Short Term Lending - Terms of Business (2016 Edition)



These Terms of Business constitute the agreement (the **Agreement**) between **Us** Charter Court Financial Services Limited trading as Precise Mortgages), **You** and the **Firm** for **You** to introduce **Applicants** to Precise Mortgages with a view to **Us** providing short term lending facilities to them. By introducing an **Applicant** to us **You** and the **Firm** will be deemed to accept these Terms of Business on behalf of yourself and **Your Firm**.

1. Definitions

The following definitions apply in the **Agreement** and appear in bold throughout for ease of reference:

- 1.1 Applicant means a Person You introduce to Us and Application means their application to Us for a short term loan and/or request for a decision in principle in respect of such a loan.
- 1.2 Business Day means any day except Saturday and Sunday on which clearing banks are ordinarily open for business in the City of London.
- 1.3 Buy-to-let Mortgage Contract means a contract that
- 1.3.1 at the time it is entered into-
- 1.3.1.1 meets the conditions in paragraphs (i) to (iii) of Article 61(3)(a) of the RAO (Regulated Mortgage Contracts): and
- 1.3.1.2 provides that the land subject to the mortgage cannot at any time be occupied as a dwelling by the **Applicant** or by a related person, and is to be occupied as a dwelling on the basis of a rental agreement; or
- 1.3.2 is a regulated credit agreement within the meaning of Article 60B of the RAO which
 - (i) falls within Article 3(1)(b) of the Mortgage Credit Directive; and;
 - (ii) provides that the land, or existing or projected building, to which it relates cannot at any time be occupied as a dwelling by the **Applicant** or by a related person, and is to be occupied as a dwelling on the basis of a rental agreement
- 1.4 CBTL Mortgage Contract means a Buy-to-let Mortgage Contract which is not entered into by the Applicant wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the Applicant.
- 1.5 CBTL Rules mean the rules applying to CBTL Mortgage Contracts and Applications for CBTL Mortgage Contracts as set out in Schedule 2 to the MCD Order.
- 1.6 Commission means the fee payable by Us to the Firm in accordance with the provisions of Clause 2.
- 1.7 **Confidential Information** has the meaning given to it by Clause 5.
- 1.8 Charter Group means Charter Court Financial Services Group Limited or any of its subsidiary or associated companies where appropriate.
- 1.9 Facility Fee means a fee payable to Us by the Applicant in relation to a Transaction as stated in a Mortgage Offer.
- 1.10 FCA means the Financial Conduct Authority or a successor authority.
- 1.11 FCA Rules means the FCA's Handbook of Rules and Guidance as amended from time to time.
- 1.12 Firm means an individual, limited company, limited liability partnership or other partnership which employs You or of which You are the sole proprietor, partner or director.
- 1.13 MCD Order means the Mortgage Credit Directive Order 2015 (SI 2015/910).
- 1.14 **Mortgage Credit Directive** means Directive 2014/17/EU of the European Parliament and of the Council of the European Union of 4th February 2014.
- 1.15 Mortgage Illustration means a mortgage illustration required to be provided to an Applicant by FCA Rules or CBTL Rules.
- 1.16 Mortgage Offer means a letter from Us to the Applicant detailing the terms and conditions on which We would be prepared to enter into a Transaction.
- 1.17 **Person** includes a corporate body.
- 1.18 Product means any Product or service available from Us and includes the terms on which We may make a Transaction available.
- 1.19 RAO means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (as amended).
- 1.20 Regulated Mortgage Contract means a mortgage contract falling within Article 61(3) of the RAO.
- 1.21 **Related Company** means a company that provides products and services, which can be purchased through the **Charter Group**.
- 1.22 **Termination Date** means the effective date of termination of this **Agreement**.
- 1.23 Transaction means a loan, secured by way of mortgage on property in England, Wales or Scotland, made by Us to an Applicant.
- 1.24 We, Us and Our means Precise Mortgages.
- 1.23 You and Your means the Firm and/or the Person introducing an Applicant to us. The singular includes the plural where appropriate.
- 2. Terms of Business for Introduction of Applicants
- 2.1 You are a Firm, an employee of a Firm, a member or partner in a Firm or a director of a Firm.
- 2.2 You and the Firm are resident in the United Kingdom.
- 2.3 You and the Firm accept that:
- $2.3.1 \quad \textbf{We may amend or withdraw a Product without notice}; \\$
- 2.3.2 We invite Applicants to apply for any Product but We are not obliged to accept any Application for a Product and may refuse any Application without giving a reason:
- 2.3.3 We may contact the Applicant direct (although in relation to any Transaction We would normally make such contact through You before completion);

