

# INSTRUCTION FORM

## PROPERTY TO LET DETAILS

FLAT/HOUSE NUMBER/NAME	STREET NAME
TOWN/VILLAGE	POSTCODE
FULL NAME OF OWNER (AS AT THE LAND REGISTRY)	FULL NAME OF ADDITIONAL OWNER/S (AS AT THE LAND REGISTRY)

If the Property is jointly owned, please state the names of all Owners. If the property is corporately owned or owned by a trust, the full name of the company/ trust, the company registration number and registered office address must appear on this form, which must be signed by an authorised signatory.

## THIS INSTRUCTION IS FOR THE (PLEASE TICK)

	COMMISSION (SEE 3.1.1)	
Elite Property Management Service	10% (12% inc VAT)	<input type="checkbox"/>
Tenant Find Only Service	60% of 1st month's rent only (72% inc VAT)	<input type="checkbox"/>
Tenancy Agreement Fee	£150 (£180 inc VAT)	<input type="checkbox"/>

## RENEWAL FEE

No charge. This is included as part of our service.

## EXAMPLE OF COMMISSION

On a 12 month managed letting of £1,000 per month, total commission fees of £1,200 (£1,440 inc VAT).

## ADDITIONAL FEES

Refer to our Landlord's Guide to Fees and Services

## LANDLORD DETAILS

CORRESPONDANCE ADDRESS (NOT THE RENTED PROPERTY ADDRESS)

FLAT/HOUSE NUMBER/NAME	STREET NAME
TOWN/VILLAGE	POSTCODE
FULL NAME OF OWNER (AS AT THE LAND REGISTRY)	FULL NAME OF ADDITIONAL OWNER(S) (AS AT THE LAND REGISTRY)

I/We confirm that we/I are UK residents

I/We confirm that we/I are non UK resident for tax purposes

## BANK DETAILS (TO RECEIVE RENT PAYMENTS)

NAME OF BANK	ACCOUNT NUMBER
NAME OF ACCOUNT HOLDER/S	SORT CODE

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## AUTHORISATION

Full details of commission and other fees are set out in conditions 3 and 4 and the Owners/ is/are reminded to read these carefully.

- I/We confirm that I/we are the sole/joint owners of the property
- I/We, the undersigned Owner(s) hereby appoint Whatley Lane as Agent on my/our behalf on the attached terms and conditions.
- I/we have read the terms and conditions of this agreement, in particular conditions 3, 4, 5, 5, 7, 13.
- I understand that if I fail to sign this instruction form, but continue to instruct the agent, the agent will treat this as acceptance of this instruction form and the attached terms and conditions. I understand that I may have the right to cancel the Agreement within 14 days of signing as detailed in condition 13.

The agreement is only binding once it has been accepted by the signature of a duly authorised member of staff of Whatley Lane BSE Ltd or by the agent starting to provide these services.

OWNER(S) NAME PRINTED	FOR WHATLEY LANE (NAME)
DATE	DATE
SIGNED	SIGNED

## LETTINGS AND MANAGEMENT TERMS AND CONDITIONS

Our aim is to give care, skill and attention to letting and/or managing your property - while this is our primary aim, we recognise the need for our relationship with you as our client to be formally documented, to protect you and us. So please take the time to read these terms and conditions - these are the terms on which we will act as agent for you.

The following conditions (Conditions) together with the provisions set out in the instruction form shall constitute the agency agreement between us (referred to as Agent) and you (Agreement).

### 1. DEFINITIONS

<b>Agent</b>	Whatley Lane BSE Limited, a company incorporated in England and Wales. With company number 08960143
<b>Commencement Date</b>	The date of commencement of the tenancy.
<b>Fees</b>	The commission and other remuneration payable for the Agent's services under the agreement as set out in conditions 3 and 4 of the Agreement.
<b>Initial Agreement</b>	The agreement between the Owner and the Tenant for the tenancy. Either: (i) the provision by the Agent to the owner of the contact details of a prospective tenant whose details were not known by the owner prior to the date of the Introduction; or (ii) the Agent arranging or assisting a prospective tenant to view the Property <b>either in person or virtually</b> , whether or not the Owner had the contact details of the prospective tenant prior to the date the Agent acted to arrange or assist such a viewing. <b>Introduce, Introduces and Introduce</b> shall be interpreted accordingly.
<b>Letting</b>	The business of the Agent in letting the property.
<b>Management</b>	The business of the Agent in managing the property.
<b>Owner</b>	The Owner of the Property whose name appears on the instruction form.
<b>Property</b>	The premises details of which are set out in the instruction form.
<b>Term</b>	The term starting on the date of signing of the instruction form and ending on the cessation of a Tenancy or Tenancies (including all renewal(s), extension(s) or hold-over(s) of the tenancy or new agreement with the Tenant(s) arranged by the Agent from time to time unless earlier determined as provided in these Conditions or continuing until determined at a later date determined by notice.
<b>Tenant</b>	Means the Tenant or Tenants procured by the Agent for the purposes of renting the Property
<b>Tenancy</b>	Means the period for which the Tenant is entitled to rent the Property (in accordance with a Tenancy Agreement).

