

## 1. YOUR DETAILS

Your name:	<input type="text"/>	Your position/title:	<input type="text"/>
Company name:	<input type="text"/>	Address line 1:	<input type="text"/>
Address line 2:	<input type="text"/>	Town:	<input type="text"/>
County:	<input type="text"/>	Postcode:	<input type="text"/>
Your email:	<input type="text"/>	Your office phone:	<input type="text"/>
Your mobile:	<input type="text"/>		

## 2. COMPLIANCE

FCA Directly Authorised? Yes  No  If yes, FCA registration no:

Network or club:  (if applicable)

Network FCA number:  (if applicable)

Your permissions: Independent  Firsts only  Credit Broker

Please provide us with a sample copy of the Initial Disclosure Document that you use. Thank you.

## 3. YOUR BANK DETAILS

Name of bank:	<input type="text"/>	Sort code:	<input type="text"/>
Account name:	<input type="text"/>	Account number:	<input type="text"/>

## 4. DECLARATION AND AUTHORISATION

### IMPORTANT CONSENT INFORMATION THAT HELPS US TO HELP YOU

By completing this agreement and returning by email, or by printing, completing, signing and returning by post, you confirm that you have read and understood the terms and conditions overleaf and agree to be bound by these terms and conditions.

Please tick all of the ways in which you are happy for us to keep you informed on your case/s and product updates.

email  telephone (including voicemail)  SMS/Text messaging

You agree that telephone conversations and other communications between us or third parties may be recorded and/or monitored to assist in improving customer and collections services.

Full details of how we hold, process and manage personal information are explained within our privacy statement on our website.

By signing below, you confirm that you are authorised to sign for and on behalf of the company stated in section 1.

Your signature:	<input type="text"/>	Your name:	<input type="text"/>
Date:	<input type="text"/>		

# DEFINITIONS AND INTERPRETATION

“Applicable Law” means, in respect of any obligation and to the extent applicable to the relevant obligation, any statute, regulation, ordinance or subordinate legislation which is in force for the time being and to which a Party is subject and any code of practice, guidance, handbook or rules published by a Regulator;

“Applicant” means any individual(s) referred to POSITIVE LENDING by YOU in respect of an Application;

“Application” means an Application made to the Lender for a Sales Product through or by POSITIVE LENDING in respect of an Applicant;

“Commission” means the relevant rate of Net Income received under each Relevant Application as agreed in accordance with clause 2.1;

“Confidential Information” means all confidential information disclosed (whether in writing, orally or by another means whether directly or indirectly) by either Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) whether before or after the date of this Agreement including, but not limited to, information relating to the Disclosing Party’s products, operations, processes, plans or intentions, product information, know-how, trade secrets, market opportunities and business affairs;

“Data Protection Legislation” means any law, statute, regulation, rule or other binding restriction regarding the protection of individuals with regards to the processing of their personal data to which a party is subject, including the Data Protection Act 2018, any other legislation which apply to a party and any code of practice or guidance published by the Information Commissioner’s Office from time to time;

“Force Majeure Event” means any event which affects the performance by a Party of its obligations under this Agreement and arises directly from an act of God, local Government or Government, war, fire, flood, earthquake or storm, acts of terrorism, explosion, civil war or civil commotion;

“FCA” means the Financial Conduct Authority;

“Lender” means any entity that enters into a loan or mortgage in relation to a Sales Products with an Applicant, or that makes the Sales Products available to Applicants;

“Net Income” the payments made to POSITIVE LENDING by a Lender in respect of a Relevant Application less any value added tax or other sales tax on them and any discounts or rebates granted by POSITIVE LENDING.

“Party” means a Party to this Agreement;

“POSITIVE LENDING” means Positive Lending (UK) Limited;

“POSITIVE LENDING Representative” means Paul McGonigle or such other person as POSITIVE LENDING notifies to YOU from time to time as its representative in respect of this Agreement;

“Regulator” means any person having regulatory or supervisory authority over the activities of POSITIVE LENDING or YOU including but not limited to the FCA, the Association of Finance Brokers, the Information Commissioner and the Bank of England or their successors;

“Relevant Application” means an Application which is accepted by the Lender;

“Sales Products” means the products offered by Lenders to Applicants, including, without limitation, consumer and business secured loan products or as notified by POSITIVE LENDING to YOU from time to time;

“Services” any services to be provided by POSITIVE LENDING on behalf of YOU to the Applicant as agreed between the Parties.

“YOU” means the business principal or such other person as YOU notify to POSITIVE LENDING from time to time as its representative in respect of this Agreement;

## 1. POSITIVE LENDING’S obligations

1.1. POSITIVE LENDING will:

1.1.1. deliver the Services:

(i) with reasonable care and skill and in accordance with best commercial practices and standards in the industry for similar services; and

(ii) in accordance with Applicable Law;

1.1.2. ensure that no use is made of the terms “information only” or “non-advised” in any communications with an Applicant where recommendations or advice are provided by POSITIVE LENDING in connection with the Services;

1.1.3. provide to person(s) appointed by YOU such access to records relating to provision of the Services and to premises from which the Services are delivered as YOU reasonable require to confirm the compliance of POSITIVE LENDING with its obligations under this Agreement, subject to a minimum of 14 days’ prior written notice.

