



Kensington

# SCOTLAND MORTGAGE PACK 2020

# CONSUMER

For use by professional(s) who hold a current Practising Certificate from the Law Society or a Fellow of the Institute of Legal Executives employed by such a solicitor.



### In this Standard Security the words listed below have the following meanings:

<b>Lender</b>	Kensington Mortgage Company Limited, a limited liability company incorporated under the Companies Act in England and Wales (Company number 3049877) whose registered office is at Ascot House, Maidenhead Office Park, Maidenhead SL6 3QQ and its successors, transferees and assignees including any legal or beneficial transferee whether absolute or in security and those deriving title under it or them. (“we” or “us” or “our”)
<b>Borrower</b>	<b>Names of borrower(s):</b>  of address:  (“you” or “your”)
<b>Consentor</b>	spouse/civil partner of and residing with you (the “Consentor”).
<b>Mortgage Conditions</b>	The Kensington Mortgage Conditions (Scotland) 2020 made by us dated 2020 and registered in the Books of Council and Session on 23rd February 2021 (the “Mortgage Conditions”). All capitalised terms in this Standard Security have the meaning given to them in the Mortgage Conditions unless otherwise defined.
<b>Property</b>	as more fully described below.

1. You hereby undertake to pay to us the loan and all other sums due by you to us (including any further loans we may make to you at a later date) in accordance with the Mortgage Conditions, for which you, with the consent of the Consentor (if any) for the purposes of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 or (as applicable) the Civil Partnership Act 2004, GRANT a Standard Security in favour of us over the Property being ALL and WHOLE
2. This Standard Security incorporates the Mortgage Conditions and you confirm that you have received a copy of these. You agree to be bound by the Mortgage Conditions and the Mortgage Offer Letter.
3. The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, as amended and varied by (a) the Redemption of Standard Securities (Scotland) Act 1971 and (b) the Mortgage Conditions and any lawful variation thereof operative for the time being, shall apply to this Standard Security.
4. You agree that a certificate signed by any official authorised by us for that purpose as to the amount due to us at any time by you shall be conclusive and unchallengeable.

5. You grant warrandice and consent to the registration of this Standard Security and of any certificate given under paragraph 4 above for execution.

**IN WITNESS WHEREOF** this Standard Security consisting of this and the preceding page is subscribed by you

At		
On the	day of	20

Before the witness(es) named below:

Borrower	Witness
Signed	Signed
Print full name	Print full name
	Print address
Borrower/Consentor	Witness
Signed	Signed
Print full name	Print full name
	Print address

**Warning:**  
**Please note that if you sign this Standard Security you will be legally bound by its terms. If this Standard Security is signed by more than one borrower you will also be responsible for the others’ debts and liabilities in addition to your own. If you do not pay us what you owe us when it is due or you do not comply with your obligations to us we may repossess and sell the Property.**

You should obtain legal advice before you sign this Standard Security.

The witness must be over the age of 18 and cannot be a borrower, spouse, civil partner, cohabitee or an immediate family member of a borrower.

# DEEDS SCHEDULE



**Kensington**

**Three copies of this form have been provided. Please retain one copy and send two copies, together with the title deeds and documents, to Kensington, Ascot House, Maidenhead Office Park, Maidenhead SL6 3QQ.**

Dated	
Relating to Application/ Account Number	
Borrower(s)	
Property address as shown in the Mortgage Deed / Standard Security	
Title Number(s)	
Date of Mortgage Deed / Standard Security	
Registration date of Mortgage Deed/Standard Security (if known)	

**Please list separately overleaf ALL documents enclosed but please indicate with an X which of the following items are enclosed:**

1		Title Information Document
2		Conveyance and Examined Abstract/Epitome in the case of unregistered land
3		Original Standard Security
4		Lease (and assignment) (if applicable)
5		Certified copy Head lease (if applicable)
6		Certified copy of buildings insurance
7		Copy signed Certificate of Title
8		Original Matrimonial/Civil Partnership Declaration (if applicable)
9		Notice of Charge to Landlords (if applicable)
10		Ground rent and service charge receipts (if applicable)
11		NHBC or similar (if applicable)
12		Deed of Gift Indemnity Policy (if applicable)
13		Original Share Certificate (if applicable)
14		Original undated executed stock transfer form (if applicable)
15		Original Ranking Agreement

**Please list overleaf all documents enclosed (including those indicated above).**

In pursuance of the Law Society's recommendations, pre-registration deeds relating to properties now registered should be removed (with the Borrower's concurrence) and should not be included.

## Deeds Schedule(s)

Please list the documents in chronological order.

