

## PROPLEND MEMBERS' AGREEMENT

Last updated 28th July 2016

### Summary of changes to the last version:

Clause 4.2(g) of the Loan Conditions have been amended to include any third party who has granted such Security Document in favour of Proplend Security Limited

### These changes will take effect under Clause 16.3 on 28th July 2016

## 1. Introduction

- 1.1 These terms and conditions (“Members’ Agreement”) govern the use by you (“you”, “your”, “Member”) of the service, details of which are set out in this Members’ Agreement (the “Service”). By accepting these Principles you acknowledge that you have also read and understood our conflicts policy (available at [www.proplend.com/conflicts-policy](http://www.proplend.com/conflicts-policy)) and risk statement (available at [www.proplend.com/risk-disclosure](http://www.proplend.com/risk-disclosure)). The Service is a peer-to-peer lending service operated by Proplend Ltd, a company incorporated and registered in England and Wales with company number 8315922 and whose registered office is at 20-22 Wenlock Road, London N1 7GU (“Proplend”, “we”, “us” and “our”), partly via a website maintained by us and accessible via [www.proplend.com](http://www.proplend.com) (the “Service Website”). The Service enables a Member acting as a lender (“Lender”) to finance or refinance the purchase or development of commercial property by a Member acting as a borrower (“Borrower”) through simple loans directly between each Lender and Borrower (each, a “Loan”) subject to the Loan Conditions in Annex A (each, a “Loan Contract”). In addition, each Borrower (and, as appropriate, its respective shareholder(s)) and/or others separately enters into certain security arrangements with Proplend Security Limited, a company incorporated and registered in England and Wales with company number 8620117 and whose registered office is at 120-22 Wenlock Road, London N1 7GU (“PSL”) in accordance with Clause 3.12(c) to secure and/or guarantee its repayment of the Loans (each a “Security Document”), and PSL holds the benefit of such Security Documents in trust for each Lender in accordance with the provisions of Clause 4.17. This Members’ Agreement, which includes the privacy policy in Annex B (“Privacy Policy”), governs the operation of the Service and its use by you if your application

to use the Service is approved by us. Our corporate and regulatory details are set out in Clause 11.

- 1.2 This Members' Agreement will come into effect once you have signed it and we have notified you that your application to use the Service has been approved, and shall continue unless and until it is terminated in accordance with the provisions of Clause 13.

## **2. Eligibility**

- 2.1 Any person may apply to use the Service for information purposes only, subject to the provisions of this Members' Agreement. Subject to the provisions relating to eligibility in this Clause 2, "person" shall include an individual or other legal entity as the context requires.

- 2.2 To be eligible to apply to use the Service as a Lender, if you are not a resident of the United Kingdom of Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man ("**UK**") you are solely responsible for ensuring that your use of the Service does not breach any laws, regulations or rules in your country of residence (including those related to tax payable on any gross interest received), and you must:

- (a) be at least 18 years old with a payment account at a duly authorised financial institution acceptable to us;
- (b) not be borrowing money via the Service; and
- (c) have a total of at least £1,000 in the Proplend Customer Funds Account (as defined in Clause 4.1) or outstanding Loans via the Service at any one time.

- 2.3 To be eligible to apply to use the Service as a Borrower, you must:

- (a) not be an individual, a partnership consisting of two or three persons (unless all the parties are bodies corporate) or an unincorporated body of persons which does not consist entirely of bodies corporate; and
- (b) you must:
  - (i) be incorporated or established in the UK; and
  - (ii) hold a UK bank account.

- 2.4 If you apply to be a Borrower, we will carry out credit and fraud checks on you, your director(s), officer(s) and/or members and your business.

- 2.5 You must provide us with all information requested during the application process and comply with all our identification and anti-money laundering requirements to enable us to comply with all laws, regulations, rules and regulatory guidance

applicable to the Service including the Financial Services and Markets Act 2000 (“**FSMA**”) and the Handbook of the Financial Conduct Authority (company No. 01920623) of 25 The North Colonnade, Canary Wharf, London E14 5HS (“**FCA**”) available at <http://fshandbook.info/FS/html/FCA/> (“**FCA Rules**”) and any related amendment, re-enactment, subordinate legislation and regulations (“**Applicable Law**”).

- 2.6 We reserve the right, in our sole discretion, to refuse to register you to use the Service for any reason.
- 2.7 Upon completion of the registration process, including satisfaction of any required verification checks and acceptance by us, we will open a data account in your name in our systems (“**Proplend Account**”, also referred to on the Service as a “Dashboard”). Your Proplend Account is used to record transactions and other information, including a list of your respective Lenders or respective Borrowers (as the case may be), amounts paid by you or owed to you, but does not hold any funds. If we approve your application for a Proplend Account, you may be asked to choose a username and password (“**Passcodes**”).
- 2.8 Each time you seek to access your Proplend Account, we will check your identity by asking for your Passcodes. As long as your correct Passcodes are entered, we will assume that you are the person giving instructions and you will be liable for them, except to the extent provided for in Clause 2.9. You must therefore keep the Passcodes secret and make sure that they are not stored in a way that enables others who are acting without your authority to access them or impersonate you. If you disclose the Passcodes to any person whom you authorise to access and operate your Proplend Account on your behalf, you are also responsible and liable for any access, use, misuse or disclosure of your Passcodes or your Proplend Account by such person.
- 2.9 Unless and until you tell us that you believe that someone else, who is acting without your authority, knows the Passcodes or can use the Service by impersonating you:
- (a) you will be responsible for any instruction which we receive and act on, even if it was not given by you; and
  - (b) we will not be responsible for any unauthorised access to confidential information about you in your Proplend Account.

We can refuse to act on any instruction that we believe: (i) was unclear; or (ii) was not given by you or someone acting on your behalf with your authority; or (iii) might cause us to breach a legal or other duty; or (iv) if we believe the Service is being used for an illegal purpose.

- 2.10 While we provide the Service to enable you to seek Lenders if you are a Borrower, or to seek Borrowers if you are a Lender in accordance with the terms of this

Members' Agreement, we do not undertake to find (as the case may be) Lenders or Borrowers for you.

### 3. Posting a Loan Request

- 3.1 Where we approve your application to be a Borrower, you will be able to initiate a request to borrow money via the Service according to the form and processes specified in your Proplend Account and in accordance with the terms of this Members' Agreement ("**Loan Request**"). You may make a Loan Request for Loans, with a duration ("**Loan Term**") of up to 18 months' (in the case of short term 'bridging' Loans), or 12 months' to 5 years' (in the case of senior debt Loans), for a total loan amount of £250,000 to £5,000,000 ("**Total Loan Amount**") in the Tranches, and subject to the Priority, specified in Clause 4. Loans are interest only, such that only interest is repayable during the term of the Loan Contract and the principal must be repaid at the end of the Loan Term. Each Loan Contract will be for an amount of £1,000 unless it will take less than £2,000 to complete a Tranche, in which case you will have a Loan Contract for the balance with the final Lender whose Offer completes that Tranche.
- 3.2 You are responsible for ensuring that all information provided with respect to a Loan Request is complete, accurate, clear, fair and not misleading.
- 3.3 Each Borrower warrants and represents that none of the property provided as security to PSL in relation to any Loans ("**Property**") will be land that is used, or is intended to be used, as or in connection with a dwelling by:
- (a) the Borrower or by an individual who is a beneficiary of any trust in respect of which the Borrower is a trustee; or
  - (b) by a person related to the Borrower or any such beneficiary in any of the following respects:
    - (i) that person's spouse or civil partner; or
    - (ii) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or
    - (iii) that person's parent, brother, sister, child, grandparent or grandchild.
- 3.4 We reserve the right, in our sole and absolute discretion, to reject a Loan Request for any reason at any time whatsoever.
- 3.5 You may withdraw a Loan Request from the Service at any time before it is successfully funded. Once a Loan Request is successfully funded, the provisions of Clause 3.12(c) apply.

- 3.6 You must comply with all Applicable Law relating to your Loan Request and your activities on the Service Website or relating to the Service.
- 3.7 By initiating a Loan Request to your Proplend Account, as a Borrower you agree:
- (a) to supply all information reasonably required by a reasonably prudent lender acting reasonably to determine whether or not to accept your Loan Request ("**Due Diligence Material**");
  - (b) to pay for a valuation of the Property initiated by PSL (a "**Valuation**") directly to the Valuer (as defined in Clause 3.8(a)), as directed by PSL (and to pay for any subsequent Valuation that PSL may request in the interests of your Lenders, having regard to the passing of time, a material change in the Property or the market related to the Property, or any other change in circumstances related to the Loan Contracts or any Security Document);
  - (c) that Keystone Law will act on behalf of PSL in relation to the Security Documents and a review of the Certificate of Title for the Property ("**Certificate of Title**");
  - (d) to pay the legal fees of PSL in connection with the entry into the Security Documents and the review of the Certificate of Title;
  - (e) to pay all of your own legal fees as a Borrower;
  - (f) to provide a fully completed and properly addressed Certificate of Title from your own solicitor at your own cost and instruct your solicitor to make such amendments to the Certificate of Title as are required to satisfy Keystone Law that the Certificate of Title is complete, accurate and can be relied upon for the purpose of the Loan;
  - (g) to pay to Proplend the Arrangement Fee, details of which are provided in Clause 8; and
  - (h) to pay the cost of any insurance obtained by PSL under Clause 3.8.
- 3.8 PSL will carry out the following checks by way of due diligence on each Loan Request ("**Due Diligence**") and gather the resulting information in a specific area of the Service Website for each Lender to review in the course of deciding whether or not to make an Offer:
- (a) A Valuation of the Property by a professionally qualified valuer who is a member of the Royal Institution of Chartered Surveyors, chosen by PSL ("**Valuer**");
  - (b) information about the security property, including any leases, tenant(s) and covenants given by any tenant(s) (including the Certificate of Title and Keystone Law's report on the Certificate of Title, unless PSL obtains appropriate insurance in relation to the title risk from a reputable insurer, the details of which insurance will be made available to Lenders and the

benefit of which will be held on trust by PSL for the Lenders, the perpetuity period of such trust being 125 years);

- (c) information about you as the Borrower and your property experience, including credit reference information about you and each of your directors, officers and/or members;
- (d) information about any personal or corporate guarantors, including identity and credit reference checks;
- (e) Security Documents to be entered into; and
- (f) any other documentation that PSL reasonably deems necessary.

