



"Your Success is Our Future"

Terms of Business

Lettings Terms and Conditions of Business

In accordance with:

THE ESTATE AGENTS ACT 1979

THE UNFAIR CONTRACT TERM ACT 1977 (UCTA)

THE SUPPLY OF GOODS AND SERVICES ACT 1982 (SGSA)

THE UNFAIR TERMS IN CONSUMER CONTRACTS

REGULATIONS 1999 (UTCCRS)

THE CONSUMER PROTECTION FROM UNFAIR TRADING

REGULATIONS 2008 (CPRS)

THE BUSINESS PROTECTION FROM MISLEADING MARKETING

REGULATIONS 2008 (BPRS)

THE CONSUMER CONTRACTS (INFORMATION, CANCELLATION,

AND ADDITIONAL PAYMENTS) REGULATIONS 2013

Pursuant to the Estate Agents Act 1979 it is a requirement that you understand and accept our terms and conditions when instructing *Canary Properties* as selling agents for your property. Please read the terms set out below. By signing the page below, you agree to these terms and conditions, but if you do wish to question anything about these terms you must contact us in writing, otherwise we will assume that you are happy with them.



Information about Canary Properties LTD

The Website is owned and managed by Canary Properties LTD, a company registered in England and Wales with the company registration number 9133456 and having its registered address at Unit F28a Waterfront Studios, Docklands, London, E16 1AH.
Landline: 0203 743 0333 - Fax: 0203 743 0330
Email: lettings@canaryproperties.co.uk

Terms of this agreement:

Definitions Within this agreement the following words or phrases shall, unless the context otherwise requires, have the following meanings:

- **"Canary Properties", "we" and "us"** shall mean and include Canary Properties Limited.
- **"The Landlord"** Any one or more individuals or corporate entities that has the legal right as freeholder or leaseholder to let the property or his successors in title.
- **"The Property"** The property specified in the instruction letter or any part thereof together with any common ways or shared facilities if Property is part only of a building and any fixtures fittings and furniture belonging to the Landlord
- **"The Tenant"** Any one or more individuals or corporate entities named as Tenant in the Tenancy Agreement.
- **"The Occupier"** The authorised Licensee of the Tenant permitted occupation of the property under the terms of the Tenancy Agreement.
- **"The Tenancy Agreement"** The written contract between the Landlord and the Tenant setting out the terms of the Tenancy including rent.
- **"The Tenancy"** The occupation of the property by the Tenant or Occupier for the term as defined in the Tenancy Agreement including any renewal or extension.
- **"The Term"** The length of the letting and any subsequent letting.
- **"Initial Term"** The first agreed period of the letting prior to any renewal or extension of the Term.
- **"Rent"** The sum payable by the Tenant to the Landlord for the Term of the Tenancy inclusive of ground rent and service charges but excluding gas, electricity, telephone, water and council tax unless otherwise specified.
- **"The Deposit"** The sum of money lodged with the agent by the Tenant at the start of the Tenancy to cover any damage or loss incurred during the Tenancy. Any balance after deducting such costs must be returned to the Tenant.
- **"The Deposit Holder"** The person firm or company who holds the Deposit under, and is a Member of, the Tenancy Deposit Scheme administered by The Dispute Service Ltd.
- **"The Relevant Person"** The person who paid the Deposit or any part of it on behalf of a Tenant
- **"Scheme"** An authorised tenancy deposit protection scheme (set up in accordance with the Housing Act 2004 and operated under a service concession agreement with the government).
- **"Statutory Time Limit"** the time limit set out in the Housing Act 2004 (as amended) in which the initial requirements of the Scheme must be met, and prescribed information must be provided to the Tenant and any Relevant Person.
- **"Day" or "Calendar Day"** any day of the year, including Saturdays, Sundays and bank holidays.
- **"Working Day"** a day that is not a Saturday or Sunday nor any day that is a bank holiday under the Banking and Financial Dealings Act 1971 or any customary or public holiday in England and Wales.
- **"Letter of Indemnity"** The guarantee lodged by the Tenant in lieu of The Deposit as security to pay the Landlord for any loss or damage incurred during the Tenancy on presentation of a statement of claim.
- **ARLA** The Association of Residential Letting Agents.
- **"Premium Lease"** An agreement to lease a property for a period in excess of 2 years for which a non-refundable "rent" called the "premium" is paid in advance for the full term of the lease.