### 2. APPOINTMENT

- 2.1** The Owner appoints the Agent to be its agent for the Letting and Management of the Property as set out in the instruction form and the Agent accepts such appointment from the date the Agent signs the instruction form or commences supplying its services, whichever is the earlier.
- 2.2** The minimum period of appointment for our letting service is 4 weeks.
- 2.3** The minimum period of appointment to manage the Property is 12 months.
- 2.4** The owner will be liable to pay the Agent Fees as set out in condition 3 for the Lettings service if at any time unconditional contracts for letting the Property are exchanged:

- 2.4.1** With a tenant introduced to the Property by the Agent during the Term; or
- 2.4.2** With whom the Agent had negotiations about the Property during that period.
- 2.5** The Owner authorises the Agent to act for it in its name and on its behalf at the Owner's expense:
- 2.5.1** To perform any act and do anything referred to in condition 6 as is applicable or required in connection with the services requested
- 2.5.2** If appointed to provide Management services, generally to do, execute and perform any other reasonable act or thing not specified in condition 6 in respect of the Management of the Property and which the Agent in its sole discretion believes necessary for the management of the property.
- 2.6** The Agent shall have no responsibility to any tenant, lessee or third party other than the owner.
- 2.7** The owner agrees to let the agent erect a board for the period of the Agreement (if applicable).

### 3. FEES

#### 3.1 Commission Fee

**3.1.1 The scale of Fees is set out on the instruction form. Tenancy Agreement Fee** - in the event that the Agent introduces a Tenant who enters into an agreement to rent the Property (**Initial Agreement**), a commission fee becomes payable to the Agent (**Tenancy Agreement Fee**). The Tenancy Agreement Fee is payable for any Tenant introduced to the Property by the Agent, whether or not the Tenancy is finalised by the Agent, by another agent or otherwise.

**3.1.2 Rent Review Fee** - The Agent will endeavour to contact both the Owner and Tenant before the end of the Tenancy Agreement to negotiate an extension of the Tenancy. A commission fee is payable upon any new agreement with the Tenant (**Rent Review Fee**). The Renewal Fee is payable whether or not the renewal, extension, hold-over or new agreement with the Tenant is negotiated by the Agent.

**3.1.3** Where there is more than one Tenant, the Rent Review Fee will be payable in full where any or all of them remain in occupation. The Agent will:

**3.2** Deduct the Tenancy Agreement Fee from the first rental payment; provided that if the Fee exceeds the first rental payment of the applicable period, the balance will be deducted from subsequent payments due to the Owner, including without limitation, rental payments.

**3.2.1** Where there is a break clause at 12 months or beyond the agent will take their commission up to the break clause and annually thereafter where due. In the event of a Rent Review additional charges will be due in accordance with the Rent Review Fee set out in clause 3.1.2

**3.2.2** Deduct the Review Fee from the first rental payment of any new agreement; provided that if the Fee exceeds the first rental payment of the applicable period, the balance will be deducted from subsequent payments due to the Owner, including without limitation, rental payments.

**3.2.3** The Agent may use any sums obtained or held on the Owner's behalf, including rental payments on the Property or any other Property on which the Agent is instructed, to pay any sums owing to the Agent.

**3.2.4** Subject always to the provisions contained in clause 3.2.5, if the Tenancy Agreement is terminated prior to the end of the term of the Tenancy, in accordance with any break clause contained in the Tenancy Agreement, the Agent will refund the Fee for the remaining period of the Tenancy. The Fee will be refunded within 14 days of the Tenant vacating the Property. This provision will also apply to renewals where the Tenant vacates the Property more than one month prior to the end of the period for which a Rent Review Fee has been paid except that the Fee will be refunded within 14 days 3

