



1 Dec 2021

**Terms and Conditions of Business**  
**Miguel Investments Ltd C/o Exilarch Dock Ltd**  
**10 Little Turnstile London WC1V 7DX**

**Introduction**

**When the Terms Apply**

These Terms of Business (“the Terms”) apply where BKL provides a service to a client and there is no written agreement for the provision of that service or if there is, to the extent that these Terms do not conflict with the terms of that written agreement. In the case of conflict between these Terms and the terms of any written agreement, the terms of the written agreement shall prevail to the extent of the conflict.

Reference in these Terms to the agreement means the written or informal agreement that incorporates these Terms (“the Agreement”).

**BKL**

BKL means BKL property consultants LLP 25 North Row London W1K 6DJ

**Service Level**

**Standard**

BKL is to provide the service to the specification and performance level stated in writing in the Agreement or, if none is stated, to the specification and performance levels that it ordinarily provides in accordance with BKL’s duty of care as set out below. Any variations must be agreed in writing.

**What is not included**

BKL has no responsibility for anything that is beyond the scope of the service so defined. In particular, it has no obligation to provide or liability for:

- An opinion on price unless specifically instructed to carry out a formal valuation
- Advice, or failure to advise, on the condition of a property unless specifically instructed to carry out a formal survey
- The security or management of property unless specifically instructed to arrange it
- The safety of those visiting a property, unless that is specified in its instructions.

**Financial and Insurance Services**

BKL is not permitted to carry out any activity regulated by the Financial Services and Markets Act 2000 including the insurance of property, except through an authorised person and in accordance with a separate agreement

**Estate Agency**

Where instructed to carry out estate agency business BKL must:

- Report in writing all offers it receives
- Comply with its obligations under the Estate Agents Act 1979 and regulations made under that Act.

**Liability and  
Duty of Care**

**Duty of care**

BKL owes to the client a duty to act with reasonable skill and care in providing the service and complying with the client’s instructions where those instructions do not conflict with (a) these Terms, (b) the Agreement or (c) applicable law and professional rules. BKL is not obliged to carry out any instructions of the client which conflict with the applicable law, regulations and professional rules.

**Liability to the Client**

BKL has no liability for the consequences, including delay in or failure to provide the services, of any failure by the client or any agent of the client:

- Promptly to provide information or other material that BKL reasonably requires, or where that information or material provided is inaccurate or



incomplete. The client warrants that, where it provides information or material to BKL, BKL is entitled to rely on its accuracy

- To follow BKL's advice or recommendations.

The liability of BKL in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise howsoever caused arising out of or in connection with the provision of services or otherwise under the Agreement is not limited for fraud or where its negligence causes death or personal injury, but otherwise:

- Is excluded to the extent that the client or someone on the client's behalf for whom BKL is not responsible is responsible,
- Is excluded if caused by circumstances beyond BKL's reasonable control;
- Excludes loss of profit, revenue and anticipated savings;
- Excludes indirect, special and consequential losses;
- (Where BKL is but one of the parties liable) is limited to the share of loss reasonably attributable to BKL on the assumption that all other parties pay the share of loss attributable to them (whether or not they do); and
- In any event is limited to £1 million in aggregate under this Agreement.

#### **Liability to Third Parties**

BKL owes no duty of care and has no liability to anyone but its client, unless specifically agreed in writing by Kearney Bell. No third party is intended to have any rights under the Agreement unless agreed in writing.

#### **Liability for Others**

BKL has no liability for products or services that it reasonably needs to obtain from others in order to provide the service.

#### **Delegation**

BKL may delegate to a third party the provision of the service, or part of it, only where this is reasonable but remains liable for what the third party does unless the client agrees to rely only on the third party (and the client must not unreasonably withhold that agreement). If delegation is at the client's specific request, BKL is not liable for what the third party does or does not do.

The Client shall effect and maintain adequate property and public liability insurance and general third party liability insurance providing coverage for bodily injury and property damage which will either include BKL as a joint insured or a waiver of the insurer's subrogation rights against BKL its employees or delegates.

#### **Protection of Employees**

Apart from fraud or criminal conduct no employee of BKL has any personal liability to the client and neither the client nor anyone representing the client may make a claim or bring proceedings against an employee or former employee personally.

#### **Complaints**

Before taking any other action against BKL the client agrees to use the BKL complaints procedure.

#### **Liability to BKL**

The client agrees to indemnify BKL against all third party (including any insurer of the client) claims (including without limitation all third party actions, claims, proceedings, loss, damages, costs and expenses) ("Claims")

- For which the client has agreed to insure under the Agreement;



- That relate in any way to the provision of the service except a Claim that a court of competent jurisdiction decides or BKL acknowledges (whether or not it admits liability) was caused by the fraud, wilful default, breach of contract or negligence of BKL or of a delegate for whom BKL is responsible under these Terms.

## Delivering the Service

### **Timetable**

BKL is to use reasonable endeavours to comply with the client's timetable but is not responsible for not doing so unless specifically agreed in writing. Even then, BKL is not liable for delay that is beyond its control.

