



Short Term Lending Legal Requirements Scotland

February 2012



This document outlines our normal legal requirements for Short-Term Loans and our solicitors will request confirmation of the various items from the applicant's conveyancer. These requirements are based on the Council of Mortgage Lenders' Handbook and are therefore expected to be industry standard.

The requirements in any particular case may vary and therefore you should not assume that our solicitors will not have additional requirements; we would strongly recommend that the applicant does not conclude missives contracts on the purchase of a property before they are certain that they can satisfy all requirements.

Timescales

We will do our best to assist the applicant to be in the position to conclude missives when they would like to do so; to facilitate this it would be helpful if the applicant's conveyancer could:

- (a) forward the pre-conclusion of missives documents and information stated below to our solicitors **ideally as one package of documents**. However, if they become aware of any matter which they believe may lead to difficulties in our solicitors providing us with a clear Certificate of Title, we suggest they draw this to the attention of our solicitors as soon as possible in order to avoid issues arising immediately before conclusion of missives;
- (b) inform our solicitors when they think conclusion of missives might be anticipated, and;
- (c) give our solicitors two days to review any outstanding information or documentation not received and to allow them to raise any queries and satisfy themselves with the replies.

If conclusion of missives and completion is to take place simultaneously then our solicitors will also require the applicant's conveyancer to provide the post-conclusion of missives/pre-completion information and documentation normally two days before completion.

Costs

Please note that we require the applicant to pay our solicitors' fees and relevant disbursements before they will commence any work on the transaction. Before completion, our solicitors will provide the applicant's conveyancer with a completion statement and they will refund an amount to them in respect of any costs not actually incurred (whether or not the transaction proceeds to completion).

Normal requirements pre-conclusion of missives:

- An original letterhead of the Seller's conveyancer.
- Certified copies of the applicant's proof of identification and residence.
- Copy of the approved missives.
- Copy of Official Copies of the Register and Title Plan (including all filed/noted documents referred to) – these should be no more than 6 months old. Alternatively, full copies of the title deeds acceptable to the Land Register to acquire a satisfactory Heritable or long lease title in accordance with Precise Mortgages' requirements in the Council of Mortgage Lenders' Handbook.
- Copy Property, Enquiry Certificates and any other relevant enquiries with replies; the Property Enquiry Certificates must be no more than 3 months old at Settlement.
- Copy of any usual searches. Please note that we will not accept personal searches.
- Copies of all/any Indemnity Policies considered appropriate.
- Copies of all Planning Permissions, Building Regulation Approvals and Completion Certificates which the applicant's conveyancer believes to be relevant.
- Any Competent Persons' Certificates.
- Details of any allowance or retention.
- Full details of any further borrowing or other proposed charges.
- A copy of the Disposition to be executed by the applicant.
- A copy of any existing or proposed Short Assured Tenancy Agreement (if applicable).
- Confirmation that all of the balance of the purchase monies are received from an identifiable source and evidence in support.
- CML Disclosure of Incentives Form (if relevant).



Normal requirements pre-conclusion of missives continued:

- If the title is a long lease, please ensure our solicitors are provided with the following further documents;
 - copy of Long Lease;
 - copy of any variations to the Lease;
 - the last 3 years service charge accounts;
 - a full Company Search (if applicable);
 - the Landlord and/or Management Company's leasehold information pack;
 - copy Memorandum and Articles of Association of any Management Company;
 - copy share certificates and share transfer forms;
 - specific confirmation from the applicant's conveyancer that all ground rent and service charges will be up to date on completion and that they do not expect there to be any outstanding disputes, and
 - specific confirmation that the applicant's conveyancer will serve notice of disposition and standard security on the landlord or his agent immediately following settlement and forward the receipted notice to our solicitors.
- Any other information or documentation known to the applicant(s) or their conveyancer or any guarantors which might affect the loan transaction or the quality of the title of the security (and for second charges a Deed of Priority).

Normal requirements pre-Settlement:

- Letter of Obligation from the Seller's Solicitors.
- Copy approved Disposition.
- Copy replies to Requisitions on Title.
- Copy Buildings Insurance Schedule, noting the interest of Precise Mortgages.
- Up to date and clear Bankruptcy and Registers of Scotland Searches. If the searches are not clear, the applicant's conveyancer should certify that the entries do not relate to the applicants and/or the Property as appropriate.
- Standard Security(ies) duly signed by all applicants and witnessed.
- Any required Deeds of Guarantee from any personal guarantors.
- Consent Form or Form of Declaration.
- Lender's copy of any new home warranty documentation, including the Cover Note (properties less than 10 years old and conversions only).
- For long lease properties – a clear current receipt for ground rent/service charges and confirmation from the Landlord or its agent that there is no outstanding dispute.
- A 'Pre-settlement Undertaking and Confirmation Letter' (in the form set out below) signed and completed at least seven days before legal settlement.
- Completed and signed Registers of Scotland application form.
- Confirmation by the applicant's conveyancer that they have fully explained to each applicant (and any other person signing a document) the conditions of the Standard Security and their responsibilities and liabilities under it.
- Seller's conveyancer's bank details for remittance of funds.

Settlement

On settlement, our solicitors will send the net mortgage advance (as detailed in their settlement statement) directly to the seller' conveyancer by electronic transfer. The seller's conveyancer will be expected to undertake to hold this money to our solicitors' order until the applicant's conveyancer confirms that they are ready to complete and to return the funds to us by telegraphic transfer at the applicant's cost if settlement does not take place within two working days.

Our solicitors will expect the seller's conveyancer to undertake directly to them to discharge any charges secured on the Property and to send the executed disposition and any other documents required to enable them to effect registration directly to our solicitors.

Normal post-Settlement requirements:

- Copy current Buildings Insurance policy.
- Copy dated and signed Tenancy Agreement (if applicable).

We can provide literature in large print, Braille and audio tape. Please ask us for this form in an alternative format if you need it.

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Conveyancer's Undertaking and Confirmation Letter Pre-Settlement

To:

From:

Borrower(s):

Lender: Charter Court Financial Services Limited t/a Precise Mortgages ('Precise Mortgages').

Application Reference Number:

Property:

Advance Amount: £_____ (SHORT TERM LOAN)

We act on behalf of the Borrower in relation to the acquisition of the Property.

In consideration of Precise Mortgages advancing funds to the Borrower, we undertake and confirm to Precise Mortgages and to Your Conveyancer that:

1. the agreed purchase price of the Property is £_____ [insert price];
2. the Settlement date is _____ [insert date];
3. there are no amendments or alterations to the information we have previously provided to you;
4. we shall submit, as agent of Precise Mortgages, all relevant Stamp Duty Land Tax returns and any required duty to HM Revenue & Customs without delay and in particular within seven days of Settlement and provide the Land Transaction Return acknowledgement form to you within 14 days of Settlement;
5. we shall provide you with the relevant Registers of Scotland application form with scheduled attachments at least ten days before the expiry of the period provided by our Letter of Obligation for you to apply for registration at the Registers of Scotland, and
6. we shall use reasonable endeavours to assist you with any requisitions raised by the Registers of Scotland.

Date:

Signed:

Name:

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