

# Terms of Business

**Between the Landlord:**

First Landlord's Name                      First Landlord's Address

Second Landlord's Name                      Second Landlord's Address

Third Landlord's Name                      Third Landlord's Address

(Hereafter referred to as "The Landlord")

**and the Agent:**

Name of Agent                                      Address of Agent

Murray & Currie                                      60 Queen Street, Edinburgh, Lothian, EH2 4NA

(Hereafter referred to as "The Agent")

**For the property:**

[INSERT ADDRESS OF PROPERTY TO BE RENTED]

**These Terms of Business set out the services The Agent can provide to The Landlord and also set out the corresponding responsibilities of the Landlord.**

**Please read these Terms of Business carefully.**

**If there are any parts which you do not fully understand you should seek independent clarification and advice.**

**You will be bound by these Terms of Business as soon as you sign and return them to The Agent.**

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

# TERMS OF BUSINESS

## IT IS AGREED AS FOLLOWS:

### General

These general conditions apply to all levels of service.

#### 1. Definitions

In this Agreement the following definitions and interpretations apply:

- 1.1 "The Landlord" means the party named on the front page of this Agreement and any person who has an interest in The Property, even if not named on this Agreement.
- 1.2 "The Agent" means Murray & Currie, whose details appear on the front page.
- 1.3 "The Tenant" mean the parties named on the tenancy agreement as the tenant of The Property.
- 1.4 "The Property" means the premises, the address of which is noted on the first page of this Agreement, or any subsequent change to the address made by the local authority.
- 1.5 "Term" means the total length of a tenancy introduced or negotiated by or through The Agent and includes any subsequent letting by The Landlord, to The Tenant, whenever the subsequent letting has been negotiated by The Agent.
- 1.6 These Terms and Conditions shall be governed by and construed in accordance with the law of Scotland.
- 1.7 If there is more than one person signing as The Landlord all Landlords will be jointly and severally liable for the obligations contained in this Agreement. Jointly and severally liable means that each Landlord will be responsible for complying with the obligations and paying all charges and costs under this Agreement, both individually and together.

#### 2. Appointment and Authority

- 2.1 Subject to the terms and conditions of this Agreement, The Landlord appoints The Agent to be his agent for The Property. The Agent accepts such appointment. The appointment will commence on \_\_\_\_\_ and will be for a minimum period of \_\_\_\_\_ months from said date. The appointment shall continue thereafter until terminated by either party in terms of Clauses 2.25 or 2.26 below. Appendix B of this Agreement sets out the terms on which the Landlord **may** have a right to cancel the Agreement under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
- 2.2 The Landlord agrees that during any period of marketing The Property for let, no other Agent will be instructed to let the property. Should the property be let during the agency period, all fees will be payable to the Agent irrespective of who sourced The Tenant whether by another agent or The Landlord.
- 2.3 The Landlord gives authority to The Agent to act on his behalf and to do anything which The Landlord could do himself for level of service requested in this Agreement. The Landlord agrees to approve everything done by The Agent in good faith when carrying out their duties unless the action is negligent or in breach of contract. The other provisions of this Agreement shall not limit the right of The Agent to carry out whatever acts are necessary to enable The Landlord to comply with his statutory obligations, to prevent further deterioration of The Property and to limit any damage in an emergency.
- 2.4 The Landlord confirms to The Agent that he is entitled to enter into this Agreement to let The Property and that he has obtained all necessary consents and licences and will continue to do so throughout the duration of this Agreement and that he is entitled to all revenue collected on The Property.
- 2.5 The Landlord will reimburse and compensate The Agent against all expenses, including any legal expenses incurred by The Agent as a result of instructing solicitors to provide legal advice or take legal action on behalf of The Landlord and all claims liabilities and losses incurred by or imposed on the Agent in the performance of their obligations under this Agreement, unless the loss or liability arises through negligence or breach of contract by The Agent.

