

# TERMS OF BUSINESS FOR RESIDENTIAL SALES ('TERMS')



These Terms set out the agreement between (1) you ('you', 'the client(s)' or 'your') and (2) Proper Local Limited ('us', 'we' or 'our') under which we will act as agents for you in the sale of your Property. These Terms are, necessarily, quite detailed and precise. If you require clarification, please contact us by return. Please otherwise complete, sign and return these Terms to us to indicate your acceptance of the same. A copy should be kept for your records.

We are a member of The Property Ombudsman ('TPO') and abide by the TPO Code of Practice. You agree that we may disclose information relating to the sale of a Client's Property to TPO, if you have registered a complaint and TPO asks for it. You also agree that we may disclose your contact details to TPO if they ask for it, to assist in their monitoring of our compliance with the Code of Practice.

**Within these Terms, the following words have special meanings, as follows:**

## **GLOSSARY:**

**Commission:** the agreed percentage of the sale price of the Property (including any additional sum agreed to be paid for carpets, curtains, fixtures, fittings, furniture and/or any other items included within the sale), as detailed in the signature page of these Terms.

**Expenses:** the costs and Expenses which you agree to pay us, as detailed in the signature page of these Terms.

**EPC Provider(s):** any third party who under prior agreement supplied us with an EPC and all information contained therein.

**Introduction:** the introduction of a potential purchaser to you or your Property during the course of our estate agency business.

**Property:** the property detailed in the signature page of these Terms.

## **1. Agency**

1.1 We will act as agents in the sale of the Property for the period set out in these Terms and thereafter until our instructions are terminated in accordance with these Terms.

1.2 You will be liable to pay Commission to us in the following situations:

### **(a) Sole Agency:**

If we are instructed to act as sole agent to sell the Property, Commission will become payable if at any time unconditional contracts for sale of the Property are exchanged either:

- (i) with a purchaser introduced by us during the period of the sole agency; or
- (ii) with whom we have had negotiations in relation to the Property during that period; or
- (iii) with a purchaser introduced by another agent during that period.

### **(b) Joint Sole Agency:**

If we are appointed to act as a joint sole agency to sell the Property, Commission will become payable if at any time unconditional contracts for the sale of the Property are exchanged either:

- (i) with a purchaser introduced by us or the joint sole agent(s) during the period of our joint sole agency; or
- (ii) with a purchaser with whom we have had negotiations concerning the Property during the period of our joint sole agency; or
- (iii) with a purchaser introduced by another agent during that period.

### **(c) Multiple Agency:**

If we are appointed with one or more other agents on a multiple agency basis then Commission will become payable at the multiple agency commission rate set out in these Terms, whether or not the other agent(s) is/are subsequently disinstructed, if unconditional contracts for the sale of the Property are exchanged, whether during or after the period of our agency:

- (i) with a purchaser introduced by us during the period of the multiple agency; or
- (ii) with whom we have had negotiations concerning the Property during the period of the multiple agency.

**Whichever the agency basis of our instruction, our entitlement to Commission and/or Expenses shall survive the termination of this agency agreement by six months in circumstances where the Introduction of the purchaser by us has taken place prior to that termination. If no other estate agent is involved, this time limit extends to two years.**

## **1.3 Indirect Introduction**

For the purpose of these Terms, an Introduction by us may be indirect: for example, where the party who actually exchanges contracts for the purchase of the Property is an associate, relative or representative of the person we have introduced. An Introduction will also be deemed to have occurred where contracts are exchanged for the purchase of the Property and any marketing activity has been generated by us including (but not limited to) the publication of details of the Property on our website or any other sites upon which our properties are listed or advertised in local or national press. On a joint sole agency, the references above shall be deemed to include the joint sole agent.

#### 1.4 **Creation of a Tenancy**

In the event of a tenancy agreement for the Property being entered into at any time with a party or any associated party who is introduced either directly or indirectly by us, Commission is payable at the rate of £1,500+ VAT (£1,800 inc VAT) excluding any management service for the duration of the tenancy.

