

## Form PP

# Commercial Property Purchase Application

If it is your intention to purchase commercial property through a SIPP with Pointon York SIPP Solutions Limited (Pointon York), and you have identified a prospective property or you wish to transfer the property in specie from another pension scheme (or in lieu of a monetary contribution), please complete this additional application and undertaking.

Before completing this form, please

- Note that it is a Pointon York requirement that each SIPP property has a suitably qualified Property Manager appointed. You need to consider this before proceeding. Please see Section E.
- Read our current Fee Schedule, which outlines our charges. You will also need to consider any legal, survey, valuation costs, any ongoing insurance or Property Management costs, as well as any stamp duty or VAT due; and
- Take particular notice of the Risk Notices in Section F (and Section G if you are buying a property jointly with other SIPP members).

This application and associated Pointon York SIPP documentation is based upon Pointon York's current understanding of prevailing legislation and is subject to change. Independent legal and tax advice should be taken prior to purchase of any Property.

You must complete all sections before we will be able to start processing the application.

### A. Property Details

a. Address

Postcode

b. Purchase/Acquisition price (VAT and Stamp Duty may need to be added to this price) £

Property Description

### In-Specie Contribution

c. Is this an in-specie contribution? Yes  No

If "Yes", what is the percentage to be acquired by the SIPP?  %

If this is an in-specie contribution and/or co-ownership with the member, will there be borrowing on that part of the property remaining in the member's personal ownership? Yes  No

d. Is there a residential element to the property? Yes  No

If "Yes", please provide full details

e. Does the purchase/acquisition price include the cost of any fixtures, fittings or goodwill? (these will be excluded) Yes  No

f. Is a preliminary payment to an agent, developer or third party required? Yes  No

If "Yes", please give the reason and details of the amount and timing of the required deposit in the box below

g. Is the property Leasehold or Freehold?

Leasehold  Freehold

If "Leasehold" please provide full details below

Does the property have a flying or supporting freehold?

Yes  No

h. Is the property adjacent to or near any land or property currently owned by the member or any 'connected' party? (see point viii in Section E)

Yes  No

If "Yes", please give details below

i. Upon purchase/acquisition will we hold the property jointly with you or another party? (see point viii in Section F).

Yes  No

*It should be noted that we will require a joint ownership agreement between the parties. A template for the joint ownership agreement will be provided for a fee (see current fee schedule). A managing agent will be required to administer the property, and to register for VAT, where appropriate. See Section F below*

If "Yes", please give details below

j. Name of vendor

Vendor's solicitor

Address

Postcode

Tel No.

k. Is the vendor 'connected' to you? (see point viii in Section F)

Yes  No

If "No", is the vendor a 'close' company either you or a person 'connected' to you are a director of? (see point viii in Section F)

Yes  No

l. Name of selling agents

Address

Postcode

Tel No.

m. Current use

n. Proposed use

- o. Are there any special or particular factors relating to the intended use of the property that you would like us to know about (including anything relevant to the insurance of the property)?

Yes  No

If "Yes", please provide details below

- p. Is the property to be let on a multi-occupancy basis?

Yes  No

**Tenancies**

- q. Proposed tenant(s)

Business of proposed tenant

Proposed rent

£

Proposed term

Rent review proposals

Any other proposals

*Please note the lease will be on a fully repairing and insuring basis and provide details of any other tenancies on a separate sheet of paper.*

- r. Are there existing tenancies? (If "Yes", please provide a copy of the lease.)

Yes  No

Tenant

Tenant company address (if different from property address)

Postcode

Tel No.

Annual rent

£

Payment frequency

Start date of lease

Term of lease

Rent review dates

Is there a break clause in the lease?

Yes  No

Who is responsible for repair and insurance?

Is there a service charge? (If "Yes", please give details below)

Yes  No

- s. Is the existing or proposed tenant your company or a person 'connected' to you? (see point viii in Section F)

Yes  No

Are there any sub-tenancies? (If "Yes", please provide details on a separate sheet.) Yes  No

t. Is the property registered for VAT? (see points v and vi in Section F) Yes  No

If you or your company is the tenant are/will you be making VATable supplies from the premises? Yes  No

u. Is this a Transfer of a Going Concern (TOGC)? (see note v in Section F) Yes  No

v. Open market capital, rental and insurance reinstatement valuations are required and should be addressed to Crescent Trustees Limited c/o Pointon York.

