

SPECIAL CONDITIONS

LOT number 11

Brief description of the LOT

Land at Hutton Moor, Herluin Way, Weston-Super-Mare

Name and address of the SELLER

Naden Properties Limited whose registered office is at 3rd floor, 167 Fleet Street, London EC4A 2EA

Name, address and reference of the SELLER'S SOLICITORS

Finers Stephens Innocent LLP, 179 Great Portland Street, London W1W 5LS

Title

Freehold

Registered or unregistered?

Registered at Plymouth Land Registry
with Title Absolute
title number AV245035

Title guarantee

Full title guarantee

Deposit

10% of the PRICE to be held as stakeholder

INTEREST RATE

4% over Royal Bank of Scotland Plc's base rate from time to time

AGREED COMPLETION DATE

24 June 2010

VAT

The sale is a transfer of a going concern

Insurance

The SELLER is to insure and any refund of insurance payments is to be made to the tenants

Vacant or let?

The sale is subject to the TENANCIES listed in the tenancy schedule

Rights sold with the LOT

As referred to in the copy title documents supplied and TR1

Exclusions from the sale

As referred to in the copy title documents supplied and TR1

Reservations to the SELLER

None

What the sale is subject to

The matters set out in the GENERAL CONDITIONS

Amendments to the GENERAL CONDITIONS

The following condition will be added to the end of General Condition 15.5:
'will be the beneficial owner of the lot'

Extra SPECIAL CONDITIONS

1. The Buyer shall reimburse the Seller any costs including VAT where applicable of the carrying out of pre-contract searches.
2. In the event a notice to complete is served under General Condition G6 by the Seller on the Buyer the Buyer shall without prejudice to any other rights or remedies the Seller may have pay the Seller's proper professional costs and disbursements in connection with such notice to complete
3. Any rent received by the Seller before the Completion Date and in respect of the June 2010 quarter shall be paid to the Buyer on completion
4. There shall be no obligation on the Seller to
 - a) pursue any rents arrears; or
 - b) apportion any rents received in respect of the June 2010 quarter.

TRANSFER

The prescribed form of TRANSFER is annexed

Capital allowances

None

Maintenance agreements

There are no maintenance agreements

TUPE

There are no employees to which TUPE applies

Environmental

General condition 21 (Environmental) applies.

Warranties

The following warranties are to be assigned to or held in trust for the BUYER:
None

TENANCY SCHEDULE

The LOT is sold subject to and with the benefit of the TENANCIES listed below:

Property	Date	Original landlord and tenant	Current tenant	Term	Current rent
Land at Hutton Moor Herluin Way Weston-Super-Mare	10.8.1994	Nadan Properties Limited (1) Blockbuster Corporation Limited (2)	Blockbuster Entertainment Limited	25 years from 24 June 1994	£83,350 per annum

Common Auction Conditions Relating to the Properties in England and Wales

(except for Lots in Scotland where Scottish Articles of roup will prevail and are available on request)

Introduction

The common auction conditions have three main sections.

1. Glossary

This gives special meanings to some words used in the rest of the conditions.

2. The conduct of the auction

These conditions regulate the conduct of the auction. If you read our catalogue or attend the auction you do so on the basis that you accept them.

3. Conditions of sale

If you buy a lot you will sign a sale memorandum under which you agree to be bound by the conditions of sale that apply to that lot. These conditions are:

- General conditions that apply to all lots
- Any extra general conditions in the catalogue or an addendum
- Special conditions that only apply to the lot you are buying (and which may vary the general conditions)

The conditions are legally binding.

Important notice

A prudent buyer will, before bidding for a lot at an auction:

- Take professional advice from a conveyancer and, in appropriate cases, a chartered surveyor and an accountant
- Read the conditions
- Inspect the lot
- Carry out usual searches and make usual enquiries
- Check the content of all available leases and other documents relating to the lot
- Check that what is said about the lot in the catalogue is accurate
- Have finance available for the deposit and purchase price
- Check whether VAT registration and election is advisable

The conditions assume that the buyer has acted like a prudent buyer. If you choose to buy a lot without taking these normal precautions you do so at your own risk.

Glossary

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

Wherever it makes sense:

- singular words can be read as plurals, and plurals as singular words;
- a "person" includes a corporate body;
- words of one gender include the other genders;
- references to legislation are to that legislation as it may have been modified or re-enacted by the date of the auction or the contract date (as applicable); and
- where the following words printed in bold black type appear in black type they have the specified meanings.

Actual completion date

The date when completion takes place or is treated as taking place for the purposes of apportionment and calculating interest.

Addendum

An amendment or addition to the conditions or to the particulars or to both whether contained in a supplement to the catalogue, a written notice from the auctioneers or an oral announcement at the auction.

Agreed completion date

Subject to condition G9.3:

- (a) the date specified in the special conditions; or
- (b) if no date is specified, 20 business days after the contract date; but if that date is not a business day the first subsequent business day.

Approved financial institution

Any bank or building society that has signed up to the Banking Code or Business Banking Code or is otherwise acceptable to the auctioneers.

Arrears

Arrears of rent and other sums due under the tenancies and still outstanding on the actual completion date.

Arrears schedule

The arrears schedule (if any) forming part of the special conditions.

Auction

The auction advertised in the catalogue.

Auction conduct conditions

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

Auctioneers

The auctioneers at the auction.

Business day

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

Buyer

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

Catalogue

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

Completion

Unless otherwise agreed between seller and buyer (or their conveyancers) the occasion when both seller and buyer have complied with their obligations under the contract and the balance of the price is unconditionally received in the seller's conveyancer's client account.

Condition

One of the auction conduct conditions or sales conditions.

