

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



The Mortgage Lender Limited

Mortgage Terms and Conditions 2016

(as varied with effect from 10th December 2021)

These Terms and Conditions apply if you have a residential mortgage which offered prior to **26th March 2020**.

Your mortgage offer documents will show the offer date and the Terms and Conditions applicable to your mortgage.

If you are unsure which version applies please contact us on **0344 257 0416** between 9am and 5:30pm, Monday to Friday.

## 01 YOUR MORTGAGE AGREEMENT

- 1.1 Your mortgage agreement with us is made up of these Terms and Conditions, your Mortgage Application Declaration, your Offer Letter (including, where applicable, the Special Conditions), Illustration, Mortgage Deed and Tariff of Charges. Where in these Terms and Conditions we refer to your "**Mortgage Agreement**", we are referring to the terms and conditions in all of these documents.
- 1.2 We have used some technical terms in these Terms and Conditions. These technical terms start with capital letters so you can easily identify them. These terms are explained at the end of these Mortgage Terms and Conditions. We may also use these terms in other documents we provide to you, for example in the Offer Letter, the Offer and the Illustration.
- 1.3 If the Property is located in Scotland, certain conditions or alterations to these Terms and Conditions which we refer to as the "**Scottish Modifications**" will apply to you. You can find these Scottish Modifications at Clause 35.

## 02 GIVING OUR APPROVAL AND THE EXERCISE OF OUR DISCRETION

- 2.1 Where you need our approval under your Mortgage Agreement before doing something, we will not unreasonably withhold or delay that approval. Examples of where it will be reasonable for us to refuse to approve something are where we reasonably think it will:
  - (a) make it less likely you can pay us all amounts owing under your Mortgage Agreement at any time;
  - (b) negatively affect our security for the Outstanding Balance or the value of the Property; or
  - (c) have any significant negative impact on us in relation to your Mortgage Agreement.Where you need our approval before doing something, you will need it before going ahead and you should therefore ask for approval in good time before going ahead.
- 2.2 Where, under your Mortgage Agreement:
  - (a) we have the right to take certain action;
  - (b) we have the right to require you to take or not to take certain action;
  - (c) something must be to our satisfaction or must be acceptable to us; or
  - (d) a document must be in our preferred form,then, unless otherwise specified, we will act reasonably. For example, we will be acting reasonably if:
  - (i) we act as a prudent lender would;
  - (ii) in our reasonable opinion any additional security we require will replace a drop in value of the Property or the security we hold; or
  - (iii) we act in a way that will assist, in proportion to our action, in the preservation of our security or the value of the Property or in our reasonable opinion is likely to assist in that way.

## PAYMENTS AND INTEREST

### 03 REPAYING THE OUTSTANDING BALANCE

- 3.1 You must repay the Outstanding Balance by or at the end of the term of your mortgage as described in your Illustration.
- 3.2 The way you will repay the Outstanding Balance will depend on the type of mortgage you have. The three types of mortgage which are normally available are:
  - (a) interest only mortgages;

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



(b) repayment mortgages; and

(c) part interest-only and part repayment mortgages (“**part and part mortgage**”).

The Illustration will tell you which type of mortgage you have.

- 3.3 You must pay us your Monthly Payment on your Monthly Payment Date by direct debit from your current account at a bank or building society in the UK. You must not close that current account or cancel or alter your direct debit without giving us prior written notification, and giving us details of an alternative account from which your Monthly Payment will be made and setting up a direct debit from that account. If the direct debit payment is refused by your bank or building society, we will charge you an administration fee (at the rate set out in the Tariff of Charges) for each unsuccessful application for payment, unless we are not allowed to do so by any applicable law or regulation.
- 3.4 Your first Monthly Payment will be for the period from Completion to the end of the Month following Completion and your first Monthly Payment Date will be:
- (a) if Completion takes place seven or more Business Days before the end of the Month, the first Business Day of the Month following Completion; or
- (b) if Completion takes place less than seven Business Days before the end of the Month, seven Business Days following Completion.
- 3.5 Your first payment on your first Monthly Payment Date shall consist of the interest from (and including) the date of Completion to the end of the Month in which Completion takes place plus your “normal” Monthly Payment.
- 3.6 Future Monthly Payments will become due on the first Business Day of each Month.
- 3.7 Your final Monthly Payment shall be the Monthly Payment which repays the Outstanding Balance in full. Because the Monthly Payment is not recalculated every month, your final Monthly Payment may be more than the Outstanding Balance. If this happens, we will owe you the amount by which you have overpaid and we will promptly pay this to you.

## REPAYMENT MORTGAGES

- 3.8 If you have a repayment mortgage, your Monthly Payment shall be made up of:
- (a) the interest that has been calculated in advance in accordance with clause 4; and
- (b) the amount of capital needed so that the Outstanding Balance is repaid in equal instalments by the end of the Term, assuming that all Monthly Payments are made on your Monthly Payment Dates and that there are no other changes affecting the Outstanding Balance.

## INTEREST-ONLY MORTGAGES

- 3.9 If you have an interest-only mortgage, your Monthly Payment will be made up of the interest that has been calculated in advance to cover the amount of interest payable each Month on the Outstanding Balance, assuming that there are no changes to the Outstanding Balance. Your Monthly Payments will not include payments towards the rest of the Outstanding Balance, and you must repay the Outstanding Balance in full at the end of the Term (or earlier if required under clause 25 or if you choose to repay early).
- 3.10 You must ensure you have a means of repayment which is suitable to repay the Outstanding Balance by the end of the Term, and you should regularly review it to make sure it continues to be suitable. If it is not suitable, you or we may have to sell the Property to try and repay the Outstanding Balance.

## PART AND PART MORTGAGES

- 3.11 If you have a part and part Mortgage, clauses 3.9 and 3.10 shall apply to the interest only amount and clause 3.8 shall apply to the remainder of the Outstanding Balance.
- 3.12 If you have a part and part mortgage, we will allocate your payment to the different parts of your Loan Amount in proportion to the Outstanding Balance for each of those parts.