- of termination.
- 3.2.5** All agency Charges and Fees are subject to VAT at the prevailing rate.
- 3.2.6** Without prejudice to any Fees payable for the period prior to a sale of the Property and under any separate Sale of Property Fee Agreement entered into by the Agent and the Owner, the Owner's obligation to pay commission fees terminates on a sale of the Property.
- 3.2.7** In the event of a party introduced by the Agent (or any person or body corporate associated with the party) subsequently purchasing the Property, whether before or after entering into a Tenancy Agreement, commission shall be payable by the Landlord to the Agent on completion of the sale at the rate of 1% +VAT of the sale price.
- 3.3 Letting Service Fee**
- 3.3.1** The Tenancy Agreement Fee is charged as a percentage of the total rental value of the agreed term as specified in the Tenancy Agreement at the rates set out on the instruction form.
- 3.3.2** Where a renewal is for an agreed term, the Renewal Fee is charged as a percentage of the total rental value of the agreed term at the rates set out on the instruction form, subject to condition 3.2.4.
- 3.4 Letting & Elite Management Service Fee**
- Subject to condition 3.2.4 (termination of Tenancy prior to end of term of Tenancy):
- 3.4.1** The Tenancy Agreement Fee is charged as a percentage of the total rental value of the agreed term as specified in the Tenancy Agreement at the rates set out on the instruction form.
- 3.5** The Management Service portion of the Fee is taken monthly in advance.
- 3.6 Tenancy Agreement Fee** - which is payable by the Owner - £150 + VAT for a Tenancy Agreement Fee (including the Agent's administration and drawing up the tenancy) And separately £20 +VAT in respect of the reference check and £25 +VAT in respect of the deposit registration fee.
- 3.7 Abortive Tenancy Fee** - Once an offer has been accepted by both parties and Tenancy Agreements drawn up (whether in final draft or not) should the Owner inform the Agent that he/she does not wish to proceed, **50% of the Agent's full fee as set out in condition 3.3 is payable.** This is in addition to any other fees due to the Agent, for instance the Tenancy Agreement Fee, Reference Fee, Deposit Registration Fee.
- 3.8 Professional Cleaning** - The charge for professional cleaning will vary depending on the property. The cost of professional cleaning at the start of the tenancy is borne by the Owner and the appropriate sum must be paid prior to the Owner signing the Tenancy Agreement to meet the Professional Cleaner's invoices. If the property is not to a standard as set by the Agent's **Tenancy Cleaning Specification** prior to move in, the Agent reserves the right to appoint a professional cleaner and deduct costs incurred from rents or other income received on the Owner's behalf.
- 3.9 Inventory and Check-in and Check-out** - The charge for inventory check-in and check-out will vary depending on the size and content of Property. The cost of preparation of this, is borne by the Owner. The appropriate sum must be paid prior to the Owner signing the Tenancy Agreement to meet the inventory clerk's invoices. Otherwise, such sum will be deducted from rents or other income received on the Owner's behalf. The Agent will be happy to provide the Owner with an up to date price list of the inventory charges. Subject to condition 7, the Agent does not accept liability for losses resulting from any errors or omissions within any inventory, check-in or check-out documents that are produced by a third party.
- 3.10 Statutory Compliance**
- 3.10.1 Energy Performance Certificate** - All buildings in the private rented sector require an Energy Performance Certificate (EPC). This certificate will remain valid for ten years. Landlords are required by law to obtain and make available, free of charge, to prospective tenants at the earliest opportunity and must provide the person who takes up the Tenancy with a copy. If the Owner fails to provide an EPC, the Agent will organise an EPC from an approved supplier at the rate of £91.67 + VAT and will deduct the cost from rents or other income received on the Owner's behalf.
- 3.10.2 Gas Safety Regulations** - It is the Owner's responsibility under the Gas Safety (Installation & Use) Regulations 1998 to ensure that all gas appliances and the fixed installation are maintained in good order and checked for safety at least every 12 months by a Gas Safe registered engineer.
- 3.10.3 Electrical Installation Condition Report (EICR)** - Since June 2022, landlords are required to have electrical installations inspected and tested by a qualified electrician every 5 years. A copy of the electrical safety report must also be provided to the tenant. Properties that are managed by us are also required to have a Portable Appliance Test (PAT) annually.
- 3.10.4 Failure to provide safety certificates** - The Owner shall provide the Agent with valid certificates in respect of the regulations referred to in conditions 3.10.2 and 3.10.3 prior to the commencement of the Tenancy or, if the Tenant remains in occupation beyond the expiry of the original certificate, 14 days before the expiry of the original certificate. If the Owner fails to provide any such certificate when due, the Agent reserves the right, but shall be under no obligation to, appoint an appropriate registered engineer to make the necessary checks and carry out any remedial works necessary and will deduct the cost incurred from rents or other income received on behalf of the Owner.
- 3.10.5 Smoke and Carbon Monoxide Alarms** - The Owner is legally responsible for installing and maintaining working smoke alarms on every floor of the Property in addition to carbon monoxide alarms in any room with a solid fuel combustion appliance. The Owner is responsible for ensuring that each alarm is in proper working order at the start of the Tenancy and that all checks are documented.
- 3.10.6 Furniture and Furnishings Fire Safety** - The Owner warrants that all furniture and furnishings in the Property or to be included in a Property to which the Agreement relates complies in all respects with the Furniture and Furnishings (Fire) (Safety) Regulations 1988, as amended, and that any furniture and furnishings purchased for the Property after the date of this Agreement shall so comply, for the duration of the Tenancy and any renewal(s), extension(s) or hold-over(s) of the Tenancy or new agreement with the Tenant .
- 3.10.7 Health and Safety** - Legionnaire's disease - The Owner is legally responsible for carrying out a risk assessment for Legionnaire's disease before letting the Property and for maintaining control measures to minimise the risk of the disease in the water system while the Property is let.
- 3.10.8 Disability Discrimination** - Under disability discrimination legislation, landlords have specific duties and it is your responsibility to comply with your obligations under the legislation. Further information can be found at [equalityhumanrights.com](http://equalityhumanrights.com)

