

# Terms and Conditions

## 1. Definitions

- 1.1 "Administration Charge" means such costs incurred in processing, preparation and submission of the Client's claim (including without limitation any charges payable to the Third Party whether under the Data Protection Act 1998 or otherwise in order to obtain details relating to the Client's claim for Compensation) incurred by the Company until the time that the Client's written notice of termination is received by the Company.
- 1.2 "Benefit" means all benefits in whatever form including without limitation all benefits that will arise from any waiver, cancellation, reduction, saving, deduction or rescheduling of any outstanding or future loan or interest payments, credit repayments, premiums, charges or other interest or administrative payments (or any offsetting or relief against the same) or any other saving, inducement, discount or rebate offered in relation to any other products or services offered by a Third Party or persons connected to the Third Party.
- 1.3 "Client" means the client of the Company and where the same are two or more persons the obligations on the part of the Client are joint and several.
- 1.4 "Compensation" means the total monies and the full value of Benefits (as defined above) offered by the Third Party whether as compensation, as a gesture of goodwill or otherwise arising from any claim made by the Company on behalf of the Client for (a) mis-sold payment protection insurance and/or (b) penalty charges on credit card accounts and/or (c) unenforceability of a regulated agreement under the Consumer Credit Act. Where such an offer is revised on appeal, then the higher amount shall be used in order to calculate the amount of the Compensation.
- 1.5 "Company" means Challenge Your Charges Limited (Company Number: 6120001) trading as Challengeyour.com.
- 1.6 "Contract" means the contract between the Company and the Client for the provision of the Services, comprising the signed letter of engagement/authority form and these terms and conditions.
- 1.7 "PPI" means a Payment Protection Insurance policy or similar loan protection scheme including without limitation schemes covering eventualities such as accident, sickness, redundancy and/or unemployment.
- 1.8 "Services" means all or any of the services as specified in the Contract.
- 1.9 "Service Charges" means the charges payable by the Client set out in the Contract.
- 1.10 "Third Party" means any bank, person, firm or company that imposed bank or credit card charges on the Client and/or sold or marketed to the Client a PPI.
- 1.11 "VAT" means value added tax at the then prevailing rate.

## 2. Duration.

The Contract shall commence on the date on which the Client's signed letter of engagement/authority form has been received by the Company and unless terminated earlier as provided below shall continue until:

- 2.1 Compensation is recovered for the Client by the Company and the Service Charges or the Administration Charges (as applicable) are paid by the Client; or
- 2.2 The Company advises the Client in writing that it is unable to recover Compensation; or
- 2.3 The Company exercises its right not to pursue a claim for Compensation but this is without prejudice to any rights the Client may have to make a claim.

## 3. Services

The Company agrees with the Client and the Client agrees with the Company:

- 3.1 That it will use its reasonable endeavours to pursue an application for Compensation from the Third Party on behalf of the Client ("the Client's claim") where the Company believes that it is reasonable to do so, having regard to the merits and the value of the Client's claim;
- 3.2 To notify the Client promptly and in writing if it decides that it will not pursue an application for Compensation;
- 3.3 To use reasonable endeavours to keep the Client informed of the progress of the Client's claim;
- 3.4 That it will not seek to recover the Service Charges should the application to the Third Party for Compensation prove unsuccessful.
- 3.5 To act in the best interests of the Client at all times;
- 3.6 To promptly pay any Compensation received by the Company to the Client after deducting the Service Charge;
- 3.7 To hold all Compensation monies received from a third party in a general client account that is separate from the main bank account of the Company;
- 3.8 That the commencement of legal proceedings to recover Compensation is outside the scope of the Services unless the Company elects otherwise.

## 4. Charges

- 4.1 The liability for the Client to pay the Service Charges and Administration Charge (where applicable) and any other charges that may be payable by the Client under the Contract is (where the Client is more than one person) joint and several. This means that the Company can recover all of such charges from any person who is the Client.

