

IN THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)
(RESIDENTIAL PROPERTY)

Case reference:

BETWEEN

VARIOUS LEASEHOLDERS REPRESENTED BY
THE RESIDENTS ASSOCIATION OF CANARY RIVERSIDE

Applicants

-and-

CANARY RIVERSIDE ESTATE MANAGEMENT LIMITED (1)
OCTAGON OVERSEAS LIMITED (2)
RIVERSIDE CREM 3 LIMITED (3)

AND BETWEEN

CIRCUS APARTMENTS LIMITED

Applicants

-and-

OCTAGON OVERSEAS LIMITED (1)
CANARY RIVERSIDE ESTATE MANAGEMENT LIMITED (2)
RIVERSIDE CREM 3 LIMITED (3)
SOL UNSDORFER (4)

VARIOUS LEASEHOLDERS REPRESENTED BY
THE RESIDENTS ASSOCIATION OF CANARY RIVERSIDE (5)

AND BETWEEN

SOL UNSDORFER

Applicants

-and-

OCTAGON OVERSEAS LIMITED (1)
RIVERSIDE CREM 3 LIMITED (2)
CANARY RIVERSIDE ESTATE MANAGEMENT LIMITED (3)
CIRCUS APARTMENTS LIMITED (4)
VARIOUS LEASEHOLDERS REPRESENTED BY

DRAFT NEW FORM/ MANAGEMENT ORDER

RECITALS

UPON the Tribunal having made a management order pursuant to section 24 of the Act in relation to the Canary Riverside Estate (as defined in that management order) originally the Draft Management Order by its decision dated 5 August 2016 (reviewed on 15 September 2016) in Case Ref: LON/00BG/AOM/2015/0012, the current iteration of which order is the Existing Management Order

AND UPON Canary Riverside Estate Management Limited on or about 21 November 2018 assigning (“the Assignment”) various parts of the Canary Riverside Estate previously demised to it to Riverside CREM 3 Limited

AND UPON Riverside CREM 3 Ltd, Octagon Overseas Ltd and Canary Riverside Estate Management Ltd contending in the forthcoming Upper Tribunal (Lands Chamber) appeals (Case Ref: LC-2021-301) that Riverside CREM 3 Ltd is not bound by the Existing Management Order by reason of the Assignment

AND UPON the Manager Mr Alan Coates and his successor Mr Sol Unsorfer asserting that at all material times since the Assignment (and notwithstanding that the Assignment had taken place) they have continued to perform the functions of the Manager or receiver as set out in the Existing Manager Order

AND UPON the various leaseholders of Canary Riverside (represented by the Residents’ Association of Canary Riverside) having applied (Case Ref: LON/00BG/LVM/2021/0003) to extend and vary the Existing Management Order and by para 4 of the order dated 1 May 2021 (Case Refs: LON/00BG/LVM/2021/0003 and LON/00BG/LVM/2021/0004) the Tribunal having ordered the Existing Management Order to continue until the final determination of the said application to extend

AND UPON Circus Apartments Limited having applied (Case Ref: LON/00BG/LVM/2021/0004) to vary the Existing Management Order

AND UPON the Manager Mr Sol Unsorfer having applied (Case Ref: LON/00BG/LVM/2021/0010) to vary the Existing Management Order

AND UPON the First-tier Tribunal being satisfied that the Applicants are entitled to so apply and that the jurisdiction to appoint a manager has arisen in the present case

AND UPON Mr Unsorfer also supporting the extension of the Existing Manager Order and consenting to continue with his appointment as the Manager thereunder

AND UPON all parties agreeing that a new form of management order is just and convenient

AND UPON the Tribunal reading: *[insert as appropriate]*

AND UPON the First-tier Tribunal being satisfied that the conditions specified in section 24 of the Act are met, for the reasons given in its Decision of *[even date]* and that it is just and convenient to appoint a manager

IT IS ORDERED THAT

Interpretation

1. In this order:

Principal Definitions:

- (a) "the Act" means The Landlord and Tenant Act 1987
- (b) "the Landlord" means Canary Riverside Estate Management Limited or Riverside CREM 3 Limited
- (c) "the Manager" means Mr Sol Unschorfer of Parkgate Aspen Limited of *[address]*
- (d) "the Premises" means all that property known as Phase 1, Riverside, Westferry Circus, London, of which the freehold is registered at HM Land Registry under title number EGL359129 and is currently vested in Octagon Overseas Limited all as shown on the attached plan.

