

RESIDENTIAL BLOCK MANAGEMENT

**AGREEMENT**

Setting out the terms of

**APPOINTMENT**

For the management of:

On Behalf of:

Date:

P R Gibbs & Co Limited  
85/87 Market Street  
Westhoughton  
Bolton  
BL5 3AA

## **AGREEMENT**

**Commencement Date of this Agreement:**

**“The Client”**

**“The Agent”**

P R Gibbs & Co Limited  
The 85/87 Market Street, Westhoughton, Bolton, BL5 3AA

**“The Property” the subject of this agreement**

**“The Term”** of this agreement is one year from the above date (the commencement date) subject to section 7 below

\* Deletions additions or alterations are to be initialled by both parties.

## TERMS OF APPOINTMENT

### 1 'The Service' to be provided by the Agent

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*With reasonable skill, care and diligence to:*

- 1.1 use his best endeavours to collect current instalments, any arrears of rent, service charges, contingency and future expenditure fund contributions, and any other payments due from leaseholders/tenants of the property and not being a payment under an excluded service listed in the ANNEXE below, and hold such sums in accordance with the RICS Members' Accounts Regulations until disbursements in a non-interest bearing account;
- 1.2 inspect without use of equipment, at the frequency specified such of the common parts of the Property as can be inspected safely and without undue difficulty to ascertain for the purpose of day to day management only its general condition of those common parts;
- 1.3 prepare, if required, an annual estimate of future expenditure, administer any service charge or contingency and further expenditure funds and prepare and distribute appropriate service charge accounts;
- 1.4 administer contracts and check demands for payment for goods, services, plant and equipment supplied for the benefit of the Property where the cost falls within the expenditure limits specified;
- 1.5 with prior consent of the Client engage for an on behalf of the Client, if required, staff whether part time or full time, residential or not, and administer and pay their remuneration from client or service charge funds as is appropriate, in accordance with agreed terms (withholding of PAYE tax and national insurance contributions) and, where appropriate, dismissal payment or redundancy pay (for which additional fees will be payable to P R Gibbs & Co Ltd for such administration);
- 1.6 arrange insurance in respect of the Property;
- 1.7 advise the Client when notices should be served;
- 1.8 keep files of leases and other documents relating to the Property that have been supplied to the Agent;
- 1.9 attend to routine enquiries from the client or any tenant, tenants' association or auditor/accountant;
- 1.10 provide statements of accounts to the Clients as required;
- 1.11 provide information to solicitors and others in connection with enquiries on sales (for which fees would be chargeable to those applying for the

Information);

- 1.12 if the Client is a Company, if required, act as the Company Secretary;
- 1.13 issue Notices, attend and circulate minutes of meetings subject to the provisions herein specified in any 12 month period;
- 1.14 administer transfers of ownership, register new lessees (at additional cost unless specifically provided for in the lease) and as appropriate and if acting as Company Secretary issue new share certificates and notify Companies House of changes in the membership and officers of the client Company;
- 1.15 produce for inspection, on written demand by the Client and leaseholders/tenants, as appropriate, receipts or other evidence of expenditure, and provide VAT invoices (if any) in the form prescribed;
- 1.16 after the end of each agreed accounting period, or of the termination of the Agreement, send to the Client a written statement for that period of:
  - (a) monies held on behalf of the Client, showing how much the Agent has received;
  - (b) remuneration due to the Agent (any fixed element of fee being apportioned as appropriate if this Agreement takes effect or is terminated during a payment period) and any VAT due;
  - (c) expenses and other disbursements made on behalf of the Client and whether any VAT is included;
  - (d) any sum due to the Agent or deducted in calculating (a) above for bank charges relating to the administration of a service charge account(s)

## **2 Authorisations of the Agent by the Client**

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*The Client authorises the Agent as follows:*

