

## Terms and Conditions for Investors

The following terms and conditions explain:

- how Funding Circle works
- how to become a member of Funding Circle as an investor
- how you may use the platform provided and maintained by Funding Circle.

If you decide to become a member of Funding Circle, you must comply with these terms and conditions. These terms and conditions should be read alongside, and are in addition to, our privacy policy (accessible online at <http://www.fundingcircle.com/privacy>). These terms and conditions apply howsoever you decide to access the platform (including through Funding Circle's website or through any mobile device application).

Please read these terms and conditions carefully and print a copy for your future reference. By using these systems and the services provided via the platform, you confirm that you have read, understood and agree to these terms and conditions and the privacy policy (each as amended from time to time) and where you're acting on behalf of an LLP, limited company or public body that they agree to these terms and conditions. If you do not agree to these terms and conditions, you must stop using this platform immediately.

References in these terms and conditions to "we", "us" and "our" means Funding Circle Limited. References to "systems", or "platform" means the platform, the Funding Circle API, any other online services provided by us and any data managed by, displayed on or transmitted from such services. References to "you" and "your" mean a user of the platform and the services provided via our systems, whether as an individual or an entity which meets the investor criteria set out below.

The agreement for a Loan between the relevant investors and the relevant borrower is made up of our Loan Conditions and Key Contract Terms (as the same may be amended from time to time in accordance with these terms and conditions) (together the "Loan Contract"). The Loan Contract relating to a particular Loan is a single agreement. If there is a conflict between these terms and conditions and the Loan Contract, the Loan Contract will prevail.

If you are using our systems and the services provided via the platform, agreeing to these terms and conditions or entering into a Loan Contract on behalf of an LLP, limited company, partnership, public body or other separate entity you warrant that you are duly authorised to act on its behalf.

### **Special offers**

***From time to time we may run special offers the terms of which will be available***

***at: <http://www.fundingcircle.com/investors/offers/>***

#### **1. How to become an investor**

1.1 To be an investor on Funding Circle you must meet the following criteria:

- (a) you must be an individual, LLP, limited company or public body;
- (b) if you are lending in your capacity as an individual you must be over 18 years old;
- (c) if you are lending in your capacity as an individual you must be a permanent resident of the UK (excluding the Channel Islands and the Isle of Man);



- (d) if you are a limited company, you must be registered with Companies House and be incorporated within the United Kingdom (excluding the Channel Islands and the Isle of Man);
- (e) if you are an LLP, you must have a permanent place of business in the UK (excluding the Channel Islands and the Isle of Man) and be registered with Companies House;
- (f) if you are a public body, you must be registered or formed with the relevant authority in the UK (excluding the Channel Islands and Isle of Man);
- (g) you must have, and maintain, a valid UK bank or building society account; and
- (h) you must register your details on the website at <http://www.fundingcircle.com>.

Where a prospective investor does not meet the criteria listed above, the investor may be otherwise permitted to become an investor on Funding Circle by written confirmation from Funding Circle.

**1.2 Funding Circle's principal role is to perform introductory functions on behalf of borrowers and investors in order to bring together prospective borrowers and investors, to provide a streamlined process for entering into loans (including the development of standard form loan agreements) and to facilitate the payment and collection of sums due under or in connection with those loans (including taking certain actions on behalf of investors upon a borrower's default or if the borrower becomes, or is likely to become, insolvent as set out in these terms and conditions). Funding Circle will not perform any management functions on an investor's behalf; the investor retains complete control and discretion over whether or not to make a loan to a borrower and on what terms and over all other aspects of its participation in Funding Circle and loans made through it. Nothing Funding Circle does and nothing on the platform is intended to operate or be construed as advice or recommendation by Funding Circle to enter into a particular loan.**

**1.3 Funding Circle gives each borrower a risk band classification at the time a loan request is processed, which is based on information included in the borrower's application and the results of an online check made against records held by credit reference agencies. Funding Circle does not edit the information submitted or uploaded by a borrower.**

**1.4 While Funding Circle adds value to the credit analysis as part of our underwriting exercise, the provision of a risk band classification is intended to be informative only and an investor must form its own opinion regarding the creditworthiness of a borrower and undertake its own research, analysis and assessment of each borrower for each loan and, where appropriate, seek its own independent financial advice.**

**1.5 Funding Circle accepts no responsibility and disclaims all liability for any information about a borrower made available to prospective investors through the Funding Circle platform or in respect of risk band classifications. Funding Circle may from time to time at the end of each month, but accepts no obligation to, update or amend at any time borrower's information or the risk band classification (including between when the loan request is first made and when it is entered into, and during the term of any loan).**

**1.6 While Funding Circle believes that access to the assets of a borrower (via the secured loan, secured property finance or asset finance product) can provide additional comfort as to the likelihood of repayment, Funding Circle accepts no additional responsibility for the likelihood of a borrower meeting its financial obligations to investors through the Funding Circle platform in circumstances where such recourse to the assets of the borrower is available.**

1.7 As an investor, you cannot also be a borrower on Funding Circle with loans outstanding, except where you are acting as the director or the proprietor of a business borrowing money and want to act as an investor in a different capacity.



1.8 You warrant to Funding Circle that all information provided to us in the course of the registration and lending process is true and accurate in all respects. You will promptly update us if any of the information you provide to us changes.