3.9 If the Due Diligence identifies any outstanding issues with your proposed Loan Request, we will contact you and you will have the opportunity to re-price or alter your proposed Loan Request or take any other action necessary to resolve the outstanding issue within 5 days.

3.10 Once the Due Diligence is completed to PSL's satisfaction:

- (a) PSL will notify you and us; and
- (b) PSL will send you the final Security Documents. You must read and agree these documents and take independent legal advice in relation to them.

3.11 Once we have received notice from PSL that it has satisfactorily completed its Due Diligence in relation to your proposed Loan Request, we will notify you via email that you may publish your Loan Request on the Service Website.

3.12 By publishing your Loan Request on the Service Website, you agree:

- (a) Subject to Clause 3.12(c) and the satisfaction of the conditions precedent (if any) stated in the Loan Request ("**Conditions Precedent**"), that the acceptance by you of each Lender's Offer (as defined in Clause 4.1) will create a direct Loan Contract between you and each Lender, governed by the Loan Conditions which you have read, understand and agree;
- (b) you have read, understand and agree to, and shall enter into or, as the case may be, procure the entering into of the Security Documents sent to you by PSL; and
- (c) if your Loan Request is successfully funded within 30 days (or such other period up to a maximum of 90 days that you may stipulate in your Loan Request) you must either:
  - (i) accept each of the relevant Lenders' Offers by signing and returning the Loan Contracts to us and sign and return the Security Documents to PSL; or
  - (ii) decline to accept the Lenders' Offers and pay to us a break fee of 2% ("**Break Fee**").

- 3.13 You acknowledge and agree that:
- (a) neither PSL nor we will verify or audit statements made by you in relation to any of your Loan Requests, for which you are solely responsible;
  - (b) neither PSL nor we will supply you with any financial, legal, environmental, accounting or tax advice; and
  - (c) neither PSL nor we warrant that use of any of the documents supplied as part of the Service including, without limitation to the generality of the foregoing, any Loan Contract, the Loan Conditions and the Security Documents are suitable or appropriate for your needs and you must take your own independent legal and other advice on the terms of such documents.
- 3.14 By submitting any material to us, or posting any such material on the Service Website, you warrant and represent to us that:
- (i) any statements made by you as a Borrower have the approval of your board of directors or members, as the case may be, and that you have taken all appropriate legal and accounting advice;
  - (ii) any statements you make are complete, clear, fair and not misleading; and
  - (iii) any projections or forward-looking statements which you make are reasonable and can be supported by evidence.
- 3.15 We shall have no duty to disclose to you any information which we receive in the course of providing the Service or other services to other persons including, without limitation to the generality of the foregoing, to any Borrower or Lender or potential Borrower or potential Lender.

#### **4. Making an Offer – General**

- 4.1 Before making an offer to lend money via the Service in response to a Borrower's Loan Request or a Lender's request to assign an existing Loan Contract under Clause 5.8 ("**Offer**"), you must first transfer at least £1,000 (or such higher amount that you wish to Offer) to our segregated bank account held at a duly authorised UK credit institution for the purpose of holding and disbursing funds paid by you other than in relation to fees and charges due and payable to us and/or PSL under this Members Agreement ("**Proplend Customer Funds Account**") using a specified payment method registered in your name. Your funds will be held by us on trust for you in accordance with Clause 7. You may then make an Offer in respect of your cleared funds in relation to one or more Loan Requests. You must also register with us the details of a bank account or building society account based in the UK and opened in your name ("**Nominated Bank Account**"). You will be notified in advance of any transaction charges or other costs that we propose to charge in respect of a transfer of funds from or to your Nominated Bank Account or

otherwise. Any such charges or costs shall be debited by us from your Proplend Account, and the corresponding amount will be deducted from funds held by us for you in the Proplend Customer Funds Account.

4.2 Provided you are logged into your Proplend Account and you have sufficient funds showing as available in your Proplend Account you may make an Offer by following the instructions in your Proplend Account.

4.3 By making each Offer:

- (a) you are offering to enter into, or receive the assignment of, a Loan Contract with the relevant Borrower for an amount of £1,000 (or a number of Loan Contracts of £1,000 each, depending on the total amount you are offering), unless it will take less than £2,000 to complete a Tranche, in which case you will have a Loan Contract for the amount that completes that Tranche;
- (b) you acknowledge that you have read and understood the Loan Request and the Due Diligence Material in relation to which you are making the Offer, including any related risk disclosure ("**Risk Disclosure**"), the Loan Contract including the Loan Conditions and the Security Documents; and
- (c) you acknowledge and agree that our decision to allow the relevant Borrower to publish the Loan Request does not constitute any approval or endorsement of the Loan Request or any representation by us or PSL that the Due Diligence Material accurately reflects the risks associated with the Loan Request; and further that you accept and agree that neither we nor PSL warrant that use of any of the documents supplied as part of the Service including, without limitation to the generality of the foregoing, any Loan Contract, the Loan Conditions and the Security Documents are suitable or appropriate for your needs and you must take your own independent legal and other advice on the terms of such documents.

4.4 When you make an Offer, the amount specified in that Offer (the "**Offer Amount**") will immediately be shown as reserved in your Proplend Account. Any money so reserved will not be available to be allocated to other Offers or to be withdrawn from the Proplend Customer Funds Account for a period ending on the earlier of:

- (a) the target funding level specified in the Loan Request being achieved and subsequent completion of the Loan under Clause 3.12(c)(i); or
- (b) the Loan Request failing to attract the target funding level within 30 days after the date on which the Loan Request is posted on the Service Website as stated on the relevant Loan Request; or
- (c) the date upon which the Loan Request is withdrawn or otherwise terminates in accordance with the terms of this Members' Agreement.

4.5 All Loan Requests are reviewed by us and may be segmented into three tranches described below ("**Tranches**") according to the proportion (expressed as a

percentage) which the principal loan amount in the Loan Request bears to the market value of the relevant Property, such market value being determined by the most recent Valuation in respect of that Property (“LTV”) and the estimated risk of default in relation to each Tranche as follows:

- (a) “Tranche A”, in which the total amount of all the Loans equates to 50% of the LTV;
- (b) “Tranche B”, in which the total amount of all the Loans equates to 51-65% LTV; and
- (c) “Tranche C”, in which the total amount of all the Loans equates to 66-75% LTV.

It shall be an Event of Default under Clause 4.2 of the Loan Conditions if the total amount borrowed by the relevant Borrower in all the Tranches (“**Total Loan Amount**”) equates to more than the LTV limit specified in the applicable Loan Summary (“**LTV Limit**”), as determined by the most recent Valuation, at any time during the Loan Term.

4.6 Each Tranche and the Borrower’s requested interest rate for that Tranche is risk assessed by us based on data from one or more credit reference agencies of our choosing. You, as a Lender:

- (a) choose the amount of money that you want to Offer and the Tranche(s) to which you wish to allocate your Offer (including the rate of interest); and
- (b) you may make an Offer between the minimum and maximum proportion of the total amount requested in each Tranche, as indicated in the Loan Request.

4.7 Each Lender and Borrower agrees to the following priority in relation to their respective Loan Contracts (“**Priority**”):

- (a) Loan Contracts in relation to Tranche A rank, and shall rank to the extent of monies owed to the Lenders under those Loan Contracts, in priority to Loan Contracts in relation to Tranche B and Tranche C (and monies owed to the Lenders under the Loan Contracts in relation to each of Tranche B and Tranche C);
- (b) Loan Contracts in relation to Tranche B:
  - (i) are and shall be postponed to, and rank after the Loan Contracts in relation to Tranche A; and
  - (ii) rank and shall rank to the extent of monies owed to the Lenders under the Tranche B Loan Contracts, in priority to Loan Contracts in relation to Tranche C and (and monies owed to the Lenders under the Loan Contracts in relation to Tranche C); and

- (c) Loan Contracts in relation to Tranche C are and shall be postponed to, and rank after the Loan Contracts in relation to Tranche A and the Loan Contracts in relation to Tranche B.

4.8 The Priority shall stand (regardless of the order of execution, registration or giving of notice or otherwise) so that all proceeds of enforcement or realisation of all or any of the Loan Contracts and security constituted by any of the Security Documents shall, after providing for all reasonable outgoings, costs, charges, expenses and liabilities of enforcement, exercising rights on winding-up and payments ranking in priority as a matter of law, be applied in the following order of priority:

- (a) first, in or towards the discharge of the Loan Contracts in relation to Tranche A;
- (b) second, once the Loan Contracts in relation to Tranche A have been fully discharged, in or towards discharge of the Loan Contracts in relation to Tranche B; and
- (c) third, once the Loan Contracts in relation to Tranche A and Tranche B have been fully discharged, in or towards discharge of the Loan Contracts in relation to Tranche C.

If a Borrower sells all or part of a Property or, where the Borrower has given security over two or more Properties the Borrower sells one or more Properties, then the gross proceeds of that sale (minus fees payable by the Borrower directly related to the sale) shall be immediately used to repay the Loan Contracts according to the Priority. When such proceeds are allocated to each relevant Tranche, the available amount shall be apportioned according to the proportion that the Loan Amount (as defined in each relevant Loan Contract) represents to the Total Loan Amount borrowed by that Borrower in the Tranche to which the Loan Contract(s) relate(s).

