

# **MORTGAGE CONDITIONS**

(Scotland) 2007

**These conditions relating to your property and our security are part of the legal arrangements of your loan with the standard security deed, your mortgage offer and the Mortgage Loan Terms/Offset Terms**

These conditions were registered in the Books of Council and Session on the 13th September 2007.

## **1. Explanation**

- 1.1 These are the conditions of a standard security made between us, Accord Mortgages Limited, and you, the borrower named in the standard security. Under the standard security the property is our security for the loan described in your mortgage offer and all money due to us by you in the future.
- 1.2 If there is more than one of you
  - these mortgage conditions apply to all of you together and to each of you on your own;
  - each of you can be held fully responsible for complying with these mortgage conditions.
- 1.3 If you need our agreement before you do something referred to in these conditions, we may refuse or only give it on conditions if we have good reason for doing so, for example if we think our security might be adversely affected, or we believe our loan might be at risk.
- 1.4 Powers of Attorney
  - Some of these mortgage conditions require that you appoint us to be your attorney to do various things. This power of attorney allows us to do those things on your behalf and is irrevocable for as long as the standard security remains in force securing any money you owe us;
  - If there are two or more of you then you agree that we will be attorney for one of you and a person or persons authorised by us may act as attorney for the other(s) as necessary.
- 1.5 "You" includes your successors in title. "We" includes our successors in title and anyone to whom all or any of our rights under the standard security may be transferred entirely or in part and either outright or by way of security only.

## **2. Repair and Improvement**

- 2.1 You will keep the property in good repair and condition.
- 2.2 You will ensure that any unfinished building or works on the property are completed without delay and are properly built.
- 2.3 You may not alter or extend the property unless we agree in writing before you start work.
- 2.4 You must tell us before you apply to a local authority or other similar body for any loan or grant for the repair or improvement of the property. This is because such loan or grant may be subject to conditions requiring the whole or any part of the grant to be repaid if, for example, you do not live in the property for a certain period. You cannot accept any such loan or grant unless we agree in writing.

## **3. Use and Occupation**

- 3.1 You will occupy the property yourself and will not, unless we agree otherwise in writing:
  - grant or agree to grant or renew any lease or tenancy of the property;
  - give to any person any contractual or other licence or right to occupy or live in the property.We will not refuse our agreement under this condition 3.1 where you and the property satisfy the conditions we reasonably require for letting of properties at that time.
- 3.2 As a condition of our giving agreement under condition 3.1 we may impose reasonable conditions including an increase in the rate of interest by up to 1% while such letting or occupation continues. Where you let the property or allow it to be occupied without obtaining our agreement under condition 3.1 we may increase the rate of interest by up to 2% while such unauthorised letting or occupation continues. Any increase in the interest rate under this condition 3.2 is to reflect the increased risk to our security as a result of such letting or occupation.

- 3.3 You will use the property for residential purposes as a single private dwelling and will not without first getting our agreement in writing change the use of the property, or allow the property to be used for a trade or business.

#### **4. Restrictions on Dealing with the Property**

You will not do any of the following without first getting our written agreement:

- convey, transfer, assign, mortgage or grant security over, obtain an extended lease of or otherwise deal with or give away the property; or
- accept the surrender of any lease or tenancy of the property other than any tenancy we have agreed to under condition 3.1.

#### **5. Insurance of the Property**

- 5.1 Subject to 5.2 and 5.3, and to any provision in your mortgage offer, we will insure the property (and its contents if you require) on terms which include the following:

- we will insure the property at your expense;
- we will choose the insurers;
- the insurance will be for an amount estimated as the cost of rebuilding from time to time (including clearing the site and paying all fees and expenses);
- we will insure against loss or damage by fire and any other risks which we or you want covered;
- you will pay all the premiums which we require to keep the property insured.

- 5.2 You may only insure the property if you have our agreement but we will not unreasonably refuse our agreement. However if your mortgage offer provides that we insure the property for a period of time, it will be reasonable for us to refuse agreement for that period.

If you insure then we will not be obliged to insure under 5.1. Our agreement will include the following terms:

- you will tell the insurer of our interest in the property as heritable creditor and will arrange for our interest to be noted on the insurance policy;
- you must keep the property insured under a comprehensive policy against all risks which we may reasonably specify including (but without limitation) fire, explosion, earthquake, storm, flood, escape of water or oil, subsidence, heave, landslip and malicious damage; and for the cost of rebuilding from time to time on an index linked basis (including clearing the site and paying all fees and expenses);
- you will give us proof of payment of the premiums when we ask for this.

