

Sole Agency/Joint Sole Agency Agreement

Fisks London

**Fisks Docklands Ltd trading as Fisks London ESTATE AGENTS
CONFIRMATION OF INSTRUCTIONS AGREEMENT**

(In accordance with the Estate Agents Act 1979 and The Estate Agents (Provision of Information) Regulations 1991)

TERMS AND CONDITIONS OF BUSINESS

Important Notice

This is a legal document. Please take time to read it carefully and ask any questions relating to the terms and conditions below before signing.

1. This is a Sole Agency/Joint Sole Agency Agreement between

(the 'Agent')

and

(the 'Client')

For the sale of _____

(the 'Property')

This agreement appoints the agent to market the Property for sale on the terms set out below agreed between the parties.

This agreement will start on the date the Client signs below for a minimum period of _____ weeks (the 'Minimum Period') and will continue after the Minimum Period unless and until terminated by notice in accordance with the clause 11 (Termination of Agency).

The Property will be marketed at an initial asking price of £_____. (The asking price is not a valuation but a figure for marketing purposes.)

The asking price may subsequently be changed with the Client's agreement.

2. Energy Performance Certificate ('EPC')

Before a residential property can be marketed an EPC must be available or have been commissioned. Failure by the Agent or Client to comply with this requirement carries a penalty of £200. The Agent and the Client will agree separately as to the cost of the EPC and how it is to be provided.

3. Sole Agency/Joint Sole Agency Fees

(Where there is a Joint Sole Agency, the Joint Sole Agents work together on behalf of the Client. The Client will pay a single fee that will be split by the Joint Sole Agents according to whatever agreement is made between the Joint Sole Agents.)

Commission of _____% including VAT (equal to _____% plus VAT) of the selling price at which contracts are exchanged (including any part of the price attributable to fixtures, fittings and contents (such as curtains, carpets and any other chattels) where their sale is agreed by the Agent) will be charged by the Agent where payable under the terms of this agreement.

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Based on the initial asking price referred to above the Agent's fees will be £ _____ including VAT (£ _____ plus VAT of £ _____).

Please note should the final sale price be higher or lower than the asking price the Agent's commission will be correspondingly higher or lower.

[The Agent will charge a minimum fee of £ _____ including VAT.]

OR

A fixed fee of £ _____ including VAT will be charged by the Agent if earned under the terms of this agreement. This fee will not vary whatever the sale price eventually agreed.

4. The Agent's Charges

The commission the Client pays the Agent is based on the total value of the transaction including the price of fixtures, fittings and contents.

The total value of the transaction will also include the value of any non-cash consideration put forward by the buyer including any property exchanged.

The amount charged will be either the percentage commission or the fixed fee set out in clause 3, subject to any minimum fee specified.

5. Withdrawal Charges

If the Agency Agreement is terminated by the Client or the Property is sold other than in circumstances entitling the Agent to a fee as stated in these terms and conditions, the Client will pay to the Agent a withdrawal charge of £ _____ including VAT plus any agreed marketing charges. The withdrawal charge will be paid by the Client within fourteen days of withdrawal. This does not affect the Client's rights to withdraw or withhold payment where the Agent has failed in its obligations and responsibilities to the Client under this agreement.

6. Additional Charges

The Agent may recommend additional marketing activity for the Property and will make a separate charge for this. The Agent will not commit to any additional marketing without asking and agreeing such costs with the Client first and in writing.

The Client will be sent a separate invoice for any extra charges. The Client must pay the invoice in full within fourteen days of the date on it (or within fourteen days of withdrawal of the Property from the market, whichever is earlier). Unless stated otherwise, the Client must pay VAT (at the prevailing rate) on all charges.

7. Settlement of Fees

(a) Fees Payable for Sole/Joint Sole Agency

Commission fees are payable in the circumstances outlined in this Agreement. Fees become due at exchange of contracts or (if there is no contract) upon completion of the sale.

(b) Responsibility for Fees

The Client is responsible for the payment of these fees which are payable no later than three working days after completion or 28 days after exchange of contracts on the Property, whichever is sooner. In practice, the Agent will usually submit its account to the Client's solicitors/conveyancer for settlement in accordance with the above terms on the Client's behalf.

If the account remains unpaid after the due payment date the Agent reserves the right to charge daily interest on the outstanding balance at an annual rate of interest of 4% above Bank of England base rate from the due payment date until payment is received in full.

