



**Leeds Building Society**

# **Intermediary Fair Processing Notice**

**Effective from 4 May 2021**

By submitting any information to us you hereby acknowledge, agree and consent to this Fair Processing Notice. If you do not agree to this Fair Processing Notice, then you must not submit any information to us.

## PROVIDING INFORMATION TO LEEDS BUILDING SOCIETY

Where you provide personal and financial information relating to others, including, but not limited to your underlying clients, our prospective customers or any business partner or director, whether they be linked to you or otherwise, you confirm that you have their consent or are otherwise entitled to provide this information to us and for us to use it for these purposes or, in the case of prospective customers, for the purpose of us considering whether to provide them with any of our products and / or services.

## WHO WE ARE, HOW TO CONTACT US AND OUR DATA PROTECTION OFFICER

Leeds Building Society of 26 Sovereign Street, Leeds, West Yorkshire LS1 4BJ is a data controller of your Personal Data. Our Data Protection Officer can be contacted by email at [dpo@leedsbuildingsociety.co.uk](mailto:dpo@leedsbuildingsociety.co.uk) or by writing to Data Protection Officer, Leeds Building Society, PO Box 228, Leeds, LS1 9LN.

We reserve the right to update this Fair Processing Notice from time to time to keep it up to date. You can obtain a copy of the most recent version by visiting: <http://www.leedsbuildingsociety.co.uk/intermediaries/online-terms>.

## INFORMATION WE COLLECT AND HOLD ABOUT YOU

To enable you to register and submit business to us, we will require certain information about you and your organisation. Most of this will be provided by you when you register and submit an application with us. This includes:

- Your title, full name, contact details (including, for instance, your email address and telephone numbers);
- Your address;
- Your place and date of birth (which will be to remove duplicate records from our database and to link you to any Mortgage Club or network to which you belong);
- Details of your regulated status;
- Details of your organisation; and
- Records of how you have contacted us and, if you get in touch with us online, details such as your mobile phone location data, IP address and device attributes, such as MAC address.

## FRAUD PREVENTION AGENCIES

When you complete our Online Intermediary Registration and/or when you submit an application to us we will share your information with fraud prevention agencies who will use it to prevent fraud and money-laundering.

Fraud Prevent Agencies keep a record of our enquiries and may record, use and give out information we give them, to other lenders, insurers and other organisations.

If false or inaccurate information is provided to us, and suspected fraud is identified, we will notify the agencies accordingly. This will also be the case if you are suspected of knowingly submitting fraudulent mortgage applications during your relationship with us. If fraud is detected, you could be refused certain services, finance or employment.

Further details of how your information will be used by us and these fraud prevention agencies, and your data protection rights, can be found in the separate leaflet titled 'Identification and Fraud Prevention'. You can obtain a copy of by visiting <http://www.leedsbuildingsociety.co.uk/security/use-of-personal-information/>.

## WHAT ARE THE LEGAL GROUNDS FOR PROCESSING YOUR PERSONAL INFORMATION (INCLUDING WHEN WE SHARE IT WITH OTHERS)?

Under data protection laws, we can only process your Personal Data for certain reasons (including when we share it with other organisations). Below, we set out these reasons:

## 1. Processing is necessary to perform our contract with you or for taking steps prior to entering into it and or for us to comply with our legal obligations:

- In order to enter into a contract with you and to comply with our legal obligations, we will process your personal information, as set out:
  - To manage our business relationship with you;
  - For compliance with laws which apply to us;
  - To administer our governance requirements such as internal reporting and compliance;
  - For establishment, defence and enforcement of our legal rights;
  - For activities relating to the prevention, detection and investigation of crime;
  - To carry out identity checks, anti-money laundering checks, and checks with Fraud Prevention Agencies;
  - To process information about a crime or offence and proceedings related to that (in practice this will be relevant if we know or suspect fraud);
  - To deal with requests from you to exercise your rights under data protection laws;
- Where we share your information with:
  - Our legal and other professional advisers, auditors and actuaries;
  - Courts and to other organisations where that is necessary for the administration of justice, to protect vital interests and to protect the security or integrity of our business operations; and
  - Law enforcement agencies and governmental and regulatory bodies, such as:
    - HMRC;
    - the Financial Conduct Authority;
    - the Prudential Regulation Authority;
    - the Financial Ombudsman Service;
    - the Information Commissioner's Office; and
    - the Financial Services Compensation Scheme.

