



**OpenDoor**

Welcome to the better way to sell property

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# Property auctions

## Terms of business



V5.0



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# Thank you!

Dear vendor,

On behalf of the Open Door team, I'd like to thank you for deciding to use Open Door to sell your property. We passionately believe that selling houses via auction represents the best method of selling any house – be it a two-bed terraced house or a five-bed executive home – and we hope that, after using our services, you'll agree.

Our terms of business are designed to be customer-friendly. This is because we don't believe in forcing customers to sell with a particular agent. For that reason:

- We reimburse withdrawal fees up to £300 inc. VAT;
  - We don't charge withdrawal fees ourselves;
  - We offer a 14-day 'cooling off' period to all customers;
  - We only require seven days' notice to withdraw a property from the market.
- This is a significantly shorter time period than many of our competitors.

If you are switching to Open Door from another agent, please note that it is your responsibility to check their terms and conditions to ensure that you are not liable for dual fees in the event of a sale. Please do this before signing this contract.

I know that selling a home can be among one of life's most stressful events. We, therefore, make it our ambition at Open Door to both minimise your stress levels and honour the terms of business outlined below. If, however - at any point - you are concerned about the sale of your property or our performance as a business, please give me a call on 01777 322 777 (0830 to 1730, Monday to Friday) or 07967 810520 (outside office hours) and I'll do my best to help you.

I look forward to working with you.

Graeme Naish  
Director, Open Door Property Limited

# PROPERTY AUCTIONS TERMS OF BUSINESS

**Staff:** Please review Open Door Property Auctions' terms of business as outlined below with the customer, adding information where red **text** or arrows (▶) are located.

**Customer:** Please read, approve, sign and return Open Door Property Auctions' terms of business as outlined below, adding information where blue **text** or arrows (▶) are located.

1. Auction date (may be online) ▶				
2. Auction location (may be online) ▶				
3. Period of agency ▶	Until notified about the desire to withdraw (7 days' notice required).			
4. Seller's name ▶				
5. Status of seller ▶	Owner	Director	Trustee	Executor
	Mortgagee	Receiver	Liquidator	Agent
6. Property full address ▶				
7. Contact number ▶				
8. Address ▶ (if different to the above)				
9. Guide price ▶	£			
10. Reserve price ▶	£ (or any such other Reserve Price as agreed in writing between ODPA and the Seller)			
11. Services to commence immediately ▶ (please select)	Yes	No		
	Please see term 7 as this may affect your cancellation rights.			

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 "Auction Date" means the auction date as detailed in the table above.
- 1.2 "Auction Location" means the auction location as detailed in the table above.
- 1.3 "Auction Sales Notice" means the Auction Sales Notice provided to each bidder prior to the Auction detailing the Auction process.
- 1.4 "Buyer" means a person entering into a Memorandum of Sale with the Seller for the purchase of the Property.
- 1.5 "Business Hours" means 9.00am to 5.30pm on a day other than Saturday or Sunday on which banks are open for business in London.
- 1.6 "Memorandum of Sale" means the document issued by ODPA under which the sale contracts for the Property are exchanged and the completion date is fixed.
- 1.7 "ODPA" means Open Door Property Limited, T/A Open Door Property Auctions, Open Door Auctions or Open Door, and references to "auctioneer" are reference to auctioneers appointed by ODPA.
- 1.8 "Period of Agency" is the period of time as detailed in the table above.
- 1.9 "Private Sale" means a sale of the property to a Buyer who you personally and directly made aware that the Property is available for purchase and shall not include any sale to a Buyer who was initially made aware of the Property via ODPAs actions (for example, from listings placed by ODPA on Rightmove, Zoopla or a similar property portal site, or through seeing an ODPA board outside the Property).
- 1.10 "Private Sale Website" means a site where the customer can directly upload details of the Property (such as www.sellyourownhouse.co.uk or gumtree.com) but does not include property portal sites such as Rightmove or Zoopla.
- 1.11 "Property" and "lot" shall be used interchangeably and are references to the Property being sold via Auction by ODPA as detailed within the table above.
- 1.12 "Reserve Price" means the sum detailed in the table above.
- 1.13 "Sale Price" means the price agreed between the Buyer and the Seller for the purchase of the Property as specified in the Memorandum of Sale.
- 1.14 "Seller" means the person named within the table above.
- 1.15 "Sole Selling Rights" means that the Seller has instructed ODPA as the exclusive agent with rights for the Period of Agency to sell or negotiate the sale of the Property and that the Commission will be payable as set out in term 3.

