

STANDARD COMMERCIAL PROPERTY CONDITIONS (THIRD EDITION)

PART 1

1. GENERAL

1.1 Definitions

1.1.1 In these conditions:

- (a) "accrued interest" means:
- (i) if money has been placed on deposit or in a building society share account, the interest actually earned
 - (ii) otherwise, the interest which might reasonably have been earned by depositing the money at interest on seven days' notice of withdrawal with a clearing bank
- less, in either case, any proper charges for handling the money
- (b) "apportionment day" has the meaning given in condition 9.3.2
- (c) "clearing bank" means a bank which is a shareholder in CHAPS Clearing Co. Limited
- (d) "completion date" has the meaning given in condition 9.1.1
- (e) "contract rate" means the Law Society's interest rate from time to time in force
- (f) "conveyancer" has the meaning given by rule 217A of the Land Registration Rules 2003
- (g) "lease" includes sub-lease, tenancy and agreement for a lease or sub-lease
- (h) "mortgage" means a mortgage or charge securing the performance of any obligation (whether or not for the payment of money)
- (i) "notice to complete" means a notice requiring completion of the contract in accordance with condition 9.8
- (j) "option to tax" means an option to tax any land having effect under Part 1 of Schedule 10 to the Value Added Tax Act 1994 and references to exercising the option to tax include electing to waive exemption under previous legislation and option in this context includes such an election
- (k) "post" includes postal services provided by a postal operator and "postal services" has the meaning given to it by section 27(1)(a) and (c) of the Postal Services Act 2011 and "postal operator" has the meaning given by section 27(3) and (4) of that Act
- (l) "public requirement" means any notice, order or proposal given or made (whether before or after the date of the contract) by a body acting on statutory authority
- (m) "requisition" includes objection
- (n) "transfer" includes conveyance and assignment
- (o) "VAT" means value added tax
- (p) "working day" means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

1.1.2 In these conditions the terms "absolute title" and "official copies" have the special meanings given to them by the Land Registration Act 2002.

1.1.3 A party is ready, able and willing to complete:

- (a) if it would be, but for the default of the other party, and
- (b) in the case of the seller, even though the property remains subject to a mortgage, if the amount to be paid on completion enables the property to be transferred freed of all mortgages (except those to which the sale is expressly subject).

1.1.4 (a) The conditions in Part 1 apply subject to any variations or exclusions in the contract.

- (b) A condition in Part 2 only applies if expressly incorporated into the contract.

1.2 Joint parties

If there is more than one seller or more than one buyer, the obligations which they undertake can be enforced against them all jointly or against each individually.

1.3 Notices and documents

1.3.1 A notice required or authorised by the contract is to be in writing.

1.3.2 Giving a notice or delivering a document to a party's conveyancer has the same effect as giving or delivering it to that party.

1.3.3 Where delivery of the original document is not essential, a notice or document is validly given or sent if it is sent by:

- (a) fax to a fax number for the intended recipient expressly given in the contract for that purpose, or
- (b) e-mail to an e-mail address for the intended recipient expressly given in the contract for that purpose.

1.3.4 Subject to conditions 1.3.5 to 1.3.7, a notice is given and a document delivered when it is received.

1.3.5 (a) A notice or document sent through the document exchange is received when it is available for collection.

- (b) A notice or document which is received after 4.00 p.m. on a working day, or on a day which is not a working day, is to be treated as having been received on the next working day.

- (c) An automated response to a notice or document sent by e-mail that the intended recipient is out of the office is to be treated as proof that the notice or document was not received.

1.3.6 Condition 1.3.7 applies unless there is proof:

- (a) that a notice or document has not been received, or
- (b) of the actual time of receipt.

1.3.7 A notice or document sent by the following means is treated as having been received as follows:

- (a) by first class post: before 4.00 pm on the second working day after posting
- (b) by second class post: before 4.00 pm on the third working day after posting
- (c) through a document exchange: before 4.00 pm on the first working day after the day on which it would normally be available for collection by the addressee
- (d) by fax: one hour after despatch
- (e) by e-mail: one hour after despatch

1.3.8 In condition 1.3.7, "first class post" means a postal service which seeks to deliver posted items no later than the next working day in all or the majority of cases.

1.4 Assignment and sub-sales

1.4.1 The buyer is not entitled to transfer the benefit of the contract.

1.4.2 The seller cannot be required to transfer the property in parts or to any person other than the buyer.

1.5 Third party rights

Nothing in this contract creates rights under the Contracts (Rights of Third Parties) Act 1999 intended to be enforceable by third parties.

2. VAT STANDARD RATED SUPPLY

2.1 The seller warrants that the sale of the property will constitute a supply chargeable to VAT at the standard rate.

2.2 The buyer is to pay to the seller on completion an additional amount equal to the VAT in exchange for a VAT invoice from the seller.

3. FORMATION

3.1 Date

3.1.1 If the parties intend to make a contract by exchanging duplicate copies by post or through a document exchange, the contract is made when the last copy is posted or deposited at the document exchange.

3.1.2 If the parties' conveyancers agree to treat exchange as taking place before duplicate copies are actually exchanged, the contract is made as so agreed.

3.2 Deposit

3.2.1 Unless otherwise agreed, the buyer is to pay a deposit of 10 per cent of the purchase price no later than the date of the contract. Where the agreed deposit is less than 10 per cent of the purchase price, condition 9.8.3 applies.

