

# Investor Agreement

## Part A - Terms and Conditions

### 1. Definitions & Interpretation

**"ACL"** means an Australian Credit Licence issued and regulated by ASIC pursuant to NCCP.

**"AFSL"** means an Australian Financial Services Licence issued and regulated by ASIC pursuant to the Corporations Act.

**"AML/CTF Act"** means Anti-money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and includes any regulations and rules passed under that AML/CTF Act.

**"Applicable Laws"** means all legislation applicable to the business of Zagga and the operation of the Trust by Zagga Investments, including but not limited to the Corporations Act, the Australian Securities and Investments Commission Act 2001 (Cth), the Privacy Act 1988 (Cth), the AML/CTF Act, and NCCP.

**"ASIC"** means the Australian Securities and Investments Commission.

**"Associate"** has the meaning in section 50AAA of the Corporations Act.

**"AUSTRAC"** is the body that regulates compliance with the AML/CTF Act. **"Borrower"** means an approved Australian individual, Australian company or other legal entity with the capacity to borrow monies that has entered into a Borrower Agreement, a Credit Contract and Security Documents with Zagga Investments (and if applicable, a reference to

**"Borrower"** is a reference to all joint Borrowers).

**"Borrower Agreement"** means the agreement entered into by a Borrower with Zagga Investments as credit provider of the Loan and Trustee of the Trust, and Zagga Market in its capacity as Servicer for Zagga Investments.

**"Business Day"** means a day when banks in New South Wales, Australia are open for business and which is not a Saturday, Sunday or public holiday in New South Wales, Australia.

**"CAS"** means Zagga's proprietary credit assessment score calculated by Zagga in relation to each Loan Application prior to it being published on the Website.

**"Corporations Act"** means the Corporations Act 2001 (Cth), the Corporations Regulations 2001 (Cth) and other instruments made under it.

**"Initial Minimum Investment Amount"** means the minimum value of cleared funds required from an Investor to fund a Loan or part of a Loan.

**"Investment Funds"** means the Initial Minimum Investment Amount, plus any additional funds, invested by an Investor.

**"Investor"** means an approved person or entity that has entered into an Investor Agreement with Zagga Investments in order to invest to fund Loans, and if more than one person is investing jointly, a reference to the Investor means all of them jointly, unless otherwise provided in this Agreement or in the Trust Deed (see also 'Wholesale Investor').

**"Investor Agreement"** and **"this Agreement"** mean this agreement between the Investor and Zagga Investments, made up of three parts: Part A "Terms and Conditions"; Part B "Fees Schedule"; and Part C "Investor Loan Terms Sheet", where Part C is tailored in each case to the Investment Funds for a particular Loan and presented and accepted through Zagga's Website, and read together, all Parts contain the terms governing each particular Loan to which the Investor has committed Investor Funds.

**"Loan"** means the monies lent or to be lent by the Borrower by the Trust on behalf of the Investor.

**"Loan Application"** means the Borrower's application for a Loan.

**"Loan Management Fee"** means a fee specified in Part C of this Agreement payable by the Investor to the Trustee in respect of each Loan invested in.

**"NCCP"** means the National Consumer Credit Protection Act 2009 (Cth), National Consumer Credit Protection Regulations 2010 (Cth), and National Credit Code.

**"Offer Period"** means the period of time that the Loan Application is available for investment by Investors on the Website.

**"Privacy Policy"** means Zagga's website privacy policy found at [zagga.com.au/sites/default/files/Zagga\\_privacy\\_policy.pdf](http://zagga.com.au/sites/default/files/Zagga_privacy_policy.pdf) as amended from time to time.

**"Representative"** means a party's directors, officers, employees or contractors, and in the case of Joint Investors, means the primary contact for the Investor.

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**"Salient Features of the Trust"** means the Salient Features of the Zagga Investments Lending Trust document available on the Website at [zagga.com.au/sites/default/files/salient\\_features\\_of\\_trust.pdf](http://zagga.com.au/sites/default/files/salient_features_of_trust.pdf) as amended from time to time.

