

## **BORROWER TERMS AND CONDITIONS**

**This version 14 December 2017**

### **PARTIES**

- (1) **FUNDING KNIGHT LIMITED** incorporated and registered in England and Wales with company number 07534003 whose registered office is at Belvedere House, Basing View, Basingstoke RG21 4HG which is a wholly owned subsidiary company of Sancus BMS ("**FundingKnight**" or "**we**").
- (2) The relevant company / limited liability partnership borrowing through FundingKnight ("**you**").

### **RECITALS**

- a. These are the terms and conditions that apply to becoming a Borrower Member through FundingKnight. These terms and conditions may be amended by us from time to time as set out in clause P.4.
- b. If you borrow money through FundingKnight, you must comply with these terms and conditions. Please read these terms and conditions carefully and make sure that you understand them. These terms and conditions should be read alongside, and are in addition to, our Privacy Policy, website terms and conditions of use and other documents expressly referred to in these terms and conditions.
- c. You should print a copy of these terms and conditions for future reference. By using our website and borrowing money through FundingKnight, you confirm that you have read, understood and agree to be bound by these terms and conditions and the other documents expressly referred to in it (each as amended from time to time). Where you are acting on behalf of an LLP, limited company or public body you confirm that they agree to these terms and conditions. If you do not agree to these terms and conditions, you may not borrow money through FundingKnight and must stop using our website immediately.
- d. FundingKnight's role is to connect Borrower Members with Lender Members and to provide a framework within which monies can be paid and collected.
- e. FundingKnight is authorised and regulated by the Financial Conduct Authority. Details can be seen on the Financial Services Register at <http://www.fca.org.uk/>.
- f. The contents of this document do not constitute advice relating to legal, taxation or investment matters. If you are in any doubt about the contents of these terms and conditions and/or the Loan Agreement (as defined below) and/or the underlying transaction, you should take independent advice.
- g. Your attention is particularly drawn to clauses M and N, which respectively sets out the warranties you give us, and the limitations of our liability to you.

### **A. Definitions**

1. "**Application Fee**" means the application fee set out on the FundingKnight website.
2. "**Arrangement Fee**" means the arrangement fee set out on the FundingKnight website.



3. **"Bank Fee"** means the bank fees set out on the FundingKnight website in relation to any Faster Payment, CHAPS, BACS or other transfer we make transferring monies to you pursuant to these terms and conditions.
4. **"Belvedere Security"** means Belvedere Security Limited incorporated and registered in England and Wales with company number 09175130 whose registered office is at Belvedere House, Basing View, Basingstoke, Hampshire RG21 4HG, which is part of the Sancus BMS group.
5. **"Borrower Member"** means someone who has applied to borrow money from our Lender Members.
6. **"Borrower"** means a Borrower Member who borrows money from Lenders pursuant to the Loan Agreement
7. **"Business Day"** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
8. **"Business Hours"** means 9:00am to 5:00pm GMT on any Business Day.
9. **"Controlling Party"** means as defined in clause B.4.
10. **"Fast Track Loans"** are those Loan Requests where you have agreed that:
  - a. the Offer Period will close as soon as the conditions in clause C.8 are satisfied; and
  - b. the Loan Requests will become Loans in accordance with clause C.9.
11. **"FundingKnight Loan Request"** means a loan requested by you from us.
12. **"Funding Knight Services"** means Funding Knight Services Limited, a company incorporated and registered in England and Wales with company number 08644059 whose registered office is at Belvedere House, Basing View, Basingstoke RG21 4HG which is a wholly owned subsidiary company of GLI Finance
13. **"GLI Finance"** means GLI Finance Limited, a company incorporated and registered in Guernsey with company number 43260 and whose registered office is at 10 Lefebvre Street, St Peter Port, Guernsey GY1 2PE.
14. **"Guest Loan Request"** means a loan requested by you from a third party, not being FundingKnight.
15. **"Introduction"** means the provision by a Registered Adviser to FundingKnight of a Loan Request for a prospective Borrower who has authorised the Registered Adviser to act as their agent. Where we use the term **Introduce**, **Introduces** and **Introduced** this shall have the same meaning.
16. **"Introduction Fee"** means as defined in clause F.6.
17. **"Lender Members"** means the persons from time to time who have applied to lend money through, and have subsequently been accepted by, FundingKnight.
18. **"Lenders"** means Lender Members who lend money to a Borrower pursuant to the Loan Agreement.



