

# contract for sale of land or strata title by offer and acceptance



**REIWA**  
REAL ESTATE INSTITUTE  
OF WESTERN AUSTRALIA

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**NOTICE:** Contracts must be lodged with the Office of State Revenue for duty assessment within two (2) months of the date the last person signs the Contract

**WARNING** - If the Buyer is not an Australian Citizen or Permanent Resident or a New Zealand Citizen then FIRB approval (and a special condition to this Contract) may be required.

**WARNING** - If the Purchase Price is \$750,000 or more, Withholding Tax **may** apply to this Contract (see 2018 General Condition 3.7).

**WARNING** - If GST is relevant to this transaction then the relevant GST provision should be outlined in the Special Conditions or an attached GST Annexure.

TO:

As Agent for the Seller / Buyer

**THE BUYER (FULL NAME AND ADDRESS)**

EMAIL: The Buyer consents to Notices being served at:

OFFERS TO PURCHASE (as joint tenants/tenants in common specifying the undivided shares) the Land and Property Chattels set out in the Schedule ("the Property") with vacant possession unless stated otherwise in the Special Conditions at the Purchase Price on the terms set out in the Schedule, the Conditions and the Special Conditions.

## SCHEDULE

The Property at:

Lot [ ] Deposited/Survey/Strata/Diagram/Plan [ ] Whole / Part Vol [ ] Folio [ ]

A deposit of \$ [ ] of which \$ [ ] is paid now and \$ [ ] to be paid within [ ] days of acceptance to be held by [ ]

("the Deposit Holder"). The balance of the Purchase Price to be paid on the Settlement Date.

Purchase Price **See Schedule 1 - Openn Negotiation Conditions Purchase Price Confirmation**

Settlement Date [ ]

Property Chattels including [ ]

### FINANCE CLAUSE IS APPLICABLE

LENDER [ ]

(NB. If blank, can be any Lender)

LATEST TIME: 4pm on: [ ]

AMOUNT OF LOAN: [ ]

SIGNATURE OF BUYER [ ]

### FINANCE CLAUSE IS NOT APPLICABLE

Signature of the Buyer if Finance Clause IS NOT applicable

## SPECIAL CONDITIONS

1. Schedule 1 - Openn Negotiation Conditions form part of this contract. The sale of the Property shall be conducted pursuant to the process known as "Openn Negotiation" and shall take place in accordance with the Openn Negotiation Conditions (attached and marked "Schedule 1 - Openn Negotiation Conditions").

**NOTE: IF THIS DOCUMENT IS ON SEPARATE PAGES OR IS TO BE FAXED THEN ALL PARTIES SHOULD SIGN ALL PAGES.**

# contract for sale of land or strata title by offer and acceptance

## CONDITIONS

### 1. SUBJECT TO FINANCE

If the Buyer signs the "Finance Clause is not Applicable" box in the Schedule, or if no information is completed in the 'Finance Clause is Applicable' box in the Schedule, then this Clause 1 does not apply to the Contract.  
If any information is completed in or the Buyer signs the 'Finance Clause is Applicable' box in the Schedule then this Clause 1 applies to the Contract.

#### 1.1 Buyer's Obligation to Apply for Finance and Give Notice to the Seller

- (a) The Buyer must:
- (1) immediately after the Contract Date make a Finance Application to the Lender using, if required by the Lender, the Property as security; and
  - (2) use all best endeavours in good faith to obtain Finance Approval.
- (b) If the Buyer does not comply with Clause 1.1(a) or 1.1(c)(1) then the Contract will not come to an end under Clause 1.2 and the Buyer may not terminate the Contract under Clause 1.3. The rights of the Seller under this Clause 1.1 will not be affected if the Buyer does not comply with Clause 1.1.
- (c) The Buyer must immediately give to the Seller or Seller Agent:
- (1) an Approval Notice if the Buyer obtains Finance Approval; or
  - (2) a Non Approval Notice if the Finance Application is rejected;

at any time while the Contract is in force and effect.

#### 1.2 No Finance Approval by the Latest Time: Non Approval Notice Given

This Contract will come to an end without further action by either Party if on or before the Latest Time:

- (a) written Finance Approval has not been obtained or the Finance Application has been rejected; and
- (b) the Buyer gives a Non Approval Notice to the Seller or Seller Agent.

