

# BALGORES PROPERTY GROUP

## TERMS AND CONDITIONS APPLICABLE TO MARKETING AGENCY AGREEMENT

### 1. THESE TERMS AND CONDITIONS

**1.1 What these terms cover.** These are the terms and conditions on which we supply our estate agency services to you under a Marketing Agency Agreement.

**1.2. Why you should read them.** Please read these terms carefully before you sign the accompanying Marketing Agency Agreement and submit your request to market your property to us. These terms tell you who we are, how we will provide our estate agency services to you, how you and we may end the contract, what to do if there is a problem and other important information. If you think there is a mistake in these terms, please contact us to discuss.

### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

**2.1. Who we are.** We are a company which trades under the name Balgores Property Group. There are five companies in the Balgores Property Group which use this trading name. These are set out below and we are the company ticked in the accompanying Marketing Agency Agreement.

**2.1.1.** Balgores Property Services Limited, which is registered in England and Wales under company number 04495463, has its registered office at 1 Bryant Avenue, Gallows Corner, Romford, Essex, RM3 0AP, and has VAT number 799083763. It has the following branches:

- **Chadwell Heath** - 1 High Road, Chadwell Heath, Romford RM6 6PX, which can be contacted on 020 8599 2323 and at sales@balgoreschadwellheath.com.
- **Dagenham** - 293 Heathway, Dagenham, Essex, RM9 5AQ, which can be contacted on 020 8592 1038 and at sales@balgoresdagenham.com.
- **Hornchurch** - 1 North Street, Hornchurch, Essex, RM11 1RL, which can be contacted on 01708 470756 and at sales@balgoresproperty.com.
- **Loughton** - 110 High Road, Loughton, IG10 4HJ, which can be contacted on 02085 021559 and at sales@balgoresloughton.com.
- **Romford** - 5-6 Station Chambers, Victoria Road, Romford, Essex, RM1 2HS, which can be contacted on 01708 755507 and at sales@balgoresromford.com.
- **Upminster** - 63 Station Road, Upminster, Essex, RM14 2SU, which can be contacted on 01708 295939 and at sales@balgoresupminster.com.

**2.1.2.** Balgores Basilidon Limited, which is registered in England and Wales under company number 04925173, has its registered office at 1 Bryant Avenue, Gallows Corner, Romford, Essex, RM3 0AP, and has VAT number 831114964. It has the following branches:

- **Basildon** - 28 Southernhay, Basildon, Essex, SS14 1EL, which can be contacted on 01268 271110 and at sales@balgoresbasildon.com.
- **Wickford** - 10 High Street, Wickford, Essex, SS12 9AZ, which can be contacted on 01268 763477 and at sales@balgoreswickford.com.

**2.1.3.** Balgores Hayes Limited, which is registered in England and Wales under company number 05332171, has its registered office at 1 Bryant Avenue, Gallows Corner, Romford, Essex, RM3 0AP, and has VAT number 863340235. It has the following branches:

- **Brentwood** - 7 St Thomas' Road, Brentwood, Essex, CM14 4DB, which can be contacted on 01277 216800 and at sales@balgoreshayes.com.
- **Ongar** - 134 High Street, Ongar, CM5 9JH, which can be contacted on 01277 369925 and at ongar@balgoreshayes.com.

**2.1.4.** Balgores Essex Limited, which is registered in England and Wales under, has company number 05886015, has its registered office at 1 Bryant Avenue, Romford, Essex, RM3 0AP, and has VAT number 894112126. It has the following branches:

- **Chelmsford** - 2 Tindal Square, Chelmsford, CM1 1EH, which can be contacted on 01245 492424 and at sales@balgoreschelmsford.com.
- **South Woodham Ferrers** - 5-7 Baron Road, South Woodham Ferrers, Essex, CM3 5XQ, which can be contacted on 01245 323729 and at sales@balgoresswf.com.

**2.1.5.** Balgores Estates Limited, which is registered in England and Wales under company number 08190701, has its registered office at 13 Brook Road, Brook Road Industrial Estate, Rayleigh, SS6 7XL, and has VAT number 363204523. It has one branch:

- **Gravesend** - 172-173 Parrock Street, Gravesend, Kent, DA12 1ER, which can be contacted on 01474 369955 and at sales@balgoresgravesend.com.