Contract

The contract by which the seller agrees to sell and the buyer agrees to buy the lot.

Contract date

The date of the auction or, if the lot is not sold at the auction:

- (a) the date of the sale memorandum signed by both the seller and buyer; or
- (b) if contracts are exchanged, the date of exchange. If exchange is not effected in person or by an irrevocable agreement to exchange made by telephone, fax or electronic mail the date of exchange is the date on which both parts have been signed and posted or otherwise placed beyond normal retrieval.

Documents

Documents of title (including, if title is registered, the entries on the register and the title plan) and other documents listed or referred to in the special conditions relating to the lot.

Financial charge

A charge to secure a loan or other financial indebtedness (not including a rentcharge).

General conditions

That part of the sale conditions so headed, including any extra general conditions.

Interest rate

If not specified in the special conditions, 4% above the base rate from time to time of Barclays Bank plc. (The interest rate will also apply to judgment debts, if applicable.)

Lot

Each separate property described in the catalogue or (as the case may be) the property that the seller has agreed to sell and the buyer to buy (including chattels, if any).

Old arrears

Arrears due under any of the tenancies that are not 'new tenancies' as defined by the Landlord and Tenant (Covenants) Act 1995.

Particulars

The section of the catalogue that contains descriptions of each lot (as varied by any addendum).

Practitioner

An insolvency practitioner for the purposes of the Insolvency Act 1986 (or, in relation to jurisdictions outside the United Kingdom, any similar official).

Price

The price that the buyer agrees to pay for the lot.

Ready to complete

Ready, willing, and able to complete. If completion would enable the seller to discharge all financial charges secured on the lot that have to be discharged by completion, then those outstanding financial charges do not prevent the seller from being ready to complete.

Sale conditions

The general conditions as varied by any special conditions or addendum.

Sale memorandum

The form so headed (whether or not set out in the catalogue) in which the terms of the contract for the sale of the lot are recorded.

Seller

The person selling the lot. If two or more are jointly the seller their obligations can be enforced against them jointly or against each of them separately.

Special conditions

Those of the sale conditions so headed that relate to the lot.

Tenancies

Tenancies, leases, licences to occupy and agreements for lease and any documents varying or supplemental to them.

Tenancy schedule

The tenancy schedule (if any) forming part of the special conditions.

Transfer

Transfer includes a conveyance or assignment (and 'to transfer' includes 'to convey' or 'to assign').

TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006.

VAT

Value Added Tax or other tax of a similar nature.

VAT option

An option to tax.

We (and us and our)

The auctioneers.

You (and your)

Someone who has a copy of the catalogue or who attends or bids at the auction, whether or not a buyer.

Common Auction Conditions Relating to the Properties in England and Wales

(except for Lots in Scotland where Scottish Articles of Roup will prevail and are available on request)

Auction conduct conditions

A1 Introduction

- A1.1 Words in black type have special meanings, which are defined in the Glossary.
A1.2 The catalogue is issued only on the basis that you accept these auction conduct conditions. They govern our relationship with you and cannot be displaced or varied by the sale conditions (even by a condition purporting to replace the whole of the Common Auction Conditions). They can be varied only if we agree.

A2 Our role

- A2.1 As agents for each seller we have authority to:
(a) prepare the catalogue from information supplied by or on behalf of each seller;
(b) offer each lot for sale;
(c) sell each lot;
(d) receive and hold deposits;
(e) sign each sale memorandum; and
(f) treat a contract as repudiated if the buyer fails to sign a sale memorandum or pay a deposit as required by these auction conduct conditions.
A2.2 Our decision on the conduct of the auction is final.
A2.3 We may cancel the auction, or alter the order in which lots are offered for sale. We may also combine or divide lots. A lot may be sold or withdrawn from sale prior to the auction.
A2.4 You acknowledge that to the extent permitted by law we owe you no duty of care and you have no claim against us for any loss.

A3 Bidding and reserve prices

- A3.1 All bids are to be made in pounds sterling exclusive of any applicable VAT.
A3.2 We may refuse to accept a bid. We do not have to explain why.
A3.3 If there is a dispute over bidding we are entitled to resolve it, and our decision is final.
A3.4 Unless stated otherwise each lot is subject to a reserve price (which may be fixed just before the lot is offered for sale). If no bid equals or exceeds that reserve price the lot will be withdrawn from the auction.
A3.5 Where there is a reserve price the seller may bid (or ask us or another agent to bid on the seller's behalf) up to the reserve price but may not make a bid equal to or exceeding the reserve price. You accept that it is possible that all bids up to the reserve price are bids made by or on behalf of the seller.
A3.6 Where a guide price (or range of prices) is given that guide is the minimum price at which, or range of prices within which, the seller might be prepared to sell at the date of the guide price. But guide prices may change. The last published guide price will normally be at or above any reserve price, but not always – as the seller may fix the final reserve price just before bidding commences.

A4 The particulars and other information

- A4.1 We have taken reasonable care to prepare particulars that correctly describe each lot. The particulars are based on information supplied by or on behalf of the seller. You need to check that the information in the particulars is correct.
A4.2 If the special conditions do not contain a description of the lot, or simply refer to the relevant lot number, you take the risk that the description contained in the particulars is incomplete or inaccurate, as the particulars have not been prepared by a conveyancer and are not intended to form part of a legal contract.
A4.3 The particulars and the sale conditions may change prior to the auction and it is your responsibility to check that you have the correct versions.
A4.4 If we provide information, or a copy of a document, provided by others we do so only on the basis that we are not responsible for the accuracy of that information or document.

