

**METRO BANK
COMMERCIAL FINANCE BROKER AGREEMENT**

THIS AGREEMENT is dated this day of 2021

BETWEEN:

(1) **METRO BANK PLC** (company registration number 06419578) whose registered office is situated at One Southampton Row, London WC1B 5HA (the '**Bank**'); and

(2) **[COMPANY NAME (company registration number) (FCA Number)]** whose office is situated at **[ADDRESS]** (the '**Broker**'),

each of the Bank and the Broker being a party and together the Bank and the Broker being the parties.

WHEREAS:

(A) The Bank is authorised by the FCA and is regulated to carry on those activities for which it has a Part IV permission under FSMA.

(B) The Bank wishes to appoint the Broker to introduce Customers to the Bank for the purpose of entering into commercial finance arrangements.

IT IS AGREED:

1 DEFINITIONS

Agreement	means this agreement.
Appointed Representative	means an appointed representative as defined in section 39(2) FSMA.
Business	means the activities the Broker is authorised to undertake pursuant to this Agreement, more particularly, commercial finance arrangements.
Commencement Date	means the date of this Agreement.
Customer	means a customer or potential customer of the Broker who the Broker introduces to the Bank for the purpose of the Business.
Data Protection Legislation	means the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of the UK by virtue of section 3 of the European Union (Withdrawal) Act 2018 (" GDPR "), and the Data Protection Act 2018.
FCA	means the Financial Conduct Authority or any regulatory body which succeeds or replaces it.

Fees	means the fees due to the Broker pursuant to this Agreement, as set out in Schedule 2.
FSMA	means the Financial Services & Markets Act 2000 and any amending or replacement legislation.
ICO	means the Information Commissioner's Office.
Personal Data	means the data shared under this Agreement that amounts to personal data (as defined in the Data Protection Legislation).
Services	means the services as more particularly described in Schedule 1.

2 ENGAGEMENT

2.1 With effect from the Commencement Date, the Bank engages the Broker and the Broker agrees to introduce the Business either direct or through an Appointed Representative of the Broker, who must comply with the terms of this Agreement. The Broker will be responsible for all acts and omissions of its Appointed Representatives.

2.2 The Bank reserves the right to refuse all or any Business from a Broker or its Appointed Representatives, without providing a reason.

2.3 The Broker shall, where necessary, be appropriately authorised by the FCA and hold all relevant legal, regulatory and other permissions, licences, registrations and authorisations necessary for carrying on its business and introducing the Business.

2.4 The Broker is presumed to act on behalf of the Customer when introducing Business to the Bank under this Agreement and has appropriate authority to act and will use best endeavours to ensure that all information submitted to the Bank is true, accurate and complete.

3 SERVICES

The Broker shall provide the Services to the Bank.

4 OBLIGATIONS

4.1 The Broker warrants, represents and undertakes throughout the duration of this Agreement:

(a) to provide the Services and conduct the Business with all due skill, care, professionalism and diligence, including the skill and care of an experienced professional offering this type of business, and sound commercial principles and to inform the Bank in writing of anything which the Broker becomes aware of that would affect the judgement of a prudent bank on whether and what terms to provide the Business to a Customer;

(b) to provide the Services and conduct its business in accordance with the requirements of all relevant laws and regulations and any permissions, licences, registrations or authorisations, including ensuring that the scope of any such permissions, licences, registrations or authorisations is sufficient to allow proper performance of the Business;

(c) to be responsible for ensuring, where appropriate, that the Business meets FCA suitability requirements in cases where the Broker is providing advice;

(d) to provide full co-operation and information (including documentation) on reasonable request from the Bank and to use best endeavours to ensure any information (including documentation) is true, accurate and complete in all respects enabling and demonstrating proper performance of the obligations set out in this Agreement and auditing of the Business;

(e) to do nothing which may adversely affect the Bank's reputation, business or interests;

(f) to ensure nothing holds it out as an agent, partner, employee or other form of representative of the Bank; and

(g) prior to undertaking any Business, to ensure the identity of Customers is established in accordance with all relevant money laundering laws, regulations and guidance, and to retain all necessary evidence of such checks and provide the Bank with access to such evidence, by way of information or documentation, when required by the Bank.