4.9 Valid Offers will be accepted in the order in which they are entered on the Service Website (subject to our right to reject any Offer under Clause 4.16). Each Tranche must be fully funded before the Loan Request can be considered fully funded.

4.10 Expected bad debt estimates are estimates for general guidance only and neither we nor PSL warrant their accuracy or reliability.

4.11 The acceptance of your Offer via the Service Website creates a Loan Contract, which is a separate, direct contractual relationship between you as a Lender and the relevant Borrower or, as the case may be, you as the Borrower and the relevant Lender(s). Neither we nor PSL are a party to any Loan Contract. Loans are interest only, such that only interest is repayable during the Loan Term and the principal must be repaid at the end of the term.

- 4.12 If the Loan Request target funding level is not met or the Loan Request is withdrawn in accordance with the terms of this Members' Agreement, the Offer Amount will no longer be reserved in your Proplend Account and you as a Lender will be free to allocate that amount to another Offer.
- 4.13 There will not be a statutory right to cancel any Offers made under this Members' Agreement.
- 4.14 We shall not advise you or make any personal recommendation as to any Loan Request. You are solely responsible for making your own independent appraisal and investigation of the risks of the investment. If you require specialist advice, you should consult your own appropriately qualified advisers.
- 4.15 We shall not be responsible for the suitability of any Loan Request for you or any purpose for which you subscribe for it. You should consider carefully the terms of the Risk Disclosure before making an Offer.
- 4.16 We reserve the right to reject an Offer for any reason, or no reason, at any time.
- 4.17 The performance of each Borrower's obligations to you under the Loan Contract will be secured by the Security Documents entered into between the Borrower and PSL or between the shareholder(s) of the Borrower and PSL or the relevant guarantor(s) in favour of PSL as appropriate in accordance with the provisions of Clause 3.12(c)(i). PSL will hold the security and the guarantees created by the Security Documents in trust for the relevant Lenders to that Borrower. The perpetuity period of that trust shall be 125 years.

## 5. After the Loan Contract is formed

- 5.1 Subject always to the provisions of Clause 3.4 (our right to reject a Loan Request), upon a Loan Request achieving its target funding level and subject to the relevant Borrower and any other relevant party entering into the Security Documents with PSL:
- (a) we will debit the Offer Amount from each Lender's Proplend Account and credit the Proplend Account of the relevant Borrower for the same amount, less:
- (i) an amount of any fees owed by the Borrower under Clause 8 of this Members' Agreement or the Loan Contract (together, "**Fees**"); and
- (ii) the equivalent of either six (6) monthly, or two (2) quarterly, repayment instalments due under all its Loan Contracts, as the case may be (each, a "**Repayment**"), to be held by us in the Proplend Customer Funds Account pending any claims under Clause 5.5 (the "**Interest Reserve**"), provided that in the case of 'bridging' Loans,

the full amount of interest due under the Loan Contracts may be retained in the Interest Reserve;

- (b) we will pay the funds corresponding to the Offer Amount, less the amount of any Fees and the Interest Reserve from the Proplend Customer Funds Account to the relevant Borrower's Nominated Bank Account (or as otherwise stipulated in the Loan Contract).

5.2 For administrative convenience, each Borrower will repay all the Repayments due under all its Loan Contracts at any one time in a single payment to the Proplend Customer Funds Account by direct debit or standing order, and we will record the payment of those Repayments in the Proplend Account of each Lender. Interest will be paid gross to Lenders, and each Lender shall be responsible for accounting for and paying any taxes due on such interest.

5.3 In the event that any Lender successfully makes a claim for payment out of the Interest Reserve (other than under Clause 5.4), the Borrower concerned shall immediately on demand pay into the Interest Reserve an amount equal to the amount paid to each Lender in respect of that claim, so that the amount of the Interest Reserve remains equal to either the six monthly Repayments or two quarterly Repayments due under all its Loan Contracts, as the case may be.

5.4 Provided that the Loan Contracts are not the subject of any breach, in the event that only three monthly Repayments or one quarterly Repayment remain to be made under all of the Borrower's relevant Loan Contracts, we will distribute the Interest Reserve pro rata to the Lenders as each Repayment falls due and apply the balance of the Interest Reserve to the repayment of the principal at the end of the Loan Term. In the event that the principal is not repaid on the date of the expiry of the Loan Term, any remaining Interest Reserve will be distributed in payment of interest accrued on the Lenders' unpaid principal (and any remaining amount of Interest Reserve at the date of repayment of the principal will be applied to repayment of the principal at that time).

5.5 If the Borrower misses a payment or only partially pays the amount due to you as the Lender, you authorise us or a collections agency nominated by us and whose details we provide to you in writing ("**the Collections Agency**"), acting on your behalf, to contact the Borrower to attempt to collect an amount equivalent to the outstanding payment and any additional fees and charges due under the relevant Loan Contract and:

- (a) the Lender(s) concerned will automatically make a claim against the Interest Reserve for the amount of the interest component of the missed Repayment(s); and
- (b) we may make a payment from the Interest Reserve in respect of the interest component of the missed Repayment(s),

in accordance with the Priority.

We will keep you informed of the progress of the attempts to collect the outstanding payment(s).

- 5.6 In the event of the occurrence of any Event of Default (as defined in Clause 4.2 of the Loan Conditions):
- (a) PSL shall enforce all or any of the Security Documents having occurred and the relevant proportion of any sums recovered by PSL will be paid to you as Lender, subject to deduction of the costs of recovery (including legal fees and expenses and those of any manager, receiver or administrator appointed by PSL) from the gross proceeds recovered, such that the net amount recovered shall be apportioned according to the proportion that the Loan Amount (as defined in each Loan Contract) under each of your Loan Contracts represented to the Total Loan Amount borrowed by the relevant Borrower) in the Tranche to which your Loan Contract(s) relate(s); and
  - (b) in the event of enforcement under Clause 5.6(a), PSL will keep each Lender informed of its progress in enforcing the Security Document(s) concerned, including providing you as Lender with information about possession proceedings and/or the Valuation of the relevant Property or shares or other assets and its or their sale price in relation to any exercise of the relevant power of sale or other enforcement rights under the relevant Security Document(s).
- 5.7 You as Lender acknowledge that it is possible that the proceeds (if any) recovered as a result of any recovery and enforcement activity specified in Clause 5.6 may not be sufficient to discharge all the relevant Borrower's obligations to you. In that case, you will only be entitled to recover a share of any recovery proceeds, subject to deduction of the costs of recovery (including legal fees and expenses and those of any manager, receiver or administrator appointed by PSL) from the gross proceeds recovered, such that the net amount recovered shall be apportioned according to the proportion that the Loan Amount (as defined in each Loan Contract) under each of your Loan Contracts represented to the Total Loan Amount borrowed by that Borrower in the Tranche to which your Loan Contract(s) relate(s).
- 5.8 As the Lender under an existing Loan Contract (which is not the subject of an Event of Default or under which any Repayment is not overdue by more than 7 Business Days ("**Arrears**")), you may irrevocably offer to assign to all your rights, title and interest in that Loan Contract to another Lender by listing the Loan Contract for sale on the secondary market ("**Proplend Loan Exchange**") via your Proplend Account , giving details of the Loan Contract and the amount you wish to be paid for making the assignment (which will include payment for any interest accrued since the last interest payment date but not yet paid up to the date of assignment), in which case:

- (a) that offer to assign the Loan Contract will promptly be listed on the Service Website on the basis of the details you have provided (including the requirement to pay you for any interest accrued since the last interest payment date but not yet paid up to the date of assignment);
- (b) Unless and until you withdraw your offer under clause 5.8(a), any other Member who has adequate funds showing as available in their Proplend Account to cover the amount payable under that offer may inform us of their acceptance of it via the feature provided on the Service Website, in which event:
  - (i) the amount of the outstanding principal and any interest accrued since the last interest payment date but not yet paid up to the date of assignment in relation to that Loan Contract will be debited from that assignee Member's Proplend Account and credited to your Proplend Account, such that you will then be entitled to request the transfer of the corresponding funds from the Proplend Customer Funds Account to your Nominated Bank Account under Clause 7.3;
  - (ii) you will pay to us the fee specified in Clause 8.3, which will be debited from your Proplend Account at the time when the outstanding principal is credited to your Proplend Account;
  - (iii) notice of the assignment will be given to the Borrower under that Loan Contract by email or in the messaging section of the Borrower's Proplend Account in accordance with Clause 15, so that the legal assignment takes effect; and
  - (iv) we will then record the assignee Member as the legal owner of that Loan Contract.

For the avoidance of doubt, any Loan Contract which is in Arrears or the subject of an Event of Default will be suspended from the Proplend Loan Exchange pending any change that makes it eligible for assignment under this Clause 5.8.

## **6. Cancellation of this Members' Agreement**

- 6.1 If you are a Lender who, for the purpose of entering into this Members' Agreement, makes exclusive use of one or more means of distance communications up to and including the time at which this Members' Agreement is entered into, you shall be entitled to cancel this Members' Agreement within the 14 day period that begins on the day after you enter into it ("**Statutory Cancellation Period**"). However, in the event that you make an Offer during the Statutory Cancellation Period under this Clause 6.1, you will no longer be able to cancel this Members' Agreement (or that Offer).
- 6.2 You may exercise your right of cancellation by emailing us to that effect at [notices@proplend.com](mailto:notices@proplend.com).

## 7. Proplend Customer Funds Account

- 7.1 Money you transfer to the Proplend Customer Funds Account shall be held on trust for you by us. The perpetuity period of any such trust shall be 125 years. In the event that interest is earned on any amounts held in the Proplend Customer Funds Account, we shall apportion such interest amongst the Lenders and Borrowers on whose money this interest has accrued by crediting their respective Proplend Accounts accordingly on a monthly basis. We shall not keep any such interest earned for our own account.
- 7.2 In the event that there has been no activity on your Proplend Account for a period of at least 18 months, we shall be entitled to take such steps as we consider appropriate, which shall include transferring the money from the Proplend Customer Funds Account to your Nominated Bank Account or sending a cheque to your last-known residence.
- 7.3 You may request us to transfer your funds from the Proplend Customer Funds Account to your Nominated Bank Account, provided those funds have not been reserved for an Offer in accordance with Clause 4.4 of this Members' Agreement.

