

# SHEPHERD BUYER TERMS (SCOTLAND)

## TERMS AND CONDITIONS FOR BIDDING AND BUYING AT AUCTION

The following SDL Auctions Terms and Conditions govern the conduct of our auctions. These terms apply to sales that are facilitated in partnership with Shepherd Commercial Property Auctions, for property located in Scotland. If you bid on a property, it is on the basis that you accept these terms and conditions.

Under these terms, we operate two types of auction sale:

1. Unconditional
2. Conditional

These Terms and Conditions apply to both types of auction sale.

### TERMS AND CONDITIONS:

#### 1. ABOUT THESE TERMS

1.1 **What these terms cover.** These are the terms and conditions on which we offer properties for sale in our auctions. Our auctions are conducted as either Timed Auctions, or Auction Events. Timed Auctions are online only. Auction Events may be conducted online, or in-person at an auction house venue. We may accept bids on a property before or after the auction. If you bid on a property under any of these circumstances, you are bound by these terms and conditions.

1.2 **Why you must read them.** Please read these terms carefully before bidding on a property at auction. These terms tell you who we are and the rules that apply to bidding at auction. If you have a question about these terms or think that there is a mistake in these terms, please contact us.

#### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

2.1 We are SDL Auctions Limited, a company registered in England and Wales with company number 07719474 and our registered office is 17 Regan Way, Chetwynd Business Park, Chilwell, Beeston, Nottingham, NG9 6RZ.

2.2 You can contact us by phoning 0800 304 7879, writing to our registered address, or emailing enquiries@sdlauctions.co.uk.

We work in partnership with Shepherd Commercial Property Auctions, which is a trading name of J & E Shepherd, Company No.2837574810, registered office: 13, Albert Square, Meadowside, DUNDEE, DD1 1XA.

#### 3. INTERPRETATION

3.1 In these terms and conditions 'lot' means the land or property that is up for sale at auction. Each lot is given a number on the website or in the catalogue.

3.2 References in these terms to legislation are references to it as amended or replaced from time to time.

3.3 We reserve the right to change our terms and conditions at any time.

#### 4. TYPES OF SALE

4.1 There are two types of sale methods, listed at the start of these terms.

4.2 Each lot offered at auction is labelled with the type of sale that applies to it.

4.3 By bidding on a lot, you agree to the relevant terms below which relate to the applicable type of sale. It is important that you take note of what type of sale is offered before bidding on a lot.

4.4 Terms 5-6 apply only to the type of sale listed. All of the other terms apply to all lots.

#### 5. TERMS THAT APPLY TO UNCONDITIONAL SALE LOTS

5.1 If you are the highest bidder, you must:

5.1.1 exchange legally binding contracts for the sale of the property immediately in accordance with Clause 17 of this Agreement;

5.1.2 pay a non-refundable deposit equal to 10% of the purchase price, subject to a minimum of £5,000. This deposit contributes towards the purchase price (although note we can deduct fees owing to us from the deposit);

5.1.3 pay a non-refundable auction fee, 'Buyer's Fee'. The applicable amount (inclusive of VAT) will be listed against the lot - make sure you check the information relating to each individual lot. The auction fee does not contribute towards the purchase price; and

5.1.4 complete the sale within 20 business days unless the special conditions of sale in clause 14 state otherwise.

5.2 If you fail to complete the sale, the seller can bring a claim against you personally for losses suffered and we may pursue you for unpaid auction fees.

#### 6. TERMS THAT APPLY TO CONDITIONAL SALE LOTS

6.1 If you are the highest bidder, you must:

6.1.1 sign a reservation agreement in relation to the property;

6.1.2 pay a non-refundable fee ('Reservation Fee'), inclusive of VAT, which will be listed against the lot- make sure you check the information relating to each individual lot. The Reservation Fee does not contribute to the purchase price;

6.1.3 pay a deposit, the value of which will be specified by the seller's solicitor, payable on exchange of contracts directly to the seller's solicitor. The deposit will contribute to the purchase price.

6.1.4 exchange contracts and complete the sale within 40 business days.

#### TERMS THAT APPLY TO ALL LOTS

#### 7. WHAT YOU SHOULD DO BEFORE BIDDING

7.1 If you are the highest bidder, you are legally bound to buy the property and there are financial consequences of withdrawing from the sale, both in terms of non-refundable Buyer's Fees and Reservation Fees, and non-refundable deposits (depending on the type of lot, see clauses 5-6 above) as well as the possibility of legal action being taken against you.