A5 The contract

- A5.1 A successful bid is one we accept as such (normally on the fall of the hammer). This condition A5 applies to you if you make the successful bid for a lot.
A5.2 You are obliged to buy the lot on the terms of the sale memorandum at the price you bid plus VAT (if applicable).
A5.3 You must before leaving the auction:
(a) provide all information we reasonably need from you to enable us to complete the sale memorandum (including proof of your identity if required by us);
(b) sign the completed sale memorandum; and
(c) pay the deposit.
A5.4 If you do not we may either:
(a) as agent for the seller treat that failure as your repudiation of the contract and offer the lot for sale again; the seller may then have a claim against you for breach of contract; or
(b) sign the sale memorandum on your behalf.
A5.5 The deposit:
(a) is to be held as stakeholder where VAT would be chargeable on the deposit were it to be held as agent for the seller, but otherwise is to be held as stated in the sale conditions; and
(b) must be paid in pounds sterling by cheque or by bankers' draft made payable to us on an approved financial institution. The extra auction conduct conditions may state if we accept any other form of payment.
A5.6 We may retain the sale memorandum signed by or on behalf of the seller until the deposit has been received in cleared funds.
A5.7 If the buyer does not comply with its obligations under the contract then:
(a) you are personally liable to buy the lot even if you are acting as an agent; and
(b) you must indemnify the seller in respect of any loss the seller incurs as a result of the buyer's default.
A5.8 Where the buyer is a company you warrant that the buyer is properly constituted and able to buy the lot.

A6 Extra auction conduct conditions

- A6.1 Despite any special condition to the contrary the minimum deposit we accept is £1,000 (or the total price, if less). A special condition may, however, require a higher minimum deposit.

General conditions of sale

Words in black type have special meanings, which are defined in the Glossary. The general conditions (including any extra general conditions) apply to the contract except to the extent that they are varied by special conditions or by an addendum.

G1 The lot

- G1.1 The lot (including any rights to be granted or reserved, and any exclusions from it) is described in the special conditions, or if not so described the lot is that referred to in the sale memorandum.
G1.2 The lot is sold subject to any tenancies disclosed by the special conditions, but otherwise with vacant possession on completion.

- G1.3 The lot is sold subject to all matters contained or referred to in the documents, but excluding any financial charges: these the seller must discharge on or before completion.

- G1.4 The lot is also sold subject to such of the following as may affect it, whether they arise before or after the contract date and whether or not they are disclosed by the seller or are apparent from inspection of the lot or from the documents:

- (a) matters registered or capable of registration as local land charges;
- (b) matters registered or capable of registration by any competent authority or under the provisions of any statute;
- (c) notices, orders, demands, proposals and requirements of any competent authority;
- (d) charges, notices, orders, restrictions, agreements and other matters relating to town and country planning, highways or public health;
- (e) rights, easements, quasi-easements, and wayleaves;
- (f) outgoings and other liabilities;
- (g) any interest which overrides, within the meaning of the Land Registration Act 2002;
- (h) matters that ought to be disclosed by the searches and enquiries a prudent buyer would make, whether or not the buyer has made them; and
- (i) anything the seller does not and could not reasonably know about.

- G1.5 Where anything subject to which the lot is sold would expose the seller to liability the buyer is to comply with it and indemnify the seller against that liability.

- G1.6 The seller must notify the buyer of any notices, orders, demands, proposals and requirements of any competent authority of which it learns after the contract date but the buyer must comply with them and keep the seller indemnified.

- G1.7 The lot does not include any tenant's or trade fixtures or fittings.

- G1.8 Where chattels are included in the lot the buyer takes them as they are at completion and the seller is not liable if they are not fit for use.

- G1.9 The buyer buys with full knowledge of:

- (a) the documents, whether or not the buyer has read them; and
- (b) the physical condition of the lot and what could reasonably be discovered on inspection of it, whether or not the buyer has inspected it.

- G1.10 The buyer is not to rely on the information contained in the particulars but may rely on the seller's conveyancer's written replies to preliminary enquiries to the extent stated in those replies.

G2 Deposit

- G2.1 The amount of the deposit is the greater of:
(a) any minimum deposit stated in the auction conduct conditions (or the total price, if this is less than that minimum); and
(b) 10% of the price (exclusive of any VAT on the price).

- G2.2 The deposit:

- (a) must be paid in pounds sterling by cheque or banker's draft drawn on an approved financial institution (or by any other means of payment that the auctioneers may accept); and
- (b) is to be held as stakeholder unless the auction conduct conditions provide that it is to be held as agent for the seller.

- G2.3 Where the auctioneers hold the deposit as stakeholder they are authorised to release it (and interest on it if applicable) to the seller on completion or, if completion does not take place, to the person entitled to it under the sale conditions.

- G2.4 If a cheque for all or part of the deposit is not cleared on first presentation the seller may treat the contract as at an end and bring a claim against the buyer for breach of contract.

- G2.5 Interest earned on the deposit belongs to the seller unless the sale conditions provide otherwise.

G3 Between contract and completion

- G3.1 Unless the special conditions state otherwise, the seller is to insure the lot from and including the contract date to completion and:

- (a) produce to the buyer on request all relevant insurance details;
- (b) pay the premiums when due;
- (c) if the buyer so requests, and pays any additional premium, use reasonable endeavours to increase the sum insured or make other changes to the policy;
- (d) at the request of the buyer use reasonable endeavours to have the buyer's interest noted on the policy if it does not cover a contracting purchaser;
- (e) unless otherwise agreed, cancel the insurance at completion, apply for a refund of premium and (subject to the rights of any tenant or other third party) pay that refund to the buyer; and
- (f) (subject to the rights of any tenant or other third party) hold on trust for the buyer any insurance payments that the seller receives in respect of loss or damage arising after the contract date or assign to the buyer the benefit of any claim; and the buyer must on completion reimburse to the seller the cost of that insurance (to the extent not already paid by the buyer or a tenant or other third party) for the period from and including the contract date to completion.