1.2. Nothing in this Agreement shall:

1.2.1. require POSITIVE LENDING (or any Lender) to accept any referral or any Application, including providing Services in connection

with an Application, if in its sole discretion it declines to do so provided that POSITIVE LENDING will notify YOU if it declines a referral; and/or

- 1.2.2. prevent POSITIVE LENDING from marketing and promoting its services direct to the general public or through other intermediaries.
- 1.2.3. Client ownership remains with the introducing broker and Positive Lending will not engage in any form of cross selling.

## 2. COMMISSION

- 2.1. The Parties will seek to agree the relevant rate of Commission in respect of each Application.
- 2.2. Subject to clauses 2.6 and 2.8, POSITIVE LENDING will pay to YOU a Commission in respect of each Relevant Application.
- 2.3. POSITIVE LENDING will pay you the relevant Commission by BACS or cheque within 48 hours of receipt of the Net Income from the Lender.
- 2.4. YOU acknowledge that matters such as the negotiation of commission rates/procurement fees payable by Lenders to POSITIVE LENDING shall be within the discretion of POSITIVE LENDING.
- 2.5. Any Commission shall be payable only to the extent that POSITIVE LENDING receives payment of the Net Income from the Lender, YOU agree and acknowledge that POSITIVE LENDING cannot pay the Commission if no payment is received from the Lender.
- 2.6. Commission is not payable:
  - 2.6.1. during any period when YOU are in breach of the provisions of this Agreement;
  - 2.6.2. in relation to any Application after the date of the termination of this Agreement (for whatever reason).
- 2.7. Where a reduced Net Income is due from the Lender to POSITIVE LENDING including where:
  - 2.7.1. the Commission relates to a second charge mortgage contract where a partial or full clawback of commission is collected by the Lender from POSITIVE LENDING;
  - 2.7.2. the Application is cancelled;
  - 2.7.3. there is a reduction in the Net Income for any reason; Commission due to YOU shall be adjusted accordingly.
- 2.8. If any of the events in clause 2.7 occur, or POSITIVE LENDING become aware that Commission was not payable to YOU in accordance with clause 2.6, after Commission has been paid to YOU in respect of an affected Relevant Application, POSITIVE LENDING shall be entitled to repayment of all or a pro rata amount of the Commission as applicable ("Clawback").
- 2.9. POSITIVE LENDING shall be entitled to deduct any

Clawback due from YOU from subsequent Commission which would otherwise be paid to YOU or, if no Commission is due to be paid to YOU, YOU shall make repayment of the Clawback within 30 days of POSITIVE LENDING'S request.

## 3. YOUR OBLIGATIONS

- 3.1. YOU shall have no authority, and shall not hold YOURSELF out, or permit any person to:
  - 3.1.1. as being authorised to bind POSITIVE LENDING in any way;
  - 3.1.2. make or enter into any contracts or commitments or incur any liability for or on behalf of POSITIVE LENDING.
- 3.2. YOU shall make all appropriate notifications, and obtain all appropriate licenses, memberships and registrations, as required under Applicable Law including (without limitation) the FCA, to the extent that such notifications, licences, memberships and registrations are required for the performance of the obligations undertaken by YOU under this Agreement.
- 3.3. YOU will comply with all Applicable Laws relating to YOUR activities under this Agreement.
- 3.4. All your staff and sales representatives (whether employed or engaged on a self-employed basis) have the required knowledge and competency, evidenced with appropriate records and that they are made fully conversant with the requirements of this Agreement.
- 3.5. YOU are working within guidelines issued from any club or network of which YOU are a member.

## 4. DATA PROTECTION

- 4.1. Both parties shall comply with all Data Protection Legislation and such compliance shall include, but not be limited to, maintaining a valid and up-to-date registration or notification (where applicable) under Data Protection Legislation.
- 4.2. If YOU receive a request from a Data Subject for access to personal data or any other request relating to POSITIVE LENDING'S obligations, YOU shall:
  - 4.2.1. immediately notify POSITIVE LENDING; and
  - 4.2.2. provide full cooperation and assistance to POSITIVE LENDING in relation to any such complaint or request;
- 4.3. The parties acknowledge that for the purposes of the Data Protection Legislation, if and to the extent that POSITIVE LENDING processes personal data in connection with the Services on YOUR behalf, YOU are the data controller and POSITIVE LENDING is the data processor.
- 4.4. The Data Processing Schedule agreed from time to time sets out the scope, nature and purpose of processing by POSITIVE LENDING, the duration of the processing and