7.2 It is strongly advised that before bidding for a property you:

7.2.1 Take professional advice from a solicitor/conveyancer, Chartered Surveyor, and accountant;

7.2.2 Inspect the legal pack for the property and have the legal pack inspected by a solicitor/conveyancer;

7.2.3 Organise any necessary finance for the purchase;

7.2.4 Ensure that you have the funds available to pay any applicable Reservation Fees, Buyer's Fees, and deposits, as well as the purchase price;

7.2.5 Carry out the necessary searches and make the necessary enquiries (seek guidance from a solicitor/conveyancer on what searches and enquiries are necessary);

7.2.6 Commission appropriate surveys for the property by a Chartered Surveyor;

7.2.7 Check the contents of all applicable documents relating to the property, including leases, restrictions, and covenants;

7.2.8 Check that the information you have received or seen about the property is accurate;

7.2.9 Organise and attend a viewing of the property (unless the lot is marked external inspection only);

7.2.10 Commission appropriate reports for the property, such as structural reports, building reports, water and drainage reports, etc;

7.2.11 Check the VAT, stamp duty, and other tax consequences of the sale;

7.2.12 Familiarise yourself with all terms and conditions relating to our auctions; and

7.2.13 Take all other action necessary to satisfy yourself as to the condition of the property in order to be able to determine the price you are willing to pay for the property.

7.3 If you fail to take any of the above measures, you do so at your own risk. You will not be able to withdraw from the sale once your bid has been accepted without incurring financial consequences. When you bid, you are deemed to have taken all the measures listed in clause 7.2 above and to have acted as a prudent buyer would act.

7.4 The guide price of the property is not an indication of its market value or its minimum value or worth. It is merely the price at which the seller has decided to advertise the property. It offers no guarantee whatsoever as to the condition of the property or

the value of the property.

#### 8. OUR ROLE

8.1 We act as agents for sellers. We have authority to:

8.1.1 Prepare the auction catalogue and advertisements for the lots;

8.1.2 Offer each lot for sale and combine or divide lots;

8.1.3 Receive and hold deposits;

8.1.4 Receive auction fees including a Buyer's Fee;

8.1.5 Receive Reservation Fees;

8.1.6 Accept bids for the lots (including pre- or post-auction);

8.1.7 Decline bids for the lot at our discretion;

8.1.8 Change the type of sale for a lot at our discretion;

8.1.9 Regulate bidding increments and the order of lots;

8.1.10 Accept remote bids;

8.1.11 Resolve bidding disputes;

8.1.12 Re-offer a lot for sale following bidding disputes;

8.1.13 Bid on behalf of the seller up to the reserve price;

8.1.14 Sign reservation agreements on behalf of the seller;

8.1.15 Sign the contract of sale on behalf of the seller;

8.1.16 Sign the memorandum of sale on behalf of the seller;

8.1.17 Carry out the exchange of contracts;

8.1.18 Repudiate a contract between the seller and buyer;

8.1.19 Change the date or time of the auction at our discretion;

8.1.20 End the auction early or cancel the auction without giving a reason; and

8.1.21 Withdraw lots from auction at our discretion.

8.1.22 Verify your identity in accordance with clause 25 of this Agreement.

8.2 By bidding on a property, you confirm your agreement to be bound by these terms. Under these terms, you give us authority to:

8.2.1 Receive and hold deposits;

8.2.2 Receive auction fees (including a Buyer's Fee);

8.2.3 Receive Reservation Fees;

8.2.4 Accept your bid for the lot;

8.2.5 Sign a contract of sale on your behalf when you are the highest bidder;

8.2.6 Sign a reservation agreement on your behalf when you are the highest bidder; and

8.2.7 Repudiate a contract between you and the seller.

#### 9. RESERVE PRICE

9.1 Unless otherwise stated, all lots are subject to a reserve price.

9.2 The reserve price is the price which must be reached before a lot will be sold. It can be changed at any time up to the time of the auction.

9.3 The reserve price is confidential, but it will be at or below the top band of the guide price (if the guide price is a range) or within 10% of the guide price (if the guide price is a single figure).

9.4 The seller can bid up to the reserve price but is not allowed to make a bid equal to or exceeding the reserve price. You accept and acknowledge that bids below the reserve price may be made by or on behalf of the seller.

9.5 The seller can choose to sell below the reserve price prior to auction.

#### 10. GUIDE PRICE

10.1 The guide price is the marketing price or advertised price for the lot.

10.2 The guide price is not a guarantee or an indication of minimum value. The guide price is not necessarily the market value of the lot.

10.3 The guide price is not set with the help of a

# SHEPHERD BUYER TERMS (SCOTLAND)

## TERMS AND CONDITIONS FOR BIDDING AND BUYING AT AUCTION

Chartered Surveyor and you must engage your own reports and surveys to satisfy yourself of the value of the property before you bid.

