

LLOYDS
BANKING
GROUP



LLOYDS BANKING GROUP

Terms of Business for Intermediaries

BM SOLUTIONS



**SCOTTISH WIDOWS
BANK**

INTERMEDIARY GENERAL CONDITIONS

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following definitions apply:

Adequate explanations: means matters in respect of which adequate explanations must be supplied under rules contained in the section 4A.2 of the FCA's Mortgages Conduct of Business (MCOB) rules and/or Paragraph 8 of Schedule 2 of the MCD Order;

Affiliate: means in relation to a Party a subsidiary or subsidiary undertaking of that Party or any holding company of that Party from time to time or any other subsidiary or subsidiary undertaking of such holding company (and the terms "**holding company**" and "**subsidiary**" will have the meaning given to them in section 1159 of the Companies Act 2006 and will include parent and subsidiary undertakings as defined in section 1162 Companies Act 2006);

Agreement: means these Intermediary General Conditions together with the Intermediary Special Conditions;

Agreement Year: means any period of a year commencing on the same date in the calendar as the Effective Date;

AoC: means Attestation of Compliance, as defined in the PCI Standards;

Applicable Standards means:

- a) any statute, regulation, by law, ordinance or subordinate legislation which is in force for the time being to which a Party is subject;
- b) the common law as applicable to a Party);
- c) any binding court order, judgment or decree applicable to a Party); and
- d) any applicable policy, rule or guidance of any regulatory body (in particular the principles (including but not limited to those relating to treating customers fairly), rules, guidance and evidential provisions issued by the FCA (and if relevant PRA) , or any industry code or standard required by any commonly recognised relevant trade body ,
in each case, as in force for the time being;

Applicant: the individual(s) whose Mortgage Application is sent to the Lender by your Appointed Representative;

Appointed Representative: a person who acts as your representative in accordance with Section 39 of the FSMA and for whom you have responsibility;

Authorised Person: a person authorised as defined in Section 31(2) of the FSMA and holds all authorisations and permissions required under the FSMA (and/or any rules or regulations made under it) in order to submit Regulated Mortgage Applications to the Lender pursuant to this Agreement;

Bank: has the meaning given in the Intermediary Special Conditions;

Business Day: in relation to anything done or to be done in any part of the United Kingdom, any day except Saturday, Sunday, Good Friday, Christmas Day or a bank or public holiday in that part of the United Kingdom;

Cardholder Data: means all data on the front and back of a payment card in the form of the full primary account number (PAN) plus any of the following: cardholder name, card expiration date and/or card security code;

CBTL Mortgage Application: means a Mortgage Application which relates to a CBTL Mortgage Contract;

CBTL Mortgage Contract: means a mortgage contract which is a consumer buy-to-let mortgage contract within Article 4 of the MCD Order;

Confidential Information: means any information disclosed or supplied by any member of the Lloyds Banking Group to the Intermediary or vice versa in connection with this Agreement, including the terms of this Agreement, any difference between those terms and terms offered generally to other parties and any other conditions or facts relevant to this Agreement;

Data Controller: has the definition given to it in the Data Protection Act 1998;

Data Protection Laws: means the Data Protection Act 1998, the Privacy and Electronic Communication (EU Directive) Regulations 2003 and all applicable EU directives, regulations or codes of practice (to the extent that such codes of practice have legal effect) relating to data protection or the privacy of individuals;

Effective Date: is the date specified in the Intermediary Special Conditions;

FCA: The Financial Conduct Authority (or any successor regulatory body or bodies);

FSMA: The Financial Services and Markets Act 2000 as amended;

General Prohibition: means the prohibition contained in Section 19 of the FSMA;

Illustration: means the form of illustration to be supplied to the Applicant prior to their submission of an Application;

Inducement: means any benefit offered with a view to bringing about a particular course of action;

Insolvency Event means in respect of the Intermediary and any of its Affiliates, one or more of the following events affecting such entity (the **Affected Party**):

- a) the Affected Party ceases or threatens to cease to carry on business or suspends all or substantially all of its operations, or suspends payment of its debts or becomes unable to pay its debts or is deemed to be unable to pay its debts within the meaning of section 123, 222, 223, 224 or 268 of the Insolvency Act 1986 (assuming, if necessary, that such sections apply to the Affected Party);
- b) a winding-up petition is presented in respect of the Affected Party and is not set aside within 14 days or circumstances arise which entitle a court of competent jurisdiction to make a winding up order of the Affected Party;
- c) the Affected Party enters into liquidation (as defined in section 247(2) of the Insolvency Act 1986) either compulsory or voluntary (save for the purposes of a solvent reconstruction or amalgamation previously approved in writing by the Lender) or a provisional liquidator is appointed in respect of the Affected Party;
- d) notice of intention to appoint an administrator is served in respect of the Affected Party or a petition or an application for an administration order is presented or a notice of appointment of administration is served in respect of the Affected Party or an administration order is made under section 131 of the Insolvency Act 1986 in respect of the Affected Party;
- e) an administrative receiver, receiver or manager or similar officer is appointed under part III of the Insolvency Act 1986 in respect of the whole or any part of the Affected Party's assets or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Affected Party;
- f) an application for an interim order under part VIII of the Insolvency Act 1986 is made;
- g) the Affected Party proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors;
- h) a distress, execution or other legal process is taken or steps are taken to enforce any encumbrance over all or part of the assets and/or undertaking of the Affected Party;
- i) the Affected Party sells its business (or any part of it);
- j) a provisional liquidator is appointed under section 135 of the Insolvency Act 1986;
- k) the Affected Party is subject to an event analogous to (a) to (j) above in any other jurisdiction.

Intellectual Property Rights means:

- (a) patents (including rights in, and/or to, inventions);
- (b) trade marks, service marks, trade names and business names (in each case including rights in goodwill attached thereto);
- (c) design rights;
- (d) rights in and/or to internet domain names and website addresses;
- (e) semi-conductor topography rights;
- (f) copyright (including future copyright);
- (g) database rights;
- (h) rights in and to confidential information (including know how and trade secrets); and
- (i) all other intellectual property rights;

in each case subsisting at any time in any part of the world (whether registered or unregistered) and (i) any pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction and (ii) any similar or analogous rights to any of these rights, whether arising or granted under the laws of England & Wales or in any other jurisdiction.

