

# Procedure for pre-auction offers

**If a Purchaser wishes to make an offer prior to the auction, the following procedure will be followed:**

- 1 The Auctioneer or branch manager will be contacted first and only when the offer is in writing and signed by the Purchaser(s). All pre-auction offers must be unconditional, save for the pre-auction offer conditions which must be included in all pre-auction offers.
- 2 The offer will be written up on the 'Particulars and Conditions of Sale of Real Estate by Auction'.
- 3 The Purchaser(s) agree that the unconditional offer referred to in Clause 2:
  - a shall remain open for acceptance by the Vendor(s); and
  - b may not be withdrawn or revoked by the Purchaser(s) until 5pm on the third working day after the date on which the offer has been first presented or details of it communicated to the Vendor(s).
- 4 The offer will be presented or communicated to the Vendor(s) by the auctioneer or branch manager for consideration.
- 5 If the offer is not at a level acceptable to the Vendor(s), no counter offer is to be made. It will be communicated to the Purchaser(s) that the offer was not at an acceptable level to the Vendor(s) and any deposit paid will be returned.
- 6 If the offer is accepted by the Vendor(s), all other Purchasers will be contacted and told that an unconditional offer to purchase the property, at a level that is acceptable to the Vendor(s) ('instigating offer'), has been received.
- 7 If the offer is accepted by the Vendor(s) they will sign the 'Particulars and Conditions of Sale of Real Estate by Auction and Reserve' form at the instigating price. A new auction date, time and location will be nominated by the auctioneer.
- 8 When the auction is brought forward, it will be announced that the purchase price specified in the instigating offer is acceptable to the Vendor(s) and is the reserve price. The auctioneer will request an opening bid which must be more than the reserve, failing which, the instigating offer will be accepted.
- 9 This should all be done within three working days after the details of the offer have been presented or communicated to the Vendor(s). It is recommended that a diary be kept of the procedure followed and contacts made.
- 10 Pursuant to s.123 (2) of the Real Estate Agents Act 2008, by signing below, the Vendor(s) and the Purchaser(s) hereby expressly authorise Barfoot & Thompson to refund any deposit paid by the Purchaser(s), in the event of the initiating offer not being accepted, to the Purchaser(s) immediately upon the Purchaser(s) being advised of the non-acceptance of the Purchaser(s) initiating offer.
- 11 The Vendor(s) are entitled to withdraw the property from auction before accepting a pre-auction offer and elect to sell the property to any Purchaser(s) and at such price and on such terms and conditions as the Vendor(s) at its sole discretion thinks fit, in which case there will be no auction.
- 12 Upon the fall of the hammer for this auction if there is no further bidding, the instigating offer becomes the successful agreement. If there is further bidding, per the additional clauses in 'Particulars and Conditions of Sale of Real Estate by Auction' agreement the instigating offer is at an end and a new 'Auction Particulars and Conditions of Sale Agreement', without the additional pre-auction offer clauses is to be completed and signed by all parties.

## Property details

Address .....

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## Vendor(s)

I/we confirm that I/we have read and understood this procedure sheet, and I/we agree to be bound by the procedures it sets out. I/we will, if demand is made by the Purchaser(s), pay to the Purchaser(s) the sum of \$1.00.

Signature .....

Name .....

Date ..... / ..... / .....

## Purchaser(s) acknowledgment

I/we confirm that I/we wish to make a 'Pre-auction offer'. I/we have read and understood this Procedure sheet. In consideration of you agreeing to present or communicate my offer to the Vendor(s), I/we agree that my offer may be treated in accordance with and I/we agree to be bound by the procedures set out above.

I confirm that our offer shall remain open and may not be withdrawn or revoked, except as provided for in Clause 3 of the above procedures and understand, notwithstanding me making a pre-auction offer, that the Vendor(s) has the right to withdraw the property from the auction process and sell the property to any person they choose without reference to me/us. I acknowledge that as for the consideration I may demand the sum of \$1.00 from the Vendor(s) should I choose to do so.

Signature .....

Name .....

Date ..... / ..... / .....

## FURTHER TERMS OF SALE

### 24.0 Pre-auction offer conditions (to be included in the 'Auction Particulars and Conditions' for all Instigating Offers)

- 24.1 In consideration of the Purchaser(s) submitting this pre-auction offer to purchase the subject property, which is conditionally accepted by the Vendor(s) on the basis set out below, the Vendor(s) shall instruct Barfoot & Thompson Limited to bring the auction forward to be held before 5.00pm no later than three (3) working days after the date the details of the offer have been presented or communicated to the Vendor(s).
- 24.2 This agreement is conditional upon the Vendor(s) not selling the property for a higher price (than the purchase price in this agreement ('Offer Price')) at the auction, which will be held as per clause 24.1. If the property:
- a does not sell at the auction for a higher price (than the Offer Price), then this agreement shall be deemed unconditional and binding on both parties.
  - b sells at the auction for a higher price (than the Offer Price), then this agreement shall be at an end.
- 24.3 In the event of the Purchaser(s) not being in attendance at the auction either personally or via phone or video link, Barfoot & Thompson will as soon as reasonably practicable after the auction having been completed, notify the Purchaser(s) by any chosen means of communication, whether or not the condition in clause 24.2 has been satisfied.
- 24.4 In the event of the Purchaser(s) bidding at auction a sum higher than the purchase price set out in this agreement, and being the successful bidder at the auction, the Purchaser(s) shall sign the 'Particulars and Conditions of Sale of Real Estate by Auction' presented by the auctioneer recording the successful purchase price bid by the Purchaser(s), and including any agreed variations to the said auction particulars recorded in the Purchaser's pre-auction offer.
- 24.5 For the purposes of this clause, the auction shall be deemed to have been completed upon the fall of hammer or at such time the auctioneer announces the auction is at an end.
- 24.6 Nothing in this agreement shall prohibit the Purchaser(s) from attending the auction and bidding during the auction process.
- 24.7 This clause is inserted for the sole benefit of the Vendor(s).

### 25.0 Deposit

- 25.1 **Timing of Payment of Deposit:** The Purchaser(s) shall pay the deposit to the Vendor(s)'s licensed real estate agent [choose one]:
- immediately on the completion of the auction, OR
  - upon the execution of this agreement by both parties, time being of the essence.
- 25.2 **Refund of Deposit:** In the event of the Vendor(s) receiving a higher bid at the brought forward auction and this Agreement coming to an end, Barfoot & Thompson Limited is irrevocably authorised by the Vendor(s) and the Purchaser(s) to refund any deposit paid by the purchaser to the Purchaser(s) upon such deposit monies being cleared by Barfoot & Thompson Limited's bank.

### 26.0 Confidentiality

- 26.1 The parties agree and warrant they will keep the contents (but not the existence) of this Agreement strictly confidential between them (and their legal advisers) until the commencement of the brought forward auction or such time prior or later as agreed by both parties. It is agreed that this is an essential term of the Agreement.