3.2.2 Except on a sale by auction the deposit is to be paid by electronic means from an account held in the name of a conveyancer at a clearing bank to an account in the name of the seller's conveyancer and is to be held by the seller's conveyancer as stakeholder on terms that on completion it is to be paid to the seller with accrued interest.

3.3 Auctions

3.3.1 On a sale by auction the following conditions apply to the property and, if it is sold in lots, to each lot.

3.3.2 The sale is subject to a reserve price.

3.3.3 The seller, or a person on its behalf, may bid up to the reserve price.

3.3.4 The auctioneer may refuse any bid.

3.3.5 If there is a dispute about a bid, the auctioneer may resolve the dispute or restart the auction at the last undisputed bid.

3.3.6 The auctioneer is to hold the deposit as agent for the seller.

3.3.7 If any cheque tendered in payment of all or part of the deposit is dishonoured when first presented, the seller may, within seven working days of being notified that the cheque has been dishonoured, give notice to the buyer that the contract is discharged by the buyer's breach.

4. MATTERS AFFECTING THE PROPERTY

4.1 Freedom from incumbrances

4.1.1 The seller is selling the property free from incumbrances, other than those mentioned in condition 4.1.2.

4.1.2 The incumbrances subject to which the property is sold are:

- (a) those specified in the contract
- (b) those discoverable by inspection of the property before the date of the contract
- (c) those the seller does not and could not reasonably know about
- (d) matters, other than mortgages, disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into the contract
- (e) public requirements.

4.1.3 After the contract is made, the seller is to give the buyer written details without delay of any new public requirement and of anything in writing which it learns about concerning a matter covered by condition 4.1.2.

4.1.4 The buyer is to bear the cost of complying with any outstanding public requirement and is to indemnify the seller against any liability resulting from a public requirement.

4.2 Physical state

4.2.1 The buyer accepts the property in the physical state it is in at the date of the contract unless the seller is building or converting it.

4.2.2 A leasehold property is sold subject to any subsisting breach of a condition or tenant's obligation relating to the physical state of the property which renders the lease liable to forfeiture.

4.2.3 A sub-lease is granted subject to any subsisting breach of a condition or tenant's obligation relating to the physical state of the property which renders the seller's own lease liable to forfeiture.

5. LEASES AFFECTING THE PROPERTY

5.1 General

5.1.1 This condition applies if any part of the property is sold subject to a lease.

5.1.2 The seller having provided the buyer with full details of each lease or copies of documents embodying the lease terms, the buyer is treated as entering into the contract knowing and fully accepting those terms.

5.1.3 The seller is not to serve a notice to end the lease nor to accept a surrender.

5.1.4 The seller is to inform the buyer without delay if the lease ends.

5.1.5 The buyer is to indemnify the seller against all claims arising from the lease after actual completion; this includes claims which are unenforceable against a buyer for want of registration.

5.1.6 If the property does not include all the land let, the seller may apportion the rent and, if the lease is a new tenancy, the buyer may require the seller to apply under section 10 of the Landlord and Tenant (Covenants) Act 1995 for the apportionment to bind the tenant.

5.2 Property management

5.2.1 The seller is promptly to give the buyer full particulars of:

- (a) any court or arbitration proceedings in connection with the lease, and
- (b) any application for a licence, consent or approval under the lease.

5.2.2 Conditions 5.2.3 to 5.2.8 do not apply to a rent review process to which condition 6.1 applies or any negotiations or proceedings to which condition 6.2 applies.

5.2.3 Subject to condition 5.2.4, the seller is to conduct the proceedings in accordance with written directions given by the buyer from time to time (for which the seller is to apply), unless to do so might place the seller in breach of an obligation to the tenant or a statutory duty.

- 5.2.4 If the seller applies for directions from the buyer in relation to a proposed step in the proceedings and the buyer does not give such directions within 10 working days, the seller may take or refrain from taking that step as it thinks fit.
- 5.2.5 The buyer is to indemnify the seller against all loss and expense resulting from the seller's conduct of the proceedings in accordance with the buyer's directions.
- 5.2.6 Unless the buyer gives written consent, the seller is not to:
- grant or formally withhold any licence, consent or approval under the lease, or
 - serve any notice or take any action (other than action in court or arbitration proceedings) as landlord under the lease.
- 5.2.7 When the seller applies for the buyer's consent under condition 5.2.6:
- the buyer is not to withhold its consent or attach conditions to the consent where to do so might place the seller in breach of an obligation to the tenant or a statutory duty
 - the seller may proceed as if the buyer has consented when:
 - in accordance with paragraph (a), the buyer is not entitled to withhold its consent, or
 - the buyer does not refuse its consent within 10 working days.
- 5.2.8 If the buyer withholds or attaches conditions to its consent, the buyer is to indemnify the seller against all loss and expense resulting from such withholding or attachment of conditions.
- 5.2.9 In all other respects, the seller is to manage the property in accordance with the principles of good estate management until completion.

5.3 Continuing liability

At the request and cost of the seller, the buyer is to support any application by the seller to be released from the landlord covenants in a lease to which the property is sold subject.

