

## PROPERTY FINANCE ENQUIRIES & TRANSACTION INFORMATION

Property: XXX

Borrower: XXX

Lender: XXX

- **Where there is more than one property being used as security for the loan, we shall (where applicable) require responses for each property to be given separately;**
- **For enquiries relating to the property, it will not be sufficient to request the lender to rely on the result of any survey;**
- **Please provide all replies on your own headed notepaper and have the same signed on behalf of your firm.**

### 1. Our Costs

- 1.1. In the event that the matter proceeds to completion, our costs (the amount of which is stated in our covering letter), together with VAT thereon and disbursements incurred, will be deducted from the loan as per the amount set out in our covering letter. Such amount is based on an assumption that the matter will proceed in a relatively straightforward manner and therefore, in cases where there transpires to be substantially more work than first envisaged, we do reserve the right to increase the amount being charged. Please ensure that your client is made aware of this.
- 1.2. Because the matter may (for any reason) fail to proceed to completion, we do require security for our costs as these are to be borne in all cases by the borrower. Please make your client aware that if the matter does not proceed, we reserve the right to charge a proportion of our fee to reflect the work carried out until that time.
- 1.3. Please provide an undertaking from your firm in the sum plus VAT stated in our covering letter to cover our costs in the event that the matter does not proceed to completion. **Our instructions state that we should not commence work until such time as an undertaking is forthcoming and therefore we should be obliged if you would obtain funds on account at the earliest opportunity in order that this can be provided.**

### 2. Your Client's Identity, Timescale & Balance Monies

- 2.1. Please provide to us a legible certified copy of each of the relevant pages of the documents used to verify identity and address for every borrower or (where the borrower is a company) for all officers of the company who will be signing the mortgage documentation.
- 2.2. Have you or your firm ever acted for the borrower prior to the current transaction? If so, for how long?
- 2.3. Please confirm that you are satisfied (having made reasonable enquiries) that where a balance of monies is required from a source other than the mortgage advance that these are arriving solely from your client's own resources and not from any other loan or gift.
- 2.4. Please provide written confirmation that you are holding any balance of monies, together with sufficient funds to discharge your client's SDLT liability, prior to us requesting mortgage monies.
- 2.5. Please let us know what your requirements are in terms of a proposed completion date.

### 3. Title to the Property

- 3.1. Where the property is registered, please supply official copies of the register and a coloured copy of the filed plan for the title(s) being charged, together with an official copy of any documents referred to in the register where its contents are not set out (including colour plans).
- 3.2. If the property is leasehold:
  - 3.2.1. please supply an official copy of the registered lease, any deeds of variation and any superior leases.
  - 3.2.2. provide details of the current levels of rent, service charge and any insurance rent.
  - 3.2.3. confirm that all rent, service charge and any insurance rent are paid up-to-date
  - 3.2.4. please provide the name and address of any parties on whom notice of charge is required to be served, together with their fee for receiving the same.
- 3.3. Where the title is unregistered, please supply a full epitome of title and (if leasehold), copies of the lease and any superior lease, together with Land Charges searches against all previous estate owners and a schedule of the documents to be handed over on completion, indicating which are originals and which are marked or certified copies.
- 3.4. Please advise us of your personal e-mail address in order that we may e-mail the mortgage documentation to you once it has been prepared.

#### 4. Consents & Restrictions

- 4.1. Please supply the consent of any parties (such as existing mortgagees, superior landlords or those whose interest is protected by way of restriction at the Land Registry) to whom consent must be sought prior to registration of our client's charge.
- 4.2. Is the Borrower / Seller aware of any matter restricting the use of the property, such as a covenant, a planning condition, an agricultural restriction, some form of commercial supply agreement, etc?

