Mortgage Supplementary Instructions for Solicitors (Regulated Bridging)

chl mortgages

You are instructed to act for us in accordance with the UK Finance Mortgage Lenders' Handbook for England and Wales and our Part 2 replies as supplemented by these instructions and our letter of instruction.

You are instructed to pay careful attention to our requirements and report your findings to us diligently and provide all the information and documentation we require in the manner and within the timeframe specified to avoid unnecessary delays in the transaction. We will not release funds until all of our requirements have been satisfied. You have no authority to release funds unless our instructions have been complied with. You will hold all funds to our order in your client account and on trust for us.

1. The Loan

You must ensure that the Borrower understands fully the nature of the transaction, the Mortgage terms (including but not limited to our Mortgage Offer, the ESIS, the Conditions the Mortgage Deed and the Tariff of Fees and Charges), and the basis upon which the Borrower charges the Property to us (the Legal Charge and Conditions - see definition of 'Secured Amount' in the Conditions). This is of particular importance where the Borrower may have, either now or in the future, more than one loan with us or with Chetwood Financial Limited with obligations in his own name, jointly with others or as a guarantor for one or more parties.

Where there is a Retention or Stage Payments specified in the Mortgage Offer you must advise the Borrower that following completion of the mortgage, the Retention and Stage Payments will be retained and will only be released once the conditions set out in the ESIS have been satisfied.

2. You and your firm

You must return these instructions if you have not signed a contract with us and are not on our panel.

You must quote our case reference on all correspondence.

You must abide by the terms of your panel appointment, in particular, with reference to the requirements relating to professional indemnity insurance.

You will make your complete file available for inspection by us should we so require at any time before or after completion of the loan.

You will keep the entire file(s) including the financial records and ledgers for a minimum period of six years from completion of the loan.

3. Reporting to us

a) You will promptly report any information or documentation which ought reasonably to be considered relevant or which might reasonably influence our decision to lend.

b) You will on request (whether before or within six years of completion of the loan) provide to us financial records and either the original or certified copy of the whole file (where you have kept a joint file) or a copy of each file (where you have kept a separate file for us and the Borrower). We are entitled to the entirety of the file(s) as the Borrower waives any duty of confidentiality or privilege which may otherwise exist in relation to the transaction as a whole.

c) We require a minimum of three working days from the submission of your Certificate of Title (COT) before funds may be released.

d) The COT must not be submitted unless:-

- **i.** the Property details in the title document agree substantially with those in the Mortgage Offer and our letter of instruction as supplemented by these instructions and there are no restrictions, covenants or other matters of an onerous nature affecting the Property.
- **ii.** The Property address in the title documents matches the Property address in our documentation.

3. Reporting to us (continued)

iii. you have in your possession originals of all of the documents which comprise our security including but not limited to:-

- the Mortgage Deed;
- the Certificate(s) of Confirmation of Advice; and
- any additional security documents required pursuant to the Mortgage Offer.

These must be executed by the parties personally and not under powers of attorney.

iv. title to the Property is, or is to be, vested in the Borrower (or where there is more than one Borrower, in all of their names jointly) immediately prior to completion of the Loan.

4. Unacceptable property types

You must report if the Property falls within either Category A or Category B.

Category A properties are not acceptable to us as security and accordingly you must report your findings to us and return our papers to us.

Category B properties may be acceptable. Please report your findings and await our further instructions.

a) Category A:

- Properties located other than in England or Wales.
- Properties where an existing charge will remain on the charges register whether postponed or not.
- Properties where a further charge will be registered as a subsequent charge on completion.
- Freehold flats and maisonettes.
- Leasehold properties where the unexpired term at the end of the mortgage term is less than 30 years.
- Properties designated as defective under any housing legislation.
- Property subject to agricultural and/or other planning restrictions.
- Properties subject to notice of mineral extraction, or previous mining subsidence and land fill.
- Properties being purchased under the Right-to-Buy Scheme.
- Properties that are shared-ownership.
- Self-build properties.
- Properties subject to restrictions relating to the sale or occupancy of the Property.
- Properties subject to options or rights of first refusal/pre-emption rights.
- Properties subject to a ransom strip or landlocked properties.
- Freehold Properties where the tenant's right of first refusal under Part 1 of the Landlord and Tenant Act 1987 applies.
- Freehold properties where the tenant's right to enfranchise under the Leasehold Reform Housing and Urban Development Act 1993 (as amended) applies.
- Freehold properties where the tenant's right to manage under Part 2 of the Commonhold and Leasehold Reform Act 2002 applies.
- Where the seller or a previous owner or any member of their respective families remains or will remain in occupation of the Property.
- Properties with possessory title where title is based on adverse possession affecting the whole title or a material part including the access to the Property.
- Freehold property where parts have been sold off on long leases.
- Commonhold titles.
- Grade I and Grade II asterisk listed buildings.
- Properties without either a valid Energy Performance Certificate which is of sufficient rating to let the Property in accordance with all legal requirements, or a valid listing on the Public Exemptions Register.
- New Build properties (built or converted in the last 10 years) without an acceptable warranty, or UK Finance compliant Professional Consultants Certificate (PCC) with accompanying Professional Indemnity Insurance.

4. Unacceptable property types (continued)

- Properties where the flying freehold exceeds 20% of the total floor area.
- Uninsurable properties.
- Properties subject to outstanding enforcement notices or Government/Authority grants.
- Unregistered land.
- Properties in a high-risk flood area.
- Leasehold property with outstanding or unreasonable ground rent or service charges.
- Properties subject to probate when the beneficiaries are not shown as proprietors at the land registry.
- Any property with cladding where the Valuer has requested sight of a valid External Wall Fire Safety report (EWS1), and the subsequent report has not confirmed a rating of A1, A2 or B1.
- Properties where the Refurbishment Works require building control sign-off or cannot be signed off under a competent person scheme.
- Properties where the Refurbishment Works require planning permission or consents and/or permitted development permission and/or change of use permission which has not been obtained prior to completion of the mortgage.
- Properties where the Refurbishment Works include works to remedy ongoing or progressive structural movement.

b) **Category B:**

- Leasehold property where notice has been served of a proposal to carry out major works.
- Properties in close proximity of a mine entry.
- Properties subject to chancel repairs/liability.
- Properties subject to environmental issues.
- Properties with more than 1 acre of land.

5. Avoidance of Fraud

We expect you to keep abreast of professional guidance and practice notes issued by UK Finance and the Solicitors Regulations Authority. You are instructed to be vigilant and to undertake a full assessment of the transaction as a whole and report your findings to us promptly and diligently. The bridging market may be prone to arrangements/schemes whereby the Borrower may not be entitled to the beneficial interest in the Property or acts as a nominee for a third party or whereby there is a difference between the sum payable to acquire the Property compared with the price stated in each of the Offer, the contract and the assurance/transfer deed to the Borrower.

a) In all cases you must report to us if the Borrower holds or will on completion hold the Property as trustee or nominee for a third party.

b) We require you to report details of the name of the seller and registered proprietor where they differ (including details of any relationship between the parties).

c) You will report to us if the Offer is made on the basis of a remortgage and our Loan is to be used for any purpose other than for the repayment of any existing charge secured against the Property. Where there is an element of capital raising, excess funds may be paid to the Borrower subject to any conditions specified in the Offer. You will report to us if excess funds are to be used for any purpose other than as specified in the Offer.

d) You will report to us if the Offer is made for the purpose of a purchase and our Loan is to be used for any purpose other than for the purchase of the Property specified in the Offer.

e) You will report to us (with details you know as to prices and the names and addresses of the parties involved in the various transactions) if:-

i. the purpose to which our loan is being applied appears unlawful;

ii. the seller (or the Borrower in the case of a remortgage) is not the owner or the registered proprietor or has owned or been the registered proprietor of the Property for less than six months;

iii. the Borrower is acquiring the Property under:- (i) a sale and sub-sale (ii) where the Property is leasehold, the creation and simultaneous assignment of a leasehold interest (iii) the grant or assignment of a leasehold interest at the direction of a party other than the seller or (iv) a back-to-back or other derivative transaction;

iv. a seller or a previous owner or any member of their respective families is to remain in occupation on or after the date of completion of the mortgage;

v. the seller is related to or connected with the Borrower;

