



TO
LET

This is an important document. Please read it carefully and keep a copy for future reference.



Birmingham Bank Complex Buy-To-Let Mortgage Terms & Conditions 2023 (First Edition) v2.0

These are the Birmingham Bank Complex Buy-to-Let Mortgage Terms and Conditions and are to be read in conjunction with the Mortgage Offer Letter and the other documents forming part of the Mortgage Agreement.

These Terms and Conditions are to outline the basis on which we have agreed to provide the Loan to you.

In addition to those terms defined at the end of these Terms and Conditions, terms defined in the Mortgage Offer Letter have the same meaning in these Terms and Conditions.

1. Withdrawal of the offer

- (a) If you have accepted the Mortgage Offer Letter, we retain the right to withdraw the Mortgage Offer Letter at any time and will not be required to advance the Loan to you, if:
 - (i) any of the below circumstances occur:
 - (A) any fact or circumstance comes to light, which, if they had been known to us at the date of the Mortgage Offer Letter, would have meant we would have not offered the loan facility to you,
 - (B) we become aware that false or misleading statements have been given by you; or
 - (C) any circumstance occurs which if the Loan had been advanced to you, would have given us the right to demand immediate repayment of the Outstanding Balance pursuant to Clause 7 (Mandatory Early Repayment); or
 - (ii) for any other reason, we give you written notice that we have withdrawn the Mortgage Offer Letter.
- (b) Subject to paragraph (c) below, if we withdraw the Mortgage Offer Letter in accordance with these Terms and Conditions, you will still be required to pay any applicable fees and charges set out in these Terms and Conditions and the Birmingham Bank Tariff of Mortgage Charges and we will be entitled to retain any fees and charges you have already paid to us.
- (c) If we withdraw the Mortgage Offer Letter under paragraph (a)(ii), you will not be required to pay any fees and charges set out in these Terms and Conditions and the Birmingham Bank Tariff of Mortgage Charges and we will refund to you any fees and charges you have already paid to us.

2. Drawdown of the Loan

- (a) We will only be required to advance the Loan to you if we have received all the Required Documents and the date on which you want us to advance the Loan is within the Availability Period.
- (b) We will only make one advance and the Loan will be in such amount that we may agree with you but it cannot be more than the Loan Amount. Any part of the Loan Amount which is not drawn will be automatically cancelled on the day we advance the Loan to you.
- (c) The Loan will be advanced by way of telegraphic transfer and we may charge you a fee for this transfer as set out in the Birmingham Bank Tariff of Mortgage Charges.
- (d) You may not redraw any part of the Loan which is repaid or prepaid.

3. Loan Purpose

- (a) You may only use the Loan for the Loan Purpose but we are not obliged to ensure the Loan is used for that purpose.
- (b) You confirm that the purpose of the Loan is wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by you.

4. Payments

- (a) You must repay the Outstanding Balance by the Repayment Date.
- (b) Each Monthly Payment must be paid on the Monthly Payment Date by Direct Debit from a bank account in your name held with a UK bank or building society.
- (c) You must not cancel your Direct Debit mandate without telling us first in writing and giving us details of an alternative account (in compliance with paragraph (b) above) and setting up a new Direct Debit mandate for that account.
- (d) If your direct debit payment is refused by your bank, we may charge you an administration fee as set out in the Birmingham Bank Tariff of Mortgage Charges each time our application for payment is unsuccessful.
- (e) Our determination of an interest calculation, a Monthly Payment or any other payment due by you to us under the Mortgage Agreement shall be, save in manifest error, binding and final.
- (f) Where a payment is due on a Saturday or Sunday or a weekday when we are not open for business, the payment will be due on the next day which is not one of those days.
- (g) We may apply any payments received from you (including the Monthly Payment) and/or any Receipts to reduce any of your liabilities to us and in such order and amounts as we reasonably decide.

5. Interest

- (a) We will charge interest from the date we advance the Loan to you (even if it is released to our solicitor at your solicitor's request before you need to use it) and this interest will be calculated on the Outstanding Balance at the Interest Rate.
- (b) The first Monthly Payment will consist of the accrued interest from and including the date we advance the Loan to you up to and including the last day of the month in which we advance the Loan to you plus your regular Monthly Payment. Thereafter, each Monthly Payment will be as set out in the Mortgage Offer Letter.
- (c) If you choose to prepay part of the Loan in accordance with these Terms and Conditions, the amount of the Monthly Payment may change. If you do make a prepayment, we will notify you of any change to the amount of the Monthly Payment.
- (d) If you fail to pay any sum due under the Mortgage Agreement when it becomes due for payment, we may charge interest on that sum at the Default Interest Rate as well as the relevant charges for our administration and management of accounts in arrears as set out in the Birmingham Bank Tariff of Mortgage Charges.
- (e) Interest will accrue on a daily basis both before and after judgment.

6. Repayment

- (a) The Outstanding Balance is repayable in full on the Repayment Date and you must ensure you have adequate arrangements in place to make repayment on that date.
- (b) You must also pay any fees and charges as set out in the Birmingham Bank Tariff of Mortgage Charges which are payable when you repay the Outstanding Balance.
- (c) If you do not repay the Outstanding Balance on the Repayment Date or if earlier, the date we have made a demand for immediate repayment pursuant to paragraph (a) of Clause 7 (Mandatory Early Repayment), we shall be entitled to exercise all rights and remedies available to us as set out in these Terms and Conditions including exercising any of our rights or remedies under the Security Document(s) without further notice to you.
- (d) We will only be required to release the Property from the Security Document(s) (and any other assets over which you have granted security to us under the Security Document(s)) once all sums owed to us by you which are secured by the Security Document(s) have been paid. You must also pay any fees and charges as set out in the Birmingham Bank Tariff of Mortgage Charges in connection with such release.