1.9 Once you are registered on the platform and have applied to lend through Funding Circle, we will carry out identity and fraud checks on you and you as a proprietor, member or director, your business and other members, or directors of the business using credit reference agencies such as Equifax or Experian. Funding Circle uses its own internal guidelines and policies when assessing applications but has complete discretion as to whether to allow you to be an investor on the Funding Circle platform. If we cannot get adequate information from the credit reference agency then we will ask you to send us copies of the relevant passports or other identification documents plus a utility bill and anything else that we may require. If you do not provide all appropriate identification documents you will not be able to lend on the Funding Circle platform. We may suspend or place limitations on trading on your account at any time if we believe it is appropriate in order to comply with our legal obligations. For more details about how we use your information, please refer to our privacy policy at <http://www.fundingcircle.com/privacy>. We will then set up a Funding Circle investor account for you.

1.10 You can then transfer money into your Funding Circle investor account by debit card on the platform or bank transfer. Cash deposits are not accepted. Funding Circle has complete discretion to specify the method by which you may transfer money into and out of your Funding Circle investor account depending on the outcome of the checks set out at clause 1.9. It is important that you quote your Funding Circle investor account number in the narrative box if you transfer money using a bank transfer. In the case of transfers by debit cards, a transfer will be deemed to be complete as soon as funds are credited to your Funding Circle investor account. We require you to use an account (or a debit card linked to an account) held with a UK bank or building society in the name of the named Funding Circle account holder (or, in the case of an individual member, in joint names one of which is the named Funding Circle account holder).

1.11 As soon as we receive and allocate funds to your Funding Circle investor account you can start lending. There are no fees payable to set up a Funding Circle investor account.

1.12 Money in your Funding Circle investor account will be held by us in a segregated client account (currently with Barclays Bank) until or unless it is lent to a borrower at which time it will be transferred to the relevant borrower's Funding Circle account.

1.13 You may only withdraw money from your Funding Circle investor account in excess of the total value of Active Bids (as defined in clause 4.2 below) that you have made from your Funding Circle investor account. Money must only be paid into a UK bank or building society account in the name of the named Funding Circle account holder (or, in the case of an individual member, in joint names one of which is the named Funding Circle account holder).

## 2. Username and password

2.1 On registering with us, you must provide a username and email address, enter a password and provide answers to three security questions. These must be used in order to access certain restricted parts of the platform. Each time you access your Funding Circle investor account you will need to enter your email address and password, and answer one security question. Your username and password are unique to your Funding Circle investor account and are not transferable without our prior written consent.

2.2 Your username, password and the answers to security questions are how we identify you, and so you must keep them secure at all times. You are responsible for all information and activity on the



platform by anyone using your username and password whether or not authorised by you. If you authorise an employee, sub-contractor or agent to use your Funding Circle investor account you will be responsible for their activity on the platform. Any breach of security, loss, theft or unauthorised use of a username, password or security information must be notified to us immediately using the contact details at clause 22 of these terms and conditions.

2.3 You agree not to adapt or circumvent the systems in place in connection with the platform, nor access our systems other than by using the credentials assigned to you and by following the instructions that we have provided for that type of connection.

2.4 We reserve the right not to act on your instructions where we suspect that the person logged into your Funding Circle investor account is not you or we suspect illegal or fraudulent activity or unauthorised use.

### 3. The lending process

3.1 There are three ways to lend money on Funding Circle:

- (a) By hand-picking the businesses using a search tool to identify loan requests that have not been completed that you might be interested in and bidding on those loan requests;
- (b) By choosing the criteria for the types and profiles of businesses, which have been determined by Funding Circle, that you want to lend to; and then using a Funding Circle tool called Autobid to automatically select the loan requests that you bid on (where they match your criteria) to purchase those loan parts; and/or
- (c) By choosing to purchase parts of a loan (we call these "loan parts") already lent from an existing investor, using a search tool or Autobid.

You can also use a mixture of the above ways to lend. There is a short video and more information on the website which explains how to lend money and the bidding process at <http://www.fundingcircle.com/lend/how-to-lend/>.

### 4. The bidding process

4.1 All applications by businesses to borrow at Funding Circle are carefully reviewed by our underwriters, and classified at the initial application stage into risk bands based on data from credit reference agencies (currently Experian, Credit Safe and Call Credit). Businesses that pass through this screening process create a loan request page, which investors can review at <http://www.fundingcircle.com/lend/loan-requests/>.

4.2 The interest rate for each loan is fixed by Funding Circle, on the basis of a number of factors including term and risk band. The fixed interest rates are reviewed regularly by Funding Circle and can be changed at any time. Interest rates for property loans are set on a case by case basis and clearly indicated on each individual loan request.

4.3 Once you have decided which business(es) you want to lend to you choose the amount of money that you want to lend. Provided that you have sufficient funds in your Funding Circle investor account, this offer to lend, known as a "e;bid", then becomes active (an "**Active Bid**"). Except for loans with a single investor (we call these "**whole loans**") (where the minimum loan amount is £5,000), the minimum bid per business is £20, which can be increased by increments of £20 to a maximum bid per business of £2,000.

4.4 If two investors bid the same amount then the investor who bids first will have their bid ranked in preference. If the amount that you bid exceeds the amount required by the borrower to fully fund the loan, the borrower will be able to borrow part of the amount that you have bid. This will create a loan part for an amount less than the original bid and means that your bid has partially won.



4.5 Save where Funding Circle has otherwise agreed and in respect of whole loans, a single investor is not permitted to bid for loan parts in a loan which add up in total to more than 20% of the requested amount for that loan. If the total amount of accepted bids on a listed loan is equal to 20% of the loan request, the investor will not be permitted to bid further.

