

The National Conditions of Sale

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Construction of the conditions

In these conditions, where the context admits—

- (1) The "vendor" and the "purchaser" include the persons deriving title under them respectively
- (2) "Purchase money" includes any sum to be paid for chattels, fittings or other separate items
- (3) References to the "Special Conditions" include references to the particulars of sale and to the provisions of the contract which is made by reference to the conditions
- (4) The "prescribed rate" means the agreed rate of interest or, if none, then the rate of interest prescribed from time to time under Land Compensation Act 1961, s. 32
- (5) "Solicitor" includes a barrister who is employed by a corporate body to carry out conveyancing on its behalf and is acting in the course of his employment
- (6) "Working day" means a day on which clearing banks in the City of London are (or would be but for a strike, lock-out, or other stoppage, affecting particular banks or banks generally) open during banking hours except in condition 19(4), in which "working day" means a day when the Land Registry is open to the public
- (7) "Clearing bank" means a bank which is a member of CHAPS and Town Clearing Company Limited
- (8) The "Planning Acts" means the enactments from time to time in force relating to town and country planning
- (9) On a sale by private treaty references to the "auctioneer" shall be read as references to the vendor's agent
- (10) On a sale in lots, the conditions apply to each lot
- (11) "Abstract of title" means in relation to registered land such documents as the vendor is required by Land Registration Act 1925, s. 110, to furnish.

The conditions

1. The Sale: by Auction: by Private Treaty

- (1) Paragraphs (2) to (5) of this condition apply on a sale by auction and paragraphs (6) and (7) on a sale by private treaty
- (2) Unless otherwise provided in the Special Conditions, the sale of the property and of each lot is subject to a reserve price and to a right for the vendor or any one person on behalf of the vendor to bid up to that price
- (3) The auctioneer may refuse any bid and no person shall at any bid advance less than the amount fixed for that purpose by the auctioneer
- (4) If any dispute arises respecting a bid, the auctioneer may determine the dispute or the property may, at the vendor's option, either be put up again at the last undisputed bid, or be withdrawn
- (5) Subject to the foregoing provisions of this condition, the highest bidder shall be the purchaser and shall forthwith complete and sign the contract, the date of which shall be the date of the auction
- (6) Where there is a draft contract, or an arrangement subject to contract, or a negotiation in which there are one or more outstanding items or suspensory matters (which prevent there being yet a concluded agreement of a contractual nature), a solicitor, who holds a document signed by his client in the form of a contract of sale in writing and embodying this condition, shall (unless the other party or his solicitor is informed to the contrary) have the authority of his client to conclude, by formal exchange of contracts, or by post, or by telex or other telegraphic means, or by telephone, and in any case with or without involving solicitors' undertakings, a binding contract in the terms of the document which his client has signed
- (7) The date of the contract shall be—
 - (i) the date, if any, which is agreed and put on the contract, but if none, then
 - (ii) on an exchange of contracts by post (unless the parties' solicitors otherwise agree), the date on which the last part of the contract is posted, or
 - (iii) in any other case, the date on which, consistently with this condition, a binding contract is concluded.

2. Deposit

- (1) Unless the Special Conditions otherwise provide, the purchaser shall on the date of the contract pay a deposit of 10 per cent. of the purchase price, on a sale by auction, to the auctioneer, or on a sale by private treaty, to the vendor's solicitor and, in either case, as stakeholder
- (2) In case a cheque taken for the deposit (having been presented, and whether or not it has been re-presented) has not been honoured, then and on that account the vendor may elect—
 - (i) to treat the contract as discharged by breach thereof on the purchaser's part or
 - (ii) to enforce payment of the deposit as a deposit, by suing on the cheque or otherwise.