7. Mandatory Early Repayment
- (a) We are permitted to demand immediate repayment of the Outstanding Balance prior to the Repayment Date if:
- (i) subject to paragraph (ii) below, you fail to make any payment of any sum payable by you under the Mortgage Agreement or any other sum payable to us by you within 1 month of its due date for payment;
 - (ii) you fail to repay the Outstanding Balance on the Repayment Date;
 - (iii) you fail to comply with any other term of the Mortgage Agreement or the terms of any other document and/or agreement between us unless the failure can be and is remedied within such reasonable period of us requesting you to do so;
 - (iv) any confirmation given or information provided by you or on your behalf, which we consider material, proves inaccurate;
 - (v) any part of the Mortgage Agreement is not legally binding or ceases to be enforceable;
 - (vi) the Property or any part of it is subject to a compulsory purchase order;
 - (vii) any of your creditors enforce any security that it holds over your assets;
 - (viii) you suffer any distress, attachment, sequestration or execution to be levied on the Property or any other of your assets;
 - (ix) any steps are taken for your winding-up, administration, dissolution, reorganisation, bankruptcy or any other insolvency proceedings;
 - (x) a liquidator, administrator, receiver, administrative receiver, manager, trustee-in-bankruptcy is appointed in respect of you or any of your assets;
 - (xi) where the Borrower (or any person forming part of the Borrower) is a natural person, such person:
 - (A) dies;
 - (B) by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation; or
 - (C) is declared bankrupt;
 - (xii) any proposal for an arrangement (including a voluntary arrangement under the Insolvency Act 1986) in connection with your debts is made;

- (xiii) there is a moratorium application or notice that the directors or members (as the case may be and if applicable) wish to obtain a moratorium is filed with the court or a monitor is appointed in relation to you;
- (xiv) there is a Change of Control without our prior written consent;
- (xv) it becomes illegal for you or us to perform our respective obligations under the Mortgage Agreement;
- (xvi) the value of the Property is, in our discretion, less than the Loan Amount; or
- (xvii) any other circumstances occur which causes us to believe that your obligations to us under the Mortgage Agreement will not be met.

Each of the items set out above is a Mandatory Early Repayment Event.

8. Voluntary Prepayments

- (a) You may prepay all or any part of the Outstanding Balance at any time provided:
 - (i) the amount you intend to prepay is at least £10,000 or if less, the Outstanding Balance;
 - and
 - (ii) you have given us at least 7 days' prior written notice of the proposed prepayment.
- (b) If you do prepay all or any part of the Outstanding Balance, you may be liable to pay an Early Repayment Charge as set out in the Mortgage Offer Letter at the same time as the prepayment. The Early Repayment Charge will be due and payable at the time of prepayment and will be added to the total amount to be prepaid.

9. Insurance

- (a) You must continue make sure there is adequate insurance cover in place at all times in relation to the Property. If the Property is leasehold and the terms of your lease require the freeholder to insure, you must ensure that the freeholder insures the Property as required by the lease.
- (b) The insurance must be with a reputable insurance company and cover the full reinstatement value of the Property or the Loan Amount (whichever is higher) and cover for loss or damage for all usual risks for a property of the same type as a Property, specifically that it is being let for profit.
- (c) You must ensure that we are noted on the insurance policy unless we agree otherwise.

- (d) You must promptly provide us with a copy of any insurance policies in relation to the Property on our request.
- (e) You must tell us as soon as possible if there is any significant damage or loss in connection with the Property.
- (f) If you receive any insurance proceeds in connection with the Property, if they are equal to or less than £50,000, you may retain those proceeds provided they are promptly applied by you to repair or reinstate the Property, but unless we agree otherwise in writing, if the insurance proceeds are more than £50,000, they must be applied in prepayment of the Outstanding Balance and you agree to direct the insurance company to pay such proceeds direct to us.
- (g) If you receive any proceeds referred to in paragraph (f) which should be paid direct to us, you will hold those on trust for us until they are paid to us.
- (h) If you fail to insure the Property in accordance with these Terms and Conditions (or we consider that you have not done so) or fail to provide a copy of the insurance policy after we request it, we will be entitled to obtain insurance to our satisfaction at your cost.

10. Valuation

- (a) The valuation of the Property as part of the Required Documents will be undertaken by a valuer selected by us. You will pay to us on demand the costs of such valuation. Such valuation has been obtained for our sole benefit and you have no rights in relation to it, nor are you entitled to receive a copy of it.
- (b) Should the Loan not be advanced to you within 4 months of the date of the valuation obtained by us as part of the Required Documents or there is, in our view, a material change in the property market where the Property is located, we may request that a new valuation be undertaken prior to advancing the Loan to you. You will pay to us on demand the costs of such new valuation.
- (c) Where you have requested our consent (where required under the Mortgage Agreement) in connection with the Property, we are entitled to request a new valuation of the Property and you will pay to us on demand the costs of such valuation.
- (d) We are entitled to obtain a valuation of the Property at any time but unless such valuation is obtained under paragraphs (a), (b) or (c), we will be responsible for the costs of such a valuation.
- (e) You must inform us promptly of any information, event or circumstance that may affect a valuation of the Property.
- (f) We have the right to instruct a valuer to inspect any works undertaken in accordance with Clause 14 (Property - Alterations) and/or paragraph (f) of Clause 9 (Insurance) and you will pay the cost of such valuation on demand by us.