10.4 The guide price can change at any time up to the start of the auction.

10.5 The sale price can exceed the guide price. Sometimes, the sale price is lower than the guide price.

### 11. CHECKING FOR UPDATES

11.1 Lots of information can be changed up to the time of the auction, including the property details, reserve price, and guide price. You must make sure you check for updates before you bid for a property.

11.2 If you fail to check for updates, you do so at your own risk.

11.3 You can check for updates by:

11.3.1 Checking the webpage for the lot;

11.3.2 Re-downloading the legal pack on the day of the auction;

11.3.3 Checking any late announcements and addendum documents; and

11.3.4 Listening carefully to the auctioneer introducing the auction and the property.

11.4 When you bid, you are taken to have read any late amendments, addendums, or updates even if you have not done so. You are deemed to have full knowledge of any changes made to the information provided about the lot (including the legal pack).

11.5 The auctioneer will make announcements at the start of the auction and it is important that you listen carefully (as well as taking the steps listed in 11.3). After the initial announcements, the auction will proceed without delay and the auctioneer will not describe the properties in detail nor read out the special conditions or amendments.

### 12. TAX

12.1 Stamp Duty Land Tax, Land and Buildings Transaction Tax, VAT, or other charges may apply to some sales. These costs will not be confirmed in the legal pack.

12.2 It is your responsibility to make your own enquiries and seek appropriate advice as to the possible tax consequences of the sale before you bid.

12.3 If you withdraw from the sale after you have won the lot because of tax consequences, you will lose any deposits or fees paid and the seller may take legal action against you.

### 13. THE LOT

13.1 All the statements contained in particulars of sale or descriptions of the lots in documentation or given by our employees or agents are made without responsibility and you must not rely on them as statements or representations of fact. They do not represent any warranties whatsoever in relation to the lots. You must satisfy yourself as to the accuracy of the particulars before bidding.

13.2 Any suggested rental incomes and yields may be subject to any necessary energy efficiency improvements. In Scotland, from 1 October 2020, any new tenancy will require the property to have an EPC of at least band E; by 31 March 2022, all properties will need to have at least EPC band E. If the particulars of sale state that the property is suitable for investment it will be for the buyer to ensure that the relevant EPC requirements are met.

13.3 The lot is sold subject to any tenancies disclosed in the legal pack or lot description.

13.4 The lot is sold subject to any special conditions set out in the property description or associated documentation but otherwise is sold with vacant possession on completion.

13.5 All measurements quoted in descriptions of the lot are approximate. You must verify the measurements yourself by visiting the property and/or commissioning a professional report or survey.

13.6 All location plans published in the particulars of sale are subject to copyright and are only provided to enable prospective purchasers to locate the property. The plans are not to scale and are not intended to depict the interest to be sold. The boundary lines and numbers on the plans or photographs are provided only to allow purchasers to locate the lot and do not depict the

interest to be sold. You must visit the lot and commission the relevant searches and reports.

13.7 When you bid on a lot you are deemed to have relied only upon your own knowledge or the advice of your own professionals or advisors, and not on the particulars of sale or description or photographs of the lot.

13.8 All Ordnance Survey maps are reproduced with the sanction of the Controller of HM Stationery Office (Crown Copyright Reserved Licence No LIGO183).

13.9 The services, kitchen and sanitary ware, electrical appliances and fittings, plumbing and heating installations (if any) have not been tested by us or by the seller. Before you bid on a property, you must undertake your own investigations, reports and surveys to clarify the suitability and condition of any such services.

13.10 The lot is also sold subject to the following, whether or not they are disclosed by the seller or are apparent from inspection of the lot or from the documents provided or from the legal pack or would have been obvious had you acted as a prudent buyer:

13.10.1 Matters registered or capable of registration as local land charges;

13.10.2 Matters registered or capable of registration by any competent authority or under the provisions of any statute;

13.10.3 Notices, orders, demands, proposals, and requirements of any competent authority;

13.10.4 Charges, notices, orders, restrictions, agreements and other matters relating to town and country planning, highways, or public health;

13.10.5 Rights, easements, quasi-easements, and wayleaves;

13.10.6 Outgoings and other liabilities;

13.10.7 Any overriding interest

13.10.8 Matters that ought to be disclosed by the searches and enquiries a prudent buyer would make, whether or not you have made them; and

13.10.9 Anything the seller does not and could not reasonably know about.

13.11 Where anything subject to which the lot is sold would expose the seller to liability you are to comply with it and indemnify the seller against that liability.

13.12 The seller must notify you of any notices, orders, demands, proposals, and requirements of any competent authority of which it learns after the contract date, but you must comply with them and keep the seller indemnified.