Further definitions

- (e) "The Draft Management Order", means the Management Order of this tribunal that came into effect on 1 October 2016 and "The Existing Management Order" means the Management Order of this tribunal that came into effect on 18 July 2018 as subsequently varied by orders dated 12 April 2019, 16 September 2019 and 28 April 2021 and as extended by paragraph 4 of the order dated 1 May 2021.
- (f) "Car Park" means the car park located at levels P1 and P2 of the Premises
- (g) "Common Parts" means any roof, exterior of building, garden area, postal boxes, refuse store, loading bay, security gates, lifts, paths, halls, staircases and other accessways and areas (if any) within the Premises that are provided for common use by the Lessees or persons expressly or by implication authorised by them
- (h) "Flat" bears the meaning set out in section 60 of the Act
- (i) "Functions" means any functions in connection with the discharge of management responsibilities conferred by this order, including any obligations and powers of the Landlord under the Leases (save as would be inconsistent with this Order).
- (j) "Leases" means all leases and/or underleases of Flats in the Premises

- (k) "Lessee" or "Lessees" means the proprietors for the time being of the Leases whether as lessee or underlessee
- (l) "Other Unit" means any separate set of premises of whatever nature which is not a Flat
- (m) "Other Unit Lessee" means the lessee or licensee of an "Other Unit"
- (n) "Other Unit Lease" means the lease or licence of an "Other Unit"
- (o) "Contributing Lease" means an Other Unit Lease which includes an obligation to pay a contribution to service charges in common with the Leases
- (p) "Contributing Lessee" means the leaseholder of a Contributing Lease
- (q) "Shared Functions" mean any obligations, functions, powers, services (including any pipes, wires, conduits, service media or similar) or utilities provided at or to or in relation to the Premises and which benefit one or more Other Units and one or more Flats. For the avoidance of any doubt, the following are not Shared Functions:
- (1) the power of forfeiture (provision for which is made in paragraphs 23-27 of this Order)
 - (2) those functions in the Other Unit Leases concerning approvals and permissions, including those for sublettings, assignments, alterations and improvements.
- (r) "Service Charges" means:
- (1) service charges, administration charges and interest payable pursuant to the Leases;
 - (2) service charges, administration charges and interest payable pursuant to the Contributing Leases to the extent that they relate in to the Shared Functions;
 - (3) all service charges and interests payable pursuant to the Leases and Contributing Leases in relation to the freeholders repairing obligations contained in Clause 7.1.2 of the head lease dated 15 May 1997;
 - (4) utility charges in respect of the Shared Functions;
 - (5) the cost of washing the windows of Other Units where they are within Berkeley Tower, Hanover House, Belgrave Court or Eaton House, but not otherwise;
 - (6) legal and professional costs arising out of or in connection with the appointment of the Manager, and the Manager's Remuneration
 - (7) any other costs fees or expenses which are provided for by this Order to be recoverable as a Service Charge

EXCEPT FOR

(8) The cost of insurance, which shall be recoverable in accordance with paragraph 18 of this Order

- (s) "Bad Debt" means a shortfall in recovery of service charge expenditure arising through an inability of the Manager to recover the same from a leaseholder for any reason, including but not limited to, insolvency or any insolvency or company related legislation.
- (t) "The Tribunal" means the First-tier Tribunal (Property Chamber)
- (u) "The Manager's Remuneration" is defined in paragraph 29 of this Order

Appointment of a Manager

1. In accordance with section 24(1) of the Act Mr Sol Unsorfer of Parkgate Aspen Ltd of [address] is appointed as Manager to carry out in relation to the Premises the functions in connection with the management of the Premises and the functions of a Receiver set out in this Order

Duration of Appointment

2. The Manager's appointment shall start on [date of this order] ("the start date") and shall end on [.....] ("the end date").

Manager as an officer of the Tribunal

3. The Manager is an officer of the Tribunal and subject to its supervision. The Manager's overriding duty is to the Tribunal.
4. The Manager must act fairly and impartially in the performance of his/her functions under this Order and with the skill, care and diligence to be reasonably expected of a Manager experienced in carrying out work of a similar scope and complexity to that required for the performance of the said functions.
5. No person, whether a party to this order or not, may bring any claim against the Manager arising out of the performance of his duties under this Order without the permission of the Tribunal.

Management functions – principal provisions

6. The Manager shall manage the Premises in accordance with:
 - (a) The terms of this Order including the Schedules hereto;
 - (b) The respective obligations of all parties – landlord and tenant – under the Leases and in particular with regard to repair, decoration, provision of services to the Premises (save where modified by this Order);
 - (c) The respective obligations of the parties – landlord and tenant – under the

Other Unit Leases in respect of Shared Functions (save where modified by this Order)