**2.2. How to contact us.** You can contact us by telephoning the relevant branch or by writing to the relevant branch via post or email using the details set out above.

**2.3. How we will contact you.** We will contact you by telephone (including text and what's app messages) or by writing to you via post or email using the details you provide in the Marketing Agency Agreement.

**2.4. "Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

### 3. OUR CONTRACT WITH YOU

**3.1. How we will accept your request to market your property.** Our acceptance of your request to market your property will be when you have provided a signed and completed Marketing Agency Agreement and we contact you to accept your request (as set out in that document) and sign the Marketing Agency Agreement ourselves, at which point a contract will come into existence between you and us.

**3.2. If we cannot accept your request.** If we are unable to accept your request, we will inform you of this and will not charge you for our services. This might be because of unexpected limits on our resources which we could not reasonably plan for, or because we have identified an error in the price or description of the services.

### 4. PROVIDING THE SERVICES

**4.1. When we will provide our services.** We will not begin marketing your property until 14 days have passed since the conclusion of the contract unless you have expressly agreed in writing that we begin marketing within that period. There is such an express statement in the Marketing Agency Agreement, which means that if you sign the Marketing Agency Agreement, we will, unless you tell us otherwise, begin marketing your property as soon as reasonably practicable after the conclusion of the contract. We will market the property until unconditional contracts for the sale of the property have been exchanged, you end the contract as described in **clause 5** or we end the contract as described in **clause 7**.

**4.2. The basis upon which we provide our services.** Our estate agency work involves the marketing of your property for sale and can be on three different bases. It is important that you understand the meaning of each of these before entering into the Marketing Agency Agreement. The three bases are:

#### 4.2.1. Sole Agency.

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, if at any time unconditional contracts for the sale of the property are exchanged:

- With a purchaser introduced by us during the period of our sole agency or with whom we had negotiations about the property during that period; or
- With a purchaser introduced by another agent during that period.

#### 4.2.2. Sole Selling Rights.

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, in each of the following circumstances:

- If unconditional contracts for the sale of the property are exchanged in the period during which we have sole selling rights, even if the purchaser was not found by us but by another agent or by any other person, including yourself;
- If unconditional contracts for the sale of the property are exchanged after the expiry of the period during which we have sole selling rights but to a purchaser who was introduced to you during that period or with whom we had negotiations about the property during that period.

#### 4.2.3. Multiple Agency.

You will be liable to pay remuneration to us, in addition to any other costs or charges agreed, if at any time unconditional contracts for the sale of the property are exchanged:

- With a purchaser directly or indirectly introduced by us during the period of the Marketing Agency Agreement;
- With a purchaser with whom we conduct negotiations as a result of any offer received from anyone introduced to the seller's property;
- With a purchaser with whom we conducted negotiations as a result of the purchaser viewing the property via another agent;
- With a purchaser being attracted to the property through it being advertised by us.

**4.3. The Sole Agency or Sole Selling Rights Period.** If we are instructed on a Sole Agency or Sole Selling Rights basis, we will act on that basis for the duration of the minimum period set out in the Marketing Agency Agreement, and will continue to do so unless and until terminated by you by giving us 14 days' written notice (provided the 14 days' notice expires after the minimum period). The period that we are instructed on a Sole Agency or Sole Selling Rights basis (both the minimum period and any extension) will be the "Sole Agency/Selling Period".

**4.4. Termination of the Sole Agency/Selling Period.** If you terminate the Sole Agency/Selling Period as set out at clause 4.3 above, we will continue to be instructed on a Multiple Agency basis unless and until you end the contract as described in clause 5 or we end the contract as described in clause 7.

### 5. YOUR RIGHTS TO END THE CONTRACT

#### 5.1. You can always end your contract with us:

- **If you want to end the contract because of something we have done or have told you we are going to do, see clause 5.2;**
- **If you have just changed your mind about our services, see clause 5.3;**
- **In all other cases (if we are not at fault and there is no right to change your mind), see clause 5.6.**

**5.2. Ending the contract because of something we have done or are going to do.** If you are ending a contract for a reason set out below the contract will end immediately. The reasons are:

- We have told you about an error in the price or description of our services and you do not wish to proceed;
- You have a legal right to end the contract because of something we have done wrong.