**"Servicer"** means Zagga Market who manages and services the Loans for Zagga Investments.

**"TFN"** means Tax File Number.

**"Trust"** means the Zagga Investments Lending Trust as established by the Trust Deed.

**"Trust Deed"** means the Trust Deed dated 24 February 2017, containing the terms upon which the Trustee manages the Trust and administers Investors' beneficial interests in Trust property. The Trust Deed (and any supplemental deed issued by the Trustee varying the Trust Deed) is available on the Website found at [zagga.com.au/sites/default/files/zagga\\_trust\\_deed.pdf](http://zagga.com.au/sites/default/files/zagga_trust_deed.pdf).

**"Trustee"** means Zagga Investments.

**"Unallocated Funds"** means Investment Funds contributed by an Investor to fund Loans but which are not presently allocated to a particular Loan, and any other money received by the Trustee in respect of the Investor's interests (after deduction of applicable fees).

**"We", "us" or "our"** means Zagga Investments.

**"Website"** means Zagga's website [zagga.com.au](http://zagga.com.au).

**"Website Terms"** means the terms and conditions governing use of the Website found at [zagga.com.au/sites/default/files/website\\_terms](http://zagga.com.au/sites/default/files/website_terms) as amended from time to time.

**"Wholesale Investor"** means a wholesale investor pursuant to section 761G(7) of the Corporations Act, and in the context of Zagga's criteria for a person or entity being eligible to invest, means a category of Wholesale Investor that the Trustee in its discretion accepts as an Investor and may include a Self Managed Superannuation Fund.

**"You" or "your"** means the Investor party to this Agreement.

**"Zagga"** means both Zagga Investments and Zagga Market, unless the context otherwise specifies or requires.

**"Zagga Investments"** means Zagga Investments Pty Limited (ACN 615 154 786, AFSL 492354).

**"Zagga Market"** means Zagga Market Pty Limited (ACN 611 662 401, ACL 490904). In the interpretation of this Agreement:

- (a) references to clauses, sub-clauses, paragraphs and schedules are to clauses, sub-clauses, paragraphs and schedules to this Agreement, unless otherwise specified
- (b) any legislation referred to includes a modification and re-enactment of, legislation enacted in substitution for and a regulation and other instrument from time to time issued or made under, that legislation
- (c) a reference to a document or agreement includes any variation or replacement of it

(d) the singular includes the plural and vice versa  
(e) reference to a person includes any other entity recognised by law and vice versa

(f) where a word or phrase is defined its other grammatical forms have a corresponding meaning

(g) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions

(h) headings are for convenience only and do not affect interpretation.

## 2. Agreement

- 2.1 By you accepting this Investor Agreement, an agreement is formed between you and Zagga on the terms and conditions set out herein. Your acceptance can be by way of signing and returning this Agreement to us, by electronic means, such as by clicking any "accept and agree" (or words to similar effect) button on the Website or otherwise, or by continuing to access the Website for any purpose in connection with an Investment. An agreement is formed on the earlier of the date you signed this Agreement, clicked "accept and agree", or continued to access the Website in the manner described.

## 3. Investor Acknowledgements

On the date this Agreement is made, and each time the Investor invests Investment Funds to fund part or all of a particular Loan specified in Part C of this Agreement, you acknowledge and agree that:

- 3.1 you have read, understood and agree to be bound by the:
- (a) Investor Agreement, incorporating the (i) Terms and Conditions, and Acknowledgements contained in Part A (ii) Fee Schedule contained in Part B, and (iii) Investment Loan Terms Sheet for each particular Loan, contained in Part C
  - (b) Trust Deed
  - (c) Website Terms, and
  - (d) Privacy Policy
- 3.2 without limiting any term in the documents referred to above:
- (a) you have had the opportunity to read, and you understand, the Salient Features of the Trust and the information on the Website regarding investing to fund Loans
  - (b) you represent and warrant that you:
    - (i) satisfy the criteria of a Wholesale Investor pursuant to section 761G(7) of the Corporations Act (as applicable to your circumstances), and you understand what this classification means in the context of your investment, and

