



# Greenfields

## Residential Sales Terms & Conditions





# Greenfields

These Terms and Conditions apply when DA RESIDENTIAL LTD T/A GREENFIELDS (“**Agent**”) is appointed to market a residential property for sale. The Terms and Conditions form the basis of the Owner’s contract with the Agent so please read them carefully before signing the Appointment Form.

## 1. Definitions

“**Agency Period**” means the period starting on the date this contract comes into force and ending when unconditional contracts are exchanged for the sale of the Property;

“**Appointment Form**” means the form to be completed and signed by the Owner and the Agent appointing the Agent as ‘agent’;

“**Commission**” means the commission detailed in the Appointment Form;

“**Multi Agency**” means the Owner is liable to pay remuneration to the Agent, in addition to any other costs or charges agreed (irrespective of any fees due to any other agency), if at any time unconditional contracts for the sale of a property are exchanged with a purchaser:

- a. introduced by the Agent during the period of the multi agency;
- b. with whom the Agent had negotiations about the property during the period of the multi agency.

“**Owner**” means the owner of the Property;

“**Property**” means the property identified in the Appointment Form;

“**Redress Scheme Order**” means the Estate Agents (Redress Scheme) Order 2008;

“**Sole Agency**” means the Owner is liable to pay remuneration to the Agent, 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:

- a. introduced by the Agent during the period of the sole agency;
- b. with whom the Agent had negotiations about the property during the period of the sole agency; or
- c. introduced by another agent during the period of the sole agency

“**Sole Selling Rights**” Means the Owner is liable to pay remuneration to the Agent, in addition to any other costs or charges agreed, in each of the following circumstances:

- a. if unconditional contracts for the sale of a property are exchanged in the period during which the Agent has sole selling rights, even if the purchaser was not found by the Agent but by another agent or by any other person, including the Owner; and
- b. if unconditional contracts for the sale of a property are exchanged after the expiry of the period during which the Agent has sole selling rights but to a purchaser who was introduced to the owner during the period of sole selling rights or with whom the Agent had negotiations about the property during that period.

**1.1** Any reference in these Terms and Conditions to “writing”, or cognate expressions, includes a reference to any communication effected by e-mail, telex, cable, facsimile transmission or similar means.

**1.2** Any reference in these Terms and Conditions to any statute or provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

**1.3** The headings in this document are for convenience only and shall not affect its interpretation.

## 2. Appointment of Agent

**2.1** The Owner appoints the Agent to act as their agent in relation to the Property on the basis stated on the appointment form by carrying out the duties referred to in clause 3.

**2.2** Unless otherwise stated in the Appointment Form, the Owner shall not during the Agency Period appoint any other person or agency as the Owner’s agent for the purposes mentioned in clause 2.1.

**2.3** The Owner instructs the Agent to prepare the marketing material for the property. The Owner understands that the production of the marketing material requires the use of photographs/images and agrees to pay the third party costs of the production of such photographs/images.

## 3. The Agent’s Duties

**3.1** The Agent shall market the Property for sale on the open market.

**3.2** Without prejudice to the generality of clause 3.1, the Agent shall prepare particulars of the Property, including a written description and photographs and, once the particulars have been approved by the Owner, the Agent shall include them in its printed advertising materials and add them to its website.

**3.3** The Agent shall give the Owner advice on the Property’s value.



# Greenfields

**3.4** The Owner understands that the Agent will be unable to market the Property unless a valid Energy Performance Certificate (EPC) is available. The Owner shall either provide the Agent with a valid EPC or instruct the Agent to arrange for an EPC to be prepared for the Property (at the cost of the Owner).

**3.5** The Agent shall, if requested by the Owner, erect and maintain a "for sale" board outside the Property and shall comply with the Town and Country Planning (Control of Advertisements) Regulations 2007.

**3.6** The Agent shall deal with enquiries from potential buyers, arrange and escort viewings and keep the Owner informed of the outcome of all enquiries and viewings.

**3.7** The Agent shall take reasonable steps, in respect of any person who has made an offer to buy the Property, to establish the source and availability of that person's funds for the purchase, and the Agent shall relay this information to the Owner.

**3.8** The Agent shall make a member of staff available to the Owner at all reasonable times and upon reasonable notice during the Agency Period for the purposes of consultation and advice relating to the Property.

**3.9** The Agent shall obtain and maintain in force during the Agency Period all licences, permits and approvals which are necessary (and those advisable so far as is reasonable and practical) for the performance of its duties under these Terms and Conditions and shall comply with all relevant legislation and guidance.

**3.10** The Agent shall act with due care and diligence and in accordance with commercial principles (and sound practices).

**3.11** Subject as provided in these Terms and Conditions and to any directions which the Owner may from time to time properly provide to the Agent, the Agent shall be entitled to perform its duties under this Agreement in such manner as it may think fit.

## **4. The Owner's Commitments**

**4.1** The Owner confirms that they are the owner(s) of the Property and are entitled to sell it.

**4.2** The Owner shall provide the Agent with two sets of keys to the Property and confirms that the Agent may make further copies of the keys as necessary.

**4.3** The Owner shall check the draft particulars prepared by the Agent and shall confirm their accuracy or notify the Agent of any required changes.

**4.4** If the Agent has with the consent of the Owner placed a "for sale" board at the Property, the Owner shall not permit any other agent to erect or maintain such a board at the Property during the Agency Period.