- 2.3.4 **Transactions** are subject to status and not available to Persons under 18;
- 2.3.5 It is a criminal offence knowingly to provide incorrect or misleading information in order to obtain a short term loan;
- 2.3.6 We may in our absolute discretion amend these Terms of Business from time to time without advance notice (although We would give You notice of any such amendments under Clause 15 as soon as reasonably practicable) and Your appointment as an introducer will be reviewed periodically in respect of which We may ask you to provide financial or other information;
- 2.3.7 You agree that We may have access to Your business premises on reasonable notice to carry out an audit on the business transacted with Us and for this purpose You agree to give Us full access to the relevant documentation;
- 2.3.8 As a result of **Our** review under clause 2.3.6 or an audit under clause 2.3.7, **We** may withdraw **Your** introducer status without notice where appropriate;
- 2.3.9 We will pay Commission to the Firm on the following basis:
- 2.3.9.1 on each Transaction which results directly from Your introduction to Us of an Applicant (provided neither You nor the Firm are in breach of any of the provisions of this Agreement);
- 2.3.9.2 at a rate agreed between the parties for each Transaction; where Value Added Tax (VAT) is payable in respect of Commission, it shall be inclusive of VAT. If any dispute arises as to the amount of Commission due to You the parties shall seek to come to an agreement in respect of such Commission within 10 Business Days of the dispute arising. If after such date the parties have failed to come to an agreement, an independent accountant shall be appointed to decide the amount of Commission due and his judgment shall be binding upon the parties. The cost of such appointment shall be borne by the parties equally;
- 2.3.9.3 the Commission will be paid by direct transfer to the Firm's bank account as nominated by You not later than 14 days after completion of a Transaction;
- 2.3.9.4 We reserve the right in Our absolute discretion to amend or vary the basis of payment of Commission from time to time without advance notice but no such variation will apply retrospectively. We would, however, give You notice of any such amendments under Clause 15 as soon as reasonably practicable;
- 2.3.9.5 You must inform each Applicant in writing that You will receive Commission from Us and at the request of an Applicant You will also inform them of the basis on which the Commission is calculated and the amount of it within a reasonable time. If an Applicant objects to Your receiving Commission You must inform Us immediately and in that event, You must not claim and We shall not pay Commission to You except with the prior written agreement of each Applicant in relation to the Transaction, and
- 2.3.9.6 any breach by You of the provisions of Clause 2 may involve an obligation for You to account to the Applicant for all the Commission You have received from Us in respect of the Transaction and will also normally result in immediate termination of the arrangements between the Firm and Us.
- 2.3.10 You confirm that you have authority to enter into this Agreement on behalf of You and the Firm.
- 2.4 You confirm that:
- 2.4.1 You will explain to each Applicant that You and the Firm represent the Applicant and are not Our agents for the introduction of Transactions to Us,
- 2.4.2 You will explain to each Applicant that the amount they owe Us will not reduce over the repayment period of the short term loan and that it will be the Applicant's responsibility to repay the loan from their own resources at the end of that period.
- 2.4.3 for all applications for Regulated Mortgage Contracts, You will:
- 2.4.3.1 before you submit (or arrange to submit) an Application for that Regulated Mortgage Contract, advise the Applicant on the suitability of the Regulated Mortgage Contract, provide them with a Mortgage Illustration for the Regulated Mortgage Contract, and an adequate explanation of it, notify them of the information We require to assess affordability, when We require it and the consequences of failing to provide it in accordance with the FCA Rules, and
- 2.4.3.2 if the terms of the Regulated Mortgage Contract applied for change, provide them with an revised Mortgage Illustration and adequate explanation for that Regulated Mortgage Contract in accordance with the FCA Rules.
- 2.4.4 for all applications for **CBTL Mortgage Contracts**, **You** will:
- 2.4.4.1 before you submit (or arrange to submit) an Application for that CBTL Mortgage Contract, provide the Applicant with a Mortgage Illustration and an adequate explanation of the CBTL Mortgage Contract and notify them of the information We require to assess affordability, when We require it and the consequences of failing to provide it in accordance with the CBTL Rules, and
- 2.4.4.2 if the terms of the CBTL Mortgage Contract applied for change, provide them with an revised Mortgage Illustration and an adequate explanation for that CBTL Mortgage Contract in accordance with the CBTL Rules.
- You and the Firm will disclose to Us all information You know about an Applicant, which You and the Firm can reasonably be expected to realise will be material to Our decision to lend to an Applicant whether We ask for it, or not. You and the Firm will inform Us as soon as reasonably practicable of any changes to the information that You or the Firm have provided to Us about You, the Firm or an Applicant.
- 2.6 You and the Firm will not, without an Applicant's prior consent, provide Us with any information about an Applicant, submit an Application, or ask Us to undertake a credit search.