Intermediary, you and, your: means the person or company set out in the Intermediary Special Conditions;

Intermediary Representative: means the person identified as such in the Intermediary Special Conditions (or the successor to that role);

Lender, we, us, and our means:

the Lender Brands and/or companies of the Lloyds Banking Group (as these may be amended from time to time) to which we agree your Appointed Representatives may submit Mortgage Applications; and

the Bank, where this is necessary to give effect to the terms of this Agreement;

Lender Brands: includes Bank of Scotland plc T/A Halifax, Bank of Scotland plc T/A Birmingham Midshires, Scottish Widows Bank plc or any other brands as may be used by Lloyds Banking Group from time to time

and in each case includes any successors and assigns;

Lender Representative: means the person identified as such in the Intermediary Special Conditions (or the successor to that role);

Lloyds Banking Group: means the Lloyds Banking Group plc (registered number SC095000) whose registered office is at The Mound Edinburgh EH1 1YZ and any holding companies or subsidiary undertakings (as such terms are defined in the Companies Act 2006) of it or of any such holding company, in each case from time to time and a Lloyds Banking Group Company will mean any such company;

Losses: means all losses, liabilities, damages, costs and expenses including legal fees on a solicitor/client basis and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

MCD Order: means the Mortgage Credit Directive Order 2015 as amended;

Mortgage Application: means an application for a new mortgage, product transfer or further advance;

On-line Mortgage Application System: means the online system used by the Lender Brands to capture and submit data regarding Mortgage Applications;

Party or Parties: each of the parties to this Agreement (and in the case of the Lender includes its successors and assigns);

PCI Standards: will have the meaning given to it in clause 16;

Permission(s): means a permission granted under Part IV of the FSMA to carry on regulated activities;

Personal Data: means all personal data as defined by the Data Protection Act 1998;

Personnel: means your (and as applicable your Appointed Representatives') directors, employees, contract staff, independent contractors and other individuals engaged to fulfil your duties and conduct the activities envisaged under and in connection with this Agreement;

PRA: The Prudential Regulation Authority (or any successor body or bodies);

RAO: means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (as amended);

Registered Firm: means a person who is named on the register of consumer buy-to-let mortgage firms maintained under Article 8 of the MCD Order and holds all authorisations and permissions required under the FSMA (and/or any rules or regulations made under it) in order to submit CBTL Mortgage Applications to the Lender pursuant to this Agreement (or the Appointed Representative of such a person);

Regulated Mortgage Application means a Mortgage Application which relates to a Regulated Mortgage Contract;

Regulated Mortgage Contract: means a mortgage contract falling within article 61(3) of the RAO;

Website(s): the Lender Brands mortgage intermediary websites (as these may be amended from time to time) or any successor websites or other URLs or electronic addresses notified to you. The term "Website" covers all facilities provided in connection with the website including the On-line Mortgage Application system.

- 1.2 The Interpretation Act 1978 applies to this Agreement in the same way as it applies to an enactment.
- 1.3 Any reference in this Agreement to any legislation or legislative provision, whether enacted in the United Kingdom, the European Community or elsewhere, includes that provision as modified or re-enacted whether before or after the date of this Agreement (so far as the modification or re-enactment applies or is capable of applying to the Agreement) and any subordinate legislation made from time to time under that provision.
- 1.4 Any reference to this Agreement will mean this Agreement as modified or varied and will include any supplemental Agreements entered into between the Parties.
- 1.5 The headings for the paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.
- 1.6 References to clauses and subdivisions of them refer, unless a contrary intention appears, to the clauses of this Agreement and subdivisions of them, respectively.
- 1.7 In this Agreement, the words "other", "includes", "including" "for example" and "in particular" do not limit the generality of any preceding words and any words which follow them will not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.8 In this Agreement (unless the context otherwise requires) the words "for the time being" mean at the relevant time now or in the future.
- 1.9 References to this Agreement or any other document are to this Agreement or that document as in force for the time being and as amended, supplemented, varied, modified, renewed or replaced or extended from time to time in accordance with the requirements of this Agreement or that document (as the case may be).
- 1.10 These Intermediary General Conditions shall apply to and form part of the Agreement. Where there is a conflict between the Intermediary General Conditions and the Intermediary Special Conditions, the Intermediary Special Conditions shall prevail.

2 START AND REGISTRATION

- 2.1 This Agreement shall be deemed to commence with effect from the Effective Date and will continue until terminated by either Party pursuant to clause 17.

- 2.2 Your Appointed Representatives must complete the relevant Lender Brand's registration process and for online submissions your Appointed Representatives and/or any of their Personnel who submit Mortgage Applications must accept the terms and conditions on the relevant Lender Brands intermediary Websites ("**Lender Brand Terms and Conditions**") before submitting Mortgage Applications to us.

3 SCOPE

- 3.1 The terms of this Agreement set out the basis on which the Lender accepts Mortgage Applications submitted by your Appointed Representatives.
- 3.2 Notwithstanding anything else in this Agreement we reserve the right, at our sole discretion at any time, to decline any Mortgage Application submitted by any of your Appointed Representatives with or without giving prior notice.
- 3.3 You acknowledge that your appointment and that of your Appointed Representatives is not an exclusive one in any way and the Lender may appoint others to provide services similar to those you and your Appointed Representatives provide. You acknowledge that the Lender makes no commitment as to volume of business or fees to be derived from this Agreement.
- 3.4 Nothing in this Agreement is intended to, or will operate to, create a partnership between the Parties, or to authorise either Party to act as agent for the other, and neither party will have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power), you and your Appointed Representatives act entirely on your (and their) own account. You will procure your Appointed Representatives will in each case notify Applicants that neither you nor they are acting as the agent of or in partnership with the Lender in respect any Mortgage Application and have no authority to act on behalf of the Lender.