Date	Description of document	Parties

# MATRIMONIAL CIVIL PARTNERSHIP DECLARATION



**Kensington**

**In this Declaration the following words have the meanings set next to them:**

Lender	Kensington Mortgage Company Limited (Company number: 3049877) whose registered office is at Ascot House, Maidenhead Office Park, Maidenhead, SL6 3QQ and its successors transferees and assignees including any legal or beneficial transferee whether absolute or in security and those deriving title under it or them.	
Borrower	of  (insert address)	(the " <b>Borrower(s)</b> ")
Property	registered at the Land Registry with Title Number " <b>Property</b> ")	(the

The Lender proposes to lend money to the Borrower secured by a standard security (the "**Standard Security**") over the Property. The Borrower has agreed to make the following declaration in relation to the granting of the Standard Security over the Property and the making of the loan and any additional lending by the Lender.

I, the Borrower, DO HEREBY DECLARE that as at the date of this Declaration the Property is neither:

- a) a matrimonial home in relation to which a spouse of mine has occupancy rights, all within the meaning of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (as amended); nor
- b) a family home in relation to which a civil partner of mine has rights under section 101 of the Civil Partnership Act 2004 (as amended).

**IN WITNESS WHEREOF:** this declaration is subscribed by the borrower

At		
On the	day of	20

before the witness named below:

<b>Borrower</b>		<b>Witness</b>	
Signed		Signed	
Print full name		Print full name	
		Print address	

# RANKING AGREEMENT



Kensington

In this Deed the following words have the meanings set next to them:

<b>The Company</b>	Kensington Mortgage Company Limited, a limited liability company incorporated under the Companies Act in England and Wales (Company number 3049877) whose registered office is at Ascot House, Maidenhead Office Park, Maidenhead SL6 3QQ and its successors, transferees and assignees including any legal or beneficial transferee whether absolute or in security and those deriving title under it or them.
<b>The Existing Lender</b>	and its successors in title and assignees (whether absolute or in security) including any person who acquires an interest in the Existing Lender's Standard Security
<b>Borrower</b>	of  (insert address)
<b>Mortgage Conditions</b>	The Kensington Mortgage Conditions (Scotland) 2020 made by us dated 2020 and registered in the Books of Council and Session on 16th December 2020 (the " <b>Mortgage Conditions</b> "). All capitalised terms in this deed have the meaning given to them in the Mortgage Conditions unless otherwise defined.
<b>Account Number</b>	
<b>The Property</b>	as more fully described below.
<b>The Company's Standard Security:</b>	The Standard Security over the Property granted by the Borrower in favour of the Company registered in the Land Register under Title Number:
<b>The Existing Lender's Standard Security:</b>	The Standard Security over the Property granted by the Borrower in favour of the Existing Lender recorded in the Division of the General Register of Sasines for the County of [ ] on [ ] 20[ ] registered in the Land Register under Title Number:
<b>Principal Sum:</b>	£ secured by the Company's Standard Security.

1. The Existing Lender agrees and consents to the registration of the Company's Standard Security over the Property.
2. The Company, the Existing Lender and the Borrower hereby confirm and agree that, notwithstanding the dates of creation of the Company's Standard Security and the Existing Lender's Standard Security or any provision as to ranking they contain, the Existing Lender's Standard Security shall be postponed to and rank after all monies and obligations from time to time secured by the Company's Standard Security up to the amount of the Principal Sum (including further advances already agreed by the Company) and in addition all interest (including any interest pursuant to the Mortgage Conditions), costs and Expenses in respect thereof from time to time determined in accordance with the provisions of the Company's Standard Security but not further or otherwise and not in respect of any other future advances made by the Company to the Borrower.
3. The Company and the Existing Lender agree that this Deed (including the ranking set out in Clause 1) shall not be affected by:
  - 3.1 any fluctuation from time to time in the amounts secured, whether by way of principal or interest, by the Company's Standard Security or by any other security held by the Company for the Principal Sum;
  - 3.2 any arrangement the Company or the Existing Lender may make with the Borrower or any other person;
  - 3.3 any assignation or transfer of the whole or any part of this Deed or the Company's or the Existing Lender's rights under the Company's Standard Security or the Existing Lender's Standard Security to any other person;

