



ASSOCIATION OF RESIDENTIAL MANAGING AGENTS

MANAGEMENT AGENCY AGREEMENT

BETWEEN

(The Client)

whose (registered) office is at

With company number *********

and

Venture Housing Ltd t/a COSGROVES

(The Manager)

whose (registered) office is at

49-51 Osborne Road, Southsea, Hampshire, PO5 3LS

With company number 04186146

Tel: 023 92 827827 Fax: 023 92 827828

email: blockmanagement@cosgroves.co.uk

for

(The Property)

Dated: *****

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TERMS AND CONDITIONS

1 Definitions

- 1.1 'Additional Charges' are the charges listed for additional services in Appendix III, IV, V, VI and VII.
- 1.2 'Additional Services' means the services set out in Appendices III, IV, V, VI and VII.
- 1.3 'Applicable Fire Health and Safety Laws' means the laws of England and Wales relating to fire, health and safety and any other applicable laws or regulations, regulatory policies, or binding industry codes.
- 1.4 'Applicable Laws' means the laws of England and Wales and any other applicable laws or regulations, regulatory policies, or binding industry codes.
- 1.5 'ARMA' means the Association of Residential Managing Agents whose website is <http://arma.org.uk> which is part of The Property Institute.
- 1.6 The 'Client' means the resident management company, right to manage company, or other landlord named in the cover sheet to this agreement.
- 1.7 'Intellectual Property Rights' means all patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world
- 1.8 The 'Manager' is the managing agent named in the cover sheet to this agreement.
- 1.9 The 'Parties' means the Client and the Manager.
- 1.10 The 'Property' is the estate, scheme, or development named in the cover sheet to this agreement and as described at clause 25 of this agreement.
- 1.11 The 'Management Fee' is the fee set out in the fee agreement in Appendix I (herein referred to as the 'Fee Agreement')
- 1.12 The 'Services' mean the services set out and the frequency specified in Appendix II.
- 1.13 'Term' means the term of this agreement, which shall commence on the date set out in clause 2.3, being (**INSERT DATE ON WHICH SERVICES COMMENCED**), and continue for a period 364 days, unless terminated earlier in accordance with clause 13.
- 1.14 'RICS' means the Royal Institution of Chartered Surveyors whose website is www.rics.org
- 1.15 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made from time to time under that statute or statutory provision.
- 1.16. Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.17. A reference to writing or written includes fax and email.

2 Appointment

- 2.1. The Client appoints the Manager to be its exclusive managing agent for the Property for the Term on the terms of this agreement, provided that either party shall be entitled to terminate this agreement prior to the Term in accordance with clause 13.
- 2.2. For the duration of this agreement, and subject to clause 9.7, the Manager may enter into such contracts:
 - 2.2.1. as are reasonably necessary for the management functions of the Property in relation to the Services being provided under this agreement on behalf of an in the name of the Client;
 - 2.2.2. on its own behalf, to the extent necessary for the provision of the Services
- 2.3. The Client agrees to the terms of this agreement and will be deemed to be bound by them upon the earlier of:
 - 2.3.1. Signature of the agreement by the Client and the Manager: or
 - 2.3.2. Commencement of the provision of the Services by the Manager, in which case the agreement will be deemed to have come into effect from the date of the provision of the first of such Services.
- 2.4. For the avoidance of doubt where pursuant to clause 2.3 this Agreement is signed by the Client after the Manager has commenced provision of the Services, the agreement will be deemed to have come into effect from the date of the provision of the first of such Services.

3 Services to be provided by the Manager

- 3.1. The Manager will perform with reasonable care, skill and diligence the Services set out with the frequency as agreed and specified in Appendix II for the Management Fee as set out in Appendix I.
- 3.2. Where instructed, the Manager will provide the Additional Services (if any) for the Client for the Additional Charges as set out in Appendix III with reasonable care, skill and diligence.
- 3.3. Where instructed, the Manager will provide the Additional Services (if any) for the Client for Additional Charges as set out in Appendix IV with reasonable care, skill and diligence.
- 3.4. Where instructed, the Manager will provide the Additional Services (if any) for the Client for the Additional Charges as set out in Appendix V with reasonable care, skill and diligence.
- 3.5. Where instructed, the Manager will provide the Additional Services (if any) for the Client for the Additional Charges as set out in Appendix VI with reasonable care, skill and diligence.
- 3.6. Where instructed, the Manager will provide the Additional Services (if any) for the Client for the Additional Charges as set out in Appendix VII with reasonable care, skill and diligence.
- 3.7. In providing the Services and complying with the obligations set out in this agreement the Manager shall, except as stated otherwise, have the authority to act on behalf of the Client to take such actions as are expressly authorised by this agreement and to incur expenditure in providing the Services and complying with the obligations set out this agreement.
- 3.8. The Manager may at the cost of the Client seek the advice of specialist professionals, including surveyors, engineers, building contractors, solicitors and other specialist professional advisers where the carrying out of the Services and Additional Services reasonably requires the Manager to obtain such advice.
- 3.9. Where any contracts, deeds or liabilities authorised by this agreement are to be entered into in connection with the Property then except where provided otherwise under this agreement such contracts or liabilities shall be entered into in the name of the Client and not in the name of the Manager.

