

CONDITIONS OF ENGAGEMENT FOR VALUATIONS OF RESIDENTIAL COMMERCIAL AND INDUSTRIAL PREMISES AND DEVELOPMENT SITES FOR SECURED LENDING PURPOSES

Introduction

These Conditions of Engagement are based upon the "Model Conditions of Engagement" of the RICS Valuation Manual (the new Red Book) produced in discussion with the British Bankers' Association. They are considered suitable in most cases for the provision of valuation and appraisal services for secured lending purposes in respect of commercial land and buildings. Subject to any modification agreed between Pearcy Blackman and the Client in a particular case, these Model Conditions, define the services and content of the Report to be provided. In some respects the service to be provided depends upon which of the situations referred to in PS 8.2.2 applies and, in those respects, Pearcy Blackman and the Client have to agree which Conditions are to apply. These will then be recorded by Pearcy Blackman in their confirmation of instruction letter.

Where the text is shown in italics these terms are additional to the "Model Conditions".

Pearcy Blackman will also confirm that as far as they are aware no conflict of interest arises.

1. The Service

1.1 Pearcy Blackman will provide directly to the Client a Report based upon an inspection as described below. In respect of the subject property, the Valuer will be an Independent Valuer, who is a Corporate Member of the Royal Institution of Chartered Surveyors and either:

(a) in respect of the particular type of property has sufficient current local, national and international (as appropriate) knowledge of the particular market and the skills and understanding necessary to undertake the valuation competently; or

(b) where he satisfies (a) above, except that he has insufficient current knowledge, he will be or has been assisted by a person(s) who has/have such knowledge and the skills and understanding necessary to provide the assistance required;

and

(c) has, and whose partners, and employees, have, no other recent or foreseeable potential fee earning relationship concerning the subject property, apart from the fee for the service and who has disclosed any past or present relationship with any of the interested parties or any previous involvement with the subject property, and no significant financial interest or management involvement in the borrower's concern.

The Report will provide the following points:

1.1.1 A full description of the property, its location, apparent state of repair and other relevant information such as the site area and floor space;

1.1.2 Our valuation(s):

a) on whichever of the bases (see paragraph 4 below) have been agreed between us and the Client and/or such other basis as they may have agreed;

b) if we believe there is a special prospective purchaser, on the above basis(es) but reflecting the bid of that special prospective purchaser:

(i) where a projected valuation is provided, the assumed period(s) until completion and method of sale will be stated; and

(ii) where the valuation(s) reported pursuant to (a) above, has/have been affected by the existence of an unimplemented planning consent for change of use or other development or by the prospect of such consent(s) being available, we will so report and advise as to the amount(s) of the increase reported in consequence.

1.1.3 In the case of property to be held as an investment:

(a) a projection, at rental levels current at the reporting date, of the rental income to which the owner will be entitled from the property if it remains fully occupied;

(b) an opinion upon the effects on value of the quality and terms of the lease(s) and relevant implication upon the valuation in respect of privity of contract (if any); and

(c) our view of the market's opinion of tenant covenants for the class of the subject property in the subject locality.

1.1.4 Advice, if we consider it relevant, that there is a significant prospect of or potential for change of use or other development of the subject property, or those in the vicinity, which would materially affect the value of the subject property.

1.1.5 Advise on any other factors which we consider are likely materially to affect the status of the property as security.

1.1.6 Comment upon the proposed purchase price, if this has been notified to us.

1.1.7 A statement as to any special assumptions which we have made. (As in accordance with Practice Statement PS 4.12 (1-5))

1.1.8 Where appropriate, our opinion of the property as a lending security in terms of present saleability, suitability, expected obsolescence and potential, bearing in mind the length (which will be stated) of the term of the loan contemplated by the Client lender and assuming that the borrower will maintain the property in a reasonable state of repair.

1.1.9 An opinion (without liability on the party of Percy Blackman) of current market conditions and current and expected trends in respect of the type of property in the area.