- 2.7 You and the Firm will comply with all laws, statutes, regulations and requirements of any government or quasi-governmental authority relating to You and the Firm's business in so far as they apply to You and the Firm. In particular, You and the Firm will ensure that any marketing material which You provide to an Applicant or prospective Applicant complies with all relevant regulatory requirements.
- You will obtain and at all times maintain all legal and regulatory licences, authorisations, consents, registrations and similar things required for the lawful and proper operation of Your business, and the maintaining of proper notifications under the Data Protection Act 1998. You will immediately notify Us in writing with full details if any requisite authorisation is withdrawn, restricted or made subject to non-standard conditions.
- 2.9 You will follow best industry practice in the conduct of Your business.
- 2.10 You will not misrepresent Us or Our Products to any Person nor enter or purport to enter unto any commitments on Our behalf.
- 2.11 You and the Firm will tell Us if You insist that an Applicant purchases any other products or services through You and/or the Firm.
- 2.12 You and the Firm will only request that financial or sensitive information be transmitted by unsecure e-mail if the Applicant has agreed to this.
- 2.13 In relation to each Application You will supply all information reasonably requested by Us to enable Us to undertake a credit assessment of the borrowing facilities requested and You will use all reasonable endeavours to ensure that the information You have supplied to Us relating to the Applicant, the Application and the Transaction is true and accurate in all material respects.
- 2.14 You shall indemnify Us and keep Us indemnified from and against all loss, damage or liability (whether criminal or civil) and legal fees and costs incurred by Us directly as a consequence of a breach by You of this Agreement or any of Your obligations under relevant laws and regulatory requirements.
- You shall maintain throughout the term of this Agreement and for a period of at least 12 months after the Agreement terminates, professional indemnity insurance with a reputable insurer for an amount which is not less than one million pounds and on reasonable open market terms without material restrictions. You shall provide evidence of such insurance cover to Us upon request.

3. Data Protection

- 3.1 The Firm and Us are joint data controllers for the purposes of processing an Application and the Firm is registered under the Data Protection Act 1998. You and the Firm will process all personal data in accordance with the Data Protection Act 1998 and the Data Protection Principles.
- 3.2 The Charter Group may, as part of their service, inform You and the Firm about products and services (including those of a Related Company) which it is considered may be of interest to You or the Firm:
- 3.2.1 by email messages if **You** have ticked a box at the end of this form indicating a desire to receive this information in this way, and
- 3.2.2 by any other form of communication (including mail and telephone) unless You or the Firm write to Us at, 2 Charter Court, Broadlands, Wolverhampton WV10 6TD.
- 3.3 We may monitor and record telephone calls or emails to prevent or detect crime, for service quality or security purposes.
- 3.4 Under the Data Protection Act 1998 You have and the Firm may have the right, upon request, to have the details of information that the Charter Group holds about You in its records. Your request should be in writing and addressed to the Data Protection Officer, 2 Charter Court, Broadlands, Wolverhampton WV10 6TD together with a cheque for £10 to cover the administration work involved.

