

# Buyers Registration and Authority to Bid and Terms of Use (NSW)

## 1. Parties and Bidder Registration

<b>BIDDER</b>	<b>Primary Bidder</b>	<b>Other Bidder(s) (if applicable)</b>	
	Full Legal Name(s): _____	Full Legal Name(s): _____	
	Address: _____	Address(es): _____	
	<b>OR:</b>		
	Company Name: _____	A.B.N.: _____	
	Name of the Authorised Officer of the Company: _____	Position Held: _____	
	Company Address: _____		
	(if the Property sells at the Openn Negotiation auction, then the Bidder named above is taken to be the successful bidder)		
	Phone: _____	Mobile: _____	Email: _____
	Bidder's Solicitor: _____	Phone: _____	Email: _____

### BIDDER ID Proof of Identity

Primary Bidder/Authorised Officer:	Document Type: _____	Document identifier: _____
Other Bidder (if applicable):	Document Type: _____	Document identifier: _____

*ID must include the Bidders name and current address (e.g. driver's licence).*

AGENT

AUCTIONEER

VENDOR

## 2. Property for Auction

2.1 The Bidder, once Registered, intends to become a Qualified Bidder and bid on the following Property by way of Openn Negotiation:

Number: \_\_\_\_\_ Street: \_\_\_\_\_

Suburb: \_\_\_\_\_ Postcode: \_\_\_\_\_

Lot: \_\_\_\_\_ DP: \_\_\_\_\_ CT: \_\_\_\_\_

(the Property)

- 2.2 The Bidder acknowledges that Openn Negotiation is an extended auction with a flexible completion and has the same meaning as "auction" in Part 3 of the *Property and Stock Agents Regulation 2014*.
- 2.3 The Bidder acknowledges that Openn Negotiation will be conducted through the Openn Negotiation App in accordance with this Buyers Authority to Bid and Terms of Use together with the terms and conditions outlined on the Openn Negotiation App and available at [www.openn.com.au/openn-app-terms-and-conditions](http://www.openn.com.au/openn-app-terms-and-conditions) ("App Terms and Conditions").
- 2.4 The NSW Fair Trading Bidders Guide "Buying at an Auction" is attached to this form.

## 3. Becoming a Qualified Bidder

- 3.1 In order to become a Qualified Bidder, the Bidder must, prior to the Final Bidding Stage:
- provide to the Agent this form, being fully completed including the proof of identity for the bidders' record.
  - if the Primary Bidder is bidding on behalf of another person(s), provide this form to the Agent fully completed with the Other Bidder(s) details, signed by the Other Bidder(s) and including the proof of identity for the Other Bidders;
  - review the Vendors Contract for the Sale of Land. If the Registered Bidder seeks to change any terms or conditions in the Vendors Contract for the Sale of Land, the Registered Bidder must seek approval from the Vendors legal representative in writing. The Vendor, prior to accepting the Registered Bidder as a Qualified Bidder, will determine whether any requested amendments from the Registered Bidder are such that the Vendor agrees to the Registered Bidder being eligible to participate in the Openn Negotiation auction and the Vendors and Bidder's solicitors/ conveyancers will settle any agreed amendments to the Contract for the Sale of Land in writing prior to the commencement of the Final Bidding Stage.
  - access and register their details in the Openn Negotiation App ("the App");
  - enter their Pending Price in the App;
  - Provide information to the Agent as to the manner by which the 10% deposit shall be paid to the Agent should the Qualified Bidder become the Successful Bidder at the Openn Negotiation Auction and thereupon be called and become the Purchaser of the Property.

## 4. Once you are a Qualified Bidder

- 4.1 Qualified Bidders are entitled to participate in the Openn Negotiation on the following conditions:
- the Qualified Bidder will be solely responsible (at their risk) for ensuring that they have adequate mobile and/or internet coverage to allow access to the App;
  - other than the price that the Qualified Bidder will pay to purchase the Property, the Vendor and Qualified Bidders will not negotiate on terms of the Bidders offers and or seek changes to the Vendors Contract for the Sale of Land, after a Bidder has been accepted as a Qualified Bidder;
  - all bids are made through the App;
  - any bid made in the App using a Qualified Bidder's Unique Registration Number will be deemed to have been made by that Qualified Bidder;
  - the Qualified Bidder is solely responsible for the operation of the App and the making of each Bid;
  - the Qualified Bidder is responsible for protecting access to their account and is responsible for any bids that might be placed through their account; and
  - the Qualified Bidder will bid in accordance to and subject to the Conditions of Sale by Auction as defined by s.15 of the *Property, Stock and Business Agents Regulations 2014*. A copy of the Conditions of Sale by Auction is attached to this Form.

**STATUTORY WARNING:**

Penalty for collusive practices It is an offence against the *Property and Stock Agents Regulation 2014* for a person to do any of the following as a result of a collusive practice, or to induce or attempt to induce another person by a collusive practice to do any of the following:

- a. to abstain from bidding,
- b. to bid to a limited extent only,
- c. to do any other act or thing that might prevent free and open competition.

