

**WARNING:**

This is a document intended to create legal rights and obligations.

Take legal advice before signing it.



**HOME CHARTER  
SCHEME**

THE LAW SOCIETY OF  
NORTHERN IRELAND

## Memorandum of Sale

**Property in Sale**

The property (hereinafter called "the Property") Site 1 situated between 31 & 37 Coalhill Road, Slushill, Lisnaskea, County Fermanagh being part of the premises comprised in Folio 11551 County Fermanagh outlined in red on the map attached hereto for identification purposes only.

The title to the Property shall commence with: **Registration in the Land Registry in respect of the lands comprised in Folio 11551 County Fermanagh**

The Property is sold subject:

- (a) to the burdens mentioned above to which the Purchaser will raise no objection or requisition:
- (b) to the Law Society of Northern Ireland General Conditions of Sale (4th Edition 2020)

Capacity in which the Vendor sells: **Beneficial Owner**

**THE VENDOR AGREES TO SELL AND THE PURCHASER AGREES TO BUY THE PROPERTY AT THE AGREED PRICE.**

AGREED PRICE for the Property	PRICE for furnishings, fittings or chattels	
This price is inclusive of any VAT payable	£	£
DEPOSIT	£ BALANCE PURCHASE MONEY	£

**DATE FOR COMPLETION**

Vendor Name **Caroline McElroy**

Purchaser Name

Address **52 Coalhill Road  
Lisnaskea  
Co. Fermanagh**

Address

Nominated email address of Vendor's Solicitor:  
**law@murnaghanfee.com**

Nominated email address of Purchaser's Solicitor:

This Memorandum of Sale incorporates the Commercial Conditions of Sale Law Society of Northern Ireland (4th Edition 2020) Yes  No

THE VENDOR HEREBY CONFIRMS THAT IF THE REPLIES TO PRECONTRACT ENQUIRIES PREVIOUSLY FURNISHED BY THEM WERE REPEATED ON THE DATE OF SIGNING HEREOF THEN THOSE REPLIES WOULD BE UNCHANGED.

\_\_\_\_\_  
Signed by the Purchaser

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signed by the Vendor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Items Sold Copy  
Do Not Sign

## SPECIAL CONDITIONS

### 1. Conditions of Sale

- 1.1 This agreement incorporates the Law Society of Northern Ireland General Conditions of sale (4<sup>th</sup> Edition 2020 ("the General Conditions")). Where there is a conflict between the General Conditions and the Special Conditions the Special Conditions prevail.
- 1.2 Terms used or defined in this Agreement have the same meaning when used in the General Conditions.
- 1.3. The Property is sold subject to the encumbrances on the Property and the Purchaser will raise no requisition on them.

### 2 Conduct of Auction

- 2.1 The sale is subject to a reserve price unless otherwise stated
- 2.2 The Vendor or the Auctioneer or some other person authorised by the Vendor may bid both up to and over the reserve price.
- 2.3 The Auctioneer may at his absolute discretion refuse any bid and regulate the bidding in any manner the Auctioneer wishes.
- 2.4 If there is a dispute about a bid the Auctioneer may resolve the dispute or re-start the auction at the last undisputed bid. The Auctioneer's decision in the event of a dispute is final.
- 2.5 For the avoidance of doubt this contract shall become binding when the Auctioneer accepts a bid on behalf of the Vendor from the purchaser for the Property either pre or post auction or on the fall of the online or physical auction hammer as per the auction terms and conditions as outlined on [www.nipropertyauction.com/online-terms-conditions](http://www.nipropertyauction.com/online-terms-conditions).
- 2.6 If the Purchaser refuses to pay a deposit the Auctioneer reserves the right to re-offer the Property for sale as if the bid had not been accepted or at the Auctioneer's option sign the Memorandum of sale on behalf of the Purchaser.
- 2.7 The Auctioneer reserves the right to sell the Property in separate lots.
- 2.8 The Vendor reserves the right to alter or add to the particulars and or the Special Conditions at any time prior to or at the auction.
- 2.9 The Purchaser shall be personally liable on making an accepted bid whether or not he purports to act as agent for a principal.
- 2.10 Upon an accepted bid the Auctioneer has the authority to sign the memorandum of sale on behalf of the vendor and the purchaser
- 2.11 The Auctioneer reserves the right to hold the copy of the part of the Memorandum of Sale signed by him on behalf of the Vendor or signed by the Vendor until the Purchaser's deposit payable by him has been cleared
- 2.12 Condition 20 of the General Conditions which relate to "conditions applicable to auctions" do not apply. The auction conditions which apply are set out in paragraph 2 of these Special Conditions in conjunction with the auction terms and condition as outlined on [www.nipropertyauction.com/online-terms-conditions](http://www.nipropertyauction.com/online-terms-conditions).

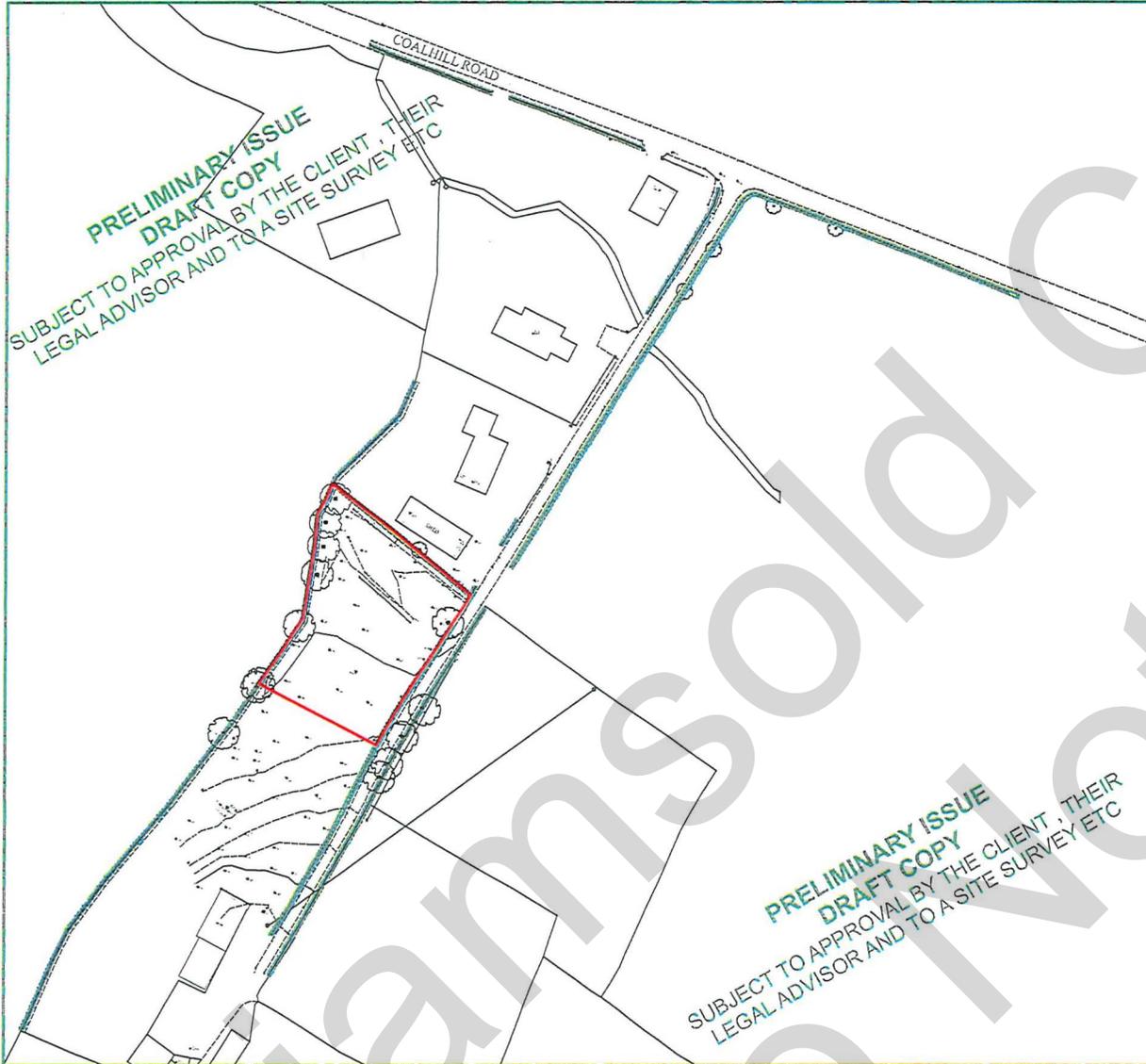
Items Sold Copy  
Do Not Sign

**MAP REFERED TO :**

Transfer of lands from Mrs. McElroy ~~to Mr. & Mrs. Byrne~~ Lands Between 31 & 37 Coalhill, Slushill, Lisnaskea.  
Lands referred to as Site One as Approved Under Planning Reference LA10/2020/1240/RM

Site 1

For identification purposes only



**SITE LOCATION MAP**  
Site Location Map / Scale - 1:1250

**MAP KEY :**

The red line denotes the extent of lands to be transferred from the ownership of Mrs. Mc Elroy ~~to Mr. & Mrs. Byrne~~

**IMPORTANT NOTE:**

The map produced is based on the Site Layout with approved Planning Permission (Council Ref: LA10/2020/1240/RM)  
Please note that this map has been produced with the benefit of a topographical survey produced by Topographical Surveyor Mr. Adrian Hanna for the purpose of the Outline and Reserved Matters Planning Applications: (LA10/2020/0244/O & LA10/2020/1240/RM).