13.13 The lot does not include any tenant's or trade fixtures or fittings. If the special conditions state that chattels are included, you take them as they are at completion and the seller is not liable if they are not fit for use. From 1st April 2022 any new tenancies will require EPC band D and from 31st March 2025 all properties will need to have at least EPC band D.

13.14 You buy with full knowledge of the documents relating to the lot (whether or not you have read them) and the condition of the lot (whether or not you have inspected it and commissioned appropriate reports and surveys). This is why it is important that you take the steps set out in 7.2.

13.15 You admit that you are not relying on the information contained in the particulars of sale or on any representations made by or on behalf of the seller, except that you may rely on the seller's solicitor/conveyancer's written replies to written enquiries to the extent stated in those replies.

13.16 The seller cannot be required to transfer the lot to anyone other than the buyer.

### 14. SPECIAL CONDITIONS AND ARTICLES OF ROUP

14.1 The lots are sold subject to any special conditions of sale, which are available for inspection at the office of the seller's solicitor/conveyancer, our office, in the auction room, and on our website.

14.2 The lots are sold subject to the Articles of Roup which are available for inspection at the office of the seller's solicitor/conveyancer, our office, in the auction room, and on our website.

14.3 The Special Conditions may include additional fees inserted by the seller, and are separate to those

payable to SDL Auctions.

14.4 You must view and take into account the special conditions and Articles of Roup before bidding.

14.5 When you bid, you are taken to have read and accepted the special conditions and Articles of Roup, even if you have not done so.

### 15. SALE BEFORE OR AFTER AUCTION

15.1 Lots may be sold before the auction.

15.2 If you submit a bid before or after auction and it is accepted, the same fee and deposit rules apply as if the lot had been sold at auction.

15.3 To submit a pre-auction bid, you must submit a formal written offer to us.

15.4 You cannot withdraw a pre or post-auction bid once a reservation contract has been signed or contracts of sale have exchanged.

15.5 If you submit a pre or post-auction bid, you are taken to have undertaken all measures that a prudent buyer would undertake, including all of the measures listed in Clause 7.2. If you fail to take appropriate measures before bidding, you do so at your own risk. You cannot later withdraw from the sale without incurring financial consequences.

15.6 We will relay your pre or post-auction bid to the seller, but we give no guarantees or warranties regarding the timing of relaying the offer.

15.7 We are not responsible for any of your costs or losses if a lot you were interested in buying is sold or withdrawn before auction.

15.8 If your pre or post-auction bid is accepted you may be asked to pay a 'closed bid' online, with the remainder of the monies owed being paid over the phone or by bank transfer. We will advise you of the method of payment required at our discretion.

15.9 If a pre or post-auction bid is accepted by the seller, you become liable to pay our fees and any applicable deposit when a reservation agreement or contract of sale is signed.

15.10 If a pre or post-auction bid is accepted by the seller, you must instruct solicitor/conveyancer within 7 days otherwise we (as agent for the seller) can treat the contract as at an end or sign the appropriate documentation (including a contract of sale or memorandum of sale) on your behalf. The seller may pursue you for losses and we may take action against you in respect of unpaid auction fees.

15.11 Whether the lot is sold before or after auction, this does not affect the terms of this Agreement.

### 16. BIDDING

16.1 All bids are made in pounds sterling and are exclusive of any applicable VAT or other taxes.

16.2 We may refuse to accept a bid without giving a reason.

16.3 You cannot withdraw a bid.

16.4 By placing a bid, you become personally liable to fulfil the obligations of the winning bidder as set out in these terms and conditions, even if you bid as agent on behalf of somebody else.

16.5 If you bid on behalf of a company, you warrant that the company is properly constituted and has the necessary funds to and is able to purchase the property.

16.6 By placing a bid, you warrant that you have the necessary funds (or necessary finance) to pay the purchase price for the property along with the applicable Buyer's Fee or Reservation Fee (as applicable). If you withdraw from the sale due to lack of funds, you will lose your Reservation Fee, Buyer's Fee and deposit.

### 17. THE WINNING BID

17.1 The successful bidder is under a binding contract to purchase the relevant property when the auction for the lot comes to an end. For Timed Auctions conducted online, the timeslot for each lot will be displayed on the webpage. For Auction Events, (hosted by a live auctioneer), the auction for the lot will end on the fall of the auctioneer's gavel.

17.2 As soon as the events mentioned in 17.1 (as appropriate) occur, you are immediately liable to pay the deposit and applicable fees. You immediately become responsible for insuring the property – the property is at your risk from the moment that you win the bid.

17.3 You must present to us your name and address on

# SHEPHERD BUYER TERMS (SCOTLAND)

## TERMS AND CONDITIONS FOR BIDDING AND BUYING AT AUCTION

request and, if appropriate, the name and address of the person or company on whose behalf you were bidding.

