HACKING + PATERSON
MANAGEMENT SERVICES

hackingandpaterson.co.uk

Terms of Service and Delivery Standards

Date of Issue: «MergeDateFull»

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Your property is very often the most valuable asset you will ever have, and we recognise the importance of our factoring role in assisting with maintaining your common property. This philosophy is underpinned by an in-depth knowledge of the property industry, coupled with skilled and dedicated staff who will arrange and administer your common insurance, maintenance, repair and servicing obligations.

We are one of the country's leading independent providers of property factoring services, with a long-established reputation built upon strong foundations and a proven ability to meet the needs and expectations of our customers.

Our knowledgeable and professional teams offer an excellent administrative service, along with advice and guidance on all aspects of residential property factoring, designed to ensure that we assist you in maintaining and preserving the condition and value of your property throughout the years.

1. Introduction

1.1 The following sets out the Terms of Service and Delivery Standards (ToSaDS) of the agreement in place between us, Hacking & Paterson Management Services (HPMS), and the group of homeowners, within which you are a Homeowner.

1.2 This Written Statement is produced in accordance with requirements of the Property Factors (Scotland) Act 2011 (the Act) and its associated Code of Conduct (the Code). All property factors have a duty to comply with this Code.

1.3 These ToSaDS are relative to the property known as: «PropertyLineAddress»

1.4 We have, and maintain, a professional indemnity insurance policy which is appropriate to the business in which we transact.

2. Authority to Act

2.1 We act as property factor to all homeowners in the group, of which you form part, deriving delegated authority to do so through:

- «AuthorityToActType»

2.2 A Register of Property Factors operating in Scotland is maintained by the Scottish Ministers. All organisations who meet the definition of a "property factor" as set out in the Act are required to register. It is an offence to operate as a property factor without being registered.

2.3 Our Property Factor Registration Number is: PF000288

2.4 In accordance with Section 13(3) of the Act, we include our registration number on all documentation issued to you.

2.5 Where we consider that consultation with the group of homeowners is necessary or that written approval of homeowners is appropriate prior to instructing common works and services, we will consult in writing with all homeowners in the group seeking their views and / or instructions.

3. Services Provided

3.1 We act as property factor and offer the following Core Factoring Services to the group of homeowners relative to the land/property which the group share in common ownership and / or responsibility (common property):

a) Arranging and administering maintenance of common property by appointing contractors and service suppliers.

- We appoint contractors and service suppliers who we believe are qualified and suitable to carry out common works and services.
- We ensure that all contractors appointed have provided evidence of public liability insurance.

b) Entering into contracts with contractors and service suppliers on behalf of the group of homeowners. We will, where a tendering exercise has taken place, provide, upon request, relevant information. Additional fees for providing copies of documentation can be found on our Schedule of Fees. Where we have chosen not to carry out a competitive tendering exercise, we will provide you, upon request, information as to how and why we appointed contractors.

c) Investigating complaints of inadequate work or service from contractors and service suppliers and pursuing them to remedy these.

d) Checking contractor and service supplier invoices when rendered and apportioning amongst the group of homeowners.

e) Exercising financial controls including payment of contractor and service supplier invoices (subject to the availability of homeowner funds). Where advance funding is required for common works and services, we will notify you of the amount due.

f) Issuing common charges accounts to you at regular intervals for common works and services, our fees and, if appropriate, insurance premiums.

g) Dealing with your communications and enquiries.

h) Handling correspondence, enquiries and reports from professional representatives and others relating to matters arising from the day to day factoring of common property.

i) Meeting homeowners, contractors, service suppliers, insurance brokers, local authorities and other third parties as appropriate, where considered necessary.

j) Attending the property periodically (these visits can be arranged to suit homeowners).

k) Advising on maintenance and repair, redecoration and improvements where requested.

l) Attending periodic and annual general meetings of homeowners and tendering advice and guidance on property factoring issues.

m) Providing contractors' emergency out of hours contact information.

n) Collecting and administering homeowners' advance funds and sinking / reserve funds where appropriate.

o) Placing insurance cover through our appointed broker, where appropriate, for buildings, property owners' liability, lifts, employer's liability and so on.