The purpose of this document: The purpose of this document is to set out clearly and concisely the extent of the letting and management service offered and the scale of fees charged. This Agreement is made between the landlord(s) being the owner of the property, named in this Agreement.

1. INTRODUCTION SERVICE - 8% NOVAT

On this level of service, we will:

- Market the property as we consider appropriate and unless otherwise agreed accompany prospective Tenants on viewings.
 - Report all offers received and negotiate acceptable terms for the Tenancy.
 - Apply for references on the Tenant as appropriate. This will usually be via the services of a Credit Referencing Agency, currently Landlord Nationwide. The referencing company can change without any notice.
 - Prepare or administer on your behalf an appropriate Tenancy Agreement to be signed by both parties.
 - Arrange for a professional Inventory and Schedule of Condition of the property to be made by an independent inventory firm, and for the checking of the Inventory at the commencement and end of the Tenancy.
 - A professionally prepared Inventory is recommended for all Tenancies, which are required to comply with Compulsory Tenancy Deposit Protection regulations.
 - The cost of the Inventory and check-in is payable by you. The Inventory check-out is payable by the Tenant. Should a Tenancy not proceed for any reason, you must meet any inventory costs incurred.
 - Unless otherwise instructed, hold the Tenant's security deposit, as Stakeholder Where the Tenancy is an Assured Shorthold Tenancy the deposit will be held and protected in accordance with Compulsory Tenancy Deposit Protection requirements under the Housing Act 2004.
 - This will not apply if the provision of a Letter of Indemnity in lieu of a monetary deposit is agreed between the parties for a tenancy which is not an Assured Shorthold Tenancy.
 - If instructed to do so, negotiate any required and agreed extension or renewal of the Tenancy and prepare the relevant documentation.
 - Prior to the end of the agreed term of the Tenancy, serve any appropriate notices if so instructed to do so by the Landlord.
 - At the termination of the Tenancy, forward the inventory check-out report to the Landlord and Tenant for action and costing.
 - On receipt of written confirmation from both parties of the agreement reached between the Landlord and Tenant regarding any deductions to be made from the deposit, disperse the deposit as instructed and confirmed in writing by both parties, and where applicable in accordance with the Compulsory Tenancy Deposit Protection Scheme.
- Please note that at this level of service we do not assess or negotiate between the parties any costs due to the Landlord from the Tenant's deposit.

1.1 Introduction Service Fees: Introduction Service Commission Our commission is 8% no VAT of the gross rent payable for the full term of the Tenancy as per the terms of the Tenancy Agreement.

- This fee is payable in full and in advance at the commencement of the Tenancy by deduction from the initial rental payment. In the event the initial rental payment is insufficient to meet the full fee account plus any other payments due to us by you, the balance will be payable at the commencement of the Tenancy immediately on submission of our statement.
- The Introduction Service fee is payable whether or not subsequent rent payments are made and we will not be liable to refund any fees paid to us.

1.2 Introduction Service Renewal Fee: The renewal or extension of the original term, a commission fee of 6% no VAT of the gross rent payable for the full term of the renewed or extended period as per the terms of the Memorandum of Agreement.

- The fee is payable in full and in advance at the commencement of the renewed or extended period immediately on submission of our invoice.
- Short Lets where the full term of the Tenancy is less than 6 months, our commission is 15% no VAT of the gross rent payable for the full term in the manner stated above, subject to a minimum fee of £500.00.

2. RENT COLLECTION SERVICE - 10% no VAT

On this level of service, we will: Include all Introduction service. Please see section 1.1

- Demand and receive rent from the Tenant on your behalf (unless otherwise instructed), and forward this to your bank, less our fees and any other appropriate deductions.
- Mailing monthly statements of the Landlord's account.
- On receipt of written confirmation from both parties of the agreement reached between the Landlord and Tenant regarding any deductions to be made from the deposit, disperse the deposit as instructed and confirmed in writing by both parties, and where applicable in accordance with the Compulsory Tenancy Deposit Protection Scheme.
- **Please note** that at this level of service we do not assess or negotiate between the parties any costs due to the Landlord from the Tenant's deposit.