#### 1.3 No Finance Approval by the Latest Time: No Notice Given

If by the Latest Time:

- (a) the Buyer has not given an Approval Notice to the Seller or Seller Agent; and
- (b) the Buyer has not given a Non Approval Notice to the Seller or Seller Agent;
- then this Contract will be in full force and effect unless and until either the Seller gives written Notice of termination to the Buyer or the Buyer terminates this Contract by giving a Non-Approval Notice to the Seller or Seller Agent.

#### 1.4 Finance Approval: Approval Notice Given

If by the Latest Time, or if Clause 1.5 applies, before the Contract is terminated:

- (a) Finance Approval has been obtained; and
- (b) the Buyer has given an Approval Notice to the Seller or Seller Agent;
- then this Clause 1 is satisfied and this Contract is in full force and effect.

#### 1.5 Notice Not Given by Latest Time: Seller's Right to Terminate

If by the Latest Time the Buyer has not given an Approval Notice or a Non Approval Notice to the Seller or Seller Agent then at any time until an Approval Notice or a Non Approval Notice is given, the Seller may terminate this Contract by written Notice to the Buyer.

#### 1.6 Buyer Must Keep Seller Informed: Evidence

- (a) If requested in writing by the Seller or Seller Agent the Buyer must:
- (1) advise the Seller or Seller Agent of the progress of the Finance Application; and
  - (2) provide evidence in writing of the making of a Finance Application in accordance with Clause 1.1 (a) and of any loan offer made, or any rejection; and
  - (3) if applicable, advise the Seller or Seller Agent of the reasons for the Buyer not accepting any loan offer.
- (b) If the Buyer does not comply with the request within 2 Business Days then the Buyer authorises the Seller or Seller Agent to obtain from the Lender the information referred to in Clause 1.6(a).

2. Acceptance of this offer will be sufficiently communicated to the Buyer if verbal or written notification is given by the Seller or Seller's Agent to the Buyer that the acceptance has been signed by the Seller.
3. The 2018 General Conditions are incorporated into this Contract so far as they are not varied by or inconsistent with the Conditions or Special Conditions of this Contract.
4. The parties consent to the information in this Contract being used/disclosed by REIWA and the Seller Agent in accordance with the privacy collection notices pursuant to the Australian Privacy Principles that appear on the REIWA and Seller Agent's websites.

### 1.7 Right To Terminate

If a Party has the right to terminate under this Clause 1, then:

- (a) termination must be effected by written Notice to the other Party;
- (b) Clauses 23 and 24 of the 2018 General Conditions do not apply to the right to terminate;
- (c) upon termination the Deposit and any other monies paid by the Buyer must be repaid to the Buyer;
- (d) upon termination neither Party will have any action or claim against the other for breach of this Contract, except for a breach of Clause 1.1 by the Buyer.

### 1.8 Waiver

The Buyer may waive this Clause 1 by giving written Notice to the Seller or Seller Agent at any time before the Latest Time, or if Clause 1.5 applies, before the Contract is terminated. If waived this Clause is deemed satisfied.

### 1.9 Definitions

In this Clause:

**Amount of Loan** means either the amount referred to in the Schedule or any lesser amount of finance referred to in the Finance Application. If the amount referred to in the Schedule is blank, then the amount will be an amount equivalent to the Purchase Price.

**Approval Notice** means a Notice in writing given by the Buyer or the Lender to the Seller, or Seller Agent to the effect that Finance Approval has been obtained.

**Finance Application** means an application made by or on behalf of the Buyer to the Lender to lend any monies payable under the Contract.

**Finance Approval** means:

- (a) a written approval by the Lender of the Finance Application or a written offer to lend or a written notification of an intention to offer to lend made by the Lender; and
- (b) for the Amount of Loan; and
- (c) which is unconditional or subject to terms and conditions:
- (1) which are the Lender's usual terms and conditions for finance of a nature similar to that applied for by the Buyer; or
  - (2) which the Buyer has accepted by written communication to the Lender, but a condition which is in the sole control of the Buyer to satisfy will be treated as having been accepted for the purposes of this definition; or
  - (3) which, if the condition is other than as referred to in paragraphs (1) and (2) above includes:
    - (i) an acceptable valuation of any property;
    - (ii) attaining a particular loan to value ratio;
    - (iii) the sale of another property; or
    - (iv) the obtaining of mortgage insurance;
- and has in fact been satisfied.