Have these been carried out? Yes  No

If "Yes", please provide us with copies. If "No", please confirm the name of the Surveyor who will be instructed to undertake this valuation and provide CTL with a copy.

Name

Address

Postcode

Tel No.

w. Please include full details of any proposed refurbishments and renovations in the box below, including cost estimates.

### B. Financing the Purchase/Borrowing Requirements

Will the SIPP be borrowing to finance the purchase? (see point iv in Section F) Yes  No

If "Yes", please provide details of the financing and lender below

Amount to be financed by liquid funds from your SIPP  £  
(which must be available within your portfolio at the exchange of contracts)

Loan amount  £ Term  years

Details of lender

Name

Address

Postcode

Tel No.

Where you are buying property through a Syndicate, the lender will be sourced by the Syndicate Coordinator / IFA. The borrowing and term may be agreed prior to your participation. You may, however, only borrow towards the purchase of your 'share' within the HM Revenue & Customs limit detailed in point iv of Section F.

**(Please note you will not personally be a party to the loan agreement. The loan must be arranged in the name of Crescent Trustees Limited.)**

### C. Solicitors

It is a requirement that solicitors are appointed to act for Pointon York where any property is being acquired by a Pointon York SIPP (if a syndicated purchase, solicitors will be chosen by the syndicate coordinator).

There are two options available: please confirm one of the options below as your instruction.

- i A firm of solicitors will be appointed by Pointon York.
- ii Pointon York will consider the appointment of your nominated solicitors who will be required to provide a Certificate of Title. A template for this document will be provided upon request.

Please provide the name and contact details of the solicitor you propose we appoint under option ii above.

Name

Address

Postcode

Tel No.

### D. Timescales

What is your ideal timescale for exchange of contracts and completion?

We will use all efforts to deal with the transaction within your ideal timescale but factors outside of our control will affect progress to exchange and complete.

Where you have just established your SIPP we will not start progressing this transaction until the expiry of the 30-day period from establishment during which time you have the right to cancel your SIPP membership UNLESS you have waived that right through our membership application form. If the purchase is being funded by a transfer from another pension source we will only appoint solicitors within the 30-day period you have to withdraw from the transfer if sufficient money is already within the SIPP to fund the anticipated legal and related costs. Where the property is being transferred into our SIPP in-specie from another pension scheme then we will not instruct solicitors within the 30-day period you have to withdraw from the transfer. Unlike the right to cancel the establishment of your SIPP you are not permitted to waive your right to withdraw from a transfer.

### E. Property Management & Services

It is important to understand the difference between SIPP administration and property administration.

The SIPP administration function relating to commercial property includes monitoring that transactions are completed within the tax legislation, updating records and making loan repayments.

Property Management includes issuing rental / service charge and insurance invoices, collecting payments, paying appropriate expenses, recovering arrears, providing quarterly statements, property inspections, handling tenant queries, dealing with insurance claims, rent and lease reviews, assignment of leases and sub-letting, dilapidations, arranging Energy Performance Certificates, Electrical Installation Certificates and Fire Risk Assessments. We have a Fact Sheet on the different roles, which is available on request. Any property bought by one of our SIPPs must have a Property Manager.

We are not a qualified property manager and it is right that this role is carried out by a suitably qualified professional. A Property Manager brings real value in managing the property and both protecting your investment and maximising its return.

Our preferred Property Manager is Savills Property Management. We recommend the appointment of Savills as they are an established Property Manager with offices throughout the country. They are aware of HMRC rules and regulations surrounding SIPPs.

We do not receive any commission or fee from Savills. We have negotiated reduced fees with them, the services they provide and fee schedule is available on request.

You have two options\* in relation to your SIPP Property (please tick as appropriate):

1. Appoint Savills Property Management to manage the property on behalf of your SIPP Yes  No
2. Appoint a local third party RICS qualified managing agent Yes  No

|  |     |
|--|-----|
| Name of Managing Agent (company and contact) |     |
|  |     |
| Address                                      |     |
|  |     |
| Telephone                                    | Fax |
| Email Address                                |     |

**\*Please note**

- If you do not tick either box we will appoint Savills.
- We reserve the right to insist on Savills being appointed in the future, if development work is planned on the property or if the property is leased to your business (or another connected party) and the rent falls into arrears.

