<u>LEEDS BUILDING SOCIETY REQUIREMENTS IN RESPECT OF SHARED OWNERSHIP SCHEMES/SHARED EQUITY LOAN SCHEMES/SECTION 75 AGREEMENTS</u>

<u>(SCOTLAND ONLY)</u>

If the property is being purchased under a Shared Ownership Scheme, Shared Equity Loan Scheme and/or there is a Section 75 Agreement in place, you are instructed to follow these instructions in addition to the Society's Instructions to Solicitors and Licensed Conveyancers in the UK Finance (formerly CML) Lenders' Handbook for Scotland ("UKF Handbook").

These instructions contain three parts, as below, and apply to both purchases and re-mortgages:

<u>Section 1:</u> Shared Ownership Requirements which must be complied with for <u>all</u> Shared Ownership Leases.

<u>Section 2:</u> Shared Equity Loan Requirements which you must follow when a Borrower is acquiring 100% ownership of the property but is using an equity loan to fund the purchase (for example if the Borrower is purchasing through the LIFT Scheme or a similar scheme).

<u>Section 3</u>: Requirements where there is a restriction on the disposal contained within a Section 75 Agreement including where the property is being purchased at a discount. For clarity, where a property is being purchased under a Shared Ownership Scheme or a Shared Equity Loan Scheme then the requirements set out in Section 1, or Section 2 of these instructions will also apply (as appropriate).

IT IS THE RESPONSIBILITY OF THE ACTING SOLICITOR/LICENSED CONVEYANCER TO ENSURE THAT ANY PROPERTIES PURCHASED PURSUANT TO THESE INSTRUCTIONS MEETS ALL REQUIREMENTS. THE SOCIETY WILL NOT REVIEW ANY LEASES OR PROVIDE ANY ADVICE AS TO WHETHER A PROPERTY MEETS THESE REQUIREMENTS. IF THE INSTRUCTING SOLICITOR/LICENSED CONVEYANCER IDENTIFIES THAT A PROPERTY DOES NOT MEET THESE REQUIREMENTS, YOU MUST INFORM US IMMEDIATELEY IN WRITING CONFIRMING THAT THESE REQUIREMENTS ARE NOT MET, AS THE SOCIETY WILL NOT LEND IN SUCH CIRCUMSTANCES.

<u>SECTION 1</u>
<u>SHARED OWNERSHIP REQUIREMENTS FOR ALL SHARED OWNERSHIP LEASES</u>

1. **Landlord**
   The landlord must be regulated by a regulatory authority that is responsible for regulating the landlords in a shared ownership lease.

2. **Standard Security and Lease / Occupancy Agreement**
   2.1 The Borrower will grant the Society a first (and only) ranking standard security over the percentage share of the property being acquired, and enter into an occupancy agreement with the Registered Social Landlord in respect of occupying the share retained in the ownership of the Registered Social Landlord.

   2.2 The occupancy agreement should provide that if the Borrower defaults on the mortgage (standard security) then they are also in default in terms of the occupancy agreement to ensure the Society can recover vacant possession in the event of default.

3. **Co-operation Agreement**
   The Society enters into overarching Co-operation Agreements with Registered Social Landlords. You should check with the Society that such a Co-operation Agreement is in place in respect of the Property in which the Borrower is acquiring a share. The Society will not lend until such time as a co-operation agreement is in place. If such a co-operation agreement does not exist you will need to arrange for an agreement to be in place prior to the Society agreeing to lend.

4. **Purchase Price**
   4.1 The purchase price must be a defined percentage of the full open market value and must not include any additional costs connected with the purchase of the property (e.g. any costs payable to the builder).

   4.2 You must notify the percentage purchase price to the Society's Mortgage Lending Department (see CML Handbook for Scotland for contact details) and check with them that the property has been valued accordingly.

5. **Percentage Share**
The initial share to be purchased by the Borrower must not be less than 25% of the market value of the whole property. If the percentage of the property to be purchased is different from that set out in our mortgage offer, you must inform us and await further instructions

6. **Consent to Mortgage**
6.1 Before conclusion of missives, you must ensure that the Landlord is shown a copy of the mortgage offer / terms of the mortgage to be taken out by the Borrower and the Landlord must provide written consent to the mortgage and (if appropriate) written consent to the assignment of the occupancy agreement.

