Instructions to Conveyancers (England and Wales)

We confirm that **we** engage **you** to act for **us** in relation to a mortgage transaction involving **us** obtaining a first priority charge by way of legal mortgage in respect of the **mortgage property as detailed in the mortgage offer cover letter** as security for, among other things, a proposed **advance** to the **borrower(s).**

Our "**instructions**" to **you** (**our** conveyancer) to act on **our** behalf in relation to this matter include:

(a) The instructions (the **Additional Instructions**) set out in this document from and including the "General" below;
(b) "**Our UK Finance Part 2**", being **our** current Part 2 instructions in respect of the current edition of the UK Finance Mortgage Lenders' Handbook for England and Wales;
(c) "**UK Finance Part 1**", being Part 1 of the current edition of the UK Finance Mortgage Lenders' Handbook for England and Wales except as qualified and supplemented by our **UK Finance Part 2** and in the **Additional Instructions** below: and
(d) Any other instructions in the **mortgage offer**.

Please obtain a copy of **our UK Finance Part 2** from the UK Finance website (https://lendershandbook.ukfinance.org.uk/lenders-handbook/)

Expressions defined in the edition of **our** Mortgage Conditions referred to in the form of mortgage deed provided by **us** to **you** in relation to this matter shall (except where defined differently in the **instructions**) have the same meaning in the **instructions** but, for this purpose, treating references in those Mortgage Conditions to "you" and "your" as references to the **borrower**. A definition of an expression set out in this document shall prevail to the extent inconsistent with a definition of the same expression in **UK Finance Part 1**.

In the **instructions** (including the answers, but excluding the questions, set out in **our UK Finance part 2**):

(1) **You** and **your** means the firm of solicitors or licensed conveyancers who act for us in connection with the **mortgage documents** relating to the matter in which the **instructions** relate.
(2) **We**, **us** and **our** means The Mortgage Lender Limited of : Floor 10, 40 Leadenhall Street, London, EC3A 2BJ registered in England and Wales as company number 09280057) and anyone who at any time in the future is entitled (as legal, equitable or beneficial owner) to all or any of the lender's and/or mortgagee's rights under the **mortgage documents** (including as a result of a **mortgage transfer**, a merger or consolidation with another person, a take-over and /or a group reorganisation).
(3) **Borrower** means at any time each person, limited company or LLP indicated in the application form relating to this matter as an applicant or, following issue of a **mortgage offer**, each person indicated in the then most recent **mortgage offer** as being a mortgagor or borrower and, in each case, (if there is more than one) all of them together (and includes that person's personal representatives and any person to whom title to the **mortgage property** passes).
(4) **Mortgage transfer** includes a transfer, assignment (whether absolute or by way of security), mortgage, charge, agreement, to sell or other disposal (in law or in equity) of all or any of **our** rights, title, interests, benefits and obligations in respect of the **instructions**, any

documents provided by you (including a certificate of title) in connection with the **instructions**, the **mortgage documents** and/or the **mortgage property**.

General

Please read the **instructions** carefully and provide as much information and detail to **us** as possible to ensure that this transaction proceeds smoothly. Please remember to allow a minimum of 5 working days between any certificate of title from **you** and **completion** to allow **us** to consider any information provided. Delays are rarely as a result of us being provided with too much information but may arise if we are provided with too little and have to come back to **you** with further requests for information.

You must promptly report anything (including providing any relevant documents) which ought to be considered relevant to, or which might influence, **our** decision to lend.

Completion Funds and mortgage transfers

You must not request funds from **us** until **you** have satisfied **our** requirements. **You** have no authority to release funds unless **you** have complied with all **our** instructions.

We have arrangements pursuant to which **our** rights under the **mortgage documents** are sold and assigned immediately upon **completion** although, unless notified otherwise, **we** will continue to be 'lender of record' and hold the legal title and deal with the **borrower** in relation to the **mortgage documents**. **If completion does not occur with 1 business day of the scheduled date indicated in your certificate of title, you must immediately return all the funds directly to us.**

You acknowledge to **us** and agree with **us** that at any time and from time to time **we** may make a **mortgage transfer** to anyone without notice to **you**. **You** consent and agree to each such **mortgage transfer** and agree that no further consent or agreement is required from **you** and no further notice need be given to **you**, **your** firm, the **instructions** and/or rights against **you** in connection with the **mortgage documents** to any interested or potentially interested person in connection with any **mortgage transfer**. Any person falling within the definition of "**us**" may rely on **your** obligations, liabilities and duties in relation to this matter to the same extent as though they were originally owed and incurred to, and the certificate of title was originally also made to, that person.