11. Property – General

- (a) You must, at all times, comply with each of the terms set out in the Mortgage Agreement in connection with the Property.
- (b) You must collect the Rental Income in a timely fashion at all times.

12. Property - No dealing

- a) You may not, without our prior written consent:
 - (i) permit or create any mortgage, charge, lien or other security interest over the Property (or any part of it) or any other of its assets charged or assigned to us by the Security Document(s);
 - (ii) sell, transfer or otherwise dispose of, or make a declaration of trust in relation to the Property (or any part of it) or any other of its assets charged or assigned to us by the Security Document(s);
 - (iii) grant or create, or permit the grant or creation of, any new rights over or in the Property; or
 - (iv) grant any Tenancy unless it complies with the Mortgage Agreement.
- (b) If the Property is sold in whole or part (noting that such a sale would be in breach of these Terms and Conditions if done without our prior written consent), unless we agree otherwise in writing, you must immediately apply the sale proceeds in prepayment the Outstanding Balance and pending such prepayment, you will hold the disposal proceeds on trust for us.

13. Property - Condition

- (a) You must ensure that the Property is maintained in good condition and repair at all times.
- (b) We have the right to enter the Property to inspect and value it at any time. We will give you at least 14 days' prior notice before doing so unless we need to take such action sooner.
- (c) If you do not keep the Property in good condition and repair, we have the right to undertake such works or repairs as we consider appropriate on your behalf and you will pay any costs we incur on demand by us.

14. Property - No alterations

- (a) You may not make any structural alterations to or extend or convert the Property without our prior written consent.
- (b) If we do consent, you must ensure that you have all necessary authorisations, approvals, planning permissions, building regulations consents and the works are carried out to an acceptable standard.

15. Property – Planning

- (a) You must ensure that all planning permissions have been obtained, all building regulations are complied with and you have obtained all other Authorisations in relation to the Property.
- (b) You will provide copies of such permissions, Authorisations and approvals if we request these from you.

16. Property – Recent construction

If the Property was constructed or materially redeveloped less than ten years ago, you must have the benefit of a new build warranty in relation to those works.

17. Property – Title and Laws

- (a) You must hold the title to the Property as both legal and beneficial owner at all times.
- (b) You must, at all times, comply with all laws, covenants, regulations, obligations and other matters affecting the Property including taking any such action as may be required in order to continue the use or letting of the Property. You must provide us with such evidence of compliance as we may require if we request this from you.
- (c) If the Property is a leasehold property, you must perform all your obligations contained within the lease, and you confirm, on the date we advance the Loan to you, there are no breaches of the lease and/or any arrears of any sums due to any freeholder (or similar).
- (d) You must pay any rent, service charge, bills, taxes and/or other outgoings in relation to the Property as and when they fall due for payment and provide evidence of payment if we request. We are authorised (but not required) to make such payment if you have not done so and you will reimburse us for those sums on demand.
- (e) The Property may only be used as a private dwelling.
- (f) The Property may not be occupied by:
 - (i) you;
 - (ii) any of your subsidiaries;
 - (iii) a corporate entity which has one or more of the same shareholders or members (as applicable) as you;
 - (iv) any of your directors or shareholders or members (as applicable) or any husband, wife, civil partner, or any person with whom they reside (or have resided at the time of occupation) in a relationship equivalent to that of husband and wife, as well as any parent, grandparent, child, grandchild, brother or sister of those persons;

- (v) where you are a natural person, your husband, wife, civil partner, or any person with whom you are in a relationship equivalent to that of husband and wife;
 - (vi) where you are a natural person, by any parent, grandparent, child, grandchild, brother or sister of either you or any person named in paragraph (v) above;
 - (vii) anybody with diplomatic immunity;
 - (viii) anybody on the basis of a holiday let;
 - (ix) anybody who has applied for asylum in the UK; or
 - (x) any of your employees.
- (g) You must provide copies of each Tenancy and proof of rental income at any time following our request.
- (h) If there is a tenant in occupation immediately prior to us advancing the Loan, we will not be required to advance the Loan unless our solicitor has confirmed to us that the Tenancy is an acceptable tenancy to our satisfaction.
- (i) The Property must not be unoccupied for any continuous period of 3 months or more without our prior written consent.

You must comply with your obligations and ensure that any tenant complies with its obligations under any Tenancy in connection with the Property.