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(ii) understand the illiquid nature of the investment, and the potential benefits and risks of investing to lend funds to Borrowers, and before making a decision to invest to fund each particular Loan, you have had the opportunity to seek your own professional financial, legal, taxation or other advice

(c) when we notify you that a Loan you have agreed to fund has been fully funded (by you and one or more investors) and any special conditions have been fulfilled, then you must pay your Investment Funds (covering your agreed portion of the Loan monies) to Zagga Investments as Trustee in accordance with Part C of this Agreement, the Investor Loan Terms Sheet, or as otherwise directed or required by Zagga, for that particular Loan

(d) you agree to pay the fees and charges specified in Part B of the Investor Agreement

(e) you consent to Zagga collecting, using, storing and disclosing your personal information in accordance with its Privacy Policy and consents we otherwise obtain or have obtained from you, and to us communicating with you by digital means in accordance with the Trust Deed and Part A of this Agreement, Terms and Conditions

(f) you acknowledge and agree that you and a Borrower must not, and will not, attempt to contact each other or transact outside the Website

(g) you will not under any circumstances:

- (i) disclose any Borrower or Loan Application information (Information) to any third parties whatsoever (unless it is to your professional financial, legal or tax adviser, and then on the condition that they keep it confidential; or as may be required by law), or
- (ii) use the Information for unlawful or illegitimate purposes

(h) we own all of the intellectual property rights in respect of Zagga, Zagga's marketplace lending platform and the Website

(i) once you have agreed to allocate funds to a Loan, you cannot withdraw your agreement unless the Loan Application has not been fully funded at the end of the Offer Period, and

(j) the Borrower may withdraw the Loan Application from the Website at any time before the Loan is fully funded, in which case, Zagga Investments will notify you accordingly.

## 4. Joint Investors

4.1 Where the Investor is made up of two or more people (Joint Investors), the Investor acknowledges and agrees:

(a) to nominate a primary contact to provide instructions to, and receive communications from, Zagga Investments, on behalf of the Investor

(b) the Investor's beneficial interests in the Trust property are held as joint tenants and not as tenants in common, unless Zagga Investments agrees otherwise under the terms of the Trust Deed

(c) under the Trust Deed, Joint Investors are jointly and severally liable in respect of payments of any tax and other costs under the Trust Deed

(d) any agreement, representation, warranty or indemnity given by a Joint Investor in this Agreement binds all of them jointly and severally, and

(e) any agreement, representation, warranty or indemnity in favour of an Investor in this Agreement is for the benefit of Joint Investors jointly.

## 5. Investor Instructions

5.1 You irrevocably authorise and direct Zagga Investments to:

(a) act on any instructions it receives from you, or that purport to be from you, (including through the Website) where it has no reason to believe they are not from you or a Representative authorised to act on your behalf, and

(b) assume with no further enquiry, that in each case, you have authorised and agreed to such instruction.

## 6. Investment Risks

6.1 You acknowledge and agree that:

(a) subject to the terms of the Trust Deed, once your Investment Funds are allocated to a particular Loan, you are committed to the investment for the full duration of that Loan's term, which can range from six months to five years, and you may be unable to convert to cash, the capital you invested to allocate to that Loan. You may only transfer your beneficial interest to another investor in accordance with the terms of the Trust Deed and in the sole discretion of the Trustee

(b) you will be entitled to receive, in accordance with the terms of the particular Loan and the Trust Deed, distribution payments, and repayment of the capital invested in respect of that Loan

(c) the Loan term and rate of return may be impacted where the Loan is subject to the NCCP

(d) if a Borrower defaults on a Loan your Investment Funds are exposed to, and fails to pay some or all of the money they owe, you will bear any charges, expenses and reduction in the value of the Loan (in the proportion you are invested if there is more than one investor for that Loan), and your distribution entitlements will be reduced accordingly. Under the Trust Deed you could potentially be required to contribute to any shortfalls

