



Loan Terms & Conditions

Date: 03/07/2017 (V4)

Ref: [AF]

1. DEFINITIONS AND INTERPRETATION

1.1 Terms defined in the Offer Letter and General Terms and Conditions shall bear the same meaning where used in these Terms and Conditions unless defined herein.

1.2 In addition, reference in these terms and conditions to the following terms shall bear the following meaning:-

"Borrower" means the person or persons noted in such capacity in the Offer Letter

"Business Day" means a day other than a Saturday, Sunday or a public holiday in England when banks in London are open for business

"Completion" means the date of satisfaction of the Conditions Precedent to Drawing

"Conditions Precedent to Drawing" means the conditions precedent to a Lender making available a Loan as set out in Part 2 of Schedule 1

"Conditions Precedent to Signing" means the conditions precedent to the Signing Date as set out in Part 1 of Schedule 1

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee

"Event of Default" means each of the events set out in Condition 10

"Final Repayment Date" means the earlier to occur of:-

- (a) the Scheduled Repayment Date; and
- (b) the date specified in a Provisional Notice or the expiry of any Prepayment Notice Period as the relevant redemption date for the Loan on prepayment; and
- (c) the date on which a Loan terminates if such Loan terminates prior to the Scheduled Repayment Date

"Finance Document" means the Offer Letter, the Loan Terms and Conditions (as incorporated into the relevant Offer Letter), a Lender Confirmation Notice, a Loan Confirmation Notice (with effect from the Signing Date, together the Offer Letter, these Terms and Conditions, Lender Confirmation Notice and the Loan Confirmation Notice form the Loan Agreement), a Guarantee (if required), a Security Document, the General Terms and Conditions, a Lender Transfer Letter and any other required documentation or any other document designated as a "Finance Document" by Folk2Folk and the Borrower

"Folk2Folk"		means Folk2Folk Limited (company number 08178576) whose registered office is at 15-19 Westgate Street, Launceston, Cornwall PL15 7AB
"General Terms and Conditions"	and	means the general terms and conditions applicable to Loans introduced by Folk2Folk as set out on the website (www.Folk2Folk.com)
"Guarantee"		means any guarantee provided by a Third Party Provider in respect of the liabilities of a Borrower to a lender under a Loan where the Property is owned by a Third Party Provider
"Lender"		means a person or persons noted in such capacity in the Lender Confirmation Notice and shall include its successors and assigns whether immediate or derivative and where appropriate the survivors or survivor of them and where either party comprises two or more persons include any one or more of those persons
"Lender Confirmation Notice"	Confirmation	means the notice provided by Folk2Folk to the Borrower following Borrower Acceptance but prior to the Signing Date which sets out the details of each Lender
"Loan"		means a loan made available by a Lender to the Borrower pursuant a loan Contract or the principal amount outstanding for the time being of that loan
"Loan Advance"		shall be the amount set out in the Offer Letter next to such term, being the aggregate amount of the Loans
"Loan Agreement"		means, with effect from the Signing Date, the Offer Letter and Loan Terms and Conditions, representing one more bilateral Loan Contracts between each Lender and the Borrower. References to the "Loan Agreement" refers to the aggregate of such Loan Contracts(s)
"Loan Agreement Completion Date"	Agreement	means the Signing Date
"Loan Confirmation Notice"		means the letter from Folk2Folk to the Borrower (copied to each Lender and Security Trustee) which confirms the effective date for the Loan Agreement (that is, the Signing Date)
"Loan Contract"		means the bilateral agreement between a Lender and the Borrower, the terms of which are reflected in the Loan Agreement, in an amount set out in the Lender Confirmation Notice
"Offer Letter"		means, in each case, the offer letter from Folk2Folk (acting as agent of each Lender) to the Borrower setting out the commercial terms of each Loan and to which these Terms and Conditions are annexed
"Property"		has the meaning given in the Offer Letter

