

APAX TERMS AND CONDITIONS OF USE

Introduction

Thank you for visiting our website. This website is owned and operated by APAX. By accessing and/or using this website and related services, you agree to these Website Terms and our Privacy Policy (**Terms**). You should review our Privacy Policy and these Website Terms carefully and immediately cease using our website if you do not agree to the Terms. You will also be asked to expressly confirm your agreement to the Terms when you apply for registration as a User.

Definitions

1. Unless otherwise specified, in the Terms:

APAX, us, we, or our means APAX.com.au Pty Ltd (ACN 620 124 334);

APAX Platform means the online real estate auction platform known as “APAX” or “Australia’s Property Auction Exchange”, which is operated by APAX and accessible at the Website or on the APAX App on mobile devices;

Auction means the auction of a Property on the APAX Platform in accordance with the Terms of Use;

Auctioneer means the auctioneer who conducts an Auction, which will be Patrick Booth of Level 1, 39-41 Mount Street, Prahran VIC 3181 (Victorian Licence No. 077204L, NSW Licence No. 20146278, Queensland Licence No. 14104131, South Australian Licence No. 228176) or such other licensed auctioneer as notified on the APAX Platform prior to the commencement of the Auction;

Auctioneer Appointment Terms means the auctioneer appointment terms referred to as “Terms of Appointment of Auctioneer” or howsoever described, entered into between the Auctioneer, Vendor and Vendor’s Agent in respect of an Auction;

Auction Conditions means the terms and conditions applicable to the conduct of auctions on the APAX Platform from time to time referred to as the “APAX Auction Conditions” or howsoever described and, in respect of the Auction, means those Auction Conditions published on the APAX Platform in respect of that Auction prior to the commencement of that Auction;

Bidder means a bidder for a Property registered in accordance with the Bidder Terms;

Bidder Terms means the terms and conditions applicable to Bidders in respect of an Auction, as published on the APAX Platform;

Content has the meaning given to that term in clause 16;

Credentials has the meaning given to that term in clause 8;

Privacy Policy means the privacy policy referred to as “APAX – Privacy Policy” or howsoever described published on the Website at www.apax.com.au/privacypolicy from time to time;

Property means real property (and improvements, where applicable) that is the subject of an Auction;

Services means the services available via the APAX Platform or otherwise provided by APAX via or in connection with the Website;

Terms has the meaning given in the Introduction, above;

Terms of Use means these Website Terms, the Auction Conditions, the Bidders Terms and the Privacy Policy (as applicable in the circumstances);

User means a person who has registered to use the Website (whether as a Bidder, Vendor, Vendor’s Agent or otherwise) and created a User Account;

User Account means a user account created in accordance with these Website Terms in respect of a User;

Vendor in respect of a Property means the owner of that Property;

Vendor's Agent in respect of a Property means the "real estate agent" (howsoever defined in the laws of the relevant jurisdiction) appointed by a Vendor in respect of the sale of that Property on the APAX Platform;

VOI Document means any document prescribed by the real estate laws as required to verify the identity of a Bidder;

Website means this website, located at: *www.apax.com.au*;

Website Terms means the terms and conditions set out in this document; and

you or **your** is a reference to a User or a person who uses the Website without having registered as a User (as the context requires).

Interpretation

2. In the Terms:

2.1 unless the context otherwise requires: headings do not affect interpretation; singular includes plural and plural includes singular; a reference to "dollars", "\$A", "A\$" or "\$" is a reference to Australian currency; a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, the Terms, and a reference to the Terms includes any schedule or annexure; reference to a person includes a corporation, body corporate, joint venture, association, government body, firm and any other entity; a reference to a party to an agreement includes the party's executors, administrators, successors and permitted assigns and substitutes; reference to two or more people means each of them individually and all of them jointly; a provision must not be construed against a person only because that person prepared it; a provision must be read down to the extent necessary to be valid (and if it cannot be read down to that extent, it must be severed); the meaning of general words or provisions shall not be limited by references to specific matters that follow them (for example, introduced by words such as "including" or "in particular") or precede them or are included elsewhere in the Terms; another grammatical form of a defined expression has a corresponding meaning; an expression defined in the Corporations Act has the meaning given by that Act at the date on which you accept these Website Terms; and

2.2 if you comprise two or more people: a promise by you binds each of them individually and all of them jointly; a right given to you is given to all of them jointly; and a representation, warranty or undertaking by you is made by each of them individually.

User registration

3. You may browse and peruse the Website without registering as a User. However, if you wish to use the available Services, you must register as a User by creating a User Account on the Website.

