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**TERMS and CONDITIONS**  
("the Agreement")

**IMPORTANT**

**The letting and/or management of your Premises cannot proceed until this document has been signed, dated and returned to us**

**Between**

**Name:** James Andrew Residential Ltd.

**Address:** Fairchild House, Redbourne Avenue, London N3 2BP

Hereinafter referred to as "the Agent, we, us and our"

**and**

**Name:**

**Address:**

Hereinafter referred to as "you and your"

**Premises Address:**

("the Premises")



**This Agreement sets out the services we provide to you and also sets out your responsibilities as the Landlord.**

**Please read the Agreement carefully.**

**If there are any parts which you do not fully understand please speak to us.**

**You will be bound by this Agreement as soon as you sign and return it to us**

**1. INITIAL VISIT**

We will visit the Premises to view them and provide you with an indication of the likely market rent achievable.

**2. PRIOR TO LETTING**

You must ensure that the Premises are fit to be let. Appliances should comply with the safety regulations detailed later in the General Terms and Conditions of this Agreement.

All machines, gas appliances and electrical goods should be in full working order, should have been recently serviced, checked for safety and have clear instructions for use. Properties should be thoroughly cleaned and gardens, if applicable, should be in good seasonal condition, details of which should be shown on the check-in report of the Inventory and Schedule of Condition.

**3. MARKETING**

*We will market your Premises to inform suitable applicants of the availability of your Premises by erecting a To-Let board at the Premises and by advertising in a glossy magazine, on internet portals, including, Find a Property and Prime Location, and a multiple listings website for estate agents only. Our commission fees and charges (as specified in 1, 2 & 3) include any expenses we may decide to incur in photographing and/or advertising your Property*

Please notify us in writing if you have previously agreed not to erect a To-Let Board with the Freeholder or other interested party, or local bye-laws or conservation area restrictions prevent the erection of a Board.

**4. VIEWINGS**

As and when we have applicants interested in viewing your Premises, we will either accompany these people to your Premises with keys provided by you, or arrange a mutually convenient appointment for them and us to meet you at the Premises.

**5. REFERENCES**

When an applicant shows an interest in your Premises, we will:

- (a) Provide them with a draft sample Tenancy Agreement (see clause 7 below); and then
- (b) Take up references upon each applicant whenever possible.

Wherever possible we will obtain a credit reference report checking their financial standing, including income, contact the previous landlord (if appropriate) and contact the personal referee. If the applicant passes the referencing procedure the references will be forwarded to you for approval.

You will need to confirm that the references are acceptable. If we do not hear from you to the contrary within 7 days we will assume acceptance and proceed with the letting, provided that we have received a signed copy of this Agreement and the necessary funds. When we proceed we will be doing so without any responsibility for the accuracy of those references or the information contained in them, unless it is due to our negligence or breach of contract. We will not be warranting the tenant as

suitable.

## 6. INVENTORIES

An Inventory and Schedule of Condition is essential for the proper management of your Premises, whether they are let furnished or unfurnished, to reduce the risk of a dispute arising in respect of the security Deposit (“Deposit”). Inventories should, where applicable, show that furnishings and electrical equipment comply with current legislation. If you do not have an inventory and schedule of condition you will not be able to prove the condition of the Premises at the start of the tenancy and may not be able to obtain compensation from the tenant either through any Tenancy Deposit Protection Scheme or through the County Court. We have no liability for any loss suffered if you do not have a fully comprehensive inventory.

We do not employ inventory clerks. We can however, upon request, supply you with a list of established firms for you to instruct or we can instruct an inventory clerk on your behalf. You will be responsible for payment of their fee. Charges made by the inventory clerk will be based upon the time taken to prepare the Inventory and Schedule of Condition and the time taken to check the tenant into the Premises. We cannot accept any liability for errors or omissions on their part unless it is due to our negligence or breach of contract.

If you are preparing the inventory we must receive it from you at least 7 days prior to commencement of the Tenancy. Otherwise we will instruct an inventory clerk to compile a check-in Inventory and Schedule of Condition on your behalf and at your expense. A check-out report of the Inventory and Schedule of Condition will be carried out at the end of the Tenancy. Our tenancy agreement makes it clear that the tenant will pay for the cost of compiling the report.

Our standard Tenancy Agreement provides that the tenant will pay for an independent inventory clerk to determine whether or not there is any damage, or compensation for breach of the tenancy, or cleaning needed taking into account the check-in report of the Inventory and Schedule of Condition. A copy of the check-out report will be sent to both you and the tenant.

## 7. TENANCY AGREEMENT

You will need a comprehensive Tenancy Agreement setting out the rights and obligations of both parties. Where the tenant is an individual you will also need to have regard to the Unfair Terms in Consumer Contract Regulations 1999 and guidelines prepared by the Office of Fair Trading which states that any clause in a contract which is unfair to the tenant could be void and therefore unenforceable.

We can provide you with a comprehensive Tenancy Agreement. There will be a separate charge of **£120.00** including VAT for completing and drafting the Tenancy Agreement.

If you wish to use a tenancy agreement drafted by your own solicitor, please supply us with a draft at least 2 weeks before the tenancy is due to commence. There will be an additional administration fee of **£60.00** including VAT for reviewing and making ourselves familiar with your Tenancy Agreement.

If extensive amendments are made by you or your solicitor to our standard tenancy agreement there will be a charge of **£60.00** for making the alterations.