## 2. SERVICES

ODPA and its joint agents (if any) endeavour to sell the Property by way of public auction on the Auction Date at the Auction Location ("Auction") at a price no lower than the Reserve Price and on the terms stated herein.

## 3. COMMISSION AND OTHER CHARGES

- 3.1 The Seller will pay ODPA a fee on the sale of the Property comprising of either:
- 3.1.1 \_\_\_\_\_% of the achieved sale price plus VAT, subject to a minimum of £\_\_\_\_\_.00 plus VAT per Property ("**Minimum Sales Fee**"); or
- 3.1.2 a fixed sum of £\_\_\_\_\_.00 plus VAT.
- [DELETE AS APPLICABLE BEFORE SIGNING]**
- ("Commission")**
- 3.2 ODPA shall be entitled to Commission, in addition to any other costs or charges agreed in each of the following circumstances:
- 3.2.1 if a Memorandum for Sale is entered into prior to, at or after the Auction; or
- 3.2.2 if unconditional contracts for the sale of the Property are exchanged in the Period of Agency, even if the Buyer was not found by ODPA and/or its joint agents (if any) but by another agent or by any other person, including where the Buyer was found by the Seller; or

- 3.2.3 if unconditional contracts for the sale of the Property are exchanged after the Period of Agency but with a Buyer introduced to the Seller (sales will be seen to have been due to such an introduction *unless* the Buyer was introduced by another agent, obtained via a Private Sale Website or if there is a Private Sale) by ODPA during the Period of Agency or with whom ODPA had negotiations about the Property during the Period of Agency.

**For the avoidance of doubt, ODPA shall be entitled to Commission even where the sale of the Property does not complete and title in the Property fails to pass from the Seller to the Buyer.**

- 3.3. Notwithstanding ODPAs entitlement to Commission, and:

- 3.3.1 where the Property is withdrawn from the Auction or sale; or

- 3.3.2 where the Property is not sold prior to, at or after the Auction,

ODPA shall be entitled to charge as a contribution towards the expense of the Auction (namely the catalogue printing, technical and other marketing costs) a sum to not exceed £\_\_\_\_\_.00 plus VAT per Property ("**Auction Entry Fee**").

## 4. PAYMENT

- 4.1 The Commission or the Minimum Sales Fee (whichever is greater) shall become due on sale of the Property via Auction and payable within 24 hours of the sale of the Property via Auction, and ODPA is entitled to invoice for payment on the date of the sale.

- 4.2 The Commission or the Minimum Sales Fee (whichever is greater) shall become payable on the occurrence of any of the relevant events specified in term 3.2 and ODPA shall be entitled to submit its invoice for the Commission together with any applicable VAT. Notwithstanding term 4.4, the due date for payment by the Seller of such Commission shall be fourteen (14) days from the date of such an invoice.

- 4.3 The Auction Entry Fee shall become payable if the relevant events specified in terms 3.3.1 or 3.3.2 occur and ODPA shall be entitled to submit its invoice for the Auction Entry Fee together with any applicable VAT. The due date for payment by the Seller of the Auction Entry Fee shall be fourteen (14) days from the date of such an invoice.

- 4.4 ODPA may deduct Commission and any other expenses from the deposit paid by the Buyer (which includes successful bidders if different) and any interest earned on any deposit shall be retained by ODPA. If no deposit is held, payment will be made by the Seller or the Seller's solicitor in accordance with terms 4.2 or 4.3 as appropriate.

- 4.5 VAT at the applicable rate is payable on all Commission and other charges. If the rate of VAT (currently 20%) changes between the conclusion of this agreement and the due date for payment, ODPA reserves the right to adjust the rate of VAT that the Seller will pay.

- 4.6 Please make cheques payable to "Open Door Property Limited" or make a transfer to sort code 60-17-28, account number 90182545.

- 4.7 If the Seller fails to make any payment due to ODPA under these terms of business by the due date for payment, then the Seller shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Seller shall pay such interest together with the overdue amount.