- 2.1 to expend any sums for the benefit of the Property that are within the expenditure limits specified and also, in cases of emergency, to take such reasonable measures as the Agent shall at their sole discretion consider appropriate;
- 2.2 to expend any other sums considered necessary by the Agent to ensure compliance with any statutory provision affecting the Property or affecting the Client or the Agent with regard to the Property;
- 2.3 whenever the Agent expends any sums under Clauses 2.1 and 2.2 above, to reimburse himself from any service charge or contingency/future expenditure fund kept for that purpose or from any monies of the client held by the Agent;
- 2.4 from monies received by him for the Client:
  - (a) at any time to pay or reimburse himself for any expenses or other disbursements recoverable from the Client;
  - (b) to deduct during any payment period his remuneration for that period, other than any charge already collected in advance by agreement;
  - (c) after termination of this Agreement, to deduct his outstanding remuneration and/or expenses due,

## **3 Communications between the Client and the Agent**

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- 3.1 All instructions of the Client to the Agent with regard to the Service to be performed by the Agent shall be given to the Agent in writing, or if given orally, shall be confirmed in writing within seven days.
- 3.2 The Client is to provide, or through a previous agent, all information necessary to initiate and undertake the management service and any additional work necessitated by absence of such information is chargeable. In this instance only additional work relating to a period prior to the commencement of this agreement would be chargeable such as administering supplier contracts, sales and purchase ledgers etc. with any additional fees to be first agreed in writing.
- 3.3 The Client shall within a reasonable timescale upon request by the Agent, provide to the Agent any decision or information that the Agent considers necessary for the proper performance of the Service to be performed by the Agent.

- 3.4 The Agent shall promptly on reasonable notice by the Client allow the Client to inspect and at the Client's expense copy any accounts and documents in the possession of the Agent relating to the Property.
- 3.5 It shall be sufficient service of any written notice or other written communication to send such by first class post to the address specified in this Agreement or the last known address for whom the communication is intended;
- 3.6 The Client undertakes to keep the Agent informed of proposals to sell the Property or any part thereof.

#### **4 Undertakings by the Client**

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The Client undertakes:

- 4.1 upon written notice by the Agent that the Agent requires the Client within a reasonable timescale to advance or reimburse sums in respect of Clause 2.1 and/or 2.2 to immediately do so;
- 4.2 within 14 days of the Agent sending the statement referred to in Clause 1.16 above, to pay to the Agent any remuneration still due to the Agent and to reimburse any expenses and other disbursements (including premiums for insurance, together with IPT) still due to the Agent, and to pay any VAT due, in every case without any deduction or set off in respect of any other undisputed claim by the Client against the Agent;
- 4.3 to pay interest on overdue remuneration expenses and other disbursements at the rate per cent specified in this Agreement above the base rate in force from time to time of The Royal Bank of Scotland PLC.
- 4.4 to ratify whatsoever the Agent shall properly and lawfully do by virtue of this Agreement and to indemnify the Agent against all costs claims and expenses properly and lawfully incurred.

#### **5 Bases of Remuneration**

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- 5.1 the basis or bases of the Agent's remuneration as recorded in this Agreement shall apply.
- 5.2 in the event of it being agreed that additional work not part of the Service (clause 1) shall be required, remuneration will be by the hour and the rates to

apply from the commencement of this Agreement shall be as specified.

