

A Guide to ClozeSure for Solicitors and Conveyancers

Introduction

Where a seller has exchanged unconditional contracts for the sale of their residential property, ClozeSure gives them certainty and peace of mind that their sale will go ahead and complete, even if their buyer defaults.

Incidents of buyers failing to complete are, fortunately, rare but they do happen. Inability to secure finance, redundancy, bereavement, illness, accident, divorce, or their own sale falling through, have all been cited as reasons for buyers defaulting.

For a very modest option fee—chargeable on exchange, payable either at exchange or as a disbursement on completion—ClozeSure will guarantee completion, simply by promising to immediately purchase the property if the buyer defaults and the seller instructs it to do so.

How does ClozeSure work?

Where a binding sale contract exists between a seller and a buyer, if the buyer

then defaults on the contractual completion date, the following steps take place:

- The seller (or their conveyancer) will immediately serve the usual Notice to Complete on the buyer, requiring the buyer to complete the purchase.
- At the same time, the seller (or their conveyancer) will advise ClozeSure that they wish to trigger the option to oblige ClozeSure to purchase their property.
- If the buyer fails to complete in accordance with the Notice to Complete, the seller (or their conveyancer) confirms to the buyer and ClozeSure that the contract is at an end and that the buyer has forfeited their 10% deposit.
- The 10% deposit is paid to the seller and ClozeSure will promptly complete the purchase of the property for 90% of the contract sale price, thereby ensuring that the seller receives 100% of the price.

Chains

Mindful of the fact that many property sellers are, in turn, simultaneously purchasing a new property with the proceeds of their sale (that is, the transaction forms part of a chain), ClozeSure aims to complete its own acquisition of the seller's property immediately after the buyer fails to comply with the 10-day Notice to Complete and forfeits their 10% deposit.

By the timely completion of its own acquisition of the seller's property, ClozeSure's intervention helps ensure (but cannot guarantee) that any simultaneous property transactions being entered into by the seller can also be completed satisfactorily.

Key Terms

As you would expect, there are certain key terms and conditions of the ClozeSure purchase contract, including:

- The property must be a residential property situated in England and Wales.
- The property must be sold with vacant possession.
- The sale contract must provide for a deposit of 10% of the sale price to be paid to the seller's conveyancers on exchange and the full 10% deposit must be paid.
- The sale contract must not be conditional; in the event of a contract containing one or more conditions, ClozeSure's guarantee will not take effect until such time as all conditions have been satisfied, such that the sale contract is binding and unconditional on both the seller and the buyer.
- Any part of the purchase price attributable to chattels is excluded from the guarantee and must be apportioned in the sale contract, to ensure that the property purchase price is clearly identified.

- The completion date must not be more than 3 months from the date of exchange.
- The sale contract must provide for the usual 10-day Notice to Complete period.

Key Steps

Whilst ClozeSure will employ its best efforts to complete its own conveyancing processes in the 10 days following the (failed) contractual completion day, ClozeSure can only achieve this with the cooperation and assistance of the seller and their conveyancer.

The following is a detailed step-by-step chronology of how ClozeSure's guarantee works in practice:

Exchange of Contracts and purchase of ClozeSure

It is assumed that the buyer and their conveyancer will undertake full due diligence (searches, enquiries, surveys, etc.) prior to exchange of contracts. At the point at which both parties' conveyancers confirm to each other that they are ready to exchange contracts:

- The seller (either directly or via their estate agent or conveyancer) applies for ClozeSure—at any time up to 30 days before and 2 days after the date of exchange of contracts with their buyer.

- ClozeSure will promptly confirm whether the transaction complies with its terms, provide an option fee quote and—on the seller's instruction and payment (or confirmation of fee payment on completion)—issue its guarantee to purchase, effective from the date of exchange.
- Contracts are then exchanged and the completion date fixed. The seller's conveyancer must then confirm to ClozeSure:
 - The sale price of the property
 - Confirmation that the buyer has paid a 10% deposit
 - The contractual exchange and completion dates



The seller can now make firm plans for their future, confident that they have effectively completed the sale of their property.

The buyer fails to complete on the contractual completion day

- The seller's conveyancer must serve a valid Notice to Complete on the buyer's conveyancer, giving the buyer notice that they must complete the purchase within 10 days, time being of the essence.
- The seller's conveyancer must also immediately inform ClozeSure that the buyer has failed to complete the purchase and that the seller is triggering ClozeSure's obligation to purchase the property.
- ClozeSure's conveyancers start their own processes for acquiring the seller's property (in respect of which, the seller's conveyancer must provide all reasonable assistance).
- If the seller is simultaneously purchasing another property with their proceeds of sale, care should be taken to ensure that their conveyancer serves the Notice to Complete on their defaulting buyer before the seller receives a similar Notice to Complete on their related purchase transaction.

The buyer fails to complete during the time allowed under the Notice to Complete

- If (after the requisite 10 days) the buyer has still failed to complete the purchase of the seller's property, the seller's conveyancer shall inform ClozeSure that a) the buyer has failed to comply with the Notice to Complete, and the sale contract has been rescinded; and b) the 10% deposit has been forfeited by the buyer to the seller.

Upon receiving the confirmation referred to above, ClozeSure will complete its purchase of the property from the seller for 90% of the agreed sale price.

Further Enquiries

For further information about ClozeSure, our terms and conditions and costs, please visit the ClozeSure website at clozesure.com or email us at support@clozesure.com.



clozesure.com/conveyancers