

**This is a FACTORING AGREEMENT**

**Between**

**Dunbritton Housing Association Ltd, a registered society under the Co-operative and Community Benefit Societies Act 2014 (Registration Number 2421R(S)) and a registered Scottish Charity (Charity Number SC036518), having its registered office at 1 Hatters Lane, Dumbarton, G82 1AW (the "Association")**

**And**

**…………………………………………..………………………………………………………(the “Owner”) of**

**…………………………………………..………………………………………………………(the “Property”)**

 **At**

**……….…….………….……Garelochhead……….…..…..…….. (the "Development")**

CONSIDERING THAT the Association is the property factor for the Development (Property Factor ID: PF000313) and manages repairs and maintenance to common parts and/or amenity ground within the Development (the "Factoring Service"), this Factoring Agreement sets out the terms on which the Association will provide the Factoring Service to the Owner.

1. **Interpretation of this Factoring Agreement**
	1. Definitions:

"Common Owners" means collectively the Owner and the other owners, including those who own a share in their property under a shared ownership scheme, who are responsible for the costs of the Common Repairs either because they own a share of the Common Parts or because it is a condition of their titles that they are liable to meet the costs of the Common Repairs.

"Common Parts" means the areas within the Development which the Association manages and maintains on behalf of the Common Owners.

"Common Repairs" means such repairs, maintenance and renewal works as may require to be carried out to the common parts of the Development for which the Owner and owners of other properties within the Development are responsible and shall include all common cyclical and planned maintenance, day to day reactive repairs, emergency repairs and, where appropriate, major repairs.

* 1. Where the expression “Owner” includes more than one person all obligations on the part of the Owner herein contained shall be binding jointly and severally on them and the survivor or survivors of them, all in accordance with the title deeds for the Property.
	2. Words importing the singular number include the plural number and vice versa and words importing gender include any other gender.
	3. Obligations made or assumed by any individual shall be binding and enforceable against his executors and personal representatives.
	4. A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it and any former statute or statutory provision which it amends or re-enacts.
1. **The Factoring Service**
	1. In undertaking the Factoring Service, the Association and the Owner agree that the Association will:
		1. Instruct emergency Common Repairs as and when required.
		2. Obtain estimates or carry out a tender exercise for proposed Common Repairs, where appropriate, but not in the case of an emergency.
		3. Notify the Owner of costs of Common Repairs likely to exceed £50.00 per property in accordance with clause 3 of this Factoring Agreement.
		4. Consult the Owner on Common Repairs likely to exceed £50.00 per property in accordance with clause 3 of this Factoring Agreement.
		5. Instruct minor day-to-day reactive Common Repairs.
		6. Plan, arrange and oversee a programme of cyclical planned maintenance of Common Parts (where appropriate).
		7. Insure the Common Parts in accordance with clause 5 of this Factoring Agreement.
		8. Apportion costs for Common Repairs and render invoices on a quarterly basis or at other such intervals that may be agreed between Common Owners and the Association.
		9. Take steps to recover any debts due to the Association by the Common Owners in accordance with clause 7 of this Factoring Agreement.
		10. Provide other such additional services, including improvement works, as requested by Common Owners and agreed to by the Association.
		11. Monitor the Factoring Service to ensure that Common Owners abide by the terms of the title deeds in their use of the common property and to take any necessary action.
	2. The Association will have no liability to the Owner or other persons for the Owner's failure to instruct repairs on the Association's own initiative following a visit to the Development by the Owner.
	3. The Factoring Service only applies to Common Repairs of Common Parts. However, the Association may agree with the Owner that the Association will instruct works to the Property on behalf of the Owner, but subject to the payment in advance for the works undertaken or, at the Association’s discretion, the Owner’s written undertaking to meet the costs of such works.
2. **Delegated Authority**
	1. The Owner authorises the Association without prior notification to the Owner to instruct Common Repairs of an anticipated value of One hundred and fifty pounds (£150) Sterling or less per household or such other value as may be stated in the Owner's title deeds or agreed between the Common Owners.
	2. Common Repairs exceeding an anticipated value of One hundred and fifty pounds (£150) Sterling will not be instructed without prior consultation with the Common Owners, in terms of which the Association will notify the Owner of the proposed works and estimated costs. In the absence of objections to the proposed Common Repairs within a 7 day notice period, the Owner will be deemed to be in full agreement to the Common Repairs proceeding.
	3. Notwithstanding clause 3.2 above, where there appears to the Association to be an emergency or a potential danger to life or property (such as works required as a result of fire or storm damage), the Association may instruct such Common Repairs as it considers necessary in the circumstances without prior notification to or consultation with the Owner.
3. **Apportionment of Repairs/Maintenance Costs**