- 5.3 the client shall reimburse the Agent for any agreed out of pocket expenses within a reasonable timescale on request.
- 5.4 should this agreement not be terminated at the expiry of its Term then any fixed fee specified in this Agreement for Clause 5.1 shall be reviewed and adjusted at the first anniversary of the commencement date of the Term in agreement with the Client and then following the first anniversary of the Term commencement date (whether or not the fee was adjusted at that anniversary) the fee will be adjusted on 1<sup>st</sup> January and thereafter annually on 1<sup>st</sup> January in proportion to the change in the Retail Price Index from the figure current at the time of the last review to the last published monthly figure before the review date (time will not be of the essence in respect of the review dates).
- 5.5 the rates specified in the Agreement for Clause 5.2 may be reviewed at the instance of either party at any time after a year from any previous review, and any revised rates will apply from an agreed date.
- 5.6 the fee rate on Client employee(s) as in Clause 1.5 will be a fixed percentage of the employee(s) gross salary/wage including overtime, bonus and holiday pay etc. and can only be reviewed at the express written agreement of the Client and the Agent.
- 5.7 additional charges will be levied against the Client in respect of any payments of contributions made by lessees or third parties with regard to a managed property in any form other than automated bank transfer.
- 5.8 All Fees payable to the Agent will be subject to the addition of Value Added Tax at the prevailing rate.

## **6 Assignment**

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- 6.1 This Agreement may only be assigned or transferred in whole or in part with the written consent of the other Party thereto, and such assignment or transfer shall be valid only after written notice to that effect has been given.

## **7 Termination**

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- 7.1 Either party may terminate this Agreement at the end of the first 364 days “the term”, or on giving three calendar months’ notice thereafter in writing.
- 7.2 Notwithstanding the provisions of Clause 7.1 if either party is in breach of this Agreement:

- (a) the other may serve on the party in breach written notice specifying the breach or breaches and requiring them to be remedied within 60 days; and
  - (b) if the party in breach fails within 60 days of the service of such notice to remedy such breach or breaches; then
  - (c) the party who served the notice may terminate the Agreement upon serving written notice to that effect on the other party.
- 7.3 If either party commits an act of bankruptcy or has a receiving order made against him or makes any arrangement with his creditors or if distress or execution is levied or threatened upon any of his property or any judgement against him remains unsatisfied for more than 14 days or if being a limited company a party enters into liquidation whether compulsory or voluntary (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or has a receiver appointed of any of its assets, the other party may terminate the Agreement upon serving written notice to that effect.

## **8 Liability of the Agent**

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- 8.1 Unless caused by the Agent's negligence in the provision of the Service (clause 1) the Agent is not liable either in contract or in tort for any loss, injury, damage or legal or other expenses sustained as a result of:
- (a) the Agent having reasonably relied upon the Client to provide accurately all relevant information;
  - (b) any inaccurate forecast by the Agent of future income or expenditure;
  - (c) any defect or failure to identify any defect in the Property or plant) machinery, equipment or materials used for the Property whether or not such defect be latent or apparent on examination;
  - (d) the act, omission or insolvency of any person other than the Agent.
- 8.2 The Client shall indemnify the Agent in respect of any claims made by another or third party for any loss, injury, damage or legal or other expenses referred to in Clause 8.1 above and will have in place with sufficient levels of cover Property Owners Liability Insurance including Public Liability and Employers Liability and also Director and Officers Liability insurances with an insurance provider of good standing.
- 8.3 The Agent shall not be liable to indemnify the Client in respect of any claims made by another or third party for any loss, injury, damage or legal or other

expenses referred to in Clause 8.1 above.

- 8.4 clauses 8.1 to 8.3 above shall not be valid in so far as prohibited by statute.
- 8.5 In no circumstances shall the Agent be liable for any consequential loss or damage save where death or injury results from negligence on the part of the Agent or his employees.
- 8.6 The Agent's liability to the Client for death or injury resulting from his own or that of his employees' agents' sub-contractors' negligence shall not be limited.

## **9 Waiver**

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- 9.1 No indulgence shown by either the Client or the Agent shall prevent the other subsequently insisting upon his rights and remedies under this Agreement.

## **10 Arbitration and Procedure for Complaints Handling**

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- 10.1 Any dispute between the Client and the Agent arising out of this agreement and/or the Terms of Appointment may be referred at the instance of either or both parties to and determined by a sole arbitrator to be agreed between the Client and the Agent or, in default of agreement, within 30 days of the dispute being identified, appointed by the President or a Vice-President for the time being of the Royal Institution of Chartered Surveyors.
- 10.2 The Procedure for Complaints Handling is appended to this Agreement.

