



# **SKIPTON INTERNATIONAL**

## **Mortgage Conditions (Scotland)**

**March 2020**

## Deed of variation of standard conditions

WE, SKIPTON INTERNATIONAL LIMITED (registered in Guernsey as a company limited by shares with registration number 30112 having our Registered Office at Tudor House, The Bordage, St Peter Port, Guernsey, GY1 1DS, HEREBY DECLARE that for the purpose of loans to be made by us secured by standard securities in our favour over heritable property in Scotland the Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 shall apply subject to the following variations, which variations shall be called the Mortgage Conditions (Scotland) 2018.

### 1 Understanding these conditions

- 1.1 We are Skipton International Limited. References to us in these Conditions include:
  - 1.1.1 our successors, transferees and assignees (whether in relation to all or part of the **Mortgage Debt**);
  - 1.1.2 and may at any time mean more than one of them.
- 1.2 References to you in these Conditions are to the person(s) named as the Borrower(s) in the **Mortgage** and their successor(s) in title.
- 1.3 If there is more than one of you, these Conditions apply to all of you together and to each of you on your own. This means that we can hold each of you fully liable for the **Mortgage Debt**.
- 1.4 In these Conditions:
  - 1.4.1 “**Environment Acts**” means the Environmental Protection Act 1990 and the Environment Act 1995.
  - 1.4.2 “**Environmental Notice**” means any notice issued under sections 78A to 78YC of the Environmental Protection Act 1990 or section 71(2) of the Water (Scotland) Act 1980 in respect of contamination or pollution relating to the **Property** or any neighbouring property.
  - 1.4.3 “**Expenses**” has the meaning set out in Condition 3.1.
  - 1.4.4 “**Interest Rate**” means the rate or rates of interest which the **Loan Agreement** says applies to the **Mortgage Debt**, as changed from time to time in accordance with the terms of the **Loan Agreement**.
  - 1.4.5 “**Loan**” means any money lent to you by us which is secured by the **Mortgage** (including any additional borrowing or borrow back).
  - 1.4.6 “**Loan Agreement**” means:
    - 1.4.6.1 the written offer by which we offered to make the **Loan** to you (as amended, if at all, before making the **Loan**) and all other documents referred to therein or is supplemented thereby;
    - 1.4.6.2 and includes any written offer of additional borrowing or variation secured by the **Mortgage** which you have taken up.
  - 1.4.7 “**Mortgage**” means any standard security these Conditions apply to.
  - 1.4.8 “**Mortgage Account**” means the account we maintain which records debits and credits to the **Mortgage Debt** made from time to time.
  - 1.4.9 “**Mortgage Debt**” means all the money you owe us from time to time under the **Loan Agreement**, including:
    - 1.4.9.1 any parts of the **Loan** which are unpaid;
    - 1.4.9.2 any interest which has been debited to the **Mortgage Account** but remains unpaid; and
    - 1.4.9.3 any other sum which has been debited to the **Mortgage Account** but remains unpaid, such as **Expenses** or an early repayment charge which is due.
  - 1.4.10 “**Mortgage Documents**” means the **Mortgage** and these Conditions.
  - 1.4.11 “**Planning Acts**” means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997, the Planning and Compulsory Purchase Act 2004, and the Building (Scotland) Act 2003.
  - 1.4.12 “**Property**” means all or part of the property described in the Mortgage (including all buildings, fixtures and additions).

- 1.4.13 “**Related Rights**” means the following rights relating to the **Property**, whether arising by agreement, or under the common law or statute:
- 1.4.13.1 any proceeds of sale, letting or other disposition;
  - 1.4.13.2 any guarantees, insurance or compensation;
  - 1.4.13.3 any share or membership rights in a residents association or management company; and
  - 1.4.13.4 any other benefit, right, remedy or option of any kind relating to the **Property**, the way it is built, the materials it is made of, its condition or use, or its title (including any right or remedy which arises from damage to it or a fall in its value).
- 1.4.14 “**Term**” means the term for repayment of the **Loan** specified in the **Loan Agreement** (or such other term as we agree with you).
- 1.5 In these Conditions:
- 1.5.1 the singular includes the plural and the other way round;
  - 1.5.2 references to days are to calendar days and references to months are to calendar months;
  - 1.5.3 references to any Act of Parliament include:
    - 1.5.3.1 any changes to, or replacement of, that Act or its provisions; and
    - 1.5.3.2 any rules, regulations and orders made under that Act;
  - 1.5.4 headings are inserted for convenience only and have no legal effect; and
  - 1.5.5 words which are defined by Condition 1.4 are printed throughout in bold type.