"Property Completion Date"	means, to the extent that the Property is not already owned by the Borrower or relevant Third Party Provider, the date on which the purchase of the Property by the Borrower or relevant Third Party Provider legally completes
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Property charged pursuant to the Security Document
"Reduced Interest Rate"	shall be the amount set out in the Offer Letter next to such term
"Scheduled Repayment Date"	means date set out in the Offer Letter next to such term
"Security Document"	means: (i) in relation to a Property situated in England or Wales, the legal charge to be granted by the Borrower or the Third Party Provider in favour of the Security Trustee over the respective Property owned by such person; OR (ii) in relation to a Property situated in Scotland, the standard security to be given by the Borrower or the Third Party Provider in favour of the Security Trustee, and to be registered against the title number of the property in the Land Register of Scotland.
"Security Trustee"	means Folk Nominee Limited in its capacity as security trustee in respect of the security granted by the Borrower over the Property
"Signing Date"	means the date (as set out in the Loan Confirmation Notice) on which the Loan Agreement is to take effect and upon which the Loan Terms and Conditions become binding on the Borrower and each Lender
"Third Party Provider"	means, if relevant, the person whose name is set out against such term in the Offer Letter.

- 1.3 In the event of any conflict between:-
- 1.3.1 these Terms and Conditions and the General Terms and Conditions, these Terms and Conditions shall prevail;
- 1.3.2 the Offer Letter and these Terms and Conditions, the Offer Letter shall prevail.
- 1.4 Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 1.5 Any interest under a Finance Document is calculated in advance on an annual basis and charged in 12 equal monthly instalments payable in arrears.
- 1.6 The final interest payment is calculated by apportioning the annual interest amount to the number of days between the Completion/Completion anniversary (whichever is applicable) and the Final Repayment Date and then deducting all interest payments received to date since the Completion/Completion anniversary.

2. **AGREEMENT TO LEND**

2.1 **Conditions precedent**

2.1.1 The Signing Date shall only come into effect once Folk2Folk (acting as agent for each Lender) has confirmed that the Conditions Precedent to Signing have been satisfied to its satisfaction.

2.1.2 No drawing may be made under the Loan Agreement until Folk2Folk (acting as agent for each Lender) receives the documents and evidence required to satisfy the Conditions Precedent to Drawing.

2.2 **Initial advance**

Subject to Condition 2.1.2 and provided that no breach of any of the representations and warranties set out in Condition 9 of these Terms and Conditions has occurred or is outstanding, each Lender agrees to make available to the Borrower:-

2.2.1 a Loan in the amount set out next to their name in the Lender Confirmation Letter, the aggregate amount of such Loans being the amount of the Loan Advance; and

2.2.2 from time to time subject to Condition 0 (*Further advances*) any further advance as may be made by such Lender to the Borrower

on the condition that repayment of the Loan Advance and any further advance together with interest is secured by a Security Document.

2.3 **Further advances**

No Lender shall be required, in any way and always in such Lender's absolute discretion, to make a further advance unless it has agreed to do so in principle and the Borrower has:-

2.3.1 signed and delivered to Folk2Folk an offer letter in respect of the further advance setting out the amount and terms of the further advance;

2.3.2 received confirmation from Folk2Folk that the security constituted by the Security Documents has been further reviewed and passed as satisfactory to support the further advance and that further funds may be drawn down;

2.3.3 paid all interest previously falling due under the terms of the relevant Loan Agreement charge on the due date for payment, and

2.3.4 otherwise in all respects and at all times observed and performed its obligations under the Finance Documents.

2.4 **Utilisation**

2.4.1 If the Signing Date is not simultaneous with Completion, the Borrower shall give one (1) Business Day's notice to Folk2Folk (in its capacity as agent of each Lender) of its intention to drawdown the Loans.

2.4.2 Unless otherwise specified in the Offer Letter, each Loan shall be available for drawing in full following satisfaction of the Conditions Precedent to Drawing. If a Loan is provided in connection with the development of a Property or otherwise provides for drawdown in more than one amount, each drawing shall be conditional upon the relevant

milestones (as set out in the Offer Letter) having been met prior to a request for drawing being made.

2.5 Lenders' rights and obligations

2.5.1 The obligations of each Lender under the Finance Documents are several. 2.5.1 Failure by a Lender to perform its obligations under the Finance Documents does not affect the obligations of any other party under the Finance Documents. No Lender is responsible for the obligations of any other Lender under the Finance Documents.