## **ANNEXE**

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*The following are not part (and if required charged in addition) of the Service described in the Terms of Appointment to which this is an Annexe:*

- (a) carrying out an inspection of the Property, or a building survey or valuation of the Property as a security or for insurance purposes or preparing any schedule of dilapidations or inventory;
- (b) offering vacant property to let, advising the Client on the terms of any lease or negotiating the terms of any new or varied lease;
- (c) initiating, conducting, preparing evidence for an attending hearings for an

otherwise dealing with any rent review, party wail proceedings, application for a grant or for consent, insurance claim, arbitration or litigation;

- (d) dealing with local government matters including council tax valuations, planning permission, building regulation consent and grant applications;
- (e) engaging, instructing, supervising and paying the fees, other charges and disbursements from funds held of any contractor or other professional or consultant engaged with the prior consent of the Client;
- (f) preparing specifications and tenders, for project managing or supervising and measuring works the cost of which exceeds the specified expenditure limits and for non-routine matters and where expenditure is in excess of the limits contained in the Landlord and Tenant Acts 1985 and 1987 or the Commonhold and Leasehold Reform Act 2002 or as subsequently amended;
- (g) advising on safety or health;
- (h) any advertising and recruitment of staff on behalf of the Client;
- (i) supplying extra copies of statements of account and copies of any other documents;
- (j) issuing Notices, attending or circulating minutes of meetings that exceed the maximum number herein specified in any 12 month period;
- (k) dealing or advising upon applications for sub-lettings, alterations and changes of use;
- (l) preparing the annual accounts at the end of the financial year for the client in the required statutory format;
- (m) submitting the Accounts to the Inland Revenue;
- (n) Administering Section 20 Consultation with lessees under the Landlord and Tenant Act 1985 as amended;
- (o) The collection of any ground rents, chief rents or the like;

## SCHEDULE

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*The following items are part of the service and are to be read in conjunction with the Terms of Appointment*

Clients Initial:

Date:

Agents initial:

Date:

### AGENTS REMUNERATION

The clauses listed below refer to those Clauses in the body of the Agreement herewith. The relevant information is set alongside the corresponding Clause number.

Clause 1.2

Frequency of inspections – As appropriate

Clause 1.4 and 2.1

Expenditure limits — Up to those limits set by Section 20 of the Landlord & Tenant Act 1985 (as may be amended) not requiring statutory consultation but no limit where statutory consultation procedures have been properly followed or where dispensation has been granted by the Residential Property Tribunal Service or other competent authority or with the Clients express authority

Clause 1.13

Number of meetings in any 12 months period to be held within the hours of 8:30 a.m. and 6:00 p.m. Monday — Friday - 4 (four). Any meetings held outside the above hours will be subject to additional charges as detailed below.

Clause 1.16

Accounting period: 12 months commencing on 1<sup>st</sup> April or as may be varied in accordance with the leases

- Clause 4.3 Specified rate above Bank base rate 4%  
Specified bank National The Royal Bank of Scotland PLC
- Clause 5 Basis of Agent's remuneration for the Service as described in the Terms of Appointment. For the avoidance of doubt, unless otherwise agreed in writing, this remuneration does not cover services set out in the Annexe to the Terms of Appointment. Fees in respect of the services detailed in the Annexe will be charged in accordance with the rates detailed overleaf under Clause 5.2. The Agent shall also be reimbursed by the Client for any agreed out of pocket expenses incurred.
- Clause 5.1 Basis of remuneration to apply
- A fixed fee £ per year. Fees will be paid monthly in Arrears and it is agreed that they will be deducted from service charge/client funds by P R Gibbs & Co Limited as they fall due.
- This remuneration is subject to annual RPI increases with the first such increase being on the 1<sup>st</sup> January following the first full year of the commencement of this agreement. The RPI figure will be that annual RPI figure as published by the UK Government as at the immediate previous November.
- And the Agent shall without accounting to the Client be entitled to retain any commission received by him for arranging the insurance(s) in respect of the Client/Property but see Insurance Commission Note below
- Clause 5.2 & 1.13 The hourly rates for attendance at meetings other than between the hours of 8:30 a.m. and 6:00 p.m. Monday to Friday and other additional work to be:
- For a director £100.00 for the first hour or part thereof and £40.00 for each subsequent half hour or part thereof
- For an associate £60.00 for the first hour or part thereof and £25.00 for each subsequent half-hour or part thereof
- For a property manager or other staff member £ 40.00 for the first hour to part thereof and £20.00 for each subsequent half-hour or part thereof
- Clause 5.3 Allowance per mile for car travel, for additional services, will be the Inland Revenue allowed rates as varied from time to time