- G3.2 No damage to 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.

- G3.3 Section 47 of the Law of Property Act 1925 does not apply.

- G3.4 Unless the buyer is already lawfully in occupation of the lot the buyer has no right to enter into occupation prior to completion.

G4 Title and identity

- G4.1 Unless condition G4.2 applies, the buyer accepts the title of the seller to the lot as at the contract date and may raise no requisition or objection except in relation to any matter that occurs after the contract date.

- G4.2 If any of the documents is not made available before the auction the following provisions apply:

- (a) The buyer may raise no requisition on or objection to any of the documents that is made available before the auction.
- (b) If the lot is registered land the seller is to give to the buyer within five business days of the contract date an official copy of the entries on the register and title plan and, where noted on the register, or all documents subject to which the lot is being sold.
- (c) If the lot is not registered land the seller is to give to the buyer within five business days an abstract or epitome of title starting from the root of title mentioned in the special conditions (or, if none is mentioned, a good root of title more than fifteen years old) and must produce to the buyer the original or an examined copy of every relevant document.

Common Auction Conditions Relating to the Properties in England and Wales

(except for Lots in Scotland where Scottish Articles of roup will prevail and are available on request)

- (d) If title is in the course of registration, title is to consist of certified copies of:
(i) the application for registration of title made to the land registry;
(ii) the documents accompanying that application;
(iii) evidence that all applicable stamp duty and land tax relating to that application has been paid; and
(iv) a letter under which the seller or its conveyancer agrees to use all reasonable endeavours to answer any requisitions raised by the land registry and to instruct the land registry to send the completed registration documents to the buyer.
- (e) The buyer has no right to object to or make requisitions on any title information more than seven business days after that information has been given to the buyer.
- G4.3** Unless otherwise stated in the special conditions the seller sells with full title guarantee except that (and the transfer shall so provide):
(a) the covenant set out in section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters recorded in registers open to public inspection; these are to be treated as within the actual knowledge of the buyer; and
(b) the covenant set out in section 4 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to matters recorded in registers open to public inspection; these are to be treated as within the actual knowledge of the buyer.
- G4.4** The transfer is to have effect as if expressly subject to all matters subject to which the lot is sold under the contract.
- G4.5** The seller does not have to produce, nor may the buyer object to or make a requisition in relation to, any prior or superior title even if it is referred to in the documents.
- G4.6** The seller (and, if relevant, the buyer) must produce to each other such confirmation of, or evidence of, their identity and that of their mortgagees and attorneys (if any) as is necessary for the other to be able to comply with applicable Land Registry Rules when making application for registration of the transaction to which the conditions apply.
- G5 Transfer**
- G5.1** Unless a form of transfer is prescribed by the special conditions:
(a) the buyer must supply a draft transfer to the seller at least ten business days before the agreed completion date and the engrossment (signed as a deed by the buyer if condition G5.2 applies) five business days before that date or (if later) two business days after the draft has been approved by the seller; and
(b) the seller must approve or revise the draft transfer within five business days of receiving it from the buyer.
- G5.2** If the seller remains liable in any respect in relation to the lot (or a tenancy) following completion the buyer is specifically to covenant in the transfer to indemnify the seller against that liability.
- G5.3** The seller cannot be required to transfer the lot to anyone other than the buyer, or by more than one transfer.
- G6 Completion**
- G6.1** Completion is to take place at the offices of the seller's conveyancer, or where the seller may reasonably require, on the agreed completion date. The seller can only be required to complete on a business day and between the hours of 0930 and 1700.
- G6.2** The amount payable on completion is the balance of the price adjusted to take account of apportionments plus (if applicable) VAT and interest.
- G6.3** Payment is to be made in pounds sterling and only by:
(a) direct transfer to the seller's conveyancer's client account; and
(b) the release of any deposit held by a stakeholder.
- G6.4** Unless the seller and the buyer otherwise agree, completion cannot take place until both have complied with their obligations under the contract and the balance of the price is unconditionally received in the seller's conveyancer's client account.
- G6.5** If completion takes place after 1400 hours for a reason other than the seller's default it is to be treated, for the purposes of apportionment and calculating interest, as if it had taken place on the next business day.
- G6.6** Where applicable the contract remains in force following completion.
- G7 Notice to complete**
- G7.1** The seller or the buyer may on or after the agreed completion date but before completion give the other notice to complete within ten business days (excluding the date on which the notice is given) making time of the essence.
- G7.2** The person giving the notice must be ready to complete.
- G7.3** If the buyer fails to comply with a notice to complete the seller may, without affecting any other remedy the seller has:
(a) terminate the contract;
(b) claim the deposit and any interest on it if held by a stakeholder;
(c) forfeit the deposit and any interest on it;
(d) resell the lot; and
(e) claim damages from the buyer.
- G7.4** If the seller fails to comply with a notice to complete the buyer may, without affecting any other remedy the buyer has:
(a) terminate the contract; and
(b) recover the deposit and any interest on it from the seller or, if applicable, a stakeholder.
- G8 If the contract is brought to an end**
If the contract is lawfully brought to an end:
(a) the buyer must return all papers to the seller and appoints the seller its agent to cancel any registration of the contract; and
(b) the seller must return the deposit and any interest on it to the buyer (and the buyer may claim it from the stakeholder, if applicable) unless the seller is entitled to forfeit the deposit under condition G7.3.
- G9 Landlord's licence**
- G9.1** Where the lot is or includes leasehold land and licence to assign is required this condition G9 applies.
- G9.2** The contract is conditional on that licence being obtained, by way of formal licence if that is what the landlord lawfully requires.
