

**Terms and Conditions (“the Terms”)**

The Terms are intended to govern the relationship between City Capital London LLP (“the Company”) and you (“the Client”)

**1 DEFINITIONS**

In the Terms unless the context otherwise requires:

“Confidential Information” means in relation to the Client all information concerning the business and affairs of the Client and any individual officer of the Client that the Company obtains or receives in the course of providing the Services

“Data Protection Legislation” means the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.

“UK Data Protection Legislation” means any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation.

“Funding” means any form of commercial loan, whether secured or unsecured, offered by a Lender to the Client

“Introducer Commissions” means any commission due to the Company by the Lender;

“Lender” means any financial institution to which loan applications are submitted by the Company;

“Services” means the services provided by the Company in relation to the sourcing of Funding for the Client and the introduction of Lenders to the Client.

**2 APPOINTMENT**

2.1 The Client appoints the Company for the purpose of introducing Lenders to the Client and agrees and acknowledges that the Company does not advise on the suitability of any Funding proposal.

2.2 The Company will request information from the Client in relation to the Client and its Partners, or its directors and shareholders to enable it to provide the Services. The Client undertakes to answer any such request accurately and comprehensively and acknowledges that any failure to do so may lead to a reduction in the number of Lenders willing to provide Funding. The provision of false information may place Funding opportunities at risk.

2.3 Upon introducing the Client to a Lender, the Client will be treated as a client of the Lender for the purposes of the provision of Funding and the Lender will enter into an appropriate agreement with the Client and for the provision of agreed Funding.

2.4 The Parties agree that the Client must seek advice from its accountants and other professional advisers concerning all its funding arrangements and the Company will have no liability in respect of any funding arrangements proposed by the Company to the Client.

**3 INTRODUCER COMMISSIONS**

3.1 The Company is paid for its Services by way of Introducer Commissions payable by Lenders.

3.2 The Client is not liable to the Company for any Introducer Commissions or any other remuneration or fee in respect of the Services.

3.3 If the Company is not entitled to an Introducer Commission in respect of any Funding it reserves the right to charge a fee to the Client for the Services provided. Such fee shall be agreed with the Client and shall be payable within 30 days of the Company’s invoice.

3.4 If the Client does not pay the Company’s invoice for any agreed fee by the due date for payment the Company reserves the right to:

3.4.1 suspend the provision of Services to the Client; and

3.4.2 charge interest on the unpaid amount at the rate of 2% over the base rate of Barclays Bank plc from the date of invoice until payment in full of the outstanding amount.

**4 TERMINATION**

4.1 Save as provided by Clause 4.2 the Company’s appointment under the Terms shall be terminable on 7 days’ notice in writing by either Party at any time.

4.2 Either Party will have the right to cancel the appointment made pursuant to the Terms with immediate effect in the event of evidence of or reasonable suspicion of the following circumstances in respect of the other party:

4.2.1 Fraud;

4.2.2 Civil/criminal charges material to the provision of the Services pursuant to the Terms;

4.2.3 Any breach of the Terms.

4.2.4 an order is made or a resolution is passed for the winding-up of the other party or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other party’s assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action in consequence of debt

4.2.5 (if the Client is an individual) the death or bankruptcy of the Client, or the Client making an arrangement or composition with his creditors or becoming resident outside the United Kingdom.

**5 LIABILITY**

5.1 This clause 5 sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Client in respect of:

5.1.1 any breach of the Terms however arising;

5.1.2 any use made by the Client of the Services; and

5.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Terms.

5.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Terms.

5.3 Nothing in the Terms seeks to limit or exclude the Company’s liability for death or personal injury caused by its negligence or for fraud.

5.4 Subject to clause 5.1, the Company will not be liable to the Client for any: indirect, consequential, special or punitive loss, damage, costs and expenses; loss of profit; loss of business; loss of reputation; depletion of goodwill; or loss of, damage to or corruption of data.

5.5 Subject to clause 5.1, the Company’s total liability under or connected with the Services whether arising out of any action for a breach of the Terms, negligence, misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Services shall not exceed the value of the Funding applied for. All claims which are to be treated as a single claim for the purposes of our indemnity insurance are to be aggregated in applying that limit, apportioning the capped liability between the aggregated claims in a just and equitable manner.

**6 CONFIDENTIALITY UNDERTAKING**

6.1 The Company undertakes to the Client that it will:

6.1.1 keep confidential all Confidential Information;

6.1.2 treat the Confidential Information with the same degree of care that the Company uses of its own Confidential Information;

6.1.3 not, without the prior written consent of the Client, disclose Confidential Information of the Client in whole or in part to any other persons save those of its employees, agents and sub-contractors or Lenders who need to know the Confidential Information in question;

Please note the Company will be releasing Confidential Information to enable the Lender to make a decision on the finance application. By accepting the Terms the Client agrees such disclosure

6.2 The provisions of this Confidentiality Undertaking shall not apply to any information which:

6.2.1 is or becomes public knowledge other than by breach of this undertaking;

6.2.2 is in the possession of the receiving party before the date of receipt from the disclosing party and was not previously acquired by the receiving party under an obligation of confidence;

6.2.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

6.2.4 is required to be disclosed for any proper purpose;

6.2.5 to a public authority or regulatory body;

6.2.6 to a court of law in connection with any legal proceedings; or

6.2.7 to any auditor, lawyer, insurer or professional personal acting on behalf of a party, provided such person undertakes, in terms substantially similar to this clause to keep such information confidential.