- 3.4 the sequestration or other insolvency of the Borrower;
  - 3.5 any variation, waiver or release of the Company's Standard Security or the Existing Lender's Standard Security or any other security or the sums secured thereby;
  - 3.6 any failure by the Company or the Existing Lender to take or perfect the Company's Standard Security or the Existing Lender's Standard Security or any other security;
  - 3.7 any release, discharge, exchange or substitution of any security taken in respect of the Borrower's obligations to the Company or Existing Lender;
  - 3.8 any time or other indulgence being granted or being agreed to be granted to the Borrower or any other person, including any co-guarantor; or
  - 3.9 any of the Company's Standard Security or the Existing Lender's Standard Security or any other document or security taken in respect of the sums secured thereby being or becoming illegal, invalid, unenforceable, impaired or ineffective in any respect.
4. The Company and the Existing Lender will hold on trust any money received pursuant to the Company's Standard Security or the Existing Lender's Standard Security respectively to give effect to the ranking declared by this Deed.
  5. Nothing in this Deed shall as between the Borrower and the Existing Lender affect or prejudice any of the rights of the Existing Lender under the Existing Lender's Standard Security, which shall remain in full force subject only to the postponement to the Company's Standard Security, but the Existing Lender hereby undertakes to the Company that the Existing Lender shall not exercise or purport to exercise its power of sale or any other power of enforcement under the Existing Lender's Standard Security without first giving to the Company 14 days written notice of the Existing Lender's intention to exercise any such powers, except in case of emergency when the Existing Lender shall inform the Company as soon as possible of such exercise of powers.
  6. The Company's Standard Security and the Existing Lender's Standard Security are varied to the extent specified in this Deed and this Deed shall constitute a variation of the Company's Standard Security and the Existing Lender's Standard Security within the meaning of section 16 of the Conveyancing and Feudal Reform (Scotland) Act 1970.
  7. This Deed may be executed in any number of counterparts and by each of the parties on separate counterparts. Where executed in counterpart:
    - 7.1 this Deed will not take effect until each of the counterparts has been delivered;
    - 7.2 the date of delivery may be inserted in the testing clause in the blank provided for the effective date of this Deed.
  8. This Deed shall be governed by the law of Scotland.

**IN WITNESS WHEREOF** these presents consisting of this and the 2 preceding pages have been executed in counterpart by the parties as undernoted, with an effective date of [                    ] 20[    ].

**SUBSCRIBED for and on behalf of the said KENSINGTON MORTGAGE COMPANY LIMITED**

at	
on	

**by**

Print full name	
Attorney Signature	

**before this witness**

Print full name	
Witness signature	
Address	



**SUBSCRIBED for and on behalf of the said:**

(Existing lender)

at	
on	

**by (two of its directors/one of its directors and its secretary)**

Director full name	
Director signature	
Director/Secretary full name	
Director/Secretary signature	

**SUBSCRIBED for and on behalf of the said:**

(Borrower)

at	
on	
Borrower full name	
Borrower signature	
Borrower full name	
Borrower signature	

**before this witness**

Print full name	
Witness signature	
Address	

# RANKING AGREEMENT HELP TO BUY



This RANKING AGREEMENT is made among:-

<b>TO BE INSERTED BY PURCHASER'S SOLICITOR, (the 'Primary Lender');</b>	
<b>The Scottish Ministers ('Scottish Ministers');</b>	and
<b>(the 'Owner').</b>	

## WHEREAS

- (A) The Owner has granted or is about to grant in favour of the Primary Lender a fixed security over the Property;
- (B) The Owner has granted or is about to grant in favour of Scottish Ministers a fixed security over the Property;
- (C) The Primary Lender and Scottish Ministers wish to regulate the ranking of the Securities; and
- (D) The Owner has agreed to the terms of this Agreement.

## IT IS AGREED AS FOLLOWS:

1. Ranking of Securities
  - 1.1 The Primary Lender, Scottish Ministers and the Owner agree that the sums secured or to be secured by the Primary Lender Fixed Security and the Postponed Fixed Security shall rank in the following order of priority:
    - 1.1.1 the Primary Lender Fixed Security to the extent of the Primary Lender Priority Debt; then
    - 1.1.2 the Postponed Fixed Security to the extent of the Postponed Debt; then
    - 1.1.3 the Primary Lender Fixed Security to the extent of the balance (if any) of the Primary Lender Debt.
  - 1.2 The ranking and priority set out in Clause 1.1 shall take effect notwithstanding any of the following:-
    - 1.2.1 the nature of the securities created by the Primary Lender Fixed Security and the Postponed Fixed Security and the dates of execution and registration of them;
    - 1.2.2 any provision contained in any of the Securities;
    - 1.2.3 the date or dates on which moneys have been or may be advanced or become due, owing or payable under the Primary Lender Fixed Security and the Postponed Fixed Security respectively;
    - 1.2.4 any fluctuation from time to time in the amounts secured by the Primary Lender Fixed Security or the Postponed Fixed Security including any reduction of those amounts to nil;
    - 1.2.5 the existence of any credit balance on any current or other account of the Owner with either the Primary Lender or Scottish Ministers;
    - 1.2.6 the appointment of a Trustee in bankruptcy to the Owner, his sequestration, his apparent insolvency and/ or the appointment of a judicial factor to all or any part of his assets in respect of the Owner or over all or any part of the assets;
    - 1.2.7 the sale or other disposal of any land or buildings or any interest in any land or buildings prior to enforcement;
    - 1.2.8 any present or future mortgage or other charge granted by the Owner to either the Primary Lender or Scottish Ministers (other than the Securities) (unless otherwise agreed in writing by the Primary Lender or Scottish Ministers); and
    - 1.2.9 the provisions of Section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970.
  - 1.3 The Owner agrees for the benefit of the Primary Lender only that he shall not exercise any right he may have or which may accrue to him under Section 11 of the Land Tenure Reform (Scotland) Act 1974 with respect to the Postponed Fixed Security at any time prior to the Primary Lender Priority Debt Discharge Date.
2. Security to be Continuing

