

# Deposits Terms and Procedures

## **1. What is the Deposit?**

The deposit is the sum paid by the Buyer to the Seller on acceptance by the Auctioneer of the Buyer's bid, as a guarantee that the Buyer will proceed to completion of their purchase. If completion takes place without dispute, the sum becomes part payment of the purchase price.

At our online-only auctions, the deposit must be paid as follows: as to the bidder security, by pre-authorised bank card payment and, as to any balance, by electronic bank transfer to our bank client account. We do not accept any other method of payment.

The deposit will be taken and held by us as stakeholder unless we expressly agree with the Seller that it is to be taken as agent for the Seller. If this is the case, it will be stated in the addendum for the Lot.

## **2. Stakeholder or Agent – what does it mean?**

### **2.1 If the deposit is taken as stakeholder**

The stakeholder:

- is effectively the agent of both Seller and Buyer in relation to the deposit
- must not release the deposit until completion takes place.

If Allsop take the deposit as stakeholder, we will keep any interest earned during the time it or any part of it is held by us.

### **2.2 If the deposit is to be taken as agent for the Seller**

The agent must:

- act in the best interests of the Seller in relation to the deposit
- account to the Seller for interest on the deposit
- release the deposit to the Seller (or, if we choose, to the Seller's solicitors) after the auction without further reference to the Buyer, whether or not the Buyer completes their purchase.

A deposit taken as agent will, in effect, belong to the Seller as soon as it is paid to them although the Buyer may have a right to recover the deposit from the Seller if the Seller fails to complete.

Any dispute regarding whom the deposit belongs to must be resolved between the Seller and the Buyer.

## **3. Stakeholder or Agent – which capacity applies?**

At Allsop auctions, the deposit will normally be taken by us as stakeholder.

If we agree with the Seller that it is to be taken instead as agent, this will be stated in the addendum for the Lot.

If VAT is applicable to the property, the deposit will be taken as stakeholder in any event in order to avoid creating a VAT tax point on the date of contract.

## **4. Allsop procedures where the deposit is taken as stakeholder**

4.1. Where a deposit is paid to us as stakeholder we are at liberty, if we choose, to transfer all or part of it prior to completion to the Seller's solicitors for them to hold as stakeholder in our place. Sometimes, the special conditions provide that we must do this. In all such cases, we will pass the deposit on after funds clearance, net of any fees and commission that will be due to us from the Seller on completion. Any part of the deposit not so transferred will continue to be held by us in our stakeholder account pending confirmation of completion of the sale and purchase.

4.2. Where we hold as stakeholder up to the completion date for the sale and purchase of the Lot, we will release the deposit to the Seller's solicitors on or very shortly after completion upon receipt from the Seller's solicitors of a letter in our standard form, confirming that completion has taken place. If

completion is delayed for any reason, we will retain the deposit as stakeholder pending resolution of the delay. See below, under paragraph 4.3, for what happens to the deposit in the event of delayed completion.

4.3. Where Allsop hold a stakeholder deposit and completion is delayed:

- It is not Allsop's responsibility to decide which party is in breach of contract, or which party has caused delay. Consequently, in any of these circumstances, we cannot decide which party is entitled to have the deposit released to them.
- In such cases, we will only release the deposit with the express consent and authority of both the Seller and the Buyer.
- If mutual consent is not forthcoming, or if there is a protracted delay in the matter being resolved, we may take legal proceedings which will involve asking the Court to hold the deposit pending a Court decision as to whom is entitled to have it. If proceedings are issued, we would usually seek costs against the party found to be in default.

## **5. Allsop procedures where the deposit is taken as agent**

After the auction, we will release the deposit, less all fees due to us, after 7 working days from the date on which the deposit was received in our client account (unless we have been notified by our bank of any problems in the interim).

Release of the deposit will be without further reference to the Buyer, regardless of whether or not the Buyer completes the purchase of the Lot.

## **6. What happens if too much deposit has been paid?**

Occasionally, an amount in respect of deposit monies that is greater than the contractually-required deposit is paid.

Please note that, in the interests of maintaining clarity in the auction buying and selling process and for administrative ease, Allsop's standard policy will be followed in all cases where an amount in excess of the contractually-required deposit is received.

The policy is that any such deposit excess will be returned as soon as reasonably possible once the amount received is held in cleared funds. Funds will normally be returned by bank transfer to the account indicated by the bidder or (at our option and at our entire discretion) by bank transfer or cheque to the solicitors indicated as acting in respect of the purchase of the Lot.

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