(e) although you have a beneficial interest in the Loans in which you have invested, only the Trustee has the discretion under the Trust Deed to exercise a right in respect of Loans that form part of the Trust property. The Trustee may, but is not in any way obliged to, consult with Investors exposed to a Loan about how it should exercise the rights attached to that Loan, including rights to enforce, compromise or waive repayment of the Loan

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(f) the CAS applied by Zagga in respect of a Loan Application:

- (i) does not guarantee that the Borrower can or will repay all or any part of the Loan or any interest charged
- (ii) reflects the information available to Zagga at the relevant time and will not be updated during the term of the Loan (iii) is not provided to the Investor or any other party for the Investor's use or reliance and you acknowledge that you have paid no consideration for it and that you shall under no circumstances hold Zagga liable in respect of it

(g) the Investor profiling tool is provided by Zagga for Investors to determine their investment objectives and risk tolerance, however, Zagga does not provide Investors with personal advice that any investment made will be suitable for the Investor's personal circumstances or investment objectives, and

(h) when Zagga matches a Loan Application to the Investor, it is matched in accordance with the investment preferences specified by the Investor, and Zagga does not make any representation or guarantee that an investment to fund that Loan in whole or in part is suitable for the Investor or that it will meet the Investor's investment objectives.

## 7. Investor Representations & Warranties

7.1 You represent and warrant to Zagga on the date this Agreement is made and each time you agree to commit Investment Funds to a particular Loan specified in Part C on the terms contained in this Agreement, that:

(a) before making a decision to commit your Investment Funds to each particular Loan, you have determined that the investment is suitable for you in light of your overall investment portfolio, needs and objectives

(b) all information you provide to Zagga is true, accurate, and complete, and there is no information which has not been provided which would impact on the Trustee's decision to approve you as an Investor. As soon as you become aware of an error or omission, you agree to notify us immediately, and that you are responsible for taking necessary action to mitigate loss

(c) if you are a natural person, you are over 18 years of age

(d) if you are an Australian corporate entity, we can rely on an ASIC company search of you as being current and valid

(e) if you are a body corporate, your incorporation details are current and valid

(f) if you are a corporate entity:

- (i) it has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has the power and authority to enter into this Agreement and comply with its obligations under it and to make the investments contemplated by entering it, and
- (ii) entry into this Agreement does not contravene its constituent documents (if any) or any law or obligation by which it or any of its assets, are bound, or are subject to, or which cause a limitation on its powers or the powers of its Representatives to be exceeded

(g) if you are a trustee:

- (i) you are the properly appointed trustee of the trust, the trust is properly established under the relevant trust deed and is validly subsisting
- (ii) you have the power to enter this Agreement and perform all of the Investor's obligations under this Agreement and make the investments contemplated by entering into this Agreement
- (iii) you enter this Agreement and each investment in a Loan for the benefit of the trust
- (iv) you can be indemnified out of the assets of the trust for all obligations and liabilities incurred under or in connection with this Agreement, and
- (v) as trustee of the trust, you have properly exercised your trust powers and have full power and authority to enter into this Agreement and perform your obligations under it

(h) you will provide Zagga with updated information regarding any change in details provided to Zagga regarding you, your Representatives and/ or Associates, and otherwise to provide Zagga with any information that may have a material impact on your ability to comply with your obligations under this Agreement

(i) you will not knowingly put Zagga Investments in breach of its legal or regulatory obligations, or obligations under this Agreement or the Trust Deed, and

(j) you will comply with all applicable Australian laws in connection with your investment and your use of the Website.

## 8. Distributions, Fees & Charges

8.1 By default, you elect to receive applicable investment distributions to which you are entitled under the Trust Deed by way of cash payment (to your nominated bank account), unless you elect for them to be held by the Trustee as Unallocated Funds by giving the Trustee written notice in accordance with this Agreement and the Trust Deed.

