

Mortgages

# Mortgage Conditions 2015

Scotland



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## **IMPORTANT**

**These are the terms and conditions on which we make your Loan.  
Please read them carefully. If there is anything that you do not understand, you  
should ask your legal advisor to explain.**

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**Below is a summary of some key terms and conditions in this booklet.  
It is important that you read and consider all of the terms and conditions which  
apply along with your mortgage offer and any other documents  
we have provided to you.**

<b>Summary of Key Terms</b>	
<b>Joint borrowers</b>  <b>(Part 1)</b>	<p>If you take out a mortgage with another or more than one borrower, these conditions will apply to both of you. Your liability to us is 'joint and several' which means that we can enforce the mortgage against one of you or all of you.</p> <p>If a joint borrower dies, becomes insolvent or unable to manage his / her affairs, the remaining borrower(s) will still be liable to us under these conditions.</p>
<b>Monthly payments</b>  <b>(Part 4)</b>	<p>It is important that you pay to us the amount of the monthly payments set out in your mortgage offer on time.</p> <p>If your mortgage is a 'repayment mortgage', your monthly payments will include capital and interest.</p> <p>If your mortgage is an 'interest only' mortgage, your monthly payments will only consist of the amount of the interest that has accrued and you will still have to repay all of the capital at the end of the mortgage term. It is very important that you make arrangements to repay the amount of the capital at the end of the mortgage term and regularly check to ensure that you will be in a position to repay the capital by the end of the term.</p> <p>In certain circumstances we can change the amount of your monthly payment, for example, if there is a change to your interest rate or any applicable insurance premium, you take out further lending with us or repay part of the debt earlier than expected or any payments are not paid when due. Please see condition 19 for full details.</p>
<b>Costs</b>  <b>(Part 5)</b>	<p>If you fail to comply with the conditions of your mortgage we may have to take steps to remedy that breach and you will be responsible for paying the cost of us doing so.</p> <p>We may also make charges for items relating to your mortgage administration or services. Our current list of charges is provided to you with these conditions and is available on our website at <a href="http://www.newcastle.co.uk">www.newcastle.co.uk</a> or can be obtained by telephoning 0345 734 4345 or enquiring in branch. We can change these charges if the level of charge is fixed by a statutory body or there are reasonable increases in the costs we incur in performing the service that the charge relates to.</p> <p>If we make any changes to our charges which are applicable to your mortgage we will give you notice of the change 28 days before the change takes effect.</p>
<b>Interest</b>  <b>(Parts 6 and 7)</b>	<p>We will charge you interest on the amount that you have borrowed at the interest rate set out in your offer. We will calculate the interest at the end of each day and apply it to your balance.</p> <p>Unless your mortgage offer states that your interest rate is fixed, we can vary the interest rate applicable to your mortgage for a number of reasons set out in condition 27, for example, changes in the law, changes to our lending risk and/or an increase in our cost of lending. Please ensure that you have considered those reasons and understand that the amount you pay for your mortgage will increase (including your regular monthly payments if you have a repayment mortgage) if we increase the interest rate.</p> <p>We will give you written notice of the change or advertise it in two national daily newspapers.</p>

<p><b>What happens if you default</b> <b>(Parts 8 and 12)</b></p>	<p>If you fail to make two or more of your monthly payments when they are due or you break the terms of these conditions we may have the power to ask you to repay all of the mortgage balance that is outstanding. We will only do this in the circumstances set out in condition 31.</p> <p>If the mortgage has become due as a result of us exercising this power, part 12 sets out the actions that we are allowed to take in relation to the property. This could include taking possession of your property and selling it. Please note that if the proceeds of a sale of the property are not sufficient to repay the full mortgage balance, you will still be liable to pay the remaining mortgage balance.</p>
<p><b>Property obligations</b> <b>(Part 11)</b></p>	<p>Your mortgage will be secured over the property set out in your mortgage offer.</p> <p>It is important that the property is kept in a good state of repair.</p> <p>Condition 34 sets out some obligations on you in relation to maintaining the property, such as completing building work, keeping the property in a good state of repair and ensuring that you pay all rents and other outgoings in connection with the property when they are due. You must also obtain our permission before you carry out certain actions in relation to the property, such as making alterations or extensions.</p> <p>Condition 34 also sets out that you can not grant a lease or tenancy over all or part of your property, part with possession of any part of it or otherwise let anyone else occupy all or any part of the property without our consent.</p> <p>It is your responsibility to insure the property against the usual risks to a property (fire and flood for example) and for an amount that is sufficient to fully re-instate the property (as set out in the valuation) in the event that it is destroyed.</p> <p>If we become aware that you have failed to insure the property we will insure it for you and then require you to reimburse us the cost of doing this.</p>

**THE MORTGAGED PROPERTY (WHICH MAY OR MAY NOT BE YOUR HOME) MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON YOUR MORTGAGE.**

Newcastle Building Society is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

We, Newcastle Building Society, incorporated under the Building Societies Act 1986, and having our principal office at 1 Cobalt Park Way, Wallsend, NE28 9EJ, HEREBY DECLARE that, for the purposes of advances to be made by us secured by standard securities over Property in Scotland, the Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, as amended, shall apply subject to the following variations, which variations shall be called the Mortgage Conditions 2015 (Scotland).

## PART 1 - INTRODUCTION

These are the **Conditions** that apply to your **Mortgage**. Where there is any conflict between the **Conditions**, the **Conditions** in the **Offer**, the **Standard Security** and the **Rules**, then the following order of priority applies:-

- 1) the **Offer**;
- 2) the **Standard Security**;
- 3) these **Conditions**; and
- 4) the **Rules**.

### Your Membership of the Society

- 1 When you have your **Mortgage** with us you become a member of the **Society** and while you are a member you must obey the **Rules**.
- 2 If you are a member only because you have a **Mortgage** with us, we can, in our absolute discretion, end your membership if we transfer your **Mortgage** to anyone else in accordance with Condition 45.