6.2 You must not complete the purchase/re-mortgage without the Landlord's written consent and a copy of this written consent must be sent to us before completion.

7. **Staircasing**[1]
7.1 The agreement between the Borrower and the Registered Social Landlord must allow the Borrower to acquire further shares in the property up to 100% of its total value.

7.2 The Society will **not** lend where the agreement between the Borrower and the Registered Social Landlord does not allow staircasing up to 100% of the value of the property (i.e the Society will not lend in a fixed share ownership scheme). The Society will however lend on a fixed share ownership scheme where the agreement between the Borrower and the Registered Social Landlord allows staircasing above 80% but contains a mandatory buyback provision whereby the Borrower is under an obligation to sell back to the Registered Social Landlord).

SECTION 2
SHARED EQUITY LOAN REQUIREMENTS

The Society will lend on the Scottish Government Low-Cost Initiative for First Time Buyers ("LIFT") Schemes, being The New Supply Shared Equity Scheme ("New Supply") and the Open Market Shared Equity Scheme ("Open Market"), available in Scotland. The arrangement for the equity loan via the New Supply Scheme must be through a Registered Social Landlord or through a Local Authority approved and funded scheme. The arrangement for the equity loan via the Open Market Scheme must be in accordance with the scheme rules issued by the Scottish Government and through one of the administering agents appointed by the Scottish Government.

Please note that these requirements are different from circumstances where a Borrower is only purchasing a percentage of the property (and this is not being done under a Shared Ownership Lease as set out at Section 1 above). If this is the case then the property falls outside the Society's lending policy and the Society will not lend. **In such cases, you should notify the Society in writing confirming that the scheme does not meet these requirements.**

1. **Requirements**

1.1 Where a Shared Equity Loan will be used to assist with the purchase of the property, the Society's requirements are as follows:

1.1.1 The Borrower must pay a percentage of the full open market value (e.g. 75%) but must acquire ownership of 100% of the property on completion.

1.1.2 The remaining balance (e.g. 25%) must be provided by way of a deposit funded by the Borrower (usually 5%) and also the Scottish Ministers which is secured by a second charge on the property (usually 20%). The initial equity loan must be no more than 40% of the current market value.

1.1.3 Any future change in the value of the equity in the property, on a disposal or sale, will be shared between the Borrower and the Scottish Ministers in the relative percentages.

1.1.4 The right of the Scottish Ministers, to share in the equity, will be secured by the terms of the second charge. When ascertaining the amount to be repaid to the Scottish Ministers, the calculation must disregard any increase in the overall total value of the property as a direct result of material home improvements made by the Borrower.

[1] Staircasing allows a Borrower to purchase additional shares in the property.

1.1.5 No rent, fee or other payment is paid by the Borrower in respect of the Scottish Minister's percentage.

1.1.6 On disposal of the property, or earlier on expiry of the term of the Borrower's agreement with the Scottish Ministers, the Scottish Minister's percentage must be repaid (where a golden share does not apply allowing 100% equity share for a future purchaser or the existing Borrower and where a golden share does apply allowing 100% of the Borrowers equity share for a future purchaser or the existing Borrower).

1.1.7 The repayment term of the Borrower's agreement with the Scottish Ministers must be at least the term of the mortgage.

1.1.8 If the equity sharing scheme gives the Borrower the right to "buy out" / repay the Scottish Minister's percentage (or part of it) prior to the disposal of the property / expiry of the term of the Borrower's agreement with the Scottish Ministers, any such "buy out" / repayment must be at the current open market value.

1.1.9 The Society, as heritable creditor in possession, must have the ability to sell the property on the open market and at full open market value, with access to 100% of the equity of the property in satisfaction of its charge, and free of any restrictions in this regard. For the avoidance of doubt the Society's ability to sell the property as detailed in this condition must be permitted without the consent of any subsequent ranking standard security holder.

1.1.10 The Society's mortgage must be secured by a first ranking standard security on the property.

1.1.11 You should accept these instructions as the Society's formal consent for (a) the registration of a subsequent standard security in favour of the Scottish Ministers; and (b) the registration of a ranking agreement governing the ranking of the Society's and the Scottish Ministers standard securities in accordance with the relevant LIFT scheme.

