

TERMS AND CONDITIONS

1. GENERAL

- 1.1 These terms and conditions apply between Decision First Limited (registered number 08125202) whose registered office is at Cardinal House, 9 Manor Road, Leeds, West Yorkshire, LS11 9AH ("**Decision First**") and the entity which is using the System in the provision of the Services (the "**Law Firm**") together "the parties" and each "a party".
- 1.2 By electronically accepting these terms and conditions, the Law Firm agrees to be bound by them.
- 1.3 Decision First reserves the right to decline access to the System to any Law Firm and will endeavour to notify the Law Firm of such decision in writing or electronically within seven days of Decision First's receipt of:
- 1.3.1 the Law Firm's electronic acceptance of these terms and conditions; or
- 1.3.2 (where applicable) if later the Law Firm's Direct Debit Mandate Form, following which neither party shall be under any further obligation to the other.
- 1.3.3 In the event the Law Firm is not accepted onto at least one of the Lender panels to whom they have applied any sums paid by the Law Firm shall be refunded immediately.
- 1.4 Decision First reserves the right to amend these terms and conditions from time to time, where reasonable, by posting the amended version of the terms and conditions on the System and notifying the Law Firm by e-mail of such posting. The amended version shall have effect:
- 1.4.1 30 days from the time of posting; or
- 1.4.2 from such later time stipulated on the System
- in respect of use of the System by the Law Firm on or after such date. The Law Firm may upon such notification and within the said period of 30 days terminate the Agreement by notice to Decision First.

2. DEFINITIONS AND INTERPRETATION

In this Agreement, the following words shall have the following meanings:

"**Affiliates**" means in relation to a party, a person who is, from time to time, a subsidiary or holding company of that party, or is a subsidiary of that party's holding company.

"**Agreement**" means these terms and conditions;

"**Approving User**" means a person authorised on behalf of the Law Firm to approve the Law Firm's use of the System;

"**Commencement Date**" means the date that access to the System is granted to the Law Firm by Decision First;

"**Confidential Information**" means the terms of this Agreement, the Data and any information in whatever medium, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, and particularly the clients of the Law Firm and any other information clearly being designated as being confidential or which ought reasonably to be considered confidential;

"**Data**" means, as applicable, all information, data and materials provided by or on behalf of the Law Firm;

"DPA" means the Data Protection Act 1998, all subordinate legislation passed pursuant to that Act and any amendments, revisions, re-enactments or consolidations of the Act or any EU Regulation supplanting the Act;

"Fee(s)" means the charges payable by the Law Firm in accordance with the terms of this Agreement to Decision First for the use of the system as notified to the Law Firm by Decision First from time to time;

"Initial Term" means 12 months from the Commencement Date;

"Intellectual Property" means all inventions, patents, utility models, designs (both registered or unregistered and including rights relating to semi-conductor topographies), database rights, copyright and trade marks (both registered and unregistered), together with all rights to the grant of and applications for the same and including all similar or analogous rights and all other rights in the nature of intellectual and industrial property throughout the world and all future rights of such nature;

"Lender" means the entity which instructs the Law Firm to provide the Services through the System;

"Primary User" the Law Firm's employee or independent contractor from time to time notified to Decision First who is entitled to access the System on behalf of the Law Firm for the purposes of inputting and maintaining the Data.

"Services" means those conveyancing services requested by a Lender through the System or by letter and rendered by the Law Firm;

"Software" means Decision First's lender exchange platform software program including any replacements, modifications, variations, enhancements or additions to such program supplied under this Agreement;

"System" means the online lender exchange platform provided by Decision First via the Software which (i) enables the exchange of instructions and information between the Law Firm and the Lender; and (ii) establishes and allows the administration of an industry-wide conveyancing panel management database;

"User Guide" means the then current form of guide to use of the System as made available by Decision First to the Law Firm; and

"Virus" means any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

3. TERM

This Agreement shall commence on the Commencement Date and, save as otherwise provided in this Agreement, shall continue for the Initial Term after which it shall automatically renew for 12 month periods unless and until it is terminated in accordance with clause 11.

4. GRANT OF RIGHTS

- 4.1 Decision First hereby grants to the Law Firm, subject to the terms and conditions of this Agreement, a non-exclusive, non-transferable, revocable licence to use and receive the benefit of the System, for use by the Law Firm and the Primary User and the Approving User solely to provide the relevant Lender with the Data.