- 3.10 In the event of emergency the Manager shall be permitted to take precautionary steps and/or incur emergency expenditure in respect of the Services to protect the Property without the approval of the Client if in the reasonable opinion of the Manager:
- 3.10.1 such reasonable actions are necessary to correct any matter that threatens loss of life, serious personal injury or property damage or the matter breaches an applicable law or regulation; and
 - 3.10.2 given the emergency nature which has arisen it is not reasonably practical to seek the Client's approval to such action and/ or expenditure.

4 Compliance with the Provision of Services Regulations 2009 (as amended)

The Manager has provided to the Client the following information: -

- (a) Details of its legal status
- (b) Its office address for communication including e mail address and telephone numbers.
- (c) VAT registration number
- (d) Its ARMA membership and details of where that membership can be checked
- (e) A copy of its complaints handling procedure
- (f) Details of the ombudsman scheme of which it is a member
- (g) Details of the public indemnity policy that it holds

5 Conduct of the Manager

- 5.1 The Manager will use reasonable endeavours to:
- 5.1.1 comply with the terms of the leases of the Property; and
 - 5.1.2 comply with the Service Charge Residential Management Code of the RICS
- 5.2 The Manager will:
- 5.2.1 comply with relevant landlord and tenant legislation;
 - 5.2.2 comply with Applicable Laws relating to its obligations in the management of the Property; and
 - 5.2.3 comply with the Applicable Fire Health and Safety Laws relating to its obligations in the management of the Property.
- 5.3 The Manager will comply with its obligations under employment and all other relevant laws and regulations relating to the management of the Property.
- 5.4 The Manager will hold professional indemnity insurance which may include fidelity cover and maintain it during the Term. On request, the Manager must give the Client a copy of the certificate of insurance.
- 5.5 The Manager will comply with the rules of the Financial Conduct Authority when carrying out any regulated insurance activities.
- 5.6 The Manager will at all reasonable times during working hours and with 24 hours notice, allow the Client access to all records and accounts appertaining to the management of the Property.

- 5.7 Where pursuant to the Services the Manager is required to arrange any insurance policy relating to the Property, such obligation shall not be absolute but shall instead comprise an obligation on the Manager to use all reasonable endeavours to arrange the relevant insurance policy, having regard to the fact that insurance for certain risks may not be available in the relevant insurance market on reasonable terms acceptable to the Client at the time the insurance policy was intended to be entered into. The ultimate responsibility and obligation to procure any insurances relating to the Property shall remain with the Client.

6 Conduct of the Client

- 6.1. The Client will ensure the handover to the Manager prior to the commencement of the Services of the documents listed in Appendix IX, ('the Takeover List'), and any other documents as may be requested by the Manager or required in connection with the management of the Property. The Client warrants that it has supplied (and will continue to supply) to the Manager all material information relating to the Property and the provision of the Services and Additional Services (where the Manager is instructed and has agreed to provide such Additional Services), including information relating to the state of repair of the Property and any proposed construction or renovation works.
- 6.2. Without prejudice to the Manager's obligation under this agreement, the Client acknowledges and agrees that it is responsible for compliance with all Applicable Laws and Applicable Fire Health and Safety Laws relating to the Property, procuring any insurances relating to the Property, its own business and operations, and for the upkeep and any damage to the Property.
- 6.3. The Client agrees to co-operate with the Manager in all matters relating to the Services and Additional Services and to provide any information, documents, instructions, approvals, consents, comments and to do any other acts reasonably requested by the Manager in connection with the provision of the Services in a timely manner and in any event within 14 days of such request. The Client warrants that all information provided to the Manager pursuant to or in connection with this agreement is and will be complete and accurate.
- 6.4. The Client will not issue any instructions to the Manager that require it to breach the leases of the Property, Applicable Laws, Applicable Fire Health and Safety Laws, applicable Codes of Practice or any other regulations relating to the management of the Property.
- 6.5. The Client will act in a manner that ensures there is no unlawful discrimination in the provision of services and the employment of any staff or contractors.
- 6.6. The Client will not give instructions to the Manager's staff working solely at the Property. Any instructions should be given through the Manager's nominated representative as agreed between the Parties.
- 6.7. The Client is not required to arrange and hold directors' and officers' liability insurance for the Term but is advised to do so. On request, the Client will give the Manager a copy of any such insurance certificate.
- 6.8. The Client will keep the Manager informed as soon as reasonably practicable of any notices, sales of leaseholds or freehold, possible formation of residents' associations, exercise of the right to manage, enfranchisement and any other matter relating to the management of the Property of which the Client becomes aware.
- 6.9. When oral instructions are given by the Client to the Manager, these should be confirmed by the Client in writing within 7 days.
- 6.10. The Client shall keep any materials, equipment, documents and other property of the Manager provided by the Manager to the Client ('Manager Materials') in safe custody at its own risk, maintain the Manager Materials in good condition until returned to the Manager, and not dispose of or use the Manager Materials other than in accordance with the Manager's written instructions or authorisation.
- 6.11. The Client shall promptly notify the Manager of any transfer, sale or dealing in any other way of any interest it has in the freehold of the Property. Nothing in this clause shall prevent the Client from entering into leases of any part of the Property in the usual course.

- 6.12. During the Term the Client grants a non-exclusive licence to the Manager to enter the Property for the purpose of carrying out the Services and the Additional Services.