- G9.3** The agreed completion date is not to be earlier than the date five business days after the seller has given notice to the buyer that licence has been obtained.
- G9.4** The seller must:
(a) use all reasonable endeavours to obtain the licence at the seller's expense; and
(b) enter into any authorised guarantee agreement properly required.
- G9.5** The buyer must:
(a) promptly provide references and other relevant information; and
(b) comply with the landlord's lawful requirements.
- G9.6** If within three months of the contract date (or such longer period as the seller and buyer agree) the licence has not been obtained the seller or the buyer may (if not then in breach of any obligation under this condition G9) by notice to the other terminate the contract at any time before licence is obtained. That termination is without prejudice to the claims of either seller or buyer for breach of this condition.
- G9 Landlord's licence**
- G9.1** Where the lot is or includes leasehold land and licence to assign is required this condition G9 applies.
- G9.2** The contract is conditional on that licence being obtained, by way of formal licence if that is what the landlord lawfully requires.
- G9.3** The agreed completion date is not to be earlier than the date five business days after the seller has given notice to the buyer that licence has been obtained.
- G9.4** The seller must:
(a) use all reasonable endeavours to obtain the licence at the seller's expense; and
(b) enter into any authorised guarantee agreement properly required.
- G9.5** The buyer must:
(a) promptly provide references and other relevant information; and
(b) comply with the landlord's lawful requirements.
- G9.6** If within three months of the contract date (or such longer period as the seller and buyer agree) the licence has not been obtained the seller or the buyer may (if not then in breach of any obligation under this condition G9) by notice to the other terminate the contract at any time before licence is obtained. That termination is without prejudice to the claims of either seller or buyer for breach of this condition.
- G10 Interest and apportionments**
- G10.1** If the actual completion date is after the agreed completion date for any reason other than the seller's default the buyer must pay interest at the interest rate on the price (less any deposit paid) from the agreed completion date up to and including the actual completion date.
- G10.2** Subject to condition G11 the seller is not obliged to apportion or account for any sum at completion unless the seller has received that sum in cleared funds. The seller must pay to the buyer after completion any sum to which the buyer is entitled that the seller subsequently receives in cleared funds.
- G10.3** Income and outgoings are to be apportioned at actual completion date unless:
(a) the buyer is liable to pay interest; and
(b) the seller has given notice to the buyer at any time up to completion requiring apportionment on the date from which interest becomes payable by the buyer; in which event income and outgoings are to be apportioned on the date from which interest becomes payable by the buyer.
- G10.4** Apportionments are to be calculated on the basis that:
(a) the seller receives income and is liable for outgoings for the whole of the day on which apportionment is to be made;
(b) annual income and expenditure accrues at an equal daily rate assuming 365 days in a year, and income and expenditure relating to some other period accrues at an equal daily rate during the period to which it relates; and
(c) where the amount to be apportioned is not known at completion apportionment is to be made by reference to a reasonable estimate and further payment is to be made by seller or buyer as appropriate within five business days of the date when the amount is known.
- G11 Arrears**
- Part 1 Current rent**
- G11.1** Current rent means, in respect of each of the tenancies subject to which the lot is sold, the instalment of rent and other sums payable by the tenant in advance on the most recent rent payment date on or within four months preceding completion.
- G11.2** If on completion there are any arrears of current rent the buyer must pay them, whether or not details of those arrears are given in the special conditions.
- G11.3** Parts 2 and 3 of this condition G11 do not apply to arrears of current rent.
- Part 2 Buyer to pay for arrears**
- G11.4** Part 2 of this condition G11 applies where the special conditions give details of arrears.
- G11.5** The buyer is on completion to pay, in addition to any other money then due, an amount equal to all arrears of which details are set out in the special conditions.
- G11.6** If those arrears are not old arrears the seller is to assign to the buyer all rights that the seller has to recover those arrears.
- Part 3 Buyer not to pay for arrears**
- G11.7** Part 3 of this condition G11 applies where the special conditions:
(a) so state; or
(b) give no details of any arrears.
- G11.8** While any arrears due to the seller remain unpaid the buyer must:
(a) try to collect them in the ordinary course of management but need not take legal proceedings or forfeit the tenancy;
(b) pay them to the seller within five business days of receipt in cleared funds (plus interest at the interest rate calculated on a daily basis for each subsequent day's delay in payment);
(c) on request, at the cost of the seller, assign to the seller or as the seller may direct the right to demand and sue for old arrears, such assignment to be in such form as the seller's conveyancer may reasonably require;
(d) if reasonably required, allow the seller's conveyancer to have on loan the counterpart of any tenancy against an undertaking to hold it to the buyer's order;
(e) not without the consent of the seller release any tenant, or surety from liability to pay arrears or accept a surrender of or forfeit any tenancy under which arrears are due; and
(f) if the buyer disposes of the lot prior to recovery of all arrears obtain from the buyer's successor in title a covenant in favour of the seller in similar form to part 3 of this condition G11.
- G11.9** Where the seller has the right to recover arrears it must not without the buyer's written consent bring insolvency proceedings against a tenant or seek the removal of goods from the lot.
- G12 Management**
- G12.1** This condition G12 applies where the lot is sold subject to tenancies.
- G12.2** The seller is to manage the lot in accordance with its standard management policies pending completion.
- G12.3** The seller must consult the buyer on all management issues that would affect the buyer after completion (such as, but not limited to, an application for licence, a rent review, a variation, surrender, agreement to surrender or proposed forfeiture of a tenancy, or a new tenancy or agreement to grant a new tenancy) and:
(a) the seller must comply with the buyer's reasonable requirements unless to do so would (but for the indemnity in paragraph (c)) expose the seller to a liability that the seller would not otherwise have; in which case the seller may act reasonably in such a way as to avoid that liability.