## 5. SELLER'S OBLIGATIONS

- 5.1 The Seller shall, unless agreed otherwise:

- 5.1.1 grant sole selling rights to ODPA and any joint agents (if any) to sell the property on the Seller's behalf;

- 5.1.2 *if switching from another agent*, check their terms and conditions *before* signing this contract to confirm any liability for dual fees;

- 5.1.3 free of charge and in a timely manner, provide ODPA with all information and assistance (including appropriate access to the Property on reasonable notice during Business Hours) which ODPA may reasonably request from time to time to enable ODPA to perform services in accordance with the terms of this agreement;

- 5.1.4 if necessary, provide ODPA with a list of prospective buyers who have viewed the property with other agents;

- 5.1.5 ensure that an Energy Performance Certificate (EPC) has been commissioned for the Property and shall be obtained within seven days of ODPA commencing the marketing of the Property;

- 5.1.6 bear any costs and expenses related to special advertising, packing, insurance and cartage to and from ODPa (plus applicable VAT);
- 5.1.7 instruct its solicitor to prepare a standard auction legal pack as soon as possible and at least 10 working days before the Auction;
- 5.1.8 confirm the Reserve Price to ODPa in writing at least 24 hours prior to the Auction commencing (where the Reserve Price is not detailed within the table above); and
- 5.1.9 under no circumstances bid at the Auction, either in person or online.
- 5.2 The Seller warrants that:
- 5.2.1 all of the information about the Property is true and accurate, and it shall check the accuracy of such content and information prior to the Auction commencing; and
- 5.2.2 it owns the Property and will be able to pass good and marketable title to the successful bidder.
- 5.3 The Seller authorises ODPa and its joint agents (if any):
- 5.3.1 to receive any payments for the Property on the Seller's behalf and to deduct any sums due from the Seller to ODPa on any account whatsoever from any such payments received before remitting the balance to the Seller;
- 5.3.2 to charge a fee of £500.00 plus VAT to the successful bidder for its administrative services. The Seller acknowledges that ODPa and its joint agents (if any) may earn commission from Buyers in connection with other services;
- 5.3.3 to advance, accept and refuse bids and to regulate on- and off-line bidding at ODPa's sole discretion;
- 5.3.4 to exchange contracts in relation to the Property at a price equal to or higher than the agreed Reserve Price or Sale Price at any time from the date hereof to the date 28 days following the Auction Date, unless agreed otherwise in writing in the Memorandum of Sale;
- 5.3.5 determine all matters whatsoever concerning the sale of the Property via Auction including, without limitation, resolving disputes between bidders and decisions about whether to withdraw, divide or consolidate lots if necessary; and
- 5.3.6 to act on the Seller's behalf in relation to the Auction, to include if necessary signing the Memorandum of Sale at the Auction, or before or after the Auction.
- 6. ODPa AS AN AGENT**
- 6.1 ODPa and its joint agents (if any) offer any lot for sale as agent and on behalf of the Seller and not on its or its joint agents' own behalf.
- 6.2 ODPa shall not be obliged to account to the Seller for sums due from the Buyer until payment for the sold Property has been made by the Buyer to ODPa, and ODPa will account to the Seller within fourteen (14) days of the payment from the Buyer.
- 6.3 In an attempt by the Seller to alter the Reserve Price, Commission or any other agreed terms of sale, ODPa reserves the right to withdraw the lot and charge the Auction Entry Fee.
- 6.4 ODPa may withdraw at any time any property which it considers no longer suitable to be offered for sale by auction and shall not be liable to the Seller for any losses it incurs as a result of such withdrawal.
- 6.5 If, during the Auction, the auctioneer considers that a dispute has arisen, he / she has absolute discretion to settle the dispute or re-offer the lot. This applies to both on- and off-line auctions.
- 6.6 Where the Buyer fails to comply with the post auction requirements as set out in the Auction Sales Notice then the lot may, at ODPa's discretion, be put up again and resold.
- 6.7 ODPa may publish, if it wishes, any sale results after an auction has taken place.
- 6.8 ODPa is not bound to issue proceedings against any defaulting Buyer.
- 7. CANCELLATION**
- 7.1 The Seller may withdraw the Property from the Auction on written notice to ODPa, provided this notice is received seven (7) days before the Auction begins. Within seven (7) days of receiving such written notice, ODPa's obligation to provide the Services ceases.