- It is your statutory duty to insure against prescribed risks, such as fire or flood (see section 18 of the Tenements (Scotland) Act 2004, and the Tenements (Scotland) Act 2004 (Prescribed Risks) Order 2007 (SSI 2004/16)).
- It is the group of homeowners' responsibility to ensure that the sum insured is adequate.
- Property valuations for building insurance are not undertaken by us.

p) Arranging, through a third party valuation surveyor, insurance reinstatement valuations (IRV's) on a 5 yearly cycle as recommended by RICS. Your property will receive an IRV within 5 years from 01/01/2026 and every 5 years thereafter from the date of the anniversary of the first IRV.

q) Intimating insurance claims relating to common property, where appropriate, under insurance policies placed by our appointed broker.

r) We have procedures in place for submitting common insurance claims. You are responsible for submitting a private insurance claim for within your property. Details on the common procedure and how to intimate a private claim can be found at www.hackingandpaterson.co.uk or provided upon request.

s) Administering debt recovery procedures for unpaid common charges accounts including instruction of legal action.

t) Providing advice and assistance concerning the formation of a Homeowners Association.

3.2 In relation to common matters identified by any homeowner within the property, we will endeavour to:

- Report emergency matters intimated within office hours to an appropriate contractor immediately upon identification or report.
- Report routine matters to an appropriate contractor within 2 working days of identification or report.
- Report matters requiring a quotation to an appropriate contractor within 5 working days.

3.3 For out of hours emergencies, our telephone service provides contact details of emergency contractors. Details can also be found at www.hackingandpaterson.co.uk

3.4 Major Works – Where larger scale works are identified by the homeowners or a contractor instructed on their behalf, the costs of which are in excess of £200 per head (with a minimum contract value of £5000) we may be required to render an additional fee equivalent to no more than 10% of the pre Vat contract sum for the additional administration services provided relative to the contract. Your share of any chargeable fee will be intimated to you, in writing, prior to works being instructed.

Beyond the Core Factoring Services, we are able to offer services at an additional cost, to be agreed with homeowners, or their appointed representatives, prior to commencement, including, but not limited to:

- Assisting with items of maintenance, repair, decoration and so on considered to be of a substantial nature
- Arranging property re-valuations for the purposes of buildings insurance (where requested out with the arranged 5 yearly cycle)
- Arranging formal property inspections and surveys through consultants and providing assistance with technical issues arising from building defects
- Assisting with and implementing planned maintenance schemes for common property
- Assisting with grant applications to appropriate bodies for maintenance works
- Instruction of works without a homeowner’s share
- Liaising with homeowners and / or their solicitors at a change of ownership, including apportioning common charges
- Liaising with third parties if the property factoring agreement is changed or terminated
- Administering the cancellation of insurance policy(ies)

3.5 Where a service is provided by us which will incur additional fees, over and above those included within the Core Factoring Services, we will advise you, your appointed representative, or, where necessary, the group of homeowners, in writing, for consent prior to incurring expenditure.

3.6 Where a service is delayed by an event outside our control, such as a delay in maintenance or repair by a contractor, we will notify you as soon as possible. We will also do all that we can to reduce any delay. As long as we do this, we will not compensate you for the delay, but if the delay is likely to be substantial you can contact us. Our details can be found at www.hackingandpaterson.co.uk.

4. Financial and Charging Arrangements

4.1 The annual management fee is: £«PManagementFee» plus VAT

- This fee covers all administration relative to the services indicated at 3.1.

4.2 Management fees due to us for provision of the Core Factoring Services are charged quarterly in arrears, at a flat rate and are reviewed annually at the beginning of each year. Any changes are intimated to you in the next account rendered following a review.

4.3 Administration fees are reviewed annually.

4.4 Your proportion of charges for common works and services is detailed in common charges accounts rendered by us. Clarification can also be provided upon request.

4.5 The Property Float requirement is: £«PropertyFloat»

4.6 The Property Float is reviewed annually to ensure availability of funds to meet common works and services costs. The float is refunded by us following the sale of a house or flat, or termination of the factoring service, at the point of settlement of the final apportioned common charges account, less any outstanding charges due at that time. The float is held in an account separate from our funds.

4.7 If we collect sinking or reserve funds from you, they will be held in an interest bearing account, designated in the name of the relevant group of homeowners. Details will be available upon request.

4.8 Where you place us in funds in advance of instructing common works and services and, for whatever reason, such common works and services are not instructed, then any sums lodged will be refunded to you.

4.9 We accept various methods of payment. These are detailed on the accounts issued to you. Payment terms accompany common charges accounts and can also be found at www.hackingandpaterson.co.uk

4.10 We issue common charges accounts «DevelopmentChargeDateCodeDescription»

We issue Common Charges Accounts electronically. In the event you require these to be posted to you, a fee, as noted on the Schedule of Fees, is applicable. Accounts include a detailed financial breakdown of charges and a description of the common works and services charged for. If requested, we will make available to you supporting invoices or any other appropriate documentation for inspection or copying. A reasonable fee per copy will be charged for this service.

