

## TERMS OF USE

This Terms of Use ("**TOU**") is entered into between Notto Incorporated a company incorporated in accordance with the laws of British Virgin Islands, Registration Number 2020175 ("**Company**") having its business address at Embassy Towers, 10<sup>th</sup> Floor 175 Empire Place, Sandhurst, Johannesburg, South Africa and the user (the particulars of each user are as per the information contained in the user's profile) ("**Registered Early Access User**").

### 1 **Background**

1.1 The Company is a fintech services company that has developed a proprietary platform ("**Platform**"), which focuses on, amongst others, credit scoring by tracking users' (who are currently tenants) payment history and assisting qualifying tenants/ users by using their payment history / credit score in applying for mortgages from a financial institution if such user wishes to acquire immovable property.

1.2 The Company now wishes to open the Platform to the users for him / her to gain early access to the Platform ("**Early Access Program**").

1.3 The Registered Early Access User has indicated his / her willingness to sign-up for the Early Access Program.

### 2 **Duration.**

2.1 This TOU shall commence on the date that the Registered Early Access User registers on the Platform ("**Effective Date**") and shall continue thereafter until the earlier of:

2.1.1 completion of the Early Access Program; or

2.1.2 termination of this TOU by mutual agreement between the Company and / or the Registered Early Access User.

### 3 **Early Access Program.** The Early Access Program shall be conducted on the following basis:

3.1 it will endure for a minimum period of 6 (six) months from the date on which the Registered Early Access User is registered as a user on the Platform;

3.2 the Registered Early Access User will not be required to pay for the use of the Platform during the term of the Early Access Program;

3.3 the Company will provide the Registered Early Access User with an unique username and passport to access and use the Platform.

### 4 **Obligations of the Registered Early Access User.** The Registered Early Access User shall, during the term of this TOU:

4.1 provide the Company with all information that may be required for the Company for purposes of creating a profile for the Registered Early Access User on the Platform;

4.2 actively participate in the Early Access Program by utilising and testing the features of the Platform;

4.3 be required, if requested by the Company, provided the Company with constructive written feedback on his / her views and experience relating to their use and usefulness of the Platform;

4.4 participate in all ad-hoc review and discussion (if any) as and when required in respect of each phase of the Early Access Program;

4.5 throughout the period of the Early Access Program provide constructive and meaningful input to the Company;

4.6 at the end of the Early Access Program, complete an completion survey on his / her general experiences with regards to the Platform;

4.7 notify the Company immediately on any faults, glitches or defects relating to the Platform and / or their usage and functionality;

4.8 safeguard his / her username and password and not share them with any unauthorised third party;

- 4.9 at the end of the Early Access Program or on termination of this TOU (whichever is the earlier) cease to use the Platform. In this regard, the Company will cancel the Registered Early Access User's Early Access Program profile, but may keep all data collected of the Registered Early Access User's usage of the Platform during the Early Access Program. If the Registered Early Access User elects to become a registered user once the Platform is commercially operational, the Company may (if requested by the Registered Early Access User) restore the Registered Early Access User's data collected during the Early Access Program to its new user account, thus the Registered Early Access User will have access to and receive all payment history and or credit scores that he / she acquired during the Early Access Program;
- 4.10 provide all such additional assistance and provide such feedback as may be reasonably required by the Company or its suppliers to carry out the Early Access Program effectively.
- 5 **The Company's Obligations.** The Company or its suppliers shall be responsible for:
- 5.1 creating and activating, at no costs, the user profile for the Registered Early Access User;
- 5.2 provide support (including technical support and assistance) and service to the Registered Early Access User during the course of the Early Access Program;
- 5.3 ensure that it services and maintains the Platform to ensure optimal uptime.
- 6 **Right to change (or discontinue) the Platform.** The Registered Early Access User acknowledges that the Company, its suppliers, may from time to time change the design of or make improvements to the Platform or any of its functionality or deactivate all or any part of the functionality thereof and the Registered Early Access User shall not have any claim against the Company or its suppliers by reason of such change, improvement or discontinuation.
- 7 **End of the Early Access Program.**
- 7.1 The Registered Early Access User acknowledges that his / her obligation and rights under this TOU terminates at the end of the Early Access Program or on the termination of this TOU (whichever is the earlier) and the Registered Early Access User shall have not:
- 7.1.1 have any expectation to be remunerated / compensated for his / her participation in the Early Access Program;  
or
- 7.1.2 be entitled to continue to use the Platform.
- 8 **Disclaimer.**
- 8.1 The supply, installation, activation and generally the use of the Platform and the in terms of this TOU is a proof of concept exercise only and is not a commercial offering, accordingly, the Platform and its functionality offered herein may be unreliable compared to those offered by other businesses offering similar services. Accordingly, the Company or its suppliers does not guarantee error free or uninterrupted services.
- 8.2 The use of the Platform by the Registered Early Access User and the subsequent credit scoring does not guarantee that the Registered Early Access User will be granted a mortgage from any financial institution. The credit scoring is a tool that assists the financial institution in assessing the creditworthiness of the Registered Early Access User in a loan application. The mortgage application is further subject to the financial institution's own internal approval processes and assessment and the granting of any mortgages (including the loan amount, the applicable interest rate, the term of the loan etc.) is entirely at the sole discretion of such financial institutions.
- 8.3 Without limiting the foregoing, the Company or its suppliers hereby disclaim any implied warranties of satisfactory quality or fitness for a particular purpose.
- 8.4 In addition, the Company and its suppliers are not liable for defects or non-conformities which occur and are not wholly within the Company or its supplier's control including, but not limited to:
- 8.4.1 delay or connectivity related issues on the Platform;