Security for our advance

The **advance** must be secured by a first legal charge against the **mortgage property**.

As the **advance** will be secured against a **mortgage property**, **you** must ensure that this complies with **our** Mortgage Conditions and the general and special conditions of the **mortgage offer**, including, where applicable the Acceptable Tenancies document.

Should **you** become aware that the borrower intends to rent out the **mortgage property** and the mortgage offer is not for a Buy to Let Product, **You** must advise **us** immediately.

If the Mortgage offer is for a Buy to Let Product and you become aware that the Borrower or a member of their family (or in the case of a borrower who is a company or LLP, any of their

shareholders, directors or members) intends to reside in the property, **You** must also advise **us** immediately.

Unless the **mortgage offer** is for a Shared Ownership Product, **you** must advise **us** immediately if **you** become aware that the **mortgage property** is subject to shared ownership.

You must also inform **us** if it appears that the **mortgage property** is subject to any encumbrance or restriction (such as tenancies or right of occupation or use of the **mortgage property**), whether legal or physical, which ought to be considered relevant to, or which might influence, **our** decision to lend or proceed. This includes, but is not limited to:

- Houses subject to any agricultural occupancy restrictions;
- Properties with occupancy restrictions, including retirement flats and sheltered accommodation;
- Uninsurable properties;
- Properties with overage clauses;
- Landlocked properties
- Shared equity;
- Local Authority properties;
- Ex Local Authority properties that are subject to a pre-emption period.
- Properties listed with a grade A or grade 1 status.

If **you** are in any doubt as to the position please contact **us** immediately.

The Borrower(s)

It is important that the **borrower(s)** fully understand the transaction and the terms relevant to the **advance** (including the terms of the **mortgage offer**, the Mortgage Conditions and any special conditions including, where applicable, the Acceptable Tenancies Document).

In the case of Joint or multiple **borrower(s) we** expect each borrower to be advised about the terms of the **mortgage offer**. When **we** receive a certificate of title from **you**, **you** agree that this constitutes a representation and warranty by **you** to **us** as conformation that either:

- **You** have given such advice ; or
- If appropriate, that independent legal advice has been provided by another qualified practising solicitor and that **you** hold a completed certificate confirming that independent advice has been given.

Where the **Borrower** is a limited company or limited liability partnership you must provide us with the following. Failure to do so will result in us being unable to release funds for completion.

- A witnessed Personal Guarantee completed and signed by each individual noted in the Special Conditions. One Personal Guarantee can be completed and submitted for up to four individuals.
- A completed and signed Board Minute.

- Confirmation from **You** that a correctly completed MR01 or LLMR01 form will be submitted to Companies House within 21 days of completion along with any required supporting documentation and payment of the required fee.

Your Firm

You must notify LMS as soon as possible if any details supplied as part of your panel application or annual renewal change.

You consent to audit visits should **we** reasonably require LMS to make further investigation of your suitability to remain on our panel.

You must ensure professional indemnity insurance by a provider who is an independently rated provider of insurance products.

In the event of any inconsistency between the terms of your panel appointment and these **instructions**, the instructions prevail.

You must keep the entire file(s) including the financial records and ledgers for a minimum period of six years from **completion**. The **borrower** has waived any right to confidentiality and/or privilege in respect of the entire file(s) by signing the declaration relating to the mortgage application form and the entire file must be sent to **us** promptly should we request it from **you** either before or after **completion**.

Communication with us

If **you** report anything to **us**, whether as a qualification of **your** certificate of title or offering any advice to **us**, **you** must make sure that **we** have received and acknowledged it. **You** should not assume that the transaction can proceed to complete unless **we** have confirmed that this is the case or **we** have confirmed what further steps **we** require **you** to take.

We require a minimum of 5 working days from the submission of the certificate of title before funds can be released.

If **we** receive an unqualified certificate of title from **you**, **you** agree that this constitutes a representation and warranty by **you** to **us** that **you** have complied in full with **our instructions** and **your** obligations.

Our standard documentation

Our standard documents for use by **you** in complying with the **instructions will be made available with these instructions**.