4.2 The Broker agrees to inform the Bank immediately, in writing, in the event that:

(a) it ceases to act on behalf of a Customer;

(b) it is in breach of any of its permissions, licences, registrations or authorisations needed to conduct its business lawfully or they are at risk, not current or will not be renewed;

(c) it is in breach of any relevant laws or regulations;

(d) an Appointed Representative ceases to be its Appointed Representative; or

(e) a complaint is received from a Customer and the details of such complaint should this be requested by the Bank.

5 DOCUMENTATION

5.1 The Broker must retain and pass on immediately, on request and without amendment, any documentation which is either supplied by the Bank for the benefit of or completion by the Customer in relation to the Business, or provided by the Customer in relation to the Business.

5.2 All books and documents, computer hardware and software and any other items of property belonging to the Bank and in the possession of or under the control of the Broker must at all times be available to the Bank for inspection and be delivered in good condition (fair wear and tear excepted) to the Bank by the Broker on demand. All material supplied by the Bank shall be the Bank's property.

5.3 The Broker must not publish, circulate, issue or release any advertisement or literature relating to the Bank's business or make use of the Bank's name or logo without previous written authorisation from the Bank.

5.4 The Broker shall not sign or amend any documents or policies on behalf of the Bank nor make any statements or promises or representations of any kind whether written or oral which bind or purport to bind the Bank or any of the Bank's employees or directors and neither shall the Broker or its Appointed Representative hold itself out as having authority to make any such representation.

5.5 The Bank reserves the right to ask for additional information from a Customer, including, but not limited to, identity evidence.

6 FEES

6.1 Subject to the proper performance by the Broker of the terms of this Agreement, the Broker shall be entitled to the Fees, subject always to the Fees being properly due and payable pursuant to Schedule 2 (Fees). The Broker shall disclose Fees the Broker is due to receive for an introduction to the Customer.

6.2 Fees due to the Broker may not be paid if:

(a) the Broker (or its Appointed Representative) is no longer acting or has ceased to be permitted to act for a Customer, or it is reasonable to assume such;

(b) the Bank is prevented from making any such payments by operation of any law or regulation;

(c) the Broker fails to comply with any terms contained in this Agreement; or

(d) the Broker (or its Appointed Representative), including any of its directors or partners enters into a voluntary arrangement, has bankruptcy or liquidation proceedings instituted, has a receiver appointed over assets or has been charged with or convicted of any offence involving fraud or dishonesty.

6.3 Fees may not be paid or the Broker may be required to repay all or part of any Fees paid by the Bank for Business that was not submitted in accordance with the terms of this Agreement.

6.4 Any sums due from the Broker, shall be recoverable by the Bank from the Broker from any account held with the Bank. Any sums due from the Broker may be deducted from any sums owed or becoming owing by the Bank to the Broker but the Bank is under no obligation to exercise such set off.

6.5 Exercise by the Bank of the rights set out in this clause 6 shall be without prejudice to any other right or remedies available to the Bank under this Agreement or otherwise at law or in equity.

6.6 Any sum owed to the Bank by the Broker shall be due and payable without any formal demand for payment being issued.

7 CONFIDENTIALITY

7.1 The parties undertake to keep confidential at all times the terms of this Agreement and all information received in relation to this Agreement (whether oral, visual, written or any other form) and not to disclose any such information to any person who has no reason to know of the information or use it for any purpose whatsoever other than in the proper performance of its duties under this Agreement or with the prior written consent of the other party or as may be required to be disclosed by law or regulation.

7.2 The obligations set out in this clause 7 shall survive termination.

8 DATA PROTECTION

8.1 A reference to the expressions “processing”, “Personal Data Breach”, data subject” and “Controller” shall bear their respective meanings referred to in the Data Protection Legislation.