- 2.6 The Landlord confirms that The Property is fit to be let and complies with all statutory obligations and that all appliances comply with current, and will be kept compliant with future, safety regulations. When signing this Agreement The Landlord confirms that all machinery, gas appliances and electrical goods will be in full working order, have been recently serviced and have clear instructions for use.
- 2.7 The Landlord agrees that the Property will be thoroughly cleaned and gardens, if applicable, will be in good seasonal condition.
- 2.8 The Agent will not, as part of their normal duties, supervise any major repair works nor provide specialist advice to The Landlord regarding repairs required to The Property. These services can be provided at an additional charge, if requested by The Landlord in writing. The details can be provided upon request. The Agent accepts no liability for any loss or damage arising from the sub-standard or inadequate repair works or from any other default by a repairing contractor. This does not apply if it is due to the negligence or breach of contract of The Agent, or because The Agent selected a contractor who was not qualified to carry out the work.
- 2.9 The Agent does not undertake to be responsible for redirecting The Landlord's mail delivered to The Property. It is recommended that arrangements are made prior to commencement of the tenancy, and for the duration of The Property being let, for it to be redirected by the Royal Mail.
- 2.10 The Landlord agrees to comply with the requirements under the Energy Performance of Buildings (Scotland) Regulations 2008 as amended, to provide an Energy Performance Certificate (EPC) to a prospective tenant. The Agent requires that the EPC is made available by the Landlord to the Agent before marketing of the property commences. Where a property is being marketed for let, the energy performance indicator from that property's EPC must be stated in any advert for let. The Agent cannot commence marketing the property for let until an EPC has been provided by the Landlord. The Agent can arrange for the EPC to be obtained for The Property on behalf of the Landlord, where the Landlord so requests. All costs relating to the implementation of this clause shall be borne by the Landlord and deducted from the rent received, if possible, or paid by the Landlord within fourteen days of written demand.
- 2.11 The Landlord agrees to comply with the Gas Safety (Installation and Use) Regulations 1998 and shall provide to The Agent, at least 7 days prior to commencement of the tenancy, a copy of the current safety record from a Gas safe registered engineer (together with a copy of the installer's current registration). If no record is produced by that date, The Agent can arrange for the gas safety check prior to commencement of the tenancy provided the Landlord gives written instructions to that effect and places The Agent in cleared funds. The Landlord also agrees to provide written instructions for the use of all gas appliances and if no instructions are available to allow The Agent to remove the items from The Property and dispose of them at The Landlord's expense. All costs relating to the implementation of this clause shall be borne by The Landlord and deducted from the rent received, if possible, or paid by The Landlord within fourteen days of written demand.
- 2.12 The Landlord agrees to comply with the Plugs and Sockets Etc (Safety) Regulations 1994, the Electrical Equipment (Safety) Regulations 1994 and the Housing (Scotland) Act 2006 and shall provide to The Agent, at least 7 days prior to the commencement of the tenancy, a copy of a valid Electrical Installations Condition Report (EICR) for all electrical installations to include a Portable Appliance Test for electrical appliances supplied by the Landlord . If no EICR is produced by that date, The Agent can arrange for the EICR prior to commencement of the tenancy provided the Landlord gives written instructions to that effect and places The Agent in cleared funds. The Landlord also agrees to provide written instructions for the use of all electrical appliances and if no instructions are available to allow The Agent to remove the items from The Property and dispose of them at The Landlord's expense. All costs relating to the implementation of this clause shall be borne by The Landlord and deducted from the rent received, if possible, or paid by The Landlord within fourteen days of written demand.
- 2.13 The Landlord agrees to comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988. If the furniture does not comply with current regulations The Landlord gives permission for The Agent to remove from The Property and dispose of, prior to the commencement of the tenancy at the expense of The Landlord, any items that do not comply. All costs relating to the implementation of this clause shall be borne by The Landlord and deducted from the rent

received, if possible, or paid by The Landlord within fourteen days of written demand.

- 2.14 The Landlord agrees control the risk of Legionella. The Landlord will provide The Agent with a copy of a current risk assessment for The Property to ensure that any risk is identified and appropriate control measures are actioned. If no risk assessment is provided by The Landlord the Landlord agrees to allow The Agent can arrange for an appropriate risk assessment prior to commencement of the tenancy provided the Landlord gives written instructions to that effect and places The Agent in cleared funds.
- 2.15 Unless other legislation requires a higher standard of fire warning, ie where The Property is a House in Multiple Occupation (HMO), the Repairing Standard requires that there should be at least:
- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes,
  - one functioning smoke alarm in every circulation space, such as hallways and landings,
  - one heat alarm in every kitchen, and
  - all alarms should be hardwired and interlinked.

If insufficient smoke and heat alarms are present, The Agent can arrange for additional alarms provided the Landlord gives written instructions to that effect and places The Agent in cleared funds. The Landlord agrees that The Agent can check any alarm is operational and install new batteries at the start of every tenancy. All costs relating to the implementation of this clause shall be borne by The Landlord and deducted from the rent if possible or paid within fourteen days of written demand.