- (d) The duties of a Manager set out in the Service Charge Residential Management Code 3rd ed. (the "Code") or such other replacement code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to section 87 of the Leasehold Reform, Housing and Urban Development Act 1993; and
 - (e) The provisions of sections 18-30 of the Landlord and Tenant Act 1985
7. For the duration of this Order no other party shall be entitled to exercise a management function in respect of the Premises where the same is a responsibility of the Manager under this Order and for the duration of this Order, the Landlord shall not, whether by itself or any agent, servant or employee, demand any further payments of Service Charges: those monies are now payable to the Manager under Clause 1 of this Order.
 8. For the avoidance of doubt this Order does not displace covenants under the Leases or Other Unit Leases and the Lessees and Other Unit Lessees remain bound by them.
 9. Where there is a conflict between the provisions of the Management Order and the Leases or Other Unit Leases, the provisions of the Management Order take precedence.
 10. The Manager is given all such powers and rights as may be necessary and convenient to carry out the management functions of the Landlord under the Leases and in particular;
 - (a) The power and duty to carry out the obligations and management functions of the Landlord and to exercise the Landlord's powers and rights contained in the Leases except for:
 - (1) Insurance, which is provided for in accordance of paragraph 18 of this Order;
 - (2) The power of forfeiture, which is provided for in paragraphs 23-27 of this Order
 - (3) Those functions in the Leases concerning approvals and permissions, including those for sublettings, assignments, alterations and improvements, that the Leases provide should be carried out by the Landlord. Those functions remain functions of the Landlord
 11. The Manager is given the power and duty to carry out such obligations and management functions of the Landlord and to exercise such of the Landlord's powers and rights contained in any Other Unit Lease which are Shared Functions except for insurance, which is provided for in accordance of paragraph 18 of this Order;
 12. The Manager is responsible for washing the windows of Other Units where they are within Berkeley Tower, Hanover House, Belgrave Court or Eaton House, but not otherwise. [*this could perhaps be defined as a Shared Function*]

13. Part 1 of Schedule 1 (Management Functions - supplementary) has effect

Rent and service charges

14. The Manager shall not collect the rents payable under the Leases or Other Unit Leases.

15. The manager shall collect and receive all Service Charges payable under the Leases and Contributing Leases and any arrears due thereunder the recovery of which shall be at the discretion of the Manager. To the extent that any of the sums defined by this Order as Service Charges are not contractually payable pursuant to the Leases or Contributing Leases, the Manager is hereby empowered and permitted to recover the costs of the same as if it were a service chargeable cost.

16. Part 2 of Schedule 1 (supplementary provisions, functions and powers in relation to service charge) has effect

Bad Debt Recovery

17.

A. The Manager shall be able to recover any Bad Debt or any part thereof, which has arisen at any time, whether before or after the making of this Order in the following manner.

B. The Landlord shall be liable to pay the Bad Debt or any part thereof to the Manager, within 21 days of the Demand described below, where:

a.) There is no reasonable prospect of the Manager recovering the Bad Debt; and

b.) The Manager serves on the Landlord, a demand ('the Demand') identifying:

a. the total sum claimed arising from the Bad Debt,

b. the manner in which it is calculated; and

c. if applicable,

i. the unit to which it relates;

ii. the lessee;

iii. the relevant lease provisions; and

iv. any demands served.

C. For the purposes of this sub-paragraph, reference to 'the Landlord' is a reference to:

a.) firstly, the immediate landlord of the leaseholder whose failure to pay has given rise to the Bad Debt ('First Landlord'); and

b.) secondly, in the event that a Demand is served under this paragraph on the First

Landlord, but that remains unpaid for a period of 28 days from service, then the landlord is then at the election of the Manager either:

- i.) the immediate landlord of the First Landlord ('the Superior Landlord'); or
- ii.) if the First Landlord obtained their leasehold interest arising out of an assignment occurring after the date of this Management Order, without the consent of the Manager, the assignor of the said interest ('the Assignor Landlord').

Insurance

18. Insurance provisions:

(i) the Manager shall procure his own Employers Liability Insurance and shall be permitted to recover the costs of the same as if it were a service chargeable cost;

(ii) Octagon Overseas Ltd / Canary Riverside Estate Management Ltd / Riverside CREM 3 Limited shall be responsible for insuring the Premises and shall be entitled to recover the residential element of that insurance (including ancillary insurance costs) from the Manager as set out in the Schedule of Functions. The Manager shall recover that element from the Lessees as a service charge recoverable cost

(iii) Octagon Overseas Ltd / Canary Riverside Estate Management Ltd /Riverside CREM 3 Limited shall also be responsible for procuring public liability insurance; such insurance must also name the Manager and must have a value of not less than £25,000,000. The costs of the same shall be recoverable in the same manner as in the previous sub-paragraph.

(iv) for so long as (iii) is complied with, then Octagon Overseas Ltd / Canary Riverside Estate Management Ltd / Riverside CREM 3 Limited shall not be required to give any insurance indemnity to the Manager.

Legal Proceedings

19. The Manager shall have power in his own name, (or in relation to existing contracts or litigation with the permission of the Landlord), to bring, defend or continue any legal action or other legal proceedings in connection with:

- (i) This Management Order;
- (ii) The Leases;
- (iii) The Other Unit Leases in respect of any Shared Functions;
- (iv) The Contributing Leases in respect of Service Charges

That power includes, but is not limited to, proceedings against any Lessee or Contributing Lessee in respect of any arrears of Service Charges due under

the Leases or Contributing Leases, and (with the consent of the landlord, such consent not to be unreasonably withheld) to make any arrangement or compromise on behalf of the Landlord.