## 8. Fees

- 8.1 As a Borrower, you must pay to us a fee equivalent to 2% of the Offer Amount in relation to the work done by us before and after the listing of the Loan Request or as otherwise agreed in writing between you and us ("**Arrangement Fee**"), which shall be due and payable on the date on which you accept the Lenders' Offers related to your Loan Request under Clause 3.12(c) but paid at closing (when the Loan proceeds are disbursed). For example, a loan of £500,000 would incur an Arrangement Fee of 2% (£10,000).
- 8.2 As a Lender, you must pay to us a fee equivalent to 10% of the interest you receive in relation to your Loan Contracts ("**Lender Fee**"), i.e. a loan of £100,000 at 7.5% p.a. would receive interest of £7,500 p.a. which equals a payment of £625 per month of which PL would charge a 10% fee of £62.50.
- 8.3 In the event of any assignment of a Loan Contract under Clause 5.8, the assignor shall pay to us a fee equivalent to 0.5% of the principal outstanding under that Loan Contract ("**Assignment Fee**").
- 8.4 Subject to the provisions of Clause 4.4, if you wish to withdraw funds credited to your Proplend Account you will pay to us a fee to cover the administration associated with that withdrawal in accordance with the then current schedule of fees on the Service Website.

- 8.5 We may waive or offer discounts on any of our fees to any person at any time in our sole and absolute discretion.
- 8.6 We may change any of our fee rates from time to time to reflect legitimate cost increases or reductions in operating the Service or providing any services under this Members' Agreement. We will give you at least 30 days' notice of any change in our fees in accordance with Clause 16. Any such changes in fees will only affect Loan Requests and Loan Contracts made on and after the date on which the change is stated to take effect.
- 8.7 All Fees are exclusive of any applicable Value Added Tax or other taxes, for which the person paying the relevant Fee shall be liable.

## **9. Representations and Warranties**

- 9.1 By agreeing to the terms of this Members' Agreement, you represent and warrant to us that:
- (a) all information you provide to us and/or PSL is true and accurate in all respects;
  - (b) you are entering into this Members' Agreement and each Loan Contract as principal and not on behalf of any third party;
  - (c) execution, delivery and performance of this Members' Agreement, each Loan Contract and (where applicable) each Security Document will not violate any law, ordinance, charter, by-law or rule applicable to you or the grantor of the same, or any other agreement by which you or such grantor are bound or by which any of your or their assets are affected;
  - (d) you will not send funds to the Proplend Customer Funds Account other than by using the payment methods specified by us and you will not request that funds be sent from either of those accounts other than to your Nominated Bank Account; and
  - (e) you will not use the information posted on the Service Website for any purpose other than researching a Loan Request listed on the Service Website.

## **10. User Content**

- 10.1 You represent, warrant and undertake that none of the text, numerical information, graphics, still and moving images or other material that you post on the Service Website, including any Loan Request that you apply to list ("**User Content**") will infringe the rights of any third party, including intellectual property rights, privacy, publicity or other personal or proprietary rights; or will contain libellous, defamatory or otherwise unlawful material. In addition, you undertake not to:
- (a) use the Service or the Service Website to:

- (i) harvest or collect email addresses or other financial, personal or contact information of other users of the Service from the Service or the Service Website by electronic or other means for the purposes of sending unsolicited communications or inviting any person to invest outside the Service;
  - (ii) to create a database (electronic or otherwise) that includes material downloaded or otherwise obtained from this Service or the Service Website otherwise than for your own personal records (and except where expressly permitted by the Service or on the Service Website);
  - (iii) to transmit or re-circulate any material obtained from the Service to any third party except where expressly permitted by us or on the Service Website;
- (b) use the Service or the Service Website in any unlawful manner or in any other manner that could damage, disable, overload or impair the Service or the Service Website or the servers on which it is hosted;
- (c) use automated scripts to collect information from or otherwise interact with the Service or the Service Website;
- (d) upload, post, publish, display, transmit, share, store or otherwise make available on the Service Website any content that we may deem:
  - (i) to be misleading, harmful, threatening, unlawful, libellous, defamatory, infringing of any intellectual property rights, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable; and/or
  - (ii) to contain software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; and/or
  - (iii) to be unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail", "spam", "chain letters", "pyramid schemes" or any other form of solicitation; and/or
  - (iv) to be the private information of any third party, including, without limitation, addresses, phone numbers, email addresses, National Insurance numbers or other identifiers, credit card numbers and/or debit card numbers; and/or
  - (v) to be an attempt to promote or market any goods or services for your own financial benefit;
- (e) register on the Service Website more than once or register on the Service Website on behalf of an individual other than yourself, or register on the

Service Website on behalf of any entity without that entity's prior written authorisation;

- (f) impersonate any person or entity, or falsely state or otherwise misrepresent yourself, your age, your financial employment or personal circumstances or your affiliation with any person or entity;
- (g) use or attempt to use another's account, service or system without authorization from us, or create a false identity in relation to the Service or on the Service Website;
- (h) solicit personal information from anyone under 18 or solicit passwords or personally identifying information for commercial or unlawful purposes;
- (i) use the Service or the Service Website in such a way so as to remove the copyright or trade mark notice(s) from any copies of any material made in accordance with this Members' Agreement.

10.2 You are solely responsible for your User Content. You may not post, transmit, or share User Content on the Service Website or otherwise that you did not create or that you do not have permission to display, publish or post. You understand and agree that we may, but are not obligated to, review the Service or the Service Website and may delete or remove (without notice) any User Content in our sole and absolute discretion, for any reason or no reason, including without limitation User Content that in our own absolute discretion violates any provision(s) of this Members' Agreement. You are solely responsible at your own cost and expense for creating backup copies and replacing any User Content.

10.3 When you post your User Content, you authorize and direct us to make such copies of it as we consider necessary in order to facilitate the publication, display and storage of the User Content in relation to the Service or on the Service Website. By posting User Content to any part of the Service Website, you automatically grant, and you represent and warrant that you have the right to grant, to us and to PSL an irrevocable, perpetual, non-exclusive, transferable, fully paid, worldwide license (with the right to sublicense) to use, copy, publicly perform, publicly display, reformat, translate, excerpt (in whole or in part) and distribute such User Content for any purpose on or in connection with the Service or the promotion of it, to prepare derivative works of, or incorporate into other works, such User Content, and to grant and authorize sublicenses of the foregoing. You may remove your User Content from the Service and/or the Service Website at any time, subject to the provisions of Clause 3. If you choose to remove your User Content, the license granted above will automatically expire, however you acknowledge that we and/or PSL may retain archived copies of your User Content.

10.4 You agree to indemnify and hold each other user, us, PSL, our subsidiaries and affiliates, and each of our directors, officers, agents, contractors, partners and employees, harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable legal fees and expenses, and all

registration fees and duties, arising out of or in connection with any of your User Content, your listing of any Loan Requests or other use of the Service, your conduct in connection with the Service or with other users of the Service, our or PSL's preparation of all Loan Contracts and Security Documents and other documentation and registration of the Security Documents at The Land Registry and Companies House as necessary, and any breach by you or any grantor of any security under any Security Document or of this Members' Agreement or of any Applicable Law or the rights of any third party.

- 10.5 You are solely responsible for your interactions with other users. We and PSL reserve the right, but have no obligation, to monitor disputes between you and other users.
- 10.6 Subject to the provisions of this Members' Agreement, neither we nor PSL are responsible for third party content downloaded or any content posted by users in relation to the Service or on the Service Website.
- 10.7 We welcome 'links' to the home page of the Service, but not 'deep linking' by which we mean that you may not include a link to any page of the Service that is not the home page. You must not display the contents of the Service (or any page from it) or allow it to be displayed surrounded or framed or otherwise surrounded by material not originating from us without our prior written consent.
- 10.8 The information provided via the Service is intended solely for use by persons and organisations that meet the eligibility criteria set out in Clause 2 above. The Service is not intended for distribution to, or use by, any person or entity in any jurisdiction where such distribution or use would be contrary to Applicable Law or regulation.

## **11. Our Details**

- 11.1 Proplend is authorised and regulated by the Financial Conduct Authority, and entered on the Financial Services Register under firm registration number 662661 and registered with the Office of the Information Commissioner (No. Z3655272).
- 11.2 PSL is registered with the Office of the Information Commissioner (No. ZA014126).

## **12. Liability**

- 12.1 You shall be liable to us and to PSL for any loss or damage suffered by us and/or PSL as a result of your breach of this Members' Agreement or any other agreement between you and us and/or PSL, or for your negligence or wilful default or misconduct.

- 12.2 We and PSL shall only be liable to you for any loss or damage which results as a directly foreseeable consequence of our or PSL's breach of this Members' Agreement, negligence, wilful default or misconduct.
- 12.3 Our liability to you and PSL's liability to you in respect of any Loan Request shall be limited to the amount paid by you in relation to any such Loan Request.
- 12.4 Subject to Clause 12.5 and except to the extent prohibited by Applicable Law, neither we nor PSL will be liable for any indirect, incidental, special, punitive or consequential damages, loss of business, loss of profits, loss or corruption of data, loss of goodwill or reputation caused by any act or omission by us or by PSL under this Members' Agreement.
- 12.5 Nothing in this Members' Agreement shall limit our or your liability for personal injury or death, or for any other liability which may not be excluded by Applicable Law, or any duty or liability owed by us to you under FSMA or FCA Rules, and in the event of any conflict between the terms of this Agreement and FSMA or FCA Rules then FSMA or FCA Rules (as the case may be) will prevail.
- 12.6 No party shall be liable for any failure or delay in the performance of any obligation under this Members' Agreement (except any payment obligation) by reason of any cause beyond that party's reasonable control.