**Latest Time** means:

- (a) the time and date referred to in the Schedule; or
- (b) if no date is nominated in the Schedule, then 4pm on the day falling 15 Business Days after the Contract Date.

**Lender** means:

- (a) the lender nominated in the Schedule; or
- (b) if no lender is nominated in the Schedule, any bank, building society, credit union or other institution which makes loans and in each case carries on business in Australia.

**Non Approval Notice** means a Notice in writing given by the Buyer or the Lender to the Seller, or Seller Agent to the effect that the Finance Application has been rejected or Finance Approval has not been obtained.

## BUYER [If a corporation, then the Buyer executes this Contract pursuant to the Corporations Act.]

Signature	Date	Signature	Date
Signature	Date	Signature	Date

## THE SELLER (FULL NAME AND ADDRESS) ACCEPTS the Buyer's offer

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EMAIL: The Seller consents to Notices being served at:

[If a corporation, then the Seller executes this Contract pursuant to the Corporations Act.]

Signature	Date	Signature	Date
Signature	Date	Signature	Date

### RECEIPT OF DOCUMENTS

The Buyer acknowledges receipt of the following documents:

1. This offer and acceptance
2. 2018 General Conditions
3. Form 28 and its attachments (if a strata lot)
4. Other

Signature	Signature
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### RECEIPT OF DOCUMENTS

The Seller acknowledges receipt of the following documents:

1. This offer and acceptance
2. 2018 General Conditions
3. Other

Signature	Signature
-----------	-----------

**CONVEYANCER** The Parties appoint their Representative below to act on their behalf and consent to Notices being served on that Representative's email address.