### **Assured Shorthold**

If the applicant is an individual and the net rent is £100,000 or less per year we will use an Assured Shorthold Tenancy Agreement. There is no longer a minimum period for such lettings. However, if the Tenant fails to surrender possession at the expiry of the term (and in accordance with your Section 21 Notice) you will need a possession order. No such order can expire within the first 6 months of a Tenancy commencing unless the tenant is in breach of the tenancy.

### **Common Law**

If the net rent payable is more than £100,000 per year or at a proportionate level for a shorter tenancy, the Tenancy Agreement cannot be an Assured Shorthold. You will need to use a Common Law Agreement. Although this is not governed by the Housing Act 1988 it is nevertheless subject to other statutory regulation (e.g. Protection from Eviction Act 1977) which means you must obtain a possession order from the County Court before a tenant can be evicted.

### **“Company” Lets**

This is a tenancy outside the protection of the Housing Act 1988 and is subject to common law. Generally speaking these involve more pre-contractual negotiation. There are no rent restrictions.

and may contain both an option to renew and a break clause. If there is an option to renew clause the Tenant will have the legally binding right to renew for a further term provided the Tenant complies with the conditions within the clause. The Landlord should therefore be aware that he would not be able to have or enforce a break clause until the final period of the Tenancy (provided the clause is inserted within the initial Tenancy Agreement allowing him to break within the final term). If the Property is sold it will be sold with the benefit for the Tenant of the option to renew. The Landlord would not be able to obtain vacant possession unless the Tenant was in breach of the Tenancy Agreement. There are no rent restrictions.

### **General**

Tenancy agreements can be for a fixed duration, run from month to month (i.e. a periodic tenancy), or be a combination of the two. A fixed term contract will give you more certainty, whilst the periodic tenancy will give you more flexibility.

Our Tenancy Agreement requires the Tenant to take sensible precautions to protect the property against frost damage. If your insurer has specified requirements regarding your Premises during a vacant period you must give them to us or a copy of the relevant sections of the insurance policy so that they can be incorporated as part of the contract with the tenant prior to the commencement of the Tenancy. A tenant cannot be held liable for any loss suffered if he is not made aware of these restrictions.

## **8. UTILITIES AND COUNCIL TAX**

We will notify the electricity, gas, water and telephone companies and the local authority when the tenant occupies your Premises provided you have supplied us with the contact details of your utility suppliers including the account numbers, and ask them to send a credit agreement and supply contract to the tenant. You will need to pay any outstanding utility charges up to and including the date upon which the tenant occupies the Premises and for any void period between tenancies. We will also need to provide the above suppliers with your new address and the meter readings at the commencement of the Tenancy to ensure that there are no discrepancies with the change over. Some suppliers will not take instructions from us in which case you must contact them direct to take the accounts out of your name.

## **9. RENT COLLECTION**

We will use our best efforts to arrange for a standing order to be set up so that the tenant can send future rent payments direct to us. A statement of accounts will be sent to you after receipt of cleared funds, less our agreed fees (please see the last page of this Agreement) and expenses into your nominated bank or building society account.

We cannot be held responsible if the tenant fails to pay the contractual rent unless it is due to our negligence or breach of contract. We will however take action in your name to recover rent arrears by serving the appropriate letter requesting payment to their home address. If this does not have the desired effect we will advise you to instruct specialist solicitors to take further action. You will be responsible for the legal charges and expenses.

## **10. RENEWAL**

Towards the end of the initial fixed term we will contact you to find out if the tenancy should be renewed and to agree any renewal instructions. We will review the rent and advise you if a rent increase is possible or desirable depending upon current

market conditions. You must confirm to us in writing if you wish the tenancy to be renewed or notice served. We do not serve notice on the tenant unless you instruct us to do so in writing.

Once written confirmation has been received from you requesting the tenancy to be renewed we will write to the tenant asking if they wish to renew the tenancy and advising of any proposed rent increase. We will then negotiate between the two parties if requested. We will prepare the extension document for both parties where requested including drafting any clauses agreed between the parties varying the terms of the original tenancy. The extension documents will be sent to both parties for signature.

We will try to ensure both parties sign the documentation by the start date of the new period of the tenancy. However if the tenant fails to return the extension documents the tenancy will continue as a periodic tenancy until either party gives notice in writing. Our commission will be payable whether the tenancy continues as a fixed term or a periodic tenancy where we are instructed to act on your behalf. While we will make every effort to obtain the signed extension documents we have no liability if the tenant fails to return them.

Once the signed documents are received we will date them to complete the contract and send the documents received to the relevant party. You will receive the copy signed by the tenant and the tenant receives the copy signed by you.

If the tenant has an Assured Shorthold Tenancy and continues to roll-on on a month to month basis (i.e. a periodic tenancy) then the rent can only be lawfully increased on an annual basis if we serve the tenant with a valid Notice under Section 13(2) of the Housing Act 1988. This notice advises the tenant that they have a right to challenge the increase by serving you with a counter notice and ultimately referring the increase to the Rent Assessment Committee. This could result in a hearing. If the Tenant makes a counter proposal we will ask you whether you wish to accept it or whether you wish to pursue the issue to a hearing. If you want to do the latter we can arrange for solicitors to act on your behalf. You will be responsible for their charges

If you would like us to offer the Tenant a new fixed term contract we can provide you with any of the following upon payment of the appropriate fee including VAT:

- |   |                |
|---|----------------|
| a) An Addendum (extending the term of the tenancy only);                      | <b>£ 60.00</b> |
| b) A Memorandum of Renewal (which may change some of the terms e.g. rent); or | <b>£ 60.00</b> |
| c) A Replacement Tenancy Agreement.   | <b>£120.00</b> |

## 11. MAINTENANCE OF THE PREMISES

Sections 11 to 16 of the Landlord and Tenant Act 1985 state that you must:

- (a) keep the structure (including the drains, gutters and down pipes) and the exterior of the Premises in good order and repair;
  - (b) keep the appliances for supply of gas, electricity and water in good repair;
  - (c) keep the appliances for supply of space heating and water heating in repair; and
  - (d) keep the sanitary appliances in repair
- and carry out all repairs within a reasonable time of being notified

By signing and returning this Agreement you give us authority to organise and where necessary supervise minor repairs and routine works to comply with the above, up to a value of one week's rent.

