

**THIS AGREEMENT** is made between You (the **"User"**) and **MORTGAGES FOR BUSINESS LIMITED** (Company Number 2502713) whose registered office is at 53-55 High Street, Sevenoaks, Kent TN13 1JF (**"MFB"**) together **"the parties"** and each a **"party"**.

## **BACKGROUND**

This agreement sets out the basis under which MFB will make Products available to the User through access by the User to Mortgage Flow software created by and belonging to MFB.

## **1. DEFINITIONS AND INTERPRETATION**

The following terms have the following meanings unless the context requires otherwise:

"Client" means any existing or potential client of the User.

"Client Data" means, in relation to any Client, all Personal Data and all other data relating to the Client whether disclosed to the User by the Client or by anyone else including a Lender.

"Intellectual Property Rights" means all intellectual and industrial property rights anywhere in the world, including, without limitation, any invention, patent, design or utility model rights, any copyright and trademarks, service marks, database rights, topography rights, commercial or confidential information, know-how or trade secrets, and any other rights of a similar nature whether or not registered, and the right to apply for any of them.

"Lender" means any provider of mortgages or other services details of which are available via Mortgage Flow.

"Licence" means a Mortgage Flow licence granted on these Terms.

"Mortgage Flow" means the mortgage product search, selection, application, processing and other mortgage facilities provided by MFB using the Mortgage Flow software including but not limited to the proprietary data and processes as well as trading information, data bases and files including any modifications thereto; and the on-line help screens and other user documentation provided by MFB to You, as such may be revised from time to time.

"Personal Data" has the meaning given to it in the Data Protection Act 1998.

"Regulatory Authority" means any regulatory authority which has responsibility for regulating MFB, the User or a Lender and/or any of their services or products.

"Relevant Regulations" means the Financial Services and Markets Act 2000, the Consumer Credit Act 1974, the Data Protection Act 1998, the MCOB regulations issued by the FSA and any other law, regulation or code applicable in the context to the User.

"Terms" means these terms and conditions.

"Third Party Applications" means any application or software program or product from time to time other than the Mortgage Flow software itself which is accessible via the Mortgage Flow software via any software interface, link or the internet and is not software owned by MFB.

"You" means the person who has registered to use Mortgage Flow where he or she is an individual or sole trader or, where he or she is an employee of a corporate body or partnership, both that person and his or her employer; and "Your" shall be construed accordingly.

## **2. LICENCE**

2.1 MFB charges Licence fees for each single user, non-exclusive and non-transferable licence that it grants for an individual within the User's organisation to use Mortgage Flow on a single computer (or if the individual requires Mortgage Flow on a desktop and a laptop it can be installed for the sole use of the individual on both computers) subject to payment of subscription fees in accordance with clause 3.1 and use of Mortgage Flow in accordance with these Terms.

2.2 The User's Mortgage Flow Licence shall terminate immediately if the User fails either to pay any subscription fees in accordance with clause paragraph 3.1 or to comply with any other provisions of these Terms.

2.3 You and your agents shall not perform any of the following:

2.3.1 reverse engineer, decompile, disassemble or re-engineer Mortgage Flow except as may be specifically required by statute;

2.3.2 copy or reproduce any portion of Mortgage Flow software;

2.3.3 prepare any derivative works of Mortgage Flow (except for Clients or for Your administration purposes) or authorise any third party to prepare any derivative works thereof; or

2.3.4 commercially re-distribute any information or data obtained directly or indirectly from Mortgage Flow other than to Your Clients.

## **3. CONDITIONS OF USE**

3.1 The User shall pay MFB for use of Mortgage Flow the sum specified from time to time in MFB's published tariffs or as otherwise agreed. MFB will advise You of any intended increase in tariffs at least one calendar month before such increases are to take effect.

3.2 In using Mortgage Flow You must comply with all Relevant Regulations.

3.3 MFB owns the Intellectual Property Rights in Mortgage Flow and its contents. You may only use Mortgage Flow and reproduce it in hard copy form for the purposes of accessing and using Mortgage Flow for your own business use and for reference purposes. The contents may not otherwise be reproduced, distributed or transmitted to any other person without MFB's permission.