All site measurements shown are as produced following the Topographical Survey and are to be agreed upon by Mrs. McElroy and Mr. & Mrs. Byrne. All parties must therefore satisfy themselves that the boundaries shown are a true reflection of actual site dimensions.  
This map is provided "Without Prejudice".

DMG Architectural Services accepts no liability for boundaries erected in a manner which differ from those shown on this drawings.

**IMPORTANT NOTE:**

That at the time this map was produced, the construction of the proposed dwelling, garage and driveway had not been commenced. No site dimensions have been taken.

Please note that the information provided herein are reliant on maps by a third party (Topographical Surveyor Mr. Adrian Hanna). All parties must therefore take responsibility to satisfy themselves that the boundaries drawn are a true reflection of the site. DMG Architectural Services accept no liability for boundaries changed or amended in a manner which differ from those shown on this drawing.

This drawing remains the copyright of DMG Architectural Services.

**IMPORTANT NOTE:**

All parties are to be made aware by their respective Solicitors that the location of easements and wayleaves shown in respect to existing services (telephone, water supply, electric and soakaway) are approximate only, as DMG Architectural Services has not been commissioned to undertake a detailed investigation to locate the position of underground services. It is therefore the responsibility of each party to take the appropriate actions required to satisfy themselves of the exact location of these easements.

**PRELIMINARY ISSUE  
DRAFT COPY**  
SUBJECT TO APPROVAL BY THE  
CLIENT , THEIR LEGAL ADVISOR  
AND TO A SITE SURVEY ETC

No.	Date	Revision Notes

**DMG**  
ARCHITECTURAL  
SERVICES

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Office: 028 9085 1880  
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Client  
Mrs. McElroy

Project Title  
Transfer of Lands associated with Site One  
As approved Under Planning  
Ref LA10/2020/1240/RM  
Coalhill Road, Slushill, Lisnaskea

Sheet Title  
Site Location Map

Project Stage	Project ID
Land Transfer	2001.LTM
Drawn By	Scale
DMcG	1:1250
Reviewed By	Sheet No.
DMcG	1 of 2
Date	
January 2022	

All Technical and design information contained in this drawing remains the copyright of DMG Architectural Services.  
Note the scale as shown when printed at A2

Items Sold Copy  
Do Not Sign

### **3.0 Deposit**

- 3.1 A deposit of ten percent of the purchase price shall be paid to the Auctioneer as Agent for the Vendor or the sum of £6,000.00 whichever is the greater.
- 3.2 In the event that the Purchaser fails to pay the Deposit on the date hereof then without notice the Vendor shall if so chooses have the right to deem the conduct of such Purchaser as a repudiation of the agreement between the Purchaser and the Vendor and the Vendor may resell without notice and/or take steps which may be available to it as a consequence of the Purchaser's breach both without prejudice to any claims that it may have against the Purchaser for breach of the agreement between the parties otherwise.

### **4.0 Completion**

- 4.1 The Completion date shall be 28 days from the date hereof or earlier by agreement between the parties.
- 4.2 On Completion the balance of the Purchase Price (together with if applicable service charge and/or ground rent paid by the Vendor in respect of any period beyond the completion date such sum to be apportioned to the Vendor on a Pro Rata basis) shall be paid on the Completion Date by telegraphic transfer to the following account

Acting Solicitor Firm:	Murnaghan Fee Solicitors Limited
Bank:	Ulster Bank Limited, 11-16 Donegall Square East, Belfast BT1 5HD
Account Name:	Murnaghan Fee Solicitors Limited, Client Account
Account No:	17775990
Sort Code:	98 00 60
IBAN:	GB18 ULSB 9800 6017 7759 90

- 4.3 Completion shall take place on or before 13:00 and if completion shall take place after that time, completion shall be deemed to have taken place on the next working day. Completion shall not be deemed to have taken place until the funds are received by the Vendor's solicitors' bank.
- 4.4 The Vendor shall be entitled to decline to transfer the Property to any other person than the Purchaser. General Condition 12.5 shall be varied accordingly.

### **5.0 Merger on Completion**

- 5.1 The Provisions of this Agreement shall not merge on completion of the transfer of the Property so far as they remain to be performed.

### **6.0 Notice to Complete**

- 6.1 In the event of Notice under General Condition 19 being served the Purchaser shall be and shall become liable to pay and indemnify the Vendor for his legal costs (on a solicitor and client basis) of and incidental to the preparation and service of the said Notice and all additional work consequent upon the Purchaser's default in completion on the Completion Date such costs being in the minimum sum of £500.00 plus VAT which sum shall be payable on completion as a sum due to the Vendor on completion.
- 6.2 General Condition 19.3 is amended to state "within 10 working days instead of "5 working days"

### **7.0 Capacity of Vendor**

- 7.1 Subject to the terms of the General Conditions and Special Conditions the Vendor is to transfer the Property as registered owner.

### **8. Possession**

- 8.1 The Property is sold with vacant possession.

## **9.0 Title and Matters affecting the Property**

- 9.1 The Title of the Property shall commence with registration in the Land Registry in respect of the lands comprised in Folio 11551 County Fermanagh and the Purchaser having been supplied with all the documents of title in the Vendor's possession or being notified of the Documents for inspection prior to the date of this agreement the Purchaser shall be deemed to purchase with full knowledge of all title in all respects and not raise any requisitions or make any objection in relation to the title.
- 9.2 The title having been available for inspections during normal office hours at the offices of the Vendor's solicitors for a period of at least 10 working days prior to the date of the auction the Purchaser (whether or not he has inspected it) shall be deemed to purchase with full knowledge of the title and the Documents in all respects and shall not raise any requisitions or make any objection in relation to the title.
- 9.3 The Vendor will furnish all documents of title in its possession on closing and where there are copies only the Purchaser will not call for the original or raise any enquiry or requisition to their non-production.
- 9.4 The property is sold subject to the following matters:

Purchaser shall accept Defective Title Indemnity Insurance as per draft furnished in lieu of a formal grant of easement for access over the laneway from public road to property and connection of services thereto.

## **10 Existing Encumbrances**

- 10.1 Where the Special Conditions state that the title to be registered the Property is sold subject to and with the benefit of (as appropriate) such of the entries in the folio number referred to in the Special Conditions as are not capable of being overreached by a sale by the Vendor. A certified copy of the registered folio and an uncertified copy of the folio map having been made available for inspection at the offices of the Vendor's Solicitors and via the auction pack made available on the auction website [www.nipropertyauction.com](http://www.nipropertyauction.com) or associated websites, the Purchaser shall be deemed to purchase with full knowledge of the contents thereof whether he has inspected the same or not and notwithstanding any incomplete or inaccurate statements thereof in the Special Conditions and shall raise no requisition or objection with regard thereto.
- 10.2 Where the Special Conditions state that the title to be unregistered the Property is sold and will be conveyed subject to and with the benefit of (as appropriate) any rights easements exceptions reservations agreements declarations covenants conditions and other matters contained mentioned or referred to in the documents specified in the Special Conditions and of any matters revealed by entries made in the registers maintained by the Registry of Deeds or the Land Registry of Northern Ireland. A copy or memorial of such rights, easements, exceptions, reservations, agreements, declarations, covenants, conditions and other matters having been made available for inspection at the offices of the Vendor's Solicitors and via the auction pack made available on the auction website [www.nipropertyauction.com](http://www.nipropertyauction.com) or associated websites, the Purchaser shall be deemed to purchase with full knowledge of the contents thereof whether he has inspected the same or not and notwithstanding any incomplete or inaccurate statements thereof in the Special Conditions and shall raise no requisition or objection with regard thereto.

## **11 Documents Referred to**

- 11.1 Where any document is referred to in the Special Conditions copies or memorials thereof may be inspected via the auction pack made available on the auction website [www.nipropertyauction.com](http://www.nipropertyauction.com) or associated websites (or may be supplied at the discretion of the vendor's solicitors) prior to the date of the sale and whether or not the Purchaser has inspected the same the Purchaser shall raise no objection or requisition with regards thereto.

## **12 Compliance with Notices**

- 12.1 The Purchaser 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 initiated before on or after the date of completion.

### **13 Purchaser's requisitions**

- 13.1 The Purchaser shall not raise any requisition or make an objection in relation to any of the matters referred to Special Conditions 9 to 12 inclusive and the Purchaser shall indemnify the Vendor in respect of any claims which have arisen or may arise relating to those matters or any of them.
- 13.2 In connection with the sale of the Property it shall be the sole responsibility of the Buyer to satisfy himself before making a bid for the Property as to the accuracy of the details provided by or on behalf of the vendor in respect of the subject property.

