



## STANDARD TERMS OF BUSINESS FOR PROFESSIONAL SERVICES

### 1. OUR RESPONSIBILITIES

Our role and responsibilities as agent and/or consultant are set out in the relevant Letter of Engagement.

We undertake to comply with the terms of the Estate Agents Act 1979, Money Laundering Regulations 2017, General Data Protection Regulations and other legislation where relevant to our Appointment as agent and/or consultant.

### 2. DEFINITIONS

In these Terms:

"Contract" means when the Client receives a copy of, and agrees to, these terms, or gives instructions to Adkin, whichever shall be the later and will be subject to the terms in this document. The contract is between Adkin and the Client.

"Client" means the person, firm, company, partnership or other body to whom Adkin is to provide services in accordance with these Terms.

"Adkin" means Orpwood Limited trading as Adkin whose registered office is at Orpwood House, School Road, Ardington, Wantage, Oxfordshire OX12 8PQ.

"Property" means the property which is the subject of the Client's instructions to Adkin.

"Terms" means the terms and conditions set out in this document and (unless the context otherwise requires) includes any other terms and conditions set out in any letter accompanying these terms or varying these terms.

### 3. GENERAL

- (i) Adkin undertakes all services on the basis of these terms only, which shall apply to the exclusion of any other terms and conditions which the Client may seek or impose.
- (ii) No variation of these terms shall be binding unless previously agreed in writing by Adkin.
- (iii) In the event of any ambiguity or conflict between the letter accompanying these Terms the former will take precedence.

### 4. SERVICES

Adkin will seek to provide a service such as would be expected of a firm of Chartered Surveyors in a proper professional manner and will perform its services with all reasonable care and skill and will act in good faith at all times. These services are, however, provided on the basis that:

- (i) The extent of the appointment and the services to be provided will be agreed in writing prior to the commencement of any works.
- (ii) Estimates of times for performance of the service have been made upon the basis of information available to us at the time but are not legally binding on Adkin.
- (iii) We may, if we consider appropriate, secure performance of any or all services by instructing one or more other persons, firms or companies (whether as sub-contractor or in any other capacity) upon such terms as we consider appropriate. In these circumstances no additional fee shall be payable by the Client in the absence of prior agreement to such additional fee but the Client shall be liable to pay all fees and other sums payable to Adkin as if all services had been performed personally by Adkin.

### 5. FEES

The fees (or the basis for the fees) to be charged will be agreed in writing before the commencement of any works. Where it is not practical to predetermine the full scope of the works until the contract is in progress, the scope of the work and the fees may be varied during the contract and will be confirmed in writing by Adkin.

- (i) Adkin will calculate its fees on a time-spent basis (including time spent travelling) as set out in our Letter of Engagement, or in the case of agency instructions, on a percentage commission basis. Additional fees will be chargeable, on a time spent basis, for any abortive work which arises as a result of a change in the brief or a variation in the scope of the work once this has been agreed. Where possible such additional fees will be drawn to the Client's attention before such work is undertaken.
- (ii) Unless otherwise agreed in writing, any/all costs associated with the work in respect of travel, accommodation, subsistence, Ordnance Survey, copyright royalties and other reasonable expenses will be additional to the fee.
- (iii) Any fee or charge payable to a local authority or other statutory body in respect of planning applications, building regulations, or other such consents/approvals which may be necessary to enable a scheme to be considered or to be progressed is excluded from the fee agreement and is payable directly by the Client.
- (iv) If it is agreed with the Client in connection with the instructions, that the resolution of a dispute with a third party (for example in connection with a rent review) be referred to an arbitrator, expert or court, all costs in connection with such referral (other than fees for Adkin's services) will be re-charged to the Client as a disbursement.
- (v) Adkin reserve the right to retain the benefit of any discounts and commissions which they have negotiated for advertising and other expenses.

### 6. PAYMENT

#### Date of Payment

The fees of Adkin will become due for payment, free from any discount, deduction, set off or counter claim whatsoever as follows:

- (i) *Valuations* - Upon completion of a signed Valuation Certificate or Report but prior to delivery thereof to the Client.
- (ii) *Rent Reviews and Lease Renewals*- When the Review is agreed or determined or awarded by an Arbitrator or Arbiter or by an Expert or by the Court or otherwise.
- (iii) *Other Professional Services*- At completion of the service or at any other time as provided for in the Letter of Engagement.
- (iv) *Disbursements*- At the time when such expenditure is incurred.

#### Payment

- (i) Payment in full is due within 30 days of the date of the invoice.
- (ii) Adkin reserves the right to charge the Client interest (both before and after any judgement) on any unpaid invoice at the rate of 3% per annum above the base lending rate of the Barclays Bank calculated on a daily basis from thirty days after the date of its invoice until the date of settlement in full.

- (iii) If any sum due to Adkin from the Client remains unpaid for more than 30 days after the date of the invoice Adkin shall be entitled to suspend all further work for the Client until the outstanding sum is paid to Adkin. In these circumstances Adkin shall not be liable for any delays, losses or expenses resulting from such suspension.

#### **7. INFORMATION PROVIDED BY CLIENT**

- (i) The Client undertakes to Adkin that all information provided by the Client and/or its professional advisors regarding the property is accurate and acknowledge that Adkin will rely upon this information.
- (ii) The Client shall indemnify and keep indemnified Adkin from and against all and any liability, losses, damages, penalties, fines costs and expenses (including legal costs and expenses) suffered or incurred by Adkin arising out of or by virtue of the Client's instructions to Adkin other than any losses, damages, costs and expenses arising by virtue of the negligence or wilful default of Adkin.