## 2 Our Security

- 2.1 The **Mortgage** secures:
- 2.1.1 the **Mortgage Debt**; and
  - 2.1.2 and any other sums you owe us which you agree with us are to be secured by the **Mortgage**.
- 2.2 In addition:
- 2.2.1 So far as you are able, you assign the **Related Rights** to us as further security for the money secured by the **Mortgage**.
  - 2.2.2 You will hold any money you receive under any of the **Related Rights** on trust for us.
  - 2.2.3 Any money received by you or us in respect of the **Related Rights** must be used to reduce the money secured by the **Mortgage**, unless we agree otherwise.
  - 2.2.4 When the money secured by the **Mortgage** is paid in full, we will re-assign any remaining **Related Rights** to the person entitled to them at their request.
- 2.3 As regards documents relating to the **Property** or the **Mortgage**:
- 2.3.1 You must give us all such documents as we reasonably request and we will be entitled to keep them until the **Mortgage Debt** is paid in full.
  - 2.3.2 You may ask us to produce those documents we hold for examination or to supply extracts from or copies of them. Where you do so, you must pay any **Expenses** or **Charges** which apply.
  - 2.3.3 Where we hold documents which we have not asked you to give us, you may have to pay **Expenses** or **Charges** in respect of the costs of storing those documents.
- 2.4 Our security for the money secured by the **Mortgage** includes any interest over or through neighbouring, adjoining or any other land or buildings which benefits the **Property** acquired by you. If you acquire any such interest, you must grant us a standard security over that interest in such form as we reasonably require within one month of the completion of your acquisition.
- 2.5 We shall be entitled at any time to consolidate (combine) this **Mortgage** with any other security which we have or at any time hold for other debt you owe us (notwithstanding that you have not failed to meet your obligations under the **Mortgage** or in connection with any other security). This means that we can insist that both the **Mortgage** and the other security must be redeemed at the same time, and we can refuse to accept repayment of one alone.

### 3 Expenses

- 3.1 In these Conditions, “**Expenses**” mean expenses and costs (including our internal costs and costs we have to pay to a third party such as legal costs) which we incur in connection with the following activities:
- 3.1.1 dealing with any request you make of us in connection with the **Mortgage Documents**;
  - 3.1.2 insuring the **Property**;
  - 3.1.3 carrying out acts relating to the **Property** under the **Planning Acts** or the **Environment Acts**;
  - 3.1.4 exercising and enforcing our rights, powers and remedies under the **Mortgage Documents** or the law;
  - 3.1.5 recovering the **Mortgage Debt**;
  - 3.1.6 bringing or defending legal proceedings relating to the **Mortgage Documents** (whether or not you are a party to those proceedings);
  - 3.1.7 dealing with the final repayment of the **Mortgage Debt** and the discharge of the **Mortgage**;
  - 3.1.8 releasing the **Property** or the **Related Rights** from our security; and
  - 3.1.9 releasing any title deeds relating to the **Property** or the **Mortgage**.
- 3.2 Where our **Expenses** relate to our internal costs:
- 3.2.1 the amount of those **Expenses** will be equal to our reasonable calculation of the average internal costs we incur in carrying out the activity those **Expenses** relate to; and
  - 3.2.2 those **Expenses** may include an allowance to reflect a reasonable share of our overheads in providing and maintaining any accommodation, systems, facilities and resources which are used partly for carrying out that activity and partly for other purposes.
- 3.3 You will be liable for our **Expenses** in full provided we act reasonably in incurring them and they are reasonable in amount.
- 3.4 Where an **Expense** is incurred we will debit it to your **Mortgage Account** and charge interest on it at the **Interest Rate** until payment.
- 3.5 Where you become liable for an **Expense**, we will give you prior written notice of the **Expense** and its amount before we debit it to your **Mortgage Account**.