17.4 We reserve the right to require you to provide a form of ID to us, on request, to hold as security (e.g.: passport or driving license).

17.5 You will not be entitled to take possession of the property or have keys to the property until completion of the sale.

### 18. LEGAL PACK & HOME REPORT

18.1 You must view the legal pack and home report for a lot. It is strongly recommended that you instruct a qualified professional to review this and raise any necessary enquiries before bidding.

18.2 The legal pack and home report can change at any time up until the auction starts so you must check the most recent version of the legal pack and the addendum before bidding on the property. Failure to check for changes to the legal pack will not be a valid reason for withdrawing from the sale.

18.3 The legal pack and home report is not prepared by SDL and we are not responsible for and give no guarantee or assurance as to the accuracy of its contents. We shall not have any liability to you for any inaccuracies contained in the legal pack. Where we display or provide documents provided or created by third parties, we do so only on the basis that we are not responsible for the accuracy of the information contained in that document.

### 19. YOUR OBLIGATIONS TO US

19.1 You must:

19.1.1 Familiarise yourself with these terms in their entirety before bidding;

19.1.2 Provide all information we reasonably need to be able to complete the reservation agreement, memorandum of sale, or Minute of Preference and Enactment to effect the contract of sale when you are the winning bidder (we may sign on your behalf);

19.1.3 Sign the necessary documents including the Reservation Agreement or Minute of Preference and Enactment (as applicable) when you are the winning bidder (we may sign on your behalf);

19.1.4 Pay the applicable Buyer's Fee (if any) detailed in clauses 5-6;

19.1.5 Pay the applicable Reservation Fee (if any) detailed in clauses 5-6 following sub clauses of this section will need to be renumbered due to new insert

19.1.6 Pay the applicable deposit (if any) detailed in clauses 5-6;

19.1.7 Complete the sale within the timeframes set out in clauses 5-6; and

19.1.8 Provide all necessary identification documentation to allow us to comply with our legal obligations.

### 20. OBLIGATIONS UNDER A RESERVATION AGREEMENT

20.1 If you buy a conditional auction lot, you will sign (or we will sign on your behalf) a reservation agreement.

20.2 The reservation agreement contains legally binding conditions. It is recommended that you seek legal advice concerning the terms of the reservation agreement before you bid on a property. A copy is available at [www.sdlauctions.co.uk](http://www.sdlauctions.co.uk).

20.3 Under the reservation agreement, you are required to:

20.3.1 Use all reasonable endeavours to proceed to a formal exchange of contracts within the exclusivity period;

20.3.2 Immediately instruct solicitor/ conveyancer to do any work required to enable contracts for the purchase of the property to be exchanged within the exclusivity period;

20.3.3 Complete all necessary work and documentation for any finance arrangements needed to pay the full purchase price of the property;

20.3.4 Keep the seller and us up to date with the progression of the sale; and

20.3.5 Use all reasonable endeavours to complete the purchase of the property within 40

business days of the reservation agreement.

20.4 Under the reservation agreement, the seller is required to:

20.4.1 Refrain from agreeing to another reservation or sale of the property;

20.4.2 Refrain from allowing third parties to view the property with a view to buying it;

20.4.3 Refrain from encumbering the property;

20.4.4 Refrain from sending or giving instruction to send a contract of sale to any other person in relation to the property;

20.4.5 Use all reasonable endeavours to proceed to a formal exchange of contracts within the exclusivity period; and

20.4.6 Supply all documentation and information necessary to enable the completion of the sale within the exclusivity period.

### 21. OBLIGATIONS UNDER A CONTRACT OF SALE

21.1 As soon as your bid is accepted at the close of the auction of an unconditional lot, a contract of sale is entered into.

21.2 Under the contract of sale, you must:

21.2.1 Provide all necessary information reasonably required to complete the formal Minute of Preference and Enactment that, together with the Articles of Roup, forms the contract of sale;

21.2.2 Provide all necessary identification and proof of address documentation;

21.2.3 Take all necessary measures to complete the sale within 20 business days (or as otherwise stated in the special conditions);

21.2.4 Sign a formal written contract if requested to do so;

21.2.5 Pay any applicable Buyer's Fee (see clauses 5-6);

21.2.6 Pay a deposit (see clauses 5-6); and

21.2.7 Complete the sale (and pay the full purchase price) within 20 business days (or as otherwise specified in the special conditions).

21.3 If you fail to comply with the conditions set out above, we may (as agent for the seller) treat you as being in repudiatory breach of the contract of sale and so treat that contract as at an end. This means we can re-offer the property for sale. You will not be able to recover your deposit or Buyer's Fee and the seller will have a claim against you for breach of contract.