### About the Conditions

- 3 Whenever we use the words "we", "us" and "our" we mean the **Society** and "we" includes any successor to our business or to whom our rights under your **Mortgage** are transferred.
- 4 **Note carefully:** If there is more than one of you, whenever we use the word "you", "your" etc. we mean each or any of you individually as well as any two or more or all of you together. You each individually have joint and several liability. This means that you are each individually responsible for complying with these **Conditions** in full and that we can enforce your **Mortgage** against any or two or more of you for any sum owing.
- 5 If there is more than one of you and any of you die, becomes insolvent or unable to manage your affairs, this will not affect the liability of the rest of you under your **Mortgage**.
- 6 References to "you" mean the person or persons identified as the debtor in the **Standard Security** and any person who takes over that person's legal rights and duties including your legal representatives should you die, become insolvent or become unable to manage your affairs.
- 7 Where any of the **Conditions** requires that you obtain our consent, then such consent:
  - 7.1.1 will not be unreasonably withheld or delayed by us;
  - 7.1.2 will only be valid if given by us in writing;
  - 7.1.3 must be obtained by you in advance; and
  - 7.1.4 may be subject to such conditions as we reasonably think fit.
- 8 You agree that it is not unreasonable for us to refuse to consent to something or impose conditions on giving such consent if it might adversely or otherwise affect our security or the value of the **Property**.
- 9 References to any Act of Parliament or other legislation include that provision as altered or updated from time to time, whether before or after the date of your **Mortgage** or the date the **Standard Security** was signed, and includes all subsidiary legislation made under or deriving validity from such Act of Parliament or other legislation.
- 10 The **Standard Security** is regulated by the **Standard Conditions** and in the event of any conflict between these **Conditions** and the **Standard Conditions**, these **Conditions** shall prevail (to the extent that the **Standard Conditions** can be lawfully varied).

## PART 2 - MEANINGS

11 Some of the words used in these **Conditions** and in your **Mortgage** have a specific meaning when they start with a capital letter, as follows: -

<b>“BACS”</b>	an electronic instruction to credit a payee’s account in the UK with a specified amount.
<b>“Conditions”</b>	these terms and conditions and the terms and conditions in any <b>Offer</b> and in the <b>Standard Security</b> .
<b>“Connected Rights”</b>	rights you have in connection with the <b>Property</b> , including: - <ul style="list-style-type: none"><li>• any share or rights to membership in a management company, tenants’ or residents’ association relating to the <b>Property</b>;</li><li>• the right to receive any payment in respect of the <b>Property</b> (whether under statute or otherwise) following any damage, injury or loss of value;</li><li>• the benefit of any rights to obtain the improvement of or any payment in connection with any roads, sewers, drains or other services or amenities relating to the <b>Property</b>;</li><li>• sums which (under any statute or law or contract and whether as of right, volunteered or otherwise) may be or become payable in respect of the <b>Property</b> or any damage or injury to it or loss of value to it and the benefit of any other obligation security or right affecting or concerning the <b>Property</b>; and</li><li>• the benefit of any other right relating to the <b>Property</b> from time to time.</li></ul>
<b>“Costs”</b>	all costs, charges, expenses and tariff charges (including our internal administrative expenses, management costs and legal costs), being the full amount that we have to pay or incur in and about the exercise of our rights and powers under your <b>Mortgage</b> and any damages or expenses occasioned to us if you breach any of the <b>Conditions</b> .
<b>“Debt”</b>	all and any part of the money which you may now or at any time in the future owe to us both actual and contingent including (but not limited to): - <ul style="list-style-type: none"><li>(a) each and every <b>Loan</b>;</li><li>(b) <b>Interest</b>; and</li><li>(c) <b>Costs</b>.</li></ul>
<b>“Early Repayment Charges”</b>	any charges we make in respect of you paying your <b>Loan</b> off early as set out in the <b>Offer</b> .
<b>“Interest”</b>	interest at the <b>Interest Rate</b> calculated and charged in accordance with the <b>Conditions</b> .
<b>“Interest Rate”</b>	the rate or rates of Interest applying to all or any part of the <b>Debt</b> , in accordance with the <b>Conditions</b> as varied by us from time to time.
<b>“Loan”</b>	each and every sum advanced by us to you under the <b>Standard Security</b> .
<b>“Lease”</b>	any lease, tenancy or agreement for lease relating to all or any part of the <b>Property</b> .
<b>“Month”</b>	a calendar month.
<b>“Monthly Payment”</b>	the total monthly payment described in your <b>Mortgage</b> as the same may be varied by us in accordance with the <b>Conditions</b> .
<b>“Monthly Payment Date”</b>	the day of the <b>Month</b> when you must make your <b>Monthly Payment</b> as specified in <b>Conditions 17 and 18</b> .
<b>“Mortgage”</b>	the particular arrangement by which we lend money to you secured by the <b>Standard Security</b> , these <b>Conditions</b> , any <b>Offer</b> , and any other documents which incorporate some or all of their terms.

<b>“Notice”</b>	notice given in accordance with Condition 43.
<b>“Offer”</b>	our mortgage offer and any offer of further <b>Loan</b>
<b>“Officers”</b>	our directors, executives or company secretary.
<b>“Property”</b>	each and every part of the <b>Property</b> described in the <b>Standard Security</b> , together with all land, buildings, fixtures and fittings now or at any time after you have granted to us a <b>Mortgage</b> on the <b>Property</b> , including your interest in it or your rights in the sale proceeds, as well as any <b>Connected Rights</b> .
<b>“Proprietor”</b>	The person who grants security over the <b>Property</b> under the <b>Standard Security</b> (whether or not you are that person) and any other person who subsequently succeeds to or acquires that person’s right to or interest in the <b>Property</b> , or acquires right to the <b>Property</b> from that other person. Where the <b>Proprietor</b> is more than one person, ‘ <b>Proprietor</b> ’ means all of them.
<b>“Reference Rate”</b>	Bank of England Base Rate from time to time, or if such rate ceases to exist, such other similar market rate as we in our absolute discretion may determine.
<b>“Rules”</b>	the <b>Rules</b> of the <b>Society</b> from time to time in force (copies are available on request).
<b>“Society”</b>	Newcastle Building Society, whose principal office is at 1 Cobalt Park Way, Wallsend, NE28 9EJ.
<b>“Term”</b>	the term of years described in your <b>Mortgage</b> over which you must repay any <b>Loan</b> .
<b>“Standard Conditions”</b>	The conditions set out in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended from time to time.
<b>“Standard Security”</b>	The standard security document signed by you (which incorporates these <b>Conditions</b> and which these <b>Conditions</b> regulate) creating security for the <b>Loan</b> over the <b>Property</b> .
<b>“Standard Variable Rate”</b>	the rate of <b>Interest</b> determined by us from time to time to be our standard variable interest rate.