## 2. Legitimate Interests:

- The UK's data protection law allows the use of Personal Data where its processing is legitimate and isn't outweighed by the interests, fundamental rights or freedoms of data subjects. We will use your personal information for the following legitimate interests:
- To test the performance of our products, services and internal processes;
  - To adhere to guidance and best practice under the regimes of governmental and regulatory bodies, such as:
    - HMRC;
    - the Financial Conduct Authority;
    - the Prudential Regulation Authority;
    - the Financial Ombudsman Service;
    - the Information Commissioner's Office; and
    - the Financial Services Compensation Scheme.
  - For management and audit of our business operations, including accounting;
  - To carry out monitoring and to keep records;
  - For market research and analysis and developing statistics; and
  - Where we share your personal information with:
    - Other organisations and businesses who provide services to us, such as back up and server hosting providers, IT software and maintenance providers, document storage providers and suppliers of other back office functions;
    - Buyers and their professional representatives as part of any restructuring or sale of our business or assets; and
    - Market research organisations who help us to develop and improve our products and services.

## IS YOUR PERSONAL INFORMATION TRANSFERRED OUTSIDE THE UK OR THE EEA?

We are based in the UK but sometimes your personal information may be transferred outside the UK or the European Economic

Area. If it is processed within Europe or other parts of the European Economic Area (EEA) then it is protected by European data protection standards. Some countries outside the EEA do have adequate protection for personal information under laws that apply to us. We will make sure that suitable safeguards are in place before we transfer your personal information to countries outside the EEA which do not have adequate protection under laws that apply to us. Safeguards include contractual obligations imposed on the recipients of your personal information. Those contractual obligations require the recipient to protect your personal information to the standard required in the European Economic Area. Safeguards also include requiring the recipient to subscribe to 'international frameworks' intended to enable secure data sharing and where the framework is the means of protection for the personal information.

**WHAT SHOULD YOU DO IF YOUR PERSONAL INFORMATION CHANGES?**

You should tell us so that we can update our records. You can do this by:

- writing to us at Intermediary Operations Support, Leeds Building Society, PO Box 228, Leeds, LS1 9LN; or
- calling us on 0113 216 7450.

**FOR HOW LONG IS YOUR PERSONAL INFORMATION RETAINED BY US?**

We will keep your personal information for as long as we have a relationship with you.

After this time, we may keep your data for up to 40 years for the following reasons:

- To respond to any queries or complaints; and
- To maintain records according to rules that apply to us.

We may keep your data for longer than 40 years if we cannot delete it for legal, regulatory or technical reasons. If you would like further information about our data retention practices please contact our Data Protection Officer.

**DO WE DO ANY MONITORING INVOLVING PROCESSING OF YOUR PERSONAL INFORMATION**

In this section, monitoring means any listening to, recording of, viewing of, intercepting of, or taking and keeping records (as the case may be) of calls, emails, text messages, social media messages and other communications. We may only monitor where permitted by law and we will do this where the law requires it.

Some of our monitoring may be to comply with regulatory rules, self-regulatory practices or procedures relevant to our business, to prevent or detect crime, in the interests of protecting the security of our communications systems and procedures, to have a record of what we have discussed with you and actions agreed with you, to protect you and to provide security for you (such as in relation to fraud risks) and for quality control and colleague training purposes.

Some of our monitoring may check for obscene or profane content in communications.

Telephone calls between us and you may be recorded to make sure that we have a record of what has been discussed and what your instructions were. We may also record these types of calls for quality control and colleague training purposes.

**WHAT ARE YOUR RIGHTS UNDER DATA PROTECTION LAWS?**

Here is a list of the rights that all individuals have under data protection laws. These include:

- The right to be informed about your processing of your personal information;
- The right to have your personal information corrected if it is inaccurate and to have incomplete personal information completed;
- The right to object to processing of your personal information;
- The right to restrict processing of your personal information;
- The right to have your personal information erased (the "right to be forgotten");
- The right to request access to your personal information and to obtain information about how we process it (please see below for further information);
- The right to move, copy or transfer your personal information ("data portability");
- Rights in relation to automated decision making which has a legal effect or otherwise significantly affects you.

You also have the right to complain to the Information Commissioner's Office who regulates data protection laws: <https://ico.org.uk/>.

You can request our leaflet "Your Data Protection Rights" which provides more details on your rights above, by visiting You can request our leaflet "Your Data Protection Rights" which provides more details on your rights above, by visiting <http://www.leedsbuildingsociety.co.uk/security/use-of-personal-information/>

If you wish to exercise any of these rights against the Fraud Prevention Agencies, you should contact them separately.

**HOW TO GET A COPY OF YOUR PERSONAL INFORMATION (DATA SUBJECT ACCESS REQUEST)**

You can obtain a copy of your personal information held by us by writing to us at Intermediary Operations Support, Leeds Building Society, PO Box 228, Leeds, LS1 9LN.

We'll deal with your request as quickly as possible, but in no more than 30 calendar days from receipt of all required identification.

**DATA ANONYMISATION AND USE OF AGGREGATED INFORMATION**

Your personal information may be converted into statistical or aggregated data which means it can no longer be used to identify you. It may then be used to produce statistical research and reports.