If repairs or replacements are likely to exceed one week's rent we will, except in situations we view as emergencies, try to contact you to obtain your specific written authority to incur that expense. If we do not receive contrary instructions from you in writing within five days we will proceed with your full authority to act as we deem appropriate having regard to your contractual and statutory obligations. We will levy a supervision charge of 12.5% on to the cost of any protracted refurbishment or building works e.g. when we are required to meet other people at the property. We cannot arrange for any works without first holding cleared

funds sufficient to meet the liability. We have no liability for any loss or damage suffered if we do not hold funds and are unable to arrange any necessary work unless the loss or damage is due to our negligence or breach of contract.

## **12. PAYMENT OF OTHER OUTGOINGS**

We can, if instructed discharge other liabilities from rental income providing we are holding sufficient funds e.g. pay your ground rent and service charges when you have a leasehold interest in the Premises. It is your responsibility to instruct these service providers to contact ourselves direct. We cannot act on your behalf in connection with any dispute arising from these payments and accept no responsibility if there is a dispute unless it is due to our negligence or breach of contract.

## **13. PREMISES VISITS**

During the normal course of our day to day management of your Premises we will carry out regular visits to your Premises. A written report will be forwarded to you together with any recommendations. If you require more frequent visits you must notify us in writing as and when you wish these to be carried out during the course of the tenancy.

Any visit can only pin point obvious visual defects and will not be an expert investigation or structural survey of the Premises. We cannot accept responsibility for hidden or latent defects.

## **14. SERVICE OF NOTICE**

Unless the tenant voluntarily surrenders possession of the Premises it will be necessary to serve the tenant with a valid notice. The precise form of notice, length of notice and expiry date depends upon what type of tenancy has been granted. We recommend that you seek our advice before serving notice.

If we are not managing your Premises we do not serve notice on your behalf. If you wish us to serve notice including Notice under section 21 of the Housing Act 1988 which is required to gain possession of a property let on an Assured Shorthold Tenancy if the tenant is not in breach we can do so upon written request and payment of our administration fee **£60.00** including VAT. You must ask us to serve notice at least 10 weeks before you wish possession. We cannot be held responsible for any delay in regaining possession if you fail to give us sufficient written notice of your instruction to serve the tenant with the required notice. From time to time we may recommend that you instruct solicitors to serve the notice for you.

Sometimes a tenant will fail to comply with a notice and you will need to commence County Court proceedings to obtain a possession order. We can put you in touch with solicitors who are specialists in this field.

## **15. VACANT PERIODS**

This Management Service does not include supervision of your Premises when it is vacant (e.g. waiting to be let).

Upon receipt of your written instructions we can arrange for scheduled visits (“Caretaking Service”). There will be an additional charge of **£60.00** including VAT per visit.

Any visit can only pin point obvious visual defects and will not be an expert investigation or structural survey of the Premises. We cannot accept responsibility for hidden or latent defects.

## **16. WAITING AT PROPERTIES**

We will try to arrange a mutually convenient time for contractors attending the Premises to undertake work on your behalf to meet the tenant at the Premises. Where this is not possible we may be able to arrange to meet the contractor at the Premises. We will charge waiting time at the Premises at the rate of **£20.00** including VAT per hour. We do not meet contractors if we do not manage the Premises.

## 17. TERMINATION AND ASSIGNMENT OF MANAGEMENT

Either party has the right to terminate this Agreement in writing:

- upon the Tenant's vacation;
- or if the other party breaks any important term or condition of this Agreement during a Tenancy where monetary compensation is wholly inadequate.

Either party may withdraw your instructions to manage the Premises upon giving 3 months' written notice. We may terminate our retainer immediately if you are in major breach of any of the terms contained in this Agreement or if you do or do not do something which makes it impossible, impracticable or illegal to continue providing these services.

We reserve the right to assign our rights and or obligations under this Agreement upon giving you two months written notice.

### GENERAL TERMS and CONDITIONS

#### A. COMMISSION

The following commission is payable by the Landlord to us following the introduction of a tenant who enters into a Tenancy either directly, indirectly or by way of an introduction from an existing tenant found by us for as long as we are instructed to act on your behalf.

Value Added Tax will be chargeable on all commission at the prevailing rate currently 20%. This rate may change from time to time and the total cost will change accordingly. All fees apart from commission contained within this Agreement are shown inclusive of VAT.

##### **Letting Only Service**

Our commission is calculated at **10% + VAT** of the gross rent, premium or other money payable throughout the initial fixed term and any extension of it whether fixed term or periodic if we are instructed to act on your behalf. Payment is due in full at the start of the tenancy. Fees will be deducted from the initial rent received from the tenant at the commencement of the tenancy. If the letting fee is more than the initial rent the balance must be paid to us at the commencement of the tenancy. The Tenancy Agreement will be retained until any outstanding fees and expenses have been paid to us. For tenancies of three months or less our Letting fee is 20% (plus VAT) of the rent reserved under the Tenancy Agreement.