You must use **our** pro forma documentation and in particular, **you** are responsible for completing the documentation fully and accurately with the relevant details (including, but not limited to, obtaining and checking the information needed to do so).

If **you** need a form of document which has not been provided to you, please contact our Completion Department (address and telephone number at start of **our UK Finance Part 2**) to find out whether **we** have an appropriate pro forma.

Avoidance of fraud

You must be fully aware of and comply with all the relevant guidance and practice notes issued by the SRA, the Law Society, CLC and UK Finance.

You must carefully consider the entire transaction and report to **us** immediately anything which is unusual, does not appear to be in the interest of either **us** or the borrower or which ought otherwise to be considered relevant to, or which might influence, **our** decision to lend or proceed.

This includes, but is not limited to, reporting the following;

- Where the beneficial interest in the **mortgage property** is held by the **borrower** in trust or as nominee for someone else;
- Where there is any connection between the **borrowe**r and any other party to the transaction (including, where any of the parties is a limited company, as a director or shareholder of any of the parties) or where the transaction appears to be other than at arm's length;
- Where the **advance** is used for purposes other than the purchase or remortgage of the **mortgage property** in accordance with the **mortgage offer**;
- Where the purchase price of the **mortgage property** is not the same as that set out in the **mortgage offer** or where the sum actually paid for the **mortgage property** at **completion** is not the same as that set out in the **mortgage offer**;
- Where any discounts, incentives (including the inclusion of furniture or fixtures and fittings, contributions towards fees or stamp duty or similar) are received by the **borrower** or any other party to the transaction;
- Where the **borrower** is not providing the balance of the purchase price of the **mortgage property** from his own resources and/or is taking out any further borrowing in respect of the transaction;
- Any payment is said to have been made directly between any of the parties, where any amount of the purchase price is said to be gifted and/or where the full amount of any purchase price will not be passing through your client account;
- The name of the seller and of the registered proprietor if they are different;
- Details of any relationship between the parties or giving confirmation that there is no relationship between the parties;
- Where the seller, or **borrower,** if the transaction is a remortgage, has not owned the **mortgage property** for at least six months at the date of your instructions;
- In the case of a remortgage of the **mortgage property**, if the property is currently unencumbered;
- Full details of the transaction, including all parties and the prices paid by each party at each stage of the transaction, if the transaction is proceeding by way of a sub-sale, a back to back sale, an assignment of a contract to purchase, the granting of a lease at the direction of a party other than the seller or any similar transaction;

- Where the seller, previous owner or any member of their family is to remain in occupation of the **mortgage property** after completion;
- Where instructions are given to in **you** relation to the transaction from someone other than the **borrower**; or
- In transactions involving a purchase, the full details of the solicitors or conveyancers who are acting for the seller.

New Build

In all New Build cases, where the property is to be occupied for the first time or for the first time in its current form, for example, because of a renovation or conversion, **You** must send **Us** a copy of the Contract of Sale between the vendor and our borrower, prior to your request for funds.

Freehold & Leasehold Properties

Please note that we do not lend in the following circumstances:

- On freehold flats;
- Where the **mortgage property** is affected by a flying freehold;
- Where the **borrower(s)** has/have granted a lease to himself/themselves;
- Where the **mortgage property** is freehold and parts of the mortgage property have been sold off on long leases;
- Where the security for the **advance** is a leasehold property where the **borrower** (whether in his own name, jointly with others or as a director or shareholder of a company or family member) has an interest in the freehold
- Where the security for the **advance** is a leasehold property and the unexpired term of the least will be 40 years or less for an residential **mortgage** and 50 years or less for a buy to let **Mortgage** at the end of the mortgage term.
- A lease that can be forfeited on insolvency.

If any of these circumstances exist they must be reported to **us** promptly. If **we** do decide to proceed **we** may impose additional requirements upon **you**.

Insurance

You must confirm that buildings insurance has been arranged for the property, for a minimum of the reinstatement figure detailed in the valuation prior to completion. Where a valuation report has not been provided the insurance policy must cover at least the Loan **Advance. Our** interest as a mortgage lender must be noted on the insurance policy.

You should remind the **borrower(s)** that they:

- Must have buildings insurance in accordance with the requirements of the mortgage contract no later than completion, and
- Must maintain such buildings insurance throughout the mortgage term.

You must inform **us** prior to completion if **you** are unable to verify that buildings insurance is in place.