- 2.16 The Landlord agrees that The Property has a working carbon monoxide detection system where one is required in order to comply with the Repairing Standard. If there is no carbon monoxide detector and The Property requires one, The Agent can arrange for the installation of same provided the Landlord gives written instructions to that effect and places The Agent in cleared funds. All costs relating to the implementation of this clause shall be borne by The Landlord and deducted from the rent if possible or paid within fourteen days of written demand.
- 2.17 If The Property is to be a house in multiple occupation in accordance with the provisions of the Housing (Scotland) Act 2006 The Landlord will comply with all obligations imposed upon The Landlord in terms of said legislation and will exhibit his licence to The Agent in advance of The Property being let. It will be the responsibility of The Landlord to renew his HMO licence and to exhibit the new licence to The Agent. It will be the responsibility of The Landlord to immediately notify The Agent of the expiry of the licence or recall of it.
- 2.18 The Landlord (1) hereby confirms that he is a registered landlord for The Property in terms of the Anti-Social Behaviour etc (Scotland) Act 2004 and (2) will provide his registration number to The Agent prior to the commencement of this Agreement.
- 2.19 The Landlord undertakes to maintain appropriate and adequate insurance for The Property and contents throughout the time it is let and to notify the insurers of the fact The Property is being let and of periods of non-occupation. The Landlord is advised that if he does not notify the insurer that The Property is let then the policy may be void and any claim refused. It is essential to hold both buildings and contents insurance, even if The Property is not furnished, to cover any damage or personal injury claim made by a Tenant or a visitor to The Property.
- 2.20 If The Property has a mortgage The Landlord shall:
- 2.20.1 Notify lender of the intention to let and obtain all necessary consents for letting in writing.
- 2.20.2 Provide The Agent with a copy of the head lease or its relevant sections containing any terms with which The Tenant must comply prior to the start of the tenancy. The Landlord should be aware that if the information is not provided The Tenant will not have to abide by the terms of the head lease which could put The Landlord in breach of the head lease leading to the possibility of The Landlord losing The Property.
- 2.20.3 Provide to The Agent a copy of the written authority from the lender granting consent to let, together with any conditions imposed by the lender which need to be included in the tenancy agreement. The Agent reserves the right to seek confirmation of this consent if not provided

within fourteen days of the commencement of the tenancy.

- 2.21 The Agent's responsibilities do not include the supervision of The Property when it is not let. Should The Landlord wish The Property to be managed during any void period, The Agent will undertake this additional service after receiving written instructions from The Landlord and we may charge an additional fee for Void Management fee to be agreed between parties. This service will include fortnightly visits to The Property, visually checking the contents and security and reporting to The Landlord thereafter. The Agent cannot be liable for any hidden or latent defects.
- 2.22 The Agent's responsibilities do not include attendance Court or Tribunal, as appropriate, on behalf of The Landlord, or other work not specified as included within a particular service. Should the Landlord wish such attendance the Agent reserves the right to charge an additional fee.
- 2.23 The Agent will not be responsible for any loss or damage that The Landlord suffers 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 The Agent.
- 2.24 Where required, this Agreement gives The Agent the right to sign tenancy documentation and notices on behalf of The Landlord. It is accepted that this will bind The Landlord to all legal obligations within the tenancy agreement or notice.
- 2.25 Without prejudice to any 'Cooling Off' rights as detailed in Appendix B attached and as detailed later in this Agreement, prior to finding a tenant acceptable to The Landlord, either party may end this Agreement by issuing to the other seven days' notice in writing. Fees due for work already undertaken will remain payable. This could be up to the Tenant Find only fee and charges if a ready willing and able tenant has been found and the work for the check in has been completed.
- 2.26 Without prejudice to any 'Cooling Off' rights as detailed in Appendix B attached and as detailed later in this Agreement, once a tenant is agreed with The Landlord, The Landlord or The Agent may terminate this agreement by giving two month's notice in writing to the other party. In the event The Landlord terminates this Agreement and the existing Tenant remains in The Property under a contractual or statutory tenancy or enters into a new tenancy directly with the Landlord, a charge equivalent to one month's rent plus VAT or the commission due for the remainder of the term of the lease, whichever is greater, will be payable to the Agent.
- 2.27 Upon the contract being terminated by either party in terms of 2.24 or 2.25 above the Agent will no longer be acting for The Landlord. The Agent will provide The Landlord with the date the contract terminated and with details of the outstanding fees and/or charges owed by The Landlord to the Agent and details of any funds held by The Agent on behalf of The Landlord. The Agent will also write to The Landlord setting out the arrangements for the handover of The Property, documentation and keys to The Landlord or his newly appointed representative.
- 2.28 Upon the contract being terminated by either party in terms of 2.24 or 2.25 above the Agent will write to The Tenant notifying The Tenant that the Agent is no longer acting as Agent for the property or The Landlord and informing The Tenant of who is now acting as Agent or if The Landlord is acting directly. The Agent will also remind The Tenant as to where the deposit is held.
- 2.29 **"Data Protection Act and use of information:** For the purposes of data protection legislation please note that by instructing The Agent you accept and agree that personal information about you will be held on our internal databases both electronically and on paper copy.

