

TERMS AND CONDITIONS OF BUSINESS

1. These terms

- a. These are the terms and conditions on which we supply services to you. You should read these terms carefully before you engage us to provide services to you. These terms tell you who we are, how we will provide services to you, how you and we may change or end the contract, what to do if there is a problem, and other important information.

2. Information about us and how to contact us

- a. **Who we are.** We are Commercial Expert Limited, a company registered in England and Wales with company number 06497564.
b. **We are regulated.** We are authorised and regulated by the Financial Conduct Authority, and our firm reference number is 698364. We are permitted to act as Credit Broker. You may check this information on the Financial Conduct Authority's Register by visiting www.fca.org.uk/register or by contacting them on 0845 606 1234.
c. **How to contact us.** You can contact us by telephoning our customer service team on 01325 359800 or by writing to us at info@commercialexpert.co.uk or Unit 24a, Parsons Court, Welbury Way, Aycliffe Business Park, Newton Aycliffe, County Durham, DL5 6ZE.

3. Interpretation of these terms

- a. **Definitions.** The following definitions are used throughout these Conditions:

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| "Agreement" | the written agreement between us and you for the supply of the Services and appointing us to supply the Services. |
| "Business Day" | a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business. |
| "Conditions" | these terms and conditions as amended from time to time in accordance with clause 16.c. |
| "Contract" | the contract between us and you for the supply of the Services in accordance with these Conditions comprising the Agreement, these Conditions and any documents expressly referred to in the Agreement and/or these Conditions. |
| "Fees" | the fees payable by you for the supply of the Services in accordance with clause 9. |
| "Services" | the services supplied by us to you as specified in the Agreement and/or these Conditions or as otherwise agreed in writing between us and you. |

- b. **Construction.** In these Conditions, the following rules apply:

- Unless the context otherwise provides, capitalised terms in the Agreement shall have the same meaning in these Conditions and capitalised terms in these Conditions shall have the same meaning in the Agreement;
- a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- a reference to a party includes its successors or permitted assigns;
- a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- a reference to writing or written includes faxes and e-mails.

4. Our Services

- a. We can provide the Services to you that are set out in the Contract, which may include:
- Arranging finance with a funder for you after you have agreed the cost and funders charges (or the basis of such costs if the cannot be determined in advance); and
 - Preparing and witnessing appropriate loan documentation on behalf of the funder.
- b. We are not linked to any of our lending panel members.
c. We recognise it is important for customers to be able to shop around for credit and alternative sources of credit.
d. Some of the services that we provide are not regulated by the Financial Conduct Authority. You will be advised in advance of any such proposal or service.
e. For quotations, we will quote figures based on our funders cost of funds. The funder has the right to change or decline these quotes on receipt of the full proposal.

5. How we will treat you fairly

- a. We always aim to treat you fairly. Therefore, we will endeavour to:
- Never put ourselves in a position where our primary duty to you is compromised;
 - Deal with any complaint sympathetically and independently of the colleague to whom the complaint is directed;
 - Be transparent in the matter of our remuneration; and
 - Respect your confidentiality.

6. Contract

- a. The Contract constitutes the entire agreement between us and you. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by us or on our behalf which is not set out in the Contract.
b. These Conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

7. Supply of the Services

- a. Before signing the Agreement, we will complete a form of Indicative Terms (**Terms**) based on the offer/terms of funding we have been requested by you to obtain, and terms that we believe are likely to apply to any Offer based on the information we have obtained regarding you from you or other sources. The Terms will be accepted/approved by you when you sign the Agreement.
b. For the avoidance of any doubt, if the Offer is not identical to the Terms but is materially similar to them (to be determined by us in our absolute and sole discretion acting reasonably and in good faith) this will not affect your obligation to pay the Fees in full in accordance with the Contract.
c. If the Offer is not identical to the Terms as a result of you (or someone on your behalf) providing us with incomplete, inaccurate or misleading information, this will not affect your obligation to pay the Fees in full in accordance with the Contract.
d. If any revision is required to the Terms during the term of the Contract either (a) that have no material effect on the Terms or (b) that are required as a result of incomplete, incorrect or misleading information provided to us by you or on your behalf, then such a revision to the Terms shall be permitted to be made by us and such revised Terms shall be deemed to be the Terms for the purposes, and remainder, of the Contract. For the avoidance of doubt, such a revision shall not affect your obligation to pay the Fees in full in accordance with the Contract.
e. We shall use all reasonable endeavours to meet any performance dates we specify to you but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
f. We shall have the right to make any changes to the Services which are necessary to comply with any applicable law, or which do not materially affect the nature or quality of the Services, and we shall notify you in any such event.
g. We warrant to you that the Services will be provided using reasonable care and skill.
h. We rely on you for the accuracy of statements, information and representations you (or someone on your behalf) notify to us for the purposes of negotiating terms on your behalf and producing the Terms. You shall indemnify us against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with any incompleteness, inaccuracies or misrepresentations in the statements, information and/or representations made by you and on which we have relied in connection with, or in relation to, the Services and/or the Contract.