- 8.4.2 different types of access points used by the Registered Early Access User (i.e. mobile phone, tablet, PC, laptop etc.) which might result in different performance, experience etc.;
- 8.4.3 different web browsers used to access Platform which could result in different performance, experience etc.;
- 8.4.4 external intrusions (for e.g. viruses and malware introduced by third parties, hackers) which could disrupt of services;
- 8.4.5 service interruptions, errors or poor performance if the Registered Early Access User has misused the Platform;
- 8.4.6 disruption in external services or third party software that are crucial to the functionality of the devices and software.
- 8.5 The Company hereby excludes and disclaims all warranties, whether expressed or implied, statutory or otherwise in respect of the Platform, except those warranties expressly made in this TOU.
- 8.6 The Registered Early Access User warrants that he / she has not been induced to enter into this TOU by any prior representations, warranties or guarantees, whether oral or in writing, except as expressly contained in this TOU.

## 9 **Data and data protection**

- 9.1 Subject to the provisions of this clause and to the applicable privacy laws that are applicable to the Company and or Registered Early Access User, all Data shall vest exclusively with the Company and the Registered Early Access User shall not be entitled to have any access or use of such Data, unless with the prior written consent of the Company or its suppliers.
- 9.2 The Registered Early Access User hereby expressly consents to allow the Company to process, disseminate and use the Data for purposes of:
  - 9.2.1 carrying out its obligations under this TOU; or
  - 9.2.2 complying with any regulatory requirements; or
  - 9.2.3 use the Data for its internal analytic purpose; or
  - 9.2.4 disclose any Data to third parties providing services on the Company's behalf ("**Suppliers**"), which Suppliers may collect, use, transfer, store or otherwise process it (collectively 'Process') in the various jurisdictions in which they operate for purposes related to the Platform for which the data was collected, to comply with regulatory requirements, to check conflicts, for quality, risk management, or financial accounting purposes and/or for the provision of other administrative support services.
- 9.3 Other than as expressly set out above, the Company confirms that the Registered Early Access User's personal information will not be disclosed, transferred or sold to any Suppliers / third party for any purpose.
- 9.4 The Company undertakes to process, store and/or disseminate Data in compliance with the relevant data protection laws governing the collection, retention, storage, transmission, use and protection of data of the country in which it or any Suppliers operates or where the data is stored, used, transferred or disseminated.
- 9.5 The Company undertakes to ensure that its employees, officers, representatives or third parties who become privy to the Data, pursuant to this TOU are aware of the provisions of this clause.
- 9.6 For purposes of this clause, Data shall include but not limited to:
  - 9.6.1 personal information of the Registered Early Access User;
  - 9.6.2 any data collected, generated, processes or obtained by the Company relating to any person that participates in the Early Access Program;
  - 9.6.3 any information that is obtained or generated in connection with the usage of the Platform, that may or not identify the data subject;