## 5. Debt Recovery

- 5.1 In the event the Company takes steps to recover any Service Charges and/or Administration Charges due and unpaid by the Client to the Company, the Client shall pay to the Company the Company's costs (including administrative costs) of taking such steps plus VAT on those costs and in addition the Client undertakes that it will at all times be responsible for all costs and expenses incurred by the Company, including but not limited to, Court fees, interest and administrative fees in recovering from the Client any Service Charges and Administration Charge (where applicable) due and unpaid from the Client to the Company.
- 5.2 All sums due from the Client which are not paid on the due date (see point 7.3) (without prejudice to the rights of the Company under the Contract) shall bear interest from day to day at the rate of 4% per annum over the base lending rate of Barclays Bank plc from time to time.

## 6. General Obligations of the Client

The Client agrees with the Company:

- 6.1 To provide promptly all such information as the Company may from time to time reasonably request;
- 6.2 To ensure that all information sent to the Company is true, accurate, not misleading and shall not contain any relevant omissions;
- 6.3 To authorise the Company to act on its behalf to contact the Third Party or such other persons, firms or companies as the Company considers necessary to perform the Services and to authorise the release of any such information as the Company deems appropriate;
- 6.4 To authorise the Company on an exclusive basis to negotiate on the merits of the Client's claim;
- 6.5 To deal with all correspondence from the Company promptly, including without limitation to return to the Company either the Third Party's acceptance form or a letter rejecting the Third Party's offer as soon as reasonably practicable and in any event within 28 days.
- 6.6 To accept these terms and conditions as binding on the Client and to be responsible to the Company for any breach by the Client including the payment of the Service Charges and/or the Administration Charge (as applicable);
- 6.7 Not to appoint any other claims handling company or other person firm or company to provide the Services during the term of the Contract without the prior written consent of the Company;
- 6.8 Not to pursue the claim during the term of the Contract personally and not to contact the Financial Ombudsman Service in connection with the Client's claim;
- 6.9 Not to contact or correspond or communicate with the Third Party without the consent of the Company, as this may prejudice any ongoing negotiations;
- 6.10 To immediately send a copy to the Company of any correspondence it receives from the Third Party;
- 6.11 To promptly notify the Company of the full names of all joint policy holders and any further relevant information that the Client has in its possession which the Company may request from time to time;
- 6.12 That it has not previously claimed or received compensation or an offer of compensation from the Third Party.

## 7. Payment Obligations of the Client and the Company

- 7.2 The amount of the Service Charges payable by the Client to the Company is set out in the signed letter of engagement/authority form relating to the Services. The Client agrees that it is liable to pay the Service Charges to the Company if the Compensation is paid directly to the Client by the Third Party and the Company may deduct its Service Charges and any other fees due to the Company under the Contract from any Compensation it receives on the Client's behalf.
- 7.3 All Service Charges and Administration Charge (where applicable) and other fees payable by the Client to the Company shall be paid by the Client within 14 days of the Company's invoices for such charges or (if stated) by such later date stated in the Company's invoices.
- 7.4 When an offer for Compensation is obtained from the Third Party on behalf of the Client which in the reasonable opinion of the Company is fair and reasonable having regard to the relevant circumstances and the relevant FCA & FOS guidelines and that offer is rejected by the Client, then the Company reserves the right to charge a fee equal to the amount of the Service Charge which would have been payable in the event that the Client accepted that offer in line with the Company's advice.
- 7.5 The Client agrees to pay to the Company the Service Charge and is deemed to have irrevocably accepted an offer of Compensation in cases where an offer of compensation, which in the reasonable opinion of the Company is fair and reasonable, has been sent either by the Company or the Third Party to the Client, and the Client has not within 28 days of receiving such offer either returned to the Company, the Third Party's acceptance form or a letter rejecting the Third Party's offer.