### **13. Termination**

- 13.1 We and PSL may terminate this Members' Agreement by notice in writing to you at any time in the event that:
- (a) you are in material breach of any term of this Members' Agreement; and/or
  - (b) you breach any term of any Loan Contract to which you are a party or of any Security Document entered into in relation to any such Loan Contract; and/or
  - (c) we suspect or PSL suspects that you have used the Service or the Service Website, or intend to use the Service or the Service Website, for the purpose of an illegal activity; and/or
  - (d) you are acting as a Borrower and:
    - (i) a merger, share exchange or similar transaction occurs in which the holder(s) of a majority of the shares, rights or interests in you (where you are any type of partnership) or of the outstanding equity securities in you or your ultimate direct or indirect parent corporation or holding company immediately prior to such transaction hold less than a majority of the outstanding equity securities of the surviving or successor corporation immediately following the closing of such transaction; and/or

- (ii) you sell, assign or transfer all or substantially all of your assets or those of your ultimate direct or indirect parent corporation or holding company.
- 13.2 You may terminate this Members' Agreement by providing 7 days' written notice to us, provided you have no Offers outstanding or Loan Requests open to Offers at the time of your request.
- 13.3 On termination of this Members' Agreement, any of your funds remaining in the Proplend Customer Funds Account will, subject to any restriction under Applicable Law, be credited to your Nominated Bank Account.
- 13.4 Following termination of this Members' Agreement, we will provide you with limited access to the Service Website and your Proplend Account for a period of 7 days to download any of your User Content or information relating to investments, purchases or contributions made by you via the Service. Upon the expiry of that 7 day period, your access to your Proplend Account and the Service and the Service Website will be terminated and we will have no obligation to store or provide you with access to any information relating to your activity on the Service or the Service Website.

#### **14. Complaints**

- 14.1 If you want to make a complaint about us and/or PSL you can email [complaints@proplend.com](mailto:complaints@proplend.com), with brief details of your complaint and your account number. Our staff will acknowledge your complaint by email within one Business Day (a "**Business Day**", where used in this Members' Agreement, being any day (except Saturdays and Sundays) when clearing banks are open for business in London). We will then investigate and send you an initial response, having had access to an officer with the authority to settle the complaint (including, where appropriate, an offer of redress). Where appropriate, the member of staff investigating the complaint will not be any staff member who was directly involved in the subject matter of the complaint. This should take no longer than five Business Days, but most complaints may well be resolved by close of business on the Business Day after the complaint is received. If the complaint is not resolved by close of business on the Business Day after the complaint is received, we will send you a copy of this complaints handling procedure. If you are not satisfied by our response, you must contact our Customer Services Manager, who will respond by email within a further five Business Days.
- 14.2 If you are not satisfied with the response from our Customer Services Manager, you can email [complaints@proplend.com](mailto:complaints@proplend.com), enclosing the responses already given to you. Your email will then be referred to our Chief Executive Officer, who will respond by email within a final five Business Days.

- 14.3 Within four weeks after receiving a complaint, we will send you either a final response or a response which explains why we are not in a position to resolve the complaint and indicates when we will make further contact.
- 14.4 Complaints by individuals made after 1 April 2014 about our regulated activities that cannot be settled within eight weeks of the date on which the complaint is made may ultimately be referred to the Financial Ombudsman Service. As an individual you may also have the right to make such a complaint directly to the Financial Ombudsman Service.

## **15. Notices**

- 15.1 Except as otherwise expressly provided in this Members' Agreement, any communication in writing may be given by post to the last known postal address that we hold for you or you hold for us and PSL, or email to the email address last notified by you to us or by us to you.
- 15.2 Communications sent:
- (a) by post will be treated as received by you three Business Days after posting; and
  - (b) by email they will be treated as received immediately upon sending, so long as we or PSL do not receive notice of non-transmission or non-receipt.
- 15.3 We and PSL may also (where allowed to do so by Applicable Law) communicate with you by posting information in your Proplend Account or on the Service Website (including notices of assignment under Clause 5.8(b)(iii)), in which case the information will be treated as received by you when it is posted by us or PSL in your Proplend Account, or on the Service Website (as the case may be).
- 15.4 Any communication given to us or PSL shall be deemed to have been received only on actual receipt by us or, as the case may be, PSL.

## **16. Amendments to this Members' Agreement**

- 16.1 Subject to the provisions of Clause 8 (Fees), we may amend this Members' Agreement by giving you notice via the Service and your Proplend Account.
- 16.2 We will only make changes:
- (a) where we consider that a change will make this Members' Agreement clearer and no less favourable to you; or
  - (b) to introduce new systems or technology; or
  - (c) to introduce new products or services; or
  - (d) to implement changes required by Applicable Law.

- 16.3 We will give you 14 days' notice of any change except where we consider that such change is required under Applicable Law. If you are not happy with any changes to this Members' Agreement, you may terminate this Members' Agreement in accordance with Clause 13.

## **17. Confidentiality**

- 17.1 Neither we nor PSL shall be obliged to disclose to you any information, consider or to take into account any information or other matters which come(s) to our or to PSL's notice or the notice of any of our or PSL's employees, directors, agents, sub-contractors or associates:
- (a) but does not come to the actual notice of the person dealing with you; or
  - (b) where such disclosure, consideration or taking into account would, or we or PSL reasonably believe that it would, be a breach of any duty of fidelity or confidentiality owed to any other person.
- 17.2 We, PSL and you will keep confidential and will not disclose to any third party any information that is marked or otherwise indicated as being confidential, except information that any of us is bound to disclose under Applicable Law or by order or request of any regulatory authority or by a court of law, or to our respective professional advisers for the purposes contemplated in this Members' Agreement, or in our and PSL's cases, where disclosure is necessary to exercise any of our or PSL's rights or perform any of our or PSL's obligations under this Members' Agreement.

## **18. General**

- 18.1 This Members' Agreement is supplied in English and all communications between all or any of us (including any communications or documentation passing between all or any of us before entering into any contract) will be in English.
- 18.2 This Members' Agreement is governed by English law and the courts of England and Wales will have non-exclusive jurisdiction to settle any disputes that may arise in relation thereto, although we and PSL retain the right to bring proceedings against you for a breach of this Members' Agreement in your country of residence or any other relevant country.
- 18.3 Nothing in this Members' Agreement is intended to confer any benefit on any person who is not a party to this Members' Agreement, and no third party shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 18.4 If any part of this Members' Agreement is found to be illegal, invalid or unenforceable by any court of competent jurisdiction or regulatory authority, the remainder shall continue in full force and effect. No single or partial exercise, or

failure or delay in exercising any right, power or remedy by either you or us or PSL shall constitute a waiver by us or PSL of, or preclude any further exercise of, that or any right, power or remedy arising under this Members' Agreement or otherwise.

- 18.5 The provisions of this Members' Agreement are personal to you and you shall not be entitled to assign or transfer any of your rights or obligations under this Members' Agreement.
- 18.6 We and/or PSL may assign our respective rights and obligations under this Members' Agreement.
- 18.7 The records kept by us and PSL in the Service shall be conclusive of the facts and matters they purport to record except where there is an obvious mistake.

## Annex A

### The Loan Conditions

#### 1. Introduction

1.1 When an Offer made in respect of a Loan Request is accepted via the Service under Clause 3.12(c) of the Proplend Members' Agreement of which these Loan Conditions form part (the "**Members' Agreement**"), a loan contract is created exclusively between the Lender and Borrower ("**Loan Contract**"), which is made up of:

- (a) these Loan Conditions;
- (b) the terms of the Loan Request;
- (c) the terms of the Offer,

and a summary is also produced of certain details from all such Loan Contracts entered into by the Borrower in relation to that Loan Request ("**Loan Summary**"), including the total amount borrowed by the Borrower under all such Loan Contracts ("**Total Loan Amount**"), the duration of the Loan Contracts ("**Term**"), the total amount repayable under the Loan Contracts including interest and fees ("**Total Amount Repayable**") and the total amount of each of the repayments due under each Loan Contract ("**Repayment**").

1.2 Capitalised terms used in these Loan Conditions that are not otherwise defined where they appear shall have the meaning given to them in Clause 13 of these Loan Conditions.

#### 2. Loan Disbursement, Repayments and Interest Reserve

2.1 The parties acknowledge that in respect of each Loan Contract, Proplend will pay the corresponding Loan Amount into the Borrower's Nominated Bank Account (or as otherwise stipulated in the Loan Contract), less:

- (a) the amount of any fees owed by the Borrower under Clause 5 of these Loan Conditions;
- (b) the relevant Interest Reserve being held in the Proplend Customer Funds Account pending any claim by the Lender in relation to any missed Repayment; and
- (c) the amount required to discharge any existing indebtedness of the Borrower that the Loan Amount was intended to discharge (which amount shall be paid by Proplend to the relevant creditor or its legal representative).

2.2 The Borrower agrees to repay the Lender the Total Amount Repayable at the times and in the Repayments shown in the Loan Summary. Prompt payment is essential and time shall be of the essence. If the Borrower is late in paying a Repayment, the Lender will have the right

to make demand upon and enforce the Loan Contract and interest will continue to accrue on any unpaid amount then due and payable at the agreed Rate of Interest in accordance with Clause 3 of these Loan Conditions until it is paid.

2.3 The Borrower's obligation to make Repayments to the Lender will be satisfied by making the Repayments to the Proplend Customer Funds Account.

