

Chartered Surveyors | Estate Agents

**AGENCY AGREEMENT**

**FOR THE SALE OF RESIDENTIAL PROPERTY**

Multi - Award winning Howard Cundey is one of the largest firm of independent property specialists in the area with wide coverage In Kent, Surrey, Sussex and London.

Our business is firmly grounded upon experience, professionalism, expert local knowledge and sheer hard work. We open long hours and provide the same standard of service whatever your property needs are.

We also have an important sales and marketing office in Mayfair – used in conjunction with over one hundred Mayfair Office associated firms spread across the UK.  This gives us an unrivalled network which extends our reach to the important London market and also to buyers from all over the UK and beyond.

Howard Cundey are Chartered Surveyors and follow a strict Code of Professional Conduct. Most senior agency staff are members of and are regulated by the National Association of Estate Agents or the Association of Residential Letting Agents.

Howard Cundey is the trading name of Howard Cundey LLP.

***Professional Services from Howard Cundey***

General Estate Agency and Valuation,

Commercial Agency and Valuation,

Building Surveying,

Property Management and Lettings.

The Estate Agents Act, 1979, and subordinate Legislation, 1991 requires all agents to set out their terms of business in writing. HOWARD CUNDEY’S fees and terms of business are set out below. No variation to these Terms of Business shall be binding unless agreed in writing between Howard Cundey and the vendor.

Sussex Regional Centre 01342 824824

**howardcundey.com**

**Biggin Hill** | **Bletchingley** | **East Grinstead** | **Edenbridge** | **Forest Row**

**Lingfield** | **Oxted** | **Tonbridge** | **Mayfair | Regional Centres in Kent, Surrey, Sussex and South East London**

**Property to be sold:**

Flat 33

Oakwood Park

Hartfield Road

Forest Row

East Sussex

RH18 5DZ

**Vendor(s) Full Name(s) / Address(es):**

Mr Peter Baker & Mrs Sylvia Baker

 Flat 33

Oakwood Park

Hartfield Road

Forest Row

East Sussex

RH18 5DZ

The Vendor appoints Howard Cundey to act as Estate Agents for the sale of the above property, on the following terms, which shall govern Howard Cundey’s contract with the Vendor:

**1. AGENCY**

Which will be one of the following types of Agency as may be agreed:

(a) **Sole Agency**

Howard Cundey shall be the sole agent for the sale of the above property for an initial period of twelve weeks from the date of this Agreement, which shall continue thereafter unless terminated by either party, giving fourteen days notice in writing to the other party. The Sole Agency commences from the date of signing this Agreement and is suspended as soon as solicitors are instructed in a sale and restarts in the event of a sale falling through.

The Vendor shall be liable to pay commission to Howard Cundey with in addition any other expenses or charges agreed if at any time unconditional contracts for the sale of the property are exchanged with a Purchaser introduced, either directly or indirectly, (including, but without limitation where the Purchaser becomes aware of the property as a result of any literature, advertisement or other communication) by Howard Cundey, during the period of sole agency, or with whom Howard Cundey had negotiations regarding the property during that period, or with a Purchaser introduced by another agent during that period..

Sole Agency Commission: …1…. %, plus VAT.

If after the sole agency period has expired, other agents are instructed in addition to, Howard Cundey then a Multi-Agency Commission is payable, on the basis set out below.

(b) **Multi Agency**

Howard Cundey shall be an agent (but not sole agent) for the sale of the above property from the date of this Agreement unless terminated by either party giving fourteen days notice in writing to the other party.

The vendor shall be liable to pay commission to Howard Cundey with in addition any other expenses or charges agreed if at any time unconditional contracts for the sale of the property are exchanged with a Purchaser introduced, either directly or indirectly, (including, but without limitation where the Purchaser becomes aware of the property as a result of any literature, advertisement or other communication) by, Howard Cundey during the period of agency, or with whom Howard Cundey had negotiations about the property during that period.

Multi-Agency Commission: ………… %, plus VAT.

(c) **Joint Sole Agency with** …………………………………………...................

Where Howard Cundey is appointed as one of two agents acting in a joint capacity, then the joint sole agency shall continue thereafter unless terminated by either party giving fourteen days notice in writing to the other party. The Joint sole Agency commences from the date of signing this Agreement and is suspended as soon as solicitors are instructed in a sale and restarts in the event of the sale falling through.

The vendor shall be liable to pay commission to Howard Cundey with in addition any other expenses or charges agreed if at any time unconditional contracts for the sale of the property are exchanged with a Purchaser introduced, either directly or indirectly, (including, but without limitation where the Purchaser becomes aware of the property as a result of any literature, advertisement or other communication) by Howard Cundey or the joint agent during the period of the joint sole agency, or with whom either agent had negotiations during that period, or with a Purchaser introduced by another agent during that period.

Joint Sole Agency Commission: ………… %, plus VAT, to be shared between the two agents, as be agreed.