### 4 Obligations concerning the Property

- 4.1 You agree to:
- 4.1.1 keep the **Property** in good repair;
  - 4.1.2 rebuild the **Property** where necessary;
  - 4.1.3 make sure that any unfinished building or works on the **Property** are completed without delay and are properly built;
  - 4.1.4 comply with all title conditions, agreements and statutory obligations affecting the **Property** or its use;
  - 4.1.5 promptly pay any rent, rent charges and common charges payable in respect of the **Property**;
  - 4.1.6 promptly produce to us on request a statement showing the amount and due date of any sums Condition 4.1.5 applies to and the name and address of the person they must be paid to;
  - 4.1.7 produce to us on request receipts for the payment of any sums Condition 4.1.5 applies to not later than seven days after they become due;
  - 4.1.8 promptly pay all rates, taxes and other charges payable by the owner or occupier of the **Property**;
  - 4.1.9 comply promptly with any order, notice or requirement of any local or other authority relating to or affecting the **Property** or any road or footway which abuts the **Property**;
  - 4.1.10 comply with the **Planning Acts** and the **Environment Acts**;
  - 4.1.11 comply promptly with any notice or order under the **Planning Acts** or **Environment Acts** (unless reasonably requested by us in connection with Condition 4.1.13 to act otherwise);

- 4.1.12 give full particulars in writing to us within seven days of receipt of any notice, order or proposal for a notice or order under the **Planning Acts** or **Environment Acts** and, where requested, produce the notice, order or proposal to us;
- 4.1.13 make, or join with us in making, at your own expense such objections or representations against or about any notice, order or proposal under the **Planning Acts** or **Environment Acts** as we reasonably request;
- 4.1.14 not create any circumstances which could lead to the issue of an **Environmental Notice**;
- 4.1.15 immediately tell us in writing if you become aware of any circumstances which may lead to the issue of an **Environmental Notice** or if an **Environmental Notice** is issued, and in either case provide written details of the steps you intend to take to remedy those circumstances or comply with the **Environmental Notice**;
- 4.1.16 give us full details in writing of any claim, notice of proceedings or other notice affecting the **Property** within seven days of receipt;
- 4.1.17 not carry out or permit any third party to carry out any unlawful or criminal activity at the **Property**;
- 4.1.18 ensure that all furnishings within the **Property** fully comply with all fire and safety regulations;
- 4.1.19 promptly give us any information about the **Property** which we reasonably ask for;
- 4.1.20 do all things necessary or expedient to protect, enforce or maintain our interest in the **Property**; and
- 4.1.21 permit us and any persons authorised by us on giving you reasonable prior written notice to:
  - 4.1.21.1 enter the **Property** at a reasonable time (unless there is an emergency) to survey the condition of the **Property**; and
  - 4.1.21.2 (where reasonably necessary) take samples or make trial pits or boreholes.
- 4.2 You agree not to do, or allow any third party to do, the following without our prior written consent (which we will not unreasonably withhold):
  - 4.2.1 remove any fixtures and fittings from the **Property**;
  - 4.2.2 accept a surrender of, forfeit, or agree to any change to or extension in any lease of the **Property**;
  - 4.2.3 transfer the **Property**;
  - 4.2.4 grant any lease or tenancy or any other right to a third party to occupy the **Property** not in accordance with the **Loan Agreement**;
  - 4.2.5 grant any other interest in the **Property** or any rights over it.
  - 4.2.6 give up legal possession of the **Property** or share legal possession of the **Property** with a third party;
  - 4.2.7 make any structural alterations to the **Property** or put up any other buildings or constructions on it;
  - 4.2.8 change the use of the **Property** or any part of it or allow it to be used for any trade or business (other than as residential let);
  - 4.2.9 apply for, or receive, any grant or allow a local authority to carry out any repairs, which would result in a charge being created over the **Property**;
  - 4.2.10 you agree to not occupy the security property.
- 4.3 Where you seek our consent under Condition 4.2:
  - 4.3.1 you must apply to us in writing with full details of your proposal regarding the matter you are seeking our consent to;
  - 4.3.2 we may by giving you reasonable prior written notice require the **Property** to be inspected at a reasonable time in order to properly consider your proposal.
- 4.4 If we give our consent under Condition 4.2 to your proposal, you will apply for any permissions, consents or certificates required to lawfully implement your proposal and give us notice of the result of your application within seven days of receipt.
- 4.5 You will reimburse us a reasonable sum in respect of any liability which we cannot reasonably avoid, and any associated costs which we reasonably incur, arising from:
  - 4.5.1 a breach of your obligations as the owner or occupier of the **Property** (including any failure to pay rent, rent charges or common charges);
  - 4.5.2 any application referred to in Condition 4.2; or

4.5.3 any failure by you to comply with the **Planning Acts** or the **Environment Acts**.