- 5.3 If the property is leasehold or part of larger subjects and the terms of the lease or the title conditions provide for the property to be insured along with other properties, then we will not be obliged to insure under 5.1 provided:

- you tell the insurer of our interest in the property as heritable creditor and arrange for our interest to be noted on the policy; and
- we or our legal advisers have approved the insurance policy and confirmed that the insurance is in force; and
- you do your best to ensure that the property is kept insured.

- 5.4 The following terms apply whoever insures the property and on any insurance of the property:

- we may settle and adjust any claims against the insurers of the property;
- we may receive any money paid out under the claim;

- if you receive any money under an insurance policy you will tell us and will hold the money in trust for us (on our behalf);
- we can choose whether to use any money paid under the insurance policy either to rebuild or repair the property or reduce or pay off the sum secured by the standard security;
- you will not do anything or allow anything to be done or omitted which may make the insurance void or voidable (invalid) or which makes the insurance more difficult or expensive to obtain or maintain; and
- we may keep any commission or benefit on any insurance taken out by us or through our agency.

## **6. Obligations to Others**

6.1 You will:

- comply with your obligations as owner or occupier of the property;
- (if you hold the property under a lease) comply with all of the tenants' obligations in the lease;
- pay all existing and future rents, taxes, common charges and outgoings affecting the property; and
- obey the laws which affect the property. In particular, you must comply with Town and Country Planning legislation.

6.2 You agree to send us a copy of any notice or other document affecting the property within 14 days of receiving it from:

- a landlord (if the property is leasehold);
- anyone claiming a legal right over the property;
- any government department, local or other authority.

## **7. Action which we can take**

7.1 You agree to allow us (by our employees or agents) to enter the property after giving you reasonable notice so that we may:

- inspect the state of repair and condition of the property;
- carry out or complete any work which is needed to put right any failure by you to comply with these conditions.

7.2 If you fail to observe any of these mortgage conditions we can take any action to put this right.

7.3 If we have to take any action in connection with the standard security, you must pay all of our expenses reasonably incurred.

7.4 If you fail to pay these expenses when asked we may add them to the money secured by the standard security and charge interest on them at the rate applicable to the loan secured by the standard security or, where there is more than one such rate, at the highest rate.

## **8. Our Rights and Remedies**

8.1 If you:

- fail to pay any of your monthly payments to us; or
- fail to pay any other money you owe to us; or
- are in breach of any of the conditions or obligations in (a) the mortgage offer, (b) these mortgage conditions or (c) the standard conditions referred to below,

then we may call up the standard security (which means we can insist you pay your mortgage in full and failing which can sell your property) or otherwise deal with the property as though a default within the meaning of standard condition 9(1)(b) of the standard conditions, contained in schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, had occurred.

- 8.2 If we take possession of the property, then:
- you will remove all furniture and other moveable property (personal items) from the property within 7 days;
  - you will not remove any fixed items without our agreement in writing as these form part of the property.
- 8.3 If all furniture and moveable items are not removed within 7 days then you agree that we may:
- deal with them as your agents and at your expense;
  - sell or otherwise dispose of anything which belongs to you; and
  - remove and store anything which does not.

We will account to you for all proceeds received less all expenses of dealing with the same.

- 8.4 No person dealing with us will be concerned with or bound by any of the following things, even if they know of them:
- whether this standard security has become enforceable;
  - whether any money remains due and owing by you to us;
  - whether any power has become exercisable or has been properly exercised.

The receipt by us of any money will effectively discharge the person from all such matters and from any responsibility for the application of such money.

- 8.5 You give us an irrevocable power of attorney authorising us to act on your behalf:
- to sign and complete any document which is needed to make good any defect in your title to the property or in the standard security;
  - to transfer your share or interest in any residents' society or management company when we exercise our powers under the standard security to sell or lease the property;
  - to enter into any variation of your title to the property in order to protect or enhance our security; and
  - to settle any claim made by your landlord or management company (if your property is leasehold) if we think it reasonable for us to settle it in order to protect our security or maintain its value, even though you may dispute the sum claimed.

## **9. Compensation from Third Parties**

- 9.1 You may at some time be entitled to recover money or damages:
- to correct or compensate for defects or damage relating to the property or the title to it, or
  - for any breach of contract or wrongful act or omission which may have caused damage to the property or to the title to it or caused you to accept the property or the title to it in a damaged or defective condition.

In any such case you give us an irrevocable power of attorney to receive and to sue for such money or damages where we reasonably consider it necessary to protect our security or to recover our loan or any other money secured by the mortgage.