18. Acceptable Tenancies – Requirements

You must only let the Property to an acceptable tenant by way of a tenancy agreement. Any tenancy agreement created must be of the type listed below:

If the Property is in England and the tenant is non-corporate (an individual or individuals):

- (a) Any tenancy created before 1 March 1997 must be a single Assured Shorthold Tenancy (AST) defined in the Housing Act 1988 (HA 1988) and be for a term of up to 36 months;
- (b) Our conveyancer must be satisfied valid notices were served under Section 20 of the HA 1988 before the tenancy was created, and obtain a copy of the AST;
- (c) Any tenancy created after 28 February 1997 must be a single tenancy which complies in all respects with the Housing Act 1988 as an AST and be for a term up to 36 months;
- (d) You must produce evidence to our conveyancer, before buying or refinancing the Property, that all provisions of the Part 1 of the Landlord and Tenant Act 1987 and the Housing Act 1996 have been complied with by the seller or you, as appropriate;

- (e) any deposit must be held by a body approved by the Government pursuant to the requirements of the Housing Act 2004 (HA 2004);
- (f) Any obligations relating to the management and grant of ASTs under the Deregulation Act 2015, the Assured Shorthold Notices and Prescribed Requirements (England) Regulations 2015 and the Immigration Act 2014 must have been complied with; and
- (g) The tenancy agreement must allow the landlord to terminate the AST on not more than 2 months' notice if there is no fixed contractual term or if the contractual term has expired.

If the Property is in Wales the tenancy must be:

an Occupation Contract which is a Standard Contract (under and defined in the Renting Homes (Wales) Act 2016 (the RHWA) which complies with the following:

- (h) Any Occupation Contract must be a single contract which complies in all respects with the RHWA as a Standard Contract (including without limitation containing all fundamental provisions in Schedule 1 of the RHWA) and be for a term not exceeding 36 months;
- (i) You must produce evidence to our legal adviser, before buying the Property, that all provisions of the RHWA have been complied with by the seller or you as appropriate;
- (j) Any deposit must be held by a body approved by the Welsh Ministers pursuant to the requirements of the RHWA;
- (k) Any obligations under the Immigration Act 2014 must have been complied with; and
- (l) The Occupation Contract must (where it is for a fixed term of two years or more or where it is a converted Occupation Contract or Periodic Occupation Contract) contain a break clause to enable the landlord to terminate the letting on 6 months' notice (or 2 months' notice where RHWA allows) in accordance with Sections 194 and 195 of RHWA.

If the Property is let to a corporate tenant, or the annual rent exceeds £100,000, the tenancy or Occupation Contract must comply with the following:

- (m) Not be a regulated tenancy under the Rent Act 1977 or an AST;
- (n) The letting must be for a fixed term not exceeding 36 months. You must not allow a tenancy or Occupation Contract to continue after the fixed term. You must either renew the tenancy or Occupation Contract before the end of the fixed term for a further fixed term not exceeding 36 months or obtain possession of the Property at the end of the fixed term. You must not accept rent other than where a written tenancy or Occupation Contract for a fixed term has been granted;
- (o) The tenancy agreement or Occupation Contract must require the tenant to pay rent no less frequently than monthly;

- (p) The tenancy agreement or Occupation Contract must include a condition (in the case of an Occupation Contract, in so far as is permissible by RHWA) enabling you, us or a receiver appointed by us, to terminate the tenancy forthwith and obtain possession of the Property if any of the Mandatory Early Repayment Events occur; and
- (q) The tenancy agreement or Occupation Contract must contain a forfeiture or clause (in the case of an Occupation Contract, in so far as is permissible by RHWA) permitting you, us or a receiver appointed by us, to end the tenancy before the expiry of the fixed term for breach of condition or breach of covenant.

All tenancy agreements must also comply with the following:

- (i) Be a single tenancy or Occupation Contract (except in the case of a Property defined as an HMO or where the Loan is secured on a Multi-Unit Freehold Block (MUFb), in which case multiple tenancies or Occupation Contracts may be permitted, subject to our lending criteria);
- (ii) The tenancy agreement or Occupation Contract must be in writing and you must provide us with a copy if we ask for it;
- (iii) Where the Property is in Wales, you must provide the written statement with the timeframes set out in the RHWA;
- (iv) The rent payable under the tenancy agreement or Occupation Contract must be an open market rent payable no less frequently than monthly;
- (v) The letting must only allow the Property to be used as a private dwelling for occupation by the tenant and the tenant's immediate family for residential purposes (or in the case of a corporate tenant, by employees, students or tenants of the corporate entity, subject to our lending criteria, whose rights of occupation do not extend beyond the term granted to the corporate tenant);
- (vi) The letting must not confer any security of tenure on the tenant(s) beyond the end of the contractual term of the tenancy agreement or fixed Occupation Contract;
- (vii) Where the Property is located in England, the tenancy agreement must (i) be in a form usually used for residential agreements and (ii) contain no terms which can adversely affect our interest in the Property as a mortgagee;
- (viii) The tenancy agreement or Occupation Contract must provide that no sub-letting is allowed (except in so far as permitted in accordance with (v) above);
- (ix) The tenancy agreement or Occupation Contract must not contain an option allowing the tenant to renew the tenancy agreement upon expiry;
- (x) References about ability to pay the rent and character must be obtained for the proposed tenant(s) and must be made available to us when we ask for them;
- (xi) If the Property is leasehold you must obtain the consent of the landlord to any letting if required by the terms of the lease of the Property and comply with any other relevant lease conditions;

- (xii) You must ensure compliance both before and during the tenancy with any other obligations which apply to the landlord under a tenancy including but not limited to repair and repairing standards, the provision of an Energy Performance Certificate to the minimum prescribed rating, Gas and Electrical Safety testing, Fire Safety requirements including the provision of mains smoke alarms; and
- (xiii) You must ensure the buildings insurer of the Property is aware the Property is occupied under a tenancy or Occupation Contract.