2.5.2 The rights of each Lender under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Lender from the Borrower is a separate and independent debt in respect of which a Lender shall be entitled to enforce its rights in accordance with clause 2.5.3 below. The rights of each Lender include any debt owing to that Lender under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Lender's participation in a Loan (including any such amount payable to Folk2Folk on its behalf) is a debt owing to that Lender by the Borrower.

2.5.3 A Lender may, except as specifically provided in the Finance Documents, 2.5.3 separately enforce its rights under or in connection with the Finance Documents.

3. **REPAYMENT**

Each Loan must be repaid in full by the Final Repayment Date.

4. **PREPAYMENT**

The Borrower may prepay a Loan as provided in accordance the General Terms and Conditions (specifically but not limited to (where relevant) Appendices 5, 6, 7, 8 OR 9).

5. **INTEREST**

5.1 Subject to Condition 5.3, the Borrower shall pay interest (in arrears) on each Loan Advance to the relevant Lender at the Interest Rate by equal monthly payments on each Interest Payment Date.

5.2 Interest shall continue to be payable before and after any judgement or decree, or the administration or liquidation or, as appropriate, bankruptcy, sequestration, death or insanity of the Borrower.

5.3 At all times whilst the Borrower has in all respects observed and performed his/its obligations under the Finance Documents and subject to all payments of interest being made on the due date for payment, the interest payable on a Loan shall be the Reduced Interest Rate. If at any time the proviso for the payment of interest at the Reduced Interest Rate is no longer met, interest shall revert to the Interest Rate.

6. **CAPITALISATION**

6.1 If any interest payable in connection with a Loan is not paid when due (subject to any applicable grace period) it shall be capitalised and added to the Loan Advance and be charged on the Property and bear interest from the due date for payment at the Interest Rate and on the Interest Payment Date.

6.2 The capitalisation of arrears of interest is to be without prejudice to a Lender's right at any time to enforce payment of the sums concerned as interest in arrear.

6.3 The Borrower may on any Interest Payment Date pay to a Lender, in addition to the interest then due, all or any part of the relevant Loan representing capitalised arrears of interest.

7. FEES, COSTS AND EXPENSES

Fees and charges shall be charged in accordance with the General Terms and Conditions.

8. INDEMNITIES

8.1 The Borrower shall indemnify Folk2Folk, the Security Trustee (and any Receiver or Delegate) and each Lender against any cost, loss or liability incurred by any of them as a result of:-

8.1.1 the occurrence of any Event of Default;

8.1.2 a failure to pay any amount due under a Finance Document on its due date.

8.2 The Borrower shall indemnify the Security Trustee, any Receiver or Delegate against any cost, loss or liability incurred by any of them as a result of:-

8.2.1 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

8.2.2 the taking, holding, protection or enforcement of the security constituted by the Security Documents;

8.2.3 the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee and each Receiver and Delegate by the Finance Documents or by law;

8.2.4 any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

8.2.5 acting as Security Trustee, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Property charged by the Security Documents (otherwise, in each case, than by reason of the relevant Security Trustee's, Receiver's or Delegate's gross negligence or wilful misconduct).

9. REPRESENTATIONS AND WARRANTIES

Upon the earlier to occur of Borrower Acceptance and on the date of any drawdown of a Loan, whether of principal or otherwise, the Borrower represents and warrants and is deemed to represent and warrant that:-

9.1 in relation to any Borrower who is an individual:-

9.1.1 there is no law, decree or similar enactment binding the Borrower and no provision in any document, mortgage, indenture, trust deed, contract or agreement binding on the Borrower or affecting its property which would conflict with or prevent the Borrower from borrowing on the terms and conditions set out in these Terms and Conditions or which would prevent the Borrower from observing any of its obligations contained in the Loan Agreement;

9.1.2 the Borrower is not in breach of any of the limits or restrictions or obligations imposed by any other agreement or instrument and no Event of Default has occurred and is continuing whether or not in order to constitute such an event any notice and/or lapse of time and/or determination is required;