- 3.10.9 Other legislation** - The Owners shall obtain, maintain and comply with all necessary licenses and consents and comply with all relevant legislation in relation to the Property and their use, the Owner entering into the Tenancy, the Tenant and the Tenancy.
- 3.11 Deposits**
- 3.11.1** Under the Housing Act 2004, if the Owner takes a deposit from the Tenant under an Agreement, the Owner has an obligation to protect that deposit with a government authorised tenancy deposit protection scheme within 30 days of receiving it.
- 3.11.2** The Agent is a member of a Tenancy Deposit Scheme, which is administered by Deposit Protection Service. Full details of the scheme are at [www.depositprotection.com](http://www.depositprotection.com)
- 3.11.3** The Agent will obtain and hold as stakeholder throughout the Tenancy a deposit from the Tenant against unpaid rent or bills, dilapidations and any other costs or losses incurred as a result of any breach of the terms of the Tenancy Agreement by the Tenant.
- 3.11.4** For all Assured Shorthold Tenancies, the Agent will hold the deposit in accordance with the Housing Act 2004 under the terms of the Tenancy Deposit Scheme. Undisputed deposits must be returned to the Tenant within 10 days of termination of the Tenancy.
- 3.11.5** Subject to condition 7, the Agent accepts no liability for the failure to register a deposit where it is held by the Owner or an alternative appointed agent and the Owner shall fully reimburse the Agent any cost, expense or loss incurred by the Agent arising from any claim by the Tenant however arising as a result of the Owner or an alternative appointed agent holding the deposit. The Owner shall provide proof of membership of an authorised scheme.
- 3.11.6** Landlords who are resident outside the UK are not entitled to hold the deposit for the duration of the Tenancy.
- 3.12 References/Credit Checks** - The Owner is responsible for checking the authenticity and accuracy of references and by signing the Tenancy Agreement or otherwise instructing the Agent to proceed with a letting, the Owner, or the Owner's authorised representative, is deemed to have accepted such references/checks, or waived the requirement for the Agent to obtain these.
- 3.13 Right to rent** - the Owner is legally responsible for ensuring that all adult occupiers of the Property have valid leave to remain in the UK, and thus the right to rent a property in England. The Owner must satisfy him/herself of all occupants' right to rent i) before the Commencement Date of the Tenancy, ii) upon any renewal, extension or hold-over of the Tenancy or new agreement with the Tenant and iii) before expiry of the occupants' leave to remain in the UK. If the Agent obtains identity documents for the Owner for this purpose, it shall not constitute acceptance by the Agent of responsibility for the matters falling to the Owner under the right to rent legislation.
- 3.14** The Owner must maintain a record of all documents and relevant expiry dates, and ensure that occupants without valid leave to remain in the UK are reported to the Home Office as soon as reasonably practicable. The Owner shall update the Agent as to any Home Office reports.
- 3.15 Landlords resident outside UK** - Income from all residential lettings in the UK is subject to Income Tax or Corporation Tax.
- 3.15.1** If the Owner is a non resident landlord, the Owner may apply to the HMRC for approval to receive rents without tax being deducted. If granted, the Owner will receive the rent gross and be responsible for accounting him/herself to HMRC each tax year directly.
- 3.15.2** The Agent is required to deduct basic rate tax and account to HMRC for all overseas landlords who have not provided a valid and current written evidence of approval. Any such tax withheld will be placed on deposit in an instant access account named Whatley Lane Client Office Account at Barclays Bank plc. No bank charges are levied and interest will be payable at tiered rates in accordance with the Barclays Bank plc Business Account. Any interest earned on tax retentions will be retained by the Agent to defray bank charges and audit costs.
- 3.15.3** If the Owner is an overseas landlord and does not have approval from HMRC, the Owner may need to apply to the Revenue for a refund of excess tax once his/her accounts are up to date. In such instances, the Agent is required to complete quarterly returns to submit to the Owner and the Inland Revenue. For the additional work involved where the Owner does not obtain Inland Revenue approval to receive rent gross, the Agent will make a charge of **£150 +VAT** per three month period.
- 3.15.4** If the Owner becomes an "overseas Landlord" and is no longer resident for tax purposes in the United Kingdom, the Owner must notify the Agent in writing immediately. If the Owner fails to do so and the Agent is levied with any penalty or interest as a result, then the Owner must pay the whole of that penalty and interest and any costs to the Agent upon being required to do so
- 4. ADDITIONAL CHARGES**
- 4.1** In the event of the Agent undertaking exceptional or unusual duties as instructed by the Owner a further charge or charges will be made as may be fair and reasonable in the circumstance. A typical charge would be 8% + VAT of the amount invoiced by the contractor or supplier overseen by the Agent but this may increase depending on the duties. The Agent will notify the Owner of these prior to carrying out such duties, except in the case of emergency under condition 6.7.2.7.
- 4.2** When managing the Property the Agent will undertake annual inspections of the Property. The Owner shall be charged a fee of £75 + VAT per visit for any additional visits or inspections requested. The Owner acknowledges and agrees that such inspections will be superficial and will not be a full structural survey or inventory check.
- 4.3 Legal Proceedings** - The Agent is not responsible for any legal steps for the recovery of rent or repossession of the Property.
- 4.3.1** Appearances before any Court or Tribunal will be by special arrangement and the fee for any such attendance will be £100 + VAT per day. The Agent will not accept service of legal proceedings on the Owner's behalf.
- 5. OWNER'S OBLIGATIONS**
- 5.1** The Owner agrees with the Agent throughout the Term: **Ratification** - To ratify all acts deeds and things done by the Agent in connection with the Management and/or Letting of the Property.
- 5.2 Reimbursement of Expenses** - To reimburse the Agent all expenses properly incurred in the Management and/or Letting of the Property.
- 5.3 Insurance** - To insure and keep insured for its full replacement value the Property and all the contents of the Owner (if any) remaining in the Property and to comply with all the provisions in the relevant insurance policy or policies. The Owner should note that renting out the Property will be likely to affect the insurance and may wish to consider specific landlord's insurance.