#### 2. **Payment of Commission**

2.1 Commission is payable at the rate set out in these Terms.

2.2 Commission becomes due and payable upon exchange of contracts. However, provided that we receive a written and irrevocable undertaking from your solicitors within five working days thereafter to settle our fees in full from the sale proceeds upon completion, we will be prepared to defer payment until that time.

2.3 You are responsible for the payment of Commission and any agreed Expenses, unless it is agreed in writing by us that a third party is responsible.

2.4 In the event that we are instructed by more than one person, each entity and/or individual shall be jointly and severally liable for the payment of Commission and Expenses, unless it is agreed in writing by us that a third party is responsible.

2.5 For the avoidance of doubt, all Value Added Tax which is payable on all Commission and Expenses is payable at the prevailing rate from time to time, irrespective of your place of residence.

2.6 The due date for settlement of our account is within seven days of the invoice date. If a solicitors' undertaking is accepted to defer payment until completion in accordance with condition 2.2 above, Commission is payable within seven days of the completion date.

2.7 Interest will be charged (both before and after any judgment) on any outstanding sums at 3% over the National Westminster Bank plc base rate from the due date until the outstanding sums are paid in full.

2.8 Please note that you may have a dual fee liability if you have previously instructed another agent to sell the same Property on a sole agency basis or joint sole agency basis or if you instruct another agent during or after the period of your sole agency or joint sole agency with us.

#### 3. **Costs and Expenses**

3.1 You will only be responsible for any Expenses where agreed with us in writing.

3.2 The Expenses will be payable by you within seven days of our invoice in respect thereof. The payment of such Expenses shall not be dependent on the sale of the Property. We reserve the right to invoice in relation to such Expenses prior to them being incurred.

#### 4. **Termination or Variation of Instruction**

4.1 Our appointment will continue for the period specified in these Terms. Thereafter or if no such period is specified:

(a) you have the right to terminate our instruction at any time by giving us not less than 28 days notice in writing; and

(b) we may terminate our appointment by giving you reasonable notice in writing.

4.2 When we are instructed as sole agent, you have the right to instruct other agents by giving us not less than 28 days notice in writing. If work on this agency agreement has begun before the end of the 28 day notice period, you may be required to pay for any goods or services supplied, including the Expenses detailed within these Terms. The signing of this agency agreement shall be treated as a request by you for us to commence performance of the agency agreement prior to the end of the 28 day notice period.

#### 5. **Sub-Agents**

You hereby agree that we are authorised to appoint a sub-agent if at any stage we consider that it may be of assistance in effecting a sale and references in these Terms to results being achieved through our agency will include the case where the results have been achieved in whole or any part through any such sub-agent. We shall be liable for any Commission payable to any such sub-agent unless otherwise agreed by you in writing.

#### 6. **'For Sale' Boards**

'For Sale' boards are an important marketing tool. However, in normal circumstances, the display of only one board is permitted by law. If you agree that we should erect a 'For Sale' board, you agree to notify us immediately if another board is displayed or erected and take joint responsibility for ensuring compliance with all legal requirements.

#### 7. **Marketing and Viewing of Property For Sale**

7.1 While we will exercise all reasonable care in the marketing and viewing of the Property, this involves providing information to a significant number of people.

7.2 We include all properties for sale on our website and other third party websites and may include Property details within marketing material that we may produce to promote our company as part of a marketing exercise, unless specifically instructed otherwise in writing. We do not accept responsibility for any misuse of this and other published information relating to the Property.

7.3 Whilst we will exercise all reasonable care when arranging or conducting a viewing (individual or 'Open House'), you are advised to ensure that you have in place sufficient insurance arrangements for any liability which may arise as a result of such visits to the Property as we shall have no liability for any acts or omissions of any person (other than our employees) during such visits.

#### 9 **Energy Performance Certificates**

9.1 Where you request that we arrange an Energy Performance Certificate (EPC) through one of our EPC Providers, we will charge you for the cost incurred for providing the EPC as set out in these Terms. You shall only be licensed to use the EPC upon cleared payment for the EPC.

9.2 If you supply us with an EPC that has been arranged and prepared by a company other than one of our EPC Providers, we will only be able to commence marketing if the aforementioned EPC is legally compliant and you have authority to allow us to use the document to commence marketing the Property.