The Securities shall rank as provided in this Agreement as continuing securities for repayment of the amounts owing to each of the Primary Lender and Scottish Ministers from time to time by the Owner or by any person or Owner whose obligations to the Primary Lender or Scottish Ministers are guaranteed by the Owner.

3. Agreement

If a Trustee in bankruptcy or a judicial factor regards this Agreement as failing to bind him in the distribution of the proceeds of sale of the assets of the Owner (and in as far as the refusal of the Trustee in bankruptcy or the judicial factor causes prejudice to the Primary Lender or Scottish Ministers), the Primary Lender and Scottish Ministers will compensate each other to the extent to which it has benefited as a result of this refusal.

4. Negative Pledge

The Owner shall not grant any further fixed charges over the Property without the written consent of the Primary Lender and Scottish Ministers.

5. Authority to Release Information

5.1 During the continuance of each of the Primary Lender Fixed Security and the Postponed Fixed Security, the Primary Lender and Scottish Ministers may disclose to each other information concerning the Owner and its affairs in such manner and to such extent as the Primary Lender and Scottish Ministers may wish and the Owner consents to such disclosure.

5.2 The Primary Lender agrees to give notice promptly to Scottish Ministers upon increasing the limit of any of the facilities for the time being granted by it to the Owner or upon granting it new facilities.

6. Consent

The Primary Lender and Scottish Ministers consent to the grant by the Owner of the Securities and each acknowledge the right of the other to production and delivery of copies of the Securities.

7. Variation

The Primary Lender Fixed Security and the Postponed Fixed Security are varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as a variation within the meaning of Section 16 of the Conveyancing and Feudal Reform (Scotland) Act 1970.

8. Transfers

The Primary Lender shall not assign or transfer the benefit of the Primary Lender Fixed Security and Scottish Ministers shall not assign or transfer the benefit of any of the Postponed Fixed Security unless the assignee or transferee first undertakes in writing to the Primary Lender and/ or Scottish Ministers, as the case may be, to be bound by the provisions of this Agreement as if such transferee were a party to this Agreement.

9. Miscellaneous

Unless and until the Primary Lender Fixed Security is discharged, Scottish Ministers agree that any obligation under the Postponed Fixed Security to deposit deeds and documents of title, and all policies of insurance with Scottish Ministers shall be deemed satisfied and complied with if those are deposited with the Primary Lender.

10. Notices

10.1 All notices or other communications to be made or given under this Agreement shall be in writing and shall be by first-class pre-paid post or by fax.

10.2 Receipt shall be deemed to have occurred forty-eight hours after posting (unless hand-delivered and then at the time of delivery) and if by fax when sent provided a transmission report is received.

10.3 Any notice to the Primary Lender shall be addressed to:- [ ]

10.4 Any notice to Scottish Ministers shall be addressed to:- [ ]

The Scottish Ministers c/o [ ], or to the Scottish Ministers at such other address as Scottish Ministers may notify to the Shared Equity Owner in accordance with this Agreement.