2.4 All Repayments shall be made in full, without set-off, counterclaim or condition, and free and clear of, and without any deduction or withholding, provided that, if the Borrower is required by law or regulation to make such deduction or withholding, it shall:

(a) ensure that the deduction or withholding does not exceed the minimum amount legally required;

(b) pay to the relevant taxation or other authorities, as appropriate, the full amount of the deduction or withholding;

(c) furnish to the relevant Lender, within the period for payment permitted by the relevant law, either:

(i) an official receipt of the relevant taxation authorities concerned on payments to them of amounts so deducted or withheld; or

(ii) if such receipts are not issued by the taxation authorities concerned on payment to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and

(d) pay to the Lender such additional amount as is necessary to ensure that the net full amount received by the Lender after the required deduction or withholding is equal to the amount that the Lender would have received had no such deduction or withholding been made.

2.5 Each Repayment paid by the Borrower will be pro-rated among all the Loan Contracts to which the Repayment relates and be used:

(a) first to pay any arrears on the Loan and any administration charges or other fees due under the Loan Contract; and

(b) then to pay the current interest and principal due in respect of the Loan Amount.

If the Borrower makes an over-payment in respect of monthly interest due (rather than early repayment under Clause 4 of the Loan Conditions), for whatever reason, the amount overpaid will not be allocated against the outstanding loan principal but shall be credited to the Borrower's Proplend Account and the corresponding funds held in the Proplend Customer Funds Account in accordance with Clause 7 of the Members' Agreement until earlier of (a) the

date on which it is withdrawn by the Borrower or (b) the final Repayment date, when any such remaining overpayment amount shall be credited against the balance then outstanding.

2.6 If the Borrower misses a payment or only partially pays any amount due under the Loan Contract, the Lender authorises Proplend or the Collections Agency, acting on the Lender's behalf, to contact the Borrower to attempt to collect an amount equivalent to the outstanding amount and any additional fees and charges due under the relevant Loan Contract and:

- (a) the Lender concerned will automatically make a claim against the Interest Reserve for the amount of the interest component of any missed Repayment(s); and
- (b) Proplend may make a payment from the Interest Reserve to the Lender in respect of the interest component of the missed Repayment(s),

in accordance with the Priority.

2.7 In the event of the occurrence of any Event of Default under Clause 4.2 of these Loan Conditions, PSL shall enforce all or any of the Security Documents in accordance with the provisions of Clause 5.6 of the Members' Agreement.

2.8 The Lender acknowledges that it is possible that the proceeds (if any) recovered as a result of any recovery and enforcement activity specified in Clause 2.7 may not be sufficient to discharge all the relevant Borrower's obligations under the Loan Contract. In that case, the Lender will only be entitled to recover a share of any recovery proceeds, subject to deduction of the costs of recovery, according to the proportion that the Loan Amount (as defined in each Loan Contract) represented to the Total Loan Amount borrowed by that Borrower in the Tranche to which the Loan Contract relates.

2.9 In the event that the Lender successfully makes a claim for payment out of the Interest Reserve (other than under Clause 2.10 of these Loan Conditions), the Borrower shall immediately on demand pay into the Interest Reserve an amount equal to the amount paid to each Lender in respect of that claim, so that the amount of the Interest Reserve remains equal to six Repayments or two quarterly Repayments (as the case may be) due under each Loan Contract.

2.10 Provided that the Loan Contracts are not the subject of any breach, in the event that only three monthly Repayments or one quarterly Repayment remain to be made under each Loan Contract (as the case may be), and there are no arrears owing or other costs and fees owing thereunder, Proplend will distribute to the Lender the Lender's pro rata share of half the Interest Reserve as each remaining Repayment falls due and apply the balance of the Interest Reserve to repayment of the principal at the end of the Term. In the event that the principal is not repaid on the date of the expiry of the Term, the Interest Reserve will be distributed in payment of interest accrued on the Lender's unpaid principal (and any remaining amount of Interest Reserve at the date of repayment of the principal will be applied to repayment of the principal at that time).

### 3. Interest

The Borrower agrees to pay the Lender interest on the Loan at the agreed Rate of Interest. If an Event of Default occurs (as described in clause 4 of these Loan Conditions), the interest payable by the Borrower on the Loan shall automatically increase to 120% of the agreed Rate of Interest from the date on which the Event of Default occurs until the date on which all outstanding amounts under the Loan Contract are paid. Interest on the Loan shall be calculated from the date on which the Loan Contract is created under Clause 1 of these Loan Conditions at the outset for the whole period of the Loan and be stated in the Loan Summary. Interest shall be paid in accordance with the Repayments, as specified in the Loan Summary.

### 4. Early Repayment and Termination

4.1 Should the Borrower wish to repay a Loan early, it may do so in whole or in part by following the instructions in its Proplend Account. On an early repayment, interest on the amount repaid early will be charged to the date on which the early repayment is made, subject to any early repayment charge specified in the Loan Summary. Any partial early repayment under this Clause 4.1 or any repayment required on the sale of Property under Clause 4.8 of the Members' Agreement shall be distributed according to the Priority, and when allocated to each relevant Tranche the relevant amount of the early repayment shall be apportioned according to the proportion that the Loan Amount (as defined in each relevant Loan Contract) represents to the Total Loan Amount borrowed by that Borrower in the Tranche to which the Loan Contract(s) relate(s).

4.2 The Lender may terminate the Loan Contract and demand repayment of the full Loan Amount together with all any other amounts due pursuant to the Loan Contract in relation thereto including, without limitation, interest, costs and expenses if any one or more of the following events occur (each, an "**Event of Default**"):

(a) the Borrower misses, fails to pay or only partially pays two or more consecutive Repayments; or

(b) the Borrower misses, fails to pay or only partially pays five or more Repayments; or

(c) the Borrower has provided false information which affected the decision to allow the Borrower to borrow via the Service or to register for the Service; or

(d) the Borrower has otherwise breached any provision of the Loan Contract or the Members' Agreement and failed to remedy that breach within 14 days of receiving a written notice to do so; or

(e) if the LTV exceeds the LTV Limit at any time during the Loan Term; or

(f) if the Interest Cover falls below the Interest Cover Limit on any date on which a Repayment is due and payable; or

- (g) there is a breach of any of the terms of any Security Document by the Borrower or any third party who has granted such Security Document in favour of Proplend Security Limited and the Borrower or such third party has failed to remedy that breach within 7 days of receiving a written notice to do so; or
- (h) the Members' Agreement is terminated for any reason under Clause 13 of the Members' Agreement; or
- (i) a petition is presented, or an order made or an effective resolution passed for the winding up or dissolution or for the appointment of a liquidator of the Borrower; or
- (j) the Borrower ceases to pay its debts or is unable to pay its debts as they fall due or is deemed unable or admits its inability to do so or makes a general assignment for the benefit of or a composition with its creditors; or
- (k) the Borrower ceases to carry on its business in whole or in part; or
- (l) notice is given of an intention to appoint an administrator, a petition is filed or a competent court makes an order for the appointment of an administrator in relation to the Borrower; or
- (m) an encumbrancer takes possession or steps are taken for the appointment of an administrator or receiver or administrative receiver or manager or sequestrator over the whole or any substantial part of the undertaking or assets of the Borrower; or
- (n) any person who has provided a guarantee for the Loan or any part of a Loan disputes or threatens to dispute the enforceability of that guarantee or Proplend believes that a guarantee given by the Borrower to Proplend Security Limited has become unenforceable, and in either case, a replacement guarantee has not been provided to the satisfaction of Proplend Security Limited within 7 days of its request to do so; or
- (o) the Borrower or any person who has provided a guarantee for the Loan or any part of the Loan, being an individual, makes a voluntary arrangement with anyone that they owe money to, dies, becomes bankrupt or is legally declared by a court or relevant authority to have become non compos mentis; or
- (p) if any corporate body which has provided a guarantee for the Loan or any part of the Loan makes a voluntary arrangement with anyone that it owes money or any of the Events of Default detailed above occur in relation to it; or
- (q) any procedure or action, matter or thing analogous to all or any Event of Default above occurs in relation to the Borrower or any guarantor of the Loan or part of the Loan in any other jurisdiction; or
- (r) a merger, share exchange or similar transaction occurs in which the holder(s) of a majority of the shares, rights or interests in the Borrower (in the case of any type of

partnership) or of the outstanding equity securities of the Borrower or the Borrower's ultimate direct or indirect parent corporation or holding company immediately prior to such transaction hold less than a majority of the outstanding equity securities of the surviving or successor corporation immediately following the closing of such transaction; or

(s) the Borrower sells, assigns or transfers all or substantially all of its assets or those of its ultimate direct or indirect parent corporation or holding company.

## **5. Fees and Missed Payments**

5.1 The Borrower shall pay to Proplend the Arrangement Fee, which will be deducted from the Loan Amount before it is transferred from the Proplend Customer Funds Account.

5.2 If the Borrower misses a Repayment or only partially pays a Repayment, the Lender authorises Proplend or the Collections Agency acting on the Lender's behalf to contact the Borrower to attempt to collect an amount equivalent to the outstanding Repayment and any additional fees and charges due under these Loan Conditions.

5.3 The Borrower will be notified in advance via the Borrower's Proplend Account of the nature or amount of the other fees or charges that may be charged by Proplend or the Collections Agency and added to the balance outstanding, which will also include all litigation, enforcement and recovery costs and expenses, on a full indemnity basis, including (but not limited to) legal fees and expenses, to cover litigation or enforcement of any Loan Contract to recover any outstanding arrears of principal or interest thereof or of any costs or expenses.

5.4 The Borrower will be notified in advance via the Borrower's Proplend Account if the nature or amount of any of the charges specified in Clause 5.3 changes.

5.5 Each party is responsible for any telecommunications charges, subscriptions or other charges payable for the time spent accessing [www.proplend.com](http://www.proplend.com) via the Internet or any wireless or other relevant network.

## **6. Assignment**

6.1 The Lender may assign the Lender's right, title and interest in the Loan Contract and all related rights under the Members' Agreement to any other Member in accordance with Clause 5.8 of the Members' Agreement.