Commercial Expert Ltd.

Unit 24a, Parsons Court, Welbury Way, Aycliffe Business Park, Newton Aycliffe, DL5 6ZE

01325 359800 E-mail: enquiries@commercialexpert.co.uk

Fax: 01325 355523 Website: www.commercialexpert.co.uk



Tel:

NACFB Member

AOBP Member

Commercial Expert Ltd is Authorised and Regulated by the Financial Conduct Authority, FCA Number 698364

Registered office address is Unit 24a, Parsons Court, Welbury Way, Aycliffe Business Park, Newton Aycliffe, County Durham, DL5 6ZE.

- i. You agree and undertakes that neither you, nor someone on your behalf or otherwise for your benefit will, except with our prior written consent, directly or indirectly:
- i. circumvent us and negotiate, deal with or otherwise approach a Lender or other institution/ organisation for the purposes of obtaining funding or in connection with any services similar to the Services for which we are engaged;
 - ii. disclose any information or documentation relating to the Terms and/or Offer to any third party for the purposes of obtaining funding from that third party or otherwise in connection with any services similar to the Services for which we are engaged; or
 - iii. appoint a third party in order to secure funding for you or supply services to you that are similar to the Services for which we have been engaged.
- j. If you breach any of the provisions of clause 7i above, you shall pay us on demand the full amount of the Fees as liquidated damages. The parties confirm that this sum represents a genuine pre-estimate of our loss as a result of the breach.
- k. We agree to act on your behalf in accordance with any applicable and binding rules and regulations of the Financial Conduct Authority.
8. **Your Obligations**
- a. You agree that you shall:
 - i. read any documentation given to you by us carefully and inform us as soon as possible if there are any matters in such documentation that are unclear or do not represent your requirements;
 - ii. ensure that the any information you provide, or statements / representations made, to us are complete, accurate and not misleading;
 - iii. co-operate with us in all matters relating to the Services;
 - iv. provide us with such information, documentation and materials as we may require in order to supply the Services, and ensure that such information, documentation and materials are complete, accurate and not misleading in all material respects.
 - b. If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by you or your failure to perform any relevant obligation (including, but not limited to, the obligations contained in clause 8a above) (**Your Default**):
 - i. we shall, without limiting our other rights or remedies, have the right to suspend performance of the Services until you remedy the Your Default, and to rely on Your Default to relieve us from the performance of any of our obligations to the extent that Your Default prevents or delays our performance of any of our obligations;
 - ii. we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations due to Your Default; and
 - iii. you shall reimburse us on our written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Your Default.
 - c. You should for the avoidance of doubt familiarise yourself with the terms and conditions of any agreement that may be arranged or otherwise facilitated by us and, before agreeing to any such arrangements, ensure that you understand, are comfortable with, and are able to comply with such terms and conditions.
9. **Fees and Payment**
- a. The Fees for the Services shall be as set out in the Agreement.
 - b. For the avoidance of any doubt, the Fees shall be paid by you to us without regard to your ability to satisfy all or any of the conditions stipulated by the Lender whether in the Offer or otherwise and regardless of whether you accept the Offer, the Offer is revoked/or cancelled or whether or not the funding is completed for any reason whatsoever.
 - c. Subject to clauses 9d and 9e below, the Fees shall be paid by you by credit or debit card and for this purpose you agree to complete, sign, date and return to us any relevant authorisation provided to you by us, and to do all such other acts and sign/execute all such other documents, as is required to give full effect to this clause 9c.
 - d. If applicable, we may arrange with the Lender that the part of the Arrangement Fee specified in clause B.2.2 of the Agreement or otherwise to be paid to us on completion of the funding stipulated in the Offer (to be determined by us acting reasonably and in good faith) shall be paid directly to us by the Lender from the funding and before the balance of the funding is paid to you. You hereby accept and approve such a payment and agree to do all such acts and sign/execute all such documents, as is required to give full effect to this clause 9d.
 - e. If applicable and if requested by us, the part of the Arrangement Fee specified in clause B.2.2 of the Agreement or otherwise to be paid to us on completion of the funding stipulated in the Offer (to be determined by us acting reasonably and in good faith) shall be paid to us by your solicitor or other relevant advisor (who are hereby irrevocably instructed by you to do so by way of copy of the Contract) from funds held by them on your behalf (including, but not limited to, the funding stipulated in the Offer). You agree to (a) complete, sign, date and return to us any relevant authorisation provided to you by us for us to forward to the solicitor or other relevant advisor acting on your behalf and (b) do all such other acts and sign/execute all such other documents, as is required to give full effect to this clause 9e.