6. RENT REVIEWS AND PENDING LEASE RENEWALS

6.1 Rent reviews

- 6.1.1 Subject to condition 6.1.3, this condition 6.1 applies if:
- the rent reserved by a lease of all or part of the property is to be reviewed
 - the seller is either the landlord or the tenant
 - the rent review process starts before actual completion, and
 - no reviewed rent has been agreed or determined at the date of the contract.
- 6.1.2 The seller is to conduct the rent review process until actual completion, after which the buyer is to conduct it.
- 6.1.3 Conditions 6.1.4 and 6.1.5 cease to apply on actual completion if the reviewed rent will only be payable in respect of a period after that date or if the rent review date precedes the completion date by more than two years.
- 6.1.4 In the course of the rent review process, the seller and the buyer are each to:
- act promptly with a view to achieving the best result obtainable
 - consult with and have regard to the views of the other
 - provide the other with copies of all material correspondence and papers
 - ensure that its representations take account of matters put forward by the other, and
 - keep the other informed of progress.
- 6.1.5 Neither the seller nor the buyer is to agree a rent figure unless it has been approved in writing by the other (such approval not to be unreasonably withheld).
- 6.1.6 The seller and the buyer are each to bear their own costs of the rent review process.
- 6.1.7 Unless the rent review date precedes the apportionment day, the buyer is to pay the costs of a third party appointed to determine the rent.
- 6.1.8 Where the rent review date precedes the apportionment day, those costs are to be divided as follows:
- the seller is to pay the proportion that the number of days from the rent review date to the apportionment day bears to the number of days from that rent review date until either the following rent review date or, if none, the expiry of the term, and
 - the buyer is to pay the balance.

6.2 Pending lease renewals

- 6.2.1 This condition 6.2 applies if:
- the tenancy created by a lease of all or part of the property is continuing under Part II of the Landlord and Tenant Act 1954 at the date of the contract or at actual completion
 - the seller is the competent landlord, and
 - any of the following have been neither agreed nor determined at the date of the contract: an interim rent, the termination of the tenancy or the terms of a new tenancy.
- 6.2.2 Until actual completion the seller is to conduct any negotiations or proceedings relating to the matters mentioned in condition 6.2.1(c), after which the buyer is to conduct those negotiations or proceedings and is to apply without delay to be substituted for the seller as a party in any such proceedings.
- 6.2.3 In the course of those negotiations or proceedings, the buyer and the seller are each to act as described in condition 6.1.4(a) to (e).
- 6.2.4 Neither the seller nor the buyer is to agree an interim rent or any of the terms of the new tenancy without the written approval of the other (such approval not to be unreasonably withheld).
- 6.2.5 As from actual completion conditions 6.2.3 and 6.2.4 apply only to negotiations or proceedings relating to or affecting the amount of any rent (including any interim rent) payable from a date before actual completion.
- 6.2.6 The seller and the buyer are each to bear their own costs of the negotiations or proceedings.

7. TITLE AND TRANSFER

7.1 Proof of title

- 7.1.1 Without cost to the buyer, the seller is to provide the buyer with proof of the title to the property and of the seller's ability to transfer it or to procure its transfer.
- 7.1.2 Where the property has a registered title the proof is to include official copies of the items referred to in rules 134(1)(a) and (b) and 135(1)(a) of the Land Registration Rules 2003, so far as they are not to be discharged or overridden at or before completion.

- 7.1.3 Where the property has an unregistered title, the proof is to include:
- an abstract of title or an epitome of title with photocopies of the documents, and
 - production of every document or an abstract, epitome or copy of it with an original marking by a conveyancer either against the original or an examined abstract or an examined copy.

7.2 Requisitions

- 7.2.1 The buyer may not raise requisitions:
- on any title shown by the seller taking the steps described in condition 7.1.1 before the contract was made
 - in relation to the matters covered by condition 4.1.2.
- 7.2.2 Notwithstanding condition 7.2.1, the buyer may, within six working days of a matter coming to its attention after the contract was made, raise written requisitions on that matter. In that event steps 3 and 4 in condition 7.3.1 apply.
- 7.2.3 On the expiry of the relevant time limit under condition 7.2.2 or condition 7.3.1, the buyer loses its right to raise requisitions or to make observations.

7.3 Timetable

- 7.3.1 Subject to condition 7.2 and to the extent that the seller did not take the steps described in condition 7.1.1 before the contract was made, the following are the steps for deducing and investigating the title to the property to be taken within the following time limits:

<u>Step</u>	<u>Time limit</u>
1. The seller is to comply with condition 7.1.1	Immediately after making the contract
2. The buyer may raise written requisitions	Six working days after either the date of the contract or the date of delivery of the seller's evidence of title on which the requisitions are raised whichever is the later
3. The seller is to reply in writing to any requisitions raised	Four working days after receiving the requisitions
4. The buyer may make written observations on the seller's replies	Three working days after receiving the replies

The time limit on the buyer's right to raise requisitions applies even where the seller supplies incomplete evidence of its title, but the buyer may, within six working days from delivery of any further evidence, raise further requisitions resulting from that evidence.

