

These Terms and Conditions apply to the market a commercial property for the Owner's contract with the Agent and the Appointment Form.

## 1. Definitions

**"Agency Period"**

**"Appointment Form"**

**"Commission"**

**"Joint Sole Agency"**

**"Owner"**

**"Property"**

**"Sole Agency"**

# S

# A

# M

# P

# L

# E

Agent>> ("**Agent**") is appointed to market the Property. These Terms and Conditions form the basis of the contract between the Owner and the Agent. Please read them carefully before signing the Appointment Form.

Starting on the date this contract is signed, the Agency Period will end when unconditional contracts are exchanged for the sale of the Property;

The Appointment Form must be completed and signed by the Owner in order to appoint the Agent as

Agent on set out in the Appointment Form.

The Agent is liable to pay remuneration to an Agent and to any other costs or charges incurred by the Agent in the unconditional contracts for the sale of the Property exchanged with a purchaser:

Produced by that agent or the other Agent named joint agent during the period of the agent's joint sole agency; or by whom that agent or the other Agent named joint agent had negotiations about the property during that period; or produced by another agent during that period;

the Property;

Property identified in the Appointment Form.

The Agent is liable to pay remuneration to an Agent and to any other costs or charges incurred by the Agent in the unconditional contracts for the sale of the Property exchanged with a purchaser:

Produced by that agent during the period of the agent's sole agency; or by whom that agent had negotiations about the property during that period; or produced by another agent during that period;

## **“Sole Selling Rights”**

- 1.1 Any reference in the Agreement to any expressions, including but not limited to, telex, cable, facsimile, electronic mail, or any other means of communication, shall be deemed to include any such expressions in any form or by any means.
- 1.2 Any reference in the Agreement to any statute shall be deemed to include any such statute as amended, re-enacted, or otherwise modified from time to time.
- 1.3 The headings in this Agreement are for convenience only and shall not affect its interpretation.

## **2. Appointment of Agent**

- 2.1 The Owner appoints the Agent with Sole Selling Rights in relation to the Property for the Agency Period.
- 2.2 Unless otherwise stated, the Agency Period shall be for the purposes mentioned in clause 2.1.

## **3. The Agent's Duties**

- 3.1 The Agent shall market the Property on the open market.
- 3.2 Without prejudice to clause 3.1, the Agent shall prepare a written description of the Property, including photographs and, if available, video footage, and, if approved by the Owner, the Agent shall include such materials in its website.
- 3.3 The Agent shall prepare a marketing strategy for the Property, taking into account the Property's value and the current market conditions, and at the Owner's cost, arrange for an Energy Performance Certificate (EPC) to be prepared for the Property prior to marketing. If a valid EPC is available, the Agent shall ensure that it is made available to potential purchasers of the Property.
- 3.4 The Agent shall ensure that the Property is marketed in accordance with the marketing strategy prepared by the Agent.

liable to pay remuneration to an agent for any other costs or charges incurred by the agent in the following circumstances:

conditional contracts for the sale of the Property which were exchanged in the period during which the Agent has sole selling rights, even if the purchaser was not found by that agent but by the Agent or by any other person, other than the Owner; and

conditional contracts for the sale of the Property which were exchanged after the expiry of the Agency Period, in which that agent has sole selling rights, and the purchaser was introduced to the Agent during that period or with whom that agent had negotiations about the property during that period.

conditions to “writing”, or cognate expressions, shall include any communication effected by e-mail, or any other means of communication.

reference to any statute or provision of a law shall be deemed to include that statute or provision as amended, re-enacted, or otherwise modified from time to time.

convenience only and shall not affect its interpretation.

in relation to the Property for the purposes referred to in clause 3.

Form, the Owner shall not during the Agency Period act as the Owner's agent for the purposes mentioned in clause 2.1.

on the open market.

use 3.1, the Agent shall prepare a written description of the Property, including photographs and, if available, video footage, and, if approved by the Owner, the Agent shall include such materials in its website.

on the Property's value and the current market conditions,

and at the Owner's cost, arrange for an Energy Performance Certificate (EPC) to be prepared for the Property prior to marketing. If a valid EPC is available, the Agent shall ensure that it is made available to potential purchasers of the Property.