Common Auction Conditions Relating to the Properties in England and Wales

(except for Lots in Scotland where Scottish Articles of roup will prevail and are available on request)

- (b) if the seller gives the buyer notice of the seller's intended act and the buyer does not object within five business days giving reasons for the objection the seller may act as the seller intends; and
- (c) the buyer is to indemnify the seller against all loss or liability the seller incurs through acting as the buyer requires, or by reason of delay caused by the buyer.

G13 Rent deposits

G13.1 This condition G13 applies where the seller is holding or otherwise entitled to money by way of rent deposit in respect of a tenancy. In this condition G13 'rent deposit deed' means the deed or other document under which the rent deposit is held.

G13.2 If the rent deposit is not assignable the seller must on completion hold the rent deposit on trust for the buyer and, subject to the terms of the rent deposit deed, comply at the cost of the buyer with the buyer's lawful instructions.

G13.3 Otherwise the seller must on completion pay and assign its interest in the rent deposit to the buyer under an assignment in which the buyer covenants with the seller to:

- observe and perform the seller's covenants and conditions in the rent deposit deed 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 rent deposit deed.

G14 VAT

G14.1 Where a sale condition requires money to be paid or other consideration to be given, the payer must also pay any VAT that is chargeable on that money or consideration, but only if given a valid VAT invoice.

G14.2 Where the special conditions state that no VAT option has been made the seller confirms that none has been made by it or by any company in the same VAT group nor will be prior to completion.

G15 Transfer as a going concern

G15.1 Where the special conditions so state:

- the seller and the buyer intend, and will take all practicable steps (short of an appeal) to procure, that the sale is treated as a transfer of a going concern; and
- this condition G15 applies.

G15.2 The seller confirms that the seller:

- is registered for VAT, either in the seller's name or as a member of the same VAT group; and
- has (unless the sale is a standard-rated supply) made in relation to the lot a VAT option that remains valid and will not be revoked before completion.

G15.3 The buyer confirms that:

- it is registered for VAT, either in the buyer's name or as a member of a VAT group;
- it has made, or will make before completion, a VAT option in relation to the lot and will not revoke it before or within three months after completion;
- article 5(B) of the Value Added Tax (Special Provisions) Order 1995 does not apply to it; and
- it is not buying the lot as a nominee for another person.

G15.4 The buyer is to give to the seller as early as possible before the agreed completion date evidence:

- of the buyer's VAT registration;
- that the buyer has made a VAT option; and
- that the VAT option has been notified in writing to HM Revenue and Customs; and if it does not provide the relevant evidence at least two business days before the agreed completion date, condition G14.1 applies at completion.

G15.5 The buyer confirms that after completion the buyer intends to:

- retain and manage the lot for the buyer's own benefit as a continuing business as a going concern subject to and with the benefit of the tenancies; and
- collect the rents payable under the tenancies and charge VAT on them.

G15.6 If, after completion, it is found that the sale of the lot is not a transfer of a going concern then:

- the seller's conveyancer is to notify the buyer's conveyancer of that finding and provide a VAT invoice in respect of the sale of the lot;
- the buyer must within five business days of receipt of the VAT invoice pay to the seller the VAT due; and
- if VAT is payable because the buyer has not complied with this condition G15, the buyer must pay and indemnify the seller against all costs, interest, penalties or surcharges that the seller incurs as a result.

G16 Capital allowances

G16.1 This condition G16 applies where the special conditions state that there are capital allowances available in respect of the lot.

G16.2 The seller is promptly to supply to the buyer all information reasonably required by the buyer in connection with the buyer's claim for capital allowances.

G16.3 The value to be attributed to those items on which capital allowances may be claimed is set out in the special conditions.

G16.4 The seller and buyer agree:

- to make an election on completion under Section 198 of the Capital Allowances Act 2001 to give effect to this condition G16; and
- to submit the value specified in the special conditions to HM Revenue and Customs for the purposes of their respective capital allowance computations.

G17 Maintenance agreements

G17.1 The seller agrees to use reasonable endeavours to transfer to the buyer, at the buyer's cost, the benefit of the maintenance agreements specified in the special conditions.

G17.2 The buyer must assume, and indemnify the seller in respect of, all liability under such contracts from the actual completion date.

G18 Landlord and Tenant Act 1987

G18.1 This condition G18 applies where the sale is a relevant disposal for the purposes of part 1 of the Landlord and Tenant Act 1987.

G18.2 The seller warrants that the seller has complied with sections 5B and 7 of that Act and that the requisite majority of qualifying tenants has not accepted the offer.

G19 Sale by practitioner

G19.1 This condition G19 applies where the sale is by a practitioner either as seller or as agent of the seller.

G19.2 The practitioner has been duly appointed and is empowered to sell the lot.

G19.3 Neither the practitioner nor the firm or any member of the firm to which the practitioner belongs has any personal liability in connection with the sale or the performance of the seller's obligations. The transfer is to include a declaration excluding that personal liability.

G19.4 The lot is sold:

- in its condition at completion;
- for such title as the seller may have; and

- with no title guarantee; and the buyer has no right to terminate the contract or any other remedy if information provided about the lot is inaccurate, incomplete or missing.

G19.5 Where relevant:

- the documents must include certified copies of those under which the practitioner is appointed, the document of appointment and the practitioner's acceptance of appointment; and
- the seller may require the transfer to be by the lender exercising its power of sale under the Law of Property Act 1925.

G19.6 The buyer understands this condition G19 and agrees that it is fair in the circumstances of a sale by a practitioner.