- 7.3.2 The parties are to take the following steps to prepare and agree the transfer of the property within the following time limits:

<u>Step</u>	<u>Time limit</u>
A. The buyer is to send the seller a draft transfer	At least twelve working days before completion date
B. The seller is to approve or revise that draft and either return it or retain it for use as the actual transfer	Four working days after delivery of the draft transfer
C. If the draft is returned the buyer is to send an engrossment to the seller	At least five working days before completion date

- 7.3.3 Periods of time under conditions 7.3.1 and 7.3.2 may run concurrently.

- 7.3.4 If the period between the date of the contract and completion date is less than 15 working days, the time limits in conditions 7.2.2, 7.3.1 and 7.3.2 are to be reduced by the same proportion as that period bears to the period of 15 working days. Fractions of a working day are to be rounded down except that the time limit to perform any step is not to be less than one working day.

7.4 Defining the property

- 7.4.1 The seller need not:
- prove the exact boundaries of the property
 - prove who owns fences, ditches, hedges or walls
 - separately identify parts of the property with different titles further than it may be able to do from information in its possession.
- 7.4.2 The buyer may, if to do so is reasonable, require the seller to make or obtain, pay for and hand over a statutory declaration about facts relevant to the matters mentioned in condition 7.4.1. The form of the declaration is to be approved by the buyer (such approval not to be unreasonably withheld).

7.5 Rents and rentcharges

The fact that a rent or rentcharge, whether payable or receivable by the owner of the property, has been, or will on completion be, informally apportioned is not to be regarded as a defect in title.

7.6 Transfer

- 7.6.1 The buyer does not prejudice its right to raise requisitions, or to require replies to any raised, by taking steps in relation to the preparation or agreement of the transfer.
- 7.6.2 Subject to conditions 7.6.3 and 7.6.4, the seller is to transfer the property with full title guarantee.
- 7.6.3 The transfer is to have effect as if the disposition is expressly made subject to all matters covered by condition 4.1.2.
- 7.6.4 If the property is leasehold, the transfer is to contain a statement that the covenants set out in section 4 of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to any breach of the tenant's covenants in the lease relating to the physical state of the property.
- 7.6.5 If after completion the seller will remain bound by any obligation affecting the property which was disclosed to the buyer before the contract was made, but the law does not imply any covenant by the buyer to indemnify the seller against liability for future breaches of it:
- the buyer is to covenant in the transfer to indemnify the seller against liability for any future breach of the obligation and to perform it from then on, and
 - if required by the seller, the buyer is to execute and deliver to the seller on completion a duplicate transfer prepared by the buyer.