7 Disclosures, Commissions and Associated Companies

- 7.1 The Manager has disclosed in writing to the Client all commission arrangements that may apply to its management of the Property.
- 7.2 The Manager is authorised by the Client to retain the commission (maximum 15%) from the arrangements already declared. (Only applicable if insurance is arranged through Arthur Gallagher).
- 7.3 The Manager will disclose any future commission arrangements that it may wish to enter into during the Term of this agreement before so doing and seek the consent or not of the Client to any such arrangement.
- 7.4 The Manager has disclosed to the Client the details of any related companies with whom the Manager has an interest.
- 7.5 The Manager will not award any contracts for services or works of any kind to those associated companies without the prior consent of the Client.
- 7.6 The Manager has disclosed to the Client any relationship, other managements or interest of any kind it has with the freeholder/landlord of the Property if the Client is not the freeholder/landlord.

8 Fees and charges

- 8.1 The fees and charges payable by the Client to the Manager are as set out in Appendices I, III, IV, V, VI and VII and are payable without deduction or any right of set-off against any other account with the Client.
- 8.2 The Client authorises the Manager to deduct the Management Fee and any other fees and Additional Charges from the section 42 compliant bank account on the dates set out in the Fee Agreement.
- 8.3 The Client will pay the Manager a setting up fee as specified in Appendix 1 for the work involved in setting up the management arrangements for the Property. This fee must be paid as soon as this agreement is signed.
- 8.4 The Manager reserves the right to charge interest on any overdue fees and charges payable by the Client to the Manager at the rate of 4% over base rate of Lloyds Bank from the date the fee or charge became due until the date of payment.

9 Handling of Client's Money

- 9.1 The Manager will comply with statutory rules for banking and holding any funds of the Client in a clearly section 42 compliant bank account(s). Any such client funds must be held in trust.
- 9.2 The Manager will and is authorised to open a section 42 compliant bank account(s) on behalf of the Client in the name of the Property or the Client for the receipt of all money due to the Client and the payment of expenses relating to the Property.
- 9.3 Where applicable, the Manager will open a section 42 compliant bank account(s) on behalf of the Client in the name of the Property or the Client for the receipt of reserve fund(s) contributions made by leaseholders.
- 9.4 The Client authorises the Manager to make payments for the purpose of providing the Services and Additional Services (within the limits set out in 9.7 below) from the section 42 compliant bank account(s) held for the Property.

- 9.5 The Client irrevocably authorises the Manager to deduct any outstanding Management Fee and Additional Charges from the section 42 compliant account during the Term and after this management agency agreement terminates.
- 9.6 It is hereby agreed that any interest earned on the section 42 compliant account(s) shall be a credit to that account(s) together with any negative interest absorbed by that account(s)
- 9.7 The expenditure authorisation limit of the Manager without referral to the Client shall be £250.00 inclusive of VAT per flat.
- 9.8 The Manager will notify the Client as soon as possible of any lack of funds to pay for the Services and Additional Services. The Client shall put the Manager in funds to pay for services required if there is a deficit for any reason and the Manager may terminate this agreement immediately upon notice and cease to provide Services and/or Additional Services if no funds are available.
- 9.9 The Client authorises the Manager to receive insurance claim settlements into the Client account held on their behalf, in order to settle insurance claims.

10 Liability

- 10.1. Subject to clause 10.5, no liability shall be attached to or sustained or incurred by the Manager either in contract or in tort or otherwise for any loss, injury, damage, costs or legal or other expenses sustained as a result of:
- 10.1.1. The Manager having reasonably relied upon the Client to provide accurately all relevant information;
 - 10.1.2. Any inaccurate forecast by the Manager of future income or expenditure unless done so negligently;
 - 10.1.3. Any defect in the Property, or plant and machinery, equipment or materials used for the property, whether or not such defect be latent or apparent upon examination;
 - 10.1.4. Any failure by the Client to provide adequate or timely instructions, approvals or consents;
 - 10.1.5. Any failure by the Client to put the Manager in funds to pay for services in connection with the Property;
 - 10.1.6. Any act, omission or insolvency of any person (including the Client) other than the Manager, or any breach of this agreement by the Client.
- 10.2. Subject to clause 10.5, the Manager's total liability to the Client in contract or in tort or otherwise under or in connection with this agreement and the Services shall not exceed an amount equal to the aggregate Management Fees paid by the Client to the Manager in the 12 months preceding the event giving rise to the liability.
- 10.3. The Client shall indemnify the Manager in respect of all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Manager arising out of or in connection with:
- 10.3.1. Any claims made or alleged or any action brought or threatened against the Manager by a third party due to an act or omission of the Client;
 - 10.3.2. Any one or more of those circumstances listed in 10.1.3 to 10.1.6 above;
 - 10.3.3. Any claim brought or alleged against the Manager for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of any materials provided by the Client; and

- 10.3.4. Any breach by the Client of the terms of this agreement.
- 10.4. The Manager shall not be liable to the Client in respect of any claims made by another or third party for any loss, injury, damage or legal or other expenses incurred as a result of any one or more of those circumstances listed in 10.1.1 to 10.1.3 above or otherwise.
- 10.5. The above shall not be valid insofar as prohibited by statute.
- 10.6. In no circumstances shall the Manager be liable for any loss of profits or earnings, loss of contracts, damage to goodwill, or consequential loss or damage save where loss, death or injury results from negligence on the part of the Manager.
- 10.7. All debts and liabilities to third parties required or permitted to be incurred by the Manager on behalf of the Client under this agreement in the course of its operation and management of the Property shall be the debts and liabilities of the Client alone, and the Manager shall not be liable for any such obligations by reason of its role under or performance of this agreement.
- 10.8. The provisions of this agreement apply to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The terms implied by sections 13, 14 and 15 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

11. Warranties

- 11.1. Each party warrants that:
- 11.1.1. it has full capacity and authority to enter into and to perform this agreement and once duly executed, this agreement will constitute legal, valid and binding obligations;
- 11.1.2. this agreement is executed by a duly authorised representative of that party; and
- 11.1.3. there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this agreement.