- 4.2 The System shall only be made available to the Law Firm remotely via the internet, and the Law Firm shall not be entitled to receive any copies of any Software used in relation to the System. Otherwise than to the extent permitted by law, the Law Firm shall not reproduce, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer any Software or attempt to do so or permit or assist others to do so.
- 4.3 Decision First reserves the right from time to time to update or modify the functionality of the System and/or the Software.
- 4.4 No exclusivity is granted under this Agreement, and nothing in this Agreement shall prevent Decision First from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under this Agreement.
- 4.5 In relation to the Primary User and the Approving User:
 - 4.5.1 the Law Firm's access to the System shall be limited to one Primary User and one Approving User;
 - 4.5.2 the Law Firm shall ensure that the Primary User and the Approving User each keeps a secure password for their use of the System and the Law Firm shall procure that such passwords are changed when prompted by the System and that the Primary User and the Approving User keeps their password confidential.
- 4.6 The Law Firm shall prevent use of or access to the Software and the System by unauthorised persons through the Law Firm's IT systems or as a result of the unauthorised disclosure of Confidential Information by the Law Firm.

5. THE LAW FIRM'S OBLIGATIONS

- 5.1 The Law Firm's obligations under this Agreement shall include but not be limited to the supply of any Data reasonably required by Decision First to enable Decision First to carry out the validation process of Law Firms for the Lender and to establish and maintain an industrywide conveyancing panel management database. Decision First shall not amend the Data inputted into the System by or on behalf of the Law Firm without notifying the Law Firm.
- 5.2 The Law Firm shall use all reasonable endeavours to notify Decision First of any changes to the Data as such changes occur and shall, in any event, confirm to Decision First every 90 days during the Term starting from the date of this Agreement that either no changes have occurred or notify Decision First of the changes in full and provide Decision First with any modified Data.
- 5.3 The Law Firm shall comply with all reasonable requests of Decision First and the Lender in order to facilitate the provision of the Services in a timely and efficient manner.
- 5.4 Decision First shall not be responsible for any delays caused by or attributable to any interruption, instability or incompatibility of the Law Firm's or the Lender's systems or network.
- 5.5 The Law Firm shall be solely responsible for (a) obtaining all necessary licences and/or clearances and/or consents (required under the DPA or otherwise) in relation to all Data which is uploaded and transmitted through the System; (b) ensuring that adequate consent is obtained from the individuals who are the subject of any Data for the purposes of conducting credit and other necessary checks required by the Lender; and (c) the legality (including compliance with any and all regulatory requirements), reliability, accuracy, completeness and quality of all Data which is uploaded and transmitted through the System.

- 5.6 The Law Firm shall adhere to the User Guide made available to the Law Firm by Decision First and to any revised or amended User Guide notified to it by Decision First from time to time.
- 5.7 Each Party shall use best endeavours in accordance with good industry practice to prevent the distribution or transmission of any Viruses to any systems of the other Party, including the use of industry standard anti-virus software and firewalls.
- 5.8 The Law Firm shall be responsible for all users accessing the System and the Software and for those users' compliance with the relevant provisions of this Agreement.

6. DATA AND MATERIALS

- 6.1 Decision First shall follow its standard archiving procedures for any Data uploaded and transmitted through the System as notified to the Law Firm from time to time. In the event of any loss or damage to such Data, the Law Firm's sole and exclusive remedy shall be for Decision First to use reasonable endeavours to restore such Data from the latest backup maintained by Decision First in accordance with such archiving procedures.
- 6.2 The Law Firm agrees that the Data will be used by Decision First for the purposes of establishing and administering the System and its associated conveyancing panel management database.
- 6.3 Each party agrees to comply with the relevant provisions of the DPA and any directions issued by the Information Commissioner in its processing of Personal Data (as defined in the DPA) where such Personal Data is comprised in the Data.

7. INTELLECTUAL PROPERTY

The Law Firm acknowledges that all Intellectual Property in and to the Software, the System and any accompanying documentation (including any modifications to them) belongs and shall belong to Decision First, and the Law Firm shall have no rights in or to the Software, the System or their accompanying documentation other than the right to use them in accordance with the terms of this Agreement and the licence granted herein.

8. PAYMENT

The Law Firm shall pay to Decision First the Fees in accordance with the payment terms set out in this Agreement and the direct debit mandate sent to the Law Firm by Decision First.

9. CONFIDENTIALITY

- 9.1 Each party shall use the Confidential Information of the other party disclosed to it (by whoever disclosed) only for the proper performance of its duties under the Agreement and shall not without the disclosing party's written consent disclose or permit the disclosure of the Confidential Information except in confidence for the proper performance of its duties under the Agreement to those of its employees, officers and professional advisers who need to have access to it.
- 9.2 Each party shall take all reasonable precautions (and at least as great as those it takes to safeguard its own confidential information) to safeguard the Confidential Information, including maintaining appropriate technical and organisational measures to safeguard the Confidential Information having regard to the sensitive nature of the Confidential Information and the harm that might result from its misuse.
- 9.3 Without prejudice to clause 9.1, each party shall only keep Confidential Information of the other party as disclosed to it for so long as is necessary for the proper exercise of its obligations and the performance of its duties under this Agreement and for no longer.
- 9.4 The provisions of clause 9.1 shall not apply to Confidential Information that:

- 9.4.1 the receiving party can prove was known to the receiving party or in its possession before that information was acquired from, or from some person on behalf of, the disclosing party;
- 9.4.2 is in or enters the public domain through no wrongful default of the receiving party or any person on its behalf, provided that this clause 9.4.1 shall only apply from the date that the relevant Confidential Information enters the public domain;
- 9.4.3 the receiving party receives from a third party without similar obligations of confidence in circumstances where the third party did not obtain that information as a result of a breach of an obligation of confidence; or
- 9.4.4 is required to be disclosed by any applicable law or by order of any Court of competent jurisdiction or any government body, agency or regulatory body, to the extent of the required disclosure.

10. LIMITATION OF LIABILITY AND INDEMNITY

- 10.1 Decision First expressly disclaims all warranties of merchantability, satisfactory quality or fitness for a particular purpose or that use of the System and/or the Software or any part of them will result in any economic advantage, increase in profits or reduction in costs. The Software and the System are provided on an "as is" basis. Decision First expressly disclaims all warranties that (i) the System and/or the Software will be error-free or operate without interruption or will be compatible with any other software or hardware; (ii) information and materials located or obtained through use of the System and/or the Software (including any instruction, data, materials or information received from a Lender through the System) are timely, accurate, relevant or complete.
- 10.2 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligence or for liability for fraudulent misrepresentation.
- 10.3 Subject to clause 10.2, Decision First shall not in any circumstances be liable to the Law Firm whether in contract, tort or delict, negligence, breach of statutory duty or otherwise in respect of (i) loss of profits, loss of revenue, loss of goodwill, loss of business opportunity, loss of reputation, or loss of or cost of restoration of data (in each case whether such loss is direct or indirect); and (ii) any indirect, consequential, financial or economic loss or damage costs or expenses, whatsoever or howsoever arising out of in connection with this Agreement and whether or not foreseeable notwithstanding the liabilities at clause 10.9.
- 10.4 Subject to clause 10.2 and without limitation to clause 10.3, Decision First shall not in any circumstances be responsible or liable for any loss or damage, cost or expense arising out of or in connection with:
 - 10.4.1 any defamatory, offensive, infringing, obscene, indecent or other unlawful or objectionable material or information which is uploaded to or transmitted via the System by the Law Firm, any user of the System (regardless of whether he/she is a Primary or an Approving User), a member of the public or other third party user of the System;
 - 10.4.2 any unavailability, breakdown or failure of the System (or any part thereof) due to the failure of any telecommunications provider or internet service provider, or due to any defect or incompatibility of any third party software (including browser software) not approved by Decision First, or any other cause outside the reasonable control of Decision First.
- 10.5 Subject to clauses 10.2, 10.3 and 10.4, Decision First's aggregate liability to the Law Firm, whether arising in contract, tort (including negligence), under statute or otherwise out of or in connection with this Agreement, shall in respect of all claims and liabilities under or in connection with this Agreement, not exceed the total fees paid and payable by the Law Firm under this Agreement in the previous 12 months up to and including the date of the claim, notwithstanding the liability in clause 10.9.

- 10.6 Decision First shall not under any circumstances be liable to the Law Firm for (i) any fees and/or other payment due to the Law Firm from a Lender; or (ii) any fees and/or other payment due to the Law Firm from any third parties.
- 10.7 The Law Firm shall be responsible for any fees and/or other payments to third parties arising out of the provision of the Services to the Lender.
- 10.8 The Law Firm will be liable to Decision First for all loss, damage, actions, claims, liability, costs or expenses suffered or incurred by Decision First arising from or in connection with (i) breach by the Law Firm of its obligations under clauses 4.6, 5.5 and 5.6; and/or (ii) any matter listed in clauses 10.4.1; and/or (iii) any claims in connection with or arising out of clause 10.6.
- 10.9 Each party hereby indemnifies and shall keep indemnified the other party on demand from and against all loss, damage, actions, claims, liability, costs or expenses suffered or incurred by the other party arising from or in connection with a breach by the first party of its obligations arising out of any applicable data protection legislation including the DPA.
- 10.10 Except as otherwise set out in this Agreement, all conditions, warranties, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including without limitation as to quality, performance or fitness or suitability for purpose) are hereby excluded to the fullest extent permissible by law.