3.4 Mortgage Flow is a trading style of MFB. Other product and company names appearing on Mortgage Flow may be the trademarks of their respective owners and should not be reproduced or copied without the owner's permission.

3.5 It is Your responsibility to ensure appropriate security of your premises and any laptops on which Mortgage Flow is loaded and keep Your password and user ID numbers secret. You are responsible for and accept liability for any use of the Mortgage Flow by You or anyone else using a user ID and password issued to You. Any unauthorised use of Mortgage Flow and/or Your password and user ID should be notified to MFB immediately by e-mail at [support@mortgageflow.co.uk](mailto:support@mortgageflow.co.uk)

3.6 You will keep all Client Data confidential and not disclose them or any part of them to anyone without the express permission of the relevant Client and will only use Client Data for the purposes for which you have been authorised to use them by the relevant Client.

3.7 The information and tools on Mortgage Flow are not intended to be advice, whether financial, investment or otherwise. The information available on Mortgage Flow is derived from information provided by Lenders and MFB gives no warranty of any kind, express or implied, and makes no representation with regard to the accuracy, timeliness or completeness of such information. When using Mortgage Flow offline, data will not be updated consequently it is important that You operate Mortgage Flow on-line on a daily basis to update the information held by it by download from MFB's systems.

3.8 MFB has no responsibility for the content of any Third Party Application, its operation, including without limitation the processing integrity, security of data and freedom from viruses and corruption of data, and does not endorse any Third Party Application.

#### **4. WARRANTIES/INDEMNITY**

4.1 You warrant to MFB that:

4.1.1 if you are an employee you are authorised by your employer to agree to these Terms, and

4.1.2 every time you tell MFB You are authorised by a Client to act on their behalf you are so authorised;

4.1.3 You and Your employees will comply with the Conditions of Use set out in clause 3;

4.1.4 You are duly authorised in accordance with all Relevant Regulations and by all Regulatory Authorities to undertake your business activities and advise Clients;

4.1.5 the information provided in registering for Your use of Mortgage Flow is in all respects accurate and up to date and that you will immediately notify us of any changes as soon as they occur by e-mailing us at [support@mortgageflow.co.uk](mailto:support@mortgageflow.co.uk) and you agree that MFB may use such information to enable MFB to administer and service your use of Mortgage Flow and for other related purposes including advising You of other products or related services of group companies or its trading partners;

4.1.6 any details entered on Mortgage Flow on behalf of a Client are correct and accurate.

4.2 You agree that in relation to any claim, proceeding, dispute or allegation brought against MFB by a third party (including Clients) arising out of or in connection with Your use of Mortgage Flow You shall be liable for and will fully indemnify MFB against any and all liability, loss, damage, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by MFB.

## **5. LENDERS AND THIRD PARTY APPLICATIONS**

5.1 MFB will not be a party to, or in any way responsible for, any arrangements regarding products or services available from Lenders and providers of Third Party Applications and shall not be responsible in any way for any costs, claims, damages and liability arising in relation to those products or services even if the contract in question was entered into as a result of or through use of Mortgage Flow.

5.2 No contract will come into existence between a Client and a Lender until confirmed in writing in hard copy form or as stipulated by the Lender.

5.3 Your access to and use of websites and services of Lenders or Third Party Applications is entirely at Your own risk and MFB accepts no responsibility for and exclude liability for any loss or damage caused by the content of, use of or reliance on information or tools contained in such websites or for any services provided by Lenders or Third Party Application providers. MFB does not accept liability for error or omission.

5.4 You agree not to make a claim against MFB for any loss or damage You may suffer as a result of the use of any service or website of a Lender or Third Party Application providers.

## **6. TERMINATION**

6.1 Your Licences shall continue indefinitely unless and until terminated in accordance with this clause 6.

6.2 Either You or MFB may give the other not less than one month's written notice to terminate Your Licences at the end of the calendar month following that in which notice is given.

6.3 If you breach any of the Terms MFB reserves the right to cancel Your user ID and password immediately and without notice and cease to provide you with updates to Mortgage Flow.

6.4 Notwithstanding clause 6.2, MFB may terminate a Licence at any time should it not receive payment of any monies relating to your licence when due.