- 4.6 We are not obliged to keep the **Property** in repair, unless we have taken possession of it. Where we have taken possession of the **Property**, we are not obliged to make improvements to it. Where the **Property** is not in good repair when we take possession of it, we may market it for sale without taking steps to place it in good repair provided that we take reasonable steps to ensure that it is reasonably secure from intruders.
- 4.7 If you fail to observe your obligations under the **Mortgage** then we shall have the power (but not be bound) to carry out those obligations at your expense. This will be without prejudice to any other rights which we may have.

## 5 Insuring the Property

- 5.1 The **Property** must be insured at your expense:
- 5.1.1 in the joint names of you and us; or
  - 5.1.2 in such other manner as we approve with an insurer approved by us (and we will not unreasonably withhold our approval).
- 5.2 The **Property** must be insured to a minimum of its full replacement value from time to time (including architects and other professional fees, demolition, site clearance, the cost of complying with the requirements of all competent authorities and an allowance for inflation).
- 5.3 Where insurance for the **Property** is arranged by us, we may be paid a commission by the insurer. We shall be entitled to retain any such commission.
- 5.4 We are not obliged to make sure that cover provided by any insurance policy arranged by you is adequate. If the insurance is in your name alone, you must tell the insurer of our interest in the **Property** and arrange for our interest to be noted on the policy.
- 5.5 You must promptly pay all premiums for effecting, maintaining or renewing insurance for the **Property**. If you fail to pay any such premiums, we may pay them for you and debit them to your **Mortgage Account** as **Expenses**.
- 5.6 Where we ask, you must immediately deliver to us the policy or policies of insurance in respect of the **Property** and a receipt for every insurance premium you have paid.
- 5.7 You will hold all money you receive under any insurance policy relating to the **Property** on trust for us. You must pay such money to us and we will apply it (so far as may be required) either in making good the loss or damage or in reduction or repayment of the **Mortgage Debt**. Any surplus will be paid to you or any other person entitled to receive it.
- 5.8 We may make agreements on your behalf with the provider of insurance for the **Property** on all matters relating to that insurance (including the settlement of any claim and receipt of any money paid out under the insurance).

## 6 Your attorneys

- 6.1 By way of security you irrevocably appoint us to be your Attorneys. As your Attorneys we may:
- 6.1.1 sign and complete any documents required to make good your title to the **Property**, or our title to the **Mortgage**, or to vest the **Property** and the **Related Rights** in us, our nominees or any purchaser;
  - 6.1.2 sign, complete and otherwise make good any security or other document referred to in the **Mortgage Documents** and any other agreements or documents (including any variation of your title to the **Property**) required to protect or improve our security;
  - 6.1.3 do everything that is necessary to obtain the grant or transfer of all permissions, consents or certificates for using the **Property**;
  - 6.1.4 do anything which is needed or is useful for the full exercise of the rights remedies and powers conferred on us under the **Mortgage Documents**;
  - 6.1.5 where it is reasonable to do so in order to protect our security, settle any claim made by a management company even though you may dispute or not admit any sums claimed;
  - 6.1.6 exercise the **Related Rights**; and
  - 6.1.7 make a claim under any policy of insurance referred to in Condition 5.

- 6.2 You agree with us to ratify any lawful act of an Attorney under this Condition 6 if you are required to do so by us.
- 6.3 If there is more than one borrower, the powers under Condition 6.1 will only arise after the **Mortgage Debt** has become immediately repayable under Condition 7.1 and we have subsequently given you written notice that the powers under Condition 6.1 have arisen. The powers will then continue for twelve months from the date of our written notice.

## 7 When you must immediately repay the Mortgage Debt

- 7.1 Standard Condition 9 shall be varied so that, in addition to the circumstances set out therein, you shall also be in default and the **Mortgage Debt** will become immediately payable in full if:
- 7.1.1 you do not comply with one or more of your obligations under the **Loan Agreement**;
- 7.1.2 you:
- 7.1.2.1 do not comply with one or more of your obligations under the **Mortgage Documents**;
- 7.1.2.2 other than in a respect which is only minor; and
- 7.1.2.3 you do not remedy your failure to comply within 28 days of us giving you written notice of it;
- 7.1.3 the **Mortgage Debt** is not paid in full by the end of the **Term**;
- 7.1.4 a petition for bankruptcy is presented against you;
- 7.1.5 you enter into an arrangement with or for the benefit of creditors;
- 7.1.6 (being a company) an order is made or a resolution passed for winding up (except for the purpose of amalgamation or reconstruction) or a receiver is appointed by the holder of a floating charge or debenture; or
- 7.1.7 an order for compulsory acquisition of the **Property** or any part of it is made and confirmed.