8.2 Each party acknowledges that one party (referred to in this clause as the **Data Discloser**) will regularly disclose to the other party Personal Data collected by the Data Discloser for the purposes of introducing and providing the Business.

8.3 Each party acknowledges that it is acting as a Controller for the purposes of the Data Protection Legislation.

8.4 Each party shall comply with all the obligations imposed on a Controller under the Data Protection Legislation.

8.5 In respect of the Personal Data, each party shall:

(a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Personal Data to the other party;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data;

(c) promptly inform the other party following receipt of any request from a data subject, including a data subject access request, or notice or communication from the ICO or a supervisory authority, that may affect the other party;

(d) assist the other party, at the reasonable cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;

(e) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation. Where such breach is a Personal Data Breach, within 24 hours of becoming aware provide the other party with a sufficient amount of information to allow the other party to submit a report to the ICO, or if different, its national supervisory authority and, if necessary, to notify the affected data subjects. Where the other party requires further support and information from the notifying party relating to a Personal Data Breach, the notifying party will provide such assistance in good time before the end of the compulsory 72 hour reporting period and/ or the time period in which the other party intends to notify the affected data subjects; and

(f) at the written direction of the Data Discloser, delete or return Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the Personal Data.

9 INTELLECTUAL PROPERTY

9.1 Save as may have expressly been agreed in writing, neither party shall acquire any right, title or interest in or to any intellectual property rights of the other party.

9.2 Save as otherwise provided for in this Agreement, neither party shall reproduce any logo, trade mark, service mark or name of the other party in any form without the prior written consent of that party nor hold itself out as being in any way connected with the other party.

10 INDEMNITY AND LIMITATION OF LIABILITY

10.1 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation;

(c) wilful misconduct; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

10.2 The Broker shall indemnify and keep the Bank fully indemnified in respect of any liability, losses, damages, claims or costs the Bank suffers or incurs arising from any breach of the Broker's obligations, warranties, representations or undertakings under this Agreement (including any breach of a relevant law or regulation) or by reason of any fraudulent act by the Broker.

10.3 The Bank shall indemnify and keep the Broker fully indemnified in respect of any liability, losses, damages, claims or costs the Broker suffers or incurs arising from any breach of the Bank's obligations, warranties, representations or undertakings under this Agreement (including any breach of a relevant law or regulation) or by reason of any fraudulent act by the Bank.

10.4 Neither party will be liable to the other party for any consequential, indirect or special losses, or for any loss of profit or business opportunity.

10.5 Nothing in this clause 10 shall remove or reduce the requirement for either party to mitigate its losses.

11 TERMINATION AND SUSPENSION

11.1 Either party may terminate this Agreement upon giving the other thirty (30) days' notice in writing.

11.2 The Bank may terminate this Agreement with immediate effect, and without liability, on the occurrence of any one or more of the following:-

(a) any material breach by the Broker or any person or body for which it is responsible (including an Appointed Representative) of any of the provisions of this Agreement;

(b) any misconduct, incompetence or negligence by the Broker or any person or body for which it is responsible (including an Appointed Representative);

(c) the Broker or any Appointed Representative ceases to be appropriately authorised or exempt (as applicable) under FSMA;

(d) cessation or suspension or intended cessation or suspension of the Broker's operation or in any circumstance where in the Bank's reasonable opinion it is likely to affect materially the ability of the Broker to perform its obligations under this Agreement; or

(e) material litigation or reconstruction involving the Broker including (without limitation of the foregoing) bankruptcy, dissolution, administration, winding up or seizure of assets; or

(f) any conduct by the Broker or any Appointed Representative which, by association, may be prejudicial to the Bank's business or reputation;

and the Broker shall keep the Bank advised in writing of any facts known to it within the scope of this paragraph 11.2.

11.3 Any termination of this Agreement by the Bank shall be without prejudice to any other remedies that the Bank may be able to pursue against the Broker, including any accrued rights.