### **14. Contents/Chattels**

- 14.1 Any fixtures and fittings, chattels, possession or contents in on or about the subject property are excluded from the sale but the Vendor shall be entitled to leave same in the subject property.
- 14.2 With effect from the date of completion of the Sale, the Contents shall be at the sole risk of the Purchaser shall be responsible for all loss and damage thereto whatsoever and howsoever arising.
- 14.3 In the event of a claim to title being made by a third party to any of the Contents, the Purchaser shall have no right of recourse against the Vendor in respect of any claim arising therefrom (or any costs relating thereto) and it shall be a matter for the Purchaser, at his own expense to deal with the claim to title after completion of the Sale and if necessary make all arrangements to return the relevant item/s to the rightful owner.

### **15 Disclaimer**

- 15.1 The Purchaser admits that:
- 15.1.1 He has inspected the property and purchases it with full knowledge of its actual state and condition and including (without limitation) all fixtures and fittings included therein and shall take the Property as it stands at the Completion Date.
- 15.1.2 He enters into this Agreement solely as a result of his own inspection and on the basis of the terms of this agreement and not in reliance upon any representation or warranty either written or oral or implied made by or on behalf of the Vendor.
- 15.1.3 No warranty statement of representation has been made or given to the Purchaser that the Property can be used or developed in any particular way or for any particular purpose and the Vendor shall not be liable to the Purchaser if the Property cannot for any reason whatsoever be so used or developed.
- 15.1.4 The particulars, the Special Conditions and the General Conditions (to the extent applicable) and the Memorandum of sale together contain the entire agreement between the Vendor and Purchaser and incorporate all the terms agreed between them.

### **16 Electronic Signatures**

- 16.1 Each party agrees that this Contract may be electronically signed, and that any electronic signatures appearing hereon are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

**LAW SOCIETY OF NORTHERN IRELAND  
GENERAL CONDITIONS OF SALE (4TH EDITION 2020)**

**IMPORTANT NOTICE:**

**The contract shall comprise:**

- **The Memorandum of Sale and these General Conditions of Sale;**
- **The Special Conditions (if any), which are specific to the particular transaction;**
- **Any map attached hereto and**
- **Where indicated in the Memorandum of Sale, the Commercial Schedule to the Law Society of Northern Ireland General Conditions of Sale (4th Edition 2020).**

**These General Conditions should not be altered or amended in any way by interlineations, deletions, additions or otherwise. Any alterations or additions which may be necessary should be made the subject of Special Conditions inserted in the Special Conditions.**

**DEFINITIONS AND NOTICES**

- 1.1 These Conditions may be cited as the Law Society of Northern Ireland's General Conditions of Sale (4th Edition 2020) and references to the "Contract" shall mean any contract expressly incorporating all or any of these Conditions and shall extend to the "Special Conditions" which expression shall include the Memorandum of Sale and any map attached to this Contract. In the case of any conflict between the terms of the Special and General Conditions (together "the Conditions"), the Special Conditions shall prevail. Headings shall not affect the construction of these Conditions.
- 1.2 Any document or notice under the Contract shall be effectively given if sent by facsimile transmission or delivered either to the intended recipient or to his solicitors and respectively at his or their last known address by the Royal Mail or the DX System or by email to the address nominated in the Memorandum of Sale. Any document or notice sent by the following means is treated as having been received as follows:
- (a) by post: by 4pm on the second working day after posting.
  - (b) through DX: by 4pm on the first working day after the day on which it would normally be available for collection by the addressee.
  - (c) by fax: upon transmission.
  - (d) by e-mail: upon transmission.
  - (e) by hand: upon delivery.
- 1.3 In these Conditions where the context admits:
- (a) expressions not otherwise defined have the same meanings as in the Conveyancing Acts 1881 to 1911, the Land Registration Act (Northern Ireland) 1970, and the Interpretation Act (Northern Ireland) 1954 and in the interpretation of the Contract the latter act shall apply in the same manner as in the interpretation of an enactment to which it is stated to apply.
  - (b) reference to any legislation shall include any legislation by which it is amended, modified or replaced.

- (c) "assurance" includes any disposition of land.
- (d) "bank" shall mean any financial institution regulated by the Financial Conduct Authority and authorised by the Prudential Regulation Authority or such other regulatory body or bodies as may at any time replace them or exercise their functions.
- (e) "lease" and "landlord" have the meanings assigned to them respectively by the Landlord and Tenant Act (Ireland) 1860 and "Lease" includes a perpetual interest as defined by that Act and an underlease.
- (f) "mortgage" includes any mortgage, charge or order charging land registerable in the Registry of Deeds and / or at Land Registry.
- (g) "Property" means the property in sale more particularly described in the Memorandum of Sale.
- (h) "purchase money" includes the price to be paid under the Contract for chattels, fixtures or fittings.
- (i) "working day" shall exclude a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971.

## **PROPERTY CERTIFICATES, SEARCHES, STATUTORY CHARGES AND ENQUIRIES**

2.1 It shall be the duty of the Vendor to provide the Purchaser with the following:

- (a) a property certificate in the form prescribed and used from time to time by the Regional Property Certificate Unit of Fermanagh and Omagh District Council (or any successor thereto) in respect of the Property;
- (b) a local authority property certificate in the form prescribed and used by the local authority for the area in which the Property is situate;
- (c) a Statutory Charges Register search against the Property;
- (d) a hand search on the index of names in the Registry of Deeds against the Vendor from the date of the Vendor's acquisition of the Property to the time of supplying the search or a folio search in relation to any relevant Land Registry folio or folios in which the Property may be comprised. Where the Vendor is selling otherwise than as beneficial owner, and the Property is registered at the Registry of Deeds, in addition a hand search shall be furnished against the last party to have acquired the Property for value, any intervening owners from the date of such party's acquisition of the property to the date of registration of their disposal of it;
- (e) an Enforcement of Judgments Office search against the Vendor. Where the Vendor is selling otherwise than as beneficial owner an Enforcement of Judgments Office search shall be furnished against the last party to have acquired the property for value as well as against the Vendor;
- (f) A bankruptcy search against the Vendor and, in the case of a Vendor who is not a natural person, a Companies House search and/or a companies registry search in the jurisdiction in which the company is registered. Where the Vendor is selling otherwise than as beneficial owner the required searches shall be furnished against the last party to have acquired the Property for value as well as against the Vendor;
- (g) if title to the Property or any part thereof is unregistered, a Land Registry map search against the Property and a clear unmarked up to date ACE map or a map otherwise based on Ordnance Survey standards suitable for an application to the Land Registry for compulsory first registration;
- (h) full and complete replies to the enquiries contained in the current version of the Law Society Replies to Pre-Contract Enquiries;
  - (i) a valid Energy Performance Certificate in respect of the Property if required pursuant to the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008;
  - (j) where the Property is served by a septic tank, a copy of the statutory consent to discharge of effluent and the map attached thereto;

- (k) if the ground rent has been redeemed under the provisions of the Ground Rents Act (NI) 2001, a copy of the certificate of redemption of ground rent;
- (l) if there is an inhibition registered on the title to the Property in favour of a management company, managing agent or a developer, such documentation at the Vendor's expense as is required to enable the Purchaser to be registered as owner of the Property.

2.2 If there is a management company involved in the development of which the Property forms part, then the following sub-conditions shall apply:

(a) the Vendor shall supply the following:

- (i) a copy of the certificate of incorporation of the management company;
- (ii) a copy of the memorandum and articles of association of the management company;
- (iii) the original share certificate or membership certificate in the management company;
- (iv) a Companies House search against the management company;
- (v) evidence that the reversionary interest in the development/common areas has been transferred to the management company. If the reversionary interest has not been so transferred then the Vendor shall furnish a Companies House search against the developer/current registered owner of the reversionary interest/common areas;
- (vi) a stock transfer form/letter of resignation from the management company to enable the Purchaser to be recorded as a shareholder/member of the management company. The Purchaser shall be responsible for any fees charged by the management company for the recording of the Purchaser as such;
- (vii) copies of the last 3 years' AGM minutes and accounts of the management company (if available);
- (viii) a copy of the block insurance policy (if applicable);
- (ix) copies of the last 3 years' service charge accounts specific to the Property (if available).

(b) where apportionment is required in respect of a service charge and the management company or managing agent or other third party has in good faith provided an estimate of the service charge for the year in which completion is to take place or other period of time, the service charge apportionment between the Purchaser and the Vendor shall be on the basis of that estimate and the Vendor shall not be liable for any service charges charged thereafter in respect of any period before completion.

(c) the Vendor shall not seek to extract any funds he has contributed to the sinking or other reserve fund of the management company.

2.3 The certificates referred to in Condition 2.1 (a) and (b) and the Statutory Charges Register search referred to in Condition 2.1(c) shall bear date not more than 6 calendar months prior to the date of completion fixed in the Contract and all other searches and documents referred to in Condition 2.1 (d), (e), (f) and (g), Condition 2.2(a)(iv) and (v) shall bear a date not more than 3 months prior to the date of completion fixed in the Contract.

2.4 For the avoidance of doubt, if any search, certificate or document is provided under Conditions 2.1 or 2.2 prior to the Contract being formed under Condition 5 then the Contract will be unconditional in respect of that document and no query or objection may be raised in respect of any matters appearing on the said search, certificate or document.