#### BUYER'S REPRESENTATIVE

Name	
Signature	

#### SELLER'S REPRESENTATIVE

Name	
Signature	

### COPYRIGHT

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01/18

# Schedule 1 - Openn Negotiation Conditions

## 1 Definitions and interpretation

1.1 In these Openn Negotiation Conditions:

- (1) **App** means the specialised software program designed to facilitate the Openn Negotiation and known as "Openn";
- (2) **Attorney** means the attorney appointed pursuant to the Limited Power of Attorney granted by the Buyer pursuant to clause 8;
- (3) **Auctioneer** means the auctioneer appointed by the Seller's Agent to conduct the Openn Negotiation, who must be a licensed auctioneer pursuant to the Auction Sales Act 1973 (WA);
- (4) **AWST** means Australian Western Standard Time;
- (5) **Buy Now Bidder** means a Qualified Bidder who takes the Buy Now Option in the App (where available) and thereby confirms that the Qualified Bidder wishes to buy the Property at the "Buy Now Price" prior to the Final Bidding Stage;
- (6) **Buy Now Option** means the option that the Seller, at his or her sole discretion, may elect to make available during the Campaign Bidding Stage for a Qualified Bidder to buy the Property for the Buy Now Price by selecting the "Buy Now" button in the App, unless/until the Seller removes the Buy Now Option from the App;
- (7) **Buy Now Price** means the price for which Qualified Bidders may immediately purchase the Property without the need to negotiate further, provided that the Buy Now Option is enabled by the Seller, being a price that is displayed on the App that continually decreases in a Descending Price Auction format in the Campaign Bidding Stage but will always be higher than the Reserve Price;
- (8) **Buyer** means the buyer described on this Offer and Acceptance;
- (9) **Campaign Bidding Stage** means the stage of the Openn Negotiation that commences when the Property is listed on the App and ends at the earlier of the Property being sold or the commencement of the Final Bidding Stage;
- (10) **Contact Details** means telephone, mobile phone, text and email contact details;
- (11) **Descending Price Auction** means a method of sale that may be available during the Campaign Bidding Stage in which the price of the Property is reduced in increments as identified on the App until the Seller elects to remove the option from the App or a Qualified Bidder agrees to the price, at which time the Property is taken to be sold to that Qualified Bidder;
- (12) **Developer** means PP Valley Pty Ltd ACN 612 338 477;
- (13) **Dummy Bidding** means false or fictitious bids made by non-genuine bidders with no intention of buying the Property;
- (14) **Final Bidding Stage** means the stage of the Openn Negotiation at which Qualified Bidders make competing bids to purchase the Property through the App, with a time limit applying to the making of bids and the process concluding when the Property is sold or all bids are exhausted;
- (15) **Highest Bidder** means the Qualified Bidder who makes the highest bid for the Property in the Final Bidding Stage that is accepted by the Auctioneer;
- (16) **Limited Power of Attorney** means the power of attorney granted to the Auctioneer by the Buyer pursuant to clause 8 of these Conditions;
- (17) **Offer Form** means a duly completed written offer that is capable of being accepted;
- (18) **Offer and Acceptance** means this contract for the sale of land or strata title conducted via Openn Negotiation by way of offer and acceptance of which these conditions form a part;
- (19) **Openn Negotiation** means the process set out in these conditions according to which the sale is to be conducted;
- (20) **Owner of Openn Negotiation** means Cleverbons Pty Ltd ACN 607 908 636;
- (21) **Password** means the unique word or combination of letters, number and other characters used to access the App;
- (22) **Price Confirmation** means the written confirmation of:
  - (a) the Winning Bid completed by the Auctioneer as the Buyer's Attorney (pursuant to the Limited Power of Attorney granted by the Buyer pursuant to clause 8) or Buyer (including any Highest Bidder, Buy Now Bidder or Sole Bidder); or
  - (b) if the Property is not sold during the Final Bidding Stage, any price agreed by the Buyer and Seller before noon on the day after the day that the Final Bidding Stage occurs in accordance with clause 9.1, and set out in the area marked Purchase Price Confirmation following clause 15 of this Schedule 1;
- (23) **Property** means the Property described in this Offer and Acceptance;
- (24) **Qualified Bidder** means a bidder who has fulfilled the requirements set out in clause 2.1 and has been approved by the Seller in accordance with clause 2.3.;
- (25) **Reserve Price** means the reserve price specified by the Seller;
- (26) **Seller** means the seller of the Property described in this Offer and Acceptance;
- (27) **Seller's Agent** means the real estate agent duly authorised to act on behalf of the seller pursuant to the *Real Estate and Business Agents Act 1978* (WA) specified in the Offer and Acceptance;
- (28) **Sole Bidder** means a Qualified Bidder who is the only Qualified Bidder in relation to the Property (i.e. the only bidder who has submitted to the Seller's Agent an Offer Form that has been accepted by the Seller such that the bidder may take part in the Openn Negotiation);
- (29) **Starting Bid** means the opening bid made by each Qualified Bidder through the App which may be increased during the Campaign Bidding Stage;
- (30) **Unique Identification Number** means the unique identifying number provided by the App to each Qualified Bidder to allow them to be identified in the App; and
- (31) **Winning Bid** means the successful bid made in the App which will be confirmed by the Buyer or the Auctioneer (on behalf of the Buyer pursuant to the Limited Power of Attorney) in the area marked Purchase Price Confirmation on page 4 of this Schedule 1 as the price for which the Property will be sold and includes, if applicable, the successful bid made by the Highest Bidder, the Buy Now Price and/or any bid made by the Sole Bidder that is accepted by the Seller.

## 2 Qualified Bidders

- 2.1 Each prospective bidder must, prior to the Final Bidding Stage:
  - (1) access and register their details in the App in accordance with clause 3;
  - (2) enter their Starting Bid in the App;
  - (3) submit a signed Offer Form to the Seller's Agent which incorporates these Conditions; and
  - (4) provide their Contact Details to the Seller's Agent.
- 2.2 The Offer Form must state all terms upon which the prospective bidder is prepared to purchase the Property other than the proposed purchase price.
- 2.3 Prior to the Final Bidding Stage the Seller will determine whether:
  - (1) the terms and conditions in each submitted Contract for Sale and Purchase of Land are such that the Seller agrees to that potential bidder being eligible to participate in the Openn Negotiation; and
  - (2) whether the Seller will agree to any specific changes and amendments to the terms and conditions of the Contract for Sale and Purchase of Land requested by that potential bidder,