2.1 Rent Collection Service Fees: Our commission is 10% no VAT of the gross rent payable for the full term of the Tenancy as per the terms of the Tenancy Agreement. This fee is payable in full and in advance at the commencement of the Tenancy by deduction from the initial rental payment. In the event the initial rental payment is insufficient to meet the full fee account plus any other payments due to us by you, the balance will be payable at the commencement of the Tenancy immediately on submission of our statement. The Rent Collection Service fee is payable whether or not subsequent rent payments are made and we will not be liable to refund any fees paid to us.

2.2 Rent Collection Service Renewal Fee: The renewal or extension of the original term, a commission fee of 6% no VAT of the gross rent payable for the full term of the renewed or extended period as per the terms of the Memorandum of Agreement. The fee is payable in full and in advance at the commencement of the renewed or extended period immediately on submission of our invoice. Premium Lease In the event of a Premium Lease where rent is paid for a period of over one year in advance we will be entitled to deduct our fees for the full term of the Lease from the premium payment.

3. FULL MANAGEMENT SERVICE - From 12% no VAT

On this level of service, we will: Include all Introduction service and Rent Collection Service

- Visit the property every four months during the Tenancy to conduct a visual check of the condition and report to you in writing. This is not a structural survey and we cannot accept liability for hidden defects or failure to notice anything, which is concealed from us. If extra visits are required during the Tenancy an additional charge will apply.
- Maintain a minimum working cash balance of £500.00 throughout the Tenancy to enable us to meet the minor expenditures and regular outgoings as they become due. A float of £500.00 will therefore be required at the beginning of the Tenancy.
- Arrange for the remedy of defects, which come to our notice or are brought to our attention by the Tenant and deal with routine repairs up to a maximum cost of £250.00 including VAT per item.
- Obtain and submit estimates to you, unless in the case of an emergency, for any necessary works, which are liable, to cost more than £250.00 including VAT.
- If instructed by you, pay your outgoings and charges on receipt of demands in respect of the property, such as insurance premiums, rent, service or maintenance charges. Please note that we are only able to do so if placed in funds and you have instructed the relevant authorities to forward demands for payment to us.
- Arrange for the necessary inspections, and any resultant maintenance and repairs required under the safety regulations. All contractors' charges will be payable by the Landlord.
- Submit regular detailed statements of account to you relating to all transactions undertaken on your behalf.
- Prior to the end of the initial term of the Tenancy ascertain the intentions of both parties and serve any appropriate notices.
- Negotiate any required and agreed extension or renewal of the Tenancy and prepare the relevant documentation.
- At the end of the Tenancy, upon receipt of the inventory check-out report, calculate and agree with the Tenant an appropriate cost or compensation for any damage not due to fair wear and tear owed to you and organise on your behalf any cleaning or repairs, replacement prior to releasing any balance of the deposit monies.

3.1 Full Management Service Commission Option 1: Our commission is 12% no VAT of the gross rent payable for the full term of the Tenancy as per the terms of the Tenancy Agreement. This fee is payable in full and in advance at the commencement of the Tenancy by deduction from the initial rental payment. In the event the initial rental payment is insufficient to meet the full fee account plus any other payments due to us by you, the balance will be payable at the commencement of the Tenancy immediately on submission of our statement. The Rent Collection Service fee is payable whether or not subsequent rent payments are made and we will not be liable to refund any fees paid to us.

3.2 Full Management Service Commission Option 2: Our commission is 14% no VAT of the gross rent payable for the full term of the Tenancy as per the terms of the Tenancy Agreement. This fee will be deducted from the rental payments as they are received throughout the term of the Tenancy. Should the rent not be paid for any reason you will be liable to us for this charge whilst the Management Service continues.

3.3 Full Management Service Renewal Fee: The commission fee of 10% for Option 1 and 12% for option 2 no VAT will continue to be payable and deducted from rental payments as they are received by us. Should the rent not be paid for any reason you will be liable to us for our commission whilst the Tenancy continues.

