

## TERMS AND CONDITIONS OF BUSINESS

<b>Vendor Name (s)</b>			
<b>Property Address</b>			
<b>Date:</b>	<b>Asking Price:</b>	<b>Agency Type:</b>	<b>Fee:</b>

These terms of business (the **Terms of Business**) are provided to you in accordance with the Estate Agents Act 1979 and the Estate Agents (Provision of Information) Regulations 1991. In these Terms of Business any reference to **we** or **us** is a reference to Henry & James Estate Agents Limited, a private limited company registered under number 08482773, whose registered office is at 1 Motcomb Street, London, SW1X 8JX, trading as **Henry & James**, and any reference to **you** is to the person or persons described as the Vendor in the Instruction Letter. These Terms of Business set out the entire agreement between you and us (the **Agreement**). No other variation to these Terms of Business shall be valid unless agreed between us in writing.

### 1 General

- 1.1 **Remuneration:** for the purpose of this Agreement 'Remuneration' means the Fee plus any and other expenses or payments due to us plus Vat, as applicable.
- 1.2 **Sub-agents:** if we consider that it may be of assistance in effecting a sale (and providing that you have expressed no prior objection) we may appoint a sub-agent(s), and references to results being achieved through our agency will include the case where results have been achieved in whole or in part through any such sub-agent. We would be liable for any commission payable to any such sub-agent.
- 1.3 **Private Buyers:** a 'Private Buyer' means any potential purchaser for the Property who is, or approaches you through, a personal contact of yours. You agree to refer to us any Private Buyer who has previously expressed an interest or who approaches you about the Property during the period of our sole agency. In the event of a sale to a Private Buyer referred by you to us we may agree to charge a discounted Fee.
- 1.4 The Agreement commences on the date stated above and shall continue until terminated in accordance with its terms.
- 1.5 If any provision of these Terms of Business is held to be invalid or unenforceable, the remaining terms shall remain in full force and effect.
- 1.6 Except as expressly provided in this Agreement a person who is not a party to this Agreement shall not have any rights under or in connection with it.
- 1.7 These Terms of Business shall be governed by and construed in accordance with English Law and the English courts shall have exclusive jurisdiction

### 2 The Fee

- 2.1 Except as otherwise provided in these Terms of Business, the Fee will be calculated as a percentage of the total sale price achieved for the Property, including any part of the price attributable to carpets, curtains and other fixtures or chattels. The Fee is exclusive of VAT. Unless otherwise agree in writing the Fee for sole agency shall be 2.5% plus VAT.

- 2.2 We may incur additional charges in respect of advertising, brochure production, photography, artwork and other marketing expenses depending on your instructions. You shall be responsible for all such expenses reasonably and properly incurred by us in accordance with this Agreement.

- 2.3 VAT is payable on all invoices issued by us regardless of your domicile.

### 3 Types Of Agency

**Sole agency** means that you are entering a legally binding agreement giving us the right to act as your only estate agent. Appointing us as your sole agent means you will be liable to pay Remuneration to us in addition to any other costs or charges agreed if at any time unconditional contracts for the sale of the Property are exchanged:

- (a) with a purchaser introduced to you directly or indirectly by us during the period of our sole agency or with whom we had negotiations about the Property during that period; or
- (b) with a purchaser who was introduced to you by another agent or who approaches you directly or with a Private Buyer during that period.

**Joint Sole Agency** means that you will appoint us and one other agent. The Fee will then be divided between us and the other agent notwithstanding which of us introduces the purchaser. Where a Joint Sole Agency is agreed, you will be liable to pay Remuneration to us in addition to any other costs or charges agreed, if at any time unconditional contracts for the sale of the Property are exchanged:

- (a) with a purchaser introduced to you directly or indirectly by us during the period of our sole agency or with whom we had negotiations about the Property during that period; or
- (b) with a purchaser introduced by another agent or with a Private Buyer during that period.

**Multiple Agency:** under a multiple agency agreement you will be liable to pay Remuneration to us, in addition to any other costs or charges agreed, if at any time unconditional contracts for the sale of the Property are exchanged with a purchaser introduced by us (whether indirectly or directly).

- 3.2 If at any time you alter the type of agency arrangement between us, we reserve the right to terminate this Agreement. If we continue to act for you, we shall do so on the basis of the fee applicable to the new type of agency.

### 4 Payment

- 4.1 By instructing us to act as your agents each Vendor (if more than one) agrees to be jointly and severally liable to pay our Remuneration.
- 4.2 Our entitlement to Remuneration under these Terms of Business shall apply regardless of whether the initial

introduction and/or viewings are conducted with a nominee, representative, director or agent of the ultimate purchaser.