- 5.4 Payment** - To pay or suffer deduction of the Fees when they fall due and to make all payments due to the Agent promptly including:  
The Fees set out in conditions 3, 4 and 6.5.2.8 which shall be assessed as due to the Agent.
- 5.4.1** Any VAT chargeable in addition to the Fees.
- 5.5 Reimburse the Agent** - To reimburse the Agent for any and all loss, damage or liability whether criminal or civil suffered, and legal fees and costs incurred by the Agent in the course of conducting the Management and/or Letting of the Property, under and in accordance with the Agreement, and for any claims, demands, liabilities, costs, expenses or prosecutions incurred by the Agent due to the failure of the Owner to comply with his/her obligations under the Agreement or under any applicable legislation or arising from or in connection with a breach of any warranty given by the Owner under the Agreement.
- 5.6 Warranty** - The Owner warrants to the Agent that he is the Owner of the Property and that he has full power and entitlement to enter into the Agreement and that he has obtained all necessary consents including where appropriate, the consent of any mortgagee, superior landlord and insurer prior to entering into the Agreement and, where applicable, to supply a copy of any superior lease. Conditions cannot be imposed on the Tenant after the Tenancy has started.
- 5.6.1** If the mortgagee wishes to impose any special conditions on the Tenancy, the Owner warrants that he/she will provide the Agent with them prior to the commencement of the Tenancy for inclusion within the Tenancy Agreement.
- 5.6.2** Where the Owner is a joint Owner, he/she warrants and represents that all the owners are named in the Tenancy Agreement and that he/she is authorised to give instructions on their behalf.
- 5.6.3** The Owner warrants that all the information provided to the Agent is correct to the best of his/her knowledge and belief.
- 5.7 Licences** - The Owner should be aware that each local authority operates its own licensing system and some may require the Owner to hold a residential rental licence before the Property can be let. If the Owner is required to hold a licence and does not hold one the penalties can be significant. The Owner shall be responsible for checking directly with the applicable local authority to ascertain whether licensing will apply, exactly what is required and if there are any specific restrictions, such as a limit on the number of people permitted to occupy the Property.
- 6. AGENT'S SERVICES AND OBLIGATIONS**
- 6.1 Letting Services** - The Agent will in the normal course of its duties:
- 6.1.1** Initially inspect the Property for the purpose of condition 6.1.2;
- 6.1.2** Advise the Owner on rents, furnishings and related matters;
- 6.1.3** Advertise the Property using the Agent's established marketing methods;
- 6.1.4** Arrange and supervise appointments for prospective tenants to view the Property;
- 6.1.5** Introduce prospective tenants to the Property;
- 6.1.6** Inform the Owner of any offers received from prospective tenants and negotiate terms between the Owner and prospective tenants;
- 6.1.7** Take up and procure references from any prospective tenant;
- 6.1.8** Draw up and arrange for execution of a Tenancy Agreement;
- 6.1.9** Collect and receive and give receipts for rent and other payments at any time due to the Owner from any Tenant or any other authorised person in respect of the Property and to bank the same in a designated client account and to make just and reasonable deductions in respect of rates charges, repairs and other outgoings as are discharged by the Agent in accordance with these Conditions;
- 6.2** Remit rent in accordance with condition 6.5.1.4 of these Conditions.
- 6.2.1** Tenants will be unable to commence occupation of the Property under the Tenancy until the first rental instalment and the deposit have arrived, in cleared funds, in the Agent's client account.
- 6.3** By appointing the Agent, the Owner authorises the Agent to sign any of the necessary documentation on his/her behalf, including without limitation in circumstances where the Owner has confirmed verbally the instruction to proceed with a letting and, for example, the Agent cannot obtain the Owner's written confirmation or needs to proceed quickly.
- 6.4** The Agent will not arrange for repairs or maintenance if the Agent is not instructed to provide its Management & Lettings Service. The Owner should refer to the Tenancy Agreement for further details in case of dispute.
- 6.5 Managing Services**
- 6.5.1** The Lettings & Management Service includes all the provisions and terms of the Lettings Service in addition to the terms of this condition 6.5. The Agent will in the normal course of its duties:
- 6.5.1.1** Manage the Property on behalf of the Owner;
- 6.5.1.2** Maintain and keep the Property in good repair in accordance with condition 6.5.2;
- 6.5.1.3** Collect and receive and give receipts for rent and other payments at any time due to the Owner from any Tenant or any other authorised person in respect of the Property and to bank the same and to make just and reasonable deductions in respect of rates charges, repairs and other outgoings as are discharged by the Agent in accordance with condition 6.5.1.8;
- 6.5.1.4** Render statements to the Owner of all rents and other sums collected since the Commencement Date or since the date of the last payment less expenses and pay all sums due to the Owner as soon as is reasonably practicable after collection of the rent in accordance with condition 6.5.1.3.
- 6.5.1.5** Subject to condition 7, endeavor to remit the payment to the Owner without delay however the Agent accepts no liability for any loss which may arise as a result of delayed submission. The Agent will use the BACS system if the Owner provides the Agent with his/her bank details. Where the Agent is required to make payment by alternative methods (e.g. CHAPS or cheque), the Agent will charge the Owner any costs which the Agent incurs in doing so. **The Agent reserves the right to retain the final month's rent payable under a Tenancy until it is satisfied that there are no other expenses payable by the Owner;**
- 6.5.1.6** In the event of the Owner taking legal action under condition 4.3.1 and subject to condition 4.3.1., the Agent shall supply all reasonable assistance to the Owner and/or his solicitor in relation to such legal action. Where the Owner is insured under a rental indemnity the Agent will advise the insurers as appropriate and shall supply all reasonable assistance to the solicitor instructed by the insurers;
- 6.5.1.7** Negotiate rent reviews, lease renewals and the Letting of the Property at the best rent which the Agent at its sole discretion considers to be available;
- 6.5.1.8** Subject to the Agent receiving the express authority of the Owner and where the Agent holds sufficient funds, pay all rates, charges, expenses and other outgoings payable by the Owner in respect of the Property and make any payment necessary in the Management of the Property out of the rental income, provided that the Agent shall be under no obligation to query demands and accounts for such outgoings.
- 6.5.2 Repairs and Maintenance**
- 6.5.2.1** Subject to condition 7, the Agent will attend to day-to-day minor repairs and maintenance of the Property and its contents, provided that the Agent shall not be liable to repair any defects of which the Agent did not know, whether such defect is apparent or not.