### **PART 3 - THE MAIN SUBJECT MATTER OF YOUR MORTGAGE**

- 12 We will advance to you any agreed **Loan** in accordance with the terms of your **Offer**.
- 13 You charge the **Property** to us in security by way of first standard security. Your **Mortgage** is continuing security for the whole and each and every part of the **Debt**.
- 14 You:
- 14.1 must repay the **Debt** to us by no later than the end of the **Term** and in the manner determined in the **Offer**. This obligation to pay includes any part of the **Debt** remaining following any sale or realisation of the **Property** and any amount that you have paid to your solicitor but has not been paid to us;
  - 14.2 must pay us **Interest** on the **Debt** at the **Interest Rate**;
  - 14.3 agree that the **Interest Rate** may change from time to time as described in these **Conditions**;
  - 14.4 must pay us other money due under your **Mortgage**, such as **Costs**, when due for payment; and
  - 14.5 must look after the **Property** and keep it in good condition as security for us as further detailed in Part 11 (under the heading “Looking after the **Property**”).

## PART 4 - WHAT, WHEN AND HOW YOU MUST PAY US

- 15     **The Monthly Payment**
- 15.1     You must make the **Monthly Payment** each **Month** on the dates set out in your **Offer**.
- 16     **Amount of the Monthly Payment**
- 16.1     The **Monthly Payment** is the total of:
- 16.1.1     **Interest** calculated in accordance with Condition 24;
- 16.1.2     unless your **Mortgage** is interest only or we otherwise agree, such part repayment of capital in reduction of your **Loan** as is needed to repay the **Loan** by the end of the **Term**;
- 16.1.3     any insurance premium (if applicable); and
- 16.1.4     any other sum, such as **Costs**, which has fallen due that we have agreed may be made by **Monthly Payment**.
- 17     **First Monthly Payment**
- 17.1     Where your **Mortgage** is completed before the 16th of the **Month** your first **Monthly Payment** will be due on the first day of the **Month** following completion.
- 17.2     Where your **Mortgage** is completed on or after the 16th of the **Month** your first **Monthly Payment** will be due on the 15th of the **Month** following completion.
- 17.3     Your first **Monthly Payment** will include accrued **Interest** from the date of completion.
- 18     **Subsequent Monthly Payments**
- 18.1     The **Monthly Payment** must be made by direct debit, unless we otherwise agree. You agree to waive the normal ten working days **BACS** notice of changes to direct debits. The **Monthly Payment Date** is either the 1st, 8th, 15th or 25th day of each **Month**.
- 18.2     We will ask you to choose which of the above **Monthly Payment Dates** you prefer, but if you make no choice, the **Monthly Payment Date** will be the 1st day of each **Month**.
- 18.3     Once you have chosen the **Monthly Payment Date**, it will remain fixed unless changed by mutual agreement between us and you.
- 19     **Change in Amount of Monthly Payment**
- 19.1     We may change the amount of the **Monthly Payment** if:
- 19.1.1     there is a change in the **Interest Rate**, the **Term** or the repayment method;
- 19.1.2     any insurance premium changes (if applicable);
- 19.1.3     you take out a further **Loan** or pay off part of the **Debt** early;
- 19.1.4     there are any payments of capital, or any **Interest** or **Costs** which were not paid when due;
- 19.1.5     we allow any **Costs** to be made by **Monthly Payment**;
- 19.1.6     in the case of a **Loan** which is to be repaid during the **Term** you are not paying enough to repay that **Loan** in full by the end of the **Term**;
- 19.1.7     there is any change required as a result of an agreement that we reach with you; or
- 19.1.8     there is a change in the law (including tax law), the interpretation of the law, the decisions of any court or ombudsman or any requirements or guidance of a regulatory authority.
- 20     **Crediting of Payments**
- 20.1     **Payments** you make by direct debit, standing order or cash will be credited on the date of receipt of the funds.
- 20.2     **Payments** you make by cheque will be credited on the fourth working day following receipt of the cheque.
- 21     **How your Payments are applied**
- 21.1     We may credit any **Monthly Payment** or payment made by you under the **Mortgage** against any parts of the **Debt** in such proportions as we think fit.
- 21.2     If any payment made by you on a **Monthly Payment Date** is less than the **Monthly Payment** due on that date, the payment made will be applied to the **Debt** in the following order against:-
- 21.2.1     **Interest**;
- 21.2.2     any insurance premium (if applicable);
- 21.2.3     the **Loan**; and
- 21.2.4     **Costs**.

## PART 5 - COSTS AND TARIFF CHARGES

- 22      **Costs**
- 22.1      If you fail to perform or comply with, or fail to remedy any breach of the **Conditions** of your **Mortgage**, we may (without having to do so) take such reasonable steps as may be necessary to remedy or secure performance of the same.
- 22.2      You will be responsible for any reasonable **Costs** we incur as a result of doing so.
- 22.3      You must pay any **Costs** as soon they are charged.
- 23      **Tariff of Charges**
- 23.1      We charge certain administrative or service costs to you at a standard rate. A copy of our current tariff of charges was sent to you with your **Offer** and will be sent to you at least once every year thereafter and no less than 28 days before any change comes into effect.
- 23.2      You agree that we may change our tariff of charges from time to time, but we will not increase them by more than is necessary to reflect changes which have occurred, in relation to:-
- 23.2.1      fees and charges fixed by statutory bodies, and/or
- 23.2.2      reasonable increases in direct or indirect administrative overheads we incur for doing the work or providing the service for which we make the relevant charge as set out in the tariff of charges.
- 23.3      You must pay any amounts charged under the tariff of charges as soon as they are charged.