20. The Manager shall be entitled to an indemnity for his own costs reasonably incurred and for any adverse costs order out of the service charge account;

21. In the event that:

(1) the Landlord or Lessees shall be in breach of their covenants in the Leases and/or their obligations as provided in the Management Order, or

(2) the Landlord or the Other Unit Lessees are in breach of their covenants in the Other Unit Leases in relation to any Shared Functions and/or their obligations as provided in the Management Order

the Manager shall be entitled to recover from the Landlord or any such Lessee, or Other Unit Lessee on a full indemnity basis any costs, fees, charges, expenses and/or disbursements reasonably incurred or occasioned by him in the appointment of any solicitors, counsel, surveyors or any other professional reasonably retained by the Manager for the purposes of enforcing such covenants or obligations whether or not the Manager brings any proceedings in court or before any tribunal.

22. PROVIDED THAT in default of recovery of the same from the Landlord, Lessee, or Other Unit Lessee who is in breach of the covenants as aforesaid the Manager shall be entitled to recover the same as an element of Service Charge

Forfeiture

23. The Manager is permitted to serve upon the Lessees, Commercial Tenants, or any other occupiers, any notices under section 146 of the Law of Property Act 1925 or exercise any right of forfeiture or re-entry (whether peaceably or by action) or anything incidental or in contemplation of the same, but only in so far as they relate to Shared Services and service charges.

24. In respect of any notice or the exercise of any right under the preceding paragraph, the Manager is permitted, and has the sole right, either in his own name, or on providing an indemnity to the Landlord, in the Landlord's name, to:

a.) commence and continue proceedings for forfeiture;

b.) deal with any application for relief from forfeiture, including, to request and or settle any application on the basis that relief is given on payment to the Manager of any outstanding sums owed by way of Shared Services and/or service charges. For the purposes of s.138 (1), (2), (3)(b), (5)(b), (6), (7)(b), (8) and 9(b) of the County Court Act 1984, references to the Lessor shall be references to the Manager, but shall not be substituted otherwise. If any sum in excess of the sums due to the Manager is paid pursuant to s.138, then the Manager shall pass the balance onto the

Landlord.

25. Should, as a result of any of the steps taken under paragraph 23 or 24 above, a lease become forfeit to the Landlord ('the Forfeited Lease'), then, the Landlord will:

a.) within 14 days of notice of the said forfeiture, in respect of the unit which had been subject to the Forfeited Lease, elect by notice in writing to the Manager whether to:

i.) retain possession of the unit;

ii.) grant another long lease of the unit (being a demise in excess of 21 years);

or

iii.) grant short leases (not being a grant of a long lease).

b.) in the event either of:

i.) default of any election within 14 days; or

ii.) of an election under 25 a.) i.) or iii.),

the Landlord will pay to the Manager the total sums outstanding in respect of Shared Services and/or service charges and/or costs for that unit within 28 days of the forfeiture and will thereafter pay an equivalent contribution to the service charge as provided for in the Forfeited Lease;

c.) in the event of an election under 25 a.) ii):

i. on completion of the demise or within 42 days of forfeiture, whichever is sooner the Landlord will pay to the Manager the total sums outstanding in respect of Shared Services and/or service charges and/or costs;

ii. the Landlord will grant any new long lease on terms which replicate the service charge provisions, including apportionment, to those contained in the Forfeited Lease and be no more onerous in respect of the obligations which apply to the Manager;

iii. If the Landlord fails to adhere to clause 25 c.) ii), then the Landlord shall contribute an equivalent contribution to the service charge and/or indemnify the Manager for any additional cost or liability, as appropriate.

26. Any of the sums payable by the Landlord to the Manager under the preceding sections

shall carry interest until paid at the rate prescribed by the Forfeited Lease for non-payment of rent or service charges, as appropriate.

27. In the event that an application for relief from forfeiture is made, then in respect of the Forfeited Lease:
- a.) if the Landlord has paid sums to the Manager in accordance with the provisions set out above, then should relief from forfeiture be granted, the Manager will account to the Landlord for any sums recovered pursuant to the relief application;
 - b.) if, at the date the application is made, time for payment by the Landlord has not yet arisen in accordance with either paragraph 25 b.) or c.), then:
 - i. the operation of those paragraphs will be suspended from the date of the application pending the outcome of the relief application;
 - ii. In the event that relief is granted, and the Forfeited Lease reinstated (upon full payment of the arrears, interest and the Manager's costs), the Landlord will cease to have any obligation to pay;
 - iii. In the event that relief is refused, the suspension will end so that time will continue to run in accordance with either 25 b.) or c.), as appropriate, taking into account the number of days accrued between the date of forfeiture and the date of the application.