- 6.5.2.2** The Agent is unable to overdraw against the Owner's account.
- 6.5.2.3** In the event that the Agent does not receive contrary instructions from the Owner in writing within 3 days, the Agent will proceed with the Owner's full authority to act as the Agent deems appropriate having regard to the Agent's contractual and statutory obligations.
- 6.5.2.4** Subject to condition 7, if the Agent manages property but does not hold sufficient funds to arrange for maintenance the Agent is not liable for any loss or damage suffered.
- 6.5.2.5** The Agent will contact the Owner for permission to proceed if the costs of the work exceed £150 (or other amount to be agreed in writing).
- 6.5.2.6** If requested, the Agent will obtain estimates for consideration by the Owner for major repairs or maintenance over £150 and submit them for approval prior to the commencement of the work.
- 6.5.2.7** However, in the event of an emergency, being an unforeseen event that if not dealt with quickly would (in the Agent's reasonable opinion) render the Property unsafe or insecure, or damage or cause further damage to the Property or cause personal risks to any person, the Agent reserves the right to instruct, without consulting the Owner, works to be undertaken in order to minimise any possible delay or damage to the Property.
- 6.5.2.8** If the cost of any work needed to the Property exceeds £1,500 and the Owner wishes the Agent to manage the project, a project management charge of 8% +VAT of the invoice will be made, unless otherwise agreed.
- 6.5.3** **Transfer of Utilities**
- 6.5.3.1** Where provided with the necessary information, such as names of suppliers and utility account numbers, the Agent will notify existing service providers and the local authority of the Tenant's liability (if appropriate) for payment of the services and Council Tax during the Tenancy.
- 6.5.3.2** The local authority and utility companies should send the relevant forms to the new occupier(s) to be completed and signed and it remains the Tenant's responsibility to ensure that a new account is opened in their name. The Agent cannot be held liable if services are disconnected or are not transferred by the utility companies.
- 6.5.4** **Key Holding Service**
- 6.5.4.1** The Agent requires a set of keys in order to be able to manage the Property effectively. These will be held locally in a secure key safe and made available to the Agent's approved suppliers or any other party authorised by the Owner.
- 6.5.5** **Vacant Management**
- 6.5.6.1** Subject to condition 7, during periods when the Property is vacant, if providing the Managing Service and if instructed by the Owner to manage the vacant Property, the Agent will continue to manage the Property but shall not be held liable for any loss and/or damage arising from fire, flood or theft. If the Owner requires supplies to be turned off or disconnected during this period, the Agent must receive instructions in writing and will arrange for the required contractor to attend at the Owner's expense. The Owner is also advised to contact his/her insurance company should the Property be empty for longer than 30 days.
- 6.5.7** **Dealing with Third Parties**
- 6.5.7.1** The Agent will liaise where necessary with the Owner's accountants, solicitors, superior landlords, managing agents and mortgagees.
- 7.** **LIABILITY**
- 7.1** Nothing in these Conditions shall limit or exclude the Agent's liability for:
- 7.1.1** Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- 7.1.2** Fraud or fraudulent misrepresentation; or
- 7.1.3** any other liability which is not permitted by law to limit or exclude.
- 7.2** Subject to condition 7.1:
- 7.2.1** The Agent shall have no liability to the Owner, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect losses incurred by the Owner and which are not foreseeable by the Agent and the Owner, such as loss of profits or loss of opportunity, arising under or in connection with the Agreement.
- 7.2.2** Subject also to condition 7.2.1, the total liability of the Agent for any other loss suffered by the Owner arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, in respect of any one event or series of connected events shall not exceed the sum insured under the professional indemnity insurance policy held by the Agent in the insurance year in which the Owner's claim is first notified to the Agent.
- 7.2.3** The Agent does not accept liability for losses resulting from any errors or omissions within any inventory, check-in or check-out documents that are produced by a third party.
- 7.2.4** The Agent shall not be responsible for latent or hidden defects in the Property.
- 7.2.5** The Agent will use its reasonable endeavors to ensure the suitability of Tenants, timely rental payments by Tenants and vacant possession at the end of the Tenancy but shall not be held responsible for such matters.
- 7.3** Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 8.** **EVENTS OUTSIDE OUR CONTROL (FORCE MAJEURE)**
- 8.1** The Agent shall not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under these Conditions that is caused by an Event Outside Our Control.
- 8.2** An Event Outside Our Control means any act or event beyond the Agent's reasonable 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, pandemic or other natural disaster, or failure of public or private telecommunications networks.
- 8.3** If an Event Outside Our Control takes place that affects the performance of the Agent's obligations under these Conditions:
- 8.3.1** The Agent will contact the Owner as soon as reasonably possible to notify the Owner; and
- 8.3.2** The Agent's obligations under these Conditions will be suspended and the time for performance of the Agent's obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects the Agent's performance of Services to the Owner, the Agent will restart the Services as soon as reasonably possible after the Event Outside Our Control is over.
- 9.** **GENERAL**
- 9.1** **Remuneration**
- The Agent may retain sufficient monies to meet its Fees out of all monies coming into its hands by virtue of the Agreement.
- 9.2** **Commission and Interest**
- Any commission, interest or other income earned by the Agent while carrying out its duties, including without

limitation any interest on deposits held or from referrals to solicitors, EPC providers, contractors or inventory clerks will be retained by the Agent.

### **9.3 Change of Address**

Each of the parties shall give notice to the other of change or acquisition of any address or telephone, fax or similar numbers as soon as practicable, and in any event with 48 hours of any such change or acquisition.

### **9.4 Joint Owners**

Where there are joint Owners signing the Agreement, each Owner shall be liable under the Agreement individually and jointly for all the obligations of the Owner under the Agreement.