- 9.6.4 any data obtained by the Company that are saved or stored in the system database or server (and whether in the cloud or otherwise), such as data related to the functionality and end-user's usage patterns of the Platform, activation / deactivation of the features, usage behaviour, usage of remote monitoring access by end users, what functionality the end users are using frequently and which functionality are least often used etc.
- 10 **Proprietary Rights.** The Registered Early Access User acknowledges that all intellectual property rights in and to the Platform vests with the Company and its suppliers and nothing in this TOU shall entitle the Registered Early Access User to acquire any right in or to such items. The Registered Early Access User shall not do or omit to do anything by which the validity, goodwill or reputation associated with those rights might be diminished or jeopardised and shall not claim any right to any aspect of such intellectual property.
- 11 **Force Majeure.** Neither party shall be liable for any failure to fulfil its obligations under this TOU if and to the extent such failure is caused by any circumstances beyond its reasonable control, including but not limited to flood, fire, earthquake, war, tempest, hurricane, industrial action, government restrictions or acts of God. Should either party be unable to fulfil a material part of its obligations under this TOU for a period in excess of 60 (sixty) days due to circumstances of force majeure, the other party may, in its sole discretion, cancel this TOU forthwith by written notice to the other party.
- 12 **Confidentiality.** Each Party shall treat and hold as confidential all information which it may receive from the other party or which becomes known to it concerning the other party during the term of this TOU which is marked as confidential or has the necessary quality of confidentiality about it ("**Confidential Information**").
- 13 **Limitation of liability.**
- 13.1 To the extent permissible by law, the Company shall not be liable for any general and/or direct damages for any breach of this TOU or any wilful or negligent misconduct or omission arising during the course and scope of fulfilling its obligations in terms of this TOU,
- 13.2 In the event that the any damages or liabilities cannot be waived or excluded in law or in terms of clause 13.1, then the Company maximum liability for general and/or direct damages for any breach of this TOU or any wilful or negligent misconduct or omission arising during the course and scope of fulfilling its obligations in terms of this TOU, shall be limited to an aggregate amount of the rent paid by the User in the Early Access Program. Such maximum amount shall be an aggregate amount for all claims thus arising
- 13.3 In addition neither party shall not be liable for any, loss of profits, goodwill, business, clients, contracts, revenue, the use of money, anticipated savings or data; or any special, indirect or consequential loss and such liability is excluded whether it is foreseen, foreseeable, known or otherwise.
- 13.4 Neither the Company nor any of its suppliers, directors, agents, principals or staff ("**Indemnified Parties**") shall be liable for any third party claims by the Registered Early Access User arising out of the use of the Platform or the management software and the Registered Early Access User hereby indemnifies and holds the Indemnified Parties harmless against any claim instituted against the Indemnified Parties arising out of any such cause.
- 14 **Breach.** Should either party commit a material breach of this TOU, and fail to remedy such breach within 30 (thirty) days of having been called upon in writing by the other to do so; then the innocent party may, in its discretion, terminate this TOU on written notice to the defaulting party, in which event such termination shall be without prejudice to any claims which the innocent party may have for damages against the defaulting party occasioned by the termination of this TOU in terms of this clause.
- 15 **Dispute Resolution**
- 15.1 Any dispute which arises between the parties relating to, or arising from this TOU shall be referred to a joint committee of a director of each of the parties, or alternates appointed by them, who will use their reasonable endeavours to resolve the dispute within 10 Business Days of the dispute having been referred to them.
- 15.2 Should the joint committee be unable to resolve a dispute in accordance with the foregoing, such dispute be submitted to and decided by arbitration in accordance with the commercial arbitration rules of the Arbitration Foundation of Southern Africa ("**AFSA**") before an arbitrator or arbitrators agreed to between the disputing parties,

or failing which, appointed in terms of the commercial arbitration rules of AFSA. Any Party shall be entitled to require, by written notice to the other Parties that the dispute be submitted to arbitration in terms of this clause, provided that any Party shall be entitled to seek urgent interim relief or for judgement in relation to a liquidated claim in a court of law.

16 **Notices and Domicilium.** The Parties select as their respective addresses for the service of legal process the physical addresses as follows:

16.1 For the Company – the address set out on page 1; and

16.2 For the Registered Early Access User – the information submitted by the user in his / her user profile,

provided that either party may change its address details on written notice to the other, provided that in respect of its/his/her physical address, such change shall take effect 14 (fourteen) days after delivery of such written notice.

17 **No Assignment.** Neither Party shall be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of all or any part of this TOU without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

18 **General**

18.1 The Parties shall at all times owe each other a duty of good faith.

18.2 Nothing in this TOU shall be construed as creating a partnership between the parties and neither party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other party. In addition the parties are independent contractors.

18.3 This TOU constitutes the entire agreement between the parties in respect of the subject matter hereof and replaces all prior agreements or arrangements between the parties in regard to the subject matter of this TOU.

18.4 No amendment or modification to this TOU shall be effective unless in writing and signed by authorised signatories of the parties.

18.5 No granting of time or forbearance shall be or be deemed to be a waiver of any term or condition of this TOU and no waiver of any breach shall operate a waiver of any continuing or subsequent breach.

18.6 Each party shall be responsible for its own legal and other costs relating to the negotiation of this TOU.

18.7 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this TOU.

18.8 References to:-

18.8.1 persons shall include companies, corporations and partnerships;

18.8.2 any party shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective successors or permitted assigns;

18.8.3 the singular shall include the plural and vice versa;

18.8.4 any one gender shall include a reference to all other genders.

18.8.5 any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

18.9 The expiration or termination of this TOU shall not affect such of the provisions of this TOU as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination notwithstanding that the clauses themselves do not expressly provide for this.

18.10 When any number of days is prescribed in this TOU, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day.

- 18.11 The rule of construction that an agreement shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.
- 18.12 The proper language of this TOU is English and all notices and correspondence shall be in English. To the extent that this TOU is translated into any other language, the English version of this TOU shall be the definitive one.
- 18.13 This TOU will be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 18.14 Subject to the provisions of clause 15 the Parties hereby consent and submit to the jurisdiction of the courts of South Africa, in any dispute arising from or in connection with this TOU.