



## TERMS OF BUSINESS

### 1. Definitions

- a. In these Conditions:

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<b>“Advance FS Services”</b>	Means mortgage brokering services provided by [Advance FS Limited] company number [ 3679691 ] under separate agreements.
<b>“Agent Pack”</b>	Means the document entitled “Agent Pack” as published by Us from time to time.
<b>“Agreement”</b>	Means the agreement between Us and You for the provision of the Services comprising these Conditions and the documents referred to therein.
<b>“Application”</b>	Means a Instant Credit Search Application, a Company Tenancy Application, a Guarantor Application or a Tenancy Application as the case may be and “Applications” shall be construed accordingly.
<b>“Instant Credit Search Application”</b>	Means an application for a Instant Credit Search in such form as We may specify from time to time.
<b>“Instant Credit Search Check”</b>	Means a Instant Credit Search check in relation to a Tenant or Guarantor.
<b>“Business Day”</b>	Means a day other than a Saturday or Sunday or a public holiday when banks in London are open for business and “Business Days” shall be construed accordingly.
<b>“Client Materials”</b>	Means all data and materials which you make available to us in connection with this Agreement including but limited to data input onto our databases as part of the Services.
<b>“Commencement Date”</b>	Means the date on which the Services shall commence as set out in the Agreement.
<b>“Conditions”</b>	Means these conditions.
<b>“Data”</b>	Means all data, scores and other output and information provided by us as part of the Services.
<b>“Data Protection Act”</b>	Means the Data Protection Act 1998.

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<b>“Documentation”</b>	Means all user guides and other documentation provided by Us to You in respect of the Services.
<b>“Fees”</b>	Means the fees set out in the Agent Pack as varied by Us by prior notice from time to time.
<b>“Guarantor”</b>	Means the individual specified as such in the Application.
<b>“Landlord”</b>	Means the individual specified as such in the Application.
<b>“Other Services”</b>	Means Paragon Advance Services, Advance FS Services and Paragon Property Investment Services.
<b>“Paragon Advance Services”</b>	Means the services performed by Paragon Advance Limited, company number 3679691, under separate agreements including the following: Smart Deposit Solution, Tenants Contents Insurance, Landlords Household Insurance, Shop and Office Insurance, Property Owners Insurance, Professional Indemnity and Owner Occupied Insurance.
<b>“Paragon Investment Properties Services”</b>	Means the services performed by Paragon Investment Property Limited, company number 3679691 under separate agreements as advertised on the website from time to time.
<b>“Paragon ML Search Application”</b>	Means an application for a Paragon ML Search in such form as We may specify from time to time.
<b>“Paragon ML Search”</b>	Means a money laundering search in relation to a Tenant or Guarantor.
<b>“Personal Data”</b>	Shall have the meaning set out in the Data Protection Act.
<b>“Reference”</b>	Means a Tenant Reference or Guarantor Reference or Company Tenancy Reference and “References” shall be construed accordingly.
<b>“Referenced Party”</b>	Means the Tenant or Guarantor in respect of whom an Application is made.
<b>“Referencing Conclusion Report”</b>	Means a report which will allow you to assess the status of a Tenant and/or Guarantor (as the case may be).
<b>“Services”</b>	Means the tenant referencing and related services described in the Agent Pack as varied by Us by prior notice from time to time.
<b>“Tenant”</b>	Means the person specified as such in the Application.
<b>“Tenancy Application” or “Guarantor Application”</b>	Means an application for a Tenant Reference or Guarantor Reference in such form as we may specify from time to time
<b>“Tenant Reference” or “Guarantor Reference” or “Company Tenancy Reference”</b>	Means a search of the information contained in the databases and information sources to which we have access with a view to producing the Referencing Conclusion Report.
<b>“We” or “Us”</b>	Means Paragon Scheme Management Services Limited trading as “FCC Paragon” a company registered in England with registered number 03176719 whose registered office is at 4, 5 &

6 Quay Point Northharbour Road, Portsmouth, Hampshire, PO6 3TD and "Our" shall be construed accordingly.

<b>"Website"</b>	Means any website owned or operated by You or on your behalf.
<b>"Year of this Agreement"</b>	Means the period of 12 (twelve) months from the Commencement Date and each subsequent consecutive period of 12 (twelve) months or part thereof during the period of this Agreement.
<b>"You"</b>	Means the person described in the Schedule as "the client" and "Your" and "Yourself" shall be construed accordingly.
<b>"Writing"</b>	Includes facsimile transmission and electronic mail and comparable means of communication.