4.6 If you are using the Autobid tool, you choose the risk bands you want to lend to and turn Autobid on. Funding Circle will automatically bid funds available in your Funding Circle investor account on all available loan requests listed at the risk bands selected by you. Except in respect of whole loans or if you have selected advanced settings, Autobid will also automatically purchase loans parts (which are already lent from an existing investor) listed for sale that offer a rate equal to or higher than the lowest current fixed rate for loans in the risk bands selected by you. Autobid will only purchase loan parts that have no mark-up applied to the principal value outstanding. Autobid will lend a maximum of 1% of the total funds in your account to any one business, unless the total funds are less than £2,000. If the total funds in your account are less than £2,000, Autobid will default to the minimum bid amount of £20 per business. Expected loss percentages for each risk band are estimates only and you may experience lower or higher loss rates depending on the performance of the businesses you lend to - latest estimates can be found on the risk page of the Funding Circle platform (at <http://www.fundingcircle.com/investors/understanding-risk/>). If you click on Advanced Settings you can choose the risk bands you want to bid on, set a buyer rate at which autobid will buy loan parts from other investors and change the maximum percentage of your funds to lend to any one business. Funding Circle may extend the types of criteria available on Autobid from time to time.

4.7 All bids made by you on a loan request page or using Autobid are final and cannot be withdrawn unless:

- (a) there are sufficient Active Bids from other investors to fully fund the total loan requested;
- (b) the loan request period expires and the loan is not fully funded;
- (c) the borrower declines an aggregated loan request offer from you and other investors on Funding Circle; or
- (d) we withdraw a listed loan request or Autobid.

4.8 A loan must be fully funded to complete. The borrower can then either accept the loan or allow the loan offer to lapse (which will happen 5 days after the listing expires) in which case no loan is made.

4.9 A Funding Circle search tool can also be used to search for loan parts (but not for whole loans) that are listed for sale by existing investors of Funding Circle, which you can purchase if you have sufficient funds in your Funding Circle investor account.

4.10 Funding Circle reserves the right to place any restriction or condition on which investors may become investors or holders of whole loans, and/or the maximum or minimum amount a single investor is permitted to bid and lend to a particular borrower (or in aggregate across the Funding Circle platform generally).

4.11 We reserve the right to withdraw listed loan requests, or the availability of the Autobid tool, at any time for any reason. We may also change the minimum and maximum amounts that you can bid and will tell you about these changes on the platform.

4.12 You can monitor your loan portfolio in the My Account section of the platform.

## 5. The Loan Contract



5.1 Once a loan request is fully funded by bids from you and other investors and the borrower accepts the aggregated loan request offer, you (along with the other relevant investors) automatically enter into a Loan Contract (which comprises our Loan Conditions and the relevant Key Contract Terms) with the borrower for the loan. Your money is then transferred from your Funding Circle investor account to the Funding Circle account of the borrower. The loan documentation will be generated automatically to include the relevant Key Contract Terms, setting out the specific details of the loan, and to incorporate our standard Loan Conditions. The first time you bid on a listed loan or purchase a loan part you will be required to accept the Loan Conditions for all your ongoing lending. You will be deemed to accept the Loan Conditions by ticking a box when prompted. Loan Conditions may be changed from time to time insofar as they relate to Loan Contracts entered into after the date of such change. We will notify you of any such changes and prompt you to log into your account and accept the new Loan Conditions. If you do not do so, you will be deemed to have accepted any changes that do not adversely affect you in relation to any new Loan Contracts entered into after the date of notification.

5.2 Until the loan request has completed no interest will be earned by you.

5.3 If you purchase a loan part from another investor, you will become a party to the relevant Loan Contract with the relevant borrower and your money will be transferred from your Funding Circle investor account to the Funding Circle account of the transferring investor. Information on the transfer of loan parts is set out in clause 7 (Selling your loan part) below.

5.4 Each time you purchase or sell a loan part, you will be shown the form of transfer certificate, which will detail the legal terms of your purchase or sale.

5.5 In all Loan Contracts and loan transfer documentation we will quote an investor's address as being "c/o Funding Circle Limited" and state Funding Circle's postal address. Each investor agrees that all notices and communications given to it by a borrower may be sent to Funding Circle on their behalf.

## **6. Interest and repayments**

6.1 The monthly repayments due to you on each loan part and whole loan can be viewed in the My Account section of the platform. The Loan Contract governs the payment of these amounts.

6.2 All repayments and interest accrued will be paid to your Funding Circle investor account.

6.3 Each loan will be for the period specified in the Loan Contract applying to it.

6.4 All repayments will be made to investors without deduction of income tax. It is your responsibility to account for any income tax and other personal taxes that may be payable to the appropriate authorities.

6.5 We will provide an annual statement of interest earned for tax purposes.

## **7. Selling your loan part**

7.1 If you want to get access to the money you have lent before it has been repaid, you can sell your loan parts to other investors at Funding Circle, either using another Funding Circle tool called Autosale or by selling your loan parts individually. Please note that you cannot sell loan parts:

(a) with one repayment remaining;

(b) which have moved by more than one risk band or have no risk band;

(c) that are in arrears (have currently missed a repayment) or are in default (that have missed consecutive repayments); or





(d) if, after the application of any mark-up or mark-down, the simple interest rate the buyer would receive if they held the loan part to maturity, and the borrower continues to make all repayments on time ("Buyer Rate") is less than 4% per annum; or

(e) where the proposed transaction is part of a loan securitisation exercise (other than a securitisation exercise which has been agreed to by Funding Circle in our absolute discretion).

7.2 The limitation in clause 7.1(a) will not apply where the loan is an interest-only repayment loan.

7.3 You can apply a mark-up of up to 3% or a mark down of up to 20% of the outstanding principal value of each loan part, to each loan part you decide to sell, subject to the restrictions in clause 7.1(d).