G20 TUPE

G20.1 If the special conditions state 'There are no employees to which TUPE applies', this is a warranty by the seller to this effect.

G20.2 If the special conditions do not state 'There are no employees to which TUPE applies' the following paragraphs apply:

- The seller must notify the buyer of those employees whose contracts of employment will transfer to the buyer on completion (the 'Transferring Employees'). This notification must be given to the buyer not less than 14 days before completion.
- The buyer confirms that it will comply with its obligations under TUPE and any special conditions in respect of the Transferring Employees.
- The buyer and the seller acknowledge that pursuant and subject to TUPE, the contracts of employment between the Transferring Employees and the seller will transfer to the buyer on completion.
- The buyer is to keep the seller indemnified against all liability for the Transferring Employees after completion.

G21 Environmental

G21.1 This condition G21 only applies where the special conditions so provide.

G21.2 The seller has made available such reports as the seller has as to the environmental condition of the lot and has given the buyer the opportunity to carry out investigations (whether or not the buyer has read those reports or carried out any investigation) and the buyer admits that the price takes into account the environmental condition of the lot.

G21.3 The buyer agrees to indemnify the seller in respect of all liability for or resulting from the environmental condition of the lot.

G22 Service charge

G22.1 This condition G22 applies where the lot is sold subject to tenancies that include service charge provisions.

G22.2 No apportionment is to be made at completion in respect of service charges.

G22.3 Within two months after completion the seller must provide to the buyer a detailed service charge account for the service charge year current on completion showing:

- service charge expenditure attributable to each tenancy;
- payments on account of service charge received from each tenant;
- any amounts due from a tenant that have not been received;
- any service charge expenditure that is not attributable to any tenancy and is for that reason irrecoverable.

G22.4 In respect of each tenancy, if the service charge account shows that:

- payments on account (whether received or still then due from a tenant) exceed attributable service charge expenditure, the seller must pay to the buyer an amount equal to the excess when it provides the service charge account;
- attributable service charge expenditure exceeds payments on account (whether those payments have been received or are still then due), the buyer must use all reasonable endeavours to recover the shortfall from the tenant at the next service charge reconciliation date and pay the amount so recovered to the seller within five business days of receipt in cleared funds; but in respect of payments on account that are still due from a tenant condition G1 (arrears) applies.

G22.5 In respect of service charge expenditure that is not attributable to any tenancy the seller must pay the expenditure incurred in respect of the period before actual completion date and the buyer must pay the expenditure incurred in respect of the period after actual completion date. Any necessary monetary adjustment is to be made within five business days of the seller providing the service charge account to the buyer.

G22.6 If the seller holds any reserve or sinking fund on account of future service charge expenditure or a depreciation fund:

- the seller must pay it (including any interest earned on it) to the buyer on completion; and
- the buyer must covenant with the seller to hold it in accordance with the terms of the tenancies and to indemnify the seller if it does not do so.

G23 Rent reviews

G23.1 This condition G23 applies where the lot is sold subject to a tenancy under which a rent review due on or before the actual completion date has not been agreed or determined.

G23.2 The seller may continue negotiations or rent review proceedings up to the actual completion date but may not agree the level of the revised rent or commence rent review proceedings without the written consent of the buyer, such consent not to be unreasonably withheld or delayed.

G23.3 Following completion the buyer must complete rent review negotiations or proceedings as soon as reasonably practicable but may not agree the level of the revised rent without the written consent of the seller, such consent not to be unreasonably withheld or delayed.

G23.4 The seller must promptly:

- give to the buyer full details of all rent review negotiations and proceedings, including copies of all correspondence and other papers; and
- use all reasonable endeavours to substitute the buyer for the seller in any rent review proceedings.

G23.5 The seller and the buyer are to keep each other informed of the progress of the rent review and have regard to any proposals the other makes in relation to it.

G23.6 When the rent review has been agreed or determined the buyer must account to the seller for any increased rent and interest recovered from the tenant that relates to the seller's period of ownership within five business days of receipt of cleared funds.

G23.7 If a rent review is agreed or determined before completion but the increased rent and any interest recoverable from the tenant has not been received by completion the increased rent and any interest recoverable is to be treated as arrears.

G23.8 The seller and the buyer are to bear their own costs in relation to rent review negotiations and proceedings.

Common Auction Conditions Relating to the Properties in England and Wales

(except for Lots in Scotland where Scottish Articles of roup will prevail and are available on request)

G24 Tenancy renewals

- G24.1 This condition G24 applies where the tenant under a tenancy has the right to remain in occupation under part II of the Landlord and Tenant Act 1954 (as amended) and references to notices and proceedings are to notices and proceedings under that Act.
- G24.2 Where practicable, without exposing the seller to liability or penalty, the seller must not without the written consent of the buyer (which the buyer must not unreasonably withhold or delay) serve or respond to any notice or begin or continue any proceedings.
- G24.3 If the seller receives a notice the seller must send a copy to the buyer within five business days and act as the buyer reasonably directs in relation to it.
- G24.4 Following completion the buyer must:
- with the co-operation of the seller take immediate steps to substitute itself as a party to any proceedings;
 - use all reasonable endeavours to conclude any proceedings or negotiations for the renewal of the tenancy and the determination of any interim rent as soon as reasonably practicable at the best rent or rents reasonably obtainable; and
 - if any increased rent is recovered from the tenant (whether as interim rent or under the renewed tenancy) account to the seller for the part of that increase that relates to the seller's period of ownership of the lot within five business days of receipt of cleared funds.
- G24.5 The seller and the buyer are to bear their own costs in relation to the renewal of the tenancy and any proceedings relating to this.