**F. Special Conditions and Risk Warning**

**Your attention is drawn to the following points**

- i The property must be purchased in the name of Crescent Trustees Limited and the following is an example of our standard wording:

“The liability of Crescent Trustees Limited hereunder shall not be personal but shall be limited to the extent of the assets of The Pointon York SIPP / The PY SIPP / Pointon York Self-Invested Personal Pension Scheme (*delete as appropriate*) (Account no.....) in its possession from time to time. All such liabilities shall cease when the said Crescent Trustees Limited cease to be a Trustee of the scheme”.

Where the property is being bought as part of a joint or Syndicated investment the following wording must be added to all legal documentation:

“The liability of Crescent Trustees Limited hereunder shall not be personal but shall be limited to the aggregate of the members’ funds involved in the pooled purchase Pointon York SIPP Syndicate Reference ..... , from time to time. All such liabilities shall cease when the said Crescent Trustees Limited cease to be a Trustee of the scheme”.

- ii The independent valuation of the property must be carried out by a suitably qualified surveyor (normally a member of RICS). The emerging report must contain details of the open market value of the property, the independent rental value and the insurance value of the property.

Where a Surveyor is appointed directly by yourself or a lender, please note the following requirements:

- They should be a member of RICS (Royal Institution of Chartered Surveyors) or the equivalent.
- The Survey Report should be addressed to Crescent Trustees Limited (and the commercial lender where borrowing is required) and should be carried out in accordance with the Institution’s guidelines and include:
  - An assessment of the property to include recommendation as to whether a full structural or asbestos survey is required.

Where asbestos is suspected of being present, Pointon York requires an asbestos risk assessment survey to be carried out on the property and, if confirmed as being present, a Risk Management Plan must be documented and a copy forwarded to Pointon York. This Plan must then be reviewed regularly;

- A full schedule of recommended repairs;
  - An independent valuation to compare against the purchase price;
  - A reinstatement figure for insurance purposes; and
  - An independent rental valuation.
- iii Any borrowing must be in the name of Crescent Trustees Limited, and mortgage or loan documentation must be passed to Pointon York for checking. The wording under point i above must be included in all such documentation.
- iv HM Revenue and Customs' legislation limits your aggregate borrowing under an arrangement you hold under a Pointon York SIPP to 50% of the net market value of the fund you hold in that arrangement (including any Protected Rights) immediately before the borrowing takes place. This 50% limit includes the value of any existing borrowing you have outstanding at that time. If this limit is breached, Pointon York will become liable to a tax charge of 40% on the excess borrowing. This charge would be deducted from your fund value under the appropriate arrangement held under our scheme. If there was not sufficient cash available to cover this charge Pointon York will realise assets within your fund to meet the charge due.
- v It is possible for us to arrange to elect to waive exemption from VAT where appropriate. For example on the purchase of a property where the purchase price is subject to VAT we can normally waive exemption so that we can reclaim the VAT payable on that purchase price. You must instruct us in this regard. It is the responsibility of the solicitors to ensure that Pointon York is advised of the VAT status of the property and whether this transaction will be a TOGC.
- vi Occasionally, it may not be possible to register for VAT and therefore the scheme would not be able to recover the VAT on expenditure. For example, where the member's company is to be/is the tenant and it will not/is not making Vatable supplies; professional advice should be sought if this situation is anticipated.
- vii The purchase of residential property through a Pointon York SIPP is not permissible. There are detailed HM Revenue & Customs rules on what constitutes a 'residential property', and the exceptions that are permitted in 'mixed' use circumstances. If the rules are breached, you and your SIPP will become liable to a heavy tax charge, and any future income or capital gain derived from that property will also be subject to a tax charge. You should take financial advice to ensure this investment does not breach these rules.
- viii It is possible for property transactions to take place between your scheme and yourself, or any person deemed to be 'connected' with you. But any such transaction must be undertaken on an arm's length basis (market value). If it is not undertaken on an arms length basis you may become liable to a tax charge on any over value (if the SIPP is buying) or under value (where the SIPP is selling or leasing the property). We are also obliged to report all 'connected' transactions to HM Revenue and Customs.