4. Anti-Money Laundering

- 4.1 You and/or the Firm must have seen the originals of copy documents provided as evidence of identity and address and checked that any requiring a signature were pre-signed. The copies must be true copies of the original documents and where there is a photograph the copy must provide a good likeness of the Applicant.
- 5. Confidentiality
- 5.1 For the purposes of this clause, the following words have the following meanings:
- 5.1.1 Application Information means the information given by or on behalf of an Applicant to Us in a short term lending application form or otherwise received by Us in connection with an Application;
- 5.1.2 Confidential Information means the existence and contents of this Agreement and all information or data, including all oral and visual information and data and all information or data recorded in writing or in any other medium or by any other method, disclosed to or obtained by one party from the other party or from a third party on behalf of the other party, including without limitation, Application Information or the other party's operations, processes, plans, intentions, Product information, know-how, design rights, trade secrets, software, market opportunities, clients and business affairs and information or data owned by clients of either party;
- 5.1.3 Disclosing Party means the party disclosing Confidential Information of the other party;
- 5.1.4 Recipient Party shall mean the party receiving Confidential Information of the other party.
- 5.2 Each party agrees to keep confidential all Confidential Information of the other party which is disclosed to or obtained by it in connection with or as a result of this Agreement and agrees (except as mentioned later in this clause) not to divulge that information to any third party and will allow access to it to its own employees only to the extent that they need to know the Confidential Information for the performance of their duties. This clause does not prevent Us from disclosing Confidential Information to any third party which provides funds for Our short term lending business.

- 5.3 Neither party may use or issue to any third party or to the public any advertisement, brochure, circular or other similar document containing any reference to the other party or to the other party's products or services without first obtaining the other party's written approval of that document except that this clause will not prevent either party from making a simple announcement about the short term lending relationship between the parties.
- 5.4 The Firm accepts that the Application Information constitutes Our Confidential Information.
- 5.5 Each party in its capacity as Recipient Party accepts that the Confidential Information of the Disclosing Party is valuable and secret, and that unauthorised disclosure of such information would be likely to cause the Disclosing Party unquantifiable loss, for which damages may not be an adequate remedy.
- 5.6 The obligations of confidence referred to in this clause shall not apply to any information which:-
- 5.6.1 is disclosed by the Recipient Party to any of its shareholders, directors, partners, employees, professional advisers and sub-contractors for their use to the extent that such disclosure and use is reasonably necessary for the purposes of this Agreement;
- 5.6.2 is in the possession of and is at the free disposal of the Recipient Party or is published or is otherwise in the public domain prior to the receipt of such information by the Recipient Party;
- 5.6.3 the Disclosing Party agrees may be disclosed to a third party specified by the Disclosing Party in writing prior to any disclosure; or
- 5.6.4 is required to be disclosed by law, regulation, any revenue or regulatory authority or the London Stock Exchange or by order of a court of competent jurisdiction.
- 5.7 The Recipient Party accepts that the Disclosing Party will, without affecting any other rights or remedies that the Disclosing Party may have, be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this clause. The obligations of the parties under this clause shall survive the expiry or the termination of this Agreement for whatever reason.

