

Dated this day of 2022

PARTICULARS AND SPECIAL CONDITIONS OF SALE AND MEMORANDUM OF SALE

IN RESPECT OF:

14 KNOCKMORE ROAD, BUGGAN, DERRYGONNELLY, CO FERMANAGH

CONTENTS

A Particulars of Sale

B Special Conditions of Sale:

1. Definitions and Interpretation
2. Conduct of the Auction
3. Memorandum of Sale
4. Deposit
5. Completion
6. Title Guarantee
7. Possession
8. Title
9. Encumbrances
10. Matters affecting the Property
11. Compliance with the Notices
12. Provisions as to matters affecting the Property
13. Presumption as to description
14. Planning matters
15. Buyer's requisitions
16. Disclaimer
17. Inspection of documents
18. Incorporation of General Conditions of Sale
19. Restriction on assignment and sub-sale
20. Merger on completion
21. VAT provisions
22. Removal of waste
23. Insurance and risk
24. Jurisdiction and governing law
25. Contracts (Rights of Third Parties) Act 1999

Memorandum of Sale

A: PARTICULARS OF SALE

THE PROPERTY

All that freehold property known as 14 Knockmore Road, Buggan, Derrygonnelly, Co Fermanagh being all the lands comprised in folio FE3926 Co Fermanagh

B: SPECIAL CONDITIONS OF SALE

1. Definitions and Interpretation

In these Conditions:

- 1.1 'the Assurance' means the assurance of the Property from the Seller to the Buyer
- 1.2 'the Auctioneer' means such individual who may be appointed by the Seller to act as auctioneer at the auction
- 1.3 'the Buyer' means the person who submits the highest bid accepted by the Auctioneer
- 1.4 'the Buyer's Solicitors' means the solicitors instructed to act for the Buyer on the purchase of the Property
- 1.5 ('the Charge' means the Charge dated () between () and the Seller)
- 1.6 'Completion' means actual completion of the sale and purchase pursuant to these Conditions
- 1.7 'the Completion Date' means within 20 Working Days of the date hereof or earlier by mutual agreement
- 1.8 'Completion Moneys' means the Purchase Price (or any outstanding balance of it) as adjusted by all sums due between the parties at Completion in accordance with the provisions of the Contract
- 1.9 'the Conditions' and 'these Conditions' means these special conditions of sale
- 1.10 'the Contract' means the contract for sale of the Property as evidenced by and comprising the Particulars of Sale, these Conditions, the General Conditions (to the extent applicable) and the Memorandum of Sale
- 1.11 'the Contract Rate' means 6% above the base lending rate of Bank of Ireland in Northern Ireland from time to time
- 1.12 'the Documents' means the documents (if any) particulars of which are set out in the Schedule as well as all further documents of title available for inspection at the Sellers Solicitors office prior to the date of the auction
- 1.13 'the Environment' means any and all organisms (including without limitation humans), ecosystems, natural or man-made buildings or structures, air, water and land
- 1.14 'the Environmental Authority' means any person or legal entity (whether statutory or non-statutory or governmental or non-governmental) having regulatory authority under Environmental Law and/or any court of law or tribunal or any other judicial or quasi-judicial body
- 1.15 'the Environmental Costs' means the costs incurred by any Environmental Authority in carrying out any investigation, assessment, monitoring, removal, remedial or risk mitigation works under Environmental Law
- 1.16 'the Environmental Law' means all laws, regulations, directives, statutes, subordinate legislation, rules of common law and generally all international, EU, national and local laws and all judgements, orders, instructions, directions, by-laws, statutory guidance, notices, decisions, guidance awards, codes of practice and other lawful statements of any

Environmental Authority applying from time to time in respect of human health and safety, pollution of or protection of the Environment or emissions, discharges, releases or escapes into the Environment of Hazardous Substances or the production, processing, treatment, storage, transport or disposal of Hazardous Substances, and having the force of law