**DEFINITIONS**

We explain below some of the key terms used in this document

<b>Personal information</b>	means information that is about you or from which we can identify you.
<b>Process or processing</b>	includes everything we do with your personal information from its collection, right through to its destruction or deletion when we no longer need it. This includes for instance collecting it (from you), obtaining it (from other organisations), using, sharing, storing, retaining, deleting, destroying, transferring it overseas.
<b>Legitimate interests</b>	data protection laws allow the Processing of Personal Data where the purpose is legitimate and is not outweighed by your interests, fundamental rights and freedoms.



# Leeds Building Society

**INTERMEDIARY TERMS OF BUSINESS OF LEEDS BUILDING SOCIETY (HEAD OFFICE SITUATED AT 26 SOVEREIGN STREET, LEEDS, WEST YORKSHIRE LS1 4BJ) (the "Society") effective from 4 May 2021. These Intermediary Terms of Business ("Terms") supersede the Terms of Business for Intermediaries dated 31 August 2020.**

**BEFORE ACCEPTING THESE TERMS THE INTERMEDIARY SHOULD READ THESE TERMS CAREFULLY (IN PARTICULAR TERMS 8 AND 9, WHICH THE INTERMEDIARY CONFIRMS IT HAS READ AND UNDERSTANDS). ANY INDIVIDUAL WHO ACCEPTS THESE TERMS ON BEHALF OF AN INTERMEDIARY WARRANTS AND REPRESENTS THAT IT HAS THE REQUISITE AUTHORITY FROM THE INTERMEDIARY TO BIND THE INTERMEDIARY TO THESE TERMS.**

## **1 Definitions and Interpretation**

1.1 In these Terms, the following words and phrases shall have the following meanings:

**"Applicable Law"** any (i) statutes, statutory instruments, regulations, directives, judgements and laws; and (ii) rules, regulations and guidance, which relate to the Applications and/or these Terms and/or anything ancillary or related to the Applications and/or these Terms including the Financial Services and Markets Act 2000, the Mortgage Credit Directive Order 2015, the PRA Handbook and the FCA Handbook;

**"Applicant"** the person or persons applying for a mortgage;

**"Application"** an application for a mortgage provided by or on behalf of the Applicant and received by the Society;

**"Appointed Representative"** a person who has a contract with an FCA or a PRA authorised person (the "Principal") which permits the Appointed Representative to carry on Regulated Activities for which the Principal has accepted responsibility;

**"Complaint"** has the same meaning given to it within the FCA Handbook;

**"Complaints Procedure"** each Party's complaints processes and procedures for dealing with Complaints;

**"Compliance Laws"** Applicable Law anywhere in the world which relates to anti-corruption and anti-slavery including the Bribery Act 2010 and the Modern Slavery Act 2015;

**"Confidential Information"** in respect of each Party all information which relates to a Party's business, products, trade secrets, know-how, personnel, suppliers and customers, together with all information which ought reasonably to be considered confidential or commercially sensitive;

**"Data Protection Legislation"** any laws in force in the United Kingdom from time to time that relate to data protection, the processing of personal data and privacy, including without limitation: the Data Protection Act 2018; the General Data Protection Regulation (EU) 2016/679; the Privacy and Electronic Communications (EC Directive) Regulations 2003; and references to "Data Controller", "Data Processor", "Data Subjects", "Personal Data", "Process", "Processed", "Processing", "Processor" and "Supervisory Authority" have the meanings set out in, and will be interpreted in accordance with, such laws;

**"Fees"** the amounts payable by the Society to the Intermediary as specified by the Society to the Intermediary from time to time;

**"Discloser"** the Party which discloses Confidential Information to the Receiver;

**"FCA"** the Financial Conduct Authority and any successor thereto;

**"FCA Handbook"** the FCA's handbook of rules and guidance;

**"Good Industry Practice"** the standard of care which would be expected from an experienced, diligent and professional intermediary undertaking the acts required pursuant to these Terms;

**"Intellectual Property Rights"** all intellectual property rights of any kind including patents, rights to inventions and copyright whether registered or unregistered and all similar rights of

protection in any part of the world;

**"Intermediary"** the company or individual authorised to advise and distribute mortgages and who either accepts these Terms directly or via its authorised Staff;

**"Liability"** all losses, liabilities, costs, damages and expenses that a Party does or will incur;

**"Materials"** any equipment, materials, software and/or hardware;

**"Party"** the Society or the Intermediary as the context requires and "Parties" shall mean the Society and the Intermediary;

**"Permissions"** authorisations, permissions, licences or consents required in order to comply with obligations under these Terms;

**"Portal"** any online platform provided by the Society for submission of Applications by the Intermediary;

**"PRA"** the Prudential Regulation Authority and any successor thereto;

**"Recipient"** the Party which receives Confidential Information of the Discloser;

**"Regulated Activities"** has the same meaning given to it within the FCA Handbook;

**"Regulator"** any governmental, statutory and/or regulatory body which has the power to regulate the Society including the FCA and the PRA;

