

Modern Method Auction Bidder and Buyer Terms & Conditions V1

Date: 13th March 2022 Ref: 17870194

With regard to the following modern method auction lot:

Lot 7: 137, Passingham Avenue, Billericay, Essex, CM11 2TA

Modern method auction details summary:

Auction opens: **2 April 2022 at 1300**

Auction closes: **8 April 2020 at 1300**

Non-refundable reservation fee: **3% plus VAT, on the guide price of £350,000 that is £10,500 plus VAT = £12,600**

Deadline to exchange contracts: **20-working days from auction, 6 May by 1730**

Completion advice: **30-working days from auction, 20 May 2022 by 1730**

Next auction date (if failed): **30-working days from auction**

Contents:

1.	Introduction
2.	Important notice
3.	Glossary of terms
4.	Auction conduct conditions
5.	Conditions of reservation
6.	Fees and charges
7.	Company disclosure
8.	Property information
9.	General data protection regulations
10.	Complaints procedure
11.	Money laundering supervision regulations
12.	Signature of bidder/buyer

1. Introduction:

These terms and conditions govern the conduct of a “conditional” or “modern method” auction operated by Higgins Drysdale Ltd. (company or auctioneer or us/we/our). All properties (lots) sold by auction either via an online bidding window (on the company website) or in an auction room as designated which are expressed to be either a “conditional” or “modern method” auction are governed by these terms and conditions.

2. Important notice:

2.1 A prudent bidder and buyer will, before bidding for a lot or property take professional advice from a conveyancer and, in appropriate cases, a chartered surveyor and an accountant, they are strongly advised to read these terms and conditions, inspect the legal documents for the relevant property and have finance available for the deposit and purchase price. A prudent buyer will additionally:

2.1.1 If the legal documents do not contain local searches ensure they carry out their own personal searches and make the usual enquiries

2.1.2 Consider with the chosen mortgage provider that the property would be deemed suitable for mortgage lending purposes.

2.1.3 Check the content of all available leases and other documents relating to the property.

2.2 These terms and conditions assume that the bidder and buyer have acted as a prudent bidder and buyer. If you choose to buy a property without taking these normal precautions you do so at your own risk.

3. Glossary of terms:

3.1 This glossary applies to the auction conduct conditions and the sale conditions. Wherever it makes sense as a singular word it 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.

3.1.1 Approved financial institution is any bank or building society that has signed up to the Banking Code or Business Banking Code or is otherwise acceptable to us.

3.1.2 Auction is the auction advertised online or in the catalogue (as applicable).

3.1.3 Auctioneers are the auctioneers of the auction or company as above.

3.1.4 Working date of a business day is any day except a Saturday or a Sunday, a bank holiday in England and Wales or Good Friday or Christmas Day.

3.1.5 The Buyer is 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.

3.1.6 Condition is any one of the auction conduct conditions or sales conditions.

3.1.7 Conditional auction as a conditional or "modern method" of the auction as described in these terms and conditions.

3.1.8 Contract is the contract by which the Seller agrees to sell, and the Buyer agrees to buy the Property.

3.1.9 Online means on our website or, where applicable, one of our accredited partner's websites.

3.1.10 Property Price is the price that the Buyer agrees to pay for the Property.

3.1.11 Reservation deposit or fee is 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.

3.1.12 Reservation Fee is 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.

3.1.13 Reservation Form is 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 the reservation. Alternatively, called the Memorandum of Sale.

3.1.14 Seller is 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.

3.1.15 We (and us and our) are the auctioneers.

3.1.16 You (and your) is someone who bids on an auction, whether or not a buyer.

4. Auction conduct conditions:

4.1 Our role as agents or auctioneers for the seller:

4.1.2 As agents for each Seller we have authority to:

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

4.1.2.2 Offer each Property for sale by conditional auction and receive and hold reservation deposits (if applicable), receive reservation fees (if applicable), sign each reservation form on behalf of each seller; and 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).

4.2 Our decision on the conduct of the conditional auction is final.

4.3 We may cancel the conditional auction, or change the way in which a property is offered for sale.

4.4 We may also combine or divide properties. A Property may be sold or withdrawn from sale prior to the conditional auction.

4.5 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.

4.5 Bidding and reserve prices:

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

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

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

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

4.5.5 Unless stated otherwise each Property is subject to a reserve price (which may be fixed just before the property is offered for sale).

4.5.6 If no bid equals or exceeds that reserve price the property will be withdrawn from the conditional auction.

4.5.7 Where there is a reserve price the auctioneer may bid on the seller's behalf up to the reserve price but may not make a bid equal to or exceeding the reserve price.

4.5.8 You accept that it is possible that all bids up to the reserve price are bids made by or on behalf of the seller.

4.5.9 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.