10.5 Any notice to the Owner shall be addressed to the Owner at the Property.

11. Definitions

In the interpretation of this Agreement:-

11.1 'Primary Lender Debt' means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Primary Lender by the Owner, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not the Primary Lender shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which the Primary Lender may in the course of its business charge or incur in respect of any of those matters or for keeping the Owner's account, and so that interest shall be computed and compounded according to the usual Primary Lender rates and practice as well after as before any demand made or decree obtained;

11.2 'Primary Lender Fixed Security' means the standard security over the Property granted by the Owner in favour of the Primary Lender dated on or about the date hereof and about to be registered in the Land Register under Title Number [ ] in security for the Primary Lender Debt;

11.3 'Primary Lender Priority Debt' means the Primary Lender's Debt not exceeding [ ] STERLING (or such greater amount, if any, as shall be agreed in writing between the Primary Lender and Scottish Ministers) together with (a) outstanding interest on that amount and (b) all outstanding commission, charges, fees, costs and expenses arising or incurred in connection with it;

11.4 "Primary Lender Priority Debt Discharge Date" means the date on which the Primary Lender Priority Debt has been repaid or otherwise discharged in full;

11.5 'Postponed Debt' means all sums due and to become due to Scottish Ministers by the Owner whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to Scottish Ministers, whether such obligations exist now or arise in the future) together with interest and charges, interest on them and all commission, charges, fees, costs and expenses arising or incurred in connection with those sums;

- 11.6 'Postponed Fixed Security' means the standard security over the Property granted by the Owner in favour of Scottish Ministers dated on or around the date hereof and about to be registered in the Land Register under Title Number [ ] in security for the Postponed Debt;
- 11.7 'Property' means ALL and WHOLE [ ], being the whole subjects registered in the Land Register of Scotland under Title Number [ ];
- 11.8 'Securities' means the Primary Lender Fixed Security and the Postponed Fixed Security;
- 11.9 'enforce' (and all derivations from it) means the taking of any of the following actions:-
- (1) the exercising a power of sale or otherwise utilising the rights given to a creditor under any of the Securities;
  - (2) the suing for payment of any the Primary Lender Debt or the Postponed Debt;
  - (3) the petitioning for a sequestration order;
  - (4) the granting of a voluntary Trust Deed or the making of a composition, contract or arrangement with creditors;
  - (5) the exercising of any rights of set-off, retention, combination of accounts or similar right in respect of the Primary Lender Debt or the Postponed Debt;
- 11.10 Derivative expressions of any defined term shall be construed accordingly;
- 11.11 References to:-
- 11.11.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;
  - 11.11.2 'including' shall not be construed as limiting the generality of the words preceding it;
  - 11.11.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
  - 11.11.4 this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
  - 11.11.5 any person is to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
  - 11.11.6 any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect; and
  - 11.11.7 clause headings are for ease of reference only and are not to affect the interpretation of this Agreement; and
- 11.12 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, express or implied, between the parties to it (or any of them) in relation to the subject matter of this Agreement.
12. Other Security
- The Primary Lender shall be entitled at any time at its discretion and without consulting the Owner or Scottish Ministers to transact and deal with any other securities or guarantees of any kind that may be held by it in respect of the Owner's obligations to it and may sell, dispose of or realise such other securities in any order which it may determine and this Agreement shall remain in full force and effect notwithstanding such transactions or dealings.
13. Separate Provisions
- If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.
14. Governing Law
- This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.
15. Consent to Registration
- The parties to this Agreement consent to its registration for preservation: IN WITNESS WHEREOF this Agreement consisting of this and the preceding pages is executed as follows:

<p><b>SUBSCRIBED for and on behalf of the Primary Lender by</b></p> <p>.....</p> <p>its duly authorised signatory at</p> <p>.....</p> <p>on the ..... day of ..... 20[ ]</p> <p>in the presence of:-</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p> <p>.....</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Full Name)</p>
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**SUBSCRIBED by the Owner at**

.....  
on the ..... day of ..... 20[ ]  
in the presence of:-  
..... Witness (Signature)  
..... Full Name  
..... Address  
.....  
.....  
.....  
..... Occupation

..... (Signature)  
..... (Signature)

**SUBSCRIBED for and on behalf of Scottish Ministers at**

.....  
By .....  
on the ..... day of ..... 20[ ]  
in the presence of:-  
..... Witness (Signature)  
..... Full Name  
..... Occupation

..... (Signature) Authorised Signatory  
..... (Full Name)

# SOLICITORS' SUPPLEMENTAL INSTRUCTIONS



Kensington

Please note that we create and trade mortgage assets and it is imperative that our mortgage is secured by a promptly registered fully enforceable first ranking standard security over the property. Should we incur any costs to ensure our standard security is correctly registered we will seek to recover these from yourselves.

In order to act on our behalf you must hold a current practising certificate and your firm must be managed by a minimum of three managers. If your firm is managed by two or fewer managers, you should return these instructions immediately stating this fact.

