



Kensington

**2020
KENSINGTON**

**MORTGAGE
CONDITIONS**

SCOTLAND

Contents

Condition	Page
1. Definitions and Interpretation	3
2. Your Agreement with Us	3
3. How we will exercise our discretion under our agreement with you	4
4. Making payments when we ask you to	4
5. What you have to pay and when you have to pay it	4
6. Interest	6
7. Fees and expenses	7
8. What you must do in relation to the property and the mortgage	8
9. What you must ask our permission for in relation to the property	9
10. Insurance	9
11. Our security and what it covers	10
12. When we can ask you or your guarantor to pay us everything you owe immediately	10
13. When we can take possession of the property	11
14. When we can enter the property	11
15. Our right to act on your behalf	11
16. Powers we have as your attorney and powers a receiver has	12
17. Our right to transfer our rights under our agreement with you and the mortgage	12
18. Changing our agreement with you	13
19. Communicating with you	13
20. Joint mortgage	13
21. Other conditions	13
22. Complaints	14

1. Definitions and Interpretation

1.1 In these conditions certain words have a special meaning as follows:

- (a) “buy to let mortgage” means a mortgage over a property which we have agreed in your mortgage offer letter is, or will be, rented to a third party or parties following completion of the loan and will not be occupied by you or a member of your family;
- (b) “externally set interest rates” means externally set interest rates such as the Bank of England Base Rate, SONIA or such alternative reference rate set by organisations or mechanisms which we do not control;
- (c) “guarantor” means someone who agrees to be responsible for repayment of your loan if you fail to repay it on time and in accordance with our agreement with you;
- (d) “Kensington Standard Rate” or “KSR” means the interest rate described in condition 6.5;
- (e) “loan” means the total amount of money we lend you at the start of our agreement with you plus any additional amounts we lend you from time to time (whether or not pursuant to our initial agreement with you). This will include any further advances and any amount that you do not pay us when you’re supposed to, for example fees and expenses. The initial amount of the loan is set out in the mortgage offer letter;
- (f) “monthly payment” means the amount you must pay us every calendar month as described in condition 5 of these conditions. We may change the amount of the monthly payment under condition 5.12;
- (g) “mortgage” means the Standard Security we take over the property which is set out in the mortgage deed;
- (h) “mortgage deed” means the deed (called a “Standard Security”) signed by you which gives us security over the property and which incorporates these conditions and the Standard Conditions;
- (i) “payment date” means the date of the month on which you have agreed to make your regular monthly payment;
- (j) “product margin” has the meaning given to it in condition 6.6;
- (k) “property” means the property described in the mortgage deed and provided as security for the loan, together
 - i. with all buildings, fixtures and fittings now or at any time after the start of our agreement and including all your
 - ii. rights and interests in that property;
- (l) “quarterly review date” means the date KSR is reviewed each quarter as set out in condition 6.5(b);
- (m) “second home mortgage” means a mortgage over a property which we have agreed in your mortgage offer letter will be (i) occupied by you but not as your main home; (ii) occupied permanently by a parent or child of you; or (iii) used as a holiday home by your family members or friends, and in any case will not be let to a third party (in whole or part) under a tenancy agreement or let as a holiday let at any time;
- (n) “SONIA” means the Sterling Overnight Index Average, being the effective overnight interest rate paid by banks for unsecured transactions in the British sterling market, currently administered by the Bank of England;
- (o) “Standard Conditions” means the conditions set out in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970;
- (p) “you”, “your” means the company, person or people named in the mortgage deed as the “borrower” and anyone we may later add to the mortgage at your request. It can also include a personal representative, a successor or anyone else who takes over your legal rights or responsibilities;
- (q) “we”, “us”, “our” means Kensington Mortgage Company Limited (trading as “Kensington” or “Kensington Mortgages”) and our successors and anyone who takes over our legal or beneficial rights, interests and/or responsibilities under our agreement with you; and
- (r) “working day” means any day which is not a Saturday, Sunday or a bank holiday in England and Wales.

1.2 There are references to legislation in these conditions, for example, the Conveyancing and Feudal Reform (Scotland) Act 1970. When there is a reference to legislation this will include any statutory instruments (or regulations) made under that legislation and any changes to the legislation or the statutory instruments. If you want to understand how this legislation impacts you, your solicitor or conveyancer can explain how these provisions work.

2. Your Agreement with Us

2.1 Our agreement with you is made up of:

- (a) these conditions;
- (b) the mortgage offer letter (which includes any special conditions);
- (c) our tariff;
- (d) the mortgage deed (which includes the Standard Conditions); and

- (e) any other agreement we make with you in connection with our agreement with you, for example, we may request other security from you such as security over an increased interest in the property in accordance with condition 8.1(i)..
- 2.2 Where you are a company you must ensure the mortgage and any other security entered into pursuant to these conditions is registered at Companies House within 21 days of (in the case of the mortgage) the date the mortgage is registered at Registers of Scotland or (in all other cases) the date of its execution.
- 2.5 Where you are a company you must not do any of the following without telling us in advance:
 - (a) change the nature, or size, of your business as it is being conducted as at the date you sign the mortgage deed in an important way;
 - (b) change the ownership of your company.
- 2.6 Where you are a company and you change the ownership of your company you shall provide us with a personal guarantee from any new director or any director who has increased their shareholding in the company, if we request such a guarantee.