8. Ready, Willing and Able Buyer

A buyer is a ready willing and able buyer if he is prepared and is in a position to exchange unconditional contracts for the purchase of the Property.

The Client will be liable to pay commission to the Agent, in addition to any other costs or charges agreed, if such a buyer is introduced by the Agent in accordance with your instructions and this must be

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paid even if you subsequently withdraw and contracts for sale are not exchanged, irrespective of the reasons.]

9. Double Commission Warning

The Client may be liable to pay agency fees to more than one agent if:

- The Client has previously instructed another agent to sell the same property on a sole agency, joint sole agency, multiple agency or a sole selling rights basis; or
- The Client instructs another agent during or after the period of the Agent's sole agency or joint sole agency.

10. Sole Agency / Joint Sole Agency – Liability to Pay Commission

Where the Agent acts on the Client's behalf as Sole Agent/Joint Sole Agent, the Client will be liable to pay remuneration to the Sole Agent/ Joint Sole Agent, in addition to any other costs or charges agreed, if at any time unconditional contracts for sale of the Property are exchanged:

- i) With a buyer introduced by the Agent during the period of the Agent's Sole/Joint Sole agency or with whom the Agent had negotiations about the Property during that period or,
- ii) With a buyer introduced by another agent during that period.

The Agent may be entitled to a commission fee if the Client terminates this agreement and a memorandum of sale is issued by another agent to a buyer that the Agent has introduced within 6 months of the date this agreement ended and where a subsequent exchange of contracts takes place. If no other estate agent is involved this time limit extends to an exchange of contracts within two years of the date this agreement ended.

Reference above to the exchange of contracts shall be deemed to include completion of a sale of the Property where no contracts are exchanged.

11. Termination of Agency

Either party can terminate this agreement by giving not less than fourteen days' notice to the other in writing to expire at the end of or after the last day of the Minimum Period.

The Agent shall be entitled to terminate this Agency Agreement at any time by giving written notice to the Client to that effect if:

- The Client is in breach of any of his obligations in this Agency Agreement and (if the breach is capable of remedy) fails to remedy the same within seven days of notice in writing from the Agent to do so; or
- The Client materially or persistently breaches his obligations in this Agency Agreement.

12. Marketing Issues

a) The Client agrees that details of the Property may/will be circulated to the offices of members of _____ on a sub-agency basis and they will then also be authorised to offer the Property for sale at no extra cost to the Client. A sub-agent is defined as a person/agent who receives and acts upon instructions from a principal agent rather than directly from the seller. Remuneration will be by separate agreement between the agents concerned.

Yes No (Please check box)

b) The Client agrees that details of the Client's property may also appear on such property websites as seen fit by the Agent.

Yes No (Please check box)

Where an offer has been accepted subject to contract, the Agent will consult and take the Client's instructions as to whether the Property should be withdrawn from the market or continue to be marketed. In the latter case, the Agent is under a duty to advise the prospective buyer in writing.

13. For Sale Boards

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The Agent requires permission to erect a For Sale board at the Property to assist in the marketing of the Property. Any such board will comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 or such other regulations as may apply in the locality of the Property. The Client consents that the Agent may erect a For Sale board at the Property:

Yes No (Please check box)

The Agent accepts liability for any claim arising under such Regulations in connection with the board, unless the action arises as a result of a further board being erected by another agent. The For Sale board will remain at all times the property of the Agent or the Agent's contractor.

14. Offers

The Agent will promptly forward to the Client details in writing of all offers received from potential buyers at any time up until contracts have been exchanged, unless the offer is of an amount or type which the Client has specifically instructed the Agent, in writing, not to pass on.

A written or electronic record of all offers received will be kept (including the date and time the Agent received such offers and the Client's response). This record will be available to the Client on request. In turn, the Client must promptly inform the Agent of all enquiries or discussions which the Client may have with any prospective buyer, whether introduced by the Agent or not, that are made without the knowledge of the Agent.

15. Access to the Property

If the Agent holds the keys to the Property, the Agent will accompany any viewings of the Property, unless the Agent and Client agree otherwise in writing. If the Agent is arranging for someone to view an occupied property, the Agent will agree the arrangements with the occupier beforehand.

The Client agrees to co-operate in the arrangement of viewings of the Property and to permit the same at reasonable times on reasonable notice.