#### Please also note that:

1. These solicitor's supplemental instructions are supplemental to and do not detract from the generality of the instructions contained in the UK Finance Handbook (the **Handbook**). Please therefore ensure that you comply with the Handbook and in particular our specific requirements in Part 2.
2. In the event that you are acting for any party other than the borrower and Kensington Mortgage Company Limited trading as Kensington or Kensington Mortgages (the "**Lender**" or "**We**" "**us**" or "**our**") in this transaction you should immediately notify the Lender.
3. Any references to the Lender, We, Us or Our includes Kensington Mortgage Company Limited trading as Kensington or Kensington Mortgages, its subsidiaries, its transferees, successors and assignees (including any legal, equitable or beneficial assignee or transferee of the **mortgage**, whether by way of absolute assignation or by way of security only) and those deriving title under it or them.
4. Any references to the 'borrower' mean all of the borrowers if there is more than one of them.
5. All terms in bold shall have the meaning given to them in the Kensington Mortgage Conditions (Scotland) 2020
6. Paragraph 1.12 of the Handbook does not apply.
7. Unless the offer says otherwise, the requirements of the Handbook and these instructions must be satisfied before we release any **loan**. If any of the requirements cannot be satisfied, you should report this to us so that we can consider whether to lend. If you need to notify us of or take our instructions on any matter in order to comply with our instructions, please ensure you do so before submitting your certificate of title and well in advance of the anticipated date of completion.

#### Explanation to the Borrower

8. You should explain to each borrower (and any other person signing a document, such as a **guarantor**) the conditions of the mortgage and their responsibilities and liabilities. In particular please ensure that they are informed that:
  - a. the fees and charges which may be charged throughout the life of the mortgage and the fact that these fees and charges may be varied over time;
  - b. any fees or charges which will be imposed on an early redemption of the mortgage;
  - c. that although the Lender does not require life cover as a condition of the mortgage, the consequences for the borrower if they choose not to take out such cover;
  - d. that if the mortgage is an interest only mortgage or any element of the mortgage is to be made on an interest only basis, that it is the borrower's responsibility to arrange for the capital repayment of the **loan** or that element of the debt at the end of the term and to take out life cover for the term of the **loan** if considered appropriate (in particular please explain that where an endowment or pension policy or other savings instrument is put in place by the borrower, the borrower must seek advice from a broker that the proceeds will be sufficient to repay the capital at the end of the mortgage term – the Lender does not provide or sell, nor hold itself out as having any expertise to advise in relation to the value, suitability or benefits on maturity of such policies or savings instruments);
  - e. that the declarations which they have made in the mortgage application are incorporated in the mortgage, and must not in any way be misleading or false;
  - f. that the valuation report has been prepared by the valuer (who is not the Lender's agent) for the Lender's use for mortgage purposes only and that neither the Lender nor the valuer are under any liability for negligence or on any basis whatsoever to the borrower in respect of the value or the state or condition of the **property**; and
  - g. that in accordance with clause 11.1 of the Mortgage Conditions the standard security is security for the **loan** and for any other amount the borrower owes us under another agreement we have (or will have) with the borrower whilst we still have security over the **property**.
  - h. where the **loan** term goes beyond the borrower's state retirement age, that the borrower's retirement income must be sufficient to allow the borrower to afford the **loan** repayments for the full term of the **loan**.

## Buildings Insurance

9. You are required on our behalf to ensure that the buildings insurance complies with the requirements of the Mortgage Conditions and meets the following specific requirements:
- We require that all the following risks are covered in the insurance policy:  
fire; lightning; aircraft; explosion; earthquake; storm; flood; escape of water or oil; riot; malicious damage; theft or attempted theft; falling trees and branches and aerials; subsidence; heave; landslip; collision; accidental damage to underground services; professional fees, demolition and site clearance costs; and public liability to anyone else.
  - If the listed risks are not covered, please report to us.
  - The policy must include:
    - o the insurance policy number
    - o the sum insured
    - o the address of the insured **property**
    - o the start and end date of the policy (or the start date and duration of the policy) and be on the insurers headed paper
  - The sum insured must be greater than or equal to the reinstatement value as set out in the valuation and be index linked.
  - If the **property** is not insured in accordance with our requirements you must report this to the Lender.
10. The insurance must be in place from the conclusion of missives.
11. You should explain to each borrower their responsibilities and liabilities in relation to buildings insurance. In particular please ensure they understand that the insurance must be maintained throughout the mortgage term and that we have the right to request evidence of insurance and where this is not provided or is not adequate, we may (but are not obliged to) insure the **property** or our financial interest in the property. Where we do arrange such insurance we may charge the borrower for this.