**Possible Dual Fee Liability**

Under the Residential Agency Code of Practice, we must advise the Vendor of any circumstances in which there may be a liability to pay more than one fee. This may arise

1. Where we are instructed to sell and we introduce a prospective purchaser but a sale is only completed during another Agent’s period of agency, when that Agent may also be due a fee, depending on their Terms of Business.
2. Where we are instructed to sell after another Agent has been disinstructed, it is possible, depending upon respective Terms of Business, for both Agents to be entitled to a fee.

**Private Buyers**

The Vendor confirms that at the date of this Agreement there is no prospective Purchaser from any source who has expressed an interest in purchasing the property. Once Howard Cundey has received instructions to sell the property the Vendor will notify them of the name of any subsequent Private Purchaser and provide reasonable details to enable them to check their records as to whether in fact a commission may be payable.

**General**

If the Vendor consists of more than one party and, after Howard Cundey’s marketing one party should decide to purchase the other party’s share, commission shall be payable at the full rate on the consideration passing.

If Howard Cundey introduces a buyer who becomes able to exchange contracts unconditionally and the Vendor then withdraws the property from the market, we reserve the right to charge the sum of £500 plus VAT towards abortive marketing costs. However, if the sale is then revived and our normal commission becomes payable, we shall deduct this sum from our final account.

**2. OFFERS**

Howard Cundey is under a duty to report all offers to purchase the property to the Vendor in a fair and unbiased way, unless the vendor agrees in writing that he does not wish to be informed of offers below a predetermined figure, or offers that are subject to certain conditions. All negotiations are to be conducted through Howard Cundey.

When an offer has been accepted, subject to contract, we will normally withdraw the property from the market unless, after consultation with the Vendor, it is decided to continue to market it. In this case, we must advise the prospective purchaser *in writing*.

If, after an offer has been accepted, the Vendor’s legal representatives are instructed to send a sale contract to an alternative purchaser, we are obliged to inform the initial prospective purchaser *in writing*.

 **3.** **PAYMENT OF FEES**

Commission is payable based upon the sale contract price including any fixtures or fittings or items which form part of the negotiations for the sale of the property. The commission payable shall be calculated on the total value of the transaction regardless of whether the Vendor/Client accepts another property in part exchange or agrees to any form of deferred purchase.

The Vendor hereby irrevocably confirms to Howard Cundey that the solicitor or other legal executive acting in the sale shall be authorised and instructed to pay the sale remuneration to them upon completion or in the event of completion failing to take place, on the date set for completion.

Interest on any unpaid amount at 3 per cent above Barclays Bank PLC base rate for the time being in force shall run from a date ten days after the date that any remuneration shall become payable.

**4.** **OTHER EXPENSES**

Local advertising, preparation and distribution of standard sale particulars, at Howard Cundey’s discretion, are included in the sale commission. Special national and regional advertising, colour illustrated brochures, professional photography etc., shall be charged separately and costs shall be reimbursed by the Vendor, whether or not a sale takes place. Such special work shall only be carried out after discussion and agreement with the Vendor and full particulars of these expenses shall be confirmed to the Vendor in writing, as provided for by the Estate Agents Act.

**5. ‘FOR SALE’ BOARDS**

Howard Cundey will erect a ‘for sale’ board as soon as possible, unless instructed that one is not required. The Town and Country Planning (Control of Advertisement) Regulations 1992, requires the display of only one ‘for sale’ board of limited size, and the Vendor agrees not to allow the display of any other ‘for sale’ board while the Howard Cundey board is displayed. There is no charge for displaying a ‘for sale’ board.

**6. KEYS**

We will accompany anyone who views unoccupied furnished properties. However, if a property is unfurnished, we shall allow unaccompanied viewing at our discretion, unless agreed otherwise with the Vendor.

In relation to inspections of the property there is a liability on the occupier of the same with regard to the safety of those carrying out the inspection and the Vendor should be aware of this and check with his Insurers that the appropriate cover is in place and check that the property is in suitably safe condition for any such inspection.

**7. SERVICES TO PURCHASERS & VENDORS**

To help buyers and Sellers with their move, Howard Cundey has teamed up with strategic partners to offer a range of useful services that will make the moving process easier and smoother. In return for these services Howard Cundey will receive a fee or commission. Examples include financial advice; the sale or letting of a prospective purchaser’s property, the sale of furniture and effects; conveyancing/legal advice; referral to contractors, architects, surveyor and property auctions etc. Please inform us in writing should you wish to opt out of those services.

**8. CONSUMER PROTECTION REGULATIONS 2008 & BUSINESS PROTECTION REGULATIONS 2008**

These regulations impose a duty on all Estate Agents to give “necessary information” to any consumer so that they can make an “informed transactional decision” - even when a Vendor might prefer us not to.  Breaches can result in civil ***and criminal*** penalties.  Clients need to be aware that there may be occasions when our obligations to them may be overridden by these regulations.  Whilst as Agents we take every care in preparing property sale particulars, we rely on the Vendor for certain information. The Vendor should check the sale particulars carefully and confirm to us that they are correct by returning a signed draft copy to us.