19. **“Loan”** means a Loan Request which is fully funded by the Lenders and accepted by you in accordance with these terms and conditions.
20. **“Loan Agreement”** means our standard loan agreement which incorporates the Loan Terms and Repayment Schedule to be entered into in accordance with clause D.1 by the Lenders and you in respect of the Loan.
21. **“Loan Request”** means a FundingKnight Loan Request or a Guest Loan Request.
22. **“Loan Unit”** means one £0.00001 unit in relation to a Loan.
23. **“Loan Terms”** means the terms relating to the Loan Request as displayed on the Loan Details page on the FundingKnight website as at the date on which you accept, or are deemed to accept, a fully funded Loan Request in accordance with clause C.6 or clause C.8.
24. **“Longstop Date”** means the date falling twelve months after the final repayment of a Loan which has been Introduced.
25. **“Monitoring Fee”** means the monitoring fee set out on the FundingKnight website.
26. **“Novation Agreement”** means a novation agreement in the agreed form.
27. **“Offer Period”** means the period during which the Loan Request is open for offers on the FundingKnight website. When a Loan Request is open, the length of the Offer Period and the closing date and time will be displayed on the Loan Details page on the FundingKnight website.
28. **“Offered Interest Rate”** means the interest rate for the Loan Request that would generate monthly repayments equal to the sum of the individual scheduled repayments due to be made to the Lenders. This rate is calculated before the application of any fees to FundingKnight.
29. **“Privacy Policy”** means the FundingKnight Privacy Policy published on the website.
30. **“Property Agent”** means the party defined as such in the Loan Terms. If no third party is specified, then FundingKnight is the Property Agent.
31. **“Property Insurance Agent”** means the party defined as such in the Loan Terms.
32. **“Property Bridging Loan”** means a Loan Request identified as a Property Bridging Loan in writing by us, whether in the Loan Terms or otherwise.
33. **“Registered Adviser”** means a person accepted by FundingKnight to introduce Loan Requests as an agent for you as a prospective Borrower and who may be entitled to an Introduction Fee.
34. **“Repayment Fee”** means the repayment fee set out on the FundingKnight website.
35. **“Renewables Agent”** means the party defined as such in the Loan Terms. If no third party is specified, then FundingKnight is the Renewables Agent.
36. **“Renewables Loan”** means a Loan Request identified as a Renewables Loan in writing by us, whether in the Loan Terms or otherwise.
37. **“Repayment Schedule”** means the schedule of the total amounts to be repaid and the dates of those repayments, which shall be calculated when a Loan Request becomes



a Loan. The Repayment Schedule will be displayed on the Loan Details page on the FundingKnight website

- 38. **“Reserve Interest Rate”** means the interest rate set out in clause B.12.
- 39. **“Sancus BMS”** means Sancus BMS Group Limited, a company incorporated and registered in Guernsey with company number 57766 and whose registered office is at 10 Lefebvre Street, St Peter Port, Guernsey GY1 2PE. Sancus BMS Group Limited is a wholly owned subsidiary company of GLI Finance.
- 40. **“Security”** means any security given in respect of a Loan pursuant to clause K.1.
- 41. **“Security Trustee”** means the security trustee designated by FundingKnight in the Security; such security trustee being Funding Knight Services, Belvedere Security or another person.
- 42. **“UK”** means England, Scotland, Wales and Northern Ireland (but not the Channel Islands or the Isle of Man).

#### **B. Becoming a Borrower**

- 1. To borrow money through FundingKnight you must be a business and:
  - a. be based in and operating from the UK;
  - b. have a current bank or building society sterling account in the UK;
  - c. provide us with such personal and security information as we require;
  - d. have traded for two years or produce evidence to us that you have operated within the same business area as the proposed Borrower through another entity for the previous two years;
  - e. not have in excess of £250 outstanding County Court Judgments; and
  - f. be a person falling within the requirements of clause B.2, or in the case of a Property Bridging Loan within the requirements of clause B.3.

FundingKnight retains discretion to vary any of these conditions under exceptional circumstances.

- 2. Except as provided by clause B.3, to borrow money through FundingKnight you must have capacity as a limited liability partnership or limited company registered at Companies House and have filed accounts at Companies House.
- 3. To borrow money through FundingKnight in respect of a Property Bridging Loan you must:
  - a. have capacity as a limited liability partnership or limited company registered at Companies House and have filed accounts at Companies House;
  - b. be an individual being at least 18 years of age and a permanent resident in the UK; or
  - c. be a partnership in England or Wales as defined by the Partnership Act 1890.