House in Multiple Occupation (HMO)

- (r) Where the Property falls within the definition of an HMO for the purposes of the Housing Act 2004, including its converted building provisions in Section 257, (or any similar legislation or regulation in force at any time), you must ensure that the Property has all required Authorisations.
- (s) We will not advance the Loan unless:
 - (i) we have had confirmation from our solicitor that the relevant local authority has confirmed whether an Authorisation is required under the Housing Act 2004 (or any similar legislation or regulation in force at any time), and if an Authorisation is required, we have been provided with a copy;
 - (ii) our solicitor has confirmed that any conditions set out in any Authorisation have been satisfied; and
 - (iii) our solicitor has confirmed that the Property is in compliance with all town and country planning legislations (including but not limited to Class 4 of the Town and Country Planning Use (Classes)(Amendments)(England) Order 2010) (or any similar legislation or regulation in force at any time) and not within any area affected by an Article 4 Direction Order.

19. Energy Performance Certificates

- (a) You must ensure that, at all times, you maintain a valid energy performance certificate(s) in relation to the Property in accordance with the applicable laws and regulations. Specifically, you must ensure that the Property meets the minimum energy performance rating level required for a residential tenancy. As at the date of these Terms and Conditions, the minimum energy performance rating for a residential property is "E".
- (b) You must provide us with a copy of all energy performance certificates in relation to the Property if we ask you to.
- (c) If you do not hold a valid energy performance certificate(s) in relation to the Property or fail to provide copies when requested, we will be entitled to obtain these to our satisfaction at your cost.

20. When the Security Document(s) become enforceable

The security created by the Security Document(s) shall become enforceable:

- (a) if you fail to make any payment of any of the Secured Liabilities to us when due;
- (b) if you breach any term of any document that forms the Mortgage Agreement;
- (c) if a Mandatory Early Repayment Event occurs; and/or
- (d) if we are required to take action in order to protect our interest in the Property.

21. Rights and Remedies

- (a) For the purposes of all powers implied by statute, all sums which are secured by the Security Document(s) shall be considered to have become due and payable on the date of the Security Document(s).
- (b) The power of sale and other powers conferred by section 101 of the LPA, as amended by these Terms and Conditions, will be immediately exercisable at any time after the security created by the Security Document(s) have become enforceable.
- (c) At any time after the security created by the Security Document(s) becomes enforceable, we may enforce all or any part of the security created by the Security Document(s) in any manner we see fit and may (but we are not obliged to):
 - (i) take possession of the Property;
 - (ii) appoint a Receiver over all or any part of the Property;
 - (iii) sell or dispose of all or any part of the Property or assets (whether or not they have taken possession of it) in the manner and order, and on the terms and considerations determined by it;
 - (iv) exercise the same powers as are given to a Receiver by these Terms and Conditions or the LPA;
 - (v) exercise the powers given to us as mortgagee or a Receiver by the LPA or these Terms and Conditions without the restrictions contained in sections 93, 103 or 109(1) of the LPA; and
 - (vi) exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases without the restrictions imposed by or the need to comply with sections 99 and 100 of the LPA.
- (d) We may, at any time after exercising any powers under paragraph (c) above, give back possession of the Property or any part of it.

- (e) If we take possession of the Property, we may (at your expense and as your agent) remove, store, sell or generally deal with any furniture, goods or animals which you have not removed from the Property.
- (f) At any time, we may rectify any failure by you to comply with the terms of the Mortgage Agreement, including carrying out any repairs necessary to protect our interests, at your cost (such amounts shall form part of the Outstanding Balance unless otherwise agreed).
- (g) Neither us nor any Receiver will be liable, by reason of entering into possession of the Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

22. Protection of Third Parties

No person (including a purchaser) dealing with us or a Receiver or our or his/her agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which we or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Mortgage Agreement; or
- (d) how any money paid to us or to a Receiver is to be applied.

23. Contingencies

If the security created by the Security Document(s) is enforced at a time when no amount is due to us but at a time when amounts may or will become due, we (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

24. Receiver

- (a) We may:
 - (i) appoint any person, including one of our employees, as a Receiver including a replacement Receiver;
 - (ii) appoint more than one person as a Receiver and give them power to act jointly or separately;
 - (iii) set the remuneration to be paid to a Receiver and the maximum rate specified in section 109(6) of the LPA will not apply; and
 - (iv) give directions to a Receiver as to how money received is to be used or applied.

- (b) A Receiver may be appointed and removed by deed, under seal or in writing under hand.
- (c) Any Receiver shall so far as the law allows:
 - (i) be your agent and you alone are responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver; and
 - (ii) not be liable as mortgagee in possession in respect of the Property.
- (d) A Receiver appointed by us may (but need not) do any of the following things:
 - (i) exercise any power or right granted to us as mortgagee under the LPA or these Terms and Conditions;
 - (ii) exercise any power conferred on a Receiver by any law;
 - (iii) take possession of, or collect and get in all or any part of, the Property, the Rental Income and any other asset charged by the Security Document(s) under which they have been appointed and for that purpose take any proceedings as he shall think fit;
 - (iv) raise or borrow money for any purpose;
 - (v) develop, reconstruct or carry out repairs or improvements to the Property;
 - (vi) insure the Property;
 - (vii) sell, transfer, let, assign or dispose of the Property in whole or in part;
 - (viii) grant or create rights in or over the Property in whole or in part;
 - (ix) grant, vary, terminate or accept surrenders of a Tenancy;
 - (x) where the Property is leasehold, vary the terms of or surrender the lease and/or take a new Tenancy or any part thereof on such terms as he shall think fit and/or acquire;
 - (xi) where you hold a share in any management company in connection with the Property, transfer or otherwise deal with any such share;
 - (xii) exercise all the rights, powers and discretions conferred on administrative receivers under the Insolvency Act 1986 (notwithstanding that the Receiver is not an administrative receiver);

- (xiii) exercise all the powers and rights of an absolute legal owner and power to do or omit to do anything which you could do or not do; and
 - (xiv) do all other acts and things which the Receiver may consider necessary or desirable for realising the Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of these Terms and Conditions or by any law.
- (e) We will not incur any liability (either to you or to any other person) by reason of the appointment of a Receiver or for any other reason.