9.3 **We exclude all liability** for the use of any EPC provided or any of the information contained within it for any other purpose other than for which is expressly provided and to the fullest extent as permitted by law. We assume no responsibility and shall not be liable for any damages, losses or claims or any direct, indirect, incidental, consequential damages of any kind howsoever arising (including, but not limited to, as a result of our negligence) in connection with the use or the reliance of any information or material contained in or referred to in the EPC.

**10. Disclosure of Information**

- 10.1 We comply with the data protection laws in the United Kingdom and take all reasonable care to prevent any unauthorised access to or use of your personal data. Our staff and those working for our approved agents or contractors have a responsibility to keep your information confidential and will only use it to offer products and services on our behalf.
- 10.2 The personal details that we use to provide or promote our products and services (for example your name, telephone number or details of the services used) as well as any information taken from you (for example during the course of our dealings with you or when you use our website etc.) will not be passed to any other organisation to be used for marketing purposes.
- 10.3 Your details may on occasion be shared with approved contractors or agents in order to provide you with products and services which you have requested.
- 10.4 We may wish from time to time to send you details as to products, services and events that may be of interest to you. By signing these Terms you agree that we and our group companies may use your details (including your email and mobile phone number) to send you such correspondence. If you do not wish to receive such correspondence, please notify us in writing.

**11. Ownership and Description of Property – Your Obligations**

To give a false or misleading description of a property is a criminal offence for which we could be liable. You hereby warrant that you are authorised to instruct us to sell the Property and that all information provided to us to assist in the description and marketing of the Property is true and accurate. Furthermore, you agree to notify us immediately if you become aware that any aspect of the sales particulars produced by us or other information provided to us is or has become inaccurate or misleading.

**12. Complaints Procedure**

We are a member of The Property Ombudsman (TPO) Scheme. In accordance with TPO's Code of Practice, we operate a formal procedure to deal with complaints from clients and others. Details of our complaints procedure are available upon request by writing to Proper Local Limited, 40 Bank Street, London, E14 5NR.

**13. Copyright**

You agree that the copyright in all particulars, brochures, photographs and other promotional materials prepared by or at our direction shall belong to us. Where photographs are provided to us by you for particulars, brochures and other promotional material, you confirm that you own the copyright of those photographs, including those taken by third party photographers. You shall indemnify us against any third party claims made against us in connection with the copyright of photographs used in any of our promotional material.

**14. Electronic Signatures**

In accordance with Section 7, Part II, of the Electronic Communications Act 2000, an electronic signature incorporated into or logically associated with these Terms and/or any other document incorporated into these Terms is hereby certified by you to be a valid means of establishing the authenticity of your authorised signature upon the same.

**15. Right of Cancellation**

- 15.1 Where these Terms are not signed within our offices, you may have the right to cancel this agency agreement under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 within 14 days of the date upon which it was signed. Notice of cancellation MUST BE IN WRITING and should be delivered or sent to Proper Local Limited, 40 Bank Street, London, E14 5NR; or by email to [weare@properlocal.co.uk](mailto:weare@properlocal.co.uk). Notice of cancellation is deemed to be served as soon as it has been delivered, posted or sent. Should you wish to cancel, you should use our Notice of Cancellation form.
- 15.2 If work on this agency agreement has begun before the end of the cancellation period, you may be required to pay for any goods or services supplied, including any Expenses. The signing of this agency agreement shall be treated as a request by you for us to commence performance of the contract prior to the end of the cancellation period.

**16. Money laundering Regulations 2007**

We are subject to the Money Laundering Regulations 2007 which require us to verify your identity and the identity of any beneficial owner before acting as agents. This agency agreement is not to be treated as an established or concluded agreement until we have verified yours and any beneficial owner's identities. We will not take any steps, either formal or informal, to market the Property until the verification of identification has taken place. We reserve the right to employ third party electronic verification for the purpose of verifying identity.

**17. Entire Agreement**

These Terms, including the signature page, constitute the entire agreement between the parties and supersede all prior agreements, understandings, representations or communications between the parties. No amendment or variation of these terms will have any contractual effect unless approved in writing by one of our directors.

**18. Governing Law**

These Terms shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby irrevocably agree to submit to the exclusive jurisdiction of the English Courts.