### **9.5 Binding Agreement**

The Agreement shall be binding on, and enure to the benefit of, the parties to the Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

### **9.6 Law**

The Agreement and any dispute arising out of or in connection with it or its subject matter or formation (including noncontractual disputes or claims) shall be governed by and construed in accordance with English Law and the parties agree to submit to the non-exclusive jurisdiction of the English Courts in respect of such disputes. However, if the Owner is a resident of Northern Ireland, the Owner may also bring proceedings in Northern Ireland, and if the Owner is a resident of Scotland, the Owner may also bring proceedings in Scotland.

### **9.7 Changes to the Agreement**

The Agent reserves the right from time to time to make changes to the Conditions contained in the Agreement (except in relation to the level of Fees due under the Agreement), provided that the service the Agent offers is not materially different. Notice of such changes will be provided in writing by the Agent giving 28 days' notice.

### **9.8 Keys**

**9.8.1** Where the Owner provides the Agent with a set of keys (or authorises the Agent to use keys held by another agent) the Agent may make further copies to facilitate viewings. The Agent will charge £10+VAT, plus the key company's invoice.

**9.8.2** Where the Agent is not provided with sufficient sets to allow it to provide the Lettings & Elite Management Service and provide Tenants with one set of keys for each occupant of the Property, the Agent may cut additional sets and will require reimbursement of the cost incurred subject to 9.8.1

**9.8.3** Subject to condition 7, the Agent uses a secure key tag system to ensure that third parties cannot identify which property a set of keys belongs to and the Agent's liability in the event that keys are lost or unaccounted for is strictly limited to the cost of cutting a new set of keys.

### **9.9 Insurance**

**9.9.1** Failure to inform the Owner's insurer that the Property is let could render the policy void. The Owner should obtain detailed advice from his/her insurers as to the nature and extent of the cover required.

**9.8.2** Activities relating to the arrangement and administration of insurance are governed by the Financial Services and Markets Act 2000. As a result, the Agent is unable to arrange insurance on the Owner's behalf, to notify the insurer of claims or to complete documentation relating to those claims.

### **9.10 Amendments/Variations**

The Agreement constitutes the entire agreement between the Agent and the Owner and supersedes all prior agreements, understanding, representation or communications between the parties.

If the Owner wishes to amend or vary the Agreement, he/she should ask for a director of the Agent to confirm the Agent's approval of the change in writing.

### **9.11 Interest**

**9.11.1** The Agent's Fees are payable on demand, as and when they fall due. The Agent reserves the right to charge interest on any amounts outstanding twenty eight days after the Fees are first demanded. Interest will be charged from the date the Fees became due at the annual rate of 3% above the base rate of Barclays Bank plc from time to time.

### **9.12 Contractors**

**9.12.1** The Agent's panel of appointed contractors is constantly monitored to ensure that all members comply with its high standards of quality, cost and reliability.

**9.12.2** The Agent will use reasonable endeavours to engage a contractor specified by the Owner, but cannot guarantee to do so, particularly in an emergency. Subject to condition 7, whilst exercising all due care and attention in the choice and administration of contractors, the Agent cannot accept any responsibility for any loss or damage caused by the neglect or default of any contractor.

### **9.13 Referrals**

**9.13.1** Any commission or other income earned by the Agent while carrying out its duties as agent for letting and/or management of the Property, for example, by referrals to solicitors, tenant fees, EPC providers, contractors or inventory clerks, will be retained by the Agent.

**9.13.2** Vetted contractors may pay a referral fee to the Agent. The fee paid will be stated within the contractor's invoice and could be up to 25% of the total invoice amount, depending on the service provided, the details of which are available on request. This will not affect the final amount payable by the Owner.

### **9.14 Landlord & Tenant Act 1987**

**9.14.1** The Agent is obliged to include the Owner's full name and address on all rent demands. If the Owner's address is outside England and Wales then the Agent must provide the Tenant with an address within England and Wales to which notices (including notices in Proceedings) may be served upon the Owner. The Agent will require this information before a Tenancy commences. If the information first provided changes during the Tenancy the Agent must be informed immediately.

### **9.15 Data Protection & Privacy**

**9.15.1** The Agent is registered with the ICO in accordance with the requirements of the Data Protection Act 2018 and the GDPR and undertakes to comply with the current legislation in all its dealings with the Owner's personal data. The Agent may be required by The Property Ombudsman or other regulatory body for the purpose of monitoring the Agent's compliance with the TPO code of practice or other regulatory requirements and by signing the instruction form, the Owner consents to such disclosures.

**9.15.2** Occasionally the Agent may contact the Owner by letter, telephone, email or otherwise to inform the Owner about other products and services it offers. If the Owner does not wish to receive such communications, the Owner may write to the Managing Director, Whatley Lane Estate Agents, 1 Churchgate Street, Bury St Edmunds, IP33 1RL email bury@wlea.co.uk , telephone 01284 765 256.

**9.15.3** Letting Agents may share details about the performance under this agreement by the landlord and tenant; past; present and future know addresses and other contact details of the parties, with each other, for administrative and accounting purposes, or to help prevent dishonestly, or for occasional debt tracing and fraud prevention. Under the European General Data Protection Regulation (GDPR 2016 and prevailing UK implementation of the



legislation) each if the landlord and tenant is entitled to see a copy of personal information held about them and to have it amended if it is shown to be incorrect. For full information relating to how Whatley Lane processes personal information and how to exercise an individual's rights under the GDPR 2016, refer to the data protection/ Privacy policy published on [www.whatley-lane.co.uk](http://www.whatley-lane.co.uk)

#### 9.16 **Anti-Money Laundering**

The Agent is subject to legislation requiring it to ask the Owner for suitable identification and will be unable to proceed with any work on the Owner's behalf if it is unable to obtain this from the Owner. The Owner's identity may be subject to an electronic identity check, which may leave a soft footprint on your credit report. Where appropriate proof of ownership of the Property and confirmation of the source or destination of funds may also be requested.

