

## Referral Partner Introduction Agreement

An Agreement dated \_\_\_\_\_

Between [The Selected Referral Partner]

(the Selected Referral Partner or SRP)

and [The Referring Brokerage]

(the Introducer)

of Company Number \_\_\_\_\_

To take effect from \_\_\_\_\_

### **Background**

SRP is a regulated and specialist equity release adviser.

The Introducer has clients who require advice in relation to Equity Release Products (Client)

SRP agrees to contact the Client in accordance with the terms and conditions set out in this agreement (the Agreement) to provide advice to such Client.

### **1. Interpretation and Definitions**

In this Agreement defined words and expressions will have the following meanings:

Applicable Laws and Regulations means all laws, regulations and conditions governing this Agreement or the conduct of the parties envisaged by this Agreement including without limitation the FS Legislation and Data Protection Legislation;

Business Day means Monday to Friday between 9.00 a.m. and 5.00 p.m. excluding public or bank holidays in England;

Confidential Information means all information which is marked or designated confidential or should otherwise be considered confidential due to its nature and the context in which it is divulged which is disclosed by the Introducer to SRP in connection with this Agreement, in respect of the Introducer and or its group and their business and operations and includes, but is not limited to, Data and Management Information, information and/or details relating to Clients and other information relating to the business or affairs of the Introducer and/or its group whether in writing, orally or by any other means;

Data means all data and information including information and details of Clients provided to SRP directly or indirectly by the Introducer pursuant to or in contemplation of this Introducer Agreement or which is created by SRP for or otherwise on behalf of the Introducer pursuant to this Introducer Agreement;

Data Protection Regulations means the Data Protection Act 1998 DPA and all other applicable laws, regulations and codes of practice relating to the processing of personal data or sensitive personal data (as defined under the DPA) or relating to privacy as may be amended from time to time;

Equity Release Products means the range of lifetime mortgages or similar products available through the Equity Release Council at the time of a transaction with a Client.

FS Legislation the Financial Services and Markets Act 2000 (FSMA) and all rules, regulations, statements, statutory codes and other requirements made under FSMA and the rules of the FSA;

Good Industry Practice means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in that type of undertaking under similar circumstance;

IP Rights means patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in know-how and trade secrets in each case whether registered or unregistered and including renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist now or in the future;

Management Information means any statistical information or other usage information which is derived from the provision of the Services or other information required by SRP to understand and assess the nature and extent of the performance by the Introducer of the Services and which is provided to SRP;

Procurator Fees means a payment made to SRP by providers of Equity Release Products in exchange for the introduction of a specific Client who purchases Equity Release Products.

Regulatory Obligations means all legal and regulatory requirements (including FS Legislation), enactments and orders in the United Kingdom applicable to delivery of the Services; and

Services means the services set out in clause 2.3.

## **2. SRP's Obligations**

2.1. The Services shall be provided subject to the terms and conditions set out in this Agreement, in consideration for the payments of commission set out in clause 4 and in accordance with SRP's initial disclosure document with the Client.

2.2. SRP shall act fairly and professionally in all dealings with the Introducer and the Client under this Agreement and the Terms of Business.

2.3. SRP shall provide the following services to the Introducer (the Services):

- answering telephone calls and other communications from the Introducer;
- obtaining contact details for the Client;
- contacting the Client by telephone;
- sending out the Initial Disclosure Document which will apply between SRP and the Client;
- providing advice to the Client and carrying out all related work in relation to Equity Release Product(s).

2.4. In the event that the Client does not wish to speak to SRP, SRP shall promptly inform the Introducer by telephone. SRP shall not seek to contact such Client on any subsequent occasion without the prior consent of the Introducer.

2.5. SRP shall only provide the Client with advice on Equity Release Products and shall not make any attempt to cross sell or contact the Client for any other purpose. The Client shall remain the client of the Introducer.

2.6. SRP shall co-operate with the Introducer in the investigation and resolution of any complaints it receives in relation to the provision of the Services.