4. Following your application to become a Borrower Member with us in respect of a FundingKnight Loan Request, we will arrange for identity, fraud and credit reference checks with one or more credit reference agencies on:
  - a. the Borrower Member; and
  - b. (where the Borrower Member is a company) some or all of its directors; and
  - c. (where the Borrower Member is a company) any shareholder owning or controlling 20% or more of the profit or voting rights, either directly or indirectly;
  - d. (where the Borrower Member is a limited liability partnership) some or all of its members; and
  - e. (where the Borrower Member is a partnership) some or all of its partners,(each of those parties in clauses B.4(b) to B.4(e) being a “**Controlling Party**”).

We might also request from you additional information on the Controlling Parties. If any other parties are providing loan guarantees, we may also carry out similar checks on them as individuals.

5. Following your application to become a Borrower Member with us in respect of a Guest Loan Request, we may, at our sole discretion, arrange for identity, fraud and credit reference checks with one or more credit reference agencies on the Borrower Member and/or any Controlling Party.
6. If following your application to become a Borrower Member with us, including during the term of any Loan, a person becomes a Controlling Party then we reserve the right to conduct identity, fraud and credit reference checks with one or more credit reference agencies in respect of any such Controlling Party.
7. If following your application to become a Borrower Member with us, including during the term of any Loan, a Controlling Party:
  - a. changes his position, role or interest in relation to the Borrower Member; or
  - b. temporarily or permanently ceases to work for, or be involved with, the Borrower Member whether for medical, personal or other reasons,

then you shall notify us as soon as possible of such a change. Any information which you provide to us pursuant to this clause B.7 may be disclosed to the Lender Members and the Property Agent in accordance with the Privacy Policy.

8. In conducting credit reference checks, we may share information with credit reference agencies to verify your identity and the identity of your members, directors, shareholders and other parties referred to in clauses B.4, B.5 and B.6 and suitability for a Loan. We may use details of your and their credit history to assess your ability to meet your financial commitments. The credit reference agencies will record details which will form part of your and their credit history whether or not you proceed with the Loan and if you make several loan applications within a short period of time, this may temporarily affect your and their ability to obtain credit. Where you have agreed, we may share details of how you manage any borrowing from us with credit reference agencies.
9. In addition to any disclosures we might be required to make by law, we may use any information that you supply us for our business purposes. You further authorise us to



pass on this information to any associated or third parties as we deem necessary for the furtherance of any transaction which we carry out for you and any other related and/or future transactions with you or any party associated with you.

10. For the purposes of this clause **personal data** shall have the meaning set out in section 1(1) of the Data Protection Act 1998 (the **Act**). In respect of clauses B.4 to B.9 you warrant and undertake that all individuals who are the subject of personal data have given their valid written consent and, where required under the Act, their explicit consent to the transfer of their personal data by you to us and to the processing of their personal data by us for the purpose of conducting the checks and searches and disclose any information to any or all of the Lender Members, the Property Agent, the Property Insurance Agent and the Security Trustee, in accordance with the Privacy Policy as referred to in clauses B.4 to B.9.
11. Without prejudice to clause B.10, we may disclose any information to the Lender Members in relation to the Borrower Member and a Controlling Party if that information is already in the public domain.
12. As part of this application process we require that you confirm the desired annual interest rate which you are willing to pay in relation to a Loan Request (**Reserve Interest Rate**).
13. Notwithstanding your fulfilling the requirements set out in clause B.1 and our conducting the checks and searches detailed in clauses B.4, B.5 and B.6 to our satisfaction, we have sole discretion in deciding whether or not to accept you as a Borrower Member without being under any obligation to give a reason for a refusal.
14. You cannot become a Borrower Member if you currently are a Lender Member. This does not preclude you from becoming a Borrower Member, if:
  - a. a director, member or shareholder of a limited liability partnership or limited company; or
  - b. a trustee, settlor or beneficiary of a trust,is a Lender Member in a personal capacity.
15. If we accept you as a Borrower Member we will notify you in writing that you have been accepted as a Borrower Member, provide you with details of our bank account and request the Application Fee from you. At our sole discretion we may waive the Application Fee. Upon:
  - a. receipt of your Application Fee where we have requested the Application Fee from you; and
  - b. our notification to you that you have been accepted as a Borrower Member in accordance with this clause B.15,we will process your application.
16. Any payments you make to us must be made by bank transfer or cheque.
17. You warrant that you shall notify us immediately upon a person becoming a Controlling Party of the Borrower Member.