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- 8.2 The Loan Management Fee will be deducted by the Trustee before paying any distribution entitlement to you in respect of a Loan in accordance with the Trust Deed. In the event that the Borrower defaults and the Trustee is unable to deduct its Loan Management Fee then the Trustee may in its discretion:
- (a) deduct the Loan Management Fee in full or in part from your Unallocated Funds, and/or
  - (b) give you notice requiring you to pay, and you must pay the Trustee, within thirty (30) days of the date of the request, the Loan Management Fee in full or in part as specified in the request, or
  - (c) defer the receipt of the fee, in which case it will accrue daily until paid, and interest on the unpaid amount will be charged in accordance with the Trust Deed.
- 8.3 Any other fees and charges under the Trust Deed will also be deducted by the Trustee before a distribution entitlement becomes payable, and your distribution entitlement will be reduced accordingly (in proportion to the amount you have invested in respect of a particular Loan, where applicable).

## 9. Inspection

- 9.1 In order to assist us to determine whether you are complying or have complied with this Agreement and/or Australian law, we may from time to time require you or any of your Representatives to produce any documents (including electronic documents) for inspection or provide any information held by the person concerned. You must comply with our request promptly and at your expense.

## 10. AML/CTF Act

- 10.1 Zagga has initial and ongoing customer due diligence and other obligations under the AML/CTF Act and related regulatory directives (and may have under equivalent legislation in other countries) or guidelines in respect of Borrowers and Investors who participate or propose to participate in Loans.
- 10.2 In order for us to comply with the AML/CTF Act (or equivalent obligations) and Applicable Laws, we may from time to time need to carry out checks on you or any of your Associates and Representatives and you hereby irrevocably consent to us carrying out these checks when required. You also agree to provide us when requested further information we reasonably require regarding your identity and the identity of any of your Associates and Representatives.
- 10.3 You acknowledge that in order to comply with the AML/CTF Act we may be required to take action including delaying or refusing to process an application to invest or payment of money to you, and/or disclosing any information or documents we hold about you or your Representatives and Associates (including any information or documents you provide to Zagga under this clause) to AUSTRAC or other regulator outside Australia for this purpose.

- 10.4 You undertake that you will not knowingly do anything to put Zagga in breach of the AML/CTF Act, and represent and warrant that:

- (a) you did not register as an Investor under an assumed name
- (b) you are not aware, and have no reason to suspect that the money used to fund an investment in the Trust to lend to Borrowers is derived from, or related to, money laundering, terrorism financing or similar activities ("Illegal Activities"), and
- (c) any proceeds from your investment will not be used in relation to Illegal Activities.

## 11. Complaints & Dispute Resolution

- 11.1 If a dispute arises, before any proceeding is commenced the party claiming that a dispute has arisen must give 10 Business Days' notice to the other party setting out the dispute and seeking discussion and compromise to resolve the dispute.
- 11.2 If after 10 Business Days the dispute is not resolved then it must be referred to mediation on the same terms as those ordered by the Supreme Court of New South Wales and the costs of the mediation shall be borne by the parties equally.
- 11.3 Nothing in this clause will prevent either party from seeking urgent interlocutory relief.

## 12. Liability & Indemnity

- 12.1 Zagga accepts no risk whatsoever, nor gives any undertakings regarding the prospects of any Loan or that it is a suitable investment for the Investor.
- 12.2 Zagga and its Representatives and Associates are not liable to an Investor in any way for any failure:
- (a) by the Borrower of any of its obligations
  - (b) to provide the Website or otherwise to comply with this Agreement, if the failure or non-compliance is caused by events beyond our reasonable control, or in circumstances where deemed reasonably necessary to protect our legitimate business interests or to comply with a legal or regulatory requirement, or
  - (c) to achieve any funding in respect of any Loan Application.
- 12.3 Zagga retains the right to decide, in its sole discretion, not to accept or proceed with an Investor's application to invest, or to decline to provide services to any Investor, without any liability to, or recourse by, the Investor.
- 12.4 All liability we may have to you and your Associates, except liability arising under Applicable Law that cannot be contracted out of, is excluded.