#### 5. Searches against the Property

**IMPORTANT: Please note that searches are required on all matters and we are not able to rely on indemnity policies under any circumstances**

Please supply the following:

- 5.1. Local authority search result (we are happy to accept personal local searches providing that the supplier is indemnified to at least the value of the loan amount);
- 5.2. Environmental search (which must contain a certificate showing a "Passed", "Further Action", etc or similar);
- 5.3. Chancel Check Search. If the property is shown to be in a "risk parish", please confirm that you will effect indemnity insurance on completion to the value of the property and forward the policy document to us for placing with the deeds;
- 5.4. Drainage search or (if the property is residential and no such search is available) a copy of the latest demand for water service charge;
- 5.5. Coal mining (or other applicable mining) report in areas identified by the Law Society to be mining areas;
- 5.6. A Commons Registration Search or otherwise your confirmation that the property does not abut vacant land, a verge strip not owned by it and separating it from the public highway, a town green, village green or common.
- 5.7. Index Map Search where the property is unregistered; and
- 5.8. Your confirmation that you have carried out all searches appropriate to the area in which the property is situated.

#### 6. Property Insurance

- 6.1. Please provide a copy of either:
  - 6.1.1. the buildings insurance policy schedule covering the property together with proof that the premium for the current year is paid; or
  - 6.1.2. where the property is currently being (or imminently to be) redeveloped, a copy of the site insurance policy for the redeveloped; or
  - 6.1.3. where the property is open land, a copy of the public liability insurance for the site.
- 6.2. Please note that any schedule supplied should **not** be a quote and should be a full, effected policy, evidencing:
  - The name of the Insurance Company;
  - The policy number;
  - The full reinstatement value of the building or otherwise the limit of indemnity;
  - Any excluded risks;
  - The expiry date for the policy; and
  - The lender as an interested party. For the avoidance of doubt, the lender's full name is set out on our covering letter.

Please note that it is the lender's specific requirement that the above is dealt with and we are obliged to supply a copy on completion. Please therefore ensure that this is dealt with as soon as possible as we cannot request funds until we have seen a copy schedule complying with these requirements.

#### 7. Redemption of Existing Charges

- 7.1. Unless this matter is a purchase, please supply **up-to-date** copies of redemption figures for all financial matters secured against the property, whether or not these are to be redeemed on completion.
- 7.2. If the matter is a purchase, please confirm that you hold adequate undertakings or confirmation that you are taking steps to obtain undertakings from the seller's solicitors with regard to the redemption of all existing financial matters secured against the property.
- 7.3. If this matter involves a second charge, please advise whether your client is aware of any other liability to the first chargeholder (or one of its group companies) in addition that shown on the redemption statement (such as unsecured loans, director's loans, HP agreements, car loans, etc) that may also be secured under an all monies charge.

#### 8. Occupiers and Third Party Interests following Completion of the Mortgage

- 8.1. Please state the full names and dates of birth of all persons other than the Borrower(s) who will be in actual occupation of the property following completion of the mortgage.
- 8.2. Is the Borrower aware of any third party (other than tenants) who might have an interest in any part of the property after completion?

- 8.3. Please advise whether the Borrower is aware of any limited company that will trade from or otherwise occupy the property after completion.
- 8.4. Is the Borrower or the Seller aware of any overriding interests as defined by s.70(1) Land Registration Act 1925 (as originally enacted) or potential or actual claims to the same?
- 8.5. Please confirm that the property has the benefit of vacant possession. If not, please confirm to what tenancies the property is subject.
- 8.6. If the matter is a purchase, please advise whether the Seller will retain any lien over the Property following completion, such as deferred consideration or overage.
- 8.7. Does the Borrower envisage granting any new leases or tenancies on or shortly after completion?

**9. Seller's Details, Contract and Transfer Deed, etc (purchase transactions only)**

- 9.1. Please provide the name and address (including DX address), telephone number and reference of the conveyancers acting on behalf of the seller in order that this information can be included in the AP1 following completion.
- 9.2. Please supply a full copy of the Contract, evidencing the purchase price and the details of all parties.
- 9.3. Please supply a copy of the approved draft Transfer Deed, again evidencing the names of all parties and stating the consideration being paid.
- 9.4. Please note that we will require you to notify us of any amendments to the documents supplied under 9.1 and 9.2 above and that we you are required to exchange and complete upon the basis of the most recently supplied documents.
- 9.5. Please confirm that there will be no subsale, creation and assignment of a leasehold interest, grant of a leasehold interest at the direction of a party other than the Seller; or transfer of an interest at the direction of a party other than the Seller.
- 9.6. Please note that all monies required for the purchase must be paid on completion and must pass through your client account. If this is not the case, you must let us know immediately.

