fee is deemed non-refundable.
- (f) the date of completion shall be specified in the contract exchanged for the purchase of the Property, but such date shall be no later than 56 days from the date the draft contract was received by the Buyer's solicitor;
- (g) the Buyer shall pay to the auctioneer the cost of the preparation of the Buyer Information Pack relating to the Property;
- (h) Buyer has received the Buyer Information Pack (if applicable) and is ready willing and able to proceed with the purchase of the Property;
- (i) 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.

R6 Termination of reservation

- R6.1 The reservation form shall not be capable of termination by the Seller or Buyer during the exclusivity period except as specified below.
- R6.2 On the expiry of the exclusivity period specified in the reservation form (or the expiry of any extension granted by the Seller in writing) if the Buyer has not completed the purchase of the Property, the reservation of the Property shall terminate at the discretion of the auctioneer.
- R6.3 The Seller may terminate the reservation of the Property with written notice to the Buyer if the Buyer is in breach of the Buyer's obligations set out above.

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R7 Binding obligations

- R7.1 These conditions of reservation must be read in conjunction with the reservation form applicable to a particular Property. Where there is any conflict or inconsistency between these conditions and the provisions of an individual reservation form, the relevant provisions of the reservation form shall apply.
- R7.2 As these conditions and the reservation form comprises legally binding obligations on you, it is recommended you seek independent legal advice on these conditions and the reservation form before making any bid on a Property.

R8 Auctioneer

- R8.1 You acknowledge and agree that we act as an agent of the Seller and not in our own capacity.
- R8.2 Save in the event of fraud or death or personal injury resulting from our negligence, neither the 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.

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