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- 12.5 We exclude all conditions and warranties implied by statute, general law or custom, except any implied condition or warranty the exclusion or limitation of which would breach any statute (including the Australian Securities and Investments Commission Act (Cth) 2001 and Competition and Consumer Act (Cth) 2010) or cause any part of this Agreement to be void ("**Non-Excludable Condition**"). To the maximum extent permitted by law, Zagga's liability to an Investor under any Non-Excludable Condition in respect of the supply of any services under this Agreement, the Trust Deed or the Website Terms may be, in our discretion, limited to the supply of the relevant services again or payment of the costs of having the relevant services supplied again.
- 12.6 Subject to the foregoing clauses 12.4 and 12.5, to the maximum extent permitted by law, we exclude all liability to you or any person claiming through you and do not have to pay you for anything else caused by or resulting from any action or inaction by us, or event or circumstance beyond our reasonable control. This exclusion applies whatsoever you are claiming (including loss of profits, savings, revenue or business) and however liability might arise but for this clause (including under statute, for breach of contract or in tort).
- 12.7 To the maximum extent permitted by law, if we are ever found to be liable to you and/or your Associates, for any reason whatsoever, the maximum combined amount we will have to pay you, your Associates and anyone else who uses our Website (together) is limited to a total of \$10,000 (ten thousand dollars).
- 12.8 You hereby indemnify us against all liabilities, losses and costs, including legal costs, incurred by us arising out of or in connection with:
- (a) any action or inaction we take in relation to you, your Representatives and Associates which is in accordance with this Agreement, and
  - (b) your performance or breach of this Agreement or the Trust Deed.
- 12.9 In this clause "we" and "us" includes our Associates, and our Representatives.
- 12.10 In this clause "you" includes your Associates, and your Representatives.
- 12.11 You agree that the Chief Executive Officer of Zagga, or in his absence, Zagga's Compliance Committee, will, acting reasonably, determine whether your act or omission has breached, or caused Zagga to breach, this Agreement, the Trust Deed, the Website Terms or any applicable Applicable Laws.
- 13. Restrictions On Zagga, Its Associates & Representatives**
- 13.1 Zagga's Associates and Representatives may not under any circumstances borrow monies as a Borrower or otherwise or by using the Website to borrow monies.
- 13.2 Zagga's Associates may fund Loans as an Investor, provided that:
- (a) any conflict of interest is disclosed to the Borrower (including any conditions imposed and the exact nature of the relationship between the Associate and Zagga), and managed and/or avoided in accordance with Zagga's Conflicts of Interest Policy, and
  - (b) the Associate obtains the prior written permission of the Board of Zagga Investments (any director associated with the Associate seeking permission shall abstain from any vote or decision). Such permission may contain conditions imposed by the Board of Zagga Investments.
- 13.3 By way of clarification, for the purposes of this clause, an example of a Zagga Investments' Associate that may seek permission would include Zagga Holdings Pty Limited (Zagga Investments' and Zagga Market's parent company), or a Representative or shareholder of Zagga Market or Zagga Investments.
- 13.4 As at the date of this Agreement, Zagga has not identified any risk of material adverse impact on Zagga's ability to have fair, orderly and transparent systems and procedures arising out of any interest held by it or any of its Related Entities. Should this situation change, Zagga will immediately notify you accordingly and may update this Agreement.
- 14. Disclosure Of Fees & Interests**
- 14.1 When a Loan is made to a Borrower using funds invested by an Investor:
- (a) Zagga Market will earn a credit services fee (a platform fee), payable by the Borrower to Zagga Market (which is calculated using the CAS), and
  - (b) Zagga Investments will earn a Loan Management Fee, together with any other fee it is entitled to charge under the Trust Deed.
- 15. Notices**
- 15.1 By entering this Agreement you consent to Zagga Investments sending communications, including notices and disclosures in respect of the your investment in accordance with the Trust Deed, and in digital form, including by email or SMS messaging, or by making them available on the Website and notifying you by email.
- 15.2 You understand and agree that in providing your consent to the receipt of communications, notices and disclosures as described in this clause:
- (a) subject to any particular requirements under the Trust Deed or the Corporations Act, Zagga Investments will not send you paper copies of notices and other documents
  - (b) you should regularly check your nominated email address for notices and other documents, including the spam folder, as an email will be deemed received once Zagga Investments has confirmation of transmission, and
  - (c) you may withdraw consent to receiving digital disclosure at any time by contacting Zagga Investments.
- 15.3 You must provide notices to Zagga Investments in writing in accordance with the Trust Deed. Notices may be provided by email to the email address below, by notification posted on the Website, or by mail (posted to Zagga Investments' postal address).