6.2 The Borrower will be given notice of any assignment under Clause 6.1 of these Loan Conditions via the Borrower's Proplend Account. The Borrower's rights and obligations under a Loan Contract that has been transferred shall not be adversely affected in any way whatsoever.

6.3 A Borrower shall not be entitled to assign or transfer any Loan Contract or any of its rights, title, interest or obligations under any Loan Contract.

## **7. Loan Account Information**

7.1 Each party can access the details related to that parties own Loan Contract(s) in that party's own Proplend Account.

7.2 The records kept by Proplend in the Service and the Service Website shall be conclusive of the facts and matters they purport to record except where there is an obvious mistake.

## **8. Law applicable to the conclusion of a distance contract**

The laws of the England and Wales are the basis for the establishment of relations with you prior to the conclusion of the Loan Contract.

## **9. Law applicable to the Loan Contract**

The Loan Contract is governed by and shall be construed in accordance with English law; and the parties submit to the exclusive jurisdiction of the English courts.

## **10. Language of this document, the Loan Contract and Communications**

The Loan Contract and all related documentation are in the English language; and the parties undertake to communicate in English during the duration of the Loan Contract.

## **11. Notices**

11.1 Any communication in writing under these Loan Conditions may be given by post to the last known postal address held by Proplend, or by one party to the other via Proplend, or (where allowed by Applicable Law) by posting information to the intended recipient's Proplend Account (including notices of assignment of Loan Contracts) or on the Service Website, in which case the information will be treated as received when it is so posted.

11.2 Communications sent:

(a) by post will be treated as received by you three Business Days after posting; and

(b) by email they will be treated as received immediately upon sending, so long as the sender does not receive notice of non-transmission or non-receipt.

## **12. General**

12.1 If any part of the Loan Contract that is not fundamental is found to be illegal or unenforceable, such finding will not affect the validity or enforceability of the remainder of the Loan Contract.

12.2 Any waiver by either party of a breach of any provision of the Loan Contract shall not be considered to be a waiver of any subsequent breach of the same, or any other, provision.

### 13. Definitions

In these Loan Conditions the following capitalized words shall have the following meanings:

**“Arrangement Fee”** means the fee payable by the Borrower under Clause 8.1 of the Members’ Agreement (and Clause 5.1 of these Loan Conditions);

**“Arrears”** – means a Repayment is overdue by more than 7 Business Days;

**“Borrower”** means the entity identified as the Borrower in the Loan Contract;

**“Collections Agency”** means such collections agency as is nominated by Proplend and whose details have been provided to the Lender and the Borrower;

**“Interest Cover”** means as at each Repayment Date, the gross rental income payable to the Borrower under the lease(s) over the Property, divided by the total gross interest payable under all the Borrower’s Loan Contracts in respect of the Total Loan Amount, for the period commencing on the date of such Loan Contracts up to the Repayment Date.

**“Interest Cover Limit”** means the number specified in the Loan Summary, which equates to the minimum Interest Cover permissible at any time during the Term.

**“Interest Reserve”** means the equivalent of six (6) monthly Repayments or two (2) quarterly Repayments due under the Loan Contract, as the case may be, to be held by Proplend in the Proplend Customer Funds Account pending any claim under Clause 2.6 of these Loan Conditions, provided that in the case of ‘bridging’ Loans, the full amount of interest due under the Loan Contract may be retained in the Interest Reserve;

**“Lender”** means the person identified as the Lender in the Loan Contract;

**“Loan Request”** means a request to borrow money via the Service according to the form and processes specified in the Borrower’s Proplend Account and in accordance with the terms of the Members Agreement;

**“LTV”** means the proportion (expressed as a percentage) which the Total Loan Amount bears to the market valuation of the Property, such market value being determined by the most recent Valuation in respect of that Property;

**“LTV Limit”** means the percentage specified in the Loan Summary, which equates to the maximum LTV permissible at any time during the Term;

**“Nominated Bank Account”** means a bank or building society account based in the UK and opened in the name of the Lender or the Borrower, as the case may be;

**“Offer”** means an offer to lend money via the Service in response to the Borrower’s Loan Request;

**“Priority”** has the meaning given to it in Clause 4.7 of the Members’ Agreement;

**“Property”** has the meaning given in Clause 3.3 of the Members’ Agreement;

**“Proplend”** means Proplend Ltd, a company incorporated and registered in England and Wales with company number 08315922 and whose registered office is at 20-22 Wenlock Road, London N1 7GU;

**“Proplend Account”** (also referred to on the Service as a “Dashboard”) means a data account in the name of the Lender or the Borrower, as the case may be, in Proplend’s systems;

**“Proplend Customer Funds Account”** has the meaning given to it under Clause 4.1 of the Members’ Agreement;

**“Proplend Security Limited”** means the company incorporated and registered in England and Wales with company number 8620117 and whose registered office is at 120-22 Wenlock Road, London N1 7GU;

**“Repayment Date”** has the meaning given to it in the Loan Summary (and each Loan Contract covered by that Loan Summary);

**“Security Document”** has the meaning given to it in Clause 1.1 of the Members’ Agreement;

**“Service”** means the service, details of which are set out in the Members’ Agreement;

**“Service Website”** means a website maintained by Proplend and accessible via <http://www.proplend.com>;

**“Valuation”** has the meaning given in Clause 3.7 of the Members’ Agreement;

**“Valuer”** has the meaning given in Clause 3.8 of the Members’ Agreement.

## Annex B

### Proplend Privacy Policy

#### 1. Introduction

This Privacy Policy (“**Privacy Policy**”) sets out the basis on which Proplend and PSL will process any data that may be used to identify you (“**personal data**”) collected by either or both of them from you, or that you provide to either of them.

Capitalised terms not otherwise defined in this Privacy Policy shall have the meaning given to them in the Proplend Members’ Agreement (the “**Members’ Agreement**”) of which this Privacy Policy forms part.

You represent and warrant that:

- (a) you have read and understood this Privacy Policy;
- (b) all the personal data you provide to Proplend and/or PSL is complete, true and accurate to the best of your knowledge and belief;
- (c) other than to comply with our lawful instructions, you will not share with, publish or disclose to anyone any information, any Lender or Borrower and/or the business, products, services, affairs, clients or finances of Proplend or PSL (or any of their affiliates and partners) and will keep such information secure and strictly confidential at all times;
- (d) you will not share, for whatever reason, your log-in details to access your Proplend Account and will keep them secure and strictly confidential at all times.

If you have any questions regarding this Privacy Policy, please email us at [info@proplend.com](mailto:info@proplend.com).

#### 2. The information Proplend collects

Proplend operates the Service and only collects personal information relevant to the making of Offers and Loan Requests via the Service and the administration and enforcement of Loan Contracts. PSL only collects personal information relevant to the entry by the Borrower into Security Documents; the administration and enforcement of the Security Documents; and the enforcement of Loan Contracts assigned to it. Such information is given directly by you and by people or companies authorised by you to act on your behalf, and it may also include information obtained from those third parties authorised by you to share such information with Proplend and/or PSL.

Proplend and PSL may collect and process the following information about you:

- (a) Information that you provide by filling in forms on the Service Website. This includes information provided at the time of registering to use the Service, posting material or requesting further services. We may also ask you for information when you report a problem with the Service;

- (b) Information about your financial interests, financial position, or loan repayment performance;
- (c) Your contact details, including your e-mail address, home address and telephone numbers and (where applicable) the contact details of your first of kin;
- (d) Proplend may make and retain copies of passports or other identification evidence that you provide for anti-money laundering and anti-fraud purposes;
- (e) Records of any correspondence between you and each of Proplend and PSL;
- (f) Records of any surveys that you may be asked to complete for research purposes, although you do not have to respond to them;
- (g) Details of transactions you carry out through the Service and the receipt and disbursement of Repayments;
- (h) Details of your visits to the Service Website and the resources that you access;
- (i) Information about your physical or mental health or condition (where necessary and appropriate);
- (j) Information relating to any criminal proceedings in which you have been involved;
- (k) Credit checks to assess the creditworthiness of any Borrower or the counterparty to any Security Document.

### **3. Where we store your personal data**

The data described in Section 2 of this Privacy Policy is stored in the United Kingdom ("UK"), but it may also be transferred to, and stored at, a destination other than the UK and/or outside the European Economic Area ("EEA"), where it may be processed by staff operating outside the EEA who work for us or for one of our suppliers or partners. Such staff may be engaged in, among other things, the processing of your payment details and the provision of support services (such as data processing). By submitting your personal data, you agree to this transfer, storing or processing. We will take all steps reasonably necessary to ensure that your data is treated securely and in accordance with this Privacy Policy.

Where we have given you (or where you have chosen) a password that enables you to access certain parts of our site, you are responsible for keeping this password confidential. We ask you not to share a password with anyone.

Once we have received your information, we will use procedures and security features to try to prevent unauthorised access. We use sophisticated website encryption technology to protect sensitive data that you submit to us online. We use this technology to reduce the risk of your data being intercepted by unauthorised persons during transmission. However, the transmission of information via the Internet is not completely secure and, while we will do our best to protect your personal data, we cannot guarantee the security of your data transmitted to our Service Website and any transmission is at your own risk.

### **4. Use of Personal Information**

Each of Proplend and PSL acts as data controller when processing and storing your personal data.

Each of Proplend and PSL may use information held about you in one or more of the following ways:

- (a) To ensure that content on the Service Website is presented in the most effective manner for you and for your computer;
- (b) To provide you with information, products or services that you request or which Proplend decides may interest you, where you have consented to be contacted for such purposes;
- (c) For statistical analysis;
- (d) To develop and improve the Service;
- (e) To update their records;
- (f) To identify which Loan Requests or elements of the Service or other products might interest you;
- (g) To assess lending and insurance risks;
- (h) To identify, prevent, detect or tackle fraud, money laundering and other crime;
- (i) To carry out checks required by applicable regulation or regulatory guidance;
- (j) To keep you informed about your Loan Contracts or Security Documents, as the case may be;
- (k) To carry out our obligations arising from and exercise our rights under, any agreements between you and either of us or other users of the Service;
- (l) To allow you to participate in interactive features of the Service, when you choose to do so.
- (m) To give you any notices under the Members Agreement, Loan Contract(s) or Security Document(s).