- b. The masculine shall include the feminine gender and the singular shall include the plural and vice versa and a reference to a statutory provision will be interpreted as a reference to the provision as amended or re-enacted from time to time including any regulation or statutory instrument issued pursuant to such provision at any time.
- c. The headings in this Agreement are for ease of reference only and shall not affect its interpretation.

## **2. Your relationship with Us:**

- a. We are a tenant referencing company licensed to perform credit reference checks in line with contracted tenancy referencing applications.
- b. You are the managing/letting agent. This agreement sets out the basis on which We will accept business from You. You act as the agent of Your customer. You have authority to receive Reference Conclusions Reports following Our checks but, unless We agree otherwise, You have no authority to make any representation (whether in Writing or otherwise) about Our business and You will not vary or amend Our Referencing Conclusion Reports unless We agree in Writing that You may do so.
- c. This Agreement will operate with effect from the Commencement Date and shall continue in force thereafter unless and until terminated in accordance with the terms of Condition 12.
- d. You shall be responsible for ensuring the completeness and accuracy of the information provided on any Application and We shall be under no obligation to accept any Application that has not been completed fully or which has not been submitted to Us by the appropriate method.

## **3. General Duties**

- a. You will tell Us immediately if there is a material change in Your management, ownership or control, Your name or trading name, or if You go into liquidation or bankruptcy and or criminal proceedings are issued against You.
- b. You will at all times:
  - i. promptly provide us with any information that We require to enable us to proceed without interruption with the performance of this Agreement; and
  - ii. promptly inform of us of any default by any Tenant or Guarantor of which you become aware.
- c. You shall ensure that You have the necessary facilities including but not limited to computer hardware, software and communications equipment to obtain access to the Services.

- d. You will indemnify us against all liabilities and costs incurred by us by reason of any error, omission, misstatement or misrepresentation by You, Your servants or agents or by reason of any breach by You of Your obligations contained in this Agreement.

#### **4. Provision of Services**

- a. Paragon shall use reasonable care and skill in the provision of the Services. We will endeavour to supply all documentation promptly and always within legislative and compliance boundaries. We may from time to time change the form and content of the Services and/or upgrade or modify any of the methods used to access the Services
- b. We will/shall use our reasonable endeavours to supply the Services within the time scales set out in our Welcome Pack but these are estimates only and time of delivery of the Services is not of the essence of this Agreement. We will endeavour to find alternative means by which to complete the request and update You accordingly.

#### **5. Use of the Services**

- a. In the event that you cancel an Application, and because Instant Credit Search and Paragon ML Searches are a chargeable event and instantly processed, the following cancellation charges will be applied:
  - i. References only: £11.00 per Application;
  - ii. Instant Credit Search: £8 and Paragon ML Search only: £5.00 per Application; and
  - iii. References and Instant Credit Search: full Fees for each Application; and
  - iv. References and Paragon ML Search: full Fees for each Application.
- b. Once a Reference is concluded, if You provide more information and request that the Reference be reopened, there will be a £10.00 administration charge.
- c. You hereby acknowledge and agree that our Reference Conclusion Reports rely on the accuracy, completeness and truthfulness of the information provided to Us by You and by any Tenant or Guarantor who completes an Application and that our Reference Conclusion Reports are not intended to confirm the accuracy of any information provided by any Tenant or Guarantor to You or to Us in connection with any Application. You are responsible for checking the validity of any work permits, visas and worker registrations for any Tenant or Guarantor who is a foreign national and retaining a copy of the original for Proof of ID (which you are required to take two forms of), one of which must be photographic, such as a passport or driving licence and a copy of an original Proof of Residency document in the form of a utility bill or bank statement.
- d. A Referencing Conclusion Report shall be valid for 30 days from the completion of the Referencing Conclusion Report.
- e. You may only refer to Us on Your Website, advertise on Our behalf or Use Our name, brand or trade names, trademarks or logos with Our prior approval in Writing and otherwise in accordance with these Conditions.
- f. You will not do anything or omit to do anything which will or might be detrimental to Our reputation.
- g. The Agent shall not and shall ensure that the Landlord shall not sell, transfer, distribute or otherwise make the Services available to, or use the Services on behalf of any third party.
- h. Where You have multiple branches, each branch must enter into a separate Agreement, unless a collective Agreement covering all authorised branches has been put in place.
- i. All Your personnel designated to use the Services must be fully appraised of the compliance and data protection implications

## **6. Ownership**

- a. Title, copyright and all other intellectual property rights in the Services shall at all times remain vested in us or our third party licensors and You shall acquire no rights whatsoever therein save as expressly set out in this Agreement.
- b. Title, copyright and all other intellectual property rights in the Client Materials shall at all times remain vested in You and We shall acquire no rights whatsoever therein save as expressly set out in this Agreement.
- c. You grant to us a non-transferable, non-exclusive licence to use and copy the Client Materials to enable us to carry out our obligations under this Agreement.