- 1.17 'the General Conditions' means the Law Society of Northern Ireland General Conditions of Sale (3rd Edition 2nd Revision)
- 1.18 'Hazardous Substances' means any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) capable of causing Harm including (without limitation) vibration, noise, electricity, heat or other radiation
- 1.19 'the Memorandum of Sale' means the memorandum of sale annexed to these conditions at Appendix 1
- 1.20 'the Particulars' means the particulars of sale annexed to these Conditions
- 1.21 'the Property' means the property described in the Particulars
- 1.22 'the Purchase Price' means the amount of the successful bid by the Buyer entered in the Memorandum of Sale
- 1.23 'the Seller' means **JOSEPH PARKER & MARIE PARKER**
- 1.24 'the Seller's Solicitors' means **JOHN QUINN & CO, SOLICITORS of 14 BELMORE STREET, ENNISKILLEN, CO FERMANAGH, BT74 6AA**
- 1.25 'VAT' means an amount equal to the value added tax as charged in accordance with VATA or any equivalent or substituted tax
- 1.26 'VATA' means the Value Added Tax Act 1994 or any equivalent tax act
- 1.27 'Vat Invoice' means an invoice complying with the provisions of regulations 13 and 19 of the VAT Regulations 1995
- 1.28 Where the context so admits the expression 'the Buyer' includes the personal representatives of the Buyer
- 1.29 Words importing one gender shall be construed as importing any other gender
- 1.30 Words importing the singular shall be construed as importing the plural and vice versa
- 1.31 Words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 1.32 Where any party comprises more than one person the obligations and liabilities of that party under these Conditions shall be joint and several obligations and liabilities of those persons
- 1.33 The condition headings do not form part of these conditions and shall not be taken into account in their construction or interpretation
- 1.34 Any reference to a condition or a paragraph or a schedule is to one in these Conditions so numbered

- 1.35 In the absence of any contrary provision any reference to a statute includes any statutory modification or re-enactment of it and any and every order instrument regulation direction or plan made or issued under the statute or deriving validity for it

2. Conduct of the Auction

- 2.1 Unless otherwise stated the Property is subject to a reserve price and the seller reserves the right to bid through an appointed representative or through his agent at the auction
- 2.2 The Auctioneer reserves the right to regulate the bidding and to refuse to accept any bid or bids (without giving any reason for such refusal in his sole absolute discretion)
- 2.3 In the event of any dispute on bidding the Auctioneer's decision shall be final
- 2.4 The Auctioneer shall be under no liability (financial or otherwise) to the buyer or anyone deriving their interest through or under the Buyer in respect of any matters arising out of the auction or the Particulars or these Conditions
- 2.5 The Auctioneer reserves the right to sell prior to the auction
- 2.6 The Seller reserves the right to alter or add to the Particulars and/or these Conditions at any time prior to or at the auction
- 2.7 The Buyer shall be personally liable and the contract shall be formed on the Buyer making an accepted bid and the Property being knocked down to him by the Auctioneer on the close up of the sale whether or not he purports to act as agent for a principal (and despite him purporting to sign the Memorandum of Sale in a representative capacity) PROVIDED THAT if the Memorandum of Sale is so signed in a representative capacity the liability of the Buyer and the principal shall be joint and several and PROVIDED THAT an individual may bid on behalf of a company without incurring personal liability if:
- 2.7.1 He has notified the Auctioneer before commencement of the auction that he intends to bid on behalf of a company and of the identity of that company and
- 2.7.2 The Auctioneer accepts such bids

3. Memorandum of Sale

- 3.1 On the Property being knocked down the successful bidder shall on being asked by the Auctioneer or his clerk give his name and address and the name and address of any person or corporation on whose behalf he bid and shall on being asked to by the Auctioneer produce such evidence of identity/ies as the Auctioneer shall stipulate and in default the Auctioneer shall be entitled to offer the Property for resale
- 3.2 Forthwith upon the Property being knocked down to the Buyer by the Auctioneer, the Buyer shall sign the duly completed Memorandum of Sale
- 3.3 The Auctioneer reserves the right to hold the copy of the part of the Memorandum of Sale signed by him on behalf of the Seller or signed by the Seller until the Buyer's cheque for the deposit payable by him has been cleared

4. Deposit

- 4.1 Forthwith upon the Property being knocked down to the Buyer by the Auctioneer, the Buyer shall pay a deposit of 10% of the Purchase Price to the Seller's Solicitors as Agent or the sum of £6,000.00 whichever shall be the greater ('the Deposit')
- 4.2 The Deposit may be paid by such method as the Auctioneer shall in his discretion accept and the Buyer shall produce such evidence as the Auctioneer may require of his identity and credit worthiness and
- 4.3 If the Deposit is not paid by the Buyer in accordance with condition 4.1 above or if the instrument of payment of the Deposit is not honoured on first presentation the seller shall have the option:

4.3.1 of rescinding the sale or

4.3.2 of affirming the sale

And if the Seller affirms the sale either

4.3.3 the Seller may determine the Contract and forfeit the Deposit which shall remain due to the Seller and in addition the Buyer will remain liable on his instrument of payment or

4.3.4 the Seller may seek specific performance of the sale

5. Completion

- 5.1 Completion of the sale and purchase shall take place on the Completion Date at or before 1.00pm at the offices of the Seller's Solicitors or where they may reasonably direct
- 5.2 The Completion Monies and VAT payable on the Purchase Price shall be paid on the Completion Date by telegraphic transfer to the following account:

Bank: **AIB, EAST BRIDGE STREET, ENNISKILLEN, CO FERMANAGH, BT74 7BT**

Account Name: **JOHN QUINN CLIENT ACCOUNT**

Account No: **93-80-76**

Sort Code: **04067161**

- 5.3 If the Completion Monies are received after 1.00pm on the Completion Date or on a day which is not a working day Completion shall be deemed for the purposes of the General Conditions to have taken place on the next working day after receipt

6. Title Guarantee

The Seller does not and shall not give any expressed or implied guarantee or warranty of title

7. Possession

The Property is sold with vacant possession in as far as can be provided by the Seller

8. Title

- 8.1 The title to the Property shall commence with Folio FE3926 Co Fermanagh and the buyer shall not raise any requisitions or enquiry or make any objection in relation to title

8.2 Copies of the following documents shall be furnished:

- Updated Folio of FE3926 Co Fermanagh
- Updated Folio Map of FE3926 Co Fermanagh
- Replies to Pre-Contract Enquiries and Fixtures and Fittings list

8.3 Title having been available for inspection during normal office hours at the offices of the Seller's Solicitors for a period of at least 10 working days prior to the date of the auction the Buyer (Whether or not he has inspected it) shall be deemed to purchase with full knowledge of the title in all respects and shall not raise any requisitions or make any objection in relation to the title

9. Encumbrances

9.1 The Property sold is subject to and (where appropriate) with the benefit of:

9.1.1 All covenants, conditions, exceptions, reservations and stipulations contained in or referred to in the Documents and Folio

9.1.2 The Documents

9.2 Copies of the Documents referred to in condition 9.1 having been available for inspection during normal office hours at the offices of the Seller's Solicitors for a period of at least 10 working days prior to the date of the auction the Buyer (Whether or not he has inspected the same) shall be deemed to purchase with full notice and knowledge of the matters referred to therein in all respects and shall not raise any requisitions or make any objection in relation to such matters and such notice shall not be affected by any partial incomplete or inaccurate statement as to the contents of them in the Particulars or the Conditions

9.3 The Assurance shall contain a covenant by the Buyer to the effect that the Buyer its successors and assigns will (by way of indemnity only) observe and perform the covenants conditions and other matters contained or referred to in the documents referred to in condition 9.1 and will indemnify and keep the Seller and its successors in title fully and effectually indemnified against all actions proceedings damages costs claims and expenses which may be suffered or incurred by the Seller or its successors in title in respect of any future breach or non-observance or non-performance of those covenants and conditions and obligations

9.4 The Buyer accepts and acknowledges that they may purchase the Property entirely subject to any ground rent and/or service charge due and owing

against the property and will indemnify the Seller in respect of any claims for ground rent and/or service charge due and owing under any superior title or otherwise in relation to the Property. Nothing in this agreement will oblige the Seller to provide an up to date ground rent and/or service charge receipt or any kind of indemnity in relation to outstanding ground rent and/or service charge upon completion and no undertaking will be sought by the Seller's solicitor to provide same upon completion.

10. Matters affecting the Property

Furthermore the Property is also sold subject to the following matters:

- 10.1 All statutory charges whether registered or not before the date of the auction and all matters capable of registration as statutory charges whether or not actually so registered
- 10.2 All notices served and orders demands proposals or requirements made by any local public or other competent authority whether before or after the date of the auction
- 10.3 All actual proposed charges notices orders restrictions agreements conditions contraventions or other matters arising under any statute
- 10.4 All easements quasi-easements rights exceptions or other similar matters including rights of way drainage water watercourses light rights of adjoining owners affecting the Property and liability to repair or covenants to repair roads pavements paths ways passages sewers drains gutters fences and other like matters whether or not apparent on inspection or disclosed in any of the documents referred to in the Particulars or the Conditions and without any obligation on the Seller to provide evidence of the creation of or to define or apportion any such liability
- 10.5 Matters discoverable by inspection of the Property before the date of the auction
- 10.6 Matters relating to the Property about which the Seller does not know and
- 10.7 Matters disclosed or which would be disclosed by any searches or as a result of enquiries (formal or informal and made in person in writing or orally) made by or for the Buyer or which a prudent buyer ought to make including but without prejudice to the generality of the foregoing any tenancy, lease or licence arrangements affecting the Property which may exist

11. Compliance with the Notices

The Buyer shall be responsible for complying with all lawful notices and/or lawful requirements relating to the Property and made by a competent authority person or body and whether served or intimated before on or after the date of the auction