- 7.6.6 Where the seller's title to the property is not registered at Land Registry, the seller is to arrange at its expense that, in relation to every document of title which the buyer does not receive on completion, the buyer is to have the benefit of:
- a written acknowledgement of the buyer's right to its production, and
 - a written undertaking for its safe custody (except while it is held by a mortgagee or by someone in a fiduciary capacity).
- 8. RISK AND INSURANCE**
- 8.1 Risk**
The property is at the risk of the buyer from the date of the contract.
- 8.2 Responsibility for insuring**
- 8.2.1 Conditions 8.2.2 and 8.2.3 apply if:
- the contract provides that the policy effected by or for the seller and insuring the property or any part of it against loss or damage is to continue in force after the exchange of contracts, or
 - the property or any part of it is let on terms under which the seller (whether as landlord or as tenant) is obliged to insure against loss or damage.
- 8.2.2 The seller is to:
- do everything required to continue to maintain the policy, including the prompt payment of any premium which falls due
 - increase the amount or extent of the cover as requested by the buyer if the insurers agree and the buyer pays the additional premium
 - permit the buyer to inspect the policy, or evidence of its terms, at any time
 - if the policy does not cover a contractual purchaser's interest in the property, extend the cover accordingly at the buyer's request and expense, if the insurers agree, for the period until completion
 - pay to the buyer, immediately on receipt, any part of an additional premium which the buyer paid and which is returned by the insurers
 - if before completion the property suffers loss or damage:
 - pay to the buyer on completion the amount of policy monies which the seller has received, so far as not applied in repairing or reinstating the property, and
 - if no final payment has then been received, assign to the buyer, at the buyer's expense, all rights to claim under the policy in such form as the buyer reasonably requires and pending execution of the assignment, hold any policy monies received in trust for the buyer
 - on completion:
 - cancel the insurance policy
 - apply for a refund of the premium and pay the buyer, immediately on receipt, any amount received which relates to a part of the premium which was paid or reimbursed by a tenant or third party. The buyer is to hold the money paid subject to the rights of that tenant or third party.
- 8.2.3 The buyer is to pay the seller a proportionate part of the premium which the seller paid in respect of the period from the date when the contract is made to the date of actual completion, except so far as the seller is entitled to recover it from a tenant.
- 8.2.4 Unless condition 8.2.2 or 8.2.5 applies:
- the seller is under no obligation to the buyer to insure the property
 - if payment under a policy effected by or for the buyer is reduced, because the property is covered against loss or damage by an insurance policy effected by or for the seller, the purchase price is to be abated by the amount of that reduction.
- 8.2.5 Where the property is leasehold and the property, or any building containing it, is insured by a reversioner or other third party
- the seller is to use reasonable efforts to ensure that the insurance is maintained until completion
 - if, before completion, the property or building suffers loss or damage the seller is to assign to the buyer on completion, at the buyer's expense, such rights as the seller may have in the policy monies, in such form as the buyer reasonably requires.
- 8.2.6 Section 47 of the Law of Property Act 1925 does not apply.
- 8.2.7 If the policy does not extend cover to a contractual purchaser's loss of rent from the property following completion, the seller has no responsibility to arrange for it to do so.
- 9. COMPLETION**
- 9.1 Date**
- 9.1.1 Completion date is twenty working days after the date of the contract but time is not of the essence of the contract unless a notice to complete has been served.
- 9.1.2 If the money due on completion is received after 2.00 p.m., completion is to be treated, for the purposes only of conditions 9.3 and 10.3, as taking place on the next working day as a result of the buyer's default.
- 9.1.3 Condition 9.1.2 does not apply and the seller is treated as in default if:
- the sale is with vacant possession of the property or part of it, and
 - the buyer is ready, able and willing to complete but does not pay the money due on completion until after 2.00 p.m. because the seller has not vacated the property or that part by that time.
- 9.2 Arrangements and place**
- 9.2.1 The buyer's conveyancer and the seller's conveyancer are to co-operate in agreeing arrangements for completing the contract.
- 9.2.2 Completion is to take place in England and Wales, either at the seller's conveyancer's office or at some other place which the seller reasonably specifies.
- 9.3 Apportionments**
- 9.3.1 Subject to condition 9.3.6 income and outgoings of the property are to be apportioned between the parties so far as the change of ownership on completion will affect entitlement to receive or liability to pay them.
- 9.3.2 The day from which the apportionment is to be made ('apportionment day') is:
- if the whole property is sold with vacant possession or the seller exercises its option in condition 10.3.4, the date of actual completion, or
 - otherwise, completion date.
- 9.3.3 In apportioning any sum, it is to be assumed that the buyer owns the property from the beginning of the day on which the apportionment is to be made.
- 9.3.4 A sum to be apportioned is to be treated as:
- payable for the period which it covers, except that if it is an instalment of an annual sum the buyer is to be attributed with an amount equal to 1/365th of the annual sum for each day from and including the apportionment day to the end of the instalment period
 - accruing:
 - from day to day, and
 - at the rate applicable from time to time.
- 9.3.5 When a sum to be apportioned, or the rate at which it is to be treated as accruing, is not known or easily ascertainable:
- at completion, a provisional apportionment is to be made according to the best estimate available
 - if the sum to be provisionally apportioned is rent or service charge subject to review, final determination or adjustment, the provisional apportionment is to be made according to the amount payable on account
 - as soon as the amount is known, a final apportionment is to be made and notified to the other party
 - subject to condition 9.3.8, any resulting balance is to be paid no more than ten working days later, and if not then paid, so much of the balance as is from time to time unpaid is to bear interest at the contract rate from then until payment.
- 9.3.6 Where a lease of the property requires the tenant to reimburse the landlord for expenditure on goods or services, on completion:
- the buyer is to pay the seller the amount of any expenditure already incurred by the seller but not yet due from the tenant and in respect of which the seller provides the buyer with the information and vouchers required for its recovery from the tenant, and
 - the seller is to credit the buyer with payments already recovered from the tenant but not yet incurred by the seller.
- 9.3.7 Condition 9.3.8 has effect if any part of the property is sold subject to a lease and Case 1 or Case 2 below applies:
- Case 1 is that:
 - on completion any rent or other sum payable under the lease is due but not paid,
 - the contract does not provide that the buyer is to assign to the seller the right to collect any arrears due to the seller under the terms of the contract, and
 - the seller is not entitled to recover any arrears from the tenant
 - Case 2 is that:
 - a reviewed rent or interim rent is agreed or determined after actual completion as a result either of a review to which condition 6.1 applies or of negotiations or proceedings to which condition 6.2 applies, and
 - an additional sum then becomes payable or an allowance becomes due in respect of a period before the apportionment day.
- 9.3.8 (a) The buyer is to seek to collect all sums due from the tenant in the circumstances referred to in condition 9.3.7 in the ordinary course of management, but need not take legal proceedings or exercise the commercial rent arrears recovery (CRAR) procedure.
- A payment made on account of those sums is to be apportioned between the parties in the ratio of the amounts owed to each, notwithstanding that the tenant exercises its right to appropriate the payment in some other manner.
 - Any part of a payment on account received by one party but due to the other is to be paid no more than ten working days after the receipt of cash or cleared funds and, if not then paid, the sum is to bear interest at the contract rate until payment.
 - Any allowance due to the tenant is to be apportioned between the parties in the ratio of the amounts owed by each of them.
- 9.4 Amount payable**
The amount payable by the buyer on completion is the purchase price (less any deposit already paid to the seller or its agent) adjusted to take account of:
- apportionments made under condition 9.3
 - any compensation to be paid or allowed under condition 10.3
 - any sum payable under condition 8.2.2 or 8.2.3.
- 9.5 Title deeds**
- 9.5.1 As soon as the buyer has complied with all its obligations under this contract on completion the seller is to hand over the documents of title.
- 9.5.2 Condition 9.5.1 does not apply to any documents of title relating to land being retained by the seller after completion.
- 9.6 Rent receipts**
The buyer is to assume that whoever gave any receipt for a payment of rent or service charge which the seller produces was the person or the agent of the person then entitled to that rent or service charge.
- 9.7 Means of payment**
The buyer is to pay the money due on completion by electronic means in same day cleared funds from an account held in the name of a conveyancer at a clearing bank to an account in the name of the seller's conveyancer and, if appropriate, by an unconditional release of a deposit held by a stakeholder.
- 9.8 Notice to complete**
- 9.8.1 At any time after the time applicable under condition 9.1.2 on completion date, a party who is ready, able and willing to complete may give the other a notice to complete.
- 9.8.2 The parties are to complete the contract within ten working days of giving a notice to complete, excluding the day on which the notice is given. For this purpose, time is of the essence of the contract.
- 9.8.3 On receipt of a notice to complete:
- if the buyer paid no deposit, it is without delay to pay a deposit of 10 per cent of the purchase price