1.1.12 You should approve the terms of the subsequent charge in favour of the Scottish Ministers, and the terms of the ranking agreement amongst the Borrower, the Scottish Ministers and the Society, on behalf of the Society.

1.1.13 You should check the terms of the mortgage offer to ensure that the Borrower has selected a shared equity product. The Society will only lend on a shared equity basis when a shared equity product has been selected.

1.1.14 In an Open Market scheme you should take reasonable steps to ensure that the purchase is in accordance with the passport letter issued by the administrating agent on behalf of the Scottish Government.

1.1.15 You must ensure that the cumulative total borrowing does not exceed 100% of the value.

1.1.16 You must ensure that the Society's mortgage does not exceed the amount which represents the percentage of the purchase price which is to be paid by the Borrower.

SECTION 3
RESTRICTIONS ON THE DISPOSAL OF THE PROPERTY IN A SECTION 75 AGREEMENT (OR EQUIVALENT) INCLUDING WHERE THE PROPERTY IS PURCHASED AT A DISCOUNT

In new developments, a proportion of houses are often sold as 'affordable housing'. Local authorities often attach conditions to the way these houses can be sold through what are known as 'Section 75. Agreements

1. Restrictions

1.1 Restrictions on the disposal of the property may have an impact on the value/marketability of a property, particularly where the Society has to take the property into possession due to a failure by the Borrower to comply with their mortgage terms and conditions. Notwithstanding the provisions of paragraph 1.2 below, you must provide us with written notice of any such restriction. We may refer such matters to the valuer for consideration in regards to the marketability of the property taking into account the restriction identified.

1.2 **Acceptable Restrictions**

1.2.1 Subject to paragraphs 1.2.2, 1.2.3 and 1.2.4 below the Society will accept the following restrictions relating to the disposal of the property (‘**Acceptable Restrictions**’):

However please note that the Acceptable Restrictions are separate to any standard restrictions / provisions which are set out in any Co-operation Agreement between the Society and a Lender.

- salary restrictions that increase in line with a local plan or are linked to another inflationary measure (typically Affordable Housing/Discounted Housing Schemes);
- purchase price (if restricted) provided there is no provision which restricts the Borrower’s entitlement to benefit from any increase in the market value of the property (e.g. through a fixed monetary cap);
- local living restrictions;
- property can only be sold to first time buyers;
- purchaser age restrictions, which can be minimum or maximum age restrictions (e.g. where the property can only be sold to purchasers over 60); or
- a combination of the above.

1.2.2 The Acceptable Restrictions will only be acceptable where one (or more) of the following applies to each restriction:

- A cascade mechanism[2] is in place that commences after a maximum of 3 months from the date of entry where no missives have concluded, with no restriction of any kind after 6 months (the price for the sale must be the full open market value of the property); **OR**

- A Lender Exclusion[3] Clause applies immediately upon possession and will continue in force for successors in title to the heritable creditor in possession ensuring that all successors also take free from the relevant restrictions; **OR**

- The restriction only applies to the first transaction (i.e. the initial purchase transaction) and is subsequently dis-applied to any future transactions.

1.2.3 Where a Housing Association is involved:

- all pre-emption rights must be removed after 3 months from the date of possession (save for any pre-emption rights forming part of the fundamental clauses of **any Co-operation Agreement between the Society and a Lender**);

- all nomination restrictions must be removed after 3 months from the date of possession (save for any nomination restrictions which form part of **any Co-operation Agreement between the Society and a Lender**);

- all marketing restrictions must be removed after 3 months from the date of the repossession;

- there must be no pre-emptive rights that allow a discounted sale outside of the scheme rules.

1.2.4 Where a restriction is in place (as set out at paragraph 1.2.1 above) you must provide the Society with the specific wording of the restriction and seek confirmation that the property has been valued accordingly.

The Society will not accept any other restrictions that fall outside of the ‘Acceptable Restrictions’ listed above.

[2] A cascade mechanism involves offering the property to a very local market and gradually widening the net until eventually the property can be sold on the open market.
[3] A Lender Exclusion Clause allows a lender who has repossessed the property to operate free of any Section 75 affordable housing restrictions which are placed upon individual properties.