25. Exclusion of Certain Rights

You may not, without our prior written consent, exercise any powers conferred under sections 99 and 100 of the LPA regarding leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases.

26. Power of Attorney

- (a) By way of security, you irrevocably and severally appoint us, any delegate or sub-delegate of, or any other person nominated in writing by us, or any Receiver, as your attorney, with your full power and authority and in such manner as the attorney in its discretion think fit to execute, deliver and perfect all deeds, instruments and other documents in your name and otherwise on your behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any of your obligations under or pursuant to the Mortgage Agreement or generally for enabling us or any Receiver to exercise the respective powers conferred on them under these Terms and Conditions or by law.
- (b) You agree, promptly on our request, to ratify and confirm all actions taken and documents signed or executed.

27. Further Assurance

You must, at your own cost, promptly take any action and sign or execute any further documents which we may require to:

- (a) Give effect to the Mortgage Agreement;
- (b) Protect, preserve and perfect the security created or intended to be created by the Security Document(s);
- (c) Enable us or any Receiver to exercise any rights, powers or discretions conferred on us or any Receiver in the Mortgage Agreement, the LPA or any other law; or
- (d) Facilitating the realisation of the Property.

28. Receipts

- (a) You must hold all Receipts received by you on trust for us (but nothing in this clause will make us a mortgagee in possession).
- (b) We are permitted to use any Receipts received by us or any Receiver in any manner we see fit, including (but not limited to) to reduce the Outstanding Balance, to remedy or defect to the Property or in obtaining insurance in relation to the Property.

29. Fees

- (a) There are certain fees and charges payable in connection with the Mortgage Agreement. In addition to those set out in the Mortgage Offer Letter and these Terms and Conditions, they are set out in the Birmingham Bank Tariff of Mortgage Charges and are due when demanded by us.
- (b) We will review the Birmingham Bank Tariff of Mortgage Charges at least annually and will give you at least 28 days' prior notice before any change to the Birmingham Bank Tariff of Mortgage Charges take effect.
- (c) You are also responsible for our costs and expenses (including any professional fees, disbursements and any tax) on a full indemnity basis in connection with:
 - (i) us perfecting, protecting or enforcing any security created under the Security Document(s);
 - (ii) us preserving or realising any asset charged to us under the Security Document(s);
 - (iii) to the extent not set out in the Birmingham Bank Tariff of Mortgage Charges, the exercise or protection of any of our rights and powers under the documents that form the Mortgage Agreement or dealing with any request made by you;
 - (iv) taking any steps to recover the Outstanding Balance or to enforce the terms of the Mortgage Agreement; and
 - (v) your failure to comply with any term of the Mortgage Agreement.
- (d) We may choose to add any fees and charges payable by you under the Mortgage Agreement to the Loan but we are not required to do so.
- (e) We are authorised but not required to deduct any fees and charges then due to us from the Loan before sending the balance of the Loan to you.

30. Additional Security

The Security Document(s) is/are in addition to, and is/are not in any way prejudiced by and shall not merge with any contractual right or remedy or other security now or in the future held by or available to us.

31. Our liability

We shall not be liable to you or any other person for any loss you or any other person may suffer in connection with the Mortgage Agreement as a direct or indirect result of anything outside of our reasonable control.

32. Notification

You must:

- (a) Provide us with copies of any notices you receive in relation to the Property or a neighbouring property and will, if requested by us, respond to any such notice in such manner as we require;
- (b) Notify us of any change in circumstance that could have an effect on your ability to repay the Loan or your ability to meet your obligations under the Mortgage Agreement;
- (c) Notify us of any change in the composition of your direct or indirect legal and/or beneficial shareholders or members (as applicable); and
- (d) Where you are an unincorporated partnership, notify us of any change in the composition of the partners.

33. Notices

- (a) All notices, consents, demands and requests must be in writing.
- (b) We may deliver a request, notice or demand to you at:
 - (i) the last known contact details known to us for you, at your registered office (if you have one) or any address for service advised to us by you; or
 - (ii) by other electronic communication to any email address you have given us for this purpose.
- (c) Any request, notice or demand to you will be effective:
 - (i) if personally delivered, at the time of personal delivery;
 - (ii) in the case of post, on the second day after posting; and

(iii) in the case of email, on the day it is sent.

(d) A notice or request to us from you must be addressed to The Chief Governance Officer, Birmingham Bank, Lewis Building, Ground Floor, Spaces, 35 Bull Street, Birmingham B4 6AF or can be scanned and emailed to the Bank at notice@birminghambank.com and will only be effective when actually received by us.