Power of Entry

28. Moreover for the duration of his appointment, the Manager has the right to enter any part of the Premises held by either Octagon Overseas Limited, Canary Riverside Estate Management Limited, Riverside CREM 3 Limited or YFSCR Limited (which for the avoidance of doubt shall include their successors in title), together with any company associated with Octagon Overseas Limited, Canary Riverside Estate Management Limited Riverside CREM 3 Limited or YFSCR Limited, for any purpose incidental to his management or discharge of his functions under this order, subject to any third party rights. In relation to the YFSCR demise (the hotel), the manager shall provide 48 hours written notice of any access requirements, to include details of the reasons why and personnel who require access, save in an emergency, when such details may be supplied after the event.

Manager's Remuneration

29. The Manager shall be entitled to Manager's Remuneration (which for the avoidance of doubt shall be recoverable as part of the service charge) in accordance with Schedule 2 (Manager's Remuneration) attached.

Limitation of Liability and Indemnity provisions

30. The Manager shall have no liability for any pre-existing breaches of covenant, if any such breaches existed at the date of the Draft Management Order, or the Existing Manager Order or this Management Order, save in respect of any additional damage caused by any failure or negligent attempt by him to remedy the same;
31. Aside from the matters specified above, the Manager shall have no liability for the collection of any arrears that accrued prior to the making of the Draft Management Order, nor for any debts that might have been incurred prior to the making of that Draft Management Order.

BSF Indemnity

32. The provisions of Schedule 3 shall have effect.

Landlord Obligations

33. The Landlord must comply with the terms of this Order, and Schedule 4 (Landlord's obligations – supplementary) shall have effect.
34. The Landlord shall give all reasonable assistance and co-operation to the Manager in pursuance of his/her functions, rights, duties and powers under this Order, and shall not interfere or attempt to interfere with the exercise of any of the Manager's said rights, duties or powers except by due process of law.
35. The Landlord is to allow the Manager and his employees and agents access to all parts of the Property and must provide keys, passwords, and any other documents or information necessary for the practical management of the Property in order that the Manager might conveniently perform his functions and duties and exercise his powers under this Order.

Restriction on Landlord dispositions; Restriction on Title

36. On any disposition [other than a charge] of the Landlord's estate in the Premises, the Landlord will procure from the person to whom the Premises is to be conveyed, a direct covenant with the Manager, that the said person will (a) comply with the terms of this Order; and (b) on any future disposition (other than a charge) procure a direct covenant in the same terms from the person to whom the Premises is to be conveyed.
37. The Manager must make an application to HM Land Registry for entry of the restriction referred to in paragraph 38, within 14 days of the date of this Order.
38. To protect the direction in paragraph 36 for procurement by the Landlord, of a direct covenant with the Manager, the Registrar is ordered to enter the following restriction in the register of the Landlord's estate under the title no(s) set out in paragraph 39 of this Order. The restriction is to have overriding priority against any search with priority or pending application for a disposition of the registered estate (other than a charge) that has been lodged after the [.....] day of [.....] *insert the date of the application to the tribunal.*

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge

registered before the entry of this restriction, is to be completed by registration without a certificate signed by the applicant for registration [or their conveyancer] that the provisions of paragraph 36 of an Order of the Tribunal dated [*date of this order*.....] have been complied with”

39. **[paragraph of landlord title numbers; to be checked; list which follows is taken from existing order]** The title numbers are EGL365354; EGL385085; EGL385086; EGL402555; EGL385083; EGL473824; EGL477859; EGL474404; EGL474191; EGL473825; EGL471546, except that title registered against Palace Church 3 Limited.

40. Further provisions concerning alienation:

(a) The Landlords are to notify the Manager within three working days of any request that they receive for consent to assign any sublease granted out of their title or any indication of an assignment and the details of the proposed assignee (if supplied)

(b) The Landlords are to promptly notify such proposed assignee that the Management Order is in place and that any questions over the management of the Estate, including service charges shall be directed to the Manager;

(c) The Landlords are, in addition, to provide the proposed assignee with the correct contact details for the Manager

(d) The Landlords are to promptly provide to the Manager copies of transfer documents which they receive;

(e) where permissible under the terms of the lease and reasonable to do so, the Landlords shall make it a condition of any assignment that any service charge arrears are discharged or an undertaking from the proposed assignor to that effect is given.

(g) When the Landlords become aware of any assignment they will provide the Manager with details of any address, including any address for service in England or Wales which has been provided as part of that assignment process.