4.11 We have a system in place to ensure regular monitoring of payments due by the group of homeowners.

4.12 Additional fees relating to late payment of common charges accounts can be found on our Schedule of Fees.

4.13 Where it is necessary and considered in the best interests of the group of homeowners, the recording of a Notice of Potential Liability for Costs may be instructed on your property title. This incurs an administrative fee, details of which can be found on our Schedule of Fees.

4.14 We have a clear procedure for debt recovery. This procedure can be found at www.hackingandpaterson.co.uk and is also available upon request in hard copy. This procedure outlines a series of steps which we will take on behalf of the group of homeowners.

4.15 If you, or other homeowner(s) within the group fail to pay any common charges account, property float or contribution to advance or sinking / reserve fund (if appropriate) in a timely manner this may prevent us from delivering some or all of the Core Factoring Services to the group of homeowners sharing the common property. Where charges are not met by you, or other homeowner(s) within the group, and this has an impact on service delivery or the potential to impact on service delivery, then we will notify the group of homeowners of the implications.

4.16 If we require to take legal action against you, this will be done only after reasonable steps to resolve any outstanding matters have been taken. Notice of intent of legal action will be given to you.

4.17 You are liable for all fees and charges ("legal expenses") relating to the recovery of outstanding debt. All legal expenses which are incurred as a result of any legal action are payable by the homeowner and are not settled by Hacking & Paterson Management Services Limited.

Recovery of legal expenses is not limited to any judicial award of expenses allowed by the Court and will include all pre action legal expenses and legal expenses falling outwith any judicial award, where applicable. In the event of failure to recover such legal expenses, then such sums will fall to be paid by the homeowners of all of the other relevant properties within the development.

4.18 In the event that we are unable to recover unpaid charges due by any homeowner within the group, HPMS reserve the right to redistribute these sums amongst other jointly liable homeowners. Where we do so, we will, upon request, demonstrate the steps taken in attempts to recover charges from the defaulting homeowner.

5. Communication Arrangements

5.1 Our standard working hours are Monday to Friday 9.00am till 12.45pm and 2.00pm till 5.00pm, bank and public holidays excluded.

5.2 Our default position is to issue correspondence electronically. If there is a requirement for documents to be issued by post, a fee, as noted on the Schedule of Fees, is applicable.

5.3 We have a formal complaints handling procedure which can be found at www.hackingandpaterson.co.uk and is also available upon request in hard copy. If you have a complaint, please submit this as soon as possible and within a maximum of 12 months of the issue occurring that you are dissatisfied with. Complaints not formally intimated within 12 months may not be considered under our complaints handling procedure.

5.4 It is your, and your fellow homeowners', responsibility to ensure that the condition of the property does not pose any risk to homeowners or third parties. We expect you to notify us promptly of common property requiring maintenance, repair or attention. This should be done either in writing (including electronically), by telephone or in person at our office, specifying the details of the property and matter requiring attention.

5.5 We will endeavour to respond to enquiries received in writing (including electronically) within 7 working days of receipt. If more time is required to respond, you will be notified within that period.

5.6 We will endeavour to return telephone calls by the end of the next working day. Calls may be monitored for education and training purposes.

5.7 We will communicate with you in a polite, courteous and professional manner. We will not communicate with you in a way which is misleading, false, abusive, intimidating or threatening. We deal with homeowner communications in a reasonable, measured and appropriate manner and hold an internal Abusive Behaviour Policy. Our staff are instructed not to deal with abusive or intimidating communications either by telephone or in writing from any homeowner.

5.8 Our Privacy Notice is available to view at www.hackingandpaterson.co.uk or in hard copy upon request. It tells you exactly what information we collect, how we collect it, what we use it for, with whom we share it – and how we will keep it safe. Our registration reference with the Information Commissioner's Office's Public Register is Z5379180.

5.9 You can access information, documentation and policies relevant to your development, or which are applicable to the services HPMS provide, by visiting your My H&P App or Web Portal, or alternatively by contacting your Factoring Team. Details on how to access both are provided in our introductory letter and at www.hackingandpaterson.co.uk

6. Declaration of Interests

6.1 Other than performing our role as your property factor, HPMS have no financial or other interest in the common parts of property and land to be managed or maintained.