**C. Applying for a Loan**



1. A Loan Request may be for any amount and for any term as displayed on our website. We may vary these from time to time. We may also at our sole discretion accept a Loan Request outside of these parameters.
2. Once you have complied with our requirements detailed in clause B and we accept a Loan Request from you, we will evaluate your Loan Request based on the information we obtain about you in accordance with clauses B.4, B.5, B.6 and B.9 and agree with you the terms on which the Loan Request may be offered to Lender Members. A summary of the information provided to us by you in accordance with your Loan Request application will be made available to Lender Members although you may elect to withhold your name and certain information from the Lender Members by notifying us in writing. We may also post details of the amount of the Loan Request sought, your identity, location, industry sector and the Offer Period on social networking platforms including but not limited to Twitter and Facebook. If you do not want us to release this information you must notify us in writing. Please refer to the Privacy Policy which sets out our policy in respect of the information which we obtain from you. We will not amend any information you provide us as part of your Loan Request application.
3. You warrant and represent to us that:
  - a. all information provided in relation to a Loan Request is true and accurate in all respects and not misleading;
  - b. you will provide us with an update as soon as possible if any of the information referred to in clause C.3(a) changes;
  - c. there is no information that has not been disclosed by you to us which, if disclosed, might reasonably affect the willingness of a Lender to commit funds in respect of a Loan Request;
  - d. you have disclosed to us, without limitation, any claims, liabilities, litigation, arbitration, court proceedings or other investigations which you are engaged in, have been threatened or are pending or which otherwise are reasonably likely to occur against you and which might result in a material adverse change in your financial position, business or assets; and
  - e. you will provide us with any information as we may require from time to time about your financial position and business.
4. Once the summary information and terms have been agreed with you the Loan Request will be made available to Lender Members in order that they can submit offers and we will publicise more widely for the purpose of the Loan Request (i) the Offer Period, (ii) the amount of the Loan Request sought and (iii) your identity (except where you have asked us in writing for your identity not to be disclosed). The Loan Request remains open for the Offer Period.
5. If the Loan Request has not been fully funded at the end of the Offer Period, then it will lapse.
6. If the Loan Request has been fully funded at the end of the Offer Period and:
  - a. the Loan Request attracts an Offered Interest Rate equal to or less than the Reserve Interest Rate, then you will be deemed to have accepted the offer in respect of the Loan Request on the terms of the Loan Agreement on the date on which the Offer Period expires; or





- b. the Loan Request attracts an Offered Interest Rate in excess of the Reserve Interest Rate, then you have seven calendar days to accept the offer in respect of the Loan Request on the terms of the Loan Agreement.
- 7. If you do not accept an offer in respect of a Loan Request in accordance with clause C.6(b) then the Loan Request will lapse unless we agree to extend it.
- 8. Clauses C.6 and C.7 shall not apply in respect of a Fast Track Loan where the Offer Period will end as soon as:
  - a. the loan is fully funded; and
  - b. the Offered Interest Rate is no greater than the Reserve Interest Rate.
- 9. Where a Loan Request is a Fast Track Loan, it will become a Loan:
  - a. immediately where the Fast Track Loan becomes fully funded in accordance with clause C.8 during Business Hours; or
  - b. where the Fast Track Loan becomes fully funded in accordance with clause C.8 outside Business Hours, at the commencement of Business Hours on the next following Business Day.
- 10. Where you have agreed that a Loan Request is to be a Fast Track Loan this will be displayed on the Loan Details page on the FundingKnight website.
- 11. We reserve the right to terminate a Loan Request at any time before it is accepted by you in accordance with these terms and conditions or close an auction before the end of the applicable Offer Period, in our sole discretion at any time without being under any obligation to give a reason for taking this action.