S

3.5 The Agent shall, if  
board outside the  
Planning (Control of

er, erect and maintain a “for sale”  
ply with the Town and Country  
tions 2007.

3.6 The Agent shall de  
viewings and keep  
viewings.

tential buyers, arrange and escort  
the outcome of all enquiries and

3.7 The Agent shall ta  
made an offer to b  
that person’s funds  
to the Owner.

respect of any person who has  
lish the source and availability of  
e Agent shall relay this information

3.8 The Agent shall pre

n a sale is agreed.

3.9 The Agent shall lia  
provide them with re

nd the buyer’s legal advisers and  
achieve completion of the sale.

3.10 The Agent shall w  
contracts in relation  
Commission.

er being notified of exchange of  
t to the Owner an invoice for the

3.11 If the Agent holds a  
shall hand such rec

relating to the Property the Agent  
completion of the sale.

3.12 The Agent shall n  
reasonable times a  
the purposes of con

ff available to the Owner at all  
ice during the Agency Period for  
ting to the Property.

3.13 The Agent shall ob  
licences, permits a  
performance of its o  
with all relevant legi

nce during the Agency Period all  
e necessary or advisable for the  
s and Conditions and shall comply

3.14 The Agent shall ac  
sound commercial p

diligence and in accordance with

3.15 Subject as provide  
which the Owner r  
entitled to perform  
manner as it may th

Conditions and to any directions  
properly give, the Agent shall be  
e Terms and Conditions in such

#### 4. The Owner’s Commitmen

4.1 The Owner confirms  
to sell it.

(s) of the Property and are entitled

4.2 The Owner shall pr  
confirms that the Ag

o sets of keys to the Property and  
pies of the keys as necessary.

4.3 The Owner underst  
unless a valid Ener  
shall either provide  
for an EPC to be pr

be unable to market the Property  
ate (EPC) is available. The Owner  
PC or instruct the Agent to arrange  
at the cost of the Owner).

4.4 The Owner shall ch  
confirm their accur

prepared by the Agent and shall  
any required changes.

4.5 If the Agent has wit  
Property, the Owne  
a board at the Prop

er placed a “for sale” board at the  
er agent to erect or maintain such  
period.

A

M

P

L

E

- 4.6 The Owner shall in the Agency Period from potential offers received during the Agency Period have been introduced by the Agent.
- 4.7 The Owner shall pay the Agent in accordance with these Terms and Conditions the Commission payable by the Agent.
- 4.8 The Owner shall pay the Agent the Commission on that has not been paid by the date of completion of the Agency Period at the rate of << e.g. 2>> per cent above the basic rate of the Agent's Bank plc from the completion of the Agency Period.
- 4.9 Subject to compliance with the Agent's obligations under these Terms and Conditions, the Owner shall be held out as the Agent against any liability (including but not limited to a claim for damages which the Agent may reasonably incur in defending a claim) it may incur by reason only of its being held out as the Agent.

## 5. Duration and Termination

- 5.1 The contract between the Agent and the Owner shall continue for the Agency Period unless terminated in accordance with the following provisions.
- 5.2 Either party may terminate the contract by giving to the other not less than <<insert notice period>> written notice, to expire at or any time after the end of the Agency Period.
- 5.3 Upon the termination of the contract between the Agent and the Owner:
- 5.3.1 the Agent shall not solicit offers for the Property on the open market, advertise or solicit offers for the Property;
- 5.3.2 the Commission shall be payable to the Agent by the Owner for a buyer introduced by the Agent for the Property:
- a) through the Agent within 6 months of the date of termination;
- b) without the Agent within 2 years of the date of termination;
- 5.3.3 the Agent shall not be liable to the Owner for compensation for loss of agent's Commission or any similar loss (except unpaid Commission).
- 5.4 The rights to terminate the contract under this Clause 5 shall not prejudice any other right or remedy (including without limitation any) or any other breach of the contract.
- 5.5 If at any time controlled by the Agent (as defined in the Income Tax Act 1988) of any person or group of connected persons (as defined in the Income Tax Act 1988) not having control of the Agent shall forthwith give written notice to the Owner identifying the person or group of connected persons and the Agent shall be entitled to terminate the contract within << >> months written notice from the Agent was given, to