4 YOUR GENERAL DUTIES

- 4.1 You will (and/or will procure that your Appointed Representatives will):
- 4.1.1 conduct all business pursuant to this Agreement with reasonable skill and care, ethically and with the utmost integrity at all times in accordance with good industry practice and to no lesser standard than carried out in respect of applications submitted to other mortgage lenders;
 - 4.1.2 comply with Applicable Standards;
 - 4.1.3 comply with any policies and procedures that we have notified you as requiring to be complied with, including use of any prescribed forms of standard documentation without any amendment except in any case where to do so would put you or the respective Appointed Representative in breach of any the obligations referred to in clause 4.1.1 or 4.1.2;
 - 4.1.4 supply any Adequate Explanations required to be given to Applicants by the Applicable Standards;
 - 4.1.5 obtain and ensure the continued validity of any necessary authorisation, licence, consent, permit, registration, permission or approval required by you from anybody else in connection with this Agreement or the activities to be carried out pursuant to it and provide a such evidence of these as we may at any time request;
 - 4.1.6 ensure sales processes are designed to identify customer's needs and take all reasonable steps to ensure that all information supplied in a Mortgage Application is full, accurate and complete;
 - 4.1.7 ensure you, each Appointed Representative and all applicable Personnel are suitably qualified (as required by the FCA (and if relevant PRA) from time to time), competent and adequately trained in mortgage products so that features, risks and best advice can be explained and given to customers and our products matched to customer needs and circumstances. For the avoidance of doubt the Lender retains responsibility for product design and lending decisions;
 - 4.1.8 ensure that the recommended product is suitable and provide such information that we require to enable us to assess affordability based on our affordability criteria;
 - 4.1.9 promptly inform us of any material information (i) relevant to a Mortgage Application including but not limited to information obtained during the application process about future changes to affordability; and/or (ii) which we reasonably request in relation to a Mortgage Application; and/or (iii) to ensure that we comply with any Applicable Standards;
 - 4.1.10 forward fully and properly completed initial documentation in a timely manner;
 - 4.1.11 use reasonable endeavours to ensure the accuracy of customer data supplied to us;
 - 4.1.12 ensure that any execution-only sale is undertaken when Applicable Standards permit the use of the execution only process, and is in the customer's best interests and on request produce evidence to confirm the basis upon which the execution-only sale was made;
 - 4.1.13 proactively monitor and record advice given by all applicable Personnel of the Appointed Representatives and take appropriate action necessary to ensure you are not in breach of any of your obligations under this Agreement;

- 4.1.14 ensure that all documentation captured or generated during the sales process is retained in accordance with the Applicable Standards;
 - 4.1.15 deal fairly and appropriately with customer complaints and claims relating to activities for which you are responsible including but not limited to the sales process, advice and product recommendation in accordance with a documented and updated complaints procedure which complies with all Applicable Standards;
 - 4.1.16 forward to us details of any customer complaints and claims you receive in connection with us or activities for which we are responsible in a timely manner. For the avoidance of doubt the Lender is responsible for product performance, application processing and post completion administration of the mortgage;
 - 4.1.17 promptly distribute to customers any information you receive which is to be supplied to them;
 - 4.1.18 comply with all reasonable instructions given by us;
 - 4.1.19 accept our Lender Brand Terms and Conditions, as updated and amended from time to time, before submitting any on-line Mortgage Applications to us; and
 - 4.1.20 maintain appropriately documented procedures for all business operations which comply with Applicable Standards and good industry practice.
- 4.2 You will (and/or will procure that Appointed Representatives will) not do, or omit to do, anything, which would be reasonably likely to:
- 4.2.1 adversely affect any authorisation, licence, consent or permission necessary or desirable for the conduct of our business, or any other business of Lloyds Banking Group; or
 - 4.2.2 cause us or any member of the Lloyds Banking Group to breach any Applicable Standards;
 - 4.2.3 cause any mortgage granted by us to be unenforceable pursuant to any provision of the FSMA and in particular to Section 27 of the FSMA; or
 - 4.2.4 cause any unfair relationship to arise under s140A of the Consumer Credit Act 1974.
- 4.3 You will notify us in writing as soon as reasonably practicable if:
- 4.3.1 you, any of your Appointed Representatives or any of the Personnel, are charged with or convicted of any offence involving fraud or dishonesty;
 - 4.3.2 you, your Appointed Representatives, or any director or partner in your business, is subject to an Insolvency Event; or
 - 4.3.3 you, your Appointed Representatives or any of the Personnel are formally investigated by the FCA, PRA, or any other body which regulates you, whether or not that investigation proceeds, and provide us with details of the reasons for the investigation. For the avoidance of doubt you are not required to notify us of any investigation that constitutes a standard audit or inspection visit by a regulatory body;
 - 4.3.4 you, your Appointed Representatives, or any of the Personnel, are disciplined by the FCA, PRA or any other body which regulates you;
 - 4.3.5 a person takes a step, which would result in a change of control over you. (for the avoidance of doubt, "person" and "control" in this clause 4.3.5 will have the meanings given to them in the Glossary to the FCA's Handbook);
 - 4.3.6 there is any material change to your business; or
 - 4.3.7 you are reasonably likely to be unable to comply with any provision of this Agreement.
- 4.4 You will (and/or will procure that your Appointed Representatives will):
- 4.4.1 be responsible for effecting and maintaining such anti financial crime and identity verification/"Know your customer" due diligence measures in respect of an Applicant and record keeping procedures as are required by all Applicable Standards (including without limitation the Money Laundering Regulations 2007 as amended from time to time) . From time to time the Bank may seek to rely on the said due diligence that you or your Appointed Representatives have undertaken for the purposes of satisfying its own requirement to undertake due diligence in respect of an Applicant. In these cases, you consent (and will procure that your Appointed Representatives consent) to being relied on within the meaning given in Regulation 17(1) of the Money Laundering Regulations 2007 for the purposes of applying due diligence measures.
 - 4.4.2 if requested provide all information or evidence of identity data gathered about the Applicants and any other relevant information collected in applying Applicant due diligence measures.