# SIGNATURE PAGE

This document is your instruction to Proper Local Limited. Reg No. 10190760 to place your property on the open market for sale:

**A. Property Details:**

**B. Asking Price**

For sale at the asking price of: £

**C. Agency Basis**

We will act on the Agency basis and Commission level detailed below for a minimum period of 4 weeks after which time marketing will continue unless and until termination of instruction in accordance with these Terms. We will always give you reasonable notice if we wish to terminate after the initial minimum period.

**Sole Agency / Joint Sole Agency / Multiple Agency**

**D. Commission**

Our Commission is performance linked to the Property sale price achieved and the timing of that agreement, as follows:

1. If you accept an offer of between £ \_\_\_\_\_ and £ \_\_\_\_\_ (inclusive) after \_\_\_\_\_ DATE  
we will charge £4,500+VAT (£5,400 inc VAT), or;
2. If you accept an offer of between £ \_\_\_\_\_ and £ \_\_\_\_\_ (inclusive) after \_\_\_\_\_ DATE  
we will charge £5,000+VAT (£6,000 inc VAT), or;
3. If you accept an offer of between £ \_\_\_\_\_ and £ \_\_\_\_\_ (inclusive) before \_\_\_\_\_ DATE  
we will charge £5,500+VAT (£6,600 inc VAT).

**E. Vendor Details**

- 1.
- 2.

or Company Name:

**F. Correspondence address**

Address

Home Telephone No:

Mobile No:

Email Address:

**G. Vendor Declaration(s)**

I/we have read, understood and accepted the terms of this agency agreement, as set out above and in your 'Terms of Business for Residential Sales' provided to me/us in which this signature page is contained. I/we have retained a copy of this signature page and the full Terms of Business for Residential Sales for our reference.

**Signed (Vendor / Vendors / Authorised Signatory)**

**Signed (Agent)**

1.

2.

**For and on the behalf of Proper Local Limited**

Where the Property is owned by a Company, the client is the Company and, in addition to accepting liability on behalf of the Company, each person signing this agency agreement personally guarantees payment by the Company of our costs, Commission and Expenses. **If this agency agreement is not signed by all owners of the Property being offered for sale then the signatory hereby confirms that he/she is authorised to sign it on behalf of all owners of the Property.**

Proper Local Limited trading as Proper Local. Company Registered Number: 10190760 (registered in England and Wales). Registered Office: Sigma House, Oak View Close, Edginswell Park, Torquay, Devon, TQ2 7FF.

## NOTICE OF RIGHT TO CANCEL

If you (the client) are a consumer within the meaning of regulation 4 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have a right to cancel this agency agreement/these Terms without giving any reason within the period of 14 days starting from the date upon which it was signed in circumstances where the Terms are not signed within our offices.

Any notice of cancellation is deemed to be served as soon as it has been delivered, posted or sent. In the case of electronic communication, from the day it is sent. If you would like to cancel this agency agreement, you must do so in writing and deliver personally or send (which may be by electronic mail) notice to us at Proper Local Limited, 40 Bank Street, London, E14 5NR; or by email to [weare@properlocal.co.uk](mailto:weare@properlocal.co.uk)

If work on the above agency agreement has begun before the end of the cancellation period then you may be required to pay for any goods or services supplied, including any agreed Expenses.

## CANCELLATION NOTICE

If you (the client(s)) wish to cancel this agency agreement you must do so in writing and deliver personally or send (which may be by electronic mail) this form to the Agent named below. You may use this form if you want to but you do not have to.

Please complete, detach and return this form **only if you wish to cancel this agency agreement**.

**To (Insert name of Agent)** \_\_\_\_\_

Proper Local Limited (trading as "Proper Local") of 40 Bank Street, London, E14 5NR

I/We (*delete as appropriate*) hereby give notice that I/we wish to cancel my/our (*delete as appropriate*) agency agreement with you on your standard Terms of Business for Residential Sales for the sale of my/our property at (*Insert address of property*)

\_\_\_\_\_

**Signed by Client(s)**

(1) \_\_\_\_\_

(2) \_\_\_\_\_

**Name(s) and Address of Client(s)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Date** \_\_\_\_\_