**7 USE OF INFORMATION**

7.1 The Company and its Lenders will from time to time search the Client’s records at credit-reference agencies, check details with fraud prevention agencies, and share the results of such searches and these records with other organisations. Credit is subject to status and the Company does not have to give any reasons for not proceeding with introductions to Lenders.

7.2 By acceptance of the Terms the Client agrees that it will advise that the Company will and will obtain permission from all its officers and all associated parties for the Company to make all appropriate searches and enquiries where necessary.

**8 THIRD PARTY RIGHTS**

8.1 Save where the context otherwise requires, a person who is not a Party to the Terms shall not be entitled to enforce any of the terms of the Terms under the Contracts (Rights of Third Parties) Act 1999.

**9 DATA PROTECTION**

9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party’s obligations under the Data Protection Legislation. In this clause 1, **Applicable Laws** means (for so long as and to the extent that they apply to the Provider) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.

9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Company is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).

9.3 Without prejudice to the generality of clause 9.1 the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company for the duration and purposes of this agreement.

9.4 Without prejudice to the generality of clause 9.1, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under these Terms:

- 9.4.1 process that Personal Data only on the written instructions of the Client unless the Company is required by Applicable Laws to otherwise process that Personal Data. Where the Company is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Company shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Company from so notifying the Client;
- 9.4.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 9.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 9.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
  - 9.4.4.1 the Client or the Company has provided appropriate safeguards in relation to the transfer;
  - 9.4.4.2 the data subject has enforceable rights and effective legal remedies;
  - 9.4.4.3 the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - 9.4.4.4 the Company complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- 9.4.5 assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 9.4.6 notify the Client without undue delay on becoming aware of a Personal Data breach;
- 9.4.7 at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 9.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 9.
- 9.5 The Client consents to the Company sharing Personal Data with third-party providers of financial products which may be of interest to the Client for the purposes of these Terms. The Company confirms that it has entered or (as the case may be) will enter with the third-party provider into a written agreement substantially on that third party's standard terms of business.
- 9.6 Either party may, at any time on not less than 30 days' notice, revise this clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to these Terms).

**10 NOTICES**

- 10.1 The Client shall notify the Company immediately in writing if there is any change to its circumstances including but not limited to change of address, legal entity, trading status, engaging other business activities, change in related regulated activities or other material facts.
- 10.2 Any notice or other document to be given under the Terms shall be in writing and shall be sent by pre paid first class post, by email or by facsimile transmission to the registered office, or, in the case of an unincorporated business, its principal place of business.
- 10.3 Communications shall be deemed to have been received:
  - 10.3.1 if sent by pre-paid first class post, 2 days after posting (exclusive of the day of posting);
  - 10.3.2 if delivered by hand, on the day of delivery;
  - 10.3.3 if sent by facsimile transmission or e-mail on a working day (in England) prior to 4.00 p.m., at the time of transmission and otherwise on the next working day provided sender can show satisfactory transmission.

**11 COMPLIANCE**

- 11.1 Both Parties will comply with all legal and regulatory requirements as are applicable to their obligations under the Terms and will co-operate fully with each other for the purpose of such compliance. In particular both parties will comply with the Consumer Credit Act insofar as it may apply to any Funding.

**12 GENERAL**

- 12.1 The Terms are the entire agreement between the parties with regard to their subject matter and no other terms, conditions, warranties or statements (unless fraudulent) will apply.
- 12.2 Each party acknowledges that in entering into the appointment of the Company pursuant to the Terms it does not do so on the basis of, and does not rely on any representation, unless made fraudulently, warranty or other provision not expressly contained in the Terms.
- 12.3 Any variation to the Terms must be in writing and signed on behalf of both parties.
- 12.4 If a court decides that any part of the Terms cannot be enforced, that particular part of the Agreement will not apply, but the rest of the Terms will.
- 12.5 A waiver by a party of a breach of any provision shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provisions.
- 12.6 Failure or delay in exercising any right under the Terms shall not prevent the exercise of that or any other right.

**13 NACFB CODE OF PRACTICE/COMPLAINTS/ARBITRATION**

- 13.1 The Company agrees to act on behalf of the Client in accordance with the terms of the prevailing edition of the Code of Practice of the National Association of Commercial Finance Brokers (a current copy of which is available on request from the Association). The Code stipulates the remedies available to the Client in the event of a complaint or other dispute (after exhausting the Company's own complaints procedures).

**14 GOVERNING LAW AND JURISDICTION**

- 14.1 The Terms and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 14.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

On behalf of the Client I hereby accept the Terms set out above and agree that they will apply to all future applications made by the Client for Funding.

Signed:..... For and on behalf of .....

Print Name: ..... Date:.....