### **Outside England and Wales**

Where BKL reasonably requires a service to be performed by a service provider outside England and Wales it may require the client to enter into a separate contract with that service provider that is subject to local law, separate invoicing arrangements and a standard of service no greater than that reasonably obtainable in that locality.

### **E-mail and on-line Services**

BKL may use electronic communication and systems to provide services, making available to the client any software required that is not generally available.

### **Conflict**

If BKL becomes aware of a conflict of interest it is to advise its client promptly and recommend an appropriate course of action.

### **Publicity**

Neither BKL nor its client may publicise or issue any specific information to the media about the service or its subject matter without the consent of the other

### **Criminal Activity**

To comply with law and professional rules on suspected criminal activity BKL has to check the identity of clients and to report, without telling the client, any activity that it suspects may be linked to crime.

### **Personal Data**

BKL processes and protects personal data about individuals in compliance with the law of England and Wales wherever in the world that data is accessed. In most cases individuals are entitled to see the personal data about them on request.

### **Intellectual Property**

All intellectual property rights in material supplied by the client belong to the client and in material prepared by BKL belong to BKL, unless otherwise agreed in writing. Each has a nonexclusive right to use the material provided for the purposes for which it is supplied or prepared. No third party has any right to use it without the specific consent of the owner.

### **Confidential Material**

Each party must keep confidential all confidential information and material of commercial value to the other party of which it becomes aware, but it may:

- use it to the extent reasonably required in providing the service
- disclose it if the other party agrees
- disclose it if required to do so by law, regulation or other competent authority

This obligation continues after termination of the Agreement.



### **The effect of Termination on Client Material**

On termination of the Agreement BKL may, to comply with legal, regulatory or professional requirements, keep one copy of all material it then has that was supplied by or on behalf of the client in relation to the service. The client may request the return or destruction of all other client material.

### **Destruction of Papers**

BKL may after six years from the earlier of completion of the service or termination of the Agreement destroy any papers it retains.

### **Not Specified**

Where the fees and expenses payable for the service are not specified in writing BKL is entitled to:

- The fee specified by the RICS or other applicable professional body or, if none is specified, to a fair and reasonable fee by reference to time spent.
- Reimbursement of expenses properly incurred on the client's behalf.

### **Part Performance**

Where the service is not performed in full BKL is entitled to a reasonable fee proportionate to the service provided as estimated by BKL.

### **VAT**

The client must pay VAT at the rate then current on the issue of a valid VAT invoice.

### **Interest on Overdue Amounts**

If an invoice is not paid in full within 14 days BKL may charge interest on the balance due at a daily rate of 2% above the base rate of National Westminster Bank.

### **Transfer**

The client may transfer the benefit of the Agreement but must first get the consent of BKL, which will not be unreasonably withheld

## **Ending The Agreement**

### **Termination**

The client or BKL may terminate the Agreement immediately by notice to the other if the other:

- has not satisfactorily rectified a substantial or persistent breach of the Agreement within the reasonable period specified in an earlier notice to rectify it
- is insolvent according the laws of its country of incorporation.
- Delivers unsatisfactory performance

### **Effect of Termination on Claims**

Termination of the Agreement does not affect any claims that arise before termination or the entitlement of BKL to its proper fees up to the date of termination or to be reimbursed its expenses.

### **Waiver and Severance**

Failure to enforce any of these Terms is not a waiver of any right to subsequently enforce that or any other term of the Agreement.

The invalidity, illegality and unenforceability in whole or in part of any of the provisions of the Agreement shall not affect the validity, legality or enforceability of its remaining provisions which shall remain in full force and effect.

## **Miscellaneous**

### **Notices**

A notice is valid if in writing addressed to the last known address of the addressee and is to be treated:

- when delivered, if delivered by hand (if that is during normal business hours) otherwise when business hours next commence



- two business days after posting, if posted by recorded delivery
- when actually received, if sent by ordinary mail or fax.

Notice may not be given by electronic mail.

### **Governing law**

The law of England and Wales applies to the Agreement and to the Terms. BKL and the client submit to the exclusive jurisdiction of the courts of England and Wales.

For the purposes of the Money Laundering Regulations 2007 we take this instruction as authorisation to request certified copies of identity verification from you/your solicitor. On confirmation of these terms can you arrange for the relevant documentation to be sent to the office listed above.

Without this information we are unable to continue with this instruction

### **Basis of Agency**

Sole selling rights.

### **Fees**

New letting ; 10% of the agreed annual rent , disregarding incentives and rent free subject to a minimum of £ 5,000 plus VAT . In the case of a rising rent the fee will be taken from the average rent agreed over 5 years.

The Marketing costs are £450 plus VAT , to include one goad and one marketing board , to be paid in advance by the Client.

Expenses to be borne by BKL will include subscriptions to online marketing portals, basic marketing details and travel expenses for an inspection.

Surrenders negotiation - fee is £2,000 + VAT payable on completion

completion Lease renewals and re-gears, 7.5% of the annual rent payable on

All fees are subject to VAT and will be charged at the prevailing rate