Effect of this order on previous management orders

41. For the avoidance of doubt, the Existing Management Order (and which itself was substituted for the Draft Management Order is substituted by this Order PROVIDED THAT the provisions set out in the Order dated 16 September 2019 concerning the transfer of the Manager’s functions from Mr Alan Coates MIBFM MIRPM to Mr Sol Unsdorfer shall continue to have effect

Liberty to apply

42. The Manager may apply to the First-tier Tribunal for further directions, in accordance with section 24(4) of the Act. Such directions may include, but are not limited to:

a) Any failure by any party to comply with an obligation imposed by this Order;

- b) For directions generally;
- c) For directions in the event that there are insufficient sums held by him to discharge his obligations under this Order and/or to pay the Manager's remuneration.

43. In the event of dispute regarding the conduct of the management of the property by the Manager, any person interested may apply to the Tribunal to vary or discharge the order in accordance with section 24(9) of the Landlord and Tenant Act 1987.

SCHEDULE 1

Part 1 – Management Functions - supplementary

1. The Manager shall ensure that he has appropriate professional indemnity cover in the sum of at least £5,000,000 providing copies of the current cover on request by any Lessee, Other Unit Lessee, the Landlord or the Tribunal.
2. Provide for the management through either the landlord or the broker of any claims brought under the insurance policy taken out in respect of the Leases or Shared Functions with the insurer.
3. The Manager shall comply with reasonable requests for documents and information by Octagon Overseas Ltd and/ or Canary Riverside Estate Management Ltd in order to fulfil any statutory obligation.
4. Provide to Octagon Overseas Ltd and Canary Riverside Estate Management Ltd on a quarterly basis (on the 15th January, April, July and October), such information as is within the Manager's knowledge and is required by the definition of "Property Report" attached hereto. This shall be at no cost to the Lessees.
5. The power to open and operate client bank accounts in connection with the discharge of the function under this Order, and to invest monies pursuant to his appointment in any manner specified in the Service Charge Contributions (Authorised Investments) Order 1998 and to hold those funds pursuant to section 42 of the Act. The Manager shall deal separately with and shall distinguish between monies received pursuant to any reserve fund (if any) (whether under the provisions of the Leases, the Contributing Leases or power given to him by this Order) and all other monies received pursuant to his appointment and shall keep in a separate bank account or accounts established for that purpose monies received on account of the reserve fund;
6. The power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of the Landlord or any Lessee or Other Unit Lessee or other occupier owing sums of money to the Manager under his/her Lease, or Other Unit Lease;
7. The power to borrow all sums reasonably required by the Manager for the performance of his functions and duties, and the exercise of his powers under this Order in the event of there being any arrears, or other shortfalls, of service charge contributions due from the Landlord, Lessees, or Contributing Lessees.

Repairs and maintenance

8. Deal with all reasonable enquiries raised by the Lessees in relation to repair and maintenance work, and in so far as they relate to Shared Functions to those raised by Other Unit Lessees, and to instruct contractors to attend and rectify problems as necessary.
9. Administer contracts entered into on behalf of the Landlord and Lessees in respect of the Premises and check demands for payment for goods, services, plant and equipment supplied in relation to such contracts, and to administer those contracts

entered into on behalf of the Landlord, and Other Unit Lessees to the extent that the contracts relate to goods, services plant and equipment shared with the Lessees.

10. Manage the Common Parts, Service Areas and Shared Service Areas of the Premises, including the arrangement and supervision of maintenance.
11. Carry out regular inspections (at the Manager's discretion but not less than four per year) without use of equipment, to such of the Common Parts of the Premises as can be inspected safely and without undue difficulty to ascertain for the purpose of day-to-day management only the general condition of those Common Parts.

Major works

12. In addition to undertaking and arranging day-to-day maintenance and repairs, to arrange and supervise major works which are required to be carried out to the Premises (such as extensive interior and/or exterior redecoration or repairs required to be carried out under the terms of the Leases, or Other Unit Leases to the extent that those redecoration and/or repairs are shared with the Lessees, or other major works where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on the Lessees, or Other Unit Lessees and the Landlord and supervise the works in question).

Management Powers (supplementary)

13. The power to delegate to other employees of Parkgate Aspen Limited, to appoint solicitors, accountants, architects, engineers, surveyors and other professionally qualified persons as he may reasonably require to assist him in the performance of his functions;
14. The power to appoint any agent or servant to carry out any such function or obligation which the Manager is unable to perform himself or which can more conveniently be done by an agent or servant and the power to dismiss such agent or servant;

Administration and communication

15. Deal promptly with all reasonable enquiries raised by the Lessees, including routine management enquiries from the Lessees or their solicitors, and with all reasonable enquiries raised by Other Unit Lessees to the extent that the enquiry is made in respect of a matter for which the Manager has been appointed.
16. Provide the Lessees, and Other Unit Lessees with telephone, fax, postal and email contact details and complaints procedure.
17. Keep records regarding the details of Lessees, and Other Unit Lessees at the Premises; any agreements entered into by the Manager in relation to the Premises and any change in Lessee, or Other Unit Lessee.
18. Canary Riverside Estate Management Ltd and Mr John Christodoulou having made requests to inspect all documents supporting the accounts for the period commencing 1 October 2016 and ending 31 March 2017, it is agreed that:

(a) by no later than 31 July 2018, Canary Riverside Estate Management Ltd and Mr John Christodoulou will identify three dates in the period August-September 2018, when they will be available to inspect the documents;

(b) the Manager will, by no later than 7 August 2018, confirm one such date which is convenient and the place where the documents can be inspected;

(c) on that date, Canary Riverside Estate Management Ltd and Mr John Christodoulou (whether by themselves or authorised third parties) shall be entitled to attend at the said location to inspect the documents; they may take copies of any document which they inspect on condition that they pay the reasonable copying costs.

19. The mechanism described above (i.e. request for inspection, provision of three possible dates, Manager to select one such date and then to give access for inspection and copying) shall apply with equal force for each subsequent year (i.e. for the year ending 31 March 2018 and each subsequent year). The three possible dates must fall on a working day and, at least two of the dates must be in different weeks.
20. The Manager shall be entitled to register at HMRC as Receiver Manager for the Premises for the sole purpose of obtaining a specific and separate VAT registration facility and number for the VAT element of the shared service charges collected and discharged and to manage the VAT obligations with HMRC.
21. The Manager will notify Canary Riverside Estate Management Ltd or Riverside CREM 3 Limited (whichever is the relevant landlord) of issues relating to Other Units as soon as reasonably practicable after he becomes aware of the same.

SCHEDULE 1 (cont)

Part 2 – Service Charges and accounts - supplementary

1. The right to treat the service charge financial year as running from 1 April to 31 March in each year that this Order is in place.
2. Prepare an annual service charge budget (consulting with the Lessees, Contributing Lessees and Landlord as appropriate) administer the service charge and prepare and distribute appropriate service charge accounts to the Lessees, Contributing Lessees and the Landlord.
3. To receive the demand for insurance from the Landlord in relation to the Leases and Shared Functions, prepare demands and collect those, insurance premiums from the Lessees, and reimburse the Landlord accordingly in accordance with the respective Leases. For the avoidance of doubt, he is entitled (but not required) to make an "on account" demand under para.4 of this Schedule or operate the "float" funding provided for in cl.23.1.3.2 of the Leases.
4. The Manager shall have the right to demand and receive from the Lessees, the Contributing Lessees and the Landlord quarterly payment of service charges in advance on account of actual expenditure to be incurred by the Manager on the first date of the Order in such sums as the Manager shall reasonably determine having regard to the likely costs to be incurred and in respect of which service charges are payable during the relevant financial year. In so far as planned major works are concerned the Manager may collect contributions forthwith after the expiry of a section 20 consultation process; such contributions being payable within one month of demand being made.
5. Instruct solicitors to recover any unpaid service charges and/or utility costs due to the Landlord.
6. Create a form of reserve fund.
7. Produce for inspection, (but not more than once in each year) within a reasonable time following a written demand by the Lessees, the Contributing Lessees or the Landlord, relevant receipts or other evidence of expenditure, and provide VAT invoices (if any). It is agreed that the Manager will use his VAT number for these purposes.
8. Manage all outgoings from the funds received in accordance with this Order in respect of day to day repairs and maintenance and pay bills in relation to Leases and Service Charges only.
9. Deal with all enquiries, reports, complaints and other correspondence with Lessees, Other Unit Lessees, solicitors, accountants, and other professional persons in connection with matters arising from the day to day financial management of the Premises in relation to Leases and Contributing Leases.

10. For the avoidance of doubt the Manager shall address demands in relation to Shared Functions in relation to the hotel (lease dated 16 December 1999 registered under Title Number EGL416899) to YFSCR Limited, and YFSCR Limited shall be liable to the Manager in respect of such demands.
11. The Manager shall address demands in relation to shared services provided to Canary Car Park & Wash Limited in respect of its interest under a lease dated 22nd January 2019, to Canary Riverside Estate Management Limited, and Canary Riverside Estate Management Limited ('CREM') shall be liable to the Manager in respect of such demands. The ability of the Manager to address demands to CREM and their liability to pay the same does not displace the Manager's powers to forfeit the said lease for non-payment of service charges.
12. For the avoidance of doubt, the Manager shall, on his service charge demands made of any of the Lessees or Contributing Lessees, describe himself as a Manager appointed under s.24, Landlord and Tenant Act 1987.