## ALL MORTGAGES

- 3.13 We may change the amount of your Monthly Payment at any time during the Term if it is necessary to do so in order for you to pay us the entire Outstanding Balance in equal instalments by the end of the Term. For example, we may do this where:
- (a) the Interest Rate changes in accordance with clause 4; or
- (b) Costs are added to your Outstanding Balance in accordance with your Mortgage Agreement.
- 3.14 We will write to you to tell you at least 14 days before the first Monthly Payment Date affected by any change to your Monthly

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



Payment.

- 3.15 If you do not pay your Monthly Payment in full on or before your Monthly Payment Date, interest will continue to be charged on the unpaid amount of your Monthly Payment as part of the Outstanding Balance.
- 3.16 Unless we tell you otherwise, any Monthly Payment or other payment made by you will be applied to the Outstanding Balance in the following order: first against interest, then against Costs and Fees, then against any Early Repayment Charge and then against any Loan Amount.

## 04 INTEREST AND INTEREST RATE CHANGES

- 4.1 The amount of interest you will pay to us will be calculated using the Interest Rate. The Interest Rate is set out in the Illustration as varied from time to time under this clause 4. From 11th March 2022 onwards, if your Illustration says your Interest Rate tracks LIBOR, that term will no longer apply and your Interest Rate will track Base Rate instead (see clause 4.9(b) below).
- 4.2 We will charge you interest at the Interest Rate on your Outstanding Balance from Completion until you have paid the Outstanding Balance in full. This will be the case both before and after any court judgment against you and even if you go bankrupt.
- 4.3 Interest will be accrued on a daily basis on the Outstanding Balance. This means that interest will accrue on amounts from the date on which they are charged or debited (unless they are paid on that date or we choose to charge interest from a later date). Interest will be payable and accrue on an Advance from and including Completion, even if it is released to our legal adviser at your legal adviser's request before you need to use it.
- 4.4 Any interest unpaid in the Month due will begin to accrue interest from the first of the following Month.
- 4.5 So that your Monthly Payments remain equal, we will calculate your Monthly Payments as if there were an equal number of days in each Month. This means that the amount of interest you pay in your Monthly Payment may be slightly more or less than the amount of interest added to your Outstanding Balance.
- 4.6 Your Illustration sets out the Interest Rate applicable at the date of the Illustration. Your Illustration will also set out whether the Interest Rate is fixed or tracks Base Rate or LIBOR or whether there are any other special features of the Interest Rate for your Advance (in each case, either for a specified period or for the Term). From 11th March 2022 onwards, if your Illustration says your Interest Rate tracks LIBOR, that term will no longer apply and your Interest Rate will track Base Rate instead (see clause 4.9(b) below).
- 4.7 If your Illustration says your Interest Rate:
  - (a) is fixed for a certain period, we will not change it during that period; or
  - (b) tracks Base Rate at a certain Margin for a certain period, we will not change the Margin during that period, but will adjust the Interest Rate to track changes in Base Rate as set out in Condition 4.8 .
- 4.8 If your Interest Rate tracks Base Rate, changes in Base Rate will apply as follows:
  - (a) if a change in Base Rate is announced more than 14 days before the end of the Month, the change will apply to your Interest Rate from the first day of the following Month; and
  - (b) if a change in Base Rate is announced 14 days or less from the end of the Month, the change will apply to your Interest Rate from the first day of the second Month following the change.
- 4.9 If your Illustration says your Interest Rate tracks LIBOR:
  - (a) 10th December 2021 is the last time we will reset LIBOR. The Interest Rate will change on that date following any change in LIBOR and your Monthly Payment will change from the first Business Day of the following Month.
  - (b) From 11th March 2022 onwards, your Interest Rate will track Base Rate. The Interest Rate will change on that date to be Base Rate plus the Margin and your Monthly Payment will change from the first Business Day of the following Month. We will adjust the Interest Rate to track changes in Base Rate as set out in clause 4.8, but we will not change the Margin.
- 4.10 Your rate will never go below the floor which is specified in Section 4 of the Illustration.
- 4.11 Your Interest Rate may change between the date of the Offer Letter and us giving you (or your legal adviser) the Initial Advance. If so, the updated Interest Rate will be applied immediately if Completion takes place after the Interest Rate change. We will notify you or your legal adviser of any such changes.
- 4.12 If we change the Interest Rate, we will:
  - (a) **for repayment mortgages**, recalculate the amount of your Monthly Payments so that you will still be able to repay the Outstanding Balance by the end of the Term in equal instalments;
  - (b) **for interest only mortgages**, we will recalculate the amount of your Monthly Payments so that you will pay the interest accruing on the Outstanding Balance monthly;
  - (c) **for part and part mortgages**, we will recalculate the amount of your Monthly Payments so that you will pay the interest accruing

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



on the Outstanding Balance monthly and still be able to repay the part of the Outstanding Balance relating to the part of your mortgage that is a repayment mortgage by the end of the Term in equal instalments; and

(d) **for all mortgages**, write to you to tell you at least 14 days before the first Monthly Payment Date affected by the change to your Monthly Payment.

4.13 If your Illustration says your Interest Rate tracks LIBOR, we will round LIBOR up to two decimal places. For example, if LIBOR is 3.05321%, we will treat it as being 3.06%. From 11th March 2022 onwards, your Interest Rate will track Base Rate instead and we will round Base Rate up to two decimal places in the same way.

## 05 FEES AND COSTS

5.1 Under your Mortgage Agreement, you will have to pay us certain Fees and Costs when we ask you to. If you do not pay these amounts when we ask you to, then:

(a) you will be breaching your Mortgage Agreement; and

(b) we will be entitled to, but will not be obliged to, add these amounts to the Outstanding Balance and interest will be applied at the Interest Rate.

5.2 Our standard Fees will be set out in our Tariff of Charges.

5.3 We may introduce new Fees or standard Costs, or make a change to any of our fees or standard Costs:

(a) to reflect a new service or new costs and/or expenses or a change in the costs and/or expenses we incur or reasonably expect to incur in relation to the matters the relevant Fee or standard Cost is for; or

(b) for any of the reasons in Clause 33.

5.4 We will reissue the Tariff of Charges at least once a year with your mortgage statement. If any of our Fees or standard Costs change during the year, we will notify you of the new amount, if practicable, before you incur it.