## **7. Referencing Fees and Methods of Payment**

- a. You will set up a valid direct debit and agree to pay the Fees within Our specified payment period of 30 days. You shall not cancel a direct debit without our prior consent in Writing.
- b. All invoices will be available on-line with a notification via email to You to inform You to download for Your records.
- c. We reserve the right, without prejudice to Our rights and remedies under this Agreement:
  - i. to suspend performance of all or any of the Services by giving notice in Writing to you if you fail to pay any of the Fees when due; and/or
  - ii. to charge You interest in respect of the late payment of any of the Fees due under this Agreement on a day to day basis both before and after judgment, at the rate of 2 (two) per cent above Barclays Bank plc base rate from time to time from the due date for payment to actual payment. In addition You shall reimburse all reasonable costs incurred by Us in obtaining payment from You of any overdue Fees.
- d. We reserve the right to increase the Fees and will give You 30 days notice in Writing.
- e. In the event of a dispute between You and a Referenced Party, You are responsible for liaising with the Referenced Party. To the extent that We may agree in our absolute discretion that it is appropriate for Us to refund all or part of the Fees in respect of the Services relating to that Referenced Party, such refund will be paid directly to You and shall relate only to the Fees paid to Us by You.
- f. Value added tax is to be paid by You at the prevailing rate on all sums due under this Agreement.
- g. If a direct debit defaults or is cancelled or if a cheque is returned to drawer unpaid we will charge an administration fee of £10.00 + VAT.

## **8. Confidential Information Compliance with the Laws**

- a. You and We shall at all times in respect of the subject matter of this agreement comply with all applicable laws, regulations and rules having equivalent effect including with limitation the Regulations (as hereinafter defined).
- b. You acknowledge that the supply of the Services by Us and use thereof is governed by various statutes regulatory requirements, codes of practice and guidelines relating to the use, provision and sharing of personal data, including without limitation, the Data Protection Act, the Principles of Reciprocity (being the rules as amended from time to time) established by the Steering Committee on Reciprocity which govern the use of shared data in the credit industry and the Representation of the People (England and Wales) (Amendment) Regulations 2002 (collectively '**the Regulations**') and that the Regulations may change from time to time. You agree that We may cease providing the whole or part of the Services (without liability) if necessary in order to

enable Us to comply with the Regulations. You are responsible for ensuring that You retain sufficient records and audits in respect of data utilised and searches made in respect of the Services as may be required by any regulator from time to time. We are not responsible for retaining such information.

- c. You and We agree to treat information exchanged between Us in connection with the performance of this Agreement as confidential.
- d. You and We agree not to disclose such information to any person not entitled to receive it, except as may be necessary to fulfill obligations under this Agreement or as may be required by law or regulatory authority.
- e. Conditions 8 (d) and 8 (e) survive the expiry or termination of this Agreement.
- f. Conditions 8 (d) and 8 (e) do not apply to information which:
  - i. Was rightfully in the possession of You or Us prior to this Agreement
  - ii. Is already public knowledge or becomes so at a future date (or otherwise than as a result of a breach of this clause)
  - iii. Is trivial or obvious.
- g. You undertake to comply with all statutory, legal and regulatory requirements from the time being in force in relation to Your performance of this Agreement and for the proper and/or lawful operation of this agreement so far as they apply to it including (without limitation):
  - i. All applicable obligations imposed by, or made under the Financial Services & Markets Act 2000
  - ii. The requirements of the Data Protection Act and all statutory instruments and regulations and order made there under, and any applicable code (s) of practice
  - iii. You /We will co-operate fully with Us/You for the purpose of compliance with such statutory, legal and regulatory requirements and will supply to Us/You such information as We/You may reasonably request or require ensuring compliance.
  - iv. Without prejudice to the generality of compliance; if and to the extent that You act as a data processor under the Data Protection Act for the purposes of Personal Data processed by You pursuant to this Agreement, You agree to comply with the obligations imposed on Us by the seventh data principle set out in the Data Protection Act (the seventh principle) namely:
    - 1. To maintain technical and organizational security measures sufficient to comply at least with the obligations imposed on Us by the seventh principle
    - 2. Only to process Personal Data for the purpose of performing and in accordance with this Agreement (and where necessary only on instructions from Us to ensure compliance with the Data Protection Act)
    - 3. To provide Us if necessary, or requested, with evidence of Your compliance with such requirements.
  - v. You further agree to Use all reasonable endeavours to assist Us in complying with the obligations imposed on Us by the Data Protection Act, including but not limited to ensuring that You obtain any or all necessary consents so that the Personal Data You collect can be lawfully Used or disclosed by Us in the manner and for purposes anticipated by this Agreement or for such other purposes as We may notify to You from time to time. You agree to comply with such reasonable directions as We may give You from time to time in respect of the manner of collection of the consents.