- 4.3 In the event of successful completion our Remuneration shall be payable upon completion out of the completion monies and you agree to instruct your solicitors to give us their undertaking to us to do so.
- 4.4 If, following exchange of contracts, you or the purchaser fail to complete the sale of the Property for whatever reason then our Remuneration shall become payable on the date on which completion was due to take place and you agree to instruct your solicitors to pay any amounts due to us out of any deposit monies held by them in respect of the sale before accounting to you for such monies.
- 4.5 If, at any stage during the term of this Agreement we introduce a ready, willing and able purchaser to you in accordance with your instructions and you subsequently withdraw and unconditional contracts for sale are not exchanged, irrespective of your reasons, you shall be liable to pay us our Remuneration. A purchaser is a 'ready, willing and able purchaser' if he is prepared and is able to exchange unconditional contracts for the purchase of your Property. If you decide not to proceed with a sale in these circumstances the Fee shall be 1% of the offer price plus VAT.
- 4.6 Subject to condition 4.7, if you withdraw instructions from us or you withdraw the Property from the market our Fee shall be 1% of the asking price plus VAT.
- 4.7 If you rent out the Property privately or through another agent for a period that would prejudice any sale prospect we may charge you a Fee of 1 % of the asking price plus VAT, provided that no Fee will be charged if you decide to rent out the Property through us.
- 4.8 In the event of a part-exchange or swap of property between yourself and a purchaser, the Fee will be calculated as a percentage (at the relevant rate) of the total value attributed to the Property.
- 4.9 If any invoice remains unpaid for more than 14 days after the date on which it is due to be paid we may charge interest calculated daily from the date on which payment was due at 4% above the base rate of Barclays Bank form time to time. If we should find it necessary to use legal representatives or other parties to recover monies due from you, you agree to pay us any reasonable costs that we incur.
- 4.10 This Agreement may be terminated by either you or us on 21 days notice in writing, provided that our right to Remuneration in accordance with these Terms of Business will continue following termination of our relationship.

## 5 Sales Particulars

- 5.1 It is a criminal offence under the Property Misdescriptions Act 1991 to give false or misleading information about the Property and certain matters relating to its disposal.
- 5.2 You agree to provide all assistance in the supplying of information to verify the sales particulars prepared by us including, but not limited to, copy leases, copy Land Registry documents, planning permissions, service charge accounts and you will instruct your solicitors to assist us in this regard.
- 5.3 You agree promptly to draw to our attention any error or omission or misleading impression contained in our sales particulars and we ask you to check the sales particulars carefully and return a copy signed by way of approval.
- 5.4 You agree to indemnify us, and keep us indemnified, against any misrepresentation or non-disclosure in the sales particulars or any statements otherwise made arising from any information or withholding of information by you or any person acting on your behalf.

## 6 Personal Interest

- 6.1 We will disclose to you and any prospective purchaser any family relationship or business association that we have, or any of our employees, partners or directors has, with either you or the prospective purchaser (a **Personal Interest**). We will advise you of any Personal Interest as soon as we become aware of it. You agree to advise us of any Personal Interest of which you are aware as soon as you become aware of it.

## 7 Data Protection

- 7.1 When you instruct us to act on your behalf we will collect personal data from the registered owner (including contact details, proof of address and photographic identification).
- 7.2 We will hold your personal data securely and we will process it in accordance with applicable data protection law.
- 7.3 In particular we may process your personal data in order to:
  - (a) perform our obligations under this Agreement;
  - (b) keep our records up to date; and
  - (c) meet our legal and regulatory obligations.
- 7.4 We will only send you general literature about our business and services if you have expressly consented to us doing so and you may withdraw your consent at any time.
- 7.5 Further information is set out in our privacy policy [www.henryandjames.co.uk/privacy](http://www.henryandjames.co.uk/privacy).
- 7.6 If you have any questions about the privacy of your personal data, please contact us by email at [belgraviaoffice@henryandjames.co.uk](mailto:belgraviaoffice@henryandjames.co.uk) or by telephone (0)20 7235 8861.

## 8 Notice of Right to Cancel

- 8.1 You may cancel this Agreement by sending us written notice to the address provided. You must send that written notice, by post or email, no later than 14 days starting with the date of this Agreement. This right is known as the 'Cooling Off Period'.
- 8.2 The notice of cancellation is deemed to be served as soon as it is posted or if sent by email on the date sent. You may choose to use the cancellation form attached to these conditions a copy of which can be downloaded at the following link: [http://www.henryandjames.co.uk/Notice\\_of\\_the\\_Right\\_to\\_Cancel.pdf](http://www.henryandjames.co.uk/Notice_of_the_Right_to_Cancel.pdf)
- 8.3 If, at your written request, the Agreement is terminated either before or after the Cooling Off Period you may have to pay compensation to us for costs or losses reasonably incurred. We will try to keep those costs to a minimum.

If you decide to instruct us in respect of the sale of the Property, please sign and return a copy of the Terms of Business. By signing these Terms of Business you warrant that you have full authority from any co-owners of the Property to appoint us as your agent and to be bound by the Terms of Business. If you do not sign and return the Terms of Business but do not cancel our instructions you will be deemed to have accepted the Terms of Business.

I/We agree to be bound by the Terms of Business

Signed ..... Date.....

PRINT NAME ..... Date.....

Signed ..... Date.....

PRINT NAME ..... Date.....