5 DISCLOSURE OF MATERIAL INDUCEMENTS AND COMMISSION

5.1 For all Mortgage Applications:

- 5.1.1 we will provide you with a figure in cash terms of material Inducements and you will procure that your Appointed Representatives disclose this figure in the Illustration provided to Applicants;

- 5.1.2 you will procure that your Appointed Representatives disclose procurement fees in the Illustration (including fees paid to a third party);
- 5.1.3 if applicable you will procure that your Appointed Representatives tell us the valuation fee and connected administration fee charged in connection with a Mortgage Application, and disclose these fees in the Illustration;
- 5.1.4 if applicable you will procure that your Appointed Representatives tell us of any brokerage, arrangement or cancellation fees charged in connection with a Mortgage Application, and disclose these fees in the Illustration;
- 5.1.5 if applicable you will procure that your Appointed Representatives tell us where the customer has made a positive choice to add a fee to the sum advanced provided always that such fee is capable of being so added to the sum advanced.

6 FCA AUTHORISATIONS AND PERMISSIONS

- 6.1 You warrant represent and undertake that:
 - 6.1.1 you are an Authorised Person and have the Permissions previously notified to us;
 - 6.1.2 (if your Appointed Representatives submit CBTL Applications) you are a Registered Firm;
 - 6.1.3 you have properly appointed your Appointed Representatives who as such are exempt under Section 39 of FSMA;
 - 6.1.4 your Appointed Representatives and any Personnel are suitably qualified (as required by the FCA (and if relevant PRA) from time to time).
- 6.2 You will procure that Appointed Representatives will not deal in relation to Regulated Mortgage Contracts with an unauthorised third party who acts in contravention of the General Prohibition.
- 6.3 You will:
 - 6.3.1 immediately notify us upon ceasing to be an Authorised Person or a Registered Firm or if there are any changes to the Permissions held by you; and
 - 6.3.2 upon request immediately supply to us written evidence of being an Authorised Person or a Registered Firm and/or your Permissions and/or written evidence of the appointment of any Appointed Representative.

7 INTRODUCERS

- 7.1 If an Appointed Representative introduces an Applicant to us that has been referred to it by a third party introducer ("the Introducer") that is not itself an Authorised Person, you confirm that you have approved this referral arrangement and confirm that your Appointed Representative has an agreement in writing with the Introducer providing that the Introducer:
 - 7.1.1 will not engage in the regulated activities of advising on or arranging (as defined in articles 25(A) and 53(A) of the RAO) Regulated Mortgage Contracts or and will limit its activities to introducing only;
 - 7.1.2 will not receive any money from its client for or in connection with any transaction for a Regulated Mortgage Contract or non -regulated mortgage contract which its client enters into as a result of any such introduction;
 - 7.1.3 will (i) prior to making any such introduction disclose to its client that it may receive payment or other reward or advantage for making the introduction and (ii) promptly upon the amount of such payment, reward or advantage being known, disclose such amount to the client;
 - 7.1.4 will prior to making any such introduction disclose to its client details of whether it is a member of the same group as you or if applicable your Appointed Representative;
 - 7.1.5 will maintain written records of any such disclosures that are made (unless the introduction is being made under Article 33 of the RAO);
 - 7.1.6 where the introduction relates to a CBTL Mortgage Application, the Introducer is not undertaking any activity requiring it to be a Registered Firm; and
 - 7.1.7 will comply with any requirements that we may have for the form of any such disclosure and or record of such disclosure required in this clause 7.
- 7.2 You will procure that your Appointed Representatives will provide us with a list of the Introducers from which they accept Mortgage Applications upon receipt of a request from us.

8 APPOINTED REPRESENTATIVES

- 8.1 You will notify us in a timely manner of any change to any of your Appointed Representatives' details. In particular you must notify us if an Appointed Representative changes its name or address or ceases to be your Appointed Representative. You must also notify us if a new Appointed Representative is appointed.

- 8.2 You will at all times be responsible for all Appointed Representatives and for procuring their compliance with this Agreement and all Applicable Standards, including but not limited to the advice given to Applicants about their application, and nothing in this Agreement will relieve you of any liability for the acts or omissions of any Appointed Representatives concerning the obligations contained in this Agreement.
- 8.3 You shall be liable to the Bank, each Lender Brand (and their respective successors and assigns) or their Affiliates in respect of any Losses incurred or suffered by or made against any of them, wholly or in part, resulting directly or indirectly from, or connected in any way with any breach of your obligations under clause 8.2, whether or not such Losses were foreseeable at the date of entering this Agreement.

9 MORTGAGE CLUBS

- 9.1 If any of your Appointed Representatives submit a Mortgage Application to us through a third party mortgage distributor, such as a mortgage club or mortgage packager ("the Club"), the applicable fees will be those the relevant Lender has agreed with the Club and you agree that the Club acts as your agent for the receipt of any payments due and our payment to the Club is in full and final satisfaction of any payment due to you.
- 9.2 You agree, and will procure that your Appointed Representative will agree, that the Club acts as your agent for the receipt of any payments due and our payment to the Club is in full and final settlement of any payment due to you or your Appointed Representative.