SCHEDULE 2
MANAGER'S REMUNERATION

1. Fees for the above mentioned management services (with the exception of supervision of major works) would be a fee of £231,150 plus VAT per annum for the Premises for the first year of the Order, with a *pro rata* fee to be charged in the event that this Order is discharged before the end of the year and increasing by RPI thereafter for each subsequent year.
2. An additional charge shall be made in relation to the arrangement of major works on the basis of a fee of 2.5% of the cost of the works plus VAT.
3. The preparation and service of any statutory consultation notices of any project the costs of which shall be included in the fee at paragraph 2.
4. An additional charge will be made in relation to the TUPE regulations and process at the rate of £4,620 using a specialist HR consultancy to manage the process.
5. An additional charge will be made for the employ and administration of the staff dedicated on the site dealing with payroll, sickness, holiday and entitlement with all employment matters including workplace auto enrolment pension administration at the rate of 15% of the annual gross salary.
6. An additional charge for dealing with solicitors' enquiries on transfer will be made in the sum not to exceed £325.00 plus VAT, payable by the outgoing Lessee.
7. The undertaking of further tasks which fall outside those duties described above are to be charged separately at an hourly rate of £200 plus VAT, or such other rate as shall be agreed.
8. The Manager is entitled to be reimbursed in respect of reasonable costs, disbursements and expenses (including, for the avoidance of doubt, the fees of Counsel, solicitors and expert witnesses) of and incidental to any application or proceedings (including these proceedings) whether in the Court or First-tier Tribunal, to enforce the terms of the Leases, or the Other Unit Leases of the Premises. For the avoidance of doubt, the Manager is directed to use reasonable efforts to recover any such costs etc directly from the party concerned in the first instance and will only be entitled to recover the same as part of the service charges in default of recovery thereof.
9. A charge for the partial VAT exempt status management, including reports and returns and entries to the accounting processes set at £12,000 plus VAT per annum.

SCHEDULE 3

BSF

INDEMNITY

RECITALS

1. The current Manager, Mr Unsдорfer, as Applicant, has applied for grant funding for unsafe cladding remediation from the Secretary of State for Housing Communities and Local Government ('MHCLG') and the Greater London Authority ('GLA') in respect of remediation required for the Premises.
2. The Manager proposes and will enter into a Grant Funding Agreement ('GFA') with MHCLG and GLA pursuant to which he will receive sums for carrying out remediation work.
3. The sums will be held by the Manager on trust for the leaseholders pursuant to s.42 of the Landlord and Tenant Act 1987 and, through Parkgate Aspen, a Trust Deed dated 8th December 2020 and thereafter used towards meeting the cost of remediation work.
4. The GFA has various provisions to enable MHCLG and GFA to reclaim sums paid plus interest ('Clawback') including under:
 - a. clause 4.4 of the GLA in respect of Non-Qualifying Expenditure and to take steps to recover sums from leaseholders;
 - b. clause 4.5.4 of the GLA in respect of any Unutilised Sum
 - c. clause 9, repayments required due to an Event of Default.
5. Further by clause 17, Mr Unsдорfer will give an indemnity in respect of various matters.
6. These provisions are intended to provide for any situation whereby Mr Unsдорfer is called upon to repay sums or pay sums, but is no longer the Manager and either:
 - a. A new manager is appointed in his place; or
 - b. A new management order is made with a new manager; or
 - c. There ceases to be a management order in place in respect of the Premises.

In each of these scenarios, there will be some other person ('the New Manager') with management obligation and rights either under the terms of the leases and/or a management order.

ORDER

1. These provisions will endure for the benefit of Mr Unschorfer after the Management Order has been discharged or otherwise expired or a new manager appointed in place of Mr Unschorfer.
2. In the event that the Mr Unschorfer's appointment terminates prior to the reconciliation of all sums paid under the GFA, then:
 - a. Mr Unschorfer will cooperate with the New Manager so as to facilitate:
 - i. their entitlement under clause 3.2.1 of the GFA to be substituted as applicant;
 - ii. the transfer or novation of any contract or agreement relating to the remediation works;
 - b. Mr Unschorfer will hand over all documents relating to the remediation works;
 - c. the New Manager will indemnify Mr Unschorfer for any Clawback claimed from him;
 - d. The New Manager shall take all necessary steps to comply with any demand or required action under paragraph 4.4 of the GLA.
3. The New Manager shall indemnify Mr Unschorfer for any claim on the indemnity under clause 17 of the GLA.
4. The New Manager shall be entitled to recover through the Service Charge any sum paid to Mr Unschorfer, or on his behalf, in respect of any Clawback.

SCHEDULE 4

Landlord Obligations Supplementary

1. Canary Riverside Estate Management Ltd and Octagon Overseas Ltd shall take such reasonable steps (including those as identified by the Manager) as may be necessary to facilitate the provision of broadband and/or digital data services to occupiers of the Premises, including, where required by a digital service provider, an appropriate wayleave agreement. Any repair, maintenance or other obligations imposed by or arising out of the wayleave agreement or similar agreement shall be discharged by the Manager.
2. Octagon Overseas Ltd and/ or Canary Riverside Estate Management Ltd shall comply with reasonable requests for documents and information by the Manager in order to fulfil any statutory obligation.