If so, that potential bidder will become a Qualified Bidder and the Agent will approve the Qualified Bidder on the app and if that now Qualified Bidder is the eventual purchaser the conditions set out in the submitted contract for sale and purchase of land as agreed to by the Seller will be incorporated into the Contract for Sale and Purchase of Land entered into by the Seller and the Qualified Bidder who has become the eventual purchaser.
- 2.4 Once the Agent approves the Qualified Bidder on the App, the App will:
  - (1) send a notification to the Qualified Bidder advising them that they are a Qualified Bidder;

- (2) show when the Final Bidding Stage will commence as provided for in clause 4; and
  - (3) provide them with a Unique Identification Number that will be used to identify them in the App.
- 2.5 Prior to the Final Bidding Stage, the Seller's Agent will use reasonable endeavours to contact Qualified Bidders at their Contact Details and:
- (1) advise them that they are Qualified Bidders;
  - (2) advise them when the Final Bidding Stage will commence as provided for in clause 4; and
  - (3) use reasonable endeavours to assist Qualified Bidders in obtaining the App.
- 2.6 Qualified Bidders are entitled to participate in the Openn Negotiation on the basis that:
- (1) the Openn Negotiation will be conducted through the App;
  - (2) the Qualified Bidder will be solely responsible (at his or her risk) for ensuring that he or she has adequate mobile and/or internet coverage to allow access to the App;
  - (3) the Qualified Bidder will compete with other Qualified Bidders such that the successful buyer of the Property will be the Qualified Bidder who offers the highest price at or in excess of the Reserve Price;
  - (4) other than the price that the Qualified Bidder will pay to purchase the Property, the Seller and Qualified Bidders will not negotiate as to the terms of the offers contained in the Offer Forms after a bidder has been accepted as a Qualified Bidder;
  - (5) a Qualified Bidder may not retract a bid once it has been made;
  - (6) any bid made in the App using a Qualified Bidder's Unique Identification Number will be deemed to have been made by that Qualified Bidder, and the Qualified Bidder is solely responsible for ensuring that each bid is in fact made by the Qualified Bidder;
  - (7) during the Final Bidding Stage the Auctioneer may determine a minimum sum by which any bid must exceed the previous bid and no bid will be accepted that does not meet that requirement;
  - (8) during the Final Bidding Stage the App will set a time limit during which Qualified Bidders may consider whether or not to place a bid;
  - (9) the Auctioneer may reject bids that he or she considers, at his or her discretion, are likely to have been made in error or bad faith;
  - (10) the Seller may not bid personally, either directly or by an agent or other representative;
  - (11) subject to clauses 6.4 and 10, once commenced the Openn Negotiation cannot be terminated by the Seller or any other party until:
    - (a) all bids are exhausted; and
    - (b) if there is one or more bids at or exceeding the Reserve Price, the Buyer or Auctioneer (on behalf of the Buyer pursuant to the Limited Power of Attorney) has provided the Price Confirmation by recording the Winning Bid in the area marked Purchase Price Confirmation on page 4 of this Schedule 1 as the price for which the Buyer will purchase the Property;
  - (12) the terms of the sale to the successful Qualified Bidder will, other than the price, be the same terms as set out in that Qualified Bidder's Offer Form; and
  - (13) the Qualified Bidder is solely responsible for the operation of the App, the making of each bid and the involvement of the bidder in the Openn Negotiation.
- 3 Use of the App**
- 3.1 Prior to the Final Bidding Stage, each Qualified Bidder must:
- (1) access the App;
  - (2) register their Contact Details in the App;
  - (3) select a unique word or combination of letters, numbers and other characters (**Password**) to access the App;