10 PAYMENTS

- 10.1 Subject to clause 9.1 the relevant Lender Brand will pay any fees earned in relation to any Mortgage Application that results in a mortgage (or a further advance or product transfer where this has been the subject of a Mortgage Application) being entered into with the Applicant in accordance with our rates of commission published or notified to you from time to time or as otherwise agreed in writing between the Parties.
- 10.2 Unless otherwise agreed in writing, the relevant Lender Brand will pay any fees earned in relation to a Mortgage Application submitted by your Appointed Representative to you and such payment will be in full and final satisfaction of its liability to you and to the Appointed Representative.
- 10.3 We will terminate all payment of fees for mortgages with effect from the date you cease to be an Authorised Person (including fees relating to mortgages which are not Regulated Mortgage Contracts). For the avoidance of doubt each Lender Brand will pay such fees as relate to Mortgage Applications submitted to it before you cease to be an Authorised Person. In the event that any of us pay any fees to you in relation to any Mortgage Application submitted by your Appointed Representatives after you have ceased to be an Authorised Person you undertake to repay any such fees on demand.
- 10.4 Each Lender Brand will pay any fees relating to it no later than in the month following completion of the relevant mortgage to the agreed UK bank account. You agree to carry out fee reconciliations upon receipt of payment and report any errors or inconsistencies regarding the fees no later than four weeks after receipt of payment.
- 10.5 Should we in mistake pay any fees to you which your Appointed Representative has not earned, then you agree that you will on demand repay the unearned fees
- 10.6 We reserve the right to withhold the payment of specific fees if we are notified that your Appointed Representative is no longer the agent of an Applicant.
- 10.7 We have a right of set-off in respect of any amount payable by us to you against any money payable by you to us whether arising under this Agreement or otherwise with any member of the Lloyds Banking Group.
- 10.8 We may change the way fees are earned, the rates payable and the terms upon which we (or any of us) pay commission at any time on 30 days' notice (which may be verbal), such notice to be confirmed in writing in due course. If you are paid published rates of commission, notice will be given by posting a notification on the relevant Lender Brand Website.
- 10.9 The fees payable under this Agreement are exclusive of Value Added Tax.

11 LIABILITY

- 11.1 Neither Party excludes or limits liability to the other Party in respect of:
- 11.1.1 death or personal injury caused by its negligence;
 - 11.1.2 any fraud (including fraudulent pre-contractual misrepresentations made by it on which the other Party can be shown to have relied); or
 - 11.1.3 any other liability arising out of or in connection with this Agreement that cannot be excluded or restricted by law.
- 11.2 The Intermediary does not exclude or limit its liability in respect of liability pursuant to:
- 11.2.1 Clause 13 (Intellectual Property);
 - 11.2.2 Clause 14 (Data Protection);
 - 11.2.3 Clause 15 (Confidentiality);

- 11.2.4 The Intermediary's failure to perform its obligations in a manner that complies with Applicable Standards; and
 - 11.2.5 any fines or other penalty imposed by a court of competent jurisdiction or by a Regulator to the extent caused by the Intermediary's act or omission.
- 11.3 You shall be liable to the Bank, each Lender Brand (and their respective successors and assigns) or their Affiliates in respect of:
- 11.3.1 any Losses incurred relating to or arising from any breach of the obligations under this Agreement by you or an Appointed Representative (whether or not such Losses were foreseeable at the date of entering this Agreement);
 - 11.3.2 for any claim by an Appointed Representative relating to or arising from any payment made as provided in clause 9 or clause 10.2.
- 11.4 Subject to clause 11.1 and clause 11.2, your maximum liability in total under this Agreement in any Agreement Year will be equivalent to the higher of (i) the level of professional indemnity insurance that you hold and/ (ii) the minimum amount of cover you are required to have by the FCA (and if relevant the PRA) as home finance intermediary. Subject to clause 11.1 the maximum aggregate liability of the Bank and each other Lender Brand under or in connection with this Agreement (except for nonpayment of any fees due and payable to you) is £250,000.
- 11.5 Subject to clause 11.1 to 11.2 inclusive, neither Party will be liable to the other or any third party for any:
- 11.5.1 Losses arising under, and/or in connection with this Agreement which are not considered direct losses recoverable under English Law; or
 - 11.5.2 indirect, special, punitive or consequential Losses, even if such Losses were foreseeable and notwithstanding that a Party had been advised of the possibility that such Losses were in the contemplation of the other Party or any third party.
- 11.6 During the term of this Agreement and for six years following the date of expiry or termination, the Intermediary will maintain insurance policies with reputable insurers covering the risks and amounts set out in this Agreement and all such insurances as may be required by Applicable Standards. The Intermediary will bear any and all excesses and deductibles incorporated therein.
- 11.7 The Intermediary will, if requested in writing at any time by any of us, promptly provide such of us as made the request with evidence from its insurance broker that the coverage required by clause 11.6 has been implemented and is in place (including sight of all relevant policy documents).
- 11.8 Neither failure to comply nor full compliance with the insurance provisions of this Agreement will limit or relieve the Intermediary of its liabilities and obligations under this Agreement.

12 MANAGEMENT INFORMATION

- 12.1 You will provide such information as we or any of us may reasonably request from time to time concerning your business, your Personnel, ownership, directors, partners and /or your Appointed Representatives and or concerning the operation of this Agreement and Applications and fees under it.

13 INTELLECTUAL PROPERTY RIGHTS

- 13.1 This Agreement will not operate to assign any title or interest in any Intellectual Property Rights belonging to the Lender, or any member of the Lloyds Banking Group.
- 13.2 You will not (and will procure that any Appointed Representative will not) use any Intellectual Property Rights belonging to any Lender or to any member of the Lloyds Banking Group (including any name, logo, slogan, sign, image, trademark, trade name) without the prior written consent of that Lender or the relevant member of the Lloyds Banking Group (as the case may be).
- 13.3 You acknowledge that if any Lender (or a member of the Lloyds Banking Group) grants you (or an Appointed Representative) a licence to use certain of its Intellectual Property Rights pursuant to clause 13.2, such licence will be a non-exclusive, non-transferable, royalty free, worldwide, personal licence to use such Intellectual Property Rights to the extent necessary and for the sole purpose of the proper performance of your obligations under this Agreement (this licence will terminate automatically on the expiry or termination of this Agreement). For the avoidance of doubt the goodwill arising from your use (or an Appointed Representative's use) of any such Intellectual Property Rights will accrue to the relevant Lender (and/ or the relevant member of the Lloyds Banking Group which owns them).
- 13.4 You will not (and will procure that any Appointed Representative will not) do anything, or omit to do, or permit to be done, or cause anything to be done, which would or may:
- 13.4.1 prejudice the Intellectual Property Rights of any Lender or any member of the Lloyds Banking Group; or
 - 13.4.2 damage or be detrimental to any Lender or any member of the Lloyds Banking Group, or the reputation or goodwill associated with any Lender or any member of the Lloyds Banking Group.