3. Purchaser's short right to rescind

- (1) This condition shall have effect if the Special Conditions so provide, but not otherwise
- (2) If the property is affected by any matter to which this condition applies, then the purchaser may by notice in writing (hereinafter referred to as a "Condition 3 Notice") given to the vendor or his solicitor and expressly referring to this condition and the matter in question, and notwithstanding any intermediate negotiation, rescind the contract on the same terms as if the purchaser had persisted in an objection to the title which the vendor was unable to remove
- (3) A Condition 3 Notice shall not be given after the expiration of 16 working days from the date of the contract, time being of the essence of this condition
- (4) This condition applies to any matter materially affecting the value of the property, other than—
 - (i) a matter which was not yet in existence or subsisting at the date of the contract
 - (ii) a specific matter to which the sale was expressly made subject, or
 - (iii) a matter of which the purchaser had at the date of the contract express notice or actual knowledge, not being notice or knowledge imputed to the purchaser by statute solely by reason of a registration of such matter, or notice or knowledge which the purchaser is only deemed to have had by the conditions
- (5) This condition and condition 15 are additional to each other.

4. Chattels, etc., and separate items

- If the sale includes chattels, fittings or other separate items, the vendor warrants that he is entitled to sell the same free from any charge, lien, burden, or adverse claim.

5. Date and manner of completion

- (1) The completion date shall be the date specified for the purpose in the contract or, if none, the 26th working day after the date of the contract or the date of delivery of the abstract of title, whichever be the later
- (2) Unless the Special Conditions otherwise provide, in respect of the completion date time shall not be of the essence of the contract, but this provision shall operate subject and without prejudice to—
 - (i) the provisions of condition 22 and
 - (ii) the rights of either party to recover from the other damages for delay in fulfilling his obligations under the contract
- (3) The purchaser's obligations to pay money due on completion shall be discharged by one or more of the following methods—
 - (i) authorisation in writing to release a deposit held for the purposes of the contract by a stakeholder
 - (ii) banker's draft issued by a clearing bank
 - (iii) cheque drawn on and guaranteed by a clearing bank
 - (iv) telegraphic or other direct transfer (as requested or agreed to by the vendor's solicitor) to a particular bank or branch for the credit of a specified account

(v) legal tender

- (vi) any other method requested or agreed to by the vendor's solicitor
- (4) Completion shall be carried out, either formally at such office or place as the vendor's solicitor shall reasonably require, or (if the parties' solicitors so arrange) by post, or by means of solicitors' undertakings concerning the holding of documents or otherwise. Provided that on a sale with vacant possession of the whole or part of the property, if the conveyance or transfer will not, by overreaching or otherwise, discharge the property from interests (if any) of persons in, or who may be in, actual occupation of the property or such part of it, then (subject always to the rights of the purchaser under Law of Property Act 1925, s. 42 (1)), the purchaser may, by giving reasonable notice, require that on, or immediately before the time of, completion possession of the property or part be handed over to the purchaser or his representative at the property
- (5) The date of actual completion shall be the day on which the contract being completed in other respects the purchaser has discharged consistently with the provisions of this condition the obligations of the purchaser to pay the money due on completion. Provided that—
 - (i) for the purposes only of conditions 6, 7 and 8, if but for this proviso the date of actual completion would be the last working day of a week (starting on Sunday) and the purchaser is unable or unwilling to complete before 2.15 p.m. on that day, then the date of actual completion shall be taken to be the first working day thereafter
 - (ii) a remittance sent by post or delivered by hand shall be treated as being made on the day on which it reaches the vendor's solicitor's office, unless that day is not a working day in which case the remittance shall be treated as being made on the first working day thereafter.

6. Rents, outgoing and apportionments

- The purchase being completed (whether on the completion date or subsequently), the income and outgoing shall be apportioned as follows (the day itself in each case being apportioned to the vendor):—
- (1) In a case to which proviso (i) to condition 7 (1) applies apportionment shall be made as at the date of actual completion
 - (2) In a case in which the purchaser is in possession of the whole of the property as lessee or tenant at a rent apportionment shall be made as at the date of actual completion unless proviso (ii) to condition 7 (1) applies, when apportionment shall be made as at the date of the purchaser's notice under that proviso
 - (3) In any other case apportionment shall be made as from the completion date. Provided nevertheless that, if delay is attributable to the vendor's failure to obtain the reversioner's licence, where necessary, or if the vendor remains in beneficial occupation of the property after the completion date, the purchaser may by notice in writing before actual completion elect that apportionment shall be made as at the date of actual completion
 - (4) Rates shall be apportioned according to the period for which they are intended to provide and rents (whether payable in advance or in arrear) according to the period in respect of which they have been paid or are payable; and apportionment of yearly items (whether or not the same are payable by equal quarterly, monthly or other instalments) shall be according to the relevant number of days relatively to the number of days in the full year
 - (5) Service charges under leases, in the absence of known or readily ascertainable amounts, shall be apportioned according to the best estimate available at the time of completion and, unless otherwise agreed, the vendor and the purchaser shall be and remain mutually bound after completion to account for and pay or allow to each other, within 15 working days after being informed of the actual amounts as ascertained, any balances or excesses due.