  - (4) select the Property in the App as a bidder; and
  - (5) input their Starting Bid in the App.
- 3.2 The Qualified Bidder must not disclose their Password to any other person nor allow any other person to access the App on his or her behalf.
- 3.3 Prior to the Final Bidding Stage, any Qualified Bidder may increase their Starting Bid by providing further bids through the App.
- 4 Commencement of the Final Bidding Stage**
- 4.1 The Final Bidding Stage will commence at the date and time nominated by the Seller for the Final Bidding Stage to begin, which can be at any time, provided that:
- (1) the Final Bidding Stage must commence between 8.00am and 9.00pm AWST; and
  - (2) notice of the time that the Final Bidding Stage will commence must be provided to Qualified Bidders in accordance with clause 4.2.
- 4.2 Once the Seller has decided when the Final Bidding Stage will commence:
- (1) the App will display the date and time that the Final Bidding Stage will commence; and
  - (2) if the date and time for the Final Bidding Stage has changed since the Qualified Bidder entered their Starting Bid, the Seller's Agent and/or the Auctioneer will use reasonable endeavours to contact that Qualified Bidder (at that bidder's Contact Details) no less than 12 hours prior to the commencement of the Final Bidding Stage to advise when the Final Bidding Stage will commence.
- 5 Conduct of the Final Bidding Stage**
- 5.1 During the Final Bidding Stage, the Openn Negotiation will be conducted as follows:
- (1) each Qualified Bidder must log into the App using their Password such that if a Qualified Bidder has not logged in prior to the Final Bidding Stage they shall no longer be a Qualified Bidder;
  - (2) during the Final Bidding Stage the App will display the then highest bid and give each other Qualified Bidder the option of increasing his or her bid to a sum that exceeds what is at that time the highest bid;
  - (3) other Qualified Bidders may choose to make a further bid exceeding what is then the highest bid in increments determined by the Auctioneer, in accordance with clause 2.6(7) above;
  - (4) the App will display the Unique Identification Number for each Qualified Bidder and show which Qualified Bidder has made the highest bid at any point in the Final Bidding Stage;
  - (5) during the Final Bidding Stage the App will indicate:
    - (a) the minimum sum by which any bid must exceed the previous bid determined by the Auctioneer through the App in accordance with clause 2.6(7); and
    - (b) the time period during which further bids may be made before the current bid is final and successful, as set by the App in accordance with clause 2.6(8);
  - (6) the ultimate buyer of the Property will be the bidder who bids the highest sum at or in excess of the Reserve Price accepted by the Auctioneer (**Highest Bidder**);
  - (7) the Final Bidding Stage will proceed, with the Qualified Bidders increasing their bids, until each Qualified Bidder, other than the Highest Bidder, declines to make any further bid within the time period set by the App in accordance with clause 5.1(5)(b);
  - (8) as soon as practicable after the App records that the Highest Bidder has made the Winning Bid, the Highest Bidder or Auctioneer (on behalf of the Highest Bidder pursuant to the Limited Power of Attorney) will provide the Price Confirmation;
  - (9) upon receipt of the Price Confirmation referred to in clause 5.1(8) the Seller will immediately in writing, accept the Highest Bidder's offer; and
  - (10) if any dispute arises in relation to any bid, such dispute may be determined by the Auctioneer.
- 6 Reserve Price**
- 6.1 The Property is offered for sale subject to a Reserve Price.
- 6.2 If no bid exceeds the Reserve Price in the Final Bidding Stage the Seller is not obliged to sell the Property to any Qualified Bidder.
- 6.3 If one or more bids in the Final Bidding Stage equals or exceeds the Reserve Price, then the Seller must sell the Property to the Highest Bidder.