**"Society Data"** any data belonging to the Society and/or which the Society is responsible for;

**"Society Policies"** the policies of the Society notified to the Intermediary from time to time;

**"Staff"** any employees, agents, contractors and persons which a Party is responsible for;

**"Terms of Use"** the terms and conditions which govern access to and use of the Portal as are applicable from time to time; and

**"VAT"** value added tax.

1.2 In these Terms (i) references to singular include the plural and any word indicating a gender includes all genders, the words "include", "including", "includes" and "such as" shall not limit the sense of the words preceding those words and the rule known as ejusdem generis shall not apply to the interpretation of these Terms; (ii) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (iii) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted or replaced and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and (iv) a reference to writing or written does not include e-mail, fax or other electronic messaging.

## **2 Appointment**

2.1 Upon acceptance of these Terms the Intermediary is appointed as intermediary for the referral of Applicants on a non-exclusive basis and subject to these Terms.

2.2 These Terms shall be incorporated into any arrangement between the Parties in respect of Applications to the exclusion of any terms and conditions submitted by the Intermediary.

2.3 The Intermediary is not appointed to and shall not have the authority to make representations, agreements or promises on the Society's behalf or act as the Society's agent in any way other than as specified in these Terms.

2.4 The Intermediary will at all times:

2.4.1 be authorised and shall maintain authorisation with the FCA (and the PRA if applicable); or be an Appointed Representative (and maintain its status as such); and

2.4.2 hold (and continue to hold), either directly with the FCA (and the PRA if applicable); or hold through the Intermediary's relationship with the Intermediary's Principal) all Permissions.

### **3 Obligations**

- 3.1 The Intermediary shall:
  - 3.1.1 ensure Applicants are introduced in accordance with all Applicable Law;
  - 3.1.2 act as Intermediary in accordance with Good Industry Practice;
  - 3.1.3 act in good faith towards the Society and all Applicants (including by following all Applicable Laws relating to treating customers fairly and vulnerable customers) and not do or omit to do anything which will or may adversely affect the reputation of the Society;
  - 3.1.4 notify the Society of any actual or potential conflicts of interest relating to the submission of an Application to the Society;
  - 3.1.5 obtain any consents that may be required from the Applicant in order for the Society to perform obligations pursuant to the contract between the Society and the Applicant relating to the mortgage;
  - 3.1.6 not do or omit to do anything which will or may result in the Society breaching Applicable Law and/or which may result in the Society losing any licence, authority, consent or permission;
  - 3.1.7 comply at all times with the Society Policies;
  - 3.1.8 ensure all of the Intermediary's Staff are suitably skilled, qualified and experienced to perform tasks assigned to them;
  - 3.1.9 comply at all times with Compliance Laws and the Intermediary warrants and represents on a continuing basis to the Society it has not breached Compliance Laws and is not aware of any event which may give rise to a breach of Compliance Laws; and
  - 3.1.10 comply with the Terms of Use.
- 3.2 The Intermediary must notify the Society immediately in writing if:
  - 3.2.1 any of the Intermediary's Permissions are amended, suspended withdrawn or terminated and/or the Intermediary has knowledge that its Permissions will be amended, suspended, withdrawn or terminated;
  - 3.2.2 the Intermediary is in breach of Applicable Law or may breach Applicable Law; and/or
  - 3.2.3 the Intermediary is investigated by a Regulator.
- 3.3 Each party agrees to maintain and comply with their respective Complaints Procedures and ensure such Complaints Procedures comply with Applicable Law.
- 3.4 Each party shall co-operate with the other party and give the other party all reasonable assistance in handling any Complaint or with any dealings with a Regulator and or the Financial Ombudsman Service relating to a Complaint.
- 3.5 All Complaints relating to:
  - 3.5.1 the Intermediary and/or the Intermediary's business which are received by the Society shall be referred to the Intermediary for handling; and
  - 3.5.2 the Society and/or the Society's business which are received by the Intermediary shall be referred to the Society.

### **4 Applications and Application Submission Process**

- 4.1 The Intermediary may from time to time submit Applications to the Society on behalf of an Applicant and the Society may in its absolute discretion accept or decline such Applications.
- 4.2 The Intermediary warrants and represents to the Society that it will act with the Applicants' authority at all times.
- 4.3 Before submitting any Application to the Society (and upon making any changes to an Application) the Intermediary will:
  - 4.3.1 ensure the Application process is in compliance with Applicable Laws;
  - 4.3.2 take reasonable steps to ensure the Application meets the Society's current lending criteria (where applicable);
  - 4.3.3 verify the Applicant's identity in accordance with Applicable Laws;

