

# DNG AUCTIONS

## TERMS & CONDITIONS OF SALE

The Terms and Conditions set out herein will govern the proposed sale by auction. Any personal pronoun used herein is intended as gender neutral and inclusive of corporate bodies and unincorporated bodies. References to the singular include the plural and vice versa.

These terms may only be amended or otherwise altered with the express written consent of the Auctioneer. By bidding at the auction or otherwise participating in the same, Bidders Buyers and Vendors consent to, and agree to be bound by, these Conditions of Sale.

### 1. Contact Us

For further information regarding these Terms & Conditions of Sale, please contact the Auctioneer at 01 4912600

**2. Glossary of Referenced Terms** For the purposes of the interpretation of this contract and any dispute arising therefrom the following words and expressions shall have the following meanings:

- ADMINISTRATION FEE – a refundable fee of €120.00 for each Lot upon which a Bid is placed, and which is payable by credit card or debit card by way of a hold on the card prior to the commencement of the online auction; this amount may be altered, at the discretion of the Auctioneer, in the lot details and in such cases the new figure will be the one applicable
- AUCTIONEER - any registered firm which is listing property for sale on DNG Auctions
- AUCTION ENTRANCE FEE – comprises of the Bidder Security and the Administration Fee
- BID - the Bidders offer to purchase the Lot on the basis of these Terms and Conditions
- BIDDER - The person who bids for a Lot either on behalf of themselves or on behalf of other persons
- BIDDER SECURITY – a required deposit of €4,000.00 for each Lot upon which a Bid is placed, and which is secured by way of hold on credit or debit card prior to the commencement of the online auction; ; this amount may be altered, at the discretion of the Auctioneer, in the lot details and in such cases the new figure will be the one applicable. Where a Bidder is unsuccessful, the Bidder Security deposit will be returned/released back to the Bidder via the online payment system.
- BUYER - the Bidder who makes the highest Bid which is at or above Reserve who buys at the Hammer Price
- CATALOGUE - any advertisement, brochure, estimate, price or other publication, electronic or otherwise, displayed on DNG Auctions or otherwise as it exists at the date of the auction
- CLOSE OF AUCTION - the closing of an auction which is confirmed by the issuing of emails and sharing on DNG Auctions in respect of this closure to Buyer and agent and underbidders and watchers
- DNG AUCTIONS – an online auction platform which may be licensed for use by authorised Auctioneers
- EXCHANGE OF CONTRACTS - Both parties will sign contracts and agree a date for moving and at this stage the sale becomes legal and binding
- HAMMER PRICE - the price at which bidding on a Lot finishes at the time of Close of Auction after meeting the Reserve set by the Auctioneer, it is confirmed by email to agent and Buyer and stated on DNG Auctions
- LOT - any item which is placed with the Auctioneer with a view to its being sold at auction
- PROOF OF FUNDS - documentary evidence of proof of availability of funds to purchase, this may include, but is not limited to:
  - Copy of bank statement in the name of the Bidder

- Letter of offer from mortgage lender to the Bidder
- Letter of confirmation from solicitors of funds on hand in their clients' accounts to the benefit of the Bidder
- REGISTRATION FORM - the completed page which is provided at registration stage detailing, amongst other matters, name and contact information of the user of DNG Auctions
- RESERVE - the minimum amount for which the Auctioneer is authorised to sell the Lot. It is subject to change and will not normally be disclosed
- VENDOR - the person selling the Lot. If two or more are jointly the Vendor their obligations can be enforced against them jointly or against each of them separately.