7. Interest

- (1) If the purchase shall not be completed on the completion date then (subject to the provisions of paragraph (2) of this condition) the purchaser shall pay interest on the remainder of his purchase money at the prescribed rate from that date until the purchase shall actually be completed. Provided nevertheless—
 - (i) That (without prejudice to the operation of proviso (ii) to this paragraph) the vendor may by notice in writing before actual completion elect to take the income of the property (less outgoing) up to the date of actual completion instead of interest as aforesaid
 - (ii) That, if the delay arises from any cause other than the neglect or default of the purchaser, and if the purchaser (not being in occupation of the property in circumstances to which condition 8 applies) places the remainder of his purchase money (at his own risk) at interest on a deposit account in England or Wales with any clearing bank, and gives written notice thereof to the vendor or his solicitor, then in lieu of the interest or income payable to or receivable by the vendor as aforesaid, the vendor shall from the time of such notice be entitled to such interest only as is produced by such deposit
 - (iii) That the vendor shall in no case be or become entitled in respect of the same period of time both to be paid interest and to enjoy income of the property, or to be paid more than once on the same sum of money
- (2) The purchaser shall not be liable to pay interest under paragraph (1) of this condition—
 - (i) so long as, or to the extent that, delay in completion is attributable to any act or default of the vendor or his mortgagee or Settled Land Act trustees
 - (ii) in case the property is to be constructed or converted by the vendor, so long as the construction or conversion is unfinished.

8. Occupation pending completion

- (1) If the purchaser (not being already in occupation as lessee or tenant at a rent) is let into occupation of the property before the actual completion of the purchase, then, as from the date of his going into occupation and until actual completion, or until upon discharge or rescission of the contract he ceases to occupy the property, the purchaser shall—
 - (i) be the licensee and not the tenant of the vendor
 - (ii) pay interest on the remainder of the purchase money at the prescribed rate
 - (iii) keep the property in as good repair and condition as it was in when he went into occupation
 - (iv) pay, or otherwise indemnify the vendor against, all outgoing and expenses (including the cost of insurance) in respect of the property, the purchaser at the same time taking or being credited with the income of the property (if any)
 - (v) not carry out any development within the meaning of the Planning Acts
- (2) Upon discharge or rescission of the contract, or upon the expiration of 7 working days' or longer notice given by the vendor or his solicitor to the purchaser or his solicitor in that behalf, the purchaser shall forthwith give up the property in such repair and condition as aforesaid
- (3) A purchaser going into occupation before completion shall not be deemed thereby to have accepted the vendor's title
- (4) Where the purchaser is allowed access to the property for the purpose only of carrying out works or installations, the purchaser shall not be treated as being let into occupation within the meaning of this condition.

9. Abstract, requisitions and observations

- (1) The vendor shall deliver the abstract of title not later than 11 working days after the date of the contract but, subject and without prejudice as mentioned in condition 5 (2), that time limit shall not be of the essence of the contract
- (2) Subject always to the rights of the purchaser under Law of Property Act 1925, s. 42 (1), the vendor may be required by the purchaser to deal with requisitions and observations concerning persons who are or may be in occupation or actual occupation of the property, so as to satisfy the purchaser that the title is not, and that the purchaser will not be, prejudicially affected by any interests or claims of such persons.

(3) The purchaser shall deliver in writing his requisitions within 11 working days after delivery of the abstract, and his observations on the replies to the requisitions within 6 working days after delivery of the replies

(4) In respect of the delivery of requisitions and observations, time shall be of the essence of the contract, notwithstanding that the abstract may not have been delivered within due time

(5) The purchaser shall deliver his requisitions and observations on the abstract as delivered, whether it is a perfect or an imperfect abstract, but for the purposes of any requisitions or observations which could not be raised or made on the information contained in an imperfect abstract; time under paragraph (3) of this condition shall not start to run against the purchaser, until the vendor has delivered the further abstract or information on which the requisition or observations arise

(6) Subject to his requisitions and observations, the purchaser shall be deemed to have accepted the title.

