

# STATEMENT OF SERVICES

## MACFIE & CO. MANAGEMENT SERVICES LTD.



**Macfie & Co Management Services Ltd. is incorporated under the Companies Act (SC084796), having its registered office at 5 Cathkinview Road, Mount Florida, Glasgow, G42 9EA.**

The firm is a wholly-owned subsidiary of the partnership of Macfie & Co LLP. The Partners are Joanne Graham & John Walker, who are also Directors of the operating entity.

In addition to the Partners, there are seven property management staff, a full-time paralegal, supported by a further five clerical staff. The firm maintains Professional Indemnity insurance, which accords with the requirements of the RICS and current legislation.

We have been based in Mount Florida, Glasgow, since 1988. We manage a wide range of multi-occupancy properties, located predominantly in the West of Scotland.

### Communication

Our hours of business are Monday to Friday, 9am to 5pm.

**Telephone calls** – When calling our office, please assist our reception staff by clearly providing your name and the matter you are calling in connection with. If the person who would be dealing with your enquiry is unavailable, you should request to speak to another member of staff or leave a message. We endeavour to return all telephone calls within one working day.

**Emails** – We endeavour to reply to emails within working seven days. Any urgent matter should be directed to our main email address, [manager@macfie.com](mailto:manager@macfie.com). It is recommended you alert us to any property-related emergencies by telephone.

**Letters** – We endeavour to reply to letters within seven working days. If the person who would be dealing with your letter is not at business, we will write to you to advise you.

**Meetings** – We are happy to meet with clients either at our offices or at another location, by prior arrangement.

### Definitions

‘Owner’ means a Proprietor of heritable property, forming any part of a development which is or could, without substantial alteration, be occupied as a separate subject, and there is a communal burden stipulated within either the Property Title Deeds or within Prevailing Legislation.

‘Quorum’ means the minimum number of Owners specified in the Title Deeds or by prevailing legislation, who may make decisions on property matters which are binding on all Owners (whether present or not), based on a majority of those attending or represented.

‘Factor’ means a person or company acting on behalf of Owners to undertake communal maintenance, repairs and to arrange insurances, insofar as instruction and funding has been provided by Owners to do so, having regard to Title Deeds and prevailing legislation.

### The Appointment of the Factor

Within the context of the Law of Agency in Scotland, the Factor is bound by prevailing legislation relating to communal maintenance and in providing any service, must comply with any legal aspects affecting the service provided.

The Factor must adhere to the relevant Title Conditions governing the property, which are generally enshrined within the Deed of Conditions and/or relevant Disposition, documents which generally form part of a Property’s Title Deeds. The Title Conditions (Scotland) Act 2003 and The Tenements (Scotland) Act 2004 also have significant bearing, particularly where the Title Deeds for a property are silent or ambiguous on certain matters.

Subject to the rights of Owners in relation to their own private property, the common aspects of the property will be managed by a Factor, appointed by the Owners.

Authority would derive from Owners forming a Quorum in respect of a building or development appointing the Factor to perform communal maintenance on their behalf. Authorization may be expressed in the form of a contract, or implied, because what is said or done make it reasonable to conclude that the Factor has assumed the powers of an Agent. The Factor's appointment would continue either on a 'rolling' basis or be subject to review from time to time. Authority would be held within the context of the aforementioned Law of Agency.

Assuming the Factor has acted within the scope of Authority given, the Owners must reimburse the Factor for outlays made during the course of the relationship, whether the expenditure was expressly authorized or competently adjudged to be necessary in order to safeguard the collective interests of the Owners.

Where the Factor has identified themselves to a Third Party (Contractor or otherwise) as having Authority, acting on behalf of disclosed principals (The Owners), the Factor would not carry Liability for duties performed within the scope of such Authority - Liability would be borne by the Owners.

Successive Owners would be bound to participate in the communal managing arrangement, either in terms of the Title Deeds or prevailing legislation.

### **The Factor's Remit**

Our remit encompasses administration of communal maintenance and insurance as prescribed by the Title Deeds for the property, failing which, prevailing legislation applicable to communal property.

We service communal responsibilities on behalf of the Owners, insofar as sufficient instruction and funding is in place. The proportionate shares of outlays are recouped from the Owners on the basis of the share allocations specified within the Title Deeds governing the property.

**We are bound by the terms the Property Factors (Scotland) Act 2011, particularly the Code of Conduct, which is available online.**

### **The Owners' Remit**

Decisions by the Owners to appoint a Factor, to terminate such an appointment, to authorise or approve repairs, maintenance or renewals or other works, operations or actions relating to the Development or to instruct the type and amount of insurance cover, should be made in accordance with the Title Deeds for the Development. Failing that, Authority would arise from a Tenement Management Scheme.