##### **Rental Collection Service**

Our commission is calculated at **11% + VAT** of the gross rent premium or other money payable throughout the term and any extension of it whether fixed term or periodic if we are instructed to act on your behalf. Payment is due in full at the start of the tenancy. Fees will be deducted from the initial rent received from the tenant at the commencement of the tenancy. If the letting fee is more than the initial rent the balance must be paid to us at the commencement of the tenancy.

##### **Management Service**

**Full particulars of our Management Service are contained in the Resume of the property which needs to be completed prior to the tenancy.**

Our commission is calculated at **16% + VAT** for management.

If our fees are not paid within 30 days of the commencement of the tenancy, interest shall accrue on a day to day basis on the sum due at the rate of 4% above the base rate of the Bank of England.

Where Lettings are for periods of less than 6 months the management fee will be by separate negotiation.

#### **Additional Fees**

Additional fees will be payable for dealing with referrals to the rent assessment committees or any other Court or Tribunal proceedings or for protracted correspondence on your behalf. If you decide that specialist solicitors should be instructed you will also be responsible for their fees and any other expenses incurred in dealing with such matters.

If we provide any service in addition to the management functions previously stipulated, i.e. supervising and overseeing renovations, then we shall be entitled to levy an additional charge at either **12.5% + VAT** of the cost of the work involved or on a time basis as the case may be

#### **B. EARLY DEPARTURE OF TENANT**

Should the tenant leave the Premises of their own accord prior to the expiration of the tenancy it is your responsibility to take the appropriate action to recover any outstanding rent from the former tenant.

#### **C. OTHER CHARGES**

If we collect the rent or manage the Premises we will deduct the reasonable expenses and costs incurred from acting on your behalf during the tenancy from the rent. This would include the costs of overseas and long distance telephone calls and faxes which will be charged at the current British Telecom rates plus VAT.

#### **D. DUPLICATE STATEMENTS**

Duplicate statements of account can be supplied at a cost of **£60.00** including VAT per statement subject to a minimum charge of **£60.00** including VAT.

#### **E. CONSENT FOR LETTING**

You must provide us with sufficient documentary evidence to satisfy us that you are legally entitled to grant a tenancy of the Premises. If the Premises are registered with the Land Registry we reserve the right to obtain office copy entries. If the Premises are unregistered we reserve the right to carry out such investigations that we consider necessary. The cost of these searches will be charged to you in addition to our commission.

By signing these Terms and Conditions you warrant to us that you are the owner of the Premises, or otherwise lawfully entitled to enter into the Tenancy Agreement.

#### **F. MORTGAGES**

Where the Premises are subject to a mortgage, we will need your mortgagee's written consent to the proposed letting as soon as possible. The mortgagee may want to see a copy of the draft Tenancy Agreement which can be supplied upon their written request. The mortgagee may charge you a fee for giving their permission.

If you wish us to try to obtain your mortgagee's written consent there will be an additional charge of **£60.00** including VAT in addition to the fees due to the mortgagee.

If your mortgagee has any special conditions relating to the tenancy or type of tenant you must provide them to us prior to the start of the tenancy to be included within the Tenancy Agreement. Conditions cannot be imposed upon a tenant at a later date.

#### **G. SUB-LETTING**

If you are yourself a leaseholder, you will normally require the consent from your superior landlord, freeholder or their managing agent before you can sub-let the Premises to an applicant. In giving consent the superior landlord or their managing agent may require you to provide references for your tenant and for you and your tenant to enter into an agreement to observe the covenants contained in your head lease. A fee may be charged for granting consent to sub-let which is your liability. We will need a copy of the head lease together with any schedules referred to therein so that we can attach a copy of this to our draft Tenancy Agreement. If the tenant is not given a copy of the relevant section of the head lease you cannot impose any obligations contained in it upon the tenant. This could lead you to breach the terms of your lease.

If you wish us to try to obtain your freeholder's or superior landlord's written consent there will be an additional charge of **£60.00** including VAT in addition to the fees due to the freeholder or their managing agent.

#### **H. INSURANCE**

It is essential that the Premises and contents included in the Inventory and Schedule of Condition are adequately insured and that your insurers are aware that the Premises are let. Failure to do so may invalidate your insurance. You must inform your insurers whenever the Premises remain vacant for a period greater than specified in your insurance policy. You should also check that your insurance policies include third party liability to protect you if the tenant or a visitor to the Premises sues for personal injury. You must give us copies of the relevant sections of the policies to attach to the Tenancy Agreement at the start of the tenancy.

We cannot be responsible for the renewal of your insurance cover. We strongly recommend you arrange for an insurance policy which covers loss of rent and contents, and legal expenses.

#### **I. TAXATION**

You will be liable for tax on rental income and you must inform the Inland Revenue that you are letting the Premises. There are a number of allowances that you can claim against this rental income. You should seek advice on these allowances from your accountant or from the Inland Revenue website which can be accessed on [www.hmrc.gov.uk](http://www.hmrc.gov.uk). You must also keep all your invoices for six years for tax purposes. You should also be aware that we forward a form to the Inland Revenue annually detailing all landlords whose property we have let regardless of the country of residence of that landlord.