## PART 6 - INTEREST

- 24      **Calculation of Interest**
- 24.1      **Interest** will accrue from day to day and will be calculated at the **Interest Rate** on the amount of any outstanding **Debt**, excluding **Costs** which are not detailed within the **Offer**, at the end of each day.
- 24.2      You must pay **Interest** before and after any demand is made or any judgment (Court Order) is obtained by us at the **Interest Rate** on the **Debt**, excluding **Costs** not detailed within the **Offer**, outstanding from time to time together with all other sums due, except interest which has not yet fallen due for payment.
- 24.3      **Interest** is also payable at the **Interest Rate** on interest which has fallen due and remains unpaid on the last working day of the **Month** in which it accrued.
- 25      **Interest Rate**
- 25.1      **Interest** will be charged on any part of your **Debt** for which an **Interest Rate** has not been specified at our **Standard Variable Rate**.
- 26      **Changes to the Interest Rate**
- 26.1      The initial **Interest Rate** applicable to any **Loan** is stated in the **Offer**.
- 26.2      Subject to the terms of the relevant **Offer** the **Interest Rate** is variable. This means that we may at any time and from time to time increase or reduce the **Interest Rate** subject to the restrictions on our power to change the **Interest Rate** in Part 7. If the **Interest Rate** is fixed it will not be changed by us. If the **Interest Rate** is calculated as a margin over a **Reference Rate**, we may change the margin.
- 26.3      We will let you know about any change in the **Interest Rate** either by sending you **Notice** or via an advertisement in two national daily newspapers of our choice. In addition, so long as we have not transferred your **Mortgage** pursuant to Condition 45, this notice will be displayed in a prominent position in each of our branches.
- 26.4      An increase in the **Interest Rate** will not take effect until at least 28 days after we give you **Notice** of the increase including details of the resulting increase in your monthly payments.
- 26.5      A reduction in the **Interest Rate** may take effect immediately.

## PART 7 - LIMITS ON OUR POWER TO CHANGE THE INTEREST RATE

- 27      We may only change the **Interest Rate** or our **Standard Variable Rate** to take account of or anticipate any one or more of the following circumstances:
- 27.1      market interest rate conditions as they affect us: for example, if the market rate that lending institutions generally have to pay to borrow funds to lend on the type of products covered by these **Conditions** increases, so that we have to pay more to fund our lending;

- 27.2 we need to respond to changes to our legitimate costs associated with providing this service to you, including our reasonable administrative and overhead costs;
  - 27.3 there is a change in the law (including tax law), the interpretation of the law, the decisions of any court or ombudsman or any requirement or guidance of a regulatory authority; or
  - 27.4 a change in our lending risk or cost of lending if there are changes in the way the **Property** is used or occupied or if you are in breach of any of the **Conditions**.
- 28 We may only make any increase in the **Interest Rate** or the **Standard Variable Rate** under Condition 27 above if, in our reasonable opinion, the change:
- 28.1 is made having regard to running our business as a building society in the interest of our membership as a whole, balancing the interest of our savers and borrowers;
  - 28.2 is proportionate to and not greater than is justified by the circumstances giving rise to it; and
  - 28.3 does not discriminate unfairly against you individually or as a particular type of borrower, unless the circumstances in question relate specifically to a particular type of borrower (in which case we will give you an explanation about that).
- 29 If we make an increase under Condition 27 we will reduce the **Interest Rate** or our **Standard Variable Rate** when circumstances justifying the increase no longer exist.
- 30 If we change the **Standard Variable Rate** to more than 6 % above **Reference Rate** or we increase the **Standard Variable Rate** by more than 3 % at any one time, you may repay all of the **Debt** within 60 days of the date on which we give you **Notice** of the change without any fee or **Early Repayment Charges**. If you choose to exercise this right, then the amount of the **Debt** repayable by you will be calculated by us ignoring the change in your **Interest Rate**.

## **PART 8 - WHEN WE CAN CALL FOR EARLY REPAYMENT OF YOUR DEBT**

- 31 **On Default or in Certain Other Events**
- 31.1 No matter what any other **Conditions** say, the **Loan** and the **Debt** become immediately due and payable in each of the following events:
    - 31.1.1 if an amount equivalent to two or more **Monthly Payments** payable under your **Mortgage** is in arrears;
    - 31.1.2 if you materially or persistently breach any of the **Conditions** of your **Mortgage** and, if the breach is capable of remedy, you have failed to remedy the breach within 14 days of us giving you **Notice** asking you to do so;
    - 31.1.3 if the title to the **Property** is defective in any way or your **Mortgage** does not have first legal priority or is in any way not perfected or alleged to be improperly perfected or for any reason does not have the full legal force and effect;
    - 31.1.4 if any part of the **Property** is compulsorily purchased (this means an order is issued by an official body, such as a council, stating the **Property** must be purchased) or officially requisitioned;
    - 31.1.5 if the value of the **Property** falls substantially because a building on it has been pulled down or damaged;
    - 31.1.6 if in our reasonable opinion, you have been involved in any serious criminal activity or any fraudulent activity;
    - 31.1.7 if you become bankrupt or make any formal arrangement relating to debts owed to other creditors;
    - 31.1.8 if we discover that any of the information given to us by you or by someone on your behalf before the **Standard Security** was signed is wrong or that you knowingly omitted to tell us something when you applied for any **Loan** and such information or omission had or has a material affect on our decision to lend or to continue to lend to you;
    - 31.1.9 if a heritable creditor or other person interested in the **Property** takes proceedings for possession or otherwise to enforce their interest; or
    - 31.1.10 if you give possession of the **Property** to us or if, following reasonable investigation by us, we consider you have abandoned the **Property**.

- 31.2 We will also be entitled at any time to require you to pay the whole **Debt** if we have served a calling up notice as required under the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended and you have not repaid the **Debt** in full as required by that notice.

