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## TERMS AND CONDITIONS FOR A SALE

Any instructions to act for you in a sale are to act in relation to documenting the sale. If we are instructed also in relation to estate agency, we will also prepare particulars of sale on your behalf, instruct surveyors to provide a Home Report and register the property for sale with ESPC and Rightmove.

There will be periods when you will hear nothing from us but this is normal and does not mean that we are not progressing your transaction. **If you have any concerns, feel free to telephone the person dealing with your case.** We shall notify you of the person allocated to you.

## DOCUMENTATION URGENTLY REQUIRED FROM YOU

1. Sale questionnaire duly completed. We shall send this to you either by e-mail or by post for completion. It is a requirement of the Law Society that we obtain such information from you. Without it, we cannot progress the transaction.
2. Evidence of your identity e.g. your passport, driving licence or pension book **AND** an electricity, gas or telephone bill or a bank or building society statement (less than 3 months old) showing your current address. Mobile telephone accounts are not acceptable. Please send or hand deliver originals or alternatively send a copy certified a true copy by your Bank, another solicitor, a Financial Adviser, accountant or police officer. **We shall be unable to progress your transaction without this evidence. It is essential that we receive these from you IMMEDIATELY. We shall also not be responsible for items lost in the post. We shall return items by first class post only.**

## ESTATE AGENCY

We will act as your agent in selling your property. All negotiations shall be carried out through us. You will pay a fee to us based on the price achieved for the property including any moveable items included even if they are apportioned separately for stamp duty purposes plus VAT at the prevailing rate. This fee will be payable on settlement of your sale where missives are concluded with any purchaser introduced by us, by any other agent, by you or by any other person or website during the period we are instructed to market your property. In the event that you terminate these instructions to act for you in the marketing of your property and you subsequently proceed to conclude missives with a party originally introduced by us or as mentioned above or if you instruct us to accept an offer from a purchaser and thereafter withdraw from the transaction, you will remain liable to pay our fees. In the event that missives are concluded but the transaction fails to settle, our fees shall remain payable.

If you know of anyone who may be interested in purchasing your property, you must notify us of the name and address of that person prior to marketing on the ESPC commencing otherwise our fees will remain payable as aforesaid.

## MISSIVES

These are formal letters which pass between solicitors. When all the terms are agreed then the purchase is “concluded”.

There is now a standard form of contract for property purchases and sales in Edinburgh and Glasgow which is used by most firms of Solicitors. The Standard Clauses can be found on the Law Society of Scotland’s website. If you are selling your property it is possible that the purchaser may not use the Standard Clauses in which case we will send you a copy of the relevant contract letters and discuss the terms of these with you in detail. The Standard Clauses are, hopefully, self explanatory however if you have any questions regarding the terms of the Standard Clauses please first read the Client Guide which can be obtained again on the Law Society of Scotland’s website and, if confusion still exists, advise us so that we can discuss the matter with you.

Please note- **you do not have to sign anything at this stage**, you will be bound by our signing the letters on your behalf. We will check with you throughout the negotiation of the missives and will give you a final opportunity to withdraw from the transaction before missives are concluded.

## **HOME REPORTS**

By law you must now provide a Home Report prior to marketing your property for sale. This comprises 3 elements – a survey, a property questionnaire and an energy performance certificate. If we are doing your estate agency for you we will instruct the survey and energy performance certificate from our surveyors on your behalf. You will pay the surveyors direct for this service. We shall be entitled to disclose your address and telephone numbers to the surveyors so that they can contact you to offer you the opportunity of paying by credit or debit card. The surveyors will not issue the final report until you have paid them or have agreed a deferred arrangement on payment for an additional fee.

We will forward the property questionnaire to you, hopefully by email, and **would request that your return this to us as a matter of urgency**. This is a separate questionnaire which will be published as part of your Home Report and not the same as the other questionnaire which is referred to above. That one is for our own internal use and must also be provided.

The Home Reports which we normally instruct do not include a Mortgage Valuation for the purchaser. This is because the report becomes out of date for a lender if it is more than 3 months old. You can choose to pay the additional sum at the outset if you wish but we recommend that you simply agree to pay for the mortgage valuation to be provided by the surveyors at your cost at the time the sale is achieved. Provision at this point costs a concessionary rate of £110 + VAT. This will ensure that there should be no difficulties with the purchaser’s valuation being different from ours. **WE STRONGLY RECOMMEND THIS COURSE.**

In the event that someone else is undertaking the estate agency part of your transaction, they will arrange the Home Report for you and this firm will have no responsibility in this connection.