14 DATA PROTECTION AND INFORMATION SECURITY

- 14.1 The Parties acknowledge and agree that they (and the Appointed Representatives) are each Data Controllers of Personal Data provided by the Applicants and that they shall ensure (and you will procure that your Appointed Representative will ensure) compliance with all Data Protection Laws in respect of their obligations under this Agreement.
- 14.2 The Parties shall ensure (and you will procure that your Appointed Representative will ensure) they have made all necessary registrations and notifications of their particulars in accordance with applicable Data Protection Laws and shall ensure that such registrations and notifications are kept accurate and up to date during the term of this Agreement. You shall supply on request to any Lender a copy of such registrations and notifications, together with any amended particulars that may be filed from time to time.
- 14.3 You will incorporate into your network agreements with your Appointed Representatives the requirement that they comply with applicable Data Protection Laws including the requirement that your Appointed Representatives obtain consent from the Applicant prior to the transfer of their Personal Data to the relevant Lender in connection with any Mortgage Application.
- 14.4 In addition to and notwithstanding any other right or obligation arising under this Agreement, you shall (and shall procure that Appointed Representatives and all Personnel shall):
- 14.4.1 take all appropriate technical and organisational measures necessary or desirable to ensure that Personal Data processed in connection with this Agreement is protected against loss, destruction and damage, and against unauthorised access, use, modification, disclosure or other misuse;
 - 14.4.2 take all technical and organisational security measures necessary to ensure that only authorised Personnel have access to Personal Data of which you or any Appointed Representative are a Data Controller;
 - 14.4.3 take all reasonable steps to ensure the reliability and trustworthiness of any Personnel that will have access to any Personal Data processed by you;
 - 14.4.4 consider all reasonable suggestions made by any member of the Lloyds Banking Group to ensure that the level of protection provided for Personal Data you process is in accordance with this Agreement and to make the changes suggested (at your own cost) unless you can prove to the Lender's reasonable satisfaction that they are not necessary to ensure ongoing compliance with this clause 14;
 - 14.4.5 not do or omit to do anything which causes any member of the Lloyds Banking Group to breach any Data Protection Laws or contravene the terms of any registration, notification or authorisation under any Data Protection Laws of any member of the Lloyds Banking Group; or
 - 14.4.6 not transfer Personal Data which has been obtained by or made available to you to any country outside the European Economic Area without the prior written consent of the Applicant.
- 14.5 You shall (and shall procure that Appointed Representatives shall) immediately notify the Lender and, if requested by the Lender, members of the Lloyds Banking Group upon:
- 14.5.1 becoming aware of a breach of this clause 14; or
 - 14.5.2 receiving any request, correspondence, notice or other communication whether orally or in writing from the Office of the Information Commissioner, or any other person, relating to Personal Data processed by you if such communication may impact in any way whatsoever on the Bank or any other member of the Lloyds Banking Group.
- 14.6 You shall promptly complete and return to the Lender on request from time to time any questionnaire designed to evaluate your compliance with your obligations in respect of Personal Data under this Agreement.
- 14.7 Nothing in this clause shall relieve you of any liability for the acts or omissions of Appointed Representatives or any Personnel in relation to the Personal Data.

15 CONFIDENTIALITY

- 15.1 Each Party will treat as confidential the Confidential Information of the other Party.
- 15.2 Subject to clause 15.3, a Party receiving Confidential Information will not disclose that Confidential Information to any third party, or use that Confidential Information, or take any copies of that Confidential Information, except as may be necessary for the exercise of its rights or performance of its duties under this Agreement.
- 15.3 The provisions of this clause 15 do not prohibit the receiving Party from disclosing, using or copying any Confidential Information on terms of confidentiality which are to the same effect as those set out in this clause 15 to those of its employees and advisers who need to know that Confidential Information for the purpose of exercising its rights or performing its duties under this Agreement, or in the case of the Lender to any actual or prospective assignees (and their advisers) or with the prior consent of the other Party, or which it can show is in, or enters, the public domain otherwise than as a result of unauthorised disclosure by the receiving Party, or which it can show, has been, or is, independently developed by the receiving Party, or which it can show was lawfully available to it free of any restrictions as to its disclosure or use before the receiving Party received that Confidential Information from the other Party, or that the law or any regulatory body requires the receiving Party to disclose.
- 15.4 Upon termination of this Agreement and upon the disclosing Party's request the receiving Party will either return to the disclosing Party or destroy all copies of Confidential Information held by the receiving Party save for that

Confidential Information that is necessary for legal, insurance or regulatory purposes and which is retained in accordance with the receiving Party's retention policies.

15.5 The duties in this clause 15 will survive any termination of this Agreement.

16 PAYMENT CARD INDUSTRY (PCI) TERMS AND CONDITIONS

16.1 You will incorporate into your network agreements with your Appointed Representatives the requirement for Appointed Representatives to comply with the Payment Card Industry Security Standards Council's then current standards in respect of Cardholder Data including without limitation PCI DSS (Payment Card Industry Data Security Standard) and the PA DSS (Payment Application Data Security Standard) (collectively, the "PCI Standards") for the duration of their network agreement with you and until such point as all relevant data (including Cardholder Data) has been securely deleted from their infrastructure in accordance with the PCI Standards relating to secure deletion.

16.2 You will procure for us a direct right of action against your Appointed Representatives for any breach of the PCI Standards in respect of Mortgage Applications introduced to the Lender.

16.3 Should you become aware that your Appointed Representatives have lost PCI DSS status or are failing to comply with this clause 16, you will advise us by written notice within 2 Business Days thereafter and we may at our sole discretion refuse to accept any further Mortgage Applications from such Appointed Representatives with immediate effect.

17 TERMINATION

17.1 Subject to clause 17.2 this Agreement may be terminated (without payment of compensation) by either Party giving to the other Party not less than 30 days prior written notice.