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## 15.4 Zagga Investments' contact details are:

Name: Zagga Investments Pty Limited  
Phone: 1300 1 ZAGGA (1300 192 442)  
Physical address: L13, 50 Carrington Street, Sydney NSW 2000  
Postal address: GPO Box 4505, Sydney NSW 2001  
Email contact: info@zagga.com.au

## 16. Termination

16.1 Provided that all your obligations under this Agreement and under the Trust Deed have been satisfied in accordance with their terms, Zagga or you may terminate this Agreement, and your Website access, by giving the other party one month's prior written notice.

16.2 You may terminate this Agreement with immediate effect if Zagga Investments is found by a Court to be guilty of fraud or in the event ASIC cancels Zagga Investments AFSL.

16.3 Zagga Investments may, subject to the terms of the Trust Deed, without notice terminate this Agreement and/ or suspend or terminate the Investor's access to the Website if:

- (a) you commit a material or persistent breach of this Agreement, the Trust Deed or the Website Terms that is, in Zagga Investments' opinion, acting reasonably, incapable of rectification, and/or
- (b) at any time if Zagga Investments determines it is reasonably necessary to protect Zagga's legitimate business interests, or for legal or regulatory compliance reasons.

## 17. Miscellaneous

### 17.1 Assignment and Dealing

You must not assign or otherwise transfer the benefit of this Agreement. You acknowledge that this Agreement and its rights under it are personal to you and are not capable of assignment without the prior written consent of Zagga Investments, and only subject to the terms of the Trust Deed.

### 17.2 Survival

Any indemnity or obligation of confidentiality under this Agreement is independent from the other obligations of the parties and survives termination of this Agreement. Any other term which by its nature is intended to survive termination of this Agreement survives termination of this Agreement.

### 17.3 No merger

The rights and obligations of the parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

### 17.4 Entire agreement

This Agreement, read together with the Trust Deed and the Website Terms and Privacy Policy, constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

## 17.5 Inconsistency

In the event of any inconsistency, conflict or ambiguity between the provisions of the Trust Deed, the Investor Agreement, Website Terms and/or Privacy Policy, it will be resolved by Zagga applying the following order of precedence:

- (a) the Trust Deed
- (b) the Investor Agreement
- (c) Website Terms, then the
- (d) Privacy Policy.

The terms of this Agreement and the Trust Deed prevail over any other terms that may appear on the Website or in other documents.

## 17.6 Amendment

Subject to the terms of the Trust Deed, we may at any time, impose conditions that must be fulfilled by Investors to invest to fund Loan Applications published on the Website. We can amend this Agreement at any time where reasonably necessary to protect our legitimate business interests, or for legal or regulatory compliance reasons. We will not give prior notice of the variation to you, if it is a minor change, required by law or in order to comply with a legal or regulatory obligation, or necessitated by an immediate need to restore or maintain the security of the Website, but we will publish notification of the change on the Website and the date from which it takes effect. We will give reasonable advance notification to you of any amendments that may cause you detriment. Any subsequent use by you of the Website or other conduct from which your acceptance can reasonably be inferred after the date that a change takes effect will constitute your acceptance of any such changes.