## 06 REPAYMENT OF THE OUTSTANDING BALANCE

6.1 If you repay all or part of the Outstanding Balance before the relevant repayment becomes due then this will be treated as an early repayment. You can repay your mortgage early, at any time, but you may have to pay an Early Repayment Charge as described in clauses 7 and 8.

6.2 You may not take any payment holidays or redraw any amounts repaid.

## 07 EARLY REPAYMENT

7.1 You may repay all or any part of the Outstanding Balance early at any time.

7.2 Any early repayment will immediately reduce the Outstanding Balance by the amount of the early repayment, when we receive that amount in cleared funds. We will change the amount of your remaining Monthly Payments to take into account the early repayment, so that you will still be able to pay off the remainder of the Outstanding Balance over the Term in equal instalments, unless you ask us to reduce the Term instead.

## REPAYING THE ENTIRE OUTSTANDING BALANCE

7.3 If you wish to repay the entire Outstanding Balance you must pay:

(a) all sums owing to us in respect of the Outstanding Balance for Loan Amounts, interest and Fees and Costs;

(b) an Early Repayment Charge (if applicable) as set out in the Illustration; and

(c) When the Outstanding Balance is repaid early, a Fee set out in the Tariff of Charges. This Fee is in addition to the Early Repayment Charge set out in clause 8. If you do not pay this Fee when you make your repayment, we will deduct the amount of the Fee from the amount of the repayment.

7.4 You can ask us how much the Outstanding Balance is at any time.

## REPAYING PART OF THE OUTSTANDING BALANCE

7.5 If you wish to repay part of the Outstanding Balance by way of a lump sum payment you may do so by making an early repayment.

7.6 Before making a partial repayment you must check the terms of the Illustration, which will set out any additional specific terms

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



which will apply to the payment. For example, the payment may need to be over a certain amount, and/or could trigger the payment of an Early Repayment Charge.

## 08 EARLY REPAYMENT CHARGES

- 8.1 Where you repay all or any part of the Outstanding Balance earlier than specified in your Mortgage Agreement, an Early Repayment Charge may be payable, to compensate us for the financial consequences of you not keeping your mortgage until the end of the specified period.
- 8.2 The Early Repayment Charge is calculated by us in accordance with the calculation set out in the Illustration.
- 8.3 A maximum Early Repayment Charge will apply to your Outstanding Balance as set out in the Illustration.
- 8.4 If you ask to repay early, we will send you a repayment statement providing you with the amount of your Early Repayment Charge payable at that time.

## 09 NO SET-OFF

- 9.1 All payments to us must be made without set-off and without any deduction on account of any tax, duty, other charge, claim or complaint, unless a deduction is required by law.
- 9.2 If a deduction is required by law, you will increase the payment so that we receive the amount due to us before the deduction.
- 9.3 If you have any claim or complaint, you must deal with that separately.

## YOUR OBLIGATIONS

### 10 USE OF THE PROPERTY

#### LIVING IN THE PROPERTY

- 10.1 You must use the Property as your main residence for the duration of your Mortgage Agreement. You must tell us as soon as possible if you move out of the Property.
- 10.2 You must not leave the Property for a continuous period of three months or more without our written permission. This is to ensure that the Property is adequately insured and looked after at all times.
- 10.3 You must not give up possession of all or part of the Property.
- 10.4 You must only use the Property as a private residence and must not use it for any other purpose (for example, for business or trade purposes) without our prior written consent.

#### RENTING OR LETTING THE PROPERTY

- 10.5 You must not rent or let the Property, or any part of the Property, without our prior written consent.
- 10.6 You must not create any lease or tenancy on the Property or any part of the Property without our prior written consent.

#### SELLING ALL OR PART OF THE PROPERTY

- 10.7 You must not sell or transfer or make any declaration of trust in relation to the Property, or any part of the Property, without our prior written consent.
- 10.8 You must tell us as soon as possible if you intend to sell or transfer or make any declaration of trust in relation to the Property, or any part of the Property.
- 10.9 If we consent to the sale or transfer of part of the Property, you will have to pay Fees to us, which might include a non-refundable Valuation Fee. You will also be responsible for paying all of the legal expenses and costs, including our Costs, even if we do not agree to the sale or transfer, or it does not complete. We may also ask you to repay part of the Outstanding Balance and you may have to pay an Early Repayment Charge.
- 10.10 If the sale or transfer of part of the Property is not acceptable to us and you wish to proceed with the sale or transfer, you must repay the Outstanding Balance and you may have to pay an Early Repayment Charge.
- 10.11 When the Property is sold, an amount equal to the Outstanding Balance will be held on trust for us.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



- 10.12 If the Sale Proceeds are less than the Outstanding Balance and we have still agreed to the sale, then all the Sale Proceeds will be held on trust for us and you will owe us the difference between the Sale Proceeds and the Outstanding Balance.
- 10.13 If the Sale Proceeds of the Property exceed the Outstanding Balance, anything left over will be given to you, or your legal adviser. In some circumstances we may be required to pay this amount to someone else, for example if a second charge has been created over the Property. If this is the case, we will tell you who we have paid the money to.

## 11 SPECIAL CONDITIONS

- 11.1 You must comply with all Special Conditions.

## 12 OTHER PEOPLE LIVING IN THE PROPERTY

- 12.1 You must tell us about any person (another occupier) who is not a borrower and is living, or you anticipate will be living, in the Property at the time your mortgage Completes. If this is acceptable to us for the purposes of our Mortgage Agreement, they will be required to sign a Deed of Consent with the help of a legal adviser. Apart from this, you must obtain vacant possession of the Property. This means that, at the time the mortgage Completes, the Property must be empty of other people who are over 17 years old and not a borrower under this Mortgage Agreement.
- 12.2 Other occupiers will be responsible for paying for legal advice they receive in relation to the Deed of Consent.
- 12.3 Other occupiers will not have the right to live in the Property if you or we sell the Property or if we take possession of the Property.