## 8. Performances

- 8.1 The Company will use all reasonable endeavours to perform the Services within a reasonable period from the date of receipt of the letter of engagement/authority form signed by the Client. The Company cannot be held responsible for delays due to circumstances beyond its control, such as delays caused by the Third Party or the Client. The Company will return to the Client any bank statements supplied by the Client, provided that the Client provides a written request together with an envelope that is addressed to the Client and stamped to a sufficient value to cover the cost of returning the statements. Otherwise, the Company will dispose of the paper copies securely. The accuracy of the system used to analyse the paper bank statements may on occasion be impaired by the quality and/or condition of the statements and other written information provided to the Company. The Company will use all reasonable endeavours to minimise any inaccuracies.

## 9. Liability

- 9.1 The Company's liability in respect of the Services is to provide the same with reasonable skill and care. The Company does not make any other promises or warranties about the Services. The Company shall not in any event be responsible to verify the accuracy of the mathematical calculations set out in the statements provided to it, but merely to evaluate the merits of the Client's claim.
- 9.2 The liability of the Company to the Client in contract, tort (including negligence for breach of statutory duty) or otherwise howsoever under or in connection with the Contract shall be limited as follows:
- 9.3 For death or personal injury resulting from the Company's negligence or fraud, no limit shall apply:
- 9.4 For any other loss or damage, liability is limited to losses that are a foreseeable consequence of the Company's breach of contract or tort and shall not, in any event, exceed the amount at which the Company (acting reasonably) values the Client's claim less the Service Charge that would have been payable.
- 9.5 Any claim by the Client for compensation for loss caused by the Company's negligence or breach of contract must be notified to the Company as soon as practicable after the damage is discovered.

## 10. Litigation

- 10.1 The Company shall have the right to commence legal proceedings on the Client's behalf to pursue a claim for Compensation, subject to the provisions of this Condition 10.
- 10.2 Where the Company commences legal proceedings on the Client's behalf to pursue a claim for Compensation, the Client agrees to:
- 10.3 Comply with all reasonable requests of the Company and/or any legal representative appointed by the Company without undue delay;
- 10.4 Permit the Company to have the conduct of the claim and to pursue the claim in such manner as the Company in its absolute discretion thinks fit;
- 10.5 Disclose all relevant information and documentation as reasonably requested by the Company and/or its legal representative;
- 10.6 Instruct any legal representative appointed by the Company to provide all information relating to the claim to the Company, at the Company's request;
- 10.7 Authorise any legal representative appointed by the Company to pay the Service Charges directly to the Company from any Compensation recovered by the legal representative;
- 10.8 To pay the Service Charges to the Company if the Compensation is paid directly to the Client.
- 10.9 The Company agrees to be responsible for the costs of any legal proceedings that the Company commences on the Client's behalf, except that the Client shall be responsible for such costs and Administration Charge in any of the following circumstances:
- 10.10 The Client misleads the Company and/or any legal representative appointed by the Company in any way or any information provided by the Client contains material omissions which would (if not omitted) have resulted in the legal representative and/or the Company declining to accept the Client's instructions;
- 10.11 The Client terminates the Contract during the course of the proceedings; or processing the Client's claim.
- 10.12 The Client fails to provide the Company and/or the legal representative with information (including without limitation witness statements) within a reasonable time from the time that such information is requested;
- 10.13 The Client fails to remedy a breach of its obligations under the Contract within 15 days of a notice from the Company requiring the Client to do so.

## 11. Termination

- 11.1 The Company shall have the right by giving written notice to the Client at any time to immediately terminate the Contract if:
- 11.2 there occurs any material breach by the Client of any term of the Contract which is irremediable or if remediable is not remedied to the Company's satisfaction within 15 days of a written notice by the Company specifying the breach and requiring it to be remedied; or
- 11.3 the Client is adjudicated bankrupt, enters into a voluntary arrangement with its creditors or has a receiver appointed under the Mental Health Act 1983; or
- 11.5 The Client shall have the right to terminate the Contract without charge by giving written notice to the Company within 14 days of signing the Contract.
- 11.6 Any termination by the Client must be communicated on the telephone to the Company's Customer Relations Department on 0800 814 0898. The Company will acknowledge the Client's termination in writing. If the Client does not receive this acknowledgement within 2 weeks, the Client should contact the Company's Customer Relations Department to check that his/her termination has been confirmed. In the event the client terminates the contract after 14 days there shall be payable to the company in any event the Administration Charge which amounts to the cost of such preparation, processing and submission incurred by the Company at an hourly rate of £90 up to the time the Client's notice of cancellation has been received by the Company. If such termination takes place once the Third Party has made an offer of Compensation, the Company shall have the right to impose a charge equivalent to the Service Charges that would be payable if the offer was accepted.