- 9.1.3 there has been no change in the status of the Borrower since the Loan Request was made;
- 9.2 in relation to any Borrower who is a company, partnership or similar:-
- 9.2.1 the Borrower has the necessary corporate power and authority to borrow the Loan Advance on the Terms and Conditions set out herein and to grant security pursuant hereto and to perform and observe its obligations hereunder;
- 9.2.2 there is no law, decree or similar enactment binding the Borrower and no provision in any corporate document, mortgage, indenture, trust deed, contract or agreement binding on the Borrower or affecting its property which would conflict with or prevent the Borrower from borrowing hereunder on the Terms and Conditions set out herein or which would prevent the Borrower from observing any of its obligations hereunder;
- 9.2.3 the Borrower is not in breach of any of the limits or restrictions or obligations imposed by any other agreement or instrument and no Event of Default has occurred and is continuing whether or not in order to constitute such an event any notice and/or lapse of time and/or determination is required;
- 9.2.4 there has been no change in the status of the Borrower since the Loan Request was made.

10. **EVENTS OF DEFAULT**

- 10.1 Each of the events set out in this Condition 10 is an Event of Default:-
- 10.1.1 any interest or other sum payable under a Finance Document is not paid on its due date unless as a result of a technical or administrative error and provided in the case of an administrative or technical error the sum is paid within 3 days of becoming due and payable; or
- 10.1.2 the Borrower or any surety fails to comply with any term, condition, covenant or provision of or to perform any of his obligations or liabilities under the Finance Documents or any associated or collateral security; or
- 10.1.3 any representation or warranty given by the Borrower or any surety to a Lender is or becomes incorrect or there is a material adverse change in the position as set out in such representations and warranties; or
- 10.1.4 any judgement decree, award or order made against the Borrower or any surety by any court is not complied with within 14 days of the date of such judgement decree, award or order; or
- 10.1.5 the property of the Borrower or any surety becomes subject to any irritancy, forfeiture or execution, distress, sequestration or other form of process; or
- 10.1.6 a mortgagee takes possession of or exercises or seeks to exercise any power of sale or of an appointment of a receiver in relation to the Property or any other property of the Borrower or of any surety;
- 10.1.7 any indebtedness of the Borrower equivalent to three (3) month's interest becomes immediately due and payable prior to its stated maturity by reason of default on the part of the Borrower; or
- 10.1.8 in the case of an individual:-
- (a) the Borrower or any surety becomes subject to an interim order or makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part VIII or enters, or seeks to enter, into any other form of

composition, arrangement , assignation or compromise with his creditors whether in whole or in part; or

(b) a petition is presented for the bankruptcy or sequestration of the Borrower or any surety; or

(c) the Borrower or any surety dies or becomes of unsound mind; or

10.1.9 in the case of a company or limited liability partnership:-

(a) the Borrower or any surety ceases or threatens to cease to carry on, or disposes or threatens to dispose of, its business or a material part of its business; or

(b) the Borrower or any surety makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters, or seeks to enter, into any other form of composition, arrangement, assignment or compromise with its creditors whether in whole or in part; or

(c) the Borrower or any surety becomes subject to a notice of an intended appointment of an administrator or an application is made to any court or any meeting of directors or members is called with a view to the Borrower or any surety entering into administration; or

(d) an administrative receiver is appointed in respect of the whole or any part of the undertaking of the Borrower or any surety; or

(e) a petition is presented in any court or a meeting is convened for the purpose of considering a resolution for the winding up of the Borrower or any surety (except in the case of a reconstruction or amalgamation that has the previous approval in writing of Folk2Folk (acting as agent of each Lender)),

then in any such case and at any time thereafter (and whether or not such event is cause for any reason whatsoever whether outside the control of the Borrower or any other person), a Lender may by written notice to the Borrower declare the Loan in which it has an interest and any other sums payable by the Borrower under the Finance Documents to be immediately due and payable and/or terminate the obligations (or such one or more of them as may be specified in such notice) of such Lender under the Loan Agreement, whereupon such sums shall become due and payable and/or such obligations shall be terminated.