6. Termination

- 6.1 This **Agreement** may be terminated:-
- 6.1.1 by either party upon giving not less than thirty days' prior written notice to the other;
- 6.1.2 forthwith by either party if the other commits any material or continuing breach of any term of this **Agreement** and which (in the case of a breach capable of being remedied) shall not have been remedied within twenty days of a written request to remedy the same;
- 6.1.3 forthwith by either party if the other party shall have any necessary licences or authorisations (including authority or permission granted to it by the Financial Conduct Authority or other Governmental body) suspended, withdrawn or varied in such a manner as materially affects in any way that party's ability to meet its obligations under this **Agreement**;
- 6.1.4 forthwith by either party where one party has reasonable grounds for suspecting fraud, or dishonesty by the other party, a member of its staff or its agents, or any independent contractors engaged by the other party;
- 6.1.5 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for the other's voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction), or
- 6.1.6 forthwith by either party if the other party experiences a change of control (other than pursuant to a scheme of arrangement, solvent reorganisation, or reconstruction involving the other party and its associates) and for this purpose "control" has the meaning set out in section 840 Income and Corporation Taxes Act 1098
- 6.2 Termination of this Agreement shall be without prejudice to any rights or obligations which shall have accrued prior to such termination.
- 6.3 On or after the **Termination Date**:
- 6.3.1 each party's obligations of confidentiality as set out in Clause 5 of this **Agreement** will continue indefinitely, and
- 6.3.2 as soon and in so far as reasonably practicable each party will return to the other all business documents, computer equipment and material belonging to the other.

7. Assignment

7.1 Neither party may assign or otherwise transfer the benefit and/or burden of any part of this **Agreement** to any **Person** without the prior written consent of the other party except that **We** may assign or otherwise transfer the benefit and/or burden of any part of this **Agreement** to another member of the **Charter Group**.

3. Illegality

.1 If any provision of this Agreement is or becomes (whether or not pursuant to any judgement or otherwise) invalid, illegal or enforceable in any respect, the validity, legality and enforceability of any other provision shall not be affected or impaired in any way. In the circumstances set out in this clause, the parties shall meet to discuss the void and unenforceable provisions and shall substitute therefore a lawful and enforceable provision which so far as possible results in the same economic effects.



9. No Agency

9.1 Each party to this Agreement acknowledges that it is acting with full authority on its own behalf and not as an agent, representative or employee of the other. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute, or be deemed to constitute between the parties, a partnership, association, joint venture or other co-operative entity.

10. Non-exclusivity

10.1 Nothing in this Agreement shall prevent either party from obtaining services similar to those provided for in this Agreement from other Persons, firms or companies carrying on business similar to or in competition with the other party.

11. Waiver

11.1 No extension of time or other indulgence which may be granted by any party to this Agreement shall constitute a waiver of the rights under this Agreement of the party granting the extension of time or other indulgence.

12. Force Maieure

12.1 Neither party shall be liable to the other in respect of anything which, apart from this provision, may constitute breach of this Agreement arising by reason of force majeure, namely circumstances beyond the reasonable control of either party.

13. Variations

13.1 Except where the Agreement specifically provides otherwise, this Agreement may only be varied by a document in writing signed by authorised signatories of both parties on or after the date of this Agreement.

14. Entire Agreement

14.1 This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior communications, undertakings and agreements relating thereto.

15. Notices

15.1 Any notice given under this Agreement by either party to the other must be in writing and may be delivered personally by email to the email address given in the Broker Registration Form or any other email address notified by You to Us, or by first class post, and in the case of post will be deemed to have been given two Business Days after the date of posting. Notices will be delivered or sent to the addresses of the parties stated at the start of this Agreement or to any other address notified in writing by either party to the other for the purpose of receiving notices after the date of this Agreement.

16. Law and Jurisdiction

16.1 The formation, construction and performance of this Agreement (and any dispute of whatever nature arising out of or in any way relating to it) shall be governed by and construed in accordance with English Law and each of the parties hereto irrevocably submits to the exclusive Jurisdiction of the English courts as appropriate.

17. Rights of Third Parties

17.1 No **Person** other than a party to this **Agreement** may enforce the terms of this **Agreement** by virtue of the Contracts (Rights of Third Parties) Act 1999.



How we use your Personal Information

The information which You provide or which We, Precise Mortgages obtain through our dealings with You, will be held by Us even if Your application is refused. That information may also be held and used for the same purposes by any third party to whom We may transfer the benefit of our interests in any Transaction made to an Applicant whom You have introduced to Us.