## **PART 9 - YOUR RIGHT TO PAY OFF YOUR MORTGAGE**

- 32 Subject to this Condition 32 you may pay off all or part of the **Debt** at any time.
- 32.1 Unless we consent, you may not redeem your **Mortgage** unless at the same time you also redeem all other security we hold in connection with the **Debt**, nor may you redeem any other such security without also redeeming your **Mortgage**.
- 32.2 **Early Repayment Charges** may apply to your **Mortgage**. If they do, they will appear in your **Offer**.
- 32.3 Following repayment of all the **Debt** we will discharge the **Standard Security** over the **Property** and re-assign your **Connected Rights** to you. A discharge fee may be applicable as set out in your **Offer**.

## **PART 10 - THE VALUATION**

- 33 **The Valuation of the Property**
- 33.1 We have had the **Property** valued for our purposes, to help us to decide how much the **Property** is worth as security for any **Loan**. If you are shown a copy, it is provided to you as a courtesy only, and you must not rely on anything it says in connection with the **Property** for your own purposes. We do not accept any responsibility of any kind for any valuation of the **Property**.
- 33.2 The valuer is not our agent for the purposes of any valuation or report. The valuer is an independent contractor. We do not make any representation that any valuation or report about the **Property** is correct in any respect.
- 33.3 You agree that making your **Loan** does not in any amount to a promise or confirmation by us that the **Property** is suitable for your purposes or that its price is reasonable.
- 33.4 We reserve the right to obtain a further valuation of the **Property** at any time if we reasonably believe that the value of the **Property** has decreased and our security is at risk as a result. You must reimburse us for any such valuation unless you have already done so within the previous three years.

## **PART 11 - LOOKING AFTER THE PROPERTY**

- 34 **Looking after the Property**
- 34.1 You must look after the **Property** so that it keeps its value as our security and, in particular, you must:-
- 34.1.1 occupy the whole of the **Property** as your main home;
- 34.1.2 put the **Property** and keep the **Property** in, a good state of repair and condition, and, in particular, if construction of the **Property** has not been completed, complete the construction of the **Property** without delay and in a proper manner;
- 34.1.3 perform and fully comply with all restrictions, stipulations and title conditions which apply to the **Property** and where the **Property** is subject to a **Lease**, the terms and conditions of that **Lease**;
- 34.1.4 if the **Property** is subject to a **Lease**, not vary, terminate (or cause to be varied or terminated) or surrender that interest without our consent;
- 34.1.5 comply fully with all legislation (including but not limited to legislation relating to planning and environmental matters) which may apply to the **Property** from time to time;
- 34.1.6 on the due date for payment, pay all rents, rates, taxes and other payments due in respect of the **Property**;
- 34.1.7 not, without our consent, make any alteration or addition or extension to, or use the **Property** for any purpose which would require planning permission or approval;
- 34.1.8 not use or permit the use of the **Property** for any illegal or immoral purpose;
- 34.1.9 to promptly and in any event, within 7 days of receipt by you, supply us with a copy of any notice received by you or the **Proprietor** relating to the **Property** and, if we reasonably require and at your expense, you will join us in agreeing to or objecting to anything proposed in connection with the **Property** whether or not such proposal is contained in a notice received by you or the **Proprietor**.

- 34.1.10 not, without obtaining our consent, dispose of the **Property** or create or agree to create any legally binding continuing right or benefit in favour of any other person over the **Property** including, but not limited to, any servitude or wayleave;
  - 34.1.11 not, unless specifically permitted under your **Mortgage**, create any **Lease**, tenancy, part with possession, or allow any other person or persons to be in occupation of all or any part of the **Property** at any time without our prior consent;
  - 34.1.12 not, without obtaining our consent, carry out or allow anyone else to carry out any building, engineering, mining or other operations at the **Property** that constitute development within the meaning of Section 26 of the Town and Country Planning (Scotland) Act 1997;
  - 34.1.13 give us **Notice** if you are going to become the owner of a new or increased interest in the **Property**. If this happens, you must send us any document giving you the new or increased interest. You must (if required by us) enter into a new **Mortgage** with us over the new or increased interest and we must approve the new **Standard Security**;
  - 34.1.14 tell us about anything that might have a negative effect on the insurance of the **Property**;
  - 34.1.15 tell us and the insurers of the **Property** if the **Property** is going to be vacant for more than 28 days.
- 34.2 If the **Property** is held by you subject to covenants or rights which require or enable you to be a member of or hold shares in a management company, deposit your share certificate or other certificate of membership of that company with us together with an executed share or membership transfer form leaving the transferee's name blank.

### 35 Buildings Insurance

- 35.1 While the **Debt** remains outstanding to us, you must, or if the **Property** is subject to a **Lease**, you must ensure that the person responsible under its **Lease** must keep the **Property** and its fixtures insured.
- 35.2 The policy must:
  - 35.2.1 cover all normal risks, including fire, subsidence, aircraft, flood and any other risk which we may from time to time reasonably require;
  - 35.2.2 be maintained until our **Standard Security** over the **Property** has been redeemed;
  - 35.2.3 be for the full reinstatement value as set out in our mortgage valuation under a comprehensive index linked insurance policy issued by a reputable insurer; and
  - 35.2.4 contain a heritable creditors' protection clause and have our interest noted (where possible).
- 35.3 Whenever we ask, you must be able to produce satisfactory proof that the policy is paid up and in force.

### 36 Failure by You to Maintain Insurance

- 36.1 If we become aware that you are in breach of Condition 35, we will at your expense, insure our interest in the **Property**.
- 36.2 Any insurance we arrange may be limited to the amount of the **Debt** and we will not be responsible for ensuring that the **Property** is adequately insured or suitable for your purposes.
- 36.3 If we arrange any insurance for the **Property** through any agency, any sums paid by the agency to us by way of commission or otherwise will belong to us.

### 37 Insurance Claims and Policy Proceeds

- 37.1 If a claim is made on the insurance you have a right to choose whether any money received by you or us in respect of the **Property** is used in making good the damage or loss that was the reason for the claim or put towards payment of the **Debt**, unless the **Property** cannot be lawfully repaired or the **Debt** has become payable under Condition 31, in which cases, the money must be applied in or towards payment of the **Debt** unless we agree otherwise.
- 37.2 **Early Repayment Charges** may apply to any repayment of the **Debt** made under Condition 37.1.