Costs of Common Repairs will be apportioned in accordance with the Owner’s share of responsibility for the Common Parts as detailed in the Owner's title deeds, or where the title deeds relating to the Common Parts are silent or inconsistent with the other Common Owners' title deeds, the Owner's apportioned share will be as detailed below:

Amenity areas / open spaces in Development: 1/55th

1. **Buildings Insurance**
	1. The Association will provide a common block buildings insurance policy, which will, where appropriate, cover the Property and the Common Parts.
	2. The Owner is obliged to participate in this insurance scheme unless otherwise agreed with the Association.
	3. The Owner will pay their share of the annual premium as notified to them by the Association on an annual basis.
	4. Where the Association gives consent to the Owner taking out their own buildings insurance for the Property or the Common Parts, the Owner requires to provide evidence on an annual basis that an appropriate insurance policy is in place. Should this evidence not be provided, the Association will insure the property on the Owner's behalf and the whole annual premium will be applied.
2. **Charges and Fees**
	1. The Owner will pay to the Association the following charges and fees to cover the Association's costs of providing the Factoring Service:
		1. Management/admin fee (payable in arrears)
		2. Buildings Insurance premium (payable full year in advance)
		3. Public liability insurance covering common open spaces (payable full year in advance)
		4. Close cleaning (payable in arrears)
		5. Ground maintenance (payable in arrears)
		6. Common Repairs completed since previous invoice (payable in arrears)
		7. Communal electricity (payable in arrears)
		8. Any agreed outlays incurred by the Association on behalf of the Owner
		9. Such other properly incurred charges and fees as the Association may notify to the Owner from time to time.
	2. The management and/or admin fee payable by the Owner to the Association will be reviewed annually as at 1 April and notified to the Owner thereafter.
	3. Quotes, invoices and estimates from private contractors will be available at the Owner's request for the Owners to inspect within a period of 14 days following the issue of the relative invoice, consultation or notification letters being issued to private owners. The Association reserves the right to charge a fee for any copy documentation requested by or on behalf of the Owner.
3. **Factoring Float**
	1. Upon commencement of the Factoring Service, the Owner requires to pay to the Association a factoring float of One hundred and fifty pounds (£150) Sterling, or such other amount as may be stated in the Owner's title deeds.
	2. The factoring float will be held by the Association for the purpose of having funds available to meet the cost of Common Repairs on behalf of the Common Owners prior to recovering any outlays through the Association's accounts.
	3. The full amount of the factoring float will be included in the Association's first invoice to the Owner for the Factoring Service.
	4. The Association will refund the factoring float to the Owner upon termination of this Factoring Agreement.
4. **Terms of Payment**
	1. The Owner must make prompt payment of all sums due to the Association in terms of this Factoring Agreement within 28 days from the date of the invoice or within such other time period as the Association may permit.
	2. The sums are deemed to have been received on the date on which the Owner's payment is shown as having been credited to the Association's bank account statement.
	3. The Owner can make payment to the Association by any of the following means:
		1. Instalments if agreed in advance with the Association. Instalments may be reviewed from time to time by the Association to ensure that the amount of the instalments is sufficient to cover the amount due to the Association.
		2. Standing Order, which can be set up by contacting the Association’s Finance Department.
		3. Debit card by Chip & Pin facility at the Association's office or over the telephone to the Association's Finance Department.
		4. Cheque payments to the Association’s office by post or in person.
	4. If the Owner fails to make payment of any sums due to the Association by the due date then the Association will be entitled to take any steps it considers necessary to recover the sums due, all in terms of the Association's debt recovery policy.
	5. In the event of non-payment by the Owner, the Owner will also be liable to pay interest on the sums due and all expenses reasonably incurred by the Association, including court expenses and the registration dues on any Notice of Potential Liability for Payment and Discharge of a Notice of Potential Liability for Payment.
5. **Obligations on Owner to notify Association**