- 9.2 We may choose to use the money or damages recovered either:
- in or towards making good the damage or defects, or
  - towards payment of the money secured by the standard security, which will include the costs incurred under 9.1 if we have to take any action towards the recovery of such money or damages.

## **10. Security**

- 10.1 As mentioned in 1.1, your property is our security for the loan described in your mortgage offer and all money due to us by you in the future. We may ask for additional security from you.
- 10.2 If we have asked in the offer for a policy or other asset to be deposited with us as additional security for the loan then we will have an equitable charge (a form of enforceable right) on this policy or other asset until it is legally assigned (transferred) to us. By signing the standard security you (or the owner of the additional security, if not you) give us an irrevocable power of attorney to assign, transfer, surrender, make and settle claims under, or otherwise deal with the additional security.
- 10.3 You (or the owner of the policy, if not you):
- will not cause or allow any policy to become void or voidable (invalid);
  - will not do or permit to be done anything which would prevent us receiving the money under the policy;
  - will do everything to maintain the policy if it becomes voidable;
  - (if the policy becomes void) will do everything necessary to obtain a new policy as similar to the old one as possible. We can take out a policy either in your name or in our name, if you fail to set up a new policy;
  - will ensure the premiums are paid punctually and produce the receipts within 14 days of us asking you to do so.
- 10.4 We may at any time
- use any money from the additional security towards payment of the money secured by the standard security; and
  - sell or deal with the additional security as if it was ours.
- 10.5 You (and the owner of the additional security, if not you) waive all right to compete with us in claiming any security or money unless all the money secured by the standard security has been discharged in full (in other words we have the first call on the proceeds of the policy).

## **11. Guarantor's Obligations**

- 11.1 This condition applies to any person who signs the standard security as a guarantor.
- 11.2 The guarantor's responsibilities under the guarantee will not be altered by:
- our changing or modifying any right or remedy which we may have against the borrower;
  - our failing to enforce the borrower's obligations under the loan or any other guarantor obligations under the guarantee;
  - our agreeing to allow the borrower (or anyone else) extra time to repay all monies secured by the standard security.
- 11.3 The guarantor agrees:
- to be liable as a borrower; and
  - not to compete with us in claiming any security or money unless all the money owed under the standard security has been received by us.

11.4 If there is more than one guarantor each and all of them are liable as explained in 1.2.

## **12. Notices**

12.1 If we have to tell you something we may do so either:

12.1.1 personally, which means

12.1.1.1 by post to your last known address (which unless you have told us otherwise means the property); or

12.1.1.2 by fax to or email to any number or email address you have given us for this purpose;

or

12.1.2 by advertisement in national newspapers of our choice (you can find out the current newspapers we use by contacting our Customer Contact Centre).

12.2 If we give you such notice then it will be considered as given on the following days:

12.2.1 Post the second working day after date of posting (regardless of class of post)

12.2.2 Email the day the email is sent

12.2.3 Fax the day of transmission

12.2.4 Press Advertisement the day on which the advertisement first appears in each of the newspapers

## **13. Consolidation**

13.1 Subject to 13.2 and 13.3, the standard security will secure not only the money specifically lent to you in return for the standard security but will also include all other monies you might owe to us from time to time on any account. Unless we agree otherwise with you no property held by us as security for any of your indebtedness will be released until all monies owed by you to us (whether due or not) have been paid.

13.2 The provisions of 13.1 shall not apply to any monies owing under any agreement whenever made which expressly provides that they shall not be secured by the standard security or by securities of any category or type which includes the standard security in this case.

13.3 The provisions of 13.1 will not affect your right to repay any agreement regulated by the Consumer Credit Act at any time irrespective of any other monies owed by you to us.

## **14. Transfer of the Standard Security by us**

14.1 We may transfer our interest in the standard security to another party at any time on such terms as we may decide.

14.2 Unless the terms of the transfer state otherwise, a transferee of the standard security will be able to exercise all the rights, powers and remedies which we could exercise before the transfer.

Accord Mortgages Limited is authorised and regulated by the Financial Conduct Authority.

Accord Mortgages Limited is entered in the Financial Services Register under registration number 305936.

Accord Mortgages Limited is registered in England  
No: 2139881.

Registered Office: Yorkshire House, Yorkshire Drive,  
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Accord Mortgages is a registered Trade Mark of  
Accord Mortgages Limited.

Communications with us may be monitored/recorded to improve the quality of our service and for your protection and security.