2.5.1 (a) If any of the searches, certificates or documents referred to in Conditions 2.1 and 2.2 have not been provided to the Purchaser prior to the Contract being formed under Condition 5 the Contract shall be conditional upon the Purchaser being satisfied with the content of such search, certificate or document;

- (b) The Contract shall in relation to the searches, certificates and documents referred to in Conditions 2.1 and 2.2, become unconditional upon completion irrespective of whether any or all of the said searches, certificates or documents have been provided to the Purchaser and the Purchaser shall be deemed to be satisfied with the content of any search, certificate or document referred to in Conditions 2.1 and 2.2 which has been provided to him if he or his solicitor has not raised a query or objection to the content of same before the date of completion.
- 2.5.2 (a) If the Contract is conditional under Condition 2.5.1(a), the Vendor may, by notice in writing served on the Purchaser not less than 5 working days after he has provided the Purchaser with all of the searches, certificates and documents required under Conditions 2.1 and 2.2, require the Purchaser to confirm in writing that he has no outstanding queries or objections regarding same and that the Contract is no longer conditional under Condition 2.5.1(a);
- (b) If the Purchaser does not provide such written confirmation within 5 working days of being required in writing to do so the Vendor may, at his election:-
- (i) affirm the Contract which shall then be unconditional in relation to the said searches, certificates and documents; or
  - (ii) rescind the Contract by notice in writing served on the Purchaser, notwithstanding any intermediate negotiation or litigation.
- 2.5.3 If the Purchaser or his solicitor raises a query or objection under Condition 2.5.1(a) which the Vendor is unable or, on the ground of undue expense or other reasonable ground, unwilling to answer or to remove in a manner which satisfies the Purchaser and the Purchaser does not withdraw such query or objection within 10 working days of being required in writing to do so the Vendor may rescind the Contract by notice in writing served on the Purchaser, notwithstanding any intermediate negotiation or litigation.
- 2.6 If the Contract is conditional under Condition 2.5.1(a) the Vendor shall not be entitled to claim interest under Condition 17.1(a) or serve notice to complete under Condition 19 until 5 working days after the Purchaser has confirmed in writing that he has no outstanding queries or objections as required under Condition 2.5.2(a) or until the time limit for serving such notice under Condition 2.5.2(b) has passed.

### **VACANT POSSESSION AND TENANCIES**

- 3.1 Unless the Special Conditions otherwise provide the Property is sold with vacant possession on completion.
- 3.2.1 Where the Property is sold subject to any lease or tenancy the Vendor shall furnish to the Purchaser or his solicitor:
- (a) a copy of any lease or agreement in writing or, where not in writing, such evidence of the nature and terms of the lease or tenancy as the Vendor may be able to supply together with copies of any notices in the Vendor's possession served by or upon the lessee or tenant;
  - (b) a copy of the written statement of tenancy terms served on the tenant;
  - (c) a copy of the rent book served on the tenant;
  - (d) a valid gas safety inspection certificate (if applicable);
  - (e) a Certificate of Fitness (if applicable);
  - (f) evidence of tenancy deposit protection if a deposit was received after 1st April 2013;
  - (g) a copy of any Energy Performance Certificate served on the tenant.

3.2.2 The Vendor shall state the amount of the legally recoverable rent and other terms of the tenancy and the Purchaser shall be entitled, in the absence of knowledge or notice to the contrary, to rely on the accuracy of such statement.

3.2.3 Unless the Special Conditions provide otherwise, the Vendor shall warrant that, at the date of completion, the occupier for the time being is the person either named in the lease or tenancy agreement as the tenant or, in the absence of a lease or tenancy agreement, is the person with whom the landlord entered into the relationship of landlord and tenant; that since the commencement of the lease or tenancy there has been no variation in the terms and conditions of the lease or tenancy; that no consents or waivers have been given by or on behalf of the Vendor in respect of the terms and conditions of the lease or tenancy; and that the terms and conditions of the lease or tenancy have been complied with.

## EASEMENTS AND RIGHTS

4.1 (a) The Vendor shall disclose, before the formation of the Contract, the existence of all easements and rights (without prejudice to the generality of the foregoing including all rights of way and rights of drainage) other than those apparent on inspection of the Property which are known by the Vendor to affect the Property or which the Vendor has reason to suppose are likely to affect it;

(b) The Vendor may make such disclosure by provision of any title deed or title document or copy of same creating any easement, right, privilege or liability affecting the Property.

4.2 Without prejudice to the foregoing:

(a) the Purchaser shall buy with full notice of the actual state and condition of the Property and shall take it as it stands;

(b) the Property is sold, and will, if the Vendor so requires, be conveyed subject to all rights of way, water, light, drainage and other easements, quasi-easements, rights, quasi-rights, privileges and liabilities affecting it;

(c) where all or any part of the Property adjoins or is near to any other land of the Vendor the Purchaser shall not, unless otherwise agreed, acquire any rights or easements thereover which would restrict free use of the Vendor's other land for building or any other purpose whatsoever and the assurance shall so provide and, if disclosed prior to the formation of the Contract or apparent on inspection, the assurance shall also contain reservations and provisions reserving to the Vendor easements and rights equivalent to any existing quasi-easements and quasi-rights over the Property;

(d) where the Property is subject to any matter contained in any deed or document, a copy of which has been provided to the Purchaser prior to the date of formation of the Contract, the Purchaser shall be deemed to purchase with full notice thereof and if the said matter would, but for this provision, be void against a Purchaser for value in the absence of registration, the Purchaser shall indemnify the Vendor against all claims, demands and liabilities howsoever arising in respect thereof.

4.3 Notwithstanding anything hereinbefore contained, if the Property is sold subject to restrictive covenants the Purchaser shall be deemed to have purchased with full knowledge thereof.

## FORMATION OF CONTRACT AND DEPOSIT

- 5.1 The Contract (other than in a sale by auction) shall be formed upon receipt by the Purchaser or his solicitor of a copy of the Purchaser's offer as accepted by the Vendor (or on his behalf). The Purchaser or his solicitor shall be deemed to have received such copy in accordance with Condition 1.2.
- 5.2 Upon formation of the Contract the Purchaser shall within 5 working days pay such deposit as may have been agreed to the solicitor for the Vendor who shall hold the same as agent for the Vendor.
- 5.3 In the event of the deposit not being paid as provided for in Condition 5.2 the Vendor shall be entitled either to rescind the Contract upon giving 5 working days' notice in writing to the Purchaser's solicitor unless payment shall be made within that time, (time to be of the essence), or to claim interest at the rate provided for in Condition 17.1(a) on the deposit or such part thereof as may be outstanding from the date on which payment was due until the date of payment or, if it be later, the date of actual completion. The Vendor's right to recover interest under this condition shall exist even though the Contract may be subject to a condition which remains unsatisfied. Such interest shall form part of the purchase monies due on completion and Condition 17 shall apply and be interpreted accordingly.

## RISK

- 6.1 The Vendor shall, on completion, transfer the Property in the same physical state as it was at the date of the last inspection by the Purchaser or the date of formation of the Contract whichever is earlier (fair wear and tear excepted) and shall retain the risk until completion.
- 6.2 If requested by the Purchaser on reasonable notice, the Vendor shall permit the Purchaser to undertake a final inspection of the Property at a reasonable time prior to completion.
- 6.3 If the Property suffers any damage (fair wear and tear excepted) between the date of the last inspection by the Purchaser or the date of formation of the Contract, whichever is earlier, and actual completion which makes the Property unusable for its purpose as at the date of the last inspection by the Purchaser or the date of the Contract, whichever is earlier:
  - (a) the Purchaser may rescind the Contract, in which event the provisions of Condition 18 shall apply, or alternatively, the Purchaser may affirm the Contract, in which case the Purchaser's right to compensation shall be confined to the cost of making good the damage to the Property; or
  - (b) the Vendor may rescind the Contract where the Property has become unusable for its purpose as at the date of the last inspection by the Purchaser or the date of the Contract, whichever is earlier, as a result of damage for which the Vendor could not reasonably have insured or for which compensation is not available from the Crown or any competent authority or where the Vendor is prohibited by a legal duty or restriction from making good the said damage.
- 6.4 The Vendor is under no obligation to the Purchaser to insure the Property.
- 6.5 Where a breach of Condition 6.1 has occurred which is not sufficient to entitle the Purchaser to rescind, the Purchaser shall be entitled to compensation from the Vendor in the amount required to make good the damage.
- 6.6 Where the Purchaser is entitled to compensation from the Vendor in accordance with this Condition he shall notify the Vendor of the circumstances of the claim within 10 working days of completion.