 - f. You expressly agree that your obligation to pay the Fees shall continue notwithstanding that we cease to act for you or you terminate this Agreement, for whatever reason, subsequent to the signing of the Agreement.
 - g. We will invoice you in respect of the Fees in a timely manner to ensure you are able to pay the Fees in accordance with the time limits stipulated in the Agreement or otherwise.
 - h. You shall pay each invoice submitted by us in full and in cleared funds to a bank account we notify to you in writing.
 - i. Time for payment shall be of the essence of the Contract.
 - j. If you fail to make any payment due to us under the Contract by the due date for payment, then you shall pay interest on the overdue amount at the rate of 4% per cent per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
 - k. You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.
 - l. The Lender may pay to us introductory commission(s) in respect of the funding stipulated in the Offer. If such commission(s) is/are to be paid, and we know the amount of commission prior to acceptance of the Offer by you, you will be informed by us within a reasonable time that commission(s) will be paid and the amount of such commission(s). If the fact that commission(s) will be paid is not known by us before the Offer is accepted, we agree to inform you of that fact that commission(s) will be paid and of the amount of such commission(s) within a reasonable time of such becoming known to us.
10. **Conflicts of Interest**
- a. If through exception circumstances we or any of our directors or other customers have a material interest in business you ask to be transacted for you, we will inform you of the conflict of interest and we will obtain your consent before your instructions are carried out. A copy of our Conflicts of Interest Policy is available on request.
11. **Data Protection and Confidentiality**
- a. Your personal information (personal and sensitive data if required) will be processed in accordance with our Privacy Policy. We also enclose our Data Protection Statement, which will help you understand how we process your personal information, why and what your data rights are.
 - b. We are registered under the General Data Protection Regulation and abide by its requirements. The information (personal data) that we receive from you is used to provide quotations, arrange finance with a funder, and otherwise provide the Services to you, as per our Privacy Policy. You have the right to withdraw your consent to us processing your personal data (where we rely on this condition for doing so) by contacting the Managing Director. Before or after you enter into any agreement with a funder to help make credit decisions [and comply with its legal obligations], the funder may make a credit search with a credit reference agency. Full details of the use and disclosure of your information by the funder is contained within the terms and conditions of any agreement [with them?] which you should read before signing.
 - c. All of our customers' records are treated as private and confidential and we therefore reserve the right to give you copies of your records if you request them. If you want sight of your records please send a request to the Managing Director at Commercial Expert Ltd, Unit 24a, Parsons Court, Welbury Way, Aycliffe Business Park, Newton Aycliffe, County Durham, DL5 6ZE.
 - d. We are required to verify your identity in accordance with the Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007.
 - e. These Conditions and the terms of any other agreement or arrangement between us and you are confidential, and both we and you shall keep in strict confidence all information, documentation, commercial know-how, specifications, processes or initiatives which are of a confidential nature and have been disclosed to one of us by or on behalf of the other, together with any other confidential information concerning the business, products and services of the other that it may otherwise obtain. The party receiving such confidential information shall only disclose it to those of its employees, agents and subcontractors who need to know it for the purpose of discharging its obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The party receiving such confidential information may also disclose such confidential information in accordance with our Privacy Policy and to the minimum extent that is necessary to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 11e shall survive termination of the Contract for any reason.
12. **Our responsibility for loss or damage suffered by you**
- YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE 12**
- a. **Responsibility for foreseeable loss and damage caused by us.** Our total liability to you in respect of all foreseeable losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £100,000.00 (one hundred thousand pounds). Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
 - b. **We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the services.
 - c. **We are not liable for business losses.** We only supply the services for personal, non-commercial use. If you use the Services for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
 - d. All terms implied into the Contract, whether by statute, common law or otherwise, are, to the fullest extent permitted by law, excluded from the Contract.
 - e. This clause 12 shall survive termination of the Contract for any reason.
13. **Termination**
- a. Without limiting their other rights or remedies, either we or you may terminate the Contract with immediate effect by giving written notice to the other if:

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- i. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
 - ii. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - iii. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - iv. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - v. the other party (being an individual) is the subject of a bankruptcy petition or order;
 - vi. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - vii. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
 - viii. the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - ix. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - x. any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13a(ii) to clause 13a(x) (inclusive);
 - xi. the other party's financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
 - xii. the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- b. Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to you if you fail to pay any amount due under this Contract on the due date for payment and fail to pay all outstanding amounts within 14 days after being notified in writing to do so.
 - c. Without limiting our other rights or remedies, we may suspend provision of the Services under the Contract or any other contract between us and you if you become subject to any of the events listed in clause 13a(ii) to clause 13a(x) (inclusive), or we reasonably believe that you are about to become subject to any of them, or if you fail to pay any amount due under this Contract on the due date for payment.
 - d. On termination of the Contract for any reason:
 - i. you shall immediately pay to us all of our outstanding unpaid invoices and interest;
 - ii. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - iii. clauses which expressly or by implication survive termination shall continue in full force and effect.
- 14. The Provision of Services Regulations 2009**
- a. We are authorised and regulated by the Financial Conduct Authority and are subject to regulations set out in the FCA Handbook (as applicable) which can be found at <https://www.handbook.fca.org.uk/handbook>. Our firm reference number is 698364 and we are permitted to act as Credit Broker. You may check this information on the Financial Conduct Authority's Register by visiting www.fca.org.uk/register or by contacting them on 0845 606 1234.
 - b. Our insurer is Beazley Syndicate 623/2623. The territorial coverage is United Kingdom.
 - c. We are a company limited by shares.
- 15. Complaints**
- a. Our aim is to provide a high standard of service, reliability and skill. If at any time you would like to discuss with us how we could improve the provision of our services, or the you are dissatisfied with the services you are receiving, you should contact us by contacting the Managing Director in writing at Commercial Expert Ltd, Unit 24a, Parsons Court, Welbury Way, Aycliffe Business Park, Newton Aycliffe, County Durham, DL5 6ZE or by telephone on 01325 359800
 - b. A copy of our internal complaints procedure is available on request, and we will try to resolve any problem as quickly as possible, investigate any complaints carefully and promptly and report to you with our findings.
 - c. If for any reason we are unable to resolve the problem internally, further information as to your rights of redress may be available from the Financial Conduct Authority on 0800 111 6768 or via www.fca.org.uk.
 - d. You may be entitled to refer a complaint against us to the Financial Ombudsman Service if you are not satisfied with our response. The contact details are as follows:
 - i. The Financial Ombudsman Service, Exchange Tower, London, E14 9SR
 - ii. Website – www.financial-ombudsman.org.uk
 - iii. Email – complaint.info@financial-ombudsman.org.uk
 - iv. Tel – 0800 023 4567
- 16. General Provisions**
- a. **We are not responsible for delays outside our control.** If our performance of the services is affected by an event outside our control (including but not limited to strikes, lock-outs or other industrial disputes (whether involving our workforce or of any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of our agents or subcontractors) then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. We will not be liable for delays or failure to perform our obligations caused by an event outside of our control but if there is a risk of a delay in performing such obligations for more than eight (8) weeks we shall, without limiting our other rights or remedies, have the right to terminate this Contract immediately by giving written notice to you.
 - b. **No partnership or similar arrangements.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
 - c. **Changes to the Contract must agreed by us.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by us.
 - d. **We may transfer this Agreement to someone else.** We may transfer our rights and obligations under these Conditions to another organisation. We will contact you to let you know if we plan to do this. You may not transfer your rights and obligations under these Conditions to another person.
 - e. **Nobody else has any rights under this contract.** This contract is between you and us. No other person shall have any rights to enforce any of its terms.
 - f. **If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these Conditions operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
 - g. **Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these Conditions, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things or prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the services, we can still require you to make the payment at a later date.
 - h. **Which laws apply to this contract and where you may bring legal proceedings.** These Conditions are governed by English law and you can bring legal proceedings in respect of the services in the English courts. If you live in Scotland you can bring legal proceedings in respect of the services in either the Scottish or the English courts. If you live in Northern Ireland, you can bring legal proceedings in respect of the services in either the Northern Irish or the English courts.

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