**5.3. Exercising your right to change your mind.** You have the right to cancel the contract within 14 days without giving any reason, subject to clause 5.5 below. For consumers where the contract is an 'off-premises' or 'distance' contract, this right is provided for in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. The cancellation period will expire after 14 days from the date the contract is entered into. To exercise the right, you must inform us by a clear statement (such as a letter or email) in accordance with clause 6 below. You may use the cancellation form attached to the Marketing Agency Agreement, 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.

**5.4. Effects of cancellation under clause 5.3.** If you requested us to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed until you have communicated to us your cancellation of this contract, in comparison with the full coverage of the contract. This will be the Professional Cost Fee or a similar sum, or, if there is an unconditional exchange of contracts prior to our receiving your communication exercising your right to cancel, the Commission Fee (see clause 9.1).

**5.5. When you do not have the right to change your mind.** If you requested us to begin the performance of services during the cancellation period, you will cease to have a right to change your mind once there has been an exchange of unconditional contracts for the property, even if the cancellation period is still running.

**5.6. Ending the contract where we are not at fault and there is no right to change your mind.** Even if we are not at fault and you do not have a right to change your mind you can still end the contract before it is completed (i.e. the point at which unconditional contracts have been exchanged and you have paid us), but you may have to pay us compensation. The following provisions apply to ending the contract in these circumstances:

**5.6.1.** If the contract is on a Sole Agency or Sole Selling Rights basis and you are still in the minimum Sole Agency/Selling Period, you can end the contract by giving us 14 days' notice, provided that notice expires after the minimum Sole Selling/Agency Period.

**5.6.2.** If the contract is on a Multiple Agency basis, or has moved to a Multiple Agency basis as a result of your terminating the Sole Agency/Selling Period, you can end the contract by giving us 14 days' notice.

**5.6.3.** In either case, the 14 days will run from the day on which we receive your notice in accordance with clause 6 below. If unconditional contracts for the sale of the property have not been exchanged by the expiry of the 14 day period, you will need to pay us the Professional Cost Fee (see **clause 5.7**). If unconditional contracts are exchanged within that period, you will need to pay the Commission Fee (see **clause 9.1**).

**5.7. The Professional Cost Fee.** If you end the contract under **clause 5.6** before unconditional contracts have been exchanged, this fee which is set out in section 10 of the Marketing Agency Agreement will be payable.

# BALGORES PROPERTY GROUP

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**5.8. You may be liable to pay us a Commission Fee after termination.** In line with the bases upon which we provide estate agency services set out in **clause 4.2** above, we may be entitled to a Commission Fee if you end the contract and a memorandum of sale is subsequently provided by another estate agent to a purchaser we have introduced within 6 months of you ending the contract and where a subsequent exchange of contracts takes place. The time period will be 2 years where no other estate agent is involved.

### 6. HOW TO END THE CONTRACT (INCLUDING IF YOU HAVE CHANGED YOUR MIND)

To end the contract with us, please let us know in writing and by delivery, post or email to the relevant branch using the details set out above. If possible, please also send a copy to [cancellations@balgorespropertygroup.com](mailto:cancellations@balgorespropertygroup.com). Unless you are exercising a right to change your mind, please provide your name, home address, details of the property we are marketing on your behalf and, where available, your phone number and email address.

### 7. OUR RIGHTS TO END THE CONTRACT

**7.1. We may end the contract if you break it.** If you break the contract we may be entitled to end it.

**7.2. We may end the contract if you have not broken it.** We will only decide to stop acting for you with good reason, e.g. where we feel that the relationship has broken down, if you do not pay a bill, if you provide us with misleading information, if you act in an abusive or offensive manner or if we reasonably believe that our staff will come to harm if we continue to act for you. We will give you reasonable notice before we stop acting for you. This may mean that we stop acting for you on the same day as notifying you otherwise we will end the contract by giving you 14 days notice.

### 8. IF THERE IS A PROBLEM WITH OUR SERVICES

**8.1. How to tell us about problems.** If you have any questions or complaints about our services, please contact us. You can telephone us on the number for the relevant branch set out above, or write to the relevant branch via post or email.