The Inland Revenue has special rules regarding the collection of tax on rental income if you are a landlord who is resident overseas, or you subsequently move abroad. If you fall into this category it is your responsibility to obtain a tax approval number from the Inland Revenue. The relevant form and guidance notes can be downloaded from the above website. Until that approval number is given to us by the Inland Revenue we are legally obliged to deduct tax from your rental income at the prevailing rate which is currently 23%. This money is forwarded to the Inland Revenue on a quarterly basis. If you are not accepted into the Non Resident Landlord Scheme and we deduct tax from your lettings income we shall make an administration charge of **£60.00** including VAT per annum for preparing the quarterly return, your certificate of tax deducted and forwarding monies to the Inland Revenue. If the tenant pays you direct and he has not received approval from the Inland Revenue to pay the rent gross he must deduct tax and forward that to the Inland Revenue on your behalf. No person is exempt from this scheme.

#### **J. THE FURNITURE and FURNISHINGS (FIRE) (SAFETY) REGULATIONS 1988 and THE FURNITURE and FURNISHINGS (FIRE) SAFETY) (AMENDMENT) REGULATIONS 1993**

It is a criminal offence, punishable by a fine and/or a prison term, to let Premises with furniture or soft furnishings which cannot

be proven to comply with the above fire safety regulations. By signing this Agreement you give us authority to remove any item that does not have a fire label attached to it. The Regulations apply to the following which must be match resistant, cigarette resistant and carry a permanent label:

- all upholstered furniture;
- three piece suites;
- beds and divans including the upholstered bases;
- padded headboards;
- sofa-beds;
- furniture with loose or fitted covers;
- children's furniture;
- cots and other items used by a baby or small child;
- cushions;
- high-chairs;
- mattresses of any size;
- pillows;
- garden furniture which may be used indoors.

#### **K. ELECTRICAL EQUIPMENT (SAFETY) REGULATIONS 1994**

You are responsible for providing instruction books for all items of electrical equipment and for ensuring that all electrical appliances within the Premises comply with the above Regulations. You should also ensure that all electrical installations are safe and have them checked regularly.

If we need to arrange for a safety check under these Regulations there will be an administration charge of **£10.00** including VAT in addition to the cost of the safety check itself.

#### **L. GAS SAFETY (INSTALLATION AND USE) REGULATIONS 1998**

It is a criminal offence to let Premises with gas appliances, installations and pipe-work that have not been checked by a CORGI Registered Engineer. You will need to provide us with a copy of a Gas Safety Certificate (GSC) carried out no more than 12 months previously. If this GSC is not sent to us when you return this Agreement you give us authority to arrange for a gas safety check. The GSC will need to be renewed at 12 monthly intervals. If we arrange a gas safety check there will be an administration charge of **£10.00** including VAT in addition to the cost of the CORGI gas safety check itself. We need to give your tenant documentary proof of your compliance with these Regulations at the commencement of the tenancy and within 28 days of the GSC being renewed. If you use your own contractor we will need proof of their CORGI registration.

**No tenancy can commence until we are in receipt of a valid GSC.**

#### **M. PART "P" BUILDING REGULATIONS (ELECTRICAL SAFETY IN DWELLINGS)**

From January 1 2005 the above Regulations came into force requiring qualified personnel to carry out certain electrical work at premises. To ensure compliance with the Regulations we will only use a competent person to carry out any electrical work at a property. If the Landlord wishes to use his own contractor we will need written proof that he is currently registered with an approved self-certification scheme before issuing instructions. In the absence of such proof we will instruct our own contractor if managing the Premises.

## **N. SMOKE ALARMS AND CARBON MONOXIDE ALARMS**

Under current legislation being the Building Regulations 1991 it is the law that all newly built premises from June 1992 must have mains fitted smoke alarms with battery back up. Legislation insists that the same criteria apply to a House in Multiple Occupation. Other properties do not require smoke alarms by law. However if battery operated smoke alarms are fitted to the Premises the Landlord must ensure that the alarms are in working order at the start of a Tenancy. If we or the inventory clerk are unable to reach the alarm to test it we will arrange for a contractor to visit the Premises and test the alarm. The cost of the visit is the responsibility of the Landlord and will be deducted from the initial rent payment.

It is not the law that carbon monoxide alarms are fitted to premises. However we advise all landlords to consider the installation of alarms to protect the Tenant and help prevent any legal action being taken against a landlord if a tragedy occurs. If you wish us to arrange the fitting of alarms at your expense you must advise us in writing. The cost will be deducted from the rent.

## **O. CLEANING**

If you ask us to arrange for the cleaning of Premises where we are instructed there will be an administration charge of **£10.00** including VAT in addition to the cleaning charge.

## **P. RENT ARREARS/BREACHES OF COVENANT**

It is your responsibility to take all necessary steps to ensure that actions are taken to protect your interests, including instructing solicitors and commencing legal proceedings to preserve your rights and recover arrears of rent and to defend all actions or other legal proceedings and arbitrations that may be brought against you in connection with the Premises. All costs and disbursements incurred including legal costs and disbursements will be payable by you.

## **Q. REIMBURSEMENT OF AGENT**

You will keep us reimbursed in respect of any claim damage or liability whether criminal or civil suffered from and during the time that we are or were acting on your behalf unless it is due to our negligence or breach of contract. For the avoidance of any doubt we reserve the right to have work carried out on your behalf and to charge you for that work to ensure that you fulfill your contractual and statutory obligations as landlord.

## **R. MAIL**

It is not part of our normal function to forward the Landlord's mail. Therefore no responsibility can be taken for mail sent to you at the Premises. We recommended that you arrange for it to be redirected by the Post Office.

## **S. DEPOSITS**

We will collect the deposit together with initial rental payment from the tenant at the commencement of the tenancy and regardless of the service used by the Landlord hold the deposit in a stakeholder capacity. The deposit will also be held in an interest bearing deposit account. Any accrued interest will be used to cover any bank and administration costs incurred by ourselves.