### **3. CONDUCT OF THE AUCTION**

#### **A. Conditions of Sale by Auction via DNG Auctions**

- i. Where the sale is by Auction through DNG Auctions the following provisions shall apply:
  - a. DNG Auctions shall have the right, at its discretion, to refuse admission to any individual or entity to the website.
  - b. DNG Auctions shall have no liability whatsoever for any such action taken by the Auctioneer.
- ii. DNG Auctions will use reasonable care to provide the online auction platform. In the event that a situation or situations arise that affect the running of the online auction platform, we may at our absolute discretion suspend or cancel the auction and declare any or all results of the online auction as null and void without any liability on the part of us or our third party providers of the online auction platform.
- iii. Should you be unable to connect to and Bid on the online auction platform, DNG Auction, the Auctioneer, and our third-party providers accept no liability for any loss of any nature that results from, directly or indirectly, your inability to successfully Bid on the auction platform.

#### **B. Rights & Obligations of the Auctioneer**

- i. By agreeing to these Terms and Conditions you acknowledge that the Auctioneer's decision on the conduct of the auction is final.
- ii. The Auctioneer shall have the right, at its discretion to:
  - a. refuse any Bids.
  - b. advance the Bidding in any manner it may decide
  - c. withdraw or divide any Lot
  - d. combine any two or more Lots.
  - e. put any Lot up for auction again in the case of a dispute
  - f. decide whether to offer any Lot for sale or not;
  - g. decide whether a particular Lot is suitable for sale by the Auctioneer and, if so, to determine the conditions of sale, duration and the manner in which such a sale should be conducted;
  - h. To determine the description of any Lot on DNG Auctions
  - i. The right to sign contracts on behalf of the purchaser and the vendor.
- iii. Regarding the Reserve of any Lot:
  - a. Subject to the Auctioneer's discretion, the Vendor shall be entitled, prior to the auction, to place a Reserve on any Lot. Once in place a Reserve may only be changed with the consent of the Auctioneer.
  - b. In the event the Reserve price has not been reached and provided the Lot remains with the Auctioneer and has not been re-entered into another auction, the Vendor authorises the Auctioneer to sell the Lot by private treaty at a price which does not fall below the Reserve price. In the event of a sale by private treaty the Auctioneer shall ensure that the conditions provided for herein apply to such a sale and may be modified as necessary.
  - c. Where any Lot fails to sell at auction the Auctioneer shall notify the Vendor accordingly and, in the absence of agreement between the Vendor and the Auctioneer to the contrary, the Lot may be re-entered

on DNG Auctions at the Auctioneer's discretion and subject to any instructions from the Vendor to the contrary.

- iv. Regarding the Auctioneer's scope of agency:
  - a. In the case of an Auctioneer acting as agent, the Auctioneer is selling as agent for the Vendor unless specifically stated to the contrary.
  - b. In acting as agent for the Vendor the Auctioneer is not responsible for any default by the Vendor or Buyer.
  - c. The Auctioneer is not authorised to Bid on behalf of the Vendor.
- v. Any dispute which may arise with regard to bidding or the acceptance of Bids shall be settled by the Auctioneer.
- vi. The Bidder acknowledges that DNG Auctions shall have no liability whatsoever for any such action taken by the Auctioneer

## **C. Obligations & Conduct of Bidders**

- i. Regarding the conduct of Bidders:
  - a. Every Bidder shall be deemed to act as principal unless the Auctioneer has, prior to the auction, acknowledged in writing that a Bidder is acting as agent on behalf of a named principal.
  - b. Bidders shall not make a Bid for the property on behalf of the Vendor, notwithstanding certain exemptions as set out in the Property Services (Regulations) Act, 2011, Section 58(2)
  - c. Bidders and Buyers on DNG Auctions confirm that they are in possession of sufficient funds to settle balance of deposit and completion within the timeframes set out herein.
  - d. No person shall advance a Bid of a sum less than that fixed by the Auctioneer, and no accepted Bid shall be retracted.
- ii. Regarding applicable fees and deposits:
  - a. Bidders must secure the required Auction Entrance Fee of €4,120.00, or an amount set out in the auction lot details to be found in the catalogue, which is payable by credit card or debit card by way of a hold on the debit/credit card, and must do so prior to gaining access to the bidding platform.
  - b. Unsuccessful Bidders will have the Auction Entrance Fee released on their credit card or debit card.