## 17.7 Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.

## 17.8 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

## 17.9 Governing law and jurisdiction

This Agreement is governed by the laws of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.

# Investor Agreement

## Part B - Fees Schedule

ISSUED BY ZAGGA INVESTMENTS PTY LIMITED (ACN 615 154 786, AFSL 492354).

In accordance with the terms of this Investor Agreement and the Trust Deed, you agree to pay to the Trustee:

1. The Loan Management Fee for each particular Loan to which the Investor has committed Investment Funds, which is payable monthly from the date of drawdown of the Loan, at the percentage rate specified in Part C of the Investor Agreement and/or the Investor Loan Terms Sheet in respect of the particular Loan. Subject to the terms of the Trust Deed, the Loan Management Fee will be deducted automatically from payments received from the Borrower by the Trustee in respect of each particular Loan, unless the Borrower is in default, in which case the Trustee may take the actions in clause 8.2 of this Agreement, and
2. Without limiting anything contained in the Trust Deed, and subject to its terms, all costs, charges, fees, expenses, outgoings, commissions, liabilities, losses, damages and taxes and all amounts payable in respect of any of them or like payments (Costs) the Trustee may charge an Investor, in whole or in part, including by deducting from monies otherwise payable to the Investor, and/or be indemnified for out of Trust property, in accordance with the Trust Deed, including:
  - amounts due and unpaid, and other Costs the Trustee is entitled to deduct from the monies otherwise payable to you on redemption of your interests in the Trust
  - the Costs associated with any permitted transfer
  - fees to which the Trustee is entitled
  - expenses incurred by the Trustee in respect of a Loan or supporting security for the Loan
  - expenses incurred by the Trustee in respect of the Trust as set out in the Trust Deed, and
  - GST and/or other taxes, if applicable.

Unless otherwise defined in this Part B, Fee Schedule, capitalised terms have the same meaning as defined in Section 1 of Part A of the Investor Agreement, Terms and Conditions.



# Investor Agreement

## Part C - Investor Loan Terms Sheet

ISSUED BY ZAGGA INVESTMENTS PTY LIMITED (ACN 615 154 786, AFSL 492354) .

Dated Apr 13, 2018

This Part C contains the Investor Loan Term Sheet presented to Investors on Zagga's Website. By clicking 'accept and agree' to Part C on the Website the Investor is accepting and agreeing to invest in the Loan and agreeing to enter into and be bound by the terms of the Investor Agreement (Parts A, B and C).

Capitalised terms have the same meaning as in section 1 of Part A of the Investor Agreement.

### Investor Details

First name(s)	Lender	Last name	Guy
Address	Teston		
City	MAULES CREEK	State	NT Postcode 2382
Investment pool number	\$100,000	Investment amount	9000647
Investment term	0.5 years	Loan account ID	1500802
Investment return	7.33	Loan Management Fee	\$8,100
Special conditions			

Instructions for payment of Investment Funds

### Agreement

I/We acknowledge, agree and confirm, pursuant to the terms of the Investor Agreement, to which I/we consider myself/ourselves to be bound, that:

(Please check each of the boxes below to acknowledge your agreement)

- ☒ the investment described in this Part C Investor Loan Terms Sheet is made in terms of: (1) the Investor Agreement, which will apply to this and each other investment I/we have made with Zagga Investments; (2) the Trust Deed; and (3) any other conditions or requirements specified in this Investor Loan Terms Sheet or otherwise notified to me/us in writing by Zagga Investments
- ☒ sufficient funds are available to meet my/our funding commitment and
- ☒ I/we understand that proof of funds may be required at anytime I/we shall pay a Loan Management Fee in relation to the Loan, and
- ☒ Zagga Investments Pty Limited be appointed as my/our trustee in respect of the Loan and the associated securities.
- ☒ ACCEPT AND AGREE