11.4 Upon termination, the Broker shall:

- (a) return to the Bank as soon as reasonably practicable any property belonging to it;
- (b) cease any and all promotion of the Business;
- (c) repay all sums then and subsequently outstanding to the Bank within twenty-eight (28) days of the termination taking effect or on the date such sum is ascertained (if later).

11.5 In the event of termination of this Agreement pursuant to clause 11.2, the Bank reserves the right to withhold any Fees other than those accrued to the date of the termination.

12 NOTICES

12.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next business day delivery service at its registered office; or
- (b) sent by email to (to the Bank) at mortgage.brokerregistrations@metrobank.plc.uk, (to the Broker) at the e-mail address provided during registration.

12.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00am on the second Business Day after posting or at the time recorded by the delivery service; and
- (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 12.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

12.2 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

13. BRIBERY AND GIFTS

13.1 The Broker undertakes and represents that it has never committed an offence under sections 1, 2, 6 or 7 of the Bribery Act (a "Bribery Offence") or engaged in any conduct, whether by act or omission, which if it had been made or carried out after the Bribery Act came into force, would have constituted a Bribery Offence ("Bribery Conduct").

13.2 The Broker agrees that in respect of all matters connected with or arising out of the Business and this Agreement, it:

- (a) shall not, and shall procure that its employees, subcontractors and agents shall not, commit any Bribery Offence or engage in any Bribery Conduct;
- (b) has in place, and shall maintain until termination or expiry of this Agreement, adequate procedures designed to prevent persons associated with the Broker from bribing another person intending to obtain or retain business for the Broker or to obtain or retain an advantage in the conduct of business for the Broker (as envisaged under section 7(2) of the Bribery Act); and
- (c) shall comply at all times with all obligations arising out of the Bribery Act.

13.3 The Broker shall not do or permit anything to be done through act or omission which would cause the Bank its affiliates, any employee, subcontractor or agent of the Bank to incur any liability under the Bribery Act or any other applicable legislation which prohibits any form of bribery including, but not limited to, any legislation intended to implement the UN Convention Against Corruption.

13.4 The Broker shall not offer or give or agree to give any employee or agent of the Bank any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this Agreement or any other agreement for the Bank or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement or any other agreement for the Bank.

13.5 Any breach of this clause 13 by the Broker, its employees, agents or subcontractors (whether with or without the knowledge of the Broker) in relation to this Agreement or any other agreement for the Bank, shall be deemed a material breach of this Agreement, and, in addition, entitle the Bank to recover from the Broker the amount of any loss resulting from such material breach.

13.6 The Broker shall notify the Bank immediately if it becomes aware, or has reason to believe, that:

(a) it has breached any of its obligations arising out of this clause 13; or

(b) any person or party directly or indirectly connected with the Business has committed any Bribery Offence, engaged in any Bribery Conduct or made, given, procured, received, or obtained any bribe (or attempted to do so).

14 COUNTERPARTS

14.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

14.2 Transmission of an executed counterpart of this Agreement by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement.

15 GOVERNING LAW

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

16 JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

17 MISCELLANEOUS

17.1 Any failure or delay by either party to exercise or enforce any rights under this Agreement and/ or in law shall not be deemed to operate as a waiver of any such rights nor prejudice their enforcement in any way.

17.2 Except as provided in this Agreement the Broker may not assign, transfer or subcontract or otherwise dispose of, in whole or in part, any of its rights or obligations without the Bank's prior written consent.

17.3 This Agreement represents the entire understanding between the parties and supersede any previous agreement or arrangement, whether oral, written or implied.

17.4 The parties do not intend that any term should be enforceable as a result of the Contracts (Right of Third Parties) Act 1999 by any person who is not party to this Agreement.

17.5 In the event that any provision in this Agreement shall be declared void, voidable, illegal or otherwise unenforceable by a judicial or other competent authority the parties agree that any such provision shall be amended in such reasonable manner as achieves the intention of the parties without conflict with the judicial or other competent authority and that the enforceability of the remaining provisions shall not be affected.