7.4 The sale price for loan parts will be the outstanding principal amount lent plus the mark-up or mark-down you may choose to apply to the loan parts plus any interest accrued during the month. The accrued interest will be updated automatically at the end of each day.

7.5 To use Autosale, you choose the total amount you want to raise from selling your loan parts. Autosale will then list loan parts with a total sale value close to the amount you want to raise on the platform. Loan parts for sale will be listed on the platform for sale for 14 days, after which those loan parts that have not been sold will be removed from the sale listing and you will continue to be the investor for that loan. You may choose to relist the loan parts straight away if you wish.

7.6 You can also sell loan parts outside of the Autosale tool on an individual basis, which allows you to decide exactly which loans you wish to sell. You can select the loans you want to sell in the My Account section of the platform, and these loans will be listed on the platform for sale for 14 days after which loan parts will be removed from the sale listing and you will continue to be the investor for that loan.

7.7 If you sell loan parts, the sale proceeds will be transferred to your Funding Circle investor account from the buying investor's Funding Circle investor account after deduction of the Funding Circle loan part sale fee (see clause 8.2 below).

7.8 We may decide to extend or reduce the 14 day list period from time to time.

7.9 For the avoidance of doubt, it is not currently possible to sell whole loans (or interests in whole loans) on the Funding Circle platform.

7.10 The legal process of selling a loan part is detailed within clause 6 of the Loan Conditions.

## 8. Fees

8.1 We have the right to charge an annualised fee of 1% of the outstanding principal (the "Fee") (or such other amount as shall be notified by us to investors and borrowers from time to time) by increasing the interest rate charged on any loan to cover our role in providing intermediary services in relation to the introduction of you and the Borrower and the costs of running the website and administering the loans. The Servicing Fee is included in the rate of interest stated in the Key Contract Terms for the relevant loan and will be taken directly from loan repayments. The Servicing Fee does not cover the costs of our credit analysis which we carry out as part of our underwriting exercise, which is a no-cost added value arrangement only.

8.2 If you decide to sell a loan part, we will also charge a loan part Sale Fee of 0.25% (the "Sale Fee") of the total outstanding principal value of each loan part sold.

## 9. The role of Funding Circle

We perform an intermediary role in matching borrowers and investors as well as an administrative role in facilitating payments, collection of sums due and onward distribution of funds. We are not a party to any Loan Contracts, save where we act as an investor in our own right (though we have



third party rights under the Loan Contracts). If we cease trading, we have arrangements in place with a financially stable third party back-up servicer who would take on our servicing obligations (see clause 15 for more details). We may perform additional tasks in the event that a whole loan or a loan part is secured, as outlined in the next clause. We may pass on to investors available credit reference data on borrowers to assist each investor's analysis of each loan request and to add value to the credit analysis as part of our underwriting exercise.

## **10. Security and the role of Funding Circle Trustee Limited and Funding Circle Property Finance Limited**

10.1 Where the Key Contract Terms indicate that a loan is to be secured, the following security provisions will apply:

(a) Where the Key Contract Terms indicate that a loan is to be a secured loan, the borrower's obligations under the Loan Contract to you will be secured by an all assets security agreement and/or chattels mortgage and/or a legal mortgage.

(b) Where the Key Contract Terms indicate that a loan is to be a secured property finance loan, the borrower's obligation under the Loan Contract to you will be secured by a legal mortgage (and in some cases an all assets security agreement and/or assignment of rent or contracts).

(c) The security will be held in the name of Funding Circle Trustee Limited ("FCTL") or, in the case of a property finance loan, in the name of Funding Circle Property Finance Limited ("FCPFL"), each being a separate wholly owned subsidiary of Funding Circle Limited, whose sole purpose is to hold security for and on behalf of Investors and to hold the legal rights, title and interest to any loan that has defaulted. In the remainder of these conditions, a reference to "**Security Agent**" is a reference to FCTL and/or FCPFL, in its capacity as security holder on your behalf.

(d) In the event that a borrower fails to make a payment when due or defaults in meeting any material obligations of the loan, **you agree that (in addition to us taking steps to collect the outstanding debt) we may (once the loan has been assigned in accordance with clause 12.4) instruct FCTL or, as relevant, FCPFL, to enforce any such security on your behalf.**

10.2 In the circumstances described at 10.1(d), you agree that the Security Agent will act on your behalf as security agent in respect of the borrower's liabilities to you under each loan. All communications to a borrower in connection with any such security will be made by us (acting through the Security Agent).

10.3 Where we or the Security Agent have been provided with information by a relevant borrower, we or the Security Agent may provide to you as investor certain information about the assets of that borrower and/or an asset register detailing such assets together with estimated forced re-sale value of such assets on enforcement. In such circumstances, any asset valuation provided will be indicative of the value of the asset or assets only and realisation on enforcement in connection with the sale of such asset or assets may be lower (or higher) than the value set out in the asset register.

10.4 The Security Agent is irrevocably appointed by you to hold the assets charged under any security upon trust for itself and for all investors to that borrower (including you). From time to time the Security Agent may perform (before or after any enforcement under the terms of the security) all obligations, rights and benefits given to the Security Agent by any all assets security agreement, assignments, legal mortgage and/or chattels mortgage and by any future security that the Security Agent may take in respect of the debt due under the loan or under any document entered into pursuant to such all assets security agreement, assignments, legal mortgage, chattels mortgage and/or future security. The Security Agent shall have certain powers and discretions conferred upon trustees and may also rely on (i) any representation, notice or document believed by it to be genuine





correct and appropriately authorised and (ii) any statement made by any director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

10.5 Where the Security Agent holds an all assets security agreement, an assignment, a legal mortgage or a chattels mortgage in respect of one or more loans or the liabilities of a particular borrower, that all assets security agreement, assignment, legal mortgage or chattels mortgage will generally operate to secure all monies due from that borrower to investors on the Funding Circle platform from time to time.