- 4.3.4 provide the Applicant with a copy of the Society's Customer Privacy Policy (and ensure the Customer accepts the terms of the same), which can be located at: [http://www.leedsbuildingsociety.co.uk/\\_resources/pdfs/security-pdfs/guide-use-of-personal-data.pdf](http://www.leedsbuildingsociety.co.uk/_resources/pdfs/security-pdfs/guide-use-of-personal-data.pdf); and
- 4.3.5 ensure that all information and documents contained in and/or submitted with an Application are complete and accurate and notify the Society of any changes and or inaccuracies in the same. Where applicable the Intermediary shall confirm any information and documentation is a true and accurate likeness of the original.
- 4.4 The Intermediary shall be solely responsible and liable for any advice, and/or information provided to Applicants in respect of an Application or otherwise which shall be provided at all times in accordance with Applicable Laws.
- 4.5 The Intermediary shall not make any statements or representations to any Applicant which are inconsistent with the terms of the mortgage or any documentation issued by the Society and shall only issue information provided by the Society where the Society has approved its disclosure to Applicants.
- 4.6 All Applications must be submitted by the Intermediary to the Society with all information, documentation and monies due, the Society will not accept any liability for delays caused by incomplete or inaccurate Applications.

### **5 Fees and Payment**

- 5.1 The Society shall pay Fees to the Intermediary in respect of each Application introduced to the Society by the Intermediary which shall become payable on the date a contract is entered into between the Society and the Applicant (the "Contract Date").
- 5.2 The Fees shall be the only monies paid by the Society to the Intermediary under or in connection with these Terms and shall include every cost and expense of the Intermediary (including VAT).
- 5.3 All Fees shall be payable by the Society to the Intermediary or (if applicable) the Principal no later than 60 days of the Contract Date.
- 5.4 If either Party disputes any Fees paid or payable the Society shall pay such element of the invoice which is undisputed and the Parties will negotiate in good faith to resolve the dispute in relation to the disputed sums.
- 5.5 If any undisputed amount payable under the Agreement is not paid on or before the due date for payment the Intermediary will be entitled to charge interest on all undisputed amounts outstanding at a rate of 2% per annum above the Bank of England Base Rate from the due date until the date of payment.
- 5.6 The Society may withhold payment of Fees if the Society believes the Intermediary has failed to comply with these Terms, including where the Intermediary has failed to disclose to an Applicant the Fees received from the Society in accordance with Applicable Laws.
- 5.7 The Intermediary shall repay Fees to the Society upon request where the Contract Date is amended or cancelled and/or the Principal reasonably requests repayment.
- 5.8 The Society shall be entitled to set off any amounts owing to the Society against any amounts the Society owes to the Intermediary.

### **6 Data Protection**

- 6.1 Both Parties acknowledge and agree that each Party is a Data Controller and each will comply at all times with its own obligations under the Data Protection Legislation.
- 6.2 Without prejudice to the generality of this term, each party shall, in relation to any Personal Data Processed in connection with the performance of its obligations under these Terms:
  - 6.2.1 ensure that it has in place appropriate technical and organisational measures, to ensure a level of security which is appropriate to the risk of Processing, to protect against unauthorised or unlawful Processing of Personal