10. Vendor's right to rescind

(1) If the purchaser shall persist in any objection to the title which the vendor shall be unable or unwilling, on reasonable grounds, to remove, and shall not withdraw the same within 10 working days of being required so to do, the vendor may, subject to the purchaser's rights under Law of Property Act 1925, ss. 42 and 125, by notice in writing to the purchaser or his solicitor, and notwithstanding any intermediate negotiation or litigation, rescind the contract

(2) Upon such rescission the vendor shall return the deposit, but without interest, costs of investigating title or other compensation or payment, and the purchaser shall return the abstract and other papers furnished to him.

11. Existing leaseholds

(1) Where the interest sold is leasehold for the residue of an existing term the following provisions of this condition shall apply

(2) The lease or underlease or a copy thereof having been made available, the purchaser (whether he has inspected the same or not) shall be deemed to have bought with full notice of the contents thereof

(3) On production of a receipt for the last payment due for rent under the lease or underlease, the purchaser shall assume without proof that the person giving the receipt, though not the original lessor, is the reversioner expectant on the said lease or underlease or his duly authorised agent

(4) No objection shall be taken on account of the covenants in an underlease not corresponding with the covenants in any superior lease

(5) The sale is subject to the reversioner's licence being obtained, where necessary. The purchaser supplying such information and references, if any, as may reasonably be required of him, the vendor will use his best endeavours to obtain such licence and will pay the fee for the same. But if the licence cannot be obtained, the vendor may rescind the contract on the same terms as if the purchaser had persisted in an objection to the title which the vendor was unable to remove

(6) Where the property comprises part only of the property comprised in a lease or underlease, the rent, covenants and conditions shall, if the purchaser so requires, be legally apportioned at his expense, but completion shall not be delayed on that account and in the meantime the apportionment by the auctioneer shall be accepted, or the less one day, at a rent apportioned by the auctioneer and subject to the purchaser executing a counterpart containing covenants and provisions corresponding to those contained in the lease or underlease aforesaid

(7) Any statutory covenant to be implied in the conveyance on the part of a vendor shall be so limited as not to affect him with liability for a subsisting breach of any covenant or condition concerning the state or condition of the property, of which state and condition the purchaser is by paragraph (3) of condition 13 deemed to have full notice, and where Land Registration Act 1925, s. 24, applies the purchaser, if required, will join in requesting that an appropriate entry be made in the register.

12. Vendor's duty to produce documents

(1) If an abstracted document refers to any plan material to the description of the property, or to any covenants contained in a document earlier in date than the document with which the title commences, and such plan or earlier document is in the possession or power of the vendor or his trustees or mortgagee, the vendor shall supply a copy thereof with the abstract

(2) If the property is sold subject to restrictive covenants, the deed imposing those covenants or a copy thereof having been made available, the purchaser (whether he has inspected the same or not) shall be deemed to have purchased with full knowledge thereof

(3) The vendor shall not be required to procure the production of any document not in his possession or not in the possession of his mortgagee or trustees, and of which the vendor cannot obtain production, or to trace or state who has the possession of the same.

13. Identity: boundaries: condition of property

(1) The purchaser shall admit the identity of the property with that comprised in the plans or descriptions offered by the vendor as the title thereto upon the evidence afforded by the descriptions contained in such muniments, and of a statutory declaration, to be made (if required) at the purchaser's expense, that the property has been enjoyed according to the title for at least twelve years

(2) The vendor shall not be bound to show any title to boundaries, fences, ditches, hedges or walls, or to distinguish parts of the property held under different titles further than he may be able to do from information in his possession

(3) The purchaser shall be deemed to buy with full notice in all respects of the actual state and condition of the property and, save where it is to be constructed or converted by the vendor, shall take the property as it is.