### 10. **COMPLAINTS PROCEDURE**

Should the Owner have any problems with the Agent's service which he/she is unable to resolve with the negotiator involved or the branch/department manager he/she should write to the Director of the area/department in question. This complaint will be acknowledged within 3 working days of receipt and an investigation undertaken. A formal written outcome of the investigation will be sent to the Owner within 15 working days. This letter will confirm that the Owner is entitled, if dissatisfied, to refer the matter to The Property Ombudsman for a review within 12 months of the date of the Agent's final view. The Ombudsman will only review complaints made by consumers. Refer to the complaints procedure on [www.whatley-lane.co.uk](http://www.whatley-lane.co.uk)

### 11. **TERMINATION**

11.1 This Agreement shall terminate:

11.1.1 Upon expiry of a Tenancy or Tenancies (including any renewal, extension, hold-over or new agreement with the Tenant) arranged by the Agent from time to time without renewal, extension, hold-over or new agreement with the Tenant Introduced to the Property by the Agent under the Agreement.

11.1.2 Forthwith by the Agent in the event that the Agent reasonably believes that the Owner is in breach of any statutory regulation relating to the Property.

11.1.3 With immediate effect if the Owner does not pay the Agent when it is supposed to as set out in condition 3. This does not affect the Agent's right to charge the Owner interest under condition 3.15.2; or

11.1.4 With immediate effect if the Owner breaks the Agreement in any other material way and the Owner does not correct or fix the situation within 14 days of the Agent asking the Owner to in writing.

11.1.5 Upon the sale of the Property by the Owner.

11.2 For the avoidance of doubt, upon termination of a Tenancy or Tenancies (including any renewal, extension, hold-over or new agreement) arranged by the Agent before its agreed expiry or termination or break clause of the Agreement for any reason other than the default of the Agent, the Agent shall be under no obligation to repay Fees for the Lettings Service received by the Agent in whole or in part, except if termination was caused by the Agent's default, and any Fees due and remaining to be paid become immediately due and payable.

11.3 The Lettings & Elite Management Service can be terminated after the minimum period as set out in condition 2.3 by either party giving one month's written notice to the other, on the expiry of which the service will convert to the Lettings

Service and the Fees will revert to those payable for the Lettings Service or those payable for any renewal(s), extension(s) or hold-over(s) of the Tenancy or new agreement with the Tenant, as appropriate.

### 12. **EFFECT OF TERMINATION**

The termination of the Agreement for any reason shall be without prejudice to any obligation or rights of the parties which have accrued prior to such termination. Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

### 13. **CONSUMER RIGHT TO CANCEL**

13.1 If the Owner is an individual entering into the Agreement otherwise than as part of his business and where the Owner has signed it away from the Agent's offices immediately after face to face negotiations away from the Agent's premises or if all the negotiations have been by phone, email or online and the Owner has not met the Agent's representative face to face, under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, the Owner has a right to cancel the Agreement within 14 days of signing it. The Owner does not have to give any reason for cancelling. The cancellation period will expire after 14 days from the day of the conclusion of the Agreement.

13.2 If the above circumstances apply and the Owner wishes to cancel this Agreement, the Owner must inform the Managing Director, Whatley Lane BSE Ltd, 1 Churchgate Street, Bury St Edmunds, Suffolk, IP33 1RL Tel: 01284 765 256, [buryewlea.co.uk](http://buryewlea.co.uk) of the Owner's decision to cancel the Agreement by a clear statement (eg a letter sent by post, fax or e-mail). The Agent recommends giving notice in writing and keeping a copy. A form of cancellation notice is provided below, but it is not obligatory to provide notice in this form.

To: [Insert name, address and email] I/We (delete as appropriate) hereby give notice that I/We (delete as appropriate) wish to cancel my/our (delete as appropriate) Agreement with you relating to the property [insert address], signed by the Owner on [insert date].

Signed  
Name  
Address

13.3 A Tenancy Agreement entered into between the Owner and a tenant is separate from this Agreement made between the Owner and the Agent. The cancellation of this Agreement will not terminate a Tenancy Agreement and the right to cancel set out in this condition relates solely to this Agreement.

## OWNER'S DECLARATION

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I/We declare that I am/we are the sole/joint owner(s) of the freehold/leasehold Property as stated above and that prior to the commencement of the Tenancy all furniture and upholstered furniture, soft furnishing, beds, mattresses, pillows and cushions (if any) supplied to the Property, comply (if appropriate) with the provision of the Furniture and Furnishing (Fire) (Safety) (Amendment) Regulations 1993, and warrant that the Property complies with the Gas Safety (Installation and Use) Regulations 1998 and the Electrical Equipment (Safety) Regulations 1994 and that I/we and the contents and the Property comply with all applicable laws.

I/We agree that work may commence before the cancellation period expires and I/we sign below to confirm this agreement and I/We understand that if I/We cancel within 14 days under condition 13, I/we shall pay the Agent any amounts that have become properly due to the Agent under the Agreement in relation to services already provided on my/our behalf prior to my /our cancellation, including an abortive tenancy fee if condition 3.8 applies.

**I have read and understood the terms and conditions as set out above and overleaf, I accept that in signing this document I will be bound by its entire contents.**

**To be signed by all Owners.**

OWNER(S) NAME PRINTED
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OWNER(S) NAME PRINTED
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SIGNATURE
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SIGNATURE
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DATE
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DATE
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