

# Terms of Engagement – Agency

## 1 Introduction

These Terms, together with any Letter of Engagement which we send to you, are the terms and conditions on which we will act for you. No other terms and conditions will apply.

These Terms will become binding on you and us when you sign and return any Letter of Engagement which we send to you. If you do not sign and return the Letter of Engagement, these Terms will become binding on you and us by you continuing to instruct us to carry out work on your behalf.

These terms cannot be varied unless we both agree to do so in writing.

## 2 Contracting Parties

Your contract is with Landbridge Property LLP (t/a Landbridge) which is a limited liability partnership incorporated in England and Wales with registered Partnership number OC416790.

There is no contract between you and any member, employee or consultant of Landbridge. Any advice given to (or other work done for) you by a member, employee or consultant of Landbridge is given (or done) by that person on behalf of Landbridge and not in his or her individual capacity and no such person assumes any personal responsibility to you for the advice or other work.

You agree that, to the extent permitted under any applicable law, if, as a matter of law, a duty of care or other duty, liability or obligation would otherwise be owed to you by any member, employee or consultant of Landbridge, such duty is hereby excluded and you agree that you will not bring any claim against any member, employee or consultant of Landbridge in respect of any loss or damage that you or any person or company associated with you suffer or incur, directly or indirectly, in connection in any way with any advice given to or other work done for you.

## 3 Period of Contract

Our agency shall commence when you sign and return any Letter of Engagement which we send to you. If you do not sign and return the Letter of Engagement, our agency will commence when you indicate to us that you wish for us to act as your agent after receiving the Letter of Engagement.

Our agency shall be for an initial period of twelve months and shall remain in force thereafter until such time as the contract is terminated by either party giving to the other party fourteen days' notice of termination. The contract shall come to an end on the fourteenth day after service of such notice.

## 4 Sale of Freehold or Leasehold Property

If we act as your agent in connection with the sale of a property, we will have sole selling rights. You will pay us commission at the rate set out in the Letter of Engagement, in addition to any other costs or charges specified in the Letter of Engagement. Commission shall be payable in each of the following circumstances:

- If unconditional contracts for the sale of the property are exchanged during our agency, even if the purchaser was not found by us but by another agent or any other person, including yourself.
- If unconditional contracts for the sale of the property are exchanged after the expiry of our agency, but to a purchaser who was introduced to you (whether or not by us) during that period or with whom we had negotiations about the property during that period.
- If a ready willing and able purchaser is introduced to the property and terms are agreed for the sale in accordance with your instructions during our agency, even if you subsequently withdraw and unconditional contracts for sale are not exchanged, irrespective of your reasons. A purchaser is a ready, willing and able purchaser if they are prepared and are able to exchange unconditional contracts for the purchase of the property.

If we agree to charge you based on our hourly rate, rather than on a commission basis, our fees will be payable regardless of whether unconditional contracts for the sale of the property are exchanged.

An unconditional contract for sale is a contract which does not contain any conditions which must be satisfied prior to the sale taking place. A conditional contract will become an unconditional contract once the conditions in it are satisfied.

## 5 Acquisition of Freehold or Leasehold Property

If we act as your agent in the purchase of the leasehold/freehold interest in a property either named by you or to be found by us, you will pay us commission at the rate set out in the Letter of Engagement in addition to any other costs or charges specified in the Letter of Engagement. Commission shall be payable in each of the following circumstances:

- If a ready willing and able vendor is introduced by us in the period during our agency and terms are agreed for the purchase in accordance with your instructions, even if you subsequently withdraw and unconditional contracts for purchase are not exchanged, irrespective of your reasons. A vendor is a ready willing and able vendor if they are prepared and are able to exchange unconditional contracts for the sale of the property
- If unconditional contracts are exchanged during the period of our agency for the purchase of a property which you instructed us in relation to, even if we did not introduce the vendor to you or take part in negotiations for the purchase of the property
- If unconditional contracts are exchanged after the expiry of our agency with a vendor who was introduced to you by us, or with whom we had negotiations, during the period of our agency;

If we agree to charge you based on our hourly rate, rather than on a commission basis, our fees will be payable regardless of whether unconditional contracts for the sale of the property are exchanged.

An unconditional contract for purchase is a contract which does not contain any conditions which must be satisfied prior to the purchase taking place. A conditional contract will become an unconditional contract once the conditions in it are satisfied.

## 6 Joint Agents

In the event of our accepting instructions to act as joint agents with another firm, all the terms set out herein will apply and the reference to sole selling rights shall apply jointly to us and the other agent(s). Remuneration payable will be divided as set out in the Letter of Engagement.

## 7 Sub Agents

We reserve the right to appoint sub-agents if we think it desirable, provided that we shall confer with you prior to any such appointment, so that you can approve the sub-agent to be appointed. References to results being achieved through our agency will include the case where the results have been achieved in whole or in part through any such sub-agent. We shall be liable for any commission payable to any such sub-agent.

## 8 Payment Terms

Unless specified in our Letter of Engagement, all commission and charges due to us under these Terms shall be payable within 14 days of exchange of unconditional contracts (or such other event that gives rise payment of commission and charges if unconditional contracts are not exchanged) or on completion, whichever is the sooner.

If payment is not made on the due date, we may, in addition to any other remedies that we may have, suspend all of our work for you (whether or not relating to the unpaid invoice) and charge you interest at the rate of 2% per month from the due date until payment of the invoice (both before and after judgment).

Where we are instructed by more than one party, every party is jointly and severally liable for the payment in full of all of our invoices. If our invoice is to be paid by someone other than you, you will remain responsible for the invoice until the third party has paid it.