## PART 12 - OUR RIGHTS AND POWERS

### 38 Our Rights over the Property

- 38.1 On not less than 48 hours **Notice** (save in the case of an urgent need to protect or preserve the **Property**) we may at any reasonable time enter on to the **Property** with our advisers, employees, contractors, equipment and materials to inspect and survey the **Property**. If you are in breach of any of your obligations contained in Condition 34, then we may enter the **Property** with or without our

advisers, employees, contractors and with such equipment and materials as we may require and remain on the **Property** for so long as is necessary to carry out any work or to do any acts to remedy the breach. Our **Costs** incurred in doing so will be payable by you, as set out in Condition 22.2.

38.2 The exercise of our rights under Condition 38.1 does not make us a heritable creditor in possession (this means that we do not become the owner of the property and inherit all the relevant obligations).

### 39 Our Powers in Connection with the Property

39.1 In this Condition references to the **Property** include your **Connected Rights**.

39.2 As soon as your **Mortgage** is advanced we have all the rights and powers referred to in Condition 39.4.

39.3 Although we have these rights:

39.3.1 we will not exercise them until the end of the **Term** or if the **Debt** has become repayable under Condition 31, whichever is the sooner; and

39.3.2 you agree that we do not have to exercise them.

39.4 We have all the rights and powers, including to delegate to others, that we could exercise if we were the absolute owner of the **Property**, including the following: -

39.4.1 to take possession of the **Property**;

39.4.2 to collect, get in and receive all rents and other payments in connection with the **Property** and we may apportion any rent received to the **Property** only and not to any furnishings, machinery, fixtures or anything else kept there;

39.4.3 to sell or let or otherwise dispose of the **Property**;

39.4.4 to cancel any **Lease**;

39.4.5 to cancel any life assurance or otherwise deal with any life assurance in such manner as in our discretion may decide;

39.4.6 to commence, continue, defend, settle or bring to an end any proceedings of any kind in connection with the **Property**;

39.4.7 to buy out someone else's interest in the **Property**;

39.4.8 to do anything else which may be required in order to sell, let, manage or dispose of the **Property**;

39.4.9 to make and carry out any repairs and other maintenance works required in respect of the **Property**, including those reasonably necessary to complete to a reasonable satisfactory standard any unfinished building or maintenance work commenced by you;

39.4.10 to maintain, renew or obtain insurances for the **Property**; and

39.4.11 for the purpose of and in the exercise of our above powers to appoint, employ, pay and dismiss staff, contractors and agents.

39.5 In no circumstances will we be required to account to you for any monies which we do not actually receive, whether as heritable creditor in possession or for any other reason.

39.6 At any time after entering possession of the **Property** we may give up possession or determine such appointment and subsequently, without giving notice or demanding payment again or entering into possession of the **Property**.

39.7 At any time after we become entitled to take possession of the **Property**:-

39.7.1 You will vacate the **Property** and give immediate actual possession of it to us seven days after the date of posting of a recorded delivery notice by us or on our behalf addressed to you at your address or residence in the United Kingdom last known to us; and

39.7.2 You agree that a warrant of summary ejection may competently proceed against you in the Sheriff Court of the district in which the **Property** is situated.

### 40 Belongings Left at the Property

40.1 If you are ordered to give up or we take possession of the **Property**, you must remove all your belongings from it, including any furniture, pets, livestock or any other goods.

40.2 Any belongings that are not removed by you prior to our obtaining possession may be disposed of at your expense (whether by removal, sale, destruction or gift).

- 40.3 We may appoint independent contractors for this purpose and you acknowledge that they will be ordinary clearance contractors, and act as your, not our, agents using their reasonable discretion and will not have any training or skill in identifying the value or saleability or particular handling requirements of any item.
- 40.4 Unless we have express notice that any item is of special value or that the contractors are dishonest, we have no responsibility for any loss or damage caused by any want of skill, care or dishonesty on the part of the independent contractors.
- 40.5 If any items are sold and we receive the proceeds, we will pay you what is left after deducting the expense (including the cost) incurred in and about the disposal.
- 40.6 This Condition will not create any charge security or bill of sale over any of the items described in this Condition 40.

41 **Power of Attorney**

- 41.1 As security for payment of the **Debt**, you irrevocably appoint us to be your attorney in your name and on your behalf:
  - 41.1.1 to execute and deliver any deed or document in respect of the **Property** or your **Connected Rights**;
  - 41.1.2 to exercise any rights, powers or duties you have in connection with the **Property** or your **Connected Rights**; and
  - 41.1.3 to do anything else which we think necessary or desirable to perfect your **Mortgage**, exercise any powers granted to us by the **Conditions** or to preserve the value of the **Property** or your **Connected Rights**.
- 41.2 If there is more than one of you the attorney will act for all of you together and each of you separately.

**PART 13 - GENERAL PROVISIONS**

42 **Certificate of Sums Due**

In the absence of an obvious error, a certificate in writing signed by any one of our **Officers** of the amount of the **Debt** or any part of it will be binding upon you.

43 **Notices**

- 43.1 Any **Notice** will be deemed to be served on you if it is in writing and if:
  - 43.1.1 it is left at or sent by pre-paid ordinary, registered or recorded delivery post addressed to your address shown from time to time in the register of members of the **Society**, or at your address in the United Kingdom last known to us, or at the **Property**; and
  - 43.1.2 any **Notice** posted to you will be deemed to have been received by you 48 hours after posting.
- 43.2 Any **Notice** to be given by you may be left at or sent by post to our principal office or the branch where your mortgage account is maintained. The current address of our principal office is stated in the **Standard Security**. Any **Notice** sent by you by post will be served at the time we actually receive it.
- 43.3 Where there is more than one of you **Notice** served on any one of you will be deemed to have been served on all of you.
- 43.4 You agree to accept service of any Court proceedings, and that they will be deemed to be properly served, if they are served in accordance with this Condition.