34. Severability

If any provision of the Mortgage Agreement is deemed invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

35. Amendments

You may not amend a term of the Mortgage Agreement without our prior written consent.

36. Waivers and delay

(a) No delay in exercising any of our rights or remedies under the Mortgage Agreement shall be treated as a waiver or a release of those rights or remedies.

(b) Any waiver of any of our rights under the Mortgage Agreement will only be valid if given by us in writing.

(c) If we waive any of our rights under the Mortgage Agreement, it does not mean we will waive that right in future.

(d) The Mortgage Agreement replaces all previous agreements in relation to the Loan.

37. Rights cumulative

Our rights and powers conferred by the Mortgage Agreement are cumulative which means they may be exercised as often as we consider appropriate and are in addition to our rights and powers under the general law.

38. Consent

Where our consent is required under the Mortgage Agreement, we may place such conditions on the consent as we deem necessary or desirable. One or more of those conditions may result in fees or charges being payable by you (such as a valuation fee or legal fees) including those set out in the Birmingham Bank Tariff of Mortgage Charges.

39. Set Off

(a) You may not set off any amounts owed to you by us, and any payments made to us by you must be made free of set off, deductions and counterclaims unless a deduction is required by law. If a deduction is required by law, you will increase the payment so that we receive the amount due to us before the deduction.

- (b) We may (but are not obliged to) apply the right of set off, should we choose to do so and can exercise this right without prior notice both before and after demand.

40. Assignment

- (a) You may not assign any of your rights or obligations under the Mortgage Agreement.
- (b) You may not transfer the Mortgage Agreement to a new property.
- (c) We may assign, transfer or otherwise deal with any of our rights or obligations under the Mortgage Agreement.

41. English Law

The Mortgage Agreement is governed by English law and the English courts have exclusive jurisdiction to deal with any dispute arising from this matter.

42. Complaints Process

- (a) We always try to give you the best possible service, but occasionally we don't get things quite right. Bringing this to our attention gives us an opportunity to put matters right and improve our customer service.
- (b) We'll always do our best to fix the issue straight away. If we have been unable to resolve your complaint by the end of the third business day after you have contacted us, we will write to you letting you know what we are doing and when you can expect to hear from us.
- (c) There is a full summary of our complaint handling procedure, including information about the Financial Ombudsman Service and how to access this, on our Complaints Leaflet. You can download this from our website at www.birminghambank/contact-us or by contacting us as set out below.
- (d) If you feel any of our products or our service have not met your expectations, you can tell us about your concerns by contacting us in the following ways:
 - (i) by writing to us at: Birmingham Bank, Lewis Building, Ground Floor, Spaces, 35 Bull Street, Birmingham B4 6AF.
 - (ii) by Phone at: 03330 048 048.
 - (iii) by Email to: complaints@birminghambank.com.
- (e) From time to time we may make changes to our complaint procedures. If we do, we will update the Complaints Leaflet and details on our website at www.birminghambank/contact-us.

43. Disclosure of Information

We are permitted to disclose any information regarding you, the Property, the Mortgage Agreement, or the conduct of your account with us as we think fit to:

- (a) Any person who introduced you to us;
- (b) Our professional advisors;
- (c) Any person we are required to do so by law or regulation;
- (d) Any potential or actual transferee of any of our interests in the Mortgage Agreement and/or the Loan;
- (e) Any credit reference agency; and
- (f) Any company forming part of our group.
- (g) Any credit reference agency; and
- (h) Any company forming part of our group.

44. These Terms and Conditions

- (a) We may update and replace these Terms and Conditions at any time if it is reasonable to do so to:
 - (i) make them easier to understand;
 - (ii) make them fairer to you;
 - (iii) correct an error;
 - (iv) reflect any change in our costs of providing services to you
 - (v) change the way we manage the Loan as a result of changes beyond our reasonable control in the banking or financial system, technology or the systems we use to run our business; and/or
 - (vi) reflect changes to the law, codes of practice or the way we are regulated.
- (b) We will notify you at least 28 days prior to any changes we make to these Terms and Conditions unless there has been a change in any law, code of practice or regulation which requires us to make changes before then.
- (c) If any provision of the Terms and Conditions conflicts with any term of the Mortgage Offer Letter, the

Mortgage Offer Letter will prevail.

45. Definitions and Interpretation

- (a) The following terms shall have the following meanings in the documents that form the Mortgage Agreement:

Authorisations	means an authorisation, permission, consent, approval, resolution, licence, exemption, filing, notarisation or registration
Availability Period	has the meaning given to that term in the Mortgage Offer Letter
Bank	has the meaning given to that term in the Mortgage Offer Letter
Birmingham Bank Tariff of Mortgage Charges	means the tariff of mortgage charges determined by the Bank in its sole discretion, as amended or replaced from time to time. A copy of these charges will be provided to you with your Mortgage Offer Letter, and is available anytime upon request.
Borrower	is the person or persons (as the case may be) indicated in the Mortgage Offer Letter.
Change of Control	means: <ul style="list-style-type: none"> (a) where the Borrower is a limited company or a limited liability partnership, a change in the composition of your direct or indirect legal and/or beneficial shareholders or members (as applicable) which either alone or together pursuant to an agreement or understanding (whether formal or informal) have more than 25% of the voting rights of your shares or membership interests (as applicable); or (b) where the Borrower is an unincorporated partnership, there is a change in the composition of the partners
Default Interest Rate	has the meaning given to that term in the Mortgage Offer Letter
Early Repayment Charge	has the meaning given to that term in the Mortgage Offer Letter
Fixed Rate	has the meaning given to that term in the Mortgage Offer Letter
Fixed Rate Period	has the meaning given to that term in the Mortgage Offer Letter
Interest Rate	has the meaning given to that term in the Mortgage Offer Letter
Land	has the same meaning as it has in section 205(1) of the LPA
Loan Amount	has the meaning given to that term in the Mortgage Offer Letter
Loan Purpose	has the meaning given to that term in the Mortgage Offer Letter
LPA	Law of Property Act 1925