## 13 LAWS AFFECTING THE PROPERTY

- 13.1 You must comply with the terms of the deeds and documents for all conveyances, agreements, title deeds, leases and other deeds and documents that affect the Property. You shall be responsible for keeping all of these documents safe unless we ask you to give them to us, in which case, you must give them to us. You must not change any of them, or create any new ones without our written permission.
- 13.2 You must comply with all the laws affecting the Property, including those that apply to any changes being made to the Property or to the use of the Property.
- 13.3 You must tell us as soon as possible if you receive any notice relating to the Property or to a neighbouring property, for example a planning enforcement notice or a planning application notice. In some instances we may require you to respond or object to the application and if so, we will advise you and you must do so.
- 13.4 If the Property is leasehold, you must ensure that you comply with any freeholder's or management company's conditions. You must tell us if you receive notice of forfeiture or to leave from your freeholder or management company.
- 13.5 If the Property is leasehold, you must tell us if you intend to extend the term of the lease. You will be responsible for paying all of the legal expenses and costs, including our Costs, even if the lease extension does not complete.

## 14 PURCHASE OF THE FREEHOLD OR SHARE OF THE FREEHOLD OR MANAGEMENT COMPANY

- 14.1 If the Property is leasehold, you must tell us if you intend to purchase the freehold. We may require a legal charge on the freehold and you must sign an appropriate deed for this purpose.
- 14.2 If the Property is leasehold, you must tell us if you intend to purchase a share of the freehold or management company. We may require an assignment of the share or shares until you repay the Outstanding Balance and you must sign an appropriate deed for this purpose. If we sell the Property, we will transfer the share or shares to the purchaser.
- 14.3 You will be responsible for paying all of the legal expenses and costs, including our Costs, even if the purchase of the freehold or purchase of a share of the freehold or management company does not complete.

## 15 PAYMENT OF RENTS, SERVICE CHARGES AND PROPERTY TAXES

- 15.1 You must pay any rent, service charges, bills, taxes and/or other outgoings for the Property on time. You must show us your receipts for these if we ask you to.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016

- 15.2 If you fail to pay any rent, service charges, bills, taxes or other outgoings for the Property, you will be breaching your Mortgage Agreement. If we believe this might put our security at risk, we can, but will not be obliged to, pay them on your behalf and they will be Costs. You will also need to pay any other Costs that we incur in taking this action.

## 16 INSURING THE PROPERTY

- 16.1 You must keep the Property fully insured against loss or damage. If you will not be able to insure the Property yourself (for example, because you are the leaseholder and the freeholder has the legal right to insure it), you must do all you reasonably can to make sure the relevant person insures it.
- 16.2 The insurance policy must:
- (a) be with a reputable insurance company;
  - (b) cover at least the amount that is shown in the valuation report for the rebuilding cost of the Property, which is designed to cover the amount (including Value Added Tax) required to demolish and/or rebuild the Property, clear the site of the Property, pay for surveyors and other professional fees and pay for alternative accommodation;
  - (c) be for an amount of cover that is adjusted each year in accordance with any change in the House Rebuilding Cost Index prepared by the Royal Institute of Chartered Surveyors, or if that index ceases to exist, such nearest equivalent index as we in our reasonable discretion decide;
  - (d) cover loss or damage by fire, storm, flood, burst pipes, lightning, explosion, riot, civil commotion, malicious damage, impact by aircraft or other aerial devices or articles dropped therefrom or by any road vehicle, train, animal or falling tree, earthquake, subsidence, heave and landslide and other risks that we may from time to time reasonably require;
  - (e) if you are purchasing the Property, be on risk immediately before exchange of contracts, or the date on which the Initial Advance (or, if to be paid in instalments the first instalment) is paid to you or to our legal adviser, whichever is the earliest; and
  - (f) if you are re-mortgaging the Property, be on risk at least two Business Days before Completion of your mortgage.
- 16.3 Our interest as a mortgage lender must be noted on the insurance policy. If we have a valid reason, for example there has been a change in insurance industry practice, we may ask for cover as joint insured or co-insured on a composite basis.
- 16.4 You must not do anything that will invalidate the insurance, for example giving false information to your insurer or leaving the Property unoccupied for more than the period of time specified in the insurance policy.
- 16.5 You must pay the insurance premiums on time. You must show us your insurance policy if we wish to see it and produce receipts or other evidence that it is on risk and the premiums are paid up to date.
- 16.6 If we believe that you have not paid the buildings insurance premium or the cover has been cancelled, then we may ask you to give us evidence of the insurance arrangements that you have in place.
- 16.7 If you fail to provide a valid insurance policy when asked, or we reasonably believe that the Property is no longer insured, or the insurance is not suitable, then we reserve the right, but are not obliged, to insure the Property. If we insure the Property, we will only insure our interest and not yours. You will need to pay the Costs that we incur in insuring the Property.
- 16.8 You can ask us for details of any insurance we have put in place in respect of the Property.
- 16.9 If someone else has the right to insure the Property (for example, because you are the leaseholder and the freeholder has the legal right to insure it), we may at our discretion accept such policy as satisfying, or partially satisfying, your obligations under this clause 16, provided that:
- (a) that person has insured the Property on the same terms as required under this clause 16; and
  - (b) you give us on request a certified copy of the policy and evidence of payments of the premium under the policy.

## 17 INSURANCE CLAIMS

- 17.1 If there is any significant loss or damage to the Property, you must tell us as soon as possible.
- 17.2 You must take reasonable steps to ensure you or we are not prevented from making a claim under the insurance.
- 17.3 If it is necessary to make a claim on your insurance you must tell the insurance company as soon as possible and assist the insurance company to resolve the claim. We may also make a claim on your insurance and negotiate and settle any claims on your behalf.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



- 17.4 You must use the claims money to make good any loss or damage claimed. Alternatively, we may agree that the claims money can be used to reduce or repay the Outstanding Balance. If there has been significant loss or damage to the Property, we will have the right to instruct your insurance company to pay all claims money to us, but if you receive the claims money, you will hold it on trust for us.

## 18 MAINTAINING THE PROPERTY

- 18.1 You must maintain the Property in good condition and repair and replace fixtures and fittings when necessary.
- 18.2 You must carry out any repairs or other works required by us as a condition of your Offer by the date set by us. Please see the Special Conditions, provided in the Offer Letter, for more details.
- 18.3 We may require you to provide evidence that maintenance and repairs have been carried out to an acceptable standard by an appropriate qualified contractor.
- 18.4 We have the right to enter the Property to inspect or value it. We will tell you at least 14 days before we do this, unless we need to inspect the Property more quickly, for example if we reasonably think there is an emergency at the Property.
- 18.5 If the Property is not being maintained then we may ask you to carry out any necessary repairs at your own expense. If these repairs are not made, we will have the right to arrange for the repairs to be carried out on your behalf. You will have to pay any Costs that we incur.