- Premium Lease In the event of a Premium Lease where rent is paid for a period of over one year in advance we will be entitled to deduct our fees for the full term of the Lease from the premium payment.

3.4 Termination of Management Service: The Management Service may be terminated by either party serving advance written notice of one month which will expire at the end of the Tenancy Term or after the expiration of one calendar month whichever is the soonest. At the expiry of such notice you will no longer be liable for the proportion of the fee relating to the Management service. However, the fee applicable to the Rent Collection Service as detailed above shall remain due and payable. In the event that either party terminates the Management Service it shall be without prejudice to any claim by either party against the other in respect of any monies due to any breach of the terms hereof.

4. MANAGEMENT ONLY SERVICE 6% NO VAT: If you wish we can Manage or continue to Manage your property, as outlined above, in the event of another agent introducing the Tenant. This service can include demand and receipt of the rent and settling the introducing agent's invoice in relation to commission due from rental monies received.

4.1 Management Only Service Fee

- Our commission for this service is 6% no VAT of the gross rental under the terms of the Tenancy Agreement for the full term of the Tenancy.
- This fee will be deducted from the rental payments as they are received throughout the term of the Tenancy. Should the rent not be paid for any reason you will be liable to us for this charge whilst the management continues. In the event that we are not receiving the rent, the fee is payable quarterly in advance and is due and payable whether or not you receive the rent for the period in question.
- We will require you to provide us with a minimum float of £250.00 at the commencement of the contract and to maintain this level on your account.

ADDITIONAL SERVICES & FEES AVAILABLE FOR MANAGED PROPERTIES

5. MAJOR WORKS SUPERVISION: Upon your acceptance of any estimates to remedy any defects or undertake repairs in excess of £250.00 and providing we are in funds, we would supervise the works for an additional fee of 10% of the cost of the works.

5.1 Additional Managed Property Visits: If additional property visits are required this can be arranged subject to a charge of £75.00 no VAT per visit.

5.2 The Energy Performance of Buildings Regulations 2007: If *Canary properties* was instructed to arrange an EPC, a cost of £75 no VAT will apply. Since 1st October 2008 all properties marketed for letting need a valid Energy Performance Certificate (EPC). The EPC is valid for 10 years. *Canary Properties* will not be able to commence the marketing of a Property until the EPC is in place. The Landlord is responsible for ensuring a valid EPC is made available for any tenancy prior to a prospective tenant receiving written details of, or first viewing, a property. The penalty for not having a valid EPC includes a fine of up to £200.

5.3 The Gas Safety (Installation and Use) Regulations 1998: If *Canary properties* was instructed to arrange a GSC, a cost of £75 no VAT will apply. Landlords are responsible for ensuring that appliances and pipework in tenanted premises are maintained in good order and in a safe condition so as to prevent risk or injury to any person. The Regulations require that the appliances and pipework are checked for safety by a qualified and Gas Safe registered engineer prior to the commencement of a Tenancy and every 12 months thereafter. A record of the safety check must be supplied to each Tenant and a copy kept by the Landlord and/or his Managing Agent for at least two years. It is illegal to allow a Tenant occupy a property without a valid Gas Safety Record.

5.4 Electrical Equipment (Safety) Regulations 1994: Landlords must ensure ALL electrical appliances and the electrical supply is 'safe' and will not cause 'danger'. From 1 January 1997, all new electrical appliances must carry a 'CE' mark and instruction booklets or clear working instructions must be provided. Newly installed plugs and sockets must also comply with regulations. Confirmation that inspections have been regularly undertaken could be requested, although no specific time-scale is given, nor is there any requirement for inspections to be made by members of specific bodies, other than the person be competent. We recommend that an inspection is undertaken prior to the commencement of Tenancy and at regular intervals thereafter. We can arrange this on your behalf at your expense. In addition to the contractor's charge, an administration fee will apply.

5.5 Tax Accounting: If you are resident overseas and fail to apply for Exemption or if you are refused Exemption, and we are obliged to submit quarterly returns to HM Revenue & Customs, we will make a charge of £220 no VAT per annum to cover our administration costs.