- (b) if the buyer paid a deposit of less than 10 per cent of the purchase price, it is without delay to pay a further deposit equal to the balance of that 10 per cent.
- 10. REMEDIES**
- 10.1 Errors and omissions**
If any plan or statement in the contract, or in the negotiations leading to it, is or was misleading or inaccurate due to an error or omission by the seller, the remedies available to the buyer are as follows:
- (a) when there is a material difference between the description or value of the property, or any of the contents included in the contract, as represented and as it is, the buyer is entitled to damages
- (b) an error or omission only entitles the buyer to rescind the contract:
- (i) where it results from fraud or recklessness, or
- (ii) where the buyer would be obliged, to its prejudice, to accept property differing substantially (in quantity, quality or tenure) from what the error or omission had led it to expect.
- 10.2 Rescission**
If either party rescinds the contract:
- (a) unless the rescission is a result of the buyer's breach of contract the deposit is to be repaid to the buyer with accrued interest
- (b) the buyer is to return any documents it received from the seller and is to cancel any registration of the contract
- (c) the seller's duty to pay any returned premium under condition 8.2.2(e) (whenever received) is not affected.
- 10.3 Late completion**
- 10.3.1** If the buyer defaults in performing its obligations under the contract and completion is delayed, the buyer is to pay compensation to the seller.
- 10.3.2** Compensation is calculated at the contract rate on an amount equal to the purchase price (less any deposit paid) for the period between completion date and actual completion, but ignoring any period during which the seller was in default.
- 10.3.3** Any claim by the seller for loss resulting from delayed completion is to be reduced by any compensation paid under this contract.
- 10.3.4** Where the sale is not with vacant possession of the whole property and completion is delayed, the seller may give notice to the buyer, before the date of actual completion, that it will take the net income from the property until completion as well as compensation under condition 10.3.1.
- 10.4 After completion**
Completion does not cancel liability to perform any outstanding obligation under the contract.
- 10.5 Buyer's failure to comply with notice to complete**
- 10.5.1** If the buyer fails to complete in accordance with a notice to complete, the following terms apply.
- 10.5.2** The seller may rescind the contract, and if it does so:
- (a) it may
- (i) forfeit and keep any deposit and accrued interest
- (ii) resell the property and any contents included in the contract
- (iii) claim damages
- (b) the buyer is to return any documents it received from the seller and is to cancel any registration of the contract.
- 10.5.3** The seller retains its other rights and remedies.
- 10.6 Seller's failure to comply with notice to complete**
- 10.6.1** If the seller fails to complete in accordance with a notice to complete, the following terms apply.
- 10.6.2** The buyer may rescind the contract, and if it does so:
- (a) the deposit is to be repaid to the buyer with accrued interest
- (b) the buyer is to return any documents it received from the seller and is, at the seller's expense, to cancel any registration of the contract.
- 10.6.3** The buyer retains its other rights and remedies.
- 11. LEASEHOLD PROPERTY**
- 11.1 Existing leases**
- 11.1.1** The following provisions apply to a sale of leasehold land.
- 11.1.2** The seller having provided the buyer with copies of the documents embodying the lease terms, the buyer is treated as entering into the contract knowing and fully accepting those terms.
- 11.2 New leases**
- 11.2.1** The following provisions apply to a contract to grant a new lease.
- 11.2.2** The conditions apply so that:
- (a) "seller" means the proposed landlord
- (b) "buyer" means the proposed tenant
- (c) "purchase price" means the premium to be paid on the grant of a lease.
- 11.2.3** The lease is to be in the form of the draft attached to the contract.
- 11.2.4** If the term of the new lease will exceed seven years, the seller is to deduce a title which will enable the buyer to register the lease at Land Registry with an absolute title.
- 11.2.5** The seller is to engross the lease and a counterpart of it and is to send the counterpart to the buyer at least five working days before completion date.
- 11.2.6** The buyer is to execute the counterpart and deliver it to the seller on completion.
- 11.3 Consents**
- 11.3.1** (a) The following provisions apply if a consent to let, assign or sub-let is required to complete the contract
- (b) In this condition "consent" means consent in the form which satisfies the requirement to obtain it.
- 11.3.2** (a) The seller is to:
- (i) apply for the consent at its expense, and to use all reasonable efforts to obtain it
- (ii) give the buyer without delay a copy of all correspondence with a reversioner (whether or not immediate) in relation to obtaining the consent
- (iii) give the buyer notice without delay on obtaining the consent
- (b) The buyer is to comply with all reasonable requirements, including requirements for the provision of information and references.