It is the Agent's usual practice to release the keys to the Property to certain professionals who require access, such as surveyors acting on behalf of buyers. In order to avoid delaying the sale, once the Agent has established their identity, they are permitted to inspect the Property unaccompanied. Please advise the Agent immediately if this is NOT acceptable to the Client. The Agent will seek the Client's permission before allowing unaccompanied visits by any other third parties such as trades people or representatives of any utility companies.

16. Extra Services and Disclosure of Referral Fees

By law, the Agent must tell the Client if the Agent or any connected person intends to earn any commission or other fees from offering or referring other services to the Client or to a buyer. If the Agent or any connected person earns money from any of these services or referrals the Agent or connected person would keep this commission or fee.

The Agent offers the following services and has the following referral arrangements in place:

- The Agent routinely refers sellers [and buyers] to Zing Mortgages. It is the client's or buyers decision whether to choose to deal with Zing Mortgages. Should the client or a buyer decide to use Zing Mortgages the client should know that the Agent would receive a referral fee of 25% of the procurement fee paid to Zing mortgages which is typically equivalent to 0.3% of the loan amount. .

17. Personal Interest

By law, the Agent must declare whether there is a personal interest of the Agent or any employee or associate of the Agent or any employee in the sale of the Property. To assist the Agent to fulfill this obligation the Client is asked to indicate any personal association with the Agent or any employee or associate of the Agent or any employee of which the Client is aware. If the Client is, or thinks they may be, a close relative or a friend or may have any business interests with the Agent or anyone involved with the Agent, the Client should let the Agent know immediately.

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Is the client aware of any such interest? Yes No (Please check box)

If the answer is yes, please give details on an additional sheet.

Additional sheet attached? Yes No (Please check box)

18. The Property Details and Information

The Agent will need to disclose information regarding the tenure of the Property, any restrictions affecting it and any additional information which may be material to a prospective buyer (particularly where the Property is leasehold). For this purpose the Agent may ask the Client to complete and sign a property information questionnaire which the Client agrees to complete, sign and return to the Agent promptly.

The Property details to be prepared by the Agent are either attached to this agreement or will be sent to the Client as soon as they have been prepared. Anything the Agent says or publishes about the Property as the Client's estate agent must not be false or misleading. It is very important that the Client reads the Property details carefully and immediately informs the Agent if there is anything that the Client thinks the Agent should have included or that is inaccurate or misleading. Please remember that the Agent cannot say anything about the Property that the Agent cannot prove. For example, the Agent should not say that a home has cavity-wall insulation if there are no guarantees or invoices to show that such work has been done.

The Agent is obliged to obtain the Client's agreement to the written Property details to confirm the details are accurate. Property details that have not been agreed by the Client must be marked as 'draft' or 'subject to approval'.

19. Discrimination

The Agent will not discriminate against any person contrary to the provisions of the Equality Acts 2006 or 2010. The Agent will not discriminate or threaten to discriminate against any prospective buyer of the Property because that person declines to accept that the Agent will (directly or indirectly) provide related services to them.

20. Data Protection

The Agent is registered under the Data Protection Act 2018 and complies with the provisions of that Act and with the GDPR.

The Agent's Privacy Notice provided to the Client in writing on or before the signing of this Agency Agreement sets out in detail the personal information about the Client that the Agent will collect and process, how the Agent may use and share it with others, for how long the Agent shall retain it and the Client's rights in respect of it.

The Client's contact details may also be used in any monitoring/survey process in order to ensure compliance with data protection legislation.

21. Rules of Conduct

The Agent is a member of the National Association of Estate Agents (Propertymark) and has agreed to abide by its Rules of Conduct.

22. Money Laundering

Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and the Criminal Finances Act 2017 the Agent is legally obliged to undertake Customer Due Diligence. This will require the Client to produce to the Agent satisfactory evidence of the Client's identity and current residential address. The Agent is also required by law to undertake Customer Due Diligence in respect of a prospective buyer before the Client accepts an offer for the Property.

23. The Property Ombudsman

The Agent is a member of The Property Ombudsman Scheme ('TPOS') and follows the TPOS Code of Practice. The Client agrees that the Agent may give information about the sale of the Property to the Ombudsman, if the Client has registered a complaint and he asks for that information. The Client also

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agrees that the Agent may give the Client’s contact details to TPOS (if they ask for it) to help them monitor how the Agent is following the Code of Practice.