### 22. DEPOSITS

22.1 If you pay a deposit (see clauses 5-6) we will hold your deposit as stakeholder for the seller (subject to clause 22.6)

22.2 The deposit is non-refundable. If you withdraw from the sale, you will not get your deposit back. We will pay the deposit to the seller's solicitor/conveyancer.

22.3 If the seller withdraws from the sale, we will return the deposit to you or your solicitor/conveyancer.

22.4 When the sale completes, we will pass the deposit to the seller's solicitor/conveyancer and it will be deducted from the purchase price of the property.

22.5 We may retain the Minute of Preference and Enactment signed by or on behalf of the seller until the deposit has been received in cleared funds.

22.6 If you pay the deposit but do not pay your Buyer's Fee on time, we may deduct the amount of the outstanding fees from the deposit. This means that the amount passed to the seller's solicitor/conveyancer will be the deposit less any fees that have been deducted and you will need to make up this difference when you pay the full purchase price.

22.7 Interest earned on the deposit (if any) will be passed to whoever the deposit is passed to.

### 23. PAYMENT

23.1 For Timed Auctions, fees and deposits must be paid before exiting the online bidding platform through our third-party provider Sagepay. You will be required to provide your card details to access the online bidding platform. Your card will then be charged automatically in the event that you place a winning bid, for an amount not exceeding the total fees and deposit/reservation fee applicable

for the purchase. You will receive an automatic email confirming receipt of payment. If the amount charged to your card does not equal the total payment required, you will then be contacted by a representative of SDL to pay the difference over the telephone.

23.2 For Auction Events conducted in-person at the auction venue, fees and deposits must be paid before leaving the auction venue.

23.3 For Auction Events conducted online, fees and deposits must be paid immediately after a winning bid has been placed. Prior to the auction, we will email you to register your card details with our third-party provider, Stripe. Your card details will be stored on their secure online payment platform.

Payment will only be taken from you in the event of a winning bid. In this case, you will be contacted by one of our representatives to make payment. If we cannot make contact with you within 24 hours after the auction ends, we reserve the right to charge your card for the amount owed.

23.4 We do not accept cheques.

23.5 You cannot use a credit card or cash to pay any part of the deposit.

23.6 If you fail to pay fees or the deposit by the specified timescales in 23.1, 23.2 or 23.3 as appropriate, we can (as agent for the seller) treat the contract of sale or reservation agreement (as applicable) as repudiated (terminated) and reoffer the lot; if we do this, the seller may take legal action against you. Alternatively, we may sign the appropriate documents (reservation agreement, memorandum of sale, or Minute of Preference and Enactment) on your behalf.

### 24. BETWEEN THE END OF THE AUCTION AND COMPLETION

24.1 From the date of the contract of sale the seller does not have a responsibility to insure the lot and you bear all risks of loss or damage unless the lot is sold subject to a tenancy that requires the seller to insure the lot or the special conditions require the seller to insure the lot.

24.2 If the seller is required to insure the lot, then the seller:

24.2.1 Must show you, on request, all relevant insurance details;

24.2.2 Must use reasonable endeavours to maintain the policy;

24.2.3 Gives no warranty as to the adequacy of the insurance;

24.2.4 Must, at your request, use reasonable endeavours to have your interest noted on the policy if it does not cover a contracting purchaser; and

24.2.5 Must hold on trust for you any insurance pay outs made under the policy, and you must, on completion, reimburse the seller for the cost of that insurance policy.

24.3 No damage or destruction of the lot, nor any deterioration in its condition, however caused, entitles the buyer to any reduction in price or to delay completion or to refuse to complete.

24.4 You have no right to enter into occupation of the lot before completion.

### 25. PROOF OF IDENTITY AND RESIDENCE

25.1 We are required under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to verify the identity and residential address of our customers. We will therefore require you to provide proof of identification (such as a passport or driving license) and may request other supporting documentation at our discretion.

25.2 If we ask you for proof of identification and you do not provide the necessary documentation before the auction, we may prevent you from bidding and we will not be liable to you for any losses suffered as a result.

25.3 If you refuse to provide such identification, the sale will not go ahead, and you will lose any deposit, Reservation Fee or Buyer's Fee that you have paid.

25.4 We will use the information you provide to perform an electronic identity check, using our third-party referencing providers, Credas and ETSOS/Experian. These providers will check the personal details supplied against their databases to verify your identity and residential address. This is not a credit check and will have no effect on your



# SHEPHERD BUYER TERMS (SCOTLAND)

## TERMS AND CONDITIONS FOR BIDDING AND BUYING AT AUCTION

credit history. These third parties may also use your details in the future to assist other companies for verification purposes. By signing this agreement, you consent to this electronic identity check being undertaken.