1.1.10 A statement as to the valuation method adopted, and an indication as to the extent to which we have been able to have regard to comparable market transactions:

(a) in the case of property valued for the existing use as an operational entity having regard to trading potential, the opinion which we have formed as to the future trading potential, including gross income and profitability likely to be achieved; and

(b) in the case of property valued on a residual basis, the significant material figures and assumptions made and the consequences of changes thereto.

1.1.11 An indication for insurance purposes (which is given solely as a guide, as a formal estimate for insurance purposes can be given only by a quantity surveyor or other person with sufficient current experience of replacement costs) of the current reinstatement cost of:

(a) the buildings in their present form (unless otherwise stated); or

(b) buildings being constructed as proposed to be completed;

each including the costs of clearance and professional fees but excluding:

(i) VAT (except on fees);

(ii) loss of rent; and/or

(iii) cost of alternative accommodation for the reinstatement period.

1.1.12 Any other aspects, other than the usual legal investigations, which we consider require further consideration or investigations by or on behalf of the Client.

1.2 Following provision of the Report, we will be prepared to discuss its contents with the Client's representative.

1.3 We shall, unless otherwise expressly agreed, rely upon information provided by the Client and/or the Client's legal or other professional advisers relating to tenure, leases and all other relevant matters.

1.4 Subject to paragraph 2.1 below, we shall carry out such inspections and investigations as are, in our professional judgement, appropriate and possible in the particular circumstances. These will include oral town planning enquiries.

1.5 If our inspection suggests that there may be material hidden defects we will so advise and may exceptionally defer submitting a final Report until the results of further investigations are available.

1.6 The Report will not identify the existence of contamination unless, by agreement with the Client, reports thereon from others have been obtained and made available to us, who will have no liability in respect thereof. If, however, we in the course of our inspection conclude that there may be material contamination, we will report this to the Client with a view to a decision being taken as to whether our instructions are to be amended.

1.7 In preparing the Report, unless otherwise stated by us the following assumptions will be made which we shall be under no duty to verify:

(a) that no deleterious or hazardous materials or techniques were used in the construction of the property or have since been incorporated;

(b) that good title can be shown and that the property is not subject to any unusual or especially onerous restrictions, encumbrances or outgoing;

(c) that the property and its value are unaffected by any matters which would be revealed by a local search and replies to the usual enquiries, or by any statutory notice, and that neither the property, nor its condition, or its use, or its intended use is or will be unlawful;

(d) that inspection of those parts that have not been inspected would neither reveal material defects nor cause the valuer to alter the valuation(s) materially; and

(e) unless otherwise stated, that no contaminative or potentially contaminative uses have ever been carried out on the property and that there is no potential for contamination of the subject property from past or present uses of the property or from any neighbouring property.

1.8 In providing the service we will have regard to relevant contents of the Valuation Manual of The Royal Institution of Chartered Surveyors.

1.9 The Report will be provided for the stated purpose and for the sole use of the named Client. We accept responsibility to the Client alone that the Report will be prepared with the skill, care and diligence reasonably to be expected of a competent valuer, and accept no responsibility whatsoever to any parties other than the Client. Any such parties rely upon the Report at their own risk. Neither the whole nor any part of the Report, nor any reference to it, may be included in any published document, circular or statement, or published in any way, without our written approval of the form and context in which it may appear.

2. The Inspection

2.1 We will undertake a visual inspection of so much of the exterior and interior of the property as is accessible with safety and without undue difficulty, as can be seen whilst standing at ground level within the boundaries of the site and adjacent public/communal areas and whilst standing at the various floor levels which we consider reasonably necessary to provide the service, having regard to its purpose. We are under no duty to carry out a building survey or to inspect those parts of the property which are covered, unexposed or inaccessible, or to raise boards, move anything, use a moisture detecting meter, or to arrange for the testing of electrical, heating or other services.

3. The Report

3.1 If it is not reasonably possible to carry out a substantial part of the Inspection (see paragraph 2 above) this will be stated.