- 11.3.3** Where the consent of a reversioner (whether or not immediate) is required to an assignment or sub-letting, then so far as the reversioner lawfully imposes such a condition:
- (a) the buyer is to:
- (i) covenant directly with the reversioner to perform and observe the tenant's covenants and the conditions in the seller's lease or (in the case of a sub-letting by the seller) in the new sub-lease
- (ii) use reasonable endeavours to provide guarantees of the performance and observance of the tenant's covenants and the conditions in the seller's lease or (in the case of a sub-letting by the seller) in the new sub-lease
- (iii) execute or procure the execution of the licence
- (b) the seller, in the case of an assignment, is to enter into an authorised guarantee agreement.
- 11.3.4** Neither party may object to a reversioner's consent given subject to a condition:
- (a) which under section 19A of the Landlord and Tenant Act 1927 is not regarded as unreasonable, and
- (b) which is lawfully imposed under an express term of the lease.
- 11.3.5** If any required consent has not been obtained by the original completion date:
- (a) the time for completion is to be postponed until five working days after the seller gives written notice to the buyer that the consent has been given or a court has declared that consent has been unreasonably withheld
- (b) the postponed date is to be treated as the completion date.
- 11.3.6** At any time after six months from the original completion date, either party may rescind the contract by notice to the other, if:
- (a) consent has still not been given, and
- (b) no declaration has been obtained from the court that consent has been unreasonably withheld.
- 11.3.7** If the contract is rescinded under condition 11.3.6 the seller is to remain liable for any breach of condition 11.3.2(a) or 11.3.3(b) and the buyer is to remain liable for any breach of condition 11.3.2(b) or 11.3.3(a) but condition 10.2 is to apply as if neither party is in breach of contract.
- 11.3.8** A party in breach of its obligations under condition 11.3.2 or 11.3.3 cannot rescind under condition 11.3.6 for so long as its breach is a cause of the consent being withheld.
- 12. CONTENTS**
- 12.1** The following provisions apply to any contents which are included in the contract, whether or not a separate price is to be paid for them.
- 12.2** The contract takes effect as a contract for the sale of goods.
- 12.3** The buyer takes the contents in the physical state they are in at the date of the contract.
- 12.4** Ownership of the contents passes to the buyer on actual completion but they are at the buyer's risk from the contract date.
- PART 2***
- A. VAT**
- A1 Not a taxable supply**
- A1.1** Condition 2 does not apply.
- A1.2** The seller:
- (a) warrants that the sale of the property does not constitute a supply that is taxable for VAT purposes
- (b) agrees not to exercise the option to tax in relation to the property, and
- (c) cannot require the buyer to pay any amount in respect of any liability to VAT arising in respect of the sale of the property, unless condition A1.3 applies.
- A1.3** If, solely as a result of a change in law made and coming into effect between the date of the contract and completion, the sale of the property will constitute a supply chargeable to VAT, the buyer is to pay to the seller on completion an additional amount equal to that VAT in exchange for a VAT invoice from the seller.
- A1.4** The buyer is to pay to the seller on completion an additional amount equal to any VAT charged on the supply of any contents included in the sale in exchange for a VAT invoice from the seller.
- A2 Transfer of a going concern**
- A2.1** Condition 2 does not apply.
- A2.2** In this condition "TOGC" means a transfer of a business as a going concern treated as neither a supply of goods nor a supply of services by virtue of article 5 of the Value Added Tax (Special Provisions) Order 1995.
- A2.3** The seller warrants that it is using the property for the business of letting to produce rental income.
- A2.4** The buyer is to comply with the conditions to be met by a transferee under article 5(1) and 5(2) for the sale to constitute a TOGC.
- A2.5** The buyer is, on or before the earlier of:
- (a) completion date, and
- (b) the earliest date on which a supply of the property could be treated as made by the seller under this contract if the sale does not constitute a TOGC,
- to notify the seller that paragraph (2B) of article 5 of the VAT (Special Provisions) Order 1995 does not apply to the buyer.
- A2.6** The parties are to treat the sale as a TOGC at completion if the buyer provides written evidence to the seller before completion that it is a taxable person and that it has exercised an option to tax in relation to the property and has given a written notification of the exercise of such option in conformity with article 5(2A) and has given the notification referred to in condition A2.5.
- A2.7** The buyer may not revoke its option to tax in relation to the property at any time.
- A2.8** If the parties treat the sale at completion as a TOGC but it is later determined that the sale was not a TOGC, then within five working days of that determination the buyer is to pay to the seller:
- (a) an amount equal to the VAT chargeable in respect of the supply of the property, in exchange for a VAT invoice from the seller, and