## Additional Requirements in relation to Title

12. The borrower's title to the **property** must be heritable or long leasehold title. The requirements of the Handbook are amended accordingly.
13. You should ensure that, where applicable, the **property** is acquired by the borrower(s) with absolute warrandice. In the event that fact and deed warrandice only is to be given, you should report this to us. The requirements of the Handbook are amended accordingly.
14. The borrower must be the owner of the **property** and must not be purchasing it as nominee for another nor hold any part of it on trust for anyone else, nor must anyone else be given any option or other right to buy it from the borrower. The solicitor must report to the Lender at once if the borrower is not to be the owner or if such an arrangement exists.
15. If the **property** address on the title deeds and your certificate of title is not identical to the address we have quoted on the offer please confirm that the properties are one and the same.
16. Please also confirm that (a) the **property** to be mortgaged to us is as described in the valuation report; and (b) that the whole of the **property** as valued will be mortgaged to us.
17. Please note that where the **property** is newly built, in addition to the requirements in the Handbook, the property must be completed to the satisfaction of our valuer.
18. You should report to us immediately if the seller is a relative of the borrower.
19. For purchase transactions you must forward a copy of the contract of sale/missives.

## Other Occupiers

20. Unless the offer is for a **buy to let mortgage** or **second home mortgage**, it is a condition that the **property** be used by the borrower for their own domestic residence and occupation. If you have any information which suggests that this might not be the intention of the borrower, you must report this to the Lender at once.
21. You must advise the borrower that unless the mortgage is a **buy to let mortgage** any letting of the **property** is prohibited unless the Lender consents and draw the borrower's attention to the Lender's right to increase the interest rate payable if there is any letting.
22. If the offer states that the mortgage is a **buy to let mortgage**, you must ensure that the borrower has registered as a landlord in relation to the **property** prior to completion.
23. You must advise the borrower that the **property** can only be let in accordance with our letting criteria in force at that time. Our current letting criteria are set out below:
- where the letting is to an individual or individuals the agreement must be (i) a Short Assured Tenancy agreement of not more than 24 months (with a 6 month break clause) or (ii) from the date on which the Private Housing (Tenancies) (Scotland) Act 2016 comes into effect a private residential tenancy which complies with the requirements for such a tenancy under the applicable legislation at the relevant time;
  - the **property** must not be let to local authorities / Housing Associations or family members; and letting to individuals in receipt of Housing Benefit is only acceptable where there is a suitable Short Assured Tenancy or private residential tenancy agreement in place.

Our letting criteria may change from time to time and a copy is available on request.

24. You must check the statutory pre-letting requirements and deposit protection rules have been adhered to where there is a current tenancy agreement in place. Where the property is to be let following completion you must obtain an undertaking from the borrower that they will comply with the statutory pre-letting requirements and deposit protection rules will be adhered to.

25. If the offer is for a **second home mortgage** you must advise the borrower that it can only be occupied on the following basis:
- as a holiday home or weekend residence for the use of the borrower or their family and friends;
  - as a secondary residence for the borrower or their family during the working week; or
  - by parent(s) or child(ren) of the borrower as their permanent residence.
26. You must notify us if the **property** is a House in Multiple Occupation (HMO) and await our instructions. If we agree to proceed you must ensure the borrower has a satisfactory licence in relation to the **property** prior to completion.
27. Where required by the mortgage offer you are required to double-check with the borrower who is or is to be in occupation of the **property**, and must not release the loan unless any spouse or civil partner of the borrower has executed the standard security (in our prescribed form) to provide his or her consent to the **mortgage**. If you have any reason to doubt whether a spouse or civil partner has been disclosed, then you must not complete without referring to the Lender.

### Right to Buy

28. Where the borrower is seeking to remortgage/purchase the **property** under the applicable right to buy legislation you must notify us that this is the case so that we can confirm whether or not this is acceptable. All persons names on the right to buy notice must be party to the mortgage. Persons not named on the right to buy notice may be party to the mortgage with our agreement, provided they receive independent legal advice.
29. You must also ensure that the borrower is using the mortgage solely for the purpose of exercising the right to buy or for further improvement of the **property** and that you have all the evidence necessary to ensure that the mortgage will have prior ranking over the local authority's/ housing association's standard security.
30. You must notify us immediately where there are restrictions on the resale of the **property** and await our instructions.

### Help to Buy

31. Where the borrower is seeking to purchase under the Help to Buy scheme you must inform us this is the case so we can confirm whether or not this is acceptable.
32. You must ensure that our mortgage has priority and any standard security securing the Help to Buy equity loan ranks behind our standard security in priority.