10.6 If the Security Agent is required to enforce any security agreement, and any proceeds of recovery become available (after allowing for all of the Security Agent's costs of enforcement), **it is possible that the available proceeds will not be sufficient to discharge all obligations owed by the borrower at that time to investors on the Funding Circle platform. If that is the case, then the investors shall only be entitled to recover their proportionate share of such recoveries. In addition, it is possible that there may be other creditors of the borrower that have claims that may be recovered in priority to those of the Security Agent and the Funding Circle investors, so the existence of such an all assets security agreement, assignment, legal mortgage and/or chattels mortgage should not be considered to be a guarantee of certain repayment in the event of failure by the borrower in meeting its payments.**

10.7 You agree that the Security Agent shall be entitled to be repaid and reimbursed out of the proceeds of any recovery under any all assets security agreement, assignment, legal mortgage and/or chattels mortgage and that you will pay all reasonable costs incurred by or on behalf of the Security Agent in enforcing the security or in complying with any instructions from you in connection with any security agreement. You will only be responsible for payment of such costs out of the proceeds of any recovery and to the extent that such costs cannot be recovered by the Security Agent from the relevant borrower.

## **11. Large Asset Finance and the role of Funding Circle Asset Finance Limited**

11.1 Where the Key Contract terms indicate that the loan is to be an asset finance loan, the loan shall be used by the borrower in procuring the use of a specific business asset or assets. It must be paid by the borrower to Funding Circle Asset Finance Limited ("FCAF"), a separate wholly owned subsidiary of Funding Circle Limited (along with any deposit payable by the borrower to FCAF under the applicable conditional sale or lease agreement) to satisfy the payment of the asset procurement charge and the finance arrangement charge under the applicable conditional sale or lease agreement.

11.2 In such circumstances FCAF may obtain a third party asset valuation report (which may be provided to you as investor) in connection with the underlying asset. Such valuation will be indicative of the value of the business asset or assets only.

11.3 In such circumstances, you agree that FCAF will act as asset financier in respect of the assets made available to the borrower under the terms of the conditional sale or leasing arrangement. FCAF will hold the title to the assets and from time to time FCAF may perform all obligations, right and benefits given to FCAF as legal title holder of the assets, until such time that the conditional sale is completed.

11.4 To manage any repayments in the circumstances set out at clause 12 (Missed payments) below, FCAF shall, as required, hold and manage any sums realised from the sale of business asset(s) (the "Realisation Proceeds") on the terms set out in clauses 11.5 and 11.6 below.



11.5 Where FCAF holds and manages an asset that has been funded by a particular asset finance loan, that asset will generally be managed with a view to providing additional comfort for the investors of the underlying asset finance loan that a source for repayment will exist in the circumstances following any default by the borrower (after allowing for all of FCAF's costs of recovery). It is possible that the available Realisation Proceeds will not be sufficient to discharge all obligations owing by the borrower at that time to investors who have lent the underlying asset finance proceeds on the Funding Circle platform. If that is the case, then the investors shall only be entitled to recover their proportionate share of such Realisation Proceeds, so the existence of such recourse to the underlying asset should not be considered to be a guarantee of certain repayment in the event of failure by the borrower in meeting its payments.

11.6 You agree that FCAF shall be entitled to be repaid and reimbursed out of the proceeds of any recovery against a finance asset and that you will pay all reasonable costs incurred by FCAF in recovery and realising those assets. You will only be responsible for payment of such costs incurred by FCAF out of the proceeds of any recovery and to the extent that such costs cannot otherwise be recovered by FCAF from the relevant borrower.

## 12. Missed payments

12.1 You agree that in the event of missed payments on a loan we will take the administrative steps set out in clauses 12.2 to 12.4 below on your behalf. In certain circumstances, we may act outside and/or ahead of the following process to pursue missed payments or loans (whether or not in formal default) where we consider this to be in the best interests of investors. We may recover our reasonable costs from any amount recovered.

12.2 If the borrower misses a payment or only partially pays, the amount due to you and the other investors, we (ourselves or through an agent acting on our behalf) will contact the borrower to inform them that we will reattempt to collect the outstanding payment in respect of that loan. If our reattempts to collect the funds fails 2 working days after the payment was due, the borrower's account will be treated as an overdue account and we will continue to attempt to collect the funds. We may refer the missed payment to a debt collections agency (the "**Collections Agency**"), who will attempt to collect the money on your and any other investors' behalf and you authorise us to use the Collections Agency on your behalf. Any fee that the Collections Agency charges for this initial debt chasing will be added to the loan amounts that they are seeking to collect and will not reduce the amount available for distribution to investors.

12.3 If the borrower misses, fails to pay or only partially pays any monthly instalments, or if the borrower is otherwise in breach of any of the Loan Conditions, the loan may be placed into default and we may engage field agents to attempt to collect the total loan amount outstanding. The field agents may deduct up to 40% of the amount they recover from the borrower and the remaining proceeds will be distributed to investors; where reasonably possible this fee will be added on to the loan amount outstanding so as not to reduce the amount investors receive.