## DELIVERY OF TITLE DOCUMENTS

- 7.1 There shall be delivered to the Purchaser or his solicitors the title to the Property or legible copies thereof in colour where applicable. In respect of titles registered in the Land Registry this shall include:
- (a) an uncertified copy of the relevant folio and an uncertified copy Land Registry map, which copy folio and map shall bear dates not more than 3 months prior to the date of completion fixed in the Contract;
  - (b) where appropriate, the original counterpart or a certified copy of the registered fee farm grant, lease, transfer, assignment of part or conveyance of part;
  - (c) where appropriate, the original or certified copy of the document specified in the Memorandum of Sale as the commencement of the title to the Property or, if there is no reference in the Memorandum of Sale in that regard, then the original or certified copy of the deed which is implied to be the commencement of title under the Vendor and Purchaser Act 1874;
  - (d) originals or certified copies of all deeds and documents in the Vendor's possession which contain covenants, easements, rights or privileges benefitting or burdening the Property or a statutory declaration where such easements or rights have been acquired by prescription;
  - (e) where appropriate an affidavit or certificate to reclassify the title as absolute together with the Land Registry fee payable for the reclassification of title, such fee to be at the expense of the Vendor;
  - (f) ) where appropriate an affidavit or certificate to confirm that the Vendor and his predecessors in title have complied with all matters set out in the folio(s) of which he is registered as owner;
  - (g) Such further evidence as may be required to establish the Vendor's title to dispose of the Property by virtue of Section 33 of the Land Registration Act (Northern Ireland) 1970;
  - (h) Such affidavits or certificates as to execution of documents as may be required by the Registrar of Titles pursuant to rules or directions made pursuant to the Land Registration Act (Northern Ireland) 1970;
  - (i) Where part only of a folio is being sold a map of that part which is suitable for registration purposes.
- 7.2 If any title or copy title deeds or documents are delivered to the Purchaser or his solicitor prior to the Contract being formed under Condition 5.1 the Purchaser shall be deemed to have purchased with full notice of the content thereof (whether he or his solicitor has inspected the same or not) and to have waived his right to raise objections or requisitions in respect of same after the Contract is formed.
- 7.3 If any title or copy title deeds or documents are delivered to the Purchaser or his solicitor after the Contract is formed under Condition 5.1 the following provisions shall apply:
- (a) If a document of title refers to any plan material to the description of the Property, or to any covenants contained in a document earlier in date than the document with which the title commences, and such plan or earlier document or a copy thereof is in the possession of the Vendor or his mortgagee or trustees, the Vendor shall supply a copy thereof with the title, provided always that nothing herein or done on foot hereof shall operate as a waiver of the benefit of any stipulation as to the root of title.

- (b) The Vendor shall not be required to procure the production of any document not in his possession or not in the possession of his mortgagee or trustees and of which the Vendor cannot reasonably obtain production or to trace or state who has possession of the same.
- (c) No title to the Property prior to the date of the document specified in the Memorandum of Sale as the commencement of the title to the Property or, if there is no reference in the Memorandum of Sale in that regard, then prior to the date implied for the commencement of such title, shall be called for or required and no objection, requisition or enquiry will be entertained or allowed in respect of any title prior to said date no matter how the information suggesting the same shall have come to the notice of the Purchaser and the deed or document mentioned in the Memorandum of Sale as the root of title shall be conclusively admitted as a good root of title to the Property for the purposes of the present sale.
- (d) Where the Property is held under a fee farm grant or lease the right and title of the grantor or lessor to make same shall be admitted and no investigation of any prior or superior title shall be permitted, nor shall any objection be made by reason of the fee farm grant or lease being a sub-fee farm grant or sub-lease, or by reason of the Property being held with other property subject to any other or greater head rent than that reserved by the fee farm grant or lease; provided always that, where the Property is held under a lease for a perpetual interest or a term of more than 21 years and the lease shall have been made or executed within 12 years prior to the date for completion fixed in the Contract, the Vendor shall deduce title to the landlord's estate or interest for the period of 12 years prior to the date of the lease.
- (e) Where the Property is held subject to any perpetual or terminable rent charge or rent, but such rent charge or rent is wholly or partially charged on other lands and the Property has been indemnified against such rent charge or rent or part thereof, then:-
  - (i) no objection shall be made on account of the existence of the said rent charge or rent, or of any covenants, conditions or agreements in the instrument creating the same or for enforcing the same;
  - (ii) no further indemnity shall be required by the Purchaser beyond the assignment of the benefit of any indemnity to which the Vendor may be entitled;
  - (iii) the Purchaser shall assume that such rent or rent charge has been duly paid, and all covenants, conditions and agreements created by the instrument creating the same have been performed and observed, or any breaches thereof waived.

#### **PAYMENT OF GROUND RENT**

- 8.1 Where the Property is held under a fee farm grant or a lease the Vendor shall (save where the ground rent has been redeemed under the Ground Rents Act (NI) 2001) provide the receipt for rent last accrued due prior to the completion date or adequate evidence of payment of the same. If such receipt or adequate evidence of payment of same is not produced, the Vendor shall pay to the Purchaser the sum that is the lesser of the following:
- (a) A sum equivalent to 6 years' ground rent; or
  - (b) A sum equivalent to the amount payable since the last due date for which a ground rent receipt is available.

- 8.2 On production of a receipt for the last payment due for rent under the fee farm grant or lease the Purchaser shall assume without proof that the person giving the receipt though not the original grantor or lessor is the grantor or landlord or his duly authorised agent.
- 8.3 No apportionment of ground rent to the date of completion shall be made.

#### **TITLE, TENURE AND COVENANTS**

- 9.1 The sale is subject to any necessary consent to convey, assign, let or sub-let being obtained. The costs of obtaining such consent shall be paid by the Vendor, but if the consent is not obtained prior to the date for completion either party may by notice in writing to the other rescind the Contract and thereupon the provisions of Condition 18 shall apply.
- 9.2 Where the Property is to be assigned subject to an apportioned rent mentioned in the Contract, the Purchaser shall accept the assignment at or subject to the apportioned rent and shall not require the consent of the landlord to be obtained in respect of the said apportionment, or the rent to be otherwise legally apportioned.
- 9.3.1 The Vendor shall inform the Purchaser or his solicitor in writing of:
- (a) any burdens which, by virtue of Schedule 5 of the Land Registration Act (Northern Ireland) 1970 affect the Property; and
  - (b) any burdens which have been lodged for registration with the Land Registry or which he anticipates will be so lodged and which by virtue of Schedule 6 of the said Act will affect the Property once registered but which do not appear on the copy of the relevant folio supplied under Condition 7.1(a); and
  - (c) any qualifications, notes and restrictions which he anticipates will be registered or noted in the relevant folio but which do not appear on the copy of the relevant folio supplied under Condition 7.1(a).
- 9.3.2 If the information required under Condition 9.3.1 is supplied to the Purchaser or his solicitor prior to the Contract being formed under Condition 5.1 the Purchaser shall be deemed to have purchased with full notice of same and to have waived his right to raise objections or requisitions in respect of same after the Contract is formed.
- 9.3.3 If the information required under Condition 9.3.1 is supplied to the Purchaser or his solicitor after the Contract is formed under Condition 5.1 the Contract shall be conditional upon the Purchaser being satisfied that any burden or other matter identified in the said information will not adversely affect his interest when he is registered as owner of the Property.
- 9.3.4 Save in so far as provided by any Special Condition the Purchaser shall not be at liberty to call for the removal from or cancellation on the Register of any exceptions, reservations, burdens, qualifications, notes and restrictions appearing on the relevant folio supplied under Condition 7.1(a) prior to the contract being formed under Condition 5.1.
- 9.4 Any statutory covenant to be implied in an assurance by the Vendor conveying as beneficial owner shall be so limited as not to affect him with liability for a subsisting breach of any covenant or condition concerning the state or condition of the Property whereof the Purchaser is by Condition 4.2 deemed to have full notice.

- 9.5 Where the Property is held under a fee farm grant, a lease, a transfer or a conveyance held subject to the observance of covenants, the Property is sold subject to the rent reserved by the fee farm grant or lease and to the covenants, conditions and agreements in the fee farm grant, lease, transfer or conveyance and all superior assurances (if any) so far as same relate to the Property.
- 9.6.1 The production of the ground rent receipt showing same paid to the gale day prior to completion shall be conclusive evidence that all the covenants, conditions and agreements in the lease, fee farm grant or any superior lease or fee farm grant have been complied with to the date of the said ground rent receipt and that any breaches thereof (including those of a continuing nature) have been waived to the date of the said ground rent receipt.
- 9.6.2 If the breach of any such covenant, condition or agreement is of a non-continuing nature and the action which constituted the breach occurred more than 12 years prior to the date of completion fixed in the Contract, the Purchaser shall not be entitled to require any further evidence from the Vendor of consent or waiver.
- 9.6.3 A statutory declaration by the Vendor that the rent reserved by the lease or fee farm grant has not been collected by the person entitled thereto for a period of not less than 6 years nor has that person demanded such rent for such period shall be conclusive evidence that all the covenants, conditions and agreements contained in the said fee farm grant or lease and in every superior grant or lease (if any) have been complied with or that any breaches thereof (including breaches of a continuing nature) have been effectively waived up to the date of the said statutory declaration; where there is only a nominal ground rent or nominal fee farm rent or in the case of the sale of freehold land held subject to covenants, the Purchaser shall be entitled to have a certificate from the Vendor confirming that any covenants to which the Property may be subject have been duly observed and performed.