3. How we will exercise our discretion under our agreement with you

- 3.1 Where, under our agreement with you, we have the right to take certain action or to require you to do (or not do) something which is subject to specific criteria such as:
 - (a) condition 6.5 where we say when we can change KSR;
 - (b) condition 6.9 where we say when we can change the way we calculate KSR;
 - (c) condition 7.3 where we say when we can increase existing fees or introduce new fees; and
 - (d) condition 9.1(b) where we say you must ask for our permission before letting the property, we will exercise our discretion in accordance with the relevant specific criteria.
- 3.2 Where we have a right to take certain action or require you to do (or not do) something under our agreement with you which is not subject to specific criteria we will always act reasonably when we do so.
- 3.3 Conditions 3.1 and 3.2 also apply to the things other people do where those people are acting on our behalf.

4. Making payments when we ask you to

- 4.1 In these conditions we say you will have to pay us certain amounts when we ask you to, for example fees and expenses. If you do not pay us these amounts when we ask you to you will be breaking your agreement with us and we may add these amounts to your loan and charge interest on them at the rate which applies to your loan.

What you Have To Pay

5. What you have to pay and when you have to pay it

- 5.1 You will have to pay us back your loan plus interest on your loan and any other amounts you owe us by the end of our agreement with you. You may also have to pay us fees and expenses plus interest on those fees and expenses at the rate which applies to your loan if you do not pay them when we ask you to. We tell you what these fees and expenses are later in these conditions (see condition 7), in the mortgage offer letter and in our tariff.
- 5.2 You must make your monthly payments by direct debit from an account in your sole name or, if there is more than one of you, in the sole name of one of you or in your joint names. You agree not to close the account from which the direct debit is collected by us or cancel or alter the direct debit mandate to the bank or building society at which the account is maintained without informing us in advance. If you close the account from which the direct debit is collected by us you must give us the details of the replacement account from which you will be making your monthly payment and a new direct debit instruction for that replacement account. If you want to make your monthly payments another way you can only do this if we agree and this alternative payment method may incur a fee. You must allow at least 5 (five) working days for your payment to clear; this means you will need to make the payment at least 5 (five) working days before your monthly payment date so it reaches us on time.
- 5.3 If your mortgage offer letter describes your loan as "interest only" your monthly payment will only be made up of the interest which we calculate each month under condition 6. If you have an "interest-only" loan you must repay the loan amount at the end of the agreement and it is your responsibility to make separate arrangements so that you are able to repay this amount.
- 5.4 If your loan is described as "part repayment and part interest only" or "part and part" your monthly payment will repay the loan amount and interest on that part which is borrowed on a repayment basis but will only repay interest on that part of the loan which is borrowed on an "interest only" basis. You must repay that part of the loan which is "interest only" at the end of your agreement. It is your responsibility to make separate arrangements so that you are able to repay this part of the loan.

- 5.5 If your loan is described as “interest-only”, “part repayment and part interest only” or “part and part” and the separate arrangements you have made to repay the loan at the end of the agreement are not enough to repay the loan amount either you may have to sell the property or we can sell the property and use the sale proceeds towards repayment of the amount you owe us.
- 5.6 You will have to make payments each month on the payment date you agree with us until you pay off everything you owe under our agreement with you. Any money which you pay to us will be treated as received by us only when we receive the money in cleared funds.
- 5.7 You are not required to make a monthly payment in the same calendar month as we provide the loan. We will collect your first payment on the monthly payment date you agree with us in the second calendar month unless that date is less than 16 (sixteen) working days after the day we fund your loan. If this is the case we will collect your first payment 16 (sixteen) working days after the day we fund your loan. Your first payment will be made up of interest that has accrued from the date we funded your loan and your normal monthly payment amount which is set out in your mortgage offer letter and calculated in accordance with condition 5.11 below.
- We will write to you to confirm your first monthly payment date and amount after you complete your loan. Your subsequent payments will be your normal monthly payments.
- 5.8 You can only make your monthly payments on a working day. If your monthly payment date falls on a weekend or a bank holiday you will instead make the payment on the next working day or, if the next working day would be in the following month, you will make your payment on the previous working day.
- 5.9 If your monthly payment date falls on a date which does not occur in any given month, for example, the 31st of each month if a month has fewer than 31 days, your payment date will be brought forward to the last working day of that month.
- 5.10 You can ask us to change the date on which you make your monthly payments. You must tell us at least 10 (ten) working days before your next payment date to allow us enough time to make the change. If you do not allow us enough time to make the change for your next monthly payment we will take that payment on the current date and change your monthly payment date from the following month onwards. When you change the date on which you make your monthly payments this may change the amount of interest you will have to pay on your loan and so the amount of your monthly payment may also change.
- 5.11 Unless you have an interest-only loan or part and part loan (in which case the full amount of the loan, or that part of the loan which is on an interest only basis, is due at the end of the agreement in accordance with condition 5.3 or 5.4), we have worked out the amount of your monthly payment on the basis that you will repay the loan and the interest you must pay on the loan by the end of the agreement, provided you make all your monthly payments on time and your interest rate remains the same.
- 5.12 Your normal monthly payment amount is set out in the mortgage offer letter. We may need to change the amount of your monthly payment if, for example:
- (a) your interest rate changes or you decide to let the property and we increase your interest rate in accordance with these conditions;
 - (b) you have to pay a fee or expense, for example if we pay ground rent or service charge on your behalf and you have to pay us back;
 - (c) you make an overpayment;
 - (d) you make a monthly payment late or not at all or you only pay part of your monthly payment; (e) you change the day on which you make your monthly payment;
 - (f) we lend you more under our agreement with you;
 - (g) we agree a different payment arrangement with you where you are in financial difficulties; or
 - (h) we agree a change to our agreement with you and as a result of that change we need to change your monthly payment to ensure you repay your loan by the end of the term.
- If any of these take place we may re-calculate your monthly payment and we will tell you the new monthly payment amount. We will calculate this on the basis set out in conditions 5.3, 5.4 or 5.11 as applicable to your loan. In addition not more than once in any 12 month period we may re-calculate your monthly payment to ensure you will repay the loan and the interest you must pay on the loan by the end of the agreement, unless you have an interest only or part and part loan (in which case the full amount of the loan, or that part of the loan which is on an interest only basis, is due at the end of the agreement in accordance with condition 5.3 or 5.4). If we re-calculate your monthly payment this will not include any arrears on your monthly payments unless we have agreed this with you. We will still be entitled to demand immediate payment of any arrears on your monthly payments and other money which you owe us that has not been included in your recalculated monthly payments.
- 5.13 We will write to you and tell you if we change the monthly payment at least 10 working days before the changed monthly payment is due.
- 5.14 When you make a monthly payment and any other payment under our agreement with you we will apply it to your account immediately in the following order:

- (a) first we will use it to pay off any monthly payments you owe us (including interest on those monthly payments and arrears of monthly payments); and
 - (b) then we will use it to pay off any fees and expenses you owe us (including any interest on those fees and expenses) which have not already been added to the loan balance and included in your monthly payments.
- 5.15 If you make an overpayment (i.e. any payment that is greater than your monthly payment amount and any other amounts you owe us such as arrears of monthly payments, fees or expenses) of, or series of overpayments that amount to, less than £5,000 unless we agree otherwise we will not apply this to reduce your loan balance but it will reduce the amount of interest you have to pay. Your monthly payments will remain the same. If you overpay in one month this does not mean you can underpay in a later month. In circumstances where your total overpayments amount to less than £5,000 and we have not applied the overpayments to reduce your loan balance, once you have paid down your loan so that the outstanding loan balance equals the amount of your overpayments, you will have repaid the loan. If we do agree to apply an overpayment of less than £5,000 to reduce your loan balance you may have to pay an early repayment charge and an administration fee and we may change the amount of your monthly payment in accordance with condition 5.12. We will tell you in your mortgage offer letter whether you have to pay an early repayment charge and how the early repayment charge is worked out. Any administration fee is set out in our tariff.
- 5.16 If you make an overpayment of, or a series of overpayments (during the term of the loan) that amount to, £5,000 or more we will use this to reduce your loan balance. You may have to pay an early repayment charge and an administration fee. We will also change the amount of your monthly payment in accordance with condition 5.12 unless we agree otherwise. We will tell you in your mortgage offer letter whether you have to pay an early repayment charge and how the early repayment charge is worked out. Any administration fee is set out in our tariff.
- 5.17 If you make an overpayment we will not refund the overpayment to you unless it is greater than your loan balance in which case we will refund any difference to you.

6. Interest

How we charge you interest

- 6.1 We will charge you interest on everything you owe us under our agreement with you (including unpaid interest, fees and expenses) unless we tell you otherwise.
- 6.2 We start charging you interest on money we lend you under our agreement with you from the day we lend it.
- 6.3 We calculate interest on the balance of your loan each day and we apply interest for the month to your account on the last calendar day of each month.

The type of interest rate you have

- 6.4 The type of interest rate which applies to your loan will be set out in your mortgage offer letter.

KSR plus a product margin

- 6.5 Where the interest rate is stated to be KSR plus a product margin:
 - a) KSR is a variable rate which is set by us and reviewed on a quarterly basis. It is based on Bank of England Base Rate plus an adjustment of between 0% (zero) and 1% to take account of our costs in funding your loan. KSR will not be set lower than Bank of England Base Rate or higher than 1% above the Bank of England Base Rate at the time we set the rate. If the Bank of England Base Rate is lower than 0% (zero) at the time we set KSR, we shall deem the Bank of England Base Rate to be 0% (zero).
 - b) We will review KSR quarterly and set it on 10 March, 10 June, 10 September and 10 December each year (or the immediately preceding working day, if the relevant date does not fall on a working day).
 - c) On each quarterly review date we may increase or decrease KSR (within the parameters set out in condition 6.5(a)) to respond to any one or more of the following:
 - (i) a change to Bank of England Base Rate since the last review;
 - (ii) a change in our costs of funding your loan since the last review (this may include, for example, where the interest rate on the money we borrow to fund your loan, such as SONIA, changes); or
 - (iii) a change in the law, codes of practice or to meet regulatory requirements.
 - d) KSR will be rounded up or down to the nearest 0.05% (so the second decimal point will always be a 5 or a 0). We will only increase or decrease KSR if the events in condition 6.5(c) would result in a change to KSR of 0.05% or more.
 - e) Any change to KSR will take effect from the first day of the month following the quarterly review date. We will give you at least 10 working days written notice of any change we make to KSR before it takes effect.
- 6.6 The product margin is a fixed percentage rate which is added to KSR to reach the total interest rate which applies to your loan. Your product margin will not change unless we tell you otherwise in your mortgage offer letter or as permitted elsewhere in these conditions (for example in the circumstances set out in condition 9.1).