As stakeholder we will be unable to release the deposit or any part of it to you or the tenant without the other party's written consent. The deposit or any balance payable will be paid to the tenant or Landlord as appropriate at the end of the Tenancy.

After the tenancy ends you are entitled with the written consent of the tenant to ask us to deduct from the deposit any of the

following:

- any damage to the Premises and fixtures and fittings caused by the tenant or resulting from any breach of the terms of the Tenancy Agreement by the tenant;
- any damage caused or cleaning required as a result of any pets occupying the Premises whether or not the Landlord consented to its presence;
- any sum repayable to the Landlord to the local authority where housing benefit has been paid direct to the Landlord by the local authority;
- any installment of the rent which is due but remains unpaid at the end of the Tenancy
- any other breach by the tenant of the terms of the tenancy Agreement;
- any unpaid account or charge for water, electricity or gas or other fuels used by the tenant in the Premises
- any unpaid telephone charges.

***You will need to specify the amounts deducted and the reasons for any deductions made. Provided the two parties agree to the deductions to be made we will send to you the amount agreed between the parties for damage, cleaning, unpaid bills, or unpaid rent and pay the balance if any to the tenant. If the amount of compensation you seek exceeds the amount held as the deposit, you may require the tenant to pay that additional sum within 14 days of the tenant receiving that demand in writing.***

***To comply with Tenancy Deposit Protection legislation the Agent is a member of the Tenancy Deposit Scheme, which is administered by:***

The Dispute Service Ltd  
PO Box 541  
Amersham  
Bucks  
HP6 6ZR

phone 0845 226 7837  
email [deposits@tds.gb.com](mailto:deposits@tds.gb.com)  
fax 01494 431 123

***If we are instructed by you to hold the Deposit, we shall do so under the terms of the Tenancy Deposit Scheme.***

***At the end of the tenancy covered by the Tenancy Deposit Scheme***

***If there is no dispute we will keep any amounts agreed as deductions where expenditure has been incurred on behalf of the Landlord, or repay the whole or the balance of the Deposit according to the conditions of the Tenancy Agreement with the Landlord and the Tenant. Payment of the Deposit will be made within 10 working days of written consent from both parties.***

***If, after 10 working days following notification of a dispute to the Agent and reasonable attempts have been made in that time to resolve any differences of opinion, there remains an unresolved dispute between the Landlord and the Tenant over the allocation of the Deposit it will (subject to the clause below) be submitted to the ICE for adjudication. All parties agree to co-operate with any adjudication.***

***When the amount in dispute is over £5,000 the Landlord and the Tenant will agree by signing the Tenancy Agreement to submit the dispute to formal arbitration through the engagement of an arbitrator appointed by the ICE although, with the written consent of both parties, the ICE may at his discretion accept the dispute for adjudication. The appointment of an arbitrator will incur an administration fee, to be fixed by the Board of The Dispute Service Ltd from time to time, shared equally between the Landlord and the Tenant. The liability for any subsequent costs will be dependent upon the award made by the arbitrator.***

***The statutory rights of either you or the Tenant to take legal action against the other party remain unaffected.***

*It is not compulsory for the parties to refer the dispute to the ICE for adjudication. The parties may, if either party chooses to do so seek the decision of the Court. However, this process may take longer and may incur further costs. Judges may, because it is a condition of the Tenancy Agreement signed by both parties, refer the dispute back to the ICE for adjudication. If the parties do agree that the dispute should be resolved by the ICE, they must accept the decision of the ICE as final and binding.*

*If there is a dispute we must remit to The Dispute Service Ltd the full deposit, less any amounts already agreed by the parties and paid over to them. This must be done within 10 working days of being told that a dispute has been registered whether or not you or we want to contest it. Failure to do so will not delay the adjudication but The Dispute Service Ltd will take appropriate action to recover the deposit and discipline us.*

*We must co-operate with the ICE in the adjudication of the dispute and follow any recommendations concerning the method of the resolution of the dispute.*

By signing this Agreement you agree to abide by the regulations of the TDS of which we are a member. We will charge a fee of **£30.00** including VAT for that service which includes registering the deposit, preparing the Prescribed Information documents and sending certificates to tenants.

If we do not manage your Premises we will charge an administration fee of **£15.00** including VAT to cover costs for holding the deposit and passing it to any relevant dispute service at the end of the tenancy if you the Landlord and the tenant do not agree deductions. The deposit will be released when we receive written confirmation from both parties. Unless we manage the Premises we will not negotiate on your behalf unless requested by you in writing together with your cheque for our fees in the sum of **£150.00** including VAT to resolve any dispute.

If we have to prepare documentation in the form of photocopies or other relevant publishing material we will charge a fee of **£10.00** including VAT for this service. If we have to attend court on your behalf as a witness we will charge a fee of **£150.00** including VAT.

If we manage your Premises we will retain 50% of the last month's rent to enable us to carry out any necessary cleaning or maintenance to enable us to market your Premises and find a new tenant with a minimum of delay. This may be necessary if a tenant disputes any deduction and the Landlord has to refer the matter to TDS to gain compensation for his loss from the Deposit.

#### *Incorrect Information*

If the Landlord warrants that all the information he has provided to the Agent is correct to the best of his knowledge and belief. In the event that the Landlord provides incorrect information to the Agent which causes the Agent to suffer loss or causes legal proceedings to be taken the landlord agrees to reimburse and compensate the Agent for all losses suffered.