Information Uses

- We will use this information to help Us manage Your relationship with Us, to update or enhance Our records, and for administration purposes.
- We will make such enquiries, as We consider necessary for the purposes of confirming the accuracy of the information provided by You.
- We will check Your details with fraud prevention agencies.
- If false or inaccurate information is provided and fraud is identified, details will be passed to fraud prevention agencies and other organisations involved in
- Law enforcement agencies may access and use this information.
- We and other organisations may also access and use this information to prevent fraud and money laundering.
- We and other organisations may access and use from other countries the information recorded by fraud prevention agencies.
- We may use automated methods when assessing Your application, verifying Your identity, and managing Our relationship with You.
- We may use Your records to understand how You deal with Us, for market research, system testing and business/ statistical analysis, to help Us develop and improve Our business and services, and to be what products may be of y also share it within the of interest mav Charter Group review and understand Your total relationship with the Charter Group.

Information disclosures

- We may pass on Your information to:
 - any other member of the Charter Group;
 - any third party to whom We may transfer the benefit of Our interests in any Transaction made to an Applicant whom You have introduced to Us;
 - other organisations which might assist Us in processing Your application for
 - regulatory authorities (including regulators of voluntary and any other Person/corporate body having a practice) legal the information or if the law allows, or requires, Us to
 - the police or other law enforcement agency requesting it in connection with the commission of any offence, once We are reasonably satisfied as to the circumstances surrounding the request;
 - Our professional advisers, shareholders or auditors;
 - fraud prevention agencies and other organisations involved in fraud prevention;
 - any individual or organisation that We contract or employ to provide goods or services to Us.

Marketing of products and services

We and other members of the Charter Group may, as part of Our service, inform You about products and services in accordance with the provisions of Clause 3 of the Terms of Business.

Your rights

- $\label{eq:weighted} \textbf{We} \quad \text{will} \quad \text{give} \quad \textbf{You} \quad \text{a copy of the information} \quad \textbf{We} \quad \text{hold about} \quad \textbf{You},$ on payment of a fee, if You apply to Us in writing: the Data Protection Officer, 2 Charter Broadlands, Wolverhampton Court, WV10 6TD.
- You have a legal right to access Your personal records held by credit agencies. Please telephone 0800 116 4385 if You would like Us to supply their addresses. Your calls or emails may be monitored or recorded to prevent or detect crime, for service quality or security purposes.

Registration Declaration

You agree with Us and any third party to whom We may transfer the benefit of its interests in any Transaction made to an Applicant whom You have introduced to Us that:

- You will supply any evidence of Your identity and address which We request
- You have completed the application form and will inform Us immediately if any of this information or any circumstances surrounding Your application change before We accept your application.
- The information You have given \boldsymbol{Us} on this application form is true and \boldsymbol{You} agree it will form the basis on which \mbox{We} may accept \mbox{You} on to \mbox{Our} Short Term Lending Broker Panel.
- You authorise Us to make any enquiries We feel to be appropriate in deciding whether or not to proceed
- You accept that We are not obliged to accept Your application and may decline it without giving a reason.
- You have read, understood and agree to be bound by these Terms of Business.
- You are entitled to disclose information about any other Person or Persons stated on this form and You confirm that they authorise Us to make any enquiries We feel appropriate in deciding whether or not to proceed.

I consent to You sending marketing information to Me about Your products and services by electronic $\rm \bar{m}eans$ including email from time to time. If $\bf You$ do not want to receive marketing information about Our products and services then please contact us at the Marketing Department, 2 Charter Court, Broadlands, Wolverhampton WV10 6TD

I accept these Terms of Business
Signature
Print Name
Position in Company
Date

Get in touch with our intermediary support team



8 0800 116 4385 9am to 6pm, Mon to Fri

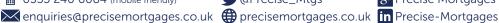


0333 240 6084 (mobile friendly)



8+ Precise Mortgages

🖰 0800 131 3180



We can provide literature in large print, Braille and audio tape. Please ask us for this leaflet in an alternative format if you need it.