## **9. Rights of Third Parties**

You and We are the only parties to this Agreement. Nothing in this Agreement is intended to give any person any right to enforce any term of this Agreement.

**10. Warranty and limitation of liability**

- a. You acknowledge that
  - i. the Data is supplied to Us and to our suppliers by third parties over whom neither We nor our suppliers have control; and
  - ii. where Data or information is transferred over the internet it may be subject to interference by third parties.

Accordingly and subject always to our obligations set out in Condition 10 (b) We can make no guarantee as to the accuracy of the Data or the suitability of the Data for any specific purposes. You must satisfy Yourself that the Services are suitable for Your own purposes.

- b. We shall perform the Services in accordance with this Agreement and with reasonable skill and care and warrant to you that if we fail to perform any part of the Services in breach of our obligations hereunder we will:
  - i. at our option either re-execute the relevant part of the Services free of charge up to the amount of the Fees received by us for the provision of such Services (exclusive of any VAT) or repay or re-credit to you that part of the Fees paid by you relating to the relevant part of the Services (exclusive of any VAT); and
  - ii. compensate you for any loss flowing from our failure to perform any part of the Services with reasonable skill and care subject to the provisions of each of the sub-clauses of Condition 10 (c).
- c. Our obligations set out in Condition 10(b) are subject to the following limitations:-
  - i. We shall not be liable to you for economic loss including but not limited to, loss of profits, revenues or goodwill (including any such loss or damage incurred by you as a result of third party claims) or any other indirect or consequential loss (including any such loss or damage incurred by you as a result of third party claims) even if the loss was reasonably foreseeable or we had been advised of the possibility of your incurring it or otherwise; and
  - ii. We shall not be liable to you for any claims or losses arising from actions taken by us upon the instruction from you or any of your employees, agents or sub-contractors which were outside the scope of the Services; and
  - iii. We shall not be liable for any loss damage or expense unless advised thereof in Writing within 20 (twenty) Business Days and the claim is made in Writing within 30 (thirty) Business days, after the provision of the relevant part of the Services. provided that if you prove that it was not reasonably possible for you to advise us or make a claim in Writing within the time limit applicable and such advice or claim was given or made within a reasonable time, we shall not have the benefit of the exclusion of liability afforded by this Condition; and
  - iv. We shall in any event be discharged from all liability for any loss damage or expense whatsoever and howsoever arising in respect of our performance of any part of the Services unless proceedings are issued and served upon us within 1 (one) year of the date when that part of the Services complained of was performed; and

- v. Our total liability to you, whether directly to you or by reason of indemnity or contribution in respect of your liability to any third party, for any and all acts or omissions of our employees, agents or subcontractors occurring in any Year of this Agreement shall be limited to the Charges payable for the Services during that Year of this Agreement.
- d. The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise and which but for this sub-clause would be binding upon us, all of which are excluded to the fullest extent permitted by law.
- e. It is understood, agreed, and acknowledged that our obligations under this Agreement are limited to the provision of the Services, that you are in a better position than us to foresee and evaluate any potential damage or loss that you may suffer in connection with the Services or any other service provided by us under this Agreement and is able to effect its own insurance, that the Charges have been calculated on the basis that we will exclude or limit our liability as set out in this Condition 10 and that these exclusions and limitations are reasonable.
- f. Each of the sub-clauses and the sub-sub-clauses of this Condition 10 comprise a separate limitation of our liability to you.
- g. **NOTHING IN THIS AGREEMENT SHALL IN ANY WAY LIMIT OR EXCLUDE OUR LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE OR BREACH OF OUR OBLIGATIONS CONTAINED IN THIS AGREEMENT, OR AFFECT THE STATUTORY RIGHTS OF A CLIENT WHO IS A CONSUMER AS DEFINED BY THE UNFAIR CONTRACT TERMS ACT 1977.**

#### 11. Force majeure

We shall have no liability to You, nor shall we be deemed to be in breach of this Agreement if We are prevented, hindered or delayed from or in performing any of Our obligations under this Agreement by an event beyond Our reasonable control including, without limitation, flood, storm, severe weather conditions or other natural events; war, terrorist action, hostilities, revolution, riot or civil disorder, any destruction, breakdown (permanent or temporary) or malfunction of, or damage to any premises, plant, equipment, materials (including any computer hardware or software or any records) unless by an act or omission of our employees, agents or sub-contractors; the introduction of, or any amendment to, a law or regulation, or any change in your interpretation or application by any authority; any strike, lockout or other industrial action; or any breach of contract or default by, or insolvency of, a third party (including an agent or sub-contractor) other than Us.