3.2 Where we rely on information provided, this will be indicated in the Report, with the source of the information.

3.3 The Report will state the existence of any apparently recent significant alterations and extensions so as to alert the Client's legal advisers.

4. Valuation

4.1 The valuations provided will be on the aforementioned assumptions in respect of individual subject properties (unless otherwise agreed) as inspected, on whichever of the following or other bases as have been agreed between Pearcy Blackman and the Client, such bases where applicable to be as defined or referred to in the Appraisal and Valuation Manual of The Royal Institution of Chartered Surveyors.

4.1.1 Projected market value.

4.1.2 Market value.

4.2 The valuations will exclude any additional value attributable to personal goodwill, or the value of any fixtures and fittings which are only of value in situ to the present or proposed occupier, except in the case of property which is fully equipped and valued as an operational entity, where only personal goodwill is excluded.

5. Instructions and Charges

5.1 All instructions of the Client will be made directly by the Client Lender and confirmed in writing.

5.2 The Client will pay to us the fee initially agreed between us, or any amendment thereto to be agreed if our instructions are subsequently modified. In addition the Client will reimburse us the cost of all reasonable out of pocket expenses which may be incurred and pay the amount of any Value Added Tax on the fee and expenses.

All our valuation figures are net of any Value Added Tax which may be payable.

We will not arrange for any investigation to be undertaken to determine whether high alumina cement concrete or calcium chloride additive or any other potentially deleterious material has been incorporated into the construction of the building. We are therefore unable to report that the property is free from risk in this respect. For the purposes of our valuation, we will assume that such investigation would not disclose the presence of any potentially deleterious material.

When providing you with an indication for insurance purposes of the current reinstatement cost of the buildings we wish to point out that this figure bears no relation to its market value. It is prudent to index link this figure. In addition to the named hazards, properties should be insured for subsidence, settlement, landslip, flooding and heave at the total rebuilding cost, at all times. Our insurance valuation figure excludes any loss of income derived from the property or any loss of stock or plant.

Where we consider it appropriate, we will make enquiries to establish whether the property's value will be affected by any present or proposed works under the Town & Country Planning Acts, building regulations, fire precautions acts or other statutory or environmental matters. It is not possible to make exhaustive enquiries within the time limits set out for the preparation of a valuation report, however, and it is important that our enquiries are verified by you, in writing, with the appropriate authorities and, where applicable, with adequate pre-contract enquiries of the Seller.

We will not inspect the wall ties within external cavity walls of buildings or roof or floor spaces. Our report will assume that these are in sound condition unless stated expressly to the contrary in our valuation report.

Our valuation will take into consideration whether the property is freehold or leasehold. Unless we advise you to the contrary in our report, all comments upon leases, tenancies, legal restrictions, licences, certificates, agreements, trading accounts, or other relevant matters, will be based upon information gathered verbally from the client, occupier or other persons stated within the report. Within the constraints of a valuation report it is unlikely that this information can be verified in writing.

This firm complies with and operates the RICS Mandatory Complaints' Handling Procedure and a copy of this is available upon request.

The Conditions of Engagement must be read in conjunction with our initial confirmation letter and subsequent report. It forms an integral part thereof.

The client will inform the surveyor if there is already an agreed or proposed price for the property; and if there are any particular concerns which the client may have about the property.

The client agrees to pay the fee and any other charges agreed in writing.

The client will be entitled to cancel this contract by notifying Percy Blackman at the relevant office at any time before the day of the inspection. The surveyor will not proceed with the provision of the service (and will so report promptly to the client) if, after arriving at the property, he or she concludes:

- (a) that it is of a type of construction of which he or she has insufficient specialist knowledge to be able to provide the service satisfactorily; or
- (b) that it would be in the typical client's best interest to be provided with a different form of survey or valuation;

In case of cancellation, Percy Blackman will refund any money paid by the client for the service, except for expenses reasonably incurred. In the case of cancellation by the surveyor, the reason will be explained to the client.

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