The Vendor undertakes with Howard Cundey to use his best endeavours to ensure that all information about the property contained in any sale documentation, sale particulars and otherwise is correct and free from any misrepresentation which could give rise to any action, claim, demand or prosecution by any person or statutory body. The Vendor hereby agrees and undertakes to indemnify Howard Cundey and keep Howard Cundey indemnified against all losses, costs, expenses, claims, commissions, settlements, fines, damages or other liabilities incurred by Howard Cundey arising out of or in connection with any breach by the Vendor of its obligations set out in this provision.

**9. ESTATE AGENTS ACT, 1979**

Under the Estate Agents Act, 1979, an agent is required to disclose to the prospective Purchaser(s) any personal interest that may exist between the Vendor and the Agent. This includes any family or business relationship, or association, between the Vendor and any Principal, Consultant or employee of Howard Cundey. If there is any such relationship or association, please indicate below under ‘**Marketing Instructions**’ the nature and extent of it.

Similarly, when an appropriate stage is reached the Agent must disclose any form of relationship or association (if known) regarding a prospective purchaser.

**10. VAT**

Value added tax is payable on all accounts rendered by Howard Cundey wherever the Vendor may live.

**11.  DATA PROTECTION ACT, 1998**

Howard Cundey is the trading name of Howard Cundey LLP and Howard Cundey Property Consultants LLP and all data about our Vendors and their properties will be shared between the two firms. Information about properties will appear on websites such as howardcundey.com, primelocation.com, rightmove.co.uk, etc

**12. COMPLAINTS**

If you have a complaint please contact your local Branch for details of our Complaints Handling procedure.  If complaints cannot be resolved by us they may be referred to the Ombudsman Services (Property).

**13. MISCELLANEOUS**

It is accepted that Howard Cundey will not be liable for any indirect or consequential loss, damage, cost or expense of any kind. It is accepted that Howard Cundey shall not be liable to the Vendor or be deemed to be in breach of its contract with the Vendor by reason of any delay in performing any of Howard Cundey obligations under this contract if the delay or failure is due to any cause beyond Howard Cundey reasonable control.

The Vendor acknowledges that in instructing Howard Cundey he has not done so on the basis of, and does not rely on, any representation, warranty or other provision not expressly provided for in these terms of business.

If any provision of these Terms of Business is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the provisions of these Terms of Business and the remainder of the provision shall not be affected. These Terms of Business shall be governed and construed in accordance with English Law. The vendor hereby gives permission for Howard Cundey, at their discretion, to incorporate images and information relating to the sale of the property (excluding specific sale prices) in promotional material for Howard Cundey when produced and distributed during the sale of the property and after an unconditional exchange of contracts has taken place.

**MARKETING INSTRUCTIONS**

I / We agree that the property shall be marketed at Asking Price £230,000 subject to contract, and that the quotation of this figure does not represent a valuation on Howard Cundey’s part and is not to be used as such for any purpose whatsoever.

Details of fixtures and fittings to be included in the marketing price shall be described in the sale particulars. The marketing price may be varied at any time, upon the Vendor’s instructions.

It is confirmed that to the best of our knowledge there is no Personal interest as set out in Para 9 above - or any personal interest is noted here:

....……………………………………………………...…………………………………………………… ....………………………………………………….…………………………………

|  |  |
| --- | --- |
| Type of Agency: ......……Sole…………………………………………………..Vendor: …………………………………………...……............ (PLEASE PRINT NAME)Vendor: …………………………………………………..............(PLEASE PRINT NAME)Please state capacity e.g. sole owner, joint owner, executor,Trustee, personal representative, power of attorney, etc.Sharon Watkinson MNAEAfor and on behalf of Howard Cundey LLP | Date .......………………………………………………………………....Signed …………………………………………………………………....Signed .....………………………………………………………………..........................................................................................Signed .....…………............................................................. |

**Notice of Right to Cancel:**

You have the option to change your mind and cancel this agreement within 14 days unless you signed it on our business premises.

You can cancel the agreement by delivering or sending (by post or email) a written cancellation notice to the person indicated on the Cancellation Notice below at any time within 14 days of receipt of this notice, which is deemed to be delivered on signing this agency agreement

**Providing Services to you before expiry of Cancellation Period:**

If you wish us to begin marketing your property and/or providing services to you before expiry of the cancellation period you must agree in writing.

If you then use your cooling off right to cancel this agreement you will be required to pay for our reasonable costs in providing the goods and services supplied to you (“cancellation costs”).

I/We the authorised Vendor(s) of the Property confirm:

That you have clearly explained my/our Cooling Off rights

I/We wish you to take immediate steps to provide the goods and services referred to in this agreement.

Signed Vendor...............................................Date..........................

Signed Vendor...............................................Date..........................

Signed Agent.................................................Date..........................

on behalf of Howard Cundey LLP

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**Cancellation Notice relating to Flat 33, Oakwood Park, Hartfield Road, Forest Row, East Sussex, RH18 5DZ**

If you wish to cancel the contract YOU MUST DO SO IN WRITING and deliver personally or send by post or email. You may use this section of this form if you want to, but you do not have to.

Sign, detach and return this section ONLY IF YOU WISH TO CANCEL THE CONTRACT to Sharon Watkinson at our Sussex Regional Centre office or email

Signed............................................................. Date...................................