12.4 If the loan is placed into default, Funding Circle will notify you (by way of note in your Funding Circle investor account) that all of the outstanding loan parts or the whole loan will be assigned to FCTL or FCPFL to hold as legal owner on trust for the investors and you agree to such assignment. We need to assign the debt to one of our subsidiaries to enable us to commence legal proceedings against the borrower for the full amount outstanding. We, acting on behalf of FCTL or FCPFL will then investigate the amount of debt that is likely to be successfully recovered through the courts. If we deem it appropriate, we will instruct solicitors to file court claims to recover the debt. FCTL or FCPFL will pay back to investors in their proportionate share any funds successfully recovered, less its costs incurred during that recovery. We will act in a fair and equitable manner to achieve

maximum recovery for all affected investors, which may include extending payment terms or selling the debt to a third party.

12.5 Where the relevant loan or loans are secured, the relevant Security Agent will take the steps outlined in clause 10 above.

12.6 Where the relevant loan or loans are a large asset finance loan and the borrower has missed any payments, FCAF may take the following steps:

(a) FCAF may terminate its consent to the borrower's possession of the business asset or assets and the borrower shall be required to deliver to FCAF the assets that are subject to the conditional sale or leasing arrangement. FCAF (or its authorised representatives) may, without notice and at the borrower's expense, take possession of the assets;

(b) upon recovery of the business asset or assets, and failing any full settlement of all liabilities due by the borrower, FCAF may as legal title holder of the business assets elect to sell the asset or assets at such price that it deems fit. In such circumstances, any asset valuation report provided as described in clause 11.2 above will be indicative of the value of the business asset or assets only and any realisation or sale proceeds in connection with the sale of such asset or assets may be lower (or higher) than the value set out in such asset valuation report. FCAF is under no obligation to sell the asset or assets under the circumstances set out in this clause 12 for the value set out in the asset valuation report;

(c) FCAF shall (after allowing for the costs of recovery and sale) hold and manage the net Realisation Proceeds and shall at its discretion transfer such funds to Funding Circle Limited to be distributed to the relevant investors (pro rata) in repayment of the underlying asset finance loan or loans;

(d) any Realisation Proceeds shall only be transferred to Funding Circle Limited for distribution and payment to investors: (i) at the discretion of FCAF; and (ii) within such period as FCAF deems reasonable following receipt of the sale proceeds and satisfaction of all related expenses.

12.7 Funding Circle will keep you up to date with the progress of its efforts to collect missed payments and to recovery defaulted debt, and such progress can be viewed in the My Account section of the platform.

12.8 Under previous terms and conditions, it was possible for an investor to opt out of novating their loan parts or whole loans to FCTL or FCPFIL (as appropriate). Any investor who has opted out of novating their loan parts or whole loans to FCTL or FCPFIL (as appropriate) under previous terms and conditions hereby undertakes separately to each of Funding Circle Limited, FCTL, FCPFIL, the borrower and the other investors (if any) that it will act at all times in a fair, transparent and proportionate manner having due regard to the borrower and/or guarantor; without causing any harm or potential harm to Funding Circle's reputation (in our absolute discretion); and in compliance with all relevant laws, regulations and best practice guidance.

### **13. Terminating your membership of Funding Circle**

13.1 If you no longer want to be a member of Funding Circle, and provided you have no Loan Contracts currently in force, you can let us know and we will end your membership.

13.2 We may end your membership of Funding Circle at any time and for any reason, including but not limited to if:

(a) you breach these terms and conditions or are in breach of any regulatory requirements relating to your activity as an investor on the platform;

(b) you breach any Loan Contract;

(c) we suspect that you have committed fraud, been involved in money laundering or other criminal activities;

(d) you use the Funding Circle platform or any information accessible on or obtained from it for the purpose of canvassing or soliciting any person or enticing any person away from Funding Circle;

(e) you use the Funding Circle platform in any of the following ways:

(i) in any way that causes, or is likely to cause, the platform or access to it to be interrupted or damaged in any way;

(ii) for fraudulent purposes, or in connection with a criminal offence;

(iii) to send, use or reuse any material that is illegal, offensive, abusive, indecent, defamatory, obscene or menacing; or in breach of copyright, trademark, confidence, privacy or any other right; or is otherwise injurious to third parties; or objectionable; or which consists of or contains software viruses, political campaigning, commercial solicitation, chain letters, mass mailings or any "spam";

(iv) to cause annoyance, inconvenience or needless anxiety or in a way that restricts or inhibits anyone else's use and enjoyment of the platform;

(v) for a purpose for which the platform is not intended or other than as a marketplace for lending to SMEs; or

(f) there is no activity in your Funding Circle investor account within a 12 month period.

13.3 On termination we will credit your bank or building society account with any funds left in your Funding Circle investor account or send a cheque to the address last provided by you.

#### **14. Investor's agreements with Funding Circle**

***14.1 You agree that Funding Circle is giving no undertaking and making no warranty or representation, as to the ability of borrowers to pay, and their credit risk, and that we are in no way liable for the debts of borrowers. You acknowledge that you are bidding and lending entirely at your own risk.***

14.2 Calculations we may provide on the platform of the likely rate of return on loans are for guidance purposes only and are not guaranteed.

14.3 The information on the platform does not constitute advice, recommendation or an endorsement of loan requests or borrowers. The information is not intended to be relied upon as a sole basis for deciding whether or not to lend to a particular business.

14.4 We make no representation or warranty as to the accuracy of the data displayed for loan requests, nor whether the information is up to date or error free.

14.5 We do not guarantee that there will be sufficient bids to fully fund loans and allow your funds to be lent out, that there will be sufficient borrowers for you to lend to or that there are sufficient other investors to buy your loan parts should you wish to sell them.