## **MORTGAGES**

- 10.1 Except to the extent that the Purchaser elects to redeem the Vendor's mortgage pursuant to Condition 16.6, the Vendor shall be obliged to ensure that any mortgages (save where the Vendor is a mortgagee in possession and selling as such) subsisting at completion are vacated and discharged.
- 10.2 Where the title includes a mortgage, the Purchaser shall be entitled to receive from the Vendor a receipt or release (save where the Vendor is a mortgagee in possession and selling as such) and all other necessary documentation to effect the registration of the release of the mortgage in the Registry of Deeds and / or the Land Registry as the case may be together with any registration fees to effect the registration of such release.

## **REQUISITIONS**

- 11.1 If any title or copy title deeds or documents are delivered to the Purchaser or his solicitor after the contract is formed under Condition 5.1 the Purchaser shall send the Vendor's solicitor a statement in writing of all objections and requisitions, if any, to or on the said deeds or documents.
- 11.2 The objections and requisitions mentioned in Condition 11.1 shall be sent to the Vendor's solicitor not later than 10 working days after the Purchaser or his solicitor receives the title deeds and documents or, if earlier, by the date of completion.
- 11.3 All objections and requisitions not included in any statement sent within the time set out in Condition 11.2 and not going to the root of the title shall be deemed to have been waived.

- 11.4 Replies to all such objections and requisitions shall be made within 5 working days of receipt thereof.
- 11.5 Any challenge to the replies to any objections or requisitions shall be in writing and made within 5 working days after the day of delivery thereof.
- 11.6 The Purchaser shall be entitled to delay completion until he has received satisfactory replies to objections and requisitions raised in accordance with condition 11.1 and/or to any challenges to those replies.
- 11.7 Upon completion the Purchaser shall be deemed to have waived any outstanding objections and requisitions and/or challenges to any of the replies.
- 11.8 If the Purchaser takes or makes any objection or requisition as to title, assurance or otherwise which the Vendor is unable or, on the ground of undue expense or other reasonable ground, unwilling to remove or comply with and does not withdraw the same within 10 working days after being required in writing so to do, the Vendor may rescind the contract by notice in writing served on the Purchaser, notwithstanding any intermediate negotiation or litigation.

#### **PREPARATION OF ASSURANCE**

- 12.1 Save where the sale is by way of grant of lease, conveyance of part, assignment of part or transfer of part a draft of which is attached to the Contract and without prejudice to the terms of Condition 12.5, the draft assurance shall be prepared by or on behalf of the Purchaser and shall be delivered to the office of the Vendor's solicitor with the Contract signed by the Purchaser.
- 12.2 Where the sale is by way of lease, conveyance of part, assignment of part or transfer of part the assurance and two counterparts thereof shall be engrossed in accordance (as nearly as the circumstances admit) with the form of draft assurance (if any) and map attached to the Contract or otherwise agreed between the parties, and the engrossments thereof shall be prepared by the Vendor's solicitor and approved by the Purchaser's solicitor. Following completion they shall be registered by and at the expense of the Purchaser and one registered counterpart shall be provided to the Vendor or his solicitor.
- 12.3 The Purchaser shall in the assurance covenant to indemnify the Vendor and his estate (and any estate of which he is personal representative or trustee) against all actions, claims and liability for breach of any covenant, stipulation or provision subject to which the Property is expressed to be sold where the Vendor or any such estate would otherwise remain liable after completion.
- 12.4 Where a document is retained in the possession of a mortgagee, trustee or personal representative, the Purchaser shall accept an acknowledgement of his right of production and delivery of copies from the person in possession thereof, without any undertaking for safe custody from him or any other person, save that if a mortgagor who is not in a fiduciary position concurs in a conveyance he shall, if so required, covenant that if and when he receives the document he will, at the cost of a person requiring it, give an undertaking for safe custody.
- 12.5 The Vendor shall demise or convey the Property to the Purchaser named in the contract or such other person as the Purchaser may nominate prior to completion but shall not be required to demise or convey the Property in more than one lot, nor at a price other than the contractual price nor at a price divided between different parts of the Property.
- 12.6 The execution of any assurance by the Vendor or other necessary party shall be witnessed either by a solicitor or two other independent persons who shall each indicate their name, address and occupation.

In the case of a body corporate execution shall be in accordance with the requirements of the Companies Act 2006 and / or other relevant statutory enactment for that body corporate.

12.7 On completion the Vendor will deliver to the Purchaser or his solicitor the assurance to the Purchaser, and any counterparts required to be provided in accordance with Condition 12.2, duly executed by himself and all other necessary parties.

#### **IDENTITY AND BOUNDARIES**

13.1 The Vendor shall identify and describe the Property with sufficient accuracy as to measurements and quantities to inform the Purchaser of what the Vendor is proposing to sell. Such identification or description may, at the option of the Vendor, be evidenced by the documents of title or by a map or plan.

13.2 Where the Vendor chooses to furnish the said identification or description by way of a map or plan it shall be prepared and provided at the Vendor's expense. The map or plan shall be of such a nature and of such a scale as to be acceptable, where applicable, to the Land Registry and in any event to enable the boundaries, measurements, area and precise location of the Property to be accurately discerned. The map or plan shall show so far as possible the approximate position of all easements appurtenant to or affecting the Property or such as are to become appurtenant to or affect the Property.

13.3 If the Purchaser shall require a statutory declaration, whether by the Vendor or otherwise, that the Property as identified by the Vendor in accordance with Conditions 13.1 and 13.2 has been held and enjoyed for at least 12 years in accordance with the title shown that declaration shall be prepared by the Vendor, approved by the Purchaser and provided at the expense of the Vendor.

#### **MISDESCRIPTION AND COMPENSATION**

14.1 The Purchaser shall not be entitled to compensation nor to repudiate or rescind the Contract nor to delay completion nor to resist specific performance of the Contract because of any error, omission or misstatement in the Contract which could be ascertained from:

- (a) title or copy title deeds and documents; or
- (b) any of the searches, certificates or documents referred to in Conditions 2.1 and/or 2.2; or
- (c) any replies to pre-contract enquiries;

delivered or provided to the Purchaser or his solicitor prior to the Contract being formed under Condition 5.1.

14.2 Subject to Condition 14.1:

- (a) measurements and quantities, if substantially correct, shall not be the subject of compensation;
- (b) compensation shall not be payable in respect of any mistake in a sale plan furnished for the purpose of identifying the Property;
- (c) subject as aforesaid, any error, omission or misstatement in the Contract which results in a description of the Property in the Contract which does not differ substantially from the Property shall not annul the sale, nor entitle the Purchaser to be discharged from his purchase but shall

entitle the Purchaser to compensation where he would be prejudiced by reason of same (but the Purchaser shall be entitled to rescind or repudiate the Contract where such compensation cannot be assessed);

- (d) any error, omission or misstatement in the Contract which results in a description of the Property in the Contract which differs substantially from the Property shall entitle the Purchaser to compensation or to rescind or repudiate the Contract where he would be prejudiced by reason of such difference;
- (e) if any dispute arises between the parties as to the amount of such compensation, it shall, in default of any successful mediation, be settled by an independent expert agreed by the parties or, in default of such agreement, nominated by the President of the Law Society of Northern Ireland. The decision of such independent expert shall be final and binding on the parties and the fees of such expert shall be borne equally by the parties unless the expert otherwise directs;
- (f) the Vendor shall not be entitled to compensation nor to rescind or repudiate the Contract because of any error, omission or misstatement in the Contract whether or not same results in a description of the Property in the Contract which differs substantially from the Property.

#### **OCCUPATION BEFORE COMPLETION**

15.1 If the Purchaser (not already being in occupation as lessee or tenant at a rent) is allowed into occupation of the Property before the completion date then, as from the date of his going into occupation until the licence shall terminate in accordance with Condition 15.2 below, the Purchaser shall:-

- (a) be the licensee/caretaker and not the tenant of the Vendor, and shall not be permitted to transfer or assign any such licence and shall not permit anyone to occupy the property other than the Purchaser and such persons previously notified to and approved by the Vendor;
- (b) pay interest on the balance purchase money at the rate prescribed by Condition 17.1(a) or pay such fee as may be agreed between the Vendor and the Purchaser;
- (c) keep the Property in as good repair and condition as it was in when he went into occupation;
- (d) pay, or otherwise indemnify the Vendor against, all outgoings and expenses (including the cost of insurance and any service charge) in respect of the Property, the Purchaser at the same time taking or being credited with the income of the Property (if any);
- (e) not alter the Property in any way whatsoever nor carry out any development within the meaning of any planning or building control legislation;
- (f) not do anything which would void any insurance policy in relation to the Property;
- (g) comply with any obligations in the title under which the Property is held.

15.2 The Purchaser's licence ends on the earliest of: the completion date, rescission of the Contract or on the expiration of five working days' notice given by one party to the other.

- 15.3 If the Purchaser remains in occupation of the property after his licence ends and the Contract is subsequently completed the Purchaser shall pay to the Vendor compensation for his continued occupation calculated at the same rate as set out in Condition 15.1 above.
- 15.4 A Purchaser going into occupation before the completion date shall be deemed thereby to have accepted the Vendor's title.
- 15.5 Where the Purchaser is allowed access to the Property for the purpose only of carrying out work or installations the Purchaser shall not be treated as being allowed into occupation within the meaning of this Condition.
- 15.6 For the avoidance of doubt, this Condition does not grant the Purchaser exclusive possession of the property and the Purchaser is only entitled to share occupation of the Property with the Vendor.