6.2 We do not have any financial or other interest in contractors / suppliers appointed by us on behalf of homeowners.

6.3 Where we place common property energy supplies through a Business Energy Consultancy and Procurement Specialist a fee of £180 per communal meter is received by our parent company in relation to administration, bureau and validation services handled by them on behalf of the appointed service provider.

6.4 Where we place insurance for common property through a broker on behalf of homeowners, specific policy details can be provided upon request. Commission equivalent to 26% of the pre-tax premium is received by our parent company in relation to policy administration matters handled by them on behalf of the Broker.

6.5 In accordance with Section 3(2) (e) and Section 7(3) (a-b) of the Act we are required to provide details of any dwelling house, flat or land that we either expect to act for, may currently act for or previously acted for in order to allow for any public search of a specific property address and / or land record to be undertaken on the Register of Property Factors.

7. How to End the Agreement

7.1 We require your solicitor to inform us, in writing, of an impending change in ownership of your property at least 10 working days before the date of the change. Where we are required to liaise with homeowners and / or their solicitors and apportion common charges, a fee is applicable, details of which can be found on our Schedule of Fees. Notification of a change of ownership out with 10 working days may result in an express administrative fee being charged. These fees are reviewed annually, and confirmation of any charges will be intimated to homeowners, or their representatives, prior to costs being incurred.

7.2 An account will be issued within 3 months of the date of change of ownership. Where invoices for works and services prior to the date of change of ownership cannot be included within this account a final account will be issued in the following quarter.

7.3 It is the responsibility of each homeowner to ensure that all common charges for their property / development are paid in full before a property factoring agreement with HPMS can be terminated. In the event we are unable to recover charges, the conditions at clause 4.18 will apply.

7.4 Where our services are terminated and we are advised by the group of homeowners that another property factor has been appointed, we will, upon receipt of written authorisation from the group of homeowners, release all common information and collective funds held in respect of the relative common property to a third party. The incoming property factor will be provided, within 3 months from the date of notice of termination, with a location, date and time at which all information will be available to be uplifted.

Data Protection legislation restricts us from releasing your personal data to any individual unless express authority is provided by you.

7.5 We may terminate the property factoring arrangement upon 3 months' prior written notice, or earlier at our discretion. Where the property factoring arrangement is terminated, we will provide all financial information held by us relating to your account within 3 months of termination.

7.6 By agreement, the group of homeowners may terminate or request to change the service agreement upon 3 months' written notice. Relevant legislation includes the Title Conditions (Scotland) Act 2003 and the Tenements (Scotland) Act 2004 and more information may be found in your Title Deeds. An administration fee is applicable upon termination. Details of this charge can be found in our Schedule of Fees.

Where the property factoring agreement is terminated without notice, a charge equivalent to a quarter's management fee will be applied.

We will provide all financial information held by us relating to your account within 3 months of termination.

7.7 Requests for HPMS to assist with any matters after the termination of the property factoring agreement will be subject to a separate agreement under our Additional Services Procedure.

8. Limitation of Liability

8.1 HPMS' liability under this Written Statement is restricted to the homeowner (as defined in the Property Factors (Scotland) Act 2011), and no third party has any rights under this Written Statement.

8.2 HPMS' liability to you (the homeowner of the property) shall not exceed the total management fees paid to HPMS in respect of the preceding year.

8.3 Nothing in this Written Statement limits or excludes:

(a) liability for deliberate or wilful default;

(b) liability for death or personal injury caused by negligence to the extent preserved by section 2(1) of the Unfair Contract Terms Act 1977;

(c) liability for fraud or fraudulent misrepresentation;

(d) liability for breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; and

(e) any liability that cannot legally be limited.

8.4 Subject to clause 8.3 above, HPMS shall not be liable for all losses where the loss is:

(a) Unexpected - it was not obvious that it would happen and nothing you said to us prior to engaging with us as your Property Factor meant we should have expected it (so, in the law, the loss was unforeseeable).

(b) Caused by a delaying event outside our control - as long as we have taken the steps set out in clause 3.6.

(c) Avoidable - something you could have avoided by taking reasonable action, including following our reasonable instructions.

(d) Indirect or consequential – these are losses that do not flow naturally from a breach of this Written Statement.

Get in touch

Glasgow Office:

1 Newton Terrace
Glasgow
G3 7PL
Tel: 0141 248 5693
Email: info@hackingandpaterson.co.uk

Edinburgh Office:

Verdant – North Reception
2 Redheughs Rigg
South Gyle
Edinburgh
EH12 9DQ
Tel: 0131 523 1575
Email: edinburgh@hackingandpaterson.co.uk