17.2 Either Party may end this Agreement immediately on written notice at any time after the Effective Date and without the payment of compensation if:

17.2.1 the other Party commits a material breach of any provision of this Agreement and, in the case of a breach which is capable of being remedied, that breach has not been remedied within 15 Business Days of a request to do so, such request to include a warning of the innocent Party's intention to end this Agreement if that breach has not been remedied within the specified time; or

17.2.2 either Party ceases to have any statutory, regulatory or other authorisation, which is required by it in connection with, or for the purposes of, this Agreement.

17.3 We may end this Agreement immediately on written notice at any time after commencement and without the payment of compensation if:

17.3.1 you (or any Appointed Representative) do anything which in our reasonable opinion is likely to damage any member of the Lloyds Banking Group's reputation and goodwill with customers and potential customers;

17.3.2 any material information you have supplied is found to be false;

17.3.3 you are in breach of Clause 20;

or

17.3.4 you are subject to an Insolvency Event.

17.4 Following termination, we will no longer accept Mortgage Applications from your Appointed Representatives. Termination will not affect legitimate Mortgage Applications received prior to termination which do not require any further Intermediary involvement.

17.5 The expiry or termination of this Agreement for any reason shall not affect:

17.5.1 the coming into force or the continuance in force of any provision which is expressed to come into force or continue in force on or after such expiry or termination or which is required to give such effect to such expiry or termination; or

17.5.2 any right of action or remedy which shall have accrued or shall thereafter accrue to either you or us up to the date of expiry or termination.

18 NOTICES

18.1 Unless this Agreement provides otherwise, any notice or communication to be given under or in connection with this Agreement will be in writing sent by either recorded delivery or first or second class post and will be sufficiently given if delivered or sent to:

18.1.1 in our case to the appropriate Lender Representative at their usual address for correspondence.

18.1.2 in your case for the attention of the Intermediary Representative at their usual address for correspondence.

18.2 Any notice will be deemed to have been given (in the absence of evidence of earlier receipt on a Business Day) on the first Business Day after the elapse of 48 hours from the time of posting.

19 BROKER MONITORING AND FILE REVIEWS

- 19.1 You will keep true and accurate accounts and records of all matters connected with this Agreement and will allow representatives and professional advisers (“Bank Audit Representatives”) of any of us, or any employee or agent of a statutory or regulatory body to have access to those accounts and records on reasonable notice at any time between 9.00 am and 5.30 pm on any Business Day. You will cooperate with any of our representatives and those of any regulatory body undertaking any audit or investigation into matters relating to business conducted pursuant to this Agreement, and provide all reasonable facilities at your premises to allow such audit or investigation, and allow the taking of such copies of such accounts and records, as may be considered reasonable. You will at all times comply with any reasonable request made by us to produce for inspection any information which relates to this Agreement.
- 19.2 In addition or as an alternative to undertaking an audit or inspection of the type referred to at Clause 19.1 above, any Lender may request specific files or a random sample of files be delivered to it for inspection in order to monitor your compliance with this Agreement, including in particular the quality and accuracy of Mortgage Application submission and your compliance with obligations in respect of prevention of financial crime as set out in Clause 4.4 above and by the Applicable Standards. Each Lender will act reasonably in making any requests, both in terms of frequency of request and scale and nature of samples. Any such request may be made by email. You will respond promptly in delivering the requested samples.
- 19.3 Following termination of this Agreement Bank Audit Representatives will have the right to perform audits and inspections as follows:
- 19.3.1 at any time for reasons of fraud, breach of confidentiality and/or breach of regulatory compliance;
- 19.3.2 once only for all other reasons unless by prior Agreement with you (not to be unreasonably withheld or delayed).
- 19.4 You will be given prior notice of any proposed inspection or audit of any of your Appointed Representatives and acknowledge that no prior notice will be given to the Appointed Representatives themselves. We will provide feedback to you and the Appointed Representative following an audit or inspection.
- 19.5 You will make best efforts to procure the compliance of your Appointed Representatives with the obligations in this clause 19 that apply to you insofar as the same obligations would apply to them.

20 BRIBERY AND CORRUPTION

- 20.1 You will:
- 20.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (“**relevant requirements**”);
- 20.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if the activity, practice or conduct was carried out in the UK;
- 20.1.3 have and shall maintain in place throughout the term your own policies and procedures, including, but not limited to, adequate procedures under the Bribery Act 2010, to ensure compliance with the relevant requirements and paragraph 20.1.2, and will enforce them where appropriate;
- 20.1.4 promptly report to us any request or demand received by you in connection with the performance of this Agreement to offer, promise or give any undue financial or other advantage of any kind; and
- 20.1.5 promptly notify us if you or any Personnel are prosecuted, charged or convicted of any offence under the relevant requirements.
- 20.2 You represent, warrant and undertake that, other than as disclosed in writing to us:
- a) neither you, your Appointed Representatives nor any Personnel have been prosecuted, charged or convicted of any offence under the relevant requirements; and
- b) as at the date of this Agreement no charges relating to bribery or corruption have been brought against you, your Appointed Representatives or any Personnel.
- 20.3 You shall be responsible for compliance with the provisions of this clause 20 by any persons associated with you (including but not limited to your Appointed Representatives), who are performing services in connection with this Agreement, and shall be directly liable to the Bank for any breach by such persons of such provisions.
- 20.4 If you (including but not limited to your Appointed Representatives and any other person associated with you who is performing services in connection with this Agreement, in all cases whether or not acting with your knowledge) breaches the provisions of paragraphs 20.1, 20.2 or 20.3 above, the Bank may terminate this Agreement on provision of written notice with immediate effect.
- 20.5 Any termination under paragraph 20.4 shall be without prejudice to any right or remedy which has already accrued, or subsequently accrues, to the Lloyds Banking Group.
- 20.6 For the purposes of this clause 20, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with the Bribery Act 2010 (and any guidance issued under section 9 of that act). For the purposes of this clause 20.6 your Appointed Representatives and the Personnel will be deemed to be a person associated with you.