- Clause 5.5                    Month of review of hourly rates will be January
- Clause 5.6                    The administration fee rate will be 12.5% of the employee(s) salary/wage
- Clause 5.7                    Charges for payments/contributions in respect of managed properties made by methods other than automated bank transfer will be levied at the following rates:                    Cheque/Bankers  
Draft/Money Order £0.00 per item    Cash    £0.00                    per transaction.
- Clause 5.8                    Value Added Tax will be added to all fees at the prevailing rate.

Insurance Commission Note: Where P R Gibbs & Co Limited arrange general insurances [provide insurance mediation activities] it may receive commissions directly from the insurer or an insurance broker. Full disclosure of any such commissions received will be made available upon written request from the Client within a reasonable time following that request.

P R Gibbs & Co Limited is a firm regulated by the RICS including for the carrying out of Insurance Mediation Activities.

This Agreement is to be governed, construed and enforced in accordance with the law of England and Wales

SIGNED BY OR on behalf of the Client

Name in capitals

Signing as:

In the presence of:

Signature of witness

Name of witness in capitals

SIGNED by the Agent

Name in capitals

In the presence of:

Signature of witness

Name of witness in capitals

## APPENDIX

# PROCEDURE FOR COMPLAINTS HANDLING

We operate quality management systems compliant with **BS EN ISO 9001:2008** and believe that you will be satisfied with the service provided by this firm. However, if you have a complaint, the following procedure should be followed:

### STAGE 1

All complaints must be made in writing and sent to:

**Mrs Clare Pyatt**

Company Secretary/Director  
P R Gibbs & Co Ltd  
85 - 87 Market Street  
Westhoughton  
Bolton  
BL5 3AA

Tel: 01942 844100  
Fax: 01942 844101  
E-mail: [clarepyatt@prgibbs.co.uk](mailto:clarepyatt@prgibbs.co.uk)

Once a written summary of the complaint has been received, we will contact you in a timely manner to provide you with a full response, or if this is not possible, an update. This will be provided within a maximum timeframe of 28 days.

### STAGE 2

If you are dissatisfied with any aspect of our handling of your complaint, we agree to the referral of your complaint to one of the redress mechanisms as follows:

Consumer Clients

**Ombudsman Services: Property**

PO Box 1021  
Warrington  
WA4 9FE

Tel: 0845 050 8181  
Fax: 0845 051 1213  
Tel: 01925 530 270  
Fax: 01925 530 271  
E-mail: [enquiries@os-property.org](mailto:enquiries@os-property.org)  
Website: [www.os-property.org](http://www.os-property.org)

Business Clients

**RICS Dispute Resolution Service**

Surveyor Court  
Westwood Way  
Coventry  
CV4 8JE

Tel: 020 7334 3806  
Fax: 020 7334 3802  
E-mail: [drs@rics.org](mailto:drs@rics.org)  
Website: [www.rics.org/drs](http://www.rics.org/drs)

This procedure complies with the standard laid down by the Royal Institution of Chartered Surveyors