A copy of the Code of Practice and Consumer Guide is available from www.tpos.co.uk or from the Agent on request.

24. Consumer Protection From Unfair Trading Regulations 2008 (‘CPRs’)

The Agent is obliged to comply with the CPRs which (among other things) prohibit the Agent from giving false or misleading information or hiding or failing to provide material information in relation to the Property (which includes any information relating to any defects in or drawbacks of the Property) in a clear, intelligible and timely fashion. The Client must not raise any objection to any statements made or action taken by the Agent with a view to complying with the CPRs.

25. In-House Complaints Handling

The Agent maintains and operates an in-house complaints procedure, a copy of which is available upon request. In the event that any complaint is not resolved between the Agent and the Client in accordance with such procedure, the Client has a right to refer the matter to The Property Ombudsman.

26. Compliance With Laws

The Agent and the Client acknowledge their respective obligations to comply with all applicable laws in the marketing and prospective sale of the Property and mutually agree to do so. Where the law and the interests of the Client conflict, adherence to the law must prevail.

27. Copyright

The Agent retains the copyright to all sales particulars, photographs, floor plans, sketches and advertisements in respect of the Property, none of which may be reproduced without the Agent’s express written consent.

28. Interpretation

In this Agency Agreement, words referring to the masculine include the feminine and words in the singular include the plural and vice versa in each case.

29. Signatures

Before signing this agreement the Client should ensure that the Client has read carefully the terms of the agreement and asked for clarification of any issue that is not understood.

By signing this Agreement, the Client is entering into a legally binding agreement and confirms that he Client has read and agrees to the terms and conditions of this Agreement.

The Client acknowledges and warrants that by appointing the Agent the Client is contracting on behalf of the Client and all owners of the Property.

Signed:

Print Name _____ Date _____
The Client

Signed:

Print Name _____ Date _____
The Client

Signed:



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Print Name _____ Date _____

For and on behalf of _____ (the Agent)

Position _____

NOTE: The Agent must sign and date the Agreement before it is given to the Client to sign. The Client should be given a copy signed by both parties to retain.

RIGHT TO CANCEL

You have the right to cancel this contract within 14 days without giving any reason.

The cancellation period will expire after 14 days from the day after the date of the conclusion of the contract.

To exercise the right to cancel, you must inform us (details below*) of your decision to cancel this contract by a clear statement (eg. a letter sent by post, fax or e-mail). You may use the attached model cancellation form, but it is not obligatory.

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

* Our details are: Fisks London, 2 Parker House, Admirals Way, London, E14 9UQ.
e;- info@fiskslondon.co.uk

EFFECTS OF CANCELLATION

If you cancel this contract, we will reimburse to you all payments received from you. We will make the reimbursement without undue delay, and not later than 14 days after the day on which we are informed about your decision to cancel this contract. We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.

If you requested us to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed until you have communicated to us your cancellation of this contract, in comparison with the full coverage of the contract.

MODEL CANCELLATION FORM

To: Fisks London, 2 Parker House, Admirals Way, London, E14 9UQ
e;- info@fiskslondon.co.uk

I/We[*] hereby give you notice that I/We[*] cancel my/our[*] contract for the supply of the following service[*],

Ordered on [*] / received on [*],

Name of consumer(s):

Address of consumer(s):

Signature of consumer(s) (only if this form is notified on paper),

Date:

[*] Delete as appropriate.

REQUEST FOR THE COMMENCEMENT OF SERVICES

I (Name of Client).....

Contract Reference Number

Date of Contract.....

Name of Agent.....

Property to be marketed for sale

.....

I would like the supply of services under this contract to begin before the expiry of the cancellation period.

I understand that I have a fourteen day period from the day after the date of the contract in which I may cancel it. Therefore if I subsequently exercise my right to cancel I must pay the Agent an amount:

- a) for the supply of the service for the period for which it is supplied, ending with the time when the Agent is informed of my decision to cancel the contract, and
- b) which is in proportion to what has been supplied, in comparison with the full coverage of the contract.

This will include any marketing, energy performance certificate and other costs and expenses that I have agreed to pay should I withdraw from the contract.

I understand that I shall cease to have the right to cancel the contract once the services under the contract have been fully performed by the Agent.

I confirm that I wish the services to start on.....

Signed:.....

Date:.....