14. Property sold subject to easements, etc.

Without prejudice to the duty of the vendor to disclose all latent easements and latent liabilities known to the vendor to affect the property, the property is sold subject to any rights of way and water, rights of common, and other rights, easements, quasi-easements, liabilities and public rights affecting the same.

15. Town and Country Planning

(1) In this condition, where the context admits, references to "authorised use" are references to "established use", or to use for which permission has been granted under the Planning Acts, or to use for which permission is not required under those Acts, as the case may be

(2) The purchaser shall be entitled to deliver, with his requisitions in respect of the title, requisitions concerning the authorised use of the property for the purposes of the Planning Acts. The vendor in reply shall give all such relevant information as may be in his possession or power

(3) Where the property is in the Special Conditions expressed to be sold on the footing of an authorised use which is specified, then if it appears before actual completion of the purchase that the specified use is not an authorised use of the property for the purposes of the Planning Acts, the purchaser may by notice in writing rescind the contract, and thereupon paragraph (2) of condition 10 shall apply. But, subject to the foregoing provisions of this condition, the purchaser shall be deemed to have accepted that the specified use is an authorised use of the property for the purposes of the Planning Acts

(4) Save as mentioned in the Special Conditions, the property is not to the knowledge of the vendor subject to any charge, notice, order, restriction, agreement or other matter arising under the Planning Acts, but (without prejudice to any right of the purchaser to rescind the contract under paragraph (3) of this condition) the property matters affecting the interest sold

(5) Subject as hereinbefore provided, and without prejudice to the obligations of the vendor to supply information as aforesaid, the purchaser shall be deemed to buy with the knowledge in all respects of the authorised use of the property for the purposes of the Planning Acts.

16. Requirements by local authority

(1) If after the date of the contract any requirement in respect of the property be made against the vendor by any local authority, the purchaser shall comply with the same at his own expense, and indemnify the vendor in respect thereof: in so far as the purchaser shall fail to comply with such requirement, the vendor may comply with the same wholly or in part and any money so expended by the vendor shall be repaid by the purchaser on completion

(2) The vendor shall upon receiving notice of any such requirement forthwith inform the purchaser thereof.

17. Errors, mis-statements or omissions

(1) Without prejudice to any express right of either party, or to any right of the purchaser in reliance on Law of Property Act 1969, s. 24, to rescind the contract before completion and subject to the provisions of paragraph (2) of this condition, no error, mis-statement or omission in any preliminary answer concerning the property, or in the sale plan or the Special Conditions shall annul the sale, nor (save where the error, mis-statement or omission relates to a matter materially affecting the description or value of the property) shall any damages be payable, or compensation allowed by either party, in respect thereof

(2) Paragraph (1) of this condition shall not apply to any error, mis-statement or omission which is recklessly or fraudulently made, or to any matter or thing by which the purchaser is prevented from getting substantially what he contracted to buy

(3) In this condition a "preliminary answer" means and includes any statement made by or on behalf of the vendor to the purchaser or his agents or advisers, whether in answer to formal preliminary enquiries or otherwise, before the purchaser entered into the contract.

18. Leases and tenancies

(1) Abstracts or copies of the leases or agreements (if in writing) under which the tenants hold having been made available, the purchaser (whether he has inspected the same or not) shall be deemed to have notice of and shall take subject to the terms of all the existing tenancies and the rights of the tenants, whether arising during the continuance or after the expiration thereof, and such notice shall not be affected by any partial or incomplete statement in the Special Conditions with reference to the tenancies, and no objection shall be taken on account of there not being an agreement in writing with any tenant

(2) Where a lease or tenancy affects the property sold and other property, the property sold will be conveyed with the benefit of the apportioned rent (if any) mentioned in the Special Conditions or (if not so mentioned) fixed by the auctioneer, and no objection shall be taken on the ground that the consent of the tenant has not been obtained to the apportionment and the purchaser shall not require the rent to be legally apportioned

(3) The purchaser shall keep the vendor indemnified against all claims by the tenant for compensation or otherwise, except in respect of a tenancy which expires or is determined on or before the completion date or in respect of an obligation which ought to have been discharged before the date of the contract

(4) Land in the occupation of the vendor is sold subject to the right (hereby reserved to him) to be paid a fair price for tillages, off-going and other allowances as if he were an outgoing tenant who had entered into occupation of the land after 1st March 1948, and as if the purchaser were the landlord, and in case of dispute such price shall be fixed by the valuation of a valuer, to be nominated in case the parties differ by the President of the Royal Institution of Chartered Surveyors.