6. LEGAL REQUIREMENTS

Houses in Multiple Occupancy (HMO): The Housing Act 2004 A Property that is let to at least three individual unrelated Tenants (i.e. three sharers) who share basic facilities (i.e. a kitchen or bathroom) is an HMO. Where there are five sharers or more the Property requires mandatory licensing. HMO properties with less than five sharers are not subject to mandatory licensing however the criteria and requirements vary and some local authorities require a license for smaller HMOs. In addition, where a building is fully converted into self-contained flats and the conversion does not comply with the building standards of the 1991 Building Regulations and less than two thirds of the flats are owner-occupied, this type of building is an HMO and may need to be licensed. A tenancy cannot commence until a license has been obtained. Landlords who fail to apply for a Licence may face enforcement measures and fines of up to £20,000. Further information can be obtained from www.propertylicence.gov.uk or your Local Authority. We therefore strongly recommend that you check with the relevant Local Authority to ascertain whether your property is subject to licensing, and advise us accordingly.

You are required to advise us if your property and tenancy may be an HMO and when you sign this contract with us you are confirming that where applicable you have notified, made application to and obtained the necessary licence from the Local Authority. We cannot be held liable for any difficulties arising as a result of your failure to observe this requirement.

6.1 Housing Health & Safety Rating System: Where an HMO is licensed, the Property will be subject to inspection under the Housing Health & Safety Rating System within five years of the application for a license. However, you should be aware that any Property that is either let or available for rent, could also be subject to inspection under the Housing Health & Safety Rating System to assess potential hazards. Further information can be obtained from your Local Authority or from www.communities.gov.uk.

6.2 Regulatory Reform (Fire Safety) Order 2005: With effect from 1 October 2006 a property that is an HMO must have, as a minimum requirement, mains linked smoke detectors in the common parts (e.g. hallways) and fire blankets and fire extinguishers in the kitchen. Further alterations dependant on the age and character of the property may be required. Further information can be obtained from the Local Authority or from www.communities.gov.uk.

7. TAXATION/OVERSEAS LANDLORDS

TAXES and the HMRC: Any person or organisation receiving income from a property situated in the UK might be liable for tax on that income, whether or not his normal place of abode is inside or outside the UK and is required to disclose such income to HM Revenue & Customs and keep all records for up to 6 years. We recommend that the services of a Chartered Accountant be used to ensure all allowable outgoings can be offset against tax.

7.1 Finance Act 1995: In accordance with the Finance Act 1995, agents are required to deduct tax at the basic rate from rental monies net of expenses prior to paying these monies to Landlords resident overseas. The payments must be made to HM Revenue & Customs quarterly and at the end of the tax year. If excess payments have been made, the Landlord can make application to HM Revenue & Customs for a rebate. Under this Act there is provision for overseas resident Landlords to apply to HM Revenue & Customs for Exemption for their Agent from this requirement. If granted the agent is issued with an Exemption Approval Number, allowing them to pass the rental monies to the Landlord without deduction of tax.

7.2 Exemption Approval: We strongly recommend that you apply for Self-Assessment and we can provide you with the appropriate application form. Please note where there is more than one owner of a property, each person is required to make individual application for Exemption Approval. Should you fail to apply for Exemption, or if you are refused Exemption, and we are obliged to submit quarterly returns to HM Revenue & Customs, we will make a charge to cover our administration costs. You are required to notify us immediately if your residency status changes during the Tenancy or any extension of renewal of the Tenancy, and to provide us with your residential address.

7.3 The Furniture and Furnishings (Fire) (Safety) Regulations 1988 and 1993: All upholstered furniture, permanent or loose fittings, soft furnishings, beds, mattresses, pillows and cushions supplied to a property and forming part of a letting must comply with these Regulations. Carpets and curtains are not covered by the Regulations. Period and antique furniture manufactured before 1950 are exempt. New furniture sold by a retailer after 1 March 1990 is required to comply and carry labels to this effect. Where there are no labels, the manufacturer or retailer should be contacted for confirmation. Receipts can also confirm date of purchase. If there is doubt about compliance, the items should be removed. It is illegal to let a property with furniture, which does not comply. When you sign this contract with us you are confirming that you have ensured that all furniture and furnishings in the property comply with these Regulations.