- Data and against accidental loss or destruction of, or damage to, Personal Data in accordance with these Terms (a "Data Security Incident");
- 6.2.2 ensure that all personnel who have access to and/or Process Personal Data are committed to keeping the Personal Data confidential or are under an appropriate obligation of confidentiality;
- 6.2.3 not transfer any Personal Data outside of the United Kingdom without the prior written consent of the other Party;
- 6.2.4 notify the other Party immediately upon becoming aware of a Data Security Incident and in the case of receiving a request from a Data Subject or a Regulator, notify the other Party within 24 hours of receiving such a request;
- 6.2.5 assist and co-operate at all times with the other Party in responding to any Data Security Incident or request from a Data Subject with respect to the provision of information (to include its data record), security, breach notifications, data protection impact assessments and consultations with Regulatory Authorities;
- 6.2.6 at the written direction of the other Party, delete or return all Personal Data provided in connection with these Terms (including any copies and backups thereof) and certify that it has done so, unless required by Applicable Law to store the Personal Data; and
- 6.2.7 maintain complete and accurate records and information to demonstrate its compliance with its obligations under these Terms and allow for audits to ensure compliance.
- 6.3 The Intermediary shall not appoint any third party processor to Process Personal Data under these Terms without the Society's prior written consent.
- 6.4 The Society may monitor and/or record the Intermediary's telephone conversations (including those made by Staff of the Intermediary). Any information sent to the Society which is not sent via the Society's secure email facility isn't secure and is sent entirely at the Intermediary's risk.
- 6.5 The Intermediary agrees (and if applicable shall procure the consent of its Staff) to the Society's Fair Processing Notice for Intermediaries.
- 7 Intellectual Property**
- 7.1 The Intermediary acknowledges that the Society's Materials and Society Data are the exclusive property of the Society and nothing in these Terms shall be deemed to grant the Intermediary any title or right in the Society's Materials or the Society Data.
- 7.2 Each Party grants to the other Party a royalty free, non-transferable, non-exclusive licence to use the other Party's Intellectual Property Rights solely for the purpose of a Party fulfilling its obligations under these Terms.
- 7.3 The Intermediary must obtain the written approval of the Society before using the Society's logo or distributing marketing literature that refers to the Society and must comply at all times with the Society's brand guidelines as notified by the Society from time to time.
- 7.4 Neither Party will make any announcement regarding these Terms without the prior written consent of the other Party or if required by Applicable Law.
- 8 Liability and Insurance**
- 8.1 Nothing in these Terms will or will be interpreted as limiting or excluding the liability of either Party in respect of:
- 8.1.1 death or personal injury arising out of or in connection with that Party's negligence or the negligence of a person for whom that Party is vicariously liable;
- 8.1.2 fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation of a person for whom that Party is vicariously liable; and/or
- 8.1.3 any matter for which it is not possible by law to limit or exclude liability.
- 8.2 Subject to term 8.1, neither Party shall be liable to the other for any indirect or consequential loss or damage which arises out of or in connection with these Terms.
- 8.2.1 Subject to term 8.1, the Society shall not be liable to the Intermediary for (whether direct, indirect or consequential) (i) loss of profits; (ii) loss of revenue; (iii) loss of data; and/or (iv) loss of reputation or good will.
- 8.3 Subject to term 8.1, the maximum aggregate liability of the Society:
- 8.3.1 in the aggregate under or in connection with these Terms including in contract, tort, under statute or otherwise shall be limited to an amount equal to the lesser of (i) the Fees paid under these Terms; or (ii) £50,000; and
- 8.3.2 in respect of any individual claim including in contract, tort, under statute or otherwise shall be limited to an amount equal to the lesser of (i) the Fees paid under these Terms in the previous twelve months; or (ii) £10,000.
- 8.4 Subject to term 8.1, the Society shall not be liable to the Intermediary for any Liability other than Liability which arises as a direct result of a breach by the Society of its obligations under these Terms.
- 8.5 The Intermediary will maintain with a reputable insurance company for the duration of these Terms and for a period of six years following termination of these Terms (i) such insurance as is required in order to cover potential liabilities under these Terms; (ii) such insurance as the Intermediary is obliged to maintain by Applicable Law; and (iii) professional indemnity insurance cover of at least £1million per annum for a single and in aggregate claim or professional indemnity insurance cover of an amount equal to or more than that which is required by the FCA Handbook from time to time, whichever is the higher.
- 8.6 The Intermediary shall provide upon the request of the Society evidence of insurance required to be maintained under these Terms.
- 8.7 The Intermediary shall indemnify the Society in full against all Liability the Society or its Staff does or will incur arising out of or in connection with any breach by the Intermediary (including Intermediary Staff) of these Terms.
- 9 Termination**
- 9.1 The Society reserves the right in its absolute discretion to suspend or terminate these Terms, the appointment of the Intermediary and/or the use of any of the Intermediary's Staff in connection with these Terms at any time on notice to that effect to the Intermediary.
- 9.2 Without prejudice to the Society's other rights or remedies, the Society may terminate these Terms with immediate effect by giving notice to the Intermediary if the Intermediary:
- 9.2.1 ceases to hold or is likely to cease to hold the Permissions;
- 9.2.2 commits a material or persistent breach of these Terms and (if such a breach is remediable) the Intermediary fails to remedy that breach within the time period specified by the Society;
- 9.2.3 commits a material or persistent breach of these Terms and such breach is not remediable;
- 9.2.4 either (i) suspends, or threatens to suspend, payment of the Intermediary's debts or the Intermediary is unable to pay its debts as they fall due or the Intermediary admits inability to pay its debts (ii) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (iii) is deemed unable to pay its debts or has no reasonable prospect of doing so, in either case, within the meaning of section 268 of the Insolvency Act 1986; (iv) is subject to bankruptcy and or (v) is subject to any event that has an effect equivalent or similar to any of the events mentioned in this term 9.2.4 or which may give rise to the Society having concerns regarding the Intermediaries financial condition.

9.3 Termination of these Terms will not affect any accrued rights and liabilities of either Party. Terms 8 to 16 together with any other terms which expressly or impliedly are required to give full force and effect to the intention of the Parties shall remain in full force and effect following termination of these Terms.

9.4 Upon termination of these Terms the Intermediary shall:  
9.4.1 ensure that all pending Applications and Applications in progress are immediately transferred back to the Society;  
9.4.2 provide the Society with such reasonable assistance as may be required in order to ensure the efficient transfer from the Intermediary of Applications; and  
9.4.3 return to the Society (or delete on the Society's request) all Confidential Information, Society Data and Society Materials in its possession.