25.5 Where the deposit or fees are paid from a bank account in someone else's name, we may require that person to provide us with appropriate identification.

25.6 Where there is more than one buyer, we require all buyers to provide appropriate identification and undertake electronic identity checks as explained in 25.4.

25.7 If you are bidding as agent for someone else, we require form of authority signed by the potential buyer for you to bid on their behalf, together with appropriate identification from both you as agent and the principal. Electronic identity checks will be conducted on you both in accordance with 25.4. By signing this Agreement, you confirm that the principal is aware that this electronic identity check will be undertaken and understands the purpose for which we are processing their personal data.

### 26. CONFLICTS OF INTEREST

26.1 We are legally required to disclose to you any conflict of interest that we may have with the seller, and we are required to disclose to the seller any conflict of interest we may have with you.

26.2 If you think you might have a conflict of interest with us (for instance, because you or a family member works for SDL), please let us know as soon as possible so that we can comply with our obligation to notify the seller.

26.3 If we know of a potential conflict of interest between us and the seller, we will include it in the information about the property. Sometimes, we do not find out about potential conflicts straight away, so always check the property information again before bidding.

### 27. WITHDRAWING FROM THE SALE

27.1 If you are the winning bidder, you are legally obliged to buy the property.

27.2 If you withdraw from the sale before completion, there will be several consequences:

27.2.1 You will lose any non-refundable deposit that you have paid;

27.2.2 You will lose any non-refundable Buyer's Fee that you have paid;

27.2.3 You will lose any non-refundable Reservation Fee that you have paid;

27.2.4 The seller may take legal action against you for breach of contract.

27.3 If you fail to complete the sale by the completion date, also known as the "Settlement Date" within the Articles of Roup, the seller may serve Notice to Complete (in accordance with 28.7) and once the contract has been rescinded we can re-offer the property for sale without any obligation owed to you and you will lose your non-refundable fees and deposits.

### 28. CONDITIONS OF SALE

28.1 The following conditions apply to all buyers and sellers at auction (both for Timed Auctions and Auction Events, as well as pre and post-auction bids). By bidding, you (as the buyer) agree to be bound by these terms.

28.2 Title. You accept the title of the seller to the lot at the auction date and you cannot raise a requisition or objection to any of the documents made available before the auction or any other matter as to title until after the contract date.

28.3 Indemnity. If the seller has any liability (other than to you) in relation to the lot or a tenancy relating to the lot following completion, you must covenant in the transfer document to indemnify the seller against that liability.

28.4 Transfer to other parties. The seller cannot be required to transfer the lot to anyone other than the buyer, or by more than one transfer.

28.5 New lease. Where the special conditions state that the seller is to grant a new lease to you, the conditions are to be read so that the transfer refers to the new lease, the seller to the proposed landlord, and the buyer to the proposed tenant. The form of new lease is that described by the special conditions. The seller must produce, at least 5 business days before the agreed completion date, the counterpart lease which you are to sign

and deliver to the seller on completion.

28.6 Completion. Completion is to take place at the offices of the seller's solicitor/conveyancer unless otherwise agreed. The amount payable on completion is the balance of the sale price adjusted to take account of apportionments plus VAT (if any) and interest together with any sums due in accordance with the special conditions of sale less any deposit already paid. Payment must be made in pounds sterling by direct transfer to the seller's solicitor/conveyancer.

28.7 Notice to complete. Either you or the seller may on or after the agreed completion date give the other notice to complete within 10 business days making time of the essence. The person giving the notice must be ready, willing and able to complete. If you fail to comply with a notice to complete the seller may, without affecting any other remedy it has, rescind the contract, claim the deposit and any interest on it, forfeit the deposit and any interest on it, resell the lot, and claim damages from the buyer. If the seller fails to comply with a notice to complete from you, you may (without affecting your other remedies) rescind the contract and recover the deposit and any interest on it.

28.8 Contract brought to an end. If the contract of sale is brought to an end, you must return all papers to the seller and appoint the seller as your agent to cancel any registration of the contract and the seller must return the deposit and any interest on it to you unless it is entitled to forfeit the deposit.

28.9 Management. Where the lot is sold subject to tenancies, the seller must manage the lot in accordance with its standard management policies pending completion. The seller must consult you on all management issues that would affect you after completion and comply with your reasonable requirements unless to do so would expose the seller to a liability that the seller would not already have. If the seller gives you notice of their intended act and you do not object within 5 business days giving reasons for the objection, the seller may act as the seller intends. You must indemnify the seller against all loss or liability the seller incurs through acting as you require or by reason of delay caused by you.