**10. Boundaries, Disputes and Notices**

- 10.1. Is the Borrower or the Seller aware of any discrepancies between the position boundaries on the filed plan and the position on the ground? If so, please advise giving full details and dates.
- 10.2. Does any part of the property overhang / lie underneath other property falling outside the title(s) being charged? If so, please provide details by reference to an illustrative plan.
- 10.3. Is the Borrower or the Seller aware of any past or current disputes or complaints regarding boundaries / party walls, easements, covenants or other matters relating to the property? Please give particulars.
- 10.4. Is the Borrower or the Seller aware of any breach of covenant relating to the property? (it will *not* be sufficient merely to state that no notice has been received). If so, please provide particulars.
- 10.5. Have any defects become apparent, or adverse claims have been made by third parties in relation to the property? If so, please give particulars of all such claims already made, whether or not already settled.
- 10.6. Has the property to the knowledge of the Borrower or the Seller ever suffered from flooding, damp, subsidence, timber infestation or other structural deterioration or damage? If so, please give full details of the defects and state the steps taken to remedy them and whether a guarantee was obtained from the Contractors employed and supply a copy.
- 10.7. Please confirm that all fire regulations have been observed at the property and (if applicable) the date of the last fire risk assessment.

**11. Services & Rights**

- 11.1. Does the property have the benefit of mains sewerage, water, electricity and gas?
- 11.2. Do any of the above services (including the location of any cess pit) pass through or over the property not included in the title being charged?
- 11.3. Do any of the services (except where part of the mains) pass under any part of a neighbouring property? If so, please give details of route and particulars of any easement, grant, exception, reservation, wayleave, licence or consent authorising this.
- 11.4. Except in the case of public rights or where particulars have already been given, please advise, supplying copies of any documents where there are rights (whether enjoyed by the owner or occupier of the property, or over the property for the benefit of other property) for:
  - (a) access for light and air;
  - (b) access for pedestrians and vehicles;
  - (c) emergency escape routes;
  - (d) pipes and wires for services;
  - (e) access and facilities for repair, maintenance and replacement.

11.5. Has any person taken any action to stop or is any person entitled to stop (whether immediately or at some future time) or curtail or demanded payment for the use of any facility? If so, please give particulars.

11.6. Is the Borrower or the Seller aware of any rights or informal arrangements specifically affecting the property, other than any already disclosed or immediately apparent on inspection, which are exercisable by virtue of an easement relating to an ancient monument or land near it, or otherwise or which are in the nature of public or common rights?

## 12. Environmental Issues

12.1. Is the Borrower or the Seller aware of the existence of an environmental survey that has been carried out over the premises? If so, please provide a copy.

12.2. Please supply copies of any licences or authorisations relating to environmental law and relating to the Property and, if applicable, confirm that the terms of such licences have been complied with.

12.3. Is the Borrower or Seller aware of the existence of any hazardous substances in on or under the Property, including asbestos, fuels, chemicals, waste deposits or past storage areas or tanks?

12.4. Is the Borrower or Seller aware of any potentially contaminative processes being carried on in close proximity to the Property?

## 13. Planning & Local Authority Matters

13.1. What is:

13.1.1. the present use of the property?

13.1.2. when did this use commence and has this use been continuous since it commenced?

13.1.3. the property to be used for following completion?

13.2. Have any of the buildings on the property been erected, altered or added to in the past 20 years?

13.3. Please supply copies of all planning permissions from the past fifteen years revealed in your local search and any others in your possession or your client's possession (we reserve the right to request further documents if we require the same). Please also advise whether, any of the planning permissions revealed have not been implemented.