Completion will not take place unless suitable building insurance is in place.

Repayment of Debt Conditions

By requesting the funds, you are confirming that the debts will be paid following completion.

In the case of a remortgage**, You** must repay all debts listed on the offer at completion. **We** will provide **you** with the amount to be paid, the creditor and a partial account number. **You** will need to obtain full details of the account from the **borrower(s)**, to allow **you** to make payment directly with the loan or credit card company and hold documented proof that payment has been made.

Should **you** be unable to make payment then **you** must contact **us** within 5 days of completion for further instructions.

Under no circumstances will **we** agree to release the funds to the **borrower(s)** to repay the debt.
The above repayment of debt conditions does not apply to Buy to Let Mortgage Transactions.

Shared Ownership Mortgages – England and Wales only

If the **offer** states that it is for a Shared Ownership Product, the following requirements apply in addition to **our** other **instructions**.

You must ensure that the shared ownership lease between the **borrower** and the landlord of the **property** meets the following minimum requirements and does not contain any unduly onerous covenants:

1. **Status of Landlord:** The landlord must be a registered provider of social housing.

2. **Model Lease:** The shared ownership lease must be in the form of the appropriate model lease published by Homes England for one of the following programmes:
    - Shared Ownership and Affordable Homes Programme 2016-2021;
    - Affordable Homes Programme 2021-2026.

3. **Mortgagee Protection Clause:** The shared ownership lease must contain a Mortgagee Protection Clause in the applicable standard form of Homes England.

4. **Purchase Price**: In a purchase transaction, the purchase price must be the same as is shown in the **offer**. The **borrower** must not be paying any additional money for the purchase of their share of the **property** at **completion**.

5. **Percentage Share:** The percentage share of the **property** owned by the **borrower** at **completion** must be the same as is specified in the **offer**.

6. **Staircasing:** The shared ownership lease must confer a right on the **borrower** (exercisable by **us** as the **borrower's** mortgagee) to purchase additional shares of the **property** allowing for staircasing up to 100% ownership. It must not impose a maximum limit on the

percentage that can be owned.

7. **Downward Staircasing:** If the shared ownership lease provides an option for the landlord to buy back a share in the **property** (i.e. downward staircasing), there must be provision for the landlord to ensure that any offer to buy back a share is acceptable to **us** as the **borrower's** mortgagee. The sale proceeds must be paid directly to **us** as the **borrower's** mortgagee.

8. **Restrictions on assignment and surrender:** There must not be any unduly onerous restrictions on assignment or surrender of the shared ownership lease. If the shared ownership lease gives the landlord any pre-emption rights, the **borrower** must be permitted to assign free from those restrictions if the landlord (or its nominee) fails to take an assignment or surrender within 3 months of being notified of the **borrower's** intention to assign or surrender the lease.

9. **Possession undertaking: You** must obtain an undertaking with regard to possession of the **property** from the landlord prior to **completion**, substantially in the form attached to these **instructions** at Appendix 1 (*Form of Landlord Undertaking*).

10. **Consent to mortgage: You** must provide a copy of the **offer** and our Mortgage Conditions to the landlord and obtain the landlord's consent to the terms of the **advance** prior to **completion**.

Summary

If you are unsure about any of our requirements, please contact our Completions team; completions@themortgagelender.com

Tel: 0344 257 0428

Appendix 1
Form of Landlord Undertaking

Borrower:	
Landlord:	
Property:	
Date of Shared Ownership Lease:	
Lender:	The Mortgage Lender Limited
Mortgage account number:	

In the consideration of the Lender granting the Borrower a mortgage on the Property, the Landlord undertakes not to commence any proceedings for obtaining possession of the Property under any of the grounds in Schedule 2 of the Housing Act 1988 without:

a) giving the Lender not less than 28 days' notice in writing of their intention to commence proceedings; and

b) if within such a period of 28 days (or within such other period specified in the notice period, if longer) the Lender indicates in writing to the Landlord that it wishes to remedy such breach, or is going to take such action as may be necessary to resolve the problem complained of by the Landlord, giving the Lender such time as may be reasonable (in view of the nature and extent of the breach/problem) to take such action.

Signed _____ For and on behalf of the Landlord

Dated _____

Address for subsequent service of any notice:

The Mortgage Lender Limited, Floor 10, 40 Leadenhall Street, London, EC3A 2BJ.