6. **Complaints [and Redress]**

- 6.1 A copy of the Agent's complaint procedure may be obtained on request.
- 6.2 [If the Agent's complaint procedure has been exhausted and the Owner is not satisfied, the Owner may seek redress through the redress scheme operated by a member. Please note that the redress scheme may not cover complaints from certain types of customer.]
- 6.3 The name of the redress scheme is [The Property Ombudsman] [Ombudsman Service] [Property Redress Scheme].]

7. **Nature of Agreement**

- 7.1 The contract between the parties is personal to the parties and neither party may assign the contract (otherwise than by floating charge) or sub-licence the contract, or sub-contract or otherwise delegate any of its obligations under the contract, except with the written consent of the other party.
- 7.2 These Terms and Conditions, together with the Appointment Form contain the entire agreement between the parties in respect to the Property and may not be modified or varied orally or in writing signed by the duly authorised representatives of the parties.
- 7.3 Each party acknowledges that, in entering into the contract, it does not rely on any representation, statement or warranty made by the other party, in these Terms and Conditions, or in the Appointment Form, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.4 No failure or delay in performance of the contract shall be deemed to be a breach of the contract or a waiver of any subsequent breach of the contract, or a waiver of any subsequent breach of the contract.
- 7.5 If any provision of these Terms and Conditions is held by any court or other competent authority to be invalid or unenforceable in whole or in part, these Terms and Conditions shall nevertheless remain valid as to the other provisions and shall continue to be enforceable in whole or in part.

8. **Notices and Service**

- 8.1 Any notice or other communication authorised by these Terms and Conditions to be given to the other party shall be given by:
- 8.1.1 delivering it to the other party in person;
- 8.1.2 sending it by first class post; or
- 8.1.3 sending it by any other means of communication which is suitable for the purpose of the transmission or comparable to the other party at the time of transmission.
- 8.2 Any notice or information given to the other party in the manner provided by Clause 8.1.2 which is not received by the other party shall be deemed to have been received by the other party on the day on which it was first sent to the other party.

S

A

M

P

L

E

have been given or posted; and proof that it was properly addressed and posted, and that it has not been so returned to the sender, shall be sufficient evidence that the notice or information has been given or posted.

8.3 Any notice or information shall be deemed to have been duly given on the date of posting, provided that a confirming copy of it is sent to the party at the address given in Clause 8.4 within 24 hours.

8.4 Service of any document in connection with any legal proceedings concerning or arising out of the Property shall be effected by either party by delivery to its registered or principal office, or to such other address as may be notified to it by the other party in writing from time to time.

## 9. Information for the Owner

9.1 [The Agent offers and/or recommends the following services including e.g. mortgage advice, insurance, surveying, conveyancing etc.] to buyers for a fee.

9.2 [The Agent recommends the following services and services to buyers including e.g. mortgage advice, insurance, surveying, conveyancing etc.] and the Agent shall receive commission for such recommendations.]

9.3 The Owner may be entitled to a commission in addition to the Commission, if the Agent introduces the Buyer to another agent, in addition to the Agent, to sell the Property on a Sole Selling Rights basis; or

9.3.1 the Seller has agreed to pay the Agent a commission on a Sole Selling Rights basis; or

9.3.2 the Seller instructs the Agent to sell the Property after the Agency Period.

## 10. VAT

All sums payable under these Terms and Conditions shall be added to the sum in question or otherwise included in any sum payable.

## 11. Relationship of the Parties

Nothing in these Terms and Conditions shall create, or be deemed to create, a partnership or the relationship of employer and employee between the Owner and the Agent.

## 12. Jurisdiction

These Terms and Conditions shall be governed and construed in all respects in accordance with the laws of England and each party hereby submits to the non-exclusive jurisdiction of the English courts.