#### **D. Loan Agreement**

- 1. If you accept, or are deemed to accept, a fully funded Loan Request in accordance with clause C.6 or clause C.8 then you unconditionally and irrevocably agree that you will be bound by the terms of the Loan Agreement.
- 2. Once you accept, or are deemed to accept, an offer in respect of a Loan Request you cannot cancel it for any reason.
- 3. Within five calendar days of giving deemed notice of drawdown under the Loan Agreement we will transfer the relevant amount of the Loan Request less the Arrangement Fee and any Bank Fee to your nominated bank or building society account. We may make this payment at our sole discretion, by Faster Payment, CHAPS, BACS or other bank transfer.
- 4. Interest on any Loan will start to accrue upon the date on which payment is made by FundingKnight of the relevant amount of the Loan to the Borrower in accordance with the Loan Agreement.
- 5. A separate Loan Agreement is formed in respect of each Loan Unit between you and the Lender of that Loan Unit.
- 6. If there is any conflict between these terms and conditions and the Loan Agreement, then the terms of the Loan Agreement will prevail.



7. Each Lender who is a party to the Loan Agreement shall provide an address as “C/O Funding Knight Limited” at our registered address.

#### **E. Loan Repayment**

1. Repayments in respect of the Loan must be made in accordance with the Loan Agreement and may be made by bank transfer or standing order. FundingKnight may at any time require that the method of repayment is changed to direct debit.
2. Upon receipt by us of any monies from you in respect of the repayment of a Loan, we will credit these monies, net of our fees, to each of the Lender's accounts with FundingKnight pro rata to their entitlement to these monies.
3. You may repay the entire Loan early in accordance with the Loan Agreement but may not re-borrow any amount so repaid. If you repay a Loan early you must also pay all interest accrued on the Loan to date and all applicable fees.

#### **F. Our Fees**

1. Where we have requested an Application Fee from you pursuant to clause B.15 then, unless otherwise varied by us, you will be charged an Application Fee to cover the initial administration costs in reviewing and deciding whether to accept your application to become a Borrower Member. If you accept a fully funded Loan Request and pay us an Arrangement Fee, the Application Fee you have paid will be refunded.
2. If you accept, or are deemed to accept, a fully funded Loan Request in accordance with clause C.6 or clause C.8 then we will charge you an Arrangement Fee calculated as a percentage of the Loan as set out on the FundingKnight website. Subject to clause F.4, the Arrangement fee will be deducted from the Loan before it is transferred to you in accordance with clause D.3.
3. Subject to clause F.4, after initial drawdown of the Loan, we will charge you a Repayment Fee as set out on the FundingKnight website which is payable at the same time and in addition to your repayments of the Loan, until the Loan has been repaid in full.
4. If, upon a Loan Request becoming a Loan but before drawdown of that Loan, you send written notice to us confirming that you do not wish to drawdown the Loan then the Loan is deemed to have been drawn down and immediately repaid by you on the date of the written notice and the Arrangement Fee and Repayment Fee due to us is immediately payable by you.
5. In respect of a Renewables Loan, if you accept, or are deemed to accept, a fully funded Loan Request we shall charge you a Monitoring Fee calculated as a percentage of the Loan as set out on the FundingKnight website.
6. A Registered Adviser shall be eligible for a fee (the “**Introduction Fee**”) if you as the prospective Borrower Introduced by the Registered Adviser enter into a Loan.
7. The Introduction Fee will be a percentage of the agreed Loan amount. The percentage will be agreed between FundingKnight and the Registered Adviser in writing from time to time and is inclusive of VAT, where applicable.
8. The Introduction Fee will be paid out of the Arrangement Fee which you will pay pursuant to clause F.2.



9. In the event that you are Introduced by a Registered Adviser and return to us for a subsequent Loan Request prior to the Longstop Date and you do not identify a new Registered Adviser to us, the previous Registered Adviser will be entitled to 50% of the Introduction Fee for that Loan.

**G. Termination of Membership**

1. If you wish to end your membership with us then, so long as you are not a party to a Loan Agreement under which you are subject to outstanding obligations, please notify us in writing to our registered office and we will arrange for your membership to be cancelled.
2. We may in our sole discretion and without limiting our other rights or remedies, terminate your membership with immediate effect if:
  - a. you breach these terms and conditions;
  - b. you breach the Loan Agreement;
  - c. we believe that there is a significantly increased risk that you may not be able to fulfil your duty to repay the Loan in line with the Loan Agreement and this includes situations such as your insolvency or going bankrupt or having similar proceedings taken against you, if any of the information you gave us when you applied for the Loan is found or reasonably suspected to be to be untrue or if adverse information is received from credit reference agencies; or
  - d. within any 12 month period, there is no borrowing activity through FundingKnight.
3. Upon your membership coming to an end we will transfer all monies owing to you to your bank account or building society account or otherwise send you a cheque to your most recent address on our records