#### **COMPLETION AND APPORTIONMENT**

- 16.1 The date for completion shall be stated in the Memorandum of Sale but if not so stated shall be the first working day after the expiration of four weeks from the date of the Contract, and completion shall, in default of prior agreement, take place at the office of the Vendor's Solicitor.
- 16.2 The parties hereby agree that they and/or their Solicitor may notify the appropriate parties (including but not limited to agents, landlords and statutory authorities) of the change in the ownership of the Property. This is to ensure that the appropriate consent is obtained as required under the General Data Protection Regulation and the Data Protection Act 2018.
- 16.3 Apportionment of income and outgoings (other than ground rent) of the Property shall be made at the date of completion.
- 16.4 The Vendor will discharge the rates and all utility bills in respect of the Property due up to the date of completion. The Purchaser shall be responsible for the rates and all utility bills in respect of the Property from the date of completion.
- 16.5 Completion shall be by a cheque drawn on the Purchaser's Solicitor's client account for the amount required unless the parties shall agree otherwise.
- 16.6 (a) Where the Vendor has to discharge a mortgage, and if the Purchaser has so required in writing at least 5 working days before the date of completion, the Vendor shall produce a statement produced by the mortgagee or chargee in which it shall state the amount due to redeem the mortgage and the Purchaser shall be entitled to make payment of such part of the balance purchase money as is necessary to redeem the mortgage directly to the mortgagee. In the event that the Purchaser makes any such payment directly pursuant to this Condition 16.6, the Vendor agrees to take all necessary steps and to provide all necessary documentation and information to the Purchaser to enable the release of the mortgage to be registered in the Registry of Deeds and / or the Land Registry including any such information which would otherwise be subject to the provisions of the General Data Protection Regulation and the Data Protection Act 2018.
- (b) Where the Vendor has to discharge a mortgage and the Vendor is discharging it then the Vendor agrees to take all necessary steps and to provide all necessary documentation and information to the Purchaser to enable the release of the mortgage to be registered in the Registry of Deeds and / or the Land Registry including any such information which would otherwise be subject to the provisions of the General Data Protection Regulation and the Data Protection Act 2018.

- (c) In the event of any breach of this Condition 16.6 by the Vendor, the Vendor will be responsible for the Registry of Deeds and / or the Land Registry fees which have been incurred as a result of that breach.

16.7 The Vendor and the Purchaser agree that their solicitors shall complete in accordance with the provisions of the Home Charter Scheme in force at the date of formation of the Contract. It is also agreed that where the Purchaser's Solicitor requires any undertaking relating to completion from the Vendor's Solicitor:-

- (a) any such undertaking (other than the undertakings contained in the completion letter recommended under the Home Charter Scheme) shall be void unless same has been received by the Vendor's Solicitor not less than three working days prior to the date of completion;
- (b) where condition 16.7(a) is not adhered to, any provision in the completion letter to the effect that encashment of a cheque or dealing with the purchase monies is deemed acceptance of the undertakings contained in that letter is also void, save so far as the undertakings contained in the completion letter recommended under the Home Charter Scheme are concerned;
- (c) the Purchaser and the Purchaser's Solicitor acknowledge that the Vendor's Solicitor has the benefit of this Condition 16.7;
- (d) notwithstanding the generality of the foregoing the Vendor's Solicitor and Purchaser's Solicitor may waive the terms of this Condition by express agreement.

16.8 Any sum agreed to be paid for the purchase of furnishings fittings or other chattels shall, in the absence of specific agreement to the contrary, be deemed to form part of the balance purchase money, to be payable on completion and to be subject to these conditions in the same manner as the remainder of the balance purchase money including, but without prejudice to the generality of the foregoing, the conditions relating to the payment of interest.

#### **INTEREST ON PURCHASE MONEY**

17.1 If the sale shall not have been completed on or before the date fixed for completion then:

- (a) if the sale is with vacant possession the Purchaser shall pay interest at the rate of 6% above the Bank of England base lending rate in force at the date of the Contract on the amount of the purchase money (less any deposit paid) from and including the date fixed for completion until the day of actual completion of the sale but excluding that day and interest under condition 15 shall not be payable for any period in respect of which interest is paid under this Condition.
- (b) If the sale is subject to any tenancy or tenancies of the whole or any part of the Property, the Purchaser shall pay interest at the same rate and for the same period as specified in the last preceding sub-condition, save that the Vendor shall have the right to take the rents and profits less the outgoings of the whole Property for the same period instead of the said interest.

17.2 The Purchaser shall not be liable to pay interest under Condition 17.1 if and so long as delay in completion is attributable to the Vendor's default.

17.3 If delay in completion shall arise otherwise than by reason of the Purchaser's default and the Purchaser shall at his risk place the purchase money, less any deposit paid under the Contract, on a deposit account in a Bank and forthwith give notice thereof to the Vendor, then from the date of such deposit in a Bank the

Vendor shall not be entitled to exercise the alternative right to rents and profits conferred by Condition 17.1(b) and shall for such period as the Purchaser is not in default accept such interest as is actually produced from such Bank deposit in lieu of interest under condition 17.1.

17.4 If the sale shall not have been completed on or before the date fixed for completion due to the default of the Vendor then:

- (a) if the sale is with vacant possession the Vendor shall pay interest at the rate of 6% above the Bank of England base lending rate in force at the date of the Contract on the amount of the purchase money (including any deposit paid) from and including the date fixed for completion until the day of actual completion of the sale but excluding that day and interest under condition 15 shall not be payable for any period in respect of which interest is paid under this Condition.
- (b) If the sale is subject to any tenancy or tenancies of the whole or any part of the Property, the Vendor shall pay interest at the same rate and for the same period as specified in the last preceding sub-condition, save that the Purchaser shall have the right to an amount equal to the rents and profits less the outgoings of the whole Property for the same period instead of the said interest.

#### **RESCISSION**

18. If the Contract is rescinded under Conditions 2.5.2, 2.5.3, 5.3, 6.2, 9.1, 11.8 or 14.2 the Vendor shall repay to the Purchaser the deposit and any money paid on account of the purchase price but without interest and the Purchaser shall return all papers in his possession belonging to the Vendor and at the expense of the Vendor procure the cancellation of any entry relating to the Contract in any register but shall otherwise have no claim against the Vendor.

#### **NOTICES TO COMPLETE AND REMEDIES ON DEFAULT**

19.1 This Condition shall apply in every case except where the Special Conditions provide that time is to be of the essence of the Contract in respect of the date of completion fixed in the Contract.

19.2 If the sale shall not be completed on the day of completion fixed in the Contract either party may on that date or at any time thereafter (unless the Contract shall first have been rescinded or become void) give to the other party notice in writing to complete the transaction in accordance with this Condition but such notice shall only be effective if the party giving the same at the time the notice is sent is either:

- (a) ready, able and willing to complete or
- (b) is not so ready, able and willing to complete by reason of the default or omission of the other party to the Contract.

19.3 Upon service of an effective notice pursuant to the preceding Condition it shall be an express term of the Contract that the party to whom the notice is given shall complete the transaction within 5 working days after the day of service of the notice (excluding the day of service) and in respect of such period time shall be of the essence of the Contract but without prejudice to any intermediate right of rescission by either party.

19.4 If the Purchaser does not comply with the terms of an effective notice served by the Vendor under this Condition then:

- (a) the Purchaser shall forthwith on the expiry of that notice, or within such further period as the Vendor may allow, return all papers in his possession belonging to the Vendor and at his own expense procure the cancellation of any entry relating to the Contract in any register;
- (b) without prejudice to any other rights or remedies available to him at law or in equity, the Vendor may:
  - (i) forfeit and retain for his own benefit the deposit paid by the Purchaser;
  - (ii) resell the property whether by auction or by private treaty without previously tendering an assurance to the Purchaser;
  - (iii) recover by action at law any deposit contracted to be paid by the Purchaser but not paid at the time of service of the notice.
- (c) If on any such resale contracted within one year from the date for completion the Vendor incurs a loss, the Purchaser shall pay to the Vendor as liquidated damages the amount of such loss, which shall include all costs and expenses reasonably incurred in any such resale or any attempted resale, subject to the Vendor giving credit for any deposit and any money paid on account of the purchase price, but any surplus money shall be retained by the Vendor.

19.5 If the Vendor does not comply with the terms of an effective notice served by the Purchaser under this Condition, then the Purchaser may elect either:

- (a) to enforce against the Vendor without any further or other notice under the Contract such rights and remedies as may be available to the Purchaser at law or in equity, or
- (b) without prejudice to any right of the Purchaser to damages, to give notice in writing to the Vendor forthwith to repay to the Purchaser any deposit with any interest earned thereon and any money paid on account of the purchase price, but on compliance with that notice the Purchaser shall no longer be entitled to any right to specific performance of the Contract and shall return forthwith all papers in his possession belonging to the Vendor, and at the expense of the Vendor procure the cancellation of any entry relating to the Contract in any register.