8. VAT: *Canary Properties* currently do not charge VAT. If this is to be changed *Canary Properties* will notify all concerned in writing.

9. THE PROPERTY OMBUDSMAN (TPO): *Canary Properties* is a member of TPOS (The Property Ombudsman Scheme) and follows the TPOS Code of Practise, the Seller agrees that *Canary Properties* may give information about the sale of the Seller's property to the TPO if the seller has registered a complaint and he/she/they asks for that information. The seller also agrees that *Canary Properties* may give seller's contact details to TPO (if they ask for it) to help them monitor how *Canary Properties* is following the Code of Practice. A copy of the Code of Practise and the Consumer Guide is available from www.tpos.co.uk

10. RULES OF CONDUCT: *Canary Properties* is a member of ARLA and has agreed to abide by its rules of Conduct and Code of Practice. If you have any queries please contact us immediately. When satisfied that you understand and agree to be bound by all terms and conditions stated please complete this form and return the entire document to us to confirm your instructions. Please retain the duplicate copy provided for your own records.

11. TERMINATION: This Agreement may be terminated by either party by way of two month's written notice. The Minimum Fee applies if on termination the total fees due are less than the Minimum Fee. Where cancellation of this Agreement is unavoidable due to circumstances beyond the control of either party, the Minimum Fee will not apply and any pre-payments will be returned to the person entitled to them, less any expenses reasonably incurred to the date of the cancellation.

11.1 The Landlord shall provide the Agent with any requirements for return and repossession of the Property at the earliest opportunity. Landlords should be aware that any Tenancy Agreement entered into on the Landlord's behalf is a binding legal agreement for the term agreed. Details of any Tenancy being entered into will be communicated to the Landlord as soon as possible.

11.2 Landlords should be aware that the legal minimum notice period to Tenants under assured tenancies is generally two months (should the contract allow for early termination) and this needs to be given even in the case of a fixed term Tenancy which is due to expire.

12. AGENCY AGREEMENT: Hereby appoint *Canary Properties* to undertake the services and make the arrangements indicated below on my/our behalf under the terms outlined in these Terms & Conditions of Business: (tick as applicable/required)

13. TYPE OF SERVICE:

- Introduction Service - **8%** No VAT for first tenancy term plus a further **6%** No VAT for any renewed terms
- Rent Collection Service - **10%** No VAT for first tenancy term plus a further **8%** No VAT for any renewed terms
- Full Management Service option 1 - **12%** No VAT for first tenancy term plus further **10%** No VAT for any renewed terms
- Full Management Service option 2 - **14%** No VAT for first tenancy term plus further **12%** No VAT for any renewed terms
- Management Only Service - **6%** No VAT

13.1 Special Conditions (if any): _____

14. ADDITIONAL SERVICES

- EPC **£75**
- Gas Safety Check **£89**
- Electrical Safety Check
- Smoke Alarm Installation
- Inventory

15. LANDLORD'S DETAILS

Name Landlord (1) _____

Correspondence Address _____

_____ Post Code _____

Home _____

Mobile _____

Office _____

Email _____

ID Type & Number _____

Name Landlord (2) _____

Phone _____

15.1 Property Address _____

_____ Post Code _____

16. SIGNING

I/We hereby confirm that the Terms of Business and Agency Agreement have been duly noted and agreed. In the event of my/our being liable to pay *Canary Properties* commission account in accordance with this contract, I/we irrevocably agree that on the day of completion, my/our appointed solicitor will settle *Canary Properties'* commission account from the proceeds of the sale. I/We warrant that any information given by me/us to *Canary Properties* is true and accurate to my/our best belief and knowledge. I/We agree to check carefully the sales particulars prepared by *Canary Properties* and to inform *Canary Properties* immediately should there be any inaccuracies.

Landlord(s):

Signed: _____

Name: _____

Date: _____ / _____ / _____

Signed: _____

Name: _____

Date: _____ / _____ / _____

Agent:

Signed: _____

Name: _____

Date: _____ / _____ / _____