Failing all of the above, a simple majority vote, with Owners having one vote for each unit owned, would decide. In that event, the Owners would be bound to meet all expenses arising therefrom in the applicable proportion, whether in agreement or otherwise.

Where two or more parties owned a Property, any obligations would be undertaken by them jointly and also separately, as if each were the sole owner of the Property.

### **Reporting a Common Repair**

Repairs should be reported in the first instance to;

Macfie & Co. Management Services Ltd.

by telephone on 0141-632-5588

by email: [manager@macfie.com](mailto:manager@macfie.com), or via the company web portal at [www.macfie.com](http://www.macfie.com)

by letter or in person (by appointment) at: 5 Cathkinview Road, Mount Florida, Glasgow, G42 9EA

Emergency repairs required outside normal business hours should be reported directly to the contractor, using the numbers provided when calling our office number, out-with business hours. Emergency call-outs for communal works would incur charges that would be re-charged to the Owners within the block. The share of costs for any repairs would be billed to each respective Owner, following completion of the works.

## **Common Repairs**

The Factor would have the authority of all the Owners to instruct and have carried out repairs and maintenance to the common parts of the property, provided that the anticipated cost of any one item at the time when it was instructed was not projected to exceed £600 plus VAT, or such other sum as may be agreed between the Factor and the Owners from time to time. Works falling within the threshold may be carried out without prior consultation with the Owners.

If the anticipated cost of any such item exceeds the above sum, it shall be instructed and carried out only when the work has been approved by a majority of the Owners, after submission of an estimate or estimates by the Factor and the Factor has been placed in funds by the Owners to the full amount of the estimated cost.

It would be within the Factor's discretion to instruct works at a cost exceeding £600 plus VAT, if they considered the expense to be justifiable on grounds of health and/or safety, or an Emergency and to recover forthwith the costs from the Owners.

**The ability of the Factor to instruct work would depend on the financial status at the Property in terms of common charges account arrears and whether sufficient floats had been lodged with the Factor.**

The Tenements (Scotland) Act imposes responsibility on Owners of common property to pre-fund major expenditure. All major works would require to be fully-funded prior to instruction. This could be enforced via normal debt-recovery procedures, assuming works had majority/quorum approval. Major works requiring specialist expertise would generally involve the input of a Chartered Building Surveyor or similar professional.

The Factor would refer jobs to firms whom from their experience they believed would be reliable and capable of completing repairs to a satisfactory standard. In the event the Owners wished to nominate a contractor of their choice, that contractor would require to provide Health & Safety compliance documentation, Liability Insurance documentation and demonstrate suitability and competence, prior to being appointed.

The Factor would check contractors accounts when rendered and would calculate the share of costs due by each Owner in the building. If requested, the Factor would make available to the Owners, copies of contractors accounts at each accounting period. Requests relating to older accounts, dating from previous quarters, would potentially generate an additional fee, particularly where extensive un-archiving was involved.

## **Contractor Response Times**

**Emergency Repair** – Arising from an event presenting immediate risk to Health and Safety or likely to seriously compromise the property. Attendance by contractors could be challenged by storms or other forms of extreme weather or weekends/public holidays. Attendance would be subject to safe access being available and would occur as soon as possible.

**Urgent Repair** – This would encompass items such as door entry faults, which would generally be carried out within two working days.

**General Fabric Repair** - Maintenance falling within this threshold would generally be carried out within the target period of fourteen days, or other such timescale as may be agreed. Where maintenance exceeded the aforementioned cost threshold, competitive quotations would ordinarily be sought. These would be circulated for approval among the Owners as soon as possible, although the ingathering of quotations for more complex tasks could take a longer period of time – in any event, we would endeavour to consult the Owners in the event of any undue delay being anticipated.

**General Maintenance Contracts** – Competitive quotations would be sought in this case. Subject to availability, these would likely be circulated for approval among the Owners within twenty eight days.

## **Complaints in Connection with Common Maintenance**

Complaints regarding maintenance work at your property should be reported to our Office in the first instance. It is best not to wait for the quarterly common charges account to be rendered before making a complaint.

## **Communal Buildings Insurance**

The surest way to safeguard the common interest is with the implementation of an adequate common comprehensive buildings insurance policy. The sum insured should reflect the cost to reinstate the building in the event of a total loss. It is good practice to have the building re-valued for insurance purposes by a firm of Chartered Surveyors at least every five years.