5. Avoidance of Fraud (continued)

vi. the Borrower or any Guarantor is, or at any time in the preceding six months has been a director, shareholder, member or officer of the seller;

vii. the Borrower has acquired, or will acquire, the Property other than on a bona fide arm's length basis;

viii. there is any kind of collusive behaviour between the seller and the Borrower and/or third party;

ix. you or your firm are also acting for the seller or acting in accordance with instructions received from a party other than the Borrower;

x. you are acting for both us and the seller; or

xi. you, anyone in your firm or your firm is connected to the Borrower or the seller.

f) **Terms relating to the acquisition of the Property:**

Unless instructed otherwise, you will report to us if:-

i. there is a discrepancy between the sum payable to acquire the Property, the price stated in the Offer, the price stated in the contract/agreed terms of sale and the price to be recorded in the assurance/transfer deed to the Borrower;

ii. the Borrower or any other party is to receive any discount, price reduction or cash incentive, contribution towards any mortgage payments or loans, whether from the seller or a third party, that is not stated in the Offer;

iii. there is any provision of any funds or benefit to the Borrower by the seller or at the seller's direction by another party connected with the transaction;

iv. there is any apparent direct payment of any sum by the Borrower to the seller or any third party;

v. the Borrower is buying through or from an investment syndicate or club or any form of amateur or professional person acting as a locator of properties; or

vi. the Borrower is entitled to receive any chattels or other items of value including part exchange arrangements or deferment of any part of the purchase price.

(Items of value could take many forms. Possible examples are payment of, or contribution towards, any mortgage or loan, interest or buildings insurance premium for a period, the payment of fees or disbursements by another or leaving part of the purchase money outstanding. Genuine fixtures form part of the Property and need not be reported).

g) **Purchase Moneys**

You will report to us if:-

i. the Borrower is not providing the whole of the balance of the purchase price of the Property (after deducting the amount of our advance) from the Borrower's own resources, without recourse to further borrowing;

ii. if any part of the purchase money that is being gifted is not stated in the Mortgage Offer; or

iii. if any part of the purchase money will not be paid through your account (in particular, if you are instructed that part of the price has been or will be paid directly to the seller or a third party).

6. Other occupiers

Rights or interests of persons who are not a party to the mortgage and who are or will be in occupation of the property may affect our rights under the mortgage, for example as overriding interests.

If your instructions state the name of a person who is to live at the property, you should ask the borrower before completing the mortgage, whether the information given by us in our mortgage instructions or mortgage offer about occupants is correct and nobody else is to live at the property.

You must obtain an Occupiers Consent Form (to be executed as a deed) from all occupants aged 17 or over of whom you are aware, who are not a party to the mortgage before completion of the mortgage. The Occupiers Consent Form must be sent directly to the occupier, please do not send it to the borrower. If you believe that our standard Occupiers Consent Form will not protect us, you must let us know.

We recognise that in some cases the information given to us or you by a borrower may be incorrect or misleading. If you have any reason to doubt the accuracy of any information disclosed, you should report it to us, provided the borrower agrees. If the borrower does not agree, you should return our instructions.

7. Vacant possession

Unless otherwise stated in your instructions, it is a term of the loan that vacant possession is obtained. The contract must provide for this. If you doubt that vacant possession will be given, you must not part with the advance and should report the position to us.

8. Freehold/Leasehold arrangements

a) Your attention is drawn to the list of unacceptable property types listed in Section 4 of these Supplemental Instructions and Guidance Notes. Please note:-

- **i.** we do not lend on freehold flats;
- **ii.** we may be prepared to lend if a small or immaterial part of the Property comprises, or is affected by, a flying freehold subject to your complying with the requirements in the UK Finance Mortgage Lenders' Handbook and our Part 2.

b) We will not accept as security any title where the Borrower has granted a lease to himself.

c) We will not accept as security any leasehold property where a limited company or LLP Borrower may breach any 'private residency/dwelling' or user clause.

9. Refurbishment Works

Where there are Refurbishment Works (as defined in the Mortgage Offer) being carried out:

a) You must ensure that there is appropriate buildings insurance for the Property in place which includes appropriate cover for any period of non-occupation of the Property whilst the Refurbishment Works are being carried out.

b) You must ensure that there is appropriate insurance in place in respect of the Refurbishment Works which must be for at least the value of the works being carried out.

c) You must ensure that the main contractor (if any) who will be carrying out the Refurbishment Works has adequate public liability and employer's liability insurance in place.