12. Provisions as to matters affecting the Property

- 12.1 Notwithstanding anything contained or referred to in the Particulars or in the Conditions no representation warranty or condition (collateral or otherwise) is made or implied as to:
 - 12.1.1 the state or condition of the Property or any part of it
 - 12.1.2 whether the Property is subject to any resolutions schemes development orders improvement plans improvement notices schemes or proposals
 - 12.1.3 whether the Property is in an area where redevelopment is proposed or is subject to a road widening proposal or scheme or any similar matter affecting its use and occupation
- 12.2 The Buyer shall be deemed to purchase the Property in all respects subject to such (if any) of the matters referred to in conditions 9, 10, 11 and 12 as affect it (whether or not he made any enquiry regarding these matters or any of them) and neither the Seller nor the Auctioneer shall be required or bound to inform the Buyer of any of those matters (Whether known to them or either of them or not) and neither the Seller nor the Auctioneer shall in any way be liable to the Buyer in respect of any of those matters or any failure to disclose any of those

matters (it being solely the duty of the Buyer to satisfy himself at his own risk in respect of all those matters)

13. Presumption as to description

The Property is believed and shall be taken to be correctly described as to quantity and otherwise and any error omission or mis-statement found in the Particulars or the Conditions shall not annul the sale or entitle the Buyer to any compensation

14. Planning matters

No objection shall be made or requisition shall be raised as to the permitted use of the Property for the purpose of the planning legislation and the Buyer shall take the Property subject to all relevant matters under the legislation relating to planning listed buildings and conservation areas including (without prejudice to the generality) contraventions and alleged contraventions of them or any of them

15. Buyer's requisitions

15.1 The Buyer shall not raise any requisition or make any objection in relation to any of the matters referred to in conditions 8 to 14 inclusive and the Buyer shall indemnify the Seller in respect of any claims which have arisen or may arise relating to those matters or any of them

16. Disclaimer

16.1 The Buyer admits that:

16.1.1 he has inspected the Property and purchases it with full knowledge of its actual state and condition and shall take the Property as it stands; and

16.1.2 he agrees to purchase the Property solely as a result of its own inspection and not on the basis of the terms of this Agreement and not in reliance upon any advertisement statement representation or warranty either written or oral or implied made by or on behalf of the Seller; and

16.1.3 no warranty statement or representation has been made or given to the Buyer that the Property can be used or developed in any particular way or for any particular purpose and the Seller shall not be liable to the Buyer if the Property cannot for any reason whatsoever be so used or developed

16.2 The Particulars, the Conditions, the General Conditions (to the extent applicable) and the Memorandum of Sale together contain the entire agreement between the Seller and Buyer and incorporate all the terms agreed between them

16.3 All representations warranties and conditions expressed or implied statutory or otherwise in respect of the Property or any of the rights, title or interests sold or to be procured to be sold are expressly excluded (including, without limitation, all warranties and conditions as to title vacant possession quiet possession and description)

16.4 The Buyer agrees that the following terms and conditions are fair and reasonable:

16.4.1 that the Seller has specifically told the Buyer that the Buyer must rely absolutely on the Buyer's own opinion and/or professional advice concerning:

16.4.1.1 the terms of the Contract; and

16.4.1.2 the description quality state and condition of the Property or any rights title or interests sold hereunder and the possibility that some or all of them may have defects not apparent on inspection and examination

16.4.2 that the Buyer has and has informed the Seller that he has available to it skilled and professional advice concerning the matters referred to in condition 16 and on that basis the Buyer has agreed to purchase the Property on an 'as is' basis and enter into the Contract for a consideration calculated to take into account (inter alia) the risk to the Buyer represented by the fact that all the parties believe that all the exclusions and limitations set out in the Contract would be recognised as being fully effective by the courts, the Seller making it clear that they would not have agreed to sell the same on any other basis except for a much higher consideration

16.4.3 that the Buyer its servants employees agents representatives and advisors have been given every opportunity which might reasonably be expected to examine and inspect the Property and the title to the Property

16.4.4 that the Seller does not give any express or implied guarantee or warranty of title and shall not be under any obligation to enter into any covenant as to title or any other matter whatsoever

16.5 The parties agree that from the date of this Contract:

- (a) if any Environmental Notice is served on any of them in respect of the Property or any Hazardous Substances attributable to the Property, then the sole responsibility for complying with the Environmental Notice is to rest with the Buyer to the exclusion of the Seller;
- (b) if any Environmental Agency wishes to recover Environmental Costs in respect of the Property or any Hazardous Substances attributable to the Property from any of the parties hereto then, as between the parties, the sole responsibility for the payment of the Environmental Costs is to rest with the Buyer to the exclusion of the Seller;
- (c) the agreements set out in this condition 16.5 are made with the intention that any Environmental Authority serving an Environmental Notice or seeking to recover Environmental Costs should give effect to those agreements; and
- (d) the appropriate Environmental Authority may be notified in writing of the provisions of this condition 16.5 if required to give effect to the agreements set out above.