19. Preparation of conveyance: priority notices: indemnities

(1) Where the interest sold is leasehold for a term of years to be granted by the vendor, the lease or underlease and counterpart shall be prepared by the vendor's solicitor in accordance (as nearly as the circumstances admit) with a form or draft annexed to the contract or otherwise sufficiently identified by the signatures of the parties or their solicitors

(2) In any other case the conveyance shall be prepared by the purchaser or his solicitor and the following provisions of this condition shall apply

(3) The draft conveyance shall be delivered at the office of the vendor's solicitor at least 6 working days before the completion date and the engrossment for execution by the vendor and other necessary parties (if any) shall be left at the said office within 3 working days after the draft has been returned to the purchaser approved on behalf of the vendor and other necessary parties (if any)

(4) Where the property is unregistered land not in an area of compulsory registration and the conveyance is to contain restrictive covenants, and the purchaser intends contemporaneously with the conveyance to execute a mortgage or conveyance to a third party, he shall inform the vendor of his intention and, if necessary, allow the vendor to give a priority notice for the registration of the intended covenants at least 15 working days before the contract is completed

(5) Where the property is sold subject to legal incumbrances, the purchaser shall covenant to indemnify the vendor against actions and claims in respect of them; and the purchaser will not make any claim on account of increased expense caused by the concurrence of any legal incumbrancer

(6) Where the property is sold subject to stipulations, or restrictive or other covenants, and breach thereof would expose the vendor to liability, the purchaser shall covenant to observe and perform the same and to indemnify the vendor against actions and claims in respect thereof

(7) Paragraphs (5) and (6) of this condition shall have effect without prejudice to the provisions of Law of Property Act 1925, s. 77, and Land Registration Act 1925, s. 24, where such provisions respectively are applicable, and in respect of matters covered by a covenant implied under either of those sections no express covenant shall be required.

20. Severance of properties formerly in common ownership

Where the property and any adjacent or neighbouring property have hitherto been in common ownership, the purchaser shall not become entitled to any right to light or air over or in respect of any adjacent or neighbouring property which is retained by the vendor and the conveyance shall, if the vendor so requires, reserve to him such easements and rights as would become appurtenant to such last-mentioned property by implication of law, if the vendor had sold it to another purchaser at the same time as he has sold the property to the purchaser.

21. Insurance

(1) With respect to any policy of insurance maintained by the vendor in respect of damage to or destruction of the property, the vendor shall not (save pursuant to an obligation to a third party) be bound to keep such insurance on foot or to give notice to the purchaser of any premium being or becoming due

(2) The purchaser shall be entitled to inspect the policy at any time

(3) The vendor shall, if required, by and at the expense of the purchaser obtain or consent to an endorsement of notice of the purchaser's interest on the policy, and in such case the vendor (keeping the policy on foot) may require the purchaser to pay on completion a proportionate part of the premium from the date of the contract.

22. Special notice to complete

(1) At any time on or after the completion date, either party, being ready and willing to fulfil his own outstanding obligations under the contract, may (without prejudice to any other right or remedy available to him) give to the other party or his solicitor notice in writing requiring completion of the contract in conformity with this condition

(2) Upon service of such notice as aforesaid it shall become and be a term of the contract, in respect of which time shall be of the essence thereof, that the party to whom the notice is given shall complete the contract within 16 working days after service of the notice (exclusive of the day of service); but this condition shall operate without prejudice to any right of either party to rescind the contract in the meantime

(3) In case the purchaser refuses or fails to complete in conformity with this condition, then (without prejudice to any other right or remedy available to the vendor) the purchaser's deposit may be forfeited (unless the court otherwise directs) and, if the vendor resells the property within twelve months of the expiration of the said period of 16 working days, he shall be entitled (upon crediting the deposit) to recover from the purchaser hereunder the amount of any loss occasioned to the vendor by expenses of or incidental to such resale, or by diminution in the price.