## 12. Force Majeure

The Company shall not be liable for any delay or other failure to perform any services by reason of any cause whatsoever beyond its reasonable control and the time for performance shall be extended by the period of any such delay.

### 13. Confidentiality

- 13.1 Both parties agree to keep confidential the subject matter of the Contract and any information (whether written or oral) acquired by that party in connection with the Contract and not to use any such information except for the purpose of performing its obligations under the Contract.
- 13.2 Both parties agree that the provisions of Condition 13.1 shall not apply to information already in the public domain other than as a breach of Condition 13.1.
- 13.3 The restrictions contained in Condition 13.1 shall continue to apply following the termination of the Contract without limit in time.

### 14. Conflict of Interest

- 14.1 The Client agrees that the Company shall not be required to disclose to the Client or account to the Client in respect of the Company's interests, such as in relation to advice on marketing or other matters, provided that the Company does not contravene any applicable rules, regulations or codes of conduct.

### 15. Privacy Policy and Data Protection

- 15.1 All personal data will be held in accordance with the terms of the Company's privacy policy which can be found on the Company's website [www.challengeyour.com/privacy-policy](http://www.challengeyour.com/privacy-policy). All data is held in accordance with the provisions of the Data Protection Act 1998 ("DPA").
- 15.2 The Company agrees to comply with any written Subject Access Request under the DPA made by the Client for the personal data that it holds subject to any exemptions that may apply from time to time. The Company charges an administration fee for providing this information, which shall not exceed the fee from time to time permitted under the DPA (currently £10).
- 15.3 The Company further agrees to correct any inaccuracies in the Client's personal data held at the request of the Client.
- 15.4 By acceptance of the Company's privacy policy and unless and until the Company receives written instruction to the contrary, the Client agrees that the Company may share the Client's personal information with banks, Financial Advisers or other relevant institutions and to affiliates, associated companies or firms or service partners for the purposes of assisting the Client with the Client's claim for compensation that the Company believes may be of assistance to the Client. Except as explicitly stated in this condition and the privacy policy, the Company does not disclose to any third party the information provided by the Client.

### 16. Misleading Information

- 16.1 The Company reserves the right to charge the Client for any costs incurred by the Company if any information provided by the Client is misleading or contains material omissions which result in the Company providing the service to the Client, which it would have declined to do, if it had been in possession of the full information.

### 17. Assignment and Sub-Contracting

- 17.1 The Company reserves the right to assign the Contract and all rights under it and to sub-contract to others all or any of its obligations. The Contract is personal to the Client and is not assignable except to the personal representatives of the Client.

### 18. Rights of Third Parties

- 18.1 A person who is not a party to the Contract will have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce the Contract.

### 19. Entire Agreement

- 19.1 The Contract contains all the terms which the Company and the Client have agreed in relation to its subject matter and supersedes all previous oral or written communications between the Company and the Client. Nothing in the Contract excludes or limits either party's liability for fraudulent misrepresentation.

### 20. Notices

- 20.1 Any notice to be given in accordance with the Contract and these terms and conditions must be in writing.

### 21. Severability

- 21.1 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.

### 22. Variations

No variation to these conditions shall be binding unless agreed in writing between the Company and the Client.

### 23. Complaints

The Company operates a complaints mechanism, full details of which are set out in [www.challengeyour.com](http://www.challengeyour.com)

### 24. Waiver

No failure or delay in exercising any of the Company's rights shall constitute a waiver of the same or any other of its rights.

### 25. Law and Jurisdiction

The law applicable to the Contract shall be English law and the parties consent to the jurisdiction of the English courts in all matters affecting the Contract.

**Revised October 2013**