14.6 We do not guarantee that loan parts listed for sale will be bought by other investors or the time it will take to withdraw funds from Funding Circle by selling loan parts.

14.7 Where Funding Circle has implemented any form of personal guarantee in support of a loan on your behalf as an investor, you accept that the enforceability of such personal guarantee shall be subject to normal legal risks and limitations and that Funding Circle will not have ensured that any individual providing such a guarantee has been independently advised on the impact of such a personal guarantee. Such guarantees can be open to challenge in circumstances where the

individual granting the guarantee has been subject to undue pressure or influence from a third party.

14.8 The Funding Circle platform is not intended or designed to be used, nor Funding Circle permits any use of the platform, as a vehicle for generating loan assets (or purchasing interests in loan assets) as part of an investor's (or a member of an investor's group's) securitisation or fund-raising strategy, and shall not be used as such by any investor or a member of an investor's group without the prior written consent of Funding Circle (such consent may be withheld in Funding Circle's absolute discretion).

## **15. Back-up servicer arrangements**

15.1 If our platform were to fail or we become insolvent, we would transfer our member loan servicing obligations to a third party back-up servicer, Link Financial Outsourcing Limited, with whom we have entered into a back-up servicing arrangement. Link Financial Outsourcing Limited is authorised and regulated by the Financial Conduct Authority with Interim Permission to conduct consumer credit business under firm reference number 632508. We reserve the right to use a back-up servicer prior to insolvency where such action is in the best interests of all of the investors. If this happens:

- (a) you would not be able to sell any loan parts;
- (b) you would receive distributions of funds to your external bank or building society account on a quarterly basis;
- (c) the My Account page on the platform and the rest of the platform would not be available for access by you; and
- (d) you would receive quarterly statements of repayments and continue to receive annual statements (for tax purposes).

Our outsourced servicer would continue to collect the Servicing Fee. Our outsourced servicer may charge an additional special situation fee which will be included in the interest rate paid by the borrower. The total annual fees to cover the costs of running the website and administering the loans will not exceed 2% of the principal value of each loan part or whole loan outstanding.

## **16. General terms**

16.1 The information provided on the platform is directed solely at and is for use solely by persons and organisations, including financial institutions, that meet the criteria set out in clause 1 above and the equivalent criteria set out in the terms and conditions applying to borrowers. The content provided through the platform is not intended for distribution to, or use by, any person or entity in any jurisdiction where such distribution or use would be contrary to applicable law or regulation.

16.2 You are permitted to download and print content from this platform solely for your own personal use or in the course of your business to the extent required to use the services provided on this platform. Funding Circle supplied content must not be copied or reproduced, modified, redistributed, used or otherwise dealt with for any other reason without our express written consent.

16.3 We are not responsible for content downloaded or posted by investors or borrowers on the platform. We may edit certain content downloaded or posted on the platform in our discretion to clarify content or remove offensive material but are not obliged to do so.

16.4 We will endeavour to allow uninterrupted access to the platform, but access to the platform may be suspended, restricted or terminated at any time.



16.5 You agree to use the platform only for lawful purposes and in a way which does not infringe the rights of any anyone else or restrict or inhibit anyone else's use and enjoyment of the platform.

16.6 You agree not to use the Funding Circle platform or any information accessible on or obtained from it for the purpose of canvassing or soliciting any person or enticing any person away from Funding Circle.

16.7 You warrant that you have taken all reasonable precautions to ensure that any data you upload or otherwise submit to the platform is free from viruses and anything else which may have a contaminating or destructive effect on any part of the platform or any other technology.

16.8 The content and material available through the platform is for informational purposes only and should not be regarded as an offer, solicitation, invitation, advice or recommendation to buy or sell investments, securities or any other financial services or banking product. If you are unsure about whether a product is suitable you should contact an independent financial adviser.

16.9 You are responsible for all costs incurred by you in accessing the platform.

16.10 We accept no responsibility or liability for your use of content on the platform and such use is entirely at your own risk. While we take reasonable precautions to prevent the existence of computer viruses or other malicious programs on the platform, we accept no liability for them if they do exist. It is your responsibility to use, update and maintain appropriate antivirus software on your computer.

16.11 Information transmitted via our systems will pass over public telecommunications networks. We accept no liability if communications sent via the platform are intercepted by third parties or incorrectly delivered or not delivered.

16.12 The platform may contain links to websites. We accept no responsibility or liability for any material supplied by or contained on any third party website which is linked from or to the platform, or any use of personal data by such third party.

## **17. Privacy**

You agree that any and all personal information you provide to us via this platform may be collected, stored, processed and used in accordance with our then current privacy policy (accessible online <http://www.fundingcircle.com/privacy>).

## **18. Intellectual property rights**

18.1 Subject to clause 18.3 below, as between you and us, we own all present and future copyright, registered and unregistered trade marks (including the goodwill thereon), design rights, unregistered designs, database rights and all other present and future intellectual property rights and rights in the nature of intellectual property rights existing in or in relation to the platform.

18.2 If and to the extent that any such intellectual property rights vest in you by operation of law or otherwise, you agree to do any and all such acts and execute any and all such documents as we may reasonably request in order to assign such intellectual property rights (and associated goodwill) back to us.

18.3 You shall retain ownership of all copyright in data you upload or submit to the platform. You grant us a world-wide exclusive, royalty-free, perpetual, irrevocable licence to use, copy, distribute, publish and transmit such data in any manner.