**H. Our Role**

1. Our role is to connect Borrowers Members with Lenders Members and to provide a framework within which monies can be paid and collected. In doing this, we perform certain administrative functions on behalf of the Lender Members and the Borrower Members, including but not limited to:
  - a. facilitating the parties entering into the Loan Arrangement and any related documentation;
  - b. providing information to both Lender Members and Borrowers Members;
  - c. providing administrative functions in relation to the operation of the Loan including the collection of payments from you; and
  - d. communicating with all parties to the Loan Agreement in relation to the Loan.
2. As part of the administrative function we provide, when we process a FundingKnight Loan Request, we will conduct a credit reference check in respect of any Borrower Member with a credit reference agency. We will usually publish the results of this credit reference check in the following two ways:
  - a. the credit rating provided by the credit reference agency, which is provided unedited by us; and



- b. our own credit bands, as described on our website.
3. As part of the administrative function we provide, when we process a Guest Loan Request we may at our sole discretion conduct a credit reference check in respect of any Borrower Member with a credit reference agency. If we do conduct a credit reference check we will usually publish the results of this credit reference check from the credit reference agency, which is provided unedited by us.
4. The information provided by us in accordance with clause H.2(b), is given on the basis of the information and documentation provided to us by you and the results of the credit rating we receive from the credit reference agency and is informative only.
5. We reserve the right at our sole discretion to update or amend any information or documentation on our website in relation to you, including our own credit band as set out in clause H.2(b). In particular, if you default on the repayment of any Loan, or otherwise breach these terms and conditions and/or the Loan Agreement, this might impact the risk we attach to you and we may amend our credit band for you. Where you have more than one Loan with us, any change to our credit band for you will relate to all of the Loans.

#### **I. Property Bridging Loans**

1. Where we notify you in writing that a Loan Request is a Property Bridging Loan, whether in the Loan Terms or otherwise, then the provisions of this clause I apply.
2. In respect of a Property Bridging Loan we may use the services of a property bridging finance specialist to assist with our role and the administrative functions which are set out in clause H and this clause I. The property bridging finance specialist which we may use will be the Property Agent.
3. In the case of every Property Bridging Loan:
  - a. we will instruct a valuer to undertake a valuation of any property relating to a Property Bridging Loan; and
  - b. we will appoint a solicitor to arrange for any Security to be entered into by you and to produce a report on title in relation to any property relating to a Property Bridging Loan.
4. It is a condition of each Property Bridging Loan that adequate insurance cover is in place over the security for the Property Bridging Loan. Drawdown of the Property Bridging Loan cannot occur before a report detailing the cover is received from our consultants, being the Property Insurance Agent.
5. Any legal and valuation fees incurred pursuant to clause I.3 and all other approved expenses in relation to the Property Bridging Loan (including but not limited to any Companies House or HM Land Registry fees) are payable by the Borrower on a full indemnity basis. The valuation fee and the fees of any other agreed consultants must be paid to the respective adviser by you prior to the service being provided. We will not accept responsibility for any of these expenses.

#### **J. Renewables Loans**

1. Where we notify you in writing that a Loan Request is a Renewables Loan, whether in the Loan Terms or otherwise, then the provisions of this clause J apply.



2. In respect of a Renewables Loan we use the services of a renewables finance specialist to assist with our role and the administrative functions which are set out in clause H and this clause J. The renewables finance specialist which we use is the Renewables Agent.
3. In the case of every Renewables Loan:
  - a. we will instruct a valuer to undertake a valuation of any property relating to a Renewables Loan; and
  - b. we will appoint a solicitor to arrange for any Security to be entered into by you and to produce a report on title in relation to any property relating to a Renewables Loan.
4. It is a condition of each Renewables Loan that adequate insurance cover is in place over the security for the Renewables Loan. Drawdown of the Renewables Loan cannot occur before a report detailing the cover is received from our consultants, being the Renewables Agent.
5. Any legal and valuation fees incurred pursuant to clause J.3 and all other approved expenses in relation to the Renewables Loan (including but not limited to any Companies House or HM Land Registry fees) are payable by the Borrower on a full indemnity basis. The valuation fee and the fees of any other agreed consultants must be paid to the respective adviser by you prior to the service being provided. We will not accept responsibility for any of these expenses.