**4.5** The Owner shall inform the Agent of any offers received during the Agency Period from potential buyers who have not been introduced by the Agent.

**4.6** The Owner shall pay the Commission to the Agent in accordance with these Terms and Conditions on receipt of an invoice which the Agent will submit to the Owner for payment following being notified of an exchange of contracts (such notification shall be promptly provided by the Owner).

**4.7** The Owner shall pay interest on Commission that has not been paid by the date of completion of the sale of the Property at the rate of 3 per cent above the base lending rate of Barclays Bank plc from the completion date until the date of payment.

**4.8** The Owner shall pay to the Agent upon signing this Agreement the sum of £150 representing the cost of procuring the marketing photographs by the Agent's photographer (a 3<sup>rd</sup> party business). The Agent will provide a Receipt for this payment and will account to the Owner for the Payment in the final invoice for services.

**4.9** Subject to compliance by the Agent with its obligations under this Agreement, the Owner shall indemnify the Agent against any liability (including but not limited to all costs and expenses which the Agent may reasonably incur in defending any proceedings) which it may incur by reason only of its being held out as the Owner's agent.

## **5. Duration and Termination of Agency Agreement**

**5.1** The Agency Period under this Agreement shall continue until terminated in accordance with the following provisions.

**5.2** Either party may terminate the contract by giving not less than one weeks' written notice, to expire at or any time after the end of the initial 12 weeks of the Agency Period.

**5.3** Upon the termination of the contract between the Agent and the Owner:

**5.3.1** the Agent shall cease to promote, market, advertise or solicit offers for the Property;

**5.3.2** the Commission shall be payable if a buyer introduced by the Agent exchanges contracts for the sale of the Property:

**a.** through another agent within 6 months of the date of termination of this contract; or

**b.** without the involvement of another



# Greenfields

agent within 2 years of the date of termination of this contract;

- 5.3.3** the Agent shall have no claim against the Owner for compensation for loss of agency rights, loss of goodwill or any similar loss (except unpaid Commission).

**5.4** The rights to terminate the contract under this Clause 5 shall not prejudice any right or remedy available to either party in respect of the breach of this clause or any other breach of this Agreement.

**5.5** If at any time control (as defined in Section 840 of the Income and Corporation Taxes Act 1988) of the Agent is acquired by any entity, person, or group of connected persons (as defined in Section 839 of that Act), not having control of the Agent at the start of the Agency Period, the Agent shall forthwith give written notice to the Owner identifying that entity, person, or group of connected persons and the Owner shall be entitled to terminate the Agency by giving not less than 1 months' written notice to the Agent within 7 days from receipt of the Agent's notice.

## 6. Complaints and Redress

**6.1** A copy of the Agent's Complaints Handling Procedure is available upon request and on the Agent's website.

**6.2** The Agent is a member of The Property Redress Scheme (a redress scheme for dealing with complaints) - Membership number: PRS040886.

## 7. Nature of Agreement

**7.1** This Agency Agreement is personal to the parties (the Owner and the Agent). Neither party may assign, mortgage or charge (otherwise than by floating charge) or sub-license any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder, 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 and may not be varied or modified except by an instrument in writing signed by the parties or their authorised representatives.

**7.3** Each party acknowledges that in entering into this Agreement, no reliance has been placed on any oral representation, warranty or other provision save as expressly stated within the terms of this Agreement and the Appointment Form, and all conditions, warranties or other terms implied by statutory or common law are excluded to the fullest extent permitted by law.

**7.4** No failure or delay by either party in exercising any right under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of a

breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

**7.5** If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the invalid or unenforceable part shall be severed from the Agreement and the remainder of the Agreement shall remain valid and enforceable.

## 8. Notices and Service

**8.1** Any notice or other information required or authorised to be given by either party to the other under this Agreement shall be given by any of the following methods:

- 8.1.1** delivering it by hand;
- 8.1.2** sending it by pre-paid registered first class post; or
- 8.1.3** sending it by e-mail, telex, cable, facsimile transmission or comparable means of communication;

to the other party at the address stated in Clause 8.4.

**8.2** Any notice or information given by post in the manner provided by Clause 8.1.2 which is not returned to the sender as undelivered shall be deemed to have been given on the 2nd day after the envelope containing it was posted. Proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, shall be sufficient evidence that the notice or information has been duly given.

**8.3** Any notice or information sent by e-mail, telex, cable, facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission, provided that a confirming copy of it is sent as provided in Clause 8.1.2 to the other party at the address given in Clause 8.4 within 24 hours after transmission.

**8.4** Service of any document under this Agreement shall be effected by either party by causing it to be delivered to the address notified on the Appointment Form, 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 recommends certain products and services to buyers including mortgage advice, surveying, and conveyancing services. The Agent may receive commission for such recommendations.

**9.2** The Owner may be liable to pay commission to another agent, in addition to the Commission, if either:



# Greenfields

- 9.2.1 the Seller has previously instructed another agent to sell the Property on a Sole Agency, Joint Sole Agency or Sole Selling Rights basis; or
- 9.2.2 the Seller instructs another agent during or after the Agency Period.

## 10. VAT

The Appointment Form details the Agent's fees inclusive and exclusive of VAT. If the rate of VAT changes during the period of this Agreement, the Owner will be liable to pay the new rate of VAT from the date the new rate of VAT becomes chargeable.

## 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 accordance with the laws of England and Wales. Each party hereby submits to the exclusive jurisdiction of the English and Welsh courts.