4. You may only create a User Account if you:

4.1 are at least 18 years old;

4.2 provide a valid email address and password;

4.3 upload your VOI Documents;

- 4.4 consent to us contacting you about your User Account and profile (including to verify the personal information that you have provided to us in your User Account profile) or the Services; and
 - 4.5 keep information that you provide via the APAX Platform current and up-to-date (including your contact details).
5. When you register and activate your User Account, you will provide us with personal information such as your name, email address, residential address, telephone number, payment information and other personal information. You must ensure that this information is accurate and current. We will handle all personal information we collect in accordance with our Privacy Policy.
 6. You warrant and represent that all information you upload to the APAX Platform (including the VOI Documents) and all other information you have provided to the Auctioneer, APAX or the Vendor's Agent is up-to-date, true and accurate in all respects and is not false or misleading.
 7. To create an account, you must possess the legal right and ability to enter into a legally binding agreement with us and you agree and warrant to use the Website in accordance with the Terms.
 8. Your registration as a User, and any unique identifier, security codes or other credentials (**Credentials**) you are issued by APAX to access the APAX Platform, are not transferrable to any other person. You must keep your Credentials secure and confidential and must not allow any other person to use them. You must notify APAX as soon as practicable after becoming aware that your Credentials have been lost or stolen. However, you will be liable for the actions of any person using your Credentials prior to APAX having had a reasonable period of time to cancel your Credentials after you have notified APAX they have been lost or stolen.

Collection notice

9. We collect personal information about you in order to process your registration as a User and for other purposes set out in our Privacy Policy.
10. We may disclose that information to third parties that help us deliver Services to you and determine what related services you may be interested in (including to the Auctioneer, the Vendor's Agent, information technology suppliers, communication suppliers, professional advisers and our sponsors) or as required by law. If you do not provide this information, we may not be able to provide all of the Services to you.
11. You agree that we may use your personal information to provide you with direct marketing and promotional material until you notify us that you do not want to receive direct marketing and promotional material.
12. By providing your personal information to us, you consent to the collection, use, storage and disclosure of that information as described in the Terms.

Accuracy, completeness and timeliness of information

13. The information on our website is not comprehensive and is intended to provide a summary of the subject matter covered. While we use all reasonable attempts to ensure the accuracy and completeness of the information on our Website, to the extent permitted by law, we make no warranty regarding the information on this Website. You should monitor any changes to the information contained on this Website.
14. We are not liable to you or anyone else if interference with or damage to your computer systems occurs in connection with the use of this Website or a linked website. You must take your own precautions to ensure that whatever you select for your use from our Website is free of viruses or anything else (such as worms or Trojan horses) that may interfere with or damage the operations of your computer systems.

Linked sites

15. Our Website may contain links to websites operated by third parties. Those links are provided for convenience and may not remain current or be maintained. Unless expressly stated otherwise, we do not endorse and are not responsible for the content on those linked websites and have no control over or rights in those linked websites.

Intellectual property rights

16. Unless otherwise indicated, we own or license from third parties all rights, title and interest (including copyright, designs, patents, trademarks and other intellectual property rights) in this Website and in all of the material (including all text, graphics, logos, audio and software) made available on this Website (**Content**).
17. Your use of this Website and use of and access to any Content does not grant or transfer any rights, title or interest to you in relation to this Website or the Content. However we do grant you a licence to access the Website and view the Content on the terms and conditions set out in the Terms and, where applicable, as expressly authorised by us and/or our third party licensors.
18. All other use, copying or reproduction of this Website, the Content or any part of it is prohibited, except to the extent permitted by law.

Warranties and disclaimers

19. To the maximum extent permitted by law, we make no warranties or representations about this Website or the Content, including but not limited to warranties or representations that they will be complete, accurate or up-to-date, that access will be uninterrupted or error-free or free from viruses or anything else (such as worms or Trojan horses) that may interfere with or damage the operations of your computer systems, or that this Website will be secure.
20. APAX is not liable for any loss resulting from any action taken or reliance made by you or any other person on any Content posted on the Website. You should make your own inquiries and seek independent advice from relevant industry professionals before acting or relying on any Content which appears on the Website.
21. We reserve the right to restrict, suspend or terminate without notice your access to this Website, any Content, or any feature of this Website at any time without notice and we will not be responsible for any loss, cost, damage or liability that may arise as a result.

Commission

22. Before using the Services, you acknowledge that you have the right to negotiate any commission to be paid to the Auctioneer and any money to be paid by the Vendor or Vendor's Agent in respect of outgoings.

Dispute resolution

23. APAX's procedures for resolving complaints and disputes are set out in the Auction Conditions, Bidder Terms or Auctioneer Appointment Terms (as applicable).

Consents and approvals

24. Unless otherwise provided, APAX and/or the Auctioneer may give or withhold its determination, consent, agreement, authorisation or approval:
 - 24.1 in that party's absolute discretion;
 - 24.2 with or without conditions and without giving reasons; and
 - 24.3 when that party chooses.

Termination

25. You may at any time (other than during the course of an Auction that you are participating in or registered to participate in), for any reason, close your User Account.
26. We may refuse to create a User Account for you, or close your User Account and terminate, suspend or modify your access to the Website and/or the Services without giving any prior notice to you at our discretion.

Governing law

27. Your use of the Website and the Terms are governed by the law of South Australia and, in respect of a particular Auction, by the law of the jurisdiction in which the Property is located.

Electronic signatures

28. You acknowledge and agree that: (a) execution of the Terms through an electronic signature is appropriate in the circumstances; (b) you have consented to the requirement of a signature being met by electronic means; and (c) by accessing and/or using the Website or the Services and/or by clicking "I accept", you have indicated your willingness to be bound by the Terms.

EXECUTION BY ELECTRONIC SIGNATURE ("CLICK TO ACCEPT/AGREE")
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