#### 12. Suspension and Termination

- a. We may suspend the Services in response to or in compliance with any law, statute, legislation, order, regulation or guidance issued by the government, a court of law, an emergency service or any other competent regulatory authority or if the security processes set up to protect the Services are breached in any way.
- b. We or You may terminate this Agreement by giving the other party 7 days notice in Writing.
- c. Either You or We may terminate this Agreement immediately on notice if:
  - i. the other commits any material breach of this Agreement and such breach (where capable of remedy) is not remedied to the non defaulting party's reasonable satisfaction within 14 days of notice specifying the breach and requiring its remedy; or

- ii. in respect of the other a resolution is passed or an order is made for winding up (save for the purpose of a bona fide reconstruction or amalgamation); or
  - iii. in respect of the other an administration order is made, or a receiver or administrative receiver is appointed over any of its property assets; or
  - iv. the other is dissolved or is insolvent or would be taken to be insolvent under Section 123 of the Insolvency Act 1986.
- d. On termination of this Agreement for whatever reason, You shall:
- i. return to Us all assets which We have provided for the purposes of this Agreement including without limitation the Documentation and any other materials provided by Us relating to the Services (and all copies thereof)
  - ii. return to Us within 30 days (or otherwise dispose of as We request) all of Our marketing materials, and any other documentation relating to Our products and services.
- e. Termination of this Agreement will not affect any accrued rights or liabilities.
- f. Termination is without prejudice to any antecedent breach or to any continuing obligation.

### **13. Variation**

Any amendment, modification, variation or supplement to this Agreement must be made in writing and signed by an authorised signatory of each party.

### **14. Assignment**

You shall not assign or transfer or purport to assign or transfer this Agreement or any of Your rights and obligations under it, whether in whole or in part, without obtaining our prior consent in Writing.

### **15. Severance**

If any provision of this Agreement is found to be illegal or unenforceable by any court of competent jurisdiction than that provision shall be deemed to be deleted, but without affecting the remaining provisions.

### **16. Agency**

Nothing in this Agreement constitutes a partnership between the parties and neither party is deemed to be the agent of the other for any purpose whatsoever. Neither party has the power or authority to bind the other or to contract in the name of the other party.

### **17. Entire Agreement**

This Agreement sets out the entire agreement between the parties and supersedes all oral or written agreements, representations, understandings or arrangements, relating to the subject matter. Neither party seeks to exclude liability for any fraudulent pre-contractual misrepresentation upon which the other party can be shown to have relied.

### **18. Waiver**

Failure by either party to exercise or enforce any rights available to that party or the giving of any forbearance, delay or indulgence is not to be construed as a waiver of that party's rights under this Agreement.

### **19. Notices**

All notices which are required to be given under this Agreement shall be in Writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this clause. Notice may be delivered personally or by first

class pre-paid letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission or email upon completion of its transmission.

**20. Governing Law**

This Agreement shall be construed in accordance with English Law. We and You agree to submit to the non-exclusive jurisdiction of the English Courts.

**21. Commission**

Commission is paid to You by Paragon Advance Limited monthly. Commission earned from Insurance sales and renewals will only be paid to you if you have completed other services with us in the previous 6 months. We reserve the right to withhold commission in the event that You are in arrears with payment of the Fees. Once we have received payment for Services completed by FCC Paragon/Paragon Advance Limited we will transfer commission to You. If a claw back is applicable, We reserve the right to invoice you separately.

**22. Marketing**

We will produce other products and services and will inform you of the same through email, newsletter, websites etc.

**For the avoidance of doubt, a Instant Credit Search and or Money Laundering Search does not constitute a full Tenant Referencing Check and we strongly recommend that you always carry out a full tenant referencing check prior to allowing a tenant to move into a property.**

We reserve the right to market to all referenced parties, other products and services unless otherwise requested not to.

**23. Other Services**

For the avoidance of doubt, these terms do not apply to the Other Services, whose performance will be governed by separate agreements.

Authorised and Signed on behalf of Us, FCC Paragon

Name and Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Authorised and Signed on behalf of You the Agent

Name and Position \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Position \_\_\_\_\_ Date \_\_\_\_\_