## **D. Vendor's Warranty & Indemnity**

- i. The Vendor warrants to the Auctioneer, to DNG Auctions and to the Buyer that he is the true owner of the Lot or is legally authorised to sell the Lot on behalf of the true owner and can transfer good and marketable title to the Lot free from any third-party claims.
- ii. The Bidder acknowledges that it is his duty to satisfy himself via, independent legal research, as to who is the legal owner of the Lot
- iii. DNG Auctions shall have the right, but not the obligation, to rescind a sale without notice to the Buyer if it reasonably believes that there is a material breach of the Vendor's representations and warranties or the Authorship Warranty or an adverse claim is made by a third party. The purchase price will be returned to the Buyer.
- iv. The Vendor shall indemnify the Auctioneer, DNG Auctions and the Buyer or any of their respective employees, servants or agents against any loss or damage suffered by any of them in consequence of any breach of the above warranties or undertakings by the Vendor.

## **4. CONTRACT FOR SALE**

- i. Unless alternate terms have been agreed with the Auctioneer before the auction, the Buyer grants authority to the Auctioneer or any person authorised by the Auctioneer, to sign the Contract for Sale relating to the Lot on the Buyer's behalf.
- ii. Unless alternate terms have been agreed with the Auctioneer before the auction, the Buyer of the Lot shall pay to the Auctioneer within two (2) working days from the date of the auction, the balance of 10% of the total amount due, from which the previously paid Bidder's Security will be deducted. The Auctioneer may apply any

payments received by a Buyer towards any sums owing by that Buyer to the Auctioneer on any account whatsoever irrespective of any directions of the Buyer or their agent in that regard whether they be express or implied.

- iii. Notwithstanding delivery or passing of risk to the Buyer, the ownership of a Lot shall not pass to the Buyer until contracts have been exchanged by both parties and the Buyer has paid to the Auctioneer, or the Vendor's solicitors if specified in the contract of sale, the total purchase price due.

## **5. BREACH OF CONTRACT FOR SALE OR FAILURE TO SIGN OR RETURN CONTRACT**

- i. If a Buyer fails to make payments for any purchased Lot by the dates specified for payment or fails to sign or return contracts, the Auctioneer shall have absolute discretion, without prejudice to any other rights or remedies it may have, to exercise one or more of the following rights or remedies without further notice to the Buyer:
  - a. To issue court proceedings for damages for breach of contract;
  - b. To rescind the sale of that Lot or any other Lots sold to the Buyer whether at that or any other auction;
  - c. To resell the Lot or cause it to be resold whether by public auction or private sale.
  - d. In the event there is a deficiency between the total amount due by the Buyer and the amount received by the Auctioneer on resale after deduction of any necessary expenses, the difference shall be paid to the Auctioneer by the Buyer while any surplus arising shall belong to the Vendor;
  - e. Levy a fixed penalty in the amount of €4,000.00
  - f. To charge interest on the total amount due at the rate of 2% over and above the base rate issued by Bank of Ireland per annum, or if there be no such base rate, the nearest equivalent thereto to be determined by the Auctioneer at its absolute discretion from the date on which the payment fell due hereunder to the date of actual payment;
  - g. To retain that Lot or any other Lot purchased by the Buyer whether at the same or any other auction and release same to the Buyer only after payment is made to the Auctioneer of the total amount due;
  - h. To apply any sums which the Auctioneer received in respect of Lots being sold by the Buyer towards settlement of the total amount due;
  - i. To exercise a lien on any property of the Buyer in the possession of the Auctioneer for whatever reason.