The Owner must promptly notify the Association: -

* 1. If the Owner becomes aware of any defects to the Common Parts.
	2. If the Owner becomes aware of unsatisfactory workmanship to the Common Parts.
	3. Of any change to the Owner's contact address.
	4. Of the Owner's intention to sell the Property or change the names on the title deeds to the Property.
	5. If the Owner moves out of the Property and leases the Property to another person. In which case, the Owner will require to confirm to the Association that it has registered as a private landlord with the appropriate local authority.
	6. Of any decision by the Common Owners which affects the Association, including any decision to dismiss the Association as factor or vary the title conditions.
1. **Termination of this Factoring Agreement**
	1. **Change of Ownership**
		1. In the event of the Property being sold, the Owner must instruct their solicitor to notify the Association in writing of the date of sale, the new owner’s full names, contact address and their solicitor’s details. The Owner must make the incoming owner aware of this Factoring Agreement and the appointment of the Association as property factor.
		2. On notification of the change of ownership the Association will apportion all the costs applicable to the Property due for the period to the date of sale and any overpayment or underpayment will be paid within 60 days of the date of sale.
		3. The Owner will pay to the Association a fee to cover the administration costs of change of ownership, the amount of which will be notified to the Owner by the Association.
	2. **Dismissal of the Association as Factor**

If the Common Owners agree (either in terms of the title deeds or, if the title deeds are silent, by a majority vote) to dismiss the Association as property factor then this Factoring Agreement will come to an end three months following the date of that decision or within such other time period as may be specified in the title deeds or agreed between the Common Owners and the Association.

* 1. **Resignation by the Association**

If the Association resigns as property factor by giving three months' prior written notice to the Owner, this Factoring Agreement will come to an end three months following the date of that notice or within such other time period as may be specified in the title deeds or agreed between the Owner and the Association.

* 1. **Termination Procedure**
		1. Upon termination under clause 10.2 or 10.3 of this Factoring Agreement, if no other property factor is appointed by the date of termination, the Association will provide the Owner with all financial information relating to the Owner's account within three months, unless this is not reasonably practicable (such as where the Association is awaiting final bills relating to contracts which were in place for works and services), and will return or demand any balance due by or to the Owner within 60 days of the date of termination.
		2. Upon termination under clause 10.2 or 10.3 of this Factoring Agreement, if another property factor is appointed to take over the Factoring Service, the Association will make arrangements direct with the appointed property factor to provide them with all such financial information as may be required. The Association may transfer any factoring float or credit balances due to the Owner direct to the appointed property factor. The Owner will continue to be liable to the Association for any outstanding sums due under this Factoring Agreement.
1. **Assignation/Nomination**
	1. Subject to anything in the title deeds to the contrary: -
		1. the Association shall be entitled to assign its rights under this Factoring Agreement to a third party to act as property factor should the Association, in its sole discretion, deem it appropriate; and
		2. the Association shall be entitled to nominate a third party from time to time to act on their behalf (as the Association's agent) in respect of the whole terms of this Factoring Agreement.

and that without the consent of the Owner.

* 1. The Association will notify the Owner in writing of any assignation or nomination under this clause.
1. **Service of Notices**

 Any notice, intimation or communication required to be given or sent under this Factoring Agreement shall be in writing and shall be delivered either personally or by recorded delivery post to the Association at their registered office or to the Owner at the Property or such alternative address as is formally intimated to the Association.

1. **Registration**

The Association and the Owner consent to registration of this Factoring Agreement for preservation and execution. In the event that this Factoring Agreement is registered by either party in the Books of Council and Session, the Owner shall be liable for the registration dues and of obtaining two extracts thereof (one being provided for the Association and one for the Owner); IN WITNESS WHEREOF these presents together with the schedule annexed hereto are subscribed as follows: -

I/We…………………………………………………………………………………………………………………………………………………………………………(Owner/s Name(s))

Of……………………………………………………………………………………………………………………………………………………………………………(Property Address)

Hereby accept the foregoing conditions and my (our) signatures (s) is (are) evidence that I (we) agree to be legally bound by the terms of this Agreement.

Signature(s)………………………………………………………………………………………………………………………………………………………………………………………..

Date…………………………………………………………………………………………….

Place of signing (town/ city) …………………………………………………………………………………………………..

Signature(s) of Witness …………………………………………………………………………………………………..

Full Name of Witness …………………………………………………………………………………………………..

Address of Witness ………………………………………………………………………………………………..……………………………………………………………………………………………………..

On behalf of Dunbritton Housing Association Limited, I hereby agree to the foregoing conditions

Signature(s)……………………………………………………………………………………

(Committee Member / Authorised Signatory) *\*Delete as appropriate*

Full Name………………………………………………………………………………………

Date…………………………………………………………………………………………….

Place of signing (town/ city) …………………………………………………………………………………………………..

Signature(s) of Witness …………………………………………………………………………………………………..

Full Name of Witness …………………………………………………………………………………………………..

Address of Witness ………………………………………………………………………………………………….

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