#### **The following clauses can be inserted if the Agent allows the Landlord to hold the Deposit outside TDS.**

If you/the Landlord decide(s) to hold the Deposit and the Tenancy is an Assured Shorthold Tenancy you/the Landlord must specify to us/the Agent prior to the start of the Tenancy under which other Tenancy Deposit Protection Scheme the Deposit will be covered. If the Deposit is covered by Tenancy Deposit Solutions you/the Landlord must provide proof of membership, together with a copy of the insurance policy before the Deposit can be released.

#### **T. HOUSING ACT 2004**

The regulations in the above Act concerning houses in multiple occupation ("HMOs") became law on April 6 2006 and were enforceable from July 2006. There is a general wide definition of the regulations which state that the following are HMOs:

- Student accommodation during term time;
- Properties inhabited by 3 or more people who are not a household and share kitchen and bathroom facilities. A household is defined as parents, grandparents, children, aunts, uncles and cousins.
- A building converted into flats pre June 1992 which does not comply with the Building Regulations 1991, has not been subsequently up-dated to the relevant fire safety standard and where a third or more of the properties are rented on short term tenancies.

The landlord may not have to carry out any action to ensure compliance. The above properties like all private dwellings must comply with the Housing Health and Safety Rating System ("HHSRS") which is the new statistical means of measuring hazards and risk of injury at a property. This system applies to all properties but those falling into the above category are subject to inspection by the environmental health officer. The responsibility for ensuring premises comply is that of the Landlord. If we accept an instruction to let premises and subsequently an order is served to comply with the HHSRS if we incur any costs for compliance due to an order being served upon us you the Landlord agree to reimburse us within 14 days of written demand or agreeing by signing this document that the costs may be deducted from the rent or other money received.

### **Mandatory Licensing**

Under the Housing Act 2004 landlords of certain properties where individuals are living as more than one household will need to be licensed by their local authority. If we believe that your property falls into this category we will inform you of this fact and of the alterations that we have been informed by the local authority may be required to allow you to gain a licence for your Premises. If your Premises potentially require a licence you will either need to obtain a license from the relevant Local Authority or we will only be able to let your Premises to a single family group.

The Premises will require a licence if it falls into the following definition. If the Premises are 3 storeys or more and has five or more occupiers who do not form one household and share kitchen or bathroom facilities it is subject to mandatory licensing. It is the responsibility of you the Landlord to apply and pay for the licence. We will only offer Premises for let when we are in receipt of a copy of the mandatory licence or a certificate stating that the Landlord has applied for the licence. If you refuse to supply us with a copy of your licence or refuse to obtain one we will not accept any further instruction from you and will take no further part in the letting and management of your Premises. If we are forced to disinstruct ourselves once a tenancy has commenced you will remain liable for our full fees for the initial term of the tenancy. We will inform the tenant and the relevant local authority of our reasons for disinstructing ourselves in writing.

### **Discretionary Licensing**

Local authorities can enforce discretionary licensing. We will advise you of any regulations of which we have been made aware but it is the responsibility of the Landlord to check whether the Premises are subject to discretionary licensing and if so to apply and pay for the licence. We will only offer the Premises for let when we are in receipt of the licence or the certificate proving that the Landlord has applied for one.

## **U. INTEREST ON CLIENTS' MONIES**

Any interest accrued on clients' money which we hold will be retained by ourselves to cover bank and administration charges etc.

## **V. WITHDRAWAL FROM AGREED OFFER**

If a formal offer has been made by an applicant when we receive your notification it may not be possible to withdraw the offer if it has been accepted. If an applicant agrees to accommodate your request you should expect to meet reasonable costs and expenses incurred by him or her.

If you instruct us to proceed with the proposed tenancy and subsequently withdraw such instructions you agree to meet the costs of the expenses incurred up to the sum of **£500** including VAT and a contribution towards our advertising costs of **£60.00** including VAT.

## **W. ACTS OF THIRD PARTIES**

We will not be responsible for any loss or damage that you suffer through the act, default or negligence of any third party which may arise otherwise than the through the negligence, omission or failure on the part of James Andrew Residential Limited

## **X. MONEY LAUNDERING**

In order to comply with the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 we require you to provide us with one proof of identity and one proof of residence which can be selected from the list below. You should either send us the original documents for copying and returning to you; or provide us with copies certified by a solicitor as genuine.

**List A: Proof of Identity**

Full Passport  
National Identity Card  
Full Driving Licence.

**List B: Proof of Residence**

Council Tax bill  
Utility bill  
Mortgage statement  
Bank Statement  
Credit Card Statement.

If you are a company which is quoted on the London Stock exchange we will require a certified copy of the Certificate of Incorporation. If the company is not quoted we require certified copies of two of the following documents:

Memorandum and Articles of Association  
Certificate of Incorporation  
A set of the Latest Accounts  
The last Annual Return.

In addition we need proof of identity and residence of two of the directors.

**Y. DATA PROTECTION ACT**

In order to comply with the Data Protection Act to prevent any unauthorised access to or use of personal data we have the responsibility to keep information confidential and will only use it if fees are not paid and we wish to refer the matter to a debt collector or solicitor; or if we are specifically required do so by law or to pass it to a government agency by law; when instructing solicitors; to change account details for utility suppliers and the council tax into or out of your name; when a contractor's invoice has not been settled by you.