## 8 Our powers when the Mortgage Debt is immediately repayable

- 8.1 We may at any time after the **Mortgage Debt** has become immediately repayable under Condition 7.1, do all or any of the following without notice:
- 8.1.1 Take possession of the **Property** (subject to our obtaining any court order which is required).
- 8.1.2 Lease the **Property** for such period and upon such terms as we think appropriate.
- 8.1.3 Accept a surrender of any lease of the **Property** on such terms and conditions (including the payment of money to a tenant) as we think appropriate.
- 8.2 If we take possession of the **Property**, we shall become your agent (in respect of the matters mentioned in this Condition 8.2 only) with authority to sell, remove, store, and lease with the **Property** any furniture, vehicles, goods or livestock which you fail to remove from the **Property** within fourteen days of us taking possession. We will pay you all proceeds received in this regard (after deduction of any **Expenses** which apply).
- 8.3 Where the **Mortgage Debt** has become immediately repayable under Condition 7.1, our powers are extended to enable us to do the following:
- 8.3.1 We may (without being obliged to) after giving you reasonable prior written notice carry out any obligations under the **Mortgage Documents** which you have failed to comply with.
- 8.3.2 We may after giving you reasonable prior written notice take steps to maintain, repair or improve the **Property**, without becoming liable as mortgagee in possession (unless we have also taken possession of the **Property**).
- 8.3.3 If you leave any works of construction on the **Property** unfinished, we may either sell the **Property** with the construction still unfinished or after giving you prior written notice complete the works of construction.
- 8.4 We may only exercise our further powers under Condition 8.3 if it is reasonable for us to do so to protect our security or realise our security on favourable terms.
- 8.5 Notwithstanding the provisions of Conditions 4.1 and 8.3, unless we have taken possession of the **Property**, we may not carry out any works, or require any works to be carried out, which are needed to remedy a circumstance which could lead to the issue of an **Environmental Notice** or to comply with an **Environmental Notice**.

## 9 Transferring our rights

- 9.1 We may at any time while any part of the **Mortgage Debt** remains owing to us:
  - 9.1.1 transfer, charge or otherwise dispose of the benefit of some or all of our rights under the **Mortgage Documents** to a third party; and
  - 9.1.2 pass to that third party (before or after we exercise our rights under Condition 9.1.1) the information contained in your application for the **Loan** and any supporting documentation or information together with any other documentation or information relating to the **Property**, the **Mortgage** and any other security held by us.
- 9.2 Where we have exercised our rights under Condition 9.1.1, unless our agreement with them provides otherwise, the third party will be able to exercise all the rights, powers and remedies which we have under the **Mortgage Documents**.
- 9.3 You agree that the third party may rely upon the truth and accuracy of the information contained in your application for the **Loan** and any supporting documentation or information provided by you.

## 10 Communication

- 10.1 We may give you written notice under the **Mortgage Documents** or provide you with any document:
  - 10.1.1 by giving it to you personally, in which case we will treat it as received when it is given to you;
  - 10.1.2 by electronic means, in which case we will treat it as received on the day it is transmitted;
  - 10.1.3 by post or delivery to the **Property**, in which case we will treat it as received when it would arrive in the ordinary course of post (where we use the post) or 48 hours after it is delivered (where we use delivery); or
  - 10.1.4 by post or delivery to your last known address, in which case we will treat it as received when it would arrive in the ordinary course of post (where we use the post) or 48 hours after it is delivered (where we use delivery).
- 10.2 Where there is more than one of you we may give notice to all of you by giving or sending it to the person named first in our records, except where there is a legal requirement that each borrower must be given notice.

## 11 Applying these Conditions

- 11.1 The **Mortgage Documents** are governed by Scots law.
- 11.2 Each of the terms in the **Mortgage Documents** is separate from the others. If for any reason one or more such terms is or becomes unenforceable, the remaining terms shall continue to be enforceable.
- 11.3 If you or we delay in enforcing a term in the **Mortgage Documents**, you or we shall not be prevented from enforcing that term later on.
- 11.4 We will not be liable to you for anything we do or fail to do which is due to:
  - 11.4.1 abnormal and unforeseeable circumstances beyond our control, the circumstances of which would have been unavoidable despite all efforts to the contrary; or
  - 11.4.2 our legal obligations.

## 12 Changes to the Mortgage Documents

- 12.1 We may change the terms of the **Mortgage Documents**.



# SKIPTON INTERNATIONAL

**YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP  
REPAYMENTS ON YOUR MORTGAGE**

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