12 Assignment

- 12.1 This Agreement may only be assigned by the Client or the Manager with the prior written consent of the other party to this agreement.
- 12.2 The Manager may at any time subcontract or delegate any or all of its rights and obligations under this agreement.

13 Ending this Agreement

- 13.1. This agreement will end at the expiry of the Term as allowed for in clause 1.12 above.
- 13.2. This agreement may be terminated at any time by the mutual consent of the parties in writing.
- 13.3. The Client may end this agreement at any time in writing if:
- 13.3.1. The Manager is in material breach of this agreement, and the Client has notified the Manager of that breach in writing, and the breach has continued for 30 days after that notice; or
- 13.3.2. The Manager becomes insolvent or makes other arrangements with its creditors; or
- 13.3.3. The leaseholders of the Property exercise the right to manage or enfranchise or a manager is appointed by a Tribunal.

13.4. The Manager may end this agreement at any time in writing if:

- 13.4.1. The Client fails to pay the Management Fee or other Additional Charges owing to the Manager within one calendar month of notice of the fee and charges; or
- 13.4.2. The Client is in material breach of this agreement, and the Manager has notified the Client of that breach in writing, and the breach has continued for 30 days after that notice;
- 13.4.3. The Client becomes insolvent or makes other arrangements with its creditors, or is liquidated or suffers a petition for its winding up, or is struck off the register of companies, or suffers or takes any steps in connection with any of the foregoing;
- 13.4.4. The Client acts in a way that prevents the Manager from performing its Services under this agreement, and more specifically is in breach of any of the obligations at clauses 6 or 9.8 above.

13.5. When this agreement is ended:

- 13.5.1. the Manager will handover to the Client the documents itemised in Appendix IX, the Handover List, if they are in its possession;
- 13.5.2. the Client shall immediately pay to the Manager all of the Manager's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Manager shall submit an invoice, which shall be payable by the Client immediately on receipt; and
- 13.5.3. the Client shall immediately return any Manager Materials to the Manager.

13.6. Unless agreed otherwise all documents created by the Manager during the period of this agreement for the Client relating solely to the Property or the Services shall belong to the Client.

13.7. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry.

13.8. Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry shall remain in full force and effect.

14 Membership of the Association of Residential Managing Agents

If the Manager ceases to be a member of the Association of Residential Managing Agents (ARMA) the Manager will notify the client in writing of membership ceasing within 28 days of the cessation occurring.

15 Dispute Resolution

If any dispute arises over the interpretation of or compliance with the specific clauses in this agreement, the Parties will attempt to settle it by negotiation. Each of the Parties is to be represented by a person who is a director, or of equivalent executive authority, with authority to settle the dispute.

If the Parties have not settled the dispute by negotiation within 8 weeks (56 days) from when the dispute began (or sooner if the Parties agree) the Client can refer the dispute to the relevant Ombudsman scheme of which the Manager is a member.

16 Data Protection

16.1. In this clause:

16.1.1. Data Protection Legislation shall mean all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679) (GDPR); the Data Protection Act 2018 and any other applicable legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including the privacy of electronic communications); and

16.1.2. Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures shall have the meaning given in the Data Protection Legislation.

16.2. Each party shall comply with all the obligations imposed on it under the Data Protection Legislation and shall provide such assistance to the other party as is reasonably required to enable the other party to comply with any requests from data subjects to exercise their rights under the Data Protection Legislation within the required time limits.

16.3. If and to the extent that in the fulfilment of this agreement the parties are, for the purposes of the Data Protection Legislation, joint controllers, the parties will cooperate in agreeing and documenting appropriate arrangements between them for the purposes of Article 26 of the GDPR and:

16.3.1. shall make available to Data Subjects the essence of those arrangements;

16.3.2. acknowledge that Data Subjects may exercise their rights under the GDPR in respect of and against each party; and

16.3.3. agree to provide to each other such cooperation as may reasonably be required to assist the other party in compliance with its obligations under Article 26 of the GDPR.