Fixed interest rate

- 6.7 The interest rate you pay may be fixed for a specified period of time. Your mortgage offer letter will say if this is the case and will tell you how long the interest rate is fixed for. This means that your interest rate will stay the same for the specified period and we will not change it. Once the specified period comes to an end you will pay interest on your loan at a variable interest rate, as set out in your offer letter, unless we have agreed a different arrangement with you (for example another fixed rate period).

Discounted rate

- 6.8 The interest rate you pay may be discounted for a specified period of time. Your mortgage offer letter will say if this is the case and will tell you how long the interest rate is discounted for. Once the specified period comes to an end you will pay interest on your loan at a variable interest rate, as set out in your mortgage offer letter, unless we have agreed a different arrangement with you (for example another discounted rate period). Even if we have agreed a discounted rate with you the interest rate will never fall below 0% (zero).

Changing the way we calculate or replacing KSR

- 6.9 As KSR is set based on an externally set interest rate (Bank of England Base Rate) with an adjustment for our cost of funding your loan (which is currently based on another externally set interest rate (SONIA)), we may change the way we calculate KSR or replace KSR with an alternative interest rate in the following circumstances:
- (a) the methodology, formula or other means of determining the Bank of England Base Rate has, in our reasonable opinion, materially changed; or
 - (b) it is no longer possible for us to determine the Bank of England Base Rate, or the Bank of England Base Rate ceases to exist or be published; or
 - (c) the administrator of the Bank of England Base Rate announces that the rate may no longer be used or will be permanently or indefinitely discontinued; or
 - (d) in anticipation of any of the events set out in (a) – (c) above, we determine in our reasonable opinion that it is appropriate to change the way we calculate KSR.
- 6.10 In changing the way we calculate KSR or choosing an alternative interest rate to replace KSR (in the circumstances specified in condition 6.9) we will follow an approach that we reasonably expect to minimise any change in the cost of your loan.
- 6.11 We will give you notice of any change to your rate we propose to make under condition 6.9. If we replace KSR with an alternative rate all references to KSR in your loan documentation shall be deemed to be references to the replacement rate.

7. Fees and expenses

Fees

- 7.1 Fees you must pay under our agreement with you are:
- (a) fees set out in the mortgage offer letter;
 - (b) early repayment charges for paying your loan early in full or in part (we tell you what these are in your mortgage offer letter);
 - (c) standard fees set out in our tariff;
 - (d) our reasonable costs of administration; and
 - (e) any other fees you have to pay under our agreement with you.
- 7.2 You must pay any fees under our agreement with you when we ask you to.
- 7.3 We can decrease or remove an existing fee at any time for any reason. We can also increase an existing fee, introduce a new fee but we can only do so for any of the following reasons:
- (a) to respond proportionately to a change in our costs;
 - (b) if we have been providing a service to you at a fee that is lower than the cost to us of providing the service we can increase the fee so we pass on our full cost to you;
 - (c) if we have not been previously charging for providing a service, we can introduce a fee for it that responds proportionately to our costs for providing the service; or
 - (d) if we start providing a new service we can introduce a fee for it that responds proportionately to our costs for providing the service.
- 7.4 We will tell you in writing one month before we change an existing fee or introduce a new fee and where we have made such changes we will send you an updated copy of the tariff at least once a year. Exceptionally, where we are decreasing or removing a fee we may do so without giving one month's notice if this enables the decrease or removal of the fee to take place earlier and we reasonably judge this to be in your best interest.

Expenses

- 7.5 Expenses may come about because you do not keep your obligations under our agreement with you, for example, if you do not insure the property, fail to keep it in good repair or you fail to pay ground rent or a service charge and we do so for you, or if we have to take legal action because you break your agreement with us. Expenses may also come about because you have breached your agreements with other people or local bylaws, for example if you are subject to an enforcement or noise abatement order, or if you ask us for something or you ask us to do something. If we know how much an expense will be in advance we will tell you. We will charge you the full amount of any expenses we have to pay to other people. We will only charge you a reasonable amount to cover our internal expenses.
- 7.6 You must pay us any other expenses we reasonably incur to do with the property, the loan, the mortgage (including protecting and preserving our security over the property), or our agreement with you.
- 7.7 You must pay any expenses when we ask you to.
- 7.8 If we have to add any tax to our fees or expenses, for example VAT or insurance premium tax, you must pay the tax.