**8.2. The Property Ombudsman.** We are a member of the Property Ombudsman Scheme and subscribe to the Code of Practice for Residential Estate Agents. A copy of the Code is available on request but it and other related information can be found at the Property Ombudsman website, [www.tpos.co.uk](http://www.tpos.co.uk). If we have been unable to resolve any complaint, you can take the matter up with the Property Ombudsman.

**8.3. Property Mark.** We are also a member of NAEA Propertymark. If we have been unable to resolve your complaint and you are not satisfied with the Property Ombudsman's response, you can take the matter further with Propertymark. Further information can be found on the website [www.propertymark.co.uk](http://www.propertymark.co.uk).

### 9. PRICE AND PAYMENT

**9.1. Payment for our services.** We will charge a fee in relation to our marketing of the property (the 'Commission Fee'). You will be liable to pay us the Commission Fee in the circumstances set at **clause 4.2**. Note that you may be liable to pay more than one fee if you instruct another estate agent during or after the period we are marketing your property.

**9.2. We will pass on changes in the rate of VAT.** If the rate of VAT changes after you provide your request for us to market your property, we will adjust the rate of VAT that you pay.

**9.3. Calculation of the Commission Fee.** The Commission Fee will be as set out in the Marketing Agency Agreement. Subject to there being a Minimum Fee (see clause 9.3.1) or Additional Fee Incentive (see **clause 9.3.2**), the Commission Fee will be:

- The Non-Discounted Rate, the figure for which will be plus VAT (we will provide you with the total figure inclusive of VAT); or
- The Early Payment Discounted Rate as stated.

**9.3.1. Minimum Fee.** If there is a Minimum Fee, then if the sum due under either the Non-Discounted Rate or the Early Payment Discounted Rate is lower than the Minimum Fee, then the Minimum Fee will be the Commission Fee.

**9.3.2. Additional Fee Incentive.** If there is an Additional Fee Incentive, then if the final selling price exceeds the Initial Marketing Price, the Commission Fee will include an additional amount which will be the agreed percentage of the final selling price in excess of the Initial Marketing Price, plus VAT. For example, if the Initial Marketing Price was £300,000 and the agreed percentage was 25% (30% including VAT), if the property sold for £350,000, the Additional Fee Incentive would be £15,000. For the avoidance of doubt, this £15,000 would form part of the Commission Fee and would be in addition to the other part of the Commission Fee, namely the sum due pursuant to whichever of the Non-Discounted Rate or Early Payment Discounted Rate was applicable.

**9.4. Payment of the Commission Fee.** The Commission Fee will become due on the exchange of unconditional contracts for the sale of the property and we will provide you with an invoice. The Commission Fee will become payable on the date originally set for completion of the sale of the property ("the Completion Date"). If the completion of the sale does not take place on the Completion Date, the Commission Fee will still become payable on that date unless an alternative payment date has been mutually agreed in writing between you and us.

**9.5. Applicability of the Early Payment Discounted Rate.** This will only be applicable if we receive the full sum payable (which may include an additional sum in respect of an Additional Fee Incentive, if applicable) within 10 working days of the Completion Date. If the full sum is not received within 10 working days of the Completion Date the Non-Discounted Rate will apply.

**9.6. Calculation of the Commission Fee on part-exchanges.** In the event of a part-exchange, any Commission Fee calculated by percentage will be charged on the sale price of the property.

**9.7. Calculation of Commission Fee if the sale price differs from the market price.** If the Commission Fee is calculated by reference to a percentage of the selling price, in the event that the selling price is higher or lower than the marketing price the Commission Fee will be correspondingly higher or lower. Note that if there is an Additional Fee Incentive in place, the Commission Fee will also include this sum if the final selling price exceeds the Initial Marketing Price.

**9.8. We can charge interest if you pay late.** If you do not pay us the Commission Fee within 10 working days of the Completion Date we may charge interest to you on the overdue amount (i.e. the Commission Fee at the Non-Discounted Rate) at the rate of 4% a year above the base lending rate of Barclays Bank from time to time. This interest shall accrue on a daily basis from 11 working days after the Completion Date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

**9.9. Costs of enforcing the contract.** If we are required to take enforcement action in respect of any breach of contract by you, you agree to indemnify us in respect of the reasonable costs of that enforcement action.