For this purpose, a 'connected person' is defined in legislation (section 839 of Income & Corporation Taxes Act 1988). A person in this context can include a company.

An individual will be 'connected' with you if they are

- your wife, husband or civil partner,
- a person you are in partnership with,
- one of your 'relatives', or
- a 'relative' of your wife/husband/civil partner or person you are in partnership with.

A 'relative' is defined as

- brother or sister,
- an 'ancestor' (mother, father, grand-parent etc), or
- a 'lineal descendant' (son, daughter, grand-daughter etc).

A company will be viewed as 'connected' to you if you have 'control' of that company, or if you and persons connected to you collectively have 'control' of the company. 'Control' is again defined in legislation (section 416 of Income & Corporation Taxes Act 1988). It is also possible for individuals who are not 'connected' to each other to be deemed to collectively control a company. Whether or not you are deemed to 'control' a company is a question about which we cannot give advice. If you or any person 'connected' to you have an interest in the company we strongly recommend that you consult the company accountant/lawyer to check whether the company is 'connected' to you within section 839 of Income & Corporation Taxes Act 1988.

A 'close company' is defined in Section 414 of Income & Corporation Taxes Act 1988 and is broadly a company whose assets are controlled by five or fewer participators.

- ix As Scheme Administrator, we must ensure that tenants connected to the SIPP member are dealt with on a fully commercial basis. If this is not the case, there are tax consequences on the SIPP member personally and on their pension fund - these tax charges can be punitive and we will not enter into transactions which would result in such charges arising.
- x The notice below draws to your attention the risks and costs associated with property purchase through a Pension Scheme.
- There is a greater risk associated with property investments, as they are not readily realisable. You may have difficulty in selling the property at a reasonable price. In some circumstances it may be difficult to sell the property due to market conditions. Accordingly, you should carefully consider whether such investments are suitable for you in the light of your personal circumstances and the financial resources available to you.
  - At the outset of any proposed property purchase you will incur legal and professional charges, irrespective of whether the proposed purchase is completed.
  - We can provide no assurance that any proposed property purchase will be acceptable under the SIPP. Final completion can only take place when all requirements have been met.
  - We reserve the right not to proceed with a property purchase if at any time their solicitors are unable to satisfy themselves as to documentation or HM Revenue & Customs' requirements.
- xi It is a requirement that all properties are suitably insured. Unless otherwise agreed in writing, Pointon York will arrange this for all properties. The premium will be paid from the scheme and if applicable re-charged to the tenant.
- xii Pointon York require a satisfactory Environmental Report on all properties prior to exchange of contracts which should be provided by their nominated consultants.
- xiii If you purchase a property jointly with others, your proportionate ownership will depend upon the amount being deducted from your fund and used towards the costs of the acquisition/development. It will be a condition of any such transactions that you and the other participants enter into an agreement covering the terms of the joint investment. See also Section G.
- xiv The property will be professionally valued as instructed, or on any significant event.
- xv Before we are able to exchange contracts, we must be satisfied that the property is acceptable to Pointon York and that we can complete the purchase.

Prior to exchange of contracts we normally must have received the following:

- Valuation, Survey and Rental Valuation.
- Report on Title.
- Details of proposed or existing lease(s) (agreed in principle).
- Signed facility letter for borrowing and agreed legal charge (if applicable).
- Contract (with VAT clause if applicable).
- Provisional Completion Statement.
- Any other requirements the Trustees have placed on the transaction (e.g. planning permission, certificate of change of use).

- Environmental report.
- Copy of the suitably signed Syndicate Agreement (where relevant).

Sufficient money must also be in the fund to cover the purchase price, VAT and all costs, taking into account any lending agreed.

### **G. Additional Special Conditions: Joint or Syndicated Property Investments**

The conditions below will be subject to the specific terms of your Joint Ownership or Syndicate Agreement.