What You Have To Do

8. What you must do in relation to the property and the mortgage

- 8.1 You agree to do the following:
- (a) live in the property and use it as your sole or main home unless it is a buy to let mortgage or a second home mortgage or we otherwise agree you do not have to;
 - (b) not use the property for any illegal or immoral purposes;
 - (c) not use the property for any business use unless we agree you can;
 - (d) keep the property in good repair and condition and carry out building or repair work needed to keep the property in good repair so it keeps its value as our security. If you do not do so we may repair the property for you and you must pay us for doing so when we ask you to;
 - (e) not neglect the property or do anything which could damage the property, reduce its value, or impact any insurance in a negative way or increase any insurance premium;
 - (f) carry out building and repair work which we may ask you to carry out or which is required by laws or regulations that apply to the mortgage, the property or the agreement between you and us. If you do not do so we may carry out such works for you and you must pay us for doing so when we ask you to;
 - (g) make any payments relating to the property in full and on time. If you fail to do so we can pay them for you and you must repay us when we ask you to;
 - (h) comply with any obligations or restrictions which apply to property, for example, title or lease conditions. If you do not comply with obligations or restrictions which apply to the property we may need to step in to comply with them on your behalf and you must pay us for doing so when we ask you to;
 - (i) tell us if you will become the owner of a new or increased interest in the property or any land or building which includes the property, for example, if your interest changes from leasehold to ownership. You must give us a new mortgage over the new or increased interest if we ask you to.
 - (j) get our approval before taking out any further borrowing secured against the property and our approval to the terms of any new mortgage deed. We can make our approval subject to conditions;
 - (k) immediately tell us about and give us a copy of any notice, order, direction, licence, consent or permission relating to the property, for example, any notice from your local authority or from the person who owns the title to the property if the property is leasehold;
 - (l) if you receive any compensation money in relation to the property you must pay the money to us and we may treat it as a part early repayment. You will hold any such compensation money on trust for us;
 - (m) if we ask you must give us any document you have relating to the property or the ownership of the property; and
 - (n) if you are a member of a management company which deals with the management of the property or its amenities, you must deposit your share certificate or other certificate of membership with us. If asked, you must also sign a formal transfer of your shares or other membership rights to any person who buys the property from us.
- 8.2 If you have a buy to let mortgage or we have otherwise agreed that you do not need to live in the property you must ensure that you do not live in the property and that the property is occupied as a residence by someone as detailed in our letting criteria, which criteria may change from time to time and are available on request.
- 8.3 To enable us to comply with our obligations under anti-money laundering and financial crime law and regulation, we may from time to time require information from you. If we make a reasonable request for information for this purpose, you must give it to us as soon as possible.

9. What you must ask our permission for in relation to the property

9.1 You must ask for our permission before you:

- (a) sell the property or any part of the property, give the property or any part of the property away, transfer ownership of the property or any part of the property or make any declaration of trust in relation to the property or any part of the property;
- (b) grant or agree to grant a lease or tenancy over all or part of the property unless we have agreed in the mortgage offer letter that you do not need to live in the property. This means you cannot rent the property to someone else without our permission. If the mortgage offer letter said that you needed to live in the property and we subsequently allow you to grant a lease or tenancy over the property we will be able to increase the interest rate product margin payable on your loan by up to 1% and you must ensure the property is occupied by someone as detailed in our letting criteria which are available on request. If you let your property without our permission, or if we reasonably believe you have, we can increase the product margin which forms part of the interest rate payable on your loan by up to 1% and we can backdate the extra interest to when you originally let your property or to when we reasonably believe you did so;
- (c) vary the terms of any lease or other agreement relating to all or part of the property; (d) give up possession of all or part of the property and allow someone else to live there;
- (e) give someone else security over all or part of the property unless we have agreed otherwise in the mortgage offer letter;
- (f) change the use of all or part of the property or apply to the planning authority to change the use of all or part of the property;
- (g) make any structural or other significant changes to all or part of the property;
- (h) deal with a claim for compensation if your local authority takes possession of all or part of the property; (i) apply for or get a grant in respect of all or part of the property; or
- (j) cease to occupy the property for 90 days or more unless we have agreed otherwise in your mortgage offer letter or allow the property to be vacant for 28 days or more (or any shorter period specified in the insurance policy of the property).

9.2 We may make our permission subject to conditions. We will always act reasonably when deciding whether or not to give you our permission or when we make our approval subject to conditions. For example we will be acting reasonably if we refuse to give you permission, or we make our approval subject to conditions, because we reasonably think there is a risk of a fall in value of the property or of a negative impact to the mortgage over your property or our ability to rely on or enforce that mortgage.

10. Insurance

- 10.1 You must insure the property at all times against all risks we may reasonably specify with a reputable insurer and you must pay all of the insurance premiums on time. Details of our buildings insurance requirements are available on request. If you do not do so we may insure the property instead for you. When we insure the property the insurance may cover both our interests and your interests but we may decide only to cover our interests. You must pay us for any insurance cover we obtain when we ask you to.
- 10.2 If the property is leasehold and under the terms of the lease, buildings insurance is the responsibility of your landlord, the following terms will apply instead of condition 10.1:
- (a) you must take reasonable steps to ensure that the landlord insures the property with a reputable insurer against all risks we reasonably specify and for at least the full cost of rebuilding the property; and
 - (b) you must notify us immediately if you become aware that any insurance has lapsed or does not otherwise comply with the requirements of this condition or condition 10.3 below.
- 10.3 You, or your landlord where the property is leasehold, must ensure that the property is insured for at least the full cost of rebuilding the property and that the insurance is "index linked". The full cost of rebuilding the property will be determined at the start of our agreement with you when we have the property valued and this cost will be updated each year by our insurer. Many insurers will use what is known as the "House Rebuilding Cost Index" to work this out.
- 10.4 If we ask you must provide us with a copy of the insurance policy and proof that it is still in force each year but we may ask you to send it to us more often if we need to. If you do not provide evidence of adequate insurance when asked, or we reasonably suspect you do not have adequate insurance in place, we may take out an insurance policy for the property as set out in condition 10.1 above.
- 10.5 If we reasonably think the insurance policy is not adequate you must improve the insurance cover in the way we ask you to. If you do not do so we may do so for you and this may only cover our interests and may not cover your or anyone else's interests. You must pay us for improving the insurance cover when we ask you to.
- 10.6 You must not do anything which could make the insurance invalid or make it more difficult or expensive to insure the property.
- 10.7 You must tell us about any damage to the property which could mean you need to make a claim under your insurance immediately. If the insurance policy allows us to we can negotiate with the insurer and settle a claim on reasonable terms.