## 19 MAKING CHANGES TO THE PROPERTY

- 19.1 You must not do any of the following without our prior written consent:
- (a) alter the Property structurally;
  - (b) extend or convert the Property; or
  - (c) change the use of the Property.
- 19.2 Where we consent to such changes, you must:
- (a) obtain all necessary planning permission and building regulations approval;
  - (b) ensure that any obligations concerning the Property, including under the planning permission and in your title deeds, are complied with; and
  - (c) ensure that all building works are carried out to an acceptable standard by appropriate qualified contractors.
- 19.3 We will have the right to instruct an independent, qualified valuer to inspect the completed works and you will need to pay a non-refundable Fee for this.
- 19.4 You must pay all costs of preparing any plans or reports required by us, and all the expenses and costs, including our Costs, even if we do not consent to the change.

## 20 OTHER SECURED BORROWING

- 20.1 You must not use the Property as security (for example, take a mortgage or loan from another lender secured on the Property) without our prior written consent.
- 20.2 We will have the right to apply to the Land Registry for a restriction to be registered on the title to the Property. This will mean that our written consent is required before further legal charges can be registered over the Property.

## 21 DEALING WITH US

- 21.1 You must co-operate with us, or anyone appointed by us, where necessary to protect the Property or our interest as the mortgage lender or to exercise any of the powers given to us by your Mortgage Agreement or under any applicable law or regulation. This includes you signing any appropriate documents or deeds relating to the Property if we ask.
- 21.2 Any information you give us must be accurate and you must not withhold information from us that we would reasonably expect to be given under your Mortgage Agreement.
- 21.3 You must provide any documentation that we may reasonably require to support or verify identities and to evidence the accuracy of an event or transaction.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016

## 22 MOVING HOME

- 22.1 If you move home, we may allow you to transfer your mortgage to a new property if the new property meets our lending criteria at the time you apply to transfer your mortgage.
- 22.2 You must tell us as soon as possible that you wish to transfer your mortgage, so that we have time to consider your application, including the value and security of the new property.
- 22.3 If we are not satisfied with any part of your application, we will not give our consent to the transfer.
- 22.4 You will have to pay Fees to us, as set out in the Tariff of Charges that applies at that time. You will also be responsible for paying all of the legal expenses and costs, including our Costs, even if the transfer does not complete.
- 22.5 We will obtain a valuation of the new property, by an independent, qualified valuer. You will need to pay a non-refundable valuation fee before the valuation is carried out.
- 22.6 We will assess the security provided by the new property, and we may ask you to repay part of the Outstanding Balance (for example, where the new property is of a lower value than the Property). You may have to pay an Early Repayment Charge.
- 22.7 You will be required to sign a new Mortgage Deed and give us a first ranking legal charge or Standard Security over the new property.
- 22.8 The sale of the Property and the purchase of the new property must happen on the same day.
- 22.9 If you decide not to transfer your mortgage or we do not give our permission and you decide to proceed with the move anyway, then you must repay the Outstanding Balance and you may have to pay an Early Repayment Charge.

## 23 VALUATION OF THE PROPERTY

- 23.1 If you ask us to make a change to your mortgage, for example if you apply to vary the Term or if you ask for our consent, for example to sell part of the Property, and we reasonably require a valuation, then you will need to pay a non-refundable Valuation Fee before the valuation of the Property takes place.
- 23.2 We may require further valuations of the Property during your mortgage even where you have not asked us to make a change to your mortgage. Where that is the case, we will be responsible for paying the cost of the valuation.
- 23.3 All valuations will be instructed by us and carried out by an independent, qualified valuer qualified through the Royal Institution of Chartered Surveyors.

## OUR RIGHTS

### 24 THE PROPERTY AS SECURITY

- 24.1 The Outstanding Balance is secured on the Property.
- 24.2 When you have signed the Mortgage Deed, we will arrange for a first ranking legal charge or Standard Security to be registered against the title to the Property at the Land Registry or Registers of Scotland. This will not be released until you have repaid the whole of the Outstanding Balance.
- 24.3 If the Property is leasehold and you also own the freehold, we may require a legal charge on the freehold. You must sign an appropriate deed for this purpose.
- 24.4 If the Property is leasehold and you own a share of the freehold or management company, we may require an assignment of the share or shares until you repay the Outstanding Balance. You must sign an appropriate deed for this purpose. If we sell the Property, we will transfer the share or shares to the purchaser.

### 25 WHEN WE CAN ASK YOU TO REPAY THE OUTSTANDING BALANCE IMMEDIATELY

- 25.1 We will have the right to ask you to repay the whole of the Outstanding Balance immediately if:
- (a) you have missed three or more Monthly Payments and you have not paid us the amount of the missed Monthly Payments within a reasonable amount of time of us asking you to;
  - (b) you have not repaid the whole of the Outstanding Balance by the end of the Term (unless we have agreed that you can pay late);
  - (c) you materially breach your Mortgage Agreement;

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



- (d) you (or someone acting on your behalf) gave us incorrect information, or failed to give us information, when you applied for the mortgage and that information would have impacted our decision to lend to you;
- (e) the Mortgage Deed or any guarantee given in connection with your Mortgage Agreement is not legally binding;
- (f) another lender with security over the Property takes steps to enforce that security;
- (g) the Property or any part of the Property is subject to a compulsory purchase order;
- (h) you become bankrupt/sequestered or steps are taken to bring insolvency proceedings against you;
- (i) you enter into an individual voluntary arrangement, protected trust deed or debt arrangement scheme with anyone you owe money to;
- (j) you apply for an interim order or decree to protect you from claims by somebody you owe money to; or
- (k) you are the only borrower under your Mortgage Agreement and at least six months has passed since the date of your death.