Severe penalties may be imposed on persons convicted of collusive practices.

**STATUTORY WARNING:**

Penalty for dummy bidding It is an offence against the *Property and Stock Agents Regulation 2014* for a person to do any of the following:

- a. make a bid as the seller,
- b. make a bid on behalf of the seller (unless the person is the auctioneer),
- c. procure another person to make a bid on behalf of the seller.

Any bid made with the dominant purpose of benefitting the seller constitutes a bid made on behalf of the seller.

A bid may be found to be a bid made on behalf of the seller even though the seller did not:

- a. request the bid, or
- b. have any knowledge of the bid.

Severe penalties may be imposed on persons convicted of dummy bidding.

**5. The Contract for the Sale of Land**

- 5.1 Any amendments to the Contract for the Sale of Land required by a Bidder must be agreed to by the Vendor prior to the Bidder becoming a Qualified Bidder in accordance with clause 3.1(d) of this form.
- 5.2 The Bidder acknowledges that acceptance by the Vendor of any amendments to the Contract for the Sale of Land, in accordance with clause 3.1(d), in no way constitutes a binding offer and acceptance between the Vendor and the Qualified Bidder.
- 5.3 The Bidder acknowledges that they have been advised that they should take independent legal advice regarding the Vendors Contract for the Sale of Land and on the Openn negotiation terms and conditions.

**6. Reserve Price**

- 6.1 If none of the bids made by the Qualified Bidders equals or exceeds the Reserve Price during the Openn Negotiation Auction, the Vendor may choose to negotiate with one or more of the Qualified Bidders to sell the Property, however, the Vendor is under no obligation to do so.

**WARNING:** There is no cooling off period in relation to the Openn Negotiation Auction if the property is sold by the Openn Negotiation auction, or the Contract for the Sale of Land is made on the same day (until midnight) as the Property was offered for sale by Openn Negotiation auction but passed in on that same day.

**7. Contract Execution and Exchange Authority**

- 7.1 The Qualified Bidder agrees that the purchase price of the Property will be the Winning Bid.
- 7.2 I/We confirm that upon the fall of the hammer and becoming the successful Bidder at the Openn Negotiation Auction for the Property, I/we expressly nominate, authorise and direct the Auctioneer to:
  - a. Complete the front page of the Contract for the Sale of Land to display the details of the Qualified Bidder who shall thereupon be referred to as the Purchaser (“**the Purchaser**”);
  - b. Sign the Contract for the Sale of Land on behalf of the Purchaser;
  - c. Include any negotiated terms as agreed prior to the final bidding stage by the Vendor to Contract for the Sale of Land;
  - d. Date the Contract for the Sale of Land as the date of the fall of the hammer of the Auction;
  - e. Effect the exchange of the Contracts for the Sale of Land between the Vendor and the Purchaser; and
  - f. Receipt the Deposit into the Agent Trust Account.

**8. Declaration**

- 8.1 The Bidder acknowledges that this Buyers Registration and Authority to Bid and Terms of Use are to be read in conjunction with the App Terms and Conditions.
- 8.2 Capitalised terms in this Buyers Registration and Authority to Bid and Terms of Use have the meaning given to them in the App Terms and Conditions.
- 8.3 If any part of this Buyers Registration and Authority to Bid and Terms of Use are found by a Court to be unenforceable, illegal or void then the offending provision shall be severed and the remainder of these Buyers Registration and Authority to Bid and Terms of Use remain in force.
- 8.4 If the Primary Bidder has not completed any details in the Other Bidder(s) section of this form or this form has not been signed by the Other Bidder(s) then the Primary Bidder acknowledges that the Primary Bidder is the sole bidder and will be the sole Purchaser if they are the Successful Bidder.
- 8.5 If the Primary Bidder is also bidding on behalf of another person then:
  - a. the Primary Bidder acknowledges that they are bidding for themselves and on behalf of the Other Bidder(s) and the Primary Bidder and the Other Bidder(s) will be the Purchaser if they are the Successful Bidder; and
  - b. the Primary Bidder warrants that they have authority to bid on behalf of the Other Bidder(s) and if any authority to do so is withdrawn then the Primary Bidder must not thereafter bid on behalf of the Other Bidder;
  - c. The Primary Bidder indemnifies the Operator, the Owner, the Agent and the Auctioneer from and against all actions, suits, demands, claims, losses, damages and costs whatsoever, whether at law or in equity arising out of any breach of the warranties in this clause 8.5 by the Primary Bidder.
- 8.6 The Other Bidder(s) authorize(s) the Primary Bidder to bid on their behalf to purchase the Property and acknowledges that they will be included as the Purchasers if the Primary Bidder is the Successful Bidder.

**Primary Bidder's Signature**

X

Date: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_

**Other Bidder's Signature**

X

Date: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_

X

Date: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_