## **SALE SET UP COSTS**

If we are doing your estate agency, you will pay up front the ESPC registration fee, a fee for uploading your Home Report to the ESPC website and our upfront set up costs . You will then pay the Home Report survey costs direct to our surveyors who will contact you in this connection. We will not be able to register your property with the ESPC until you have paid us and the surveyors.

## FEES

We will give you a detailed estimate of the likely fees and outlays in this matter. This will be provided by letter which will be either e-mailed or posted to you.

## STATUTORY NOTICES

Sometimes these will come to light during the course of a transaction. They are notices by the Council requiring work to happen to the roof or other common parts of a building. If any notices come to our attention during your transaction, the purchasing solicitors will most likely request estimates of the cost and will retain the amount of the highest of these plus the Council's administration fee of 15% + VAT and normally an additional sum of 25% until the work is completed. There is no guarantee that this will be enough to pay the bill. The Council would send the purchaser an account when the work is completed as they are the owner at that time. They have to pay it although they are entitled to recover it from you as the seller. If you already have estimates for any outstanding notices, please let us have these as soon as possible. If you do not, we can arrange for these to be provided at additional cost.

## PAYMENT OF FUNDS TO US

Please note the following instructions which will apply in the event that there is a shortfall in sums required to redeem your mortgage and pay the expenses of the sale. We will notify you as soon as we become aware that a shortfall will exist. **It is important that you read this carefully and comply with its terms** otherwise your transaction may not settle and you may be charged damages by the seller. We will deposit any funds with the Bank of Scotland plc. We will not be liable for any failure of the Bank. If you wish your funds to be deposited in a different bank or banks you will need to give us specific instructions to that effect and sufficient time to open the appropriate account. You should bear in mind that there is a limit on deposits which will be protected in the event of the failure of a Bank and you should take this into account in giving us instructions. We will charge a reasonable fee for opening such an account other than a Bank of Scotland one.

If you require to make a payment to us in these circumstances, your payment should be made in accordance with the undernoted instructions to our bank account. We shall supply details of our bank account at the time.

**You should NOT pay in funds by giro credit through your own bank as we may be unable to trace these in time for settlement. Please note that Bank of Scotland is inclined to advise customers that they should not bother with a CHAPs payment in order to save costs. However, as this often means that we cannot identify the funds have come from you, you will then have to get the Bank to write you a letter confirming that the funds have come from your account and that the funds are cleared in our account immediately. If this firm is charged a fee for the payment in of cash (and these charges CAN be substantial), this fee will be passed to you and settlement cannot take place until it is paid.**

You should:

1. Send sums of £10,000 or above by CHAPs to our above account the day before settlement. Your bank will charge a fee.
2. Send smaller sums by CHAPs as above OR by Bankers draft or cheque to be in our hands at least **7 working days before settlement. If the funds have not cleared in our account by settlement day, we shall be unable to settle your transaction.**

3. In both cases, **YOU MUST** ensure that your Bank shows your name on the Bankers' Draft or append a letter confirming same so that we have evidence that the funds came from your account or give your name as a reference when sending a CHAPs payment.

If the funds come from the account of a third party, you must ensure that that person sends us his/her passport/driving licence and utility bills in the same way as was required from you.

**IN ALL CASES, YOU MUST MAKE SURE THAT YOU HAVE SUPPLIED EVIDENCE OF THE SOURCE OF FUNDS TO US.**

**IF YOU DO NOT FOLLOW THESE INSTRUCTIONS CAREFULLY, WE WILL BE UNABLE TO SETTLE THE TRANSACTION ON THE DUE DATE and this may mean that you have to pay damages to the purchaser of the property.**

#### **PAYMENT OF SALE FUNDS TO YOU**

Funds remaining from your sale after settlement and your loan will be paid **by CHAPs four** business days after the transaction settles. As the sale price of the property arrives by cheque, this must clear through our bank before we can issue these payments. We will charge our normal fee for this service (currently £75 + VAT). We shall be entitled to deduct our fees and outlays from any sums due to you. We shall retain the sum of £100 to meet any expenses of documents required by the Land Registry and shall return any balance to you once the whole matter is completed.