## **7. WARRANTIES AND LIABILITY**

7.1 MFB's total liability in any period of 12 months in respect of any incident or series of incidents arising out of the same subject matter in relation to Your use of Mortgage Flow will be limited to the subscription monies received by MFB from You in the previous 12 months in respect of your use of Mortgage Flow .

7.2 MFB will not be liable to You for loss of profit; business interruption; loss of business information; loss of goodwill; other commercial loss; loss of opportunity or for any indirect, special or consequential loss (whether or not the possibility of such loss was brought to MFB's attention or was foreseeable by MFB) suffered by You or damages suffered by any Client arising out of or in connection with Your use of Mortgage Flow or its unavailability or financial decisions made by any Client based on information received by a Client by means of Mortgage Flow regardless of whether such damages arise in tort or in contract.

7.3 MFB makes no warranty that the Mortgage Flow will meet Your requirements or will be compatible with Your computer equipment or that Your use of it will be uninterrupted, timely, secure or error-free but MFB will exercise reasonable skill and care. MFB does not make, and You now expressly waive, all other warranties regarding Mortgage Flow, express or implied, including the warranties of merchantability and warranties of fitness for a particular purpose.

7.4 MFB excludes any liability for:

7.4.1 non-availability of: (i) updates to the Mortgage Flow database of information or (ii) synchronisation to its systems for any on-line or internet based tools or functionality of Mortgage Flow or (iii) Third Party Applications;

7.4.2 Your inability to access any Lenders or their products via Mortgage Flow at any time;

7.4.3 unauthorised disclosure of Client Data; and

7.4.4 any illegal action of a third party on the internet such as hacking or the introduction of any virus or contaminant or denial of service attack arising from circumstances beyond its reasonable control.

## **8. DATA PROTECTION**

8.1 You will be a Data Controller within the meaning of the Data Protection Act 1998 of all applicable Personal Data and You hereby appoint MFB as Your Data Processor in respect of any such data which is uploaded to us on making any product applications online.

8.2 The instructions given by You to MFB in respect of Personal Data shall at all times be in accordance with the Relevant Regulations.

8.3 MFB will process Personal Data in accordance with Your instructions from time to time. Your use of any tools or automated functionality of Mortgage Flow such as mortgage application submission or use of any Third Party Applications shall constitute your instructions to process Personal Data in accordance with the operation of such tools and products, including transfer of Personal Data to third parties.

8.4 MFB will ensure that all employees engaged by MFB to provide the Services are aware of data protection and confidentiality laws and the requirement for care in handling personal data.

8.5 MFB will assist You with all subject information requests which may be received from Clients.

8.6 MFB will not disclose Personal Data to a third party in any circumstances other than at Your request.

8.7 MFB will allow its data processing facilities, procedures and documentation to be submitted for scrutiny by Your auditors in order to ascertain compliance with the Relevant Regulations and these Terms.

8.8 MFB warrants that it has appropriate operational and technological processes and procedures in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of Personal Data in accordance with the requirements of the Data Protection Act 1998.

## **9. USE OF YOUR NAME AND TRADEMARK FOR ADVERTISING**

9.1 MFB may refer to You by name as a user of Mortgage Flow in any advertising by MFB and use a copy of Your trademark or trading style for those purposes. You hereby grant to MFB a non-exclusive, non-transferable royalty free licence to use your trademark solely for that purpose.

## **10. GENERAL**

10.1 You will notify MFB immediately if You become aware of any breach on Your part of any Applicable Regulation or become the subject of a formal investigation or disciplinary or enforcement action by any Regulatory Authority.

10.2 If any part of the Terms shall be determined invalid, unlawful or unenforceable to any extent then such term, condition or provision or part shall be severed from the remaining Terms which shall continue to be valid and enforceable to the fullest extent permitted by law.

10.3 MFB may change the Terms from time to time with new releases. Any such changes will be brought to your attention by way of e-mail and by continuing to use Mortgage Flow following a change to the Terms You agree to be bound such changes. The Terms in force from time to time will be available on the Mortgage Flow website [www.mortgageflow.co.uk](http://www.mortgageflow.co.uk).

10.4 These Terms shall be governed by and construed in accordance with English law and both parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales in relation to any claim, dispute or difference which may arise under these Terms.