Macfie & Co. Management Services Ltd. are authorised and regulated by the Financial Conduct Authority as intermediaries. The portfolio held through ourselves is placed with independent firms of Insurance Brokers, who periodically negotiate with insurers to obtain terms.

The communal insured status of your property is confirmed annually, where we circulate a schedule of cover.

The level of insurance commission earned by Macfie & Co. Management Services Ltd. will promptly be disclosed to Owners in writing.

## **Property Inspections**

A general inspection of the property by our representative would normally be carried out by prior arrangement, particularly where access was restricted by a door entry system.

We can liaise with Owners while on-site. Upon request, we may also attend during emergencies.

## **Financial Arrangements**

**Management Fee** – Our fee represents the cost of administering and carrying out the property management duties detailed within this statement. The management fee for your property is detailed within your quarterly common charges accounts. It is charged on a 'flat-rate' basis.

The management fee is reviewed annually to ensure it covers the cost of providing the service. We will notify you prior to any change in fee.

If we are requested to carry out additional duties, (such as assisting with major repair schemes or instructing and pursuing court actions), or if a particular item is or becomes unusually time-consuming or complex, an additional fee may require to be levied.

**Billing** – Our invoices are rendered on a quarterly basis. Accounts are issued at the terms dates of 28<sup>th</sup> February, 31<sup>st</sup> May, 31<sup>st</sup> August and 30<sup>th</sup> November. Any change to this billing cycle would be notified to the Owners in advance.

Most outlays tend to be billed in arrears, aside from Buildings Insurance and certain maintenance contracts.

In terms of the Buildings Insurance premium, one half of the anticipated premium is charged within the quarterly account which precedes the renewal date of the policy. The balance of premium is charged within the subsequent quarterly account.

**Value-Added Tax**- Macfie & Co. Management Services Ltd. is registered with HM Revenue and Customs in order to comply with VAT legislation. Our VAT registration number is GB 383 0165 64.

Macfie & Co. Management Services Ltd. charges a management fee for administering and carrying out property management duties. This fee attracts VAT at the standard rate in accordance with VAT legislation.

**Float**- In accordance with Rule 3 of the Tenements (Scotland) Act 2004, we require that all Owners lodge a Float. The purpose of the Float is to assist the Factor in financing communal expenditure, in lieu of effecting recovery through quarterly billing. The float for your property would be specified prior to you taking ownership, assuming we were notified of the sale in advance.

In taking ownership of a property where there is a communal interest, you automatically enter into an agreement with your Co-Owners to comply with the terms of the Title Deeds, any other Prevailing Legislation, and any pre-existing communal managing arrangement. This binds you to lodge a Float with the Factor.

## **Client Funds**

Floats and Credit balances are held within our main Client Account on a non-interest-bearing basis.

Funding lodged within Sinking Funds and Major Repair Funds would be held within separate interest-bearing accounts. At the time of writing, base interest rates were very low.

## **Payment Methods**

Cash

Major debit/business credit cards

Cheque

Standing Order - Frequency and amount by prior agreement

Bank transfer – details are included within all Quarterly accounts

Our website has the facility to utilize a portal to allow access to previous invoices and to make payments

## **Payment Arrangements**

Each of the Owners will make full and prompt payment on demand to the Factor of their share (calculated in accordance with the provisions of the Title Deeds for the Development) of the costs of common repairs and maintenance, insurance premiums and management fees.

Our payment terms are fourteen days from the rendering of an invoice. In order for us to pre-fund maintenance costs for your property, accounts require to be paid promptly, as the accrual of arrears can lead to difficulties in terms of ongoing management.

Any queries regarding accounts should be raised within fourteen days of receipt.

Owners who anticipate having difficulty in making payment are invited to contact us to discuss the details and, if appropriate, agree an acceptable payment arrangement.

## **Debt Recovery Procedure**

In terms of prevailing legislation, there is a Potential Liability incumbent on all Owners having an interest in common property to meet the irrecoverable debts of insolvent Co-Owners. However, there are a number of avenues available which would, in the majority of cases, protect solvent Owners from exposure to this risk.

In the event of non-payment after the period of twenty one days, one reminder notice would follow, with a subsequent reminder being issued twenty one days thereafter. At our discretion, a Notice of Potential Liability (NOPL) would be lodged against Title Deeds, where aged debts exceeded a period of three months. This would then bind the debt to the Title, rather than an individual, which offers some protection in the event of a change of ownership. The fees for raising and discharging the NOPL would require to be met by the party settling the principal debt.