## **6. LIABILITY**

- i. Prior to auction ample opportunity is given for the inspection of Lots on sale and associated legal documentation. In making a Bid each Buyer acknowledges that he has had ample opportunity to take independent legal advice and has satisfied himself as to the physical condition, title, legal status, age and description of each Lot
- ii. Representations or statements made by the Auctioneer or DNG Auctions are a statement of opinion only.
- iii. Neither the Auctioneer or DNG Auctions nor their employees, servants or agents shall be responsible for the accuracy of any such opinions. Every person interested in the Lot must exercise and rely on their own judgement and opinion as to such matters.
- iv. Neither the Vendor, the Auctioneer, DNG Auctions nor any of their employees, servants or agents shall be responsible for the condition or authenticity of any Lot or any error in its description.
- v. No warranty whatsoever is given by the Vendor, DNG Auctions or Auctioneer or by any of their employees, servants or agents in respect of any Lot, excluding any condition or warranty express or implied by statute or otherwise.
- vi. No provision in these Conditions of Sale shall be deemed to exclude or limit the liability of DNG Auctions or any of our affiliated companies to the Buyer in respect of any fraud or fraudulent misrepresentation made by any of us or in respect of death or personal injury caused by our negligent acts or omissions.

## **7. INDEMNITY**

- i. By agreeing to these Terms and Conditions, you acknowledge that to the extent permitted by law, DNG Auctions and its third-party providers owes you no duty of care and you have no claim against us for any loss.
- ii. Any indemnity given under these conditions shall extend to all actions, proceedings, claims, demands, costs and expenses whatsoever and howsoever incurred or suffered by the person entitled to the benefit of the indemnity.

- iii. The Auctioneer and DNG Auctions declare themselves to be a trustee of the benefit of every such indemnity for their employees, servants or agents to the extent that such indemnity is expressed to be for their benefit.

## **8. INFORMATION REQUIRED FROM BUYERS**

- i. The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018) requires that Buyers provide the following:
  - a. Copy of photo ID
  - b. Utility bill showing current address to the Vendors of the properties they are interested in before their account will be activated.
- ii. Bidders and Buyers confirm they are in a position to provide the Auctioneer and/or all other parties connected with the Vendors with Proof of Funds if so requested

## **9. AUCTIONEER OBLIGATIONS REGARDING ANTI-MONEY LAUNDERING AND TERRORIST FINANCING**

- i. The Auctioneer is obliged the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018) to report to An Garda Síochána and the Revenue Commissioners suspicious transactions and transactions designated under the Act. The Fourth Anti-Money Laundering Directive of the European Union requires that all licensed Property Service Providers take additional measures to ensure adequate customer due diligence in relation to Bidders and Buyers who been entrusted with a prominent public function, leading to increased political exposure.
- ii. The Bidder acknowledges that they are obliged to make the Auctioneer aware, prior to signing, if the Bidder or the Bidder's Close Associate or Immediate Family Member (or, in the case of a corporate Bidder, a Director or the Close Associate or Immediate Family Member of a Director), holds, or has held at any time in the last year, a prominent public function including:
  - a. Head of state or Government minister;
  - b. Member of the Supreme Court (of any State)
  - c. Member of a Court of Auditors or the Board of a Central Bank;
  - d. Ambassador, chargé affairs or high-ranking officer in the armed forces.
  - e. Member of the administrative, management or supervisory body of a state-owned enterprise.
- iii. The Bidder acknowledges that to conceal or misrepresent the status of a Politically Exposed Person may be a crime under the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018).

## **10. DATA PROTECTION**

DNG Auctions will process all your personal information in accordance with the EU General Data Protection Regulation (GDPR) and all other relevant data protection laws.

## **11. NOTICES**

- i. Any notice or other communication required to be given by the Auctioneer or DNG Auctions shall be given in writing and shall be sufficiently given if delivered by hand, or sent by post or email to the address of the party as specified on the Registration Form or register,
- ii. Every notice or communication given in accordance with this condition shall be deemed to have been received if delivered by hand or email on the day and time of delivery, or three (3) business days after posting, if delivered by post

## **12. GOVERNING LAW AND JURISDICTION**

- These conditions shall be governed by and construed in accordance with Irish Law with any disputes being subject to the exclusive jurisdiction of the Courts of the Republic of Ireland.