- 10.8 You must use any money from an insurance claim to repair or rebuild the property or for the purpose the claim was made, unless we tell you we want you to use it to pay us for amounts you owe us under our agreement with you. We will only do this if we reasonably think the money from the insurance claim will not put the property in good enough repair for the value of the property to provide adequate security for the loan or will not meet the purpose for which the claim was made. You will hold any money you receive from an insurance claim on trust for us.

What We Have The Power To Do

11. Our security and what it covers

- 11.1 The property and the mortgage are security for the loan and for any other amount you owe us under this or any other agreement we have (or will have) with you while we still have security over the property.
- 11.2 We will not release any security we hold until you have paid us everything you owe under our agreement with you and all other amounts you owe us.
- 11.3 The security you give us does not apply to any money you owe us under an agreement regulated by the Consumer Credit Act 1974 unless that agreement itself says that the security also covers the lending under that agreement.
- 11.4 This agreement is a continuing security for your obligations to repay the loan and until the loan has been repaid in full, we have the right to keep as security any property which we may hold as security for the loan.

12. When we can ask you or your guarantor to pay us everything you owe immediately

- 12.1 We can ask you or your guarantor to pay us everything you owe us immediately if:

- (a) you have fallen behind with payments and:
 - (i) the total shortfall is the equivalent of three or more monthly payments; and
 - (ii) you have failed to pay us the shortfall within a reasonable length of time of us asking you to.

This does not apply if we have agreed you can pay a different amount each month than your monthly payment and you pay the different amount each month in full and on time (we call this an arrangement);

- (b) you have failed to pay us everything you owe us by the time our agreement with you was due to end (this does not apply if we have agreed you can pay late);
- (c) you do not keep to your obligations under our agreement with you and we reasonably think this poses a material risk to our interests in the property or under the mortgage; for example if you have not paid ground rent or service charges and your landlord is seeking irritancy of the lease, or you have carried out building work to the property without asking for our permission and that building work has caused damage to or reduced the value of the property;
- (d) if we agreed in your mortgage offer letter that you would not live in the property and that you would rent the property to someone else but we find out you lived or have been living in the property during the term of your loan with us;
- (e) you (or someone on your behalf) gave us false or misleading information, or did not give us information, when you applied for the loan and that information would have had a significant impact on our decision to lend to you;
- (f) the mortgage deed or any guarantee we ask you to get is not valid or legally binding for any reason;
- (g) another lender with any security over the property takes steps to enforce that security;
- (h) the property or any material part of the property is compulsorily purchased for example by a local authority;
- (i) if you have another mortgage with us and we also become entitled to ask you to pay everything you owe us immediately under that other mortgage;
- (j) you are an individual and you become bankrupt or equivalent insolvency proceedings are brought against you; (k) your guarantor becomes bankrupt or equivalent insolvency proceedings are brought against your guarantor;
- (l) if you are a company:
 - (i) any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation of the company (by way of voluntary arrangement, scheme of arrangement or otherwise); or
 - (B) the appointment of a liquidator, administrator, compulsory manager, trustee or other similar officer over you or your guarantor (or other provider of security) or any of your or their assets, provided that this shall not apply to a winding up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement;

- (ii) you cease your business, or the nature of your business changes in a way that we reasonably believe adversely affects your ability to meet your obligations under this agreement in an important way;
 - (m) you die and you are the only borrower under our agreement with you;
 - (n) you, or your guarantor, enter into an individual voluntary arrangement with anyone you or your guarantor (as applicable) owe money to;
 - (o) you, or your guarantor, apply for an interim order to protect you or your guarantor from claims by somebody you or your guarantor (as applicable) owe money to;
 - (p) any actions or events are commenced or occur in respect of you in any jurisdiction whatsoever which are equivalent or analogous to those set out in paragraphs (j), (k), (l), (n) or (o); or
 - (q) we need to end our relationship with you due to the operation of any law, regulation or order of the court which we must comply with (including if we need to end our relationship because you fail to provide the information we require under condition 8.3). We will give you a full explanation unless we are prevented from doing so because of any law, regulation or order of the court.
- 12.2 If any of the events set out in condition 12.1 take place and we are holding any funds on your behalf under a power of sale in relation to another property owned by you and which is secured to us, where the funds we hold exceed the amount required to discharge the amount secured by the other security, we can set-off the funds against the outstanding amount you owe under our agreement.