2.7. SRP warrants that:

2.7.1. it shall provide the Services in accordance with Good Industry Practice;

2.7.2. the Services will be provided by staff reasonably considered by SRP to be suitably qualified and experienced staff;

2.7.3. it shall ensure that it complies in all material respects with Applicable Laws and Regulations in the conduct of its business and the provision of the Services;

2.7.4. it has and will have during the continuance of this Agreement or Terms of Business all necessary authorisations and permissions to provide the Services including but not limited to the Regulatory Obligations and will comply with all such authorisations and permissions; and

2.7.5. it shall provide and will continue to provide during the continuance of this Agreement or Terms of Business advice in relation to Equity Release Products.

2.8. SRP hereby confirms that it will not use any Data which it obtains or Management Information which it compiles through providing the Services for any purposes other than to comply with its obligations under this Agreement without the Introducer's prior written consent. SRP shall indemnify the Introducer in full and on demand against any reasonably foreseeable losses the Introducer incurs in respect of a breach of this clause 2.8 provided that the Introducer shall take reasonable steps to mitigate any such losses and that the aggregate liability of SRP in respect of any claim under this indemnity or otherwise for breach of this clause shall be limited to £10,000.

### **3. Introducer's Obligations**

3.1 The Introducer shall seek to introduce potential Clients to SRP.

3.2 The Introducer shall ensure that express consent has been obtained from the Client to being contacted by SRP for advice relating to Equity Release Products. The Introducer shall provide evidence of this consent if requested by SRP.

3.2 The Introducer shall transfer the details of the Client to SRP in a timely manner after the Client first enquires.

3.3 The Introducer shall make best endeavours that the Clients referred to SRP are likely to be eligible to apply for Equity Release Products using the criteria sent by SRP to the Introducer from time to time.

### **4. Fees**

4.1. SRP shall pay Brilliant Solutions a proportion of all income generated by SRP as a result of an Equity Release Product being completed for respective Clients.

4.2. The sums payable to Brilliant Solutions by SRP shall be paid within 30 days of receipt of cleared funds by SRP of the income payable to SRP from the relevant lender. SRP shall be under no obligation to make any payment until the relevant lender has paid SRP. Any Equity Release Product(s) that SRP completes for a Client following the date of termination of this Agreement shall be paid in accordance with clauses 4.1 and 4.2.

4.3. Termination of this Agreement for any reason shall not bring to an end SRP's obligation to pay sums that have accrued and are due and payable prior to the termination of this Agreement.

4.4 Brilliant Solutions is responsible for the onward payment of your procurement fee which it will pay on the day of completion (before receipt of fees by us or the lender) wherever possible and subject to your own commercial agreement with Brilliant Solutions.

## 5. GDPR

Both parties shall in accordance with market practice in the industry comply with all of its obligations under the GDPR and any obligations which one party is obliged to impose upon the other party including in particular, the adoption of appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. Each party will indemnify and keep indemnified the other party in full and on demand against any reasonably foreseeable losses incurred by the other party as a result of a breach by the breaching party of this clause 5 and/or any claims or complaints from any party contacted by the breaching party in performing the Services provided that the party claiming under this indemnity shall take reasonable steps to mitigate such losses.

### Customer Information:

- The Firm and the Introducer undertake to comply with all the obligations under the General Data Protection Regulation (the "GDPR") as amended from time to time, and the Firm and Introducer both agree that they shall at all times keep confidential all information acquired in consequence of this Agreement, except for information which is disclosed to professional advisers under a duty of confidentiality or which any party are bound to disclose under compulsion of law or by, in the Firm's case, request of regulatory agencies or providers of lifetime mortgages, to disclose to them.
- The Firm and the Introducer shall comply with the GDPR and to process all personal data in accordance with GDPR.
- The Introducer warrants that they will maintain adequate data access controls and that the Introducer will only grant authorisation to their staff who have a legitimate need to access the data to enable them to perform the services or otherwise comply with the Introducer's obligations under this Agreement.
- The Introducer will ensure that all consents required by the Firm, will be obtained from the customer prior to submission of the data.
- The Introducer will ensure that the customer is clear what they have consented to.

## 6. Confidentiality

6.1. During the Term, SRP agrees to treat as and keep confidential:

6.1.1. any and all Confidential Information which may come into its possession or into the possession of any of its employees or agents as a result of or in connection with this Agreement or under its terms of business with Clients relating to the Introducer; and

6.1.2. any and all information which has been and which may be derived or obtained from any Confidential Information. SRP shall promptly notify the Introducer in writing of any unauthorised, negligent or inadvertent use or disclosure of the Introducer's Confidential Information.