10.2 Interest shall continue to be charged on each Loan in accordance with the provisions of Condition 5 of these Terms and Conditions until such Loan is repaid and the outstanding interest and other sums due are irrevocably repaid in full.

10.3 No delay or omission on the part of a Lender in exercising any right or power under these Terms and Conditions and in accordance with this Condition 10 shall impair such right or power, and any single or partial exercise of such right or power shall not preclude any other or further exercise or the exercise of any other right or power. The rights and remedies of a Lender in respect of a Loan are cumulative and not exclusive of any right or remedy provided by law.

11. **TRANSFERABILITY AND EXIT FOR LENDERS**

The General Terms and Conditions set out the provisions for a Lender to transfer or exit a Loan.

12. **ACCEPTANCE**

By signing the Offer Letter, the Borrower is acknowledging the terms of the Offer Letter, these Terms and Conditions and the General Terms and Conditions and is agreeing to be bound by them.

13. **RIGHT TO VARY THE TERMS AND CONDITIONS**

13.1 Folk2Folk reserve the right to amend, vary and alter these Terms and Conditions at any time to comply with law or to meet our changing business requirements by posting the updated version to the relevant page on the Site. We may not always be able to give a Participant advance notice of such updates or amendments but we will always post them on the Site. Each Participant is expected to check this page from time to time to take notice of any changes we have made, as they are binding on a Participant. Some of the provisions contained in these Terms and Conditions may also be superseded by provisions or notices published elsewhere on our Site. By continuing to use the Site, a Participant agrees to be bound by the terms of such updates and amendments.

13.2 These Terms and Conditions were last updated on 18 January 2016.

14. **MISCELLANEOUS**

14.1 **Severability**

If any provision of the Loan Agreement is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

14.1.1 the validity of enforceability of any other provision, in any jurisdiction; or

14.1.2 the validity of enforceability of that particular provision, in any other jurisdiction.

14.2 **Contracts (Rights of Third Parties) Act 1999**

A Lender and its officers, employees and agents may enforce any term of the Loan Agreement which purports to confer a benefit on that person, but no other person who is not a party to the Loan Agreement has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of the Loan Agreement.

14.3 **Counterparts**

The Offer Letter may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Offer Letter.

15. **GOVERNING LAW AND ENFORCEMENT**

15.1 **Governing law**

The Loan Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

15.2 **Enforcement**

15.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with the Loan Agreement (including a dispute regarding the existence, validity or termination of the Loan Agreement) or any non-contractual obligation arising out of or in connection with the Loan Agreement (a "**Dispute**").

15.2.2 The parties to the Loan Agreement agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party to the Loan Agreement will argue to the contrary.

15.2.3 This Condition 15.2 is for the benefit of each Lender only. As a result, a Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Lender may take concurrent proceedings in any number of jurisdictions.

SCHEDULE 1

CONDITIONS PRECEDENT

PART 1

CONDITIONS PRECEDENT TO SIGNING

1. A copy of the Offer Letter duly executed by the Borrower and accepted by Folk2Folk.
2. In relation to a business, a copy of the Declaration for Exemption relating to Businesses (as set out in Appendix 1 to the Offer Letter).
3. A countersigned copy of the Non-Refundable Costs Confirmation (as set out in Appendix 2 to the Offer Letter).
4. Satisfactory completion of all necessary due diligence in relation to the Borrower and the Property.
5. Sight and satisfaction with the reports on title in respect of the Property.
6. Any conditions precedent identified in the Offer Letter.
7. Any other authorisation or other document, opinion or assurance which Folk2Folk (acting as agent of each Lender) considers to be necessary or desirable (if it has notified the Borrower accordingly).

PART 2

CONDITIONS PRECEDENT TO DRAWING

1. At least two originals of the Security Documents executed by the Borrower or Third Party Provider (as applicable).
2. At least two originals of any Guarantee to be provided executed by the relevant Third Party Provider (to the extent applicable).
3. Any other authorisation or other document, opinion or assurance which Folk2Folk (acting as agent of each Lender) considers to be necessary or desirable (if it has notified the Borrower accordingly).