18.4 We do not warrant or represent that the content of the platform does not infringe the rights of any third party.

## **19. Your liability to us**





You shall be liable to us for any loss or damage suffered by us as a result of: (a) any breach of these terms and conditions or any Loan Contract by you, (b) any fraudulent use of the Funding Circle platform and (c) any and all use of your username and password (including as provided for in clause 2.2 of these terms and conditions). You will also be liable to us as contemplated in clauses 10.6 and 11.6 above in circumstances where a loan is a secured loan.

## 20. Our liability to you

20.1 We shall not be liable to you for any loss or damage which you may suffer as a result of being a member of Funding Circle or using the services provided via the platform, except where such loss or damage arises from our breach of these terms and conditions or was caused by negligence, wilful default or fraud by us or our employees. We are not responsible for any breach of these terms and conditions arising from circumstances outside our reasonable control. Our total liability to you in connection with these terms and conditions, your membership of Funding Circle and your use of the services provided via the platform shall not exceed the amount of money you have lent giving rise to the liability.

20.2 Nothing in these terms and conditions shall limit our liability for personal injury or death caused by our negligence, fraud, nor for any other liability the exclusion or limitation of which is not permitted by applicable law or regulation.

## 21. About us

21.1 Funding Circle Limited is a company incorporated in England and Wales, whose registered number is 06968588 and whose registered office and principal place of business is at 71 Queen Victoria Street, EC4V 4AY, United Kingdom.

21.2 Funding Circle Limited is registered with the Information Commissioner (Z2133885).

21.3 Funding Circle Limited is a member of CIFAS - the UK's leading anti-fraud association.

21.4 Funding Circle Limited and Funding Circle Trustee Limited are regulated under an Interim Permission by the Financial Conduct Authority (FCA) (Licence No.s 0635439 and 640243 respectively). Funding Circle intends to become fully authorised by the FCA prior to 1 April 2016.

21.5 Funding Circle is not directly covered by the Financial Services Compensation Scheme. However, you may be entitled to compensation from the Financial Services Compensation Scheme in respect of any money held by Funding Circle on your behalf if the bank or credit institution holding the money becomes insolvent. Further information is available at <http://www.fcsc.org.uk> and we would advise you further if this event were to occur.

## 22. Contacting us and Complaints

<http://www.fundingcircle.com>.

22.2 If you wish to make a formal complaint, you may do so in person, in writing by post or email or by telephone. Please see our Complaints Procedure here: <https://support.fundingcircle.com/entries/27485286-I-want-to-make-a-complaint-what-is-the-next-step->.

## 23. Amendments to these terms and conditions

23.1 We expect to need to update or amend these terms and conditions from time to time to comply with law or to meet our changing business requirements. We may make such changes without your specific agreement where those updates are, in our reasonable opinion, of an immaterial and routine nature and may not always be able to give you advanced notice of such updates or amendments but we will always post them on the platform so you can view them when you next log in. By continuing to use the platform, or our services in allocating funds you have

deposited, you agree to be bound by the terms of any updates and amendments implemented in accordance with this clause 23.

23.2 These terms and conditions were last updated on 28 September 2015.

#### **24. Other important terms**

24.1 If any of these terms and conditions is found to be illegal, invalid or unenforceable by any court of competent jurisdiction, the remainder shall continue in full force and effect.

24.2 All disclaimers, indemnities and exclusions in these terms and conditions shall survive termination of the agreement between us for any reason.

24.3 We may, in whole or in part, release, compound, compromise, waive or postpone, in our absolute discretion, any liability owed to us or right granted to us in these terms and conditions without in any way prejudicing or affecting our rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.

24.4 No single or partial exercise, or failure or delay in exercising any right, power or remedy by us shall constitute a waiver by us of, or impair or preclude any further exercise of, that or any right, power or remedy arising under these terms and conditions or otherwise.

24.5 These terms and conditions and the Loan Contracts (and the API Terms of Use, if appropriate) set out the entire agreement between you and us with respect to your use of the platform and the services provided via the platform and supersede any and all representations, communications and prior agreements (written or oral) made by you or us.

24.6 Funding Circle may exercise any of its rights under these terms and conditions by itself or through any company or other legal entity which is under the control or ownership of Funding Circle (including without limitation FCTL, FCPFL or FCAF).

24.7 These terms and conditions are governed by English law. In the event of any matter or dispute arising out of or in connection with these terms and conditions, you and we shall submit to the non-exclusive jurisdiction of the English courts.

#### **25. Client Money**

25.1 We shall treat money that we receive from you or hold on your behalf as Client Money in accordance with the FCA's Client Money rules. Client Money held for you will be subject to internal control mechanisms and proper accounting procedures in accordance with the Client Money rules.

25.2 We will make arrangements for your money to be held in a segregated account separately from our own funds with a bank appropriately authorised, in line with our FCA obligations ("Client Bank Account") and in accordance with the Client Money rules and maintained specifically for you or for our members generally. Your money may be held with other members' money in a pooled account and you consent to such pooling. Client Money will be held on an omnibus basis which means that if the bank were to fail, your funds would be affected by any shortfall in proportion to the value of your funds relative to the total sum of Client Money held in this way. We will not be responsible for any acts, omissions or default of any bank with which your money is held and in the event of insolvency of such bank, we would not be liable for any shortfall unless we had failed to comply with any duty of care or obligation to which we were subject.

25.3 Client money may be placed in client transaction accounts with solicitors in order to complete certain property finance transactions. These funds are held by the relevant solicitors under the Solicitor Regulation Authority Client Money Rules.

25.4 Funding Circle does not provide paper statements of client holdings. You can log into your accounts at any time and download a statement of your current loan contracts and see your "available funds" and "bid funds" which together account for the client money we are holding for you.

25.5 We will not pay interest on balances held as Client Money.