9.5 All of the Society's Materials and Society Data shall be held at the risk of the Intermediary. Title in the Society's Materials and Society Data shall remain with the Society at all times.

9.6 If the Intermediary submits a fraudulent Application, without prejudice to the Society's other rights and remedies, the Society may terminate these Terms and advise other third parties, including, any financial networks, clubs and/or the FCA under the Information from Lenders Scheme.

## **10 Confidentiality**

10.1 The Recipient shall keep the Discloser's Confidential Information confidential at all times and, except as provided in these Terms, shall not disclose such Confidential Information to any third party and shall not itself use or exploit such Confidential Information in any way except for the purpose of complying with its obligations under these Terms.

10.2 The Recipient undertakes in relation to the Discloser's Confidential Information:

10.2.1 to take the same care in protecting the Discloser's Confidential Information as it takes in protecting its own confidential information;

10.2.2 only disclose Confidential Information to such of its Staff who need to know the same for the purpose of complying with its obligations under these Terms and provided such persons are under similar obligations of confidentiality as contained in this term 10; and

10.2.3 to notify the Discloser immediately upon discovery of any loss or unauthorised disclosure of the Discloser's Confidential Information and give all reasonable assistance in connection with any proceedings.

10.3 Notwithstanding this term 10, the Recipient shall be entitled to make any disclosure of Confidential Information required by Applicable Laws, but then only to the extent so required, and provided that the Recipient uses all reasonable endeavours to give the Discloser not less than seven days' notice of such disclosure (save where such notice is prohibited by any Applicable Laws).

10.4 The Recipient acknowledges that damages would not be an adequate remedy for failure by the Recipient to comply with the terms of this term 10 and that the Discloser shall be entitled to injunctive relief in the event of any breach of anticipated breach of this term 10.

## **11 Audit**

11.1 The Intermediary shall permit the Society and/or any persons appointed by the Society and/or any Regulator to have access, with or without notice, during reasonable business hours to any of the Intermediary's premises and or materials, systems, documents and Staff.

## **12 Notices**

12.1 All notices sent by a Party under or connection with these Terms shall be in the English language and:

12.1.1 sent to the receiving Party's registered address by first class post; or

12.1.2 delivered or left at the receiving Party's registered address.

12.2 Any notice served on a Party in accordance with this term 12 will be deemed served:

12.2.1 if served in accordance with term 12.1.1, at 9am on the third day following the date of being posted; and

12.2.2 if served in accordance with term 12.1.2, at the time the notice is delivered at the location.

12.3 This term shall not apply to service of any document in any action to which the Civil Procedure rules apply.

## **13 Assignment and Subcontracting**

13.1 The Society may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under these Terms.

13.2 The Intermediary will not be entitled to subcontract, assign, transfer, or deal in any way with any of its rights under these Terms without the prior written consent of the Society.

## **14 Entire Agreement**

14.1 These Terms constitute the entire agreement between the Parties and supersede any prior agreement or arrangement between the Parties in respect of its subject matter and:

14.1.1 neither Party has entered into these Terms in reliance upon, and will have no remedy in respect of, any misrepresentation, representation or statement which is not expressly set out in these Terms; and

14.1.2 nothing in this term 14 will be construed as limiting or excluding either Party's liability for fraud or fraudulent misrepresentation.

## **15 General**

15.1 The Parties do not intend that any term of these Terms will be enforceable by any person under the Contracts (Rights of Third Parties) Act 1999.

15.2 These terms apply between the Society and the Intermediary and do not create and legal relationship between the Society and the Intermediary's Staff or customers of the Intermediary.

15.3 Nothing in these Terms and no action by the Parties will create a partnership or joint venture or provide either Party with the right to bind the other Party, or create the relationship of employer or employee.

15.4 Each Party is an independent contractor and is entering into these Terms as a principal and not as agent for the benefit of any other.

15.5 A delay by either Party in exercising a right or remedy under or in connection with these Terms will not constitute a waiver of that right or remedy or prevent any future action by that Party.

15.6 If any term of these Terms is found by any court, body or Regulator to be unenforceable under the laws of any jurisdiction such term will be deemed removed from these Terms and this will not affect the legality or enforceability of the remainder of these Terms.

## **16 Governing Law and Jurisdiction**

16.1 These Terms and any non-contractual obligations arising out of or in connection with these Terms will be governed by the laws of England.

16.2 The courts of England shall have the exclusive jurisdiction to determine any dispute arising out of or in connection with these Terms (including any non-contractual obligations).

## **TERMS OF USE**

### **1 Use**

1.1 The Portal is for use by Intermediaries and their authorised Staff only ("Users").

1.2 Users must ensure that they have read these terms carefully before using the Portal.

1.3 By using the Portal Users are accepting and agreeing to comply with these Terms of Use. Users who do not agree to these Terms of Use must not use the Portal.