You acknowledge that credit reference agencies link together the records of you and anyone that you have advised is a financial associate (e.g. someone with whom you have a joint credit account) including previous and subsequent names of parties to the account. Links between financial associates will remain on your, and their, credit reference files until such time as you or your partner successfully files for a disassociation with the credit reference agencies. When assessing the affordability of your repayments, Proplend and PSL may take into account information about your financial associates in your credit reference.

## **5. Disclosure of your information**

Each of Proplend and PSL may disclose your personal information to any member of our group, which means our subsidiaries and our ultimate holding company and its subsidiaries, based in the UK, in any part of the EEA or elsewhere.

Each of Proplend and PSL will keep your personal data confidential and only disclose it to others for the purposes explained when you applied, and:

- (a) In the event that it sells or buy any business or assets, in which case it may disclose your personal data to the prospective seller or buyer of such business or assets;
- (b) If substantially all of its assets are acquired by a third party, in which case personal data held by it about their customers will be one of the transferred assets;
- (c) If it is under a duty to disclose or share your personal data in order to comply with any legal obligation, or in order to enforce or apply any agreements to which you are a party; or to protect the rights, property, or safety of it, its customers, or others (which includes exchanging information with other companies and organisations for the purposes of fraud protection and credit risk reduction);
- (d) If you request it, or give your permission for it to do so;
- (e) To a credit reference agency to check your identity and to prevent fraud, (it will also keep a record of your request and use it whenever anyone applies to be authenticated in your name);
- (f) To tell credit reference agencies that you have an account and how you run that account;
- (g) To agents and subcontractors, acting for either it or a Lender, to use for the purpose of operating the Service and obtaining the payment of any amount owed by you or a related Borrower;
- (h) To investigate, prevent or detect fraud or carry out checks against money laundering;
- (i) To organisations providing a centralised application matching service which they collect from and about mortgage and/or credit applications, for the purpose of preventing and detecting fraud;
- (j) To a credit broker in the event that you apply to borrow money, your application is declined or the loan monies are otherwise unavailable and it reasonably believes that the credit broker may be able to help you obtain a loan;
- (k) To debt collectors and other third parties to trace you and recover any debt;
- (l) For audit purposes and to meet obligations to any relevant regulatory authority or taxing authority.

Proplend will also check your details with a fraud prevention agency/agencies and if you give false or inaccurate information and Proplend identifies fraud, this will be recorded and Proplend and other organisations, including law enforcement agencies and debt collection agencies, may access, use and search these records to:

- (a) help make decisions about credit and credit related services, for you and members of your household;
- (b) help make decisions on motor, household, credit, life and other insurance proposals and insurance claims, for you and members of your household;
- (c) trace debtors, recover debt, prevent fraud, and to manage your accounts or insurance policies;
- (d) prevent fraud and money laundering, for example, when:
  - Checking details on applications for credit and credit related or other facilities;
  - Managing credit and credit related accounts or facilities;
  - Checking details on proposals and claims for all types of insurance; and

- Checking details of job applicants and employees.

Please contact us at [info@proplend.com](mailto:info@proplend.com) if you want to receive details of the relevant fraud prevention agencies.

Any credit reference agency Proplend searches will keep a record of any search, and other lenders may use it to assess applications they receive from you in the future. As a general rule, Proplend will give you at least 28 days' notice if any decision to file notice of any default by you in your obligation to make repayments on your credit reference file. However, Proplend may not always give you notice beforehand, for example, if enforcement action is planned.

## **6. Your rights**

You have the right to ask either Proplend and/or PSL not to process your personal data for marketing purposes. Each of Proplend and PSL will usually inform you (before collecting your data) if it intends to use your data for such purposes or if it intends to disclose your information to any third party for such purposes. You can exercise your right to prevent such processing by checking certain boxes on the forms used to collect your data. You can also exercise the right at any time by contacting Proplend at [info@proplend.com](mailto:info@proplend.com).

The Service Website may, from time to time, contain links to and from the websites of partner networks, advertisers and affiliates. If you follow a link to any of these websites, please note that these websites have their own privacy policies and that neither Proplend nor PSL accepts any responsibility or liability for these policies. Please check these policies before you submit any personal data to these websites.

Under the Data Protection Act 1998, you have a right to access certain personal records that Proplend and/or PSL holds about you. Your right of access can be exercised in writing in accordance with the Act. Any access request may be subject to a fee to meet Proplend's and/or PSL's costs (as the case may be) in providing you with details of the information they hold about you.

Proplend and PSL aims to keep your personal information up-to-date, so please advise them of any changes by e-mailing [info@proplend.com](mailto:info@proplend.com) or by updating your Proplend Account. You must notify Proplend by emailing [info@proplend.com](mailto:info@proplend.com) within thirty days if any of any change in your name, residential address, telephone number, e-mail address, or referees' address, and any other details that it reasonably considers to be material to its dealings with you in relation to the Service.

## **7. Release, Indemnity and Liability**

To the extent permitted under applicable law, you hereby release Proplend, PSL, their affiliates and partners, and hold Proplend, PSL and their affiliates and partners harmless from and against all actions, liabilities, claims, demands, damages, costs and expenses arising out of or in connection with any communication, notification, disclosure, sharing of information

(including your personal data) that Proplend, PSL and any of its affiliates or partners may make in accordance with the provisions of this Privacy Policy.

To the extent permitted under applicable law, you shall indemnify Proplend, PSL, its partners and its affiliates, and hold Proplend, PSL its partners and its affiliates harmless from and against all actions, liabilities, claims, demands, damages, costs and expenses arising from or in connection with any breach by you of this Privacy Policy.

While each of Proplend and PSL has used and shall use its reasonable endeavours to ensure that all your personal data that it holds shall be kept confidential as required by the Data Protection Act 1998, neither Proplend nor PSL shall be liable for any loss or damage incurred by you in the event that third parties wrongly gain access to your personal data, other than through Proplend's or PSL's own negligence, breach of contract or wilful misconduct.

To the extent permitted by applicable law, each of Proplend's and PSL's liability (and the liability of any of their affiliates and partners) arising from or in connection with this Privacy Policy shall be limited to the amount of any fees you pay to Proplend or PSL (as the case may be).

To the extent permitted by applicable law, neither Proplend nor PSL shall be liable for any indirect, special or consequential loss or damage, including loss of income or revenue, loss of business, loss of contract, loss of anticipated savings, loss of goodwill, loss of opportunity, or loss of data.

## 8. Cookies

- This section sets out our cookie policy ("**Cookie Policy**"). Capitalised terms not otherwise defined in this Cookie Policy have the meaning given to them in the Privacy Policy.
- What are cookies?

Cookies are data files containing small amounts of information which are downloaded to the device or browser you use when you visit a website. Cookies are then sent back to the originating website on each subsequent visit, or to another website which recognises that cookie.

*Please note that we can also collect information about Service usage from data contained in "log files" from third parties. Log files are not cookies; they do not contain any personal data; and they are not used to identify your personal use of the Service. When you request any web page from the Service, web servers automatically obtain your domain name and IP address, but they reveal nothing personal about you and that data is only used to examine Service traffic in aggregate, to investigate abuse of the Service and its users, and/or to cooperate with law enforcement. Such data is not disseminated to third parties, except in aggregate.*

- How do we use cookies?

We use cookies in order to ensure our Service functions correctly and to improve our understanding of how you use the Service in order to make improvements. Cookies cannot harm your computer.

- What cookies do we use?

Firstly, we explain what each type is and then, in the table below, we have stated which types we actually use.

In general, there are four different types of cookie.

- **Necessary cookies:** those required for the operation of the Service, which do not gather information about you that could be used for marketing or remembering where you have been on the internet.
- **Analytical/performance cookies:** these allow us to collect information about how you use the Service, such as, how you move around our website and if you experience any errors. These cookies do not collect personal data. The information collected is anonymous and is only used to help us improve the way the Service works, understand what interests our users generally and measure how effective our advertising is. Some of the performance cookies we use are issued as part of services provided by third parties, like Google Analytics.
- **Functionality cookies:** these are used to provide services or to recognise you when you return to our website. These would enable us to personalise our content for you, greet you by name and remember your preferences and improve your visit.
- **Targeting cookies:** these record your visit to the Service, the pages you have visited and the links you have followed. They are linked to services provided by third parties, such as "Like" and "Share" buttons. The third party provides these services in return for recognising that you have visited our website. The third party may subsequently use information about your visit to target advertising to you on other websites and present you with advertisements that you may be interested in.

- How do I manage my cookie settings

***Please note that configuring your computer and/or mobile browser to reject 'necessary', 'performance' or 'functional' cookies may severely impact your experience on our website and some parts of the Service will not function at all.***

All browsers provide tools that allow you to control how you handle cookies: accept, reject or delete them. These settings are normally accessed via the 'settings', 'preferences' or 'options' menu of the browser you are using, but you could also look for a 'help' function or contact the browser provider. If you are unsure as to how to

manage your cookies, please see the following links to view instructions for the most commonly used web browsers:

[Firefox internet settings](#)

[Chrome cookie settings](#)

[Opera cookie settings](#)

[Safari cookie settings](#)

[Internet Explorer cookie settings](#)

You may also use tools provided by the third parties mentioned in the table above to prevent their Targeting cookies being set.

## **9. General**

This Privacy Policy shall be governed by and construed in accordance with English law and the parties agree that the courts of England shall have exclusive jurisdiction to decide any dispute arising under it.