16.4. If and to the extent that in its fulfilment of this agreement, the Manager will process data in relation to individuals on behalf of the Client so that for the purposes of the Data Protection Legislation, the Client is the controller and the Manager is the processor:

16.4.1. the Manager shall, in relation to any personal data processed on behalf of the Client in connection with the performance of its obligations under this agreement:

- process that personal data only on the written instructions of the Client unless the Manager is required by any Applicable Laws to otherwise process that personal data. The scope, nature and purpose of processing by the Manager is in respect of and for the purposes of the Manager providing the Services to the Client in connection with this agreement, for the duration of this agreement and for a period of 6 years thereafter, or (i) such shorter period where the processing is no longer authorised or no longer necessary for the purpose of this agreement or for compliance with Applicable Laws, or (ii) such longer period where the processing is required pursuant to Applicable Laws. The types of personal data may include the names, postal addresses, email addresses, contact telephone numbers and vehicle registration numbers of residents, lessees and visitors at the Property, the directors, officers and employees of the Client, the contacts at other service providers of the Client and any other individuals contacted by the Manager in the course of providing the Services to the Client;
- adhere to the security principles under the GDPR, and in particular ensure that appropriate organisation and technical measures are in place to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- ensure that all of its personnel who have access to and/or process personal data are obliged to keep the personal data confidential;

- not transfer any personal data outside of the UK unless done so in accordance with the Data Protection Legislation;
- assist the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- notify the Client without undue delay on becoming aware of a personal data breach;
- promptly following the written direction of the Client and at the Client's cost, delete or return personal data and copies thereof to the Client on termination of the agreement unless required by any applicable law to store the personal data; and
- maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Client or the Client's designated auditor of such records and information.

16.4.2 The Client consents to the Manager appointing each of its subcontractors and each contractor engaged to provide services in connection with the Property as a third party processor of personal data under this agreement. The Manager confirms that it has entered or (as the case may be) will enter with the third party processor into a written agreement incorporating terms which are substantially similar to those set out in clause 16.4.1. As between the Client and the Manager, the Manager shall remain liable for all acts or omissions of any third party processor appointed by it pursuant to this clause.

17 Intellectual Property

Without prejudice to clause 13.6, all of the Manager's Intellectual Property Rights existing prior to the commencement of the Services (including in the Manager Materials), and any developments in or improvements to the same, shall be the property of the Manager (excluding for the avoidance of doubt any Intellectual Property Rights in any materials provided by the Client).

18 Confidentiality

- 18.1. Neither party shall use or disclose to any person any confidential information about the business or affairs of the other party or any of its business contacts, or about any other confidential matters which may come to their knowledge in the course of or in connection with this agreement, except as is required for the performance of their obligations or exercise of their rights under this agreement. For the purposes of this clause, confidential information means any information or matter which is not in the public domain and which relates to the affairs of the other party or any of its business contacts.
- 18.2. The restriction in clause 18.1 does not apply to:
- 18.2.1. any use or disclosure authorised by the other party or as required by law; or
 - 18.2.2. any information which is already in, or comes into, the public domain otherwise than through unauthorised disclosure in breach of this clause.

19 Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control (including acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil commotion or riots, war, threat of or preparation for war, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or

lockouts, non-performance by suppliers or subcontractors; and interruption or failure of utility service).

20 Communication between the Parties

- 20.1 Any communication or instruction from the Client to the Manager shall be made by a director or secretary of the Client or person of equivalent executive authority.
- 20.2 Service of written communications shall be by first class post to the address shown on the front cover of this agreement, by fax or email (or such other address as one may notify to the other in accordance with this clause). Notice to end this agreement shall be by registered or recorded delivery post only.
- 20.3 Any communication in writing will be deemed to have been served on the third working day after posting, faxing or emailing.

21 Entire Agreement

- 21.1. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.2. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

22 Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23 Waiver

If either party at any time agrees to waive its rights under this Agreement, then that waiver does not prevent the party insisting upon its rights at any other time.

24 Severance

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under this clause, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

25 Legal Jurisdiction

- 25.1 This agreement shall be governed by the law of England and Wales.
- 25.2 Each party agrees to abide by the jurisdiction of the courts of England and Wales over any claim arising from this agreement.

26 The Property

- comprising of:

- Number of blocks *
- Number of buildings *
- Total number of units *

Signatures

Signed on behalf of the Client:

Print name: Position:

In the presence of

Print name: Signature:

Signed on behalf of the Manager:

Print name: Position:

In the presence of

Print name: Signature:

Dated.....

APPENDIX I

FEE AGREEMENT

- (a) The Term of this Agreement is as set out in 1.12 above.
- (b) The Setting-up fee is £250 + VAT and is payable as soon as this Agreement is signed.
- (c) The Management Fee is payable for the services in Appendix II and is £* + VAT (calculated at £XXX per unit for * units)
- (d) The Management Fee is to be paid in accordance with the lease payment dates – monthly / quarterly / half-yearly in advance / arrears.
- (e) The Management Fee and any Additional Charges must be paid to the Manager in accordance with clauses 8 and 9 of the agreement.
- (f) The Ground Rent Collection Fee is