1.4 The Society may amend these Terms of Use at its discretion from time to time. Users should ensure that

- they check these terms each time they use the Portal to understand the terms which apply at that time.
- 1.5 Intermediaries are responsible for ensuring that any Staff or any other person acting directly or indirectly on behalf of the Intermediary are aware and comply with these Terms of Use.
- 1.6 Defined terms used in these Terms of Use shall have the meaning given to them in the Intermediary Terms of Business unless otherwise defined in these Terms of Use.
- 2 Availability and Changes to the Portal**
- 2.1 The Portal is made available free of charge to Users.
- 2.2 The Society makes no guarantee that the Portal, or any content on it, will always be available or use will be uninterrupted. The Society may suspend or withdraw or restrict the availability of all or any part of the Portal for business and operational reasons. The Society will try to give Users reasonable notice (where it is appropriate to do so) of any suspension or withdrawal.
- 2.3 The Portal is only available to Users residing in the United Kingdom.
- 3 Account Details**
- 3.1 Users are responsible for ensuring that any log in information including user identification and passwords are treated as Confidential Information and are not disclosed to any third party.
- 3.2 Each User accessing the Portal must have their own individual account information. Users must not share account log in details and password information.
- 3.3 The Society has the right to suspend and/or disable any accounts at any time where it has reason to believe that any User has failed to comply with the provisions of these Terms of Use.
- 3.4 If the User knows or suspects that any third party has knowledge of their log in information they must provide prompt notification to the Society by contacting the Society on 03458 48 00 61.
- 4 Use of Portal material**
- 4.1 Users acknowledge that the Society is the owner or licensee of all Intellectual Property Rights in the Portal and the material published on it.
- 4.2 Users may print copies and download extracts of the materials on the Portal for use in connection with the submission of Applications only.
- 4.3 Users must not reverse engineer, alter or modify the Portal or any materials contained thereon.
- 4.4 Users must not use any part of the content on the Portal for commercial purposes without obtaining a licence to do so from the Society (at the Society's sole discretion).
- 4.5 If a User accesses or uses any part of the Portal or its content in breach of these Terms of Use, the right of the User to access and use the Portal will immediately terminate and Users must either return or destroy copies of the content and materials (the choice between return or destruction is at the Society's discretion).
- 5 Reliance on the Information**
- 5.1 The content on the Portal is for general information only. It is not intended to amount to advice. Although the Society will make reasonable efforts to update the information on the Portal, it makes no representations, warranties or guarantees, whether express or implied, that the content on the Portal is accurate, complete or up to date.
- 5.2 The Society is not liable for any links to any third party sites contained within the Portal.
- 5.3 Any such links are provided for information only and the Society has not approved the content of such third party sites or the security of such sites.
- 6 Liability**
- 6.1 The Society does not exclude or limit its liability in any way where it would be unlawful to do so. This includes liability for death and personal injury caused by negligence of the Society (or any person for who the Society is vicariously liable) and for fraud or fraudulent misrepresentation.
- 6.2 The Society excludes all implied conditions, warranties, representations or other terms that may apply to the Portal or any content on it.
- 6.3 The Society will not be liable to any User for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty or otherwise, even if foreseeable, arising under or in connection with:
- 6.3.1 use of, or inability to use, the Portal; or
- 6.3.2 use of, or reliance on any content displayed on the Portal.
- 6.4 In particular the Society will not be liable to the User for loss or profits, sales, business or revenue, business interruption, loss of anticipated savings, loss of business opportunity, goodwill or reputation, or any indirect or consequential loss or damage.
- 7 Viruses**
- 7.1 The Society does not guarantee that the Portal will be secure or free from bugs or viruses.
- 7.2 Users should use their own virus protection software.
- 7.3 Users must not misuse the Portal and must not knowingly introduce viruses or other malicious materials or technological materials which may cause harm.
- 7.4 Users must not attempt to gain unauthorised access to the Portal, the server on which the Portal is stored or any server, computer or database connected to the Portal. Users must not attack the Portal via a denial-of-service attack or a distributed denial-of-service attack. By breaching this provision, Users are committing a criminal offence under the Computer Misuse Act 1990. The Society will report any such breach to the relevant law enforcement authorities and the Society will co operate with those authorities by disclosing the applicable Users identity to them. In the event of such a breach, a User's right to use the Portal will cease immediately.
- 8 Uploading information to the Portal**
- 8.1 Users must have consent (as applicable) to upload any documentation to the Portal and be duly authorised to use it.
- 8.2 Users must ensure that any documentation uploaded to the Portal does not contain any violent, threatening or liable to incite racial hatred information; that any documentation is not uploaded in breach of confidence or privacy discriminatory and is not unlawful and must not upload any other material likely to offend, cause inconvenience or annoyance.