Whenever you engage us to act for you or provide us with any information (including personal data), you consent to our use of all such information for the purposes of performing the letting and management services you have requested. We may also use the information you provide to us for administration and internal training purposes.

The Agent may also at his sole discretion disclose this information (including any personal data) to our professional advisers or other agents whom we use to perform certain functions on our behalf, for example to solicitors, accountants, contractors, insurance providers, utility

companies, property management software providers and any other company within or outwith Murray and Currie if it is required to perform any duties we have asked them to undertake.

Please note The Agent may have a legal obligation to disclose this information (including personal data) to tenants and enforcement agencies for example the police, **Inland Revenue** and local authority agencies and in such circumstances these legal obligations will be observed.

We will take all reasonable steps to ensure the security of all personal data held by us at any time. We observe the requirements of the Data Protection Act 1998 in respect of personal data held by us.

2.30 In the event that The Landlord sells The property at any time and The Tenant is the purchaser, a fee of 1.5 % plus VAT of the agreed selling price will be payable to The Agent.

### **3. Fees and Money**

3.1 The Landlord agrees to pay the appropriate fees for the level of service engaged. The Landlord acknowledges that all fees are subject to VAT.

3.2 The Landlord agrees to pay the initial set up fee which includes marketing of £150 plus VAT (£180 including VAT).

3.3 The Tenant Find Only Service is £[ ] plus VAT ( [ ] including VAT). For this fee, the Agent will provide the services in clause 4.

3.4 The Full Management Service is £150 plus VAT ( £180 including VAT) and an ongoing monthly management fee of 12% of the gross monthly rent as provided for in any tenancy agreement entered into with the Tenant. For this fee, the Agent will provide the services in clause 5. The rent shall be paid monthly by the Tenant to the Agent into an account nominated by the Agent. Said management fee will be deducted from each monthly payment of rent received from the Tenant. Where no rent is received from the Tenant, the Agent will not charge a management fee. If the tenant defaults on payment of the rent the Landlord, in signing this agreement, hereby agrees that The Agent will not be responsible for unpaid rent. No payment will be made to the Landlord's account until rent is paid by the Tenant.

It is hereby agreed that the Agent may deduct from rental all fees, commissions, charges and expenses payable or reimbursable to the Agent under the terms of this Agreement.

3.5 The Landlord acknowledges that the rent due date will be the commencement date of the tenancy. The Agent will endeavour to process rent and will pay the rent monies due less fees and commission within 5 working days of receipt.

3.6 In the event the Tenant opts to pay rent in advance, the advanced sums will be held by the Agent and paid to the Landlord in accordance with clause 3.4 above under deduction of the monthly management fee. Should the Tenant requests reimbursement of advanced sums not due at the time of request, the Agent will release said sums to the Tenant.

3.7 The Landlord agrees to reimburse and compensate The Agent for any claim, damage or liability suffered as a result of acting on The Landlord's behalf, unless it is due to negligence or breach of contract of The Agent or their employees.

3.8 The Agent shall be entitled to retain any interest on any monies collected while held in their account; and any commission earned or paid by third parties to The Agent while acting on behalf of The Landlord.

3.9 **TDS:**

Where the full management service is provided the Agent will transfer the deposit to a scheme in terms of the Regulations. The Agent will hold the deposit until such time as it is transferred to a Scheme of the Agent's choosing. The Agent shall be able to transfer the deposit to a different scheme at their sole discretion. The Landlord will not be entitled to any interest accrued whilst the deposit is held by The Agent. Once the deposit is transferred to a Scheme any interest accrued will be taken by the Scheme in terms of the Regulations.

Any deductions to the deposit can only be made in accordance with the deposit clause in the lease and in terms of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and the rules of the Scheme. The Landlord by signing this Agreement hereby expressly authorises The Agent to act on their behalf in relation to the deposit and the Tenancy Deposit Scheme.

In the event that a dispute arises between The Landlord and The Tenant with regards to the distribution of the deposit, and the Scheme refer the matter to their dispute resolutions mechanism, The Agent can act on The Landlord's behalf.