**9.10. What to do if you think an invoice is wrong.** If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original date as provided for in **clause 9.8**.

### 10. HOW WE MAY USE YOUR PERSONAL INFORMATION

We will only use your personal information as set out in our privacy policy, which can be found on our website ([www.balgoresproperty.co.uk](http://www.balgoresproperty.co.uk)) or provided in hard copy upon request.

### 11. OTHER IMPORTANT TERMS

**11.1. Anti-Money Laundering.** We are required to carry out due diligence on all customers in order to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. You agree to provide us with any documentation we may require for this purpose.

**11.2. Declaration of interest.** As required by section 21 of the Estate Agents Act 1979, unless specifically stated otherwise, we are not aware of any personal interest existing between us, our employees or any associates (as defined in the Act), and you. If you are aware or become aware of such an interest you should notify us immediately.

**11.3. The need for accurate information and inclusion of fixtures and fittings.** We need to ensure that all descriptions of the property are accurate. If you become aware of any false or misleading information in the property particulars, you must advise us in writing immediately. Unless you let us know in writing you agree that all fixtures and fittings referred to in our sales particulars will be included in the sale of the property.

**11.4. Marketing and photography.** You authorise us to erect a 'For Sale' board outside your property during our marketing of your property. Under current legislation only one board is permitted per property and you agree not to allow the display of any other 'For Sale' board while we are marketing the property. You authorise us to attend, photograph, and create floorplans of the property. You permit images of the property to be used for the purposes of marketing and the promotion of the Balgores Property Group brand. This involves the display of the images across all advertising mediums, including but not limited to our website, aggregator websites and print. The copyright in all photographs and property particulars remains exclusive to us.

**11.5. Energy Performance Certificate ('EPC').** Pursuant to the Energy Performance for Buildings (England and Wales) Regulations 2012, it is a legal requirement for you to have a valid EPC for a property or to have commissioned an EPC before the property is marketed. If you have not obtained an EPC, we will do so and the cost for this will form part of the Commission Fee (so it will be at no additional cost to you).

**11.6. Onward negotiating service.** If, in addition to the marketing of the property for sale, you instruct us to negotiate the onward purchase of the seller(s), the fee set out at section 11 of the Marketing Agency Agreement will become due upon the exchange of unconditional contracts for the property to be purchased. Please note that this service is not available if you are purchasing the onward property through us, or any member of the Balgores Property Group, due to a conflict of interest.

**11.7. Financial qualification for viewings.** If you instruct us to market the property with this requirement in place, then prior to arranging viewings with potential purchasers we will ask them to provide evidence of their ability to purchase the property at the marketing price. Viewings will not be arranged with potential purchasers who either decline to provide evidence or whose evidence would be insufficient to enable the purchase of the property at the marketing price.

**11.8. Other services.** We may offer clients services for which we may earn commission. These services include arranging mortgages, insurance, life assurance, pensions, investment, conveyancing services, structural or home buyer surveys, chattel auctions, will writing, lettings, removals, property maintenance and property management. If you decide to take up any additional services, those services will be governed by different terms and conditions.

**11.9. Use of sub-agents.** We will not use sub-agents to assist in the marketing of your property.

**11.10. The Initial Marketing Price.** The Initial Marketing Price does not represent a formal valuation of the property and the marketing price may change during the period of the Marketing Agency Agreement but this will not affect the applicability of these terms and conditions.

**11.11. Nobody else has any rights under this contract.** This contract is between you and us. No other person shall have any rights to enforce any of its terms.

**11.12. Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

**11.13. Which laws apply to this contract and where you may bring legal proceedings.** These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts.

### 12. SIGNATURES

Please take your time to read these terms and conditions and the provisions of the Marketing Agency Agreement. When you have done so, please sign the Marketing Agency Agreement. When you and we have signed the Marketing Agency Agreement there will be a legally binding agreement.

#### ON BEHALF OF THE ESTATE AGENT:

Full name (in capitals): MARTIN GIBBON

Signature: 