28.10 Rent deposits. Where a tenancy is an assured shorthold tenancy, you and the seller must comply with your statutory duties in relation to the protection of the tenants' deposits and demonstrate in writing to the other that you have complied. If the seller is holding or entitled to money by way of rent deposit, the seller must assign this to you or hold the rent deposit on trust for you subject to the terms of the relevant rent deposit deed and comply with your lawful instructions. When the seller assigns its interest in the deposit to you, you covenant with the seller to observe and perform the seller's covenants and conditions in the relevant documentation and indemnify the seller in respect of any breach, give notice of assignment to the tenant, and give such direct covenant to the tenant as may be required by the relevant documentation.

28.11 Capital allowances. If the special conditions state that there are capital allowances available in respect of the lot, the seller must promptly supply to the buyer all information reasonably required by the buyer in connection with the buyer's claim for capital allowances. The value attributed to those items on which capital allowances can be claimed should be set out in the special conditions. The seller and buyer agree to make an election on completion under the applicable law to give effect to the capital allowance and to submit the value specified in the special conditions to HMRC for the purposes of their respective capital allowance calculations.

28.12 Maintenance agreements. The seller must take all reasonable measures to transfer to the buyer, at the buyer's cost, the benefit of any maintenance agreements specified in the special conditions. The buyer must assume, and indemnify the seller in respect of, all liability under such agreements from completion date.

28.13 TUPE (Transfer of Undertakings and Protection of Employment Regulations 2006). If the special conditions state that there are no employees to which TUPE will apply, this is a warranty by the seller to this effect. If the special conditions do not state as such, then the seller must notify the buyer of any employees whose contract of employment will transfer to the buyer no later than 14 days

before completion. The buyer confirms that it will comply with its obligations under TUPE and any of the special conditions. The buyer and seller acknowledge that the contracts of employment of the transferring employees will transfer to the buyer. The buyer must keep the seller indemnified against all liability for the transferring employees from completion.

28.14 Service charge. If a lot is sold subject to tenancies that include a service charge, no apportionment is to be made at completion in respect of that service charge. Within two months of completion, the seller must provide the buyer with a service charge account for the current year including service charges attributable to each tenancy, any amounts due from tenants that have not been paid, any service charge expenditure that is not recoverable, and any amounts received from tenants in advance. If there are excess monies received on account, the seller must account for those monies to the buyer. If the seller's expenditure exceeds monies so far recovered, the buyer must take reasonable measures to recover the shortfall from the tenant and pay that amount to the seller.

28.15 Service charge which cannot be recovered. If service charge expenditure cannot be recovered from tenants, the seller is responsible for the cost of such expenditure before completion and the buyer is responsible for such costs after completion.

28.16 Service charge reserve fund. If the seller holds a reserve fund or sinking fund in respect of future service charge expenditure, or a depreciation fund, the seller must pay it, and any interest earned on it, to the buyer on completion. The buyer must covenant with the seller to hold it in accordance with the terms of the applicable leases or transfer documents and indemnify the seller in the event that it fails to comply with the requirements of the leases or transfer documents.

28.17 Warranties. Warranties are listed in the special conditions. Where a warranty is assignable the seller must assign it to the buyer on completion, give notice to the issuer of the warranty and apply for any necessary consent to assign. Once the necessary consent is given, the seller must assign the warranty within 5 business days.

28.18 Non-assignable warranties. If the warranty cannot be assigned, the seller must, after completion, hold the warranty on trust for the buyer and comply with all reasonable instructions of the buyer in relation to the warranty.

### 29. OUR LIABILITIES

29.1 In marketing and auctioning property, we act only as agent for the seller of that property, we do not act on our own behalf.

29.2 We offer no guarantees or representations as to the condition of specifications of any property that we offer for sale.

29.3 We offer no guarantee or representation that the seller will complete the sale within the required period.

29.4 We shall not be liable to either party if the buyer or seller withdraws from an agreement to sell and thereby causes loss to the other party.

29.5 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.

29.6 We do not exclude our liability for anything that we cannot legally exclude liability for, including death or personal injury and fraudulent misrepresentation.

### 30. JURISDICTION

30.1 These terms are subject to the exclusive jurisdiction of the courts of Scotland.

### 31. RESOLUTION OF COMPLAINTS

31.1 Our complaints handling policy can be found at: [www.sdlauctions.co.uk/complaints-handling-procedure/](http://www.sdlauctions.co.uk/complaints-handling-procedure/)

### 32. DATA PROTECTION

32.1 We will process your personal data in accordance with our data protection policy: [www.sdlauctions.co.uk/privacy-policy/](http://www.sdlauctions.co.uk/privacy-policy/).

Document updated November 2020