- 3.10 The deposit paid by The Tenant will be held by a Tenancy Deposit Scheme set up in terms of the Tenancy Deposit Regulations until The Tenant has vacated The Property and the inventory and The Property in general have been checked. Deposit monies will, with the written consent of both The Landlord and The Tenant, then be used in discharging any outstanding damage or rent claim due from The Tenant to The Landlord and the balance will be paid to The Tenant. The Landlord agrees that any deposit returned by the Scheme to the Agent will be firstly applied to outstanding rent.
- 3.11 At the end of the tenancy the agreement of The Landlord and The Tenant will be needed before deductions can be made from the deposit. If there is a no agreement, it must be dealt with in accordance to the rules of any approved scheme under which the deposit is covered.
- 3.12 The Landlord agrees at all times to abide by HM Revenue and Customs rules for self-assessment. Full details can be found on the relevant HM Revenue and Customs website.
- 3.13 The Agent will give to HM Revenue and Customs such information regarding the letting as they lawfully require, which is full details of every landlord and the annual rental income, but will not be responsible for preparing or submitting a Tax Return for The Landlord or dealing with any taxation or accounting matters.
- 3.14 If The Landlord appoints an accountant or other representative to handle his tax affairs The Agent shall provide to the representative copies of all rent statements, if requested.
- 3.15 Where The Tenant is entitled to housing benefit contributions The Landlord agrees to compensate and reimburse The Agent with any amount received by The Landlord which is deemed by the Local Authority to be overpaid benefit and is subsequently clawed back by them from The Agent.
- 3.16 With the introduction of the Financial and Services Markets Act 2000. The Agent cannot deal with or administer insurance claims through a third party insurer.
- 3.17 Without prejudice to the obligations of The Landlord to pay any sums due within fourteen days of written demand The Agent shall be entitled to deduct any amount due to them from any monies due to The Landlord, unless payment has been withheld because of negligence or breach of contract.

## **Services**

### **4. Tenant Find Only Service**

- 4.1 The Agent will visit The Property to view it and provide an indication of the likely rent achievable.
- 4.2 The Agent will market The Property to best attract a suitable tenant. Please notify The Agent in writing if there is a previous agreement with the lessor or other interested party not to erect a To-Let board.
- 4.3 As and when applicants are interested in viewing The Property, The Agent will either accompany these people to The Property with keys provided by The Landlord, or arrange a mutually convenient appointment for them to meet The Landlord and The Agent at The

Property.

- 4.4 The Agent will receive written applications from prospective tenants.
- 4.5 The Agent will take up references appropriate to the tenant applicant. If these references are in order the details of the applicant will be forwarded to The Landlord for written approval. The Agent will not be responsible for any loss suffered by The Landlord when The Tenant has been selected by The Agent in good faith, unless the loss is due to negligence or breach of contract by The Agent.
- 4.6 When an applicant is found The Agent will provide them with a draft tenancy agreement and advise them to take independent legal advice on the contents.
- 4.7 The Landlord will provide to The Agent keys on the following scale:
  - 4.7.1 Two keys to every lock in The Property including all doors, windows and other locks at The Property.
  - 4.7.2 Additionally, one set of keys to afford access to The Property, including any garage, for each party who make up The Tenant of The Property.
- 4.8 The Agent will retain one set for the purposes as stated in the tenancy agreement. If insufficient keys are provided, The Landlord agrees that The Agent may have the required sets made and all costs will be borne by The Landlord.
- 4.9 The Landlord agrees to provide copies of the relevant sections of the buildings and contents insurance policies to The Agent prior to the start of the tenancy for provision to The Tenant. The Landlord should be aware that if the documentation is not supplied The Tenant does not have to comply with any conditions of The Landlord's insurer and in particular any requirements if The Property is left vacant for a period of time.
- 4.10 The Agent will, on behalf of The Landlord, arrange a suitable tenancy agreement and arrange for The Tenant to sign the counterpart. The Agent will, on behalf of The Landlord, arrange for provision of the safety records, and Tenant Information Pack at commencement of the tenancy.
- 4.11 The Agent will receive one month's advance rental and deposit from The Tenant which the Agent will provide to the Landlord together with the tenancy documents.
- 4.12 The Agent will not arrange for preparation of an inventory and statement of condition of The Property.
- 4.12 The Agent will collect the initial monies due and sign the Tenant up on the Agreement. The Agent will then account to The Landlord and provide a statement of account showing fees deducted. If the deposit is collected by The Agent it shall be paid to The Landlord. It is the Landlord's responsibility to transfer the deposit to tenancy deposit scheme within 30 working days of the beginning of the tenancy in accordance with the Tenancy Deposit Schemes (Scotland) Regulations 2011. The Landlord agrees to provide to The Tenant the prescribed information in accordance with the provisions of the paragraph 24 of the Tenancy Deposit Schemes (Scotland) Regulations 2011. The Agent will not be responsible if The Landlord fails to comply with the Tenancy Deposit Schemes (Scotland) Regulations 2011. Failure to do this can result in the following: The Tenant can apply to the sheriff court either during the tenancy or up to three months after it has come to an end. The court can order The Landlord to pay the Tenant up to three times the amount of the deposit in compensation and to fulfil the requirements of the tenancy deposit scheme regulations.
- 4.13 The Agent will not notify the utility companies or the local authority that the tenancy has commenced.