Mandatory Early Repayment Event	has the meaning given to that term in Clause 7 (Mandatory Early Repayment) of these Terms and Conditions
Monthly Payment	has the meaning given to that term in the Mortgage Offer Letter
Monthly Payment Date	has the meaning given to that term in the Mortgage Offer Letter
Mortgage Offer Letter	means the mortgage offer letter pursuant to which we agreed to make a Loan to you in connection with the Property
Mortgage Agreement	means entire agreement between us in connection with the Loan in connection with the Property which includes the Mortgage Offer Letter, these Terms and Conditions, the Security Document(s), the Birmingham Bank Tariff of Mortgage Charges and other document we both agree in writing that forms part of the Mortgage Agreement
Occupier	means a person paying Rental Income
Outstanding Balance	has the meaning given to that term in the Mortgage Offer Letter
Product Fee	has the meaning given to that term in the Mortgage Offer Letter
Property	means the property or properties, set out in the Mortgage Offer Letter and as more accurately described in the Security Document(s) and a reference to a/the Property shall be to each and all such properties, unless expressly stated otherwise
Receipts	means any money received by you at any time: <ul style="list-style-type: none"> (c) as Rental Income; (d) under each contract of insurance to which you are a party or in which you have an interest in respect of the Property; (e) on the sale or disposal of the Property (or any part of it); and (f) in any other way in connection with the Property including any compensations for the compulsory purchase of the Property (or any part of it)
Receiver	means a receiver appointed pursuant to a Security Document or under any applicable law, whether appointed sole, several or jointly and includes a receiver and/or manager or an administrative receiver
Related Rights	Means: <ul style="list-style-type: none"> (a) all monies amounts and proceeds paid or payable in respect of (or derived from) that asset, whether as income, capital or otherwise); (b) all rights in respect of or derived from, or incidental to that asset (including all rights to make any demand or claim); (c) all powers, remedies, causes of action, guarantees, indemnities, security or other collateral in respect of that asset; and (d) the benefit of any judgement or order to pay any sum of money and all rights of enforcement in respect of that asset

Rental Income	means the gross rent, licence fees or any money, at any time, derived from the Property arising from the letting, use or occupation of the Property
Repayment Date	has the meaning given to that term in the Mortgage Offer Letter
Required Documents	has the meaning given to that term in the Mortgage Offer Letter
Secured Liabilities	means all monies, obligations and liabilities (whether actual or contingent, present or future, and whether incurred solely or jointly or as principal or surety or in any other capacity) from time to time outstanding, owing or incurred to us by you
Security Document	has the meaning given to that term in the Mortgage Offer Letter
Special Conditions	has the meaning given to that term in the Mortgage Offer Letter
Standard Variable Rate	has the meaning given to that term in the Mortgage Offer Letter
Tenancy	means any lease, tenancy or licence of the Property
Terms and Conditions	means these terms and conditions including any changes to these Terms and Conditions that we may make at any time

- (b) Any reference to any law or any regulation includes any changes made to that law or regulation at any time.
- (c) A person who is not a party to the documents that form the Mortgage Agreement should not have any rights under the Contracts (Rights of Third Parties) Act 1999.
- (d) The terms of the Mortgage Agreement of any side letters between us in relation to the Mortgage Agreement or otherwise are incorporated into the Security Document(s) to the extent required to ensure that any purported disposition of an interest in Land contained in a Security Document(s) is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (e) If we consider that any amount paid by you to us is capable of being avoided or otherwise set aside on your insolvency, that amount shall not be considered to be irrevocably paid for the purposes for any document that forms the Mortgage Agreement (including, but not limited to, any Security Document).
- (f) A reference to a "person" includes:
- (i) an individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality) or two or more of them; and
 - (ii) that person's successors, transferees and assigns and any person claiming any right, estate or interest under or through that person.
- (g) Where the Borrower comprises of one or more persons:
- (i) any reference to the "Borrower", "you" or "your" shall be to each and all such persons;

- (ii) the covenants, undertakings, representations, warranties and all other obligations and liabilities given and/or owed by the Borrower are given by each such persons jointly and separately which means that each person can be held fully responsible for comply with the Mortgage Agreement;
 - (iii) if we cannot pursue one person, we can still pursue the other persons; and
 - (iv) we can at any time and in our absolute discretion, release, discharge or otherwise vary or agree to vary the obligations and liabilities of any person under the Mortgage Agreement or make any other arrangement with any person and this does not in any way affect our rights and remedies against any other such persons.
- (h) A reference to the Property includes:
- (i) all buildings, fixtures, fittings and fixed plant and machinery on the Property; and
 - (ii) the benefit of any covenants for title given or entered into by any predecessor in title in respect of the Property or any moneys paid

Birmingham Bank BTL documentation is available in Braille, large print, and audio versions

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