19.6 The party serving a notice under this Condition may at the request or with the consent of the other party extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the notice shall be deemed to expire on the last day of such extended period or periods, and the notice shall operate as though this Condition stipulated such extended period of notice in lieu of 5 working days, and time shall be of the essence of the Contract accordingly.

#### **CONDITIONS APPLICABLE TO AUCTIONS**

20.1 On a sale by auction the following conditions apply:

- (a) the auctioneer may refuse to accept a bid;
- (b) the highest accepted bidder shall be the Purchaser;
- (c) the Vendor reserves the following rights:

- (i) to bid up to any reserved price, by himself or his agent;
  - (ii) without disclosing a reserved price, to withdraw from the sale any property or lot at any time before it has been sold, whether or not the sale has commenced.
- (d) unless otherwise provided in the Contract the sale is subject to a reserved price for the Property and, when the Property is sold in lots, for each lot;
- (e) the Purchaser shall forthwith sign the Contract and immediately pay to the Vendor or to the Vendor's agent a deposit of 10 per centum of the purchase monies;
- (f) if the Purchaser does not sign the Contract the auctioneer may sign the Contract on the Purchaser's behalf.

20.2 The Vendor shall prior to the auction provide all documents required to be provided by these General Conditions of Sale, including for the avoidance of doubt (but not limited to) the searches and property certificates set out in Condition 2.

20.3 These Conditions may be inspected prior to the auction at the place of sale and at the time of the sale, and the Purchaser shall be deemed to have knowledge of the Conditions and of all the terms thereof and shall be deemed to bid on such terms, whether he shall have inspected the Conditions or not.

#### **CONTINUING CONTRACTUAL OBLIGATIONS**

21 Notwithstanding completion, any part of the Contract to which effect is not given by the assurance, and which is capable of taking effect after completion, shall remain in full force and effect.

#### **CHATTELS**

22.1 Where chattels, fittings or other separate items ("the Chattels") are included in the sale (whether by auction or private treaty) the same are warranted to be the Vendor's unencumbered property and free of any bill of sale, lien, hiring, hire-purchase, or other third party claim, save as specified in the Special Conditions and ownership of same shall pass to the Purchaser at completion.

22.2 Any complaint about the state of any of the Chattels which are included in the sale shall be made to the Vendor's solicitor within 15 working days of completion and time shall be of the essence in this respect and, if no complaint shall be made within such a period, the Purchaser shall be deemed to have accepted all the Chattels as being in accordance with the Contract.

**murnaghan fee**  
**Solicitors**  
**Boston Chambers**  
**Queen Elizabeth Road**  
**Enniskillen**  
**Co. Fermanagh**



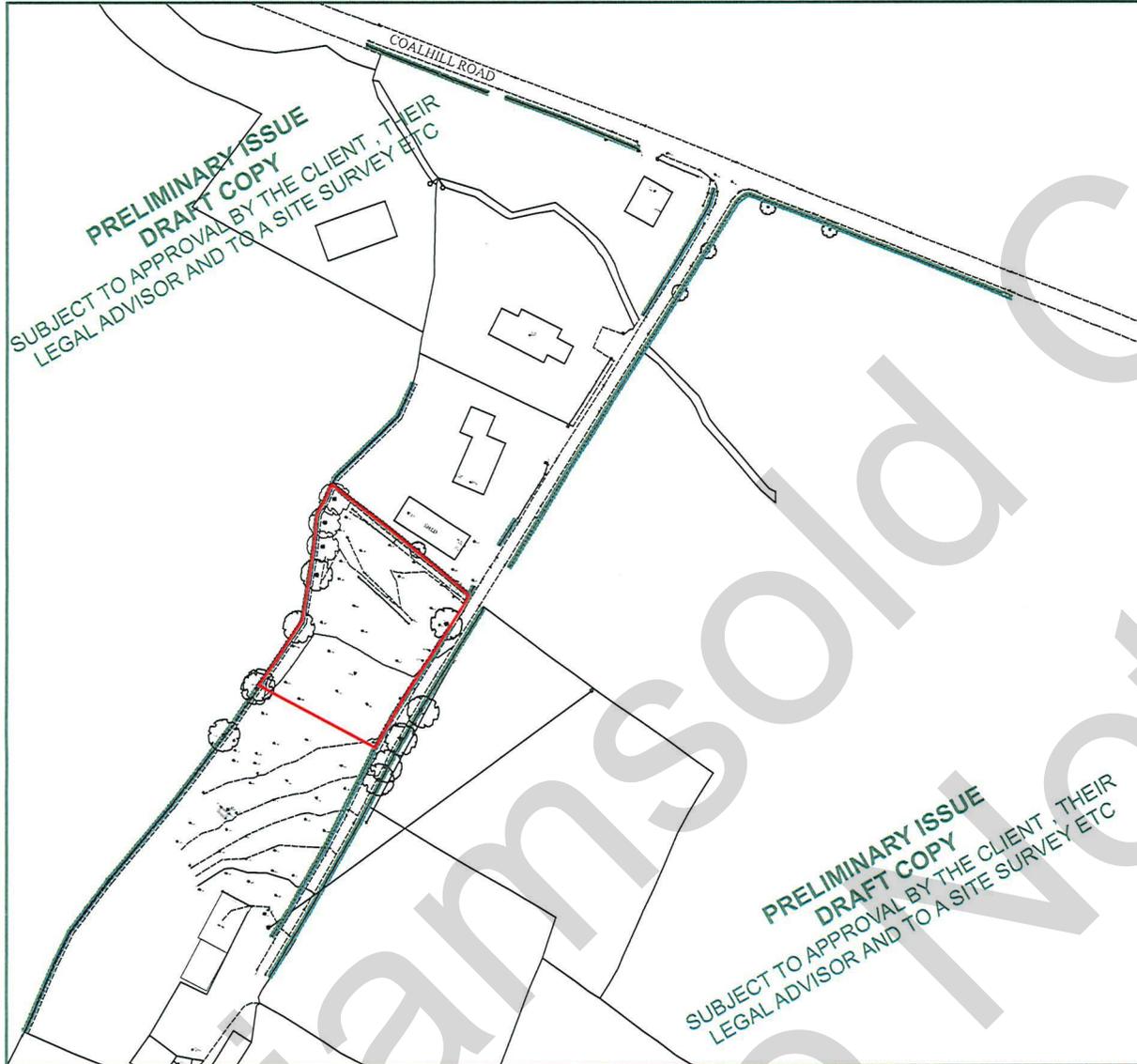
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**MAP REFERRED TO :**

Transfer of lands from Mrs. McElroy to Mr. & Mrs. Byrne at Lands Between 31 & 37 Coalhill, Slushill, Lisnaskea.  
Lands referred to as Site One as Approved Under Planning Reference LA10/2020/1240/RM

site 1

for identification purposes only



**SITE LOCATION MAP**

Site Location Map / Scale - 1:1250

**MAP KEY :**

 The red line denotes the extent of lands to be transferred from the ownership of Mrs. McElroy to that of Mr. & Mrs. Byrne

**IMPORTANT NOTE:**

The map produced is based on the Site Layout with approved Planning Permission (Council Ref: LA10/2020/1240/RM) Please note that this map has been produced with the benefit of a topographical survey produced by Topographical Surveyor Mr. Adrian Hanna for the purpose of the Outline and Reserved Matters Planning Applications: (LA10/2020/0244/O & LA10/2020/1240/RM).

All site measurements shown are as produced following the Topographical Survey and are to be agreed upon by Mrs. McElroy and Mr. & Mrs. Byrne. All parties must therefore satisfy themselves that the boundaries shown are a true reflection of actual site dimensions. This map is provided "Without Prejudice".

DMG Architectural Services accepts no liability for boundaries erected in a manner which differ from those shown on this drawings.

**IMPORTANT NOTE:**

That at the time this map was produced, the construction of the proposed dwelling, garage and driveway had not been commenced. No site dimensions have been taken.

Please note that the information provided herein are reliant on maps by a third party (Topographical Surveyor Mr. Adrian Hanna). All parties must therefore take responsibility to satisfy themselves that the boundaries drawn are a true reflection of the site. DMG Architectural Services accept no liability for boundaries changed or amended in a manner which differ from those shown on this drawing.

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**IMPORTANT NOTE:**

All parties are to be made aware by their respective Solicitors that the location of easements and wayleaves shown in respect to existing services (telephone, water supply, electric and soakaway) are approximate only, as DMG Architectural Services has not been commissioned to undertake a detailed investigation to locate the position of underground services. It is therefore the responsibility of each party to take the appropriate actions required to satisfy themselves of the exact location of these easements.

**PRELIMINARY ISSUE  
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CLIENT, THEIR LEGAL ADVISOR  
AND TO A SITE SURVEY ETC**

No.	Date	Revision Notes

**DMG**  
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Client

Mrs. McElroy

Project Title

Transfer of Lands associated with Site One  
As approved Under Planning  
Ref LA10/2020/1240/RM  
Coalhill Road, Slushill, Lisnaskea

Sheet Title

Site Location Map

Project Stage	Project ID
Land Transfer	2001.LTM
Drawn By	Scale
DMcG	1:1250
Reviewed By	Sheet No.
DMcG	1 of 2
Date	January 2022

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Note the scale on drawings when printed at A3

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