## **5. Full Management Service**

The Full Management Service includes those items found in the Tenant Find Only Service plus the following:

- 5.1 The Agent will, on behalf of The Landlord, arrange a suitable tenancy agreement, inventory and statement of condition, together with safety records and Tenant Information Pack, as appropriate and arrange for The Tenant to sign the counterpart and provide a copy of the inventory and statement of condition.
- 5.2 Inventories:



Handling the compilation of (whether in-house or outsourcing to specialist inventory clerks) inventories at check-in and check-out will each incur an Inventory Preparation fee of £75.00 plus VAT (£90.00 including VAT). Additional charges may be appropriate and charging will be at the Agent's sole discretion and fees in this regard will be agreed with the Landlord, in writing, in advance.

- 5.3 The Agent will collect the initial money due and sign the Tenant up on the Agreement. The Agent will then account to The Landlord and provide a statement of account showing fees deducted. If the deposit is collected by The Agent it shall be paid to **[NAME THE SCHEME THAT IS TO HOLD THE DEPOSIT IN TERMS OF THE TENANCY DEPOSIT REGULATION2 2011]**.
- 5.4 The Agent will notify the utility companies, except telephone providers who will not accept such instructions, of the responsibilities of The Tenant to pay for services to The Property as from the date of the commencement of the tenancy. The Landlord agrees to pay any outstanding utility charges up to and including the date upon which The Tenant occupies The Property and for any void period between tenancies.
- 5.5 The Agent will notify the local authority that the tenancy has started and of the liability of The Tenant to pay Council Tax.
- 5.6 The Agent will endeavour to collect rent and related payments due from The Tenant throughout the Term of the tenancy. The Agent cannot be held responsible if The Tenant fails to pay the contractual rent, unless it is due to negligence or breach of contract by The Agent. Appropriate action will be taken to seek to recover rent arrears from The Tenant. If this does not have the desired effect The Landlord will be advised to instruct solicitors who are specialists in Landlord and Tenant law to take further action. The Landlord will be responsible for the legal charges and expenses, unless covered by a legal expenses protection scheme.
- 5.7 In the event of The Tenant going into rent arrears, The Agent will carry out the above actions and notify The Landlord of the situation for The Landlord's further action.
- 5.8 The Agent will provide to The Landlord statements of all income received and expenditure incurred and pay over monies due to The Landlord at monthly intervals as agreed, provided cleared funds are received from The Tenant. Where duplicate or additional statements are requested by the Landlord,
- 5.9 If the Landlord is a Non Resident landlord (NRL) as defined by HM Revenue and Customs The Landlord will provide to The Agent a copy of the approval number obtained from HM Revenue and Customs for each individual making up The Landlord, thereby allowing The Agent to release rental monies to The Landlord without the obligation to retain tax reserve monies.
- 5.10 If an approval number is not received and The Landlord resides outside the UK, The Landlord agrees that The Agent shall retain from rents a tax reserve equivalent to the basic rate of income tax on the rental income. This will be held in a client account and money due to HM Revenue and Customs will be paid on a quarterly basis.
- 5.11 After termination of this Agreement, The Agent shall hold the tax reserve until they receive written confirmation by HM Revenue and Customs that there is no further tax liability on The Agent.
- 5.12 After commencement of a tenancy, The Agent reserves the right to assign the rights and or obligations under this Agreement upon giving The Landlord two months' written notice.
- 5.13 The Agent will pay out of monies collected all statutory and other charges which are payable by The Landlord for The Property, provided The Landlord has arranged for all relevant invoices and demands to be sent to The Agent and sufficient funds are held in the client account. If insufficient funds are held and The Landlord fails to provide adequate funds The Agent cannot make a payment and will not be liable for any loss or other consequences suffered by The Landlord.
- 5.14 The Agent will visit The Property not less often than once every six months. Any visit is a "walk through" of The Property to ascertain any clearly visible repairs and maintenance and to find out from The Tenant any repairs that have come to his attention. It is not a survey or check of the inventory and statement of condition. The Agent will notify The Landlord of

apparent and obvious defects but does not accept responsibility for hidden or latent defects, unless it is due to The Agent's negligence or breach of contract. If, in the opinion of The Agent, the occupants are not taking proper care of The Property The Agent will inform The Tenant, copying such information to The Landlord.