- 6.4 Subject to clause 9, if none of the bids made by the Qualified Bidders equals or exceeds the Reserve Price, the Seller may choose to negotiate with one or more of the Qualified Bidders to sell the Property by private treaty, but is under no obligation to do so.

## 7 Purchase of the Property during the Campaign Bidding Stage

- 7.1 Provided that the Seller has elected to enable the Buy Now Option in the App, then at any time between 8.00am and 9.00pm AWST prior to the earlier of:
- (1) the Final Bidding Stage; and
  - (2) the Seller electing to remove the Buy Now Option from the App,
- any Qualified Bidder may purchase the Property using the Buy Now Option, as follows:
- (3) the App will display a price for which Qualified Bidders may immediately purchase the Property without the need to negotiate further (**Buy Now Price**);
  - (4) the Buy Now Price will continually decrease in a Descending Price Auction format until the Buy Now Option is no longer available on the App;
  - (5) in order to purchase the Property at the Buy Now Price, the Qualified Bidder must be the first Qualified Bidder to select the "Buy Now" button in the App (**Buy Now Bidder**);
  - (6) as soon as practicable after the Buy Now Bidder takes the Buy Now Option, the Buy Now Bidder or Auctioneer (on behalf of the Buy Now Bidder pursuant to the Limited Power of Attorney) will provide the Price Confirmation of the Winning Bid;
  - (7) upon receipt of the Price Confirmation referred to in clause 7.1(6) the Seller will as soon as practicable, in writing, accept the Buy Now Bidder's offer.
- 7.2 The Seller may accept an offer made by a Qualified Bidder during the Campaign Bidding Stage without commencing the Final Bidding Stage where there is only one Qualified Bidder (**Sole Bidder**), as follows:
- (1) all bids by the Sole Bidder must be made through the App;
  - (2) the Seller may accept any bid made by a Sole Bidder through the App without commencing the Final Bidding Stage;
  - (3) as soon as practicable after being notified that the Seller has accepted the Sole Bidder's bid in accordance with clause 7.2(2), the Sole Bidder or Auctioneer (on behalf of the Sole Bidder pursuant to the Limited Power of Attorney) will provide the Price Confirmation of the Sole Bidder's bid; and
  - (4) upon receipt of the Price Confirmation referred to in clause 7.2(3), the Seller will as soon as practicable, in writing, accept the Sole Bidder's offer.

**NOTE: THE SELLER MAY ACCEPT ANY BID MADE BY A QUALIFIED BIDDER AT ANY TIME WITHOUT COMMENCING THE FINAL BIDDING STAGE PROVIDED THAT THERE IS ONLY ONE QUALIFIED BIDDER AT THE TIME THAT THE SELLER ACCEPTS THE OFFER.**

Buyer's initials

## 8 Power of Attorney

- 8.1 The Buyer irrevocably appoints the Auctioneer to be the Buyer's Attorney to exercise the powers described in this clause 8.
- 8.2 In the event that the Buyer makes the Winning Bid, the Attorney is authorised to complete and sign the Price Confirmation on behalf of the Buyer in accordance with clauses 2.6(11), 5.1(8), 7.1(6) and 7.2(3).
- 8.3 Other than the powers described in this clause 8, the Attorney may not do anything as attorney on behalf of the Buyer.
- 8.4 The powers granted in this clause 8 commence when the Buyer signs this Offer and Acceptance and expire at the conclusion of the Openn Negotiation for the Property.
- 8.5 The Buyer ratifies and confirms anything the Attorney lawfully does in accordance with these Conditions.

Buyer's initials

## 9 Purchase of the Property otherwise than during the Campaign Bidding Stage or Final Bidding Stage

- 9.1 If the Property does not sell during the Final Bidding Stage, but an offer is made by a Qualified Bidder that is accepted by the Seller before noon on the day after the day that the Final Bidding Stage occurs:
- (1) the sale must be on the terms and conditions (other than price) set out in the Qualified Bidder's Offer Form; and
  - (2) the sale will be conducted in accordance with these conditions such that the buyer and the Seller must record in writing the price agreed by the parties using the Price Confirmation or any other written form agreed by the parties.

## 10 Withdrawal of Property from Sale

- 10.1 The Seller may withdraw the Property from sale at any point by selecting the "Cancel Registration" button on the App until the earlier of:
- (1) the Commencement of the Final Bidding Stage; or
  - (2) a bid being made through the App by any Qualified Bidder that equals or exceeds the Reserve Price,
- provided that upon the first of the events referred to in subparagraphs (1) and (2) above, the Seller cannot withdraw the Property from sale unless all bids are exhausted at the Final Bidding Stage without the Reserve Price having been reached.