44 **Relating to Enforceability**

- 44.1 Your **Mortgage** will remain in full force and effect whether or not: -
  - 44.1.1 we allow you any time or indulgence before enforcing any of our rights; or
  - 44.1.2 we waive any breach of the **Conditions** or fail to take immediate action following any breach.
- 44.2 Your **Mortgage** is in addition to, and independent of, any other security (including any guarantee given by you) which we may at any time hold for any of the **Debt**.
- 44.3 If there is more than one of you we may at any time:
  - 44.3.1 release or discharge any of you from your liability under this Agreement; or

44.3.2 give time for payment to accept any composition from or make any other arrangements with any of you,

and if we do, this will not discharge or release or otherwise prejudice or affect our rights against any of the rest of you.

44.4 If your **Mortgage** is affected by any invalidity or lack of enforceability, disability, lack of capacity, or irregularity against any of you, each of you agrees as a separate obligation:

44.4.1 that this will not affect the **Debt** of any of the rest of you; and

44.4.2 none of the rest of you will be released from the **Debt**.

44.5 If we are unable to enforce any term which forms part of these **Conditions**, this will not affect our right to enforce the rest of the terms of these **Conditions**.

44.6 These **Conditions** are governed by and are to be construed according to the law of Scotland.

#### 45 Transfer of Mortgage by Us

45.1 We may at any time in our discretion, without your consent or the consent of any surety or anyone else, sell or transfer to any person the benefit of all or part of your **Mortgage**, any related security and all legal or equitable rights under the same.

45.2 If and so often as any such sale or transfer occurs, you and any surety will be bound to the transferee in respect of the obligations transferred to the same extent as you or they were originally bound to us.

45.3 If we sell or transfer any or all of our rights, benefits or obligations, your own rights and obligations under your **Mortgage** will stay exactly the same but you will be bound to any person or organisation to whom we sell or transfer. That person or organisation will have all our rights and powers instead of us.

45.4 Upon any such transfer your own rights and obligations under your **Mortgage** will stay exactly the same save that references to the **Standard Variable Rate** shall be the rate of interest determined from time to time by the transferee.

45.5 We may pass to any transferee or potential transferee any documentation or information which you supplied in connection with any **Offer** or relating to the **Property**, your **Mortgage** or the conduct of your account. You agree that any transferee may rely upon the truthfulness and accuracy of any such documentation or information supplied by you.

#### 46 Changing these Conditions

46.1 We can change these **Conditions** and/or terms on which your **Mortgage** is held if we reasonably believe that the change is needed for any of the following reasons:

46.1.1 There is a change in the law (including tax law), the interpretation of the law, the decisions of any court or ombudsman or any requirement or guidance of a regulatory authority;

46.1.2 To make the **Conditions** clearer or fairer;

46.1.3 To provide you with further benefits or services in relation to your **Mortgage**;

46.1.4 To enable us to, in a reasonable manner, harmonise the **Conditions** of our customers, including following an acquisition of mortgages or investments or a takeover or merger with another mortgage provider.

46.2 A change to these **Conditions** will not take effect until at least 28 days after we give you **Notice** of it.

#### 47 Waiver of Rights

No waiver, failure or delay by us in enforcing our rights under these **Conditions** will affect our rights under these **Conditions** in the future. If we decide not to take action over any breach, this does not imply that we must or will ignore any future breach.

#### 48 Handling Customer Complaints

Unfortunately, mistakes are occasionally made by the Society. A leaflet entitled 'Our complaints procedure' provides full details of our complaints procedure, a copy of which is available from your local branch or by calling us on 0345 734 4345. If you are not satisfied with the way we deal with your complaint you may be entitled to refer this to the Financial Ombudsman Service at: Exchange Tower, Harbour Exchange Square, London, E14 9SR Tel: 0300 123 9 123. [www.financial-ombudsman.gov.uk](http://www.financial-ombudsman.gov.uk)

## PART 14 - THE STANDARD CONDITIONS

These are the Standard Conditions contained in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended:

### THE STANDARD CONDITIONS

#### Maintenance and repair.

- 1 It shall be an obligation on the debtor—
  - (a) to maintain the security subjects in good and sufficient repair to the reasonable satisfaction of the creditor;
  - (b) to permit, after seven clear days notice in writing, the creditor or his agent to enter upon the security subjects at all reasonable times to examine the condition thereof;
  - (c) to make all necessary repairs and make good all defects in pursuance of his obligation under head (a) of this condition within such reasonable period as the creditor may require by notice in writing.

#### Completion of buildings etc. and prohibition of alterations etc.

- 2 It shall be an obligation on the debtor—
  - (a) to complete, as soon as may be practicable, any unfinished buildings and works forming part of the security subjects to the reasonable satisfaction of the creditor;
  - (b) not to demolish, alter or add to any buildings or works forming part of the security subjects, except in accordance with the terms of a prior written consent of the creditor and in compliance with any consent, licence or approval required by law;
  - (c) to exhibit to the creditor at his request evidence of that consent, licence or approval.

#### Observance of conditions in title, payment of duties, charges, etc., and general compliance with requirements of law relating to security subjects.

- 3 It shall be an obligation on the debtor—
  - (a) to observe any condition or perform any obligation in respect of the security subjects lawfully binding on him in relation to the security subjects;
  - (b) to make due and punctual payment of any ground burden, teind, stipend, or standard charge, and any rates, taxes and other public burdens, and any other payments exigible in respect of the security subjects;
  - (c) to comply with any requirement imposed upon him in relation to the security subjects by virtue of any enactment.

#### Planning notices, etc.

- 4 It shall be an obligation on the debtor—
  - (a) where he has received any notice or order, issued or made by virtue of the Town and Country Planning (Scotland) Acts 1947 to 1969 or any amendment thereof, or any proposal so made for the making or issuing of any such notice or order, or any other notice or document affecting or likely to affect the security subjects, to give to the creditor, within fourteen days of the receipt of that notice, order or proposal, full particulars thereof;
  - (b) to take, as soon as practicable, all reasonable or necessary steps to comply with such a notice or order or, as the case may be, duly to object thereto;
  - (c) in the event of the creditor so requiring, to object or to join with the creditor in objecting to any such notice or order or in making representations against any proposal therefor.