13. When we can take possession of the property

- 13.1 If any of the things in condition 12 (When we can ask you or your guarantor to pay everything you owe immediately) above happen we can take possession of the property. This means we will take control over the property and you must leave it. We might have to get a court order before we can take possession of the property. If we take possession of the property we can let the property to someone else on reasonable terms (or if the property is already let we can take over the right to manage the property and receive rent). We can also sell the property (but we do not need to take possession of the property first to do this).
- 13.2 If we take possession of the property we will take reasonable care of the property and we will use rent and other income we receive from the property as payment towards the amount you owe us.
- 13.3 If we sell the property we will sell it for the best price we can reasonably get within a reasonable timeframe and we will use any money we get from the sale to pay the amount you owe us. If there is any money left over once we have used the sale proceeds to pay what you owe us we will pay that money to anyone we know has a right to it, for example another lender with a mortgage over the property. If there is no one else who has a right to that money we will pay it to you.
- 13.4 You may have to pay early repayment charges or other fees for repaying the loan early if we, or a receiver, sell the property before your agreement with us was due to end. We will tell you what these charges are in your mortgage offer letter and tariff.
- 13.5 If we or you sell the property and the sale proceeds do not cover the amount you owe us, you will still have to repay us any outstanding amount and interest will be charged on that amount at the rate which applies to your loan.
- 13.6 We can use any powers we have under the Conveyancing and Feudal Reform (Scotland) Act 1970 or any other applicable law or regulation in addition to any rights or powers we have under our agreement with you.
- 13.7 If we take possession of the property you must remove all your possessions from the property. We can remove, store, sell or dispose of anything you leave at the property, including animals, and where we do we will do so as your agent. You will have to pay our costs of doing this and you must do so when we ask you to. If you do not pay our costs when we ask you to we will add these to your loan and you will pay interest on them at the interest rate which applies to your loan.

14. When we can enter the property

- 14.1 You must allow one of our employees or agents, a valuer or a surveyor access to the property to inspect it at any reasonable time of the day following reasonable notice.
- 14.2 If we ask someone to carry out work on the property where you have failed to do so you must allow them access to the property at any reasonable time of the day following reasonable notice.
- 14.3 When someone referred to in this condition 14 (When we can enter the property) comes into the property this does not mean that we have taken possession of the property or that we have accepted the legal responsibilities as if we had possessed the property.

15. Our right to act on your behalf

- 15.1 You appoint us to be your attorney until you pay us everything you owe under our agreement with you. We can do anything that you could do with the property such as signing documents to do with our agreement with you or the property.

- 15.2 Where there is more than one of you and we are acting as your attorney we will act on behalf of all of you jointly and each of you separately.
- 15.3 You must confirm anything we have done as your attorney if we ask you to.

16. Powers we have as your attorney

- 16.1 If any of the things in condition 12 (When we can ask you or your guarantor to pay everything you owe immediately) above happen, we as, your attorney or under our other legal powers, can:
- (a) receive any money payable to you to do with the property, any right or claim over the property or any insurance, guarantee or compensation to do with the property, the mortgage or our agreement with you;
 - (b) choose the order any money received is used to repay interest, the loan and any charges and costs;
 - (c) make a claim to do with the property or under any insurance, guarantee or compensation relating to the property, the mortgage or our agreement with you;
 - (d) insure the property. This may only cover our interests and may not cover your or anyone else's interests;
 - (e) use any proceeds of an insurance claim to repair or rebuild the property or for the purpose the claim was made unless we tell you we want you to use it to pay us any amounts you owe us under our agreement with you;
 - (f) make arrangements with or enforce the obligations of any current or former tenant or occupier of the property;
 - (g) take action to surrender (renounce) or terminate (irritancy) any tenancy or to get possession of all or part of the property and grant new leases of the property;
 - (h) vary the terms of any lease or other agreement relating to the property; or
 - (i) sell the property. We will sell it for the best price we can reasonably get within a reasonable timeframe.
- 16.2 At any time (not just when any of the things in condition 12 (When we can ask you or your guarantor to pay everything you owe immediately) above happen), we, as your attorney or under our other legal powers, can:
- (a) employ and pay agents to carry out work on our behalf;
 - (b) instruct anyone who has documents, records or accounting information about the property (including ownership of the property), the mortgage or our agreement with you to give us those documents, records or accounting information;
 - (c) take action to keep the property in good repair and condition;
 - (d) take action to meet any laws or regulations in relation to the property;
 - (e) take steps to remedy any defect with the mortgage deed which means it is not binding;
 - (f) sign forms or documents required for the property;
 - (g) transfer any share or membership right in any management company or residents' association or society or similar of which you are a member and which is connected to the property; use any rights you may have as a member; or ask for the cancellation and reissue of any certificate of share of membership you have in any such organisation;
 - (h) do anything else reasonably required to do with the property to ensure the property will continue to provide good security for the loan, the mortgage or our agreement with you; or
 - (i) do anything else you have to do under our agreement or any related security.

17. Our right to transfer our rights under our agreement with you and the mortgage

- 17.1 We can transfer or otherwise dispose of any or all of our rights under our agreement with you to someone else at any time.
- 17.2 If we do not transfer our right to set the interest rate and fees, we do not have to tell you about the transfer of any other rights. If we do transfer our right to set the interest rate and fees we have to tell you about the transfer and we will tell you who will set the interest rate and fees going forward. If we transfer our right to set the interest rate and fees this means you may have a different interest rate to loans we have retained or to loans where we have transferred our right to set the interest rate and fees to a different third party.
- 17.3 If we transfer our rights under our agreement with you we will make sure the person we transfer them to takes on the same responsibilities towards you as under our agreement with you. Your rights and responsibilities will be the same as under our agreement with you.
- 17.4 If we transfer our rights under our agreement with you to someone else you agree that:
- (a) your existing and future responsibilities to us under our agreement with you will become responsibilities to the person we transfer the agreement to;
 - (b) our existing and future rights under our agreement with you will be replaced by the same rights of the person we transfer the agreement to; and

- (c) references to our name or “we”, “us”, and “our” in our agreement with you will each mean the person we transfer the agreement to.