## 26 WHEN WE CAN TAKE POSSESSION OF THE PROPERTY

- 26.1 We can take possession of the Property if any of the events in clause 25 happen. If we take possession, we will have control of the Property and you must leave the Property.
- 26.2 Once we have taken possession of the Property, we can:
  - (a) let the Property; and/or
  - (b) sell the Property.
- 26.3 Where we let the Property, we will do so on reasonable terms. If the Property is already let, we may take over the management of the Property and collect in the rent. Any rent we collect will be used to reduce the Outstanding Balance.
- 26.4 Where we, a receiver or you sell the Property, we will take reasonable steps to ensure we obtain a fair market price for the Property within a reasonable timeframe. The Sale Proceeds will be used to repay or reduce the Outstanding Balance.
- 26.5 If there is any money left over, we will pay this to anyone that we know has a right to it, for example another secured mortgage lender. If we do not know of anyone else with a right to that money, we will pay it to you.
- 26.6 If the Sale Proceeds do not cover the Outstanding Balance, you will still have to repay us the remainder of the Outstanding Balance.
- 26.7 If any of the events in clause 25 happen, Section 101 of the Law of Property Act 1925 says that we have the power to sell the Property, and also gives us other powers in relation to the Property, such as the power to insure the Property.
- 26.8 Section 103 of the Law of Property Act 1925, which says we cannot use our power to sell the Property until certain conditions have been met, does not apply to your mortgage.
- 26.9 We will have the same powers as a receiver will have under your Mortgage Agreement and/or any applicable law or regulation, even if a receiver has been appointed.
- 26.10 If we, or the receiver, have to sell the Property, we or the receiver may remove any personal belongings that you leave behind. We may store, sell or dispose of them for you as your agent. You will need to pay any Costs we incur.
- 26.11 If we or the receiver take some action in relation to the Property but have not taken possession of it we will not be a mortgage lender or creditor in possession. This means that you will still be responsible for the Property, for example, for insuring the Property.
- 26.12 We or the receiver will have the right to sell the Property as a whole or in parts, by auction and/or by private sale.
- 26.13 If we, or the receiver, sell the Property we can make any conditions we think are necessary and can vary or even withdraw any contract for sale.

## 27 POWER OF ATTORNEY

- 27.1 You appoint us and, where we appoint a receiver (by a separate appointment), the receiver, irrevocably and by way of security, as your attorney to act for you and to sign any deed or document on your behalf to do anything your Mortgage Agreement requires of you.
- 27.2 This power of attorney will end when the Outstanding Balance is repaid in full or when we agree in writing to accept a sum that is less than the Outstanding Balance and that sum has been paid to us.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



27.3 The receiver will act as your agent and this means you are responsible for their costs and actions.

## **28 POWERS WE HAVE AS YOUR ATTORNEY AND POWERS OF A PROPERTY RECEIVER**

28.1 At any time after any of the events in clause 25 happen, we may (unless the law does not allow) appoint in writing any person or persons to be a receiver of the Property.

28.2 If any of the events in clause 25 happen, we (as your attorney) and/or a receiver can:

- (a) enter the Property and take possession of it;
- (b) ensure the Property is in a good state of condition and repair and where necessary improve or replace any part of the Property;
- (c) acquire any further Property assets or rights;
- (d) sell or transfer all or part of the Property;
- (e) deal with all leases on your behalf;
- (f) exercise all powers given to you by any statute, deed or contract in respect of any part of the Property and make any arrangements with you in respect of your rights;
- (g) appoint suitable contractors for any work that is required in relation to the Property;
- (h) make a claim related to the Property or under any insurance, guarantee or compensation related to the Property;
- (i) borrow money against the Property from us or anyone else;
- (j) collect rents due in respect of the Property;
- (k) insure the Property; and/or
- (l) deal with any insurance claim proceeds received as your attorney. We or the receiver will use it to repair or rebuild the Property or for another purpose for which the proceeds were paid, unless we or the receiver give you notice that it is to be used to pay towards the Outstanding Balance.

28.3 We (as your attorney) and/or a receiver can at any time (not just if any of the events in clause 25 happen):

- (a) employ and pay agents to carry our work on the Property;
- (b) take action to keep the Property in good repair and condition;
- (c) take action to comply with any applicable law or regulations in relation to the Property;
- (d) take action to remedy any defect with the Mortgage Deed which means it is not legally binding (including granting a new Mortgage Deed in our favour);
- (e) sign forms or documents in relation to the Property;
- (f) do anything reasonably required in relation to the Property to ensure the Property will continue to provide good security for the Outstanding Balance, the mortgage or your Mortgage Agreement; and/or
- (g) do anything else you are obliged to do under your Mortgage Agreement.

## **GENERAL**

### **29 JOINT AND SEVERAL LIABILITY**

29.1 If you have borrowed on your own you are fully responsible to pay the Outstanding Balance and to comply with your Mortgage Agreement.

29.2 If you have borrowed jointly then your Mortgage Agreement applies to both of you together and each of you separately. This means that each of you can be individually held fully responsible for complying with your Mortgage Agreement and paying the Outstanding Balance.

### **30 RIGHTS OF THIRD PARTIES**

30.1 Your Mortgage Agreement can only be enforced by you, your successors, your personal representatives and us, our successors and any person or company to whom we transfer or assign all or part of our rights under your Mortgage Agreement (which includes your mortgage).

30.2 Your personal representatives and successors will be bound by your Mortgage Agreement after your death.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



## 31 TRANSFER OF YOUR MORTGAGE

- 31.1 We can transfer or assign (including hold on trust) any or all of our rights under your Mortgage Agreement (which includes your mortgage) to or in favour of someone else at any time.
- 31.2 If we do this, the person or company we transfer our rights to will have the same rights as we have. Your rights and obligations will not be affected by this, and the terms and conditions of your Mortgage Agreement will not change because of the transfer.
- 31.3 Subject to condition 31.4, we will only transfer or assign our rights under your Mortgage Agreement to those who agree to use their rights in accordance with agreed policies and procedures, which shall be no less favourable to you than the policies and procedures we followed before the transfer or assignment or assignation.
- 31.4 The policies and procedures we use for mortgages in which we have not transferred or assigned our rights may change after a transfer or assignment or assignation. In addition, the person who we transfer or assign our rights to may ask us to change the policies and procedures. We can agree to make such changes, provided the policies and procedures are no less favourable to you in all material aspects as the ones we were using.
- 31.5 We can delegate all or part of our rights and obligations under your Mortgage Agreement to someone else at any time.
- 31.6 We can pass on details about you and your Mortgage Agreement to someone else where we consider it necessary or advisable to do so in connection with any sale or financing arrangement which we may enter into or consider in connection with your Mortgage Agreement, including your mortgage.
- 31.7 We will write to tell you when (on or before) we legally assign your mortgage.
- 31.8 You must not transfer or assign all or part of your rights under your Mortgage Agreement to anyone else.