- 7.2 ODPa shall not charge the Seller a withdrawal fee where the Seller removes the Property from the Auction in accordance with term 7.1, but where the Seller removes the Property from the market and unconditional contracts for the sale of the Property are exchanged in the circumstances set out in term 3, Fees shall still be due to ODPa.
- 7.3 Where necessary and when proof of payment can be demonstrated, ODPa will reimburse withdrawal fees charged by other agents up to the value of £300 including VAT. All other charges shall be covered by the Seller.
- 7.4 Where this agreement is concluded away from ODPa's office (or at ODPa's office immediately after the Seller was personally and individually addressed by ODPa otherwise than at ODPa's office), the Seller will have a legal right to cancel this agreement under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 for fourteen (14) days after the day on which this agreement is entered into ("Cancellation Period").
- 7.5 Unless the Seller has made a request for ODPa to do so, ODPa will not provide and shall be under no obligation to provide services in respect of preparation for the Auction until the end of the Cancellation Period. If the Seller makes such a request for ODPa to commence providing such services and decides to cancel this agreement prior to the end of the Cancellation Period, ODPa shall not charge a withdrawal fee. However, ODPa shall be:
- 7.5.1 required to only refund the proportion of the Commission that relates to services not yet performed; or
- 7.5.2 where no Commission has been paid, be paid by the Seller a proportion of the monies due that relates to services already supplied.
- 7.6 Nothing in this term 7 will affect the Seller's legal rights as a consumer if the Auction is not provided as described. Advice about a consumer's legal rights is available at their local Citizen's Advice Bureau or Trading Standards office.
- 8. SERVICE TO PURCHASERS**
- 8.1 Under the Estate Agents (Provision of Information) Regulations 1991, ODPa is required to notify the Seller of any services ODPa will offer the Buyer of the Property where ODPa is instructed by a Seller in connection with the sale of the Property. ODPa may offer estate agency type services relating to the sale of a prospective Buyer's existing property for which ODPa will be entitled to receive remuneration / fees (in addition to the Commission payable by the Seller under this agreement).
- 8.2 Under the Estate Agents Act 1979, ODPa is required to disclose whether a connected person has a personal interest in any Property in respect of which ODPa is instructed. We are not aware of any personal interest existing between ODPa (or anyone in ODPa's employment or any connected person) and the Seller. The Seller is required to notify ODPa immediately in writing if he / she becomes aware of such an interest.
- 9. PROPERTY OMBUDSMAN**
- ODPa is a member of The Property Ombudsman Service (formerly known as the Ombudsman for Estate Agents).
- 10. EVENTS OUTSIDE ODPa's CONTROL**
- 10.1 ODPa will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under these terms that is caused by an event outside its control.
- 10.2 Events outside ODPa's control include, without limitation, strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.
- 10.3 Where such an event occurs, ODPa will notify the Seller as soon as reasonably possible and any obligations on ODPa contained herein will be suspended.
- 10.4 ODPa will restart the services (as outlined in term 2 above) as soon as reasonably practicable after the event outside its control is over.
- 11. TERMINATION**
- 11.1 Without limiting its other rights or remedies, ODPa may terminate this agreement with immediate effect by giving written notice to the Seller if:

- a) the Seller commits a material breach of any term of this agreement and (if such breach is remedial) fails to remedy that breach within 14 days of the Seller being notified in writing to do so;
- b) the Seller is deemed unable to pay its debts within the meaning of the Insolvency Act 1986, becomes insolvent or has a receiver, administrative receiver, administrator, liquidator or similar officer appointed, applies for or has called a meeting of creditors or resolves to go into liquidation (except for a bona fide amalgamation or reconstruction while solvent where the resulting entity agrees to be bound by and assumes the Seller's obligations under this agreement), is declared bankrupt or makes any arrangement with or for the benefit of its creditors, or has a county court administration order made against it under the County Court Act 1984; or
- c) the Seller fails to pay any amount due to ODPa under this agreement by its due date.

11.2 Termination of this agreement by ODPa shall not affect its accrued rights, remedies, obligations or liabilities existing at termination, including the right to claim damages in respect of any breach of this agreement which existed at or before the date of termination or expiry.