13.4. Is the Borrower or Seller aware of any condition on any planning permission that has not been complied with? (it will *not* be sufficient merely to state that no notice of breach has been received). If so, please provide particulars.

13.5. Does the Borrower or the Seller have any reason to contemplate enforcement proceedings of any description by the Local Authority? If so please give full particulars.

13.6. Is the Borrower or Seller aware of the property being classed as a Listed Building and / or in a Conservation Area?

13.7. Is the Property (or should the property) be registered as a House in Multiple Occupation? If so, please provide a copy of the Licence for the same.

13.8. Does the Borrower or the Seller have any reason to believe that access to the property might not be obtained direct from an adopted highway? If this applies, please provide full details of the possible defects and whether any formal or informal rights exist.

## 14. Completion Details

14.1. Please confirm the following in respect of the account to which net advance monies are to be sent:

- Name and Address of your Bank;
- Account Number;
- Sort Code; and
- Name of the Client Account.

14.2. Please confirm that upon completion, you will immediately send us confirmation that completion has taken place by fax or e-mail.

14.3. Please confirm that you agree to act as our agent on completion, failing which, we shall require personal completion at our offices and any monies remitted to you are held strictly to our order pending completion and will be returned to us on demand.

14.4. Please confirm that you have read and understand the procedure on the release of the mortgage advance, as set out on the attached Solicitors' Checklist.

14.5. Please note that should there be a surplus following the mortgage advance, this must be paid to a bank account in the names of all of the borrowers. If the specified account belongs to a third party, please let us know immediately. **You must not remit funds to a third party account without our authorisation.**

## **SPECIFIC QUESTIONS**

**Please answer the following sections only where they apply to the property in question.  
If any section is not applicable, please state this is the case in your replies.**

**15. Where the property is a proposed development site or where any building has been constructed within the past 5 years**

- 15.1. Please confirm whether the completed development will be covered by way of NHBC, Zurich or similar guarantee or whether it will be covered by way of an Architect's Certificate. In the case of the latter, please provide full details of the architect supervising the works.
- 15.2. Please provide copies of any collateral warranties from Architects, Structural Engineers, Quantity Surveyors, and other professionals relating to such works.
- 15.3. Is the Borrower or the Seller aware of any circumstances which might give rise to a claim under any of the contracts referred to above?
- 15.4. Where the Property is shortly to be or is in the process of being redeveloped pursuant to a planning permission, please provide copies of the approved plans for the development.
- 15.5. Is the Borrower or Seller aware of any requirement in the planning permission for the development that will impact upon land falling outside the proposed charge (such as land required for visibility splays, etc)?

**16. Where the borrower is a company registered in England and Wales or an Industrial & Provident Society / Friendly Society**

- 16.1. Please supply certified copies of the Certificate of Incorporation and Memorandum and Articles of Association or in the case of an Industrial & Provident Society or Friendly Society, a copy of the rules of that body.
- 16.2. Please confirm that the nature of the company's objects permit it to borrow money and to grant security in its ordinary course of business.

**17. Where the borrower is a company registered outside of England and Wales**

- 17.1. Please note that we will require an opinion letter approved by and addressed to us from an established firm of lawyers in the local jurisdiction. Please therefore provide a draft of this as soon as possible.
- 17.2. Please supply copies of Minutes regarding the execution of security documents and ensure that they are authenticated in the opinion letter.
- 17.3. If the Memorandum and Articles of Association and Certificate of Incorporation of the company are not in English, please supply a certified copy of the translation of the same.
- 17.4. There must be an up-to-date status report regarding the company in the Local Companies Registry should be included in the opinion letter.