## 32 THE LAW THAT APPLIES TO YOUR MORTGAGE AGREEMENT

- 32.1 If the Property is in England or Wales, your Mortgage Agreement is governed by the laws of England and Wales.
- 32.2 If the Property is in Scotland, your Mortgage Agreement is governed by the laws of Scotland.
- 32.3 The terms of your Mortgage Agreement are subject to the non-exclusive jurisdiction of the courts of the country within the United Kingdom in which the Property is located. This means if the Property is located in England or Wales, the competent court will be the courts of England and Wales. If the Property is located in Scotland, the competent court will be the Scottish courts.
- 32.4 If any of the terms and conditions of your Mortgage Agreement (or any part of them) become invalid, illegal or unenforceable the remaining terms and conditions (or the remaining part of them) will not be affected in any way.
- 32.5 From 11th March 2022 onwards, if your Illustration says your Interest Rate tracks LIBOR, that term will no longer apply and your Interest Rate will track Base Rate instead (see clause 4.9(b) above). If any of the other terms and conditions of your Mortgage Agreement are not consistent with anything in an Illustration or any of the Special Condition(s), the terms of the Illustration then the terms of any Special Condition(s) will apply.

## 33 CHANGES TO THE TERMS AND CONDITIONS OF YOUR MORTGAGE AGREEMENT

- 33.1 We will only make changes to your Mortgage Agreement to respond proportionately to any of the following events:
  - (a) changes in any applicable UK or European legislation, including those about taxation;
  - (b) orders of a UK court, regulator or competent authority; or
  - (c) changes in any applicable law or regulation.
- 33.2 We will write to tell you at least 28 days before we have to make any changes, unless we have to make the change more quickly because of a change in law or regulation.

## 34 GIVING NOTICE

- 34.1 We will write to you to give you any notices needed under your Mortgage Agreement. Any letters we send will be sent to you at the Property, unless you have given us another satisfactory address to use.
- 34.2 You must also write to us to give us any notices needed under your Mortgage Agreement. Any letters you send must be sent to The Mortgage Lender Limited at the address in the 'About us' section, unless we have given you another address to use.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



## 35 SCOTTISH MODIFICATIONS

35.1 Where the Property is located in Scotland:

- (a) In clause 9, references to set-off will include analogous rights under Scots law.
- (b) In clauses 10.7 to 10.13 where there are references to monies deriving from the Property being held on trust for us then we may require you to enter into a separate declaration of trust (in a form acceptable to us) in respect of those monies.
- (c) In respect of clause 12, instead of a Deed of Consent, you must at the time your mortgage Completes (i) procure that any person having rights or potentially having rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended and/or the Civil Partnership Act 2004 consents to the Mortgage Deed or renounces any rights available to that person in the normal and prescribed form; or (ii) if you are a single person enter into a declaration in the normal and prescribed form confirming that the property is not subject to any rights of occupancy under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended and/or the Civil Partnership Act 2004.
- (d) Clauses 13.4, 13.5 and 14 shall not apply.
- (e) Clause 16.9 shall apply where the Property is part of a tenement or a block of flats or larger building which are insured under a Common Insurance Policy maintained by a factor or managing agent regulated under the Property Factors (Scotland) Act 2011. Where such tenement or larger building is not maintained by a factor or managing agent regulated under the Property Factors (Scotland) Act 2011 we may ask you to maintain insurance cover for the reinstatement value of the tenement or larger building.
- (f) Clause 20.2 shall not apply.
- (g) Clause 24.3 and clause 24.4 shall not apply.
- (h) If any of the events in Clause 25 occur, you will be in default in terms of the Conveyancing and Feudal Reform (Scotland) Act 1970 and, in addition to the rights and powers available to us under Clause 26, we may also exercise all of the other rights and powers available to creditors under and in terms of the Conveyancing and Feudal Reform (Scotland) Act 1970.
- (i) In Clause 26 references to “receiver” shall not apply.
- (j) Clauses 26.7, 26.8 and 26.9 shall not apply. If we require to take possession of the Property we shall comply with the Conveyancing and Feudal Reform (Scotland) Act 1970 (the legislation applicable in Scotland to taking possession of property which is secured to a lender) and we may apply for a court decree for your ejection from the Property from any sheriff court in the area where the Property is situated.
- (k) In Clauses 27 and 28 references to “receiver” shall not apply. With regard to clause 27.1 our appointment as your attorney shall subsist from the date that you sign the Mortgage Deed and your execution of the Mortgage Deed shall be sufficient evidence of the Power of Attorney in our favour whether or not the Mortgage Deed has been registered at Registers of Scotland.
- (l) The Mortgage Deed known in Scotland as a Standard Security shall incorporate these Mortgage Terms and Conditions a form of which shall be registered in the Books of Council and Session. The Mortgage Deed shall also incorporate the standard conditions set out in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 (as varied by these Mortgage Terms and Conditions), a copy of which is available upon request. In the event of any conflict between the provisions of these Mortgage Terms and Conditions and the abovementioned standard conditions, these Mortgage Terms and Conditions will prevail.

## 36 ABOUT US

### 36.1 Important information

We are The Mortgage Lender Limited, registered office: Fifth Floor, 100 Victoria Street, Bristol BS1 6HZ. Registered in England number 9280057. Website: [www.themortgagelender.com](http://www.themortgagelender.com)

The Mortgage Lender Limited is authorised and regulated by the Financial Conduct Authority under registration number 707058.

### 36.2 How to contact us

If you need to contact us please use the following details: postal address - PO Box 27135, Glasgow G1 9EG; telephone number - 0344 257 0416. Calls may be recorded or monitored for training purposes.