21 DISPUTE RESOLUTION

- 21.1 Any dispute or matter in difference arising out of or in connection with this Agreement (“**Dispute**”) shall be treated as follows:
- 21.1.1 the relevant Lender Representative and Intermediary Representative will endeavour to resolve the Dispute;
 - 21.1.2 in the event that any matter cannot be resolved by the individuals cited at 21.1.1 within ten (10) Business Days of a written request from one Party to the other Party to negotiate the Dispute, any Party may escalate the Dispute to their respective managers who will use reasonable endeavours to resolve the Dispute;
 - 21.1.3 for the avoidance of doubt, unless this Agreement is terminated, in the event of a Dispute, each Party will remain obliged to fulfil all of its obligations under this Agreement; and
 - 21.1.4 all negotiations pursuant to this clause 21 shall be conducted in strict confidence. Those negotiations shall be without prejudice to the rights of the Parties and shall not be used in evidence or referred to in any way without the prior written consent of the Parties in any future court proceedings.
- 21.2 Neither Party may commence any court proceedings in relation to any Dispute until the Parties have attempted to settle it in accordance with this clause 21 except that this clause 21 shall not prevent either Party from seeking injunctive relief in the case of any breach or threatened breach by the other of any obligation of confidentiality or any infringement by either Party of the Intellectual Property Rights of the other Party or commencing any court proceedings where this is necessary to avoid any loss of a claim due to the rules on limitation of actions.

22 USE OF OUR WEBSITES

- 22.1 You agree that you, your Appointed Representatives and the Personnel's use of our Websites shall be subject to the Lender Brand Terms and Conditions (hereinafter referred to in this Clause 22 as Terms and Conditions) as well as this Agreement. You will ensure you, your Appointed Representatives and the Personnel comply at all times with the Terms and Conditions and you shall be liable to us for any Losses arising from failure by you, your Appointed Representatives and the Personnel to comply with the Terms and Conditions.
- 22.2 It is a condition of your, your Appointed Representatives' and the Personnel's use of our Websites that any identifier, security mechanism or password issued for the purpose of gaining access to our Websites including access to information on products and services held on third party software will be used appropriately prudently and kept secure. In particular, such passwords, identifiers and security mechanisms must not be made known or disclosed to any person other than authorised Personnel. If at any time the security of a password or identifier or security mechanism is compromised, you must immediately notify us. You shall be liable to us for any Losses sustained by us arising from your, your Appointed Representatives' and the Personnel's failure to safeguard the password, identifier or security mechanism.
- 22.3 You acknowledge and agree that in no event shall we be held liable to you or your Appointed Representatives for any Losses arising out of or in any way connected with the use or performance of our Websites, or with the delay or inability to use the Websites, or the provision of or failure of any company or third party to provide or facilitate the Websites.
- 22.4 You may not set up hypertext links from any website to our Websites without consent (and you will procure that your Appointed Representatives and all Personnel comply with this) and any consent given may be subject to specific conditions. We reserve the right to require you by notice at any time to remove any such link from your websites.

23 AMENDMENTS

- 23.1 Subject to Clause 23.2 we may amend this Agreement at any time by giving you one month's written notice. Other than the matters referred to in clause 10.8 of this Agreement which will be communicated in accordance with the terms of that clause, this notice may be by posting a notice on the relevant Lender Brand Website. Any amendment notified pursuant to this clause will take effect upon expiration of the one month notice period.
- 23.2 Where we need to amend this agreement to make it compliant with any Applicable Law we can do so immediately. We will give you notice as soon as reasonably practicable, though this may be after the change has taken effect.

24 GENERAL

- 24.1 Neither Party will make any statement, announcement or comment concerning this Agreement to the public or the press without the prior written consent of the other Party).
- 24.2 Any liability to either Party under this Agreement may in whole or in part be released, compounded or compromised, or time or indulgence given by that Party in its absolute discretion as regards the other Party, without in any way prejudicing or affecting its rights against that other Party under the same or a similar liability.
- 24.3 No failure by either Party to exercise, and no delay by that Party in exercising, any right, power or remedy in connection with this Agreement (each a “Right”) will operate as a waiver, nor will any single or partial exercise of any Right preclude any other or further exercise of that Right or the exercise of any other Right. Any express waiver of any breach of this Agreement will not be deemed to be a waiver of any subsequent breach.
- 24.4 The illegality, invalidity or unenforceability of any provision of this Agreement will not affect the legality, validity or enforceability of any other provision.

- 24.5 You may not assign or otherwise transfer this Agreement without our prior written consent. We may freely assign or otherwise transfer this Agreement and /or our rights under it in whole or in part (in law or in equity) :
- 24.5.1 to any member of the Lloyds Banking Group; or
 - 24.5.2 to any third party
- 24.6 This Agreement supersedes any previous Agreement between the Parties concerning the matters dealt with in this Agreement and together with the Lender Brand Terms and Conditions (and any standard terms of commission payments or other written agreements as to fees pursuant to Clause 10) on the Lender Brands Websites constitutes the whole agreement between the Parties relating to the subject matter of this Agreement at its date of execution.
- 24.7 This Agreement will be governed by and construed in accordance with English Law and disputes (including non-contractual claims and disputes) arising out of or in connection with this Agreement, its subject matter, negotiation or formation will be determined in accordance with English law.
- 24.8 Each Party agrees to submit all disputes arising under this Agreement to the exclusive jurisdiction of the courts of England in relation to all claims, disputes, differences or other matters (including non-contractual claims, disputes, differences or other matters) arising out of or in connection with this Agreement.
- 24.9 Other than the Lender or as expressly stated, this Agreement is not intended by the Parties to give rise to any right which is enforceable by any third party by virtue of the Contracts (Rights of Third Parties) Act 1999. No third party will have any rights relating to any extension, waiver and/or amendment to this Agreement including but not limited to, any rights to approve the extension, waiver and/or amendment to this Agreement.
- 24.10 If a person who is not a Party to this Agreement is stated to have the right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999, the Parties may rescind or vary this Agreement (and any documents entered into pursuant to or in connection with it) without the consent of that person.
- 24.11 You acknowledge that the obligations and liabilities of each of us are separate and independent of the others of us and not joint and several. None of us will owe any obligation to you to perform any obligations of the rest of us.