**18. Tenancies to which the property is or will be subject— please answer separately for each tenancy at the property**

- 18.1. Please supply a copy of each lease or tenancy agreement and any other documents evidencing all or any of the terms of letting, together with details of any licences or consents that have been given to the tenant. Please note that all residential tenants should have formal written Assured Shorthold Tenancies in place.
- 18.2. Please let us know the current amounts of rent payable under each lease and (if this has been reviewed since the start of the tenancy) confirm the dates of such rent reviews.
- 18.3. Is the Borrower or the Seller aware of any further sub-letting of all or part of the demised premises?
- 18.4. Is the tenant now, or has he previously been, in arrears in paying rent and any other sums payable pursuant to the terms of the lease?
- 18.5. Is the Borrower or the Seller aware of any other breaches of the lease?
- 18.6. Has the tenant complained of any breach of the landlord's obligations?
- 18.7. If the tenancy is commercial, since what date have the demised premises been occupied for the purposes of the business now carried on by the tenant?
- 18.8. Which of the tenancies are subject to the provisions of either the Landlord and Tenant Act 1954 or the Housing Act 1988?
- 18.9. Have terms been agreed for any new tenancy to be granted to the tenant? If so, please supply a copy of any written agreement or particulars of any oral agreement.

# **SOLICITORS' CHECKLIST**

**This sheet is designed to answer the most common queries that we encounter.  
If you have a query regarding any other matter, please e-mail or telephone us on the contact details provided.**

## **When will funds be released?**

Please note that we cannot request funds from our client lender until all of the original signed mortgage documentation is returned to us. In cases where drawdown of funds is required urgently, we will report to our client on the basis that the signed page(s) of each document are faxed to us and that the originals will follow in the evening's post.

It is the norm that funds can be released within one to three working days following submission of our report on title (we cannot submit our report on title under all matters are satisfied)

In some circumstances the period for drawdown may be longer and we will advise if this is the case. Please ensure that your client has provided the lender with all requested information (via the broker or intermediary if necessary) so as to ensure that release of funds is not unduly delayed.

## **Advice to your Client(s)**

Our lender client's standard requirement is that all mortgage documentation must be signed in the presence of (and witnessed by) a Solicitor holding a current Practising Certificate or by a Legal Executive or by a Licensed Conveyancer. In most cases, you will be able to provide us with a signed certificate (in a standard form that will be supplied to you in due course with the other mortgage documents) confirming the advice that has been given but we appreciate that in some circumstances, it is not practical for the borrowers to attend your offices personally. If this is the case, you should advise us and we shall make alternative arrangements.

## **Pre-Contract Searches**

We will require searches to be carried out in all cases.

## **Pre-Completion Searches and Requisitions**

We will be responsible for the submission of priority searches at the Land Registry, together with Bankruptcy Searches and (if necessary) Land Charges Searches. We will also submit the application for registration at the Land Registry and (if required) at Companies House. You will only be contacted in respect of the search results or the application for registration if there is a problem.

## **Procedure on release of the Mortgage Advance**

Deducted from the gross mortgage advance will be our fees, together with disbursements incurred and any deductions pursuant to the Facility Agreement. A completion statement will be provided upon release of funds showing the deductions made from the gross advance. If you require an estimate of the net advance from us so that you may obtain any balance monies from your client, please advise and we shall endeavour to assist.

Upon release of funds, you will be sent a fax confirming that funds have been released and requiring you to have utilised them within **48 hours**. If you are not able to comply with this condition, funds must be returned to us without delay.

The use of mortgage funds will be conditional upon you complying with the obligations contained in our fax and therefore it is important that you read this prior to using mortgage funds. As a bare minimum, we will require you to carry out the following:

- Discharge all existing charges secured over the property and obtain evidence of discharge, forwarding the same to us as soon as it comes into your possession (or on purchase transactions, ensure that you have an adequate undertaking from the seller's solicitors to do so);
- On purchases, to forward the duly executed Transfer Deed to us as soon as it comes into your possession;
- On purchases, without delay to submit a Stamp Duty Land Tax return (together with the correct remittance), to promptly deal with any subsequent requisitions raised by HMRC and to forward the Certificate to us as soon as it comes into your possession;
- To send to us all other deeds and documents requiring registration, including consents, marriage certificates, evidence of change of name, etc;
- A completed, certified copy of all leases granted on completion; and
- Any pre-registration deeds and documents that come into your possession.