17.5 You agree that we can pass on any information or documents relating to our agreement with you to any person we are discussing transferring our agreement with you to or to any person we transfer our rights under our agreement with you to.

General

18. Changing our agreement with you

- 18.1 We tell you how and when we can change the amount of your monthly payments, the interest rate you pay, and fees you have to pay under our agreement with you elsewhere in these conditions.
- 18.2 We can change any other aspect of our agreement with you if we reasonably think the change will be as favourable or more favourable to you. We can also make changes to any other aspect of our agreement with you for the following reasons:
 - (a) to comply with a change in any applicable laws or regulations or how applicable laws or regulations are applied or interpreted;
 - (b) if we introduce a new service or facility or we improve an existing service or facility in connection with our agreement with you;
 - (c) if we need to change the way we run your account as a result of changes in the banking or financial system; or
 - (d) to enable us to harmonise, in a reasonable manner, how we manage your agreement with us following any acquisition or transfer of mortgages or any takeover or merger with another provider.

We will give you at least one month's written notice before we make such a change.

19. Communicating with you

- 19.1 We can contact you using the most recent email address, postal address or phone number you have given us. If you are a company we will use your registered address. You must tell us if your contact details change.
- 19.2 Telephone calls with you may be monitored and recorded so we can comply with our regulatory obligations, check instructions you give us, train our staff and for quality monitoring purposes.
- 19.3 We will communicate with you in English.
- 19.4 Where we say we will tell you before we do something or give you notice of something we will do so in writing, for example by sending you an email, letter, SMS/text message or notification by any of these means that information is available via our customer online portal. In a notice we may tell you we will do something, for example make a change to these conditions, or that you must do something by a future date. Where we do not specify a future date then the date the notice takes effect will be:
 - (a) the second working day after the date on the notice unless it is to an address outside the United Kingdom in which case it will be from the seventh working day after we post it; or
 - (b) the day we email you or send an SMS/text message.
- 19.5 If you need to send us a notice, you must send it to us at Kensington Mortgage Company Limited, PO Box 831, Redhill, RH1 9NJ, or to any other address or by any other means of communication of which we may notify you for this purpose from time to time.

20. Joint mortgage

- 20.1 If more than one of you is named on the mortgage deed as borrowers the mortgage is a joint mortgage and the terms of our agreement with you apply to all of you.
- 20.2 You are jointly and severally liable. This means you are each individually responsible for keeping the terms of our agreement with you, for example making sure monthly payments are made, and we can take action against one or all of you if you do not keep to the terms of our agreement with you.
- 20.3 You agree we will only need to send information to do with our agreement with you to one of you (you must tell us who this will be) and we will do this unless we are required by law or regulation to send the information to everyone who is named on the mortgage deed.
- 20.4 Any of you can give us instructions to do with our agreement with you independently of the other borrower(s) and we do not need to check with the other borrower(s) before acting on those instructions but we may choose to do so.

21. Other conditions

- 21.1 If we choose not to enforce all or part of our agreement with you or we delay enforcing it this does not mean we cannot enforce it at a later date.
- 21.2 If we cannot enforce part of our agreement with you that will not affect our right to enforce any other part of it.

- 21.3 We will not be liable to you for any of the following if we are unable to provide any service or fulfil any obligation under our agreement with you:
- (a) any business losses or costs you suffer (such as loss of business, loss of goodwill, loss of opportunity or loss of profit) in any circumstances; or
 - (b) any loss to you we could not have reasonably anticipated.
- Nothing in our agreement with you will stop us being liable if we act fraudulently, negligently, or we are at fault and the law does not permit us to limit or exclude liability.
- 21.4 If we get a court order against you to force you to pay us what you owe under our agreement with you, you will continue to pay interest on the amount you owe at the interest rate which applied to your loan before the court order.
- 21.5 You agree to tell us promptly if:
- (a) your circumstances change and you are no longer able to afford the loan;
 - (b) you stop living in the property; or
 - (c) we have previously agreed you do not have to live in the property and you change your home address.
- 21.6 You agree to sign any document we need in order to safeguard the mortgage or our other security or to protect our interests in the property and you agree to pay the reasonable costs for any such documents to be prepared and registered.
- 21.7 Our agreement with you is in English and is governed by the law of Scotland. The law of Scotland is the basis for the establishment of relations with you before our agreement with you is entered into. We and you agree that the Scottish courts will have exclusive jurisdiction in relation to any claims or disputes arising out of or in connection with your agreement with us.

22. Complaints

- 22.1 If you have a complaint about your loan or the standard of service we provide you, please contact us to let us know in the first instance.
- 22.2 If you are not happy with the way we deal with your complaint you may be able to refer your complaint to the Financial Ombudsman Service by writing to them at Financial Ombudsman Service, Exchange Tower, E14 9SR, calling them on 0800 023 4567 or contacting them at www.financial-ombudsman.org.uk.

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