#### **K. Security**

1. Where we require security in relation to a Loan, it will comprise of one or more of the following:
  - a. a **Debenture** which will mean that you will provide a fixed charge over your assets, equipment and goodwill, in some instances a legal mortgage over your property and a floating charge over your property, assets and rights not otherwise charged;
  - b. a **Mortgage** which will mean that you will provide a legal mortgage over certain property;
  - c. a **Deed of Priority** which we and/or the Security Trustee will agree the order of priority in which our security from you will rank with any other of your creditors;
  - d. a **Guarantee** which will mean that a director, a company within your group or some other person is guaranteeing some or all of your obligations in respect of a Loan; and
  - e. an **Assignment of Income** which will mean that your right to any designated income stream is assigned to our Security Trustee.
2. Where Security is required in respect of a Loan, we may appoint the Security Trustee as holder of and party to the Security on behalf of the Lenders to the Loan.
3. If you breach the terms of the Loan Agreement or any of the Security then the Security Trustee shall have absolute discretion to exercise any right, power, authority or discretion vested in it as Security Trustee in respect of any Security and may take such action in the exercise of any of its powers and duties under the Security as it considers in its discretion to be appropriate.



4. You agree that the Security Trustee shall be entitled to be paid remuneration calculated at its normal hourly rates in force from time to time, any disbursements or other costs incurred and any VAT or other tax due thereon in respect of its duties as a Security Trustee and the enforcement of the Security.
5. You agree to indemnify:
  - a. the Security Trustee in respect of any cost, loss or liability incurred by the Security Trustee (otherwise than by reason of the Security Trustee's fraud, dishonesty or recklessness) in acting as Security Trustee under the Security and you will pay on demand such costs to the Security Trustee; and
  - b. FundingKnight in respect of any fee payable by you in relation to a Loan as set out in these terms and conditions, and any other cost, loss or liability incurred by FundingKnight (otherwise than by reason of FundingKnight's fraud, dishonesty or recklessness) in performing its role in accordance with clause H in respect of a Loan and you will pay on demand such fees and costs to FundingKnight.

**L. Your default**

1. You must notify us immediately if you believe that you might be unable to make a repayment under a Loan Agreement. In the event that you fail to make a payment when due under the Repayment Schedule, or only partially pay any amount due, we shall take such recovery action as we consider necessary. Such recovery action will include contacting you by letter, telephone and/or email and may also include (without limitation) referring the matter to a debt collections agency (the "**Collection Agent**"), who will attempt to collect any amounts due from you. Any fees, expenses or other amounts incurred by the Collection Agent shall be added to the amounts owing by you.
2. If you have not paid any amounts outstanding under a Loan Agreement before 63 days after the date on which they become due (or, at the sole discretion of FundingKnight, such earlier time as FundingKnight shall determine), then all outstanding Loan Units (save for any Loan Units in respect of which a Lender has opted out) shall be novated to the Security Trustee, who shall take such action (including without limitation the enforcement of Security) as it considers necessary.
3. Where the relevant loan or loans are secured, the provisions of section I above shall apply.

**M. Your agreements with us**

1. You acknowledge and confirm to us that:
  - a. we are providing no warranty, representation, guarantee or assurance that:
    - i. any Loan Request will become fully funded; or
    - ii. there will be any Lender Members willing to fulfil your Loan Request;
  - b. we do not charge for any analysis of the credit or financial position of a Borrower Member. These are provided without cost to you;
  - c. you will not contact or communicate with a Lender Member in respect of a Loan or Loan Request other than in writing through FundingKnight, except that you may communicate with:



- i. the Property Agent;
  - ii. the Property Insurance Agent;
  - iii. the Security Trustee; and
  - iv. any director, employee or contractor of FundingKnight, the Property Agent, the Property Insurance Agent and the Security Trustee involved in assessment or administration of your Loan,
- irrespective of whether that person is also a Lender Member;
- d. you will not deal with or seek to deal with any Lender Member that is, or was within the previous 12 months, a member of FundingKnight or, where you cease to be a Borrower Member of FundingKnight, any Lender Member that was a member of FundingKnight at any time during the period of 12 months immediately preceding you ceasing to be a Borrower Member of FundingKnight other than the restrictions in this clause M.1(d) will not prevent you from allowing a Lender Member to:
    - i. subscribe for equity in you;
    - ii. lend monies to you through a third party business operating a peer to peer lending facility; or
    - iii. use your goods or services in the ordinary course of business or in the context of a normal supplier / customer relationship.
  - e. the times during which the restrictions apply are:
    - i. any time when you are a member of FundingKnight; and
    - ii. for a period of 12 months after you cease to be a Borrower Member of FundingKnight; and
  - f. all information and documentation you have provided to us in accordance with these terms and conditions is true and accurate in all respects and that you will notify us if any information you have provided us changes or is no longer accurate.

#### **N. Limitation of Liability**

- 1. Nothing in these terms and conditions shall limit or exclude our liability for:
  - a. death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors; or
  - b. fraud or fraudulent misrepresentation.
- 2. Subject to clause N.1:
  - a. we shall under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising:
    - i. in respect of any information or documentation relating to you which we have made available to the Lender Members, including by reference to our own credit band as set out in clause H.2(b); and/or



- ii. under or in connection with these terms and conditions and/or the Loan Agreement; and
  - b. our total liability to you in respect of all other losses arising under or in connection with these terms and conditions and/or the Loan Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of money you have borrowed giving rise to a liability.
- 3. Except as set out in these terms and conditions and/or the Loan Agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these terms and conditions, the Loan Agreement and/or the Privacy Policy.
- 4. This clause N shall survive termination of these terms and conditions and/or the Loan Agreement.

**O. Your Liability**

- 1. To the extent that we suffer any loss or damage by reason of your breach of these terms and conditions, the Loan Agreement, and/or the Privacy Policy including any fraudulent act then you shall be liable to us without limitation in respect of that loss or damage.

**P. General**

- 1. Waiver:
  - a. A waiver of any right under these terms and conditions is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under these terms and conditions or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
  - b. Unless specifically provided otherwise, rights arising under these terms and conditions are cumulative and do not exclude rights provided by law.
- 2. Severance:
  - a. If a court or any other competent authority finds that any provision of these terms and conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of these terms and conditions shall not be affected.
  - b. If any invalid, unenforceable or illegal provision of these terms and conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

- 3. No partnership:

Nothing in these terms and conditions and/or Loan Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the





parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

4. Variation:

- a. We may amend these terms and conditions, the Loan Agreement and Novation Agreement from time to time as set out in clause P.4(b). Every time you wish to make a Loan Request, please check these terms and conditions to ensure you understand the terms which will apply at that time. These terms and conditions were most recently updated on the date at the top of these terms and conditions.
- b. We may revise these terms and conditions from time to time to:
  - i. meet changes in how we accept payment from you; and
  - ii. comply with changes in relevant laws and regulatory requirements; and
  - iii. meet changes to our business requirements.
- c. Every time you make a Loan Request, the terms and conditions, Loan Agreement and Novation Agreement in force at that time will apply.
- d. Whenever we revise these terms and conditions, the Loan Agreement or Novation Agreement, we will give you notice of this by posting any changes on our website so you can view them next time you log in. By continuing to use our website or borrowing money you agree to be bound by the terms of any amendments implemented in accordance with this clause P.4.
- e. Except as set out in these terms and conditions, any variation, including the introduction of any additional terms and conditions, to these terms and conditions, the Loan Agreement and/or the Privacy Policy, shall only be binding when agreed by us.

5. Confidentiality

You shall not use any confidential information of a Lender Member for any purpose other than to perform your obligations under these terms and conditions and the Loan Agreement.

6. Third Party

The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to these terms and conditions, except for clause K which is for the benefit of and enforceable by the Security Trustee and any officer, employee or agent of the Security Trustee.

7. Whole Agreement

These terms and conditions, the Loan Agreement and the Privacy Policy sets out the entire agreement in relation to any services provided by us to you and supersede all and any representations, communications and prior agreements (whether written or oral) between us.

8. Governing law and jurisdiction

These terms and conditions, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims),

shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

9. Complaints

If you are dissatisfied with either an individual or our standard of service or any aspect of the delivery of our services please refer to the FundingKnight complaints procedure set out on our website.

10. Acceptance

These terms and conditions have been accepted at the date on which you confirmed acceptance on our website. You can check this date at any time by logging into our website where the acceptance date is provided.