4.6 We have taken reasonable care to describe each property (either online or in a catalogue). **4.7** The description of a property is based on information supplied by or on behalf of the seller and you need to check that the information is correct.

4.8 The description of a property and the legal documents may change prior to the conditional auction and it is your responsibility to check that you have the correct versions.

4.9 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.

4.10 The reservation agreement is when a successful bid is one we accept as such (normally on the fall of the hammer or close of an auction online). This condition 4.10 applies to you if you make a successful bid for a Property.

4.11 You are required to enter into a reservation agreement that obliges you to proceed to purchase the Property at the price you bid plus VAT (if applicable).

4.12 You must then:

4.12.1 Provide all information we reasonably need from you to enable us to complete the reservation form or sale memorandum (including proof of your identity and address if required by us);

4.12.2 Sign the completed reservation form or sale memorandum; and

4.12.3 Pay the reservation fee or reservation deposit (as required by the reservation form).

4.12.4 If you do not we may either:

4.12.4.1 As an 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

4.12.4.2 Sign the reservation form on your behalf.

4.13 Where a reservation deposit is paid, that reservation deposit:

4.12.1 Is to be held by us as agent for the seller, but otherwise is to be held as stated in the reservation conditions; and

4.12.2 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.

4.13 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.

4.14 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.

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

5. Conditions of reservation:

5.1 When the auction ends, the winning bidder (or on acceptance of a pre-auction bid) must sign a reservation form or sale memorandum, 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.

5.2 These reservation conditions summarise the terms of the reservation form.

5.2.1 Payment of reservation fee, this condition applies where a reservation fee must be paid by the winning bidder of a conditional auction for a property. Payment is to be made immediately or within 2-hours of the winning bid being accepted and the auction

ending.

5.2.2 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.

5.3 Payment of reservation deposit, 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 immediately or within 2-hours of the winning bid being accepted and the auction ending.

5.3.1 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.

5.4 Seller's obligations:

5.4.1 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, during the exclusivity period the seller agrees:

5.4.1.1. The seller will not agree on another reservation of the property.

5.4.1.2 The seller will not encumber or deal with the title to the property.

5.4.1.3 The seller is not to send, instruct or allow anyone else to send any contract for the sale of the property to anyone other than the buyer's solicitors.

5.4.1.4 The seller agrees to give such access to the property as may be reasonably required by any surveyor or valuer appointed by the buyer.

5.4.1.5 The seller agrees 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.

5.4.1.6 The seller agrees to use all reasonable endeavours to proceed to a formal exchange of contracts within the exclusivity period.

5.4.1.7 The seller agrees 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 the sale of the property to be exchanged and completed within the exclusivity period.

5.4.1.8 The seller agrees 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.

5.4.1.9 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.

5.5 The buyer's obligations, the buyer agrees:

5.5.1 To proceed to a formal exchange of contracts and completion within the exclusivity period.

5.5.2 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.

5.5.3 To promptly, 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 applicable fees.

5.5.4 To promptly, 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.

5.5.5 To keep the auctioneer and the seller's solicitors advised of progress with the application for the loan.

5.5.6 That 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.

5.5.7 That 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 30-working days from the end of the auction of when a pre-auction bid was agreed.

5.5.8 That 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.

5.6 Termination of reservation:

5.6.1 The reservation form shall not be capable of termination by the seller or buyer during the exclusivity period except as specified below:

5.6.2 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.

5.6.3 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.

5.7 Binding obligations:

5.7.1 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.

5.7.2 As these conditions and the reservation form comprises legally binding obligations on the bidder and buyer, it is recommended you seek independent legal advice on these conditions and the reservation form before making any bid on a property.

5.8 The bidder or buyer acknowledges and agrees that we as the auctioneer act as an agent of the seller and not in our own capacity.

5.9 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.

6. Fees and charges:

With regard specifically to **Lot 7: 137, Passingham Avenue, Billericay, Essex, CM11 2TA**

6.1. This property is sold subject to immediate payment of a non-refundable reservation fee fixed **3% plus VAT of the sale price. On the guide price of £350,000 that is £10,500 plus VAT = £12,600.**

6.2 Any successful bidder will pay this to secure the sale and become known as the buyer.

6.3 The reservation fee is in addition to the purchase price. Please take this into account when bidding. It is non-refundable under any circumstances.

6.4 A reservation fee is payable by the buyer only when the seller pays no fees to sell. As sellers pay no fees to sell, this is usually taken into account with a lower reserve price.

6.5 This property is being sold under the modern method of auction, which requires the completion of the purchase to be within 30-working days, meaning specifically the exchange of contracts within 20-workings days of the auction ending or the acceptance of a pre-auction bid and completion 10-working days after the exchange of contracts. To be clear, completion can occur sooner by mutual agreement.