- the types of personal data and categories of data subject.
- 4.5. Without prejudice to the generality of clause 4.1, YOU shall:
- 4.5.1. provide complete, accurate and lawful written instructions to POSITIVE LENDING to govern the processing of personal data as initially set out in the Data Processing Schedule;
- 4.5.2. ensure that YOU have has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to POSITIVE LENDING for the duration and purposes of this Agreement;
- 4.5.3. notify POSITIVE LENDING without undue delay on becoming aware of a personal data breach which has or may have an impact on the processing carried out by POSITIVE LENDING or the written instructions for processing including the Data Processing Schedule.
- 4.6. Without prejudice to the generality of clause 4.1, POSITIVE LENDING shall, in relation to any personal data processed in connection with the performance by POSITIVE LENDING of its obligations under this Agreement:
- 4.6.1. process that personal data only on YOUR written instructions (including the instructions in the Data Processing Schedule) unless POSITIVE LENDING is required by the Applicable Laws to process personal data;
- 4.6.2. notify YOU if POSITIVE LENDING believes that any data processing instruction it receives from YOU is in breach of the Data Protection Legislation and POSITIVE LENDING shall not be obliged to follow such instruction (and shall not be liable for any delays in performing its obligations under this Agreement) until such time as agreement can be reached between POSITIVE LENDING and YOU as to how to proceed. If such agreement cannot be reached within 30 days of POSITIVE LENDING'S notification to YOU, either YOU or POSITIVE LENDING may terminate this Agreement on notice to the other party;
- 4.6.3. ensure that POSITIVE LENDING has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and software, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by POSITIVE LENDING);
- 4.6.4. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
- 4.6.5. not transfer any personal data outside of the United Kingdom unless YOUR prior written consent has been obtained and the following conditions are fulfilled:
- (i) YOU or POSITIVE LENDING have provided appropriate safeguards in relation to the transfer;
- (ii) the data subject has enforceable rights and effective legal remedies;
- (iii) POSITIVE LENDING complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
- (iv) POSITIVE LENDING complies with reasonable instructions notified to it in advance by YOU with respect to the processing of the personal data;
- 4.6.6. assist YOU, at YOUR cost, in responding to any request from a data subject and in ensuring compliance with YOUR obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 4.6.7. notify YOU without undue delay on becoming aware of a personal data breach;
- 4.6.8. at YOUR written direction, delete or return personal data and copies thereof to YOU on termination of this Agreement unless required by Applicable Law to store the personal data;
- 4.6.9. maintain complete and accurate records and information to demonstrate POSITIVE LENDING'S compliance with this clause 4;
- 4.6.10. at YOUR costs and on reasonable notice to POSITIVE LENDING, allow for audits by YOU or YOUR designated auditors.
- 4.7. YOU consent to POSITIVE LENDING appointing third-party processors of personal data under this Agreement and POSITIVE LENDING shall provide YOU with a list of current sub-processors on request. POSITIVE LENDING confirms that it has with the third-party processor a written agreement substantially on that third party's standard terms of business. As between YOU and POSITIVE LENDING, POSITIVE LENDING shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 4.7.

## 5. CONFIDENTIALITY AND PUBLICITY

- 5.1. From time to time during the term of this Agreement, Confidential Information may be given by one party to this Agreement (the "Disclosing Party") to the other party (the "Receiving Party").
- 5.2. The Receiving Party will treat and keep all Confidential Information as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 5.3. The Receiving Party will only use the Confidential Information for the sole purpose of complying with its obligations under this Agreement.
- 5.4. The contents and the existence and the scope of this Agreement are Confidential Information.
- 5.5. Notwithstanding whether the Receiving Party uses the Confidential Information in accordance with this Agreement or not (including modifying or amending Confidential Information), all Confidential Information shall remain property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights of the Disclosing Party (or its agents), including intellectual property rights, over the Confidential Information whatsoever beyond those contained in this Agreement.

## 6. LIABILITY

- 6.1. Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:
- 6.1.1. death or personal injury caused by negligence;
- 6.1.2. fraud or fraudulent misrepresentation; and
- 6.1.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 6.2. Subject to clause 6.1, POSITIVE LENDING'S total liability to YOU shall not exceed the Commission paid to you in the 12 months prior to the matter giving rise to the claim occurring.

## 7. TERMINATION

- 7.1. POSITIVE LENDING shall be entitled to terminate this Agreement immediately upon the occurrence of any of the following events in respect of the other party:
- 7.1.1. a material breach of this Agreement which, if capable of remedy, is not remedied within a period of 30 days from the date of receipt of a notice from counter-party requiring its remedy;

- 7.1.2. a meeting is convened, or a petition is presented, or an order is made, or an effective resolution is passed, or notice is given for the winding-up or dissolution (other than for the sole purpose of amalgamation and reconstruction);
- 7.1.3. an application is made for, or any meeting of the directors or members resolves to make an application for administration order in relation to you or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed;
- 7.1.4. failure to maintain the licenses and consents it requires to meet the relevant requirements of any Regulator.

## 8. FORCE MAJEURE AND LIABILITY

- 8.1. Neither party will be liable to the other party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event subject to the affected party:
- 8.1.1. promptly notifying the other party in writing of the cause of the delay or non-performance and the likely duration of the delay or non performance; and
- 8.1.2. using its best endeavours to limit the effect of the delay or non-performance on the other party.

## 9. GOVERNING LAW

- 9.1. This Agreement and any matter arising from or in connection with it shall be governed by and construed in accordance with English law. Each party irrevocably agrees to submit to the exclusive jurisdiction of the English courts over any claim or matter arising from or in connection with this Agreement.