### Re-Mortgages

33. The provisions of paragraphs 5.9 and 6.3 of the Handbook relating to purchase price are equally applicable where the loan from the Lender is by way of a re-mortgage, save that "purchase price" should be read as if it referred to the cost of redemption of existing standard securities on the **property**.
34. You must confirm that any party being added or removed from the title has received independent legal advice with regards to their part in the transaction or provided a signed disclaimer confirming they have declined to take independent legal advice in the form required by the Lender.

### Leaseholds

35. In the case of long leasehold properties, in addition to the instructions in the Handbook:
- a. the right of a heritable creditor to assign the lease must not be fettered, and where a clause in the lease provides that consent to an assignation is required, the Lender must be outside the scope of the clause;
  - b. a lease which is by reason of the frequency of rent reviews or otherwise capable of being a protected tenancy at any time during its term is not acceptable security;
  - c. the landlord must undertake in the lease both that all the residential leases of the building are in common form and that the undertakings of all the tenants will be enforced;
  - d. the lease must not contain any provision which might result in a substantial increase in ground rent or any provision inhibiting the payment of a premium on the assignation of the lease and
  - e. where the **property** is a leasehold house a standard security must be taken over the head lease.

### Priority of Mortgages and Postponement

36. There must be no arrangement for any existing standard security to be postponed to the borrower's standard security, or to be discharged and then, following completion of the borrower's mortgage, a new standard security created in favour of the existing lender. Please inform us if there is any such arrangement.
37. In case, exceptionally, we agree that an existing standard security may be postponed to rank after the **mortgage**, you must confirm that the form of the ranking agreement is acceptable and protects our interest and obtain the Lender's agreement to the postponement prior to completion. You must use the Lender's standard form ranking agreement.

### Witnessing of Documents

38. All documents must be witnessed by a person who is over 18 and who is not a relative of a borrower.

### Purchase from a Limited Company

39. Borrowers may purchase a **property** at full market value from a Limited Company of which they are a shareholder subject to the following conditions being satisfied:
- You must ensure that the relevant requirements and procedures set out in the Companies Act 2006 (particularly section 190) are complied with prior to completion of the mortgage.
  - You must comply with Rule B2 of the Law Society of Scotland Practice Rules 2011.
  - You must obtain a certificate of solvency from the vendor company and obtain a clear company search against the vendor company.



- Prior to completion you must supply written confirmation that special conditions 1-3 above have been fully complied with and provide copies of relevant board minutes and board resolutions for the vendor company.

### **Sale and Rent Back**

40. The Lender will not lend in any situation where sale and rent back is involved, or deal with those companies that are dealing in purchases at under value. All quasi sale and rent back schemes including but not limited to licence to occupy, sale & lease back, sell to let, exchange & delayed completion and lease options are unacceptable and must be reported to us.

### **Documentation**

41. Certified copies which are NOT acceptable are: Standard Security, Matrimonial/Civil Partnership Declaration, Share Certificate, undated executed stock transfer form, and Ranking Agreement.

### **Gifted Deposit**

42. Where the deposit is provided via gifted deposit, solicitors to verify that the giftor providing such a gift is solvent and know of no reason by which the giftor may become insolvent.
43. Where the deposit is provided by an individual who is an appointed Director for the Applicant/Limited Company as a gift or as a loan (a "Director's Loan"), solicitors to verify that the Director providing such loan / gift is solvent and know of no reason by which the Director may become insolvent.

Where the deposit is provided by another limited company, where the company structures (ownership and directorship) are identical, making it an intercompany loan, solicitors are to verify that the director providing such loan / gift is solvent and knows of no reason by which the company and/or director may become insolvent.

### **Release of Funds**

44. We will need at least five **working days'** notice of the date of completion (or eight **working days** if a re-inspection is required). We will endeavour to meet the completion date provided that the required notice period is given. The Lender will not be responsible for any costs or other liability incurred as a result of delayed completion. The Lender reserves the right to charge a reasonable administration fee to cover the costs incurred if the Lender does not receive the certificate of title within the required time.
45. You may only release the funds received by you to complete the mortgage if the terms of the offer (so far as they concern any legal matters relating to the **property**), the administrative arrangements as to insurances and these instructions have been complied with and the matters referred to in the certificate of title are correct on completion. You must return the **loan** or its equivalent amount to the Lender if this is not the case.
46. You have no authority to release the funds received to complete the mortgage otherwise than to or at the direction of the borrower or the Lender. In the case of a purchase, unless the offer otherwise provides, the whole of the **loan** must be paid directly to the Solicitor of the vendor named in the contract of sale/missives. Where there is more than one borrower, you must have specific instructions from each borrower as to where and to whom the **loan** is to be remitted.

You can call us on **0800 111 020** to request a copy of these mortgage conditions in larger print or audio.