G25 Warranties

- G25.1 Available warranties are listed in the special conditions.
- G25.2 Where a warranty is assignable the seller must:
- on completion assign it to the buyer and give notice of assignment to the person who gave the warranty; and
 - apply for (and the seller and the buyer must use all reasonable endeavours to obtain) any consent to assign that is required. If consent has not been obtained by completion the warranty must be assigned within five business days after the consent has been obtained.
- G25.3 If a warranty is not assignable the seller must after completion:
- hold the warranty on trust for the buyer; and
 - at the buyer's cost comply with such of the lawful instructions of the buyer in relation to the warranty as do not place the seller in breach of its terms or expose the seller to any liability or penalty.

G26 No assignment

The buyer must not assign, mortgage or otherwise transfer or part with the whole or any part of the buyer's interest under this contract.

G27 Registration at the Land Registry

- G27.1 This condition G27.1 applies where the lot is leasehold and its sale either triggers first registration or is a registrable disposition. The buyer must at its own expense and as soon as practicable:
- procure that it becomes registered at Land Registry as proprietor of the lot;
 - procure that all rights granted and reserved by the lease under which the lot is held are properly noted against the affected titles; and
 - provide the seller with an official copy of the register relating to such lease showing itself registered as proprietor.
- G27.2 This condition G27.2 applies where the lot comprises part of a registered title. The buyer must at its own expense and as soon as practicable:
- apply for registration of the transfer;
 - provide the seller with an official copy and title plan for the buyer's new title; and
 - join in any representations the seller may properly make to Land Registry relating to the application.

G28 Notices and other communications

- G28.1 All communications, including notices, must be in writing. Communication to or by the seller or the buyer may be given to or by their conveyancers.
- G28.2 A communication may be relied on if:
- delivered by hand; or
 - made electronically and personally acknowledged (automatic acknowledgement does not count); or
 - there is proof that it was sent to the address of the person to whom it is to be given (as specified in the sale memorandum) by a postal service that offers normally to deliver mail the next following business day.
- G28.3 A communication is to be treated as received:
- when delivered; if delivered by hand; or
 - when personally acknowledged; if made electronically; but if delivered or made after 1700 hours on a business day a communication is to be treated as received on the next business day.
- G28.4 A communication sent by a postal service that offers normally to deliver mail the next following business day will be treated as received on the second business day after it has been posted.

G29 Contracts (Rights of Third Parties) Act 1999

No one is intended to have any benefit under the contract pursuant to the Contract (Rights of Third Parties) Act 1999.

G30 Extra general conditions

- The following general conditions are to be treated as being amended as follows:
- In the glossary to the general conditions the definition of 'Acreage' shall be amended to include after the words 'of rent' the following words: 'and any interest on them stipulated by the tenancies'.
 - (condition A1.2 of the auction conduct conditions shall be amended by adding the words 'in writing' at the end).
 - In general condition G1.3 the following words shall be added at the end: 'subject to the provisions of G27.3'.
 - In general condition G2.2(a) after the words 'approved financial institution' there shall be added the words: 'and against an account held in the United Kingdom'.
 - In general condition G2.2(a) and G2.3 the word 'auctioneers' is replaced by the words 'seller's solicitors' and the word 'accept' is replaced by the word 'direct'.
 - In general condition G23.3 the words: 'strictly in accordance with the tenancies' shall be inserted immediately before the word 'but'.
 - In general condition G25.3 (b) the words: 'or cost' shall be added at the end.
 - A new general condition G27.3 shall be added as follows:

(a) This general condition G27.3 applies where a financial charge over the lot is to be discharged on or before completion and the person with the benefit of that financial charge (the Lender) is to execute a discharge or release of that financial charge so that the lot is sold free of it and 'ready to complete' shall be construed accordingly.

(b) The seller is to procure that, on or before completion, the seller's solicitors provide the buyer's solicitors with the following (as appropriate):

 - written evidence from the Lender about the likely method of discharge to be used in relation to the financial charge;
 - a written undertaking:
 - immediately on completion to pay to the Lender the amount required to discharge the financial charge on completion;
 - in the case of a discharge of any financial charge by the END system, immediately on completion to send to the Lender the duly completed Land Registry form ENDI and to forward upon receipt a copy of the written confirmation from the Lender that an Electronic Notification of Discharge of the financial charge has been sent to the Land Registry; and
 - in the case of registered land to forward to the buyer's solicitor on receipt the executed form DS1 or DS3 in respect of any financial charge which affects the lot; and
 - if the seller's solicitors have not received the discharge or release of the financial charge in the appropriate form within 5 working days of completion then the seller's solicitors will send written reminders to the Lender on a weekly basis and keep the buyer's solicitors fully informed of the status and likely issue time of the discharge or release;
 - if the Land Registry require any of the documents which are to be produced under the terms of general condition G4.6 to be reissued on the grounds that they are more than 3 months old the seller's solicitors will use all reasonable endeavours to obtain such further documents in order to comply with the requirements of the Land Registry;
 - to deal promptly with any requisitions raised by the Land Registry in relation to the discharge of the financial charge and to provide to the buyer's solicitors a copy of any such requisitions and the seller's solicitors' answers to them.
 - written evidence from the Lender about the likely method of discharge
 - if there is any such financial charge in respect of which the Lender has the benefit of a restriction registered against the title to the lot or any part thereof, either:
 - a duly completed signed and dated Land Registry form RX4 by such Lender to withdraw the restriction; or
 - reasonably satisfactory written evidence in accordance with the terms of that restriction that it has been complied with so as to allow the title of the buyer and any buyer's charge of the lot to be registered at the Land Registry.
 - If there are any outstanding obligations under this general condition G27.3 at completion the seller will be deemed not to be able, ready and willing to complete.