Where our normal reminder run failed to yield full payment of overdue accounts, we reserve the right to engage the services of a Sheriff Officer, for which a fee would be charged to the Debtor.

Where no payment or payment plan had been arranged, we would be entitled to sue for and recover arrears in the Firm's name, on behalf of the remaining Owners. If the amount and the expenses as awarded by the Court appeared irrecoverable or were likely to remain outstanding for some considerable time, these would at our discretion be jointly paid to ourselves by the remaining Owners, each of such Owners contributing equally and being entitled to recover such amount from such of the Owners as had defaulted. In the event of recovery being effected by ourselves at a later date from the defaulting Owner, the solvent Owners would duly be fully reimbursed.

As indicated at the beginning of this document, our staff includes a full-time paralegal, who has extensive experience in handling these types of matters.



## **Selling your Property**

The outgoing Owner's solicitor must advise us in the event of a change of ownership as soon as the identity of the new Owner is known. Without this, we cannot alter our records and apportion common charges between Purchaser and Seller. This would normally occur after missives had been concluded. The Seller's Solicitor must also advise us of the Seller's future permanent forwarding address.

The outgoing Owner shall instruct their Solicitor to retain from the proceeds of sale of the Property and to send the Factor such sums as would reasonably be requested by the Factor to cover any under-payment of Common Charge Costs and/or the Management Charges due by the outgoing Owner.

Where the Factor is requested to apportion common charges between the Purchaser and Seller and to provide the normal factoring information requested by the Solicitor acting for the Seller, this would attract a private administration fee (apportionment fee). The level of fee would be confirmed when we received notification from the Solicitor that a change of ownership was due to take place, and instructions from them to alter our records.

Once the account had been apportioned, the Seller would be charged for any outlays due to the date of sale, which would be offset against any applicable reimbursement e.g. Buildings Insurance premium and Float.

## **Complaints about our Service**

If you have a complaint about our service, this should be submitted in writing to our Office, either by letter or email, for the attention of Mr. John Walker.

Once we have received your initial written summary of the complaint, we will contact you in writing within twenty-eight days to inform you of the outcome of the investigation into your complaint and let you know what actions are proposed.

If you were dissatisfied with any aspect of our handling of your complaint, you would then be invited to contact Ms. Joanne Graham, who would conduct a separate review of your complaint and contact you within fourteen days to inform you of the conclusion of this review.

The complaints procedure could by mutual agreement be concluded at any point during the above process.

If our in-house complaints procedure had been exhausted without having resolved a complaint, the final decision should be confirmed with senior management before the Owner is notified in writing. This letter would provide details of how to contact the Housing and Property Chamber, an arbitration body which is part of the Scottish Government. In any case, their contact details are as follows:

### **Housing and Property Chamber**

#### **First-tier Tribunal for Scotland**

Glasgow Tribunals Centre

20 York Street

GLASGOW G2 8GT

Telephone: 0141 302 5900

Email: [HPCAdmin@scotcourtribunals.gov.uk](mailto:HPCAdmin@scotcourtribunals.gov.uk)

Owners may make an application to the Housing and Property Chamber, seeking a determination as to whether we had failed to carry out our factoring duties in accordance with the Factors' Code of Conduct. The Chamber may offer mediation or, alternatively, the matter may be referred for tribunal.

To make a complaint to the Housing and Property Chamber, the Owner must first notify us of the reasons why they considered that we had failed to carry out our duties, or failed to comply with the Code of Conduct. A complaint could also be raised if it is alleged that we had refused to address an Owner's concerns or have unreasonably delayed attempting to resolve them.

### Termination of Appointment

Decisions by the Owners as to the appointment of the Property Manager or termination of their Office shall be made in accordance with the procedure specified within the Title Deeds, or if such procedure is not specified within the Deeds, by vote of a simple majority of Owners in the property, whose decision shall be binding upon all Owners.

In the event of a change of Factor, we would require three months written notice from Owners forming a Quorum, or other such notice as may be specified within the Title Deeds or prevailing legislation, or subject to alternative mutual agreement.

In the event of our appointment being terminated, we will render our final account within three months of the date of termination, or, failing which, as soon as possible. We would notify the Owners in the event of any anticipated delay.

This version: September, 2019



Macfie<sup>&Co</sup> Management Services Ltd.

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VAT REG. NO. GB 383 0165 64  
REGISTERED IN SCOTLAND NO. 84796.  
PROPERTY FACTORS REGISTRATION NO. PF000098

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