- i The liability of Crescent Trustees Limited hereunder shall not be personal but shall be limited to the aggregate of the members' funds involved in the pooled purchase, from time to time. All such liabilities shall cease when the said Crescent Trustees Limited cease to be a Trustee of the scheme.
- ii Even though a member may be entitled only to a percentage share in a property, each member may be fully liable for the mortgage and all other liabilities associated with the property in the event of default.
- iii Ongoing expenses paid in respect of the property should always be met in accordance with the property ownership at the time the expense arises. However, the ownership split of the property may change if expenses cannot be met in this way from the joint account and there are insufficient funds in personal accounts to meet liabilities, even though this will alter the intended percentage shares in the property.
- iv Where a member is in more than one partnership/Syndicate, Pointon York reserve the right to charge for additional syndicate valuations.
- v A joint property SIPP bank account will be established specifically for the syndicated property purchase and all transactions will be carried out through this account. A minimum balance of £500 is required to be retained, per member, at all times on this account.
- vi All property related fees due will be taken in proportion to the ownership of the property unless advised otherwise and will be paid from the joint property SIPP bank account.
- vii In certain circumstances, funds may be required from the members, this may be as contributions, to resolve any issues. Where the members are unable to contribute a further amount or refuse to do so, Pointon York reserve the right to access other assets within the members' funds and in such circumstances, their share of the pool may be affected.
- viii In the event of the death of any member of a syndicate, ultimately if no other purchaser of that member's 'share' can be found it may be necessary to sell the property. In such circumstances Pointon York will be bound by HM Revenue & Customs' legislation and you should be aware that the timing of such a sale would be outside the control of Pointon York - HM Revenue & Customs legislation requires us in some circumstances to settle distribution of a member's pension fund within 6 months or 24 months of death.
- ix In the event of dispute or conflict, a solicitor will be appointed to act on behalf of Pointon York.

### **H. Undertakings**

- i The member confirms that they are aware of the requirements for property purchase through a Pointon York SIPP and will comply with them.
- ii The member confirms that, where they have declared the vendor or proposed tenant is not 'connected' to them, they have taken reasonable steps to ascertain this fact from persons qualified to make such a judgement.
- iii The member agrees to meet all costs in connection with the proposed property purchase (either from the appropriate SIPP bank account(s), or by separate payment from outside the scheme)
  - a) whether or not the purchase proceeds to completion, and
  - b) whether the costs are by way of fees incurred by or on behalf of Pointon York or Crescent Trustees Limited, or are other expenses of the purchase.

- iv The member agrees that Pointon York will arrange insurance for the property.
- v The member agrees to Crescent Trustees Limited entering into a Charge of the property where borrowing is arranged to enable the purchase of the property.

**I. Indemnity**

Crescent Trustees Limited will at the request of the Member(s) enter into a contract to purchase the premises described in this application subject to and where appropriate with the benefit of the matters contained or referred to in the Sale Agreement.

**In consideration of Crescent Trustees Limited entering into the Sale Agreement and completing the purchase of the Property as Trustee of the Scheme the Member has agreed to indemnify Pointon York SIPP Solutions Limited and Crescent Trustees Limited against all and any liability which they may incur in respect of the Property (including ownership of the property) and in particular by virtue of the Sale Agreement the assurance of the Property to it and in respect of any contamination whatsoever which may affect the Property.**

In consideration of the obligations undertaken by Pointon York SIPP Solutions Limited and Crescent Trustees Limited pursuant to the Sale Agreement and the assurance of the Property to it the Member hereby covenants with Pointon York SIPP Solutions Limited and Crescent Trustees Limited that he will at all times indemnify and keep indemnified Pointon York SIPP Solutions Limited and Crescent Trustees Limited against all losses, actions, damages, proceedings, claims, demands, costs and expenses whatsoever incurred suffered or arising in respect of the Property or resulting from Crescent Trustees Limited acquiring the Property howsoever arising.

Member Name

Signature

Date 

|     |  |       |  |  |      |  |  |  |  |
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|     |  |       |  |  |      |  |  |  |  |
| Day |  | Month |  |  | Year |  |  |  |  |

**For Internal Purposes Only** - Countersigned by Pointon York as approval to proceed

|     |  |       |  |  |      |  |  |  |  |  |  |     |  |       |  |  |      |  |  |  |  |
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