## 12. INDEMNITIES

12.1 The Seller shall reimburse ODPa in respect of any loss or damage suffered by ODPa as a result of:

12.1.1 any defect in the Seller's title and any other legal liability it may incur in relation to the Seller's Property; and

12.1.2 any breach of the Consumer Protection from Unfair Trading Regulations 2008 or the Business Protection from Misleading Marketing Regulations 2008 or any other liability whatsoever arising out of any error which appears in marketing materials or similar produced as part of providing the Auction, or at the Auction itself, due to information provided or omitted to be provided by the Seller, and ODPa may defend any proceedings of whatever nature brought against ODPa at the Seller's expense; and

12.1.3 the Seller withdrawing from the Auction.

## 13. LIMITATION OF LIABILITY

13.1 Subject to term 13.3, ODPa shall not be liable to the Seller, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with this agreement for:

13.1.1 loss of profits;

13.1.2 loss of agreements or contracts; or

13.1.3 any indirect or consequential loss; or

13.1.4 the accuracy of any statement, whether printed in marketing materials or made orally and no such statements are to be taken as implying any warranties, guarantees or representations.

13.2 Subject to term 13.3, ODPa's total liability to the Seller, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with this agreement shall be limited to, in respect of all claims (connected or unconnected) in the Period of Agency, the equivalent of the total charges due to be paid (being as applicable a combination of the Commission or the Minimum Sales Fee (whichever is greater) and the Auction Entry Fee) by the Seller in that period.

13.3 Terms 13.1 and 13.2 do not exclude or limit in any way ODPa's liability for:

13.3.1 death or personal injury caused by Our negligence or the negligence of Our employees, agents or subcontractors;

13.3.2 fraud or fraudulent misrepresentation;

13.3.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and

13.3.4 breach of the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 (description, satisfactory quality, fitness for purpose and samples).

## 14. IDENTIFICATION

In order to comply with the UK's current Money Laundering Regulations 2007, the Seller must provide two forms of approved identification (one being photo identification and the other evidencing his / her address).

## 15. USE OF SELLER'S INFORMATION

15.1 ODPa will use the information that the Seller provides to provide the services outlined herein, comply with legal obligations to which it is subject and process payment for such services and, by entering into this agreement, the Seller consents to this.

15.2 ODPa reserves the right to illustrate any Property marketed and to use such photographs, during and after the Period of Agency, at its discretion, including for marketing purposes.

## 16. VARIATION

No variation of these terms shall be effective unless in writing and signed by ODPa and the Seller.

## 17. SEVERABILITY

Each of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining sections will remain in full force and effect.

## 18. WAIVER

No failure or delay by a party to exercise any right or remedy provided under these terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## 19. THIRD PARTY RIGHTS

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms herein.

## 20. GOVERNING LAW AND JURISDICTION

20.1 The terms stated herein and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

20.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

21. SELLER'S SOLICITOR'S DETAILS

Name ▶	
Firm ▶	
Address ▶	
Contact number ▶	

22. ODPAs DETAILS

Should the Seller have any queries in relation to this document or the Auction generally, ODPAs contact details are as follows:

Email	sales@opendoorauctions.co.uk
Contact number	01777 322 777
Address	The Cartshed, Corner Farm, South Wheatley, Retford DN22 9DH

**THIS IS AN IMPORTANT LEGAL DOCUMENT AND YOU SHOULD ONLY SIGN BELOW IF YOU WANT TO BE LEGALLY BOUND.**

Signed for and on behalf of Open Door:

Signature ▶	
Date ▶	

Signed for and on behalf of the Seller:

Signature ▶	
Date ▶	

**End of contract.**

## Refer a friend today and receive £100

Do you know somebody who is struggling to sell their property or has recently had a sale fall through? If so, Open Door can help them, and you can help yourself to £100!

Simply refer a friend to us and if they subsequently sell their property through Open Door, we'll give you £100 as a thank you. Just ask your friend to mention this scheme when they contact us and we'll arrange the rest.

Find out more at:  
[opendoorauctions.co.uk/refer-a-friend](http://opendoorauctions.co.uk/refer-a-friend)  
And remember to tell your friends!