6.6 The total non-refundable reservation fee must be paid by the buyer within 2-hours following the conclusion of the auction or acceptance of a pre-auction bid or offer. This must be paid by cleared funds to the auctioneer who will issue an acknowledgement of reservation and purchase agreement.

6.8 If the legal documents contain the paid-for local searches, the buyer is obliged to reimburse the seller for the cost of these on completion, this is to be the exact cost of these local searches with no additional charges or percentages.

6.9 You will need a conveyancer/solicitor to act for you during the conveyancing and your solicitor/conveyancer will advise you in relation to the associated costs. It is your obligation to supply the conveyance/solicitor details before you bid or within 2-working days of the auction ending or a pre-auction bid being accepted. We require the firm name, contact name, contact phone number and contact email address

6.10 For clarity, the 20-working days to exchange of contracts (30-working days to completion) begins immediately when the auction ends or a pre-auction bid is accepted and any delays with regard to providing the conveyancer/solicitor details will have no bearing on these deadlines.

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7. Company disclosure:

7.1. We are obliged to confirm to you that we are *not* associated with financial advisers or conveyancers and will not offer advice on mortgages, insurance products or conveyancing costs to potential purchasers of the Property. Also, should a prospective purchaser have a property to sell, we will offer to assist them in the sale of their property.

8. Property information:

8.1 All information we hold with regard to the property or lot is contained in the property particulars/advert and the legal documents. The property particulars/advert are uniformly represented across our website and all the online property advertising portals. The information order can in some cases be displayed in a different way, however, the particulars will be identical in content.

9. General Data Protection Regulations:

9.1. Each Party warrants to the other that unless and until the General Data Protection (EU 2016/679) (GDPR) is no longer directly applicable in the UK it shall comply with the provisions of the GDPR and any UK national implementing laws and/or any UK legislation, secondary legislation, or regulations as may be implemented, amended or updated from time to time in relation to the processing of any personal data as defined by GDPR or by such other legislation as may apply to the UK from time to time. The company's ICO Security number is **CSN5730894**.

10. Complaints procedure:

10.1. We are committed to providing services of the very highest standards. If you feel that we have not lived up to your expectations in any way, we would like to hear from you so that we can investigate matters which will also help us to improve our service:

10.1.2. First step: submit your complaint in writing by email: info@higginsdrysdale.com.

10.1.3. Second step: If you feel your complaint had not been dealt with correctly, submit a second complaint in writing directly to the company director, Paul Higgins- Drysdale by email: phd@higginsdrysdale.com.

10.1.4. Third step: should the matter still not be resolved to your satisfaction (or more than 8 weeks has elapsed since the complaint was first made) you can then refer it to The Property Ombudsman as below. The steps outlined above must be completed in full before proceeding through this route. The company registration number is **E02339**.

The Property Ombudsman (TPO) w: www.tpos.co.uk t: 01722 333306, Milford House, 43-55 Milford Street, Salisbury, Wiltshire, SP1 2BP

11. Money Laundering Supervision Regulations:

11.1. As a requirement, any person selling property in the UK must have their identity and residential address confirmed by HD. Please either provide a certified copy of your passport/drivers license and a copy of a utility bill issued to you within the last three months or engage with our chosen electronic ID confirmation provider. Please note, we are unable to commence marketing until the above is completed.

12. Signature of bidder/buyer:

12.1. You understand and agree to the terms and conditions.

12.2. You have read our complaints procedure and seen the details of the property ombudsman scheme of which we are members.

12.3. You understand that any reservation fee paid is not part of the legal deposit, is non-refundable and if you fail to adhere to the terms herein the property will be re-offered for auction.

12.4 As the bidder once you have won the auction you can then nominate additional buyers to join you on the sale contract, please note that if the buyers nominated do not engage with the conveyancing process then you, the bidder is wholly responsible and liable as described in these terms and conditions.

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12.5. To avoid conflicts of interest, the Estate Agents Act (1979) requires that we are transparent with our customers about you and any person related or connected to you, who work for, or has a business relationship with HD. Are you aware of any connection or interest?

Yes: **No:**

If yes, please provide details here:

As the **bidder and potential buyer of this property** (Lot 7: 137, Passingham Avenue, Billericay, Essex, CM11 2TA) or any other property offered under these terms, I hereby sign below as confirmation that I have read and agree to all the clauses in these terms and conditions, specifically that if on successfully winning an auction or having a pre-auction bid accepted, **understand that the reservation fee paid is non-refundable under all circumstances** (this includes if paid with a reservation deposit amount). I also confirm that I understand that a reservation fee does not form part of the legal deposit of the property and is additional to the purchase price.

NOTE: This document will also be sent separately by DocuSign for a full signature prior to being approved to bid.

I hereby sign to confirm that I have read and understood these terms and conditions:

Bidder/buyer full name:	
Bidder/buyer full address:	
Date signed:	

End of document