16.6 The Buyer shall fully indemnify the Seller with respect to all and any actions, losses, damages, liabilities, charges, claims, costs, and expenses which may be paid, incurred, suffered or sustained by them arising (directly or indirectly) out of or in connection with the presence of any Hazardous Substances in, on or under the Property or migrating to or from the Property.

17. Inspection of documents

A copy of all documents referred to in the Conditions as well as any additional documents of title held in respect of the Property by the Sellers Solicitors are available for inspection prior to the

auction by appointment at the offices of the Seller's Solicitors and the Buyer is deemed to purchase with full knowledge of such documents whether or not he inspects them and such notice shall not be affected by any partial incomplete or inaccurate statements as to the contents of them in the sale brochure the Particulars or the Conditions

18. Incorporation of General Conditions of Sale

18.1 The General Conditions shall apply to the sale so far as they are applicable to a sale by auction and are not varied by or inconsistent with these Conditions and shall be amended as follows:

18.1.1 The word 'Seller' shall be substituted for the word 'Vendor' throughout and the word 'Buyer' shall be substituted for the word 'Purchaser' throughout

18.1.2 The following General Conditions do not apply:- General Conditions, 2.1-2.4, 2.6, 4.1, 5, 6.1, 6.2, 6.4, 6.5, 7.4, 8.3(b)-(d), 8.6.2, 10, 12.1-12.3, 13.1-13.4, 15.1, 15.5, 15.6, 16.3, 16.4, 18.1, 18.2, 20.1, 20.2, 21, 24 and 25. General Condition 3 shall not apply to this agreement. The Property is sold subject to but with the benefit of any subsisting tenancies (if any)

19. Restriction on assignment and sub-sale

19.1 The Contract is personal to the Buyer and is not capable of being assigned charged or mortgaged

19.2 The Seller shall not be required to transfer the Property;

19.2.1 to anyone other than the Buyer named in the Memorandum of Sale; and

19.2.2 at a price greater than the Purchase Price and except by one Assurance at the Purchase Price

20. Merger on completion

The provisions of these Conditions and the Contract shall not merge on completion of the Assurance so far as they remain to be performed

21. VAT provisions

21.1 The Purchase Price is exclusive of VAT at the standard rate as at the date of actual completion and in the event that value added tax chargeable under VATA shall be or become chargeable on the sale of the Property under this Contract or any part thereof the Buyer agrees that such sum shall be in addition to the sum specified as the agreed price and shall be payable at the same time as the payment on which it is chargeable

21.2 The Seller shall provide the Buyer with a receipted VAT invoice for any VAT paid by the Buyer under the Contract

22. Removal of waste

The Seller is not under any liability whatsoever to remove from the Property any scrap waste refuse or other matter on the Property at the date of the contract for sale or deposited on it by third parties prior to Completion

23. Insurance and risk

The Property shall be at the risk of the Buyer from the date hereof and the Buyer shall not be entitled to refuse to complete the purchase of the Property or make any claim against the Seller by reason of damage to or destruction of the Property by any means including (without limitation) damage for which compensation would be payable under the Criminal Damage Compensation (Northern Ireland) Order 1977 or to any plant or machinery or fixtures and fittings contained in it

24. Jurisdiction and governing law

The Contract shall be governed by and construed in accordance with Northern Irish law and the parties submit to the jurisdiction of the Northern Irish Courts

25. Contracts (Rights of Third Parties) Act 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in the Contract shall confer on any third party (except the Seller) any right to enforce or any benefit of any term of the Contract

APPENDIX 1

MEMORANDUM OF SALE

I/We

of

acknowledge that I/we have today purchased the Property (described in the attached Particulars of Sale) at the Purchase Price (mentioned below) and have paid the deposit (mentioned below) to the Seller's Solicitors, as Agents

I/We agree to pay the balance of the Purchase Price and to complete the purchase in accordance with the attached Special Conditions (of Sale)

Dated:

Purchase Price:

Less Deposit:

Balance:

The Seller confirms the sale and acknowledges receipt of the deposit paid to the Seller's Solicitors as Agents

Name address and reference of the Buyer's Solicitors:

Signed by or on behalf of the Buyer:

Signed on behalf of the Seller:-