11. TERM AND TERMINATION

- 11.1 Without prejudice to any other rights or remedies of Decision First, Decision First may terminate this Agreement with immediate effect on giving notice to the Law Firm, if:
- 11.1.1 the Law Firm has not paid in full any amounts falling due for payment hereunder which non-payment has not been remedied within 14 days of the date of a written notice to do so; or
- 11.1.2 the Law Firm commits any material breach of this Agreement, other than as specified in clause 11.1.1 above, which is not capable of remedy or which is capable of remedy but has not been remedied within 21 days of a written request to do so;
- 11.1.3 the agreement relating to the System between the Lender and Decision First is terminated for any reason; or
- 11.1.4 instructed to do so by all Lenders utilising the System for any reason including where the Lenders have terminated their relationship and/or their agreements with the relevant Law Firm.
- 11.2 The Law Firm may terminate this Agreement with immediate effect on giving written notice to Decision First that they shall no longer be using the System. Decision First will then forward this notification to those Lenders for whom the Law Firm acts and the notification may impact upon the Law Firm's continued membership of those Lenders' panels of law firms. The Law Firm shall not be entitled to a refund of any Fees in the event that this Agreement is terminated in accordance with this clause.
- 11.3 The Law Firm acknowledges that termination in accordance with clauses 11.1 and 11.2 may impact upon their membership of the Lender's panel of law firms. The Law Firm shall not be entitled to a refund of any Fees in the event that this Agreement is terminated in accordance with clauses 11.1 or 11.2.
- 11.4 The Law Firm may terminate this Agreement with immediate effect, on giving written notice to Decision First, if Decision First commits a material breach of this Agreement which is not capable of remedy or which is capable of remedy but has not been remedied within 21 days of a written request to do so. The Law Firm shall not be entitled

to a refund of any Fees in the event that this Agreement is terminated in accordance with this clause 11.

- 11.5 Notwithstanding any provision of this Agreement to the contrary, the provisions of clauses 6 to 10 inclusive, 11.5, 13 and any other clauses which expressly or impliedly survive expiry or termination of this Agreement, shall survive expiry or termination of this Agreement and continue in full force and effect.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and supersedes and extinguishes any prior drafts, agreements, undertakings, understandings, promises or conditions, whether oral or written, express or implied between the parties relating to such subject matter.

13. GENERAL

- 13.1 Decision First may assign, transfer (in whole or in part), charge or deal in any manner with this Agreement or the benefit or burden of the rights under this Agreement. The Law Firm may not, without the prior written consent of Decision First assign, transfer (in whole or in part), charge or deal in any manner with this Agreement or the benefit or burden of or the rights under this Agreement.
- 13.2 Neither party shall be liable to the other party for any delay or non-performance of its obligations under this Agreement to the extent that its performance is interrupted or prevented by any act or omission beyond its reasonable control.
- 13.3 No amendment of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.
- 13.4 Except as otherwise stated in this Agreement, the rights and remedies of each party under this Agreement are in addition to any other rights or remedies under this Agreement or the general law, and may be waived only in writing and specifically. Delay in exercising or non-exercise of any right or a partial exercise of any right under this Agreement is not a waiver of that or any other right under this Agreement. Waiver of a breach of any term of this Agreement shall not operate as a waiver of breach of any other term or any subsequent breach of that term.
- 13.5 If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement or the legality, validity or enforceability in any other jurisdiction of that or any other provision of this Agreement. The parties shall negotiate in good faith to modify any such provisions so that to the greatest extent possible they achieve the same effect as would have been achieved by the invalid or unenforceable provisions.
- 13.6 Each party acknowledges to the other that it has not been induced to enter into this Agreement by nor has it relied upon any representation, promise, assurance, warranty or undertaking (whether in writing or not) by or on behalf of the other party or any other person save for those contained in this Agreement. Accordingly, each of the parties acknowledges and agrees that the only remedy available to it in respect of the subject matter of this Agreement shall be for breach of contract under the terms of this Agreement. Nothing in this Agreement shall exclude liability for fraud or fraudulent misrepresentation.
- 13.7 A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third parties) Act 1999 to enforce, or to enjoy the benefit of, any provision of this Agreement. This clause shall not apply in respect of Scotland.
- 13.8 All notices between the parties with respect to this Agreement shall be in writing and signed by or on behalf of the party giving it. Notices required or permitted hereunder may be served by hand (including by courier), first class post or recorded delivery, facsimile or

email; except that all notices of termination of this Agreement may only be sent by hand (including by courier) or recorded delivery. Any notice shall be duly served (i) on delivery if delivered by hand, (ii) 48 hours after sending if sent by first class post or recorded delivery (iii) on sending if sent by fax or email (provided that a copy is also sent by post). Notices are to be sent to the address of the other party as given herein or to such other address as that party may have previously notified to the party giving notice as its address for such service.

- 13.9 This Agreement and any dispute or claim arising out of or in connection with it (including any non-contractual claims or disputes) shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English courts; except where the Law Firm is Scottish or Northern Irish, in which case the laws of Scotland or Northern Ireland respectively shall apply and the parties shall irrevocably submit to the exclusive jurisdiction of the Scottish or Northern Irish courts.