- 5.15 Under Chapter 4 of the Housing (Scotland) Act 2006 a landlord has statutory obligations in respect of the repair and maintenance of The Property.
- 5.15.1 The Agent will arrange, without reference to The Landlord, to carry out Emergency repairs, which are repairs or defects of such a nature that carry a risk of further damage to The Property, damage to adjoining property, personal injury or are a breach of The Landlord's statutory repairing obligations if left unattended to try to ensure the Landlord's compliance with the Landlord's statutory and contractual obligations.
- 5.15.3 The Agent will not arrange for repairs other than Emergency repairs without the written consent of The Landlord.
- 5.16 If The Tenant is in breach of any condition in the tenancy, The Agent will take all reasonable steps to enforce the terms of the tenancy agreement on behalf of The Landlord. If the tenancy is covered by legal protection or rent guarantee insurance, The Agent will undertake reasonable action to resolve the situation within the provisions of the policy. Otherwise, if legal action is required The Landlord will instruct a solicitor to act on their behalf. The Landlord will be responsible for the solicitor's fees, expenses and other charges.
- 5.17 The Agent will try to arrange a mutually convenient time with The Tenant for contractors attending The Property to undertake work on The Landlord's behalf. Where this is not possible arrangements can be made by The Agent to meet the contractor at The Property.
- 5.18 The Agent will pay for repairs from rent monies held. If there is insufficient funds to meet the cost of the repairs The Landlord will pay the balance to The Agent on written demand. The Agent cannot carry out repairs if The Agent holds insufficient funds; and cannot be liable for any loss suffered or any deterioration to The Property due to any delay in repair when funds are not available, unless it is due to negligence or breach of contract of The Agent.
- 5.19 The Agent will receive notices from The Tenant on behalf of The Landlord, advise The Landlord accordingly and take appropriate action.
- 5.20 The Agent will negotiate and agree the level of rent payable in terms of any rent review provision in the tenancy agreement or when the tenancy is renewed.
- 5.21 If the tenancy is a Short Assured Tenancy, upon The Landlord's written request, The Agent will arrange for Sheriff Officers to serve notice on The Landlord's behalf, including Notice under Section 33 of the Housing (Scotland ) Act 1988, which is required to gain possession of a property let on a Short Assured Tenancy if The Tenant is not in breach of the Tenancy. The Landlord will be responsible for payment of Sheriff Officers' fees and outlays which will be deducted from the rent received, if possible, or paid by the Landlord within fourteen days of written demand. If The Landlord wishes to secure repossession of The Property The Landlord must contact The Agent at the earliest opportunity to ascertain when possession may be sought. The Agent cannot be held responsible for any delay in regaining possession if The Landlord fails to give sufficient written notice of the requirement to serve The Tenant with notice. Sometimes The Tenant will fail to comply with a notice and The Landlord will need to commence court proceedings to obtain a possession order.
- 5.22 Upon written request from The Landlord, The Agent will prepare and arrange for Sheriff Officers to serve the relevant Section 33 Notice and Notice to Quit. The Landlord will be responsible for payment of Sheriff Officers' fees and outlays which will be deducted from the rent received, if possible, or paid by the Landlord within fourteen days of written demand. The Landlord should give The Agent at least 3 months' warning if The Landlord wishes to regain possession at the end of the Term. The Landlord will need to employ the services of a solicitor for the service of other notices.
- 5.23 At vacation of The Property, The Agent will liaise with The Tenant to agree and effect the arrangements for hand back of The Property, advising The Landlord accordingly.
- 5.24 The Agent will check the statement of condition and the inventory at vacation of The Property and discuss the results with The Landlord. If The Property is to be re-let The Agent will arrange, according to the provisions of this Agreement, any repairs or other works which are,

in the opinion of The Agent, required to put The Property into a suitable condition for letting. Initially the cost of repairs and other work will be payable by The Landlord, with reimbursement of any costs that are later agreed with The Tenant as payable by The Tenant for any damage at The Property.