## 7. Data

7.1 SRP acknowledges that the Data and Management Information is the property of the Introducer which reserves all IP Rights which subsist in the Data. For the avoidance of doubt, all data and information relating to any Client which is supplied to SRP directly or indirectly under this Agreement or its terms of business with Clients shall be deemed to belong to the Introducer.

## 8. Insurance

SRP shall at its own cost maintain in force as from the date of this Agreement such policy or policies of insurance with a reputable insurer which gives such party an adequate amount and scope (including without limitation employer's liability, public and professional indemnity) of insurance cover with regard to its potential liabilities under this Agreement or Terms of Business.

## **9. Termination**

9.1. This Agreement may be terminated by either party serving three (3) months written notice of termination on the other party.

9.2. On termination or expiry of this Agreement:

9.2.1. SRP shall comply in all respects with payment provisions under clause 4;

9.2.2. SRP shall return all documentation and other information and material, whether recorded in writing or otherwise, including disks and tapes containing the Data or Confidential Information forthwith together with all copies; and

9.2.3. rights to any IP Rights and the Data shall automatically terminate.

9.3. For the avoidance of doubt, SRP may retain documentation and information including Confidential Information that it requires solely to the extent required to comply with its Regulatory Obligations, or to the extent required to provide the Services in relation to completion of Equity Release Products on behalf of an Client that is due to take place after the date of termination or expiry of this Agreement. Once these Regulatory Obligations have ceased or completion of the relevant Equity Release Product has taken place, SRP shall immediately return the documentation in accordance with clause 9.2.2 above.

9.4. Save as otherwise expressly provided in this Agreement:

9.4.1. termination of this Agreement shall be without prejudice to any accrued rights and obligations under this Agreement as at the date of termination; and

9.4.2. termination of this Agreement shall not affect the continuing rights and obligations of SRP and the Introducer under clauses 2.8, 6, and 7.

## **10. General**

10.1. Nothing in this Agreement shall create or be deemed to create a partnership or joint venture or legal relationship of any kind that would impose liability upon one party for the act or failure to act of the other party between the parties or to authorise either party to act as agent of the other. Save where expressly stated in this Agreement, neither party shall have the authority to make representations, act in the name or on behalf of or otherwise to bind the other.

10.2. Any notice required or permitted to be given to any party to the other under this Agreement shall be in writing and either delivered by hand or sent by pre-paid first class mail, recorded delivery post or by facsimile transmission to the address shown at the top of this Agreement or any such other address for service as a party may notify to the other party in accordance with this clause.

10.3. Any such notice shall be deemed to be served at the time when the same is handed to or left at the address of the party to be served and if served by post on the second Business Day following the date of posting and in the case of facsimile transmission at the expiration of two hours after the time of dispatch, if dispatched before 3.30 pm on any Business Day and in any other case at 10.00 am on the Business Day after the date of dispatch.

10.4. The rights and remedies provided in this Agreement are cumulative and (unless otherwise provided for in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

10.5. SRP shall not sub-contract the performance of any of its obligations under this Agreement.

10.6. If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected thereby.

10.7. No variation of this Agreement shall be binding unless it is agreed in writing between the parties.

10.8. SRP shall not at any time assign, or otherwise transfer, the benefit of and obligations under this Agreement to a third party. The Introducer may assign this Agreement to a third party.

10.9. In the event of any conflict or inconsistency between this Agreement and the Terms of Business then the terms of this Agreement shall prevail.

10.10. Save as may be expressly provided to the contrary, no delay or failure by either party to exercise any of its powers, rights or remedies under this Agreement will operate as a waiver of them, nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by law.

10.11. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and save as expressly set out herein supersedes and extinguishes any representations and warranties previously given or made orally or in writing prior to the date of this Agreement.

10.12. A person who is not party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

10.13. This Agreement shall be governed and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts with regard to any dispute arising out of or in connection with this Agreement.

We agree to be bound by the terms above:

Name (SRP Firm) \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Name (Introducer) \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_