### 36.3 How to complain

If you have a complaint about any aspect of The Mortgage Lender Limited's service, you can write to, email or telephone us using the details provided in clause 36.2 above. A leaflet detailing the full complaints and appeals process will be provided to you.

If you cannot settle your complaint with us, you may be entitled to refer it to The Financial Ombudsman Service, Exchange Tower, London, E14 9SR (telephone number 0800 023 4567, 0300 123 9123 or +44 20 7964 0500 (from abroad)).

This procedure will not prejudice your right to take legal proceedings. However, please note that there are some instances when the Financial Ombudsman Service cannot consider complaints.

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016

## DEFINITIONS

This is a list of all the technical terms we have used in these Terms and Conditions. Unless we have specifically said otherwise, this is what each term shall mean where it is used in these Terms and Conditions. You can easily identify these terms in the Terms and Conditions as they begin with a capital letter.

<b>Advance</b>	an Initial Advance or a Further Advance
<b>Application Assessment Fee</b>	the application assessment fee set out in the Tariff of Charges
<b>Base Rate</b>	the Bank of England's official Base Rate (often referred to as the "Bank of England base rate") or, in the event that this rate ceases to exist, the nearest equivalent lending rate that we reasonably set
<b>Business Day</b>	a day other than a Saturday or a Sunday or a bank holiday in England
<b>Complete and Completion</b>	when we pay the Initial Advance Loan Amount to you or your legal adviser, after we have received all the documents we need and we are satisfied with the title to the Property and that any pre-completion Special Conditions in the Offer Letter have been met
<b>Costs</b>	<p>a cost, charge or expense (including any rent, service charges, bills, insurance premiums or other outgoings for the Property, including any legal adviser's costs and any taxes where applicable, for example Value Added Tax and Insurance Premium Tax) that we reasonably incur in connection with:</p> <ul style="list-style-type: none"><li>• your mortgage;</li><li>• our security for your mortgage;</li><li>• the Property; or</li><li>• any changes that you ask us to make,</li></ul> <p>but does not include any of our normal expenses for servicing mortgages in general where our customers are keeping to their agreements with us, as we have already taken those expenses into account when setting Interest Rates and Fees</p>
<b>Deed of Consent</b>	a document that must be signed by any other occupier who is not a borrower and is living, or it is anticipated will be living, in the Property at the time the mortgage Completes, which acknowledges that the occupier(s) do not have any rights to the Property and will vacate the Property where we require them to do so
<b>Early Repayment Charge</b>	the amount of money you must pay to us if required under your Mortgage Agreement if all or part of the Outstanding Balance is repaid before repayment of that amount becomes due
<b>Fees</b>	an amount described as a "Fee" which you must pay to us as shown in your Offer and/or the Tariff of Charges, for example the Application Assessment Fee and the Valuation Fee
<b>Further Advance</b>	an amount of money we pay to you or your legal advisers under a Further Advance Offer
<b>Initial Advance</b>	the amount of money we lend to you as indicated in your Initial Advance Offer, which might be paid in one or more amount(s)

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016

<b>Illustration</b>	the illustration provided to you as part of the offer pack enclosed in the Offer Letter
<b>Interest Rate</b>	the annual rate of interest that we charge on the Outstanding Balance and on any interest, Costs and Fees added to the Outstanding Balance
<b>Loan Amount</b>	the amount of money we pay to you or your legal advisers for the Initial Advance or a Further Advance
<b>LIBOR</b>	means the London Interbank Offered Rates, which is the average interest rate at which the banks would lend money to each other at on the London market.
<b>Margin</b>	means the percentage above Base Rate by which the Interest Rate will track Base Rate or LIBOR, as applicable, as shown in Section 4 of the Illustration
<b>Month</b>	a calendar month
<b>Monthly Payment</b>	the amount of money you must pay to us each month during your Mortgage Agreement
<b>Monthly Payment Date</b>	the date each month on which you must pay to us your Monthly Payment Amount
<b>Mortgage Application Declaration</b>	the declaration form provided to you when you apply for the mortgage
<b>Mortgage Deed</b>	a document which is signed by you and secures the Outstanding Balance through a legal charge on the Property. If your Mortgage Agreement relates to a Property in Scotland, then references to the Mortgage Deed shall be read as references to the Standard Security
<b>Offer</b>	the Offer Letter and the Illustration
<b>Offer Letter</b>	the offer letter sent to you enclosing the offer pack which indicates it is the mortgage offer
<b>Outstanding Balance</b>	the total amount of money that you must pay us in connection with your mortgage, including all Loan Amounts, all Fees, all Early Repayment Charges, all Costs and all interest that has accumulated that you need to pay us, less the total amount of money that you have paid to us during your Mortgage Agreement
<b>Property</b>	the property including all fixtures and fittings and rights attaching to the property, provided by you as security for the Outstanding Balance and specified as "the Property" in the Mortgage Deed
<b>Sale Proceeds</b>	the amount of money from the sale of the Property after allowing for payment of reasonable sale costs
<b>Special Conditions</b>	a condition set out in the Offer Letter under the heading "special conditions"
<b>Standard Security</b>	the standard security (under and as defined in the Conveyancing and Feudal Reform (Scotland) Act 1970) which you grant in our favour over the Property
<b>Tariff of Charges</b>	a document that we provided to you as part of the offer pack enclosed in the Offer Letter that describes the Fees that we can charge you that are current at the time we issue that Tariff of Charges

# RESIDENTIAL MORTGAGE TERMS AND CONDITIONS 2016



<b>Term</b>	the period of time stated in section 3 of the Illustration
<b>Terms and Conditions</b>	the terms and conditions set out in this document
<b>Valuation Fee</b>	the valuation fee set out in the Tariff of Charges
<b>we, us and our</b>	The Mortgage Lender Limited or any person or company to whom we assign or otherwise transfer any of our rights under your Mortgage Agreement or your mortgage
<b>you, your</b>	the borrower(s) named in the Illustration and/or any personal representative(s) appointed who is/are legally responsible for dealing with your affairs, including executors of your estate

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**INTERMEDIARY ENQUIRIES 0344 257 0418**  
**WWW.THEMORTGAGELENDER.COM**