**If you wish us to proceed, please confirm your instructions by returning this document having completed the appropriate sections below**

The Landlord agrees and accepts these Terms of Business and instructs The Agent to undertake the service as detailed below.

Tenant Find Only

Full Management

The Landlord confirms that there are no construction or maintenance work *or major repairs* known to be due to be carried out to The Property, any adjoining premises, or the building of which The Property forms part except as noted below.

This Agreement made the ..... day of ..... 201.....

**Please tick the box below to confirm that you wish the Agent to commence providing the services as detailed within this Agreement within the 14 day cancellation period as may be provided for under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Appendix A and Appendix B of this Agreement set out the terms on which the Landlord may have a right to cancel the Agreement under said Regulations.**

By ticking this box, you agree that you will be liable to pay all of the Agent's costs incurred in commencing the provision of the services up to the date of cancellation.

(Please tick to indicate agreement.)

Landlord's Signature

---

Landlord's Name

---

Signed In the presence of:

Witness's Signature

---

Witness's Name

---

Witness's Address

---

---

Witness's Occupation

---

Signature for Agent

---

Name of Signatory

---

Position

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## **APPENDIX A**

### **INFORMATION TO BE PROVIDED TO A CONSUMER**

#### **UNDER THE CONSUMER CONTRACTS (INFORMATION, CANCELLATION AND ADDITIONAL CHARGES) REGULATIONS 2013 RELATING TO DISTANCE, ON AND OFF-PREMISES CONTRACTS**

(a) The levels of service available to the landlord can be found in clauses 2 to 5 of this agreement.

(b) The trading name of the company is #

(c) The company can be contacted at:

Address: #

Telephone number: #

Fax number: #

Email address: #

(d) Charges are detailed in clauses 3 and 5.2. of this agreement.

(e) Our "Complaints Procedure" is set out in Appendix C

(f) The duration of the Agreement is set out in Clause 2.1 of this Agreement.

(g) Information on the termination rights of parties under the Agreement, can be found in Clauses 2.25 - 2.27 of the Agreement.

(h) Information on the right to cancel in terms of the above Regulations, and how to cancel, can be found in Appendix B of this Agreement.

(i) We have ongoing after sales service all available via our website or through contact details listed in (c) above.

(j) We are member of # and the relevant codes can be found here #

## APPENDIX B

# Right to Cancel under the Consumer Contracts (Information, Cancellation And Additional Charges) Regulations 2013

If you are a 'consumer' under the above Regulations, you have the right to cancel this contract within 14 days, without giving any reason, where the contract is an "off-premises contract" or a "distance contract" under the above Regulations. You do not have this right to cancel where the contract is an "on-premises contract" i.e. where the contract was concluded in the presence of both the trader and the consumer in the trader's business premises.

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

To exercise the right to cancel, you must inform us, # [-insert agency name, geographical address (le no PO box) and, where available, your telephone number, fax number and email address] of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or email). You may use the attached model cancellation form, but it is not obligatory.

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

### Effects of cancellation

We will make any reimbursements due to you without undue delay, and not later than 14 days after the day on which we are informed about your decision to cancel this contract.

We will make any reimbursements due using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise. You will not incur any fees as a result of the reimbursement.

If you have requested that we begin the performance of services during the cancellation period, then you shall be liable to pay us all costs incurred in commencing the provision of the services, up to the date of cancellation.

## Cancellation Form

To [-insert agency name, geographical address and, where available, fax number and email address]:

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

Ordered on [\*/~~received on~~-[\*],

Name of consumer(s),

Address of consumer(s),

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

Date

[\*] Delete as appropriate.

## APPENDIX C

A copy of our complaints handling procedure is available on request

### **Murray & Currie Complaints Procedure**

In the first instance we would ask you to try and resolve any complaints you have with the property professional or relevant member of the team. This can be done in person at our offices or over the phone/email. If your complaint is in relation to one of our maintenance contractors – we will help deal with your complaint on your behalf and send you our findings.

Should you not be able to reach a resolution from your complaint we ask that you please submit any formal complaints about our service in writing to either our office manager, Claire Green or our Director, John Forsyth with full details of the nature of your complaint for review.

The complaint will be acknowledged within 3 working days of receipt of the letter and we will investigate your concerns. We will provide a formal written outcome of the complaint within 15 working days by either letter or email.

If you remain dissatisfied you should write to one of our Directors. The same time limits will apply. Following the investigation, you will receive a written statement of our final view.

Murray & Currie are a member of the Property Ombudsman and if you are dissatisfied with our final view you may submit your complaint to them for a review.