- (b) except where the sale is not a TOGC because of an act or omission of the seller, an amount equal to any interest or penalty for which the seller is liable to account to HM Revenue and Customs in respect of or by reference to that VAT.

A2.9 If the seller obtains the consent of HM Revenue and Customs to retain its VAT records relating to the property, it is to make them available to the buyer for inspection and copying at reasonable times on reasonable request during the six years following completion.

B. CAPITAL ALLOWANCES

B1 In this condition "the Act" means the Capital Allowances Act 2001.

B2 To enable the buyer to make and substantiate claims under the Act in respect of the property, the seller is to use its reasonable endeavours to provide, or to procure that its agents provide:

- (a) copies of all relevant information in its possession or that of its agents, and
- (b) whatever co-operation and assistance the buyer may reasonably require.

B3 If the seller has claimed capital allowances under Chapter 14 of the Act in respect of expenditure on plant and machinery that is a fixture:

- (a) the seller is to take such steps and provide such information and written statements as the buyer may reasonably require to enable the buyer to meet the requirements of section 187A and section 187B of the Act
- (b) the buyer is to use the information provided only for the stated purpose
- (c) the buyer may not without the consent of the seller disclose the information which the seller expressly provides on a confidential basis
- (d) on completion, the seller and the buyer are jointly to make an election under section 198 of the Act which is consistent with the apportionment in the Special Conditions
- (e) the seller and the buyer are each promptly to submit the amount fixed by that election to HM Revenue and Customs for the purposes of their respective capital allowance computations
- (f) the seller is to bring into account the disposal value of the fixtures fixed by the election in its tax return for the chargeable period in which completion takes place.

B4 If the seller is not entitled to claim allowances under Chapter 14 of the Act in respect of expenditure on plant and machinery that is a fixture but the buyer wishes to make such a claim:

- (a) the seller is to use its reasonable endeavours to trace information about the historic expenditure from a predecessor in title of the seller by whom the expenditure was most recently incurred to enable the buyer to claim any available allowance in respect of the historic expenditure and to assist the buyer to do so
- (b) the buyer is to indemnify the seller for the reasonable professional costs it properly incurs in complying with its obligations under (a).

C. REVERSIONARY INTERESTS IN FLATS

C1 No tenants' rights of first refusal

C1.1 In this condition, sections refer to sections of the Landlord and Tenant Act 1987 and expressions have the special meanings given to them in that Act.

C1.2 The seller warrants that:

- (a) it gave the notice required by section 5
- (b) no acceptance notice was served on the landlord or no person was nominated for the purposes of section 6 during the protected period, and
- (c) that period ended less than 12 months before the date of the contract.

C2 Tenants' rights of first refusal in auction sales

C2.1 In this condition, sections refer to sections of the Landlord and Tenant Act 1987 and expressions have the special meanings given to them in that Act.

C2.2 The seller warrants that:

- (a) it gave the notice required by section 5B, and
- (b) it has given the buyer a copy of:
 - (i) any acceptance notice served on the landlord
 - (ii) any nomination of a person duly nominated for the purposes of section 6 and
 - (iii) any notice served on the landlord electing that section 8B shall apply.

C2.3 The following additional provisions shall apply:

- (a) condition 9.1.1 applies as if "thirty working days" were substituted for "twenty working days"
- (b) the seller is to send a copy of the contract to the nominated person as required by section 8B(3), and
- (c) if the nominated person serves notice under section 8B(4):
 - (i) the seller is to give the buyer a copy of the notice, and
 - (ii) condition 10.2 is to apply as if the contract had been rescinded.

*The conditions in Part 2 do not apply unless expressly incorporated. See condition 1.1.4(b).

SPECIAL CONDITIONS

1. (a) This contract incorporates the Standard Commercial Property Conditions (Third Edition).
- (b) The terms used in this contract have the same meaning when used in the Standard Commercial Property Conditions.
2. Neither party can rely on any representation made by the other, unless made in writing by the other or its conveyancer, but this does not exclude liability for fraud or recklessness.

If the box next to any of Special Conditions 3 to 8 is checked, that Special Condition applies, provided that (in the case of Special Conditions 6 and 7 and the second alternative for 8) the gaps in the printed text have been filled in.

3. The property is sold with limited title guarantee, which replaces the reference to full title guarantee in condition 7.6.2.
4. The property is sold with vacant possession on completion.
- (or) 4. The property is sold subject to the leases or tenancies set out on the attached list but otherwise with vacant possession on completion.
5. (a) The sale includes those contents which are indicated on the attached list as included in the sale
- (b) The sale excludes those fixtures which are at the property and are indicated on the attached list as excluded from the sale.
6. In conditions 3.2.2 and 9.7, as an alternative to payment from a conveyancer's account, the payment may be made from an account held by _____ at _____
7. Conditions 9.1.2 and 9.1.3 are to have effect as if the time specified in them were _____ am/pm rather than 2:00pm.
8. Where after the transfer the seller will be retaining land near the property, the transfer is to be in the form of the attached draft transfer.
- (or) 8. Where after the transfer the seller will be retaining land near the property, the transfer is to contain the following additional express terms:

(a)

(b)

Standard Commercial Property Conditions Part 2

9. The conditions in Part 2 shown against the boxes checked below are included in the contract:

Condition A1 (VAT: not a taxable supply)

[or] Condition A2 (VAT: transfer of a going concern)

Condition B (capital allowances). The amount of the purchase price apportioned to plant and machinery that are fixtures for the purposes of the Capital Allowances Act 2001 is £

Condition C1 (flats: no tenants' rights of first refusal)

[or] Condition C2 (flats: with tenants' rights of first refusal in auction sales)

Notices may be sent to:

Seller's Conveyancer's name:

Fax number:*

E-mail address:*

Buyer's Conveyancer's name:

Fax number:*

E-mail address:*

*Adding a fax number authorises service by fax and an e-mail address authorises service by e-mail: see condition 1.3.3

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3rd Edition



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**Standard Commercial Property Conditions
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