#### **8. CONFIDENTIALITY**

Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except when permitted, either by the party concerned or when required by law or by regulatory bodies.

Adkin reserve the right, for the purpose of promotional activity, training or for similar business purpose to mention it's Clients. As stated above, Adkin will not disclose any confidential information.

#### **9. CONFLICTS OF INTEREST**

Adkin will inform the Client promptly if a conflict of interest is discovered.

Safeguards can be implemented to protect the interests of different Clients if a conflict arises.

However, should any conflicts not be able to be managed in a way that protects Clients interests then Adkin regret that services would be unable to be continued.

If such a situation arises, Adkin will advise promptly.

Adkin reserve the right to act for each other Clients whose interests are not the same as or are adverse (to other Client's), subject of course to the obligations of confidentiality referred to above, and the overriding obligation to avoid conflict of interest.

#### **10. COPYRIGHT**

- (i) Copyright in any information, documents or other material provided by the Client to Adkin remain the property of the Client.
- (ii) The copyright of all reports, forecasts, drawings, accounts and other documents originated by Adkin in relation to its instructions remains the property of Adkin.

#### **11. LIABILITY LIMITATION**

Whilst Adkin will make every effort to fulfil the Client's instructions in accordance with these Terms, Adkin shall not be liable in any manner whatsoever:

- (i) To any third party who, without Adkin's prior written consent, seeks to rely on Adkin's performance of the Agreement or any advice or information resulting from our instructions.
- (ii) Unless the Client has paid in full all sums due to Adkin.
- (iii) Unless Adkin had previously agreed in writing to the particular use being made of Adkin's services/advice giving rise to the alleged loss.
- (iv) In respect of any services outside the scope of the services agreed in writing to be performed.

#### **12. TERMINATION OF INSTRUCTIONS**

- (i) The instructions from the Client to Adkin may be terminated by the Client by notice in writing to Adkin within 14 days without giving any reason or incurring any liability during the cancellation period.

- ii) If cancellation is after 14 days the instructions from the Client to Adkin may be terminated by the Client by notice in writing to Adkin whereupon Adkin shall be entitled to charge a fee on one of the following bases (at Adkin's option):

- (a) a fair and reasonable proportion of the full fee which would have been payable if the work had been carried through to a conclusion and as if Adkin had become entitled to payment in accordance with 5 above, or
- (b) on a quantum meruit basis for the work undertaken up to the date of termination.

- (iii) The instructions from the Client to Adkin may be terminated by Adkin on the following terms by notice in writing: -

- (a) If, as a result of circumstances outside the control of both parties, it becomes impossible to perform the instruction within a reasonable period. In these circumstances the Client will pay Adkin for all work which has been done on a quantum meruit basis.
- (b) If the Client has made it impossible to complete the instruction within a reasonable period or has not made payment by the due date of any sum payable by the Client to Adkin. In these circumstances the Client will pay to Adkin the full fee which would have been charged if the work had been carried through to a conclusion.

#### **13. COMPLAINTS**

Adkin aim to perform on the instruction from a Client in an efficient and professional manner, however should you have any complaint regarding our service we have a formal Complaints Handling Procedure, a copy of which is available on request. All complaints should be addressed initially to Mr J Sayers FRICS at the address below.

#### **14. LAW**

These Terms and any Agreement of which they form a part shall be governed by and construed in all respects in accordance with English Law and the parties irrevocably submit to the exclusive jurisdiction of the English Courts in relation to any dispute or proceedings arising out of or in connection with these Terms or any such Agreement but without prejudice to Adkin's right to take proceedings in any other jurisdiction in order to enforce payment of any sums owed to Adkin.

#### **15. DATA PROTECTION AND COMPLIANCE**

##### **Compliance**

Adkin may ask you to provide personal details, including proof of your identity and details of your personal finances in order to meet our Legal obligations including Anti-Fraud and Money Laundering regulations.

##### **Data Protection**

The General Data Protection Regulation (GDPR) sets out responsibilities that organisations such as Adkin are required to follow including; methods that personal information is collected, stored and processed. Adkin endeavour to comply with GDPR and takes Data Protection of all of our clients very seriously. Further details can be found on the enclosed Letter of Engagement and also via our Privacy Policy which is available upon request.

#### **16. ELECTRONIC COMMUNICATIONS**

With the enclosed Letter of Engagement, we have asked for your permission to communicate via email. It is important that you are aware of the following:

- (i) There is a risk that communications may contain a computer virus, although Adkin will aim to avoid this by use of anti-virus software.
- (iii) Adkin will keep the affairs of their clients confidential, however email can be accessed by parties not involved in your matter therefore confidentiality can be compromised.
- (iv) If you do not wish Adkin to use email, please sign where indicated in the Letter of Engagement or note any limitations as to its intended use.

**ACCEPTANCE OF TERMS OF ENGAGEMENT**

(i) I/We accept the above Terms of Engagement and instruct Adkin to provide services as outlined in the accompanying letter. I/We agree to the fees and disbursements as set out in the attached schedule.

Signed:.....

Dated:.....

*Last updated: April 2018*