#### **ARTL**

ARTL is the automated transfer of title to properties as well as other transactions. At present, most transactions do not use ARTL but it is always possible that your transaction will do so. One lender in particular requires that we undertake your transaction in this way. In the future, it is likely that all transactions will be carried out in this way but, at present, only a limited number of transactions will be affected. What will happen is that the documentation will be prepared online by the purchasing solicitors and will then be approved by the selling solicitors. The selling solicitors will then, at settlement, electronically sign the Disposition transferring the property to the Purchaser. We will require you to sign a mandate in these circumstances authorising us to electronically sign all documentation for you as seller. You will no longer sign any documentation yourself. We will, however, continue to keep you informed, as we do now, of any problems which may arise during the transaction and will only "sign" in accordance with the mandate you give us.

#### **COMPLAINTS**

We hope that you will be happy with the way in which we deal with your transaction. If you are unhappy with any matter, please speak to the person dealing with your transaction in the first instance. If they cannot resolve your problem for you, please ask for the matter to be passed to the solicitor responsible for your transaction. If, after these steps have been taken, you are still unhappy, please then ask to speak to Mary McQueen who is our Complaints Partner. If the matter cannot be resolved after you have gone through these processes, you are entitled to express your dissatisfaction with the firm to the Scottish Legal Complaints Commission.

#### **DESTRUCTION OF FILES**

We will destroy files after the periods recommended by the Law Society. This will mean in the case of sales of property after a period of 3 years. We will assume that you consent to such destruction and will not contact you further in this connection.

## CONTACT WITH THE FIRM

Until the point where you sell your property, you should contact our Property Department on the main telephone number: 0131 228 1926. At this point either Samantha or Jane will be dealing with your sale. You will be advised of who will be dealing with it when arrangements are made to prepare your Sales Schedules. We shall notify you of the name dealing with your transaction once an offer is received and is verbally accepted. You should then ask for that person when calling. Please feel free to ask your conveyancer or property manager for the name of the partner in charge of your transaction. **If our lines are busy and you are directed to our answer machine, please leave messages** on the answer machine and we will try to return all calls as promptly as possible.

## CONTACT DETAILS OF MEMBERS OF STAFF:

### Conveyancers

	Telephone	Fax	E-mail
Mary McQueen:	0131 228 1926	0131 228 9193	<a href="mailto:mary@mcqueenlegal.co.uk">mary@mcqueenlegal.co.uk</a>
Dot Mullally:	0131 442 6643	0131 477 7052	<a href="mailto:dot@mcqueenlegal.co.uk">dot@mcqueenlegal.co.uk</a>
Dorothy Woodward:	0131 442 6644	0131 477 7052	<a href="mailto:dorothy@mcqueenlegal.co.uk">dorothy@mcqueenlegal.co.uk</a>

### Property Department

Samantha Quigley	0131 656 3117	0131 228 9193	<a href="mailto:sam@mcqueenlegal.co.uk">sam@mcqueenlegal.co.uk</a>
Jane Yarrington	0131 656 3115	0131 228 9193	<a href="mailto:jane@mcqueenlegal.co.uk">jane@mcqueenlegal.co.uk</a>

**PLEASE NOTE THAT, WE DO NOT GUARANTEE THAT WE WILL BE AVAILABLE ON-LINE CONSTANTLY. YOU SHOULD NEVER ASSUME THAT WE WILL RECEIVE YOUR E-MAIL BY A SPECIFIC TIME AS WE MAY BE OUT OF THE OFFICE OR IN MEETINGS OR OFF-LINE. IF YOU WISH TO COMMUNICATE WITH US BY E-MAIL, PLEASE DO NOT ASSUME THAT THIS WILL RESULT IN AN INSTANT RESPONSE AS WE MAY HAVE TO INVESTIGATE MATTERS BEFORE WE REPLY. WE WILL NOT ANSWER E-MAILS ANY FASTER THAN LETTERS OR TELEPHONE CALLS as each much be prioritised. IF THE MATTER IS URGENT, A TELEPHONE CALL WOULD BE MORE APPROPRIATE.**