APPENDIX II

THE SERVICES

DESCRIPTION	INCLUDED
Opening and handling bank accounts.	✓
Preparing and sending out service charge estimates.	✓
Collecting service charges and reserve fund contributions including sending demands and associated summaries and any required statements.	✓
Processing payments relating to the Property within expenditure limits and funds available or as reasonable expediency shall dictate.	✓
Providing information to accountants prior to the preparation of annual service charge accounts.	✓
Using best endeavours to collect current and on-going routine service charge arrears but not action requiring legal work or tribunals.	✓
Carrying out appraisals of reserve funds including Property surveys and reporting to Client.	✓
Providing reasonable management information to the leaseholders.	✓
Liaising with the Client.	✓
Liaising with any recognised resident(s) association(s).	✓
Entering into and managing maintenance contracts on behalf of the Client.	✓
Entering into and managing contracts for the supply of services on behalf of the Client, including utilities.	✓
Preparing specifications and contracts for minor works and services such as cleaning, gardening, window cleaning and overseeing such works.	✓
Organising periodic health and safety checks (but not specialist checks and tests) and ensuring appropriate risk assessments are in place.	✓
Consultation with the client on management matters (and qualifying works).	✓
Consultation with the client on long-term agreements except for consultation on the appointment of a managing agent.	✓
Dealing with day-to-day lessee issues and reporting to and taking instruction from the Client on lessees' dissatisfaction.	✓
Advising the Client on all relevant legislative and regulatory issues and general interpretation of leases.	✓
Maintaining adequate/suitable files and records on the management of the Property.	✓
Keeping records of residents and tenancy details where provided.	✓
Advising and liaising with the Client on management policy.	✓
Advising the Client on general interpretation of leases and, where appropriate, facilitating the engagement a person(s) with the necessary skills, knowledge, experience to advise on such matters	✓
Bringing relevant legislative and regulatory issues to the attention of the Client and, where appropriate, facilitating the engagement a person or persons with the necessary skills, knowledge, experience and behaviours to advise on such issues	✓
Obtaining tenders for major works.	✓
Issuing demands for administration charges with associated summaries of rights.	✓
Arranging fire risk assessments by competent persons.	✓
The collection of arrears existing at the time of takeover.	✓
The provision of lessee welcome packs or handbooks.	✓
Arranging venues for AGM's and EGM's.	✓
Arranging buildings and other insurance including a BVR every three years	✓

APPENDIX III

ADDITIONAL CHARGES

ADDITIONAL SERVICES	CHARGING BASIS where not included in the Services
Any additional work entailed, where the information required for the management of the Property is not provided by the Client	£50 + vat per hour (minimum 1 hour)
Raising fund requests for service charge during the financial year	£50 + vat per hour (minimum 1 hour)
Liaising with professionals or regulatory bodies	£50 + vat per hour (minimum 1 hour)
Initiation and administration of all insurance claims	£100 + vat per claim
Preparation of income and expenditure for accountancy purposes.	£25 + vat per unit
Providing accommodation for meetings and inspection of documents and the facility to make photocopies including dealing with requests made by lessees to exercise their right(s) under sections 21 and 22 of the Landlord and Tenant Act 1985	£50 + vat per hour (minimum 1 hour)
Providing copy documents including insurance policies, copies of invoices and receipts, accounts, for which there may be a charge.	£25 + vat (per item)
Visiting the Property (minimum every 4 months for blocks <11m and every 3 months >11m) to view, without the use of inspection equipment, the common parts of the Property to check condition and deal with any necessary repairs other than major repairs.	£50 + vat per visit
Answering leaseholders queries additional to those to be reasonably expected and where excess work arises due to this. To include Subletting, changes of use and handling requests for any necessary approvals, lease extensions and variations.	£50 + vat per hour (minimum 1 hour)
Drawing up and reviewing risk assessment plans. Advising on health and safety matters and other legislative requirements.	By arrangement
Holding annual meetings with residents if required.	By arrangement or included if at Cosgroves
Advertising and recruiting site staff on behalf of the Client.	By arrangement
Engaging and supervising on behalf of the Client site staff for the Property and dealing with all matters relating to their employment other than pension and Employment Tribunal matters.	By arrangement
Dealing with any pension issues relating to site staff.	By arrangement
Preparing Notices of subletting, changes of use and handling requests for any necessary approvals, lease extensions and variations.	Quotation available on request
Preparing replacement cost assessment for insurance valuation purposes on buildings and landlord contents.	Quotation available on request
Supplying copies of leases from the Land Registry	£25 + vat
Dealing with requests for improvements or alterations by leaseholders and related party wall matters	£25 + vat per letter
Dealing with S20 consultations, including serving the required notices, instructing and liaising with specialist consultants.	£10/unit (min £100) + vat per consultation round
Dealing with requests for improvements or alterations by leaseholders and related party wall matters	£50 + vat per hour (minimum 1 hour)
Attending meetings of directors. (AGM included in the Service)	Additional meetings at £50 per hour + vat
Attending meetings outside of normal office working hours	£50 per hour + vat per employee
Photocopying and postage annual fee	£7.50 + vat per unit
Bi-monthly testing of emergency lights as an annual fee	£120 + vat
Reviewing the fire risk assessment on an annual basis	£100 + vat
Collating handover information at the termination of Cosgroves' management	£10/unit (min £100) +vat
Any additional work which is required but not itemised elsewhere in appendices I, II or III.	£50 + vat per hour (minimum 1 hour)

COSGROVES SALES & LETTINGS SERVICES

Offering any vacant property for let.	9% + vat of full management
Advising and providing information on the transfer of leases.	£100 + vat
Responding to pre-contract sales enquiries.	£250 + vat per enquiry
Answering lessees written queries additional to those to be reasonably expected and where excess work arises due to this	£55 + vat per written correspondence
Answering lessees verbal queries additional to those to be reasonably expected and where excess work arises due to this	£12.50 + vat per 15 min phone conversation
Marketing for sale properties in blocks under Cosgroves management	1% of sale price + vat