**Z. SERVICE OF NOTICES**

*The provisions for the service of notices are that if either party deliver by hand any Notices or documents which are necessary under the Agreement, or any Act of Parliament to the other party by 5pm or the last known address of the other party; the documents or Notices will be deemed delivered on the next working day which excludes Saturdays Sundays and Bank Holidays; or if any documents or Notices are sent by registered, or recorded delivery post the documents will be deemed delivered upon proof of delivery being obtained; or if the documents or Notices are sent by ordinary first class post addressed to the other party or the last known address of the other party; the documents or Notices will be deemed delivered two working days later, which excludes Saturdays, Sundays and Bank Holidays. The address for service for the Landlord will be the contact address specified in this Agreement and the address for service for us will be James Andrew Residential Limited, Fairchild House, Redbourne Avenue, London N3 2BP*

**PURCHASER BY PARTY INTRODUCED THROUGH US**

In the event of the Tenant, or any applicant or employee or servant of the Tenant or any Company or individual introduced or indirectly by the Tenant or its employee purchasing the Property, our commission will be 3% of the sale price plus VAT on completion payable to you.

## **ENERGY PERFORMANCE CERTIFICATES**

From 1<sup>st</sup> October 2008, all rental properties with a new tenancy or re-let in England and Wales will be required to have an EPC. There will be a penalty for non compliance which could be £5000 for agents and £200 daily for landlords.

## **AA. DEFINITIONS**

In this Agreement the following Definitions apply:

- Use of the singular includes the plural;
- Use of the masculine includes the feminine.
- “Jointly and severally liable” means that each person will be responsible for complying with the obligations of and paying all charges and costs under this Agreement, both individually and together.
- “Landlord” means anyone owning an interest in the Premises, whether freehold or leasehold, entitling them to possession of it upon the termination or expiry of the Tenancy and anyone who later owns the Premises.
- “Tenant” means anyone entitled to possession of the Premises under a Tenancy Agreement.
- “Premises” means any part or parts of the building boundaries fences garden and outbuildings belonging to the Landlord. When the Premises are part of a larger building the Premises include the use of common access ways and facilities.
- “inventory and schedule of condition” means the document drawn up prior to the commencement of the Tenancy by the Landlord or the Agent, which includes the fixtures and fittings in the Premises.
- “Term” or “Tenancy” means the fixed term of the Tenancy Agreement and any extension or continuation of the Tenancy whether fixed term or periodic arising after the expiry of the original Term.
- "Deposit" means the money held by the Agent in a stakeholder capacity during the Tenancy in case the Tenant fails to comply with the terms of the Tenancy Agreement.
- "Stakeholder" means that deductions can only be made by the Agent from the Deposit at the end of the Tenancy with the written consent of both parties.
- “Tenancy Agreement” means the contract drawn up between the Landlord and the Tenant specifying the obligations of the two parties.
- “TDS” means The Dispute Service whose details are shown in the Tenancy Agreement.
- “ICE” means the Independent Case Examiner of The Dispute Service Limited.
- “Agreement” means this Terms of Business signed between the Agent and the Landlord

## **BB. PROPER LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and Wales.

## **RELATED SERVICES**

**For further peace of mind we recommend that you consider asking us for details of:**

- **MARAS Rent Guarantee**
- **MARAS Buildings and Contents Insurance**
- **REFURBISHMENTS**
- **EPC (Energy Performance Certificates)**

**IF YOU WISH US TO PROCEED,  
PLEASE CONFIRM YOUR INSTRUCTIONS BY  
RETURNING THIS DOCUMENT HAVING COMPLETED  
THE APPROPRIATE SECTIONS BELOW**

I/We accept the above terms and conditions and I/we instruct James Andrew Residential Limited to act on my/our behalf for the purpose of:

Letting of my/our Premises  
**10% + VAT**

Letting and rent collection for my/our Premises  
**11% + VAT**

Letting, rent collection and management  
of my/our Premises **16% + VAT**

Address of the Premises

.....

I/We acknowledge my/our obligations under the Furniture and Furnishings (Fire) (Safety) Regulations 1988 as amended 1993, The Gas Safety (Installation and Use) Regulations 1998 and the Electrical Equipment (Safety) Regulations 1994 and I/we accept and confirm that I/we have full responsibility to ensure that I/we comply with their requirements before and during the letting of the Premises.

I/We the undersigned am/are the only people with any interest in the Premises.

I/We confirm that there are no major repairs, construction or maintenance work of which I/we are aware due to be carried out to the Premises, any adjoining property or the building of which the Premises form part except as noted below.

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I/we enclose the following documents to comply with the Money Laundering Regulations 2003.

1. \_\_\_\_\_
2. \_\_\_\_\_

If we are not managing the Premises please complete the following:

I/we confirm that I/we will take full responsibility of the management of the Premises. I/we are aware that I/we must give the tenant copies of all guarantees and maintenance contracts for any equipment in the Premises otherwise I/we may incur additional costs if the tenant instructs another contractor and will have to compensate the tenant. Contact details which will be passed to the tenant are as follows:

Daytime telephone number: \_\_\_\_\_

24 hour/emergency telephone number: \_\_\_\_\_

Contact address (UK): \_\_\_\_\_

When I am/we are unavailable (e.g. on holiday/abroad) the following person(s) should be contacted in my/our absence. This person has Power of Attorney which gives them legal authority to act on my/our behalf:

Name: \_\_\_\_\_

Daytime telephone number: \_\_\_\_\_

24 hour/emergency telephone number: \_\_\_\_\_

Contact address (UK): \_\_\_\_\_

Signed

.....

Name..... Date.....

Signed

.....

Name..... Date.....

Correspondence address

.....

.....



Telephone number ..... Fax number .....

E mail address .....

Signed on behalf of James Andrew Residential Limited

.....

Name.....Date.....

NB. All fees are inclusive of VAT except where fees are expressed as a percentage. VAT will then be charged at the prevailing rate.