Unless we are acting for you as a consumer, you must pay all of our invoices in full without deduction or set-off.

## 9 Other Costs and Charges

In addition to the commission or fees payable by you, you are responsible (whether or not such commission or fees become payable) to pay the costs and charges set out in the schedule accompanying these Terms. Where firm figures are not known or ascertainable at this stage, the Advertising and Expenses Schedule will show an estimate together with a maximum figure. These costs will be payable to us at the point that you confirm your instructions to us. All fees and expenses for services supplied in the UK are subject to VAT at the prevailing rate. We reserve the right to instruct suppliers to invoice you direct.

## 10 Cancelled Instructions

We may terminate our agency immediately upon notice to in the following circumstances:

- if you go into liquidation or bankruptcy or have a receiver or administrator appointed over all or part of your assets, or are the subject of any other formal insolvency procedure;
- if you do not pay our invoice when due, whether or not the invoice relates to the agency which we are terminating;
- if you commit a fundamental breach of these Terms (other than failing to pay an invoice when due) and you do not correct the breach within 7 days of us asking you to do so in writing;
- if you fail to provide us with proper and clear instructions, or fail to comply with any reasonable requests that we make in order to allow us to properly perform our agency.

You may terminate our engagement immediately on giving us written notice in the following circumstances:

- if we go into liquidation or bankruptcy or have a receiver or administrator appointed over all or part of our assets, or are the subject of any other formal insolvency procedure;
- if we commit a fundamental breach of these Terms and we do not correct the breach within 7 days of you asking us to do so in writing.

If you terminate our agency during the first 12 months of our agency or without giving the correct period of notice required by clause 3 (unless permitted by this clause 10), of if we terminate our agency for any of the reasons set out in this clause 10, then without prejudice to any other rights we may have you shall pay us a cancellation fee. The cancellation fee shall be the greater of:

- the cost of the work we have carried out on your behalf, calculated by reference to the amount of time we have spent working on your behalf and our hourly rates;
- any commission due under clauses 4 or 5 of these Terms; and
- the sum of £500.

In addition, you will be required to pay all charges and costs expended by us on your behalf. The cancellation fee and any other sums payable under this clause will be payable within 14 days of the date of our invoice, and interest shall apply on any invoice not paid by the due date at the rate specified in clause 8.

## 11 Limitation of Liability

If we do not comply with these Terms then, except as set out below, we are responsible for loss or damage to you that is a foreseeable result of our breach of these Terms or our negligence. Loss or damage are foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into this contract.

We will not be responsible for:

- Indirect or consequential loss;
- loss which is unforeseeable;
- loss of income;
- loss of profits;
- loss of business opportunity;
- loss of goodwill; or
- reduction in the value of any property.

Where we are responsible to you for loss or damage, our maximum aggregate liability to you for breach of these Terms, our negligence, or otherwise arising out of our work for you shall be limited to £5 million, unless otherwise agreed with you in writing.

Nothing in these terms limits our liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors, fraud or fraudulent misrepresentation, or any other liability which cannot be limited or excluded as a matter of law.

## 12 Contracts (Rights of Third Parties) Act 1999

A person who is not a party to the agreement covered by these Terms has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the agreement, including those set out in these Terms, but this does not affect a right or remedy of a third party which exists or is available apart from that Act.

## Terms of Engagement – Agency

### 13 Discounts and Commissions

We may receive discounts and/or commissions from the placing of advertisements either directly or through our publicity agents. We reserve the right to retain any such discounts and/or commissions received. However, in many instances the cost to you as set out in the schedule accompanying these terms is net of such discounts and/or commissions. Boards may be erected at your property by agreement with you. In this event the law prohibits the erection of another agent's board without first obtaining planning permission. Accordingly you must not allow another agent to erect a second board.

### 14 Problems / Complaints

Should you have any problems with our service, which you are unable to resolve with the partner, agent or professional responsible, you should contact Philip Summers, informing him of the nature of the problem. He may be contacted at Landbridge, Rivers Court, High Street, Sroughton, Ipswich IP8 3AP– Telephone: 01473 461203. He will make every effort to deal with the problem quickly and efficiently. Landbridge operates a formal procedure for complaints handling which complies with the minimum standard laid down by the RICS (Royal Institution of Chartered Surveyors). A copy of the Procedure is available upon request. If the problem cannot be resolved, we shall further attempt to resolve the matter by agreeing with you the referral of the matter to an external mediation service. Clients who are consumers also have the opportunity to refer complaints to The Property Ombudsman, Commercial clients to the RICS Dispute Resolution Service.

### 15 Services which may be offered to a Prospective Buyer and/or Seller

We provide a range of services which we may make available to your prospective buyers/sellers. These include selling or letting the purchaser's own property. If any of these services are in fact taken up, we will notify you in writing of the particular service taken up.

### 16 Applicable Law

Our relationship with you will be governed by English law and will be subject to the exclusive jurisdiction of the English Courts.

### 17 General Data Protection Regulation

Landbridge is registered with the Information Commissioner's Office, registration number ZA327851. For our privacy policy visit [www.landbridge.co.uk/privacy-policy/](http://www.landbridge.co.uk/privacy-policy/)

### 18 Anti-Money Laundering

To comply with the Money Laundering Regulation 2017 Landbridge is registered with the HMRC. We will require and retain evidence of identity of our clients and sometimes people related to them. Once an offer has been accepted (subject to contract) buyers will be required to provide evidence of identity and proof of address to the selling agent prior to solicitors being instructed. We do not accept any liability for losses which result from our compliance with the statutory obligations.

### 19 Miscellaneous

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

If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

We will not be responsible or liable for our failure to perform our obligations, if such failure is beyond our control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.

October 2018