SERVICE ARRANGED EXTERNALLY

Company Secretarial Services:- (a) Acting as Company Secretary to the Client (b) Issuing membership or share certificates (c) Calling annual general or extraordinary meetings: prepare notices, attend and take minutes.	Not provided by Cosgroves. Quotation can be arranged with local accountancy firm
Preparing statutory accounts for submission to Companies House excluding audit if required	As above
Filing statutory company returns.	As above
Fees of specialist advisers. Including Fire, Asbestos, Water and H&S	By arrangement
Preparing schedules of dilapidation or condition in respect of individual dwellings.	By arrangement
Providing any form of Services to the Client over and above this Management Agency Agreement in relation to the exercise by the lessees of Enfranchisement, the Right to manage or as the result of the Appointment of a Manager by a Tribunal.	By arrangement
Dealing with taxation issues relating to trust fund interest.	By arrangement
Any matters relating to ground rent reviews.	By arrangement
Providing detailed legal advice on any of the above.	By arrangement
Preparing and monitoring major building works not covered by annual contracts, dealing with S20 consultations, including serving the required notices, instructing and liaising with specialist consultants, inspecting work in progress, and handling retentions.	Not provided by Cosgroves. Quotation can be arranged with local surveyor
Specialist advice on assessment of major repairs and decoration or other issues.	By arrangement
Negotiating with local and statutory authorities regarding operation or amendment or improvements to communal services as necessary.	By arrangement
Legal recovery of unpaid service charges or ground rents or action for non-compliance with leases including instructing solicitors and preparing for and attending Court/Tribunal.	By arrangement
Advising on health and safety matters and other legislative requirements.	By arrangement
Preparing specifications, obtaining tenders and supervising major works.	By arrangement
Organising surveys of Property and reporting to Client.	By arrangement

APPENDIX IV

FIRE, HEALTH AND SAFETY

ADDITIONAL SERVICES	Included in Services or Additional Charge	Frequency
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to arrange a suitable and sufficient health and safety risk assessment in relation to the Property and the management of the Property.	Additional Charge	Every 3 months for blocks over 11m and every 4 months for blocks <11m
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to arrange a suitable and sufficient fire risk assessment in relation to the Property and the management of the Property. Between full FRAs, Cosgroves will carry out an annual review and provide a report to the FRA company.	Additional Charge	Carried out annually for blocks with a substantial risk reducing to every 2-4 years as directed by professionals Engagement is included, contractor will charge separately
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to undertake periodic health and safety inspections (but not specialist checks and tests).	Additional Charge	Frequency as required Engagement is included, contractor will charge separately
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to undertake periodic fire inspections (but not specialist checks and tests).	Additional Charge	Quarterly for communal alarms and annually for flat alarms if required Engagement is included, contractor will charge separately
Implementing the arrangements that need to be taken for the effective planning, organisation, control, monitoring and review of the preventive and protective measures which have been identified in the health and safety risk assessment.	Included	As required
Implementing the arrangements that need to be taken for the effective planning, organisation, control, monitoring and review of the preventive and protective measures which have been identified in the fire risk assessment.	Included	As required
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in displaying fire safety instructions in a conspicuous part of the Property	Additional Charge	Engagement is included, contractor will charge separately
Where appropriate, to engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in providing required information about fire doors to residents of the Property.	Additional Charge	This is provided annually. If delivered during a Cosgroves' FRA review there is no charge. After a full FRA the charge is £40 + vat

APPENDIX V

COMPANY SECRETARIAL SERVICES

Cosgroves do not provide these services. If required we will obtain a quotation from a local Accountant whose duties can include: -

- Appointment as Company Secretary for the Client
- Providing a registered address for the Client
- Filing confirmation statements at Companies House
- Issuing share certificates
- Attending board meetings (where instructed) and ensuring all attended meetings are minuted and that the minute books are maintained.
- Attending Annual General Meetings and General Meetings (where instructed) and ensuring all attended meetings are minuted and that the minute books are maintained.
- Maintaining company registers, including:
 1. Register of directors
 2. Register of directors residential addresses
 3. Register of Company Secretaries
 4. Register of members (and index of members where required)
 5. Register of Persons with Significant Control
- Notifying Companies House of relevant filings including:
 1. Notice of appointment or changes of Company Secretary
 2. Notice of appointment or changes of Director(s)
 3. Termination of Director(s) appointment(s)
 4. Change of registered address
 5. Copies of resolutions and agreements (where applicable)
 6. Notices of change in accounting reference date

Cosgroves will prepare and send notice(s) of Annual General Meetings where required by the Client's memorandum and articles of association and General Meetings and this is included in the Services.

APPENDIX VI

ADDITIONAL SERVICES IN RELATION TO BUILDINGS OVER 11 METERS IN HEIGHT

Where the Property includes building(s) which are over 11 meters in height, by agreement the Manager will provide the additional services as set out below

ADDITIONAL SERVICES	Included in Services or Additional Charge	Frequency
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to undertake checks of any fire doors in communal areas of the building at least every 3 months, including checks that the self-closing devices are working.	Additional Charge £50 + vat	Quarterly
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to undertake checks of the fire doors at the entrance of individual domestic premises in the building at least every 12 months.	Contractor will charge client for the survey	Annually

APPENDIX VII

ADDITIONAL SERVICES IN RELATION TO HIGHER-RISK BUILDINGS

Where the Property includes higher risk building(s) within the meaning of section 65 of the Building Safety Act 2022 and/or high-rise residential building(s) within the meaning of regulation 3 of the Safety (England) Regulations 2022, by agreement the Manager will provide the additional services as set out below