17.6 The Bank and the Broker undertake to act in good faith in relation to the other party for so long as the Agreement remains in force and in particular, but without prejudice to the other terms of this Agreement, undertake to discuss any dispute that may arise and seek an amicable settlement in relation to any such dispute. For the avoidance of doubt, this will not prejudice the right of either party to take legal proceedings.

17.7 The headings in this Agreement shall not affect its construction or interpretation.

17.8 Nothing in this Agreement should be construed as indicating or giving rise to a joint venture or partnership.

17.9 The Bank may from time to time make such relevant searches and checks in respect of the Broker and its owners/ principals and any Appointed Representatives (including in relation to credit worthiness).

IN WITNESS whereof the parties have executed this Agreement the day, month and year first above written:

Signed by Ian Walters **FOR AND ON BEHALF** _____
OF METRO BANK PLC

Signed by _____ **FOR AND** _____
ON BEHALF OF BROKER

SCHEDULE 1
THE SERVICES

1. The Broker will give the Bank unrestricted access to the Customer once they have been referred to the Bank.
2. The Bank will be given exclusive access to a deal referred (unless specifically notified otherwise) once the Bank has indicated that the deal is acceptable (subject to normal due diligence). Such exclusivity will cease when either the deal is concluded, the Bank declines to proceed or the Customer withdraws from the deal where, for example, the Bank's terms and/ or pricing are unacceptable to the Customer.
3. The Broker will notify the Bank by telephone, email or any other agreed method when proposing to introduce a Customer for Business.

4. Following notification in accordance with paragraph 2 above, the Broker will provide the Bank with the following where available (although the Bank can request further information and documentation, as appropriate):-
 - (a) The lending proposal, including details on the identity of the Customer, the type of loan, the reason for the loan, the proposed structure of the loan and any further relevant information;
 - (b) Details and picture of any asset to be given as security and previous Property Valuations (PVs);
 - (c) Confirmations that shareholders of limited companies wishing to borrow are willing to provide personal guarantees and a full debenture;
 - (d) Details of co-ownership and identity documentation for main shareholders/ owners (passport and proof of address);
 - (e) Copy published financial accounts for the previous 3 financial years;
 - (f) CVs of key Customer management/ owners or a report on the Customer's history;
 - (g) Customer's personal and business bank statements for the previous 6 months;
 - (h) Customer's tax returns for the previous 2 financial years (if borrowing is in personal name); and
 - (i) Customer's latest management accounts and financial projections for the next year.
5. The information listed in paragraph 4 above will be provided in writing in a format prescribed by the Bank and will be delivered to the Bank by hand, post or email.
6. In the event that the information provided under paragraph 4 above is satisfactory to the Bank, the Bank will arrange a meeting with the Customer to complete a lending application for submission and processing including undertaking all relevant checks.
7. Once due diligence has been completed and the Bank is satisfied, an offer letter will be provided to the Customer and copied to the Broker.

SCHEDULE 2

FEEES

1. The Bank will pay to the Broker a Fee of 50% (or such other amount as may be determined by the Bank and notified to the Broker in writing) of any arrangement fee payable by the Customer, subject to the Bank receiving a minimum of 100bp (1%) of the facility amount. The Fee shall only be payable on completion and draw down of a finance agreement between the Bank and the Customer.
2. Any referral which results in the Customer taking one of the Bank's 'Buy to Let' products will attract a fee of 0.35% of the loan facility amount, not 50% of the arrangement fee as indicated in paragraph 1.
3. Any Fee payable shall be set out in the loan or facility documentation.
4. Payment of the Fee shall be within thirty (30) business days following presentation of an invoice after draw-down, or first draw-down (if the facility draws down in stages).

5. The Bank will regularly review levels of Fees payable to the Broker under this Agreement, including increasing or decreasing Fee levels. The Bank will notify the Broker by providing thirty (30) days' notice of any changes.
6. If the Broker so chooses, and the Bank agrees, the Broker may collect the Fee from the Customer directly.