#### Insurance.

- 5 It shall be an obligation on the debtor—
  - (a) to insure the security subjects or, at the option of the creditor, to permit the creditor to insure the security subjects in the names of the creditor and the debtor to the extent of the market value thereof against the risk of fire and such other risks as the creditor may reasonably require;
  - (b) to deposit any policy of insurance effected by the debtor for the aforesaid purpose with the creditor;
  - (c) to pay any premium due in respect of any such policy, and, where the creditor so requests, to exhibit a receipt therefor not later than the fourteenth day after the renewal date of the policy;

- (d) to intimate to the creditor, within fourteen days of the occurrence, any occurrence which may give rise to a claim under the policy, and to authorise the creditor to negotiate the settlement of the claim;
- (e) without prejudice to any obligation to the contrary enforceable against him, to comply with any reasonable requirement of the creditor as to the application of any sum received in respect of such a claim;
- (f) to refrain from any act or omission which would invalidate the policy.

**Restriction on letting.**

6 It shall be an obligation on the debtor not to let, or agree to let, the security subjects, or any part thereof, without the prior consent in writing of the creditor, and "to let" in this condition includes to sub-let.

**General power of creditor to perform obligations etc. on failure of debtor and power to charge debtor.**

- 7
- (1) The creditor shall be entitled to perform any obligation imposed by the standard conditions on the debtor, which the debtor has failed to perform.
  - (2) Where it is necessary for the performance of any obligation as aforesaid, the creditor may, after giving seven clear days notice in writing to the debtor, enter upon the security subjects at all reasonable times.
  - (3) All expenses and charges (including any interest thereon), reasonably incurred by the creditor in the exercise of a right conferred by this condition, shall be recoverable from the debtor and shall be deemed to be secured by the security subjects under the standard security, and the rate of any such interest shall be the rate in force at the relevant time in respect of advances secured by the security, or, where no such rate is prescribed, shall be the bank rate in force at the relevant time.

**Calling-up.**

8 The creditor shall be entitled, subject to the terms of the security and to any requirement of law, to call-up a standard security in the manner prescribed by section 19 of this Act.

**Default.**

- 9
- (1) The debtor shall be held to be in default in any of the following circumstances, that is to say—
    - (a) where a calling-up notice in respect of the security has been served and has not been complied with;
    - (b) where there has been a failure to comply with any other requirement arising out of the security;
    - (c) where the proprietor of the security subjects has become insolvent.
  - (2) For the purposes of this condition, the proprietor shall be taken to be insolvent if—
    - (a) he has become notour bankrupt, or he has executed a trust deed for behoof of, or has made a composition contract or arrangement with, his creditors;
    - (b) he has died and a judicial factor has been appointed under section 11A of the Judicial Factors (Scotland) Act 1889 to divide his insolvent estate among his creditors, or his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986;
  - (c) where the proprietor is a company, a winding-up order has been made with respect to it, or a resolution for voluntary winding-up (other than a members' voluntary winding-up) has been passed with respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge.

**Rights of creditor on default.**

- 10
- (1) Where the debtor is in default, the creditor may, without prejudice to his exercising any other remedy arising from the contract to which the standard security relates, exercise, in accordance with the provisions of Part II of this Act and of any other enactment applying to standard securities, such of the remedies specified in the following sub-paragraphs of this standard condition as he may consider appropriate.
  - (2) He may proceed to sell the security subjects or any part thereof.
  - (3) He may enter into possession of the security subjects and may receive or recover the rents of those subjects or any part thereof.
  - (4) Where he has entered into possession as aforesaid, he may let the security subjects or any part thereof.

- (5) Where he has entered into possession as aforesaid there shall be transferred to him all the rights of the debtor in relation to the granting of leases or rights of occupancy over the security subjects and to the management and maintenance of those subjects.
- (6) He may effect all such repairs and may make good such defects as are necessary to maintain the security subjects in good and sufficient repair, and may effect such reconstruction, alteration and improvement on the subjects as would be expected of a prudent proprietor to maintain the market value of the subjects, and for the aforesaid purposes may enter on the subjects at all reasonable times.
- (7) He may apply to the court for a decree of foreclosure.

**Exercise of right of redemption.**

- 11 (1) The debtor shall be entitled to exercise his right (if any) to redeem the security on giving notice of his intention so to do, being a notice in writing (hereinafter referred to as a “notice of redemption”).
- (2) Nothing in the provisions of this Act shall preclude a creditor from waiving the necessity for a notice of redemption, or from agreeing to a period of notice of less than that to which he is entitled.
- (3) (a) A notice of redemption may be delivered to the creditor or sent by registered post or recorded delivery to him at his last known address, and an acknowledgment signed by the creditor or his agent or a certificate of postage by the person giving the notice accompanied by the postal receipt shall be sufficient evidence of such notice having been given.
- (b) If the address of the creditor is not known, or if the packet containing the notice of redemption is returned to the sender with intimation that it could not be delivered, a notice of redemption may be sent to the Extractor of the Court of Session and an acknowledgment of receipt by him shall be sufficient evidence of such notice having been given.
- (c) A notice of redemption sent by post shall be held to have been given on the day next after the day of posting.
- (4) When a notice of redemption states that a specified amount will be repaid, and it is subsequently ascertained that the whole amount due to be repaid is more or less than the amount specified in the notice, the notice shall nevertheless be effective as a notice of repayment of the amount due as subsequently ascertained.
- (5) Where the debtor has exercised a right to redeem, and has made payment of the whole amount due, or has performed the whole obligations of the debtor under the contract to which the security relates, the creditor shall grant a discharge in the terms prescribed in section 17 of this Act.
- 12 The debtor shall be personally liable to the creditor for the whole expenses of the preparation and execution of the standard security and any variation, restriction and discharge thereof and, where any of those deeds are registered or recorded, the registration or recording thereof, and all expenses reasonably incurred by the creditor in calling-up the security and realising or attempting to realise the security subjects, or any part thereof, and exercising any other powers conferred upon him by the security.

*Interpretation*

In this Schedule, where the debtor is not the proprietor of the security subjects, “debtor” means “proprietor”, except

- (a) in standard conditions 9(1), 10(1) and 12, and
- (b) in standard condition 11, where “debtor” includes the proprietor.

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