ADDITIONAL SERVICES	Included in Services or Additional Charge	Cost
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to assist the Client and/or advise in relation to their duties as Accountable Person and/or Principal Accountable Person.	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to assist the Client and/or advise in relation registration of the building(s) with the Regulator	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to assist the Client and/or advise in relation to the application for a building assessment certificate including collation of all necessary documentation and materials	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to assist the Client in applying for a building assessment certificate	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to arrange a suitable and sufficient assessment of the building safety risks	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to assist in the management of the building safety risks	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the preparation of the safety case report	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the provision of prescribed information to the Regulator	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the keeping of prescribed documents in accordance with prescribed standards	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the provision of information to the Regulator and/or other Accountable Persons for the Property and/or residents in the Property and/or leaseholders and/or any other prescribed person	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the preparation of a residents' engagement strategy	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in establishing a complaints procedure	Included	N/a
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in the installation and maintenance of a secure information box in or on the building, and to inspect the secure information box at least annually.	Additional Charge	£50 + vat per hour (min 1 hour)
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in preparing a record of the design of the external walls of the building, including details of the materials from which they are constructed.	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in preparing a plan for each floor of the building together with a single page building plan in compliance with regulation 6 of the 2022 Regulations.	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in undertaking monthly routine checks of lifts for use by firefighters, evacuation lifts and essential fire-fighting equipment within the building.	Additional Charge	By arrangement
Engage a person or persons with the necessary skills, knowledge, experience and behaviours to advise and/or assist in ensuring the building contains appropriate wayfinding signage.	Additional Charge	£50 + vat per hour (min 1 hour)

APPENDIX VIII

THE TAKEOVER AND HANDOVER LISTS

A. The Takeover List

The Parties hereby agree that the Client shall ensure that the following records, documents and information shall be made available (if applicable and held) to the Manager in order to take over management of the Property: -



THE PROPERTY

- Copy of the Land Certificate.
- Plans and drawings if any of the site and buildings.
- Details of utilities and location of main stop-cocks etc.
- Details of any major works and long term agreements ongoing and copies of S.20 notices and responses given.
- Details of any major works and long term agreements planned and copies of any related S.20 notices and responses given.
- Details of plant, machinery and relevant documentation.
- Copies of statutory inspection reports.
- Arrangement for out of hours' emergencies.

INSURANCE

- Contact details of current broker/insurers.
- Original of schedule and policy for the property.
- Details of most recent valuation of the property.
- Summary of claims history over past three years.
- Files on open insurance claims and agreement on who will handle such.
- Details of third party and employers liability (including current and all previous certificates for employers liability where employer is not changing).
- Originals of mechanical engineering insurance and the last three years' inspection reports.

CONTRACTS AND CONTRACTORS

- Details of all current contracts.
- Details of regular contractors used and the scope of their duties and payment terms.
- Details of any current warranties.

THE LESSEES

- Originals or copies of all leases and deeds of variation and other licenses etc.
- Copy of any current house rules.
- Details of any ongoing assignments.
- Names and contact details of all lessees, including those who are not resident.
- Details of any sub-let flats and their occupants.
- Schedule of ground rents payable.
- Schedule of service charge apportionments per unit.

LEGAL

- Details of any current disputes whether involving lessees, contractors or other parties.
- Details of any current or impending litigation whether for or against the client.
- Details of solicitors employed.

MISCELLANEOUS

- Details of any guarantees
- A full set of labelled keys, any spares and access codes and programming procedures.
- Copies of unanswered correspondence and other relevant enquiries.

APPENDIX VIII continued

ACCOUNTING INFORMATION

- Certified service charge accounts for at least the last three years and preferably six years or longer.
- Copy of the current service charge budget.
- Bank statements relating to lessee and client monies for the property.
- A reconciled copy of the cash book.
- Service charge balances and statements.
- Paid contractors and suppliers invoices for the current period and previous years. (Note: The receipts and invoices to support service charges belong to landlord so, if the agent changes, all years held should be handed over. Tribunals can review charges made many years ago if a challenge is made by lessees.)
- Outstanding contractors and suppliers invoices.
- Reconciled trial balance and supporting schedules made up to the date of the handover.
- A cheque for the balance of funds in hand.
- Method of payment used by each lessee.
- Agreed payment plans for arrears if any.
- Copy correspondence about any outstanding arrears.

STAFF

- Copies of any contracts of employment along with job descriptions.
- A full record of each person’s employment history.
- Details of any disciplinary action taken or other special circumstances.
- PAYE records for the current period and the previous years if appropriate.

HEALTH AND SAFETY

- Copy of any risk assessments carried out.
- Copy of any accident records.
- Copy of any asbestos register.
- Construction Design and Management (CDM) file if appropriate.

COMPANY INFORMATION

[Where a Resident Management Company or Right to Manage Company is the client - and subject to arrangements over the Company Secretarial role.]

- Copy of Memorandum & Articles of Association.
- The Books including minutes, stock transfer forms, Certificate of Incorporation, seal etc.
- Copies of previous annual returns.
- The last three years' (audited) accounts.
- All financial records and supporting documentation for the last three years.
- Details of accountants/auditors used.
- Details of any Directors and Officers Liability Insurance.

B. The Handover List

The Parties hereby agree that the Manager on ceasing to manage the Property shall make available to the Client the following records, documents and information: -

Description	Timescale
Up to date Accounts	Three months
All applicable items from List A as held by Cosgroves	One month