## 11 Suspension of Openn Negotiation

- 11.1 The Auctioneer may cancel the Openn Negotiation including, but not limited to, the Final Bidding Stage, if:
- (1) he or she reasonably considers that a technical problem has occurred with the App such that the Openn Negotiation cannot properly proceed; or
  - (2) he or she reasonably considers that one or more Qualified Bidders are experiencing difficulties with the use of the App such that the Openn Negotiation cannot properly proceed.
- 11.2 If the Auctioneer cancels the Openn Negotiation in accordance with clause 11.1 above, the Seller's Agent will contact the Qualified Bidders at their Contact Details to advise them of a new Openn Negotiation (and a new Final Bidding Stage) PROVIDED THAT UPON the Openn Negotiation restarting in these circumstances, no bidder shall be bound by any prior bid and shall be free to recommence bidding at any amount the bidder wishes.
- 11.3 The Auctioneer may also pause the Final Bidding Stage for the purpose of taking instructions from the Seller or conferring with Qualified Bidders.

## 12 Liability

- 12.1 The Qualified Bidders and the Sellers release and hold harmless the Seller's Agent, Auctioneer, Developer and the Owner of Openn Negotiation and their officers, directors and employees from and against all actions, suits, demands, claims, losses, damages and costs whatsoever, whether at law or in equity arising out of any use, attempted use and/or any technical failure of the App.

## 13 Dummy Bidding

- 13.1 Dummy Bidding and/or encouraging another party to engage in Dummy Bidding constitutes a breach of these conditions and may also constitute fraud and/or misleading or deceptive conduct and attract serious consequences.
- 13.2 Any party who becomes aware of the occurrence of Dummy Bidding must inform the Agent and/or the Auctioneer as soon as possible.
- 13.3 The Qualified Bidders and Sellers warrant that they will not engage in Dummy Bidding nor encourage or permit any other party to engage in Dummy Bidding.

**14 Price Confirmation**

- 14.1 By entering into this Offer and Acceptance, the Buyer and Seller agree that the Purchase Price of the Property will be:
- (1) the Winning Bid, which will be confirmed in writing below by the Seller and the Buyer or Auctioneer (on behalf of the Buyer as the Buyer's Attorney pursuant to the Limited Power of Attorney) if the Buyer makes the Winning Bid in the Openn Negotiation; or
  - (2) the price agreed by the Buyer and Seller before noon on the day after the Final Bidding Stage occurs in accordance with clause 9.1, which will be confirmed in writing by the Buyer and Seller using the Price Confirmation or any other written form agreed to by the parties.

Buyer

Buyer

Seller

Seller

Date

Date

Date

Date

**15 Copy of documents received**

- 15.1 The Buyer acknowledges receipt of a true copy of this document.

Buyer

Buyer

Date

Date

**NOTE TO SELLER AND PURCHASER:**

DO **NOT** COMPLETE PURCHASE PRICE CONFIRMATION UNTIL SELLER'S AGENT INSTRUCTS YOU THAT IT NEEDS TO BE COMPLETED.

**NOTE TO SELLER'S AGENT:**

DO **NOT** COMPLETE PURCHASE PRICE CONFIRMATION UNTIL REQUIRED TO DO SO BY CLAUSE 8 OR 9 OF THIS SCHEDULE 1.

**PURCHASE PRICE CONFIRMATION**

Property Address

Delete or complete as appropriate wherever asterisk (\*) appears below

**\*BY THE BUYER'S ATTORNEY**

Pursuant to the Limited Power of Attorney in clause 8 of these Conditions, the Buyer, by the Buyer's Attorney, hereby confirms the Purchase Price for the Property as follows:

Purchase Price



Full Name of Auctioneer:

Signature of Auctioneer

Date

**\*BY THE BUYER**

The Buyer hereby confirms the Purchase Price for the Property as follows:

Purchase Price



Full Name of Buyer

Signature of Buyer

Date

Full Name of Buyer

Signature of Buyer

Date

**SELLER CONFIRMATION**

The Seller confirms the Purchase Price for the Property as above.

Full Name of Seller

Signature of Seller

Date

Full Name of Seller

Signature of Seller

Date

**NOTE: ONLY THE WINNING BID, OR A PRICE AGREED BY THE BUYER AND SELLER BEFORE NOON ON THE DAY FOLLOWING THE DAY ON WHICH THE FINAL BIDDING STAGE OCCURS IN ACCORDANCE WITH CLAUSE 9.1, CAN BE CONFIRMED AS THE PURCHASE PRICE.**

**ONLY THE WINNING BID CAN BE CONFIRMED AS THE PURCHASE PRICE BY THE AUCTIONEER.**